

# THE CONGRESSIONAL GLOBE:

NEW SERIES:

CONTAINING

THE DEBATES, PROCEEDINGS, AND LAWS,

OF

THE FIRST SESSION

OF

THE THIRTY-SECOND CONGRESS.

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VOLUME XXIV.—PART II.

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BY JOHN C. RIVES.

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[For Index, see Part I.]

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# THE CONGRESSIONAL GLOBE.

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32d CONGRESS, 1ST SESSION.

THURSDAY, MARCH 25, 1852.

NEW SERIES....No. 53.

for the dry-dock, basin, and railway at Kittery, over \$721,937, and \$610,000 for the dock, without the basin and railway, in California. They have received, or are to receive, in all, \$3,078,594; a pretty large sum for one set of gentlemen to receive. I will hereafter show how much they must have made, if they stated the truth in their original memorials to Congress.

Now, sir, how much did they propose to build these docks for originally? Remember, these are Congressional docks, for I want to show the evils of this policy of Congress making contracts. I want to condemn the contract system. I have no quarrel with these gentlemen; they have a right to make as much money as they can, and it is our fault if we allow them to get it improperly.

I want to show how this dock system has progressed.

On motion by Mr. BORLAND, the honorable Senator gave way, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, March 23, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

Mr. HOUSTON obtained the floor.

The SPEAKER. If the House will allow the Chair, as there is a large accumulation of Executive communications upon the Speaker's table, he will now present them to the House.

Mr. FREEMAN. If the Chair will allow me, I desire to ask the leave of the House to withdraw certain papers from the files of the House.

The SPEAKER. The gentleman will submit his proposition.

On motion by Mr. FREEMAN, by unanimous consent, it was then

Ordered, That the papers in the case of Wm. B. Ligon be withdrawn from the files of the House, and that they be referred to the Committee on the Judiciary.

Mr. FREEMAN. I also ask that the papers in the case of the heirs of Jellis Fonda be withdrawn from the files of the House.

Mr. STANLY. For what purpose does the gentleman from Missouri wish them withdrawn?

Mr. FREEMAN. I will say to the gentleman from North Carolina, that they are papers which were presented here some years ago, and which I now desire to withdraw, for the purpose of having them returned to the claimant.

Mr. STANLY. Is the claim again to come up before Congress?

Mr. FREEMAN. The object is to return the papers to the claimant for examination, to be presented again, if deemed advisable.

Mr. STANLY. I must object, unless copies of the papers are filed in the Clerk's office before the papers are withdrawn.

Mr. FREEMAN. I am willing to comply with that condition.

Mr. STANLY. Very well; then I will not object to it.

It was then

Ordered, That leave be granted to withdraw from the files of the House the papers in the case of the heirs of Jellis Fonda.

Mr. FAULKNER, by unanimous consent, presented a preamble and resolutions of the General Assembly of Virginia, requesting the Congress of the United States to make a further appropriation of scrip for satisfying Virginia bounty land warrants, and for ceding to the United States the refuse lands in the military district between the Sciota and the Miami rivers, in the State of Ohio; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. GROW, by unanimous consent, presented the following joint resolutions of the Legislature of Pennsylvania, viz:

1. Relative to the completion of the breakwater at the mouth of Delaware bay, and the repair of the piers in the Delaware river, so as to make them secure harbors of refuge for vessels.

2. For the establishment of a dry-dock, navy-yard, and depôt on the lake frontier.

3. Relative to the release of Smith O'Brien and other Irish patriots in captivity.

4. Declaring the Wheeling bridge an obstruction to the navigation of the Ohio river, and injurious to the commerce of Pennsylvania; which said joint resolutions were severally appropriately referred, and ordered to be printed.

Mr. DIMMICK also, by unanimous consent, presented resolutions of the Legislature of Pennsylvania, of similar import with the foregoing, together with resolutions relative to the construction of a ship-canal around the Falls of Sault Ste. Marie; which latter resolution was referred to the Committee on Roads and Canals, and ordered to be printed.

Mr. HOUSTON. I thought I was entitled to the floor. I only yielded it at the request of the Chair, in order to allow him to present to the House the communications upon the Speaker's table.

### EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair proposes that the several Executive communications upon the Speaker's table shall be taken up, and that such of them as do not give rise to debate be referred, or otherwise disposed of.

Mr. STANLY. I have no objection to that. All I wish is, that they shall not be debated; for if they are to be subject to debate you might as well postpone the other business of the House indefinitely.

The SPEAKER, by unanimous consent, laid before the House the following messages, heretofore received from the President of the United States, viz:

To the House of Representatives:

In answer to the resolution of the House of Representatives, of the 15th ultimo, requesting information respecting the seizure and confiscation of the barque Georgiana, of Maine, the brig Susan Loud, of Massachusetts, I transmit a report from the Secretary of State and the documents which accompanied it.

MILLARD FILLMORE.

WASHINGTON, January 28th, 1852.

On motion by Mr. SMART, it was

Ordered, That the said message and accompanying documents be referred to the Committee on Foreign Affairs, and printed.

To the Senate and

House of Representatives of the United States:

I transmit to Congress a dispatch, addressed to the Secretary of State by the Minister of the United States at Mexico, and the papers therein referred to, relative to the cemetery which has been constructed in the neighborhood of that city, as a place of sepulture for the remains of the officers and soldiers of the United States who died or were killed in that vicinity during the late war, and for such citizens of the United States as may hereafter die there. A copy of a report of the agent who was sent for the purpose of superintending the work is also herewith transmitted. It will be seen that a sum of \$2,500 or \$3,000, in addition to the amount appropriated by the act of Congress approved the 25th of September, 1850, is represented to be necessary to carry the objects of that appropriation into full effect. I accordingly recommend that provision therefor may be made.

MILLARD FILLMORE.

WASHINGTON, March 4th, 1852.

On motion by Mr. BISSELL, it was

Ordered, That the said message and accompanying documents be laid on the table, and be printed.

To the Senate and

House of Representatives of the United States:

I transmit to Congress a letter, addressed to me by the Governor of the Territory of Minnesota, with the statements, to which it refers, of the disbursements, up to the 1st of January last, of the money appropriated by the act approved 11th June, 1850, for the erection of public buildings in that Territory.

MILLARD FILLMORE.

WASHINGTON, March 4th, 1852.

On motion by Mr. SIBLEY, it was

Ordered, That the said message and accompanying documents be referred to the Committee on Territories, and be printed.

The Speaker also, by unanimous consent, laid before the House sundry Executive communications, viz:

I. A letter from the Secretary of State, transmitting statements of the manner in which the fund for the contingent expenses of that Department has been expended during the last fiscal year. On motion by Mr. SWEETSER, referred to the Committee on Public Expenditures, and ordered to be printed.

II. A letter from the Secretary of State, transmitting his annual statement of the clerks and

other persons who have been employed in that Department during the last fiscal year. On motion by Mr. SWEETSER, referred to the Committee on Public Expenditures, and ordered to be printed.

III. A letter from the Secretary of the Treasury, transmitting a communication from the Fifth Auditor of the Treasury, respecting the light-house system of the United States. On motion by Mr. DUNCAN, referred to the Committee on Commerce, and ordered to be printed.

IV. A letter from the Secretary of the Interior, transmitting a statement of appropriations for the War Department, transferred to the Department of the Interior, showing the balances of appropriations on the 1st of July, 1849, the appropriations made for the fiscal year ending June 30, 1851. On motion by Mr. HOUSTON, referred to the Committee of Ways and Means, and ordered to be printed.

V. A letter from the Secretary of the Treasury, transmitting information in answer to a resolution of the House of the 9th ultimo, respecting the canal cut by John Grant through Shell Reef, Mobile county, Alabama. On motion by Mr. SEYMOUR, referred to the Committee on Commerce, and ordered to be printed.

VI. A letter from the Secretary of the Navy, in answer to the resolution of the House of Representatives, February 9, 1852, calling for information in regard to the steam mail service, the amount of money appropriated out of the Federal Treasury, under contract, for that service, and the capability of the vessels built under said contracts of being converted into war steamers, &c., &c.

The SPEAKER. This communication is a very long one. It will be for the House to say whether it shall be read.

A MEMBER. What does it relate to?

Mr. PEASLEE. I understand this communication is in answer to a resolution which I submitted to the House sometime since in relation to our foreign mail steamer service. I move that it be laid upon the table and printed.

The question was put and the motion was agreed to.

Mr. PEASLEE. I also move that the Committee on Printing be authorized to inquire into the propriety of printing five thousand additional copies of that document. That committee can examine it; and, if they think it of sufficient importance as to make it expedient to publish it to the country, they can report the fact to the House.

Mr. STANLY. I think this is one of the questions which will give rise to debate; and, according to the understanding before we consented to the taking up of this communication, it must go over.

The SPEAKER. The question of printing, in the opinion of the Chair, is not a debatable question at this time.

Mr. STANLY. There is no necessity for printing these extra copies, and I therefore object to it.

The SPEAKER. The Chair understands the gentleman from New Hampshire to submit the proposition that the Committee on Printing shall take into consideration the expediency of printing five thousand extra copies of the document now before the House. Is that the proposition?

Mr. PEASLEE. That was my proposition.

The SPEAKER. The Chair does not know exactly what disposition can be made of the proposition if it is not now disposed of.

Mr. KING, of New York. That proposition can be debated when the committee reports.

Mr. STANLY. I do not object to the printing of the paper in the usual manner. But I do object to printing the extra copies; and I suppose, according to the understanding of the House, if it is to be debated it cannot be now considered.

Mr. PHELPS. I understand that the proposition now before the House is simply to print extra copies. The printing of the document, in the usual manner, has already been ordered. Now, that proposition is clearly not debatable. The law providing for printing extra copies of documents prescribes that all such motions shall be referred to the Committee on Printing.

Mr. STANLY. I understand that.

The SPEAKER. The Chair is inclined to think that this is not a debatable question. A proposition to print extra copies, must, as a matter of course, under the rule, be referred to the Committee on Printing. The Chair is, however, not very clear upon that point.

Mr. STANLY. Then the House is acting under a misapprehension.

Mr. STANTON, of Tennessee. I rise to a question of order.

Mr. STANLY. I rose to a question of order myself.

Mr. STANTON. The question I make is, that it is not in order to consider this resolution to-day. It must lie over one day, under the rule.

Mr. STANLY. That is the question I am arguing. I do not object, as I have already said, to the reception of this communication, or to the printing of the ordinary number. The communications were taken up with the understanding that none of them should be debated. Unless that understanding is carried out we postpone the deficiency bill indefinitely. Gentlemen should bring up their propositions to print at another time, and another day, when discussion could be admitted.

The SPEAKER. The Chair is under the impression, after having examined the rules, that the motion to print is in order, and that it is not debatable. It must, however, go to the Committee on Printing.

Mr. STANLY. But what becomes of the understanding, if we are to receive and debate propositions like this?

The SPEAKER. The Chair again repeats, that the proposition is not debatable. It is not a motion to print the document in the usual manner, but it is a motion to print an extra number of copies, which must go to the Committee on Printing, without debate.

Mr. STANLY. Then I will take up the original motion to print. I move to reconsider the vote by which this communication was ordered to be printed, and I propose to debate that proposition. Now, what becomes of this motion, with the understanding which the House have agreed upon? What I want is, that when we take up the business upon the Speaker's table, with a particular understanding, that the House should adhere to that understanding, otherwise you will get into such a debate as I predicted in the first place; and you will neglect other business which is indispensable to the welfare of the country.

The SPEAKER. The right of the gentleman to debate the motion to print, is, in the opinion of the Chair, very clear. The gentleman moves to reconsider the vote by which the communication was ordered to be printed, and he proposes to debate that motion. The communication must, therefore, remain upon the Speaker's table.

Mr. PHELPS. I appeal to my friend from North Carolina to withdraw his objection. No debate is intended upon this matter. The only question is to submit the motion, and let it be referred to the Committee on Printing, under the rules.

Mr. STANLY. I do not object to the printing of the communication in the usual form.

Mr. PHELPS. It is only a proposition to print extra copies.

Mr. STANLY. That is what I object to. Now, if the gentleman will withdraw the motion to print the extra copies, there is no difficulty. I have no sort of objection to the communication being printed.

Mr. PEASLEE. To obviate all difficulty, I will, for the present, withdraw my motion to print an extra number of copies.

Mr. STANLY. Then I withdraw my motion to reconsider the motion to print.

The communication was consequently ordered to be laid upon the table, and be printed.

#### PATENT OFFICE REPORT.

The SPEAKER also laid before the House a letter from the Commissioner of Patents, transmitting that portion of his annual report for the year 1851, which relates to the arts and manufactures.

Mr. STUART. I move that the communication be referred to the Committee on Patents, and that it be printed.

Mr. ROBBINS. I would inquire whether it is not better to refer that communication to the Committee on Printing?

The SPEAKER. The Chair does not recollect the practice in regard to this report.

Mr. KING, of New York. I would suggest that the motion to print be deferred until the Committee on Patents report what number should be printed; and that that committee inquire in regard to the proper number to be printed, rather than that we should order it to be printed now.

The SPEAKER. That is the business of the Committee on Printing. Does the gentleman from New York submit instructions?

Mr. KING. I move then to amend the motion of the gentleman from Michigan, [Mr. STUART.] so as to instruct the committee to inquire as to the proper number to be printed, and to fix upon that number.

Mr. SEYMOUR. I rise for the purpose of suggesting to my colleague [Mr. KING] to let the question of printing be referred to the Committee on Printing for consideration, where it ought to go. I will move to amend, so as to refer this question of printing to the Committee on Printing.

Mr. KING. That is the original motion, and my motion is to instruct that committee to report upon printing the ordinary as well as an extra number, and to determine what that number shall be.

Mr. STUART. My original motion was to refer it to the Committee on Patents, but as some gentlemen prefer that it should go to the Committee on Printing, I will modify my motion so that the communication shall go to the Committee on Printing.

Mr. JONES, of Tennessee. I merely wish to remark that all motions to print an extra number must go to the Committee on Printing—that is the law upon the subject; and not a mere rule of the House.

The SPEAKER. That is an express rule of the House.

Mr. ORR. If I remember the former practice of the House, it is this: Whenever a Patent Office report has been submitted by the Commissioner of Patents, a resolution has been offered directing an extra number of copies to be printed, which resolution has heretofore been referred to the Committee on Printing, which fixes the extra number. At the first session of the last Congress I believe one hundred thousand copies of the agricultural part, and seventy thousand copies extra of the mechanical part were ordered.

Mr. FOWLER. I wish to inquire if this report embraces, as on former occasions, two parts, a mechanical and an agricultural part?

The SPEAKER. The Clerk informs the Chair that it does not. The agricultural part will be submitted hereafter. The Commissioner of Patents expressly states in his letter that this is only the mechanical part.

Mr. EVANS. I move that the communication be referred to the Committee on Printing; and upon that I demand the previous question.

The SPEAKER. The gentleman from Michigan [Mr. STUART] has already submitted that motion, and the gentleman from New York [Mr. KING] has moved to amend the motion, by instructing the committee to inquire into the propriety of printing an extra number, and to report the number to be printed, and upon that the previous question is demanded.

Mr. STUART. What will be the effect of the previous question upon the amendment of the gentleman from New York, [Mr. KING]?

The SPEAKER. It will embrace it.

Mr. STANTON, of Tennessee. The 61st rule requires that a motion, asking for an extra number of any document, should lie over one day. This motion, if there is any objection to the previous question, would be obliged to lie over one day; the object of the gentleman can be obtained by simply moving that it be referred to the Committee on Printing.

The SPEAKER. If it be the pleasure of the House, the Chair will state the action of the last Congress upon this subject. A report of the Commissioner of Patents being presented, "On motion by Mr. Conger, Ordered, That the Committee on Printing inquire into the expediency of printing an extra number of such report," the report itself having been referred to the Committee on Patents.

Mr. KING, of New York. It is the same motion submitted now.

Mr. STANTON, of Tennessee. I call for the reading of the 61st rule.

The rule was accordingly read, as follows:

"61. A proposition requesting information from the President of the United States, or directing it to be furnished by the head of either of the Executive Departments, or by the Postmaster General, or to print an extra number of any document or other matter, excepting messages of the President to both Houses at the commencement of each session of Congress, and the reports and documents connected with or referred to in it, shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House."

The SPEAKER. This is a proposition to inquire into the expediency of printing an extra number, and not a proposition to print an extra number. The Chair, therefore, must overrule the point of order raised by the gentleman from Tennessee [Mr. STANTON.]

The question was then taken upon the demand for the previous question, and it received a second; and the main question was then ordered to be put.

The question was then taken on referring the communication to the Committee on Printing, with the instructions moved by Mr. KING; and it was agreed to.

#### LAWS OF OREGON.

The SPEAKER. The Chair presents to the House the Journal and Laws of the Legislative Assembly of the Territory of Oregon.

Mr. STUART. Are they in printed form?

The SPEAKER. They are.

Mr. STUART. I move that they be referred to the Committee on Territories.

Mr. CHANDLER. There is no action to be had upon them. I move that they be referred to the Committee on the Library.

Mr. LANE. Are they the laws of the last session?

The SPEAKER. They are the laws of 1851. Mr. LANE. They had better be referred to the Committee on Territories.

The question was then taken on the motion to refer to the Committee on Territories, and it was agreed to.

Mr. GENTRY. A memorial has been referred to the Committee on Military Affairs by mistake, as I am informed by the gentleman who introduced it to the House. The committee ask to be discharged from its further consideration, and that it may be referred to the Committee of Claims.

It was so ordered.

#### SENATE BILLS ON THE SPEAKER'S TABLE.

Mr. BROWN. There are a number of bills upon the Speaker's table from the Senate. Some of them have laid there for a long time; and with the approbation of the House, I ask that they may be taken up and referred to the appropriate committees.

Mr. STANLY. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANTON, of Tennessee. I ask that the gentleman from North Carolina [Mr. STANLY] will allow me to present a memorial from the Legislature of Tennessee, merely for the purpose of reference.

Mr. STANLY. I have no objection.

The memorial, which was in reference to the mails on the Ohio and Mississippi, was presented and referred to the Committee on the Post Office and Post Roads.

#### NON-INTERVENTION.

Mr. RIDDLE, by unanimous consent, presented resolutions of the Legislature of the State of Delaware on the doctrine of intervention; which were laid upon the table and ordered to be printed.

#### HOMESTEAD BILL.

Mr. JOHNSON, of Tennessee. I move to reconsider the vote taken yesterday, by which the special order, being the bill to encourage agriculture and for other purposes, was postponed until Tuesday next. I do it with a view that we may take up the motion when this deficiency shall have been disposed of.

The question was then taken upon the motion of Mr. STANLY, and it was agreed to.

#### DEFICIENCY BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN. The business before the committee is House bill No. 207, to supply deficiencies in appropriations for the fiscal year end-



ing June 30, 1852, the following clause of the bill being under consideration:

"For constructing, repairing, and enlarging barracks, quarters, hospitals, store-houses, stables, wharves, and ways, at the several posts and army depots, for temporary cantonments, and the authorized furniture for barracks-rooms of non-commissioned officers and soldiers, gun-houses for the protection of cannon, including the necessary tools and materials for the objects enumerated, and for rent of quarters, and offices for officers, and barracks and hospitals for troops, where there are no public buildings for their accommodation, for store-houses for the safe keeping of military stores, and of grounds for summer cantonments and encampments, \$219,000."

The pending question is upon the amendment to the amendment offered by the gentleman from Kentucky, [Mr. MARSHALL,] to strike out, in the seventy-ninth line, the words "for rent."

The question was taken upon the amendment to the amendment, and it was not agreed to.

Mr. MARSHALL, of Kentucky. I move to strike out "\$219,000," at the end of the above clause, and insert "\$100,000."

The CHAIRMAN. The Chair is of opinion that the amendment is not in order at this time. The question may be taken upon the pending amendment, and then the amendment of the gentleman from Kentucky [Mr. MARSHALL] will be in order.

The question was then taken upon the pending amendment, and it was not agreed to.

Mr. MARSHALL. I now make the motion to strike out \$219,000 and insert \$100,000. I observe that the debate upon this bill closed yesterday by a declaration of the honorable chairman of the Committee of Ways and Means, that I had called upon him previously, informing him that I intended to demand of him an explanation as to the manner in which the money had been expended which was appropriated last year. There is no inference from his remarks, except that he intends to excuse himself for not giving an intelligible account of the manner in which it was expended, on the ground that I did not publicly ask him for an explanation as to how it was spent. Now, if the gentleman expects to rest himself upon that justification before the country, after having had a chance, in an hour speech, to give an intelligible explanation, why, of course I cannot object to the character of the justification. Had I known that the gentleman did not possess the information, it will be seen that motives of common courtesy would have prevented me from making any public interrogation.

But the gentleman says he makes a sweeping charge against this Administration, of waste of public moneys, and that he calls the attention of the country to my remarks, as evidence to prove it. Now, sir, my remarks cannot be tortured into a charge of waste against the Administration. The army went into New Mexico in 1848, and under an order issued from the War Department, which gave to the local commanders the right to fix the posts, and he who was in command of any particular line, had the right to change the posts, and fix them for his own convenience. I know that this order was changed, and I suppose, and hope, after the exposition made in Captain Sword's report, that some system of economy has been attempted to be enforced. But I want to see how it is administered. I want to see how they progress. If there is any charge of waste made by me, it is made upon the face of the exhibits which came from the quartermaster general's office, and laid before us by the quartermaster's report. I do not understand, when I comment on the manner in which the assistant quartermasters have disposed of the funds left to that bureau, that I am attacking the Administration.

The Executive, it may be, is responsible, in the last resort, for the funds which pass through the Executive Department. But it cannot be expected, and it will not be expected, by the country, that the President is to superintend, personally, the current expenditures by subaltern officers. If we content ourselves with an attempt to visit the President with the responsibility of every abuse in every department of the Army, the Navy, and Indian affairs, we shall ourselves teach the employees of the bureaus that whenever a question of practical reform arises here, they may take shelter under the theoretical responsibility of the President, and will not be subjected to any severe scrutiny from Congress.

I shall say no more. It is our duty to look narrowly into the necessity for these appropri-

ations—to see that no waste has occurred in the management of the appropriation for the current year. We appointed the Committee of Ways and Means to look into these things, and to report here upon the necessity of the appropriation. If the country sees any attack in my remark, it will see it only as touching those whose duty it is to look closely into the expenditure of this appropriation, and who come here without any accurate knowledge in regard to it.

[Here the hammer fell.]

Mr. DUNHAM. I trust, sir, that this amendment will not be adopted. As to this particular item, I have taken some considerable pains myself to ascertain as to the propriety of the amount. The object of this item is, to provide barracks for your soldiers, and necessary buildings for the shelter and protection of your commissary and quartermasters—for your ordnance and ammunition stores. I will state, that the estimates for these matters, sent in by the commanders at the different posts, were most closely and rigorously examined, and they were in all cases reduced, so far as the quartermaster general could ascertain that the public service would warrant, such reduction. Now, sir, I must call the attention of the committee to another matter. I was asked yesterday by the gentleman from Kentucky, [Mr. MARSHALL,] and, I believe, by another gentleman this morning, why it is we of the Committee of Ways and Means are not able to give more information as to the manner in which the money heretofore appropriated for the fiscal year has been expended? Why, it is clear, sir, that it would be impossible to give it in exact detail.

Now, as to the latest returns made from these different posts, I have had them in my possession ever since this discussion commenced. I have them here; and if I had had time, I should have laid before the committee a statement of the number of horses, and of the number of troops upon every post upon the frontier. Proper regulations are prescribed for the amount of forage of every horse; proper regulations are prescribed as to the quartermaster's stores to be issued to every soldier, and every issue made to or by the officers having charge of that department. All these expenses for the furnishing of these materials have been calculated; and you have only to place these expenses by the side of the money you have heretofore appropriated to provide for them, and then decide whether you have given money enough for the purpose? I believe, sir, that within the last six months there has been a most rigid and careful investigation as to the manner in which the posts upon the frontiers have been stationed, and every exertion has been made to remedy the abuses which have taken place on earlier occasions in that country; but this is quite a question of time—a thorough reform cannot be effected in a day, a week, or a month. Every endeavor is now being made to remedy them, and I believe with much success, too; and the War Department is entitled to credit for it.

Now, if gentlemen would examine the report of the Secretary of War, which has been laid upon their tables, in which he shows the necessity for these appropriations, they can ascertain what has become of the money heretofore appropriated, for the bill which we passed last year showed how much money was appropriated for every branch of the service; and if they examine the report of the Secretary of War, they will see exactly what money is left in the Treasury, for each particular branch of the service. I do not, sir, speak of the manner in which the money has been expended heretofore. I do not believe in the doctrine that if this money has been improperly expended, you are to punish the, in some instances, innocent officers, by striking them through the service of your country; but if you can put your finger upon any officer who has neglected his trust—has not performed his duties faithfully—you will of course hold him responsible, and you could easily make the proper charges against him directly, or compel his superior officer to do so. But this doctrine of holding all the officers in the service responsible for this deficiency is monstrous. I say, sir, that there is no difficulty in ascertaining what has become of the money: and my duty as a member of this Committee of Ways and Means has made me anxious to discharge the responsibility resting upon me to the country; and I have examined this report of these cal-

culations carefully, to see what has become of this money, and it appears to me to be very clear that this money is now needed. The manner in which this estimate has been made is this: they know the number of horses upon the frontier, and what it costs at the time of the last reports to support each horse, and they know how much it takes to support each man; and they have made a calculation of how much your former appropriations fall short of furnishing the amount needed. I will state, sir, for the information of the committee, that, after this estimate was sent here to this House, and after further returns had come in to the quartermaster's department which showed that they had effected a reduction in the expense of furnishing supplies. The estimates were cut down over \$150,000 for this branch of the service, and the quartermaster general has shown a worthy determination to reduce, so far as a faithful regard to the public service would permit.

Mr. CLEVELAND. I have some little recollection in reference to this matter. At the last session of Congress I moved an amendment to the amendment of the gentleman from Kentucky, reducing the amount to \$50,000. During the last Congress, this House had presented to it by the gentleman who made the estimates, and who asked of this House to grant supplies, estimates for the War Department of the sum of \$11,000,000. Some ten or eleven years since \$3,500,000 was all the money required for the purpose of supplying this army of defense, with all the requisite necessities. We had increased our frontier certainly when this had increased in such an astonishing manner. The House after a full, long, and tedious examination of the matter, determined to strike off three millions of the money asked for.

Mr. HOUSTON. The item for quarters and barracks is the item now under consideration, Mr. Chairman.

The CHAIRMAN. Yes.

Mr. HOUSTON. Then I propose to confine my friend from Connecticut to the amendment which opened the debate upon that item.

Mr. CLEVELAND. I will confine myself to that amendment.

The CHAIRMAN. The gentleman from Alabama rises to a question of order. The Chairman is of opinion that the gentleman from Connecticut [Mr. CLEVELAND] is not out of order, in the course of remark being pursued by him.

Mr. HOUSTON. The item is for quarters and barracks.

Mr. CLEVELAND. I am endeavoring, sir, to show this House what I consider to be the duty of the House in reference to the question now before them; but I am surprised that the learned and distinguished gentleman at the head of the Ways and Means Committee should have taken an exception to my remarks, as he was not a member of the last Congress.

Mr. HOUSTON. I have no objection to the debate.

Mr. CLEVELAND. I wish to call the attention of the House to the fact that we gave notice to the War Department last year that we were not satisfied with the estimates; that we were not satisfied with the manner in which the public money was used, and squandered in support of our troops abroad. They have had a year's notice, in which time they could have prepared and furnished to this House full information of what they had every reason in the world to suppose would be required before the committee reported to the House a deficiency of some \$2,000,000 or \$3,000,000, or before the House of Representatives would ever grant that bill if it were asked by the committee.

Now, sir, I ask this House, and I ask the country, how are we called upon to act in this matter? They have done just what their friends feared last year they would do. They have gone on and spent our money regardless of the remonstrances and the reproaches which have fallen upon them ever since they have done so. I have listened, in the course of this debate, to the arguments of the chairman of the Ways and Means Committee, but I cannot help coming to the conclusion arrived at by the gentleman from Kentucky, [Mr. MARSHALL,] that they have not given us a single opportunity to point to one single item in that enormous bill, and say what ought to be rejected by this House. Not one.

[Here the hammer fell.]

Mr. BROWN, of Mississippi. I intend to vote against the amendment of the gentleman from Connecticut, [Mr. CLEVELAND,] and against the amendment of the gentleman from Kentucky, [Mr. MARSHALL,] in fact, against all the amendments proposing to reduce the appropriations in this bill, unless the Committee of Ways and Means shall inform us through their chairman that some deduction can be made; and, finally, sir, I intend to vote for the passage of this bill. I do not concur in the view taken by my friend from Ohio, [Mr. SWEETSER,] that because the gentleman from New York, [Mr. BROOKS,] and other friends of the Administration, think proper to tell us we are responsible for the appropriation, and that the Administration is not, therefore we should vote against this bill.

At the last session of Congress, sir, the War Department sent in its estimates, and this House took the responsibility of cutting them down, thus indicating to the Administration that the expenditure in that branch of the public service was to be confined within certain limits. For some reason, certainly not yet explained to Congress, or to the country, the expenditure has exceeded the appropriation. They now come and ask for an additional appropriation, telling us that it is necessary for the public service. The question, therefore, is not whether there has been a proper use made of the money already appropriated, but whether your soldiers and officers, who had nothing to do with the disbursement of this money, and who rendered service to the country, shall be paid for their services? Suppose that the Secretary of War should seize upon the whole of this appropriation, and squander it, could this Government refuse, therefore, to pay its soldiers? Is not the soldier entitled to \$8 a month even if this money had been unjustly and inequally disposed of? Are they not entitled to their compensation? Is not the commander of your armies entitled to compensation? Are not our soldiers to be provided with clothing and shelter? These are the questions we are called upon to try? Is not the man who furnishes your armies with pork and beef, and clothing, entitled to his compensation? That is a question you are called upon to decide.

Now, as to this matter of responsibility, I am willing that the country shall dispose of it. Let the country decide whether the Administration shall confine the expenditures within the appropriations. The Administration come and ask us for this money; we are left no discretion. Gentlemen may talk of this matter as they will; gentlemen may vote against the bill, but there is not a member of Congress who will defeat it by his vote. No, sir; I believe that gentlemen would falter if it came to that. They would not leave your army serving upon the frontier; they would not leave their officers without pay; they would not punish the innocent for the acts of the guilty. My friend [Mr. ORR] is a gentleman of too high a sense of justice for that. I intend, sir, to vote for the appropriation; I intend to refer to my constituents and the country for settlement, the question whether this Administration has made a just and proper distribution of the money appropriated last session.

If it shall appear that the appropriation was too small the Administration will stand justified in demanding, and we shall be justified in voting, it. If the appropriation was sufficient, and the money has been wasted, we shall still be justified in voting for this bill. The country will not hold the parties faultless who squandered the money. They must account. But on the other hand, we shall not be held faultless if we withhold justice from the innocent. If this money has been squandered, let the guilty be punished; but do not withhold justice from the laborer because your own unfaithful pursuer has wasted your money.

The question was then taken upon the amendment to the amendment, and it was rejected.

Mr. PRICE. I propose now, sir, an additional amendment of \$50,000. I am one of those, Mr. Chairman, who believe that our frontiers have not received the protection that they ought to have had during the last year; and therefore, sir, I advocate increasing this appropriation. I, myself, have been upon the frontiers within the last year; and, sir, I have witnessed the outrages committed by the Indians upon our borders, and have heard the complaints of our people who are crying aloud for protection. Sir, during this last year Califor-

nia has incurred an expense of nearly \$1,000,000 for the protection of her own people, and keeping down Indian insurrections; and yet we are told here that we must diminish the appropriations, and curtail the line of operations of our army. What was the situation of the Executive of this country by the reduction of the appropriation for the last year? Was it for him to diminish the outposts upon our frontiers? Could he have done so at less expense than he has already incurred? No, sir; the movements of our troops by the withdrawal of them from the frontier, would have increased the expenditure of transportation and the quartermaster's department far beyond what has already been incurred. Such would have been the case; and it was for him to wait the action of this Congress, to know whether he is to be sustained, and whether these outposts are to be kept up. It would have been, sir, a sacrifice of life and property beyond the contemplation of this House, to have withdrawn the troops from our frontiers, and left our settlers to the merciless tomahawk of the savages.

Sir, the gradual increase of expenditures of the departments of the quartermaster, in my estimation, is very readily accounted for from the extent of our territory; from the extent of our line of frontier posts; from the extent of the inland transportation of provisions, which has grown from two cents a pound to sixteen cents a pound transportation since 1845; and it clearly appears to me, from the small investigation which I have been able to give this matter, that it is right and proper, and that the expenditure of this department is fully justified by the amount of service they have performed. Sir, so far as the quartermaster general is concerned, he is in no way responsible for the expenditure; and, sir, as he clearly shows to you by his report, the objects of the appropriation were not diminished—he, by the report to the Secretary of War, tells him that he cannot diminish his appropriation. Sir, it is for Congress to diminish the objects of the appropriation by diminishing the army which could not be sustained upon the frontiers as cheaply and as conveniently as it would be sustained in the old States; but it is much more necessary and beneficial to the nation upon the frontier than anywhere else. Therefore, sir, I justify the President and the Secretary of War, in the measures they have adopted, and the expenditures which they have incurred during the last year; and I hope and trust that this House will vote the appropriations now asked for, and I should like to see them go beyond it, for I believe that the frontiers require much greater protection than now is afforded to them.

Now, sir, what does General Jesup say? Here is his language. It is the language of an intelligent, experienced, and zealous officer, who made his estimate based upon the schedule given to him by the President of the United States and the Secretary of War.

In answer to the Committee of Ways and Means of this House at the last session, General Jesup says:

"I stated then, as I state now, that this estimate was made on 'a careful consideration of all the circumstances of the service, and a minute calculation of its wants.' That estimate was returned to me for reduction; but as the objects of expenditure over which I have no control remained the same, and as I knew every cent would be necessary, unless those objects were reduced, I could make no reduction; to have done so, would have been to deceive the Executive, Congress, and the country. Money cannot be saved by cutting estimates down, but the service may be embarrassed, and arrears caused by it; to save money, objects of expenditure must be dispensed with."

Mr. CLEVELAND. I am opposed to this amendment, and now wish to conclude what I was about saying when the hammer fell before. I want to call the attention of the committee to this one fact. The Administration had a year's notice; they were called upon to inform the Committee of Ways and Means in regard to the necessity for this amount of expenditure, and I ask whether they have done it? If they have, it would be the committee's duty to come in and say to the House that all of this appropriation is necessary. If they would state that, there is not a member upon this floor who would not be willing to make the grant—whether one million or ten millions.

Mr. GENTRY. Do not the committee say that it is necessary, by reporting the bill, and recommending it?

Mr. CLEVELAND. I understand the chairman to state distinctly, that there has been gross

profligacy in the conduct of the Department, and he charged it upon the President and the Secretary of War. If I misunderstood him, there were others who misunderstood him in the same way.

Mr. HOUSTON. If the gentleman wants it, I will repeat what I did say—

Mr. GENTRY. I will say, if the chairman of the Committee of Ways and Means said that which the gentleman has just stated, that he cannot maintain it, or make it good.

Mr. CLEVELAND. All I have to add is this: They had a year's notice that this branch of Congress would require of them reasons for this extravagant expenditure of money; and when they were called upon by our committee to give reasons, they were unable to do so, and yet demanded the appropriation of this extraordinary sum of money. That committee came in here, and, through their chairman, say that we feel constrained to report the wants of the Government; but we tell you, gentlemen of the House of Representatives, that, in our judgment, both the Secretary of War and the President are guilty of misconduct in regard to the expenditure of money that has been appropriated. Now, with the time they have had to inform the committee; with this declaration made by the committee; and, permit me to say, with the disposition which is perfectly apparent upon the part of the committee to treat the Administration with the utmost fairness, it does seem to me that they have been guilty of great neglect in not informing that committee of the necessity for the appropriation which they ask at our hands. The claim which is set up here by certain gentlemen—that is, for the President to take the responsibility—an intimation which fell from my worthy friend the Chairman of Ways and Means [Mr. HOUSTON] on yesterday, and that they would not have this large sum of money go over upon another Administration, I do not think was worthy of the gentleman, and I do not think that it ought to influence the members of this committee. We have statements here that our frontier is exposed; that savages are barbarously scalping and tomahawking women and children. If we have a system of plunder of the public Treasury growing up in that Department, shall we not pause and try to arrest it, for fear that those cries which have been gotten up for effect may operate against one party, or in favor of another party. I say, we are unworthy of seats upon this floor if we do not, under almost any circumstances, endeavor to put a stop to corruption. It is our duty to settle whether the appropriations are just and right. I contend that the House of Representatives yet holds the purse-strings; and when they let them go, for any consideration—whether political, party, or otherwise—the people ought to turn them out and put others in their places; put in men who would dare to stand up here and act upon the principle of right, regardless of consequences, political or otherwise.

I understand that the only matter we are trying is, as to which party is to be injured the most by the course we are to pursue, in regard to voting the enormous deficiencies proposed in the bill. If this money is needed, I shall cast my vote for the granting of it; if it is not needed, I will go against it, and let the consequences take care of themselves. I do not care whether the whole army is disbanded. Better have it disbanded than have a system of favoritism growing up here—a system of fraud and speculation practiced, by which a ton of hay is put down as costing \$50, less being paid by the officer, the change pocketed, and the Government cheated out of the money; better that it should be disbanded, than such a system of abuse should grow up under the patronage of the House of Representatives; for we have this matter all before us, and I admire the patriotism of the gentleman from Kentucky, [Mr. MARSHALL,] who stands up here and says that, in the matter of protecting the Treasury of the country, that he knows no party. He is an honorable man, and that was an honorable and patriotic sentiment. It will do honor to him long after he shall have left this Hall. We ought all so to act. Above all things, let us learn the President and the Secretaries that we hold the purse strings, and that they should not have the control of the purse as well as the sword.

The amendment to the amendment was then rejected.

Mr. GORMAN. I understand the motion made by the gentleman from Kentucky [Mr.



MARSHALL is, to strike out \$219,000, and to insert \$100,000. I wish to amend by striking out the whole sum. The gentleman from Mississippi [Mr. BROWN] has remarked to the committee, that we should not withhold the pay of the soldier.

The CHAIRMAN. The Chair would state to the gentleman that his amendment is not in order, inasmuch as it disposes of the whole clause.

Mr. GORMAN. I move to reduce the amount to five dollars. That is in order.

The CHAIRMAN. It is.

Mr. GORMAN. I said that the gentleman from Mississippi assumed that we were striking at the pay of the soldier. The pay of the soldier is provided for in the army appropriation bill—for the pay of the army proper; but if he had gone a little further and inquired why it is that in 1844 each soldier cost this Government \$404, and in 1852, \$1,000, I should like to hear the reason for that. Sir, gentlemen upon this floor imagine that we must take the *ipse dixit* of the Committee of Ways and Means; that we must take the estimates of the Departments. I deny it as a principle. I insist that the representative branch of the Government has the right to control the expenses whenever they please. They have the same rights of information that the Committee of Ways and Means have. A gentleman who is not posted up on the subject is not fully within the line of his duty. I undertake to say that the quartermaster's department has increased the expenditures nearly fifteen times as much as it was five years ago. Why is it? I confess, sir, that there is a large increase on account of the extent of our territory; but what is the principle reason? The Secretary of War informs this House that large abuses have crept into the quartermaster's department. Officers are sent forward in the country to buy horses, who are in partnership and acting with the vender. They make millions of dollars. Where is the pruning knife? With the department. The men at these posts, they say to themselves, have strong friends—Senators and Representatives—to plead their cause, and they are retained. Who is responsible? I care not who is responsible. It is a wrong, and I should be derelict to my duty if I were to stand here and be *particeps criminis* to the wrong. We curtailed at the last session of Congress these appropriations nearly \$2,500,000. What have they done? They have come up to that \$2,500,000, and are here asking us to supply a deficiency of \$3,000,000. Why is that? Is your army increased? Are your provisions increased in price? Not at all. It is because men—one man of whom I can name—are in partnership with the purchasers and stipulate to the amount of \$120,000. He is in partnership with the purchaser, who pays three times the value of the property. The Government has dismissed him. He has made an independent fortune, and is living upon his means in Oregon.

Several MEMBERS. Who is he?

Mr. GORMAN. I shall certainly not name him here. I will name him to any gentleman who may call upon me for that purpose. I am responsible for what I say in relation to this matter. What does the Secretary of War mean when he says that these abuses have crept into the Department? He means something or he means nothing. What, then, is it our duty to do? To take the estimates of the quartermaster's department and pass upon them or upon some of the officers or persons who live upon the Government pay? I deny it as a principle. I insist that it is our duty to curtail when, from the information obtained, our judgment dictates that course. Why these expenditures are almost one third larger than they were during the Mexican war—a foreign war. I see, in the quartermaster's department there were eight hundred and fifty wagons transporting supplies from San Antonio, and a corresponding number of mules. They must have had a wagon for each officer and soldier. I do not know how long it took to transport them. There was a regiment about Texas and Santa Fe, and eight hundred and fifty wagons to transport supplies. Did the Committee of Ways and Means undertake to investigate the whys and wherefores of that item? I undertake to say here, in the presence of the chairman, that they have not. They have reported it to the House, and have not investigated whether it was right or wrong.

[Here the hammer fell.]

Mr. TAYLOR. Mr. Chairman, the only object which I have in view, and which will influence me

in voting for these appropriations, is to ascertain, as the gentleman from Connecticut [Mr. CLEVELAND] remarked, whether they are just and right. Now, how am I to ascertain that? It is impossible for the two hundred and thirty different gentlemen composing this committee to investigate particularly every item submitted to us from the War Department by the Secretary of War. The best light we have is the investigation which a committee of this House gives to the subject, appointed by the Speaker, elected by a large majority, and in whom we confide; and when they come in here, a committee composed, I believe of six gentlemen of the Democratic party and three Whigs, with the estimates from the War Department—estimates submitted, I believe, by a Democratic quartermaster general, about whom I know little—how am I to be controlled? How is my judgment to be made up? I believe these appropriations are necessary, generally, to carry on the public business, and to carry on the Government. I look at the reports from your Departments, I hear the explanations of your committee, I ascertain from the most experienced in the public service, that these appropriations are necessary, and then I deem it my duty to vote supplies. Now, while I am up I wish to say to my friend and colleague [Mr. OLDS] over the way, who said that there was a time in this House when one party withheld supplies—I am happy to say to him and the country that, in the five years I have been in service here, I have never known such a party, and never hope to know such a party. I have voted the necessary supplies to the Government—to the military and the naval service of the country—and I shall continue to do so from the best lights I can get to guide my judgment.

I believe, Mr. Chairman, great reforms are necessary in regard to our war and naval establishment. I believe that if some of the gentlemen who hold positions in the bureaus under the Secretaries of War and Navy, who are professional men, sympathizing with their corps, were sent off on public duties, and eminent citizens, capable of looking into the expenditures, were put in their stead, we should have a reduction of the enormous appropriations made from year to year. I would place at the head of the quartermaster's bureau an eminent civilian, capable of investigating the necessity for these supplies, and reporting to Congress how much was necessary. I would have him ascertain by intelligent communication with the officers of the army and others all over the country. These reforms are needed, but it is impossible for a member serving two or three years to undertake them. The Whigs, as charged by my colleague [Mr. OLDS] the other day, never withheld supplies when they were in a majority in this House. During the last two years of Mr. Polk's administration the Whigs had a majority here. My colleague then, Mr. Vinton, as chairman of the Committee of Ways and Means, did himself honor in the national, enlarged, sensible, and intelligent manner in which he voted and reported supplies necessary to extricate ourselves from the war with Mexico and to carry on the war. I was informed by the then Secretary of the Treasury—Mr. Walker—that a more faithful man in that position never served in this House, and that he never asked for a reasonable appropriation that was not promptly granted and promptly explained, and passed by the House, though they were against the then Administration. That is the spirit in which we must act here, no matter who is President, who administers the Departments here. We are acting for the country—for the whole country; and while we see that these appropriations are not extravagant, we are bound to vote the necessary supplies to carry on the Government.

The question was then taken on the amendment to the amendment, and it was not agreed to.

Mr. GENTRY. I move to increase the item of appropriation five dollars. The Committee of Ways and Means seems to be very much reproached here, because it does not exhibit the state of facts which demonstrates to the House the necessity of passing this bill. That it is a duty which that committee is doubtless competent to perform. My honorable friend from Indiana [Mr. GORMAN] propounds a question, which he says ought to have been explained by the Committee of Ways and Means. He desires the extraordinary fact explained, that whereas the cost of our army in

1844-'5, per man, was so much, it now amounts to a much larger sum. And no man that is responsible seems to assume, that it can be accounted for otherwise than by attributing corruption and profligacy to the Executive officers of the Government. I have not considered it my duty particularly to take this matter in charge and show the reasons upon which it rests.

Mr. GORMAN. I did not say Executive officers.

Mr. GENTRY. I presume his remarks were addressed generally. I did not make that remark so much in reply to him as to others, who have arraigned the Secretary of War upon the one hand and the other. I take it for granted, that many of the gentlemen who have addressed the House, have not read his report. He does account for and explain in it, not in every item, and even where he fails to explain the items of abuses which have crept into the army, yet he admits that there are abuses. Did they occur but yesterday? Have they not existed for years? And when shall we hope to see the day that some abuses of this kind will not exist in every branch of the Government, where expenditures are to be made. Did they not exist in Mexico during the last war? How many defaulters there are who have not settled their accounts with the quartermaster's and paymaster's departments? Here is the Secretary of War's account of this matter of expenditure:

"In my last annual report, I adverted to the enormous increase in the expense of supporting the army, and to the causes that produced it. These causes are principally—

"1st. That, as has been already stated, more than one half of the whole army is stationed on our remote frontier, and so far as expenses are concerned, may be considered as in active service in time of war.

"2d. That the military posts on the frontier were formerly on or near navigable rivers, but now, on the contrary, are either far in the interior of the country or on the Pacific, and, consequently, can only be reached by an overland journey of hundreds of miles, or by a sea voyage of several thousand.

"The following is a list of what were our most remote posts in 1845, and their respective distances from navigation—

Fort Snelling, accessible by steam-boats.  
Fort Leavenworth, accessible by steam-boats.  
Fort Wilkins, accessible by steam-boats.  
Fort Gibson, accessible by steam-boats.  
Fort Smith, accessible by steam-boats.  
Fort Jesup, 24 miles from steam-boat navigation, by wagons.  
Fort Atkins, 24 miles from steam-boat navigation, by wagons.  
Fort Towson, 6 miles from steam-boat navigation, by wagons.  
Fort Washita, 85 miles from steam-boat navigation, by wagons.  
Fort Scott, 90 miles from steam-boat navigation, by wagons.  
"Compare this list with that of some of the most remote posts at the present time.  
"Indianola, now the depot for the greater part of the posts in Texas, and some of those in New Mexico, is 540 miles by water, from New Orleans. From this depot it is, by wagons,

To Fort Worth.....420 miles.  
To El Paso.....803 "  
To Dona Ana.....659 "  
To the post at the Copper Mines.....979 "  
"Fort Towson and Fort Smith, both depending upon New Orleans, are the frontier depots for the posts on the north line of Texas; the transportation by wagons is, from Fort Towson to Fort Belknap, 302 miles; from Fort Smith to Fort Arbuckle, 167 miles.  
"Fort Leavenworth, 420 miles from St. Louis, by water, is the frontier depot for the posts on the Santa Fe and Oregon routes. Thence it is, by wagons,

To Fort Laramie.....637 miles.  
To Fort Union.....728 "  
To Santa Fe.....821 "  
To Socorro.....981 "  
To San Juan.....1,048 "  
"From St. Louis to Fort Snelling, by water, is 725 miles, and thence to Fort Ripley, by wagons, 125 miles.

"From St. Louis to Keokuck, by water, 179 miles, and thence to Fort Dodge, by wagons, 280 miles.

"A large portion of the supplies for the posts on the Pacific are drawn from the Atlantic States.  
"3d. The frontier posts, as may be seen by the foregoing list, were then situated in the midst of a fertile and productive country, where nearly all the supplies for the troops could be procured. Now, on the contrary, they are, for the most part, in one of the most unproductive regions in the world, which furnishes but a small portion of the necessary supplies for an army. Those supplies must, therefore, all be drawn from the older States and transported immense distances. The consequence is that, while in 1845 the cost of transportation (of troops and supplies) was \$130,053 52, of transportation (of troops and supplies) was \$2,094,408 51. In the former in 1850-'51 it amounted to \$2,094,408 51. In the latter it was \$1,267,327 91. The great increase in this last item arises not only from the causes just mentioned, but also from the great increase of animals in the quartermaster's department, which in 1845 amounted only to eight hundred and forty-seven, and in 1850-'51 to upwards of eight thousand; and also to the fact that the mounted force has been greatly increased.

"4th. The great distance which troops have now to be transported in going to and from the several posts.

"This is a very important item. Owing to the smallness of our army, changes of station are very frequent, and instead of being made, as they formerly were, by water, they are now made by land. When it is recollected what a vast amount of transportation is necessary for an army on a long march, when not only their baggage, but supplies of every kind (including provision for their daily consumption) must be carried with them, some idea may be formed of the expense attending these changes of station. The above facts will serve, in some degree, to explain the great increase that has taken place in the expenditures of that department. For fuller explanations on this subject, I refer to the accompanying report of the quartermaster general.

"It is probable, however, that in some instances, the expenditures both of the quartermaster's and the commissary departments may have been increased by mal-administration. The transactions of both these departments involves such a variety of details, and their agents are so far removed from the supervision of their chiefs, that abuses may exist a long time before they are discovered. Every effort, however, has been used to detect these abuses, and to prevent their recurrence. Inspections have been sent to the frontiers to inquire into the manner in which the affairs of these departments are administered, and a rigid scrutiny into accounts has been ordered. I regret to say that the department has some reasons to fear that its apprehensions on this subject were not altogether without foundation.

"From statements carefully prepared by the different bureaus of this department, it appears that the increased expenditures in the army, resulting from our newly-acquired territory (including Texas) amounted to \$4,556,709 75.

"Congress, at their last session, omitted to provide for a deficiency which was ascertained to exist in the appropriations for the quartermaster's department for the year ending 30th June last. Serious embarrassments would have resulted to the service from this omission, had there not existed some unexpended balances of former appropriations, which, under the act of August 26, 1842, were transferred to the quartermaster's department. Congress also reduced all the items of appropriations but one, for the same department, for the current fiscal year ending 30th June next, fifty per cent. below the estimates; the consequence of which is, that the appropriations for that department are entirely inadequate to its wants, and that Congress will be called upon, at an early period, to supply the deficiency.

"Congress having clearly manifested a determination to reduce, as far as possible, the expenditures of the army, I felt it my duty, as far as was practicable, to carry their views into effect. I have accordingly labored to reform abuses, to enforce rigidly all regulations looking to economy, and to retrench every unnecessary expense."

But it is in the item of transportation, as every man knows, who has paid any attention to this subject, from which this large increase of expenditure occurs. Now, is the Secretary of War and the President responsible for the conquest of New Mexico, California, and Oregon? Do you expect to make this vast addition to your empire, and perform the duties which you have engaged to perform in giving protection to the people there from the savage tribes that inhabit those Territories, and execute your treaty stipulations with New Mexico, by preventing the savage tribes from making incursions into their territory, without an addition to the annual expenditures in the military service?

Mr. SWEETSER. It will be recollected by gentlemen who served in the last Congress, that when the civil and diplomatic bill was under consideration before this House, a large item, amounting to about \$2,500,000 was stricken down, after a full and fair discussion of the question in the House, and that they claimed that something had been gained by the manner in which they had disposed of that bill. It will be remembered, that the distinguished gentlemen, who took a part in that discussion, and more particularly the honorable gentleman from South Carolina, [Mr. BURN], at the head of the Military Committee, then avowed to the House and country, that there were abuses in the quartermaster's department of the army, which required not only the action of the House then, but at a subsequent session of Congress. That promise was made, not only to the Administration, but pledged to the country, that the time had come when the representatives of the people would clamor at these abuses; and in order to redeem that pledge, we find the Committee of Ways and Means of the present House of Representatives bringing forward a deficiency bill, which sanctions what we condemned by our act in the last Congress—sanctioning the very expenditures which were then stricken out in the civil and diplomatic bill, by adding \$500,000 to the aggregate amount. At this session we find the present Committee of Ways and Means coming forward and asking this House of Representatives to appropriate \$3,000,000 by way of a deficiency bill, not only to sanction the extravagance of the various departments of the General Government but to sanction their contracts, made without authority of law, if not in open violation of law, when the House had given notice, that they were

to remedy these abuses. This question overrides all party considerations. It is a question amounting simply to this: whether, under the forms of making appropriations as the representatives of the people here, we are compelled or called upon to surrender those functions placed in our hands by the Constitution and the laws of the country, to the Executive Department of the Government, and admit that in our action hitherto, in relation to these matters, that they have been justified in expending this money without any authority of law, and indeed in violation of law? There is no party question in this, and all this attempt to shirk responsibility and fix it upon this or that branch of the Government, in my judgment, amounts to nothing. There should be a responsibility somewhere; and if properly left to the House of Representatives by the Constitution and law to determine by their action in voting supplies, it is their duty to see that the appropriations estimated for by the Executive branch of the Government are legitimate subjects for a deficiency bill. It is not for us to hunt up the delinquent officers. The frauds upon the Treasury being admitted, as is the case in this debate, the Executive branch of the Government are bound in the honest discharge of public duty to see where the fault lies, and to apply the necessary remedy. But as one of the representatives of the people, I care not where it lies. It shall be fixed somewhere; and let the friends of the Administration take what course they please in reference to the defense of the Administration; I am entitled to withhold my vote from the sanction of any measure which seems to be so entirely subversive of the independence of the House of Representatives. We hold the purse-strings of the nation, and we might as well go forward and formally surrender them up as pass this deficiency bill. As I have said before, we sanction the course pursued by the Administration directly in the face of votes at the last Congress. I am not prepared to make the surrender, as far as I am concerned. I am not prepared to surrender that power which the Constitution has placed in our hands, and I do not regard this measure as being necessary in order to sustain the soldier. This quartermaster's department is a department complained of even by officers of the army, and I have now in my possession letters from New Mexico, Texas, and the Western frontier, that condemn the course pursued by that department. If I were to read some of these letters, they would probably disturb the minds of the Administration.

The question was then taken on the amendment to the amendment, and it was not agreed to.

Mr. ORR. I move to reduce the appropriation three dollars. The gentleman from Indiana, who sits near me on my left, [Mr. DUNHAM], indicated very strongly in the speech he made a few moments ago, that you will not strike at public officers through the public service. I cannot perceive any very efficient way of striking at them otherwise than in this particular manner. The Committee of Ways and Means in this House have investigated the matter, and what is their report? The chairman of the committee says one description of officers is responsible; the gentleman from New York, [Mr. Brooks], a member of the committee, says General Jesup is responsible; and, I suppose, the gentleman from Indiana [Mr. GORMAN] would devolve the responsibility upon still another class of officers. What, then, is to be left for the House to do, except to charge the responsibility either directly upon the President, or upon the Secretary of War? How else are you to reach them, if the President and Secretary do not apply the corrective? I think I suggested the only way in which that corrective can be applied, and that is, to refuse to vote for the appropriations until the House have an earnest from the President that, in future, the public funds shall not be squandered; and that hereafter the appropriations made by Congress shall not be exceeded. The chairman of the Committee of Ways and Means tells you that there are abuses. It is said upon all hands that there are abuses. Let me inquire of you, How is the corrective applied? Those abuses were known to exist two years ago; but what progress has the President or Secretary of War made in correcting them? If you go on making the appropriations they call for, or if you refuse to make the appropriations pursuant to their estimates, but afterwards vote deficiency bills to supply the original

amount of estimates, there never will be a corrective applied. What is the character of these abuses? My friend from Tennessee [Mr. GENTRY] says the reason why the expenses in the quartermaster's department have been increased so much within the last two years is on account of transportation. I grant to him that is one very material item of the increase, but there are other items. The chairman of the Committee of Ways and Means, in his speech yesterday, furnishes a table showing that \$100 per month is paid for the quarters of one or two officers. In other instances, \$81 per month. Here is a sum of \$100 per month for quarters for three officers, stationed at Santa Fe, making, in the aggregate, \$1,200 a year paid by way of rent.

[Here the hammer fell.]

Mr. EVANS. Mr. Chairman, it has been assumed here, upon all hands, that there are gross abuses existing in the administration of the Executive Department, or in the quartermaster's department, reaching to some material amount in this bill. I deny it. I am not able to go into the whole matter in a five minutes speech, but I am ready to meet any man who asserts it, hereafter, upon the floor of this House, and I wish him to bring his proof.

Sir, the officers of the army are not dishonest scoundrels, who would plunder the public Treasury, as has been asserted here. They are honorable, high-minded gentlemen, who are under oath to perform the duties which have been committed to them.

Why talk about responsibility? whether it is with this side of the House or with the other side of the House? or with the Administration? Sir, it is with neither. It is with that Executive and those Congresses that brought about the annexation of Texas, the Mexican war, and the treaty of Guadalupe Hidalgo. You expect to buy a whistle and not pay the price for it. You annex Texas and get possession of Oregon, California, and New Mexico, and expect to pay nothing for it. Sir, every dollar of this expense was necessary, and has been justly incurred. It makes no difference to the Administration whether you vote it or not.

Now, as to the responsibility. Some gentlemen blame General Jesup. He does not belong to the Whig party. I do not know him. I never spoke to him in my life. But I desire to exonerate him, and to say that, so far as this expense arises from continuing the army on the frontier for the protection of the country, the Administration is responsible for it. Those gentlemen, therefore, who are attacking the quartermaster's department, may reserve their attacks for the Administration.

Now, what are the facts of the case? Congress, at its last session, cut down the estimates for this service one half. The gentleman from Kentucky, [Mr. MARSHALL], with all his knowledge concerning military affairs, cannot justify that. It is beyond the power of his genius or talents to do it. Nobody can justify it. They struck in the dark, without information, and cut down the estimates one half. They were informed at the time by the War Department, that the way to effect a reduction of the expenses, was to decrease the army, but they refused to do it. I offered an amendment here, that in case the money appropriated was found insufficient, that then the President might withdraw the army on the frontier, but the House voted it down. Mr. Schenck, then a Representative from the State of Ohio, and now Minister to Brazil, offered a similar amendment, and it, too, was voted down by the gentleman from Kentucky and those who acted with him. They refused to withdraw the army or to reduce the number of troops, but they did reduce the appropriation, and that, too, in the face of a letter from the Department, telling them that the only way in which the expenses could be decreased, was by a reduction of the army. Nay, more, sir; they increased every company and mounted two regiments of infantry.

Sir, we are now in a state of war; and that, too, thousands of miles from the interior of the country. When Napoleon invaded Russia, his supplies had not so far to go to the scene of operations as our's now have. Our troops, instead of shouldering the musket, are now shouldering the spade, and cultivating potatoes and corn. At the post at Fort Leavenworth last year, they made a



profit of \$6,000 over and above the necessary expenses. Whilst our troops are thus engaged in the small, paltry, and pitiful work of trying to support themselves, gentlemen come here and talk of extravagance. Sir, as a member of the Committee on Military Affairs, I challenge these gentlemen—not in a five-minutes' speech, but hereafter in Committee of the Whole—to place their fingers on an instance of extravagance. I can show that their own Administration—Mr. Polk's administration—expended more, in an unauthorized way, in the quartermaster's department, than has ever been expended by this Administration.

The gentleman from South Carolina [Mr. ORR] says that the President ought to dismiss the Secretary of War and all the heads of bureaus, because, forsooth, the army costs more than was appropriated for it.

[Here the hammer fell.]

The question was then taken on the amendment to the amendment, and it was not agreed to.

Mr. VENABLE submitted a *pro forma* amendment, and said: I rise simply to say what I think is due to myself, to the chairman of the Committee of Ways and Means, and to the country. I wish to make an explanation in reference to the vote which I gave upon this subject during the last session of Congress. I then voted for reducing the estimates one half, whilst we were warned at the time that if we made that reduction we would have to pass a deficiency bill. I find, sir, that I erred in voting to reduce those estimates one half. We required the Administration to raise new regiments, and to place them on the frontier for the purpose of executing the treaty of Guadalupe Hidalgo, by protecting the Mexicans from the inroads of the Indians. If we withhold the means of support, we require them to send our troops to the frontiers, and expose them to danger without arms, equipments, bread, or provisions.

Sir, I take this occasion to say that I regret the vote I then gave. We cut down the estimate exactly one half. We were warned at the time, that we would have to pass a deficiency bill. Sir, I decline to make allusion to party tactics on a question of this sort. It ought not to be a party question whether the gallant soldiers shall be clothed, and fed, and our frontiers protected from the inroads of savages, and it never shall be with me. I will not suggest an unkind insinuation against the integrity of such men as Persifer F. Smith, and Hitchcock, and Sumner. I am proud of the army of the United States, and of the high integrity and gallant bearing of the officers who command it. A man like General Jesup, whose valor and honor are recorded on every page of the history of our country for the last thirty years, is not to be denounced for supporting and sustaining troops raised under our own laws, and by our own orders. It ought not to be made a party question. The question is whether we shall not clothe and feed men that we have enlisted, and sent to our frontiers for the purpose of protecting our frontiers? Whether we shall stand up to our treaty obligations with Mexico, or suffer these troops that we have sent out there to be sacrificed and to perish?

I shall sustain my friend at the head of the Committee of Ways and Means. I have before me the estimates which were cut down last year, and the communication of the Secretary in which he states specifically the amounts necessary.

The transportation of stores and equipments across trackless deserts, far from civilization and its comforts, amidst the dangers arising from scarcity of water and the assaults of savages, must be necessarily expensive. But we placed the troops there by our own laws—our treaty obligations to defend the frontiers of Mexico from the inroads of the hostile tribes which infest them, required that they should be there. We cannot shrink from the expenses of sustaining them. Let it be remembered that we, by law of the last session, increased the companies from forty-four to seventy-four men, and raised a regiment of mounted men without a correspondent increase of the means of support; and whilst I would most promptly hold the Administration responsible for all its faults and failures, I am not disposed to make an attack where the defense is so obvious, and completely in the hands of those I would assail. At least I am not inclined to select gallant soldiers, far from home, and surrounded by perils, as the subject of

my experiment in a party conflict. I will not curtail their rations, or diminish their comforts to present an issue of mal-administration before the country.

Mr. JONES, of Tennessee. I have taken but little part in the discussion touching the deficiency estimates for the quartermaster's department. The gentleman from North Carolina, who has just taken his seat, says that we must support and feed the army. Sir, these estimates are not for that purpose. The commissary general of subsistence submitted his estimates at the last session of Congress, and doing so, he made his estimate for every man that the law authorized to be in the army, and some two or three hundred more than were actually in service. He estimated each man's rations to cost twenty cents, and, as he himself says, this covers the increased cost of contracts to have the rations delivered in the new countries. Yes, sir, and what is the fact concerning all this noise about protecting the women and children on this frontier. I have here the report of the Adjutant General, by which he shows that there are over two thousand troops in the military district of Texas. We have also a report from one of the assistant quartermasters there, who says that he has collected information under the instructions of the quartermaster general, and that it is believed there has been a great mistake as to the number of the Indians on that frontier. He says that if the reports of those who have been entrusted with this duty are to be relied upon, all the Indians of every tribe, age, and sex visiting that military district do not exceed the number of four thousand persons. That fact has been reported to us.

Now, sir, I say that when, at the last session, Congress had appropriated to this quartermaster's department nearly two million four hundred thousand dollars, they should have so conducted themselves as to have kept the expenditures of the department within the appropriation given to them. They ought not to have ordered the army about from place to place, incurred liabilities, and then come here to tell you that the faith and honor of the Government are pledged. I say that none of them, from the President down to the Assistant Quartermaster, have a right to contract liabilities and bind this Government to foot up their bills. They should have stopped the army and let the responsibility for the ills resulting to the country come where it ought to be—here—upon the representatives of the people. I, for one, would be willing to take it.

Sir, if gentlemen think that there are none here who would vote against this bill, if their votes could reject it, let them so count noses and bring it to the test, and I have the control of one vote that will defeat it if it comes to that.

The question was then taken on Mr. VENABLE's amendment to the amendment, and it was not agreed to.

Mr. BAYLY, of Virginia. I move to reduce the amount to \$94.

I merely wish to correct an error, into which the gentleman from Maryland, [Mr. EVANS,] and the gentleman from North Carolina [Mr. VENABLE] seem to have fallen in respect to the action of the Committee of Ways and Means during the last session of Congress. The gentleman from Maryland says, and the gentleman from North Carolina repeats his statement, that although the army was increased largely, yet that we reduced the appropriation for its support. He seemed to imply that the basis of our reduction was the estimates sent in before the increase in the army was made. Such, however, was not the case. After Congress had increased the army, the Committee of Ways and Means called upon the War Department to reform these estimates to conform with this increase; and these estimates were accordingly increased upwards of \$1,500,000—I do not recollect the precise amount. It was upon the basis of these increased estimates, made necessary by this augmentation of the army, that our reduction was made. It was not, as those gentlemen seem to imply, upon the original estimates sent in, to provide for the army upon its old organization, but upon its new.

Mr. GENTRY. I have just a word or two to say. It seems to be assumed in this debate, that the fact of Congress having reduced the estimates for the military service of the country, during the last session, created an imperative obligation upon the part of the executive branch of the Govern-

ment, to so arrange matters as not to be under the necessity of asking an appropriation for the supply of deficiencies such as we have now before us. It is assumed by some, that to come here under such circumstances is a very great insult or indignity to this House—that it is exceeding the powers recognized as existing in the Executive, if it is not absolute usurpation. Now, it is most remarkable that any gentleman should entertain such a thought as that upon this floor. I do not remember a single session of Congress, for the last six or eight years—if there has been one I have forgotten it—that such deficiencies have not been created. This has especially been so since the fiscal year was changed by law.

Mr. JONES, of Tennessee. I ask my colleague if he can specify one single case since the year 1844, when the fiscal year was changed, in which a deficiency like this has been created where Congress had cut down their estimates—had positively refused to grant them in full?

Mr. GENTRY. I do not remember a case so precisely analogous, but I do not perceive that the principle is changed in the slightest degree. What did Congress mean by cutting down those estimates at the last session? Why, those gentlemen who were the most prominent in inducing that result, affirmed that they were taking a leap into the dark. These estimates seemed enormous, and they thought reform ought to be introduced somewhere, and that it was the duty of Congress to use every exertion in its power to correct abuses and to introduce reforms, and they concluded to commence with this Department of the Government. But you did not authorize the Executive to withdraw your army in New Mexico. Yet he could not do it without the authority of Congress; and Congress could not withdraw that army, placed there to carry out the treaty stipulations with Mexico, without a breach of faith, and without covering itself with dishonor and infamy. You called upon the Executive to correct those abuses, and to introduce reforms; and he has made an effort to do so. Your gallant army has been made to raise potatoes and cultivate corn-fields, instead of engaging in those military pursuits more adapted to their tastes. Then, who are the leaders of your army? Who is Persifer F. Smith? Who is General Jesup? Both of them Democrats? I am ashamed to mention such a fact in discussion; but there is not a man in the army, who, for honor, chivalry, and military skill, stands higher than Persifer Smith. I am proud to bear such testimony to his character. Who are Hitchcock and Sumner, commanders in New Mexico and Texas? Is it from their supervision that such abuses exist? Do you assume that these men are scoundrels, and engaged in the base work of trying to swindle their Government out of its money? Are the whole Army of the United States and its officers who have borne their country's flag with glory everywhere, and than which no nation ever boasted such high metal, the scoundrels? Is that the return you give them for their noble and glorious deeds? And do you intend to withhold from the appropriations necessary to furnish them with supplies? Do you intend to repudiate your obligations to protect the territory you have acquired? Aye, gentlemen, there lies the rub. You want to shrink from the consequences of your own policy. You cannot add more territory without more expense, and great expense. You cannot reduce your expenditures for your army while you continue to extend your territory, for this increase of expenditure has been brought upon us by the increase of your territory.

[Here the hammer fell.]

The question was then taken upon the amendment to the amendment, and it was not agreed to.

Mr. CABELL, of Florida. I move to strike out the whole appropriation.

The CHAIRMAN. The Chair will suggest that that amendment is not in order at this time.

Mr. CABELL. Then I propose to reduce the amount to five dollars.

I do not propose at this time to make a five minutes speech. I arise for the purpose of information, and I deem it entirely irrelevant to discuss the question of the abuses that exist in the army of the United States upon our frontier. We all know that abuses exist, and must continue to exist, in every department of the Government, and for which the Administration is not responsible.



Mr. Chairman, there seems to be a misunderstanding in regard to the character of this deficiency. It has been stated and asserted positively, that the deficiency for which we are now asked to make an appropriation, is for debts already contracted by this Government. The gentleman from Ohio [Mr. OLDS] said, in his speech yesterday, that "the Secretary of War, in defiance of the manifest determination of Congress, the law-making power of the people, not only expended that \$1,500,000 refused him by the last Congress, but \$2,500,000 more than the sum allowed him; and he comes forward now to ask of this Congress to give him this \$2,500,000, and \$1,000,000 more, under the pretext of deficiency, the gentleman from New York, at the same time telling us that the responsibility is not with the President, but with Congress;" and the gentleman from South Carolina [Mr. ORR] says the Secretary of War had gone on and expended the money that Congress had refused him. Again, the gentleman from Tennessee, who addressed the House a little while ago, says that this money is asked for to meet the contracts already made by the Secretary of War, in defiance of the manifest will of Congress. Now, sir, I cannot believe this is true; if it had been true, I cannot believe the chairman of the Committee of Ways and Means would have introduced here a bill making this appropriation. If these officers have violated the law, they should be held to a strict accountability. But when gentlemen make these charges, it is essential that there should be an explanation. For if they are true, I will not vote for the appropriation without holding the parties responsible. And that I understand to be materially the position of my friend from Kentucky, [Mr. MARSHALL.]

Now, I have seen this impression made upon the minds of many gentlemen by these statements; but I have been informed by a member of the Committee of Ways and Means, sitting near me, [Mr. BROOKS,] that, so far from this being the case, that not one contract has been made, not one single liability has been incurred. The Secretary of War has expressly stated that no drafts were to be drawn upon the Government; that no debt is now due by that department. I ask the chairman of the Committee of Ways and Means, or some member of that committee, to state how that is. I appeal to the gentleman who sits near me [Mr. BROOKS] to give some light upon the matter.

Mr. BROOKS. I rise to oppose the amendment of the gentleman from Florida. [Mr. CABELL.] My only object in doing it is to answer the gentleman's interrogatory.

The Executive—and I said the same thing in my remarks the other day—has not spent one cent beyond what Congress has appropriated, and he cannot spend one cent beyond that. Congress during the last session cut down the estimates the enormous sum of \$2,315,000. Never before was there such a cutting and slashing without reason, or rhyme even. The quartermaster general now asks Congress to supply what was then cut down, to the amount of \$2,065,000. This, however, the Committee of Ways and Means do not give him, for they have again cut him down to less than \$2,000,000.

When this cutting and slashing took place the last session, it attracted my attention. As a friend of the Executive I went to him, and said to him that I thought it was for him to see if it was not his duty under the action of Congress, to recall the army from the distant frontiers, and to bring it home to cheaper posts of subsistence, such as could be found perhaps in Connecticut, Ohio or Kentucky, or wherever it could subsist the cheapest, and where no transportation would be necessary. He replied that he had yet some surpluses—some war contributions, some other available means from various legitimate sources, and that it was his duty to exhaust them first; that Congress was again to meet in December; that he would restate all the facts to Congress, and ask that body for the usual necessary appropriations; but if they refused, it would then become his duty to withdraw every soldier from Oregon, California, New Mexico, and Texas, and subsist them in the cheapest portions of the country. As long as the appropriations of Congress would last to keep the army on the frontiers, he would keep them there, but if Congress refused the means, then let Congress take the responsibility.

The question was then taken upon Mr. CABELL's amendment to reduce the appropriation five dollars, and it was not agreed to.

Mr. GORMAN. I move to reduce the appropriation one dollar.

It is not the point before this committee whether we will feed and clothe the soldiery. That is a false issue, made up upon this floor. It is a false expenditure of patriotism. The point before the committee is not whether A, B, or C,—whether Sumner, Jesup, and others, were valiant and distinguished men—God knows, that if I were to speak my own sentiments—if I had the time to do it upon this or any other occasion—I would be willing to twine around their brows a wreath of glory that should remain with them till time should be no more. It is not a question of keeping that money from the officers or soldiery of the country. Who has proposed such a thing. That was the patriotism of the gentleman from North Carolina, [Mr. VENABLE.] That was the patriotism of my friend from Tennessee, [Mr. GENTRY.] This is simply a question of whether or not you shall increase the amount of expenditures in the quartermaster's department. What is the quartermaster's department? It is the department for the purchase of wagons, and teams, and mules, and supplies—not of provisions, but the mere buying and transportation of horses, mules, wagons, and similar species of property. It is not a commissary's department, but a different one entirely.

Mr. Chairman, we reduced the estimates for the War Department, during the last session, \$2,000,000; and what does the commissary's department? Why, they took us at our word and reduced their expenses \$700,000.

A MEMBER. \$800,000.

Mr. GORMAN. A gentleman says \$800,000. Well, sir, did we hear complaints from that department? Do we hear that we did not provide enough for the transportation of their provisions to Oregon, or New Mexico, or Texas? That has not been the complaint; but the complaint has been, that they have not soldiers enough of the right kind. We do not propose to take a single morsel from the mouth of a soldier, or a single dollar from his pay. Why, we curtailed one of the departments of the Government, which the Secretary of War says is known to be corrupt; or, to use his own language, "it is known that abuses have crept in." A million of dollars, and upwards; and what was the effect? It has been that they come here now, and confess that they can do, annually, with \$1,000,000 less than they did before. Now, what has produced that change? Now, we propose to reduce it again. You have your wagons there, and they are not worn out. You have your horses, your mules, your teamsters, your men, and your wagon-masters already there; and cannot you economize in the expenses of your quartermaster's department? Cannot they economize in the purchase of such property as they are compelled to purchase? The gentleman from Tennessee, [Mr. GENTRY,] in his patriotism, asks—who is Sumner?—who is Hitchcock?—who is Jesup? Sir, they are gallant men. But they are not to blame. I am not blaming anybody. I am not blaming the President, or the Secretary of War, or General Jesup. I am asking that the representatives of the people shall apply the check, by curtailing the extravagance of this department. This matter has been brought before the country, and I propose to apply the knife there.

I have one word more. I wish the House distinctly to understand that the assistant quartermasters are not under the control of the officers of the line, so that you cannot blame those officers. [Here the hammer fell.]

Mr. MEADE. I have been listening for the purpose of hearing some one, who has spoken upon this bill, tell this House what will be the consequence of its rejection. Let it be taken for granted that this Administration has been profusely extravagant, wantonly so; take it for granted that we have been defrauded of the appropriations which were munificently made by the last Congress; take it for granted that enough was appropriated to answer the purposes of the army, and by reason of improper agents that money has been plundered, how are we to redress ourselves? What are to be the consequences of refusing to make this appropriation? Will gentlemen tell me

that? Will gentlemen tell me whether the armies that are now upon the frontier of Mexico are to be withdrawn, or whether they are to remain there without means of subsistence? Will gentlemen tell me what is to become of our forces in Oregon, stationed for the protection of our citizens there? if we can withhold this appropriation, and no bad consequence result to our army and to the service, in consequence of this mode of inflicting punishment upon the Administration, I am, for one, prepared to inflict it. But, if by means of such infliction, I shall do more injury to the country than good by saving this money, I will not consent to do it. Why, sir, we are in the very common situation of a man who has employed a steward, and has supplied him with all the means necessary to conduct his farm for twelve months, and that steward, unfaithful to his trust, has expended in six months the supplies that were intended for a year, and he comes for more. He is charged with fraud and extravagance, and is unable to defend himself in the account he renders of the manner in which he has expended it. But should the owner suffer the horses upon the farm to starve? Should he suffer the crops to perish, which are half made? Should he suffer everything to go to ruin because of the unfaithfulness of that steward? No, sir. He must furnish his plantation with new supplies sufficient to keep it up.

Gentlemen around me ask me if I would not dismiss the steward? Yes, sir; but the people who own this plantation must apply the remedy. We cannot. The people, it is to be hoped, will discover their error, and apply the remedy when the time comes. But, sir, we will not discharge our trust here upon this floor, if in consequence of one set of agents becoming reckless of the interests of the country, we do not attend to and provide for the exigencies of the country. We must supply these funds if they are necessary, although we may be convinced that the money formerly granted has been stolen and the country defrauded out of it. There is no remedy.

The misfortune of this House is in having no remedy in their hands. They must submit to the evil until the 4th of March next, when the people will have applied the remedy. If gentlemen will show me that by withholding these supplies, no greater evil will be put upon the country, I will give my vote against the bill. But I must know the fact. The Committee of Ways and Means, a majority of whom are in opposition to the Administration, have failed to discharge their duty, if, knowing the fact that these appropriations could be withheld, they have not told this House that they might be.

The amendment to the amendment was disagreed to.

Mr. WALLACE. Mr. Chairman, I move to amend the clause of the bill, now under consideration, by striking out the words "two hundred and nineteen thousand dollars," and inserting the words ten dollars.

I desire, sir, to place the responsibility of the extraordinary deficiency in the appropriation made by the last Congress, for the quartermaster's department of the army, and which the honorable chairman of the Committee of Ways and Means tells us, has rendered the introduction of this bill necessary, in the right place. The Secretary of War, General Jesup, the quartermaster general, and other officers and agents of the army, have been referred to in this debate, with the view to fix upon them the responsibility of the wasteful and extravagant expenditures, which have made this remarkable deficiency in the army fund. In my judgment, sir, this is placing the responsibility of this prodigality in the use of the public money in the wrong place. Who, sir, is the commander-in-chief of the army? The President of the United States is that commander-in-chief; and that functionary, and not his subordinates, is responsible for the wasteful extravagance in the expenditures of the army fund, of which we have heard so much in this debate. Will this House pass by the President, and attempt to hold his numerous subordinates responsible for the mal-administration of this fund? These subordinates are responsible to him, and he is responsible to Congress and the country; and this, sir, is the form in which this question should be met. The matter under consideration is a question between the legislative department and the Executive. Congress has passed a law, and the Executive, whose duty

it was to see that that law was faithfully executed, has disregarded its limitations.

There is, in my judgment, a principle involved in this matter which demands the grave consideration of this House. I deem the amount of money proposed to be appropriated by this bill of less importance than the principle involved in the rebuke which, by implication, the Executive has given to the legislative authority. The issue presented is an issue between the Executive and Congress; and this House must determine whether it will permit the Executive to override the authority of Congress, and become the mere ministers of his will. Will this House determine that the Executive departments of the Government may go on *ad libitum*, and incur responsibilities in the public expenditures to the amount of millions beyond the amount appropriated by law, and then come here and demand that these debts, contracted without authority of law, shall be sanctioned by Congress, and appropriations made to pay them? If such a principle be sanctioned, the Executive, and not the legislative authority, may hereafter determine the amount of the annual appropriations for the public service; and the army, navy, and civil list will ere long be able to decide what the amount of their own compensation shall be. If this abuse be sanctioned, you make thereby a precedent of the most pernicious tendency. How can you limit the public expenditures, if the laws making appropriations be disregarded by the public agents? Will you permit your public agents to substitute their discretion for the laws passed by Congress? Will you make an appropriation of money for a particular branch of the public service, and permit the President to decide, in effect, that you did not do your duty, that the amount is insufficient for his wants, and then send in an estimate here of a large amount which he has expended without authority of law, and demand that an appropriation be made to pay the debts he has incurred? Do you admit the rebuke thus administered? Where is the limit to abuses of this kind if this be sanctioned? If you would retain the confidence of the country, and make your legislative authority what it was intended to be, you must keep the Executive authority in its proper place, under the proper responsibility, and confine it to the sphere of its legitimate duties. I recollect, sir, that at a period of our history not very remote, a message came from the President to this House, in which he manifested a very high appreciation of the responsibility which rested upon him in reference to the faithful execution of the law in regard to the boundaries of Texas. If he had been equally observant of his duty in holding his subordinates to a proper responsibility in the disbursement of the public money, a large amount of the appropriations demanded by this bill would have been saved to the country. You pass a law appropriating a certain amount of money for the support of the army. The President permits this fund to be wastefully expended; and when it is thus wrongfully exhausted, the same prodigal expenditures are permitted to go on, until heavy debts are incurred, and demands are then made for appropriations to meet this extravagant waste. What is this but a substitution of the discretion of the Executive for the legislation of Congress? It was the plain duty of the President, as the commander-in-chief of the army, to execute, with a proper regard to economy, the law passed by Congress; and if the fund appropriated was exhausted, to put the soldiers in the barracks and cantonments provided for their accommodation, and report the true condition of things to the legislative branch of the Government. I will vote no appropriation that finds its way here in this questionable shape; and I am ready to bear my share of the responsibility of defeating this bill, so far as my vote may have power to produce such a result.

Mr. VENABLE. The gentleman from Indiana [Mr. GORMAN] has read me a lecture, along with my friend from Tennessee, [Mr. GENTRY], about some unnecessary expenditures of patriotic feelings on this occasion. He says that the question here was not as to whether the soldier was to be fed and clothed, but whether the appropriation now asked for supplying the deficiency in this part of the same should be granted, that it should be wasted in extravagant expenditures at the quartermaster's department. If General Jesup is to be believed, and the report which I hold in my

hand is to be taken as true, much of the money has already been spent for transportation, for clothing, and for bread for those soldiers. He says that the appropriations for this branch of the service are exhausted.

This communication, made by General Jesup, bears date the 3d of December, 1851, and this is the 23d of March, 1852. The soldiers have eaten the bread, have worn the clothing, and the expenses of transportation has been to some extent incurred. Your army has consumed it, and we are asked to repudiate the claim. We have no guide but the estimates of the department and the reports of the committee. The estimates are furnished by the departments, and the administration are responsible for their correctness.

If the statement of General Jesup is to be relied upon, such are the facts. It is for expenditure, to some extent, always incurred, and for sustaining your troops, placed in position by your laws and by your authorities. None are to blame but ourselves that this delay has taken place in the investigation of this subject. Three months have nearly passed since the 31st of December, and the bill has been a long time on the table without action, and now we are told that this item for transportation is needless, or at least unreasonably extravagant. Sir, the army stores will avail the troops but little without the necessary appliances in wagons and teams to transport them for their use. I ask, what relief will it afford the famishing soldier upon the frontier to learn that there is bread enough and to spare in Philadelphia or New York? The patriarch heard that there was bread in Egypt, and, like a prudent, sensible man, sent his sons to buy and bring the corn, regardless of trouble and expense, and saved his family from perishing. It will not be to any useful purpose to assure the soldier, pressed with hunger, that there is bread enough in Philadelphia or New York, but that you will not spend a dollar to provide the means of carrying it to him. This is, indeed, to "keep the word of promise to the ear, but break it to the hope." It is to say to the gallant soldiers, we will require you to march to the remote frontiers, and encounter all the hazards and hardships consequent upon the duties of the service; we require you to give protection from the savages, and fulfill the treaty stipulations of the country; we will buy bread and clothing, and all the provisions what by law you have a right to demand at the most convenient season. But when the department asks for mules and wagons to transport it to them, we reply that there is a cheat in the quartermaster's department, and we will withhold supplies until the fraud is detected and exposed. This, sir, is an experiment which I cannot consent to make at the soldiers expense. He can derive but little comfort from the empty views of comforts at a distance, whilst surrounded by all the inconveniences of insufficient provision for his wants which the law has provided shall be met and satisfied. He renders real service, and should receive substantial supplies. There is no power to release him from his obligation to obedience; there should be no hesitation in providing for his necessities.

Mr. GORMAN moved, *pro forma*, to amend by reducing the appropriation to \$50. My opposition to this deficiency bill is founded upon what I think to be right. I am going to contest every inch of it. The gentleman who last addressed this committee has run off again into the commissary's department—the feeding department. What has that to do with the question of the quartermaster's department?

Mr. GENTRY. The quartermaster is to transport food to the army.

Mr. GORMAN. They have got now horses, harness, wagons, teamsters, and all of the men necessary. They have got them in the field, and there is money enough to pay them. I will show you in a moment that there is. There was appropriated by this House at the last Congress, for clothing and other equipage on the estimate of General Jesup, \$240,000, of which, General Jesup says, "I have only drawn \$161,000." Now, he comes here and asks for a deficiency of \$75,000. Why? He says: "on inquiry at the Treasury Department I learn the balance of \$81,000 has been applied to the settlement of paymasters' and other officers' accounts." The Treasury Department has withdrawn the money appropriated to the quartermaster's department at the last session, and given it over to pay the officers' bills, when

we made an appropriation in the army appropriation bill to pay the officers of the army proper. Here, under a certain law which exists, they have diverted the funds we appropriated to the quartermaster's department to clothe the soldier; they have taken \$81,000 of this money, and have appropriated it to pay the officers, notwithstanding that we, in the appropriation bill proper for the army, always provided the means for the pay of the officers and soldiers. They have authority to direct the funds under the law. This is the way they do it: If they find it convenient to pay at one point, they divert the funds from this department to another. Here, then, they come in for a deficiency of \$75,000, and ask us to make that up, when the Treasury Department has taken it out of the hands of General Jesup, and appropriated it to other uses, which Congress said should not be done, and for which Congress had made an appropriation. I insist gentlemen shall debate the question in point, as to whether it is the quartermaster's department that needs additional funds. The expenditures of that department were reduced \$800,000 last year, when we gave the hint. It can do so now. I want the chairman of the Committee of Ways and Means—I want every gentleman, Whig or Democrat—I do not oppose this upon party grounds—to tell me if that department has not got upon the frontier, wagons, harness, and horses, and all in the employ of the Government; and whether at this hour they have not got plenty of money to pay regularly. What is the addition of \$75,000 in the single item of clothing for? Because there is a deficiency? Where is the deficiency—where is the report that states the soldier needs additional clothing? The quartermaster general has suffered this \$81,000 to be drawn from his fund and appropriated to another. Now, he comes in and asks us to make it up. It may be all right and necessary that it should be appropriated; but I insist that if the last Congress could reduce \$800,000, the expenditures of that one department, it would be a very good thing if we would suggest to some of the other departments to make a corresponding decrease.

[Here the hammer fell.]

Mr. GENTRY. This, Mr. Chairman, is a remarkable debate in many particulars. I hope my friends from all sides will pardon me from saying that I do not think we are discussing this question as statesmen. We are not trying to do it. We have party contests for the President, and that is a fact which very much influences the character of our debates here. I want the world to know that fact, and to bear it constantly in mind, lest those who live at a great distance will not comprehend what is said upon this floor. [Laughter.] Now, our friends—my friends—upon the other side of the House—an adverse party—have the power here and in the Senate; and if the Executive branch of the Government is abusing its powers so much as they assume that it is, defeat this bill; but you have the power, and I have no objection at all to its exercise, except upon public considerations. I dare you to do it. Take the responsibility and do it. You dare not. You dare not. This does not relate to the army exclusively. Where rests the criminality, and where rests the responsibility for all of the other deficiencies covering the country, extending almost through every branch of the public service. My friend from South Carolina, [Mr. ORR,] usually a conservative and liberal man, says he will vote for this bill if the President will dismiss the Secretary of War and General Jesup, and all who have been connected with the expenditures, or who are responsible for them in any way. Well, now, if that rule is to obtain, in all respects, what is to become of us? I see here in the bill, sir, "for the contingent expenses of the House of Representatives, \$75,000." [Laughter.]

Mr. JONES, of Tennessee. There you have them! [Laughter.]

Mr. GENTRY. What is to become of the admirable and most excellent Clerk, and what is to become of us? [Renewed laughter.] Must we all be turned out?

Here again: "For surveying eight hundred and seventy-five miles of meridian, base, and standard lines, meandering and survey of irregular or river lots, &c., in California, at a rate not exceeding \$15 per mile, \$13,125."

Is General Jesup, is the Secretary of War, re-

sponsible for that, or is Congress responsible, for not having anticipated and appropriated all sums needful to carry on the Government, and to enable it to discharge its duties everywhere. Why, sir, we have made a great many mistakes. This matter of deficiency in the army appropriation is but one item of the abundance of those in this bill. Who is responsible? Why the Congress of the United States is responsible. My friend from North Carolina [Mr. VENABLE] insists that this House ought to vindicate its rights and power—that the President of the United States had no right to expend money that was not appropriated. Agreed: He cannot get a dollar out of the Treasury until this Congress appropriates it; but, I say that he has no authority to disband the army—he has no right to issue orders in New Mexico until there shall be some formal instruction to that effect—until the legislative branch of the Government shall give him authority to disband the army.

Mr. JONES, of Tennessee. Are the items generally in this bill under discussion?

The CHAIRMAN. They are not.

Mr. SWEETSER moved, *pro forma*, to reduce the appropriation of fifteen dollars.

I do not intend to blink the question, inasmuch as the gauntlet has been thrown down by the honorable gentleman from Tennessee [Mr. GENTRY.] I desire to say to him, and to this House, that I am among those men—and I think that they are numerous here—that intend to record their votes upon the yeas and nays against this bill, whatever may be the consequences involved. I desire it to be understood by the gentleman and this House, that there are men here who are determined to vindicate their independence as representatives of the people, by a record that will clearly show that they have not sullied themselves and surrendered to Executive delinquency, the trust reposed in them as representatives of the people. They are not to be driven from a position they have deliberately taken. All this caviling in relation to whom the responsibility rests, in my judgment, does not relieve this Administration from that just responsibility resting upon its Executive head. For what purpose does the present Executive hold that office? It is for the purpose of seeing that the laws passed by Congress are faithfully executed. The Executive branch being controlled by the President, armed with the power of appointing his Cabinet and removing them at pleasure, is responsible to the country for their acts; and it being the duty of the head of the War Department to enforce an honest and faithful discharge of duty by the heads of bureaus and officers in command of the army, there ought not to be any caviling about the responsibility. Make the President directly responsible to this House and the country, by withholding supplies, and the delinquents will be ferreted out, and the proper remedy applied. We certainly have the right to do so. Let us show we have, and disappoint the honorable gentleman from Tennessee. Has it come to this, that a friend of the Administration dares Congress to withhold the supplies provided for in this deficiency bill? If so, let us vindicate ourselves by recording our votes against this bill, and take the responsibility.

Mr. GENTRY. If the gentleman will allow me to interrupt him a moment. Do I understand the gentleman to make an imputation against the President because he has not spent all of the money that has been given to him? [Laughter.] He has executed the law, and now asks for more money, that he may continue to do so. Here is a conflict of laws—not a conflict of laws, indeed—but there is a conflict between the existing laws, and that leap in the dark, that reform, retrenchment made at the last session of Congress. He has not disbanded your army, nor has he violated the treaty, but he has spent the money that you have given him, and applied it to the purpose contemplated; and now asks for that needful to enable him to execute the law, to execute the treaty.

Mr. SWEETSER. I hope, Mr. Chairman, that the gentleman's speech will not be taken out of my time. [Laughter.] I will not be diverted from the point I made. It was not my intention, in answering, to point the item of misapplication. I could not do so in a five minute speech. The executive branch of the Government has not been required to do any acts or perform any service that has not been fully provided for by Congress. The charge is, money has been diverted from its legitimate object of appropriation; has been squan-

dered, and the public service disgraced. And now Congress is asked to sanction the act by providing the means to defray expenses incurred, and contracts made, without authority of law, overriding the solemn rebuke given by the action of the last Congress; and we are told that we dare not record our names against such a bill, and thereby fix the responsibility where it properly belongs. There is no way of avoiding it. And hence it is, that all of the special pleading in relation to whether this responsibility should be fixed upon this or upon that department, shows the impossibility of fixing it anywhere, unless you hold the Executive of the country responsible for the mal-administration of law. I agree with my friend from South Carolina, [Mr. ORR,] that there is the point to place it. It is for him to trace out abuses, and if he has not the power to remedy the evils that exist he should call upon Congress for the passage of such laws as will enable him to put an end to them. When the gentleman makes the point that this is the first case in the history of the Government, when a deficiency bill has been defeated, I say that I am not willing that it shall be the last case. Let the Representatives of the people determine, when they have solemnly adjudicated the matter, that no executive in this country shall override their solemn decision—that he shall not enter into contracts for the purpose of afterwards asking in a deficiency bill what had before been refused. That is the point I make.

[Here the hammer fell.]

Mr. HOUSTON. I have abstained from taking part in the debate this morning, because it has been generally irrelevant; and furthermore, because it was my desire to get action upon the bill at as early a time as possible. That is yet my desire. I do not intend to mingle in this debate, unless I think something I may say will have the tendency to give an explanation of the item that may be assailed. The gentleman from Indiana [Mr. GORMAN] commented, with a good deal of rigidity, upon the item asked for California; and he goes on, and charges that \$81,000 have been taken from that appropriation against law, which we are now called upon to come forward and sanction. He wishes to know why it is done. If the gentleman from Indiana had paid the least attention to the documents furnished; if he had attempted to inform himself upon the subject, he certainly would not have committed the blunder he has, which in my opinion is an egregious one—as to the amount of the item in controversy. Every one knows, and no one knows better than my friend, that the soldiers when they are discharged, who have not consumed their allowance in clothing, have a right to commute it and receive money in lieu of it. Until within some two years past, an estimate has regularly been made to every session of Congress, for a sum to meet the commutation for the clothing of the soldiers. For the last two years, that appropriation was omitted, and then the \$81,000 was taken, but not against law. The paymaster paid the commutation—and when they came to settle their accounts, this amount was charged, as it should be, to the clothing account to meet that payment. That is the reason why the \$81,000 is gone, because it was an allowance for clothing, and a commutation having been paid by the paymaster's department; and that, according to the regulations of the department in the settlement of accounts, was chargeable to the appropriation for clothing.

The gentleman from Indiana says we have plenty of wagons, teams, and mules, and why can we not furnish transports? If the gentleman had looked at these estimates, he would have found that the largest estimate now asked for, for the quartermaster's service, is forage for these very mules and animals furnishing transports. How can your animals make your transports, unless you give them something to keep them up? Here is an item of \$800,000 or \$900,000 for the forage of that very transport; and that is not all; for under the head of transportation, upon the first of January, there was only about \$10,000 in the Treasury to meet outstanding liabilities. Why, but the gentleman from South Carolina [Mr. ORR] says it was the duty of the President to put the troops in barracks. I will ask the gentleman, if you put the troops in barracks, does that save them from eating? And do they not eat in the house as well as upon a march? Do you not have to transport their pro-

visions to them? If you will stop their mouths, you may save supplies; and you will in the same way save the transports. Gentlemen contend that they are willing to pay the army, and they say that the soldiers get their pay under another appropriation. But they get their clothing, or the clothing is intended to be appropriated for in this very bill. You refuse the money to give them clothes, and you all say there is plenty to eat. We have the mules and wagons to carry our transports, but then we have nothing to feed the mules. All these things are to be left out, merely because there has been a waste, in the estimation of gentlemen.

[Here the hammer fell.]

The question was then taken on the amendment to the amendment, and it was not agreed to.

Mr. HALL moved a *pro forma* amendment to reduce the appropriation ten dollars.

He said: The gentleman from New York [Mr. Brooks] and the gentleman from Alabama [Mr. Houston] have endeavored to impress upon the minds of this committee, that the refusal to pass this bill would deprive the army in New Mexico, and Texas, and California, of the horses and mules used in that army. I feel it my duty to say a word in answer to that assertion. We all know that during the war troops were stationed in New Mexico and California, and that the quartermaster's troops, employed for the purpose of transporting ammunition and baggage, never received a dollar's worth of forage during the whole period of the war. We had, in New Mexico, during the war, some three or four thousand troops, and several hundred in California. Troops were scattered all over this country where they are now placed; and although those troops entered into the service under a contract that they should be foraged, yet they were never furnished with one dollar of forage during the whole progress of that war. Colonel Doniphan and his men marched some two or three thousand miles through the heart of Mexico, performing some of the most brilliant exploits performed in any part of the army, yet not one of these men received a dollar's worth of forage for his animal. You are told now that your regular army, that your soldiers, stationed there in garrison, are in peace establishment, and that they cannot support their horses for two months, unless you appropriate \$850,000 to furnish them with corn. What is the business of these troops? It is to protect the people in New Mexico and Texas from the Indians. And how are the Indian horses supported? They do not know what corn is, and they live upon grass; but these troops of ours, who are sent to protect the people from the Indians, forsooth, cannot feed their horses without \$850,000 to pay for corn. The great trouble in this whole matter is, that the troops did not try to do their duty; and the quartermaster, instead of buying horses that were appropriate for that sort of service, bought horses sixteen or seventeen hands high, that were about as unfit for crossing the plains as a monkey for a drawing room; and then they asked for corn to keep them alive. Such horses would wear down in one hundred or two hundred miles travel. If you had furnished them with the horses such as the Indians themselves use, they could have been sustained all the time for one third of the price needed for the large horses upon the prairie grass, of that country, which is the finest in the world.

It is all a mistake about there being no grass, and nothing fit for horses to live upon in New Mexico. The grass there is the best in the world, and we can support our horses there if we get the proper sort of animals. I am willing to take the responsibility of defeating this bill, if my vote will do it, because I do not believe it will injure the army, but I believe it will render it more efficient. In order to live, the soldiers will be placed in the Indian country, where they ought to be, and these horses will be taken away and Indian horses placed where there is grass, wood, and fuel, and where their services will be more efficient and useful. Stationed where these troops now are, they will be utterly worthless, worse than useless. As my friend from Tennessee [Mr. Jones] says, in order to protect Texas against four thousand Indians, men, women, and children, we keep two thousand troops in that country, and yet we give the people no protection whatever. Let these troops perform the duty of volunteers, instead of lying around the barracks. Let the soldiers be



put into active service, and instead of keeping their horses upon corn to get them in a fine, promising condition, let them be placed where the Indians are and feed their horses as they do, and then they will get rid of this enormous expense of forage, fuel, and all this sort of thing, and at the same time they will be giving protection to the people, whom they are sent there to protect.

Mr. POLK. I anticipated the scene several days ago, to which we have arrived, when the chairman of the Committee of Ways and Means pressed this bill with such hot haste upon the consideration of the House. I will not, however, within five minutes give any sort of construction to that hot haste. I will say, however, that two appeals have been made to this side of the House. The gentleman from North Carolina [Mr. VENABLE] calls upon us to vote for this bill on account of the women and children. I will shed a tear with him there. I will mingle my tears with his. [Laughter.] I will send up as generous an emotion to the throne of our common God for the scalped infants, as he will. Another gentleman calls upon us to sustain the bill on account of the army. I permit no one to admire the army more than I do; but I have a duty to perform, and neither tears or admiration will deter me from acting in a manner that would be in contradiction to a distinct sense of duty upon this subject. Then, after they have appealed to our patriotism, my colleague from Tennessee [Mr. GENTRY] gets up and defies us upon this bill. I admire his spirit. It is not the first time that we have been defied upon this bill. The last session of Congress cut down the estimates for the quartermaster's department. Did they obey the action of Congress? No! Did they defy it? Yes! The Administration defied Congress, and went beyond the limits of appropriation, in defiance of its distinct action. Finding that defiance will not answer, my colleague comes up, and defies the House. I will meet the defiance, and for one, will vote against this bill. I don't object to all of it, but there are portions of it to which I do object. I desire light upon this matter. What are you to do if you do not vote the appropriation? Is the army to be called in? No! Let Congress assert its right. Let it assert its proper power. Let it tell this Administration that we demand of you to show some evidence that you will correct those frauds upon the Government, if they are frauds as charged. We will withhold these appropriations. We will ask of you first to administer correctives, and when you shall show a disposition to do it, I will go heart and hand to save the honor of the Republic, and give them this aid: but I will require some sort of security of that kind for the future. I will require security for the future that the next Congress shall not be asked to pass another deficiency bill.

Mr. MASON moved a *pro forma* amendment to increase the appropriation twelve dollars. He said: I have read the bill, and I have listened to the debate upon it during the last two or three days, and I have not discovered any new light, since the chairman of the Committee of Ways and Means made his speech, to change my opinion on any item in it.

Now, sir, I am as much in favor of economy and of reducing the expenses of the Government as any member on this floor. My votes show it. But, sir, I do not consider this a place to show your devotion to economy. Let these same gentlemen, who are upon the various committees of the House, bring in measures to be voted upon, and acted upon, practically to reduce the expenditures of the Government. Let the Military Committee bring in a bill to reduce the army, if it is proper to do so. Let the Committee on Naval Affairs bring in a bill to reduce the expenses of the Naval Department, and so with all the other committees of the House who have charge of the various subjects. But when they fail to do this, and leave in force laws which compel the Government to expend money, are we to stop the appropriations here and let the Government drafts be protested?

Now sir, I have not satisfied myself from any observations I have yet been able to make, that this is an economical House—Whigs or Democrats, pro-slavery men or anti-slavery men. I have yet to see the first bill come up here, proposing to take money out of the Treasury, and not passed. I have seen hundreds of thousands of

dollars voted away here in a bill to make bounty land warrants assignable. You may bring up any proposition here for increasing the expenditures of the Government, or the contingent fund of this House, and it will go through, it does not matter whether by Whig or Democratic votes. Can you refuse to pass the appropriation in this bill of \$75,000 for the contingent fund of this House? You have increased the number of your officers; you buy books, you order the Clerk to buy stationery; and can you withhold from him the means to pay for things that your own orders have compelled him to purchase? Is it not so with every other item in the bill? The contingent fund of this House in Mr. Van Buren's time was \$100,000; you appropriated \$209,000 last year, and here was an additional appropriation of \$100,000 asked for deficiencies. The committee have made it \$75,000; but they might just as well have made it \$100,000, unless the House intends to put a stop to these extravagant estimates of appropriation. After the estimates were made last year, a simple resolution was passed to pay the employees of the House \$250 apiece extra; that took \$25,000. Another resolution was passed to bind the *Congressional Globes*, which took about \$4,000 more. Then there was a large sum paid for Gales & Seaton's Reports, which are laid away for the worms to eat, for nobody has ever opened them.

[Here the hammer fell.]

Mr. FAULKNER. A view of this question has been taken by several gentlemen in this debate which, if well founded, should have a decisive influence upon the result in this House, and certainly would materially influence my vote. It has been said, that this bill involves a vital and fundamental question of power between the Executive and the Legislative departments of the Government. That Congress, at its last session, in reducing the army appropriations fifty per cent. below the estimates, thereby indicated its fixed determination to limit the expenditures of the army within these appropriations, and that all expenditures beyond that amount, or in that proportion, for the present fiscal year, so far as it has elapsed, was in palpable violation of the will of Congress, clearly and distinctly expressed. This was the view of the gentleman from South Carolina [Mr. WALLACE] a few moments since, and it was the view of the gentleman from Kentucky, [Mr. MARSHALL,] announced on yesterday; the latter gentleman, indeed, was so emphatic in his opinion as to declare that he would rather vote to disband the army, and leave the frontiers to their own defense, than to vote one dollar of the present deficiency.

Now, sir, if I viewed this question in the light taken of it by these gentlemen, I might reach the same conclusions to which they have arrived. If Congress shall indicate its clear purpose to limit expenditure within certain bounds, and a department of the Government should disregard that purpose of Congress, I would, with them, assume the responsibility of refusing to vote further supplies. But I draw no such conclusions from the proceedings of the last Congress. That body, in reducing the appropriations, did not curtail a single object of expenditure. For the last four or five years, the annual expenditures of the quartermaster's department have exceeded \$4,000,000. And, as a wise and intelligent body, we cannot presume that they meant to force the War Department to achieve an impossibility, by supporting our army as at present established, upon a distant frontier, at one half of what the experience of the last four or five years have shown that it would cost. The utmost that can be predicated of the action of the last Congress, is, that it believed there was waste and extravagance in that branch of the Government; that it meant to give to the Government a stern rebuke; but it is equally certain that it never designed to interfere with the existing military establishment, or to assume the responsibility of recalling the army from the frontier, or authorizes any important modification in that arm of the public service. It is an admitted fact, that after the appropriations were reduced, an amendment was offered to the bill by Mr. Schenck, then a Representative from Ohio, to authorize the President, by the discharge of officers, and by other means, in his discretion, to bring the necessary expenditures within the limits of the appropriations. This proposition was rejected by a decisive vote. Is it fair, then, to infer that it

was the intention of Congress to confine the expenditures within certain limits, that should not be transcended? Would it have been a wise or manly policy upon their part to continue in full vigor our existing military establishment, charged with the weighty duties of international obligation and of protecting our extended and almost limitless frontier, and to declare that it should be done for so much, and no more, and especially when the sum granted was only one half of the amount which experience had demonstrated was essential to the service? Is it not more reasonable to suppose that they meant only to inculcate watchfulness and economy, knowing that the want of an appropriation could thereafter be supplied by a deficiency bill; a mode of relief, which it is well known, was anticipated at the last session by those who favored, and by those who opposed a reduction of the appropriations. Now, sir—

[Here the hammer fell.]

On motion by Mr. CAMPBELL, of Illinois, the committee then rose.

And the Speaker having resumed the chair, the Chairman (Mr. STUART) reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill No. 207, and had come to no conclusion thereon.

On motion by Mr. CAMPBELL, of Illinois, The House then adjourned.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. THOMAS M. HOWE: The petition of William B. McCorogue and others, praying for a more direct steam communication between the United States and Ireland.

Also, the petition of Maurice Brennan and others, for the same.

By Mr. DUNCAN: The petition of Nathaniel Perry and 511 other citizens of the United States, for alterations of the present tariff and for other purposes.

By Mr. MURRAY: The petition of James F. Taylor and other citizens of Orange county, New York, for an act to prohibit the transportation and delivery of the mails on the Lord's day.

By Mr. ROBE: The remonstrance of A. M. Adsit and 125 others, citizens of St. Lawrence county, New York, remonstrating against the extension of the Woodworth patent.

Also, the petition of Robert McMundy and 30 other citizens of Steuben county, New York, asking that a law be passed giving further remedies to patentees.

By Mr. SCUDDER: The petition of J. B. Wood and 50 others, citizens of New Bedford, Massachusetts, asking aid for the Collins line of steam-ships.

Also, the petition of Edward L. Barney and 48 others, citizens of New Bedford, Massachusetts, asking for an extension of Woodworth's patent.

By Mr. CONGER: The petition of Daniel E. Groux, asking Congress to purchase of said petitioner a certain collection of 6,537 coins and medals for the Library of Congress.

By Mr. FICKLIN: The petition of a number of citizens of the District of Columbia, asking the amendment of the city charter so as to secure the rights of suffrage to all free white male citizens over twenty-one years of age who have resided twelve months within the District of Columbia, and to authorize the voters of the District to elect justices of the peace, constables, and other officers.

Also, the memorial of the Corporation of Washington in relation to supplying that city with water, and for other purposes.

By Mr. CURTIS: The petition of the citizens of Warren county, praying for an appropriation of the public domain to actual settlers in limited quantities.

By Mr. DOTY: The petition of William M. Colby, O. H. Lamore, and 300 other citizens of Marquette and Adams counties in favor of extending the credit to preceptors to three years, and making lands held by preceptors subject to taxation.

Also, the petition of A. Wissmann, Bernard Roemer, Charles Esslinger, and 40 other citizens of Manitowoc county, in favor of granting the right of way and land to aid the Manitowoc and Mississippi Land Company to construct a railroad.

By Mr. MINER: The petition of Jacob Esby and 230 others, against the further extension of Woodworth's patent.

By Mr. HAMMOND: The petition of Josiah Pearce and others, asking the establishment of a post road in Baltimore county, Maryland.

Also, the petition of Mrs. Rachel Weems, widow of John Weems, deceased, praying additional compensation for services rendered by her husband in raising cannon, &c., from Barney's flotilla.

By Mr. CABLE, of Ohio: A memorial from Charles Mather and 80 other citizens of Smithfield, Ohio, in favor of Congress sustaining the Wheeling Bridge by enactment.

By Mr. FLORENCE: Memorials of Adam Uery, sen., and 34 others; of Lemuel S. Peters and 38 others; of Alexander Busch and 30 others, citizens of the city of Philadelphia, praying the extension of the "Woodworth patent, for playing boards," &c.

Also, the memorial of Casper H. Horn, Chalkley Baker, John C. Selfridge, and others, citizens of the city and county of Philadelphia, praying that the soldiers of the war of 1812 may be granted one hundred and sixty acres of land.

Also, resolutions of the General Assembly of Pennsylvania.

nia, "in reference to the establishment of a navy-yard, depot, and dry-dock on the lake frontier."

Also, the memorial of George Getz, James Landy, R. J. Fougerey, and others, commissioners of the incorporated district of the Northern Liberties, in the county of Philadelphia, remonstrating against the extension of the "Woodworth patent" for planing boards, &c.

Also, the memorial of George C. Richards, Chas. Hartz, Charles C. Wilson, and others, commissioners of the district of Southwark, in the county of Philadelphia, remonstrating against the extension of the "Woodworth patent" for planing boards, &c.

Also, resolutions of the General Assembly of Pennsylvania "relative to Smith O'Brien and his associates in exile."

By Mr. SWEETSER: The petition of Samuel Galloway and 195 others, citizens of Columbus, Ohio, asking Congress to make an appropriation to defray the expenses of locating a road from the Missouri river, to the Pacific ocean.

Also, for an appropriation of public land along the route of said road, to form settlements.

Also, the petition of Peter Haydon and 85 others, on the same subject.

Also, the petition of John Cradlebaugh and 89 others, (principally members of the Ohio Legislature,) on the same subject.

Also, the petition of James Banbury and 66 others, citizens of Franklin county, Ohio, on the same subject.

Also, the petition of William H. Ramy and 55 others, citizens of Grove Post, Franklin county, Ohio, on the same subject; with the memorial of said William H. Ramy and 9 others, who desire to undertake the execution of said work.

By Mr. MILLSON: The petition of Edward H. Herbert, asking payment of a balance claimed for timber delivered to the United States.

By Mr. CHURCHWELL: The petition of Thomas McConnell and many others, of Roane county, Tennessee, asking compensation for services rendered by said McConnell to volunteers in the service of the United States.

Also, the petition of William H. Grant, Robert H. Pharis, and 150 others, citizens of Bradley and Polk counties, Tennessee, asking for the establishment of a mail route from Cleveland, Tennessee, to Ellettsville, Georgia.

Also, the petition of W. A. Rogers, postmaster, asking for the establishment of a mail route from Woodbourne, Knox county, Tennessee, via Acadenia, to Strawberry Plains, Jefferson county, Tennessee.

By Mr. SCUDDER: The petition of Joseph L. McDonald, of Truro, Massachusetts, for allowance of fishing bounty to owners and crew of schooner Bloomfield, lost at sea.

By Mr. KUHN: The petition of Abraham Morrison and many other citizens of Pennsylvania, praying Congress to authorize by law the construction of a railroad from Council Bluffs, on the Missouri river, to California and Oregon.

Also, the petition of Thomas Keirs and many other citizens of Pennsylvania, praying for an increase of duty upon salt, for the protection of the manufacturers of that article in the United States.

By Mr. GORMAN: The joint resolution of the Legislature of Indiana, on the subject of the slave trade and colonization.

By Mr. McNAIR: The petition of William S. Young and 291 others, citizens of Montgomery, Berke, and Lehigh counties, Pennsylvania, asking for a new post route from Allentown to Pottstown, in said State.

By Mr. HENDRICKS: A joint resolution of the Legislature of the State of Indiana, on the subject of the slave-trade and colonization.

By Mr. HARRIS, of Tennessee: The memorial of the Legislature of Tennessee, asking for a change in mail service.

By Mr. LETCHER: The petition of the executors of General Robert Porterfield, deceased, praying bounty land, commutation pay, and the reimbursement of advances made for the public service.

By Mr. SCHOONMAKER: The petition of Frederick Bange and Albert Southmayd, of New York, for a review and remitting of their Mexican claim.

By Mr. FICKLIN: The memorial of John A. Linton and others, members of the Washington bar, asking a reorganization of the courts of the District of Columbia.

By Mr. HARPER: The memorial of E. W. Tupper, S. H. Guthrie, and 44 others, citizens of Muskingum county, Ohio, praying that the bridge of the Wheeling and Belmont Company may be established as post roads, and permitted to remain at their present height.

By Mr. BURROWS: The petition of William Emerson and 170 others, citizens of Orleans county, New York, praying for further remedies to patents.

Also, The petition of Lemuel C. Paine and 60 others, citizens of Orleans county, New York, on the same subject.

By Mr. ROBBINS: The petition of Samuel Battin and 33 others, citizens of the county of Philadelphia, in favor of the Woodworth patent.

Also, on the same subject, the petition of Andrew Wright and 35 others, citizens of Philadelphia county.

Also, on the same subject the petition of Charles Smith and 37 other citizens of Philadelphia county.

By Mr. IVES: Remonstrance against the renewal of the Woodworth patent, by 166 citizens of Jefferson county, New York.

#### IN SENATE.

WEDNESDAY, March 24, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

#### PETITIONS, ETC.

Mr. CLARKE. Mr. President, I present the petition of George W. Greene, of Rhode Island, praying the subscription by Congress to the memoir and papers of Major General Nathanael Greene.

The memorialist is the grandson of Major General Nathanael Greene, and has in his possession all the papers and letters of his illustrious ancestor. He does not propose to Congress to purchase these valuable papers, and bury them in the archives of any department, but that a liberal subscription should be made to their publication, to be accompanied by an authentic memoir of the eminent individual, whose rich treasures have fallen into his hands. The memorialist is a gentleman of high literary character, an accomplished scholar, and, with the materials in his possession, will make a work valuable to the history and character of our country.

Mr. President, the men of the Revolution have passed away. Their example is before us, and now it is only the evidences of their thoughts and the motives of action which can lead us further to appreciate their patriotic sacrifice, and teach us the wisdom which guided them in their illustrious course. The principles for which they contended will derive a new illustration from the confidential expression of every opinion, freely communicated from patriot to patriot, and will become more sacred in our keeping, when we see and know from them what struggles they had, and what hardships they endured in their defense. We are the beneficiaries, and to them is our gratitude due.

Major General Nathanael Greene was a native of the patriotic State of Rhode Island. His family was of the most respectable character, but humble in their circumstances, and he was brought up to a laborious mechanical occupation. In April, 1775, his native State, anticipating a contest with the mother country, raised a force of sixteen hundred men, and wisely selected Greene to command and discipline them. Early in June, he was found with this force engaged in the league of Boston; and when Washington took the command in July, the historian says "the troops of Greene were pronounced the best disciplined and appointed in the whole army."

Washington properly appreciated the high character of Greene not only as a soldier, but as a man of enlarged, liberal, and patriotic views. Their friendship was early formed, and continued with mutual confidence throughout the war. In the splendid picture, now in the rotunda, you see him with his Chief crossing the Delaware. He led the advance at Trenton, and was distinguished at Princeton, at Brandywine, at Germantown, and at Monmouth. After the treason of Arnold, he was selected to the command of West Point.

Subsequently he proceeded to the South and joined the army in North Carolina. He continued at the head of the Southern army, displaying great ability, and crowned with brilliant success until the evacuation of Charleston by the enemy, in 1782, and his triumphal entry into that city.

He was a favorite soldier of the South, and his eminent services and high character, were appreciated throughout the whole country. So highly did Washington esteem his calm judgment and military skill, that it is said, the Commander-in-Chief desired, in case of his death, the command of the army should be given to General Greene. All the rich materials which such a life, in such an age, could originate and produce, are now offered to the country; and Congress is now asked to subscribe for so many copies as may save the talented and patriotic descendant from pecuniary loss.

I move that the memorial be referred to the Committee on the Library.

The motion was agreed to.

Mr. SUMNER presented a petition of citizens of Boston, Massachusetts, praying a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. BRADBURY presented a petition of merchants, and other citizens of Portland, Maine, praying further aid to Collins's line of mail steamships; which was referred to the Committee on Naval Affairs.

Mr. SMITH presented a petition of citizens of Bridgeport, Connecticut, praying an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. SEWARD presented resolutions of the New York State Agricultural Society, in favor of the establishment of an Agricultural Bureau; which was referred to the Committee on Agriculture.

Mr. FELCH presented the petition of Amaziah

Goodwin, praying an increase and arrears of pension; which was referred to the Committee on Pensions.

Mr. WELLER presented a petition of citizens of Washington, District of Columbia, praying an amendment of the charter of that city; which was referred to the Committee for the District of Columbia.

Mr. GWIN presented the memorial of William Money, praying indemnity for horses seized by order of Brigadier General Kearny, during the war with Mexico, and for losses incurred in consequence thereof; which was referred to the Committee on Foreign Relations.

Mr. ATCHISON presented the petition of Rossanna Sowards, praying a pension on account of her son, who died of wounds received in the late war with Mexico; which was referred to the Committee on Pensions.

Mr. SOULE presented a petition of merchants, and other citizens of New Orleans, praying that further aid may be extended to the Collins line of steamers; which was ordered to be laid on the table, a bill having been reported by the committee on that subject.

Mr. MALLORY presented the memorial of Hartwell Carver and his associates, praying a charter for the construction of a railroad to the Pacific ocean; which was referred to the Committee on Public Lands.

Mr. DODGE, of Wisconsin, presented a memorial of the Mayor and Common Council of Racine, Wisconsin, praying a further appropriation for a harbor at that place; which was referred to the Committee on Commerce.

Also, a memorial of the Legislature of Wisconsin, in favor of restricting the jurisdiction of the United States district court for that district, in certain cases; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. GEYER presented the petition of the St. Genevieve Iron Mountain and Pilot Knob Plank Road Company, praying the right of way; which was referred to the Committee on Public Lands.

Mr. DAVIS presented the memorial of J. Ballestier, praying to be allowed certain items rejected on the settlement of his accounts at the Department of State, for services and expenses as special agent to Cochin China, and other portions of Southeastern Asia; which was referred to the Committee on Foreign Relations.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. HAMLIN, it was

Ordered, That the petition of Nathan Weston, jr., be recommitted to the Committee on Military Affairs.

On motion by Mr. HAMLIN, it was

Ordered, That the petition of George Dennett, on the files of the Senate, be referred to the Committee on Commerce.

On motion by Mr. BROOKE, it was

Ordered, That the documents on the files of the Senate, relating to the claim of the heirs of Joseph McAffee, be referred to the Committee on Private Land Claims.

On motion by Mr. PRATT, it was

Ordered, That leave be granted to withdraw the original letters patent filed with the petition of Obed Hussey.

#### REPORTS FROM STANDING COMMITTEES.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of William Smith, and three petitions of residents of Wisconsin, praying the donation of certain military reserves, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the bill to grant to the State of Wisconsin the military reservation at Fort Winnebago, in that State, to aid in improving the navigation of the Fox and Wisconsin rivers, reported adversely thereon.

He also, from the same committee, to which was referred the bill to enable Jacob Banta to locate two revolutionary bounty land certificates, reported the same without amendment.

He also submitted a report; which was ordered to be printed.

He also, from the same committee, to which was referred a memorial of the Legislature of Wisconsin, reported a bill to authorize the sale of the military reserves at Forts Winabago and Howard, in Wisconsin; which was read and passed to the second reading.

Mr. ATCHISON, from the Committee on Indian Affairs, to which was referred the documents

relating to the claim of Henry C. Miller, Philip W. Thompson, and Jesse B. Turley, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. NORRIS, from the Committee on Patents and the Patent Office, to which was referred the petition of Isaac Adams, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which the subject was referred, reported a bill to amend "an act to promote the progress of the useful arts;" which was read and passed to the second reading.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the resolution instructing the committee to inquire into the expediency of establishing a port of entry at Tusculum, Alabama, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the memorial of citizens of Davidson county, Tennessee, praying that the bridges of the Belmont and Wheeling Bridge Company may be established as mail routes, asked to be discharged from the further consideration thereof; and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. BORLAND, from the Committee on Printing, to which was referred a motion to print two thousand additional copies of the reports of the Committee on Military Affairs, accompanying a bill and joint resolution concerning the national defenses, reported in favor of printing the same; which was agreed to.

He also, from the same committee, to which was referred the motion to print the petition of James Riley, reported adversely thereto. The report of the committee was agreed to.

Mr. BRADBURY, from the Committee on the Judiciary, to which was referred the memorial of assistant marshals in Pennsylvania, presented the 22d instant, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Claims; which was agreed to.

Mr. MILLER, from the Committee on Finance, to which was referred the petition of the West Feliciana Railroad Company, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading.

The report was ordered to be printed.

#### NOTICE OF A BILL.

Mr. SEBASTIAN gave notice of his intention to ask leave to introduce a bill for the relief of James Jones, a citizen of Arkansas.

#### NEW MAIL ROUTE.

Mr. SEBASTIAN submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing by law for the establishment of a mail route and the transportation of the mail from Fort Smith, in the State of Arkansas, to Donna Anna, in the Territory of New Mexico, on the Rio Grande, in connection with the line of military posts being established between those places.

#### GUTHRIE'S SAFETY VALVE.

The Senate proceeded to consider the resolution submitted by Mr. DAVIS, on the 22d instant, in relation to Guthrie's improvements in the steam engine; and it was agreed to.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, an estimate of the cost of constructing a basin at the terminus of the Chesapeake and Ohio Canal, at Rock creek; which was read, and referred to the Committee for the District of Columbia.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a supplemental report of the battle of Cerro Gordo, made by General Pillow to General Scott; which was read, and ordered to be laid on the table and printed.

#### SALARIES OF TERRITORIAL OFFICERS.

The following engrossed bill was read a third time, and, its title being amended to read as follows, it was passed: An act relating to the salaries of officers of the Territories of the United States, and to repeal the proviso in the act entitled "an

act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1852, and for other purposes," approved March 3, 1851.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. HAYES, its Chief Clerk, announcing that it had passed the bill amendatory of the act entitled "an act to provide for holding the courts of the United States, in case of the sickness or other disability of the judges of the district courts," approved July 29, 1850, with an amendment, in which it requests the concurrence of the Senate.

#### EXTENSION OF THE CAPITOL.

Mr. BORLAND. I submit the following resolution for consideration:

*Resolved*, That the President of the United States be requested to communicate to the Senate:

Any plan which may have been adopted for the extension of the Capitol.

A statement of the manner in which the money already appropriated for this object has been expended, and the amount paid to each individual, and for what object or purpose, and the amount, if there be any, of the appropriation unexpended.

Copies of all written contracts, and verbal agreements, if any, entered into, from the beginning of the work to the present time, for materials or workmanship, which have heretofore been, or are hereafter to be, furnished or done, for the extension of the Capitol.

A statement of the materials proposed to be used in the construction of the interior and exterior walls, and porches of the Capitol.

A statement of the materials proposed to be used in the construction of the frame work and covering of the roofs.

A statement of what, if any, plan has been adopted to insure the proper lighting, warming, and ventilating the several apartments of the proposed extension; and what, if any, plan of construction has been adopted, with reference to the principles of acoustics, in order to facilitate hearing in each of the two halls of legislation, and in the Supreme Court room.

As it is a resolution of inquiry, and has some connection with a subject now under the consideration of a committee of this body, I ask unanimous consent to have the resolution considered at this time.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BORLAND. Before the vote is taken on the resolution, I beg leave to say a few words, to explain the purpose with which I offer it. It will be recollected that when the joint resolution making an appropriation for the continuation of the work on the extension of the Capitol was before the Senate the other day, I opposed its adoption. It was subsequently, on my motion, referred to the Committee on Public Buildings, with a view to a thorough examination into the character of the work. In consequence of my remarks on that occasion, I have been made the subject of attack.

My course here, in regard to the matter, has been attacked, not only in other quarters, but particularly in the Administration organ, published in this city. My position, and my reasons for it, have been grossly misrepresented. I have been presented before the country as making factious opposition here to a measure of public interest and utility, and upon grounds wholly untenable. I have been put before the public as throwing myself before the mouths of starving men, who were dependant on their labor for support, and had a just claim on this Government for appropriations of the public money. All this has been evidently done with the view of making a false issue before the country, and putting me in a false position. But one reason can be assigned for it, in my opinion; and that is, a desire to evade and avoid a just responsibility on the part of this Administration for its public acts. My object, therefore, in moving the reference of my resolution of instructions, offered some time since, to the Committee on Public Buildings, was to ascertain whether the charges which had been made against persons engaged in the construction of the foundation walls of the Capitol were true or not; and now, in carrying out that object still further, in order to get all the facts bearing on the subject, I have moved this resolution of inquiry of the President, so as to ascertain what has been done in the way of a plan, and the mode in which the money has been expended.

Another consideration which I think makes the resolution peculiarly proper is this: I learn, from what I consider good authority, that contracts to the amount of about a million and a half of dollars have already been made by the Executive, with

a view of carrying on this work, based on a single appropriation of \$100,000 made last year! I desire to know if that be so. If it be so, Congress should take some step—for it surely would be proper—to arrest such a course of proceeding, and to require the Executive Department of this Government, in making contracts for the expenditure of money, to hold itself restricted by the action of Congress, which alone can make appropriations, and judge of their propriety. This is all I have to say.

Mr. BADGER. I want to say one word before the question is taken on this resolution of my friend from Arkansas. He says that he understands contracts have been made with reference to this work for a large amount beyond the \$100,000 appropriated by Congress, and that in case that information should turn out to be true, some steps should be taken by Congress for the purpose of preventing such things in times to come. Why, I believe it never was supposed that when Congress directs a work to be undertaken and executed, and directs an officer to undertake it, the appropriation made for expenditures on that work for the current year is to furnish the limit by which he is to make engagements and contracts for carrying on the work. Congress directs a work to be executed—the enlargement of the Capitol, for instance—but when Congress appropriated \$100,000 towards that purpose, it never entered into the imagination of any human being that that was the whole amount of money which was to be expended in execution of the work, but merely that it was supposed to be all that it would be necessary to expend until the reassembling of Congress, when a further appropriation would become necessary. My impression is, that such is, and always has been, the practice of the Government.

Mr. BORLAND. With all deference to the opinion of the honorable Senator from North Carolina, [Mr. BADGER.] I must say that I differ from him essentially. My opinion will, of course, pass with others for what it may be intrinsically worth; it certainly is authority for myself. I admit that the appropriation of \$100,000 does not limit the President, or the officer charged with the execution of a work, as to the plan of that work—as to the arrangements to be made in view of its continuation and completion. But I have never before heard the position taken, and I am amazed at it now, that the amount of the appropriation did not limit the executive officer as to the amount he should expend. If, upon an appropriation of \$100,000 he can make contracts to the amount of a million and a half of dollars, he may with equal propriety make contracts to the amount of every dollar in the Treasury. The principle is the same, the authority of law the same, in both instances. His own discretion is the only limit. But, sir, how can he know, how shall he decide, that Congress will go on with the work, if it is likely to involve an extraordinary amount of expenditure more than was contemplated at the time the appropriation was made? If that position be admitted, there is no check at all on the Executive. If we pass a resolution or a bill to have a certain work executed, and appropriate a certain amount of money to be expended in its execution, and the President to disregard the limit thus fixed, there is no other limit, no other rule, (according to this position,) by which he can be restrained. Sir, if the position of the Senator from North Carolina be correct, the whole Treasury is in the hands of the President, without restraint from us; and he may go on and make contracts to the amount of five or ten or fifty millions of dollars, and we shall be bound to ratify his acts, and foot the bills. Nor, upon this position, would there be any obligation on our part to see that those contracts were fairly made, or kept within proper bounds.

Mr. President, to insist that the expenditures shall be limited to the amount of the appropriations, is the only way in which we can control the use of the public money. We cannot, properly, as a general rule, in the public service, prescribe the plans, and arrange the methods, of executing the several works. That, to some extent, must be left to Executive discretion. But the purpose and intention of appropriations—in specific sums, and for specific objects—is to furnish this very check and control for which I contend. It is the only one we can have. We cannot safely give it up.



As well might we give the President a general power to take out of the Treasury any indefinite amount of money for any indefinite period, at his pleasure; for it comes to that. But, who would sanction a proposition here, to authorize the President, in the execution of this work, to draw from the Treasury any amount of money he might think proper? The Senator from North Carolina himself would not vote for such a proposition as that. Yet that is not different in principle, nor would it differ much in its practical operation from what the President is alleged to have assumed authority to do, and what the Senator's position would seem to warrant.

The President is alleged to have made contracts to the amount of a million and a half of dollars for the execution of a work, for which Congress had appropriated but one hundred thousand! If he could do that lawfully—if he could exceed the amount we placed at his disposal fifteen times, how far might he not have gone? As lawfully and as rightfully might he have gone to the amount of every dollar in the Treasury. To sanction his doing the one, and to authorize him to do the other, at his discretion, is substantially the same proposition. To my mind there is no difference between them.

Mr. BADGER. It is the easiest thing in the world for a gentleman to make out a case, by just appending two or three words that nobody has used or thought of. I said nothing about the President having a right to make contracts for any sum he pleased, and that we were bound by them. Nobody imagines such a thing. But when my friend, in anticipation of any such report on this subject, is so eager to cast reflection upon the President of the United States—after offering a resolution, asking for information upon the subject, which is considered by the unanimous consent of the Senate—that he will not even permit the resolution to be adopted, without suspecting beforehand, that something has been wrong and injurious, it seems to me very singular, indeed, that he should amend the statement which I have made—if it can be called amending—by putting in words which I neither used nor thought of. I say this, that when Congress direct a work to be executed, it is the custom to make appropriations from time to time, as the work advances, and that it is also the custom with those charged with the supervision of the work, whether the President of the United States, or anybody else, to make the preliminary contracts and engagements for the supplies which it is supposed will be necessary in the further prosecution of the work.

But all those contracts and engagements are made conditionally on the appropriation being made by Congress for the continuance of the work. There is no intention in the world to control Congress; there is no obligation upon Congress—none upon earth. If we choose to stop the work where it is; if we change our minds, and think it will cost more than it is worth, we will stop just where we are; and the contracts for supplies will be discontinued, and the Government not be charged with the payment of them. Every man must see that in such a work as this, if the person charged with its execution made no contracts, no arrangements, no stipulations with parties to furnish the materials for its further prosecution, then, at the end of every session of Congress, the work would come to a dead stand; and that when another appropriation should be made, a new set of contracts would have to be entered into for the ensuing year; a new set of materials would have to be selected, and new parties charged with the furnishing of them. The necessary consequence of that system would be most expensive and injurious to the Government.

Certainly the Executive Government has no right to expend a dollar more than Congress appropriates. Certainly, when a work of this kind is directed to be constructed, if the Executive Government think it to be advantageous, in anticipation of the future action of Congress—supposing that Congress is in earnest, and means to build two additional wings to the Capitol—to make agreements for persons to supply materials and other things necessary to carry on the work, there is no impropriety in it; because, as I say, every such contract is conditional on Congress prosecuting the work. If the Executive Government do that, then, when an appropriation is made at the next succeeding session of Congress, and the work

is to go on, they are in a condition to prosecute it immediately. The effect of the system which, as I understand, is usually pursued, is this: that though the whole subject remains under the control of Congress; although Congress appropriates, from time to time, sufficient money to carry on the work; yet the work goes on steadily without any interruption, unless Congress thinks proper to discontinue it.

But if the system which the honorable Senator from Arkansas seems to think is the proper one, were pursued, the work would come to an end each year, and you would have to start with a new set of arrangements and contracts, involving, not the prosecution, continuously, of one original design, but the reengagement and renewal of successive operations through new contractors and new agents, involving as much delay and additional expense as if there were successive new works. That is my idea; but I have no notion in the world that the Treasury of the United States should be placed at the control of the Executive one penny further than Congress places it at his control. In the fair execution of a duty charged upon him, I believe it has been the general course to make contracts for such work in anticipation, but they are all conditional; they bind nobody. Congress may discontinue the work at any point it pleases; and, if it does so, the parties who have made contracts to supply materials are discharged from their obligations, and the Government is under no necessity of taking the materials.

Mr. BORLAND. I am very sorry to trouble the Senate again; but I must say that I do not think the remarks of the Senator from North Carolina do me justice. He represents me as eager to cast censure upon the President of the United States.

Mr. BADGER. I really thought so. If I am not correct, I beg pardon.

Mr. BORLAND. I think what I have said on introducing this resolution, indicates no such feeling or purpose. I stated that my object was to ascertain the truth of statements which had been made to me on such authority as at least to commend them to my respect. Now, if the friends of the Administration are not willing that I should ascertain—that the Senate should know—whether those statements be true or not, I am sorry for it; and it does indicate, if it indicates anything in respect to censure, not eagerness on my part to cast censure upon the President, for I have none, and zeal in casting censure, but it seems to me to indicate an unwillingness on the part of the friends of the President, and those who take the opposite ground, that these facts should come out, lest, when ascertained, they may not reflect very creditably upon his Administration. That seems to me to be the indication, if any there be.

Mr. BADGER. Who has manifested any such opposition to the facts coming out?

Mr. BORLAND. I have only asked for a statement of facts—for information which it is necessary for us to have before we can properly proceed to expend the public money. If all this has been done properly, and in accordance with law, there will be no fault to be found with the Administration. It is the information which we want, and which has not been furnished to us, and which no friend of the Administration here is prepared to give. No Senator here can say whether any, or, if any, what plan has been adopted for the prosecution of this work. We well know the course Congress took when it was first proposed to extend the Capitol. A committee of the two Houses was charged with the duty of calling architects before them, getting their views, and adopting and reporting a plan for the execution of this work. So important was it considered that a plan should be adopted before any propositions were made, or any steps taken in the execution of the work, that the committee was engaged for months upon the investigation. It was authorized to offer premiums to architects for plans, so that they might be sure to get the best. The committee was divided as to the plan. That of each House adopted a plan of its own. And these two plans, as I have understood, were laid before the President, that one or the other might be selected. Instead of taking either of these plans for the construction of a building for the uses and accommodation of the two Houses of Congress, and which should have had some adaptation to what they conceived to be their own wants, and comfort, and convenience,

the President threw aside both of these, and adopted—what? Nobody knows what. I have been utterly unable to discover that there is now any regular or determinate plan. I, myself, before I vote an appropriation of money to continue this, or any other work, I must know within certain bounds, at least, what the work is to be. I want to know what is proposed to be done, and for Congress to pass upon the plan of the work, and say whether it is such as we are willing to have—such as is adapted to the purpose for which we ordered the extension of the Capitol—such as may suit our views of commodiousness and convenience in the discharge of our public duties, conserve our health, and promote our comfort, and present a structure to the public view in accordance with true architectural principles and taste.

I repeat, I have learned that very heavy contracts have been made for this work, which are to extend, in their expenditure, to the full limit, and even beyond the limit of time within which this Administration will be in power. Steps have been taken, as I learn,—and that is what I want to ascertain,—to make contracts beyond the time within which the Administration must retire from office, which may in effect, and may be intended, to hamper and cripple and render abortive the operations of a succeeding Administration, if that Administration should have views more fitted and better adapted to promote and protect the public interests.

I have introduced this resolution in order to put the Senate in possession of information which will enable them to decide on all these points, and not for the purpose of reflecting upon the President. These were my motives. An additional motive I had for some of the remarks which have accompanied its introduction, and that was to notice what I consider an unjustifiable attack on my motives for what I said on a former occasion—not because that attack was in a newspaper, but because that newspaper is the accredited organ of the Administration here at the seat of government.

Mr. BADGER. The Senator from Arkansas has said that there seems to be some disposition manifested by the friends of the Administration to prevent the obtaining of the information which he has called for.

Mr. BORLAND. I did not say so. In response to what was attributed to me, I did not charge that there was any such unwillingness; but I said, that if there was any indication manifested, it was an indication of unwillingness to supply this information.

Mr. BADGER. Well, take it in that way, and I want to know where there is a scintilla of evidence to support the intimation of the honorable Senator. I am a friend to the Administration. My single objection would have prevented the consideration of this resolution to-day. Nobody objected to its being considered. After it was considered by unanimous consent, was there a voice raised against it? Not one. But for the honorable Senator's speech, the resolution would have been adopted in three seconds. How, then, have we manifested a disposition, or given ground to imagine, that, in any event, we are opposed to obtaining this information? In no manner whatever.

The Senator proceeded to make some remarks in vindication of himself, from what he says was a charge made against him in a newspaper. To that I have no objection, though it is a kind of vindication which I am not in the habit of making on this floor. The Senator went further than that, and, in advance of the information which he called for, proceeded to throw out remarks casting an imputation on the President.

Mr. BORLAND. I made no imputation against him at all.

Mr. BADGER. I so understood the Senator. The Senator now says that the President of the United States instead of deciding, as he should have done, between the disagreeing committees of the two Houses, has undertaken, without authority, to adopt a plan of his own. Why, surely the Senator from Arkansas has not read the act of Congress which authorizes the commencement of this building. The two committees, if they had been unanimous, had no power over the subject—none in the world. The act of Congress submitted the plan upon which the building was to be erected entirely to the President. In his decision and judgment under that act he had no assessors at all. The two committees had been employed

to collect and prepare plans, and they had been authorized to offer a reward in order to procure the best plan. They sent those plans to the President of the United States to aid him in coming to his conclusions; and, if I am not mistaken—and if I am, the Senator from Virginia [Mr. HUNTER] can correct me—the two committees, so far from supposing they had any authority over the subject, took care beforehand to ascertain whether the President would be glad to have those plans, with their views upon the subject, submitted to him. Now, he has done what the act of Congress directed him to do. He may have done it well or ill. About that I say nothing; but certainly he has done nothing unlawfully. He has not put his foot on the plans submitted by the two committees in derogation of their rights, or from a want of respect to Congress. If it was not intended that the President of the United States should decide on the plan upon which these wings were to be erected, why did the act of Congress submit it to him? It was not done by a Congress composed of his political friends, but by one with decided majorities politically opposed to him in both branches. Why was it done? I happened to be a member of the committee of conference by which the final terms of that part of the bill were settled. It was done by us because, as we understood, it had been the uniform custom to place the selection of plans for such buildings under the direction of the President of the United States. That, I believe, was the reason, and the sole reason. Whether he has done it right or wrong, I am not prepared to say. Whether he has adopted a good or a bad plan, I am not prepared to say. All that I say is, that the act of Congress gave him the sole authority of selecting the plan.

Mr. HUNTER. I have no objection to any call for information which the Senator from Arkansas may think necessary. I am willing that he shall have all the light which he desires on this subject. But perhaps it is just to the President, especially after what has fallen from the Senator from North Carolina, for me to say that the law as passed did give him the power of selecting a plan, and did not confine him to the plans of the committees of the two Houses. Those committees disagreed, and that was one reason why it was left to the President to select a plan. He did ask for the drawings which had been laid before the committees; he did invite both committees to meet him for the purpose of obtaining their views. I was present as a member of one of the committees, and I believe that all the members of both committees were present, and that he took their views in relation to the matter.

So far as the plan which has been adopted is concerned, I believe (and I should be sorry to believe otherwise) that all which concerns the interior of the building is still open to amendment if Congress should desire it. I believe that that will be examined by the committees hereafter, and that they will consult with the President in regard to it.

As to the information for which the Senator from Arkansas calls, I see no objection to it, and I am perfectly willing that he shall have it, but I am unwilling to believe that we shall be bound, in relation to the interior of the building, by any plan which may be adopted by the President, or any one else. I do not understand that he has decided on more than the exterior, and I think he will so report. I say this because the Committee on Public Buildings design to take up the subject, and to have something to say in regard to the interior of the building.

Mr. BORLAND. I did not desire to constitute myself the expounder of the views or the defender of the action of the Committee on Public Buildings, as I knew they were ready and competent to present them fairly before the Senate. But although the Senator from Virginia, [Mr. HUNTER,] and the Senator from North Carolina, [Mr. BADGER,] have said the law, as we passed it, did leave the subject to the discretion of the President, yet I did consider, and do now consider, that the clear meaning and the intention of the law was that the President should avail himself of the labors of the two committees, and of the means put in their possession, to get the best plans. My impression was, that it was intended that he should select from the plans presented by the committees. I may have been mistaken in that, but

such was, I think, the intention of the law. I so understood it; I so understand it now.

The very remark which has been made by the Senator from Virginia, with regard to the plan of the work, is, it seems to me, a sufficient ground of itself for the resolution. Here we have a large work for the public interest and convenience, on which we are to expend a large amount of money. We have shown, as I before remarked, the great importance which we attached to a proper plan. Well, in disregard of the plans laid before the two committees, the work was begun, all the money which we appropriated has been expended; and, as I said, I learn on authority which I believe, and shall continue to credit, until its statements are disproved, that contracts to the amount of a million and a half of dollars have already been made; and yet it is stated, by those who profess to know, that there is no regular or determinate plan for the work—no system for the expenditure of these vast sums of the public money; except such as may, from time to time, at his discretion or caprice, spring from the mind of the President's architect, and upon his simple order. The very statement made by the Senator from Virginia, shows the necessity of the passage of this resolution.

Mr. BADGER. We are all in favor of it.

The resolution was then adopted.

#### THE STEAMER EDITH.

On the motion of Mr. SEWARD, the Senate proceeded to the consideration of the following resolution, which was submitted by him on the 24th January:

*Resolved*, That the Secretary of the Navy be requested to furnish the Senate, as early as practicable, with a copy of the proceedings of the Naval Court of Inquiry in relation to the loss of the United States steamer Edith, in 1849, together with copies of the correspondence which formed the ground of the order given to constitute said court, and of all the papers referred to in the record of proceedings; also, copies of all reports or charges made to the Department against any member composing said court in reference to conduct while attached to the Pacific squadron; copies of all correspondence between the Department and Commodore Thomas Ap Catesby Jones, relating to the said steamer Edith; copies of the correspondence with Richard W. Meade, late a lieutenant in the United States Navy during the year 1851; copy of the charges and specifications preferred by Lieutenant Thomas T. Craven against Commodore Jones in 1849 and 1850, with the reasons of the Department for not acting thereon; and copies of the correspondence between the Department and the commanders of the Pacific squadron, and all other officers of the Navy, in relation to the erection of a steam circular saw-mill in California, and the expenditures thereon.

Mr. SEWARD offered the following as an amendment, to come in at the end of the resolution:

Also, Commodore Jones's response to Lieutenant Craven's charges in reply to a letter from the Secretary of the Navy, dated September 7, 1850; also, copies of two letters from Commodore Jones, to the Secretary of the Navy, dated respectively December 7, 1850, and January 31, 1851, together with the charges and specifications against Lieutenant Thomas T. Craven, and the documents which accompanied said letters to the Secretary of the Navy for the trial of which a court-martial was demanded by Commodore Jones, and refused by the Secretary of the Navy.

Also, any correspondence between the Secretary of the Navy, the Commandant of the Boston navy-yard, the Commander of the sloop-of-war Falmouth, and Lieutenant R. W. Meade, between the 5th day of March and the 1st day of July, 1849, in relation to the appointment and transportation of said R. W. Meade, and other officers and engineers, from Boston to the Pacific, for the United States propeller Edith.

Mr. HUNTER. I am not disposed to vote for resolutions calling for proceedings which have been the subject of courts-martial. I do not see any use for this information. I do not see any practical good which is to arise from making such a call; and it may lead to dissensions in the Navy itself. I believe the discipline of the Navy has already suffered, from the fact that these calls are too frequently made, and we are exposing things which perhaps had better lie in the archives of the Department. These matters have been made the subject of investigation, as I understand it. Some of them at least have been the subject of a court-martial. Why open them again?

Mr. BADGER. I think there can be no objection to the adoption of the resolution. It is precisely such a resolution as was adopted at the close of the last session, in the case of the court-martial of Commodore Jones. There is no intention of subjecting the decision of the court-martial to a rehearing before the Senate; but the particular information called for is important to the gentleman interested in it. He wants the benefit of it.

Mr. SEWARD. The resolution was originally

offered because complaint had been made by a late officer of the navy that injustice had been done him by a superior officer. For the purpose of obtaining all the facts of the case which were necessary to an understanding of the complaint, the resolution was offered. Commodore Jones, who was to be affected by the obtaining of the information, called upon me, and at his instance the matter was delayed until certain amendments, approved, as I understand, by him, were prepared. These have been suggested at his instance and that of his friends. These facts are stated for the purpose of showing that there is no design to obtain partial information. As I understand it, the resolution, with the amendment, meets with the consent and favor of all the parties interested in the information which is proposed to be brought forward for publication. At least I have offered it in no spirit of hostility, unkindness, or partiality towards either of the parties concerned.

Mr. HUNTER. I will ask if this resolution does not propose to call out papers and letters of complaint against Commodore Jones, upon which the Secretary of the Navy refused to institute charges at the time Commodore Jones was tried by a court-martial? and what is to be the effect of that but obvious injustice? It would have been better that he should have instituted the charge, if this is to be done, so that Commodore Jones might have met it upon that court-martial. To what are such calls likely to lead, but a renewal of dissensions and differences which exist to too great an extent already in the Navy? I know we have a right to call for this information and publish it to the world; but we have also a right, if we believe such things have been pushed too far to the injury of the discipline of the Navy, to refuse to make the call, unless some obvious necessity exists for it? I do not know that any necessity exists for this. I oppose it, not for the purpose of shielding Commodore Jones. I do not know that he has any objection to the resolution as it has been amended; but I oppose it because I believe such things are mischievous to the discipline of the Navy. I think we have already carried these calls too far. But I will not detain the Senate longer.

Mr. GWIN. At the last session of Congress, the colleague of the Senator from Virginia, [Mr. MASON,] at the instance of Commodore Jones, made a call for certain papers, which were furnished to the Senate, and ordered to be printed. In one of those papers there was a statement made by Commodore Jones, which has been printed, and is on our records, calling Lieutenant Meade, of the Navy, "a worthless officer." This publication was the first information that Lieutenant Meade had that such a term of reproach attached to him. Before he saw it, he had resigned his commission in the Navy, and he had no opportunity of calling for an inquiry. It was a dishonorable and ignominious term, to be applied to one officer of the Navy by another. There was, in his opinion, no remedy left but to call for certain papers which were filed in the Navy Department, and upon which he thought he had cause to complain; the Secretary of the Navy had refused to institute an inquiry.

Now, sir, I think that many papers have been published which should not have been called for, as the Senator from Virginia has stated; but here is a gentleman who was, but is now no longer, connected with the Navy, charged by a Commodore in the Navy, with being a "worthless officer." He wishes to have that charge investigated, and it is for that purpose that he comes before the Senate and asks that papers, which he thinks will relieve him from it, should be called for and published. I do not intend to cast the slightest censure upon Commodore Jones. I think he has been harshly treated. That is my opinion in regard to his case. But I think it is due to the gentleman who desires the information now asked for, and who was a gallant officer in the Navy, that the papers should at least be called for, and the Senate can publish them or not, as they please. I do not now say that they ought to be published; but they ought to be called for, and also those named in the amendment proposed by the Senator from New York, [Mr. SEWARD,] which it is suggested are necessary to give a fair history of the transaction proposed to be investigated.

Mr. HUNTER. If the Senator from California, who has examined this matter, perhaps, more



than I have, says that this information is necessary to vindicate Lieutenant Meade's character against any aspersions, that would alter the case.

Mr. GWIN. That is the fact.

Mr. HUNTER. But I ask if the resolution does not call for information which in nowise concerns Lieutenant Meade—information not in relation to matters in which Commodore Jones was connected with him, but in relation to matters in which Lieutenant Meade had no concern? If such is the case, ought the Senate to make itself a party to any such quarrel? Upon the merits of it, as to whether Commodore Jones or Lieutenant Meade is right, I do not intend to decide, but I say that in such a matter as that we ought not to interfere.

Mr. MALLORY. We have clearly a right to call for the information asked for by the Senator from New York, but the only objection is as to the expediency of making the call. One objection, upon the ground of expediency, is, that it may possibly involve charges against Commodore Jones which have been presented to the Secretary of the Navy, and upon which he has refused to act. Another objection is, that it may affect the discipline of the Navy. Now, from the little information which I possess upon that subject, I am free to say that the discipline of the Navy cannot be further injured. It is beyond all injury. I doubt if such a term can possibly be applied to the Navy. But Commodore Jones, whom I have not the pleasure of knowing, is a public officer. I know nothing of any charges which are brought against him; but if there does exist, in the mind of the Senator, any reason why this information should be brought forth, I should be glad to see it. The reputation of an officer of the Navy should not only bear the trial of an investigation, but it should be above reproach; and if it cannot bear the investigation of papers which may be brought in in this way, the Senate ought to know it.

Mr. HALE. I confess that upon all these calls for the opinion and proceedings of courts-martial in relation to the relative rights of officers, I feel the most profound indifference, and for this reason: The honorable Senator from Florida says that the discipline of the Navy is beyond being injured; by which I understand him to mean that it is so bad already, that it cannot be made worse. But I call upon you, Mr. President, and the Senate to notice this fact, that whenever a complaint is made that the rights of the private are trampled upon, the Senate are dumb, and there is no call for information and papers. It is not more than ten years since a subordinate officer in the American Navy said that if he brought home some men there was no punishment, for the worst crimes, for those who had money and friends; and to prevent their falling into the hands of the administration of justice in a country where money and friends could protect them from punishment for the worst crimes, he hung them up to the yard-arm of the vessel, without the form of a trial. We have never been able to get the proceedings in that case before the Senate. They have been repeatedly asked for, but they have never been, and I suppose never will be ordered. I suppose it was in allusion to the fact that citizens were thus hung up to the yard-arm without the form of law, that the honorable Senator from Florida based his assertion that the discipline of the Navy is so bad that it cannot be made worse, which I understand him to say.

Now, sir, until we begin to look at some of these gross outrages upon, and violations of, the rights of private individuals, I am willing to let officers fight their own battles. I will not interpose with any call of the Senate until we begin at the beginning. You know that, at the last session of Congress, there was a very respectable memorial brought here, signed by great numbers of the citizens of the neighborhood where the occurrence took place, representing that a cruel and unusual punishment had been inflicted upon a private soldier in the Army of the United States. We could not get those proceedings printed. Oh, no! nothing of that sort could be done. Nobody but the private soldiers were concerned. But when you come to the officers there is great danger of the discipline of the Army being outraged, and the Senate is to be appealed to. I do not know of any application that has ever been made for publishing the proceedings of a court-martial, either in the Army or Navy, in which an officer was concerned, that has not been granted. We publish just what is wanted in such a case as that; but when the

rights of the sailor or soldier are trampled upon, there is no remedy—no body cares about it, no body wants information; even if a sailor is hung, let him go, he is but a sailor—you can hire them for ten or twelve dollars a month. If the Senate will begin at the beginning, and vindicate the rights of private individuals, I will then look out for the officers; but until then it is a matter of the most perfect indifference to me.

Mr. SEWARD. I have only one word to say on this subject. During what little experience I have had in legislation here and elsewhere, I have never voted against any call for information in regard to the conduct of public officers, whether political or personal friends of mine, or otherwise. When we shall once have established the precedent that any officer is beyond the reach of investigation into his conduct, upon a fair claim made by any person, I think there will be some danger to be apprehended that greater evils will occur in administrations than have ever yet occurred.

Mr. SHIELDS. I agree with the honorable Senator from New York, but I cannot perceive the object of this call. If the object is one of investigation, very well. If it is to be sent to a committee for some action, it is very well. If we can take any action upon it when it comes to us, except barely to publish it, I am willing to vote for it. But I think it is going very far, when we call upon the Department to send us letters, documents, charges, specifications, &c., merely for the purpose of publication. If we continue that, and follow it up, we will occupy the time of the Senate more in matters of that kind than we will in legitimate business. I hold that, when the object is to refer the subject-matter of a court-martial to a committee, in order to reexamine the matter, and provide for the redress of some person who is supposed to be injured, it is legitimate business for the Senate; but when it is a quarrel between two officers, and one wants to expose the other, and wants to make the Senate an instrument for the purpose of that exposition, I object. I think it would be unjust to the service, unjust to the officers, and unjust to the Senate of the United States.

Mr. COOPER. I rise to express my concurrence in the views of the Senator from Illinois. I do not know precisely the object of the amendment to the resolution, and I am afraid that it is to afford to one officer some advantage in a personal controversy over another. I know that there has been a quarrel in progress between the two officers named in the resolution, and I apprehend that the Senate is to be made the medium through which one of them will be the better able to assail the character of the other. Believing that, I shall vote against the amendment.

Mr. HUNTER. I would suggest to the Senator from Pennsylvania, that if he is going to vote for the resolution, the amendment is necessary, in order to do justice to Commodore Jones.

Mr. COOPER. I shall vote against the whole.

Mr. PRATT. I do not, perhaps, properly understand this question; but it seems to me that it is one of power on the part of the Senate of the United States. Have we any power over the subject to which this resolution relates? What can we do? The gentleman who asks for the papers is no longer in the Navy. It is not proposed that he shall be reinstated in the Navy. What, then, are we to do by obtaining this information? Here is a gentleman who was once in the Navy. Prior to his resignation a charge was made against him. He had resigned, it is said, without knowing anything of that charge; and now he asks that these papers shall be brought to the Senate of the United States, for no other purpose—because there can be no other legitimate purpose—than to have them published to the world. We have no power over the subject. It is not asked that we shall interest ourselves to have this officer reinstated in the Navy. What power have we over a charge made by an officer of the Navy against a citizen of the United States? If he has been injured, he has his remedy, as you or I have, if any charge is made detrimental to our character. He, not being an officer in the Navy, has only the same powers that we have, as individuals. I do not see that the Senate can properly use the information asked for by the resolution, and therefore I am opposed to both the resolution and the amendment.

Mr. RUSK. As I understand this matter, it proceeds upon another ground than our power to

take any legislative action upon the information. If I have understood it correctly, Commodore Jones was tried by a court-martial. At his instance, the Senate then called for certain papers which he imagined were necessary to vindicate his character against the charges made by the court-martial. In answer to that call there comes a letter making a serious charge against a gentleman who was a lieutenant in the Navy, but who has since resigned; and it is published to the world over the signature of Commodore Jones.

Mr. BADGER. We published it.

Mr. RUSK. This gentleman desires that all the facts shall come out, as to the charge of his being a worthless officer; which charge was published by the action of the Senate. As he says—so I am told—that he cannot procure these letters from the Secretary of the Navy, I think, without knowing anything about the merits of the controversy, it is nothing but just to him, when we have called for information against him, that we should procure the information in his favor.

Mr. CASS. I suppose no member of the Senate claims the right of overruling the constitutional power of the President, as Commander-in-Chief. I do not suppose we mean to review the proceedings of the court-martial with the view of overturning them. But I take it for granted that, in our legislative capacity, we have a general right and duty to overlook all the concerns of the Government. We have a right to call for the proceedings of a military or naval court-martial, with a view to ascertain what abuses are committed, and what legislation is required to correct them and prevent them thereafter. That, I think, is within the scope of our legislative duty. But I agree with my friend from Illinois, that I would not suffer the records of this Senate to be the vehicle of criminations and recriminations between gentlemen in the Army and Navy. I believe it would be almost impossible to hold a court-martial in which different sides would not be taken, and passions excited. There will be, and there have been, ever since the first court-martial was held, and there will be to the latest, criminations and recriminations. Are we to suffer our records to be the vehicles for those charges? If any practical result is to follow the adoption of this resolution—if it is claimed that legislation may be required upon it—I am prepared to vote for it; but I will never vote for a resolution that looks merely to the publication of the criminations and recriminations of different officers.

Mr. SHIELDS. If the circumstances be as represented by the honorable Senator from Texas, it will alter my course in this particular case, because, according to my rule in these cases, we ought either not to begin a thing of this kind, or we should go on to the end. But I think that this may have a salutary effect in guarding us against hasty action hereafter. If we have commenced this thing and called for a part of the proceedings, and if the part which has been placed before the country does injustice to one of the parties, and he calls for the residue in justice to himself, that state of things alters the case altogether.

But I come back to the original principle, and I am happy to find my friend from Michigan, who has had experience in these matters, take the same ground that I take. I have myself witnessed the fact that we are calling day after day and week after week for matters that have no legitimate concern with the ordinary business of legislation, merely for the purpose of publishing them to the world. I hope that this debate and the action upon this case may check us hereafter. I would ask the Senator who offered this resolution, whether a part of the proceedings has already been published, and whether this is a call for the residue?

Mr. SEWARD. That is the fact.

Mr. SHIELDS. If that be the case, it will alter my course on this occasion.

Mr. HUNTER. Does the Senator say that any of the proceedings in relation to Lieutenant Meade have been published? In the proceedings of the court-martial in relation to Commodore Jones, which were published, there appeared a letter from Commodore Jones to the Secretary of the Navy, in which he referred to Lieutenant Meade, and said, I believe, that he was a worthless officer. Lieutenant Meade now comes here for the purpose of discrediting Commodore Jones, and calls for information which does not at all relate to himself, or to his own case, but which

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relates to certain charges which were preferred against Commodore Jones by one of his junior officers. If we had that information, where would we end? Lieutenant Meade comes and asks the Senate to call for information which may criminate Commodore Jones. In reply, Commodore Jones will come and say, I must be allowed to ask for information to show that Lieutenant Meade was a worthless officer. Thus, we shall have the Senate trying an issue which does not concern our legislative duties. I admit that we have a right to call for the information; but I object to it, on the ground of expediency. If we do it, we shall find the Senate trying a mere issue of personal character, and not at all relating to our legislative duties. I ask, if it is not more prudent that we should abstain from it? I imagine that it was not necessary for the Secretary of the Navy to have sent to us that letter of Commodore Jones; but I suspect, that if we looked into the matter, we should find that it originated in no malice towards Lieutenant Meade. But it having appeared under the resolution calling for information in regard to the court-martial on Commodore Jones, shall we proceed further in trying this issue of personal character?

Mr. SHIELDS. Will the Senator permit me to ask, if the papers originally published were in a different case?

Mr. HUNTER. Certainly they were; or, rather, they were no part of this case of Lieutenant Meade. The papers originally published had no connection with Lieutenant Meade, except this: When the papers in relation to the court-martial held upon Commodore Jones were called for, the Secretary of the Navy reported a letter from Commodore Jones, when he was commander of the Pacific Squadron, in which he said that Lieutenant Meade was a worthless officer.

Mr. GWIN. I can, perhaps, give the exact information in regard to it. The Secretary of the Navy addressed a communication to Commodore Jones, containing the charges which were brought against him, and called for an explanation. Commodore Jones addressed a confidential letter to the Secretary of the Navy, giving an explanation of those charges, in which letter he calls Lieutenant Meade a "worthless officer." Subsequently, when a court-martial was called, that confidential letter was laid before it. Through a friend of Commodore Jones, the papers in his case were called for, and his confidential letter came with them and was published. In explanation of this, I will say, that Lieutenant Meade charged that Commodore Jones had failed in his duty in placing him in the post of commander of the Edith, at San Francisco, and also that there was a discrepancy between the letters of the Commodore to him (Lieutenant Meade) and the orders of the Navy Department. It was a charge of falsehood against Commodore Jones; and he, in the confidential letter to which I have alluded, refers to Lieutenant Meade as a "worthless officer." Lieutenant Meade complains of that term of reproach, and says he knew nothing of the charge until he had left the Navy, or he could have demanded a Court of Inquiry, to decide whether he was a "worthless officer." He was ignorant of the charge until he had left the Navy; he asks that all the papers having a bearing on the case may be called for; but I will not sanction any call that will do injustice to Commodore Jones, or give an *ex parte* statement of his acts.

I do not wish to occupy the time of the Senate in talking further upon the subject.

Mr. BADGER. I have been very much struck with, and concur in, the observations of the Senators from Illinois [Mr. SHIELDS] and Michigan [Mr. Cass.] I have been in the habit, ever since I have been a member of the Senate, of constantly, without question, uniting in the call for the proceedings of courts-martial when they were asked for by a Senator. I am persuaded, from what has taken place now, that the Senate ought not to indulge in this course, and that we ought to retrace our steps, and not engage in making such calls without clear and strong reasons. But, as my friend from Illinois said the other day, we

ought either to stop before we begin, or not stop until we end. If the Senate will attend for one moment to the resolution that was adopted at the last session, in relation to the proceedings of the court-martial of Commodore Jones, they will see that this call has arisen from that resolution calling, not merely for the proceedings of the court-martial, but for other matters. It reads as follows:—

"Resolved, That the Secretary of the Navy be directed to transmit to the Senate a copy of the record and proceedings of the Naval Court Martial recently held at Washington, for the trial of Thos. Ap Catesby Jones, a Post Captain in the Navy."

I imagine, if the resolution had stopped there, this difficulty would not have arisen. But it goes on:

"Together with any correspondence that may have passed between the Secretary of the Navy and Commodore Jones, relating to his arrest and trial, between the 7th of September, 1850, and the 18th of January, 1851, inclusive."

We bring out this correspondence between the Secretary of the Navy and Commodore Jones. In one of his letters, Commodore Jones makes the imputation upon the character of Lieutenant Meade; and, in consequence of our proceeding, of our not merely calling for the record of the court, but for the said correspondence, and then having it published to the world, he asks that the full correspondence may be published, in order that it may appear what the facts really are, he having resigned without a knowledge of the charge, of which he never knew anything until we published it. The question is, whether the Senate will now stop, having begun; or whether they will complete and correct, as far as they can, the mistake which they have made, and then take care how they interfere hereafter.

Mr. COOPER. I desire to say that the explanation which has been given by the Senator from Texas, [Mr. Rusk,] and the resolution which has been read by the Senator from North Carolina, [Mr. BADGER,] satisfy me that we ought to go on now, and have the information which is called for. I was under the apprehension, in the first place, that it was for the purpose of adding new censure to an old injury, which I conceive to have been done to Lieutenant Meade, who is as gallant a man as there is in the Navy of the United States. I am, therefore, in favor of the resolution.

Mr. HALE. I also wish to say, that the remarks of the Senator from Texas have satisfied me of the propriety of obtaining this information and publishing it; because this case comes very nearly within the category which I have suggested. My complaint was, that the proceedings in vindication of private citizens were never listened to. It seems that Lieutenant Meade has resigned his place in the navy, and is now a private citizen. This, therefore, will be one precedent, which I wish to see established, of the Senate interfering to protect the reputation of a private individual. Therefore, I am in favor of getting this information.

The amendment was agreed to, and the resolution, as amended, was adopted; there being, on a division, ayes 23, noes not counted.

## UNITED STATES COURTS.

Mr. HUNTER. I move that the Senate take up the act amendatory to the act providing for the holding of the courts of the United States in case of sickness, for the purpose of acting on the amendment which has been returned from the House.

Mr. BRADBURY. I hope it will not be taken up for this reason: It is suggested to me that it becomes very desirable that the act should be made applicable to the District of Columbia, and it may be desired to engraft an amendment upon it to that effect.

Mr. HUNTER. If the Senator, who is a member of the Committee on the Judiciary, asks that the bill should lie over for the present, I withdraw my proposition.

## EXECUTIVE SESSION.

Mr. BADGER. Before the special order is announced, I wish to suggest that I think it will

be rather better for us, upon the whole, not to proceed to its consideration now; but let us have an understanding that we shall take it up to-morrow, promptly, at the hour of one o'clock, and dispose of it. I think that we can much better employ ourselves to-day in disposing of some matters of importance and interest in Executive session, which ought to have been disposed of long ago. I therefore move that the Senate proceed to the consideration of Executive business.

Mr. BRADBURY. It will be recollected that it was the general understanding that the French spoliation bill was to be called up to-day; but it is now too late. I wish simply to notify the Senate that I shall insist upon taking it up as soon as the bill which was under consideration yesterday shall have been disposed of.

Mr. HALE. I wish further to add, that I think we have been rather slighting a gentleman who formerly had the honor of occupying a seat on this floor, and I shall therefore move, at some future day, that the Senate proceed to consider the resolution concerning the finality of the compromise. [Laughter.] I think that it ought to be attended to.

The motion was agreed to, and the Senate proceeded to the consideration of Executive business. After some time spent therein, the doors were reopened, and

The Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 24, 1852.

The House met at twelve o'clock; Mr. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

Mr. HOUSTON moved that the rules be suspended; and that the House resolve itself into the Committee of the Whole on the state of the Union.

## ARMY EXPENSES.

Mr. HALL asked the unanimous consent of the House to offer the following resolution:

Resolved, That the President of the United States be requested to inform this House of the amount expended by the United States, for forage, quarters, fuel, and transportation, for the use of the army, per man, in New Mexico, during the war with the Republic of Mexico; and also the amount expended on the same account, since the termination of said war; and also the amount expended during said war for said objects for the use of the army, per man, stationed on the route from Missouri to Oregon, during said war, and the amount expended, as last aforesaid, since the termination of the war.

Mr. BROOKS. I have no objection to the resolution of the gentleman from Missouri, if he will extend it so as to embrace the expenses, and the details of the quartermaster's department; if he will add on a like demand for the details of quartermasters' expenditures throughout the Mexican war, and the Indian Florida war—an Indian war resembling in some respect the numerous Indian wars now going on, except that they are going on immense distances off—we can then make comparisons, and have fair statements.

Mr. HALL. My object is to get some information that will enable us to act upon the subject now before the Committee of the Whole on the state of the Union.

Mr. BROOKS. I object, then, to the resolution, unless it goes further back.

## SIGNAL LIGHTS.

Mr. FLORENCE, by unanimous consent of the House, offered the following resolution:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of prescribing by law or regulation, the number, character, and position of signal lights, to be borne by steamers, and sailing vessels, between sunset and sunrise, on the waters of the United States.

Mr. WALSH. It seems to me that this subject would more appropriately go to the Committee on Commerce.

Mr. HOUSTON. I must insist on my motion to go into the Committee of the Whole on the state of the Union.

The SPEAKER. The resolution having been received by unanimous consent, it is too late now to object to its consideration.

Mr. WALSH. I move to amend the resolution by striking out the words, "the Committee on Naval Affairs," and inserting "the Committee on Commerce." Kindred inquiries are now in progress before that Committee.

Mr. FLORENCE. I apprehend that the subject belongs legitimately to the Committee on Naval Affairs. The law or regulation would have to be adopted in vessels of the United States, and that would establish the law so far as the commercial marine of the country is concerned. I have no objection, however, to its going to the Committee on Commerce, and will accept the amendment of the gentleman from Maryland.

The question was then taken on the resolution as modified, and it was agreed to.

#### CLAIM OF GEORGE METCALFE.

Mr. HARPER, by unanimous consent, submitted the following resolution; which was considered and agreed to:

*Resolved*, That the Committee of Claims inquire into the expediency of paying to George Metcalfe, of Ohio, the sum of \$140, being the amount of his claim for damages arising from the building of the bridge over Will's creek, on the Cumberland road; said amount having been allowed to him by the Secretary of War, on the 28th day of September, 1829.

#### REPORTS FROM COMMITTEES.

Mr. FOWLER. I would ask the gentleman from Alabama to waive his motion for a moment, for the purpose of allowing me to ask the House to permit the morning hour to be taken up in presenting reports from committees. There are probably more than a hundred such reports in our drawers, and several of us have had them for weeks, but have had no opportunity of presenting them. Now, if the gentleman from Alabama will withdraw his motion, and allow the morning hour to be thus occupied, with the understanding that no debate shall take place, we can present those reports and bills.

The SPEAKER. The call of committees for reports will be in order if the House refuses to go into the Committee of the Whole on the state of the Union, the Committee on Public Lands being the first to be called.

Mr. FOWLER. Will it not be in order to call the committees for reports, with a general understanding that the bills shall be referred without debate?

The SPEAKER. That can only be done by unanimous consent.

Mr. FOWLER. Well, that is my sole object.

Mr. APPLETON, of Maine. There are bills, also, upon the Speaker's table which had better be disposed of.

Mr. FOWLER. I am willing to dispose of those also.

The SPEAKER. Is there objection to the proposition of the gentleman from Massachusetts?

Several MEMBERS objected.

Mr. FLOYD asked leave to withdraw from the files of the House, the papers in the case of Jeptha A. Wilkinson, for the purpose of returning them to the memorialist.

Mr. ORR. Is it not unusual to withdraw the papers and return them to the memorialists?

The SPEAKER. If the gentleman copies the papers, there will be no objection.

Mr. LETCHER. I object.

Mr. HOUSTON. Then I insist on my motion to go into the Committee of the Whole on the state of the Union.

The question was then taken on Mr. Houston's motion, and it was agreed to—ayes 80, noes not counted.

#### DEFICIENCY BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SREANT in the chair.)

The CHAIRMAN. The business before the committee is House bill No. 207, to supply deficiencies in appropriations for the fiscal year ending June 30, 1852; the following clause of the bill being under consideration.

"For constructing, repairing, and enlarging barracks, quarters, hospitals, store-houses, stables, wharves, and ways, at the several posts and army depots, for temporary cantonments, and the authorized furniture for barracks, rooms of non-commissioned officers and soldiers, gun-houses for the protection of cannon, including the necessary tools and materials for the objects enumerated, and for rent of quarters, and offices for officers, and barracks and hospitals for troops, where there are no public buildings for their accommodation, for store-houses for the safe-keeping of mili-

tary stores, and of grounds for summer cantonments and encampments, \$219,000."

The gentleman from Kentucky [Mr. MARSHALL] had proposed to amend the above by striking out "\$219,000," and inserting "\$100,000." To which amendment, his colleague [Mr. MASON] had proposed an amendment to increase the amount \$12.

The question was taken upon the two several amendments, and they were rejected.

The next paragraph of the bill was then reported by the Clerk, as follows:

"For clothing, camp, and garrison equipage; and horse equipments, for engineers, troops, ordnance department, dragoons, riflemen, light-artillery, artillery and infantry, \$75,000."

Mr. GORMAN. I move to reduce the appropriation \$5,000.

Mr. Chairman, upon this item the honorable chairman of the Committee of Ways and Means [Mr. HOUSTON] yesterday remarked, that if I had examined it, I should not have fallen into this blunder. I said then, to the House, that there had been appropriated \$242,538 65, for the clothing and other equipage of the army, in the regular army bill. I said then that some \$80,000 had been diverted from the purpose for which Congress had appropriated it, and that it had been paid to the officers of the Army. I said that there was a law authorizing the transfer of sums of money from one point to another to meet the necessary expenses of the Government; but that can only take place when there was a surplus. That is the law; and if the chairman of the Committee of Ways and Means had been as well posted upon it as he might have been, he would not have fallen into the blunder which he did upon this point. Now, the quartermaster general says he inquired at the Treasury, and found that the balance, \$80,538 65, had been applied to the settlement of paymasters and other officers' accounts; some of them originating in the war with Mexico.

Mr. HOUSTON. I rise to a point of order. We have not yet settled what is to be the action of the committee upon this bill. If we go on with this general debate, we shall never dispose of the bill. I am perfectly willing that it should go on if the committee wish it. I feel bound again this morning, at the beginning of the debate, to make the point of order which I made yesterday. I understand the motion of the gentleman to be to reduce this appropriation \$5,000; and in support of his amendment he is reviewing my argument made yesterday, and going into a general debate upon the propriety or impropriety of transferring the public money from one head of appropriation to another. I understand the rule to be that he must confine himself to the discussion of this one item.

Mr. GORMAN. I am upon that identical item in the bill.

Mr. HOUSTON. You are upon the item, but not the argument—

Mr. GORMAN. I am upon the precise argument.

The CHAIRMAN. The Chair is of the opinion that the gentleman must confine himself strictly to giving reasons why this appropriation should be reduced to \$5,000. The Chair cannot see the relevancy of the course of argument the gentleman was pursuing when he was called to order by the gentleman from Alabama, [Mr. HOUSTON.]

Mr. GORMAN. If the Chair cannot see the relevancy of my remarks I will try to enlighten him upon the subject.

I said I wanted to reduce the appropriation \$5,000; and that was my motion. I said that the quartermaster general estimated the last year, for this item, \$242,000, and that he did not use all the money appropriated, but that \$80,000 had been diverted to another purpose, and expended for another object. Now, I say this appropriation of \$75,000 is not necessary. And why? Because we have already appropriated the amount, and more than the amount, asked for—more than \$75,000—which has been diverted to another purpose, without authority of law. What authority had they to divert it from the particular object for which it was appropriated? They could not do it unless there was a surplus for the object for which it was originally designed; but it seems that, instead of there being a surplus, there was a deficiency. The quartermaster general says it has been appropriated to paymasters—to settle the paymaster's accounts, some of them originating in the war with Mexico. I do not care where they

originated. I have not time to go into these specific items in a five minutes' speech; but if I had, I could detail some of these items coming under this head, by which gentlemen would then see how much necessity there was for this appropriation of \$75,000. Why, there has been sold, I apprehend, \$150,000 worth of clothing, which has been on hand perhaps twelve months in the quartermaster's department. I learn that this is a fact, though I have not been officially informed of it. And why were they sold? Because they had been on hand a little longer than those connected with that department thought they ought to have been. Now, if this item, which was taken from them and appropriated for the use of the army, had been applied as it was intended it should be, there would have been no necessity for this \$75,000.

It is impossible for gentlemen upon this floor to recite the items connected with this appropriation in five minutes, and I cannot do it now; but I can say to the chairman of the Committee of Ways and Means that I have taken pains—a good deal of pains—to examine every item and specific object connected with it; and if he will call at my desk, I can show him those items. Here are some of them: There are troops stationed in New Mexico, California, and Texas, amounting to 2,712; now there are 1,000 employees in the quartermaster's department—1,000 men employed to haul provisions for and feed 2,712 soldiers!

[Here the hammer fell.]

Mr. EVANS. I did not hear the gentleman from Indiana [Mr. GORMAN] very distinctly; but I understood him to say that there was no law authorizing a transfer of an appropriation from one branch of a department to another.

Mr. GORMAN. I said there was no such authority, unless there was a surplus.

Mr. EVANS. Well, sir, I beg to refer the gentleman to the act of the 26th of August, 1842. It may be found in the fifth volume of the Statutes at Large. If the gentleman will look at that he will find that he is entirely mistaken. That act especially provides for such a transfer of appropriations. Mr. Chairman, in reference to the gentleman's remarks upon his proposition to reduce the amount of appropriation in this section, I could show, if time allowed, that his argument is not well founded.

Mr. GORMAN. I wish the gentleman would allow me to read these estimates. I am sure the gentleman does me injustice.

Mr. EVANS. I have not time to hear them read now; and I certainly intend to do no injustice to the gentleman.

Mr. GORMAN. These estimates of the quartermaster general explain all.

Mr. EVANS. I cannot have my time taken up. I will take back all I said in relation to them.

Mr. GENTRY. No, do not take it back.

Mr. EVANS. I tell the gentleman from Tennessee I want to save my time, and therefore I will take it back, in a Pickwickian sense. I want to make a proposition to the other side of the House. I appeal to my friends there, that they should not insist upon cutting down these appropriations while they continue to maintain the Army and Navy, and the civil and diplomatic corps in their full force. I venture to say that no one upon this side of the House will interpose any objection to their introducing a bill or bills, to-morrow, making provision for cutting down the army, and for cutting off the forage from the troops in New Mexico, if it is not, as gentlemen say, necessary to provide them with forage.

Mr. HALL. I have no doubt the gentleman would be perfectly satisfied to have Congress make the appropriation and take the responsibility, while the Whig Administration in power draws the pay.

Mr. EVANS. I hope the gentleman will not take up my time.

Mr. HOUSTON. I am compelled to arise to a question of order.

Mr. EVANS. I hope the Chairman will allow me my full time, for gentlemen, by their interruptions, have somewhat disarranged my ideas.

Gentlemen have said that forage was not necessary for horses in New Mexico, because the Government did not pay for forage to Doniphan's troops. If no money for forage was received by those troops, it was because they quartered themselves upon the enemy; but what enemy can our troops be now quartered upon? Must they



plunder the people they are sent to protect? Doniphan's troops did not do without forage; but they got it without pay. Now, do gentlemen want to throw the army upon the same resources, in a friendly country which we are bound to defend and protect? If they really honestly wish to diminish expenses, let them bring in a bill to-morrow, and I will venture to say not one gentleman upon this side of the House will object to it. Bring in a bill cutting off this forage. Bring in another cutting off the supplies for the subsistence department. Bring in another cutting down your army. Cut down your navy. Reduce your civil corps. Make all these reforms, and we will not object to the introduction of your bills. Let gentlemen bring in their bills for true reform, if they wish to reduce the appropriations, and not attempt to reduce them while they continue the army and navy in their full force.

Mr. HOUSTON. I must rise to a question of order. I am sure gentlemen desire to get through with this bill.

Mr. EVANS. Why, we will get up quite a reform if you let me go on.

Mr. HOUSTON. I must object to this irrelevant debate. I desire to see the committee voting upon the bill; and I am sure the committee are anxious to dispose of it. I make this point of order, and I intend to insist upon it. The gentleman is not debating the amendment under consideration.

Mr. EVANS. My friend, knowing that I am a good-natured man, makes all his points of order upon me.

Mr. HOUSTON. Certainly not. I made a point upon the gentleman from Indiana, [Mr. DUNHAM,] the other day, but it was overruled by the Chair. I do hope this sort of debate will not be continued.

The CHAIR. The Chair is of the opinion that the remarks of the gentleman from Maryland are not in order.

Mr. EVANS. I thought the Chair decided the other day that a wide range of debate could be allowed upon a proposition to strike out an entire clause of the bill.

The CHAIRMAN. The question now before the committee is not to strike out an entire clause in the bill, but to strike out simply the word "seventy," reducing the amount of the appropriation from \$75,000 to \$5,000. The Chair thinks the gentleman was not confining his remarks to the articles specified in the clause under consideration; but was discussing those in the clause immediately preceding it, and he therefore rules that the gentleman's remarks were not in order.

Mr. EVANS. The Chair is clearly right in his decision.

Now, with what propriety can the gentleman undertake to reduce this appropriation to \$5,000? Can he with any honesty—I do not mean personal, but political honesty—as a statesman, undertake to cut off this appropriation, when he insists upon the continuance of Government policy—policy which requires the money this section of the bill provides for? I tell the gentleman again, that if he wishes to bring this reduction about, he must go to work in a different manner. If forage, for instance, is not necessary, as has been asserted, let him bring in a bill cutting it off; let him move to put the bill on its passage; let him diminish the army, the navy—in a word, all branches of the Government generally. His party has a large majority in this and in the other branch of Congress, and they can pass their bills, and that will place them in a position consistent with themselves. Why, I tell gentlemen upon the other side of the House, that if their party should come into power—which, for the sake of the Republic, God forbid!—for the next four years, being then obliged to vote these large sums of money for the quartermaster's department which they now desire to refuse, they will then be taunted with their extravagance; and having, by their action now, foreclosed themselves from any answer; they will be placed in a position of such inconsistency that it will become a matter of greater embarrassment than they can imagine.

[Here the hammer fell.]

The next section, being "for pay of five companies of Texas mounted volunteers, \$80,741," was then read.

Mr. BROOKS. I move to strike out that section. I do it for the purpose of hearing what the

gentleman from Texas [Mr. HOWARD] has to say upon the subject. I wish to say that this item, and the one before it for subsistence, are not deficiencies created by this Administration.

Mr. HOWARD. I have only to say, that these troops were called into the service of the United States by the order of the commanding general of that division, and that they served out their time, but the last Congress neglected to make an appropriation for their payment; in other words, because the department neglected to estimate the expenses which were to become due for these services in their estimate submitted to the last Congress, the appropriation was not made. It is, therefore, properly a deficiency; and now that I am up, I wish to notice one or two observations which fell from the gentleman from Indiana [Mr. GORMAN] on yesterday. He says and urges that we shall cut down the supplies of the quartermaster's department; and his economy would result in this: He is opposed to cutting down appropriations for pay for subsistence, and for clothing for the army, but he wishes to reduce the quartermaster's department. Now, what would be the result of that? You would incur four fifths of the expense for the support of the army; but, by withholding supplies from the quartermaster's department, you would render it impossible for the general to make any movement of his troops in the field, or to make any disposition of them which will be an effectual protection of the frontier; because every man knows that the quartermaster's supplies are the life-blood of the movements of the army in the field; and that unless they have the supplies, you might as well disband the army. The gentleman's economy would be to keep up the expenses of the army, and yet put it in such a condition that it could not move or act in the field.

Well, sir, the remarks of the gentleman from Missouri [Mr. HALL] was equally at fault in relation to this matter. He argues that the men should be mounted on Mustang ponies; that the troops should not be fed; and that this species of force should be put in pursuit of the Indians. Now, I would like to see the gentleman upon a bob-tail pony, fed upon grass, in pursuit of Indians well mounted, and who ride as expertly as any riders in the world.

There is another fact connected with this matter. When an Indian goes upon an expedition, he goes with four or six horses. And what chance would the gentleman have, with his single pony, of overtaking the Indian with his four or six well fed ponies?

Mr. ORR, (interrupting.) I would like to ask the gentleman what the Indians feed their horses upon? He says the Indians are well mounted, and the horses well fed.

Mr. HOWARD. They feed their horses upon grass; but there is a difference between one horse, and five or six horses to ride. The Indian rides one horse until he runs him down, or tires him out, and then he takes another. But your dragoon is to be mounted upon one grass-fed pony, and he is to ride that pony until he overtakes the Indians, and then is to make a charge upon them.

[Here the hammer fell.]

The question was then taken upon the amendment of the gentleman from New York, [Mr. BROOKS,] and it was disagreed to.

Mr. MARSHALL, of Kentucky. I rise to inquire whether it is in order to move to lay aside so much of this bill as relates to the quartermaster's supplies, to be reported by the committee to the House, with a recommendation that it be referred to a select committee, with instructions? I do not propose to strike it all out.

Mr. JONES, of Tennessee. I would suggest to the gentleman from Kentucky, [Mr. MARSHALL,] that he can attain that object by moving to strike out all in this bill pertaining to the quartermaster's department. If the House will strike it out, it can then be referred to a select committee.

Mr. MARSHALL. If it is in order, then, with the view that when we get into the House we may have the yeas and nays upon this part of the deficiency bill, I move to strike it all out, from line thirty to line ninety, with the understanding that when we get into the House, if it is stricken out, I will then move that it be referred to a select committee, with instructions.

Mr. HOUSTON. I would suggest to the gentleman from Kentucky, [Mr. MARSHALL,] that he

misunderstood the gentleman from Tennessee, [Mr. JONES.] It is not in order now, in committee, to move to strike out the appropriations for the quartermaster's department, for the reason that they have been passed by the committee, and the committee have refused to strike them out. They are now, so far as this committee is concerned, adopted. It may be in order to move to strike out in the House, but it clearly is not in order to move that in the committee now.

The CHAIRMAN. The Chair will state his view of the motion of the gentleman from Kentucky, [Mr. MARSHALL.] The Chair thinks that if the motion had been made in time, before the committee had passed from the sections proposed to be stricken out to other sections, the motion would have been in order; but that it is now too late, the committee having passed by that portion of the bill, and also three or four other clauses subsequent to it.

Mr. ORR. The course indicated by the gentleman from Alabama [Mr. HOUSTON] can be followed, provided that he will, when the bill gets into the House, yield the floor to allow the motion to be made to strike out, before he moves the previous question.

Mr. HOUSTON. That is not in order. I have no arrangement to make in regard to it.

Mr. EVANS. The rule which the Chair has laid down is undoubtedly correct as to every bill containing more than one section; but this is a bill of one section merely; and it seems to me—and I submit it to the Chair with all due respect—that the gentleman from Kentucky [Mr. MARSHALL] had a right to go back at any time to any portion of the bill.

The CHAIRMAN. The Chair will say to the gentleman from Maryland [Mr. EVANS] that the language of the rule is not section, but clause, and prescribes that the bill shall be read through; and that that it shall be read and considered by its clauses, not sections.

Mr. MARSHALL. I withdraw my motion, under the decision of the Chair, with the understanding that, if I can, I will make the motion to the House.

Mr. BROOKS. I want to inquire if the committee have passed lines one hundred and seven and one hundred and eight—"for surveying private claims in California \$7,500?"

The CHAIRMAN. They have been read.

Mr. BROOKS. I wanted to move to strike them out, together with the preceding clause, in regard to subdividing fifty townships in California, for the purpose of hearing the gentleman from California [Mr. McCORKLE] upon them.

The CHAIRMAN. It is still in order to move the amendment.

Mr. BROOKS. I then make the motion. I will here remark, in passing, that I see that the Governor of California, in his late message, says, that under the swamp land bill which the previous Congress passed, all the arable lands of California belong to her—amounting to some 10,000,000 of acres, I think. If that be the fact, it is hardly necessary to incur this additional expense, for the purpose of surveying them. Most of the lands of California are necessarily irrigated, and when irrigated, become swamp lands; and it is wiser, therefore, for us, if the Governor of California is correct, to strike out these two items, and make no more appropriations. But my object in making the motion, is to hear the gentleman from California defend the two items; and if they are correct, I am willing to vote for them.

Mr. McCORKLE. I would inquire of the gentleman from New York, if the first item to which he refers is contained in the hundred and seventh and hundred and eighth lines?

Mr. BROOKS. The items to which I refer, are from line one hundred and four to line one hundred and eight, inclusive.

Mr. McCORKLE. I will state, for the information of the gentleman from New York [Mr. Brooks] and others, that so far as the message of the Governor is concerned, his estimates, in regard to the public lands in California, are founded upon his own individual opinion. The arable lands of California have not yet been surveyed. We claim, of course, under the law granting, originally, to Arkansas and to other States, all the swamp lands of California. We claim that they are the property of the State, for a specific purpose; under the decision of the Secretary of the

Interior, that all lands subject to periodical overflow, are to be included under the head of swamp lands. Under that decision, a large portion of the public lands in California will fall to that State. There is no question about that. But I differ in opinion with the Governor of that State, in regard to the number of acres which cannot be included under the head of swamp lands. This item, if divided among fifty townships of California for surveying them, is a proper item; for the reason that I believe there are more than three times that number of townships of land in that State, which will belong to the United States, after we have set aside those lands subject to periodical overflow.

Mr. POLK, (interrupting.) Will the gentleman from California allow me to ask him a question? Has the money been expended which was appropriated before towards this object?

Mr. McCORKLE. I will state in reply to the honorable gentleman from Tennessee, that as yet the office of surveyor general in California cannot be said to be created at all.

Mr. POLK. Then will the gentleman allow me to ask a question of the chairman of the Committee of Ways and Means? It is this: How comes it that an original appropriation finds its way into this deficiency bill?

Mr. McCORKLE. I will answer that question. Twenty-five thousand dollars were appropriated at the last session of Congress for the purpose of surveying the public lands in California. That amount of money, I presume, has been expended; but, under the peculiar climate of California, the year is divided into two seasons—the wet and the dry. During the wet season, it is impossible to carry on these surveys. If this appropriation, then, is not made in this bill, and which is intended to continue these surveys during the present season, but is left back to go into the general appropriation bill, the whole year will elapse without a single line being run, or a single survey made. For that purpose the department has wisely and properly—looking to the interests of California—inserted these appropriations here, in order that these surveys may go on during the present dry season. If these appropriations are left to go into the general appropriation bill, it will go over until the next year, and we will be thrown back one year, to all intents and purposes, so far as any interest to be derived from the public lands in California is concerned. There is no deficiency; but these appropriations are intended to carry on the surveys during the present season.

[Here the hammer fell.]

Mr. PHELPS. I move, sir, to reduce the sum to \$14 per mile, instead of \$15.

Mr. HOUSTON. What item is that?

Mr. PHELPS. In line one hundred and five. He remarked the surveys of the public lands in that State had just commenced, and were made at great expense. The surveyor general of that State, in submitting his annual estimates for surveys, had recommended that one fourth of that amount should be appropriated for the service of the fiscal year. The department and the committee had concurred in that recommendation. The surveys in that State can only be made in certain seasons of the year, as has been remarked by the gentleman from California, [Mr. McCORKLE.] As to the remark of the gentleman from New York, [Mr. Brooks,] that the Governor of that State, in his message, had claimed the greater part of the lands in that State by virtue of the act granting swamp lands, &c., to the States in which they are situated, he would say the Governor's claim can neither enlarge nor diminish the rights of that State under the law. If the remark of the Governor is true, the necessity of making the surveys is the same. The swamp lands are to be selected according to the legal subdivisions, and the residue will be subject to sale by the Government, and cannot be sold until surveyed. He did not wish his amendment to prevail, and with the consent of the committee would withdraw it.

Mr. SACKETT. I move to strike out lines one hundred and seven and one hundred and eight, for the purpose of making an inquiry of the chairman of the Committee of Ways and Means. I desire to ask the gentleman, the chairman of the Committee of Ways and Means, a question as to that appropriation. The one hundred and seventh and one hundred and eighth lines, provide \$7,500 for surveying private land claims in California. What is the effect intended to be given by the

committee to these surveys? Are they to be surveys establishing the line by the operation of the survey between the public and private lands of California? Is the title the claimants make to these lands to be affected by this survey, before the commission established on that subject act? Is that to be the effect of a single survey?

Mr. HOUSTON. Yes.

Mr. SACKETT. Then I object to the appropriation. If that is to be done without examination, as to which is private, and which is not private property, I think the appropriation is a very improper one.

Mr. HOUSTON. There are a great many private claimants to a portion of the land in California, and it becomes not only important, but absolutely necessary, not only that individuals should know which are their lands, and which are not, but it becomes absolutely essential that the Government should know what is private and what is public property. The gentleman must see that until these surveys are made, and the various grants established, there can be no legality. We must have boundaries; we must have lines and indications, so that the Government should know which its land is.

Mr. SACKETT. My objection is this: that a corps of surveyors are not the proper functionaries to determine what is, and what is not private lands.

Mr. HOUSTON. That will be settled afterwards. That is to be determined by the Commissioners who are now discharging that very duty.

Mr. SACKETT. What effect can the survey have, then?

Mr. HOUSTON. To give effect to the decision of the Commissioners.

Mr. PHELPS. I am opposed to the amendment. The gentleman from New York has misunderstood me. We now provide for surveying the lands in the State of California. Those surveys will go on and be made in the manner prescribed by law—being divided into townships, and subdivided into sections; and upon this very land divided into townships and sections, there are persons who say they have valid claims to that land by virtue of the grants made to them by the Spanish and Mexican Governments. How will the Government of the United States sell those lands? as it is expected there will be a sale after the surveys are made and approved. The land of individuals may be sold; but afterwards, when their claims are brought before the Commissioner, and it is decided these claims are valid, then these claimants will demand an indemnity of you. The survey of these private claims does not affect either the title of the Government, or of individuals, but enables us to reserve from sale until they are adjudicated upon these private claims. It is the same practice we pursued in the States of Louisiana, Arkansas, Missouri, and Florida. The survey enables us to reserve all the land from sale until the rights of the claimants are decided by the Board of Commissioners now in session in California. The ordinary surveys of land will be made in the same manner as if there were no private claims; and if the decision of the Commissioners shall be adverse to the claimants, the land will be ready to be brought into market. The gentleman from New York [Mr. SACKETT] need have no fear that these surveys recognize titles in individuals.

The question was taken upon the amendment, and it was rejected.

The clause appropriating for the annual repairs of the President's House \$600, was read.

Mr. STANTON, of Kentucky. I have upon my table several amendments, which I have been instructed to offer to this bill by the Committee on Public Buildings. This appears to be the proper place, and I submit to the clause under consideration the following proviso:

*Provided, That so much of the appropriation made during the present session of Congress for the temporary repair of the Congressional Library Room, as may remain unexpended at the passage of this act, shall be applied to the completion of the cistern upon the roof of the south wing of the Capitol, and for the casual repairs of said building.*

Mr. STANTON. I desire to say, in reference to that and other amendments which—

The CHAIRMAN. The amendment is not in order, if submitted to the clause now under consideration.

Mr. STANTON. I will then submit it at another place.

The next clause was read, viz:

"For filling up, grading, &c., Franklin square, \$406 99."

Mr. HENN. I desire to inquire of the chairman of the Committee of Ways and Means what " &c." had to do with this clause?

Mr. HOUSTON. That is the most difficult question you can ask me. I did not know it was contained in the bill. The amount asked for here is the balance of a debt due for work which is now substantially completed—which is now in the very act of completion under general authority supposed to be given by a law passed at the last Congress. The amount asked for—\$406 99—is intended to pay the debt due for the completion of this work. As to the *et cetera*, I did not know it was there.

The clause was passed upon.

Mr. STANTON. I now submit, as a separate clause, the amendment which was ruled out of order by the Chair:

That so much of the appropriation made during the present Congress for the temporary repair of the Congressional Library room as may remain unexpended at the passage of this act shall be applied to the completion of the cistern upon the roof of the south wing of the Capitol, and for the casual repairs of said building.

Mr. DUNHAM. I rise to a question of order, as to whether that amendment is germane to this bill? It strikes me that it relates to a matter irrelevant to, and consequently cannot come in, this bill.

Mr. STANTON. If the Chair, and gentlemen of the House will allow me, I will show the relevancy of the amendment. At an early period of this session the estimates for the necessary appropriations for public buildings and public grounds in the city of Washington were submitted to the chairman of the Committee of Ways and Means, and among those there were certain estimates for deficiencies in the appropriation which had been made heretofore. The Committee of Ways and Means refused to incorporate but some two or three of these estimates into any of the bills which they have presented to the House. The law of 1840 made it the duty of the Commissioner of Public Buildings to submit his estimates to the Committee on Public Buildings, and forbid their being presented to the House without having had first the approval of that committee. There was an estimate for \$1,500 deficiency of appropriation for the casual repairs of the Capitol. We understand, upon investigation, that of the amount which we appropriated some time ago for the temporary repair of the Library, which was burned by the recent fire, that there will be an unexpended balance in the hands of the Commissioner of about \$1,500, just enough to supply the deficiency which exists in the appropriation for the casual repair of the Capitol. Instead of asking for an appropriation to supply that deficiency, we simply ask to be transferred from that fund for the repair of the Library the unexpended balance of \$1,500, to the casual repair of the Capitol. I will say to the committee, in this connection, that it is important the work now commenced upon the top of the house should be immediately completed; for those who have examined the subject know that the cistern—

Mr. DUNHAM. I would like to ask the gentleman a single question. By what authority has the work been commenced?

Mr. STANTON. The work has been commenced under an appropriation made by the last Congress of so much for the casual repairs of the Capitol. There is upon the top of this House—upon this wing of the building, and also upon the other wing—a large cistern, intended to hold water to be used in the event of fire. By means of the cistern upon the northern wing of the Capitol, the whole roof of this building was saved at the late fire. Had not that water been there, no one can calculate the extent of the injury which would have resulted to the building. By means of the water held in that cistern, the roof was saved; because the whole covering of the Capitol is constructed of wood, and the fire would have spread rapidly. This cistern has been constructed under the authority of an old appropriation, and it will require this sum to complete it and to make other necessary repairs.

Mr. DUNHAM. I have yet to learn by what authority this new cistern was commenced. I know of no law by which it was authorized to be commenced. It is true that there has been heretofore an appropriation for the casual repair of the

Capitol; but, if I understand the meaning of the English language, it was simply for the purpose of keeping the building in repair—where breaches are made to repair them. Instead of doing that, I understand they have commenced to make an addition to the Capitol. Now, if an appropriation to make casual repairs is an authority to start out new work in connection with the public buildings, I confess that it is a novel thing to me. But be that as it may, I ask how it can be germane to this bill. It cannot be germane to this bill to introduce here a section which is to provide, not for a contingency, but simply to authorize a transfer of a fund which is not appropriated in this bill for the purpose of carrying on this work, which I say has been commenced without any authority.

Mr. STANTON. If the gentleman will allow me one moment to explain, I will remove the difficulties under which he labors. The cisterns upon the roof of the building are a necessary part of the structure, and to repair them is to repair the building. They are necessary to keep the building in repair and protect it from destruction. The appropriation is not to build a new cistern, but to repair, or rebuild, if you please, an old one, which has so decayed from use and exposure as to be of no service. It is, therefore, most certainly embraced in the authority to make casual repairs.

Mr. DUNHAM. This system is one that is very common here; and it is one, I think, this House ought to set its face against. Persons having charge of public work, desiring to have something done according to their fancy, will, if by any possibility they can interpret, by straining, or otherwise, authority to commence the work, begin it without first having submitted the subject to the House. They will afterwards come here and ask us to appropriate money to carry the work on, because it has been commenced. They will tell us that it will all go to waste, if we do not carry it on. This is a very common thing, and is a practice that has been growing up for several years. I insist that this amendment is out of order. It is not to change, or to add to, anything which is in the bill; but it is entirely distinct from it—it is to transfer a sum of money, not appropriated in the bill, but appropriated heretofore, which is in no way provided for in this bill. I think it ought to be left out, and I therefore insist upon my point of order.

The CHAIRMAN. As the Chair understands this amendment, it is to provide for the transfer of certain public moneys to other uses than those originally intended. Such a proposition as that, the Chair is inclined to think, is not in order to this bill.

Mr. STANTON. I will appeal from the decision of the Chair, as I think it certainly is in order. I do this with the utmost respect to the Chair.

Mr. HIBBARD. It is for a purpose not mentioned in the bill.

The question was put, and the decision of the Chair was sustained.

Mr. JONES, of Tennessee. I move to strike out from the bill, from the one hundred and twenty-eighth to the one hundred and thirty-first line, inclusive, the words:

"To complete the improvements on the square south of the President's House, \$12,000: *Provided*, that the grounds can be filled up and the surface completed for the sum herein appropriated."

Mr. J. I wish merely to state a few facts to the committee, with regard to this item. Most of the members of this committee are acquainted with the grounds here referred to, which lie between the canal and the wall surrounding the President's House. An unexpended appropriation of \$6,000 for public grounds about the city has been applied to the filling up and leveling of this lot. In the deficiency bill of the last Congress, of May, 1850, there was appropriated \$10,000 for the improvement of that piece of land. In the regular appropriation bill of the first session of the last Congress—the civil and diplomatic appropriation bill—there was appropriated \$15,000 for the same object. In the civil and diplomatic appropriation bill of the last session of Congress, there was \$10,000 more appropriated to effect the same purpose. They had \$6,000 at the commencement of the first session of the last Congress—\$35,000 were appropriated by the three appropriation bills above named, passed during the last Congress, thus making \$41,000 in all that have been appropriated

for the filling up, leveling, and otherwise improving those grounds. We are now asked to appropriate \$12,000 more, for the purpose of continuing that work, without being possessed of any information as to when it will be completed; or, to effect its completion, what amount of money will be required. I believe that it is contemplated making a fish pond just at the angle of the Potomac with the canal, where there is too much water already. [Laughter.]

Mr. STANTON, of Kentucky. I do not know whether the gentleman from Tennessee is correctly informed as to the amount of money already expended upon this improvement or not; but I shall not enter into a dispute with him upon that subject, although I am inclined to believe he has confounded two or three other appropriations for other purposes with those intended for the grounds south of the President's House. He may have supposed that the appropriations made at the last and previous sessions of Congress, for the improvement of the Smithsonian grounds, the mall generally, and for other grounds, belonging to the Government, have been swallowed up in the sink-hole in front of the executive mansion. But there is an imperative necessity for this appropriation, and it must be made. It is needed, because the grounds proposed to be improved are so low and marshy as most seriously to affect the health of the neighborhood. The sooner we can have them filled up, graded, and planted with trees, the better it will be for the safety of the President and family. It is true that the work has cost already a considerable sum, and will require all that this bill appropriates; but it is a work of great magnitude. A large, low, flat piece of ground, embracing many acres, has to be filled up with earth, brought from a great distance and necessarily at great expense. The earth in the neighborhood, which could be used for the purpose, has been exhausted in the work already done; and what is necessary to complete it will have to be brought from the streets now being excavated and graded in other parts of the city. There is abundant safety to the Government against future appropriations for this purpose in the proviso attached to this section. That proviso limits the expenditure to \$12,000; and if the work cannot be completed for this amount, the Secretary of the Interior, or the Commissioner of Public Buildings, who will have the disbursement of the money, will not be authorized to commence the improvement. I hope the motion of the honorable gentleman from Tennessee will not prevail.

Mr. SEYMOUR. I wish to inquire of the gentleman from Kentucky [Mr. STANTON] whether any investigation has been made to authorize the belief that this work will not be finished for the sum proposed to be appropriated?

Mr. STANTON, of Kentucky. It is a matter not referred to our committee. The Committee of Ways and Means had the matter under consideration and reported the amendment. We took no note of it.

Mr. HOUSTON. As far as the action of the Committee of Ways and Means was concerned, there was no direct inquiry out of the committee that induced them to insert that proviso. Those who were friendly to the appropriation, with a view, I presume—that is my recollection—of enabling it to meet the sanction of the majority, put in that proviso, which, in the view of the committee, would prevent an expenditure going beyond that. The intention of that proviso was to put it out of the power of gentlemen who may control that appropriation, to make that contract unless it was for the completion of the work within the sum of money appropriated.

Mr. SEYMOUR. I wish to say, in connection with the remarks which have fallen from the chairman of the committee, that if this is the object, the language of the bill should be varied, for the purpose of meeting that object. I do not think that the proviso, as it stands, would have the effect to restrict the expenditure to the appropriation at all; and that after this money should have been appropriated and expended, we will be called upon to appropriate as much more for the purpose of completing this work, upon which it seems to me there has been a great extravagance of expenditure.

Mr. HALL. If the Department should make a contract for \$20,000, could they not come in and ask us for an appropriation by a deficiency bill?

Mr. SEYMOUR. I suppose they might, as the language of the bill now stands. But if it is expressed in the language of the chairman of the Committee of Ways and Means, no part of this should be drawn from the Treasury unless the contract is made in its terms to insure the completion of the work. Then I think we should be guarded upon this point.

Mr. HOUSTON. I desire to say a word barely in reply to a question of the gentleman from Missouri, [Mr. HALL,] and to the opinion of the gentleman from New York, [Mr. SEYMOUR.] I have no such opinion as that a contract for \$20,000 could be made under that proviso. None at all. The proviso was not drawn by me. I am aware of its object; and, although it might have been more specific, and it would be desirable to make it so, yet I think it certainly precludes the idea that any more money than the \$12,000 shall be expended upon the work.

Mr. FICKLIN. I would ask my friend from Alabama [Mr. HOUSTON] this question: If \$15,000 is to be expended between this and the next session of Congress, might not \$20,000 be expended?

Mr. HOUSTON. Congress might appropriate what it pleases, despite of the contract.

The CHAIRMAN. The Chair suggests that this discussion is not in order. It is competent for any gentleman to move an amendment, before the question is taken upon striking out. The question pending before the committee is upon striking out.

Mr. DUNHAM. I will move to amend the amendment by striking out \$12,000, and inserting \$7,000.

Mr. JONES, of Tennessee. I hope that will not be done, and that the whole provision will be stricken out. Upon examination, the gentleman from Kentucky [Mr. STANTON] will find that my statement, as to the expenditure upon this particular piece of ground south of the President's, is correct. It was \$41,000. I will refer to the last appropriation made for this piece of ground, viz:

"For continuing the improvements, grading, and planting of trees on the grounds south of the President's House \$10,000: *Provided, further*, That all the unexpended balances of money heretofore appropriated by Government for the improvement of the public grounds, in the city of Washington, shall be expended under the direction of the President of the United States in execution of such plans as he may adopt."

Under this proviso, the President of the United States has since its passage appointed a rural architect—Mr. Downing, of the State of New York—at a salary of \$2,500 per annum, who is to lay out and determine the plans upon which these improvements shall be made. I know but little of this gentleman. He is well qualified, I doubt not, for the duties assigned him. I have not been able to ascertain the exact amount of time he spends here. I directed a letter to the Secretary of the Interior, and he says that, under this provision, the President appointed Mr. Downing as rural architect, with a salary of \$2,500, and that his whole time is not required here. It is said, however, that he spends about three days in the month here, and receives for it this \$2,500 per annum. He edits a horticultural periodical in New York, comes here once a month, stays one, two, or three days, and gives the men employed under him direction as to the work. Sometimes there are forty of them, the Secretary of the Interior says; and, perhaps, sometimes as many as seventy; and for these three days of service in a month, or whatever length of time it may be, he is to receive under the determination of the President \$2,500 per annum.

A MEMBER. How many clerks has he?

Mr. JONES. I do not know.

Mr. SMART. Is he one of the Major Downing family? [Laughter.]

Mr. JONES. I do not know that he is. There are a great many things connected with this matter which are but rumors, and which I will not state here, without knowing them to be true. But these are abuses under that very proviso, I doubt not.

[Here the hammer fell.]

Mr. BROOKS. I wish to make some remarks upon this amendment. Am I in order?

The CHAIRMAN. Under the direction which this debate has taken, it is in order to reply to this amendment.

Mr. DUNHAM. I would like to know how. I understood the gentleman from Tennessee [Mr.



JONES] was opposed to it. I moved the amendment.

Mr. BROOKS. This item in the appropriation bill was well considered in the Committee of Ways and Means, and this proviso was—

Mr. DUNHAM. I rise to a question of order.

Mr. BROOKS. To avoid any objection, I will move to increase the appropriation to \$15,000.

Mr. DUNHAM. I have no objection to that.

Mr. BROOKS. At the last session of Congress, for the first time in appropriations for this city by the Committee of Ways and Means, provisos were inserted for the completion of the works that were undertaken, because it had been found to be the habit in this city of beginning works upon small appropriations, which ultimately led to large ones, and the extent of which the House nor Congress could never know, when they were making the appropriation. To nearly all the appropriations of last year, for the District of Columbia, were appended provisos to this effect, the object being to limit the expenditure in all cases; which had the effect, except in one case, and that arising from extraordinary circumstances. These provisos were successful, and of the greatest possible service in regard to appropriations to this city. If this is not rigid enough to meet the views of my colleague from New York, [Mr. SEYMOUR,] I have no objection to his preparing it as he pleases. I agree with him in the desire to limit the appropriations, when we make them, in the particular case specified. If, as the gentleman from Tennessee [Mr. JONES] says, there have been so many thousand dollars expended upon those public grounds, south of the President's house, here is a proviso now which limits the further expenditure to \$12,000; and before the work can be carried any further, the \$12,000 must be made under contract to do it, or else the contract cannot be made at all. Now, is this work necessary to be done? Let any gentleman look at the grounds south of the President's house, and say that they are willing to leave them in their present condition. If they are, let them do so. If gentlemen upon the other side are willing to trust the President, such as they expect and confidently declare they will elect, to the malaria which must arise from the waters there in the condition—

Mr. HALL. Did not our Democratic Presidents live there?

Mr. BROOKS. The gentleman speaks of it as a fish-pond. That pond was made for the purposes of economy. It was found more economical to reserve a place there for a pond of water, to flow in and out from the Potomac river, than to cart dirt to fill it in. This is of no more interest to me than to any other gentleman. It is necessary to finish the grounds; and if you do not finish them under this proviso, you will go on, in subsequent Congresses, or by the action of the Senate, and appropriate \$10,000, \$20,000, \$30,000, \$40,000, or \$50,000, as you have done heretofore; whereas, now, if you appropriate but \$12,000, you may, in the most economical manner, finish the work under contract, or it cannot be undertaken at all. The estimates show that it can be done for that. If you do not do it for that, the Senate, or some committee of this body, will go on with the old system, and spend thousands and thousands of dollars, as heretofore. This proviso is here, and if followed out, will finish and complete all the public grounds in this District, upon every item of appropriation.

Mr. JONES, of Tennessee. I ask the gentleman to explain if it is not, in his recollection, that a proviso was incorporated in the bill at the last session, applicable to some seven items of appropriation in this city, for works which were to be completed for the amount appropriated, and if there were not estimates submitted for their completion?

Mr. BROOKS. Every one of them, I say, except one, was completed; and that was not, solely for the reason that the corporation of Washington altered the grade of the street, after the appropriation was made.

Mr. JONES. I ask the gentleman, if filling up, grading, and otherwise improving Franklin Square by an appropriation of \$5,000, is not one of the last seven items to which the proviso, alluded to by him, applies, and whether, notwithstanding which, there has not been an estimate submitted this year for continuing it?

Mr. BROOKS. There is an item, I will reply, for \$406, the particulars of which I cannot enter into. We had the facts before the Committee of Ways and Means, and we were satisfied that it was a right and just appropriation, notwithstanding the proviso, or else it would not have been reported by the Committee of Ways and Means to the House. The details can be had by looking at the report.

Mr. DUNHAM. I wish to state, although I have not the facts before me, but my recollection is, that there was an estimate sent in to continue the improvement on Franklin Square; but the appropriation embraced in this bill is not to continue the work, but actually to pay the debts which they have contracted over and above the sums appropriated heretofore.

Mr. BROOKS. I stand upon my previous declaration. Every item was carried out under the proviso, except the one altering the grade from Pennsylvania Avenue up to the railroad depot, and this was because the corporation of Washington was not able to complete the work.

Mr. DUNHAM. If the gentleman had listened to what I said a moment ago, he would have known the reason. It was because the money had actually been expended, and because it was to cover outstanding debts.

Mr. BROOKS. If that be so, then it ought not to be appropriated. But the Committee of Ways and Means, of which the gentleman is a member, have put it in the bill; and that is *prima facie* proof that what the gentleman says is not correct, and that what I say is correct.

Mr. DUNHAM. The Committee of Ways and Means put it in on the urgent representations of certain gentlemen that these debts had been contracted to poor laboring men, and the Ways and Means thought it better to appropriate this money to pay the debt, than that those poor men should go unpaid.

Mr. BROOKS. The gentleman is mistaken. The Committee of Ways and Means would not, for the purpose of paying laboring men, violate contracts, and go beyond those contracts.

Mr. DUNHAM. They do not violate contracts; but the Commissioner of Public Buildings went beyond the original proviso in contracting the debts.

Mr. BROOKS. Then the appropriation ought not to be made for Franklin Square. But what the gentleman says is not correct. He is mistaken in his facts. I have not time, however, to go into the facts.

Mr. DUNHAM. Then, certainly, the gentleman ought not to have voted to put it in the bill.

Mr. BROOKS. Well, it is not worth while to quarrel about a few dollars.

Mr. STANTON, of Kentucky, moved to amend the amendment, by striking out "twelve" and inserting "thirteen."

Mr. S. said: The honorable gentleman from Tennessee, [Mr. JONES,] in the course of his remarks a few minutes ago, undertook to show that \$41,000 had been already expended upon this improvement south of the President's House. I thought he labored under a mistake, and I am now satisfied of it. I have no idea that any such sum has been expended, but even it had been, that would be no reason why this should not be done.

Mr. JONES, of Tennessee. I would ask the gentleman upon what he bases his assertion?

Mr. STANTON. I will show you in a moment, if you will only have patience. He says that certain balances of appropriations made for previous years, have been turned into this improvement. I will show what he says is the authority of law for this. The law does not show that the balances referred to are to be applied to this improvement alone—very far from it:

"For the improvement, grading, and planting with trees the grounds south of the President's House, \$10,000: *Provided*, That all the unexpended balances of money heretofore appropriated by the Government for the improvement of the public grounds in the city of Washington, shall be expended under the direction of the President of the United States, in the execution of such plan as he may adopt."

Not such plan as the President may adopt in reference to this particular piece of ground, but in reference to the whole of the public grounds taken together. The plan adopted by the President is a complete and perfect system, and applies to the whole of the public grounds lying between this Capitol and the Potomac river. These balances of appropriations were not sent into that "hole,"

but were applied to the improvements about the Smithsonian Institution and the Mall, where improvements have been made by this "rural architect," who has been spoken of in such a disparaging manner by the gentleman from Tennessee. A large portion of the sum which makes up his aggregate of \$41,000, which he charges as having been already expended on this improvement, was appropriated for and applied to other purposes. The clauses containing the appropriations in the several bills referred to, appropriate certain sums for building culverts from the public buildings to these low grounds, and filling up the grounds. Now, sir, these culverts are intended to drain the grounds about the public buildings into the river; and will be found to have absorbed the greater part of the appropriations. They are not rightfully to be considered as any part of the grading and filling up the grounds, but are distinct and separate, as well as expensive improvements.

The remarks which the gentleman from Tennessee has indulged in reference to the accomplished gentleman employed by the President to superintend the improvement of the public grounds, are illiberal and unjust to that person. They are as far from being correct as the remarks of the gentleman in regard to the application of the appropriations I have referred to. It is astonishing to my mind—and I have no doubt to the minds of others—with what facility otherwise intelligent and respectable gentlemen on this floor can deal out wholesale denunciations of men about whom they know nothing, and will not inform themselves; and how much the legislation of the country is controlled by prejudices thus invoked and clamor thus raised.

Congress, in a bill recently passed, authorized the President of the United States to adopt a general plan for the improvement of the public grounds. In the exercise of the power thus conferred upon him, he did adopt an admirable plan, which, if it is permitted to survive the attacks of the cautious and parsimonious, and is carried out as designed, will be a credit to the city and the nation. Every man, possessing the least practical intelligence, must be aware that it is more economical to improve these grounds according to a regular, fixed system, than to follow the old plan of doing it by piecemeal. In the end thousands of dollars will be saved annually, for the constant change of grade, interruptions of the work, and other inevitable difficulties which follow the unwise course of patch-work hitherto pursued, have been, and ever will be, the fruitful source of waste. Under the power referred to, the President was authorized to appoint some competent person to superintend the carrying out of the plan adopted. He appointed Mr. Downing. And who is he? One of the most accomplished gentlemen in his profession in the Union—a man known to the world as possessing rare skill as a "rural architect" and landscape gardener, as well as a man of great scientific intelligence. He is not only distinguished for his accomplishments in his peculiar profession, but, in his private life, is a gentleman of amiable character and high standing. How much better, sir, that a work of so much importance should be intrusted to a man of these qualities, than to the ignorant and inexperienced hands into which it would have fallen, but for the law referred to. I deny that he has neglected his duties as the gentleman from Tennessee [Mr. JONES] has charged. Instead of being here only three days in the month, he has been here vigilantly discharging his duties at all times when those duties required him to be here. He has superintended, directed, and carried out the plan adopted, as fully as the funds appropriated have enabled him to do. If all the officers of this Government had been as conscientious and scrupulous in the discharge of their duties as he has been since his appointment, there would be no grounds for reproaches against those who have control of the Government.

I repeat again that it is important this appropriation should be made. We have spent much money on the improvement, it is true, but the evil is not yet removed which was intended to be remedied by the filling up of the grounds. The great object to be accomplished was to render the neighborhood of the Executive Mansion healthy enough to enable the President and his family to reside there without endangering their lives. If it costs the Government \$500,000 more, instead of a

few thousands, it should be done, if we intend the President shall continue to live there. It is a well-known fact, that the house has been more than once vacated on account of its unhealthy condition. The people of this nation will not require their President to reside in a swamp or morass, as he has been doing ever since the Executive Mansion has been at its present location.

[Here the hammer fell.]

Mr. JONES, of Tennessee. The gentleman from Kentucky certainly misunderstood what I said upon this subject—both in regard to the unexpended balances of appropriations and what I said about Mr. Downing. He speaks about "wholesale denunciations." Sir, I denounced him not. I said I knew nothing about him, but supposed that he was qualified to discharge the duties imposed upon him by the appointment of the President. The gentleman says that I am mistaken about the balances of appropriations being carried to this particular improvement. Why, I did not refer to the balances of appropriations specified in that proviso. I said that there was an unexpended balance of \$6,000 at the commencement of the last Congress, which they have appropriated to the improvement of this square down to the canal south of the President's house; that in the deficiency bill of the first session of the last Congress there were \$10,000 appropriated for that piece of ground; that there was in the civil and diplomatic bill of the first session of the last Congress \$15,000 appropriated to it; and that at the last session, the appropriation upon which this proviso was hung was \$10,000 for this same object, with the sewer that was to go from the Navy Department, I believe, down to the canal, connected with this improvement, making the entire appropriation expended upon it since the commencement of the last Congress \$41,000.

Now, sir, that appropriation to which the proviso was attached, does not apply to all the public grounds, but it is a specific appropriation for this particular piece of ground, specified in the clause itself. And I say that the proviso which is now attached to the bill under consideration, that this \$12,000 shall complete this work, is no safeguard that it will be done. I would say to the gentleman from New York, that the \$460 99 in this bill is not going to complete the improvement of Franklin square, in the northern part of the city. They will come and ask for more appropriations.

[Here the hammer fell.]

The question was then taken on the amendment to the amendment, and it was not agreed to.

The question recurring on the amendment to strike out "twelve" and insert "seven" was put, and the amendment was not agreed to.

Mr. SEYMOUR, of New York. I have no hostility to this provision of the bill. Even if a larger sum was proposed to be appropriated to this work, I would be willing to vote for it, for I hold that the object is a good one, and that we should not be here considering whether it will cost one or two thousand dollars more or less to make these grounds healthy and beautiful, too.

The CHAIRMAN. The Chair would suggest to the gentleman from New York that there is no question pending before the committee.

Mr. SEYMOUR. I offer, then, the amendment which I send to the Clerk, for the purpose of limiting the appropriation for the completion of this work to the amount specified in the bill.

The Clerk read the amendment, as follows:

Insert at the end, and after "appropriation," the following: And a contract for the completion of the work, with good security, be tendered and accepted at that sum.

Mr. SEYMOUR. My object, as will be seen from the amendment, is merely to insure the completion of the work at whatever sum it may be the pleasure of this House to insert. If the friends of this item, who have had their attention particularly called to it in framing the bill, think that the sum of \$12,000 is not enough, I am willing to vote for a larger sum. But I desire, above all things, to have the matter defined, so that we may not be called upon, year after year, to vote additional appropriations for doing a specific job of work. Nothing tends more to extravagance than such a policy. I have offered the amendment for the purpose of limiting the cost to whatever sum the House may be pleased to insert, and I ask for tellers upon it.

Tellers were ordered, and Messrs. CHANDLER and MOLONY appointed.

And the question being put, it was decided in the affirmative—ayes 86, noes 44.

So the amendment was agreed to.

The question then recurred upon the motion of Mr. JONES, of Tennessee, to strike out the clause.

Mr. JONES, of Tennessee, demanded tellers; but they were not ordered.

The question was then put upon the motion to strike out, and disagreed to.

Mr. MEADE. I move the following amendment, to come in at the end of that clause just under consideration:

For warming the President's House with furnaces and flues, \$2,000.

Mr. PHELPS. I rise to a question of order. I understand this is an amendment to appropriate a certain sum for warming the President's House. I ask the gentleman from Virginia if I am correct?

Mr. MEADE. That is right.

Mr. PHELPS. I think it is not relevant to the clause before the committee to complete the grounds south of the President's House.

The CHAIRMAN. The Chair is of the opinion that the amendment is not in order as an amendment to the clause now under consideration. There is a preceding clause for repairs of the President's House, to which the amendment might have been in order; but it is not in order as an amendment to the clause now under consideration.

Mr. MEADE. Mr. Chairman, I must appeal from that decision, and I beg to say a word or two upon the appeal.

Mr. JONES, of Tennessee. The appeal is not debatable.

[A message was here received from the Senate announcing the passage of sundry bills by that body.]

Mr. MEADE. Does the Chair decide that debate is not in order?

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. MEADE. I do appeal, and I desire to know whether I can debate it?

The CHAIRMAN. It is not debatable.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was put, and decided in the affirmative.

So the decision of the Chair was sustained.

Mr. STANTON, of Kentucky. I offer the following amendment, to come in as a separate clause of the bill after the one hundred and thirty-first line:

To supply the deficiency in the appropriation for the casual repairs of the Capitol, \$1,500.

The same object is intended to be accomplished by this amendment which I proposed to accomplish by one which I offered sometime ago under the instructions of the Committee on Public Buildings, and which was decided to be out of order. There is a deficiency of \$1,500 in the appropriations for the repairs of the Capitol, which I explained a few minutes ago. It relates to the reconstruction of a cistern upon the top of this building, which is necessary to protect the House from fires.

Mr. HIBBARD. I must rise to a question of order upon this amendment. This amendment is not in order to the clause under consideration, being for a new and independent object.

Mr. GENTRY. I think there is a sufficient analogy to the other objects appropriated for in the bill. This is a clause for repairs of the President's House. It is certainly equally in order to provide for the repair of the Legislative Houses.

Mr. HIBBARD. The section to which this is offered as an additional clause, provides for the repairs of the President's House and grounds. Now, if the gentleman's amendment contemplates the repair of the Capitol, I make the point that the amendment is not in order, on the ground of irrelevancy.

The CHAIRMAN. The Chair understands the amendment offered by the gentleman from Kentucky [Mr. STANTON] to constitute an independent clause. It was offered as such by him, and not as an amendment to the clause referred to by the gentleman from New Hampshire, [Mr. HIBBARD], and in the language in which it is couched, the Chair is inclined to think it is in order. The language is this: "To supply a deficiency in the appropriation for the casual repairs of the Capitol, \$1,500." This is offered as an

independent proposition, and the Chair decides that it is in order.

Mr. HIBBARD. I do not insist upon a capacious objection, but it strikes me that the explanation with which the gentleman accompanied his amendment makes it plain that it cannot be in order. He says that it is an appropriation.

The CHAIRMAN. Does the gentleman take an appeal from the decision of the Chair?

Mr. HIBBARD. I do not appeal; but I wish to make a statement. The gentleman says this is to erect a cistern upon the top of this building. Now, according to the gentleman's statement, that is not a deficiency, but it is an appropriation for a new work.

Mr. STANTON. The gentleman will permit me to explain. I stated to the committee some minutes ago, when the same objection was raised to the same amendment, which I then offered in another form, that it was not to begin a new work, but that it was to repair an old one—that it was to repair a cistern upon the top of this Capitol. I stated that it was necessary that it should be rebuilt. On account of its exposure to the weather, it has decayed and fallen down. It is not fit for service, and must be rebuilt, and it is necessary to keep the building in repair. It is necessary to protect it from fires, and it is a part of the regular repairs of the Capitol, and is known as such. The Commissioner of Public Buildings has asked for the appropriation, and the Committee on Public Buildings have instructed me to report it, though in a different form. They asked me to transfer one appropriation designed for another purpose and apply it to this.

Mr. GENTRY. It seems to me it would be a very unfortunate construction of our powers to decide, that while we are making executive repairs, we cannot also make legislative repairs. It seems to me, that the only difference between the clause to which this is to be added and the amendment itself is, that one provides for the repairs of an executive building, and the other for the repairs of a legislative. They are certainly sufficiently analogous to make the amendment in order.

The question was then put; and, upon a division, there were—ayes 65, noes 25; no quorum voting.

Mr. STANTON. Does this amendment come from the Committee on Public Buildings and Grounds?

The CHAIRMAN. It does.

Mr. CHANDLER demanded tellers; which were ordered, and Messrs. GENTRY and STANTON, of Kentucky, were appointed.

The question was again put, and the tellers reported—ayes 74; noes not counted.

So the amendment was agreed to.

Mr. STANTON, of Kentucky, offered the following amendment:

For supplying a deficiency of the 8th of March, 1849, for completing the room under the Post Office of the Senate, \$451 31.

He said: This amendment is reported by the instructions of the Committee on Public Buildings, authorized to investigate this matter. They find that a sum of \$451 31, is due to the mechanics who fitted up that room under the appropriation passed on the 8th of March, 1849. I will explain this matter to the House, for I went to the room myself, and examined it. It consists of two or three of the lower rooms in the under part of the north wing of this building, which have been fitted up for a folding room for the Senate. They have torn up the arches there in order to make more room, and have made a large semicircular arch, covering both rooms, and fitted up an establishment for the use of the folders of the Senate. Now, sir, this \$451 and some odd cents is the amount of the balance due to the mechanics who did the work, under the direction of the Commissioner of Public Buildings, as submitted in the statement before the House.

Mr. HOUSTON. The amendments that are being offered by the gentleman from Kentucky seem to me to come before this committee in a very questionable shape. Now, sir, it cannot have escaped the memory of members of this House, that at the beginning of this session all the estimates for public buildings and grounds were referred to the Committee of Ways and Means, and that committee were, in the discharge of the duty they were called upon to bear, when, upon the motion of the honorable gentleman from Kentucky, the



House changed its order, and referred all these matters to the Committee on Public Buildings, upon a statement of the chairman that they would report a separate and distinct bill for the appropriations which they might conceive necessary for public buildings and grounds.

Now these estimates have either been examined by the Committee of Ways and Means, and rejected, or they have been taken from them under the orders of the House, and transferred to the Committee on Public Buildings and Grounds; and in either event, that gentleman obtained possession, for his committee, of those estimates, upon his own motion, by a reference of the House. I say, sir, it comes in a questionable shape now, for him to propose to fasten them to a bill reported by the very committee from which he took these estimates. Why did he not allow the estimates to remain with the committee who is responsible to the House, and give the committee an opportunity of investigating these claims? Most of them were investigated, and this very appropriation now offered by the gentleman was investigated by two members of the Ways and Means Committee, and, according to my recollection, upon the recommendations of these two gentlemen after such investigation, were rejected.

Sir, I want to make another suggestion to members of this committee, and especially to those who desire the passage of this bill. It cannot be true that members of this committee are ignorant of the fact that there exists a very high prejudice upon the part of many members against these city appropriations; but, I think, if the friends of this deficiency bill desire to defeat it, the most effectual way will be to load it down with these amendments, which may just as well come in another bill. The gentleman may just as well report his own bill for that appropriation, and then keep this bill free from the prejudice which exists in the minds of a great many of the members of this House against this class of appropriations. I therefore, sir, appeal to the friends of this bill to keep it free from these amendments. Let us keep it clean. I do hope that these comments are not objectionable to many members of the House, for it seems to me if we do load our bill with these unimportant amendments, the presumption is, that we may either defeat it or endanger its passage.

Mr. STANTON, of Kentucky, proposed to amend his amendment.

The CHAIRMAN. The Chair would state to the gentleman that he can modify his amendment, if he chooses; but the Chair thinks he cannot modify his amendment, and make a speech upon that modification. That is the opinion of the Chair.

Mr. STANTON, of Tennessee. I move an amendment to strike out the fifty-one cents, and I have a word or two to say in reference to that amendment, and in reply especially to the remarks made by the gentleman from Alabama, [Mr. HOUSTON.] I do not know anything of the differences between the Committee of Ways and Means, and the Committee on Public Buildings and Grounds, but I dissent *in toto* from the position assumed by that gentleman. Now, sir, the Committee on Public Buildings have stated to the House that this work has been done upon the Capitol, already during the present fiscal year, and that it is a deficiency. I do not understand the gentleman from Alabama to dispute that fact—I do not understand anybody to dispute it. The work has been done, and, according to law, the money is due. It is a deficiency, and upon every principle of justice, therefore, it ought to be incorporated in this bill, whether it comes from the Committee of Ways and Means, or whether it comes, as it properly ought to come, from the Committee on Public Buildings, as an amendment to this bill. But the gentleman says there are prejudices against this bill, and he appeals to the House, not to load it down with amendments. It was, sir, with the utmost surprise, when the Committee on Public Buildings came before this House, and told us how one of the cisterns was rotting, and that they were called upon for an appropriation to repair it, in order to protect the building against fire,—I say I was surprised, sir, that many gentlemen upon this floor should have voted against that, which no man can say is not absolutely and indispensably necessary.

Now, I say, sir, that as to this appropriation, if I have not misunderstood the facts in regard to

this bill, there is no prejudice which ought to exclude it, if the facts be correct. The work has been done, and the debt is due legally from the United States; and it is a deficiency which ought to be provided for, as much as any other deficiency provided for in this bill.

Mr. HIBBARD. I hope that the amendment will not be adopted, nor the amendment of the gentleman from Kentucky, [Mr. STANTON.] It is true, as stated by the gentleman from Alabama, [Mr. HOUSTON,] that this item, and some others, were referred to two members of the Committee of Ways and Means as a sub-committee. They examined it, in connection with others, and came to the conclusion that it did not belong to this bill; and they recommended its rejection. Their recommendation was unanimously adopted by the committee. I believe it was right. In the first place the piece of work, for the payment of which this sum is asked, was something which belonged, in fact, to the contingent expenses of the Senate; and it ought to have been provided for in that way. It may be true that there was a statute making an appropriation to commence the repairs, of which the gentleman says this is a part. However that may be, it does not belong here, because it is not a matter of such necessity as to be put into the deficiency bill. This bill is meant to provide for deficiencies of which the Government is in actual want, and for which there is urgent necessity. There is none such here. It is a matter which pertains to the Senate, and to them alone. It is one of their expenditures—liberal enough, in all conscience, as we all know. Now, if this sum is to be appropriated at all, let the Senate attend to it when the bill comes up before them. If it is an item which ought to go in, the Senate will not leave it out. Nobody need fear that. God knows there is no danger but they will put in enough.

But, Mr. Chairman, I will close by reiterating the request of the chairman of Ways and Means, that the committee will not begin to load down this bill with superfluous, or at the best, questionable items.

Mr. STANTON, of Kentucky, (interrupting.) With the permission of the gentleman I will simply say that Congress, two years ago, adjudicated and settled this matter, as to what funds these repairs are to be made with, because it passed an appropriation of \$4,000, and placed it in the hands of the Commissioner of Public Buildings, to make these alterations in the rooms of the Capitol, and did not charge the repairs to the contingent fund of the Senate.

Mr. HIBBARD. Will the gentleman allow me, as he is speaking out of my time. It was done so, and the Commissioner was to finish it with the sum appropriated. He had no right to go beyond that sum. He went beyond the limit of his authority, and now comes for a justification. If such works cannot be done with the money appropriated, let them stop till more is given.

Mr. STANTON. The sum would not complete the work. It required \$451 more. The work, however, was done, and the money is now due to the mechanics. Here is what the Commissioner of Public Buildings says:

"These expenditures were made long before I came into office, but I find evidence that these sums are due to mechanics and others, who complain in strong terms of the injury they have sustained by the long delay of payment; and say that they have a right to expect interest upon their respective claims."

This is the report of the Commissioner to our committee. But the gentleman from Alabama [Mr. HOUSTON] complains that I have not reported a deficiency bill from the Committee on Public Buildings. In the name of all that is sensible in the eyes of a sensible man, when can I report such a bill? We have been trying for the last two months to get in the regular appropriation bill, and you (pointing to Mr. HOUSTON) and others have obstructed the business of the House, so that reports from that committee and others have not been called for for two months.

Mr. HOUSTON, (interrupting.) How have I obstructed the business of the House?

Mr. STANTON. By clogging up the way with other matters, and permitting others to do the same.

There are only four or five items to pay honest debts which have been created by the officers of Government, without the fault of the needy mechanics who did the work, which I propose to add to this bill. It would be the merest folly to report

a deficiency bill containing some three or four items, when we can add them to this bill without inconvenience to the House, and when the gentleman knows it would be utterly impossible under the present system of doing business in this body ever to reach it.

Mr. STANTON, of Tennessee. I withdraw my amendment, if there is no objection to my doing so.

No objection being made, the amendment was withdrawn.

The question was then taken upon the amendment offered by Mr. STANTON, of Kentucky, and it was not agreed to; there being on a division—ayes 42; noes not counted.

Mr. STANTON, of Kentucky. In pursuance of the instructions of the Committee on Public Buildings, I offer another amendment to the bill, as follows:

"For supplying a deficiency in the appropriation of the 15th of May, 1850, for the removal of the public greenhouse, \$2,766 41."

I will explain the amendment to the House. At the last session there was an appropriation of \$5,000, for the removal of the plants brought in by the Exploring Expedition. That money was expended under the direction of the Library Committee of the House. It cost more than the appropriation to do it. The money was expended. The surplus of expenditure, over the appropriation, is due to the mechanics who did the work, and they ask for it. If the persons having this work in charge, exceeded their authority, those who were employed to do it were innocent of any violation of law, and ought not to be kept out of their honestly-earned money for the fault of others.

Mr. DUNHAM. I trust that the amendment will not be adopted. It will be recollected that at the last session of Congress, an appropriation of \$5,000 was asked for, and voted by this House, and by Congress, to remove the plants brought home by the Exploring Expedition.

Mr. MEADE. I rise to a question of order. The amendment which I offered just now, was ruled out of order by the Chair. It seems to me that it was as pertinent as the one just offered by the gentleman from Kentucky, [Mr. STANTON.] There is no provision in this bill in relation to green-houses, any more than there is a provision in relation to fires in the President's House. I therefore make the point of order.

The CHAIRMAN. The Chair would state to the gentleman from Virginia, [Mr. MEADE,] that his proposition was an amendment, in the shape of an appropriation, not stating it to be a deficiency. The amendment offered by the gentleman from Kentucky, [Mr. STANTON,] and now under consideration, states that it is to supply a deficiency, whereas the proposition of the gentleman from Virginia [Mr. MEADE] was one for a new substantive appropriation. The Chair thought that to be out of order, and he thinks this to be in order.

Mr. DUNHAM. It was just stated that this appropriation was for a mere temporary purpose—to enable an arrangement of the plants to be made, and a list of them taken. We have only to look to the building erected here under our eye, to see whether this proposition has been carried out in good faith. We all know, looking at this building, that the intention is not that it shall be temporary, and until a description of the plants shall be taken. If we want any further evidence, I will state that estimates have been sent in to this House, during this Congress, to appropriate between \$30,000 and \$40,000 to enlarge and make that establishment a permanent part of this Government—a permanent establishment under the Government.

Mr. STANTON, of Kentucky. These estimates have been committed to, and examined by, both the Committee of Ways and Means and the Committee on Public Buildings, and repudiated by both of them. The improvements, if made, would conflict with the general plan adopted by the President for the improvement of the public grounds, and for this reason our committee concurred with the Committee of Ways and Means in rejecting them.

Mr. DUNHAM. It shows that the object for which that \$5,000 was appropriated has not been carried out, and it remains for this House to decide whether, when you appropriate a certain sum of money to accomplish a particular purpose, that

money shall be diverted to another purpose, entirely different, and then allow the parties expending this money, to come in and ask us to supply the deficiency, or to pay the debts which have been contracted without any authority whatever. Now, everybody knows that \$5,000 is sufficient to erect a building of a temporary character, such as was contemplated by the language of the act by which that \$5,000 was appropriated. It should have accomplished the purpose; but, instead of erecting such a building, they have gone on and erected one of a different kind, with the view of laying a foundation for a permanent establishment in the Government. They have gone on, and without authority of law—I care not whether it has been done by the Library Committee of this House, or by whom it has been done—and contracted these debts. I say it comes home to this House with more force than anything which has been discussed here for the last two days, upon this deficiency bill, whether you intend to control the purse of the nation, or not. You appropriate a sum of money for a particular object, and, instead of confining the expenditures to that appropriation, the parties go on and run the nation in debt, and come here and say you are bound to pay it, because you owe the money. It is a very different thing from the deficiencies which we have been paying heretofore, because they are not to pay debts, but to enable us to go on with the services of the country. If the gentleman's statement is correct, your officers have gone on and contracted debts, without authority of law, for which they are probably personally liable, and they come in and ask you to supply the deficiency that has accrued in the violation of an act, which was passed to make a temporary arrangement for the purposes specified in the bill. They have gone on in violation of that act, to lay the nest-egg of a permanent establishment under the Government.

[Here the hammer fell.]

Mr. HIBBARD. I move to amend the amendment of the gentleman from Kentucky [Mr. STANTON] by striking out \$500. I well remember the appropriation made last year of \$5,000 for this purpose, as stated by the gentleman from Kentucky, [Mr. STANTON.] That sum was asked for and appropriated, but not till after opposition and debate. I well remember that the Committee of Ways and Means, and I think the House, were assured that if that sum should be appropriated, it would end the business—that it should pay and end this work. But, sir, we see in this case, as it often happens, that, notwithstanding that assurance, the sum is used up without finishing the work, and they are here now asking this addition of thousands. Mr. Chairman, I hope the committee will not grant it; I hope they will vote down the amendment, for this reason, and for others. This whole system, under which it is proposed to place the green-house in keeping, is defective. It is wrong, and it will make the "green-house" a pest, a parasite, and a leech upon the Government. It will grow up into a new bureau, by-and-by, Mr. Chairman, if not a new Department of the Interior. We ought not to be subjected to these continual calls for such purposes. I am informed by persons who ought to know, that the keeping of this "green-house," instead of being a yearly bill of expense of thousands, may be made to pay its own way, and perhaps more, if rightly managed. But this is no place for the item at all. It can as well be put anywhere else as here. It as much belongs to the civil and diplomatic bill as to this. We are now acting for the urgent wants of the Government. We have been called upon by gentlemen upon the other side of the House to take up this bill, and act upon it, because the public interests are suffering for the want of its passage. Let them, then, vote down all superfluous propositions. I trust that we shall not go any further in the work of loading down the bill with these trifling and unnecessary amendments. It has enough in it which ought not to be there as it is. If gentlemen really want it to pass, let them not aid in making it still more objectionable. Something may be needed to be done with regard to this matter of the green-house. When it is done, let it be taken up and acted upon considerately and understandingly, so that we may prevent the impositions which may otherwise be practiced upon the Government.

Mr. AVERETT. I am opposed to this amend-

ment. It will be recollected by those who were here in the last Congress, that when the appropriation of \$5,000 was asked for this green-house establishment, its friends utterly repudiated the idea of making it permanent. They stated that the rare plants and shrubs which had been brought here by the Exploring Expedition must be removed to give way for the extension of the Patent Office; that they ought to be preserved until a descriptive catalogue could be made of them, and until they could be presented to some botanical establishment. I repeat, that the idea of the Government engaging permanently in the green-house business was utterly repudiated.

Now, sir, neither your constituents nor mine care a fig for these shrubs and weeds. Some may consider this appropriation a mere picaresque affair, as not worth even a five minutes' speech; but in voting for it we would sanction a principle, which would lead, yea, is leading, to the lawless expenditure of millions. We appropriate \$5,000 for a specific and temporary purpose. Those having charge of the money, without any lawful authority, run beyond the amount which we appropriate, and then demand that we shall "foot the bill." We see in this small affair that we ought to be cautious in putting even a new cog in a wheel of this Government. We put in the cog, and are taxed for a whole wheel. Sanction that, and we must pay for as many wheels as those whom we confide in to execute our laws choose to add to the machinery of this Government. I hope the committee will vote down this amendment, and that this Congress will put an end to the now fashionable system of spending money, or contracting debts, without authority of law. Sir, I would give these plants and shrubs to the corporation of Washington, to the Smithsonian Institution, to any body who has a taste for botany, yea, I would let them go to ruin, rather than sanction this amendment. I am against this green-house concern.

[Here the hammer fell.]

The question was then taken, and the amendment to the amendment was rejected.

Mr. STANTON, of Kentucky. I offer the following amendment:

For supplying deficiency in the appropriation for the repairs of the Potomac bridge, \$10,000.

Mr. S. The Commissioner of Public Buildings has examined the structure over the Potomac river, (and I have testimony from other sources which goes to prove the same fact,) and states that the bridge is in a condition of dilapidation and decay, which makes it dangerous for persons to pass over it. The sum of \$10,000 is asked for the purpose of putting it in a condition of repair to render it fit for travelers. The appropriation of last year was \$4,500; but that was not alone to make repairs, but to pay the keepers. The Commissioner informs the committee that the repairs cannot be made for less than \$20,000; \$10,000 will be necessary to be expended immediately, and the committee instruct me to ask for the passage of this item.

Mr. FICKLIN. I will reply to the remarks of the gentleman from New Hampshire. This is the Long Bridge which has been a very long offender. How much it has cost up to the present time, and how much it will cost in the future it is very difficult for any member of this House, or this Government, to accurately compute. We should not commence now by making \$10,000 appropriations for it in a bill which should be, if we are correctly informed by members who have it in charge, speedily passed to meet the exigencies and wants of the Government. I do not know by what means my friend from Kentucky [Mr. STANTON] gets the jurisdiction of this bridge. I did not know that it fell within the limits of the public grounds.

Mr. STANTON. With the permission of the gentleman, the public grounds, buildings, and bridges, are all under the jurisdiction of the Commissioner of Public Buildings. He is required by law to submit the estimates to the Committee on Public Buildings, to receive their approval before being laid before the House. That is the way in which we get jurisdiction.

Mr. FICKLIN. It may be legitimately before that committee, though it struck me, at first, it was not. I certainly think, if we undertake to patch up this long bridge, we should submit the whole subject to the consideration of the Committee on Public Buildings. It belongs to them, and

let them bring in a bill. Let them digest this matter, report a bill, and not make an appropriation here.

The question was put, and the amendment was rejected.

The Clerk then read the following item:

"For payment to the American party of St. Regis Indians, (less the sum of one thousand dollars, appropriated by the act of twenty-seventh of June, eighteen hundred and forty-six, in pursuance of the stipulation contained in the supplemental article,) as a remuneration for moneys laid out by said tribe, and for services rendered by their chiefs and agents, in securing the title to the Green Bay lands, and in removal to the same, agreeably to the provisions of the ninth article of the treaty with the Six Nations of New York, of fifteenth of January, eighteen hundred and thirty-eight, four thousand dollars."

Mr. JOHNSON, of Arkansas. I am instructed by the Committee on Indian Affairs to submit the following amendment:

For payment to the Seneca Indians, of New York, for moneys wrongfully withheld from them by an agent appointed by the Government for the management of their affairs, as per report of Thomas B. Stoddard, commissioner, selected by the Secretary of War, to make the requisite investigation, pursuant to the direction contained in the fourth section of the act of 27th June, 1846, making appropriations for the Indian department, (\$25,505 50,) twenty-five thousand five hundred and five dollars and fifty cents.

Mr. PHELPS. I rise to a point of order.

Mr. JOHNSON. Before the gentleman proceeds, I desire to say that this is not a deficiency bill, that there is not in it five items of deficiency in regard to Indian Affairs. I want to denounce the point of order before it is raised. I anticipated that it would be made, and if I am decided to be out of order, I shall take an appeal.

Mr. PHELPS. Mr. Chairman, I rise to a question of order, and it is this: The money expected to be appropriated under the amendment submitted by the gentleman, is not authorized by any existing law, nor is it in pursuance of any existing treaty.

The CHAIRMAN. The question is not debatable.

Mr. JOHNSON. It is in pursuance of an existing law. Now, I call the gentleman's attention, if he knows anything about the case, to the fact that the Committee on Indian Affairs has examined this subject, that their report is made in obedience to facts which, had I the time, I could state; that it is made in obedience to the act of June 27th, 1846, and that it cannot be said to be inconsistent with that law.

The CHAIRMAN. The Chair hopes the gentleman from Arkansas will not discuss this question out of order.

Mr. JOHNSON. I am not discussing it, but only answering an assertion that this appropriation was not made in obedience to law.

The CHAIRMAN. Offered as an amendment to the clause just read by the Clerk, the Chair is clearly of opinion that it is not in order.

Mr. JOHNSON. That is what I expected. Now, I want to make an inquiry of the Chair. Were I to object to certain items—not deficiencies—which have been introduced into this bill, as being inconsistent with this intention, what would be the decision of the Chair? Would he rule them out of order? I will demonstrate, if there is any truth in the record, that they are not deficiencies. I will take an appeal from the decision of the Chair, and let the committee decide whether my amendment is or is not consistent with the bill. I trust I may be sustained by the committee. It is an estimate I offer, and nothing else.

The CHAIRMAN. The Chair will beg leave to state to the committee the facts upon which he has based his decision. In order that the committee may understand clearly, the Chair will read the clause under consideration.

[Here the Chair read from the clause under consideration, as inserted above.]

The gentleman from Arkansas proposes the amendment to this clause which has been read by the Clerk.

Mr. JOHNSON. I move it as a separate section.

The CHAIRMAN. The Chair will state the question that is before the committee. The Chair has decided the amendment to be out of order upon the ground that it is not germane to the clause under consideration, which is to supply deficiencies, as read by the Chair.

Mr. JOHNSON. I thought that clause had been adopted.

The CHAIRMAN. It has not yet been passed.

That is the ground upon which the decision of the Chair was founded.

Mr. JOHNSON. Under the circumstances, I withdraw my appeal. I beg the Chair's pardon. As soon as the point of order is again raised, I shall take an appeal.

If there is no amendment to be proposed to that clause, I will move to intervene the amendment I sent to the Chair as an independent section between the clause which has been last read and the one following.

The Clerk again read the amendment, [the same as inserted above.]

Mr. PHELPS. I raise the same point of order which I before submitted. The act of the 27th of June, 1846—

Mr. JOHNSON. I call the gentleman to order, as the Chair has decided points of order are not debatable.

The CHAIRMAN. The question of order is not debatable.

Mr. PHELPS. I would like to state my point of order. The appropriation proposed in that amendment is not in pursuance of any existing law or treaty, nor is it a deficiency of any appropriation made at a previous time.

Mr. JOHNSON. I suppose I am privileged to make a statement also in regard to the point of order, as the gentleman has done so?

The CHAIRMAN. The question is not debatable.

Mr. JOHNSON. I will say that the Committee of Ways and Means is not this House. It has dealt unjustly with these particular estimates for appropriations. If they are going to force the thing, I will try, so far as I am concerned, to meet them.

Mr. STANTON, of Tennessee. I will suggest to the Chair, if it is admissible to do so, that the gentleman be allowed to state the facts upon which this appropriation is asked, so that the committee may be enabled to decide upon this matter.

The CHAIRMAN. The opinion of the Chair in regard to this amendment, in the language employed is, that it is in order as an amendment to this bill; and in order that the committee may understand the decision of the Chair, he would ask leave to state the amendment as it appears:

For payment to the Seneca Indians of New York for moneys wrongly withdrawn from them by an agent appointed by the Government for the management of their affairs, as per report of Thomas B. Stoddard, Commissioner selected by the Secretary of War to make the requisite investigation, pursuant to the direction contained in the 4th section of the act of June 27th, 1846, making appropriation for the Indian Department (\$21,505 50) twenty-five thousand five hundred and five dollars and fifty cents.

The language is not very clear, but the construction which the Chair gives to it is, to make up to the Indians the amount of money hitherto appropriated to them, and improperly withheld by the agent.

Mr. PHELPS. I am under the necessity of appealing from the decision of the Chair.

Mr. JOHNSON, of Arkansas. I am entitled to the floor, and I take the decision. I do not care what it is based upon, it is in my favor. [Laughter.]

Mr. PHELPS. I take the opportunity to show that this appropriation is not in pursuance of law.

Mr. JOHNSON. Does this come out of my time?

The CHAIRMAN. The honorable gentleman from Arkansas [Mr. JOHNSON] is not in order.

Mr. PHELPS. I appeal from the decision of the Chair.

Mr. HOWARD. I wish to ask a question of the chairman of the Committee on Indian Affairs, that we may understand this matter. I wish to ask the gentleman if the Department did not estimate this as a deficiency, and can we go behind the estimates of the Department, as to what is deficiency, on questions of order?

Mr. JOHNSON. That is a point, and a correct one.

The question was then taken, Shall the decision of the Chair stand as the judgment of the committee? and it was decided in the affirmative. So the decision of the Chair was sustained.

Mr. JOHNSON. I believe my time is only to commence now. I will speak of the position of the amendment here and upon this class of cases in general. I see, as war has been made upon this amendment, that it is to be made upon the rest of those which I shall offer. I would be glad to ask,

in order that I may have a chance now to defend this same class of items throughout, and not be under the necessity of saying anything more about it, upon what ground numberless of these same articles have been put into the deficiency bill. They are not deficiencies. They have been put there because they have been estimated for by the Department as deficiencies; and, upon that basis, the Committee of Ways and Means—and they cannot deny it—have allowed numberless items to go into the deficiency bill which are not deficiencies at all.

Mr. MARSHALL, of Kentucky. If I understand the gentleman, he asserts that there is nothing in the bill that is estimated here, as connected with Indian affairs, that properly constitutes deficiency.

Mr. JOHNSON. Not at all. He will understand me to say, that there are some things in the bill which are not deficiencies, no more than those which I shall offer. Now, that is the course which the committee take, and the ground upon which they make their deficiency is upon the estimates of the Departments. I shall offer nothing to the House outside of the limits of the estimates of the Department, and only so far within the estimates as they are necessary, according to the opinion of the committee of which I am a member, to the service of the country. With these few remarks, I will pass this matter. In regard to this particular item, I will say that the Senate passed a bill for the payment of this identical sum of money in 1846—\$25,000, and upwards. The bill came to this House, and the House not being satisfied that a proper investigation had been made with regard to it, struck out the appropriation, and inserted a clause requiring the then Secretary of War to cause investigations to be made into the matter.

A commissioner was appointed by him—Thomas B. Stoddard—who investigated the facts, and reported them to the War Department. They have gone to the Indian bureau; and they, finding the estimate to be just and right, and finding the regularity of the application to be unmistakable, have made their estimates, and sent them to this House for the payment of these Indians. Some of the money which was held by the Government of the United States for these Indians, has never been paid over to them. That is the history of the case. In obedience to that investigation, the estimate is made by the Indian department, with an accompanying recommendation that the money be paid. Not one cent of interest is asked or estimated for by the department; but simply the original sum. In 1836, '37, '38, and '39 these defaults occurred; the last one was in 1839, and from that time to the present—twelve years—have these Indians been deprived of their just rights and the money which was due to them. Now, the Commissioner comes in, and estimates under the previous investigation, and furnishes it for the Committee of Ways and Means, for a deficiency bill. The question which comes before us, ought they to be paid or not? I understand the Commissioner to say they ought not to be. If they will look a little more into the law—though I do not profess to be much of a lawyer myself—they will find that where a party has acted as trustee, he will be held responsible for the faithful discharge of his trust; and where moneys are placed in his hands, he will be held responsible for them. It has been proved, after a full investigation, that the money in this case was placed in the hands of the Government agent. [I beg the Chairman not to handle that mallet so much; it makes me uneasy. (Laughter.) It hastens me rather too much.] This money was placed in the hands of the Government agent, and I read to the House, in my speech the other day, a full statement of the charge, under the hand and seal of the Secretary of War, requiring the United States agent to take charge of the moneys of these Indians; and I have another letter to the same effect. Under these circumstances, the Government agent was constituted their trustee—in other words, the United States became the trustee of their money. That money has never been paid over to them. They now ask it of you. In numberless cases have the Government responded to their obligations as trustees, and have paid them; but when it comes to a poor, helpless, and weak tribe of Indians, your arm is strong, but you have not the heart—the honesty—to pay them. [Here the hammer fell.]

Mr. PHELPS. I desire to speak against this amendment.

Mr. JOHNSON. I ask the gentleman to allow this letter to be read, as the House may want the facts.

Mr. PHELPS. Not now.

Mr. JOHNSON. After the gentleman is done, I shall ask that it be read.

Mr. PHELPS. This claim has been regarded in the nature of a private claim. It was so considered, when a report was made in favor of it by the Senate—the report to which the gentleman has referred. It was then reported by the Senate, and was considered exclusively as a private bill, and submitted to the usual investigation of the Committee on Indian Affairs. The Commissioner of Indian Affairs has seen fit to embrace it in his estimates of deficiencies. I have remarked that it was no deficiency, and I say it is questionable whether the Indians are entitled to any consideration whatever upon the claim they have presented. The act of 1846 authorizes—and I have it here before me—the appointment of a commissioner to investigate and ascertain whether any moneys had been improperly withheld or retained by an Indian agent in the State of New York, which justly belonged to the Seneca Indians. They were entitled to annuities from the Government of the United States and from the State of New York. I believe most of the persons composing the tribe of the Senecas were as competent to manage the affairs of their nation and their own affairs, as most of the white men of the country; for many of them are of mixed blood, and are well educated. A gentleman by the name of Stryker held the office of Indian Agent during the years of 1836, '37, '38, and '39, when it is said this money was improperly taken from the Indians. The Commissioner of Indian Affairs, in his instructions to Mr. Stoddard, who was appointed to investigate this matter, remarks as follows:

"The moneys said to have been retained by the sub-agent, and not paid over to the Indians, were received by him from the State of New York and the 'Ogden Company,' and did not pass through the hands of the Government; consequently, all the information which the Department is possessed of is derived from the Indians themselves, or individuals attending to their interests. The sub-agent always received the money upon orders directly emanating from the chiefs, or constituted authorities of the nation, to be by him paid over as he might be directed by the same authority; there was, therefore, no accountability on the part of the sub-agent to the Government."

There was no accountability, therefore, upon the part of the sub-agent to the Government. The sub-agent was required to give bond and security for the faithful discharge of his duties, and for all the moneys which passed from the hands of the Government; he and his securities were responsible for the faithful application and disbursement of these moneys and for the moneys which he received from those Indians, and by their authority and direction he was not responsible upon his official bond. The Indians were willing to consider him their agent and attorney in his private capacity.

I will remark, that in all the investigation, Stryker did not appear before that commissioner; but he says in the letters he addressed to that officer in regard to the charge, that he had disposed of moneys which fell into his hands—that he had expended a large amount of his own private funds, and that the Indians were indebted to him. He gave as an excuse that he was afflicted at that time with an inflammation of the eyes, so that he was prevented from even writing or reading, and was otherwise in ill health, and could, therefore, make no further explanation of the matter. The report made by this commissioner shows, that some of this money passed into the hands of a former sub-agent, and it is questionable whether a defalcation, if defalcation it may be called, did not occur under the former sub-agent. I say, in the first place, it is doubtful whether there is anything due to the Indians. Certain it is, that a former Commissioner of Indian Affairs declared these funds were deposited by the Indians with the agent upon his own individual responsibility, and not upon the responsibility of the Government, and that the Government could not be held responsible for any misapplication of these funds. These are the facts in relation to the case, and these are the reasons for considering it no deficiency, and for considering no appropriation necessary. Consider it merely as a matter which applies to common justice. We see no



right or authority to make this appropriation in the deficiency bill. It is not to carry out any existing law, or any treaty stipulation. Tolerate this practice, and the claim of every private individual will come up in your appropriation bills as this claim does. Stryker was the agent of the Indians, and not the agent of the Government. It is their misfortune, and not ours. He had no authority or instructions from the Government to manage these funds, except by the consent of the Indians. He was made the agent of the Indians in this matter by themselves, and not by the Government. For any alleged faithlessness on the part of their agents or attorneys, let them look to the individuals, and not to the Government.

Mr. WOODWARD then offered the following amendment to the amendment, to come in at the end thereof:

*Provided*, That the Secretary of the Interior is hereby required, upon payment of the money herein specified, to take such further steps, if any may be necessary, as shall enable the United States to recover the amount due from said agent.

Mr. W. said: If the money in question was not wrongfully withheld from the Indians, the section proposed by the gentleman from Arkansas [Mr. JOHNSON] ought not to pass. If the money was wrongfully withheld, it ought not to pass without the proviso I offer.

Mr. JOHNSON, of Arkansas. With the permission of my friend from South Carolina, I will state to the committee a fact in connection with this subject. This agent is now said to be a man of wealth, and I am assured by two members of this House, is in independent circumstances. I believe the proviso offered by the gentleman from South Carolina to be correct, and I think it ought to be adopted in connection with my amendment.

If I had time, I would reply to the—I will not say willful, but unquestionable, misstatements of my friend from Missouri, in regard to the manner in which this liability has been incurred.

Mr. PHELPS. I read the report of the Commissioner of Indian Affairs on the subject.

Mr. JOHNSON. And I will read you the actual documents from the War Department.

Mr. STANTON, of Tennessee. Will the gentleman permit me to ask him if the statement made by the gentleman from Missouri is correct?

Mr. JOHNSON. It is not.

Mr. PHELPS. I stated what the Commissioner of Indian Affairs said.

Mr. STANTON. Which Commissioner of Indian Affairs?

Mr. JOHNSON. It was Medill, who never did decide on a claim properly.

Mr. PHELPS. I ask the indulgence of the committee for one moment. The gentleman from Arkansas says that the statement I have made is incorrect—

Mr. JOHNSON. I would ask if the gentleman from Missouri is entitled to the floor?

The CHAIRMAN. He is not. The gentleman from Arkansas is entitled to the floor during the balance of the five minutes appropriated to the gentleman from South Carolina.

Mr. JOHNSON. Then I ask for the reading of the letter which I send to the Clerk's desk.

The Clerk read the letter, as follows:

DEPARTMENT OF WAR, August 11, 1832.

SIR: Your letter of the 4th instant, with its inclosures, has been laid before me by Judge Herring. I have directed a general authority to be prepared, which I inclose in place of the papers you forwarded. Upon referring to the correspondence, at the date of the contract between the Senecas and Oliver Phelps and his associates, I do not find that the Superintendent was then authorized to act as their trustee in this matter. It seems proper, therefore, that their assent should be regularly obtained. The other regulations are the customary ones in similar cases.

You have been advised from the Indian bureau, that, to avoid the charge of postage to the Department, your dispatches should be directed on the *envelop*, for whomsoever intended, to the Secretary of War. The inconvenience resulting from a different course, obliges me to request your compliance with this regulation.

I am, very respectfully, your obedient servant,

JOHN ROBB, Acting Secretary War.

JAMES STRYKER, Esq.

Mr. JOHNSON. Well now, Mr. Chairman, I want to ask the gentleman from Missouri if the Oliver Phelps who was engaged in this transaction, is any relation of his?

Mr. PHELPS. He is not.

Mr. JOHNSON. Then the gentleman has no personal feeling in relation to the matter?

Mr. PHELPS. None at all, sir.

Mr. JOHNSON. Now, that letter shows the authority from the Government of the United States to that agent to act between the Indians and the parties with whom they had transactions, and to receive money for them; and we cannot now escape the responsibility. That letter, and another which I published in my speech the other day, make the Government the trustee—the decision of Mr. Medill to the contrary notwithstanding. [Here the hammer fell.]

Mr. PHELPS. I am opposed to the amendment of the gentleman from South Carolina, [Mr. WOODWARD.] In the first place, the sub-agent, Stryker, was not responsible to the Government of the United States for this alleged defalcation, but he was responsible to the Indians only, and a suit against him by the Government is therefore unavailing. There was no money placed in his hands by the authority of the Secretary of War or the Commissioner of Indian Affairs.

But the gentleman from Arkansas [Mr. JOHNSON] took occasion to declare that the statement which I made in regard to the liability of this individual, was incorrect. I had only the information contained in the public records of the country. Upon those I relied; and I say that my information is correct. I desire now to read another paragraph, in addition to what I read when I was last up:

"He acted as the agent or attorney for the Indians in his private capacity, although he was selected, as they state, in consequence of his connection with the Government, thereby, as they supposed, increasing the safety of the money coming into his hands; all, therefore, that the Government could do, was to admonish the agent to act justly towards the Indians; and this was repeatedly done, and as often explained, to the satisfaction of the Department, by him until his resignation, on the 20th October, 1840, when it became apparent that all was not right; but the sub-agent being out of office, the Department had no means of compelling the restitution of the moneys said to have been withheld."

As I learn, the accounts of this sub-agent are settled. He does not appear to be accountable to this Government for any portion of the money which was placed in his hands, having exhibited proper vouchers for every dollar he received from the Government. If, then, Stryker is now responsible, if he is solvent, the Indians have their redress and remedy against him, by a resort to the courts of law, and they ought not to come here and ask it from the Government. You might as well make the Government responsible for money left by individuals in the hands of the receivers and registers of the land office in their individual and private capacity, for the purpose of entering lands when they shall come into the market. Are you prepared to sanction such a doctrine as that, for the purpose of insuring the passage of an appropriation of money to go into the hands of claims-agents, and persons engaged in prosecuting claims? Are you prepared to appropriate money to individuals and not to carry on the ordinary expenses of the Government?

The very letter which was read there, at the desk, shows that the money was to be received by the sub-agent in his individual capacity, by the consent of the Indians. They saw fit to place the money in his hands, as they had a right to do.

I say, then, that it is improper that the Government of the United States should be held responsible for this amount of money. Let there be a fair investigation of this matter. The commissioner states that all the evidence which has been obtained on this subject has been from the Indians themselves, and those interested in the matter. It was an *ex parte* hearing or investigation. Stryker did not appear before the commissioner. I have in my hand the report that was made at that time. I find the Indians coming up and testifying somewhat indefinitely and vaguely in relation to this matter.

[Here the hammer fell.]

On motion by Mr. CLINGMAN, the committee then rose, and the Speaker having resumed the chair, the Chairman (Mr. STUART,) reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill No. 207, and had come to no conclusion thereon.

Mr. CABLE, of Ohio. I ask the unanimous consent of the House to present a memorial for the purpose of having it referred. It is the memorial of a citizen of this District, preferring certain charges against an officer in the District.

Mr. JONES, of Tennessee. Who is the memorialist, and who is the officer implicated?

Mr. CABLE. It is a memorial from Mr. Greenough, preferring charges against Mr. Ewbank, of the Patent Office. I ask that it may be received and referred to the Committee on Patents.

Several MEMBERS objected.

On motion by Mr. FLORENCE, by unanimous consent, it was

*Ordered*, That the memorial and papers of the widow of Nehemiah Shockley, asking for a pension, be withdrawn from the files of the House, and referred to the Committee on Invalid Pensions.

Mr. WALSH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs are hereby instructed, to inquire into the expediency of the surrender by the United States, to the State of Maryland, of the jurisdiction of the United States over, and its title to, a parcel of land, situated on the Patuxent river, within the limits of the city of Baltimore, and known as the "Site of Fort Covington."

On motion by Mr. ORR, the House then adjourned.

#### NOTICE OF BILLS.

Mr. DUNCAN gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce "A bill to amend the tariff act of 1846, by reducing the duty on imported sheep's wool costing ten cents per pound or less at the place where imported; also, to reduce the duty on flax imported; also, to admit free of duty raw-silk, dye-woods, madder, indigo, certain articles used in dyeing and composing dyes, burr-stones, grind-stones, and various other articles."

Mr. FOWLER gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce "A bill to refund the balance due to Massachusetts for disbursements during the late war with Great Britain."

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ORR: The petition of Edward Hise, J. B. Isby, S. Barksdale, and 433 other citizens of Lauren's District, South Carolina, against the extension of Woodworth's patent.

By Mr. APPLETON, of Maine: The petition of A. W. H. Clapp and others, citizens of Portland, Maine, in aid of the Collins line of steamers.

By Mr. THOMPSON, of Virginia: Various petitions of the citizens of different portions of Wetzel county, Virginia, praying the establishment of different mail routes.

Also, the petition of 155 citizens of Ohio county, in favor of the Wheeling bridge.

Also, the petition of a large number of the citizens of Donegal township, Washington county, Pennsylvania, in favor of the Wheeling bridge.

Also, the petition of 92 citizens of Virginia, in favor of the Wheeling bridge.

Also, the petition of 135 citizens of Ohio county, Virginia, in favor of the Wheeling bridge.

By Mr. BIBBIGHAUS: The petition of W. T. Sanders and others, assistant marshals of Dauphin county, Pennsylvania, asking additional compensation for taking the Seventh Census.

By Mr. SCHERMERHORN: The petition of Azel Fitch and others, of Livingston county, New York, against the further extension of Woodworth's patent.

By Mr. JONES, of Pennsylvania: The petition of W. F. Filbert and 140 others, of Berks county, Pennsylvania, praying for an alteration in the bounty land law.

By Mr. McNAIR: The petition and documents of Jacob Drinkhouse, praying compensation for revolutionary services.

By Mr. ASHE: The memorial of the citizens of Wilmington, North Carolina, praying the improvement of the bars and river at that port.

By Mr. SWEETSER: The petition of George F. Stayman and 43 others, citizens of Delaware, Ohio, asking Congress to make an appropriation to defray the expenses of locating a road from the Missouri river to the Pacific ocean; also, for an appropriation of lands along said road to form settlements.

Also, the petition of A. W. Paul and 53 others, citizens of Franklin county, Ohio, on the same subject.

Also, the petition of J. G. Gist and 62 others, citizens of Franklin county, Ohio, on the same subject.

Also, the petition of William M. Galbraith and 34 others, on the same subject.

Also, the petition of M. H. Grinnell, of the city of New York, praying Congress to establish a Mint in said city.

By Mr. EASTMAN: The memorial of the Legislature of the State of Wisconsin, relative to the jurisdiction of the United States district court for the district of Wisconsin.

Also, the petition of citizens of Lima, Grant county, Wisconsin, asking a mail route.

Also, the petition of citizens of Crawford county, Wisconsin, asking a mail route from Prairie du Chien to Eagle Point, Boydtown, and Fennimore.

By Mr. DOTY: The petition of Arthur B. Blackburn, James D. Law, and other citizens of Berlin, Wisconsin, for the right of way for a plank road through the public lands, from Berlin to Plover.

Also, The memorial of the Legislature of Wisconsin, for a law to restrict the jurisdiction of the district court of said State.

By Mr. SCHOOLCRAFT: The petition of Andrew White and other citizens of Albany, New York, praying Congress to extend the Woodworth patent.

## IN SENATE.

THURSDAY, March 25, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tem.* laid before the Senate a communication from the Navy Department, inclosing a copy of a letter from Mr. John Roberts, agent of the United States Mail Steamship Company, as being a portion of the information possessed by this Department, called for by a resolution of the Senate of the 4th instant, and not received until after the report in relation to the United States mail steamers was transmitted; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

## PETITIONS, ETC.

Mr. HAMLIN presented a petition of citizens of the counties of Penobscot and Waldo, Maine, praying the establishment of a mail route from Bangor to Hampden, Lower Corner, and other towns, and the discontinuance of others; which was referred to the Committee on the Post Office and Post Roads.

Also, the petition of Allen Lewis, owner of the fishing schooner Forester; the petition of Ezekiel Holbrook and other owners of the fishing schooner Grampus; and the petition of John Cameron and others, owners of the fishing schooner Stephen C. Philips, which were lost at sea, praying to be allowed fishing bounties; which were referred to the Committee on Commerce.

Mr. SUMNER presented a petition signed by one hundred and twenty-nine citizens of Boston, and a petition signed by one hundred and twenty-six citizens of Worcester, Massachusetts, praying a reduction in the rates of ocean postage; which were referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS presented a petition of citizens of Dorchester and Quincy, Massachusetts, praying the renewal of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. FISH. I present three several memorials of citizens of New York, praying Congress to adopt, in these times of foreign discord and domestic agitation, the principles of Washington, as embodied in his Farewell Address, and illustrated by his life, which was devoted to the service of his country.

The memorialists say that it is impossible for a free nation like ours, to be indifferent to the success and extension of the principles of national freedom throughout the world; and that they deem it inexpedient, even if it were practicable, to leave our own to stand on foreign ground. They present America as the beacon-light which points the way our fathers trod, as a guide for obtaining liberty and independence. To go further, they think a case of unjustifiable interference on our part, towards foreign Powers with whom the United States are at peace, would prove injurious to those people who seek relief, by relying more upon foreign aid than upon the justice of their cause, or their own ability to achieve independence.

The memorials are numerous and respectfully signed by gentlemen of all political parties. As the subject is before the Senate, I move that they lie upon the table.

The motion was agreed to.

Mr. FISH also presented a petition of citizens of Buffalo, New York, praying an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of Pennsylvania, praying that the bounty land act of 1850 may be so modified as to give to each of the persons intended to be benefited by said act and to seamen and marines who served in the war of 1812, not less than one hundred and sixty acres of land; which was referred to the Committee on Public Lands.

## REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the petition of George Dennett, praying compensation for services rendered as naval officer, at Portsmouth, New Hampshire, submitted a report, accompanied by a bill, for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. DOWNS, from the Committee on the Judiciary, to which were referred the letters of the Secretary of the Interior in relation to the accommodations of the United States courts, submitted a report, accompanied by a bill, to authorize the Secretary of the Interior to provide suitable accommodations for the courts of the United States; which was read and passed to the second reading. The report was ordered to be printed.

Mr. GEYER, from the Committee on the Judiciary, reported a bill in addition to "An act to establish the judicial courts of the United States;" which was read and passed to the second reading.

Mr. FELCH, from the Committee on Public Lands, to which was referred the bill granting the right of way, and making a grant of land to the State of Michigan, in trust for the Zilwaukee, Grand Traverse, and Mackinaw Plank Road Company, in aid of the construction of a road from Zilwaukee, on the Saginaw river, to Grand Traverse Bay, thence to the Straits of Mackinaw, reported it back, with an amendment.

## BILLS INTRODUCED.

Mr. SEBASTIAN, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of James Jones; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

Mr. BROOKE, agreeably to previous notice, asked and obtained leave to introduce a bill, granting lands to the States of Louisiana and Mississippi, in aid of the construction of certain railroads therein; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, agreeably to previous notice, asked and obtained leave to introduce a bill for the benefit of the town of Bellevue, in Iowa; which was read a first and second time by its title, and referred to the Committee on Public Lands.

## JUDICIAL DISTRICTS IN OHIO.

The bill to divide the State of Ohio into two judicial districts, and to provide for holding the district and circuit courts of the United States therein, was read a second time, and considered as in Committee of the Whole; and no amendment being made, it was reported to the Senate, and ordered to be engrossed and read a third time.

The bill divides the State of Ohio into two judicial districts. The counties of Belmont, Guernsey, Muskingum, Licking, Franklin, Madison, Champaign, Shelby, and Mercer, together with that part of the State lying south of the above-mentioned counties, are to compose one district, to be called the southern district of Ohio, a court for which is to be held at the city of Cincinnati; and all the remaining part of the State is to compose another district to be called the northern district of Ohio, for which a court is to be held in the city of Cleveland.

## MEXICAN BOUNDARY COMMISSIONER.

The Senate proceeded to consider the resolution submitted by Mr. WELLER, the 22d instant, in relation to charges against the commissioner appointed to run the boundary between the United States and Mexico; and it was agreed to.

## POSTAL STATISTICS.

The Senate proceeded to consider the following resolution, which was submitted by Mr. SUMNER on the 18th instant:

*Resolved*, That the Postmaster General be requested to report to the Senate the whole number of letters which passed through the post offices of the United States during the fiscal year ended June 30, 1851, distinguishing the paid from the unpaid, those paid by stamps from those paid by cash; also, the number of free letters.

Also, the aggregate number of drop letters during the same period.

Also, the amount of printed matter, number of newspapers and periodicals sent through the post offices during the same period, distinguishing the paid from the free; and if this be not practicable, then to furnish an estimate thereof.

Also, the number of dead letters returned to the General Post Office during the same period, and the amount of postage due thereon; the amount of property found in the same; the amount restored to owners, and the amount for which no owners have been found, and the disposition made of the balance on hand.

Also, the cost of the transportation of the mails and the postage collected in each of the several States during the same period.

Also, the number of letters conveyed during the same period by the Cunard, Collins, Bremen, and Havre lines of steamers respectively, distinguishing the paid from the unpaid; also, the number of newspapers conveyed by the same lines respectively, and the amount of postage collected on the same.

Also, to report the amount of postage collected by each of the said lines in the United States and Great Britain, respectively; and the amount of commissions paid to our postmasters on the balance due and paid to the British Government on account of postage.

Also, the number of dead letters returned to the United States and Great Britain, respectively, under the postal treaty, and the amount of postage due thereon.

Also, the same with regard to dead letters returned to the United States and Bremen, respectively.

Also, the amount required from and paid to the British Government on account of closed mails, and the rates per ounce of such conveyance.

Also, the amount paid for the transmission of letters to the continent of Europe and to China by the Oriental line of steamers; also the number of letters sent to China, via Marseilles.

Also, the number of letters conveyed between New York and California, and also between New York and Oregon, via Chagres and Panama, and the amount of postage collected thereon, distinguishing the paid from the unpaid, and the number of free letters, and the number of newspapers, and the postage thereon.

Also, the number of letters and newspapers conveyed by the Charleston and Havana steamer, and the amount of postage collected thereon.

Also, the number of ship letters received during the same period in the offices of the United States, and the amount paid for the same.

*Resolved*, That the Postmaster General be requested, in his next annual report for the fiscal year ending 30th June, 1852, to embody answers for that period to the inquiries in the preceding resolution.

Mr. RUSK. I promised to read that resolution, but neglected to do so on account of other matters; and I now desire to ask the Senator whether it contemplates that it shall be answered now, or in the annual report of the Postmaster General?

Mr. SUMNER. It is designed that that part relating to the last fiscal year shall be answered now; and that that relating to the next fiscal year shall be answered in the next annual report of the Postmaster General. In introducing the resolution, (which I did after some consideration of the matter, believing that the topics to which it relates were of great importance,) I ascertained from a person whom I considered a competent judge, that the inquiry could probably be answered in the space of three weeks. The matters are important; and therefore seem to justify the inquiry.

Mr. RUSK. The resolution asks for information which is important, and which I think ought to have been, or at least a large portion of it, ought to have been returned in the annual report of the Postmaster General. But it struck me, as it was read, that it would occupy a longer time than three weeks to prepare the information. I know that they are very much engaged in the Post Office Department. They have not clerks enough. In fact, they are asking for more. The Postmaster General has no clerk of his own. To be sure, nominally he has a clerk assigned to him; but he is at the head of a bureau, and can only spend part of his time with him. I am anxious that all the information asked for in the resolution should be before the Senate. I think a large portion of it is very important.

Mr. BADGER. Let us pass the resolution at any rate. If we cannot get it in three weeks, let us get it in three months.

The resolution was then adopted.

## NAVY-YARD AND DRY-DOCK IN CALIFORNIA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to establish a navy-yard and depot on the bay of San Francisco, in California.

Mr. BRODHEAD. When the Senate adjourned the other day, I had nearly concluded the remarks that I intended to make on the subject of the dry-dock, basin, and railway in California. I shall now occupy but little of the time and attention of the Senate, in concluding what I have to say.

It is important, in the first place, Mr. President, to ascertain exactly the question which is to be decided, and the facts which bear upon that question. The question now to be decided by the Senate is, whether we will establish a basin and railway in connection with a dry-dock in California, or a pier. That is the precise question now under consideration.

I stated the other day, that the proposed structure of a basin and railway was not only without, but against, the recommendation of the Navy Department; and, besides, that it is useless and unnecessary. The honorable Senator from California, in his speech, referred to fortifications on the Eastern and on the Western coasts, and to steam-vessels. With that portion of his speech—and he occupied most of his time in discussing questions

of that kind—I have nothing to do; I have no reply to make to it. I have stated that the basin and railway would cost at least \$1,000,000; and, therefore, that the pier, which will cost but \$50,000, ought to be adopted, in compliance with the recommendation of the Navy Department. That Department has never yet, as I will show, recommended this basin and railway; and no vessel has ever yet been tested upon one, either in the merchant or naval service of the United States. Nay, more, Mr. President; not only is it without the recommendation of the Navy Department, but it is against the solemn decision of the last Congress. I will refer to the last navy appropriation bill, to sustain this allegation:

"For the floating dry dock in California, \$150,000; and the Secretary of the Navy is hereby required so to modify the contract, alleged to have been made on the 17th of January last, as to confine the same to the construction of the floating dock alone, without the basin and railway."

That was based upon the recommendation of the Navy Department. I stated this once before; and how was it met by the honorable Senator from California? He stated that he would not intrude upon the private business—it was private bill day—but, says he—

"When I do speak, I pledge myself not to leave the Senator from Pennsylvania, [Mr. BRODHEAD], for the argument brought forward this morning, and which has been so laboriously prepared, an inch of ground to stand on."

"The Senator's speech is a mere rehash of arguments which have been brought up, time and again, in opposition to this system, and discredited by both Houses of Congress."

Here I make an issue of fact with the Senator. I show the act of Congress sustaining those arguments, if they ever were advanced before. I was not a member of the last Congress. But the honorable Senator, when he addressed the Senate last, said that Mr. Henshaw, upon a former occasion, recommended this dock. Now, upon an examination of what Mr. Henshaw said, I find that he only recommended it to be tested. He did not recommend the adoption of it, as I understand it; if he did, I can be corrected. He recommended the testing of it. Then Mr. Mason came into office. He was succeeded by Mr. Preston, and he again by the present Secretary of the Navy. I will show you, presently, the opinion of Mr. Mason, and then I will give a brief sketch of the history of these dock operations on the Atlantic side; and if I do not show you one of the most magnificent schemes of speculation that was ever carried through Congress, I am very much mistaken. I will do it from the record, from the record which the contractors themselves have made.

Mr. President, I have said that this was not only useless, but unnecessary. In answer to that, the Senator from California says that the basin and railway are not to be erected until those which are in Philadelphia or Kittery shall be tested. Suppose the test should fail, then when are you going to have a dry-dock established, and how? Suppose it should fail—as it has signally failed in Philadelphia, as I will show. The Philadelphia dry-dock is not only a signal failure, but it is a nuisance, and has cost near a million of dollars. In support of this allegation, I will show what the honorable Senator himself said on this subject when he first called up this bill. He is chairman of the Committee on Naval Affairs and ought to be good authority:

"There is another reason why this bill should pass. At the last session of Congress there was an act passed authorizing the building of a sectional floating dock, and there was a site selected for the location of that dock. But, upon an experiment made at Philadelphia, it has been ascertained that there is not water enough at the site selected."

What is the depth of water at the site selected by the joint commission which was sent out in 1848 and 1849, and made a report in 1850? I will presently read an extract from that report. I understand there is forty feet of water there. Then, if these contractors told the truth in regard to the location at Philadelphia, when they were making their application for that site, the selection made by the joint commission sent out under the last Administration is correct, and this bill ought not to pass in its present shape. When they were before Congress before, the contractors stated, over and over again, when they were charged by the gentlemen whom they have taken into partnership with them, that their structure would require greater depth of water than was to be found in any one of the navy-yards—that their structure could be

put up in Philadelphia. But when it is put up, we find in the deficiency bill an item of \$12,000 to be appropriated for dredging in front of the dry-dock, notwithstanding that, by the terms of the contract, it was to be taken off the contractor's hands and tested last June. It may have been taken off their hands; but no vessel, no ship-of-the-line—and it was designed for ships-of-the-line—has ever yet been placed upon it; and I think never will be.

Mr. President, this plan of dock has been known to the public for years past. How, then, does it happen that the whaling vessels that are fitted out in New England have never adopted it? Why is it that this basin and railway has never been adopted in the merchant service? That is an important inquiry. Do you suppose that the intelligent Yankees who fit out these vessels would not have used this dock, if it were as useful as it has been represented? I made inquiry of the honorable and distinguished Senator from Rhode Island upon the subject, and I found that they never have adopted it. This basin and railway has never been adopted in the merchant service. But, says the honorable Senator, they are about to build one in New York. How does it happen that they never built one before? But I would like to know how he obtained his information.

Mr. GWIN. Do you deny it?

Mr. BRODHEAD. I want to know whether he speaks from personal knowledge. I would like to know how, and where he got the information.

Mr. GWIN. I assert the fact. If the Senator denies it, I am ready to give the proof.

Mr. BRODHEAD. I have never yet heard of one being established; and I doubt whether the honorable Senator has seen it.

Mr. GWIN. Mr. President—

Mr. BRODHEAD. I do not doubt that he has been so informed—not at all. I do not doubt but that he believes all that he has said. But, sir, I know very well that if it had been such a useful structure it would have been adopted long since. Why should the Government adopt it first?

But it is said, Mr. President, that this pier would be eaten up by the worms. Well, sir, it can be coppered, as I said the other day, in the same manner that floating dry-docks are coppered. If the project of building a basin and railway is adopted, how long will it be—and I put the question to the Senator from California, and to the Senate—how long will it be before the floating dry-dock, which was ordered at the last session, and which the Senator from California informs us is now on its way out, can be put to use? It cannot be used without a basin and railway, or a pier; and it will take six or seven years, according to the statement of the Navy Department, to construct the basin and railway. So the structure which we ordered at the last session, and for which we are to pay \$610,000, will be idle and useless, and will be eaten up by worms before the railway can be constructed.

I will now go into a history of the dock operations on the Atlantic side; and I will state first generally how it is, and then follow it with the proof. These gentlemen came here in 1843 or 1844—two sets of them—each claiming a patent. They both presented memorials, in opposition to the recommendation of the Navy Department, and they informed Congress what these docks, basins, and railways could be established for. They estimated the expense at \$350,000 or \$400,000. They have received about \$800,000 for each one, and I will show the *modus operandi* presently.

In 1844 Mr. John S. Gilbert presented his memorial here on the 29th of March. I have the original document which was presented in this body; and I wish it to be noticed that he is one of the contractors in the case now before the Senate, as I understand. On your table is the contract for the establishment at Kittery, in which his name appears. He had a contest with a gentleman by the name of Dakin, as I find by the record, and they contested the matter for years; and finally I find them all together, and the work divided up.

Well, sir, Mr. John S. Gilbert, one of the partners in the contract for the construction of the California dock, presented his memorial, a part of which I will read:

"For a floating dock at Brooklyn, New York, built in the best manner, of galvanized iron up to the load line, capable of raising and sustaining the largest line of battle-

ship in our Navy, with armament and stores on board, weighing five thousand two hundred tons, \$250,000.

"For a dock to be built in the same manner at Philadelphia, Pennsylvania, for a frigate of the first class, \$150,000.

"For a dock to be built in the same manner at Pensacola, for a frigate of the second class, \$100,000.

"For basins and railways, to be used in connection with the docks proposed by your memorialist, are estimated to cost \$40,000 each."

I read also from a document entitled "A Brief Sketch of the Plan and Advantages of a Sectional Floating Dock," published in 1843, the following:

"From the foregoing plain statement of facts, certificates, and recommendations presented in this document, members of Congress will be enabled (without being compelled to depend upon the judgment or opinion of those who are prejudiced against all improvements in our Navy, or whose interest leads them to oppose) to judge for themselves, whether it will be for the best interest of the country to construct an expensive excavated dock, requiring eight years to build it, at an expense of \$1,200,000 when completed, or to build an economical floating dock, at an expense of only \$250,000, which can be completed in six months, and which it is believed by those best able to judge, will be the most serviceable dock for all naval purposes."

A ship-of-the-line is the largest vessel in the service.

Mr. BADGER. Is that for building a ship-of-the-line?

Mr. BRODHEAD. No; it is for building a dock for a ship-of-the-line. He then goes on to praise his own dock, and shows that the dock of Mr. Dakin is not worth anything. I intend, sir, to use the evidence of these men against each other, and to show that they went together, and both plans of docks were adopted, and that they must have made \$1,000,000, if they told the truth; and it follows further, that if they told the truth in their memorials, the docks which they have constructed are not worth anything. He then goes on to praise this dock right well, and says that Mr. Dakin's dock is not worth much. Here is the memorial, which any Senator can see. Then Mr. Dakin presented his memorial. But before leaving this memorial of Mr. Gilbert, I must also read you what he says in regard to the depth of water required to work Dakin's dock:

"It is important to observe that a dock on the plan here proposed can operate at any navy-yard where the water is deep enough to float a ship with her armament on board. No expense for excavating and keeping open the channel will be necessary, as is the case with other docks. Mr. Sanger, the engineer at the Bureau of Docks and Yards, reports that the expense of dredging the channel, to enable Dakin's dock to operate, including crib-work to keep the same open, will be \$150,358."

And yet, sir, Dakin's dock has been taken, and Gilbert is one of the partners for constructing it.

Now, I will read to you how much he did receive, after Mr. Dakin had withdrawn his opposition to him, and he had withdrawn his opposition to Mr. Dakin:

"For balance floating dock at Kittery, \$437,325; for basin and one railway, \$282,580."

Now, look at the contract on the table for the establishment at Kittery. You will find this same gentleman is one of the partners in the business for which he and his associates offered to build this basin and railway for \$40,000, thereby getting Congress to pass the act, and then, when it was passed, they received \$282,580; and the other gentleman received at Philadelphia \$411,059 for a basin and railway, and \$402,683 for a dock, making in all the sum of \$813,742. For the dock, basin, and railway at Pensacola they received \$921,937, and for the dock at California 610,000, making together \$3,078,594—a pretty good sum of money for one set of contractors to receive, who excluded competition by claiming a patent.

Now, sir, Mr. Dakin presented his memorial to Congress, in which he complains that there was a violation of his contract made for putting up a dock at Pensacola; he also complains that his original contract was violated, and desires that it may be altered. He says that "Mr. Upshur entered into a contract with him for \$70,000; that his plan is decidedly the best, and that the plan of the 'other gentleman ought not to be adopted.'" Here is the memorial. Both these gentlemen were well sustained by scientific gentlemen, as they say.

Well, sir, they contested the matter up to the year 1847, as I find by the record; various contests took place between the parties represented by these two patentees and their associates. Then Congress passed an act directing the Secretary of the Navy to cause to be constructed at each of the yards of Kittery, Philadelphia, and Pensacola, a dry-dock for ships-of-the-line, and a



railway at any such place as may be preferred by the Secretary of the Navy. You perceive that this first act of 1847 conferred a discretionary power on the Secretary of the Navy. But, sir, the contest commenced before him, (Mr. Mason,) and here is his report on the subject. The contest commenced before him, and they refused to allow the Secretary of the Navy to use their patent-right; and that is the way the matter came back to Congress again. I will read what the Secretary says:

"Each of the several plans of the docks submitted to the Departments was a patented invention, and good faith would not permit me to invade that patent, by using it, without the consent of the proprietors. Therefore the proprietors of the two plans of docks known as the balance and sectional dock, in their propositions, in answer to the invitations of the Department in March last, do not specify any price at which the right to use their patents would be sold to the Department."

Mind what an honest report this is—

"—And the price contained in their proposals for the construction by contract greatly exceed the sums appropriated for the object to the three navy-yards. The chief of the bureau of docks and navy-yards, under my direction, again addressed the proprietors of these two plans; again called their attention to this point of inquiry, and requested them to state the price at which the Government would be permitted to use the patent in constructing the docks authorized."

"They declined to make such an arrangement, but again repeated the offer to contract for the execution of the work." The Secretary of the Navy replied that he could not evade a patent-right, and hence the whole matter came up again in Congress in 1848. But what does the Secretary of the Navy say as to the propriety of making these docks?

"On the question of the most suitable plan for a dry-dock, my own opinion, officially formed in 1844, in favor of the permanent stone dock, as preferable to all others, is unchanged."

Well, sir, then it came into Congress. Those gentlemen who had contested the ground before in Congress, and got their bill passed, leaving it to the discretion of the Secretary of the Navy, came into Congress again, and in 1848 obtained the passage of an act under which these contracts were made. Here is the act, sir, authorizing the Secretary of the Navy, and directing him peremptorily—for, sir, nothing was left to his discretion—to adopt the plans of both these gentlemen.

Now, you can easily understand how it was done. They got tired of warring with each other, and then they came to Congress and get the contracts together. They get all the contracts they had been asking for, one set getting the contract for the work at Kittery, another at Philadelphia, and another at Pensacola, all of them going on together; for their names are all in the contract for the California dock. Now, this is very evident, and the reason must be apparent to every one, how they obtained nearly \$1,000,000 for each of these structures, when their memorials show that they offered to do the work for \$350,000 or \$400,000. So that, if they told the truth when they came to get the contracts, they have made \$1,000,000.

Now, Mr. President, I think it is time that Congress should quit this dock building and abandon this system of making contracts, and refer that business to the executive branches of the Government, so that there may be some responsibility somewhere, as there ought to be. I think that Mr. Preston, when Secretary of the Navy, complained of this mode of proceeding on the part of Congress. We charge the Navy Department with \$2,000,000 for dry-docks, in opposition to the recommendation of the Department, and then we go before the country, complaining of the heavy expenses of this Government, and opposing a Whig Administration for doing it. Sir, that is not right. The expenses of this Navy Department run up to \$2,000,000 or \$3,000,000 higher than ever before, and the answer to the inquiry as to the cause of that fact, is found in these Congressional docks, in opposition to the recommendation of Mr. Secretary Mason, in opposition to that of Mr. Secretary Preston, and in opposition to the recommendation of the present Secretary of the Navy himself. Is this the proper tribunal? Are we to examine and decide between particular classes of docks? How many members of this body have seen and examined docks? It is our business to pass laws, not to make contracts.

I have prepared a good many other facts upon this subject, Mr. President, but I will reserve them, for the present. But I will ask what is the

necessity for these immense naval establishments? Ought they not to bear some proportion to our Navy? What is the extent and magnitude of our Navy when compared with these vast naval establishments of our country? Why, sir, we have but seventy-five vessels in all. We have but eleven ships-of-the-line, one razee, twelve frigates of the first class, two of the second class, twenty-one sloops-of-war, four brigs, three schooners, five steamers of the first class, seven steamers less than the first class, and five store-ships—in all seventy-five. Now we have a dock for every eight vessels that we own, whether in commission or out of commission, whether old or new. I think, therefore, Mr. President, we ought to abandon the contract system; or, if contracts are to be made, let them be made by the executive branches of the Government, and let them be given to the lowest bidder.

Mr. GWIN. Does the Senator mean to abandon all contracts? Are we to make no more? For instance, would he do away with contracts in regard to our printing?

Mr. BRODHEAD. The honorable Senator from California asks me whether I am willing to abandon all contracts, and he illustrates by referring to our contracts for printing. In answer to that, I reply at once, that I would prefer to have a Government printing establishment. But that is a business which particularly appertains to this body; the business of building dry-docks does not; and how shall we undertake to decide between these different classes of docks. I therefore think that we should abandon this contract system, because in many respects it has an evil tendency. I do not blame these gentlemen for coming here and obtaining large contracts. They have a perfect right to do so; but if one set of gentlemen come here and make large contracts, and thereby secure to themselves large fortunes, others may do the same thing, and their number will increase from year to year. Sir, we have a Secretary of the Navy; we have a bureau of docks and yards; we have a bureau of construction and repairs; we have naval architects and engineers, and yet we cannot trust our Navy Department with the building of a dry-dock. We ourselves are to decide as to the particular dry-dock that shall be built. What necessity is there for this? If we are to canvass and decide upon these matters in detail, let us dispend at once with the Navy Department; let us abandon our bureau of yards and docks, and construction and repair, if we in the Senate are to do the business which appropriately belongs to them. Sir, I regard this as a perfect answer to any advocacy of this contract system which has grown up here.

Now, sir, I will remark here that I have prepared a bill, somewhat modified from that proposed by the honorable Senator from California, and which I think will be sufficient to carry out his design. I am willing that he should have a dry-dock and navy-yard; I am also willing that he should have a marine barracks—although I question the utility of a barracks—and that he should establish a pier. But it is said—that is the great argument against this pier—that it would be eaten up by the worms. Now, I would like to know from the honorable Senator from Rhode Island, how they protect their piers where these immense whaling vessels are fitted out? I have been given to understand, that in the North they have a way of protecting them; and if they can be protected from the worms in Rhode Island by covering them with copper, or driving copper nails in them, which I understand to be the process, this pier can be protected in the same way. But I very much doubt whether that dock will ever be very much used there, if they establish this basin and railway, for it will be eaten up with the worms before they can be constructed. It will take at least six or seven years to do all this, and the Secretary of the Navy knows it. This dock, therefore, will be useless, and the great number of ships engaged in the Pacific commerce, and anchoring in the bay of San Francisco, will have no dock to which they can resort for the space of six or seven years, under the plan which it is here proposed to establish. I have prepared a bill, sir, which I intend to offer as a substitute for that offered by the Senator from California; and allow me to say here, that I never could understand why another commission should be sent out to California.

Sir, there was a joint commission sent out to California, composed of six highly respectable gentlemen, three from the Army and three from the Navy, who selected a location in 1850, and they made a report, establishing a navy-yard and depot on the Bay of San Francisco. Here is the extract respecting that subject. It may be necessary. I do not come here to dispute the propriety of another commission. I have, however, provided, in the substitute which I propose, that when the last board shall report, the location shall be left to the President and the Secretary of the Navy. I think we ought to leave some discretion with the Department upon that subject. I therefore propose to strike out that portion of the bill, which is in these words:

"As will be most suitable in every respect for such an establishment, and susceptible of complete defense both by land and water, at the nearest point to the city of San Francisco;"

And insert the words:

"Suitable in every respect for such an establishment, provided it has not already been done."

Then I provide that this jury shall be sworn; and I also provide that the Secretary of the Navy shall decide which of these sites he will select; and then I provide for the establishment of a pier in place of this basin and railway; and the last section contains a provision for an appropriation of \$500,000. I intend to offer this at a proper time as a substitute for the entire bill, establishing a navy-yard, depot, marine barracks, and marine hospital, and pier to be used in connection with the dock, and which is now on its way to California, which would be useless for six or seven years, if we did not establish a pier. A pier can be constructed in a few months.

Mr. HALE. If the Senator from Pennsylvania will allow me, I would like to ask him a single question.

Mr. BRODHEAD. Certainly.

Mr. HALE. I perceive that the honorable Senator has given considerable attention to this subject and appears to be well acquainted with it. He spoke of some of these docks as being nuisances, and also of their being tested. I would like to ask him if any one of them has been tested, either that at Kittery, or at Philadelphia, or at Pensacola?

Mr. BRODHEAD. I will answer the question of the Senator from New Hampshire as well as I am able. By the contracts for the construction of this dry-dock, and basin, and railway at Kittery, and also for the construction of those at Philadelphia, they were to be completed in May or June last. They were to be tested with a ship-of-the-line. No test has yet been made to my knowledge. The Secretary of the Navy, at the opening of the session, reported to us upon this subject. He says that in regard to this dock at Philadelphia, there is a dredging machine in operation, and I find that it is in operation, because in the deficiency bill there is an item asking an appropriation of \$12,000. He makes the same remark in regard to the dry-dock at Kittery. He says the ice prevented the test from being made. But you will find that they were to have been tested last June. We have no knowledge of their having been tested yet. I would like to know from the honorable Senator from New Hampshire whether he has any knowledge of their having been tested?

Mr. HALE. I am not aware that the dock at Kittery, which is some twelve miles from my residence, has been tested. I perceived that the Senator from Pennsylvania possessed considerable information upon the subject, and I asked him the question for information. So far as I am aware, the dock in my neighborhood has not been tested at all.

Mr. BRODHEAD. Now refer to the contract on the table, and it will be seen that they were to have been finished last June, taken off the contractors' hands, and the reserved twenty per cent. paid. The contractors said, no doubt, it was not for them to find water to test them. Congress ordered the contract to be made, and that is one of the ways in which we can see the evils of this Congressional contract system. That is all I have to say at present.

I will now inquire if it will be in order to offer the substitute at this time?

The PRESIDENT. Does the Senator propose to strike out the whole of the bill and insert?

Mr. BRODHEAD. Yes, sir. I do not wish

to offer amendments in detail, and have put the whole in a bill as a substitute.

The PRESIDENT. The amendment of the Senator from North Carolina [Mr. BADGER] will be first in order; and after that is disposed of, the Senator can move to strike out that portion which has been inserted, together with the rest of the bill. At present it will not be in order.

Mr. BADGER. I am very sorry to perceive, sir, that the honorable Senator from Pennsylvania has permitted himself to become excited respecting the question now before the Senate. I am sorry for it, sir, in the first place, because it will have an injurious effect on the honorable Senator's argument. It prevents him from bringing out his facts in that consecutive order which would have given to them full weight and influence. And, in the second place, because as a mere business matter, I do not think that any excitement or irritation can very well enable us to form a just decision upon it.

When things relate to facts and figures, and depend on evidence and proof, perhaps we should get on quite as well by taking a calm and deliberate survey, as by permitting ourselves to be hurried, or the circulation of the blood to be agitated and the mind tossed from its perpendicular state, rendering it difficult to take other than an oblique, and, therefore, not very satisfactory view of the case.

I am afraid, sir, that there was something in the mode in which the honorable Senator from California spoke the other day that the gentleman from Pennsylvania did not consider quite courteous; at least that there was something in the style and manner of the remarks that has induced him to indulge a little personal feeling on this question, and has had the unhappy effect to induce him, in the whole tenor of his remarks, to allow an undertone, or current, of sarcasm, or reproachful expression to affect his observations; for, though it is calculated to affect the minds of hearers unfavorably towards the subject, it does not really tend to show that the subject ought to be unfavorably regarded.

Now, sir, this being a business matter, I propose to treat it as a business matter, there being nothing in the case which is not to be considered on the evidence and proof now before the Senate, or to be before the Senate. I will not follow the example of the honorable Senator from Pennsylvania in permitting myself to be excited, or in making the confident assertion of what is, or what I may show to be; because, if I make these assertions and do not support them by the proof, it will place me in an awkward position, while the assertions do not help forward the case; whereas, if I can support them with proof, the preceding confident assertion is not required.

Now, sir, if I can command the attention of the Senate, I will endeavor to show—I do not say that I will show; I will do as General Miller said he would when directed to carry a particular battery, "I will try, sir"—in the first place, that the measure proposed by this bill is necessary and proper; and, in the next place, a large portion of the Senator's remarks are entirely beside the question before the Senate, because the honor and faith of this Government have been pledged by a contract which has been made to do the very thing that this bill now proposes shall be done. In order to show that, I beg to be allowed to see the bill for a moment, in order that we may understand what is the question under the consideration of the Senate, so far as the objections of the Senator from Pennsylvania are concerned.

The amendment which I had the honor to submit, by the direction of the Committee on Naval Affairs, proposes, if it shall be adopted in the bill, to provide:

That as soon, after a suitable site shall have been secured, as it shall have been ascertained to the satisfaction of the Secretary of the Navy, that the basin and railway now being constructed at the navy-yard at Philadelphia or Kittery are in full and successful operation, the Secretary of the Navy be and he is hereby authorized and directed, to enter into a contract with the patentees for the construction of a basin and railway in the most approved form connected with the said navy-yard, adopted substantially on the basis of agreement made with them, under the act of September 30th, 1850, and cited in the report of the House of Representatives dated January 26th, 1851.

Now, in the first place, I submit to the Senate that nothing is proposed to be done here, which involves any hazard or risk to be assumed by the Government, until it is decided whether a basin

and railway is an improvement which can be put into successful operation. The whole of that part of the bill is suspended, upon a previous condition that that fact shall have been established either at Philadelphia or at Kittery, and that at one or the other of these places this basin and railway, in connection with a dock, shall have been put in successful operation. If that is not done, no expense is to be incurred. If the experiment proves a failure, not a dollar is to be expended.

Then, Mr. President, I say, that supposing this plan of a basin and railway to have succeeded, it is necessary, and very highly necessary, that that improvement shall be established upon the coast of the Pacific. Why sir, what is this basin and railway? I am assuming the work to have been done as the bill proposes it shall be done, that is, put in full and successful operation. Why, it is the absolute consummation and perfection of all docking purposes, and systems. The great difficulty, the great trouble in all operations, respecting both the military and commercial marine, has always been from the immense weight and massiveness of vessels, to have an opportunity, from time to time, of being subjected to thorough examination, and complete repair. The old system of the stone dry-dock, is nothing in the world but the excavating of a vast basin, walling it up, and then floating in a ship, and bailing out the water, leaving her sunk below in a damp place, with a very imperfect light for operations upon her bottom, with the continually recurring necessity, day after day, of pumping operations, to keep that basin clear of water—the wit of man never having invented one, into which water will not find its way—capable of receiving but one vessel at a time, and incurring, from the nature and character of the improvement required, an immense expenditure of money.

Now, what is the basin and railway? It is this, that by taking the sectional floating dry-dock and sinking her in deep water, the ship is passed with ease upon that dock; by emptying the water tanks, which exclude the air, and thus allowing the air to return, she is raised, and she is moved into the basin, having a firm and level bottom. She is then brought, with the vessel upon her, to the front of one of the railways. She is then sunk until the bottom of the dock rests upon the bottom of the basin, leaving her in exact apposition with the railway; then that which before was floating rests firmly and solidly on the bottom of the basin. In this condition, by steam power, the vessel is just moved off her, high and dry, upon the rails, and there she stands, with ample light, perfectly dry, and, if you please, under such a house as they are in the habit of erecting to cover ships that are building, or ships that are laid up. There, with every facility in the world, the operations required are performed, and the vessel returns with like facility to the element in which she is to float, and either carry on commercial purposes, or purposes of war, with this additional facility, when one vessel is placed there, this dock can immediately bring another, and place that upon another of the railways; and so six, seven, eight, ten, or a dozen, as you have the necessary number of railways, and as the necessities of your service may require.

Now, that being the nature and character of the improvement, assuming—as I am doing all along, because the bill assumes it—that it should have been ascertained to be put in full and successful operation, I ask, whether it is not necessary that such an improvement as that should be on the Pacific ocean? Why, the honorable Senator from Pennsylvania, in the remarks which he made when the subject was first up, seemed to consider that there was no necessity for any such establishment as this on the Pacific; because, he said, we had a half dozen of them on the Atlantic coast. Well, does that furnish any reason why we do not need one on the Pacific, to say that we have half a dozen on the Atlantic? Why, it might have been with much stronger force argued, that there was no necessity for one at Kittery, at Philadelphia, at Norfolk, or at any other point on the Atlantic coast, on the ground that we had one in New York. Or would it be an objection to one at New York, that we had one at Norfolk?

Again: in the remarks which the Senator first made on this subject, he urged as an objection, that if you had this dry-dock there, vessels must at last be repaired upon the Atlantic coast; because,

he said, the materials could not be procured on the Pacific; or that, because of other difficulties in California, repairs could not be made upon the spot. That is an assumption for which I know of no evidence. It is contradicted by those who have the best means of knowledge; and, therefore, I think that in that assertion the honorable Senator from Pennsylvania was decidedly mistaken.

It must be borne in mind that the only question now before the Senate is, as to the basin and railways. The dock has already been contracted for, as I shall have occasion to show to the Senate presently, for another purpose. Then there being a dock contracted for, and a stone dock being out of the question—because I suppose nobody proposes that we should have a stone dock in California—the only question that remains is, whether it is necessary to have also the basin and railways, or whether a pier will answer.

In the first place I remark, that, with the pier, the dry-dock is useless for but one vessel at a time; because the vessel, being raised by the sectional dry-dock, has to undergo all the repairs which she may require upon the dock itself, and has to remain there until those repairs are completed, and she is discharged. Now, that is a process that may take three, or six, or nine months; or it may be longer. On the coast of the Pacific, where we propose to have but one establishment of the kind, you are asked to have that one establishment so arranged as that it can accommodate the purposes of but one ship at a time!

One of the reasons why it was necessary to have many of these dry-docks on the Atlantic coast, was because of the propriety, and sometimes necessity, of having facilities within convenient reach for attending to and repairing a number of ships at a time. Then, if in California, if on the whole coast of the Pacific, we are to have but one dry-dock, is it not evident that we must have it connected with such an improvement as will make it available for more than one ship at a time?

But, again: with the dock, you must have either a pier or a basin and railway. I have already stated, that connecting the dock with the pier merely, is liable to objection; for it makes the dock unavailable, except for one ship at a time. Now, as to its cost. It was said by the honorable Secretary of the Navy, in a letter communicated to us at the last Congress, that a pier could probably be erected for \$50,000. That is very true—"probably," but not certainly, in California. In New York it might be so, or in Norfolk; but it is very doubtful whether a pier—even of wood—could be constructed in California for \$50,000. We all know that the prices of materials in the present condition of that country must be greatly enhanced beyond the prices of such articles on the Atlantic coast. But if the pier is erected of wood, as has already been asked, how is it to be secured and perpetuated? The sea-worm in California will consume it directly. In six months it will be honey-combed and worthless. What, then, are you to do? Pay \$50,000 more to put in another pier, and \$20,000 or \$30,000 to get the old pier out of the way. Why, the Senator from Pennsylvania says that the pier can be coppered. I was astonished to hear this remark made by a gentleman of his sagacity, living in the part of the country from which he comes. Take the piles of which the pier is composed and copper them, and then bring to bear upon them the immense weight by blows necessary to drive them into the places in which they are to stand as a fixture—what becomes of your copper? It will be split, rent, torn. Though at a little distance the piles might show as fair an exposure of copper as some members of the profession to which I belong are said to show a fair exposure of brass, it would answer no purpose; for these worms respect not the appearance of the thing. If there are fissures in the copper, they have sagacity enough to find them, and pertinacity enough to enter through them.

Again: let us suppose that you have got your pier coppered and sunk. Does not the honorable Senator from Pennsylvania know that the coppering of ships has to be renewed every five or six years—that the copper is subject to corrosion by contact with the salt water—that the bottoms of the coppered vessels have to be examined from time to time, and the deficiencies of copper supplied, so that, in the course of five or six years, the process has to be wholly renewed? Now, will you tell me how you are to get down into



forty feet water, and recopper a pier? With very great respect, it appears to me that the idea almost involves an absurdity. I am not so confident as to say that the operation could not be performed at first; but certainly I may say, that it must be so difficult to renew the coppering of a structure forty or thirty or twenty feet under water, as to be almost impossible. How do we renew coppering on vessels? According to the old-fashioned way—and it is still pursued where there are no docks—they were dragged up on shore, and then pulled down till their bottoms were exposed so that the necessary examination could be made.

But, again: what will be the expense (and this is a matter that addresses itself to our inquiry as to economy) of coppering this wooden pier? We must recollect that this pier is to be some three hundred feet long, so as to answer the purposes of a breakwater, to preserve the dock attached to it from the action of the waves driven by the winds. Here you are to have it extended out two hundred or three hundred feet, and it must be sunk into deep water. You must copper it all over—you must not leave a single point at which the worms can enter. What will this cost? I feel very sure that you cannot copper the pier for less than \$100,000.

Mr. BRODHEAD. I understand the Senator to say, that the piles to be driven down cannot be coppered. Now, I understand they are doing that very thing at Pensacola. I understand that it is being done there, and I would like to know from the honorable Senator from Florida, [Mr. MORRIS,] if he were in his place, whether such is the fact? I would also like the honorable Senator from Rhode Island to state how these structures are protected from worms in Rhode Island? I wish this information at the proper time. I do not wish to have the Senator from North Carolina interrupted.

Mr. BADGER. Until we have some evidence upon that subject, I shall assume at present that they are not engaged in the process of coppering the pier at Pensacola, for the reason that I understand that that pier is being built with stone.

Mr. GWIN. That is so.

Mr. BADGER. I presume that they would hardly go to the unnecessary expense of coppering a stone wall. Supposing that \$50,000 are to be the first outlay, and assuming that the coppering could be accomplished for \$100,000, and that we should have to renew the coppering once in every four or five years, and allow for the difficulty of getting down thirty or forty feet in the water to copper it, double cost, we shall have \$150,000 to start with, and an outlay of \$200,000 every five or six years to protect it from the worms. That being the case, I do not think it will be considered as a remarkable operation in point of saving. Then, if you build the pier of stone, it will cost two thirds, or at all events one half of the price of the basin and railway. The reason why it approximates to it so much, is this: the basin has also one of its sides projecting into the water to answer the purposes of a pier; but in consequence of its attachment to the basin, a very short pier comparatively answers all the purposes. The stone pier which is now being erected at Pensacola, has cost already \$400,000, and it is not much more than half completed. Then the question which is presented to the Senate upon that head (it being undoubted that the dock must have either a pier or a basin) is whether she shall pay \$600,000 at the least for a pier, or shall pay \$340,000 for the basin and railway, which includes in substance the pier. That is the whole question; and it seems to me that when the matter is reduced to that point, there remains nothing further to be settled.

I look upon this measure in California as important, not only for the purposes of public vessels of the United States, but I look upon it as highly important to the commercial marine of this country. It has been said by the honorable Senator that we have not many public vessels, and shall not, therefore, often require the use of such an establishment in California. Assume it to be so. The Secretary of the Navy, and the officers under his charge, can permit this basin and railway to be used for the accommodation of the commercial marine, when it is not required for the Government. When we consider the condition of things on the Pacific coast, it is in the highest degree important that that particular form of im-

provement should be adopted; it being admitted, on all hands, that we must have one of some kind and description. We want such an improvement. It is necessary for the purposes of the Government, and will, at the same time, promote the commercial prosperity of the country, and afford facilities to those carrying on the immensely important and profitable business of the Pacific.

I have said this much, for the purpose of showing that what is asked by this bill, is not unreasonable in itself. But in the next place, I think I am able to show that, as honest men, representing an honorable and faith-observing constituency, we have no choice but to do what is proposed to be done by this bill. This Government has already made a contract with the patentees, which is binding upon it in honor and in faith. That, I think, is capable of being clearly established. By the naval appropriation act of September, 1850, this appropriation was made:

"For commencing the construction of a floating dry-dock on the coast of California, \$100,000; and the Secretary of the Navy is authorized to enter into a contract for the construction, with all reasonable dispatch, of a sectional or balance floating dry-dock, basin, and railway, at such harbor on the coast of the Pacific ocean as he may select, of a capacity and dimensions in no respect inferior to those of the dry-dock now in progress of construction at Pensacola."

Here is the authority. Now, under that authority the Secretary entered into a contract, a complete contract, and the contract is as binding upon the honor and faith of this Government as if it had been attested with a thousand seals. I wish now to refer you to a letter upon that subject, addressed by the Secretary of the Navy to the House of Representatives, at the last Congress. It is dated the 21st of January, 1851. It will be observed, that in that month, and two or three days before this letter was received, a resolution was introduced into the House of Representatives, and adopted, to inquire of the Secretary of the Navy whether any contract had been made under the provision in the appropriation bill of the preceding year, and, if so, what it was, and if the contract had been completed and executed; and requiring the Secretary to suspend all further proceedings until the direction of Congress. The Secretary shows the various proposals that have been made, and then says:

"Messrs. Dakin, Moody, Gilbert, and Secor at length offered to undertake the contract at the above estimate of \$1,530,237."

That was for a dry-dock, basin, and railway—

"—This was declined by the Department, and Mr. James Brooks of St. Louis, who produced unquestionable evidence of character, as well as ability, to give security for the completion of this work, submitted a proposal for \$1,309,000. This being the lowest bid offered, would have been accepted, but for the reason that Mr. Brooks disclaimed any pretensions to a patent-right, and wished to enter into no legal controversy in respect to that alleged by the other bidders, and proposed only to do the work; doubts being entertained whether a contractor for the work might not be enjoined or otherwise impeded by legal process in its execution by the claimants for the patent above-mentioned, negotiations were continued with Messrs. Dakin, Moody, Gilbert, and Secor, with the knowledge of Mr. Brooks; and they were finally informed, as the last proposition of the Department, that if they would do the work on the terms stated in the law, at the sum of \$1,450,000, the contract would be concluded. They desired time for consultation, and on Friday last, the 17th instant, informed the Department that they accepted this proposition. The contract has not been signed or written, nor has any bond been executed for its fulfillment; and regarding the request contained in the resolution of the House as equivalent to a command, I shall take no further steps towards its completion until the pleasure of Congress in regard to it shall be made known."

Here, according to the Secretary's statement, he told these gentlemen, if you will undertake to do the work required by law, at a certain time, you shall have the contract. They say to him, we accept the contract. Now, I should be glad to know what makes a contract if that does not? That the Government is not bound by it is true; nor would they have been bound by it if it had been signed, sealed, and delivered. The Government cannot be bound in such a sense as to be compelled to perform a contract. Simultaneously with the resolution offered in the other House, was a resolution offered in this House in relation to that contract. The honorable Senator from Virginia, [Mr. MASON,] by the unanimous direction of the Naval Committee, made this report on the resolution:

"That, having communicated the resolution of the Senate to the Secretary of the Navy, the committee received in reply the letter of the Secretary to the chairman of the committee, dated January 27, 1851, with a copy of his letter

therein referred to, addressed to the Speaker of the House of Representatives, dated January 21, 1851, which accompany this report, marked A and B.

"The law referred to in the resolution of the Senate, limited the authority of the Secretary to contract for 'a sectional or balance floating dry-dock, basin, and railway, of a capacity and dimensions in no respect inferior to those of the dry-dock now in progress of construction at Pensacola'; and the committee are satisfied from the communication of the Secretary, that the contract he has made is on terms as advantageous to the Government as the work to be done will admit. The committee are not aware of any reason to induce them to recommend any amendment or modification of the plan for this dock, prescribed by the law referred to, even were the subject now susceptible of such modification. But it appears from the communication of the Secretary above-mentioned, that he had actually contracted for the work before the resolution of the Senate was adopted, nothing remaining to be done but to reduce the contract to writing, and its execution by the parties. In the absence, then, of fraud and misrepresentation, (which is not alleged,) the committee cannot recommend that it should be disturbed.

"The only modification of which the plan would be susceptible, is to dispense with the basin and railway, as authorized by the existing law; but for this, under the law, the contract is already made. The committee consider these appendages as peculiarly important to a dock, should they be found, on experiments yet to be tried with a like work now in progress of construction at Philadelphia, to be of practical value.

"But, as they are further informed by the Secretary of the Navy, the contract as made authorizes him to abrogate so much of it as provides for a basin and railway, 'if the basin and railway, in connection with the dock at Philadelphia, shall not realize the ends expected from it at its completion; and in such case, the dock 'only is to be completed, and paid for at a proportionate price.'

"The committee, on the facts thus reported, ask to be discharged from the further consideration of the resolution."

I have a report before me, which I will not trouble the Senate with reading, from the Naval Committee of the House, coming to precisely the same conclusion. And in the report of the Secretary of the Navy, made in answer to a call of the Senate, at the instance of the Senator from Pennsylvania, it is shown conclusively, that the Secretary himself considered the contract as made. In that report, after speaking of some parties who had made offers to him under the law of the last session, about the dry-dock alone, he says:

"The same parties had submitted what they styled a bid for the former contract, after being informed that it was concluded."

Here is the case: Congress directs or rather authorizes a Government officer to enter into a contract for the construction of such dock, basin, and railway; restricts him to no person, and not in regard to terms. They leave it to him altogether. He enters into the contract. He agrees upon the terms of it, he having proposed, and the contractors having accepted, the terms upon which the work was to be done. Then comes the resolution of the House of Representatives which requests him to proceed no further. His letter distinctly informs them that, but for that resolution, the contract would have been immediately written and signed; but that, interpreting their request to be a command, he suspended further proceedings. Although that discharged the Secretary, I very respectfully submit that it did not discharge the Government. It does not discharge us. We had no more right to break the contract before it was signed than after it was signed. Why is a contract reduced to writing and signed? It is to answer but two purposes: one, to prevent mistakes as to the terms of the contract; and the other, to enforce a legal means of coercing a reluctant man to perform his contract. But contracts made by the Government bind only the honor and faith of the Government; and every gentleman knows, as he would consider his own honor bound by such an engagement, so is the honor of the Government bound. So it was considered by the committees of both Houses at the last session of Congress. So it was considered by the Senate; for, when the appropriation bill the last session came before the Senate, containing the clause which directed the abrogation of that contract, and the making of a new contract, an amendment was agreed to, striking out the provision; but by a mistake, in the hurry of business, on the last night of the session, the amendment was not engrossed, and the bill passed without it. But the sense of the committee and the sense of the Senate was the same; and I submit, that no man can read the papers in the case without coming to the same conclusion.

Then the Government have made this contract. The honorable Senator from Pennsylvania speaks with a good deal of energy about Congress, at the

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last session, having solemnly abrogated the contract. I have yet to learn that the abrogation of a contract is a bit more correct or appropriate if it is solemnly done than if it is done in a hurry. But the honorable Senator is mistaken. There was no solemnity about it.

Mr. BRÖDHEAD. I desired to say, and I believe I did say, they solemnly abrogated an alleged contract. I do not agree that there was any contract which was very binding, or that any damage could be recovered for a violation of it, supposing the Government of the United States could be sued.

Mr. PRATT. Do I understand the Senator from North Carolina to contend that the contract which he supposes to have been entered into imposed any legal obligation upon the individuals who made it, and who entered into it? Are they now bound to the Government? Are those individuals bound by what the Senator terms the contract to do the work? If they are bound, must they not do it?

Mr. BADGER. My answer to that is, that when the contract was entered into, the terms of it remaining only to be reduced to writing and signed, they were ready, desirous, prompt, and eager to sign the contract, and the Government refused. That is the state of the case.

Mr. PRATT. But I understand that there is no obligation upon them.

Mr. BADGER. If the honorable Senator refuses to perform an obligation which he makes with me, I suppose that, if I choose, it releases me from the performance of the obligation on my part with him. But these parties claim the performance of the contract. They have not accepted any release. I must confess that I do not see the pertinency of the inquiry. If the honorable Senator means, that if the Government, after making a contract, refuse to carry it out, the contractors are thereby discharged, and the Government are under no moral obligation to discharge it, he means that the Government can always honorably discharge itself from the execution of a contract by not performing it.

Mr. PRATT. If the Senator does not see the pertinency of my inquiry, perhaps other Senators may. In my judgment, nothing can be termed a contract which is not binding on both parties. Now, the Senator says that this is a contract equally as binding on this Government as if it had been reduced to writing, and signed and sealed. I ask him whether this contract, which he alleges is equally as binding on the Government as if these formalities had been complied with, is also equally binding on the other parties?

Mr. BADGER. It is binding on the other parties just as it is binding on the Government. How is it binding on the Government? Will my friend inform me? Suppose it were reduced to writing and signed, how would the Government be bound?

Mr. PRATT. That is the Senator's allegation. He alleges that it is binding on the Government. I deny it. He alleges that it is equally as binding on the Government as if it had been a contract reduced to writing, and signed and sealed. Now, I say that it is essential to every contract, that both parties should be bound by it. And I ask the Senator to say directly, without going round the bush, whether or not, in his judgment as a lawyer, this contract which he alleges to be binding on the Government of the United States, is binding upon these parties?

Mr. BADGER. Why, sir, if my friend had only attended to what I have said, he would have discovered that I was not talking of what was binding, as a lawyer. I know enough of public law to know that the Government is not legally bound by any contract. The enforcement of a contract against the Government by legal means, is an impossibility. It is no beating about the bush at all. The gentleman asks a question, without understanding the proposition which is before the Senate. I affirmed that the Government was bound in faith and in honor—that is what I have said, over and over again—as much as if the contract had been signed; and I say that the other

parties are bound in faith and honor, as much as if it had been signed. Certainly; and if you can escape from the obligation on the part of the Government because there is not a legal coercion and control over the Government, the Government never would be bound; for if the contract had been signed on both sides, the Government would have been bound only in honor, while the opposite party would have been bound in law.

But the honorable Senator from Pennsylvania says that Congress, at the last session, did not solemnly abrogate a contract, but they solemnly abrogated an alleged contract. That presents a curious idea. An alleged contract either exists or it does not exist. If it exists, it may be abrogated; if it does not exist, I should like to know what abrogation can apply to it. If there was no contract, it could not be abrogated. The thing that was abrogated, therefore, was the contract; but the person who drew the provision in the House of Representatives thought he was particularly smart in not stopping the Government, and giving the contractors a legal advantage over it, and therefore put in an "alleged" contract. But the Senator says it was solemnly abrogated. Sir, there was as little solemnity connected with that abrogation act as ever attended another; and I am extremely happy to think it was so. The truth is, that the two Houses, instead of taking up the report of the Naval Committee on the subject of the contract, and making it a matter of debate, and settling the principle of it, did nothing about it; and all these provisions were sprung in an appropriation bill, and passed here in the hurry and confusion of the last night of the session. The truth is, that the provisions in regard to it are so contradictory and absurd that it is impossible to make one agree with another. The Senate never intended to abrogate any contract. We passed an amendment to prevent that effect; but in the confusion of the last night of the session it was not engrossed, and hence the bill passed without it.

But, further: I was about to say, when I was interrupted by the Senator from Pennsylvania, this Government can enter into no contract except with the particular parties with whom this contract was made. If, therefore, this basin and railway is to be constructed, it must be constructed by a contract with them. They have patent-rights for half a dozen years unexpired. The Government cannot, according to what is justly characterized "an honest report of Secretary Mason," invade the patent-right. It is not one of those cases in which you can say we will repudiate this agreement, and put this matter out to the lowest bidder, because no person has a right to contract but the owners of the patent-right. Then, why should we not enter into it? It is stated in the report made from the Naval Committee by the Senator from Virginia, during the last session of Congress, that we were unable to discover that the contract could be altered or arranged so as to be more fair and reasonable, and advantageous to the Government, than as it had been stipulated; and I will venture to say, that if Senators think a business transaction of this kind worth looking into, and will examine the report which we have from the Secretary of the Navy, and see the processes of examination by bureaus and chief engineers, time and again repeated for the purpose of ascertaining what was the lowest sum that could be reasonably allowed; and, after all their views, the striking down by the Secretary of some \$80,000 or \$100,000 from the estimate they had made, they will be satisfied that no process can be adopted by which this work, if it is to be executed at all, can be obtained upon better terms. I have said that the dock is already contracted for. The only question, therefore, is as to the basin and railway; and upon the grounds which I have stated, it seems to me clear that we cannot do better than to pursue the engagement entered into at the last session of Congress, and authorize its honest completion by passing the bill which is upon your table.

I will now call the attention of the Senate to the

report made by the Secretary of the Navy, in order that they may see the kind of competition that has been interposed, and the sort of applications that have been made by persons who were exceedingly desirous to obtain this contract. In a letter written by the Secretary of the Navy to Messrs. R. B. Mason and William Ballard, two of the applicants, he relates this circumstance:

"You are mistaken in the assertion that you were solicited to bid for this contract by me."

That is this contract for the dry-dock under the act of the last session.

"On the contrary, you were informed that if Dakin & Co. would accept the terms I should propose, after full information and consideration. I thought there was no alternative but to allow them the contract; and you may remember, that in reply to this, you inquired whether I could not provide in the contract for the payment of certain amounts which you alleged were due from Mr. Dakin to you; and that I answered I had no power over that subject, but the courts of justice would no doubt afford all proper relief."

"The proposition presented by you, through Mr. Boker, is far less detailed and definite than I should have felt bound to require before closing a contract, had I been at liberty to consider it at all."

"Another gentleman, claiming an exclusive right to the patent for the sectional dock on the Pacific coast, made a proposal at a much less price than you. He, however, admitted that the amount agreed to be paid by the Department to Dakin & Co. was not unreasonable for the work actually required to be done; but he expected to supply a cheaper construction which would answer the purpose. I apprehend you will find, on a careful examination, that you have been under a like mistaken impression in your estimates."

Now, I will ask the attention of the Senate to the kind of proposals made by Messrs. Ballard & Mason. A great deal has been said about these men proposing to do the work for less money.

"Mason, Ballard & Co. propose to take the contract for building the sectional dry-dock, basin, and railway on the coast of California, on the terms offered by the Secretary of the Navy to Messrs. Dakin and Moody;"

That is, to take it for the same price—

"Messrs. Mason, Ballard & Co. being considered the servants of the Government, and under the protection of the principle of the right of the Government to use a patented invention for necessary public purposes upon just compensation."

These men propose that they will do the work for the same amount which the Department was to give the patentees, provided the Department will indemnify them against the consequence of invading a patent-right; in other words, that for the same sum that the patentees agreed to do the work, they will do it, provided that the Government will pay such further sum as may be necessary to indemnify them against the consequences of invading the patent-right. Mr. Thomas, a gentleman who claimed an interest as the original patentee, the Secretary states, made a proposal to do this work for some two or three hundred thousand dollars less. I do not recollect the precise sum. But when he was informed at the Department of the materials out of which the Department required these things to be constructed, he said, at once, he contemplated materials of an inferior character, and that if these were required the terms of the patentees must be considered as reasonable and proper. I believe, therefore, the more this matter is looked into the more it will be found, in the first place, that this measure is necessary and proper, both in relation to the public marine and the commercial marine of the country; and that, in the next place, a contract has been actually entered into, binding upon the faith and honor of the Government, and improperly suspended by the appropriation bill of the last session of Congress, and the resolution which passed the House earlier in the session, and which this measure is intended to reestablish and carry into effect; and, in the last place, that if the contract were perfectly open, upon an inspection of these papers it is apparent that it is fair and reasonable; and, as was reported by my friend from Virginia with the unanimous concurrence of the committee, at the last session of Congress, could not be entered into on more just and reasonable terms.

There was a great deal in the remarks made by the honorable Senator from Pennsylvania, the application of which to the subject under the consideration of the Senate, I could not perceive. It

may be for a want of clearness of perception. He said that the two sets of patentees once had a controversy before Congress, and that each man maintained the superiority of his own patent, and depreciated that of the other. He tells us that at one time they proposed to build these piers for \$40,000; which I suppose they could do now if they were to be built of wood. He tells us that these people finally, finding it a bad business to engage in quarrelling with one another, agreed to unite, and each became interested in the patent of the other. He tells us that he does not blame the patentees for endeavoring to get all the money they can out of the Government, but that it is our fault if we allow them to get it improperly. He inveighs against the system of what he calls Congressional docks; and he decidedly prefers to leave the Department to erect the old stone fabrics to which I have referred. Well now, there may be, for some purpose or other, a great deal of force and propriety in these remarks, but I do not see what application they have to the subject under consideration.

Mr. BRODHEAD. I did not undertake to decide what sort of a dock should be adopted, but what I intended to say was that Congress should not undertake to decide it, but that the question should be referred to the Naval Department, that some person should be responsible, and that the Secretary of the Navy, with the aid of the bureau of docks and yards, was the proper tribunal to decide it.

Mr. BADGER. I was very well aware that the Senator did not express his opinion about the docks, but he told us over and over again, that the authority of the Department was against this kind of dock. Well, then, he says he is for leaving it to the Department. Of course it follows that the Department will act on the old plan of stone docks. That is what I mean to say. I do not mean to say that the Senator had expressed his opinion, but that he was for leaving it to the Department altogether when he informed us that they would certainly go in favor of the old stone docks. Now, as I said, these remarks did not strike me as being germane to the question under consideration of the Senate. It may be true that Messrs. Dakin & Moody, and the other partners, had an angry controversy with each other, and that each was endeavoring to do as much mischief to his opponents, and as much good to himself, as he could. Suppose it was so, and suppose we want a public structure erected; suppose these men can do it for us on better terms than anybody else, and suppose they are the only persons who have a right to contract for it, shall we, because they have had an angry controversy between themselves, formally refuse to make the contract? For what purpose? To punish them, by declining to avail ourselves of the opportunity afforded us of doing good to the Government and the people? Surely not. It is a matter of very small importance to this question what disputes they had with each other, and whether they were willing to build wooden piers for \$40,000, or, if the Senator pleases, to build stone walls for \$40,000. Whatever mistakes they may have made with regard to the value of the work they were going to construct, it is demonstrated—if we can place any reliance upon the bureaus of the Naval Department, to which the Senator refers, and to which he seems disposed to transfer the decision of this matter; they have examined it; naval constructors have examined the subject—that the prices at which these structures were proposed to be taken—the price for which the Secretary had engaged, according to his letter to the House of Representatives at the last session—is lower than the lowest fair price, without a margin for profits, that was made and estimated by these officers. There can, therefore, be no question about it.

But, again, I did not hear the first remarks which the honorable Senator made upon this subject; but I confess I was pained to read in them about this "fourth estate" of contractors. Now, I am in the habit of thinking that an imputation of that kind—a sneer upon a whole body or class of men—is very apt to be both unjust and unwise. Suppose we were to discharge all our contractors, and do all our business ourselves, does the honorable Senator think we should gain anything either in credit or in money by the carrying of the mails ourselves? Surely not. After all, while there have been many men in that class, avaricious,

griping, and dishonest, I do not know that it stands out a singular and unexampled spectacle to the world upon that point. Why, Solomon told us long ago, that sin sticketh close between buying and selling; and a very distinguished writer in England thought there was something about the pursuit of the profession to which I belong that was calculated, while it made the head clear and astute, to harden and obscure the moral perceptions of the heart. Is there any human employment which has not its peculiar temptations to evil? Yet, among all the different classes of mankind you find good and bad men. And, permit me to say, after all, that this Government has derived as much benefit, upon the whole, from contractors in its various departments as from any other persons. Often, I admit, very injurious contracts are made; but the worst system of contracts which the Government has ever pursued; so far as I have observed—that is to say, that in which evil most frequently happens—is that of putting out Congressional printing to the lowest bidder. I say that for the benefit of my friend from Connecticut, [Mr. SMITH.]

Mr. SMITH. Thank you.

Mr. BADGER. Nor do I agree with the honorable Senator that these men are not to be blamed for endeavoring to get all the money they can. They have no right to get money improperly. They have no moral right to ask more than is fair, and reasonable, and just, and proper. If they have done so, my system of ethics condemns them. They have no more right to demand what is improper, than we have to grant it. But in this case there is no evidence that any such demand has been made. It is proved, as far as such a subject can be possibly capable of proof, that the agreement was once entered into, binding on the honor of the Government, and would have been put in the form of a written contract the next day but for the interposition of the House of Representatives. It is proved that if it had not been made, it ought to be made, and that the interests of the country require such an establishment, and that, upon no other proceeding, can that establishment be obtained upon the same terms with the same advantages, and in the same perfect condition, and at as small an outlay of money.

Mr. President, I do hope that the Senate, in considering this matter, will lay aside a great many suggestions and remarks which have been made by the Senator from Pennsylvania, evidently sincerely felt, but springing out of an excited state of mind, and growing out of the fact that the honorable chairman of the Committee on Naval Affairs was, perhaps, not quite as courteous as he ought to have been, and as I certainly should have been, had the chairman of the committee been absent—I will say that of myself—and the duty had devolved upon me. But, laying that aside, I hope that we shall proceed to consider this as a business transaction, and that we shall not be guilty of the folly, in the first place, of sacrificing the honor of the Government, by repudiating a contract made by it, through its agents, when we are not only to make no money by it; when we have not only not the poor, pitiful apology of pecuniary interest; but when, unless we are to give up the Pacific coast entirely, and refuse any of these facilities, we must lose a great deal of money by it.

The whole matter stands on this: Shall we have a stone pier, that will cost \$600,000, at the lowest calculation, or shall we have a basin and railway, including all the advantages of the pier, and many more for \$840,000? That is the question. One or other we must have! It is no longer a question about the dry-dock. The contract is made for that. It is now in process of being erected; and when it is put there, it ought to be put in a manner to answer the purposes of the Government most beneficially. According to the argument of the other side, we are to give up these advantages for the purpose of saving the difference between \$600,000 for the pier, and \$840,000 for the basin and railway. I was extremely sorry, at the last session, to see, in the hurry and haste of the last hours of the session, an amendment to the appropriation bill passed, which was not understood, I am persuaded, and which could not have been understood in the House of Representatives, in effect repudiating a contract of this Government, and sullying the fair fame of the country. It is not too late to reinstate ourselves where we stood; and

whilst we execute the contract for the benefit of the country, we save ourselves from just reproach. That was an act passed in a few hours, at the close of the session, in haste and confusion, with no time for debate or investigation. We can be excused provided we now repair the damage, when we see the mistake into which we were betrayed in the hurry and confusion which surrounded us.

Mr. CASS. "Noise and confusion."

Mr. BADGER. Well, sir, be it so. "Noise and confusion."

Mr. UNDERWOOD. Before the question is taken, I would like very much to get a little information from the Senator from North Carolina. He speaks of a contract having been prepared to be executed by a party, but says that it was not executed. I wish the Senator to inform me the state of the law under which the contract was made; whether there was any law authorizing the Government to make the contract, and what the law was?

Mr. BADGER. There was a provision in the appropriation bill of 1850—

"For commencing the construction of a floating dry-dock on the coast of California, \$100,000; and the Secretary of the Navy is authorized to enter into a contract for the construction, with all reasonable dispatch, of a sectional or balance floating dry-dock, basin and railway, at such harbor on the coast of the Pacific ocean as he may select, of a capacity and dimensions in no respect inferior to those of the dry-dock in progress of construction at Pensacola."

That is the law under which the terms of the contract have been agreed upon, and the price settled. It would have been signed, I suppose, the next day, or as soon as it could have been done, and thus completed, but for a resolution of the House of Representatives, requesting the suspension of the work.

The amendment submitted by Mr. BADGER to the amendment of the committee, was agreed to.

On the motion of Mr. GWIN, a verbal amendment was made in the first section; and then the amendment of the committee, as amended, was agreed to.

Mr. BRODHEAD. I wish to offer several amendments to the bill; and I do so by modifying the bill as I propose to amend it, and offering it as a substitute for the bill as it is now before the Senate.

Mr. CLARKE. I would suggest to the Senator that he had better submit his substitute and move that it be printed, as the propriety of passing the bill is to be tested upon the substitute.

Mr. BRODHEAD. Perhaps I had better state my amendments, and then have the substitute read. If it is the desire of the Senate, I will state in what particulars I have changed the bill; but if the Senate wish to have it printed by to-morrow morning, and have the vote then taken, I have no objection.

Mr. GWIN. To-morrow is private bill day, and I should like to have a vote to-day.

Mr. BRODHEAD. I am quite willing to have the vote taken to-day, and therefore I will state my amendments.

In 1850 the joint commission made a report, fixing the site for a navy-yard, and dry-dock, in forty feet water, at Mare Island.

The present Secretary of the Navy, I understand, has sent out another commission. Now, I propose to make it optional with the Secretary of the Navy, when both of these reports shall be before him. Then I have provided that the jury to assess damages, if the land thus taken should be private property, shall be sworn. To that, I presume, there can be no objection, as it is not very material. Then I propose, that the Secretary of the Navy shall be authorized and directed to provide for the establishment of a pier. The main question is between the pier, and basin and railway.

Mr. GWIN. The Senator has on two occasions alluded to the joint commission, whose acts, he says, are conclusive in the case. He supposes they are. Let me tell you what that joint commission did. They selected a site at Mare Island, it is true; but they did not select it because there was forty feet of water there, for they did not know it. Subsequent to that selection, officers on the coast survey have been there, and it has been ascertained that although it is one of the best points on the coast, it has not water enough. The Secretary of the Navy, in order that there should be no mistake, as there has been in Philadelphia, in regard to the question, has sent a board there to examine the site, in connection with the depth of water ascertained by the coast survey, subsequent



to the selection. Nobody objects to the selection. The subsequent board has been sent with a view to ascertain whether or not there is enough water for the working of the dock. The dock has already been ordered. It is not under consideration at all. The board are going to make an examination, in order that there may be no such mistake as was made at Philadelphia, to locate it, not according to the recommendation of the former board, but to ascertain whether there are any better locations—that is, equally good—with a sufficient amount of water.

Mr. BRODHEAD. I ask for the reading of my substitute.

Mr. ATCHISON. I move that the reading of the substitute be dispensed with, and that it be ordered to be printed.

The motion was agreed to, and

The Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, March 25, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I ask the gentleman from Alabama to withdraw that motion for a moment, in order to enable me to submit another motion. Quite a number of Senate bills have accumulated upon the Speaker's table, and if there be no objection, I move to take up those bills upon which no debate shall arise, for the purpose of having them appropriately referred.

Mr. HOUSTON. I tried myself the other day to have those bills taken up and referred; but it was objected to by a gentleman upon the other side of the House. I understand there are some among them which it is proposed to debate.

Mr. JONES. But I propose to take up for reference only those bills to which there shall be no objection.

Mr. STANLY. Suppose there should be no objection to any of these Senate bills, I ask how long a time would they be likely to consume?

The SPEAKER. Does the gentleman propose to limit the time?

Mr. JONES. I propose to take up only those bills to which there shall be no objection.

Mr. STANLY. But how long will it take to get through with them?

Mr. JONES. Not more than thirty minutes.

Mr. STANLY. I have no objection to the proposition if you will limit the time to half an hour. What I want is, that the deficiency bill shall not be indefinitely postponed.

Mr. JONES. Then I will limit the time to that.

Mr. CLINGMAN. Will bills upon their engrossment, and bills upon which the previous question has been ordered, be disposed of in this way?

The SPEAKER. The Chair understands that to be the proposition.

Mr. HOUSTON. Why it will take half an hour to call the yeas and nays once, should they be asked for on either of those bills.

Mr. CLINGMAN. Then I object.

Mr. HOUSTON. I now insist upon my motion to go into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

## DEFICIENCY BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN. The business before the committee is House bill No. 207, to supply deficiencies in appropriations for the fiscal year ending June 30, 1852; the following clause of the bill being under consideration:

"For payment to the American party of St. Regis Indians, (less the sum of one thousand dollars, appropriated by the act of twenty-seventh of June, eighteen hundred and forty six, in pursuance of the stipulation contained in the supplemental article,) as a remuneration for moneys laid out by said tribe, and for services rendered by their chiefs and agents, in securing the title to the Green Bay lands, and in removal to the same, agreeably to the provisions of the ninth article of the treaty with the Six Nations of New York, of 15th January, 1838, \$4,000."

To this, the gentleman from Arkansas [Mr. JOHNSON] proposed the following amendment:

For payment to the Seneca Indians, of New York, for moneys wrongfully withheld from them by an agent appointed by the Government for the management of their affairs, as per report of Thomas B. Stoddard, commissioner, selected by the Secretary of War to make the requisite investigation, pursuant to the direction contained in the fourth section of the act of 27th June, 1846, making appropriations for the Indian department, \$25,505 50.

The gentleman from South Carolina, [Mr. WOODWARD,] offered the following amendment to the amendment:

Provided, That the Secretary of the Interior is hereby required, upon payment of the money herein specified, to take such further steps, if any may be necessary, as shall enable the United States to recover the amount due from said agent.

The question pending, was upon the amendment to the amendment.

The question was put, and the amendment to the amendment was agreed to.

The question then recurred upon Mr. JOHNSON'S amendment.

Mr. HAVEN. I think the gentleman from Arkansas [Mr. JOHNSON] accidentally fell into an error in reference to the amount his amendment proposes. He proposes to insert \$25,505 50. Now, the estimate for the deficiency which has been sent in, is \$28,505 50. I move to amend the amendment, therefore, by increasing it to that sum.

Mr. JOHNSON. In copying that amendment I made the mistake. The estimate is for \$28,505 50. I have put it in the amendment as \$25,505 50. The gentleman is correct in his statement, and I would have called the attention of the committee to the mistake if he had not done so.

Mr. HAVEN. I move the amendment for the purpose of setting the matter right, and, at the same time, to enable me to make a suggestion or two in relation to the propriety of including this appropriation in the bill under consideration.

Mr. Chairman, this, as I understand it, is a just, equitable, fair, and legal claim upon the part of the Seneca Indians residing in the western part of the State of New York, against this Government. It is objected to, however, on the part of the gentleman from Missouri [Mr. PHELPS], upon the ground that these moneys which went into the hands of the Indian agent, as he calls Mr. Stryker, were not moneys emanating from this Government, and were moneys which the Indians were entitled to from other sources. Now, it is true, as the gentleman states, that these moneys did not emanate from this Government; but it is also true, as appears from the report of a committee in the Senate, a copy of which is printed with these estimates, that in 1794, the Superintendent of Indian Affairs, who was appointed by the General Government, did, under the instructions of the General Government, take charge of moneys due the Indians, as this was, and arising, by the way of interest, upon certain stocks of the United States held by a certain corporation in the State of New York, and also of annuities due the Indians from the State of New York. Well, sir, in 1845-'6, while the Senate had been lately engaged in acting upon a treaty which was made with these Senecas in reference to the sale of some of their reservations in western New York, the Senate discovered that there had been large frauds committed upon the Indians by this agent; and acting upon that information, which they received through the Quakers, who had taken a deep interest in the affairs of the Senecas, the chairman of the Committee on Indian Affairs in the Senate [Mr. Sevier, of Arkansas] proposed to make the Seneca nation good for the injuries and losses they had sustained in consequence of those frauds, and of the misappropriation by Mr. Stryker of the funds, or rather of subverting them to his own use. That committee presented a bill, which, amongst other things, was intended to accomplish that purpose, the fourth section of which bill makes an appropriation of the sum which, by this amendment, is now proposed to be appropriated. The bill passed the Senate, and came to this House, but the House would not accept the proposition. It doubted whether any fraud had been committed, or any money had been withheld by the agent. They having struck out the section, the bill went again to the Senate, and a committee of conference was appointed. They came to an understanding, which was reported back to both Houses and adopted. Now, I ask this committee for a moment to look at the condition in which this matter then stood. The Senate were satisfied that the money ought to be paid,

and these Indians be protected by this Government. The question made between the Senate and this House was not whether the Government was responsible for the action of the agent; that was conceded by both Houses; but whether the agent had actually received these moneys and withheld them from the Indians. That was the question, as you will see by this report. The fourth section of the act of 1846 provides that—

"The Secretary of War be, and he is hereby required to ascertain what annuities or moneys have been wrongfully withheld from the said Senecas, by the late sub-agent of the United States, and so lost to them; and to that end the said Secretary is authorized, if, in his judgment, it shall be necessary or expedient to do so, to issue a commission or commissions to some discreet person or persons, to be selected by him to take testimony in the premises, and to report the same to Congress; and to defray any expenses that may be incurred in the execution of the provisions of this section, a sum not exceeding \$500 is hereby appropriated."

Under this provision, the Secretary of War appointed an agent, who, after having investigated the matter, reported to the Secretary of War, in substance, that there was, unquestionably, at least \$28,505 50 which the agent had received, belonging to these Indians, and which was wrongfully withheld from them. Now, why did this House then ask for this investigation and report? The Senate were satisfied that the agent had received the moneys and wrongfully withheld them, and had provided for their payment to the Indians; the House said, we admit that if the agent has the moneys and wrongfully withholds them, we ought to pay—but we are not satisfied that the agent has wrongfully withheld the money, and, therefore, we ask the investigation provided for in the fourth section. This course was taken, so that, in case it should turn out that the charges against this sub-agent were true, this House might make the appropriation, and thus preserve the honor of this Government by dealing fairly and honestly with these Indians. Now, the commissioner reported to the Secretary of War, as I have stated, and it was so reported to the Senate, by the Secretary of War. It was referred by the Senate to their Committee on Indian Affairs, which committee made a report, adopting the main conclusions of the commissioner, and to which report they annexed the estimates and conclusions of the commissioner, which they considered just and proper, and the amount they so found due the Indians and wrongfully withheld from them, was this sum of \$28,505 50. Their report was based upon that of the commissioner. I have this report with that of the commissioner and the Secretary of War by me now. Then, in addition to all this evidence, you have the Secretary of the Interior coming here, and saying I ask you to keep the honor and good faith of this Government with these Indians. I ask you to appropriate this money, which is due them, but of which they are still deprived by frauds committed upon them in the years 1837, 1838, and 1839, by the agent of this Government. But the next thing you hear about it is, that the Committee of Ways and Means, probably not having examined it carefully, come here and strike it out of the deficiency bill. It is not in the line of their duty to know in reference to this matter. This comes particularly within the sphere of another of the committees constituted by this House—that on Indian Affairs; and the appropriate duty of the Ways and Means is, then, to provide the means of discharging the obligation and saving the honor of the Government. The Committee on Indian Affairs have examined it, and they come here and tell you, by their chairman, the appropriation should be made, that the claim is equitable and just.

[Here the hammer fell.]

Mr. HARRIS, of Tennessee. I rise more for the purpose of obtaining information in regard to the proposed amendment, than for any other purpose. I would like to know of the gentleman from New York, [Mr. HAVEN,] or any other gentleman who is conversant with the facts in the case, whether this agent was an officer appointed by the Government of the United States, and received the money as such, or whether he did not receive it as an agent appointed by the Indians themselves for that purpose?

Mr. HAVEN. I can state the facts as I understand them upon that subject, and as they appear in the report which was made by the commissioner to the Secretary of War. A treaty was made by this Government with these Indians in 1794. By the sixth article of that treaty of 1794, an annuity of

\$4,500 was to be paid to these Indians by the General Government. That article provides that it shall be paid by and under the direction of the superintendent to be appointed by the President for that purpose. Such superintendent was appointed, and from that time down to the present, the various superintendents have not only received these annuities, but, under instruction and direction of the Government, have acted as superintendents of most of the affairs of the Indians. The Indians have acted under their direction, and by their advice in very many of their national affairs. These superintendents have been rather guardians to the Indians than their agents. These superintendents from 1794 to 1830 received all these moneys as superintendents, and paid them over to the Indians; but in 1830, when Judge Stryker was appointed, he, by virtue of that appointment, as it appears from the report of the commissioner, went to Mr. Ingersoll, the agent or superintendent mentioned by the gentleman from Missouri [Mr. PHELPS] yesterday, and, as superintendent or agent, demanded \$7,500, part of this \$28,505 50. It was paid to him by the old agent or superintendent, Ingersoll, as a superintendent or agent, and received by Judge Stryker as such.

Mr. HARRIS. The gentleman does not exactly comprehend my question. I understand this agent did not receive the money from the United States, but from the State of New York. My question was this: was this fraud committed by Mr. Stryker as an incumbent of any office which he held under Government to receive and dispose of this money?

Mr. HAVEN. I think it was.

Mr. PHELPS. Was he not responsible by his bond for this money?

Mr. JOHNSON. If the gentleman will allow me, I will answer the question asked by the gentleman from Tennessee, [Mr. HARRIS.] It was the duty of the superintendent, and was made so under the express instructions of the War Department, to receive this money. I have read his instructions over the signature of the acting Secretary of War at the time.

Mr. HARRIS. It is very clear to my mind, that this whole matter must turn upon one point. If it was committed to an officer of the Government to receive and dispose of these moneys, and he has been guilty of a dereliction of duty, and the Indians have been thereby defrauded out of that money, it is very clear to me that the Government should refund it. But, upon the other hand, if it should appear that this fraud was not committed by Mr. Stryker as an officer of the Government, but that he was merely an agent appointed by the Indians to receive the money and disburse it, then it is equally clear that the Government should not be liable for his default. If it should appear, as was stated by the gentleman from Missouri, [Mr. PHELPS], and as was stated in the report from the Commissioner of Indian Affairs on yesterday, that he was appointed by the Indians, and not by the Government of the United States, to receive this fund, then I hold that the Government is not responsible for any act of malfeasance that may be committed by him.

Mr. JOHNSON, of Arkansas. Does not he know that the report which the gentleman from Missouri read, was a report long since made, and before any investigation was had; and Mr. Medill does not report upon the fact, that the Secretary of War had authorized and required an agent to take charge of the funds due from the State of New York to these Indians?

Mr. HARRIS. I will suggest to the gentleman, that unless there is a provision by treaty authorizing the appointment of such an agent, the Secretary of War would have no power to appoint one. A reference to the treaty will settle the question. And in further answer to the gentleman from Arkansas, [Mr. JOHNSON,] I will remark, that this report came from the Commissioner of Indian Affairs many years ago, when this fact was fresher in the recollection of the officers of the Government, and of the parties whose duty it was to know something about it; and I should think that this report ought to command more of our confidence than a report made at a subsequent period, when the facts to some extent must have faded from the recollection of all the parties, perhaps.

[Here the hammer fell.]

The question was then taken upon the amend-

ment to the amendment, to strike out \$25,000, and insert \$28,000, and it was agreed to.

The question then recurred upon the amendment of Mr. JOHNSON, of Arkansas.

Mr. SWEETSER. Upon that I call for tellers. Tellers were ordered, and Messrs. SWEETSER and JOHNSON, of Arkansas, appointed; and the question being taken, the tellers reported—ayes 74, noes 37; no quorum voting.

Mr. COBB. Let there be a recount.

The CHAIRMAN. If there be no objection a recount will be had.

No objection being made, a recount was ordered and had, and the tellers reported—ayes 84, noes 39.

So the amendment was agreed to.

Mr. COBB. In looking over the amendment of the gentleman from Arkansas, [Mr. JOHNSON,] I discover that it does not certainly insure the payment of the money to the Indians. I desire to propose an amendment, to which probably, the gentleman will not object; it is to insert after the word "Indian," the words "*per capita*," so that the Indians may be certain to get their money.

Mr. JOHNSON. I am perfectly willing that such amendment shall be made. I think it ought to be made. I hope that by the unanimous consent of the House, it will be made.

The CHAIRMAN. This amendment can be admitted only by general consent—the clause having been adopted.

Mr. PHELPS. I have a word to say in relation to that matter.

Mr. JOHNSON. I object to the proposition of the gentleman from Alabama. It will give rise to debate, to which I am opposed.

Mr. PHELPS. I am opposed to the amendment offered by the gentleman from Alabama, [Mr. COBB.]

Mr. COBB. Suppose I make a five minutes speech. I would if I thought it would do any good. I think every member will see at once the necessity of the amendment I propose—that is, to insert after the word "Indian," the words "*per capita*," so that the Indians will be certain to get what is appropriated.

Mr. HIBBARD. I rise to a question of order. I understand the gentleman to offer his amendment to a clause which we have already adopted, and which is not now before the committee.

The CHAIRMAN. The gentleman from New Hampshire [Mr. HIBBARD] rises to a point of order.

Mr. PHELPS. I hope my friend from New Hampshire will withdraw that question of order.

Mr. HIBBARD. Will you renew it?

The CHAIRMAN. The question is not debatable.

Mr. HIBBARD. I withdraw the question of order.

Mr. PHELPS. The position taken by my friend from Alabama [Mr. COBB] is right in the main; but it is applicable to the whole sum proposed to be appropriated to these Indians. It is wrong in this particular: You now make the Government of the United States responsible for certain moneys which belong to Polly Jemison, and which she deposited with that agent, and—

Mr. JOHNSON, of Arkansas. I rise to a point of order. I wish the Chair would state now what the question is before the committee, which the gentleman is speaking upon. Will the Chair have the amendment read?

Mr. HIBBARD. I renew my objection to the amendment, as being out of order.

Mr. JOHNSON. I was about to state that I do not want to support it, for, after looking at it, in connection with the amendment itself, I find that it does not come in such a form as to be applicable to it.

The CHAIRMAN. The gentleman from New Hampshire [Mr. HIBBARD] makes the point of order, that it is not now in order to make an amendment to the clause adopted by the committee. The Chair is inclined to think that the point of order is not well taken, and that it is in order to offer the amendment.

Mr. HIBBARD. I must appeal from that decision. I understand the Chair to decide that it is in order to amend a clause, after the committee have adopted it. It strikes me that such a decision will lead to disastrous results hereafter. I appeal from the decision.

Mr. COBB. I can add the proviso at the end

of the section—that the money shall be distributed "*per capita*."

The CHAIRMAN. The Chair has made a decision, and the gentleman from New Hampshire takes an appeal. The decision is this: an amendment was offered by the gentleman from Arkansas, [Mr. JOHNSON,] and it was adopted. That amendment having been adopted by the committee, the Chair thinks it is competent to offer an amendment to that, as much as it is to any other part of the bill that has not been passed by. This amendment, having been adopted by the committee, becomes a part of the bill, as much so as if originally placed there, and is therefore open to amendment. From this decision, the gentleman from New Hampshire [Mr. HIBBARD] appeals; and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. HIBBARD. I call for a division of the question. I look upon it as an important principle in practice.

Mr. COBB. We might get into some difficulty and change our opinions, as we frequently do here. If it is the pleasure of the House, I will withdraw my amendment, and insert the proviso at the end of the section.

No objection being made, the amendment was withdrawn.

Mr. COBB. I move to insert, at the end of the section, the proviso that the money to be paid under the provisions of this section be paid "*per capita*."

Mr. HOUSTON. I understand that my colleague has withdrawn his amendment, and that he intends to offer a proviso.

Mr. COBB. I have already done so.

Mr. HOUSTON. Let me suggest to my friend from Alabama, if he intends to apply the principle to the amendment, whether it would not be better to wait until we get through the Indian appropriations, and then introduce his proviso, and make the principle apply to all the appropriations in this bill for the Indians.

The CHAIRMAN. The amendment offered by the gentleman from Alabama will be reported.

The amendment was accordingly read, as follows:

*Provided*, That the money appropriated under the provisions of this section shall be paid *per capita*.

Mr. COBB. Do I understand the chairman of Indian Affairs to say that I am right in moving this amendment?

Mr. JOHNSON, of Arkansas. That money cannot be paid *per capita*. It is due to individuals, and is not for distribution generally.

Mr. COBB. A great quantity of this money will go to agents who are hanging around this Hall, unless a proviso of this kind be introduced. It belongs to Indians, if to any one, for whose benefit we are anxious it should be appropriated. And unless we make this provision, or one similar, they will be defrauded out of their just dues.

Mr. FITCH. I wish the gentleman from Alabama to modify his amendment. The most of this money is due to individuals by name, and not *per capita*; and, moreover, it is money due by the State of New York, and not by the United States. The money was placed in the hands of the United States officer, who acted as trustee. We do not know the treaties which have been made with these Indians, for they are not before us; but I think the money ought to be paid to the individuals to whom it is due by the treaty.

Mr. COBB. I will modify my amendment to meet the views of the chairman of the Committee on Indian Affairs.

The amendment was modified to read as follows:

*Provided*, That the money appropriated by this section shall be paid to the persons to whom it may be legally due.

Mr. HOUSTON. I would suggest to my colleague the propriety of taking his own amendment, and drawing it up to suit himself. I think it reads:

*Provided*, That this money shall be paid to the persons to whom it may be legally due.

My colleague I know wishes to accomplish that which is very desirable in reference to all Indian appropriations. He wants, and I give him credit for it, to prevent the appropriation falling into the hands of agents and cormorants who are hanging around this Hall of legislation for the purpose of defrauding the Indians out of their substance. But, sir, he will not be able to accomplish his pur-

pose by this amendment; because, should an agent come here with a power of attorney to receive the money, he becomes the party to whom it is legally due. Under that proviso the agent can receive it, just as well as he could without the proviso.

Mr. COBB. I do not want the gentleman from Alabama (my colleague) to put words in my mouth with reference to these agents. As far as some of them are concerned, they are useful beings.

Mr. HOUSTON. Your proviso does not accomplish the purpose of preventing these agents from receiving the money.

Mr. COBB. Then I will take it all back, if it is not satisfactory. I will withdraw it, as there seems to me to be a difference of opinion in relation to this matter.

Mr. SEYMOUR, of New York. I would like to see a provision inserted, to carry out the intentions of the gentleman from Alabama, and would suggest that one be prepared to meet the case.

Mr. WOODWARD. I have an additional section, which I will propose, which will indicate the mode of payment under every section of the bill, and of course cover this case.

Mr. COBB. Very well, then; I will withdraw my amendment.

The CHAIRMAN. The gentleman from Alabama can withdraw his amendment by unanimous consent.

There being no objection, the amendment was withdrawn.

Mr. JOHNSON, of Arkansas. I move to amend the bill by striking out the following items:

"For the reappropriation of the following sums, carried to the surplus fund, per warrants numbered twelve and thirteen, and dated, respectively, the 30th of June, 1846, and the 3d of June, 1848, under the following head, viz:

"For carrying into effect Choctaw treaty"—act 11th of June, 1842, \$95 83.

I moved this amendment, sir, although I believe that the item ought not to be struck out at all. I moved it for the purpose of reaching the ground upon which the remainder of the estimates, furnished by the Indian department to this House, and to be offered by me as amendments, will be objected to, under a point of order. The ground upon which I move this amendment is, that the item I proposed to strike out, is not a deficiency. I will read the item, sir. It is:

"For the reappropriation of the following sums, carried to the surplus fund, per warrants numbered twelve and thirteen, and dated, respectively, the 30th of June, 1846, and the 30th of June, 1848, under the following heads:

1. For carrying into effect Choctaw treaty, act of 30th of June, 1842..... \$95 83
2. For carrying into effect Choctaw treaty, on account of lands relinquished, act of 2d of March, 1831..... 826 26
3. For payment of Pottawatomies, on account of crop abandoned, act of 3d of March, 1839..... 742 50
4. For payment of Pottawatomies, for twelve log-houses destroyed, act of 3d of March, 1839..... 600 00

Now, sir, this is not a deficiency existing and occurring in the appropriations for the current year. It is to restore a surplus carried to the Treasury, and it is not strictly a deficiency. Yet they will contend that the section may be allowed to come in as a deficiency, and by the rule they adopt—which is no rule at all—they will expect to exclude the remainder of the same class to be offered by me as amendments to this bill. The amendments I shall offer are the estimates the Department furnished to the Committee of Ways and Means. I shall offer none other. If they are attempted to be ruled out upon a point of order that they are not deficiencies, then I refer you to their whole bill, and shall move to strike it out, item by item, on their own reasons; and I must be sustained. So the committee, in adopting such a principle to govern with this deficiency, having utterly failed to respect it themselves, will have adopted an absurdity. I have no hesitation, sir, in expressing my belief, when the Committee of Ways and Means adopted the rules which made up these deficiencies in the Indian bill, that they had no rule at all, but went by guess, taking up what they liked, and, without much investigation, rejecting what they did not like, exclusive of the consideration of the question whether these items were deficiencies or not. Let us examine the history of this deficiency bill.

A few years ago, a deficiency bill was never heard of. Was there no deficiency bill, however? Yes, certainly there was, and always has been, a deficiency bill as far as we are able to trace back

the history of the Government. It has gone under a different and distinct title. It will be found to have gone under the title of "Acts legalizing" debts incurred by the Government and Departments, and providing moneys for their discharge in the current fiscal year. You have but to look at the deficiency bill to show the absurdity of the objections which have been made by gentlemen against the estimates of the Department when offered here in the nature of a deficit. Look at the deficiency bill last year, when the gentleman from Virginia (Mr. BAYLY) was at the head of the Committee of Ways and Means. Look at the deficiency bills before that time, and what do you find? Why, you find, from what I will read here from this book, a few facts distinct and irresistible.

You will find, Mr. Chairman, in this deficiency bill, six items only, that may, in their legitimate and strict construction, be called a deficit. You find there are, at the same time, forty-two items of new and original matter for the purpose of making up this deficiency bill; and the items are not strictly to provide for deficiencies in appropriations, but to meet the current wants of the current year. The first bill referred to was approved 29th February, 1851, and under the same Committee of Ways and Means of the last Congress; the second deficiency bill was approved 15th May, 1851, and in the latter you find twenty-one items of deficit, with forty-four items of original matter. Sir, the true rule we must come at is, what is and what is not deficiency for the Government service for the current year? It must be what the Departments, and Executive, under their respective reports to this House, know to be necessary to carry on the service of the Government. That is a deficiency. Where a deficiency occurs within the current year, the general appropriation bill is not the proper bill in which to provide for it; it is a different thing, and it provides for the expenses of the ensuing years only. All estimates to discharge the obligations of this Government, whether they originate by law or treaty, or by the immutable principles of common honesty—every one of them occurring within the current fiscal year—are legitimately deficits, and nothing else. It is left to the wisdom of the Ways and Means Committee to discover anything different. They would have discovered something, which is to be enforced under your tribunal, sir, which would discharge the obligations of the Government, not by paying, but by excluding them. If such items are not proper in deficit bills for the current year, they cannot be proper in the general bill which provides for the ensuing year. But they desire to proceed with these estimates of the Government as if they were for private claims, and consign them to the fate of private claims, to wit—to die of neglect.

Mr. HOUSTON. I confess I am astonished at the course pursued by my friend from Arkansas, and I put it to him now whether it is right for him to make a motion for the purpose of consuming so much of the time of this committee, which ought to be appropriated to legitimate business, merely to argue and remind that committee what was settled in his favor yesterday? The point was submitted to the Chair; the point of order was overruled by the Chair, and the gentleman was permitted to offer his amendment; and it seems to me to be wholly unnecessary to make this motion now for the purpose of rearguing this matter.

Mr. JOHNSON. I must correct the gentleman. He says I do it for the purpose of consuming time. It is not so. It was not decided in my favor, except upon one point.

Mr. HOUSTON. The gentleman from Arkansas alludes so often to the Committee of Ways and Means that really he would seem to convey the idea that he designs to cast reproach upon them for the course they have pursued.

Mr. JOHNSON. I do not design that.

Mr. HOUSTON. As far as the Committee of Ways and Means is concerned, they have had no concerted action upon the point of order made yesterday by my friend from Missouri, [Mr. PHELPS,] and very properly made. It was not a matter considered by the Committee of Ways and Means. It was prompted by his own judgment of rules that ought to govern here. The committee took no action upon it, and had no agency at all in it.

But I am willing, Mr. Chairman, to take the gentleman at his word, and strike this from the bill, if he contends it is improper; or, I am willing

to take it out and let it take its chance in the Indian bill. The course which the Committee of Ways and Means pursued in regard to all these items was, wherever an item presented itself that they believed was one about which there would be no cavil at all, they allowed it, whenever they could conscientiously do so. All the claims which were put in were put in substantially upon that principle. The propositions which we rejected were those which were disputed as to facts and as to law, and have been before two branches of Congress, and matter of litigation in truth. I, sir, do not desire to interfere with the bill as it is before the House; but I appeal to the gentleman from Arkansas—I appeal to every member of this committee, desirous of passing this bill—and I think I may base that appeal upon a reasonable footing, and if so I hope the gentleman from Arkansas will respond to my appeal; and if he does not, I hope the committee will. My appeal is this: I desire to have action upon this deficiency bill. These amendments of the gentleman from Arkansas will be delayed but a few months at the outside, if he will withhold them and offer them as amendments to the Indian bill, which will shortly come up.

Mr. BROOKS. This is in the Indian bill—the same item.

Mr. JOHNSON, of Arkansas. If such a case as that should take place, when will the general Indian appropriation bill be passed?

Mr. HOUSTON. I respond to the gentleman, let it be in August or September. How much will he gain in point of time by insisting upon the items going into this bill? Why a few months only. I appeal to the gentleman from Arkansas to withdraw his amendment, and let it go into the Indian bill, when it can be discussed there just as fully as here, and no time will be lost.

Mr. JOHNSON, of Arkansas. If the House reject that amendment, or in other words, if the House refuse to strike out the clause, I say that it shows that the balance of the estimates ought to come in; and I hope the House will refuse to concur in the motion I made.

The question was then put on the amendment offered by Mr. JOHNSON, of Arkansas, and it was not agreed to.

Mr. JOHNSON. I move to insert, as an independent section, to follow the one just read by the Clerk, the following:

For payment of Presha Bedwell, (formerly Presha Foreman,) being the amount of an award by the Cherokee Commissioners in her favor, which was erroneously paid by a former Cherokee agent to some one who personated the proper claimant, \$464 00.

Mr. J. This claim originates under the treaty for money misapplied. It is an appropriation of the sum of \$464, which amount of money was by mistake paid to the wrong person. The Government has found it extremely difficult entirely to escape from frauds of this character, which have been practiced upon it. The amount here asked to be appropriated was due to the particular Indian named in the amendment, Presha Bedwell, which was paid over by the agent of the Government, to a person who personated this claimant. I do not know that the amendment needs further explanation, as I can see no reason in the world, that can be advanced against its adoption by the committee. It comes here recommended as an estimate from the Department.

Mr. HOUSTON. From the reading of this amendment, the committee will see clearly what it is. [Here the amendment was again read.] Now, you see, facts are involved that we, as a committee, making merely appropriations, cannot investigate. In the first place, who personated the claimant? How, where, and when was the money paid? All these facts must be looked into, and reported upon. Then the House—

Mr. JOHNSON. The Committee on Indian Affairs investigated the matter. I will send up this paper to be read, that gentlemen may know its contents. I thought that the Committee of Ways and Means had not examined the estimates that were submitted to them. There is no dispute about that.

DEPARTMENT OF THE INTERIOR, }  
OFFICE INDIAN AFFAIRS, April 22, 1851.  
SIR: Your letter of the 23d ultimo has been received. The case about which you inquire, that of Presha Bedwell, (formerly Presha Foreman,) has been carefully investigated in this bureau, as well as in the office of the Second Auditor, and no doubt remains but that Mrs. Bedwell is the party in whose favor the award of the Cherokee commis-



sioners for \$464 was made; and it has also been clearly ascertained, that the amount of said award was paid by a former Cherokee agent, P. W. Butler, Esq., deceased, to some one who personated the proper claimant. As the said agent's accounts, which included this payment, have been settled—and recourse cannot now be had upon his sureties for the reimbursement of the amount, there being no fund under the control of this Department out of which Mrs. Bedwell can be paid, the only remedy left, for her, is to obtain from Congress an appropriation of the amount due her; and this will be asked for by this office at the next session of that body. Very respectfully, your obedient servant,

L. LEA, Commissioner.

JOHN ELLIOTT, Esq., Charleston, Bradley county, East Tennessee.

Mr. HOUSTON. It may be that the Committee on Indian Affairs have looked into it. I do not pretend to say that they have not. But let them report their bill for the correction of this error on its own merits, and do not let us load down our appropriation bill—and especially a bill which is to supply deficiencies, with private claims which must be to delay or defeat it, by statements of facts for and against it. In this bill to appropriate money to carry out the treaties and laws of the country, we do not, or should not appropriate for the payment of private claims. I should regret deeply, under other circumstances, to put off the claim of any one because it was a private claim. It does seem to me that, had the gentleman from Arkansas reported a bill for the relief of this Indian, with this statement of facts, the House would not have hesitated to pass the bill.

Mr. JOHNSON. The House never passes a bill upon a statement.

Mr. FOWLER. I desire to know the date of the communication from the Commissioner of Indian Affairs, which has just been read.

The CHAIRMAN. April 22d, 1851.

Mr. MARSHALL, of Kentucky. I would like to inquire under what treaty this money was to be paid?

Mr. JOHNSON. It was due to that Indian under a treaty the date of which I at this moment do not recollect.

The question was then taken, and the amendment was rejected.

Mr. JOHNSON. I have two more amendments of the same class. All that I want to do is to discharge my duty; and, as the committee have declined to pass one of them, I will not submit the remainder.

I offer now the following, as an additional section, to come in after the two hundred and thirty-sixth line:

For the liquidated balance found due the Creek Indians for losses sustained during the last war with Great Britain, by that portion of the tribe which was friendly to and cooperated with the United States, in accordance with the promise of the Government, \$110,417 90; to be paid by the United States agent to those Indians now living, and the legal representatives of those deceased, who are entitled to receive the same in proper person.

Mr. J. said: That, Mr. Chairman, is an item which has been due long since—that has been adjudicated after having been investigated by the express orders and authority of the Government—and is now estimated for in the regular estimates of the Indian department. It is to discharge an obligation in the nature of a treaty—an obligation incurred by us during the late war with Great Britain, which I explained the other day in the one hour speech which I had the honor to make to this House. It seems to me to be as clear a case as there is under the light of the sun. At present, as I have only five minutes, I can but approach the points which I understand will be presented in opposition to this amendment. The claim originates in this way: When the friendly Creeks joined the forces of the United States, in making war upon the hostile Creeks—or, rather, in the progress of the war—General Pinckney gave them an assurance and his pledge as a major general of the United States Army—and that authority was recognized by the General Government—that they should be indemnified for the losses and injuries that they had sustained. This fact will not be disputed, I imagine, by any one. At the expiration of the war—it will be alleged by the opponents of this amendment—there was a communication from the friendly Creeks, stating that \$60,000 would be received as indemnity. There was no such thing. I call the attention of the committee to the fact that a letter was written by the agent, Hawkins, at the making of the treaty—long after the promise of Pinckney—saying that the friendly Creeks would, in his opinion, have taken, at that date, \$60,000. The Indians made no such offer or statement, and no investigation had been

made; and, in fact, the supposition even that the \$60,000 referred to these losses, is a total mistake. But allowing it to be no mistake, still it was the agent, and not the Indians, that made the guess of \$60,000; and is evidently and absolutely a rough guess. They will rely upon it, however, as a thing having the force of truth, and will insist upon it in the very face of the action of the Government of that day, requiring that same agent to investigate, ascertain, and report the amount of the losses, and in the face of the report of that same agent setting forth that over \$100,000 was claimed, of which amount he was satisfied, and had allowed over \$76,000 to be due; and his further statement, that the investigation was unfinished, and would be progressed with as early as possible.

The letter containing the guess of \$60,000, as what they would then have received, it is now asked, shall be taken and relied upon against the actual investigation made by the same man. Thus would we make this House and these States abandon their honest obligations to the glaring dishonesty of both. The same gentleman then was instructed by the department to go on and complete the investigation. He was taken sick and died. He was succeeded by a man named Mitchell. Mitchell proceeded with and concluded the investigation. When the full investigation was reported, it appeared that the Indians had claims to the amount of over \$300,000. That agent of the Government rejected all excepting \$195,000. Of that amount, \$55,000 had been already paid by the Government, thus leaving, without interest, still due, the amount now asked for, after thirty-six years' delay, to wit, \$110,417.

The simple question is this: Under the promise of General Pinckney, are we liable for "losses and injuries" to the Indians? It has been acknowledged over and over again. How have we paid it? We have paid \$85,000; no more. Was that the whole amount due them? No, no, no. Then what is the remainder? Answer, \$110,000. By whom ascertained? By our own officers. Is it acknowledged? Yes, yes. After full and thorough examination, the validity of the debt was recognized by the Government, and the estimates are now sent to the House of Representatives. The sum of \$110,000 is now asked. This is a short and explicit statement of this case. I shall now leave it, and wait to hear the objections to be urged by the gentleman from Missouri, [Mr. PHELPS,] with regard to it. Those opposed to amendments always have the last word; and, I need not say to the committee, it is impossible fully to explain an item of this character in the short space of the five minutes allotted to me. I ask the attention and memory of the House to the statement of this case as contained in my speech made the other day.

Mr. PHELPS. The gentleman from Arkansas [Mr. JOHNSON] proposes an amendment to this bill, by which \$110,000, and upwards, is proposed to be appropriated, upon an alleged claim arising in behalf of certain Creek Indians in the year 1814. If the Government of the United States was justly indebted to the Creek Indians in 1814, in the sum proposed by this amendment, they are as justly indebted in the interest upon that amount from that time to the present. It cannot be expected in a claim of such magnitude that any gentleman, in a speech of five minutes, can present his reasons for or against its adoption. I, therefore, have but a very short time, in which I cannot possibly refer to all the points made by the gentleman who advocates this amendment. He correctly remarks, that in 1814, during the Indian war, a letter was addressed by General Pinckney to Colonel Hawkins, at that time the agent of the Creek Indians. I will read an extract from that letter:

"That the United States will retain so much of the conquered territory as may appear to the Government thereof to be a just indemnity for the expenses of the war, and as restitution for the injuries sustained by its citizens and the friendly Creek Indians."

Pending the treaty made in 1814 by the entire Creek nation, the friendly Creek Indians were willing to accept \$60,000 as a full indemnity for the losses which they sustained. The gentleman from Arkansas, however, says that that \$60,000 was only as an indemnity, by virtue of the treaty adopted in 1814, for the losses sustained by the friendly Creek Indians. I deny that position, and I say that the treaty of 1814 shows that there was an express reservation of all the rights of the friendly Creek Indians within the territory ceded

by the treaty of 1814 to the Government of the United States. I have before me that treaty, and I will briefly refer to the first article of it, made with General Jackson. After stipulating what tracts of land, what country is ceded by the Indians—after defining the boundaries of their lands—there is the following proviso:

"Provided, nevertheless, That where any possession of any chief or warrior of the Creek nation who shall have been friendly to the United States during the war, and taken an active part therein, shall be within the territory ceded by these articles to the United States, every such person shall be entitled to a reservation of land within the said territory of one mile square, to include his improvements, as near the center thereof as may be, which shall inure to the said chief or warrior and his descendants, so long as he or they shall continue to occupy the same, who shall be protected by, and subject to, the laws of the United States; but upon the voluntary abandonment thereof by such possessor or his descendants, the right of occupancy or possession of said lands shall devolve to the United States, and be identified with the right of property ceded hereby."

There was still another provision, by which the property taken by the hostile Creek Indians either from the citizens of the United States, or from the friendly Creeks, Chickasaws, and Choctaw Indians, who were engaged in war upon the side of the United States, should be restored to the officers of the United States, and to be returned to all the persons from whom they had been thus captured. I say \$60,000 was an ample compensation for all the losses which the friendly Indians had sustained in 1816, their lands having been expressly reserved to them by the treaty to which I have referred.

Mr. JOHNSON. The gentleman mistakes the fact; they never made any such acknowledgment.

Mr. PHELPS. The letter of Colonel Hawkins expresses that this was the declaration of the friendly Creek Indians at the time of the negotiation of that treaty. That is the evidence I have upon this point. But, again: The gentleman relies upon a report made upon this claim by a late Commissioner of Indian Affairs, and who is laboring upon the same impression as the gentleman from Arkansas—to wit, that this amount of money, \$85,000, which Congress afterwards appropriated for the purpose of satisfying the claims of the friendly Creek Indians, was paid to those Indians. I say, that this commissioner proceeds upon the same erroneous supposition that my friend from Arkansas has adopted—to wit, that this amount of money was to satisfy the claims of these Creek Indians, who were to be benefited by virtue of the treaty of 1814. I have shown you by that treaty that their lands were reserved to them, and, consequently, this indemnity was for their personal losses—for their personal property, which was captured by the hostile Indians.

But, again: there is another point of view in which I present this claim. To whom is this money to go? Who are the Indians that are to receive this money? The nation? No. Because, if you appropriate it to the nation, you pay it to those Indians who were engaged in a war against us, as well as to those who fought upon our side.

Mr. JONES, of Tennessee. I move to strike out all except one dollar. In order to vote understandingly, we should apprehend the nature of this claim; and if it is a claim at all, it is not due to the Creek Indians, but to individual Indians of that nation. In 1812, '13, and '14, when this country was engaged in war, as the gentleman from Arkansas has correctly stated, certain officers promised that the friendly Creek Indians who fought with the troops of the United States should be indemnified for all their property captured or taken by the hostile Creek Indians. After the war was over, Captain Hawkins was charged with ascertaining the amount of these liabilities of the Government. Under these terms he reports in his letter, to which reference has been made, that the whole amount would not exceed \$100,000, and that amount, upon revision, he thought, could be reduced. There have been \$85,000 paid, as stated by the gentleman from Arkansas, [Mr. JOHNSON.] Now, if this claim is just, this money is to be paid to those particular chiefs and warriors, if they are living, who were friendly and fought for the United States, against their own countrymen. If they are dead and having heirs surviving them, then this money is due to their heirs. If they have no heirs at all living, then the money does not go to anybody. I consider, then, that if we pay this money to the Creek Indians, it goes into the coffers of the Creek nation; and those who were in the war, and took

property from the friendly Creeks, may be benefited by this appropriation. If the Committee on Indian Affairs, or the Committee of Claims, or any other committee of this House, will take up this case, investigate and ascertain what particular Indians, who were friendly to the United States, are entitled to the specific sums of money which make up this aggregate sum of \$110,000, and report such a bill here providing for the payment of the particular Indians who sustained losses, or, in case of their death, to their heirs, I will vote most cordially and cheerfully to pay this money to them. Let us know who are the Indians, and who are the heirs. I think we should not only be just, but we should, upon all occasions, be liberal to the Indians in this country. I say, if you will ascertain who are the particular Indian chiefs and warriors of the friendly party entitled, I will vote for a bill to pay them. But, until I know who they are, I cannot vote this money. I know that the gentleman from Arkansas [Mr. JOHNSON] would not, nor would any member of this committee, ask for the payment of this money if it were going to the Creek nation as a nation. If it is due at all, it is due to particular individuals; and when it can be ascertained and a specific appropriation made to them, then I will give it my support.

Mr. JOHNSON. I will accept the gentleman's proposition.

Mr. JONES. I will remark, that I do not think it comes properly before the Committee of Ways and Means. It has been rejected by that committee, and by the House, ever since it was first reported to them.

Mr. JOHNSON. As far as I am concerned, I have investigated the whole of this matter minutely. I am not disposed to press upon this House a single thing which should not be at once acted upon, and I will withdraw this amendment upon the very express statement of the honorable gentleman from Tennessee, [Mr. JONES,] because I do know, and will show here to this House, all the parties by name, and show exactly how the whole of this money can be paid. I will also, as I have consulted with two members of the Committee on Indian Affairs, bring it again before our committee, and have a full report made under the instructions of that committee; and I will upon that present them this item, as an amendment to the general appropriation bill. But for the good that it will do me—and that I may mark this affair for future reference—I do declare my belief that the very same men who make war upon it now will make war upon it again, and will know no more about the case when it comes up again than they do now. That is my humble opinion—not perhaps because they do not want to do it, but because they let it pass by, saving themselves trouble, and knowing that in ignorance there is safety for the Treasury. I challenge and invite investigation, and express these things in this emphatic manner for the purpose of compelling these gentlemen to protect themselves by investigating the case. If they do that, then I am satisfied that they will have honesty enough to discharge their obligations.

Mr. JONES. I will say to the gentleman, as I have said before this, if this committee will report a bill specifying the amount of money due to each one of these Indians, or his heirs, I will support it.

Mr. JOHNSON. That is right.

Mr. JONES. Not as an appropriation in any of the general appropriation bills. I do not think it is the proper place.

Mr. JOHNSON. Then you will not discharge your honest obligations? What sort of conduct is that? Will this House discharge the honest obligations of Government, when there is simply a debtor who has the obligations of your major general in time of war, your commander-in-chief, who stands in all such cases as a minister plenipotentiary? I shall now withdraw my amendment; and when it comes up again, I hope I may not have occasion to make the same reproaches against gentlemen—that they know no more about this matter than they profess to know now.

The CHAIRMAN. The gentleman has withdrawn his amendment.

Mr. JOHNSON, of Arkansas, offered the following amendment, to come in after line one hundred and sixty-seven:

For printing, binding, &c., six hundred copies of the first

volume of the foregoing work, for distribution among the new members, \$6,575.

Mr. J. This is an agreeable duty to discharge; one which, I have no doubt, there are gentlemen of the Ways and Means who will consider it almost impudence for me to discharge. But, nevertheless, I take great pleasure in discharging it, and I believe there are a good many in this House who will concur with me as to the propriety of my action, and support me in it.

The design of that amendment is to pay for the reprinting of the first volume of the work which I now hold in my hand.

A MEMBER. What is it?

Mr. JOHNSON. It is "A History of the Condition and Progress of the Indian Tribes of the United States, by H. R. Schoolcraft. Illustrated by S. Eastman, of the United States Army."

The CHAIRMAN. The Chair would suggest to the gentleman from Arkansas, that his amendment needs some alteration. It speaks of a "foregoing work," to which no allusion is made in the preceding part of the bill.

Mr. DUNHAM. I rise to a question of order. The amendment, as I understand it, proposes to supply the members with this volume. Now, I make this point of order: that that provision cannot properly go in this bill, as there is no existing law authorizing the publication of these volumes for the House.

Mr. JOHNSON. Well, sir, I will withdraw my amendment, and offer it hereafter as an amendment after the one hundred and ninety-first line, where it will come in more appropriately.

The amendment was withdrawn.

Mr. SACKETT moved to strike out the following clause:

"For interest on the amounts awarded Choctaw claimants, under the fourteenth article of the treaty of Dancing Rabbit creek, of 27th of September, 1830, for lands on which they resided, but which it is impossible to give them, and in lieu of the scrip that has been awarded under the act of 23d of August, 1842, not deliverable east, by the third section of said law, per act of 3d of March, 1845, for the half year ending 30th of June, 1852, \$21,800."

Mr. S. said: I submit that motion for the purpose of inquiring of the chairman of the Ways and Means, under what law this appropriation is made? What law makes it necessary to make the appropriation?

Mr. HOUSTON. My recollection now is, that it is under a law passed in 1845, but I may not be correct as to that.

Mr. DUNHAM. It is under the law of 1842.

Mr. HOUSTON. There was a law passed in 1842, and one in 1845, upon this same subject; but I do not now recollect under which of those laws this appropriation is required. They both bear directly upon this same point, and make it the duty of the Government to pay interest upon this scrip.

Mr. SACKETT. I have examined the acts, and can find no law requiring the payment. There may be some such law, but I do not find it in the act of 1842, or in that of 1845.

Mr. HOUSTON. There is such a law.

Mr. SACKETT. This whole matter arises out of a treaty, made with the Choctaw Indians in 1830, by which certain Indians, who chose to become citizens of the United States, were to have certain lands. The Government, having disposed of those lands, saw that they had not the ability to furnish them to the Indians. Under the act of 1842, these Indians were given certain land scrip as a substitute for the lands they were to have had under the treaty of 1830. At a subsequent period, and in liquidation of the original claim for lands, an award was made by the commissioner, and an appropriation made, in the act of 1846, for the purpose of paying interest on that award. I can find no appropriation subsequent to that time, either in the deficiency bills or in the general appropriation bills. I, therefore, call upon the chairman of the Committee of Ways and Means to show the necessity of this appropriation under some existing law. I have not been able to find any.

Mr. PHELPS. By the act of 1842, it was provided that a certain amount of land scrip should be given to these Indians, in lieu of the lands which had been reserved to them by the treaty of Dancing Rabbit creek, and which had been sold by the Government of the United States. That land scrip was to be given to these Indians, to be located in the State of Mississippi; and by a subse-

quent act of Congress, either in that State, or Arkansas, or Louisiana.

The act of 1842 provided that one half of that land scrip should be delivered to the Choctaw Indians, when they migrated to the country which was assigned to them on the west of the Mississippi; the other half was to be issued at such place as might be directed by the President of the United States. Subsequently—I think it was by the act of 1845—the other half of this land scrip was directed to be delivered to the Indians when they reached their new home, west of the Mississippi. The reason why this item appears in this deficiency bill is, that the money has been appropriated to pay the interest by the calendar year, and not by the fiscal year; and this item pays merely the interest for this half of the present fiscal year.

Mr. SACKETT. I find no such appropriation in the acts of 1849, 1850, or 1851. Can the gentleman show me the act?

Mr. PHELPS. I cannot, at this moment, turn to it.

Mr. SACKETT, (to the Chair.) Would it be competent to pass over this clause for the present, until the committee have an opportunity to examine the act?

Mr. HOUSTON. I have examined this claim minutely, in conjunction with the gentleman from Missouri, and the other members of the Committee of Ways and Means; and I assure this committee, that there is not only a law which required the Government to issue scrip to the Choctaw Indians for the lands they had lost, but that there is a subsequent act which funds that scrip, and requires the Government to pay interest, as proposed in this bill. There is, therefore, no use in passing over the clause.

Mr. PHELPS. In answer to the gentleman from New York, I will read him the clause from the act of 1846, which will, I think, be satisfactory. It is as follows:

"For interest on the amount awarded Choctaw claimants, under the fourteenth article of the treaty of Dancing Rabbit creek, of the 27th September, 1830, for land on which they resided, but which it is now impossible to give them, and in lieu of the scrip that has been awarded under the act of 23d August, 1842, not deliverable east by the third section of the said law, per act of 3d of March, 1845, viz: \$3,725 for the year 1845, and \$35,575 for the year 1846."

These appropriations have heretofore been made for the calendar years, and not for the fiscal years.

Mr. HOUSTON. And this appropriation is for the present half year.

Mr. SACKETT. I have looked at the acts for three or four years subsequent to 1846, and I find no such appropriation.

The question was then taken on Mr. SACKETT's amendment, to strike out the clause, and it was not agreed to.

The Clerk then reported the next clause, as follows:

"For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, fifteen thousand dollars."

Mr. BROOKS moved to amend this clause, by adding thereto the following:

"Provided, That one of these special agents shall be directed by the President to confer with the proper authorities of Texas, with the view to an arrangement for placing the Indians in that State under the exclusive control of the General Government, and of reserving to them some territory in which they shall be secure in their possessions."

Mr. HIBBARD. I rise to a question of order. Mr. JONES, of Tennessee. That amendment certainly cannot be in order, if I understand it.

Mr. BROOKS. For what reason?

Mr. HIBBARD. The amendment is irrelevant to the subject-matter embraced in the clause, and is not therefore in order.

Mr. BROOKS. It is a provision for the special direction of one of the agents, assigning him his duty, as to how he shall use the time and what he shall do with the money. It is clearly in order. The clause appropriates \$15,000 for the payment of these agents, and the question is, shall you give them special instructions.

Mr. HIBBARD. The clause proposes to appropriate \$15,000 for the purchase of presents, the gentleman from New York submits an amendment, providing that certain directions shall be given to the agent.

Mr. BROOKS. I beg to correct the gentleman. The money is appropriated "for compensation to three special agents."

Mr. JONES, of Tennessee. The amendment proposes to authorize the President to enter into

negotiations with the State of Texas, to purchase a country from that State, for the purpose of locating the Indians.

The CHAIRMAN. The Chair thinks that, inasmuch as the amendment undertakes to define the duties of one of the agents provided for in the clause, it is in order.

Mr. BROOKS. I wish to make a few remarks upon that amendment. My object in offering it is, in part, to call the attention of the committee to our Indian relations of Texas. We are now spending in Texas, for the purpose of keeping these Indians in order, something like three millions of dollars, in the expenditures of the army, and probably—for I have not made the calculation—a larger amount than three millions of dollars. In addition to that, we have in this appropriation bill \$50,000 deficiency for Texas volunteers, who have cost in all between two and three hundred thousand dollars.

These enormous expenses for the Indian department and army of Texas arise wholly from the fact that Texas has reserved to herself, as she had a right to do, all the public lands lying within her borders, allowing the Indians no possessory rights; and as the columns of emigration go forward in Texas, they are constantly meeting with the Indians; and the first intimation the Indians receive that they are to lose their lands, is from the chain of the surveyor and his corps of attaches marking trees. The consequence of this is, that there is continual excitement and hostility between the Indians of Texas and the people of Texas.

Texas, it must be remembered, copies the Spanish law and customs as to Indian lands. She allows no usufructuary rights to the Indians, as the other United States do, but claims the Indian lands as her own, free from all possessory incumbrances.

Now, sir, there was a treaty like that suggested in my amendment negotiated by General Houston in 1843, and it was understood to be a treaty boundary line between the Indians of Texas and the people of Texas. I only ask in my amendment that one of these special agents be directed to inquire into these facts, and see if anything can be done with the authorities of Texas for fixing a boundary line, beyond which the white man shall not go. It is better and cheaper for us to pay \$10,000,000 now for defining a boundary line between the Indians and the people of Texas, than to be paying between \$3,000,000 and \$5,000,000 every year for the support of the army in Texas and the subjugation of the Indians in Texas, the main cause of whose hostility is the invasion by the people of Texas of their territorial possessions, of which they believe they are being unjustly deprived.

[Here the hammer fell.]

Mr. JONES, of Tennessee. If I understand the amendment, it proposes to invest in the President the power to make an arrangement with Texas by which a certain portion of her public lands shall be set apart for the Indians.

Mr. BROOKS. No such thing at all.

Mr. JONES. Well, that will be the construction given to it.

Mr. BROOKS. "To confer with the proper authorities of Texas," is the language.

Mr. JONES. Exactly; and suppose, upon a conference with the authorities of Texas, the President should agree with Texas that if she would set apart a certain portion of her territory for the use of these Indians, the government of the United States should pay to her \$3,000,000, \$4,000,000, \$5,000,000, or \$10,000,000, and then come here and submit it to Congress, will it not be claimed that this contract was made under authority of law, and will not the United States be bound to carry it out? It is a provision of too much importance, I think, to be brought in here and enacted into a law in this hurried manner. It should not be incorporated into this bill. If such authority is to be conferred upon the President, let the matter be referred to the Committee on Indian Affairs. Let them investigate, and then draw up a bill and report it to the House. It seems to me it should not be thus hurriedly adopted by the House.

Mr. MARSHALL, of Kentucky. I should like to know of the gentleman from New York [Mr. Brooks] why the Indian bureau cannot make these inquiries without any additional authority by law?

The CHAIRMAN. No further discussion is in order upon this proposition.

Mr. SACKETT. I desire that the amendment should be again read, so that we may better understand what it is.

The amendment was again read by the Clerk.

The question was then put, and the amendment was not agreed to.

Mr. BROOKS. I move to strike out the entire section for the appointment of these agents.

The only place where we can possibly reach the item now before us is, to insert it as an amendment to the Indian appropriations in the bill now before us. There is no item in the regular Indian bill for Texas, and there is nothing upon which we can possibly hang this item except this special place. Every other attempt will be ruled out of order.

The gentleman from Tennessee [Mr. Jones] asks, why not let the Committee on Indian Affairs bring in a separate bill? Why, sir, you could not give such a bill vitality or existence. You could not draw the attention of the House to it. You could not galvanize it into existence. There is no other possible form in which you can accomplish the object. Here is an appropriation to maintain our Indian relations in Texas; relations which cost us not only immense sums to protect Texas, but in consequence of which spring the greater part of our difficulties under that part of the treaty of Guadalupe Hidalgo, which compels us to keep the Texas Indians out of Mexico. We ask for no appropriations—we ask for no definite arrangement; we only ask for a conference of our Government with the authorities of Texas, to see what, if anything, can be done.

Mr. HOUSTON. I rise to a point of order. I am compelled to appeal to my friend from New York, as one of the Committee of Ways and Means, and as one who deserves to get this bill along, not to press this matter. This appropriation has just been voted down, and it is just as relevant to any appropriation bill as it is to this.

Mr. BROOKS. You cannot get it in any other bill.

Mr. HOUSTON. I would not otherwise make a point of order against one of my colleagues upon the Committee of Ways and Means, but we shall never get through this bill if this kind of debate goes on.

Mr. BROOKS. I moved to strike out the entire section, and I am speaking against that item. I am speaking against any appropriation, unless something can be done with the money to better our Indian relations in Texas.

The CHAIRMAN. The Chair overrules the point of order made by the gentleman from Alabama.

Mr. BROOKS. The real practical question before the committee, then, is, shall you take this opportunity, and the only one you will have, to regulate our Indian affairs with Texas? That is one question, and another one is: shall you go on as you have heretofore done, and spend from \$3,000,000 to \$5,000,000 for the support of your army in that State, making no practical effort to remove the causes of such an enormous expenditure?

Mr. HOUSTON. I want to know if that is in order?

Mr. BROOKS. I say it is cheaper to give \$10,000,000, if necessary, for the purpose of having your Indian affairs definitely settled in that State than it is to support half your army there for the purpose of keeping those Indians from maintaining what they believe to be their rights. As an example of what is going on, I ask the attention of the House to the following extract from the report of the Commissioner of Indian Affairs:

"José Maria says, [I quote from the report of the Indian agent, Stern,] that then there was a line below which the Indians were not allowed to go, but the white people came above it, marked trees, surveyed lands in their hunting grounds and near their villages, and soon they would claim the lands; if the Indians went below, they were threatened with death; that this was not just." "That a party of white men had recently (13th June, 1851), been in his country, surveying land and marking trees; that he followed them, told them they must mark no more trees, and must leave the country; that he would not molest them, but they should not survey his lands."

Now, it is this very conflict between the rights of the Indians, or what they believe to be their rights, and what would be their rights in any other part of the United States, and the claims of Texas, which makes it necessary to expend from

\$3,000,000 to \$5,000,000 every year for the support of your army. If you do not regulate this matter now, you will have no other opportunity to do it, in order, this session. If this is not a proper place to bring this amendment in, there never will be a proper place. I tell gentlemen again, there is no other bill, nor any other Indian bill, upon which you can hang any law for the regulation of our Texan Indian relations. There is no other point at which it can be made in order, and there is no other time, unless you do it now. If you do it now, you will have hereafter to put in the deficiency bill payments for Texas volunteers in Indian wars, and payments for quartermaster's movements in the army. Economy, then, demands that you act now.

Mr. JOHNSON, of Arkansas. I desire to ask the gentleman from New York whether there is any legislation upon the part of Texas authorizing the Governor of that State to enter into an arrangement with the Government of the United States, in relation to that matter? That will show whether there has not been some move upon the part of Texas which we ought to meet by a corresponding action.

[Here the hammer fell.]

Mr. MARSHALL, of Kentucky. I am opposed to striking out this clause of the bill.

In reply to the observations of the gentleman from New York, [Mr. Brooks,] I will say, that I do not understand why the Secretary of War may not, under the instructions of the President, open any communication with the Governor of Texas or the Legislature of that State, which the Executive department of the Government may consider proper or judicious. If it be designed by the introduction of this proposition, to take the initiative for empowering the Executive to make another contract with Texas for the purchase of, or the jurisdiction over, her lands, then it becomes us, instead of putting it into this bill in this hurried manner, to pause before we attempt to take that initiative step.

In relation to this chief, José Maria, of whom the gentleman from New York speaks, I believe he has under his command just about ninety men. Now, I say it would be cheaper for us to gather up these Indians, and take them off upon the wild lands of the United States at the borders of Texas, than it would to undertake here to confine them in Texas. The Secretary of War, in his report, calls upon Congress to look to the Indian affairs in Texas. He calls upon us to acquire some particular section of country, and to appoint an agent. Now, if that agent is to have authority to bind this Government, even by implication, to the purchase of the jurisdiction over any given amount of land in Texas, I say it would be unwise in Congress to place any such power in the hands of any such agent whatsoever. Let the President correspond with the Governor of Texas, and let the Legislature of Texas take the initiative step. Then it will rest with the legislative power of the Government of the United States to determine whether they will progress with the contract. It seems to me that this is a case that does not admit of two views.

Mr. HOWARD. Is it now in order to offer an amendment?

The CHAIRMAN. It is in order.

Mr. HOWARD. I move to increase the appropriation \$5,000.

Mr. Chairman, I was not opposed to the amendment of the gentleman from New York, [Mr. Brooks,] I am not at all opposed to the United States inquiring into this matter, and more particularly as it has been recommended by the Indian Department, as well as by the Secretary of War. I wish, however, to inquire of the honorable member from New York, in relation to one matter. He says that the state of Texas, or the citizens of Texas encroach upon the Indians' land. Now, I had occasion to go into that matter fully during the last Congress. The Indians have no title of occupancy in Texas, and never had, for the simple reason, that, under the Government of Spain any title to occupancy was never admitted at all. It gave these lands to the Indians whenever they settled into the habits of civilization. It gave them certain tracts of land in fee, but never recognized any right whatever to wild lands. Such was the law under the Republic of Mexico. Under those laws they were entitled to the same amount of land as the whites, whenever they settled into the hab-



its of civilized life, and embraced the Christian religion. They were entitled to the same rights as the native born citizens of Mexico, when Texas seceded from Mexico. This was the state of things that existed. Her Indian relations were precisely in that condition. The consequence was, that when we became annexed to the United States, this Government, by virtue of its Constitution, and the federal compact, undertook to control and provide for the Indians.

Now, I have no doubt Texas, if this Government asked it, would part with a portion of its territory for Indian purposes. But she would not cede her jurisdiction over it except upon condition that ceasing to be Indian territory, it should revert to the State.

Now, as the gentleman from Kentucky [Mr. MARSHALL] proposes, if the Government choose to take all these Indians out of the State of Texas, and place them upon some of the public domain in New Mexico, we shall not object. But you must take care of them in some way. If you do not provide some forces, or some means to take them off, we shall be driven to make war upon them ourselves, and force them into New Mexico. Then the Government can settle them as it pleases.

Mr. SACKETT. By the act of annexation of Texas to this country, the lands within the jurisdiction of that State, belong to the State of Texas. By what right, therefore, do we assume to give jurisdiction, to give the right of occupancy, to give possession, or title for any purpose whatever, to any other power, or persons? Sir, we have no such authority. What are the consequences to grow out of the exercise of this power? The lands of that State are pledged for the debts of the State. What are the consequences to follow, if we interpose and take the lands away from this State, by the sovereign act of the Government? We, at least, lay ourselves liable to the charge that we intend thereby to assume the payment of this debt, to the extent of the lands which we take away, and which are already pledged as security for the payment of the State debt.

Mr. HOUSTON, (interrupting.) I would like to ask the gentleman from New York, by what authority we interfere with the Indian tribes in New York, or with the lands of the Indians in that State?

Mr. SACKETT. We have no original authority to do it. The title is in the Indians by an original right. Does the gentleman from Texas [Mr. HOWARD] concede the right of the United States to take away a portion of our lands, and give them to the Indians?

Mr. HOWARD. I expressly deny that; but we have the right, under the Constitution, to regulate commerce with the Indians, and to regulate Indian affairs.

Mr. SACKETT. I see, sir, no escape from the conclusion I have spoken of, if we undertake to control and give possession of these lands, as against the authority of Texas. That is the point to be met. We take away from the creditors of Texas the security which the Republic of Texas gave to those creditors. I think we are treading upon dangerous ground, in the adoption of the amendment. I hope it will not be adopted.

The question was then taken on the amendment offered by Mr. HOWARD, and it was not agreed to.

Mr. EVANS. I move to diminish the appropriation \$3,000. It is true, as stated by the gentleman from Texas, [Mr. HOWARD] that by the Spanish law no property in lands in Texas is recognized as being in the Indian tribes. But the Indians did not help to make those Spanish laws. They themselves have always contended that they had the right to the lands, and they have never recognized the binding force, or the validity and obligation of those Spanish laws; and every time you encroach upon what they assert to be their rights—every time you go where there is game, and drive them out, and deprive them, by that means, of their subsistence—you get up an enmity to the United States, which has to be controlled by your troops. I do not care whether the Spanish laws recognize any right in them or not. The question is, have they any right, or do they claim any right whereby their connections with the United States are involved? It is known to every body that they do. Our attention has been frequently called to it. No one wants to deprive Tex-

as of her land, or has any one ill feelings towards Texas. Every one wants her to retain her right to the lands, and pay her debts, and do with the land what she pleases. But I hope the gentleman from Texas will allow this proposition of the gentleman from New York, [Mr. BROOKS,] or some proposition similar to it, to prevail. Let the Government enter into some negotiation with the State of Texas for the purpose of putting an end to these difficulties. We are involved in the expenditure of a vast sum of money every year on account of Indian wars, on the borders of Texas, and it is a notorious fact that many of these Indian wars, perhaps I may say, in truth, all of them, have grown out of conflicting claims between Texas and the Indians. I do not say that their claims are just; but they think that they have a title, and a right, and they seek to assert and enforce that right by carrying off Texan property, or committing other depredations, which the Government of the United States are bound to redress.

Now, in order to do this thing as cheaply as possible, and get rid of this large expenditure in which we are involved in the protection of Texas, I suggest that gentlemen will allow this proposition to prevail. Let a negotiation be opened between the President of the United States and the Government of Texas—not giving him authority, however, to involve this country in debt without the further action of Congress—and see if we cannot set aside some lands upon which the Indians will rest satisfied, the property in which shall, after the Indian occupancy ceases, revert to Texas.

Mr. HOWARD. My friend from Maryland [Mr. EVANS] misunderstood me, if he understood me as being opposed to the proposition of the honorable gentleman from New York, [Mr. BROOKS,] I am quite willing that a negotiation shall take place. I think it proper that it should; but I wish it to be understood that it does not proceed from Texas, but from this Government. I believe it necessary in order to the management of our Indian relations in Texas. That is all I have to say upon it.

Mr. EVANS. If you think it necessary, let us have it. But when the gentleman said that these Indians have no right of occupancy, I said that they claimed the right.

Mr. HOWARD. That claim has no legal foundation. We know that every European government, when it discovered a country, assumed that it had title to the soil, and even went so far as to reduce the Indians to slavery; and that that is one of the best recognized principles of international law. The fact that the Indians have no title has been recognized by the Supreme Court of the United States in two or three different decisions. The distinction between the regulation of Spain and the regulation of England in relation to the right of discovery, has been recognized by the Government of the United States in treaties, and in various other forms. All that I have to say is, that the Government of the United States has assumed, by virtue of annexation, the regulation of the Indian tribes. That is a part and parcel of the compact. But that Texas will be liberal in relation to that matter, and is willing to meet the Government of the United States more than half way, in a liberal adjustment and arrangement to provide for these Indians, is a fact that I know, and which, no doubt, will be made apparent if an amendment of this sort is put into this bill, or in any other. But what I wish to be understood as saying is, that Texas invades no rights of the Indians, and never has, either by her citizens or her government.

Mr. EVANS. If there is no objection, I will withdraw my amendment.

No objection being made, the amendment was withdrawn.

Mr. FITCH. I offer the following amendment, of course of my own personal responsibility, and not as one of the Committee on Indian Affairs. It is to come in in the one hundred and eighty-second line, after the word "presents." The amendment is as follows:

To negotiate with said Indians, under instructions from the Commissioner of Indian Affairs, for their removal from that State to some designated unoccupied territory of the United States; and also to increase the appropriation \$25,000.

Mr. Chairman, I have listened to this debate relative to the Indians of Texas with no little in-

terest. I think there is some propriety in making some other than the present disposition of these Indians—at least in getting them without the jurisdiction and the limits of Texas. I am not willing that Texas shall come up here with a proposition for us to purchase another strip of her territory, at a cost of ten or twelve millions of dollars, for the purpose of giving possession of it to these Indians. The objections to accepting or acting upon such proposition, will be obvious at once to every member of the committee; and I fancy that this very provision, as it now stands, is only an entering wedge to a proposition of that kind. Of course, an attempt to purchase of Texas any portion of her territory for the Indians, or for any other purpose, reopens in part, at least, the sectional questions which we trust are now, for the time being, settled; for a "Wilmot proviso" will immediately and warmly be sought to be inserted in any such purchase, and as warmly resisted. I propose by this amendment that the Government of the United States shall negotiate directly with the Indians, and that Texas shall have nothing to do with the negotiation. I believe that Texas desires to be a party to this negotiation; but she will not necessarily be so, and ought not to be. Texas acknowledges no right, on the part of the Indians, to this territory, and I do not wish to purchase the right. We can negotiate with the Indians themselves—negotiate for their removal beyond the jurisdiction of Texas, and place them upon our territory, to which our title is indisputable, and where there shall be no authority to interfere with our control over them.

Texas demands of us compensation for depredations which she charges are committed upon her citizens by the Indians within her borders, while at the same time, by refusing us jurisdiction over the territory occupied by them, she practically prevents us from so controlling them as to prevent their depredations. Under the existing state of things, we cannot control them. We have no power over the territory occupied by them. Yet Texas holds us responsible for their good behavior, and claims of an enormous amount have been presented, and are now pending before the Committee on Indian Affairs, for damages inflicted by them upon her people. These claims, if allowed, will be a source of wealth to the citizens of Texas, as another ten million purchase of territory will be to her government. I desire to cut off both by removing the Indians beyond her boundary, where we can control them without asking the consent of that State, and without purchasing that consent, or any more of her territory.

Mr. HOWARD. Now, if the gentleman is in earnest, and if it is the object—which it ought to be—of this Government to place these Indians in some position where they can have a clear recognized right to location, I admit that it is a sound and wise policy. But I believe, furthermore, that if these Indians were taken to some parts of the territory of the United States, or in any other country where they can cultivate the soil, and where they can be allowed to carry on the business of grazing, to which they are naturally adapted, they would in a short time become civilized; but in their present condition they must be killed out, or removed from the country.

Mr. JOHNSON. I move to amend the amendment of the gentleman from Indiana, [Mr. FITCH,] by adding \$5,000, which will make the whole sum \$30,000, appropriated towards the making of treaties with these Indians, by which we shall remove them. Now, I have never heard the suggestion broached before, but it strikes me at once, if it can be made practical, as the very best thing, in regard to these Indians, which can be effected. I feel a little sore myself, and do not expect that I shall ever get over it entirely, [laughter,] about the \$10,000,000 voted heretofore, with all the attending circumstances; the whole matter was altogether painful. I am opposed, then, if we can get clear of these Indians, to taking from Texas any more of her territory. The very best disposition that can be made of these Indians, by this Government, will be to remove them beyond the limits of Texas. This, then, is an authority to proceed in that direction if it be found practicable. This appropriation is proposed to be made towards that purpose, that the department may be enabled to proceed in the matter. But what, Mr. Chairman, is our situation, if we do not take some step of the kind? Upon the table of the Committee of Indian

Affairs, is now found piled up bundles of claims from citizens of the State of Texas, against the Government—over \$100,000 of claims—which it is urged that this Government should pay. In regard to these claims, we find it a most difficult matter to determine; not one of the intercourse laws of the United States governing our Indian relations, extends over that State, so that they are there without Indian laws. The very provision to which this amendment is offered, is an original act, extending there the policy of this Government; and is not sustained by any previous and existing law whatever on the face of the earth. This is an appropriation to pay for Indian agencies in the State of Texas, which now do not exist there. I will not pretend to state what the result will be in the event we do not take some steps in this matter, as to the destiny of these Indians; but just one glance ought to satisfy this House. Look at the claims set up by the State of Texas. Texas totally denies and repudiates the right of occupancy of these Indians, and you cannot fail perceiving what must, under such circumstances, be the destiny of these tribes. There is something due to them from this Government. It is humanity that is due, and a gentle and fatherly guardian care. If this claim set up by the State of Texas to the right of occupancy of these lands be right, this Government ought to come forward and do something. If that claim is right, we are bound to remove those Indians from there, or to enter into negotiations with the State of Texas, by which they will be allowed a certain limited tract of country, in which they can remain in peace. Nor until this thing is done can the United States extend her intercourse laws over these tribes; until this is done, we cannot have any effective government relations with them, and every appropriation which is made in regard to this subject must be made without the authority of law—without the authority of treaty; and where, indeed, there is no existing obligation in the world to make any, but that of humanity to the Indians within the limits of Texas. It is necessary that the proposition of the gentleman from New York, [Mr. Brooks,] or that of the gentleman from Indiana, [Mr. Fitch,] should be adopted. It is necessary that we should settle upon some definite, fixed policy. Then let us authorize negotiations to be entered into with these Indians by the Government of the United States to remove them beyond the limits of Texas.

[Here the hammer fell.]

Mr. HIBBARD. I am opposed to the amendment of the gentleman from Arkansas. I hope it will not be adopted. I hope none of the amendments, touching this matter of negotiation with Texas, will be adopted by the committee. I regretted the introduction of the amendment by the gentleman from New York. A question of order was raised, which was overruled by the Chairman, and the decision was acquiesced in by the committee. There remark I propose to make is submitted to the discretion of the committee, and it is in the nature of an objection. This is a question which ought not to be considered here. This is an appropriation but to supply deficiencies, and I apprehend that nothing is in order but an item in the nature of an appropriation for a deficiency. This is two removes from being, in any degree, germane to the object of this bill. It does not propose an appropriation. It does not even propose what use shall be made of the appropriation provided for in the bill. It directs the President of the United States, or the Indian Department, to enter into a negotiation with the authorities of Texas, upon a matter entirely independent of that provided for by the bill. I foresaw the evils to which this course would lead. I think that the committee have already begun to have practical experience of them. Why, it has already opened up, not only the subject of the Indians in Texas, of their title to land in Texas—the question whether or not they have any title, and if any, what it is, but the whole question of the Texas boundary bill of the last session—slavery, the Wilmot proviso, and all. If we begin in this march of progress, I know not where we can end. If we can commence one negotiation, we can begin to provide for another, and we can introduce a provision inquiring into the expediency of repealing the Texas boundary bill of the last session, or any other measure. I hope the committee will stop short of a beginning in this matter. It does not belong to the bill. There are things enough in it already that

do not belong there. I trust that the amendment will not prevail.

[Here the hammer fell.]

The question was then taken upon the amendment to the amendment, and it was rejected.

Mr. EVANS. I move to amend, by increasing the sum to \$50,000. I shall vote for the amendment offered by the gentleman from Indiana, [Mr. Fitch.] I consider it is a very important one—one that will save to the Government \$2,000,000 or \$3,000,000 a year, in the matter of claims for indemnity and otherwise. We are told that there are claims now in the committee room of the Committee on Indian Affairs to the amount of \$100,000, presented by citizens of Texas, demanding recompense for depredations committed upon them by Indians, against whose ravages we are bound to give protection. Consider, besides, that a vast body of claims, I am told, amounting to millions of dollars, are here or upon their way here, which are being presented by citizens of Mexico, who claim indemnity under the treaty of Guadalupe Hidalgo, for the ravages of Texas Indians; and is it not apparent to every one, that if we can remove those Indians, an appropriation of \$50,000 for that purpose would be a most economical expenditure? There could not be a better policy, than to expend it as soon as possible. I wish the language of the amendment had been a little different. It strikes me, from hearing it read, that it is an appropriation of \$25,000 for the negotiation. I would make it an appropriation of \$50,000 for the actual removal. I may be mistaken, as I have not looked at the amendment. In some shape—either in that shape, or the one offered by the gentleman from New York, [Mr. Brooks,]—I am willing to vote for it. I trust every man in this committee who is in favor of a real, genuine economy, will give it his support. The gentleman from New Hampshire [Mr. HIBBARD] thinks that it may open the question of slavery. I do not see, by any sort of possibility, how it can have that effect. If I thought it could—

Mr. HIBBARD. I said only that the discussion had been brought in here.

Mr. EVANS. I admit it has been mentioned here. You cannot prevent the question of slavery from being discussed here; but it can lead to no practical results. This does not involve any connection with the slavery question. It is the appropriation only of a small sum of money to a purpose of real, true, genuine, thorough economy. That is what it will be found to be. It will, if it lead to a successful negotiation, save us \$100,000 a year in the shape of claims from Texas; and perhaps millions, which we may hereafter be obliged to pay to Mexico. I say, if its purpose can be effected—if it can be only carried out, we ought now to make a beginning. I am glad that it has been introduced here. It was discussed in the last Congress. I want, however, the rights of Texas to be reserved. I do not wish in any way to trench in the slightest degree upon any part of her just authority. Let her have all her lands, and their proceeds, but let us get rid of the Indians; and in doing so, we also get rid of a great part of the troops upon the Rio Grande, which are now necessary to prevent the Indians from crossing over into Mexico. Those Indians now cross the river and go into Mexico, because they assert that they have a right—a title to lands situated there, of which they have been deprived by the Spanish construction, of no title to Indians in land, which the gentleman from Texas alluded to as the law of that State. Let us remove them to some unoccupied district of this country, where they can have no access to Mexico—where they may feel that they have some title in the soil—where their rights are respected—where they may perchance become cultivators and producers. Now make a beginning, and, my word upon it, we will finally diminish the expenditures of the Government in a very considerable degree.

Mr. HOUSTON. I hope the amendment of the gentleman from Maryland will be rejected, and also that of the gentleman from Indiana, [Mr. Fitch.]

Mr. FITCH. I hope not.

Mr. HOUSTON. The gentleman has already said that in his speech: I take the ground that the amendment was offered in all sincerity, and I am opposing it in the same spirit. I would have made the point of order, but it was not competent to do so, because my colleague of the Committee of

Ways and Means, as I believe, had proposed an amendment, upon which I made a point of order, which was overruled by the Chair. I then desired that the committee should take its own course. Now, sir, we see what is the result of a departure from the rules of debate by a member of the Committee of Ways and Means, who ought to aid me in suppressing debate. That proposition is not precisely germane to this bill. While we are now proposing an appropriation, not as a deficiency to Texas of \$15,000 to carry through this fiscal year, which was omitted at the last session, a motion to amend is made. The Chair entertains that motion—that in a deficiency bill you may bring forward a proposition regulating the whole of our relations with the Indian tribes in Texas, just as well the Indian tribes in New Mexico and California. The proposition is as broad as it is possible for any proposition to be connected with our Indian relations, and I hope, therefore, and appeal to the committee, that we shall not persist in the course of debate of this sort. I concur and sympathize with all of those who are arguing that our relations with the Texas Indians require some legislation. Our connection with these Indians is embarrassing, and it will so continue until we legislate upon the subject in some way, and I call upon my honorable friend from Arkansas, [Mr. Johnson,] who is so diligent and faithful in the discharge of the duties connected with his position—and who has the Indian policy under his charge—as to whether his committee will not act upon this subject as an independent question. I ask him if it is not proper that it should be referred to the Committee on Indian Affairs, which has the control of the regulation of the Indians in Texas. I hope, therefore, as this is a subject of such vast importance, and involving such great consequences, not only to Texas, not only to the Indians, but the Government of the United States, that the proposition will be matured in the Indian Committee. When it meets with the concurrence of that gentleman and that committee; when they shall indorse the proposition that negotiations shall be established between us and these Indians, by which we will be relieved of the difficulties now existing, I shall be prepared to go for it. I sympathize with him.

I now propose to answer the argument of the gentleman from New York, [Mr. Brooks,] who says that this is the only bill to which you can attach this proposition. I ask if it could not as well be attached to the ordinary Indian appropriation bill? Your proposition appropriates for the purpose of carrying out and keeping up our Indian relations in Texas, and it is just as proper to come in that bill as anywhere. I trust that it may not be pressed now. I appeal to the gentleman to withdraw it from this bill, as it can be as well considered and acted upon hereafter.

Mr. BROOKS. Show me an item in the Indian appropriation bill where there is an appropriation to which this can be attached.

Mr. HOUSTON. My recollection is, that it can be attached to that bill. If it is not, Mr. Chairman, I ask why it should not be matured by the Indian Committee, and reported upon its own responsibility. That committee can and will do it.

Mr. BROOKS. The item under consideration is not a deficiency item. It is for a future year.

Mr. HOUSTON. The gentleman from New York is mistaken, or else the Indian department is mistaken.

Mr. PHELPS. I will inform the gentleman from New York, [Mr. Brooks,] and my friend from Alabama, [Mr. Houston,] that if this is not a deficiency, then the Department of the Interior and the Commissioner of Indian Affairs sent officers into Texas as their agents unauthorized by law.

Mr. JOHNSON, of Arkansas. The gentleman states that this is not a deficiency—

The CHAIRMAN. The gentleman can only proceed by the unanimous consent of the committee, as the debate is exhausted. The question is upon the amendment offered by the gentleman from Maryland, [Mr. Evans.]

The question was then taken, and the amendment was rejected.

Mr. JOHNSON. I move to insert fifteen. I merely wish to state what will facilitate this matter. I will explain to the gentleman, in the first place, that this is no deficiency, and is not in accordance

with any law, but only by recommendation of the Indian bureau as for the best interest of the Government, and thus sustained by annual appropriation. It is unfortunate that we cannot extend the intercourse laws over the State of Texas without her consent. The suggestion made by the chairman of the Committee of Ways and Means is, that this matter can be brought in under the general appropriation bill for the Indian service. I am not informed as to the relevancy that this amendment would have to any existing proposition contained in the regular appropriation bill, and therefore I cannot speak of the advisability of such a course; but as to the matter of referring it to the Committee on Indian Affairs, I must say that I do not feel that there is any security in the world that we could, through this House, give any vitality to any bill outside of a general appropriation bill. Such is the unfortunate character of the legislation of this House, and ever has been since I was first connected with it. I will say to the gentleman from New York, [Mr. Brooks,] I have no doubt in the world that his amendment is excellent, and it would be well if he adjudged it possible to defer it for the general bill, when, if it shall be admissible at all, I have no doubt he will be able to carry it. I shall support his amendment myself, if none is offered which I may think still better; or, if he will make his proposition embrace an authority to the Government to treat with the Texas Indians for removing them altogether, I will so vote still more cheerfully.

Mr. BROOKS. But can I get it upon a point of order? The Chairman will rule me out of order.

Mr. JOHNSON. Then I will have to leave the gentleman to exercise his own best judgment about it, and I will support him in the movement, let him present it when he may.

Mr. FITCH. I am opposed to the amendment of the gentleman from Arkansas, [Mr. JOHNSON,] but do not intend to consume any of my five minutes in speaking against it. The effect of my amendment does not appear to be understood; I so infer, at least, from the interrogatories propounded to me. I am asked why I do not so word it as to provide peremptorily for the removal of the Indians. Because we recognize them as a nation with whom we must treat. A treaty having been made as provided for by the amendment, that treaty must be ratified by the Senate before it can go into operation. I propose to treat with them, and not with the State of Texas. I wish again, for one moment, to call the attention of the committee to the enormous amount of claims Texas has presented for depredations committed by these same Indians. As I remarked a short time before, the Indians are now placed beyond our jurisdiction. We cannot control them. Whatever our disposition may be so to do, Texas will not permit it. We propose to place them where we can control them. Then we can prevent these claims from being presented, because we can prevent depredations being committed by the Indians. If the estimate of the number of Indians in Texas, made by the quartermaster's department, is correct, the amount of depredation claims already presented to the Committee on Indian Affairs, is some \$4,000 or \$5,000 for each Indian warrior. Each warrior has damaged Texas to that amount. It is not to be presumed that these claims will all be allowed, but it is not probable we can escape allowing some of them. If the Indians are inclined to cultivate the soil they cannot do it, because their title to it is not recognized by Texas. Their title is not, in her estimation, as good as that of the preëmptor who walks in and takes the very land to which the Indians may have given additional value by partial cultivation. They are compelled then to remove from year to year, or to commit violence upon those who trespass upon what they doubtless honestly think to be their rights. Give them land which they may not only call their own, but which shall be their own, and they will be much more likely than now to abandon their roving and predatory habits, at least it will not be half so difficult to control them, as we find it today. I trust, therefore, that my amendment will be adopted. The gentleman from Texas [Mr. HOWARD] says, "if I was in earnest;" as if I was not! I offered the amendment in good faith, and hope the opposition of the chairman of the Committee of Ways and Means will be unheeded by the committee. If the amendment is out of

order—and to that point alone was directed the argument of the chairman of the Committee of Ways and Means, and that of another member of this committee, the gentleman from New Hampshire, [Mr. HIBBARD]—it would be equally out of order in any other bill emanating from the Committee of Ways and Means, or any other standing committee. It is no more out of order than several provisions which the Committee of Ways and Means have themselves inserted in the bill; and when they can make no other opposition to it than a point of order, they admit that its merit cannot be successfully controverted. So far from being out of order, this bill and this provision is the place for it. Elsewhere no action even of the Committee on Indian Affairs, or other standing committees, could prevent it from being left for one or two sessions among unfinished business, as those conversant with such matters here well know. Ingrafted upon this bill, the amendment will have that vitality which the gentleman from New York [Mr. BROOKS] wishes for his; while, as a separate bill, experience here teaches us its merit, however great it may be, cannot galvanize sufficient activity into it to insure its early passage.

The question was then taken upon Mr. JOHNSON'S amendment, and it was rejected.

The question then recurred upon Mr. FITCH'S amendment.

Mr. MARSHALL, of Kentucky. I move to strike out \$25,000, so as to adopt the view of the gentleman from Indiana, [Mr. FITCH,] leaving the amount to stand at \$15,000. I do not perceive any necessity for increasing the appropriation for the purpose of opening a negotiation.

Mr. FITCH. I object to that. The gentleman from Kentucky [Mr. MARSHALL] will at once perceive, if there is a deficiency now of \$15,000 for the purpose asked for in the original provision, of course he leaves nothing to carry on the negotiation; but if, under the amendment I have offered, these negotiations have commenced, we must appropriate a sum for that purpose now under the head of deficiency, during another year.

Mr. MARSHALL. The proposition to provide for the salaries or compensations of these special agents in Texas, and make presents to the Indians, is \$15,000. The gentleman proposes to introduce in that an amendment to negotiate with the Indians for their removal, but on account of the introduction of that proposition to increase the appropriation by \$10,000, that appropriation of \$25,000 can be applied by the Department to the procurement of presents, as well as to the negotiation. I do not suppose that the Indians can be removed out of Texas for either \$15,000 or \$25,000, and I do not see the necessity of any money to open the negotiation with them. The agents are there, and they are being paid. Their business is with the Indians.

Mr. JOHNSON. The gentleman is not aware of the fact that these Indians have always to be supported, while you are making a treaty with them. The history of the whole period of the Government, shows that you cannot make a treaty with the Indians without money.

The question was then taken upon Mr. MARSHALL'S amendment, and it was rejected.

The question recurring on the amendment of Mr. FITCH,

Mr. FITCH demanded tellers, which were ordered.

The question was then taken, (Messrs. FITCH and HOUTSON acting as tellers,) and resulted—ayes 76, noes 12. No quorum voting.

Mr. HENN moved that the committee rise.

The CHAIRMAN. That motion is not in order. If there be no objection, there will be a recount.

There being no objection, the tellers resumed their places, and the question being again put, it was decided in the affirmative—ayes 79, noes not counted.

So the amendment was agreed to.

Mr. DUNHAM moved to strike out the following clause of the bill:

"For continuing the collection, and for publishing the statistics and other information authorized by the act of 3d March, 1847, and subsequent acts, \$17,000."

Mr. D. said: I move to strike out that provision because I think it is a most wrongful expenditure of the public money. There has been already expended for the purpose for which this appropri-

ation is asked—in 1847 \$5,000, in 1849 \$5,000, in 1850 \$10,000, in 1851 \$15,300, and they now ask for \$17,000 more. They have but just begun the work. It is another of those publications that are fastened on Congress, and that go on increasing year after year, like the Archives and various other works that have been published here. As an evidence of this, the committee will recollect that the gentleman from Arkansas, but a little while ago, offered an amendment to reprint the first volume of this very work, for distribution to the new members of this Congress. Any gentleman who examines the work must say that it does not contain that kind of information that ought to be procured and published at the public expense, however valuable it may be as a literary work. I have mentioned the amount which has been already expended on this first volume, and the expense of a publication of this sort goes on increasing year after year, in a sort of arithmetical progression. The first volume of this work was distributed to the members of the last Congress, and now an estimate has been sent in, and an amendment offered by the gentleman from Arkansas, to go back and reprint that volume for the new members of the present Congress. Then, again, you will give the second volume, which will be distributed during this Congress to all the members of the last Congress who are not now here, because they have got the first volume and must have a complete set, and so it will go on increasing year after year. This is another of those speculations which are becoming so common in this country.

We shall go on publishing books, until our Government is turned into an immense book concern. Why, sir, you can go into half the book stores in the country, and buy all the information usually contained in these works for yourselves, for one fourth the cost of them to the Government. In my opinion, if I may be allowed to quote an old adage, "the play will not pay for the candles." It is not only a most ridiculous thing, but a most willful and wicked perversion of the power of this Government; to publish at the public expense such works as this, for a limited distribution, as all such distributions must be, if for distribution at all.

[Here the hammer fell.]

Mr. JOHNSON, of Arkansas. The honorable gentleman from Indiana, [Mr. DUNHAM,] a member of the Committee of Ways and Means—the committee who have reported this provision for the continuation of the collection of this statistical information, that it may be preserved and given to the world—now moves to strike it out.

A Voice. He opposed it in the committee.

Mr. JOHNSON. Then he preserves his consistency by opposing here what he opposed there. Did the gentleman oppose it during the last Congress?

Mr. DUNHAM. Most certainly, I did.

Mr. JOHNSON. Well, I suppose the gentleman took his book, as a matter of course.

Mr. DUNHAM. To be sure I did.

Mr. JOHNSON. I took one, and I took it in obedience to the policy adopted by the act of 1847, that provided for the collection and publication of the history and statistics of this peculiar race, and the distribution of them. The object is to preserve them, and hand them down to posterity. Sir, these works will furnish facts throughout ages to come, when not only shall we be gone and forgotten, but when, perhaps, there will be no remembrance that there ever was such a Congress as the Thirty-second. I am opposed to abandoning that policy which was adopted, after mature consideration, by the Congress of 1847, and that was to collect all the information that could be obtained in regard to the Indian races inhabiting this continent, or those parts of it which belonged to, or have since been acquired by the United States. I am opposed to striking out this clause, because it would be an abandonment of that policy. Sir, we owe it as a debt to our native land—

Mr. TUCK, (interrupting.) I wish to inquire of the gentleman if this appropriation is to pay for expenses already incurred under the act of 1847, or for expenses to be incurred in the future?

Mr. JOHNSON. The gentleman must ask that question of the Committee of Ways and Means. I will thank him not to interrupt me again with questions irrelevant to the train of remarks which I am indulging in. I am upon quite a different branch of the question.



I was saying that there is a debt that this Government owes to the land in which we live—a debt which if it has not been discharged by every nation throughout the world that has existed before us, ought to have been, and has been in some measure, by almost every nation of which we have any knowledge. Sir, there is no subject whatever connected with our history, that will in future years be one of deeper or more thrilling interest than this one relating to the aborigines of our country. They are now fast disappearing from the continent. If we were to abandon the policy, of collecting these statistics and this information, for twenty-five years, half the means of giving it to our posterity and to the world would be lost, and lost forever. Now is the time, and the only time, at which we can prosecute the work.

The only question, then, can be as to its propriety; and it seems to me, that in that point of view, it addresses itself to each one of us, and that the heart of every man here should respond to it. We should do something to perpetuate the history of our own country, from the time we ourselves came into possession of it.

Sir, I am opposed to striking out the clause, notwithstanding what may be said about making this Government a "book-making concern." It rises above and goes beyond any such considerations. It is a just, honorable, and creditable appropriation of the public money; and it is not an extravagant one; when we consider that this book is sought after, not only by the people of the United States in every direction, but also by foreign governments, as containing matter deeply interesting, and about which the greatest curiosity is felt. I hope the motion of the gentleman from Indiana will not prevail, but that we shall allow these investigations to go on until the work is concluded.

Mr. DUNHAM. I should like to ask the gentleman if he has any information when the work will be concluded? and whether it will be completed within the next twenty years?

Mr. JOHNSON. I can answer that question.

The CHAIRMAN. Further discussion is not in order.

Mr. TUCK moved to amend the clause proposed to be stricken out, by reducing the amount to \$16,000.

Mr. T. said: Had the gentleman from Arkansas answered my inquiry with his usual courtesy—

Mr. JOHNSON. I did not intend to be discourteous. I will answer the gentleman's question now, if he will tell me what it is.

Mr. TUCK. I say, had the gentleman from Arkansas answered my question with his usual courtesy, I should probably have refrained from making this proposition of amendment.

I find this fact, which I deem it important that we should know in voting on the amendment of the gentleman from Indiana, that this appropriation of \$17,000 is to meet the payment of expenses that have already been incurred, and to pay for printing which is now going on, and which was authorized by the act of 1847.

Mr. JOHNSON, of Arkansas. I will answer the gentleman that, so far as I am concerned, finding that this item was one which the Committee of Ways and Means had adopted, I did not investigate it, and therefore could not answer his question. The Committee of Ways and Means, however, certainly must be able to answer it. It is their business to do it.

Mr. DUNHAM. I can inform the gentleman from New Hampshire that the item which I propose to strike out is for the collection of further statistics. The next clause is for arrearages in the work already done.

Mr. HOUSTON. I regret that my friend from Arkansas, having investigated everything else with his usual acuteness, has omitted this item. The \$17,000 in this clause, is for continuing the collection of information intended for the volume partly matured and in hand.

Mr. DUNHAM. But not published.

Mr. HOUSTON. It is not published. The second item is for arrearages in the publication of the work.

Mr. TUCK. It was my understanding that this proposition was to pay for expenses already properly incurred, under the act of 1847.

Mr. DUNHAM. Not at all.

Mr. TUCK. The gentleman thinks he understands it, but he is mistaken. These expenses

have been regularly and legally incurred, and the publication is now going on. This is strictly a deficiency, which we are bound by law to pay.

Mr. VENABLE said: Mr. Chairman, not quite three hundred years since the white man first placed his foot upon this continent. Those then in possession have perished and passed away before his aggressive march, like the snow before the rays of the sun. The memorials of a race, manly, fierce, and warlike, are fast fading away, and tradition becoming diluted with fabulous narrative, is losing all claim to credibility. In this state of things, our Government, some years since, directed by law, the collection of the remnants of those memorials; they made a praiseworthy effort to snatch from oblivion that which was now certain, and embody it in a work which should have for the evidence of its authenticity, the seal of the department to which it was confided. To perform it, one was selected whose personal knowledge of the peculiarities and the history of the Indian race was combined with high literary attainments, and yet higher moral qualifications. A life spent in association with, and a profound sympathy for, the aborigines, qualified him to perform the task in a manner which commends his work to the confidence and admiration of the world; and by it the name of Henry Schoolcraft will descend to posterity, canonized as the friend and historian of a most interesting people, now rapidly passing away. I said it was a praiseworthy effort on the part of our Government to have some mark of their veneration for science and true history, which would endure, as was well said by my friend from Arkansas, [Mr. JOHNSON,] when, most probably, we, as individuals, would be forgotten. It will be honorable to this Congress to direct the continuation of this philanthropic, as well as literary enterprise. I cannot be insensible to the obligation which rests upon us to preserve from utter oblivion the memorials of those whose possessions we have forcibly seized, to redeem ourselves from the just imputations of being more barbarous than the savages to whose domains we have succeeded. The war-whoop has been exchanged for the lamentations of tribes driven from the homes and the graves of their ancestors. No ruined cities, no dilapidated temples, no records, even in hieroglyphics, remain to preserve the memory or the character of their institutions; and it would be treason against the laws of literature, science, and benevolence, to pause before the accomplishment of this work. I feel it, sir, to be a sacred duty to communicate our portion to the learning of the world, to vindicate the truth of history by relieving it from the shadows of tradition and fable. I have heretofore opposed the large book-making enterprises of promiscuous works, upon which our Government has entered, and shall continue to do so; but I will not commence by ousting one of the most praiseworthy and valuable which has ever engaged our attention. I would vote to purchase that fine picture now exhibiting in the rotunda, because it, with lifelike vigor, portrays one of the most remarkable incidents in our revolutionary history. It is a suitable companion to those now filling the niches. It represents Washington crossing the icy Delaware, in the gloomiest epoch of our struggle; a bold manœuvre, second only to the passage of the Alps by Hannibal and Napoleon; made in the presence of a superior force, and, by its success, giving hope to a desponding people, and forming the turning-point in our revolutionary history. Such memorials are precious as well as instructive. We look from canvas to canvas, and we see the warrior, the statesman, and the sage, and read the whole history of the Revolution in the work of the artist. To preserve the memorials of the Indian race, to become familiar with their present history, will give us sympathy for their wrongs, and awake a sense of justice to those who remain—arrest a policy which, in a few generations, must utterly destroy them, and cause us, as a Government and a people, to redeem the errors of the past by a system of just policy in the future.

I cannot adopt a policy which so much resembles that of China and Japan; which regards the rest of the world as outside barbarians, and repudiates all claims upon ourselves for an equal contribution to these subjects of scientific pursuits, the evidences of which are to be found in our own archives.

Mr. STANLEY. My colleague will pardon me

for asking this question: How are we to have the goodness of our hearts perpetuated when our memories are forgotten?

Mr. VENABLE. The criticism of my colleague is both profound and striking, and I doubt not will secure to him lasting renown.

Mr. STANTON, of Tennessee. I rise, sir, in order to make an amendment. I propose to add \$50 to the appropriation, and I am very happy to find myself concurring entirely with the views of my friend from North Carolina, [Mr. VENABLE.] I agree, sir, in his view of the importance of this appropriation, and in its perfect propriety in this appropriation bill. I was in earnest when assenting to the propriety of purchasing the beautiful picture that is now to be seen in the rotunda, illustrating one of the most important events in our revolutionary history; and it was with perfect sincerity that I proposed to my friend from Alabama to supply that deficiency in our gallery of paintings, and to put in an appropriation for that purpose. Of course, sir, I would not venture to make such a proposition myself.

Mr. FOWLER. I wish to know what the cost of that would be.

Mr. JONES. Is this discussion as to procuring pictures, in order?

Mr. STANTON. I will confine myself to the question of books. My time is not out yet; and, in reference to books, I was very much of the same opinion as my friend from North Carolina, [Mr. VENABLE.] In reference to the celebrated Patent Office report, I was sorry, sir, to hear the gentleman from Indiana, [Mr. DUNHAM,] I believe it was, say that this was a wicked perversion of the powers of the Government; but I do think, sir, he will consider on reflection that that was an extravagant declaration, unsustained by any conduct of the Government with which I am acquainted. It has been supposed by some that this Patent Office report is of but little value; but I may say that I have found gentlemen possessing the highest degree of intelligence and education who have expressed to me their opinion and belief that this Patent Office report is the most valuable thing ever received from this Government. That is the general opinion entertained by intelligent men in my district. I have been apprised of its importance, and I think that my honorable friend from North Carolina will find among his constituents a similar opinion. But, sir, his opinion may be correct and mine may be incorrect; but in regard to this picture, which is the subject of the amendment which I have suggested, I think there ought to be but one opinion. But, sir, if there be no gentleman here who wishes to oppose the amendment I have offered, I will, with the permission of the House, withdraw it, satisfied as I am that this appropriation for the books is safe, and that this House, if it will not sanction the appropriation for the picture, will at least leave in the appropriation for the books.

Mr. STANTON, by consent of the committee, withdrew his amendment to the amendment; and Mr. TUCK, by unanimous consent, also withdrew his amendment.

The question was then taken upon the amendment of Mr. Fitch to strike out the clause; and it was disagreed to.

Mr. JOHNSON, of Arkansas. I wish to offer the following amendment, which, I think, is germane to the question:

For printing, binding, &c., six hundred copies of the first volume of the foregoing work, for distribution among new members, \$6,575.

I find, sir, that the item explains itself tolerably well, and I find that it raises the question of distribution, and as to what disposition shall be made of them. The Librarian is bound to preserve these books; but libraries are not always safe. Scatter them, scatter them, if you would preserve them. I do not think that a better method can be adopted than distribution. If any gentleman should not wish to keep them himself, he can dispose of them where he pleases, and the books will be preserved, and the history they contain will be preserved. I do not receive any benefit from this myself, for I have received the first number, and I shall vote to give the new members this number, and not confine them to the second volume, and a broken set. Unless this amendment is adopted, they will not get the first volume. Now, sir, to give them the second volume, and not the first, does not seem to be consistent with good sense, and so far as I am con-

cerned, I have no hesitation in voting for a sufficiency, that the Department may have them in hand, for distribution to all future members until the work is concluded.

Mr. EWING. I wish the gentleman to explain the statement he made. Is it that those members who are in this Congress will get the second volume if this amendment passes?

Mr. JOHNSON. The plan of distribution of the first volume, under the law of 1847, was left at the discretion of the Commissioner of Indian Affairs. The plan adopted was to embrace the members of both Houses of Congress, heads of Departments, and the foreign ministers that were here, and those new members who are here, were necessarily embraced in that system of distribution, and they will receive the second volume only for want of enough of the first to supply them. Sixty or seventy volumes only are now left on hand.

This work will extend to five volumes, and it will complete the collection of the entirety of the statistics and of the history of the various tribes. If you now adopt this amendment, it provides for six hundred copies, which will be amply sufficient to keep on the set of books as they progress in their issue. It will take about a hundred, I think, for this occasion; and the residue will lay over until the next successive numbers are issued and distributed.

Mr. EWING. Will the gentleman explain the difference between the proportion here and that which has reference to the distribution of books voted heretofore?

Mr. JOHNSON. This is a distinct matter from the books voted heretofore.

Mr. EWING. The proposition is only intended to give new members the first volume.

Mr. JOHNSON. The second volume they get on their coming here, and if the appropriation is not passed, the first volume they will never receive.

Mr. CLEVELAND. I think the House ought to understand this proposition before they adopt it. I am aware that I am addressing a body of men, a great majority of whom are new members, and of course interested; still I appeal to their sense of justice and propriety to say whether they are willing now to commence a system which, if continued, will work so gross injustice as will this if the amendment of my friend from Arkansas [Mr. JOHNSON] prevails.

Those members who were here the last Congress, have received the first volume; and those who are not returned, receive only that volume—they do not receive the entire series. Those who come to the second Congress, get two volumes, and so on to the end of the course. If this amendment prevails, you will give to the members who come here for the first time at the close of publication the whole series. By this arrangement you give to one man \$50 or \$100 worth of books, while you give to another only one single volume. Is this just and equal? What good is to be done by it? How is the public interest to be advanced?

But there is another view of this matter. If this system is to be adopted, let it be done by a bill introduced for that purpose, and not by way of amendment to a deficiency bill. If you intend to carry out the system, instead of printing six hundred of the first volume, you should print six thousand copies, or as many as may be needed.

Mr. SMART. I desire to ask the gentleman from Connecticut if he did not receive the first volume of this book?

Mr. CLEVELAND. I did; and I am willing to vote every gentleman upon this floor the volume ordered by this Congress. Then you treat all members alike.

Mr. SMART. Then why object to the amendment?

Mr. CLEVELAND. I did not vote for any of these books in the last Congress; but I received mine, and I shall vote for the new members of this Congress to receive the books which it is customary to vote them. I do not intend to be ungenerous to my brethren upon this floor, who are new members; but I ask gentlemen to look for a moment at what will be the result of the adoption of this system; and, if they are determined to adopt this amendment, to publish six hundred instead of six thousand copies, to distribute among all the new members for the next five, ten, or twelve years. I think we do strict justice to every member, whether new or old, if we give him, while he

is in Congress, the volumes which is published by the order of that Congress. If you go beyond that, you do manifest injustice, not only to the country at large, but to those gentlemen who were members of the last Congress, but do not happen to be returned to this. The committee must see that those gentlemen who come here in the Congress in which the fifth, tenth, or the last volume is published, will receive the entire series, as I before remarked, while those who were only here in the last Congress will receive but one.

Mr. PERKINS. We will vote you down, though.

Mr. CLEVELAND. My good friend says they will vote me down. I have no doubt they will; it is for their interest to do so, but I intend my reverend friend shall vote against his conscience if he does. I intend that he shall know what he is voting for, and the injustice of it. I have made these remarks to show this committee that this is a system which ought not to be commenced, and that gross injustice will be done if it is.

Mr. HOUSTON. I will say a few words in explanation of what induced the Committee of Ways and Means to exclude this item.

Mr. FITCH. Is the chairman of the Committee of Ways and Means in order?

The CHAIRMAN. He can only proceed by unanimous consent.

Several MEMBERS objected.

Mr. JONES, of Tennessee. I rise to a question of order. I believe there is a rule of this House which provides that no member of this House shall vote upon a question in which he is personally interested. Now, I want to know whether there will be a quorum left here, if none of the new members are allowed to vote? [Laughter.]

The CHAIRMAN. That is a question which the Chair cannot undertake to decide.

Mr. WALSH. I wish to correct an error in the point made by the gentleman from Tennessee, [Mr. JONES.] This is not a matter in which the new members are personally interested. The books are furnished to members for the public good. [Renewed laughter.]

Mr. STANTON. I was going to say that, upon that principle, gentlemen could not vote for the civil and diplomatic bill, which provides their pay and mileage.

The CHAIRMAN. This conversation is out of order. The Chair repeats that he cannot undertake to decide in relation to the personal interest of gentlemen in this matter.

The question was then taken upon Mr. JOHNSON'S amendment, and it was agreed to.

Mr. CLEVELAND. I think we have done business enough for one day. I move that the committee do now rise.

Mr. HOUSTON. I call for tellers upon the motion. We shall never get through this bill if we go on at this rate.

Mr. CLEVELAND. If the chairman of the Committee of Ways and Means is anxious to go on, I will withdraw my motion.

Mr. HOUSTON. I want to get on far enough, so that we can finish the bill to-morrow, and not consume both days, which should be devoted to private business.

Mr. JONES, of Tennessee. Why, we shall not get through it in a week.

Mr. GORMAN. I move that the committee do now rise.

Mr. HOUSTON. Upon that motion I ask for tellers.

The tellers were ordered; and Messrs. GORMAN and BRECKINRIDGE were appointed.

The question was then taken, and the tellers reported—ayes 61, noes 31.

So the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman [Mr. STUART] reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill No. 207, and had come to no conclusion thereon.

Mr. ORR. I move that the House do now adjourn.

Mr. HOWARD. I hope the gentleman will withdraw his motion, and allow us to take up and refer the bills upon the Speaker's table. It will take but a few minutes.

Several MEMBERS objected.

The question was then put, and carried in the affirmative; and

The House adjourned till twelve o'clock to-morrow.

#### NOTICE OF A BILL.

Mr. FLORENCE gave notice of his intention on to-morrow, or upon some subsequent day, to ask leave to introduce a bill to prescribe by law, or regulation, the number, character, and position, of signal lights to be borne by steamers and vessels, between sunset and sunrise, on the waters of the United States.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HENN: The petition of James Sanderson and 108 others, citizens of Iowa, asking for the establishment of a mail route from Kanawha to Sargent's Bluffs.

Also, the petition of Admiral B. Miller, deputy marshal of Marion, Warren, and Madison counties, Iowa, asking additional compensation for taking the Seventh Census.

By Mr. SEYMOUR, of Connecticut: The petition of William S. Pomeroy and others, citizens of Bridgeport, for the extension of the Woodworth patent.

By Mr. DOTY: The petition of C. Billingshurst, Clark Lawton, and 60 other citizens of Wisconsin, for a post route from Theresa, by Mayville, Horikon, Juneau, Oak Grove, and Lowell, to Columbus.

Also, the petition of Stephen Jones and other citizens of Lowell, for the same route.

By Mr. CHURCHWELL: The memorial from the General Assembly of the State of Tennessee to the Congress of the United States, praying for the establishment of a regular mail line on the Western rivers.

By Mr. HUNTER: The petition of John Russell and 69 other citizens of Ohio, in favor of the Wheeling Bridge.

Also, the petition of Gideon Davis and 112 other citizens of Ohio, in favor of the Wheeling Bridge.

Also, the petition of H. B. Rice and 112 other citizens of Ohio, in favor of the Wheeling Bridge.

Also, the petition of John T. Watson and 182 other citizens, in favor of the Wheeling Bridge.

By Mr. FULLER, of Maine: The remonstrance of Samuel W. Pope and others, of East Machias, against the renewal or further extension by Congress of the patent granted to Austin and Zebulon Parker for a reaction water-wheel.

By Mr. GAYLORD: Three petitions, signed by 122 citizens of Morgan county, Ohio, asking a grant of 100,000 acres of unsold public lands within said State, to aid in the construction of a certain plank or McAdams road.

By Mr. CAMPBELL, of Ohio: The petition of D. P. Egbert and E. Bailey, assistant marshals of Warren county, Ohio, asking additional compensation for services in taking the census.

Also, the petition of J. B. Thomas and others, assistant marshals of Clinton county, Ohio, for the same.

Also, the petition of A. D. Kurn and others, assistant marshals of Butler county, Ohio, for the same.

Also, the petition of H. Vauandall and 52 others, citizens of Preble county, Ohio, against an extension of the patent of the Woodworth planing machine.

Also, the petition of Damon Jones and 34 others, citizens of Warren county, Ohio, against an extension of the patent of the Woodworth planing machine.

Also, the petition of A. C. Tyler and 57 others, of Butler county, Ohio, asking Congress to adopt such measures as may tend to prevent wars, by securing provisions in treaties for the submission of the matters in dispute between nations to arbitration, &c.

By Mr. BARTLETT: The memorial of James M. Arthur and 51 others, citizens of Barnet, in the county of Caledonia, and State of Vermont, asking Congress to repeal the law authorizing the Postmaster General to contract for the transportation of the mail on the Sabbath.

By Mr. SMART: The remonstrance of John S. Caldwell and others, citizens of Belfast, Maine, against a renewal of Woodworth's patent.

Also, the remonstrance of Augustus Perry and others, citizens of Belfast, Maine, against the renewal of patent to Austin and Zebulon Parker for alleged improvements of reaction water-wheels.

By Mr. WELLS: The petition of 86 citizens of Schenectady, New York, praying that the bill giving further remedies to patentees may become a law.

By Mr. SEYMOUR, of New York: Six several petitions of citizens of the State of New York, praying that Whitehall be declared a port of entry.

Also, a remonstrance of citizens of Rensselaer county, against the extension of the Woodworth patent.

By Mr. McNAIR: The petition of the assistant marshals of the eastern district of Pennsylvania, praying additional compensation for taking the Seventh Census.

Also, resolutions of the Legislature of Pennsylvania, in favor of the improvements of the Delaware river.

Also, resolutions of the Legislature of Pennsylvania, relative to Smith O'Brien and his associates in exile.

Also, resolutions of the Legislature of Pennsylvania, in reference to the establishment of a navy-yard, depot, and dry-dock, on the lake frontier.

#### IN SENATE.

FRIDAY, March 26, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate, copies of all contracts originally made, and at present existing, for the transportation of the mails

by steam-ships between New York and California, and other information in relation thereto; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### SPECIAL ORDER.

On the motion of Mr. BADGER, the execution of the special order, setting apart Friday of each week for the consideration of private bills, was postponed until one o'clock.

#### PETITIONS, ETC.

Mr. HALE presented the petition of Mary Colcord, praying a pension in consideration of the services of her father, Bradstreet Wiggins, during the revolutionary war; which was referred to the Committee on Pensions.

#### FLORIDA CONTESTED ELECTION.

Mr. MALLORY. I desire to present a memorial of the Hon. John L. Crawford, a member of the Florida Legislature, upon the subject of the contested seat of a Senator from Florida. In this memorial, he recites the practice of the Florida Legislature, and the understanding on which the election was had. It is addressed to the President of the Senate, and I ask that it be referred to the special committee having the subject in charge. At the same time, I ask leave to present twenty other similar memorials on the same subject, which I ask may be referred to the special committee.

They were so referred.

#### REPORTS FROM STANDING COMMITTEES.

Mr. NORRIS, from the Committee for the District of Columbia, to which was referred the bill to incorporate the Sisters of Visitation in the District of Columbia, reported it back with an amendment.

Mr. WALKER, from the Committee on Revolutionary Claims, to which was referred the petition of John Moore White, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the memorial of the children and executrix of William Jones, praying compensation for the services of their father, during the revolutionary war, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the memorial of the heirs of James Bell, submitted a report, accompanied by a bill to amend an act, entitled, "An act for the relief of the heirs of James Bell, deceased," which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of the children and heirs of Uriah Jones, a soldier in the revolutionary war, praying a pension, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the petition of John Duff, jr., for himself and his late partner, Joseph Gonder, jr., submitted an adverse report.

On motion by Mr. BRODHEAD, it was

Ordered, That it be recommitted to the Committee on Naval Affairs.

He also, from the same committee, to which was referred the petition of William Davis, asking remuneration for loss of property, while in the naval service of the United States, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to which was referred the memorial of Lydia Ann Mills, praying a pension, submitted an adverse report; which was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to which was referred the memorial of Z. F. Johnston, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

#### PERSONAL EXPLANATION.

Mr. GWIN. When the resolution offered by the Senator from New York [Mr. SEWARD] was under consideration the other day, I stated that a confidential letter had been written by Commodore

Jones to the Secretary of the Navy, and had been sent by the Secretary to the court-martial that tried Commodore Jones. I have since ascertained that such was not the state of the case. A confidential letter was placed in the hands of the judge-advocate, to assist him in making up the charges and specifications against Commodore Jones, but it was never used. It never went before the court-martial, nor was it known to any member of the court. Its publication originated in a resolution offered by the Senator from Virginia, [Mr. MASON], calling for the proceedings of the court-martial and the correspondence; otherwise it would never have been published.

#### SEEDS FOR THE PATENT OFFICE.

Mr. SOULE asked and obtained leave to introduce a joint resolution to provide for the production of seeds required for distribution at the Patent Office; which was read and passed to the second reading.

The resolution appropriates \$1,000 for the object contemplated.

Mr. S. The Senate will perceive that there is a necessity for acting at once upon this resolution. The object of the appropriation is to enable the agricultural department to purchase and produce such seeds as may be necessary for the use of that department. Unless we now do it, it will be too late hereafter. I therefore throw myself upon the indulgence of the Senate, and ask that the resolution may have its second reading and be considered at once.

Mr. MASON. I regret very sincerely that I am compelled to differ from the Senator from Louisiana as to the propriety of passing this resolution; but I have no objection to putting it on its passage now, if it is desired by him. I shall, however, be obliged to vote against it.

The PRESIDENT. Does the Senator object to the second reading of the resolution?

Mr. MASON. I think, perhaps, we had better not pass it to-day, and therefore I object.

The PRESIDENT. The Chair would suggest to the Senator from Louisiana, that perhaps it would be proper to have his resolution referred.

Mr. SOULE. Then I ask that it be read a second time now, for the purpose of being referred to the Committee on Agriculture.

Mr. ADAMS. I object.

The resolution therefore was not read a second time.

#### JUDGES OF DISTRICT COURTS.

Mr. BRADBURY. There is upon the table a bill amendatory of the act entitled "An act to provide for holding the courts of the United States in case of the sickness or other disability of the judges of the district courts," which came from the House with an amendment. When it came from the House the other day, I desired that it should be laid over, for the purpose of preparing an amendment, extending similar relief to the judges of this district; but I understand that it is very important that the bill should be passed immediately, and that delay might be created by amending the bill. I will not, therefore, offer that amendment, but I hope that the bill will now be taken up, and the amendment of the House be concurred in.

The bill was taken up, and the amendment of the House, which was to add these words, "but no such district judge shall hear appeals from the district courts," was concurred in.

#### PRESIDENT'S CLERK.

Mr. BADGER. I submit the following resolution:

*Resolved*, That the clerk to the President of the Senate be continued during the present Congress, and be paid the same per diem compensation as heretofore allowed him.

I will merely mention, in explanation, that the resolution under which the clerk was employed expired at the commencement of this session, and it is questionable whether the gentleman acting in this capacity is entitled to compensation for this session or not.

The resolution was read a second time, and considered as in Committee of the Whole. No amendment being offered, it was read a third time, and passed.

#### MESSENGERS, ETC., OF THE SENATE.

Mr. MANGUM submitted the following resolution; which was agreed to:

*Resolved*, That the Committee to Audit and Control the Contingent Expenses of the Senate be instructed to inquire into the number of messengers, pages, folders, and laborers necessary for the service of the Senate, and the compensation proper to be allowed to each; also, the number of horses and wagons, and the hire that ought to be allowed therefor; and that said committee report by resolution or otherwise.

#### "WASHINGTON CROSSING THE DELAWARE."

Mr. HALE. I submit the following resolution:

*Resolved*, That the Committee on Public Buildings be instructed to inquire into the propriety of purchasing the great national painting of "Washington crossing the Delaware," and causing the same to be placed in the mansion of the President of the United States.

As the resolution is one of inquiry, I ask that it may be considered now.

Mr. RHETT. I object.

Mr. BADGER. I would suggest to the Senator from South Carolina, that the resolution is merely one of inquiry.

Mr. RHETT. Then I withdraw the objection, as I have no objection to the inquiry.

Mr. ADAMS. I object to a proposition leading to such a large expenditure of money.

#### JUDICIAL DISTRICTS IN OHIO.

The engrossed bill to divide the State of Ohio into two judicial districts, and to provide for holding the district and circuit courts of the United States therein, was read a third time and passed.

#### NOTICE OF A BILL.

Mr. DODGE, of Wisconsin, gave notice of his intention to ask leave to introduce a bill granting the right of way and making a grant of land to aid in the construction of a railroad from Lake Michigan to the Mississippi river.

#### PURLOINING OF GOVERNMENT PAPERS.

A message was received from the President of the United States by Mr. M. P. Fillmore, his Secretary which represents, that at the close of the commission to adjudicate upon the claims of citizens of the United States, under the treaty of Guadalupe Hidalgo, the President directed a list to be made of papers which had been presented to that commission; and, pursuant to the act of Congress, approved 3d March, 1849, the papers themselves to be carefully arranged and deposited for safe keeping in the Department of State. He deemed all this necessary, as well for the interest of the claimants as to secure the Government against fraudulent claims which might be preferred hereafter. A few days since he was surprised to learn that some of these papers had been fraudulently abstracted by one of the claimants, and upon the case being made known to him by the Secretary of State, he referred it to the Attorney General, for the purpose of ascertaining what punishment could be inflicted upon the person who had been guilty of the offence. He now communicates to the two Houses of Congress the opinion of the Attorney General, and that of the attorney of the United States for this district, by which it will be perceived that it is doubtful whether there is any law for punishing the very grave offence of fraudulently abstracting or mutilating the papers and public documents in the several departments of this Government. It appears to the President that the protection of the public records and papers requires that such acts should be made penal, and a suitable punishment inflicted upon the offender; and he therefore brings the subject to the consideration of Congress, to enable it to act upon it, should Congress concur with him in this opinion.

On motion, the communication was referred to the Committee on the Judiciary, and ordered to be printed.

#### VIRGINIA LAND CLAIMS.

Mr. UNDERWOOD. The hour of one has not yet arrived, and I wish to ask a favor of the Senate, to take up this morning and dispose of a bill which I reported very early in the session; which I regard in all its practical effects as a private bill. It proposes to compensate the holders of certain military lands who have lost their claims in the State of Kentucky, west of the Tennessee river, by a decision of the Supreme Court of the United States. The bill being private in its effect, although considered by the Chair as a public measure, cannot get a hearing unless it comes up on private-bill day; and I wish to ask the Senate to take it up now, and give me an opportunity of explaining it very briefly. It depends entirely on a legal question, and can be



compressed within a nut-shell. I am sure that it will take but little of the time of the Senate; and we shall, perhaps, be able to get through with it within the fifteen minutes that are left before the hour of one o'clock arrives.

Mr. PRATT. If it is the understanding on the part of the Senator from Kentucky, that his bill is to be postponed, if not disposed of when the hour arrives at which private bills come up, I will interpose no objection.

Mr. UNDERWOOD. I agree to that understanding.

The motion was agreed to; and the Senate accordingly proceeded to consider, as in Committee of the Whole, the bill to provide for the unpaid claims of the officers and soldiers of the Virginia State and Continental lines in the revolutionary army.

It authorizes the Secretary of the Interior to appoint a commissioner, to ascertain and report to him the number of tracts of land, and the parts of tracts, and the quantities of acres, according to the original survey, and the names of the persons to whom patents stood in the State of Kentucky, below or on the west side of the Tennessee river, granted for military services in the revolutionary war, which have been covered by, or included within, paramount claims, founded upon Virginia treasury warrants. Upon the report of the commissioner, and upon the Secretary of the Interior being satisfied with its correctness, it provides that the Secretary of the Interior shall issue scrip in behalf of the owners and proprietors of the military tracts of land included within the paramount treasury warrants grants, at the rate of \$1 25 per acre, for each acre of military tract covered by paramount treasury warrant grants; which scrip shall be receivable in payment for any lands subject to sale by private entry owned by the United States, and shall be assignable by indorsement, attested by two witnesses. Where there are more persons than one interested in the same scrip, the Secretary is authorized to issue to each scrip for his or her portion; and where infants or *femmes covert* shall be entitled to any scrip, the guardian of the infant, and the husband of the *femme* shall receive and dispose of the same.

The second section provides that the commissioner shall be paid at the rate of five dollars per day for his services, and shall be allowed a reasonable sum for chain-carriers; and that to reimburse the United States for the sums so expended, the parties receiving scrip shall pay twenty-five cents on each hundred acres of land.

Mr. UNDERWOOD. If the members of the Senate will be kind enough to hear me, I will state the historical facts of the case. In 1783 the Legislature of Virginia set apart the country west of the Tennessee river to satisfy the bounties promised to her officers and soldiers during the revolutionary war. In 1779, Virginia passed a law selling her vacant domain, with certain reservations, in which she stated that her object was to raise funds to carry on the American Revolution. In that act she reserved the country west and south of Green river, now in the State of Kentucky, to pay the bounties promised to her officers and soldiers. Subsequent to that time, in running the line between Carolina and Virginia, it was found that the line of Carolina run further north than was anticipated. And then, in 1783, as I have remarked, Virginia, reciting the fact that the Carolina line run further north than was anticipated, gave the country west of the Tennessee river to the officers and soldiers. In the act of 1779, selling her vacant domain to raise funds to carry on the Revolution, she said that no land claimed by the Cherokee Indians should be subject to appropriation under that law. I wish the Senate to recollect these facts, for they are the starting point; and after them the whole case is in a nut-shell.

After the passage of the law of 1783, the officers and soldiers, through certain superintending officers that were sent out to secure their lands by location, entered the country west of the Tennessee river to satisfy their bounties. Prior to that entry, which was made in 1784, George Rogers Clarke, and some other individuals owning bounties obtained under the act of 1779, called treasury warrants, located about one hundred thousand acres of land in the country west of the Tennessee river; and they said it was subject to appropriation by these warrants, because it was not Cherokee land, but was Choctaw land. They,

therefore, satisfied their treasury warrant claims prior to 1784, by these lands. The country was purchased from the Indians in 1818, by General Jackson. After that, Kentucky allowed the surveys to be carried into grant; and when they were carried into grant, a controversy came up between the military claims and the treasury warrant claims. General Porterfield, of Virginia, brought a suit to recover from the heirs of George Rogers Clarke the city of Paducah, now worth \$1,000,000 or \$2,000,000—there is no telling the value of it. The controversy was continued for years, until at length the Supreme Court of the United States determined that this country west of the Tennessee river was not Cherokee country, and therefore was not saved from appropriation under the act of 1779, and decided the controversy against Porterfield's heirs, and in favor of the heirs of George Rogers Clarke. Thus, all the military lands located within the survey of George Rogers Clarke, amounting to some seventy or eighty thousand acres, were swept by the board, and the officers and soldiers lost everything under the decision rendered by the Supreme Court some five or six years ago. The controversy turned upon the question, whether the land was or was not Cherokee land. The officers and soldiers contended from the beginning that it was a Cherokee claim, and saved from appropriation by the act of 1779, because it was Cherokee land. The heirs of George Rogers Clarke proved that it was Choctaw land, and thereby gained the suit.

Now, the question is, whether when these individuals have lost their military warrants by this decision, depending upon a mistake made by them as to whether the land was Choctaw or Cherokee, as far back as 1783 or 1784, they shall bear the loss and receive no compensation; or whether Congress, holding the lands which Virginia has surrendered, will compensate those who, by the decision of the Supreme Court, have lost their lands? It is a controversy in which I have no interest, in behalf of my constituents, equal to the interest that is felt in the older States. Since I have been a member of Congress, a great many persons have made themselves known as claimants, living in Massachusetts. Virginia is much more deeply interested than Kentucky. I have received memorials from the heirs of many distinguished officers and soldiers. I would mention that the heirs of General Morgan, among others; the heirs of General Gibson, and of Mr. Pickering, of Massachusetts, claim a portion of these lands. These have all lost their titles, because there was a mistake made in regard to the Indian title to the country, as far back as 1783 or 1784. The question for Congress now to decide is, whether they will throw the loss on these individuals, because at that early period they were mistaken in point of fact in regard to the nature of an Indian claim?

It is historical with us in Kentucky, that the whole of the western part of the State was bought by Richard Henderson, at an early period, from the Cherokee Indians; and it was believed by us to be Cherokee land, from the time of that purchase by Henderson down to the time of the decision of the Supreme Court of the United States.

This is the whole case; and I hope that I have explained it sufficiently to enable the bill to pass within the few minutes yet remaining before the hour for private bills arrives. I wish merely to add, that the committee which investigated the subject, were unanimous in regard to the bill now before the Senate. There were claims of the State of Virginia for land warrants outstanding, which had produced a great deal of discussion heretofore, both in committees and in Congress; but that subject is not included in the present bill.

Mr. BRADBURY. I would like to inquire of the Senator from Kentucky, whether he proposes to authorize these individuals to locate anew, or to pay them in money?

Mr. UNDERWOOD. The bill is to allow them to take scrip, by which they enter lands of the United States subject to private entry. They only take as much scrip as will give them acre for acre.

The bill was reported to the Senate without amendment, and ordered to be engrossed and read a third time.

#### PRIVATE BILLS.

The bill for the relief of Thomas H. Leggett,

and the bill for the relief of Ira Day, of Vermont, coming up in order for consideration, were passed over informally.

#### INVALID PENSIONS.

Mr. MASON. I wish to call the attention of the Senate to the fact, that on Friday last, in calling over the Calendar, the Chair passed over Senate bill 39, "A bill to authorize the payment of invalid pensions in certain cases," under the impression, I presume, that it was not of a private character. But it is a bill strictly of a private character. It was reported from the Committee on Pensions. I do not know whether the bill which has just been passed over is before it or behind it on the Calendar; but if it is after it, I would ask the Senate to go back to that bill, and take it up as one strictly of a private character. I, therefore, move that it be taken up for consideration.

The PRESIDENT. If it is not a private bill, the Chair cannot, without unanimous consent, receive the motion.

Mr. MASON. I do not know what may be included precisely in the term "private bills," but this is a bill to pay pension claims, four or five in number. They constitute a class of claims in which each claimant has heretofore presented a petition; and the Committee on Pensions have here grouped the four or five together.

Mr. CLARKE. I would remark that that bill has once or twice passed the Senate since I have been here, and has always been considered to be a bill of a private nature altogether.

No objection being made, the bill was taken up for consideration, and the Senate proceeded to consider it as in Committee of the Whole.

It was reported from the Committee on Pensions with an amendment, which is to strike out all after the enacting clause and insert a provision requiring the Secretary of the Interior to pay to the invalid pensioners, officers of the army of the Revolution, therein named, or if dead, to their widows, and if the widows be dead, to the children of said officers, the amount of their several invalid pensions which was deducted or withheld from said officers under the provisions of the act entitled "An act for the relief of certain surviving officers and soldiers of the Revolution," approved May 15, 1828; namely, to Lieutenant Robert White, the amount of his invalid pension from March 3, 1826, to February 9, 1831; to Captain John Crute, the amount of his invalid pension from March 3, 1826, to May 31, 1830; to Surgeons Mate Mordecai Hale, from March 3, 1826, to December 9, 1832; to Lieutenant William Wallace, from March 3, 1826, to December 31, 1836; to Lieutenant Philip Stuart, from March 3, 1826, to August 14, 1830; to General William Barton, from March 3, 1826, to October 22, 1831; to Ensign Clement Sewell, from March 3, 1826, to January 7, 1829; to Lieutenant James Glentworth, from March 3, 1826, to May 31, 1830.

Mr. CLARKE. The reading of the report made by the committee will place the facts entirely before the Senate, without the necessity of a word being said.

The report was read, as follows:

That by the first section of the act of May 15, 1828, each surviving officer of the continental line of the army of the Revolution was to receive a pension, "to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life." The second section provided, "that whenever any of said officers has received money of the United States, as a pensioner, since the third day of March, one thousand eight hundred, and twenty-six, aforesaid, the sum so received shall be deducted from what said officer would otherwise be entitled to under the first section of this act; and every pension to which said officer is now entitled shall cease after the passage of this act."

Previous to the passage of the act of May 15, 1828, several officers of the continental line had, in consequence of the wounds they had received in battle, been placed on the pension roll, as invalid pensioners; and having availed themselves of the provisions of that act, their pensions, as invalids, were deducted or withheld from the third day of March, one thousand eight hundred and twenty-six.

On the 31st of May, 1831, an act was passed to "amend" that of the 15th of May, 1828, which provides that the latter "shall not be construed to embrace invalid pensioners, and that the pension of invalid soldiers shall not be deducted from the amount receivable by them under the said act."

Since the passage of the amendatory act of May 31, 1831, petitions have been presented to Congress from widows and heirs of officers whose invalid pensions had been deducted and withheld under the operation of the act of the 15th of May, 1828, praying for the payment to them of the amount so deducted or withheld; and the committee find that on the 15th of June, 1836, two acts were approved giving the relief asked; one for the relief of the widow of

Samuel Gibbs, and one for the relief of the heirs of Richard Anderson. Another similar act, for the relief of the heirs of Moses White, was approved July 26, 1843; and another on the 5th of January, 1849, for the relief of the heirs of William Evans. The committee have not made a thorough examination, and know not but other acts of the kind may have been passed.

From the legislation in the cases alluded to, it would appear that the Commissioner of Pensions did not place the construction upon the act of May 31, 1831, that was intended, or that the terms of the act were so carelessly drawn that they warranted a construction not intended, and the effects of which it required subsequent legislation to correct. If it were intended by that act that the sums which had been deducted and withheld from invalid pensioners, in consequence of their receiving the benefit of the act of May 15, 1838, should be restored to them by the Commissioner of Pensions, the act was not, perhaps, sufficiently plain and explicit, for he has construed the act to have simply a prospective operation; and hence the subsequent legislation in the individual cases above mentioned.

As early as February 9, 1843, an attempt was made in the other House to enact a law which should embrace all the cases where invalid pensions were withheld under the act of May 15, 1838. A report was then made from the Committee on Invalid Pensions favorable to such a law; and accompanying the report was a statement exhibiting the names of the officers from whom amounts had been withheld, the sum withheld from each, &c. The statement then made contained the names of nine officers, and the total amount withheld is stated to be \$9,829 12. Since that period, however, the heirs of two of said officers have obtained the amount withheld, by means of special acts. The chairman having requested a new and correct statement from the Commissioner of Pensions, that officer has furnished the following:

Names.	Rank.	Amount of pay per month.	From what time stopped.	If restored to the roll, from what period.	To what period payable.	Amount withheld.
Robert White.....	Lieutenant.	\$15 11 1/2	March 3, 1836.	February 9, 1831.	February 9, 1831.	\$624 53
John Critch.....	Captain.	14 73 3/4	do.	May 31, 1830.	May 31, 1830.	750 40
Norville Hale.....	Surgeon's mate.	10 60 1/2	do.	Not restored.	December 31, 1832.	832 60
William Wallace.....	Lieutenant.	9 06 1/2	do.	December 31, 1836.	December 31, 1836.	1,178 08
Philip Stuart.....	Lieutenant.	17 08	do.	Not restored.	August 14, 1830.	907 22
William Barton.....	General.	39 00	do.	Not restored.	October 22, 1831.	2,039 00
Cherment Sewell.....	Ensign.	16 40	do.	Not restored.	January 12, 1835.	354 96
James Glentworth.....	Lieutenant.	8 66 3/4	do.	May 31, 1830.	May 31, 1830.	441 40
						7,408 24

In the above statement the name of James Glentworth is added to the list furnished by the Commissioner of Pensions in 1843; while the names of Moses White and William Evans are omitted, being embraced in the special acts alluded to.

Being disposed to admit the correctness of the grounds which Congress has repeatedly assumed in passing the acts for relief in 1836, 1846, and 1849, the committee have agreed to report an amended bill, to embrace all the cases now unprovided for, as shown by the statement of the Commissioner of Pensions.

Mr. CLARKE. The whole amount, it will be perceived, provided for is \$7,408 24, and that list includes all the claimants. The Senate will have perceived from the reading of the report that three private, or separate, acts have been already passed and approved, for the payment of three of the twelve that were left in this situation. This act is now intended to cover the remainder. It has twice passed the Senate; and I hope will now pass without objection.

The amendment reported by the committee was agreed to. The bill as amended was reported to the Senate; the amendment was concurred in, and the bill was ordered to be engrossed for a third reading.

#### CARMELITE NUNNERY OF BALTIMORE.

The Senate proceeded, as in Committee of the Whole, to the consideration of House bill for the relief of the Carmelite Nunnery of Baltimore, upon which the Committee on Finance had reported adversely.

It enacts that the Secretary of the Treasury be directed to remit the duties upon a box (marked VI.) of church vestments imported into the port of New York; in January, 1852, in the steamer Franklin, and consigned to Messrs. Morgan & Iselin, the said vestments being a donation to the Carmelite Nunnery of Baltimore, for the use of its clergy as sacerdotal vestments.

Mr. MALLORY. I think that the Senate will become satisfied, upon investigation, that it is highly proper to grant the relief asked for; and if it be a proper motion, I will move that this bill be recommitted to the committee.

Mr. HUNTER. There is no necessity for that.

Mr. PRATT. I hope it will not be recommitted. I agree entirely with the Senator from Florida, that we ought to pass the bill.

Mr. MALLORY. I think we ought to pass the bill; and if we act upon it now, I have a word to say upon the subject. The articles referred to were imported expressly for the use of religious ceremonies. I understand that they are vestments of the priesthood principally; that their value is small; and that the amount of duty to be returned is a trifle in itself. The principle involved has induced the committee to report against it. They are religious vestments, as I understand, and do not come within the exemption in the tariff of ready-made clothing. A duty upon vestments, or articles of that kind, is indirectly a tax upon religion itself. They are imported expressly for a charitable institution—an institution devoted principally to female education. It is an institution also whose expenses fall heavily, as I understand, upon one individual lady. Each and every one of these views appeals strongly to the sympathies of the Senate.

But I place it upon a higher ground. Congress has from time to time granted relief of this kind in analogous cases. I refer to the act of March 31, 1832, vol. 6, of the Statutes at Large, p. 484; and vol. 8, p. 533, where duties were remitted on church furniture imported by a bishop for a church in Bardstown, Kentucky; and to vol. 6, of the Statutes at Large, p. 491; and vol. 8, p. 564, where duties were remitted on church furniture imported by the Rev. Mr. Hughes. On October 25, 1832, relief was granted to a Roman Catholic church; no duties were remitted, but land was given, which, I claim, was founded upon grounds analogous to the one put forth now. Lands were also given for the support of religion in Symmes & Ohio Company's purchase. On February 5, 1829, the lien of the United States on certain lands was released to a religious congregation. For a great variety of analogous cases, I refer the Senate to the Synoptical Index of the Laws of the United States from 1789 to 1851, p. 190, under the title "Church." April 24, 1800, the Government refunded duties on implements employed in the manufacture of snuff. I state these cases to show that Congress has from time to time remitted the duties which have accrued under existing tariffs for certain considerations. For the South Carolina Railroad Company, I find that iron was allowed to be imported free of duty; and such pipes and appliances as have been used for testing certain theories of atmospheric pressure were allowed to be imported, also, free of duty. We are in the habit frequently of remitting duties on goods destroyed by fire. Duties have also been remitted on swords which have been imported as presents from foreign Powers to our military officers.

Here are precedents in which Congress has remitted the duties upon articles of church furniture—articles which go, therefore, to the keeping up of religious ceremonies. These are religious vestments—the vestments of the priesthood. There can be no religion without ceremony; and there can be no ceremony without vestments. The assessment of the duties upon these articles will go

directly in face of the precedents which I have quoted, and will bear with great hardship on the institution interested.

Mr. HUNTER. The Finance Committee instructed me to report adversely upon this bill, which came from the House of Representatives. The committee came, as I believe, unanimously to the conclusion to make this report for the purpose of obtaining the opinion of the Senate upon the principle involved. I am free to say, that if we do remit duties in such cases—if we believe the principle to be a right one, the persons who ask this favor upon this occasion are as meritorious as any who have ever come before this or any other body. But it seemed to the committee that it involved a principle. It is proposed, not to give money, but to remit a debt to a religious community; and it involves the question how far the Government of the United States should take into consideration the objects and purposes of a benevolent or religious society, to see whether they are meritorious objects of such a benefit as this. It seemed to us that, although it was not a very large matter, yet that it might involve a principle. There is another case, similar to this, before the Committee on Finance, in relation to church furniture. There is also another case—that of a burial society, asking to have duties remitted upon marble which was imported for monumental purposes—which has been brought forward by the Senator from Louisiana, [Mr. Downs,] who will probably call it up very soon, and the decision upon it will depend somewhat upon the decision in this case. If we begin with these, and remit duties simply because the societies are benevolent, or religious and meritorious in their character, I do not know very well where we shall stop. If we remit duties upon ornaments for a building; if we remit them upon the materials of which it is composed; if we remit them from churches, we must remit them from benevolent societies; and it seems to me it would involve some difficulty. However, we propose nothing more than to take the sense of the Senate. If it be their opinion that duties ought to be remitted in such cases, we shall have no difficulty in reporting upon similar cases which are now before us. If the Senate decide that this is a proper case, we will report favorably in the other cases; otherwise we will not.

Mr. PRATT. I wish to offer as an amendment, an additional section, so that we may provide in this bill for similar cases in future, and avoid the necessity of special legislation in each particular case.

The amendment was then read, as follows:

And be it further enacted, That in all cases hereafter, where books, paintings, statuary, tombs, monuments, philosophical apparatus, bells, vestments, other habiliments or wearing apparel, or materials for the same, church furniture, and other articles, are imported into the United States in good faith, by or for the use of any school, seminary, college, bishop, clergyman, church, benevolent or religious community or society, of any denomination whatsoever, and not intended as merchandise, for sale or barter, all such articles shall be exempt from payment of duty: *Provided*, That it be made to appear to the satisfaction of the proper officers of the customs, or to the Secretary of the Treasury, by their affidavit, properly authenticated, of the bishop, clergyman, or principal persons, having the charge and control of either of the institutions enumerated, or such other testimony as may be satisfactory, that such articles are for the exclusive use and benefit of the same institution or church, describing it, and introduced for charitable, literary, or religious purposes, and not intended as merchandise for sale or barter.

Mr. MALLORY. I agree entirely with the Senator from Virginia [Mr. HUNTER] as to the impropriety of remitting such duties as a general rule, but this is a case which appeals to Congress with such peculiar force, that I think it cannot be made with propriety. I do not know of any case which we are likely to have before us which appeals to Congress so strongly as this. I do not think we are likely to be called upon to remit duties upon marble, or church furniture, or articles of a similar character, because we yield to the prayer of these petitioners in this case. Here is a remission of duties asked for, upon what? Upon the very vestments, upon the very robes, in which they daily, throughout the whole earth, offer up prayers for Congress. The sun never sets upon a day, throughout the habitable globe, in which the prayers of the Church are not offered up for Congress in these very vestments. Their claim upon Congress is, therefore, of a far higher character than any before us, and I cannot very well suppose that this case can be held up as a precedent for the remission of duties upon marble

# THE CONGRESSIONAL GLOBE.

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or tomb-stones, or for the ordinary decorations of buildings.

Mr. HALE. I do not know that I understood the honorable Senator from Florida [Mr. MALLOY] in the remarks which he made when he was first upon the floor on this question. Possibly, I misunderstood him. If I did understand him, it was, that this relief should be given because there could be no religion without ceremony, and that there could be no ceremony without vestments; and that, therefore, one of the objects of the passage of this bill was, to help the cause of religion. If that is really so, I think we ought to pass it; but it is just possible that we may not all think exactly in that way. I wish to suggest to the honorable Senator from Maryland, that it seems to me that if his amendment is adopted, it will defeat the bill—that it will have an injurious effect upon it—because the amendment is of such a nature as would make this a public bill; and this being private-bill day, a public bill would have no chance—the Senate cannot consider it except by unanimous consent. As it is now, it is a private bill, and can be considered and acted upon; but if we adopt the amendment, it will become a public bill, and for that reason it will be ousted.

I think, Mr. President, that there is much force in what has been urged by the Senator from Virginia, [Mr. HUNTER.] If, as I understood the Senator from Florida to say, there can be no religion without ceremony, and no ceremony without vestments, I would suggest to that honorable Senator that there are some other things besides ceremony and vestments. In all religions, sir, it is a matter of fact, that the priests cannot live without food—a melancholy fact, sir—any more than they can perform their religious rites without their vestments; and I think we ought, therefore, to relieve from duties all articles of provisions intended to be eaten by the holy men; and, in this way, I think we shall do much more good to the cause of religion, than we shall do by simply legislating in regard to vestments. Indeed, Mr. President, I do not know but that our liberality should be carried still further than has been suggested by the Senator from Maryland; and that it should extend not merely to these vestments and provisions, but also that it should include all liquors intended for religious uses. I am not sure but that this ought to be done; and that the principle, if it be a principle, should be carried to its full extent in all its ramifications, and that it should not stop where it does. At present, however, and in order to give more time for mature deliberation on this very important question, unless some Senator wishes to make a speech on the subject, I will move to lay the bill upon the table.

Mr. PRATT. Will the Senator from New Hampshire withdraw that motion for a few moments?

Mr. HALE. Oh! certainly; I will withdraw it.

Mr. PRATT. I am seldom indebted to the honorable Senator from New Hampshire, either for advice or commiseration in the course which I may think proper to pursue. It has been suggested, indeed, by my friend from Michigan, [Mr. CASS,] that no advice which he can give will do me any good. It is suggested that the amendment which I have offered, will take from this bill its character as a private bill, and will make it a public one, and thus prevent its consideration to-day. The amendment I have proposed, does not refer to the Carmelite Nunnery at all. The private bill is "a bill for the relief of the Carmelite Nunnery." The amendment is to make a similar provision in all such cases that may hereafter occur coming within the provisions of this private act. It still remains a private act. Its public reference is altogether independent of that which relates to the Carmelite Nunnery.

I certainly do not see the force of the remarks of the Senator from New Hampshire. If they are intended in pleasantry, I must certainly say that I do not think the subject is one in which pleasantry should be indulged. But in whatever point of view they were intended, I do not see their applicability to the subject before the Senate.

This, sir, is a religious institution of the city of Baltimore, formed by the association of a number of ladies, for religious purposes. They are sedulously engaged in educating the females of that city—probably the poorer class of them—who are sent to this nunnery for the purpose of education. One of the vows they have taken, is a vow of perpetual poverty. They have no money, and their vow is that they will have none. Their services for educating the poor are free from all charge. A chapel has been built near the nunnery, for the purpose of enabling them to attend worship without being subjected to the gaze of the public; and I think that the idea intended to be expressed by the Senator from Florida was entirely right, but not in the sense given to it by the Senator from New Hampshire, [Mr. HALE.]

These vestments, Mr. President, have been used from time immemorial—from the commencement of the Christian era down to the present day—by the Catholic clergy in the exercise of their religion. Now, as the Senator from New Hampshire says, we may differ with them in opinion as to the importance of these ceremonies; but that is their creed, and these ceremonies cannot be carried on without the vestments which this bill proposes to allow to be imported free of duty. The religion of the Catholic church is the religion of these ladies, who have devoted themselves to the benevolent purpose which I have specified; and the simple question is, in a class of cases like this, whether we should impose a duty on them or not. The Senator from Virginia, if he were on the other side, being a strict constructionist of the Constitution, might have produced that instrument for the purpose of showing that the remission of these duties would be contrary to its spirit; for we are prohibited by one of the articles of the Constitution from passing any law respecting an establishment of religion, or prohibiting the free exercise of religion. But here are a number of ladies who have taken a vow of poverty, and who cannot pay the duty upon these vestments, which have been sent to them, to be used by the clergymen in the chapel in which they worship. According to the worship of their Church, the vestments are essential in the exercise of their religion. I therefore think that the Senator from Virginia, if he had been on the other side, would have brought this case within the constitutional prohibition.

But, sir, there are a number of precedents, besides those introduced by the Senator from Florida, bearing on this question. In the first place, it has been usual to remit the duties on articles imported into the country for the especial use of seminaries and places of education; and in one of the books I have before me, there is an act of 1826, to remit duties on marbles, capitals, bases, and so forth, imported for the use of the Universities of Virginia. So, also, I find many other acts of Congress remitting duties on articles imported for the use of seminaries. This establishment is a school, a seminary of learning; and it is a part of the creed of the persons there, that they should worship the Almighty in the manner that their church prescribes, and one part of that is the use of the vestments, the imposition of duties on which is asked to be remitted by this bill.

I think, therefore, that looking at it as a seminary of learning, the duties should be remitted. But looking at it as it really is, it refers to the importation, more particularly, of articles for the use of this religious institution.

There are a number of others which might be cited, besides those already referred to, but I doubt whether the Senator from Virginia, or any one else opposed to the bill, could lay his finger on a single case where application has been made to the Congress of the United States for relief, and it has not been granted. By an act, approved the 2d March, 1813, relief was granted to the Bible Society of Philadelphia, on an application made by that society for the remission of duty on books imported. And so, sir, by an act of April, 1816, the Bible Societies of Baltimore and Massachusetts were allowed to import bibles for the use of

those societies free of duty. In addition to these, some twenty cases might be quoted precisely similar to that now before the Senate. I do hope, therefore, that as the case now appeals as much to the feelings of this body as any that could be presented, it will not make a distinction between these good ladies and every other class of people similarly situated, who have asked for relief. I hope the Senate will not make this the first case in which this relief will be refused.

Mr. CASS. The honorable Senator from Maryland [Mr. PRATT] has given a very ingenious turn to an expression of mine. I did not say, at least I did not mean to say, that the Senator from New Hampshire had never given the Senator from Maryland any good advice. I could not say that. What I did say was, that I never knew the Senator from Maryland to profit by it. [Laughter.]

Mr. BADGER. It is very unfortunate to have to say anything upon so grave a subject gravely, when the Senate is so much excited by the happy hit of my friend from Michigan.

I am entirely in favor of the passage of this bill to afford relief to this religious association of ladies; but I think that if the Senator from Maryland [Mr. PRATT] will give me his attention for a moment, he will see the propriety of withdrawing his amendment, for several reasons. In the first place, this being private bill day, and it not being in order to consider a public bill, I think the Senator ought not, as regulation advertises the Senate of the object of setting apart this day for the consideration of private bills, to ingraft upon a private bill, a general law for the remission of duties.

Mr. PRATT. Very well, sir; I will withdraw the amendment.

Mr. BADGER. I say, then, I am entirely in favor of the particular measure before the Senate. It is to release the duties upon certain clerical vestments, imported for clergymen engaged in officiating in a chapel, and next to this religious association, which is so benevolently and honorably engaged in purposes of religious education, sworn to poverty, without funds, and therefore dependent upon the contributions of others to discharge these duties, or the liberality of Congress to release them. It seems to me there is nothing dangerous in the precedent. It is confined to a case that appeals to every feeling that we have, and so far as I can see it leads to no abuses. It does not involve as a consequence that we are to release duties for clerical vestments or things of that kind for every religious society, and every church, because other religious societies may be rich, and able to pay the duties upon such articles, and therefore should be left to pay them. I think this case cannot possibly be drawn into one that will be dangerous as a precedent.

Mr. SEWARD. I was going to propose an amendment to the amendment offered by the Senator from Maryland, which I think would have removed all objection, so that that amendment might have been added to the original bill; but it is no longer necessary to pursue that object, since the amendment has been withdrawn. I find that this bill proposes nothing more than to remit duties upon a European donation to an American charity. The articles charged are the gift of Europeans for a benevolent and charitable purpose. I do not think it becomes the United States to tax the contributions of foreigners to our charities, and therefore I am free to say that I shall vote for this bill; and under similar circumstances, I should vote for any other and similar bill. We all recollect very well that a few years ago articles of great value were sent as a present to the United States. They became subject to duties; and, although these articles were of great cost and usefulness, they were actually sold under the hammer at the custom-house to pay the duties imposed upon them, and they went into the hands of strangers. I hope that we shall always be willing to remit the duties upon such donations. Such charities are not frequent and large enough to impoverish the Treasury.

Mr. BORLAND. I presume, from what has been done in cases before this, involving the same



principle, that this bill will pass. For the same reasons, however, which has governed me in my votes on questions involving the same principle heretofore, I shall have to vote against this bill. The conviction, therefore, that it will pass, makes it the more proper, on my own account, to state the reasons of my vote.

As an appeal to my feelings, sir, the bill is very strong; and if I felt at liberty to consult my feelings alone, in appropriating the public money, I would not hesitate to vote for it. But I think this is a purpose for which we have not the power or authority to make an appropriation of money. The amount is small, it is true; but for that very reason, the propriety becomes the greater, and the duty the more imperative, to scrutinize closely the principle upon which the grant is to be made; for the history of all governments, and all other institutions, shows that abuses begin and first find a lodgment in the rules of action, by means of *small things*. By such means, plausibly used, and aided by appeals to feeling, the judgment is lulled to sleep, and the barriers of principle overleaped or broken down. Whereas, when the disregard or violation of principle presents itself in an enlarged form, and with strongly marked features, the attention is at once, and by force, arrested, and an investigation follows, which ascertains the truth in all its relations and bearings. As Franklin said of money, "take care of small amounts; large ones will take care of themselves." But, under the humble pretense of small things, we are often persuaded to commit ourselves to a principle, or rather a disregard of principle, which will rise up before us, and startle and amaze us, perhaps the very next day, as precedents which, with remorseless grasp, drag us to the support of measures, which, at the outset, would have driven us back in amazement and abhorrence; justifying us, too, upon a sophism to which the desire for consistency makes us but too willing to resort. The violation of principle, however, and the mischief we are thus led to commit, being none the less culpable, none the less enduring in its consequences because of the smaller or greater amount of money in its perpetration. The principle of action is the same, and the pernicious consequences are none the less to be deplored—although the more readily incurred—whether the actual amount of money, in the one case or the other, be one dollar or one million of dollars.

I would vote for a proposition, to-morrow, to repeal all laws levying duties upon imports; and adopting a new system for raising the money to pay the necessary expenses of this Government. One reason for doing so is, that such a system as could be adopted, would not operate unequally upon different sections or citizens of the country. This bill, small as it is, does, to its amount, contribute to the inequality of the present system, to which I now object, and from which I would gladly relieve the country; because it sets up a discrimination, by means of which one class is compelled to contribute to the advantage of another; or rather, in this instance, where *all others* are forced to pay tribute to *one*.

Now, I am no sectarian religionist. I am not a member of any religious society; I tolerate all, and respect all; but I cannot shut my eyes to the fact that if I vote for such a bill as this, I ally myself at once with a certain sect and denomination—a certain ecclesiastical organization, at the expense (no matter whether the amount be small or great) of every other sect or organization. We know that the several religious denominations of this country has each its different customs, as well in matters of ceremony and costume as in those of creed and doctrine. Some have customs which require parade and pageantry, and gorgeous vestments, while others reject and repudiate them, as not only unnecessary, but as positively wrong. The former get the advantages of all such measures as this; while the latter are necessarily excluded; and yet the latter are required, under the bill, to pay just what the former receive. For these reasons I shall vote against this bill.

Mr. DOWNS. I will vote for this bill very cheerfully, and for all other bills of a similar kind before the Senate. I have none of the scruples that some gentlemen appear to feel, nor do I consider it a gratuity or appropriation of money to this society or religious institution; but as a simple exercise of that power which this and all other Governments, have a right to exercise, and do ex-

ercise, of selecting such objects as they choose to tax, and such as they do not choose to tax.

We have pursued this course in all our history. In all our tariff laws, there are certain articles which have been exempted from duty.

I would have preferred that the amendment of the Senator from Maryland, involving the general principle, should have been adopted; but I understand that this bill, granting an exemption from duty in particular cases, amounts to nearly the same thing. I do not see that this bill proposes any grant, or any preference of one denomination over another. I should be unwilling to vote for it, if it did. But it is a mere exercise of the power that the Government has assumed twenty times, or more, in the cases already referred to. As may be seen by a reference to the statute-books, these articles ought to be, and are, exempt from taxation; and all that we mean to say now is, that these religious institutions, seminaries of learning, benevolent societies, and other similar establishments, ought to be permitted by the Government, in the exercise of a sound discretion, to import articles of the kind referred to, free of taxation. I hope, therefore, Mr. President, that the bill will pass, and all bills involving the same principle.

I am very glad that it has been brought before the Senate, as there are several bills of a similar nature, which have been reported on adversely by the Committee on Finance.

I cannot see the distinction made by the Senator from Arkansas, which induces him to say that this bill gives a preference to one religious denomination over another. It does not appear so to me. I do not confine it to any particular religious denomination. I am willing to extend the principle equally to all. They may not all have their vestments, but they may have their monuments, their statuary, their bibles, their religious books, and twenty other things, as well as the Catholics; I think, therefore, that it was a very far stretched idea to say that the bill gives a preference to the Catholic religion.

I would not only vote for the principle as applicable to religious societies of all denominations, but also as applicable to seminaries of learning.

The whole question is, whether it is a matter of public expediency and propriety that the Government should exact import duties on these particular articles. The Government has decided heretofore that it was not; and I do not see why, at this time, when the Treasury is overflowing with money to the amount of nearly \$50,000,000, we should adopt a different rule from that which was acted upon when the necessities of the country and the Government were much greater.

Mr. BORLAND. I have another word to say. The Senator from Louisiana [Mr. Downs] suggested as one reason why we should hesitate the less to make grants such as this bill provides, that we have an overflowing Treasury. If that be the doctrine, sir; if because we have \$50,000,000 of the people's money, drawn from them by taxation, and yielded by them for no other purpose than to pay the necessary expenses of this Government, we may amuse our fancy, or gratify our feelings, by making grants of liberality, and donations of gratitude, I think the Government is, indeed, far on the way, and in full career to ruin. Such a condition of the Treasury makes to my mind a far different, indeed the very opposite suggestion. An overflowing Treasury is, in my judgment, an overwhelming evil, which cannot, for a moment longer than may be indispensable, be permitted to continue without injustice to the people, and danger to the Government. But, sir, gratuitous donations, liberal grants without authority of the Constitution, are not the remedies which can be rightfully or safely applied to the cure of so great an evil. On the contrary, I would strike the evil at the root, that is, I would reduce the taxes; aye, sir, reduce them so low that no surplus over and above the necessary wants of a truly economical administration of the Government. There should be no surplus to make gratuities of, or to be liberal with. And thus would I not only relieve the tax-paying people of a burden, but keep far away from their representatives here, all inducement which an overflowing Treasury so temptingly furnishes to engage in expenditures alike unlawful in themselves, subversive of good principles, and pernicious to the country. And this I hold to be the *true Democratic doctrine*. It is at least the doctrine which governs me.

Mr. DOWNS. Viewing this subject as the Senator from Arkansas does, his argument may be a very good one; but in my opinion, as I view the question, it does not apply at all. I do not view it as a gratuity, but simply the exercise of the power which we have to say upon what articles a tax shall not be paid. When we have a full treasury that is some reason why we should not add new taxes, and why we should reduce taxation. The object of taxation is to raise funds for the purpose of carrying on the Government; and, if we have ample means to do this, I think it a very good reason why some few articles should be exempted from taxation, especially when the application is made by those who are so much in need of it?

Mr. DAWSON. Will the honorable chairman of the Committee on Finance be good enough to inform me what is the amount of duties which it is proposed to remit by this bill?

Mr. HUNTER. It is very small. There is no estimate accompanying the bill.

Mr. DAWSON. Some ten or fifteen dollars, I suppose?

The PRESIDENT. It is forty-five dollars.

Mr. DAWSON. The sum is so small, it is not worth while to debate about it. If I could, I would move the previous question.

Mr. MASON. With all respect to the opinion of the Senator from Georgia, [Mr. Dawson,] I do not think the amount enters into the question of the propriety of the remission of the duty, in any manner whatever. I do not intend to say anything with regard to the last suggestion, however. But I will remark, that if there be any duty incumbent upon this Government, more than another, it is to keep itself entirely free from, and disconnected with any of the sects or religious denominations in this country. It is not to enable one sect of any particular kind or description, to ask aid or contributions, in any form or shape. I hold that the Government should be kept perfectly free from the religion of the country.

Now, what is this? It is a direct grant; a direct contribution of money, as much so as if it were taken out of the Treasury. It is said that it ought to be extended to all alike. These are vestments of the priesthood, which, I suppose, are so expensive in their character, that the duties upon them are greater than this institution chooses to pay. There are other institutions, which have none of these vestments. And in that respect, there are some who plume themselves, and I think justly, upon their exceeding plainness. They therefore are not in a condition to come here, and ask for such aid. And if we give to one sect which does ask it, while others will not ask it, we show a preference; and even if the amount granted were but a dollar, it would be a preference, involving an important principle.

Mr. HALE. I had such poor luck in the suggestion made to the Senator from Maryland, that I had almost determined not to say another word upon the subject; but it has now assumed a different position, to which I mean to address myself for a few moments. This is a proposition involving nothing more nor less than a donation from the public Treasury to an association for a specified purpose. The purpose may be good. That is a question I do not inquire into; nor will I doubt it. I do not doubt either that it will agree with the religious convictions of those who ask it; but we should bear in mind that there are different individuals entertaining very different convictions, who are looking to the promotion of the grand ends of morality and religion by different channels, by different means, and by different operations; and these individuals hold the different channels, and different means, and different operations which they employ just as sacred as do those persons who are asking this donation. Now, if those other persons should come to us, asking for like charities, and like relief from taxation, what shall we say to them? How are we to discriminate? Let me put a case, and let me put it to the Senator from Florida, who is so prompt to make this donation from the Government. There are, Mr. President, associations of females—pious females—poor females—not bound by a vow to be poor, but poor in opposition to their efforts to make themselves a little better off—poor females in some sections of the country that are laboring earnestly to bring about a reform which they consider is quite as much a religious duty to be brought about as others

may think it religious to wear certain vestments—I mean the abolition of our system of slavery—I say that there are poor and honest females who are bound together in efforts of that sort, and they receive contributions from abroad. They appeal to the benevolence of the world; and pious individuals on the other side of the water send donations to these poor, pious females, and yet you levy taxes on their contributions; you tax their benevolence; you infringe on their rights of conscience just as much as if they were laboring in any other vocation, to bring about a different result.

Again, sir, there are religious associations in this country—associations which are composed of both poor and rich, who think that the success and spread of the doctrines of the Catholic church are full of evil, instead of their tending to produce any good. They might come here and ask the aid of the Government in enabling them to extend the influence and carry out the objects of these associations. And if they should do so, why should they not be aided?

Again, sir, there are other associations which are engaged in building costly church edifices. They are in the habit of importing from abroad materials with which to decorate these churches, and they may come here with the same good reason and ask the aid of the Government to relieve them from burdens which the revenue laws impose upon them. How then will you discriminate? They may not be so popular, so numerous, or so influential as other churches whose representatives come here and ask your aid, but their claims are certainly equal. I think, therefore, that your only way is to say to all these associations, "Stand ye all alike; we tolerate you all; we favor none; our laws are equal; they operate alike upon those who are bound by a vow to be poor, and those who are bound to be rich; they operate alike upon the Protestant and the Catholic—upon all associations, all classes, all creeds; and from the operation of these general laws to favor a particular class, it is neither the right nor the policy of this Government to depart."

It seems to me, sir, that the Senator from Louisiana [Mr. Downs] makes a mistake when he says that this bill is a mere proposition to select a certain class of articles on which the Government will not levy duties. It is not so; it is selecting a certain class of individuals on which to confer favors—

Mr. UNDERWOOD. It is leaving the general law.

Mr. HALE. And, as is suggested by my friend from Kentucky, it is leaving the general law; that while the general law is in force, as it is, levying duties everywhere by a fixed and definite standard, it is picking out a certain association and saying to them, There are certain articles which you want for carrying out your purposes, on which we will not levy duties, because we think it is a good, holy, wise, benevolent, excellent, charitable, and worthy purpose. Sir, there are other associations, whose purposes are good, holy, wise, benevolent, excellent, charitable, and worthy, who may find it necessary to import articles on which duties are levied; and if you set this precedent in this case, they will be very likely to come knocking at your door, and you must give them relief if you wish to treat all with equality.

I think the Senate should deliberate upon the suggestions of the Senator from Louisiana, [Mr. Downs,] when he says he is glad that this bill has come up, because there is another bill similar in character, upon which the Committee on Finance have reported unfavorably, which is waiting the decision of the Senate upon this bill. That is a fact which gives increased importance to the principle which is to be established. I am not going to make any professions of impartiality toward all religious associations, because I think it is ridiculous to charge upon any one that he is not impartial in all these matters. I do not suppose there is one Senator in this Chamber who feels the least partiality or prejudice to any single religious corporation, association, or sect, in the country. But if you set this precedent, and say that associations for certain purposes shall come here and obtain the boon of relief, which they ask, from the operation of general laws, you are opening a very wide door, and one wider than has ever been opened. This does not compare with those gen-

eral acts of relief granted to those who have imported books of science and scientific instruments, which do not belong to any particular class or religious persuasion. But here is a direct appeal on behalf of one religious order for relief from the operation of general laws, and for a boon from the Treasury, which other individuals and societies must pay. If you do it for one, you must do it for all. I am not willing to set this precedent, and therefore I must vote against the bill.

Mr. SOULE. I am surprised at the earnestness displayed by the honorable Senator from New Hampshire, who has just taken his seat, and by those who coincide with him in opposition to the measure now before the Senate. I agree with the Senator from Virginia, [Mr. Mason,] that the amount of money involved in the bill is not a consideration which should influence the action of the Senate. Principle should be the ground-work of our action. But I would like to inquire, what principles would be violated by awarding of the gratuity provided for in this bill? I call it by that name, because it has been so styled by the opponents of the bill.

If I understand the objections which are raised against this measure, they rest upon two or three grounds. In the first place, it is said that the measure would create a distinction highly odious to the spirit of our institutions—benefiting one religious creed in preference to others equally entitled to the favors of the Government. That objection is answered at once by the proposition tendered by the Senator from Maryland, [Mr. Pratt,] to extend the measure to all other religious communions indistinctly; for I have not the least doubt but that the friends of this measure would most willingly vote for such a proposition, and are now ready to give it their sanction.

The next objection is, that certain Democratic exigencies, not well defined, should urge us to cut down, as much as possible, the expenses of this Government, which have grown to be so extravagant as to endanger the State, and seriously affect those principles of economy which should prevail in the administration of a Democratic and republican Government. I agree with the Senator who expressed such views; but how is it that he was not struck with the fact that this was an incipient step towards effecting the very object he has so much at heart to attain, and would reduce, by so much, the tax levied upon the people, and proportionally restrain the extravagance he so loudly complains of?

Then, again, another objection has been started, upon the ground that while we are asking an exoneration from duty for these ornaments necessary to the performance of the service of the Catholic church, we would not extend the same exemption to the Protestant communions, who needed no such vestments, and therefore could not share in the gratuity, though it were so generalized as to embrace them all. It might be well, perhaps, to state, in answer to such an objection, that the ground or the merits of the measure do not look to its applicability in specified cases, but to the equality of its action upon all. When I consider that the granting of the release provided for in this bill infringes no principle, creates no precedent injurious to any interest that might claim our indulgence under similar circumstances, I cannot but suppose that those scruples, sincere I have no doubt, which have induced some Senators to oppose the bill, will give way to a better second thought, and leave those who for a moment entertained them free to join us in the vote that will secure its passage.

Mr. BORLAND. What the Senator from Louisiana [Mr. Soule] has said seems calculated, unless corrected, to give a direction to one of my remarks which it does not fairly take, and which certainly was not intended. What I said of the large amount we now had in the Treasury, was not suggested as an objection to this particular bill; but altogether in response to the suggestion made of the other Senator from Louisiana, [Mr. Downs,] that our overflowing Treasury was a reason why we should be liberal in such cases as this. I alluded to it for the purpose of saying that, so far from its being an inducement to liberality, it should remind us of the propriety of modifying a system which raised more money than was necessary for the economical administration of the Government. I did not make the remark as an objection to this particular bill, but merely in response

to that suggestion of the Senator from Louisiana.

Mr. SOULE. I am glad to see that the Senator from Arkansas did not direct his observations against the passage of the bill; and, from the explanation which he has just made before the Senate, of course the hope which I have expressed, that his vote will be recorded with my own in its favor, will not be disappointed.

The bill was reported to the Senate without amendment.

Mr. BORLAND. I do not think the Senator from Louisiana [Mr. Soule] has any right to draw the inference from my remarks that I will vote for the bill. I call for the yeas and nays on the question of ordering the bill to be read a third time.

The yeas and nays were ordered.

Mr. BAYARD. As I cannot vote for this bill, I will state, as succinctly as I can, without taking up much of the time of the Senate, the reasons for that determination. The honorable Senator from Louisiana [Mr. Soule] admits what I understood his colleague [Mr. Downs] to deny; that is, that this is a gratuity to a particular religious society. My objection to this bill, then, is not answered by his argument.

Mr. SOULE. I wish to correct a misapprehension under which the Senator seems to labor. I did not admit that this was a gratuity; but I assumed that as a matter of argument.

Mr. BAYARD. The argument, then, was based on the assumption that this was a gratuity, and if it is not admitted to be a gratuity I think the inference is irresistible that it is a gratuity. If, in this case, the bill proposed to exempt the article, without reference to the particular institution or individual who might make use of it, no matter by whom imported, or whether imported for charity or for profit, then it would be no gratuity, but would be a subject of general legislation. However, when we grant an exemption from a duty which would otherwise apply to a particular article, because it is to be used for the purposes of a religious society, then clearly it is a gratuity to that society. And if this be so, my objection to it is not that this is a gratuity to a Roman Catholic society, or to any other particular association; it is not on the ground that it makes a distinction between religious associations, but it is on this principle: By the acknowledged principles of your Government, as I understand them, whether State or national, the support of the principles of religion, and of religious institutions, is a matter which is referred to the popular will—to the voluntary support of the individuals constituting the society, and in no case is governmental support to religious institutions to be accorded. That is the principle of my own objection to this bill. You may disguise it as you please, but it is a governmental vote in support of religious institutions. I ask you if it is not one of the broad distinctions between the institutions of this country and of England, that this Government, in no case, in no mode, and for no purpose, gives governmental support to religious institutions? It leaves religion, as regards individuals, entirely to the voluntary support of the community in which it exists. It is believed that the vital principles of religion are better promoted—that religion is better qualified, in every respect, for the advancement of its true principles and the purity of its professors—by leaving it untrammelled and uncorrupted by any attempt, in any mode, for the Government to aid in its advancement.

That is the principle which I do not understand the argument of the honorable Senator from Louisiana touches at all. His answer applied to the objection arising out of its being a grant to one particular society in preference to another; that it might create jealousies arising out of the divisions of sects. Not so; my objection applies to the general principles; to the ground that governmental support to any species of religious institutions is foreign to the Constitution, and is the broad distinction between our course of policy and that of the Government of England.

Mr. PRATT. The Senator from Delaware speaks sensibly, as he always does; but the objection which he urges to the bill is, that it is an attempt to apply the funds of this Government to the support of religion, whereas, according to my judgment, the very reverse is the fact. The Government, by a general law, has imposed a tax upon this religious sect, and the effort now is to prevent

the Government imposing a tax upon religion. It is not an advance of money, as the Senator contends, for the purposes of religion, but the object of the bill is to prevent the Government taxing religion; so that the reverse of the proposition of the Senator from Delaware, according to my construction of the bill, is right.

But I would ask the Senator—I would ask all the Senators who will do me the favor to hear me—whether we are not making a distinction in this particular case, if we refuse to pass the bill now before us? I have pointed out twenty cases of a variety of religious denominations, in which the Government has heretofore uniformly remitted the duties when it has been asked to do so. Therefore, if you commence now to refuse to remit in this particular case, will not the impression be that you make a distinction against this particular religion? I assert that no Senator can point to a single case in which an application has been made by any religious society for a similar purpose, where it has not been granted. I have pointed out some fifteen or twenty cases where Congress has uniformly granted relief; would it not therefore be making a distinction against this particular Church, if, according to the views expressed by Senators, we now refuse to grant them the relief which we have uniformly heretofore granted to other and similar religious institutions?

Mr. BAYARD. The latter part of the argument of the Senator from Maryland, it seems to me, is easily answered. It may be true that various special bills have been passed remitting duties in reference to one religious society or another, or to one institution or another. I have no doubt that the facts stated by that Senator, and by the Senator from Florida, are true. But though I cannot exactly agree with the distinguished Senator from Michigan, [Mr. Cass,] that precedents are entitled to no weight, I should be sorry to believe myself bound by precedents of special laws. It would be the most dangerous species of legislation imaginable, to be guided by all special laws that may be passed. Because you get one claim passed, from the fact of the defective principle attached to it not being contested, or because you get fifty claims passed as special laws, where there is no special examination, or recognition of a general principle, and where that general principle has not been the subject-matter of discussion, to say you are to be bound in future to carry out the same principle, is, in my judgment, not true. As regards special laws, I hold that they should not form a precedent on which the decision of the Senate should be based. General principles and general laws, settled by the decision of the Senate, of course make an entirely different question. But I admit no authority arising from the application of a special decision on a particular case by special legislation, as governing my action subsequently, when a subsequent case comes up. A strong illustration of the effect of it will be found in the fact, that the amendment proposed by the distinguished Senator from Maryland was withdrawn; and I presume if that amendment was now before the Senate—carrying out as a general principle what this bill carries out in a particular case—there would be no difficulty.

As regards the other part of the argument of the Senator from Maryland, in answer to mine, which is, that this is the case of a tax imposed by the Government on this religious society, I think that is a misstatement of my view, and of the argument which I made. The tax is not imposed on the particular society. The tax is imposed on all articles of that particular classification; and whether they or any other association, or any other individual consume the article, they must pay the tax, as part of the price. If they are to be exempted particularly on the ground of their individual character, then it clearly is a gratuity to them.

Mr. SOULE. It strikes me that the honorable Senator who has just resumed his seat, takes a wrong view of the tendency, and certainly of the bearing, of this measure. Does he mean to assert that it implies any direct or indirect protection to any specific religious creed? If so, he is clearly right in his opposition to the bill; and if I could be convinced that he misapprehends not the question, I would at once side with him, and vote against the bill. But as there is clearly no such attempt, as he cannot seriously urge that there is any, his argument falls to the ground.

There is a plain, common-sense view of this

question, which divests it of all difficulty, and brings its merits to a fair test. The question should not be, whether or not we shall exonerate a peculiar society from the obligation of paying into the United States Treasury a certain amount of duties—\$45 or \$50; but whether we shall subtract, from a donation made to a religious association, what would render it a burden, without easing our Treasury otherwise than by the recovery of a few dollars. The economy attempted to be effected, is hardly worth the time we have been spending in discussing it.

Now, let us apply principles as they clearly are exemplified by the practice and rule prevailing in matters of similar kind. If we land from a foreign port to any port in the United States, we are permitted to enter, free from duties, all articles comprising our baggage. Even articles of furniture, if used any time in our service, are admitted to the benefit of the exemption. Upon what consideration is predicated this discrimination? Might it not be asked why it is that a traveler under such circumstances is exempt from all charge, when those who may choose to remain at home would be charged with dues, and be compelled to pay them into the Treasury? Yet if the principle be correct in one case, why should it not in the other? The pretended gratuity made in this case may strictly be beyond the rule, but certainly is not beyond the spirit of that principle. For, suppose that these very persons for whom the exemption is asked, had brought these vestments with them from any foreign port, would you deny them the right of introducing them without paying duties to the Government? If the exemption would apply to such a case, tell me why and how it should not to this?

I understand that the power to create the exemption is not contested. The case presented is a peculiar one—one into the merits of which we look, which we can fairly appreciate; and if it does not violate any principle, if it is strictly within the spirit of the prevailing law, surely I cannot see the strength of the arguments which have been urged to exclude it from the favor of this House.

Mr. BAYARD. I still think the Senator from Louisiana misunderstands my view of the case. I feel so the more strongly, than previously, from the illustration which he gave in his last remarks. My objection is not founded on the fact that this is discriminating between particular religions; for if this bill proposed to remit to all the churches of the United States, of every denomination, duties on any vestments or furniture imported for those churches, I should vote against it. On my principles, it would make no difference to what religion it applied, or whether it applied to all. Now, the illustration given by the distinguished Senator from Louisiana is this: he likens it to the case of travelers, whose luggage you choose to exempt from duty by general laws. That is so; but the answer is, that a parallel case would be to suppose the attempt were made to say, that because a man was a clergyman, therefore his luggage should be exempt from taxation, or the payment of duty, while every other citizen of the community was liable to that payment. I say they would violate this principle in the same manner precisely as this violates the principle of our laws. My objection is to the attempt to give governmental support to any class or religious denomination. On that ground I oppose the bill.

Mr. BRADBURY. The honorable Senator from Louisiana, in the remarks he last submitted, based the claim on the ground that it was a remission of duties upon a donation. The ground upon which the bill was originally presented by the honorable Senator from Maryland, was, that the articles imported were for benevolent objects, or for the use of a religious society, and the discussion has turned upon the ground that we ought to remit the duties because the articles are designed for the use of a religious community, or for a benevolent purpose. Such was the course of the remarks of the Senator from Louisiana [Mr. Soule] when he first addressed the Senate, as I understood him.

Now, it is said that no discrimination is made by remitting the duties in this case in favor of this denomination. I will suppose that there is another denomination who have need of similar articles, but who chose to encourage domestic industry, of the protection of which we sometimes hear a great

deal, and who purchase the articles at the same cost which they would come to, if imported and sold, with the addition to the price of the duties, would not that denomination then have a claim to come before Congress and ask for a donation, saying: "You remitted the duties on certain articles, because they were to be used for a religious purpose; we use similar articles of domestic manufacture, costing the same amount, with the addition of the duties, and we ask you therefore to refund the duties to us?" Their demand would be on the same principle. If the application is to remit the duties on account of the use that is to be made of the articles imported, it is a donation; and every denomination would have a right to come and make an application for money from the Treasury on the same principle.

It is said the amount in this case is small. I infer from that circumstance, that the bill is presented rather with the view of settling the principle—because any gentleman would take from his pocket and pay the amount of the duties in this case most cheerfully—if he were interested in the society—whether we will or will not, in a case of this kind, change the general law in consequence of the use to which the articles are to be applied. I think that in this case it is a donation. Although I think that in this case the appeal is as strong as it can be in any case, yet the discussion has assumed such a ground as will place it beyond my power to regard the bill as the remission of duties upon a donation, and therefore I shall be constrained to vote against it.

Mr. DAWSON. I do not intend to argue this question; but, as I propose to vote for the passage of the bill, perhaps it would be proper for me to give one or two reasons why I do so, as it is made such an important question.

The first ground of objection to this bill is, that Congress has not the constitutional power to interpose. If that be true, of course, I should vote against the passage of the bill. It is alleged that there is a general law taxing all importations of this kind; and, permit me to say, it is immaterial whether an article is imported for the benefit of a church, or an individual—the principle is precisely the same. Now, have we ever remitted duties upon importations made for individuals? We have. How many times I cannot tell you, but in innumerable instances. Have we not remitted duties upon railroad iron imported into the country? Nobody denies it. Have we not changed the general law by extending the time for the payment of duties, required by the general law to be paid in cash? Certainly we have. Have we not permitted the colleges of this country to import articles which were taxed, and have we not remitted the duties upon them? Have we not permitted books to be imported into this country under the general law, which were taxed, and then remitted the duty upon them? But gentlemen say, all that has no connection with religion. If you remit a duty upon an article imported into this country by a man who is religious, or by a combination of persons professing to be religious, does it thereby become unconstitutional? I trust that argument will be sustained by nobody on this floor, after mature examination; and, if it be, let me now refer to a few cases directly in point; one in the State of Louisiana, one in the State of Kentucky, and one in the State of New York.

I find that as early as the year 1816, the duties on bibles, for certain churches, subject to duty, were remitted. Then again, I find an act for the relief of Benedict Joseph Flaget, Bishop of Bardstown, in the State of Kentucky, approved the 20th of May, 1826, which enacts—

"That duties due and payable on certain vestments, furniture, and paintings, imported into the United States by Benedict Joseph Flaget, Bishop of Bardstown, in the State of Kentucky, for the use of the church over which he presides, and recently entered at the custom-house in the city of New Orleans, be and the same are hereby remitted."

Was that unconstitutional? In that day of excitement about nullification and strict construction, when the brightest lights of the country were upon this floor, did any one rise here, and, going for a strict construction of the Constitution, deny the exercise of this power? Why, they knew very well, that if we had the power to create a tax, we had a right to repeal or remit it, and if we can do it in whole, we can do it in part. There were exceptions to the general statute, but there was no question of unconstitutionality raised against them.



I next find that in 1832 the duties were remitted upon certain articles for the use of the church, imported in the brig Union into the port of New Orleans. Then I find that again, in the year 1832, this act was passed:

"That the Secretary of the Treasury refund to the Rev. John Hughes, of Philadelphia, the sum of \$363, being the amount of duties on one case of church vestments and ornaments imported into the port of New York in 1831 in the ship Tully."

There are the precedents. I think after this no man can deny the constitutionality of this measure. It then becomes a question of the expediency of the mere remission of duties.

What is this application? That forty-five dollars be remitted upon a donation—a gift. Suppose, sir, that some kind friend of yours, for services rendered your country, or for a friendship which may have been created in a foreign land, should transmit to you some personal gift—a snuff-box, or a watch—as a memento of his friendship, or on account of some great service that you may have rendered, either civil or military, if it were imported into the country, it would be liable to taxation. And suppose some one of your friends—numerous as they are—on this floor should rise and present a bill to remit the duty upon that gift, whatever it might be, as a compliment to you, where is the strict constructionist here who would get up and pronounce it unconstitutional?

The question of expediency is always a matter of judgment and discretion. If a measure is unconstitutional, it will not be binding, because the Supreme Court will decide against it. Well, what is the difference between you as a citizen, and the individuals composing a church? None. A church is nothing more than a combination of individuals.

I would refer you now to the case of Commodore McDonough, where a sword was sent to him from abroad. There was a tax imposed upon the importation of all swords; yet the tax on that was remitted. Was that unconstitutional? Where, then, is the unconstitutionality of this bill? Is it because the word "religion" applies to persons here? In relation to importations, all parties are upon an equality. The law makes no discrimination between a church and an individual. It is the article imported upon which the law operates, and not upon the individual to whom the article is consigned. Why, then, distinguish this from the case of the sword sent to Commodore McDonough? Why distinguish it from the case of the vestments imported for use in the State of Kentucky?

There is another case precisely like those to which I have referred, where vestments which were sent as a donation, were imported into the city of New York, on which the duties were remitted. Now, is it not extraordinary, that when these females, whose whole object is benevolence and the increase of knowledge, morality, and all the virtues of life, are operating in a little church, or in a nunnery, and find some kind friend beyond the waters sending over to them vestments for the purpose of carrying on their organization, we should so strenuously demand forty-five dollars, after all these precedents, and cry out "unconstitutionality" and "inexpediency?"

I did not intend to say so much; but I thought that it was due to the question to cite the precedents which I have cited. I agree with the Senator from Delaware, that precedents in special cases should never operate as controlling influences. Each case must stand on its own footing. This case stands upon it better, clearer, fairer, and more just than any one I ever knew to come before Congress.

Mr. COOPER. Mr. President, the gentleman from Georgia has informed the Senate that the remission asked for by this religious community presents precisely the same case as if an individual has asked for the remission; and then he states that nobody would deny that it would be right in such a case. That is what a lawyer would call a *non sequitur*. I do not think an individual would be entitled to any such remission, nor would an individual ask such a remission. There are many persons, no doubt, who use articles of foreign manufacture upon which high duties are imposed, who would be glad to have such duties remitted, but the policy of the law is, to impose duties upon them.

I cannot agree with the honorable Senator from Maryland, that there are no precedents upon the

other side. I know very well that if you take up the statutes you will find no precedents on the other side, because those cases which are rejected are not carried into the statute book; but if you take up the journals, you will find that there are cases in which payments of this kind have been asked for, and have been denied. Nobody denies the constitutional power of Congress to remit such duties. The Senator from Delaware did not contend for any such principle as that, but he contended that, as the amount of the duty was in the Treasury, or at least, if not already paid, was due to the Treasury, it was wrong by special legislation to withdraw it. I would be very glad to see these ladies successful, and to see the interests of their institution advanced in every way; but they must be subject to the same laws that other citizens and other individuals are. I therefore feel obliged to vote against the remission of the duties.

Mr. BORLAND. I am very sorry that the Senator from Georgia, [Mr. DAWSON,] in the conclusion of his remarks, seemed to insist upon a view of the question which does great injustice to those who oppose this bill. He laid great stress upon the amount of money which is proposed to be released—forty-five dollars. Sir, every Senator who has said one word in opposition to the bill, has expressly disclaimed any consideration of the amount of money. It has nothing at all to do with the merits of the case as presented.

Mr. DAWSON. I am somewhat surprised at the remark of the Senator. I laid no stress on the amount. I put it upon the principle said to be involved. I did not argue that because the amount was only forty-five dollars, therefore it ought to be refunded. I trust my friend will not so represent me.

Mr. BORLAND. I did not intend to do the Senator injustice, but surely he will recollect that he did emphasize the "amount" very strongly, for what purpose, I could not conceive, unless to give that complexion to the opposition to the bill. If I had considered the pecuniary amount and that kind of economy, I certainly should not have contributed to protract a discussion, every hour, perhaps every half hour, of which costs the Government more than the whole amount proposed to be remitted.

It is no escape from the principle that it is proper to pay this, because it is a small amount; and the opponents of this bill ought not to be put before the country as basing their opposition upon any amount whatever.

But in the course of this discussion, something was said on both sides about discriminations between religious sects.

Sir, I object to the discrimination, not merely because it is between religious denominations, but because it is between classes, whether they be religious, moral, scientific, literary, or anything else. But to make an illustration of my view of this discrimination, I will suppose a case. We know that other religious denominations do not use vestments of this kind. Take the Methodist denomination, for instance, which is spread all over this country. Their ministers wear plain clothes. Their discipline requires it. Each minister, perhaps, who is able to buy it, wears his black coat made of cloth, which has been imported, and upon which duties have been paid. Suppose a Methodist Conference in one of the States should come before Congress, at its next session, and memorialize us to pay back to each one of those individual preachers the amount of the duty, that is, the increased price which he had to pay for his coat, because of the duty levied on the cloth when it was imported? I apprehend there is not a Senator here who would not laugh it out of the Chamber; yet, there is no difference in principle. If it be proper and lawful to remit duties on vestments, which the priests of one denomination may wear, and which they consider proper in the performance of their clerical functions, it surely must be equally proper and equally lawful to pay back to the priests of every other denomination, duties on the vestments which they hold to be proper in the performance of their clerical functions. I can see no difference; and I give this case to mark my view of the discrimination.

Mr. MANGUM. Mr. President, this is a vastly important question. This is a President-making session, and I understand that this question is to operate powerfully on the success of one of

the parties. [Laughter.] It has already acted very powerfully upon private individuals, claimants upon the public Treasury, and also upon the funds paid by this body for these interesting discussions. If I were full of money, I would pay this tax myself, rather than see this debate continued. But that being rather a scarce article with me, [laughter,] I will not propose to do so. I do hope that we will not continue at this game of "push-pin" any longer.

I do not see why we should feel so much repugnance to having an allusion made to religion. To be sure, it is not a Senatorial virtue, but still we should not be so appalled at it. I shall vote for this bill, if I can get a chance to vote for it, with a good deal of pleasure; and I hope we shall come to a vote after my very sensible remarks on the subject. [Laughter.]

The question being taken by yeas and nays, on ordering the bill to a third reading, resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Badger, Brooke, Cass, Chase, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fish, Foot, Geyer, Jones of Tennessee, Mallory, Mangum, Pratt, Seward, Shields, Soule, Sumner, and Wade—21.

NAYS—Messrs. Adams, Bayard, Borland, Bradbury, Brodhead, Clarke, Cooper, Davis, Gwin, Hale, Hamlin, Hunter, King, Mason, Morton, Norris, Sebastian, Smith, Spruance, Underwood, Upham, and Weller—22.

So the bill was rejected.

The Senate then adjourned until Monday.

## HOUSE OF REPRESENTATIVES.

FRIDAY, March 26, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

Mr. HOUSTON. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. I hope to get through this deficiency bill to-day.

The question was then taken, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN. The business before the committee is House bill No. 207, to supply deficiencies in appropriation for the fiscal year ending June 30th, 1852, the following clause of the bill being under consideration:

"For this sum, to enable the Secretary of the Interior to satisfy the claims of the Creek Indians for mills stipulated to be furnished under the fifth article of the treaty of the 14th of February, 1833, \$4,000."

Mr. FITCH. I have an amendment to offer, to come in at the end of the clause under consideration.

Mr. HOUSTON. I do not know what the amendment is which the gentleman proposes to offer; but I am instructed by the Committee of Ways and Means to offer an amendment to come in after that clause.

Mr. FITCH. My amendment is to insert at the end of the clause the following:

For expenses of removal and subsistence of the Pottawatomie of Indiana, \$22,500.

Mr. F. I think it is very probable that it is the same amendment which the chairman of the Committee of Ways and Means was about to offer. That committee improperly struck that appropriation out, or omitted it in the bill they have reported; and I prefer that the amendment should now come from the Committee on Indian Affairs. It was, however, I believe, struck out—and I must say it in justice to the Committee of Ways and Means—under a misunderstanding between themselves and the Indian bureau. The amendment is to carry out a treaty provision found in the third article of the treaty of February 11, 1837, with the Pottawatomie Indians. The deficiency arises from the fact that the number of Indians to be removed was estimated at four hundred, whereas they were found, when assembled, to number some six hundred, or more; and of course the expense was greater than was estimated, and hence this deficiency. They have been removed, the last removal of them from their old country to the West; and I presume there is no disposition on the part of the Committee of Ways and Means, or of the House, to prevent a treaty stipulation, as plain as that is, from being carried into effect.

Mr. HOUSTON. I have no objection to the

gentleman from Indiana [Mr. FITCH] having the credit of this amendment.

Mr. FITCH. It is the amendment of the Committee on Indian Affairs, and not mine individually.

Mr. HOUSTON. The Committee on Indian Affairs were notified that this amendment was ordered by the Committee of Ways and Means to be offered; but I am perfectly willing to give the Committee on Indian Affairs the credit of it. I deem it due to the Committee of Ways and Means to say, that when these Indian estimates were under examination by that committee, we called for information upon this very item. We had the chief clerk of the Indian bureau before us, and we asked him for the information. He was unable to give it to us; and when he left the committee, he carried with him a written memorandum from a member thereof, calling upon him to furnish this information to the committee. He did not furnish it at the time desired, and we could not, therefore, put the item into the bill; and we reported the bill without it. But on the 30th of March he did furnish the information. Then it was that the committee ordered that the amendment should be offered to the bill. These are the facts; and I state them, merely to put the Committee of Ways and Means in a right position before this committee.

Mr. FITCH. I presume it was a blunder of the Ways and Means.

Mr. HOUSTON. It was not a blunder.

Mr. FITCH. This is the first I have heard of the Committee on Indian Affairs having been notified by the Ways and Means of their intention to introduce the amendment. I presume no such notice was given. It was perfectly proper for the chief clerk to decline giving the information, without the direction of his chief. He could not properly do so. It should have been sought at the Indian bureau.

Mr. HOUSTON. That was a fact. Two members of the Committee of Ways and Means went to the bureau of Indian Affairs for this very information; and why that committee gave no notice to the Committee on Indian Affairs—otherwise than that I had the pleasure to give my friend from Arkansas, [Mr. JOHNSON,] that the Committee of Ways and Means had instructed me to offer this amendment—was not because this information had not been sought by the Committee of Ways and Means, but on account of remissness in the Indian bureau.

The question was then taken on the amendment offered by Mr. FITCH, and it was agreed to.

Mr. JOHNSON, of Arkansas, moved the following amendment, to come in after the amendment just adopted, viz:

For expenses of removal and subsistence of Choctaws, \$50,000.

Mr. JOHNSON. That amendment is offered in obedience to a treaty under date of September 15, 1830, and in obedience to the sixteenth article of that treaty which provides for the removal of the Choctaws from the east to the west of the Mississippi river. Those who have hitherto examined into that matter will recollect that the Government had great difficulty to get those Indians to remove, and there are now a thousand of them still remaining scattered throughout the States of Mississippi, Alabama, and Tennessee. The Committee of Ways and Means have rejected this item for their removal. It cannot be that they have any objection to it, because it is not a deficiency, since we find this same item for this same service in the preceding deficiency bills of the last Congress. And the only objection I know of that can be offered is to be found in the allegation—and to that I wish to address my remarks, if I can have time—that they have been provided for once, by a donation of lands, and that now, when they remove, it must be at their own expense.

Mr. HOUSTON, (interrupting.) Allow me to make an explanation.

Mr. JOHNSON. The gentleman can have another opportunity to offer his explanation, as I want to occupy my five minutes. I say this amendment is for the removal of these Indians, in obedience to a treaty of this Government, which we all acknowledge, and which has been in existence for a long time, and is not a disputed fact. These Indians are there, and want to be removed to the territory west of the Mississippi, where the remainder of the tribe now are. The treaty contained alternative provisions, and the Indians were left

to accept either of them. The one was, that they might remain, and retain a certain amount of lands, and after a specified time have the title of the lands made perfect to them. The other was, that if they chose to remove west, their expenses in removal should be paid by the Government. The Government, it is found, have disregarded the terms of this treaty, and sold the lands promised to be reserved to them, so that the Indians could not afterwards get a title. The Government, finding the injustice they had done these Indians, prepared to make amends to them, and in 1842 passed an act by which they gave scrip to the Indians, to the amount of the land which the Government had disposed of, and which ought to have gone to those Indians. One half of that scrip subsequently becoming lost to the Indians by the operation of speculators, the Government, for the purpose of saving the remainder, funded it, and agreed to pay to the Indians the interest upon it, in the shape of annuity. That is the condition in which the Indians stand at the present time. Now, gentlemen, the Committee of Ways and Means contend that this Government is not bound to remove them. Sir, the Indians themselves are forced to resort to the other alternative in that treaty. They first resorted to the alternative of the treaty allowing them to take the lands. The Government sold the land, and thus deprived them of the power to take it, and they are consequently compelled to remove. The Government gave them something in lieu of the land, but the Government never contended that they had for one moment deprived them of the alternative of being removed, under the sixteenth section of this treaty, to wit, removal at the expense of the Government itself. The Government never contended for it, and these gentlemen of the Committee of Ways and Means are the first men that I have ever heard assert such a thing, or draw any such conclusion. The Government, from the very beginning of their injustice in depriving those Indians of the land which they were entitled to under the reservations of the treaty, have admitted and judged that they were entitled to be removed, under the other section of the treaty, and have gone on constantly, to this hour, to remove them, and pay the expenses of it. Now, the Committee of Ways and Means sagely allege that these Indians have to remove themselves at their own expense, if I am correctly informed. Sir, to the enlightened judgment of that committee we are indebted, for the first time, for a decision which confirms a previous act of injustice upon the part of this Government towards that tribe, in violation of treaty stipulations, and to reject their rights, giving a construction which no past Administration of this Government, from the year 1842, when the injustice was first acknowledged by this Government, had given to it. I defy them to produce such a construction as would deprive those Indians of the right to be removed by this Government at its expense, in obedience of the sixteenth article of the treaty.

Mr. JONES, of Tennessee. As one member of the Committee of Ways and Means, I must tender my thanks to my friend from Arkansas, [Mr. JOHNSON,] for the information which he gives of the reasons why the committee rejected this estimate for the removal of the Choctaws. It is new to me, sir, that the Committee of Ways and Means rejected it on the ground that the Choctaws should remove themselves. I certainly never had any such idea that the Choctaws should remove themselves. If my recollections are right about this item for the removal of the Choctaws, it is, that when we took it up for examination, we looked back to the deficiency bill of the last session of Congress. In that bill there was appropriated \$20,000 for the removal of the Choctaws west of the Mississippi. When we looked at the regular appropriation bills for the Indian affairs, we found no appropriation whatever, and no estimate submitted for the current year, for the removal of the Choctaws. We did not incorporate this provision into the bill, because we had no information as to what had become of the amount asked for in the deficiency bill of the last session, and which, we might reasonably and naturally conclude, would be sufficient to complete the removal of the Indians, from the fact that no appropriation was asked for for the new current year which these deficiencies are intended to supply. If, sir, we had had this information as to what they had done with the last appropriation asked

for, and which was granted, and what amount would be required to perfect and complete the removal of these Indians, I doubt not that the committee would have given it to them. If the treaty requires them to be removed, of course this Government must do it.

But it is said—I do not know with how much truth—that some of the Indians who were removed west have come back; and perhaps sometimes some of the contractors may be assenting to it, for the purpose of removing them again. Now, sir, I should be glad—not that I know anything upon this subject—if gentlemen would incorporate a proviso in this bill, that the Indian agent shall determine whether any of the Indians now upon this side of the Mississippi have been removed west; and if so, that they shall not be removed again at the expense of the Government.

Mr. JOHNSON, of Arkansas. I am glad to answer the gentleman. There have been instances of that sort; and the Indian department, in the performance of their executive duty, have come to the solemn decision, that they will not again pay the expense of the removal of a single Indian that has ever been removed; and the superintendents of the removal of these Indians to the west shall now keep a close watch for every case of that sort, and refuse payment of removal in such cases.

Mr. JONES, of Tennessee. Now, I would like to know—for I have not received that information from the Indian bureau—if the amount now asked for will complete the removal of all the Choctaws to their new homes west of the Mississippi?

Mr. JOHNSON. It is estimated by the department, after minute inquiry in regard to the matter, that it will.

Mr. JONES. I am glad to hear it; and the gentleman from Arkansas, [Mr. JOHNSON,] and the Committee on Indian Affairs, had information—upon which they ask this appropriation—which the Committee of Ways and Means did not have at the time they declined to incorporate the item into the deficiency bill.

The question was then taken on the amendment of Mr. JOHNSON; and it was agreed to.

The following clause in the bill was then read: "For this sum to cover arrearages for and on account of contingencies of the Indian Department, \$12,000."

Mr. JOHNSON, of Arkansas. I move to amend this clause, by striking out "\$12,000," and inserting "\$22,500."

Mr. JOHNSON, of Arkansas. I refer, Mr. Chairman, to the estimates furnished by the department, and I find, "For this sum, to cover arrearages for and on account of the Indian department, \$22,500." The Committee of Ways and Means, sir, in examining this article, and determining upon what they would report, have struck out of that amount the sum of \$10,000; thus reducing the item to \$12,500. I move to strike it out, in accordance with the recommendations contained in those estimates. I will state now, sir, what, perhaps, those gentlemen did not consider sufficiently; or what, perhaps, they may not have known. If they did not know it, it accounts for the fact of their reducing this sum. This deficiency, sir, is one, as we are aware, for which it is impossible that any department, on exact data, could make any estimate; and I will give you such data, as may be possible. There are now but \$50 on hand in the bureau. Already, sir, that bureau, having no question in the world of the willingness of Congress to carry on the operations of the bureau, have gone on, in the absence of sufficient contingency, and incurred expenditures in fulfilling treaty stipulations, &c.—\$5,000 for the St. Louis superintendence, and \$5,000 for the Northwestern superintendence, and a demand of \$5,000 more for the superintendence for the Indians who live between Arkansas, Texas, and New Mexico; thus making an immediate necessity for a sum of \$15,000. Here is one necessity; but the Ways and Means committee propose to give us only \$12,500. Thus, if you were to give \$15,000, you would have left in the department but \$50, to pay the expenses necessarily incurred to comply with our treaties with the Indians—to convey to them clothing, and the various articles which it was agreed should be furnished them.

Therefore, I say, sir, that upon full examination of the matter, the amount of \$12,500 is much too small. If you appropriate \$12,500, a large part of those expenses, actually incurred under an

actual and imperious necessity, must be left unpaid; these debts will have to stand there, and if they are not paid, the department will have to arrest its movements. They are bound from this time to do so. Whenever they incur debts on the part of the Government, without an appropriation already being made, as we have seen, they must incur the severe censure of a disregard of absolute law. Now, sir, to transport this clothing for the Indians, and all things stipulated for them by the treaty, they must wait until the general appropriation bill has passed. And when will that be? Why, sir, in July, August, or September; and it will be again this year, as it occurred once or twice before, that they will not be able to convey the articles, annuities, &c., stipulated for by the treaty, and agreed to be paid, until the spring has closed and the cold weather has set in, so that the Indians will not be able to collect together without great expense, and vast personal suffering.

Mr. DUNHAM. It will be recollected, sir, that in the annual appropriation bill we appropriated money for every regular expenditure of the Indian service placed under the control of the Commissioner of Indian Affairs. We also gave him a large sum, as contingencies, if I am not mistaken, for I have not the bill before me, of about \$36,000. He now, sir, comes in, and for this same year, after having expended that amount, asks us to place at his unrestricted discretion \$22,500 more, as contingencies. We thought this was an enormous contingency, after having the former appropriation of \$36,000, besides the specific appropriations for every branch of the service, and we requested the Commissioner of Indian Affairs to give us some idea of what use he made of this money. He sent us back an answer that he wanted it for this thing and that thing and the other thing; but that he could not give us any particular information about it. In other words, the substance of his answer was, We want this money to use as we think proper, and we want you to give it us. Now, it is for the committee to say whether they are willing, upon this information, to give it to him.

Now, sir, I think if the gentlemen who were so anxious about the quartermaster's department, would inquire into this matter, they would find something much worse here; for the Indian bureau, after having expended this sum of \$36,000 without any knowledge on our part as to how it has been expended, comes here, and asks to have this further appropriation placed at their discretion. If the committee dispose of this money—

[Here the hammer fell.]

Mr. FITCH. I move to amend, by increasing the appropriation \$500. The appropriation of last year for the contingent fund of the Indian department was \$36,000. The year previous it was about the same sum; but in one year (1849) there was no contingent appropriation at all. About that time, the duties of the office of the Indian bureau became considerably extended, in consequence of a large acquisition of territory. Thousands of Indians were brought under its supervision, with whom before we had nothing to do, and it was compelled to engage in treaties, and subject itself to expense, which, prior to that time, it was not expected would be incurred. At the time the contingent fund of the last year was appropriated, it had been in a great measure already anticipated. It having been satisfactorily explained by the Commissioner of Indian Affairs, that this sum of \$22,000 is absolutely necessary to supply a real deficiency, not a prospective one—a deficiency growing out of the great extension of our territory over an immense Indian country—I trust that it will be granted. I am not among those, of course, who defend the immense appropriations asked for by the departments to supply deficiencies, or minister to their extravagance; and will say now, for it may be as well stated here as at any other time, that I desire to add this appropriation to this bill for the benefit of the Indian bureau, because I think it just and proper; but I am opposed to some of the appropriations made for the quartermaster's department, and may vote against the entire bill unless they are struck out. The necessity for the contingent fund for which the Commissioner of Indian Affairs asks, has been explained, as before remarked, fully, and to the satisfaction, probably, of every member of the Committee on Indian Affairs. The omission in one year to supply an

adequate contingent fund, embarrassed the department—an embarrassment, from which they have not yet recovered. It is a deficiency to provide for the payment of debts already contracted, and money expended, the contingent fund appropriated last year having been mostly anticipated and paid out for arrearages of the year previous. I trust the amendment of the gentleman from Arkansas will be adopted. My own is unimportant.

Mr. HOUSTON. From the arguments of the two gentlemen advocating this amendment, I think the committee should be satisfied that it ought not to be agreed to. I am going to attack it alone upon their arguments. I will, however, in the first place, again appeal to my friend from Arkansas, [Mr. JOHNSON,] if it is entirely agreeable to him, to make his arguments upon the amendments proposed, and not to use remarks, the effect of which, it will be seen, is to bring the Committee of Ways and Means into disrepute in the House.

Mr. JOHNSON. If I have cast any reflection upon that committee in any unkindly spirit, I will withdraw it.

Mr. HOUSTON. I was going to remark upon the argument of the gentleman from Arkansas in favor of this amendment; and I trust he will give me, for a moment, his attention. I understood him to say that the Committee of Ways and Means had proposed \$12,000 under this contingency head, when, in truth, several thousand dollars had already been expended.

Mr. JOHNSON. Ten thousand dollars.

Mr. HOUSTON. The chairman of the Committee on Indian Affairs says there is \$10,000 expended already of the appropriation here asked. The gentleman from Indiana [Mr. FITCH] added to that argument, by showing when you gave them the contingent appropriation in the last Congress, that it had been expended—anticipated. Now, if these remarks are correct—and I have no doubt that they are—does it not, then, admonish us that this committee should draw up the reins there? We must all know, that the most troublesome fund—the most difficult appropriation we have under our control, as a branch of the Congress of the United States—is the contingent fund made to the various departments. Those are appropriations which necessarily exclude almost everything like a restraint or limit. They are dangerous appropriations. Although at first small in amount, this contingency of the Indian bureau has grown, within the last year, to the sum of \$36,500. Now it is proposed to add \$22,500 to that; so that you may judge what the contingent fund for the mere Indian service soon will be hereafter, if you give what they now ask.

Now, the Committee of Ways and Means endeavored to investigate into all of these contingent appropriations; not only for the Indian bureau, but that of every department in the public service; and in every case where they have not been furnished with information in detail, which the department should furnish, they have rejected it. I do not understand by what authority of law the Indian department expends \$36,000 in advance of appropriation. I do not understand by what authority of law the Indian bureau expends \$10,000 in advance of the deficiency appropriation bill in addition to \$36,500 which was appropriated during this fiscal year. I trust that this committee will not sanction such a practice. If gentlemen who have the charge of the subject of the Indians, are not disposed to cut loose from all restraint which Congress ought to hold over these appropriations, and say they shall expend the appropriation, not for legitimate objects, not for objects known to the law, but contingent objects about which we know nothing—objects about which we cannot know anything until they report the mode and manner of expenditure—then I say that this appropriation should be made. In the first place, it comes in a very questionable shape. It is an appropriation, I believe, that ought never to be made, could we avoid it. In some cases we are obliged to make appropriations for contingencies. In this case it is necessary to have something for contingency. We have already appropriated \$36,500 for the last year. They ask \$22,500 more. I can see no reason for it.

[Here the hammer fell.]

The question was then taken on the amendment, and it was agreed to.

Mr. FITCH. I move, *pro forma*, to increase the

appropriation \$250, for the purpose of explaining again how the deficiency occurred. The chairman of the Committee of Ways and Means thinks this amendment is somewhat accountable, and he charges that the Indian bureau—I do not understand that he charges a violation of law—ought not to have anticipated their contingencies by the expenditure of money then to come in, and ask the House to supply the deficiency. It was an unavoidable act. You voted a contingent fund two years since, as I have already remarked, of \$36,500. When that contingency was voted, it had already been, to a great extent, anticipated by operations of the department in remote parts of the country. Cast your eye over the immense territory subject to the jurisdiction of the Indian department, and members will not fail to see they could not at that time know that such a deficiency existed; but as the returns came in from one and the other portion of our Indian country, they found a contingent expense had already been incurred, which swallowed up the contingent fund for that year. They were, then, compelled to pay arrearages of that year out of the contingent fund of the last year, and it is now asked that an appropriation shall be made to supply the deficiency thus created in last year's fund. The chairman of the Committee of Ways and Means does not understand how this contingent fund can be applied. I will state two cases which will strike the mind of every member who has any knowledge of Indian business—two items in which these contingencies arise. You provide for the payment, at a certain point, of a given sum of money by treaty to Indians. That money must be paid there, and being remote from any of your depositories, you are compelled to transport it to that point. They cannot estimate what the cost of transportation will be, and it comes under the head of contingencies.

Again: you contract with the Indians to deliver to them, at a certain place, a given amount of goods. You cannot tell, in advance, what will be the cost of the transportation of those goods. There is no estimate made for that purpose, but it is paid out of the contingent fund; and thousands of dollars are needed for those two items. Besides, unexpected treaties, which the bureau is called upon, by circumstances, to make with the Indians, require expenditures of money, which are defrayed out of the contingent fund. It was not my intention to consume my five minutes. I shall say no more.

Mr. JOHNSON, of Arkansas. It may be some satisfaction to the committee, to give a short history of this contingent fund. Trace back, if you please, the appropriation bills for many years, and you will find that, previous to our immense acquisitions of territory, by the annexation of Texas, and the conquering of California and New Mexico, the contingent fund was about \$36,500. Then, knowing these facts; the largely-increased number of treaties made; the increased obligations which have been thrown upon us; the largely-increased expenditures, which this Government has been compelled to make for subsistence furnished the Indians; the increase of agencies, and the traveling expenses of agents; the expense consequent upon the transportation of goods, of food, and of the increased annuities to Indians, we cannot but conclude, that the contingent fund should be made larger. We know the fact, that before our jurisdiction was extended over the immense country now belonging to us, that the Indian contingent fund was limited to about \$36,000. We have recently appropriated but the same amount, although we have acquired Utah, New Mexico, and California, with the jurisdiction over the numerous tribes of Indians within their borders. I do not say Oregon, for the simple reason that her contingency fund is provided for by an independent provision.

There has been no special provision for Utah, New Mexico, or California. The sum I have mentioned was appropriated when our territory was confined within the limits of the original thirteen States, and although we have extended our Indian relations immensely, the bureau has put in its estimates for no more than \$36,500. It was settled upon in the hope that they would be enabled to curtail this class of expenditures, although they knew that the Indian relations were immensely increased and the area over which they had to act greatly extended. It was put in for that amount



with the hope that the expenses of the department could be cut down to \$36,500. Now, that will be enough to show, if there was no other reason, that this appropriation should be made. There is another reason still. During one year there was no contingent fund appropriated. That was in 1848. The consequence was, there was a deficiency which has kept on from that time to the present. I trust that this appropriation may be granted by the committee, as it is right and just.

Mr. MARSHALL, of Kentucky. What is the amount of arrearage?

Mr. JOHNSON. The precise amount of arrearage is not known.

Mr. DUNHAM made an inquiry which was entirely inaudible to the reporter.

Mr. JOHNSON. I will answer the gentleman. There was still a surplus for 1848-'9 under previous appropriations, and that surplus was not the amount of appropriation by any means; and at the same time it was not sufficient for the service of the year 1849.

Mr. MOORE, of Pennsylvania, demanded tellers, which were ordered; and Messrs. EDGERTON and CLINGMAN were appointed.

The question was then taken, and the tellers reported—ayes 76, noes 40.

So the amendment was agreed to.

The next clause was then read as follows:

"For office-rent, fuel, stationery, &c., for the Superintendent of Indian Affairs in Oregon, \$1,000."

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer the following amendment, the effect of which will be to make the above clause read as follows, viz:

For clerk-hire, fuel, stationery, &c., for the Superintendent of Indian Affairs in Oregon, \$2,400.

Mr. HOUSTON. I will state to the committee that the estimate submitted to the Committee of Ways and Means was \$3,000 for clerk-hire, office-rent, fuel, stationery, &c., for the superintendent in Oregon. The committee reduced those items to \$1,000. After the Superintendent of Indian Affairs arrived here from Oregon, he came before the Committee of Ways and Means, and gave the committee what he said was the lowest amount for which this service and these articles could be obtained. The committee then determined to give him for office-rent what he asked. The items for fuel and stationery seemed to be moderate and reasonable. The estimate for clerk hire the committee have stricken out. They became satisfied, after that interview, that a clerk was necessary for the superintendent there, and they have, therefore, reinstated the item. The object of the amendment now before the committee, is to reinstate the item for clerk hire, with a salary reduced a few hundred dollars below what the Superintendent of Indian Affairs asked. That is the amendment.

Mr. MARSHALL, of Kentucky. I would like to know of the gentleman, whether there was not an appropriation in the regular appropriation bill of last year for the office of Superintendent of Indian Affairs?

Mr. HOUSTON. Not for this year, as I understand it.

Mr. MARSHALL. For the fiscal year ending in 1852? That is what I say.

Mr. HOUSTON. As I understand, there was not. The law is before me, and I presume we can very soon tell.

Mr. MARSHALL. My impression is, that they struck out the stationery only.

Mr. FITCH. It was not for the last year.

Mr. HOUSTON. It was the understanding of the committee, that there was no such appropriation for this year. But the item is absolutely necessary, and for that reason the committee purpose to increase the amount.

Mr. JONES, of Tennessee, demanded tellers on the amendment; which were not ordered.

The question was then taken, and the amendment was agreed to.

Mr. McCORKLE. I propose the following amendment:

For paying the drafts of the Indian Commissioner of California, drawn upon the Department of the Interior for supplies furnished, and expenses incurred in the negotiation of treaties with the various Indian tribes of California, the sum of \$320,000.

Mr. McC. I wish, Mr. Chairman, to say a word in explanation, and in favor of this amendment. The amount of money asked to be appropriated by this amendment, is due various citizens of Cal-

ifornia, for beef and other supplies furnished to the Indian commissioners, who were appointed by the President, and sent out to California with full powers to negotiate treaties with the various Indian tribes inhabiting that State. The commissioners, whether with or without the approbation of the President, I shall not stop to inquire, adopted the policy that it was better to clothe and feed the Indians, than to fight them. "To clothe the naked, and feed the hungry," being an injunction of the bible, had peculiar force with these innocent and immaculate commissioners, and they set about clothing these savages who had never known before the luxury of a shirt, and feeding them beef, where, for generations, they had subsisted on roots and acorns. To effect such benevolent and peaceful objects, the commissioners, being the duly and legally authorized agents of the Administration, entered into contracts with various citizens of California to furnish the supplies of clothing and provisions necessary to carry out their peculiar and novel policy of reducing, and conciliating the hostile Indians. Under these contracts, relying upon the ability and faith of the Government, the citizens of California undertook and did furnish clothing, beef, and other supplies to the amount asked for in the amendment which I have just offered. The money is justly due and owing to them under these contracts, and drafts drawn by the Indian commissioners upon the Department of the Interior have been presented and protested. I hold that it is a matter of simple justice, to those citizens of California, who have furnished these supplies, that they should be paid, every article being furnished at a fair and reasonable price. The commissioners have made the contracts, and this Administration is justly bound to pay the money. It is no bar to the demand of these claimants that the commissioners acted without instructions. They were sent out to California with full powers to make treaties with the Indians, and this Administration is responsible for their acts, and third parties and innocent persons should not suffer on account of the incompetency or dishonesty of Government agents.

Mr. HOUSTON. I desire to make a brief explanation. So far as I have any information on this subject, no such estimate has been submitted to the Committee of Ways and Means. I take it for granted that the Committee on Indian Affairs will be more familiar with this subject than I can be. The gentleman from California states, however, that this money is to pay for provisions for Indians that have been, and probably are now, being fed in California, under treaties that were made by some agents or commissioners.

Mr. McCORKLE. By the Indian commissioners.

Mr. HOUSTON. By the Indian commissioners, who transcended their authority, as must be evident to the committee, by agreeing to execute treaties before they were ratified by the Senate. I understand, though not authentically, that the commissioners have been removed—that their authority has been revoked, because of the fact that they transcended it, and not only made treaties, but agreed to execute those treaties, and are now in the execution of them, without regard to the action of the Government here, either in approval or disapproval of what they had done. I am informed by the gentleman from California that the drafts drawn upon the Government by these commissioners, in the execution of those treaties, before the Government has acted on them at all, amount to nearly half a million of dollars. No estimate for this item was submitted to the Committee of Ways and Means, and therefore we did not put it in the bill. The information which I have given to the House may not be, in all particulars, correct, but I presume that it is substantially so.

Mr. McCORKLE. I desire to make a brief explanation.

Mr. HOUSTON. My time is not out, and I will yield the balance of it to the gentleman from California.

Mr. McCORKLE. It is true, as the honorable gentleman from Alabama has said, that a portion of the supplies were furnished to these Indians under contracts in carrying out the stipulations of treaties which were formed with the Indians; but a large portion of the money—I am not able to say how much—is for contracts for beef furnished to the Indians before the treaties were formed.

The Indian commissioners, in order to get the wild savages in to treat with them, were obliged to hold out some inducement to them, and they found the most alluring bait they could hold out to them was roast beef. This they offered in abundance, and the Indians came in and did make treaties; and in order to obtain the consent of the Indians to the treaties, and their observance of the treaty stipulations, the commissioners contracted to continue feeding them, and those treaties will be observed just so long as you continue to feed them, and no longer.

But the point of the case is this. Citizens of California, disinterested third parties, relying on the faith of the Government, placed in the hands of the commissioners, made contracts and furnished beef—which will command cash in any part of the State—to the Government, and are now laying out their money on it. It is therefore a just and proper claim, and one which should be paid without hesitation. There is no question about the justice of the claim; for the contracts have been made, and the papers are all on record in the proper department, and many drafts have been sent on here that have been protested.

Mr. JOHNSON, of Arkansas, moved to amend the amendment by reducing the amount to \$20,000.

Mr. J. said: I offer that amendment for the purpose of making a very short statement. The honorable chairman of the Committee of Ways and Means refers to myself, or to the committee of which I am a member, and says that we should know something about this matter.

Mr. HOUSTON. I said it was probable you did.

Mr. JOHNSON. Very well, sir. Now the subject-matter of this item has never been before our committee, officially, for examination. It has never received any examination at our hands; and all that I know in regard to it is what I have learned in conversation with the chief clerk of the bureau, and from the legislation that has taken place heretofore. During the last Congress the Commissioner of Indian Affairs asked for the sum of \$75,000 to be appropriated towards the object in the carrying out of which these immense debts have been created. Congress refused to vote \$75,000, but gave \$25,000; and I understand that directions were sent from the bureau that when the \$25,000 thus appropriated was expended, the authority of these agents of the Government to make these treaties should cease, so far as regarded any further expenditure. That is the way in which I understand the matter, and that is all the explanation I can give to the House in response to the call which has been made upon me by the chairman of the Committee of Ways and Means.

Mr. GENTRY. I am always ready to vote any sums that may appear to me necessary to carry on the operations of the Government, and proper in themselves. But the facts presented to this committee now are not of such a character as I think ought to induce the House to vote this appropriation. If these commissioners have proceeded to California to make expenditures, and treaties, and contracts not authorized by their instructions from the Government here, and for which no appropriation had been made by Congress, they have been proceeding there, to say the least of it, with a very high hand, and if the legislative branch of the Government shall give its sanction to such proceedings, our agents in those remote Territories—in California, Oregon, and New Mexico, will very speedily bankrupt this Government. I believe that this Congress ought to set its face sternly against all attempts of this character. I concur in what has been said in this debate, that the executive officers everywhere ought to be rigidly confined within the limits prescribed by law, especially with respect to appropriations.

Mr. HIBBARD. I wish to speak out the gentleman's time. Here is an item of appropriation of \$520,000, which the committee are called to vote upon, and the history of which is this: No item for this purpose was included in the estimates sent to the House by the department, and referred to the Committee of Ways and Means. The Government, whose business it is to know what ought to be appropriated, have not known that this item was of that description. They have made no estimate for this purpose. It has not been brought in any way before the Ways and

Means, nor is it recommended by the Committee on Indian Affairs, who have taken under their consideration, most minutely and zealously, these appropriations for the Indian service, and whose course here has shown that they are by no means disposed to omit anything that they think ought to be allowed. They have considered this matter, but they have not directed their chairman to report an appropriation for this purpose. The statement of the chairman indicates his own opinion that it ought not to be allowed. The committee are now called upon, on the mere statement of the gentleman from California, to appropriate this item of more than \$500,000. The facts are, that an appropriation—not of \$75,000, but, I believe, of \$100,000, as appears from the general appropriation bill, was granted, for the purpose of entering into negotiations with these Indians.

Mr. JOHNSON, of Arkansas. It was only \$25,000.

Mr. HIBBARD. The gentleman is right; it was an appropriation for another purpose which I had in my mind. The amount is different, but the principle is the same. Twenty-five thousand dollars was all that was deemed necessary for this purpose; and the commissioners had this authority, and this alone—for the appropriation was all their warrant. There was no statute authorizing these negotiations, except the appropriation for that purpose. The beginning and the end, the fountain of their whole power to act, was that appropriation of \$25,000; yet the commissioners have gone on, and expended over \$500,000. That is the astounding fact brought up here to the knowledge of the committee; and the committee is asked to sanction it, by granting this appropriation. I do not know but that they will do it—but that Congress will indorse, and the President approve it. But, if it is done, I wish the fact to go out to the country, that it is done without any investigation, or examination, or approval, by any Department, or by any committee of either branch of Congress, and solely upon the facts just now disclosed.

[Here the hammer fell.]

The question was then taken on the amendment to the amendment, and it was not agreed to.

Mr. WALSH. I move to amend the amendment, by reducing the amount to five dollars. I have a word or two to say upon this subject. The question, as it seems to me, involves the public faith. The way to enforce responsibility is to punish the agents signally, but to regard the contracts of our recognized agents.

Mr. GENTRY. I ask my friend, does it appear that these men had a right to pledge the faith of the Government?

Mr. WALSH. Yes; they were sent out there to treat with the Indians.

Mr. GENTRY. But not with unlimited powers.

Mr. HIBBARD. I ask the gentleman, if it be a legal principle that if the agent exceeds his authority, you are bound to ratify his contracts?

Mr. WALSH. I say that, in regard to private agencies, if you appoint a general agent, and he exceeds his particular authority, as a point of law, you are bound by his acts. But I say that the principle is entirely different in regard to Governments. A gentleman, the other day, referred to the practice of the English Government in these cases. Sir, the English Government would never dishonor the draft of an agent abroad. They would punish him, if necessary, but when they send a man out indorsed as a public agent, the uniform practice of that Government is to accept his drafts. Now, what are the facts in this case? It is not only the people of California who are interested in this matter. These drafts are negotiable instruments put out by the agent of the Government in California, and they have got into the hands of innocent parties here on the Atlantic coast; and we are now told that an appropriation, of which nobody knew, is to limit the amount that these persons are to be paid. Why, these agents were authorized to collect the Indians together—

Mr. CAMPBELL, of Illinois, (interrupting.) I should like to ask the gentleman if that agent did not resign immediately after he drew the drafts?

Mr. WALSH. I know nothing about the fact whether he resigned or not. I know nothing of the circumstances of his fraud; but, in order to affect the rights of third parties, the fraud of the

agent must be brought home to them. No defense can be made by the Government on the ground that their agent committed fraud, unless you can make the creditors, who relied on the faith of that agent, partake and approve of the fraud.

Mr. GENTRY. If he has contracted to the amount of \$5,000,000 or \$10,000,000, are we bound?

Mr. WALSH. That would only be evidence of his fraud, and you could hold it up to show that these parties in California were guilty also. But does the gentleman mean to insinuate that the people of California have colluded with the agent? There is no such pretense in this case. Does he mean to say that the holders of the drafts on the Atlantic coast have been guilty of such collusion? There is not a particle of any such pretense. The agent went there to carry out the policy of the Government. He gave the Indians beef and clothing, and the policy of the Government—for that is in question—has always been to make these people approach what is usual in civilized life. But he contracted these debts. People in California, on the faith of his character as an agent of the Government, furnished him with these necessities. He was authorized to draw the drafts in question, which are negotiable instruments, and they have been taken, on the faith of his public character, by innocent parties here, on the Atlantic sea-board. And can it be pretended, in a case of that description, where you sent a man out as commissioner, with general authority to treat, and with no limit to his agency brought home to the knowledge of those who contracted with him, that you can repudiate his acts of agency because he exceeded his authority? I say, without detaining the committee longer, that on the principle which the gentleman from New Hampshire [Mr. HIBBARD] suggests, you cannot set up such a defense in a case referring to a private individual who has created a general agent, unless you can show the limitation by which you seek to control that agent, and unless you can also show that the parties who contracted with him knew of the limitation which you had put upon him. And I say further, that whether he be a general agent or not, the principle is universal as applicable to Governments—to the British Government, and to every other Government.

Mr. STANLY. Is this amount the appropriation of half a million of dollars asked for by the gentleman from California, [Mr. McCORMACK?]

The CHAIRMAN. It is.

Mr. STANLY. This claim may be right and just, as the gentleman from Maryland [Mr. WALSH] says it is, but what evidence have we that it is? Has the Department sanctioned it? Has it been investigated by any committee of this House? I am somewhat surprised that this proposition should come from and be advocated by the other side of the House—by the economical side of the House, who talk so loudly of the enormous expenditures of the Government.

Mr. HOUSTON. Why, it has been advocated on your side of the House.

Mr. STANLY. But a majority of the other side have acquiesced in it, as I understand.

Now, if there is any evidence that the faith of this Government is pledged in this matter, if it be \$5,000,000 instead of \$500,000, I will vote for it. But I say it is not right to admit it, under the existing state of things—to pass this amendment without further investigation into the matter. I do not think it right to put this half a million dollars in the deficiency bill, and I hope the committee will vote it down.

Mr. FITCH. I wish to call the attention of the committee to the facts in this case, and not to consume any of its time by any argument. An appropriation of \$100,000 was asked for at the other end of this Capitol, at first. But \$25,000 was allowed, however. Afterwards \$25,000 more was allowed. The authorities then sent to this agent, or commissioner, or superintendent, or whatever he was, instructions that he should enter into no arrangement by which he should exceed that amount. He did exceed it, however, and now comes here and asks this Government to pay the debt which was contracted in violation of law. These are the facts. I trust the amendment will be voted down.

The question was then put, and the amendment to the amendment was not agreed to.

Mr. HIBBARD. I move to amend the amendment, by striking it down to one dollar.

It has been urged by the gentleman from Maryland, [Mr. WALSH,] that the Government was bound to pay the debt, because it had established a general agency—because, he said, this agent was invested with general powers. Why, sir, there was no general power given to this agent. He was sent out for a purpose specified in this appropriation. He was a special agent appointed for a special purpose, and with limited powers. The agency was created by no law, other than the clause in the bill making the appropriation, a manner of authorizing new undertakings improper in my judgment, but often practicable here. He was specially instructed and restrained in relation to the sum of money he was to expend. He was limited to \$25,000. I repeat, that this appropriation is for a matter in which this Government is not justly bound. The agent had no authority by law, except that I have alluded to, by which he was restricted to the sum of \$25,000. He was authorized to go there and negotiate with these Indians to that extent, and not beyond it. The limitation is as plain as words can make it, and there is no principle in law, equity or common sense, that could hold an individual responsible in such a case, or that can hold a Government responsible. The debt was contracted, not by authority of law, but in direct disobedience to a specific law. Then, instead of being called upon to make this appropriation by which you would justify and cover up this transaction, let the first step be taken at the first proper time to call those offenders to the tribunal of the Legislature, and of the people of the country, for this gross and palpable violation of their public duty, in thus going on, when \$25,000 were appropriated, and when they were instructed to limit their expenditures to that amount to expend over half a million of dollars. I will not undertake to say, what is the proper name of the act of which they are guilty, nor what punishment is due for such a violation of duty.

The gentleman from North Carolina, [Mr. STANLY,] spoke of this amendment being supported by this side of the House. Why, sir, the only legal argument in its justification has come from the gentleman's side of the House, and was made by the gentleman from Maryland, [Mr. WALSH.]

Mr. WALSH. One word in reply to the gentleman from New Hampshire. The gentleman says this agent was limited in the amount he was to expend in the public service, and that he had no authority to contract beyond that amount. There was no such limit put upon him. Am I to be told that when you send a man abroad to purchase goods, and give him secret instructions that he is not to make any contract by which he shall pledge your credit to the amount of more than \$25,000, yet that agent, in violation of your secret instructions, does pledge your credit to more than that amount, that you are not to be bound by that contract, and that it cannot be enforced against you? Why, sir, if that question were to come up before any court of justice in the country, it would have been scouted at. The limitation in this case is upon the amount, not upon the authority.

Mr. FULLER. Will the gentleman permit me to ask him a question? Is not every man, who contracts with a Government agent, bound by law to know his authority to make that contract?

Mr. WALSH. No, sir; he is not. When you send an agent into a country like California, the people of that section of country cannot possibly know upon what precise authority he comes, or what are the precise powers with which he is vested. Your laws, relating to this case were scarcely known there at all when this agent arrived for the purpose of negotiating with that people in relation to these Indians. The gentleman from New Hampshire [Mr. HIBBARD] denies this principle. Sir, I state it, without fear of successful contradiction. He may search the records of the British Government, from the time of its organization, and you cannot find a solitary instance in which they have protested the draft of a recognized agent. How are the people of a distant country to know the authority of your agent? A regard for public faith, as well as national character, should be preserved, no matter at what cost in dollars and cents.

Mr. STANTON, of Tennessee. I desire to ask the gentleman from Maryland a question. The gentleman says the British Government never protests its drafts.

Mr. WALSH. No; not when they are by one of its recognized agents.

Mr. STANTON. I think the gentleman is mistaken. I ask if it is in the power of that Government to pay a cent which is not appropriated by Parliament?

Mr. WALSH. The British Government have uniformly paid its drafts when they come under the authority of its recognized agents. It has been paid them because the faith of the Government was pledged. It is true, Parliament inquires into such cases. It institutes precisely such inquiries as you have often done here to ascertain whether the parties ought to be trusted; and if they find they have been guilty of fraud, they will not pay until the parties present themselves in person before the public counsels.

Mr. JOHNSON, of Arkansas. I will state a fact which will present this matter in a peculiar phase. I understand, when this \$25,000 was appropriated, it was sent out with special instructions to the agent that he should make no contract by which this amount should be transcended. Then I understand—and the gentleman from California [Mr. McCORKLE] can state whether it be true—that when this amount had been expended, the agent declined to go on any further with the negotiations, by which he should make himself responsible. That he told them that if they went on to make any further contract involving a larger expenditure with him, they must look to the Government for their pay, for he had no authority.

Mr. WALSH. If that fact appears, of course it makes an end to my argument. I am stating legal principles, and if that fact which the gentleman has stated, be made to appear, why, upon that ground, it shows a want of *bona fides* upon the part of those contractors, who have contracted in the absence of all agency upon the part of the Government. If this fact is made to appear, there is an end of the argument; and these Government drafts are placed in a very different light.

[Here the hammer fell.]

The question was then put, and the amendment to the amendment was not agreed to.

Mr. STANTON, of Tennessee. I move to amend the amendment by reducing the appropriation two dollars.

I think the gentleman from Maryland [Mr. WALSH] is mistaken in some of the points in his argument, in reference to the legal principles which he lays down. It is very clear, as a principle of law, that a party contracting with an agent is bound to look to the authority upon which that agent acts, and not to purchase a draft upon the Government, except in exact pursuance of that authority. It is equally true, as contended by a gentleman upon this side of the House, that the laws of the land ought to be known, and that it is incumbent upon every one who deals with a public agent to know the exact law upon which he acts.

But I can imagine a case in which, if the agent have authority to draw a draft upon the Government for any particular amount, might impose upon an innocent purchaser of that draft. For instance, suppose you give him authority to draw drafts to the amount of \$25,000; he might sell a draft to that amount to one person, and he might sell another draft to the same amount to another; and so he might sell a dozen drafts to that amount to as many different persons without any one of them knowing that the others had purchased the draft for the same money; or that the agent had exceeded his authority to that extent. But, sir, I apprehend the Government would not pay those drafts except upon the clear showing that these parties had been thus imposed on. It would present a question, then, for the Government to determine, whether these were actually innocent purchasers who had been imposed on by the agent, and that without the possibility of his knowing by the exercise of due diligence, that such a fraud had been perpetrated. It would present a doubtful case, upon which Congress might hesitate to determine, whether the drafts should be paid or not. Now, it may be possible, upon an investigation of the facts, that this money has been properly expended. It may be the duty of the Government, upon a full investigation of the facts connected with the matter, to pay those drafts. After such an investigation had been gone into, perhaps Congress might be disposed to appropriate the money. It may appear that although the agent

has exceeded his authority, yet the money may have been expended in a manner advantageous to the Government; and upon which consideration it may be proper for the Government to pay it. But no such investigation has been made of the facts connected with this case. They are not before the House; and I do not see how we can properly vote this appropriation. If the gentleman from California [Mr. McCORKLE] has evidence that the money has been properly and advantageously expended, or that the parties purchasing the drafts have been innocently imposed on by the agent of the Government, let these facts be shown, and I for one will be willing to vote for the amount named in the amendment, or a much larger one if necessary. But at this time and in this mode, without the facts being brought clearly before the House, I think it would be wrong for us to vote it.

Mr. McCORKLE. I do not wish to be understood as indorsing in whole or in part the policy adopted by the Indian commissioners in California—no, sir, not one single official act of theirs, since they have been in that State; and I believe the Californians will unanimously concur with me in this wholesale condemnation of their whole course. It was not expected by any one conversant with affairs in California, that these commissioners, who were entirely ignorant of the character and habits of our Indians, would accomplish more than they have done—fooled the Indians, and plunged the Government in debt over half a million of dollars. The reservations of land, which they have set apart for different tribes of Indians, comprise, in some cases, the most valuable agricultural and mineral lands in the State—reservations which will not only not benefit the Indian, but will not be respected by the people of any State. But while I condemn the policy of the commissioners, I still maintain, that this Administration is responsible for the acts of these men, and this Government for the debts they have contracted. They were the regularly appointed and duly authorized agents of the Government for a specific purpose, and their powers not limited by the act appropriating \$25,000. The object of the commission was to make treaties and secure peace with the Indians; they had full powers, and absolute instructions on this point; but only \$25,000 was appropriated to enable them to carry out the purpose of their mission. If the agents of the Government in this case were limited and restricted in their operations, by the appropriation, how is it, that in other cases of a similar character, where the appropriation has fallen short, you are voting money to make up the deficiency? Your commissioners adopted a novel and peculiar policy, but specific. They had full power and authority to do so. In order to carry out that policy, and support it, they found it, as they supposed, necessary to feed and clothe the enemy, the hostile Indians. The citizens of California furnished the necessary supplies, and expect and have a right to demand payment.

Now, whether these commissioners had the power or authority to make the contracts under which the supplies were furnished to the Government by the citizens of California, I will not stop now to discuss. The powers of an agent, and the responsibility of the principle are well settled in "the books;" but I do not apprehend that this Government will take advantage of a technicality or a quibble to defraud innocent citizens of their just demands. The facts are clear, the contracts were made, the supplies furnished, and the simple question is, "Shall these persons be defrauded by the Government out of a certain amount of property, supplied to aid your commissioners in carrying out their own and the policy of the Administration in regard to the Indians of California?"

Mr. MARSHALL, of Kentucky. I desire to inquire of the gentleman from California, whether these drafts have been drawn and the supplies furnished, in order to comply with the treaty made by this agent, or to defray the expenses in making that treaty?

Mr. McCORKLE. I will answer the gentleman from Kentucky as well as I am able, from the facts in my knowledge. The drafts were drawn by the commissioners of supplies actually furnished. A certain portion of these supplies, as I have stated before, were used by the Indian commissioners, in order to obtain the consent and pres-

ence of the "root-diggers" to make treaties; the balance for the purpose of inducing the Indians to conform to and comply with the treaty stipulations—a compliance which will exist just so long as your beef holds out. I will read from the report of one of these Indian commissioners a passage which will give an idea of the policy adopted by them in their treaties with the Indians. He says:

"We have found, by experience, that the best way to keep these Indians quiet and peaceable, is to give them plenty of food, with beef occasionally, and a little flour to mix with the pulverized acorn, making their favorite *panoli*, nothing can induce them to quarrel with the whites. If ever the secret history of the late Indian disturbances is written, we have no doubt that nineteen out of twenty will be found to have their origin in direct aggression upon the part of unprincipled white men, or failure on their part to supply the Indians with beef and flour as the promised reward of their labor. We have, therefore, been under the necessity of making pretty liberal provisions under the head of 'subsistence,' and now advertise you that this course will have to be pursued throughout the whole State. The cost of beef in this part of the country varies from eight to fifteen cents per pound; in the southern part of the State, where the large ranchos are mostly situated, it can be bought much lower; say from three to five cents per pound. For present pressing demands we have to do the best we can, fully satisfied that our policy is correct, and that in the end, it is cheaper to feed the whole flock for a year than to fight them for a week."

There is the policy marked out by those Indian Commissioners, and in carrying out that policy these supplies have been furnished. It is for this House to say whether they will pay the debts incurred by these contracts or not.

As to the instructions given by the President to the commissioners, limiting them in their expenditures in treating with the Indians to the appropriation of \$25,000, which was made at the last Congress, I have only to say, that a question is raised between the department and the commissioners—the former insisting that they sent out such instructions, and the latter averring that they did not receive them until after the contracts were made and the debt incurred. This is as I understand the matter, and as I have been informed.

[Here the hammer fell.]

Mr. STANTON. Will the gentleman allow me to ask him whether we ought not to have the real facts before us before we are called upon to vote this money?

Mr. McCORKLE. I should be glad to furnish more facts, but they have not been called for by resolution, nor have they been furnished by the department. I am willing the matter should be postponed for the present if it is the wish of the committee.

The question was taken upon the amendment of Mr. McCORKLE, and it was not agreed to.

Mr. JOHNSON, of Arkansas. I offer the following amendment, to come in after line two hundred and seventeen on page ten.

The amendment was then read, as follows:

"For expenses of continuing negotiations with the Indian tribes of Oregon lying west of the Cascade mountains, \$12,000."

Mr. J. I will read a note in explanation of this amendment, and will then make a few remarks. The extract which I read is contained in a letter accompanying the estimates. It is this:

"The Superintendent of Indian Affairs in Oregon, on the subject of these items, remarks in reference to the first, that the amount is based upon the cost of treaties already made."

That is all that is said as to the item which I have offered as an amendment. The \$12,000 is based upon the cost of the treaties already made, of which there are some nineteen or twenty. Those treaties, from what I can learn, have been made at very little cost comparatively to this Government; but what the nature of those treaties are, or under what circumstances they were made, does not appear, but that the superintendent of Indian affairs has acted with any disregard to the interests of the United States, so far as the treaties which have been already made are concerned, I do not know. As to the nature of the treaties already made, I am not able to state, nor the actual necessity for additional treaties, except in general terms. There is still a large number of tribes lying west of the Cascade mountains, with whom no treaties have been formed, and the Government deem it necessary to go on and make treaties with them. The department, then, make their estimates the amount of \$12,000 as necessary for the purpose of continuing these negotiations. We know nothing, sir, in regard to the nature or circumstances of a part of those treaties which have



already been made, more than that they are now in the Senate, and we heard nothing of their ratification thus far. My friend, the Delegate from Oregon, [Mr. LANE,] may be able to state the necessity of these treaties better than I feel myself able to do.

Mr. LANE. The amount offered by my friend from Arkansas [Mr. JOHNSON] is to cover the exact amount recommended by the Commissioner of Indian Affairs; and that amount, I think, is necessary to be appropriated for that purpose. There is in Oregon a state of things which has not existed in this country before. The history of the settlement of Oregon, and of its condition, is different from that of any other section of the Union. The white people have settled the country, without extinguishing the Indians' rights to any part of the territory. They have settled all over it. This Congress has made a donation of lands to the settlers in Oregon. It is necessary that the Indian rights should be extinguished. Negotiations for that purpose, under two sets of commissioners, have been carried on in Oregon. First, the Governor, and two other commissioners, entered into negotiations with the Indians for their possessory right to the soil. The plan of operation was changed, and a superintendent was appointed to treat with the Indians, and to purchase their right to the lands. When the second commissioner commenced operations, it was supposed that there was a balance of an appropriation that had been previously made on hand, sufficient to justify him to go on, and make treaties with the Indians. He had been induced to believe that there was some \$6,000 yet in the hands of the first board. He proceeded to make his treaties, and to borrow money upon the faith of there being that amount of money in the hands of the first board. The money has been borrowed, and properly used, to the amount of \$6,000; and as much more will be necessary, at least, to carry out the treaties. It is a small sum, and I have no doubt that it has been properly applied, and that the Superintendent of Indian Affairs in Oregon has, so far as I know, in all things studied economy. There is no evidence of extravagance there. This sum is the same precisely as that recommended by the Committee on Indian Affairs.

[A message was here received from the President of the United States, by the hands of Millard P. Fillmore, his Private Secretary.]

Mr. HOUSTON. I want to say to the committee briefly, that the Committee of Ways and Means refused to allow this item, for two or three reasons, which we considered to be good. In the first place, the gentleman from Arkansas [Mr. JOHNSON] is right in reading the explanation given to the item by the Indian bureau; but there is a mistake in point of fact. The very item for itself says, "For continuing the negotiation with the Indian tribes west of the Cascade mountains." Now, it is a mistake that the money has been already expended, and that it is for the purpose of continuing negotiations with these tribes west of the Cascade mountains.

Mr. LANE, (interrupting.) Will the gentleman allow me to explain?

Mr. HOUSTON. Five minutes do not allow of much explanation.

Mr. LANE. Six thousand dollars of that \$12,000 has been already expended. It was expended in carrying out Indian treaties.

Mr. HOUSTON. Then I am, at least, half right. And this shows that this appropriation ought not to be allowed, unless there are some controlling reasons why it should be. The Committee of Ways and Means, upon an examination of this subject, and upon a full conference with the superintendent of Indian Affairs, who is here, concerning the treaties which have been made in Oregon—some eighteen or twenty of them—brought out some very important facts in connection with these treaties and their merits. The Committee of Ways and Means believe that those facts disclose a state of things which rendered it necessary for them to withhold additional appropriations, until the Senate shall pass its judgment upon those treaties. I may be permitted to say—and if I am out of order in doing so, I do not intend it, for it is important that the committee should know the operation of these treaties—that one of these treaties, for instance, has been negotiated with a tribe which consisted of two men and five women; another with a

tribe numbering two men and seven women; and other treaties of that character, so far as we have been able to obtain information from the Superintendent of Indian Affairs in Oregon. Now, sir, I believe that this presents a case that should induce this House to withhold additional appropriations, until we see what the Senate intends to do.

Another item connected with these treaties which I wish to speak of is this: I understand that all of these eighteen or twenty treaties, without exception, provide that the Indians shall remain upon, and keep the possession of their lands, and of their fishing places, and of everything else, until the expiration of ten years, and then they are expected to go away. Now, it occurred to me, and also to the Committee of Ways and Means, and I presume it will occur to this House, that this a most singular mode of making treaties with those Indian tribes. What guarantee, what security, have we that they will go away at the expiration of ten years? They are permitted to retain their property, permitted to remain upon their lands, and occupy them without any additional restraint, except that thrown over them by the presence of the white people. After paying them an annuity for ten years, we are to rely upon their willingness to leave the country. The Committee of Ways and Means concluded that that class of treaties had best be left until ratified in the Senate, before we appropriate more money to enable the agents to go on and complete other treaties of like character, which in all human probability, may, and will be rejected by the Senate.

Mr. LANE. I propose to add one hundred dollars, as an amendment to the amendment. I have not, Mr. Chairman, seen any one of the treaties made by the commissioners with the Indians in Oregon; nor do I know with how many tribes treaties have been made, nor the amount of money they have promised to pay to the tribes with whom they have treated, for the lands purchased of them. I know the Indians of that country, and all the tribes that live in the settled portions of Oregon Territory and west of the Cascade mountains. I know that the peace, prosperity, and success of the settlements in Oregon require that the right and title of the Indians to the land should be extinguished. I know that the Indians are broken up into small bands, and that every band maintains its nationality. No one connects itself with any other band or tribe, and if they have but three people in their tribe or band, they claim the country which their fathers claimed, and where they lived, and where their fathers are buried. And to extinguish their title it is necessary to treat with them, be they one or more. I do not know whether the policy has been wise in granting reservations to the Indians for a certain number of years. I think it has not been wise. I would have said to these Indians: "You must sell your entire right, and leave the settled portions of the country, and go to a section of country designated by the commissioner, outside of the settlements and out of the way of the white people, so that the whites should have the right to the land." I am inclined to think that some of these treaties make reservations covering many claims made by white men, who went out and settled there eight or ten years ago. But let that be as it may, I am satisfied that the Superintendent of Indian Affairs who made these treaties, for which he has used \$6,000 in advance of an appropriation, acted in good faith, and that he has practiced as strict economy as he could. And I am satisfied, further, that when he commenced these negotiations he was induced to believe that the old board had the sum of \$6,000 unexpended, and that upon the faith of that belief he borrowed money, and used it for the proper purpose, and I do not know that he has made any reservations of the character I speak of.

This amendment now asks for \$12,000; \$6,000 have already been expended in the purchase of the Indian rights to lands in the settled portions of the territory near the mouth of the Columbia river. The treaties, save the ratification, have been completed, and entirely so, as far as the superintendent of the board is concerned. Whether the Senate will ratify them or not, I am not prepared to say. I am inclined to think that there can be no objection to making this amendment, appropriating \$12,000 to negotiate treaties with the Indians living west of the Cascade mountains, with whom treaties have not yet been made, and whose lands are in pos-

session of the whites; who have made farms upon them, and who cannot have peace with the Indians except by having their rights extinguished. They are willing that the whites should have their lands, but they want some small compensation for them. If you give them that, they will be satisfied, and you will have peace with them.

Mr. JOHNSON. I was instructed by the committee on Indian Affairs to report this item to cover expenditures in treaties which have been made. I had not, nor had the committee at the time we acted upon this subject, any information as to the difficulties, irregularity, or strange condition of the treaties already made in Oregon, and now rumored about here, but not known. The money appropriated had been expended, and a small debt incurred. This is on the representation of the department, and the amount asked is but a reasonable sum. The bureau deem it for the best interests of the country that negotiations should continue with those Indians. The item was adopted by the committee; which instructed me to submit it to the House.

Mr. HIBBARD. If the gentleman will allow me to ask him one question, which is this: Inasmuch as these treaties are now before the Senate; as their nature is not well understood by gentlemen of the committee; and as the Indian general appropriation bill will soon be reported, will it not be sufficiently in season, for all necessary purposes, and better to postpone this appropriation to the time when action shall be had upon the general Indian bill?

Mr. JOHNSON. Already \$6,000 have been expended; and \$6,000 is recommended to us as necessary to continue negotiations. I am inclined to believe, notwithstanding the suspicion which has been thrown upon the character of these treaties, from statements which have been furnished me, since I have been sitting here—(I had not before an explanation of the difficulties presented by the chairman of the Committee of Ways and Means, accompanying those treaties)—that we will act wisely, to appropriate the amount, the \$6,000 already expended, and \$6,000 more. I was not inclined to press this appropriation at the moment I first offered it. The Committee will recollect that I did not press it, leaving that to the Delegate from Oregon, [Mr. LANE,] who I believed would be better able to make its explanation. Since the Committee on Indian Affairs adopted the item, I began to hesitate and doubt, as to whether or not it was proper, from rumors that reached me. In regard to the suspicions raised by the chairman of the Committee of Ways and Means, it was but proper that they should be presented here. Treaties have been made with small tribes, consisting of few in number—five in one case, and seven in another. I now understand that large tracts of country were owned by them. They were the only solitary members left in the world of once considerable and formidable tribes. They have but a few fishing huts, located along the fishing borders of that territory. By these treaties they are permitted to remain there for a short time, but we are in fact and in truth in the possession of the whole of their territory. They are only secured peaceably in possession of their huts and a limited tract of land to live upon. They are, it is shown, truly the owners of the land, the title of which they have surrendered to the United States, and a treaty was the only way in which we could extinguish their title, unless we—they being few in number—took it forcibly from them. There has been expended a very moderate amount of money by the agents of the Government, in connection with these particular Indian treaties. These negotiations have been among the most economical operations the Government has ever known. It is but just and right, that we should give full credit to those who have acted as the agents of the Government in this case, when we see in other States so much disregard of the principles of economy, in conducting our public affairs. I believe the appropriation is right, and ought to be passed.

Mr. DUNHAM. In the estimates, I find that this sum is asked, not to pay the expenses already made, but to continue in the making of these treaties, and the estimates for the future are based upon the expense heretofore made.

Mr. JOHNSON. With the consent of the committee, I will reply to the gentleman. At the time I presented this amendment, I had but little information with respect to it; but I now find it

stated upon this floor that a portion of this appropriation has already been expended. I think the gentleman from Oregon made the statement. In my first remarks you will find that I did not say a word about a portion being expended.

Mr. LANE. I have it, Mr. Chairman, from the Superintendent of Indian Affairs in Oregon, who is now present, that \$6,000 of this money has been expended in negotiating with the Indians residing in that section of country near the mouth of the Columbia river. That much money, I have no doubt, has been expended, and is now due.

Mr. L. then, with the unanimous consent of the committee, withdrew his amendment.

Mr. DUNHAM. I move, sir, to strike out \$12,000 and insert \$6,000. It seems to me, if this item passes at all, that the committee will see the propriety of such a course as that indicated by my amendment, taking it for granted, as I stated before, that \$6,000 of this money has been actually expended. If it be true that that amount has been expended, we should make an appropriation to cancel the debt thus incurred. I must say, however, that the Commissioner of Indian Affairs, in sending in his estimates, did not deal fairly by us, because he has sent in the estimates for continuing appropriations which he has stated expressly to be based upon treaties already made. Supposing \$6,000 has been expended, I submit to the committee whether we should appropriate \$6,000 more to go on with these treaties until we know whether they are to be ratified and confirmed by the Senate? It is known to all that these treaties are objectionable; and it must strike every one as being extraordinary that the Department should ask for appropriations for expenditure in making treaties with six, seven, or eight persons. It seems to me that we ought to wait until these treaties have been understood and acted upon by the other branch of Congress, before we appropriate money to make others of similar character. I, therefore, trust that this amendment will be adopted. I offer it in good faith, and because I think it ought to be adopted. We ought to appropriate for the expenses already incurred, but we should wait to see the propriety of going on to appropriate more.

Mr. STANLY. I understand the amendment of the gentleman from Indiana is to reduce the amendment of the chairman of the Committee of Ways and Means from \$12,000 to \$6,000. I hope the amendment of the gentleman from Indiana will not be adopted. The Committee of Ways and Means, although so much fault has been found with them by gentlemen upon the other side of this House, have deserved the credit, at least, of being warm advocates of economy. They cut down this appropriation beyond what the department wanted. The gentleman from Oregon, if I understand him, says that \$12,000 is necessary. The chairman of the Committee on Indian Affairs says that it is; and he asks the House that it should be increased to that amount; and I think the House will do so, as gentlemen in their positions are supposed to possess more knowledge about it than the rest of us. Let us make that appropriation of \$12,000. I hope my friend and colleague upon the committee from New Hampshire [Mr. HIBBARD] will not vote against it, although it is advocated by gentlemen upon this side of the House. I regret, sir, that a little while ago my friend from Maryland [Mr. WALSH] thought fit to advocate another appropriation, because it gave my friend from New Hampshire the chance of saying, The other (Whig) side advocates it. His idea is, sir, that if any one Whig makes a speech out of order, like that of my friend from Florida, [Mr. CABELL,] at the first part of this session, on the presidential election, it justified fifty Democrats in doing the same thing. Now, they have a large majority over us; and if my friend, the chairman of the Committee of Ways and Means, will keep his disorderly folks, his uncontrollable men, under control, we shall get along with the public business, and finish the deficiency bill sometime before the end of October. [Laughter.] But if we go on, with amendment after amendment, cutting down appropriations five dollars upon which to hang five minute speeches—and there are twenty speeches made on the other side of the House to one of ours—we will not get through the bill until the month of August. I hope the amendment will not be cut down.

Mr. LANE. I imagine the committee are willing to adopt this amendment. If I thought it

were so, I would not say another word. I move to add twenty dollars to the appropriation. I will not occupy five minutes. I wish merely to state that I desire the committee shall understand everything in relation to Oregon, and I hope we never will have a state of things there which will make it necessary to conceal anything. The Indian title to the lands west of the Cascade mountains has not been extinguished. Six thousand dollars of this appropriation has been expended already in purchasing Indian rights to a portion of that country. I want to say to this committee, that of the country north of the Columbia river, and west of the Cascade mountains, upon which thousands of white men are living, and twenty thousand Indians, not a foot has been purchased—the right of the Indians has not been extinguished to a single foot. Towns and cities are being laid off upon Indian lands; but the owners and proprietors cannot sell their town lots, giving any kind of conveyance, until the Indian right is extinguished. There are many good reasons why these negotiations should progress without delay, that that country may have the advantage of the extinguishment of the title of the Indians to their lands, especially to that portion of country within the settlements. I have said enough to satisfy the committee that this appropriation ought to pass.

Mr. L., with unanimous consent, then withdrew his amendment.

The question recurred on Mr. JOHNSON's amendment.

Mr. HIBBARD. I have a word to say, and it may as well be said in reply to the gentleman's amendment. I object to the withdrawal of the amendment. I hope it will not be adopted, and also that the appropriation as it now stands will not be agreed to by the Committee. It will be borne in mind, as has already been stated, that these treaties are pending before the Senate. They are questionable in their character. There may be involved grave questions touching their adoption.

Mr. STANTON, of Tennessee. I wish to ask the gentleman this question: He and the gentleman from Indiana seem to assume that because a treaty has not been ratified by the Senate, therefore the expenses of that treaty ought not to be paid. Do I understand that to be their objection?

Mr. HIBBARD. I do not make that assertion. It may or may not follow. The course to be taken by that committee, and the House, in making appropriations, may be essentially modified by the facts developed in the examination of the treaties before the Senate. Facts may appear which would make it proper for the Government to refuse to pay anything, or to withhold a part, or to pay all. I do not wish to say what those results will prove to be, because I do not know what the facts are. I have heard rumors of the same things alluded to by the chairman of the Committee of Ways and Means, and other reports. I have heard them about the House, and I do not know that they are correct. I do not wish to broach them, because they may be wrong; but of one thing I am certain. No one who knows the gentleman from Oregon, [Mr. LANE,] will, for a moment, believe or suspect that he will ask for an appropriation for anything which he supposes to be tainted by fraud, or anything dishonorable. I know that he would spurn from him aught of that kind, if he knew of it. It is, asserted, however, that there is something rotten in this Denmark. I know not how it may be, and I will wait to see. The general Indian appropriation bill is before the Committee of Ways and Means. It will be ere long before the House. It has been reported from the Committee of Ways and Means; and, when it is taken up to be acted upon, there will be ample time to consider this whole measure. We will then have light. Now, a word to the gentleman from North Carolina, [Mr. STANLY,] who seems to have the political aspect of all questions in his especial view and keeping. He misunderstood me, in supposing me to think that because they did wrong upon that side of the House, that it would justify us in doing so here. Far from that, sir; we would then be justified in sin, and that continually. I will give the gentlemen their proper due. For the much good precept, but little of good practice, which has come from the other side of the House, I am heartily thankful. I am obliged to the gentleman from North Carolina for his preaching, and, for aught I know,

he has practiced it on this occasion; but it comes with a bad grace from that quarter. For one, I call the committee to witness, that it has been notorious in our action upon these amendments to the deficiency bill—these enormous humps added to the camel's back, strained almost to breaking already, that nearly the whole body of the gentleman's political associates upon this floor have voted for every one of them. By a sort of instinct, that, I dare say, they came honestly by—for it is natural to the party, whenever there is proposed any grabbing or filching from the Treasury—they go for it. There have been honorable exceptions to this rule; but it is the rule, as everybody here is aware, and as the record shows. And so far as the gentleman from North Carolina has been an exception, and to the extent he has been so, I congratulate him and the country. Precept is good, but practice is better. His preaching has been good. The effect upon his political friends is as I have stated; and I wish to state it as a fact, and let it go out with the discussion to the country. These extraordinary, and, in my judgment, improper additions, have been made to this bill mainly by the votes of its Whig friends. The last feather that may break the camel's back, may have already been put upon it. I hope the committee will put on no more, and I will respond a hearty amen to the exhortation of my friend from North Carolina.

Mr. STANTON, of Tennessee. I wish to make an amendment, adding one hundred dollars to the amount of appropriation, for the purpose of saying a few words in reply to the gentleman from New Hampshire, [Mr. HIBBARD.]

The CHAIRMAN. The Chair will say that that amendment cannot be discussed, it having been withdrawn.

Mr. STANTON. I propose, then, to add a thousand. The state of the case in dispute is simply this, as I understand, that treaties have been made with the Indians—made by the treaty-making power, under the laws of the land. It is true, that the making of these treaties by the Executive does not make it imperative upon the Senate to adopt them. They are not treaties until they are ratified by the Senate; but the expenses have legally and properly incurred, and the obligation of the Government to pay them, is undoubted, in my judgment, and is a part of the deficiency. If these facts are true, I cannot see how the gentleman from New Hampshire [Mr. HIBBARD] can talk about breaking the camel's back, which I suppose means breaking the Treasury of the United States, by imposing \$12,000 for expenses that have been incurred by the legitimate operations of this Government. Six thousand dollars, I understand, to be asked for to pay debts already legitimately incurred by the treaty-making power of this Government. There is no charge of extravagance or impropriety of conduct, unless it is an impropriety in negotiating with the remnant of the tribe.

Mr. HIBBARD. The gentleman misunderstood me. My camel was the bill, which, I am afraid, my friends upon the other side would kill by loading it down with excessive kindness.

Mr. STANTON. I think remarks of that kind are altogether improper. The question is, ought this amount to be paid? Is it legitimate—is it proper? And if it be so, how can you break the back of this bill? How can you render it unpopular? Is there any man, who is disposed to repudiate the debts of the Government acknowledged to be legitimate? Does the gentleman ask simply that this appropriation shall be postponed until another bill comes up? When it is admitted to be correct in every item, why should it be postponed? The debt is already incurred, and the deficiency clear and unequivocal. Now, I say to my Democratic friend [Mr. HIBBARD] upon the other side of the House, that he is doing injustice to his own party, by making objections of this kind, and placing them upon party grounds. If this is a correct appropriation, it ought to be passed. It ought to be passed here in this bill, and I, for one, am disposed to vote for it; and I think that the party to which the gentleman belongs, and to which I claim to belong, can well bear the odium of voting the appropriation of \$6,000 for liabilities incurred by the Government in pursuance of its legitimate operations. Where treaties have been made by the Executive, which have been rejected by the Senate, we cannot repudiate the legitimate expenses incurred.

Mr. JOHNSON. I will state, in regard to the discrepancy which has been referred to, that it occurs in the most natural manner in the world. The time which it takes to bring communications here from Oregon is very great. The estimates made here for these \$12,000 were made sometime last May or June. They were transmitted, and reached here about the time Congress met. They were furnished then with the commentaries which accompany the estimates. After the meeting of Congress, the superintendent reached here, bringing up the record of the facts that occurred since the time of making out his estimates. Since that time the sum of \$6,000 had been expended. Then, to give him, the superintendent, proper credit, I state that, in connection with the \$6,000 itself, the cost of the whole of the nineteen treaties made in Oregon has been only \$26,000—the six thousand now asked for being included.

Mr. HOUSTON. I do not rise so much for the purpose of discussing this proposition, for I said before, what I wished to say. I now repeat that which I said in reference to the provisions of these Indian treaties, which was communicated to the Committee of Ways and Means by the superintendent of Indian Affairs himself, and which was no doubt correct. I said precisely what he communicated upon the interrogatories of that committee. It has been spoken of by one or two gentlemen as if reflections may have been cast upon the commissioners who negotiated the treaties; but I did not intend anything of the sort, and nothing of the kind escaped me. I attempted to show to the committee present, and I desire now to repeat it, that the question presented is, are you willing to continue this kind of negotiation? Are you willing to keep up negotiations for the purpose of forming treaties like this until the Senate shall pass upon them? Now, I feel it due to the Committee of Ways and Means, to state this additional fact.

The distinct, clear, and unequivocal impression left upon my mind, and I have no doubt upon the minds of all the Committee of Ways and Means, was, that none of this \$12,000 had been expended. I may have misunderstood the superintendent, but that was the impression under which we labored, and the committee will remember it when they refer to the fact, that we had originated another item for the superintendent's house, which I am required to offer as an amendment.

I do not profess to control the vote of any member of this committee. I do not profess to keep in control any members of the committee. God knows, it is enough for me to do, to keep myself in proper order. [Laughter.] I try to do it. I appeal to this committee, and every member of it, to know whether I have been instrumental in prolonging the debate or investigation of this bill. I have offered no amendments except those which I was instructed by the Committee of Ways and Means to offer. I have not offered amendments that would give me an opportunity of speaking, even. When I did speak, I desired to speak to the point in issue before the committee at the time. For the reason that I was not going either to set or follow a bad example, I was determined I would forego any explanation which I might think I could offer rather than set the example of offering amendments merely for the purpose of making a speech. Every member of the committee knows that I have abstained from it. Every member of the committee knows that I have endeavored to prosecute the investigation here, day in and day out, for weeks together. I have endeavored to get the committee to sit out this bill to-day, and I hope they will do it, and for the purpose of getting along as speedily as possible, I will close before my five minutes are out.

Mr. STANTON, of Tennessee, withdrew his amendment to the amendment.

The question then recurring on Mr. JOHNSON'S amendment, it was taken, and decided in the affirmative.

So the amendment was agreed to.

Mr. HOUSTON. I am instructed by the Committee of Ways and Means to offer the following amendment:

For the completion of the buildings for the house of the superintendent and the Indian agents in Oregon, \$3,000.

The reason that was not in the bill was because the committee did not possess the information to enable them to know whether it was properly located, and they supposed that it was for the purpose of building an agency which was not

commenced. From the information, however, received by the committee, the house is completed and the amount is due the workmen.

Mr. STANLY. I hope that whatever amendments the honorable chairman of the Committee of Ways and Means may offer will be adopted, because I am sure he offers nothing here that is not consistent with the most rigid economy—nothing that his sense of duty does not compel him to offer. In any remarks I may have made about the conduct of gentlemen on the other side of the House, I thought I had distinctly excepted the conduct of the chairman of the Ways and Means.

Mr. HOUSTON. I did not take any exception to it.

Mr. STANLY. I think he leans a little too rigidly to the economy side. I know he will not take that unkindly. But when I spoke of his course here, I spoke of him as the representative of the majority who have the control of this body. He must keep his friends in order, and make them stand up to him, or place the responsibility upon them. We must look to him for the finishing of this bill. His party must hear the sound of his voice, and come when he says so, or there can be no party organization on his side of the House. That is all I have to say upon that point.

The gentleman from New Hampshire [Mr. HIBBARD] says that these appropriations come from this side of the House. I take issue with him, and I call for the proof. I most respectfully deny the fact. As far as my recollection of this debate goes, all the amendments increasing the appropriations have come from the other side. I mention it not reproachfully, but to the honor of the gentlemen who have offered them. I think I have voted for most of the amendments relating to Indian affairs. What induced gentlemen to offer these amendments? I hope a sense of duty. The gentleman from Oregon [Mr. LANE] knows what the people of Oregon require. The chairman of the Committee on Indian Affairs knows what is required for that branch of the service, and these are the particular friends of the gentleman from New Hampshire.

Mr. HIBBARD. To save the gentleman further trouble, I will say that he wholly misunderstood me. I said that the amendments were voted for chiefly by gentlemen on the Whig side of the House.

Mr. STANLY. I deny that fact, and call for the proof.

Mr. HIBBARD. We will call the yeas and nays when we get into the House and prove it.

Mr. STANLY. When the yeas and nays are called, the Whigs will come up and face the music. I have no doubt the gentleman from New Hampshire would vote for half a dozen things here in committee, which he would not stand up to in the House. That is an old game of New Hampshire politicians—begging my friend's pardon. [Laughter.] But with respect to the votes for these amendments, I take issue with the gentleman, and respectfully deny the fact.

Mr. HIBBARD. I have voted against all these amendments.

Mr. STANLY. That may be, but you patted somebody else on the back, and said the appropriations were necessary. [Laughter.] I know the gentleman's mode of doing business. He is a shrewd, clever Yankee. The gentleman would vote an appropriation for Portsmouth navy-yard, New Hampshire, and would beg fifty other Democrats to vote for it, and pass it through the committee, and then he would vote against the whole bill, if he thought it was sure to pass; but if it was to fail by his vote, he would turn a somerset from the rotunda to the Clerk's desk to be in time to move a reconsideration. [Laughter.] That is the policy of the gentleman from New Hampshire. He talks about our "grabbing and gouging the Treasury." How are we "gouging?" Gentlemen on this side of the House—and I say it to their credit—only want to gouge from the Treasury when the necessities of the Government require it.

Now, as to my preaching: I am very much obliged to the gentleman for saying that he listens to my preaching. I am afraid it is the only good preaching he has heard this session, and if he would only conform to the preaching he hears on this side of the House, he would become a better Whig or a better union Democrat.

[Here the hammer fell.]

Mr. POLK moved to amend the amendment by decreasing the amount one dollar.

Mr. P. said: The gentleman from North Carolina upon every occasion that he has taken the floor during the last ten days—indeed, ever since his bloody conflict with the gentleman from Ohio, [Mr. GIMBINS], which consumed none of the time of the House, has been upbraiding this side of the House with obstructing the public business. Sir, I undertake to tell that gentleman that he may turn to the Congressional Globe, and look through the debates of this House, and he will find that as much, if not more, of the public time has been consumed by gentlemen belonging to his party, as by gentlemen on this side of the House, and more by the gentleman from North Carolina than by any given man. But we, because we are in a majority, are to be held responsible.

Sir, was there ever in the history of Congress, a deficiency bill involving so much interest, that had so rapid a progress as this has had? No, never. Then, why this talk? It has even gone into the Republic this morning. The gentleman from North Carolina heralds it here, and the Republic spreads it throughout the land, that we are obstructing the public business, while the gentlemen opposite are consuming time in the discussion of the abolition question. The debate between the gentlemen from Massachusetts, the one between the two gentlemen from Ohio, that between the gentleman from North Carolina and the gentleman from Ohio, and other debates of that character, which have originated on the other side of the House, have consumed—I hazard nothing in saying—more time than any of the unpleasant debates which have originated on this side of the House. Refer to the Congressional Globe, and mark the progress of the debates, and I believe the fact will be established.

Mr. STANLY. The gentleman from Tennessee [Mr. POLK] speaks of "the bloody conflict" that I had with the gentleman from Ohio. Now, sir, I beg once for all to say to that gentleman and to the committee, that of that conflict I am very much ashamed. [Laughter.]

Mr. POLK. I have no doubt the gentleman is, and I will withdraw the reference I made to it. [Laughter.]

Mr. STANLY; (bowing to Mr. Polk.) I see that the gentleman is not such a violent Democrat that he has not got some little shame left in him. I congratulate him upon it.

Mr. POLK. I am ashamed for you, sir.

Mr. STANLY. I thank him. I was about to say that as to this "bloody conflict," I promise the House and the country, to use the remark of an editor in New York, who scolded me very much about it, that during my stay in this House I will "get upon all fours no more to fight a dog." [Laughter.] I should not have referred to that matter, but for the scolding of the gentleman upon the other side.

The gentleman from Tennessee is altogether mistaken upon a point of fact. If he will do me the favor to refer to the Congressional Globe, he will see by the position I have occupied, that he is altogether mistaken. But, if the gentleman is disposed to raise an issue between himself and myself, I can show that he has had more to do out of this House, if I understand his peregrinations, than any other ten gentlemen in it.

Mr. POLK. I do not understand the gentleman.

Mr. STANLY. The gentleman from Tennessee is very often out of this House, engaged in more pleasant occupation than listening to the manly, hoarse voices that mingle in the debates here. There are sweeter sounds that lure him from this Hall. He likes "to tread the primrose path of dalliance." He likes to see fine dancing, and to hear pleasant singing, better than to listen to the hoarse "croakings"—as he calls them—of men's voices here. The gentleman from Tennessee has been too often absent to keep strict and watchful account of my doings here. Let the gentleman refer to the Congressional Globe, and he will find that there have been ten speeches on the other side of the House for every speech that has been made on this side. Since the gentleman has raised the issue between us, I refer the House and the country to the columns of the "Globe;" and I say that he is more responsible for the time which has been consumed here than I am, or



shall be this session. I have endeavored to get this bill through. Nobody has tried harder to do it than I have. I have uniformly supported the chairman of Ways and Means in his efforts. I have never talked but to the purpose. Only once have I consumed the whole of my five minutes' time, and I shall not do it now.

The question was then taken on the amendment to the amendment, and it was not agreed to.

Mr. POLK. I move to amend the amendment by increasing the appropriation two dollars. I did not anticipate, when I made the remarks which I did, that the gentleman from North Carolina would go into an investigation of the time that I have been in the House, and the time that I have been absent from it. I did not go into that sort of an investigation of his conduct, and I should condemn myself if I undertook to investigate, even in general terms, the conduct of my fellow-members upon this floor in that respect. But I can say to the gentleman from North Carolina, that I will refer to the journal, and I shall be found as regular in attendance as he has been. I will say to him that I have been in as constant attendance, and that I have paid as strict attention to the public business as he has. And I will say to him further, that when he reflects upon having cast such a reflection upon a member as that of not attending to his public duties, constituting himself the judge, he should be ashamed of it, as he was of his conflict with the Abolitionist from Ohio. It is a thing that I would not do. It is a thing that I would not herald to the country to affect any member before his constituents. Unless I could produce facts, I would not hazard my reputation by stating a thing which was not correct, according to the records of the House.

Mr. STANLEY. I oppose the amendment of the gentleman from Tennessee. The gentleman says he did not anticipate an investigation into his conduct when he commenced this discussion. I have no doubt of it. If he had he would not have cast the first stone about my consuming the public time. The gentleman began it. Was it not as fair for me to say that he consumed time out of the House, as for him to say that I did it in the House? The gentleman commenced it. I made no allusion to him. I was discussing matters regularly and legitimately. There is nobody in this House who has more to fear from an investigation as to inattention to business, than the gentleman from Tennessee.

He says he would have been ashamed if he had done as I have done. I am much obliged to the gentleman. I do not design to indulge in personalities. I can only say that if he continues to talk in that way, I fear I shall have other conflicts to be ashamed of besides that with the member from Ohio.

The question was then taken on the amendment to the amendment, and it was not agreed to.

Mr. LANE. I move to amend the clause providing for the traveling expenses of the superintendent of Indian affairs in Oregon, by striking out "\$2,000" and inserting "\$4,000."

I think that is just the sum which is required to pay the traveling expenses of this superintendent. It is the amount asked for in the estimates of the Commissioner of Indian Affairs; and, as I said, I believe it is little enough. I hope, therefore, the committee will agree to adopt the amendment.

Mr. HOUSTON. As there seems to be a disposition to get along with this bill, I will not go into a full explanation of the facts in the case. I will merely say, that the Committee of Ways and Means, upon a full investigation of the case, and upon a full conversation with the superintendent himself, came to the conclusion that \$2,000 was all that was necessary, and therefore they put that amount into the bill.

Mr. LANE. I ask the gentleman if he understood from the superintendent of Indian affairs that \$2,000 was sufficient?

Mr. HOUSTON. I did not. But from his conversation, and from the investigation made by the Committee of Ways and Means, we came to that conclusion ourselves, and therefore we adopted that sum.

The question was then put, and the amendment was not agreed to.

Mr. MEADE moved a *pro forma* amendment to the clause providing for the balance due the Ottawa and the Chippewa Indians, under the fifth article of the treaty of 1836.

He said, I desire that the chairman of the Committee of Ways and Means will explain this section of the bill.

Mr. HOUSTON. It is for an appropriation of \$624 22, for the fulfillment of our treaty with those Indians, and is ultimately carried to the surplus fund of the Indian bureau. I learn that the practice of that bureau is, that they do not feel themselves bound to carry to the surplus fund money, according to the general construction of the law requiring it to be done, but they keep those sums of money until the objects for which they were appropriated have passed by. In this case, they supposed it would not become necessary; but it really has become necessary that the sum should be appropriated to meet the demands upon the bureau by our treaty stipulations.

Mr. MEADE then withdrew his amendment.

Mr. LANE. I move to amend by adding the following, as an independent clause:

For the erection of a warehouse in which to store goods designed for issue to Indians, \$5,000.

[Cries of "Vote it down."]

Mr. LANE. Before the Committee vote down the amendment, I think it would be well to call their attention to some facts connected with it. I understand that when the commissioner made out his report upon the facts presented to him, he asked for \$5,000.

Mr. HOUSTON. I rise to a point of order. The amendment is clearly out of order. It is for a new work, and is not a deficiency at all.

The CHAIRMAN. The Chair rules the amendment to be out of order.

Mr. LANE. I would like to give some reasons why it is in order.

The CHAIRMAN. Debate is not in order.

[In consequence of a storm about three o'clock p. m., which had suddenly arisen, the Hall had become so dark, as to render it almost impracticable to proceed with business.]

Mr. ORR. It is so dark that we cannot go on with business; I move that the committee do now rise.

[Loud cries of "No!" "No!"]

The question was put, and on a division thirty-four rose in the affirmative.

The CHAIRMAN. There is evidently a majority in the negative.

Mr. ORR. It is so dark, the Chair could not tell how many voted. I ask that the other side be counted.

The CHAIRMAN. The Chair has decided that the noes have it.

Mr. ORR. I ask that the other side be counted, and I have the right to demand it.

The noes were then counted, and the committee refused to rise—ayes 33, noes 82.

The following clause to the bill was then read:

"For the contingent expenses of the Legislative Assembly of the Territory of Minnesota, viz: "

"For printing and publishing the Revised Statutes, making an index thereto, and superintending their publication, \$4,500.

"For binding the Revised Statutes, \$300."

Mr. SIBLEY. I move to strike out the clause providing for binding the revised statutes, and to insert the following:—

For necessary extra clerks during the latter part of the sessions of the Legislative Assembly, binding the Revised Statutes, and other necessary incidental expenses, \$2,000.

I do not propose to take up the time of this committee by any remarks upon this amendment. I will merely state the fact that it is in accordance with the estimates of the First Comptroller of the Treasury, indorsed by the Secretary of the Treasury, and sent to the Committee of Ways and Means.

The question was then taken, and the amendment was agreed to.

Mr. SIBLEY submitted the following amendment, which was agreed to, viz:

For payment of Messrs. Babcock, Wilkinson & Holcombe, for revising the laws of Minnesota, each \$500.

The following clause was then read, viz:

"For outfits of Chargés d'Affaires to Denmark and Bolivia, \$9,000."

Mr. GOODENOW. I wish to amend that clause by adding the following:

And for additional compensation to a commissioner to the Sandwich Islands, \$3,000.

Mr. JONES, of Tennessee. I rise to a question of order. I think that amendment is not in order. It provides for a new salary, and is not a deficiency.

The CHAIRMAN. The Chair decides the amendment not in order.

Mr. BAYLY, of Virginia. I am instructed by the Committee on Foreign Affairs to offer the following amendment:

To supply the deficiency in the appropriations for the relief of the American citizens lately imprisoned and pardoned by the Queen of Spain, \$3,000.

I received this morning, from the acting Secretary of State, written under the direction of the President of the United States, a letter, requesting the additional appropriation to be made. There was accompanying the letter from the Secretary, a communication from Mr. Whittlesey, the First Comptroller of the Treasury, containing the actual amount which had been expended for the relief of these prisoners. There is a deficiency of \$2,016 55, and there are other accounts which have not yet come in. Under the original law providing for the relief of those persons it is provided that the relief shall be restricted to the expenditure of so much as may be necessary to pay the expenses incurred. If this appropriation should be found too large by a few dollars, therefore no injury will ensue. A part of these expenses have been actually paid by the Department, and it is a case which demands immediate action.

Mr. HOUSTON. It seems, by the shape in which the gentleman from Virginia now offers this amendment, that he is to settle our accounts in that quarter in advance. Now, if he was satisfied as to the true amount, and could tell this committee what it would be, it would be a different matter. But he tells us there are still outstanding accounts which have not come in. He asks for a certain amount now; but we cannot tell but we yet have to make still another appropriation afterwards.

Mr. BAYLY. If the gentleman will allow me I will say that the Comptroller, Mr. Whittlesey, is as rigid an economist as can be found in this country, and it is obvious that if we should appropriate a few dollars too much, nothing would be lost. I will read the letter of the Secretary of State:

DEPARTMENT OF STATE, }

WASHINGTON, March 25, 1852.

SIR: By the President's direction I have the honor to transmit, herewith inclosed, a letter addressed to this Department by the First Comptroller of the Treasury, containing a statement of the expenses already incurred in relieving the necessities of those citizens of the United States, members of the late Lopez expedition against Cuba, who were taken to Spain and have been pardoned and released by the Queen of that country. You will notice that the Comptroller reports a deficiency in the amount appropriated by the act of Congress of the 10th ultimo, and suggests a further appropriation of \$3,000. To this suggestion the President directs me to invite your particular attention.

I have the honor to be, sir, very respectfully, your obedient servant,

W. HUNTER, Acting Secretary.

Hon. THOMAS H. BAYLY,  
Chairman of the Committee on Foreign Affairs,  
House of Representatives.

The communication of the Comptroller is the following:

TREASURY DEPARTMENT, }

COMPTROLLER'S OFFICE, March 24, 1852.

SIR: By an act approved on the 10th of February, 1852, there was appropriated the sum of \$6,000, or so much thereof as might be necessary, for the relief of American citizens lately imprisoned and pardoned by the Queen of Spain, and who were without the limits of the United States, to be expended under the direction of the President of the United States.

You were pleased, under the authority of the President, to commit the settlement of the expense of said persons, to the Fifth Auditor and First Comptroller.

Joel D. Hughes and Fenton B. Hough, two of said American citizens, were conveyed from Vigo to Gibraltar, and Horatio S. Sprague, consul at Gibraltar, shipped them from thence to Boston, as American distressed seamen, in the brig Oak, at a compensation of \$10 for the passage of each.

They were allowed for working their passage at the rate of \$15 a month each, amounting to..... \$52 00

Captain Jacob T. Woodbury, master of the American ship Prentice, has been paid for conveying from Vigo to New York, ninety-five of said persons, at \$40 each, the sum of..... 3,800 00

G. H. M. Donald, one of said American citizens, being at Southampton, England, Joseph Rodney Crosby, American consul, provided for him and paid his passage to the United States. The bill and draft were approved by Mr. Lawrence, at London, and paid..... 30 50

\$3,882 50

Mr. Barringer, American Minister in Spain, on the 13th of January, 1852, authorized Don Manuel Barceno, vice-consul of the United States at Vigo, to contract with Captain Jacob Woodbury, of the American ship Prentice, to convey ninety-five of said persons from Vigo to the United States, at \$40 each person. Such contract was made in writing, and signed, sealed, and delivered in due form.

The persons were delivered in New York according to the contract, of which Mr. Maxwell, the collector, furnished proof; and the said sum of \$3,800 was paid to Captain Woodbury.

Amount of appropriation.....\$6,000 00  
Drawn and paid.....3,882 50  
This sum undrawn.....\$2,117 50

A draft was drawn by Mr. Barceno, on 23d of February last, in favor of Frederick Huth & Co., of London, upon the Department of State, at fifteen days' sight for...\$4,134 05  
The above sum undrawn.....2,117 50

This sum deficient to cover expenses.....\$2,016 55

Accounts accompany this draft or bill, for board, clothing, and medicines, to an amount equal to the draft or bill, which are stated with great minuteness; and I have no doubt they embrace such expenses as Congress intended to pay. It is not improbable that other bills to a small amount may be presented. It is necessary to have an additional appropriation to pay the draft last mentioned.

I think an estimate of \$3,000 would be sufficient to cover all the expenses that may be presented.

Most sincerely and respectfully yours,

ELISHA WHITTLESEY.

Hon. DANIEL WEBSTER, Secretary of State.

Mr. B. Now, it is obvious that nothing can be lost by making this appropriation. There is already an actual deficiency of \$2,016 55.

Mr. HOUSTON. Well, let it go. Let it go.

The following clause was then read:

"For compiling, printing, and binding the Biennial Register for 1851, in addition to the amount appropriated per act of 3d March, 1851, \$3,200."

Mr. HOUSTON. I propose, sir, to offer an amendment, under the instructions of the Ways and Means Committee, reducing that amount of \$3,200 to \$1,800. It is done, sir, in pursuance of a request from the Ways and Means Committee and the Secretary of State, who wish this amount to be reduced to \$1,800.

The question was then taken on the amendment, and it was agreed to.

Mr. HOUSTON. There are other amendments, sir, which I have been instructed to offer by the Committee of Ways and Means, two or three of which are very essential, I suppose. I propose the following:

For the trial and maintenance of the light at Waugasham, Michigan, \$1,000.

Mr. HOUSTON. That is for the purpose of testing this light-house before it is passed over from one department to the control of another.

Mr. FITCH. I do not see how that light-house comes into this deficiency bill. We have a light-house system, and I think a deficiency bill is not a proper place for it.

Mr. HOUSTON. That is true. But in the remaining portion of the fiscal year it is desired by the Government to test the sufficiency of this light-house and its various apparatus, for the purpose of seeing whether it comes up to the contract under which it was built.

The question was then taken on the amendment, and it was agreed to.

Mr. HOUSTON. I have another amendment to offer under the instructions of the Committee of Ways and Means. It is as follows:

For expenses incurred in laying down gas pipes, fixtures, and so forth, into and around the northeast Executive building, \$400.

A MEMBER. What is that "so forth" for?

Mr. HOUSTON. I will strike out the "so forth" if you please.

The question was then taken on the amendment, and it was agreed to.

Mr. HOUSTON. Here is an amendment which I suppose will explain itself, which is submitted under the direction of the Committee of Ways and Means.

For purchasing, walling, and ditching a piece of land near the city of Mexico, for a cemetery or burial-ground, for such of the officers and soldiers of this army in our late war with Mexico as fell in battle, or died, in and about said city, and for the interment of American citizens who have died or may die in said city, \$1,480 34.

Mr. HOUSTON. That was the balance found to be due after the purchase and erection of all the works they have there.

Mr. EVANS. Ten thousand dollars were appropriated last year.

Mr. HOUSTON. The Secretary of State writes and says that this much is due after the settlement of the accounts.

The question was then taken on the amendment, and it was agreed to.

Mr. HOUSTON. Here is another amendment,

which the House will understand, for it has been before the House already. I submit it under the direction of the Committee of Ways and Means:

And be it further enacted, That there be appropriated out of any money in the Treasury not otherwise appropriated, in sums sufficient to enable the Secretary of the Treasury to pay for printing four hundred and fifty copies of the estimates of appropriations for the service of the fiscal year 1853, at the rate paid by him for the printing of the Treasury Department by contract, under the provisions of the seventeenth section of the act of the 26th of August, 1842.

Mr. HOUSTON. The committee desire, in reference to this matter, to offer an explanation, which is this: That this printing bill, which was before this House at an early stage of this session, was referred, as you will remember, to the Committee on Printing, who returned it again, and it was referred to the Committee of Ways and Means, to make this appropriation. The bill, as charged by the public printer, is about \$1,000. The Committee of Ways and Means not being possessed of data sufficient to say whether it was correct or not, proposed that the Secretary of the Treasury should pay it, if it did not exceed the rate he was paying under his contract price.

The question was then taken on the amendment, and it was agreed to.

Mr. WOODWARD. I rise to propose the following amendment:

And be it further enacted, That no part of the appropriations herein made, or hereafter to be made, for the benefit of any tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such tribe, or part of a tribe, but it shall, in every case, be paid directly to the Indians themselves, and "per capita," unless the imperious interests of the Indians shall require the payment to be made collectively, nor shall the Executive branch of the Government hereafter recognize any contract between any tribe, or part of a tribe, and any attorney or agent, for the prosecution of any claim against the Government."

Mr. STANLY. I rise to a point of order. Is that amendment in order upon this bill? There is no deficiency there, sir. I should like to understand this.

The CHAIRMAN. The question of order is not debatable.

Mr. JOHNSON. It controls and directs the disposition of the appropriations therein contained, and establishes a general law which cuts off those agencies and corruptions complained of so much.

Mr. GENTRY. Payments will cease after we cut off the agents.

The CHAIRMAN. The Chair is of opinion that the amendment, so far as it proposes a general law, is not in order.

Mr. CLEVELAND. I submit whether it is not in order, for the purpose of directing the mode of the payment of the money appropriated by this bill?

The CHAIRMAN. The Chair states that, if the amendment purported to confine itself to the manner in which payments of money appropriated in this bill should be paid, it would be in order.

Mr. GENTRY. It is much in the nature of a proviso to an appropriation.

Mr. HALL. I appeal from the decision of the Chair.

Mr. JOHNSON, of Arkansas. The Chair has decided that that part of the amendment is in order which regulates and directs the course of payments of the appropriations in this bill for Indian affairs. I rise to ask the Chair whether or not both parts of the amendment are not so intimately connected that they cannot be separated?

The CHAIRMAN. The Chair would state, that the gentleman from South Carolina [Mr. WOODWARD] may withdraw his amendment, and modify it to suit his pleasure.

Mr. JOHNSON. He cannot withdraw it. It is the best thing for the Government that has been offered for the last three weeks. We will never have an opportunity again to offer it.

Mr. DUNHAM. I submit to the Chair whether, under the rules of the House, he has a right to withdraw it?

The CHAIRMAN. The Chair thinks the gentleman may withdraw his amendment after a question of order is raised, and the Chair has decided the amendment out of order.

Mr. DUNHAM. But we can take an appeal.

The CHAIRMAN. The Chair thinks that an appeal cannot affect it.

Mr. DUNHAM. I submit how can that decision be made under the express rules of the House?

Mr. JOHNSON. I ask for the reading of the amendment offered by the gentleman from South Carolina, [Mr. WOODWARD.] Any one who hears it will say it is right.

The amendment was accordingly read, as above inserted.

Mr. STANLY. What does the Chair decide? The CHAIRMAN. The Chair decides, that inasmuch as this amendment purports to create a general law in relation to the Indian department, it is not in order as amendment to this bill.

Mr. EVANS. I would suggest to the gentleman from South Carolina, [Mr. WOODWARD,] that he should strike out the words "or hereafter to be made."

Mr. WOODWARD. I am willing to strike out those words, but they tell me it is not in order for me now to do it.

Mr. CLINGMAN. I hope that we shall have a decision upon the appeal.

Mr. FOWLER. Upon the question of appeal I demand tellers.

Tellers were ordered, and Messrs. DUNHAM and ROBBINS were appointed; and the question being taken, the tellers reported—ayes 75, noes 50.

So the decision of the Chair was sustained.

Mr. WOODWARD. I will modify the amendment by striking out the words "or hereafter to be made."

Mr. CLINGMAN. I rise to a question of order. It is, that the amendment is not in order as an amendment to this bill.

The CHAIRMAN, (interrupting.) The Chair would suggest that the amendment be again read as amended, and then the gentleman from North Carolina [Mr. CLINGMAN] can state his point of order.

The amendment was then read, as modified by Mr. WOODWARD, by striking out the words indicated above.

Mr. CLINGMAN. I should have no objection to the first branch of the amendment, and I presume that it would be in order as applicable to the provisions of this bill; but the latter portion provides for contracts generally, and not the particular cases in the bill; it provides that the Executive shall not recognize any contracts made hereafter. I presume, therefore, that the objection originally taken will still apply to the amendment as it now stands.

Mr. CLEVELAND. As I understand that amendment, as modified by the mover of it, it confines the action of the Executive to the very matter about which the first part of this bill relates, and it is, therefore, clearly in order.

The CHAIRMAN. The Chair thinks that the true construction of the last part of this amendment is to give it a future operation. If the gentleman from South Carolina [Mr. WOODWARD] does not intend that, and will introduce a word or two, to prevent such a construction, the Chair thinks it will be in order.

Mr. WOODWARD. My object was to make a general provision. That being ruled to be out of order, my object now is to make the provision special, and whatever alteration will make it so I will accept.

Mr. STANLY. Does not the amendment refer to contracts already made? I think it does. Now, I submit the point of order whether it is right in adopting this provision, to run the risk of altering existing laws, and embarrassing the departments, without at least giving it the consideration of some Committee? If it had come from the Committee on Indian Affairs, or the Committee on Military Affairs, I would not have made any objection to it.

Mr. WOODWARD. I understand the provision to apply to the appropriations made under this bill.

Mr. STANLY. If it is so worded, I will make no objection. It applies, as I understand, to all contracts heretofore made.

The CHAIRMAN. It only applies to such as shall arise in the payment of the money appropriated by this bill.

Mr. STANLY. How is the money to be paid—under treaties now in force? Does it contract that it shall be paid under existing laws?

The CHAIRMAN. The Chair will state that may be a reason for not adopting the amendment, but it is not for that reason out of order.

Mr. STANLY. I thought there was a rule

which forbids the alteration of a law in an appropriation bill.

Mr. WOODWARD. Let it be understood that my intention was to apply this amendment to the appropriations made by this bill, and not to contracts heretofore or hereafter to be made.

Mr. SEYMOUR, of New York. So far as the amendment applies to appropriations for paying Indian tribes money belonging to the whole tribe, it is, as I conceive, correct; but in reference to a portion of these moneys, which, as the committee will recollect, are to be paid to individuals, as in the case of the Senecas, of New York, where moneys had been deposited by individuals—specific sums—in the hand of a defaulting agent, it is provided by this amendment that all moneys to be paid to Indians under this act shall be paid *per capita*, I submit to the committee whether that would not be the construction put upon the amendment under consideration—that it would be paid to the tribe *per capita*, instead of the individuals to whom it was due?

Mr. WOODWARD. That amendment is not intended that others than those entitled shall receive the moneys appropriated by this bill.

Mr. SACKETT. If the gentleman will allow me, I will ask the question, whether there is not certain appropriations in this bill to comply with the conditions of certain existing treaties?

Mr. WOODWARD. I believe that there are.

Mr. SACKETT. Those treaties uniformly point out the manner in which the moneys shall be paid. We have no power, if that be so, to change existing treaties which have been made between this and other nations. You cannot change them.

Mr. WOODWARD. I do not mean that the amendment shall have a reference to our agents, but those appointed by the Indians. Our agents will be competent to act as heretofore under the bill.

Mr. SEYMOUR. I was going on to say that where, by treaty stipulations, moneys were provided to be paid to tribes; annuities, for instance, which are provided in this bill to particular tribes, it would be best to prescribe that the moneys shall be paid *per capita*. But take the case of the two individuals who are jointly interested in this large sum of money which was squandered by the Indian agent in the State of New York, their own private funds, which had been deposited with him, this amendment would provide for the distribution of that private fund *per capita* amongst the tribe. I move, therefore, if the amendment is susceptible of amendment, to insert after the words "to the Indians themselves," the words, "to whom it shall be due or to the tribe or part of the tribe *per capita*."

Mr. WARD. I feel a sense of duty requires that I shall oppose the amendment. All our transactions with the Indian tribes are based upon the supposition that they are, to a certain extent, independent nations. This proposes to revolutionize that whole system—to destroy the nationality of the Indians, so far as regards our action towards them, and recognize the existence of individuals—a thing which cannot be done while they are recognized as nations. While they are recognized as individuals, they have a right to prescribe their own rules of action, and they have a right to appoint their own agent. We are stepping forward, and by a declaration of Congress, so far as that may go, denationalizing them—saying that they shall not appoint their agents. In addition to all that, the thing is impracticable. How are the agents of the Government to hunt up each and every individual who may constitute a member of the tribe? Is he to hunt through morasses to find them, not regarding them as a nation, but treating and acting towards them as individuals—destroying their national character, which it ought to be the pride of this Government to retain? We can act with them only through their national organs as a nation. Here we are attempting, in a bill like this, to revolutionize the whole system, that has worked so well for the last fifty or sixty years. I hope the House will not attempt such a thing without due reflection upon the subject.

Mr. HAVEN. I would like to say, for the information of such members of the House as have not looked at the matter, that, by a general law, these moneys that are payable to the Indians may be directed to be paid by the Secretary of the

Interior, or by the Executive Department, to the heads of families, instead of being paid to the tribe in the aggregate. This is nothing more than simply carrying out that general doctrine as applicable to these appropriations, making it the duty of the Government to pay the money. Instead of leaving it optional with them to have it so paid, it takes away the discretion, and orders it to be paid in a way in which they have a discretion to direct it or not, as they shall choose.

Mr. WOODWARD. I rise to make an explanation, as I have misunderstood the matter. The section excepts cases from the *per capita* rule, where the interests of the Indians demanded it. Minors would not receive this money directly, because they are not competent legally to receive it all, and in such a case the guardian will receive it. Children will not receive it, because they are not competent to receive it. These would be exceptions to the rule. I will say further, when I speak of the contracts of agents, I do not mean the public commissioners appointed regularly by the Indian tribes. I did not mean that, nor do I think that my words would receive any such construction. The commissioners of Indian Affairs, regularly commissioned, would not come in under the designation of attorneys or agents. I allude to these agents, the hawks and buzzards who swarm about this Hall, and swallow up the means of these unfortunate individuals, taking, in many instances, one half for collecting the whole, when there is manifestly no difficulty in the matter. These agents persuade the Indians that some friend must be necessary here—that Government is going to cheat them, that the officers of the department are corrupt, and will not pay them. Under this delusion these poor ignorant Indians are induced, in many instances, to pay one half or one third of the money to collect a debt which would be paid promptly, if presented to the proper department.

Mr. WALSH. I do not desire to propose an amendment, and if the House would hear what I have to say, I will be obliged to them. First, these cases of fraud are to be ascertained.

Now, I have heard of an old story where a person, to save individual grace, blessed a barrel of beef [laughter] in the lump. And here we find gentlemen denouncing a whole class of men. This thing is not to be done in the general, in the first instance, and then to be individualized in the second. It was well said by the gentleman from South Carolina [Mr. Woodward] that there are treaty provisions as to how this money should be paid. Why not leave it to general law? Is your Executive Government so impotent that they cannot tell whether a power of attorney is fraudulent or not—that they cannot institute an examination? We all know the case of the Cherokees, about which so much has been said, where the power of attorney was assailed, and where it came out, in the course of the investigation, that it was coupled with an interest for service rendered. The Attorney General gave it as his opinion that the money should be paid, after a full investigation. Now, whether it was wrong or not, I cannot enter into an inquiry here; but you see there is a tribunal competent to enforce right, and apply their powers of investigation to all cases which arise. If a man is proved to be a cormorant, let him be condemned; and if he has practiced frauds upon the Indians, by which he has obtained his power of attorney, let him be punished.

Mr. HAVEN. I ask for the reading of the third section of the law to which I just alluded.

The Clerk then read the third section, as follows:

SEC. 3. *And be it further enacted*, That the eleventh section of the act to provide for the better organization of the department of Indian Affairs, approved June 30, 1834, be, and the same is hereby so amended as to provide that all annuities or other moneys, and all goods stipulated by treaty to be paid or furnished to any Indian tribe, shall, at the discretion of the President or Secretary of War, instead of being paid over to the chiefs, or to such persons as they shall designate, be divided and paid over to heads of families and other individuals entitled to participate therein, or, with the consent of the tribe, be applied to such purposes as will best promote the happiness and prosperity of the members thereof, under such regulations as shall be prescribed by the Secretary of War, not inconsistent with existing treaty stipulations. And no such annuities, or moneys, or goods shall be paid or distributed to the Indians while they are under the influence of any description of intoxicating liquor, nor while there are good and sufficient reasons for the officers and agents, whose duty it may be to make such payments or distribution, for believing that there is any species of intoxicating liquor within convenient reach of the Indians, nor until the chiefs and head-

men of the tribe shall have pledged themselves to use all their influence and to make all proper exertions to prevent the introduction and sale of such liquor in their country, and all executory contracts made and entered into by any Indian for the payment of money or goods shall be deemed and held to be null and void, and of no binding effect whatever.

Mr. VENABLE said: Mr. Chairman, I have no amendment to propose, and the debate on that under consideration being closed, I cannot proceed unless by the unanimous consent of the House.

[Cries of "Leave!" "Leave!" from all parts of the House.]

The CHAIRMAN. The gentleman can proceed only by unanimous consent of the committee. If there is no objection, the gentleman will proceed with his remarks.

Mr. VENABLE. I acknowledge my obligations to the committee for the courtesy extended to me on this occasion. There are some facts which ought to be brought to the knowledge of the committee and the country. Our constituents ought to know the fact that the Government here is to all practical purposes, in the hands of the claim-agents, the letter-writers, and the common plunderers. The penalty which any representative of the people has to pay for independent resistance to the plunder of the Treasury, or the protection of such unlucky claimants as may succeed in prosecuting a just demand upon the Government from the exactions of those who profess to be their agents, is to be slandered and assailed by all the hiring scribblers who are under pay to form public opinion, as letter-writers; to find himself denounced and black-balled in the penny press, and held up to the public as a just subject of opprobrium and reproach. I am not thin-skinned enough to feel such assaults, but take this occasion to express my contempt for them and their employers, whether it be claim-agents or the print-daubers of a venal press.

Unless the Government is rescued from such an unholy dominion, it must dissolve in its own corruption and imbecility. The poor Indian, after a prosecution of a just claim for a quarter of a century, with his papers withheld, and every obstruction placed in the way of its recognition, finds himself at last, when tardy justice is done, subjected to the demands of those harpies, who gather around the bureau which is to direct the payment, with caveats for services which have never been rendered, and a claim for half the amount, to be delivered to them. I speak by the card, and know what I say. It is insufferable that such practices should be tolerated. Who made the Departments of this Government the arbiters of such claims for compensation? How disgraceful is it to the country, that the just, the wronged claimant should be subjected to such exactions by the action of the Government itself. Sir, this is indeed filling the cup of bitterness to the brim. It is heaping outrage upon injury on the poor, the oppressed denizen of a country once his own. Can there be any reason why a claim, now allowed after twenty years' denial by the Government which owed it, should be curtailed by half, under the judgment of the Departments of the Government itself? The evil is a crying one; it has become an acknowledged truth, that a small, honest claim stands no chance of a hearing. The seaman's, or the soldier's widow may, for years, knock in vain at the doors of the Treasury. Their claims are too small to admit of large fees, or expensive entertainments. The poor Indian, unused to those appliances, must surrender half of his right, or he cannot be heard. But large and annual spoliation, magnificent assaults upon the Treasury for steam lines, and other splendid schemes, find willing auditors and active agents, who surround the lobbies of this House like the vultures who fly in the rear of an army, always present, always importunate, and ever ready to plunge their beaks into their prey. There was, as I am informed, a bill passed by Congress not many years since, granting \$112,000 to a tribe of Indians, as due by treaty, and these agents pocketed \$56,000 of the amount. The whole scheme of plunder is reduced to a system, and those high in office are the efficient friends of the claimants for such exorbitant exactions. I have felt it my duty to speak plainly upon this subject. I am grateful for the courtesy of the committee, which allowed me the opportunity. I felt that it was the duty of some representative of the people to expose a system of organized operation, by which those who had just claims upon



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this Government, were to be the subjects of unjust exaction—by which the authors of those exactions were to be aided by the authority of the Government, and by which the representatives of the people were to be restrained from the denunciation of such abominations, under the terrors of a band of hireling calumniators. The people, sir, will put this matter to rights. All that is wanting is, that they should know the facts; and, knowing them, as I do, I would be unfaithful to withhold them from the country.

The question was then taken on the amendment, and it was agreed to.

Mr. HALL moved to amend the amendment by adding thereto the following:

Except in such case as the President of the United States may otherwise direct.

Mr. H. read an extract from the report of the Superintendent of Indian Affairs at St. Louis, made to the last Congress, which was not furnished to the reporters.

He then said: Mr. Chairman, every gentleman who understands the character of the Indians must know their utter incompetency to make contracts generally. We have therefore passed laws regulating the intercourse between Indians and whites, and we will not, as a general thing, permit them to trade with the whites at all. Yet, when we propose to exercise the same control over the contracts which the Indians make with their agents in prosecuting claims here in Washington, we find a majority of this House opposed to it. I ask gentlemen if it is right, or treating the Indians properly, to say they are incompetent to trade with white people generally, and yet are competent to make these contracts with claim-agents—the most difficult to manage of any? If they are competent to trade with these agents here, they are certainly competent to trade in all cases whatever.

I hold that it is the duty of this Government, as the late Secretary of War (Mr. Marcy) decided, whenever an Indian makes a contract with an agent, to scrutinize that contract, examine it, and see whether it is fair and right, because this Government is the guardian of the Indians; and if, upon a full and fair investigation of the contract, the Government are satisfied that it is unfair and unjust, it ought not to be enforced against the Indians. If we are the guardians of the Indians, let us act as guardians and take care of them; and especially let us protect them against this class of claims, which presses upon them more grievously than any others.

Why, it was only last year that a claim of \$112,000 was allowed to a tribe of Indians, \$56,000 of which was taken by the agent who prosecuted it. How many other claims of that kind have been prosecuted I do not know. But it does appear to me, that if we intend faithfully to discharge our duty as the guardians of the Indians, we will protect them against this sort of claim—we will not let our departments consider that these contracts with claims-agents are absolutely binding on the Indians, and pay over whatever amount may be due to those agents under their contracts. Why not let it be understood by general law now and forever, that whenever an agent makes a contract with an Indian, he must rely on the individual honesty of the Indian to carry out the promise contained in the contract? When, only a few years ago, we introduced the practice of paying all the annuities over to the Indians *per capita*, the traders among them found no difficulty in collecting all their debts. Merchants still sell them goods, and those persons find no difficulty whatever in collecting their honest debts against the Indians.

[Here the hammer fell.]

Mr. WALSH. I wish to make a few remarks in reply to the gentleman from North Carolina, [Mr. VENABLE.] I repeat that denunciation is a very convenient thing, and always saves a world of trouble. Nobody denies that there is corruption, and that there are impositions. Nobody denies that the press may be, in some instances, as corrupt as the gentleman from North Carolina alleges. But that is not the inquiry here. I surrender to no

man my claim to have equal sympathy with him, for the aborigines of the country, although I have no such amount of eloquence to expend upon it, as the gentleman from North Carolina has. But the inquiry here is, whether the whole argument, when you come to sift it, is not this: that the present tribunals of the country are inadequate to afford justice to these people? The fact that there is a defect in the Executive Department—that the court is not able to do justice, is no reason for taking away the power of the court and vesting it in the Legislature. There is no such principle known in any law governing any part of Christendom, as that the legislative power, on the ground of fraud on the part of individuals, can annul every contract.

The gentleman from Missouri may be right as to the proclamation of the general law, that you will allow no contract to be made between Indians and white men, on the ground of the general incapacity of the Indians to contract, and their liability to imposition. But how many transactions are there now, which have been legalized? How many vested interests? How many powers coupled with interests?

Let me say here that, so far as I am concerned, I do not know one of these agents—I do not know a newspaper writer. I have no sort of connection with them. When a contract comes up for examination, the question is, whether it is *bona fide* and valid, or whether it is voidable because of the imposition that has been practiced on the Indians. Let the proper tribunals decide that question. If the Departments of the Government are corrupt and inefficient, establish tribunals that will be more powerful to sustain the right and do justice. That is what you ought to do; and not, by a general law, strike down every agency that the Indians have created—every power of attorney they may have executed. We know the character of these transactions. We know that in many instances these powers are coupled with interests—vested rights just as sacred as men get by transfer under deeds. With that interest, your law would be impotent. And why not leave this thing with the warning that the legislative department of the Government now gives, if it does not follow it up with legislation providing for the appointment of more efficient tribunals? Why not leave it to the regular Departments to ascertain these things by proof, and not overwhelm men by condemning them *en masse*?

[Here the hammer fell.]

Mr. HALL then withdrew his amendment.

Mr. VENABLE moved a *pro forma* amendment.

Mr. WOODWARD. I ask the gentleman from North Carolina to allow me to extend the amendment still further.

Mr. VENABLE. The gentleman from South Carolina can get the floor, and make his amendment when I have said what I intend to say.

Mr. Chairman, I regretted very much, indebted as I was to the committee for this courtesy, in allowing me to make the five minutes' speech which I made—that I did not have more time. The gentleman from Maryland, [Mr. WALSH,] I am sure, will understand me when I say, that I never make a denunciation without proof. On yesterday I took an appeal from the decision of the head of a bureau of this Government—

Mr. OUTLAW. I rise to a question of order; I make the question of order upon my colleague who, I know, will not misunderstand me. I insist that the gentleman shall confine himself to the amendment.

Mr. VENABLE. I will confine myself strictly to the amendment.

The CHAIRMAN. The gentleman was not in order in the course of remark he was pursuing, when he was interrupted by his colleague.

Mr. VENABLE. Well, sir, I will remark, as I remarked before—and it certainly is in order to reply to the gentleman from Maryland—that I never make denunciations when I have not the authority to prove them; and whenever I am called upon to substantiate the charges to which that gentleman

alluded, I am ready to make good every word I said.

Mr. OUTLAW. I again insist that the gentleman shall confine himself to his amendment. I make that point of order.

Mr. STANLY. I call my last colleague [Mr. OUTLAW] to order, because my colleague [Mr. VENABLE] always talks well, but never talks in order. [Laughter.]

The CHAIRMAN. The Chair decides that the gentleman from North Carolina was not proceeding in order. His remarks were not pertinent to the amendment.

Mr. OUTLAW. I insist that my colleague shall not be allowed to proceed in order, except by unanimous consent.

Mr. VENABLE. Oh, I am very willing to sit down. [Laughter.]

Mr. WOODWARD. I have no argument to make, except by way of explanation. This amendment is not based upon the supposition that these contracts are not made; but the object is to prevent such contracts from being made in future, upon the part of the Indians. The law cannot exempt the Indian from his obligations to his agent. This section only operates to prevent this Government from recognizing such agents. The Indian is bound by his contract, and let the man who contracted with him seek justice there. It is to prevent your Executive Departments from becoming public judicial tribunals on behalf of these Indians. It is not to deprive the agent of the benefit of a judicial tribunal under which his questions will naturally fall, for if it interferes with any of your now vested rights, it will become an *ex post facto* law. If there be any legal, vested interest which this provision ought not to effect, it will not effect it.

Mr. NABERS. I move that the committee do now rise.

The motion was not agreed to.

[Loud cries of "Question!"]

Mr. VENABLE. With the consent of the committee, I will withdraw my amendment.

Mr. CAMPBELL, of Illinois. I object to its withdrawal. If gentlemen offer amendments here, I insist that they shall be voted upon.

The question was then taken, and the amendment was not agreed to.

Mr. FITCH. I move that the committee do now rise.

The question was taken, and the committee refused to rise—ayes 20, noes 100.

Mr. ROBBINS. I move that the committee rise and report the bill.

The CHAIRMAN. That amendment is not in order while there is an amendment pending.

The question was then taken upon Mr. Woodward's amendment as amended, and it was agreed to, as follows:

*And be it further enacted,* That no part of the appropriations herein made for the benefit of any tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such tribe, or part of a tribe; but it shall, in every case, be paid directly to the Indians themselves, to whom it shall be due, or to the tribe, or part of a tribe, *per capita*, or to heads of families, unless the imperious interests of the Indians shall require the payment to be made collectively; nor shall the Executive branch of the Government hereafter recognize any contract between any tribe, or part of a tribe, and any attorney or agent for the prosecution of any claim against the Government, under this act:

Mr. HOUSTON. I move that the committee do now rise, and report the bill to the House.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman [Mr. STUART] reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill No. 207, it being a bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1852, and had made sundry amendments thereto; which, with the bill, it had instructed him to report to the House.

Mr. HOUSTON. I move the previous question upon this bill.

Mr. ORR. I move that the House do now ad-

journal. It is very plain that we shall not pass the bill this evening.

Mr. SWEETSER. Will it be in order to make an inquiry of the Chair?

The SPEAKER. Not during the pendency of the motion to adjourn.

The question was put, and, upon a division, there were—ayes 70, noes 63.

Tellers were demanded.

Mr. STANTON, of Ohio. Will it be in order to move that when this House adjourns, it adjourn to meet on Monday next?

Several MEMBERS. Not while the House is dividing.

The SPEAKER. The Chair is of the opinion, that as tellers have been called, it will be in order for the gentleman to make his motion.

Mr. STANTON. Then I submit that motion.

Mr. CLEVELAND. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. STUART demanded tellers; which were ordered; and Messrs. STANTON, of Tennessee, and ROBBINS were appointed.

Mr. JONES, of Tennessee. Did the Chair decide the motion to adjourn over to Monday to be in order? According to my understanding, it was not in order to make the motion while the House was dividing.

The SPEAKER. The Chair did so decide.

Mr. JONES. I think that was not the general understanding, or the yeas and nays would certainly have been ordered.

The SPEAKER. It would not have been in order for the gentleman from Ohio to have made the motion while the House was dividing; but tellers were demanded and ordered by the House. The Chair thought then the motion could be entertained, and so decided.

Mr. JONES. It was not understood by—

[Cries of "Order!" "Order!"]

Mr. HOUSTON. I desire to ask the Chair a question. I understand that the yeas and nays have not been refused upon the motion to adjourn over.

[Loud cries of "Order!" "Order!" and "Yes, they have!"]

The SPEAKER. The Chair cannot be mistaken in supposing that he put the questions in their order, properly and distinctly under the rules.

Mr. HOUSTON. There is certainly a mistake somewhere.

Mr. POLK. I call the gentleman from Alabama to order.

Mr. HOUSTON. I ask for a recount.

[Loud cries of "Order!" "Order!"]

The SPEAKER. It is not in the province of the Chair to order a recount.

The question was then taken, and the tellers reported—ayes 57, noes 66.

So the House refused to adjourn over.

The SPEAKER. The question now recurs upon the motion that this House do now adjourn. The same gentlemen will please act as tellers.

The question was then taken, and the tellers reported—ayes 65, noes 48.

Mr. HOUSTON. I desire to know of the Chair if the House now adjourn—

Mr. ORR. I rise to a question of order. Was there a demand for the yeas and nays?

The SPEAKER. There was not.

Mr. ORR. Then the House has adjourned.

Mr. HOUSTON. I demand the yeas and nays. I desire to ask a question.

The SPEAKER. By the indulgence of the House, the gentleman can propound a question, and not otherwise.

Mr. HOUSTON. It is said by gentlemen around me that if the House adjourn in the present state of the bill, it goes upon the table, and cannot be taken up except by a two-third vote. I desire to know if this is so?

The SPEAKER. The Chair has some doubt about that. He is inclined to the opinion that the previous question would have to be ordered, before it could positively come up, and take precedence of the business of the morning.

Mr. JONES, of Tennessee. I desire to make one suggestion. It is the universal practice of the House, that a motion to refer a bill keeps it up as unfinished business. I cannot see any difference between that and a motion to recommit.

The SPEAKER. If there was a pending propo-

sition to refer the bill, it would keep it before the House, and give it precedence; but in the absence of such a proposition, and a demand only for the previous question, it will go to the table.

Mr. HOUSTON. I do not wish to keep the House here against its will, but if the gentleman who has made the motion will withdraw it, I will make the motion to refer.

The SPEAKER. It is only by the universal consent of the House that gentlemen can proceed with remarks.

Mr. SWEETSER. I object to further remarks.

The SPEAKER. The vote has been taken on the motion to adjourn, and the Chair must announce the decision.

Mr. ORR. I desire to say to the gentleman from Alabama, [Mr. HOUSTON], that it was upon my motion that the vote was taken for the House to adjourn. There is no purpose, on my part, to stave off this bill, and if the gentleman's purpose can be accomplished, I will withdraw my motion for a moment, in order that he may move to refer the bill, so that it will come up to-morrow.

Mr. JOHNSON. I rise to make an inquiry. If I understand the state of the bill, it is that there is now a call for the previous question. If there is a second to the previous question, and the House then adjourns, will not the bill be left before the House as unfinished business?

The SPEAKER. If the main question is ordered to be put, it will.

Mr. WOODWARD. I rise to a question of order. The question of adjournment having been taken by tellers, and thereupon the yeas and nays having been demanded, no business can be transacted between the two propositions.

The SPEAKER. The gentleman's colleague [Mr. ORR] withdrew his motion to adjourn, which he had a right to do, in the opinion of the Chair.

Mr. HOUSTON. I withdraw my motion for the previous question. I now move to recommit this bill to the Committee of Ways and Means, and I now ask for the previous question.

Mr. ORR. I move that the House do now adjourn.

The motion was agreed to; and

The House adjourned, to meet to-morrow at twelve o'clock.

#### PETITIONS, &c.,

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. RIDDLE: The petition of Saxe Gotha Laws, James L. Smith, and 40 other citizens of Kent county, State of Delaware, praying for the enactment into a law of the bill now pending before Congress for the encouragement of agriculture, manufactures, and other branches of industry, by granting to every man who will settle on and cultivate the same, 160 acres of public lands, as a homestead.

By Mr. LOCKHART: The petition of J. C. Graham, of Pike county, Indiana, asking for additional compensation for services rendered as assistant marshal in taking the Seventh Census of the United States.

By Mr. SNOW: The petition of inhabitants of Otsego county, New York, praying for the passage of a law granting lands to actual settlers.

By Mr. ASHE: The memorial of T. H. Williams and others, citizens of New Hanover county, North Carolina, praying for a certain mail route.

By Mr. BOYD: The petition of Joseph Averill, of Exeter county, New York, for a pension.

Also, the petition of inhabitants of Washington county, New York, asking that White Hall, in the county of Washington, New York, be made a port of entry and delivery.

Also, the petition of inhabitants of the State of New York, for a grant of land to aid in the construction of a railroad from Saratoga Springs to Sackett's harbor, on Lake Ontario.

By Mr. BROWN, of Mississippi: The petition of J. W. Ballow, United States assistant marshal for Scott county, Mississippi, praying for extra compensation for taking the Seventh Census.

By Mr. SKELTON: The petition of Abner B. Tomlinson, United States assistant marshal in Mercer county, New Jersey, praying for extra compensation for taking the Seventh Census.

By Mr. BUELL: Remonstrance of citizens of Montgomery county, New York, against a renewal of the Woodworth patent.

By Mr. HIBBARD: The petition of Artemas Wells, Levi Parker, and others, praying for a new post route from Lisbon, via Sugar Hill, to Franconia, in Grafton county, New Hampshire.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, March 27, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the motion made by the gentleman from Alabama [Mr. HOUSTON] to recommit the deficiency bill

and the amendment of the Committee of the Whole on the state of the Union, to the Committee of Ways and Means; on which motion the previous question is demanded.

Mr. FITCH. The question, as I understand it, is to recommit the bill to the Committee of Ways and Means. I desire, if I can obtain the consent of the gentleman from Alabama, [Mr. HOUSTON], to offer an amendment to the motion to recommit. I will send to the Clerk the amendment, containing instructions to that committee. I hope he will permit my motion to be made.

The instructions he intended to move, are as follows:

To strike from the bill all that portion of it relating to deficiencies in the quartermaster's department, and to hereafter report such deficiencies in a separate bill, specifying each item for which an appropriation is wanted, and the amount for each; and to report at the same time the manner in which the deficiency occurred, and the manner in which the appropriation for that department for the present fiscal year has been expended.

Mr. HOUSTON. Am I not entitled to the floor?

The SPEAKER. No one is entitled to the floor, as the previous question is pending.

Mr. FITCH. Mr. Speaker, I desire to have my proposition read.

The SPEAKER. Is it the pleasure of the House to hear the proposition of the gentleman from Indiana, [Mr. FITCH]?

[Cries of "No!" "No!" "No!"]

Mr. HOUSTON. The gentleman from Indiana [Mr. FITCH] knows as well as I do, why I made the motion to recommit.

Mr. FITCH. I suppose I do.

Mr. HOUSTON. I do not practice fraud. I made the motion, as was stated yesterday, and as understood, for the purpose of keeping the bill before the House, and preventing it from going upon the Speaker's table. If I have permission to do so, I will now withdraw the motion to recommit.

Mr. FITCH. Mr. Speaker, I had the right to the floor.

The SPEAKER. The gentleman from Indiana [Mr. FITCH] is upon the floor, asking the unanimous consent of the House that the proposition which he has sent to the Chair may be read for the information of the House. Is it objected to?

Mr. STANLY. I object to it, decidedly.

The SPEAKER. It is objected to, and cannot be read.

Mr. HOUSTON. Have I the right to withdraw the demand for the previous question?

The SPEAKER. The gentleman has the right.

Mr. HOUSTON. Can I withdraw the motion to recommit, without withdrawing the call for the previous question?

The SPEAKER. You cannot.

Mr. HOUSTON. I now withdraw the call for the previous question, and also the motion to recommit the bill, and upon the engrossment of the bill I ask for the previous question.

Mr. MARSHALL, of Kentucky. Is it in order pending the demand for the previous question to move to refer the bill?

The SPEAKER. No motion to amend or to refer the bill is in order pending the demand for the previous question.

Mr. MARSHALL. I hope the previous question will be voted down.

Mr. FITCH. I hope it will.

Mr. HOUSTON. I hope it will not; so there is hope against hope.

[Mr. WILDRICK, from the Committee on Enrolled Bills, reported, as correctly enrolled, a bill entitled "An act amendatory of the act entitled 'An act to provide for holding the courts of the United States in case of the sickness, or other disability of the judges of the district courts,' approved July 29, 1850;" and the bill was then presented to the Speaker, and received his signature.]

Mr. FULLER, of Maine. I ask the unanimous consent of the House to offer resolutions from the Legislature of the State of Maine.

Mr. LETCHER. I object.

Mr. JONES, of Tennessee. A great many seats in the House are vacant this morning, and I think it would be best to have a call of the House.

Mr. STANLY. That is a suggestion in which I concur.

Mr. JONES. I make that motion.

The question was taken on the motion, and it was agreed to.

So a call of the House was ordered.

The roll of the House was then called, and the following gentlemen answered to their names:

Messrs. Abercrombie, Aiken, Willis Allen, Allison, John Appleton, William Appleton, Averett, Babcock, Bartlett, Beale, Bennett, Bibbhaugh, Bocoek, Bowie, Bragg, Breckinridge, Brenton, Briggs, Brooks, George H. Brown, Buell, Burrows, Busby, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Chandler, Chapman, Churchill, Clark, Cleveland, Clingman, Cobb, Conger, Cottman, Cullom, Curtis, Daniel, George T. Davis, John G. Davis, Dawson, Dimmick, Dockery, Doty, Dunham, Eastman, Edgerton, Edmundson, Evans, Ficklin, Fitch, Florence, Floyd, Fowler, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Goodenow, Gorman, Grey, Hammond, Harper, Isham G. Harris, Hart, Haven, Hendricks, Henn, Hibbard, Hillyer, Holladay, Horsford, Houston, Howard, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, James Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kuhns, Kurtz, Landry, Letcher, Lockhart, Mace, Mann, Edward C. Marshall, Humphrey Marshall, Martin, Mason, McCorkle, McDonald, McLanahan, McQueen, Meacham, Meade, Miller, Millson, Miner, Molony, Henry D. Moore, John Moore, Morehead, Murray, Nabers, Newton, Oids, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Penniman, Perkins, Polk, Porter, Powell, Riddle, Robbins, Robinson, Ross, Sackett, Schermerhorn, Schoolcraft, Scudder, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Smart, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stuart, Sutherland, Taylor, Benjamin Thompson, George W. Thompson, Tuck, Venable, Walbridge, Wallace, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, Wildrick, Williams, and Woodward.

The following gentlemen were reported as absent, viz:

Messrs. Charles Allen, Andrews, Ashe, David J. Bailey, Thomas H. Bayly, Barrere, Bell, Bissell, Bowne, John H. Boyd, Albert G. Brown, Burt, Caldwell, Carter, Chastain, Colcock, Darby, Dean, Disney, Duncan, Dupee, Ewing, Faulkner, Gentry, Giddings, Goodrich, Green, Grow, Hall, Hamilton, Sampson W. Harris, Haws, Hascall, Hebard, John W. Howe, Hunter, Jackson, Jenkins, Andrew Johnson, McMullin, McNair, Morrison, Murphy, Phelps, Price, Rantoul, Richardson, Robie, Russell, Savage, Schoonmaker, Abram P. Stevens, Alexander H. Stephens, Thaddeus Stevens, Stone, St. Martin, Stratton, Strother, Sweetser, Thurston, Toombs, Townsend, Wilcox, and Yates.

Mr. CLEVELAND. I move to suspend all further proceedings in the call.

Mr. STANLY. I hope not. The House is far from being full, and I want to hear the excuses for members who are not here.

The question was taken, and it was not agreed to, there being—ayes 52, noes 82; so the House refused to suspend all further proceedings in the call.

The SPEAKER. The officers of the House will close the doors of the Hall.

The doors of the Hall were accordingly closed.

The SPEAKER. The names of the absentees will now be called over, and excuses may be rendered, if any, for the absentees.

The clerk then read the names of the absentees in the order in which they are inserted above.

Mr. CHARLES ALLEN.

Mr. FOWLER. I move that Mr. ALLEN be excused. The severe illness by which he has been for a long time confined, is not yet removed. The motion was agreed to.

Mr. CHARLES ANDREWS.

Mr. GOODENOW. Mr. ANDREWS is so ill that he cannot be here. I move that he be excused. The motion was agreed to.

Mr. WILLIAM S. ASHE. No excuse offered.

Mr. DAVID J. BAILEY.

Mr. JOHNSON, of Georgia. Mr. BAILEY has returned home, to attend to some business which required his personal attention. I move that he be excused.

The motion was agreed to.

Mr. THOMAS H. BAYLY. No excuse offered.

Mr. THOMAS BARTLETT. No excuse offered.

Mr. HIRAM BELL.

Mr. HARPER. Mr. BELL has gone home to attend to important business which required his personal attention. I move that he be excused.

The motion was agreed to.

Mr. CLINGMAN. Gentlemen are anxious to act upon this bill. We had better suspend further proceedings under the call. I make that motion.

Mr. STANLY. It is a good use of time to get every one here.

Mr. STUART. I demand tellers upon the motion.

Tellers were ordered, and Messrs. STUART and CHANDLER were appointed.

The question was then taken, and the tellers reported—ayes 53, noes 60.

So the motion was not agreed to.

WM. H. BISSELL. No excuse offered.

OBADIAH BOWNE. No excuse submitted.

JOHN H. BOYD, of New York.

Mr. MARTIN. Mr. BOYD is confined to his room with a lame foot. I move that he be excused.

The motion was agreed to.

ALBERT G. BROWN.

Mr. NABERS. Mr. BROWN went to the Department to transact some important business. For that reason he is detained from the House, and I move that he be excused.

He was excused—ayes 75, noes not counted.

Mr. CLEVELAND. I renew the motion I made some time ago, that all further proceedings under the call be suspended.

The question was put and the motion was agreed to—ayes 79, noes 50. So further proceedings under the call were suspended, and the doors were reopened.

The SPEAKER. The question now recurs upon seconding the demand for the previous question.

Mr. BRENTON. Is it in order, during the pendency of the call for the previous question, to move to lay the bill and amendments upon the table, and that it be printed?

The SPEAKER. It is in order to move to lay upon the table, but not to print. Does the gentleman submit that motion?

Mr. BRENTON. I do not, unless I can also make the motion to print.

The SPEAKER. It cannot be made except by unanimous consent.

Mr. STANLY. I object.

Mr. MARSHALL, of Kentucky, upon the call for the previous question, demanded tellers, which were ordered; and Messrs. MARSHALL and JOHNSON of Tennessee, were appointed.

Mr. SACKETT. I desire to know what the question now is.

The SPEAKER. It is upon seconding the demand for the previous question; which, if seconded, the next question will be upon ordering the main question to be put, which will be upon the adoption of the amendments of the Committee of the Whole on the state of the Union.

The question was put, and there was a second—ayes 86, noes 68.

The question recurred, Shall the main question be now put?

Mr. MARSHALL, of Kentucky. I move to lay the bill and amendments upon the table; and upon that motion I demand the yeas and nays.

Mr. FITCH. Is it in order, at this time, to move that the vote by which the main question was ordered to be put, be reconsidered?

The SPEAKER. In the opinion of the Chair it is in order, and supersedes the motion to lay upon the table.

Mr. FITCH. Is it a motion upon which the yeas and nays can be called?

The SPEAKER. The Chair thinks that it is.

Mr. FITCH. I then submit the motion, and upon it call for the yeas and nays.

Mr. BROOKS. Does the Chair decide that motion to be in order? Does not the motion to lay upon the table take precedence?

The SPEAKER. The Chair thinks not. They are both privileged questions.

Mr. BROOKS. Have we not just decided that the main question shall be now put; and has there been any intervening business?

The SPEAKER. It is true that there has been no intervening business.

Mr. BROOKS. Well, we have decided that the main question shall now be put.

The SPEAKER. That, in the opinion of the Chair, does not alter the case. When the House decides against a bill, frequently, almost immediately a motion is made that the vote by which the bill was rejected be reconsidered.

Mr. FOWLER. Is it in order, Mr. Speaker, to move to lay that motion upon the table? If so, I submit that motion.

Mr. SPEAKER. It is in order.

Mr. OLDS, upon that motion, demanded the yeas and nays; which were ordered.

The question was then taken, and it was decided in the affirmative—yeas 99, nays 71; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, W. Appleton, Thos. H. Bayly, Bennett, Bibbhaugh, Bowie, John H. Boyd, Brenton, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Chandler, Chapman, Cleveland, Clingman, Cobb, Cottman, Cullom, George T. Davis,

Dockery, Dunham, Evans, Florence, Fowler, Henry M. Fuller, Goodenow, Grey, Hammond, Harper, Haven, Hibbard, Horsford, Houston, Howard, Thomas M. Howe, Andrew Johnson, James Johnson, George W. Jones, George G. King, Kuhns, Kurtz, Landry, Mace, Mann, Martin, McCorkle, Meacham, Meade, Miller, Miner, Molony, Henry D. Moore, John Moore, Morehead, Nabers, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penn, Penniman, Perkins, Polk, Porter, Robbins, Sackett, Schermerhorn, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Smart, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Thaddeus Stevens, Strother, Sutherland, Taylor, Benjamin Thompson, Tuck, Venable, Walbridge, Wallace, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alex. White, and Williams—99.

NAYS—Messrs. Aiken, John Appleton, Averett, Babcock, Beale, Bocoek, Bragg, Breckinridge, Albert G. Brown, Buell, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Churchwell, Clark, Conger, Curtis, John G. Davis, Dawson, Dimmick, Doty, Eastman, Edgerton, Edmundson, Ficklin, Fitch, Floyd, Freeman, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Gorman, Isham G. Harris, Hart, Hendricks, Henn, Hillyer, Holladay, Thomas Y. How, Ingersoll, Ives, John Johnson, Robert W. Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Letcher, Lockhart, Edward C. Marshall, Humphrey Marshall, Mason, McDonald, McLanahan, McQueen, Millson, Murray, Oids, Orr, Peaslee, Robinson, Ross, Savage, Smith, Stuart, Sweetser, Geo. W. Thompson, Wildrick, and Woodward—71.

The motion to reconsider was laid upon the table.

The question recurred on the motion to lay the bill and amendments on the table; upon which the yeas and nays were ordered.

The question was then taken, and there were—yeas 76, nays 97; as follows:

YEAS—Messrs. Aiken, Willis Allen, John Appleton, Averett, Babcock, Beale, Bissell, Bocoek, Breckinridge, Brenton, Buell, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Churchwell, Clark, Cobb, Curtis, Daniel, John G. Davis, Dawson, Dimmick, Doty, Edgerton, Ficklin, Fitch, Floyd, Freeman, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Gorman, Hall, Isham G. Harris, Hendricks, Henn, Hibbard, Hillyer, Holladay, Thomas Y. How, Ingersoll, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Letcher, Lockhart, Mann, Edward C. Marshall, Humphrey Marshall, McDonald, McLanahan, McQueen, Millson, Oids, Orr, Andrew Parker, Peaslee, Penn, Polk, Powell, Ross, Savage, Smith, Sweetser, Geo. W. Thompson, Venable, Wallace, Wildrick, and Woodward—76.

NAYS—Messrs. Abercrombie, Allison, William Appleton, Thomas H. Bayly, Bennett, Bibbhaugh, Bowie, John H. Boyd, Bragg, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, E. Carrington Cabell, Chandler, Chapman, Cleveland, Clingman, Cottman, Cullom, George T. Davis, Dockery, Dunham, Eastman, Evans, Ewing, Florence, Fowler, Henry M. Fuller, Gentry, Goodenow, Grey, Hammond, Harper, Hart, Haven, Horsford, Houston, Howard, Thomas M. Howe, Hunter, Ives, Robert W. Johnson, George G. King, Kuhns, Kurtz, Landry, Martin, McCorkle, Meacham, Meade, Miller, Miner, Molony, H. D. Moore, John Moore, Morehead, Murray, Nabers, Newton, Outlaw, Samuel W. Parker, Penniman, Perkins, Porter, Riddle, Robbins, Sackett, Schermerhorn, Schoolcraft, Scudder, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Snow, Stanly, Benjamin Stanton, Richard H. Stanton, Thaddeus Stevens, Strother, Stuart, Sutherland, Taylor, Benjamin Thompson, Tuck, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, and Williams—97.

So the House refused to lay the bill upon the table.

The question then recurred upon agreeing to the amendments of the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. There are a great many amendments. Let the Clerk read them, and if there is any gentleman who desires a separate vote upon any amendment he can ask for it.

The first amendment was then read.

To insert after the clause appropriating \$600 for the repairs of the President's House, the following:

"And a contract for the completion of the work, with good security, be tendered and accepted at that sum."

Mr. STUART. I desire that amendment again reported, so that the gentleman from New York, [Mr. SEYMOUR], who offered it in committee, may obtain the unanimous consent of the House to make a mere verbal correction in it.

Mr. SEYMOUR. I ask the unanimous consent of the House, that the amendment may be so amended as to read, "at a sum not exceeding that amount."

Mr. JOHNSON, of Arkansas. That is right.

The SPEAKER. The Chair hears no objection, and the amendment is agreed to.

Mr. HAVEN. I wish to inquire if the vote is not to be taken upon the amendments upon which a separate vote is to be taken, at the time when it is demanded, and not at the end of the reading of the amendments?

The SPEAKER. The amendments to which



there are no objections, are usually adopted in mass; and then the vote is taken upon the other amendments, on which separate votes have been asked.

Mr. HAVEN. If this is the practice, I wish to make no objection.

The amendments of the committee, viz: Nos. 1, 2, 4, 5, 6, 7, 12, 14, 15, 16, 17, 18, and 19, upon which a separate vote had not been called, were then concurred in.

Mr. BRENTON called for a separate vote on the third amendment. It was read, as follows:

"For payment to the Seneca Indians, *per capita*, of New York, for moneys wrongfully withheld from them by an agent appointed by the Government for the management of their affairs, as per report of Thomas B. Stoddard, commissioner, selected by the Secretary of War to make the requisite investigation, pursuant to the direction contained in the fourth section of the act of 27th June, 1845, making appropriations for the Indian department, \$28,505 50: *Provided*, That the Secretary of the Interior is hereby required, upon payment of the money herein specified, to take such further steps, if any may be necessary, as shall enable the United States to recover the amount due from said agent."

The question was taken, and the amendment was agreed to.

Mr. HEBARD called for a separate vote on the eighth amendment. It was read, as follows:

To strike out \$12,000 in the clause below, and insert in lieu thereof \$32,000.

"For this sum to cover arrearages for and on account of contingencies of the Indian department, \$12,000."

The question was taken, and the amendment was agreed to.

Mr. HIBBARD. I intended to call for the yeas and nays upon the third amendment providing for the payment of money due to the Seneca Indians, but my attention was inadvertently taken away, and I ask consent to call for the yeas and nays upon that amendment.

Mr. SACKETT objected.

Mr. HIBBARD. I move to reconsider the vote by which the third amendment was adopted.

Mr. CAMPBELL, of Illinois. I move to lay the motion to reconsider upon the table.

Mr. DOTY. I want to know how the gentleman from New Hampshire [Mr. HIBBARD] voted upon this question.

Mr. HIBBARD. There was no division.

Mr. JOHNSON, of Arkansas. I will ask the Chair if the motion to reconsider should be laid upon the table, whether it will carry the whole bill? It has been so asserted.

The SPEAKER. Not at all. The effect will simply be to prevent a reconsideration of the vote upon that particular amendment, and will leave the amendment as adopted and as forming a part of the bill.

Mr. HIBBARD demanded the yeas and nays.

Mr. PENNIMAN demanded tellers upon the yeas and nays; which were ordered, and Messrs. DAVIS, of Indiana, and FOWLER appointed.

The tellers made a count, and reported—yeas 24; which not being one fifth, the yeas and nays were not ordered.

The question was then taken upon laying the motion to reconsider upon the table, and it was agreed to.

Mr. JOHNSON, of Georgia, called for a separate vote on the ninth amendment, viz: To make the clause "for office rent, fuel, stationery, &c., for the Superintendent of Indian Affairs in Oregon, \$1,000," read as follows:

"For clerk-hire, fuel, stationery, &c., for the Superintendent of Indian Affairs in Oregon, \$2,400."

Mr. J. called for a separate vote on the tenth and eleventh amendments, to insert in the bill the following:

"For expenses of continuing negotiations with the Indian tribes of Oregon, lying west of the Cascade mountains, \$12,000."

The question being on concurring in the amendment—

Mr. STANTON, of Ohio, demanded the yeas and nays; which were ordered.

The question was then taken, and it was decided in the affirmative—yeas 112, nays 48; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, William Appleton, Thomas H. Bayly, Beale, Bibbhauss, Bissell, Bowie, John H. Boyd, Bragg, Breckinridge, Brenton, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, Bushy, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Conger, Cottman, Cullom, Daniel, George T. Davis, John G. Davis, Dimmick, Dockery, Evans, Ewing, Ficklin, Fitch, Florence, Henry M. Fuller, Gaylord, Gilmore, Good-

enow, Grey, Hall, Hammond, Harper, Haven, Hendricks, Henn, Hillyer, Holladay, Horsford, Howard, Thomas M. Howe, Hunter, John Johnson, Robert W. Johnson, George G. King, Preston King, Kuhns, Kurtz, Landry, Lockhart, Mace, Mann, Martin, Meade, Miller, Miner, Molony, Henry D. Moore, Murray, Newton, Andrew Parker, Samuel W. Parker, Penn, Penniman, Perkins, Powell, Riddle, Robinson, Sackett, Schermerhorn, Schoolcraft, Scudder, David L. Seymour, Origen S. Seymour, Smith, Stanley, Frederick P. Stanton, Richard H. Stanton, Strother, Stuart, Sutherland, Sweetser, Taylor, Benj. Thompson, George W. Thompson, Tuck, Venable, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, Williams, Woodward, and Yates—112.

NAYS—Messrs. Aiken, Averett, Churchwell, Clark, Cleveland, Clingman, Cobb, Curtis, Dawson, Doty, Dunham, Eastman, Edmundson, Fowler, Freeman, Gamble, Isham G. Harris, Hart, Hubbard, Houston, Thomas Y. How, (ngersoll), Ives, Andrew Johnson, James Johnson, George W. Jones, J. Glancy Jones, Letcher, Humphrey Marshall, McLanahan, McQueen, Meacham, Millson, John Moore, Morehead, Nabers, Olds, Orr, Outlaw, Peaslee, Polk, Robbins, Ross, Scurry, Skelton, Benjamin Stanton, Wallace, and Wildrick—48.

The question was then put on agreeing to the eleventh amendment, which is as follows:

"For the completion of the buildings for the use of the superintendent and the Indian agents in Oregon, \$3,000."

The amendment was agreed to.

The Clerk then reported the last amendment, on which a separate vote had been asked. It is as follows:

"And be it further enacted, That no part of the appropriation herein made for the benefit of any tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such tribe, or part of a tribe; but it shall, in every case, be paid directly to the Indians themselves, to whom it shall be due, or to the tribe, or part of a tribe, *per capita*, unless the imperious interests of the Indians shall require the payment to be made collectively; nor shall the Executive branch of the Government thereafter recognize any contract between any tribe, or part of a tribe, and any attorney or agent for the prosecution of any claim against the Government, under this act."

Mr. WARD demanded the yeas and nays, but they were not ordered; and the question being put, the amendment was agreed to.

The bill was then ordered to be engrossed for a third reading, and, being engrossed, it was read a third time.

Mr. BROOKS moved to reconsider the vote on the engrossment, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The question now being, Shall the bill pass?—Mr. SWEETSER demanded the yeas and nays; which were ordered.

And the question being put, it was decided in the affirmative—yeas 95, nays 76; as follows:

YEAS—Messrs. Abercrombie, Allison, William Appleton, Thomas H. Bayly, Bennett, Bibbhauss, Bowie, John H. Boyd, Bragg, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, E. Carrington Cabell, Chandler, Chapman, Clingman, Conger, Cottman, Cullom, George T. Davis, Dockery, Dunham, Eastman, Evans, Ewing, Florence, Fowler, Henry M. Fuller, Gentry, Goodenow, Grey, Harper, Haven, Horsford, Houston, Howard, Thomas M. Howe, Hunter, Ives, Robert W. Johnson, George G. King, Kuhns, Kurtz, Landry, Mann, Martin, McCorkle, Meacham, Meade, Miller, Miner, Molony, Henry D. Moore, John Moore, Morehead, Murray, Newton, Outlaw, Samuel W. Parker, Penn, Penniman, Perkins, Porter, Riddle, Robbins, Sackett, Schermerhorn, Schoolcraft, Scudder, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Stanley, Frederick P. Stanton, Richard H. Stanton, Thaddeus Stevens, Strother, Stuart, Sutherland, Taylor, Benj. Thompson, Tuck, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, and Williams—95.

NAYS—Messrs. Aiken, Willis Allen, Ashe, Averett, Babcock, Beale, Bissell, Roccoek, Breckinridge, Brenton, Buell, Jos. Cable, Thompson Campbell, Caskie, Churchwell, Clark, Cleveland, Cobb, Curtis, Daniel, John G. Davis, Dawson, Dimmick, Doty, Edgerton, Edmundson, Ficklin, Fitch, Floyd, Freeman, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Hall, Isham G. Harris, Hart, Hendricks, Henn, Hibbard, Hillyer, Holladay, Thomas Y. How, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Letcher, Mace, Edward G. Marshall, Humphrey Marshall, Mason, McDonald, McLanahan, McQueen, Millson, Nabers, Olds, Orr, Andrew Parker, Peaslee, Polk, Powell, Robinson, Ross, Smart, Smith, Benjamin Stanton, Sweetser, George W. Thompson, Venable, Wallace, Wildrick, and Woodward—76.

So the bill passed.

Mr. BUSBY, who was without the bar of the House when his name was called upon this vote, asked the unanimous consent of the House to have his name recorded.

Mr. BROOKS objected.

Mr. HOUSTON moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The Clerk then reported the title of the bill, viz:

"An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1852."

Mr. BRENTON moved to amend the title, by adding thereto the following:

And making additional appropriations for other purposes.

Mr. B. said: Mr. Chairman, my object in offering that amendment is to make the title of the bill conform to the bill itself. I have examined the bill, and I have listened attentively to the discussion which has taken place upon it, since it has been under consideration here, and I find that it contains many appropriations of money which do not properly belong to the deficiency bill.

The title as it now stands, reads thus:

"To supply deficiencies in the appropriations for the service of the fiscal year ending 30th of June, 1852."

So far as that title covers what is strictly for deficiencies, I have no objection whatever to it. I would willingly vote for any bill which was strictly a *deficiency* bill, and I would also vote for any bill which should contain provisions for original appropriations of a different character. But as this bill embraces items not only for *deficiencies*, but also for additional appropriations, I have cast my vote against it, and I have done so on that ground alone. I hope the title will be made to conform to the bill, and I can see no objection to the amendment which I have offered. I do not desire to detain the House, and I now move the previous question.

Mr. MARSHALL, of California. I ask the gentleman to withdraw the demand for the previous question, that I may move to add to his amendment these words: "And subjecting Congress to the dictation of the Executive."

Mr. BRENTON. I cannot withdraw it.

The previous question received a second, and the main question was ordered to be now put; and being put, the amendment was disagreed to on a division—yeas 55, noes 69.

The original title was then adopted.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the title was agreed to, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

On motion by Mr. HART, the House then adjourned until Monday.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. THOMAS M. HOWE: The remonstrance of Abraham Patterson and 285 other citizens of Pennsylvania, against a renewal of the Woodworth patent.

By Mr. CLARK: The memorial of William Drips and 47 others, citizens of the county of Clayton, and State of Iowa, praying for the suspension of mail service on the Sabbath day.

By Mr. CURTIS: The petition of the citizens of Potter county, Pennsylvania, praying for a mail route from Coudersport to Ulises, in said county.

By Mr. IVES: The petition of 251 inhabitants of Newburyport and vicinity, Massachusetts, praying for a modification of the law granting bounty on fishing vessels.

Also, a remonstrance against granting Thomas Blanchard any special act, making his patent for a self-directing machine more valuable.

By Mr. EASTMAN: The memorial of citizens of the United States, members of the Western Farm and Village Association, asking Congress to grant one hundred and sixty acres of land to each of the memorialists, on condition of actual settlement and improvement.

By Mr. INGERSOLL: The petition of numerous citizens of Middlesex county, Connecticut, owners of vessels, and others; interested in the navigation of Long Island Sound, praying for a breakwater at West Brook, in said State.

By Mr. BROWN, of Mississippi: The petition and memorial in favor of light-houses and for removing obstructions near the mouth of the Pascagoula river, in Mississippi.

By Mr. KUHN: The petition of Joseph Scraggs and other citizens of Pennsylvania, praying Congress to pass a law releasing from official duties on the Lord's day the agents and officers of the Government, especially with reference to the mail service.

Also, the petition and documents of Conrad Mowry, praying to be allowed a pension for services in the late war with Great Britain.

By Mr. MOORE, of Louisiana: Resolutions of the General Assembly of Louisiana—

1st. Relative to a donation of land to the "Pine Grove Academy," in the parish of Caldwell.

2d. Relative to a tri-weekly mail route from Harrisonburg, by way of the seat of justice of Winn parish, to Natchitoches.

3d. Relative to establishing a four-horse mail-coach route from the mouth of Red river, via Marksville and Alexandria, to Natchitoches.

By Mr. FULLER, of Maine: The petition of Ebenezer F. Haskell and Amos Howard, of Deer Isle, owners of schooner Reward, praying Congress for allowance of fishing bounties, said schooner being lost at sea.

By Mr. GILMORE: The petition of Thomas Houston and 180 others, citizens of Armstrong county, Pennsylvania, praying for a modification in the tariff laws of 1846.

By Mr. CABELL, of Ohio: The memorial of J. J. Greenough, preferring charges against T. Ewbank, Commissioner of Patents.

## IN SENATE.

MONDAY, March 29, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of War, made in compliance with a resolution of the Senate of the 25th instant, calling for information, as to whether any charges had been filed in his Department against the commissioner appointed to run and mark the boundary line between the United States and Mexico, and deposited in the War Department by an officer of the army; and if so, directing that copies of all papers connected therewith be transmitted to the Senate. The report states that no such charges had been filed in the War Department, and, as the commissioner is in no way accountable to that Department, none could properly have been filed in it. It adds, however, that an officer of the topographical engineers, who had been on duty on the Boundary Commission, but subsequently recalled, did, some months since, deposit in the Bureau of Topographical Engineers, a manuscript, containing charges of misconduct against the commissioner; but as it formed no part of the records of the War Department, and was the private property of the officer who deposited it, the Secretary of War had no authority to order a copy of it to be certified. The officer making the charges, however, would have no objection to placing the original manuscript before the Senate, or in the hands of any member thereof, if desired.

It was ordered to be laid on the table.

## PETITIONS, ETC.

Mr. WALKER presented a petition of citizens of Wisconsin, praying that a grant of land may be made to the State of Michigan, for the construction of the Oakland and Ottawa Railroad; which was referred to the Committee on Public Lands.

Also, ten petitions of citizens of Wisconsin, praying for grants of land to certain companies therein named, for the construction of a railroad from Chicago, through Janesville and Fond du Lac, to Lake Superior; which were referred to the Committee on Public Lands.

Also, a petition of citizens of Franklin county, Illinois, praying that one hundred and sixty acres of land may be granted to every landless American citizen, becoming an actual settler; which was referred to the Committee on Public Lands.

Also, a petition of citizens of Ganges, Richland county, Ohio, praying that the public lands may be sold only to actual settlers, and to them in limited quantities; which was referred to the Committee on Public Lands.

Mr. WALKER. I am requested to present a petition from Milton, Rock county, Wisconsin, signed by almost all classes of people—men, women, and children, to the number of something like one hundred—praying the repeal of the fugitive slave law. I shall not propose to give it a reference. I move that it be laid on the table.

The motion was agreed to.

Mr. MANGUM presented a petition of citizens of Buffalo, New York, praying an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. SHIELDS presented a petition of inhabitants of the city and county of Washington, District of Columbia, praying the enactment of a law for the punishment of trespasses on private property outside the corporate limits of said city, and within the county of Washington; which was referred to the Committee on the Judiciary.

Mr. FISH presented a petition of citizens of Buffalo, New York, praying the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of West Troy, Albany county, New York, praying that the bill giving additional remedies to patentees may become a law; which was referred to the Committee on Patents and the Patent Office.

Also, the memorial of Alexander J. Atocha,

praying indemnity for losses sustained in consequence of his expulsion from Mexico; which was referred to the select committee on the subject of claims against Mexico.

Mr. HAMLIN. I have been intrusted with a memorial numerously signed by citizens of Waldo-borough, Maine, in behalf of Conrad Hyer, a soldier of the revolution, and now one hundred and three years old, praying that the pension now received by him may, at his death, be granted to his idiotic grandson; which I ask may be referred to the Committee on Pensions.

Also, the memorial of Hannah Thompson, widow of James Thompson, deceased, an officer of the army of Mexico. It is for a renewal of her pension. It comes within that class of cases which has already received the favorable consideration of the Committee on Pensions. The circumstances are within my own knowledge: the widow resides in my own neighborhood; and it is one of those cases which appeal to our sympathies and to our justice. As it comes within the rule of which the committee have already established, I trust it may receive from them a prompt and early attention. I ask that the memorial and accompanying papers may be referred to the Committee on Pensions.

The several motions to refer were agreed to.

Mr. SUMNER presented a petition of citizens of North Brookfield, Massachusetts, praying a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Also, three petitions of citizens of Boston, Massachusetts, and a petition of citizens of Portsmouth, New Hampshire, praying a reduction of the rates of ocean postage; which were referred to the Committee on the Post Office and Post Roads.

Mr. BORLAND presented the memorial of William Sena Factor, praying remuneration for losses sustained during the Seminole war; which was referred to the Committee on Indian Affairs.

Mr. DOWNS submitted documents in relation to the claim of Frederick G. Smith, United States marshal for the western district of Louisiana, to additional compensation for taking the Seventh Census; which were referred to the Committee of Claims.

Also, a resolution of the Legislature of Louisiana, in favor of granting to the corporation of Baton Rouge the right to inclose and use as a cemetery a portion of the grounds attached to the barracks in that town; which was referred to the Committee on Military Affairs.

Also, a resolution of the Legislature of Louisiana, in favor of the removal of obstructions in the Bayou La Fourche; which was referred to the Committee on Commerce.

Also, resolutions of the Legislature of Louisiana, in favor of a donation of land for the use and benefit of the Pine Grove Academy; which were referred to the Committee on Private Land Claims.

Mr. CASS presented the petition of the heirs of Walcott Lawrence, deceased, praying remuneration for land improperly sold by the United States; which was referred to the Committee on Private Land Claims.

Mr. DODGE, of Wisconsin, presented ten petitions of citizens of Wisconsin, praying a grant of land to certain companies therein named for the construction of a railroad from Chicago to Lake Superior; which were referred to the Committee on Public Lands.

Mr. BRODHEAD presented a memorial of citizens of Manayunk, Pennsylvania, praying a modification of the tariff; which was referred to the Committee on Finance.

Mr. RUSK presented the memorial of Rachel Herbert, praying compensation for extra services performed by her late husband while assistant messenger in the Post Office Department; which was referred to the Committee on the Post Office and Post Roads.

Mr. FELCH presented two petitions of citizens of Michigan, praying a donation of land to the State for the construction of the Oakland and Ottawa railroad; which were referred to the Committee on Public Lands.

Mr. UNDERWOOD presented a petition of residents of Illinois, praying an appropriation to repair the dam at the head of Cumberland Island, in the Ohio river; which was ordered to be laid on the table.

Mr. SEWARD presented the petition of Abi-

gail Bishop, widow of Richard Bishop, praying a pension; which was referred to the Committee on Pensions.

## FUGITIVE SLAVE LAW AND EXTINCTION OF SLAVERY.

Mr. SEWARD. I present four several petitions of citizens of New York, and a memorial of the Caln Quarterly Meeting of the Religious Society of Friends, of Pennsylvania, praying the repeal of the fugitive slave law; and one petition of inhabitants of Marcellus, New York, praying Congress to institute measures for the extinction of slavery. I move that they be referred to the Committee on the Judiciary.

Mr. MASON. Do I understand that the proposition is to refer memorials for the repeal of the fugitive slave law to the Committee on the Judiciary?

Mr. SEWARD. Yes, sir.

The PRESIDENT. And one for the extinction of slavery.

Mr. MASON. I shall not interfere.

Mr. BADGER. What is the question?

Mr. MASON. In answer to the Senator from North Carolina, I reply that I understand that the Senator from New York has presented one memorial praying for the abolition of slavery; and several others for the repeal of the fugitive slave law, and that he asks that they may be referred to the Committee on the Judiciary. I say that, so far as I am concerned, I shall not interfere with the motion of the Senator from New York.

Mr. NORRIS. Is the same motion made with regard to the whole?

The PRESIDENT. Yes, sir.

Mr. NORRIS. I call for a division of the question.

The PRESIDENT. The question then will be, first, on the petitions praying for the repeal of the fugitive slave law.

Mr. NORRIS. I move to lay them on the table; and upon that motion I call for the yeas and nays.

The PRESIDENT. There are several memorials of that description, asking for the repeal of the fugitive slave law.

Mr. NORRIS. Let the motion embrace them all.

The yeas and nays were ordered; and, being taken, resulted—yeas 33, nays 11; as follows:

YEAS—Messrs. Adams, Atchison, Badger, Bayard, Borland, Brulbury, Brodhead, Brooke, Cass, Clarke, Clemens, Cooper, Dawson, Dodge of Iowa, Douglas, Downs, Felch, Geyer, Gwin, Hunter, Jones of Iowa, Jones of Tennessee, King, Mallory, Mangum, Mason, Miller, Norris, Rusk, Sebastian, Spruance, Underwood, and Walker—33.

NAYS—Messrs. Chase, Davis, Dodge of Wisconsin, Fish, Foot, Hale, Hamlin, Seward, Sumner, Upham, and Wade—11.

So the motion was agreed to.

The PRESIDENT. The other memorial is for the abolition of slavery.

Mr. HALE. Where?

Mr. NORRIS. I move to lay that upon the table; and upon that motion call for the yeas and nays.

Mr. SEWARD. I would simply state, that the petition prays Congress to institute measures for the extinction of slavery. That is the purport of the petition.

Mr. DAWSON. I would ask the Senator from New York, if he believes Congress has such power? and, then, if he does not, I ask why he presents this petition?

Mr. NORRIS. The motion is not debatable.

The PRESIDENT. Does the Senator from New Hampshire object to the reception of the memorial, and move to lay the question of reception on the table?

Mr. NORRIS. I object to the reception.

The PRESIDENT. The parliamentary rule is, that, when a petition is presented, and there is objection to the reception, the question must be taken on the reception of the paper; and that question the Senator from New Hampshire moves to lay upon the table. It is not debatable.

Mr. SEWARD. In reply to the Senator from Georgia, [Mr. Dawson,] I would say, that I presented the petitions on the same principle that I always present all petitions—that is, that the people have a right to address Congress by petitions, and that it is the duty of Congress to receive them.

Mr. HALE. I call the Senator to order.

The PRESIDENT. He is not in order.

Mr. SEWARD. I submit, sir.

Mr. HALE. I want to inquire, whether the objection to the reception of the petition arises from the Chair, or from the motion of any Senator?

I simply want to have the point understood. The PRESIDENT. It comes from the Senator who made the motion to lay upon the table. The Chair stated to the Senate, as he has stated over and over again, that when a paper is presented it cannot be received, except by the consent of the body. When the Chair is aware that objections are made to its reception, it becomes his duty to put the question, "Shall the paper be received?" That is the parliamentary rule.

Mr. HALE. I only inquired for information, to let the Journals be right.

The PRESIDENT. It is moved to lay the question of reception on the table; and upon that motion, the Senator asks the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 36, nays 6; as follows:

YEAS.—Messrs. Adams, Atchison, Badger, Bayard, Borland, Bradbury, Brodhead, Brooke, Cass, Clarke, Clemens, Dawson, Dodge of Iowa, Douglas, Downs, Felch, Fish, Geyer, Gwin, Hamlin, Hunter, Jones of Iowa, Jones of Tennessee, King, Mallory, Mangum, Mason, Miller, Norris, Rhetts, Rusk, Sebastian, Shields, Spruance, Underwood, and Walker—36.

NAYS.—Messrs. Dodge of Wisconsin, Foot, Hale, Seward, Sumner, and Wade—6.

So the motion was agreed to.

Mr. HALE. I hold in my hand a petition which prays, for certain reasons therein stated, for the repeal of an act of Congress commonly called the fugitive slave law. It assigns various reasons why it should be repealed; and, amongst others, that it offers a bribe to the judge, by giving him twice as much for deciding a man to be a slave as deciding him to be a freeman.

Mr. MANGUM. What is the amount?

Mr. HALE. Ten dollars for convicting and five dollars for acquitting. In presenting these petitions, I do not know whether it is obnoxious to the objections stated by the Chair, or whether the Chair will be compelled to put the question to the Senate whether or not it shall be received. I do not know whether it is liable to that objection or infirmity; but I wish to call the attention of the Senate, before they pass upon it, to one fact, which occurred here some two or three years ago. I do not know that it is so long back as two years. The honorable Senator from South Carolina, [Mr. BUTLER,] not now in his seat, gave notice to the Senate then that he would never again object to the reception of one of these petitions. The reasons for that announcement I do not remember that he gave. But the honorable Senator from Virginia, [Mr. MASON,] now in his seat, at the same time said that he would never interfere with the disposition of any of these petitions that might be presented by such as I. And I believe, in accordance with these declarations of those Senators, who were supposed to be qualified to look after the interests of the institutions of those who are undertaken to be protected by this bill, those gentlemen have never interfered since. That is all I have to say.

The PRESIDENT. Does the Senator propose to make any disposition of the petition?

Mr. HALE. Let it be referred to the Committee on the Judiciary.

Mr. MANGUM. I only have a remark to make. I feel an interest in the character of all my countrymen. I think this petition ought not to be received, on the ground that it contains what I regard as an outrageous slander and libel upon the judges at the North. A man to be bribed for five dollars! I live in a country where they take justices of the peace from all sorts of people; and though I have been in professional life for many years, I never yet heard of a man being bribed for five dollars. These gentlemen are selected in the Northern States, as learned in the law; and to talk of their being bribed for five dollars, seems to me to be a slander, and a calumny, and a libel, with which I hope the Senate will not consent to soil their table. I move that the question of reception lie on the table. I make the motion, simply for the reason that it is a libel and a slander upon a class of my countrymen; and I feel an interest in the character of all of them. I see that my friend from Virginia wishes the floor, and I withdraw my motion for the present.

Mr. MASON. I shall not say a word in reply

to anything on this subject, which comes from that quarter. But the Senator who introduced this petition spoke of a declaration made on this floor some time since by an honorable Senator not now in his seat, who is not here to reply to it; and, as I understood him, he said that at the same time I expressed my concurrence in the declaration of that Senator. I do not remember the occurrence. I think, probably, however, that the Senator is correct in his recollection. I do know, having in view what had been done by this Senate on the subject of this institution some two or three years ago, that I was prepared then to declare, as I have just now declared, when the first of these petitions was presented by the Senator from New York, that I would not again, as at present advised, interfere with any disposition of them that those who present them may ask the Senate to make. If a question is put, I shall give my vote; but I shall not be active in interfering with any disposition which Senators who offer them, may ask the Senate to make of them. There are many reasons that guide me in this; amongst others, that—which will not guide the Senator who offered this petition—I have no disposition to be instrumental in any way, directly or indirectly, in agitating again the question of slavery in this Congress.

Mr. MANGUM. I will vary my motion somewhat, at the suggestion of a friend. I understand that petitions of this character have heretofore been received. I will not, therefore, raise the question of reception, though I think the petition is a very outrageous libel; and I feel indignant at any such imputation upon gentlemen learned in the law in our Northern States. I vary the motion so as to allow the petition to be received, and then to lay it upon the table.

Mr. HALE. I merely wish to make a single remark.

Mr. MANGUM. I withdraw the motion for the present.

Mr. HALE. I do not understand the Senator from Virginia to undertake to say that I have not stated the facts in relation to what took place here two or three years ago, as they occurred. He thinks I am right. I think I am right. And, to be certain that I was right, I looked over to the seat of the Senator from South Carolina, and not seeing him upon the floor, I went and put the question to the Senator from Virginia, and, as I understood him, he concurred in the statement which I made, as far as his own recollection was concerned.

Mr. MASON. I stated this: that I had no recollection of the occurrence, but that, knowing what my opinions were then, and what my opinions are now, I thought it highly probable that the Senator was correct in his recollection.

Mr. HALE. I am satisfied.

Mr. MANGUM. I renew the motion to lay the petition on the table.

The motion was agreed to.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. RUSK, it was

Ordered, That the petition of James Harrington, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion by Mr. HAMLIN, it was

Ordered, That leave be granted to withdraw the petition of Jonathan N. Sewall.

#### SAMUEL T. WASHINGTON.

Mr. BORLAND. During the last Congress, I presented the memorial of a number of citizens of Arkansas and members of the State Legislature, in behalf of Samuel T. Washington, formerly of Virginia, a relative of General Washington, asking that an allowance might be made to him in his old age and poverty, and in consideration of the presents made by him to the United States some years ago—in the year 1843—which were deemed of great interest, and, as relics, of great value—the sword of Washington, and the cane of Franklin. The memorial was referred to a committee of the Senate, and an adverse report made upon it. No more was done in the case. I have recently received an application from this gentleman, asking that his claim may be again brought before Congress. Under the rules, I know that when a memorial has been unfavorably reported upon it cannot be taken from the files and referred again to a committee.

The PRESIDENT. Was the report acted upon?

Mr. BORLAND. Yes, sir; the adverse report was concurred in.

The PRESIDENT. Then the memorial cannot be taken from the files.

Mr. BORLAND. I presume it will be competent, with unanimous consent, to take it from the files and refer it again. The case is certainly one of interest in many respects, whether the claim be founded upon any just grounds of compensation or not, owing to the name of the individual, his relationship with the Father of his Country, and his connection with the very interesting ceremony which took place in the presenting of the sword and cane to the Congress of the United States. I hope the Senate will agree that the memorial be taken from the files and referred to the Committee on Revolutionary Claims, in order that it may be acted upon. This individual is now old, and is very poor. He is known, I presume, to Senators on this floor, especially to the Senators from Virginia. I remember that, in 1843, a good deal of interest was connected with his name and the ceremony which took place in the other House of Congress, in the presentation of the sword and cane. I hope permission will be granted to withdraw the memorial and refer it to the Committee on Revolutionary Claims.

The PRESIDENT. The rule is positive that, when an adverse report is made and concurred in, the subject cannot again be referred, unless additional papers are presented to show that the report was not a proper one. The Senator asks the unanimous consent of the Senate to have these papers again referred. It can only be done by unanimous consent.

Mr. HALE. That he cannot have, sir.

So leave to withdraw the papers and refer them again was not given.

#### REPORTS FROM STANDING COMMITTEES.

Mr. MASON, from the Committee on Foreign Affairs, to which was referred the petition of Catharine Crosby, submitted a report, accompanied by a bill for the relief of the representatives of Thomas Anderson, deceased; which was read, and ordered to the second reading. The report was ordered to be printed.

Mr. GEYER, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of John McIntosh, reported it back without amendment.

Mr. FOOT, from the Committee on Pensions, to which was referred the following bills from the House of Representatives, reported them back without amendment:

An act for the relief of Francis Tribon; and  
An act for the relief of Ichabod Weymouth.

#### THE SCHOONER AMISTAD.

Mr. MASON, from the Committee on Foreign Relations, to which was referred the resolution directing the Committee on Foreign Relations to inquire into the propriety of providing by law for the claim arising out of the schooner "Amistad," submitted a report, accompanied by a bill, to indemnify the master and owners of the Spanish schooner "Amistad" and her cargo.

The bill was read and passed to the second reading. The report was ordered to be printed.

Mr. MASON. This is a subject in which the Government of Spain takes a deep interest. It has been before this Government since 1839. The bill has been passed once or twice, I think, by the Senate, but has never passed the House of Representatives; and I would submit to the Senate that there are circumstances connected with our recent relations with Spain that would make it peculiarly appropriate for Congress to take it up and consider it at a very early day. I move that it be made the special order for Tuesday, the 6th of April.

Mr. UNDERWOOD. I cannot consent to that motion. I hope the gentleman will mention a more distant day, for there are many measures of more importance which should be considered by the Senate, and in which the people of the West are particularly interested—such as the Cumberland Dam and the Louisville Canal bill. I hope that, if we are to have a special day assigned for the consideration of this bill, it will be deferred to a later period than that mentioned by the Senator; and, in the mean time, let us attend to the important measures which have already been pending for years, and which are of importance to the whole country.



Mr. MASON. It is doubtless important, in the opinion of the Senator from Kentucky, that these questions which affect more specially the interest of the Western country should receive immediate consideration; but I submit to him that this is a matter of more importance, as it affects the honor of the nation, and ought to receive earlier consideration than a bill for a mere appropriation. It is a question between the Government of the United States and the Government of Spain, and is one in which, I think, the Senator, if he will investigate it, will find that the good faith and honor of our Government are involved. I do not now wish to interfere with the business before the Senate, and I therefore hope that the matter will be assigned to an early day.

Mr. UNDERWOOD. I would say to my friend from Virginia, that I am certain that the bill in reference to the Amistad will be discussed, and perhaps tediously; and that, to fix on a day for the consideration of the bill before the report is printed, is unusual. I trust he will consent to let it lie over for a week or so, and then we can take it up and fix a day. The other measures to which I have made reference are measures which are held much at heart by many of our Western constituents; they have been pending here for a long time, and I do not think it would be right to over-ride them by these new measures. I hope the gentleman will let the matter lie over until the report is printed—at least for a week or so—when a day can be fixed.

Mr. MASON. I do not wish to press it too strongly, knowing the sensitiveness of the Senator from Kentucky for the interests of the Louisville canal, or the Ohio river, and other interests of that kind. Perhaps he will be satisfied with a later day in April. I will mention Monday, the 26th of April. I want to have a day fixed when we may take it up with certainty.

Mr. HALE. I have been, I think, five years a member of the Senate, and I do not remember that we have acted upon the calendar regularly for one single day in that time. I shall be here, perhaps, for another year; and when I go home, I want to tell my constituents that we have worked in order one day during the six years that I have been here. I have opposed all special orders. The last time that it was proposed to make a bill, in which my constituents are deeply interested, a special order, I opposed it; and when the proposition was made to make the bill granting indemnity for French spoliation prior to 1800, a special order, I opposed that too. I have uniformly voted against making special orders; and many other gentlemen have professed a willingness to refuse to make special orders. If I vote against one, I must against all. I hope the Senate will not make this bill a special order. I would inquire if the motion to postpone to the 26th of April, can be taken separately from the motion to make it a special order?

The PRESIDENT. It can.

Mr. HALE. Then I call for a division of the question.

The question was then taken on the motion to postpone the further consideration of the bill to the 26th of April; and it was agreed to.

The motion to make the bill a special order for that day was not agreed to; there being on a division—ayes 18, noes 18.

Mr. MASON. I wish now to make a motion in reference to the bill just acted upon, that it may take its place on the calendar.

The PRESIDENT. That bill has just been postponed to the 26th of April.

Mr. MASON. Will it come up on that day?

The PRESIDENT. It will be among the general orders, and will not come up unless it is called up.

Mr. MASON. Then I move to reconsider the vote by which it was postponed, that it may take its place on the calendar.

The motion was agreed to, and the bill takes its place on the calendar.

#### BILLS PASSED.

The following engrossed bills were read a third time and passed:

An act to authorize the payment of invalid pensions in certain cases.

An act to provide for the unpaid claims of the officers and soldiers of the Virginia State and Continental lines of the revolutionary war.

On motion by Mr. UNDERWOOD, the title of the last named bill was amended to read as follows:

“An act to compensate the owners of certain military lands in the State of Kentucky, granted to the officers and soldiers of the Virginia line of the army of the Revolution, which have been taken by paramount claims.”

#### BILL RECOMMITTED.

Mr. GWIN moved that the bill for the relief of Richard W. Meade, recently reported from the Committee on Naval Affairs, be recommitted to that committee, additional testimony having been produced since the report was made.

The motion was agreed to.

#### THE DEFICIENCY BILL.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that the House of Representatives had passed a bill entitled “An act to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1852.”

It was read a first and second time by its title, and referred to the Committee on Finance.

#### CONTRACTS WITH OFFICERS OF THE ARMY.

Mr. HUNTER submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of War be directed to inform the Senate: First. Whether any of the officers of the United States Army have been contractors to furnish supplies to the Government of the United States. Secondly. If such cases exist, what were the rates of such contracts as compared with those of other persons contracting for the same things to be delivered at the same times and places. Thirdly. The names of the officers making and sanctioning such contracts. And lastly. As to the measures, if any, which have been taken by the Department in such cases.

Mr. H. also submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill to make it penal in an officer of the United States to become a contractor, or take an interest, either direct or indirect, in any contract to furnish supplies to the Government of the United States.

#### CUBAN EXPEDITION.

Mr. MALLORY submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Foreign Relations be instructed to inquire into the propriety of authorizing the President of the United States to have investigations made whether any Spanish subjects, not citizens of the United States, have sustained damage, by loss of property or otherwise, in consequence of public outbreak or violence in the State of Florida, growing out of the late Cuba expedition; and into the propriety of authorizing the President to make prompt indemnity to the Spanish Government for such Spanish subjects, for said damage.

#### STRYKER'S ANNUAL REGISTER.

Mr. SEWARD submitted the following resolution:

*Resolved*, That the Committee on the Library be instructed to inquire into the expediency of subscribing for Stryker's Annual Register.

#### WASHINGTON CROSSING THE DELAWARE.

The Senate proceeded to consider the resolution of inquiry, submitted by Mr. HALE, the 26th instant, respecting the purchase of a historical painting, “Washington crossing the Delaware,” to be placed in the Mansion of the President of the United States, and it was agreed to.

#### EXTENSION OF THE CAPITOL.

A message from the President of the United States was received by Mr. M. P. FILLMORE, his Secretary, announcing that in compliance with the resolution of the Senate of the 24th instant, relating to the extension of the Capitol, a report from the Secretary of the Interior was submitted, which furnishes, it is believed, the required information.

The message was read, and referred to the Committee on Public Buildings.

#### NAVY-YARD AT SAN FRANCISCO.

The Senate proceeded to consider the bill to establish a navy-yard and dépôt on the bay of San Francisco, and for other purposes, the question being on the substitute offered by Mr. BROWNE.

Mr. BRODHEAD. Before the question is taken, I desire to modify the substitute in a few particulars. In the second section of the substitute, I desire to have the words “President of the United States” stricken out, and the words “Secretary of the Navy” inserted instead. The section will then provide, that “when such land shall

have been so selected and secured, the Secretary of the Navy be, and he hereby is authorized to appoint and assign such officers,” &c. I also desire to add a new section, providing for the pay of the officers who may go out, that is to say, that their actual expenses shall be paid in addition to their regular pay, but not that they shall receive double pay.

The additional section was read, as follows:

Sec. 5. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby authorized, to allow the amount of their present sea service pay to the officers whom he may select or appoint under the first section of this act, and to allow or reimburse to them the actual amount of their expenses consequent upon the performance of their duty under this act, and in conformity with such instructions as they may receive from the President of the United States, and in pursuance thereof.

Mr. SHIELDS. I would suggest to the Senator from Pennsylvania, that, if he substitutes the words “Secretary of the Navy” for “President of the United States” in the second section, he ought also to insert them in the fifth section, so as to make the bill uniform.

Mr. HUNTER. Before the question is taken on the passage of this bill, I have a word or two to say in relation to it. I believe there ought to be a navy-yard in California, and not only do I believe there ought to be one, but I believe we ought to commence its establishment as soon as we have information enough to enable us to act intelligibly upon the subject.

I find, Mr. President, in relation to these establishments, a provision in one of the appropriation bills of 1844, which, I am informed, has governed the action of the Committee of Ways and Means, and the House of Representatives upon such subjects since that period. I will ask the Secretary to read it.

The Secretary read it, as follows:

“Sec. 2. That whenever hereafter in submitting to Congress the annual estimates from the several Executive Departments of the Government, it shall be found that the usual items of such estimates vary materially in amount from the appropriations ordinarily asked for, the object named, and especially from the appropriation granted for the same objects for the year next preceding, and whenever new items not theretofore used shall be introduced into such estimates for any year, the estimates shall be accompanied by minute and full explanations from the head of the appropriate department of all such variations and new items, setting forth the reasons and grounds upon which the amounts are required of the different items asked; and whenever any such estimates, whether annual or special, shall ask an appropriation for any new specific expenditure, such as the construction of a fort, the erection of a custom-house, or other public building, or the construction of any other public work requiring a plan before the buildings or work can be properly executed, every such estimate shall be accompanied by a full plan and detailed estimates of the cost of the whole work; and all subsequent estimates for every such work shall give the original estimated cost, the aggregate amount actually expended thereupon, as well as the amount asked for the current year for which such estimates shall be made; and whenever any such subsequent estimate shall ask for an appropriation for any such work beyond the original estimates of the cost, the full reasons for the excess shall be also stated.”

Mr. HUNTER. There is a similar provision in another appropriation bill, some years preceding; but, sir, it is unnecessary to read that. I do not mean to say, sir, that this law deprives us of the power of appropriating money for the erection of any new work for which we have not the plans and estimates which the laws require. I am very far from saying that we have not the power to act without these estimates, but I will say, that the Committee of Ways and Means of the House of Representatives never, when General McKay was at the head of it, voted appropriations without such plans and estimates, but, acting on this provision in the appropriation bill, they threw out all amounts that were not accompanied by them.

I am also informed by my colleague, General Bayly, that when he was chairman of the Committee of Ways and Means, he invariably acted on the rule thus laid down. What is the mode of proceeding of the present committee I do not know, but I believe that, if we were to pass this bill without these plans and estimates, it would be a mere dead letter, and would not be considered by that House. I believe that it would be much better, if the Senator from California wishes the establishment of a navy-yard in that State, for us to obtain detailed plans and estimates, that we may see what we are about in voting for this establishment. I believe, as I proceed in my comments on the bill, that the necessity for such information will become obvious, and that it will be equally apparent that we should not grope too far in the dark in relation

to the construction of this establishment, which, in the State that the Senator so well represents, would now be exceedingly expensive. I am ready to admit, that what is necessary to be done ought to be done. I am willing to commence with the establishment of a navy-yard, if we proceed in the regular and authorized way, and when I know what I am doing, and when I can feel satisfied that we can limit them properly, precisely, and accurately.

The first provision in relation to the commission I believe to be a proper one. Another commission I hold to be necessary. The report of the first was not sufficiently full; we do not know whether there is sufficient water in the site selected to use this dock. I think, as modified by the Senator from Pennsylvania, [Mr. BRODHEAD,] the provision is a proper one for this floating dock. But, sir, there is a provision in the second section authorizing the President of the United States to appoint and assign such officers, according to law and usage; and make such arrangements as may be necessary to establish a navy-yard and depot upon the most approved plan, on the site so obtained, for the construction equipment, and repair of steam-ships and other vessels of war, and to cause the necessary materials and supplies to be procured and deposited there; the proper engineers, artificers, and workmen to be employed, and the proper buildings, machinery, and fixtures, including a marine barracks, and an hospital for sick and disabled seamen and marines, to be constructed, together with such works and arrangements for the defense of the same, as shall be deemed necessary by the officers appointed to locate this establishment, and approved by the President of the United States.

Now, Mr. President, what estimates, and what plan have we for the erection of these buildings? How do we know the amount of expense to which we shall have to go in the erection of such an establishment? Where is the plan and estimate from the proper bureau of the Navy Department, to enable us to act intelligently upon this subject? I believe that a site for a navy-yard ought to be obtained; I believe that there are certain buildings which we ought to put up, such as workshops, foundries, and some other things, but I believe that the expenditure ought to be limited, at present, to what is actually necessary, and that we should go no further. I believe so, because the expense of everything at present is so enormously great in California; and it seems to me that we should postpone all these public works which are not actually necessary, until prices fall to something like the usual rate of labor and materials elsewhere. From the report of the quartermaster in California to General Jesup, excusing his expenses, I find that he says that the estimates for every kind of building are ten times higher than they can be built for on the Atlantic. I find that he had to pay something like \$500 per thousand feet for New England lumber. He says:

"I imagine that it would be a very common public building which on the Atlantic side might cost \$5,000. It may appear extravagant to pay here \$50,000 for a duplicate of that building; yet this is only multiplying by ten the current ratio in the relative value of labor."

"On the first of July, 1849, lumber was selling at San Francisco for \$300 per thousand feet. A better quality of lumber could be purchased in New York for \$12—in Maine for \$10. The relative value in this important item, appears accordingly as one to fifty. Mechanics everywhere were receiving from \$14 to \$16 per day—most commonly \$16—common laborers from \$5 to \$7 per day, and no sailor would ship for less than \$150 per month. Captains of steamers in civil employment were paid from \$700 to \$1,500 per month, and the masters of sailing vessels from \$300 to \$500."

Mr. GWIN. That is two years ago. What are the estimates now?

Mr. HUNTER. I do not know what they are. I give them according to the latest report we have. I know they are high, and being so high, I think we ought to postpone the erection of all buildings which are not actually necessary until the prices of labor and materials are reduced to a standard somewhat nearer the common level. I have obtained an estimate from the Navy Department of such buildings as may be necessary in order to make a commencement in California. The buildings, and the amount necessary for each, are put down as follows:

For foundry.....	\$37,000
For machine shop.....	60,000
For blacksmiths' shop.....	37,000

For boiler shop.....	32,000
For engine house, pattern shop, &c.....	24,000
For carpenters' shop.....	30,000
For store-house.....	40,000
For machinery and tools, and freight of same.....	96,000
For wharf.....	50,000
Total.....	\$406,000

Now, Mr. President, these buildings are necessary to commence that establishment. I am willing to vote the necessary appropriations for them, although it is perhaps fair to ourselves, fair to the Department, and fair to California herself, to state that these estimates are somewhat conjectural. In relation to the objects proposed in the second section of the bill, I would be willing to devote that sum. But it will be observed that this estimate does not include them; and it would be very expensive for us to attempt to establish a marine barracks and hospital, "together with such works and arrangements for the defense of the same as shall be deemed necessary by the officers appointed to locate this establishment, and approved by the President of the United States." I therefore think that the Senator from Pennsylvania should strike out from his substitute so much as provides for this barracks, in order to confine the work to the plan estimated for by the Department.

Mr. President, so much in relation to the second section. The third section proposes to establish a basin and railway in the event that it should be ascertained, to the satisfaction of the Secretary of the Navy, that the basin and railways now constructed at Philadelphia and Kittery are in full and successful operation. Mr. President, I am unwilling to launch out into any such experiment, until Congress becomes convinced that they are in successful operation. I believe this matter should be postponed. Here, again, we are in want of an actual survey; we are in want of information from the Department respecting any plan and estimates. Or it may be that the location is not suitable to a basin and railway, or to a stone dock; for I understand that there are great alternations of high and low water; and it would be impossible, except by going to an expense, which the authorities of this country would never dream of incurring, to establish a stone dock; because if it be adjusted to suit the tide at low water, it cannot be used at high water; and if it is fitted for use at high water, it cannot be used at low water. I believe it is yet uncertain whether there are not periods when the floods of the rivers will not bring down the fresh water in such quantities as to add to these alternations of water in the bay of San Francisco, so much as to make it impracticable to establish a stone dock. I do not say it is so; but I say it is a matter which demands inquiry before we establish a stone dock, or before we establish these basins and railways. Besides, I regard these basins and railways as an experiment. I was one of those who voted for these floating docks. I had supposed they were an improvement. I am now much inclined to think that I may have been mistaken in relation to the matter. But I know that when I gave my first vote for one of these docks, I was told that they would take a ship-of-the-line. It was represented that they would anchor at the mouth of the Hudson river, and would be able to receive a ship-of-the-line that it might be repaired, in any weather. I did not then hear of these basins and railways. Now, it seems, you are not only to have a floating dock, but a stone dock, not so expensive, perhaps, as the ordinary stone dock, but still a stone dock which will be very expensive. I am not willing to try this experiment until it is ascertained, not only to the satisfaction of the Secretary of the Navy, but also to the satisfaction of Congress, that those which have been made will be useful. I believe that a wooden pier is sufficient; and the pier is estimated to cost only \$50,000. I understand from those who are considered competent to inform me, that a wooden pier may be copped also, in a manner which will preserve it. But if a pier is necessary at all, it is as much necessary, I am told, if you have a basin and railway, as if you do not have one. Why is it necessary? Because when these docks are anchored out for the purpose of receiving a ship, the danger is of the ship's rising unequally; that while one of the chains is stretched tight, the other may be

loose; and thus the vessel may be shaken in the operation. The use of the pier is to steady this dock when it is rising, and you will have to sink the dock under the ship, in order to raise it up, as much if you have a basin and railway as if you have none. Therefore it is not money thrown away if a pier is established first; for you will need the use of one, not only for the purpose of raising up the dock, but it may be used for the purpose of a wharf.

We are obliged to have a pier, and I am willing to build that pier. I am willing to begin the establishment of a navy-yard, and put up the buildings referred to by the Navy Department, and vote the money necessary for that object; but I am not willing to go further till we have more information on the subject.

I believe that it is best that this establishment should be proceeded with gradually. I am, therefore, willing to vote for the bill, if amended in the manner proposed by the Senator from Pennsylvania, if he will strike out his provision in relation to the marine barracks, and add at the end this proviso, which is designed to make the bill conform for the present to such objects as I understand are deemed necessary by the Navy Department:

*Provided, however, That the buildings, "fixtures," improvements, and pier shall be constructed on such a plan as, with the exception of the money paid for the ground, shall not exceed \$500,000.*

My object is to cause the work to conform to the plan not to give them the permission to make an establishment on any scale they may fancy—not to leave it discretionary. This would leave it open to future additions, as the necessity for these additions develops itself. As we find, if we should find, that this basin and railway are an improvement; and if we find that it would be better to establish a stone dock, we can add that at some time hereafter.

But, for the present, when we consider how expensive it would be to erect any of these buildings in California, and how necessary it is for us to tread with caution in relation to any of these establishments—I say when we consider all these things, I think the prudent course would be to confine the Secretary to such an establishment as would bring the expenses within the sum of \$500,000; which, mark you, sir, is above the estimate that I have read, which is only \$406,000, and which is also inclusive of the sum necessary for the purchase of the site.

If the Senator from California will accept this, I am willing to vote for it—I believe they ought to have a navy-yard; and I believe that the work should, so far, be commenced.

Mr. GWIN. I must say a few words in reply to the remarks of the Senator from Virginia, for I look upon the amendment he proposes as fatal to the bill. I therefore deem it proper to say a few words, though I did not intend to take any part in this debate, giving the reasons why I think the amendment objectionable. I must say I have cause to complain of the course which the Senator from Virginia [Mr. HUNTER] has pursued in regard to this bill. I was in favor of the course he has to-day recommended to be pursued when I first introduced the bill; that is, that we should pass a law authorizing the establishment of this navy-yard, and without making any specific appropriation until an examination was made, and the estimates sent in by the proper officers, of the probable cost of the work. The Senator from Virginia opposed the bill in that form, and at his suggestion the Naval Committee altered it and ordered the appropriation.

Mr. HUNTER. If the Senator from California will allow me, I will say that I think he is entirely mistaken. I opposed it because no appropriation was included in the bill.

Mr. GWIN. I introduced this bill, and no appropriation was specified because the committee intended to ask for it in the naval appropriation bill. We wanted a board of officers to go and make an examination and send in their estimates before the appropriation was made. The Senator from Virginia then objected because there was no appropriation specified. And he now objects because there is an appropriation asked for in the bill upon his own suggestion; for the Committee on Naval Affairs wished to encounter no opposition upon immaterial points, when, by immaterial amendments, the success of the bill was not endan-

gered. Now, the only person who raised the objection to the original bill, objects to it in its present form when it was thus amended to meet his views. He gets up and reads a report about the price of lumber and other articles two years ago, when everybody knows that the price of many building materials was then ten times as great as they are at present. I have seen lumber sold for \$800 per thousand feet, and in a few months thereafter it was sold for less than \$100; and everything is falling there at this very time. The argument of the Senator from Virginia is, that because it costs money to create defenses in California, therefore we must make everything temporary to save money. It must be known to the Senate that there is not, at this moment, one gun mounted on the waters of the bay of San Francisco; and any respectable naval power at war with the United States, with a fleet superior to the small naval force we have there, can take possession of the bay of San Francisco, and starve out the whole country. We have no defenses at all; and when I introduce a bill to commence these defenses, objections are raised on the ground that public works there are expensive.

I know it will cost a great deal to make these defenses, and I am in favor of economizing the public money to the fullest extent. But I put this question to the Senate and country: Are our possessions on the Pacific coast worth preserving? If they are, you must not postpone proper defenses, and thus tempt foreign powers to attack us, nor estimate too closely the amount that these defenses will cost.

In regard to the proposition to limit the appropriation to the sum of \$500,000, if it is adopted it will cut off the navy-yard entirely. I do not hesitate to say, and the future will prove I am right, that no person of respectable judgment, after a full examination of the location selected for a navy-yard and dock, will ever propose to build a pier of any other material than stone. We have had ample experience of that in the case of the pier at Pensacola, which has already cost upwards of \$400,000, and but little more than half finished; and the limitation of the sum in this case, makes the act a dead letter, either as to the pier or navy-yard.

The gentleman from Virginia speaks about the rise and fall of the tide. I should like to know where the tide does not rise and fall. At San Francisco it is only eight feet—very little more than it is at New York. Again, as to the difficulty of which the Senator speaks in regard to location: There is no ground for such an objection, for we have a dozen locations. It is not a question of depth of water at all. We have locations with fifty, a hundred feet—even two hundred feet of water. We have plenty of water everywhere, and the only difficulty is to select the best location, other things being equal. I again repeat, that the limitation proposed by the Senator from Virginia, will defeat the whole measure. We had a similar limitation in regard to our custom-house, and we have not been able to proceed with the building with that degree of dispatch which the public interest requires; and we shall have to ask for another appropriation to complete it.

Mr. HALE. It has been my fortune to know something about these docks, and I wish to say a word or two with regard to the question now before the Senate. I recollect very well that I voted for these docks, with the Senator from Virginia, [Mr. HUNTER,] some eight or nine years ago, when we were members of the House of Representatives. I was then impressed with the opinion that it was a matter of economy to the Government to build them; but I confess my convictions were somewhat shaken by the remarks and the facts addressed to the consideration of the Senate the other day by the honorable Senator from Pennsylvania, [Mr. BRODHEAD,] I have since that time given some attention to the subject, and have examined the facts as they exist, and I think I may possibly be able to explain the apparent discrepancies which seemed to exist between the estimates which that Senator stated the memorialists proposed to build the docks for, and the amounts they actually received. The honorable Senator read from a memorial addressed to the Senate some seven or eight years ago, by Gilbert and Dakin, in which he makes the estimate for which they proposed to build the docks, basins, and railways, something like half what they

actually received. I will not attempt to state minutely the exact sums, but it is sufficient to state that the sum which the Senator says they agreed to build them for was about half what they did receive. I think it will be seen, by a reference to these memorials, that they relate to the area, to wit: of those at Norfolk, Virginia, and Charlestown, Massachusetts. It will be found, by a reference to the documents, that the length of these two docks was exactly two hundred and ten feet, and the width sixty-feet, making an area of twelve thousand six hundred feet; and it was upon that basis that the proposition of the memorialists was made. They proposed to construct docks of those dimensions.

Since the adoption of the steam-marine, it has been found that these docks are not capacious enough, and are not competent to take in these large vessels; and the Government, in making a contract with these persons, instead of contracting for docks having an area of 12,600 feet, ordered them to be made 350 feet in length, by 90 feet in width, making an area of 31,500 feet. Thus, it makes the docks which the Government actually contracted for by law, equal to twice and a half the capacity of those which the memorialists proposed to build. I think this will sufficiently explain the increased price over the sum estimated for in the memorial.

Let it be borne in mind, that the area of the docks first built at Norfolk and Charlestown, was 12,600 feet, while those at Philadelphia and Kittery have an area of 31,500 feet; so that those now built are nearly three times as large as the original docks. So much for the apparent discrepancy between the estimates of the memorialists, and the price which they actually received.

Then there is another fact. I think that gentlemen somewhat misunderstand the capacity of these docks and their usefulness. We have not a single place on the Pacific coast for docking vessels. If one of these floating docks were built with a pier, that pier would add nothing to the capacity of the dock. It will take only one vessel at a time. Now, if your vessel is in need of repairs, when on the Pacific, it has to come eighteen thousand miles before those repairs can be had, and such a vessel is certainly not in a good condition to make such a voyage; and if you have a dock on the Pacific, by which you can only repair one vessel at a time, it must be admitted that it will be of very little practical benefit. Now, the advantage of a basin and railway in connection with a floating dock is, that when you have once built a dock and basin, you can multiply its facilities indefinitely. You can build a railway outside a basin for \$20,000, and these can be multiplied, so as to give you facilities for repairs to an indefinite extent. These railways may be extended for half a mile or a mile; or, as these basins are constructed, there may be five railways on each side of such basin, and two near the shore end; making the basin furnish a capacity for taking out and docking twelve ships, at least. If your railway is extended, the ship fast upon it, and nearest the water, must come off first. However, if you only have one ship at a time on each railway, you can still have twelve ships undergoing repair at the same time—that is, with the capacity of such a dock as that at Kittery, or Philadelphia, or Pensacola; whereas, if you have but a dock and a pier, you can have but one vessel undergoing repair at once.

I think the Senator from Virginia [Mr. HUNTER] is mistaken in one part of his assumption—that is, that if a pier is built it will constitute a part of a basin and railway. It never can do so. The basin will have a wharf next the sea, and it will answer for the width of a pier by which the dock may be moved; but a pier made by itself never can be made practicable as a part of a basin in which vessels are to be put.

Now, let me say one word in regard to the practicability of building wooden piers in these waters. I believe it is conceded that if they are built of wood, they must be coppered. Now, do gentlemen know how long the coppering on a vessel will last? Do they know how long it will stand the corrosive action of the waves? I believe that six years is the extent of time. Gentlemen will correct me, if I am mistaken. You copper your vessel, and you put her to sea; and under the ordinary navigation of a vessel one well-coppered and copper-fastened will have its copper worn out in

six years. That, I believe, is an established fact. If I am not correct, I will thank any one more conversant with the matter than I am to correct me; but I am told that the copper will not wear more than six years, so that if you build your pier, and copper it, you will have substantially to rebuild it every six years. I understand that it has been tried in Florida, and that the Government abandoned the idea of building wooden piers, and are now building stone piers. Now, if it is to be built, if the structure must be of stone, and if it is not practicable to build it of wood, and copper it so as to make it last more than six years, it seems to me that it had better be done with the material already contracted for.

These are matters of practical importance that are placed before the country. But I think there is something due to the honor of the Government, and the question is, "Whether the Government ever made a contract with these individuals or not."

I find in the appropriation bill, passed in 1851, this provision:

"That the Secretary of the Navy is required to modify the contract alleged to have been made on the 17th of January last."

The Secretary of the Navy is required to modify a contract! How can the Secretary of the Navy, or anybody else, modify a contract, unless the other party consent?

If the Government admit that they have made a contract, it is folly for them to talk of modifying it when it is made. It takes two parties to make a contract, and it takes just as many to modify it! The Government may rest on its arbitrary power, and refuse to comply with the contract, but it can claim no right to alter any of the terms.

But some gentlemen speak as though the Government was not legally bound, inasmuch as the contract was not signed. They say that although the terms were duly accepted, yet the Government is not bound because no contract was legally entered into. Now, I say that, in that view of the subject, the Government can never make a legal contract, because they cannot enter into a covenant to which legal considerations attach, and because it is impossible to attach any legal liability to the acts of the sovereign power.

It would be impossible for individuals to claim a similar exemption, because the statute of frauds comes in and says, that "two individuals cannot enter into such a contract without it is reduced to writing." But neither the statute of frauds, nor the statute of limitations applies to the sovereign power, and in that sense, the Government can never make a contract with another party by mutual obligations, because the Government cannot make any contract, to the infraction of which a legal remedy will attach.

Then, so far as the Government is concerned, the contract was as fully made when the proposals were acceded to, as if the contract had been committed to writing. If Senators will look into the clause of the appropriation bill relating to the contract, they will find that Congress did not undertake to do so mean a thing as to direct the Secretary of the Navy to depart from the terms of a contract already made. The language is this:

"Provided, That the Secretary of the Navy be required to modify the contract alleged to have been made on the 17th of January last, so as to confine the sum to the construction of a floating dock alone, without a basin and railway."

Thus, the Secretary of the Navy was required to apply the sum of \$150,000, then appropriated, to the construction of a dock, leaving the basin and railway to be provided for afterwards. In other words, it was the expression of the sense of Congress, that they wanted a dock built first; and that they required the money then appropriated to be applied to the building of a dock alone. They went on, therefore, to repeal so much of the law as authorized the construction of a basin and railway. What was the meaning of that? There was a difference of opinion in Congress about this matter. Some said there was a contract. The Secretary of the Navy thought so, and some gentleman said no; there was no contract. Congress said, by this act, we will not examine; but to leave it all right, we will apply the money which we appropriate to-day, and leave the building of the basin and railway open. If there is not a contract made, we will not confer authority to make one. What is the whole of the matter and the fair import of the proviso? There was nothing



in the proviso from which anybody could infer that Congress would do so dishonorable an act as to refuse to comply with the contract which they had ordered to be made. So that, in my opinion, that contract is binding upon the Government by every obligation which can rest upon it. A legal obligation, it is true, cannot rest upon it; but an honorable one can, and always does.

On a former occasion, the honorable Senator from South Carolina [Mr. RHETT] said, with great pertinency, that if a merchant were to enter into such a stipulation as the Government had entered into, and refused to perform it because it could not be written, he would be disgraced on 'Change, and he, the Senator from South Carolina, would be unwilling to place the Government in a position in which he would not place a merchant and a gentleman; and I hope that none of us would be willing to do so. Now, if that be the case, this Government is bound by law and by contract, and by every honorable obligation which can bind honorable minds, to fulfill those contracts which our officers, under laws of our passing, have entered into with these gentlemen. Nor, sir, can it be said that the Government of the United States has made an improvident bargain; for this matter was all submitted to the bureau of docks and yards; and Commodore Smith, after calling all the aids he could, and the aid of all the officers to which it properly belonged, submitted a letter to the Secretary of the Navy, in which he estimates the cost of this work, if built by the Government, at \$1,883,619, and then gives the contract price made with these individuals at \$1,455,000; and it is the opinion of the bureau of docks and yards, that by the agreement made with these gentlemen, there has been an actual saving to the Government of \$428,000, over and above what it would have cost the Government if they had built it by their own means. This is found in a letter addressed by Commodore Smith to the Secretary of the Navy, on the 14th of October, 1850. If these documents are correct, here is a law proposing to build a basin, dock, or railway in California, and a contract entered into by the Secretary of the Navy under that law with these gentlemen for building, and that law should be executed so far as anything remained for the Government to do, by entering into this contract, and by the opinion of the officer whose duty it was to superintend this matter, and who took great pains to ascertain the cost, and fully inform himself, we learn that this contract was actually made with a saving to the Government of nearly \$500,000. Now, why should not this thing go on? It is said that it has not been tested. I have taken some pains to look into that. It has been said that the dock at Philadelphia has not been tested; but I find, by the opinion of the Attorney General, that the contractors had complied with everything they had pledged themselves to do; and that if there had been any delay in testing the work, that delay was at the door of the Government—that the Government had been negligent, and not the contractors; and upon that opinion of Mr. Crittenden, the balance of twenty per cent, which was to be retained till the testing of the dock, has been actually paid over to them.

Then, sir, there is another reason: in the report of the Naval Committee, which was submitted in this House of Representatives, they speak in this wise of the utility and practicability of these docks.

I will read from the report of the Naval Committee, made in 1848, prior to the passage of this law. In that report it is stated:

"It is worthy of remark, that the whole body of practical shipwrights and ship-builders, without a single exception, in the cities of Philadelphia and New York, (in the latter of which, the new plan has been in use for many years, and still is, for the largest ships,) have united in memorializing Congress, in favor of it, declaring that, in their opinion, it is in all respects superior to any other mode whatever."

And, sir, though these specific docks that the Government contracted for have not been tested, other docks constructed on the same principle have been tested, and the steam-ship "Baltic," a vessel larger than the "Pennsylvania," has been actually docked in one of them in the harbor of New York. So that, excepting so far as these particular docks belonging to the Government are concerned, it is not an untried experiment; and, if the report of the Attorney General is true, the blame of not having tested these docks attaches to the Government alone, and not to the contractors—the fault lies not at their door, but at the door of the Government.

Now, shall the Government take advantage of its own wrong? Shall Government, for any reason, refuse to perform anything that is honorably binding on it?

Sir, it is my decided conviction, from the best examination that I have been able to give the subject, that, as a matter of expediency and propriety, we ought to proceed with the work; that, as a matter due to California, we ought to proceed and give them some means of repairing their merchant marine and the national vessels sent there. So far as is necessary for an experiment, we have all the light that is necessary, and for this reason, I am in favor of going on with the dock. I am for redeeming the faith of the Government, expressed to the contractors, and implied to the people of California, that they should have the same facilities, so far as they can be extended, of fortifying their coast, and repairing their merchant marine, which are extended to the inhabitants of the Atlantic coast. I see no other practicable mode but to go on and redeem the faith pledged to the contractors, and by completing the contract, according to that section of the law providing for it. For these reasons I will vote against any amendment to the bill.

Mr. HUNTER. Mr. President, the Senator from California says that he has some cause to complain of the mode in which I have opposed this bill—that I opposed it when it was first introduced, because there was no appropriation in it, and now oppose it because there is an appropriation in it and no estimates. Why, the Senator from California totally mistakes my course in relation to this matter. When he first called up the bill, on hearing it read, it struck me at once that there was no appropriation limiting the power of the President. I got up and objected to that, and said I should move to strike out the second section, giving authority to make these establishments, because I thought it gave authority to the Executive to run us indefinitely into debt. I was unwilling, without limitations, to vote for the establishment of a navy-yard. I did not say that there should be no other limitation than one contained in an appropriation of money. The Senator has had the bill amended, and proposes to add an appropriation; but that he has not gone far enough in the estimation of the two Houses of Congress, I have shown by a reference to a statute. I could have referred to another statute of the same sort, if necessary. These statutes show clearly that it was the sense of Congress that there should be specific plans and estimates accompanying all these projects for the establishment of public buildings. I am now willing to make a commencement; I am willing to give what is necessary to start with; but I want to feel my way as I proceed; I want to know what it is in which we are embarking the Government.

I do not object to giving California the necessary establishments because they are expensive. I admit we must do it. But I say we must beware how we go beyond what is necessary, because a mistake there would lead us into far more serious consequences than a mistake would elsewhere, where prices are lower. That is what I say.

The Senator says that everything I propose for California is temporary. Not at all. As far as we go, I propose to have permanent fixtures and permanent buildings—such buildings as will always be necessary, and leave it open for us how fast and how far we shall make additions to these hereafter. Why, I read an estimate for a foundry. Is that a temporary building? Is it not a necessary and a permanent one? I read estimates for a machine shop, a blacksmiths' shop, a boiler shop, an engine house, a carpenters' shop, a storehouse, and machinery, and tools, and freight for the same. I also read an estimate for a wharf or pier, which, I understand, will be sufficient to enable them to work the floating dock. All of these are necessary and permanent buildings, which would have to be established under any bill. The only difference between my scheme and that of the Senator from California is, that I propose to establish these now, and wait to give authority to others hereafter. I know that hereafter we shall have to provide for other establishments, such as an hospital and a marine barracks; but I wish to proceed by degrees, to make our contracts as they are necessary, and to take the chances that prices may fall in that country.

The Senator seems to think that I made an objection that there could be no dock near San Francisco, because the tide rose and fell. Not at all. I know that that is no objection, for the tide rises and falls wherever there are stone docks; and I know that it produces alternations in the depth of the water of short duration. What I spoke of was quite another thing. I say, that we do not know, and cannot know, without a survey, and a careful survey, of the spot which may be selected, its adaptation for the purpose. I do not know where it will be selected. What I referred to was, whether the accumulation of fresh waters in the rivers may not produce, owing to the damming up of those fresh waters by the tides, long periods when there is a very great difference between high and low water. I was informed that, if such should be the case, any such location would be unfit for a basin of any sort. I know that there are situations in California which can be subject to no such objection; but I say that, before we proceed to establish it, or to authorize the establishment of anything so expensive, we ought to know that a proper location is proposed—one free of all danger of this kind.

Nor did I say that a pier was a necessary part of the basin. I said that I had been informed a pier would be necessary whether you had a basin or not, to steady the dock as it was rising with the ship; and that that was the process we should have to go through, no matter whether we had a basin or not. The ship must be raised before it can be carried into the basin. I do not state this from my own knowledge, for I have no practical knowledge on such subjects; but I derive the information from those on whom I have a right to rely, and I think that the statement appears to carry reason with it. It must be so.

Mr. BADGER. I would suggest to the Senator that the basin and railway of which he speaks include a pier. One of the sides is projected out, say one hundred and fifty feet, so as to answer the purpose of a pier extending into the deep water, for the purpose of protecting the dock which lies there to receive the ship, in order to be raised and moved within the basin.

Mr. HUNTER. If the basin includes a pier, it strengthens the view I have taken, that we can risk nothing by making a pier at first, because it will be necessary in any event. I have given one reason why it is necessary—because it is required to steady the dock as it rises with the ship. The Senator from North Carolina gives another reason why we run no risk in making it—because it is a necessary part of the basin.

Mr. BADGER. Although the basin and railway include the pier, yet the pier which the Senator proposes to construct as an independent one will not be adapted to the basin, and cannot be used with it.

Mr. HUNTER. I am informed otherwise. At any rate, we know that the estimate for the pier is about \$50,000; and we run no risk in trying this. I have given a very sufficient reason, I think, to show that the pier will be necessary, in any event, whether it forms a part of the basin or not. It will be necessary to steady the dock as it rises with the ship. I am willing to go just so far as may be necessary to enable us to use the dock—to enable us to commence the establishment of a navy-yard; and proceed hereafter step by step, as the necessity of the case may develop the propriety of such action. This is what I am in favor of.

Something has been said in relation to a contract. I presume that the Secretary of the Navy has examined that matter. I confess that I have given no very particular attention to it. I had presumed that an authority was originally given to contract for more than the dock; and that before the contract was consummated and made, the authority was revoked, and that the Secretary, acting under this revocation of power, contracted for less than what was originally proposed he should contract for. That, I had presumed, was the case. But I do not profess to have examined the papers attentively, and I do not speak with certainty. At any rate, if I was led into the error, I was led to it in part, by the bill itself. What does the bill propose to do? It establishes the basin and railway as soon as "it shall have been ascertained to the satisfaction of the Secretary of the Navy, that 'the basin and railway now being constructed at Philadelphia, or Kittery, are in full and successful operation.'" Why, if this is a positive obli-

gation, we have no right to provide for this on a contingency.

Mr. BADGER. I wish to say to my friend, that it was a part of the contract, as the Secretary reported to us, that the basin and railway were not to be constructed, unless he should be satisfied, by experiment, that it could be carried into full and successful operation. The contract was conditional on that.

Mr. HUNTER. What right had he to impose such a condition, if the original law made it imperative on him to contract for a basin and railway? What right had he to impose conditions other than the law presented? If he had discretion in relation to this contract, he had full discretion; and, in the exercise of that discretion, when the power was revoked, he determined to contract for nothing but the dock.

Now, why not proceed by degrees? Let us establish this pier. Let us, then, further experiment, and see whether the basin and railway will be necessary. If we should find that they were necessary, I should be willing to vote for them, but not until then. But I am not willing to leave this matter—and I mean no disparagement to the Secretary of the Navy—solely to his discretion. I wish it to be left also to the discretion of Congress, and when they are convinced that it has been successfully tried, and that it is necessary to establish it, then I have no doubt they will do so. I hope that that portion of it will be postponed until that time. My object in proposing the limitation of \$500,000 was not to prevent an extension of this establishment hereafter, but to require them to proceed by degrees, according to estimates; not to erect temporary buildings, but to erect only a portion of the permanent buildings, and such portion as might be necessary to establish the navy yard and commerce operations successfully. Who will say, that with these buildings, with the dock which is already provided for, and which is soon to go round to San Francisco, with the pier which I propose, they will not be able to repair ships of any size in California—that is to say, if the dock will take them? I have no doubt—at least, I have not much doubt—but that it will; and if there be any inability to repair ships there, it will arise, not out of the want of workshops, if my proposition should pass, but from the incapacity of the dock to raise and sustain them.

Mr. GWIN. When this bill first came before the Senate, the Senator from Virginia objected because it contained no appropriation. In order to waive that objection, an appropriation was introduced into it. It had been omitted because, as I stated before, it could have been added to the naval appropriation bill, when it should be brought up for consideration. I brought the Senator's objection to the notice of the Naval Committee, and, that the bill might pass with as little opposition as possible, and at my suggestion, originating with the Senator himself, the amendment adding the appropriation was agreed to. The Senator says if this appropriation had not been put in the bill, when it became a law, under it the President of the United States would have had unlimited power to make contracts for any amount he pleased. The Senator is altogether mistaken. Unless there be an appropriation he has no right to make any contract, and would not dare to do it; nor will any Executive officer of this Government make a contract to carry out a law when no appropriation is made for the purpose of carrying that law into effect. Notwithstanding this undoubted fact, established by law for more than thirty years, yet to avoid the opposition of the Senator from Virginia, the appropriation was inserted in the bill, before the estimates, which the committee intended to wait for, could be prepared by the board of officers to be sent out to California. It was originally intended to do the very thing which he now proposes in the naval appropriation bill; but in order to conciliate him—for I know that his opposition to this or any other measure is not to be disregarded—we have put that in the bill, upon which he now bases his objections to its passage. Originally, he said he wanted a limitation by an appropriation, because the President would have unlimited power to make contracts under the law if we should put in no appropriation. But the Senator is mistaken. The President has no power to make a contract, "except under a law authorizing the same, or under an appropriation adequate to its fulfillment," (act

1st May, 1820, section 6.) There is no authority given in this bill to contract for any of the materials for the navy-yard.

A word in answer to what the Senator says of the rivers that run into the bay of San Francisco. I happen to know something about them. Here is a map of the bay of San Francisco, [holding it up and exhibiting it.] That bay is forty miles long, from where those rivers enter it, to the ocean. Here are Sausalito Raccoon Straits; Angel Island; Aspinwall Bay; the Straits of Carquinas, and many other points, besides Mare Island. They all afford bold soundings—some one hundred feet—more water than is required for any description of dock. There is no danger of filling up. The difficulty is not to get a good location, but to select between a number of good ones. There is no possibility of filling up the channel at any one of these points. In some places there is water to the depth of two hundred, or more, feet.

The Senator insists upon a wooden pier—a temporary one. Why, nobody believes that when the dock goes there, there will not be a temporary pier made, so as to work it to some extent immediately. I never thought otherwise—I never contended otherwise. What kind of a temporary pier will be erected there? Why, a crib of logs will be sunk at a proper place, and filled with concrete and stone, so as to answer for a temporary pier at the least possible cost. When the logs are worm eaten, the stone and concrete will make a pier. But when you are to build a pier to last for a thousand years, (and such a work ought to be durable for the purposes of the Government,) a wooden pier will not answer. It must be a stone pier. But it is said the dock will be built of wood. Yes; but you can repair it easily. One section can be repaired while other sections are in working order; and it can be preserved from year to year by repair.

I will not detain the Senate longer. The Senator has brought forward estimates here; and how did he get them? Has the Secretary of the Navy sent them here? The Senator admits that they are but guesses; and I think I am as good at guessing as the Secretary of the Navy, and his heads of bureaus. I know as much about that country, and I say that these estimates are mere guess-work. I know very well that estimates will be made before any contract will be entered into, because a naval board of officers has gone out there for the purpose.

The Senator says he does not want a marine barracks in California. Now, does it not seem ridiculous that we should have no station for marines on the Pacific coast?—no place where a corps of marines can be quartered; if an occasion should arise which would render it necessary to concentrate our forces on the Pacific coast? There we have a coast of nearly two thousand miles in extent, and not a single marine barracks. It is to the sea that we are to guard against our enemies. The Senator wishes us to get things little by little—to be passing laws for the same object time and again for California. I am for a general law. I do not see the necessity of coming to Congress session after session to get special laws passed, when a general law ought to be passed at once.

Mr. CLARKE. The day is now so far spent, that I think we shall hardly be able to get through with this subject to-day. I desire to address some few remarks to the Senate upon this bill, but it is so late that it will be hardly possible for me to proceed now, so as to gain the attention of the Senate.

Mr. BADGER. To accommodate my friend from Rhode Island, I move to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

CARMELITE NUNNERY OF BALTIMORE.

Mr. COOPER. At the request of several gentlemen who were absent, but who desire to vote upon the bill, which was rejected on Friday, for the benefit of the Carmelite Nunnery of Baltimore, I move a reconsideration of the vote rejecting it.

Mr. BORLAND. I suppose the motion to reconsider opens the consideration of the bill itself.

The PRESIDENT. The motion is to reconsider the vote, by which the bill was rejected.

Mr. BORLAND. Before the question is taken, I wish that the memorial upon which the bill is founded, may be read to the Senate.

Mr. HUNTER. I suppose it is not desired, that the vote shall now be taken on the motion to reconsider, but that it will lie over until Friday.

Mr. COOPER. I simply wished to make the motion within the necessary time. I have no disposition to press it now.

The PRESIDENT. The motion will be recorded.

Mr. BORLAND. If the motion lies over, I have nothing to say now.

GOLD AND SILVER COINAGE.

Mr. HUNTER. I would be glad if the Senate would take up the bill, "amendatory of the existing laws relating to the dollar, dime, and half dime." I believe there is no objection to it. We can pass it this evening.

It was read a second time, and considered as in Committee of the Whole.

It provides that from and after June 1st, 1852, the weight of the half dollar piece shall be one hundred and ninety-two grains, and the quarter dollar, dime, and half dime shall be, respectively, one half, one fifth, and one tenth of the weight of the half dollar; that the silver coins issued in conformity with this act shall be legal tenders in payment for all sums not exceeding five dollars; that, in order to procure bullion for the requisite coinage of sub-divisions of the dollar, the treasurer of the mint shall, with the approval of the director, purchase bullion with the bullion fund of the mint; that these coins shall be paid out at the mint in exchange for gold coins in sums not less than \$100; that the amount of half dollars, quarter dollars, dimes, and half dimes to be coined, shall be regulated by the Secretary of the Treasury, and that no deposits shall be received hereafter for coinage other than those made by the treasurer of the mint on account of the United States. The bill further provides, that, at the option of the depositor, gold or silver may be cast into bars or ingots of pure or standard fineness, as the owner may prefer, with a stamp on it, designating its weight and fineness; the bars or ingots to be either one, two, three, five, or ten ounces in weight; but in cases where gold or silver is cast into ingots, there shall be charged to the depositor, in addition to the charge now made, for refining and parting, one half of one per cent. The bill also provides, that from time to time there shall be coined at the United States Mint and its branches, a gold piece of the value of three dollars, and that all the provisions of an act approved March 3, 1849, "to authorize the coinage of gold dollars and double eagles," shall be applied to the coin herein authorized, so far as they may be applicable, but the devices and shape of the three dollar piece shall be fixed by the Secretary of the Treasury. This act is to be in force from and after—

Mr. HUNTER. I move to fill the blank with "the first day of May next."

The amendment was agreed to.

The bill was reported to the Senate as amended; the amendment was concurred in, and the bill was ordered to be engrossed for a third reading.

COMPENSATION OF DISTRICT JUDGES.

Mr. HALE. I move to postpone all prior orders, for the purpose of taking up Senate bill No. 52, which was reported from the Committee on the Judiciary—being a bill increasing the salary of the district judge of the United States for the district of New Hampshire. I will state a single reason why it should be taken up. There have been applications presented here from New York and Massachusetts, praying that the district judges of Vermont and New Hampshire might be liable to perform duties in those States. A bill to that effect has passed, and become a law. The salary of the district judge of New Hampshire is \$1,000—the smallest upon the whole calendar of the thirty-one States. You have passed a law extending his jurisdiction to the adjoining States; and I think the least you can do is to give him a comfortable support. The Judiciary Committee unanimously recommend an increase to \$1,600 per annum. I hope the Senate will take up the bill and pass it.

Mr. DAWSON. I would say to the Senator from New Hampshire, that there are various propositions of that kind, and that it would be better to put them all in the same bill, and pass them together.

Mr. HALE. Oh, no; they are different bills.

Mr. DAWSON. Then I shall oppose this. I would prefer to have them all together.

The motion to take up the bill was agreed to,

and the Senate proceeded to consider it as in Committee of the Whole.

It enacts that there be paid to the district judge of the United States for the district of New Hampshire an annual salary of \$1,600, instead of the salary now established by law. It was reported from the Committee on the Judiciary, with an amendment to strike out the words, "instead of the salary now established by law," and insert, "to be paid out of the Treasury of the United States, in quarterly payments."

The amendment was agreed to.

Mr. HALE. Let me state very briefly to the Senate, a few reasons why this bill should pass, and then let me entreat those who are friendly to it, not to kill it with amendments. I will endeavor to do justice to everybody else. The salary of the district judge of the district of New Hampshire is \$1,000. By the law of the United States he is debarred from practising in any other court. Of course you expect a lawyer and a gentleman to fill that office. The bar of the State have repeatedly, for a great number of years, memorialized Congress, stating the entire insufficiency of the salary, and praying Congress to increase it. A year or two since an application was made from the western district of Virginia—and I crave the ear of the Senator from Virginia—to raise the salary of the district judge of that district from \$1,600—the sum to which it is now proposed to raise that of the district judge of the district of New Hampshire—to \$2,500. The committee reported favorably upon it, and the bill was brought up for consideration. I was proposing to make an amendment to increase the salary of the district judge of New Hampshire; but the Senator from Virginia [Mr. MASON] entreated me not to embarrass his bill by it, because the consequence might be to defeat the bill, and said that when this came up it should be treated fairly. I refrained to offer my amendment, because I thought that that salary ought to be raised, and I did not want to embarrass it by any other question, and his bill passed the Senate. Now, if the Senate think that the salary of the district judge of New Hampshire is entirely inadequate, particularly under the operation of a law which you have just signed, by which his judicial duties are extended to Massachusetts and New York, and anywhere else in the adjoining States—for when the business on the docket requires it, the judge, by law, is liable to be called into any of these States—I ask them to pass this bill. I ask every Senator if \$1,000 is an adequate sum to be paid for such a gentleman as ought to fill that station, his jurisdiction extending to Massachusetts and New York? If, then, Senators think that it is entirely inadequate, I do beg them, by every consideration of justice, that they will pass it, and not embarrass it with amendments of other bills which may be equally meritorious. When those bills come up we will do justice to them. I ask for justice to my judge.

Mr. SHIELDS. I certainly think that a salary of \$1,000 is insufficient for a judge, and shall vote most cheerfully for the gentleman's bill. But there have been bills reported to increase the salaries of other judges. In my State, I believe, the salary of the United States judge is \$1,500, and that amount is not considered at all adequate as a salary. The committee reported in favor of increasing it to \$2,000, and I apprehend that \$2,000 there is about equal to \$1,600 in New Hampshire; that is, a man is not better paid there at \$2,000, than he is in New Hampshire by receiving \$1,500 or \$1,600. I have no wish whatever to embarrass this bill; but my impression is that the object is a legitimate one, and that it would be better to include the cases of all the judges in one bill. Now, I know that in my State a salary of \$2,000, considering the duties which a judge has to perform, and the expenses of living, is by no means unreasonable; on the contrary, that it is nothing more than an adequate salary; and without any wish to embarrass the bill, as the committee has already reported on this, I believe, two sessions ago, I will move an amendment that the district judge of the district of Illinois be included, that his salary be increased to \$2,000.

Mr. CLARKE. In this consideration of the salaries of district judges throughout the country, it appears to me as though the Judiciary Committee had better provide for the salaries of the several district judges, instead of confining it to

one. I do not mean to throw any obstruction in the way of the bill of the Senator from New Hampshire, and I should not desire to propose an amendment to the bill, unless the proposition made by the Senator from Illinois should be adopted. A petition was presented to this body, and referred to the Committee on the Judiciary, asking for an increase in the salary of the district judge of the district of Rhode Island; and every reason which has been so well assigned by the Senators from New Hampshire and Illinois for an increase in the salaries of the judges in their districts, as strongly applies to an increase of the salary of the district judge of Rhode Island. It is hardly necessary for me to say that in that judicial district there is a great amount of maritime business, which necessarily comes before the judge of the district. And I may also be permitted to say, that a great deal of the business of the circuit court of the United States for that district falls on the district judge exclusively. He has, besides sitting with the circuit judge, to do at least one half of the business of the circuit court, without the assistance of the circuit judge of the United States. His business, as district judge, is very large. The salary now paid him is \$1,500. Within the last few years he has been obliged to go to New York, and hold a district court there. He also had to go to Boston during the absence of Judge Sprague, and hold a court there. His expenses have been necessarily very much increased; and that officer is absolutely now living upon a pittance of \$1,500 a year, which is less than the chief justice of the supreme court of the State gets. Under these circumstances, if an amendment is to be made to this bill, though I do not wish to interfere with my friend from New Hampshire, I beg leave to ask that it may be amended so as to give to the district judge of the district of Rhode Island \$2,000 a year, instead of \$1,500, which he now receives. The salary of \$1,500 was fixed some ten or fifteen years ago. Since that time his business has increased, probably more than double, and his expenses of living, as we all know, have very much increased. I have one thing more to say; notwithstanding he is a prudent man, I am sorry to say that after all the salary he has received from the United States, he is, not absolutely, perhaps, destitute of property, but he has very little. Under these circumstances, if the amendment proposed by my friend from Illinois be added to the bill, I shall ask that it may be amended so that the salary of the district judge of Rhode Island will be increased to \$2,000.

Mr. RHETT. If the amendment of the honorable Senator from Illinois, and the amendment of the honorable Senator from Rhode Island, are to be brought forward, I shall be compelled to bring forward one of my own; and I presume every Senator on this floor, who knows that the judiciary of the United States in his State are not properly paid, will feel bound also, on this occasion, to bring forward various propositions for additional compensation. But in this case it seems to me that the Senate must be driven to one of the two alternatives. Let us legislate on each particular case, as on that which the Senator from New Hampshire has up, or let us have a general bill reported from the Committee on the Judiciary. For my part, I am perfectly satisfied that our judges are the worst paid men, in proportion to their character, age, and learning, that there are on the continent; and, consequently, I am prepared to vote for a general bill that will cover additional compensation for the United States judges from one end of the Union to the other. I say now to the Senate, let us make up our minds to do one of two things. Take up these bills separately, and consider and vote on each separately; or let us determine to have a general bill, and vote upon all the cases according to the report of the committee and the merits of each. I prefer a general bill, I must confess; but at the same time I say that, as the case brought forward by the Senator from New Hampshire is under consideration, I shall not myself offer any amendment unless others do. I was prepared directly to vote it through, and I am now prepared to vote for the bill before the Senate. I think it just and proper; and I do not think that it is exactly right in principle to postpone justice in one case, because injustice is done to others, with the hope that you may afterwards do justice aggregately. On that

ground, I shall vote for the bill of the Senator from New Hampshire; but I say now, that if amendments are to be offered, let us have them all round. The Senate is not full. Let the Senate be full; and let all the representatives from the different parts of the country, where the judiciary are improperly paid, come together and make a proper bill, doing justice to all.

Mr. BRADBURY. I do not rise to oppose action on this bill, but to state the fact that a very large number of applications for an increase of the salary of district judges have been referred to the Judiciary Committee. That committee now have the subject under consideration. I think that the applications embrace the cases of more than twenty judges; and I venture to say that the subject will receive the early attention of the committee. They intend, when all the cases come in, to consider the whole; and if, in their judgment necessity requires it, to report a general bill. I do not, however, state this fact with a view of opposing action on those bills which were reported before such a large number of applications came in.

Mr. SHIELDS. The observations made by the honorable Senator from South Carolina, I think are so pertinent that I shall withdraw my amendment. I do it because I think we can very safely vote for this bill as it is. Every man will admit, that \$1,000 is not an adequate compensation, and that \$1,600 is not unreasonable. So I think I may safely vote for the bill, and not to embarrass it, I withdraw my amendment.

Mr. DAVIS. At the last session, and again at this session of Congress, a memorial, signed by nearly all the bar in the county of Suffolk and city of Boston, Massachusetts, was presented, in which they represented that in their judgment the district judge of that district is very inadequately compensated. When we look at the increase of business which has grown up, and more especially that in the admiralty department of it occupying a very large portion of all the time of that learned judge, the salary which I believe is \$2,000, or \$2,500, every gentleman who knows the expenses of living in Boston, knows is entirely inadequate to a comfortable and reasonable support. The associate judges of our State supreme court have \$3,000 a year, and the chief justice \$3,500 a year; and it is a very plain matter, I apprehend, that the district judge ought to have a compensation equal to those associate judges. He is compelled to reside within the city, and to incur the expenses which are incident to a residence there, and the sum of \$2,500, I think my colleague, and every other gentleman who is acquainted with the city, will say is entirely inadequate, and that it ought to be increased.

Mr. SUMNER. It is entirely inadequate.

Mr. DOWNS. That, I believe, is the opinion of the whole bar. The memorial in this case is signed by nearly all the members of the bar. Under these circumstances, I am glad to hear from the honorable Senator from Maine [Mr. BRADBURY] that the subject is under the consideration of the Judiciary Committee. It was under the care of the honorable Senator from Georgia, [Mr. BERRIEN], who is now absent. It is not my wish to interpose any obstacle to the passage of the bill of the honorable Senator from New Hampshire. At the same time, I think there ought to be some general provision to meet the cases where it is proper there should be an increase.

Mr. HALE. I believe that there is not a single Senator but what is satisfied that this bill ought to pass; and I am exceedingly obliged to the Senator from Illinois for withdrawing his amendment. I want to state that this has been before the Committee on the Judiciary, and they have reported it. The case to which the honorable Senator from Massachusetts [Mr. DAVIS] refers, has also been before them, and they have reported upon it. The proposition to increase the salary of the judge of this District has also been before them, and they have reported upon it; and also a bill to increase the salary of the district judge for the Southern district of Florida. The committee have had these before them, and refused to conglomerate—to put them together. So far as these are concerned, they have reported them separately. And now, inasmuch as everybody believes this bill ought to pass, and as the only objection is, that there are a great many more which ought to be passed, I beg them to do right now, and it will



be considered a precedent for other bills of the same sort which may come up hereafter.

Mr. BORLAND. The Senator from New Hampshire [Mr. HALE] is, to a small extent, at any rate, mistaken, if he supposes there is no opposition to this bill. I am opposed to its passage; and, even if there were no other reason, I am opposed to it upon the very ground for which he seems specially to urge it at this time—that is, as a precedent for increasing the salaries of Federal officers.

I do not undertake to say that the gentleman who holds the office of district judge in New Hampshire may not fairly, by the devotion of his time and talents to the public service, be entitled to more than he now receives under the law. But I inquire of the Senator, [Mr. HALE,] what is the amount of salary paid to his State judges?

Mr. HALE. The chief justice of the supreme court gets \$1,400, and the associate judges get \$1,200 each; besides which, they have additional compensation for reporting their decisions.

Mr. BORLAND. Then, I suppose, if this Federal judge be, as I doubt not he is, competent to perform the duties of his office, he might be allowed the same salary as one of the State judges, but no more.

I made the inquiry, expecting to find the fact in this case as I have in others, that the salary of the State judge is less than that of the Federal judge in the same State. It turns out, however, that here the State judge receives a little more. In my own State, and in some, I believe most others, the Federal judge receives the higher salary. In my State, the salary of the United States district judge is \$2,000; whereas, the chief justice, and associate judges of the supreme court, get \$1,500, and the circuit court judges get \$1,200 each; and yet these State judges are occupied a larger portion of time, and have much more labor to perform. That they have equal learning and talents, and sustain equal responsibilities, I do not hesitate to say, without disparagement to the Federal judge; that no one will question. Not only does this Federal judge get a larger salary than any of our State judges, but larger than any one of our State officers. Our Governor gets but \$1,800.

Mr. President, I am unwilling to set up a standard for compensating Federal officers of any class, which shall assume an estimate of their services as of a higher value than the services of State officers, of the same class, in the same State. I can see no good reason for it. But I think I do see a most conclusive reason against it, in the effect such a policy has already had, and will continue to have, upon the character of our Government. It contributes to make this Federal Government the great object of admiration—the great center of attraction—to the popular eye, and to the office-seeker's heart. It tends to build up, here, a great store-house of patronage, which draws, by the richness of its contents, a horde of hungry applicants to its doors. As far as such moneyed (and we know they are moneyed) influences can accomplish such end—and who does not witness their potency and their evils every day?—they divert the currents of patriotism from their legitimate channels, and impair, by turning in the wrong direction, the feelings of attachment and respect which the citizen should be encouraged to cherish, above all other public sentiments, for the State in which he was born, or to which his allegiance may be due. Such influences I consider among the most potent and dangerous of the causes which are operating to change the form and character of our present system of Government.

From the frequency with which I have suggested the dangers of *centralism*, recently, I may seem to some to be a sort of monomaniac on the subject. I confess, sir, I am alive, sensitively alive, to what I regard as this dangerous tendency in our system of Government; for all around me there are causes, small they may be severally, but innumerable, which strike upon my every sense, and tell me in terms I can neither misunderstand nor disregard that there is danger; and that, unless it be met and resisted at every point, we shall be overcome by it. And in this proposed increase of salary to Federal officers, I care not whether they be judicial or executive, this danger presents to me an aspect so strongly characterized by its parent source, and therefore so forbidding, that I cannot hesitate a moment to raise my voice

against its admission here. Sir, it has long wielded, it is wielding now, and will continue to wield, a potent influence over the country. This bill proposes to augment, by a drop only, I admit, in this case—yet to augment an existing evil—a growing danger. I shall vote against it.

Mr. CLARKE. I intimated a short time since, a desire to make an amendment to this bill, including the district judge of Rhode Island; but after what has been said, and the extreme reasonableness and necessity of passing this bill, for which the Senator from New Hampshire seems to be anxious, I shall postpone to a future day any such movement, and beg of my friend from Maine to induce the Judiciary Committee to report a bill in relation to the salaries of all these judges. I have no fear, such as the Senator from Arkansas has expressed, that the increase of the salaries of the judicial officers of our Government will have a tendency to consolidate or to injure the purity of this Government. If he has any such apprehension in regard to his own State—if he believes that the salary of the district judge for that State (\$2,000) is too large, I would suggest to him whether some reduction could not be made in it, in order to meet the increase of the salary of the judge in the State of my friend from New Hampshire; and then this consolidation and patronage would be so far diminished as to do away with the fear of my friend from Arkansas. I know that my friend from New Hampshire has no fears whatever. I hope we may pass the bill.

Mr. DAWSON. I trust that there will be no action taken on this bill to-day. The subject has been referred to the Judiciary Committee; and the first ground on which application was made to increase the salaries of judges in certain States, was because a judge in one State was required to discharge duties in another, where labor was great. That brought the question directly before the Judiciary Committee, and my colleague, [Mr. BERRIEN,] who is absent, but who is conversant with the subject, is now overlooking the whole matter, in order to regulate the salaries of these Federal officers throughout the United States. We are asked to pass this bill first. Why, this is the last bill on the subject which was reported from the committee. There were three reported before it in point of time. The first of these bills on the Calendar is in relation to the salary of the judge for the district of Massachusetts. Now, I hope the Senator from New Hampshire will not think hard of me if I remind him of what he said this morning, when he announced that he had but one year longer to remain here, and that he wished to say to his constituents that he had seen business done in order for one day at least; and yet here he is, having this bill taken up out of its order, and asking to have it passed through.

Here is a great question to be decided; and I agree with the Senator from Arkansas, that it is one of principle. Say what we please about it, the salary of no judge of this description should exceed the salary of the State judges. That is the principle to which I would adhere; and I would make the salaries of these various judges equal to the salaries of the judges of the States in which they reside. There is a principle involved in this matter. If we hold out larger inducements than the States, we shall command for the service of the United States the best talent, and leave the States that of a secondary order. These, however, are mere suggestions. My colleague, I expect, will present a plan to do equal justice upon a general principle to all the judges. He may provide that the salary of a judge in the State of New Hampshire shall be regulated by the salary of the chief justice, if you please, of the State. So of every State in the Union. I trust that we shall now adjourn, and await the report of the committee, which I hope will put all these bills in one, and enable us to have some regularity in our legislation on these salaries.

Mr. BRADBURY. The Senator from New Hampshire made a remark which might lead to a misapprehension, that the several bills which had been reported, had been reported because they were distinguished from the mass of applications.

Mr. HALE. I did not say so.

Mr. BRADBURY. That seemed to be the inference from your remarks. They were reported first, before it was known that the applications were to be so general. After the application was general, the inquiry presented itself to the commit-

tee, whether there ought not to be a general examination, in order to establish the salaries upon some general principle; and it is true that the Senator from Georgia [Mr. BERRIEN] had that subject in charge. Having left the Senate for some time, unless his return is a speedy one, the committee will undoubtedly proceed to consider the whole subject. There was a case which was one that required, if any one did, early action, and that was the case of the district judge of the southern district of Florida.

On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, March 29, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of Saturday was read and approved.

The SPEAKER. The regular order of business is the call of the States for petitions.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to offer the following resolution, which I send to the Clerk's desk, and ask that it may be read.

It was read for information, as follows:

Resolved, That the House proceed to dispose of the bills from the Senate on the Speaker's table, giving priority to such as shall not give rise to debate.

Mr. CLINGMAN. I object, unless the bills upon the Speaker's table be taken up in their regular order. If that is to be the order, I have no objection.

Mr. BROWN. Then I move to suspend the rules to enable me to offer the resolution.

Mr. CLINGMAN. Will the resolution be so amendable, if the rules are suspended to receive it, as to provide for clearing the Speaker's table in the regular order? If the gentleman from Mississippi [Mr. BROWN] will put it in that shape I shall have no objection to it.

The SPEAKER. If the rules be suspended it will be competent for the House so to amend the resolution.

Mr. BROWN. If the gentleman from North Carolina [Mr. CLINGMAN] will lend me his ear for a moment, I think I can show him that the resolution, as it now stands, will fully accomplish his purpose. It only proposes first to dispose of those bills which shall give rise to no debate, and then of the others.

Mr. CLINGMAN. Does the resolution so specify?

The SPEAKER. The resolution provides that such bills as shall not give rise to debate, shall have priority.

Mr. BROWN. Then of course the others follow immediately after.

The SPEAKER. It provides, also, for disposing of all the business upon the Speaker's table.

Mr. FOWLER. I desire to know whether, by implication, it is possible, under the resolution, to bring any other bills or resolutions before the House?

The SPEAKER. It is impossible that the resolution can do so.

Mr. FOWLER. Then I am satisfied.

Mr. STANTON, of Tennessee, I desire to inquire whether the resolution provides for taking up all the business upon the Speaker's table?

Mr. BROWN. Only bills from the Senate.

Mr. STANTON. Does it provide for taking up those which shall give rise to debate?

The SPEAKER. It does, but gives preference to those which shall not give rise to debate.

Mr. BROWN. My object is first to dispose of those Senate bills which cannot possibly give rise to debate. Let us first dispose of them, and then the others will come up.

Mr. JONES, of Tennessee. I would suggest that the resolution be so modified that only those bills be taken up to which there is no objection to their reference, and which shall not give rise to debate. I do not want the House to be forced to a vote on any of them under the operation of the previous question.

Mr. STANTON. I desire to submit a statement to the House, and I hope it will influence gentlemen in their votes upon the suspension of the rules for introducing this resolution. I have a bill ready to report, from the Committee on Naval Affairs, relative to discipline and to promote good conduct in the naval service. The East

India squadron is about to sail, and it is urged by the Navy Department, as well as by the commanding officer of that squadron, that the bill should be passed before the sailing of that squadron, in order that some substitute may be furnished for the lash, which has been abolished in the Navy. The object of the bill is to enable the officers to continue discipline. It is not to restore the lash, but to furnish a substitute which will enable them to dispense with it, and at the same time to enable them to continue discipline in the Navy. I hope I shall be allowed to bring up this bill. I do not think it will give rise to much debate.

Mr. BROWN, of Mississippi. It will give rise to a long debate.

Mr. STANTON. I do not think it will give rise to much debate, if any at all.

Mr. VENABLE. Will the gentleman allow me to make a single remark? I desire to suggest the importance of acting upon this subject at once. We have a fleet about to start for the Mediterranean, and another about to start for Japan. We have repealed the law providing for corporal punishment in the Navy. The Senate, after great care, have taken up the recommendation of a board of officers, and have passed a law providing a substitute, consisting of rewards and punishments, for that we have abolished.

A MEMBER. What are they?

Mr. VENABLE. Why, stopping their pay, confinement, and others. In a consultation the other day with the gentleman who commands the Japan fleet, and also the gentleman who commands the Mediterranean squadron, I was told by both that unless this bill was passed, they would be obliged to go to sea, without any means of enforcing discipline. You have taken away from them the right of punishment, and have left them nothing in its place. You have the control of the Navy, and I think it is due to that Navy, and due to the country, that we should provide some means for enforcing discipline.

Mr. BROWN. I must insist upon my motion.

Mr. WOODWARD. I desire to make one inquiry. I do not understand what law the gentleman from North Carolina [Mr. VENABLE] alludes to.

Mr. BROWN. All that matter is out of order. I insist upon my motion.

Mr. VENABLE. I hope the gentleman will allow me to make a simple statement of facts.

Mr. BROWN. I object.

Mr. FOWLER. I desire to propound this question to the Chair. What will be the regular order of business if the rules are not suspended?

The SPEAKER. It will be to call the States for petitions.

Mr. FOWLER. Now, I desire that the gentleman from Mississippi shall give way for one moment in order to enable me to ask the chairman of the Committee on Naval Affairs [Mr. STANTON] a single question.

Mr. BROWN. That can have nothing to do with the suspension of the rules for my resolution.

Mr. STANTON. It will have something to do with those who wish to get at other business. If the gentleman will so modify his resolution as to provide that no bill shall be taken up except those which shall give rise to no debate, I will not object to it.

Mr. BROWN. I will, then, so modify it as only to embrace such Senate bills upon the Speaker's table as shall give rise to no debate.

The resolution, as modified, was then read, as follows:

*Resolved*, That the House proceed to dispose of such bills from the Senate upon the Speaker's table as shall not give rise to debate.

Mr. CAMPBELL, of Illinois. I desire to ask a question of the Chair. I desire to be informed, if the resolution passes, when a bill is taken up for the purpose of reference, and a motion made to refer is objected to, whether the member who made the motion can then move the previous question, and have it referred?

The SPEAKER. The previous question, if seconded, would have the effect to cut off all debate. Under this resolution, however, no bill can be taken up which gives rise to debate.

Mr. CAMPBELL. What I desired to know is, whether, when a bill is taken up, and objection is made to it, under this resolution a demand

for the previous question, or any motion, can be made in reference to it?

The SPEAKER. Not after objection is made, in the opinion of the Chair.

Mr. CAMPBELL. Then I shall vote against the suspension.

Mr. FOWLER. I wish to propound another question to the Chair. The Chair decides that the previous question cannot be moved after a bill has been objected to. Now, I desire to ask if it may not be moved before a member can get an opportunity to make an objection?

The SPEAKER. The Chair will decide these particular questions as they come up.

Mr. BROWN. In reply to these inquiries, I will say that I have no such purpose.

The SPEAKER. The Chair must inform the gentleman from Mississippi, and others, that this discussion is entirely out of order.

Mr. BROWN then demanded tellers on his motion to suspend the rules, which were ordered; and Messrs. CHANDLER and BROWN, of Mississippi, were appointed.

The question was then taken, and the tellers reported—ayes 54, noes not counted.

So the rules were not suspended.

#### DISCIPLINE IN THE NAVY.

Mr. STANTON, of Tennessee. I now ask the unanimous consent of the House to introduce the bill to which I have already alluded.

Objection was made.

Mr. STANTON. I move to suspend the rules for that purpose, and hope I shall be permitted to make a brief statement in relation to it.

This is a matter which is regarded as one of a good deal of importance by the Navy Department, as has been stated by the gentleman from North Carolina, [Mr. VENABLE.]

Mr. FOWLER. Will the gentleman from Tennessee allow me to ask one question?

Mr. STANTON. Certainly.

Mr. FOWLER. It has been stated in the papers that this expedition to China is to enter upon a negotiation with Japan, at all hazards. I want to know whether such is the fact?

Mr. STANTON. I am not able to inform the gentleman.

Mr. STANLY. I call the gentleman to order. This has nothing to do with the question before the House.

Mr. FOWLER. Well, I want to ask another question.

Mr. STANLY. I call the gentleman to order.

Mr. FOWLER. Very well; I will sit down.

Mr. STANTON. Before the question upon the suspension of the rules is put, with the permission of the House, I would like to say a few words further upon the merits of this bill.

It is a Senate bill which is designed to substitute punishments to take the place of those by the lash, which, as the House knows, has been abolished. There is now no means by which discipline can be enforced in the navy, upon single ships, except by means of a court-martial, which, in cases of small offences, is entirely too cumbersome, too slow, and too difficult, to enable the officers of the navy to enforce that discipline necessary to the public service. This bill has been carefully examined in the Senate, and has passed that body almost unanimously. It came to this House, was read twice, and referred to the Committee on Naval Affairs. That committee have examined it, and instructed me to report it with one amendment. The East India squadron is about to sail, under the command of Commodore Perry, and unless this bill passes before the sailing of that squadron, it is not likely that the information of its passage can reach the squadron in less than twelve months; and during that time they will be in a condition which will be very deleterious to the discipline of the service.

After the rules shall have been suspended, I expect to say a few words in relation to the nature of the bill, and in explanation of its provisions. I shall detain the House but a very short time, and I think the bill will pass without further discussion.

The question was then taken, and the rules were suspended.

Mr. STANTON. The Committee on Naval Affairs have instructed me to report this bill of the Senate back to the House with a single amendment. I do not think it will be necessary to read it through, but I will state its nature very briefly.

Mr. VENABLE. Move to put it on its passage. [Cries of "Read the bill!"]

The bill was then read through by the Clerk.

Mr. STANTON, of Tennessee. I desire to say a few words in reference to the provisions of this bill. I think it is pretty generally understood that the lash cannot be again restored to the Navy. I am myself satisfied that it ought not to be; and whether it ought or not, I think it is clear to the House and to the country that it cannot be. But the abolition of this punishment has left the Navy without any sort of means of producing discipline. This bill is designed to supply that defect. I acknowledge that some of the punishments provided for in this bill, are tolerably severe, but it is impossible to maintain a system of military discipline at any time, without summary and severe punishments.

Mr. WOODWARD, (interrupting.) With the permission of the honorable gentleman from Tennessee, [Mr. STANTON,] I will say that I cannot in my seat hear anything he says. I simply wish to inquire of the gentleman whether the bill does anything more than provide for punishment of insubordination in the Navy? Has it any other object?

Mr. STANTON. That is all. It, however, provides, in addition to punishments, a system of rewards to some extent, and about that I wish to say a single word. I will detain the House but a few moments. I will say that some of these punishments, on the face of them, seem to be severe; for instance, the power in the commander of a vessel of war to punish a sailor by confining him in double-irons for thirty days. This may seem to be extremely harsh and severe; but it must be recollected that this punishment cannot be inflicted when the surgeon on board the vessel declares that it will be injurious to the health of the sailor. Then again, there is this difference: when an officer directs a sailor to receive twelve lashes, and the punishment is inflicted, perhaps in the heat of passion, the injury cannot be repaired; but if an officer under the influence of passion directs a sailor to be confined in double-irons, or upon bread and water for any length of time, after his passion is over, and time has been had for reflection, he can repair any injury that may have resulted from his order. It may be necessary, under some condition of things, to carry out such a punishment as this for thirty days; it may be necessary on account of the magnitude of the offense; but it seems to me that no officer in the American Navy could inflict this heavy punishment unjustly, and allow it to continue the whole time. Therefore I think that, however severe these provisions may appear to be, they are necessary; and I think they will not prove injurious or oppressive in practice. The committee have not thought that in addition to the other severe punishments provided for in this bill, that it was necessary or proper that the provision obliging the offender to wear a badge upon his back, with the word "thief" written upon it, should be retained in the bill; and they have accordingly directed me to report an amendment striking out that clause.

Mr. SAVAGE, (interrupting.) I would ask my colleague [Mr. STANTON] if there is any provision in the bill for branding? I have understood that there was.

Mr. STANTON. There is not. The provision is simply to wear a badge, with the word "thief" written upon it, and the committee have instructed me to report an amendment to strike that provision from the bill.

I now turn to another part of the bill, which I consider as containing the most important features in it, and one which will have a better influence, and a greater tendency to elevate the character of the sailor, and hold out greater inducement to good conduct, than anything which ever has been adopted in this or any other branch of the public service—I mean the military or naval service. It is the system of rewards—a system by which a register shall be kept of the conduct of every sailor, and providing for granting to him at the expiration of the term of his enlistment, *good conduct discharges*, and which, upon his again entering into the service, shall entitle him to a gratuity of three months' pay, in addition to his regular compensation.

Now it has been with me a matter of great doubt whether the pay of the sailor ought not to be raised. Those gentlemen familiar with the subject know that the sailor in the American Navy

gets but twelve dollars a month, while a sailor in the merchant service gets from sixteen to eighteen dollars per month. It is hardly possible, under this state of things, that the best class of American sailors can be induced to enter the naval service. The effect of this provision is, that after a sailor has served for two years, and receives a *good conduct discharge*, upon his again entering into the service, he receives a bonus of three months' extra pay, as a reward upon his second enlistment, for his good conduct during his first term of service. This is a slight addition to his pay; but I think it will have a happy effect, and it will not then give the best sailor in the Navy as much pay as he would receive were he in the merchant service, at the highest rate of wages paid in that service.

I presume there will hardly be any objection to that portion of the bill, which provides that after a sailor has been in the service twenty years, and has received good conduct discharges at the termination of every period of his enlistment, he shall be received into, and entitled to the provisions of, the naval asylum for life, with half of the monthly wages of his last period of enlistment. This benefit is only given in a case where a sailor has been twenty years in the service, and during the whole period has received good conduct discharges.

In addition to that, it is known to every one that the very last thing a sailor will do, who is fit for service, is to remain on shore, when he is able to go to sea; and therefore the operation of this portion of the bill will be, to give the benefits of this asylum, and half pay, only to those sailors who are unable to go to sea, and who have discharged their duties well for a continuous period of twenty years. It is not probable that any able seaman, however long he may have served in the United States Navy, will ever claim the advantages of these provisions. It will be an advantage only to those who have worn themselves out in the service by a faithful discharge of duty for at least twenty years. I will simply say in addition, that the passage of this bill is deemed very important, both by the Secretary of the Navy, and by the commanders of those squadrons about to go to sea; and also by all the officers of the Navy now in the United States, so far as their opinions have been made known.

Mr. STUART. As nearly as I could understand from the reading of that bill, there are several things in it, which I could not consent to vote for. But my object now is, to suggest some mode, if I can, by which this bill may be passed, if the House decide to pass it, within a very short time, and at the same time allow the bill to be printed so that we can examine it.

A Voice. Move to print, and postpone the consideration of the bill to some other day.

Mr. STUART. What I am disposed to suggest is this, that it be postponed to some particular day, by unanimous consent, and taken up within the morning hour, so as not to interfere with the special order, which comes up to-morrow. It will then be printed to-morrow morning, and we can have an opportunity to look at it, and be able to vote advisedly; for I confess, if pressed to vote upon this bill now, with the very imperfect understanding which I could get from hearing it read, I should vote against it.

Mr. STANTON, of Tennessee. I have no objection to the postponement of this bill to some early day, when it can be taken up so that gentlemen can have a fair opportunity to examine and understand it. I had thought that the provisions of the bill were so simple—

Mr. BOCOCK, (interrupting.) I desire to inquire of the Chair, if the special order does not take the precedence in the morning hour as well as at any hour, and if there is any way by which this bill can take the precedence of the special order, except by the unanimous consent of the House, or by going into Committee of the Whole?

The SPEAKER. It will take precedence only by unanimous consent, or by the House going into Committee of the Whole on the state of the Union. The special order is in the Committee of the Whole on the state of the Union, and not in the House.

Mr. STUART. I propose to move to postpone the consideration of this bill until Thursday morning, and that it be printed, in order to give us an opportunity to look into it, and then gentlemen will be prepared on that day to vote for it one way or the other.

Mr. STANTON, of Tennessee. I have no objection to a postponement for a few days, if it be under such circumstances that the bill will be certainly taken up then and disposed of.

Mr. JOHNSON, of Tennessee. Will this interfere with the special order already pending?

The SPEAKER. Only by unanimous consent of the House. It will be competent, however, for a majority of the House, at any time, to go into the Committee of the Whole upon the special order. If, on the other hand, however, the House choose to remain in the House to consider this bill, it can do so, and thus would it set aside the special order.

Mr. JOHNSON. I understand this is merely a proposition to postpone until the morning hour on Thursday.

Mr. STANTON, of Tennessee. I cannot consent to any postponement of this bill, if it is to be a matter of doubt whether it will be taken up, as it is known that a portion of the Pacific squadron will sail during this week, on Wednesday next; and it is exceedingly important that this bill should be acted upon previous to that time.

Mr. JONES, of Tennessee. I rise to a question of order. Can the gentleman from Michigan [Mr. STUART] take the floor and farm it out to every one who wishes to speak upon this bill? I object to that proceeding. He cannot yield the floor for an amendment, except by unanimous consent.

The SPEAKER. The gentleman from Michigan [Mr. STUART] yields the floor to the gentleman from Missouri [Mr. HALL] for explanation, and the Chair cannot decide that to be out of order.

The Chair would say to the gentleman from Tennessee, that the universal practice in the House has been, when one member has the floor, to yield it for explanation to others, he having a right to the floor for one hour. So the Chair understands it.

Mr. JONES, of Tennessee. If not objected to; but when objected to it has been ruled here uniformly that he cannot yield the floor for the purpose of offering an amendment. He may yield it for personal explanation—personal to the gentleman to whom he yields the floor—but he has not a right to make a speech upon the bill.

The SPEAKER. The Chair holds the practice has been for the purpose of yielding it for explanation connected with the subject-matter before the House. This has been, I believe, the universal practice. It is a different case to yield the floor for the purpose of amendments; that may be objected to.

Mr. HALL. I wish to make a few observations as to the matters contained in this bill.

Mr. JONES. I must object to the gentleman making a speech upon this bill within the speech of the gentleman from Michigan, [Mr. STUART,] and I call the gentleman to order.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Tennessee, and decides that the gentleman from Michigan, [Mr. STUART,] having the floor for one hour, may yield it, for explanation, to other gentlemen upon the floor.

Mr. JONES. I must appeal from that decision, and let the House determine whether gentlemen can take the floor and farm it out to others.

Mr. HALL. I move to lay the appeal upon the table.

Mr. JONES. I ask for the yeas and nays. They were not ordered.

The question being on the motion to lay the bill upon the table, it was put, and, on a division, there appeared—ayes 83, noes 30; no quorum voting.

Mr. TAYLOR called for tellers, which were ordered; and Messrs. CLINGMAN and HIBBARD were appointed.

Mr. HAVEN. Will the Chair state what the question is?

The SPEAKER. Yes. The gentleman from Michigan being upon the floor and addressing the House, was appealed to by the gentleman from Missouri to make an explanation connected with the subject-matter under debate; the gentleman from Michigan yielding, as requested, the gentleman from Missouri was called to order by the gentleman from Tennessee, [Mr. JONES.] The Chair overruled the question of order raised by the gentleman from Tennessee, and decided that it had, according to the practice of

the House, been common for gentlemen, having the floor for one hour, to yield it to other gentlemen who might wish to make explanations within that hour. From that decision the gentleman from Tennessee takes an appeal, and the gentleman from Missouri moves to lay the appeal upon the table.

The question was then again taken on the motion to lay the appeal upon the table, and the tellers reported—ayes 93, noes 30.

So the decision of the Chair was sustained.

Mr. HALL. I only wish to ask the gentleman from Michigan to change his motion from a motion to postpone this bill, for a motion to refer it to the Committee of the Whole on the state of the Union.

Mr. JONES. I submit whether that is an explanation.

The SPEAKER. The Chair thinks the gentleman from Missouri is in order.

Mr. JONES. It is not an explanation.

Mr. HALL. The reason, sir, why I wish to make this proposition, or, rather, this change in his motion, is, that there is a part of this bill, the fourth section, which proposes to establish an entirely new principle; by which to grant pensions to sailors in the Navy of the United States. It proposes that every sailor who serves in the United States Navy twenty years, with credit and good conduct, shall receive a pension of half-pay during the remainder of his life. Now, I think if you once admit that principle in the Navy, you will have to establish the same principle in the Army, and give your soldiers half-pay during the remainder of their lives. Then, our officers will come in and claim their share. I therefore think, sir, this being a matter of such importance, that some discussion should take place with regard to it.

Mr. JONES. I rise to a question of order. The gentleman is discussing the bill, and not making an explanation.

Mr. HALL. I have done.

Mr. STANTON, of Tennessee. The effect of that clause is simply to change, and, in my judgment, to restrict, the principle upon which sailors are now admitted into the naval asylum. They are admitted now, I do not know exactly upon what principle. They are admitted after twenty years' service, whether good or bad sailors. Whether sailors have good conduct or bad conduct noted, there is no distinction; for they are all, under certain circumstances, admitted into our naval asylum. I understand, from the representations which have been made to me, that there are upwards of one hundred sailors in our naval asylum at Philadelphia, who are admitted, under certain circumstances, after having served twenty years in the Navy. But under this provision, they are admitted only after serving twenty years, and after having received a good conduct discharge, commencing from the time of their enlistment, to the period when they are discharged. That is the restriction.

The SPEAKER. I would inquire of the gentleman from Michigan, whether he has submitted any distinct motion in regard to this bill?

Mr. STUART. I submit this motion, and I wish to make an inquiry of the Speaker in regard to the effect of it, to see if I understand it properly myself. My motion was, that by unanimous consent, the House postponed the consideration of this bill until Thursday morning next, and that it come up in the morning hour. My belief was that that motion would make it the order of business immediately after the reading of the Journal on Thursday, and would not interfere with the special order. If the House now, by common consent, make such an order, I would inquire of the Chair if I am correct or not?

The SPEAKER. The proper way to reach that, would be to postpone the special orders for an hour, or to a given time, and make this a special order in its stead. The Chair, however, would say that the special order for to-morrow is in the Committee of the Whole on the state of the Union. It is in the power of the House to go into or stay out of the committee. If the House choose to remain in the House, and dispose of this bill, they may do so.

Mr. STUART. That was my view of the matter. It would leave the bill under the control of a majority of the House.

The SPEAKER. The Chair thinks that under



that form, the bill would be left under the control of a majority of the House.

Mr. DURKEE. If the gentleman from Michigan is in favor of the passage of this bill, I think it is wrong to postpone it. It is a bill which could not bear to come into the light. Its features were such that if published, they would never allow the bill to pass. I think it cannot pass.

Mr. STANTON, of Tennessee. I beg to say that this bill has been published long ago. Every feature of it has been discussed in the Senate, and published in the newspapers during the debate upon it. It bore the light of day then, and will bear it now.

Mr. STUART. I wish the unanimous consent of the House to make this motion.

Mr. MILLSON. I have in my hand a printed copy of the Senate bill as reported from the Committee on Naval Affairs to the Senate. I desire to inquire of the gentleman from Tennessee [Mr. STANTON] whether the bill, as it passed the Senate, is different at all, or in any material degree, from the bill as reported to the Senate?

Mr. STANTON. I cannot answer that question without examining into the matter, for that is a point I have not turned my attention to.

Mr. KING, of New York. I rise to make an inquiry, with the permission of the gentleman from Michigan. I desire to know if it is not in order to make a motion to postpone this bill to a day certain?

The SPEAKER. It is.

Mr. KING. That motion may be submitted, Mr. Speaker; by the gentleman, and then a majority of the House can dispose of the matter as they may choose.

Mr. STUART. Then I submit the motion, that the consideration of this bill be postponed until Thursday morning next, and I wish—

Mr. BOCK. With the permission of the gentleman, I wish to ask the Chair whether, if the motion is made to postpone the bill to Thursday morning next, it can be done by the action of a majority of the House? Does this bill take precedence upon Thursday morning, without being made the special order in the House; or, rather, does it not require, to do that, a vote of two thirds?

The SPEAKER. The Chair thinks that there is a difficulty, as suggested by the gentleman.

Mr. STUART. I can submit the motion to make it the special order for Thursday next in the House. It will require a two thirds vote, I know, to do it.

The SPEAKER. It will require a two thirds vote to make it a special order for a particular day. Then it will be for the House to decide which of the two special orders shall have the preference.

Mr. STUART. That will leave it in the control of a majority of the House on Thursday next to say whether they will go into committee upon the special order, or not.

The SPEAKER. Yes, sir.

Mr. STUART. That is what I desire. I wish to state in a few words why I submit this motion.

Mr. HOUSTON. I wish to inquire of the gentleman from Michigan whether he proposes to make this bill the special order for the whole of the day, or whether he confines it only to the morning hour.

Mr. STUART. I propose to make it the special order for that day, and the majority of the House can control it then.

Mr. HOUSTON. There is a special order now.

Mr. STUART. I have only had time to look over the enumeration of the mode of punishment pointed out by this bill. Here they are, sir:

"1st. By diminishing their rations, by restricting their diet to bread and water, by imposing extra police and other duties, and in case of theft, in addition to any of the foregoing punishments, by making good from the wages of the offender to the owner the full value of the article or articles stolen, and obliging the offender to wear for any time not exceeding ten days a badge with the word 'thief' thereon."

This last punishment of a badge with the word 'thief' thereon, the Committee on Naval Affairs propose to strike out

"By restricting their diet to bread and water, by imposing extra police and other duties."

Now, sir, what are those "other duties?" Who is a judge of them? It is proposed by this bill to

clothe the commander of a ship with arbitrary, and unlimited power to determine what are other duties, no matter how degrading or disgraceful that he may impose upon the offender. That was the principal reason I had, when the question was up for abolishing flogging in the Navy, for voting for it.

Mr. STANTON, of Tennessee. Will the gentleman inform me whether he can state what duties there are upon board a ship degrading to perform? I do not know of any myself.

Mr. STUART. The gentleman will see by looking at this bill that these duties are not confined to duties on board ship.

Mr. STANTON, of Tennessee. They are all duties on ship-board. They cannot be anywhere else.

Mr. STUART. I do not admire a flat contradiction. Either the gentleman or myself is mistaken; but let us look at this matter a little further.

Mr. STANTON, of Tennessee. I wish to give the gentleman information upon that point. I know he would not state anything that he supposed to be incorrect intentionally. I do not wish to test the gentleman's veracity, or to make any point of that kind between me and himself, but, simply to correct him in his statement.

Mr. STUART. Now, sir, for the purpose of showing the correctness of my construction, I will read all of these provisions:

"2d. By discharge from the service with bad conduct discharge.

"3d. By solitary confinement in irons, single or double, on bread and water, provided no such confinement shall exceed thirty days.

"4th. By solitary confinement, in irons, single or double, not exceeding thirty days.

"5th. By solitary confinement, not exceeding thirty days.

"6th. By confinement, not exceeding two months.

"7th. By reduction to next inferior rating.

"8th. By ball and chain, but not to be worn at sea.

"9th. By deprivation of liberty on shore."

Now, sir, take these last clauses, "By ball and chain, not to be worn at sea," and "by deprivation of liberty on shore," and do they not, when put together, go to show that offences may be punished on shore as well as upon ship-board? Do not they apply to the naval service, and does not the bill give to a commander, upon shore, of any navy-yard or naval station, the right to punish individuals who are connected with the Navy according to this code? I apprehend that there is no doubt about it.

Mr. STANTON. If the gentleman will allow me to answer his question, I think he will find that the first clause in the bill confines this punishment to the commanding officers of vessels. Of course, it will not apply to the punishment of sailors at navy-yards, or any naval stations upon shore.

Mr. STUART. In order to settle this question definitely, let me read the commencement of the bill. It is:

"Be it enacted, &c., That the commander of any vessel in the Navy, or of any shore-station, shall have authority to punish offenses committed by petty officers, and persons of inferior ratings, by any one or more of the following punishments, to wit:—"

Now, can the English language be made any plainer than that?

Mr. STANTON. I was mistaken.

Mr. STUART. It confers upon the commander or the captain of any vessel in the navy, or of any naval station upon shore, the right to inflict this punishment at his own discretion. As I said before, I voted against flogging in the navy, because it placed in the hands of one man, without any responsibility, except to his conscience and his God, the power of degrading and disgracing his fellow-man. That is a proposition I will never vote to sustain anywhere. I know it is the theory that this arbitrary power is a good one, provided you have always more than human wisdom to carry it out. But to take humanity as it is; to take a man subject to his passions, his emotions, his likes and dislikes, and confer upon him arbitrary power, and that unlimited, as some of these powers are under this bill, I never will vote for it. Now, the last clause contained in that enumeration is not, in my judgment, by any means the least offensive—the depriving a man of his liberty on shore. I know not how it may affect other gentlemen; but whenever you talk of depriving a man of his liberty, my mind immediately reverts to that other power in the Constitution, which gives to the individual the right of a trial, and that trial

by jury, with witnesses to confront him, to show that before the power of the community interposes, and takes from an American citizen his liberty, that he is to be pronounced by his peers unworthy of the enjoyment of it.

Mr. STANTON. I desire to say, with the permission of the gentleman from Michigan, that I am not myself convinced of the necessity of giving the power of summary punishment to officers upon shore stations. That clause of the bill escaped my attention, and if the gentleman will move to strike it out I shall certainly vote for his motion; for I think the exercise of the power of summary punishment ought to be confined to commanders of vessels in the naval service of the country, which renders these summary punishments necessary when a jury could not be obtained.

Mr. ORR. I should like to inquire of the chairman of the committee if he, originating this bill, has allowed an important feature to escape his attention in the bill, how it is expected that the House shall, at once, vote upon its passage.

Mr. STANTON. I beg leave to say to the gentleman that I did not originate this bill. It is a Senate bill.

Mr. ORR. I understand the gentleman reported the bill, and it is presumed that he has examined it.

Mr. STANTON. So I did.

Mr. ORR. But I merely allude to it for the purpose of illustrating the impossibility of the House voting understandingly upon the bill until it has been printed.

Mr. KING, of New York. It ought to be printed and laid upon our tables.

Mr. STUART. I am not disposed to consume the time of the House in this discussion. I only wish to present, in the briefest possible time, a few of the reasons which seem to me imperatively to demand that this bill should be considered at a future time—that it should be printed, so that every gentleman in the House would vote upon each one of its provisions understandingly. Now in regard to this pension business, I shall proceed very cautiously in voting to establish a pension system different from any that exists now in the Navy or the Army. This bill does it, and, if I understand, it gives to able-bodied seamen who have a sufficient number of credit marks, if you may so call them, a right to a pension for the remainder of their lives. Well, I do not know of any good reason why the country at this time—in a time of peace—should enter upon any such system of pensions. Without further consuming the time of the House, I wish to say I have given but a few of the reasons which seem to me to require at the hands of the House the postponement of this bill. Let it be printed, that we may examine it, and have an opportunity of voting understandingly upon it.

Mr. STANLY. It is very obvious that the gentleman from Michigan intends to oppose this bill in any form in which it may be presented. The gentleman is opposed to giving what he calls a "pension," even after the honest old sailor has served for twenty successive years—to give him any reward for his services. He has announced that he will "never vote for it." Then, sir, I take it for granted that the gentleman intends to endeavor to defeat this bill. Now it is utterly impossible, though each of us had all the arms of Briareus, and all the eyes of Argus, that members can examine every bill, and every measure presented here for consideration. That would disperse with the whole organization of the committees of the House altogether. We must take some matters upon faith. Here, when this bill has been reported by a Senate committee, passed by the Senate, and has gone through the examination of the Committee on Naval Affairs of this House, and the public service imperiously demands that some action be taken to make a substitute for flogging in the Navy, we see gentlemen—with all respect I say it—who come from the extreme frontier of the United States, and who know nothing in the world of naval affairs, save what they learned from books, endeavoring to ride down all the information of the Committee on Naval Affairs, of commodores of the Navy, and of men of high character and intelligence, whose life has been spent upon the salt water, in the service of their country. Is this to be so? Now, if gentlemen are ready to vote for this bill, let them do so; if not, let us, at all events, have a vote upon it, and proceed to other business, before we get a general,

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sympathetic, humanitarian discussion upon matters and things in general—the liberty of my friend from Michigan, and the “largest liberty all over the world among all men,” which will come next. I call for the previous question, that the House may be brought to a vote.

Mr. BAYLY, of Virginia. I ask the gentleman from North Carolina [Mr. STANLY] to withdraw his motion for the previous question, and I will renew it.

Mr. STANLY. I will, if the gentleman will renew it.

Mr. BAYLY. I will. I have been requested by some gentlemen interested in the naval service to examine this bill, and if I approve it, to say a word in its favor. I have examined it, and I am not only satisfied of the propriety of passing it, but of the necessity of doing so at once. As has already been stated to the House, we have a large number of ships about to leave port. Under the law, as it now stands, there is no mode of punishing in any other than the highest grade of offenses in the Navy. If a ship go to sea in this condition, every man knows who is acquainted with sailors, and I believe I represent as many of them as any member upon this floor, that no one can predict what will be the consequences to our service. It has been asked, Why not pass this bill, say, in the course of a week or two, and send it after these ships? In the first place, there will be a difficulty of getting it on board these ships when they have gone to sea; and besides that, every one who knows anything of the naval service, or anything of the merchant service, knows that the difficulties upon ship-board occur always in the first two or three weeks after they have gone to sea. When they first go to sea is the time that the sailors try their commander's temper. They see what they can do. If you give them an inch, they will take an ell, and the only way on the face of the earth by which a voyage can be made with any certainty is, that proper discipline may be obtained in the first two or three weeks after they go out. Now, what are these punishments? There is not one of them that is a degrading punishment, that is disproportionately degrading to the offenses which may be committed. The gentleman from Michigan [Mr. STUART] objects particularly to putting the chain and ball upon a man. The bill provides that it shall not be done on sea-board, thus restricting that punishment to the navy-yards. The gentleman says he is opposed to that.

Mr. STUART. The gentleman misunderstood me entirely. I did not say I was opposed to that. I spoke of that clause which gives to an individual upon shore the power of affixing just such penalty as he chooses under the term “other duties.”

Mr. BAYLY. The duties at your navy-yards are as distinctly defined as rules and regulations can make them. There are no duties at the navy-yard that any man cannot be called upon to perform. When you give a commander the power to assign particular duties which may be more onerous than others as a punishment, you inflict no great wrong upon the individual. They cannot assign them to any duties which they please.

As to the ball and chain punishments at the navy-yards. Gentlemen seem to think that offenses upon shore may be punished by the courts. There are a large number of offenses to which our municipal law attaches no punishment. Take the case even of a man refusing to work. What are you to do with him? Bring him up before a magistrate? The magistrate would tell you, that I find no authority in my court to punish that offense. Suppose the sailor is insolent; how will you punish him for that? Suppose he is insubordinate—suppose he refuses to obey those regulations which are necessary to the peace and good order of the yard in any respect. The civil code affords no punishment. The very nature of the case requires that there should be some discretion in these commanders. As to this punishment upon ship-board discretion must be given to commanders to a very great extent, as you cannot have any other court on board a ship than that sort of a court for a particular class of cases com-

posed of these officers. I do not wish to continue this discussion, I believe that the House, unless they mean to have such scenes upon our ships as would disgrace the nation and the Navy, unless they mean to make our Navy perfectly inefficient, and of such a character that no man in the Navy would feel safe to go into action—unless you wish to put it in that position, where it is absolutely necessary, since you have abolished flogging, against which I voted—

Mr. STANTON, of Tennessee, (interrupting.) Will the gentleman allow me to say a word? I desire to say to the gentleman from Virginia, [Mr. BAYLY,] that there is no proposition pending to strike out the words, “on shore stations.” I have said if that proposition should be made, I would vote for it.

Mr. BAYLY. It ought not to be made.

Mr. STANTON. I understand the gentleman to differ from me, and I understand there is a great difference of opinion with regard to this matter. I know that the courts of the State have no jurisdiction in the navy-yards, where the jurisdiction has been surrendered to the United States. I know a great many offenses for which sailors would be punished at sea, and for which they may not be punished at navy-yards, for there is no necessity for it. There is not the same necessity for severe punishment upon shore, unless it be in receiving-ships, where sailors are received for the purpose of sending them at once to sea, and then they would be on ship-board, and liable to punishment. But on shore stations, I do not see that there is any necessity for these severe summary punishments, so far as the discipline of the navy and the safety of the service are concerned. Under these circumstances, I think if the gentleman from Virginia [Mr. MILLSON] thinks proper to make the motion to strike out the clause making all these rates of punishment applicable to shore service, it would secure the passage of the bill.

Mr. BAYLY. I do not think the passage of the bill in any danger.

Mr. ORR. I desire to ask my friend from Virginia [Mr. BAYLY] a question. He says that he has examined this bill closely at the request of naval officers—gentlemen who feel interested in its passage, and think it ought to be passed. I desire to inquire, if my friend would be willing to vote for this bill if he had not made this investigation? and if it is right, proper, and fair to call upon other members of the House to vote for a bill without their having the same opportunity to examine it? We will have to vote upon trust—we will have to vote upon his judgment and the judgment of the chairman of the Committee on Naval Affairs. Would it be proper to force a vote now, by sustaining the previous question upon the passage of the bill, when we have not had the same opportunities of examining it as he has?

Mr. BAYLY. If this bill was complicated in its character, there might be some force, though not much, in the objections of the gentleman from South Carolina, [Mr. ORR.] He asks if it is fair, when we have examined the bill, that we should press other members to a vote upon it, when they have not examined it, and if it is right that members should be called to vote upon trust. I undertake to say, that nineteen twentieths of the bills of this House are voted upon without their being read by the members, and if this bill is voted upon without being read by one tenth of members, it will be by no means singular.

Mr. MILLSON. My colleague has indicated a purpose to move the previous question. I desire to call his attention to a portion of this bill, while I have the opportunity of doing so. I desire to ask my colleague if the clause in the Senate bill providing for the establishment of summary courts-martial has not been stricken out of the bill now before the House, and whether the punishments contained in the first page of this manuscript bill now lying before me, are not to be inflicted by any commanding officer, of his own authority. I have not had the opportunity of comparing the Senate bill as reported to the Senate with the manuscript bill reported by the Committee on Naval Affairs to

the House. But I am informed by a member of the Naval Committee, that this bill differs materially from the bill as reported to the Senate.

Mr. BOCKOCK. I will state that my colleague over the way [Mr. BAYLY] has in his hands the Senate bill, but the bill to which my colleague nearest me [Mr. MILLSON] alludes, is a bill which was offered in the Senate, which did not pass. I suppose that the bill there underwent various amendments, and it resulted in the bill which my colleague from the Accomac district [Mr. BAYLY] has now in his hands. The only change which the Committee on Naval Affairs made in that bill was the simple amendment striking out that part of it which provides for branding a man with the word “thief” on his back.

Mr. MILLSON. I understand the printed bill which I hold in my hand was not adopted by the Senate, but the bill from which I read, and which I suppose to be the one reported to the House to-day, is the bill which passed that body. I take this opportunity of saying that I represent an important naval district, and my constituents, at least many of them, are deeply interested in the questions involved in this bill. I most earnestly desire that some bill establishing a code for naval discipline should pass at once. I wish to draw the attention of the House—

Mr. BAYLY. I do not yield the floor any further. I demand the previous question.

Mr. JONES, of Tennessee. I ask the gentleman to withdraw that motion for a moment.

Mr. BAYLY. It is the call of the gentleman from North Carolina, [Mr. STANLY,] and not mine.

Mr. JONES. I believe that the gentleman from Virginia [Mr. BAYLY] called it. I hope it will be voted down.

Mr. ORR. Is it in order to make a motion to lay the bill upon the table?

The SPEAKER. It is.

Mr. ORR. Then I make that motion, and call the yeas and nays upon it.

Mr. STUART. Before the question is taken upon the call for the previous question, I wish to modify my motion. Will it be in order, after the question is taken upon the motion, to lay the bill upon the table?

The SPEAKER. The Chair thinks it would be scarcely proper for the gentleman to modify his motion during the pendency of the previous question.

Mr. STUART. Is it not in order to modify my motion before the question is taken upon seconding the previous question?

The SPEAKER. The Chair thinks that the gentleman cannot modify it.

Mr. ORR. At the suggestion of some friends, I will withdraw my motion to lay the bill upon the table. I will renew it if the previous question is sustained.

Mr. STUART. I desire to leave this bill in the control of a majority of the House on Thursday, and I understand it will be so upon a simple motion to postpone it, and the majority will take up the bill, or not, as they choose.

The SPEAKER. The Chair wishes to state to the House, that in the early part of the session he decided that the previous question would not cut off a motion to postpone to a day certain. Upon examining the rules, the Chair is perfectly satisfied that the previous question being sustained and put, would cut off a motion to postpone to a particular day. The gentleman from Michigan [Mr. STUART] has submitted a motion that the further consideration of this bill be postponed until Thursday next. The gentleman from Virginia [Mr. BAYLY] demands the previous question. The decision of the Chair is, that if the previous question is sustained, it will cut off the proposition to postpone, and bring the House to a vote upon the amendment and upon the bill.

Mr. STUART. Then I hope that we will not sustain the previous question.

The SPEAKER. The Chair desired to make the statement he has, that gentlemen may vote understandingly.

The question was then put upon seconding the demand for the previous question, and on a division there were—yeas 69, noes 71.

Mr. BAYLY, of Virginia, called for tellers; which were ordered, and Messrs. FOWLER and STANTON, of Tennessee, appointed.

And the question being again put, the tellers reported—yeas 81, noes 69.

So the previous question received a second; the main question was then ordered to be put.

Mr. ORR moved to lay the bill upon the table; and, on that motion, he demanded the yeas and nays.

The yeas and nays were ordered.

And the question being put, it was decided in the negative—yeas 71, nays 94, as follows:

YEAS—Messrs. Willis Allen, Averett, Beale, Bissell, Brenton, Briggs, Buell, Busby, Joseph Cable, Thompson Campbell, Caskie, Chapman, Clark, Cleveland, Cobb, Curtis, Daniel, J. G. Davis, Dawson, Dimmick, Doty, Durkee, Edgerton, Ewing, Ficklin, Fitch, Floyd, Fowler, Gamble, Gaylord, Grow, I. G. Harris, Hendricks, Henn, Hibbard, Horsford, Houston, John W. Howe, Hunter, Ives, Jenkins, Andrew Johnson, John Johnson, George W. Jones, Letcher, Lockhart, Mace, Humphrey Marshall, Mason, McLanahan, McMullen, McQueen, Molony, Murray, Nabers, Olds, Orr, Peaslee, Penniman, Perkins, Robinson, Ross, Savage, David L. Seymour, Skelton, Smith, Benjamin Stanton, Thaddeus Stevens, Stuart, Sweetser, George W. Thompson, Watkins, Addison White, and Wilcox—71.

NAYS—Messrs. Abercrombie, Allison, William Appleton, Ashe, Babcock, Thomas H. Bayly, Barrere, Bartlett, Bennett, Bocock, Bowie, Bragg, Breckinridge, Albert G. Brown, George H. Brown, Burrows, E. Carrington Cabell, Lewis D. Campbell, Chandler, Churchwell, Clingman, Cottman, Cullom, George T. Davis, Dean, Eastman, Evans, Florence, Freeman, H. M. Fuller, T. J. D. Fuller, Gentry, Goodenow, Gorman, Grey, Hammond, Harper, Sampson W. Harris, Haven, Hillyer, Holladay, Howard, Thomas M. Howe, Ingersoll, Jackson, James Johnson, George G. King, Kuhns, Landry, Edward C. Marshall, Martin, McCorkle, McDonald, Meacham, Meade, Miller, Millson, Miner, Henry D. Moore, John Moore, Morehead, Newton, Outlaw, Samuel W. Parker, Perkins, Porter, Richardson, Riddle, Sackett, Schoolcraft, Scudder, Scurry, Origen S. Seymour, Smart, Stanly, Frederick P. Stanton, Richard H. Stanton, Abram P. Stevens, Sutherland, Taylor, Benjamin Thompson, Tuck, Venable, Walbridge, Wallace, Walsh, Ward, Washburn, Welch, Wells, Alexander White, Williams, and Woodward—93.

So the House refused to lay the bill upon the table.

Mr. MILLSON. Do I understand the Chair to have decided that a motion to postpone is not now in order?

The SPEAKER. That is the decision of the Chair.

Mr. MILLSON. Then no amendments can be offered.

The SPEAKER. The previous question has cut off everything, except the amendment offered by the Committee on Naval Affairs, which was pending at the time the previous question was demanded.

Mr. MILLSON. Then I shall vote against the bill.

The question was then taken upon the amendment reported by the committee, to strike out from the first section, the following words: "and obliging the offender to wear for any time not exceeding ten days, a badge with the word 'thief' thereon;" and the amendment was agreed to.

The bill was then ordered to a third reading; and having been read a third time,

Mr. STANTON, of Tennessee, demanded the previous question on its passage.

The previous question was seconded, and the main question ordered to be now put.

Mr. MILLSON called for the yeas and nays, and they were ordered.

The question was then put, and it was decided in the negative—yeas 76, nays 97, as follows:

YEAS—Messrs. Abercrombie, Aiken, William Appleton, Ashe, Thomas H. Bayly, Bartlett, Bennett, Bocock, Bowie, Bragg, Breckinridge, George H. Brown, Burrows, E. Carrington Cabell, Chandler, Clingman, Cottman, George T. Davis, Dean, Dockery, Evans, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gentry, Goodenow, Goodrich, Grey, Hammond, Harper, Sampson W. Harris, Hart, Haven, Hillyer, Horsford, Thomas M. Howe, Jackson, James Johnson, Robert W. Johnson, George G. King, Kuhns, Landry, Martin, McDonald, Meacham, Meade, Miller, Miner, Henry D. Moore, Morehead, Penn, Porter, Riddle, Sackett, Schoolcraft, Scudder, Scurry, Smart, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Sutherland, Taylor, Benjamin Thompson, Venable, Walbridge, Walsh, Ward, Washburn, Welch, Wells, Alexander White, and Williams—76.

NAYS—Messrs. Willis Allen, Allison, Averett, Barrere, Beale, Bissell, Brenton, Briggs, Albert G. Brown, Buell, Busby, Joseph Cable, Lewis D. Campbell, Thomas Campbell, Caskie, Chapman, Churchwell, Clark, Cleveland, Cobb, Curtis, Daniel, John G. Davis, Dawson, Dimmick, Doty, Dunham, Durkee, Eastman, Edgerton, Edmundson,

Ficklin, Fitch, Floyd, Fowler, Gamble, Gaylord, Gorman, Grow, Isham G. Harris, Hendricks, Henn, Hibbard, Holladay, Houston, Howard, John W. Howe, Hunter, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Preston King, Letcher, Lockhart, Mace, Mann, Humphrey Marshall, Mason, McLanahan, McMullen, McQueen, Millson, Molony, John Moore, Murray, Nabers, Newton, Olds, Orr, Samuel W. Parker, Peaslee, Penniman, Perkins, Polk, Powell, Robbins, Robinson, Ross, Savage, David L. Seymour, Smith, Benjamin Stanton, Thaddeus Stevens, St. Martin, Stuart, Sweetser, George W. Thompson, Tuck, Wallace, Watkins, Addison White, Wilcox, and Woodward—97.

So the bill did not pass.

Mr. MILLSON moved to reconsider the vote by which the House rejected the bill, upon its passage.

Mr. CABLE. I move to lay that motion upon the table.

The SPEAKER. That motion is not in order, the gentleman from Virginia being upon the floor.

Mr. ORR. The motion to reconsider is not debatable, is it?

The SPEAKER. It is.

Mr. ORR. Has the previous question exhausted itself?

The SPEAKER. It has; and the motion to reconsider is, therefore, debatable.

Mr. MILLSON. I believe it will be conceded on all hands that the passage of some bill involving the discipline of the navy, is absolutely necessary to the public interest. I would not vote for the bill which has just been rejected by the House, because it contained provisions which never can command my assent. But I am exceedingly desirous that this question may come up at some future day—nay, at some early day, and that the bill, by a reference to the Committee of the Whole on the state of the Union, or without it may be put into such a shape as to command the universal assent of this House. One objection which I had to the bill—

Mr. STANTON, of Tennessee. I would suggest to the gentleman from Virginia that the reconsideration of this matter should go over until next Monday, and by common consent the bill be printed.

Mr. MILLSON. I meant to make that suggestion; but I want, also, while I have the floor, to vindicate some of the objections which I have, and which I suppose the House has, to the passage of the bill, and which can, I have no doubt, be easily removed if the bill is postponed.

Mr. MARSHALL, of Kentucky. I suggest to the gentleman, that if we reconsider the vote on the passage of the bill, we leave it still in a condition not to be amended, and that the House had better retrace its steps to a position in which the bill can be amended.

The SPEAKER. The Chair would suggest that if the motion to reconsider goes over by unanimous consent, it is in the power of the House, by unanimous consent, to have the bill printed—the motion to reconsider being a privileged question—would come up next Monday.

Mr. MILLSON. That is the suggestion which I intended to make to the House.

Mr. JONES, of Tennessee. Suppose this motion to reconsider goes over, and then comes up, as the Speaker has stated, will it then be in order to move to reconsider the vote by which the main question was ordered to be put?

The SPEAKER. The Chair is of the opinion that it will be in order.

Mr. STANTON. I move to reconsider the vote by which—

The SPEAKER. The gentleman from Virginia, [Mr. MILLSON,] is upon the floor.

Mr. MILLSON. I merely wish to make a suggestion, for the purpose of enabling gentlemen who voted against the passage of the bill, to concur with me in voting for its reconsideration.

Mr. ORR. I rise to a question of order. I desire to know whether the gentleman from Tennessee, [Mr. STANTON,] did not move to reconsider the vote by which the main question was ordered, and to lay that motion upon the table, and whether that motion was not agreed to by the House?

Mr. STANTON. No, sir, I did not.

The SPEAKER. According to the recollection of the Chair, the gentleman from Tennessee made that motion, but withdrew it.

Mr. ORR. It was my impression that the motion was agreed to.

Mr. MILLSON. I was about to explain my

reasons for voting against the passage of this bill. I attempted to state my reasons sometime ago; and if my colleague, [Mr. BAYLY,] had yielded me the floor, I should not have troubled the House with another explanation.

Mr. BAYLY. Allow me to say to my colleague, [Mr. MILLSON,] that my refusing to permit further interruption, was not from any discourtesy to him, but it was through the permission of the gentleman from North Carolina [Mr. STANLY] that I obtained the floor. That gentleman came over to me and insisted that he had only yielded to me for the purpose of making a brief explanation, and not with the expectation that it should be yielded to others.

Mr. STANLY. That is so.

Mr. BAYLY. And hence, in good faith, I felt bound to refuse permission to my colleague to interrupt me.

Mr. MILLSON. I will say to my colleague that I did not suppose his refusal to allow me to make my explanation proceeded from any discourteous feeling. I was only saying that the interest taken in this matter by my district, made it incumbent upon me to state my reasons for voting against this bill.

I repeat, then, that my district is as much interested in the passage of a proper bill upon this subject as any other in the United States. I have objections, nevertheless, to many of the provisions of the present bill; but one only, however, will I state at this time.

For more than fifty years, no commanding officer in the Navy, however high his rank, was authorized, by law, to inflict, by his own authority, more than twelve lashes for any offense. The law provided that, if the offense was deemed worthy of a more severe punishment, a court-martial should be convened by the Secretary of the Navy, if the offense was committed within the jurisdiction of the United States, or by the commanding officer of the squadron when the offense was not committed within that jurisdiction. So careful was that law to guard the rights of the humblest seaman, as I have said, that no officer was permitted, by his own authority, to inflict a severer punishment than twelve lashes upon any man. In more severe cases, the Secretary of the Navy, or, if out of the jurisdiction of the United States, the commanding officer of the squadron convened a court-martial, whose proceedings were to be in writing, and a record of which was to be preserved and transmitted to the Navy Department. Yet the bill we have just rejected, proposed to confer upon the commanding officer of any vessel, even though he should not hold a higher rank than that of passed midshipman, the power to inflict the punishment of solitary confinement not exceeding thirty days, with irons upon the hands and upon the ankles, and the culprit restricted to a diet of bread and water; all this without even preserving a record of the crime for which the punishment was inflicted, or the evidence upon which the crime was ascertained. This power, sir, I would not confer upon anybody; not upon any officer in the Navy, however exalted his rank. It is, in my judgment, exceedingly important that the punishments which are inflicted in the Navy should not be inflicted without regulations by law. I would give the commanding officer the power to summon a summary court-martial—sometimes called a "captain court-martial"—to be composed of not less than three commissioned officers. A recorder may be appointed by the court, or the commanding officer. But I would not give jurisdiction over a crime that deserves the extent of punishment by solitary confinement, to any one man. It is a punishment severe in the highest degree; a punishment which sometimes produces a shock upon the human reason which it is incapable of surviving.

A MEMBER. You got all this from the novels!

Mr. MILLSON. My friend says, I get all this from novels. I tell him, I get it from reports on prison discipline, made by scientific men to various legislative bodies, and which have sometimes induced petitions praying for the abolition of punishment by solitary confinement altogether. However that may be, I hope the House will reconsider this bill. It is very important that some bill of the kind should pass.

Mr. STUART. Before the gentleman from Virginia makes this motion, I desire to have it put in some shape by which we can have the bill printed.



Mr. MILLSON. That was my purpose in rising, that the bill may be printed and then go over.

Mr. BAYLY. My colleague [Mr. MILLSON] says this solitary confinement injures the constitution of the sailor. I wish to inquire whether the bill does not provide that if the surgeon who is on board all our vessels shall certify that the health of the prisoner is suffering, he shall be released? I know that the provision is in the bill.

Mr. MILLSON. My colleague misapprehends me. I did not say that the punishment by solitary confinement injured the constitution of the sailor. I said I had seen it stated in scientific works and reports, in petitions addressed to legislative bodies, that punishment by solitary confinement frequently gave such a shock to the human reason as utterly to overthrow it.

Mr. BAYLY. Mr. Speaker, let me inquire of my colleague, whether by the laws of Virginia a part of the punishment for certain offenses in our penitentiaries is not solitary confinement for a short period? And has he ever heard of persons there being injured by it?

Mr. MILLSON. I am aware that a part of the punishment of certain persons sent to the penitentiary is by the laws of the State of Virginia solitary confinement, at the discretion of the judge. The judge is to determine the length of the time, and that time is generally divided during the whole period of imprisonment, so as to have the convict kept in solitary confinement but a short time at any one period. I would suggest, however, that in these cases the guilt of the prisoner is ascertained by a jury. Now, what I am attempting to enforce upon the House is this: where the crime is so flagrant as justly to deserve punishment by solitary confinement, it ought not to be placed within the jurisdiction of any one man, whoever he may be.

Mr. STANLY. I want to make this suggestion, with the consent of the gentleman from Virginia. I suggest that he had better refer this bill to the Committee on Naval Affairs, with instructions to provide that seamen in every country shall have the right of a presentment by a grand jury, and a trial by jury; and that no free white man shall wear double-irons; and that all the penitentiary men in the country shall be taken out for exercise, and rode out, now and then, at the public expense. [Laughter.] I have no doubt that such a provision will be acceptable to some of the fastidious gentlemen who object to this bill.

Mr. MILLSON. I can only say, that if the gentleman desires such a movement to be made, he is entitled to all the credit of its originality; and if he desires to make such a motion, he ought not to be deprived of the privilege of carrying it into effect.

I desire to say, however, that I shall be happy to hear any suggestions. I rose in good faith. I desire that the bill should pass in some shape. I am ready to receive any suggestions made in good faith, as the most suitable mode of effecting this purpose. My main object is, to produce the result which the gentleman from North Carolina [Mr. STANLY] and myself both deem desirable; for, upon consultation with him, we both agreed as to the importance of establishing a summary court-martial in the Navy, for the purpose of trying those offences which were too light to go before a general court-martial.

Mr. STANLY. I want that now.

Mr. MILLSON. Well, if the gentleman from North Carolina, or any other gentleman, will give any suggestions by which my object may be facilitated, I will most gladly hear them.

Mr. STANTON, of Tennessee. I make this suggestion. If the House will reconsider the vote by which the bill was rejected, and then reconsider the vote by which the bill was ordered to be read a third time, then let it pass over till Monday, and allow the bill in the mean time to be printed; any amendment could then be made which the House might desire. I hope the proceedings will take that course.

Mr. MILLSON. There seems to be a difficulty upon the point of order. I do not understand that if we reconsider the vote by which the bill passed, that it will then become necessary to reconsider also the vote by which the main question was ordered to be put.

The SPEAKER. If the proposition to reconsider goes over till Monday it will come up in its regular order.

Mr. MILLSON. In reference to the other question, as I was saying, if this vote be reconsidered, it surely cannot be necessary to reconsider the vote by which the main question was ordered to be put. That vote has done its office. The House ordered that the main question shall be put, and that order has been executed, for the main question was put.

The SPEAKER. That question has been variously decided by former Speakers of this body. The present incumbent of the chair has decided that it is necessary to reconsider the vote by which the main question was ordered. In other words, if the vote by which the bill was rejected be reconsidered, it becomes necessary to reconsider the vote by which the main question was ordered to be put, in order to reach the reconsideration of the vote by which the bill was ordered to its third reading. That, however, in the option of the chair, can be done on Monday next, or at any other time as well as to-day.

Mr. MILLSON. I then submit the motion to reconsider, and move that it go over until Monday next, and that in the meantime the bill and amendment be ordered to be printed.

The SPEAKER. The proposition to reconsider the vote goes over, and in the mean time the bill is ordered to be printed. Is that objected to?

Mr. EVANS. I do not intend to object to it. I wish to speak to the motion to reconsider. Of course I do not wish to object to any such reasonable proposition as that.

The SPEAKER. The discussion of it will be substantially an objection.

Mr. EVANS. Then I will object, and speak to it, and afterwards withdraw my objection when I get through.

The rejection of this bill is the offspring of the misdirected philanthropy of these times, which, instead of expending itself in sympathy with upright men who observe the laws, goes seeking abroad in prisons, and in places set apart for the punishment of the vicious, for the purpose of tampering with condemned profligates, and sometimes raises itself to the pitch of exaltation of feeding prisoners and other criminals upon poundcake. That is a policy to which I am opposed. There are gentlemen in this House who declare that they will inflict no such punishment as is specified in this bill, except for crimes. Well, sir, mutiny and insubordination on board a vessel-of-war, or on board of any vessel whatever upon the high seas, are the highest crimes. These are crimes which peril the lives of every one who is on board of that vessel. These are crimes which may devote every person on board that ship to the speediest destruction.

Now, Mr. Speaker, I do not belong, I believe, to that class of individuals who have been denominated "Old Fogies." I am in favor of all proper, prudent, rational reform; that which protects and conserves, in its onward movement, the institutions and liberties of my country, and does not peril both for fanciful and imaginary good. No, sir, I am not an "Old Fogey." I am not one of those who, if they had stood at the creation, in the presence of the Almighty, I speak it reverently, would have exclaimed, "Oh, mon Dieu! conservons le chaos." I am not one of those persons who would have asked, in place of the beautiful and beneficent creation, which is the work of a bountiful Benefactor, of a just and benign Creator, that the institution of chaos might be preserved. But I am opposed to much of this modern philanthropy, this impatience of all just subordination and restraint, which is running about, betraying itself even in the Halls of Congress, for the purpose of enlisting sympathy for those who are little deserving of it.

I had the pleasure of hearing the other day, from an old officer in the Navy, a gentleman of the highest character—I will not mention his name, for it is not necessary—a firm Democrat—I make that declaration, for it may add weight here to his declarations and opinions—who has held that faith from his first manhood to the present time—a surgeon, and therefore not one of those officers whose pleasure it is, as is very unjustly asserted of some persons having command, to inflict punishment upon the seamen in our public vessels of war—I say I heard from him that it would be dangerous to lay an American vessel alongside of a vessel of a foreign nation, in actual war; that insubordination has reached such an extreme that the

sailors on board our vessels of war are daily and habitually accustomed to use the foulest and most profane, and even the most licentious, language to their officers, and that there is no punishment for it.

Mr. BAYLY, of Virginia, (interrupting,) made a remark entirely inaudible to the reporter.

Mr. EVANS. The gentleman from Virginia [Mr. BAYLY] calls my attention to the case of a sailor who threw a missile at his commanding officer; and I do not wonder at it, for insubordination has run riot, and seems likely only to work its own cure by some flagrant outbreak, which shall shock the sense of the whole nation.

And now, sir, it strikes me, as a circumstance not a little extraordinary, that the moral feeling of gentlemen should be so exceedingly shocked at the proposition in this bill to mark the word "thief," upon a felon's sleeve for ten days; it is called a badge of ignominy, a mark of disgrace; and some members are horror-stricken at the very proposal. Sir, it is a mark of ignominy and disgrace, and well deserved by those who may wear it. But why all this philanthropic horror? Are not badges, much more ignominious, bestowed upon thieves in many of the States, without shocking any sensibility, or even exciting any remark. I have heard that in the Legislature of Kentucky a proposition has been introduced, to dye one half of each convict's face as permanent a black as possible, and to renew the same from time to time, as often as need may require. Now, there the felon undergoes his punishment by confinement in the penitentiary, and by hard labor, and gets the japan brand in addition; and yet we hear nothing of an indignant community; no tears are shed, no sighs wasted.

But when this bill proposes that a thief on ship-board shall wear a little piece of flannel upon his sleeve, with the word "thief," worked upon it, without the accompanying punishment of solitary confinement and hard labor, or at most, with a confinement of thirty days, our philanthropic sensibilities rise to fever heat, and we are seized with spasms of virtuous indignation.

In any State of the Union, a fellow who steals something is thought worthy of going to the penitentiary; but if he happen to be a thief who has smuggled himself into a ship, under the pretense that he is a sailor—for true sailors never steal—and there commits larceny, it is a great degradation if he be condemned for ten days to wear a piece of flannel with his true name worked upon it. The Legislature of Kentucky I say, proposed in such cases to blacken the criminal's face; but I do not know whether they passed the bill or not, but my friend from Kentucky (pointing to Mr. MARSHALL) knows.

Now, sir, let us for a moment consider who the sailors are, in our Navy. During the last war there was no navy in the world that had such crews as our own.

When the "Constitution" went to sea, she had on board of her many men serving in subordinate capacities, who had commanded ships; a stern but kindly discipline enforced the rights and duties of every man; no foul, insolent, and licentious language then marked the manner of the true American tar towards his superior officer; each heart beat with a noble desire to vindicate the rights of American seamen, and to uphold the honor, the glory, and the dignity of his country. Mark the result. Your flag was borne triumphantly over every sea under heaven, and yet we had order, discipline, subordination, even flogging in that day: all which in this day of progress is sneered at, and derided as quite antiquated and out of fashion. In that day the majority of our crews, despite the assertions of our enemies to the contrary, were American sailors, with some gallant and true-hearted naturalized seamen among them, who fought nobly for their adopted country, against a proud, imperious, and heretofore triumphant adversary. But now, sir, it is doubtful whether American and naturalized seamen compose a tithe of the crews of our men-of-war, or of our merchant vessels. I want gentlemen to understand this, and that it may be spread abroad throughout the country, that the sailors on board of our men-of-war are composed, in a considerable measure, of non-naturalized foreigners, and they not the best of sailors, but many of them, I am sorry to say it, and the true tar deploras it as much as I do, of worthless men, scandalous jail-birds, men

who have been perhaps engaged in the slave trade—[A Voice—or perchance in piracy]—yes, or perchance in piracy—men who require the strong hand of power to be laid upon them continually. If only a few of these insubordinate, mutinous, turbulent spirits—enlist on board a ship, and the means of quelling, subduing, and controlling them are taken away, what scenes do we behold! what lack of discipline! what disorder! what contempt of authority. In that day your Navy will be in greater danger from its own crew than from the enemy, disastrous result! I beg, if your false and misplaced philanthropy must be bruited abroad, let it be elsewhere; a ship is no place to preach liberty, fraternity, and equality. On the contrary, the government of a man-of-war is a despotism, restrained and kept within just and legitimate bounds by wise and prudent enactments; enforcing its rules by wholesome, and if necessary, severe discipline. Such the Navy *was*, such it ever must be, if you wish to preserve it as the right arm of your power. Now they have in the Navy these foreigners, most of them non-naturalized foreigners, who do not become citizens of your country, who enlist for a cruise and perhaps take their discharges in foreign ports. These men, some of them good seamen, and worthy, some bad, mutinous, insolent, and unworthy, come aboard your men-of-war. And for what purpose? At home, in their own country, a low rate of wages obtains in every department. By the very limited demand which there prevails for labor, and by the necessity which men have of obtaining subsistence, by every possible method these persons are driven into their Navy, and into their merchant service.

Sir, notwithstanding the wages are less in our navy than in our mercantile marine, yet the wages in our navy are higher than in that of any other country. These men, then come aboard our naval ships for no other purpose than to get their pay, their rations, and their whiskey; and then many of them utterly refuse to do any duty whatever. They use opprobrious and degrading language to their officers, such as if used by any man to another on shore, would meet with the speediest punishment; and for this there is no remedy. I have been on board a man-of-war since the abolition of flogging in the Navy, and have been a witness of the insubordination that has resulted from it. Many persons were there confined for refusal to perform the ordinary duties required on board ship, and were thus liberated from all labor, and at the same time fed at our expense. They cared little how long such punishment lasted. I hope I may be forgiven by my country for voting as I did, to abolish flogging in the Navy. I would be happy to vote it back again were it in my power, coupled with a provision that it should not be hastily or unnecessarily inflicted, but only upon the finding of a court-martial, certifying that such punishment was necessary to good discipline.

Let gentlemen reflect that insubordinate men who refuse to do their duty, increase insubordination; each mutinous man is a pestilential plague spot, spreading his miasma until at length the whole crew becomes corrupted; this terrible and dangerous contagion is only to be controlled and suppressed in its very inception, and this you now have no means of doing. See, besides, what injustice is worked by your present laxity of discipline. Those men who refuse to perform duty throw the whole burden and labor upon good, noble, honest sailors, who love their duty, and are willing to perform it alike in storm or sunshine, in peace or danger. The result, then, is that out of a ship's crew of six hundred or eight hundred men, you may have but a hundred who do anything. Now, suppose you come into action with such a state of affairs, what else can you expect than ignominy, disgrace, and defeat?

Gentlemen, I tell you there has been a theory afloat here which ought for the good of the country to be now, at once, and forever ended.

It is taken for granted by many persons that a naval officer is a man who takes pride and delight in a refined cruelty; that he loves to exasperate first, and then to torture his victims; that he is never so happy as when Jack is at the gangway lashed to a grating with his bloody back quivering under the "cat." I, for one, believe none of this; I believe that our Navy is, in the main, composed of high-minded, humane gentlemen, to whom the very idea of cruelty is abhorrent, and who shun punishment when it is not indispensa-

bly necessary to the discipline and safety of all on board. I admit that in the Navy there are always some men of high temper and violent passions; and such there must ever be, everywhere, while human nature is what it is; and I would not unnecessarily subject any citizen to arbitrary and hasty punishment at the hands of such a man. Cruelty may easily be prevented by requiring that punishment in this extreme degree be ordered only by a court, and with that guard I would have no objection even to flogging in the Navy. And now, once for all, disbelieving all these high wrought pictures which some gentlemen here delight to paint upon this and other subjects, of the demoniac cruelty of our gallant officers, and our worthy citizens, I contend that the theory that our naval officers, or the officers in our Army, are naturally cruel, or that any set of American citizens are naturally disposed to do wrong to those who are submitted to their charge, is erroneous. Let us consider what we are about. All the nations in the world are arming. For what? Is it out of regard for us? Have we any mercy to expect at their hands? May we not rather look for war to the knife? Is this, then, a time to break down the discipline of your Navy, and make the crews of your men-of-war mere mobs? Standing armies are dangerous to our liberties; these to any great extent we never will maintain; but a Navy need excite no such distrust; to its protection we may safely trust without the apprehension that when it has overthrown our enemies, its pariacidal hands will be turned against its country. We must continue our Navy upon the sea, and meet all attacks beyond the view of American land. All Europe is close to our shores. There is among European despots a universal feeling of hatred against us. Already almost the whole continent is closed against the entrance of our citizens. We are the only Republic maintaining its liberties now upon the face of the globe. As such we are the detestation of despots everywhere, and they seek and desire merely a pretense to crush those liberties which we have earned so dearly, and which we so highly prize.

If we be thus attacked, we should meet our enemies first upon the high seas; we should meet the invading hosts upon the ocean, and bury them amid its waters.

We should allow no foreign footstep upon our soil, and it should be our proud boast, as it has been that of England for the last eight centuries, that our women have never seen the face of an enemy. How are you to effect all this, unless you maintain a stern and severe discipline in the Navy? It is impossible. All victory, all success, rests at its foundation, upon strict subordination, and this subordination you must secure by some enactment. It will not do in a reckless and heedless way to reject propositions looking to this end.

I believe that the sublimated philanthropy which is preached here, when repeated in the service will, of itself, work mischief.

Moreover, sir, upon this subject of punishment, I have heard it asserted—but I do not assert it upon my own knowledge—that those of our sailors, who do their duty, who live honest and upright lives, who live manfully, and die manfully in the service of their country, desire the restoration of flogging; and they wish for it, because the "cat" will never touch their backs, and the idle will, by its restoration, be made to perform their share of labor, and the mutinous and insubordinate be brought to order. I know that there are a few persons going about the land to enlist that sympathy which was always given to criminals in this country by a certain class; threatening members of Congress, and striving to prevent the restoration of discipline by clamor, and the cry of *unpopularity*. None seek the abolition of punishment so much as those who deserve it; for

"No rogue e'er felt the halter draw,  
With good opinion of the law."

But this is not the course of the true American. He does not commit the offense which merits the punishment. There are enough instances of these true American hearts, who have been in our service until they have grown gray—who have fought our battles on the seas, as gallantly as any men ever fought in any battle, and who have carried our flag triumphantly over every wave, to every clime, and every part of the globe, and who have made our name honored and respected. They are the men who have never felt the lash,

and who desire to have it restored, in order that the whole burden of service may not be put upon them. Is it a sickly philanthropy, or a fear of giving offense, or a desire for popularity, or what is it, that animates this House, when it will not restore any discipline to the Navy?

Mr. STANTON, of Ohio. I wish to inquire why such vagabonds as the gentleman has described are continued in the naval service of the country? Why are real sailors, who are guilty of insubordination, discharged from the service? If sufficient pay is offered, can you not obtain sober and orderly citizens in that as well as any other business. And I wish further to inquire, whether the vagabonds he describes are the persons that it is proposed by this bill to be pensioners for life on half-pay?

Mr. BAYLY, of Virginia. With the consent of the gentleman from Maryland, I will state a fact, which I had from a sailor myself. He said, that, after one of the cruises of the ship to which he belonged, and they were discharged and found out that whipping was abolished, that every good man on board the vessel refused to reenlist, and said that they would not go to sea unless there was a mode of punishment.

Mr. EVANS. I think the gentleman from Ohio is sufficiently answered by what has been said by the gentleman from Virginia. Such characters are enlisted as come forward. It is possible for the enlisting officer, when he sees a jack-tar, to tell whether he is a sailor, or not; but it is not possible to judge of his habits, his disposition, or to know anything of the history of his previous career. He takes him upon board of his vessel, and then in the middle of the China seas, the bosom of the Pacific, or the southern Atlantic ocean, the man proves insubordinate, disorderly, and mutinous; I will ask the gentleman how, then, is his place to be supplied?

Mr. STANTON. I do not understand why there cannot be obtained honest and sober men, who need no such correction?

Mr. EVANS. The gentleman seems to think that the sailors are a standing class; that they consist of one hundred and fifty thousand or two hundred thousand men; who do not die, and are not replaced by others, and whose characters may at all times be ascertained. There is not a more variable and fluctuating class in the whole world. You scarcely have the same man in the same vessel in two consecutive years. I apprehend the common sense of the House—for if there is anything that marks the House of Representatives, it is common sense—will see at once that it is not in the power of the enlisting officer to get up such a crew as he chooses. That is obvious.

Allow me to return to the bill now under consideration. I will say that I think I would prefer flogging, with the restrictions before reverted to, to the provisions of this bill. I am bound to say it. It is not that I am disposed to have corporal punishment inflicted upon any one, unless deserved; and if we can get along without such punishment, I would never resort to it; never. But our information is that we cannot. I must say, then, that with this information, I would prefer the repeal of the section of the naval appropriation bill of last Congress abolishing discipline, (for it was upon the motion of the gentleman from Tennessee [Mr. JONES] that a provision was inserted into the appropriation bill abolishing flogging in the Navy,) to the provisions of this bill; but I see nothing greatly wrong in this bill. I think it better, by far, than no discipline, and therefore I voted for it. I do not see any great hardship to any man in being confined thirty days for a grave offence. In our State, we are in the habit of putting a criminal in solitary confinement twenty years, if he is deserving of it; and why solitary confinement for thirty days should be thought by the gentleman from Virginia [Mr. MILLSON] to be so great a punishment, I cannot conceive. If we look at it in all of its lights, it appears to me to be a very lenient punishment for a grave class of offenses.

Mr. MILLSON. The gentleman, perhaps, misapprehended the direction of my remarks. My purpose was to show that punishment by solitary confinement in double-irons for thirty days upon bread and water, was a very severe one. The gentleman does not doubt that? It ought only to be inflicted for a very heinous offense. Now, I wish to call the gentleman's attention to this

fact, that by the existing law, by the law as it has stood for more than fifty years, such offenses could not be inquired of by any commanding officer of his own authority. The law provided, if the offense deserved a higher punishment than twelve lashes, that it must be inquired of by a court-martial, and therefore it was that I objected to the jurisdiction granted by this bill to a single commanding officer—perhaps a lieutenant—in a case which might deserve such punishment as that of solitary confinement for thirty days, with the accompaniments stated in this bill.

Mr. EVANS. I understand the gentleman. I would be willing that an offense of this kind should be inquired of by a court-martial. I voted for the bill, and took it as it is, because we have no punishment, no discipline in the Navy at this time. Immediate discipline is wanted there. I took the bill, because it is a beginning. If it is found by practice to be onerous in any particular provision, it will be altered. It will be amended, you may depend upon it, because the current of sentiment is in favor of leniency.

I very much fear, sir, that the days of our naval glory have passed away forever; sickly sentimentality has usurped the place of true genuine feeling, and discipline no longer will be enforced under the stars and stripes. The conflicts in the revolutionary war, when the American tars feared to meet no enemy, and when the American officers knew who they commanded—

Mr. STANTON, of Tennessee. If the gentleman will allow me to make a suggestion, and that is in regard to one portion of this bill, which seems to be lost sight of by those who oppose it; that is, that the severity of these punishments are counteracted by something that never existed in the Navy before—a system of rewards of a very important character.

Mr. EVANS. I am very much obliged to the gentleman for directing my attention to that part of the bill. I think it is an important portion, which may obviate many of the objections made to other portions. It is in most of its parts a just and proper bill. If provisions were introduced, founded upon the speeches I have heard here, we should have a pretty state of affairs indeed. I do not wish to misrepresent gentlemen in any way, but one gentleman thinks that by the Constitution of the United States our sailors are entitled to a trial by jury. Well, sir, while the gentleman was speaking, I sat down and drew up, as nearly as I could, based upon his remarks, an amendment which would give them effect. I will read it to the House:

*Be it enacted*, That the commander, lieutenants, midshipmen, and other officers on board ship, shall be elected by ballot by the whole ship's crew.

*And be it further enacted*, That all distinction of quarters is hereby abolished.

*And be it further enacted*, That every offense committed on board ship, whether by officers or seamen, shall be tried by a jury to be chosen by the whole crew, and such punishment shall be inflicted as is prescribed for the like offenses on shore, by the laws of the State of Pennsylvania.

Mr. STANLY. If my friend will allow me to suggest a correction, to strike out "by ballot," and insert "viva voce," and to add to the end of the last section "punished, &c.," according to the resolutions of '98 and '99." You will then have it just right. [Laughter.]

Mr. EVANS. The gentleman has perhaps improved it, but as I am not saying anything political, I will leave out the resolutions of '98. What I utter, I feel. I believe that the safety, the independence, and the glory of our country are closely connected with the discipline of the Navy. I believe, too, that our Navy will be yet our right arm of defense in the day of need and danger. I was about to say, when I was interrupted, that I much feared, unless we adopted some severe and stern discipline above the sickly sympathies and sentimentalities of the times, that we would never again have the days of the Constitution and the Guerriere, the Constitution and the Java, the Constitution and the Cyane and Levant, the Wasp and the Frolic, the United States and the Macedonian, and the days of those other glorious victories which covered the American flag with immortal honor. Those honors were attained by a strict and rigorous discipline, and not by riot and looseness on board of ship—not by questions of position of the commander here, and the crew there, not by any sentiment that a man who had been guilty of insubordination, mutiny, and who was in the highest degree disorderly, should rather have the ten-

der sympathies and kindly feelings of everybody in the community, than a good proper punishment. I desire to see restored to the Navy its proper discipline. I believe that the members of this House desire it, and if they will look into its condition—if they will imagine for a moment the position of a commander—I was about to say the deplorable position, but, certainly, the great, tremendous and overwhelming responsibility of the commander of a ship in a distant sea, far away from his country at the mercy of five hundred men, picked up at random, many of whom may have been turned loose from the prisons and jails of Europe, they will have to admit that a strict discipline is indispensably necessary in every Navy. I assert here again, to those who would inflict no punishment, except for crime—and with them mutiny, insubordination, disorder, and refusal to obey orders is no crime—that those who, by their disorderly conduct, jeopard the lives of all the crew are guilty of a very great and heinous crime. Such crimes are worse than those committed upon land. The midnight murderer is not more criminal than are they who commit the offenses I have mentioned, for these lead to wholesale death. Let us see what has been the effect of the abolition of flogging in our naval service. It is fresh in the recollection of you all—and I state facts derived from creditable sources, that in the port of Liverpool there was lately a deplorable mutiny on board of an American ship, before she had proceeded out of the jurisdiction of the British waters. What was the result? If the lash had been resorted to, it perhaps would not have occurred. The result was, that the mutiny had to be quelled by a resort to cutlasses; and the maimed and mutilated bodies of the seamen engaged in it, bear attestation to the wisdom of your anti-flogging laws. This is but one single instance. There have been others, I am told, that women fear to take passage in American vessels upon long voyages. It is not because of fear of American seamen, but of the foreign jail-birds, criminals, and the abandoned of every land who congregate and take refuge there; but your sickly sympathies, and what I must call, with all respect to the House—your sickly sentimentality—refuse all remedy and prevent all redress. I will now, in compliance with my promise, withdraw my objection.

Mr. STANTON, of Tennessee. I do not intend, Mr. Speaker, to prolong this debate, and unless some gentleman desires particularly to discuss this matter, I will say a word in reference to that portion of the bill to which I called the attention of the gentleman from Maryland, [Mr. EVANS,] and that is the new system of rewards which has been introduced for the benefit of the sailor, and among those especially, that provision by which, after twenty years of service, when his conduct has been proved, by good conduct discharges, at the termination of every term of his enlistment, the sailor shall be permitted to go into the naval asylum with half pay during life. Now, this is just and fair to the sailor, and a very great advantage. It is one which you will see can only be enjoyed by the sailor, who has performed his duty continuously for twenty years, without serious complaint by his commanding officers. It will be confined necessarily to a small portion of the Navy; and it will be for the benefit of the country, that this provision should be enjoyed by all. It is suggested by the gentleman from Virginia [Mr. BAILY] that this will be more than made up, by that very provision of the bill which makes a forfeiture of pay not exceeding three months, one of the punishments which may be inflicted for disorders upon board of a ship. I confess there is something singular in that objection.

Mr. HALL. I wish to ask the gentleman a question. I only desire to ask the gentleman from Tennessee, if he will be willing to give pensions to all officers of the Army or Navy who have served faithfully twenty years?

Mr. STANTON. I will say in regard to them, that the committee of which I have the honor to be chairman, has directed me to report a bill for the relief of aged and disabled officers, unfit for service, or who may be put upon the retired list by a board organized for that purpose. I say that they have instructed me to report a bill which will have the effect of giving half-pay during life to these disabled officers, placing them out of the line, to give place to young and more vigorous

officers, who will be prepared to perform the duties of their position. I would not be willing to turn these old officers out, without a dollar in their old age, after they have worn themselves out in the service of their country. Nor, upon the other hand, would I be willing to turn the sailor adrift in the same way, when he has performed his duties well and without objection, continually for twenty years.

I stated in the first remarks which I had the honor to make here to-day, that this provision, in all probability, would never be claimed by any sailor who was able to go to sea. If there is a man who is unwilling to confine himself to any asylum, and who is unwilling to confine himself to the shore, when he is able to do duty upon the sea, that man is the sailor—the sailor in the American Navy especially, so that the operation of this provision will be to exclude the undeserving man from the naval asylum, though now your naval asylum may be filled by men who are unworthy, and who never faithfully performed their duties. This, then, is a restriction, and at the same time, that it is a bounty and advantage to the sailor, it is a reward for good service.

In addition to that, there is another reward of three months extra pay. Upon the second enlistment of the sailor, provided that during the first term of his enlistment he has acted well, he obtains a good conduct discharge. Those gentlemen who are particularly the friends of the sailor objected to these severe punishments for crimes committed by sailors upon board of vessels. I say these are the gentlemen who most seriously object to the provisions rewarding the sailor after he has served his country twenty years faithfully, with half pay during his life, and an asylum under the patronage of the Government. It seems to me that there is a great inconsistency in these two objections.

Mr. EVANS. That sailor will have taken out of his pay for hospital money more than that half-pay will come to.

Mr. STANTON. The hospital money taken out of his pay is for the purpose of affording him medical assistance in time of sickness, and, when he needs it, an asylum in the hospital. However, the substance of what the gentleman says is true. I admit that there is great force in the objection, that these punishments are inflicted summarily by the officer. I grant it, and hence it is, I have admitted, that these summary punishments—although many gentlemen differ from me in that respect—are not necessary on shore. I know there is a great difference of opinion upon this point. Why is it that these summary punishments have been allowed in many cases? Because the discipline of the navy could not be maintained upon the sea, in the hour of danger, in the hour of battle, and in foreign countries, when we are not within the reach of our laws. Take the case of a vessel which may be detached from the squadron at a time when it would be impossible to have a court-martial, and when perhaps in the hour of danger, during a storm, it may be necessary to inflict punishment at once; or it may be necessary for the sailor to know that summary punishment may be inflicted speedily, so as to operate upon him as a terror, forcing him to do his duty.

Mr. MILLSON. There is no one punishment which can be inflicted at once.

Mr. STANTON. The gentleman is mistaken. The sentence that the sailor may be confined for thirty days in double-irons, and upon bread and water, is known to him at once, and it produces its effect upon him. The knowledge that the punishment can be inflicted upon him is what will produce a good effect. What was the objection to the lash? The objection taken by the majority of the House, and the weight of which I feel, and which is felt by the whole country, or at least by a large majority of the people of the country, is this: that it is a degrading punishment. If you put the question to any man, who has a proper sense of his honor, whether he would submit to the punishment of confinement upon bread and water, in irons thirty days, or submit to a dozen lashes; I am sure there would be no hesitation in the answer that would be given. It was the degrading character of that punishment which was objected to. One of the strong arguments upon all occasions has been, that the punishment by the lash has been abolished in almost every State of the Union. It is against the public sen-



ument. But confinement in irons has not been abolished. Solitary confinement has not been abolished anywhere. In my own State, I have known men, upon the suspicion of crimes, before any trial had taken place, to be confined for months in irons. In my judgment, you must give the officer in command of a vessel, the power of inflicting summary punishment. See what a vessel-of-war is. Take a village in the country, or a town of ten thousand inhabitants. Select from that ten thousand, one thousand vigorous men—all the effective force of the whole ten thousand. Place them in one vessel going to sea, and remaining there for, perhaps, three years, charged with the honor and defense of the country. Every one must see under these circumstances, that you cannot possibly maintain or carry on that important service by the same laws, by the same system of punishment, and you cannot acknowledge the same rights by which you are governed on shore. The thing is impossible. Reflect that in the absence of this bill, or something like it, or something which may be substituted for it, there is no power to punish. The lash cannot be inflicted. There is nothing else but death, and you must do it by a regular court-martial; and the sentence must be approved by the Navy Department and by the President of the United States. What check is there upon the passions, upon the insubordination or mutiny of the crews of our vessels? What power is there to control them? I agree that the lash ought to be abolished. I bow to the will of the people. I bow to my own instincts, and I acknowledge their full force; but crime must not go unpunished, and the necessities of the service must not be neglected. You must give this high and important power to the commanding officer of a vessel, or else the service will go to destruction. This is the feeling of the whole Navy, and I think it is the conviction of everybody, who is well acquainted with our naval system. I have never understood that the objection to this system of punishment was anything, but the disgraceful character and cruelty sometimes exercised by means of the lash. I have already shown you, that this punishment which requires time to carry out, will have the effect of doing justice. If punishment has been unjustly awarded, a little reflection and lapse of time will correct it, and an unjust sentence of confinement for fifteen or thirty days would never be carried out against the sense of justice, of any considerable portion of the officers on board ship. It is the continuance of these punishments that give to them a milder character; in short, a character totally different from that which existed under the late law, by which the lash was inflicted. I am not much disposed to close debate upon any proposition, but I am under the necessity of moving the previous question.

Mr. ORR. I hope it may be voted down. The House was attempted to be dragooned this morning—

Mr. STANTON. I withdraw my motion.

Mr. ORR. Two years ago flogging was abolished in the Navy by act of Congress, and just about in as summary a manner as the effort made this morning to pass this bill. I had the honor of occupying a seat upon this floor, and upon turning to the Journals, I find that there were but twenty-nine gentlemen who voted against the proposition which was introduced into the naval appropriation bill, abolishing flogging in the Navy. My name is one of those recorded in the negative. I thought then that I foresaw the evil consequences and disorganization which would ensue in consequence of that hasty and inconsiderate legislation. Now you attempt to remedy the great evil you have entailed on all the branches of the naval service by bringing a bill into the House which has not been even printed, and refuse time to the members to read it in manuscript, to say nothing of the time necessary to scrutinize its provisions, to determine whether they are favorable to it or not; but, under the force of the previous question, it is attempted to be thrust down the throats of members, *nolens volens*. I trust such a case of legislation has received such a rebuke as will not allow it to be attempted again. I am as well aware as any gentleman upon this floor that there is a necessity, imperious and unavoidable, for some additional legislation to prevent and suppress insubordination in the Navy. It is impossible that discipline in your Navy can be maintained

unless you give authority to the officers in command of vessels to inflict summary and exemplary punishment upon evil doers. But, sir, I am opposed to seeing other subjects having no legitimate connection with proper punishment in the Navy, incorporated in this bill, and passed through the House under the force of a pressing necessity demanding our immediate action, to be in time to meet the wants of the expedition soon to sail to or against Japan, I know not which, when if left to their own merits, I am reasonably assured, could never get the sanction of a majority of this House.

It is urged by the gentleman from Tennessee, [Mr. STANTON,] who, be it remembered, voted to abolish flogging in the Navy, without first providing other punishment, that the last clause of the bill, which provides that, after a sailor has served twenty years creditably, when he has had good marks all that time, he shall then be put upon the retired list, with half pay, is a just and proper one. He retires him, never requiring him to perform any further service of any sort to the country, and gives him half wages all the balance of his life for doing nothing. Quite a comfortable berth, truly, for a sailor can retire at forty, and be a pensioner the balance of his days. Well, I have the same objection to that as to a retired list in the Army and Navy. Persons engaged in the public service of the country are all the time they are thus engaged receiving fair, adequate salaries or wages; and if, by profligacy, wastefulness, extravagance, dissipation, or from any other cause, they squander their earnings, and have nothing to subsist upon when they become old, what obligation is there devolved on this Government to pay them pensions, when they have been well paid during the time they have been occupied in the public service. Why should not the same rule apply to the mechanic who has labored faithfully upon the public buildings for twenty years, and has become disabled from age, or other causes? Why should not the Government pension him also? Why not have a civil list, to include the statesmen and politicians of the country who have spent their best days in the public service, and when they become superannuated, let them feed from the public crib? I am opposed to the whole system, and hope it will never be saddled on to the people of the United States. If the gentleman desires to originate anything of that sort, let him introduce a separate bill, and pass it, if pass it must, upon its own merits. Now, I am in favor of a well digested bill, to prescribe and regulate punishment for offenses against the order and discipline of the naval service at sea and on shore. I do not know but what the principle features contained in the bill now before the House may meet my sanction. But I cannot without examination or consideration, aye, sir, without even reading, be forced to vote for the bill under present circumstances. I did hope that the proposition made by the gentleman from Virginia [Mr. MILLSON] to let his bill, by unanimous consent, go over until Monday next, and be printed, would have prevailed. We should then have the bill before us, and all the facts necessary to enable us to legislate upon it judiciously and discreetly. Hasty legislation, so pertinaciously pressed on the House to-day, will result just as it did two years ago, when you abolished flogging without providing a substitute. We have one evidence already of the difficulties which await ill-digested legislation, and the dissatisfaction it is likely to lead to. This bill, according to the statement of the gentleman from Virginia, confers upon the officers of the Navy more arbitrary power over the persons of the sailors than did the old law, which allowed flogging. Now, sir, if he is correct, how long will the act stand upon your statute-book, and what confusion will it not involve you in? If you pass the bill as it now stands, in all probability you will be forced to repeal it in a year, as being more revolting to humanity than flogging. I hope, therefore, that the question will go over until Monday next, when it can be considered, and that, by the unanimous consent of the House, the bill may be ordered to be printed.

I desire to inquire of the Speaker whether, if a motion is now made to adjourn, and it prevails, this business will not come up on Monday next, as the first in order.

The SPEAKER. It will. It is a motion to reconsider.

Mr. ORR. Then I move that the House do now adjourn.

Mr. VENABLE. I ask the gentleman to withdraw that motion for a few moments.

Mr. ORR. The gentleman can make his speech on Monday next.

Mr. VENABLE. The gentleman surely does not wish to choke me down?

Mr. ORR. I have no sort of objection to the gentleman's proceeding now, but it is the usual hour of adjournment. I will, however, withdraw the motion to adjourn, if it will gratify my friend from North Carolina.

Mr. VENABLE. I have only a remark or two to make. I do not feel under any particular obligation to help gentlemen out of the difficulty into which they have got themselves. I voted for the bill, because I thought it necessary to sustain the discipline and glory of our Navy. The gentlemen who voted against it, have my leave to get out of their difficulties as soon as possible.

Mr. ORR. It is the friends of the bill who have got themselves into difficulty. The majority here are very able to take care of themselves. There is no uneasiness at all in my mind, as one of that majority.

Mr. VENABLE. I suppose so. But the gentlemen must get out of the difficulties into which they have plunged themselves. I do not feel much inclination to help them out of it. Gentlemen tell us that they voted to abolish flogging, because it was degrading to the sailors. Sir, with flogging a part of the discipline of the Navy, the stars and stripes have been borne in irresistible triumph upon every ocean on which heaven has set breeze. Degraded men, and men crushed down by the discipline of the Navy, would never have achieved those triumphs which, from the days of Paul Jones down to the present day, have been written in letters of living light on the pages of our history. The gentleman tells us that the old sailor ought not to be pensioned after twenty years of hard service, with marks in his favor all the time. They begrudge him retirement to the sailor's snug harbor. I have no difficulty of that sort. You call a man into an ephemeral war, and skirmish with Indians; he goes into the field once, and is then discharged, and you give him one hundred and sixty acres of land. The militiaman, who never drew a trigger, and never saw an enemy, gets one hundred and sixty acres of land. But when a proposition was made here to give one hundred and sixty acres to the sailor, who has grown gray in the hard service of his country, the House voted it down. Even those who did such tall walking at Bladensburg, got paid. But when the poor sailor, who, hoary with the snows of winter and of age, who has been for twenty consecutive years facing the stormy winds and the enemies of his country, comes and asks for retirement or for one hundred and sixty acres of land, you refuse him, because you say he is a mariner, and not a landsman. Gentlemen say that it is creating the system of a retired list in the Army and Navy. If it be so, let us inquire, is it right and just? The man who braves the ocean waves, and the storm, and the battle on the deck of a man-of-war, that man shall never be refused a pension at my hands. I am never willing to refuse such a man a harbor to retire into after twenty years' consecutive honorable service. I have been pained, on looking over the years and nays, to see how many gentlemen voted against giving bounty lands to the poor sailors, whilst they are voting them away to railroads, and giving forty-two millions of acres of lands called "swamp lands"—which would include the top of Mount Ararat, for the flood passed over that once. [Laughter.]

Mr. JOHNSON, of Arkansas. I dislike to interrupt the gentleman, but I cannot allow—

Mr. VENABLE. Sir, I will take back all about Mount Ararat and the flood, to satisfy my friend from Arkansas. [Laughter.] Sir, when the Roman soldier had served for twenty years he was called a veteran, and was honored by every one, whether plebeian or patrician, and supported from the public treasury. When he appeared in the streets of Rome he was received with respect by old and young; and in those days the young men rose up before the old men. But, in these days, when "Young America" is running against "Old Fogysm," it is a disqualification for a man to have been in the high and honorable service of his country, and to have some of the signs of age upon his temple, prophetic as it may be, of decline. That is to say, that the man who has

achieved enough to secure the confidence and esteem of his contemporaries, and who bears the marks of honorable service upon him, is to be denominated an "old fogey," because some young man has claims which he desires to put forward. I may, perhaps, be somewhat sensitive, because I am a little of an "old fogey" myself.

The SPEAKER. The chair will suggest to the gentleman from North Carolina, that the question before the House is on reconsidering the vote by which the bill was rejected. [Laughter.]

Mr. VENABLE. I know it is, and I shall return to the subject. I wish gentlemen to get out of the difficulty into which they have got themselves, and if our ships are disgraced for want of discipline, I want the responsibility of that disgrace to be on those who refuse authority to the officers to enforce discipline.

Mr. MILLSON. The gentleman from North Carolina speaks of the predicament into which the majority have got themselves. I will state to him that I believe there is not one of the gentlemen who constitute that majority who would not prefer that there should be no bill at all, rather than the bill which was presented to day. But that majority—I speak advisedly, after a consultation with a very large portion—are perfectly willing to concur in the passage of a suitable and proper bill. But does the gentleman from North Carolina mean to be understood as occupying the position of one who will give no discipline to the Navy unless the bill which has been presented to-day is accepted?

Mr. VENABLE. All I have to say is, that I am in favor of a suitable and proper bill, such as the one which was rejected this morning. I voted for the amendment striking out the provision for putting "thief" on a man's back, and that was the only provision in the bill to which I objected. I have long since passed by the day in which I believed that moral suasion could govern anybody. That is one of the features of this progress of which we hear so much in this nineteenth century. Sir, this is called the age of progress, and it is; but let me remind gentlemen that there is a progress downwards, as well as upwards—backwards, as well as forwards. Under this banner—the punishment of crime, the restraint of vice, and the sanctity of law, have all been made to recede. Sympathy, instead of clustering around suffering merit, is poured out in a perennial stream in favor of those whose crimes have at last brought them to deserved punishments. The short way to paradise is from a two-legged edifice, erected at the public expense, accompanied with a piece of hempen cord, furnished to those steeped in the guilt of murder, and all over defiled with guilt. Good men, struggling with adversity, were once described as subjects worthy of the admiration of superior beings. That age has passed away, and now the most profound interest is attracted by those whose just condemnation for the grossest crimes ought to have secured the approbation of all good men. We are told of degrading punishments. Sir, this is the foundation of the whole mistake. The great fundamental error in progress in this direction is, that the disgrace is annexed to the punishment, and not to the crime. The crime is the disgrace; the punishment is intended, not for that end, but to reform and restrain the offender, and as an example to others. Good men and good sailors have nothing to fear from the disgrace of punishment, because such do not commit crimes. Why, then, is it that malefactors are to be protected and shielded from punishment, to the destruction of discipline and the hazard of the lives, as well as the vessels, which are employed in our service? Why do gentlemen forget the honorable officers, and equally honorable and obedient sailors, and offer a bounty to the unworthy and disobedient, by withholding the power of inflicting punishment or exercising restraint? It is answered that too much is left to the discretion of the officer in command. Sir, you must trust somebody. The responsibility is on the officers, and it is unjust to withhold from them the means of enforcing obedience. The court-martial will certainly censure them for failure to do all this duty, and you render that impossible by depriving them of the power to compel refractory men to obedience. If gentlemen are ready to give up the Navy, let them haul down our flag honorably—let them order the ships home and disband the crews, but save our bright and glorious naval history

from a degrading termination. England, France, and every naval power, will rejoice to see this arm of our strength paralyzed, our extended coast and our wealthy cities invite assault and stimulate the thirst for plunder. The guns of our ships, and the bold hearts and stalwart arms of our tars have been our bulwark; but without discipline it will be so no longer. Good men, brave men, will not divide risks or share perils with the insubordinate and unworthy. No, sir, their proud, brave hearts will shrink from mingling with such contamination. The bronzed cheeks would be colored yet more deeply with the sense of shame, if compelled to see the disasters to this service which must result from the want of discipline in the crews.

Sir, I know no conservatism but obedience to constituted authorities; I recognize as durable no progress but that which restrains vice, punishes crime, and protects the virtuous and deserving. I am not afraid to trust those who must control the elements of social organization, with the power to make that control effective. I dread nothing so much as insubordination to acknowledged law, whether in civil life, the camp, or on the deck of our ships of war. Somebody must rule, and the civil magistrate and the military officer have, by common consent, been selected for that purpose, and they must be sustained. Sickly sensibility for offenders cannot be cherished without danger of social disorganization. I have always admired the promptitude with which the people of the State that I in part represent render obedience to the magistrate. His mandate is always sufficient to restrain the highest as well as to protect the humblest member of society. Gentlemen speak of the disgraceful nature of the punishments in this bill; seem shocked at the authority of an officer to imprison the rebellious sailor. Sir, I have often seen the magistrate imprison disorderly citizens, and all seemed to approve his decision; I have seen the insufferable nuisance which often afflicts society in the persons of abandoned and licentious loafers, abated by his order to place such persons in the stocks. It was obeyed, and all the people said Amen.

Mr. FICKLIN. I would ask my friend from North Carolina whether they hang people yet in his State for stealing horses?

Mr. VENABLE. My friend from Illinois can have no interest in that matter. There are so many horses in Illinois that he will have no occasion to come to North Carolina, and I have no time at present, to reply to amateur questions. In North Carolina we whip larceners, counterfeiters, and thieves in general, and place those who deserve it in the pillory or the jail. I never hear complaint made of the disgrace of the punishment. It is the crime, and not the punishment, which constitutes the disgrace. I have no sympathy for the malefactor, and I hope I never shall have, whilst I would refuse to reward the old soldier or sailor, and to vote him a place to retire to in his old age. I never will require the gallant officer to walk his quarter-deck without being able to command his men with a certainty of being obeyed by them. I never will compel him to kill his men for mutiny, or submit to their will. I will never be willing to risk the lives of seven or eight hundred men, or have a fully armed vessel put in jeopardy because there is no way to compel the sailors to obey their officers. Sir, if it is to be the temper of Congress to pour contempt on those institutions which are intended to restrain the unholy passions of men, and to curb and hold back those who would sin against the rights of individuals and the laws of the country; if this temper is to be encouraged; if the current of national feeling and sympathy is to run in that direction; if our legislation is to assume that character, our country will be cursed of God and fled from by men, and our Government will dissolve in its own filth and corruption, and it ought to be dissolved! We have no security for the institutions of society unless we make laws, and give power to execute those laws, to restrain wicked and violent men, and compel them to obey the Government. You can have no Government without the power to make laws and the power to execute those laws at all hazards. I am not an old man. I have passed more than the middle of any human life, and I feel a sense of gloom come over me that I cannot avoid, when I see the disposition amongst men in high places to shield and protect those who violate the laws and sin against those restraints which the wise and just have im-

posed for the protection of person and property. These are my views upon this subject.

I will place no obstruction in the way of a reconsideration of this bill. A *locus penitentie* is within the reach of the majority who rejected it; but I can assure them that there are many who aided them in that work, who cannot be easily satisfied with any bill which gives the power to exercise wholesome discipline in the Navy. Nothing but disaster from insubordination will awaken the people to the erroneous legislation upon this subject. I am not responsible for any of it. I voted against the abolition of corporal punishments. This bill, approved of by the best officers in the Navy, and passed by the Senate, is worthy of a trial. The system of rewards, as well as punishments, is a good feature in its provisions. I am satisfied that it is our duty to provide for the evening of his life, when the gallant tar breaks down with service. His wages are taxed every month to sustain hospitals for his reception. So many perish by the perils of their avocation—so many sleep in an ocean grave—that our economical notions will not be greatly shocked by the expense of providing for deserving, meritorious men. This system of discipline restrains the vicious, encourages the deserving, and I believe will do all hoped for by its friends. I was anxious for the passage of the bill, because two squadrons are expected to leave in a few days for remote stations and a long time. I feel it due to the service and the country to establish regular discipline, and not leave the whole Navy to legalized confusion. Agreeably to the promise made my friend from South Carolina, [Mr. ORR.] I move that the House do now adjourn.

Mr. JONES, of Tennessee. Will the gentleman withdraw that motion for a moment?

Mr. VENABLE. Certainly.

Mr. JONES, of Tennessee. I propose to relieve the majority of the dilemma into which the gentleman from North Carolina seems to suppose they have involved themselves, by moving to lay the proposition to reconsider on the table. I move that the motion to reconsider do lie on the table.

Mr. ORR. I move that the House do now adjourn.

The motion was agreed to, and the House adjourned to twelve o'clock to-morrow.

#### NOTICE OF BILLS.

Mr. THOMAS M. HOWE gave notice that he would, on to-morrow, or some subsequent day, ask leave to introduce a bill authorizing the Secretary of War to grant, under such restrictions as in his judgment the public interests may require, the right of way to the Pittsburg, Kintaning, and Warren railroad over the grounds held by the United States at the Allegheny arsenal, in the State of Pennsylvania.

Mr. DOTY gave notice of his intention to ask leave to introduce a bill with the following title: "A bill for the relief of Major Ephraim Shaler, late of the United States Army."

Mr. MACE gave notice that he would, on to-morrow, or some subsequent day, ask leave to introduce a bill to admit railroad iron free of duties.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BISSELL: The memorial of Cyrus Edwards and others, citizens of Illinois, praying Congress to interfere to prevent the destruction of the suspension bridge at Wheeling.

By Mr. HOUSTON: The petition of sundry citizens of Lauderdale county, Alabama, against the extension of the Woodworth patent.

By Mr. LANDRY: A resolution of the General Assembly of the State of Louisiana, asking for an appropriation from Congress to remove obstructions placed in bayou Lafourche by order of the United States officers during the last war with England.

By Mr. EDGERTON: The memorial of John Stewart, Jr., & Co., of New York, asking for the cancellation of certain transportation bonds.

By Mr. SUTHERLAND: The memorial of Thomas J. Barton and others, of Columbia county, and State of New York, asking Congress to repeal the act lately passed in relation to the surrender of fugitive slaves.

By Mr. HENN: The petition of Anson Richardson and 134 others, citizens of Iowa, asking Congress to abolish the office of chaplain.

Also, the petition of Wm. H. Smith and 123 others, citizens of Iowa, asking for the establishment of a mail route from Linden, Missouri, via Gaston, Fairview, Florence, and Council Bluffs, to Kanecsville, Iowa.

Also, the petition of C. T. Gardner and 45 others, citizens of Iowa, asking a grant of land to aid in the construction of a railroad from Burlington to the Missouri river.

Also, the petition of 226 citizens of Monroe county, Iowa, asking for a grant of land to aid in the construction of a railroad from Burlington to the Missouri river.

By Mr. DAVIS, of Massachusetts: Petitions of Samuel R. Morse and others, of Worcester county, and of Joseph Adams and others, of Hampshire county, Massachusetts, against the extension of the Woodworth patent.

By Mr. J. W. HOWE: The petition of R. J. Harper and 55 others, citizens of Mercer county, Pennsylvania, remonstrating against a renewal of Woodworth's patent planing machine.

Also, the petition of John McFann and 54 others, citizens of Crawford county, Pennsylvania, on the same subject.

Also, the petition of Samuel F. Dale and 50 others, citizens of Venango county, Pennsylvania, on the same subject.

Also, the petition of J. J. Livingston, late marshal for taking the census in Clarion county, Pennsylvania, praying Congress to make him an extra allowance or compensation.

Also, the petition of Alexander McKee and 103 others, citizens of the counties of Mercer and Crawford, Pennsylvania, praying Congress to discontinue the transportation of the mail on the Sabbath.

Also, the petition of H. McBride and 49 others, citizens of Pennsylvania and Ohio, on the same subject.

By Mr. STEVENS, of Pennsylvania: A petition signed by a large number of the farmers and laborers of Pennsylvania, praying Congress to revise the tariff of 1846, and impose additional duties on iron, coal, and other articles.

Also, four petitions, very numerous signed by citizens of Pennsylvania, praying that slavery may be abolished and prohibited in all the Territories of the United States.

By Mr. CABLE, of Ohio: A memorial from John G. Baker and others, of Washington county, in relation to certain mail routes.

By Mr. FLORENCE: The memorial of Mary F. B. Levely, of Philadelphia, widow of Captain Henry Levely, praying for a pension.

Also, the memorial of John Prentiss, asking an appropriation, to test the improvement for giving shells and shot the rifle motion from the common smooth bored cannon of the United States Navy.

## IN SENATE.

TUESDAY, March 30, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

## CORRECTION OF THE JOURNAL.

Mr. CHASE. I desire to ask that the Journal of the Senate may be amended, by having my vote recorded on laying upon the table the motion to receive the second petition presented yesterday by the Senator from New York, [Mr. SEWARD.] I was in my place, and answered to my name; but my vote is not recorded. I voted in the negative.

The Journal was amended accordingly.

## PETITIONS, ETC.

Mr. SUMNER presented the petition of Chas. C. Little and eighty-two others, citizens of Boston; also, two petitions of B. F. Hallet and one hundred and thirty-eight other citizens of Boston and its vicinity, praying a reduction of the rates of ocean postage; which were referred to the Committee on the Post Office and Post Roads.

Mr. SOULE presented the memorial of James Reed, praying the appointment of a tribunal to review the decisions of the late Board of Commissioners for the settlement of claims of American citizens against Mexico; which was referred to the select committee appointed on the subject.

Mr. SEWARD presented the petition of citizens of Buffalo, New York, praying an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. RUSK. I have been requested to present the petition of about sixty individuals, who represent themselves to be stone-masons and laborers. They say that they were induced to come here with their families, at considerable expense, by the Government. They are now out of employment, and destitute of the means of support, in consequence of the failure of Congress to make appropriations for the continuance of the extension of the Capitol. I move its reference to the Committee on Public Buildings.

It was so referred.

Mr. BRADBURY. I present certain resolutions of the Legislature of the State of Maine, in relation to the abuses inflicted on passengers in the California line of steamers. I deem it necessary only to say that I have anticipated the action of the Legislature by the introduction of a resolution sometime ago calling attention to the subject, and a bill has already been reported from the Committee on Commerce designed to remedy the evils complained of. I move that the resolutions be received, read, and printed.

The motion was agreed to.

Mr. BADGER presented the memorial of Ignatius Lucas, Samuel James, Charles Tilley, and Thomas S. Bingley, watchmen of the Navy Department, praying Congress to grant them compensation for extra services performed in watching; which was referred to the Committee on Naval Affairs.

Mr. BROOKE presented certain resolutions of the Legislature of the State of Mississippi, instructing the Senators and requesting the Representatives of that State to use their exertions to obtain an appropriation of a sum of money for the purpose of removing the mud or sand bar in the Gulf of Mexico, opposite the mouth of the East Pascagoula river; which were referred to the Committee on Commerce.

Mr. DODGE, of Iowa, presented the memorial of citizens of Illinois, praying a donation of land to the State of Iowa, to aid in the construction of a railroad from Burlington to the Missouri river; which was referred to the Committee on Public Lands.

Also, a memorial of inhabitants of Clayton, Iowa, praying that the transportation of the mails on Sunday may be prohibited by law; which was referred to the Committee on the Post Office and Post Roads.

Also, a memorial of citizens of Lee county, Iowa, praying the appointment of commissioners to examine and settle all claims to land in the Sax and Fox half-breed reservations; which was referred to the Committee on the Judiciary.

Mr. DOUGLAS presented a memorial of citizens of Macoupin, Illinois, praying that the bridges of the Wheeling and Belmont Bridge Company may be established as mail routes; which was referred to the Committee on the Judiciary.

Also, a petition of the officers of the Buel Institute, Illinois, praying the establishment of an Agricultural Bureau at Washington; which was referred to the Committee on Agriculture.

Mr. SHIELDS presented the petition of Hannah Dutton, one of the heirs of William Douglass, a revolutionary officer, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

## PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. ADAMS, it was  
Ordered, That the petition of James G. Bell, on the files of the Senate, be referred to the Committee on Public Lands.

On motion by Mr. SEWARD, it was  
Ordered, That the petition of Pamela Preswick, for herself and the other heirs of William Wighton, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion by Mr. NORRIS, it was  
Ordered, That the petition of H. L. Kendrick, on the files of the Senate, be referred to the Committee of Claims.

On motion by Mr. FISH, it was  
Ordered, That the memorial of Johnson Livingston and his associates, praying the establishment of a mail line between New York and Genoa, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion by Mr. HALE, it was  
Ordered, That the heirs of Nathaniel Hobbs have leave to withdraw their petition and papers.

On motion by Mr. CLEMENS, it was  
Ordered, That the petition of Seneca G. Simmons, on the files of the Senate, relating to compensation for services as secretary to the Creek and Osage Commissioners, be referred to the Committee on Indian Affairs.

On motion by Mr. SEBASTIAN, it was  
Ordered, That the memorial of the widow and representatives of Lorenzo M. Clark, on the files of the Senate, be referred to the Committee on Indian Affairs.

## REPORTS FROM STANDING COMMITTEES.

Mr. BORLAND, from the Committee on Military Affairs, to which was referred the memorial of Raphael Semmes, a lieutenant in the Navy, praying compensation for services rendered in a survey on the southern coast, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. SOULE, from the Committee on the Post Office and Post Roads, to which was referred the petition of Samuel W. Chilson, praying indemnification for damages sustained in consequence of being discharged from duty as a mail agent, reported a bill for his relief; which was read, and passed to the second reading.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the letter of the Secretary of War in relation to the purchase of ground for a military depot in California, reported a bill to confirm the purchase of a tract of land for a military depot at Benicia, California; which was read, and passed to the second reading.

He also, from the same committee, to which was referred the petition of Henry L. Kinney, reported a bill for his relief; which was read, and passed to the second reading.

After a brief explanation, on the motion of Mr. SHIELDS, the bill was considered as in Committee of the Whole, reported to the Senate, and ordered to be engrossed, and read a third time.

He also, from the same committee, to which was referred the following memorials and report, asked to be discharged from their further consideration; which was agreed to:

The memorial of Brevet Colonel Mansfield, praying the action of Congress for the settlement of his accounts;

The petition of certain non-commissioned officers of the regiment of mounted riflemen, asking to be discharged from the terms of their enlistment, on the ground of violated pledges;

The petition of C. B. Brower, late a lieutenant in the Army, praying to be reinstated in the Army; and

The report of the Secretary of War in relation to the construction of a military road from Fort Dodge to Dubuque;

He also, from the same committee, to which was referred the memorial of the merchants of San Antonio, Texas, praying that it might be made a port of entry, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. FISH, from the Committee on Naval Affairs, to which was referred the memorial of the petty officers and seamen asking remuneration for their clothing lost by the destruction of the steam-frigate Missouri, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. DAWSON. Some days since, I reported a bill from the Committee on Patents, to grant a further extension of the patent for a reaping machine invented by Cyrus H. McCormick. I now present the report, intended to accompany that bill, stating all the facts connected with the case.

The report was ordered to be printed.

Mr. CLEMENS, from the Committee on Military Affairs, to which was referred the petition of Seneca G. Simmons, submitted a report, accompanied by a bill for his relief.

The said bill was read a first and second time by its title, and considered as in Committee of the Whole. No amendment being made, it was ordered to be engrossed and read a third time.

## NOTICES OF BILLS.

Mr. DOUGLAS gave notice of his intention to ask leave to introduce a bill, supplemental to the act, entitled "An act extending the jurisdiction of the district courts of the United States to the lakes and the navigable waters connected therewith."

He also gave notice of his intention to introduce a bill, to change the name of a midshipman in the Navy of the United States.

## BILLS INTRODUCED.

Mr. DODGE, of Wisconsin, agreeably to previous notice, asked and obtained leave to introduce a bill granting to the State of Wisconsin a donation of public lands, to aid in the construction of a railroad from the town of Sheboygan, on Lake Michigan, to the Mississippi river; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. JONES, of Iowa, by unanimous consent obtained leave to introduce a bill for the relief of the counties of Des Moines and Dubuque, in the State of Iowa; which was read a first and second time by its title, and referred to the Committee on Public Lands.

## MEMPHIS FEMALE ORPHAN ASYLUM.

Mr. JONES, of Tennessee, submitted the following resolution; which was agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of granting to the Female Orphan Asylum, of the city of Memphis, a piece of land, owned by the Government, in that city, which was purchased for the use of the Government as an arsenal, but which has been abandoned and is not used by the Government for that or any other purpose.

## ADDITIONAL COMMITTEE CLERK.

Mr. SOULE submitted the following resolution; which was read three several times and passed:

Resolved, That the select committee on memorials in relation to the proceedings of the Board of Commissioners on Claims against Mexico appoint a clerk, at the same rate of compensation as is allowed to clerks of other committees of the Senate.



## REMOVAL OF SAND BAR.

Mr. BROOKE submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of removing the bar in the Gulf of Mexico, opposite the mouth of East Pascagoula river, in the State of Mississippi, and to report the probable cost of the same.

## CLERK OF COMMITTEE.

Mr. BRODHEAD submitted the following resolution; which was read three several times and passed:

*Resolved*, That the clerk of the Committee of Claims be continued at the usual rate of compensation, and that he be allowed his compensation from the commencement to the end of the present session.

## JUDGES OF DISTRICT COURTS.

Mr. CHASE submitted the following resolution for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of making the salary of each judge of a district court of the United States equal to that of any associate justice of the supreme court of the State in which the district may be established.

## EXTENSION OF THE CAPITOL.

Mr. BORLAND submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Public Buildings be instructed to inquire how far, and in what direction, the grounds around the Capitol will have to be extended in conformity with the plan of extension of the building that has been begun; how much private property would be included in such extension of the grounds; and what amount of money would probably be required to purchase said private property, and make the necessary improvements of the grounds in consequence of the extension.

## STRYKER'S ANNUAL REGISTER.

The Senate proceeded to consider the resolution submitted by Mr. SEWARD the 29th instant, relative to Stryker's Annual Register; and it was agreed to.

## MILEAGE OF DELEGATE FROM OREGON.

On motion of Mr. DOUGLAS, the House bill to regulate the mileage of the Delegate from the Territory of Oregon was taken from the table, and referred to the Committee on the Territories.

## GOLD AND SILVER COINAGE.

The following engrossed bill was read a third time, and passed: "An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime;" it having first been amended, on the motion of Mr. HUNTER, so as to take effect from the first of June next, instead of the first of May.

## COMPENSATION OF DISTRICT JUDGES.

The PRESIDENT announced the special order to be the unfinished business of yesterday, being the bill increasing the salary of the district judge of the United States for the district of New Hampshire.

Mr. GWIN. I hope that will not be taken up now. I supposed the California dry-dock bill was the special order.

The PRESIDENT. This is the unfinished business.

Mr. GWIN. Then I move to postpone this bill in order to take up the California navy-yard bill. I do not make this motion from any feeling of opposition to this bill.

Mr. HALE. It will take but a moment to dispose of this bill. I think gentlemen talked as much about it yesterday as they intend to talk. Everybody but one Senator is in favor of the bill.

The motion to postpone was not agreed to; and the Senate resumed the consideration of the bill as in Committee of the Whole.

Mr. ATCHISON. Understood yesterday, that the present salary of this judge is \$1,000. I understood further from the Senator from New Hampshire that the chief justice of the court of appeals of New Hampshire receives \$1,400. I am opposed to increasing the pay of the judges, and for this reason: these offices are more sought after than any other. The tenure of office is a matter of vast importance. Judges of the United States hold their office for life, or rather, during good behavior; and the very best lawyers in every State of this Union, greedily seek for the office of district judge of the United States, and that, too, at the present rate of salary. If the business of the United States courts in the State of New Hampshire, should increase, so as to require another judge, I should be perfectly willing to divide the

State, and provide for the appointment of another judge, with the same salary of \$1,000.

Mr. President, you find that every office in this Government, from the highest to the lowest, is greedily sought after; and that, too, by men competent to fill them; and more particularly in the judicial branch of the Government. If a vacancy should happen in this office, you would find perhaps, half a dozen or a dozen applicants—the very best lawyers in the State of New Hampshire—at the present salary. So it is in almost every State of this Union. So soon as an office is to be obtained, whether it be a judicial, an executive, or a ministerial office, in this Government, crowds of candidates annoy everybody, from the President of the United States down—particularly members of Congress—for their influence to obtain these appointments at the existing salaries. So soon as the office is obtained, day after day, session after session, you find applicants from every department of this Government for increased compensation. The clerks of the new census bureau, the marshals, the deputy marshals, whose pay was fixed mathematically, by the cube or square root, are all applying for an increase of pay. The officers of the Senate, and of the House of Representatives, also, are all applying for an increase of pay; and they get it, too.

Now, it is evidence, strong as holy writ, to me, that when there are crowds of applicants for an office, at the present rate of salary, (for this is the first thing applicants look after,) and obtain it, the compensation paid is a sufficient and adequate one. Why, I should not be at all astonished if, in the course of a very short time, there was a clamor raised in both Houses of Congress for an increase of the pay of members. You hear a low murmur now, particularly since the extra mileage has been cut off, that there is an insufficient and inadequate compensation for members of Congress. I think that whenever we shall have evidence that the salaries are insufficient, and when that evidence shall be furnished by the fact, that competent men refuse to accept these offices, it will be time enough to raise them. When a man holds an office, it is human nature for him to clamor for an increase of pay. It is done in the army; it is done in the navy; it is done in every department of the Government. For one, I am not disposed to gratify these persons.

Mr. HALE. I suppose that the honorable Senator from Missouri, when he speaks of what took place when there was a vacancy in the office of district judge of New Hampshire, speaks rather from his general impressions of what may have been the case, than from any knowledge of what did actually occur. If there was any such rush for that place as he speaks of, I confess that it has escaped my knowledge. I knew nothing of it. But the argument that these offices, generally, are sought after at the present compensation, and that it is evidence that the compensation is high enough, it seems to me, if it proves anything, it proves a great deal too much. Let me suppose, for instance, that the compensation of Senators, was stricken down from eight dollars to six dollars a day, would there be no rush then? Then, to carry the argument further, suppose the pay of Senators were reduced to four dollars a day, would these places then be unsought? Or, if they were put upon the same footing as seats in the British House of Commons, and no compensation at all, were paid, would there be no gentlemen of ambition, and patriotism, and means enough, who would be willing to fill these places? The argument, if it proves anything, it seems to me, proves a great deal too much; and the honorable Senator, in his zeal to vindicate the pure democracy of the question, has leaned over on the other side. I say that so far as the past experience of things goes, the argument is not true. It is not true that the compensation paid is evidence of the justness and accuracy of it. If it be, then the messengers of the Senate, earn more, and are entitled to more compensation than the judges of our courts.

Now, this question presents itself simply and plainly here: Is a thousand dollars such a salary as is adequate to the compensation of a man, whom, by law, you debar from devoting his talents to any other occupation? If it is, say so. If it is sufficient in New Hampshire, it is sufficient in other places. I do not think that it is much cheaper to live in New Hampshire than it is

in Illinois, as my friend from Illinois [Mr. SHIELDS] yesterday suggested. I suppose that the materials that are necessary for the comfortable support of life costs quite as much in New Hampshire as in any other place in the Union, excepting always the large cities, such as Boston, New York, and Philadelphia. It seems to me, that because the gentleman who holds this office at present does not resign and throw it up, you are not to infer that he receives a sufficient compensation. Suppose he was to resign, and Congress should issue proposals to let the office of district judge for the district of New Hampshire to the man that would fill it for the lowest compensation, I do not doubt that you could get men who would come forward and contract to fill it for a dollar a day. I do not doubt that there could be found men who would come, even from the far West, who would leave the fertile valleys of the great West, to discharge these duties for a much less compensation. But they would be of a character such as was described by an honorable Senator from South Carolina, some time ago, when speaking of this class of men. They would be men who would resort to refectories and oyster-shops for their entertainment; they would be vulgar in their deportment, and unqualified, by their education, tastes, and habits, to discharge the duties of the situation to which they aspired. The fact that men can be found who are willing to take this office for a low compensation—less than what is actually paid—is no evidence that the compensation is adequate. We owe something to ourselves. We owe something to the character of the judiciary. We owe something to the reputation of ourselves and the men whom we call to these places. And what would comport with all these considerations, it seems to me, is the salary we should pay. But this matter was sufficiently discussed yesterday, and I do not wish any longer to take up the time of the Senate, but I hope we shall come to a vote.

Mr. ATCHISON. I desire to move an amendment to the bill. It is to strike out \$1,600, and insert \$1,400, which seems to be the compensation fixed by the Legislature—the law-making power—of New Hampshire, for the chief justice of the court of appeals in that State.

Mr. CLARKE. Allow me to say, that I think my friend from Missouri is wrong in his estimate of the salary which is required for this judicial officer of the United States. If the people of New Hampshire only give their supreme judge \$1,400, we all know that the Government of the United States selects its own officers from the highest judicial talent which there is in a State. Now, sir, when the Government of the United States has made this selection in New Hampshire, and has appointed an individual, eminent for talent, capacity, and integrity, as district judge of that State, it leaves only to the people of New Hampshire to take him who is second to that individual; and, therefore, I think that the discrimination made by my friend from Missouri is wrong. We ought to pay the man, who is selected as being the best man in New Hampshire, a larger salary than the good people of New Hampshire themselves would pay to the individual whom they select, who is under their control, and whom, when he conducts himself improperly, they can displace. Under these circumstances, I think the Senator's position is wrong; and we are bound to pay for the talent we extract from New Hampshire, a larger salary than the people of that State give to the judge of their supreme court.

Mr. CHASE. By the resolution which I laid upon the table this morning, I indicated the general principle that would govern my vote in a case of this kind. I am quite willing that the judges of the courts of the United States shall be paid full and adequate salaries. I think that full and adequate salaries are necessary to command the proper talent for such stations. But, in forming my judgment as to what is an adequate salary, I shall be governed always, in some degree, by the action of the State Legislature in which the district is established. I learn from my friend from New Hampshire, that the associate judges of the supreme court of his State are paid \$1,200 a year. We all know perfectly well that the duties of the associate judges of the supreme court of a State are far more arduous than those of a district judge can possibly be; and it seems to me that, if we place these salaries upon the footing, in all the States, of those of the associate judges, we will do

quite enough. I agree with what was said by the Senator from Arkansas [Mr. BORLAND] yesterday, that it is not the business of this Government to give high salaries. It is our duty to give adequate salaries and adequate compensation; but it is not our duty, and, in my judgment, it is not expedient, to pay extravagant salaries.

I think, further, that it is not good policy for those who desire to maintain the sovereignty and independence of the States, and to draw round them the regards and honor of the people, to put the judges of the courts of the United States, or any other officers of the Government of the United States, at all above State officers. That is another consideration which will govern my vote. I will, therefore, move to amend the amendment of the Senator from Missouri by substituting \$1,200 for \$1,400. That will place this officer upon a footing with the associate judges of the supreme court of the State; and it seems to me that he ought to be content with that.

The PRESIDENT. The question will be first on the amendment proposing the largest amount.

Mr. HALE. I want to suggest to the Senator from Ohio, [Mr. CHASE,] that he could better meet his object, by putting his amendment differently. The associate judges of our county courts are paid by the day, and receive three dollars a day while the courts are actually in session. It seems to me that if the salary of this officer is to be razed down to an equality with State judges, it had better come down to that.

Mr. ATCHISON. I withdraw my amendment, and accept that of the Senator from Ohio.

Mr. CHASE. My friend from New Hampshire has misinterpreted my language, and his remarks might have the effect of placing what I said in rather a ludicrous aspect. I founded my remarks upon a statement made by him yesterday. He said, in answer to a question propounded by the Senator from Arkansas, [Mr. BORLAND,] that the associate judges of the supreme court of New Hampshire received \$1,200 a year. They have, perhaps, some little perquisites in addition, which we, of course, cannot take into consideration. I do not wish to put the district judge upon a footing with the associate judges of the county courts. I have said no such thing; but I say that action of the Legislature of the State which prescribes the compensation for an associate judge of the State supreme court—an office which requires quite as much talent in that officer, and imposes more labor than the office of the district judge—furnishes a proper rule for us in fixing the salary of the district judge.

Mr. RHETT. I suppose that the votes which we give on this bill will settle the principle as to our course upon all the other bills of a like nature which come up after it; and therefore our time can now probably be best applied upon this bill. Sir, I agree with the principle laid down by the Senator from Arkansas, [Mr. BORLAND,] yesterday, reiterated by the Senator from Missouri [Mr. ATCHISON] to-day, and also recommended by the Senator from Ohio, [Mr. CHASE,] that the judges of the United States courts should not be paid higher than those of the State courts; but, in my opinion, they ought not to be paid less. Reflect, Mr. President. We make judges, not for the sake of paying judges alone. Judges are made to expound the law—to expound the law for the people, and to expound the law for the people of the State. A good or a bad judge affects the administration of justice in the area of his administration. That is the case amongst the people I represent, and is so amongst the people of all other Senators here present. I do not want such a rate of compensation established as will bring a man inferior in character, as well as inferior in legal acquirement, to adjudicate over the citizens whom I represent in a manner that is derogatory to justice; and thus fill our State tribunals with a higher order of talent and legal ability; in which case, citizens would leave the United States courts and flock to the State courts, rather than risk their cases in the former. I think it becomes us, as it becomes the United States, to be as fairly, as properly, and as efficiently represented in a judicial capacity in our courts, as the States are in their courts; and yet I know that in some States, lawyers have moved their cases out of the United States courts, upon the ground of judicial incapacity in those courts. I know the fact; and ought that to be? I think not, sir; and I think that when Senators object to

a fair remuneration for the judges, they should recollect that it is not a mere *douceur* to the judges—that it is not for the benefit of the officers. I do not pay a salary to a judge for the benefit of the officer, but I pay for the benefit of the people over whom he is to administer justice; and I wish to have a judge who will preside with dignity, ability, and learning, that my people, over whom he is to administer justice, may have justice administered in the best way possible.

Sir, it is in vain for the Senator from Missouri to say, that because applicants come flocking for these places, that that is a reason why we should not raise the salaries. I believe that the lower you put the salary, the more applicants there will be; because few will aspire to the position, when the requisition is higher. There would be a self-respect among the bar, and the gentlemen who aspire to the position, when the salary was higher, and fewer would be recommended by the bar, and by those who are capable of judging in the States as to who should administer justice there; it would be a choice amongst the highest, and not amongst the lowest, who are the many. I think, therefore, that the United States courts should not stand in an inferior position to the State courts; and that we ought to raise the salaries of our judges, when they are inferior, at least to those of the State judges, in order that the judicial ability and integrity of the State may be always at the command of this Government, as well as at that of the State. I utterly eschew the idea of placing them above State officers and State judges. I would not assent to any such arrangement; but the principle which ought to govern us is this: to get the highest judicial talent and ability to administer in the courts of the United States; and in order to do that, the judges should be paid at least as high as the State governments pay their judges for the administration of justice. So far, I think, we ought to go; and so far I am prepared to go.

Mr. BRADBURY. I think the position assumed by the honorable Senator from South Carolina should be received with some modification. He makes the salary of the State judges the standard, from which he would not depart, in fixing the salary of the judges of the district court of the United States. I admit that to be an important element in determining the question of the amount of salary, but I think it should not control the decision in all instances. We all know that the tenure of office is different in different States. In some States the tenure of office is for a period of years, and, in some instances, for a very short period; while the tenure of the office of the judge of the district court of the United States is for life, or during good behavior. Another element to be considered is the amount of duty to be performed. In some States, the duties of the State judges are exceedingly onerous, and their compensation, therefore, is very high, while perhaps, in the same State, there would be a very small amount of business for the district judge of the United States. In that case, it would be doing more than justice to the district judge, to raise his salary as high as that of the State judge. In other cases the duty of the State judge may be comparatively light, while that of the judge of the United States court may be exceedingly onerous. This, then, is an element of importance to be considered in determining what is the proper compensation; but I do not consider that it would be exactly safe to prescribe that as a rule by which to fix the salaries in all cases.

Mr. BADGER. I have listened to what has been said by the honorable Senator from South Carolina, with much satisfaction, and think the positions which he has laid down are sound in their utmost extent; and I beg to add a word or two to what he has said, for the purpose of further illustrating the propriety of the rule he has laid down.

With regard to the judges of the court of appeals, or the supreme court of the State of New Hampshire, I understand that the chief justice has a salary of \$1,400, and that the associate judges receive each \$1,200. Now it should be recollected that the judge of the district court of the United States sits in a court by himself. So far as his tribunal is concerned, you must depend entirely upon his intelligence, his law learning, his character, and his firmness. In the next place, he sits in the circuit court, with the judge of the supreme court of the United States; and, there being

but two judges, his opinion is sufficient in that court to equal and to outweigh the opinion of the chief justice, with whom he sits, in arresting the adjudications of the court. The jurisdiction conferred upon the courts of the United States, renders it peculiarly important that these courts should be presided over by men eminent for ability, and of most unquestionable character; and, as the Senator from South Carolina said, the people of the State for whom they are to administer justice are deeply interested in their possessing these qualifications. But that is not all. The circuit court of the United States, in which the district judge sits as one of the judges, which the district judge is competent to hold without a judge of the supreme court of the United States—the judges of the supreme court of the United States being now by law authorized to omit one of the circuits which they ordinarily hold without the assistance of another judge—that court, which is thus held, has special and peculiar jurisdiction of controversies between the citizens of other States and the citizens of the State in which the court is held, and is appointed under the Constitution, in order to insure a fair and impartial administration of justice between the citizens of different States, upon questions which would otherwise fall under the cognizance of the State courts. Now, when we consider the highly important functions which this judge has to discharge, we see at once the immense importance of having gentlemen of the character and attainments described by the Senator from South Carolina.

But that is not all. I suppose that the judges of the supreme court of the State of New Hampshire preside in the circuit courts. If one of them commits an error, it is easy to bring that error for reexamination before the supreme court of New Hampshire. It involves but little expense, and is done with ease and facility, and I believe it is not uncommon that cases involving small sums are reexamined in the supreme court of that State. But how stands it with regard to this judge? He holds—or he may hold, and I suppose he does hold, one term of the circuit court every year, without the assistance of a judge of the supreme court. In all civil cases, his judgment is absolutely conclusive, unless the matter in controversy amounts to the sum of \$2,000 exclusive of costs; so that you have a single judge who may rule important controversies, not only involving great principles, but also large amounts of money without any means being provided for a reexamination of his adjudications. And when you can examine them, we all know that it is a matter involving great expense, and much delay to bring a writ of error, and have a reexamination of the case in the Supreme Court of the United States. But that does not present the whole difficulty. When that judge sits on the criminal side of his court, there is no appeal, there is no writ of error. If he sits alone he decides for good or evil every question—however grave—even though it may affect the personal liberty, or life of the party charged before him. Now, the question arises, what grade of capacity and intellect do we require in a man to fill such a station? I think with the honorable Senator from South Carolina, that the United States should give such a compensation as will enable them to select men from the very best who can be found; and that compensation, I think, in this case is clearly indicated as being the compensation paid to the chief justice of the supreme court of that State. The men who are to exercise this large jurisdiction over property to vast amounts, especially where no reexamination can take place, and even where in the largest amounts a reexamination is accompanied with large expense, and who decides on the liberty, or the life of the person who may be charged before him without any writ of error or of appeal, ought to be entitled to a compensation equal to that of the chief justice of the supreme court of a State.

Mr. ATCHISON. I was misunderstood, Mr. President, by the Senator from South Carolina. At all events, I did not intend to say what the Senator has imputed to me to have said. I did not intend to say that when a vacancy occurred in a judgeship a crowd of incompetent persons applied for it; I thought I stated distinctly enough that a crowd of the most competent men the State could present were applicants for it.

Mr. RHETT. It is not so in South Carolina. Mr. ATCHISON. That is what I intended to

say, Mr. President. It is true so far as my experience extends. Why do men accept office? Why do they seek office? It must be for one of two causes: it must either be because of the profit attached to the office, or the honor that the station confers. Now, I am not one of those who readily believe in the universality of patriotism, though I have great confidence in it, and know that men possess it; but I cannot readily embrace the opinion that the candidate for the office of constable or sheriff, seeks that office on account of the honor it confers on him. I think it is on account of the profit attached to such offices that they are sought after. It never entered my mind that a candidate would present himself, and would resort to all the usual means to obtain such an office as a matter of pure patriotism—from a desire to serve the people in his beat or township. I think the Senator from South Carolina, as well as the Senators from New Hampshire and North Carolina, will concur in this proposition.

Now, the office of President of the United States—the patronage, the power, the station that office gives; or, perhaps, of a Senator of the United States, or of a member of the House of Representatives—many might and do seek those offices for the station or power attached to them, or from the fame which they imagine they will acquire. But there are hundreds—aye, there are thousands of persons who have filled offices under this Government, that never would have had their names enrolled as officers under it, but for the compensation connected with their official position; for it is impossible that they could do so. A poor man cannot discharge the duties of the office of the President of the United States, or of a Senator, or of a member of the House of Representatives, without compensation; but there are many persons possessing property who have acquired it, or who have inherited it, who, for the honor, the station, or the prospect of fame, would accept any of these offices without compensation. And, sir, it may be that gentlemen who have a peculiar kind of taste might accept the office of a district judge of the United States, or even a place on the bench of the Supreme Court, if the salary were reduced. I believe there are such men; but they are exceptions to the general rule; they are eccentric men.

Now, in regard to this increase of salary of the district judge of New Hampshire, I would ask, if it were increased even to \$5,000 a year, whether it would add anything to his capacity, or his dignity, or learning, or to that of any other judge holding office in the United States court? I will readily admit that you can obtain a gentleman of a higher grade of talent, of more learning, and of as much integrity, on his retirement, if the salary should be increased; but, sir, it is a solemn truth, and is remarked by all connected with the Federal or State Governments, throughout the length and breadth of the land, that a judge seldom resigns. Now, sir, I would ask the Senator from South Carolina, if the gentlemen who have discharged the duties of district judges of courts of the United States, under the existing rate of salary, have not generally been men of dignity, learning, and integrity?—whether that is not his experience? I know that it is the case with us in Missouri. Our district judge is considered one of the best lawyers in the State, and was so at the time of his appointment. He is a man of integrity and learning, and I believe that his salary, with some additional duties that he has to discharge, as commissioner for the settlement of private land claims, amounts to but \$1,500 a year.

Mr. President, I think the argument of the Senator from Arkansas yesterday deserves some attention; and it has been reaffirmed by the Senator from South Carolina to-day. It is: that the young men of the country, all who have a solitary spark of ambition in their bosoms, are seeking office under the Federal Government; and we contend (that Senator and myself, together with others, contend) that the legislative branches of the Government are every day usurping the powers that do not belong to them, and I have heard it whispered that the Supreme Court of the United States has done the same thing; that by a recent decision of that court, it has given admiralty jurisdiction to all the judges residing on the waters of the Mississippi. I have not seen the decisions. I do not keep up with the decisions of the Supreme Court; but so I understand it.

Mr. CHASE. It is so in the case of those residing upon any navigable waters.

Mr. ARCHISON. And it is said, sir, that this will greatly increase the business of the judges of the district courts of the United States. I have never heard a murmur myself in relation to this matter prior to these decisions. The judges of the State courts, in suits between citizens of different States of the Union, have decided in nineteen cases out of twenty of all cases brought in these States. I know that that is the case in the State of Missouri. There are very few suits brought by citizens of other States in the district courts in the eastern and central parts of our State; but where a debt is to be collected or a matter litigated by parties from other States, it is almost uniformly decided by the judges of the State courts, where they have competent jurisdiction; and there are few cases where they have not. I concur with the views taken by the Senators from South Carolina and North Carolina, that a very fair criterion as to the pay the district judge should receive, is the pay of the judge performing similar duties in a State. But, sir, even that will not operate equally. In some of the States—in Louisiana, for instance—I am told that the judges of the supreme court receive from four to five, or even six thousand dollars. Now, what does the judge of the district court receive? Twenty-five hundred dollars is the salary of the district judge in Louisiana. Well, I doubt not that in some of the States of this Union the salary of the State judges falls far below that of the district judge. Then that rule would not operate equally. I am willing to pay a judge what his services are worth; but I think the better policy would be, if the business is of such an extent, as it is said to be in this case, as to make it necessary to increase the salary on that account, to divide the State into two districts, and give the State another judge, because when overburdened, he cannot discharge the duties of a judge well. An increase of salary will not enable him to do more than he can do. If that be the case in New Hampshire, and the Senator from New Hampshire will introduce a bill providing for another judge, I will vote for it.

Mr. DAVIS. I will tell the Senator from Missouri how his plan works. We in Massachusetts have had some little experience in this matter. We have various courts there—a supreme court, and a court of common pleas. The court of common pleas is a very respectable court, and we pay the judges, I think, two thousand dollars a year; and I believe that within the last ten years that court has changed most of its members some two or three times, although the judge has a salary of two thousand dollars. The reason is probably this: Gentlemen of some learning and some reputation are esteemed to be necessary to sit upon the bench in that court; and, perhaps influenced by the considerations suggested by the Senator from Missouri, [Mr. ARCHISON,] they are induced to accept an appointment of that description upon that bench, and they go on there, as the gentleman suggested, flattered with the honor and dignity of the station. But they very soon find that the salary which is paid does not compensate them—does not give them the support which their necessities demand, and they resign. The consequence has been, I believe, that the members upon the bench of that court have been for some years constantly passing through a revolution. In other words, you cannot command that high grade of learning and talent which it is necessary to have to discharge the duties of these offices, and which it is thought desirable to obtain; and you must descend until you can get a gentleman whose services are worth no more than two thousand dollars. That is the result to which you are brought in regard to the appointments in the district courts of the United States.

We have always, I believe, in Massachusetts, obtained good services at the sum which has been paid; men of high character; men of suitable learning; men in all respects qualified for the stations which they have occupied. But it must be borne in mind, that within the last fifteen or twenty years there has been a very great increase of the business, a great increase of admiralty business, occupying a very large portion of the time of the judge. And then there is another consideration, which is more important, to be considered in connection with this. During that time there has been a great increase, necessarily, of the ex-

penses in supporting a family; and the gentleman who now holds that station under the same pay which was granted ten or fifteen years ago, is not put upon the same footing of equality with a gentleman who then held it, as the expenses are necessarily greater.

That is the condition of things in Massachusetts; and we have long since learned that, although we command the services of gentlemen of talent at the bar, yet we cannot by any means, obtain in our higher courts, the services of the eminent men which we would be glad to secure. I do not speak without some knowledge upon this subject. I have had the means of knowing that gentlemen of high character, and in large professional practice, go upon the bench of the highest courts in Massachusetts.

The gentleman from Maine [Mr. BRADBURY] says there are some elements to be taken into consideration, in determining the question as to the amount of compensation to be paid. I agree to that, but, certainly, with some pretty important qualifications. I know very well that in the district of New Hampshire, there is nothing like the service performed that is performed in some of the neighboring districts; but at the same time, it is quite apparent that if there be but a few cases there to be settled, you should have a man with the requisite learning, with the requisite talent, and suitable dignity of character, and as well qualified to decide these few cases, as if he had many. The parties who are engaged in those suits, though their number be not great, are as much interested in the question, and have as good a right to have a suitable man upon the bench, as if their number were legion.

There is another consideration which was adverted to by the Senator from North Carolina, [Mr. BADGER,] the operation of which has fallen, to some extent, under my observation. I have seen its effect; and that is where there is an inequality created between the character of a court of the United States and a court of a State. The honorable member from South Carolina [Mr. RHETT] says that some cases of this description have fallen under his observation. There was a period when it was notorious that in any State of this Union there was a constant struggle all the time to get into a court of the United States. Parties moved out of one State to another, for the purpose of gaining the requisite residence to enable them to come into a court of the United States. Well, sir, that is the converse of the statement made by the honorable Senator from South Carolina, and it only proves to you that whichever way you go, if you create, in any way, any considerable inequality between the State court and that of the United States, this principle immediately operates, and the parties will go into the better court, where justice is best administered—where they are convinced that the settled rules of law most prevail. That is the result of it.

Then, it is not a safe rule to say, that because the business is small, the parties shall have small compensation; or, because the business is great, that the pay shall be extended in proportion. There are considerations which go to make up the character of a judge, and the elements which constitute his right to a compensation. It is quite evident that since these rates of compensation were established, the expenditures in the larger towns have increased, and in many of them the business has increased; and it seems to me that these constitute a pretty fair claim for an increase of compensation. I hope this bill will pass, and that the other similar cases will be taken up and disposed of.

Mr. BORLAND. So far as my own position is concerned, in opposition to this bill, I will say nothing upon the principle I conceive it involves, in addition to what I said yesterday. I would remark, however, that the extended and elaborate arguments of the Senators who have advocated the bill, to-day, have not, in my opinion, been directed to the question before us for decision. The opponents of the bill have not, for a moment, controverted the position assumed by its friends that a high order of talents, learning, and integrity, is indispensable in a judge. So far from denying that, we all admit it as readily, and insist upon it as earnestly, as they do. It is not a point in dispute. And yet, all their arguments have been directed to that point—a point not in controversy—a point conceded—a point upon which we are all



agreed. The real question presented by the bill is, whether we shall raise the salary of a Federal judge above that of the State judges in the same State—whether we shall fix a higher standard of value for the services of Federal officers than the State government has fixed for its own officers, of the same class, and of the same character and grade of qualification, in the same State, and where the duties both have to be performed? This, sir, is the question; and its answer must be the same, upon principle, whether the actual salary be high or low, and whether the standard of qualification be high or low; for, in respect to qualification, the standard must be the same for the Federal, as for the State judge.

The honorable Senator from North Carolina [Mr. BADGER] instituted a comparison between the duties performed by the federal and the State judges, respectively, and assumed what he stated to be the result as the measure of the different compensation proper to be paid to the one and to the other; and as the standard, also, for determining the higher qualification to be required of the one than the other. He assumed that the Federal judge should have higher qualifications, because he had to determine questions of greater importance, and, in many instances, in the last resort; and that, even in cases where appeals did lie from his decisions, the expenses, and trouble, and delay, in carrying them to a higher court, were so great as to present an almost insuperable barrier to an appeal. But, sir, the honorable Senator seemed to forget that the necessary conditions of his comparison (or, rather, what he made quite a contrast) were not present in this case. The classes of judges between which he undertook to make this comparison, or, rather, to show a superiority of the one over the other, do not materially differ from each other in the several particulars of jurisdiction and duties alluded to by him. The State judge in this case, of whom he institutes a comparison with the Federal judge, is one of the judges of the supreme court of the State—the highest court known to the State laws—the court of the last resort, from whose decisions, within a wider and higher range of jurisdiction, whether of civil or criminal cases, there is no appeal. And of the judges of this court, he must recollect the Senator from New Hampshire told us, yesterday, the salary of the chief justice was but \$1,400, and that of his associates was but \$1,200 each per annum. In my own State, the salary of the chief and associate justices of the supreme court is \$1,500 each, while the circuit judge receives but \$1,200. The same difference exists, in other States, between the different classes of State judges; and if the Senator from North Carolina [Mr. BADGER] had instituted his comparison between the duties and jurisdiction of the Federal judge, especially as a judge in the last resort, and those of the inferior judge of the State court, there might have been some plausibility in it as an argument in support of the position he has assumed, though of little force when tested by the true merits of the question. But it utterly fails when undertaken in a case where the judges are at least equal in dignity, duties, and jurisdiction, or if there be any superiority on either side, it is obviously with the State judge.

I would here make an inquiry of the honorable Senator from New Hampshire, [Mr. HALE.] How long has this gentleman held the office of United States district judge in the State of New Hampshire?

Mr. HALE. I believe he was appointed by General Jackson.

Mr. BORLAND. He was appointed in the time of General Jackson?

Mr. HALE. I believe so.

Mr. BORLAND. Then he has held office for a long time, and we have never heard of any application for an increase of pay before this.

Mr. HALE. You are mistaken.

Mr. BORLAND. The Senator from New Hampshire says I am mistaken; but I have never heard of any such application here before; although he has held the office since the year 1832. We may assume twenty years, then, he has held this office; and so far as we have evidence, he has, until now, been satisfied with the present salary. Now, sir, are his qualifications any better than they have been heretofore? Are his expenses any greater? or are his duties more onerous? I presume not. At any rate, I have no evidence that

they are. And if they be not, why should we increase his salary?

I have thus touched incidentally on these few points. The other and more material ones were so thoroughly discussed yesterday, and have been to-day, by other Senators, that I shall trouble the Senate no more in regard to them.

Mr. BRADBURY. A remark made by the honorable Senator from Massachusetts [Mr. DAVIS] renders it necessary that I should say a word, lest I should be misunderstood. I objected to the principle laid down by the Senator from South Carolina, [Mr. RHETT,] that the compensation of the highest State judge should be the rule, the inexorable rule.

Mr. RHETT. I beg to say that I did not say the inexorable rule. I said the principle. I had no such intention in my mind, as that of applying the principle as an inexorable rule. I understand that in Rhode Island the judge gets \$500.

Mr. CLARKE. I would like to know how the Senator from South Carolina understood that.

The PRESIDENT. There must be no interruption. The Senator from Maine is entitled to the floor.

Mr. BRADBURY. I was not calling in question the remarks of the Senator from South Carolina, but the Senator from Massachusetts [Mr. DAVIS] alluded to my remarks, and the course of argument adopted by the Senator from South Carolina tended to the same purpose. I desire to set myself right. I stated that the salary of the highest State judge should be one of the elements. I stated that there were other elements to be considered; and the principle which I would adopt is this: having reference to that salary, I would give such a compensation as should command adequate talents. Now, I have a case in my recollection. I understand that the State judges in Florida receive \$2,000, and that is found to be an inadequate salary, to command the talents and services of an adequate judge in the southern district, who has to pass annually on property exceeding a million, and sometimes a million and a half of dollars. There are other cases in which the salaries paid to the State judges would be inadequate to procure the requisite talent and services of a United States judge. On the other hand, the compensation paid to a State judge is in some instances greater than would be an adequate compensation for the services to be performed by a United States judge; and hence, the whole scope of my remarks was, that this should be one of the elements in forming an opinion; but not that it should constitute the rule.

Mr. BADGER. I beg to say to the Senator from Maine, as he has referred to a remark which I made, that I did not understand the Senator from South Carolina, [Mr. RHETT,] as laying down any such rule as he has stated, as being necessary to govern the decision of the question with regard to the salary of district judges. I understood him to furnish a general criterion by which we might determine what would be proper to command the services of a man of sufficient ability and talent to occupy the position of a judge in the United States court. I will say further, that I do not agree with the honorable Senator from Maine, that the salary of a judge is to be reduced because the business which he may be called to discharge is not great or pressing.

Mr. BRADBURY. The Senator is mistaken. I said no such thing.

Mr. BADGER. You call upon a gentleman of the bar to quit his profession in order to take a seat on the bench, and that puts him out of business in his former profession. I think, therefore, that rule should not govern the rate of compensation, or but in a subordinate degree, at least; because, if you have a court in which there are but few cases to be tried, when you select a gentleman to fill that place, you still make him dependent upon his salary, although he is withdrawn from his profession altogether. Of course his salary should be an adequate one. It would be a poor system to act upon, where there is but little business in the courts of the United States to have such small salaries, and consequently be obliged to fill these courts with incompetent men; because by-and-by, when business increases, or when questions arise, involving large amounts of property, or questions involving liberty or life, you will have men presiding in these courts whom every one would say were unfit to fill these places,

and incompetent for the duties of the station. There may be instances in which there is such an immense accumulation of business, that a salary may be required beyond what other cases would require. But the salary should always be sufficient to insure the services of men competent to adjudicate on all questions that may arise.

Mr. BRADBURY. The Senator from North Carolina seems again to misapprehend me. I stated distinctly, that the amount of business was one of the elements. I said nothing about reducing salaries. He drew the conclusion that that was what I said, and then went on to argue from those premises. The proposition which I made was a general one; and now let me put a case. A judge may be constantly employed, like the judge of the district of Massachusetts, or the southern district of New York, who has an immense accumulation of business, almost sufficient to break down a herculean frame. I ask, if that is not one of the elements? That is the position I laid down; yet the honorable gentleman objects to it, and takes exceptions to it, as if I had confined it to that alone.

Mr. CHASE. The question now before the Senate is, whether the district judge for New Hampshire shall receive a salary equal to that of the associate judges of that State? I have taken pains to ascertain from the Senator from New Hampshire, the precise amount of that salary. It is \$1,200. In the course of some remarks of that Senator yesterday, he stated that there was a sum paid to the associate judges, in addition to this, for the reporting of their decisions. If this sum were paid to them, I should feel inclined to add that amount; but, on inquiry of the Senator, I ascertained that that sum is not now paid to the associate judges of the superior court of New Hampshire. If, then, we give this judge a salary of \$1,200, we give him precisely that which an associate judge of the highest court in the State receives. That, it seems to me, is the true criterion. The district judges are the associate judges of the courts of the United States. The circuit judge sits as presiding judge; and the district judge sits as an associate judge. If they receive the same salary as the associate judges of the highest court in the State, it seems to me it ought to be enough.

Mr. CLARKE. I listened to the honorable Senator from South Carolina with very great pleasure, and agreed with the sensible remarks which he made on this question. He had something to say, however, about a salary of \$500 being paid to the judges of Rhode Island. Will the Senator have the goodness to tell me where he gets his information?

Mr. RHETT. I saw the statement in a newspaper. It gave an account of the salaries paid to the different officers of the States; and for Rhode Island, the Governor was put down at \$200, and the judges at \$500.

Mr. CLARKE. Now, I have read in the newspapers of this country, and I have believed some of them, that there were traitors to be found in various sections of the country; but I have never undertaken to allege anything of that sort, because it is found in the newspapers. There are a great many things published in the newspapers that are not true. A word, now, in regard to the State of Rhode Island. There are four judges of the supreme court of that State. They also perform circuit duties. The chief justice of the supreme court of the State gets \$1,600 a year, and the associate judges have \$1,200, and there are some certain fees attached to the office that bring them up to \$1,400. It is totally and entirely a mistake to suppose that the State of Rhode Island pays her Governor but \$200, and her judges but \$500. Her judges receive the compensation I have named. The Lieutenant Governor of the State, who has very little to do, has \$500. It will, therefore, be perceived that the Governor must have more. I cannot conceive why the State of Rhode Island should have been brought into this debate by the Senator from South Carolina, when he was in such an entire error as regards the salaries paid the judges there. I state it now, that the honorable Senator may know that he is in error.

Mr. UNDERWOOD. The result of this discussion has been to convince me that I ought to vote for the salary of \$1,400; which is what the highest judge in the State of New Hampshire receives. I therefore renew the motion to insert

\$1,400, instead of \$1,600; and I ask that the question may be first taken on that.

The PRESIDENT. The proposition was made by the Senator from Ohio, to strike out \$1,600, and insert \$1,200; the Senator from Kentucky suggests \$1,400. If there were a blank to be filled, the question would be first taken on the longest time, or the greatest amount; but as there is no blank, the question must first be taken on the proposition of the Senator from Ohio, which was made before that of the Senator from Kentucky. If that be rejected, the question will come up on the proposition of the Senator from Kentucky.

Mr. BADGER. I understand the Chair to say that the question must first be taken on the amendment of the Senator from Ohio.

The PRESIDENT. Yes, sir.

Mr. ATCHISON. I think the rule is the other way. I think the question must first be taken on the largest amount.

The PRESIDENT. It would be so, if there was a blank to be filled.

Mr. ATCHISON. I see a reason for it at all events, whether such is the rule or not. Suppose the Senate should decide to amend the bill by inserting \$1,200.

The PRESIDENT. Does the Senator make any question of order?

Mr. ATCHISON. No, sir.

The PRESIDENT. If there were a blank to be filled, the question would be first upon the largest amount and longest time; but when a motion is made to strike out and insert, the question must be taken on it before any other motion be put except a privileged one.

Mr. ADAMS. Is a motion to strike out and insert divisible? If so, I should like to have the question first taken on the motion to strike out. If so, we can settle the question at once. I think a salary of \$1,600 is little enough for a judge.

The PRESIDENT. According to the rules of the Senate, a motion to strike out and insert is not divisible.

Mr. BORLAND. I call for the yeas and nays on the motion to strike out \$1,600 and insert \$1,200.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 28; as follow:

YEAS—Messrs. Atchison, Borland, Brooke, Chase, Clemens, Dodge of Iowa, Douglas, Felch, Jones of Tennessee, King, Rhett, Rusk, Sebastian, and Wade—14.

NAYS—Messrs. Adams, Badger, Bell, Bradbury, Brodhead, Clarke, Davis, Dodge of Wisconsin, Downs, Fish, Foot, Gwin, Hale, Jones of Iowa, Mallory, Miller, Morton, Norris, Pratt, Seward, Shields, Smith, Soule, Spruance, Sumner, Underwood, Upham, and Walker—28.

So the motion was not agreed to.

Mr. UNDERWOOD. I now move to strike out \$1,600 and insert \$1,400.

Mr. HALE. As a friend of the bill, I wish to state that I have no objection to that amendment.

The amendment was agreed to. The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. BORLAND. I believe the question now is upon ordering the bill to be engrossed and read a third time. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. RUSK. Before the vote is taken I should like to ask the honorable Senator from New Hampshire if he knows the number of days that this gentleman is employed, and the average number of cases he has to hear. It seems to me that he has been very still for twenty years with a salary of \$1,000.

Mr. HALE. I do not want to occupy the time of the Senate, after it has taken up so much already on this bill. This judge is obliged to hold four terms of the district court and two terms of the circuit court annually in ordinary times. How many days he is occupied it is impossible for me to say. It is a very great mistake to suppose that he or his friends have always been satisfied with his compensation. The members of the bar of both political parties have repeatedly memorialized Congress representing the inadequacy of the salary, and requesting that it might be raised. I would state further to the honorable Senator, that in the State of New Hampshire there is a seaport, Portsmouth, where there is a fort and navy-yard of the United States, and there is great need for a district judge residing there. The district judge has never been able to reside within the vicinity of those establishments of the General Government,

owing to the inadequacy of his salary. Representations have constantly been made requesting an increase of his compensation to enable him to reside in the vicinity of these establishments, so as to transact business with facility.

Mr. BORLAND. I desire to be understood in the vote which I propose to give. I shall vote against the bill, not because I undertake to say that the amount proposed to be given to this gentleman is too much, but upon the principle I assumed yesterday for the governing of my vote here—that I will never give a vote which will place a judge of the Federal Government of the same grade, requiring the same amount and the same character of duties, upon a better footing, give him a higher salary, and thereby recognize in him a higher grade of qualifications, and a higher degree of respectability, than the judges of the State courts. This bill as it now stands proposes to give this judge \$200 more than the associate judges of the supreme court of New Hampshire receive. It puts him on a footing with the chief justice of the State. I am willing to put him on a footing with the associate justices, but I am not willing to put him upon the same footing that the State of New Hampshire places the highest judicial officer of the State.

Mr. RUSK. I shall vote for this bill as it is. If we give the individual a salary to hold this office, it seems to me that \$1,400 is little enough, whether he has business or not. But I vote reluctantly for the bill, not on the ground that I think this is too high a salary, but because of the partial operation of the judicial system of the United States. If we increase the salary of the judge of one district, we shall have the judges of other districts electioneering for an increase of salary. There are a great many district judges whose offices are merely sinecures. There are others who have three times as much business as they can do, and suitors are delayed from year to year, because the judges cannot get through with the business. I doubt whether there is a civilized country on the face of the globe where there is such a partial system as the judicial system of the United States. We have one judge at \$1,000; another at \$2,500; another at \$4,000. There are a dozen bills now before the Senate for the increase of the salaries of judges in different sections of the Union. One section of the Union has the benefit of circuit courts, while another section has not. It seems to me that patching up the system from year to year makes it worse. Hence, though I shall vote for this bill, I shall do so with great reluctance.

Mr. BORLAND. In order to show that I am not actuated by any feeling of hostility to this particular judge, I wish simply to say that I have pursued a similar course in reference to the United States district judge of my own State. He has applied to me to endeavor to get him an increase of salary, but I have declined to do so, and I have given him as a reason, that which I have stated here for my opposition to this bill, namely, that I will not for an increase of the salary of a Federal judge, beyond the salary of the judges of the State courts.

The question being taken, by yeas and nays, upon ordering the bill to be engrossed and read a third time resulted—yeas 34, nays 8; as follows:

YEAS—Messrs. Adams, Badger, Bell, Bradbury, Brodhead, Brooke, Clarke, Davis, Dodge of Wisconsin, Downs, Felch, Fish, Foot, Gwin, Hale, Hunter, Jones of Iowa, Jones of Tennessee, King, Mallory, Miller, Morton, Norris, Pratt, Rhett, Rusk, Seward, Shields, Soule, Spruance, Sumner, Underwood, Upham, Walker—34.

NAYS—Messrs. Atchison, Borland, Chase, Clemens, Dodge of Iowa, Douglas, Sebastian, Wade—8.

So the bill was ordered to be engrossed, and read a third time.

#### EXECUTIVE SESSION.

On the motion of Mr. BADGER, the Senate proceeded to the consideration of Executive business; and after some time spent therein the doors were reopened, and

The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, March 30, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the unfinished business of yesterday, being the

motion to lay on the table the motion to reconsider the vote by which the bill relating to the discipline in the Navy was rejected.

#### RESOLUTION FROM LOUISIANA.

Mr. PENN, by unanimous consent, presented a joint resolution from the Legislature of the State of Louisiana, requesting Senators and Representatives from that State to obtain from the General Government permission in favor of the corporation of the town of Baton Rouge to inclose and use as a cemetery a portion of the grounds attached to the United States barracks in that place; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### NAVIGATION OF THE OHIO RIVER.

Mr. MARSHALL, of Kentucky. I ask the unanimous consent to introduce a resolution. It was read for information, as follows:

Resolved, That the President of the United States be and is hereby requested to cause to be communicated to this House the original manuscript copy of the report (now on file in the office of Colonel Long, of the Topographical Engineers) of Captain Thomas C. Cram, on the best mode of improving the navigation of the Ohio river at the falls at Louisville, made 3d February, 1844, with the original maps accompanying the same, or a true copy of the said report from the said original, and certified by Colonel Long to be true.

Mr. HOUSTON. I would suggest to the gentleman from Kentucky, that the Departments are expected to keep the original copies of such documents themselves. It may be better to call for a certified copy of the report.

Mr. MARSHALL. I will state to the gentleman from Alabama, and the House, that the original is now in possession of the topographical engineer, and is in Cincinnati.

Mr. HOUSTON. I do not object to the introduction of the resolution.

There was no objection, and the resolution was accordingly introduced, and adopted.

#### RESOLUTIONS FROM THE STATE OF MAINE.

Mr. FULLER, of Maine, by unanimous consent, presented a preamble and resolutions from the Legislature of the State of Maine, setting forth the abuses alleged to exist in the conveyance of passengers in steam-boats between the Atlantic ports and those of California; and requesting the Senators and Representatives from that State to procure the passage of such laws by Congress as shall be best adapted to prevent these abuses in future; which were referred to the Committee on Commerce, and ordered to be printed.

#### EXTENSION OF THE CAPITOL.

Mr. BEALE. I ask the unanimous consent of the House to present a report from the select committee who were directed to examine the foundation walls for the contemplated extension of the Capitol. I ask that it may be read for information.

Mr. HOUSTON. Cannot the committees be called, generally, this morning for reports?

The SPEAKER. By unanimous consent, but not otherwise. The Chair has already stated that the regular business before the House is the motion to lay on the table the motion to reconsider the vote by which the bill in reference to discipline in the Navy was rejected. That is a privileged question, and if any gentleman insists upon it, committees cannot be called for reports.

Mr. STANLY. I insist that the House proceed to the regular order of business.

Mr. HUNTER. I ask the unanimous consent of the House to present a petition from the members of the Legislature of Ohio. I desire to have it laid on the table and printed.

Mr. OLDS. That is not a resolution of the Legislature of Ohio. It is a mere petition signed by the members of that Legislature, and can be presented under the rules as well as any other petition. I object to its introduction.

Mr. CABLE, of Ohio. Would it be in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It would be in order.

Mr. CABLE. I make that motion.

Mr. SEYMOUR, of New York. I hope the gentleman from Ohio [Mr. CABLE] will waive his motion for the present. I desire the unanimous consent to report, and have immediate action of the House upon, a bill which proposes one single amendment to the present passenger laws.

I will state, that passenger-ships are constantly arriving in this country loaded with many passengers, and there are great violations of the laws passed for preserving the health of the passengers. This is particularly true in relation to emigrant ships.

There is now a bill upon your table which has been there almost from the commencement of the session, reported by the Committee on Commerce, but we have been unable to reach it. In the mean time, the Senate have perfected a bill which answers the same purpose. The whole purport of the bill is, to make the penalty which attaches to the violation of the law attach to the ship, and thus enable the law to be enforced.

Mr. JONES, of Tennessee. I rise to a question of order. I ask, what is before the House?

The SPEAKER. The gentleman from Ohio [Mr. CABLE] moves that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JONES. It is not in order for the gentleman from New York [Mr. SEYMOUR] to make a speech upon that motion.

The SPEAKER. The gentleman from New York appealed to the gentleman from Ohio to withdraw his motion, and, by the unanimous consent, was proceeding to give his reasons for the request.

Mr. JONES. I object.

Mr. STANTON, of Tennessee. I desire to ask of the Chair whether, if this motion is voted down, the unfinished business of yesterday will not then come up?

The SPEAKER. That is the first business in order.

Mr. STANTON. Then I hope the motion will be voted down.

The question was then taken and agreed to—ayes 74, noes not counted.

#### HOMESTEAD BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN. The business before the committee is House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting to every man who is at the head of a family and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period herein specified; upon which the gentleman from Maine [Mr. FULLER] is entitled to the floor.

Mr. BROWN, of Mississippi. I ask the permission of my friend from Maine [Mr. FULLER] to make a single explanation?

Mr. FULLER. I will yield if the gentleman will not take up much of my time.

Mr. BROWN. Only a moment.

Mr. BROWN, then said that several days ago one of his colleagues (Mr. FREEMAN) asked leave to publish (without delivering) a speech in reply to one which he (Mr. BROWN) had made in this Hall. As the subject was one which did not interest the House, and as he did not desire to occupy an hour of the time of the House, he wished to give notice that, following the example of his colleague, he should publish a rejoinder to the speech referred to, if there was no objection. [Cries of "Agreed," "agreed,"]

[The speech alluded to will be found in the Appendix.]

Mr. JOHNSON, of Tennessee. By the permission of the gentleman from Maine, I desire to offer an amendment to the first section of the bill. I ask that the first section may be read:

It was read by the Clerk, as follows:

Be it enacted, &c., That every man or widow who is the head of a family, and a native-born citizen of the United States, or who had become a citizen as required by the naturalization laws of the United States prior to the first day of January, eighteen hundred and fifty-two, who is not the owner of any land, nor worth the sum of \$500, and who has not disposed of his or her land for the purpose of obtaining the benefit of the provisions of this act, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

Mr. JOHNSON. If I can get the ear of the House, I desire to offer an amendment to that section. It will be perceived that in that section there is a restriction which requires the individual enter-

ing upon the public domain, under the provisions of this bill, shall be worth a sum not exceeding \$500. Now, I want to offer a section in lieu of that section, which permits a man to enter on the land without regard to property qualification, without any qualification save that he shall occupy the same for five years. I know there is a contrary of opinion in this House upon this point; and I want simply to test the two provisions, and have the judgment of the House upon them. I offer the following in lieu of the first section of the bill:

That any person who is the head of a family, and a native-born citizen of the United States, or any person who is the head of a family, and had become a citizen prior to the first day of January, eighteen hundred and fifty-two, as required by the naturalization laws of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

Mr. FULLER, of Maine, then proceeded to urge some objections to the principles contained in the bill, remarking that he regarded it as illegal, unjust, and partial in its provisions, and, if he were before a tribunal differently constituted, he would premise his remarks by a motion to dismiss this bill. This right of partition, for so he must term it, was introduced by the gentleman from Tennessee, [Mr. JOHNSON,] and reported back from the Committee on Agriculture with sundry amendments. He denied the title of these partitioners, either in law or equity, and the right of this Government to make partitions. He denied that this Government held the public domain by such a tenure as was susceptible of such partition as was here asked for. He asked by what right, by what title-deed, a certain specified class of persons, aliens, foreigners, or American citizens of limited age, of particular condition in domestic and pecuniary affairs, should come here and ask this Government gratuitously to assign and set out to them in severalty, by metes and bounds, any portion of the public domain, the common property of the people of the United States, to the exclusion of a much greater portion, having equal rights and equal privileges? Nay, more, a class of persons such as might casually happen to come within the provisions of this bill on the first day of January, 1852, and for the remaining three hundred and sixty-four days of the current year, there would be falling under each day a class of persons equally entitled to the beneficence of this Government.

If there was any subject of legislation on which the American people were more tenacious than another, it was against any principle of legislation which made an invidious distinction in the bestowment of governmental favors, pensions, and patronage. The axiom was true, and applicable to American citizens, that the blessings of Government, like the dews of heaven, should fall equally upon all.

He was opposed to the thousand and one schemes now pending before Congress, by which to rid the General Government, in the shortest possible time, of the public domain; and held that the old land system, which had been in force for thirty years past, was the best system which the wit and wisdom of man had yet devised.

He then proceeded to sustain the following propositions: First, that the public lands should be disposed of for the common use and benefit of all the people of the United States, as one people; second, that each State should participate in the common benefits, in proportion to the expenses of the Government which they are required to bear; and, third, that the public lands shall not be disposed of for any other use and purpose whatever.

Mr. CHURCHWELL, after briefly replying to the gentleman who preceded him in debate, said he had looked at the different plans to dispose of the public lands, in both branches of Congress, and none struck him with so much force and favor as that of his colleague, [Mr. A. JOHNSON.] It is calculated to advance the interests of the Government, of individuals, and of society, and elevate the moral nature of man. It is a liberal and benevolent system. He might be told that all will not need its provisions, and therefore it has an unequal operation. But is it not apparent to all that the wheel of fortune is constantly turning? A man to-day may be in sunshine, to-morrow in the shade. But this is a great scheme for the benefit of

humanity throughout the world. To improve the moral nature and condition of man, give him a homestead, better his estate, and give him the independence of a landed proprietor, that he may look up with all the proud feeling of a man. He can cast his vote for whom he will. You do away, to a great extent, with the corrupting moneyed influences of the country. You put him on an equality with his more favored fellow-citizens; you better his condition in every sense of the word. And not only this, but you give him the means of supporting his family, and educating his children, and preparing them for all the ordinary duties of life. And, in conclusion, the honorable gentleman further showed the advantages which would result from the passage of this bill, in a commercial as well as defensive point of view.

Mr. GROW denied the position that the Government had any right to make the public lands a source of revenue, and argued to prove that every citizen had as natural a right to the soil, as he had to air and sunlight. Each person had a right to so much of the earth's surface as was necessary to his support. He contended that, as a question of revenue, it became important to the Government to make this donation of land, and that it would contribute to the increase of national as well as domestic wealth, to the defense of the country, and to commerce. He considered it the duty of Congress to hold out a reasonable inducement for the settlement of the public lands. Every consideration of justice and humanity demanded that they should be granted in limited quantities to actual settlers, and that man should have restored to him his natural right to the soil.

Mr. SKELTON gave the reasons which induced him to support the bill under consideration. He believed that the true principle of this Government is to afford the largest exercise of liberty consistent with the public safety. This distinguishes us from the Governments of other countries, where citizenship is swallowed up in nationality. On the basis of the largest constitutional freedom peculiarly rests the prosperity of our country; and this is directly opposite to socialism and aggrarianism, which he utterly repudiated. The time has arrived when some disposition of the public domain ought to be made to benefit our citizens generally, in view of the fact that there are projects of railroad companies pending, covering about thirty millions of acres of land. And a reason why he would vote for this bill was, that it would not only confer a positive good, but will prevent the passage of other schemes, hurtful in themselves. He expressed his surprise that some of his Democratic friends should advocate bills to build up such institutions. He then argued that the public lands are in the possession of the General Government, to be disposed of for the public benefit, and contended that this bill secures this desirable end.

[These several speeches will be found in the Appendix.]

Mr. WILLIAMS obtained the floor, but yielded it to

Mr. FOWLER, who moved that the committee rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the homestead bill, and had come to no conclusion thereon.

Mr. BARRERE, from the Committee on Enrolled Bills, reported as correctly enrolled "An act to authorize the issuing of a register to the brig America;" and "An act to authorize the issuing of a register to the ship Kossuth;" which received the signature of the Speaker.

On motion by Mr. HOWARD, by unanimous consent, it was

Ordered, That leave be granted to withdraw the petition and papers of George W. McCeren from the files of the House, for the purpose of reference to the Secretary of War.

Mr. ORR. I ask the unanimous consent of the House to have the bill for the punishment of misdemeanors in the Navy, which was under consideration on yesterday, printed.

There was no objection, and the bill for establishing discipline in the Navy was ordered to be printed.

Mr. JONES, of Tennessee. I ask the unanimous consent of the House to have the substitute proposed by my colleague to the bill under con-



sideration in the Committee of the Whole upon the state of the Union to-day printed.

There was no objection, and the substitute was ordered to be printed.

On motion by Mr. FLORENCE, by unanimous consent, it was

*Ordered*, That the petition and papers of Elizabeth McDougal be withdrawn from the files of the House, and referred to the Committee on Invalid Pensions.

Mr. CLARK. I move the usual resolution, that debate upon the question now the special order in the Committee of the Whole on the state of the Union be terminated within two hours after its consideration shall be again resumed. Pending which,

On motion by Mr. CLEVELAND, the House then adjourned.

## IN SENATE.

WEDNESDAY, March 31, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

## PETITIONS, ETC.

Mr. MORTON presented a memorial of citizens of Hillsborough county, Florida, remonstrating against the further extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, the memorial of Henry Johnson, asking the appointment of a committee to examine a machine invented by him for taking the yeas and nays; which was referred to the Committee on Patents and the Patent Office.

Mr. COOPER presented a petition of forty stone-masons, lately employed on the extension of the Capitol, praying to be allowed their daily wages for the time they have lost in waiting for an appropriation for the continuation of the work; which was referred to the Committee on Public Buildings.

Mr. FOOT presented a petition of citizens of Pittsfield, Vermont, praying that the public lands may be granted in limited quantities to actual settlers; which was referred to the Committee on Public Lands.

Mr. DAWSON presented two petitions of citizens of De Kalb county, and of Hancock county, Georgia, remonstrating against the extension of Woodworth's patent for a planing machine; which were referred to the Committee on Patents and the Patent Office.

Also, a letter from P. K. Dickinson & Co., of the State of North Carolina, remonstrating against an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, the petition of John James Flournoy, of Georgia, praying that the weight of single letters may not be restricted to half an ounce; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAWSON. I am also requested to present a petition from the same individual, remonstrating against the admission of Utah as a State into the Union, alleging that the Mormon religion, especially that principle recognizing polygamy, is not republican equality; and that the Constitution, in authorizing the admission of a State, demands that its constitution should in its form be republican. I ask that it be referred to the Committee on the Territories.

It was so referred.

Mr. PRATT presented the petition of Lucy Tate, widow of an officer in the revolutionary war, praying a pension; which was referred to the Committee on Pensions.

Mr. SEWARD presented the petition of Dinah Mount, widow of a soldier in the revolutionary war, praying a pension; which was referred to the Committee on Pensions.

Also, the petition of Francis Dainese, United States Consul at Constantinople, praying to be reimbursed an amount expended for the relief of Louis Kossuth, and other refugees, in that city, during the years 1849, 1850, and 1851; which was referred to the Committee on Commerce.

Mr. SEWARD. I present a petition of J. C. Phillips and others, citizens of New Jersey, protesting against the armed intervention of Russia in the contest between Hungary and Austria, and requesting Congress to express their reprobation of that violation of the laws of nations. I move that it be laid upon the table.

The motion was agreed to.

Mr. DOWNS presented the memorial of James Reed, praying the appointment of a tribunal to review the decisions of the late board of commissioners for settling claims of American citizens against Mexico; which was referred to the select committee appointed on the subject.

Mr. SUMNER presented a petition of one hundred and eighteen citizens of Boston, Massachusetts, praying a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEBASTIAN presented a petition of citizens of Arkansas, praying the right of way and a donation of land to the Mississippi, Ouachita, and Red River Railroad Company; which was referred to the Committee on Public Lands.

Mr. DAVIS presented the memorial of Charles Stearns, praying indemnity for expenses incurred in defending a suit brought, as he alleges, without cause, against him and others by the United States; which was referred to the Committee on the Judiciary.

Mr. SPRUANCE presented a petition of citizens of Kent county, Delaware, remonstrating against the further extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. DOUGLAS presented a petition of seamen of the Navy, who have served both at sea and on land during the Mexican war, representing that they have shared the dangers and privations of the Army, without sharing the benefits bestowed upon it, and praying some emolument; which was referred to the Committee on Naval Affairs.

Mr. SEBASTIAN presented the petition of James Jones, praying permission to change the entry of a certain quarter section of land; which was referred to the Committee on Private Land Claims.

Mr. BRODHEAD. Mr. President, I have a memorial upon a very interesting and important subject from G. & J. H. Shoenberger & Co., of Pittsburg, Pennsylvania, and of Henry King & Alonzo Hitchcock, of St. Louis, Missouri. They represent that they have acquired the art or process of manufacturing the article known as Russia sheet iron. By the patent laws they cannot obtain a patent for it, because they use the same process which is used in manufacturing it in Russia. They ask that an act of Congress may be passed to grant to them, for a limited time, the exclusive right of manufacturing and vending this article, so that they may bring it into fair competition with Russia sheet iron. I move that the memorial be referred to the Committee on Manufactures.

The motion was agreed to.

## REPORTS FROM STANDING COMMITTEES.

Mr. BORLAND, from the Committee on Public Lands, to which was referred the bill allowing exchanges of, and granting additional school lands in the several States which contain public lands, and for other purposes, reported it without amendment.

He also, from the same committee, to which was referred the bill to release from reservation, and restore to the mass of public lands, certain lands in the State of Arkansas, reported it without amendment.

Mr. FELCH, from the Committee on Public Lands, to which was referred the memorials of A. W. Paul and others, and of A. Anderson and others, praying the construction of roads from the Missouri river, and from Lake Michigan to the Pacific, asked to be discharged from the further consideration thereof, and that they be referred to the Committee on Roads and Canals; which was agreed to.

Mr. GEYER, from the Committee on Pensions, to which was referred the petition of Orris Crosby, praying an increase of pension; and the petition of the legal representatives of Lemuel P. Montgomery, praying a pension to which he was entitled, presented adverse reports thereon; which were ordered to be printed.

He also, from the same committee, to which was referred the documents in support of the claim of Agatha O'Brien, widow of the late Major J. P. J. O'Brien, United States Army, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the memorial of the merchants of San Antonio, Texas, praying that

that place may be made a port of entry, asked to be discharged from the further consideration thereof; which was agreed to.

## SETTLERS ON MEMONONEE PURCHASE.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to which was referred a petition of citizens of Wisconsin, reported a bill to grant to certain settlers on the Menomonee purchase, north of Fox river, in the State of Wisconsin, the right of preëmption; which was read and passed to the second reading.

Mr. DODGE, of Iowa. This case is a very urgent one. This bill met the unanimous sanction of the Committee on Public Lands, and I ask the Senate to do me the favor of allowing the bill to be read a second time now, so that it may be considered immediately.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole. It provides that every head of a family, widow, or single man over the age of twenty-one years, who, on June 1st, 1852, shall be an actual settler and housekeeper, and who shall have made other improvements on any tract within the body of the lands ceded by the treaty of October 18, 1848, with the Menomonee tribe of Indians, shall be entitled to the same right of preëmption, and upon the same terms and conditions as are prescribed by the act entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights," approved September 4, 1841.

Mr. HUNTER. I should like to have time to examine this bill, and I will therefore ask that it may lie over.

Mr. DODGE, of Iowa. When the bill is understood, I am very certain that neither my friend from Virginia, nor any other member of this body, can have any possible objection to it. It was drawn up by the Commissioner of the General Land Office, and met the sanction of every member of the Committee on Public Lands when passed upon by them this morning. It simply proposes to extend the right of preëmption to certain settlers on a purchase from the Menomonee Indians, on which they went from a misapprehension. The settlers went on the land before they had fully a legal right to do so, and the bill proposes to relieve them from the effect of their mistake.

Mr. HUNTER. I move to postpone the further consideration of the bill until to-morrow. I hope the Senator from Iowa will consent to give me time to examine it.

Mr. DODGE. Certainly.

Mr. DAVIS. I hope the bill will be printed, so that we may have a chance to see what it is.

The PRESIDENT. It will be printed as a matter of course.

Mr. DAVIS. It cannot be printed if it is acted upon now.

The PRESIDENT. The proposition is to postpone it until to-morrow.

Mr. WALKER. A purchase was made by the United States, of certain lands from the Menomonee Indians. Under the preëmption laws, the settlers on that purchase cannot avail themselves of any preëmption right, for the reason that, under a misunderstanding, they went on the land before the Indian title was deemed to be perfectly extinguished. The treaty provided that the Indian title should be deemed to be extinguished within a year after the time notice should be given to the Indians to quit the lands. A notice was given on the first of June last, and the time will expire on the first of next June; but it appears that the notice has been revoked, and, as I understand it, under the last notification, the time will not expire until a year from the first of June next. Therefore, although these settlers have made improvements, they cannot avail themselves of any benefit from them. There they are. They have made improvements; they and their families live on the lands; and yet they can derive no benefit whatever. The lands have been surveyed; a public sale is soon to take place; and they will not be able to prove their preëptions before the sale does take place. Hence, the land on which they are settled is liable to be bid up and purchased by any person who may be attracted there by the improvements which have been made. It seems to me that, if there ever was a meritorious case, entitling the individuals to a preëmption right, it is this. They have gone there in good faith; they have improved the country in good faith; and they

are willing to pay for the land. They have paid as much, and perhaps more, money in the same length of time as any other community, of equal numbers, in the United States. It seems to me that it would be a gratification to the Congress of the United States to pass this law for the benefit of these people.

The motion to postpone was agreed to.

#### NOTICE OF A BILL.

Mr. FELCH gave notice of his intention to introduce a bill to grant preemption rights to certain settlers on an island called the Grand Chenière, in the south-western land district in Louisiana, and for other purposes.

#### EXPEDITION TO JAPAN.

Mr. BORLAND. I submit the following resolution:

*Resolved*, That the Secretary of the Navy be directed to communicate to the Senate the object of the naval expedition recently ordered into the Indian ocean, and particularly to the coast of Japan, and copies of any instructions that have been given to the commander of that expedition.

I ask the unanimous consent of the Senate to consider this resolution at this time.

Objection was made.

Mr. BORLAND. I would state as a reason why it should be considered now, that the naval expedition to which it refers, it is said, is about to sail. I saw it stated in a debate in the House of Representatives which occurred day before yesterday, that it was expected that the expedition would sail to-day. The object of the resolution is to ascertain, and I think it is important to the Senate, and to the country, to know the objects of that expedition, for I think it very certain, judging from other circumstances in other branches of the public service, that we shall be called upon to make an appropriation to pay the expenses of the expedition. Therefore, before the expedition leaves the country, I think it is important that it should be known what are its objects, in order that this branch of the Government may pass upon its propriety.

Mr. GWIN objected to the consideration of the resolution; and it lies over under the rule.

#### IMPORT DUTIES.

Mr. MILLER submitted the following resolution, which was read, and ordered to be printed:

*Resolved*, That the paramount interests of the country require that the duties prescribed by the act entitled "An act reducing the duty on imports, and for other purposes," passed July 30, 1846, should be altered and modified so that while they may raise sufficient revenue to meet the wants of the Government, they may also give proper encouragement and protection to American labor, enterprise, and capital; and also to guard the Government against known abuses and fraud in the collection of its revenue.

#### BILL INTRODUCED.

Mr. DOUGLAS, agreeably to previous notice, asked and obtained leave to introduce a bill, supplemental to the act entitled "An act extending the jurisdiction of the district courts to certain cases upon the lakes and the navigable waters connecting the same," approved February 26, 1848; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

#### CHANGE OF NAME.

Mr. DOUGLAS, in pursuance of previous notice, asked and obtained leave to introduce a bill, to change the name of Joseph Lewis Breese, a midshipman in the Navy of the United States; which was read and passed to a second reading.

Mr. BADGER. That is a bill to which I believe there will be no objection. I therefore ask that it may have its second reading now, by unanimous consent, and be put upon its passage.

The bill was read a second time, and considered as in Committee of the Whole. It proposes to change the name of Joseph Lewis Breese to Samuel Livingston Breese, by which name he shall be known and rated on the books of the Navy Department, the Navy Register, and elsewhere, from and after the passage of the act.

Mr. HALE. I want to know whether this individual is a resident of the District of Columbia?

Mr. BADGER. He is not.

Mr. HALE. Then what authority have we to change his name? I do not remember that anything of the sort has ever been done but once, and that was in the case of a foreigner, who came to reside in this District. If this individual were a resident of the District, there could be no objection to it. But it seems to me that if he lives in one of the States, this is a power which expressly belongs to the State Legislature.

Mr. BADGER. I think the honorable Senator is under a mistake. Whatever was the residence of the officer at the time he was appointed into the Navy of the United States, he lost that residence, of course.

Mr. HALE. Oh, no.

Mr. CHASE. Not at all.

Mr. BADGER. Of course he did. The Senator is also mistaken in regard to the exercise of this power. It has been exercised many times since I have been in Congress, in regard to officers in the Navy of the United States, whose names are on the books of the Navy Department; and Congress, in repeated instances, when applied to, has changed their names. There was the case of a man named Photius Kavasales, whose name was changed to Photius Fisk. It was a very singular taste, to be sure, to change his name from Kavasales to Fisk; but he desired it, and it was done—Congress taking the responsibility to grant his request. This case stands on the same foundation.

Mr. GEYER. Does the individual ask this?

Mr. BADGER. He does.

Mr. PRATT. It seems to me that this is a power exclusively to be exercised by the local Legislatures, in reference to citizens living within the limits of their jurisdiction. Certainly the Senator from North Carolina must be wrong, when he says that a citizen of a particular State, by being appointed an officer in the Army or Navy of the United States, loses his citizenship in the State from which he is appointed.

There is another objection to which I ask the attention of the Senate. I do not know that the States have hitherto exercised the power to change the christian name of an individual. It has never been done within my knowledge. That might depend, perhaps, upon the religion of the individual. It depends on the church in which he is christened. I do not know that the State Legislatures have ever exercised the power to change the christian name of an individual. I have known the surname of an individual to be changed by an act of the Legislature of a State; but, within my knowledge, I am not aware of a single instance in which a State Legislature has undertaken to change the christian name of a person. The object of this bill is to change the christian name alone, and not the surname of this individual.

Mr. DOUGLAS. The person whose name is proposed to be changed, is the son of ex-Senator Breese, who is known to us all. The reason why the application is made here, instead of being made to the local Legislature, is simply this: He is a midshipman in the Navy, and if the Illinois Legislature should make the change of the name, still the record here would not be thereby changed. Congress is the only power that can change a name on the records of the Department. We only ask for an act of Congress so as to authorize a change of name on the Naval Register, and have that conformed to the change which the family have made among themselves. It is only proposed to change the record. I understand that the precedents are in favor of this application. Senator Breese, in requesting me to make the application, referred to the case cited by the Senator from North Carolina as a precedent for this bill, and as showing the reason why the application was made to Congress.

Mr. BADGER. When I said that a person appointed to the Army or the Navy of the United States lost his citizenship in the State from which he was appointed, I did not mean to use the term in the sense implying that he lost any of those ordinary rights that belong to the citizens of the State in which he resided; but what I meant was, that he ceased to be under the jurisdiction of the local Legislature. And I believe I used the term residence, and not the term citizenship. When an individual is appointed to the Army or Navy, he is under the control of the United States. He is, and remains, where he is ordered to be. He is no longer the governor and director of his own residence. That is all I meant to convey.

In regard to the distinction in the surname, we know that every man may change his name as he pleases, and acquire a new name by reputation. But this young gentleman being in the service of the United States, his object is to have his name changed by an act of authority, by which the old name may be removed from the Register and the new name inserted. That is all.

Mr. BAYARD. Is there any precedent, of any

similar law, on the statute-book?

Mr. BADGER. Yes, sir. There is the case I have mentioned. An individual, by the name of Photius Kavasales, had his name changed, by act of Congress, to Photius Fisk.

Mr. BAYARD. If it were done by act of Congress in that case, then I see no objection to this bill.

Mr. BADGER. It was done by act of Congress in that case; and I believe the individual was a chaplain in the Navy.

Mr. UNDERWOOD. I am against this bill, as at present advised; and I wish to make a few suggestions why I think it ought not to pass. This bill assumes a power which, it seems to me, cannot necessarily be exercised, in the execution of any of the grants of the Constitution; and it seems to me also, that it is interfering in a matter which belongs exclusively to the States. Although I am not generally charged with being very much of a State-Rights man, I do believe that I am as much a stickler for the proper division of powers between the General Government and the State governments, and the strict construction in reference to the grants of power to the General Government, as anybody else. If we begin to exercise a jurisdiction over a midshipman in the Navy, where is this to end? Will it not embrace all the postmasters in the country, all the army officers, as well as the naval officers, and every employee of the Government, who wants his name to be changed? I am against this, because I see no limit to the exercise of the power, if we once begin to assume it.

I am told that the case which is relied on as a precedent, was that of a citizen resident in the District of Columbia, and one who was not a resident of any of the States.

Now, I deny that an individual, by entering the service of the country, as an officer in the Army, or in the Navy, thereby changes his citizenship. I think that he continues a citizen of the State from which he was appointed, notwithstanding his entering into the service of the United States, as much so as a minister or consul, who is sent abroad, continues a citizen of the State in which he resided at the time of his appointment, although he exercises functions in a foreign country.

For these reasons, although it may seem to be a little matter, I am not willing to introduce a precedent which may thus enlarge the jurisdiction of Congress over a subject not connected, it seems to me, with our constitutional duties, and which may hereafter consume a great deal of time. If we save only time, it will be something gained by refusing to pass this bill.

Mr. DAVIS. I cannot perceive that this bill involves questions of citizenship. Some persons change their names to avail themselves of a bequest; others change their names at pleasure. I take it that every man has the right to go by what name he pleases; but sometimes it is desirable to have a record of the fact of a change of name, that a man may seem to have done it for an honest and proper purpose. All that this individual wants, all he desires, is, to appear consistent with himself, and to have an expression of opinion here which shall be matter of public record and go down to posterity, to show that when he assumed a new name he did it properly. He wishes to be able to identify his person, and go behind that change and show who he was. Now, inasmuch as he is an officer of this Government, it seems to me to be very appropriate, indeed, that this law should pass in order to enable him to maintain his own identity.

Mr. UNDERWOOD. The point of my friend's argument is, that we should make records to gratify individual wishes, and thereby to perpetuate a fact in which the country has no manner of interest, merely for the gratification of a single individual. Why, if our time is to be taken up on business of this sort, for every individual of the country, we may have nothing on earth to do but to make these private records. I cannot consent to it for the very reason that my friend urges, that our time is to be taken up in making private records for individuals. If this individual gets his name changed by an act of Assembly, it will not change his commission. If that commission was granted to him under the name of A B, if he can get an act of Assembly changing his name to C D, he will still hold the office under the commission granted to A B. The act does not change his per-

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sonal identity. I do not see, then, the necessity of getting any record of the change of his name to enable him to hold his commission. I think we ought not thus to gratify individuals, at the public expense, by setting such an example.

Mr. BAYARD. If I could see any question of a division of authority in this case between the State and the General Governments; or if I could see that this was an authority belonging appropriately to the State government, certainly I should be unwilling to vote for this bill. But I cannot understand the ground of objection on the part of the Senator from Kentucky. I suppose a man has a right to change his name, by his own volition, when he chooses, without any legislative act, either of Congress or his own government; and that his rights are in no way impaired by it. If he is known by another name, a grant to him, or a grant from him, is as available under the new name as under the old. The right to change the name belongs to the party. It is very common for individuals to apply to their State Legislatures to authorize a change of their names; but I presume the basis of that, in all cases, is simply with a view to notoriety—nothing more.

Now, the reason why this bill is asked for here, is on account of the particular position of the party—in the service of the United States. It is to obviate an objection as to identity. The object of all names is, simply, identity. Then, in order to sustain his position in the service—having been appointed under another name than that which he now bears—he wishes to preserve on the record of the Department, the idea of his own individual character which attaches to him, notwithstanding the change of his name. That is the only object of the bill; and I can see no assumption of authority in it. If this party were not in the service of the United States; if he had no relation with any duties to be performed in the service, then I would say the application would be an exceedingly improper one, and that we should have nothing to do with it. But this individual holds a commission in the naval service. His object is to preserve the evidence of his identity on the rolls of the Department, through means of proof of identity. His name is changed, by his own individual act elsewhere. There is no harm in his doing that. He can do it for all practical purposes elsewhere; and he asks you to permit him to do it here, so that no objection may be made, arising from the fact of his having borne another name formerly. That is the view I take of it. Really, I think it is a very innocent transaction, which involves no question between the authority of the States and the General Government. The object of the bill is, simply to furnish recorded evidence of the identity of this party, his name having been changed.

The bill was reported to the Senate without amendment.

Mr. HUNTER called for the yeas and nays, on the question of engrossment.

The yeas and nays were ordered, and, being taken, resulted—yeas 26, nays 18—as follows:

YEAS—Messrs. Atchison, Badger, Bayard, Borland, Brodhead, Brooke, Clarke, Clemens, Cooper, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fish, Foot, Geyer, Gwin, Hamilton, Miller, Rusk, Smith, Soule, Sprague, Sumner, and Wade—26.

NAYS—Messrs. Adams, Bradbury, Cass, Chase, Dawson, Felch, Hale, Hunter, King, Morton, Norris, Pratt, Rhett, Sebastian, Seward, Underwood, Walker, and Welles—18.

## BILLS PASSED.

The following engrossed bills were read a third time and passed:

An act for the relief of Henry L. Kinney.

On motion by Mr. BORLAND, the title was amended to read as follows:

An act to enable the proper accounting officers to complete a settlement with Captain Henry L. Kinney;

An act increasing the salary of the district judge of the United States for the district of New Hampshire; and

An act for the relief of Seneca G. Simmons.

NEW ORLEANS AND VERA CRUZ MAIL LINE.

Mr. SOULE. Mr. President, I desire to ask

the Senate to deviate somewhat from the regular order of business of the body, to take up a particular bill. You know that I very seldom make an appeal of this sort to my brother Senators; but in this particular instance, I hope they will grant me the favor to postpone the special order of the day, and all other orders, for the purpose of taking up bill No. 191, being a bill to provide for a tri-monthly mail from New Orleans to Vera Cruz, via Tampico, and back, in steam-vessels. I feel assured that it will not consume much of the time of the Senate; and, as I intend to leave here in a few days, to be absent a short time, I shall deem it a special favor, if the Senate will take up that bill, upon which I desire to submit a few remarks, and act upon it. I am very sorry to interrupt the progress of the bill of my friend from California, but I hope he will not oppose my request.

Mr. GWIN. I am exceedingly anxious to have the California navy-yard and dry-dock bill considered and acted upon. It is the special order, and the Senator from Rhode Island [Mr. CLARKE] has the floor upon it. I am very anxious to dispose of it; but I will leave it to the Senator from Rhode Island. If he gives way, I can exercise no control over it.

Mr. CLARKE. I have no choice about it myself. I would merely say, that I shall occupy the time of the Senate but a very short time; and it is a matter of no importance to me whether I proceed to-day or to-morrow. I should prefer to have the subject postponed until to-morrow, on account of the cloudiness of the day, as I find a great difficulty with my eyes—and if you live as long as I have lived, you will experience the same difficulty—in seeing and reading at the desk here on a day which is so cloudy as it is now. On that account, I should prefer to have the subject postponed until to-morrow; still, if it is the pleasure of the Senate to take up the California navy-yard and dry-dock bill, I am willing to proceed with my remarks. I leave it entirely to the discretion of the Senate.

Mr. BADGER. I hope there will be no difficulty in gratifying the Senator from Louisiana. I am a member of the committee which reported the California bill, and am anxious to have it finally considered and disposed of; but, under the circumstances, I think it ought to be allowed to give way, to accommodate the Senator from Louisiana.

Mr. DAWSON. Did I understand the Senator to say that he desired to leave here in a few days?

Mr. SOULE. Yes, sir.

Mr. DAWSON. That is sufficient.

Mr. BRADBURY. I feel bound to remind the Senate of the understanding that the bill providing for the ascertainment and satisfaction of French spoiliations would be taken up immediately after concluding the California navy-yard bill. I think it is time that that bill should be considered. If the friends of the measure desire that it should be postponed for every other bill, I can have no more objection than any other individual; but I have felt it my duty to call the attention of the Senate to the subject, because it was left, in some degree, in my charge; and it appears to me that it is time that it should be taken up. If I supposed the bill which the Senator from Louisiana desires to call up, would occupy no considerable time, perhaps we might take it up, and then go on with the bill which I have named; but if it is to involve discussion, I see no reason why those bills which are first in order should not be first considered. I certainly desire to interpose no obstacle to the consideration of the Senator's bill further than duty requires; but if it is taken up, I shall insist upon proceeding, the moment it is disposed of, to the consideration of the French spoliation bill.

Mr. CASS. I desire to make one inquiry, which is simply this: I would like to know what the subject of this bill is; for, if it can be acted upon to-day, I have no objection to taking it up; but if the discussion of it will go on, and occupy day after day, I shall object to it. What is the object of the bill?

The PRESIDENT. It is "to provide for a tri-monthly mail from New Orleans to Vera Cruz, via Tampico, and back, in steam-vessels."

Mr. CASS. Does it provide for a new line of steamers, and for a specific contract, and point out the names of the persons?

The PRESIDENT. The Chair will state its object from the body of the bill. It enacts that the Postmaster General be authorized and directed "to enter into a contract, for a term of five years, and for a sum not exceeding \$100,000 a year, with W. C. Templeton, or, in his default, with such other person as may offer sufficient and satisfactory security for the transportation of the mails of the United States three times a month from New Orleans, via Tampico, to Vera Cruz and back, in steam-vessels, of not less than eight hundred tons burden, of the best form of construction, adapted to war purposes, and to the navigation of the southern waters—the same to be ready in the shortest possible time."

Mr. HALE. I am as much a friend of the French spoliation bill as the honorable Senator from Maine is, or can be. I believe it is the only matter of special legislation in which any considerable portion of my constituents have an interest. But I would rather lose it this session, and let it go over to another, than refuse to accommodate the Senator from Louisiana, who wants to take his bill up and make his speech. I hope the Senate will give him the leave for which he asks, as he is going to be absent from the Senate for some weeks, and wants to be heard before he goes. I would rather permit the French spoliation bill to go over to another session than to refuse him that courtesy. I hope the Senate will give it to him.

Mr. BORLAND. If it were merely a question of courtesy to the Senator from Louisiana, there is no Senator upon this floor who would concede it more readily than I would, and no Senator to whom I would concede it more readily than to that Senator. But this is evidently a question which must give rise to a great deal of discussion. Although it is a separate bill, it connects itself with a great system, in which this country now is, and has been, engaged, and which has much opposition throughout the country, and in this Senate; and whenever it is presented to the Senate, it will necessarily bring out a great deal of discussion, which will occupy a very considerable amount of time. I am generally opposed to leaving the regular order of the calendar, and taking up particular bills. When they require no discussion, however, I sometimes yield. But I cannot vote for this, not only because it disregards the rule, which we have generally agreed to follow, but because it will introduce a subject which must necessarily occupy a great deal of time, and bring out a great deal of discussion.

Mr. SOULE. In reply to the Senator from Arkansas, [Mr. BORLAND,] I would say that, although the object of the bill is to create a new line of steamers, the question which the creation of that new line raises is not a new one to the Senate. We had it before us last year, and we passed a bill granting what is asked in the present one. I do not apprehend that any of the difficulties which the Senator anticipates will arise from this; and, unless I am very much mistaken as to the disposition of the Senate—at least, so far as I can judge of it from the exhibition of it which we have had on former occasions—I do not believe that this debate will last more than half an hour. I hope the Senator will withdraw his opposition, and let me enjoy the favor, which I have so seldom desired, but for which, on this occasion, I have asked.

The motion to postpone all prior orders was agreed to. The bill to provide for a tri-monthly mail from New Orleans to Vera Cruz, via Tampico, and back, in steam-vessels, was read a second time, and the Senate proceeded to consider it as in Committee of the Whole.

Mr. SOULE. This bill, or rather a bill very much like this, has already been before the Senate, and its merits are familiar to every member in it.



I do not know, therefore, how far it is necessary that I should again state what, on a former occasion, I deemed it my duty to urge on its consideration in order to show the justice and the expediency of the measure for which it provides. It will not, however, be out of place, I imagine, that I should refer to some of the considerations which secured its passage when it first came before us.

The Senate will bear in mind that, while vast and numerous appropriations have been made for steam-ships plying between some port on this side of Mason and Dixon's line and foreign ports, not one has as yet been made for any communication that might immediately benefit a port south of that line. Yet, sir, the act which made provision for the transportation of United States mails between the United States and foreign countries had clearly in contemplation that a line would be established between the points which this bill proposes to supply with one. Through some mis-wording in the bill, however, the provision to which I allude was deemed obscure, and remained a dead letter. The consequence has been that our intercourse with Mexico has gradually diminished, and a commerce which, in 1835, amounted in imports to upwards of \$9,000,000, is now reduced to something less than \$2,000,000; while our exports, which were then of more than \$8,000,000, had fallen, in 1850, to something over \$1,500,000. Thus have the relations, which secured to us a valuable share in the interchange of commodities with our sister Republic, been so utterly annihilated, that our Government has been obliged to resort to one of its own steamers to carry dispatches from one country to the other. Thus has the bullion, which Mexico was in the habit of exchanging with our own productions, been diverted to other channels than those in which it had a natural tendency to flow. The British steamers now monopolize what there is of commerce in Mexico, and substract from it what of the precious metal would have come to our ports had a proper communication been kept up between the two Republics, and had the provisions of the act of 1845 been complied with as their spirit clearly required. What we have lost in consequence of so glaring a neglect on our part to attend exigencies which pressed themselves upon us so urgently could hardly be believed if I were to evidence it to figures. Sir, let us hasten to redress the past, and do something to restore our relations with that country to a more natural and healthy condition. Nor are the advantages which our commerce may derive from a closer and more friendly connection with Mexico the only consideration that should prompt us to the adoption of the measure proposed. There are other interests of no less grade and importance that will be subserved by it. Our intercourse with neighbors will and must unavoidably awaken them to a consciousness of the immense resources by which they are surrounded, and of their ability, by proper application and industry, to turn them to the improvement of their physical, social, and political condition. It will have, also, a tendency to strengthen those kind and friendly relations which it should be our wish, as it is our interest, that we should cultivate and extend. Our postal department will not be the last to receive benefit from the contemplated mail arrangement. The quantity of mailable matter which is being transferred every month from Mexico to the other parts of the world will, through the facilities afforded, soon increase, and seek the nearest and the cheapest channel through which it can be distributed throughout the globe, and in less than a year, perhaps, amply compensate the expenditure authorized by the bill. Sir, compared with the allowance made to other lines, it will be found that while the line from New York to Liverpool is paid at the rate of three dollars and ten cents per mile, that proposed by this bill requires but an expenditure of one dollar thirty-two and a half cents per mile.

In whatever light, therefore, you consider the measure proposed, it realizes but advantages to the country, while it demands but a comparatively small amount from the Treasury to enable it to go into operation. I hope, therefore, that the bill will not encounter opposition, and that it will be suffered to pass in the form in which it has been presented. You will remark, Mr. President, that no assistance is demanded of the Government to build the steam-ships, their construction will remain entirely in the charge of the contractors.

Though the bill names a contractor with whom the postmaster general may contract, it imposes upon that officer no absolute obligation to treat with him; he is left to decide under his own responsibility, who is to have the contract, not absolutely the person named in the bill, but on the contrary, whoever may tender better propositions, and offer as complete and sure guarantees that the contract will be faithfully executed. The suggestion of the measure came into this house through the memorial of the individual mentioned in the bill, and with the escort of the recommendation made of the same to the attention of Congress, by the able officer, who holds the chair in the Post Office Department, your committee to whom the whole was referred, could not but embody in its bill the memorial on whose occasion the measure which it provided for, had been referred to its consideration. The committee was aware of the opposition which the insertion in it of a named contractor would excite, and it was with a view to its avoidance that the bill leaves it facultative with the Postmaster General, to treat with him, or with such other persons as may present equal responsibility and equal ability to perform its requirements. Thus, sir, the main difficulty which might have arisen out of this specification of the individual with whom the contract should be entered into, being removed, the bill remains without any of those objectionable features that might have endangered its success. I hope, therefore, that it will pass.

Mr. CASS. I wish to say one word. I fully concur in the considerations urged by the Senator from Louisiana. I am entirely in favor of the measure, but I desire to have the name of the party with whom the contract is to be made struck out. I want to have Congress legislate, and not administer in making contracts. I wish to have the matter left so that the Postmaster General may be authorized to enter into a contract with any individual on due notice, not exceeding the given amount, and then hold him to the responsibility. In that way I will vote for it.

Mr. CLEMENS. I have prepared an amendment in accordance with the view of the Senator from Michigan, which will obviate his objection, which I beg leave to offer.

In lines six and seven, strike out the words "W. C. Templeton, or, in his default, with such other person," and insert the words "with such person or persons;" and in the eighth line, after the word "security," insert the words "after due public notice;" and in the ninth line, insert after words "United States," the words "upon the best terms for the United States." The bill will then read thus:

"That the Postmaster General be, and he is hereby authorized and directed to enter into a contract for a term of five years, and for a sum not exceeding \$100,000 a year, with such person or persons as may offer sufficient and satisfactory security, after due public notice, for the transportation of the mails of the United States, upon the best terms for the United States, three times a month from New Orleans, via Tampico, to Vera Cruz and back in steam-vessels," &c.

Mr. DAVIS. I will suggest another modification. I am in favor of the general plan of the Senator from Louisiana. I would like, however, if it meets his approbation, to leave this an open question for contract. I would suggest not only that the names should be stricken out, so as to leave the matter open in that respect, but I would inquire of him whether there is any particular advantage in requiring that these vessels should be fitted for purposes of war, or that they should be of a certain tonnage. The question is, will it not be as well to leave the matter open and free to anybody and everybody who can furnish suitable and proper means; and suitable and proper vessels for the transportation of the mails. I say again—and the Senator knows it very well—that I am favorably inclined to his general plan, but I do not see the necessity of requiring these steamers to be fitted for war purposes, or that they should be of a certain tonnage, as the bill indicates.

Mr. SOULE. I had two objects in view in requiring that the steam-ships should be of a certain tonnage. The first was to make it certain that the mail would be carried in such vessels as would afford the best possible accommodation to passengers; and it was considered that, unless the tonnage specified in the bill were as required, we might be exposed to have the line served by such vessels as would neither afford security nor com-

fort to those who might wish to take passage on board of them.

The next consideration was, that we should also have an eye to possible contingencies when it might become desirable to transform the mail-vessels into war-steamers. The apprehension of that contingency was awakened in my mind by the occurrence which took place some time ago when two foreign squadrons made their appearance in the waters of the Gulf under circumstances well calculated to create our susceptibilities. Our present commerce in the Gulf is such that it requires constant, active protection. It may be, sir—and I am among those who confidently entertain the hope—that we may not see the day when dark forebodings may cloud the horizon, and give us occasion to apprehend difficulties, and perhaps collisions with any foreign Power. But still, sir, is it not the province of statesmen to provide for such contingencies? While we are not required to sacrifice anything by imposing such requirements upon those who may undertake to run this line, should we forego the advantage of being able, if circumstances should demand it, to employ these vessels as a means of protection and defense? Such were the considerations which prompted me to require that the vessels should be of the burden mentioned in the bill, and so constructed as to allow their being applied in case of necessity to war purposes.

Mr. RUSK. If the suggestion of the honorable Senator from Massachusetts [Mr. Davis] is to be adopted—that is, that this matter shall be put into the hands of the lowest bidder, irrespective of the vessels in which the mails are to be carried—it will not receive my support; nor, indeed, would any of these steam lines under a proposition of that sort. Such a proposition, I am sorry to say, is entirely in character with a great deal of the legislation of this country, and in which it differs from all other countries since the discovery and use of steam. In money matters, we are economical to the last dime; but where human life is concerned, we are as lavish as we well can be. So it would appear, at least, if we put these contracts down at the lowest rate; and we thus offer a premium to reckless speculators to accept them and bring into the service vessels with rotten hulls, and in all other respects unworthy and unsafe, the result of which will be accidents similar to that which occurred at the mouth of the Columbia river a short time ago. Down would go the vessels, and the lives of the passengers and the crews would be sacrificed. That, sir, it appears to me, is one of the chief characteristics of this system; for we have comparatively no security for human life, so far as steam is concerned. It is true that we have a law upon the statute-book in relation to this subject; but it amounts to nothing. It is just the same as if that law were not there. Very different is the course pursued by the English Government in this respect. They have adopted every possible safeguard that science has thus far been enabled to suggest, and are yet adopting them; and no one is permitted to use steam without giving all possible security to prevent the destruction of human life. And what is the difference, Mr. President, between the bill as it is proposed and, the amendment which has been suggested? The only difference is—and the only benefit which the bill proposes, and which is to compensate for the increased expenditure—in the fact, that we shall have afloat on the ocean vessels in which men may venture themselves with perfect safety. I believe that in no case where contracts have thus been made has an accident happened by which human life has been lost; and the reason is, that the contractors were obliged to build vessels of sufficient strength. If, then, we are to carry on this system, let us at least be careful that we do not lead individuals into a policy, the result of which may be the reckless destruction of human life.

With regard to the main proposition embraced in the bill, it should be remembered that we are in the immediate vicinity of Mexico—a nation numbering eight millions of people, and they, too, a consuming people; and yet such has been our negligence and carelessness that, as the honorable Senator from Louisiana says, we have a commerce with them now not exceeding \$2,500,000—a commerce, I believe, not so great as that which results from our intercourse with China. This bill asks a communication with one of the ports of Mexico and one of the ports of our own country

which furnishes one half of the products which you export; and all that is asked for that purpose is an appropriation of \$100,000. Who does not see that the whole country would be benefited much more than that? I have no doubt, sir, that what was said by the Senator from Louisiana in regard to it would be realized in less than a year—that the mail matter alone would more than pay the expense, independently of the increased facilities which would thereby be given to commerce. Is New Orleans, then, the only place which is to be benefited? Not at all. The people of that city would be benefited but very little comparatively with the benefit which will accrue to the country at large. Mexico will consume the manufactures of the Northern and Eastern portions of the country, and give us their silver in return. Who, then, is to be chiefly benefited? I know very well that it is said that particular localities in one section of the country can procure accommodations for the transportation of the mails, and other commercial advantages, which other portions of the country cannot obtain. And in view of that, I shall regard the vote on this bill as giving me an insight as to whether it is the disposition of Congress to encourage those most who are in circumstances of the greatest prosperity and leave the rest to contend with their difficulties. I hold, sir, that the benefits of the Government should be extended over the whole country, and not confined to any particular spot. Sir, I repeat again, that New Orleans furnishes about one half of your exports; and where have you a dollar of the money of this country invested to encourage that commerce which brings you the means that enables you to meet the balance of trade against you with other countries? It seems to me that there can be no question of the propriety of the adoption of this measure.

Mr. DAVIS. I do not think the Senator from Texas quite understands the view which I have of this question. In the first place, I believe the honorable member himself will hardly question that there may be other suitable means for the transportation of the mail besides in a war-steamer. He will hardly question that other and suitable means of transportation may be obtained in this country, answering all the purposes for the transportation of passengers and the mail that can be had in a war-steamer. I think we have some experience on that point, enough to justify the conclusion that it may be done. Far be it from me to desire that the Post Office establishment should place the mail in an unsuitable vessel; unsuitable in any respect, in dimensions, tonnage, strength, or in any other particular. I should wish that if the Department is clothed with the power to make a contract, they may be vested with authority to look into all the matters connected with the subject, and that they should make a contract with no one unless he should furnish a suitable and safe means for the transportation of the mail.

Nor have I any unfriendly feeling toward this bill. It is a new idea to me, that the transportation of the mail is a sectional question. I had supposed that New York had as much occasion to send letters to Vera Cruz as New Orleans, and that other places of trade and business in the country have as much interest in the establishment of a mail line between the ports of this country and the ports of other countries as New Orleans, or any other section of the country; and it would be rather extraordinary where these interests exist so extensively as they do in the portion of the country that I represent, if there should be any hostility shown to this line because the track lies through a certain section of the country. Sir, I repudiate all such thoughts on this subject. The mail is for the whole country; it is for the common benefit of all. It was for that reason that I have heretofore given my support to this measure, and I shall now give it for the same reason. I have felt no disposition to make any objection, and I only rise to make a single suggestion; I was influenced to make that for the reason which I have given, and I think my friend from Texas [Mr. Rusk] will agree with me after all. He does not wish any impediment thrown in the way of carrying this line into execution. I entertain the same opinion. I was forcibly impressed with that provision in the bill which requires the vessels to be made suitable for war purposes; because I think that by that, you throw an impediment in the way. The very terms employed to de-

scribe the vessel, imply that some extraordinary expense is to be laid out upon these vessels, and that, therefore, the expenses of the Government will be increased, and made greater than they otherwise need be. That is an impediment.

Then, how is it to be known that a vessel is suitable for a war-steamer? I will tell you how. In the case of all the lines for which you have legislated, you have reserved the right of placing over the builder a superintendent, an agent, to look into the manner in which the vessel is constructed, in behalf of the Government, to see that they are built in a manner satisfactory to the Government, as war-vessels.

Now, I apprehend this scheme contemplates no such thing as that. It does not propose to say of what particular construction the vessel shall be. The satisfaction which the Government requires is to be obtained in some other way. The Department is to be satisfied that it is a war-vessel. I think, as I said, that the honorable Senators from Texas and from Louisiana will be satisfied that this provision is an obstruction to the bill. I will not move to strike it out. But I think it is an obstacle to the carrying out of the contract; and that it would be better for him, and for all concerned, to strike it out.

Mr. SOULE. I am quite willing to strike out that part of the bill which requires the vessel to be suitable to war purposes; but I must insist on the tonnage, for unless the tonnage be specified by the bill, we shall have no security that the vessel will possess those accommodations which are needed, or afford the requisite confidence in its safety.

Mr. DAVIS. It is no part of my purpose. If the Senator from Louisiana thought it worth his while to persist in this, I did not mean to urge its being stricken out. I think, however, that the interest of his bill requires that it should be done; and, with these remarks, I will merely observe, that it is a matter for his consideration.

Mr. BORLAND. I agree with the Senator from Louisiana [Mr. SOULE] in all he has said of the moral and commercial advantages to be derived from such a communication as this bill proposes to establish. And I apprehend there is no difference of opinion in the minds of Senators in that regard. But my objection to the bill lies mainly to the system of making by Congress, or under the immediate direction of Congress, contracts with individuals for the performance of any portion of the public service. There lies the foundation of my objection.

Mr. DAVIS. I hope the Senator understands that this contract is to be made like any other mail contract.

Mr. BORLAND. As it is proposed to be amended, such is the case; but as the bill stands, it is not. The amendment proposed by the Senator from Alabama [Mr. CLEMENS] is, to throw the service open to competition, that the contract may be made in the usual manner, not as a contract by Congress, or under the immediate direction of Congress, specifying the individual with whom it shall be made, and all the conditions respecting it, but leaving the subject to the management under the general law and regulations of the Post Office Department, so that the Department may advertise for contracts, and enter into them, as it now does with all our interior mails throughout the country. The bill, if thus amended, will meet my views and receive my vote. But if it remain in its present form, all, or almost all, of the evils I find in the system of ocean mails, of which it must be regarded as a part, will require me to vote against it.

Mr. President, before the system of ocean mail steamers, of which we have now had some experience, was begun, great advantages, great benefits, great superiority over all other plans, were predicted of it, and promised for it. Sir, I was not able, in advance, to see that these promises would be realized. I did not then believe they would be. The result, after several years experience and observation, has not removed my doubts—has not changed my belief. But I have seen, mainly, what I expected, and that is, large expenditures of money by the Government for the benefit of individuals, and associations of individuals, who have been favored with a monopoly of the contracts, and a bonus to take them, without even the chance of that benefit to the Government in the way of saving money which might have been derived from competition. And have these mails been carried

any better, more expeditiously, or more regularly than it is fair to suppose they would have been under contracts let out and entered into in the usual way? Look, sir, at our mail system upon the land, and upon our inland waters. All the service under that system is performed by contract, entered into after regular periodical advertisement, and open to unrestricted competition. Engaging in that competition we find almost numberless individuals, competent to an efficient performance of the undertaking, and prepared with ample security for their fidelity. To the lowest and best bidders these contracts are awarded. And we find that the service thus undertaken, (wherever the supervising authority exercises due vigilance,) is well performed; and that too, although under the influence of this free competition, the prices paid for the service grows less and less in amount every succeeding year. I apprehend, indeed I am sure, that an inspection of the bids of every annual letting of the mail service, will show that the prices paid are reduced every year. And there is a reason for it. The establishment of a regular and well-conducted mail line is a source of profit to the contractor, not to the amount of the compensation from the Government alone, but also from travel, if on the land, and from both travel and freight, if on the water. Multiplying his sources of profit, he is enabled, and an enlightened self-interest induces him, to reduce the rate of charging from each. In this way, while the increase of travel and transportation of freight is almost incalculable upon a well-conducted mail line, we find the reduction in the rate of bids for mail contracts both certain and decided every year. Why, then, shall we not have the advantages, on the score of economy, in our system of mail service upon the sea, as well as upon the land and our rivers? Sir, I repeat, I have been, and am, unable to see the advantages of this system over the other I have described. I am in favor of adhering to the one that works well at home, (or would, with some slight modifications of detail,) unless those who advocate a different one for our foreign mail service can show its superiority. This they have not yet done. Until they do, I shall vote against it, in whatever bill it may come up.

The considerations presented by the Senator from Louisiana, in favor of this line of communication, commend themselves to my favor most strongly, not only from the general advantages in a commercial point of view to the whole country, but his remarks appealed, and with little force, to that sectional feeling from which no man is entirely free, and of which I, perhaps, have as much as any one. He pointed out the advantages which would accrue from it directly to the Southern portion of this Confederacy, of which I am one of the representatives. I know but too well, and have cause to feel but too strongly, how well-founded is all he said on that subject; and, also, of all the Senator from Texas [Mr. Rusk] said of the inequality, so far, of the operation of this system. But, sir, the fault is in the system itself. Such a system must necessarily be unequal in its operation; and in that lies the main point and force of my objection to this bill; for there is no disguising the fact, that it is a part, essentially, as it will certainly be in practical operation, of the system I oppose.

Senators express great solicitude for the protection of the lives of passengers on these ocean steamers that carry our mails, and think it necessary to adopt such a system as this, in which the size and kind of vessels shall be prescribed as indispensable to great and desirable objects. The sentiment is a good one; it commends itself alike, and with equal force, to our feelings and to our interest. But, sir, why should their eyes, and their sympathies, and their solicitude, all be turned in one direction, and all towards the ocean? Are not the millions of our people who travel by steam, and along our mail lines, upon our great rivers, and great lakes, equally deserving of sympathy, and solicitude, and the protecting care of this Government, when it engages in legislation, and heavy appropriations of money for the protection of human life? Sir, I join them in the sentiments of sympathy and solicitude, on this subject, they so strongly manifest; but if they expect me to give them "material aid" in its practical manifestation, they must join me, also, in extending it to my people, as well as their own, by a system of legis-

lation which shall be general in its principles, and equal in its operation, over all.

Now, sir, as to the importance of the proposed line, of which the Senator from Louisiana [Mr. SOULE] has so well spoken, and in respect to which I so fully agree with him, I undertake to say, and no one can successfully controvert, that the line of mail communication along the Mississippi valley is far more important, I care not in what relation you estimate it—whether in length of route, in amount of travel, or in value of commerce. Indeed, in all these respects, the importance and interest of the great valley, very far exceed our whole Atlantic commerce. But on the Atlantic, for fewer people, and for a smaller commerce, we are expending millions, by a system of monopolies, from which wealthy capitalists are deriving the chief benefit; while on the greatest of rivers, greater for us even than the ocean, for more people, and greater commerce, we are giving no care, no attention, no protection, no facilities, and scarcely a recognition, in the matter of either mails, or commerce, or navigation. Through this whole valley—at any rate, from Louisville, on the Ohio, and from St. Louis, on the Mississippi, to New Orleans, there is not a single mail line—not one—not even by the ordinary system of contract. Both those streams, wherever navigable, are, by the general law, “mail routes;” but, from Louisville, and St. Louis, downwards, to the ocean, there is not a single “mail line”—no, sir, not one! This may strike some Senators with surprise, for, indeed, it is a surprising state of things; but it is true. Instead of giving us a “line,” as other parts of the country have, the transportation of our mails, along that great thoroughfare, upwards and downwards, over thousands of miles, is made a weekly, or a daily jobbing out by agents at the several towns along the river, and on boats of any kind that may chance to offer. Such is the system with which we are put off, and have been forced to put up with for years; a system, or rather a want of system, from which no sensible man could expect anything better than irregularity and disappointments, and which proves even worse in its results than the least sanguine could have anticipated. In consequence of this wretched state of things, we have complaints from all quarters of the West, for all are interested in the business of the great thoroughfare, and all are aggrieved at its embarrassment. On our tables, now, are the resolutions of the Legislature of Tennessee, pointing out the evils under which we all suffer, protesting against their continuance, and asking for that relief which it is our duty to grant. And what, sir, is the kind and amount of relief thus asked for? Not that we shall engage in any new system of legislation—not that we shall make any special Congressional contracts—not that we shall build up any rich monopolies—not that we should prescribe the size or kind of vessels in which our mails may be carried, or engage to pay extravagant specific sums of money for the service. No, sir, none of this. The request is simply that you will place us on the same footing with other interior sections of the country, under the general law, for transportation of the mails, upon every other route of even ten miles length, whether on horseback, in stage-coaches, by railroads, or on steam-boats. Is not this request a proper and a reasonable one? Then, why should it be disregarded—why not complied with? Sir, when I first came here as a Senator, now four years ago, among the first matters of duty which claimed my attention, was the very subject of which I am speaking. I had not only heard, but I *knew* and *felt*, from personal observation and experience, all about the evils of irregular and insufficient mails in the Mississippi valley, the very root of which was this want of a “line” upon the Mississippi. Looking to the general law, I found that it was competent for the Postmaster General to extend to us all the relief we required, by simply advertising and letting the service out to the lowest and best bidder. I called upon him, and insisted that this should be done. But what was the result? Sir, my single voice, though it fairly represented the rights and necessities of five hundred millions of commerce, in these respects, and faithfully expressed the wishes of eight millions of American citizens, was disregarded—the request was refused. And upon what ground do you suppose, sir? Not that it was unreasonable—not that the evils complained of did not exist, and ought to be

remedied. No, sir, none of that. But because the service required would cost one hundred thousand dollars! that having been the year before the lowest bid, when proposals for a contract had been advertised for. A vast sum, truly! for carrying the largest mail in the United States daily through the most important region of our whole country, and over a route at least fifteen hundred miles in length! To my repeated appeal, he responded that the revenue of the Department from the mails on the proposed route did not equal in amount the sum demanded for the proposed change of service. This I explained by facts—well-ascertained by competent persons, merchants, traders, and postmasters on the route—which were all in favor of the change. These facts were, that under the plan then and still pursued, the transportation of the mails were so irregular and uncertain, and often so slow, that private conveyances were in most instances resorted to, and, in consequence, not more than one tenth part of the mailable matter that passed up and down the route, was carried in the mails. Let the plan be but changed, however, as I proposed; let a regular line be established, and the mails be regularly and expeditiously carried, and all this would cease; the mailable matter would seek its proper channel, and the legitimate revenue of the Department from that source would be increased in a corresponding ratio. Besides this, I represented, what every one knows to be true, that the facilities for travel, and the transportation of light freight, which a regular and expeditious line of steamers, such as a mail contract (properly enforced) would require, would make the enterprise exceedingly profitable to the contractor, as a general business transaction, independent of the mail; and that, as a consequence, competition would become active, and that, although the first contract might be at a high price—even as high as a hundred thousand dollars—yet the bids at the next lettings would very certainly be reduced to a much lower sum, probably to one half—perhaps to one third, or even one fourth of the first. But, sir, this was all in vain. The refusal was persisted in. The head of the Post Office Department at that time, from considerations of an economy not, I fear, peculiarly his own, (and which may be not unaptly characterized as “penny wise and pound foolish,”) and of a fear expressed by him at the time, that he might seem to be *extravagant*, was proof against all facts, and insensible to all appeals. Then, sir, finding the Executive branch of the Government impracticable, or rather incorrigible, although under the law, fully competent to extend the relief so needed, and desired, and admitted by himself to be so, I brought the subject before this body. I proposed here that the Postmaster General should be required to do what was so obviously proper, and what he expressed himself very willing to do, if Congress would take the responsibility of ordering it—that is, to advertise for a contract to carry the mail upon the Ohio and Mississippi rivers upon the same plan then, and now, in operation everywhere else in the Union. But, sir, I was equally unsuccessful here. Hardly a vote could I get, in addition to my own, for a proposition against which no man can make a reasonable, or even a plausible objection. Then, as now, sir, no objection was urged to the proposition itself—no one questioned its justice or propriety. Some said leave it with the Postmaster General, it is his province and his duty. Others said, as I am told to-day, this is not the right time, nor the right bill on which to pass it. Sir, I have heard this so often that I should despair of ever finding either the right time, or the right place, if it were in my nature to despair of success when I know and feel that I have truth and justice with me. But, sir, at the very time the Senate was rejecting this measure, hundreds of thousands were voted away, almost without question, for an ocean mail line from a single Atlantic port to some point in Europe. Mr. President, why was this? Why is it now? An answer—a stirring, and a startling answer may, at no distant day, be given, even upon this floor, from other lips than mine, whose words will be more regarded, from lips which shall be moved by a power, coming up from a distance, which even this Senate will not be able to resist. In the meantime, let it be said here, and let it go beyond the country, that while the whole Mississippi valley, with its twenty thousand miles of river coast, its thousand steam-boats, its five hun-

dred millions of commerce, and its eight millions of people, asks a single mail line, which is indispensable to its ordinary business, which will not cost \$100,000, and which will more than pay back the money directly in revenue, and asks in vain: yet a single port on the Atlantic coast has but to ask for millions, and they are granted for the asking!

Mr. President, Senators make an appeal in behalf of the line this bill proposes to establish, upon the ground of equalizing the operation of the system of ocean mail-steamers. They say that the system, so far, operated unequally upon different sections of the Union; and this proposition is to make it equal. Sir, I know it operates unequally, and that is a main ground of my opposition to it. But when they talk of equalizing its operation, I think it would be well for them to extend their observations and regards somewhat more widely and generally over the country. I am as tired as they can be of the partial and unequal operation of this system; and for this reason, in all its bearings, I will give no vote here which shall contribute, in any degree, to its continuance. No vote of mine shall be given which shall not help to its discontinuance; which shall not insist that all parts of the country, whether near to this capital, or remote from it; whether on the Atlantic coast, or on our “inland seas,” shall be placed upon an equal footing in the eye of the law, and be equally cared and respected under its operation. Now, sir, to accomplish an object which all of us must acknowledge to be just, and proper, and necessary, is no difficult task in the important matter of our mails. It is to adopt one uniform rule, such as we find already in operation by our general law and regulations for the post office system, which, with some slight modifications in matters of detail, mostly of administration, is, perhaps, as good as we shall be able to adopt in this generation. It is to require the Postmaster General to place all routes which Congress shall have established, upon the same footing, and in procuring mail-service upon them, to advertise for contracts, to be given to the lowest and best bidders, with ample security for a faithful performance of duty. Let these contracts be made at stated periods, and under an open and unrestricted competition.

Senators seem to think that in this instance, as in other cases, of ocean mail steamers, it is important that we shall prescribe the size and character of the vessel. Why, sir, should this be required in respect to ocean mails, and not in respect to the means of transporting our land and river mails in the interior of the country? We know that in former years this requirement was made in regard to all our mail transportation, whether on land or water. But this has all been abandoned—doubtless for good and sufficient reasons—at any rate abandoned in regard to all interior mails; and now, the advertisements call for proposals to carry the mails, and are silent as to the means of transportation. Without pausing here to inquire into the propriety of this change, I would, however, ask if there be not an equal necessity and propriety in making this prescription, as to capacity and the kind of means of transportation, for our river and land mails, as for those on the ocean? Why not? If the convenience and safety of one portion of the people of the Union demand this prescription at our hands in one case, I hold that its advantages should be extended to all. If not required for all, I cannot understand the propriety, and do not recognize the duty, to give it to any, as a special favor, by special provision.

I think the whole system, which recognizes inequality and discrimination between different sections of the country, and different portions of our people, as this does, is essentially vicious, and ought to be repudiated and rejected in our legislation, no matter in what form it may present itself. I am against it in all shapes and all times, now and forever. I am for the amendment, but against the bill.

Mr. President, I did not expect this question would come up to-day, and, therefore, came here unprepared to discuss it. Sprung upon me as it has been, I could not avoid an expression of my views in opposition to it; though, for want of preparation, I have had to confine myself within narrow limits, and state very briefly and in general terms the reasons of my opposition. I regret



this, on my own account, as I have some facts and views growing out of them in regard to the working of this system of mail steamers, which I would have been pleased to present to the Senate and to the country in a more regular and better arranged course of remark. Much, therefore, that I would have said, if I had anticipated this discussion, must now be omitted; and I will trouble the Senate no more at present.

Mr. UNDERWOOD. I rise for the purpose of obtaining information from gentlemen, if they will be kind enough to hear my difficulties, and solve them for me, particularly the gentleman at the head of the Post Office Committee, [Mr. Rusk,] and the gentleman from Louisiana, [Mr. Soule.] I want very much to facilitate the communication from the valley of the Mississippi to California and Oregon by water, and the mails in that direction. I want to furnish facilities both for travel and communication by means of correspondence. These objects are very desirable to my people and to the whole valley from which I come. I believe a large portion of the inhabitants, both of Oregon and California, have gone from the Mississippi valley. It is important that they should have ready access by means of correspondence, and also by travel, with their friends at home. I do not know (and this is what I wish to ascertain) whether the line from New York to Chagres, or the line from New York to the mouth of the San Juan Nicaragua, touches at New Orleans at all.

Mr. RUSK. The Chagres mail line of steamers do touch at New Orleans, but the Nicaragua line do not.

Mr. UNDERWOOD. I am glad to receive the information, because I had some impression that that was the case. Now, if this line can be extended without much expense, so as to give us additional communication to the mouth of the San Juan or to Chagres, it would meet my wishes, and, I think, promote the interests of our people in a very great degree. If, however, the expense, in the opinion of those who have examined the subject more than I have, is too great, why, I will not make any effort at all to accomplish anything of the kind. Or, if the communication already existing, by means of the New York and Chagres line, touching at New Orleans, is sufficient to meet the wants of our people, I ask no amendment. I should like to know how often these trips are, and whether they are semi-monthly or monthly?

Mr. RUSH. Semi-monthly.

Mr. UNDERWOOD. I hardly think that semi-monthly trips are sufficient to meet the wishes of the people of the valley of the Mississippi.

Mr. SOULE. I can satisfy the gentleman upon one of his queries. By granting this line you will actually create new facilities for the communication between the Pacific and the Atlantic. There is now in progress of construction a route through Mexico, which is confided to the enterprising industry of a gentleman who was once a citizen of the United States, but who has now become a citizen of the Republic of Mexico, and who expects before long to be enabled to carry mails from San Francisco to New Orleans in less than fourteen days. So that whatever facilities of communication we give between this country and any port of the Republic of Mexico, will actually afford new means of establishing speedier relations between the Pacific and the Atlantic coast. To extend this line to the places mentioned by the honorable Senator from Kentucky, would so considerably increase the expenditure that it might beget one of those insuperable difficulties which would defeat the prospects of the bill and make its ultimate passage impossible.

Mr. UNDERWOOD. My object is accomplished.

Mr. GWIN. In addition to what the Senator from Louisiana [Mr. Soule] has said, I have information upon this subject, having in my possession some facts in regard to it. I look upon this bill as one of the greatest importance in the view which the Senator from Kentucky [Mr. Underwood] has taken of it. It will cause a vast increase of intercourse between the western country and California, not only in carrying the mails, but in transporting passengers. I did not expect this bill would come up to-day, and have not before me some facts which I would like to bring to the notice of the Senate; but I have certain statements made by persons who are conversant with the sub-

ject which demonstrates that this will be a great emigrating route; one of the most important we can establish, over which the families of the western emigrants will go to their new homes. The men crossed the plains. The women and children will go by this route, to join fathers, husbands, and brothers. A sail vessel can go from the Balize to Vera Cruz in three days, and a steam-ship in two. From Vera Cruz there is a railroad through the drift sand and swamp land to Santa Fe, over which stages and team-wagons are carried on trucks. Stages make the journey from Vera Cruz to the City of Mexico, in two days. From the city of Mexico to Quarnavaca, (fifty-four miles,) on the road to Acapulco, there is a daily stage line. The road is completed for carriages fifty-four miles further to Ponta-de-Istla, with the exception of two unimportant bridges. The remainder of the road to Acapulco, through the cities of Equala and Chilpausingo, is only a mule path; but great efforts are making by Alvarado, the present popular Governor of the State of Guerrero, of the South, to complete the road to the Pacific ocean. This is what is called the southern road. There is a due western carriage road passing through the important city of Guadalajara, on which a daily stage runs to Tepic, a distance of about eighteen leagues from San Blas, on the Pacific ocean. And it is expected that in a few months the road will be opened to San Blas for stages. The distance from Vera Cruz to the Pacific by Acapulco, is six hundred miles, while the route by San Blas is twelve hundred.

So energetic have the State authorities shown themselves since the adoption of the new constitution, that important public improvements are everywhere resumed, and the country is comparatively free from robbers—so much so that unarmed Californians travel along through the country without apprehension and without risk.

During the Mexican war the British Minister ran an express regularly from Vera Cruz to Mazatlan, in eight days, and is running the same express now. At that rate we can get from New Orleans to Vera Cruz in three days; from Vera Cruz to Mazatlan, nine days, and from Mazatlan to San Diego, four days; making in all from New Orleans to San Diego, sixteen days. The tri-monthly route to be established by this bill will connect on the Pacific side, at Acapulco, or San Blas, with the tri-monthly route preparing to start from Panama to San Francisco, so that there will be a constant communication three times a month, not only to New York, but to New Orleans; and the latter certainly will be one of the most desirable emigrating routes, as well as an important mail route. A company has been formed to establish a telegraphic line from Acapulco to Vera Cruz, which is encouraged and patronized by the Mexican Government. When established, the communication between California and New Orleans will be as follows: From San Francisco to Acapulco, six days; telegraph to Vera Cruz at once, and thence to New Orleans, three days, thus making the time of communication from eight to ten days.

Mr. UNDERWOOD. I am really very happy to hear all these facts. I had not turned my attention to the investigation of the subject, but it occurred to me that the people whom I represent had a vast interest in some more direct communication, both for travel and correspondence, than that now existing. It was this consideration which induced me to make the inquiries which I have made, and which have been so satisfactorily answered by my friends from Louisiana and California. It seems to me that we ought to adopt the amendment, and then pass the bill. If you intend to provide for Western interests—which I hope will receive the consideration of Eastern gentlemen—give us some opportunity to have speedy communication with our friends on the Pacific.

I am very happy to find that this route will afford greater facilities than I had supposed. When I first rose, my object was to inquire from my friend from Louisiana whether additional facilities could not be obtained, by extending his route either to Chagres or to the San Juan; but under the suggestions he has made, I am satisfied to take it as it is.

Mr. MALLORY. Mr. President, I suppose that this may be looked upon as the commencement of drafts upon the Treasury in favor of steam lines. Our expenditures under that head now exceed \$1,400,000. If we grant the requests that

are legitimately before us, contemplated by the committee, and favorably considered by them, they will in the course of a few days amount to about \$2,000,000.

I was, a short time since, opposed to this very bill; but I understand now that the two principal objections have been, or will be, removed. The names of special contractors, I believe, will be stricken out, and the whole matter will be left open to fair competition. I also understand that the clause with regard to war steamers will be withdrawn. The objection to that is manifest. Most of the contracts which we have formed for ocean steamers have contained this identical clause, that vessels constructed under them should be capable of being used for war purposes; yet I believe that it is notorious to every man in the country, familiar with the subject, that there has not been constructed one vessel in accordance with the contract—that there has not yet been one vessel constructed which would be fit for war purposes to-morrow, if she should be called into service; that there is not one already constructed upon which the country would not have to expend \$150,000 at least, before a battery could be put on board of her. I agree, in the main, with the remarks of the honorable Senators from Louisiana and Texas, as to the expenditure of this money in certain sections; and without wishing to commit my vote in support of steam lines generally, I may say that these two objections being withdrawn, I feel prepared to vote for this bill.

Mr. SOULE. I agree to the amendments proposed by the Senator from Alabama; and as soon as they are acted upon, I shall myself propose one or two other amendments.

Mr. PRATT called for a division of the question on agreeing to the amendments.

The first amendment, to strike out the words, "W. C. Templeton, or in his default, to such other persons," and to insert, "such person or persons," was agreed to.

The next amendment, to add, after the word "security," the words, "after due public notice," was agreed to.

The next amendment, to insert after the words "United States," the words, "upon the best terms for the United States," was agreed to.

Mr. PRATT. The bill as it was originally proposed required that these steamers should be suitable for war purposes, and I was under the impression that there was an amendment striking out that provision.

The PRESIDENT. There has been no proposition to strike it out.

Mr. HUNTER. Then I move to strike out the words "to war purposes," so as to leave the bill to read, "the best form of construction adapted to the navigation of the southern seas."

Mr. CHASE. I shall vote for the adoption of this amendment, and after it shall have been adopted, I shall vote very cheerfully for the bill. It seems to me to be a measure eminently required by the wants of the commerce of the Gulf. Other gentlemen have said that they intend to vote for it from sectional considerations. I shall vote for it, because I desire those measures to be adopted which will benefit every section of the country.

Mr. BORLAND. As I am the only Senator, I believe, who suggested anything about sectional feeling or consideration, the Senator must, of course, allude to my remarks. I desire now to correct the mistake into which he has evidently fallen. I did not say that in any advocacy which I gave this bill, I was influenced solely by any sectional feeling. I said that in addition to the general views presented by the Senator from Louisiana, one of the considerations which would influence my vote, would be that sectional feeling from which no man was entirely free.

Mr. CHASE. I referred, undoubtedly, to the Senator from Arkansas, and also to other Senators, who assigned somewhat the same reason for voting for this bill. I have only to say that I think those honorable Senators themselves, on former occasions, have shown by their liberality, when their own sections of the country were not concerned, that they are not governed by that consideration in their own action. My friend from Texas, in the course of his remarks, adverted to the circumstance that the steam lines which have been hitherto established by Congress, plied on Northern waters, and that the benefits of such a system accrued generally to the North. I repre-

sent no Atlantic interest; but it is very obvious, and I think the Senator himself will be satisfied of it, upon a moment's reflection, that such must be the case. It is a law of nature, and therefore a law of God, as a distinguished Senator from Massachusetts once informed us—a law of God, that the great continents of the earth recede from each other as they extend southward. The shortest line of water transit always commands the commerce of the world; and the shortest line being from northern ports to northern ports, steam lines, obeying the law of the commerce they convey, must principally be there. But when there is a line proposed between two southern points, I trust that Northern men will be as prompt in voting for every proper measure for the benefit of Southern commerce as they are for the benefit of their own.

Mr. RUSK. I think the laws of trade are very much controlled by capital.

Mr. PRATT. I hope the amendment will not prevail; and I think that if the Senate will do me the favor of listening to a very few words, I will convince every one that it ought not to prevail. The proposition contained in the bill is, that we shall pay \$100,000 for carrying the mail between New Orleans and Vera Cruz. We are to pay, in the language of the bill, a sum not exceeding \$100,000 a year. I have never known a case where a maximum amount is placed in the bill, in which the contract is made for less. I have never known a contract made for less than the amount specified in the bill. I have, therefore, a right to assume that the proposition contained in this bill is to carry the mail from New Orleans to Vera Cruz for \$100,000 a year. As the bill now stands, the Postmaster General is obliged to have vessels which are not only of eight hundred tons burden, but which are sufficiently strong, to be adapted to war purposes. We therefore get upon this line a superior route, and a boat of much greater strength, without the Government advancing one cent more than they would do if this amendment were not adopted, and vessels of any degree of strength provided, requiring only that they shall have the required tonnage.

I ask, why should this amendment be adopted? Is there any earthly reason for it, unless it be some motive disclaimed by the Senator from Louisiana, who has just taken his seat, that the South, in the only line which has been given to her, is to be placed upon a worse footing than the North? We have established lines of steamers for carrying the mails from New York to various parts of the world. They are war steamers, not only obliged to be of sufficient strength to be war steamers, but they carry guns to protect the passengers and the commerce, which are carried in them. Now, here is a line proposed to be established between New Orleans and Vera Cruz. Why should not the vessels be of the same strength? Why should they not have the same facilities, when it is to cost no more to the Government? We are only to pay \$100,000, whether the vessel is sufficiently strong to be a war steamer or not. I ask, then, why should we adopt the amendment by which the people are to be accommodated in a less degree—by which no advantage is to be obtained by the Government, and which can have no earthly purpose, that I can imagine, unless it is to put this line upon a worse footing than the other lines of steamers which have been established for mail purposes? Why should we have weak vessels, when for the same price we can secure strong ones?

But, again, I have no doubt that the Senator from Louisiana is right in saying, that in less than two years the commerce of this country, the people of this country, will gain ten-fold more than we are about to pay for the establishment of this line. Would not that commerce be increased—would not the communication between two countries be increased by the security of having vessels of the required strength for war purposes? If the bill stands as it is, would there not be an additional security given to commerce, in the fact that the vessel is armed sufficiently to protect it against anybody who might attempt to take possession of it? The British steamers which ply between Mexico and Great Britain, are all armed steamers. They carry bullion; and they are, in the first place, of the strength which ours will be, if this bill passes as it is without being amended. If the bill passes as it is, our vessels will have the same

armament which the British vessels have; and we shall be enabled to compete, at least, with Great Britain in that commerce. But if you send vessels there of only eight hundred tons burden, without any security whatever as to the strength of these vessels, Great Britain will still have that advantage over the commerce of this country, although we established the line. For my life I cannot see any good reason why anybody should propose such an amendment, when we are not to pay more for a vessel adapted for war purposes, than we are to pay for a vessel of eight hundred tons burden, no matter how weak it may be.

Mr. HALE. Mr. President, a remark was made, I think, by the Senator from Florida [Mr. MALLORY] in regard to what was paid for our ocean steam-vessels; and he said, that if this and some other proposed lines should be established, the annual expenditures under this head would amount to \$2,000,000. I do not know what is the expense of the Navy proper. The annual appropriation for that service used to be something like \$10,000,000 when I was accustomed to notice it; but it has been going up in an ascending series ever since, and I do not know how high it has got by this time. But I believe that the present Secretary of the Navy proposes to divide the expenditures, so that they may not appear to be quite so large; I believe he proposes to divide the items under different headings, so as not to have more than four or five millions under any one head; so that the naval expenditures may not seem to be quite so extravagant as they are generally supposed to be.

We expend, or at least propose to expend, some \$2,000,000 annually for these steamers. I can see some possible, some probable—yea, some certain utility that may result from the expenditure of these \$2,000,000. But, for the other ten millions, if you ask what earthly, what possible, what remote, what contingent advantage they can be to the Government or anybody else? echo will answer—what? If the Naval Committee will just reduce the expenses of what they call the Navy proper, as we increase the amount paid for these naval steamers, I think we should then be making progress. But if this is to be in addition to that expense, then it should not be incurred.

I am not particularly versed in the question which I see has been raised by some of those who are engaged in the mercantile service in our seaports, particularly New York. It is said that by creating these lines, we are giving an undue advantage to steamers—to the prostration of our other merchant marine. That is a matter which I have not examined, and I do not know what are the facts in relation to it; but I trust that it will receive the attention of Congress and the country. If the creation and support of steam lines by the Government is to have a tendency to prostrate the merchant marine; if in this way, by giving them this Government patronage, you are to give them such facilities for transporting freight and passengers as to drive the merchant marine from the seas, then I think the system is all wrong. But we have entered upon the scheme. It is now being tried. It is in process of experiment. I would not interfere to interrupt it until it is fairly tried. If the experiment is to be tried, I hope the amendment will not be adopted. If there is anything that can commend the employment of these mail steamers to the country, it is the fact, or the pretense—and the pretense is just as good as the fact, until it comes to be verified—that they are convertible into vessels-of-war whenever the Government wants them as such. That time has never yet arrived. We have not fully tried the experiment. We have proceeded on the idea that these vessels are convertible into war-steamers; and if we never have an occasion or an opportunity to prove that idea is not well founded, we shall be just as well off as if it were really so.

My friend from Kentucky says that he hopes we shall never have a chance to make the experiment. I hope so too. But if you are going to keep up these steamers, I do pray that you will not depart from the very idea to which they owe their origin; that is, that they are capable of being converted into vessels-of-war whenever that may be requisite. If it were not for that idea the system would never have been adopted, and these great lines of steamers would never have been established. The aid which the Government has extended to them would never have been given if

it had not been based upon the supposition that the vessels thus employed and thus brought into the service by the use of money from the National Treasury, were convertible into vessels-of-war. If you give up that idea; if you abandon it to-day, you cannot justify this system before the country, and it will not stand. If you abandon the idea you must abandon the system; for the people of the country will never consent that the National Treasury shall be drawn upon to such an enormous amount upon an idea which is so utterly fallacious. If you abandon that principle in regard to this line, you virtually abandon it for all; because, if it is good for one line it is good for the whole; and if it is not good for the whole it is not good for any. If you abandon it in regard to this line, you abandon the whole foundation on which the steam marine exists.

I take it that these steamers are very much like the grants of public lands for railroads; they are a part of "manifest destiny." The manifest destiny of this country is to give lands to the West for railroads, and to establish mail-steamers for the different parts of the country; and I think it is the part of wisdom to bow to manifest destiny. I see that the Senator from Tennessee [Mr. JONES] is not in his seat, and therefore I shall not trespass further on the subject of manifest destiny. If we are to have this line, let us adhere to the idea on which the system was started.

Mr. MALLORY. I hope this amendment will be adopted. The peculiar views of the Senator from New Hampshire, in relation to the Navy, may be judged of very correctly by the interrogatory he puts, of what utility is the expenditure of ten millions for the Navy? He assumes that to be the expenditure. With his views, no one can be surprised that he should like the idea of attaching all the steam lines to the Navy, and counting the expense of them under the head of Navy expenditures. It is that practice which has grown up among us—which has swelled the expenditures of the Navy, apparently to so enormous an amount. The Navy proper does not derive any benefit from the practice. Now, in reply to the honorable Senator from Maryland, as to whether this amendment should be adopted, I would remark briefly, that this clause in the contracts for mail-steamers, has been uniformly put in under the presumption that these vessels, when constructed, would be fit for war purposes. I know of no other war purpose than to fight the battles of the country on the high seas. I suppose that is the meaning of war purposes when applied to vessels. Well, the honorable Senator asks, what motive can exist for striking out this provision when it has been inserted in other contracts? As I understood him, he attributed it to the idea that the South was to have weaker vessels than the North. He seems to assume the fact, that because vessels are to be built for war purposes, they must necessarily be stronger than they would, if there was no such requisition; and that, if the clause be stricken out, the vessels to be constructed will necessarily be weaker. Now, that is all an assumption; because there is not one single vessel which has been constructed under these contracts, that is, at this day, fit for war purposes. I might appeal to every officer of our Navy—to the three old Commodores who are at the head of different naval bureaus in this city, to state the fact, whether they consider any one of those vessels fit for war purposes; or whether, if they were turned over to the Government to-morrow, there would not be a necessity for expending hundreds of thousands of dollars before a single battery could be put on board of them. This clause introduced into our contracts has induced an immense expenditure. It is the reason which is given for the expenditure of a greater amount of money. There is the shadow, but not a particle of substance in it. We have a steam-ship running on a most dangerous route, performing a great deal of sea service, making semi-monthly trips from Charleston to Cuba. That steamer was not constructed for war purposes; but it has met with fewer accidents than any ocean steamer afloat. It has probably carried as many passengers in the same time, and in as comfortable a manner, as any other steamer afloat. Yet, it was not built for war purposes. When I speak of war purposes, I have reference to warfare as it is carried on by maritime nations. I do not speak of those guns that are put on board every vessel for

the protection of the passengers and commerce; but when I speak of the war purposes of vessels, I refer to their adaptability for warfare, as it is carried on by other nations.

It is a gratuitous assumption to say that \$100,000 must necessarily be expended under this bill because that sum is mentioned in the bill. The bill requires that the Postmaster General shall make the contract on the best terms for the Government, not exceeding \$100,000. Unless he is recreant to his duty, he will not set out with the assumption that he is to expend the whole of that amount. If that is to be so, then the restrictions of the bill impose no restraint, and might as well be stricken out. But he is to make a contract on the best terms to the Government, and \$100,000 is the limitation which he cannot exceed. When he gives due notice for bids for this route, he fixes himself the character of the vessel. He determines what is to be the strength of the vessel. By striking out the clause requiring the vessel to be adapted for war purposes, he will be unembarrassed by a thousand offers which he would otherwise receive for machinery to be constructed below the water-line, and other things necessary in war-steamers. If you retain the clause, persons who construct engines, and new systems of paddles, and steam machinery, will make proposals more with reference to war purposes than to speed or the accommodation of passengers or the carrying of the mails. By striking out the clause you will have a vessel actually stronger than if you require one adapted to war purposes, because if a vessel is built for war she is strengthened in particular parts—her beams, and her knees, and other parts will be strengthened for the support of a battery. That is a perfectly useless expense for a vessel calculated for the transportation of passengers and the mails alone.

The vessels which have been constructed under previous contracts have never been tried in actual warfare. Reference has been made to the British steamers. The British steamers which bring the mails to this country are not war-steamers. No such design has been entertained in regard to them. British war-steamers, as they are now constructed, have their engines below the water line, and are, generally speaking, propellers. Under this proposed contract, whoever undertakes it will be called upon to specify the size of the steamer. It is limited to not less than eight hundred tons, which is sufficiently small to enable a vessel to navigate the dangerous coast of the Gulf.

Mr. HALE. I want to ask the Senator if he is correct in saying that the contract made by the British Government with the Cunard line does not prescribe that they shall be convertible into war-vessels; and whether they are not liable to be turned over to the admiralty at any moment?

Mr. MALLORY. I do not undertake to say what the contract may be, but I say what the fact is. The Cunard steamers are not adapted to war purposes; but the British Navy are constructed of an entirely different class of vessels for war purposes—steam propellers. I say furthermore, that if the opinions of experienced men in their profession be worth anything—if the opinions of old naval commanders were to be taken by this body, we should come to the conclusion that these vessels are not fit for anything in naval warfare but the transportation of troops, and as dispatch vessels. Now, for the transportation of troops and dispatch vessels you want an entirely different class of vessels. These steamers will not be fit for war purposes, strictly speaking; they will not be adapted to naval warfare, and therefore I say there is no necessity for having a clause in the contract requiring them to be adapted for war purposes. The expenditure of money on account of that clause is entirely useless, and for an object which will never be obtained.

I am in favor of this bill; I am in favor of this route; I am in favor of getting it at the very lowest terms—of expending the money in the most economical manner, and putting the money which would have to be paid under a contract having a clause requiring the vessels to be adapted for war purposes, to strengthen the vessel for passengers and freight where it should be strengthened.

Mr. BADGER. I do not mean to enter into the discussion in regard to this bill, though I am decidedly in favor of it, and as decidedly opposed to striking out the provision which is now sought to be stricken from the bill. But I wish to say a

word or two in reference to a matter which the Senator from New Hampshire has, I think, somewhat unnecessarily dragged into this discussion, with regard to the Navy estimates, and the report of the Secretary of the Navy. The honorable Senator says he does not know what the naval expenditures are at this time; but that, some years ago, when he turned his attention to that matter, they were from eight to ten millions of dollars per annum, and that they had been regularly increasing since. He said further, that the Secretary proposed to make some division, or separation, or classification, in order that the expenditures of the Navy might not appear as large as they really were. Now, I find that for the fiscal year ending June 30th, 1851, the actual expenditures which were made under the Navy Department, and which, therefore, in the aggregate, would appear to be proper to be counted as naval disbursements, amounted to \$8,987,000; and in this sum is included, for steam mail service, \$1,302,000—leaving out the fractions. So that, taking out that expenditure, which is an amount of money paid solely for defraying the expense for the transportation of the mail by steam-vessels, the expenditures of the Navy for that year would be about \$7,600,000.

Now, what is proposed in the report of the honorable gentleman at the head of the Navy Department? Not, by an arrangement, or separation, to make the expenses of the Navy proper appear less than they truly are, but, by separating from the proper and appropriate expenses of that Department the \$1,302,000, now charged to that Department, which are really expended for the transportation of the mails of the United States, to make the proper naval expenditures of the Government appear what they truly are. That is all.

I beg now to say a word upon the subject of striking out this clause of the bill. I think, with my friend from Maryland, that no reason has yet been assigned why the provision should be stricken out. What he has said is true. As a general rule, the maximum mentioned in an act of Congress for which a service is to be performed, may be set down as the sum at which the service will be contracted for. That, I think, is almost so uniformly the case, that it may now be taken for granted. Then the question is reduced to this: whether we shall obtain a vessel adequate to the present purposes for which we want her, with the additional advantage of being capable, in the event of necessity, of being applied to war purposes; or whether we shall have a vessel without this latter advantage? For my part, I can see no reason why the change which is proposed should be made. Let us have the vessels of the stipulated size; let us have them to answer the purposes of transporting the mails; and let us have them also so made, that, in the event of necessity, they may be adapted to war purposes.

It has been said, with a good deal of confidence, by the Senator from Florida, that none of the steam-vessels that have been built under these contracts, containing precisely this provision, are fit for war-steamers; and that if three old commodores were selected, they would all concur in that opinion. If they were selected, and if they were able to concur in that opinion, I should not think it was strictly a logical *sequitur* that the opinion was right. These steamers were constructed under the direction of the Navy Department, under the supervision of naval constructors, so as to be strong enough, and adapted to answer the ends of war-steamers, in the event of necessity.

Mr. MALLORY. I would ask the Senator from North Carolina whether there is not on the files of the Navy Department now, a report from some of our naval officers, stating that these vessels were not so constructed?

Mr. BADGER. The honorable Senator must go somewhere else to find out what is on file in the Navy Department. I do not know what is there; but the Secretary of the Navy does. These vessels have been constructed under the superintendence of that class of officers, whose special business it is to know how a vessel should be constructed for war purposes. Commodores are not naval constructors. You do not select a sea officer for the purpose of superintending and directing the arrangement of a ship in its construction for war purposes. That belongs to a particular mechanical branch (if I may use the expression) of the naval service.

These steamers have been constructed, as for war purposes, under the best and most capable supervision of the proper officers attached to the Navy Department. Now, until I see one of them tried, or until I hear that one of them has been tried, and been found incapable of answering this end, I shall presume that they are fit for war purposes.

We know that improvements in war vessels very seldom originate with military or naval men. They come from other quarters. We know, also, that there is generally a professional prejudice against every improvement that is made in the construction of vessels for war purposes. It seems to belong, somehow or other, to all professions and employments of life. It is said, that when Harvey discovered the circulation of the blood—and my friend from Arkansas [Mr. BORLAND] can correct me if I am mistaken—there were scarcely three physicians in England above the age of forty years at that time who believed in the existence of that discovery as he announced it. They held on with pertinacity to their old notions. So it has been with regard to this system of steam defense. At first, I think it was generally opposed. There was very little consideration given to it by what are called the "old salts."

Mr. CASS. "Old fogies." [Laughter.]

Mr. BADGER. Yes, sir; "old fogies." They had fought battles, won victories in sail vessels, and they took it for granted that these things could not be done in any other way. They spoke of steamers contemptuously, and said that instead of having ships carried by sails, and masts, and all that, a steamer was nothing but a vessel propelled by a tea-kettle of hot water. All these improvements have had to go through this ordeal. I believe these vessels will be found—if we shall ever have occasion to test them—fit for war purposes, and to be easily convertible into vessels fit for war purposes. But, at all events, I do not see why we should make any alteration in this bill to deviate from what has been the common course of Congress on the subject.

Mr. HUNTER. As the Senator from Louisiana is anxious to have a vote taken upon the bill, as I do not wish to protract this discussion, and as the subject can be discussed when it comes up again—although I moved the amendment—I will forbear saying what I intended to say in support of it. I will allow the vote to be taken without saying a single word upon the amendment. The question can be debated hereafter on other bills. The Senator from North Carolina believes that the system of defense by war steamers should be connected with the Post Office arrangements. I do not. The subject, however, can be postponed to another occasion. I will, therefore, say nothing about it now.

Mr. HAMLIN. I wish to state the reasons which will control my vote against the amendment of the Senator from Virginia. It was my purpose to have spoken upon this question, but I do not propose to go into a discussion upon it now. I think there is a distinction which may be drawn between the Senators who have spoken upon both sides of this matter. I am opposed to making any more steamers and connecting them with the Navy, and I am also, at the same time, opposed to making steamers to navigate the Gulf, the most dangerous of any navigation that we have, which will not be as strong as any vessels that may be built for naval purposes. If you keep in the clause proposed to be stricken out, it does not propose to connect the vessels with the Navy; it only proposes to make them as strong as naval vessels are made. It does not, like the old bills, propose to connect these vessels with and make them part of the Navy. For that reason I shall vote to keep it in.

Mr. BORLAND. I am in favor of the proposed amendment. I have listened very attentively to the arguments in favor of retaining that portion of the bill in its present form, and I have heard nothing that satisfies me of the propriety of doing so. It proceeds, it seems to me, upon what I have always considered a fiction, that the vessels in which we are carrying the ocean mails were to be so constructed as to be easily convertible into war purposes. I have looked into this matter, as well as I have been able, for sometime past, and I agree fully with the Senator from Florida, [Mr. MALLORY], that there is no reason for believing, but every reason for rejecting, the idea that they are fit for war steamers, or that that idea



was present in the minds of the constructors. I never did believe it; but it was assumed, and necessarily assumed, as a foundation, and the only one upon which the system could rest, that it was to be a part of the navy. Otherwise, it was a clear contribution to individual speculation, to build up the fortunes of individuals by granting them monopolies, and paying them for the purpose of accepting those monopolies at the hand of the Government.

The honorable Senator from Maryland proceeded, in support of the bill, and in opposition to the amendment, on the ground that it was important on account of the danger which these vessels might encounter in the Gulf—not those of navigation, but the danger of encountering some force of an enemy—that they should be in a condition to defend themselves. Why, this bill does not propose to put the vessels in a condition to defend themselves against any attack. They will be as liable to attack and as defenseless with this provision in the bill, as if they were built only for commercial purposes. They are to carry no armament. The idea is, that they shall be built in such a way that they may, if Government requires them, be taken for war purposes, and without the expenditure of more money, be convertible into war steamers.

If we sustain the bill in its present form, we recognize, what I consider, a fiction, that these vessels are, or can be made by any legislation of ours, of such a character as to be easily convertible into war steamers. It is wise and proper for those who believe that to be true to vote for the provision as it stands in the bill; but inasmuch as I believe it all to be a fiction, I cannot vote for retaining it.

There is another objection to the bill. It provides that the vessels shall be so constructed as to be fit for war purposes. Now, what is the provision under which that shall be done? We require that it shall be done; we do not carry out the idea, as in those other contracts, and designate the mode in which the thing shall be accomplished, but simply require that it shall be done, and who is to do it. The vessels are not connected with the navy, and therefore it could not be done under the supervision of the Navy Department. Shall the Postmaster General undertake to construct a naval vessel—a war steamer? I apprehend that it would be imposing on him a duty which he has neither the means at his disposal to perform, nor the competency to do so if he had the means. If that is to be retained, the bill requires to be further amended, in my opinion, as to how it shall be done, and the manner in which, and under whose supervision, the vessels shall be constructed.

Mr. CASS. Does the bill contain a provision that the United States may take the vessel, after it is made, for war purposes?

Mr. CHASE. It contains nothing of that sort.

Mr. CASS. Then what is the use of the provision?

Mr. PRATT. The vessels will be made stronger if it is retained.

Mr. CASS. You have a *maximum* provided for in the bill. You are not to exceed \$100,000 a year. You will not give that. As a matter of course, you are to give the lowest price. Now, if the man expends \$50,000 in order to make the vessel fit for war purposes, he will charge more for profits; and if, as I am told, there has already been an offer to build the vessels for \$75,000—which shows the propriety of this competition—it will bring the expenditures down so as to reduce the price, perhaps, to \$60,000. Why say, then, for "war purposes," if it is not for war purposes? Build it as strong as you please. I agree with every word which has been said upon that subject; but do not let us go out of the way unnecessarily, and assume what we do not intend to do at all.

Mr. DAVIS. I wish to say a word, and but one word. I care very little how this is disposed of; but if these vessels are made as strong and as heavy as you make a war vessel in the navy-yards of the United States, you have two results. In the first place you will have less speed and a greater draught of water; and that draught of water, if you are going to enter Tampico, may be a very serious inconvenience. I sometime ago asked a gentleman of some considerable experience in this business; how it was that a ton of shipping made for the steam service of the United

States cost so much more than a ton of shipping, made in the best manner, in a private yard? His answer was substantially this: "If you could see the work going on, you would comprehend it. The proportion of metal which is put in a ship like the 'Mississippi,' or the 'San Jacinto,' is about twofold greater in a Government vessel than in one of those well-made Collins steamers." Now, if you are going to have a vessel of that description, I think you will defeat your own objects. But still, it is a matter which I have not at heart. I am quite willing to vote for this line, and take it with this qualification.

Mr. RUSK. If you put it down to the lowest bidder, and get such a contractor for that line as you have for the public printing, your object will be defeated.

The amendment was agreed to, there being, on a division—ayes 19, noes 15.

Mr. BORLAND. I offer the following amendment to the bill, as an additional section:

SEC. 2. *And be it further enacted*, That the Postmaster General be required to establish a daily mail, by a regular line, from Louisville, Kentucky, by the way of the Ohio and Mississippi rivers, to New Orleans, supplying the several post offices on the way, in the manner prescribed by existing laws and regulations; and that the service hereby provided for, shall be procured under the general laws and regulations in respect to mail service, by open advertisement and contract, provided the expense shall not exceed \$100,000.

I have offered that amendment to the bill, in accordance with the views I expressed while speaking at first upon the question. Great stress was laid, by those who favored the bill, on the importance of regular and proper lines of communication between our country and foreign ports. I agree with all they said on that subject; but I deem it equally, and more important, that we should have a proper line of communication between different portions of our own country; and those who favor the bill, as we have it before us, I think cannot well object to this amendment, when it is simply extending the line of communication which they propose. The bill provides for a regular and efficient mail communication between New Orleans and Vera Cruz. This connects that with a regular line, from the Mississippi and Ohio rivers, to New Orleans. It is a natural and necessary connection; and I cannot see why we should reject the one, if we adopt the other. I have stated before, the difficulties which we have in getting the Post Office Department to establish this line. The expense has been objected to; although, two years ago, an offer was made in this city to the Post Office Department, to carry a mail line from Louisville to New Orleans, supplying the offices by the way, for \$40,000 a year. It was rejected; it was said to be too much. Now, we have agreed to give as much as \$100,000, for carrying the mail three times a month between New Orleans and Vera Cruz. This proposes to carry a daily mail from Louisville, Kentucky, by the way of the Ohio and Mississippi rivers, to New Orleans, for an amount within \$100,000; supplying the wants of a country, more extensive and more important in every respect, and certainly commending itself to our favorable consideration more strongly than any other I have heard brought before Congress this session.

Mr. CHASE. I hope my friend from Arkansas will be kind enough to accept an amendment to that amendment, to make the termination of the line Pittsburg, instead of Louisville.

Mr. BORLAND. I would have no objection to amending it in that respect; but I exclude Pittsburg and Cincinnati, for the reason that they have daily lines established on that route.

Mr. UNDERWOOD. There is a daily line from Cincinnati to Louisville.

Mr. BORLAND. And from Louisville to Cincinnati and Pittsburg. It is only extending to the lower Ohio and Mississippi, down to New Orleans, what the upper Ohio now has from Pittsburg to Louisville. It keeps up the line of communication, and I cannot see, for my life, why there should be any objection to it.

Mr. CHASE. There is a daily line, I know, between Pittsburg and Cincinnati. I was not certain whether they carried the mail through the whole extent of the line. I now understand that they do, and of course shall offer no amendment.

Mr. RUSK. I am not opposed to any proposition of that description; and if the honorable Senator will come forward at the proper time and

designate the sort of boats in which he proposes that the mail shall be carried, I shall be prepared to vote upon it. He does not get any advantage by offering this amendment at all. This is not the place for it. It may embarrass this bill, but will not accomplish his object.

Mr. BORLAND. I am unwilling to embarrass the bill, for I am in favor of it; but I see no other opportunity to accomplish my object. This is a crying inconvenience; we are suffering under it daily; complaints come up from the Mississippi valley every day to Senators and Representatives from that region. I know the honorable Senator from Tennessee [Mr. JONES] is in constant receipt of appeals to him, both from his Legislature and constituents, to aid in something of that sort. I think this is a good opportunity to do it, and I do not see that there is any necessity for the alteration proposed by the Senator from Texas, at least in my view of the case. There is none, because I would not prescribe the size or condition of the boats. We have struck out a portion of this bill, because it prescribed conditions in regard to the kind of steamers. I have based my amendment on the idea which I have carried out through all my remarks.

Mr. CHASE. I hope the amendment will be agreed to. It seems to me that if Senators would consider the great inconvenience under which the Western cities and towns labor in consequence of the want of river mails, they would not hesitate to grant this reasonable request. I shall not go into the inconveniences in detail, because I am unwilling to detain the Senate; but I assure Senators that they are very great.

The bill which it is proposed thus to amend commands my support upon the simple ground that it provides for a necessary mail route in the ordinary mode; and the amendment which is proposed by the Senator from Arkansas is nothing more nor less than extending this line to the port of Louisville. It is unreasonable, it seems to me, to ask that the details of the construction of the river steam-boats should be provided for in the amendment, when everybody knows the character of those boats. The Department surely may be left to its discretion in this matter.

Mr. JONES, of Tennessee. It is true, as my friend from Arkansas says, that this is a question in which we feel a very deep interest; and I am very sure that I should not acquit myself to my constituents, or to my own views, of what is due to the public interests, if I did not give my aid and cooperation to the proposition which he submits. But I have no disposition to embarrass any proposition of any Senator here; and as some gentlemen think this is calculated to have that effect, I would suggest to my friend whether it would not be best for him to withdraw his amendment, and let us throw ourselves upon the justice, upon the enlarged and liberal view of the Senate, in a separate proposition; and if we cannot demonstrate to every Senator here, that it is due to that portion of the country, that it is due to patriotism, that it is due to the convictions of justice and propriety, that we should have this service, I do not want it. I think that, with the aid of my friends from Arkansas and Ohio, I can satisfy every Senator here that our interests have been neglected, that our rights have been disregarded; and, with that conviction on my mind, I respectfully ask my friend from Arkansas to withdraw his proposition, and let us stand on our own merits. If we have not merit enough to sustain us, let us go down. I am willing to trust it to the generosity, to the liberality, and to the justice of the Senate. Let this proposition go for the present, and let us fight on our own hook.

Mr. UNDERWOOD. If I thought that we could get an opportunity of testing the matter upon its merits, according to the suggestion of my friend from Tennessee, I would very cheerfully go with him; but I am afraid that if we let this opportunity slip, we shall never get another. The day is rapidly coming, if it has not already arrived, when there must be a daily communication to New Orleans from the mouth of the Ohio, in large boats, and thence spreading out through Illinois, by railroad, and up the Cumberland and Tennessee, by other steamboats, of a smaller size, if we cannot get a railroad communication. I have been trying for years to get something like a post office established near the mouth of the Ohio, which should be an office of distribution, in order

to throw the letters for the western part of Kentucky through that country, instead of going to Nashville and Louisville for distribution, and thus delaying them for days. I admit that, if we could get at this in a separate bill, and have it attended to, and make provision for a large class of boats up to the termination of the Illinois railroad at Cairo, and small boats above that, it might be better; but if you adopt the amendment, it seems to me that the Postmaster General will be forced, of necessity, to make regulations which will accomplish these objects, and will have the means given him to make the proper arrangements upon the subject. When you require the duty, it communicates the means necessary to perform and execute it; and I think, if the amendment of the Senator from Arkansas is adopted, the Postmaster General will have the means granted for the purpose of executing these objects which I know, from years of experience, to be so essentially necessary to promote the correspondence of my section of the country. We suffer, to an enormous extent, the evils which I have mentioned, in having our letters sent to Nashville and Louisville for distribution; whereas, if we could have something like this communication, and an office established near the mouth of the Ohio, which is the nearest point of the Mississippi for a large portion of Kentucky, in communication with New Orleans, our great commercial emporium, it would be of immense value. These are the reasons which induce me to vote now for this amendment.

Mr. BORLAND. An appeal has been made to me by my friend from Tennessee, to withdraw my amendment. I am very unwilling to resist an appeal of that sort, coming from any quarter, and especially from a quarter in which so much interest is felt for the success of the very measure I have proposed. But I have been like the honorable Senator from Kentucky in that respect: I have been waiting so long; and when I made this proposition before, I was told, as I have been on this occasion, that it was the wrong time, and the wrong place. I despair of ever finding the proper place, if this be not the proper time and place. I know the very natural desire which the Senator from Louisiana, and all those who favor the bill—and I join in that desire—have to establish the line which he proposes. I go most cordially and earnestly for it; but that desire cannot be as strong as that which we who live in the Mississippi valley must feel in the establishment of the line which I propose. We have been put to this inconvenience so long, that we have become sore under what we consider the neglect and injustice of the Government. It is under that feeling that I have brought forward this proposition. No one pretends to advance any objection to it. I do not hear any objection urged to the measure itself; the only objection is, that it is brought forward at the wrong time. Here is a growing evil, which it is proposed to remedy, now we have an opportunity to put the remedy in this bill, which is about to go through, and go to the other House, and probably get through there in a short time. If we fail to do it now, we shall have to take up the matter from the beginning, go through all the regular forms of legislation, and be held to the rule of following the Calendar, and the close of the session will come before we have accomplished anything towards relieving ourselves of this crying evil. For these reasons, I do not feel that I should be performing my duty by withdrawing the proposition. I think it very likely, from the indications that I have seen, that it will be voted down, but my sense of duty will not permit me to withdraw it.

Mr. BROOKE. I would suggest to the Senator from Arkansas to increase the amount that he has specified in his amendment. I have been informed by persons who are conversant with the business of mail transportation that a daily mail cannot be carried from New Orleans to Louisville for that sum. It will require fourteen boats at a cost of from \$15,000 to \$20,000 each; and those boats could not depend much upon passengers, because, being compelled to stop at various places on the river, they would necessarily be delayed, and passengers would seek their passages in other boats. I wish the Senator would withdraw the amendment, because I feel as much interest in it as he does; and I am unwilling to risk a measure of such vast importance to the Mississippi valley as an amendment to another independent measure.

Mr. BORLAND. I would say to the Senator from Mississippi that I fixed the sum of \$100,000 for this reason: As far back as 1847, in response to an advertisement of the Post Office Department, the proposal was made to take the contract at \$100,000; and since that time, to my own knowledge, a competent and responsible individual has come to Washington and offered to the Department to perform it for \$40,000, and give ample security for the faithful performance of the duty. But since it seems to be the wish of those who are as much interested in this matter as I am, and who desire it as earnestly as I do, I will withdraw the amendment.

The bill as amended was then reported to the Senate.

Mr. ATCHISON asked for a division of the question on concurring in the amendments made in Committee of the Whole, so as to separate the last—viz: to strike out "to war purposes and"—from the others.

The question being taken on all the amendments but the last, they were concurred in.

The question then recurred on the amendment to strike out the words "to war purposes and."

Mr. ATCHISON. I ask for the yeas and nays upon concurring in that amendment.

The yeas and nays were ordered, and being taken, resulted—yeas 24, nays 20; as follows:

YEAS—Messrs. Adams, Bayard, Borland, Bradbury, Brodhead, Brooke, Cass, Chase, Clarke, Davis, Dodge of Wisconsin, Dodge of Iowa, Fish, Geyer, Hunter, Jones of Iowa, King, Mallory, Mason, Miller, Sumner, Underwood, Wade, and Walker—24.

NAYS—Messrs. Atchison, Badger, Clemens, Dawson, Douglas, Downs, Foot, Gwin, Hale, Hamlin, Jones of Tennessee, Morton, Norris, Pratt, Rusk, Sebastian, Seward, Smith, Soule, and Spruance—20.

So the amendment was concurred in.

Mr. SOULE. I move to amend the bill by adding at the end of it the words, "not exceeding six months," so that it will read, "the same to be ready within the shortest time, not exceeding six months."

Mr. WALKER. I am inclined to think that that amendment ought not to be made; for if competition is to be invited, this may defeat the entire object, for there may be but one party, and that the party originally named in the bill, who can possibly be ready in six months. Hence this may defeat the object which we have in view in inviting competition.

Mr. SOULE. I withdraw the amendment.

The bill was ordered to be engrossed for a third reading; and then

The Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 31, 1852.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the resolution submitted by the gentleman from Iowa [Mr. CLARK] to close debate in the Committee of the Whole on the state of the Union, on the special order—the homestead bill.

Mr. COBB. I ask the unanimous consent of the House to submit an amendment to House bill No. 7—the homestead bill—merely with the view of having it printed and laid upon the table, so that members may have it before them when it is proposed to the bill. I hope there may be no objection. I will not detain the House by asking that it be read.

There was no objection, and the amendment was ordered to be printed, and laid upon the table.

Mr. HENDRICKS. I ask the unanimous consent of the House to allow me to introduce a joint resolution in reference to an entirely local matter. It will occupy very little time.

Mr. CLINGMAN. I am very sorry to object. There are many of us who want to introduce resolutions. I hope that an hour or two, by unanimous consent, may be devoted to the reception of resolutions.

Mr. HENDRICKS. I trust that the gentleman will not interpose objection. It is with regard to a matter entirely local, but of much interest to my constituents.

Mr. CLINGMAN. Well, I will not object; but I would, however, like an hour to be devoted to the reception of reports of committees.

Mr. HENDRICKS then introduced a joint resolution "Construing an act in relation to military

land warrants," approved August 14, 1848; which was read a first and second time by its title.

Mr. H. If there be objection, I will ask that it be referred; if not, that it may be acted upon.

There being objection, the joint resolution was referred to the Committee on Public Lands.

Mr. HOUSTON. We waste much time every morning by endeavoring to get business in out of order. Now, if we will all agree to let business come up in order, we will accomplish all we desire, and not consume half of the time that we now do in endeavoring to press in business out of order. We now, in truth and fact, accomplish nothing.

Mr. McCORKLE. I would inquire if it is in order to read lectures under the rules? [Laughter.]

Mr. HOUSTON. I am not lecturing the House. I only ask that we shall proceed in the regular order of business.

The SPEAKER. The Chair has already announced the regular order of business to be the proposition made by the gentleman from Iowa, [Mr. CLARK], to close debate on the homestead bill in two hours after the Committee of the Whole on the state of the Union shall have resumed its consideration.

Mr. SWEETSER. I move to lay that resolution upon the table.

Mr. CLARK. I will (as the indication seems to be a desire to debate this question at length, which I did not anticipate,) withdraw my resolution.

Mr. HOUSTON. I ask, then, that reports of committees be called for. The regular business in order, I know, is the bill in relation to punishments in the Navy; and, as the printing of that bill has been called for, I hope that it will not be pressed for a day or two, but that it will be informally passed over.

Mr. STANTON, of Tennessee. To that I have no objection.

The SPEAKER. The gentleman from Alabama [Mr. Houston] asks that, by unanimous consent, the House will pass over informally the regular order of business—which is the motion made by the gentleman from Tennessee, [Mr. Jones]—to lay upon the table the motion to reconsider the vote by which the naval bill was rejected, and receive reports from the standing committees. Is that the wish of the House? The Chair hears no objection.

Mr. STANLY. I should like to know if the proposition is to take up the report from the Committee on Public Lands, where we left off, and discuss that an hour, or receive reports generally, which will give rise to no debate?

Mr. KING, of New York. Let us have them in their order.

The SPEAKER. The proposition was to proceed to call the committees for reports.

Mr. STANLY. Did we not stop upon the last call of the bill reported from the Committee on Public Lands, making a grant of lands for a railroad? What is the use of proceeding to call for reports? We cannot get in any other reports.

Mr. HOUSTON. I will say to the gentleman from North Carolina, [Mr. STANLY], that we must rely upon the generosity of the Committee on Public Lands to let us pass on, and get to other committees. We cannot progress until we do; and I hope, therefore, that the House will pursue such a course as will let us get through.

The SPEAKER. Is it the pleasure of the House to pass by the motion to reconsider the vote by which the bill providing for punishments in the Navy was defeated the other day? The Chair hears no objection that it shall be passed by informally, and come up in its order hereafter.

Mr. CABELL, of Florida. Will it come up to-morrow?

The SPEAKER. It will.

## NAVIGATION OF THE OHIO RIVER.

Mr. EVANS. I rise to a privileged question. The House, yesterday, on motion of the gentleman from Kentucky, [Mr. MARSHALL], not now in his seat, passed the following resolution:

"Resolved, That the President of the United States be and is hereby requested to cause to be communicated to this House the original manuscript copy of the report (now on file in the office of Colonel Long, of the Topographical Engineers) of Captain Thomas C. Crum, on the best mode of improving the navigation of the Ohio river at the falls at Louisville, made 3d February, 1844, with the original maps accompanying the same, or a true copy of the said report from the said original, and certified by Colonel Long to be true."

Mr. E. I move to reconsider the vote on the adoption of the resolution. I do not propose to discuss it, as the gentleman from Kentucky is not now in his seat. I make the motion to reconsider, because the form of the resolution is unusual. No officer ever has been called upon to certify, on oath, an official document to this House. I will not discuss the motion now, because the mover of the resolution is not in his seat. I only make the motion because I may have no other opportunity.

Mr. MARSHALL, of Kentucky, at a subsequent part of the day, said: I rise to a privileged question. During my absence this morning, the gentleman from Maryland [Mr. EVANS] moved to reconsider the resolution passed at my instance on yesterday; and at his suggestion I desire to strike out the words "under oath."

Mr. EVANS. I withdraw my motion to reconsider.

There was no objection, and the words indicated were stricken from the resolution.

#### REPORTS OF COMMITTEES.

The SPEAKER. Reports are in order from the Committee on Public Lands.

On motion by Mr. COBB, ordered that the Committee on Public Lands be discharged from the further consideration of the following memorials and petitions, and that they do lie upon the table, viz:

A joint resolution of the General Assembly of the State of Alabama, asking for an appropriation of public lands, to aid in the establishment of an hospital for insane persons, &c.;

The petition of citizens of Wyandott county, Ohio, relative to lot No. 7, section 29, township 2, range 14 east, in the Wyandott reservation;

The petition of citizens of Georgia, praying for a grant of land to the Alabama and Georgia railroad;

The joint memorial of the General Assembly of the State of Alabama, asking for a graduation of the price of public lands in said State;

The petition of William J. Ross, of William Gantny, of the trustees of the East Alabama Female College, and of John Ashburn Ragan;

The petition of Illinois, asking for an extension of the time for which preemptions are granted; and

The petition of William Nelson, of Morgan county, Alabama.

On motion by Mr. HOUSTON, by unanimous consent, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of the said William Nelson, for the purpose of reference to one of the Executive Departments.

On motion by Mr. COBB, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the petition of Frederick Dent, and that the same be referred to the Committee on Private Land Claims.

Mr. COBB, from the Committee on Public Lands, to which was referred the petition of citizens of Wyandott county, Ohio, reported a bill to amend an act entitled "An act providing for the sale of certain lands in the States of Ohio and Michigan, ceded by the Wyandott tribe of Indians, and for other purposes;" approved 3d of March, 1843.

The bill was read a first and second time by its title.

Mr. COBB. In accordance with the petition of citizens of Wyandott county, asking that the unsold lands in the Wyandott reservation be brought into market, the Committee on Public Lands have reported this bill. I desire to call the attention of the House for a moment to a few facts. When this reservation was made, the General Government required the property of the Indians in this reservation to be valued. The valuation, I am prepared to say, was excessively high, and the General Government authorized a sale of that tract of land at a less price than the valuation. A number of persons in that section of country petition that the land be sold at \$2 50 per acre. The committee have had the matter under consideration, and directed this bill for the sale of the lands to be reported. The representative from that section of the country told me that the timber has been cut off those lands and sold, and that they are thereby much depreciated in value. Why not have this bill put upon its passage, and bring these lands into market? The condition in which

these lands now are make them a great nuisance to the citizens of that section of the country. If the lands were sold at public auction, they would probably bring \$10 or \$15 per acre. The bill I have just reported, was prepared by the Commissioner of the General Land Office, to effect that object. If the House will pass it, these lands will be brought into market at once. The bill is a short one, and I desire to have it read through, with the view of putting it upon its passage. The committee were unanimous in recommending the passage of the bill.

Mr. STANTON, of Kentucky. I have no objection at all to this bill being put upon its passage, more than any other. But I see it is inevitable that if the Committee on Public Lands are allowed to put all their bills upon their passage, as the gentleman from Alabama now proposes to do with this one, the balance of the committees will not be called during this Congress, and I therefore move to refer the bill to the Committee of the Whole on the state of the Union, and that it be printed.

Mr. EDGERTON. I appeal to the gentleman from Kentucky to withdraw that motion. There is no real necessity for the reference. It is a very simple bill, authorizing the sale of certain lands in the State of Ohio. There can be no possible objection to it on the part of anybody.

Mr. STANTON. The Committee on Public Lands is the only committee that has reported for several weeks, and the reason is, that they endeavor to put all the bills they report upon their passage.

Mr. STANLY. Is not this discussion contrary to order?

The SPEAKER. The gentleman is laboring under a mistake.

Mr. STANLY. Is it not out of order, under the order adopted by the House?

The SPEAKER. The only order taken by the House was to pass, informally, the other business, and to call the committees in their regular order.

Mr. STANLY. I had not so understood it.

Mr. EDGERTON. If there could be any objection to this bill, I would not urge its passage now, but there can possibly be no objection to it.

The question was then taken on referring the bill to the Committee of the Whole on the state of the Union, and, on a division, there were—ayes 64, noes 37; no quorum voting.

Mr. ORR demanded tellers, which were ordered; and Messrs. ORR and WATKINS appointed.

Mr. COBB. I have no particular interest in this matter, but I am certain, and the committee are satisfied, that it is for the interest of the Government that this land should be brought into the market.

Mr. TAYLOR. I wish to ask the gentleman from Alabama how much of this land remains unsold?

Mr. COBB. One thousand and sixty-three acres.

Mr. TAYLOR. I think there can be no objection to the passage of the bill.

Mr. COBB. It is the wish of the delegate from that district, that these lands should be brought into the market.

Mr. EVANS. I ask the chairman of the Committee on Public Lands whether there is any report accompanying this bill?

Mr. COBB. No, sir; there is no report, but it is accompanied by a letter from the Commissioner of Public Lands.

Mr. EVANS. I wish to know where this land is?

Mr. COBB. It is the Wyandott reservation, in the State of Ohio.

Mr. EDGERTON. I will state, for the information of the gentleman from Maryland, and also for the information of the House, that this land is in Wyandott county, Ohio, and was ceded to the United States by the treaty with the Wyandotts, in 1842. There were improvements upon the land, which were appraised, and sold to the United States at the appraised value. The lands were offered for sale at public auction, but the improvements had been appraised so high that they were not sold, neither have they been sold since, except in limited quantities. Since the treaty of cession to the United States, the improved lands have been occupied by squatters. The fences and the timber have been taken off, and yet the lands will not

sell, neither will they sell at the appraised value. The Commissioner of Public Lands being apprised of the whole circumstances recommends the sale as a matter of interest to the country, and it is now proposed to offer the lands for sale at public auction, like any other property, provided that they shall not be sold for less than \$2 50 an acre.

Mr. CLINGMAN. I would beg the gentleman from Ohio, when he has done, to move the previous question, and let us decide this question one way or the other.

Mr. EDGERTON. If the gentleman from Maryland will yield me the floor for that purpose, I will do it.

Mr. EVANS. I never wish to throw difficulties in the way of any bill, but I have seen so many instances in this House where wrong has been done, and where private rights have been interfered with, by this hasty action, that I must object to it. There has not been enough said as yet to satisfy me that I ought to vote for the bill. I will, however, call the previous question, and then other gentlemen can vote for the bill if they please, but I shall certainly vote against it.

Mr. SWEETSER. I wish to say a word or two in reference to these lands.

Mr. CLINGMAN. I submit that debate is not in order after the previous question has been moved.

The SPEAKER. The Chair does not understand the previous question to have been moved.

Mr. EVANS. I moved it, but I will now withdraw the demand.

Mr. SWEETSER. I desire to say that these lands, to which my colleague refers, are within the range of my professional practice. I have known the country for more than thirty years, and am familiar with all the facts which my colleague states. I was among the persons who attended the sale of these Wyandott lands soon after they were ceded by treaty to the United States. They were withdrawn at that time for some reason which I did not understand. I am perfectly familiar with the present condition of the improvements which have been made upon those lands; and it seems to me that the interests of the Government, as well as the interests of the country where these lands are located, all conspire to make this measure expedient and necessary. I have no hesitation in saying, that if these lands were put up at auction, after reasonable notice had been given, they would bring their full value. They are in the very best part of Ohio, and are now in a condition to command as high a price as they probably will command for twenty years to come. I now move the previous question.

The previous question was seconded and the main question ordered to be now put; and the question being put on referring the bill to the Committee of the Whole on the state of the Union, the tellers (Messrs. ORR and WATKINS) reported—ayes 55, noes 70.

So the House refused to refer the bill.

The bill was then ordered to be engrossed, and read a third time; and, having been engrossed, it was read the third time.

The question now being, Shall the bill pass?—

Mr. BRIGGS demanded the previous question; which was seconded, and the main question ordered.

The question was then taken, and the bill was passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

#### SCHOOL LANDS.

Mr. COBB, from the Committee on Public Lands, then reported the following bills; which were severally read a first and second time by their titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed, viz:

A bill to authorize the school commissioner of fractional township No. 1, range 10 east, in Alabama, to locate one section of land for school purposes, in lieu of lands to be relinquished; and

A bill to authorize the States in which the sixteenth sections granted for school purposes lie, to relinquish such of those lands as may be comparatively valueless, or unfit for cultivation, and to select other lands in lieu thereof.



## MEMPHIS AND CHARLESTON RAILROAD.

Mr. COBB. I regret that the fingers upon that clock point so nearly to the hour of one, for I have a very important bill to report to the House; and I wish we had more time to dispose of it. I ask the attention of the House while the bill is read. I ask that it may be read for information.

The bill having been read the first and second time by its title, was read through, as follows:

A BILL granting the right of way to the State of Alabama, and a portion of the public lands, to aid in the construction of a railroad from Memphis, in the State of Tennessee, to intersect the Charleston, Chattanooga, and Nashville railroads, in Alabama.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the right of way through the public lands be, and the same is hereby, granted to the State of Alabama, for the construction of a railroad from Memphis, Tennessee, to intersect the Charleston, Chattanooga, and Nashville railroad, at a point in Jackson county, Alabama, with the right, also, to take necessary materials of earth, stones, timber, &c., for the construction thereof: *Provided,* That the right of way shall not exceed one hundred feet on each side of the length thereof, and a copy of the survey of said road, under the direction of the Legislature of said State, shall be forwarded to the proper local land offices respectively, and to the General Land Office at Washington city, within ninety days after the completion of the same.

Sec. 2. *And be it further enacted,* That there be, and is hereby, granted to the State of Alabama, for the purpose of aiding in constructing said road, every alternate section of land designated by even numbers, for six sections in width on each side of said road; but in case it shall appear that the United States have, when the line or route of said road is definitely fixed by the authority aforesaid, sold any part of any section hereby granted, or that the right of preemption has attached to the same, then it shall be lawful for any agent, or agents, to be appointed by the Governor of said State, to select, subject to the approval of the Secretary of the Interior, for the purpose aforesaid, of the lands remaining to the United States in said sections, one half thereof in alternate parts, so far as may be practicable. And said agent or agents may, subject to the approval aforesaid, select from the lands of the United States most contiguous to the tier of sections aforesaid, and not more than fifteen miles from the line of said road on each side thereof, so much land in alternate sections, or parts of sections, as shall be equal to such lands as the United States have sold, or to which the right of preemption has attached as aforesaid, which lands being equal in quantity to one half of six sections in width on each side of said road, the State of Alabama shall have and hold to and for the use and purpose aforesaid, and said land shall be disposed of only as the construction of said road progresses, and shall be applied to no other purpose whatever.

Sec. 3. *And be it further enacted,* That the sections and parts of sections of land which by such grant shall remain to the United States within six miles on each side of said road, shall not be sold for less than double the minimum price of the public lands when sold.

Sec. 4. *And be it further enacted,* That the lands hereby granted to the said State, shall be subject to the disposal of the Legislature thereof, for the purposes aforesaid, and no other; and the said Legislature be, and is hereby, authorized and required to dispose of the proceeds of the sales of said lands in the construction of said road, under such conditions, limitations, and restrictions, as will secure the benefits thereof to the people of said State, and the said road shall be and remain a public highway for the use of the Government of the United States, free from all toll or other charge, upon the transportation of any property or troops of the United States.

Sec. 5. *And be it further enacted,* That the lands hereby granted to said State, shall be disposed of by said State only in manner following, that is to say: that a quantity of land not exceeding one hundred and twenty sections, and included within a continuous length of twenty miles of said road may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that said twenty continuous miles of said road is completed, then another like quantity of land hereby granted may be sold, and so from time to time, until said road is completed; and if said road is not completed within ten years, no further sales shall be made, and the land unsold shall revert to the United States.

Sec. 6. *And be it further enacted,* That the United States mail shall be transported over said road at such price as the Congress of the United States shall prescribe.

Mr. COBB. I deem it my duty to ask the attention of this House for five minutes, while I make a short statement in reference to this road.

Every man who is at all acquainted with the geography of the country, knows well that Memphis, in the State of Tennessee, is located upon the Mississippi river. Any man who is willing to trace the line of this railroad east, to connect with the Nashville and Charleston railroad, will see in a moment the necessity and importance of such a communication. To the Representatives from the State of Maine, who have been so formidably arrayed against the grant of lands to aid in the construction of railroads, I desire to say, "reflect for a moment upon the great national character of this road; that it is another of the great lines of railroad which is to connect the Mississippi valley with the great Northeast. A statement merely of the character of the country over which this railroad passes, is all that I intend to trespass upon the time and patience of this House, for the present, to give.

The road starts at Memphis, Tennessee, and is to be, when completed, about two hundred and eighty miles in length—I do not state precisely, but I think it is about that. From the State of Tennessee, it passes into Mississippi. And I will state for the benefit of those who may not be conversant with the state of things in that country, that although Mississippi is a land State, yet the land through which the railroad runs in that State, now belongs to the Chickasaw nation. When the land in that State was ceded to the Government, the Chickasaw nation reserved the proceeds of the sale of this land. It has most of it been sold under that reservation, and the rest belongs to them still. So, as a matter of course, no land can be taken from that State to aid in the construction of the road. I now follow the road to Alabama, where it strikes the Tennessee valley in one of the most fertile portions of our State, which has been in market for some forty or fifty years past, and nearly all of value has been sold. The timber, however, upon these lands may be valuable for some purposes. It then passes through this valley, and intersects the Nashville and Charleston Railroad, where it takes its turn round the point of the Cumberland Mountains. I could tell this House the exact number of acres which this road would get, but it would be trespassing upon their time and patience. I believe a question of so much importance has not escaped the notice and investigation of gentlemen here. I believe that when this bill comes up, there will scarcely be a man to vote for its reference to the Committee of the Whole on the state of the Union. I rely upon the intelligence of the members of this House to secure its passage. I believe that this is a question of so much importance, not only to the States through which the road passes, but to the whole country, that it must meet with the approbation of the House. I ask, will the House refer it? I trust not. If the question is not one which has merit enough to make it stand, let it go—let it be buried where it will certainly be, if referred to the Committee of the Whole on the state of the Union. If it has not sufficient merit to demand immediate action, I do not ask that it shall be passed; but I desire that it shall now be put upon its trial. I tell this House and the country that if this bill be referred to the Committee of the Whole on the state of the Union, it will be the last you will hear of it.

Mr. JOHNSON, of Arkansas. Those of us who favor these measures are anxious to have some indication from the House of the course they intend to pursue in relation to these bills. I mean those bills granting alternate sections for the construction of railroads. If it is a fact that they are not to pass, then let us know it, and not continue this useless discussion upon them. I hope this indication will be given distinctly to us to-day. If it be a fact that a majority of this House think we have had debate enough upon these matters, and are willing to take bills that have been well-digested, and reported upon one system, by the Committee on Public Lands; if it be a fact that a majority of this House are ready to pass these bills without further delay or consumption of time, then the motion which I shall now make will be sustained by this House. I call, then, upon all those gentlemen who are friendly disposed towards this species of grant, to come up now and unite in sustaining the motion which I am about to make, which is to put the bill upon its passage, that you may either pass the bill or kill it at once.

Mr. COBB. It may be due to the House to state that this road is estimated to cost about \$2,800,000, of which we have subscribed twenty-three hundred and odd thousand dollars. There will be ninety-two miles of this road in complete construction in the course of the year—I understand about the last of the year. So you can see we are in earnest about building it. This is all I think necessary to state in relation to this matter. The question of the propriety of granting the public lands for these purposes is one that has been thoroughly discussed in this House; and I am satisfied that to continue that discussion further, would only result in a useless consumption of time, and a waste of the people's money. I shall, therefore, not enter to any length upon the wisdom or justice of the action of this House in relation to this bill.

Mr. MEACHAM. Will the gentleman allow me to make an inquiry?

Mr. JOHNSON, of Arkansas. I would be glad to accommodate my friend, but—

Mr. MEACHAM. I wish to know whether this bill has been printed? If not, how can we know anything about it, by only hearing it read by the Clerk?

Mr. COBB. I will state that this bill is a precise copy of the Missouri bill.

Mr. MEACHAM. That is not the question.

Mr. JOHNSON. I will answer the gentleman.

Mr. MEACHAM. I wish to ask another question. How is it with the alternate sections?

Mr. JOHNSON. The alternate sections are allowed in this bill.

Mr. MEACHAM. How far on each side of the road?

Mr. JOHNSON. As I understand, they are allowed for fifteen miles.

Mr. MEACHAM. For six miles, certain? Mr. JOHNSON. Only for six miles certain, so far as the actual grant is concerned, but where a section happens to have been taken up, the appropriation thus lost may be secured within the limits of fifteen miles.

Mr. MEACHAM. Do you raise the price of the alternate sections after you have passed beyond six miles?

Mr. JOHNSON. No, sir; we do not.

Mr. FLORENCE. I ask for the reading of the bill.

The SPEAKER. The gentleman from Arkansas [Mr. JOHNSON] has the floor. Will the gentleman yield to have the bill read?

Mr. JOHNSON. I will yield for the reading of the bill, but I do not yield my right to the floor.

The SPEAKER. The bill will be read, unless it is objected to.

A Voice. I object.

Mr. STANLY. Mr. Speaker, can I ask a question about this bill?

Mr. JOHNSON. Certainly.

Mr. STANLY. I merely desire to say that I do not wish any vote that I may give upon this bill, in this state of it, to be taken as a test of my purpose to vote for or against it, as I have had no time to examine it, and wish not to vote against it. I have been generally in favor of these bills; but if I vote now to refer it to the Committee of the Whole, I do not want it understood that I am against the bill. I think, however, that I would vote for it, after I see whether we have an opportunity of doing justice to other sections of the country and with generous and liberal hands. I do not wish to confine myself to a particular bill, and would not be understood as being opposed to it—for I want an opportunity to examine it. That is all.

Mr. EVANS. I wish to say to the gentleman from Arkansas [Mr. JOHNSON] that if he moves to put this bill upon its passage, I will vote against it. I do not think it is right to make it a test question. I might hereafter vote for it, or I might not, according to my judgment of its value in a national point of view; but I will not consent to take it unexamined.

Mr. JOHNSON. I ask the gentleman if this bill is not now put upon its passage, whether he will vote for it?

Mr. EVANS. I do not know. It is not sufficient to say that the bill is precisely like another bill. To judge of its full character, we must, for instance, know whether the road is located upon a proper route. There are divers circumstances to be looked into, besides the frame of the bill. I am not going to have this made a test question with me.

Mr. JOHNSON. May I ask the gentleman from Maryland [Mr. EVANS] if he ever voted for one of these bills?

Mr. EVANS. I voted against referring the Missouri bill to the Committee of the Whole.

Mr. JOHNSON. I am gratified to know it, and I should be exceedingly gratified to accommodate the gentleman still further, but I never saw the time when we could accommodate everybody in this House. We must have some fixed determination, and the friends of these measures now ask to know of this House something definite, as to what its temper is in regard to passing bills granting lands for the construction of railroads.

Mr. CAMPBELL, of Illinois. If the gentleman will allow me—

Mr. JOHNSON. I will yield to the gentleman to make an explanation.

Mr. CAMPBELL. I merely desire to say, that if my vote upon this bill is to be considered as a vote upon all the bills of this character which are to be presented to this House, notwithstanding I am favorable to it, and to the principle which it asserts, I must vote against this bill. I desire that every bill of that character shall stand upon its own merits; and I am opposed to any combination being formed in this House which will pass a bill that has no merits in it.

Mr. JOHNSON. I cannot let my friend make a speech on this bill. He must pardon me. He knows I would accommodate him as far, if not further than anybody else.

Mr. CAMPBELL. I merely wish to explain my own action upon this bill; but if the gentleman will not allow me, of course I will not press the matter.

Mr. JOHNSON. Go ahead.

Mr. CAMPBELL. I said, sir, that I was in favor of this system of making grants, which is fast settling down into a policy of this Government. But there are local objections to grants which are asked for by certain bills which will be presented to this House, and which I desire to explain when they come up; and if I am prevented from making such explanation, by a combination of votes that is to sustain the previous question upon me, I must be excused if I resist it with all the power and ability I possess.

Mr. JOHNSON. (resuming.) Now, I give notice that I cannot yield any more.

Mr. FOWLER. Will the gentleman allow me one moment for a question or two. I know he will.

Mr. JOHNSON. How can I refuse that reverend gentleman? [Laughter.]

Mr. FOWLER. The gentleman from Arkansas [Mr. JOHNSON] asks my friend here [Mr. EVANS] if he ever voted for one of these bills? Now, I wish to put a question to the gentleman: Has he ever voted for a bill to parcel out a portion of the public lands to the old States?

Mr. JOHNSON. No, sir; and never will. [Laughter.]

Mr. FOWLER. Another question. It is well known that the old States are willing to give liberally to the new States. I am willing to vote for these bills, provided we can have something like reciprocity upon the part of the gentlemen from the new States. [Laughter.]

Another question I wish to ask. Will the gentleman from Arkansas [Mr. JOHNSON] go for some of these propositions to give to the old States, for internal improvements, a portion of the public lands?

Mr. JOHNSON. Well, sir, I have seen one proposition, in the hands of gentlemen, that I would support; but I do not believe that it can ever get into this House under favorable circumstances. But this is irrelevant, and I do not know that I should speak of it at all.

Mr. FOWLER. Will the gentleman tell us which proposition that is?

Mr. JOHNSON. It is one, the paternity of which is not claimed by any member of this House, but it goes on and provides for a given amount to each State, in proportion to her Representatives and Senators.

Mr. FOWLER. I say in reply, that I am not tenacious in regard to any one of these bills in particular, but I am tenacious of the principle, and I would vote for these bills on the ground that we should have what belongs to the whole country.

Mr. JOHNSON. Well, the course I propose to take is entirely an inoffensive one. We wish to know if the House has settled, in their own mind, whether they will pass this class of bills or not; at least, to hear whether they will pass them now or not. If they refuse to sustain the previous question, which I shall call for in conclusion, upon the motion to put the bill upon its passage, then it is plain that this bill must take the course of others, and go to the Committee of the Whole on the state of the Union, and thus lead to debate, to continue, it is impossible to tell how long.

It would seem to indicate, if that course is admitted after so much debate has already been had, that it is merely the old-fashioned method of accomplishing the defeat of a measure.

Mr. SEYMOUR, of New York. One word. When the gentleman from Arkansas [Mr. JOHN-

SON] speaks of the debate which bills of this character have had in this House, I would ask him if we have ever been in Committee of the Whole upon any one of these bills? or whether we have had anything like a free and full discussion on the merits of a bill of this character? And I say this because the gentleman intimates that he shall regard the vote which may be given upon the motion which he is about to make, as a test vote upon this subject. For my part, I have felt that there are merits in some of these bills, and I have been willing to go into an examination of them in the Committee of the Whole, where we examine all bills of an important character, and where we ought to examine this one.

Mr. JOHNSON. I must get through with the few remarks I want to make. This bill is of the same class with all the others that are before this House, and which originated in this House. They have debated the subject of the public lands, as every gentleman is fully aware; they have debated one fixed system, and in one fixed set of words, such as compose these bills. If there is a gentleman in this Hall who is not well acquainted with these bills, it is solely because he has not given to the subject any particular attention, and could not have felt any interest in it. His vote is fixed, and his mind is made up.

Mr. MEACHAM, (interrupting.) You have declared that you are about to call the previous question, to close debate, and now you cast reflections—

Mr. JOHNSON. I have not cast reflections upon my friend from Vermont, [Mr. MEACHAM,] or anybody else.

Mr. MEACHAM, (interrupting.) You say we never examined these bills, because we would not, and you know that they have not been printed. We have not had any chance to do it.

Mr. JOHNSON. I would be glad to accommodate my friend from Vermont, [Mr. MEACHAM.] I have not cast any reflections. I disclaim any such intention; and if the House considers that I did, the gentleman will take from me a most humble apology in the face of the nation. [Laughter.]

I want a vote upon the motion, and if it is not agreed to, I shall not regard it as the death of the bill, but as an indisposition of the House to pass it. If the House will not sustain the previous question, I take it for granted that they intend to refer it, and therefore we will have to refer all of this class that come up hereafter.

The Missouri bill, as I understand, was discussed nearly a month. The minds of the House ought to be made up, if they are not. I therefore move to put this bill upon its passage, and call for the previous question; and I call upon the friends of railroad bills to sustain it.

Mr. POLK. I believe the morning hour has expired.

The SPEAKER. It has not quite expired.

Mr. POLK. Whether it has expired or not, I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. In the event that the House determine to go into the Committee of the Whole, where will this bill go?

Mr. BISSELL. To the tomb of the Capulets.

The SPEAKER. It will go upon the Speaker's table, to come up in the fifth class of cases.

Mr. COBB. I would ask, if it is the pleasure of the House to go into the Committee of the Whole, whether—

Mr. HARRIS, of Tennessee. Is that question debatable?

The SPEAKER. It is not.

Mr. COBB. A gentleman has a right to appeal to the House for unanimous consent. I would say to the gentleman from Arkansas, [Mr. JOHNSON,] as this bill will go upon the Speaker's table, provided the House determine to go into the Committee of the Whole, if he will move to refer it, so that it may come up to-morrow, I will be much obliged to him.

Mr. JOHNSON. With the consent of the House, I will withdraw the motion for the previous question, and move to refer the bill to the Committee of the Whole on the state of the Union.

Mr. POLK. I wish the gentleman to move to recommit the bill to the Committee of the Whole on the state of the Union; and I will, therefore, withdraw my motion for the purpose of allowing him to do so.

Mr. JOHNSON. I withdraw the call for the previous question, and move to refer the bill to the Committee of the Whole on the state of the Union.

Mr. FLORENCE. Let the bill be also printed.

Mr. ORR. I renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair wishes to make an inquiry. Did either the gentlemen from Alabama, or Arkansas move to commit the bill? The Chair heard no such motion, but the Clerk has made the question to the Chair.

Mr. JOHNSON, of Arkansas. I made that motion. I withdrew my call for the previous question, and moved that the bill be committed to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman cannot make that motion without the consent of the House. The motion of the gentleman from South Carolina supersedes it.

Mr. JOHNSON. My motion was made prior to the motion of the gentleman from South Carolina.

The SPEAKER. The Chair did not hear it. The motion was then entered.

#### THE HOMESTEAD BILL.

The question was then taken on the motion of the gentleman from South Carolina, [Mr. ORR,] that the House resolve itself into the Committee of the Whole on the state of the Union; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union upon the special order, the homestead bill, (Mr. HIBBARD in the chair.)

Mr. WILLIAMS being entitled to the floor, addressed the committee during an hour in regard to the earlier history of the slavery agitation, in which he showed that he had uniformly voted with General W. O. Butler against the reception of abolition petitions. He traced the history of the agitation down to the present time, and maintained that whatever might have been charged against Mr. Fillmore's legislative course on this question, he has been conservative in regard to it since his advancement to the Executive chair. He touched upon the subject of the Presidency and presidential candidates, and declared his intention to vote for no man for that office who was not sound on the slavery question—who was not in favor of the compromise measures passed by the last Congress. He did not believe that General Scott had yet given any expression in favor of those measures; and however that might be, he did not believe that if he were nominated for the Presidency, that he could possibly carry the State of Tennessee.

Mr. INGERSOLL next obtained the floor, and spoke an hour in defining the position of the Democratic party in Connecticut on the slavery question; maintaining that it occupied the conservative and constitutional ground. He criticised and commented, with some severity, upon the course of the representative from Massachusetts, [Mr. RANTOL,] upon that question. He touched upon the question of slavery in States and Territories of the Union, and denied that Congress had any power, under the Constitution, to interfere with it. He alluded to the doctrine of secession, and viewed it—whether as a constitutional or revolutionary right—as a mere abstraction, and as such, would not discuss it; but in a practical view, he questioned the power of the Federal Government to force a State to submission when once determined upon secession. He examined the question of slavery as it came up in the debates of the convention which formed the Federal Constitution, and showed that the New England States voted for the continuation of the slave trade, while Virginia voted in the negative. He argued that the course of the Abolitionists of the North had brought the Union on the verge of dissolution. He alluded to the conduct of England, in connection with the abolition question, and showed that her policy had been, after slavery had become unprofitable to her in the West Indies, to abolish it there, and to stimulate the agitation of the question here, to compass her designs against the peace and prosperity of this country. To strengthen his position, he called attention to the course of Thompson, the member of Parliament, who recently traversed the East, making abolition speeches. He alluded to

the condition of the poor of England, and particularly in the district which Thompson represented in Parliament, and in Ireland; and showed, by way of contrast, that their condition was more wretched than any portion of the negro population in the United States. He concluded by expressing the belief that the people of Connecticut were sound on the compromise question; and read the resolutions of a public meeting held in his own district, in favor of sustaining the compromise measures, and against the agitation of the slavery question in any form.

Mr. FOWLER then occupied the floor an hour in defining the position of Massachusetts on the slavery question, contending that the great mass of the people there were opposed to the extension of slavery; and that they would at the proper time make it apparent. He commented upon the nature of the Federal Government, maintaining that its ultimate purpose was the enfranchisement of man. He discussed the policy of making grants from the public domain. He was in favor of making generous grants to the new States for the purposes of education and internal improvements; but upon a principle of reciprocity, he should insist that like grants be made to the old States in proportion to their representative population. He believed that it would be a wise policy also to make grants to actual settlers, for purposes of cultivation. In such form, he would support the bill. He touched upon the tariff question, and advocated the doctrine of protection to the labor of this country. In conclusion, he touched upon the subject of our foreign policy in regard to the doctrine of intervention, and saw no reason why we should change it. He also alluded to the rumor that a fleet had been sent to Japan to force her into commercial relations with this country. To such a policy he was opposed. He would be gratified at the extension of our commerce, but not by compulsory process; and should vote against all appropriations for naval purposes, until he was satisfied that this rumor was unfounded.

[See Appendix for these speeches.]

Mr. PORTER next obtained the floor, but yielded to

Mr. EVANS, who moved that the committee rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman of the committee reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 7, for the promotion of agriculture, and for other purposes, and had come to no conclusion thereon.

Mr. MILLSON moved that the House adjourn; which motion was agreed to.

So the House adjourned to meet to-morrow at twelve o'clock, m.

#### NOTICE OF BILLS.

Mr. STRATTON gave notice of his intention to ask leave to introduce a bill for the relief of John L. Cooper.

Mr. BARCOCK gave notice of his intention to ask leave to introduce a bill to provide for the erection of a marine hospital at Oswego, New York.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MINER: The memorial of Levis Whitlock, asking remuneration from Congress for having discovered a remedy for the "potato rot."

Also, the memorial of Benjamin Nixon and 54 other citizens of Pittsford, Vermont, praying that the public lands may be granted to actual settlers.

By Mr. MOREHEAD: The memorial of Isaac Thacker and others, citizens of North Carolina, protesting against an extension of the Woodworth patent.

By Mr. JONES, of Tennessee: The petition of H. C. Holman and others, citizens of Lincoln county, for the establishment of a post route from Fayetteville, Lincoln county, Tennessee, to Tullahoma, in Coffee county, of said State.

By Mr. GORMAN: The memorial of J. T. Moffatt and others, praying for a tri-weekly post route between Terre Haute, Indiana, and Bloomington.

Also, the memorial of R. L. Lackridge, assistant marshal of Sullivan county, Indiana, praying additional compensation for taking the census.

By Mr. FITCH: The petition of Henry Johnson, asking Congress to take into consideration a machine of his invention for recording the years and days.

By Mr. KING, of Rhode Island: The memorial of George W. Greene, asking the assistance of Congress for the publication of the correspondence and papers of Major General Nathaniel Greene, by subscribing for a limited number of copies thereof.

By Mr. ANDREWS: The petition of Thomas Frazer, praying for a pension on account of injuries received while in the military service in the war of 1812.

Also, the petition of John Glidden and others, praying for the passage of an act prohibiting the carriage of freight and passengers for hire, by Government steam-vessels.

By Mr. FITCH: The remonstrance of John Kistler, John Reynolds, and other citizens of White county, Indiana, against a renewal of the Woodworth patent.

By Mr. FOWLER: The remonstrance of Rufus Clapp, James S. Briggs, and 110 others, citizens of Plymouth county, Massachusetts, against the reestablishment of flogging in the Navy.

By Mr. SIBLEY: The petition of J. W. North, Isaac Atwater, and 63 others, citizens of Minnesota Territory, praying for a reduction and modification in the rates of postage on newspapers and periodicals, so as to facilitate the diffusion of knowledge throughout the Union.

By Mr. COTTMAN: The petition of George Handy, John Dennis, Robert E. Wilkins, Levin Woolford, and 90 others, citizens of Somerset county, Maryland, praying Congress to pass an act to establish a port of entry for licensing vessels, at Deal's Island, in said county and State.

By Mr. MACE: The petition of J. S. McClelland, John Brown, and others, asking for a post route from Michigantown, Clinton county, Indiana, to La Fayette, via Frankfort, Jefferson, Winslow's Mills, and Dayton.

By Mr. PENNIMAN: The memorial of David Smart and 128 others, citizens of Michigan, asking a grant of land to aid in the construction of the Oakland and Ottawa Railroad.

By Mr. ROBBINS: The petition of A. M. Nixon, Patrick M. Glinchey, and 406 others, citizens of Manayunk, Philadelphia county, showing that the present depressed condition of their manufacturing and mechanical interest is caused by the operation of the present tariff laws, and they earnestly recommend a modification of said laws, so as to promote the general interests of the country at large. They state that, in the present tariff of duties, in many instances, the raw material pays a higher duty than articles manufactured from the same material. They also recommend that dye stuffs be admitted duty free.

By Mr. HENN: The petition of James A. Cunningham and 52 others, citizens of Iowa, asking a grant of land to aid in the construction of a railroad from Burlington to the Missouri river.

Also, the petition of A. R. Sparks and 16 others, upon the same subject.

Also, the petition of John Linden and 27 others, upon the same subject.

Also, the petition of William J. Cooper and 9 others, for the same object.

Also, the petition of C. C. Tinsley and 7 others, for a like object.

#### IN SENATE.

THURSDAY, April 1, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, in answer to a resolution of the Senate calling for information in relation to the expediency of repealing or modifying the act of June 30, 1834, concerning tonnage duty on Spanish vessels trading between the United States and the islands of Cuba and Porto Rico; which was referred to the Committee on Commerce, and ordered to be printed.

#### PETITIONS, ETC.

Mr. HALE presented a petition of citizens of Hillsborough county, New Hampshire, remonstrating against the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. SHIELDS presented the remonstrance of A. Schartz and other citizens of Illinois against the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of Illinois, remonstrating against the extension of the patent of A. and Z. Parker for improvements in water-wheels; which was referred to the Committee on Patents and the Patent Office.

Mr. RUSK presented the memorial of John W. Phillips, praying indemnity for a vessel destroyed by the United States troops during the late war with Mexico; which was referred to the Committee of Claims.

Mr. FELCH presented documents in relation to the claim of Christopher Knowlton to a pension for services during the last war with Great Britain; which were referred to the Committee on Pensions.

Mr. DAWSON presented resolutions of the Legislature of the Territory of New Mexico, instructing their Delegate in Congress to procure the passage of a law authorizing two regiments to be raised for the defense of said Territory, and the establishment of arsenals therein; which were referred to the Committee on Military Affairs.

Mr. FISH presented three petitions of citizens of Buffalo, asking Congress to pass laws securing a reciprocity of trade between this country and Canada; which were referred to the Committee on Finance.

Also, a petition of citizens of Buffalo, New York, praying the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. DODGE, of Wisconsin, presented the memorial of D. M. Smith, praying to be allowed the privilege of selecting pine timber lands for educational purposes on certain conditions; which was referred to the Committee on Public Lands.

Mr. MALLORY presented the petition of Charles G. Merchant, an officer of the Army, praying the settlement of his accounts in the Commissary Department on just and equitable principles; which was referred to the Committee on Military Affairs.

Mr. SOULE presented resolutions of the Legislature of Louisiana, in favor of the construction of harbors, and the placing of buoys, &c., on the mail route from Mobile to New Orleans; which was referred to the Committee on the Post Office and Post Roads.

Mr. JONES, of Iowa, presented a petition of citizens of Lee county, Iowa, praying the appointment of a commissioner, to settle claims to land in the Sac and Fox Half-breed reservation in that State; which was referred to the Committee on Public Lands.

#### REPORTS FROM STANDING COMMITTEES.

Mr. FELCH, from the Committee on Public Lands, reported a bill to authorize the sale of the reserved cedar lands in Clarke county, Alabama; which was read and passed to the second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to which was referred the petition of Thomas J. Page, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

Mr. FOOT, from the Committee on Pensions, to which was referred the petition of Eliza Ann Ellison, only child and heir of David Lund, praying a pension for the services of her father in the last war with Great Britain, submitted an adverse report thereon.

#### RAILROAD TO THE PACIFIC.

Mr. RUSK. The Committee on the Post Office and Post Roads, to which was referred the memorial of Asa Whitney, asking a grant of land to enable him to construct a railroad to the Pacific ocean, have had the same under consideration, and a majority of the committee have instructed me to report a bill. Although I do not fully concur in the bill which I am instructed to report—the principal objection which I have to it is, that I believe a bill more likely to receive the sanction of Congress, and effect the object of building the road, could be framed—after the bill is printed it is my purpose to ask the attention of the Senate to it at an early day, as a matter of vast importance to the whole country, and more especially to the frontier section located upon the Pacific ocean, at which time it is possible I may offer some amendments.

The bill was read a first time by its title and ordered to a second reading. It is a bill to set apart and sell to Asa Whitney, of New York, a portion of the public lands, to enable him to construct a railroad from Lake Michigan or the Mississippi river to the Pacific ocean; also, to set apart and sell to Samuel L. Selden, Robert T. Scott, and their associates, a portion of the public lands, to enable them to construct a railroad from a point on the west bank of the Mississippi river, not north of the neighborhood of Memphis, Tennessee; to run thence to the Rio del Norte and the Pacific ocean, at Santiago or San Francisco, or other point suitable for the purpose.

Mr. GWIN. I give notice that when that bill comes up for consideration, I shall move to strike out the name of Asa Whitney, and of every other individual named in it.

Mr. RUSK. There is an error in the title of the bill. The latter part of the bill provides for a route south, and has no names in it at all.

#### ADDITIONAL MEMBER OF A COMMITTEE.

Mr. BRODHEAD. I desire, if it is in accordance with the rules of the Senate, to ask that an additional member be appointed to the Committee of Claims, in consequence of the protracted illness and consequent absence of the Senator from Indiana, [Mr. WHITCOMB,] who is a member of that committee. I do not know what the practice or usage of the Senate, in a case of this kind, has



been; but there is a great deal of business before the committee, and the illness of the honorable Senator from Indiana—which we all so much regret—prevents him from serving upon it. If it is in accordance with the practice of the Senate, and it can be done with propriety, I would be greatly pleased; and I am directed by the committee to express their desire for it, if the Senate would give us an additional member. If in order, therefore, I move that an additional member be appointed for the Committee of Claims.

The PRESIDENT. It is in the power of the Senate, at any time, to increase the number of which a committee is composed.

The motion was agreed to.

Mr. BRODHEAD. I move that the Chair appoint the additional member.

The PRESIDENT. It requires unanimous consent.

No objection being made, Mr. ADAMS was appointed by the Chair.

#### NOTICES OF BILLS.

Mr. HALE gave notice of his intention to ask leave to introduce a joint resolution for the relief of those mechanics who have come to the city of Washington for the purpose of building the extension to the Capitol on invitation of the officers of the Government of the United States, and who have been for a long time out of work by the neglect of Congress to make appropriations therefor.

Mr. MALLORY gave notice of his intention to ask leave to introduce a bill to grant preemption rights to lands on the Florida Keys.

#### BILLS INTRODUCED.

Mr. FELCH, agreeably to previous notice, asked and obtained leave to introduce a bill to grant preemption rights to certain settlers on an island called the Grand Cheniere, in the southwestern land district in Louisiana, and for other purposes; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. SHIELDS, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of Thomas Flanagan; which was read a first and second time by its title, and referred to the Committee on Pensions.

#### USE OF CONGRESSIONAL LIBRARY BY DISTRICT JUDGES.

Mr. RHETT asked and obtained the unanimous consent of the Senate to introduce a joint resolution authorizing the President of the Senate and Speaker of the House of Representatives to grant the use of the books in the Library of Congress to the justices of the circuit court and criminal courts of the United States for the District of Columbia.

The joint resolution was read a first and second time. It provides that the President of the Senate and Speaker of the House of Representatives, for the time being, be authorized to grant the use of the books in the Library of Congress to said justices on the same terms, conditions, and restrictions that members of Congress are allowed to use them.

Mr. RHETT. I would merely say that I have consulted with several gentlemen, members both of this and the other House, and I think there is no objection to imparting to the justices of the circuit and criminal courts of this District the privilege of our Library. It is now extended to the judges who are here, as well as to the Solicitor of the Treasury, to the heads of departments and bureaus. If there is no objection, I hope the resolution will now be read a third time and passed.

The Senate proceeded to consider the joint resolution as in Committee of the Whole.

Mr. HALE. I want to suggest to the Senator that, as the resolution stands, it will have to be renewed every Congress by the President and Speaker; whereas the privilege might be granted permanently.

Mr. RHETT. The Senator will find by examining the resolution that it is intended to be permanent; the leave is to be granted from time to time.

Mr. HALE. That is my objection. I wanted to know why we should not make it permanent.

The PRESIDENT. It does provide for the privilege being permanent.

Mr. CHASE. It seems to me that this resolu-

tion ought to go to the Committee on the Judiciary, and receive their consideration.

Mr. RHETT. Committee on the Library.

Mr. CHASE. Well, I have no objection to that reference. I move to refer it to the Committee on the Library.

The motion was agreed to.

#### SALARIES OF DISTRICT JUDGES.

The Senate proceeded to consider the following resolution, which was submitted by Mr. CHASE, on March 30:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of making the salary of each judge of a district court of the United States equal to that of any associate justice of the supreme court of the State in which the district court may be established.

Mr. FISH. I would suggest to the honorable Senator from Ohio to strike out the word "associate." In the State of New York we have no associate justice of the supreme court; they are all justices. Our superior court is one of local jurisdiction. I presume the Senator intends the highest court in the State.

Mr. CHASE. Yes, sir.

Mr. SHIELDS. That is also the case in several of the States. In my State, the oldest judge acts as chief justice, and I believe it is so in several of the States. I would suggest that the alteration which is named should be made.

Mr. RHETT. It is the same thing in South Carolina. Judges below sometimes act in a higher court. They are judges of appeal as well as of circuits. Therefore the resolution of the Senator from Ohio would not touch our State at all.

Mr. BORLAND. I do not think it makes a great deal of difference as to the wording of the resolution now. It will be a matter for the Judiciary Committee to consider. They are instructed to inquire into the expediency of doing what is named in the resolution. States differ very much as to their judges. In my State we have three judges of the supreme court; one is called the chief justice, the other associates; yet the salary of all is alike. You will find hardly any two States agreeing in that respect. This will be a matter for the consideration of the Judiciary Committee; and I do not see that it will make much difference as to how the resolution is worded.

Mr. BADGER. We have nearly the same case in North Carolina. Our supreme court has three judges, who are elected by the Legislature. They are elected as judges of the supreme court; and they select from among themselves the one who is to be called the chief justice.

Mr. CHASE. I attach no especial consequence to the precise wording of the resolution. It is merely one of inquiry, and of course was worded with no special design but to refer the subject to the Committee on the Judiciary. That committee will undoubtedly take into consideration all the circumstances which have been presented by different Senators, and will probably, as the Senator from Maine, [Mr. BRADBURY,] who is a member of the committee, suggested the other day, adopt some general rule. The object of the resolution is to direct their attention to the establishment of a general rule. That may be the consequence, or it may not be the consequence. The resolution can do no harm, as it is simply one of inquiry. I trust it will pass; it merely gives the subject to the committee.

The resolution was adopted.

#### ADDITIONAL COMMITTEE CLERK.

Mr. DOWNS submitted the following resolution for consideration:

*Resolved*, That the Committee on the Judiciary be authorized to appoint a clerk.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed a bill entitled "An act to amend an act entitled 'An act providing for the sale of certain lands in the States of Ohio and Michigan, ceded by the Wyandott tribe of Indians, and for other purposes,' approved March 3, 1843," which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### BILLS PASSED.

The following engrossed bills were read a third time and passed:

An act to provide for a tri-monthly mail from

New Orleans to Vera Cruz, via Tampico, and back, in steam-vessels; and

An act to change the name of Joseph Lewis Brees, a midshipman in the Navy of the United States.

#### EXPEDITION TO JAPAN.

The Senate proceeded to the consideration of the following resolution, offered by Mr. BORLAND on the previous day:

*Resolved*, That the Secretary of the Navy be directed to communicate to the Senate the object of the naval expedition recently ordered into the Indian ocean, and particularly to the coast of Japan, and copies of any instructions that have been given to the commander of that expedition.

Mr. BORLAND. At the suggestion of Senators, I desire to amend the resolution in one or two respects. In the first place, I propose to amend it by striking out the words "Secretary of the Navy be directed," and insert "President of the United States be requested;" and at the conclusion, to add the words "if not incompatible with the public service." The resolution, as I propose to amend it, will then read:

*Resolved*, That the President of the United States be requested to communicate to the Senate the object of the naval expedition recently ordered into the Indian ocean, and particularly to the coast of Japan, and copies of any of the instructions that may have been given to the commander of the expedition, if not incompatible with the public service.

The amendments were agreed to.

Mr. MANGUM. I very much question the policy of adopting this resolution at all. As to the latter portion of it, including the amendment which has just been adopted, I think it tends to make it more exceptionable. Suppose the Navy Department should be called upon for all these instructions, and the answer should be, that to furnish them was thought, by the President, to be incompatible with the public service, would it not produce the impression on the public mind that the expedition is a hostile one? I think so. I apprehend that we all perfectly understand it, and what may be its object. I suppose the great leading object is to extend the commercial relations of the United States. It is perfectly well known to every gentleman who has kept his eye upon this subject, that when we have had a vessel wrecked on the coast of Japan, the sailors and officers have been treated in a most extraordinary and barbarous manner. Now, sir, if conciliatory measures shall not change this course of practice, I will say that I would like to see ten times the force sent there, and then a few of what are called "American remonstrances."

Sir, you have to deal with barbarians as barbarians. These people, who are isolated from the world, not only socially but politically, are not expected to be regulated by the motives that govern the civilized portion of mankind. I think it a very laudable object to endeavor to extend our commercial intercourse so far as we can; and in doing so, I think the exhibition of our power there will command respect, and that is what I think this resolution will not do. I think it will require no great stretch of confidence to leave this matter to the proper Department—the Executive portion of our Government.

To be sure, we may gratify an idle curiosity by getting some report, and having a very well-written document from the Department displayed here before the Senate, and published to the world; but I do not see how it will advance the interests of the Government at all. As surely as the Executive shall reply that it is supposed to be incompatible with the public interests to give the information that is asked for, so surely it will be set down by every antagonistic paper in the country as an open act of war, as a design to make warlike aggressions upon an innocent people. I doubt very much the policy of the measure, and I can have as little feeling upon a question of this sort as to the manner in which it may affect the parties in this country, as any gentleman who may address you on this subject. I think they are pretty much dislocated and broken in the middle now. The truth is, I am gradually becoming pretty much an "outsider;" but I will give a proper and constitutional degree of confidence to any administration, as I have to the last, and as I hope to do cheerfully while I have the honor of occupying a seat on this floor, humble as I am. I know not who is the mover of this resolution.

Mr. BADGER. The Senator from Arkansas.

Mr. MANGUM. I hope the mover of it will

let it lie over a few days, that we may have a little further opportunity to consider it, for really I have no very fixed and decisive views upon the subject. In the suggestion which I have thus made somewhat hastily, I have been influenced exclusively by a regard to the commercial interests of the country.

Again, suppose the answer to this resolution should be, that it is not incompatible with the public service to give the information? will that not put upon the *qui vive* the whole of the commercial nations of Europe who are our competitors over the globe? Will they not be ready to thwart any attempt on our part, if we give such an emphasis to this project? The embroilments which may result from it will be very dangerous in many aspects, besides the thwarting of our commercial views.

However, we, the men of America, care not for danger. That is the national spirit, and I fear that spirit will become so strong, ultimately, that it will seek danger in that Quixotic spirit which controlled the illustrious Spaniard in seeking it—for the purpose of setting all mankind right, according to our notions.

I hope the honorable Senator will consent to let it go over till a future day. I should like to know more about it. I doubt extremely the policy of the measure. All matters connected with the policy of the country cannot be touched with too much caution and too much care. Even words, sounds, mere air that vanishes, and is not remembered even for a day, may very often produce a sufficient impression upon the world to lead to results of the most disastrous character. This may do it much more. It seems to me that it is obvious to every child, even from the first-form up to any one at the head of a college, that our destiny, if we guard properly our resources at home, our own power, our own institutions, are at last to ascend to the very apex of human grandeur. And as surely as we shall dissipate our forces upon every wild, outlandish, and distant country, and distant interest, so surely we shall at last be regarded as having failed to rise to that height.

I regard this expedition as purely commercial in its character. It may, by possibility, involve something beyond that. Suppose our naval force should be assailed in those eastern seas?—which I think is no improbable supposition—it is not the character of the American sailor to receive a blow without returning it. And if we had fifty ships-of-the-line there, and one of them should be treated inhospitably, it would give more emphasis to our power to send a few American remonstrances, as an exhibition of American power, than all the diplomacy of a Talleyrand could effect, or even that which has been said to control the affairs of the United States. However, I am pretty indifferent about the matter; but I would prefer that it should lie over for the present.

Mr. BORLAND. I certainly did not expect any opposition to this resolution when I offered it; and I do not think, that since I have served in this body, I have heard opposition to such a resolution. I doubt whether, in the history of the proceedings of the Senate, a resolution asking of the Executive Department of the Government information on a matter of importance to the public service, has ever been rejected or opposed. I confess my great surprise at the opposition which has now been made. No one, it seems to me, could have inferred from the terms of the resolution itself, that any reflection was intended to be cast upon the conduct of the President of the United States, or to raise even the suggestion that he was doing anything wrong in sending out this expedition.

Mr. MANGUM. I did not allege anything of the kind.

Mr. BORLAND. Such certainly was not my intention in offering the resolution. I did not charge, nor intimate, nor believe, that injury was intended, or likely to result to the country from this expedition. If any such impression goes out in connection with it, it will surely be solely attributable to the complexion that the Senator from North Carolina, as a friend of the Administration, has given to it. He has gone on to suppose that such and such might be the state of affairs. Sir, I have supposed no such thing. I saw announced in the public newspapers, and find it stated in the House of Representatives by the chairman of the Committee on Naval Affairs, that

a large and important naval expedition was about to sail for the Indian Ocean; that it was to sail yesterday. If I had heard of this expedition earlier, I should have offered my resolution in time to obtain the information before the time of sailing arrived. But I saw this announcement by the chairman of the Committee of Naval Affairs of the House of Representatives the day before yesterday; and I came here immediately, and offered my resolution.

Now, Mr. President, I may be wrong in the views which have governed me in this; but I have always held this, even before I had a seat on this floor, and that opinion has been confirmed since I have been here, that it is not only not necessary, but that it is highly improper that any act of this Government, or of any branch of it, either legislative or executive, should be done in secrecy or concealment from the public eye. I do not care what the purpose may be; I do not care whether the act relate to our commercial, or diplomatic, or any other interest, or whether it be our action here on the nominations of the President for office; I have always believed that it was proper that all these things should take place in open daylight. It might have done very well at a certain period of the world's history, or may now do upon the European continent, for all diplomacy to be carried on secretly. The history of the several countries of Europe shows that it matters but very little to the people, who have no voice in the Government, whether they serve one master or another. Nor are their real interests or condition affected by arrangements which those who govern them may enter into. It might have done very well, and it may do now, for the monarchs of those countries to operate in secret, and carry out their own objects without the knowledge, and without regard to the interests of the people; lest some of their brethren who wear crowns upon their heads should take occasion to intervene and defeat them. But, sir, here we have nothing of that kind. The people of the United States are the governors and the government. We are but their agents and representatives here, whether in the White House, at the other end of the avenue, or in either House of Congress; and I hold that we have no right to take any step whatever in any important respect affecting their interests, which, from the beginning to the end, and in all its parts, is not fairly before the people. I do not believe that any injury can result to the public interest, by a free and full exposition of all that we do, and of the motives with which it is done.

I have no design to assail the Administration, or to charge it with anything wrong; certainly not to intimate that I believe it is about to commit an act to the injury of the country, either purposely, or as the natural consequences of the act now in question. But we are responsible, to a certain extent, for the conduct of every department of this Government. We are told every day—and were told here only a few days since by the Senator from North Carolina himself—that whatever of extravagance and impropriety had been practiced by this Government, even in its Executive branch, was justly chargeable to the majority in the two Houses of Congress, and not to the President. Ay, sir, that we hold the purse-strings—the real means of control over all Government action, whether legislative or executive; and that if we failed in the duty of exercising this control, we, alone, were responsible. Sir, I agree with the Senator fully in this. I take his own position, and now ask him to stand upon it with me. He was right, sir; the responsibility of every act of this Government, whether done by Congress or by the Executive, rests on the shoulders of the majorities of the two Houses of Congress. As one of the majority, in this Senate, I am not only willing to take that responsibility, which is a fair and legitimate one, but I court it. The Senator from North Carolina, as a friend of the Administration, need not so anxiously seek to shift it from the President upon Congress. We are very willing—we are desirous to take it; and for that very reason, I offer the resolution: for, along with the responsibility for the President's acts, I want also information as to what those acts are. One is necessary to the other.

Hints have been thrown out by the friends of the Administration, as to the probable results of this expedition. Not only commerce and diplomacy, but war has been shadowed forth. If

these intimations are well founded, and the probable results are to be as important as we may expect from the responses of the oracles, surely, we ought to have more certain and definite information, in order to make preparation for them, and for their consequences—one of which last will be 'beyond all doubt, a heavy bill of expenses which will come upon us to pay.' And for this, however large it may make the appropriations, we are told, already, by the organ of the President, and by his friends on this floor, that we shall be held responsible before the country. Now, sir, if we are to be responsible for the consequences of an act, have we not a right—is it not our duty—to know what it is? If it be a proper act, in our estimation, to give it the proper 'material aid;' or, if to us it seems to be wrong, in order that we may exercise our legitimate authority to arrest and forbid it. These are my reasons for offering this resolution.

Mr. GWIN. I am entirely opposed to this resolution until I obtain some information as to the bearing it is intended to have upon the country. I think that if the Senator from Arkansas [Mr. BORLAND] will take into consideration the importance of the trade now going to the Pacific, he certainly will justify the Administration in sending an expedition to explore those seas. I will suppose a case, and then I think the Senator will see that it is important that these seas should be explored. Suppose that part of the instructions given to the commander of the fleet was to explore these seas for the purpose of finding an island in which coal might be obtained, in order that we might have a depot to supply vessels: is it proper to make it known to all the world, that some other power may go and take possession of it? But I will go further. Suppose that this expedition is intended to commence commercial relations with a people with whom we have no intercourse at present—for instance, such a people as the Japanese: is it proper that we should make such a design public, and especially to a certain nation in Europe, to enable them to interfere against us, and to keep up that monopoly which they now hold? I think it eminently proper that every movement of this kind which is peaceful in its character, and especially any movement, the object of which is to establish a depot in the Pacific—if that is part of the object of the expedition, and I do not know that it is—should be kept secret. I for one am willing that the Administration should send out such an expedition, the object of which is undoubtedly in relation to the commerce of the country; and I take it for granted that the Executive will not involve the country in those enormous expenses, fears of which are sometimes expressed by Senators upon this floor.

Mr. SHIELDS. I have recently received a letter from California which satisfies me that some expedition of this kind should go out forthwith; and I take this occasion to state that the writer, who is an officer in our service, states that some time ago they picked up about fifty Japanese who were wrecked on the coast of the Pacific, and that they are in California now, and are pining to return to their own country. I have this letter, and I am glad that I can bring this matter to the notice of the Administration. The people of California have no means of sending these men home, and there is something of apprehension on the part of merchant vessels to approach their coast. This officer begged that I would lay the matter, as quickly as possible, before the Department, hoping that if this expedition goes to Japan these men may accompany the expedition as an introduction. In my opinion this would be an excellent piece of policy, by which some advantage might be gained. But whether or not, it would certainly be an act of humanity to convey these men to their native land, provided we have any public vessels going there.

The Senator from California stated the truth when he said that the trade of Japan might become a matter of great importance to this country; and if we can open a peaceful intercourse with that country, I think it may be greatly to our advantage. I am, therefore, inclined to think that the resolution of the Senator from Arkansas, at this time, would have an injurious effect.

Mr. HALE. I am not in favor of passing this resolution, Mr. President, for I think it would imply a degree of vergency in the Senate to pass it, of which I should not like to see it guilty.

I think that if the President of the United States

or the Secretary of the Navy, were to answer us with candor and truth, without any diplomacy, preface, or apology, he would say this: "If you look at the Naval Register, gentlemen of the Senate, you will find it filled up with the names of sixty-eight captains, a majority of whom are waiting orders. Nearly one hundred commanders are in the same condition, 'waiting orders,' so are lieutenants, midshipmen, and passed-midshipmen innumerable. And you would find that you appropriate for the naval expenses about nine millions a year, which is about twenty-five or thirty thousand dollars a day, or about eight hundred thousand a month. It requires a great deal of ingenuity to devise ways and means to employ those officers and spend that money."

We cannot, Mr. President, keep these officers unemployed; and if you look to the report of the Secretary of the Navy, made this very session, it will be seen that he recommends the building of an additional number of small vessels for that most excellent, worthy, praiseworthy, and patriotic reason, that it will bring into employment a number of worthy lieutenants, who have now nothing to do. Now, when that is the situation of the Navy Department, to ask the President what is the object of sending this expedition to Japan, would be worse than idle. We have got these ships, and we have got these men; but we have nothing on earth for them to do. They are "waiting orders." We are paying them a higher compensation for their services than is paid by any other nation on earth to officers of the same grade; and it appears by the Register, furnished to you, that more than half of the two highest grades of officers are unemployed, and have been so for years. If we look about us, then, it is apparent that this is simply a means of employing some of the ships and some of the men, and of expending some of the millions that are appropriated daily for the Navy.

It is a worthy, a praiseworthy object. But the objection that I have to the resolution, if I have any at all, is, that I apprehend the President, if he were to answer as I should suppose he will be likely to answer, will give such an answer as he did when, having sent a portion of our troops down South, (perhaps, however, it would not be delicate to mention the circumstance, as it occurred when the Union was in danger,) application was made to know what the object was in sending the troops to a certain port—

Mr. CASS. Was the application made by Congress?

Mr. HALE. I do not recollect whether it was or not; but the President answered that he was Commander-in-Chief of the Army and Navy, and that he did not see fit to subject the reasons that influenced him to calls of this character. Now, I suppose it would be peculiarly decorous if the President were to say, in answer to this application, that "He did not see fit to subject the reasons that influenced him to calls of this kind."

Mr. RUSK. Will the Senator from New Hampshire inform me when the President returned such an answer? or when such a resolution of the Senate was sent to him?

Mr. HALE. I did not say that there ever was any such resolution of the Senate. I only go upon the newspaper reports. I believe such was the fact; that was the answer the President gave to a very respectable application: that he was the Commander-in-Chief, and that he did not see proper to answer the question. And, sir, I think he was very right; and should not be surprised if he were to say to the Senate, "You are a very wise set of gentlemen, and if you would confine yourselves to the discharge of your constitutional duties, and allow me to attend to mine, we would get on a great deal better."

There is no doubt that he might send such an answer; it would be perfectly constitutional. For that reason, I am not disposed to acquiesce in this resolution, and because it is a matter within the exclusive jurisdiction of the President, over whom we have no control, and to whom it would be improper and indecorous to send such a resolution. I think it is well that the expedition has been got up. I think that while we appropriate nine or ten millions a year for the naval establishment, and while we insist on keeping it filled up with twice as many officers as are wanted, and have to build ships to keep them in employ, it is a piece of querulousness we ought not to indulge in, to ask

the President why he has made arrangements to keep some of them in employment. Perhaps this may be of a piece with one of the most gigantic humbugs for which an appropriation was ever made by any nation on earth; I refer to the "Exploring Expedition," the results of which we have not got at yet, and the accounts for which are not yet settled. It may have been a very good thing for the book-makers, and picture makers, and printers; but for the country, it was certainly the most gigantic humbug ever undertaken.

Whether this is, or is not so, it is within the jurisdiction and sole control of the President, and we ought not to interfere.

Mr. BORLAND. My purpose seems to be very strangely and very greatly misapprehended. I am not opposed to this expedition, and I have not uttered a word against it. I admit that all that the Senators from California and from Illinois have suggested in regard to its probable value and importance may be true. I know nothing to the contrary. I am not denying that value or that importance, for I do not know anything about them. And it is because I do not know that I propose this resolution of inquiry to enable me to know. If, as has been suggested, the object of the expedition be to establish new commercial relations for our country in the far East, or if, as has been hinted here, it is likely to involve us in warlike collision with another nation, surely it is not only our right, but our duty, to know all about it. Our connection with it, and our duties in consequence of it, must be as close and as important and as necessary as those of the President can be. Why, then, conceal its character and its objects from us? Sir, I am always suspicious of secrecy and concealment. If a thing be good, it need not fear the light. If it be bad, the welfare of the country demands that it should be exposed to view. I have deemed it proper to call for this information, because I consider it necessary to enable us faithfully and efficiently to discharge our duties.

As to the remarks of the Senator from New Hampshire, [Mr. HALE,] if I could regard him, in giving utterance to them, as the representative of the President of the United States, I might be disposed to give them a serious response. But as no such call as he has spoken of has ever been made by either House of Congress—

Mr. HALE. I did not say that such a call was made by either House of Congress.

Mr. BORLAND. Nor if any such call had been made would the President have returned such an answer as the honorable Senator from New Hampshire has suggested. Our position would, indeed, be a strange one—would require, indeed, something more from us than a "resolution of inquiry," if to our call the President should ever undertake to say to us, "I am Commander-in-Chief of the Army and Navy, and exercise my authority independent of Congress." But, sir, no President ever has assumed, or ever will assume, any such position. We have not come to that yet, and we never will come to it. Such an answer, were it possible, which it is not, would find us in doubt how to act. We have the power, and we would exercise it, too, to compel an answer in conformity to the imperative and reciprocal obligations of every department of this Government. But, sir, on this occasion, at least, I cannot recognize the Senator from New Hampshire as the representative of the President. No, sir, the President, whatever else he may think or do, neither has assumed, nor will assume, any such position as that; and no such answer either can or will come from him to any call of the Senate. I would ask of him nothing which our right and duty did not warrant, and doubt not his answer would be in accordance alike with duty and propriety.

Mr. BADGER. The Senator from Arkansas says that there ought to be nothing secret in the Government; that the people of the United States are the sovereigns and governors of the country; that the affairs and transactions of the Government are theirs; that the interests and effects are theirs; and that we are but their agents in managing and carrying on this Government by them and for their benefit; and that, therefore, all the transactions of this Government, whether in the executive or legislative branches of it, should be always open to the public inspection, that the people may have an opportunity of seeing and under-

standing all measures in their initiation and in their progress, as well as in their conclusion; because the measures are the measures of their Government, for their interest, and intended to subserve their advantage. Now, Mr. President, let us examine this subject a little further.

Supposing it to be true that we are to consider ourselves a large family, and all of us to be engaged in endeavoring to ascertain what is best to be done to promote the benefit of that family, the Senator from Arkansas must at once perceive that there is this difference between this fanciful and vast family of twenty millions of people, and an ordinary family, consisting of a dozen members. It may be quite proper that family affairs should be discussed in the family.

It might be desired by some that the affairs of the whole people of the United States should be discussed before the whole people of the United States; but here is the difficulty: if everything is to be published that is initiatory to the people of the United States, it must also be published to the whole world. The Senator says he has no objection to that. Perhaps not; but I think a great many people in this nation would object to introducing the whole world into our family. A man may be perfectly willing to talk over a subject, and discuss it at his breakfast table, but there are very few persons who would wish to speak of their family affairs before the whole neighborhood. And although it is true that everything is to be done here for the interest of the whole people, and that we are their agents, their interest requires that we should not promulgate to the world the measures we have taken with this object in view. We have secret sessions in regard to our treaties, and we also have secret sessions in regard to nominations by the President. As to the treaties, it must be manifest to every one that if they were to be published to the world in consequence of being sent here for our deliberation, that that branch of the public business could not be transacted without great detriment to the public interest.

Now, if it be true, when the President is about to send an expedition to Japan, and to give instructions to the men who are to command it, in regard to the object of the expedition; and if that object is to be exposed, and all these things are to be published to the world simultaneously, I think it is manifest that, however beautiful such a scheme might be in theory, it would be vastly inconvenient in practice, and would render government impracticable.

The Senator also says, that since he has been a Senator upon this floor, he has never known a resolution of this sort objected to. But, sir, I ask him if he ever knew a resolution of this kind to be offered? I have been here longer than he, and although my memory may not be perfect, and though I may not be a very attentive observer of what takes place, yet I must say that I never knew a resolution of this kind to be offered in the Senate. If ever such a one was offered, it must have escaped my notice, or have strangely glided from my memory since. Sir, the President has been in the habit, for years and years, of sending squadrons of ships to the East Indies, to the Mediterranean, to the Pacific, and the Brazilian coast, and to such portions of the world as he deemed necessary and advisable, so as to make our Navy answer its great purpose of affording adequate protection to our commerce; and I ask if any instance has ever been known before, of a call being made by either house of Congress upon the President of the United States, to advise them in regard to the instructions which he may have given to the commanding officer of such expedition? No, sir; and no argument, therefore, can be adduced in favor of the proposition before the Senate, on the ground that other propositions have not been objected to, unless propositions of a similar nature have been brought before the Senate. I remember no such instance. It seems to me that no injury can arise by allowing this proposition, which is of an entirely novel character, and which, as far as I can perceive, can do no good, and in various contingencies may be productive of evil, should be allowed to rest a few days, until we can have an opportunity of sufficiently considering its consequences.

Mr. CASS. One of the most important naval expeditions that ever went out from this country, the papers say, is about to go out for some purpose unknown to Congress. Now, I ask, what



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reasonable objection can there be to our knowing this object? What reasonable objection can there be, when we have to make the appropriations for carrying out the expedition, to our knowing its general objects? It is stated—not upon any general principle—that there may be secret objects connected with it, that should not be disclosed. There may be; and, if so, I have not a word to say. If there be such objects, then the case is precisely met by the resolution, which puts the reply wholly within the power and discretion of the President, asking for nothing which it is not proper to communicate.

Now, how does it stand? You ask for information. The President says it is not proper to communicate it, and it is not communicated, of course. Then, if you now refuse to pass this resolution, you create the necessity for the inference that you are not entitled to proper information, or that the resolution calls for that which it would not be proper to give. One or the other horn of the dilemma must be assumed. Let me say, before I remark further, that I have no doubt, as to the general object of the expedition, that it is quite proper that it should be sent out. I have not heard a word from the Senator from Arkansas against the object of the expedition. I think it is proper; and I think it is equally proper that the general objects of it should be known to the American Congress and the American people. Some strange ideas, as it seems to me, have been advanced. The Senator from New Hampshire has said, that as the President is the Commander-in-Chief, we have no right to ask him anything about the expedition. There are one or two questions connected with maritime and military expeditions: the one chiefly of a military or maritime character, and the other of a politico-military character. You cannot issue an order to the chief commander, while in battle, for it is his prerogative to act there; but where your officers of the Army or of the Navy shall go, you must know, in order to determine what are the requisite appropriations.

Let us suppose a case—which we know will not happen—that the President should choose to order a large number of forces to the Banks of Newfoundland; is it not proper that Congress should ascertain the reason for the order, that they might know on what ground they should grant supplies? Whenever any Administration comes before you and asks for an appropriation, it states the reason for making the grant. If in any case a call were made upon the President for the reason, and he should refuse to answer, or give an answer not satisfactory, would you go on and grant the supplies? If the President, as Commander-in-Chief, instead of having ten thousand men on the frontier, should have them in the city of Washington, would you be likely to grant the same amount of supplies? Certainly not. This power of withholding supplies is one of the great checks upon abuses in the Government, when the reasons for asking the appropriation are not satisfactory. It is your great legislative check. You want to know, when the President asks for a certain species of force, what he wishes to do with it, in order that you may know what must be done to maintain that force.

The Senator from New Hampshire says that the President has refused to reply to an application made to him for information, and would do so in this case. No, he has never refused to reply; and no President who ever sat in the presidential chair ever sent such an answer as the Senator from New Hampshire has spoken of. Because the President chose to refuse to reply to an individual application for information, does it therefore follow that he will refuse an application coming from the Congress of the United States? Never, never. Never have we had a President who would refuse to answer such an inquiry. If there are any peculiar reasons which would justify him in making a certain movement, and not giving his reasons for it, he will state so frankly in his answer to Congress. The resolution, therefore, commits him to nothing, and does no injury. I

agree with the Senator from California, [Mr. GWIN,] that we want such an expedition. I do not know the object proposed in this case, and do not know the amount of force. I think it is quite proper that we should know how many vessels, how many steam-ships, and how many men are to be employed in it. All these are matters for which we shall be called upon to make appropriations; and we all know that when the subject comes up upon these appropriations, the matter will be thoroughly discussed, and that Congress will be required to know, upon its responsibility, what the expedition is for, with a view to make the requisite appropriation. I do not conceive that the resolution casts the slightest censure upon the President of the United States. I think, also, that it comes fairly within the scope of our legitimate duties.

Mr. SEWARD. I do not know that, after due consideration, I shall have any objection to the passage of this resolution. I can only say, that, so far as my own views are concerned now, I am not prepared to vote for it to-day. The subject is new here; and I think there is a possibility that some injury may be done to the public interest by passing such a resolution hastily, while no possible evil can result from letting it lie over a few days—at least, for a day or two.

The honorable Senator from Michigan has said very justly, that he could conceive it very proper that there should be such an expedition to Japan. There might be many reasons—I think I could imagine very many reasons—which might well exist, why such an expedition might be very proper, which reasons it might be very proper for the Congress of the United States to understand, and yet which reasons it might not be very wise for the Government of the United States to communicate to the world at the very moment of the transaction. When I look at the position in which we stand in relation to the Pacific and the East, and consider that we have advanced our posts to the coast of the Pacific ocean; that the trade of the East is in the hands of European Powers, who have been for two hundred years engaged by commercial treaties, by naval expeditions, and by armed power, in securing and parceling out the vast trade of the East among themselves; and that one nation alone has a monopoly of the trade of Japan, I think that, instead of inquiring why an expedition is now ordered by the Government of the United States to Japan, the question naturally arises, Why have not the United States before sent an expedition to the East? But, as I said, I am not prepared to say that I should vote for the resolution to-day. I may be to-morrow; and I therefore would suggest to the honorable mover that, as I find many others are in the same situation as myself, it would be probably wise to let the resolution lie over for a day or two.

Mr. BAYARD. I move to amend the resolution, by striking out the words, "and copies of any instructions that have been given to the commander of that expedition." I cannot conceive a case in which it would be proper to call for the instructions given to a military or naval officer, antecedent to the consummation of the duties intrusted to him. It seems to me that they must necessarily be confidential. Therefore, you are calling on the President for information which he ought not to give. To the remainder of the resolution I can have no objection, because it is left to the discretion of the President to communicate such matters as are consistent with the public welfare. I make the motion to strike out that part of the resolution calling for the instructions, because I can conceive of no case in which, of necessity, from the relations which exist between the Commander-in-Chief who is the instructing power, and the commander of a naval or military expedition, while the expedition is in progress, the circumstances must not be confidential.

Mr. BORLAND. I think there would be great force in the remarks of the Senator from Delaware [Mr. BAYARD] but for the concluding words of the resolution. The information to be communicated is, after all, left to the discretion of the Pres-

ident. If there be any portion of the instructions, or anything in regard to the objects of the expedition which he may deem it improper, in view of the public interests to communicate, he will, of course, under the very terms of the resolution, withhold it. If any portion of the information be of such a confidential character that it would be improper to make it known to the world, or would be prejudicial to our interests by being known, then, of course, he would withhold it. This was my purpose in adding those words to the resolution; leaving it entirely to his discretion. If he shall determine in his discretion that even the whole of it ought to be withheld, of course it is competent for him to withhold it, with perfect respect to the resolution and to the Senate. In such a case he would simply have to say to the Senate: It is not, in my opinion, compatible with the interests of the public service that any of the information called for should be communicated. Let this be so, and let the President say so. Then the whole expedition will be his, and the responsibility will be his—all, save the payment of the expenses; and that, of course, will fall upon us, and, according to the Senator from North Carolina [Mr. MANGUM] and the Republic, will be our portion of the responsibility. It will be what, when the time comes, we will have to assume; for the debt incurred, no matter how, or for what, or for how much, will, doubtless, have to be paid, and that, too, out of appropriations to be voted by us, and on our responsibility—not the President's.

The Senator from North Carolina [Mr. BADGER] seems to have entirely misconceived what I said, or what I intended to say, as to precedents. I certainly did not mean to say that resolutions had ever been adopted of precisely this character. I apprehend that there never has been an expedition of this precise character fitted out in this country before. But I did mean to say, and I think I did say, that no resolution calling upon the President for information in regard to any branch of the public service, had ever been opposed upon this floor. I did not refer particularly to naval or military expeditions. I said that I had never heard of opposition to an inquiry into the condition of any branch of the public service; nor have I ever heard of a President who refused to answer such a call, unless upon such a suggestion as will be found in the resolution—that the information called for could not be communicated without detriment to the public interests. For these reasons I shall vote against the proposed amendment, to strike out that portion of the resolution calling for the instructions which have been given to the commander of the expedition. But I do not consider it as a matter of much practical importance whether it be stricken out or retained.

Mr. HALE. I hardly suppose that the Senator from Arkansas was serious in the suggestion which he made when he asked if I spoke for the President of the United States. I suppose he did not entertain any such idea as that, and therefore I will let it pass. But I want to say a word in regard to the remarks of the Senator from Michigan, because I know that what he says falls with great weight upon the country at this time, and a great many think that in a short time, probably, it will fall with vastly greater weight. Therefore, I feel that there is great importance attached to what the Senator says. He knows that I can say nothing of him which is not kind and respectful; but I think he has advocated a very dangerous doctrine, and one that I want to guard against, in order that he may not be embarrassed in any action which he may be called upon to take hereafter, provided the wishes of his friends shall prevail; and that is, that the Commander-in-Chief of the Navy and of the Army may not order a division of the Army, or a portion of the Navy to any particular duty without the object of that order, and the instructions given by the commander, being a legitimate subject of legislative inquiry. I deny that utterly and entirely. I do not expect to be President of the United States very soon. [Laughter.] Therefore it is from no selfish motive that

I speak. If the Constitution of the United States means anything at all, it means that the power of issuing orders to the officers of the Army and the Navy is a matter which is exclusively entrusted to the discretion of the President of the United States; and when you make a call upon him for those orders, he may, with perfect propriety, and with perfect decorum, say to the Senate: "Gentlemen, you are traveling out of your record." If I am not exceedingly mistaken, when a resolution was introduced by an honorable Senator from Maine, [Mr. BRADBURY,] calling upon President Taylor to give the reasons for the removals which he had made from certain offices, which were exclusively within his control, some of the soundest lawyers in the Senate—I do not now refer to the Senator from Michigan, for I believe he did not coincide in the opinion—expressed their conviction that if the Senate should pass the resolution and send it to the President of the United States, he could tell them that they were at perfect liberty to pass the resolution, but that he was at liberty to answer it or not as he saw fit. It was said that he would not probably answer it—that he would not give his reasons—that the Senate had no right to ask him—that it was a jurisdiction exclusively conferred on him by the Constitution, for the exercise of which he was responsible to the people. That was the ground taken by the whole body of the friends of the late President Taylor, upon the discussion which took place here upon that resolution. This resolution not only inquires the object of sending an expedition to Japan, but also calls for copies of the instructions which have been given to its commander. The Senator from Michigan, if I understand him, contends that this is a fair and legitimate matter of legislative inquiry, and that we have a right to have these instructions submitted to us. I do not want to argue the question at all. At present it is rather an abstraction than anything practical, and I do not want to deal in abstractions. I simply wish to say that such are not my convictions, and with all the respect I have for the honorable Senator—and nobody has a more kind regard for him—I must repel the idea, so far as my own action is concerned, of being governed by any such theory of the Constitution as that which he has laid down.

Mr. CASS. One word more, and I shall have done with the subject. The honorable Senator from New Hampshire says, that on a call being proposed to the President to state his reasons for certain removals, they were not required. Now, let me ask the honorable Senator from New Hampshire what parity of condition there is between such a question and the one now before the Senate? The President makes a removal and appointment. That is his constitutional prerogative, and all we have to do is to confirm or reject that appointment. But how different is the case here. We expend some fifteen or twenty millions a year for the support of the land and naval forces of the United States. We want to know what is done with the money. The President directs the movement of these forces, of course, but he cannot get along without money. Who is to supply the money? It will not do for him to shelter himself from his proper responsibility, and say, I will do as I please with these troops. We want a reason for levying this tax on the American people. We may disband the Army and Navy to-morrow, if we think the President does not send them where the interests of the American people require them; hence, as I have said before, we have a right to know what is to be done with them. There are two questions here; one strictly military, and the other, if I may use the term, politico-military, embracing other considerations besides mere military ones. It is not only a question of how much force, but why that force should be sent to a particular port, and why it should be kept there? I repeat, we have to act. Congress has, in the first place, to make the appropriations; in the next place, to continue them; and, in the third place, it has the power to disband the Army and Navy altogether, if the troops are not properly applied by the Executive. We shall never fulfill our duty as the great supervisors of the Administration, unless we look to this. I am not positive, but I have a strong conviction that this question was fully argued over thirty years ago, during Mr. Monroe's administration, on some question in relation to the removal of troops to Council Bluffs;

and I believe it was conceded on all hands that Congress had a right to enter into the question. I think it was discussed for some time, but from my present indistinct recollection of the circumstance, I cannot say whether the power was contested. At any rate, it was determined then that Congress had the power.

Mr. DAWSON. The whole of this controversy seems to have arisen from a newspaper publication; and an alarm is attempted to be created throughout the country that an expedition is being, or has been, fitted out for some vastly-important purpose. Why, have we not invariably kept our squadrons afloat on these seas? Have not squadrons started from our ports and found their way into foreign seas for the protection of our commerce? When has there been a time since they have been afloat that our squadrons have not been in some of the Eastern oceans? And why is it that there is so much fuss made because a squadron is fitted out for a particular section of the world, not under estimates called for, but under appropriations made to keep our vessels afloat? This is a peculiar period, as has been hinted by several gentlemen; we are on the eve of a presidential election; the common routine of our Government, and the manner in which our commerce is to be protected, is to be thrown broadcast upon the country, and the insinuation is raised, that the Government is about to involve us in foreign controversy. When the question is asked, wherefore all this? the answer is, that somebody has seen something published in a newspaper. Seen what? That a military expedition was about to be fitted out? No, sir. That a squadron was to be sent abroad for the purpose of chastising some savages? No, sir.

Mr. BORLAND. Surely the Senator did not hear me, or he would not say that there was no information beyond a mere rumor in the newspapers, that this expedition was to be fitted out. I stated distinctly that I based my resolution upon a declaration made by the chairman of the Committee on Naval Affairs, in his position as chairman of that committee, in the House of Representatives, two days ago.

Mr. DAWSON. I understood the Senator perfectly.

Mr. BORLAND. That statement thus officially made, I conceived was information to be relied upon as a proper basis of action.

Mr. DAWSON. But how do you know that the expedition is being fitted out for war purposes? That is the question. Have not squadrons been fitted out before this? Therefore, I ask, why is it presumed that this expedition is fitted out for a warlike purpose?

The design of this resolution can be but one of two things—either to ascertain the precise object intended on the part of the Government, or to arrest, by the power of the Congress of the United States, this expedition. Suppose, now, that the expedition shall be fitted out for a military purpose; is there any gentleman on this floor who believes that the President would communicate the object of a military expedition to such a distant place? Would it not be inconsistent with the policy and the interests of the Government to do so? Certainly, it would. Suppose it is fitted out for the advancement of our commerce and the extension of our mercantile interests, would it be politic, would it be wise, to lay before the world the very instructions which are intended to consummate the object of the Government, and let foreign nations see our object, and thereby intercept the very purpose we have in view? Looking upon it as a question of expediency, as a question of policy, I can clearly see the impropriety of this resolution. Suppose it is designed to check the progress of this squadron. The Senator who moved this resolution has already told us that the squadron sailed yesterday.

Mr. BORLAND. I said that the chairman of the Naval Committee of the House stated that it was to sail on Wednesday, (yesterday.) What time it will sail I do not know. I have heard that it will not sail so soon; and I will add now what I ought to have said before, that not only did the chairman of the Naval Committee make this statement in the House, but he gave it as a reason for the passage of a bill pending. He connected it with pending legislation in the other House. He stated it positively as a fact (which, of course, he obtained from the Administration) necessary

to be known in order to secure the passage of a bill there pending.

Mr. DAWSON. That is a very strong reason why the Senator from Arkansas should entertain no alarm. The chairman of the Naval Committee in the other branch of Congress is probably nearer the Naval Department than the chairman of our committee, because the appropriations originate in that House. We all know who is at the head of that committee—a gentleman who is not a friend to the present Administration. When he asks before the country that a bill shall be hastily passed, because of this expenditure, is it to be presumed that that expedition is fitted out for the purpose of doing any injury to this country in any point of view? This is a reason why the Senator from Arkansas should have no alarm, and should not ask for a publication, the result of which he cannot himself anticipate.

The great objection that I have to this proceeding is, that it is founded in a want of confidence in the various departments of the Government. It is unkind and ungenerous to indulge a belief that any one of the departments of this Government would act improperly. It is admitted by everybody that the President is the Commander-in-Chief of the Army and Navy; and if a squadron is set afloat by his order, the presumption is, that it is for the good of the country, and for the interests of the nation. We should never call for the instructions given to an expedition of this character unless we have some foundation upon which to raise a presumption that there is an impropriety in its being sent out. Until that is the case we ought not to infer that it is so. My own opinion is, that Congress has the power at any time to demand of the Executive the objects he has in view in a particular action, but that demand should always be exercised with prudence and with caution. I believe further, that it is always detrimental to the public interests to announce to the world what we are about to do. As was suggested by the Senator from North Carolina, [Mr. BADGER,] what is fit to be spoken around the fireside in the family circle, around the family table in relation to domestic affairs, would not be suitable in a court or in a Parliamentary Hall. Domestic objects which the Administration has in view are intended for the good of the country, and should not be made the subject of general observation here. We should never raise an imputation and send it out to the country unfavorable to any head of a department unless there be some ground, some reason to sustain it. In this case there is none. The Government, I believe, is acting wisely and for the good of the country. I have no doubt that if any Senator here would go to the head of the Department and ask for this information, he would receive it all, and even be allowed, as a member of the Government, to look at the instructions. Then after doing that, if any gentleman thought the objects of the expedition were inconsistent with the public interests, he could come here and make this call and put it upon that ground.

Mr. RUSK. I do not know that there is much in this matter, and I care very little about it; but if we are to judge from the character of the debate, it would seem that there was some great, stupendous secret matter going on here for the benefit of the country. I can see no sort of objection to calling on the President to inform us why he sends an important expedition to a country which we have not been in the habit of visiting. One gentleman rises, and says that our seamen, who have been shipwrecked upon that coast, have been badly treated, and that we ought to have somebody out there to punish the inhabitants of that country for it. Well, the protection of our seamen is as much devolved upon Congress as it is upon the President, and I do not know that there is any necessity for any very great secret operations, when the question of protecting our citizens in a foreign country is concerned.

Another gentleman says that the object of the expedition is the establishment of commercial relations of high importance with another nation. Now, just as much responsibility devolves upon Congress as upon the President, in this respect; and I should apprehend that Congress could judge just as well about it as the President. I can see no mischief in adopting this resolution. I do not know but that we may be called upon to foot a very large bill for the expenses of this expedition.

I know that we have been called upon to pay large bills for some expeditions of this description; for we have had some of them. We recently had an expedition to survey the boundary line between this country and the Republic of Mexico; and the last I have seen of their movements was, that they were sending an immense amount of bugs and lizards, and animals of that sort, to be transported here at the expense of the Government, for which we have already been asked to pay \$80,000. Here is an expedition, the precise object of which nobody knows, except the President; and why should not we, a coordinate branch of the Government, have this information? I think it is perfectly proper to call for the information. It is respectful to the President. I do not think it contemplates anything injurious to the country, and I think the President will have no difficulty in answering the resolution.

Mr. BORLAND. The discussion on this resolution has, I repeat, been very unexpected to me; for, really, I could not have anticipated any serious objection to its immediate adoption. If I were disposed to suspect the Administration of anything wrong, to attribute bad motives, to cast censure, or draw unkind, ill-natured, or disrespectful inferences, from the course pursued by its friends upon this floor, (all of which I disavow and have disavowed from the beginning,) I might remind the Senate, in the language of Scripture, that "the guilty flee when no man pursueth." Now, I have charged no impropriety upon the Administration. I have said repeatedly that I introduced the resolution in good faith, and upon the ground that we should know what is the object of an expedition involving the public interests, I do not say whether injuriously or advantageously; for I do not know. I think what I have said will bear that construction, throughout the discussion, and that the resolution itself will sustain it. Why, then, should the friends of this Administration make such opposition to it? If the objects of the expedition be good, why should it be kept concealed from the country? If it be bad, surely it will not be said that we should not know it, in order to arrest it before it has time to do mischief.

I have no disposition to be inquisitive—certainly not inquisitorial—in the affairs of this Administration; but I do insist that I have a right here—not beyond the walls of this Capitol—not in my individual capacity, but as the representative of one of the States of this Union, whose interests are involved—to ask for this information, and to receive it. If I were to go to the Department, as suggested by the Senator from Georgia, [Mr. DAWSON,] and make inquiry—as it seems was made in regard to sending of troops into a Southern State, to which the Senator from New Hampshire alluded—it might very well be said to me by the head of the Department, "As an individual, you have nothing to do with it." I do not choose to put myself in that position—one that I would have no right to occupy; but I am exercising here my legitimate functions in my legitimate place. I but exercise my right, and, as I conceive, perform my duty. I am sorry that the friends of the Administration are unwilling for it to be interrogated. I feel that I need this information. I believe other Senators here also need and desire it. It is a question that can be easily settled. If the friends of the Administration are unwilling that we should know what the Administration is doing, and desire to keep its acts in the dark, and concealed from the people and the people's representatives—I care not for what reason—they will, of course, vote against the resolution. If a majority of the Senate agree with them, of course the resolution will be rejected, and we shall not get the information. That is all I have to say about it.

Mr. BADGER. As to the purpose and objects of this expedition, as it is called, I know nothing.

Mr. BORLAND. Nor do I.

Mr. BADGER. In relation to the subject-matter of it, I never exchanged a word with any member of the Administration, and I knew nothing about the resolution offered by the Senator from Arkansas, until after the adjournment of the Senate yesterday, when some one mentioned to me that such a resolution was laid upon the table. I have opposed the resolution, because I think the proceeding unbecoming; because it is without precedent; because it can do no good, and may do

harm. The honorable Senator seems to suppose, that because some of us have opposed this resolution, it may raise an implication of ill-design somewhere, of which he had no knowledge, and which, before, he did not intend to attribute. He quotes the expression that "the guilty flee when no man pursueth." Now, none of us have fled yet; and I must be permitted to say that we have been very hotly pursued, and that the honorable Senator from Arkansas, who has been pursuing us, is very much of a "man," to say nothing about the friends who have supported him on the present occasion. So that, in every point of view, I do not see that the proverb exactly applies to the case in hand.

Mr. MANGUM. I had very little expectation, when I presented an objection to this resolution, that it would open a running debate to the extent which we have witnessed. The honorable Senator from New Hampshire [Mr. HALE] has remarked that our naval officers need employment; and so, to keep ourselves employed, we are carping at any—even the smallest—subject which comes up; and if our time is consumed, it is very well done; but as to the public interest being promoted thereby, that is entirely another matter. I, too, know nothing about the objects of the Administration in fitting out this expedition, except, as I think, it is apparent to everybody who has reflected upon the subject, that it is commercial, purely, and is designed, in certain contingencies, perhaps, to be something more. I should judge so; I think it ought to be so. I know nothing about it, however. I have had no communication whatever with any member of the Administration upon the subject.

I mean not to detain the Senate any longer; but I wish to move, that for the present, the resolution lie on the table. I have no disposition to oppose its being taken up at a future period, if gentlemen shall desire it. I want a little more time to consider it. I have indicated no decided hostility to it; but it is an unusual and unprecedented thing, as far as I know. I think doctrines have been advanced here wholly incompatible with the genuine and true spirit of our system. Instructions, it may be, of a military character have been issued; and it is said that the Senate has a right, in its official capacity, to have them unfolded to it by the Executive. Sir, suppose it had been known that we were to strike a blow at Cerro Gordo, at Vera Cruz, or elsewhere, during the Mexican war, and the rebellious and factious Whigs of this body had called upon Mr. Polk to inform us what were the objects of the expedition, where he meant to strike next, and what were the orders from the War Department to the General: is it imaginable that there is a single intelligent Democrat in the body who would not have scoffed at and scorned it? I think not; and any man who would have made such a requisition upon the Administration would have shown that he was acting, not only against all precedent, but against all the principles, in my humble apprehension, of good common sense. I move that, for the present, the resolution lie on the table.

Mr. SHIELDS. Will the gentleman permit me to say one word?

Mr. MANGUM. If you will renew the motion.

Mr. SHIELDS. I will renew it. My only objection to the resolution is because it calls for the instructions. I think the honorable Senator from Michigan laid down the principle very correctly, that the general force and general object of the expedition is a legitimate inquiry; but the instructions ought to be confidential and secret in a case of this kind. I shall, therefore, vote against laying the resolution on the table, for the purpose of amending it, as suggested by the Senator from Delaware, by striking out the instructions, and calling only for the general force and general objects of the expedition. I now, according to my promise, renew the motion to lay the resolution on the table.

Mr. BORLAND. So far as I am concerned, I will agree to striking out that portion of the resolution.

The PRESIDENT. The question is on laying the resolution on the table.

Mr. BORLAND asked for the yeas and nays, and they were ordered.

Mr. CASS. Do I understand that the provision respecting the instructions has been stricken out?

The PRESIDENT. It has not.

Mr. CASS. I understood that the honorable Senator from Arkansas agreed to an amendment to that effect.

The PRESIDENT. He could not do so.

The question on laying the resolution on the table, being taken by yeas and nays, resulted—yeas 17, nays 24; as follows:

YEAS—Messrs. Badger, Brooke, Clarke, Cooper, Dawson, Fish, Foot, Gwin, Hale, Mangum, Miller, Morton, Seward, Smith, Underwood, Upham, and Weller—17.

NAYS—Messrs. Adams, Bayard, Borland, Bradbury, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Hamilton, Jones of Iowa, Jones of Tennessee, King, Mallory, Norris, Rusk, Sebastian, Shields, Spruance, Sumner, and Walker—24.

So the motion was not agreed to.

The question then recurred on the amendment of the Senator from Delaware.

Mr. RUSK. I desire to apologize, under the rebuke administered by the honorable Senator from North Carolina, [Mr. MANGUM,] for entering into this debate. I am sorry that I followed his example; but if the Senate and the Senator will excuse me, I will not follow it again. [Laughter.]

The amendment to strike out that portion of the resolution relating to the instructions, was agreed to; there being, on a division—yeas 22, nays 11.

Mr. SHIELDS. I now propose an amendment, to insert the words "force and general," so that it will read "communicate to the Senate the force and general objects of the expedition."

Mr. BORLAND. I would suggest to leave out the word "general."

Mr. SHIELDS. Very well. I merely want to get at the size and character of the expedition. I am willing to leave out "general."

The amendment was agreed to.

Mr. HALE. I saw recently an order passed by a legislative body, in one of the States of the Union, asking one of their officers why he had done a certain thing. The answer he made was, that he had never done anything of the sort. It seems to me that we are putting ourselves in that position. We ask the President why he has ordered a naval expedition to the coast of Japan? Does anybody know that he has done it? Has any order, any communication, to that effect been published? Are not the Senate undertaking to go entirely in the dark? and would it not be as well to find out first whether any such expedition has been ordered, before we ask the President why he has ordered it? If we do not, we may be subjected to the mortifying response from the President, "I have not done any such thing." I should not like to put myself in such a position.

The PRESIDENT. The question is now on the passage of the resolution as amended.

Mr. BORLAND. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WELLER. Mr. President, I regret very much that the condition of my throat, to-day, has precluded the possibility of my expressing my opinions on this question. It was the more important from the fact that I have found it necessary to differ from those with whom I am politically associated, and that I have found myself thrown among those with whom I have not ordinarily been politically associated.

If any Senator will rise in his place, and say that he has any good reason for believing that this expedition has been fitted out under the orders of the President of the United States, for an improper purpose, or that that expedition is calculated to operate against the public interests, I will vote for this resolution. For my own part, I cannot see what good can result from this information, even if it be transmitted to us by the President. It is true, that by the terms of the resolution, you have left it discretionary with the President. He is to communicate the information, "if compatible with the public interests;" but the very moment the President of the United States announces to the Senate that he cannot give that information, compatibly with the public interest, that moment you have advertised to the whole world that you have a secret expedition, and that you dare not disclose the motives and intentions by which you are actuated in sending it out. In that way, you operate seriously against the public interests. I have long thought that there was too much publicity given to our public negotiations. At this age of the world, when there is a rivalry between the nations of the earth for the commerce of the world, it is oftentimes



important that your adversaries, or those who are contending with you for the supremacy, should not be enabled to comprehend your movements until they shall have been made. I am satisfied that serious inconveniences have resulted from giving too much publicity to negotiations; and if I were an older member of the Senate, I would propose that your rules should be so amended that propositions calling upon Departments of the Government for information in regard to negotiations, should be considered in secret session, when we could speak our sentiments freely, and as one family, and when we could disclose the objects of these missions so far as they were understood. Now, I know nothing of this, as I have before remarked, excepting that I suppose one of the objects of the expedition is to obtain, if possible, access to Japan; to open commercial negotiations with that country, and to transport the unfortunate Chinese who have been confined now for nearly a year in a revenue cutter in the bay of San Francisco, one of whom, I doubt not, has long since paid the debt of nature, having considered himself, for twelve months, as being in the custody of an officer under the law; in other words, that he was imprisoned. If it is well understood by Senators here, that this is the general object of the expedition, I ask what advantage can result from obtaining the particular instructions which may have been given to the officer in charge of it? Do you propose to found any legislation on that information? Does any Senator suppose there is anything wrong in the instructions? Let him say so, and I will vote for the resolution. But you are compelled, from the very necessity of the case, to place some confidence and reliance upon those who have been selected by the people of the United States to occupy the Executive chair. You are compelled to rely upon the judgment and upon the integrity of an Executive officer while he is acting in strict conformity with the law. Sir, I have, perhaps, no more confidence in this Administration than the gentlemen with whom I have been politically associated; but they have been placed there by the people; and so long as I am satisfied that they are pursuing the course which their duties require them to pursue, I shall not complain. If any Senator will say that he has any reason whatever—whether founded upon public rumor, or upon newspaper allegations, or upon the declarations of some chairman of a military or naval committee elsewhere—to believe in his conscience that there is anything wrong going on, or that this expedition is fitted out for any other than a purpose which is right, proper, and lawful, I will vote for the inquiry, and not till then.

Mr. BORLAND. In response to the remarks of the Senator from California, I can only say, that I have not charged, nor have I supposed that the President was engaged in any expedition, intended or calculated to inflict injury upon the interests of this country; but have we not as much right, and is it not as necessary and proper for us, to have information with regard to proper and legitimate expeditions and operations of the Government as improper ones?

Mr. WELLER. We cannot get it without the whole world having it; and I do not choose that other nations shall have it.

Mr. BORLAND. But the Senator is also mistaken as to the instructions. That part of the resolution has been stricken out. We do not now ask for the instructions, but merely for the force engaged, and the objects of the expedition; and then we leave it to the President to say how much of the information, even in respect to this, shall be communicated. There is no charge or intimation of impropriety; but I would ask for the information as soon, and I desire it as much, if the expedition were for a purpose that I knew to be proper and beneficial to the country, as I would if I knew it to be an injurious one.

Mr. GWIN. This question may have an important bearing upon the State which I have the honor to represent in part; and I think it would be better to let it go over, so that we may proceed to the consideration of Executive business. We have important Executive business to transact, and I hope the Senate will agree to go into Executive session. I therefore move to postpone the further consideration of this resolution until to-morrow.

The motion was agreed to by a vote—on a division—of 23 yeas to 16 nays.

## EXECUTIVE SESSION.

The Senate then proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and The Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, April 1, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The journal of yesterday was read and approved.

The SPEAKER. The first business in order is the motion to refer to the Committee of the Whole on the state of the Union, House bill No. 229, granting land to the State of Alabama, to aid in the construction of a railroad from Memphis, in Tennessee, to intersect the Charleston, Chattanooga, and Nashville railroads in Alabama, which was reported from the Committee on Public Lands.

Mr. COBB. The gentleman from Arkansas made the motion to refer; I do—

Mr. CLINGMAN. I insist upon the regular order of business.

Mr. SIBLEY asked the gentleman from North Carolina to withdraw the motion, to enable him to offer the following resolution:

*Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing for the establishment of a military post at some eligible point on the waters of the Upper Minnesota river; and that said committee report by bill, or otherwise.*

The SPEAKER. The previous question was demanded.

Mr. COBB. I think it was afterwards withdrawn.

Mr. JONES, of Tennessee. I desire to make the motion that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. KING, of New York. Let us refer the land bill first.

The SPEAKER. The gentleman from Alabama is entitled to the floor.

Mr. COBB. The suggestion I was about to throw out was this: I wish to be fair in reference to this matter; and had I the control of the question, I would, according to the dictates of my own judgment, while there was a member of the House dissatisfied in relation to the matters connected with this bill, and desirous of discussing it upon its merits, protest against the calling of the previous question. The general principle involved has already been fully discussed, and I presume that further debate with regard to the principle is not now desired. If there is a solitary member of the House anxious to discuss the merits of the bill, I will not call the previous question. Is there one? [No response.]

Well, there is none. Yesterday it was suggested by some of my friends, that, before the bill was passed, it should be printed. Through the kindness of Mr. Rives, the publisher of our debates, the bill has been printed, and may be found in the Supplement to this morning's Globe, which is upon every member's desk. I had it printed to obviate the objection to which I have alluded.

Mr. JONES, of Tennessee. The gentleman from Alabama seems anxious that this bill should be discussed and understood. In order to effect that object, I suggest to the gentleman that he should submit the motion to refer it to the Committee of the Whole on the state of the Union before he calls for the previous question.

The SPEAKER. That motion is now pending.

Mr. COBB. If there are gentlemen desirous of discussing the merits of this bill, I should like to hear from them.

Mr. STANLY. The gentleman asks a question, and I suppose he wants an answer. I have heard more than half a dozen gentlemen express a desire to discuss the merits of this bill, and the principle involved.

Mr. COBB. Then I will not call for the previous question.

Mr. HOUSTON. I do not understand the gentleman from North Carolina as intimating that gentlemen wanted to discuss the bill during the morning hour.

Mr. STANLY. No at all.

Mr. HOUSTON. Then the previous question

only secures against discussion during the morning hour.

Mr. STANLY. I want it referred to the Committee of the Whole on the state of the Union.

Mr. KING. I hope we will take the question upon the reference. No one wants to discuss this bill, and there is no need of calling for the previous question. I call for the question.

The question was then put, and decided in the affirmative.

Mr. COBB. The bill has been referred.

The SPEAKER. Almost unanimously.

So the bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

## REPORTS OF COMMITTEES.

The SPEAKER. Reports from the Committee on Public Lands are still in order.

Mr. JONES, of Tennessee. As there is nothing before the House, I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. I am before the House. [Laughter.]

Mr. HOUSTON. I rise to a point of order. I wish to speak to a point of fact. My colleague [Mr. COBB] is now upon the floor, for the purpose of reporting from the Committee on Public Lands, as the Chairman announced reports from that committee were in order.

The SPEAKER. The Chair so announced, but no member rose and addressed the Chair. Under the circumstances, the Chair thinks the gentleman from Alabama is entitled to the floor.

Mr. JONES, of Tennessee. My understanding is this: The Chair put the question upon the reference of the bill. It was referred. The gentleman from Alabama made an inquiry, and the Chair responded that the question had been put and the House had referred the bill to the Committee of the Whole on the state of the Union, almost unanimously.

The SPEAKER. That is true.

Mr. JONES. The gentleman from Alabama then appeared to be examining in his drawer for papers, or something else, when I addressed the Chair, he not having done so.

The SPEAKER. There is no question as to the reference of the bill from the Committee on Public Lands to the Committee of the Whole on the state of the Union. The gentleman from Alabama said that he was upon the floor, and, while in the act of getting papers to present a report from the Committee on Public Lands, the gentleman from Tennessee addressed the Chair.

Mr. JONES. I first addressed the Chair, and was recognized after the reference of the railroad bill.

Mr. KING. Unless there is an appeal taken, I call for the regular order of business.

Mr. DANIEL. A single remark with regard to a fact. I think after the reference, the Chair remarked that reports were still in order from the Committee on Public Lands. The gentleman from Alabama immediately opened his drawer and was getting out the balance of his reports, when the gentleman from Tennessee rose, and was recognized by the Chair, and submitted his motion. I think the gentleman from Alabama is clearly entitled to the floor.

The SPEAKER. The Chair thinks, under the circumstances, that the gentleman from Alabama is entitled to the floor.

Mr. FREEMAN. I desire to say that there are several members from the Committee on Public Lands desirous of submitting reports when the gentleman from Alabama shall have finished those under his charge.

The SPEAKER. The Chair must say that a strict and rigid construction of the rule would be to allow the gentleman from Tennessee [Mr. JONES] the floor. The Chair is of the opinion that the gentleman from Alabama did not address the Chair in that connection to entitle him under the rules, strictly speaking, to the floor; but, under the circumstances, the Chair decides that the gentleman from Alabama is entitled to the floor.

Mr. COBB, from the Committee on Public Lands, to which was referred the petition of William R. W. Cobb, reported "A bill granting the right of way to the State of Alabama and a portion of the public lands to aid in the construction of a railroad from Winchester, Tennessee, to

some point on the Tennessee river, at or near Deposit, Alabama;" which was read a first and second time by its title, and referred to the Committee of the Whole on the state of the Union, and the bill and report ordered to be printed.

On motion by Mr. COBB, it was ordered that the Committee on Public Lands be discharged from the further consideration of the following memorial, and petition, and that the same be laid upon the table, viz:

The memorial of the General Assembly of the State of Alabama, praying a grant of lands to equalize the sixteenth section school fund;

The petition of citizens of Missouri upon the same subject; and

The memorial of the General Assembly of the State of Alabama, praying for a reserve of public lands in the district of St. Stephens, in said State.

Mr. COBB, from the Committee on Public Lands, to which was referred House bill No. 74, to reduce and graduate the price of the public lands to actual settlers and cultivators, reported the same back with sundry amendments; which bill and amendments were referred to the Committee of the Whole on the state of the Union, and, with the report accompanying, ordered to be printed.

Mr. HENN, from the same committee, to which was referred the bill of the House No. 217, to legalize certain entries of public lands made in the State of Florida, reported the same back without amendment.

Mr. CABELL, of Florida. I pledge myself not to occupy more than three minutes of the time of the House. It will be recollected, that many years ago a law was passed for the armed occupation and settlement of Florida; under which, citizens of the other States, as well as of the State of Florida, were induced to occupy portions of the public lands on the Indian frontier. The conditions were, that settlers should reside for five years upon the land, with other conditions. In some instances they did not comply with the conditions of the grant, and their permits were forfeited before the expiration of the time. But the first conditions of the grant having been complied with, a permit was issued to the settler, and the lands were withdrawn from sale. When the permits were forfeited for any cause, lands reverted to the General Government. Under these circumstances, individuals applied at the land office, paid their \$1 25 for the land, presuming that they were subject to entry. The land officers in Florida considered that such was the fact, and so decided. That was the construction they placed upon the instructions from the General Land Office. When the parties who, under these circumstances, bought and paid for their lands, came to apply for their patent, they were told by the Commissioner here that, inasmuch as the lands had been once withdrawn from sale, they could not be entered without being offered at public sale a second time. Now, by virtue of the certificate of the land officers in Florida, they have gone upon these lands, settled and improved them, and at this moment they are liable to be dispossessed by mere squatters or preemptionists. This bill was prepared at the General Land Office, and inasmuch as these parties have paid the money, and inasmuch as the Government never can get one cent more for them—for if you do not confirm the titles of the present occupants, squatters or preemptionists will take possession of them—we earnestly ask that these titles shall be confirmed.

Mr. HOUSTON. I desire to ask the gentleman from Florida [Mr. CABELL] a question. I understood him to say that these lands were withdrawn from public sale?

Mr. CABELL. By virtue of the law, when the permit was taken out by the persons who went out under the armed occupation, they were necessarily withdrawn from sale. It was supposed that these parties would go on and comply with the terms; but for some reason they did not comply with them, and they forfeited their titles, and then other persons went on and entered the lands. They cannot get their patents, because the lands, having been once withdrawn, were not subject to private entry until again put into market by advertisement.

Mr. HOUSTON. Have they been offered at public sale?

Mr. CABELL. They have, and the parties have paid Government price. I ask that the bill be put upon its passage.

Mr. STANTON, of Kentucky. I move to refer the bill to the Committee of the Whole on the state of the Union; and I desire to repeat what I said in reference to the bill presented by the gentleman from Alabama, [Mr. COBB.] I do not do it because I am opposed to the passage of the bill, but because I want other committees in this House to have a chance to make their reports. If the Committee on Public Lands are to be indulged in this course of putting all their bills upon their final passage, the rest of the committees will not have a chance to report this session. Yesterday was consumed in the presentation of two reports from the Committee on Public Lands; and before that time they had been reporting for two months. If they continue at this rate, when, in the name of all that is reasonable, will they disgorge themselves. They have occupied the attention of the House for more than two months. I move the previous question upon my proposition, and give notice, that I intend to do so upon every other case, if I can get the floor.

The previous question was seconded, and the main question ordered; which was upon referring the bill to the Committee of the Whole on the state of the Union.

The question was then put, and upon a division there were—ayes 57, noes 46; no quorum voting.

Mr. CABELL demanded tellers; and Messrs. STANTON, of Tennessee, and FULLER, of Maine, were appointed.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Florida, [Mr. CABELL,] if this bill does anything more than to propose to let the persons who are on the lands, and have made improvements upon it, to take it at Government prices?

Mr. CABELL. Nothing more. They have paid the Government price, and they are liable to be dispossessed of their lands unless this bill pass, although they have made improvements thereon.

Mr. JONES. Then I can see no objection to the immediate passage of the bill.

Mr. FOWLER. I think the question is not fully understood. Will the Speaker have the goodness to state it again?

The SPEAKER. The bill was reported from the Committee on Public Lands, and the question was whether it should be ordered to a third reading? During the pendency of that question a motion is made to refer it to the Committee of the Whole on the state of the Union.

The question was then taken; and the tellers (Messrs. STANTON, of Tennessee, and FULLER, of Maine) reported that there were—ayes 30, noes not counted. So the bill was not referred.

Mr. STANTON, of Tennessee. I believe the previous question is exhausted.

The SPEAKER. No debate is in order upon the bill. None can be indulged except by unanimous consent, the previous question not having been exhausted.

Mr. STUART. I understand the gentleman from Florida [Mr. CABELL] to state, that if this bill does not pass, these men who have bought the land and paid for it will lose it, by somebody else preempting it.

Mr. CABELL. It may be done.

Mr. STUART. How can any one preempt land that is occupied by another?

Mr. CABELL. Because those upon it are not entitled to the right of preemption under the law, although others are.

The bill was then ordered to be engrossed for a third reading; and, having been engrossed, was read the third time.

Mr. CABELL. I ask that the bill be put upon its passage; and I demand the previous question.

Mr. SEYMOUR. I ask that the bill be read through.

The bill having been read by the Clerk—

The previous question was seconded, and the main question ordered to be put; which was upon the final passage of the bill.

The question was then taken, and the bill was passed.

Mr. CABELL moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

JAMES W. CAMPBELL.

Mr. HENN. The Committee on Public Lands, to whom was referred the petition of James W.

Campbell, of Pike county, Missouri, asking the privilege of entering lands with two receivers' receipts for moneys paid for two entries which, by some neglect on the part of the land officers, were never consummated, reported a bill for his relief; which was read a first and second time by its title.

Mr. PORTER. I ask that the bill be put upon its passage. It is a plain case, and I can make it perfectly clear to the House in a few moments, by reading the bill and the report. They will explain the whole matter.

Mr. P. called for the reading of the report.

The Clerk read the report.

Mr. PORTER. I think this is a very plain case; and, as the reading of the report has taken up a great deal of time, I call for the previous question.

Mr. STANTON, of Kentucky. This is a private bill. Is it too late to move to refer it to the Committee of the Whole House?

The SPEAKER. It is. The previous question is demanded.

The previous question received a second, and the main question was ordered to be now put; and, being put, the bill was ordered to be engrossed and read a third time; and, having been read a third time, was passed.

Mr. PORTER moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. HENN, from the Committee on Public Lands, reported back, without amendment, and with a recommendation that it do pass, House bill No. 69, "to create three additional land districts in the State of Iowa;" which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HENN, from the same committee, reported back House bill No. 41, "granting the right of way and making a donation of the public lands to the Territory of Minnesota, to aid in the construction of a railroad from the Falls of the St. Louis river to St. Paul, on the Mississippi river," without amendment, and with a recommendation that it do pass.

Mr. SIBLEY. I wish to inquire of the Chair whether, if this bill is referred to the Committee of the Whole on the state of the Union, it can be taken up on the territorial days as a territorial measure?

The SPEAKER. That will be a question for the chairman of the Committee of the Whole on the state of the Union to determine.

Mr. SIBLEY then moved that the bill be referred to the Committee of the Whole on the state of the Union, and that it be printed; which motion was agreed to.

SALT SPRING LANDS OF IOWA.

Mr. HENN, from the Committee on Public Lands, reported back Senate bill No. 55, "to relinquish to the State of Iowa the lands reserved for salt springs therein," with an amendment, and with a recommendation that the amendment be agreed to, and that the bill do pass.

The bill and amendment were then read.

Mr. HENN. I will merely state to the House that, by the act of the 3d of March, 1845, which was supplemental to the act for the admission of the States of Iowa and Florida into the Union, these salt springs, with the lands adjoining, were granted to the State of Iowa, with this proviso; to wit:

"Provided, That no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: And provided, also, That the General Assembly shall never lease or sell the same, at any one time, for a longer period than ten years, without the consent of Congress."

The object of this bill is to take away this last proviso, which virtually entitles the State only to lease the lands for a term of ten years. The State has, by her legislation, put the proceeds of these lands into the school fund, and we are anxious to sell the lands, in order that they may be settled, and that the school fund may be made available at once. The Superintendent of Public Instruction has lately written a very urgent letter to the delegation from the State, requesting them to procure the immediate passage of a bill like this, for the reason that the State Medical College of Iowa, for whose benefit a portion of the proceeds from the sale of these lands has been set apart, is in want of funds.

The amendment is put in, in order that the rights of private individuals may not be interfered with. I ask that the bill may now be put upon its passage.

Mr. STANTON, of Kentucky, moved to refer the bill to the Committee of the Whole on the state of the Union; and, on that motion, he demanded the previous question.

The question being put upon seconding the demand for the previous question, on a division there were—ayes 43, noes 23; no quorum voting.

Mr. ORR demanded tellers; and they were ordered.

Mr. STANTON, of Kentucky. If the House will agree to pass all the bills that come from the hands of the Committee on Public Lands in a lump, it will save time. I will withdraw the demand for the previous question, and also the motion to refer the bill.

Mr. VENABLE renewed the motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. ORR. The bill now before the House ought to be passed; it is right and proper. The subject has been investigated by the Committee on Public Lands, and I will make a brief statement, which, I think, will satisfy the House.

By previous legislation of Congress, the use of certain salt springs was reserved to the State of Iowa throughout all time to come, without any reversionary interest being reserved to the Government of the United States. The object of this bill is, to give the fee simple in these lands to the State, and let them be disposed of by being sold or rented, as the Legislature of the State may choose. This Government can lose nothing at all by the operation, for all its rights to the land passed from it under the previous act of Congress. I hope the bill will pass, and I now demand the previous question.

Mr. MEACHAM. I ask the gentleman from South Carolina, if there is any pressing necessity for taking up this bill and passing it, out of its ordinary course?

Mr. ORR. I cannot say that there is, but it may as well be passed now as at any time.

The previous question was seconded and the main question was ordered to be now put; and being put, the motion to refer the bill to the Committee of the Whole on the state of the Union was agreed to, on a division—ayes 69, noes 52.

#### RAILROADS IN IOWA.

Mr. HENN, from the Committee on Public Lands, to whom was referred House bill No. 12, granting a certain quantity of land to the State of Iowa for the purpose of aiding said State in the construction of railroads from Dubuque to Keokuck, and from Davenport to the Missouri river, in said State, reported the following bill as a substitute therefor, viz:

A BILL to grant a certain quantity of land to the State of Iowa, for the purpose of aiding said State in the construction of railroads from Dubuque to Keokuck, and from Davenport to the Missouri river, in said State.

And be it enacted, &c., That the right of way through the public lands be, and the same is hereby granted to the State of Iowa for the construction of railroads from the city of Dubuque to Keokuck, and from Davenport on the Mississippi river in said State to such point on the Missouri river as may be designated on the authority of said State, which authority shall also fix and determine the rights of each of said railroads; and shall have the right, also, to take necessary materials of earth, stones, timber, etc., for the construction thereof from the public lands of the United States adjacent to said railroads: *Provided*, That the right of way shall not exceed one hundred feet on each side of the line of said roads; and a copy of the survey of said roads, made under the direction of the Legislature, shall be forwarded to the proper local land offices respectively, and to the General Land Office at Washington city, within ninety days after the completion of the same.

Sec. 2. And be it further enacted, That there be, and is hereby granted to the State of Iowa, for the purpose of aiding in making the railroads aforesaid, every alternate section of land designated by even numbers, for six sections in width on each side of said roads; but in case it shall appear that the United States have, when the lines or routes of said roads are definitely fixed by the authority aforesaid, sold any section or any part thereof granted as aforesaid, or that the right of preemption has attached to the same, then it shall be lawful for any agent or agents to be appointed by the Governor of said State, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States most contiguous to the tier of sections above specified, so much land in alternate sections or parts of sections, as shall be equal to such lands as the United States have sold, or to which the right of preemption has attached as aforesaid, which lands (thus selected in lieu of those sold, and to which preemption have attached as aforesaid, together with the sections and parts of sections designated by even numbers as aforesaid and appropriated as aforesaid, shall be held by the State of Iowa) for the use and purpose afore-

said: *Provided*, That the lands to be so located, shall in no case be further than fifteen miles from the line of the road in each case and selected for and on account of each of said roads: *Provided further*, That the lands hereby granted shall be exclusively applied in the construction of that road for which it was granted and selected, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatsoever: And *provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatsoever, be and the same are hereby reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of the said railroads through such reserved lands, in which case the right of way only shall be granted.

Sec. 3. And be it further enacted, That the sections and parts of sections of land which, by such grant, shall remain to the United States, within six miles on each side of each of said roads shall not be sold for less than double the minimum price of the public lands when sold.

Sec. 4. And be it further enacted, That the said lands hereby granted to the said State shall be subject to the disposal of the Legislature thereof, for the purposes aforesaid and no other; and the said railroads shall be and remain a public highway, for the use of the Government of the United States, free from toll or other charge, upon the transportation of any property or troops of the United States.

Sec. 5. And be it further enacted, That the lands hereby granted to said State, shall be disposed of by said State only in manner following, that is to say: that a quantity of land not exceeding one hundred and twenty sections for each of said roads, and included within a continuous length of twenty miles of said roads may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that said twenty continuous miles of either of said roads is completed, then another like quantity of land hereby granted may be sold, and so from time to time, until said roads are completed, and if said roads are not completed within ten years, no further sales shall be made, and the lands unsold shall revert to the United States.

Sec. 6. And be it further enacted, That the United States mail shall, at all times, be transported on said railroads under the direction of the Post Office Department, at such price as the Congress may by law direct.

Mr. HENN said: As the disposition of the House has evidently been against putting these bills upon their passage, notwithstanding a bill, making an appropriation of \$500,000 for building an addition to this Capitol, is put upon its passage and rushed through this House—

Mr. STANTON, of Kentucky. That bill was referred to the Committee of the Whole on the state of the Union, and I tried for two months, before I could get it up.

Mr. HENN. It was taken up out of its order though.

Mr. STANTON. No, sir. It was made a special order.

Mr. HENN. It was taken up, and the appropriation was increased from \$10,000 to \$500,000.

Mr. Chairman, I think the time has come when the members of the House from the West should stand up and vote with each other, upon all these propositions. The time has arrived when we are to determine whether we are to have justice done us or not; and for one, I am willing to test the question upon this bill. It is a thing that has been asked for many years by the people of my country; and I hope the members of this House from the West, if they intend to do justice to the West, will vote with me for the immediate passage of this bill.

Mr. HOUSTON. Do I understand my friend from Iowa to say that he does not want anybody but Western men to vote for his bill?

Mr. HENN. No, sir; I do not say that. But I do say that there is a disposition upon the part of this House to rush through everything that is for the benefit of the Eastern people, while it is their object to defeat or delay everything that is for the benefit of the West.

Mr. JOHNSON, of Arkansas. I desire to add a word. It is apparent that the business in reference to these railroads has got a vast deal ahead of the other business of this House, and there seem to be pretty strong indications that it is the determination of the members from the old States to throw back all these bills granting alternate sections of land for railroad purposes, till they have either secured or lost their own measures, and to do this in order that they may determine what course to pursue in relation to these grants. Now, as I remarked, by the industry of those to whom these railroad matters were committed, this business is in advance of much of the other business of the House. All we ask is, that you will take up this business in its regular order. We ask that you will permit the vote to be taken upon these measures, in which we are interested, when we bring them forward, and that you will not put them back until all those matters in which others

are interested shall have been disposed of. We ask nothing more.

If the measures which gentlemen from the East have at heart were in advance of the other business of the House, as ours now is, it would be deemed outrageous—it would be considered the highest order of impudence, if the members from the new States—from the States which now ask these grants—were to come forward and to set aside their measures, in order that we might first have the House tested upon those in which we are interested—measures that are for the benefit of the Western and Southwestern States? That is the position in which the matter stands. Now I appeal to the sense of justice of the House, and ask if it is right, in consideration of the fact that the gentlemen from the West and Southwest have, by their industry, brought up these measures, that they shall be staved off until other measures be got through? And I ask if the House ought not to give us a just and fair test, or trial, and either pass these bills or reject them? In either event, I presume we will be satisfied.

Mr. VENABLE. I ask the gentleman from Iowa [Mr. HENN] to allow me to put a question to the gentleman from Arkansas, [Mr. JOHNSON.] I wish him to tell me what particular eastern bill has been taken up and rushed through this House?

Mr. JOHNSON. I do not charge that there has been any concerted action upon the part of gentlemen from the East; but I say the evident tendency is to throw back the measures in which we, from the West and Southwest, are interested, and to bring forward those which are for the benefit of the East.

Mr. VENABLE. I dislike very much to consume the time of the gentleman from Iowa. But that gentleman has appealed to gentlemen from the West to stand up and claim their rights. Now, I want to know—for I have voted for a good many bills brought forward by our Western friends—where is the necessity for this battle-cry? When have the rights of the West not been respected by gentlemen from other portions of the Union? I ask the gentleman to answer my question, for I should loathe myself, if I supposed myself capable of voting for or against a bill because it was to benefit any particular section of the country. I want to put the history of the country right. I want to be rebuked, if I am wrong. Let the country know the facts of the case. If there has been any spirit manifested by the representatives of the older or Eastern States to get up any scheme for their interest, to the disadvantage of the Western States—if there has been any railroad scheme, or any scheme for special or local legislation, upon the part of the old States, I should like to know it, for I am not advised of it.

Mr. COBB. Perhaps I can answer the gentleman.

Mr. VENABLE. I should be glad if anybody would answer it.

Mr. COBB. Perhaps the gentleman has forgotten a bill which was introduced into the House not long since, granting the privilege of the suspension of the duties on railroad iron, for a certain railroad in North Carolina. If I mistake not, the bill came from the Senate, and was laid upon the Speaker's table. It was taken up, and the House refused to refer it to the Committee of the Whole on the state of the Union, but put it on its passage.

Mr. VENABLE. And then you refused to pass it.

Mr. COBB. I voted for it.

Mr. VENABLE. But the House refused to pass it.

Mr. COBB. I voted for it, and thought then the bill should be passed; but the action of the House has since convinced me of the necessity of restraining my liberality, in voting for bills coming from that quarter.

Mr. HENN. I believe it is in order to answer one question by asking another. I desire to know of the gentleman from North Carolina whether he hails from an Eastern or Southern State?

Mr. VENABLE. I hail from an Atlantic State, and one of the old States. I will take occasion, however, to say, that the bill to which the gentleman has alluded did not propose to make any appropriation for any railroad in North Carolina, nor did it propose to remit the duty on iron. It only extended the time for its payment. But that privilege was not granted. It was not voted for



by Western men. Yet I made no such murmurs as we have heard here to-day. I did not taunt Western men, nor anybody, with combining to defeat my scheme. But I rose simply to ask the gentleman from Iowa to specify what combination had taken place to defeat his schemes, for I thought it was a reflection upon the Eastern and Atlantic States, which have no public lands.

Mr. HALL. As the gentleman from North Carolina [Mr. VENABLE] seems exceedingly anxious to know in what cases the old States have acted in favor of their own schemes, and in hostility to those of the new ones, I will give him one single instance. The gentleman from Pennsylvania [Mr. MOORE] introduced a bill here proposing to give land to the old States of the Union. A motion was made to refer it to the Committee on Public Lands; but that motion was voted down, and the bill was referred to the Committee of the Whole on the state of the Union, and thus put ahead of the regular order of business.

Mr. MEACHAM. Will the gentleman yield for a moment?

Mr. HENN. I cannot yield further.

Mr. MEACHAM. I will not occupy more than one minute.

Mr. HENN. Then I will yield for one minute.

Mr. MEACHAM. An accusation has been thrown against us that we have been legislating for the interests of the Eastern States, and against the interests of the Western States. Now, I wish to ask this one question: "Is this extension of the Capitol an Eastern interest, or is it a national interest?"

Mr. HENN. It is an Eastern interest.

Mr. MEACHAM. I desire secondly, to ask whether the deficiency bill was for Eastern or Western interests?

Mr. HENN. And I will ask the gentleman by what votes that bill was passed?

Mr. MEACHAM. I will say that the deficiency bill made an appropriation of about \$3,000,000, and of this, \$2,500,000 has gone to Western interests.

Mr. HOUSTON. I rise to a question of order. I understand the question to be upon referring the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. That is the motion before the House.

Mr. HOUSTON. I make the point that this discussion is not relevant to that motion.

The SPEAKER. The Chair thinks the motion to refer opens the merits of the whole bill to discussion.

Mr. HOUSTON. I ask the Chair whether, upon a motion to refer, it is in order to enter into a discussion whether Eastern or Western interests are most benefited?

The SPEAKER. Incidental remarks which are made, may not be strictly in order; but in a running debate, the Chair cannot check gentlemen in such remarks.

Mr. HOUSTON. I think the Chair might make a running decision.

The SPEAKER. The Chair overrules the point of order.

Mr. ROBBINS. I want to make an inquiry of the Chair. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. ROBBINS. Would it be in order, at this time, to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It will be in order to move to go to the business on the Speaker's table, if the gentleman desires to make that motion.

Mr. CLARK. I desire to inquire if the gentleman from Pennsylvania [Mr. ROBBINS] can take the floor from another member, to make that motion?

The SPEAKER. It would be in order for the gentleman to arrest debate, in order to move to go into the consideration of the business on the Speaker's table. The Chair, however, did not understand the gentleman from Pennsylvania as making that motion.

Mr. HENN. I move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. STANLY. Is it in order to move to proceed to the business upon the Speaker's table?

The SPEAKER. It is in order.

Mr. STANLY. I then make that motion.

The question was then taken, and the motion was agreed to.

Mr. RICHARDSON. Is it in order to submit a motion to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

Mr. RICHARDSON. Then I submit the motion.

The question was then taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

#### HOMESTEAD BILL.

The CHAIRMAN. The business before the committee is House bill No. 7, for the promotion of agriculture, and for other purposes, and upon that question, the gentleman from Missouri [Mr. PORTER] has the floor.

Mr. PORTER occupied the floor an hour in an argument to show that Congress had the power, in virtue of that clause of the Constitution in regard to the regulation of commerce among the States, to construct works of internal improvement, whether in the interior or upon the seaboard; and that, under the other power to dispose of the territory and other property belonging to the United States, Congress could make liberal appropriations of lands to improve the navigation of rivers, to build harbors on the lakes, and to construct railroads. He declared himself to be in favor both of the policy and principle of making grants from the public domain for such purposes, believing that it was just, right, expedient, and national. He maintained that although these grants be made to the particular States, yet the benefits are not local, but general—benefiting not the particular States merely, but the interests of the whole Union. He also argued, that if the homestead was granted as proposed by this bill, he should not then regard the beneficiaries under it as owing much in gratitude to the Government, unless lands were also given to the States to aid in improving natural channels of commerce and opening up new ones, to enable the settlers to find a ready market for the products of their labor.

Mr. CLEVELAND then obtained the floor. He addressed the committee an hour, during which he expressed himself in favor of the passage of the bill. He contended, that if the friends of the railroad projects would pass this bill, they would have their roads constructed much earlier than by making grants of lands to the States for the purpose; which grants would fall inevitably into the hands of Wall street companies and speculators, and be used to conserve their personal interests, instead of those of the States to which the grants might be made. He said that he had voted for the grant to Illinois at the last Congress, and had regretted it ever since, because he was now convinced that it would prove disadvantageous to her. He spoke of the compromise measures of the last session; and maintained that they were of Whig origin; that they had been carried through by the influence of Messrs. Clay, Fillmore, Webster, and Scott. He viewed the fugitive slave law as a most centralizing measure—one imbued with old Federal principles—and predicted that the day would come when there would not be a Democrat in the Union bold enough to say that their ancestors had voted for it. [These speeches will be found in the Appendix.]

Mr. DURHAM here obtained the floor, but yielded it to

Mr. BROOKS, who moved that the committee rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the Chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the homestead bill, and had come to no conclusion thereon.

Mr. GORMAN moved that the House adjourn.

Mr. HOUSTON. I ask the gentleman if he will not withdraw that motion for a moment. There is upon the Speaker's table a communication from the Treasury Department, covering a plan and estimates for public buildings, which are proposed to be erected in California; and it is important that it should be referred to the Com-

mittee of Ways and Means. I ask that it be taken up and referred.

Mr. GORMAN withdrew his motion for the purpose; and, there being no objection, the communication was taken up, and referred to the Committee of Ways and Means, and ordered to be printed.

#### PERSONAL EXPLANATION.

Mr. NABERS. I ask the indulgence of the House for a moment, with the view of putting myself right, and I wish to do it at once. It is entirely a personal matter, and I will detain the House but a few minutes. I quote now from the speech of my colleague from the fourth district, [Mr. BROWN,] and I regret that he is not present. In his speech in the Daily Globe of this morning, appears the following:

"One of my colleagues [Mr. NABERS] the other day asked in the course of his speech, 'What it was that constituted party? Was it numbers or principles?' He said it was numbers, and as there were numbers in Mississippi who avowed themselves secessionists, he concluded there was a secession party there. My colleague's premises are badly laid, and his conclusions do not follow his premises. Numbers do not constitute party. It takes principles and numbers both to constitute party; and it takes something else—it takes the organization of numbers on principle to constitute party."

That is what my colleague says. I wish to read what I did say; and it will appear from the simple reading of both these extracts, that my colleague, unintentionally I am bound to think, makes me say precisely the opposite of what I did say. I will read from my speech what I did say:

"What does it take to constitute a party? Is it numbers, or is it principles? Everybody will say it is principles that determine the character of a party."

The point is simply this: My colleague makes me say, that it is numbers which constitutes party, when I say it is principles. That is all I have to say; and I thank the House for their indulgence.

On motion, the House then adjourned.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CABLE, of Ohio: The memorial of John B. Bayless, of Ohio, against the importation of spirituous liquors.

By Mr. JOHNSON, of Tennessee: The petition of John Ryland, asking Congress to place him on an equal footing with the other members of Captain O'Brien's company, for certain reasons set forth in the petition.

By Mr. SCUDDER: The petition of Edward Watt Robinson and 51 others, citizens of New Bedford, Massachusetts asking aid for the Collins line of steam-ships.

By Mr. GAYLORD: The petition of E. A. Bratton and 100 other citizens of Noble county, Ohio, asking Congress to establish the bridges of the Wheeling and Belmont Bridge Company as post roads.

By Mr. SEYMOUR, of New York: A memorial of citizens of New York, asking a donation of the public lands in aid of the construction of a railroad from Saratoga to Sackett's Harbor.

By Mr. DAVIS, of Indiana: The memorial of James H. Nelson, L. A. Burnett, and S. A. Gartrell, of Indiana, praying additional compensation for their services in taking the Seventh Census.

By Mr. McDONALD: The petition of John Edgcomb, asking for loss of clothing and property, occasioned by the voluntary destruction of the United States ship Adams in 1814.

Also, the petitions of John Edgcomb and William Davis, asking for benefits of bounty acts of 1850.

By Mr. ROBBIE: The remonstrance of W. W. McCay and other citizens of Steuben county, New York, against the extension of the Woodworth patent.

By Mr. PARKER, of Indiana: The petition of Charles H. Test, Joseph G. Marshall, and 21 others, members of the Indiana bar, praying for a change in the judicial system of the United States.

#### IN SENATE.

FRIDAY, April 2, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

On motion by Mr. HUNTER, it was

Ordered, That the execution of the order of the Senate, assigning Friday of each week for the consideration of private claims, be suspended until one o'clock this day.

#### PETITIONS, ETC.

Mr. CLARKE presented a petition of citizens of Providence, Rhode Island, praying that beacons and buoys be placed in Providence river and Narragansett bay, and that the location of the light-house on Nayatt Point may be changed; which was referred to the Committee on Commerce.

Mr. COOPER presented the memorial of Harriet Ward, praying that her pension may be made to extend back to the time of her husband's death; which was referred to the Committee on Naval Affairs.

Also, a memorial of citizens of Washington

county, Pennsylvania, praying that the transportation of the mail on Sunday may be prohibited by law; which was referred to the Committee on the Post Office and Post Roads.

Also, the petition of Miron R. Peek, praying remuneration for losses incurred in consequence of a violation of his contracts for furnishing granite for the dry-dock at Brooklyn; which was referred to the Committee of Claims.

Also, a memorial of citizens of Philadelphia, Pennsylvania, praying a modification of the bounty-land law; which was referred to the Committee on Military Affairs.

Mr. SEWARD presented the memorial of the heir of Ebenezer Sage, praying indemnity for French spoils prior to 1800; which was ordered to be laid on the table.

Mr. RUSK submitted additional documents relating to the petition of James Hamilton; which were referred to the Committee on Military Affairs.

#### PAPER WITHDRAWN AND REFERRED.

On motion by Mr. HAMLIN, it was

Ordered, That the petition of Lydia Lord, on the files of the Senate, be referred to the Committee on Pensions.

#### REPORTS FROM STANDING COMMITTEES.

Mr. GEYER, from the Committee on Pensions, to which was referred the petition of H. H. Cooley and others, citizens of Cayuga county, New York, in behalf of Phoebe Morris, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which was referred the memorial of Harriet de la Palm Baker, only daughter of Frederick H. Wiessensfels, an officer of the Revolution, submitted an adverse report thereon; which was ordered to be printed.

Mr. UNDERWOOD, from the Committee on Public Lands, to which was referred the bill granting lands and the right of way to the States of Indiana and Illinois, to aid in the construction of a railroad from a point on the Ohio river, opposite to Louisville, in the State of Kentucky, to a point on the Mississippi river, opposite to St. Louis, in the State of Missouri, reported the same with an amendment.

Mr. FELCH, from the Committee on Public Lands, to which was referred the bill to grant preemption rights to certain settlers on an island, called the Grand Chenière, in the southwestern land district in Louisiana, and for other purposes, reported it without amendment.

#### EXTENSION OF THE CAPITOL.

Mr. HUNTER, from the Committee on Public Buildings, to which was referred the resolution of the Senate of the 16th March last, calling for information as to the quality, dimensions of the stone, quality of mortar used, character of the work, mode of construction, &c., for the extension of the Capitol, with any matters connected therewith as may affect the stability and permanency of the whole structure, submitted a report; which was ordered to be printed.

Mr. HUNTER. The Committee on Public Buildings, to which was referred the joint resolution to authorize the continuance of the work upon the two wings of the Capitol, with the amendment of the House of Representatives thereto, have directed me to report back the same with a recommendation that the Senate concur therein.

If it be the general pleasure of the Senate to take up this matter to-day, I should be very glad. As the Committee on Finance expects to report the deficiency bill on Monday, it is necessary to act soon upon this question, if we mean to act at all. Although this is Friday, and private-bill day, and I very much regret to interfere with the general order of business, it seems to me to be a case which might, perhaps, justify the suspension of the order for the purpose of taking up the amendment of the House of Representatives to this joint resolution. If there be no objection, I should like to have it acted on now.

Mr. COOPER. I hope the gentleman will withdraw the motion, in order to allow me to submit a resolution.

Mr. HUNTER. Certainly.

#### COAL USED BY THE NAVY.

Mr. COOPER submitted the following resolution for consideration:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate a copy of the report of the

Engineer-in-Chief, in relation to the qualities of the several species of coal now used by the Navy; together with the cost of the several kinds per ton, delivered at the different ports in the Chinese seas; also, how, in what manner, and with what kind of coal the Navy is at present supplied, the quantity of each kind furnished, and at what price per ton.

#### NOTICES OF BILLS.

Mr. MORTON gave notice of his intention to ask leave to introduce a bill, to authorize the sale of certain reserved lands in Florida, and for other purposes.

Mr. BROOKE gave notice of his intention to ask leave to introduce a bill, ceding the public lands to the States in which they lie, for purposes of internal improvements.

#### ADDITIONAL COMMITTEE CLERK.

The resolution submitted yesterday by Mr. Downs, in relation to the employment of a clerk by the Committee on the Judiciary, was read a second and third time, and passed.

#### MEXICAN BOUNDARY COMMISSIONER.

Mr. WELLER. I submit the following resolution:

Resolved, That the Secretary of the Interior be directed to inform the Senate whether any charges have been placed in his hands, by an officer in the United States Army, against the present commissioner appointed to run and mark the boundary line between the United States and the Republic of Mexico; and if so, to transmit a copy thereof, together with all papers connected therewith, to the Senate.

As this is a mere resolution of inquiry, and as the information is necessary before we act upon the deficiency bill, which will be reported on Monday next, I hope the Senate will agree to consider it now. I have seen a copy of these charges, and they are, in my opinion, of such a character as will demand the investigation of the Senate, before we can consent to vote the appropriation of \$80,000 which is asked for in the deficiency bill. I, for one, shall not be prepared to act upon that portion of the bill, until this information has been furnished.

The PRESIDENT. It requires unanimous consent, to consider the resolution at this time.

Mr. CLARKE. Let it lie over.

Mr. WELLER. Then I give notice that I shall call it up to-morrow, for the reason I have already assigned—that I shall not be prepared to act upon the deficiency bill until this information is obtained by the Senate. There is, I understand, an appropriation of \$80,000 asked for in the deficiency bill for this boundary commission. I have already stated that I have seen a copy of those charges. They are either true or false. If they are true, there is a very good reason why no more public money should be intrusted to that commission. If they are false, the officer who makes them ought to be dismissed from the Army. Of course I undertake to express no opinion as to the truth of the charges.

Mr. CLARKE. I withdraw my objection to the consideration of the resolution to-day, as I see no reason why we should not have the information before Monday, as afterwards.

The resolution was agreed to.

#### EXPEDITION TO JAPAN—MENOMONEE PURCHASE.

Mr. BORLAND. If there is nothing before the Senate, I would ask that the resolution submitted by me in reference to the naval expedition to Japan be taken up for consideration. It was postponed until to-day.

Mr. HUNTER. I would now make the request, that by unanimous consent we may take up the amendment of the House of Representatives to the joint resolution to provide for the continuance of the work on the two wings of the Capitol. I would ask that it may be done by unanimous consent.

Mr. BORLAND. I wish to say that I made a motion just now, which was not put, to take up the resolution which was laid over yesterday.

Mr. BADGER. It will consume all day.

Mr. HAMLIN. I rise for the purpose of inquiring of the Chair what will be the effect of agreeing to the motion of the Senator from Arkansas? Will it extend the consideration of his resolution beyond the morning hour, and thus prevent the Senate from considering the Private Calendar?

The PRESIDENT. There is no necessity for the motion to take up the resolution. It comes up in its regular order, being a resolution upon the table. It is under consideration, and must be disposed of, even if its consideration extends beyond

the hour fixed for the consideration of private bills.

Mr. HAMLIN. Then we are to have the discussion upon it over again to-day.

Several SENATORS. It will be discussed again.

Mr. HAMLIN. Then I hope it will be laid over.

Mr. WALKER. There was a bill under consideration the other day in which my constituents are interested. It is a bill to grant to certain settlers on the Menomonee Purchase north of the Fox river, in the State of Wisconsin, the right of preemption. When it was under consideration before, some one objected to it, and it was laid over. I am certain that on reflection, that objection must have been abandoned. I think that we can pass the bill in the ten minutes that we have left, before the hour fixed for the consideration of private bills arrives. I therefore move to postpone the further consideration of this resolution, and of all previous orders, that we may take up the bill. I have already stated the circumstances of this case, and it is not necessary to restate them. I hope the Senator from Arkansas will consent, as his resolution will create debate.

Mr. BORLAND. If my resolution is to give rise to an extended debate to-day, of course I shall not press it; but I did suppose that there was a full enough discussion yesterday, and that the vote could be taken at once.

Mr. SMITH. I desire to inquire of the Senator from Wisconsin, whether he is willing to have his bill laid aside if it occasions any considerable debate?

Mr. WALKER. Certainly.

Mr. SMITH. Otherwise, I shall be unwilling to take it up.

Mr. WALKER. I think it can give rise to no debate. The bill proposes to do nothing more than to grant what every other settler in the United States has—the right of preemption. It is not a grant of lands, or to reduce the price of lands. It is simply to permit these settlers to enter under the preemption laws.

The motion to take up the bill was agreed to.

The Senate proceeded to consider it as in Committee of the Whole. No amendment being proposed, it was reported to the Senate, and ordered to be engrossed for a third reading.

The bill was subsequently read a third time and passed.

#### CARMELITE NUNNERY.

The Senate proceeded to consider the motion submitted by Mr. COOPER, to reconsider the vote on the third reading of the bill for the benefit of the Carmelite Nunnery of Baltimore; and,

On motion by Mr. RUSK, it was postponed until to-morrow.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed bills of the following titles:

An act to legalize certain entries of public land made in the State of Florida; and

An act for the relief of James W. Campbell, of Pike county, Missouri;

Which were read a first and second time by their titles, and referred to the Committee on Public Lands.

#### CLAIM FOR OCCUPATION OF KEY WEST.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John W. Simonton.

When the bill was last under consideration, February 13, several amendments were offered by Mr. SEWARD, so as to make the bill read:

*Be it enacted, &c.,* That the proper accounting officers of the Treasury Department, under the direction of the Secretary of the Navy, examine, audit, and settle the claims of John W. Simonton and others, owners of the island of Key West, in the State of Florida, on account of its occupancy by the Government of the United States as a naval and military post during the years 1823, 1824, 1825, and 1826; and to pay such sum, if any, as shall be found to be due.

The amendments were agreed to.

Mr. BAYARD. When this bill was under consideration before, I opposed it, on account of its structure, which drew my attention to it in the first place, and subsequently caused me to examine the basis of the claim. So far as the objection to the structure of the bill goes, it has been avoided by the amendments of the Senator from New York, which have been adopted by the Senate,

except on one point, and that is, that you refer, by this bill, to the accounting officers of the Treasury to adjudicate upon a question of damages, without having before you the means of knowing whether any damage has been done. I understand that Congress have invariably refused what, according to my judgment, would be the proper course for the disposition of claims against the United States. I speak not of gratuities, but of claims—proper claims—which depend upon recognized principles of law or equity, to establish a tribunal before which the Government could be sued, and where the complainant or the plaintiff should be entitled to recover. In my judgment, claims of that kind would more properly be heard and determined before a tribunal, sitting as a court of justice, in which an examination into the facts could be had upon both sides—where the claimant and the Government could both be heard by their respective agents and attorneys. But Congress have refused to establish a tribunal of that kind, and the principle of that refusal seems to me, of necessity, to negative the idea, that you should, in an individual case, refer to the accounting officers of the Treasury the performance of this duty, when there is no sufficient evidence to decide upon it yourselves—when you are unwilling to pass a general law for the purpose of doing so. I therefore still object to the structure of this bill, on the ground that it purports to do, and does in effect, and as regards an individual case, what you refuse to do as a general principle of law, applied to the mass of claims that come before you, and that you propose to refer it to a tribunal not well constituted for the investigation of claims; because, in investigations before the accounting officers of the Treasury, they have no power to send for witnesses and examine them; and that the testimony would be *ex parte*, as much so as before this body—especially, if the claim is not established before the body by competent proof, both of the character of the claim that is urged against the Government, and the amount to be allowed to the party, so that Congress may determine the sum, as well as the fact that the party is entitled to something. I now exclude the mere settlement of accounts or vouchers, which this is not. I should feel myself compelled to vote against any bill not so sustained, unless Congress pleases to establish a proper tribunal under a general law for the determination of such cases.

Supposing, however, that this objection will not prevail with the Senate, then, at least, when a claim is brought before you, to be referred to the accounting officers, founded, as this is, upon what I call conjectural damages—damages resting on testimony of a most general character, and of a consequential nature—there ought to be shown to the Senate a clear ground of a claim of some kind, supported by proof sufficient to justify the reference. Now, in my judgment, looking at this subject, I cannot perceive the evidence of any claim against the United States at all.

I will read from the report which was formerly made in the House of Representatives, and which is embodied in the present report, to show what the claim is, as stated by the claimants themselves. In my opinion, it shows that there is no ground at all for the claim. At page seven of the printed report of the House of Representatives, made in 1848, the claim of the memorialists is stated by themselves in these words:

"Your memorialists think they have a just claim on the United States to ample indemnity, on the following grounds, viz:

"For the use and occupation of the Island of Key West from April, 1823, to October, 1826, and for a portion of it to a much later period. For the damage done the wood on said Island. For about three hundred sheep and two hundred hogs destroyed in consequence of the arbitrary order of Commodore Porter. For defeating their plans of improvement, interfering with their business, exercising despotic power over their persons, driving settlers from the Island, preventing accession to the population, and substantially taking from them the entire capital and means upon which all their hopes of wealth were founded."

These are the grounds of the claim. They are exceedingly general in their character. My answer to them all, is this: That there is no claim proved; that the Government is not responsible for the acts of Commodore Porter, beyond the scope of his authority. At page twenty, of the same document, the authority given to Commodore Porter is stated. I have discussed this question fully before, and am not now going over the whole ground. The orders given to Commodore David Porter, by the Secre-

tary of the Navy, and the only orders under which he acted, were these:

"You will establish at Thompson's Island, usually called Key West, a depot, and land the ordnance and marines to protect the stores and provisions. If, however, you shall find any important objection to this place, and a more suitable and convenient one can be found, you are at liberty to select it as a depot."

Commodore Porter's report to the Secretary, in reference to his transactions at Key West, dated 16th April, 1823, is as follows:

"For the last two weeks our movements and occupations have been so varied, that to enter into a full detail would swell too much this communication. To be brief, therefore, I shall merely state, that within that time we have built our storehouses on Thompson's Island, landed all our stores, collected together all the schooners of the squadron, and stationed them at different points on the coast of Cuba."

The report, therefore, as well as the order, shows simply the establishment of a naval depot on this island. According to the statement of facts by the committee, it is an island of some seven hundred acres in extent. I understood the Senator from Florida, on a former occasion, to state that it was much larger. Be it so. There was no order given to occupy the island; yet your bill here presupposes, in its language, that the United States have occupied the whole island. This is not the fact, on any evidence before the Senate. No such order was given; and if Commodore Porter transcended the order to establish a depot and military storehouses, by taking possession of the whole island, and establishing there martial law; and interfered, as the complainants allege, by driving off the inhabitants, limiting their rights of property, surely the Government is not responsible for his transcending the scope of his authority, and abusing the powers confided to him. I hold that the principle laid down, and stated with great clearness by the Attorney General of the United States in Sibbald's case, applies here, and in all classes of cases of this kind. The opinion of Mr. Legare in that case, which is to be found in "The Opinions of the Attorneys General of the United States," page 1543, is stated in a very clear manner. His statement is uncontroverted, and uncontrovertible, as matter of law:

"The damages must not only have been directly caused, not merely occasioned, by the interference of any agent of the United States, but he must have acted under their authority. Whatever the agents did beyond their instructions, clearly they did in their own wrong, and the Government is not responsible."

I hold that to be perfectly sound doctrine. I hold that that is the extent to which the Government is responsible, and not beyond that. Now, in this particular case, Commodore Porter did not receive orders to go beyond the establishment of a depot; and, certainly, he had no orders to occupy the island, and establish martial law, and do all the other acts which are complained of in the memorial of these parties. He was not authorized to destroy the hogs and sheep belonging to the parties; nor is it true that he did so. The damage done to the wood on the island has been settled at the Treasury, and paid for. Their statement shows that they have received over three thousand dollars for the wood. That Commodore Porter occupied the island is not proved. It was not ordered. That there was a part of the land on the island used for a depot and store-houses, is doubtless true. Whether that particular land is the portion to which the Government has since acquired a title and paid for, does not appear from the statement of the claimants. If they will show that the land which was then occupied by the Government was not the land for which they have since been paid, I am perfectly willing to vote in favor of the claim, when proper evidence of the amount comes before me. That would involve the interest or rental value of that portion of the island occupied by the Government, according to their order, during those years, if it be different land from that which they have since purchased.

I stated on a former occasion, what was true, that the land on that island must be exceedingly valuable if this claim can be sustained, when, for the occupation of land for store-houses and for the wood destroyed, the parties have already received seventeen odd thousand dollars. The parties have not shown that any other land was occupied than that for which they have been paid. But the claim to relief, on the face of this bill, goes upon the ground, and it is referred to your accounting officers on the ground, that the whole island was oc-

cupied by the United States. No such fact appears in the evidence. The United States never ordered it; the United States never knew of its occupation; for this case is not now before the Senate for the first time. Commodore Porter made his report, in which he stated simply the establishment of his depot there; and that he carried on his proceedings by stationing vessels on and around the coast of Cuba, for the purpose of suppressing the numberless pirates who had existed there. No complaint was made to the Government by these complainants, at that time, of any injuries inflicted on them by any authorized or unauthorized act of the Government; none whatever. It is alleged, if true, and was alleged, that a communication was made to the Navy Department, in the year 1825, complaining of these acts of Commodore Porter. The answer to that is this: There is no proof of that. This matter was before the Senate years ago. At the first session of the Twenty-third Congress the committee were discharged from the consideration of the petition filed in the name of Whitehead, for himself, Simonton, and others. It is the same claim, though then under a different name. It was then referred to the Secretary of the Navy. He made an adverse report on the claim, at the next session of Congress, (the second session of the Twenty-third Congress,) and in that report he states that no such communication had ever been received at the Department; and the paper which the parties presented, as showing that it had been sent, was a mere mutilated copy of some paper; but that when made, or where made, there was no evidence at all, though it had never been received certainly at the Department. It stands, then, in this position, that these claimants come to claim from Congress for outrages—for they were outrages if true—committed by Commodore Porter beyond the scope of his authority, long after he is in his grave, long after the claim has been adversely reported upon by the Executive officer to whom it was referred, and by the committee of the Senate to whom it was subsequently referred. The claim was before the Senate subsequently to the time of the report of the Secretary of the Navy, to which I have referred, and the committee were discharged from its consideration at the second session of the Twenty-fifth Congress, and made an adverse report at the first session of the Twenty-sixth Congress on, for all practical purposes, precisely the same evidence which is now before the Senate. The only additional testimony at this session, is the opinion of some witnesses as to the rental value of this property, on the presumption that it was occupied by the United States as an entirety. There is no other additional evidence of the claim beyond that which existed when the committee made an adverse report at the first session of the Twenty-sixth Congress, based on the report of the Secretary of the Navy and their own investigations. I read that report on a former occasion, and it is not necessary now to reread it. This claim was then examined. It was rejected by the committee. There has been no further evidence to establish it since that time. I have shown, from the very memorial, what was the character of the claim then, and that it does not come under any principle which would render the Government responsible.

The bill assumes, according to its language, even as amended, that the Government occupied the island. Proof is not in existence that they ever did occupy the island, beyond the land which was necessary for establishing store-houses. Well, if the parties mean to make a claim grounded on the occupation of a portion of the island by the Government for store-houses, for which they were not paid, let them present the claim in a proper petition; and if the fact is established that it is not the same land for which the Government afterwards paid them, to the amount of \$14,000, I am perfectly willing to vote in favor of paying what is just; but I am not willing to vote for a bill referring it to the accounting officers, when the bill presupposes, by its very language, that the whole island was occupied, when this was not the fact.

If it be said that these parties did send a communication complaining of these acts of Commodore Porter to the Secretary of the Navy, my answer is, that it is negated by the fact that no such paper can be found on the files; and further, that it is against all probability that if a communication had been made, the party would have slept on his rights, or rather on his wrongs, inflicted on him



from day to day, and never have noticed the fact by petition to Congress until years after, when the Navy Department had taken no notice of the claim. I therefore suppose it to be true, that even if there was an intention to make such a claim, and a paper prepared, it never was sent. Certainly it was never received.

Then how stands the case? The Government have given orders to an officer to occupy a certain portion of this island, simply as a place of deposit for military stores. And the report shows that he did so. Matters went on from the year 1823 down to 1828, or subsequently, and we find no claim made—no complaint made to the Government, but squabbles ensue between the officers and the owners of land; and then, after the lapse of fifteen or twenty, or even thirty years, the parties come forward and petition Congress to redress the wrongs which they, or an officer of the Government, have inflicted on them—the officer being in his grave—and he having been liable to suit for every act he had done—liable to damages for acting beyond the scope of his authority and violating their rights, if the allegations were capable of proof. Yet they left him unused during his lifetime, and took no means to establish their claim judicially. Now, I submit to the Senate, that under these circumstances, it is going much too far to pass this bill, that it will cast a stain on the memory of Commodore Porter; because, if the bill is passed, you assume that the acts complained of are grossly outrageous. But these plaintiffs dared not, in the lifetime of Commodore Porter, to arraign him in a court of justice, and meet him with witness against witness as to the propriety of his conduct and the extent of the exercise of his authority, but come here now to you, to ask you, on this general petition, to disburse the funds of the nation on an unproved claim, and at the same time reflecting on the character of one of the most distinguished officers ever in your service, when he is no longer here to defend himself, and has left nothing but his memory to his children and his country. I can vote for no such bill.

As I said before, I am perfectly willing, if these parties will show, by petition and competent proof, that the land occupied by Commodore Porter for storehouses and for a naval depot, was not the same land which was subsequently purchased and paid for by the Government, to pay for the rental value of it during the time it was so occupied by the Government. But I am not willing to pay for the occupation of this island beyond the orders of Commodore Porter, and in violation of his duties; and I am not willing to investigate this case, nor to cast a censure on his memory, when he is in his grave, founded on testimony so loose as this is. I shall, therefore, feel myself compelled to renew the motion which I made when this bill was last up, but withdrew that the amendment of the Senator from New York might be offered, that the consideration of this bill be postponed indefinitely.

I will make one further remark. As regards this, or any other claim, it is, I am certain, far more agreeable to a man's feelings to advocate than to oppose it; certainly it would be so to mine. But, standing here in this body, I can know no private feelings whatever. I shall endeavor to view every claim that comes before the Senate as a claim between A and B, and to decide upon it judicially to the best of my knowledge and ability, without favor or affection to any party.

Mr. BADGER. I do not propose to enter into the discussion of this case at large; but I desire to make a few observations, which have been suggested to me by what has been said by the Senator from Delaware. I do not understand the construction which he has given to the orders under which Commodore Porter took possession of the Island of Key West, to be exactly of that narrow kind which he does. Commodore Porter was directed to establish a naval station and depot on the island. It is a small island, consisting of some two hundred acres of land.

Mr. BAYARD. The report states seven hundred acres, and the Senator from Florida says it is much larger.

Mr. BADGER. Very well. When we consider the condition of things at Key West; that it was not a thickly-settled or inhabited island; and when we remember the purpose which the Government had in view in establishing this naval depot and station there, I think it must be under-

stood that the officer had not only authority to take possession of so much of the land on the island as might be necessary merely to place his naval station and depot there; but that his orders fairly included what was necessary to make the station and depot effectual for the purposes of the Government. It is very easy to conceive that it might be highly important to the ends which the Government had in view in making that establishment, to prevent the use of the residue of the island as being in itself calculated to interfere with those ends; and, therefore, if Commodore Porter, acting under the impression that his duty to the Government required him to do what he did, in regard to the occupation of the residue of the island, I think he was acting fairly under a just exposition of the order which he received; and secondly, that it by no means implies any reproach upon his memory that this bill is brought forward to obtain from the Government compensation for losses sustained, by individuals, in consequence of the acts which he felt himself bound to commit. With regard to some things, it is manifest that it would not have done for Commodore Porter to permit that island to be occupied; certain classes of occupation upon it would have been of a most injurious character. In the neighborhood of the naval station and depot were persons engaged in certain transactions which would tend to demoralize his naval force, to put it beyond his effectual control and direction, and prevent him accomplishing the ends the Government had in view. Now, I mean not to say, whether in point of fact what Commodore Porter did was necessary and proper to those ends or not. That is a difficult question; but what I do mean to say is, first, that the order to him to establish a naval station and depot there necessarily implied that he should adopt such measures as would make the establishment effectual to the purposes designed by the Government; and, secondly, that what he did, though resulting in loss to an individual, may not imply any imputation upon his memory, as having arbitrarily, willfully, and knowingly exceeded his orders in doing acts which were necessary for the purpose which he was charged to accomplish.

The next thing which I have to say is: If I understand the honorable Senator from Delaware, he concedes that, in cases where there is a claim upon the Government—a claim *stricti juris*—if there was any tribunal capable of enforcing it against the Government, and not appeal to its mere benevolence, it is not the usage or custom of the Government ever to refer an inquiry into the damages or amount of damages to the head of a Department.

Mr. BAYARD. No, sir; the Senator misunderstood me. I said that while Congress refuses to establish, by a general law, a tribunal to adjudicate upon these claims, it must be on the principle that this body must remain the adjudicating body. If they refuse, by a general law to establish a forum or tribunal to decide upon claims preferred against the Government, it must be on the principle that they mean to retain in their own hands the right to determine the propriety, the justice, or equity of any claim against the Government. If that is the principle—and I cannot conceive that it could be any other—on which a general law would not be passed, then I said I would be unwilling to vote, in a particular case, to refer it to any other tribunal for the adjudication of facts which they are no more competent to decide than we are, and who have no greater power of examination than we have; and therefore I should require the party to produce his testimony here.

Mr. BADGER. I did not exactly understand the honorable Senator; but I would make a remark which may be necessary to enable us to understand the propriety of considering this claim, without determining now whether it should be granted or not. Congress has always reserved in its own hands the power of determining upon such claims; but its practice shows that while it retains the power in general, and has constantly refused to establish a tribunal with general powers upon this subject, it has always been in the habit of referring particular cases, from time to time, as it thought to be necessary, to the Executive officers of the Government for investigation, and that in cases of claims, strictly speaking. One occurs to me at this instant, the claim of the late Colonel Richard M. Johnson against the Government for

the value of some school-houses on Indian lands, which he claimed, under a contract, the Government was bound to pay. He made his application to Congress, it was considered by a committee; and Congress refused to pass upon or adjudicate the claim itself, but made an appropriation for the purpose of paying such amount as should be ascertained by the proper Executive officers to be due to him on account of the claim; and it was adjudicated at the Department and paid. Without entering further into the matter, I give up the floor to the Senator from Florida.

Mr. MALLORY. I concur, Mr. President, in much that has been said by the honorable Senator from Delaware, [Mr. BAYARD,] and particularly in his closing remarks as to the feelings that should actuate Senators upon this floor, in voting upon private claims. And I acquiesce entirely in the assumption that every honorable Senator feels much more gratification when he can conscientiously vote in favor of a private claim than when he feels compelled to vote against it. I require no illustration for this beyond the course of the honorable Senator himself, while opposing private claims upon this floor; but I am happy that this discussion has arisen, and happy that it has fallen to the honorable Senator from Delaware to probe this claim to its very foundation, because I am unwilling to stand here, as a new member of this body, as the advocate of any private claim which is not founded in strict equity, and of the equity of which I am not myself fully convinced. Having, however, examined this claim, and having been familiar with it for years, I feel exceedingly happy in having it in my power to answer much of what has been urged by the Senator from Delaware in opposition to it. I readily agree with the Senator from New York, [Mr. SEWARD,] because, in the main, all that I desire is that the Government should examine this claim, and, if anything is found to be due to this party, then that it should be paid.

In regard to the doctrine that the Government is not responsible for the illegal acts of their agents, I entirely concur with what has fallen from the Senator from Delaware; and I believe that that is a doctrine in which we shall all coincide at once. If Commodore Porter committed any acts which he was not authorized to commit, and which were illegal in themselves, he and not the Government is responsible for those acts. But the extent of his authority is to be judged of in part—first, by the acquiescence of the Government in the acts complained of; and secondly, by the orders which were given to him. This authority is not to be looked for alone in the orders which were given to him, but also in the acquiescence of the Government in the acts which he did. I hold that to be sound doctrine; and if I do not show that this island was occupied by the Government of the United States, or at least by their orders, for a series of years, that the then owners were dispossessed of it, and that its occupation by the Government was instrumental in obtaining important ends, as also that its occupation conferred upon the Government important benefits, then I am willing that the bill should fail. But if I show that it was occupied by authority of the Government, and also that at the time it was taken it was private property, then I suppose there is not an honorable Senator here who will raise his voice against paying what is reasonable and just.

The Senator from Delaware appears to think that because the country has failed to establish a Board of Commissioners to adjudicate upon claims, he will not vote for this claim, however just it may be. It may be the duty of the country to provide such a board; but while the Government has not done so, and probably never will, in the face of the fact that there are claims to the amount of \$50,000,000 to be adjudicated upon on which such board would have to enter at once, shall we, when a party has been a sufferer for more than twenty years, refuse to examine his claim and allow him the benefit of all such *prima facie* proof as would lead to the allowance of the claim before any court of the country?

In relation to this claim, it has been truly said, that this is not the first time it has been before Congress. I will call attention to the fact, that in 1847 this case was thoroughly investigated in the House of Representatives, and the Committee on Naval Affairs, through their chairman, the honorable Mr. Butler King, made a report upon it, from

which facts and statements are thus quoted by the Committee on Naval Affairs of the House of Representatives, at the first session of the Thirty-first Congress:

"Upon a full and careful examination of the evidence submitted by the memorialists, the committee are of opinion that their statements and complaints are well founded.

"The testimony of the officers of the Navy, and of the inhabitants of the island, who were cognizant of the facts, fully sustain the allegations of the petitioners."

The report goes on to show—

"That the Government had no right to take the property of the petitioners for public use without making for them a suitable compensation."

And it continues thus:

"The committee are of opinion, therefore, that the only question for decision is in relation to the amount to be paid to the petitioners for their property thus taken for the public use."

The value and importance of the island are stated at length, and the report concludes thus:

"That the occupation of this island by the Government, in the manner described and proved, resulted in serious losses, both immediate and prospective, to the owners, cannot for a moment be doubted by any one, after a careful and candid examination of all the testimony. The injuries sustained by them have already been referred to in this report, and are of such a character as to call for immediate redress."

The Naval Committee in the House made another report in 1848, in favor of the claim directly, and reported a bill which was introduced here in terms. Now, sir, this claim has been twice at least reported upon favorably; and the object of the bill now is to permit the claim to go before the proper accounting officers of the Treasury, and to allow the claimants to show reasons why the claim should be granted, if they can prove it is a just one. And unless we entertain the opinion that those officers of the Government are reckless in the discharge of their duty in the examination of claims, I think there should be no objection to sending the claim there; because, unless we send it there, there is no other mode of securing the payment of the claim but by sending it to a special committee for investigation. That has been the ordinary mode with regard to cases which, like this, have been pending for a long period of years.

I will now advert to the authority under which possession was taken of this island, and will call the attention of the Senate to the fact, that when the question of sending a fleet there first arose, there was a great excitement among the American people, and from one end of the country to the other, the cry went forth in strong appeals for protection to our commercial marine from the piracy which was carried on in the Gulf of Mexico. It was then quite uncommon for a month to pass without the occurrence of a serious piracy between New Orleans and the Bahama Banks; and Government looked around to see where it could best plant a naval depot for the purpose of suppressing this piracy. In this condition of things the Secretary of the Navy, on the 7th of February, 1822, issued the following order to Lieutenant Commandant M. C. Perry, of the United States schooner Shark, New York:

"SIR: I inclose to you the copy of an exact description of 'Key West,' a small island on the edge of the Florida stream, seventy-five miles north by west from Havana, about midway between the Dry Tortugas and Cape Florida; and I wish you to proceed in the nearest route from New York to that place, for the purpose of making an examination of the island, its harbors, its extent, and the dangers of navigation, and report to me as early as practicable every information you shall acquire, with a view to further measures for its occupation, and for the establishment of a port of rendezvous, and for commerce, should the description be verified by you. In this first visit to the island, it will not be necessary to take actual surveys, but merely report to the Department the real situation of the island as above mentioned.

"Should you find the island situated as it is described, and it shall in your judgment be necessary, you are authorized to take possession of it in the name of the United States, and, if you think proper, leave a midshipman or other suitable officer, with one man, to retain possession until further orders; provided they can be sheltered and made comfortable and safe for the time, until aid can be furnished to them.

"You may also give notice to our commanders, if you shall find good water, safe anchorage, &c., that they may make further examination by calling there occasionally.

"After having performed this service, you will proceed to cruise around Cuba, and in the Gulf of Mexico, for the protection of our commerce, and in pursuance of the general instructions for the suppression of the slave trade, and punishment of the crime of piracy."

In pursuance of this order to proceed to the examination of this island, and if it should be found to come up to the description entertained, to take possession immediately, we find that he executed the order, and that Lieutenant Commandant Per-

ry, on the 28th of March, 1822, addressed the Secretary of the Navy of the United States as follows. After specifying his arrival, &c., he says:

"In regard to the island in question, I have the honor to report, that after carefully examining its whole extent, sounding the harbor, and otherwise making such observations as your instructions directed, I have come to the conclusion that it possesses many advantages as a naval rendezvous, and in consequence, have, in the name of the United States, taken formal possession of it, giving it the name of Thompson's Island, and have left Midshipman Joseph Morehead and one man to retain possession until further assistance can be furnished them. At present their situation is tolerably comfortable. In selecting this name, I have not only gratified my own wishes, but have complied with the request of the proprietors of the soil present, on the occasion of planting the standard, and whose names are John Warner, Esq., United States commercial agent at Havana, and Messrs. Fleming and Whitehead, all American citizens."

Here, then, we have the answer of Lieutenant Commandant Perry at the time, in reply to the order to take possession of the island. What is his reply? That he has taken possession in the name of the United States; that the proprietors were present at the planting of the standard, and that he changed the name of the island, calling it, after the name of the existing Secretary of the Navy at the time, "Thompson's Island." Is there any proof wanting that this island was taken possession of in compliance with the order then given, and which is now on file at the Navy Department? This shows what was the object of the Department in this preliminary step, when he was sent to take possession of the island. This was a preliminary order. In Lieutenant Perry's reply, he further says:

"In enumerating the advantages possessed by this island and its contiguous waters, and in recommending it as a situation well calculated for a naval rendezvous, I have looked to a period when our country shall be engaged in a war with some great maritime State, and when the undisputed possession of the Florida keys will be a matter of great importance, as it will insure the undisturbed navigation of the northwest side of the Florida stream (or Gulf of Florida) to our merchant vessels, and will prove a check on the vast resources of the Island of Cuba—vast, indeed, if possessed by the enterprising Government of Great Britain."

This letter was addressed by the Secretary of the Navy to the President of the United States, in reference to the letter of Lieutenant Commandant Perry:

"That the geographical situation of the island referred to in the resolution has, for some time past, attracted attention, and been considered peculiarly important, both as a military position, and in reference to the commerce of the United States.

"The commander of one of our public vessels, cruising in that quarter, was accordingly directed, last winter, to touch at this island, and to take possession of it as a part of the territory ceded by Spain to the United States, and to make such general examination as might be useful in forming an opinion of the advantages of the place, and the propriety of a further and more particular survey.

"From the report of Lieutenant Commandant Perry, who was charged with this duty, it has been satisfactorily ascertained that this position affords a safe, convenient, and extensive harbor for vessels of war and merchant vessels. Instructions, however, did not require him to make so minute a survey as was necessary in order to judge of the extent to which this place might be safely and advantageously occupied and improved as a naval depot.

"Captain Patterson has since been instructed to make a further examination and survey, and is now engaged in that business. His report may be expected before the adjournment of Congress. There can be no doubt, however, of the importance of this island and its contiguous waters in various points of view. The harbor affords a safe and convenient rendezvous for our public vessels cruising in the West Indies and the Gulf of Mexico, and the island a very suitable depot for provisions and supplies."

And he further says:

"The island is considered so advantageous and convenient a place of rendezvous for our public vessels on the West India station, that it is intended to make it a depot for provisions and supplies against the pirates, lately authorized by Congress to be secured in temporary buildings, under the protection of a guard of marines."

This letter was addressed, on the 29th December, 1822, reiterating to the President of the United States the important advantages of this island, and the fact that the Secretary of the Navy had issued orders to take possession of it as a part of the territory ceded under the treaty with Spain.

Commodore Porter went out there with a large fleet—a fleet not large in the size of the vessels, but large in number, calculated for entering the small harbors upon the Florida coast, as well as upon the coast of Cuba, for the suppression of piracy.

The next extract which I shall present to the Senate, is one from a letter to the Secretary of the Navy by Commodore Porter, dated April 16, 1823, and written on board the "Sea Gull," at Key West. He says:

"SIR: For the last two weeks our movements and occupations have been so varied, that, to enter into a full detail, would swell too much this communication. To be brief, therefore, I will merely state, that within that time we have built our store-houses on Thompson's Island, landed all our stores, collected together all the schooners of the squadron, and stationed them at different points on the coast of Cuba."

Commodore Porter, in a letter to the Secretary of the Navy, dated Baltimore, November 19, 1823, says:

"The fixing an establishment at Thompson's Island for rendezvous and supplies, as my instructions required, has had the most happy effect in attaining the object in view. Its vicinity to Havana, placed, as it were, in the thoroughfare of vessels sailing through the gulf, makes it, in many points of view, an object of great importance to the United States; and, although for three months in the year it must ever remain sickly, while existing causes continue, it is, from its extraordinary salubrity for the remainder of the year, worthy a closer examination to ascertain whether they may not be eradicated."

The extract from the order, in addition to the order which the Secretary of the Navy had given to Lieutenant Commandant Perry, given when Perry was relieved from his duty, and Porter was substituted, says:

"You will establish at Thompson's Island, usually called Key West, a depot, and land the ordnance and marines to protect the stores and provisions; if, however, you shall find any important objection to this place, and a more suitable and convenient one can be found, you are at liberty to select it as a depot."

The objection is, that Commodore Porter should have occupied only a portion of this island, and that he was not justified by the authority given him to occupy the whole of it. I apprehend that, before the Senator can entertain such an assumption, he must know something about the geography of the island, of its topography, and its forests, and the only portion which could be occupied for a naval depot. It happens to turn out that the only portion which was fit for a naval depot, was occupied as the site of a town, called Allentown, and the other portion was totally unfit. It will be found that Commodore Porter was to take possession of the island. He was not restricted; he had a large discretion, and he did not depart from his orders. He took possession of the whole island, precisely according to his instructions, and in the name of the United States, and he planted the standard there in the presence of the proprietors, and they were informed that the island was taken as a part of the territory which was ceded to the United States by Spain. Is there any proof wanting that it was then taken possession of in behalf of the United States?

Now, sir, the testimony of a respectable eyewitness present upon this occasion, has been invoked to sustain the orders of the Secretary of the Navy, and the response given by officers of the Navy. And we find by a deposition of an officer of the Navy, at the time, whose character is entirely unimpeachable, that the whole island was taken possession of by Commodore Porter. The name of this merchant is Griffith W. Roberts, whose testimony is this:

"The whole population on the island was governed by Commodore Porter, by military regulations, so far as he collects and believes. He allowed no citizen to settle on the island without the permission of the commanding officer; or, if allowed that privilege, he was compelled to erect a building on such spot as the commanding officer might designate. Deponent further says, he had erected a store in 1825, on the island, under authority given his partner by Commodore Warrington, on a lot situated by said Warrington; and no other lot could be obtained, and no application was made to the proprietors by deponent or others; which application, the course pursued by the officers, led them to think unnecessary and useless. Deponent knows that many disputes arose between the officers and proprietors, in consequence of the latter deeming their rights violated; and frequent correspondence was carried on between them and Commodore Porter on the subject. Deponent further understood Commodore Porter, or Commodore Warrington, on the occasion, refused said proprietors to extend their occupation of ground a few feet, for the purpose of putting up a warehouse, which their increasing business required. Deponent understood that an order was issued by Commodore Porter, to Lieutenant James McIntosh, commandant of the island, in which any right to the soil of said island, except that enjoyed by the United States, was denied, the order stating 'the proprietors' residence there being tolerated only so long as they submitted to such regulations as he might prescribe.'"

Now, that is the deposition of a respectable merchant, resident at the time on the island, who was familiar with the transactions of the officers in the taking of the island. He knew that no blame could attach to Commodore Porter, and that he simply discharged the duties confided to him. He knew that the whole island was necessary for his accommodation. On one side he established a naval depot. And he established a hospital and

numerous stores and a magazine upon the south side; one mile from the location of his barracks; and thus he occupied both sides of the island, and in pursuance of his orders of course. It was utterly impossible for him to permit the citizens to remain on the island under civil law, and to allow magistrates to hold courts within his own barracks, carrying out the laws of Florida within those barracks. He found it necessary, in the execution of his orders, to prohibit this.

The testimony of one of the naval officers, Captain Mix, who was at that time present, when Key West was taken possession of, is this:

UNITED STATES FRIGATE HUDSON,  
New York, March 3, 1834.

SIR: In reply to your letter of the 10th of February, I can only make the following brief remarks:

I was in command of the store-ship Decoy, in the year 1824, and landed a large quantity of public stores and provisions at Key West, or Thompson's island. That island was at the above-stated period under the command of a naval officer, who had the entire control of it, and exercised entire authority over it, and all the property on it, directing what part should be built upon, &c.

Wood and water were at all times supplied by the island, during the time I was there—say two months. The wood was cut by the men belonging to the squadron. Of your question respecting the sheep and hogs, I know nothing. Undoubtedly salt might have been made in large quantities; but of the profit it would have afforded, or of the value of the island, I am unable to speak.

I am, with much respect, your obedient servant,

M. D. MIX,

Master Commandant United States Navy.  
J. WHITEHEAD, Esq.

This is the testimony of a commander in the Navy, who participated in the duties of that naval station. He was one of the officers of Commodore Porter; and he tells you that in obedience to his orders, Commodore Porter occupied the whole island, and the owner of the island was allowed to use only so much as Commodore Porter permitted. Whose testimony could be better than that of an officer of the Government, who, if he had any sympathy with either party, would not certainly have it for the inhabitants of the island? Another of these officers, Mr. Morehead, who was left on the island in command, when Commodore Perry first took possession, and left the island, says:

"Commodore Porter's authority was exercised as positively on the island as on any of his vessels. He unhesitatingly used such portions of it as in his opinion the public service requires."

That is the testimony of an officer who was left in command of the island, and who, of all witnesses on the face of the earth, is most competent to testify; for he was left in command under Commodore Porter, and he tells you that Commodore Porter exercised authority over the island precisely as over his own vessel; that he unhesitatingly used such discipline as the public service required.

Something has been said by the honorable Senator from Delaware, calculated to beget the idea that there was a quiet acquiescence in the acts of Commodore Porter on the part of the inhabitants of the island. The inhabitants of the island knew very well that Commodore Porter was acting in conformity with his authority; because he had proclaimed his authority, and told them that he took possession in the name of the United States, and he erected a standard there which remained three years. They required no further proof of his authority; and they entered several personal protests in consequence of quarrels, which were daily occurring between the inhabitants and the officers. One among their numerous protests was formally entered by P. C. Green & Co., addressed to the officers at Key West, as follows:

"You have this day, at the head of a guard of marines, taken a mason, a free citizen of the United States, who is employed by us, and confined him in the guard-house, for obeying our orders in laying the foundation of a warehouse upon our own soil or property. You have also placed a sentinel on the spot to prevent the continuance of our object."

"We hereby demand the immediate release of the said mason, John Cobourne, and the removal of the sentinel from our premises; which, if refused, will result in serious damage to us. You are also notified by this letter, that for the two acts complained of, besides others equally illegal, committed by you, we shall make you amenable to the laws of our country. We regret that you should have preferred the imprisonment of a helpless, innocent man, acting under our orders, to the execution of your threats towards us personally."

"You have exhibited us no order from Commodore Porter to justify your proceedings this day towards us. On a reference to his order, dated August 18th, 1824, we perceive that he there 'considers our right to improve dependent entirely on his ideas of the good or injury which may result therefrom to the United States'; and, as he informed us, we were to be deprived of the lot in question for other purposes than the Navy required. We have reason to believe

that you have acted without his orders, merely for the gratification of your malice against us. Whether or not you act from superior orders, we admit no person's right to issue or execute them, when we are thereby to be deprived of our property."

"It is well known that we are the owners of this island, the titles to which are undisputed except by Commodore Porter; and we can see no consistency or propriety in driving us by force from the enjoyment of our property, to give it to favorite individuals."

This, sir, is only one of the numerous protests, one of the exhibitions of the quarrels going on day after day, resulting from the occupation of the island against the right of the proprietors. As to the ownership of the island, we all know that it was a private Spanish grant, long before its occupation by Commander Perry; a grant with which our Government could not interfere, except for the purposes of eminent domain. That was the only right which our Government had to the land, under the treaty with Spain. In pursuance of this protest, when Commodore Porter returned to the island, the same parties addressed to him another protest, dated January 25, 1825. It is as follows:

"Sir, during your absence, Lieutenant Varnum has, by military force, caused us to suspend the building of a warehouse on the lot adjoining our counting-house. We were necessarily obliged to encroach upon the lot south of us by five or six feet, which we conceived we were authorized to do by you, in the conversation our Mr. Greene had with you on the subject, previous to your departure."

"The gentleman to whom the said lot is given by you is willing we should take the few feet required; and as they are about laying the foundation of their warehouse, you will oblige us by giving such orders as will enable us to receive them."

"With great respect, your obedient servant,  
P. C. GREENE & CO.

"Commodore PORTER, Commander-in-chief."

This letter bears evidence on its face that the proprietors were obliged to consult the officers of the Government, before they could dare to occupy their own soil. Commodore Porter's reply was in these terms:

UNITED STATES SHIP JOHN ADAMS,  
Thompson's Island, January 28, 1825.

GENTLEMEN: I have received yours of this date. In conversation with Mr. Greene, I gave him permission to build a store within the limits of the inclosure occupied by you, and of the same length as the one adjoining the navy-yard; the ground outside, and to the south of your inclosure, I reserved for the use of the United States, whenever it might be thought proper to build a custom-house store: it was not given to any individual, nor had any individual a right to relinquish it to you. I should not have felt myself justifiable in allowing any one to occupy a piece of ground for private purposes, so necessary for the public use. The permission I gave to Mr. Greene is still continued, because it was given; but, without entering into any discussion as to your claims to the island, or without making any remarks on the nature of your letter to Lieutenant Varnum, I take this occasion to observe, that by a correct and decorous deportment, and a disposition to accommodate yourselves to circumstances that you cannot control, you will find it most to your interests, during the existence of a military force on the island, to pursue a line of conduct very different from that which you have thought proper to adopt."

Lieutenant Varnum's conduct has met with my approbation; and if he does his duty, as I believe he will, he will always use a military force when the public interests cannot be protected by other means."

Very respectfully, your obedient servant,

D. PORTER.

Messrs. P. C. GREENE, & Co., Merchants, Thompson's Island.

Now, there was a proprietor of the soil, who, in the occupation of his own property and in erecting a warehouse, had his own workmen arrested and put in prison by military officers, and he was informed by those acting under the Government, that military force would be used when the rights of the Government could not be protected without it.

Now, in the course of proof as to the occupation of the land and as to its value, I will state that the documents are full and distinct as to the time it was occupied, as well as the purposes for which it was occupied. The testimony of John Patrick, who was a member of the mercantile house of Jenners & Patrick, says:

"That he was a member of the commercial house of Jenners & Patrick, which was established at Key West, in December, 1824, and which continued to do business there until the latter part of 1826, or the beginning of 1827."

"To the second he saith that it was military; the island being under the charge of the United States naval commander of the West India station, who claimed it as the property of the United States."

Now, we have here a number of interrogatories put to a Mr. W. H. Hall, the third of which is very important, as to whether the progress of the town was checked in consequence of its occupation by the United States; and to this he answers "that 'the improvement of the island was checked, inasmuch as the citizens were permitted to build only

'on such spots as the United States officer in command pleased to designate.'"

I will not occupy the time of the Senate by reading further from these documents. I am satisfied that this matter is generally very uninteresting to the Senate; but I felt constrained to read these so far, because I consider that they embrace all the proof necessary to establish the allegation of the claimant, and that the whole of this island was taken possession of by the United States. The whole island is only four and a half miles long, and there was but one portion of it which was susceptible of occupancy at all, and that was the portion on which the town was built. No other portion of the island has ever been occupied for any purpose whatever. It was that identical spot of which Commodore Porter took possession. But he took possession of the whole island, and so did Commander Perry, and he did not go beyond his authority in doing so.

The next question to be considered is, whether they ever received any pay for this occupancy? If the honorable Senator from Delaware can show that a single dollar has been paid for the occupancy of this island, I will not say another word in support of this claim. But I allege that the Government has never paid one cent for it, nor for any property taken, except for the wood, which is stated in the memorial. All they ask is that Congress—which has had this claim before it for years and years, and after being for years before the Navy Department—will investigate the claim, and pay whatever is found to be due. It is true, that since 1825 Government has purchased the real estate; but they came in as other private purchasers. The island was divided among numerous proprietors, and among others, a Mr. Fleming, of Boston, P. C. Greene, of Rhode Island, and John Whitehead, and others, came in and purchased, under these sub-proprietors, various lots on the island. One was beyond the town upon which was the military station—a lot that never had been occupied before; and another lot was purchased for a marine hospital. But they purchased from the sub-proprietors, who were proprietors under Simonon. But for the occupancy of three years, upon which this memorial is based, not a single dollar has been paid.

Now, here is a case of private property taken for public use. And what was that use? Why, the occupation of the island, which resulted in the complete suppression of piracy in the Gulf of Mexico. When Commodore Porter left those seas, there was not a pirate in the gulf, because from the geographical position of this island, and its furnishing a harbor which the fleet could leave, and reach Cuba in a single night, every facility was had for preventing the escape of any piratical vessel.

Besides, there were other advantages connected with its occupancy which made it an object of great national importance. Such being the fact, it being conceded that this was private property taken for public use, and it being so held for three years, that the proprietors of the soil were prevented from occupying a single foot but by the permission of the officers of the United States, and all this being done under orders issued from the Government of the United States, by the Secretary of the Navy, with the cognizance of the President of the United States, I ask what objection can there be to paying for it? If the Senate cannot come to a conclusion as to the precise sum which ought to be paid, what objection can there be to sending it to the proper officers of the Treasury Department, and permitting them to examine the claim and ascertain what ought to be paid?

Why, sir, a doubt upon the propriety of doing so can only be based upon a doubt of the proper conduct of the accounting officers, particularly when, as the Senator from Delaware has observed, Congress has refused to establish a board of claims.

Now, as to the new point raised by the Senator from Delaware, that a stain will rest on the character of Commodore Porter if this bill is passed, I see nothing in it. Commodore Porter did not perform a single unauthorized act, not an act which the orders of the Navy Department did not justify him in doing—not one which was not known at the Navy Department at the time, or shortly after. And for the three years during which the island was occupied by the officers of the Government, the Department was cognizant of the fact; and that fact of the cognizance and re-



cognition of the act by the Department and the President of the United States, would be alone in law, a sufficient justification. If he were replying to the charge of having violated legitimate authority, all he would need would be to show that Government stood by and encouraged him, and that he was their agent, and what they did by their agent they did by themselves.

Now, all that is required by these claimants, after twenty years' delay on the part of Congress with regard to a claim, than which I have never seen one more fully entitled to consideration, and all I ask is, that these parties may go before the proper accounting officers, and show what is due them from the Government, and take what is considered just and right.

Mr. ADAMS. At the time that the Government took possession of this island, was it done by the consent of the owners? Again: I would like to know how long it was before the matter came before Congress, and what amount of money they received, and of what value was the land at the time it was taken possession of by the Government?

Mr. MALLORY. Some of these questions I have it not in my power to answer. The honorable Senator from Mississippi will see, from the evidence of the documents to which I have referred, that the proprietors of the island were not consulted, because their proprietorship was not allowed. The orders were peremptory. They were issued from the Navy Department at Washington, while the proprietors of the island were at Key West. It was an island which was totally beyond our commercial relations until about that period. A large harbor is there, with about twenty-six feet of water, well calculated for a large naval depot, and this fact was noticed before the order was issued to take possession of it. Government never admitted the right of the Spanish grant. They claimed it as a part of the public land; and with this idea Commodore Porter occupied the island, contending that it was part of the territory ceded to the United States by Spain, and with that view he took it as the property of the United States, and took possession of it in the name and on behalf of the Government. That very act excluded the proprietors from setting up any title to the soil. I have no doubt that the people there were glad of the presence of a naval force of the United States there; but they had no desire to see it extended to the entire occupation of the island to the exclusion of the manufacture of salt and the progress of all other business.

As to the value of the land, when the United States took possession of it, that would depend upon the object to which it could be applied. In the minds of some Senators, it might have had no value at all. I understand that it cost the proprietors about \$52,000; but I have no proof of that. I suppose, however, that the proof may be obtained. It is now of immense value, being the site of one of the largest towns in the State of Florida. It is more favorably situated for a naval depot than any other place in the Southern country, and it will amply prove itself so before many years pass away. As Commodore Porter observed, the first naval contest in which we were engaged, must necessarily be in the neighborhood of this island; and hence its vast importance and value. As an illustration of its value, and as an inducement to the Government to take possession of it, I will mention that he stated that the Gulf of Mexico might be compared to a demihojn upon its side, with New Orleans at the base of it and Cuba and Key West at the opposite sides of its neck, and all the commerce, which in 1852 will amount to \$200,000,000, embracing sixteen to eighteen hundred thousand bales of cotton, must come through this narrow strait between this island and the Florida shore, which six steamships may bridge across and speak each other every fifteen minutes. Key West commands this narrow strait, through which the whole commerce of the Southwest and the Valley of the Mississippi must necessarily pass. This was, no doubt, one of the considerations which induced these proprietors to possess themselves of it. In that point of view, the island is of immense value and importance, as a naval depot, and if the Government took possession of it on the ground of eminent domain, it certainly ought to be paid for. When the proprietors took it, it might, perhaps, be said to have had little value; but now its value is such

that it is impossible to ascertain it; and what course the Department will adopt for the purpose of ascertaining that value, I cannot say, for I have no means of knowing. All that I desire is, that some show of an investigation should be made. As to hogs and sheep, &c., I am willing to strike them out of the consideration. The wood was paid for; but the Government took possession of the soil. It was private property, taken for public purposes, and certainly ought to be paid for.

Mr. ADAMS. My object in making the inquiry was this: I was not sufficiently informed of the facts connected with this transaction as to justify me in supporting the bill; but it occurred to me from the debate that this property was valueless to the proprietors until the act, now alleged to be an outrage and a trespass, gave it value. If this very occupation gave it value, and if it was occupied by the Government of the United States with the consent of the owners, it seems to me that they have been fully compensated. I came to that conclusion from the suggestion in one of the reports which was read, that the very name of the island was given at the suggestion of one of the proprietors. I also understood that the attention of the Department was first called to the island by one of the proprietors, and therefore I inferred that the occupation was by the consent of the proprietors. It seems to me that the occupation itself must have given value to the island. The proprietors have also received compensation for the wood which was used. I would ask the Senator what amount of compensation they received for their wood? I suppose it must have been a pretty large sum, perhaps as much as the island would ever have been worth, but for its occupation by the Government.

Mr. MALLORY. They received only \$3,000 or \$4,000 for the wood which was used.

Mr. ADAMS. I am opposed to referring such questions—a question of unliquidated damages—damages for insult offered to the proprietors by the confinement of their laborers—to the decision of the head of a Department. If the damage alleged has been sustained, we ourselves should fix the amount of it. There is one thing to which I would call the attention of the Senate, and that is the delay in this case. The transaction took place twenty-four years before there ever was a favorable report upon it. The Government, of course, cannot be controlled by the statute of limitations; but as time passes away, the evidence against a claim dies, while the evidence in favor of a claim is continually increasing in strength, as a thousand other claims before this body will justify. It seems to me that it is the duty of the Senate to retrieve its character in regard to these claims. It is a common saying outside of these walls, that if a claim can be got through the House of Representatives, there will be no difficulty in the Senate. It is time, I think, that we should insist upon having good evidence to support these claims before we pass them.

Mr. MALLORY. I think my friend from Mississippi will see, at a glance, that one position which he has taken is untenable. He assumes the fact that the land was valueless before its occupation by the United States. I have not said one word that justifies that idea; and if he had read the reports made by the Naval Committee, he would have seen, at once, that it was by no means valueless; that it had a rapidly increasing population; that it had large mercantile houses; that those houses had established themselves to do a large business with Cuba, and the other West India Islands; that large warehouses and wharves were being rapidly built; that extensive preparations were being made for the manufacture of salt on a large scale; and, if I recollect aright, the duty on salt at that time was ten cents a bushel. There is a large natural salt pond upon the island, which has been worked, to some extent, almost ever since Commodore Porter left there. All these operations were interfered with.

The Senator has adverted to the change of the name of the island of Key West. Why, the name was changed according to that proclivity which the officers of the Government have whenever they take possession of private property for public use. They have a great proclivity to change well-established names of private surveyors, and give them names of absolutely no meaning at all. The whole Florida coast is illustrative of this. The name of the island was originally

Cayo Hueso. The British changed the name into Key West. Not satisfied with that, when the American officers took possession, they changed the name to Thompson's Island, without regard to its geographical position. Now, if that be any illustration of the valuelessness of the island, I am at a loss to perceive it.

Mr. ADAMS. I understood, from the report, that the name of the island was changed at the instance of the proprietors, or with their consent.

Mr. MALLORY. It may have been changed with their consent. The truth is, they were in a position in which their consent or non-consent could not have had the slightest influence; because they were told by the rearing of the standard of the United States, and the proclamation of Commodore Porter, that the island belonged to the United States, and that they had no right to it. But we are asked here, whether these parties have not been compensated by the consequent advantages derived from the occupation of the island. If the Government will not pay for private property on account of the consequent advantages which they derive from the occupation of it—if consequent advantages are to be discussed here at all—we might show that millions upon millions of dollars have been saved to the United States by the occupation of that very island; because it enabled them to suppress piracy, and it was the only station from which they could radiate to effect that purpose. The consequent advantages were enormous. But we have stricken out the clause of the bill allowing these parties to be paid for the consequent advantage to the Government; and it stands now disclaiming anything like a claim for consequential damages. Then, we are not to be told that we must be charged consequent damages arising from the occupation of the island. That is a position which, I think, is untenable.

Mr. BAYARD. Mr. President, I had supposed that it would have been unnecessary for me again to go into the facts of the case. I did not suppose that it would again be necessary for me to advert to the circumstances of the case; but I differ so widely from the honorable Senator from Florida, as to many of the facts, that I should think it a falsification of duty to both myself and the Senate, if I permitted many of the statements made by him to go uncontradicted. I believe that many of these statements are not supported by the evidence. I understand that the principle of law laid down by Mr. Legare is not denied on the other side, that if Commodore Porter acted beyond the scope of his authority, (and the damages claimed are for acts of that kind,) the Government clearly is not responsible. But the Senator tells us, that though the terms of the order of the Secretary of the Navy may not have justified the acts done by Commodore Porter, according to the literal language of the order; yet, the Government acquiesced in his acts, and acquiescing with a knowledge of them, was equivalent to a previous order, and that, therefore, the Government must be considered as having sanctioned these acts. Conceding that principle, my answer to it is plain—the Government never knew of any of those acts at all.

The Senator from Florida, (on what ground, to me is utterly inscrutable,) at the very close of his remarks, made a broad statement of facts—I believe I took the words correctly—that no act of Commodore Porter was unauthorized—that all his acts were known to the Secretary of the Navy at the time, or shortly afterwards. In this case, though a report is stated to have been made favorable to the claim in the House of Representatives, in 1847, and again in 1848, and now by the present committee of the Senate in 1852, yet the fact is entirely kept out of view, that in 1834 this case was rejected on precisely the same evidence as regards all the causes of complaint that we now have. The fact cannot be denied, that the only additional evidence which has now been brought forward is simply affidavits as to the value of this island. All the evidence in regard to alleged grievances—the ground of the complaint—was before Congress in 1834. It was then referred to the Secretary of the Navy, and reported upon by him on the same testimony that the claim was afterwards reported upon by the Committee of the Senate, and rejected. I shall presently read the report of the Secretary of the Navy on this question of fact, between the Senator from Florida and myself. I can find nothing in the documents to

show that Commodore Porter did any of the acts that are complained of here, as a violation of the rights of property, or that the illegal occupation alleged was made under the orders of the Government. That is the allegation. The ground of damage is broadly, that the Government had occupied this island in effect, and that, by its occupation in 1823, 1824, and 1825, to the exclusion of rights of the owners, it became responsible in damages. Now, if you take the order given by the Secretary of the Navy, you will find that it does not sanction such occupation. It is impliedly admitted in the argument that that order does not sanction the occupation of the whole island; and there can be no question about it. The order given to Commodore Porter, in February, 1823, was in these words:

"You will establish, at Thompson's Island, usually called Key West, a depot, and land the ordnance and marines to protect the stores and provisions. If, however, you shall find any important objection to this plan, and a more suitable and convenient one can be found, you are at liberty to select it as a depot."

Is it necessary to contend before the Senate, that this order did not authorize Commodore Porter to take possession of an island four and a half miles long, containing seven hundred or eight hundred acres; or that it authorized him to establish martial law on the island? The order authorizes him to do nothing more than to establish a naval depot there; to land stores, and build store-houses in which to put them. Commodore Porter, in his report of April 16th, 1823, to the Secretary of the Navy, states that he had done nothing more. He says:

"We have built our store-houses on Thompson's Island, landed all our stores, collected together all the schooners of the squadron, and stationed them at different points on the coast of Cuba."

Again, in a letter dated November, 1823, he gives the character of the island. He states all that he did, but there was no allusion whatever to his doing more than establishing a depot. He says:

"The fixing an establishment at Thompson's Island for rendezvous and supplies, as my instructions required, has had the most happy effect in attaining the object in view."

There is nothing to show to the Government hitherto, that there was any pretense that Commodore Porter had transcended his authority under the order to establish a depot, by taking possession of the whole island, and excluding its rightful owners. There was no claim up to this time that he had established martial law over the island, or interfered with the rights of property; and the supposition that he did so, is the only foundation of this bill. There is nothing in his reports to the Department to show that anything of the kind was done; and yet the distinguished Senator says that these circumstances were known to the Government. In 1834, the committee of the Senate had been discharged from the consideration of the claim, and it had been referred to the Secretary of the Navy. On the 16th of December, he made the following report:

"The Secretary of the Navy, in compliance with the directions contained in the resolutions of the Senate of the United States, of the 16th June last, referring the memorial and documents of John Whitehead, and others, owners of Key West, for examination into the facts therein stated, to collect the necessary evidence, and report the same, together with copies of such letters and papers in this Department as relate thereto, to the Senate at its next session, has the honor to make the following report:

"The parties interested in this case state, that, in consequence of a communication made by them on the 17th December, 1821, representing the peculiar importance of Key West, as a naval station to protect our commerce from pirates, and suppress the slave trade, Lieutenant Perry was ordered, on the 7th February, 1822, to examine said island and its harbors, &c., and, if deemed necessary by him, to take possession in the name of the United States; and that on the 28th March following, he made a report of his proceedings.

"That instructions were subsequently issued to Captain Patterson, on the 15th November, 1822, who reported the result of his examinations on the 11th March and 10th July, 1823.

"That Commodore Porter, on the 1st of February, 1823, received his general instructions, as commandant of the West India station, and was directed to establish a depot at Thompson's Island, usually called Key West, and land ordnance and marines to protect the stores and provisions.

"That the said commander assumed entire control and jurisdiction of said island; forcibly appropriating wood already cut, and causing more to be cut down and used, seizing and using, for his officers and men, hogs and sheep running at large, the property of the memorialists; prohibiting the owners and their agents from building or improving without his permission; and enforced military law upon the said island; of which grievances, they state that they informed the Navy Department by a communication dated the 1st of February, 1825.

"In support of these allegations, the memorialists offer

the deposition of Griffith W. Roberts; the copy of a letter from Commodore Porter to Lieutenant James M. McIntosh, sworn to by John Whitehead; a letter of Master Commandant M. P. Mix, to said Whitehead; certified copies of two letters from P. C. Greene & Co. to Commodore Porter, and the original of Commodore Porter's reply; a certificate of Lieutenant James M. McIntosh, with copy of Commodore Porter's letter to him above referred to, and an imperfect copy of the communication of 1st February, 1825, which are all hereto annexed, lettered from A to G, inclusive.

"The records and files of the Navy Department have been carefully examined, but afford no information nor evidence of the seizures and damages which the memorialists complain that they sustained, nor can any communication be found to have been received from them on the subject, dated the 1st of February, 1825.

"The communication of the 7th of December, 1821; the report of the Secretary of the Navy, of the 29th of December, 1822, to the President; and the instructions to Lieutenant Perry, Commodore Patterson, and Commodore Porter, and the reports by these officers, to which the memorialists allude, are appended hereto, and numbered from 1 to 8, inclusive. All which is respectfully submitted.

"MAHLON DICKERSON."

The answer, then, of the Government is, through the officer who gave the instructions, that no complaint of that kind was made to them. No such communication was received in December, 1825, as was alleged. They know nothing of all those acts. This answer was made in 1834. After that, and based upon that, there was an investigation by a committee of the Senate, and an adverse report, which was adopted. The parties afterwards had leave to withdraw their papers; and they presented them in the House of Representatives in 1847; the leading name being then Simon-ton, instead of Whitehead. A favorable report was then made. They then come back to the Senate in 1852, and, based on that report, which is attached to the report of the Senator from Florida, they get another favorable report, directly contrary to what, eighteen years ago, the Secretary of the Navy stated in his report, and what the Senate, two years following, decided not to grant. Then I submit to the Senate that I am right when I say that there was no acquiescence on the part of the Government, because the Government had no knowledge of the facts. These parties have not shown, nor can they show, that they made any complaint to the Government. If they were aggrieved, what would have been the simple course which they would have pursued? Why, they would have pursued the same course that the Harmonys did in relation to the case which was before us the other day for the relief of Lieutenant Colonel Mitchell. This claim was rejected by the Government, as a claim against them, in 1834. Commodore Porter was then alive; why did not the parties sue him and recover damages, and drive him to come to the Government, in order to show that, in the exercise of his authority, he had been obliged to trespass on the rights of individuals, and that, in the performance of his regular duties, he did it for the benefit of the country. The parties could have established, then, by legal adjudication against him, on a fair hearing, the extent of the damage suffered. Did they pursue that course? No, sir; but they come here now, long after the death of Commodore Porter, when the claim was rejected eighteen years ago, on a full and fair hearing, with the same evidence which is now before us, and ask us, not to decide the claim—because the committee themselves admit that there is not sufficient evidence to do it—but to consign the settlement of unliquidated damages to an accounting officer to allow whatever the parties may claim. Is this equity? Is this justice? Is this a course of procedure which the Senate of the United States ought to take when a claim comes before it?

I can hardly conceive a more baseless claim than the one now before the Senate. I consider that there is not a particle of evidence to sustain it. If I chose to go on with this matter, and go through all the facts, I am satisfied that I could convince the Senate that what I said on a former occasion is true, that the claim is speculative, and fraudulent in its character as against the Government, from its first origin to the present hour. Simon-ton was not the owner of this island on the 7th of December, 1821; but on that day he wrote a letter from Havana to the Government of the United States, informing them of the advantages of this island, then an uninhabited place, and which was, according to the report of Commodore Perry, the resort of smugglers and pirates. He wrote a letter, calling the attention of the Government to this island, and the propriety and necessity of occupying it as a naval station. That was his

own suggestion, when he was not the owner of the island, made on the 7th of December, 1821. His communication of that date will be found on pages 12 and 13 of the documents accompanying the House report made in 1848. On the 27th of December, of the same year, before the Government had time to act upon his suggestion, he became the purchaser from Salas of the island. He bought it from him for some two thousand dollars.

The Government have since paid, for land on the island, fourteen thousand and odd dollars; and they have paid for wood cut for the Navy during the years 1824 and 1825, three thousand six hundred and odd dollars; yet now, he and the other claimants come here and ask, on this loose evidence, that we shall give them an amount of \$120,000 or \$125,000, or whatever sum the accounting officer may choose to allow, on the mere testimony of the individuals themselves, based on the ground of the occupation of the whole island, which was not authorized, and, in point of fact, never took place. I ask if it is a case entitled to the favorable consideration of the Senate?

I submit, then, that the very premises upon which the distinguished Senator from Florida rests that this bill should pass, fail; that he has not shown the acquiescence that he proposed to show, of the Government of the United States in these acts. Now, there is a wide distinction between what he seeks to mingle up here, as showing a taking of possession by the Government, and that the acts of Commodore Porter were complained of to the Government of the United States. You are to understand that this was a desolate island; that it was inhabited by nobody, the resort of pirates and smugglers. In consequence of the suggestion of Simon-ton at Havana, the Secretary of the Navy directed Commodore Perry, then a master commander, on the 7th of February, 1822, to go to this island, and a copy of the letter of Simon-ton was inclosed to him.

The orders to Commodore Perry, were:

"NAVY DEPARTMENT, February 7, 1822.  
"SIR: I enclose to you the copy of a description of 'Key West,' a small island on the edge of the Florida stream, seventy-five miles north by west from Havana, about midway between the Dry Tortugas and Cape Florida; and I wish you to proceed in the nearest route from New York to that place, for the purpose of making an examination of the island, its harbors, its extent, and the dangers of navigation, and report to me, as early as practicable, every information you shall acquire, with a view to further measures for its occupation, and for the establishment of a port of rendezvous, and for commerce, should the description be verified by you. In this first visit to the island, it will not be necessary to take actual surveys, but merely report to the Department the real situation of the island, as above-mentioned.

"Should you find the island situated as it is described, and it shall, in your judgment, be necessary, you are authorized to take possession of it in the name of the United States, and, if you think proper, leave a midshipman, or other suitable officer, with one man, to retain possession until further orders; provided they can be sheltered, and made comfortable and safe for the time, until aid can be furnished to them."

What sort of possession was this? This is not what is complained of. This was a mere assertion of jurisdiction on the part of the United States by taking formal possession of an island which was supposed, under the treaty with Spain, ceding Florida, to be clearly belonging to the United States. The island was then uninhabited and desolate. The Government sent Commodore Perry there at the suggestion of the very man who now brings forward the claim for damages. This possession of the island by Commodore Perry, under the orders of the Government, was not injurious to the claimants. It did not interfere with their rights. It was intended to protect their rights by asserting the sovereignty of the Union, and giving them the benefit of the forces of the United States to sustain their possession. The island was at that time the resort of smugglers and pirates. Commodore Perry reported in accordance with these orders given to him. His report is dated March 28th, 1822. He states that he had gone there, and adds:

"In regard to the advantages of Thompson's Island as a place of trade, I feel at a loss in forming an opinion. Its location is most certainly in its favor, being situated about midway between Florida and Cuba, the Southern States and Louisiana, which circumstance has induced many to believe that, in the course of time, the island must become a place of considerable commerce.

"Heretofore the Florida Keys have been the resort of smugglers, New Providence wreckers, and, in fact, of a set of desperadoes, who have paid but little regard either to law or honesty. The present establishment, though on a small scale, will, I conjecture, (with the assistance of the set-

ters,) be enabled to keep these lawless people from this island. But I would suggest the necessity of an early augmentation of force, if it be only for the purpose of enforcing the revenue laws. A gun-boat would be a force sufficient to answer all the purposes required."

After that the Secretary, on account of this report, looking upon the island as an important place, sent out Captain Patterson, under orders, to survey it. He did survey it, and made his returns. Those returns are not embodied in the documents here. I examined them in the Navy Department, but they have no connection with this case; they merely show the surveys, and the fact that the island was not quite as favorably situated as had been previously supposed. In the mean time, the Secretary of the Navy, on the request of the President, had addressed to him a communication asking an inquiry into the practical propriety of fortifying Key West, and taking possession of it for the purpose of erecting Government fortifications. Nothing of the kind, however, was ever done. Subsequently, in April, 1823, the Secretary issued orders to Commodore Porter totally disconnected with these previous movements, and merely giving authority to him to establish a naval depot for the purpose of suppressing piracy in the neighboring seas. There was no right conferred upon him to take possession of the whole island, or to establish martial law, or to interfere in any way with the rights of the residents. When the Government had previously taken possession, through Commodore Perry, the proprietors were present—their rights were recognized. It was the mere assertion of jurisdiction on the part of the United States; and now the attempt is made to include the order given to Commodore Perry with that given to Commodore Porter, with which it has no possible relation, when the latter order was simply to establish a depot at Key West, with the view of suppressing piracy in the Gulf.

Now, I say, taking the return of Commodore Porter to the Secretary of the Navy, the Secretary's report of all the knowledge the Government had, they never knew, they never suspected, that any such acts as have been complained of by these claimants ever took place, until the time the petition was presented in 1834, nine years after the Government had ceased to have this alleged possession of the island. Then the Secretary of the Navy answered it, and Congress acted upon and rejected the claim. After the lapse of fourteen years it comes back, and is favorably reported upon in the House of Representatives by an entire disregard of the existence of the former report to the Senate, and the whole facts of the case. Then the case comes back to the Senate, after a lapse of eighteen years, on the face of that report of the House of Representatives, and without reference to the facts set forth in the report of eighteen years ago; and you are asked to pass a bill intrusting a discretionary power to an accounting officer to squander \$120,000 of the Government money, when there is no proof justifying the committee to report any specific sum. The claimants have already received \$17,000 from the public Treasury. They have received it, either indirectly or through their assignees; either way it amounts to the same thing.

The Senator says that this does not reflect on the character of Commodore Porter. You have but to read this report to see, that from one end of it to the other, the allegation is frequently repeated, that serious outrages had been committed by Commodore Porter. If true, they were outrages; no man can doubt it. If the facts stated be true, there is not one act that Commodore Porter committed for which he would not have been liable, if an action had been brought against him. If an action had been brought against him, then the question would have come up, whether the Government would reimburse him or not. The question then would have been dependent upon this: If, in the due performance of his orders, and in accordance with the exigencies of the service, he had the authority as an officer to do what he did, and was obliged to pay damages in consequence of that act, the Government would of course have reimbursed him; but if it was done without necessity, we would have exercised our discretion as to that. If we thought it was done from a violent or obstinate temper; if we thought he abused the authority confided to him, and had trespassed upon the rights of these individuals, and deprived them of their property, and declared martial law without necessity, and took possession of the

whole island, when he was only authorized to establish a navy-yard and depot, we should have refused to reimburse him, even if \$150,000 had been recovered against him. Am I to be told that this does not involve the honor and character of that distinguished seaman? Why, every act of his, throughout, is characterized as the "arbitrary act" of Commodore Porter. The complaints of these parties are made in the tone of men who consider themselves aggrieved by outrage after outrage; and such is their memorial. They dared not, as I said before, in his lifetime bring him into a court of justice, and have the matter decided by a jury. But now, when he is in his grave, they come forward here, and ask the Senate of the United States to judge them on *ex parte* testimony. The distinguished Senator from Florida read from testimony taken *ex parte*, in order to prove these statements; and there was nothing from which he could read to show that Commodore Porter did anything wrong. It is not for me now to defend Commodore Porter, other than to say that his character stands on the annals of his country, as having performed services of the highest order. I have never yet heard his character impeached. He may have been a determined man; he may have been a resolute man; he may have been an opinionative man; but for one, I am not willing to sanction the claim; and, if there were no other objection, I would make that which goes upon the ground that, if these facts be true, that he committed deliberate outrage after outrage upon the rights of American citizens, utterly unnecessary to the performance of his duties, the result, simply, of a self-willed and obstinate temper. Such is not my belief. And if such had been the fact, I do not doubt, for one moment, but that the parties would have sued Commodore Porter, and recovered damages against him. Had they been able to establish these facts, or had there not been some sufficient reason for his conduct, they would have brought suit against him. Without going further into the details of this case, and asking pardon of the Senate for the length of time which I have consumed on a mere private claim, I shall leave the case. I cannot vote for the claim, and I persist in my motion.

Mr. MALLORY. I shall reply very briefly to the remarks of the honorable Senator from Delaware. And first, as to the nature of *ex parte* testimony, I will ask him frankly whether any testimony introduced here could be any other than *ex parte*? The Government is not likely ever to have appointed a commission to attend to the taking of testimony, and hence any testimony elicited must necessarily be *ex parte*; but that it is *ex parte* is not evidence that it is not faithful and true.

I must repeat again that there is not one word in this report which, in my judgment, throws the slightest stain upon the character of Commodore Porter. I had the honor of drawing up that report, and I am proud to say that there is no Senator on this floor who holds the memory of that seaman in higher reverence than I do. As long as the character of the American Navy stands, as long as the value of an American officer is known and appreciated, so long will the name of Commodore Porter be remembered and appreciated. But Commodore Porter, in the execution of these acts, was doing what? He was executing a duty under martial law—a duty which he could not perform but by the enactment of martial law. The existence of martial law within the territory governed by him was necessarily the exclusion of the laws of the State of Florida; the existence of martial law within the territory which he established was necessarily the exclusion of all the proprietary interest of every man in the territory. Can we be told here that Commodore Porter could have established a navy-yard and depot without martial law? Are we to be told that he could have acknowledged any proprietary interest in the soil which he occupied by martial law? Could he even have permitted their enforcement by any process from a court of justice? Why, this system of martial law emanated from the authority that conferred upon him the right to take possession of the island. That authority is found in distinct words, first, to Commodore Perry, who was an advanced guard, a reconnoitering party, to ascertain, in the first place, whether the island was susceptible of being made a naval depot, and he was told if it was so, to take possession of it; and then comes the order to Commodore Porter, also,

to take possession of it. Now, I repeat again, when it was taken possession of under the authority of the United States for this military purpose, that purpose necessarily excluded the existence of the laws of Florida; and when it was taken possession of also in the name of the United States, as a part of the Spanish territory ceded to the Government, it necessarily excluded all idea of proprietary interest in the soil on the part of individuals.

Now, when Commodore Porter took possession of a certain district of the island, or the whole of it, and informed these persons that they were there upon sufferance, if they violated that information, what was his remedy? Why, to use military force, the very remedy he told them he would use. Using military force, imprisoning citizens who violated his military orders, was the legitimate authority which every military man knows must be put in force in such a case; and in doing so, did he draw upon himself any imputation of acting without authority? No, sir; he would have been recreant to his duty, having been ordered to take possession of the island, if he had not imprisoned every man, woman, and child, on the island, who attempted to interfere with his authority. When he did this, he executed the duties which his country had confided to him, and what the country did by its agent, it did by itself. We have set up these acts of Commodore Porter, not to show any dereliction on his part; not to show any act incompatible with a gentleman, a man of honor, and a correct seaman; but to show that they were acts of a man in authority, sustained by the highest authority of his country—the order of the chief of his department; and in them, he did no wrong.

But it is said, that the orders to take possession of the island excluded the idea that he should take possession of the whole of it; that they only gave him a right to take possession of sufficient to establish the navy-yard and depot. That is a gratuitous assumption. Commodore Porter was judge of how much was necessary. We cannot to-day review his judgment, and say that it was wrong. He judged that the whole of it was necessary; and I hold that we must carry out his judgment. He did take possession of it, and was justified by his orders in so doing. It is asked why Commodore Porter was not prosecuted during his lifetime? Why, it is a well-known fact, that Commodore Porter's residence was beyond the United States for the greater period of the time after the transaction; he was absent from the United States, at Constantinople, for a great number of years.

Mr. BAYARD. I would ask the honorable Senator to point to any report Commodore Porter made to the Navy Department which imparts to them the fact that he had taken possession of the island, or established martial law there, or anything approaching to it.

Mr. MALLORY. The establishment of a navy-yard and depot by a naval officer, is necessarily the establishment of martial law. The idea of having a navy-yard and depot, and not having martial law within it, is something which I never heard of.

Mr. BAYARD. Does the honorable Senator mean to say, when an officer reports that he has established a navy-yard and depot on an island four and a half miles long, containing over seven hundred acres, it implies that he has taken possession of the whole island, and established martial law over the whole, beyond the part occupied by the depot and navy-yard?

Mr. MALLORY. It is a geographical fact, well-known to the country, that but one small corner of the island was inhabited or inhabitable. That was taken possession of, the other part of the island was destitute of inhabitants. So that any other assumption would be to say that he might take possession of all the valuable soil, and drive the inhabitants into that which was worthless. Commodore Porter does not say in precise terms what he did; because his orders were to take possession of the island. His orders were these:

"You will establish at Thompson's Island, usually called Key West, a depot, and land the ordnance and marines to protect the stores and provisions; if, however, you shall find any important objection to this place, and a more suitable and convenient one can be found, you are at liberty to select it as a depot."

The island had previously been taken possession of under positive orders to Commodore Perry. Now, Commodore Porter says:

"The fixing an establishment at Thompson's Island for



rendezvous and supplies, as my instruction required, has had the most happy effect in attaining the object in view."

I rose chiefly to repudiate the idea that in passing this bill we shall cast any stain upon Commodore Porter. It is simply the case of a military officer, under the direct orders of the Government, assuming control—as was the case, perhaps, at Santa Fe—of private property, and exercising the rights of the eminent domain of the country against the proprietary interests of the soil.

The motion to postpone indefinitely was agreed to.

On motion, the Senate adjourned until Monday.

## HOUSE OF REPRESENTATIVES.

FRIDAY, April 2, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

### FEES AND COSTS IN U. S. COURTS.

Mr. McLANAHAN. There is upon the Speaker's table a communication from the Secretary of the Interior in response to certain inquiries contained in a resolution adopted by this House. I ask the unanimous consent of the House that that communication may be received, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. STANLY. What is the communication about?

Mr. McLANAHAN. It is a response to certain inquiries made in regard to the fees and costs in circuit and district courts of the United States.

The SPEAKER. Is there any objection to the proposition of the gentleman from Pennsylvania?

Mr. COBB. I must object, unless we proceed to the consideration of the business on the Speaker's table regularly.

Mr. McLANAHAN. I will say to the gentleman from Alabama, that it will take two weeks to print this communication. All I desire is to have it referred to the Committee on the Judiciary and printed.

Mr. COBB. Very well; I will take back my objection.

Mr. STANLY. I have no objection to the reference, but I object to the printing.

Mr. McLANAHAN. It will take two weeks to print it, because other matters have preceded it; otherwise the printing of this document would not take two weeks. I hope the gentleman from North Carolina will withdraw his objection to the printing, for this is a very important document.

The SPEAKER then laid before the House a communication from the Secretary of the Interior, transmitting a report from the First Comptroller of the Treasury, in response to certain interrogatories contained in a resolution adopted by the House in January last, relative to fees and expenses of the courts of the United States.

Mr. McLANAHAN moved that the communication be referred to the Committee on the Judiciary, and that it be printed. There being no objection, it was so ordered.

### CLAIM OF THE STATE OF ALABAMA.

Mr. HOUSTON. There is a claim in behalf of the State of Alabama, for money advanced to the United States, in raising troops for the Mexican war, now before the Committee of Claims. The agent of the State is here, and it is very desirable to have the claim referred to the accounting officers of the Department for settlement. I ask the House to discharge the Committee of Claims from the consideration of that claim, in order that it may be so referred.

There being no objection, it was so ordered.

### DISCIPLINE IN THE NAVY.

Mr. STUART. Is not the bill in reference to the Navy the first business in order?

The SPEAKER. That question will come up, if demanded by any single member; otherwise the first business in order is the unfinished business of the morning hour of yesterday, being the report made from the Committee on Public Lands.

Mr. STUART. I desire that the bill in reference to the Navy may be taken up, and I ask the gentleman from Tennessee [Mr. JONES] to withdraw the motion to lay the motion to reconsider upon the table.

Mr. JONES, of Tennessee. In order to enable

the gentleman from Michigan, and other gentlemen who desire it, to debate the bill, I withdraw the motion to lay upon the table.

Mr. HENN. I desire to inquire of the Chair whether, if this bill is taken up, the question which was pending yesterday—the motion to refer the Iowa railroad bill—will lie over until next week?

The SPEAKER. It will go over until to-morrow morning, and will come up then unless cut off by some privileged motion. There are three such motions: To go into the Committee of the Whole on the state of the Union, to go into a Committee of the Whole House, or to reconsider a vote. It will be the first business in order during the morning hour, unless cut off by some one of these motions.

Mr. RANTOUL moved that the rules be suspended, and that the House resolve itself into a Committee of the Whole on the Private Calendar.

Mr. JONES, of Tennessee. Is that motion in order, when there is a privileged question already before the House, the reconsideration of the Navy bill, the gentleman from Michigan having the floor upon it, and when there is also a special order pending?

The SPEAKER. The Chair is of opinion that the motion of the gentleman from Massachusetts is not in order; the gentleman from Michigan having the floor upon a privileged question.

Mr. MILLSON. With the permission of the gentleman from Michigan, I desire to make a simple suggestion to the House. I was under the impression that the House, on Monday last, by unanimous consent, agreed that this motion for reconsideration should go over till Monday next, and that the bill should be printed in the mean time. I know I made the suggestion. My impression is, that the Speaker stated from the Chair the suggestion which I made, and asked if there was any objection to it. I was certainly under the impression that this matter, by unanimous consent of the House, was to go over until Monday next.

The SPEAKER. That proposition was made more than once, but was not definitely determined, and yesterday the House agreed that it should be passed over informally. The gentleman will recollect that on Monday last the debate continued, which was tantamount to objection, and that the House adjourned without agreeing to the arrangement to which he refers.

Mr. STUART. I desire to say that I have no disposition to discuss this question, now, if the House prefers that the bill should go over until Tuesday, or any day subsequent. My individual preference would be for the motion of the gentleman from Massachusetts, to go into a Committee of the Whole on the Private Calendar; and if the House will unanimously agree that this question, as it now stands, shall go over till Tuesday, why, I shall be very willing that it shall do so.

Mr. DANIEL. I move, then, that this question be postponed until Tuesday next.

Mr. STANTON, of Tennessee. I have no objection to that motion, but I ask if it would not be better to let it go over until to-morrow morning? It can then be taken up.

Mr. DANIEL. We shall want to transact private business to-morrow.

The question was then taken on Mr. DANIEL's motion, and it was agreed to—ayes 93, noes not counted.

Mr. STANLY. Is not the call of committees for reports the next business in order?

The SPEAKER. Reports from committees are in order, unless the House go to some other business.

Mr. STANLY. Is not that the regular order of business?

The SPEAKER. The Chair would decide that the first business in order would be, to go into the Committee of the Whole on the state of the Union on the special order.

Mr. DANIEL. A motion has been made by the gentleman from Massachusetts, [Mr. RANTOUL,] to go into Committee of the Whole House on the Private Calendar. If that motion is not considered pending before the House, I now submit the motion to go into a Committee of the Whole House.

The SPEAKER. The gentleman from Massachusetts has not submitted that motion.

Mr. DANIEL. I was under the impression that he had.

The SPEAKER. He submitted the motion once, but it was decided to be out of order.

Mr. DANIEL. Then I make the motion now.

Mr. ALLISON moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The SPEAKER. The motion of the gentleman from Pennsylvania, in the opinion of the Chair, must be first put.

Mr. DANIEL. I hope it will be voted down.

The question was then taken on Mr. ALLISON's motion, and it was not agreed to.

The question recurred on Mr. DANIEL's motion to go into a Committee of the Whole House on the Private Calendar.

Mr. GORMAN. Is not the call of the committees for reports the next regular business in order, and does it not take precedence of a motion to go into a Committee of the Whole House?

The SPEAKER. It does not take precedence.

Mr. GORMAN. I understood the Chair to say, in response to the gentleman from North Carolina, that if the motion to go into the Committee of the Whole on the state of the Union did not prevail, the next business in order, during the morning hour, was the call of committees for reports.

I will merely observe to the Chair and to the House, that it has been two months since the committees have had an opportunity of reporting. All the business of the country is now in the hands of the committees.

The SPEAKER. The gentleman from Indiana is aware that the question is not debatable.

Mr. JONES, of Tennessee. I wish to inquire of the Chair if the gentleman from Iowa [Mr. HENN] did not report a bill from the Committee on Public Lands during the morning hour yesterday, and was not occupying the floor, when he was arrested in the midst of his remarks, and the floor taken from him by a motion to proceed to the business on the Speaker's table?

The SPEAKER. That is the history of the case.

Mr. JONES. Then, is not the gentleman from Iowa entitled to the floor this morning, to continue his remarks during the morning hour? And can the floor be taken from him to make a motion to go into a Committee of the Whole House?

The SPEAKER. The Chair is of opinion that the floor cannot be taken from the gentleman from Iowa. It did not occur to the Chair before. The Chair will be compelled therefore, if the gentleman from Iowa claims the floor, to assign it to him for the morning hour.

### IOWA RAILROAD BILL.

Mr. HENN. I desire to accommodate the House as much as possible, it being Friday, which is private bill day. I desire to be governed entirely by the wishes of the House in this matter. If it is the wish of the House that I should yield the floor, with the understanding that I shall have it whenever this matter comes up again, I will do so.

The SPEAKER. The gentleman can yield the floor, with that understanding, if no one objects.

Mr. STANLY. I object, unless one hour can be devoted to the calling of committees for reports.

Mr. DANIEL. Is it not competent for the gentleman to yield the floor to enable me to move to go into a Committee of the Whole on the Private Calendar? I have the right to submit the motion, if he yield for the purpose.

The SPEAKER. It is not competent for him to yield the floor if there be objection; and objection was made.

Mr. DANIEL. But suppose the gentleman had got through his remarks?

Mr. STANLY. There will be time enough for that when the gentleman gets through.

The SPEAKER. The gentleman cannot yield the floor for that purpose, unless he yields it altogether.

Mr. DANIEL. I understood that he did yield it altogether.

The SPEAKER. Then the gentleman's motion is in order.

Mr. HENN. I do not yield the floor for any such purpose, unless it is with the understanding that I may resume it again when the matter again comes before the House.

The SPEAKER. The gentleman cannot yield it with any such understanding—objection having been made.

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NEW SERIES.... No. 61.

Mr. HENN. Then I do not yield.

Mr. H. then said: Mr. Speaker, I was yesterday, in my remarks, interrupted constantly by gentlemen. Now, I wish it distinctly understood to-day that I cannot yield the floor to any one. It has been said that when you make a good shot, there is some fluttering. I perceived that the small shot I gave Eastern gentlemen yesterday did cause a little fluttering. When I was interrupted yesterday by the motion to go into the consideration of the business on the Speaker's table, I was proceeding to say that I thought the Eastern members upon this floor were disposed to vote down every measure coming from the West, and that they were trying to override the West by bringing their own measures in advance of ours.

A motion was made, about a month ago, to refer the Missouri bill to the Committee of the Whole on the state of the Union; and upon that motion where do we find the votes of Eastern members? From Maine, I find recorded two yeas and three nays. I give Maine the full credit of being disposed to do justice to the West. From New Hampshire, I find three yeas and no nays; from Vermont, three yeas and no nays; Massachusetts, five yeas and one nay; and, I am proud to say, that the gentleman from Massachusetts [Mr. RANTOUL] who voted in the negative, appreciates the West and her interests. I cheerfully award to him credit for the honorable sentiments he has expressed in behalf of Western interests. From Rhode Island there are one for and one against the motion; from Connecticut, there are two yeas and no nays. I will, however, do Connecticut the justice to say, that those who voted for the reference of the bill, did so for the purpose of having it printed, and getting better to understand its provisions. I am satisfied those gentlemen, as well as many others who voted for its reference, will ultimately vote for the bill.

Now, Mr. Speaker, we have up a bill, all the provisions of which are before each member upon the floor. It is a bill similar, in its provisions, to all the other land bills. It has been pending in the other branch of Congress, I may say, for a number of years. It is a bill which any gentleman upon this floor had an opportunity of considering, if he had chosen to avail himself of the lights before him. But I will proceed with my analysis of the vote upon the reference of the Missouri bill. From New York, I find twenty-three yeas and three nays. Out of twenty-six votes cast from that State, we have but three friends, and, I am happy to say, those friends are from the city of New York. In connection with this matter, permit me to say that I consider and believe that the members from that State hold the interests of the city of New York to be identical with those of the State of New York; in other words, the city of New York is to the State of New York what Paris is to France. From New Jersey there were three yeas, and, I believe, no nays. From Pennsylvania there were fifteen yeas and two nays. Two members from the great State of Pennsylvania only voted with the West. Delaware, thanks to her, voted with the West. From Maryland, all absent except two, and those, one for and one against the reference. From Virginia, seven yeas and one nay. From North Carolina there were seven yeas and one nay. I will here remark, that many gentlemen who voted for the reference of that bill, stated that they would vote for the bill when it came up in its regular order; but, I beg to ask, when will a bill come up in its regular order here?

Mr. CHANDLER. Will the gentleman allow me to make one remark? I say to him, as a friend of this bill, and as one ready to vote for it and for others of the same kind, that I was mortified by the remarks made by him, and by others, on yesterday, in connection with this matter. My name is recorded against that reference. But I so voted only for the purpose of moving a reconsideration. And I say now, that the feeling of the East, whether in the city or in the country, is in favor of these bills, and at a proper time and under proper circumstances, the votes from the East will be given for them. But they will not be forced

into it. They will not be taken by the neck and have a bill thrust down their throats. A complaint was made yesterday, that I had succeeded in putting a bill into the hands of the Committee of the Whole on the state of the Union, and the honorable gentleman is now complaining that the House did the same thing with his bill. Now, I have the kindest feelings towards that gentleman and towards his bill, but I desire, while he is summing up the account of his distresses and injuries, that he will not impute wrong motives or wrong intentions to gentlemen before he sees what vote is given upon the bill when it comes regularly up before the House. Now, I say to that gentleman, and I repeat, with the best feelings for him and for the West, that there is no disposition upon the part of the East to stay the progress of this bill, but there is a desire that this bill and other bills should come before the House according to the ordinary course of business, and come before it, as they should come, with the sanction of a committee.

Mr. JOHNSON, of Arkansas. I desire, with the consent of my friend from Iowa, to ask the gentleman from Pennsylvania [Mr. CHANDLER] one question. It is, whether, while gentlemen from the East are voting to put this business, which is in advance of all the other business of the House, upon the Calendar, they will also agree to put all the other heavy business of the House upon the same Calendar—that Calendar which is the dead sea of all the business of the House?

Mr. CHANDLER. I should have no objection.

Mr. JOHNSON. Would the gentleman like to have them all go together upon the Calendar—there to die? for the Calendar is but another name for death, to the business of this House.

Mr. HENN. We must come to some conclusion upon this motion; for unless I insist upon my motion, this bill, which has been brought forward by gentlemen from the West, will go—I say it with due deference to the House—to that slaughter-house—the Speaker's table, where everything, unless it is brought forward in the first part of the session, is bound to die.

I wish to say one word, in connection with this subject of putting off Western measures. I believe it was at the last session of Congress—perhaps at the first session of the last Congress—that an appropriation was brought forward for the purpose of improving Western rivers; and what did Eastern men do then? Why, they proposed that, if there should be any money left in the Treasury after your light-houses had been built, after your oversights had aid, your dry-docks had been constructed, and your steam-ships had been provided for, why, the West might have it! That was the proposition of Eastern gentlemen then; I hope no such thing will occur again.

Now, one word more, as to the analysis of that vote. I desire to call the attention of the House to what are the expectations of the Eastern States in regard to Western votes. And, to show that I am not alone in my opinions, I will read an extract from a Western writer, whom every person from the Mississippi valley will recognize as a man of discernment, a man of talent, and one who can see Western interests as clearly as any other person, and who sees Eastern motives likewise. He says, in relation to the bill, which the gentleman from North Carolina [Mr. VENABLE] says did not pass this House:

"A bill from the Senate, to allow a credit of four years to the Raleigh and Gaston Railroad Company, of North Carolina, for all duties on railroad iron used by that company, was read twice, and, on ordering it to be engrossed for a third reading, quite an animated debate sprang up. It was quite refreshing to see Mr. OUTLAW, and other gentlemen of North and South Carolina who had been very pertinacious in voting to doom the Missouri railroad bill to the Committee of the Whole, and thereby destroy the chances of its passage, pushing this bill to a vote by the aid of the previous question, and so far favoring their company as to give it a credit of four years upon duties which other companies are required to pay in cash. Encouragement may thus be given to a Southern railroad, by withholding so much money from the National Treasury; but when Missouri asks for like encouragement, in the shape of a grant of lands, which is sure to enhance the value of what re-

mains to the Government, it is another and quite a different affair. The consistency of these politicians is of an extraordinary character, and would afford an amusing chapter at the end of every session of Congress."

I will say, that the gentleman who wrote this is of the same politics as the gentleman from North Carolina, [Mr. OUTLAW;] so there is no cause to complain on that score.

Mr. VENABLE. Ah!

Mr. HENN. And, inasmuch as there has been some reflections cast upon letter-writers, upon this floor, to the effect that they are not good authority, I will, for the benefit of Western members, give the name of the author of the article I have read. It is Mr. Paschall, the editor of the Missouri Republican. I think every one will award to him the claim, at least, of putting things in their right light.

But what I was about to say, was in regard to what Eastern members expect from Western votes. New York expects her mint; Pennsylvania expects ten per cent. duties upon her railroad and other iron, perhaps. New York expects, also, another appropriation for dry-docks; another for steam-ships; and, I believe, she claims one or two Presidents, I do not know which. Pennsylvania, at least, claims one President, and the privilege of making another. Virginia has set herself up as a dictator in one party. And for all these measures, as well as for all these men who are to be Presidents, we of the West are expected to vote.

I wish now to make one remark in reference to the question which was raised in regard to the vote upon the deficiency bill. It was said by some men, and some members upon this floor, that the West was to get the greater share of the money appropriated by the deficiency bill. I ask, if it is not in the city of New York that most of this money is to be paid? and whether the West has not already received all the benefits that she will receive from the money appropriated in that bill? and whether New York is not to be the recipient of it? It is not the Western States that have an interest in that bill, and Western votes did not pass it, I am sure.

The bill reported by me from the Committee on Public Lands, proposes a railroad in the State of Iowa, from the east to the west, as represented by this map, (presenting a map to the view of the House,) and another one from the north to the south, which are, virtually, but two branches of the same thoroughfare. I hold up this map for Eastern members to look at, as I wish them to see the connection made between Iowa and the East, in order to show that it is for their interest, if nothing else, to vote for it. It may be contended by some, and probably will be, that we should not appropriate lands for any but a national work. We do not come here to ask you to give us lands; we merely ask the privilege of taxing our citizens a dollar and a quarter per acre for settling on lands which may lie within five miles of these railroads which are to be built. We do not ask one cent of money from the Treasury; but we ask simply that privilege. It is a privilege which I would not vote for, were it not for the instructions of my constituents, and of the Legislature of my State, for I would not vote for the enhancement of the price of the public lands; for the time has come, when the people of this country see their true interest, and that it is the interest of all to open all the lands to settlement. It is not, then, a gift that we ask of this House, but a mere privilege of taxing additionally our citizens; and I take it, that no one will pretend to say that when the question resolves itself into a State work, as it does in this case, that the State has not a right to say when, and where, the roads shall be located.

The bill has been objected to out of doors, and might be, and probably would be, objected to on this floor, on the ground that one of the roads proposed to be built is said to be parallel with the Mississippi river. Mr. H. here exhibited a map showing the line of this road, and also the line of the Illinois Central Railroad, and called the attention of the House to the fact, that the Illinois railroad was equally parallel to the Mississippi river, with the

one now proposed in Iowa, and even more so, for the one in Iowa leaves the Mississippi at Dubuque, at nearly right angles with that river, and approaches it again at Keokuck, at nearly the same angle; while the Illinois road runs from Cairo for some distance parallel with said river, and as it approaches its northern terminus, runs, for a number of miles, nearly on the bank of that river.

The provisions of this bill are the same as those passed at the last session of the last Congress, with the exception that the Committee on Public Lands of the House has seen fit to throw around it some restrictions, in order to protect the interests of the Government, so that the road will be built, and so that the increased price of the public lands, in alternate sections, reserved to the Government, would certainly be obtained. The bill now under consideration contains these restrictions, and provides that no lands shall be sold except a certain quantity, until twenty miles of the road are completed, and the proceeds of this land lying in the vicinity of the road, are to be applied especially to that part of the road to which they are contiguous. It is a very proper restriction, and one which I will cheerfully vote for, in order to prevent speculation, and in order to insure the completion of the road. I do not wish to consume the time of the House any further in railroad discussion, because every member upon this floor has had an opportunity of examining these bills. The Missouri bill was printed one month ago, and has been before the members of this House. The same bills have virtually been before the House for years. They are understood.

I wish now, however, to call the attention of this House to one fact, which is very ominous to me. A proposition is brought forward by the gentleman from New York [Mr. BENNETT] to give the old States a certain quantity of the public lands, at the same time that it is proposed to allow the new States to tax their people a dollar and a quarter per acre additional for their lands.

I would ask the friends of that measure if they are willing to take their grants upon the same terms as we do, to wit, to render an equivalent for what they get? Oh, no. No such thing is asked.

I say it is time now that Western men understood each other; and I rose yesterday for the purpose of asking a vote upon this bill, in order that we might have a test vote; and, as I desire to have a test vote, I will move that the bill be put upon its passage; and I call for the previous question.

Mr. CLARK. Will my colleague give way for a moment?

Mr. HENN. I will withdraw the call for the previous question, provided the gentleman will renew it.

Mr. CAMPBELL, of Illinois, addressed the Chair, but his remark was not understood by the reporter.

Mr. CLARK. I supposed that my colleague was not through.

Mr. HENN. I demand the previous question upon the passage of the bill.

The SPEAKER. As long as that motion is pending no discussion is in order.

Mr. TUCK. I ask the gentleman from Iowa [Mr. HENN] to withdraw that motion. I will renew it.

Mr. HENN. I am satisfied that if I withdraw the demand for the previous question for one, I must also for another.

Mr. TUCK. I only want to ask—

The SPEAKER. Debate is out of order. Does the gentleman from Iowa withdraw his motion?

Mr. HENN. I do not.

Mr. CAMPBELL, of Illinois. I hope the previous question will not be sustained; but if it is, that the bill may be committed to the Committee of the Whole. I desire to answer some of the remarks of the gentleman from Iowa.

Mr. McLANAHAN. Will it be in order to move to go into the Committee of the Whole?

The SPEAKER. The Chair has some doubt whether, the previous question pending, during the morning hour, it would be in order.

Mr. CLARK. What is the question?

The SPEAKER. It is upon seconding the demand for the previous question.

Mr. CLARK. What will be the effect of sustaining the previous question?

The SPEAKER. The question will then be upon the commitment of the bill, that motion having been made yesterday.

Mr. CLARK. Cannot that be withdrawn?

The SPEAKER. It cannot be so long as the demand for the previous question remains. The question is upon seconding the call for the previous question.

Mr. ORR. I demand tellers.

Tellers were ordered; and Messrs. ORR and FOWLER were appointed.

Mr. JONES, of Tennessee. I wish to inquire of the Chair if there is a motion pending to refer this bill.

The SPEAKER. The Chair again states to the House that there is a motion pending to commit the bill to the Committee of the Whole upon the state of the Union. The House will first be brought to a vote upon that proposition, and then upon ordering the bill to be engrossed for a third reading.

Mr. CLARK. I wish to ask a question. I should be glad to know whether the motion which has been made to commit this bill to the Committee of the Whole, can be withdrawn, and another motion substituted, to put the bill upon its passage?

Mr. JONES. I can make a motion to lay the bill upon the table, and I will try that.

The SPEAKER. It is competent for the gentleman to withdraw his motion.

Mr. CLARK. What will the House then be brought to vote upon?

The SPEAKER. Upon ordering the bill to be engrossed.

Mr. HENN. I adhere to my motion to refer the bill to the Committee of the Whole, and I hope it will be voted down, with a view to put the bill upon its passage.

Mr. CAMPBELL. Do I understand the gentleman to withdraw his demand for the previous question?

The SPEAKER. The motion is not withdrawn.

The question was then taken on seconding the previous question, and the tellers (Messrs. FOWLER and ORR) reported—ayes 89, noes not counted.

So the previous question received a second; and the main question was then ordered to be put.

The question now being upon the commitment of the bill—

Mr. CLARK demanded the yeas and nays; which were ordered.

The question was then taken, and it was decided in the affirmative—yeas 115, nays 50; as follows:

YEAS—Messrs. Aiken, Allison, William Appleton, Ashe, Averett, Babcock, David J. Bailey, Thos. H. Bayly, Barrere, Bartlett, Bennett, Boone, Bowie, Bragg, Breckinridge, George H. Brown, Buell, Burrows, Busby, Thompson Campbell, Caskie, Chavis, Dean, Edgerton, Edmundson, Cullom, Daniel, Geo. T. Davis, Dean, Egerton, Edmundson, Evans, Ewing, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Gentry, Goodenow, Gotlich, Gorman, Grey, Grow, Hammond, Harper, Isham G. Harris, Sampson W. Harris, Haven, Hubbard, Hillyer, Horsford, Houston, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kuhns, Letcher, Martin, McDonald, McLanahan, McMullin, McQueen, Meacham, Meade, Milson, Miner, Murray, Olds, Outlaw, Samuel W. Parker, Peaslee, Perkins, Polk, Powell, Robbins, Russell, Sackett, Seage, Schermerhorn, Schoolcraft, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smart, Snow, Stanley, Richard H. Stanton, Abraham P. Stevens, Stone, Strother, Sutherland, Sweetser, Taylor, Benjamin Thompson, George W. Thompson, Venable, Walbridge, Wallace, Walsh, Ward, Washburn, Watkins, Welch, Wells, and Woodward—115.

NAYS—Messrs. Willis Allen, Brenton, Briggs, Brooks, Albert G. Brown, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Clark, Cobb, John G. Davis, Doty, Dunham, Durkee, Eastman, Fick, Freeman, Gaylord, Hall, Hendricks, Henn, Howard, Ingersoll, John Johnson, Robert W. Johnson, Landry, Lockart, Mace, Mann, Edward C. Marshall, Humphrey Marshall, McCorkle, Miller, Molony, John Moore, Nabers, Newby, Orr, Penniman, Phelps, Rantoul, Richardson, Robinson, Scurry, Smith, Benjamin Stanton, Stuart, Alexander White, Wilcox, and Yates—50.

So the bill was referred to the Committee of the Whole on the state of the Union.

#### PRIVATE CALENDAR.

Mr. DANIEL. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole upon the Private Calendar.

Mr. ORR. The morning hour has not yet expired.

The SPEAKER. It has not expired by some seven minutes.

Mr. DEAN. I rise to a privileged question. I move that the vote by which the Iowa railroad bill

was committed to the Committee of the Whole on the state of the Union be reconsidered, and that that motion do lie upon the table.

The question was put and the motion was agreed to—ayes 97, noes not counted.

The question was then taken upon the motion of Mr. DANIEL, and it was decided in the affirmative.

The House accordingly resolved itself into a Committee of the Whole House upon the Private Calendar, (Mr. CHANDLER in the chair.)

The CHAIRMAN. This being the first Friday in the month, it is objection day. The bill under consideration when the committee was last in session was House bill No. 150, being "A bill for the relief of Robert Nelson." That is the first bill in order.

The bill provides that Robert Nelson have the privilege to reconvey a specified tract of land, entered by mistake, to the United States, upon furnishing to the Commissioner of the Land Office satisfactory evidence that he has not conveyed away or incumbered said tract of land, and that he be permitted to enter a like quantity of land, subject to private entry at \$1 25 per acre, in lieu of said land so reconveyed.

There was no objection, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

Mr. SACKETT. I desire to withdraw the objection I made to House bill No. 147, at the last sitting of the committee, being "A bill for the relief of the Monroe Railroad Company and their securities."

Mr. KING, of New York. Let the bill and report be read.

The Clerk read the bill and report.

The bill provides for the canceling of the several bonds given by the Monroe Railroad Company for the duties upon iron imported at Savannah, Georgia, in 1841, and the satisfaction of judgments which have been or may be obtained by the United States against said company or their sureties, upon their bonds aforesaid, upon the defendants, paying costs of suits.

There was no objection, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

[A message was here received from the President of the United States at the hands of M. P. Fillmore, Esq.]

The committee next proceeded to the consideration of House bill No. 151, being "A bill for the relief of the heirs of William McFarland."

The bill and report were read.

The bill provides for the confirmation of a tract of two hundred and fifty arpents in the parish of East Baton Rouge to the legal representatives of William McFarland, provided it does not affect the rights of others, if such exist.

There was no objection, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 153, being "A bill for the relief of the heirs of Semoice, a friendly Creek Indian," came up next in order. The bill confirms to the heirs of Semoice title to a section of land under act of 2d July, 1836, in virtue of the treaty of 9th August, 1814, reserving land to certain friendly Creek Indians.

There was no objection, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 154, for the relief of Ira Baldwin, came up next in order.

The bill and report were read.

This bill provides that the Secretary of War shall issue to said Ira Baldwin a land warrant for three hundred and twenty acres of land, to be located on any unappropriated lands in the United States, which have been offered for sale; and also, that the Secretary of the Treasury shall pay to said Baldwin the amount of three months' extra pay for services rendered by him in the late war with Great Britain.

Mr. SACKETT moved to amend the bill so as to make it read "to be located upon any lands subject to entry for bounty lands;" which amendment was agreed to.

There being no objection, the bill was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 158, for the relief of Sergeant Leonard Skinner, came up as the next in order.



The bill was read.

This bill directs the proper accounting officers of the Treasury to adjust the accounts of said Skinner, and allow him his back pay, pay for clothing, three months' extra pay and bounty land, for his services in the war with Mexico.

There being no objection to the bill, it was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 160, for the relief of the heirs of Jeremiah Wingate, came up as the next in order.

The bill and report were read.

The bill provides that the heirs of said Wingate shall be confirmed in their title to a certain tract of land lying on the north side of Nassau river, in the State of Florida, and that the Commissioner of the General Land Office, upon the presentation of the certificate of the surveys of said tract, shall issue a patent for the same.

There being no objection to the bill, it was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 164, for the relief of James A. Fawns, came up as the next in order.

The bill and report were read.

This bill directs the accounting officers of the Treasury to adjust and settle the account of said Fawns, late acting purser of the United States brig Bainbridge, during the time that he acted as said purser.

There being no objection to the bill, it was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 166, "for the relief of Monmouth B. Hart, Joel Kelly, and William Close, securities for the late Benjamin F. Hart, a purser in the United States Navy," came up as next in order.

This bill provides that the Secretary of the Treasury, in adjusting the accounts of the late Benjamin F. Hart, a purser in the United States Navy, shall credit him the amount of losses of private stores, occasioned by the wreck of the United States ship "Concord," to which he was attached, as nearly as the same can be ascertained.

There being no objection to the bill, it was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 167, "for the relief of Isaac Cobb," came up as next in order.

This bill directs the Secretary of the Interior to place the name of Isaac Cobb, of the State of Maine, on the pension list of the United States, at the rate of twenty-four dollars per annum, commencing the 4th of March, 1841, and to continue during his natural life.

There being no objection to the bill, it was laid aside, to be reported to the House with a recommendation that it do pass.

House bill No. 169, "for the relief of Catherine Clark," came up as next in order.

This bill directs the Secretary of the Interior to place the name of Catherine Clark, of Virginia, widow of William Clark, upon the half-pay pension roll of the United States, at the rate of eight dollars per month, commencing May 5, 1851, and to continue for five years from that time.

There being no objection to this bill, it was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 170, "for the relief of Jacob Shade," came up as next in order.

This bill directs the Secretary of the Interior to place the name of Jacob Shade upon the invalid pension roll, at the rate of eight dollars per month, commencing on the 1st of January, 1852, and to continue during his natural life.

Mr. AVERETT objected.

House bill No. 171, for the relief of Thomas P. Dudley, came up as next in order.

This bill provides that the Secretary of the Interior shall place the name of Thomas P. Dudley upon the roll of invalid pensioners, at the rate of eleven dollars and twenty-five cents per month, commencing with the 8th January, 1849, to continue during his natural life, as a reward for his services in the battles of the 18th and 23d January, 1813, in the latter of which he was wounded in his right shoulder, and in consequence of which he has been unable to procure a subsistence by manual labor.

There was no objection, and the bill was laid

aside, to be reported to the House with the recommendation that it do pass.

House bill No. 172, for the relief of George Cassidy, came up as next in order.

This bill provides that the Secretary of the Interior shall place the name of George Cassidy upon the roll of invalid pensioners, at the rate of eight dollars per month, commencing with the 1st January, 1848, to continue during his natural life, as a reward for an internal injury or wound occasioned by a fall from his horse when on duty at Fort Jesup, Louisiana.

There was no objection, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 173, for the relief of John Hazen, came up as next in order.

This bill provides that the Secretary of the Interior shall place the name of John Hazen upon the roll of invalid pensioners, at the rate of eight dollars per month, commencing on the 8th January, 1852, to continue during his natural life, as a reward for the wounds he received in the right ankle and foot by the falling of the timber of a bridge which he was assisting to erect by order of his commanding officer.

There was no objection, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

Mr. HARRIS, of Tennessee. Would it be in order for the gentleman from Virginia, [Mr. AVERETT,] who objected to the bill No. 170, to withdraw his objection, and to lay the bill aside?

The CHAIRMAN. It can only be done by general consent.

Mr. SWEETSER. I object to the withdrawal of the objection.

House bill No. 174, for the relief of William Dwelly, came up as next in order.

The bill provides that the Secretary of the Interior shall place the name of William Dwelly upon the roll of invalid pensioners, at the rate of eight dollars per month, commencing with the 1st January, 1851, during his natural life, as a reward for injuries caused by falling from a rock, when posted as a sentinel on the parapet of Fort Scammell.

Mr. SWEETSER. I rise for explanation. When I made objection to the withdrawal by the gentleman from Virginia [Mr. AVERETT] of his objection to bill No. 170, pressed forward by the gentleman from Tennessee, [Mr. HARRIS,] he [Mr. AVERETT] understood my objection as made to the bill itself. I do not wish to have it so understood. I gave notice, that after an objection had been made to a bill, and that bill was passed by and another taken up, I should object to the objection being withdrawn. And if the Chair is of opinion that I have no right to control that matter, and rules the point against me, then I shall take my objection directly to the bill. But I wish the committee to understand that the point I make is this: that if a bill is read through, and objection is made, I will not permit the objection to be withdrawn after the next number on the calendar is called.

Mr. AVERETT. I objected to that bill originally, but, after further investigation, I became satisfied that the report was correct, and that the bill ought to pass. I ask leave to withdraw the objection, and I claim the right.

The CHAIRMAN. The right has always been exercised, and the gentleman from Ohio [Mr. SWEETSER] has a clear right to object to the bill.

Mr. AVERETT. Have I the right to withdraw my objection?

The CHAIRMAN. The gentleman has that right, according to the custom of the committee heretofore.

Mr. SWEETSER. Then I make my objection to the bill.

Mr. KING, of New York. Another rule is, you shall not go back upon the calendar, except by unanimous consent.

The CHAIRMAN. Debate is not in order.

Mr. SWEETSER. Does the Chair decide that my objection is not debatable?

The CHAIRMAN. The Chair must so decide, as he understands the practice of the House.

Mr. MARSHALL, of Kentucky. Senate bill No. 67, was heretofore stopped upon my objection, and I desire to withdraw it.

Mr. SEYMOUR, of New York. I merely wish to call the attention of the Chair to the fact, that Senate bill No. 67, was laid aside some time since

upon my objection. Having since examined the papers, I am satisfied that my objections were not well founded, and I now withdraw the objection. It was unanimously reported by the Committee on Commerce, and I hope it will now be passed.

Mr. SACKETT. I understand that the practice of the House, so far as the last Congress is concerned, was this: that you could not go back during the same day, to withdraw an objection interposed to the passage of a bill in committee. The very object of this objection is, to allow members time to examine the case; but you can go back, in case objection was made upon a previous day. Therefore, I think the gentleman has a right to withdraw it.

Mr. HARRIS, of Tennessee. In relation to bill No. 170, upon which this whole discussion has sprung up; there is now no objection, and the bill will be laid aside.

The CHAIRMAN. There is no objection, except to discussion. [Laughter.]

Mr. SWEETSER. I objected.

Mr. HARRIS. You objected to the gentleman's withdrawing his objection, and the Chair decides that you have no right to make that objection.

Mr. SWEETSER. Do I understand the Chair to decide that, where an objection is made to a bill, and it is laid aside, and the committee pass to the next case, if the objection is subsequently withdrawn, we can go back?

The CHAIRMAN. The Chair determines that such was the practice of the last Congress, and that, where there is no positive rule, the practice of the committee, or the House, obtains, of course, as a rule.

Mr. SWEETSER. If the Chair makes that decision, I appeal from it.

Mr. MARSHALL, of Kentucky. I rise to a question of order. I understand that the subject upon which the gentleman from Ohio [Mr. SWEETSER] proposes to take an appeal, had passed from before the committee when I made a motion to have an objection to another bill withdrawn. I object to the gentleman's overslaughing my motion in that sort of style.

The CHAIRMAN. The gentleman from Ohio [Mr. SWEETSER] appeals from the decision of the Chair.

Mr. KING, of New York. As this is a subject of some importance, I desire to understand clearly what the decision is.

The CHAIRMAN. The Chair has decided, upon the practice of the last Congress, that if a gentleman withdraws his objection to a bill, that then that bill may proceed, if there is no other person objecting to it.

Mr. KING. But where there is an objection to going back, then it is not in order.

The CHAIRMAN. The decision of the Chair is confined to the objection of the day.

Mr. HOUSTON. Is it in order to say anything upon the appeal?

The CHAIRMAN. It is not in order to discuss any question before the committee.

The question was then taken, Shall the decision of the Chair stand as the judgment of the committee? and there were, upon a division—ayes 77, noes not counted.

So the decision of the Chair was sustained.

Mr. MARSHALL. Do I understand that the Chair has decided that I cannot withdraw my objection now to the bill?

The CHAIRMAN. If there is any objection to it, the Chair decides that the gentleman cannot withdraw it.

Mr. SWEETSER. I do not understand how the Chair decides that. That is what I have been at.

Mr. JONES, of Tennessee. It must be within the recollection of the gentleman from Kentucky, [Mr. MARSHALL,] and of the members of this committee, who were here during the last Congress, that a bill having been objected to, and passed over, a gentleman could not go back to it and withdraw an objection, for the very reason, as it was urged upon one or two occasions, that the friends of the bill might make an objection to it, and then, when those who were really opposed to it were absent, might withdraw their objection to the bill and pass it.

Mr. MARSHALL. I understand that case to be totally different from the one just decided.

The CHAIRMAN. The Chair will state dis-

tinctly, that the decision which he made had reference to objections made to-day, and not to those made on a previous day.

Mr. MARSHALL. But I ask the indulgence of the committee to permit me to withdraw my objection.

The CHAIRMAN. If there is an objection it cannot be done.

Mr. SWEETSER. I object:

Mr. SACKETT. Before the bill which was last read, No. 174, is disposed of, I would ask the gentleman who reported the bill [Mr. MARTIN] why the pension is not placed back, according to the rule of the House, to January 1st, 1850? It seems to be a very hard case, and it ought to be made conformable to the rule governing cases of a like character. The papers were perfected in January, 1850, and the pension proposed to be granted by the bill only begins from January, 1851. I move to amend the bill so as to provide that the pension shall commence January 1st, 1850.

Mr. SWEETSER. Is it in order to move to amend a bill in this committee?

The CHAIRMAN. That is the practice.

The question was then taken on the amendment and it was agreed to.

The bill was then laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 176, "for the relief of David Murphy, of Ohio," came up as next in order. The bill grants a pension to David Miller of six dollars per month during his natural life, on account of wounds received while in the United States service in the late war.

Mr. AVERETT. I ask the gentleman having charge of this bill, whether this petitioner is living?

Mr. EDGERTON. I suppose so. He was on the 12th of last month, for I received a letter from him.

Mr. AVERETT. I will make this inquiry to all bills, for there are some petitions here from dead persons. [Laughter.]

There was no objection, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 179, for the relief of William Lynch, a soldier of the late war with Great Britain, came up as next in order.

The bill grants to William Lynch a pension on account of wounds received while in the service of the United States during the last war.

Mr. DANIEL. I will not object, if the pension commences the 1st of January, instead of the time fixed in the bill. I move that amendment.

Mr. JOHN W. HOWE. Pensions heretofore have commenced to run with the perfection of the proof. The proof in this case was perfected at the Thirtieth Congress, and the bill passed the House.

Mr. DANIEL. That does not remove my objection.

The question was taken, and the amendment was agreed to.

There was then no objection, and the bill, as amended, was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 180, for the relief of Jonas D. Platt, of New York, came up as next in order.

This bill directs the Secretary of the Interior to place the name of Jonas D. Platt on the roll of invalid pensioners, at the rate of six dollars per month, commencing on the first day of January, 1846, and continuing during his natural life, for injuries received in 1814, during the late war, while in the service of the United States.

There being no objection, the bill was laid aside, to be reported to the House, with the recommendation that it do pass.

House bill No. 181, to increase the pension of Henry Click, of Cocke county, Tennessee, came up as next in order.

This bill provides for the payment of a pension of eight dollars per month, during life, to said Henry Click, for disability occasioned by injuries which he received while in the service of the United States.

There being no objection, the bill was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 184, for the relief of B. B. Bennett.

This bill provides that a pension shall be granted said Bennett, at the rate of eight dollars per month,

for disabilities received in the service of the United States.

There being no objection, the bill was laid aside, to be reported to the House with the recommendation that it do pass.

House bill No. 185, for the relief of Maurice K. Simons, came up as next in order.

This bill recommends that said Simons's name be placed upon the list of invalid pensioners, at the rate of eight dollars per month, during his life, for injuries received while in the service of the United States, in the war with Mexico.

There being no objection, the bill was laid aside, to be reported to the House with the recommendation that it do pass.

Senate bill No. 54, entitled "An act for the relief of Theodore Offut," came up as next in order.

This bill provides for the payment of a just and legal claim of said Offut against the Government, the value of a bay mare, which had been taken without his consent, and without compensation, while he was a private in Captain Pollard's company of mounted volunteers, and which had been turned over to the United States quartermaster, Major Brant, in January, 1848.

There being no objection, the bill was laid aside, to be reported to the House with the recommendation that it do pass.

The following bills, coming up in their order in the Committee of the Whole, being objected to as indicated below, were laid aside under the rule for future consideration, viz:

149. A bill for the relief of the heirs of Lieutenant Bartlett Hines. [Mr. JONES, of Tennessee, objected.]

152. A bill for the relief of Patrick Gass. [Mr. HALL objected.]

155. A bill for the relief of William H. Wells and others. [Mr. SWEETSER objected.]

157. A bill for the relief of Josiah P. Pilcher, late a private in Company F, second regiment Kentucky Volunteers. [Mr. KING, of New York, objected.]

159. A bill for the relief of the heirs-at-law of Anthony G. Willis, deceased. [Mr. SWEETSER objected.]

161. A bill to provide for the payment of the companies of Captains Bush, Price, and Saurtz, for military services in Florida. [Mr. SWEETSER objected.]

162. A bill for the relief of Dr. S. R. Addison, passed assistant surgeon in the United States Navy. [Mr. KING objected.]

163. A bill for the relief of Jacob J. Storer. [Mr. SWEETSER objected.]

168. A bill for the relief of David Myerle. [Mr. DANIEL objected.]

175. A bill for the relief of Anthony Walton Bayard. [Mr. HARRIS, of Tennessee, objected.]

177. A bill for the relief of Elizabeth E. V. Field. [Mr. DUNHAM objected.]

178. A bill for the relief of Henry Miller, a soldier of the war of 1812. [Mr. AVERETT objected.]

182. A bill for the relief of Charles Staples. [Mr. AVERETT objected.]

183. A bill for the relief of Aaron Stafford. [Mr. DANIEL objected.]

Senate bill No. 32. An act for the relief of Margaret L. Worth. [Mr. JONES, of Tennessee, objected.]

Senate bill No. 66. An act for the relief of William P. Greene. [Mr. JOHN W. HOWE objected.]

197. A bill for the relief of John B. Rogers, of South Carolina. [Mr. JOHN W. HOWE objected.]

198. A bill for the relief of Joseph Arnew and Peter Arnew. [Mr. NABERS objected.]

199. A bill for the relief of the legal representatives of Bernard Todd. [Mr. KING, of New York, objected.]

200. A bill for the relief of the legal representatives of John H. Platt, deceased. [Mr. SACKETT objected.]

201. A bill for the relief of George Simpton, of Galveston. [Mr. GOODENOW objected.]

202. A bill for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky. [Mr. DANIEL objected.]

203. A bill for the relief of the Trustees of the Philadelphia Gas Works. [Mr. SWEETSER objected.]

On motion by Mr. BUELL, the committee then rose, and the Speaker having resumed the chair, the Chairman [Mr. CHANDLER] reported that the Committee of the Whole House had had under

consideration the Private Calendar, had passed through the whole of it, and had directed him to report sundry bills with amendments and some bills without, with a recommendation that the amendments be concurred in and that the bills be passed.

#### ADJOURNMENT TILL MONDAY.

Mr. NABERS moved that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. STANLY demanded the yeas and nays; on a count for which there were—ayes 10, noes 78; no quorum voting.

Mr. NABERS withdrew his motion.

Mr. SWEETSER moved that the House do now adjourn; which motion was not agreed to.

The following bills, reported from the Committee of the Whole without amendment, were then ordered to be engrossed for a third reading, and being engrossed, were read the third time and passed, viz:

Senate 54. An act for the relief of Theodore Offut;

150. A bill for the relief of Robert Nelson;

151. A bill for the relief of the heirs of William McFarland;

153. A bill for the relief of the heirs of Semoice, a friendly Creek Indian;

158. A bill for the relief of Sergeant Leonard Skinner;

160. A bill for the relief of the heirs of Jeremiah Wingate;

164. A bill for the relief of James A. Fawns;

166. A bill for the relief of Monmouth B. Hart, Joel Kelly, and William Close, securities for the late Benjamin F. Hart, a purser in the United States Navy;

167. A bill for the relief of Isaac Cobb;

169. A bill for the relief of Catherine Clark;

170. A bill for the relief of Jacob Shade;

171. A bill for the relief of Thomas P. Dudley;

172. A bill for the relief of George Cassady;

173. A bill for the relief of John Hazen;

176. A bill for the relief of David Murphy, of Ohio;

180. A bill for the relief of Jonas D. Platt, of New York;

181. A bill to increase the pension of Henry Click, of Cocke county, Tennessee;

184. A bill for the relief of B. B. Bennett; and

185. A bill for the relief of Maurice K. Simons.

The following House bills were reported from the Committee of the Whole with amendments, viz:

154. A bill for the relief of Ira Baldwin;

174. A bill for the relief of Wm. Dwelly; and

184. A bill for the relief of B. B. Bennett.

The amendments were severally concurred in, and the bills ordered to be engrossed for a third reading, and being engrossed, were read the third time and passed.

#### MONROE RAILROAD COMPANY.

The question then recurred upon ordering House bill No. 147, for the relief of the Monroe Railroad Company and their sureties, upon which a separate vote had been asked by the gentleman from Virginia, [Mr. LETCHER,] to be engrossed and read a third time.

The question being put—

Mr. STANTON, of Ohio. I ask for a division upon the question. I understand this is a bill to remit the duties upon railroad iron for this Monroe Railroad Company.

Several MEMBERS. No, no.

Mr. STANTON. I understand it relates to a certain judgment which had been rendered against that company.

Mr. MEADE. So it does.

Mr. STANTON. I understand, further, that it proposes to remit that judgment.

[Cries of "Read the bill!"]

Mr. ORR. I object to the reading of the bill. It has already been read twice.

Mr. STANTON. Then I call the yeas and nays upon ordering the bill to be engrossed and read a third time.

The SPEAKER. The Chair is of the opinion that the gentleman has the right to demand that the bill shall be read.

The bill was then again read through by the Clerk.

Mr. JOHN W. HOWE. Where does that railroad lie?

The SPEAKER. The Chair is not bound to know where the railroad lies.

Mr. CLINGMAN. It is in Georgia.

Mr. MEADE. If it is the desire of the House, I will give a short statement in relation to the bill.

Several MEMBERS. Let us hear it.

Mr. MEADE. That bill makes provision for the relief of the sureties of the Monroe Railroad Company upon the same terms, for the same reasons, that similar relief was granted to the St. Louis Railroad, and other companies, under the same circumstances. Under the tariff law of 1832, railroad companies were allowed to import their iron free of duty, provided the iron was laid down within three years after its importation; but in the non-compliance of that condition, the roads were required to enter into bond and security to pay the duties, which were always released if they complied with the condition. The railroad iron, to which this bill refers, was imported in the year 1841, about twelve months previous to the passage of the tariff of 1842, which raised the duties on iron thirty per cent.

Mr. CLINGMAN. It raised the duty to twenty-five dollars per ton.

Mr. MEADE. I think that act provided for an *ad valorem* duty upon iron. But that makes no difference. In that law of 1842, there is a provision which requires railroads to lay down that iron before the 3d of March, 1843. That provision, however, conflicts with the provisions in the laws existing before that time, which gave three years after the time of importation to lay down the iron. There was a provision in the law of 1842, which reserved to railroad companies all the benefits conferred upon them by previous laws; but, as the report in this case states, there was such a perplexity and obscurity of language employed as made it not so clear as it might be.

The consequence was, the bonds given by the Monroe Railroad Company, in 1841, were put in suit, and a judgment was obtained against the company, because the rails were not laid previous to the 3d of March, 1843. The company imported their iron in 1841, and, according to the provisions of the then existing laws, they were allowed three years to lay the rails; upon complying with which condition the duties were to be remitted. But, according to the law of 1842, by this judgment they were doomed to pay the duties, notwithstanding the law existing previously to the contrary. Well, in consequence of this incongruity in the laws, the Central Railroad Company in Georgia, and a railroad near New Orleans—I do not now recollect the name—petitioned Congress to be relieved from a strict construction of the law of 1842, representing that the rails had been laid within the time specified by the laws existing when the iron was imported. Well, such was the case with this company. The iron was imported in 1841, and the rails were laid before three years from that time had expired; though not till after the 3d of March, 1843. These sureties were sued, because the Monroe Railroad Company had failed, and, in fact, had dissolved. A judgment was obtained against them, and they now come forward and ask the indulgence of this body, to put them upon the same footing as other sureties for railroads were by the previous adjudication of this House in the form of special legislation. It is a case, simply, for which relief is sought against the apparent inconsistency of two laws passed by Congress, one conferring a right, and the other taking it away.

Mr. LETCHER. I should be glad to know of my colleague at what time this judgment was recovered.

Mr. MEADE. I am not quite certain whether the judgment is recorded, but you will find by the correspondence filed among the papers connected with this case, that a petition was presented to the Department to suspend the suit until Congress had had an opportunity to act in relation to the case. The district court were willing, and the district attorney did not object, so I presume the case has not been prosecuted to a final judgment until very recently. This case has been before Congress, but not acted upon, for several years. But owing to the delay in Congress to act upon it, the case has been pressed, and I presume before this time a judgment has been recovered.

Mr. MEACHAM. I move that the House do now adjourn. I wish to examine this case further before I vote upon it.

Mr. ORR. I rise to a motion which takes precedence. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. STANLY. I ask for the yeas and nays. The yeas and nays were ordered; and the question being taken, there were—yeas 61, nays 55, as follows:

YEAS—Messrs. Willis Allen, William Appleton, Ashe, Averett, Rocco, Breckinridge, Brooks, Albert G. Brown, Buell, Busby, E. Carrington Cabell, Thompson Campbell, Chapman, George T. Davis, Edgerton, Ewing, Freeman, Henry M. Fuller, Gaylord, Goodrich, Hammond, Isham G. Harris, S. W. Harris, Hart, Haws, Henn, Hibbard, Hillyer, Holladay, Ingersoll, John Johnson, George G. King, Preston King, Landry, McMullin, Meade, Millson, Nabers, Newton, Orr, S. W. Parker, Phelps, Russell, Savage, Schermerhorn, Schoolcraft, Scurry, Origen S. Seymour, Smart, Snow, Benjamin Stanton, Frederick P. Stanton, Abrahm P. Stevens, Stuart, Sutherland, Sweetser, Wallace, Walsh, Ward, Washburn, and Woodward—61.

NAYS—Messrs. Allison, Brenton, Briggs, Joseph Cable, Caskie, Chandler, Clark, Clingman, Cobb, Daniel, John G. Davis, Dean, Doty, Dunham, Evans, Fitch, Fowler, Goodenow, Grow, Harper, Haven, Hendricks, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Jackson, Andrew Johnson, George W. Jones, Kuhns, Letcher, Lockhart, Humphrey Marshall, Martin, Mason, Meacham, Miller, Molony, Morehead, Murray, Peaslee, Penniman, Perkins, Riddle, Robbins, Scudder, Stanley, Stratton, Taylor, Walbridge, Watkins, Welch, Wells, and Alexander White—55.

Before the result was declared—

Mr. HALL said: I was not in when the vote was taken, but as I understand no quorum has voted, I desire to vote in order to make a quorum.

Objection being made, Mr. HALL was not permitted to record his vote.

Mr. JONES, of Tennessee, said: I believe it is not in order for members, alluding to those around the Clerk's desk, to be about the table when the yeas and nays are being taken, and I believe it is not in order to send messengers out of the House to bring in members to vote. [Laughter.]

Mr. ORR. I desire to suggest that as there is one lacking to make a quorum, the Speaker would make a quorum.

The SPEAKER. The presence of the Chair would make a quorum in the House, but there is no rule requiring the Speaker to vote, except upon a tie; but the right of the Chair to vote is clear enough. The Chair votes in the negative.

Mr. STANLY. I rise to a point of order. I do not wish to run counter to the decision of the House, but I want to give notice of a resolution I intend to offer on Monday. I will have it put in the papers for the information of the House.

Upon the question of adjournment, I will make the point, though I will not insist upon it, can the Chair vote after the result is announced? The Chair announced the result before it was said that the Chair could vote. I do not object to the result.

The SPEAKER. The Chair has not yet announced the result.

Mr. STANLY. I beg pardon of the Chair; but the Chair announced—yeas 61, nays 55.

The SPEAKER. The gentleman will recollect that the Chair did announce the number of votes given, but he did not declare the result; and he also stated, at the same time, that there was wanting one to make a quorum, and the question arose in his mind whether or not it was his duty to vote to make a quorum.

Mr. STANLY. I beg pardon; but I certainly understood the Chair to announce the result.

The SPEAKER. The Chair did announce the result thus far.

Mr. STANLY. I do not insist upon my point.

The SPEAKER. The Chair announces the result to be—yeas 61, nays 56; the yeas have it, and the House has determined that when it adjourns it adjourn to meet again on Monday next.

Mr. FREEMAN. I simply desire to say that in the published remarks of my colleague from the fourth district [Mr. Brown] there are a few errors which I desire to correct, by sending the corrections to the reporter, if there is no objection.

[Cries of "Agreed!" "Agreed!"]  
Mr. FREEMAN. I move that the House do now adjourn.

Mr. MEADE. I call for the yeas and nays upon that, as I want the Monroe bill put through. The yeas and nays were not ordered.

The House then adjourned to meet again on Monday next.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. THOMPSON, of Massachusetts: The petition of S. S. Richardson, of Winchester, Massachusetts, for abolishing the duty on raw silk.

By Mr. McDONALD: The petition of Allison B. Huff, of Maine, asking for bounty on Schooner "Stoic," lost at sea.

By Mr. SUTHERLAND: The memorial of Grinnell Mintum and 2,000 others, citizens of New York, praying Congress to grant additional aid to the Collins line of steamers.

#### IN SENATE.

THURSDAY, March 4, 1852.

[The following proceedings were accidentally omitted to be inserted in their proper place.]

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tem.* laid before the Senate a resolution of the Legislature of Pennsylvania, remonstrating against the proposed removal of the United States Mint from Philadelphia to New York; which, on the motion of Mr. BRONHEAD, was ordered to be printed.

Mr. SHIELDS presented a representation of the Grand Jury of Washington county, District of Columbia, respecting the City Hall, and the want of proper accommodations for the Circuit and Criminal Courts; which was referred to the Committee for the District of Columbia.

Mr. RUSK presented a petition of certain merchants of San Antonio, Texas, praying that that place may be made a port of entry and debenture, and that goods entered there upon which the duties have been paid or secured may be exported into Mexico with the privilege of drawback; also, praying an appropriation for a national road from San Antonio to El Paso; which was referred to the Committee on Military Affairs.

Also, the petition of citizens of San Antonio, Texas, praying the improvement of the San Antonio river; which was referred to the Committee on Military Affairs.

Also, the petition of Simeon C. Watson, praying additional compensation for carrying the mail between San Augustine and Marshall, in Texas; which was referred to the Committee on the Post Office and Post Roads.

Mr. GWIN presented resolutions adopted by the settlers' and miners' State convention, held at Sacramento City, California, in January, 1852, urging the immediate construction of a railroad from the valley of the Mississippi to the Pacific; which were referred to the Committee on Roads and Canals.

Also, the memorial of John Plumb, on behalf of the settlers and miners of the city and county of Sacramento, California, remonstrating against the adoption of Mr. Asa Whitney's scheme for the construction of a railroad to the Pacific; which was referred to the Committee on the Post Office and Post Roads.

Also, the memorial of a committee in behalf of the California settlers' and miners' State convention, asking the enactment of such laws in reference to the public domain in California as will best secure to each settler thereon a reasonable portion thereof; which was referred to the Committee on Public Lands.

Also, the memorial of George R. Goldsborough, praying for the difference of pay between that of Captain's clerk and a Chaplain in the Navy during the time he performed the duties of Chaplain on board of the United States ship Plymouth; which was referred to the Committee on Naval Affairs.

Mr. DAVIS. I present the petition of Seth Bannister and several other citizens of Massachusetts, praying that there may be grants of public land made to them respectively for services rendered to the United States in the revolutionary war, and to the widows and children of deceased officers and soldiers who served in the same war; which was referred to the Committee on Public Lands.

Also, the petition of Charles Fletcher, praying the right of way and a donation of land to the Nebraska Railroad Association, for the construction of a railroad from Fort Leavenworth to Fort Kearney; which was referred to the Committee on Public Lands.

Mr. BRADBURY presented the memorial of sixteen deputy marshals for taking the Seventh Census in Kennebunk county, Maine, asking additional compensation; which was referred to the Committee of Claims.

Mr. CHASE presented a document in favor of



a trial of John H. Sherburne's plan for a floating breakwater or anchorage, as a means of saving life and property on the lakes; which was referred to the Committee on Patents and the Patent Office.

Mr. JONES, of Tennessee, presented a petition of certain citizens of Hamilton county, Tennessee, remonstrating against the further extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

#### STEAMERS BETWEEN NEW YORK AND IRELAND.

Mr. SHIELDS. I have been requested to present a memorial signed by William McCormick and numerous citizens of New York, and, I believe, other Atlantic cities, praying that the Postmaster General may be authorized to contract with Ambrose W. Thompson for the transportation of the United States mails in steam-ships between New York and Galway, in Ireland. It prays that the recommendation of the Postmaster General in this respect may be favorably considered by Congress; and that a contract be made with the parties who propose to establish this line, to convey the mails in first class steamers. It suggests many points that are, perhaps, worthy of some consideration by the committee. One is, the gain that by this line will be accomplished in point of time. It will save something like thirty-six hours in the voyage to Europe. Another consideration is, the saving in point of distance. It would lessen the distance by something like three hundred and sixty miles.

The memorial also states, that by the reports of the Post Office Departments of this country and of Great Britain, it is shown that about one half of the letters sent from this country to Great Britain are forwarded to Ireland. Of course, at present, they have to go first to England, and then back to Ireland. Thus, the establishment of a line of this kind would not only be a gain in point of time, and in point of distance, but it would prevent one half the letters that leave this country for Great Britain, and one third of the letters that leave this country for Europe, going first to England. It would be a great saving in these respects.

This proposed line seems to be now in the hands of individuals who promise, in point of character, energy, and business habits, to carry out the enterprise. I hope the Naval Committee will take the matter into consideration, and examine the points suggested in the memorial. There is one thing, at all events, presented here, which is worthy of some consideration, and that is, the feasibility of carrying out this plan with very little expense and cost. If the calculations of these men be correct, they can lessen the cost very materially. I am aware of one thing that will perhaps be considered; and that is, that what is called the Irish Channel is considered extremely perilous by mariners and persons acquainted with it. There is now a railroad from Galway to Dublin, and a telegraph from Galway to Dublin, and a sub-marine telegraph is being made between Dublin and Holyhead in Wales. The memorialists point out, and I think, very satisfactorily, that Galway is the first place which can communicate with the continent of Europe; and that there will be not only great gain, in point of time, and in point of distance—elements which are very material at this stage of the world—but that mariners will escape the most perilous part of the navigation of the voyage across the ocean.

I beg the committee to take these matters into consideration. I know that I very feebly present the points of the case. They are presented in the memorial, I think, with great ability and great clearness. If I am to judge from the names of the individuals who have taken this matter in hand, they will carry it out, if any men in this country can do it. All that they ask is, I think, a most reasonable proposition, namely, that they shall be paid for letters they may carry between this country and Ireland. They ask nothing else; they merely ask to have their share of the direct natural trade between the two countries; and they ask that the trade which goes between this country and Ireland be not first carried past Ireland to England, and then back again to Ireland; and that the men who are going to France and to Germany, and the letters going to those countries, instead of being carried out of their way, up the Channel,

may stop at the first European point, and thence be dispatched to the Continent.

I move the reference of the memorial to the Committee on Naval Affairs.

It was so referred.

#### CANAL AROUND THE FALLS OF THE OHIO.

Mr. CHASE. I present the memorial of four thousand citizens of the city of Cincinnati, praying for the construction of a canal on the north bank of the river Ohio, around the Falls at Louisville. In doing so, I will say that the character, not less than the number of the memorialists, commends their application to the favorable consideration of the Senate. The memorial presents a brief, and at the same time a clear and very forcible argument in favor of the improvement which is asked for, which will relieve me from the necessity of making a speech on the subject at this time. I will, however, say, that I have given a full and careful consideration to this subject, and I am satisfied that the prayer of the memorialists ought to be granted. I understand that the Committee on Roads and Canals have this matter before them, and have given it a thorough examination, and will shortly report a bill for the desired improvement. I content myself for the present, therefore, with moving that this memorial be referred to the Committee on Roads and Canals.

The memorial was so referred.

#### LINES OF STEAMSHIPS.

Mr. DAVIS. I present to the Senate a memorial of Enoch Train and others, merchants, navigators, and ship-owners of the city of Boston. They append their signatures to a memorial signed by a larger number of ship-owners, merchants, and navigators, from the city of New York, in which they represent that in their judgment, for the reasons which they set forth, it is inexpedient to extend the policy of the Government by making any new contracts with or grants to mail steamship owners, for the transportation of the mail. I move that, without reading, the memorial be referred to the Committee on Naval Affairs.

The motion was agreed to.

#### PENSIONS TO WIDOWS.

Mr. HAMLIN. I have a memorial signed by citizens of Penobscot county, and sundry other citizens of the State of Maine, asking for a modification of the laws granting pensions to the widows of deceased soldiers and officers who served in the revolutionary war. I ask that, without reading, the memorial be referred to the Committee on Pensions, and I beg to call the attention of the Committee on Pensions to what the petitioners ask. By the present law, all widows that were married prior to the year 1800 are entitled to pensions, while those who were married subsequent to the year 1800, are entitled to nothing. A law fixing an arbitrary rule, is the one which is now in existence. There might have been some reason for making the rule for a particular period of time. If it had been limited to the period during the war, if it had included only those who were married during the existence of the war, and were thus deprived of the services of their husbands while in the service of the country, there might have been some good reason for it. But, in the law as it now stands, Congress in the first place took the year 1794, and granted a pension to the widows of all those who were married prior to that time. Subsequent to that period, it has been extended from 1794 to 1800. Consequently, if the individual were married upon the second day of January, 1800, and is now a widow, she is entitled to no pension whatever, but if she were married upon the twenty-ninth day of December, 1799, she is entitled to the same pension that her husband was entitled to when alive. There are but very few of these widows remaining, and they were all or nearly all of them married either before 1800, or a few years after. I think, at least I hope, the committee will be able to come to the conclusion which justice and equity require, and that the limitation will be removed, so that all the widows shall be placed upon the same basis.

The memorial was referred to the Committee on Pensions.

#### CANAL AROUND THE FALLS OF THE SAULT STE. MARIE.

Mr. WADE presented resolutions of the Legislature of Ohio in favor of the construction of a ship-

canal around the Falls of the Sault Ste. Marie; which he moved to refer to the Committee on Roads and Canals.

Mr. SMITH. There is a bill on the table reported from the Committee on Public Lands, proposing to appropriate, or rather to cede half a million acres of land to the State of Michigan for the purpose of constructing this canal. When that bill comes up for consideration, I contemplate moving an amendment for a money appropriation for the purpose of having the work constructed by the Government. I suggest to my honorable friend, as we have now the subject before us, that these resolutions be laid upon the table and ordered to be printed; however, if he wishes them to go to the Committee on Roads and Canals, I have no objection.

Mr. CHASE. I think the proper course will be to receive the resolutions, lay them upon the table, and order them to be printed.

Mr. WADE assented, and they were laid upon the table, and ordered to be printed.

#### REPORTS FROM STANDING COMMITTEES.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the bill to establish a navy-yard and depot near the city of New Orleans, reported it without amendment.

Mr. FISH, from the Committee on Naval Affairs, to which was referred the memorial of Daniel S. Anderson, reported a bill for the relief of the captors of the frigate Philadelphia; which was read and passed to the second reading.

He also, from the same committee, reported a joint resolution to provide for straightening the eastern boundary line of the naval hospital lands at New York; which was read and passed to the second reading.

Mr. WALKER, from the Committee on Revolutionary Claims, to which was referred the memorial of Frederick Vincent, administrator of La Caze and Mallét, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

#### BILLS INTRODUCED.

Mr. UNDERWOOD, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of the Orange and Alexandria Railroad Company; which was read a first and second time by its title, and considered as in Committee of the Whole, and,

On motion by Mr. U., its further consideration was postponed until to-morrow.

Mr. MORTON, agreeably to previous notice, asked and obtained leave to introduce a bill granting the right of way to "the Pensacola and Navy-Yard Plank Road Company" through the public lands; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. GWIN, agreeably to previous notice, asked and obtained leave to introduce a bill to authorize the payment by the Surveyor General of California for the surveys which may be executed of any claims which have been or may be presented to the Board of Land Commissioners for adjudication under the act of Congress approved 3d March, 1851, "to ascertain and settle the private land claims in the State of California;" which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

#### GEOLOGICAL EXPLORATION OF CALIFORNIA.

Mr. GWIN submitted the following resolution for consideration; which was agreed to:

*Resolved*, That the Secretary of the Treasury be requested to communicate to the Senate any report made to the Treasury Department by any person or persons employed by him in the geological exploration of California.

#### INTERCOURSE WITH JAPAN.

Mr. GWIN submitted the following resolution for consideration; which was agreed to:

*Resolved*, That the President of the United States be requested to furnish to the Senate, if not in his opinion inconsistent with the interests of the Government, copies of all communications relative to the Empire of Japan that may be on file in either of the Executive Departments; particularly of the instructions under which Commodore Biddle visited Japan in 1846; his official report of that visit; the communication made by him to the local authorities in Jeddo Bay, and a copy of a translation of the communication made to him on that occasion, together with so much of a communication to the State Department from Alexander H. Everett, then Commissioner to China, as relates to that Japanese document; also, copies of any other communication received either directly or indirectly from the Japanese

authorities; and such other information that will serve to illustrate the existing relations between the United States and Japan.

#### COMPENDIUM OF THE CENSUSES.

The resolution concerning the publication of a compendium of the several censuses of the United States was read a second time, and considered as in Committee of the Whole; and, on motion by Mr. SEWARD, the further consideration thereof was postponed until to-morrow.

#### ADDITIONAL COMMITTEE CLERK.

Mr. SHIELDS submitted the following resolution for consideration; which was read:

*Resolved*, That the Committee on Military Affairs be authorized to employ a clerk during the remainder of the present session, at the usual rate of compensation.

Mr. SHIELDS. If there is no objection, I would like to have that resolution considered at this time. I have abstained from making this request of the Senate as long as I could; but there are two committees of which I have the honor to be chairman—the Committee on Military Affairs and the Committee for the District of Columbia—and I find that we have got into some matter which requires an immense amount of copying, and I find it impossible for me to perform that duty and at the same time attend to other duties imposed upon me. We merely wish to employ a clerk so long as the present pressure lasts. I regret to make this application, for I would rather perform these duties myself, if I could, but it is impossible for me to do so; and, in justice to myself and the other duties I have to perform, it is necessary that the committee should have this assistance.

The motion was agreed to.

#### CONTRACTS WITH MAIL STEAM-SHIPS.

The Senate proceeded to consider the following resolution, which was submitted by Mr. CLEMENS on the 7th of February last:

*Resolved*, That the Secretary of the Navy and Postmaster General be requested to furnish Congress with copies of all contracts originally made and at present existing for the transportation of the mails between New York and California by steam-ships on the Atlantic and Pacific oceans, and all information they possess in regard thereto; what amount has been paid, and to whom; what amount is now paid, and to whom, for the transit of the mails across the Isthmus of Panama, in connection with said steam-ship service; the gross amount of money that has been paid under each service; when such contracts commenced; in what sums and at what periods of time paid, and to whom each payment has been made; whether at such periods as expressed under the terms of said contracts or otherwise; the amount of service rendered, and by what vessels; how often they arrive and depart; what time has been and is now occupied in the carriage of the mails between said ports; whether all the vessels stipulated under said contracts to be built have been so built, or what portion of them; whether, if two or three of the five ships contracted to be built under said contracts were not so built, but other vessels engaged in independent lines united with the vessels of the Government contractors, thus forming one line; each of the parties, however, owning their own vessels, and in that manner answering the terms of the contracts to build said five ships? Whether other facilities exist for performing the same or a similar service, and if other propositions have been made, and upon what terms, to perform said service, and within what periods of time?

Mr. CLEMENS moved to amend by the adoption of the following:

*Resolved*, That the Postmaster General be requested to communicate also the amount received from postages by said line of steamers.

The amendment was agreed to, and the resolutions as amended were adopted.

#### PASSENGERS IN MERCHANT VESSELS.

The engrossed bill entitled "An act to amend an act entitled 'An act to regulate the carriage of passengers in merchant vessels,' approved February 22, 1847; and also to amend an act entitled 'An act to provide for the ventilation of passenger vessels,'" approved March 17, 1848, was read a third time and passed.

#### RAILROADS IN IOWA.

The Senate proceeded to the consideration of the bill granting the right of way and making a grant of land to the State of Iowa in aid of the construction of certain railroads in that State.

Mr. DODGE, of Iowa, resumed and concluded the speech which he commenced yesterday, in favor of the bill.

[A report of the speech will be found in the Appendix.]

Mr. UNDERWOOD obtained the floor to reply, and, on his motion, The Senate adjourned.

#### IN SENATE.

MONDAY, April 5, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tem.* laid before the Senate a report from the Secretary of the Interior, in compliance with a resolution of the Senate of the 22d ultimo, calling for information in relation to an amount due the St. Regis Indians, and upon the expediency of an appropriation to pay the sum so due, if any; which shows that the sum of \$4,000 is owing them by virtue of the treaty made with the New York Indians by Ransom H. Gillett, commissioner. The report was read, and ordered to be referred to the Committee on Indian Affairs, and printed.

#### PETITIONS, ETC.

Mr. DODGE, of Wisconsin, presented a joint resolution of the Legislature of Wisconsin, in relation to the improvement of the Sault Ste. Marie; which was referred to the Committee on Commerce.

Also, a petition of citizens of Iowa and Lafayette counties, Wisconsin, praying the establishment of a mail route from Mineral Point to Shellsburg; which was referred to the Committee on the Post Office and Post Roads.

Mr. FISH presented the petition of Edwin Lord and Francis Bacon, praying to be released from judgments obtained in favor of the United States on bonds given for duties on goods imported prior to 1839; which was referred to the Committee on Finance.

Also, the petition of the heirs-at-law of William Beaumont, praying to be allowed depreciation on commutation certificates, issued to said Beaumont for revolutionary services; which was referred to the Committee on Revolutionary Claims.

Mr. DAVIS presented a resolution of the Legislature of Massachusetts, in favor of an appropriation for the preservation of the harbor of Cape Cod; which was referred to the Committee on Commerce.

Mr. JONES, of Tennessee, presented a memorial of one hundred and thirty ladies of Memphis, Tennessee, praying a grant to the corporate authorities of Memphis of the United States arsenal and grounds at that place, to be used as an asylum for destitute widows and orphans; which was referred to the Committee on Public Lands.

Mr. WELLER presented a resolution of the Legislature of California, in favor of an appropriation for the purpose of turning San Diego river into False bay; which was ordered to be laid on the table, and printed.

Mr. MALLORY presented a memorial of Walker Anderson, late a member of the Legislature of Florida, and now chief justice of that State, in relation to the election of the Hon. S. R. Mallory as a Senator from that State; which was referred to the select committee appointed on the subject.

Also, a petition of citizens of Florida, praying that other lands may be granted in lieu of sixteenth sections covered by Spanish grants, or such as may be valueless; which was referred to the Committee on Public Lands.

Mr. DOUGLAS presented resolutions adopted at a meeting of citizens of Upper Alton, Illinois, praying that provision may be made by law for the establishment of a territorial government in Nebraska; which were referred to the Committee on the Territories.

Also, a resolution of the Legislative Council of the Territory of New Mexico, in favor of the reservation of timber and salt lakes, springs, or mines, for the common use of the people; which was referred to the Committee on the Territories, and ordered to be printed.

Mr. DAVIS. I am requested to present to the Senate the petition of Robert G. Shaw and a large number of other persons, who are ship-owners in the city of Boston. They adopt as their own sentiments a memorial which I hold in my hand, in print, which was signed by ship-owners in New York. They state substantially that they deem it to be very erroneous policy in the United States to pursue any further the granting of special rights and privileges to lines of mail steamers. They consider that these steamers are substantially steamers belonging to the Government—Government having a right in them, and having contributed largely to the support of these lines. They

represent, further, that by that operation the Government, as a carrier of freight and passengers, is brought into direct competition with individual enterprise, and under circumstances which they represent to be very discouraging to individuals, and fatal in regard to any attempts made by them to contend against it. They go on to say that so far as regards these lines, they ask for nothing inconsistent with the duty of the Government, but hope the Government will bring the policy to an end as soon as may be, and disconnect herself from any further grants for mail steamers. I move that the memorial and the accompanying documents be referred to the Committee on Commerce.

The motion was agreed to.

Mr. MORTON presented a petition of citizens of Franklin county and its vicinity, Florida, praying that other lands may be granted in lieu of sixteenth sections covered by Spanish grants, or such as may be valueless; which was referred to the Committee on Public Lands.

Mr. PRATT submitted additional documents in relation to the claim of Lucie A. Garner; which were referred to the Committee on Pensions.

Mr. FELCH presented documents in relation to the claim of Sylvanus Culver, heir of Samuel Pearson, to a patent for land for which a warrant was issued to said Pearson, and lost or mislaid, but never patented; which were referred to the Committee on Public Lands.

#### REPORTS FROM STANDING COMMITTEES.

Mr. WALKER, from the Committee on Revolutionary Claims, to which was referred the memorial of the heirs of Benjamin Mooers, late a lieutenant in Colonel Hazen's regiment of the revolutionary army, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the memorial of the heirs of Benjamin Ellis, praying payment for money loaned during the Revolution; and the memorial of Caleb Dustin, praying compensation for depreciation of continental money, submitted adverse reports thereon.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of Henry M. Rice, asked to be discharged from the further consideration thereof; which was agreed to.

A motion by Mr. JONES, of Iowa, that the above petition be printed, was referred to the Committee on Printing.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred a bill for the relief of James Jones, reported it without amendment; and on his motion the Senate proceeded, as in Committee of the Whole, to its consideration. No amendment being offered, it was reported to the Senate, and ordered to be engrossed for a third reading.

#### PENSION FOR DAVID LINN.

Mr. BRADBURY submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Pensions be instructed to inquire into the expediency of granting arrears of pension to David Linn, late a soldier in Captain Hawkins's company of the fourth regiment of United States infantry.

#### NEW MAIL ROUTE.

Mr. SEBASTIAN submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads inquire into the expediency of establishing a mail route from Des Arc, on White river, to Searcy, in White county, in the State of Arkansas.

#### LIGHT-HOUSES ON THE PACIFIC COAST.

Mr. WELLER submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of the Treasury be directed to inform the Senate:

1st. Whether any contracts have been made under the appropriation made at the last Congress, for the construction of light-houses on the Pacific coast.

2d. If contracts have been made, to transmit copies thereof to the Senate.

3d. What progress (if any) has been made in the construction of said light houses.

#### JUDICIAL SALARY IN VERMONT.

Mr. UPHAM submitted the following resolution; which was agreed to:

*Resolved*, That the Judiciary Committee be instructed to

inquire into the expediency of increasing the salary of the United States district judge for the district of Vermont.

#### PRIVATE BILLS.

Mr. NORRIS submitted the following resolution for consideration:

*Resolved*, That Friday next, and every succeeding Friday thereafter, shall be devoted to the consideration of such private bills on the Calendar as shall not give rise to debate; and whenever debate shall arise upon a bill, or any Senator shall express a desire to debate the same, it shall go over to the following Friday.

#### NOTICE OF A BILL.

Mr. BADGER gave notice of his intention to ask leave to introduce a bill to amend and to extend the provisions of an act, approved July 29, 1846, and entitled "An act in relation to the payment of claims."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the bill from the Senate for the relief of Theodore Offutt; and also that it had passed several private bills, which were transmitted to the Senate.

#### ORDER OF BUSINESS.

Mr. DOWNS. A very important bill was reported some time since by the Committee on the Judiciary, which can be taken up and disposed of in a very short time. I have not called it up sooner, because it was desirable to have the report printed. It is now printed, and is on Senator's tables. The bill to which I refer is one to authorize the Secretary of the Interior to announce the apportionment of Representatives among the different States, according to the census of 1850. Some time ago a message was sent to us by the President of the United States, transmitting a letter from the Secretary of the Interior, stating the reasons why, owing to some defects in the returns of the population of California, the apportionment could not be announced without some legislation by Congress. The Committee on the Judiciary have reported a bill, directing the manner in which the apportionment shall be made: and it is necessary that it, or some other bill, should be passed, in order that the apportionment may be made. I hope the Senate will consent to consider it now. I move to postpone all prior orders, for the purpose of taking it up.

Mr. GWIN. I am very deeply interested in that bill, and I am anxious to have it considered at an early day; but we have been discussing for a week the bill to provide for the establishment of a navy-yard in California, and I am very sure that we can come to a conclusion upon it to-day. I hope that, if the Senator from Tennessee, [Mr. BELL,] who is entitled to the floor on another subject, will give way, we shall take up that bill and dispose of it. After it shall have been disposed of, the bill named by the Senator from Louisiana can come up. I do not think there will be much discussion upon either bill; at least, I hope there will not be. I hope the Senator from Tennessee will give way, and allow me to get up the navy-yard bill.

Mr. DOWNS. I certainly do not desire to interfere with the bill in which the Senator from California feels so much interest, and if I did not think it would lead to a protracted debate, I should not object to taking it up now; but it is one of those measures on which we can never tell when debate will cease. It has already been debated for several days. It is really important that the measure which I propose to take up should be speedily disposed of. I do not think it will consume much time, and therefore, unless I can have some assurance that the Senator's bill will not be debated, I must insist on my motion.

Mr. BELL. This day was assigned for the consideration of the resolutions introduced by the honorable gentleman from Rhode Island, [Mr. CLARKE,] who is not here at present. It is true that I have the floor for this day on that subject, but it is very indifferent to me on what day I shall address the Senate. I wish to state, however, that I understand that on the day after to-morrow the honorable chairman of the Committee on Foreign Relations [Mr. MASON] will be under the necessity of leaving the city for a few days, and that it would promote his personal convenience very much if he could be permitted to occupy to-morrow on those resolutions. After he shall have concluded, I will ask the Senate to set apart any

day they may think proper, on which I can address them on the same subject. For the purpose of testing the sense of the Senate, I move that the special order be taken up, and then I shall move that it be postponed.

The PRESIDENT. That motion cannot be received until that of the Senator from Louisiana is disposed of.

Mr. BELL. I hope, then, that the Senator from Louisiana will withdraw his motion.

Mr. DOWNS. I withdraw it.

#### NON-INTERVENTION.

On the motion of Mr. BELL, the Senate proceeded to the consideration of the resolutions some time since submitted by Mr. CLARKE on the subject of non-intervention.

Mr. B. I now move that the further consideration of the resolutions be postponed until to-morrow, conceding to the honorable Senator from Virginia the right to the floor upon them.

Mr. MASON. As the Senator from Tennessee has been kind enough to grant his approbation, I shall ask the Senate to hear me to-morrow upon these resolutions.

The motion to postpone was agreed to.

#### APPORTIONMENT OF REPRESENTATION.

Mr. DOWNS. I now renew the motion to take up the bill supplementary to an act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of members of the House of Representatives, and provide for their future apportionment among the several States, approved 23d May, 1850.

Mr. BRADBURY. I had supposed that it was the purpose of the Senate to conclude the business they were upon the other day. I refer to the bill advocated by the Senator from California for the establishment of a navy-yard in his State. The bill which the honorable Senator from Louisiana proposes to call up, is one that must necessarily give rise to debate. The bill which has been reported by the majority of the committee will deprive California of one of her Representatives—a proposition which I apprehend will not be readily assented to. It seems to me that we had better conclude our action upon the other bill to which I have referred before taking up this. The Committee on the Judiciary were equally divided on this subject. I have had the honor of presenting a minority statement, but as I did not expect that this bill would be called up to-day, I am not prepared to go on.

Mr. BADGER. I wish to say that I think there is no bill on the Senate calendar which ought to be taken up and disposed of sooner than the bill referred to by the Senator from Louisiana. In consequence of untoward circumstances connected with the taking of the census in the State of California, the Secretary of the Interior is unable to do what he is required to do by the act passed by the last Congress—announce the apportionment of Representatives among the States. It is highly important that that apportionment should be made; that it should be known; and I would suggest to the Senator from Maine that the very fact which he mentions, that it is likely the bill will give rise to debate, shows the extreme importance of taking it up at once. I hope we shall take it up and dispose of it.

Mr. DAVIS. I most heartily join in that request. This is a question which really ought to be settled. It is quite time that it should be settled, and I hope it will now be taken up and disposed of.

The motion to take up the bill was agreed to, and it was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to proceed forthwith to apportion Representatives among the several States in accordance with the provisions contained in the 25th section of the act of 23d May, 1850, according to the returns of population which have been completed and received at the census office, including the population of the counties of San Francisco, Santa Clara, and Contra Costa, in the State of California, according to the returns thereof made by the census agent to the Secretary of State of that State, amounting to 25,224. It further provides, that if, at any future decennial enumeration of the inhabitants of the United States, the census of any district or subdivision shall be improperly taken, or if the returns of any district or subdivision shall be accidentally lost or de-

stroyed, the Secretary of the Interior shall have power to order a new enumeration of such district or subdivision.

Mr. BRADBURY. I move to amend the bill, by adding the following as an additional section:

*And be it further enacted*, That the State of California shall be entitled to the same number of Representatives in Congress that said State now has; and that for this purpose the act of May 23d, 1850, providing for the apportionment of Representatives among the several States, be so amended that the whole number shall be two hundred and thirty-four instead of two hundred and twenty-three, until an apportionment under a new census.

Mr. DOWNS. This amendment brings up a question which was discussed in the committee, on which they differed in opinion. I hope it will not be adopted. I think the ground taken in the report of the majority of the committee cannot be departed from with propriety. It is alleged in the minority report, that an additional member more than she is entitled to, according to the returns, ought to be allowed to California, because the returns were imperfectly taken. But the ground on which the committee proceeded is, that in a matter so important as that of representation, nothing but the actual returns can, with propriety, be relied upon. We cannot ground our action upon mere estimates of population. The Constitution of the United States does not contemplate any such thing. It never has been done, except in a case where a State is first admitted into the Union, where there is no apportionment, and where, as a matter of necessity, the population must be computed, and representation allowed. But in no instance in the history of the Government has representation been fixed after a census was taken, by estimates, or on any other calculation than the actual enumeration of population as reported by the census takers. It would be unsafe to adopt any other rule.

It is said that the returns of California are very defective; that some of them have been lost. The difficulty in regard to those which are alleged to have been lost, or destroyed by fire, is obviated, not only with sufficient accuracy to satisfy the Senate, but in an official form, and such as is contemplated by the law itself; for there is a provision in the bill, directing the census to be taken, that, in addition to the returns which were made to the Secretary of the Interior, a copy of them should also be made to the Secretary of State of the State or Territory. Some twelve months ago, at the call of the Legislature of California, such a return was made. The duplicate returns, which had been sent to the Secretary of State for the State, were laid before the Legislature of California, and printed in their Legislative proceedings. A printed copy of those returns was laid before the committee. Thus the returns of those counties which were lost are known with sufficient accuracy. The committee have taken them, and allow the State the full returns as they were taken. This is going as far as the committee thought they could go with propriety. I shall not now go into the details; but as the report shows, the committee took the population as reported, and found that it would give to California but one Representative, and a very small fraction of some twenty-four thousand would remain. Now, can we ground our actions here upon estimates at all? Or, if we can go into estimates, is there sufficient data before us, by which we can say that the State of California is entitled to another Representative, although, according to the returns, she appears to have a much smaller fraction than other States? I think not. If we allow estimates of the population of California, where shall we stop?

It may be that there are errors in the returns of California. There may also be errors as to other States. If you once admit the principle, you cannot stop there; but you must go into a calculation, whenever any member gets up and alleges that the same error has been committed in the returns of his State. Whenever that is alleged, if you admit the principle, you will have to go into estimates of the population of that State. Hence the committee thought that this claim ought not to be allowed; that it would be unsafe to follow that principle.

There is another objection to these proceedings. It was settled in the census act of 1850, that a permanent number of Representatives for this census, and future censuses, should be fixed upon, and that it should remain fixed. There is a provision in that bill, that when, by the admission of new States, the number should be increased over the



two hundred and thirty-three members allowed, that, at the next apportionment, the number should be reduced to that. There was a reason for this; and the committee thought that the policy of the bill ought not to be departed from. There have always been difficulties, heretofore, in fixing the apportionment, on account of fractions. That has been the case heretofore; because, until the census was ascertained, there was no number of Representatives fixed. Hence, there was difficulty about it, because it was impossible that the fraction should operate equally in regard to the different States. There has always heretofore been difficulty in settling that matter.

But, by fixing the number of Representatives, in the first place, before the population is ascertained, no State can complain, because the calculation operates equally upon all; and although, according to the apportionment, some States may suffer, by not receiving an additional member from a very large fraction, yet it will no doubt happen that, when another apportionment is made, those States which now lose on account of fractions, will have it made up.

If we are to change the number of Representatives whenever it suits the convenience of any particular State, you destroy the convenience of the bill of 1850, which fixed the number of Representatives permanently; and hereafter, whenever an apportionment is made, the number will be unsettled, and we shall have the same difficulty in settling it that we have had in all the apportionments heretofore.

There is another reason why this amendment ought not to be adopted. The Committee on the Judiciary took the returns from all the counties of California from which returns had been received at Washington; to those we added the returns presented to the Legislature of California for the remaining three counties. The Legislative returns give the county of San Francisco a population of 21,000; Contra Costa, 722; Santa Clara, 3,502, making, in all, 25,224. Add to this the population of the other counties, 92,597, and it makes the total population of the State 117,821. Apply to this the ratio, according to the latest and fullest returns from California, 93,420; and it gives her one member, and a fraction of 24,401. The addition of the population of these last counties would make a little difference, and lessen her fraction. The fraction of South Carolina is 47,478, and that of Louisiana is 46,196. Here we see, that, while in California there is a fraction of 24,000, in Louisiana, the next State, which, according to the returns, is not entitled to an additional member for her fraction, is 46,000, coming within a little over 1,000 of the number which gives South Carolina a member.

If we allow this claim of California, we do a strange act. We give to California an additional member, on a fraction of 24,000, while, at the same time, we refuse to Louisiana a member, upon a well-ascertained and undisputed fraction of 46,000 and odd. Now, I ask, are the Senate of the United States prepared to do this?

Mr. President, you will recollect, and we all recollect, that we have fixed the representation of California once before by computation. And I am inclined to think now that these returns show that a great mistake was then committed. I hope we shall not again commit such a mistake. It is evident that a very great mistake has always been made in regard to the population of California. For instance, take the case of the city of San Francisco. In our debates here, we spoke of it as a large city, of thirty, forty, or fifty thousand inhabitants. According to the returns, as they were sent us—and there have been no corrections in that respect made since—the population of that city is not more than 21,000. Look at the report of the Committee of the Legislature of California, which we had before us. It is true that they state that the population is undoubtedly larger; but they give us no facts to show that it is larger. So, in the report of the minority of the committee here, they say that the population is no doubt larger; but they give us no facts. Can they suppose that, in a matter of so much delicacy as that of representation, we are to go on mere conjecture?

Again, these returns were made to the Legislature of California in April last—a year ago. It was suggested in the Legislature then, that there were mistakes. The legislative committee thought

there were mistakes in the returns; they thought the population ought to have been stated as larger than it was stated. We know, from the reports of the Secretary of the Interior, and the census agent, that the most earnest exertions were made during the last twelve months to complete, as far as possible, these returns. Yet, after the lapse of a year, we have no material change, showing, or tending to show, that the population of California is as much as it has been represented. I ask, how can it be as large as it is said to be, when the facts which you now have before you were, substantially, before the Legislature of California, and presented to the public by them as being erroneous and defective, and yet no errors can be found in them? There have been a few slight corrections; but there has been no material alteration, change, or modification, from that time to this. Yet now, after the lapse of nearly two years, since the census was taken, we are called upon to say, that California has a population sufficient to entitle her to two members. I cannot concur in it. I think it would be dangerous to proceed on any such principle.

Nobody can complain of me of having anything but the best disposition to do full justice to California. I have done so heretofore. There are no members of the Senate whom I would go further to accommodate and gratify, in a matter of opinion, than the distinguished gentlemen who represent California on this floor. But it does seem to me, as it did to the chairman of the committee, [MR. BUTLER,] whose absence now I very much regret, that it would be departing from all rule, and be doing great injustice to the other States, to admit, on a mere conjectural computation, an additional member for California. At any rate, if the Senate shall, contrary to my impression, allow California an additional member, then I certainly shall insist that Louisiana shall have an additional member. For it would be a hard measure of justice, indeed, to deny to my State a member, on a very large fraction, equal, I believe, to about one half of the ratio for a whole member, and yet give to California a member on about half the fraction which Louisiana has. If the proposition of the minority of the committee should be adopted, I shall certainly very earnestly insist that Louisiana be allowed an additional member; because, if you increase the number and depart from the rule—if you say that equity and justice require that California have an additional member, though it is contrary to my opinion, be it so; but, certainly, you cannot say, at the same time, that Louisiana shall not have an additional member on a fraction nearly twice as large as that of California.

Mr. BRADBURY. The Senate will perceive at once that this is a very important question. It is no less than this: Shall a State be deprived of her just representation on account of the imperfection, or want of an accurate census of her population? I think it can hardly be questioned that California possessed the requisite population to entitle her to her present representation in the House of Representatives; but it turns out that the census returns are so defective as to leave her a fraction above the ratio for one Representative—too small for a second Representative. The returns that have been received at the census bureau, with some additions which have been admitted by the committee, give California a population of 117,318; and it is upon the basis of this enumeration that the honorable Senator from Louisiana [MR. DOWNS] feels bound to deprive that State of its present representation, and cut it down to a single Representative. My opinion is, that before we deprive a State of her existing representation, we should inquire whether the census returns are accurate, or approximate to accuracy. I do not contend, that for slight inaccuracies, we should set aside the census returns; but when they are so grossly erroneous as to furnish no approximation to the true number of the population of a State entitled to be enumerated, it would be unwise and unsafe to establish the precedent that we would adhere to them, and apportion the representation upon them. It may happen hereafter that this may become a very important question—much more so even than in this case. It will be remembered that it is the duty of the Federal Government, and not of the State authorities, to see that the census is taken. This duty does not devolve upon the State governments; they have no control over it. If, then, the officers appointed by the

Federal Government neglect their duty and make no accurate returns of any enumeration of the people of a State, is it safe, is it just, that we will adhere to whatever may be received in the form of a return, though known to be false, and acknowledged to be imperfect on its face, and make such false and imperfect returns the basis of representation? I think not. On this principle a State might be deprived of its entire representation in the other House, with the exception of a single Representative, if no returns were made. The largest State might be reduced to a single Representative, and that for no fault of hers, but from the neglect of the agents of the Federal Government. This is, indeed, a fearful penalty to fall upon a party guilty of no fault, and a most dangerous principle for us to sanction.

The first inquiry in this case, then, is, whether the census returns of the population of California that have been made are accurate, or approximate to accuracy? If they do, I would adhere to them, and take them for the basis of apportionment. But this is not the case. So far from it, the pretended returns are impeached by the very officer who had charge of the census in that State. I propose for a moment to call the attention of the Senate to some of the facts that show these returns are too grossly inaccurate to be depended upon in any degree whatever; and I apprehend that when that fact is established the State will not be deprived of its just representation upon such an erroneous basis. If it is, we know not whose turn it will be next, nor what State will be the next sufferer, if a false principle is adopted now, to become a precedent for the future.

In April, 1851, it became important for the Legislature of California to ascertain her population, for the purpose of apportioning the State for Representatives and Senators in the State Legislature. Application was made to the census agent of California for the census, to enable the Legislature to make that apportionment. The State had a right to expect that, under the authority of the Federal Government, the accurate census of her population would be taken that would furnish the information desired. The census agent addressed, to the committee of the Legislature appointed for that purpose, a communication, in answer to inquiries made to him, in which he stated, in substance, that the returns were not complete, and were so defective that reliance could not be placed upon them. He says, after, what had been done in the way of obtaining this census of about 117,000:

"The result of this enumeration, when completed, will, with all reasonable probability, fall short of the entire population of the State from thirty-three to fifty per cent. Such a result must naturally occur to the mind of every person conversant with the circumstances surrounding those engaged in the mines—probably the most numerous of our population—residing, as many of them do, in unknown and unfrequented localities, whilst others are constantly changing their places of abode; thus absolutely precluding the possibility of their being found at all by the census man."

Thus it will be seen that the returns which we have, are impeached by the very census agent who had charge of the business in the State. But the Committee on the Judiciary did not stop here. They received information from the Representatives and Senators from that State, which is believed to be entitled to respect. The Representatives both stated facts within their knowledge, showing the gross inaccuracy of the returns, and the manifest injustice that would be done by adopting them as the basis of an apportionment; and one of them reduced to writing some facts which it may be important for the Senate to consider. The honorable Mr. McCorkle, one of the Representatives, concurs with the census agent in regard to the imperfection of these returns. To show how grossly imperfect they are, I will read to the Senate one or two extracts from his communication:

"As an illustration of the gross inaccuracy of the census returns from California, I will give you my estimates of a few counties in the northern part of the State—counties with which I am perfectly familiar, and in which I have resided for the last two years and a half:

"The county of Shasta is returned by the commissioner as having a population of three hundred and seventy-eight. There are in this county four settlements of miners, each of which contains a larger population than the commissioner has returned for the whole county.

"The population of Shasta county I estimate at six thousand on the first day of June, 1850."

Here we have the estimate of a gentleman who was familiar with the people of the county, that there were at least six thousand inhabitants at the

time of the census, and yet three hundred and seventy-eight only are returned. Can it be contended that a State is to be bound by such a mis-called enumeration? Again he says:

"Trinity county, which, since June, 1850, has been divided, and the county of Klamath set off and organized, contained, at that date, a population of not less than eight thousand, and is returned by the commissioner at one thousand six hundred and thirty-five.

"The population of Butte county is reported incomplete at three thousand five hundred and seventy-four. My residence, during the year 1849 and the spring of 1850, was in that county. All the Feather river miners are in that county, and I cannot set her population down at less than ten thousand.

"The enumeration of Yuba, as reported, is so far short of the real number of her population, that I am forced to think there must have been some clerical mistake in transferring the figures.

"The county of Yuba in June, 1850, embraced all of the territory now known by the name of Nevada, and in it are the cities of Marysville, Nevada, and Downsville—each of which has a larger population than is returned for the whole county. In addition to these cities, we find in Yuba county, at that time, the towns of Rough and Ready, Year's Valley, Parker's Bar, Rose's Bar, and others—each of which had a population of not less than five hundred, and polled, in September, 1850, the largest vote of any county in the State. I estimate the population of Yuba, in June, 1850, at 30,000, and in the return of the commissioner it is set down at 9,674.

"The county of Sutter, in June, 1850, embracing what is now known as the mining county of Placer, is returned as having a population of 3,444. This county I represented in the last Legislature, and estimate its population at not less than 7,500 in June, 1850."

Other details are given by the same gentleman. The other Representative from California [Mr. Marshall] concurred in the opinion as to the great injustice that had been done, and gross inaccuracies in the returns for portions of the State in regard to which he had personal knowledge. We have, then, this remarkable fact, that here are the Representatives from the State, who speak of localities with which they are perfectly familiar, who tell you that there are towns in a county that contained, in June, 1850, a larger population entitled to be enumerated, than the whole county is returned as having contained; and yet we are asked to adhere to these returns, and are told by the honorable Senator from Louisiana [Mr. Downs] that it would be unsafe to depart from them. At the time that the Legislature of California sought to ascertain the population of the State, and found that the census returns furnished, no adequate data to approximate to it, a committee of the Legislature was appointed to ascertain the population as a basis for the apportionment of the members of her Legislature. This committee having sought, as they say, every means of information which it was in their power to command, came to the conclusion that the State then contained a population of 300,000. This was in April, 1851. This would, of course, include the addition that had been received between June, 1850, and April, 1851—a period of ten months; but that addition could not have exceeded the number of 100,000. I must confess that the evidence satisfied my mind that California was fully entitled to two Representatives by her Federal population; and I feel unwilling to deprive the State of a Representative without any substantial evidence that should reduce her representation. I repeat, that in cases where the returns approximate to accuracy, we ought not to depart from them; but when they are shown to be so grossly incorrect as to afford no accurate basis for an apportionment, and no approximation to the actual population, it would be unjust to the State to be governed by them.

We have a precedent in the case of Alabama. The census returns of that State at a former census were not made in due season, and that State was permitted to retain the representation which it had under the prior census until a new census was completed. Upon the same principle applied to California, it has seemed to me that we ought not to deprive that State of the existing representation until a new and accurate census should show that we are right. If I had supposed that there could be the least doubt as to what the result of a new census would be, I should have recommended that the present representation remain until a new census could be taken, and to provide for the taking of such new census. But inasmuch as I had no manner of doubt on that point, I prepared the amendment, which I have proposed, to the effect that California shall retain her present representation under the present census. In order that no injustice may be done to South Caro-

lina, which has the lowest fraction entitled to Representatives, if California is excluded, I have proposed that the whole number of Representatives shall be changed from two hundred and thirty-three to two hundred and thirty-four; so that California and South Carolina can neither have any cause for complaint. If California were permitted to retain her present number of Representatives without this alteration, South Carolina would be excluded; but as that State urges that, upon the records, she is entitled to a Representative on account of the fraction which she has, I have preferred not to deprive her of it.

In regard to the suggestion of the honorable Senator from Louisiana, that if California is permitted to have her existing number of Representatives, he shall propose an amendment giving an additional Representative to Louisiana, it will be time enough to consider that question when it comes up. We have now only to deal with California; and the question is simply whether we shall deprive her of the present number of Representatives, because no census has been taken approximating to accuracy.

Mr. GWIN. I did not anticipate that this question would come up to-day, and am therefore unable, at this time, to present to the Senate the facts upon which I base my opinions, in such an order as I would be glad to do. I must, however, express my astonishment that the honorable Senator from Louisiana should insist upon the returns, which have been made to the Department of the Interior, as being conclusive with regard to the actual population of California. The law authorizing the taking of the census, gave to the Secretary of the Interior power, *when the census would be completed*, to make the apportionment. He has no power, under that law, to make the apportionment until the census is completed. He comes now before Congress, and acknowledges it never has been completed in one of the States of this Confederacy. He not only acknowledges it, but he sends to the Senate the evidence, showing conclusively that in that State the census had not been completed in compliance with the law. The Senator from Louisiana, assuming that it has been completed, says, we propose to depart from the law, in asking that justice shall be meted out to California, by giving her two members instead of one as the bill proposes. He says, there is no precedent for what it is proposed to do in the amendment; that is, to give an additional member to a State, owing to a defective enumeration. Was there ever an instance before in which the census was not completed before the apportionment, except in the case of Alabama, which has been referred to? and did not Congress, in that case, provide by law that no injustice should be done to the State, on account of the failure of the census agent, from death or other cause, to complete the enumeration before the apportionment was made? He says he is opposed to the estimate which is presented by the minority of the Judiciary Committee in their report; yet he comes forward and gives an estimate on which he bases his statement of the population of California.

Mr. DOWNS. In the report of the committee, there is no estimate. I take the actual returns made by the census agent to the Legislature of California.

Mr. GWIN. The census agent says, in his letter addressed to the Secretary of State of California, that the returns, in some instances, were given in "round numbers;" that is, the figures were predicated upon the returns made by the deputies, which are only an approximation to the truth. He does not pretend that they are accurate; yet, the Senator assumes that they are strictly correct, and basis his argument upon that assumption.

Mr. DOWNS. In some cases then, you have no returns at all.

Mr. GWIN. And whose fault is it, that we have not? Is California to blame that we have not had the returns? The people of California threw no obstacle in the way. They contributed all that was in their power, to aid the officers engaged in taking the census. Are we to suffer in this respect, because the marshals failed to do their duty? Suppose the marshal of the State of New York had failed to take the census of that State: would the State, which is entitled to thirty-four members, be deprived, by the neglect of this officer, of her full representation, and be restricted

to only one member? It is notorious that the census has not been correctly and completely taken in California. No man pretends to say that it has. The agent himself says he has not taken it correctly in any counties, and in some not at all. And where is the remedy? Are you to deprive a State of this Confederacy of her proper representation in the House of Representatives, because the officers of the Government have failed to do their duty? This is the question presented to the Senate for its decision. There is no man who will look at the facts as they are presented in the minority report, and say that we are not entitled to two members in the House of Representatives. It must be admitted that the statement of the member of the House from California, [Mr. McCORKLE] is entitled to infinitely more consideration than the returns of the census agent. The member from whose statement the honorable Senator from Maine [Mr. BRADBURY] has quoted, was a member of the joint committee of apportionment in the Legislature of California. The returns of the census agent were laid before the Legislature, and were known to be unreliable by every member of that body, and the joint committee proceeded to obtain information from all reliable sources, to ascertain, as nearly as they could, what was the population of the State. And what was the conclusion to which the joint committee came? That the population of the State exceeded 300,000. Why did they come to that conclusion? Was there any motive to induce that committee to overestimate the population? It was necessary there should be an equality of representation in the new apportionment that the Legislature was making; and to overestimate the population, would add to the burdens of taxation, by making the two bodies of the Legislature larger than the population justified. What motive could there be to increase the taxes by making the population of the State too large? There was no reason for such action. Besides that, all the emigration which started for California before the first of June, 1850, was to be enumerated as a part of the population of that State, according to the law authorizing the taking of the census. The second section of the supplementary census law says:

"And be it further enacted, That in enumerating persons residing in California, Oregon, Utah, and New Mexico, the several assistant marshals or agents shall include those who may have removed from their residence in any State or Territory of the United States, prior to the first day of June, one thousand eight hundred and fifty, and settled subsequently to that date in either of the said countries."

This is the law. All the emigrants who left any State or Territory of the Union for California before the first of June, 1850, were to be enumerated. Now, how was California admitted into the Union with her two representatives? It was first on the requirements of her constitution, based upon an estimate of her population, and a memorial presented to Congress by the Senators and Representatives who were elected on the organization of the State. That apportionment was made under the apportionment of 1840, which gave a member for every seventy thousand inhabitants. The memorial of the Senators and Representatives of California went elaborately into the question to show that we were then entitled to two representatives, because in 1849 we had a population sufficient to entitle us to that number under the apportionment of 1840. We had estimates and figures, beyond all dispute, that our population exceeded one hundred and seven thousand, giving us a fraction which entitled us to the two members. In that memorial is set forth at large the original population, and the emigration by land and water. This was based upon the emigration of 1849. I have a statement from the Quartermaster's Department, showing that in 1850 there were upwards of forty thousand emigrants passed one point—Fort Larimer—on the emigrating route to California. This is the official return as furnished by one of the Government officers, and kept with great accuracy. This, alone, added to the population of 1849, which was one hundred and seven thousand, would give us two members under the law of 1850, not to estimate the thousands that emigrated by other land routes and by sea.

Now, Mr. President, to show you how fallacious it is to say that justice can be done to California by referring to these census returns, I will exhibit some portions of the correspondence which has passed between this Government and their agents in relation to it. There has unquestionably

been a great deal of fault somewhere, in taking the census in that State. It is either the fault of the law, or those who were bound to execute it. I will not pretend to say whose the fault was, but certainly it is at the door of Congress or the Executive. Here are abstracts of letters from the census agent:

January 30, 1851.—"In consequence of the failure of several of the deputies first appointed to accept, and their remote situation, the completion of the census would be delayed longer than was expected."

March 1.—"Mr. Johnson states that he has forwarded the returns of thirteen counties, and hopes to be able to send the remainder on the 15th instant."

March 14.—"Mr. Johnson forwards the returns of two additional counties, all that he has then received. Owing to the great cost of living, most of the deputies had been compelled to resort to other pursuits at intervals, to raise means to meet their current expenses. This had been a leading cause of delay; that is, they had to go to gold-digging to get money to pay expenses, and when they resumed their labors, thousands of gold-diggers not enumerated, had gone to the enumerated districts."

April 29.—"Asks for an extension of the period within which the returns are to be made. He had received from the various deputies throughout the State, estimates, from which it appeared that, according to their enumeration, the population would be from one hundred and thirty-five to one hundred and forty thousand; falling short of the actual population, as was believed, fully sixty thousand. The chief difficulty in obtaining a full enumeration, has been this unsettled condition of the population during the winter. Upon consultation with many prominent citizens, he had determined to retake the census, at least to the extent of those not previously enumerated. An urgent necessity existed for more funds to complete the work."

May 14.—"Additional returns are forwarded, and the affidavit of Mr. Hall, deputy for San Francisco, is inclosed, which sets forth that a portion of the returns which he had been engaged in copying, were destroyed by fire. Mr. Hall hopes to be able to supply the loss from his private memoranda. The advice of the Department is desired in this case. The difficulties arising from the smallness of the compensation, allowed by law, is spoken of. Several accounts of deputies are forwarded."

June 13.—"Retaking the census has been commenced. Additional returns are forwarded."

September 13.—"This letter is in relation to the accounts of his deputies. No returns had yet been received from some districts."

October 14.—"Believes that he has done all that was possible to perform his duties as required by law, and recapitulates the difficulties he had encountered. Some of his deputies were still delinquent."

November 14.—"Partial returns of three counties are forwarded, and also certified statements in regard to the fire at San Francisco, previously mentioned."

December 13.—"Mr. Johnson states that he has forwarded the returns, except those lost by fire at San Francisco, in May, 1851—of the county and city of San Francisco, and part of Tuolumne county. That he has a copy of the returns for a part of Butte county, but declines transmitting the same to the Department on account of its not being executed in accordance with the law; but that he has instructed the assistant to make a copy in conformity with the law. He claims it has been no fault of his that these returns have not been forwarded; that he has fully done his duty in this matter; and concludes, 'if you should conceive, under the instructions of the Secretary, that I have not, there is but one course for you to pursue.'"

Here we have the statement of the census agent, that in the very midst of the business of taking the census, the agents would get out of money, and have to take to other pursuits, in order to provide themselves with the means of subsistence. It is well known that the great bulk of the population is in the mining districts, where great masses are continually roving from one set of diggings to another. It not unfrequently happened that these deputy marshals would get out of money, and would go to gold-digging, in order to pay their expenses, and it is ridiculous to say that justice can be done to the State by taking the population in that way. Here is the letter of the agent stating the fact; and yet when he comes forward and asks for an extension of the time, he is told by the Secretary of the Interior that the law will not permit it.

The Senator from Louisiana says, there has been nothing material done within the last year—

Mr. DOWNS. There has been no material change.

Mr. GWIN. I will bring to the notice of the Senate one fact which is very material. So convinced was the Secretary of the Interior that there had been neglect in taking the census of California, that he ordered the district attorney to bring a suit against the census agent on his bond. The inaccuracy of these returns was so flagrant and notorious, that the Secretary, under a sense of duty to the people of the whole United States, as well as California, ordered a suit to be brought against the agent.

Now, sir, has there, in the history of the United States, ever before been a suit ordered on the word of a census agent for neglecting to enumerate the

population of a State? And what is the primary cause of all this inaccuracy? The difficulty has arisen from the fact that funds were not furnished to the census agent to enable him and his assistants to pay their expenses. I called on the census agent when in California, to ascertain why it was the census was not accurately taken and completed, and he complained most bitterly that he could not go on and take the census without money, which had not been furnished him by the Government—that he must have something with which to pay agents, or he could not have the census taken. He applied to the department to furnish him the necessary means, and received in answer that the department, in sending \$5,000 for that purpose, had exceeded the powers conferred by the act of Congress. If, however, the department had sent \$50,000 instead of \$5,000, considering the price of labor and provisions, it would not have been more than was necessary, and the census would have been completed with some approach to accuracy. The census agent avers that \$5,000 would not cover one-tenth part of the expense; that while engaged in the duty of taking the census, the deputies not unfrequently had to stop to dig gold, or to engage in other occupations, for want of the requisite funds to enable them to pursue the business; and one of them is now in this city, who has received but \$200 for his labor, and has expended over \$700 in taking the census of part of one county. That was his actual outlay. He has been paid \$200. Here, then, is one officer who has expended \$500 of his own money in taking the census of part of one county more than he has yet received from the Government, besides his labor and time, for which he, as yet, has received nothing.

The Senator says the population of California has always been overrated. It is not so easy to overrate it, because we know what the population was when we gained the country; and there are but few emigrating routes to that country, as I have shown on one of these emigrating routes, at a single post, the number of persons who passed in 1840, was upwards of forty thousand.

Mr. DOWNS. I would like to know how many have returned?

Mr. GWIN. Not one by that route.

Mr. DOWNS. It would be well to take into account those who have returned by any route.

Mr. GWIN. I have not spoken of those who went by water; when I do so I will also estimate those who have thus returned. I do not see what that question has to do with the census of 1850; for, up to that period, but few persons had returned, and since that year, five have gone to the country by sea, for every one that has returned.

Mr. DAVIS. According to my recollection of the act respecting the enumeration in California, those were to be enumerated who avowed their purpose to settle in California. No others were to be enumerated.

Mr. GWIN. No, sir. The only question to be asked under the law was, were you here or did you start here before June, 1850? As to the population of San Francisco, nothing was known except by estimate, for the enumeration, so far as it was made, was burned up, and the agent only professed to give the returns in round numbers. The Legislature of California set all these returns aside as inaccurate and unreliable, and made an estimate of its own. That estimate would increase the number of members of the Legislature very largely, and consequently the State taxes. They had no motive in ascertaining the population, but to discharge their duty to the State in apportioning the representation according to the actual number of people in the State.

There is one county in which the number of inhabitants is returned by the marshal at 8,351. When the apportionment bill was under discussion in the Legislature of California, I was present; and one of the representatives from that county stated that its population was over 36,000.

Mr. DOWNS. Why has he not given the returns of the census?

Mr. GWIN. Because he said they were not returned correctly; and a new enumeration was ordered to be made. The Senator asks why the census of this county, as stated, was not given. Was it the duty of the people of California to take the census of the State? They did, however, in the discharge of a duty to themselves, have it taken, as nearly as possible, in order to ascertain

the population accurately, for their own apportionment. It was the duty of the Government to make the enumeration, but it has failed to do it; and I say again, that if such a failure had occurred in the case of New York, with her thirty-four members, instead of California, with her two members, isolated and alone as that State is, there would not be a question, for a moment, with regard to the course to be pursued. This is a neglect of duty, for which the State of California should not be punished. It was a transaction in which the State had nothing to do, either in making the law or in executing it; for the law was made before the State was admitted into the Union, and with its execution, as a State, we had nothing to do.

We have furnished such estimates as it seems to me should satisfy the mind of every member of this body. We do not wish to contest this question with South Carolina, although we do know that if the census returns had been made correctly we would have a larger fraction than that State. The census agent says he knows the returns are not accurate, and that they fall short from thirty-three to fifty per cent. of the actual population. His return must be taken as a whole. If he acknowledges he has not enumerated more than two thirds of our population, you must take this as part of his return and give us the advantage of it. The Senator says if we give California a member, Louisiana is entitled to another, as that State has a larger fraction than ours by the returns. I do not object to giving Louisiana another member for her large fraction. As to the magic number of two hundred and thirty-three, the Senator says there was an object in fixing that as the number of Representatives, and it may be dangerous to disturb it. There is no precedent violated by adding another member to the House. This is the first time the number of its members has been fixed in advance of taking the census, and there is no danger in adding another member if thereby you avoid doing injustice to one of the States of the Confederacy. Look at California for the future. You propose to limit that State to one Representative for ten years to come. What will be her population at the end of that time? I have no doubt, when the next apportionment is made, her population will be greater than that of the Senator's own State of Louisiana. As to the magic number of two hundred and thirty-three, I have very little respect for it. I am not opposed to the Senator's having another member for his State, since she has so large a fraction; but I must oppose her proposition to reduce the representation of California, and to deprive her of one member because her census has not been taken accurately and correctly. To do so would be an act of gross injustice.

Mr. SEWARD. I would ask the Senator from California, whether there is any statement or documentary evidence of the estimate of the population adopted by the Legislature of that State? I wish to know what are the facts as acted on by the State?

Mr. GWIN. I have a statement in an official report made by the joint committee to the Legislature. I had it before the Committee on the Judiciary, where I left it. In that report it is shown that the two Houses of the Legislature instituted an examination of the subject, and satisfactorily ascertained that the population exceeded 300,000. This is the basis on which their apportionment was made.

Mr. SEWARD. I would like to know whether the Legislature of California apportioned the representation for the Legislature upon that basis?

Mr. GWIN. They did.

Mr. DOWNS. The State of California acted in that matter, as the Senator shows, on estimates, and not on facts. I have not the report of the California committee on apportionment before me; but it appears to me that they go on the assumption that the population would number 300,000. I have looked through the proceedings of the Legislature of that State with some care, to see if I could find a fact—not an estimate, but a fact, but I could not find a trace of one anywhere in regard to the number of the population.

Mr. GWIN. What motive could the joint committee of the two Houses of the Legislature have in making the population larger than it actually was? They were seeking the truth from every source of information within their power; and to



make the population higher in number than it really was, was merely to add to the burdens of the people by an increase of taxation in the support of a larger government establishment than was necessary.

Mr. DOWNS. I do not suppose that they had any motives one way or the other. I suppose they took an estimate of some particular portion of the State, and then assumed that one portion of the State was like the other. But this will not do. We want to know the actual population, in order that we may know what representation they should have. And these estimates vary unreasonably. One man says that a county has a population of ten thousand, and another that the population is thirty thousand. If the Legislature of California could not get at the fact which the gentleman wishes to assume, after all the examination which they gave to it, they must have gone on mere conjecture. The Senator says that there are no regular returns from California, and that, therefore, we might deprive her of her representation altogether unless we take this estimate. If I am not mistaken, there are returns which have been recognized by the Secretary of the Interior, and which have been sent here. In addition to these returns there is no doubt that the returns made to the Secretary of the Interior are strictly official and regular, because they are taken under and by the act directing the mode in which the census should be taken. It cannot, therefore, be said that we have no reliable returns. They may be imperfect. No doubt the returns of every State are more or less imperfect; but their being imperfect does not show that there are no returns. The Senator from California, therefore, does not mend his case by stating that there are no returns; because that being the case, the State will come under the general provision of the Constitution, which provides that each State shall be entitled to one Representative.

But it is said by the Senator from California, as well as the Senator from Maine, that no such case of injustice was ever practiced, and they referred to the State of Alabama. Now, the case of Alabama was altogether a different one, and so far from being against the position which I assume, and which the committee have assumed, is, I think, in corroboration of it, for they did not allow Alabama another Representative, on the ground that the returns had not come in in time; but Congress only provided that the representation should stand as it was, and that she should have a reasonable time to ascertain the actual population. That population was so ascertained, and she was allowed a representation accordingly. Now, there is no such proposition made here. If there was, it is evident that it could not be carried out; because such is the fluctuating condition of the population of California, and such her condition now, that it would be impossible to ascertain what was the population of California in June, 1850. The Senator from California says that there are faults somewhere; that the Government has commenced a prosecution against the census agent for his neglect in the discharge of his duties, and yet, at the same time, that Senator alleges that that officer was not to blame. Sir, I cannot see why the Government should prosecute that individual, if he was not to blame.

Mr. GWIN. If the Senator will permit me, I will repeat what I said; that if the apportionment is to be based upon these census returns, it will be an outrage upon the people of California. That wrong has been inflicted on us, either in the passage of the law, or in its execution. I do not blame the census agent; for he says he could not take the census for the want of money. The Secretary of the Interior says he had no power to give him money. I suppose Congress must be to blame, and now let Congress right the wrong inflicted. The law evidently does not authorize the advance of such sums as were indispensably necessary to the correct taking of the census. The census agent in California could not get assistants, because he had no money to pay them, or even to defray their necessary expenses. The Secretary is of the opinion the agent should have taken the census without money. The agent avers that it was not possible for him to do so. I think it is an extraordinary case, such as has not happened before, and one of peculiar hardship, so far as California is concerned. There was a fault in the law, in not providing the means for its execution, or by the officers of this Government, who,

having the power under the law to furnish the agent with means, failed to do so.

Mr. DOWNS. The two honorable Senators rely on the report of the census agent, that these returns are defective and erroneous, and also on the statement of Mr. McCorkle, a member of the other House, which goes to show that they are defective, and who gives returns of one particular county. I would ask the Senator to consider whether you can take these estimates as conclusive, and act upon them, when we have the statement of this census agent, made in April last, a year ago, and when he has had instructions, and the Government has been urging him to correct his erroneous returns, and yet he shows that no material correction has been made since that time. Is there not strong reason to believe that that census agent was mistaken in his conjectures, inasmuch as during twelve months he has not submitted to the Government any facts on this subject, although it was his duty to do so, to show that there was an error? So with regard to the statements of Mr. McCorkle. I have no doubt he thought they were inaccurate. He says one county was returned as having a population of ten thousand, which, according to his estimate, has a population of thirty thousand. Now, upon a question of so much importance, although I attach all proper weight to the estimates which have been made, it would be much more satisfactory if the actual population of one county had been enumerated and counted, and not estimated in the manner that it has been.

When we consider that this question of the population of California has been so long the subject of inquiry—when there have been so many conjectures, and so few facts—when the question of the admission of California was one that met with the most serious objections on account of the supposed errors in regard to her estimated population—I say the fact, that after a year these errors have not been corrected, raises a very strong presumption that they are not so great as they have been supposed to be.

The Senator from California tells us that forty thousand persons passed by a single point on their way to California in one season. There is no doubt of that. But we know—I know, for I have seen the lists of the passengers by the steamers—that they have been returning, too, in great numbers. You see everywhere persons who have been to California and have returned. They are here, even, in Congress; and we see them in this city, and in every village and every settlement of the country. If gentlemen will estimate every man who ever has gone to California, I suppose they may make up the number of three hundred thousand. It is evident there must be some great mistake in the estimates with reference to the population of California. It is not like that of any other portion of the country which has been settled in our time. In every other State there is a certain degree of permanency in the population; but many who go to California leave their families in the places from which they go, and expect to return to them again at a future day. A large portion of them—it is impossible to say how many—a large majority, more than a moiety or those who have gone to California, have gone, not with the view of making that country a permanent residence, but for purposes of profit, or with the view of getting gold, and have returned to their native States, and settled where they were before. You cannot, therefore, apply any ordinary estimates in regard to this population. The only way you can ascertain their number is to count them.

Again, sir, you do not seem to attach any consequence to the constitutional provision in such a case. This is not a mere matter of expediency; it is not a mere matter of discretion; it is a rule of the Constitution, that the representation shall be based upon the enumerated population of a State. That rule never has been departed from, and it never can be departed from without a violation of the Constitution, except in the case of the admission of new States, where there had been no opportunity of taking the census.

But the gentleman has told you, also, that the population of California is increasing, and that by the next ten years she may be entitled to have more Representatives than many others of the States. Grant that that may be the case; but let me ask, is there no other State in the Union which will in-

crease in its population within the next ten years as well as the State of California? Is all the population of the United States going to teem into California? We know that by their increase within the next ten years they may be deprived of a portion of their rights; but that is no reason why she should have more Representatives than her population at present would entitle her to.

Mr. GWIN. Are we to be subjected to the loss of our representation while the population of our State is actually reported to be increasing? There is no other State in the Union which is in the same situation as we are, with a rapidly-increasing population.

Mr. DOWNS. There are several other States that have larger fractions than California has, and yet we are not permitted to come in on the same terms. This is a matter of strict justice; not a matter of feeling or concession. There is a rule which should govern us on this subject. I invoke the application of that rule, sir. It is a rule that is applied to every other State in the Union, and I see no reason—favorably disposed as the Government of the United States has ever been towards California—why we should set aside our rules and Constitution, in favor of the State of California. We have, perhaps, done too much in regard to that already; but I, for one, am ready to stop, and am in favor of applying the same rule to her as to all other States. The committee have done so. They have given to each State that representation to which it is entitled, according to the returns. Yet we are now called on to take the estimates of the census agents. Nobody asks—nobody could ask—the same rule to be applied to any other State. The Senator asks too much, and I hope that the Senate will not accede to his request.

Mr. BRADBURY. The Senator from Louisiana made the remark that the Senator from California presented no facts to impeach the returns, or on which we can act with propriety. Now, I will allude to what I regard in the light of a fact: One of the Representatives of California refers to the returns from the county of Shasta, giving the number of inhabitants at three hundred and seventy-eight. He says he resided in that county; that he was intimately acquainted with it, and that it contained, in 1850, a population of six thousand souls.

Mr. DOWNS. I would ask the honorable Senator whether, if he were asked the enumeration of the population of his own town or county, he could state it with sufficient accuracy to make it the basis of a system of representation? I know the part of the State from which I come as well as it is possible for a person to know any place, but yet I could not state definitely its population.

Mr. BRADBURY. I suppose it would not be in the power of the Representative from California to state with accuracy the precise number; but I suppose, if the honorable Senator from Louisiana should state on this floor that the particular town in which he had resided for two or three years, and with which he was intimately acquainted, contained a population of six thousand, that estimate would be sufficient to impeach a census return which stated the population at only three hundred and seventy-eight, especially if, as in this case, it was admitted by the person who made the return that it was incorrect. And I insist, that when the returns are impeached, not only by the persons who make them, but also by the Representatives of the State, and who say that they know the localities, and give the particulars as to those localities, we are bound to respect the information that we receive from them. I would not contend that that information is sufficient to fix the precise population; yet that there is enough to convince us that we should do great injustice by assuming as a basis returns that are shown to be so grossly erroneous. Yet it is on such returns that the Senator from Louisiana feels bound to deprive the State of California of one of its Representatives.

I think that we have facts enough in the specifications which have been given to impeach these returns. I do not know that I was understood when reading the extracts from the communication from one of the Representatives from California. The united delegation from that State speak the same voice. They utterly repudiate the pretended returns as containing anything like a fair and full enumeration of the people of the State.

Mr. HALE. Will the Senator permit me to

ask him a question? Did the Senator say that he had any returns furnished by one of the Representatives from California?

Mr. BRADBURY. I stated that one of the Representatives from California appeared before the Committee on the Judiciary, and communicated information in his possession; and that one of them reduced his information to writing. I will read an extract from it, for the information of the honorable Senator from New Hampshire, that we may see what the gentleman says in reference to one county:

"I will give you my estimates of a few counties in the northern part of the State—counties with which I am perfectly familiar, and in which I have resided for the last two years and a half.

"The county of Shasta is returned by the commissioners as having a population of three hundred and seventy-eight. There are in this county four settlements of miners, each of which contains a larger population than the commissioners have returned for the whole county.

"The population of Shasta county I estimate at six thousand on the first day of June, 1850."

That is an extract from the communication addressed by one of the Representatives of California to the Committee on the Judiciary.

The Senator from Louisiana says that the California Legislature went on an estimate. I would ask whether they had not better grounds for forming an estimate there than we can possibly have in the Senate? And I submit to the Senate whether, when a gentleman gives such information as Mr. McCorkle does in regard to several counties with which he is intimately acquainted, and the returns from which he shows to be grossly inaccurate—whether it is not sometimes worse than an estimate for us to assume that those returns are correct? That the Senate may be in possession of the data on which to form an opinion, I beg leave to state that the fraction for which South Carolina is to receive an additional Representative is 47,417; that these imperfect returns give California, after allowing her one Representative, a fraction of almost 24,000; and if you take the statement of the census agent that the returns are so inaccurate that they fall short of the actual population from thirty-three to fifty per cent., the result is as follows: If you increase them thirty-three per cent., that will give California a fraction of 61,333. If you increase them fifty per cent., it will give a fraction of 82,650. Well, take the returns as you have them, coupled with the impeachment that comes with them, and California would have a fraction of 61,333 by an increase of thirty-three per cent., or of 82,650 by an increase of fifty per cent.; yet South Carolina is to have a Representative on a fraction of 47,413!

The Senator from Louisiana alludes to the fact that the returns were found to be incorrect a year ago, and that as yet no additional returns had been made. That should not prejudice the State. It was not the duty of that State to make the returns. The State had a right to expect that they would be made by the Federal Government. The census agents were not the officers of the State government, but of the Federal Government, and California, as a State, had no control over their action. As the fault was not attributable to the State, it would be unjust to deprive her of her just representation for a fault not her own.

Perhaps I ought to state that the Committee on the Judiciary were equally divided on the question of allowing California to retain her present representation. Two of the committee were of opinion that one of her present number should be cut off; two were of opinion that she ought to retain her present representation, notwithstanding the imperfect and inaccurate census returns.

Mr. SEWARD. I was inclined, in the first place, to look with disfavor upon the proposition to amend this bill so as to allow California a second Representative; but, upon examining the report of the committee, my mind has gone to the other conclusion. I will state the principal facts and considerations which seem to me to control the question. That California is entitled, like every other State in the Union, to representation in proportion to her population, is what no one will deny; that it is the office and duty of the Government of the United States to ascertain the representative population, is equally unquestionable. They have undertaken to do so; and while that duty was being performed, California necessarily was passive. The census has been taken; it is a nominal compliance with the requisition of the Constitution. It is not a full compliance, if the

census be radically wrong, erroneous, and false. In that case there is no census of California. To make that point clear, I have only to suppose the case, that in the reports of the census there might be such an omission, by some merely arithmetical error, as to reduce the population of California from 117,000 to 10,000, or 12,000. Surely, there would then be no census of California.

The next consideration, then, is, whether there is such a radical and great error in the census in regard to California as to vitiate the returns as a census? I think that is very apparent *prima facie*. We are told that the census of California, with all the corrections of a majority of the committee, fix the population of that State as being only 117,821 souls—men, women, and children, of all classes and conditions. Well, I might say that we, historically, know that this result cannot be true. The State of California has paid, in duties, into the Treasury, during the last year, \$3,000,000. There are no 117,000 persons in the United States, promiscuously collected together, who pay any such sum of revenue. The population of California export (annually) \$5,000,000 of gold.

Mr. GWIN. Monthly.

Mr. SEWARD. I thought I said monthly. The population of California monthly export five millions of gold, that is, sixty millions a year. There are no one hundred and seventy thousand people on the face of this earth, with all the facilities to be obtained, who can procure from the earth, prepare, exchange, and send abroad, sixty millions of bullion per annum. It is apparent, then, that there is a radical defect in the census, and that it is not merely incorrect, but that it is so vicious that it is no census at all.

Now, what appears *prima facie* is corroborated by testimony which has been taken by the committee. It derives strong support from the circumstance, that when this question became very material on the admission of California, the population of the State was then estimated at one hundred and seven thousand. Since that time, there has been a lapse of eighteen months, I think—nearly two years—with a continual increase of population, as proved, not merely by emigration to the State, but by the consumption of merchandise, by the duties paid, and by the rapidly augmenting exports of productions. It is testified to by the Representatives of the State.

Well, then, it being clear that we have a vicious census, the question is, whether we have the materials by which we can correct it? Upon that point my mind has wavered most; it is, whether the evidence we have is sufficient to enable us to say, that the population is now two hundred thousand in fact, instead of one hundred and seventeen thousand, as it is put by the census. On that subject, it seems to me we have what, under all the circumstances, ought to be satisfactory to us; that is, the action of the Legislature of California. That Legislature had the responsibility of apportioning the representation in the Legislature, and the taxes among the people of the State, and among the different counties and districts of the State; that is to say, they have had to perform precisely the same duty we have had, for a different object, for a different purpose. They have had to ascertain precisely the same fact, with no motive, that we can conceive, to mislead them—certainly without any expectation, on their part, that their action was to be adopted by us, or to conclude us. They have assumed three hundred thousand, as the population of that State. They had an opportunity to know better than we. They had no motive to mislead them. They did decide; they decided under official responsibility. It is true it is their act, not ours. We are not concluded by it; but I do not see how we can refuse to take their action as being a fair guide for ourselves, when we ourselves have neglected to ascertain the fact, the responsibility resting with us, or, having undertaken to ascertain it, we have failed to do so, owing to circumstances which rendered it impossible.

These considerations lead my mind to the conclusion, that it is but just and fair to allow California the additional Representative which is proposed by the amendment under consideration.

There is one other question—whether we can do so consistently with the Constitution of the United States? Upon that point, I have only this to say, that the census contemplated by the Constitution of the United States is a census that is not so

radically vicious as to be no census. We have taken a census; it is incorrect; it is erroneous; we must cause it to be corrected before it will be the census which the Constitution of the United States prescribes; otherwise, we shall be at sea in a case of greater magnitude hereafter. It may happen sometimes that the State of Pennsylvania, by erroneous returns, by erroneous enumeration, or by erroneous addition of the figures in the columns of the census, may be returned as having a population of only 100,000 or 200,000. Certainly such a census as that would not bind the Government of the United States, or conclude Pennsylvania. It must be corrected somehow; it must be corrected here, and nowhere else. We have, then, I think, the power to correct it, and it is our duty to collect the materials by which to correct it. Having done this, I think we are bound to allow to California the benefit of correction, which is an additional member to that State.

Mr. PRATT. If I concede, with the Senator who has just taken his seat, and others who have occupied the same side of this question, that the Congress of the United States has the power to do what this amendment proposes it should do, I might vote with my friend from California; but when I look at the Constitution, and find that it says that representation shall be based upon the actual enumeration of the inhabitants of each State, I cannot go beyond the Constitution to look at the estimates of any body, for the purpose of ascertaining a different basis of representation from that which is prescribed. The language of the Constitution is plain, that the representation shall be based upon the actual enumeration. Is there not an actual enumeration in this case? The Senator from California says there is not. If that is so, we have no power to give to California the Representative which is asked for by this amendment. We are required strictly, by the letter of the Constitution, to give representation according to the actual enumeration. Now, if there has been no actual enumeration made, we have no power over the subject. We have no other power than to do as the committee have done—give the representation to which, under the Constitution, each State is entitled in the absence of any regular enumeration. This is the view which I have; and, therefore, as I conceive, I have no power to travel beyond the Constitution for the purpose of giving an additional Representative to this State; however inaccurate the enumeration may be, I cannot vote for the amendment.

Mr. HALE. I listened to the remarks of the Senator from New York, and they led me to this difficulty: the Senator thinks that we have sufficient data for correcting this erroneous return; but then he does not propose to correct it. He proposes to give to California a Representative without the return; but how does that leave the other States? It does injustice to every other State in the Union; because the amendment still gives to South Carolina a Representative to which she is not entitled by the enumeration. If you proceed to allow to California an additional Representative, upon the ground that here is a difficulty—a vicious census, and that we have data enough before us to correct it—then what becomes of the South Carolina Representative? If California is entitled to another Representative, South Carolina is not entitled to the number which she will have under this amendment. You give South Carolina, without any pretense that there has been a mistake or a vicious census, a greater representation upon the floor of the other House than she is entitled to by the actual enumeration, and thus you do injustice to every other State in the Union; because while you apportion the Representatives to every State according to the actual enumeration under the Constitution, you give to South Carolina a Representative to which she is not entitled.

Now I would ask the honorable Senator from New York how he justifies that under the Constitution? I am saying nothing about its operation in California. If there is data by which you can correct the census, then stick to the census, and take a Representative away from South Carolina. If you adopt this amendment, upon the ground assumed by the Senator from New York, that you have data enough to correct the census of California, you then apply a constitutional provision to all the States of the Union, except South Carolina, and arbitrarily give to her a Representative to which she is not entitled under the Con-

stitution. This is a difficulty which to my mind is insuperable.

Mr. DOWNS. I do not think the difficulty suggested by the Senator will occur. Take the facts as they are. There is no estimate—no computation as to South Carolina. Her actual population is known. It is unquestionable. There is a certain amount of population returned also from California which entitles her to one Representative. The report of the committee takes that return, gives her representation on that basis, and that leaves one to South Carolina. South Carolina gets her number upon no estimate, but upon the known amount of the population.

Mr. HALE. The Senator misunderstands me. That is the very view of it which I present. I say that, as it now stands, South Carolina is entitled to an additional Representative; but if you undertake to correct the census, and make California's fraction enough to give her an additional member, then South Carolina is not entitled, and therefore you give to her arbitrarily a Representative to which she is not entitled if you make the correction.

Mr. GEYER. The question presented by the amendment is not without its embarrassments. Indeed, after much reflection, I find it difficult to determine upon any rule which would conform to the act of 1850, and to the Constitution of the United States, as gentlemen interpret it. By the act of 1850, the representation of each State depends upon the returns from all the other States to a great extent. The ratio is to be fixed by assuming two hundred and thirty-three as a divisor. If, then, we cannot apportion the representation but upon actual returns, we cannot execute the acts of 1850 consistently with the Constitution. The representation of South Carolina will depend upon the returns from California. We are in a condition in which we must wait until these returns are complete before we can make any apportionment whatever. It has been correctly remarked by the Senator from New Hampshire, that if the returns from California should give her a large fraction over and above the fraction upon which South Carolina is proposed, by this bill, to be represented, then South Carolina would be excluded. If we make the apportionment now, according to the terms of the bill reported from the Committee on the Judiciary, we are making an apportionment without returns from one of the States upon which depends the apportionment for all the other States. We are, then, under the necessity either of not making the apportionment at all, or of making it upon returns which are defective, and which do not furnish us data by which we can do justice to all the States according to the terms of the Constitution.

When this matter was before the Judiciary Committee, the evidence presented to us satisfied me that the population of California probably exceeded, at the time the census was taken, one hundred and forty-five thousand, which would have cut out South Carolina from her additional Representative; but, in the state of uncertainty which the facts presented, I was unwilling either to postpone the apportionment, or to decide upon the facts presented, whether California or South Carolina was entitled to the additional Representative. It seemed to me that the only way in which we could get over the difficulty would be to take the returns, as far as they went, and allow South Carolina her additional Representative upon the fraction as it appeared by these returns, and then allow also to California an additional Representative upon the assumption that her population, exceeding that necessary for one Representative, would be equal to the fraction of South Carolina. The only other alternative, consistent with the act of 1850, is to postpone this apportionment and direct an enumeration to be completed in California, and if the returns come in, showing her to have a representative population exceeding one hundred and forty thousand, and some few hundreds, it would give her two Representatives, and reduce the representation of South Carolina as it is proposed to be given her under this bill.

Now, the sole question, as it appears to me, which is presented here, is this: We are obliged to act upon conjecture; we have not got the official returns; it is not the fault of the State of California that the returns are not here; whether it is that the officers did not act for the want of means, or whether they neglected their duty, after having sworn to perform it, with the means in their hands,

we do not know; but they were the officers of the Government; and seeing, as it seems to me, that we are doing great injustice to California by denying her an additional Representative, when, according to the weight of the evidence, her fraction would be as great as that of South Carolina, I am disposed at once to make an apportionment and allow the additional Representative to California.

This is not without precedent to some extent. It is true that the fourth enumeration was not like the present. Congress then did not limit the Representatives beforehand; but, having made the apportionment, there being, I think, by occasion of the death of a marshal in the State of Alabama, defective returns for a portion of that State, time was given to complete them, and Congress provided that the State should have an additional Representative, if, on the return being made, she should be entitled to it according to the apportionment then adopted. The returns were made, and the additional member was allowed.

I do not see that we are in danger of an infraction of the Constitution by adopting this course. We cannot, under the bill as it is presented, make the apportionment upon the enumeration, for the enumeration has not been made. The representation from South Carolina did depend upon true returns from California, and all the other States of the Union; and, according to the system adopted in 1850, the apportionment must also await the returns from all the States; and, if the interpretation put upon the Constitution by the honorable Senator from Maryland be the true one, we must wait until all the returns are in, and then we shall have a question whether, under the Constitution, a fraction can be represented at all?

Upon the whole, without detaining the Senate further, I think the subject is involved in difficulty. We have to adopt one of two alternatives. If we order an enumeration of the inhabitants of California, we must wait the returns before we can make the apportionment according to the act of 1850. If you decide to deny to California the additional Representative, you deny it to her because your officers have neglected their duty, and when the weight of the evidence before you shows her to be entitled to an additional Representative, and shows that in all probability she has a larger fraction than South Carolina, which would deprive that State of one Representative. I am disposed, therefore, to compromise the matter, and give to each of the States an additional Representative for their fraction.

Mr. PRATT. It seems to me, that by pursuing the course indicated by the Senator from Missouri, the only effect of it will be to insure that injustice shall be done. Now, I submit to the consideration of the honorable Senator himself, whether the proposition I am about to state is not undoubtedly correct? South Carolina is not entitled to an additional Representative for her fraction if California is. He now proposes to do, in reference to other States, the double injustice of giving an additional Representative to each. In order to secure to California all that she may possibly be entitled to, if this actual enumeration had been made, the proposition or argument therefore of the Senator from Missouri is to insure that injustice shall be done; whereas if we take the course indicated by the committee, it is doubtful whether injustice will be done to California or not. If we take the course which we are asked to take by the Senator from Missouri, we give undoubtedly either to California or to South Carolina a Representative to which one or the other is not entitled; and, consequently, you insure that injustice shall be done. It may be that California would have a larger fraction than South Carolina, if this actual enumeration had taken place. If so, South Carolina would not have her Representative; and the course indicated by the Senator from Missouri will have the effect of doing injustice certainly to all the other States, by giving to both South Carolina and California an additional Representative, when undoubtedly only one of them can be entitled to it.

Mr. GEYER. It is very true that if South Carolina is entitled to an additional Representative under the act of 1850, California is not. But we cannot execute the act of 1850 at this time, for you have not the returns from the State of California, upon which the representation can be apportioned according to the rule established by that act; so that I take it, the act of 1850 is out of the

question. It may be observed as a general rule, but it cannot be executed now. To execute that act will require us to make additional provisions to take the enumeration in California, and postpone the apportionment until the returns shall be made. Now, what will be the consequence of that? If it shall turn out that the representative population of California amounts to 300,000, as it was estimated by the General Assembly of that State upon the evidence before them, it would have a very sensible effect upon the new apportionment all over the Union. It would entitle California to three Representatives—it would cut off some other State, at all events, now represented upon a fraction—it would increase the ratio of representation, and in some of the States having a great number of Representatives, might cut off their fraction, and change the entire representation all over the Union. The question, I repeat, is an embarrassing one. There is a difficulty in it. We are obliged to meet it, and meet it now, I think, in order to be prepared for the election of the next Congress. I know of no better way in which we can get over it than by allowing an additional Representative to each of the States.

Mr. BADGER. I agree with what has been said on this subject by my friend from Missouri. There are undoubtedly embarrassments and difficulties surrounding it. It is impossible to carry out technically and accurately the execution of the act of 1850. To say that under the circumstances we will consider the population of California as ascertained by these imperfect and defective returns would, I think, begreat injustice. We cannot carry out, therefore, technically the rule of the act of 1850, without manifest injustice to this new State. Well, where is the injustice of what is proposed by the minority of the committee? They propose to add to the permanent number of the House of Representatives fixed by the act of 1850 one member—to add one member to the two hundred and thirty-three fixed by law—during the operation of the present enactment, and by giving that member to California, to leave the census, as taken, to operate among all the other States of the Union. Where is the injustice of that? Where is the strict right, under the Constitution, that is withheld from, or imparted to, the other States of the Union?

It has been assumed that, according to the Constitution, no allotment of members to a State can be made, except upon an actual enumeration. I confess my opinion has been that that was probably the correct interpretation of the Constitution; but the legislation of Congress has settled that matter, that a State can be entitled to Representatives on the floor of the House of Representatives not based upon actual enumeration; otherwise, when any State was newly admitted into the Union, she should be entitled to but one Representative. The rule of the Constitution is, that the States shall be entitled according to the population, as ascertained by the census or enumeration; but that every State shall be entitled to at least one Representative; when, therefore, a new State is admitted, in respect to which there never could have been a census or enumeration, within the meaning of the Constitution, if the rule insisted upon were the true interpretation of the Constitution, that State would be entitled to but one Representative in the House of Representatives. But yet, time and again, Congress have assigned to new States two Representatives. Texas and California were each admitted with two. Therefore we have established this proposition by our legislation, that Congress, under extraordinary circumstances, can give additional Representatives upon estimates and not upon actual enumeration. That is settled; and we must go back, and undo what we have done in divers instances heretofore, before it can be considered an open question.

Mr. BAYARD. Are there any other instances but those of California and Texas?

Mr. GWIN. Iowa and Wisconsin were admitted with two Representatives.

Mr. BAYARD. The proposition contended for by the honorable Senator from North Carolina, as I understand it, is, that supposing this to be a clear violation of the Constitution of the United States, two violations by Congress justify a third.

Mr. BADGER. That is not my proposition.

Mr. BAYARD. I so understood it.

Mr. BADGER. That may be the honorable Senator's understanding of it, but I do not con-



sider myself as having a very peculiar faculty of knowing what the Constitution means. I think that the various members of Congress who passed those acts, were as competent to decide the question as myself. I take it, that inasmuch as this has been done by Congress, these acts have declared the sense of the Congress of the United States, that in extraordinary cases, members may be given by estimate. Congress seem to have gone upon the idea that, in the admission of new States, the rule of the Constitution should not be considered strictly applicable; that it was an extraordinary case; a case in which some latitude must be allowed to legislative enactment. Be that as it may, here are four cases in which States have had Representatives upon estimates, and not upon enumeration. We are brought to this condition of things. I have said it would be grossly unjust, under the particular circumstances in which California was placed, under which this census was taken, to hold her bound by these imperfect returns. It would be extremely unjust to her. Those returns do not furnish an approximation to the truth; they not only cannot be relied on as certain, but they are absolutely discredited by those who made them. That being an injustice, I suppose Congress will not be inclined to perpetuate it. On the other hand, I should be extremely unwilling to assume that California had a larger fraction than South Carolina; to assume that California would be entitled, by the actual number of her inhabitants, to two Representatives, and so exclude South Carolina from the additional member to which she would be entitled under the census.

Now, admitting, as I do, with my friend from Missouri, that the case is attended with difficulties and embarrassments, do not we, upon the whole, do as little wrong and accomplish as much good by meeting this extraordinary state of things, by the addition, during the present decennial period, of one member to the number in the House of Representatives, and allowing California to take that member, as by pursuing the other course suggested? There is every probability in the world that she is strictly entitled to it. She is a new and growing State. This enumeration is to stand for ten years. If an influx of inhabitants continue to pour into that State as they do now, she will, in two or three years, be inadequately represented by even two members, which she now has. Upon the whole, although I admit there are difficulties, and room for divers opinions, I think the best course to pursue is that indicated by my friend from Missouri, in voting for this amendment. I think it does as little harm, and accomplishes as much good, and perhaps more, than any other course we could pursue.

One word as to repeating the enumeration. That is utterly impossible, because it was to have ascertained the population in 1850; therefore, if we had the time, which we have not, how could we possibly ascertain now what was the population of California in 1850? With regard to that, then, in the first place, it is impossible to ascertain what it was; and in the next place, if it were possible, we have not got the time. The new enumeration, under the Constitution and law of 1850, has to go into effect on the third of March next. It must, therefore, be settled now; and upon the whole, I do not see a better mode of settling it than that suggested by my friend from Missouri.

Mr. BRADBURY. I desire to make a single remark in reference to a question which has been raised. The honorable Senator from Maryland refers to the clause of the Constitution that provides that representation shall be based upon an actual enumeration of the people, and then says that there has been no actual enumeration of the inhabitants of California. The fact is so. There has been no actual enumeration. We have mere conjecture as to three counties.

Mr. PRATT. I said that on the Senator's side of the question the allegation is, that there has been no enumeration.

Mr. BRADBURY. I understood the Senator to make the statement himself; but I take his correction. I think the facts show conclusively that there has been no actual enumeration—that there has not been an enumeration of much more than one half of the inhabitants. I feel bound to disregard returns when a Representative states that, from his own knowledge, not a twelfth or a fiftieth of the population in a county where he has resided for two or three years has been enumer-

ated. The true question is this: Shall we cut down the representation of California without an actual enumeration of her inhabitants?

Where would the argument of the honorable Senator from Maryland lead us? Take the State of New York, and suppose that no returns were made from that State; the honorable Senator would then contend that, inasmuch as there was no actual enumeration, her representation should be cut down to the one allowed by the Constitution. So far from this position being correct, or demanded by the Constitution, I believe the safer and sounder rule would be not to change the representation when there is no actual reliable enumeration. We do not propose in the amendment which has been offered, to change the representation. We leave the representation of California to stand as it is, because there is no actual enumeration, that demands the change. We call upon gentlemen who raise the constitutional objection, to say whether they are prepared to change the existing representation without an actual enumeration. Will they change the existing representation because there has been a failure to comply with the law—a failure to make an actual enumeration, which has not been owing to any fault of the State? I think not.

Mr. DAVIS. I should be glad to obtain some more information than I have derived from this debate, before giving a vote upon this bill. As I understand the papers in reference to this matter, having run my eye cursorily over them since this discussion commenced, there is a return of the census for the State of California of 117,821. But this return is supposed to contain some inaccuracies. If we are to assume a certain amount of inaccuracies, I should be very glad to see some method proposed by which we are to arrive at a satisfactory result in that particular. I will explain myself by drawing the attention of the Senate to some of the figures that are given in the report of the majority and the minority of the committee. They allow to South Carolina a fraction of some 49,000. The proposition contained in the amendment is to give South Carolina a member of the House of Representatives upon that fraction, the ratio of representation being some 93,000.

The amendment also proposes to give California an additional member. That goes, I suppose, upon the presumption that California has a fraction large enough to let her in, and yet not a fraction so large as South Carolina. See, now, the effect of that. The State of Louisiana has a fraction of forty-six thousand. It is very clear, then, that Louisiana is entitled to the member, and not California. The law gives it to the largest fraction. You are therefore driven to this alternative: you must raise the fraction of California over that of South Carolina, or over that of Louisiana—one or the other. If it is raised over South Carolina, it is also raised over Louisiana, of course. Well, here are returns to a certain extent made official; and, as I suppose, admitted to be correct—I do not know that it is, but I take it for granted, for the present, that they are considered to be correct. How are they shown to be incorrect? Partly by persons who took the census admitting inaccuracies, and, further, by certain estimates made in the legislative body of the State of California, putting the population at three hundred thousand. Then the honorable Senator from California says that forty thousand persons passed Fort Laramie, and went through the mountains. Where they went, I do not know. Some of them, perhaps, went to the Salt Lake, some to Oregon, and some to California. But the number to be enumerated there depends upon another consideration. They were not to be enumerated, unless they were entering California with a view to be settled in that State as inhabitants of the State. That is the condition of the law. It is quite impossible to ascertain what portion of these forty thousand people (if there were that number) passed Fort Laramie upon that condition, and when they were asked if they were about to make themselves permanent residents of California, replied in the affirmative. That there is a great deal of transient population in California at all times, is, I think, a fact that will not be questioned by anybody.

What does all this prove? That there is very considerable difficulty in regard to this question, is proved beyond all doubt. There is a constitutional difficulty, and a difficulty of fact—a very serious one—in regard to it.

I wish now to draw the attention of gentlemen to another point. I should like to see the estimate made by the legislative body of California; and, if here are accurate returns, as it is supposed they are, I should like to see the estimates put against the accurate returns, that I might know how they would compare. Let us see how the estimates will stand when compared with the accurate returns. If it can be shown that there is sufficient reason to justify raising the population of California some twenty-four or twenty-five thousand, which would be necessary in order to give her an additional member, I shall be very much inclined, for one, to do it. But I am not quite willing to proceed upon a mere open conjecture—upon a naked fact not sustained by proof—that there have been certain erroneous proceedings on the part of those who took the census in California. I do not feel quite authorized to infer that there is an error of twenty-four or twenty-five thousand. It must be remembered, that in order to carry this fraction of California over that of Louisiana, we must assume that there is an error to an amount rising twenty thousand in the taking of the census of California. I understood there was a document of that description; if so, I should be glad to see it.

Mr. DOWNS. I think I can put the Senator right on that subject. As to the computation of the Legislature of California, there is nothing in the book I saw except the statement of the committee of the Legislature. They give no details; no estimates of the different counties, no enumeration but a mere general statement that the population amounted to some three hundred thousand. I could not find in that any data—any distinct facts—to show upon what they based their statement. Probably the Senator from California can tell us.

Mr. GWIN. The statement of the census agent was laid before the committee of the Legislature. In the judgment of the committee, and of the members of the Legislature, it was entirely inaccurate, and not worthy of consideration. This report (and I am very sorry the Senator from Maine has not got it here—I gave it to him) states that the committee made the most diligent inquiry to ascertain the exact population of the State, and came to the conclusion that it exceeded three hundred thousand. They examined persons from all parts of the State, who corrected the returns of the census agent, and made a correct estimate of our population. While up, I will refer to my statement of the number of persons who passed Fort Laramie in 1850. It is stated by the assistant quartermaster that they were going to California and Oregon, not to the Salt Lake. These are the very persons the law says shall be enumerated. I do not know the exact number of these emigrants who went to California, but it is very well known, that of that year's emigration a vast majority went to that State, and comparatively but few to Oregon.

The State of California did not take a census, because they expected the United States to do it, and upon the census taken by the United States, we intended to make our apportionment. The United States failing to take the census, we had to collect from the most authentic sources within our reach, information upon which to make our apportionment, which resulted in the report of the joint committee before referred to, which places our population at more than three hundred thousand.

Mr. DOWNS. I wish to make a few remarks, in reply to the honorable Senator from North Carolina, who supposed that Congress had settled the question that representation might be allowed without even an enumeration. That is very true, in a case where no enumeration has been made; but they never have, in any instance, made such an allowance where an enumeration has been made. On the contrary; the phraseology of the Constitution itself clearly contemplates, that before an enumeration has been made, as in the origin of the Government, and when a new State is admitted, they must necessarily allow a Representative without an enumeration. The language of the Constitution is not that a Representative shall be allowed without an enumeration; but that whenever an enumeration is made, then there shall be no representation without enumeration; so that the decision of Congress on which the gentleman relies, has no application to a case of this kind. The language of the Constitution is: "Representatives and direct taxes shall be apportioned among the several States which may be included within this

'Union, according to their respective numbers,' and so forth. The Constitution, after prescribing the mode of computing the representative population, says: "The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire," &c. The Constitution then goes on to enumerate how many Representatives each State should have until an enumeration should take place; so that the Constitution itself recognizes the principle adopted by Congress afterwards, that when no enumeration had taken place, Congress would go into an estimate, and allow an apportionment accordingly; but in no instance, neither in the case of Alabama, cited by the Senator from Missouri, nor any other, has it ever been allowed when an enumeration has been taken.

I think too much importance is attached to the idea that there are no returns here, which the Senator from Missouri and others seem to anticipate. That is not the fact. There are returns. There are returns, in fact, from every county of California—certainly from every county but one—about which there is some dispute. All these returns were made directly, either to the Secretary of the Interior, or to the Secretary of the State of California, and adopted by the committee. This is not a case where there are no returns, for there are returns.

The suggestion, however, is made that the returns are erroneous. I venture to say that errors may be suggested in the returns of other counties. There may be errors suggested in reference to almost every county of the Union, perhaps. What the committee ask is, that we should rely upon the returns we have, and make them the rule. The Senator from Missouri estimates the population of California at some one hundred and forty thousand, and therefore says that it was doubtful, according to the estimate, whether the fraction of California would be greater than the fraction of South Carolina. He thought it hard, therefore, to deprive South Carolina of a member. Now, there is only a difference of about one thousand between the fraction of Louisiana and the fraction of South Carolina. If the gentleman was in so much doubt about South Carolina, I should like to know why there should not be the same doubt in regard to Louisiana? The case is as strong in the one instance as in the other. He has doubts about South Carolina. I can show him that Louisiana has a fraction of some twenty-five thousand more than the fraction which the actual returns give to California; yet he would give California an additional member for her fraction, and exclude Louisiana. It seems to me that there is more difficulty in the amendment than a great many suppose.

Mr. BADGER. I think the Senator from Louisiana has been entirely unsuccessful in endeavoring to show that there is anything in the Constitution contrary to the view which I took upon the subject, or warranting by its direct terms, or the meaning which could be attached to it at the time by those who framed it, the admission of members on the floor of the other House by estimate in any case. Take new States at their admission. The Constitution says that representation shall be distributed according to population. It says that the actual enumeration shall be made within three years after its adoption, for the purpose of ascertaining the population by which enumeration is to be fixed; and then it says, until that enumeration has been made the States shall be entitled to so and so. The argument founded upon that is clearly this: Representation shall be given according to population always after the enumeration has been made. The Constitution itself gives representation by estimate. That was absolutely necessary. But its language is, that until the enumeration which it directs shall be made, this representation by estimate shall obtain. If you argue from that provision, so far from its authorizing representation by estimate upon the admission of a State, it would absolutely forbid it. The rule is, representation according to the population ascertained by actual census, or enumeration; but until there shall have been a census—until the first census—the States

should be entitled to so and so. How are they entitled to be afterwards? According to enumeration, beyond all dispute; and therefore, it would have followed, carrying out that literal interpretation, that when a new State was admitted, in respect to which there had been, and could have been no enumeration, the State would have been entitled to but one member; for if you refer to that provision, which gave representation, under the Constitution, conjecturally or by estimate, that obtained only until the first enumeration had been made, and after an enumeration, according to the express provisions of the Constitution, the representation was to be distributed according to the results of that enumeration; each State, however, being absolutely entitled to one member of the House of Representatives, it would have followed that the new States coming in would have had but one member.

Now, what has Congress done? In four different instances of the admission of new States, they have received two members by estimate upon their admission. That settles, if anything can settle, the interpretation of Congress upon the subject; and that is, that although the rule given by the Constitution is to go by the enumeration—although the rule given in the Constitution is, that without any enumeration, a State can be but entitled to one member, yet it is only a general rule, and in extraordinary cases, in order to do justice, Congress may give representation by estimate. My friend from Louisiana says, that cannot apply to this case, because there has been an enumeration. Why, has there been an enumeration? Has there been such an enumeration, as for his State, or for my State, or any other State in this Union? Doubtless, in many of the States there may have been errors. There will be errors. Absolute certainty—precise accuracy—cannot be attained; but has there been in California anything that deserves the name of enumeration? Does it furnish us an approximation? Is there any reasonable probability that what is called an enumeration furnishes us with the inhabitants of California? These questions must be all answered in the negative; and then we must either regulate the representation of California contrary to the plainest and most evident probabilities of the case upon a defective and discredited enumeration, or we must do justice to her, by assuming, what there is the highest probability of, to believe, that she had in 1850 a population ample to entitle her, under the census act of 1850, to two Representatives.

I do not put it upon the size of the fraction. I am satisfied that California had population enough to entitle her by actual numbers to two Representatives. Whatever we do, I would not willingly do injustice to her, nor would I, by any means, take any movement by which South Carolina should be deprived of a member to which, under the act of 1850, she is entitled. In order to do justice to California, and meet as well as we can as statesmen, as men acting under peculiar circumstances, what better can we do than for the present decennial period to add one member to the House of Representatives, and to give that member to California, without interfering with the apportionment among the other States?

My friend says that Louisiana comes within a thousand, or something like that, of having as large a fraction as South Carolina. I should have precisely the same feeling if Louisiana had the larger fraction. It is not that I would be unwilling to do justice less to Louisiana than to South Carolina; but South Carolina is actually entitled, under the law of 1850, to this member, because she has the largest fraction. Why should we take that right from her? It is a right under that law—an unquestionable and clear right. Why take it from her? If her fraction exceeds that of Louisiana by one, it gives her, under the law, a right. On what principle could we take it from her? Then it seems to me that the only alternative left to us is to add a member to the House of Representatives, and give it to California.

These are the views that strike me. I have no interest in this question. It does not concern my State. It neither decreases nor enlarges her representation. She has no fraction to entitle her. She loses one member under the census. She must submit to the law. South Carolina loses one, and but for her fraction, would lose two. I think, on the whole, that under the circumstances, what was said by my friend from Missouri is true.

This is a difficult case. It is not without its embarrassments. But I think the proposition contained in the amendment is the best we can do.

Mr. UNDERWOOD. I am not exactly prepared to vote on this question this evening. I would rather it should lie over until to-morrow, and, therefore, I move an adjournment.

The motion was agreed to, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, April 5, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. L. F. MORGAN.

The Journal of Friday was read and approved.

### THE COMPROMISE MEASURES.

The SPEAKER. The Chair announces that the first business in order is the resolution in reference to the compromise measures, proposed by the gentleman from Georgia, [Mr. JACKSON,] on the 22d March, upon which the previous question has been demanded.

The resolution is as follows:

"Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves and the act of the last Congress for that purpose included—and that we deprecate all further agitation of questions growing out of that provision, of the questions embraced in the acts of the last Congress known as the compromise, and of questions generally connected with the institution of slavery, as unnecessary, useless, and dangerous."

Mr. HILLYER. I would respectfully ask my colleague [Mr. JACKSON] to withdraw his motion for the previous question, that I may propose an amendment to the resolution. I will renew the motion for the previous question after the amendment which I am about to propose has been accepted. I ask that the amendment may be read for the information of the House.

Mr. JACKSON. I do not understand what my colleague [Mr. HILLYER] wishes. I wish to understand from him what his object is?

The SPEAKER. The gentleman from Georgia [Mr. HILLYER] appeals to his colleague, [Mr. JACKSON,] who offered the resolution before the House, to withdraw the demand for the previous question, to enable him to propose an amendment, which will be read for the information of the House.

Mr. STANLY. I rise to a point of order. I want to get in some resolutions myself for information. But before that is done, I make the point of order, that the gentleman from Georgia, [Mr. JACKSON,] who offered the resolution two weeks ago, is not entitled to the floor.

Mr. GENTRY. Is not, or was not?

Mr. STANLY. Was not entitled to the floor, and is not, as a matter of course; and, to sustain that, I send to the Chair, to be read by the Clerk, an extract from the Congressional Globe of the next day, which shows what the proceedings were, and upon that, after it is read, I propose, with the permission of the Speaker, to submit most briefly such remarks as I have to make, to show that the gentleman from Georgia [Mr. JACKSON] was not entitled to the floor, according to the rules of this House. I hope the papers which I send to the Chair may be read by the Clerk.

Mr. HALL. Is it not too late to rise to a point of order?

The SPEAKER. The Chair trusts that the gentleman from North Carolina [Mr. STANLY] will be permitted to state fully his question of order, and that the Chair will be heard in response. The Chair doubts, however, whether the question is debatable.

Mr. STANLY. I do not wish to violate the rules of the House. I only want to state distinctly the point.

The SPEAKER. Does the gentleman desire to have the paper read?

Mr. STANLY. I do.

The paper was then read by the Clerk, as follows:

"Mr. JOHNSON, of Arkansas. It is about the usual time for adjournment, and as we are not likely to make any progress in the bill to-day, I move that the committee do now rise.

"The motion was agreed to.

"The committee accordingly rose; and the Speaker having resumed the chair, the Chairman reported that the

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32D CONGRESS, 1ST SESSION.

THURSDAY, APRIL 8, 1852.

NEW SERIES....No. 62.

Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 207, being a bill "to supply deficiencies in the appropriations for the service of the fiscal year ending June 30th, 1852," and had come to no conclusion thereon.

## "COMPROMISE MEASURES."

"Mr. JACKSON. I ask the Chair, what is the regular order of business?"

"The SPEAKER. The first business in order is the call of the States for resolutions, beginning with South Carolina."

"Mr. JACKSON. I move that the House do now proceed to the regular order of business. If there are no resolutions to be offered from the State of South Carolina, I have a resolution to offer when Georgia is called."

"The SPEAKER. Resolutions are in order from the State of Georgia."

"Mr. JACKSON. I offer the following resolution, upon the passage of which I move the previous question."

"Mr. CARELL of Florida. I move that the House do now adjourn."

"Mr. JONES, of Tennessee. I wish to make this inquiry of the Chair: If the House adjourn now, what will be the position of the resolution of the gentleman from Georgia?"

"Mr. GENTRY. The resolution has not been received nor read."

"Mr. JONES. I rise to a question of order. The gentleman from Georgia, as I understand it, is upon the floor until his resolution is read; and until he yields the floor no gentleman can get it to move that the House adjourn."

"The SPEAKER. The Chair is of the opinion that the resolution would be in order when resolutions are again called for. The resolution will, however, be read for information."

"[The resolution was then read.]"

"The SPEAKER. The gentleman from Georgia moves the resolution which has just been read, and upon its passage he calls the previous question."

"Mr. FOWLER. I move that the House do now adjourn."

"Mr. JOHNSON, of Arkansas, demanded the yeas and nays; but they were not ordered."

"The motion was then agreed to—yeas 84, noes not counted; and

"The House adjourned till twelve o'clock to-morrow."

Mr. HALL. Is that the Journal?

The SPEAKER. It is not.

Mr. HALL. I ask that the Journal be read.

Mr. STANLY. I desire to get through with my point. What I wish to call the attention of the House to now is this: The Speaker stated, according to the Congressional Globe just read, that "the first business in order is the call of the States for resolutions, beginning with South Carolina."

The SPEAKER. That is true.

Mr. STANLY. But the Chair did not begin with South Carolina.

The SPEAKER. The Chair begs the gentleman's pardon, and he will allow me to correct him.

Mr. STANLY. I beg pardon of the Chair. I say, according to the Speaker's annunciation, according to this report, and according to my recollection of it, that the first business in order was a call of the States for resolutions, beginning with South Carolina. After it was so announced by the Speaker, Mr. JACKSON said:

"I move that the House do now proceed to the regular order of business. If there are no resolutions to be offered from the State of South Carolina, I have a resolution to offer when Georgia is called."

The SPEAKER. If the gentleman will allow the Chair a single moment, he will state that at that precise point in the proceedings, the Chair stated distinctly, that if there be no resolutions from the State of South Carolina, resolutions are in order from the State of Georgia. Thereupon the gentleman from Georgia [Mr. JACKSON] took the floor, was recognized by the Speaker, and offered his resolution. That is what the Chair recollects distinctly having stated. There can be no mistake about it. No gentleman rising from South Carolina, the Chair, as he supposes regularly, recognized the gentleman from Georgia, [Mr. JACKSON], and if he was not entitled to the floor, the Chair would respectfully ask the gentleman from North Carolina [Mr. STANLY] who is?

Mr. STANLY. That is the point. Somebody from South Carolina is, and my recollection in all respect differs from that of the Speaker. South Carolina was not called. It seems to have been taken for granted that there was nothing further from South Carolina, without putting that question.

The SPEAKER. In that I beg to assure the gentleman that he is mistaken.

Mr. STANLY. I was not complaining of the conduct of the Chair.

The SPEAKER. I so understand; but it is necessary, in order to understand the history of the proceedings, that the facts be stated as they really occurred. I recollect noticing, the next morning, that the report was imperfect in that respect.

Mr. JONES, of Tennessee. I recollect very distinctly that the Chair did announce that there were no resolutions from the State of South Carolina, and that resolutions were in order from Georgia.

Mr. STANLY. I have no doubt that the gentleman from Tennessee [Mr. JONES] speaks from his recollection; but we must all have our own opinion in the incalculable confusion which sometimes prevails. My friend from Tennessee, [Mr. JONES] was well aware of what was going on, of which I may comment hereafter. In the report which has been read, Mr. Gentry said, "the resolution has not been received nor read," which shows that the resolution did not get fairly before the House. I make the point of order, that this resolution is not fairly before the House, and that the gentleman from Georgia [Mr. JACKSON] offered it before the State of South Carolina was called, and before any member from Georgia was entitled to the floor.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from North Carolina, [Mr. STANLY], and begs leave to state to the House, and the Journal will show it, that the gentleman from Georgia [Mr. JACKSON] rose to inquire what was the regular order of business. That inquiry, being made at so late an hour of the day, the Chair was taken by surprise; and, after some hesitation, the Chair remarked that "resolutions are in order from the States, beginning with South Carolina." The gentleman from Georgia [Mr. JACKSON] stated that if there be no resolutions—or something to the same effect—from the State of South Carolina, he had a resolution to offer from the State of Georgia. I stated distinctly, that "if there be no resolutions from South Carolina, resolutions are in order from Georgia," and the Chair immediately recognized the gentleman from Georgia, [Mr. JACKSON.] The Chair thinks the business was perfectly regular under the rules, and overrules the point of order raised by the gentleman from North Carolina, [Mr. STANLY.]

Mr. GORMAN. I move a call of the House.

Mr. HILLYER. I hope before action is taken by the House, that the amendment I propose to offer to my colleague's resolution may be read for information.

Mr. STANLY. I will interpose no objection, provided that three resolutions which I intend submitting, may also be read for information. I will vote for either of the three. I want the House to have all the information.

[Cries "Read all of them!" "There is no objection."]

The SPEAKER. Is there any objection to the reading of the papers indicated by the gentleman from Georgia and the gentleman from North Carolina?

There was no objection.

The Clerk then read the proposed amendment of Mr. HILLYER, as follows:

Resolved, That the series of acts passed during the first session of the Thirty-first Congress, known as the compromise, are regarded as a final adjustment and permanent settlement of the questions therein embraced, and should be maintained and executed as such.

The SPEAKER. Unanimous consent was given also to the reading of the amendments of the gentleman from North Carolina.

Mr. KING, of New York. I object.

Mr. MEADE. I have an amendment I wish read.

[Cries of "Send it up!" "Send it up to be read."]

Mr. KING, of New York. I object. I object to the whole matter—to the whole and every part of it.

The SPEAKER. The Chair begs leave to

state to the gentleman from New York, that in connection with the proposition of the gentleman from Georgia, he distinctly asked whether or not the gentleman from North Carolina, [Mr. STANLY], as well as the gentleman from Georgia, [Mr. HILLYER], should have certain papers read, which they proposed to have read for the information of the House only, and the Chair heard no sort of objection.

A VOICE. There was none made.  
Mr. KING. So far as this whole matter is concerned, the Chair stated that these proceedings were had with the unanimous consent of the House. Now, I desire to state that I do not consent to any part of it, but object to the whole matter.

Mr. HOUSTON. The objection is too late.  
The SPEAKER. The reading is only for the information of the House. The objection to the reading comes too late.

Mr. MEADE was recognized by the Chair.

Mr. HILLYER. I rise to a question of order. I am not certain, however, whether it be a question of order or a privileged question. I think I am entitled to the floor, and make this point for the decision of the Speaker. The floor was given to me. I proposed to my colleague an amendment to the resolution which he had pending before the House, and asked him to withdraw the previous question that my amendment might be offered, with the pledge upon my part to renew the call for the previous question.

The SPEAKER. If the gentleman will allow the Chair, all that the Chair begs leave to state is, that but for the courtesy of the House no gentleman can rightfully occupy the floor at all, during the demand for the previous question. But by the unanimous consent of the House, it was agreed that the paper proposed by the gentleman, as well as the papers of the gentleman from North Carolina, [Mr. STANLY], should be read for the information of the House.

Mr. STANLY. I hope mine will now be read for the information of the House.

[Cries of "Read!" "Read!"]

Mr. GORMAN. I object to the reading.  
Mr. STANLY. I had the unanimous consent of the House for its reading.

The SPEAKER. There can be little difficulty growing out of this matter. The Chair begs leave to state to the gentleman from Indiana, [Mr. GORMAN], that the objection comes too late, for the reason that, by unanimous consent, it was agreed that these papers should be read for the information of the House.

Mr. GORMAN. What becomes of my motion to have a call of the House?

The SPEAKER. The unanimous action of the House set it aside, as it would all other matters proposed at the time.

Mr. GORMAN. I made my motion for a call of the House before it was proposed that these amendments should be read—before the propositions of the gentleman from North Carolina.

The SPEAKER. But for the confusion in the House, the gentleman would remember, that after he submitted his motion, the unanimous consent of the House was asked and obtained to read these papers. The Chair is now acting by order of the unanimous vote of the House. There can be no doubt about the matter.

Mr. STANLY. Read my resolutions.

Mr. MEADE. My object in addressing the Chair was to have read an amendment which I intend submitting to the resolution, for the information of the House.

[Cries of "I object!" "I object!"]

Mr. STANLY. The Chair has decided three times that I have the unanimous consent of the House for the reading of my resolutions. I ask that they be read.

The SPEAKER. The papers now in the hands of the Clerk, according to the unanimous consent of the House, will be read. The resolution of the gentleman from Virginia, if there is no objection, will then be read.

Mr. GORMAN. I object to the reading of the



resolution of the gentleman from Virginia. I am in time now, I think, for that proposition.

The Clerk then read Mr. STANLY's resolution, as follows:

Polk's No. 1:

*Resolved*, That the series of acts passed during the first session of the Thirty-first Congress, known as the compromise, are regarded as a final adjustment and a permanent settlement of the questions therein embraced, and should be maintained and executed as such.

No. 2.—Resolution of Whig caucus at the beginning of this session:

*Resolved*, That we regard the series of acts, known as the adjustment measures, as forming, in their mutual dependence and connection, a system of compromise, the most conciliatory, and the best for the entire country that could be obtained from conflicting sectional interests and opinions, and that, therefore, they ought to be adhered to and carried into faithful execution as a final settlement, in principle and substance, of the dangerous and exciting subjects which they embrace.

No. 3.—Resolutions offered by Mr. JOHNSON, of Arkansas, according to Mr. BAYLY's letter—amended, in italics and brackets:

*Resolved*, That we regard the series of measures passed at the Thirty-first Congress, commonly called the compromise measures, as a settlement of the questions involved therein, and will abide by them as a permanent adjustment of the sectional controversy, and do hereby declare that good faith and a patriotic regard for the interests of the country demand that the provisions contained in said measures should be strictly maintained and honestly executed.

*Resolved*, That any act of Congress abolishing slavery in the District of Columbia, without the petition and consent of the owners thereof, or any act abolishing slavery in places within the slaveholding States, purchased by the United States for the erection of forts, magazines, arsenals, dockyards, navy-yards, and other like purposes; or any act suppressing the slave trade between the slaveholding States; or any refusal to admit as a State any Territory hereafter applying, because of the existence of slavery therein, [or because of its prohibition therein]; or any act prohibiting the introduction of slaves into New Mexico or Utah; [or any act allowing the introduction of slaves into New Mexico or Utah]; or any act repealing or materially modifying the laws now in force for the recovery of fugitive slaves; [or any act repealing the law to suppress the slave trade in the District of Columbia]; and all agitation which has for its purpose any of the above named objects, will be in violation of the provisions of the said measures of adjustment, and must be regarded as opposed to the best interests of the country, destructive of the peace of the Union, [and is an attempt to enfeeble the sacred ties which now link together the various parts].

Mr. STANLY. I will take either one of my resolutions in place of the dodging resolutions, from Georgia, of the other side.

The SPEAKER. Does the gentleman from Georgia, the original mover of the resolution, withdraw the demand for the previous question, at the suggestion of his colleague, [Mr. HILLYER?]

Mr. JACKSON. In good faith to my colleague I was disposed to allow him to offer his resolution, which is the same as that of Mr. Polk, submitted in the caucus; but notices have been given of so many resolutions, and apprehending the whole day may be consumed in the consideration of them, I decline to withdraw my call for the previous question.

Mr. KING. Let us have the order of business. Mr. HILLYER. I ask, Mr. Speaker, that my colleague—

[Cries of "Order!" "Order!"]

Mr. KING, of New York. I object to discussion, and call for the question.

The SPEAKER. The gentleman from Georgia is called to order.

Mr. HILLYER. I wish only—

Mr. BAILEY, of Georgia. Mr. Speaker, I desired to make an appeal to—

Mr. KING. I object to any discussion.

The SPEAKER. The gentleman is called to order! and the Chair must enforce the rules.

Mr. KING. Let us proceed regularly. I insist upon the strict enforcement of the rules of the House.

Mr. BAILEY. I rise, Mr. Speaker, for the purpose of information.

[Cries of "Order!" "Order!"]

Mr. BAILEY. It is to ask my colleague whether he does not entrap the House, and myself especially, by calling for the previous question upon this resolution?

Mr. KING. The practical mode is to vote down the call for the previous question. I call the gentleman to order.

[Cries of "Order!" "Order!"]

The SPEAKER. The gentleman from Georgia is out of order; and, being called to order by

several gentlemen, it is the duty of the Chair to enforce it.

Mr. BAILEY. I understand that—

The SPEAKER. The Chair must perform his duty.

Mr. KING. I insist upon my call to order.

Mr. BAILEY. I hope I may have the opportunity to ask—

[Cries of "Order!" "Order!"]

The SPEAKER. The gentleman must perceive that it is the duty of the Chair, however disagreeable it may be, when gentlemen are called to order to enforce the rules. During the demand for the previous question, discussion cannot be allowed except by unanimous consent in any form.

Mr. BAILEY. I do not wish to disturb the order of the House. I will, then, ask the Chair, if the previous question is not seconded, will I have the right of being heard upon the proposition?

Mr. KING. Certainly, if you obtain the floor.

The SPEAKER. The Chair cannot possibly tell what will come up next.

Mr. BAILEY. I will be heard at some time, then?

Mr. HILLYER. The Chair has decided me to be out of order, as I understand it.

The SPEAKER. The Chair does so decide.

Mr. HILLYER. I do not know by what rule of this House.

[Cries of "Order!" "Order!"]

Mr. KING. I call the gentleman to order, unless he appeals from the decision of the Chair.

Mr. ALLISON. Mr. Speaker—

The SPEAKER. The Chair will first respond to the gentleman from Georgia, [Mr. HILLYER.] The gentleman from Georgia claims the right to interrogate his colleague, [Mr. JACKSON,] upon the subject of his resolution. The Chair decides it is not in order. The gentleman feeling he may possibly be aggrieved under the decision of the Chair, appeals to the Chair for the rule upon which his decision is based. The Chair begs leave to refer the gentleman from Georgia to the fact, that during the demand for the previous question, no debate, no amendment, is in order. No discussion is in order until the call for the previous question is disposed of. There can be no doubt about it, and the Chair must insist upon the gentleman's preserving order.

Mr. HILLYER. The Chair misunderstood my point of order.

The SPEAKER. The gentleman from Georgia rises to a point of order.

Mr. HILLYER. I did not intend to interrogate my colleague. My only purpose was, to ask him to withdraw the previous question, to admit my amendment.

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair will inform the gentleman from Georgia, [Mr. HILLYER,] that that is done always under the courtesy of the House, but not under the rules of the House, when they are strictly enforced. It is moved that there be a call of the House.

Mr. GORMAN. I will withdraw my motion for a call of the House.

The SPEAKER. The question recurs on seconding the demand for the previous question. Is there a second for the previous question?

Mr. FOWLER. I wish to inquire—

The SPEAKER. Does the gentleman from Massachusetts rise to a point of order?

Mr. FOWLER. I wish to make an inquiry, whether it is now in order to move to lay the resolution upon the table.

[Cries of "Order!" "Order!"]

The SPEAKER. The gentleman has the right to make the proposition. It is in order to move to lay the resolution upon the table.

Mr. FOWLER. I move, then, to lay it upon the table, and upon that motion ask for the yeas and nays.

The yeas and nays were ordered.

[Cries of "Call the roll!" "Call the roll!"]

Mr. FOWLER. Some gentlemen here are anxious for the previous question, and I will withdraw my motion to lay upon the table.

Mr. BAYLY, of Virginia. I object.

Mr. POLK. I renew the motion to lay the resolution upon the table.

Mr. CLINGMAN. I demand the yeas and nays on that motion.

Mr. STANLY. Will a motion for a call of the House take precedence of that motion?

The SPEAKER. It will, in the opinion of the Chair.

Mr. STANLY. I make that motion, and upon it ask for the yeas and nays.

Mr. POLK. At the suggestion of gentlemen, I withdraw my motion to lay on the table.

Mr. BEALE. I renew the motion to lay the motion and all its attendants upon the table.

Mr. HIBBARD. I demand the yeas and nays upon the motion to lay upon the table.

The SPEAKER. The gentleman from North Carolina [Mr. STANLY] moves a call of the House, and upon that motion demands the yeas and nays.

The yeas and nays were ordered.

The question was then taken and resulted—yeas 88, nays 89:

YEAS—Messrs. Allison, William Appleton, Barrere, Bartlett, Bennett, Brenton, Brooks, Geo. H. Brown, Buell, Burrows, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Conger, Cullom, George T. Davis, Dean, Dockery, Doty, Dunnham, Durkee, Eastman, Edgerton, Floyd, Fowler, Henry M. Fuller, Gaylord, Goodenow, Goodrich, Grey, Grow, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George G. King, Preston King, Kulms, Landry, Mace, Mann, Martin, Meacham, Miller, Miner, Molony, Henry D. Moore, John Moore, Morehead, Murray, Newton, Orr, Samuel W. Parker, Penningman, Perkins, Porter, Rantoul, Russell, Sackett, Schermerhorn, Schoolcraft, Scudell, David L. Seymour, Smart, Stanly, Benjamin Stanton, Strother, Sutcliffe, Sweetser, Benjamin Thompson, Tuck, Walbridge, Ward, Washburn, Wells, Addison White, Alexander White, Williams, and Yates—88.

NAYS—Messrs. Aiken, Willis Allen, Ashe, Babcock, David J. Bailey, Thomas H. Bayly, Benie, Boeck, Bragg, Breckinridge, Briggs, Albert G. Brown, Busby, Caskie, Clark, Clingman, Cobb, Curtis, Daniel, John G. Davis, Dawson, Edmundson, Faulkner, Ficklin, Fitch, Florence, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Hall, Hamilton, Hammond, Hart, Hendricks, Hibbard, Hillyer, Holladay, Houston, Howard, Ingersoll, Jackson, John Johnson, Robert W. Johnson, George W. Jones, Kurtz, Letcher, Lockhart, Edward C. Marshall, Humphrey Marshall, Mason, McKee, McDonald, McLanahan, McMullin, McQueen, Meade, Millson, Nabers, Outlaw, Praslee, Penn, Phelps, Polk, Powell, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Scurry, Origen S. Seymour, Smith, Snow, Frederick P. Stanton, Richard H. Starnot, Abner P. Stevens, Stone, St. Martin, Stratton, Stuart, George W. Thompson, Venable, Wallace, Walsh, Watkins, Wilcox, and Woodward—89.

Pending the call of the roll,

Mr. JONES, of Tennessee, said that he was requested by his colleague, [Mr. HARRIS, of Tennessee,] to state that he was confined to his room in consequence of sickness.

So the House refused to have a call.

The question then recurred upon the demand for the yeas and nays upon the motion to lay the resolution and amendments upon the table.

The yeas and nays were ordered.

Mr. NABERS asked the reading of the several propositions.

Several members objected.

Mr. TUCK. As this Union-loving, President-making business, can be pursued with more dignity in committee—

Several Voices. Order! Order! Order!

The SPEAKER. The gentleman from New Hampshire [Mr. Tuck] must be aware that no remarks are in order.

Mr. TUCK. But I am on the floor to make a motion, and shall do so, as soon as gentlemen are patient—

The SPEAKER. If the gentleman rises to make a motion, he will submit it. The gentleman will excuse the Chair, but as he is called upon by so many to enforce strictly the rules, he will do it, if he has the power.

Mr. TUCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. I rise to a question of order. I remind the Chair, that it was decided after a call for the previous question—

The SPEAKER. The Chair is of the opinion that a motion to suspend the rules to go into the Committee of the Whole on the state of the Union is not in order until this motion is disposed of.

[Cries of "Call the roll!" "Call the roll!"]

The question was then taken, and there were—yeas 81, nays 102, as follows:

YEAS—Messrs. Aiken, Allison, Averett, Babcock, David J. Bailey, Barrere, Bartlett, Beale, Bennett, Brenton, Brooks, Buell, Burrows, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Conger, George T. Davis, Dean, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodenow, Goodrich, Grow, Harper, Haven, Holladay, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ives, Jenkins, John Johnson, Daniel T. Jones, George G. King,

Preston King, Kuhns, Mann, McMullin, McQueen, Meacham, Millson, Miner, Molony, Morehead, Murray, Newton, Orr, Samuel W. Parker, Pennington, Perkins, Powell, Rantoul, Russell, Sackett, Schoolcraft, Scudder, David L. Seymour, Stuart, Snow, Benjamin Stanton, Stratton, Sweetser, Benjamin Thompson, Tuck, Walbridge, Wallace, Washburn, Wells, and Woodward—81.

**YAYS**—Messrs. Willis Allen, William Appleton, Ashe, Thomas H. Bayly, Bocoock, Bragg, Breckinridge, Briggs, Albert G. Brown, George H. Brown, Busby, Caskie, Clark, Cobb, Cullom, Daniel, John G. Davis, Dawson, Dockery, Dunham, Edmundson, Ewing, Faulkner, Ficklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, George W. Jones, Kurtz, Landry, Letcher, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, Martin, Mason, McCorkle, McDonald, McLanahan, Meade, Miller, John Moore, Nabers, Outlaw, Peaslee, Penn, Phelps, Polk, Porter, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, Origen S. Seymour, Smith, Stanley, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Stone, St. Martin, Strother, Stuart, Sutherland, George W. Thompson, Venable, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, Williams, and Yates—102.

So the House refused to lay the resolution and amendments upon the table.

The question recurred on seconding the demand for the previous question.

**Mr. JACKSON.** I desire to know whether it is competent for me, at this time, to change the phraseology of my resolution?

[Cries of "No!" "No!" "No!"]

**The SPEAKER.** It is competent for the gentleman to withdraw the several motions he has made, and withdraw his resolution, if he chooses.

[Mr. Polk made some remarks not distinctly heard by the reporter.]

**Mr. JACKSON.** I desire to make a verbal change in the resolution.

**Mr. POLK.** Is not the gentleman from Georgia [Mr. JACKSON] privileged to withdraw the motion for the previous question, and alter the phraseology of his resolution, and renew it?

**The SPEAKER.** He has that privilege.

**Mr. POLK.** He does not lose the floor by it.

**The SPEAKER.** The Chair will decide these points when they arise.

**Mr. STANLY.** Is it in order to ask what we are going to do now? [Laughter.]

**The SPEAKER.** The gentleman from Georgia [Mr. JACKSON] has not as yet submitted his proposition. The immediate question before the House is the demand for the previous question.

**Mr. STANLY.** I object to caucuses in the House.

**Mr. BROOKS.** If there is no other business before the House, I move that we adjourn. [Laughter.]

**The SPEAKER.** The gentleman from New York [Mr. BROOKS] is not in order.

**Mr. JACKSON.** I was about to say, that I know very little about the rules of the House.

**Mr. STANLY.** I rise to a point of order.

**The SPEAKER.** The Chair must remind the gentleman from Georgia, that not one word of discussion is allowable under the rules—discussion is not in order.

**Mr. JACKSON.** Then I ask that the question be taken now, whether the previous question shall be sustained, or not.

**Mr. GORMAN.** That is the question.

**Mr. DEAN** demanded tellers on the second; which were ordered; and Messrs. FULLER of Maine, and EWING were appointed.

**Mr. CLINGMAN.** I beg leave to make an inquiry of the Chair, whether this resolution—and I presume it ought to be made before the previous question is sustained—is divisible? I desire a division.

**The SPEAKER.** The Chair will decide the proposition when it comes up regularly.

The question was then taken, and the tellers reported—ayes 80, noes 85.

So the previous question was not sustained.

**Mr. HILLYER.** I offer the following resolution, as an amendment to the resolution of my colleague; and upon that I ask for the previous question.

**The SPEAKER.** In the shape of a substitute, or amendment?

**Mr. HILLYER.** As an amendment.

The resolution was then read as follows, viz:

*Resolved,* That the series of acts passed during the first session of the Thirty-first Congress, known as the compromise, are regarded as a final adjustment, and a permanent

settlement of the questions therein embraced, and should be maintained and executed as such.

**Mr. AVERETT.** I think we have had voting and speaking enough upon these questions. The friends of the compromise claim the credit of having settled them. I move to lay—

[Cries of "Order!" "Order!"]

**Mr. MEADE.** I presume that proposition—

**Mr. ORR.** I rise to a question of order.

**Mr. MEADE.** The proposition is open to amendment—

**The SPEAKER.** Does the gentleman from Virginia rise to a question of order?

**Mr. MEADE.** I rise to inquire whether the previous question has been demanded?

**The SPEAKER.** It has been.

**Mr. MEADE.** Then I ask the gentleman from Georgia to withdraw the demand—

**Mr. ORR.** I rise to a question of order.

**The SPEAKER.** Will the gentleman from Virginia suspend until the gentleman from South Carolina [Mr. ORR] submits his question of order?

**Mr. ORR.** Whenever an objection is made to a resolution, I understand it has to go over.

**The SPEAKER.** That is the rule.

**Mr. ORR.** Now, I submit to the House, that the proposition of the gentleman from Georgia upon my right, [Mr. HILLYER], amounts to an objection to the original resolution, and the original resolution must go over.

[Cries of "No!" "No!" "No!"]

**The SPEAKER.** The Chair overrules the question of order raised by the gentleman from South Carolina, [Mr. ORR], and refers him to the universal practice of this body. It is true, that if a resolution offered to-day, gives rise to debate, it goes over; but it is also true that the previous question intervening, and cutting off debate, has been allowed ever since I have been a member of this body.

**Mr. MEADE.** Do I understand that the gentleman from Georgia [Mr. HILLYER] called the previous question on his amendment?

**The SPEAKER.** The gentleman did demand the previous question.

**Mr. MEADE.** I ask the gentleman from Georgia to withdraw his demand for the previous question, in order that I may submit, as an amendment, the paper which I hold in my hand, trusting that he will adopt it instead of his own.

**Mr. HILLYER.** I cannot withdraw the demand for the previous question.

**Mr. MEADE.** Then I ask the unanimous consent of the House to suffer my amendment to be read.

**Mr. SMART.** I object.

**Mr. BOCOOCK.** I move to lay the whole subject upon the table.

**Mr. BAYLY**, of Virginia. I demand the yeas and nays.

**Mr. JONES**, of Tennessee. I wish to hear the resolution and amendment read before I am called to vote on laying them upon the table.

**The SPEAKER.** They will be read, if there is no objection.

**Mr. SMART.** I object.

**Mr. JONES.** I do not ask it as a privilege. I have a right to hear them read before I am called upon to record my vote.

**The SPEAKER.** The original resolution and the amendment having been read to the House, the Chair is bound to decide that the gentleman cannot, by his own volition, compel the House to hear them read again.

**Mr. HAVEN.** I am somewhat in the same dilemma as my friend from Tennessee; and although those papers have been read, I do not understand that the proposition to amend includes the striking out of anything. I desire to know whether they are both to go together. If not, I should like to offer a substitute for them both, which I think—

[Loud cries of "Order!" "Order!"]

**The SPEAKER.** The Chair hopes that the House will hear the rule in relation to the reading of papers. It is the 57th rule, and is as follows:

57. "When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House."

The question was then put, "Shall the papers be read?" and it was decided in the affirmative.

The Clerk accordingly read the original resolution and the proposed amendment.

**Mr. JONES**, of Tennessee. I wish to make a single inquiry of the Chair. If the previous question is sustained, will not the House be brought first to vote upon the amendment, and then upon the original resolution, whether amended or not?

**The SPEAKER.** That will be the history of the voting of the House.

**Mr. STANLY.** I want to inquire of the Chair what motion is now pending before the House?

**The SPEAKER.** The motion now pending is to lay both the original resolution and the amendment upon the table.

**Mr. STANLY.** The motion is, then, to lay on the table the original secession resolution?

[Loud cries of "Order!"]

**The SPEAKER.** The gentleman from North Carolina is aware that debate is not in order.

**Mr. McMULLIN.** I wish to know if, when a resolution is proposed to-day—as this has been by the gentleman from Georgia—and objection is made to it, it does not lie over?

**The SPEAKER.** The Chair has already decided, that if the previous question is sustained—which will have the effect of cutting off debate—under the uniform practice of the House, it will be in order to consider the resolution under the operation of the previous question.

**Mr. BOCOOCK.** At the request of some friends around me, I will, for the present, withdraw the motion to lay upon the table.

**Mr. EDGERTON.** I renew the motion to lay the whole subject on the table.

**Mr. HIBBARD** demanded the yeas and nays; and they were ordered.

The question was then put, and it was decided in the negative—yeas 78, nays 104, as follows:

**YEAS**—Messrs. Aiken, Allison, Ashe, Averett, Babcock, David J. Bailey, Barrere, Bartlett, Beale, Bennett, Bragg, Breton, Buell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clingman, Conger, George T. Davis, Dean, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goddow, Goodrich, Grow, Harper, Holladay, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, John Johnson, Daniel T. Jones, George G. King, Preston King, Mann, McMullin, McQueen, Meacham, Millson, Miner, Molony, Murray, Newton, Olds, Orr, Samuel W. Parker, Pennington, Perkins, Powell, Rantoul, Russell, Sackett, Schoolcraft, Scudder, David L. Seymour, Stuart, Snow, Benjamin Stanton, Stratton, Sweetser, Benj. Thompson, Tuck, Venable, Walbridge, Wallace, Washburn, Wells, and Woodward—78.

**NAYS**—Messrs. Willis Allen, William Appleton, Thos. H. Bayly, Bocoock, Bowie, Breckinridge, Briggs, Brooks, Albert G. Brown, George H. Brown, Busby, E. Carrington Cabell, Caskie, Clark, Cobb, Cullom, Daniel, John G. Davis, Dawson, Dockery, Dunham, Edmundson, Ewing, Faulkner, Ficklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, George W. Jones, Kuhns, Kurtz, Landry, Letcher, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, Martin, Mason, McCorkle, McDonald, McLanahan, Meade, Miller, John Moore, Morehead, Nabers, Outlaw, Peaslee, Penn, Phelps, Polk, Porter, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, Origen S. Seymour, Smith, Stanley, Frederick P. Stanton, Abraham P. Stevens, Stone, St. Martin, Strother, Stuart, Sutherland, George W. Thompson, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, Williams, and Yates—104.

So the House refused to lay the resolution and amendment upon the table.

The question recurred upon seconding the demand for the previous question.

**Mr. VENABLE.** If the previous question is sustained, will not the vote be first taken upon the amendment?

**The SPEAKER.** It will.

**Mr. JOHNSON**, of Arkansas. I desire to make an inquiry of the Chair. I have every reason to believe, at least from my limited means of judging, that what is proposed as an amendment is a substitute for the resolution; and I ask whether it can be offered as an amendment?

**The SPEAKER.** The Chair thinks that it is germane to the subject, and in order.

**Mr. FOWLER.** I wish to inquire of the Chair whether what has been offered as an additional resolution, can be offered to-day, if objection is made to it?

**The SPEAKER.** The Chair will again decide that point, and trusts that every gentleman on the floor will hear the decision, and that, if there is objection to it, some gentleman will make an appeal. The Chair has stated, three or four times to-day, that under the rules, any resolution offered to-day, giving rise to debate, would go over; but that under the uniform practice of the House, when the previous question is called and sustained—cutting off,

as it does, all debate—action can be had upon the matter. The Chair, therefore, decides that this proceeding is in order.

Mr. FOWLER. May we hear the rule read under which that decision is made?

Mr. HENDRICKS. I object.

Mr. WASHBURN. I desire to inquire whether this resolution, if not offered as a substitute, is not an additional resolution, and is not, therefore, liable to be objected to? And if objected to, whether it is in order to receive it to-day?

The SPEAKER. The Chair again states that the resolution last offered is an amendment, not a substitute; that upon offering it, the mover demanded the previous question, and if the previous question be sustained, there can be no debate either upon the original resolution or the amendment, and it is in order for the House to dispose of them.

Mr. KING, of New York demanded tellers, on seconding the demand for the previous question; which were ordered, and Messrs. CHANDLER and WILCOX appointed.

The question being put, it was decided in the affirmative—ayes 97, noes 61.

So the previous question received a second.

The question now being, "Shall the main question be now put?"—

Mr. KING, of New York demanded the yeas and nays, and they were ordered.

Mr. POLK. Will the vote be upon the resolution as amended, or upon the amendment?

The SPEAKER. The Chair begs leave to state to the gentleman, and for the information of the House, that if the main question is ordered to be now put, the House will be brought first to vote on the amendment proposed by the gentleman from Georgia, [Mr. HILLYER,] as an addition to the original resolution, and, when that is disposed of, the House will be brought to vote upon the original resolution, amended or not, as the case may be.

Mr. FLORENCE. If the substitute for the resolution is adopted, does not that settle the question?

The SPEAKER. It does not. The House would then have to vote on the original resolution as amended.

Mr. BEALE asked for the reading of the amendment.

Mr. STANLY objected.

The question was then taken, "Shall the main question be now put?" and it was decided in the affirmative—yeas 109, nays 68, as follows:

YEAS—Messrs. Aiken, Willis Allen, William Appleton, Averett, Thomas H. Bayly, Beale, Bowie, Bragg, Breckinridge, Briggs, Brooks, Albert G. Brown, George H. Brown, Busby, E. Carrington Cabell, Clark, Clingman, Cobb, Cullom, Curtis, Daniel, John G. Davis, Dawson, Dockery, Dunham, Edmundson, Ewing, Faulkner, Ficklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Hays, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, George W. Jones, Kuhns, Kurtz, Landry, Letcher, Lockhart, Mace, E. C. Marshall, Humphrey Marshall, Martin, McCorkle, McDonald, McLanahan, McMullin, Meade, Miller, Milson, John Moore, Morehead, Nabers, Olds, Outlaw, Samuel W. Parker, Pensler, Penn, Phelps, Polk, Porter, Powell, Price, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, Origen S. Seymour, Smith, Stanley, Frederick P. Stanton, Richard H. Stanton, St. Martin, Strother, Stuart, Sutherland, George W. Thompson, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, and Williams—109.

NAYS—Messrs. Allison, Babcock, David J. Bailey, Barrere, Bartlett, Bennett, Bocoek, Brenton, Buell, Burrows, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Chandler, Chapman, Conger, George T. Davis, Dean, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodnow, Goodrich, Grow, Harper, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, John Johnson, Daniel T. Jones, George G. King, Preston King, Mann, McQueen, Meacham, Molony, Murray, Newton, Orr, Penningman, Perkins, Rantoul, Russell, Sackett, Scudder, David L. Seynour, Smart, Snow, Benjamin Stanton, Abraham P. Stevens, Stratton, Sweetser, Benjamin Thompson, Tuck, Walbridge, Wallace, Washburn, Wells, Woodward, and Yates—68.

So the main question was ordered to be now put.

Mr. AVERETT. Is it now in order to move that the resolution, with the amendment, do lie upon the table?

The SPEAKER. It is in order.

Mr. AVERETT. Then I make that motion, and upon it I demand the yeas and nays.

Mr. POLK. I rise to a question of order. I desire to know, and I ask the Speaker whether, after the House has decided by a vote of the

House that the whole subject shall not be laid upon the table, it is in order for the gentleman from Virginia [Mr. AVERETT] to renew the same motion?

The SPEAKER. The Chair decides that it is in order for the gentleman from Virginia to make his motion, other action having intervened since the question was taken upon the previous motion to lie upon the table. When any business or action by the House has intervened, it is always in order to move to lay upon the table. That motion is a privileged question, and in very many respects similar to that to adjourn.

The yeas and nays were then ordered, forty-two gentlemen rising for that purpose.

Mr. STANLY. I ask the Speaker whether the motion is to lay upon the table the free-soil and secession resolution of the gentleman from Georgia, [Mr. JACKSON,] or the compromise resolution of his colleague? [Mr. HILLYER.]

[Cries of "Order!" "Order!" "Order!"]

The question was then taken, and the result was—yeas 74, nays 102, as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, Babcock, David J. Bailey, Barrere, Bartlett, Beale, Bennett, Bocoek, Bragg, Brenton, Buell, Joseph Cabell, Lewis D. Campbell, Thompson Campbell, Caskie, Chapman, Clingman, Conger, George T. Davis, Dean, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodnow, Goodrich, Grow, Harper, Holladay, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, John Johnson, Daniel T. Jones, George G. King, Preston King, Mann, McQueen, Meacham, Milson, Miner, Molony, Newton, Olds, Orr, Samuel W. Parker, Penningman, Perkins, Powell, Rantoul, Sackett, Schoolcraft, Scudder, David L. Seynour, Smart, Benjamin Stanton, Stratton, Sweetser, Benjamin Thompson, Tuck, Venable, Walbridge, Wallace, Washburn, Wells, and Woodward—74.

NAYS—Messrs. Willis Allen, William Appleton, Thomas H. Bayly, Bowie, Breckinridge, Briggs, Brooks, Albert G. Brown, George H. Brown, Busby, E. Carrington Cabell, Chandler, Clark, Cobb, Cullom, Daniel, John G. Davis, Dawson, Dockery, Dunham, Edmundson, Ewing, Faulkner, Ficklin, Fitch, Florence, Freeman, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Hays, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, George W. Jones, Kuhns, Kurtz, Landry, Letcher, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, Martin, Mason, McCorkle, McDonald, McLanahan, Meade, Miller, Morehead, Nabers, Outlaw, Pensler, Penn, Phelps, Polk, Porter, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, Origen S. Seymour, Smith, Snow, Stanley, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Stone, St. Martin, Strother, Stuart, Sutherland, Geo. W. Thompson, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, and Yates—102.

So the resolution was not laid upon the table.

The question recurred on the adoption of the amendment.

Mr. CLINGMAN demanded the yeas and nays.

Mr. SACKETT. I rise to a privileged question. This subject is being protracted too far.

[Cries of "Order!" "Order!" "Order!"]

Mr. SACKETT. I wish to stop agitation, and move that the House do now adjourn.

[Loud cries of "No!" "No!" "Withdraw your motion!"]

Mr. POLK. I suppose the purpose of the other side is to stave off, until they can marshal their forces.

Mr. SACKETT. I will withdraw the motion.

Mr. BEALE. I desire to know whether it is in order to ask that the amendment be read?

The SPEAKER. It will be again read, if not objected to.

Mr. STANLY. I object. I want nothing more read upon this subject.

The SPEAKER. If the gentleman from Virginia [Mr. BEALE] insists, the Chair will put the question to the House upon ordering the amendment to be read.

Mr. BEALE. I ask that both the original proposition and the amendment shall be read for the information of the House; and I think there will be no objection.

Mr. STANLY. I do object.

The question was then put, and the resolution with the amendment were ordered to be read; and they were read by the Clerk.

Mr. SEYMOUR, of New York. I wish to propound a question to the Chair, for this matter does not seem to be well understood by the House. I desire to know whether the amendment is offered as a substitute to the original resolution or as an addition?

The SPEAKER. It is offered as an amendment, or additional resolution.

The question now being upon the adoption of the amendment to the resolution—

Mr. JOHN W. HOWE demanded the yeas and nays; and they were ordered.

Mr. WOODWARD. I desire to ask the Chair whether we are to vote upon the original resolution first, or upon the amendment?

The SPEAKER. The vote will first be taken upon the adoption of the amendment as an additional resolution—

Mr. WOODWARD. But if the amendment be an additional resolution, ought not the question to be taken last upon it?

The SPEAKER. The question must first be taken upon the adoption of the amendment, and if it be adopted, it will then be competent for the House to order a division of the question, so that the vote shall first be taken upon the adoption of the original resolution.

Mr. WOODWARD. I was under the impression that the amendment, being an additional resolution, the question should be last taken upon it.

The SPEAKER. Not in the opinion of the Chair.

Mr. ALLISON. I ask the indulgence of the House to allow me to propound a simple question to the honorable gentleman from Georgia, [Mr. HILLYER.]

The SPEAKER. It can be done only by unanimous consent.

Mr. EDGERTON. I object.

Mr. ALLISON. I only wished to say to the gentleman—

[Cries of "Order!" "Order!" and confusion.]

The SPEAKER. The Chair must insist upon a rigid execution of the rule. The gentleman cannot proceed.

Mr. VENABLE. I rise to a question of order. In the first place, I will inquire whether the vote is to be first taken upon the original resolution or upon that additional resolution?

The SPEAKER. The Chair has already decided that the question must first be taken upon the amendment offered by the gentleman from Georgia, [Mr. HILLYER.]

Mr. ALLISON. I desire also to propound a question to the Chair. I ask if this resolution be adopted to-day, whether the same necessity which calls for its adoption now will not demand that it shall again be adopted to-morrow, again the next day, and so on?

[Cries of "Order!" "Order!" "Order!" great confusion in the Hall.]

The question was then taken, and the result was—yeas 103, nays 74, as follows:

YEAS—Messrs. Willis Allen, Appleton, Thomas H. Bayly, Beale, Bowie, Breckinridge, Briggs, Brooks, George H. Brown, Busby, E. Carrington Cabell, Chandler, Clark, Cobb, Cullom, Curtis, John G. Davis, Dawson, Dockery, Dunham, Edmundson, Ewing, Faulkner, Ficklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Hays, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, George W. Jones, Kuhns, Kurtz, Landry, Letcher, Lockhart, Mace, E. C. Marshall, Humphrey Marshall, Martin, Mason, McCorkle, McDonald, McLanahan, McMullin, Miller, John Moore, Morehead, Murray, Nabers, Outlaw, S. W. Parker, Pensler, Penn, Polk, Porter, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Smith, Stanley, Frederick P. Stanton, Richard H. Stanton, St. Martin, Strother, Stuart, Sutherland, G. W. Thompson, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, and Williams—103.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, Babcock, David J. Bailey, Barrere, Bartlett, Bocoek, Bragg, Brenton, Albert G. Brown, Buell, J. Cable, L. D. Campbell, T. Campbell, Caskie, Chapman, Clingman, Conger, Daniel, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodnow, Goodrich, Grow, Harper, Holladay, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, John Johnson, Robert W. Johnson, Daniel T. Jones, Preston King, Mann, McQueen, Meacham, Meade, Milson, Molony, Newton, Olds, Orr, Penningman, Perkins, Powell, Rantoul, Russell, Sackett, Schoolcraft, Scudder, Smart, Benjamin Stanton, Abraham P. Stevens, Stratton, Sweetser, Benjamin Thompson, Tuck, Venable, Walbridge, Wallace, Washburn, Wells, Woodward, and Yates—74.

So the amendment was adopted.

The question then recurred upon the adoption of the resolution as amended.

Mr. HALL demanded the yeas and nays; which were ordered.

Mr. MEADE. I ask if it is not competent to divide the question, so that a separate vote shall be taken upon each resolution?

The SPEAKER. In the opinion of the Chair, the resolution as amended is so divisible, that the question can be taken first upon the original reso-



lution offered by the gentleman from Georgia, [Mr. JACKSON.]

Mr. CAMPBELL, of Ohio. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. CLINGMAN. I ask if the first resolution is not divisible? I think the first clause, down to the word "included," will make a separate and distinct proposition from the latter clause.

The SPEAKER. The Chair is of the opinion, that the resolution, as he understands it to be offered by the gentleman from Georgia, is not susceptible of division.

Mr. STANLY. From that decision, I take an appeal.

Mr. STUART. I move to lay the appeal upon the table.

Mr. STANLY. I think the gentleman will have to wait till he can get the floor first. I ask the Chair, whether I am not entitled to the floor, and whether I have not a right to say anything upon the appeal?

The SPEAKER. The gentleman cannot debate his appeal, but he has the right to state his proposition. The gentleman will be good enough to state his distinct proposition.

Mr. STANLY. My distinct proposition is, that down to the word "included" is a proposition upon which a separate vote may be taken; and the remainder of the resolution is another proposition upon which a separate vote may also be taken. I will read it. The first clause is as follows:

"Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves and the act of the last Congress for that purpose included."

The SPEAKER. That is a proposition which would stand by itself, the Chair will admit.

Mr. STANLY. Then, with due deference to the Chair, I submit that the resolution is divisible. The latter clause reads thus:

"And that we deprecate all further agitation of questions growing out of that provision."

The SPEAKER. What provision? That refers to the first clause of the resolution.

Mr. STANLY. I call the Chair to order for interrupting me while I was reading a proposition. [Laughter.]

The SPEAKER. The Chair has a right to be heard to the exclusion of all others, under an express rule of the House.

Mr. STANLY. The Chair is right. He has a right to be heard to the exclusion, but not to interrupt me while I was reading my proposition.

The SPEAKER. The Chair was endeavoring to facilitate the gentleman's object by stating his proposition clearly.

Mr. STANLY. The Speaker's mind is made up, I suppose, but I take an appeal from his decision nevertheless.

Mr. WOODWARD. I desire to ask this simple question. Would one of these clauses be intelligible without the other, or grammatical?

Several MEMBERS. Certainly not.

The SPEAKER. The Chair thinks not. The Chair begs leave to call the attention of the House to the language of the resolution, in order to show the grounds for his decision. The first clause of the resolution reads:

"Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves and the act of the last Congress for that purpose included."

The Chair admits that proposition would stand alone.

Mr. FITCH. I beg leave to state, that I think that proposition would not stand alone; because it refers to the substantive proposition.

The SPEAKER. The Chair differs with the gentleman upon that point. The next proposition would then read:

"Resolved. And that we deprecate all further agitation of questions growing out of that provision."

This refers to the first part of the resolution.

Mr. STANLY. I withdraw my appeal, because I see that the resolution was so framed that it cannot be divided, as stated by the gentleman from

Indiana. The Chair is right. I withdraw my appeal.

Mr. CONGER. I submit whether the first resolution is not divisible in this respect?

The SPEAKER. The Chair has already decided that it is not divisible.

Mr. CONGER. I submit that the first part of the resolution refers to the compromise measures and the Constitution, while the latter makes reference to the fugitive slave law. I submit that these are two distinct propositions.

[Cries of "Order!" ]

The SPEAKER. The gentleman has a right to state his proposition.

Mr. AVERETT. Has not the previous question been ordered?

The SPEAKER. It has.

Mr. AVERETT. Then I submit that the gentleman is not in order.

The SPEAKER. The gentleman has a right to ask a division of the question, and to state his proposition. It will then be for the House to decide whether it is divisible or not.

Mr. CONGER. I will again state my proposition. The first part of this resolution provides for maintaining the compromises of the Constitution. The second provides for carrying out the fugitive slave law, as one of those measures. Now, I can readily conceive that gentlemen may unite in support of these propositions, without being united in support of the other. If the resolution is read so as to stop where it refers to the fugitive slave law—

[Cries of "Order!" ]

The SPEAKER. The Chair decides that the resolution is not divisible.

[Cries of "Question!" "Question!" ]

Mr. MARSHALL, of Kentucky. Did I understand the Chair to decide that a vote could not be taken upon supporting the fugitive-slave law as a separate proposition?

The SPEAKER. If the gentleman asks for a division, he will state his proposition, and the Chair will decide upon it.

Mr. MARSHALL. I will state, that, as I understand it, the resolution is susceptible of division. We can have a separate vote upon maintaining the compromises of the Constitution in general terms, and we can have a separate vote upon maintaining the fugitive slave law; and I want that separation made.

The SPEAKER. If the gentleman will designate the particular point at which the resolution can be divided, the Chair will then decide in relation to it.

Mr. WOODWARD. I would inquire of the Chair, whether it is not as well necessary that the two clauses should have a separate and independent grammatical construction, as well as that they should be distinct substantive propositions?

The SPEAKER. The Chair will respond to the gentleman's inquiry, when he understands what is the proposition of the gentleman from Kentucky, [Mr. MARSHALL.]

Mr. MARSHALL. I understand the rule to be, that a question is divisible whenever you can take away a part, and leave that remaining, in substance, an intelligible proposition. You are not to stop to inquire whether it is according to grammar.

The SPEAKER. Will the gentleman specify the point at which he asks the resolution to be divided?

Mr. MARSHALL. I think it might be divided after the words "carry them out."

The SPEAKER. Then what would remain? If the first part of the resolution were stricken out, the remainder would then read:

"Resolved. The provision for the delivery of fugitive slaves and the act of the last Congress for that purpose included, and that we deprecate all further agitation of questions growing out of that provision," &c.

The Chair decides that it is not divisible at all.

Mr. MARSHALL. I would suggest to the Chair that if he may put in the word "resolution," he may also supply such words as will make it read intelligibly.

Several MEMBERS. "No!" "No!"

Mr. HIBBARD. I call the gentleman to order.

The SPEAKER. Does the gentleman from Kentucky appeal from the decision of the Chair?

Mr. MARSHALL. I do.

Mr. HALL. I move to lay the appeal upon the table.

The question was taken and the appeal was laid upon the table.

Mr. JOHNSON, of Arkansas. I move to lay the whole subject upon the table—that is, the original resolution, with the amendment.

Mr. HALL. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. FLOYD. I move that the House do now adjourn.

The yeas and nays were ordered.

Mr. RICHARDSON. If the House do now adjourn, when will this question come up?

The SPEAKER. When the House again meets.

Mr. GORMAN. I will inquire if—

Mr. ORR. Is not the roll being called?

The SPEAKER. The calling of the roll has not yet commenced.

Mr. GORMAN. I desire to know if the Chair decided the proposition of the gentleman over the way, [Mr. STANLY?]

The SPEAKER. The Chair has not decided that question, but will do so when the question comes up.

Mr. GORMAN. I desire to inquire if it is the intention of the gentlemen on the other side to worry us out?

Mr. BAYLY. We will worry them, if they try it.

[Cries of "Order!" "Order!" ]

The question was then taken on the motion to adjourn, and there were—yeas 57, nays 115; as follows:

YEAS—Messrs. Allison, Ashe, Babcock, Barrere, Bartlett, Brenton, Briggs, Buell, Burrows, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clingman, Conger, Culom, Curtis, George T. Davis, Dean, Doty, Eastman, Edgerton, Ewing, Floyd, Fowler, Goodrich, Grow, Hunter, Ives, Jenkins, John Johnson, Daniel T. Jones, Preston King, Kuhns, Mann, Martin, McQueen, Meacham, Miner, Molony, Newton, Penniman, Perkins, Rantoul, Sackett, Schoolcraft, Smart, Snow, Benjamin Stanton, Walbridge, Wallace, Washburn, Wells, Woodward, and Yates—57.

NAYS—Messrs. Aiken, Willis Allen, William Appleton, Averett, David J. Bailey, Thomas H. Bayly, Beale, Boock, Bowie, Bragg, Breckinridge, Albert G. Brown, George H. Brown, Busby, E. Carrington Cabell, Caskie, Clark, Cobb, Daniel, John G. Davis, Dawson, Doekery, Durkee, Edmundson, Faulkner, Ficklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gaylord, Gentry, Goodnow, Gorman, Grey, Hall, Hamilton, Harper, Hart, Haws, Haven, Hendricks, Hibbard, Hillyer, Holladay, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Ingersoll, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, George W. Jones, Kurtz, Landry, Leitcher, Lockhart, Edward C. Marshall, Humphrey Marshall, Mason, McDonald, McLanahan, Meade, Miller, Millson, John Moore, Morehead, Murray, Nabers, Olds, Outlaw, Samuel W. Parker, Peaslee, Penn, Phelps, Polk, Powell, Price, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scudder, Scurry, David L. Seymour, Origen S. Seymour, Smith, Stanley, Frederick P. Stanton, Richard H. Stanton, Abraham F. Stevens, Stone, St. Martin, Stratton, Strother, Stuart, Sutherland, Sweetser, Benjamin Thompson, George W. Thompson, Tuck, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, and Williams—115.

So the House refused to adjourn.

The SPEAKER. The question recurs upon the motion of the gentleman from Arkansas, [Mr. JOHNSON.]

Mr. JOHNSON. I withdraw that motion to lay the resolution upon the table.

Mr. EDGERTON. I renew the motion to lay the resolution on the table, and demand the yeas and nays.

Mr. HIBBARD. I rise to a question of order. I wish to make the simple inquiry, whether if one resolution be laid upon the table, there being two in one series, both be not laid upon the table?

Mr. EDGERTON. I moved to lay both upon the table.

Mr. HIBBARD. That makes it plain.

The yeas and nays were then ordered.

Mr. HENN. I rise to a privileged question. I move that the House adjourn.

Mr. CLINGMAN. Let's adjourn; the question will come up in the morning.

Mr. GENTRY. I desire to know what will be the effect of adjourning now? Will this question come up to-morrow?

The SPEAKER. The first effect will be to bring the House together at twelve o'clock to-morrow. [Laughter.]

Mr. GENTRY. Will this question come up to-morrow?

The SPEAKER. In the opinion of the Chair, it will be the first business in order to-morrow.

Mr. GENTRY. Then I vote for an adjournment.

Mr. GORMAN. Do I understand the Chair to decide that this will be the first business up in the morning?

The SPEAKER. The Chair is of opinion that if the House adjourn now, that this resolution will be the first business in order, after the reading of the Journal, to-morrow morning.

Mr. MARSHALL, of Kentucky, I rise to a point of order. It is, whether a motion to adjourn is in order? A motion was made to lay the resolution upon the table, and the House was divided upon that, and we have had no vote announced upon that.

The SPEAKER. A motion to lay upon the table, and a motion to adjourn, are both privileged questions, but the motion to adjourn having the precedence, is clearly in order.

Mr. McMULLIN. I request the gentleman from Ohio [Mr. EDGERTON] to withdraw his motion, and we will adjourn.

Mr. POLK. I desire to know the question now pending?

The SPEAKER. It is that the House do now adjourn.

Mr. MARSHALL. I want to understand how the Chair decides the question I made as a question of order. The House divided upon the question of adjournment. The yeas and nays were called upon that question, and the House decided that they would not adjourn. A gentleman then rose to make a motion to lay the resolution upon the table. No division of the House has occurred upon that, and the yeas and nays were ordered upon it; and my proposition is, that until the House does divide upon it, the motion to adjourn is not in order.

The SPEAKER. The Chair overrules the point of order taken by the gentleman from Kentucky, [Mr. MARSHALL.]

Mr. HENN. I withdraw the motion to adjourn.

Mr. CLINGMAN. I renew the motion to adjourn.

Mr. POLK. I am willing to vote for the adjournment, provided the gentleman from North Carolina desires to marshal his forces upon the other side by to-morrow morning.

Mr. STANLY. Did the gentleman refer to me?

Mr. POLK. No, I did not; I referred to the gentleman from North Carolina, [Mr. CLINGMAN.]

The SPEAKER. The gentleman from Kentucky [Mr. MARSHALL] raises this question of order: A motion was made, and a vote taken upon the adjournment; following that, a motion was made to lay the resolution upon the table, and upon that proposition the yeas and nays were ordered. Then followed another motion to adjourn, which is now pending. The Chair has no doubt that the motion to adjourn is in order, for the reason that the House has taken such action as renders it perfectly in order for the House to adjourn, otherwise the House would never adjourn until some distinct vote was taken upon some measure before it. The Chair has no doubt of the correctness of the decision. Does the gentleman appeal?

Mr. MARSHALL. No, sir.

Mr. WILCOX. I demand the yeas and nays upon the motion to adjourn.

The yeas and nays were ordered.

Mr. CLINGMAN. Sooner than consume the time of the House, I will withdraw the motion to adjourn.

Mr. FOWLER. I renew the motion to adjourn.

Mr. FLORENCE. I demand the yeas and nays upon that motion.

They were ordered.

The question was then taken, and there were—yeas 64, nays 103; as follows:

YEAS—Messrs. Allison, Ashe, Averett, Bartlett, Brenton, Brooks, Albert G. Brown, Buell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clingman, Conger, Dean, Dockery, Doty, Eastman, Edgerton, Floyd, Fowler, Goodrich, Grow, Harper, Holladay, Horsford, Hunter, Ives, Jenkins, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kuhns, Mann, McQueen, Meacham, Molony, Newton, Orr, Perkins, Powell, Russell, Sackett, Schoolcraft, Scudder, Smart, Benjamin Stanton, Stratton, Sutherland, Venable, Walbridge, Wallace, Ward, Washburn, Wells, Alexander White, Williams, Woodward, and Yates—64.

NAYS—Messrs. Aiken, Willis Allen, William Appleton, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bocoock, Bowie, Bragg, Breckinridge, George H. Brown, Busby, E. Carrington Cabell, Caskie, Clark, Cobb, Curtis, Daniel, George T. Davis, John G. Davis, Dawson, Dunham, Durkee, Edmundson, Ewing, Faulkner, Picklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gaylord, Goodenow, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Haven, Hendricks, Hibbard, Hillyer, Houston, Howard, T. M. Howe, Ingersoll, Jackson, Andrew Johnson, James Johnson, George W. Jones, Kurtz, Landry, Lecher, Lockhart, Humphrey Marshall, McCorkle, McMullin, Meade, Miller, Milson, John Moore, Morehead, Murray, Nabers, Outlaw, Samuel W. Parker, Peaslee, Penn, Penniman, Phelps, Polk, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scudder, Scurry, David L. Seymour, Origen S. Seymour, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, St. Martin, Strother, Stuart, Sweetser, Benjamin Thompson, George W. Thompson, Walsh, Watkins, Addison White, and Wilcox—103.

So the House refused to adjourn.

Mr. HENN. I move a call of the House.

The SPEAKER. A motion for a call of the House is not in order during the pendency of the previous question, which has been ordered to be put.

The question was then taken upon the motion to lay the resolution upon the table, and there were—yeas 65, nays 97; as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, David J. Bailey, Bartlett, Beale, Bocoock, Buell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Chapman, Clingman, Conger, Dean, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodenow, Goodrich, Grow, Harper, Holladay, Horsford, Thomas M. Howe, Ives, Jenkins, John Johnson, Daniel T. Jones, George G. King, Preston King, Mann, McMullin, McQueen, Meacham, Milson, Miner, Molony, Newton, Orr, Samuel W. Parker, Penniman, Perkins, Powell, Rantoul, Russell, Sackett, Schoolcraft, Scudder, Smart, Benjamin Stanton, Stratton, Sweetser, Benj. Thompson, Walbridge, Wallace, Washburn, Wells, Woodward, and Yates—65.

NAYS—Messrs. Willis Allen, William Appleton, Thos. H. Bayly, Bowie, Bragg, Breckinridge, Brooks, Albert G. Brown, Busby, E. Carrington Cabell, Chandler, Clark, Cobb, Daniel, John G. Davis, Dawson, Dockery, Dunham, Edmundson, Ewing, Faulkner, Picklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, George W. Jones, Kuhns, Kurtz, Landry, Lecher, Edward C. Marshall, Humphrey Marshall, Martin, McCorkle, McDonald, Meade, Miller, John Moore, Morehead, Murray, Nabers, Outlaw, Peaslee, Penn, Phelps, Polk, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Stone, St. Martin, Strother, Stuart, Sutherland, George W. Thompson, Venable, Walsh, Watkins, Addison White, Alexander White, Wilcox, and Williams—97.

So the House refused to lay the resolution upon the table.

Mr. BUELL. I move that the House adjourn.

Mr. WILCOX demanded the yeas and nays; which were ordered.

Mr. AVERETT. I would ask if a motion for a call of the House will be in order? There is a very thin House, and I desire a full vote.

The SPEAKER. Such a motion is not in order.

The question was then taken, and there were—yeas 81, nays 86; as follows:

YEAS—Messrs. Allison, Ashe, Averett, Bartlett, Beale, Brooks, Albert G. Brown, George H. Brown, Buell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clingman, Conger, Cobb, Conger, Dean, Dockery, Doty, Eastman, Edgerton, Ewing, Floyd, Fowler, Gaylord, Gentry, Goodenow, Goodrich, Grow, Hamilton, Harper, Holladay, Horsford, Thomas M. Howe, Ives, Jenkins, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kuhns, Mann, Martin, McMullin, McQueen, Meacham, Meade, Miner, Molony, Newton, Orr, Outlaw, Perkins, Powell, Rantoul, Richardson, Russell, Sackett, Schoolcraft, Scudder, Smart, Benjamin Stanton, Frederick P. Stanton, Stratton, Sutherland, Sweetser, Benjamin Thompson, Tuck, Venable, Walbridge, Wallace, Ward, Washburn, Wells, Addison White, Alexander White, Williams, Woodward, and Yates—81.

NAYS—Messrs. Aiken, Willis Allen, William Appleton, David J. Bailey, Thomas H. Bayly, Barrere, Bocoock, Bowie, Bragg, Breckinridge, Busby, E. Carrington Cabell, Caskie, Clark, Curtis, Daniel, John G. Davis, Dawson, Dunham, Durkee, Edmundson, Ewing, Faulkner, Picklin, Fitch, Florence, Freeman, Thomas J. D. Fuller, Gamble, Gorman, Grey, Hall, Hamilton, Hart, Haws, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, Landry, Lecher, Lockhart, Edward C. Marshall, Humphrey Marshall, McCorkle, McDonald, Miller, Milson, John Moore, Morehead, Murray, Nabers, Samuel W. Parker, Peaslee, Penn, Phelps, Polk, Price, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Smith, Stanly, Richard H. Stanton, Ab'm P. Stevens, Stone, St. Martin, Strother, George W. Thompson, Walsh, Watkins, and Wilcox—86.

So the House refused to adjourn.

The SPEAKER. The question is upon the adoption of the first resolution.

Mr. CAMPBELL, of Ohio. Is it in order to move to lay the resolutions upon the table?

The SPEAKER. In the opinion of the Chair it is not.

[Cries of "Call the roll!" "Call the roll!"]

The question was then taken upon the adoption of the first branch of the proposition, being the resolution offered by the gentleman from Georgia, [Mr. JACKSON,] and it was agreed to—yeas 101, nays 64, as follows:

YEAS—Messrs. Willis Allen, William Appleton, Thos. H. Bayly, Bocoock, Bowie, Bragg, Breckinridge, Brooks, Albert G. Brown, Busby, E. Carrington Cabell, Caskie, Clark, Cobb, Curtis, Daniel, John G. Davis, Dawson, Dockery, Dunham, Edmundson, Ewing, Faulkner, Picklin, Fitch, Florence, Freeman, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, George W. Jones, Kurtz, Landry, Lecher, Lockhart, Edward C. Marshall, Humphrey Marshall, Martin, Mason, McCorkle, McDonald, McMullin, Meade, Miller, John Moore, Morehead, Murray, Nabers, Outlaw, Samuel W. Parker, Peaslee, Penn, Phelps, Polk, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Smith, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Stone, St. Martin, Strother, Stuart, Sutherland, George W. Thompson, Venable, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, and Williams—101.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, D. J. Bailey, Barrere, Hart, et al., Brenton, George H. Brown, Buell, J. Cable, Lewis D. Campbell, Thompson Campbell, Chapman, Clingman, Conger, Dean, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodenow, Goodrich, Grow, Harper, Holladay, Horsford, Thomas M. Howe, Ives, Jenkins, John Johnson, Daniel T. Jones, Preston King, Kuhns, Mann, McQueen, Meacham, Milson, Miner, Molony, Newton, Orr, Penniman, Perkins, Powell, Rantoul, Sackett, Schoolcraft, Scudder, Smart, Benjamin Stanton, Stratton, Sweetser, Benjamin Thompson, Tuck, Walbridge, Wallace, Washburn, Wells, Woodward, and Yates—64.

So the first branch of the proposition was adopted.

Mr. HOUSTON. I move to reconsider the vote by which that resolution was adopted, and to lay that motion upon the table; which latter motion was agreed to.

The SPEAKER. The question now recurs upon the adoption of the remaining resolution, being the one offered by the gentleman from Georgia, [Mr. HILLYER.]

Mr. MARSHALL, of Kentucky. Have we not taken the vote upon dividing the proposition—upon the first branch?

The SPEAKER. The Chair begs leave to state that the vote has just been taken upon the first branch of the proposition, which was the original resolution offered by the gentleman from Georgia, [Mr. JACKSON.]

Mr. MARSHALL. The point I wish to present to the Chair, is this: The question came up upon adopting the resolution as amended. That was the question propounded. A division of that question was asked. We have voted upon the first branch of that division, and is the whole question put as required by the rule until we vote upon the second branch—in other words, can the motion to reconsider clinch the first proposition and leave the second to be lost?

The SPEAKER. It can, in the opinion of the Chair.

Mr. MARSHALL. I appeal from that decision.

Mr. STANLY. I move to lay that appeal upon the table.

Mr. HOUSTON. Do I understand the gentleman from Kentucky to make the point of order that it is not in order to move the reconsideration? If that is the point—

Mr. MARSHALL. I will withdraw my appeal.

Mr. JENKINS. I move the House adjourn. The motion was disagreed to.

Mr. SMART demanded the yeas and nays upon the remaining branch of the proposition; which were ordered.

Mr. EDGERTON. Mr. Speaker—[Cries of "Order!" "Order!" "The roll is being called."] "The roll is being called."

Mr. EDGERTON. I addressed the Chair before the roll was commenced.

The SPEAKER. The Chair did not hear the gentleman address the Chair until there was a response.

Mr. EDGERTON. I did address the Chair prior to the call.

[Cries of "It is too late!" "It is too late!"]

The SPEAKER. The Chair would be gratified to hear what the gentleman has to say.

Mr. EDGERTON. I rose to a question of order, and I addressed the Chair before the call was commenced.

[Cries of "Order!" "Order!"]

Mr. EDGERTON. I ask—

[Cries of "I object!" "I object!"]

The SPEAKER. The Chair is bound to rule the gentleman out of order.

The question was then taken upon the remaining branch of the proposition, which was Mr. HILLYER's amendment, and it was agreed to—yeas 100, nays 65, as follows:

YEAS—Messrs. Willis Allen, Wm. Appleton, Thomas H. Bayly, Bowie, Breckinridge, Brooks, George H. Brown, Busby, E. Carrington Cabell, Chandler, Clark, Cobb, Curtis, John G. Davis, Dawson, Dean, Dockery, Dunham, Edmundson, Ewing, Faulkner, Ficklin, Fitch, Florence, Freeman, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Haven, Hendricks, Henn, Hubbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, Geo. W. Jones, Kuhns, Kurtz, Landry, Letcher, Lockhart, Edward C. Marshall, Humphrey Marshall, Martin, Mason, McCormick, McDonald, McMullin, Miller, John Moore, Morehead, Murray, Nabers, Outlaw, Samuel W. Parker, Peaslee, Penn, Polk, Porter, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Stone, St. Martin, Strother, Stuart, Sutherland, George W. Thompson, Walsh, Ward, Watkins, Addison White, Alexander White, Wilcox, Williams, and Yates—100.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, David J. Bailey, Barrero, Bardett, Bocock, Bragg, Brenton, Buell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskey, Chapman, Clingan, Conger, Daniel, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodenow, Goodrich, Grow, Harper, Holladay, Horsford, Thos. M. Howe, Ives, Jenkins, John Johnson, Daniel T. Jones, Preston King, Mann, McQueen, Meacham, Meade, Milson, Miner, Molony, Newton, Orr, Pennington, Perkins, Powell, Rantoul, Sackett, Schoolcraft, Scudder, Smart, Benjamin Stanton, Sweetser, Benjamin Thompson, Tuck, Venable, Walbridge, Wallace, Washburn, Wells, and Woodward—65.

So the second branch of the proposition was adopted.

Mr. BRIGGS, previous to the announcement of the vote, said: I ask permission of the House to vote, not having been inside the bar at the calling of my name.

A VOICE. I object.

Mr. BRIGGS. Had I been here to vote, I would have voted in the affirmative.

Before the result was announced,

Mr. STANLY said: Mr. Speaker, I was in my seat when the roll was called. I decline to vote, and will publish my reasons for my constituents, and will not trouble the House.

Mr. STANLY handed the Reporter the following:

I asked to be excused from voting, because I believe the resolution is carefully framed to enable Democratic Free-Soilers, and Southern Secessionists, to appear to favor the compromise, and yet to be able to say at home in particular localities, that they did not vote to "abide by the compromise measures"—to regard them as a finality.

The resolution was, as first offered by the gentleman from Indiana, [Mr. Fitch,] in these words:

"Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves included—and that we deprecate all further agitation of questions growing out of that provision, of the questions embraced in the acts of the last Congress known as the compromise, and of questions generally connected with the institution of slavery, as unnecessary, useless, and dangerous."

The words, "and the act of the last Congress for that purpose," were inserted on consultation with several Democrats, including the gentleman from Georgia, as follows:

"Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves [and the act of the last Congress for that purpose] included; and that we deprecate all further agitation of questions growing out of that provision, of the questions embraced in the acts of the last Congress known as the compromise, and of questions generally connected with the institution of slavery, as unnecessary, useless, and dangerous."

I object to voting upon resolutions, when my own course may be misunderstood, and when my vote may enable others to be misunderstood, who so desire. I object to all party resolutions on slavery in this House. I think Southern men—

Union men, anti-Secession men—should act together upon resolutions relating to the compromise acts. I believe the resolutions of the gentleman from Georgia will enable Southern Secessionists to appear as favoring the compromise measures, and to deny at home that they did ever vote to abide by them—to regard them as a "final settlement."

I know no party in matters connected with slavery and the compromise acts. They are questions above all party considerations. I have offered a resolution, introduced in the Democratic caucus by a member from Tennessee, [Mr. Polk,] as mentioned in the letter of the distinguished gentleman from Virginia [Mr. Bayly] in the early part of the session. I have offered another, with amendments, as handed to the Globe Reporter, and read at the Speaker's table this morning, numbered three. It is the resolution offered in the Democratic caucus (see Mr. Bayly's letter) by the member from Arkansas, with the amendments noted by me in the resolutions handed to the Globe Reporter. I take either of these, and will vote for any distinct, intelligible resolution, offered by Whig or Democrat, approving of the compromise measures.

But I will not vote on any resolution, no matter by whom offered, that may enable dodgers to appear what they are not; that will enable Free-Soilers and Secessionists to stand on the same platform, and make the slavery question a plaything, a mere "game," as it has been made by Van Buren & Co., in 1840-'44-'48, and as Messrs. Hallett, Rantoul, Preston King, and others of like political opinions, wish to make it in the elections of 1852.

Reasons more in detail I will give hereafter.

Mr. HILLYER moved that the vote just taken be reconsidered, and that that motion do lie upon the table; which motion was agreed to.

So the proposition as adopted is as follows:

Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves, and the act of the last Congress for that purpose included—and that we deprecate all further agitation of questions growing out of that provision, of the questions embraced in the acts of the last Congress known as the compromise, and of questions generally connected with the institution of slavery, as unnecessary, useless, and dangerous.

Resolved, That the series of acts passed during the first session of the Thirty-first Congress, known as the compromise, are regarded as a final adjustment and a permanent settlement of the questions therein embraced, and should be maintained and executed as such.

Mr. RICHARDSON moved the House adjourn, which motion was agreed to.

And the House adjourned.

HOUSE OF REPRESENTATIVES, April 6, 1852.

To the Editor of the Congressional Globe:

My being absent from the House yesterday at the time the final vote was taken on Colonel JACKSON's resolution in reference to the compromise, and the amendment of Mr. HILLYER, may require explanation, particularly as it appears from the Journal that I moved to lay the resolution of Colonel JACKSON on the table. My early views as to the settlement of the question subsequently embraced in the several acts of Congress, known as the compromise, are familiar to all my friends, and were expressed by a letter to my constituents several months before the action of Congress. Believing it unnecessary and improper to agitate any of the questions included in the compromise acts, as they were the laws of the land, and generally acquiesced in by the people, the reaffirming them by Congress, neither made them more binding nor acceptable to the country: I, therefore, for the purpose of preventing a renewal of those exciting scenes which occurred in the Thirty-first Congress, and to promote harmony and peace in the country, moved to lay the resolution on the table, believing this to be the most prudent course at the time. This motion not prevailing, and fully believing from the effort made to postpone a direct vote, it would be at a late hour before the House could obtain direct action on the resolutions, I left for my lodging. The day being inclement, I was detained longer than I anticipated. On my return to the House the roll was being called on Mr. HILLYER's amendment, and, my name being passed, I had not an opportunity of recording my vote, which I regret, as I should have voted for the original resolution and amendment. Very respectfully,  
J. M. H. DEALE.

HOUSE OF REPRESENTATIVES, April 7, 1852.

To the Editor of the Congressional Globe:

Sir: Having been detained, by indisposition, from my seat in the House on Monday, the 5th instant, when the final vote was taken upon the adjustment resolutions of Messrs. JACKSON and HILLYER, of Georgia, I desire to state that, if I had been present, I should have voted for each of those resolutions, and I doubt not, in doing so, should have reflected the will of almost if not the entire constituency that I have the honor to represent. Very respectfully,  
ISHAM G. HARRIS.

## NOTICES OF BILLS.

Mr. WRIGHTMAN gave notice of his intention to ask leave to introduce a bill for the ascertainment of public lands and the settlement of land titles in New Mexico, and for other purposes.

Also, a bill to provide for the survey of the public lands in New Mexico, and for other purposes.

## PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ROBBINS: The petition of William W. Jurvel, Esq., asking pay for the witnesses examined before the commissioner appointed to take testimony in the case of the contested election in the fourth district of Pennsylvania, in the Thirty-first Congress.

By Mr. MILLER: The petition of 247 citizens of Randolph county, Missouri, praying Congress for a grant of alternate sections of public land, to aid in the construction of the North Missouri Railroad.

By Mr. MACE: The memorial of Dr. Hartwell Carver and his associates, asking a law to construct a railroad from some point on the Mississippi or Missouri rivers, or from Lake Michigan, to the Pacific ocean.

By Mr. DURKEE: The remonstrance of G. W. Mygatt and 209 others, of the county of Milwaukee, Wisconsin, against the renewal of Woodworth's patent.

By Mr. DOTY: The petition of E. Fox Cook, President of the Cascade and Lake Michigan Railroad Company, asking a grant of land to said company in aid of the construction of said road.

Also, the petition of A. G. Cook, Charles J. Randall and others, asking a mail route from Theresa to Columbus, by Mayville, Horriken, Juneau, Oak Grove, and Lowell.

By Mr. MARSHALL, of California: Petition of the State officers and both branches of the Legislature of California, for the establishment of a branch mint at San Francisco.

Also, the petition of merchants and citizens of San Francisco for the same purpose.

By Mr. —: The petition of heirs of Captain Thomas Shubrick, of South Carolina, for commutation pay.

By Mr. FICKLIN: The petition of H. H. McPherson, and numerous other citizens of Washington, praying for free suffrage and the abolition of the poll tax as a qualification for voting under the city charter.

By Mr. WRIGHTMAN: The memorial of the Legislative Assembly of the Territory of New Mexico, praying Congress that the law organizing the Territory may be so amended as to allow an annual session of ninety, in lieu of forty days; to provide for the payment of interpreters and translators, and two sets of clerks.

Also, a joint resolution of the Legislative Assembly of the Territory of New Mexico, memorializing Congress, in consequence of doubts which "exist in the mind of the comptroller of the United States" in regard to the legality of the late session of the Legislature, to legalize the same so as to conclude all such doubts, and declaring that the Legislative Assembly has no doubt on the subject.

Also, the memorial of the Legislative Assembly of the Territory of New Mexico, praying Congress to provide by law for the enfranchising of certain Mexicans, resident in New Mexico, who declared their intention of retaining their character as Mexican citizens, on condition that they renounce allegiance to Mexico and take the oath of allegiance to the United States.

Also, the memorial of a citizen of New Mexico, with accompanying papers, praying that provision be made for paying a commission which, by authority of the Legislative Assembly of the Territory of New Mexico, drew up a code of laws for that Territory.

By Mr. FLORENCE: The memorial of Harriet Ward, of Philadelphia, praying the passage of an explanatory act of the "act of the Senate No. 279, first session of the Twenty-ninth Congress, granting her a pension as the widow of Joseph Ward, gunner's mate, United States Navy."

By Mr. FOWLER: The remonstrance of C. Nash and 142 others legal voters of Norfolk county, Massachusetts, against the reestablishment of the practice of flogging in the Navy.

By Mr. HOUSTON: The petition of sundry citizens of Alabama, praying the establishment of a mail route from Jonesboro', Alabama, to York, in Walker county, Alabama.

By Mr. KUHN: The petition of James B. McCright, Sen., and other citizens of Pennsylvania, praying Congress to authorize by law the construction of a railroad from Council Bluffs, on the Missouri river, and extending up the valley of the Platte river, to the South Path, in the Rocky Mountains, to California and Oregon.

By Mr. AIKEN: The petition of a number of citizens of Charleston, South Carolina, for a light in the harbor.

By Mr. WELLS: A petition of certain citizens of Fulton county, New York, praying for a donation of public lands towards the completion of the Saratoga and Sackett's Harbor Railroad.

By Mr. FULLER, of Maine: The remonstrance of Matthew Hastings and 66 others, citizens of Calais, Maine, against the passage of any law which shall render more valuable to Thomas Blanchard, or his assigns, a patent for turning irregular forms.

By Mr. STUART: The petition of 2,300 citizens of Michigan, asking an appropriation for the improvement of the harbor at the mouth of the Kalamazoo river, in that State.

## IN SENATE.

TUESDAY, April 6, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, in answer to a resolution of the Senate calling upon him to express his opinion as to the



expediency of a reconnaissance of the routes of navigation in the Northern seas, and in the China and Japan seas; and whether any vessels belonging to the service can be used for that purpose; and, also, what would be the expense of such a reconnaissance; which was read, referred to the Committee on Commerce, and ordered to be printed.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate, a report of the Chief of the Ordnance Bureau, as to the necessity of establishing suitable depôts for the preservation of gunpowder belonging to the United States; which was read and referred to the Committee on Military Affairs.

#### PETITIONS, ETC.

The PRESIDENT *pro tempore* laid before the Senate a petition of citizens of Dallas county, Alabama, remonstrating against an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. RHETT presented the petition of John W. Stuckey, assistant marshal for taking the seventh census in Sumner district, South Carolina, praying additional compensation; which was referred to the Committee of Claims.

Mr. BORLAND presented a petition of citizens of Clark county, Arkansas, remonstrating against an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. WADE presented a petition of residents of Ohio, praying the enactment of such laws as will authorize the erection of bridges over the Ohio, and other navigable rivers; which was referred to the Committee on the Judiciary.

Mr. JONES, of Tennessee, presented the petition of Absalom Kyle and William C. Kyle, praying the compensation for transporting the mail, due according to the terms of their contract; which was referred to the Committee of Claims.

Mr. SEWARD presented the petition of J. H. Jones, praying that land may be granted to settlers on the Menomonee Purchase, who are not possessed of other land; which was referred to the Committee on Public Lands.

#### TELEGRAPH TO THE PACIFIC.

Mr. DOUGLAS. I present the memorial of Henry O'Reilly, proposing a system of intercommunication by mail and telegraph between the Atlantic and Pacific States. I would state in presenting this memorial, that Mr. O'Reilly has had great experience in the business of telegraphs throughout the United States, especially in the Southern and Western States. He proposes to establish a line of telegraphs from the Mississippi valley to the Pacific. He asks no appropriation of money or lands from the Government; he asks no donation, no grant, no gifts of any kind. He only asks to be protected along the line, so that his communication can be kept up. He suggests, in his memorial, that, inasmuch as present laws provide for a line of military posts from the Mississippi valley to the Pacific, those posts shall be so arranged that they may protect the telegraphic communication that is to be established along that line. The suggestion is, that instead of establishing large posts, with a large number of men at each, you should reduce them so that they shall be twenty miles apart, and only twenty men, or other small number, at each, and thus keep up the communication throughout the line. He also suggests that these men along that line may be made the instruments of carrying the mail, each post sending a file of soldiers, when the mail arrives, to the next post with it, and thus carry the mail at the same time that they effect a line of communication, and protect the emigrant route. The object of his memorial is to establish a telegraph; but he suggests, in connection with that, these other advantages that would result from it. He suggests, also, in connection with it, that by encouraging a system of emigration, to be established along the line, by throwing the lands open to actual settlers, it would soon become a populated country. These other considerations, however, are merely incidental, and may be adopted by Congress or not. All he asks is permission to establish a telegraphic line from the Mississippi valley, where the wires now terminate, to the Pacific ocean, and to be protected by this line of military

posts, so that he can keep up the communication for the benefit both of the Government and of the public.

I will state that this same plan was laid before a railroad convention at St. Louis in 1849, and received their approval. It is the firm conviction of all those living in the Mississippi valley—of the intelligent men who have directed their attention to the subject, that this line could be well protected, and thus the means of communication kept up constantly between the Atlantic and Pacific. Mr. O'Reilly states, in his memorial, that within two years from this time, with this line completed, he would be able to deliver the European news on the shores of the Pacific, within one week from the time it left the European continent. I move that the memorial be printed, and referred to the Committee on the Territories.

The motion to refer was agreed to.

The PRESIDENT. The motion to print will go to the Committee on Printing under the rule.

Mr. BORLAND. I wish to suggest that it would save time to order the printing now. It is a matter of interest, and I suppose there can be no doubt as to what would be the report of the Committee on Printing. By unanimous consent, I suppose the printing can now be ordered.

The PRESIDENT. By unanimous consent, the printing can now be ordered.

There being no objection, the question was then taken, and the motion to print was agreed to.

#### REPORTS FROM STANDING COMMITTEES.

Mr. WADE, from the Committee of Claims, to which was referred the bill from the House of Representatives for the relief of Charles S. Matthews, Charles Wood, and James Hall, reported it back with an amendment.

Mr. BAYARD, from the Committee of Claims, to which was referred the bill for the relief of Thomas Develin, reported it back without amendment.

Mr. BRODHEAD, from the Committee of Claims, to which was referred the petition of John McAvoy, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the petition of Nathan Weston, jr., late additional paymaster in the United States Army, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of Russell & Jones, surviving partners of Brown, Russell, & Co., asked to be discharged from the further consideration thereof, and that it be referred to the Committee of Claims; which was agreed to.

#### MANUFACTURE OF PERCUSSION CAPS.

Mr. SHIELDS. The Committee on Military Affairs, to which was referred the petition of Richard M. Bouton, praying for compensation from the United States Government for the use of the machinery discovered by him for the manufacture of percussion caps, has instructed me to report a bill, accompanied by a written report. In making out this report and bill, we found that there were three persons equally interested in this invention, which is a machine for making and filling percussion caps; and the committee has instructed me to report a bill that covers the case of all three. We do not separate them. But I find that the Committee on Naval Affairs has already reported a bill in favor of one of the parties—for the relief of the widow of Marvin W. Fisher, granting to her \$20,000. We report \$5,000 in the same case, after having thoroughly examined the subject. I ask that the bill reported by the Committee on Naval Affairs may be taken up, so that I may offer this bill as an amendment to it, that both may lie upon the table together.

The PRESIDENT. When that bill comes up this can be offered as an amendment.

Mr. SHIELDS. It may, perhaps, be overlooked then, and both bills might accidentally be passed.

Mr. DAVIS. Report this bill and let it go on the docket.

Mr. SHIELDS. I will pursue that course. I accordingly now report a bill for the relief of Richard M. Bouton, George Wright, and the widow of Marvin W. Fisher.

The bill was read, and passed to the second reading. The report was ordered to be printed.

#### BILL INTRODUCED.

Mr. BADGER, agreeably to previous notice, asked and obtained leave to introduce a bill to amend and to extend the provisions of an act, approved July 29, 1846, and entitled "An act in relation to the payment of claims;" which was read a first and second time by its title, and referred to the Committee of Claims.

#### MAIL SERVICE ON THE OHIO AND MISSISSIPPI RIVERS.

Mr. BORLAND. I ask leave to introduce a bill, of which I did not give formal notice; but, I think, that, from my own remarks, and those of other Senators, the other day, sufficient notice was given of my intention to introduce it. It is a bill to establish mail lines on the Ohio and Mississippi rivers.

The PRESIDENT. It requires unanimous consent to obtain leave to introduce the bill now, notice not having been given.

There being no objection, leave was granted; and the bill was read, and passed to the second reading.

Mr. BORLAND. I ask that the bill may have its second reading now, with a view to reference; and I wish that it may be read through for the information of the Senate.

The bill was read a second time.

It proposes that the Postmaster General be required to establish lines of mail service on the Ohio and Mississippi rivers, from Louisville, Kentucky, and from St. Louis, Missouri, to New Orleans, Louisiana, in proper connection with the lines now in operation on the Ohio river above Louisville and on the Cumberland river; and cause the mails to be carried on those lines once a day; and that the service thus required be procured in the same way, and in conformity with the general laws and regulations of the Post Office Department, from the lowest and best bidder, by contract, after advertisement made and published in the regular and usual manner.

It was referred to the Committee on the Post Office and Post Roads.

#### UNITED STATES DISTRICT COURTS.

A message from the President of the United States was received, by Mr. M. P. FILLMORE, his Secretary, announcing that he had signed the enrolled bill entitled "An act amendatory of the act entitled 'An act to provide for holding the courts of the United States in case of the sickness or other disability of the judges of the district courts,' approved July 29th, 1850."

#### BILL PASSED.

The engrossed bill, entitled "An act for the relief of James Jones," was read a third time and passed.

#### BILLS FROM THE HOUSE.

The following bills from the House of Representatives, were severally read a first and second time by their titles, and referred to their appropriate committees, as follows:

To the Committee on Pensions:

A bill for the relief of Isaac Cobb;  
A bill for the relief of William Dwelly;  
A bill for the relief of Catherine Clark;  
A bill for the relief of Jacob Shade;  
A bill for the relief of Thomas P. Dudley;  
A bill for the relief of George Cassady;  
A bill for the relief of John Hazen;  
A bill for the relief of David Murphy, of Ohio;  
A bill for the relief of Jonas D. Platt, of New York;

A bill to increase the pension of Henry Click, of Cocke county, Tennessee;

A bill for the relief of B. E. Bennett; and  
A bill for the relief of Maurice K. Simons.

To the Committee on Private Land Claims:

A bill for the relief of the heirs of Jeremiah Wingate;

A bill for the relief of Ira Baldwin;  
A bill for the relief of Robert Nelson;

A bill for the relief of the heirs of William McFarland; and

A bill for the relief of the heirs of Semoice, a friendly Creek Indian.

To the Committee on Military Affairs:

A bill for the relief of Sergeant Leonard Skinner.  
To the Committee on Naval Affairs:  
A bill for the relief of James A. Fawns; and

A bill for the relief of Monmouth B. Hart, Joel Kelly, and William Close, securities for the late Benjamin F. Hart, a purser in the United States Navy.

#### CREEK INDEMNITY CLAIM.

Mr. SEBASTIAN. I submit the following resolution:

*Resolved*, That the Secretary of the Interior be requested to furnish to the Senate all information in the office of the Commissioner of Indian Affairs, showing the names and number of claimants of the liquidated balance of indemnity due to friendly Creek Indians for losses in the Creek war of 1812, and the amounts respectively due to them.

Mr. S. I expect to call up the subject-matter of that resolution for the consideration of the Senate at an early day. The statement which it requires, will give information necessary to illustrate the nature and character of the claim referred to. I hope that there will be no objection to considering the resolution at this time, as it merely asks for information with respect to business which must necessarily come before the Senate at an early day.

There being no objection, the resolution was considered and agreed to.

#### INDIAN COMMISSIONERS IN CALIFORNIA.

Mr. WELLER. I offer the following resolution:

*Resolved*, That the Secretary of the Interior be directed to inform the Senate, first, whether the Indian commissioners or agents in the State of California, in their negotiations, have contracted any debts for which the Government is liable; and if so, the amount thereof; second, whether any drafts, drawn by said commissioners or agents, have been protested by the Department; and if so, the amount.

Mr. W. I shall ask for the consideration of that resolution now, as the information sought will be of importance when we come to act upon the deficiency bill. I know that debts have been contracted to the amount of \$700,000, for which certificates or drafts have been given by the Indian commissioner. Those drafts are in the hands of citizens of California, who have furnished supplies to the commissioner to be furnished to the Indians. It will be necessary, if these debts have been contracted in good faith, for the Government to pay them, unless it be that the Indian commissioner has transcended his authority in these contracts. This resolution simply calls for the amount of these debts, if any have been contracted. In my judgment, they are so large that the subject should receive the prompt attention of the Senate. The resolution was agreed to.

#### FLORIDA ELECTION COMMITTEE.

Mr. MASON. I received a letter, about a week ago, from the honorable Senator from Indiana, [Mr. BRIGHT], dated at his residence in Indiana, informing me, that in consequence of an afflictive death in his family, he should probably be detained at home for three or four weeks. He therefore requests me to ask the Senate to excuse him from serving on the select committee on the Florida Senatorial election case.

Mr. WALKER. I wish to inquire of the Senator from Virginia whether he has not heard from the Senator from Indiana more recently than the time to which he refers?

Mr. MASON. I have not.

Mr. BRODHEAD. Is he not already on his way here?

Mr. WALKER. Perhaps it may be as well to mention that, from information which I have received, I expect Mr. BRIGHT to be here in a day or two, and that it may be advisable not to take action on the proposition of the Senator from Virginia, for that time at least.

Mr. MASON. In reply to the Senator from Wisconsin, I may state that I have heard nothing from the Senator from Indiana since the letter I have alluded to, which I received a week ago, and which was dated some three or four days prior to the time I received it. I have no objection that action should be delayed for a few days on the motion I have made.

The PRESIDENT. Does the Senator withdraw the motion?

Mr. MASON. I do.

#### JUDICIAL SALARY IN SOUTH CAROLINA.

Mr. RHETT submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Judiciary do inquire into the propriety of increasing the salary of the Judge of the district court of the United States for the State of South Carolina.

#### OTTAWA AND CHIPPEWA INDIANS.

Mr. FELCH submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Indian Affairs be instructed to inquire into the expediency of making provision for the amicable arrangement with the Ottawa and Chippewa Indians of all questions arising under the treaty with them of 1836, relative to the continued occupancy of the lands reserved to them, and the consideration to be paid for such cession; and, also, as to the expediency of making an appropriation to enable the proper Department to consummate such measures as may be necessary for their permanent settlement in the country where they now reside.

#### NON-INTERVENTION.

Mr. HUNTER. I move to postpone all the special orders preceding the resolution respecting the doctrine of non-intervention.

Mr. BORLAND. Before a vote is taken on that question, I desire to say, that but for the general understanding that the resolution whose consideration it is now moved to resume, was to be considered to-day, to the exclusion of everything else, I should have moved to take up the resolution of inquiry with regard to the expedition to Japan. I shall to-morrow move to take up that resolution. I make this suggestion in justice to myself, lest it might be supposed that I had abandoned it altogether.

Mr. GWIN. I wish to state that I hope that when the Senator from Virginia shall have concluded his remarks to-day, we may resume the consideration of the subject which was before us yesterday.

The motion to postpone all other special orders, and to proceed to the consideration of the resolution offered by the Senator from Rhode Island, was agreed to, and the Senate resumed its consideration as in Committee of the Whole.

Mr. MASON addressed the Senate for two hours in support of the doctrine of non-intervention. A report of his speech will be found in the Appendix.

Mr. BELL. The Senate are aware that it has been my desire to be heard on this subject. I submit to the Senate to appoint some day on which to take up this subject again.

Mr. UNDERWOOD and others suggested Monday.

Mr. BELL. If there are any measures to be pressed in the mean time, I have no disposition to ask to be heard before Monday or Tuesday next. Several SENATORS suggested Tuesday.

Mr. BELL. I move to postpone the further consideration of the resolutions until Tuesday next.

Mr. COOPER. I should be glad if the Senator from Tennessee would fix a day early in the week. I desire to obtain the floor, if no one else does, at the conclusion of the Senator's speech; and I should like to have an opportunity to address the Senate on some early day during the next week.

Mr. CASS. I wish to suggest whether it would not be better to go on and terminate the discussion, before we take up any other subject.

Mr. BELL. I desire to accommodate gentlemen. When I made the motion to postpone until Tuesday, I had in view the measure reported by the honorable Senator from Virginia, [Mr. HUNTER], in relation to the public buildings. I thought that by postponing these resolutions until Tuesday next, that measure and the apportionment bill also might be taken up and disposed of in the mean time. I have no objection, however, to any day that may suit the convenience of the Senate.

Mr. COOPER. Wednesday will suit me; and therefore I have no objection to fix Tuesday next for hearing the Senator from Tennessee.

Mr. BADGER. I wish merely, at this time, to remind the Senate (what perhaps has escaped their recollection) that on the first or second day of February, if my memory serves me correctly, I commenced a speech on the compromise resolution offered by the late Senator, now Governor of Mississippi, which I have consented to postpone, from time to time, rather than interfere with the convenience of other gentlemen. Believing, as I did then, and do now, that the views I have to submit contain salt enough to keep them sound for any reasonable period, I have not pressed the Senate to hear me; but I beg leave to suggest to my friend that I think it is not unreasonable that I should be allowed, in the course of some few days, to complete the speech which I then commenced. I believe it has been longer on the car-

pet than any speech I ever heard of in either House of Congress. I wish to give notice now, that to-morrow, during the morning hour, I shall ask the Senate to take up that resolution, with a view of appointing some particular day for its consideration. I will add that I do it less on my own account than on account of a friend on this floor. The Senator from Mississippi [Mr. BROOKE] has reasons which induce him to think it a matter of interest and importance to himself to be heard upon that resolution; and I assure the Senate that it is far more with a view to his gratification than my own that I shall to-morrow ask the Senate to take up that resolution, and fix a day for its consideration.

The motion to postpone the further consideration of the resolutions until Tuesday, was agreed to.

#### EXECUTIVE SESSION.

On the motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, April 6, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

#### DISCIPLINE IN THE NAVY.

The SPEAKER. The first business in order is the proposition to reconsider the vote by which the bill to enforce discipline in the naval service was rejected; and upon it the gentleman from Michigan [Mr. STUART] is entitled to the floor.

Mr. MEACHAM. I ask the unanimous consent to introduce a joint resolution; and I ask that it be read for information.

Mr. GORMAN. I object to its reading.

Mr. STUART. Mr. Speaker, I desire—

Mr. GORMAN. The order of business, I believe, is the call of the committees for reports.

#### CHARGES AGAINST THE CIRCUIT COURT OF THE DISTRICT OF COLUMBIA.

Mr. WALSH. I desire to call the attention of the House to a matter, and ask leave to present a memorial of a singular character.

The SPEAKER. The gentleman from Indiana [Mr. GORMAN] is upon the floor.

Mr. GORMAN. During the morning hour, I understand, the time is to be devoted to the call of committees.

The SPEAKER. The first business in order is the motion to reconsider the vote by which the bill to enforce discipline in the Navy was rejected.

Mr. GORMAN. What is the first thing in order during the morning hour?

The SPEAKER. It is a privileged motion to reconsider the vote by which the bill to enforce discipline in the Navy was rejected, and upon which the gentleman from Michigan [Mr. STUART] is entitled to the floor. The gentleman from Maryland [Mr. WALSH] addresses the Chair, and appeals to the House to present a memorial.

Mr. WALSH. There has been a memorial placed in my hands by Henry May, of the Baltimore bar, making complaints against the circuit court of the District, and contains charges. I do not want to file it under the rules, for, if ever a matter required broad daylight, it is this. I file all my memorials generally under the rules.

Mr. HOUSTON. I wish to say a word to the gentleman from Maryland, [Mr. WALSH], and it is this—

The SPEAKER. Does the gentleman object? Mr. HOUSTON. I will be forced to object, unless my suggestion is heard. I want to make a suggestion.

The SPEAKER. Debate is not in order.

Mr. HOUSTON. I do not want to debate it.

The SPEAKER. If the gentleman from Maryland [Mr. WALSH] chooses to offer his memorial, let it be received. The gentleman from Maryland asks to offer a memorial.

Mr. HOUSTON. That is true; but I understood him further to say that he means to debate it.

Mr. WALSH. I do not mean to say a word upon the subject of the memorial. I wish merely to say to the House why I trouble them with the presentation of this petition. It asks for a change of venue in the case of Dinsmore against Wilkes

from the circuit court of the county of Washington to the criminal court of said county and District, by Henry May, of the Baltimore bar. He prefers charges against the circuit court in the District. I move a reference of the petition to the Committee on the Judiciary.

Mr. HOUSTON. I shall not object.

Mr. LETCHER objected.

The SPEAKER. The gentleman from Maryland [Mr. WALSH] asks leave to introduce a memorial, that it may be referred.

Mr. KING, of New York. Having made this statement, the gentleman from Maryland can present it under the rule.

Mr. WALSH. Having obtained my main wish, to bring to the notice of the House the character of the paper, and to present it openly, I will now file it under the rule.

Mr. FAULKNER. I have been instructed by the Committee on Military Affairs, to submit a report of a bill which came from the Senate. It will give rise to no debate, and my object is, to have it made the special order at some early day.

Mr. OLDS objected.

Mr. DANIEL. I wish simply to suggest to the House, as we have not had reports for a great while, and as there are a great many on hand, that we may, by general consent, be permitted to receive reports during the morning hour.

The SPEAKER. The gentleman from North Carolina [Mr. DANIEL] suggests, that the House proceed to a reception of reports from committees.

Mr. SACKETT. I wish to make an inquiry of the Chair, whether the morning hour will begin until we are through with the privileged question?

The SPEAKER. The morning hour will not commence until the privileged question is disposed of.

A MEMBER. I call for the regular order of business.

The SPEAKER. The Chair has again and again stated that the business first in order, is the reconsideration of the vote by which the bill providing for discipline in the Navy was defeated, and the gentleman from Michigan [Mr. STUART] is entitled to the floor.

Mr. CABLE, of Ohio. Will it be in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It will not; the gentleman from Michigan [Mr. STUART] claiming the floor, and being upon it. If that gentleman will yield for such a purpose, such a motion would be in order.

Mr. STUART. I do not propose to consume any unnecessary amount of time in the discussion of this question. Had the debate upon it the other day been of a different, and in my judgment, of a legitimate character, I would not have said anything. I adopted such a course on that occasion as I thought was quite proper when I asked of the Committee on Naval Affairs and the House to permit that question to go over until Thursday then next, that the bill might be printed, and that members might have an opportunity to examine it, so that we might act understandingly upon the whole subject. Succeeding that request, a most remarkable state of things occurred in this House. Gentlemen who are not members of the Naval Committee took up this question and proclaimed to the House that they had examined it; and one gentleman made a speech, and, upon the heel of it, moved the previous question, and against the request of the chairman of the Committee on Naval Affairs, who asked for leave to amend the bill, and thus forced this House to vote upon it as it was. Now, I think that a little remarkable in the history of legislation; and I hope that by this time the gentleman has become satisfied that, however much the House are disposed to listen to him, or any other gentleman who has examined and understands a question, they are not disposed to have a measure forced upon them without their consent. We are told, that since flogging had been abolished in the Navy of the United States, there was now no power of discipline left, and that the Navy was afloat upon every sea without any power whatever to control or discipline the petty officers and seamen. This was one of the reasons which was urged upon us for immediate action. The other one was, that a fleet was about to sail for Japan, and would sail before Thursday, and it was indispensable that this bill should be passed, in order that the fleet might have the advantage of it.

I shall undertake to show, in a few words, that neither of these reasons is founded in fact. In the first place, every provision of the law of 1800 is in full force in regard to discipline in the Navy except that part which authorizes flogging; and if gentlemen will turn their attention to that subject, I think that those who desire the most rigid discipline will find their anxiety amply satisfied in that law. The third article of that act provides that—

"Any officer, or other person in the Navy, who shall be guilty of oppression, cruelty, fraud, profane swearing, drunkenness, or any other scandalous conduct tending to the destruction of good morals, shall, if an officer, be cashiered, or suffer such other punishment as a court-martial shall adjudge; if a private, shall be put in irons, or flogged at the discretion of the captain, not exceeding twelve lashes; but if the offense require severer punishment, he shall be tried by a court-martial, and suffer such punishment as said court shall inflict."

Thus we see that under the law of 1800 a captain still retains the power to, and can of his own volition, put a man in irons for misconduct; and by the fourteenth and fifteenth articles it is provided as follows:

"ART. 14. No officer or private in the Navy shall disobey the lawful orders of his superior officer, or strike him, or draw or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, on pain of death, or such other punishment as a court-martial shall inflict."

"ART. 15. No person in the Navy shall quarrel with any other person in the Navy, nor use provoking or reproachful words, gestures, or menaces, on pain of such punishment as a court-martial shall adjudge."

In the face of all these provisions which run from putting a man in irons up to taking his life, it is said here that there is no power to secure discipline in the Navy, and gentlemen rise up here and say, that the fleet which is about to sail for Japan cannot go without endangering the lives of the commanders of the vessels—unless Congress, in thirty minutes, pass this law. I think I have shown by the law that this part of the argument is an error. I learn from the relatives of one of the officers about to sail upon that same expedition, that it is not expected it will leave before June, and he telegraphed some time since for his wife to come on to New York and stay with him until that time.

Mr. STANTON, of Tennessee. I would like to state, if the gentleman will allow me, that I was reported as having said, in the debate the other day, that this expedition was to leave on last Wednesday. I stated that a part of the expedition was to leave at that time. I had seen Commodore Perry a few days before, and he said he himself would not leave for a month or more. I did not state that the whole expedition was about to leave. I know that a part will not leave for a month.

Mr. STUART. Then the argument used upon that occasion, that unless the bill was passed, it would be exceedingly difficult to get the law into the possession of the officers of the fleet, so as to be of any service to them, was groundless, because if the Commodore was not to leave until the first of June, nothing would be lost, for he is the man to have the law. The argument falls to the ground in any event. I propose to look at this question for a few minutes in a twofold point of view; first, as to the power of Congress to pass such law; and in the next place, as to the policy of passing them, conceding the power.

There are several provisions in the Constitution of the United States which bear upon this question; and although, sir, I am aware that a difference of opinion exists among gentlemen in reference to their construction, it is for that very reason I wish to put forth my own opinions, and I hope, with all becoming modesty. Yet, sir, I do most respectfully ask the attention of every member of this House to those provisions, which I think will induce them, if not to agree with me upon their construction, at least to agree with me upon the question of policy. The power of Congress to make all the necessary regulations in the Constitution is provided for in these words:

"To make rules for the government and regulation of the land and naval forces."

Then, sir, in reference to the punishment of crimes, there are several provisions which, in my judgment, should be looked at with regard to some of the provisions in the bill before us. The first of these provisions is as follows:

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed, but when

not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

By the fifth article of the Amendments to the Constitution it is provided that—

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

Now, sir, I know it is said that these words, "in time of war or public danger," are limited in their application to the militia, and that they have no application to the words "land or naval forces." But, sir, I submit that by no rule of grammatical construction can this interpretation prevail; and I also submit that upon no ground of necessity ought it to be adopted. We can very readily perceive, Mr. Speaker, that when the Army and the Navy are engaged in time of war, or great public danger, infinite difficulties might arise if the civil power, at the pleasure of all the civil officers authorized to exercise it, might send process into the Army and Navy to be executed, and thus interfere with and embarrass the movements and the discipline of that Army or Navy, which the Constitution and laws have placed under the direction of the President of the United States and the subordinate officers. But let me ask, if in time of peace a regiment of soldiers is stationed at Detroit, or at any other post within the United States, and one of the soldiers composing that regiment commits an infamous crime, in the language of the Constitution, what reason, what public necessity is there for deciding that that crime should not be tried by the civil authorities? Sir, there is none. And I say, if this were a new question, and if there had been no enactments under it, I should insist, and insist with confidence, that the trial for a crime committed within the United States, or within any of the States, would not be by a court-martial, and could not be disposed of in any other way than that pointed out by the Constitution. But, sir, if we are not estopped by the Constitution from this sort of legislation, let us look at the necessity. For fifty years, sir, this law has been in force, to which I have just called the attention of the House, and there has been nothing subtracted from it at the end of half a century, excepting the power to flog. Now, I ask by what process of reasoning, by what evidence of facts, are gentlemen authorized to come in here and assert, that the taking away of that power to flog has destroyed all discipline in the Navy, and left it afloat at the mercy of the men?

It has been said, sir, that those who object to the restoration of that power, and those who object to some provisions still more enormous, are exercising a sickly sentimentality, and that it is of the same character as that which sympathizes and mourns over the fate of the culprit in all cases. Mr. Speaker, I shall never be deterred from propriety of action here on account of any such charge as that; and if you will show me a man, sir, who has no sympathy whatever with his fellow-creature, let his misfortunes be what they may, you will show me a man with whom I do not desire to associate. My idea of the enforcement of the law is, to enforce it with feeling, with sympathy, and with mercy. It is enforced as a stern, imperative duty; and I should fear a man upon the bench of any court in this Union, more than I should fear the most ferocious of beasts in the forest, who was administering the law with feelings of vengeance, destitute of sympathy. This argument, sir, that our Navy cannot exist, that now floats upon every sea, and that it is to be at the mercy of pirates, in the persons of your own sailors, if flogging is not reestablished, or some other punishment equally enormous, is a stereotyped argument. Oceans of crocodile tears have been shed in times gone by, whenever the Legislature has attempted to move one inch from barbarity. Who does not remember, sir, that in every State where the attempt to abolish imprisonment for debt has been made, that it was denounced as but another means for destroying all the property and credit in the world? You could collect no debts; every man would turn scoundrel; every man in the community would be a monster in human shape, an arrant villain, if you did not retain the power to incarcerate him in prison, because he could not pay his debts.

I trust, sir, that the men who used that description of argument, by this time will have become ashamed of it. So, also, in States where the ex-



periment has been tried of abolishing capital punishment, the very same argument has been used; and yet facts will clearly show, where the trial has been made a sufficient length of time, that crime, so far from being increased by that act, if it is affected by it at all, (but in my judgment it is not,) is decreased. You may go through the whole list, sir, and I say, and repeat it again, you cannot find a single instance where the Legislature has sought to progress from barbarity, and strike out some provision of punishment, incident to savage life only, when there have not been men enough to rise up and say that ruin would be the inevitable consequence of such an act. But, as I said before, all this will not deter me; for so long as this statute contains within it the power to punish men, even unto taking their lives for disregard of duty in the Navy, I shall treat all those cries of impending necessity as being cries founded upon something other than necessity. And now, sir, as to the question of policy. What does this bill propose to do? Why, sir, it proposes to confer upon a single man—and I call the particular attention of the House to the importance of this—it proposes to confer upon a single man the power to be accuser, witness, judge, and executioner, at his own pleasure; and upon what plan?

If we were now about to pass a law to confer that power, in civil cases, upon any man, what would be the character of the man we should select to carry it out? If we were about to enact a law, clothing any man with that power in civil jurisprudence, what manner of man should we select, to confer this authority upon? I say, sir, that we should inquire, throughout this Union, for the wisest and purest man living; but in this case, it is proposed to confer that power upon a man in the Navy, who is a man of accident—a man who comes up to a position, not from merit, but by regular gradation. You give such a man the power to be accuser, witness, and executioner; you give him the power to place his fellow-man in double-irons for thirty days, on bread and water, if he can get the surgeon, who is also under his own power and authority, to certify that, in his opinion, the man can survive the enormity. Now, I do not know but I shall vote for such a provision as that; but it will be under some stronger and stranger argument than any I have heard yet. The gentleman from North Carolina, now occupying the chair, announced to the House, the other day, that he did not intend to help the members who had defeated this bill out of their difficulties. I am obliged to the gentleman, as much as if he had expressed his intention to help us out, if we were in any difficulty. If I had voted for such a bill as this; if I had voted against the protest of the chairman of the committee, who wanted to amend it, I might think myself placed in some difficulty; but, so long as I voted against it—and for such as I conceive to be good reasons—I do not apprehend myself in any difficulty at all. I do not feel that there is any difficulty at all, and, therefore, I do not ask any gentleman to help me out of it. But, as I said before, while it will be found by those who will take the pains to make the acquaintance of all the gentlemen in this House, that they are as intelligent, as courteous, and as prudent a set of men as ever assembled upon this floor, it will also be found that they are as independent; that they act upon their own opinions, and while they will oblige you in any courteous; application for your benefit, or that of your State, or locality, they will never be flattered or dragged into any measure that does not meet their individual approbation.

The gentleman from North Carolina [Mr. VENABLE] remarked, that in his State, a justice of the peace had the power to send an individual to prison, and, in some cases, to put him in the stocks; and that whenever he did that, all the people said "Amen." Upon an occasion, sir, when something was said about putting all things under the feet, the Apostle said: "It is manifest that he is excepted who putteth all things under his feet"—or substantially that, sir.

Now, sir, I suppose in the Old North State, when a man was put in the stocks, and all the people cried Amen, it was equally manifest that he was excepted who was so put into the stocks. Now, although I do not admire the logic any more than the taste, which brings forward an argument to show that law is necessary here because it prevails in a State; and although I cannot indorse it,

yet I must be permitted to say that this is only a verification of that declaration of wisdom which we find incorporated in the Declaration of Independence, that "mankind are disposed to suffer, while evils are sufferable, rather than to right themselves by abolishing the forms to which they are accustomed."

Sir, if you were to go into the State to which I belong, and propose, as a member of the Legislature, a law conferring upon the highest judicial power of the State authority to place a man in the stocks, and then go home and ask to be voted for for reelection, you could not find a man who would either vote for you or respect you; and yet I consider that that argument is not of very much value here.

Now, sir, not belonging to that class of men who think it best to have all temples pulled down, I propose to suggest where I think the remedy in this case should begin. I make it as a suggestion, not because I hope that Congress, at this day, will carry it out, but because I hope that Congress will this day begin to carry into the Navy of the United States that species of wise humanity which, at no distant day, will elevate it to the standard that it ought to occupy.

The gentleman from Maryland [Mr. EVANS] told us that our sailors are made up of all the jail-birds and scape-graces of the world, and that to suppose that such men could be kept in order without whaling them, and ironing them, was a supposition not only bordering upon the ridiculous, but was the very sublimity of ridiculousness.

Now, sir, is it supposed that we are to continue a policy which brings into our Navy all the scape-graces, jail-birds, robbers, and pirates in the world, to pay those men their wages out of the Treasury of the United States, and then pay our officers for spending their time in flogging, and ironing, and starving them? In my judgment it is much wiser to pursue a policy which will rid the Navy of that kind of men—to strike at this evil at its very foundation. And as a means—so far as my humble judgment goes—and I intend, as I said before, not to impose it upon this House in anything but a very modest form—I would raise the wages of our sailors to a point which will secure American citizens. When you bring into the service of the Navy of the United States American citizens, you will find what you found when you brought your volunteers into the war with Mexico—you will find a man who has a character at stake, a man who has pride, who has personal respect, and a man who will not only discharge his duty in time of peace, but will fight as long as he finds himself alive, when there is an enemy to be fought in time of war. That is the point to strike at. Then, sir, I would strike at the system by which men hold office in the Navy. Instead of bringing a man up in all cases by grade, I would elevate him by merit; instead of keeping men in the service, with no power on earth to get rid of them, who have no business there, I would provide means for quietly sliding such men out of the way as are worse than useless. Give the power of selection; let our ships be commanded by wise, skillful, prudent, humane men; let our sailors be composed of such men as you would employ yourself in your own business, and you will have no necessity for flogging a man, or double-ironing him, or keeping him on bread and water for thirty days. These are my views, in brief, upon this subject.

Now, sir, I understand that the gentleman from Virginia [Mr. MILLSON] intends to offer a substitute for this bill; and although it does not come up to my views of what ought to be done, I shall have no difficulty in supporting it. If I correctly understand it, it is better than the law of 1800, to which I have called the attention of the House. It is more humane. It takes from the bill which is now before us, those arbitrary powers in the hands of a single man—that man, as I said, selected by accident, and not for merit, to wield those powers, and like the law of 1800, leaves them in the hands of courts martial. On this point I concur entirely with the gentleman from Virginia. I expressed myself so the other day, and I cannot let gentlemen here place me in a false position. I am willing now, to-day, to vote to reconsider the vote by which this bill was defeated, and to give the House—so far as my vote goes—the fullest opportunity to proceed upon the con-

sideration of this subject, carefully. I am willing to make all necessary concessions to support, as far as the little power which I possess goes, a bill which shall give as complete discipline to the Navy as it is possible to give, until the suggestions which I have made shall be carried out, and you reach this evil at its very foundation; for I am willing to venture a prediction to-day, that this evil never will be overcome until you take measures to secure such men as need no flogging, because they have character and self-respect to take care of, and sustain.

Now, sir, in illustration of the point which I am now upon, the gentleman from Maryland [Mr. EVANS] very happily, historically, but very unfortunately for his argument, told us that the men who fought on board the "Constitution" were officers—that the crew was chiefly made up of officers. Mr. Speaker, that is the reason why that glorious victory was won. Do you suppose that if, instead of that sort of a crew, jail birds from all God's creation had composed it, that action could have been thus brilliantly fought and won? No, sir, experience comes in to sustain the theory that if you are to have an efficient Navy, it must be a high-minded and an honorable Navy.

Now, sir, there is another thing that found its way into this bill, and constituted not only one of the emergencies, but probably constituted the only emergency for pressing it through the House under the power of the previous question, and endeavoring to force it down our throats, and that is the pension provision in it. And, sir, it is a little remarkable to me, that certain gentlemen could have so miraculously changed their tone of argument. One would have supposed, when those gentlemen were taunting us with entertaining "a sickly sentimentality," that they constituted that portion of mankind so accurately described in the psalm:

"Who know what's right, nor only so,  
But always practice what they know."

And yet they turned around upon us in an instant, and told us that it was monstrous that we should object to paying the poor sailor, after he had been twenty years in the service, and placing him on the pension list. Now, I do not know why a man should be pensioned for the length of time he has been in service. We have got no such principle in our law of pensions. We have never yet adopted any such principle, and I can see no reason why we should. We give men pensions who have been injured in the service in health, or limb, or both. Men enter the Navy at fifteen years old; they stay twenty years, and if their health is good, they are in the very prime of life; and yet you propose to give them pensions. You propose, also, to give them three months' extra pay. Well, I do not object to that, if you cannot do better. I would rather give the men extra pay every month, for the purpose, as I said before, of securing the very best men. But if that cannot be done, I will give the man extra pay who has done well, and behaved himself in the service of the Navy of the United States.

But I ask, again, for what reason—upon what principle of public policy—will you pension a man simply in regard to the time he has been in the service, without any regard to his necessity? Sir, in my judgment, there is no reason, and it only goes to show what mere quackery in legislation will sometimes lead gentlemen to propose. Instead of striking at the root of this evil—instead of cutting this thing up from the bottom, and placing men in the service who have reputation and character sufficient to induce them to behave themselves, you propose to spend your time in hammering, beating, and bruizing a part, and putting the rest on pensions.

Now, sir, having done all I desired to do; having stated briefly the reasons which induced my opposition to this bill, and why I think there is no immediate, pressing necessity for anything that is temporary and partial in its character, I propose to leave the subject, with a simple declaration, which is, that there is an existing necessity for conferring somewhere, upon some committee—and I think it most properly belongs to the Committee on Naval Affairs—not only the power, but imposing upon them the duty, to revise and remodel the whole system connected with the discipline, rank, place, and pension, in the Navy; to sweep from it all that does not belong there; to provide for raising up officers of merit, and for turning out those

who are a disgrace to it; for elevating the character of the officers, and for elevating the character of the sailors; and for placing the Navy of the United States in the same relative position with the other navies of the world, which the people of the United States now occupy with regard to the people of other nations. Then, and not till then, do I believe you will have a Navy such as shall be needed for efficiency whenever the occasion shall demand.

Mr. MILLSON. As this motion to reconsider has been fully discussed, and as I believe there is a general concurrence upon all sides as to the propriety of reconsidering the vote by which this bill was rejected, and as I propose—as the gentleman from Michigan [Mr. STUART] has stated, if the House shall reconsider that vote—to introduce a substitute for the whole bill, upon which any further discussion that may be necessary may take place, I now demand the previous question.

The previous question then received a second.

Mr. CABLE, of Ohio. Will it be in order now to move to lay the motion to reconsider upon the table?

The SPEAKER. It is in order.

Mr. CABLE. I make that motion.

Mr. MILLSON. I rise to a question of order. I ask of the Chair whether the previous question has not been seconded?

The SPEAKER. It has.

Mr. MILLSON. Then I submit that a vote must be taken on ordering the main question before the gentleman can move to lay the motion to reconsider upon the table.

The SPEAKER. The Chair decides that a motion to lay upon the table is always in order before the decision has been announced by the Chair.

The question was then put, and decided in the negative.

So the motion to reconsider was not laid upon the table.

The main question was then ordered to be put.

The question was then taken, and the vote by which the bill was rejected was reconsidered.

Mr. MILLSON. I now move to reconsider the vote by which the bill was ordered to a third reading.

The question was taken, and the vote was reconsidered.

Mr. STUART. It is necessary, also, as I understand it, to reconsider the vote by which the previous question was ordered.

Mr. STANTON, of Tennessee. Certainly not. That was exhausted when the question was put upon the passage of the bill.

Mr. STUART. It was decided by the Speaker, the other day, that it must be reconsidered.

Mr. STANTON. I insist that it is unnecessary.

The SPEAKER. It has been the practice of the House heretofore to reconsider such motions.

The question was then taken, and the vote by which the previous question was ordered was reconsidered.

Mr. MILLSON then obtained the floor.

Mr. BRIGGS. I ask the gentleman to yield in order to enable me to move that the bill be recommitted to the Committee on Naval Affairs.

Mr. MILLSON. I cannot yield for that purpose.

Mr. Speaker, when I made the motion to reconsider the vote by which the House rejected this bill, I did not suppose that it would involve the responsibility of any further action on my part. I am not especially familiar with the subject of naval affairs. I have not the honor to occupy a place upon the Naval Committee, and I did not suppose that more would be expected of me in reference to any future action of the House than from any other member of the majority which defeated this bill. Learning, however, from some members of the Naval Committee that if the subject were recommitted to them, they probably would not alter their action upon it; and wishing the House to have the opportunity of giving effect to what seemed to be the views of a decided majority, I voluntarily assumed the responsibility of preparing a substitute, which I shall presently offer for the consideration of the House. I by no means suppose that this substitute will remedy all the defects existing in our naval establishment, nor remove the objections which for fifty years past have been urged against the articles of war, by

which this branch of our service has been regulated. I design it merely for the present emergency. I intend it only as a substitute for the bill introduced by the Committee on Naval Affairs, which recently passed the Senate for the especial purpose of enforcing discipline in the naval service. I concur entirely in the sentiment expressed by the gentleman from Michigan, [Mr. STUART], that much will still remain to be done; and he will entitle himself to the gratitude of his country who will undertake the great work of reforming the code regulating our naval establishment.

The substitute which I shall offer is founded, in a great measure, though not exclusively, upon a bill prepared, as I understand, by a board of naval officers that met in the city of Washington some twelve or eighteen months ago, and which passed the Senate during the last session of the Thirty-first Congress. That bill was again reported to the Senate by the Committee on Naval Affairs, during the present session of Congress; and I am very much inclined to suspect that the Senate, when they passed the bill which came to us a few days ago, supposed they had only reenacted that bill which had received their almost unanimous sanction and approbation at the last session of Congress. This bill was called up by a member of the Naval Committee in the Senate, as the same that had passed that body unanimously, and he proposed certain amendments, which the Committee on Naval Affairs had instructed him to offer. These amendments, however, entirely changed the whole character of the bill, leaving scarcely a single feature of the original bill remaining. The substitute, then, which I have framed, incorporates nearly all the provisions of the original Senate bill that I deemed valuable. There are some verbal and some substantial alterations I have thought proper to make, to which I shall presently invite the attention of the House. Before I enter upon an explanation of my own proposition, however, permit me to say a word as to the character of the House bill, or rather the Senate bill, which was rejected by this House a few days ago.

The gentleman from Michigan [Mr. STUART] has very properly said that all the powers proposed to be conferred by this bill are given to the commanding officer. But he did not state what was the character of the power it proposes to confer.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, their Secretary, announcing the passage of sundry bills by that body.]

Mr. M. continued. I will call the attention of the House to some of the extraordinary provisions of this bill. They are not only arbitrary, but utterly vague and indefinite. It proposes to confer upon any commanding officer of a vessel, not only a captain, as stated by the gentleman from Michigan, but upon any commanding officer, the power to diminish the rations of petty officers and others of inferior ratings. Diminish them how much? Sailors' rations are regulated by law. The law prescribes the quantity to be distributed to each man. How much is the commanding officer to be permitted to diminish the ration of the sailor? It proposes to give to the commanding officer the power to restrict the sailor to a diet of bread and water. How long? There is no limitation upon the power of the commanding officer thus to restrict him. And this bill would, therefore, confer upon every commanding officer the extraordinary power to restrict the diet of the sailor to bread and water during a whole cruise of three years. If there be any restraint upon his authority in this respect, it certainly is not to be found in this bill. It also confers upon the commanding officer power to discharge from the service, with a bad-conduct discharge, any petty officer or sailor. Where there is no limitation to the power to discharge the sailor, and for ought this bill contains, such discharges may take place upon the coast of Africa, or in some other desert, unfrequented, and inhospitable part of the world, where the sailor may be left to perish.

I will not say anything now about the extraordinary power given to punish by solitary confinement for thirty days, in double-irons, and on bread and water. I expressed my views upon this subject a few days since. But, sir, though bad begins, yet worse remains behind. This bill authorizes any commanding officer in the Navy

not only to inflict the several punishments which I have mentioned, but it gives him authority to impose them all together, for it expressly states that "the commander of any vessel in the Navy, or of any shore station, shall have authority to 'punish offences committed by petty officers, and persons of inferior ratings, by any one or more of the following punishments.'" Hence, if any petty officer shall be so unfortunate as to incur the displeasure of his commander; if he shall be guilty of some real or fancied incivility; if he shall in any way be so unhappy as to stir up the vindictive passions of the person set to command him, see the extent of punishment authorized by this bill to be inflicted upon him by that commanding officer. He may, after having adjudged the case, and pronounced the culprit guilty, address him in these words: "I sentence you to be reduced from your post of petty officer. You shall, moreover, forfeit three months of your pay"—a sum amounting in some cases, perhaps, to sixty or seventy-five dollars—"you shall then suffer confinement for two months from this day; at the expiration of that period, you shall be placed in solitary confinement for thirty days; at the end of that time you shall be kept in solitary confinement in double-irons for thirty days more; at the expiration of that term you shall remain in solitary confinement in double-irons, upon bread and water, for a further period of thirty days; and then you shall be discharged with a bad-conduct discharge, in some remote and inhospitable part of the world." Such might be the sentence, though it is not likely that this would be the language used to convey it. Now, I ask the gentlemen who support this bill, could they have understood these monstrous provisions when they gave their votes? My friend [Mr. BOCKOCK] says there are no such provisions.

Mr. BOCKOCK, (interrupting.) I would ask the House to hear me upon this subject at a future time. The gentleman tells us that a man may be put into solitary confinement for something like three months, when there is in the bill an express clause saying that it shall not extend beyond thirty days.

Mr. MILLSON. No, sir; not so.

Mr. BOCKOCK. "Provided no such confinement shall continue more than thirty days."

Mr. MILLSON. That refers to solitary confinement in irons, upon bread and water, and to each distinct and separate punishment by solitary confinement. But I stated in my enumeration of punishments, that they are cumulative, and that each separate punishment could be inflicted in its order, no one of them extending beyond thirty days—the punishment by solitary confinement for thirty days; solitary confinement in double-irons for thirty days; and solitary confinement in double-irons upon bread and water for thirty days. Each of these different punishments may be added to the original sentence. But to make this matter perfectly clear, I call the attention of my friend—and I am glad to know that he has expressed the views which he has just now intimated, for I know too well the generous impulses of his heart to suppose that he did not understand this bill, as he declares he does, he would never have given it his sanction—I would call the attention of my friend to the provision in the Senate bill, for which this is a substitute, in which it was expressly said, "And such commanding officer may combine any two of these punishments, at his discretion." That was the language of the original bill. The amendment of the Senate, however, strikes out this provision which limits the punishments to "any two," and gives him the authority to inflict any one or more of these punishments at his discretion. And all this is to be done without requiring any record to be kept; without demanding that the testimony upon which the culprit was found guilty shall be reduced to writing, or that the punishment itself shall be reported to the Navy Department. I ask, are these powers such as ought to be confided by a republican Government to any one man living? Sir, I have no hesitation in saying, that so far as I am informed, there is not a naval establishment in the world, in which these arbitrary powers are possessed by the highest officers in it; and I think I might say, without exaggeration, there are not ten men in the whole of Europe, even including those absolute monarchs whose will stands in the place of law, who possess such authority as is pro-

posed to be conferred by a republican Congress upon subordinate officers in your Navy.

Now, I do not say all this by way of reproach to the committee who reported this bill. Very far from it. I know they did not put that construction upon the bill which I have given it. I am ready to believe that if they supposed it conferred the powers which necessarily result from it, they never would have given it their sanction. But I ask gentlemen on the other side, who have lamented the defeat of this bill, and the gentleman from North Carolina, [Mr. VENABLE,] who supposed that the majority, in rejecting it, had gotten themselves into a difficulty, from which he would not assist to extricate them—I ask them, if any gentleman has got himself into difficulty, on this subject, upon which side of the question will he be found? The bill was hastily examined, and imperfectly understood, or I am confident it would not have received the approbation of one fifth of those who gave it their vote.

It may be said, however, that these powers will probably not be abused by the officers of our Navy. Perhaps not. I do not think they would often be abused. I have the pleasure of an intimate acquaintance with very many gentlemen of the Navy. Among them I reckon many of my most valued friends. I know their good qualities; I admire their generosity of disposition, and I bear cheerful testimony to those virtues which have endeared so many of them, and the institution to which they belong, to the American people. I have not said one word about tyranny or cruelty, although the gentleman from Maryland [Mr. EVANS] was really eloquent a few days since in defending the officers of the Navy against attacks which certainly, so far as I heard, no gentleman has made against them.

But still the question is, ought such powers to be conferred upon any one man, in the blind confidence that they will not be abused? Are not we jealous, and, as a republican people, ought we not to be jealous, of conferring authority, unrestricted and unlimited? How, then, if these be the features of the bill, can the gentleman from Maryland [Mr. EVANS] say, that its rejection was the offspring of a misdirected philanthropy? The gentleman himself, on several occasions during this debate, was pleased to say that he did not approve the provisions of this bill, but that he thought it not greatly wrong, and preferred to take it, rather than there should be no discipline in the Navy. It was because the Congress of the United States were unwilling to confer too much discretion upon any commanding officer of the Navy, and not so much, perhaps, on account of their repugnance to the mode of punishment, that they abolished flogging altogether. They considered that the power to inflict stripes upon any man in the naval service, was too great to be confided to any one person. Now, Mr. Speaker, upon that subject, my views do not greatly differ from those of the gentleman from Maryland [Mr. EVANS] himself. He would not restore the punishment of flogging, except upon the condition it should be adjudged by a naval court-martial. If restored, however, it should be reserved for crimes or offenses of an infamous nature, some of which are still punishable in this mode in several of the States. But I confess my repugnance to the application of this species of punishment to trivial breaches of discipline, involving no depravity of heart, and but little moral culpability.

The gentleman said that very many of the good sailors of the Navy themselves prefer the restoration of flogging. I do not know how the fact may be, but I am not much disposed to contest the point. I think it exceedingly probable that some of the sailors do prefer the restoration of the lash; but it was not because of the presumed wishes of the sailors that Congress abolished this mode of punishment; and I do not think very much regard will be paid to their wishes in respect to its restoration. The people of France have recently expressed their willingness that Louis Napoleon should be their master; but we are not likely to become enamored of the despotic system which prevails there, because it has been established with the consent of the people. No, sir, we ought to give such laws to our Navy as shall bear a relation to the genius of our Government—as shall be in harmony with the principles of our republican institutions; and in providing these laws, we are not necessarily bound to consult the prefer-

ences of those, if there be any, whose sensibilities have been blunted by the very system of punishments which they may wish to restore.

Within a few days past I received a pamphlet, entitled "The Naval Institutions of a Republic." Its author is Dr. Wood, a distinguished surgeon of the Navy. I will read from it a short extract, illustrating some of the views I have endeavored to present:

"The population of a republican navy consists of the efficient power of the crews, or men, and officers to direct and control it; both equally citizens of the commonwealth which they serve, in different but associated capacities. The arrangements should be such as would secure, in all grades, the best talent, and mental and physical energies, which the country can produce. The relations between these grades, their dependence one upon the other, should be just that which would best accomplish the national purpose, for which the Navy is organized and paid, and in nothing should the one be made tributary to the personal pride and arrogance of the other. Definite laws should protect the rights of the inferior, or commanded class, and restrict the exercise of the controlling power to its legitimate use."

The substitute, Mr. Speaker, which I propose to offer, provides for the establishment of summary courts-martial for the purpose of trying all of those offenses deserving greater punishment than a commanding officer is now authorized to inflict of his own authority, and yet not sufficiently severe to require a general court-martial; it directs that these summary courts-martial shall consist of not less than three commissioned officers; and in this particular it differs from the plan originally adopted by the Senate. That bill proposed, that when three commissioned officers could not be had, officers of or above the grade of passed midshipman, might be detailed as members of the court. I have thought it best to confine the court in all cases to commissioned officers.

I propose that all testimony given before that court shall be given under oath or affirmation, and shall be delivered in the presence of the party accused, who shall be allowed to interrogate the witness. No such provision was expressly made in the original Senate bill. I then propose, sir, to give to this summary court-martial the power to inflict any one of the punishments named in the substitute, according to the nature and degree of the offense, and not any one or more. I have thought that in reference to a discharge from the service, a bad-conduct discharge—

Mr. STANTON, of Tennessee. Will the gentleman allow me to ask him a question in regard to that? I will preface my remarks, Mr. Speaker, with this statement, if the gentleman will allow me. If it were possible, in my judgment, to organize a court summary, or of any other sort, upon the quarter-deck of a ship, so as to inflict this punishment, under the circumstances when it is necessary to inflict it, I should be as ready as any other gentleman upon this floor to vote for such an arrangement. Now, I ask that gentleman, whether, in organizing these courts, according to his bill, he intends to give the sailor a right to a fair trial? I inquire of him whether he intends to give the right to the sailor of cross-examining, and calling up, as many witnesses as he pleases? and whether it would be possible, with this arrangement, by which the sailor should have all the rights which belong to a citizen before a court-martial, to maintain discipline in the Navy in those emergencies which this bill was intended to meet?

Mr. MILLSON. I respond to the inquiry of the gentleman, and answer that it is most unquestionably the object of the substitute to secure to the sailor a fair trial; and though the gentleman thinks such a trial cannot be secured upon the quarter-deck of a ship, yet I beg leave to suggest to him, that the very bill which originally contained this provision, was framed by a board of officers, as I understand, (I do not mean to say they acted officially, though I believe they did,) convened in the city of Washington, some twelve or eighteen months ago; and they saw no such difficulty as that which the gentleman imagines.

Again: I take the opportunity of saying that I have conversed with very many officers of the Navy, and they desire the establishment of such a tribunal as this; and so much had I at heart the establishment of this summary court-martial, that two years ago, when the punishment by flogging was abolished in the Navy, I endeavored in vain, on two or three occasions, to offer an amendment by which that object might be secured. I mean the establishment of the summary court-martial.

The honorable gentleman from North Carolina, [Mr. STANLEY,] over the way, will perhaps remember that I then submitted to him an amendment which I had at that time prepared, for the purpose of offering it, if I could have had an opportunity of doing so; but the debate having been closed on the bill, except under the five minutes rule, which allowed no discussion of anything but pending amendments, I never had it in my power to submit it. I state to the gentleman from Tennessee, that it is not so impracticable as he supposes to organize a summary court-martial. Whence the necessity for the summary court-martial? It proceeds altogether from the difficulty of convening a general court-martial. For what purpose is a summary court-martial to be organized? The authority given to a commanding officer, as the gentleman from Michigan has already demonstrated, is sufficiently great to enable him to correct those ordinary offenses which involve a simple breach of discipline; and it is only for those offenses which require serious investigation that even a summary court-martial is necessary at all.

But, sir, while cases of this kind frequently occur on ship-board, yet if the vessel, though without the limits of the United States, be not attached to a squadron, and there be no officer authorized to convene a general court-martial, or if the vessel be in some distant part of the United States—on the Pacific coast, for instance—where only the Secretary of the Navy could convene a general court-martial, no trial can be now had, except after great delay. The object of this provision, then, is to give to the commanding officer the power to avoid all those delays, by convening a summary court-martial, to consist of three commissioned officers; and most unquestionably I would secure, in a trial before a summary court-martial, all those rights and privileges which are essential to the inquiry whether the accused be guilty or not guilty of the offense laid to his charge. The right to summon his witnesses should unquestionably be secured to him, for it would be a mockery, indeed, to convene a court-martial for the purpose of determining the guilt or innocence of the accused, and yet deny him the privilege of summoning the witnesses who may testify on his behalf, and even of cross-examining those brought forward by the prosecutor.

Sir, the summary court-martial is analogous to that provision in our Army, by which a garrison court-martial may be convened, by order of the colonel commanding the regiment. The powers of the garrison court-martial are not as broad and general as those bestowed by law on the general court-martial, and so I do not propose to give to the summary court-martial the same extent of jurisdiction which is now vested by law in a general naval court-martial. The punishments, then, to be inflicted by the summary court-martial are, discharge from the service with bad-conduct discharge, provided, however, that no person shall be discharged in a foreign country without the approval of the commanding officer of the squadron to which the person discharged may be attached. I think that a wholesome and necessary restriction, preventing the commanding officer from leaving in some solitary part of the world any unfortunate man who might have incurred his displeasure. I do not say that any commanding officer would so abuse his authority. I do not think it at all likely that any one would do it. I am not considering the subject in that point of view; but it would be degrading to the feelings of any man in the Navy of the United States to know that the laws had vested such authority in his commanding officer, whether he might be disposed to exercise it or not. You have many humane commanders in the Navy, but it is possible that now and then you might find a tyrant. The continuity of Trajan and the Antonines might be sometimes broken by a Commodus.

Solitary confinement in irons is one of the provisions of this bill, but not exceeding thirty days. In other words, I retain the punishments contained in the bill recently rejected, modifying one of them, however, only to the extent of not allowing a confinement on bread and water, to be accompanied with a confinement in double-irons. I omit, also, the punishment of the ball and chain. The remaining provisions in the bill do not greatly vary from the bill reported to the House by the Committee on Naval Affairs. I have, however, stricken out all that portion of the Senate bill—I speak



now of the original Senate bill, which passed that body at the last session of Congress—that gave authority to the commanding officer, to punish by solitary or other confinement. I do not deem that necessary, because my friend from Michigan [Mr. STUART] has already well shown that these powers are at this time within the discretion of the commanding officer. The power to impose extra police and other duty, I omit, because that also is with the commanding officer at the present time. The right to withhold permission to leave the ship on liberty is also given to the captain by the existing law.

I do not, then, by this substitute, confer upon the commanding officer, any additional power, or rather the powers specifically mentioned here, because, in point of fact, it would not except in two cases, be conferring any new authority upon him, and in these cases I confess I am unwilling to give him any such power, and that is the power to diminish the rations of the sailor, and to restrict his diet to bread and water. I prefer to leave the commanding officer to the exercise of the authority vested in him, as my friend from Michigan [Mr. STUART] has so clearly shown by the act of 1800; and I will not consume the time of the House by repeating his argument, although I had brought the book with me for that purpose. By the articles of war adopted in 1800, he has all this authority already, and the difference between that authority so conferred in general terms by the act of 1800, and the special authority proposed to be conferred by this bill is this, that where this power is now exercised by the commanding officer to put the sailor in solitary confinement, or in irons, it is exercised at his own peril, and upon his responsibility to the military and civil tribunals of the country. I prefer to leave the power so guarded and restrained.

Mr. STANTON, of Tennessee. I understand the gentleman to say, that the power now exercised by an officer is under responsibility to the civil tribunals of the country!

Mr. MILLSON. Unquestionably.

Mr. STANTON. That is unquestionably true. I ask if the exercise of power given by this bill would not be precisely under the same responsibility?

Mr. MILLSON. Certainly not; and I will state the reasons.

Mr. STANTON. The power now given to a commander of a ship to confine in irons is given by law. This bill does nothing more.

Mr. MILLSON. The gentleman will pardon me, but this bill does a great deal more. The power given by the articles of war passed in 1800 confers a general authority upon a commanding officer to confine his men. The gentleman agrees with me in the opinion that he exercises that power with due responsibility to the civil and military tribunals of the country; but where authority is given, as proposed by this bill, to adjudicate a crime and inflict a specific punishment by confinement not exceeding three months, on bread and water, and in double-irons, then I say that there is an express limitation of the power; and the officer, if he does not transcend these prescribed limits, is not liable to any other jurisdiction, even if it can be shown that he has erred in his sentence. He is not liable to any other jurisdiction for inflicting a punishment that is within the prescribed limitation, and which he deems necessary for the punishment of the offense. There is a clear distinction between the two cases. So long as you confer upon any officer in the Navy the right to inquire and determine whether a man is guilty—a right to inquire and determine whether his punishment shall be solitary confinement, not exceeding thirty days—then I say, if he does not exceed the prescribed limits, he is not amenable to any other jurisdiction; because, if he has erred, it is only an error of judgment, for which he is not responsible to any court upon earth.

Mr. STANTON, of Tennessee. With the permission of the gentleman—

Mr. MILLSON. I would be glad to hear my friend, but I have some few observations to make in reference to another part of the bill, which I would not like to be deprived of the opportunity of discussing. My remaining time will only allow me to call the attention of the House to another feature in the bill, to which, as I understand, there were very general objections, at least among those who voted against the bill—and that is, the

power conferred by it to give the sailor after a service of twenty years, a pension of half-pay for life, I omit that provision in the bill altogether. I omit it, not from any indisposition to provide for the wants of the sailor—not because I am unwilling to secure to the veteran for those rewards which, after a life of hard service, he may deserve—but because I believe that the passage of that section of the bill might really operate to deprive him of many privileges which he enjoys at this time. There is no necessity for it at all. I have here a copy of the regulations for the United States Naval Asylum. The first article of the existing regulations provides that “it is the object of the asylum to provide a comfortable home for disabled and decrepit naval officers, seamen, and marines, who may be worthy beneficiaries of the country.” The third article secures admission to such as may produce evidence of twenty years’ service in the Navy. The seventh article provides an allowance of three dollars per month for clothing; and the eighth and ninth secure additional allowances, amounting in some cases to three dollars per month, for pocket-money.

I need not read the whole of these articles. Suffice it to say, that under existing regulations of the Navy Department, any sailor who stands in need of these benefits, and who has served twenty years faithfully, is entitled to admission into the Naval Asylum. What need of any further provision upon that subject? It does not secure him half-pay for the residue of his life, but it secures him a subsistence, and supplies him with a sufficient sum to purchase his clothing, and gives him money besides, for his reasonable and ordinary expenses. What need is there of giving half-pay to a sailor who is supported and clothed by the Government, and who has no occasion, or ought to have none, for spending money in any other way?

Mr. FLORENCE. I will state to the gentleman that the law, or rule, governing the admission of seamen into the Naval Asylum has been changed within a year or two. A very short time ago, the time of service was fixed for fifteen years, and a person who had been in the naval service of the United States was, after fifteen years’ service, entitled to admission in the Naval Asylum. I suppose that the regulations which the gentleman reads from are not the last.

Mr. MILLSON. They are.

Mr. FLORENCE. I will state for the gentleman’s information—

Mr. MILLSON. I have only a few minutes left—

Mr. FLORENCE. I wish but a moment or two, in order to correct the gentleman. There is very great complaint, whether reasonable or not, I cannot say, as to the regulations that have been made by the superintending power of the Naval Asylum. They have been changed, and may be again, unless fixed by law, and other changes may extend the time of service to forty years. I presume the gentleman was not acquainted with the fact that changes had been made. I felt it my duty to state what I have.

Mr. MILLSON. I am perfectly acquainted with the fact stated by the gentleman, that these regulations are not fixed by law. I have examined the statutes with express reference to that subject. I will state to the gentleman that I obtained these regulations from the Secretary of the Navy, who handed them to me, that I might know what the existing regulations were for admission into the Naval Asylum. They are dated the 1st of July, 1851, and signed by Mr. Graham. I say that these regulations now give to all sailors who have served twenty years, and require the aid of the Government, the privilege of entering the naval asylum, where they are furnished with clothing, and have all their reasonable wants supplied. I think these provisions are enough. The bill which was rejected the other day, could not operate advantageously to the sailor until after a period of twenty years, because it only provides for the admission of the sailor into the Naval Asylum after he shall have served twenty years, with good-conduct discharges. According to that provision in the bill, therefore, he could never have been admitted at all until after the lapse of twenty years, and he would have been obliged to fall back upon the regulations of the Department until after the lapse of twenty years.

Mr. FLORENCE. There is no regulation for continuing him there; for there have been, during

this winter, two sailors turned out to the cold charities of the world, and if it had not been for the extraordinary exertions made to get one of them back—as only one was got back—he would have been an inmate of the almshouse. He was between sixty and seventy years of age. I state that fact to show the necessity of some enactment by which the sailor may be secured in his snug harbor.

Mr. MILLSON. The gentleman must recollect that the same abuses might exist under the system proposed; for if, in the course of twenty years, one single good-conduct discharge should be refused by the commanding officer to a meritorious sailor, it would as effectually exclude him from the Naval Asylum, under the law proposed, as any abuse under the old system.

I have only to say, in conclusion, that the substitute which I propose to offer, provides for securing to the commanding officers of the Navy all the authority which the present law confers upon them. I think it adequate to the suppression of such offenses as do not require investigation before either a general or a summary court-martial. Large latitude is allowed to commanding officers; much discretion is already given to them, and I do not wish, therefore, to add to that authority; but, at the same time, I have not thought it at all proper to take it from them.

Mr. BOCKOCK next obtained the floor.

Mr. HOUSTON. I would suggest to the gentleman from Virginia who now has the floor, as I have no doubt the members of the House desire to see the substitute printed, whether it would not be better to postpone the further consideration of this bill for the present—say till to-morrow morning.

The SPEAKER. A motion to commit would keep the bill from going over.

Mr. MILLSON. I have sent my substitute to the Clerk’s table for the purpose of having it read; but if it is the pleasure of the House to postpone the further consideration of the subject, of course I acquiesce.

Mr. BOCKOCK. I desire to be heard in relation to the bill now under consideration before the House, as passed by the Senate and reported to the House by the Committee on Naval Affairs; but the particular time at which I shall be heard is not an important matter to me, so it be as speedily as possible. I wish to reply to the arguments which have been presented by my colleague, [Mr. MILLSON;] and the gentleman from Michigan, [Mr. STUART.]

Mr. JOHNSON, of Tennessee. I would suggest to the gentleman, if he is not particular about the time, that he should move to refer the bill to the Naval Committee, and then move to go into the Committee of the Whole on the state of the Union. It would then come up in the morning as the unfinished business.

Mr. BOCKOCK. I should prefer, for the convenience of the House, that the substitute of my colleague should be printed; and, in order to have an opportunity of doing that, I now move that the subject be recommitted to the Committee on Naval Affairs, and that the substitute of my colleague be printed.

Mr. STANTON, of Tennessee. I want to submit the original bill, in a modified form, as a substitute for the substitute of the gentleman from Virginia, and I should like to have it printed also.

The two substitutes were then ordered to be printed.

#### HOMESTEAD BILL.

On motion by Mr. BOCKOCK, the rules were then suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN stated, as the business before the committee, House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting to every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified; upon which the gentleman from Indiana [Mr. DUNHAM] was entitled to the floor.

Mr. DUNHAM addressed the committee an hour in favor of the principle of providing, out of the public domain, homesteads for the landless—maintaining that such a policy would be not only

morally right, but would conduce to the wealth, the power, and the happiness of the nation at large. [His speech will be found in the Appendix.]

Mr. WARD here obtained the floor, but yielded it to

Mr. LETCHER, who moved that the committee rise.

[Cries of "No!" "No!" "No!"]

Mr. POLK. I demand tellers upon that motion. I do it out of no discourtesy to the gentleman, but there are other members who would like to speak to-day, if it be not the wish of the gentleman from Kentucky to occupy the floor.

Tellers were not ordered.

The question was then taken upon Mr. LETCHER's motion; and upon a division there were ayes 48, noes 38.

So the committee agreed to rise.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the homestead bill, and had come to no conclusion thereon.

Mr. POLK. I move that the House resolve itself into the Committee of the Whole on the state of the Union. I do it for the purpose of having this bill discussed. If we have but one speech upon this bill each day, we will never reach a final vote upon it. I do not desire to appear, in the least, discourteous to the gentleman from Kentucky [Mr. WARD] who has obtained the floor.

Mr. MARSHALL, of Kentucky. I rise to a question of order—

Mr. POLK. And there are gentlemen here who desire to discuss the merits of the question.

Mr. MARSHALL. The motion the gentleman makes is not debatable.

The SPEAKER. Does the gentleman from Tennessee [Mr. POLK] submit a motion?

Mr. POLK. I submit the motion that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CAMPBELL, of Ohio, moved that the House adjourn.

Mr. HART demanded the yeas and nays upon that motion.

Mr. CAMPBELL withdrew his motion.

Mr. LETCHER renewed it.

The yeas and nays were again demanded, but not ordered.

Mr. HOUSTON. I wish to ask the gentleman who made the motion to adjourn, if he will withdraw it until we can refer the bills upon the Speaker's table? There are important bills there, and they ought to be referred.

The SPEAKER. Any debate upon the question is out of order.

Mr. HOUSTON. If the gentleman will withdraw his motion, then I will make the motion to take up the bills upon the Speaker's table.

The SPEAKER. Does the gentleman from Virginia withdraw his motion?

Mr. LETCHER. No, sir.

The yeas and nays were not ordered.

The question was then taken, and agreed to—ayes 58, noes 33.

The House then adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CURTIS: The petition of sundry citizens of Clarion and Jefferson counties, praying for the establishment of a post route from Curllsville to Corsica, in Jefferson county.

Also, the petition of the citizens of Warren county, Pennsylvania, praying an appropriation for the improvement of the Allegheny river.

Also, the petition of Frederick G. Carey, son of Frederick Carey, deceased, praying compensation for vessels captured by the French in 1801.

Also, the petition of the citizens of Potter county, Pennsylvania, praying for the establishment of a mail route from Clara post office to Ellensburg, via Oswayo, in said county.

By Mr. PARKER, of Indiana: The petition of J. S. Simonson, in relation to horses lost in the military service of the United States.

By Mr. DOTY: Joint resolutions of the Legislature of Wisconsin, in favor of an appropriation for a canal around the Sault Ste. Marie, in Michigan.

By Mr. HARPER: The memorial of Samuel Patterson, William Sudeon, and 51 others, citizens of Guernsey county, Ohio, praying that the Wheeling and Belmont bridges may be established as post roads, and permitted to remain at their present height.

By Mr. EASTMAN: Resolution of the Legislature of the State of Wisconsin, in relation to a ship canal around the Sault Ste. Marie, between Lake Superior and Lake Huron.

Also, the petition of citizens of Lafayette county, Wisconsin, for a mail route from Shullsburg to Mineral Point.

By Mr. MACE: The remonstrance of E. H. Halliday and 65 others, citizens of Lafayette, Indiana, against the extension of the Woodworth patent.

By Mr. —: The petition of citizens of Northampton, Fulton county, New York, praying a donation of public lands, &c., in aid of the Sackett's Harbor and Saratoga Railroad.

By Mr. MINER: The petition of Abram Drury, assistant marshal for thirteenth subdivision, State of Vermont, for extra compensation for taking the Seventh Census.

By Mr. CABLE, of Ohio: The petition of the directors and stockholders of the Steubenville and Indiana Railroad Company, for a portion of the public lands for the aid of the completion of said road.

Also, the petition of E. McGuire and 100 other citizens of Carrollton and vicinity, for a mail route from Carrollton to the Wellsville and Cleveland Railroad at Bayard, Ohio.

#### IN SENATE.

WEDNESDAY, April 7, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. WELLER presented a petition of citizens of Fayette county, Indiana, praying that the public lands may be granted in limited quantities to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Also, five petitions of residents of San Francisco, California, praying the remission and refunding of duties on foreign merchandise destroyed by the great fires in that city in the years 1850 and 1851; which were referred to the Committee on Finance.

Mr. SEBASTIAN presented the petition of William Moss and Matthew Moss, praying a higher rate of compensation than that allowed them in consequence of a mistake in their proposals for carrying the mail; which was referred to the Committee on the Post Office and Post Roads.

Mr. BRADBURY presented resolutions of the Legislature of Maine, recommending that the assistance of the Government be extended to the European and North American Railway Company; which were ordered to be printed.

Mr. CASS presented two remonstrances of citizens of Detroit, Michigan, against the further extension of Woodworth's patent for a planing machine; which were referred to the Committee on Patents and the Patent Office.

#### FUGITIVE SLAVE LAW.

Mr. HALE. I hold in my hand, and have been requested to present to the Senate, two petitions of inhabitants of Pennsylvania—one of them very numerous signed—for the repeal of the fugitive slave law. I had intended, in presenting them, to address some remarks to the Senate as to the practical operation of that law—as to the board of official ten dollar judges, who have been spawned into existence by it—as to the reptiles in the shape of attorneys and witnesses that it has called up. But as the whole subject in relation to all the compromise measures will be before the Senate in a few days, I intend to defer until that time what I have to say; and let the petitions take the usual course.

The PRESIDENT. They will lie upon the table.

#### REPORTS FROM STANDING COMMITTEES.

Mr. NORRIS, from the Committee on Patents and the Patent Office, to which was referred the petition of Gideon Hotchkiss, praying an extension of a patent granted to him for certain improvements in water-wheels, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. WALKER, from the Committee on Revolutionary Claims, to which was referred the petition of Eliza M. Evans, praying to be allowed interest on a sum of money advanced by her father, Colonel Anthony Walter White, during the revolutionary war, submitted a report, accompanied by a bill for the relief of the legal representatives of Anthony W. White, deceased; which was read and passed to the second reading. The report was ordered to be printed.

Mr. FELCH, from the Committee on Public Lands, to which was referred the bill from the House of Representatives to amend an act entitled "An act providing for the sale of certain lands in the States of Ohio and Michigan ceded by the Wyandot tribe of Indians, and for other purposes,"

approved 3d March, 1843, reported it back without amendment.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of James W. Campbell, of Pike county, Missouri, reported it back without amendment.

On motion by Mr. FELCH, the report accompanying the above bill in the House of Representatives was ordered to be printed.

He also, from the same committee, to which were referred the memorial of Johnston Lykins, asking the passage of a law giving him the privilege of working, for a limited time, a tin mine which he had discovered; the petition of J. H. Jones; and the memorial of Hannah Dutton, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. HUNTER, from the Committee on Finance, to which was referred the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1852, reported the same, with amendments; which was ordered to be printed.

Mr. BRODHEAD, from the Committee of Claims, to which was referred the memorial of Brevet Major H. L. Kendrick, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the memorial of John Tucker, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of J. Boyd, of Louisiana, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. DOWNS, from the Committee on the Judiciary, to which was referred the message of the President of the United States in relation to purloining public papers, reported a bill in addition to the several acts for the punishment of crimes against the United States; which was read, and passed to the second reading.

He also, from the same committee, to which was referred the memorial of the inhabitants of Washington city and county, praying the enactment of a law for the punishment of trespasses on private property, reported a bill to prevent malicious mischief and protect property in the District of Columbia; which was read, and passed to the second reading.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of James Lewis, reported it back without amendment, and, on his motion, the Senate proceeded to its consideration as in Committee of the Whole; and no amendment being made, it was reported to the Senate, ordered to a third reading, and was read a third time, and passed. The bill directs the Secretary of the Treasury to pay to James Lewis \$316, as witness fees and mileage, for attending the United States district court for the eastern district of Virginia. The witness was brought from the Sandwich Islands to Norfolk.

#### BILLS INTRODUCED.

Mr. CLEMENS, by unanimous consent, obtained leave to introduce a bill to establish the subdivisional lines and corners of certain fractional sections in the southern surveying district of the State of Alabama; which was read a first and second time by its title, and, with the accompanying documents, referred to the Committee on Public Lands.

Mr. BRADBURY, by unanimous consent, obtained leave to introduce a bill to extend the benefits of an act entitled "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," to the wives and children of citizens; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

#### GUNPOWDER DEPÔTS.

Mr. FISH submitted the following resolution; which was agreed to:

Resolved, That the communication from the Secretary of War in relation to the establishment of depôts for the preservation of gunpowder be printed for the use of the Senate.

## REPORT OF ENGINEER ELLIS ON COAL.

Mr. PRATT submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of the Navy be directed to communicate to the Senate a copy of the report of Engineer Ellis, of his test of coals made at the navy-yard in Washington, in May and June, 1851.

## ORDER OF BUSINESS.

Mr. SEBASTIAN. There is a bill upon the table which cannot possibly give rise to question or debate. I ask the indulgence of the Senate to take it up at this time, as I believe there are no special orders which are to be pressed now. I move to postpone the previous orders, in order to take up the bill to release from reservation and restore to the mass of public lands certain land in the State of Arkansas.

Mr. MANGUM. I hope the Senate will not agree to postpone the previous orders, with the view of taking up that bill. It is not a matter of much urgency. I would like to avail myself of this occasion to make an inquiry of the honorable chairman of the Committee on Public Buildings, whether it is designed at an early period—and I think it ought to have been done before this—to call up the joint resolution making an appropriation for the extension of the Capitol? There are many interests involved in that measure. The season is passing away when the workmen ought to be at work. They are men who have come here on the invitation of the agents of the Government, who are out of employment, and are anxious to be again engaged. I very much hope that the committee may feel it to be their duty to press upon the Senate at least the consideration of the subject. I should like to know from the chairman, what is the condition of that subject, and when we may expect him to ask the Senate to consider it.

Mr. HUNTER. I am not the chairman of the Committee on Public Buildings, but I am the only member of that committee present. I regret to say that the Senator from Indiana, [Mr. WHITCOMB,] who is the chairman of the committee, has been absent some time on account of sickness. Individually, I feel very anxious that the joint resolution referred to should be acted upon at once. If we are to go on with the work, the season has now commenced, when we ought to be engaged in it. It ought to be known whether or not we are going to continue the work, and I should be very glad to have the subject considered to-day, if possible.

Mr. MANGUM. I would ask the honorable Senator from Arkansas, with no disposition at all to interpose any objection to his bill, to withdraw his motion for the present, and allow an opportunity for considering this other question.

Mr. GWIN. I hope that the apportionment bill, which has been discussed, will not be put aside for any other. It is a question of great importance, and ought to be acted upon at once. The whole nation is interested in having the apportionment completed, and I hope the bill to which I have referred will be taken up and disposed of to-day.

Mr. SEBASTIAN. When I made this motion, I was not aware that there were any bills of pressing urgency before the Senate, which would be interfered with by taking up my bill. I can assure the honorable Senator from North Carolina, that I shall not press its consideration so as to interfere with any of the general or special orders, particularly with that in which he feels so much interest. If this bill should be taken up, and should give rise to question or debate, which I cannot anticipate, I would postpone its consideration, if it interfered with any other measure. It seems to me that we are consuming more time in the discussion of these preliminary questions than it would require to consider some of these bills. I hope the gentleman will let me have my bill taken up and disposed of to-day.

Mr. HUNTER. I merely rise to suggest, that perhaps we might come to an agreement to take up the joint resolution in relation to the Capitol extension to-morrow. Let the Senator from Arkansas have his bill taken up to-day, and then let us go on with the apportionment bill, and finish it before we adjourn. If we could have such an understanding, I think it would facilitate the progress of business.

Mr. RHETT. I have no sort of objection to

the arrangement which the Senator from Virginia proposes. Inasmuch as the State of South Carolina is interested in the apportionment bill, and I shall be compelled to leave here to-morrow night, I hope the rule of the Senate will not be departed from, but that we shall to-day take up the apportionment bill and finish it.

Mr. HUNTER. I propose not to take up the joint resolution in relation to the Capitol until after the apportionment bill is disposed of. I ask that by general consent, the resolution in relation to the Capitol may be set apart for to-morrow.

The PRESIDENT. The motion is to take up a specific bill. It has nothing to do with the extension of the Capitol or the apportionment.

Mr. BRADBURY. I do not desire to interpose any objection to the wishes of the Senator from Arkansas; but I desire to call the attention of the Senate to one fact. It is nearly two months since a day was fixed for the consideration of the bill to indemnify the sufferers from French spoliations. Many other bills have since been considered by courtesy. I wish a day fixed for the consideration of that bill. I do not wish to be constantly presenting the subject to the Senate, and having other matters interpose. I ask the consent of the Senate to take up the bill this morning, for the purpose of assigning some day—say Monday next—for its consideration, and allow us to vote on it then. I hope a day may be fixed when it shall be considered, and that it shall not yield to any other bill. I only ask the Senate, if they do not feel disposed to fix a day for the consideration of the bill, to give me the yeas and nays. I do not desire to interpose any objection to the bill of the Senator from Arkansas; but we have not time, within the three or four minutes left before one o'clock, to consider it.

Mr. HUNTER. I shall ask the Senate to take up the deficiency bill on Monday next, and therefore I hope Monday will not be fixed for the consideration of the French spoliation bill.

The PRESIDENT. This constant discussion about other matters has no relation to the question before the Senate.

Mr. WELLER. This discussion takes more time than it would to dispose of some of these bills.

Mr. SMITH. I was about to make some remarks on the question to which the Senator from Maine referred.

The PRESIDENT. That has nothing to do with the subject-matter now before the Senate. The Senator from Maine cannot make the motion which he intimated until after the proposition of the Senator from Arkansas is disposed of.

Mr. GWIN. I hope the Senate will permit us to take up the apportionment bill. It is now within five minutes of the hour for the consideration of the special order, and it will be impossible to pass the bill of the Senator from Arkansas in that time.

Mr. SEBASTIAN. I did not think that there would be such a discussion on my motion as to take up the whole of the morning hour, and I therefore withdraw the motion.

Mr. GWIN. I now move to take up the apportionment bill. The Senator from Maine can make his motion as well after that is disposed of as before it is taken up.

Mr. BRADBURY. I hope the honorable Senator will withdraw his motion, to allow me to have a day fixed for the consideration of the French spoliation bill. It will occupy no time to fix a day.

Mr. GWIN. With the condition that it is not to occupy any time I withdraw my motion.

Mr. BRADBURY. I now move that the previous orders be postponed for the purpose of taking up the bill I have named, with the view of assigning a future day for its consideration.

Mr. ATCHISON. I wish to ask the Senator from Maine whether this bill has not already been made a special order? and whether it does not now stand on the list of special orders?

Mr. BRADBURY. I will answer the honorable Senator. A day was assigned for its consideration almost two months ago; but we have yet been unable to consider it, because courtesy has allowed other bills to be taken up before it. I design now to fix some day when it shall be courtesy to consider it.

The PRESIDENT. It is among the special orders now.

Mr. GWIN. The bill of the Senator from

Maine is a special order now; and therefore I hope the Senator will not ask to make it a double special order.

Mr. SMITH. Is it not competent for the Senate to fix a precise day for the consideration of that bill?

Mr. PRESIDENT. When a bill is deferred to a subsequent day, and made the special order, it stands among the special orders, but is not the first. When that day arrives, if there are any special orders preceding it, they must first be disposed of, before it can be taken up.

Mr. DAVIS. I beg leave to ask the Chair what special orders there are before this bill?

The PRESIDENT. The first special order is the bill which has been mentioned by the Senator from California—being the unfinished business. The next is the bill to establish a navy-yard and depot in the Bay of San Francisco. The next is the bill to improve the navigation of the Upper Mississippi. The next is a joint resolution in relation to the printing of the returns of the Seventh Census. The next is a joint resolution expressive of the sympathy of Congress with the Irish exiles. And then the bill to provide for the ascertainment and satisfaction of the claims of sufferers by French spoliations.

Mr. BRADBURY. I desire to make this bill the special order for Monday next, at a quarter before one o'clock.

Mr. ATCHISON. I would inquire further, whether or not it is not competent for the Senate, now or at any time, to take up that special order by a majority vote?

The PRESIDENT. Certainly.

Mr. ATCHISON. Then why insist on fixing any other day, when it is within the control of the Senate at any time? There can be no necessity for it. It is not only unnecessary, but worse than unnecessary.

The PRESIDENT. The Chair will state to the honorable Senator from Maine, that, by postponing the bill to a subsequent day, it throws the bill behind all the other special orders.

Mr. BRADBURY. Then I withdraw my motion, and give notice that on Monday next I shall propose to call up that bill, and shall ask the yeas and nays on the question of taking it up for consideration at that time.

## APPORTIONMENT OF REPRESENTATIVES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States," approved 23d May, 1850; the question pending being on the amendment offered by Mr. BRADBURY.

Mr. RIETT. I have an amendment which I presume will be in order, to strike out all of the first section of the bill after the words "Department of the Interior," and insert in lieu of them:

"Provided, That the State of California shall be entitled to two representatives, in accordance with the act admitting said State into the Union, until the next actual enumeration of the inhabitants of the United States."

So that the section will read:

"That the Secretary of the Interior proceed forthwith to apportion the representatives among the several States, in accordance with the provisions contained in the twenty-fifth section of the act of 23d May, 1850, according to the returns of population which have been completed and returned to the Census Office in the Department of the Interior: *Provided*, That the State of California," &c.

The PRESIDENT. It will not be in order until the amendment of the Senator from Maine is disposed of.

Mr. RIETT. I shall bring it forward at the proper time in some shape. I will state to the Senate the grounds on which I suppose they should act in this matter. I do not think the question is surrounded with as many embarrassments, as some Senators suppose. In the first place, when the census act was passed, it fixed a certain number to constitute the House of Representatives. The object in limiting the number and fixing it beforehand, was to get rid of the contests, and continual heart-burnings that arise from the strifes of different States to get an additional Representative, in consequence of their fractions. I was a member of the House of Representatives, when the last apportionment bill was passed, and I may say, that there was no measure at that session which



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excited one half the interest that that bill excited, because different States, according to the manner in which the apportionment should be made, would be entitled to an additional Representative, or would lose one. Hence, there was a strife on all sides to alter, change, and modify the apportionment in such a way between different sections as well as between different States, to obtain Representatives in consequence of fractions. It was to avoid this controversy that the Senate and House of Representatives determined beforehand to fix the number of Representatives; and they virtually said then, that by this method it should be agreed that those States which obtain the fractions by the enumeration returned to the Department, should have the Representative. According to that act, the enumeration has been made—it has come in. The regular officer of the Government has reported to the Senate and House of Representatives what the enumeration requires; and according to it the State which I represent comes in as the lowest State under the fraction. I contend that it is neither good faith, nor can it be good policy, to alter the act or interfere with it in any way whatever. South Carolina, on the face of the act itself, comes here under the enumeration sent from the Department, as one of the States entitled to a Representative for a fraction. Upon no principle of good faith, in consistency with the previous legislation of Congress, can the Senate and House of Representatives now alter the apportionment, or eject her from the Representative to which she is entitled.

Whilst I think this is very plain, I think it is not at all difficult to reconcile with the act itself the admission of two Representatives on the part of the State of California. I will read to you the proviso which I propose to offer as an amendment, or get in, in some shape, for the purpose of settling this vexed question:

*Provided*, That the State of California shall be entitled to two Representatives, in accordance with the act admitting said State into the Union, until the next actual enumeration of the inhabitants of the United States.

On her admission into the Union, this stipulation was entered into, that until the next enumeration was held, she should have two Representatives. The question occurs here, has there been an enumeration? Have the inhabitants of California had their population enumerated? It will not do to say that there has been a partial enumeration; for a partial enumeration is as good as no enumeration at all. It is no enumeration, so far as California is concerned; and, taken in its broadest sense, it is not an enumeration of the United States. I mean it is not a complete one. And if it is not complete, it cannot be recognized as an enumeration. What is our difficulty? California has not been enumerated, on account of causes which the Government say they could not control, and the people of California say they were not responsible for. That is true on both sides. I am not disposed to blame the Government and accuse them of laches; nor am I disposed at all to visit the people of California with any evil arising from the non-enumeration of their population. It is a matter with which they have nothing to do. It was not given to them to perform, and the non-performance of it ought not to be visited upon them. You cannot send back to have another enumeration. That is impossible, and it would do injustice to California if you attempted it. Suppose that you should go back and say that the enumeration of the people of California should be again taken, what would be the operation of it? There are a vast number who were there at the time when the enumeration was required to be taken, who are dead. A still greater number have left the country, who went there with the intention of remaining, but who, in consequence of adversity, or failure, or some other cause, have not made plenty of money, and have left the country, and returned to the Atlantic States. Would it be just to send back to California to obtain the number of her inhabitants as they were at the time the returns ought properly to have been made? You would do great injustice to California to attempt

such an enumeration now? It cannot be made. It is impossible to do justice in that way.

What other course is left to you? I say let California fall back upon the stipulations in her behalf, at the time of her admission. We then stipulated that she should have two Representatives until the enumeration was made by which her rights would be determined. That enumeration has not been made, so far as she is concerned. What, then, is our course? Let us keep to the terms of our agreement under the census law. Let South Carolina have her Representatives. Keep also to the terms of our agreement on the admission of California into the Union, and give her two Representatives until a proper enumeration is made, and equal justice can be done to her, as well as to the other States. That appears to me to be a fair, plain course. Our faith will be kept on either hand, and thus the State of South Carolina will come in under the census act, and the State of California, in consequence of the stipulation at the time of her admission, will have the two Representatives to which she is entitled. It seems to me that this is a plain and simple course, by which we may be entirely unembarrassed, as to all difficulties as to the question of enumeration and conjecture.

I admit that we cannot go into conjecture in this question. I acquiesce very strongly, indeed, in the reasonings of the Senator from Louisiana, [Mr. Downs.] If you once begin in speculation as to what is the population of one State, I defy you to come to any accurate conclusion. It is said that the enumeration of California is defective. I answer that the enumeration in my own State is defective. I presented a petition here, the other day, in which the census-taker says he did not get sufficient compensation; and I understand that in that district the census was not taken by near twenty per cent. I saw it stated in a French work, recently, that any enumeration of people, in any country, if it comes within ten per cent., would be a very correct enumeration. To say that because the enumeration of California is not correct, we will therefore go into a conjecture as to the amount of population she possesses, we will have to extend the same principle to other States. There is Wisconsin, increasing with almost as much rapidity as California. Thousands and tens of thousands of emigrants are going in there every day. If we open the question as to speculative population, I have no doubt that my friend from Wisconsin will come in and show that there are a vast number of errors in the census returns from that State, and therefore will ask that the question may be opened as to his State. Then there is Louisiana. I have no doubt that with a more correct enumeration the Senator from Louisiana can show, not merely that Louisiana is only a thousand short of South Carolina, and her fraction, but perhaps ten thousand beyond her. I have no doubt of these things; and therefore I say that if you go into this question of speculative numbers, there is no end to it. It is impossible to adjust the question on that ground; and I see no ground satisfactory to these States, satisfactory to our faith under the census act, as well as fulfilling our stipulation with California by which we admitted her into the Union, except, on the one hand, to fulfill the faith implied in the census act itself—to admit South Carolina to a Representative for her fraction—and, on the other hand, fulfill the faith pledged to California on her admission, and let her have two Representatives until another enumeration shall be made.

Mr. BADGER. I concur with the honorable Senator from South Carolina in the object he has in view; I wish California to have her two members; and I wish South Carolina to retain the representation to which she is entitled under the census, including a member for the largest fraction; but I desire to ask the Senator, if his amendment should be adopted, and no additional member be added to the number of which the House of Representatives is composed under the law as it now stands, how are both of these objects to be accomplished?

Mr. RHETT. Both objects will be accomplished by it. The mere adoption of the amendment will add one to the number. It is not necessary to state that one more is added, because anybody can see that if you add one member to the number, you will have one more. It is not necessary to state it; it is a result which necessarily follows from the adoption of the amendment.

Mr. RUSK. It seems to me that I see a way in which we cannot violate the Constitution, and yet reconcile this matter properly. The Constitution requires us to apportion the Representatives according to the actual enumeration of the inhabitants of the United States. This, it seems to me, fixes this matter so far as the actual enumeration has gone. We cannot, by our enactment here—unless we choose to violate the Constitution of the United States—deprive any State of any number to which it is now entitled under the actual enumeration, taken in pursuance of the Constitution; neither can we increase the number. We can neither increase nor diminish so far as the actual enumeration has taken place. It is evident that no actual enumeration has taken place in California. Then, can we, under the Constitution, fix the number of her Representatives? We cannot; because the Constitution is very definite that it must be done according to the actual enumeration of the inhabitants; and that enumeration has not been made in that State. But California is now entitled, by the law of her admission into the Union, to two Representatives. Were those Representatives given to her constitutionally? I think there can be no question about that. The power to admit a State carried along with it the incidental power to fix her representation. It is true we were bound and did, as far as there were any lights before us, attempt to fix it in the ratio of her population; but it carried along with it the incidental power of fixing her representation. Such has been the practice of the Government; and such must necessarily be the case. The power to admit a State certainly presumed that we shall also admit her with Representatives in the other House of Congress. Then an amendment, which shall not alter the terms of the law in apportioning according to the actual enumeration, and give South Carolina, and all other States in the Union, according to the actual enumeration, the number to which they are entitled under the law to take the census, and retain the two members for California by virtue of the act of her admission, and not by giving it to her, it seems to me, will not violate the Constitution; and I am prepared to vote for such an amendment.

Mr. BRADBURY. In accordance with the suggestion of the honorable Senator from Texas, I propose to change the phraseology of the amendment which I offered, by striking out the words "that State now has," and inserting in lieu thereof, the words "prescribed by the act admitting said State into the Union." I suppose, as the amendment was offered by myself, I can so modify it.

The PRESIDENT. It can only be modified by the approbation of the Senate. If it is not objected to, it will be so modified.

No objection was made.

Mr. BRADBURY. I desire to say that I have examined, with some care, the amendment which the honorable Senator from South Carolina [Mr. RHETT] proposes to offer, and have become satisfied that unless something more be added to it, the legal construction of it would exclude South Carolina from her additional Representative. I think my amendment, as modified, will meet the views not only of the Senator from South Carolina, but also of the Senator from Texas.

The amendment, as modified, is as follows:

Sec. 5. *And be it further enacted*, That the State of California shall be entitled to the number of Representatives prescribed by the act admitting said State into the Union, and that for this purpose, the act of May 23, 1850, providing for the apportionment of Representatives among the several States, be so amended that the whole number shall be two hundred and thirty-four, instead of two hundred and thirty-three, until an apportionment under a new census.

Mr. DOWNS. I now wish to present a question which I shall desire to take up some time, and this

will, perhaps, be as proper a time as any other to present it. I shall, therefore, move to amend the amendment, first by striking out "four," and inserting "five," so as to make the number of Representatives two hundred and thirty-five, and then adding, at the proper place, "Louisiana shall have five instead of four Representatives."

The PRESIDENT. The question will first be on the first part of the amendment to the amendment, striking out "four," and inserting "five."

Mr. DOWNS. The grounds on which this proposition is made are the following: The two States having the largest fractions—much the largest; no other State comes near them—are South Carolina and Louisiana. South Carolina has a fraction of forty-seven thousand in round numbers, and Louisiana forty-six thousand, there being a difference of about a thousand between the two. The position I take is, that if, by any computation or estimate, or equitable arrangement, you allow California, when the actual returns do not show a fraction so large as Louisiana, an additional member, you cannot in fairness and with propriety exclude Louisiana, which has so large a fraction. This proposition will produce no further alteration in the arrangement, because there is no other State which has near so large a fraction as Louisiana and South Carolina. Arguments have been urged with a great deal of force and propriety, and will be urged again, that South Carolina should have the additional member, because of her fraction. You say she ought to have it; and everything that is said in support of that argument applies with equally as much force to Louisiana; both have large fractions, though one happens to be a very small amount above the other. In order to get at what you are aiming, you have to increase the number, and in principle it is immaterial whether you increase it one or two; and if you do increase it one in order to give South Carolina and California each an additional member, and refuse to extend one more to Louisiana, which has a fraction very little less than South Carolina, you certainly do great injustice to Louisiana. I would have assented at any time to the proposition to give South Carolina and Louisiana each an additional member, and the two to California, and that would have done justice to all parties; but certainly I could not agree, and I hope the Senate will not decide; that the difference is so great that they will allow an additional member to the others, and refuse it to Louisiana.

There is another reason why it would be more convenient to increase the number of Representatives two instead of one. According to the apportionment, as it now stands, it is fixed at an odd number. It is not absolutely necessary, but it may be convenient, to have an odd number, because otherwise in an election for President you might have a tie and no choice. If you make the number two hundred and thirty-four, there may be an equal division. At any rate, whatever objection there may be to increasing the number, there can be no material objection to increasing it two any more than one. I do not propose this out of over anxiety or solicitude to increase the strength of my State, but she stands in a very peculiar position; no other State is similarly situated; and I do not think ample justice can be done to either of the States concerned, unless the settlement is based upon that principle.

I must repeat again what I stated yesterday, that Senators, in my opinion, too readily assume that there are no returns from California. That is not the fact; there are returns either strictly official, or as authentic and binding as if they were official, for every county but one, and there is a doubt whether that county existed in 1850 or not. That there are erroneous returns, does not make them no returns. There are returns. Gentlemen must not base their argument on the ground that there are none; the Secretary of the Interior has sent in returns from all the counties except some three or four, and the committee have them for every county except one, the existence of which in 1850 is doubtful. There are then returns, and you cannot consider these as a nullity. They do not amount to a nullity because they are imperfect. As has been said, there may have been, and no doubt are, imperfect returns from other States. No doubt great errors exist in the returns from my State, because it happened that when the census was taken there were great overflows, and no doubt the population appeared less than than it

actually is. No doubt errors may be found in other States; and whenever we find an error shall we say there is no return at all? I cannot think so. But I say the question is a difficult one; it is surrounded by difficulties on all hands. That a full population has not been given to California, we may assume or suppose from all the facts in the case, but still you cannot say that there are no returns whatever. Under the difficulties which surround the case, I think it would be fair all round to give an additional member to South Carolina, to Louisiana, and to California. They are all equally entitled to it; but if you select two, and leave the third out, I think you do great injustice to the latter. I hope my amendment to the amendment will be adopted.

Mr. DAVIS. Mr. President, I know of no question which has arisen in the halls of Congress that has excited a deeper and stronger interest than the partition among the States of the political power of Congress. I think every gentleman who has been present, after a census has been taken, and witnessed the struggle for this power, will confirm what I say in regard to it. It is a very delicate question. It is one that involves very delicate considerations, and I approach it as such, when I come here to act upon it in any shape whatever. In order to get rid of this exciting difficulty which has characterized the passage of acts heretofore, Congress passed the law under which the present apportionment has been made, in advance of the census; and, in the passage of that law, they adopted a new principle—a principle which, if my memory serves me correctly, is derived from a suggestion made by General Washington, in giving his interpretation to the Constitution at one of the earliest apportionments made. He suggested the propriety of representing the fractions that amounted to more than one half of the amount of apportionment. That is the way I recollect it. Upon examining that principle, I thought it a sound one; and, on various occasions, contended for its adoption, but without success. It has now been adopted, and adopted antecedent to the taking of the present census.

Well, sir, the passage of the law of 1850 was very well calculated to get rid of all the difficulties which we have heretofore encountered. But now an embarrassment arises from an unanticipated source. Upon the dividing of the aggregate Federal population by the number of Representatives, which were fixed by that law to two hundred and thirty-three, it turns out that the number required for a Representative is ninety-two thousand and a fraction. And then there is a considerable number—I do not recollect the exact amount of the fractions to be represented—enough to make whatever number is wanting after the division takes place, to come up to two hundred and thirty-three. A difficulty arises here, and one, I apprehend, of a good deal of interest. The returns from California, it is said, are inaccurate. It is said they are in some respects quite erroneous. But I will defer examining that point at this moment. It is said that South Carolina, if the census of California be taken and considered as it is returned, is entitled to a member by her fraction—the fraction being forty-seven thousand and odd. Louisiana also comes in, having a fraction of forty-six thousand and odd, and claims also to be represented on that fraction, provided California receives the additional member which she claims. These three claims to one membership, raise the whole question as it presents itself to my mind. There are, in fact, three claimants to one seat—California, South Carolina, and Louisiana. But gentlemen propose to get over the difficulty by giving two additional seats, to the number provided for by law. One proposition is to give a seat to California, leaving South Carolina in possession of hers; and now the honorable Senator from Louisiana [Mr. Downs] moves to let Louisiana also come in for another seat.

Now, Mr. President, do not gentlemen perceive that when you undertake by corrections to add to the aggregate of the Federal population, you disturb the whole proportion? If you increase that aggregate, you make a new divisor and a new apportionment among the States; and if you diminish it, it has the same effect, changing, at least, all the fractions. It disturbs the whole proportion as it is made under that law; go which way you will, that is the result of it. Perhaps there is no insuperable difficulty in all this, as possibly it might

work out no actual change of right. But what I wish to draw the attention of the Senate to, in regard to the question now before us, is this, more particularly: is the process to extricate us from difficulty now proposed? I suggested on Monday, when this question was up, that I should be glad to be informed what evidence has been adduced here which shows that there is a sufficient number of persons in California to entitle her, by a fraction, or by a full number, to an additional Representative. This is what she claims, and this is the point of inquiry. I heard it said, on the other side, that there were certain estimates made by the legislative body of that State, and by commissioners, which placed the number of the population at three hundred thousand; and they made the apportionment of their political power in the State, for the State Legislature, upon that assumed basis. I should be glad now to see those estimates; for I suggested there were returns made here by the enumerators of the census, which, so far as I understood, were not questioned. I would be glad to see what sort of estimates were made for counties of which the returns of the census are supposed to be correct, and then I could form some opinion, by comparing the estimates of these counties with the returns, how far the estimates for counties admitted to be erroneously returned, are reliable. I have not seen that paper, but I should be glad still to see it.

But, Mr. President, I will ask attention for a moment—I do not propose to occupy much of the time of the Senate on this matter—to some returns as they are printed and laid before us in the document connected with this subject, and see how the estimates compare with the returns which are made. For example: I take some three or four counties; as far as I know, and can see, they are unquestioned as to accuracy. Trinity county is returned at one thousand six hundred and thirty-five; while the estimate made, in a letter from a gentleman, which is printed with the report of the committee, of the population of that county is eight thousand. The county of Yuba is returned at nine thousand six hundred and seventy-three; that same gentleman, who was chairman, it is said, of the committee of the State Legislature, estimates the population at thirty thousand. The county of Sutter is returned at three thousand four hundred and forty-four; he estimates its population at seven thousand five hundred. The county of Shasta is returned at three hundred and seventy-eight; he estimates it at six thousand. These four counties are returned at fifteen thousand one hundred and thirty; and the estimate contained in that gentleman's letter is fifty-one thousand five hundred. I will turn to the document, and read the foundation of those estimates:

"The data from which the committee formed their estimate of the entire population of the State, was sufficient to satisfy them that it amounted to three hundred thousand souls. We informed ourselves first as to the number of emigrants who had crossed the plains, and the number who had arrived by sea, and the total number who had departed, which left us a population of three hundred thousand."

"This number, of course, included the arrivals by sea from the first of June, 1850, to April, 1851—the census was to be taken on the first of June—and which, for present purposes, should be deducted—I think forty thousand—a large estimate of the number who arrived during that period. I might add, as corroboration of the accuracy of the estimates of the population of the State, as taken by the committee of the Legislature above referred to, that the State conventions of both the political parties, which were held a few weeks subsequently, in assigning the representation of the counties according to their population, exceeded the estimates of the committee of the Legislature, the returns of the commissioners being held, by the circumstances, as unworthy of notice."

The writer goes on to say, "As an illustration of the gross inaccuracy of the census returns from California, I will give you"—what, Mr. President? what will he give you to correct "the gross inaccuracy" in the enumeration taken by the public officers, under oath, upon the spot? He says: "I will give you my estimates of a few counties in the northern part of the State," &c. That is to correct the census taken under the law, and by officers, under oath, upon the spot. It is to be corrected by the estimates of this gentleman, which I have read to you, which gives fifty thousand and odd persons where the census-takers found only fifteen thousand and odd. Now, without going into this subject—for I do not wish to make myself tedious, I have no desire to examine into it beyond what is necessary to enable me to do my duty understandingly—if California has the population which entitles her to an additional

member, I wish to give it to her; but if she has not, I do not see why she should not submit, as other States do, to the share of the political power which belongs to her according to the terms of the Constitution itself.

It is said that we may get over this difficulty by reference to the law which was passed for the admission of California. I have not that law before me, but I believe I recollect what it is. It provides that California shall have two Representatives, until an enumeration under the Constitution. An enumeration of what? An enumeration for a new apportionment; an enumeration to be taken in 1850, under the terms of the Constitution; and that provision is the same thing as if it had been limited to the year 1850; referring it to the enumeration is substantially referring it to a point of time. The Constitution requires that the enumeration shall be taken in 1850. California was to have two members until that enumeration was taken, and a new apportionment made under it. Has not that enumeration been taken? Has not the apportionment been made? Has not the political power been distributed under the act? It has everywhere, saving and excepting the questions which are now raised here. There is nothing else left open; no one proposes to disturb the proportion given to your State, or to mine, or to any other State. The proposition is, to make some new arrangement as regards these three States. Then, sir, I do not think that the Senator from South Carolina, when he gives his construction to the act of 1850, admitting California, gives to it a correct construction. It is an erroneous view of the meaning of that law. That is simply a limitation of time—a limitation to the period when the enumeration should be made.

My main object, Mr. President, was to call the attention of the Senate to these considerations. We now stand upon this alternative. The law of 1850, which was passed for the purpose of taking the census, limited the number of Representatives to two hundred and thirty-three. That distribution has been made, and it is not desirable to disturb it if it can be avoided. The true question, if we take the construction and interpretation of that law, is this: South Carolina appears to have a fraction of forty-seven thousand and over; and unless California has a larger fraction, South Carolina is entitled to the member. My friend from California, [Mr. GWIN], says that California has a larger fraction. That brings us to an examination of the documents and to the evidence; and the real question is, does the evidence sustain the view which the gentleman takes of this subject? Does it authorize the conclusion that California has as large a fraction as South Carolina? The gentleman will say, perhaps, that is not necessary. If he says that is not necessary in order to add a member, I say it is necessary to raise the fraction above that of Louisiana, which amounts to the same thing, for Louisiana has a fraction of forty-six thousand. Then, the question is: can you go to work and, by any evidence which is before us, correct the errors in taking the census of California, so as to enable you to add enough to the population of California, as returned, to entitle her to another member? That is the true question to be settled here; and if you settle that question wrong, you disturb the whole apportionment, you derange the whole system of representation from beginning to end; for when you add a new member to California, you take from the power of the other States, to the extent to which the power is given to California.

We agreed to limit the number to two hundred and thirty-three, and the true question is, whether California can override South Carolina in this matter? Can she, or can you, make out, by any reasonable calculation, by correcting errors, or otherwise, that she has a larger fraction than South Carolina? If you proceed on such evidence as that contained in the letter of the gentleman, which is published, and which I find in this document, (the report of the Committee on the Judiciary,)—and I do not mean to imply anything derogatory to the respectability of the writer—but I will take the language there employed, which certainly is plain and frank; and I appeal to you, sir, and to the Senate, whether we can take the estimates here submitted in the manner in which these are proposed, and substitute them in place of the returns made by the sworn officers of the Government? and whether it is quite respectful

for a person, whose estimates are made in the manner alleged upon conjecture, however well acquainted with the country, to assert that the returns made by sworn officers are grossly incorrect? This information does not strike my mind as being satisfactory. I am desirous that it should be so.

It is said to be a hardship to California to have the number of her Representatives reduced. That hardship, if it be one, has devolved on many States. There are some eight or ten States that have suffered diminution in the number of their Representatives. But it must be remembered that the apportionment was made under the Constitution of the United States, on an enumeration made by virtue of that instrument, and that the agreement is, that you shall send as many Representatives as your enumeration will authorize under the law on which the census is founded. That is all. California is no more wronged than Vermont, or New Hampshire, or Connecticut, or Maine—the Senator's own State—or many other States which have lost a member by the new apportionment.

I throw out these matters of suggestion, having gathered them up from the facts contained in the report by the committee. I waive all question of constitutional difficulties, though I think it is very well taken, indeed; and I think the wisest and best course is to maintain the apportionment made under the act of 1850, and thus settle the question between South Carolina and California. If the gentleman can show me, by any reasonable calculation, or by such satisfactory evidence as a reasonable man can be satisfied with, that his fraction overrides that of South Carolina, I will then say he is entitled to an additional member, and will vote with him.

Mr. GWIN. The honorable Senator from Massachusetts has alluded to the report of the joint committee of the Legislature of California, and expressed a desire to see it. I have it before me, and will read an extract from it. The Senator from Massachusetts says the language used by my colleague, [Mr. McCORKLE], is hardly respectful to the census agent and his assistants, sworn officers of the Government. He did not discredit these census returns here for the first time. He had good and sufficient reasons for the opinion expressed in the communication addressed to the Judiciary Committee, for he had examined these census returns on another quite different theater of public duty. He was the chairman of the committee of the Legislature of California to which was referred the question of apportionment. He then examined these census returns, and I will read what he said on that occasion. It may be proper to remind the Senate that the report was made with no design to affect this body, for it was supposed then that the census would be retaken correctly by the agents of the United States Government. The report is this:

"The joint select committee, appointed by the Senate and Assembly to report a bill to reapportion the members of the Senate and Assembly among the several counties of the State, have carefully considered the same, and report the accompanying bill and recommend its passage.

"From all the reliable information within the reach of the committee, they believe that the Federal population of California now exceeds three hundred thousand souls. They have arrived at this conclusion from information derived from all parts of the State, as well as from a record of the overland emigration, the arrivals and departures by sea in the last two years, and the estimated number of resident Californians at the time of the change of flags. It is to be regretted that the insufficient means furnished by the United States Government to the commissioners appointed to take the census, the migratory character of our population, the impracticability of reaching the greatest number of said population in the gorges of the mountains, have rendered the census, so far reported, incorrect and unsatisfactory."

I have said that my colleague [Mr. McCORKLE] speaks from information collected on another occasion, when acting in another capacity, and not supposing that his testimony would be called for here; for it was then believed by all that the census of the State would be completed according to law. Therefore, what he says now is the result of a thorough examination of the subject, and is consequently entitled to great weight. I will read in this connection the second section of the act admitting California into the Union; and leave it for the good sense of the Senate to say whether this law has been complied with in taking the census of that State:

"SEC. 2. And be it further enacted, That, until the representation in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United

States, the State of California shall be entitled to two Representatives in Congress."

The Senator from Massachusetts stated, the other day, that the census agent and his assistants were to inquire of every person in California whether they intended to reside there. This is not correct. They were to enumerate the inhabitants, and those who started to California before the 1st of June, 1850. This act was passed after the one authorizing the taking of the seventh census. Being a subsequent law, which says there shall be "an actual enumeration," until such actual enumeration of the inhabitants of the whole United States, California included, that State is entitled to two members. I deny that any such enumeration in that State has ever been made. So says the census agent, and we are bound to believe him; for he has sworn to make correct returns, and in these returns we find there has been no actual enumeration. Is it any disrespect to the census agent in my colleague [Mr. McCORKLE] to repeat his own language? I take it for granted no member of the Senate will say that an actual enumeration of the inhabitants of California has ever been taken. The second section of the act I have just read, admitting California, contains a guarantee that we shall have two members in the other House until an actual enumeration is taken, which cannot be violated with honor by this Government.

Mr. DAWSON. My desire was to have voted for the additional Representative to the State of California; but upon an examination of the testimony—the result of which I will submit to the Senate—I am unable to do so; and, if California is to have an additional member, I cannot resist the amendment which has been offered by the Senator from Louisiana. The principle, in both cases, is precisely the same. This, Mr. President, is a matter which is to be regulated by fact. The principle is established by law, that all fractions of population over and above a certain number entitling a State to a Representative in Congress—except in the case of certain large fractions specified—are to go without representation, in order that the number of members of the House of Representatives may be confined to two hundred and thirty-three. Then let us examine this matter fairly, with a view to come to a just conclusion—a conclusion founded upon truth and fact, and not upon estimate and conjecture; and let us not violate principle upon the alleged ground that we are not correctly informed. We have information founded, I suppose, upon facts; and the facts stand thus: The State of South Carolina has a fraction of population over and above the ratio of representation, of forty-seven thousand four hundred and seventy-eight. The State of Louisiana has also a fraction of forty-six thousand one hundred and ninety-six. The enumeration of the people in the State of California, as taken and returned to the Census Office, amounts to ninety-two thousand five hundred and ninety-seven souls. These were the returns made in the State of California. That amount, supposing it to be a true return of the population of that State, would not have entitled her to a Representative at all; and she would only have had one, on the constitutional provision that each State shall be entitled to at least one Representative. But there were three counties not included in the enumeration I have just mentioned, namely: Santa Clara, Contra Costa, and San Francisco, with a population, correctly taken, I suppose, by the assistant marshals, and returned to the census agent, of twenty-five thousand two hundred and twenty-four, making a total of one hundred and seventeen thousand eight hundred and twenty-one persons, who constitute the entire enumeration of the population of the State of California.

But it is now stated, Mr. President, that this enumeration is not correct in point of fact; that there are great errors in the returns; and that California ought not to suffer in consequence of the neglect or failure of the officers of the General Government fully to discharge their duty. I admit that position, Mr. President, as far as it goes; but how are we to ascertain the extent of the failure to perform the duty, and the means by which California is to be deprived of a member in the House of Representatives? It must be by proof only. And where shall we obtain it? Is it to be obtained from estimates of gentlemen residing in California? No, sir; that proof must be obtained



from the highest practical source. What proof is it? Why, sir, it is the evidence of the census agent of the State of California—a man sworn to discharge his duties faithfully and honestly, a man who was not only responsible to the General Government, but a man who was made in some measure responsible to the people of the State of California for the information which he was to lay before them. Now, what is the truth on that subject? Let us come to it fairly. Who is the census agent of California? Mr. J. Neely Johnson. It seems, sir, that on the 15th of April, in the year 1851, Mr. W. Van Voorhies, Secretary of State for the State of California, called on the census agent there to communicate to him, and through him to the Legislature of the State, correct information in relation to the census; and here is a letter which he transmits to the President of the Senate in California—the honorable David C. Broderick:

OFFICE OF SECRETARY OF STATE, }  
SAN JOSE, April 15, 1851. }

SIR: I have the honor to transmit herewith a copy of a communication received from J. Neely Johnson, Esq., United States census agent for California. The communication explains itself.

Very respectfully, your obedient servant,

W. VAN VOORHIES,  
Secretary of State.

And what does Mr. Neely Johnson say:

"UNITED STATES CENSUS AGENT'S OFFICE, }  
SACRAMENTO CITY, (CAL.), April 10, 1851. }

"Sir: I have been necessarily delayed in complying with the resolution adopted by the General Assembly of this State, requesting me to furnish an abstract of the census returns; in consequence of the many causes which have transpired to retard this work; and, at the present time, I am able to render but a partial and incomplete statement of the same, as the full returns have not been received. A letter of recent date from the deputy to whom was assigned the district embracing the first two named counties, informs me that he has completed his labors there, but furnishes no information as to the number of inhabitants. I have made repeated efforts—thus far ineffectual—to have the census taken in the county of Tuolumne. I have as yet received no information from the deputy last appointed there.

"In some instances, as you will observe, the returns are given in round numbers. In such cases those figures are predicated upon the information furnished by the respective deputies, which will be found a near approximation to the returns.

"The counties of Trinity, Shasta, and Colusi, are given as comprehending one district. The gentleman who performed this duty in those counties, received his commission in the month of September last, he being then a resident of Trinity. He entered upon this duty without the means of determining the proper subdivision of this district; and so erroneous in fact was the general impression then prevailing amongst the population residing there, regarding the northern boundary of the State, that a large population on the Klamath river was not enumerated, being supposed to be comprehended in the Territory of Oregon.

"The result of this enumeration, when completed, will, with all reasonable probability, fall short of the entire population of the State, from thirty-three to fifty per cent. Such a result must naturally occur to the mind of every person conversant with the circumstances surrounding those engaged in the mines—probably the most numerous of our population—residing, as many of them do, in unknown and unfrequented localities; whilst others are constantly changing their places of abode; thus absolutely precluding the possibility of their being found at all by the census man."

And then in another letter, he says:

"The counties of Trinity, Shasta, and Colusi, are given as comprehending one district. The gentleman who performed this duty in these counties, received his commission in the month of September last, he being then a resident of Trinity. He entered upon this duty without the means of determining the proper subdivisions of this district, and so erroneous, in fact, was the general impression then prevailing amongst the population residing there, regarding the northern boundary of the State, that a large population on the Klamath river was not enumerated, being supposed to be comprehended in the Territory of Oregon. The result of this enumeration—"

The result of what enumeration? Why, of the three counties of Trinity, Shasta, and Colusi.

"The result of this enumeration, when completed, will, with all reasonable probability, fall short of the entire population of the State, from thirty-three to fifty per cent."

The Senator from Massachusetts [Mr. DAVIS] has shown that the census was taken in all the counties, and that there is a large portion of the returns the accuracy of which nobody pretends to doubt. This is a fact.

Now, what are the correct returns about which there is no dispute, and which have come properly into the Census Bureau? Sir, the first twenty-two counties, proper returns from which have been had, give to California a representative population of ninety-two thousand five hundred and ninety-seven, and it is alleged that the other three counties contained a population of twenty-five thousand

two hundred and twenty-four, which together made a total of one hundred and seventeen thousand eight hundred and twenty-one, all of which is correct, and which nobody doubts. But these three counties come not within what is said of the thirty-three or the fifty per cent. There is a material question. Now, these are the whole facts, and here is the proof from the superintendent of the business in California. And will any Senator upon this floor, in order to obviate the principle adopted by Congress two years ago, in consequence of the testimony which is here adduced, add one member for California? If that is done, then on the same principle, another member must be given to Louisiana, and also one to South Carolina, and thereby increase the number of the House of Representatives to two hundred and thirty-five. I hope that will not be done without good cause.

I propose, now, to show that California cannot cry out "injustice;" and I will show it upon proof, and give them to the full extent everything they ask. This census agent reports that in California no returns were made of from thirty-three to fifty per cent. of the population. Now, what is thirty-three per cent. on the whole alleged population, as shown by the returns?—I mean of the ninety-two thousand five hundred and ninety-seven. Taking that number as the population of the whole State, what will be the amount of thirty-three per cent.? Let it go over the whole State, instead of the three counties, to which it is said to apply, and it would only make the population of California one hundred and twenty-three thousand four hundred and sixty-three souls. And what is the ratio of representation? It is ninety-three thousand seven hundred and twenty-one. Take that number from one hundred and twenty-three thousand four hundred and sixty-three, and it leaves a fraction of over twenty-nine thousand, for which a representative is asked; while South Carolina has a fraction of forty-seven thousand, and Louisiana a fraction of over forty-six thousand.

But take another view of the matter. Take the calculation for the whole State at ninety-two thousand five hundred and ninety-seven, and then add fifty per cent., which is the maximum of the assumed deficiency in the returns—thirty-three being the minimum, and fifty the maximum—and what is it? The addition of this fifty per cent. makes the whole population equal to one hundred and thirty-eight thousand seven hundred and ninety-five. Take from that number the ratio of representation, namely, ninety-three thousand seven hundred and twenty-one, and it leaves a fraction of a little over forty-five thousand. Now, the State of Louisiana has a fraction of over forty-six thousand, and the State of South Carolina has a still larger fraction, amounting to over forty-seven thousand. Can California, therefore, complain when we take the question even on these estimates, and concede everything which is assumed, even to its fullest extent?

Let us come down to the fact as proved. This thirty-three to fifty per cent. applies to the three counties of which the superintendent of the census of the State of California was speaking when he sent that communication to the Legislature of his own State, and with every disposition, no doubt, to increase the population so as to give the State a greater degree of political strength. And with these facts before me, after having fully investigated the matter, can I be reasonably called upon to violate a principle—an established and acknowledged principle—merely for the gratification of the people of California, unless, at the same time, I gratify the people of the States of South Carolina and Louisiana? That is the very question. Will we give to the State of Louisiana one Representative for her fraction of forty-six thousand, and one to South Carolina for her fraction of forty-seven thousand? And, sir, there is another State of this Union, which has a fraction of forty-three thousand.

Mr. BADGER. Which State is that?

Mr. DAWSON. I believe it is the State of Vermont. These are the facts; and I am willing, if I did not regard it a violation of principle, to do California justice—yea, more than justice—as we have always done. But they contend about the population. Sir, the reason why these large estimates are made by the gentlemen who have presented their letters as evidence before the committee, is, that many, very many, persons go to

California without any design of making it their permanent residence. At least five hundred of my constituents, actual residents of the State of Georgia, are now in California. They go to the gold mines without any intention of remaining permanently in the State, and thus they come within the enumeration of the population of California. Every steamer that leaves our shores carries out a large number of this class of population; and if they were honest and patriotic citizens, when the marshal came round to take the enumeration, they would respond that they belonged to the old States. Sir, the transient population of California to-day is almost equal to the whole of the settled population of that State. Have gentlemen turned their attention to the number of families settled in California? Have they looked to the vote which was given for the Governor of that State, and then multiplied it by five, the usual mode of finding out the whole population of a State? And when you remember that there are at least ten males to one female, you will see that, notwithstanding there is an immense population there, it is not a resident population. I think this is fully understood by gentlemen; but, under my convictions of this matter, I am constrained to vote against the amendment proposed by the Senator from Louisiana. If either of these amendments should pass—if California gets another member—or rather, I should say, if she gets one more than she is entitled to by her present population, as it is known to us here, then I shall think myself under an obligation to vote for one for Louisiana; but I think the better plan is to adhere to principle; and I would ask, if the State of Georgia had a fraction of ninety-two thousand three hundred and seventy-one, only wanting one thousand to make her entitled to another Representative, whether, after establishing a principle, if another had a fraction nearly as great, you would not let that State have a Representative too?

Mr. WELLER. Although I am laboring under a hoarseness which, I know, will prevent me from being heard in the Senate; yet I should fail to discharge my duty, if I did not make some response to what has fallen from Senators on the other side of the question. I did not suppose that there was any person acquainted with the state of affairs in California, who seriously intended to strike down one of her Representatives in the other branch of the Legislature. This is a very important question, so far as the interests of California are concerned. It is always a question of importance when you regulate the political power that any State shall exercise in the National Legislature. California is begging nothing from you; she is only asking that she shall have her proper weight, her proper influence in the other branch of Congress, in the enactment of those laws by which her citizens and the rest of the American people are to be governed. She is only asking that, when you come to apportion out the political power of this Government, two hundred thousand men, standing upon the shores of the Pacific ocean, shall exercise the same political power as two hundred thousand standing upon the shores of the Atlantic.

We are only asking that that same meed of justice will be extended to us which is extended to other portions of the American family; for we form part of the American family—we are bone of your bone, and flesh of your flesh. We are planted on the shores of the Pacific, and stand under the protection of the same flag under which you stand—the flag that was never disgraced, never dishonored. The Senators on the other side are desirous of showing that California should be deprived of one of her Representatives. But why, sir? Before you undertake to strike down a member from a seat in the other branch of Congress, you ought to be sure that you have right and justice on your side. Have the people of California failed to discharge their duty? Is there any obligation resting on the authorities of California that they have not complied with? Who pretends it? Has there been an actual enumeration of the inhabitants of the State of California? Who says it? The Senator from Massachusetts says it; but the census agent does not say so. You have selected an officer under your law—under the law of the Federal Government, whose duty it was to take the enumeration of the population of California. You sent him there. We had no agency in his appointment or selection. You sent him there with the power of the

Federal Government. How has he discharged that duty? What does the census agent himself say? He says—and my friend, the Senator from Georgia, skipped over this rather hastily—

“So erroneous, in fact, was the general impression then prevailing amongst the population residing there, regarding the northern boundary of the State, that a large population on the Klamath river was not enumerated, being supposed to be comprehended in the Territory of Oregon.”

There is the statement of the census agent that there was a large population residing on the banks of the Klamath river, which, because of the ignorance of the geography of the State, they supposed to be within the Territory of Oregon.

Now, if that population is within the limits of California, I ask you whether they ought not to be enumerated when you come to fix on the population of that State? The census agent tells you that there was a large population on the Klamath river, which was not enumerated, because they were supposed to be residents of the Territory of Oregon. Now, suppose—and I put this question in all fairness to the distinguished Senator from Massachusetts—that an agent, appointed by the Government to take the census of his State, had failed to enumerate the population of several towns which lie on the frontier of that State; and suppose that he mentioned the fact in his report, that he had not enumerated the population of certain towns—naming them—because he supposed they were outside the limits of the State—would the Senator consider it fair—would he consider it just, on the part of Congress, to refuse to take evidence relative to the population of those towns which were not enumerated by the census agent?

Mr. DAVIS. Does the Senator consider me as refusing to receive evidence? I based my whole argument on the ground that we should receive any evidence necessary to make the corrections in the census as taken.

Mr. WELLER. If I comprehended the argument of the Senator upon the other side, it was this: that it was utterly impossible to rely upon the statements of Mr. McCorkle, or any other gentleman, however familiar he might be with the state of affairs in California; because you have the returns of the census agent, your own officer, which are quite different. I will show you the unfairness of the manner in which the Senator from Massachusetts quoted the statements of Mr. McCorkle. He affirms that we are seeking to set aside the returns of the census agent, because Mr. McCorkle has said:

“As an illustration of the gross inaccuracy of the census returns from California, I will give you my estimates of a few counties in the northern part of the State.”

The Senator from Massachusetts stopped there. I will read to you the balance, and that will show the degree of weight and importance to be attached to the declarations of Mr. McCorkle. The Senator from Massachusetts stopped in the middle of a sentence. The balance of the sentence is in these words:

“Counties with which I am perfectly familiar, and in which I have resided for the last two years and a half.”

Now, I ask why the Senator could not read that statement, and give it whole?

Mr. DAVIS. Does the Senator really suppose that I had any motive in stopping where I did, when the document was here, before the face of every one? I did not wish to spend the time in reading.

Mr. WELLER. There was but a line and a half more, and that was very important, for the reason that it states the ground upon which Mr. McCorkle based his opinion. The importance to be attached to the estimate, depends upon the means which he had of being familiar with the facts of which he speaks. He says, that he had resided in those very counties two years and a half, the population of which he has estimated. But my ingenious friend from Georgia, [Mr. Dawson,]—and he is very remarkable for his ingenuity—has construed this declaration of the census agent in this manner: that the thirty-three or fifty per cent. is to be added to the population returned in the counties of Trinity, Shasta, and Colusi. Let us read the statement. There is nothing about the language that the plainest understanding cannot comprehend. What is it?

“The result of this enumeration, when completed, will, with all reasonable probability, fall short of the entire population of the State, from thirty-three to fifty per cent.”

He says, “it will fall short of the entire population of the State, from thirty-three to fifty per

cent.” Now, I ask upon what ground the Senator can assume that it was the intention of this agent to confine this expression to the counties of Trinity, Shasta, and Colusi?

Mr. DAWSON. I will answer the Senator with great pleasure. The marshal who wrote this letter to the Secretary of State of California, to be laid before the Legislature of that State, was a resident of San Francisco, I think.

Mr. WELLER. He resided at Sacramento.

Mr. DAWSON. It is quite immaterial. He was the responsible man; and if he was sworn to discharge his duties, and the returns have been made to him from twenty-two counties, by deputies sworn to discharge their duties, my construction was that that was at least *prima facie* evidence of the correctness of the returns, and that when he went on to identify a particular district, and said that this district had been imperfectly taken, and then said that the enumeration would necessarily fall short some thirty-three or fifty per cent., I drew the inference that the superintendent would consider that enumeration as correct which he had taken. The declaration with regard to the three counties induced me to draw that inference. But I took the estimated population of the twenty-two counties at ninety-two thousand five hundred and ninety-seven, and then added, first, thirty-three per cent., and then fifty per cent., so as to give California the utmost liberality, which I was desirous of doing, and I even added to that the twenty-five thousand and odd for the three counties, and it still left her short of the fractions of Louisiana and of South Carolina; for the fraction of California would then be but forty-five thousand, while that of Louisiana is forty-six thousand, and that of South Carolina is forty-seven thousand.

My object was not in the least to make an unfavorable impression, and when I commenced the calculation I was hopeful that the thirty-three per cent. would make for California a larger fraction than Louisiana has. But instead of that I found it to be smaller than that of either of the other States I have named. That was the reason I presented the view I did, and I intended to present it fairly and deal as liberally towards California as I possibly could, and as I am sure the Senator is well aware.

If you adopt that principle, the State which has the next lower fraction will want to come in; and thus you will establish a precedent which will control all future legislation on the subject, and the business of representation will not be settled so quietly as we intended when we established the law; because every Senator will feel constrained to make an effort to secure for his State a larger representation than she is entitled to whenever there happens to be a large fraction. Now, that we are about to carry this law into operation, let us stand on principle—a principle which may affect California now, and, at a future time, may affect the State which I represent. Some one of the States must be in the condition of South Carolina and Louisiana. It is their time now, and may be ours next. But, when the principle is once established, if there is no change, we shall get along smoothly. Hence, my determination now is to vote against both; but if one be adopted, I shall feel constrained to vote for the other, if I have an opportunity.

Mr. WELLER. I have no disposition to engage in the business of special pleading. The Senate can determine this question by looking at the phraseology of the sentence; but, as the Senator from Georgia has undertaken to cipher out this matter, I have one or two propositions to put to him, and I will be glad if he will take his pen and cipher them out.

Mr. DAWSON. I will.

Mr. WELLER. Then I ask the gentleman to turn to the tenth page of this report, and look at Exhibit A. He will find that, according to that table, the population of California is set down at one hundred and seventeen thousand three hundred and eighteen.

Mr. DAWSON. That includes San Francisco, Contra Costa, and Santa Clara.

Mr. WELLER. San Francisco, Contra Costa, and Santa Clara are in the table; but Tuolumne, San Diego, Los Angeles, and Klamath counties are not in it. There are four counties of the State, then, not included in this estimate of one hundred and seventeen thousand three hundred and eighteen. If the gentleman will turn back to the

eighth page of the report, he will be able to find out, in part, what are the returns from Tuolumne. That county is set down partially at eight thousand three hundred and fifty-one. Los Angeles is set down at three thousand five hundred and thirty, and San Diego at seven hundred and ninety-eight. I am not able to say whether the county of Klamath was or was not then organized; it was taken off, I believe, from the county of Trinity. There are three of the oldest counties in the State which are not embraced within the estimate of one hundred and seventeen thousand. If you add to the one hundred and seventeen thousand three hundred and eighteen, the returns from Tuolumne as far as they have been received, the returns of Los Angeles and San Diego, and you have a total of one hundred and thirty thousand as the population of the State. I have said before that the census agent did not undertake to call this an enumeration of the State of California. The United States were required by law to make that enumeration. Did their agent make it? He says that, in these tables the returns were incomplete from Butte and Tuolumne counties. Is that an enumeration of the State of California? Is an enumeration of four or five precincts within the limits of a county, an enumeration of that county? When the agent comes in here himself and says to the Government, that he has only taken an enumeration of parts of counties of a portion of the State, I ask you whether you are to regard that as an enumeration of the State? I admit there would be great difficulty about this question, if we impeached, by collateral testimony or by secondary evidence, the correctness of the return of the agent.

Mr. DAWSON. For the purpose of showing my friend that I have looked into this matter, permit me to point him to the tables. At page 8 of the report, table No. 5, Butte county is put down as partially returned, and as having, according to those returns, a population of three thousand five hundred and seventy-four. According to exhibit A, page 10, Butte county has a population of four thousand seven hundred and eighty-six, and there is nothing said about partial returns. Then, in the same exhibit, the returns of the other counties, including San Francisco, Contra Costa, and Santa Clara, are given and added together, making an aggregate of one hundred and seventeen thousand three hundred and eighteen.

Mr. WELLER. But three counties are still to be added to that, making a population of one hundred and thirty thousand. Taking that estimate of one hundred and thirty thousand, and adding to it the lowest amount which the census agent says ought to be added, that is, thirty-three per cent., and you have the population of California as one hundred and seventy-two thousand, giving her the largest fraction of any State in the Union. I ask you, upon this showing, with what sort of justice and propriety can you strike from that State one of her Representatives in the other branch of Congress? The correctness of this return is impeached by the officer himself. It is true there is secondary evidence impeaching its correctness. There are declarations of men, who are familiar with that State, who undertake to say that no confidence is to be placed in it. It is true that it has been impeached by the legislative power of California, who have declared that the population of that State at that time was three hundred thousand. It is true that we as Senators here may know that there is no confidence to be placed in the estimate which has been sent in. But we do not rely upon that. We rely upon the declaration of the officer who was intrusted with the duty under the law that no confidence can be placed in it.

Now, I ask you, Mr. President, and I ask Senators, whether we are to be deprived of one of our Representatives because of the failure of your own officer to perform his duty? There has been no failure on the part of the people of California, but the man whom you sent to discharge this duty has failed to perform it. Would there be justice in making the people of California suffer, because the agent of your selection has failed to discharge his duty? And yet “to this complexion it must come at last.”

In order to deprive California of one Representative in the other branch of Congress, you must flatly contradict the return of your own officer. He says that there has not been an enumeration

of the inhabitants of California; that he has only been able, because of the existence of an extraordinary state of things there, to obtain partial returns from some of the counties of that State. You are now asked to disbelieve him, and to assume that an enumeration of the whole State has been made. I ask whether you are to raise these presumptions in order to deprive a State of a Representative?

Sir, neither you nor I can tell what will be the population of that State before the next census is regularly taken in 1860. With the immense emigration that is now flowing into that country, nobody can estimate what will be its strength and power ten years hence. With its agricultural resources, and its commercial position, aside from its mineral wealth, ere that day shall arrive it must be one of the mightiest States of this Republic. I ask nothing from you as a matter of charity. I ask nothing from your sympathies; but I ask you to look at the evidence, to look at the return of your own officer, and upon that evidence to decide the important question whether the State of California shall lose a Representative in the other branch of Congress.

Mr. BRADBURY. The Senate will recollect that there are several other States that have large fractions. If we proceed to give a Representative to Louisiana for her fraction, New Hampshire will present herself with a fraction of thirty-six thousand seven hundred and seventy-one, and Vermont with a fraction of thirty-two thousand nine hundred and twenty-seven, and so with several other States. The principle upon which it is urged that the amendment in reference to California should be adopted is this: we have no accurate census of that State; and having no accurate census, we cannot fairly undertake to change the number of Representatives provided for her in the act for the admission of that State into the Union—a principle entirely different from the one upon which the honorable Senator from Louisiana relies. I hope, therefore, that his amendment will not be adopted.

Mr. DAWSON. I wish to say a few words, merely for the purpose of setting myself right. I wish to show that there is no difference about this matter when we understand each other as to time. Time is vastly important in this discussion. When the committee called upon the head of the Census Bureau in this city, he sent them the following information. It is dated February 25, 1852:

"I have the honor to send you a statement of the returns now received from California, by counties, with the amount of population carried out. It will be seen that the returns from two counties, Butte and Tuolumne, are incomplete, and that from three counties, Santa Clara, Contra Costa, and San Francisco, no returns have been received."

There are, then, but those five counties which have not been returned. Leaving them out, the population returned into the office was ninety-two thousand five hundred and ninety-seven. About that there is no dispute; that is official, and comes in as being the population on June 1st, 1850. When the census agent was corresponding with the Legislature of California, it was April, 1851. We have now got the returns from the three last counties, Contra Costa, Santa Clara, and San Francisco—twenty-five thousand and some odd hundred. Against those returns nothing has been said; adding them to the ninety-two thousand, we have a population for California of something over one hundred and seventeen thousand. Then there are these two other counties, Tuolumne and Butte, from which but partial returns had then been received. These two are spoken of by the gentleman who took the census, in his letter, or report, which is rather hard to be comprehended. When he spoke of the population, in 1851, to the Legislature of California, who were about to regulate their representation according to the enumeration, he said that the population had greatly increased. He thinks that thirty-three and a third or fifty per cent. ought to be added to it. Whether he applies that back to the time of taking the census, or to the condition of the population at the time he made his report, I do not know. But it is very evident that no allegation has been made against the returns of the twenty-four counties which have been actually received at the Census Bureau. To show that the county of Butte was at first but partially taken, you have but to refer to document No. 5, accompanying the report, where it is put down at four thousand seven hundred and eighty-six—it had previously been

put down at three thousand five hundred and seventy-four—showing that the returns had been corrected. The returns, then, as corrected, added together, made up an aggregate of one hundred and seventeen thousand. For the purpose of putting myself right, a little while ago, I added the thirty-three and a third and fifty per cent. to the ninety-two thousand taken at the time when the census properly was taken, and I could not find that the fraction would be larger than that of Louisiana or South Carolina. I could not make it out so; and I have not had the matter sufficiently explained to me to enable me to come to the conclusion that California has a larger fraction than South Carolina or Louisiana. I shall, therefore, have to vote against the amendment.

Mr. GWIN. I would call the attention of the Senator from Georgia to the letter of the agent himself as to the county of Butte. The Senator said that the returns from that county were complete.

Mr. DAWSON. No, sir; I say that they were changed from three thousand five hundred and seventy-four to four thousand seven hundred and eighty-six, and were said to be complete. I cannot tell how that is.

Mr. GWIN. I have here the last letter of the agent himself, after suits had been ordered to be brought against him for not having performed his duty. He says that he has a copy of the returns of Butte county, but declines transmitting it to the department, on account of its not being executed in accordance with the law, but that he has instructed his assistant to make out a copy in conformity with the law. That has never yet been received here. He also says that he has not made returns from Tuolumne county. The returns of Butte county were never completed.

Mr. RUSK. I cannot see that the proposition to give Louisiana a member, and the proposition to give California a member, are at all parallel, or stand upon the same footing. Nobody pretends to say that there has not been an actual enumeration in Louisiana. That actual enumeration has been returned, and taking the law and enforcing it as it is, Louisiana does not get an additional member for her fraction. She is therefore deprived of no right by not having one. If I were to be guided by my feelings in this matter, and not by my sense of duty, I should certainly vote to give Louisiana a member; but I am bound to act according to my sense of duty. The cases of California and Louisiana are not parallel. In the case of California, nobody pretends that there has been an actual enumeration of her inhabitants returned upon which we can act. The Constitution is imperative, that we shall make an actual enumeration of the inhabitants. Here the very agents that you sent out to make the enumeration, say they have not made it. The agent of the Census Bureau, who took the census, tells you himself that he has not been able to complete the enumeration. The facts of the case show that, so far as California is concerned, the Constitution has not been complied with, and no actual enumeration has been made. How, then, does the case stand? I am not disposed to extend favors, or to do injustice to California. I do not put it upon either ground. She was admitted here with certain privileges; one of those privileges was to be represented in the other branch of Congress by two members. That she has by law; and it is strictly constitutional. Now, can you deprive her of one of those members? Is it just to deprive her of one of them? What means have you to deprive her? The Constitution points out the means. You have a right to apportion her Representatives again, provided you do it according to an actual enumeration. Have you that actual enumeration produced? I cannot see it; and therefore I cannot vote to do her injustice. If we had a strictly complete and accurate enumeration of California, and that enumeration showed that she was entitled to but one member, there could be no question about it; but there has been no actual enumeration to show that.

Mr. SHIELDS. I have been somewhat struck by the remarks of the honorable Senator from Texas. I did not listen to the earlier stages of this debate, but, if I have understood the remarks of the gentleman aright now, it seems to me to be a very plain case. There is not, in my humble opinion, an accurate, and correct, and constitutional enumeration before us of the population of California; or in other words, there is not

before us data that will enable us to increase or diminish the representation of that State. I hold that you must have this data before you can either increase or diminish the representation of a State. That is the ground upon which the gentleman has put it. I think we cannot patch up the returns of the census, as the attempt is made to do here. Take the case of Massachusetts. Suppose there had been no enumeration of the population in that State at all. How is that State in that case to be treated? You are not authorized to increase her representation. You have no data on which to increase it. You are not authorized to diminish it. You have no data that will authorize you to do that. In my judgment you must have the enumeration before you; you must have data of such a character as to authorize you either to increase or to diminish. If you have not such data, then you must leave the representation of the State as it stands—permit it to remain as it is. How is California in that case? She has two members. According to my view, you cannot take away one of those members upon a mere supposition, without doing injustice to that State; and you cannot increase the representation, for you have no enumeration to justify it; therefore you must leave the matter as if no enumeration had been made, and no census taken—as if we knew nothing of the population there. That being the case, it occurs to me that the condition of California does not affect South Carolina at all. California stands upon her own basis—upon her own merits. South Carolina, by the law as it now stands, is entitled to her Representative. There is no question about that. The condition of California, which is irregular, ought not to change, in any respect, the rule as to South Carolina. That is the consideration which will govern my vote.

I am willing, therefore, as there is no enumeration—no correct and perfect enumeration—in this case that will justify us in changing the condition of California, to let that State remain as she is—keep her status—the one you have given her when you brought her into the Union. You are not authorized to change that except upon some data. The data must be regular, must be correct, must be as perfect as your agents can make them, before you can change her condition. Then let California stand as she is until you have that data, and let South Carolina have the member to which she is entitled by the law as it now stands. But I cannot go further than that. I cannot, as I now feel, vote an additional member to the State represented by the honorable gentleman from Louisiana, though I should be glad to do so. I think that the law, as it now stands, gives South Carolina a clear title, without any change, to this Representative. As you have no returns from California upon which you can base a correct and satisfactory action, you must permit California to remain as she is until you have these returns, and not change her condition.

Mr. BELL. I wish to make a single inquiry of the honorable Senator from Texas, and also of the honorable Senator from Illinois. If they are right, I certainly do not understand this question. I do not profess to have investigated it with so much care as the gentlemen who have discussed it. I do not perceive that South Carolina must be entitled, under the act of 1850, to a member for her fraction. If it be true that we have no ground upon which to deprive California of two members, I think the argument is strong, and it would be very difficult to refute it, inasmuch as by the act we have passed for the admission of California into the Union, we have provided that she shall be allowed two members until the next enumeration of the inhabitants shall be made under the Constitution. Well, upon what assumption was that law enacted? It was enacted upon the assumption by Congress, that from the facts then before Congress, California was fairly entitled to two members, according to her population. The ratio, then, I believe, was seventy-two thousand. We assumed then, at all events, that she had twice the number of seventy-two thousand, and we provided that she should continue to hold two members in the House of Representatives until an actual enumeration. I have not heard it disputed yet, though I think the honorable Senator from Georgia, in his first argument, intimated that that was not a true state of the case; that the officer of the United States who took the census himself, admits that there is no actual enumeration of the



inhabitants of California; that it is imperfect; that it is partial; that some sections of the country had not been returned at all. If that be the case, there is no actual enumeration of the inhabitants of California.

We have a law upon the statute-book providing that until there is that actual enumeration, under the Constitution, California shall be entitled to two Representatives. Then we have the act of 1850, providing that the whole number of Representatives shall not exceed two hundred and thirty-three; consequently we are in a dilemma in regard to California. We cannot very well reduce her number, because she may stand up here and say you gave us by law two Representatives, upon the presumption that we had a population sufficient to entitle us to them, and that we should have them until there was an actual enumeration. She might very well, then, ask us under what authority we could proceed to say that we had allowed her too many Representatives heretofore. It is a violation of the condition on which California was admitted into the Union, if you divest her of one Representative before you have enumerated the inhabitants under the Constitution. Now, I should like to know from my friend from Georgia whether he has reexamined the tables and documents, and is prepared to say that the officers of the United States have reported that they have made a perfect enumeration of the inhabitants of California, according to the act passed for that purpose.

Mr. DAWSON. There are twenty-four counties which have been enumerated.

Mr. BELL. Has their census been taken perfectly or imperfectly?

Mr. DAWSON. It is stated that the census has been imperfectly taken in some of the counties.

Mr. BELL. So I understand. It is an imperfect enumeration. There is no actual enumeration, and we cannot indulge in speculations or conjectures as to how many more inhabitants there were in California than were enumerated. We cannot assume that the officers of the Government have done their duty without giving great dissatisfaction to the people of California. We cannot reduce the number of her Representatives without leaving it to her people to say that it is a violation of the law under which she was admitted into the Union. How, then, is the case left under the act of 1850?

The honorable Senator from Illinois, and the honorable Senator from Texas, seemed to go upon the assumption that South Carolina is entitled, under the act of 1850, to a member for her fraction. The act of 1850 provides that the whole number of Representatives shall not exceed two hundred and thirty-three. If you are bound, then, to allow out of that two hundred and thirty-three, two members for California, then there is no fraction to be represented for South Carolina under the act of 1850. And it seems to me that we come back to the question stated by the honorable Senator from Massachusetts. It is a question whether you will allow South Carolina to have the benefit of her fraction, or will let the representation stand as provided by the law, which already provides two Representatives for California until you make an enumeration under the Constitution. If California is entitled to two members, then, under the act of 1850, South Carolina is not entitled to a Representative for her fraction, and you will have the full number of two hundred and thirty-three, without giving her a member for her fraction. If this enumeration had been completed, and we could then see that California ought to be divested of one of her members, South Carolina would, of course, be entitled to a member for her fraction, and it would be a hardship to deprive her of it; but until that time, it seems to me that South Carolina has no just right to complain, because the act of 1850 having been passed in anticipation of an actual enumeration, she took the risk of being unrepresented on a large fraction. Louisiana stands on ground affording scarcely less reason for complaint on her part. It does seem to me that if we depart from the act of 1850, and allow two hundred and thirty-four members for the House of Representatives, it might be a very serious inconvenience. It might turn out to be a great inconvenience in having an even number. If we were to have one member more, it would still further unsettle the ratio established by the act of 1850; but even that seems to me preferable to

allowing the even number two hundred and thirty-four. I would ask, again, the honorable Senators from Illinois and Texas upon what ground they take it for granted that South Carolina is entitled to an additional member on her fraction of forty-seven thousand? It seems to me that the contest is between South Carolina and California, and if the case is so situated that we cannot deprive California of one of her Representatives, then, under the act of 1850, South Carolina is not entitled to a Representative for her fraction.

Mr. RUSK. That would be true, if by this bill it was proposed to give representation to California; but that is not so. The amendment which has been proposed by the Senator from Maine is, that the representation from California, in consequence of the incorrect returns from that State, shall stand at what it is now. By the act of admission, she was entitled to two Representatives. Nobody disputes the constitutionality of that. I admit the fact suggested by the honorable Senator from Tennessee, that we get into difficulty by not having correct returns from California. We are in difficulty in determining what number shall be divided by two hundred and thirty-three, so as to give the ratio of representation. That is a difficulty which is in our way, and it is not very easy to get clear of it. I propose to get clear of it by taking the returns as we have them made to us. The point is not very material, because it will only make a very slight change in the number which is to be divided by two hundred and thirty-three, in order to get the ratio.

Mr. BELL. Still it unsettles the matter, and that is my objection to it.

Mr. RUSK. If you make up for California, and exclude South Carolina, you commit a greater error, because you have to assume, not only that the returns of California are not correct, but that they give her a fraction larger than that of South Carolina.

Mr. SHIELDS. I admit the dilemma as stated by the Senator from Tennessee. We must get out of it in some way. Now, I assume that the case of California is an abnormal case, as it were; that you must provide for it by itself, as if there were no law on the question, it being a peculiar case. The question, then, is this: Will you leave her without any representation? Will you increase her representation, or will you diminish it? What data have you to do either of these? Then you must legislate for California precisely as if there were no law in existence in regard to the subject. You must make a law and apply it to the particular case.

Every one admits that South Carolina is entitled to a Representative under the general law. Her fraction entitles her to that. You must, therefore, let South Carolina have that to which she is entitled; for any derangement, any confusion, any irregularity that has occurred in California ought not to deprive South Carolina of a member for her fraction. It would be unjust to deprive her of her member. I agree that you have to abandon your law; that you must provide for California as a separate case, and legislate for it by itself.

Mr. HALE. I feel no desire to do anything here, except to vote as I ought to vote on this subject. But it strikes me that there have been one or two mistaken views presented by several gentlemen who have spoken on this subject. Some of them have gone upon the idea that some of the States now have a vested right to one Representative in Congress under existing laws, and they speak of depriving a State. That is not so. The statute under which the several States are represented in the present House of Representatives expires by itself when the seventh enumeration is made. And the act under which the members of that body now hold their seats is entitled "An act for the apportionment of Representatives among the several States according to the Sixth Census." The Constitution requires the census to be taken once in every ten years. Then that act is dead. If I may be excused for using two Latin words, it is *functus officio*.

Mr. BADGER. Not exactly, for the new apportionment will not take effect until the 3d of March next.

Mr. HALE. It has performed everything, or it will have performed everything, by the expiration of the present Congress; and, without some new legislation, no State can be represented in the next House of Representatives. The State of

New Hampshire, from which I come, will have, in the next House of Representatives, but three members; but then she is not deprived of any Representative, because the present act will have expired by that time: and to find out what she is entitled to, she will have to look to the seventh enumeration, which the Constitution requires to be made, and to the legislation of Congress, which is necessary to give efficiency to the provision of the Constitution. It is perfectly idle to talk of California, or any other State, being deprived of a Representative, because she does not get as many under the seventh, as under the sixth enumeration. I beg gentlemen to lay aside any idea of depriving California, New Hampshire, or South Carolina, of a Representative. They are not deprived of a Representative until they are deprived of one to which they are entitled under the seventh enumeration, and the acts of Congress which have been, or may be passed in accordance with it. There can be no possible view of the case, in which it may be said, that California is absolutely and certainly entitled to two Representatives; and that, if she does not have two, she will be deprived of her rights—unless we look at it as a part of the great compromise measures which saved the Union; and, looking on this as a finality which would be disturbed by taking away one of the members of California. I do not suppose anybody takes that view of the subject. I am perfectly willing, if there is any good proof on which her claim can be established, to give California an additional member; but it must be upon some competent evidence.

If the evidence is sufficient to authorize us to proceed to give to California another Representative than the one provided for, it must be because we have evidence to satisfy us that she has the necessary population, while the same evidence must satisfy us that no other State, not having a fraction so large as California, can have a Representative for that fraction. It seems to me that is perfectly plain, unless we are going to abandon entirely the law we passed for the taking of the Seventh Census. If we abandon the whole of it, and say that the number of Representatives shall not be two hundred and thirty-three, which is the number fixed by that law, but that it shall be some other number, will not other States, upon the same principle, come in with their fractions of thirty-six thousand, of thirty-eight thousand, or of forty-five thousand, and ask that the question may be reconsidered, and claim an additional member in the general division which we are going to make?

It seems to me, that if we are to proceed under the Constitution and under the law, the question is, whether there is sufficient evidence to satisfy us that California has a larger fraction than South Carolina? If you have got that evidence, then give her the Representative, because she is entitled to it. If there is the evidence to satisfy the Senate that she is entitled to it, and you do not give it to her, then, and not till then, you deprive her. But the very same moment you come to that conclusion, it seems to me, if there is anything in the evidence, you come also to the conclusion that South Carolina is not entitled to the Representative.

We live in a day of compromises; and I have no sort of fear that we shall get into any difficulty here. It is said that we have got into a dilemma. Well, the way to get out of a dilemma is easy, particularly after the experience of the last two years. It is by compromising. I suppose there will be a compromise here. Inasmuch as California is not willing to give up her Representative, because she thinks she has evidence enough to entitle her to it, and South Carolina is not willing to give up what she thinks she is entitled to, as the record now stands, we shall settle the matter; it seems to me manifest destiny will settle it. They will both take the Representative. That is the result to which we shall come. That is the result to which we point. But when we do that, let me tell gentlemen they take a wide departure from the Constitution, and they open a very wide door. I believe it will be the first time, to say the least of it, that Congress has ever undertaken to give a Representative over and above what was shown to be due by the actual enumeration which they had made. That will not be the case in regard to California, if you say that you have evidence enough to satisfy you that the enumeration has not been made. But, in the case of South Carolina, it will be manifestly giving a Repre-

representative as it now stands. I confess the matter is difficult. I do not know exactly how to get out of the difficulty. If I had not been in the Senate for the last two or three years, and seen the way in which we can get out of the most difficult labyrinths into which we can possibly be thrown, I would have no faith in it. But pass any act you please, and call it a compromise, and it will lead us safely through the difficulty, and glorify the authors of it.

Mr. UNDERWOOD. I think I can tell the gentleman how to get out of the dilemma, by reading to him a clause of the Constitution, and making a few remarks upon it. The Constitution says:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

There is the great constitutional rule. It says that Congress shall apportion Representatives and impose direct taxes according to federal numbers. That is the rule. That is the essence of the Constitution. But now it is asked how are the numbers to be ascertained? The subsequent parts of the Constitution are merely directory. The subsequent parts of the Constitution say that during every ten years you shall make an enumeration—an actual enumeration is the language. But these are directions of an executive character, given for the purpose of obtaining information on which you are to act. The difficulty in this case is that it is said that you have not got the information—you have not got the actual enumeration. Admit it—what then are you to do? If you have not got precisely what the Constitution has directed, what are you to do? I say that, like every other case, you are to take the best evidence of which the case is susceptible. You are bound to carry out the injunction of the Constitution—to apportion the representation according to federal numbers. The rule is given by which you shall inquire and ascertain these numbers. The rule, it is said, has not been accurately observed in this case. In the absence of the required information, which you would obtain by the execution of the rule, what are you to do? You are to get the next best testimony that you can, and, when you have got it, you are to execute the great injunction of the Constitution.

Let me now advert to a case. There are in Tennessee, by way of illustration, three districts—Eastern, Middle, and Western Tennessee. Suppose the marshal of the middle district of Tennessee should make no return at all, but that the marshals of the eastern and western districts make their returns. Then you would have the constitutional information upon which to do justice to Eastern and Western Tennessee; but you would lack the information as regards Central Tennessee. What are you to do in such a case? May you not consider that correct information as far as it goes? and then, may you not go into an estimate of the probable increase of the middle section, by comparing the increase in the various decimal periods for ten, twenty, or thirty years back, and make an estimate in that way? You may do that. You can thus use the information as far as you have obtained it, and you can use the rate of increase by comparison, taking the different preceding decades and making a rule; or, if you please, you may resort to the statements which gentlemen conversant with the middle district of Tennessee may make. All this, you perceive, will be adopting the second grade of evidence. It is approximating—doing the best you can in executing the great constitutional rule.

Suppose, now, the case which has been put in regard to Massachusetts. Suppose there was no return at all made of Massachusetts. What would you do in such a case? Then you must of necessity cut down the State to the one Representative allowed by the Constitution, under all circumstances; for the Constitution says each State shall have at least one Representative; or if you enlarge her above one Representative, you must do it by endeavoring to ascertain the population of the State. May you not, in pursuing this investigation as I have suggested, ask yourselves, has the State increased since the last census, which was accurately taken, or has it fallen off? Suppose that, by comparing two or three preceding decades, you should find that the State had been standing

still—had neither increased nor fallen off—might you not consider the relative situation of the population at different decennial periods, for the purpose of ascertaining whether you ought to take the population returned ten years before, or adopt a different rule? It is clear to my mind that in a case of that sort, if no return should be made from Massachusetts, it would not follow that you should reduce the State down to one Representative, but you may take the population of the preceding ten years, and compare it with periods of ten years for twenty or thirty years back, and by this comparison Congress might come to a conclusion as to what it would be right to allow the State. Without going into any calculation—without intending to go upon the figures which gentlemen in various parts of the Hall have presented, it does seem to me that it is our duty to ascertain, as between South Carolina and California, which is entitled to this member, and to adhere to the number two hundred and thirty-three, at which the House of Representatives was fixed by the law of the last Congress.

Mr. BORLAND. Mr. President, it seems to me that a part of this discussion has proceeded upon a misreading, or at least upon a misconception, of certain words of the Constitution. It is as to the meaning attached to the terms, "actual enumeration." Some Senators have used the word "actual," here, as synonymous with, and equivalent to, the word "accurate;" thus proceeding upon the assumption or supposition, that prescribed an "accurate enumeration." Such is not the language, and such could not have been the meaning of the Constitution. While it was certainly desired, and was as certainly contemplated by the Constitution that *accuracy* in the enumeration should be sought, and must be at least approximated, it as certainly was not prescribed in terms, and is not attainable in practice. If such a requirement had been made, it could not have been complied with. It is utterly impracticable. It will not do to assume that because the Constitution requires "an actual enumeration" upon which to make the apportionment, and because California is found not to have had an *accurate* enumeration of her population, therefore there has been no such enumeration as prescribed by the Constitution. The effect of that would be to exclude the returns from every State in the Union; for, I apprehend there is not a Senator here who will not say that the enumeration of the population in his State has not been *accurate*. I can safely say that it has not been so in my own State. I am satisfied that the Senator from Texas [Mr. Rusk] will say that it has not been accurate in his State by a very large number, perhaps forty, or fifty, or sixty thousand. The Senator from Texas asserts to the extent of sixty thousand. There has been an "actual enumeration" for California, in view of the Constitution, precisely as there has been in the other States. There has been a *count* there, and that is what the Constitution means by "actual enumeration;" but whether that count has been *accurate* or not, is another question.

Mr. WELLER. It is not contended, in the case of California, on the face of the returns that they are full. It is in regard to the other States.

Mr. BORLAND. This view, I have so far presented, does not affect, at all, the vote I shall give upon the proposition before the Senate. I suggest it to show the manner in which I arrive at the conclusion which determines my vote. It brings me to the conclusion, that South Carolina is entitled, beyond dispute, to an additional Representative. I assume what we are bound to assume, unless we undertake to revise the returns from all the States, and decide upon the *accuracy* of all that the returns from all the States constitute an "actual enumeration," under the act of 1850, passed in compliance with the Constitution.

This "actual enumeration," of all the States, clearly entitles South Carolina, as she has the largest fraction, to an additional Representative. Although we might undertake to repeal the act of 1850, to strike it out from the statute-book, we could not deprive South Carolina of the Representative to which that act, by virtue of the Constitution, has given her. It has become her right by virtue of a law passed by the Congress of the United States in conformity with the Constitution, and we cannot now deprive her of that right. It is hers, by our constitutional act, and beyond our control.

We are, also, in my opinion, equally precluded from taking advantage of California to her injury, by an act which must be called "our own wrong." In the sense I take the words, the returns from that State are defective and *inaccurate*; yet, in view of the Constitution, and of the act of 1850, and for all legal effect, constitute an "actual enumeration." But their inaccuracy is our fault, and not that of California; and as the effect of that fault of ours, unless corrected and counteracted by us, will inflict serious injustice and injury upon her, there is nothing clearer to my mind, or more binding upon my sense of justice, than the obligation upon us to afford her protection in the only way now in our power.

Mr. BELL. I should like to ask the honorable Senator why it is that he says that South Carolina has a vested right under this act? Let me read him the words of the act of 1850:

"That so soon as the next and each subsequent enumeration of the inhabitants of the several States, directed by the Constitution of the United States to be taken, shall be completed and returned to the office of the Department of the Interior, it shall be the duty of the Secretary of the Interior to ascertain the aggregate representative population of the United States," &c.

Now, I want to ask him, has that ever been done?

Mr. DOWNS. Returns have been made.

Mr. BELL. But have they ever been completed? When I was up before, I meant merely to state that I saw no vested right in this case at all. What I objected to was the unsettling of the number, two hundred and thirty-three, which was fixed for the House of Representatives. I say that there is no vested right about the matter under this act. I assume that ground; and I should like the honorable Senator to allow it to be inquired of the Secretary of the Interior whether he has made any report upon this subject—whether there has been a complete enumeration according to the words of the act of 1850?

Mr. BORLAND. I will answer the honorable Senator according to my knowledge and understanding of the act. It is very certain that the act of 1850 meant, by the *completion* of the returns, the close or ending of the official action of the agents employed by the Secretary of the Interior to take the enumeration. It could have no other meaning. It would not apply to the *accuracy* of returns; and of course meant a performance of the duty, and a return of what the officers had done. Then commenced the duty of the Secretary of the Interior, which was to take these returns, which constituted the "actual enumeration" which the Constitution requires, ascertain their aggregates by addition, and then divide them by two hundred and thirty-three, to determine the ratio of representation as required by the act of 1850. These were not to be, and were not, arbitrary acts of the Secretary; nor was the number to be ascertained by the addition and division an arbitrary number, at his discretion. The "actual enumeration" was prescribed by the Constitution, was provided for by the act of 1850, and was "completed" by the returns being made by the marshals to the Secretary of the Interior. Upon the occurrence of this series of events, the whole "actual enumeration" was complete, the ratio of representation was fixed, and the number of Representatives to each was determined. The further action of the Secretary was *ministerial* only, and was to be performed by a very simple arithmetical calculation, whereby the aggregate of the returns was to be divided by two hundred and thirty-three, and the result, or in arithmetical language, the "quotient," was the ratio of representation; and then the division of the returns, or "actual enumeration" of each State respectively, by this "quotient," or ratio, ascertained the number of Representatives due of right, by virtue of the Constitution, and under the act of 1850.

I wish the Senator from Tennessee to understand that I proceed upon the ground that an "actual enumeration," whether *accurate* or not, is what is prescribed and intended by the Constitution. Upon this "actual enumeration," without regard to its accuracy, of which he has no power to judge, the Secretary of the Interior was bound, under the law, to make the addition and then the division; and thereby having *ascertained*, not fixed, the ratio and the representation, to *announce* the result to the country, so that each State should learn her rights, and conform her action to them.

I find no fault of the Secretary of the Interior, for not having performed that duty at once. I find no fault of him for deferring his own final action, until he had communicated to Congress a statement of what he could not have failed to see was the great injustice and injury to be inflicted upon California, as a consequence of the defective and inaccurate returns of the "actual enumeration" he had received from our officers in that State. What I mean, however, is to say that, in my opinion, the law left him no discretion. He was bound, upon the receipt of the returns, whether they were accurate or not, to make the addition and divisions, and announce the result. That is my idea of the requirement of the law, and of the Secretary's duties under it. But, under the circumstances I have mentioned, he very properly postponed the performance of these duties to afford Congress an opportunity, by further legislation, to interpose a remedy for our own wrong in a matter deeply affecting the interest of a sovereign State. This was proper in itself from the magnitude of the interest involved, and could, in no way, do harm, as there was ample time to do justice to all parties. I repeat, the law did actually require him to proceed; and he had, strictly speaking, no legal right whatever to defer it for one moment after he received the returns, and he would have been responsible for any injury to the public interest which such postponement might have occasioned, had he acted indiscreetly; yet he has done well under the circumstances, as he has contributed to save one of the States of this Union from suffering, and the Federal Government from inflicting grievous wrong.

While, therefore, Mr. President, I insist that the right of South Carolina to the additional Representative which the fraction (being the largest) gives her, by authority of the Constitution, as exemplified under the act of 1850, accrues to her, and is beyond our control; I insist, with equal earnestness, that we owe a duty to California which we cannot disregard, or refuse to perform. That she had a population sufficient to entitle her to two Representatives, when we admitted her into the Union, in 1850, is, I apprehend, not disputed. At any rate, we, here, in our legislative capacity, can neither dispute nor refuse to acknowledge it. We declared it to be the fact, by the most solemn act of legislation. It is "a fixed fact," then, for us. And it will be as little disputed, as I apprehend, that she has as large a population now as she had then. Her Representatives claim that she has more. But admit it to be equal, and there is the same reason to allow her two Representatives now, as there was then. Sir, I do believe she has, now, enough population to entitle her to two Representatives under the new apportionment. I am willing, therefore, she shall have them. If the returns do not show it, the fault is ours, not hers; and I will not consent—in my opinion, we have no right—to take advantage of it, of our own wrong, to inflict injustice and injury upon her, or any other State of this Union. And in making an arrangement, by which her rights will be secured, and our duty performed, I meet no difficulty whatever. I think the proposition now before us, is a simple, plain, and proper one. Let all the other States stand as the "actual enumeration" has placed them; for, besides being "actual," their enumerations are, at least, approximately accurate, also. And then let us, by amending the act of 1850, as we have the undoubted power to do, increase the aggregate number of Representatives to two hundred and thirty-four, and assign the additional one to California.

Mr. DOWNS. Some arguments have been advanced to which, as a member of the committee, I feel it my duty to reply; and especially the remarks of the Senator from Texas and the Senator from Illinois.

Mr. CHASE. If the honorable Senator will give way, I will move an adjournment.

Mr. DOWNS. If it is the wish of the Senate, I will give way.

On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 7, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. L. F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER stated, as the first business in

order, the motion of the gentleman from Tennessee, [Mr. POLK,] made on yesterday, that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. GOODENOW asked the unanimous consent of the House to enable him to present the resolves of the Legislature of the State of Maine, in support of the memorial to Congress, asking the assistance of the United States Government in behalf of the European and North American Railway.

Mr. GORMAN objected.

Mr. SEYMOUR, of New York. I wish to suggest, if the House will consent to it, that the morning hour shall be occupied in the reception of reports from committees.

Mr. POLK. I withdraw my motion to go into the Committee of the Whole on the state of the Union.

### DISCIPLINE IN THE NAVY.

The SPEAKER. The motion being withdrawn, the first business in order is the consideration of the bill providing discipline for the Navy, on which the gentleman from Virginia [Mr. BOGOCCK] is entitled to the floor.

Mr. BOGOCCK. If that bill is passed over informally, will it be the first business in order to-morrow morning?

The SPEAKER. It will.

Mr. BOGOCCK. The substitute offered by my colleague from the Norfolk district, [Mr. MILLSON,] and also the substitute offered by the chairman of the Committee on Naval Affairs, [Mr. STANTON, of Tennessee,] were expected to have been printed by this morning, so that the whole subject should have been before the House. I desired that to have been done, before I submitted to the House the remarks which I propose to make upon the subject. This has not, however, been done; and as it is evidently the disposition of the House to proceed to other business, I would suggest that, by unanimous consent, the bill be passed over informally.

There being no objection, it was so ordered.

Mr. ALLISON moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, on the special order.

Mr. SEYMOUR, of New York. I wish to call the attention of the House to the fact that there is a very large number of reports in the hands of committees, ready to be submitted to the House; and that it would very much facilitate business if they could be received this morning, by unanimous consent.

Mr. DOTY. Will the Speaker inform the House what is the regular order of business?

The SPEAKER. The regular order of business this morning, is the call of committees for reports, beginning with the Committee on Public Lands. A motion, however, is submitted by the gentleman from Pennsylvania, [Mr. ALLISON,] that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and that motion is in order.

The question was then taken on Mr. ALLISON's motion, and it was disagreed to.

The SPEAKER then announced that reports were in order from the Committee on Public Lands.

Mr. HENN, from the Committee on Public Lands, reported a bill "for the relief of C. L. Swazey, in relation to the location of certain Choctaw scrip;" which was read twice by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

### SALINE LANDS IN WISCONSIN.

Mr. HENN, from the Committee on Public Lands, reported back Senate bill No. 19, "to extend the time for selecting the lands granted to the State of Wisconsin for saline purposes," without amendment, and with a recommendation that it do pass.

Mr. H. said: This is a bill to which there can be no objection. It merely extends the time for selecting the saline lands granted to the State of Wisconsin. If it is the wish of the House, I think it ought to be put upon its passage now.

The bill having been read through, was ordered to a third reading, and subsequently read the third time and passed.

### WABASH AND MISSOURI RAILROAD.

Mr. HENN, from the Committee on Public Lands, reported back House bill No. 118, "granting the right of way and making a grant of land in aid of the construction of a railroad from the Wabash to the Missouri river," with sundry amendments, and with a recommendation that the amendments be agreed to, and that the bill do pass.

Mr. H. said: In reporting this bill, I will merely say for the present, that this is a bill of a great deal of importance—and particularly to the central portion of the United States, commencing at Philadelphia, and extending, in connection with other roads, to the Missouri river. It is one for which, I think, all Pennsylvanians can vote, and it has been made to conform to the other bills of a similar nature which have been reported from the Committee on Public Lands. Were it not that this House has determined to refer all these bills to the Committee of the Whole on the state of the Union, I should ask that this bill might be put upon its passage now. But as that has been the action of the House in regard to other bills of a similar nature, I will move that this bill and the amendments be referred to the Committee of the Whole on the state of the Union, and that they be printed.

The motion was agreed to.

### ATLANTIC, GULF, AND CENTRAL RAILROAD.

Mr. ORR, from the Committee on Public Lands, reported a bill "granting the right of way and making a donation of a portion of the public land to the State of Florida, for the benefit of the Atlantic, Gulf, and Central Railroad, and for other purposes."

The bill having been read the first time by its title,

Mr. HOUSTON said: Before the bill is read the second time, I desire to make an inquiry of the gentleman from South Carolina, who has reported this bill, or else to ask for the reading of the bill, with a view to raise a point of order which it is probably proper to raise now, if at all. I understand this to be a bill—

Mr. ORR, (interrupting.) I do not know by what right the gentleman takes the floor.

The SPEAKER. The gentleman has a right to object to the second reading of the bill.

Mr. HOUSTON. I thought I had distinctly stated the reason why I took the floor.

The SPEAKER. If, however, discussion is to follow, the gentleman from South Carolina is certainly entitled to the floor.

Mr. HOUSTON. I am not proposing to discuss the bill. I do not intend to do it.

Mr. ORR. I had hoped the gentleman would have allowed the bill to be read, before he commenced the discussion.

Mr. HOUSTON. I do not propose to discuss it.

Mr. ORR. Well, then, let the bill be read the second time.

Mr. HOUSTON. I think now is the time to get the information I desire. To save time, I wish to inquire of the gentleman from South Carolina whether this bill has a section in it, abolishing the duty on railroad iron?

Mr. ORR. The gentleman will ascertain that fact when the bill is read through.

Mr. HOUSTON. If it is there, I take it for granted the gentleman does not want to conceal it.

Mr. ORR. Certainly not.

Mr. HOUSTON. Then I do not see the profit to be obtained by the gentleman's diplomacy. If that provision is in the bill, I desire to raise a point of order now, and I therefore ask that the bill may be read through the first time. I have a right to have the bill read through entirely; and if the gentleman will not give me the information which I desire, I ask that it may be read.

Mr. ORR. I should have no objection to give the gentleman the information he seeks, but it is certainly a very unusual proceeding in this House for a gentleman to rise in his place and attempt to catechise the member of the committee reporting the bill before the second reading of the bill. If it is proposed to debate the bill, the debate should ensue after the second reading.

Mr. HOUSTON. If the gentleman will allow me to state the facts, I do not think he will call the course I have pursued either unusual or improper. I understand there is a section in that bill pro



posing to abolish the duty on railroad iron, and if that be true, I intend to make the point of order whether it is competent for the Committee on Public Lands to report to this House a bill of that sort.

Mr. ORR. If that is the purpose of the gentleman from Alabama, I will state to him that there is a section in the bill proposing to abolish all duties upon railroad iron.

Mr. HOUSTON. Then I rise to a point of order, and I will state my point of order, though I do not desire to argue it at all. It is this: that the bill reported from the Committee on Public Lands is one to modify the tariff—to modify the duty upon one or more articles embraced in the revenue laws of the country.

The SPEAKER. If the gentleman will suspend for a moment, the bill will be read through, so that the Chair and the House may understand its provisions.

Mr. HOUSTON. It is not an alternate section bill, but a bill to modify the tariff.

The Clerk then read the bill, in which was included the following section, viz:

Sec. 7. *And be it further enacted*, That the iron for the construction of this and all other railroads in the United States, or the Territories thereof, may be imported free of all duty: *Provided, nevertheless*, That in all cases hereafter, whenever it is proposed to claim the exemption from duty in case of the importation of iron for such purposes, it shall be the duty of the person or persons importing the same to give bond in such manner as may be prescribed by the Secretary of the Treasury, conditioned to show that within three years from the time of said importation the said iron has been laid down for permanent use on some railroad; or, in the event of failure to make it so appear, then the person or persons importing said iron to be required to pay double the rates of duty now required by law: *Provided further*, That in the event of it being made to appear to the satisfaction of the Secretary of the Treasury that the omission to lay down said rails has not occurred by reason of any fraudulent purpose to evade the payment of the prescribed rate of duty on such iron, that then it shall be his duty to give further and reasonable time for the bona fide application of said iron to the purposes of railroads.

Sec. 8. *And be it further enacted*, That all duties now due on account of the importation of iron for railroads be and the same are hereby remitted: *Provided, however*, That in all such cases the importation shall be in the name and for the use of some legally incorporated railroad company, or for a State or Territory of the United States."

Mr. HOUSTON. I desire now to call the attention of the Chair to the rules in relation to committees.

Mr. JONES, of Tennessee. With the permission of the gentleman from Alabama, I ask for the reading of the title of the bill.

The Clerk read the title of the bill, as follows:

"A bill granting the right of way and making a donation of a portion of the public lands to the State of Florida for the benefit of the Atlantic, Gulf, and Central Railroad, and for other purposes."

Mr. HOUSTON. I predicate my point of order, first upon the rules of the House. By looking to the rule in reference to the Committee on Public Lands, the House and the Chair will see that it provides, that:

"It shall be the duty of the Committee on Public Lands to take into consideration all such petitions and matters or things respecting the lands of the United States as shall be presented, or shall or may come in question, and be referred to them by the House; and to report their opinion thereon, together with such propositions for relief therein as to them shall seem expedient."

It is made the duty of the Committee of Ways and Means to take charge of the reference from the House of all propositions relative to the revenues of the Government.

Those two rules define what is the duty of each committee; and it is evident to my mind, that without a reference of this express subject particularly and distinctly to some other committee than the Ways and Means, that that other committee has not the charge of it.

The subject embraced in the latter sections of this bill, is one that has already been referred to the Committee of Ways and Means, and is now before that committee; and the Committee on Public Lands has no legitimate connection with it, either under the rules of the House or under any order of this House making that reference. But, sir, I do not propose to make an argument until the Chair has decided the point of order. But I would call the attention of the Chair to the decision made at the first session of the last Congress, in the case of the homestead bill—a bill reported from the Committee on Public Expenditures, and such a bill, I believe, as we have now got before us in the Committee of the Whole on the state of the Union. A point of order was made by Mr. Vinton, objecting to the reception of the bill on the

ground that the subject-matter of the bill had not been referred to the committee which reported it to the House, either by resolution or by the rules of the House. That is the precise point of order which I make now. The Speaker stated the point of order made by Mr. Vinton, and decided that the bill was not in order. From this decision of the Chair, Mr. JOHNSON, of Tennessee, appealed, and the question being put, the decision of the Chair was sustained as the judgment of the House, and the bill was not received by the House.

Mr. JOHNSON, of Arkansas. The result of the course proposed to be pursued by the gentleman who is at the head of the Committee of Ways and Means, will be very apparent at one glance. It will be this: If committees are confined strictly and directly to those particular questions and duties which are assigned to them, and are not permitted to take action on questions incidental to those which are assigned to them, this House may be placed in such a situation that matters of the highest importance to the nation cannot be brought before us at all.

Now, suppose we had a Committee of Ways and Means that would not or could not give to this House any distinct proposition on this subject—and it might exist in regard to other subjects as well as this—the consequence would be that this House never could get before it for consideration any matter, however vital, or however important to the interests of the people.

Sir, a committee is entitled to consider not only those subjects that come directly and legitimately before it, under the rules, but it is also entitled to consider everything incidental to those subjects.

Now, sir, the gentleman who is at the head of the Committee of Ways and Means, by pursuing the course which he proposes, would confirm a system which is wrong and corrupt—a system by which the whole of the important and national business that comes before this House would go to one committee, and no other committee could get hold of it at all. That must be the result, though there be precedent on precedent for the practice.

Now, for my own part, I desire to enter a protest against gentlemen coming here, upon a bill like this, which is complete in itself, and saying that a subject contained in it is not in order, when the whole of the bill is introduced as an original proposition. This committee, in the discharge of their duty in regard to the public lands, have reported a bill granting lands for the purpose of constructing a railroad—a subject-matter which, by common consent, comes properly before them. As incidental to that purpose, they have included a provision in the bill exempting from duty the iron necessary in the construction of said road. Shall the committee be curtailed of the power which, by common consent, has been conceded to them—that is, of reporting a bill for the purpose of constructing a railroad? If not, then why deprive them of the incident, which is one of the highest importance and necessity to the execution of any scheme upon the part of this Government in aid of the construction of railroads? It cannot be. This is a matter entirely incidental to the subject which properly comes before that committee.

Mr. CLINGMAN. If the gentleman will permit me, I wish to call the attention of the Chair and the House to the last clause of the rule defining the duties of the Committee on Public Lands, which has been referred to by the chairman of the Committee of Ways and Means, [Mr. HOUSTON,] and which, as it seems to me, covers directly this case, "and to report their opinion thereon, together with such propositions for relief therein, as to them shall seem expedient." Now, that committee have reported, this session, general propositions for the relief of railroads, and to make railroads; and can it be pretended that a proposition to aid in the making of this railroad, by allowing them to import iron, free of duty, is more out of order than the propositions themselves for the making of the roads? The chairman of the Committee of Ways and Means says, however, this provision interferes with the revenue of the country. Why, that gentleman's argument amounts to just this—

Mr. JOHNSON, of Arkansas. I must interrupt the gentleman. I would be glad to accommodate him, but I must leave him to make his argument out of his own time, and I will not interrupt him.

I have merely to state further, that the result of

the argument made by the gentleman from Alabama, [Mr. HOUSTON,] if carried out, would be the absorption, by the Committee of Ways and Means, of all the business of the House, although the members of that committee feel, and have long felt, sensible, and have acknowledged it, that there has been an amount of business thrown upon that committee which involves too much labor for any one committee to perform. It is too much, if they would do justice to themselves, or to the country. Then, sir, I object to such a construction being put upon the rules in regard to the relative powers of these two committees. I maintain that any matter which is incidental to the subject-matter under consideration by a committee, is a legitimate one for them to consider; and when it is reported with the bill as one bill, you cannot, upon a point of order, strike it out.

Mr. BAYLY, of Virginia, obtained the floor.

The SPEAKER. The Chair would be glad to hear any explanation from gentlemen in regard to the construction of the rules in relation to the point now before the House. The Chair has, however, made up his mind upon it, and is ready to decide if insisted upon.

Mr. BAYLY. If the ideas which the gentleman from Arkansas [Mr. JOHNSON] has presented to this House as to the rights of these committees were to prevail, the House will see at once, with a moment's reflection, the infinite embarrassment in which it would involve itself. The reason for the rule which provides that no committee shall report upon any subject which is not committed to it, is, that when these committees are called for reports, they shall not be permitted to thrust upon the House matters which it has not expressed a willingness to entertain. If the idea expressed by the gentleman from Arkansas were to be put into practice, it would put it within the power of any of the committees of the House, at any time, to bring before the House, and press upon its consideration, any matter they might choose, no matter what its character might be. We know that it is one of the ways in which, even with a strict construction of the rules, this House is embarrassed more than any other. They have done it by bringing before the House subjects which it has expressed no willingness to entertain. The reason for this rule is a wise one. It is to restrict the action of committees to subjects committed to them, either by the rules of the House, or by the express order of the House. It will never do to put it in the power of any committee of this House to report or bring in matters which the House, by its order, has not shown its wish to act upon. I hope the rule may be strictly enforced in this instance.

Mr. STANTON, of Tennessee. There is no difficulty—

Mr. BAYLY. I cannot yield. I only wish to advance one idea further; and it may not be necessary to press that; for I believe the gentleman from Alabama [Mr. HOUSTON] advanced the same in his speech, though I did not hear that speech. I allude to this matter in connection with the revenue of the Government. I say, that if this House permit questions affecting the revenue of the Government to come from any other committee than that of the Ways and Means, it would lead to infinite embarrassment.

Mr. JOHNSON, of Arkansas. I desire to ask the gentleman from Virginia whether all these donations of land are not questions affecting the public revenue?

Mr. STANTON, of Tennessee. I understand the gentleman from Alabama to make the point that a particular clause of a particular section of the bill reported by the Committee on Public Lands, is not in order. Now, that would involve the necessity, upon the part of the Speaker, I suppose, to resolve, upon a question of order, that these sections shall be stricken out of the bill.

Mr. HOUSTON. Not at all.

Mr. STANTON. It is admitted that the general purposes of this bill come within the scope of the duties of that committee. In making this argument, I do not pretend to express an opinion whether these provisions of the bill ought to be adopted. But when you impose upon a committee of this House the duty of reporting bills upon subjects which bear upon the general interests of the country, and do not permit them to incorporate in their bills the provisions which may be necessary to carry out the great purpose and

objects of the policy proposed, why you destroy the usefulness of committees entirely. You cut up the business of the House—

Mr. MEACHAM, (interrupting.) If the Committee on Public Lands are to report upon everything belonging to railroads, they will have the right to make provisions for surveying them, and for placing engines upon them after they are made. I do not see why one is not as well within the reach of that committee as the other; and according to the definition the gentleman has given, that committee can report bills making such provisions.

Mr. STANTON. Unquestionably that is true. The Committee on Public Lands, or any other committee, may report everything they choose in reference to a subject which is legitimately before them. And concerning the question before the House, this provision that is complained of, is an accessory to the main object the Committee on Public Lands have legitimately in view, in proposing a disposition of the public lands.

Now, it is a matter of no consequence—it cannot be a matter of any consequence, as far as the revenue of the country is concerned—from what committee a measure comes. It does not impose upon the House the necessity of adopting this bill, because it is reported by that committee. The sense of the House can be as well taken upon a matter of public policy, whether the bill comes from the Committee on Public Lands, or the Committee of Ways and Means. I should like to know by what precise rule, or question of order, you can eliminate this section from the bill. I should like to know what is the purpose of this question of order—whether it is to strike this section out of the bill, or whether a distinct motion is to be made to refer the bill back again, with instructions to strike it out? If that motion is made, it is not a question of order. And can you strike this section from the bill upon a question of order? You cannot do it. You may make a motion to refer it back to the committee, with instructions to strike it out. That motion may be made; but I ask again, whether, upon a question of order, you can strike out a section of the bill? You cannot do it.

Mr. CLINGMAN obtained the floor.

The SPEAKER. If it is the pleasure of the House, the Chair will now decide the question of order, for until that decision is given the debate is not a regular one.

Mr. CLINGMAN. Very well.

The SPEAKER. The Chair, however, was anxious to hear the opinions of gentlemen upon the question, for it was rather a new one to him.

We have some thirty-six standing committees, to each of which peculiar duties have been prescribed and defined. By the 84th rule, it is made the duty of the Committee on Public Lands "to take into consideration all such petitions and matters or things respecting the lands of the United States, as shall be presented, or shall, or may come in question and be referred to them by the House; and to report their opinion thereon, together with such propositions for relief therein as to them shall seem expedient." Again, it is made the duty of the Committee of Ways and Means, by the 78th rule, "to take into consideration, all such reports of the Treasury Department, and all such propositions relative to the revenue as may be referred to them by the House; to inquire into the public debt or the revenue and the expenditure, and to report from time to time, their opinion thereon; to examine into the state of the several public departments, and particularly into laws making appropriations of moneys," &c. Now, the Chair is clearly of the opinion that the subject of reducing or abolishing the duty upon railroad iron, does not belong to the Committee on Public Lands; but it does belong to the Committee of Ways and Means.

By reference to the bill, it will be seen that provision is made for a grant of lands to aid in the construction of a certain railroad, followed by a provision to repeal the duty generally upon railroad iron. That provision, in the opinion of the Chair, is not in order; or rather, it is not in the province of the Committee on Public Lands to report such a bill. The Chair, therefore, decides that the bill itself is out of order.

Mr. CLINGMAN. I beg leave respectfully to appeal from the decision of the Chair. I have no disposition to detain the House long upon this matter,

but I wish to reply to the only objection that has been raised to the reception of this bill by the chairman of the Committee of Ways and Means, [Mr. Houston,] and which has been repeated by the gentleman from Virginia, [Mr. Bayly.] The House will bear in mind that the only objection that has been made to the bill is this: They say that to the Committee of Ways and Means properly belongs everything connected with the public revenue, and that no other committee can report a proposition which in any way interferes with the public revenue. That is the argument now. I beg gentlemen to bear in mind that last year we derived upwards of \$3,000,000 of revenue from the sales of these public lands; but we derive from the iron importation, as duties upon it, only about \$2,500,000 or \$2,600,000. And yet, these gentlemen admit that the Committee on Public Lands may report a proposition to deprive us of the revenue we get from the lands, and yet cannot interfere with the revenue which we derive from importations of iron. There is no force at all in the argument. This argument would apply just as well to the proposition making the grant of lands for the railroad as to that in regard to the abolition of the duty on iron. It will apply to any proposition, provided you do not make it interfere with the revenue or appropriations; for it is well known that the Committee of Ways and Means is the guardian of the public Treasury, and they may object to any committee (as not coming within the sphere of their duties) reporting a proposition which has a tendency to take money out of the Treasury. This proposition rests upon the clearest principles. The Committee on Public Lands, as the guardians of our interests, reports bills here, and with a view to open the public lands to a market and to make them sell at a high price, recommends donations to aid in the construction of railroads. Now, why shall they not, as incidental thereto, recommend that all these railroad companies may import iron free of duty? It is one of the facilities, one of the very means, to enable them to make roads easily and expeditiously. The only argument that gentlemen rely upon, is one which applies just as well to every land bill that has been reported this session as to the present bill.

I promised not to detain the House with an argument, and I will yield the floor.

Mr. JONES, of Tennessee. Having entire confidence in the correctness of the decision made by the Chair, and not wishing that the House should be detained upon this business, I move that the appeal be laid upon the table.

Mr. ORR. I demand the yeas and nays upon that proposition. I will see who it is that is in favor of keeping up duties upon railroad iron.

The yeas and nays were then ordered.

Mr. BROOKS. Will the Chair state the point of order raised?

The SPEAKER. The Committee on Public Lands have reported a bill which provides, first, for granting alternate sections of land to aid in the construction of a railroad, and then provides for abolishing, altogether, duties upon all railroad iron. The Chair does not understand—and he would like to have the ear of the gentleman from North Carolina [Mr. Clingman] upon that point—that any matter connected with duties upon railroad iron has ever been referred to the Committee on Public Lands at all. This subject has never been referred to them in the first place, and if referred, then the Chair must decide them very improperly referred to that committee, it being a matter touching the revenue, and therefore belonging exclusively, in the opinion of the Chair, to the Committee of Ways and Means. The Chair therefore decides that the report made from the Committee on Public Lands is not in order.

Mr. BROOKS. In what state is the bill before the House?

The SPEAKER. The objection was made upon its first reading.

Mr. BROOKS. The difficulty in my mind, and upon which I want to be instructed, is this: While I agree with the Chair upon the principles laid down, I should be unwilling to vote against receiving a report from the Committee on Public Lands.

The SPEAKER. The gentleman will have an opportunity of voting his views.

Mr. STANLY. The Chair, as I understand it, decides that the report is out of order—

Mr. HIBBARD. I rise to a question of order.

The yeas and nays have been ordered; and debate is out of order, for the reason—

The SPEAKER. The Chair trusts that the gentleman from North Carolina [Mr. Stanley] will be permitted to make an inquiry of the Chair.

Mr. STANLY. I have not the pleasure of sitting by the side of the gentleman from New Hampshire, [Mr. Hibbard,] and therefore cannot know all that he does; and, as I cannot get the information from him, I am compelled to ask the Speaker.

Mr. HIBBARD. The motion pending is to lay the appeal upon the table, and it is not debatable.

Mr. STANLY. I ask if the Chair decides, that the bill reported by the Committee on Public Lands is out of order, because it repeals the duties generally upon railroad iron?

The SPEAKER. The Chair does so decide.

Mr. STANLY. I think it is a right decision.

Mr. HIBBARD. I call the gentleman to order. The question is not debatable.

Mr. ORR. I desire to ask the Chair a question for information. What is the effect of the decision of the Chair upon the bill? Does it exclude merely those sections of the bill, which relate to the duties upon iron?

The SPEAKER. It excludes the bill entire, on account of the improper matter contained in it.

Mr. ORR. The entire bill?

The SPEAKER. The entire bill.

Mr. McMULLIN. I would like to have those two rules of the House read, which were referred to by the gentleman from Alabama. I want information.

The SPEAKER. The Chair trusts that there will be no objection to the reading of the rules, as they have a bearing upon the subject.

[Cries of "I object!" "I object!" on all sides of the House.]

The SPEAKER. The Chair must, then, put it to vote whether they shall be read.

The question was then put, and it was disagreed to.

So the rules were not permitted to be read.

The question was then taken upon the motion to lay the appeal upon the table, and there were—yeas 125, nays 39; as follows:

YEAS—Messrs. Willis Allen, Allison, William Appleton, Averett, David J. Bailey, Thomas H. Bayly, Bartlett, Beale, Bennett, Bocock, Bowie, Bragg, Breckinridge, Briggs, Brooks, Albert G. Brown, Buell, Burrows, E. Carlington Cabell, Lewis D. Campbell, Chandler, Chapman, Clark, Cobb, Cullom, Daniel, George T. Davis, John G. Davis, Dawson, Dean, Dockery, Dunham, Durkee, Edger-ton, Faulkner, Fitch, Florence, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Gaylord, Gentry, Goodenow, Goodrich, Gorman, Grey, Grow, Hamilton, Isham G. Harris, Hart, Haws, Haven, Hendricks, Hibbard, Horsford, Houston, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, George G. King, Kuhns, Kurtz, Landry, Letcher, Mann, Martin, Mason, McDonald, McLanahan, McMullin, McNair, Meacham, Milson, Minter, Murray, Nabers, Newton, Olds, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Perkins, Polk, Powell, Price, Riddle, Robbins, Robinson, Ross, Russell, Sackett, Savage, Schermerhorn, Schoolcraft, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smith, Stanley, Richard H. Stanton, Abraham P. Stevens, Thaddeus Stephens, Stratton, Stuart, Sweetser, Taylor, Benjamin Thompson, George W. Thompson, Tuck, Walbridge, Walsh, Ward, Washburn, Wells, Wilcox, and Woodward—125.

NAYS—Messrs. Aiken, Brenton, Joseph Cable, Thompson Campbell, Clingman, Doty, Edmundson, Ewing, Ficklin, Freeman, Hall, Heun, James Johnson, John Johnson, Robert W. Johnson, Lockhart, Mace, Humphrey Marshall, McCorkle, McQueen, Miller, Molony, John Moore, Morehead, Orr, Outlaw, Pennington, Porter, Rantoul, Seury, Smart, Benjamin Stanton, Frederick P. Stanton, Venable, Wallace, Watkins, Addison White, Williams, and Yates—39.

So the appeal was laid upon the table.

Mr. ORR. I propose to submit the bill with the section in regard to railroad iron stricken out, and also with the words "and for other purposes," stricken out of the title.

Mr. DUNHAM. I rise to a question of order. This bill is one reported from the committee. I submit whether the gentleman has a right to alter a bill reported from a committee.

The SPEAKER. The gentleman from South Carolina [Mr. Orr] asks the unanimous consent of the House to allow him to introduce the bill, with the provision in reference to railroad iron stricken out.

Mr. KUHN. I object.

Mr. ORR. It is a matter of no sort of consequence.

## FLORIDA AND ALABAMA RAILROAD.

Mr. ORR, from the Committee on Public Lands, reported back, with an amendment, House bill "granting the right of way and making a donation of public lands to the States of Florida and Alabama, to aid in the construction of a railroad from the waters of Pensacola bay to Montgomery;" which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

## RAILROADS IN ARKANSAS AND MISSOURI.

Mr. ORR, from the same committee, also reported a bill "granting the right of way and making a grant of land to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point on the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, with branches to Fort Smith, and the Mississippi river;" which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. CLINGMAN. I would inquire of the Chair if the morning hour has expired?

The SPEAKER. It has.

Mr. CLINGMAN. Then I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was then taken, and it was agreed to.

## HOMESTEAD BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN stated, as the business before the committee, House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting to every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified; upon which, the gentleman from Kentucky [Mr. WARD] was entitled to the floor.

Mr. WARD occupied the floor his allotted hour in discussing the subject of the Presidency; in doing which he asserted that General Scott had contributed much, indirectly, towards the enactment of the compromise measures; that he was known to be in favor of these measures as a final adjustment of all the questions involved therein, although he had not written a letter upon the subject to influence the action of the approaching nominating convention. His past life—he said—his patriotic devotion to, and perils in defense of his country—was a sufficient guarantee that, if he were elected President of the United States, all interests, of every section of the Union, would be safe under his administration. He believed that in his nomination was involved the question whether they should have Whig rule for four years longer, or Democratic rule for four years, or even half a century.

[Mr. WARD's speech will be found in the Appendix.]

Mr. AVERETT next addressed the committee, in opposition to the bill under consideration. He denied that Congress had any constitutional power to dispose of the public domain in the manner proposed by the bill. He argued to show that the voting of grants to railroads, to individuals, and for insane asylums, involved a violation on the part of Congress of the trust reposed in it to dispose of the public lands for the common benefit. Without concluding, he yielded to

Mr. BOCOCK, who said: It is now, Mr. Chairman, nearly three o'clock; and, as my colleague is unwell, and his voice failing, speaking with great labor, I hope the committee will indulge him by rising.

The CHAIRMAN. Does the gentleman yield for that purpose?

Mr. AVERETT. I do; but if it is the pleasure of the committee I will go on.

The question was then put, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and

particularly the homestead bill, and had come to no conclusion thereon.

On motion by Mr. STANLY, by unanimous consent, it was

Ordered, That the petition and papers of Elijah S. Bell be withdrawn from the files of the House and referred to the Committee of Claims.

On motion by Mr. CABELL, of Florida, leave was granted for the withdrawal from the files of the House the petition and papers of G. B. Kurfed, for the purpose of their reference to the State Department.

Mr. COBB. Our usual hour of adjournment has not yet arrived, and why shall we not take up the business on the Speaker's table and refer it to the different committees—I mean such communications as will not give rise to debate? I make the motion that the House proceed to the business upon the Speaker's table, and hope no one will object—

Mr. BARRERE, from the Committee on Enrolled Bills, reported as correctly enrolled, "A bill for the relief of Theodore Offut;" which received the signature of the Speaker.

Mr. STANLY. I do not see any object in the motion of the gentleman from Alabama, unless it be to have taken from the table some bill in which he feels an interest.

Mr. COBB. I want nothing except what will promote the general good. I have nothing which I am especially desirous of having taken up.

Mr. STANLY. That is my purpose, and for that very reason, actuated by that motive, I object to the motion because the House is too thin.

The SPEAKER. It is in order for the gentleman to submit his motion.

The question was then put, and it was decided in the negative—ayes 45, noes 31; no quorum.

Mr. KING, of New York, moved the House adjourn; which motion was agreed to.

And the House adjourned.

## PETITIONS, &amp;c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BARRERE: The petition, numerously signed by citizens of Clermont county, Ohio, praying for another canal of spacious dimensions to be constructed around the Falls of the Ohio; that the same be constructed on the Indiana side of the river, according to the report and surveys of the topographical bureau.

By Mr. SMITH: The petition from citizens of Pickens county, Alabama, against the extension of the Woodworth patent.

By Mr. LOCKHART: The petition of B. B. Piper, an assistant marshal in taking the Seventh Census in Posey county, Indiana, asking for additional compensation.

By Mr. HUNTER: The petition of John Kerr and 123 other citizens of Monroe county, Ohio, in favor of the Wheeling bridge.

Also, the petition of David G. Coe and 57 other citizens of Monroe county, Ohio, in favor of the Wheeling bridge.

By Mr. FLORENCE: The memorial of William Emmons, sen., petitioning for the extension of the patent of Uri Emmons of 25th April, 1829, for a cylindrical planing machine.

By Mr. KUHN: The petition of Andrew Graham and other citizens of Westmoreland county, Pennsylvania, praying Congress to repeal all laws requiring duties of public officers of the Government on the Lord's day, especially with reference to the mail service on that day.

By Mr. CHANDLER: The memorial of Samuel W. Weer and many other citizens of Philadelphia, remonstrating against a renewal of the patent for Woodworth's planing machine.

By Mr. ROBINSON: The petition of Simon Bottorff and 130 other citizens of Jeffersonville, Indiana, praying for the improvement of the navigation of the Ohio river at the Falls, by the construction of another and free canal on the Indiana side of said river, as recommended by Colonel Long, superintendent of Western river and harbor improvements.

By Mr. RUSSELL: The petition of residents at Rouse's Point, in Clinton county, New York, asking a law to establish a port of entry at Rouse's Point, to embrace the frontier from Lake Champlain to the Oswegatchee district.

By Mr. MACE: The petition of James Snow, of Fountain county, Indiana, asking to be placed on the pension roll.

By Mr. DAWSON: The petition of citizens of Fayette and Greene counties, Pennsylvania, praying the establishment of a post route from Smithfield, in Fayette county, to Mount Morris, in Greene county.

By Mr. WASHBURN: The memorial of James Shorey, praying for pension from June, 1847, to February, 1852.

By Mr. RUSSELL: Two several remonstrances of citizens of Clinton county against the extension of Woodworth's patent planing machine.

By Mr. NEWTON: The petition of Elijah Judson and 29 others, asking to have land given to actual settlers.

Also, the petition of Hiram Griswold and others, asking to have the State of Ohio divided into two judicial districts.

Also, the petition of Caroline Jarvis, for a pension.  
By Mr. STANTON, of Kentucky: The memorial of E. Leutze, artist, asking to be employed to execute paintings of "Washington Crossing the Delaware," and "Washington rallying the troops at the battle of Monmouth," for the Executive Mansion or the new Capitol.

By Mr. FLORENCE: The memorial of Francis Wilson, David Henderson, James Murphy, and other citizens of the State of Pennsylvania, petitioning Congress to pass a law, granting 160 acres of land to the soldiers of the war of 1812, &c.

Also, the memorial of Richard Wilkinson, Alfred E. Wright, Samuel L. Clement, and 58 other citizens of the county of Philadelphia, praying for the extension of the Woodworth patent for planing boards, &c.

By Mr. SCHERMERHORN: The petition of Harvey Ely and others, of the city of Rochester, New York, asking for a free and unrestricted commerce, &c., between the United States and the Canadas.

By Mr. GROW: The petition and papers of Anna Kingsbury, for compensation for services of her father, Simeon Spaulding, in the revolutionary war.

Also, of Harvey and George Gore, for compensation for services of their father, Avery Gore, in the revolutionary war.

Also, of William White, for invalid pension, for services in the war of 1812.

By Mr. KUHN: The petition of Charles E. Welty, assistant marshal for the county of La Fayette, District No. 5, State of Wisconsin, for relief.

## IN SENATE.

THURSDAY, April 8, 1852.

Prayer by the REV. LITTLETON F. MORGAN.

The PRESIDENT *pro tem.* laid before the Senate a communication from the War Department, made in compliance with a resolution of the Senate directing the Secretary of War to inform the Senate whether any of the officers of the United States Army have contracted to furnish supplies to the Government of the United States; and if such cases exist, what were the rates of such contracts; also the names of the officers making and sanctioning such contracts, and the measures, if any, which have been taken by the Department in such cases; which was referred to the Committee on the Judiciary, and ordered to be printed.

## PETITIONS, ETC.

Mr. FISH presented the petition of Elizabeth Marsh, only child of Lieutenant Jonathan Metcalf, of the Army of the Revolution, praying for the allowance of half-pay under the act of August 24, 1780; which was referred to the Committee on Revolutionary Claims.

Mr. DAWSON presented the memorial of John D. Stell, in behalf of the widow and children of his brother Thomas J. Stell, praying remuneration for losses during the Creek war in 1836; which was referred to the Committee on Indian Affairs.

Mr. MORTON presented the memorial of Joseph M. Hernandez, in behalf of the claimants to indemnity under the 9th article of the treaty with Spain of February 22, 1819, praying Congress to authorize an appeal to the Supreme Court of the United States, or to make such provision for the settlement of their claims as shall be required by honor, justice, and the principles of equity; which was referred to the Committee on the Judiciary.

## HISTORICAL PAINTINGS.

Mr. COOPER. Mr. President, I hold in my hand an application from Mr. Leutze, the distinguished American artist, author of the painting representing "Washington Crossing the Delaware," exhibited for the last two or three weeks in the Rotunda of the Capitol, and which, I presume, you and most of the members of this body have seen and admired. The application of Mr. Leutze is addressed to Congress, and proposes to repeat, with such emendations as experience may suggest, the beautiful painting to which I have just referred, together with a fellow to it, the subject of which is to be likewise drawn from that portion of American history which represents Washington rallying our retreating troops at the battle of Monmouth.

I need not state, Mr. President, that subjects better calculated to inspire the genius of the artist, or awaken the patriotism of the American spectator, can hardly be selected. Of the truth of this there is evidence in the painting which the memorialist proposes to repeat. Who that has looked upon that admirable picture, and contemplated the majestic form, and composed, yet inflexible, determination which beams from the countenance of the heroic chief, working his perilous way through the ice of the Delaware to reach the enemy and strike a decisive blow for freedom, then almost expiring, has not felt his patriotism stimulated, and his blood flowing in warmer and quicker currents through his veins? And who, in addition to this, has not experienced a just pride in learning that this fine, stirring representation of one of the



great acts of the drama of our Revolution, was the production of American talent? No one, I am sure, could contemplate this noble picture without experiencing the glow of both of these emotions of patriotism and pride. With the true tact of genius, the artist has seized the turning point in the great struggle for independence—the moment when hope was attending with despair, to present the leader of our armies, upon whom all hopes were concentrated and all eyes were turned, in the attitude of striking a great and decisive blow, calculated, if successful, to revive the drooping courage and cheer the fainting hearts of his almost desponding countrymen. It was the critical moment, pregnant with the result of the pending contest, with the hopes of humanity, with the destiny, perhaps, of the world. All these hung suspended on the events of the night, and the success of the morning which was to follow it. The crossing of the Delaware was an event more justly memorable than the crossing of the Rubicon. The spirit of all this the artist has caught, and transmitted to the canvas with a fidelity and truthfulness which must have struck every beholder.

The other event which the artist proposes to commemorate, when embellished by his fine imagination, and graceful, but vigorous touch, can scarcely fail to result in a beautiful, soul-stirring picture. The subject is one of the most striking in the history of our revolutionary war. General Lee had been sent forward to bring on the action, and keep the enemy employed until Washington, with the main body of the army, should come up; but instead of doing so, he retreated in disorder at the approach of the enemy. Washington arriving on the ground, vexed and disappointed at the conduct of Lee, and losing for a moment the lofty and habitual composure, which, until then, had never forsaken him, even in the most trying situation of his life, rebuked the retreating General with asperity. Then, turning to his troops, upon whom the enemy were pressing, asked them "if they could fight, and ordered them to face about and charge." The subject is a fine one, and well calculated to develop the highest powers of the artist. I hope, therefore, that the matter will not end with the presentation of the memorial; but that the Committee on the Library, to whom I design to refer it, will give it an attentive and favorable consideration. Liberality, intended to adorn and beautify the Capitol, at the same time that it operates to encourage the development of American talent, will never be disowned by the American people.

Since the application of Mr. Leutze was placed in my hands, Mr. Healy, an artist of equal eminence and merit, has expressed his wish to execute for Congress, from subjects connected with our revolutionary history, two paintings—the subject of one to be the "Throwing overboard of the Tea in Boston Harbor;" the other, "The Battle of Bunker Hill."

In the first of these events was contained the very germ of the American Revolution. The second will represent the first of the great battles, in which our untired troops measured their strength with veterans of England. Both are subjects of deep and lasting interest, well calculated to draw out and develop the highest powers of the artist.

Mr. President, I pretend to no very refined judgment in matters of art; but if I were permitted to express an opinion on the subject, it would be to state, that "Healy's Webster Replying to Hayne in the Senate," and Leutze's "Washington Crossing the Delaware," are amongst the finest modern historical paintings which I have anywhere seen. Of such artists the country may well entertain a just pride, and if her Representatives would but echo her sentiments, they would receive encouragement.

Allow me, sir, one word more. It seems to me that it is the duty, as well as the privilege, of Congress to do something to encourage the development of native talent, in this most attractive and refining branch of art. We have evidence in the pictures of Leutze and Healy, exhibited in this city during the present session of Congress, to prove that American genius, in this branch of the fine arts, needs but scope and encouragement to give it a commanding and enviable reputation. But in this country public taste, in this direction, has not yet been sufficiently educated and developed. Congress should, in my judgment, take the initiative and lend its aid. Private fortunes, pos-

sessed by men of refined taste and judicious liberality, are still too rare amongst us, to afford either constant or certain encouragement to the artist. There is one individual in this District, to whom the friends of art are indebted for an intelligent dispensation of his ample means, in collecting a gallery of pictures; and it is to be hoped his example will be followed elsewhere, and by others in similar circumstances. Let others, like him, thus dispose of their abundant means, and they will thereby acquire, as he has done, a just title to the gratitude of the artist and the friends of art wherever they are found.

In other countries the fine arts are objects of the patronage of the Government. They are encouraged, not only for their refining influences, but likewise with a view to the perfection of the more useful arts. Schools of painting and design have done much to perfect various branches of manufactures, furnishing patterns for tapestry, brocades, laces, carpets, and various kinds of damask and figured fabrics. Heretofore we have been obliged to resort to Europe for designs for all these kinds of articles which are produced by our artisans. But, by encouraging painting and the kindred art of design, we would soon cease to be dependent on Europe for our patterns.

The memorials were referred to the Committee on the Library.

#### REPORTS FROM STANDING COMMITTEES.

Mr. WALKER, from the Committee on Revolutionary Claims, to which was referred the memorial of John S. Russworm, legal representative of William Russworm, deceased, submitted an adverse report. I would (said Mr. W.) say that since I have been chairman of that committee, this claim has once before been referred to them. It was then reported back, and the committee was discharged, upon the ground, that an adverse report had previously been made by a former committee. No additional testimony having been submitted with the case, the committee now makes an adverse report, the which is, that the claim, upon the proofs now submitted, ought not to be allowed. I hope that the papers may not again be improperly withdrawn from the files, and referred to that committee.

The report was ordered to be printed.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of the registers and receivers of the land office at St. Augustine, Florida, praying compensation for making locations of lands under the Arredondo grant, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading.

The report was ordered to be printed.

#### NOTICE OF A JOINT RESOLUTION.

Mr. BORLAND gave notice of his intention to ask leave to introduce a joint resolution, to amend the joint resolution of August 3, 1846, in relation to the public printing.

#### BILLS INTRODUCED.

Mr. DOUGLAS, by unanimous consent, asked and obtained leave to introduce a bill to amend certain acts for the establishment of territorial governments in Oregon and Minnesota; which was read a first and second time by its title, and referred to the Committee on the Territories.

Mr. BROOKE, agreeably to previous notice, asked and obtained leave to introduce a bill to provide for the cession of certain lands to the States within which they lie; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### CHAPLAINS IN THE NAVY.

Mr. HALE submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of increasing the compensation of Chaplains in the Navy of the United States.

#### REVISION OF THE STATUTES.

Mr. SUMNER submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Judiciary be directed to consider the expediency of providing by law for the appointment of a commissioner to revise the public statutes of the United States; to simplify their language; to correct their incongruities; to supply their deficiencies; to arrange them in order; to reduce them to one connected text; and to report them thus improved to Congress for its final action; to the end that the public statutes, which all are presumed to know, may be in such form as to be more within the apprehension of all.

#### HISTORICAL PAINTINGS.

Mr. COOPER submitted the following resolution for consideration:

*Resolved*, That the Committee on the Library be, and it is hereby instructed to inquire into the expediency of employing Mr. Lutze to repeat for Congress, his painting representing "Washington crossing the Delaware," together with a fellow to it, representing "Washington Rallying the American Troops at the battle of Monmouth;" also, of employing Mr. Healy to paint two pictures, one representing "The throwing overboard of the Tea in Boston harbor," the other, "The Battle of Bunker Hill."

#### EXPEDITION TO JAPAN.

The Senate resumed the consideration of the resolution submitted by Mr. BORLAND, some time since, in relation to the objects of the expedition to Japan.

Mr. MASON. I do not feel at liberty to vote for the resolution offered by the Senator from Arkansas. If there was any proper reason stated by any Senator, on his own information, why this call should be made, I should not object to it. If any Senator can state that he knows that such an expedition is about to sail, and that it is important that we should know what are its instructions, so far as they may affect our foreign relations, of course I should feel bound to vote for it. But I have no personal knowledge on the subject, and I do not learn from the Senator from Arkansas, if I apprehend him correctly, that he has any other information than the general rumors in the newspapers, which we all know are not to be relied upon. This resolution might possibly embarrass the Executive, who has the proper command of the Navy, and the power of sending it to those parts of the world that the service of the country may require; and unless there be some good foundation on which to base this call, I should be reluctant to make it.

Mr. BORLAND. The other day, when the resolution first came up for discussion, it was objected that there was no evidence of the Executive purpose of such an expedition, before the Senate, sufficient to justify such a call. It was intimated that this was a volunteer act of mine, without any information which either warranted me in introducing the resolution, or would justify the Senate in its adoption. I am at a loss to understand the force of such an objection. I think it is of no great consequence where a Senator may get his information—what may be the sources of it. The question should be: is the expedition, as he has understood it, or as others may understand it, of sufficient importance, of itself, to command the attention of the Senate of the United States? Does it so far relate to public interests as to warrant its consideration? Now, if I had no such sources of information as I then alluded to, I should consider myself, even on the mere rumor which has been spoken of, fully warranted in introducing the resolution. I stated on that occasion, that I had specific information which I thought was reliable, that this expedition had been ordered, and was about to sail. At that time I stated the source of information upon which I did act, to be the chairman of the Committee on Naval Affairs in the House of Representatives. Some doubts were then intimated whether that gentleman had made such a statement as to warrant such an inference as I had drawn.

In matters of opinion, I am as liable to error as any one, perhaps more so than most men; but upon matters of fact, when I state them as such, I am not in error. When a bill in relation to discipline in the Navy was under discussion in the House of Representatives, on the 29th of last month, the chairman of the Committee on Naval Affairs, [Mr. STANTON], in urging the House to act upon it, made this remark:

"This bill has been carefully examined in the Senate, and has passed that body almost unanimously. It came to this House, was read twice, and referred to the Committee on Naval Affairs. That committee have examined it, and instructed me to report it with one amendment. The East India squadron is about to sail, under the command of Commodore Perry, and unless this bill passes before the sailing of that squadron, it is not likely that the information of its passage can reach the squadron in less than twelve months; and during that time they will be in a condition which will be very deleterious to the discipline of the service."

There is his statement, that the squadron was "about to sail." Continuing the discussion with others, he further said:

"The East India squadron is about to sail, and it is urged by the Navy Department, as well as by the commanding officer of that squadron, that the bill should be passed before the sailing of that squadron."

Still further, during that discussion, he said:

"I cannot consent to any postponement of this bill, if it is to be a matter of doubt whether it will be taken up, as it is known that a portion of the Pacific squadron will sail during this week, on Wednesday next; and it is exceedingly important that this bill should be acted upon previous to that time."

The "Wednesday next" after these remarks, was the very day I offered this resolution.

There was the declaration of the chairman of the Committee on Naval Affairs of the House of Representatives: How could he have known that the Secretary of the Navy desired a bill to pass in reference to this expedition, and that the commander of the expedition also desired it, without having been informed officially by these officers that it was about to sail? At any rate there are his positive and repeated declarations of a fact, in his place in the House of Representatives, and under circumstances which gave them the effect of an official announcement from the Navy Department, and authorized me to assume them to be such. Since I made this statement to the Senate, the gentleman in question, Mr. STANTON, has seen me in person, and expressed the opinion that I was mistaken as to his remarks. Here they are, as reported for the official paper appointed for the purpose. I took them as I found them, and here they are just as they will be found in my original statement. Since then, again, that is on the day before yesterday, in reference to this matter, Mr. STANTON, the gentleman alluded to, in the House of Representatives, said this:

"I would like to state, if the gentleman will allow me, that I was reported as having said, in the debate the other day, that this expedition was to leave on last Wednesday. I stated that a part of the expedition was to leave at that time. I had seen Commodore Perry a few days before, and he said he himself would not leave for a month or more. I did not state that the whole expedition was about to leave. I know that a part will not leave for a month."

Whether the gentleman said the whole, or only a part, of the expedition was to sail on Wednesday, is no matter. It is the fact of the sailing at all of which I spoke, and the only one that is at all material.

Here, then, is a large naval expedition ordered to the Indian ocean, and to the coast of Japan in particular, and for some important objects. Here is evidence that the Navy Department has acted in the matter. Here is public, official information of the fact, stated in the House of Representatives. So, whether of my own mere motion, it would have been right or wrong to have introduced the resolution, I think this must satisfy those gentlemen, who consider information derived from official sources as necessary to warrant an inquiry, and to justify the action of the Senate.

I have read these portions of the debate in the House of Representatives, to show to the Senate the foundation upon which I based my remarks, when the subject was up before. I did not consider it necessary to authorize me to introduce the resolution; but I gave it as the basis of the information upon which I did introduce it. I needed no such authority. I neither need, nor do I recognize any authority, beyond my own sense of duty, and the rules of the Senate, to do or to say anything upon this floor.

In regard to the propriety of making public, and laying fairly before the people of the United States the action of this Government, no matter by what Department, in any way affecting the interests of the people, I have no more to say now in addition to my former remarks. But I desire to call the attention of the Senate to the importance which seems to be attached to this expedition, by its friends, and by the Administration. We find it announced in all the newspapers. We find communications written from this city, evidently based upon information from official sources, stating that this expedition is about to sail, and that it is of a very important character. There is a remarkable concurrence, as to its general objects and its importance, between all these published statements. I find in a paper published in the city of Boston, established, and recognized throughout the country, as the especial organ, the especial representative and exponent of the political views, and the advocate of the political aspirations and advancement of the distinguished Secretary of State; I find in that paper, the last number of which reached me through the mail yesterday morning, articles in reference to this expedition, in which it is heralded to the world as a great national movement, involving most important political consider-

ations, and evidently thrown into the canvass, for the purpose of producing its effect in the approaching presidential election. I will read them.

Mr. DAVIS. What is the paper?

Mr. BORLAND. It is a paper called "Our Country," specially devoted to the advocacy of the election of Mr. Webster to the Presidency of the United States. Here is one of them:

"THE UNITED STATES AND JAPAN.—The following is a correct list of the squadron destined for the East Indies and the Coast of Japan, under Commodore Perry:

"United States steam-frigate Susquehanna, flag ship, Commodore M. C. Perry, Commander in Chief; Commander Franklin Buchanan, Captain of the ship; Commander Henry A. Adams, Captain of the fleet; Lieutenant John Cottey, Flag Lieutenant.

"United States steam-frigate Mississippi, Captain Wm. J. McCluney.

"United States steamer Princeton, Commander Sidney Smith Lee.

"United States ship Plymouth, at present in the East Indies, Commander John Kelly.

"United States ship Saratoga, Commander Wm. S. Walker, in the East Indies.

"Armed store-ship Supply, Lieutenant Commanding Arthur Sinclair.

"Commodore Perry goes out in the Mississippi, and will hoist his broad pennant on the Susquehanna on his arrival in the East Indies.

"Our readers are aware that we regard this expedition to the Pacific coast as one of the most important ever undertaken by our Government. Not that it is to be viewed in the light of an armed invasion. Such is by no means the case. It would be simply ridiculous to suppose that the United States would send a few ships, like the above, to overrun and subjugate the populous and powerful empire of Japan. No one but an idiot would think of such a thing.

"But this diplomatic movement is of vast importance in its ultimate results; and, as such, reflects great credit on its originators, especially on the distinguished Secretary of State. We are glad to learn that the Washington Union approves his patriotic course.

"Mr. Webster understands this matter well. He is perfectly aware of what is due to the commercial interests of the whole Union, and he will continue to suggest to the President, as he has done in this case, such sagacious measures of diplomacy as will protect and advance those interests in all quarters of the world. He knows what is due to the rights of American seamen, shipwrecked, plundered, and outraged on the Japanese coasts; and he will never consent that the wrongs which our hardy tars endure in distant lands shall go unredressed, while the United States Government has so power to redress them.

"This expedition, then, is not only perfectly justifiable, but highly honorable to all concerned; and we hope to see it carried through in a manner worthy of the American flag and the American name."

I shall not stop now to indulge in the expression of certain reminiscences and reflections, suggested to my mind by this eloquent laudation of the very paternal regard for the interests of American commerce, and the welfare of American seamen, as affected by our relations with foreign countries, by the distinguished gentleman who is now Secretary of State, and a prominent candidate for the Presidency. Here is the other article from the same paper:

"EXPEDITION TO JAPAN.—Nothing can be more ridiculous, says the New York Courier and Enquirer, than the telegraph dispatches and Washington correspondence, in regard to the objects and purposes of the expedition about to sail for the China Seas, under the command of Commodore Perry. We have already treated this subject at some length, and demonstrating the importance of demanding redress from the Japanese for past grievances, and securing respect for our commerce in future. But we expressly repudiated the idea that the expedition contemplated any conquest."

"Indemnity for the past—security for the future!" This, Mr. President, was our motto in the Mexican war. But, sir, I confess it is a little surprising to me; indeed, it is what first arrested my attention, and induced me to examine the subject somewhat curiously, that the political party which opposed that war, and is now embodied in, and represented by this Administration, should so suddenly have shifted its ground, faced about, and adopted the very position upon which they looked with such horror, and so horrified the country about, by the pictures they drew of its consequences. And I must express my surprise, especially, that Senators on the other side of this Chamber, who are of the Administration party, who joined in the anti-war cry, denounced the doctrine of "indemnity for the past, and security for the future," and were opposed to establishing more extended relations than then existed with other countries, particularly if such relations threatened war, or looked to increased possessions of territory, should now be found so suddenly enamored of, and converted to that policy, as to be engaging Hermit, in a crusade against a strange people, of whom we know but little, and against whom we certainly know not that we have any cause of

quarrel whatever. The article before me goes on:

"That we have a right to claim the use of harbors on the coast of Japan for protection from stress of weather, nobody can deny; nor will it be questioned that it is alike our right and our duty, to insist that the shipwrecked mariner on that inhospitable coast, and the disabled whaler, shall no longer be treated as *pirates*. This we owe alike to our commerce and to humanity; and this Commodore Perry will doubtless insist upon. The whole civilized world will not only justify but applaud this proceeding."

Now, sir, we find editors of newspapers, believed to be in the confidence, and who are specially engaged in sustaining the views of this Administration, and advocating the presidential aspirations of certain leading members of it, fully possessed of information as to the objects of this expedition, and the means that are to be used to carry out those objects. We find them all in possession of this information, which enables them to shadow forth, rather dimly to the public, to be sure, some great project to be undertaken—some mighty scheme, pregnant with vital consequences to this nation, and which must, to a greater or less degree, require the coöperation of Congress during its progress, or at its close; and yet Senators rise in their places here, and deny alike the competency of the Senate to ask for information in respect to it, or the necessity, or even propriety, of making the call, or receiving an answer. Strange, indeed, sir, if private individuals and editors of newspapers, for personal or political purposes, shall be put in possession of this information by the Government, to be used in such parts, and for such purposes as interest or ambition may dictate; and yet that the Senate of the United States is not competent to ask for it, and may not properly receive it. Mr. President, the idea that the public interest may suffer by our getting this information, and making it accessible to every man in the country, is, to my mind, strange indeed. Sir, I have no such conceptions of public affairs and the public interests, and entertain no such contemptuous opinion of the popular intelligence of this country. How strange, sir, to hear such opinions expressed, and that, too, right in the face of the fact that the information is not locked up in the breast of the Administration, but is dealt out here and there, in New York and Boston, in certain quantities and for certain purposes—what purposes I pretend not to say, further than is already indicated; and that is to favor certain presidential aspirations.

I repeat, sir, it does seem strange to me, that with these things before the public—with this imperfect information which is given, and evidently derived from sources which are in possession of all the objects of the expedition, any one should refuse, to either branch of Congress, information which will enable us to understand the whole subject, when all its consequences, be they good or bad, are to fall upon those whom we represent; and when (let the result be what it may) we will be called upon to pay the expenses of the whole project, and to that extent, as we have already been told by the friends of the Administration on this floor, and by its organs of the newspaper press, that we shall be held responsible to the country. They tell us that we have the power, that the Constitution has placed it in our hands, and that we are responsible for its exercise, and will be held to that responsibility before the country.

Before I resume my seat, I have a word upon what I noticed in the remarks of the Senator from North Carolina, [Mr. MANGUM,] who first spoke in opposition to this resolution, when he undertook, if I understood him, to read a lecture to a portion of the Democratic party, for those views of progress which lead it into interference with the affairs of other countries; alluding, as I understood him, in one direction to the favor which some had shown to what was called the Cuban expedition.

Mr. MANGUM. I do not remember when I attempted to lecture the Democratic party, or anybody else, on that subject. I wish the gentleman would remind me when and where I did so.

Mr. BORLAND. I understood his remarks to be a general lecture, in brief terms it is true, to certain members of the Democratic party who favored an interference in the affairs of foreign nations, including the so-called Cuban expedition; and further as a sort of rebuke in general to those who favored what is called the doctrine of "intervention;" intimating that theirs was progress in the wrong direction, when it led them beyond our

own borders to interfere in the affairs of another people. That is what I understood his remarks to mean.

Mr. MANGUM. I have no recollection, at any period, of having indulged in any remarks of that sort. I will very frankly avow, however, that, in regard to this doctrine of intervention, the gentleman does not misrepresent the views which I have individually expressed and entertained—not at all. But I do not remember having expressed such views in this Chamber. He will pardon me for saying, additionally, that I never undertook to lecture this great and powerful Democracy. Sir, it moves with a momentum, physical and political, so great, that my lectures would be but a small drawback to it.

Mr. WELLER. No doubt of it.

Mr. MANGUM. It would be so; and I must be supposed to have some inklings of common sense. I would not attempt a thing so impossible. I would as soon attempt to explode the rock of Gibraltar with a single grain of powder, as by any lecture I might give, attempt to enlighten, to control, or to improve, (which is vastly more to be desired,) the Democratic party. [Laughter.]

Mr. BORLAND. I am very happy to hear that the Senator from North Carolina entertains an opinion so favorable of the Democracy of the country, and views with such respect the power of that party. And, sir, it is well he does; for, doing so, he will doubtless escape the disappointment and mortification which await those of the party to which he belongs who enter the great contest which now approaches, disparaging the power or spirit of the Democracy, or flattering themselves with that vainest of all sentiments—the hope of success.

But, sir, my purpose in alluding to the remarks of the Senator from North Carolina, [Mr. MANGUM,] was to indicate what seemed to me something like inconsistency on his part; for, while he denounced the spirit of progress leading to that sort of intervention—the purpose which some had evinced to interfere in the affairs of foreign nations—he manifested for himself, and defended in the Administration—not in terms, it is true, yet none the less certainly—a willingness, indeed a well-defined and fixed purpose, to go abroad, even upon the high seas, and interfere directly, and by force and arms, if necessary, in the affairs of a nation with which we are not only at peace, and with which we know of no cause of quarrel, but with whom we have no relations at all.

I am not objecting to this expedition. I am very willing to establish commercial relations with the Japanese, or any other nation where they are likely to result in advantage to us. But it seems to me that a Senator who will one day denounce those who would connect our country with those nations which are comparatively near our shores, and on the next enter himself upon a crusade against the most distant people on the globe, for a purpose no more beneficial, and by means no more proper, must be considered as either not altogether consistent with himself, or, at any rate, as not willing to govern his own course and that of his friends, by the same rule he would impose upon others. Does the magic power of party make that right in one, which was so wrong in another?

I repeat, what I said when I first introduced the resolution, that I impute nothing wrong to the Administration. If such meaning be attached to what I have said or done, it is in the minds of those who oppose, and not of those who advocate the resolution. *Honi soit qui mal y pense.* I think it not unlikely, that when I come to know the objects of this expedition, and means and mode of their attainment, if such knowledge should ever be vouchsafed to me, that I may approve them. It is quite certain that I shall, if those objects be the commercial advantage of my country, and those means be such as a brave and honorable people may make use of. But, sir, no matter what the information I have asked for may develop, I none the less desire it. I want it to govern my own course as a legislator here. I desire it, also, for the information of those who sent me here. I deem it my duty to keep my constituents, who are the people of my own State, informed of all I do as their representative here; and as all matters of public interest concern them, in proportion to their number, as directly as if their number was greater, and they had power to make themselves

heard and felt more strongly than they can at present, it is also my duty to inform them of what is undertaken here by all branches of the Government; and this duty I will perform as far as I may be able. Such information as I ask for, is my right and theirs, and therefore I ask it. I am not afraid they, or any other portion of the people of the United States, will misuse it. If the objects of this expedition be honest and lawful, it cannot, in the nature of things, be wrong or hurtful to any lawful interest for them to be made known. If they be dishonest or unlawful, the sooner and the more certain should they be exposed and arrested. At any rate, be they right or be they wrong, it is our right and our duty to know them.

Mr. GWIN. I move to lay the resolution on the table temporarily, for the purpose of proceeding with the consideration of the subject which was before the Senate yesterday.

Mr. MANGUM. I hope the Senator from California will withdraw that motion for a moment.

Mr. GWIN. I will for a moment.

Mr. MANGUM. I stand here under a charge specifically made, which seems to be well considered, that I have been inconsistent in my opinions. Well, sir, without attempting to vindicate my consistency, which is a matter of no consequence to discuss now, I will say, that my opinions on the subject of intervention have been fixed long since; and all the arguments I have heard on the other side amount to nothing in the way of shaking them. As to intervention as a general proposition, no man can lay down the proposition that we are never to interfere. It has been from the beginning, and will be to the end, that whenever our interest or our safety shall combine with our convenience and our power, we shall intervene, so far as our safety or our interest are concerned. With regard to the expedition which is going to the Indian seas, I regard it as purely commercial; and if it have any other aspect it is not an intervention—it is a work for ourselves. It is not working for a people with whom we have very little connection or interest, and with whom we have very little to do. True, we shall intervene if the enemy comes to endanger our safety or our interest. The nations of the world have done the same thing in all time, and will do it to the end of time. And when we do it we shall not, as I have said on a former occasion, like that redoubtable and very wise and most excellent Spaniard of the fiction, the redoubtable Don,—while we shall act upon principles that are practical touching our own interest—we shall not, like that ancient and redoubtable Don, go about the world finding out the errors of mankind, and endeavoring to right them according to our Democratic or Whig notions.

Sir, we have no Procrustean doctrines on this subject. The world will think and act for itself in its respective nationalities. They have a right to do it, and they are determined to do it. I regard the expedition to the Indian seas as designed to promote the extension of our commerce. I can readily conceive of a case where a nation is in such a condition that it obstructs the great interests of the civilized portion of mankind, and where they may be brought by coercion, if necessary, to act in a manner which will not injure the rest of the world. I can imagine many such cases, where, according to the law of nations and the law of right, such a course would be justifiable.

But as to Hungarian intervention, as to bearding the great Northern Bear, for a people who never enjoyed, and who probably never will in our time enjoy, liberty, where there is not the semblance of a probability now existing that she can secure liberty, I rather think that our redoubtable Don never contemplated anything quite so absurd, nor quite so impracticable.

Mr. GWIN. I now renew the motion to lay this resolution temporarily upon the table.

Mr. BORLAND. On that motion I ask for the yeas and nays.

The yeas and nays were ordered and taken, and resulted—yeas 20, nays 20, as follows:

YEAS—Messrs. Adams, Badger, Bell, Brooke, Cooper, Davis, Dawson, Fish, Geyer, Gwin, Hale, Mangum, Miller, Morton, Seward, Smith, Spruance, Underwood, Upham, and Weller—20.

NAYS—Messrs. Atchison, Borland, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Hunter, King, Mallory, Norris, Rusk, Sebastian, Shields, Sumner, Wade, and Walker—20.

So the motion to lay the resolution on the table did not prevail.

Mr. BORLAND. I would be glad now to have the question taken upon the resolution. I think it can be disposed of in a few moments. It should be borne in mind that it is quite discretionary with the President to answer the inquiry or not, as he pleases.

Mr. GWIN. I have an objection to the passage of this resolution of inquiry; and having a right to express my opinion in regard to its merits, it is with that view that I desire its postponement. I moved for its postponement, so that I may have an opportunity to express my views in regard to it, but more especially that we may proceed with the subject which was under consideration when the Senate adjourned yesterday.

Mr. BADGER. Let us get a vote, and dispose of this resolution in some way or other.

Mr. GWIN. I desire to give my reasons for voting against it. I did not expect the matter to come up to-day, or I would have been prepared to do so.

Mr. BADGER. I can have no objection personally to the postponement of the resolution, if the honorable Senator from California thinks it important to discuss it further; but I merely suggest that if it is not disposed of now, it will come up every morning until it is disposed of.

Mr. GWIN. I am willing that it should come up at any time after the disposition of the bill which was under consideration yesterday. It may come up to-morrow, if the Senator chooses.

Mr. BORLAND. I will cheerfully assent to its postponement until to-morrow, if the understanding is, that the Senator from California will then be prepared to present his objections.

Mr. GWIN. Very well, sir.

The question was then taken, and the further consideration of the resolution was postponed until to-morrow.

#### APPORTIONMENT OF REPRESENTATIVES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States," approved 23d May, 1850; the question pending being on the amendment offered by Mr. BRADBURY.

Mr. CHASE. With the leave of the Senator from Louisiana, who is entitled to the floor, [Mr. DOWNS,] I desire to make a few remarks in respect to this bill before he proceeds.

The question involved in the amendment of the Senator from Maine is novel and undoubtedly of great importance. If the number of Representatives shall be increased to two hundred and thirty-four, as that amendment proposes, it is proper that the Senate should look to the results which will inevitably follow. I have taken the pains to ascertain one of these results, and find that if the aggregate representative population of the United States shall be divided by the number two hundred and thirty-four, it will produce a ratio which, applied in the precise mode pointed out by the act of 1850, for the ratio produced by the division by the number two hundred and thirty-three, will bring the State of Louisiana into precisely the same relation to California that the State of South Carolina now occupies. The result, then, inevitably is this: If you increase the number to two hundred and thirty-four, as is proposed by the amendment of the Senator from Maine, the argument of the Senator from Louisiana becomes just as irresistible in law, and in equity, as the argument of the Senator from South Carolina. In other words, assume that the number is increased to two hundred and thirty-four; consider that as being the number fixed by the act of 1850; change the figures two hundred and thirty-three into the figures two hundred and thirty-four; place those figures in the law; and then the question is, what will be the result of dividing the aggregate population of the Union by those figures? What will be the ratio which will be produced by that division? And what will be the effects of that ratio? I say that the result will be to place Louisiana in precisely the same category that South Carolina now occupies; and that, if the Senate be prepared to vote for the increase of the number to two hun-



dred and thirty-four, the Senator from Louisiana has an irrefragable argument in favor of his proposition to add a member for his State.

Now, suppose an additional member given to Louisiana, and the aggregate of the House of Representatives increased to two hundred and thirty-five, what will be the result? Divide the aggregate population by two hundred and thirty-five and you will have a new ratio. Divide the population of each State by that ratio, ascertain the number of Representatives to which a State is entitled by the entire ratio, and then distribute the fractions, and some other State will have an equitable and indeed a legal claim to be placed in the same category as the State of Louisiana, and the result will be that you may go on increasing the entire number of Representatives, and consequently the representation of particular States, indefinitely. That is certainly the necessary result of the amendment if pursued to its legitimate consequences. If we amend the act of 1850, by changing the aggregate number of the House of Representatives, these consequences must inevitably follow.

But Senators say that we are in a dilemma, and they ask us how we shall escape from it? We shall best escape from it, Mr. President, by taking a common-sense view of the matter, and applying the plain provisions of the Constitution to the case, and by following out its requirements. The difficulty in which Congress finds itself involved, and from which it seeks to be released, results from the attempt by the act of 1850 to fix in advance the number of Representatives in the House by an inflexible rule governing future apportionments. It results, sir, from an attempt to apportion representation in advance of enumeration—to do that before the enumeration which ought to be done afterwards, and which all precedents require to be done afterwards.

I will ask the attention of the Senate for a moment to some of the consequences which follow from the rule established by the act of 1850. The number of Representatives is fixed at two hundred and thirty-three. Divide the entire representative population by this number and you obtain the representative ratio. Divide the representative population of each State by this ratio, add the numbers thus obtained together, and you obtain the number of members of the House, disregarding fractions. But this number will be less than two hundred and thirty-three. To make up the deficiency the bill gives one Representative each to the States having the largest fraction until the fixed number, two hundred and thirty-three, is completed. The result is, that in the case of South Carolina (and in the case of Louisiana, also, if the number be increased to two hundred and thirty-four) you will have a Representative for a fraction less than a moiety of the ratio.

I am not aware that there was ever any representation for a fraction until 1842. The apportionment of that year provided that each State should have a Representative for every seventy thousand six hundred and eighty of its population, and an additional Representative for every fraction greater than a moiety. It is proposed, for the first time in the history of this Government, to give a Representative for a fraction less than a moiety. If you can give a Representative for less than a moiety, you can give one for any number, however inconsiderable.

The Constitution provides for an apportionment according to numbers. It requires an actual enumeration to be made, with a view to ascertain the numbers. This enumeration is not conclusive. It furnishes *prima facie* evidence, which, except in extreme cases, ought not to be disregarded, but not conclusive evidence. Senators seem to confound the distinction between apportionment according to numbers, and apportionment according to enumeration. The true construction of the Constitution requires the first, and does not require the second. If the enumeration of any State is neglected or, being attempted, is imperfectly executed, we are bound to ascertain the numbers from the best evidence we can command.

If the amendment proposed by the honorable Senator from Maine shall prevail, and numbers shall be disregarded in making the apportionment, I see no reason why, afterwards, the amendment of the honorable Senator from Louisiana should not also prevail; because I show, I think beyond controversy, that Louisiana will stand, after you

have made the number of the House of Representatives two hundred and thirty-four, in precisely the same category in which South Carolina now stands, in relation to California.

Now, what is the way, the practical way, to get out of the difficulty? In my judgment, the true way was indicated by the honorable Senator from Kentucky yesterday, [Mr. UNDERWOOD,] when he said: Ascertain the numbers, satisfy yourselves as to the real numbers in the State, and when they are ascertained, follow the rule prescribed by the Constitution. The enumeration is not conclusive; it does not bind us. We should, indeed, respect it so far as to give a representation accordingly, where an enumeration has been made in fact. Where we have returns of actual enumeration, we should follow them. Where we have not, we should take the next best evidence. But we are bound to give a representation according to numbers, and if the returns from any State do not represent its population; if, by the returns of the officers who attempt to take the enumeration, it appears they are incomplete, then it seems to me that Congress is bound to correct the returns by ascertaining, by the best evidence within its reach, what is the true number of the population. The returns from California are confessedly incomplete. Let, then, the population of the State be determined according to other evidence. If the number so ascertained gives her two members, she is entitled to them, and should have them. South Carolina must abide the consequence, as any other State must in the circumstances. On the other hand, if there is no satisfactory evidence that the numbers of California entitle her to two Representatives, California should submit to the result which the facts necessitate.

It is certainly not right to give to California two Representatives absolutely, without evidence that her population entitles her to two; and South Carolina six, because her population, if the claims of California be disregarded, entitles her to six, and still deny to Louisiana the Representative to which she becomes entitled, the very moment that the number of Representatives in the House of Representatives is increased to two hundred and thirty-four, the claims of California being disregarded, as in the case of South Carolina. The honorable Senator from South Carolina says that there is a contract between the Government and California. Not so. When California was admitted into the Union, she was allowed two Representatives. The evidence then before Congress satisfied us that she was entitled to two Representatives; but unless her actual numbers now entitle her to two, she has no better claim to be allowed two than New Hampshire has to be allowed her old number, or South Carolina her old number. The act for the admission of California apportioned to her a representation according to her numbers, and according to the existing ratio. According to that ratio, at that time, South Carolina was entitled to seven members, and now in no event can she have more than six. California was entitled to two, but now, if her numbers do not entitle her to two, she cannot have two; Congress is only bound to ascertain the numbers, and give her a representation accordingly.

As the Senator from South Carolina called the attention of the Senate to the language of the act admitting California into the Union, I beg to do the same thing, for the purpose of showing that there is nothing in that intended to extend beyond this time. She was entitled by that act to two Representatives—until when? “Until the representation in Congress shall be apportioned according to the actual enumeration of the inhabitants of the United States.” That actual enumeration of the inhabitants of the United States has been taken; the apportionment contemplated by the act is now to be made. That is the very thing that is attempted in this bill. It is very true, that this enumeration is not complete, but it is “actual.” The provision of the act of admission is couched in no unusual or unfamiliar language. It has been adopted when other States were admitted, and there is no precedent in our history which will warrant us in regarding this language as a contract fixing the representation of the new States beyond the period of the next apportionment. That period, in the case of California, has arrived. The rights of California, under that act, are at an end. If we are bound to give California two Representatives, it is not on any ground of

contract. We must give them to her, if at all, because her numbers entitle her to them.

Now, I admit very cheerfully the claim set up on behalf of California by her Senators. I think it is clearly the duty of Congress to ascertain her actual numbers. It is not their duty to receive returns confessedly incorrect and incomplete, as conclusive. California occupies a very different position from that of Ohio;—for example, we think that our returns are incorrect, and that our population is much larger than is shown by the census; statisticians, well-informed and intelligent, assure us that the census returns, as to Ohio, are grossly deficient. But these returns purport to be complete. The returns from California do not purport to be complete.

The Senator from South Carolina [Mr. RHETT] informs us that statisticians are of opinion, very generally, that if census returns come within ten per cent. of the actual population, they are very accurate. It is not a case, then, where the returns are simply incorrect, that would justify a revision; or where the returning officer professes to have done his duty, and has come to results that are, apparently, accurate. But, where the census agent for the State, having the general control of all matters appertaining to the enumeration, reports to Congress, or the proper department, that the census is defective and incomplete; where the sworn officer of the Government, advises us that the enumeration has not in fact been made, that there is indeed no actual enumeration of the population of a particular State, it surely becomes the duty of Congress to ascertain, from the best evidence in its power, the true number of inhabitants, and to give a representation according to the true numbers. We cannot inquire in such a case, whether justice to one State will operate to the disadvantage of another State. The rule is established by law, and all that we have to do is to apply it under the guidance of the Constitution, making the apportionment according to the numbers, and using the enumeration merely as a means of ascertaining what the numbers are.

Mr. BADGER. It seems to me that the presentation of the facts in this case in a few words would be sufficient to show that South Carolina has a right to the member that she now claims under the fraction, and that Louisiana can have no claim in consequence of the allowance of that member.

Now, sir, how comes the question here? The act of 1850 directs that so soon as the enumeration shall be completed, and the returns made, the Secretary of the Interior shall proceed to ascertain and apportion members to the different States, and shall announce the result. But the act of 1850 does not specify any time within which these returns shall be completed. If the returns had been completed, and if the returns from California had been returned into the office of the Secretary of the Interior with the same apparent accuracy and completeness as they have been received from other States, then this subject, if I understand it—and I think my friend from Missouri [Mr. GEYER] concurs with me entirely—could not have come before Congress at all; or if there had been a time fixed by the act of 1850, at which it should be the duty of the Secretary of the Interior to proceed to announce the apportionment according to the act of 1850, then, notwithstanding this difficulty in regard to the enumeration of the population of California, this subject would not have come here at all. But the returns of California not being complete returns—and it should be understood that I am not now speaking of the accuracy, but of completeness—the Secretary sends us word, “I cannot execute this law. Under this law I am to wait until returns are made from all the States before I can proceed to make the apportionment.” Now, unless Congress should interfere, and afford some legislative enactment that will enable this apportionment to be declared, the act of 1850 cannot be executed. That is the state of the case; and that being the state of the case, the amendment proposed by the Senator from Maine is, that we should allow to California, upon what is a reasonable and fair and just estimate of her population, two members of Congress.

If we stop there, and make no further provision, the consequence would be that South Carolina would lose the member which her largest fraction, in the existing state of the returns, entitles her to under the act of 1850. The largest fraction entitles South Carolina to that member just as much,

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under the law, as under the law she is entitled to any of her other members; for the largest fraction is, under the law, precisely equivalent to a full member, so far as the right is concerned. We cannot, therefore, without great impropriety, deprive South Carolina of that member, by giving to California, upon an estimate of her population, two members. It is becoming, it is gracious, it is right, it is, in every respect, defensible and proper, upon an estimate reasonable and just as this is before us, to give California the two members. But it cannot be just or proper, upon an estimate by which we confer a member upon California, to take from South Carolina a member to which she has a right, under the law of 1850, according to an actual enumeration. Therefore, it seems to me that the proper method of adjusting this matter is that proposed by the Senator from Maine, to leave California her two members in the House of Representatives, and to say that South Carolina may have the member to which she is entitled on the ground of having the largest fraction.

As to the case of Louisiana, on what possible foundation does her claim rest? If you direct the Secretary of the Interior to proceed to make the apportionment, treating the present returns as being completed under the act of 1850, Louisiana has no right to that member.

Mr. DOWNS. And yet you propose to give California one, when her fraction is less than that of Louisiana.

Mr. BADGER. That of Louisiana is not the largest one. I have endeavored to explain why we propose to give California the member. In our past history, we have given members upon estimates, but we have never taken away one. I do not know that, when there has been an actual enumeration, complete upon its face, we have ever given one. So that, so far as the claim of Louisiana is concerned, Vermont might just as well come in upon the allowance of a Representative to Louisiana. Vermont has a fraction of forty-three thousand.

Mr. WELLER. New Hampshire has the next largest fraction to that of Louisiana.

Mr. BADGER. We see there would be no end to the propositions which would be made for enlarging the House of Representatives. I take the case to be this: If we direct the Secretary of the Interior to proceed now to declare the enumeration, what is the result? California has one member, and South Carolina undoubtedly has the member to which she is entitled. But we propose to give to California, on account of her very peculiar condition, an additional member. Why should we interfere with the rest of the census, because we give her an additional member? Why interfere to do what there is no justice in doing? The relative number of members to which Louisiana is entitled is ascertained by actual and complete enumeration. We give California a member because, though she has not such an enumeration, we have no time to wait to have one taken now; and if we had, it is impossible to ascertain the numbers in California under the act of 1850. We, therefore, give her the member. It is fair and reasonable; but it would be, in my opinion, unjust to take away from South Carolina the member to which she is entitled. As to giving one to Louisiana, we cannot do it without admitting the claims of New Hampshire; and if we admit the claims of New Hampshire, then we must admit those of Vermont. It seems to me the true rule and the right policy will be to give California two members, and leave the census to operate as it does upon other portions of the United States, after adding one to the number of members in the House of Representatives.

Mr. CHASE. In reply to the remarks of the honorable Senator from North Carolina, [Mr. BADGER,] I may be permitted to observe that I am not aware of any case in the history of the Government in which a Representative has been allowed to any State on an estimate of numbers. If the Senator is aware of any such case, I should be glad to know it. I am not aware of any such precedent, unless the allowance of representation

to a new State upon her admission, in advance of an actual enumeration of population under the laws of the United States, is one.

Mr. BADGER. I will answer the inquiry of the honorable Senator from Ohio, by asking if there has ever been an instance in which there has not been an actual enumeration?

Mr. WELLER. I believe that a case of this kind has never occurred before.

Mr. CHASE. It is quite true that a case of this kind has not occurred before; but the Senator from North Carolina says that if two members be given to California, and six to South Carolina, the rights of Louisiana remain unaffected. Now, is that so? Do we not amend the act of 1850, and increase the aggregate of Representatives to two hundred and thirty-four? Certainly we do. We make two hundred and thirty-four the basis of the whole apportionment; and when that is done, Louisiana comes next upon the list of fractions, and would be entitled to another Representative upon precisely the same argument which applies to the State of South Carolina at this time.

It is said, sir, that this is an exceptional case. But the fact that a like case has not occurred before, does not discharge us from our duties under the Constitution. The Constitution requires us to make the apportionment according to numbers and not according to estimate. It does not prescribe, absolutely, the rule upon which we shall ascertain the number; but when, by whatever rule, those numbers shall have been ascertained, the obligation devolves upon us to apportion accordingly. If the aggregate, two hundred and thirty-four members, is made the basis, and applied according to the act of 1850, Louisiana will have a fraction, which will entitle her to a Representative, if South Carolina is now entitled to one on the basis of two hundred and thirty-three members. That cannot be denied. I do not see that we get rid of the conclusion by changing the form of the facts. We arrive, after all, at one result, that there are to be two hundred and thirty-four Representatives. These Representatives the Constitution requires to be apportioned among the States according to their respective numbers. And if you take as your guide the act of 1850, then most unquestionably the State of Louisiana will be entitled to five Representatives, if South Carolina is now entitled to six. What the honorable Senator from Maine proposes by his amendment, and what the honorable Senator from North Carolina defends, is nothing more nor less than an arbitrary assignment of a member to South Carolina, unless you are prepared to go further, and revise the whole apportionment to the new basis. One or the other of these States is not entitled, and cannot be entitled, to the number of members proposed.

Mr. GEYER. I have very few remarks to make, and they consist principally in the statement of propositions.

But for the failure of the returns from California, the subject would not be before us. It is because the act of 1850 could not be executed, as it now stands, that we are called on to make some modification of that act, by which we can have the next, the Thirty-third, Congress elected.

Now, the first proposition I submit is this: that the returns—the official returns—under the act of 1850, so far as they go, ought to govern us. The official returns include all the States but one. We have, then, the actual returns of all the States, including South Carolina, to determine their representation under that law. Now, my proposition is, that we adhere to that law, so far as it goes. It includes South Carolina and excludes Louisiana. But there is one State that would be unprovided for. The act of 1850 does not extend to that State; and if we can act at all with reference to the subject—if we are not obliged to wait until all the returns are obtained, we must adopt some principle with respect to that State which is excluded by these returns under the act of 1850.

Some honorable Senators seem to suppose that California is necessarily entitled to two Representatives under the provisions of the act for her ad-

mission. I apprehend, however, that if it appears affirmatively by testimony—not equal, certainly, to the returns, but such as would be satisfactory—that her population is not such as would entitle her to two Representatives, Congress would not allow them; but in the present state of the case, the proof of the affirmative lies with those who propose to deny her the two Representatives. *Prima facie*, she is entitled to the representation allowed to her by the act providing for her admission, and to that we should adhere, unless it shall be shown, affirmatively, that she has not the population equal to entitle her to that representation. I state again, that, with respect to California, if we cannot act under the act of 1850, we must adopt a different rule. That act provides for the cases of the States of South Carolina and Louisiana; and if we put the testimony which is before us altogether out of the question, I am disposed to look on California as entitled, *prima facie*, to two Representatives. Then the whole question that remains is, whether the evidence that is furnished to us authorizes us to say that she has not the population. According to the examination that I have given to the matter, I have arrived at the conclusion that her population would leave her a fraction above the ratio of one Representative, greatly superior to that of South Carolina. But as that testimony is not as conclusive as returns would be, I do not feel authorized to take from South Carolina the Representative to whom, according to the official returns on which we are acting, she is entitled.

For these reasons I am in favor of the amendment. But if the amendment does not pass, then the bill ought to be rejected. If the act of 1850 is to be adhered to, we must wait until we obtain these returns. The bill, as proposed by the Committee on the Judiciary, proposes to include some returns from California, amounting, I think, to twenty-five thousand inhabitants, adding that number to the official returns made to us of the population. It occurs to me that we are taking great liberties with the census returns, when we undertake thus to pronounce upon them, without waiting for the official returns of the officers sent out to make them. We are not in the execution of the act of 1850; because the twenty-fifth section of that act contemplates that all returns shall be in before you make the apportionment; and when you pass the first section of this act, it is a plain departure from the twenty-fifth section of the act I have just alluded to; because after having enacted that no apportionment shall be made until the whole of the returns are in, we anticipate some of these returns, and make apportionments here by acts of Congress, leaving out of the State of California a large portion of her population. I think, therefore, that if we act at all, we are in a position in which we should include both of these States; executing the act of 1850, so far as it goes, and providing for other cases, not provided for by the act; the State of California, which is not included, and which stands precisely in the same position as if no returns had been made from that State.

Mr. BADGER. As to this question, she stands just as when she was first admitted.

Mr. GEYER. If I have made myself understood, I think I have shown clearly that we must either abandon the undertaking of making the apportionment at all, or if the act of 1850 is to be adopted as a rule, to carry it out only so far as those States are concerned from which we have full returns, and then adopt an equitable and just rule in relation to that State, which cannot have a representative apportionment under that act.

Mr. DOWNS. I shall endeavor to be very brief in the expression of the few arguments which I propose to submit. It seems to me—to commence where others left off—that there are insuperable objections to the suggestion of the Senator who has just taken his seat, that this apportionment should be postponed because we have not got complete returns from California. There is no time to postpone it. The presidential election comes on in a very short time; hence it becomes necessary and essential that this apportionment

should be made known very speedily; because, if we do not; if we permit this matter to lie over, it will be doing, not an injustice to one State alone, but to half a dozen States or more, whose representation will be increased by the new apportionment. We cannot, therefore, postpone it or put it off. We cannot delay it, or avoid it at this time without doing still greater injustice to other States. I therefore take it for granted, that it is out of the question that this matter can be delayed. We have put it off already to the last moment, and it is now necessary to decide it, and to decide speedily.

I think one radical error has run through the whole of the arguments advanced on this subject by those who advocate this amendment. The foundation of all their arguments is based upon one position, which, I think, is an error: that is, that there are no returns from California. That, I think, is a very great mistake. The honorable Senator from South Carolina [Mr. RUETT] yesterday, when proposing his proviso, in the remarks which he made, concurred in the views of the majority of the committee, that we could not go into estimates in a matter of this kind—that the Constitution did not authorize it. But he placed the amendment on a different ground, which I think entirely untenable, namely, that although, according to the enumeration, California was not entitled to two members, yet, by a provision of the act admitting her into the Union, as she was entitled to two Representatives until the enumeration took place, therefore she is entitled to two now. I cannot so understand it. The language of the act of admission is very similar—I believe is in the identical words of the Constitution—that until the enumeration shall take place, this representation shall stand. It is exactly the language used in the admission of all the States, and in the Constitution—until the first enumeration should be made. What does it mean then? It means only that she shall be entitled to this representation until the usual time of taking the census—nothing more. I put it to Senators to say if a single Senator, who voted for that measure, supposed that it ever contemplated, or can be construed to mean, anything more than to give California that representation until the next enumeration should take place.

There is no implied pledge, then, no binding obligation on the part of the United States Government to continue to California her two members, more than there is to continue to Maine or to Massachusetts, or any other State, its old number. As was well observed, yesterday, it is no vested right. The Constitution provides that a new enumeration shall take place every ten years, and a new apportionment be made on the ground of such enumeration, to continue for ten years. The time fixed for the last apportionment, is about to expire; and at the end of that time, no State has any right to claim the same number of representation, unless entitled to it by the enumeration; on the contrary, if she should continue to hold on to it when other States are entitled to it, it would be doing great injustice to them.

But I wish to advert to some facts, to show that the position assumed that there are no returns here, is a great and fundamental error; and that all the arguments in favor of this amendment, being based on that, if it is found untenable, fall to the ground. Let us look at the official data, and see what returns have been made. I will state, that this matter is materially different now, according to the record, from what it was when the Secretary of the Interior made his report to the President. Then he could say, with great propriety, that the returns were defective, and that there was a number of counties from which he had no returns. He was perfectly correct; but in stating that, at that time, he had no secondary evidence by which he could arrive at the population of the counties which were wanting. That was very true at the time the report was sent in. Now, the state of the facts is very different. The very information of which the Secretary was in want, and the want of which precluded him from making the apportionment, we have on our tables; and the principal cause which led the Executive to call upon Congress to act on this subject is removed. This information was not in the hands of the Secretary at the time, and, therefore, was not taken in view. So clear is it, that I am strongly of the impression, that if the facts which I shall now

state to the Senate had been present to the mind of the Secretary and of the President, that message would not have been sent in, but the apportionment would have been made.

Mr. GWIN. I would state to the Senator, that this very testimony which was before the Committee on the Judiciary was before the Secretary, but he did not consider himself authorized to receive these returns.

Mr. DOWNS. They were not before the Secretary, because the language of the report shows they were not. He said that no returns had been received for those which had been burnt up. I will read an extract from his report presently. He goes on the ground that, except for nineteen counties which he names, there are no official returns; and he says expressly, that for all the counties except those nineteen, there are no returns at all, because the tables were burnt up in San Francisco. Now, whether the Secretary did or did not know—and I presume he did not, because he did not mention it—it was known to the committee, and they have so reported, that previous to the fire, the returns of those counties which were missing had been made to the Secretary of State of California, and therefore the want could be supplied, and supplied, not by evidence secondary in its character, but by evidence provided for in the act of 1850; for it is there provided that the census officers shall make one return to the Secretary of the Interior, and another to the Secretary of State of the State. Now, it cannot be denied, that had the return which was made to the Secretary of State of California, been made to the Secretary of the Interior, it would have been regular and official. Well, the same act which authorized the one, authorized the other. The one is a duplicate of the other; and yet you are told that the return made to the Secretary of State of California was no return at all! Clearly that is an error, and the returns for the counties of San Francisco, Contra Costa, and Santa Clara, are shown by the return made to the Secretary of State of California, and are entitled to just as much weight as those which were made to the Secretary of the Interior. But as I wish to make this point very clear, I will refer to a portion of the report of the Secretary of the Interior. It is in the report of the committee:

"Full returns have been received from the agents engaged in taking the census in all the States except California. Complete returns have been received from nineteen counties of that State."

That is a pretty good fraction to begin with. It is a pretty hard thing to say, when the Secretary says that "complete returns have been received from nineteen counties," that there are no returns at all. But that is not all; he proceeds:

"Complete returns have been received from nineteen counties in that State, and partial returns from five others, viz: Butte, Sacramento, San Joaquin, Trinity, and Tuolumne. From the remaining four counties, viz: Klamath, Santa Clara, Contra Costa, and San Francisco, no returns whatever have been received. Information has been communicated to the Department to the effect that the census of these counties was duly taken, but that the schedules were destroyed by one of the conflagrations which laid a great part of the city of San Francisco in ashes. No copies of these schedules were preserved, and there is now no legal means of supplying the loss occasioned by the destruction."

Evidently, then, the Secretary was totally unaware that these returns were made to the Secretary of State of California; otherwise he would have known that there was a means at his command to supply the deficiency.

Mr. GWIN. Even with that, only twenty-three counties are accounted for, while there are twenty-seven in the State.

Mr. DOWNS. I shall account for them. If the gentleman will wait until I get through, he will probably find that I shall account for more than he thinks of; I have only commenced, and have not got through yet.

That is the statement made by the Secretary of the Interior in his report. Now, let us see how these defects have been cured since that time. He said then, "partial returns have been received from five others, viz: Butte, Sacramento, San Joaquin, Trinity, and Tuolumne." Now, returns from those counties are embraced in the list which the committee adopt. It is true, they are said to be partial; but I contend that we have every reason to believe that they are correct. They were taken a long time ago; there has been ample time to correct them if there was any error in them; the agent had instructions from the Gov-

ernment to make corrections, if necessary. An impression seems to have prevailed with the Legislature of California and others, more than a year ago, that these returns were erroneous. They must have been made a long time ago; yet on the records we have nothing official or clear to show any corrections or any alterations whatever. As to one of the counties, the returns of which are imperfect—the county of Tuolumne—the agent states, in one of his letters, that he had received returns from it, but did not send them because they were so imperfect. Now, I should like to have had them sent in whether perfect or not perfect, because there is one strange feature about these returns, and I should like to have seen if the same thing would apply to this county, when corrected, that did to some others, viz: whether the population would not have turned out less instead of greater than in the first returns. I should like the agent to have sent in those returns, as it was his duty to do, however imperfect he may have considered them, so that we might have seen how they stood.

But the honorable Senator from California suggests that there are only nineteen counties mentioned here. I will show him how the other counties are accounted for by a later report of the Census Bureau. Here is a statement, dated March 5, 1852, table No. 4, containing a recapitulation of the facts: "Aggregate of counties in the State, twenty-eight; counties returned in full, twenty-two." In the report of the Secretary we were told that the returns of nineteen counties were received complete; now we are told there are twenty-two, including, exactly, the three which I mentioned as having been obtained since. What are the others? "Counties returned in part only, two. Counties from which no returns have been received, four." That makes up the whole number. And here I wish to say—that all these facts may go to the public—that so far as the census is concerned, the counties ought to be considered as twenty-seven instead of twenty-eight; because there was some doubt in the committee, whether, in 1850, the county of Klamath did exist; but it has now been made clear by the statement of Mr. McCORKLE, that it was created afterwards; so that if it had been returned with the other counties before it was created a distinct county, of course you could not put it in as a separate county. The committee supposed that it was properly not accounted for, because it was created after June, 1850, when the census ought to have been taken. Mr. McCORKLE states that fact distinctly. Taking that statement in regard to that county, it leaves three counties from which no returns were received by the Secretary of the Interior; and those are the very ones mentioned in the report of the committee, whose population they took from the returns made to the Secretary of State of California. Are they correct or not? I have shown that they are official and entitled to as much weight as if they had been sent to the Secretary of the Interior. Is there any impeachment of those returns? I have not heard it. They were sent to the Secretary of State's office at the time, were brought here, and have been incorporated in the tables upon which the committee have acted. I think, then, the census may be considered as complete. According to the last report of the bureau, twenty-two counties are made out as perfect; the returns of the two which are set down as imperfect, I have shown have stood for a long time, and no correction has been made in them, and, therefore, we may consider them perfect; we account for the three which remain by giving the returns which were made to the Secretary of State of California. I ask gentlemen now, taking these facts into consideration, how they can say there is no return from California? There is not a county, that existed in 1850, for which there are not official returns. There is an official suggestion of only two, as it now stands, being imperfect, and one of them is the county of Tuolumne, from which it seems the agent did receive returns, but for some cause or other, held them back.

With this state of facts; with complete returns, as the Secretary says, from nineteen counties; with complete returns, as the census agent says in his last report, from twenty-two counties, when, as is stated by Mr. McCORKLE, Klamath county was not organized until after June 1st, 1850, and, therefore, its inhabitants must have been enumerated in some other county; and inasmuch as in the



last report we have the returns from the counties of San Francisco, Contra Costa, and Santa Clara, I wish to know with what grace or propriety California can come here now and ask us to throw overboard the returns from that State, and go merely by guess-work. It cannot be done without the exercise of an arbitrary power, based on no proper, legal, or equitable foundation.

There is one circumstance connected with this subject to which I wish to call the attention of the Senate, or rather to extend the very proper argument made yesterday by the honorable Senator from Georgia. The argument on the other side is constantly based on the idea that these returns are erroneous, that they are too little, that they ought to be increased. And yet the record shows a very strange fact—that in a majority of cases where a correction of the returns of any of these counties has taken place, there has been a diminution in the returns. Gentlemen estimate large masses of population in the State of California. Let us look at it. Let us look at the returns made to the Legislature of California, and then at the returns we have lately received from the Census Office. In the return of the census agent to the secretary of State of California, he puts down Butte county at four thousand seven hundred and eighty-six. In the late returns which we have received from the Census Office, and which were made subsequent to the former, it is put down at three thousand five hundred and seventy-four. Does it look like injustice to give California only one Representative when there is this diminution in one county? Let us look at another county. Here is the county of Sacramento put down in the return of the census agent to the Secretary of State of California at eleven thousand. In the late returns from the Census Office it is put down at nine thousand and eighty-seven. Then there are the counties of San Joaquin, Mariposa, and Santa Clara—five counties in all, in which the corrections that have been made diminish and not increase the returns. The returns of some of the counties have been corrected since the report of the census agent to the Secretary of State of California; and in these five counties, instead of there being an increase, there has been a very material reduction. I present to the Senator now, whether, on this state of facts, we can assume that those great errors have been made which are assumed to have been made in California? There are two or three other counties which I have marked in which there has been a slight increase.

Mr. WELLER. When was that return made to the Census Office?

Mr. DOWNS. I do not think it is stated.

Mr. WELLER. Then by what authority does the Senator assume that that return was made to the Census Office after the return of the census agent was laid before the Legislature of California?

Mr. DOWNS. I assume that when we called for the returns, the Census Office sent us the latest and most correct ones.

Mr. WELLER. Before the Senator undertakes to complain of discrepancies between the return made to the Legislature of California and that made to us by the Census Office, he must show that the return was sent to the Census Office subsequent to the time when the return of the census agent was laid before the Legislature. Unless he can show that, there is no force in his argument. That is an important point.

Mr. DOWNS. I am not sure that the returns show that fact, but I have heard it, and I think it is the natural inference. The information sent here by the Census Bureau is to the latest date. I do not know, because I have not looked into the papers with that view, whether there is anything to show that this report was actually made after the other; but I certainly am impressed with the belief that it is so, and I still think that it must have been made subsequently to the report made to the Legislature of California. This information from the Census Bureau was sent here after that, under the date of the 5th of March; and hence I think that it is a reasonable inference that the report was made after the other; but I have not the documents before me to show that it was so. There are two statements here which correspond very much—one made by the Department on the 5th of March, and another made on the 25th of February to the Senator from California, [Mr. GWIN.] Both reports are substantially the same. I think, then, that there

is a strong presumption that those who urge the amendment of the Senator from Maine, are mistaken in supposing that the population of California is so great as they would have us to believe. If it be allowed in any case to make estimates—to go into calculations of this kind, certainly it ought to be on the clearest and most undisputed facts; but when we have the fact that, instead of the population having increased in this time it has diminished, I think it would be a very forced construction, indeed, to assume that such large masses of population exist there.

I shall not enter into an analysis of the statements made by the honorable member from California, in the other House, [Mr. McCORKLE.] I do not desire to do so at all. I take his statements just as they are. They are the opinions of an individual—no doubt his honest opinions, but I object to using them for testimony, because they are not that kind of evidence upon which we can act. If you allow that sort of evidence, the members from other States may come in and make statements that, according to their opinion, there are inaccuracies in the returns from their States. But we should not rely upon evidence of that kind. Such evidence is not contemplated by the law. It is not such as can be received. But, if we look into this testimony, what does it amount to? What are the grounds on which Mr. McCORKLE undertakes to show that there is this large amount of population in California? If he had submitted facts well ascertained, then no doubt they would be entitled to weight. If he had shown that the legislative committee there had ascertained the population of particular counties, and compared it with the census returns, it would be entitled to great weight. If he had stated the number of votes in their different counties, a fair inference might be drawn as to the population of California. If, when he was speaking of the number of emigrants that had gone to California, he would also give us the returns of those who had left there, we might have made some calculation on that; but when he gives us no facts on which we can test his calculation, and only gives us the result of his own calculations, I do think it is not constitutional to base our legislation upon such estimates.

So of the census agent. It is true he stated—honestly, no doubt—that some of these returns were not complete. I have no doubt that every agent throughout the United States might make the same statement, though not, perhaps, to the same extent. We all know that perfect accuracy can never be obtained in a matter of this kind. All we can expect is, an approach to accuracy. I do not pretend to controvert the fact, that there were greater difficulties in California than elsewhere; but that is not any reason why the people of California should have a greater privilege than the people of the other States.

We have been told that it would be a hard case to exclude California, because this enumeration has not been made; that such things may occur again; and that other States may be deprived of their rights. I think the force of that argument will be diminished very much, when we take into consideration the fact that, although this Government has been in operation for more than sixty years, such a case has never occurred before, and is not likely to occur again. It is the Seventh Census which has just been taken. The States have increased to more than double the number they were sixty years ago. There have been new Territories added to the Union, and in some of them there have been as great, or nearly as great, difficulties in taking the census, as in California; still, there has been no such failure as the other side allege there has been here. I think such a difficulty will not occur again.

But is there not danger of falling into another error, still more alarming, still more grievous than this? States do not always gain by a new enumeration; but some of them lose. They might hereafter get into a squabble, or make a controversy in relation to the matter, and thus defeat an apportionment, so as to allow those States which lose, to keep their own numbers. If you establish the principle that when a State loses under a new census, she can hold on to her old number of Representatives, and has, as gentlemen say, a vested right to hold on to that representation, whenever we have a census taken, we shall get into a squabble; we shall always have a difficulty hereafter. States which lose under an apportionment,

will claim their old representation, and thus we shall have a continual difficulty. It is necessary, then, in order to do justice to all, that this apportionment should take place; and that it should operate alike on all.

The honorable Senator from California who addressed the Senate with so much eloquence yesterday, seemed to think that it would be a great hardship and injustice to deprive California; and he says she is entitled to the same rights as other States. I admit that she is; I never have, and never will, deny her anything which she is entitled to ask. She is our far sister on the Pacific. She ought to be, and I have no doubt she ever will be, as she has heretofore been, cherished by this Government. But when I say that, I am not prepared to say that because she is on the Pacific and is filled with gold mines, she ought to stand beyond the pale of the Constitution, and not submit to it like other States. I will give her every privilege to which she is entitled; if there is any doubt, I will give it to her; but when she stands up and asks us to give her a representation on a mere estimate, which was never done before in the case of any State, I must object to it. I think when she asks this, she asks more than she is constitutionally entitled to, and I for one, am not prepared to give it to her. I would apply to her the same rule that I would apply to all the members of the Confederacy; and I would not go beyond it.

It has been said that the taking the census was the work of the United States, and that we are responsible for it. That is literally true; but still that argument is not entitled to the weight which gentlemen impress upon us. It is true that the census is nominally taken by the United States, but it is also true that the agents who take it are the citizens of the respective States. They have an interest in it. It is not a part of the official duty of the States, but it is a matter in which they have much interest. In a case like that of California, where there are the greatest reasons why the most perfect exactness should be observed in a matter of this kind, the State might have aided. When we consider the circumstances under which California was admitted to this Union before—when we consider the doubt and difficulty which existed on this subject—when it was ascertained, by the return to the Legislature of California, that there would be a great deal wanting to make up the necessary quantum for two members, the Legislature of that State might have taken some method of presenting to our view evidence to satisfy us that the State was entitled to two Representatives. They knew that under the act of 1850 the apportionment could not be made for other parts of the United States before we had the correct returns from California—hence, I think, it presents one of those extraordinary cases where it was proper and incumbent upon the State of California in some way, not to take a regular census, but to take such secondary evidence as would satisfy us that the number for which she contends is correct. Is there anything of the kind? I see nothing like it. It is not a very uncommon thing for the States to take a census of their inhabitants. They generally take it not only as often as the United States, but many of the States take their census twice as often. In some States the census is taken every five years, and in some every six or seven years. California ascertained more than twelve months ago that she could not get more than one Representative, unless the returns were made to show that she was entitled to two. The only reason which is urged why the census was not taken is the want of money. No doubt California could have advanced the money; and under the circumstances she might have done so. It was her own interest to prevent a loss in the number of her Representatives; and although she was not called upon to do it, she might have advanced the money necessary for the completion of the census. It was not her duty to do so, but in a matter so important to her, it might have been done; and no doubt if such secondary evidence had been produced in any form so as to satisfy us that California had the requisite population for two Representatives, we would give her that number. We do not require the actual returns in every case where it is impossible to have them; but we want estimates that can be relied upon. There are many ways in which estimates of the population might be made and presented to us here. One of the most ready ways of making a computation of the popu-

lation, and a way very easy to do it in California, would be to take the number of votes cast at the general election there last summer. Although that would not be conclusive, it would certainly throw great light on the subject. If the gentlemen from that State had submitted to us the votes given in the different counties, it would have aided us very much. Let us see the votes of some of the counties, the population of which is put down at ten thousand or twenty thousand, and let us make a calculation, and see whether or not there is any mistake. No doubt there are a large number of voters there. This is on account of the great number of male emigrants who have gone there. I suppose the voters constitute a larger portion of the population there than anywhere else. But we can make allowance for that. If, for instance, a county gave a very small vote in a contested election for Governor and members of Congress, it would certainly weaken the impression that the population of that country was very great. Nothing of the kind is shown.

It was alleged the other day that a great many emigrants had gone to California who had contributed to swell her population. I said before, and the more I reflect upon it, the more I am impressed with the idea, that a very large portion of the population that went to California have returned. The steamers arriving from California every week or two bring back large numbers. We have had statements of the number who crossed the mountains to California, and of the number who arrived there in vessels. Why did not gentlemen also present to us some estimate, some calculation as to the number who have returned from California? None of the members interested in this matter have produced any estimates to show that one half or one third of the population who originally went to California are now there.

Under these circumstances, then, I cannot see how gentlemen so readily come to the conclusion—for they must come to the conclusion before they adopt this amendment—that the population of California is enough to entitle her to an additional Representative for her fraction. Besides, allowance should be made in regard to the statement of the gentleman from California, [Mr. McCORKLE,] who is a member of the other House, because it has, perhaps, reference to the present time, or to some period subsequent to that at which the census was taken. Even admitting that his calculations were correct, it must be remembered that changes are rapid and sudden in California. Because there is a large influx of population into one particular place, it does not follow that the population of the whole State has increased. People there rush to one mine yielding a great deal at some particular place, remain there until it is exhausted, and then go as rapidly somewhere else. There may have been great changes in that way. California is a peculiar country, and in estimating population there, you cannot apply the same rules and calculations as elsewhere. No doubt the places to which he refers may have largely increased in population; but people probably rush there from some other part of the State on account of a good mine or something of that sort.

Thinking, as I do, that when we go into estimates, they ought to be clear and unquestionable, and ought to raise such a presumption as to do away with the idea of anything existing in opposition to it, I cannot vote for an additional member for California. If the Senate, without going into any vague guesses, believe that from these facts California has not population enough to entitle her to two Representatives, they cannot give her an additional member. This is too important and delicate a question to be influenced by estimates, unless they are such as are conclusively established.

The Senator from North Carolina [Mr. BADGER] seems to feel very much at a loss to know how it is that Louisiana can have any claim under any circumstances. It seems to me to be a very simple case. Louisiana asks nothing more than what is granted to her sister States, and that she has a right to ask. Whatever the Senator from North Carolina may say, she cannot, and will not, sit down tamely, and see herself excluded with a fraction of forty-six thousand, when California is admitted to a member with a fraction of twenty-five thousand. This does not apply to the other States, because they have comparatively small

fractions. Louisiana does not claim another member, if you stop where the committee have stopped. The committee unanimously agreed to give the member to South Carolina. There could be no reasonable difficulty about that? What they divided about was, whether California should have an additional member. If you give South Carolina what she is entitled to, and deal with California according to the returns, Louisiana will have nothing to say. She never complains of injustice. She takes the Constitution and laws as they are. But when you step out of the pale of the Constitution to give California a member on a fraction of twenty-five thousand, then she does come in and insist (which I hope will not be refused) that she shall have a member for her fraction of forty-six thousand.

There is one portion of the remarks of the honorable Senator from California, [Mr. WELLER,] who addressed the Senate yesterday, to which it is hardly necessary to advert, because the honorable Senator from Georgia [Mr. DAWSON] pretty fully replied to it. The Senator from California, in some of his remarks, evidently committed a mistake in regard to the tables accompanying the report. He took the one hundred and seventeen thousand, and then, by adding some counties returned to the Legislature of California, made up a total of one hundred and thirty thousand, or one hundred and forty thousand, supposing that the same counties had not been included in the previous statement. According to a statement made by the Census Office to his colleague on February 25, and a statement made to the committee, March 5, the population of California amounted to ninety-two thousand five hundred and ninety-seven. By adding the three counties of San Francisco, Santa Clara, and Contra Costa, returned to the Legislature of California, the sum of one hundred and seventeen thousand is made up. But there is nothing more to add. There is no calculation by which you can make it up to one hundred and thirty thousand or one hundred and forty thousand. It must have been an inadvertence on the part of the honorable Senator.

Mr. WELLER. I am not aware yet that I have fallen into any error. What I said yesterday was that "Exhibit A," attached to this report, puts down the population of twenty-four counties at one hundred and seventeen thousand three hundred and eighteen. I said that, on an examination of that table, I found that the counties of Tuolumne, Santiago, and Los Angeles—all of which had been organized long before that time—were not included. I was compelled, therefore, to go back to page 8 of the report for the purpose of ascertaining what was the population of those three counties; and I found, upon adding that to the one hundred and seventeen thousand three hundred and eighteen, it gave a total of one hundred and thirty thousand. I am not yet aware that I committed any mistake in that calculation. "Exhibit A," certainly does not include these three counties.

Mr. DOWNS. But the other table does.

Mr. WELLER. In the other table these three counties are given, and, by adding them to the returns in "Exhibit A," you have a total of one hundred and thirty thousand.

Mr. DOWNS. Then you add the returns of these three counties twice.

Mr. WELLER. Oh, no. I have taken the trouble to run up the figures myself, and I find that the returns in "Exhibit A" are correct, as far as they go, and they foot up one hundred and seventeen thousand three hundred and eighteen. The twenty-four counties are correctly set down at that; but then the other three counties are not embraced in that estimate. Gentlemen will find it so by an inspection of the tables.

Mr. DOWNS. I think the matter is easily understood by a comparison of the tables. In "Exhibit A," it is true, there are some counties, as the gentleman says, left out; but they are embraced in the other calculations. In the committee we took, as the basis of our calculation, table No. 4, which omits the population of those counties from which no returns were received at the Department. We took the returns received at the Department as official, as far as they went; and then we took the population of the counties of San Francisco, Contra Costa, and Santa Clara from the returns laid before the Legislature of California. In order to complete the list, as sent from

the Department, we had only to add the returns of these three counties, which we took from the report made to the Legislature of California. The returns received from the Department made the population only ninety-two thousand five hundred and ninety-seven. By adding the returns of these three counties, we obtained the sum of one hundred and seventeen thousand. This corresponds with the statement made on the 25th of February last to one of the Senators from California. It is clear, then, that the statement of the committee is correct. This is it:

"In this return the population of the three counties from which no returns were sent to Washington, was stated as follows:

San Francisco.....	21,000
Contra Costa.....	732
Santa Clara.....	3,502

Making, in all.....	25,234
Add to this the population of the other counties (doc. No. 4).....	92,597

Makes the total population of the State.....117,831

This is according to the last return made to us from the Census Office. There is no possible calculation, according to the figures, by which you can make out a larger population in California than one hundred and seventeen thousand. There are no other counties to be added to this. The county of Klamath has been created since the census was taken. In the statement of the census agent, I believe he grouped the returns of three counties together; but that does not make any material difference. I think, then, that it is clear that the ascertained population of California, from the returns, is one hundred and seventeen thousand.

From these considerations, it does seem to me that the only conclusion to which we can come rationally, is the one to which the committee came. We must take the actual returns, and act upon them. We have no discretionary power to go beyond them. The evils and dangers of going beyond them would be very great. It may operate hard on California this time; and though we regret that, still it must be remembered that if such extraordinary diligence as ought to have actuated the State, had been used, this defect of which they complain might perhaps, in some degree, have been supplied. Better that California now should suffer than that, on such a delicate question, we should be set loose without any principle of the Constitution to guide us. I hope the amendment will be amended in the way I propose, or if it is not, that it will be rejected.

The amendment to the amendment was not agreed to.

Mr. DAWSON. I do not intend to make a speech. I only intend to state a few facts. Since yesterday, I have reviewed the positions which I then took, and I have become more convinced that they are true. I was gratified to hear the points presented this morning by the Senator from Missouri, [Mr. GEYER,] one of the minority of the committee. He holds that the affirmative is on the part of those who are against allowing California an additional member, on the ground that the returns are not complete. He says that, *prima facie*, they are not complete. I take him upon that principle, and I shall demonstrate from table No. 4, accompanying the report, that the returns are complete. There are twenty-seven counties in California—some say there are twenty-eight counties; but Klamath was not a county at the time the census was taken, and therefore is not to be included. That is admitted by everybody. The returns to the Census Office come here under the law, and are, *prima facie*, correct, until the contrary is made to appear. The Senator, I believe, admits that.

Mr. GEYER. I admit that they are reported as being complete—some of them.

Mr. DAWSON. They are returned to the Census Office, and are sent by the Census Office to the Senate of the United States as full returns. In table No. 4, I find the number of counties, and a number of full, and a number of partial returns, and a number of counties not returned at all. The population of those counties returned in full, amounts to eight thousand six hundred and seventy-two. The counties returned in full are twenty-two. They are certified and reported here. The returns of twenty-two counties have been fully reported, and are now in the Census Bureau.

Now, I call upon the Senators who signed the minority report, to say whether this is not, *prima facie*, in your favor, and conclusive, unless you can show an error? Where is the testimony on which to rest even the presumption of error? There is none. In this table there are two counties which are only partially returned.

Mr. WELLER. If the Senator will allow me, I will tell him where the evidence is on which you can rest the presumption that the returns are incorrect as to these twenty-two counties. It is in the letter of the census agent, in which he says, that in order to ascertain the population of California, you must add from thirty-three to fifty per cent. to the returns.

Mr. DAWSON. Then the census agent who has made these returns to the Census Bureau did act under oath, and his returns are to be presumed to be according to law. As I intended to show yesterday, his suggestion of the thirty-three or fifty per cent. to be added, is not intended to cover the returns which have been made in full to the Department; and even if he were to make this suggestion as to all the returns, it would not be a presumption that would shake testimony which is conclusive. Minor and secondary testimony cannot prevail against that which is final and conclusive. Besides, he did not make the actual enumeration. It was made by the sub-marshals, who did it also under oath, and we are bound, under the law, to consider the twenty-two counties returned here as conclusive; and we have the certificate of the Secretary of the Interior to that effect. There are but two counties, then, according to this table, from which partial returns have been received—Butte and Tuolumne. Now, as to Butte county, where have we got any evidence which is conclusive? Why, the census agent of the State of California in April, 1851, returned to the Legislature of California what he deems to be the full returns of that county; and he puts it down in part in this table, to which I have referred, as three thousand five hundred and seventy-four. When, according to law, he deposits the full returns with the Secretary of State of California, Butte county is set down at four thousand seven hundred and eighty-six. That was when his returns of the census were completed, and nearly one year after the time when the census was to have been taken. Thus there was over a thousand added to the county of Butte.

Then we come to the other county of Tuolumne. In the report of the census agent to the Legislature of California, he states that some of the counties are not put in detail, but that they are put in together, and the aggregate sent in. On the 5th of March, 1852, we received from the Census Office eight thousand eight hundred and fifty-one as the population of Tuolumne county, upon the partial returns which had been received. Have we not the highest testimony that can be obtained of the extent of the population of these counties, even if they have not been returned according to law? How are you going to undo the influence of this conclusion with your *prima facie* evidence? You take up the views of our friend in the House of Representatives, as to what he supposes to be the population of the State of California. Will any lawyer or statesman suffer a principle vital in itself, and found in the Constitution, to be controlled by testimony of that character? Why, the honorable gentleman from California in the House of Representatives never dreamed of such a suggestion.

Then there were twenty-two counties fully returned, and three to be heard from. Twenty-two and two make twenty-four, and three make twenty-seven. Since that time the other three counties—Contra Costa, Santa Clara, and San Francisco—have been returned, so that we have the complete returns. Let us throw no mystery about this transaction in order to violate a duty for the gratification even of our good friends from California. How are the returns of these three counties accounted for? The law of 1850 made it the duty of the marshal to put one set of his returns in the office of the Secretary of State of the State. Did he do it? Is there a gentleman on this floor who says that he did not? Is there any committee who deny it? Where, then, are you to look to get the population of these three counties accounted for? Why, you are to get them from the census agent of California, through the Secretary of State of the State of California. What does the

population of these three counties amount to? Twenty-five thousand two hundred and twenty-four. Is there any gentleman on this floor who has even made the allegation that these three counties were taken dishonestly or unfairly? None. In the event that the returns should be destroyed, (as the returns of these counties were by the conflagration of San Francisco,) what was to be done? Why, we were to get the next best evidence, being the returns deposited in the office of the Secretary of State of the State of California. We have that information. We have those returns from that State; and thus we have full returns—complete returns from the twenty-seven counties of the State. And are not all the presumptions in our favor—in fact, is not the testimony conclusive? And yet gentlemen seek to open these conclusions, founded upon principles of law and sound sense. For what? To change the relative rights of one State toward the other States, giving California a political power inconsistent with the Constitution and the law. Upon what principle do you justify it? It is upon the assumption, not even the presumption, that the returns are wrong. And yet, not even the lucid mind of my distinguished friend from Missouri [Mr. GEYER] has been able to make this matter clear; still we are called upon to vote two members to California.

As I stated yesterday, it was my wish, when I commenced this investigation, to endeavor to give California two members; but I find it inconsistent with my duty, and in violation of every material fact connected with the controversy. Where is it that you say this enumeration is not full and fair? Where is the evidence before the Senate that we are about to do injustice to the rights of California? Nowhere. I have shown you the returns of twenty-two counties returned in full to the Census Bureau, and so certified by the Secretary of the Interior. Two counties were in part completed and returned by the census agent of California to that State.

Mr. WELLER. The gentleman is certainly mistaken about that. If he is not laboring under an error, I should be very much obliged to him to tell me, either from the report of the census agent to the Legislature or to the Census Bureau, what is the population of Tuolumne county?

Mr. DAWSON. Is that the only county about which the Senator has any questions to ask?

Mr. WELLER. I ask that question now; I may ask another hereafter.

Mr. DAWSON. In Exhibit A, as returned by the census agent to the Legislature of California, he had omitted Tuolumne county; but what does he say? That the aggregate population of the State is one hundred and seventeen thousand three hundred and eighteen.

Mr. WELLER. That is not an answer to my question.

Mr. DAWSON. In the conclusion of his report to the Secretary of State of California, he says:

"With the foregoing explanation, I hope the returns herewith submitted, in Exhibit A, will render satisfactory the duty imposed upon me."

What was the duty imposed upon him? To return the census taken in every county in the State according to the requisitions of the act of 1850.

Mr. WELLER. If the gentleman will look at that table, he will find that not only is Tuolumne county omitted, but that Los Angeles and Santiago are also omitted. It is not the simple omission of the word "Tuolumne," but the figures respecting the population of that county are not to be found in the table. Upon what ground, then, is it that the Senator says there has been a full return from that county? I undertake to say that upon no part of this report can he tell me now what is the population of the county of Tuolumne. He can find out by the returns of the census agent that, from the partial returns received, there was a fraction over eight thousand in that county; but in the returns which he sent to the Secretary of State of California, that county, with two others, is entirely omitted, and therefore it is utterly impossible for any Senator to tell me now what the population of Tuolumne county is.

Mr. DAWSON. In the table putting the population of California at ninety-two thousand five hundred and ninety-seven, Tuolumne county is put down, in part, at eight thousand five hundred and thirty-one.

Mr. WELLER. That is only a partial return. Mr. DAWSON. Eight thousand is said to be a partial return. That is the only point upon which any doubt can be raised; and the Senator, calls upon me now to show its population. How can we ascertain what the population of that county is? Part of the returns were burnt up in the conflagration at San Francisco.

Mr. WELLER. I do not say that the returns of Tuolumne county were burnt up.

Mr. DAWSON. But part of the returns were. The census agent, in his report to the Secretary of State, says that several counties are returned in the aggregate.

Mr. WELLER. But this is not one of them. Mr. DAWSON. I cannot tell that. He says this:

"A letter of recent date, from the deputy to whom was assigned the district embracing the first two named counties, informs me that he has completed his labors there; but furnishes no information as to the number of inhabitants there. I have made repeated efforts—thus far ineffectual—to have the census taken in the county of Tuolumne. I have as yet received no information from the deputy last appointed there. In some instances, as you will observe, the returns are given in round numbers. In such cases those figures are predicated upon the information furnished by the respective deputies, which will be found a near approximation to the 'returns.'"

At the conclusion of his report, he says:

"With the foregoing explanation, I hope the returns herewith submitted in the exhibit A, will render satisfactory the duty imposed upon me."

He then gives one hundred and seventeen thousand three hundred and eighteen as the aggregate population of the State of California. I have looked in vain to find anywhere, from any official account, an increase of that population. I have tried to ascertain if this officer at any time made any return, directly or indirectly, to any officer of an aggregate population greater than that. That county is returned in part as having a population of something over eight thousand. Will any Senator rise on this floor and say that eight thousand was not more than half the population of that county?

Mr. WELLER. I will answer the gentleman cheerfully. I do not know what the population of that county was in 1850, nor do I know what it was at the time the census agent was engaged in taking the census of it. I believe that California was admitted into the Union on the 9th of September, 1850, and so I take it for granted that it was in 1851 that the census agent was engaged in taking the census of California. I have not the least doubt in the world that eight thousand does not comprise more than one half of the population then in the county of Tuolumne. It is one of the largest counties in the State.

Mr. DAWSON. That is what I wanted to ascertain; and as it is the only county not fully accounted for, I am willing to allow even twenty thousand for it, and then it would not bring it up to the fraction of the State of Louisiana. That is the only point upon which there can be a doubt created. Act with the most unlimited liberality towards the State of California, and you cannot give to that State a larger fraction than that which the State of Louisiana has. I look upon this matter as a principle. I am voting upon it under an obligation, and I have looked to it with interest, to satisfy myself that I was right, and to do justice to the respective States. I can find nothing to satisfy me that California ought to have an additional member. I have listened to the debate, and I have reviewed, since yesterday, the positions which I then presented, and I have come again to the same conclusion.

Mr. CHASE. I do not rise to detain the Senate, but I wish to ask whether the amendment is divisible. If so, I should like the question to be first taken on the first branch of it, relating to the assignment of two members to California.

The PRESIDENT. The amendment is not divisible, but the Senator can move to amend the amendment, by striking out any portion of it.

Mr. BORLAND. Before the vote is taken, I desire to call the attention of the Senate to a fact in regard to our legislation on this subject. I do not know to what extent it may go in its influence upon the decision of this question; but I desire to call the attention of Senators to the fact, that when the census act of 1850 passed, on the 23d of May of that year, making provision, as the Constitution required, for taking the census of the United States, and requiring that an enumeration should



be taken of the population existing in the States, on the 1st day of June, there was no such State as California in existence. She was not admitted into the Union until the 9th of September of that year. I find the second section of the act admitting California into the Union, in these words:

"That until the Representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of California shall be entitled to two Representatives in Congress."

I think if the friends of the proposition to give California two Representatives, insist upon her retaining her present representation, they can do so under this act, which leaves out of view altogether the act of the 23d of May, 1850, which was passed without reference to California, as if she had no existence at all. On the 9th of September we passed an act creating a new State; and we assumed, as a fact beyond dispute—for we could not have legislated upon any other ground—that she had at that time a sufficient population to entitle her, in proportion to the population of the other States, to two Representatives in Congress. You cannot, in my opinion, go beyond it. There was the fact announced in the most solemn form in which it could be announced to the country, by all the forms and sanctions of legislation, that she did have at that time—not on the 1st day of June, when the enumeration was required to be taken for the other States, but on the 9th day of September, 1850—a sufficient population to entitle her, by special legislation, to two Representatives in the Congress of the United States. Under that act, she is entitled to retain that representation until an actual enumeration. I do not think you can fairly say that it meant the enumeration of 1850. That matter had all passed. The duty was performed, or might have been performed, at that time. Two months is usually sufficient to take the enumeration; and if the deputy marshals did their duty, they could take it in two or three months. From the 1st day of June until the 9th day of September was about three months and a third. The work of taking the census was then going on, and we might fairly suppose, and in law were bound to suppose, that it had been almost completed at that time. We admitted the State afterwards by express legislation, and gave her a Representative on what we assumed to be her actual population.

Mr. CHASE. I move to amend the amendment by striking out the latter clause of it, which is in these words:

"And that for this purpose the act of May 23d, 1850, providing for the apportionment of Representatives among the several States, be so amended that the whole number shall be two hundred and thirty-four instead of two hundred and thirty-three, until an apportionment under a new census."

Upon this amendment I trust the Senate will indulge me with the yeas and nays.

The yeas and nays were ordered.

Mr. BORLAND. I wish to act understandingly in regard to this matter, and, therefore, I desire to inquire of the Senator from Ohio what is to be the effect of his amendment? It seems to me that if we assign to California, as I think we may properly do, the additional Representative, this portion which it is proposed to strike out might follow as a matter of course.

Mr. WALKER. It will deprive South Carolina of a member.

Mr. BRADBURY. The effect of the amendment will be to cut off South Carolina.

Mr. BORLAND. Then that alters the case materially.

Mr. CHASE. I will state, in a very few words, the effect of the amendment. The object of it is not, as has been suggested, to deprive South Carolina of a representative. It is simply to retain the number two hundred and thirty-three, fixed by the act of 1850. If the Senate shall decide to retain that number, undoubtedly the question will then arise, as between California and South Carolina, which must be determined upon the evidence. This amendment does not affect the question whether South Carolina or California is entitled. It is simply the question whether the number two hundred and thirty-three shall be retained. If two hundred and thirty-four shall be stricken out, and two hundred and thirty-three inserted, representation will remain to be apportioned according to numbers, as the Constitution requires.

Mr. WELLER. The adoption of this amendment will raise a controversy between South Carolina and California.

Mr. DOWNS. I do not consider that there is

any such controversy at all. The question now involved is, whether the number of Representatives fixed by the act of 1850, shall be retained or not. The question between South Carolina and California it will be time enough to decide when it comes up. The object of this amendment is to simplify the question, and bring it down to the simple point whether or not we shall increase the number.

Mr. RUSK. If, by this enactment, you give two members to California, you do not leave one to South Carolina for her fraction, if you fix the number at two hundred and thirty-three.

Mr. DOWNS. The motion now is, not to give California two members, but to strike out two hundred and thirty-four and leave the number of the House of Representatives fixed at two hundred and thirty-three, leaving it to be decided afterwards whether California or South Carolina shall have a member. The question is not now as between these two States; but if the latter part of the amendment of the Senator from Maine is stricken out, as proposed by the Senator from Ohio, then the question will be, Shall California have two Representatives? That will not be decided upon this vote. That will come up on the next vote. The question now to be decided is only whether we shall have two hundred and thirty-three or two hundred and thirty-four as the number of the House of Representatives.

Mr. BADGER. The Senator from Louisiana certainly understands this matter. If you strike out this provision, you must necessarily reject what is left.

Mr. CHASE. Not at all.

Mr. BADGER. Then if you retain that part of the provision which gives California two members, without increasing the number of the House of Representatives, you necessarily strike off from South Carolina one member. Therefore, it will follow that we must reject what is left. I submit, therefore, to those who are in favor of giving California two members, to vote against the amendment.

Mr. DOWNS. This vote will not decide whether California shall have two members, but only whether we will keep the number of the Representatives as it is fixed by the act of 1850.

The question being taken by yeas and nays, it resulted—yeas 14, nays 24; as follows:

YEAS—Messrs. Atchison, Brodhead, Chase, Davis, Dawson, Downs, Hunter, Mason, Miller, Morton, Smith, Spruance, Underwood, and Upham—14.

NAYS—Messrs. Badger, Bell, Borland, Bradbury, Cass, Cooper, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Geyer, Gwin, Mallory, Mangum, Rhett, Rusk, Seward, Shields, Sumner, Wade, Walker, and Weller—24.

So the amendment to the amendment was not agreed to.

The question recurred upon Mr. BRADBURY'S amendment, upon which he called for the yeas and nays, and they were ordered, and being taken, resulted—yeas 23, nays 15; as follows:

YEAS—Messrs. Badger, Bell, Borland, Bradbury, Cass, Chase, Cooper, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Geyer, Gwin, Mallory, Rhett, Rusk, Seward, Shields, Sumner, Wade, Walker, and Weller—23.

NAYS—Messrs. Atchison, Brodhead, Davis, Dawson, Downs, Hunter, King, Mangum, Mason, Miller, Morton, Smith, Spruance, Underwood, and Upham—15.

So the amendment was agreed to.

Mr. GWIN. I think the adoption of this amendment makes it necessary to adopt another; and therefore I move to strike out of the first section the words:

"Including the population of the counties of San Francisco, Santa Clara, and Contra Costa, in the State of California, according to the returns made thereof by the census agent of California to the Secretary of the State of California, amounting to twenty-five thousand two hundred and twenty-four."

Mr. GEYER. This clause was inserted with the view of making up the returns, as the official basis upon which to make the apportionment. They are unofficial returns. They are nowhere found, except in the communication from the census agent to the Secretary of State of California. They have therefore, I think, no business in the estimate, and ought to be stricken out.

The amendment was agreed to.

Mr. DAWSON. I would ask of Senators who have the control of this matter, whether this will not change the ratio, and will not make a difference to some of the States?

Mr. GEYER. It will make no difference to any of the States.

Mr. CHASE. The change in the whole number of Representatives will diminish the ratio, and will, as I have attempted to show to the Senate, give to Louisiana a member for her fraction. If you change the aggregate number, you change the ratio; and if you change the ratio, in my opinion you must give a member to Louisiana if one be given to South Carolina.

Mr. GEYER. It will have no such effect. It is true that, by diminishing the ratio, the fraction of each State will be increased, but the States will stand in the same relative position; Louisiana being the twelfth State in the order of the fractions.

The bill was then reported to the Senate as amended.

The amendment to the first section on the motion of Mr. GWIN, in Committee of the Whole, was concurred in.

The question was then stated to be on the amendment made as in Committee of the Whole on the motion of Mr. BRADBURY.

Mr. ATCHISON. Would it be in order now to move an amendment so as to reduce the number of Representatives to which South Carolina will be entitled to under the bill as it now stands? There is a conviction on my mind that if California is entitled to two members, South Carolina must lose one.

The PRESIDENT. Both the original bill and the amendment adopted in committee are open to amendment.

Mr. MASON. I think it is very clear that there is a difference of opinion between Senators as to the effect the change in the whole number of Representatives will have upon the ratio. I think we ought to understand that question before the bill is finally acted on, and, therefore, I move that the Senate now adjourn.

The motion was not agreed to.

Mr. ATCHISON. Would not a motion to strike out "two hundred and thirty-four," and insert "two hundred and thirty-three" bring up the question directly, whether we shall retain the present number or not? The bill is now so amended as to give California two Representatives.

The PRESIDENT. It will be in order to make that motion.

Mr. ATCHISON. Then I move to strike out two hundred and thirty-four and insert two hundred and thirty-three.

Mr. MANGUM. I would inquire what will be the effect of that amendment to the amendment?

The PRESIDENT. The Chair can only give his opinion as to what will be its effect. In the opinion of the Chair, it will have the effect, if adopted, of preventing South Carolina having a member for her fraction.

Mr. MANGUM. Then I am opposed to it. I think South Carolina is entitled to a member for her fraction, as the returns now stand. I am willing to give California two members. I think that before the decennial period will be half over, she will have enough population to entitle her to much more than her present representation.

Mr. BORLAND. It seems to me that the amendment proposes to amend the act of 1850, so as to have the representation two hundred and thirty-four, instead of two hundred and thirty-three. The amendment to the amendment is now to amend that amendment to the act of 1850. The effect of it will be to leave the law as it now is.

Mr. BADGER. Let us take the sense of the Senate upon striking that out—let us strike out the whole of the provision.

Mr. DAWSON. I cannot vote for the proposition. My convictions are that South Carolina is entitled to a member. My course in regard to this bill has been actuated by that conviction. The Senator from North Carolina says that he has no doubt that South Carolina is entitled. If so, California would not be. But now we have decided to give California two Representatives, and therefore, I am not willing to refuse the member, which would have the effect of cutting off South Carolina. I must sustain her right, and those who believe that California is entitled, will sustain her right.

Mr. ATCHISON. I withdraw the proposition.

Mr. UNDERWOOD. I would like to know whether it is intended by this bill to make a permanent change in the number of the House of

Representatives from two hundred and thirty-three to two hundred and thirty-four?

Mr. BADGER. No, sir.

Mr. UNDERWOOD. If the intention is not to make that change, then the bill ought to be amended. As I understand it, the bill now expresses this, that the act of 1850 shall be so amended as to increase the number of the House of Representatives from two hundred and thirty-three to two hundred and thirty-four, and that California shall be entitled to two members until the next apportionment.

Mr. BADGER. The number is increased to two hundred and thirty-four until the next census.

Mr. UNDERWOOD. If the Senate will be kind enough to hear me read the section as it has been adopted, I shall not detain them long. I only desire to carry out what is said to be the intention of gentlemen. The amendment which we have adopted reads:

"And be it further enacted, That the State of California shall be entitled to the number of Representatives to Congress, prescribed by the act admitting said State into the Union; and that for this purpose the act of May 23, 1850, providing for the apportionment of Representatives among the several States be so amended, that the whole number shall be two hundred and thirty-four instead of two hundred and thirty-three, until the next apportionment under a new census."

Now, is it amended, in regard to the whole number until the apportionment under a new census, or is it amended until an apportionment under a new census, so that California shall have two members until that time? If you intend to carry out what gentlemen say is their object, it seems to me you ought to say that after an apportionment under a new census, the number shall return to two hundred and thirty-three.

Mr. BADGER. It returns of course under the act of 1850.

Mr. UNDERWOOD. There is no declaration of that kind.

Mr. BADGER. There is no need of it.

Mr. UNDERWOOD. I do not intend to offer any amendment. Gentlemen say it means that gentlemen mean to give California two Representatives until the next apportionment.

Mr. BADGER. The amendment does not say two Representatives.

Mr. UNDERWOOD. It says the number which she had before, and she has two. It changes the law of 1850 so as to make the number two hundred and thirty-four. It does not, according to a fair construction, in my opinion, provide for a return to the number two hundred and thirty-three after that time. I may be wrong, however. I intended to throw out the suggestion for the consideration of gentlemen; but as they think it very clear, I shall make no proposition to amend.

Mr. COOPER. I am very well satisfied that we shall not get through this subject to-day, and, therefore, I move that the Senate do now adjourn.

The motion was not agreed to.

The amendment made in Committee of the Whole was concurred in.

Mr. DOWNS. I now renew the amendment which I offered in Committee of the Whole, to increase the number of Representatives from two hundred and thirty-four to two hundred and thirty-five, and to give Louisiana five members; and I ask the yeas and nays upon it.

The PRESIDENT. It is now too late to amend the amendment, as it has just been agreed to in the Senate.

Mr. DOWNS. I thought that when we got into the Senate the bill could be amended.

The PRESIDENT. The bill can be amended.

Mr. DOWNS. That is what I propose—to increase the number to two hundred and thirty-five.

The PRESIDENT. The fixing of the number is in the amendment which has been adopted; and the Senator must understand that that amendment cannot now be amended.

Mr. DOWNS. Is not the bill subject to amendment?

The PRESIDENT. It is; but the amendment which has been agreed to in the Senate is not.

Mr. DOWNS. That is certainly a part of the bill.

The PRESIDENT. Certainly it is; but it has been agreed to in committee and in the Senate.

Mr. DOWNS. Cannot that be amended, as it is now a part of the bill?

Mr. BADGER. You can amend any part of the bill that has not been voted upon.

Mr. DOWNS. We did vote upon it, it is true, but in another stage.

The PRESIDENT. The stage has been passed. It has been adopted both in committee and in the Senate, and cannot now be amended.

Mr. DOWNS. Then I move a reconsideration of the vote on agreeing to the amendment made in committee.

Mr. WELLER. The Senator did not vote with the majority, and therefore cannot make the motion.

Mr. DOWNS. Then I hope some other gentleman will be kind enough to make it.

Mr. MASON. I am perfectly aware, as are other gentlemen around me, that the Senator from Louisiana has been waiting until what he conceived to be the proper time to make the proposition to amend.

Mr. WELLER. Under those circumstances I move to reconsider the vote by which the amendment was adopted in the Senate.

The motion was agreed to.

Mr. DOWNS. I now move to strike out "two hundred and thirty-four," and insert "two hundred and thirty-five;" and if that prevails, I shall move that Louisiana have five Representatives instead of four. I ask the yeas and nays upon the amendment.

The yeas and nays were ordered, and, being taken, resulted—yeas 5, nays 26; as follows:

YEAS—Messrs. Chase, Dawson, Douglas, Downs, and Mason—5.

NAYS—Messrs. Atchison, Badger, Borland, Bradbury, Cooper, Dodge of Wisconsin, Dodge of Iowa, Fish, Geyer, Gwin, Hunter, King, Mallory, Mangum, Miller, Rhett, Rusk, Seward, Shields, Smith, Spruance, Sumner, Underwood, Wade, Walker, and Weller—26.

The PRESIDENT. There is no quorum voting. On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, April 8, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

Mr. STRATTON. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given.

Mr. CLINGMAN. I object; and shall object to every such request, until the committees are regularly called for reports.

Mr. ORR. I call for the regular order of business.

The SPEAKER. The first business in order is the consideration of the House bill No. 154, being, "An act to enforce discipline, and to promote good conduct in the naval service of the United States," upon which the gentleman from Virginia [Mr. BOCKOCK] is entitled to the floor.

Mr. ROBINSON. I do not know that I ever asked the unanimous consent of the House since I have been a member of it, to do anything; nor have I objected when others asked it; but being about to leave the city, I have this request to make, that the House will permit me to submit a bill, which I have had in charge for some time, that it may be referred to the Committee of the Whole, and printed.

Several Voices. "Agreed!" "Agreed!"

Mr. CLINGMAN. I object; and I shall object to every member's having the unanimous consent, until the committees are regularly called.

Mr. FAULKNER. I ask the unanimous consent of the House to permit me to make a report from the Committee on Military Affairs: I will make this statement: This bill was deemed a matter of such urgent necessity that it was taken from the table by the unanimous consent of the House, and referred to that committee, which has instructed me to make a report upon it. It is a bill to enable the officers of the Treasury to settle a fund for \$1,500,000, collected in California, and for which there exists at this time no authority to make settlement by these officers.

I will further remark, Mr. Speaker, that a gallant officer of the Army has been here for five months, for the purpose of having effected this settlement. He has been waiting, day after day, for the grant of authority to the officers of the

Treasury to do so. All I propose at present is, that the bill be allowed to be reported from the Military Committee, made the special order for Tuesday next, and ordered to be printed.

Mr. JOHNSON, of Georgia. I shall object to any special order. I call for the regular order of business. The gentleman from Virginia [Mr. BOCKOCK] has the floor.

Mr. CHANDLER, by unanimous consent of the House, presented joint resolutions of the Legislature of the State of Pennsylvania against the extension of the Woodworth patent; which were referred to the Committee on Patents, and ordered to be printed.

Mr. McCORKLE, by unanimous consent, presented resolutions of the State of California in relation to the peons fund of California, and for the establishment of forts on the borders of that State; which were severally referred—the first to the Committee on Foreign Affairs, and the latter to the Committee on Military Affairs.

Mr. GOODENOW. I ask the unanimous consent of the House to offer a resolution from the Legislature of the State of Maine.

Mr. HOUSTON. The gentleman from Virginia [Mr. BOCKOCK] is entitled to the floor, and seems to be claiming it. I do not see how it can be taken from him.

Mr. GOODENOW. I ask the gentleman from Virginia to yield only for a moment, to let these resolutions be referred.

Mr. BOCKOCK. I feel myself under the necessity of proceeding with my remarks. There are many gentlemen who wish me to yield the floor, and I cannot discriminate in favor of any one.

Mr. Speaker, I do not expect to occupy the attention of the House this morning for more than one half of the time to which I am entitled under the rules. When I took the floor the other day, it was my desire to reply somewhat at length to the arguments submitted by my friend before me from the State of Michigan, [Mr. STUART,] and by my colleague upon my right, [Mr. MILLSON;] but upon subsequent reflection, and the examination of their remarks in the Globe, I have come to the conclusion that, though there are many things in the remarks which these gentlemen have submitted, to which I do not yield my assent, yet they submitted many suggestions to the House worthy of our calm and attentive consideration. I do not come forward this morning, then, so much to take issue with these gentlemen upon the positions they have taken, as to raise my voice with others, in behalf of the naval establishment of this country, which has been so long neglected, and which all persons in all parts of the country agree, requires the attention of the Government of the United States. There is nothing more common than to hear from the men who speak upon the subject at all, the declaration that there is need of reform, thorough and searching reform, in the Navy, in every branch, and every department of it. Gentlemen tell us that there must be reform in the manner of building our ships. Others tell us that there must be reform in the manner of regulating the promotions. Others again tell us, and truly, that there is need of thorough reform in the code of discipline by which our Navy is to be governed. While this is so—while all agree in the necessity of a reform, look, I ask you, at the conduct of the Congress of the United States, and of the House of Representatives particularly, in relation to this question. For six years this has been the cry.

The Committee on Naval Affairs of this House have been reporting bill after bill, and pressing them upon the consideration of the House, but they have all received the go-by. This House has always looked with a hostile eye upon them. My own personal experience, as a member of the Committee on Naval Affairs, extends back to the last two years. I was a member of the Committee on Naval Affairs at the last Congress. That committee reported to this House two important bills providing for reform in the Navy, the most important one providing for a change of the mode of promotion. The chairman of the committee again and again attempted to prevail upon the House to take them up, and consider them; but it was impossible to get them up. During the last session of Congress, what do we see again? In the month of September, 1850, an amendment had been passed to the naval appropriation bill, striking out from the naval code the punishment of the lash,

abolishing flogging, evidently making a very important vacuum in that code. During the last session of Congress the subject came before the Senate. The Senate passed a bill. That bill was never acted upon by this House at all. We were told at the last Congress, that this great subject of slavery was standing at the doors of our Congress, excluding everything else. But, at last the cry went through the land that the great question had been settled, that it had been adjusted, and that we would come up here at the next Congress to attend to the business of the country.

But what have we been doing at this Congress? We have been resetting the settlement, and re-adjusting the adjustment. In the early part of the session, the subject came again before the Senate of the United States, and the Senate passed a bill revising the code of punishment in the Navy, and that was sent to this House. When it was sent here, it was referred to the Committee on Naval Affairs. That committee examined it, and instructed its chairman to report it back to the House of Representatives. Week after week passed, but the chairman had no opportunity to report it. At length there seemed to have arisen a contingency, when it was very desirable that something should be done, and that speedily. The chairman of the Committee on Naval Affairs asked the consideration of the House to the bill. It was given; but when the bill came before the House the previous question was sustained by a large majority, cutting off all amendments, and the bill was put upon its passage, and there were gentlemen here who had voted for the previous question, cutting off amendments, who voted against the bill because they could not amend it. This is the action of this House of Representatives in relation to the naval establishment of this country, and this is a specimen of American legislation. Well may the gentleman from Michigan [Mr. STUART] talk about the necessity of reform in the Navy. Well may he tell us there ought to be a new mode of enlistment and a new mode of promotion. But let him tell me first when the committee to which he alluded has reported and brought their business before the House, by what magic charm this House can be brought to business. Tell me how we can get the House to consider these things. I say it not from any spirit of anger. It is not my province to lecture the House, and I do not desire to do it. There is much talent in this House, there never has been more talent here than at present, since I have had the honor of a seat upon this floor. But how do gentlemen exercise that talent? In presidential quarrels, in party manoeuvres, and in political projects and schemes. I would speak to the members of the House in a spirit of brotherly regard, and tell them that such subjects are unworthy of the talent of American statesmen. It is a field in which the monkey may be their equal, and the fox their superior. They ought to rise to a purer atmosphere and broader sphere, and they ought to look to such acts, as take hold upon the destinies of the country, and tend to advance the great interests of the nation. Having said these things, I shall come to an examination of the bills which have been presented to the House, which I shall make as brief as possible. First, the Senate bill, second, the substitute of my colleague, and third, the substitute since offered by the chairman of the Committee on Naval Affairs, the gentleman from Tennessee, [Mr. STANTON,] whom I see before me. But, before I do so, I will refer briefly to one or two of the points which have been made by the gentleman from Michigan [Mr. STUART] who sits before me. The gentleman from Michigan seemed to make his objection to the bill which I proposed, as not being in accordance with the spirit of the age, and with the reforms in regard to the abolition of capital punishment, &c. I expected it was that spirit—a spirit which has been agitating the country in relation to such subjects as these: this false philanthropy, as I call it, that had risen up here to attack the report of the committee. The abolition of capital punishment! The gentleman says that since capital punishment has been abolished, crime has diminished. I should like to see some of that evidence. I hold in my hand an article which has been written upon the subject of discipline in the Navy, by a man who shows himself to be well-informed, in which he touches upon this subject. I quote from an article in the Southern Literary Messenger of April, 1852:

"Crimes are not less frequent or less shocking now than they were a century since, either in Christian societies or among the various communities of religious misbelievers. On the contrary, it is suggested that crime has increased in proportion as prisons have been made places of agreeable residence, and punishments of all kinds have been made seemingly more tolerable, and criminals more respectable. It is even suspected there is more generous sympathy exerted in behalf of the vicious, of those who are guilty of crime in any of its gradations, from murder and arson down to the smallest misdemeanor, than in favor of disease- and poverty-stricken but virtuous and industrious citizens. A brutal courage often evinced in the perpetration of crime, attracts respect and excites pity for a condemned criminal, while the virtuous humility of poverty passes unnoticed. A man would be spurned as an honest beggar, who, as a felon, forcibly detained in a palace of criminals, would provoke the respect and the activity of the benevolent to release him from the infliction of law. While this falsely-called benevolence exists—while pity sheds more tears over the murderer than over his victim, it is not reasonable to expect that any system of punishment will be effectual in preventing crime. Even the limited protection which law is calculated to afford honest citizens against the violence and misdoing of the vicious, is diminished by the too-frequently successful efforts of sympathizers of criminals to shield them from conviction on trial, and to procure pardon for them when condemned. Crime is thus indirectly encouraged by increasing the avenues and chances of escape from punishment."

"Any system of punishment to be valuable must be devised on a theory that it will be faithfully observed in practice; observation has led to the opinion that certainty of chastisement is more influential in securing obedience to law than its severity."

"There can be no punishment which does not involve suffering in body or in mind. Then the question to be solved is, what kind and degree of pain can be inflicted on individual offenders, consistent with humanity, for the common advantage of the community?"

Yes, sir, I have no doubt that this is a true picture of the case, and there never was a truer thing said than, that mercy to a criminal is cruelty to thousands; it is cruelty to the community. This sort of philanthropy which seeks to make prisons agreeable, and to strike out all sorts of punishment because they hurt, is a false philanthropy, and I deprecate its introduction here. I remember that this age of false philanthropy—this age of agitation for the abolition of capital punishment, is also the age of socialism, of Fourierism, of anti-rentism, of abolitionism, and of every other sort of *ism* that the malignant ingenuity of man can suggest, or that the demon from below can instigate. Away with all such theories. Come up like sensible men, and punish criminals and enforce the laws, and you will do well for the community, and well for the age in which you live. I would like to see the talent that I know exists here direct its energies and eloquence, that almost make respectable a bad cause, to the discouragement of crime and the enforcement of punishment. They would then be worthy of their positions here, and deserving of the gratitude of the nation. I expect that gentlemen will contend next, that the punishment of imprisonment must be abolished, and that the men who commit murder, theft, arson, or any crime of that sort, must be brought up and solemnly lectured. And indeed if the lecture be as dull as some speeches which we hear on this floor, it will be a severer punishment than lolling on soft beds in agreeable prisons.

Mr. Speaker, I shall not come forward here at this time, for the purpose of advocating the restoration of punishment by flogging. I know that that is not to be done. But I will say, in relation to that sort of punishment, that there were some beneficial features in it, that cannot be found in any other sort of punishment that has yet been suggested. In relation to that subject, I beg leave to read a brief passage from the same article from which I read a little while ago.

"Flogging as a means of punishment, either ashore or aboard, has one advantage over any kind of imprisonment. Its pains are limited to the culprit; those who may be dependent upon his labor are not made to participate in the castigation, for the moment after its infliction, he may return to his avocation. For a similar reason, it is preferable to any system of penitential fines as a mode of punishing those offenders against the law who rely upon their labor to procure daily food for themselves and families."

The great object to be accomplished in punishment, in the Navy particularly, is to secure for these smaller offenses, a summary punishment, and one that will operate on the offender alone, and enable him to be restored to his duty in as short a time as possible.

Upon this basis and with this view, I go now to the consideration of these bills which have been presented, and to which I referred a little while ago. And, in the first place, I want to say to my colleague, [Mr. MILLSON,] who came forward here the other day, the advocate of humanity and re-

form in punishments, to adapt them to the spirit of the age, that I cannot go for his bill because it is too severe. He said that the bill reported by the Committee on Naval Affairs, conferred upon a single man more power, and more authority than any individual in any country in the world exercised. I tell him, that in my judgment, his bill is even worse than that, and I cannot go for it because it is so.

Sir, the Navy has been governed thus far under the act of 1800. We design, by this bill, to strike out many of the antiquated and isolated punishments provided for in that act, which are contrary to the spirit of the age; and to adopt, in their stead, more certain, and at the same time more humane punishments. My colleague has come forward with a bill which readopts that old act, with all its faults, and with all its antiquated punishments. My colleague objects to that feature in the bill, reported from the Committee on Naval Affairs, which provides for diminishing the rations. He objected to it as almost monstrous. But he brought before the House the regulations for the naval asylum, to which he gives approbation, so far as to prefer its provision for disabled sailors, over that of the committee. Well, I presume if there was such a monstrous thing in those regulations as punishment by diminishing rations, my colleague would spurn them from him. Let us see how that is. I read from the regulations:

"For misconduct, of which drunkenness, fighting, abusive and profane language may be enumerated as foremost, or for any conduct subversive of good order and discipline, pensioners shall be subject to punishment by stoppage of pocket-money and tobacco, confinement in the cells, restriction of the luxuries, and curtailment of the rations, at the discretion of the governor or commanding officer, and to ejection from the asylum, upon the approval of the Secretary of the Navy, obtained or directed in writing."

Mr. MILLSON, (interrupting.) I suppose the interruption may be almost unnecessary; certainly, with those who remember what I said upon this subject. But my colleague [Mr. BOCK] has said that because I introduced the regulations of the Navy Department, simply for the purpose of showing to the House upon what terms the decrepid sailor was now admitted into the asylum—making no other use of the regulations whatever, intending to make no other use of them, and not having read any of the other regulations—he most illogically assumes that I adopt the whole for the purpose of sanctioning the regulations which have been adopted by the Navy Department. Now, I assure my colleague that I not only never read any of the other articles, from which he has just quoted, but I did not intend to read them, and had no occasion to read them.

Mr. BOCK. I do not pretend to vie with my colleague in logic. If I did, I trust that my logic would lead me to rather better conclusions than his logic leads him to. The gentleman is very logical. He is one of the most logical gentlemen I know; but he spins his logic so fine that it is very apt to miss the mark. Does not the House remember that the gentleman said that the provision we had made in the bill for the sailor who had served with good conduct for twenty years, was unnecessary, because these provisions here were better for him than the bill reported by the committee? And does my colleague mean to say, that when he said that these provisions were better for the old sailor than those contained in the Senate bill, he had not read them, and did not know what they were?

But I pass over that. The bill of the committee proposes that, for various offenses, the diet of the offender shall be restricted to bread and water; and the gentleman complains of that very greatly. Now, sir, I did not know that it was a very serious or severe infliction on a man, when he was in close confinement and could not take exercise, to give him plain diet. It may punish him a little. It may be a momentary annoyance to him, but it does him no permanent harm; on the contrary, in my opinion, it does him good. When a man is in solitary confinement, and not able to take his daily exercise, I am in favor of giving him bread and water, as a mercy to him.

"By discharging from the service, with bad-conduct discharge."

"By solitary confinement in irons, single or double, on bread and water: *Provided*, no such confinement shall exceed thirty days."

Now, my interpretation of these and the other provisions about confinement, was that solitary confinement, whether in irons or out of irons,



should not exceed thirty days. But even if there be no such limitation, still, I maintain that the bill of the committee is better than the gentleman's bill, which reenacts the law of 1800. Let us look at the power the captain has. Under that:

"The commanders of all ships and vessels-of-war belonging to the Navy, are strictly enjoined and required to show in themselves a good example of virtue, honor, patriotism, and subordination, and be vigilant in inspecting the conduct of all such as are placed under their command; and to guard against and suppress all dissolute and immoral practices, and to correct all such as are guilty of them, according to the usage of the sea service."

Now, what is the usage of the sea? I will show presently. For other named offenses it is provided:

"That a private shall be put in irons, or flogged, at the discretion of the captain, not exceeding twelve lashes; but if the offense require severer punishment, he shall be tried by a court-martial, and suffer such punishments as said court shall inflict."

"Any theft, not exceeding \$50, may be punished at the discretion of the captain; and above that sum, as a court-martial shall direct."

For theft under twenty dollars, at the discretion of the captain. Think of that. Again:

"All crimes committed by persons belonging to the Navy, which are not specified by the foregoing articles, shall be punished according to the laws and customs in such cases at sea."

These are provisions of the law of 1800, reenacted by my colleague's substitute.

Now, sir, it seems to me that here is pretty broad ground for discretionary punishment by the commanding officer. He has power to put in irons for an indefinite time—which carries with it the power of solitary confinement—without restriction. Then, for immoral conduct, and other things specified, and for all offenses not specified, he has the right to punish according to the usage at sea. Now, in order to show to this House what are the usages at sea, I will read from the same article from which I have already read, written by a gentleman familiar with the naval service. I have shown it to a friend upon this floor who has been long in the naval service, and he says it is correct:

"Among the punishments not alluded to in the law, which have been resorted to in the Navy, are the 'coil,' or rope's end; the ratten."

These have been abolished, but there remains in full force—

"Carrying a heavy shot during watch: standing upon the captain; riding the sparker boom; gagging, bucking."

To which my friend authorizes me to add, crucifying, keelhauling, &c.

Now, sir, let these sympathetic gentlemen—these benevolent and humane gentlemen—these gentlemen who want to have punishment in the Navy conform with the spirit of the age, listen to a description of the punishments which are still authorized in the Navy, and which they retain. The same writer to whom I alluded a moment ago, says:

"Gagging is effected by securing a rod of iron across the wide open mouth. It is employed as the only effective mode to stop a stream of the vilest, vituperative profligacy which angry, drunken seamen alone are capable of imagining."

Mr. MILLSON. How long do they keep it there?

Mr. BOCOCK. My colleague asks how long they keep it there. Why, as long as the captain pleases. It is left to his discretion. There is no limit to it in the world, according to his bill. Then there is "bucking." And what is bucking? The same writer says:

"It is a means originally invented for securing such prisoners as possess a natural facility of escaping from fetters; it consists in placing a bar or rod of sufficient length, crosswise beneath the hands and in front of the elbow joints, after the wrists and ankles have been put in irons. This arrangement, of course, confines the prisoner to a sitting posture, and restrains his motions to very narrow limits. It must be a most irksome position to endure for any considerable period."

Now, what is crucifying? It is tying the culprit up to a beam with his hands stretched. I believe they do not drive nails through them; but he is tied in this manner and left for an indefinite time, at the discretion of the captain.

Then, as to the other kind of punishment called "keel-hauling," as I understand it, it is to drop a fellow down on one side of the keel of the ship and draw him up on the other. I will not say how this mode of punishment may impress other gentlemen, but to me it seems a very cruel one.

Mr. MILLSON. I desire to make one inquiry of my colleague.

Mr. CHANDLER. I hope the gentleman from

Virginia [Mr. MILLSON] will allow me first to ask his colleague a question? I was listening to the gentleman with attention. I understood him to describe some kind of punishment made use of on board the ship, called keel-hauling. I ask the gentleman what it was?

Mr. BOCOCK. I am informed that it is dropping a fellow down on one side of the keel of the ship and dragging him up on the other.

Mr. CHANDLER. Well, I think that is making him undergo a great *hard-ship*. [Laughter.]

Mr. BOCOCK. Certainly it does. I object to it. The gentleman and I are agreed upon that point.

Mr. MILLSON. It was stated a few days ago, in the original discussion upon this bill, that there was great lassitude of discipline in the Navy. That the officers were threatened and abused by their sailors. Now, I desire to ask whether that was owing to the fact that the existing punishment authorized to be inflicted by the commanding officer, were so cruel as my colleague has described them to be?

Mr. BOCOCK. I am not responsible for speeches made by other gentlemen; but I presume if the gentleman to whom my colleague refers were called on to answer, he would say that the punishment, which, under the law of 1800, the commanding officer of a vessel was authorized to inflict, were so cruel that they would not inflict them. We wish to substitute other punishments in their places. But my colleague puts in a special provision in his bill which retains these modes of punishment. But we, by substituting other punishments, exclude these.

Mr. AVERETT asked several questions in good humor, to which Mr. Boccock replied.

Mr. BOCOCK. As you said to another gentleman in your speech yesterday, You are too latitudinous in your questions, and too hard to satisfy with my explanations.

Mr. Chairman, I wish to give one or two reasons why I shall vote for the proposition submitted by the chairman of the Committee on Naval Affairs [Mr. STANTON] as a substitute for the bill. I am free to admit that the bill which passed the Senate and reported back by the Committee on Naval Affairs, gave a larger discretionary power to the commanding officer than was at all necessary or desirable; yet, at the same time, I say that I do not believe them as arbitrary as the powers heretofore exercised by that officer, and I do not believe they would be abused as gentlemen here who are so sensitive upon this subject seem to suppose. The chairman of the Committee on Naval Affairs [Mr. STANTON] has reported a bill as a substitute both for the original bill and that proposed by my colleague, in which he has restricted the power of the captain in many respects, indeed, in almost every respect, to which my colleague has objected. Instead of saying, "The commander of any vessel, &c., shall have authority to punish offenses committed by petty officers and persons of inferior rating, by any one or more of the following punishments," he says, "by any one of the following punishments." Instead of saying, "by solitary confinement in irons, on bread and water, provided no such confinement shall exceed thirty days," he says, "not to exceed ten days." He requires that the captain shall enter upon books an account of all the punishments he inflicts, so that he may be held accountable for them. But it retains one provision which my colleague objected to. It retains the provision, that after a sailor has served for twenty years with continuous good-conduct discharges, he shall be put upon half-pay in the Naval Asylum for life.

Now, if there be struck from my colleague's substitute the provision reenacting the law of 1800, the question which would arise for discussion, between that substitute and the bill last reported by the chairman of the Committee on Naval Affairs, would be whether it is proper to have such punishments as I have enumerated intrusted only to a summary court-martial, or whether it is better to leave them in the hands of the captain. I believe myself, though I am not prepared to claim for my opinion on naval matters an authority paramount to those of other gentlemen, that the power of the captain ought to meet that of the general court-martial. The general court-martial ought to have cognizance alone of such offenses as are punishable with death and other severe punish-

ments. All below that should be in the hands of the captain. There are some things in a special court-martial which I object to. I believe they would have a bad effect in many cases.

Suppose a sailor has committed any trifling offense which the captain deems worthy of punishment: he must summon his officers and hold a court-martial. A disputation between the captain and the sailor would ensue, and thus the authority of the captain would be greatly lessened. It is conceded, I suppose, to every gentleman here, my colleague and the gentleman from Michigan [Mr. SMART] concurring, that there must be a certain power lodged with the captain. Give him not too much discretionary power, but let that power meet that of the general court-martial. Look for a moment at the inconvenience of these special courts-martial. Take, for instance, a brig. You have a captain, two lieutenants, a purser and surgeon—four commissioned officers in all, besides the commander. When an offense has been committed, the captain must summon at least three out of the four officers upon the trial. So that you would have very nearly all the officers of the vessel taken from duty, and very nearly the same court for every trial; and how often would that court have to sit? How much would those men be detained from their business? If the officers were friends of the captain, they would, after all, inflict the same punishment which he would inflict himself, or whatever punishments he asked, and would divide the responsibility amongst them. While, if you leave it to the captain alone, the same punishments would be imposed and the whole of the responsibility would rest upon him. As chastity is the essential point in the character of a woman, and as honor is the glory of a man, so do authority and subordination constitute the very essence and spirit of a naval force. You must make the men respect their commanding officer, and you must not bring him down to squabble at every little petty affair before his inferior officers on board. The same spirit which would do that would deprive the judges of the country of the power to inflict summary punishment for contempt. Why, the same power that would take this power from the hands of the captain, would take all authority from the hands of the school teacher, and force him to summon a jury of the boys of his school to try every little petty offense committed by his pupils. It is absolutely necessary that there should be some authority vested in the hands of the captain.

I come now to the last point upon which I shall trouble the committee. After I shall have examined it briefly, I will yield the floor. My colleague and the gentleman from Michigan object to this clause of the bill:

"And after twenty years' service in the Navy, with good-conduct discharges at the termination of each enlistment, every such petty officer, or person of inferior rating, shall be entitled to admission to and provision in the Naval Asylum for life, with half the monthly wages of his last enlistment."

The provision now is, that a man shall go into these naval asylums when he becomes infirm and decrepid, no matter what his conduct has been in the Navy, and when he goes there he shall be supported, shall be allowed three dollars to clothe himself with, and shall then be allowed other considerations, sometimes amounting to five, and sometimes to six dollars. And in addition to this, if you leave out of the bill this provision, and permit the regulations to stand as they now do, how will the matter be in another respect? You have your hospitals, where any man can go in the early part of his enlistment, and remain on full pay the whole remainder of that enlistment. If you make no provision for the old men, they having become unfit for any other business, will continue to enlist, for the purpose of receiving such benefits, if for nothing else. When you come to consider the amount which they receive in the asylum, and the amount which these men get in the hospitals, together they will make more than the provision made in the substitute of the gentleman from Tennessee. Even if you take into consideration the amount given of three months' additional pay, in certain specified cases under these premises, the support of these sailors will be cheaper to the Government than under the present regulations.

But it will do more. The provision here made will be an incentive to the sailors to exert themselves during the whole period of their service, to

endeavor to gain good-conduct discharges for twenty years, in order to entitle themselves to the benefits of the provisions herein contained, from which they cut themselves off if they are useless, trifling, and get bad-conduct discharges. It will constitute one of the incentives to good conduct which ought to be held up to make sailors exert themselves.

The gentleman from Michigan [Mr. STUART] told us that there ought to be a new mode of enrolling men in the Navy—that we ought to get American citizens. How will you accomplish it? Will you instruct the men whom you send out to enlist sailors, to receive none but American citizens? Have you any such authority as that? Oh, no! It is notorious that there are many foreigners in the naval service. But adopt this bill, and what do you have? You enable the commander to give his men good or bad-conduct discharges at the end of every term of enlistment. If the sailor gets a bad-conduct discharge he will not be accepted into the service again; but let him discharge his duty fully and get good-conduct discharges, and you will not only receive him back to the service, but give him a premium.

These are some of the reasons why I think that the main principles of this bill are correct, and why I am willing to support the substitute offered by the chairman of the Committee on Naval Affairs, the gentleman from Tennessee, [Mr. STANTON.] I submit, then, to the House, and ask the members that, whether they approve of this bill or not, they will come up to the consideration of this subject. Give it your minds, give it your feelings, give it your heart, take hold of the interests of the American Navy, and do something for it. Sir, the spirit of your officers is flagging; and your ships, which once rode so proudly upon the ocean, feel the blighting influence of your carelessness.

New elements have recently been introduced into naval affairs—new principles of warfare have been adopted for the sea, and whenever again we are so unlucky as to engage in war with a strong naval power, unless we struggle mightily to adapt ourselves to the new condition of things in which we find ourselves placed, and to keep up with the times, we will not come out as our fathers did, with colors flying. Our commanders will not triumph gloriously as did the Perrys, the Decatur, the McDonoughs, and the Joneses, in early days. But we will be beaten in every sea, and under every star. Better far that our ships should rot, and our sailors perish, for I would greatly prefer to have no Navy at all, rather than a dishonored and disgraced one.

[Here the Speaker's hammer fell.]

Mr. POLK. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANTON, of Tennessee. I hope that this bill will be disposed of to-day. I desire to make a few remarks, but I will not detain the House a quarter of an hour.

The SPEAKER. The morning hour has not expired.

Mr. POLK. How much of the morning hour remains?

The SPEAKER. Five minutes.

Mr. POLK. No speech can be made in five minutes. I insist upon my motion to go into the Committee of the Whole.

The question was then taken on the motion, and it was agreed to.

#### HOMESTEAD BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN stated, as the business before the committee, House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified; upon which the gentleman from Virginia [Mr. AVERETT] was entitled to the floor.

Mr. AVERETT rose and said:

Mr. Chairman, the state of my health and my sense of propriety forbid my indulging in the discussion of matters extraneous to the question

which is now before us. I do not rise here to engage in a warfare to make a President. I did not come here for any such purpose. I do not rise here for the purpose of engaging in the discussion of matters and things in general, as seems to be the custom of the House, when in the Committee of the Whole on the state of the Union,—a custom "more honored in the breach than in the observance." I do not rise here for the purpose of defining my position in regard to the compromise measures of the last Congress. Conceiving, as I honestly do, that my section of the Union was outraged and wronged by those measures, I feel that I have a right to demand the humble privilege of a sullen silence. The friends of those measures ought surely to be content under a knowledge that they are laws beyond the reach of Southern "extremists." I rise here with no purpose of engaging in a warfare to put up "old fogies," as the phrase now goes, or to put down "young filibusters." I repeat that I was not sent here for any such purpose. I rise to speak to the question before us—the land question. I rise, sir, as one of the Representatives of the rural districts of these United States, claiming an equality of right in the public domain, as the property of *all*; to enter my solemn protest against any measure, no matter under what pretence it comes before us, that tends to give to any class in this community, rich or poor, an exclusive right in that public domain.

I rise for the especial purpose of entering my protest against the homestead bill. It has astonished me that so few have risen to expose the enormities of that bill. I thank my honorable friend from Maine [Mr. FULLER] for his orthodox, and able speech upon the question. It was a constitutional speech, worthy of the "star of the East." I hope the members of this House will read it, and read it attentively. To whom do the public lands belong? Do they belong to Congress? There is scarcely a member upon this floor who will be bold enough to say so. Sir, I maintain, and can prove by the record, that all the arguments which have been adduced in support of this homestead bill, and of kindred measures for the disposition of the public lands, are predicated upon the assumption of an absolute and unqualified power in Congress over them; to dispose of them in any way, and for any purpose whatsoever, at the will of the majority. Sir, this is a startling assumption, and I denounce this and all other measures founded upon it, as daring usurpations, "tending to evil and that continually." Are the friends of this bill willing to be chained down to a constitutional view of the subject? No; I defy them to show the right under the Constitution, to take the public lands and give them to any one class of our people, except in consideration of public services. The effect of this measure would be to take that which belongs to the whole United States, and to all the people of the United States, and to give it to a small class of the people of the United States, to the exclusion of the rest.

Mr. HALL, (interrupting.) Will the gentleman permit me to ask him a question?

Mr. AVERETT. Oh! certainly.

Mr. HALL. I will ask the gentleman from Virginia if, during the administration of General Washington, a bill was not passed granting lands to actual settlers in the Northwest Territory?

Mr. AVERETT. I do not quit my constitutional views, to inquire what General Washington did, or what anybody else may have done. [Laughter.] I call the attention of the gentleman to the Constitution itself, and I defy him to show that it authorizes a measure like this. Sir, it has become fashionable to lose sight of the Constitution, *as it is*, and seek justification for usurpations by some word or deed of Washington, Jefferson, or Madison.

Mr. HALL. I understood the gentleman to speak of this proposition as a novel one.

Mr. AVERETT. Do you believe that General Washington, with all his jealousy of foreign influence, would have sanctioned such a policy as this?

Mr. HALL. I do.

Mr. AVERETT. Well, we differ about that; but it is immaterial. This measure seeks to take that which belongs to *all*, and appropriate it to the exclusive benefit of a few.

A MEMBER. Do not let them interrupt you.

Mr. AVERETT. I would not care for their interruptions if I was well, and could be allowed the time to answer them. I would invite them. I

would be willing to be interrupted, because I feel able to meet all the objections that could be brought forward to the views which I am trying to present.

Mr. SWEETSER. I understand the gentleman to make the point against the homestead bill, that it is unconstitutional to give lands to some, and not to all. Upon that ground rests his constitutional objection.

Mr. AVERETT. No, sir, no; I did not say that. I must beg not to be interrupted, if the gentleman is as latitudinarian as that. [Laughter.] I did not say that. I said that the practical operation of this bill would be, to take that which is the property of *all*, and give it to a part. I said that would be the practical effect of it; not that it was my only constitutional objection.

Mr. SWEETSER. Will the gentleman permit me to interrupt him for one moment?

Mr. AVERETT. No, sir. You have proven yourself so much of a latitudinarian in your construction of my constitutional views, that I fear if I indulge you, you will take up the whole of my hour. I repeat the question, to whom do these lands belong? If I had time, I should like to read to the committee the terms of the cession of these lands by the old States, under the Confederation. I refer gentlemen to the terms of that cession of the vast territory in the West, now inhabited by our children, who are endeavoring to eat us up, and to kill us off by the strength which our munificence has given them. By the terms of the cession, if I understand them, those States ceded these lands, with certain reservations, to the Confederation; for what? To give away to a part? No, sir. To give away to *all*? No such thing. It was to meet the charges upon the States in support of this Confederation or alliance of States. I do not pretend to be verbally correct, but I know I am substantially so. It was to meet the charges made upon the people of the several States, in proportion to their numbers, and for nothing else. Not only was that the case, but it was done at the instance and instigation of the Federal Government.

Mr. McMULLIN. I understand my colleague at this point to be arguing the constitutional question in relation to the lands ceded by the old States. Will he inform the House and the country what amount of these ceded lands is yet on hand, or what proportion of them?

Mr. AVERETT. I am not arguing the constitutional question in regard to the ceded lands alone.

Mr. McMULLIN. I desire also to know if my colleague includes the grants of bounty land to soldiers as also unconstitutional?

Mr. AVERETT. No, sir. Those grants were made for services rendered in the camp and battlefield. But I proclaim that, in this homestead bill, you offer an insult to every old soldier who holds a land warrant, and to every poor widow, the bones of whose husband now lie buried in the low lands near Norfolk, or beneath the snows of Canada, or on the heights or in the plains of Mexico. You offer an insult to every soldier who holds a forty, or eighty, or one hundred and sixty acre land warrant, given him as a reward for serving his country, in the camp or battlefield, when, by this bill, you give one hundred and sixty acres of land to the foreign pauper for nothing but simply because he has none. That is the fact, and there is no way to get over it. I warn you that every one of the two hundred thousand land warrant holders, for services rendered in the Mexican war, and in the war of 1812, will repel the insult you thus offer them, at the polls.

Mr. Chairman, I repeat that the public lands belong to the people of the United States. Our functions in regard to them are fiduciary. We act as trustees for the people of the United States, to whom the lands belong—as trustees bound to conform to our power of attorney—the Constitution. We must look back to that power of attorney. We must regard the limitations upon the powers of this Government contained in the Constitution. Sir, it is a fact, that Patrick Henry, and many of Virginia's ablest sons, were so distrustful of the powers expressly granted in the Constitution, that Virginia, in the convention which ratified that Constitution, reserved to herself the right to resume her original sovereignty, not only in case of usurpation, but whenever the powers actually granted in that Constitution should be perverted to her injury or oppression. Am I

wrong in that? It is no part of my purpose to assert the doctrines of secession here. I deny the right of secession by act of Congress, or at the volition of Congressmen. I deny the right of members of Congress to dissolve this Union. I am that far a Union man, certainly. I therefore consider all debate here upon that doctrine as out of place and out of order. But I beg leave to state to the gentlemen who stand upon the Georgia platform, that after having denounced their own Southern brethren as traitors for debating the right of secession, for the surrender of their equal rights in a golden empire, it ill becomes them to declare for a "disruption of the Union," for the sake of a runaway negro. I would humbly ask, whether those in Virginia, who were so distrustful of the powers granted in the Constitution, that even the magic influence of Washington could not induce them to ratify it unless it was expressly stipulated, that if they were to be perverted to our injury, we should have power to resume our original sovereignty, are now to be publicly denounced as traitors?

This measure now before us professes to have for its object to give lands to the landless. Now, sir, from the bottom of my heart, I do deprecate all class legislation, especially by this Government, whether under the control of Whigs or Democrats. What right have we to classify our people? Is it not one of our fundamental doctrines that no exclusive privileges, or emoluments, or immunities, shall be granted except in consideration of public service? I will say to my friend from Mississippi, [Mr. BROWN,] who I do not now see, but who is an advocate of this homestead system, that if he will look into the constitution of his own State, he will find it there provided, that exclusive privileges and emoluments shall not be granted except in consideration of public service. Now, what public service is it that entitles the beneficiaries, under this bill, to one hundred and sixty acres of land? None whatsoever. Its benefits are denied to me and my children—to you, sir, and your children—to all who will not quit their homes, and swear they have sold no lands to obtain its benefits.

Mr. JOHNSON, of Tennessee. I wish to set the gentleman right. He says that this bill is for the benefit of the poorer class of citizens only, and that it denies the same benefits to him and to his children. If the gentleman will turn his attention to the first section of the bill, and then read the section offered in lieu of it by myself, he will find that no such principle is embraced in it.

Mr. AVERETT. It is not worth while to try to dodge the questions and principles really at issue. The gentleman's own bill, as originally presented, expressly provided, if I recollect right, that in order to obtain its benefits, you must swear that you have no lands, and that you have sold no lands for that purpose. They may dodge until doomsday, but the practical result will be the same; to wit: to take that belonging to the whole, and give to a favored class of the community—

[Here a message was received from the Senate, at the hands of ASBURY DICKINS, their Secretary.]

Mr. JOHNSON, (interrupting.) The bill was introduced, and referred to the Committee on Agriculture, without any such provision in it. The committee reported it back, with an amendment of that sort, and there is an amendment pending, in lieu of the whole section, embracing no such provision. And if the gentleman will permit me to ask him a question, to which I wish an answer, it seems to me that it will set this whole constitutional point right. I ask the gentleman how it is, that under the solemn sanction of an oath, he can vote to grant twenty millions of acres of land to separate States, excluding others, worth \$25,000,000, and at the same time cannot vote one hundred and sixty acres of land to an individual?

Mr. AVERETT. I will answer it. I do not know whether the friends of this bill are going to convict me of usurpation or not, in voting for the swamp land bill of the last Congress. Be that as it may, I have my friend [Mr. JOHNSON] upon the stool of repentance. He has backed out from his original bill, in favor of which he spoke so earnestly. He now backs out from the swearing clause. Well, so far so good. I sincerely hope that further reflection will bring him, as "the poor man's friend," to the conclusion that it is best for all to back out from the whole scheme.

Mr. JOHNSON, (interrupting.) I understand—

Mr. AVERETT. Hear my argument before you put a construction upon it. I find you are taking the same latitude as my friend from Ohio, [Mr. SWEETSER.] [Laughter.] It is much easier to repeat terms than to understand unpalatable truths. [Laughter.]

Mr. JOHNSON made some remarks in reference to swamp lands, which were not understood by the Reporter, his back being turned towards the Reporter.

Mr. AVERETT. I answer with the utmost frankness in regard to the giving of the swamp lands to the States on the Mississippi. The gentleman says that I, having voted for, or approved of that, have no right to come out here and raise objections to this bill. Suppose I did commit an usurpation there, does that make this thing right, when you cannot show a title of power in the Constitution to do it?

Mr. JOHNSON, (interrupting.) I wanted to show who are the latitudinarians in practice.

Mr. AVERETT. The public lands are vested in Congress, as trustees for the United States. We hold them for the States. It was represented to us—and if I voted wrong I was cheated by the functionaries of the Government here, whose province it was to survey those lands—it was represented to us by gentlemen upon this floor, who pledged their words to me personally, before I voted for the bill, that those lands were not only valueless, but were nuisances to the surrounding country, and that the good lands around them were worth nothing while those swamp lands remained unreclaimed.

Mr. HALL, (interrupting.) I only want to say, that so far as Missouri is concerned, that is exactly true in regard to the swamp lands in that State.

Mr. AVERETT. I am much obliged to my friend from Missouri, [Mr. HALL.] My friends from Arkansas [Mr. JOHNSON] and from Louisiana, [Mr. MOORE,] and others, gave me the same assurance. And so far as I can learn, those swamp lands are covered with water, and are the hotbeds of pestilence. I deny the right of the General Government to improve the rivers and harbors for the States, or anything of that sort; but when the States come here and ask me to allow them to reclaim those lands that are now valueless, and are rendering good lands valueless, I say I will not do it myself, but I give my assent that they may do it, and I am not ashamed of that. I cheerfully said to them, You may ditch those lands, drain them, dyke them, or do anything else you choose with them. I think, in doing that, I was acting the part of a faithful fiduciary, looking to the right and interest of the United States, in the public domain. If I was not, however, it does not affect the argument at all. I do not believe in that sort of political morality which will make a right out of a wrong, and make you less and less a sinner, in proportion to the number of sins you commit. That is the fashionable political morality of the day. Drive a schemer to the wall; pin him down to the Constitution, and convict him of usurpation, and he seeks absolution in some imputed act or opinion of General Washington, or Mr. Adams, Mr. Monroe, or somebody else. That is not my political creed. Convict me of usurpation, and I will ask pardon of my God and of my country, and I will do so no more. But because I have given a vote which the gentleman from Tennessee [Mr. JOHNSON] doubts—a vote allowing Missouri and Arkansas and Louisiana to take and reclaim swamp lands which nobody can live upon—

Mr. JOHNSON, (interrupting,) made a remark inaudible to the Reporter.

Mr. AVERETT. If you will bring in all the beneficiaries of your homestead bill, and give them a fee-simple in these swamp lands, I presume my friend from Missouri, and the State which he, in part, represents, would cheerfully acquiesce.

Mr. HALL. Certainly I would.

Mr. AVERETT. He answers that he would. And Arkansas and Louisiana would doubtless do the same.

Mr. JOHNSON, (interrupting.) Altogether, I think \$25,000,000 is worth getting.

Mr. AVERETT. The public lands belong to the United States. The Constitution gives Congress power to "dispose of, and make all needful rules and regulations respecting, the territory or

other property of the United States." But they do not stop now at needful; who ever dreams, now of needful? I remember a Quakeress—a benevolent Quakeress—who came here with a petition, before Congress, to make a donation of public lands to the States. For what? Why, to cure insanity. Well, if a donation of the public domain has been ascertained to be a specific for mental alienation, I think the first dose ought to be administered to Congress.

But, seriously, where is the power given, in the Constitution, to take jurisdiction over the insane? Where do you find the power in the Constitution to cure insanity?

To show how this latitudinous doctrine is extended, I will allude to the arguments used in support of Miss Dix's bill to cure insanity with land. When my friend [Mr. BISSELL] came to make his argument at the instigation of the benevolent Quakeress, what was it? Why he defied us to show that there was anything in the Constitution to forbid the passage of her bill! Yes, with an air of triumph, he said, I defy any man to show in the Constitution of the United States any power that forbids us to do thus and so with the public domain. Well, we might have met the gentleman upon his own doctrine. But really I had thought as a Democrat, that before the constitutionality of a measure could be established, that it was incumbent upon the friends of that measure to show the grant of the power in the Constitution. Now, I ask, is the contrary the doctrine of the Democracy in this the day of "progress"? If so, Mr. Chairman, I am no Democrat. You of the Granite State, and I of Old Virginia, never learned any such Democracy as that. No, it is incumbent upon the friends of a measure to show that the power to carry out that measure is given in the Constitution.

But, as I said before, I might have met the gentleman [Mr. BISSELL] upon his own ground. The Constitution forbids the exercise of any power that is not granted, and that is not necessary to the carrying out of a granted power. And I repeat, that the power to cure insanity is not expressed in the Constitution. No man can say that such a power is necessary in the performance of any legitimate function of this Government. It is, therefore, not only unauthorized, but prohibited. Sir, you might as well give the public lands to the overseers of the poor of Halifax, in my district, as to Miss Dix. The power is not vested in you to do either. It is an outrage upon the genius of our institutions, to make this Government a board of overseers of the poor. Think of it! Do we sit here to dispense charities? If so, you pamper Government pets who haunt your Halls, and, either in person or by proxy, seek special favors at your hands. Sir, I represent a rural district—a tax-paying, not a tax-consuming constituency, who have never been beggars at the footstool of this Government. In pampering your pets, you rob the people whom I serve; and as their Representative, I solemnly protest against your homestead bill, and every other measure of a like character. The pets of the Government, and those in their service, who lounge about the capital, and metropolitan hotels, are exerting an efficient and deleterious influence, through the public press and otherwise, upon the legislation of the country—State and national. These are the men who will be benefited by your sitting here to perform the functions of overseers of the poor. In the name of God, where do you get the constitutional power or the means to administer charity? This Government "neither toils nor spins;" it earns nothing, but squanders millions! Whence come those millions? That is the question. That question, if my humble voice shall be heard, shall go forth to the tax-paying, toiling multitude. They shall see to whom, how, and at whose expense, your charities are administered. When you go to one of the pretended beneficiaries of your homestead bill—a homeless widow—no sir, no such word—no honest person in this wide country is homeless. When you go to the sons of a poor widow, living in the old pine lands of Virginia or Maryland, or any other part of the United States, and ask them to vote upon a measure administering charity by this Government, I hope they will learn enough about the matter to tell you indignantly that you are "robbing Peter" under the pretense of giving to Paul, when in truth you are robbing both. To enable you to riot in governmental



extravagance, and dispense your charities, you tax the poor widow and laborer at the rate of thirty cents in every dollar of their dealings in sugar, salt, working tools, cooking utensils, and almost everything else for food, raiment, or luxury, that comes from abroad. Yes, sir, thirty cents in the dollar of our dealings in goods, wares, and merchandise, is the rate at which we pay for Federal charity and munificence!

Sir, under the pretense of being the "poor man's friend," you tax him upon almost everything that he eats, drinks, and wears, at the rate of thirty cents in the dollar. Yes, sir, you tax his ploughshare, his food and raiment, while he lives, the winding sheet which shrouds him when he dies, and the spade that digs his grave, thirty cents in the dollar—and thus you get the means of pauperizing your pets, and dispensing your charities. Sir, the poor laborer who lives by the sweat of his brow, will spurn your charities.

Mr. Chairman, I have no confidence in those who set up here, as "friends of the poor." I was born poor, I was raised poor, and I am not rich now. My vocation through an arduous life has thrown me into close association with the poor. I have been a country physician, and every one who knows anything of that profession, is aware of the close connection which exists between the physician and his patient. I have had intimate association with the poor, and I take this occasion to say, that I have found in their midst some of the very best men and women I ever knew. I tell you, Mr. Chairman, that there is a deep-rooted feeling growing out amongst the toiling multitude founded upon an undeniable, startling fact, which nothing but your underhanded, vitiating legislation can hide from the eyes of the intelligent community—and that fact is this—that those who contribute most to the wealth of the country live the hardest, and enjoy the least of that wealth. I tell you that feeling is a growing one. I call upon my Democratic friends, instead of going off half-cocked upon the idea of being the especial friends of the poor, to demonstrate by what practical operation this feeling existing amongst them has arisen. It is owing to the fact that your \$50,000,000 and odd expended by you yearly, are abstracted from the labor and property of the country. It is abstracted by your indirect system of taxation in the form of a high tariff, and by pampering, and sustaining your legislative pets, in the form of banks, manufacturing and other corporations. Those millions are from the earnings of the labor of the toiling multitude. They are from the property and the labor of the country. Do not let us be mistaken about this matter. I do not wish to charge bad motives to any one. I have no doubt that some of those who profess feeling for the poor are actuated by good motives. They are, however, going the wrong course to benefit the poor. If you would befriend the poor, leave them free to enjoy their powers and faculties of mind and body—and keep the hands of your tax-gatherers out of their pockets. Let them alone.\*

Mr. Chairman, I have been so frequently interrupted, that I fear my speech will appear very incongruous. I complain not of those interruptions, because I submitted to them at the time, and "I acquiesce now," but I hope I may be allowed the few minutes remaining to me, uninterruptedly, to say what I intended to say. I hope—interrupted as I have been; confused, and, perhaps, incongruous as my remarks may appear—that I have made myself sufficiently understood, and have made the committee understand, and the reporters understand—the reporters, whose general accuracy has astonished me, amid the confusion of this Hall—the grounds upon which I oppose this homestead bill, and all kindred propositions. I have taken the ground that the right of property in the public domain was a right in which no exclusion could be adopted by Congress without a violation of the Constitution, and a warfare against the principles of our institutions. I have taken the ground that the public domain is the property of all; and the further ground that the grant in the Constitution of the United States, of the power to make all needful rules and regulations respecting the territory or other property of the United States, could not confer upon this Government any power or function not expressed in the Constitution, or necessary to carry out the powers expressly granted

in that instrument. I hope that I am understood. I hope that my friends who have gone off half-cocked—with all due deference to them—will consider the question again. Can the fact, that Virginia ceded her northwest territory, and that other States ceded lands which they had acquired by their blood and their treasure, give to this Congress—which is vested only with the power to make needful rules and regulations in regard to lands and other property of the United States—any functions not to be found in the Constitution?

Mr. HALL. No.

Mr. AVERETT. You say no. Stand to that; but I am afraid you will back out when you come up with some of your Missouri bills. Now, I utterly deny—and I proclaim that it is a growing heresy—that the power to make all needful rules and regulations respecting the territory or other property of the United States, gives us the power to engage in matters which were not only not granted, but expressly repudiated and refused by the Convention which framed the Constitution. The gentleman from Tennessee [Mr. CHURCHWELL] comes in here with a bill, not a homestead bill, but a common-school bill—a bill to make use of these public lands for the purpose of prosecuting a system of common-school education. Well, I think it will be found as difficult to show a power in the Constitution to teach our children their A B C's, as it will be to show a power to support our poor, or a power to cure the insane, with our public lands. Where is such a power to be found in the Constitution? Would Patrick Henry, would General Washington, or would even Alexander Hamilton, have sanctioned the power to make this Government a board of overseers of the poor, or the board of common-school education? The absurdity of conferring the power upon this Government of curing insanity with the public lands, or teaching our children their A B C's, through the instrumentality of the public lands, is superlatively ridiculous. I beg you gentlemen who have taken your position upon this question—I have no interest in this matter individually—I beg you reconsider the principles which lie at the bottom of this bill, and you will find the principles subversive of our institutions, if they are carried out. As I have before said, and I wish to impress it upon you, this Government "neither toils nor spins;" it earns nothing, but it squanders millions; it disburses and consumes taxes at the expense of the toiling multitudes. The interests of the property holders and honest laborers are identical. And here I beg my friends who look to the interests of their children, who really value our institutions as our fathers handed them down to us, to consider this one thing. There is an effort to array the poor laborer against the capitalist and the property holder. It is an unrighteous warfare. I stand upon the position, as I stated before, that the interest of the honest laborer is identical with that of the property holder, so far as the functions of this Government are concerned.

The property holder wants security in the enjoyment of that which belongs to him, and in the assurance that that which he has accumulated and husbanded by his frugality and industry, will be enjoyed by those nearest and dearest to him. The poor man, on his death-bed, finds consolation in the reflection that he leaves his penniless children in a land of equal rights and equal laws; and that, penniless though they be, they may, with industry, economy, and the blessing of God, rise to the highest point of prosperity—yea, to the highest pinnacle of fame! Sir, you have seen little children fighting for their playthings: you have seen the little boy fighting for his toy, which has been mischievously wrested from him. "It is mine!" cries the little fellow, when seeking his own. I would say to mothers, fathers, voters, cherish the spirit of that little fellow. Don't allow it to be bribed or corrupted by governmental fraud; don't allow it to be down-trodden by governmental power!

Mr. Chairman, there are certain indications of pending mischief, which every patriot ought to nerve himself to the courage of resisting at the hazard of his popularity or anything else. I appeal, sir, to the Whigs and Democrats upon this floor, and more especially to my Democratic friends, to put their hands upon their hearts and say whether they are prepared to perform understandingly, all the functions that are actually required of us, to keep the wheels of this Govern-

ment in motion. I hope the question is understandable, and I hope it will be duly considered. It is matter of notoriety that the functions of this Government have become so complicated, and those who are seeking especial benefits at its hands are so numerous, that the time of members of Congress, of the President and his subordinates is so monopolized by those seeking such benefits of this Government, that they can scarcely perform the duties with which they are intrusted. Is not that a matter of notoriety?—and what should it teach us? Why, sir, it should teach us, instead of coming in here with the homestead bill; instead of coming in here with a proposition founded upon the idea of making this Government a board of charity, that you should simplify the functions of Government, and besting, stringent—cautious in exercising even the powers expressly conferred upon you.

I appeal to honest men of all parties, who believe in our institutions, and desire to perpetuate them in their purity, to stand up manfully against those who, by schemes like these, are seeking the high places in Government. It has become absolutely necessary to simplify the functions of government, else its functionaries will become absolutely irresponsible. We may have an exalted government—exalted in corruption—but we shall become a degraded and oppressed people.

I have been charged with being a disunionist, but I do not care about it in the least, I assure you. My constituents understand me; they sent me here, and I am not in any way responsible for my opinions to this House. But I tell you that every element of destruction lies in the assumption of power by this Government, which is not granted in the Constitution by the complication of its functions, and the consequent irresponsibility of its functionaries. Can you make your President responsible for moneys expended, however unnecessarily? It seems not—but he ought to be held responsible; and it seems to me that such a system of irresponsibility is insufficient for the public good. Can you hold your functionaries responsible? You cannot understand their functions. You cannot examine, and ascertain, and satisfy yourself, as to the manner in which these duties are performed by them. One thing, however, is certain, that the toiling multitude, the tax-paying community, will understand the tax consumption, which is about \$50,000,000 or \$60,000,000. I wish to impress upon this House and the people, the strong, imperative necessity which exists for curtailing the taxing power, and handing no taxes out of their pockets except for the authorized purposes of the Government, as ascertained by the written Constitution. Make this Government a board of overseers of the poor! Great God! Did not my friend from Virginia, [Mr. BAYLY] when he was asked the question, state that the cost of collecting these taxes was upwards of seven and a half per cent.? You lay a duty and tax upon everything that men, women, or children eat, drink, and enjoy—upon everything that comes from abroad—at the rate of thirty cents in the dollar, and you charge seven and a half for collecting that tax. Let it go home to the people. It will tell upon those who have been broken by their dealings with merchants in goods. They will understand your taxing system, although your taxes are concealed under the hieroglyphic cost-marks of merchants. Although you make use of the soft fingers of your merchants in getting taxes, let it go home to the people, that your taxes are exacted from the rich and the poor; and I boldly say that your taxes are especially oppressive upon the poor, because under your system of taxation a man is not taxed always according to what he owns, nor according to his ability to pay, but very often on quite a contrary rule, for your tax-payer pays in proportion to the number of children he has to feed and clothe. Every man who drives a plowshare, who wields a hammer and broad-axe, any man who has a wife and children to support, will feel this. I see my friend from Indiana [Mr. DEXHAM] is not in his seat; but he argued that if our people be settled upon our western lands, they would become better tax-payers, and that, therefore, the Government would be gainer. Well, Mr. Chairman, I have no wish to increase the gains of the Government. But, sir, I humbly conceive that the gentleman is wrong in fact, as well as in principle. A man or woman in Virginia—in New York—or anywhere else, in the

\*The preceding remarks were delivered on Wednesday.

old States—yea, sir, even the inmates of our almshouses consume as much of the goods, wares, and merchandise which you tax, as your Western men and women consume. Yes, sir, the pauper in any Eastern poor-house is taxed as heavily as would be the beneficiaries of this vaunted homestead bill. The argument of the gentleman from Indiana, then, falls to the ground.

Mr. HALL, of Missouri. Where do the exports come from?

Mr. AVERETT. They come very largely from the slave-holding States; and you, my friend, and others who are warring against us upon this and other measures, are indebted to us for giving you the benefit of slave labor, in providing your articles of export.

[Here the hammer fell.]

Mr. POLK addressed the House an hour, during which he expressed some views in favor of the bill. He commented, at some length, upon the position of the Whig and Democratic parties towards the compromise measures, maintaining that whilst the former had evaded a direct and full expression in favor of them, as a finality on the slave question, that the latter had, in Congress and elsewhere, boldly indorsed those measures, and expressed a determination to adhere to them, as a full adjustment of the questions involved. He declared his determination to support "Young America" for the Presidency; but, at the same time, commended General Cass for his patriotic devotion to the cause of his country.

[Mr. P.'s speech will be found in the Appendix.]

Mr. CHANDLER. While I feel gratified at obtaining the floor, I feel also at what great disadvantage I stand before the committee at the present moment. There has been a spice of politics infused into the debate upon this question, something of the kind which resembles "all-spice," for however much we may feel disturbed by such talk upon our party failings, there is no man here who would not rather smile than cry over that which was well said, however severely meant.

I have nothing to say upon the subject of the Presidency, or anything that has a particular relation to it. Nothing to "young America," or "old fogyism;" although, if I understand the speech of the honorable gentleman from Tennessee, [Mr. POLK,] he proclaimed himself to be of the "young America," and opposed to "old fogyism." I have no time to follow that up; but if I had, I am sure he would consider that the difference of our ages would excuse me for a monitory remark to him. It is this: in all ages, in all times, and in all countries, "old fogyism" has been that which has saved the nation from the rashness and imprudence of young—whatever it may be. All history proves it.

Mr. POLK. Will the gentleman allow me to explain what I meant by "old fogy?"

Mr. CHANDLER. Certainly.

Mr. POLK. I only meant the spirit of the age; not the trembling limb and wrinkled brow.

Mr. CHANDLER. Exactly. I was going to say what history informs us about this matter; and I suppose, of course, the gentleman is more familiar with sacred than profane history. But I recollect one instance which I beg to refer to, and if I give it wrong, the gentleman from Massachusetts [Mr. FOWLER] will correct me. [Laughter.]

It is this: I remember that Rehoboam, the successor of Solomon, took it into his head that he would have a rouse with some of the young Israelites of that time. And there was a case even before him. Master Absalom set himself up as young Israel against that old fogy, his father. What was the result? Rehoboam followed the advice of young Israel, and that led to a dissolution of the union of Israel. They forget the wisdom of the old men, and the effect, the unhappy result was—you recollect it. And if Master Absalom had taken notice of that, if he had waited to get old enough to have his head as bald as my friend from Vermont, [Mr. MEACHAM;] or still wiser and older, if he had waited until he had got the covering which an honorable and distinguished citizen wears upon his head, he never would have got hung upon that oak-tree while pursued by the officers of the old fogy, his father. [Great laughter.]

I have, however, obtained the floor with a view to address myself directly to the question before the committee—that of the homestead bill. But I am not disposed, Mr. Chairman, to occupy the

attention of the committee very long. I know how frequently I have been indebted to the courtesy of gentlemen around me, and I have too much gratitude for that—allow me to say—to draw upon their patience long; and that I may not be induced, as I have already been, to depart from the record before me, I have written down and amplified my notes, so that I would rather read than speak to the committee on the subject upon which I am about to address them. I purpose speaking directly to the principles involved in the bill. If anything is wrong in the details of that paper, anything wrong in the parts which are presented here, they can be very easily corrected by the committee when we come to examine it more in detail. If the principle is right, we have nothing to fear from the details, which will be so carefully scanned, not only by the friends of the bill, but more carefully, perhaps, and more satisfactorily scanned by the opponents of the bill.

Mr. Chairman, my business is with the one grand feature of the proposed enactment. If the principle be right, the details may easily be accommodated to the intentions of the framer and the views of Congress. If the principle is wrong, then all labor upon the bill will be only making more or less acceptable that which ought not to be received.

It was my impression, until the honorable gentleman from Maine [Mr. FULLER] addressed the committee on this bill, that there was no question of the constitutional power of the Government to dispose of these lands as the bill provides. But that gentleman startled me with the assertion that these attempts were unjust, and without law or equity. And, of course, all that has been done, instead of becoming a precedent for action, must be regarded by us as the errors (I will not say the crimes) of our predecessors. But I could not discover that the honorable gentleman sustained himself upon the legal side of his argument, sufficiently to require a response. I shall cast a glance at what he advances with regard to the equity of the measure—whether it is just or equal to bestow lands upon one portion and not upon another. "The favors of the Government," says the honorable gentleman, "like the dews of heaven, should fall on all alike."

The figure is beautiful, but not apposite—not illustrative. "The dew of heaven" falls on all who place themselves within its extent. But that dew which would come down with a blessing of beauty and richness on one, would chill and destroy another. The evening plant will open its petals to the rich descent of dew that shall give it beauty and luster, while the morning flower will shrink from the chilling freshness, and ask the warmth and the light of the ascending sun.

Sir, the favors of Government, like the dews of heaven, should, when falling, be for all that need their influence. But the grass on a parched field, or the herbage of an arid waste, should not be denied the dews of heaven, because certain plants are not improved by that falling moisture, or because the irrigated and luxurious meadow has no need of such gentle waterings. In all places where rain abounds dews are light; but in Chili and in Egypt, where rains are rare, these dews supply the place of showers. Thus, Heaven tempers its providence to the wants of man, and teaches Governments to make their favors useful, by varying them in kind to suit the various wants of the people.

The remarks which I am making upon the argument of the gentleman from Maine apply, or are intended to apply, to the speech of the honorable gentleman from Virginia, [Mr. AVERETT,] whose earnestness and sincerity always commend his views to my respectful consideration. The whole history of our country is marked with precedents for the disposal of our public lands to institutions, to corporations, and to individuals; and foreigners—men and women—who have sought a refuge from the revolutionary whirlwinds of Europe, have received grants of our rich publiclands. And these precedents are so identified with our legislation that no declaration of want of power will disturb the possession of the holders, or change the practice of Congress. The right is not denied by the Constitution or the law, and it is established and sustained by continual custom. If we have a constitutional right to give away the public lands to foreigners—and it is apparent that practice, in the absence of all conflicting legislation or

constitutional prohibition, establishes that right—then, *a fortiori*, we have the right to divide them as we choose among our own citizens.

The question of rightful power being thus indisputable, it becomes necessary to institute an examination of the question of expediency and equity, as connected with public and private good.

Mr. Chairman, it is lawful, but is it expedient? "All things," says a high authority, "all things are lawful to me, but all things are not expedient."

First. Why should the land which has been acquired by conquest or purchase be given to particular citizens, when it is the property of all?

Second. Why should the man living in the far West, or willing to go to the far West, be favored with a quantity of land sufficient for a farm, when he who lives in the old States, which achieved our independence, must be content with what he inherits, or what he can purchase, or what is still worse, must be content without either inheritance or purchase.

Third. Are there reasons for such a departure from the customs of the country—reasons connected with private right and public profit, or will they be promotive of general morals and pure patriotism; and if so, can we make the gifts available to the class of citizens whose benefit we would promote; and that being so, can we make the gifts available to that class without an injury to others? Nay more: will these donations be promotive of the good of the whole? Unless these questions can be affirmatively answered, we, as the Representatives of the people, have only to withhold our votes from the project. If they can be affirmatively answered to the satisfaction of the House, I need not say what *should* be the vote of the members. I need not say what *would* be the vote. I never allow myself to doubt the purity and patriotism of the motives of the members of the House; and when any question is proposed here, Mr. Chairman, in which party attachment and public good may appear in antagonism, I always know how the vote will go. The country will have the majority. It is true that party discipline will leave a guard over party interests, but the main body will march over to the side of the country.

With this view of the character of this House, I will proceed to examine the queries.

It must be evident that we have reached a point where these public lands must cease to be the means of direct revenue to the nation. Claims of various kinds multiply, liberality towards those who have served the country, enlarged encouragements to public enterprises, and charity to afflicted emigrants, are placing these possessions of the nation in a position that forbids a hope for the Treasury from them; and that, Mr. Chairman, is not all: The liberality of the Government that bestows so much public domain, or rewards therewith so many entitled to public consideration, is not inducing settlement, but generally it is placing millions of acres in the hands of speculators, who have never seen, and will never see, their vast and cheaply-acquired estates.

What we need as a compensation for our land (for at any rate the price when sold is nominal) is settlement, and the plan proposed in this bill is, that no man shall come into possession of a single acre of the soil until he enters upon its occupation and improvement. This I consider one of the strong points of the case. If, without public claims, without military service, these lands were to be given in undivided masses, no benefit to the public could result, because the right of settlement and the benefit of pre-emption already exist. I therefore am led to regard this disposition of a portion of the lands as presenting a means of assisting public policy, promoting public good, and gratifying a most natural and laudable longing of the human heart.

And the growing advocacy of this bill here, and the strong expressions in its favor abroad, show that the wish is national.

Mr. BEALE, (interrupting.) Especially in Europe.

Mr. CHANDLER. I thank the gentleman for the hint. Where the down-trodden millions are looking across the Atlantic for a home—

Mr. BEALE, (interrupting.) Which you give to the jail-birds and scum of Europe, and deny it to our own people.

Mr. CHANDLER. Looking across the Atlantic for a home, where they seek a place to plant their feet and erect their altars. And come they will,

however we may legislate. Shall we not, then, in self-defense, as well as for motives of humanity, invite them away from over-crowded cities, and enable them to devote themselves to truth and God, and become missionaries for morals, for truth, for politics, and religion, and plant themselves along our western frontiers, men sworn to preserve our country, its laws, its morals, its institutions, and all that man holds good and great in a Republic? And if we deny it to them, we deny what God has given to us. If we deny that to them, we deny what our fathers fought and bled for. We deny what your ancestors achieved, and sought to distribute amongst them all. The very bounty of lands to them will send school-masters to instruct them.

Mr. Chairman, it is not merely an Anglo-Saxon infirmity, as some honorable gentleman (my friend from New Hampshire, Mr. Tuck) once asserted. It is the common feeling of mankind. The whole history of the people of the Bible is one of land claims and land distribution, managed, it will be recollected, with more courtesy on the part of Abraham towards Lot than is exhibited by some of the patriarchs of this Hall.

But the possession of land has, from time immemorial, been the great thirst of the human heart, for different purposes, but always with the same craving. Why, sir, the possession of land is and ever has been a patent of nobility. No hereditary title was disconnected from a hereditary possession. And whatever else we may have changed in the institutions of our country, we have not altered this much. We may forbid the entailment of estates, but we do not and cannot separate the title from the possession of the real property. It is so with no other possession. The man who has much money, or owns a large amount of public security, is a capitalist. He who deals in securities is a speculator. The office-holder has only a temporary appellation of "honorable" or "excellency" by courtesy; but the owner of the soil, nay, even the proprietor of a house and its necessary lot, is a lord—a land lord—a title above all others, and one which it is the interest of the Government to multiply, where the sovereignty lies in the people.

Mr. Chairman, we must, in the passage of laws, learn to consult the varying circumstances of the people, the change which is continually going on in the affairs of life.

Principles, I suppose, never change; but the administration of those principles must be accommodated to the progress of affairs.

Ten years ago, when some one proposed a measure like this, the public press poured ridicule upon a scheme which was denominated "the vote-yourself-a-farm project," a sort of Hellenic verbal composition, which was at once expressive of the supposed object of the author, and the contempt of the opposer; but *tempora mutantur, et nos mutamur cum illis*. That is, "the tenure of our public lands has changed, and opinions, it is evident, are changing with them." The land seems pledged for the public debt, yet we vote them to foreigners; let any one come with claims upon our sympathy, and we offer that which we feel is most agreeable to our common appetite, we grant them townships of land; some accept, and some ask for even more substantial aid.

Well, sir, if we are so free with these public domains with foreigners, why not gratify the appetite, and promote the views of our own citizens? Why not be generous to those who have at any time exposed their lives or health for the public good? Why not grant to them what they ask for? Are the defenders of European States of more consequence than the defenders of the United States? Our own people fought and bled for these lands; let them have an individual right in some of them.

But the bill before us grants portions to actual settlers and permanent residents on these lands. If the donation of alternate sections to railroads gives additional value to the contiguous sections, (and I think it does, and is therefore profitable and proper,) then the actual settlement of the quarter section of one hundred and sixty acres must give value to the contiguous portion—and while we have more than fourteen hundred millions of acres, and while we have a few thousand citizens who need attention, and are able and willing to toil, who seek the independence of real property, and sigh after the patent of republican nobility, ought we not to serve them, serve the country by grant-

ing the request? For, Mr. Chairman, the country will be served by any legislation that takes the squalid and suffering from the crowded, unhealthy alleys in our cities—out of the dependence and want of a precarious living, placing them where every drop of sweat that falls upon the soil, and every muscular effort expended gives additional value to the possession. I say nothing about the political or national dependence upon those who have no stake in the hedge, and no hope for themselves. But what a treasure of virtue, of trust, of sure defense, does that nation lay up for itself, when every man owns the ground on which he stands and identifies himself with his possession by the sweat of his brow.

Mr. Chairman, the virtue and independence of a Republic are only the aggregate of the virtue and independence of the people who compose that Republic; and, if a plan can be devised and executed for drawing from the common haunts of our cities, those whom misfortune are tempting to vice, and give them the blessing of possession, the leave and means to toil and to live, that plan should command our support. If we can remove men, women, and children from the horrible communications of densely-packed garrets and cellars, where want of family privacy is destroying all delicacy of thought, and place them in the wide space of one vacant quarter section, do we not regenerate their minds, and baptize them into the hope and practices of decency and good citizenship?

Where, Mr. Chairman, since the establishment of our nation, have riotous disorders been generated but in the mixed and compact populations, where lack of employment gives potency to the suggestions of the vicious, and involuntary idleness becomes the parent of vice? Allure these people away from those seminaries of crime that abound in cities, and plant man free and independent upon his own soil, the outspread domain of hill and valley and stream all his own, and the thought of vice dies with the sense of accountability, and the invitation to labor is answered with a willing smile.

I shall be told, perhaps, that few of the loafers of the city will go to the far West to toil upon the unbroken land. Probably the far West would not mourn at such a refusal. But I do think that thousands would go, who, tarrying in the city, would become loafers in their own generation, and leave a nest of vagrants to perpetuate their crimes. It is to prevent, rather than to reform, that the "homestead" plan is proposed.

But I have said that the scattered population which these grants would induce, would tend to public morals and public peace. Many of the settlers would come, if not from the scenes of disorder and vice, at least from those contingencies, where the fanatic or artful disturber of the public peace finds tools for his mischief, and sedition, in some guise of philanthropy or patriotism, presents the worst form of treason.

But, sir, in the center of our Republic, tilling the earth and making the wilderness blossom like the rose, these men would be safe from the excitement of popular delusion, unexposed to the temptation of violating the laws. Instead of being under the surveillance of a police, they would be the hope and defenders of the nation; missionaries of morals and prosperity in peace, defenders of the soil in war.

Railroads, canals, and other modes of public improvement, have ever been considered powerful means of assisting public quiet, and promoting the strength of our Union; but these silent means of trade are not so potent in the work of goodness as men themselves, scattered across the boundary of discontent, whose interests are for peace, and whose happiness is evidently dependent upon the Union. If the measure, then, could be regarded as a new cement of national union, another and more powerful argument is derived in its favor. And I confess, sir, that, as a Pennsylvanian, and as a Representative of Philadelphia, where the Union, though long existing, was first announced, I grow warm upon any subject that concerns the Union, seeing only misery to us all from its destruction. I advocate whatever will promote its continuance; and, while I condemn to immitigable censure those who by word or deed would disturb the compact, I bless every man whose occupation and will are in its favor.

A few days since, Mr. Chairman, an honorable

member from Mississippi, [Mr. Wilcox,] in referring to the objections of certain heated partisans, declared that they sought to tear in two the glorious flag of our nation. The figure was beautiful and happy, and I share in the gentleman's warmth of denunciation of those who, with fratricidal hand, would attempt the desecration. It cannot happen, Mr. Chairman; it will not be, I think. But, should evil counsel prevail, should the idle, the dissolute, the thoughtless dare to commit that last and worst, that unpardonable crime, tearing in twain the flag of this Union, the flag that streams in beauty and grandeur over this Hall, above the legislators of the people, met to promote the benefit and strength of the Union—should they rend this flag, then, Mr. Chairman, I ask for Pennsylvania and those States that stand for the Union, side by side with her, in all forms of contests and under all party names, I ask for our true portion of the spoils; I ask that the stars, on one portion of the field of that flag, shall decorate the brow of my own iron State and her sisters in patriotism; and, Mr. Chairman, I devote the stripes, on the other portion of the field of that flag, to the back of those traitors who may have rent it in twain.

We must not suppose, Mr. Chairman, that every poor man, in city or country, is poor from want of enterprise. Or that every vicious person is criminal from any extraordinary proclivity of his mind towards vice. Thousands around us are toiling and waiting with no hope of ascent. They see the point far above them, which, if allowed, would be sure to open up the prospect of comfort and respectability. But how are they to reach that first round? Borne down as they may be with heavy dependencies, by what means are they to achieve that first step by which labor shall be ensured its reward, and enterprise its desired conquest? "Give me but where I may stand," said the ancient geometrician, "give me but where I may stand, and I will raise the world." So say these men, Give us but where we may plant our feet, and we will raise a name, and conquer a world of difficulty.

In the Old World, Mr. Chairman, hereditary distinction is ingrained with the feelings of the people, and the only change contemplated is that of relative position among the upper and the middle classes; but the lowest must remain low, and poverty and wretchedness be the parents and the exponents of vice.

But in this country, amid our republican institutions, no such fixedness of condition should be contemplated. It is hostile to all our plans of republican equality. Sir, true republicanism is like the ladder which the Patriarch saw in his vision at Bethel. Though its top may lean on heaven, yet its foot rests upon the earth, that its lowest round may be accessible to the effort of the humblest man that aspires, so that every rank and condition of the people may mingle with all from above or below, who ascend or descend the scale of republican condition.

I reckon as nothing, Mr. Chairman, the objection to the bill, that "few will be able to reach the public lands from the Atlantic cities." Certainly, if any wish to go, the knowledge that land can be obtained for nothing but settlement must be an inducement, because the money which is now required to purchase the land, might, under the bill, be used to take the family to the new acquisition, and assist in the purchase of the most essential articles of husbandry and housekeeping. But philanthropy that assists the poor laborer to leave the city, that he may find employment in the rural districts, would have a double motive for liberality, if a homestead, rather than a hireling employment, were to be obtained. But at most, Mr. Chairman, if the poor of the cities and crowded portions of the Atlantic States could not reach these lands, then the argument that the passage of the bill would deprive the country of its lands, falls to the ground.

But then it is objected, that these lands will go to the Western people, and not inure to the benefit of those of the East. Well, so it will, Mr. Chairman, if the East will not, or cannot profit by it. The land will certainly not come down to us; we must go up to that. But what then? Suppose, at the worst, that the Western men should alone seize upon the privilege of these grants, and alone directly profit by them: what then?

But suppose, sir—for this is the argument—sup-



pose nobody should be helped but the Western people? It is something to help them, especially as we shall not injure others thereby. It is something to help them; for I reckon them among the American people. And to know that we have given a sturdy Western man one hundred and sixty acres, which he accepts on the condition that he shall cultivate them, is to be certain that we have established at least one family. Besides, sir, the Eastern States vote land to the Western railroads, that custom may come to them from the far West. May we not, then, vote land to the Western men, that we may have permanent Western customers? It is an argument in favor of the grant of alternate sections to railroad companies, that the greater chance of settlement increases the value of the sections retained. If that is so, then is it more true that the settlement, the real occupancy and cultivation, of one quarter section will give additional value to the others? The argument, sir, is cumulative.

One mode of argument used to defeat a bill of this character, is to drive the sensitive from its advocacy by assertions that it is a means of courting popularity among a certain class of citizens, and that none but the Gracchi will buy the people with their own lands.

What the motives of others may be, I know not; but for myself I can say, that if any portion of our fellow-citizens could, upon ordinary grounds, be hostile to this bill, it would be likely to be the commercial and moneyed citizens of an old capital of an old State. Sir, men at my age—I mean, of course, those who have not the presidential chair in view—however sensible to the approval of the public, have usually passed the hopes of much preferment; and a Philadelphia Whig, of all men, would be the least likely to court favor by *ad captandum* advocacy.

Sir, promotion is not a part of the rewards, or even the hopes, of the people of my patriotic State. Good old Pennsylvania has so often gone for the Democrats, that the Democratic party deem her their appanage, without reward. And she has so seldom gone for the Whigs, that chance, and not party exertion, has been, by the unreflecting, considered the cause; and the ordinary rewards of party success have been lavished where they have more directly to pay for labor, or more surely invite supplies. For myself, sir, and those with whom I have had consultation on this question, I can safely say, that when opinions have been changed, interest has been opposed, and the change has been submitted to on the grounds of the change of circumstances, in national and State legislation, and in the condition of the people.

Hitherto, Mr. Chairman, our country has sought to reward the soldier and the sailor (poorly, I am compelled to confess) with lands, or she has bestowed them on institutions for the public good, or she has granted them to the stranger seeking an asylum in this nation. That is, the people of this country have given away these lands to other people. Well, sir, now the people themselves ask for a share. The people were in the nominative—now they are in the vocative. I am willing to place them in the dative case. And if I am charged with vacillation, I can only plead the old adage, and refer to my honored and classical friend from Vermont [Mr. MEACHAM] for its truth, that "circumstances alter cases."

And, Mr. Chairman, who can be injured by the operation of this bill, if passed into a law? There are here in this country more than fourteen hundred millions of acres of public, unoccupied, unappropriated lands—fourteen hundred millions of acres! Mr. Chairman. This is more than an acre and a half to every man, woman, and child on God's earth. (I beg pardon for the seeming irreverence, but "the earth is the Lord's, and the fullness thereof.") More than an acre and a half to every man, woman, and child—black, white, or red! And we are told by a good poet, who was an equally good historian, that in the most flourishing condition of his native country, in its most high and palmy state, every rood of ground maintained its man!

The honorable gentleman from Maine [Mr. FULLER] spoke of the provisions of this bill as unequal and unjust. Unequal as not being for the "good of all," because the land is given only to the poor. Not for the good of all! Do men erect prisons for the benefit of some or the good of all? Do we establish philanthropic institutions for the

good alone of their inmates, or for the credit and good of all? Do our States erect hospitals, assist asylums for the deaf and dumb, for the benefit only of the patients, or is it for the good of all?

Mr. Chairman, is it not for the good of all that certain persons are relieved from distress? Is it not for the good of all that certain persons are redeemed from the degradation of vice and led away from the daily temptation to commit crimes? Is it not for the good of all that the example of degraded character be abated, in order that the baleful influences of its pestiferous atmosphere be diminished? Is the wealth of the rich man safer with poverty around him, goaded by envy and want, into rapine?

Mr. FULLER. Will the gentleman allow me to ask him one question? What would you do with the Indians?

Mr. CHANDLER. Sir, we must either feed or fight the Indians.

Sir, every Christian patriot must say, (and none more emphatically or heartily, I am sure, than the honorable gentleman from Maine, Mr. FULLER,) "It may augment my relative consequence to have those around me poor and degraded, and it may serve as a foil to my virtues that they are becoming vicious in their poverty; but my feeling as a man, my possession as a capitalist, and my patriotism as a citizen, are all concerned to have these men honest, comfortable, respectable."

Mr. Chairman, I have already exceeded the length of time which it was my intention to consume when I rose; and I have so far departed from my plan of procedure that I would better close than attempt to recover the argument from which the warmth of my feelings has hurried me away, and from which I have been called by the occasional interruption of friends, whom I have found it necessary to answer. Nor is that all, Mr. Chairman; the "public lands," though seemingly a rough, unattractive subject for consideration, have been suggestive of other thoughts than those of arid waste or solitary wilderness. The prairie land of our common country has supplied flowers, beautiful to the sight, and redolent of sweets. If I have been unable to collect and combine them, I at least have assisted to prove their existence and point to their locality.

I shall vote for this bill, not because something may not be said against it with good argument, but because, on the whole, all circumstances considered, the balance of argument is in its favor. My friend and colleague [Mr. MOORE] proposed to the last Congress a similar measure, upon which I doubted; and the honorable gentleman [Mr. JOHNSON] who presents the bill was also the parent of a similar bill in the same Congress; both gentlemen were entitled to respect and credit for their boldness in meeting what was then so unpopular.

This bill, however, will pass, and I think this session; but, at any rate, it will pass. It is founded on the progressive character of the institutions of our country, and is therefore a part of the destiny of our legislation.

Sir, other men may wear the civic wreath which the nation weaves for those who serve their country in lofty position, or they may be graced with the laurels prepared for those who defend her in the hour of peril, and their names may be inscribed upon the imperishable record of national glory; while no crown shall be woven, nor column be reared to the humble working legislator, who prepared or presented the homestead bill. A consciousness of duty performed must be his present remuneration, and his reward in the future must be the lowly inscription of his name with those who loved the people.

If the views which I have taken of the main provisions of the bill now under consideration are not incorrect, then I think we may conclude that the plan of granting quarter sections of land to actual settlers, comes to us with the following, among many other negative and positive claims, upon our favorable consideration:

First. It is not in violation of any provision of the Constitution of the country.

Second. No power of Congress is exceeded by such grants.

Third. It grants no favor to one which is not free to all. And if the granted lands are less accessible to the Eastern than to the Western resident of these States, that is only the result of accidental location, and is fully balanced by other

general legislation, which, from similar causes, operates to the advantage of the East.

Fourth. It assists the unfortunate, and multiplies private comfort, domestic happiness, and social propriety.

Fifth. It tends to free the cities from a too-crowded population, always unfavorable to order.

Sixth. It wastes no domain, but rather, if fairly carried out, gives additional value to the contiguous unoccupied portion; and while it confers on the citizen the real title of "lord of the soil," which the Constitution allows in theory, it secures his attachment to his own, and becomes a pledge of his love and devotion to the country of which he now forms a part.

With sentinels thus placed along our outer and our central frontiers; with men thus bound to the soil and the Government, the constant expansion of this nation suggests no apprehensions for its peace, or for the perpetuity of its institutions. The furthest outpost on the frontier is occupied by those who own the soil, and are a part of the nation. With them peace and order are the truest private interests, as well as public blessing; and instead of being hunters of men and beasts, assimilating to savage life and savage feelings, they are the messengers of order, peace, and prosperity.

Thus peopled, let our limits extend to the extremity of the Pacific Isles. Let them be stretched out North and South, from the outer verge of the torrid to the border of the frigid zone. Let them expand. It will be but an extension of popular virtue, republican simplicity, and world-teaching example.

"From Darien to Davis, one garden shall bloom,  
Where war's wearied banners are furled;  
And the far-scented zephyr that wafts its perfume,  
Shall silence the storm of the world."

Mr. JENKINS next obtained the floor, but yielded to

Mr. NEWTON, who moved that the committee rise.

The motion was put and carried in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 7, and had come to no conclusion thereon.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to introduce the following resolution. I ask that it may be read for information.

It was read by the Clerk, as follows:

Joint Resolution in regard to the Public Printing.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of the joint resolution of 1846, "directing the manner of procuring the printing for the two Houses of Congress" shall not be so construed as to allow the joint committee of the two Houses to discharge one contractor and employ another; but in all cases where the committee shall deem that there has been unnecessary delay or neglect, the facts shall be reported to Congress, and the committee shall be governed by its direction.

Mr. GOODENOW. I object.

Mr. BROWN. I think gentlemen cannot understand the resolution, if they object to it.

[Cries of "Read it again!"]

The resolution was again read.

Mr. GOODENOW. I withdraw my objection.

Mr. HALL. I object.

Mr. HOUSTON. I have been endeavoring, for a long time, to get the bills upon the Speaker's table taken up and referred. I now ask the House to allow me to have one bill taken from that table, and referred to the Committee of Ways and Means. It is an important bill, and needs early action.

Mr. ORR. I object to its being taken up out of its order.

On motion by Mr. MOLONY, by unanimous consent, it was

Ordered, That leave be granted to withdraw the papers in the case of Silas Clatfield, for the purpose of having them referred to one of the Departments.

On motion by Mr. ALLISON, by unanimous consent, it was

Ordered, That the papers in the case of James Gordon be taken from the files of the House, and referred to the Committee of Claims.

Mr. HOUSTON. I consider it very essential that the bill to which I have referred should be acted upon; but as the House have refused to take it up out of its order, I now appeal to the House

to proceed to the consideration of the business on the Speaker's table. I do not wish that this bill shall take precedence of others, but it is very necessary that these bills should be taken up and referred.

Mr. COBB. I object.

Mr. JONES, of Tennessee. I move that the House do now adjourn.

The motion was agreed to, and the House adjourned to twelve o'clock to-morrow.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. RIDDLE: The petition of James W. Dawson, James Derry, and 500 other citizens of the State of Delaware, praying that the General Government shall no longer traffic, nor permit traffic, in the public lands yet in its possession, but grant them in farms to such citizens, not possessed of other lands, as will occupy and cultivate them; and that the jurisdiction of the public lands be transferred to the States or Territories only on condition that such disposition be made of them.

By Mr. WALBRIDGE: The remonstrance of Henry S. Sherman and 141 others, citizens of Yates county, New York, against the extension of the Woodworth patent.

By Mr. WOODWARD: The petition of the heirs of Captain Hicks Chappell, for commutation pay and interest. Also, the petition of John W. Stucky, assistant marshal of Sumter district, South Carolina, praying additional compensation for taking the census.

By Mr. McNAIR: The petition of William Kaikline and 368 others, citizens of Montgomery and Bucks counties, in the State of Pennsylvania, praying for a mail route from Shippack to Charleston, in said State.

By Mr. GOODRICH: The remonstrance of James M. Pierce and others, of Windsor, Massachusetts, against the extension of the Woodworth patent.

By Mr. BROWN, of Mississippi: Joint resolution in regard to the public printing.

By Mr. GORMAN: The petition of George W. McCarrren, praying compensation for goods taken and destroyed by order of the commanding officers of the United States forces, on the Island of Brazos Santiago, during the late war with Mexico.

By Mr. FOWLER: The petition of 87 citizens of Chatham, Massachusetts, asking for the improvement of Scituate harbor, Massachusetts.

By Mr. McLANAHAN: Resolutions from the Legislature of Pennsylvania, instructing the Senators and requesting the Representatives from that State to vote against the extension of the patent for the Woodworth planing machine.

By Mr. MOORE, of Louisiana: The petition of William Epinet and 55 other citizens of the parishes of Ouachita, Franklin, and Morehouse, of the State of Louisiana, praying for a post road from Columbia to Prairie Jefferson.

By Mr. STRATTON: The memorial of Charles Lippincott and 94 other citizens of New Jersey, asking Congress to pass a law to prohibit absolutely the deportations, banishment, or immigration from foreign countries to the United States of any and all convicts, felons, and paupers, publicly recognized as such at home in their own countries.

By Mr. MILLER: The memorial from a large number of citizens of Missouri, praying Congress for a grant of lands for the improvement of the Des Moines river from its mouth, at Alexandria, to St. Francisville, by slack-water navigation.

By Mr. PEASLEE: The petition of Pearson Cogswell and others, for an amendment of the pension laws, that all invalid pensioners should draw pay from the date of their disability, or from the date of their declaration.

By Mr. ROBBINS: Resolutions of the Legislature of the State of Pennsylvania, instructing their Senators and requesting their Representatives in Congress to use all honorable means to prevent a further extension of the Woodworth patent.

Also, the petition of George B. Zell, John A. Wallace, and 34 other citizens of the Commonwealth of Pennsylvania, remonstrating against the renewal or extension of Woodworth's patent, for various reasons therein stated.

#### IN SENATE.

FRIDAY, April 9, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. HUNTER. This is private bill day, and I move to suspend, for one hour, the execution of the order assigning to-day for the consideration of private bills. If the Senate shall indulge me in that request, I design to ask them to take up the joint resolution for the continuance of the work on the two wings of the Capitol.

The motion was agreed to.

#### EXTENSION OF THE CAPITOL.

Mr. HUNTER. I now ask that we may be allowed, during this hour, to take up and dispose of the joint resolution to authorize the continuance of the work upon the two wings of the Capitol. If we do not take it up now, I do not know when we shall be able to act upon it; and we ought to have some action immediately. The subject should be disposed of either by rejecting or adopting the amendment of the House of Representatives. I move to take it up.

Mr. BORLAND. I am opposed to taking up this subject at this time; but I think that if we

can take it up properly, on any day, according to the view which I take of it, and the purposes which this joint resolution is to serve, it can very properly be taken up on private-bill day, and on no other day, for I do think that it is, for all practical purposes, a private bill, for the benefit of private individuals. I do not, therefore, think that it was necessary to make a motion to suspend the rules in order to take it up to-day, as it would come up very properly on private-bill day.

But one reason why I do not desire it to be now taken up, is this: The chairman of the Committee on Public Buildings [Mr. WHITCOMB] is not here, on account of indisposition, and probably will not be here for some time. Another member of the committee, the Senator from Rhode Island, [Mr. CLARKE], was here the other day, but is not here now. It is true, he did agree that the report should be made, but I think the Senator from Virginia, [Mr. HUNTER], who reported the joint resolution, admitted, or at least the Senator from Rhode Island, I am very sure, did say that he concurred in the making of the report. He did not concur in the report itself, but allowed it to be made. Thus the committee were divided, and the report did not receive their full concurrence. I am not authorized to say that the Senator from Rhode Island would make any strenuous opposition to the resolution if he were here; but it is well known that he is decidedly opposed to it; and if he were here, he would, in my opinion, offer such reasons in opposition to it as would probably satisfy a majority of the Senate. His reasons are such as to satisfy me. He did not, however, ask that this matter should be laid over until he came back. He did not desire me to ask it; but, at the same time, he expressed his opposition to the measure; and I am perfectly satisfied, that if he were here, he would offer reasons in opposition to it, such as would satisfy my mind, at least.

Mr. HUNTER. I can only say, that if the Senator from Rhode Island had asked for the postponement of this subject until he should return, I would never have pressed it. I asked him to allow me to report the joint resolution. It is true, he was opposed to it; but he allowed me to report it. I knew that he was to be absent, and that unless the joint resolution was reported before he went home, there would be no quorum of the committee left. I hope it will be the pleasure of the Senate to consider the subject now.

Mr. RUSK. I would inquire of the Senator whether he proposes to go on with this subject after the hour arrives for the consideration of private bills? If he will consent that it shall not interfere with the private bills on the Calendar, I shall not object to his motion. But if we may judge of the future by the past, we may expect a debate all day on this measure if it shall be taken up. I know there are cases of the utmost hardship where bills for the relief of parties are upon the Private Calendar. There is one case to which I wished to call the attention of the Senate.

Mr. HUNTER. I will consent to give way in one hour if the joint resolution shall not be disposed of by that time.

Mr. RUSK. Then I do not object to it.

The motion to take up the joint resolution was agreed to.

The question was on concurring in an amendment made in the joint resolution by the House of Representatives. The resolution as passed by the Senate, proposed to appropriate \$10,000 for continuing the work temporarily. The House amendment increases the amount to \$500,000. It is in these words:

Strike out all after the resolving clause, and insert:

"That there be and hereby is appropriated out of any money in the Treasury not otherwise appropriated, for the period between the passing of this resolution and the end of the fiscal year terminating June 30, 1853, the sum of \$500,000, for the continuance of the work on the two wings of the Capitol."

Mr. BORLAND. Mr. President, I place myself in a position before the Senate which is, I well know, not acceptable to a majority here—a position, sir, which is peculiarly unpleasant to myself. I am very sure that no member of the Senate has been more strongly appealed to than I have—none whose feelings have been more wrought upon than myself, in respect to this measure. I know that a large number of individuals, poor men, laboring men, have been brought here to work upon the extension of the Capitol. I know their destitution—I know their suffering. Every day, and

almost every hour of the day, appeals of the very strongest kind are made to my feelings in their behalf. I am not insensible to those appeals. I am prepared to-day, at this very moment, to vote an appropriation of money to pay these men every dollar that is due them, to pay them liberal wages for every day they have been here. I am willing to go to the extent of paying their expenses to their homes, in order that they may be placed in the situation from which they were brought here; so that they shall not suffer by any act of any department of the Government, however unauthorized that act may have been, and as I believe they have been in this instance. I will not leave the laborer, who is poor and innocent, to suffer, if I can help it.

But I cannot give votes here upon a public measure—a measure which is to involve not the mere amount of \$500,000, now proposed, but the expenditure of millions besides, the extent of which no one can tell, upon considerations of this kind. I cannot take counsel of my heart, whose sympathies are with the poor, to violate my sense of duty, however strong the appeals may be. I do not believe I have a right to vote for this appropriation, because I do, in my conscience, believe it is for a purpose that is not only unnecessary, but improper. For such a purpose I cannot vote away millions of the public money—and, as we all must see, this, though but half a million, is but the beginning of millions upon millions which are to follow it, and be swallowed up in the same vortex of extravagant expenditure. I do not propose, now, to give my views at length upon this subject. I must express my regret, however, at the absence of a member of the Committee on Public Buildings, who, if here, would, in my opinion, be able to give, and would give, such reasons against this bill as would satisfy the Senate of the impropriety of continuing the work, at least in the way and upon the plan in which it has so far gone. He has given the subject a thorough examination. I think he understands it. I know he condemns it.

A resolution has been adopted by the Senate, directed to the Committee on Public Buildings, which has not yet been answered; but which, in my opinion, is very material to an understanding of this question. It was an inquiry as to the extension of the grounds, which will be rendered necessary in accordance with the present plan for the extension of the Capitol, so far as that plan has been shadowed forth. This plan will involve the expenditure of a large amount of money for the purchase of additional grounds. It is the opinion of some, that additional grounds will have to be purchased at a cost of at least \$1,000,000, perhaps more. But, inasmuch as the Senate have agreed to consider the resolution to-day, of course this consideration will not weigh with them, and I shall not press it.

In justice to myself, I must say a word about another inquiry which was directed to the Committee on Public Buildings, in respect to the strength and safety of the foundations of the two wings of the extension of the Capitol. I did believe these foundations were insecure; that they were composed of improper materials, and were improperly constructed; and my resolution of inquiry was intended to ascertain the facts, in those respects, from competent persons. The Committee on Public Buildings applied to the Bureau of Engineers for officers to make personal examination, and report upon the points in question. Four officers were sent for the purpose, two engineers and two topographical engineers, and they have reported. They sustain, by their report, the good character of the work, saying it is good in materials, good in construction, good in workmanship, and altogether sufficient in structure and strength to sustain all the weight that may be placed upon it. The resolution, to that extent, is answered; and, of course, the answer will be received as satisfactory to a majority of the Senate. Whatever, therefore, may be my opinion of that report, or of the judgment of those officers, I am unwilling to place myself before the country in the attitude of a critic of a matter involving science, engineering, and architecture, when I pretend to neither science, nor practical knowledge enough of either of these subjects to give effective weight to my opinion in opposition to such authority. But, sir, for myself, I should be uncandid if I did not say that my opinion is not changed, and my judgment is not satisfied.

# THE CONGRESSIONAL GLOBE.

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32D CONGRESS, 1ST SESSION.

MONDAY, APRIL 12, 1852.

NEW SERIES.... No. 65.

It may be of no great moment, yet I will state it as a fact, as part of the reason of my opinion, that I went in person, together with a gentleman, who, I believe, is better qualified by practical experience than any man in Washington city, or any who has been here for years, whether engineer, architect, or not, to judge of such work—and he is a member of this Senate—and examined this work. Among other things, we gave particular attention to the mortar used in constructing the walls. With some care we selected what seemed to us, and as I believe, an average specimen of mortar. I have it here, for the purpose of exhibiting it to the Senate. This mortar had been in the walls for months; and yet, in one hour from the time it was taken out, it was in the condition you here see! Sand, sir; sand, and nothing else; save here and there a few detached and uncombined particles of a dirty lime! Whether that be cement or mortar, such as competent architects would use in the foundation of a building which is to be of such immense size and weight, I of course do not pretend, in science, to determine. But this I do say, that so long as my own eyes can see, and my own fingers can feel, or my own memory serves me, as to what I have seen and felt in other mason work, I never will believe that it is such mortar as any man of common sense would permit to be used in building a house for himself, or any competent builder would use in doing the work. These scientific gentlemen, however, have pronounced it all good—very good; and that, I presume, will be oracular and conclusive with the majority here, who mean to pass the bill, any how. But, sir, I should do injustice to my estimate of the professional qualifications of these engineers, if I did not say, as I verily believe, that were they all, or either of them, employed upon a public work of this character, there is not one of them who would not feel dishonored, if such a piece of work as this should pass from under his hands.

But, sir, these two boards of engineers went further, and passed judgment not only upon the work, but upon the architect also. One set indorses his accomplishments, and the other his honesty. Personally, Mr. President, I know nothing of this architect; but this I do know, as does all the Senate, that when his name was sent here by the President, for an inferior appointment in the same line of business—that of assistant architect upon one of our public buildings in one of the States—he was rejected; and thereby pronounced incompetent. Yet, sir, these gentlemen say he is both accomplished and honest, and I shall not now controvert their opinion. But let it be noticed, and borne in mind, that in the very teeth of our rejection of him for an inferior appointment, the President has deemed it proper to give him the very highest appointment of the kind in the Union, wherein he is to have the disbursement of millions of dollars, under circumstances which publicly preclude the Senate from any control over the appointment. So much I do know, and the President knew it, and took such occasion, it would seem, to manifest his respect for the judgment and wishes of the Senate. While, therefore, Mr. President, I have not denied, and mean not to deny, that this architect is both accomplished and honest, as this scientific board of engineers, without being questioned, have certified him to be; and while the President has made him chief architect of the most important public edifice we have ever undertaken to erect, with almost unlimited control over the public money, I cannot forget, and wish others to remember, that it is all in despite of the judgment of the Senate, who, upon the only occasion he was ever before them, and that for an inferior appointment, rejected him.

I am opposed to the extension of this Capitol, because I believe it is unnecessary. I do believe (and there are others who agree with me) that the room within the external walls of the present building is all-sufficient, if properly appropriated, for all our purposes, and will be for fifty years to come. There is, in my opinion, no necessity for any extension; and it is no argument in favor of

it, to tell me that we have already expended upon it \$100,000. Why, if the extension is not necessary, (and surely it is improper to expend money for it, if it be not necessary,) is it not better to sacrifice the \$100,000 already expended, however unwisely, than to sacrifice the millions which must be consumed in the completion of an unnecessary work? I think so. And yet Senators use this as an argument. Sir, if it be an argument at all, it is, to my mind, conclusive against the proposed appropriation. If, because we have already expended \$100,000, we are bound to continue the work to the extent of \$500,000 more, lest we lose the first \$100,000, then the expenditure of the additional \$500,000 binds us to a completion of the work, whether we want it or not, no matter if it bankrupt the Government to furnish the means. Such an argument, sir, is like a wedge in a log of wood. If the point but once effect an entrance, the maul of Executive patronage and management will not fail to drive it home to the very head, until the Treasury is riven to the center.

But even if the extension were necessary, I am opposed to it on the plan proposed. It may be deemed presumption in one of my poor judgment, yet I do say, that, in my opinion, the proposed extension of the Capitol, with such wings as are spread out before us, and the proportion they sustain towards the rest of the building, will make a structure which I can call by no other name than *architectural monstrosity*, the like of which has never been seen in any civilized country on the face of the earth. If it may not be deemed profane to make such an allusion, I would say that we should violate no command of Scripture, if we fell down and worshipped it; for it will, indeed, be unlike anything upon the face of the earth, above the earth, or under the earth. It will resemble, more nearly than anything which suggests a comparison, a mammoth brick-kiln, or some Mexican hacienda, which, as every one knows, is the very burlesque of all architectural proportion. Viewed now from a level from the grounds on the east front, the present building has too little elevation. It is altogether too low for good or imposing effect. It is too squat upon the ground. It is extended too much for its height already. The only good view we can get of it is from the west—from below the hill, whence it derives the advantage of the hill's elevation. From that point of view, it is, indeed, a noble structure, fine and accurate in its architectural proportions, and of imposing appearance. But, I repeat, from a level, on the other side, it is already too low. Then extend it further, in the same elevation, spread out to double the length, with the same height, and what will it be? It will be of a new order of architecture truly; and, unless some one will suggest a title more characteristic, I propose to call it the *Low order*.

Consider also the inconvenience that will result from the proposed arrangement. The two Chambers of Congress will be about six hundred feet apart; and in conducting the intercourse of the two Houses, the distance to be traveled backwards and forwards will be something like a quarter of a mile!

Then, again, when these two wings are erected, and the two Chambers are established, one in each, what is to be done with the present building? It will be a series of great lumber rooms, making up an immense covered way from one Chamber to the other! Nothing more.

I have now very briefly stated some of the grounds of my opposition to this bill. I did not expect, and have not attempted, to state them in full. I have felt from the first that all I, or any one else, could say in opposition, could not weigh a feather against the predetermined and fixed purpose of a majority to pass it. What I have said, therefore, has been for my own satisfaction, in order to place upon the record, and for the information of my constituents, some of the reasons which govern my vote. I have no more to say at present.

Mr. WALKER. I should like to have the reports of the engineers read.

The Secretary accordingly read them. They are appended to the report of the Committee on Public Buildings, which was made in response to a resolution of the Senate directing the committee to make a thorough examination of the work thus far executed on the extension of the Capitol, as to the uniformity of the strata upon which the walls rest—as to the quality and dimensions of the stone, and quality of the mortar used—as to the character of the work, the mode of its construction, and its power of resistance—and as to every other matter and thing connected therewith as might, in their opinion, affect the stability and permanency of the whole structure. By that resolution the committee was empowered to bring to their aid such of the United States topographical engineers, and other competent persons, as they might think proper; and hence they addressed letters to General Totten, of the Engineer Corps, and to Colonel Albert, of the Topographical Engineers, requesting them, each, to detail two competent officers for the purpose of making such an examination as was contemplated by the Senate. General Totten detailed Captain Frederick A. Smith and Brevet Lieutenant Colonel Mason, both of the Engineers; and Colonel Albert detailed Lieutenant Colonel James Kearney and Captain Thomas J. Lee, of the Topographical Engineers. The results were reported separately by the engineers of the two corps, whose reports were read at the request of Mr. WALKER, thus:

WASHINGTON, March 25, 1852:

Sir: On the subject of the resolution of the Senate of the 16th instant, relating to the foundations of the extension of the Capitol, referred by you to us on the 23d, with a request for an opinion, we have the honor to state that, after an examination sufficiently minute to satisfy our minds, we have come to the following conclusions on the different points presented:

"1. As to the uniformity of the strata upon which the walls rest."

Excavations were made under our direction at the four corners of the new work; that is, at the northeast and northwest corner of the north wing, and the southeast and southwest corners of the south wing. These excavations extended from six to ten feet below the bottom of the foundations, except at the latter point, where it went only to the actual level of the bottom of the foundation. The ground on which the foundations were laid was thus examined, as well as the underlying stratum, at three points, and we are enabled to express a confident opinion that the stratum of gravel, several feet thick, (overlying a stratum of hard sand,) on which the foundations rest throughout, is of a uniform incompressibility, and that there is no reason to apprehend a settlement of the walls from its giving way.

"2. As to the quality and the dimensions of the stone, and quality of the mortar used."

The quality of the stone (gneiss—commonly called blue-rock) is excellent—probably no better could be obtained for foundations. As a general rule, the stones are of decidedly large dimensions. In some few places, the small stones generally used, in construction, to fill up, occur in larger quantities than we would consider desirable, but nowhere to excite our apprehension as to the stability of the structure.

The mortar used for the bedding or lower part of the foundation, resting directly on the ground, is throughout of hydraulic cement and sand—as it should be. In some other parts a mixture of cement and lime with the sand was used, in good proportions. In other portions, say about one half of the whole above the bedding, no hydraulic cement was used in the mortar. This we consider an error, as pure lime-mortar of the common fat limes, without cement, will never set in the interior of thick walls.

The best illustration of the truth of this will be found on inspection of the specimens of mortar submitted herewith to the committee. Specimen A was taken from the foundations of the northwest corner of the main building of the present Capitol; taken from about a foot inside the face of the wall. It was laid nearly fifty years ago, and is now soft and without cohesive power. Specimen B was taken from the foundations of the southern wall of the main building of the Capitol. It was laid some seven or eight years ago, in making repairs. This mortar is similar in character to the first. Specimen C was found on certain stones, cut out, some years ago, of the cellar walls under the Rotunda, where the furnaces were put in. This specimen is much drier than the others, owing to its exposure to the dry and hot air of the furnace-rooms; but it will be perceived that it is nearly as destitute of cohesive power as the other.

It is by no means to be understood, however, that the stability of a wall is to be considered as dependent upon the use of cement. The introduction of cement into general use, has been of quite recent date in this country; and in many large and substantial structures not a particle has been employed.

"3. As to the character of the work, the mode of its construction, and its power of resistance."

The character of the work and the mode of construction we consider excellent, with the exceptions alluded to; and in no part do we perceive deficiencies to warrant, in



us, an apprehension as to the power of these foundations to resist the pressure of the superstructure.

It may be proper, under this head, to notice a feature of the construction, proposed by the accomplished architect in charge. Immediately upon the foundation walls, as now existing, he proposes to lay two courses of masonry making a depth of four feet—composed of the largest sized blocks, carefully laid in cement mortar, without lime; this to equalize the pressure of the superstructure over the whole thickness of the wall; an excellent arrangement, which seems to us to promise full security against any anticipated danger.

4. Under this general head we have perceived nothing calling for further remark.

We respectfully, therefore, submit it as our opinion, that the existing foundations are sufficient for their purpose.

Respectfully submitted.

FRED. A. SMITH,  
Captain Engineers.  
J. L. MASON,

Captain Engineers, Brevet Lieutenant Colonel.  
Hon. R. M. T. HUNTER,  
Chairman of Committee on Public Buildings,  
United States Senate.

BUREAU OF TOPOGRAPHICAL ENGINEERS,  
WASHINGTON, March 30, 1852.

SIR: At the request of the Committee on Public Buildings of the Senate, we have made a careful examination of the foundations for the extension of the Capitol, and we have the honor to report: That we find the masonry rests uniformly upon the original gravel and clay of the hill; the foundations being sunk to various depths below the present surface in order to attain this. The foundation descends by steps slightly inclining towards the hill, and the breadth of the walls increases as they descend below the surface. The depth of this gravel and clay we did not deem it necessary to ascertain with precision, as it is known to be considerable.

The stone employed in the foundations is granitic, and of an excellent and durable quality. The lower courses, for some four feet of height, are laid in a cement of hydraulic lime and sand, which, at the points examined by us, has already attained a sufficient degree of hardness.

The masonry of the rest of the walls is of the same kind of stone, laid generally in mortar composed of fat lime, hydraulic lime, and sand. The body of the walls is of rubble work; the buttresses are coursed with a rubble backing. Proper attention seems to have been observed in selecting, for the points requiring the greatest resistance, stones of the largest manageable size, as, for example, at the angles, and wherever the masonry has been carried to the greatest depth; whilst upon the east fronts, and especially for walls intended to support colonnades only, stones of smaller dimensions have been used; showing a sufficient care in the selection and distribution of the materials.

A greater proportion of hydraulic lime might have been advantageously used in the upper portions of the masonry, especially in the parts last built; but we think it probable that as the season advances, this mortar will set favorably, except such parts of it as may have been injured by the frost. This is shown by the difference in hardness of that having a favorable exposure, and that laid in the early part of the winter.

Before the materials for the superstructure can be brought upon the ground and prepared for the work, sufficient time will have elapsed to show and to arrest the effects of the frost upon the mortar near the exterior part of the foundation. It would also be advisable that the walls be left exposed as long as practicable, before embanking against them.

The stone and mortar used in the masonry of the foundations of the Capitol are inferior to that of the extension, according to the comparison we were enabled to make during our late inspection, and also according to the recollection of one of the undersigned, who had numerous opportunities of examining the present building during its progress. At one point of the old wall examined, the mortar was found still soft. The sample taken, however, hardened in twenty-four hours after it had been exposed to the air.

In thus expressing our belief in the sufficiency of these foundations, we have reference, of course, only to their ability to support the structure which it is proposed to erect upon them.

In conclusion, we have to add, that we received from the architect every assistance, and all the information we desired, respecting the work. The condition in which the work was left at the close of the last season's operations, and that in which it still remains, is the best evidence of the honest intentions of all concerned in it.

Respectfully submitted:

JAMES KEARNEY,  
Lieut. Col. Topographical Engineers.  
THOS. J. LEE,  
Captain Topographical Engineers.

Mr. BRODHEAD. I desire to submit an amendment that will test the question as to whether we will proceed to prosecute this work—whether we will proceed to the expenditure of \$5,000,000 more, or whether we will abandon it, after having expended \$100,000, and pay the men.

Mr. HUNTER. I desire to ask a question of the Senator; I do not propose to speak on this. Why does he say five millions? The estimate is two and a half millions.

Mr. BRODHEAD. I understand it will take about five millions. Two and a half millions is the estimate; I think that sum can be much better expended in some other parts of the country. If we get through with four or five millions for the work, including the extension and improvement of the grounds, I shall be very glad. I do not propose to discuss this question. I desire to act, and act decisively. I offer an amendment, to strike

out all after the word "that," in the resolving clause, and insert the following:

"To enable the architect, appointed by the President of the United States, in pursuance of the act of Congress, approved February 13, 1850, to remove the walls designed for the extension of the Capitol, restore the grounds, and pay the laborers up to the present time who have been out of employment, in consequence of the suspension of the work, the sum of \$20,000, or so much thereof as may be necessary, be and the same hereby is appropriated, and directed to be paid to said architect, out of any money in the Treasury not otherwise appropriated; the accounts of said architect to be settled by the accounting officers of the Treasury, as accounts are now by law audited and settled: *Provided*, That said architect shall pay all the laborers who have been out of employment, in consequence of the suspension of the work, the same amount which they would have earned had the work not been suspended or the appropriation exhausted."

Mr. BRADBURY. Mr. President, I have felt constrained, after careful consideration of the subject, to doubt the propriety of passing this bill. It will at once be perceived, that the true question is, whether we will go on with the contemplated enlargement of the Capitol, or abandon it altogether.

This enlargement contemplates the erection of two vast structures, one on each side of the present Capitol, at a cost of several millions of dollars, for the accommodation of the Senate and House of Representatives. It contemplates the abandonment of the present Capitol as the place for the meeting of Congress. Both the Senate Chamber and the Hall of the House are to be abandoned. We, in effect, shall declare, that after millions expended in the erection of this magnificent structure, it is a failure—that Congress cannot be accommodated in it—and two other buildings are necessary to furnish the accommodation which was designed to be provided by this. I cannot see this Chamber or the Hall of this House abandoned by Congress without regret. It appears to me to be both inexpedient and unnecessary. This Chamber is large enough for the accommodation of the Senate for the present, and for a long period to come. There is room for additional seats for the Senators from all the new States that are likely to be soon admitted. It is not very probable that the high privilege of admission as a State into the Union will be cheapened by admitting them too hastily. As to the Hall of the House of Representatives, it is said there is difficulty of hearing in it. But are we sure that this difficulty will be avoided in the construction of the new Hall?

The embarrassment in the transaction of business seems, however, to arise quite as much from the use of desks, and the consequent occupation upon other matters, as from any defect in the Hall itself. Remove those desks, and bring the members more compactly together, so that instead of being distracted by other subjects, their attention may be given to the questions immediately before them, and much of the inconvenience now complained of would be avoided. The room is sufficiently spacious, unless the number of Representatives is very considerably increased—and there appears to be a disposition averse to enlarging the number to any considerable extent. If new Halls are constructed as large as are contemplated, and with galleries as spacious as is proposed, I greatly fear, that difficulties and inconveniences will be experienced, quite as great as those we are now seeking to avoid. I do not believe it will be likely to work any improvement in the legislation of Congress, or the character of the discussions, to provide immense galleries, and all the arrangements for a public exhibition, in order to secure the attendance of great crowds of spectators. The debates now partake full enough of the character of declamation, rather than a discussion of the questions under consideration. The facilities now enjoyed afford tolerably ample opportunity for ascertaining what is going forward.

Regarding the present Capitol as too commodious to be abandoned, I cannot feel justified in going on with an experiment, without necessity, and at great expense, to erect buildings, for the purpose of obtaining halls, which, when completed, may not prove any more convenient than those we now have. I would much prefer to see a portion of the money these buildings would cost employed in improving and embellishing the public grounds, from the Capitol to the Monument. I will only add, by way of precaution, that while I would discontinue the proposed work, I utterly repudiate all idea of abandoning this place as the capital of the Union.

Mr. HALE. I simply rise to express a wish that we may have a vote.

I concur fully in the sentiment of regret expressed by the Senator from Maine, that we should have to abandon this Hall. But, Mr. President, we have got to do it; and I want to do something for those who remain after I leave. It never occurred to me that one of the objects of the extension was an improvement in the character of the debates; but if there is a possibility of such being the effect, by all means let the work go on. I rose to express a hope that we will have a vote, and that no Senator will make a speech unless he thinks that he will influence some one. I do not think that I can do so, and therefore I pray for a vote.

Mr. BRODHEAD. I concur in the idea of taking the vote now. I had intended to make some remarks in favor of the amendment, but I comply with what I consider to be the general desire in the Senate, to have the vote taken at once. I ask the yeas and nays on the amendment.

Mr. DOUGLAS. I merely wish to ask one question before I vote on the amendment.

I am very clearly of opinion that the present Capitol is large enough to accommodate the House of Representatives and the Senate, either in regard to the Halls or the other conveniences. If the object, in abandoning the work, is with a view to the removal of the Capitol to the center of the Republic, it may be, in the opinion of some, a proposition worthy of consideration. If, on the other hand, the object is to abandon it, to leave it merely as it is, I cannot consent to that. If it contemplates, as an ulterior object, the building of a Capitol in a more central situation in the Republic, perhaps Western members should understand that object before we take a vote on the question.

Mr. BRODHEAD. I think I can answer the inquiry of the Senator from Illinois. I do not think that the building of this extension of the Capitol will at all influence the decision as to whether this will be the permanent site of the seat of Government, or not. I do not think that the expenditure of four or five millions of dollars to build this extension, will influence the action of our Western friends on this question. If we expended twenty millions, I do not suppose that fact would induce them to vote one way or the other. If it is desirable to have the Capitol removed to some more convenient place, I presume that this trifling expenditure of four or five millions will not affect the question.

Mr. WALKER. I shall vote for this amendment, and I desire to state why I shall do so; for whether Senators may feel an interest in my views or otherwise, there are those who may; and, as the motives of Senators in many of the votes which they may give are liable to be inquired into at home, I will give my reasons for my vote on this occasion, in order that my motives may not be misunderstood. However, Mr. President, I shall do so very briefly. This amendment proposes to stop the work where it is, so far as the erection of the wings of the Capitol is concerned. It proposes also to restore the grounds to the condition in which they were before this work was commenced. It further proposes to pay the laborers what they would have earned, if they had been continued in employment. The last proposition, I think, is fair and just to them, and the first, and perhaps the best and most expedient thing that the Government can do in regard to the work itself. I believe that the plan adopted is one which will never answer the purpose designed, or, at least, that it will not answer that purpose half so well as many other plans which might be adopted. I believe that it will destroy the architectural beauty of the Capitol altogether—that it will make it what has been very justly termed by the Senator from Arkansas, "an architectural monstrosity." It will render it inconvenient to such a degree as to render it almost impossible to transact the business of legislation, especially at the close of a session. I am of opinion also that the proposed enlargement is altogether greater than is necessary—perhaps as large again as the dimensions contemplated by the committee which had that matter under charge at the last session of Congress. It is detached from the rest of the building; it will run beyond the limits of the public grounds; and it will incur an enormous expenditure, which, as has been well observed, is chiefly to be incurred for the benefit of private individuals.

But, sir, taking another view of the matter, I must say that I shall be opposed to the stopping of this work, if it is to operate to the injury of those who have in some measure been made helpless by its delay, and on whom the action of Congress has imposed a burden which is hard to be borne. I allude to the laborers employed on the work. I have listened with great attention to the report of the engineers who have examined this work. I do not profess to be an architect myself, nor a mechanic experienced in this kind of work. I do not know how many Senators have inspected the work, but I know that some of them have; and, so far as I have heard them speak in regard to it, not one of them has spoken otherwise than in terms of dissatisfaction; and when we come to reflect upon the reasons of that dissatisfaction, it seems to me perfectly astounding that such a report should have been made. Everybody knows the difference between the tenacity of India rubber and common sand. It requires but little experience to detect the difference. Every one knows what would be the effect of exposure of a wall to the weather, and what would be the result at the distance of four feet within. Any one can tell the difference in the capability of a cobble-stone and a shell-stone, or a solid block of stone used in the foundation to sustain the superstructure; and so far as I have heard Senators speak of this matter, who have personally inspected it, their opinion is, that the work thus far has been improperly constructed.

My investigations in respect to the material of which these foundations have been constructed, have led me to several discoveries. I passed to the side of the wall, and took my cane—which is a slender one, and not pointed with iron—and I put it in one of the cracks, and actually run it to the full length of the cane into the wall. I noticed that a part of the filling of the wall was of brickbats, and I spoke of it to several persons. They said it could not be possible. I assured them it was so; and, that I might be doubly certain myself, I went to the place where I had seen the brickbats before, and, lo and behold! they were not there. It was during a little rainstorm, and I looked in vain for them where I had seen them, for the brick and mortar had all fallen out. I then looked further, to see if I could find similar places; and I can go with Senators and show them where I found five hundred brickbats. I can go further, notwithstanding the report. I will say that I can find places where, with a common teaspoon, I can scoop, from the outside of the wall, the mortar, as easily as a man can scoop up mush—or hasty-pudding, as it would be called at the North. [Laughter.]

Will you tell me, then, that this is the proper kind of material with which to construct a wall like that? Have I never seen a log-cabin put up? Have I never seen a common chimney, or brick building pulled down? And have I not seen the great difficulty with which the mortar is removed from the stones and brick? It is one of the most difficult things to be done; and, instead of using a mason's trowel, they most commonly make use of a hatchet. Yes, sir, with my little finger-nail I can remove the mortar from the outside of that wall. I can show a distance of four feet up and down that wall where there is not a stone as large as my head, and I defy all the engineers between this city and Kamschatka to point out one as large as my head. And then, to help out this wretched material, they have inserted brickbats, which fall out with every rainstorm.

These are the facts; and it seems to me that Senators cannot have inspected that wall, or they would not have their brains so turned round as to look with favor upon such a report as we have had on this subject. I know not the men who make the report; but God Almighty only knows how they can give such a report as that. To me it is utterly inexplicable, and probably will be to the day of my death.

I repeat, again, that I can go, and with one finger pick out brickbats from the outside of this wall, which has been exposed for six months. I have done so. Some of the Senators have examined the walls with me; and so far as we have done it, it has been done, not as builders or architects—not as men of science, but as Senators; and those with whom I have made this examination have expressed themselves dissatisfied with regard to the quality of the work. Then, while I would

not do anything to injure a single person who has been kept here during a long and severe winter, waiting for employment—while I would not deprive them of a single dollar, but would pay them—as the Senator from Arkansas [Mr. BORLAND] has said he would do—a month's wages, and, if justice requires it, would pay them after they get home, I am not for going on to continue the building; in the first place, because the character of the structure, as commenced, is not such as is suited for the purpose for which it is to be used; and, secondly, because it is to be erected on a foundation of such a character that I do not believe those who have made a favorable report upon it will live to three score years and ten, or even to half that period, before they will regret the opinion they have given. I cannot believe that such a structure can be built up upon brickbats and cobble-stones and not crack and fall to pieces.

The yeas and nays were then ordered.

Mr. CASS. I want to say one word, and only one word. I voted against this appropriation originally. I did it on the ground that the subject had not been at all considered. It was brought up, put in one of the general appropriation bills, and pushed hastily through without due consideration. I appreciate as much as any one the necessity of other rooms for the House of Representatives, and, in some measure, for the Senate. I have no doubt that the room now occupied by the House of Representatives is the worst room in the world for hearing—the worst room in the world; and I think that every just consideration in regard to correct legislation, as well as what is due to the public, requires that they should have a better room. What I was afraid of was, that the architect would sacrifice everything to the beauty of architecture. I was afraid that, instead of looking to the just principles of acoustics, he would look to the ornaments of the structure, and that we should have the same number of breaks in the room as we have now. But I am told that he has avoided that, and that it is to be a plain room, where the sound will be reverberated perpetually till it is all expended.

We have gone on so long that I think we should continue the work, for I don't like this eternal vacillation in legislation on any subject. Although I voted against the proposition in the first place, I think we should now go on till the work is completed. If it were a simple vote for the commencement of the work, I should vote now as I did before.

The question was then taken and resulted—yeas 11, nays 30, as follows.

YEAS—Messrs. Adams, Borland, Bradbury, Brodhead, Chase, Dodge of Iowa, Morton, Norris, Wade, Walker, and Weller—11.

NAYS—Messrs. Bell, Berrien, Brooke, Cass, Clemens, Cooper, Dawson, Dodge of Wisconsin, Douglas, Felch, Fish, Geyer, Hale, Hamlin, Hunter, King, Mallory, Mangum, Miller, Pratt, Rusk, Seward, Sebastian, Shields, Smith, Spruance, Stockton, Sumner, Underwood, and Upham—30.

So the amendment was rejected.

The PRESIDENT. The question now recurs on the adoption of the amendment of the House of Representatives.

Mr. DODGE, of Iowa. I desire to offer an amendment. It is to strike out the words "five hundred thousand," and insert "two hundred and fifty thousand."

Mr. BORLAND. Before the vote is taken on that amendment, I would inquire of the Senator from Virginia, what amount has been asked for by the Executive for the continuation of this work?

Mr. HUNTER. I am not able to answer the question of the Senator with certainty; but my opinion is that the Secretary of the Interior recommended \$350,000. The House of Representatives substituted \$500,000. I suppose that if a work of this kind is to go on, this sum would not be too much; as it will not probably be completed within five years. I believe, although I only speak from imperfect recollection, that the estimate of the Secretary of the Interior was \$350,000.

Mr. MANGUM. I would inquire of the chairman of the Committee on Public Buildings—for so I understood him to say—if the \$500,000 voted by the House of Representatives for this work is designed to cover not only this fiscal year, but to go to the end of the fiscal year 1853?

Mr. HUNTER. Yes, sir.

Mr. MANGUM. And I would further inquire, whether, for that time, that sum is not much less than the Secretary of the Interior requested—

whether it is not diminished one half? Is that so, sir?

Mr. HUNTER. Yes, sir. That is so.

Mr. BORLAND. I have examined with some care the report made by the architect, and it appears that the whole of the materials, so far as I can judge, for the whole building have been contracted for. Everything seems to be under contract, even to the term of some five years.

In view of this, let the Senate notice, and let the country know, that this Administration, upon a simple appropriation of \$100,000—and that, as remarked by the Senator from Michigan, [Mr. CASS,] without much time allowed for consideration—put into a general appropriation bill at the hurried close of the session, and put there in very peculiar phraseology, has placed at the discretion of an individual who is not an officer of the Government, and with whose appointment the Senate had nothing whatever to do, the expenditure of millions of dollars of the public money. Sir, if we recognize and sanction such acts as these—and surely we are doing so by this appropriation—we recognize the authority of the Executive, upon any appropriation, whether large or small, to involve this Government in debt to any amount, extending through any number of years. It may suit the views which some gentlemen entertain of Executive omnipotence and infallibility to allow this, and to sanction it. It is not in accordance with my sense of duty and responsibility. I shall vote against it. This is not the mere appropriation of \$250,000, or of \$500,000. It is, in effect, whether the Executive has unlimited power and control over the public Treasury—whether, upon a little appropriation of \$100,000, the President can, without consulting Congress, incur obligations for the Government, and involve us in a debt to the amount of millions, and throughout an indefinite period of time. These are the questions, and this is the issue. It seems to me if we sanction the President's unauthorized acts in this instance, we abandon the only ground upon which we can resist any of his unauthorized acts hereafter. I, for one, will not abandon that ground.

Regard this matter in any aspect we may, and it seems to me that the course of the President, as well as the proposed action of the Senate, is among the most extraordinary that I have ever been called upon to consider. Here, sir, under the very limited authority derived from three little lines in a general appropriation bill, passed hurriedly at the very heel of a session, to expend the specific sum of \$100,000, we find the Government involved to the amount of millions of dollars, and for at least five years in the future! And through what sort of instrumentality? Why, sir, through an individual who is no officer of the Government, and who, whatever may be his relations to the President, certainly owes no official responsibility to Congress, the only source in which the people have deposited the money power of this Government! And that individual one whom the Senate refused to concur with the President in appointing to an inferior and far less responsible position! Sir, this is, indeed, an anomaly in the transactions of this Government. The like of it—or even an approximation to it—I have never witnessed, I have never heard of before—God forbid I should ever witness or hear its like again. And yet, if we sanction it, as we shall do by the passage of this bill, is it not an invitation and encouragement to the Executive to repeat it? If he has gone so far upon one hundred thousand dollars, what may he not do upon five times that amount! Look, sir, at the checks and guards we throw around the disbursements of the public money, and every other responsible function, in every other branch of the public service! Why, there is not a purser in the Navy, a paymaster, quartermaster, or commissary of subsistence, in the Army; not a postmaster throughout the country, whose salary is \$1,000 a year—nay, sir, not a justice of the peace in the District of Columbia, in whose appointment does not require the concurrence of the Senate. And yet, in this instance, where far more important duties are to be performed, where far heavier responsibilities should be borne, and where millions of the public money are to be expended at discretion, an individual is intrusted with all these important and delicate duties, and put in the place of this high responsibility, whose appointment not only has not our concurrence, but has, long since, for a far inferior and less responsible

position, been *rejected* by us! Surely, sir, further comment upon this is unnecessary. It may have no influence here. I have put it upon the record, that it may go to the country.

Mr. HUNTER. I have received the estimates in regard to which the Senator from North Carolina [Mr. MANGUM] made an inquiry a few moments ago. The Secretary of the Interior estimates \$350,000 for the balance of this year, and \$650,000 for the next year, making a million in all. The House of Representatives, however, cut it down to \$500,000, meaning this appropriation to extend to the end of the fiscal year 1853.

Mr. RUSK. I really must claim the fulfillment of the pledge of the honorable Senator from Virginia, that this bill should be postponed when the hour for taking up private bills should arrive. That hour has long since passed.

Several SENATORS. Let us have a vote.

Mr. DAWSON. The declaration having been made by the Senator from Arkansas that the present architect had been rejected by the Senate, when nominated for a situation similar to that which he now holds, the presumption is, that the rejection was in consequence of his want of capacity. That impression will do injustice to the Senate, as well as to the individual, if it goes to the country in that form. It was known—if I may reveal what takes place in Executive session—that that was not the cause of his rejection. The nomination was for the post of assistant architect in building the custom-house at New Orleans.

Mr. MANGUM. You cannot speak on that subject.

Mr. DAWSON. I will state my own views.

The PRESIDENT. The Senator cannot reveal Executive proceedings in the Senate. They cannot be spoken of during legislative sittings, nor in any case, unless the injunction of secrecy is removed.

Mr. DAWSON. I will not refer to anything, only to say that his rejection had no reference to his competency.

Mr. RUSK. Mr. President, I must claim the fulfillment of the pledge of the Senator from Virginia.

Mr. HUNTER. I will give way to the wish of the Senator from Texas, if such is the pleasure of the Senate.

Several SENATORS. Let us have the question.

Mr. SEWARD. We can dispose of the bill to which the Senator from Texas refers, after this is disposed of.

Mr. DODGE, of Iowa. Mr. President, I know that this bill will pass by an overwhelming majority, just as the French spoliation bill will pass whenever it comes up. And it will no doubt pass the sooner on account of the very great amount appropriated. We send a bill to the House of Representatives appropriating \$10,000, and it comes back with an amendment making it appropriate half a million.

Just look at the galleries on this occasion, and witness the appeals that are made to the better sympathies of our nature. I should be glad if an amendment could be inserted that \$500,000 shall be given for this object, when all the other objects of utility in the West which have been so long waiting for aid shall be completed. But I know we are destined to have another battle for our Western waters, before this Congress adjourns. And about that time, after all these public buildings have been made to tower up to the clouds, and all the dry-docks on all our coasts shall have been provided for, and all the paymasters and quartermasters in the country, then there will be all sorts of efforts made to cripple our appropriations. But I will not detain the Senate. I know the bill will pass by an overwhelming majority, but not by my vote.

Mr. BORLAND. Mr. President—

Mr. RUSK. I hope the Senator will allow me to say a word. It is evident we cannot get a vote on this question to-day.

Mr. MANGUM. Yes we can.

Mr. RUSK. I think it is evident we cannot. I came here this morning to ask the attention of the Senate to a private bill, that would not occupy five minutes to pass or reject it. It is in favor of a widow lady upwards of eighty years of age, an heir of a revolutionary soldier, whose pension was suspended for several years, because he went out of the United States to Canada. The daughter of that lady is here without any means of support, and subjected to incur considerable expense, and

unable to employ any one as an agent in her behalf. If this debate goes on, the result will be that at the close of the day, there will not be a quorum left here to act upon any private bill, and we shall not be able to pass the bill for the relief of this lady to-day.

Mr. BORLAND. I know that Senators who desire to pass this bill are impatient of delay; and I have no desire to make factious opposition to it—I make none. But I have objections to the bill, and though I feel very sure that I cannot defeat its passage, yet it is my privilege, and I believe it to be my duty, to make known the motives which actuate me, and place upon record the reasons which control my course.

The Senator from Iowa [Mr. Dodge] has very properly called the attention of the Senate to the circumstances connected with our legislation for improvements on our Western waters. We know very well the difficulties we had to encounter here, the kind of opposition we met last year, and the means by which appropriations for those objects were defeated. We found Senators then influenced by constitutional scruples, and all other kinds of scruples that could raise up or suggest opposition to an appropriation of about \$2,000,000, because a portion of it—a small portion, too—was destined to the great valley of the West. We found all sorts of opposition made, all sorts of expedients resorted to, which legislative tactics could suggest or tolerate, to defeat what we not only believed, but felt, to be proper and necessary appropriations. Appeals on behalf of the multitudes of our people, who are annually destroyed for want of those facilities and that protection to Western navigation, which have never been refused to the Eastern section of our country,—appeals were made, but made in vain, to the sensibilities, and to the sense of justice, of Senators. A few hundred thousand dollars—less, sir, than the amount of this bill—could not be appropriated, because of Senators' scruples! Where are their scruples now? The Treasury is to be opened to its core, and millions are to be taken out, for what we regard as an unnecessary and an improper object—a mere useless, nay, a worse than useless, expenditure of money; and, to attain that object, this wedge of \$500,000 is to be driven in, until all the fastenings of our national coffers shall be rent asunder, and the treasures they contain, coined out of the sweat of our people, laid open to the grasp of irresponsible agents, whose only care seems to be the expenditure of the largest sums in the shortest time!

Let not Senators complain, therefore, at a few obstacles thrown in the way—at a little time taken for examination of this pet scheme of theirs, by those who regard the expenditure of millions to which it will lead, as so much taken from our urgent and legitimate wants for mere fancy works here at this seat of Federal power, and in violation, too, as we think, of all propriety, of all those principles which should govern, and all those rules which should be observed in dispensing the public treasures.

No, sir; it is no factious opposition we make. We only wish to be heard. Our claims have been postponed long enough—alas, too long already, for no year rolls by us without leaving thousands of our people dead upon the waters, and millions of our property swallowed up, because of your refusal to extend that amount of relief and that measure of protection which we think and feel you owe us. We cannot stand idle, and silent, and unmoved, when we see you squandering millions upon unnecessary works, and know that we are to suffer in consequence of a postponement of our reasonable and just demands by being coolly told that the Treasury is exhausted.

Mr. President, it is enough to raise in our hearts the strongest feelings of indignation, when, remembering the injustice we have been made to bear, we see millions, at the mere Executive bidding, freely poured out, not with the avowed, or even acknowledged purpose, but certainly with the effect, as all must see, to fill the pockets of certain speculators who hover about this city, as vultures about a carcass, to feed and fatten upon the Government; filling the cities' purlieus and the Congressional galleries, and sometimes its lobbies, and making up that outside pressure which is annually filling the Treasury to repletion from the people's hard-earned money, but that it may be squandered in the hopeless task of filling the re-

morseless daughters of the horse-leech, whose cry, still and unceasing, is "Give! give!!"

When I speak of this outside influence, and of people in the galleries, I do not allude to the laborers who have been employed in this work upon the Capitol. No, sir; they, however humble they may be, however unfortunate they may seem to be, have my respect, and my heart's strongest sympathies. But, sir, I allude to that heartless set—or whose hearts, if they have any, are as hard and as cold as the blue stone, and as worthless as the mortar in those walls of which we have spoken—of that set who, wrapped in the hypocritical garb of sympathy for the laborer, but to cover their own selfishness, have imposed upon these poor men, and would now use them as instruments to extend their own obscene grasp still deeper into the public purse; who speculate alike, as occasion may permit, upon the necessities of the laboring man, and the sympathies of members of Congress; and who, through the medium of a hireling press, (not all the press, thank Heaven,) denounce members of Congress whom they do not find pliant to their purposes, and seek to hold them up to the world as hard-hearted and unfeeling. I wish to put upon the record this expression of the opinions and feelings I entertain on this subject; so that, however much I may be misrepresented and maligned in this latitude, for doing my duty, by those whose foul pockets I refuse to fill out of the public Treasury, I shall, at least, convey to my plain and unpretending, but just-minded and honest-hearted, constituents at home some idea of the true state of things here, and of the motives which govern me, and of the reasons which determine my votes.

Mr. DODGE. I ask for the yeas and nays.

The yeas and nays were accordingly ordered.

Mr. UNDERWOOD. I have a few remarks only to make. I sympathize with the honorable Senator from Arkansas, and from Iowa, in a great deal that they have said. I have asked the Senate once or twice, to take up a measure in reference to our Western waters, but have not been able to succeed; but this measure has come up without any difficulty. Notwithstanding my sympathy with them, I see the day is coming, and is near at hand, when the valley which they and I represent in common, will have a strong voice in this and the other branch of Congress, and when objects which we have at heart will, perhaps, have more voices; and I hope as able heads to support them as any we have now.

But, notwithstanding all that sympathy, I shall vote differently from my friends on this occasion, and I think it due to myself, as reluctant as I am to consume the time of the Senate, to state why I shall differ from them. I do it because it is not an original question. I was opposed to the plan of extending the Capitol in the beginning; but you have commenced the work, and you have appropriated money, and expended some hundred thousand dollars in its prosecution. Now, for reasons assigned by the Senator from Michigan, [Mr. Cass,] for the stability of our legislation, for the prevention of oscillation, which would place us in a ridiculous attitude before the public, I am willing to execute the plan which has been adopted.

Suppose you begin the construction of a custom-house, lay its foundations, and spend a hundred thousand dollars, and then repeal the law; suppose you begin a marine hospital, and expend a hundred thousand dollars, and then repeal the law—what an attitude would the Congress of the United States occupy in the estimation of the American people, if they would thus dot the whole country over with public buildings and public works, partially constructed, and then abandon them and the law without going any further? Sir, I think we should lose in the estimation of the public more by presenting such a spectacle than by spending the millions which perhaps we may have to spend before this structure is completed, although I think, like my friends, that the money could have been spent infinitely better in another way. As to the idea of fixing the seat of Government here by this expenditure, it will not have that effect whenever the West think it best to have it removed. You cannot tie it down by dollars and cents. I thought it necessary to make these few remarks, in order to account for my vote.

Mr. BORLAND. I am glad the honorable Senator from Kentucky has made one suggestion



in assigning the reasons for his vote; not that I think it a good one, nor that he will insist upon it as good; but because, in connection with it, I desire to call the attention of the Senate to one fact. He exclaims, what an attitude the Government will be placed in, if it begins works of this sort, expends money upon them, and then abandons them! He asks how it would look for the Government to commence the erection of a custom-house, and expend \$100,000, and then repeal the law, or abandon the work? Does he not know that that is precisely the course which has been pursued in respect to improvements on the Western rivers? Does he not know that it has caused more mischief, and the loss of more money than any other course that could have been pursued? Such a course as this, in regard to the West, was and is the just ground of complaint against the course pursued by the last Congress. It was the custom, in former Congresses, to appropriate a small sum, enough to remove a few logs from the rivers; and when the appropriation was exhausted, did they make another? No, sir; they have left the whole Western valley "dotted all over," as the Senator expresses it, with unfinished works, and now requiring more money than it would have taken in the beginning to complete them.

Mr. UNDERWOOD. I hope for better times.

Mr. BORLAND. Sir, it is too late for the Senator to say that the Government must not put itself in that position before the world,—that its reputation repudiates such a course. So far as precedent is concerned, they are as "plenty as blackberries." And, so far as my vote is concerned, it is no matter to me whether we have begun the work, or how much we have expended. If, after it is begun, even if at first I had approved it, I discover that it is improper and unnecessary, I shall vote for abandoning it; while, on the other hand, even if I had opposed it at first, I should vote for it now, if I found it proper and necessary. Because we have expended a hundred thousand dollars, or half a million of dollars on a work, and now find it unnecessary, wherein consists the reason why a million more should be wasted on it? Sir, we live to little purpose, if we are but to follow out in the future the course we have pursued in the past. Shall we not profit by our own experience? It seems to me that the argument of the gentleman, if followed, would put us in a strange position indeed. It is a new version of the doctrine of precedent, which involves its advocates in inextricable dilemmas.

Mr. DODGE. If I am at liberty, I will modify my amendment, so as to make it \$300,000, instead of \$250,000.

The PRESIDENT. The amendment may be modified in the manner suggested by the Senator, with the unanimous consent of the Senate.

The amendment was accordingly so modified, and the question was taken, and resulted—yeas 16, nays 24.

YEAS—Messrs. Adams, Atchison, Borland, Bradbury, Brodhead, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, King, Norris, Rusk, Wade, Walker, and Weller—16.

NAYS—Messrs. Bell, Berrien, Brooke, Clemens, Cooper, Dawson, Fish, Geyer, Hale, Hamilton, Hunter, Mallory, Mangum, Miller, Morton, Pratt, Seward, Shields, Smith, Spruance, Stockton, Sumner, Underwood, and Upham—24.

So the amendment was rejected.

Mr. BORLAND. I have an amendment which I wish to offer. It is to strike out all after the word that, and insert the following:

To enable the proper officers of the Government to pay the laborers who have been employed on the extension of the Capitol the same amount of wages which they would have received had they been employed up to the present time, and one month's wages in addition.

I do this to present, as it does, my views and feelings, in regard to the laborers, whose hardships have been so much talked of here. And it serves me with an occasion, too, to mark, and disprove the willful, malicious, and slanderous misrepresentations of my motives and purposes, which have been made through the Administration organ in this city, to the effect that I had thrown myself before the hungry mouths of the laboring men, and deprive them and their families of the means of support. I wish to be placed right on the record. I have no opposition to the honest laboring men of the country. They have my respect and sympathy. But, while I would take all care of them, and protect and provide for them, I would mark, with the strongest reprobation, those heart-

less cormorants, and their hireling advocates, who feed upon the necessities of these laboring men, and, in the same sordid spirit, would speculate upon the bones of their own fathers.

Mr. HALE. If it is in order I desire to offer an amendment to the amendment of the Senator from Arkansas.

The PRESIDENT. It is not in order.

Mr. BORLAND. I ask for the yeas and nays on the amendment which I have just offered.

The yeas and nays were ordered.

Mr. HALE. I am not going to make a speech, but I simply wish to say that I shall vote against the amendment; and if it is not adopted, I will move to add it as an additional section, striking out the words at the end of it, "one month's additional wages."

The question was then taken, with the following result:

YEAS—Messrs. Adams, Borland, Brodhead, Chase, Dodge of Iowa, Walker, and Weller—7.

NAYS—Messrs. Atchison, Bell, Berrien, Bradbury, Brooke, Cass, Clemens, Cooper, Dodge of Wisconsin, Douglas, Downs, Felch, Fish, Geyer, Hale, Hamilton, Hunter, King, Mallory, Mangum, Miller, Morton, Pratt, Rusk, Seward, Shields, Smith, Spruance, Stockton, Sumner, Underwood, Upham, and Wade—33.

So the amendment was rejected.

Mr. BORLAND. I have an amendment which I wish to offer, by way of a proviso, to come in at the end of the bill:

Provided, Nothing herein contained shall be so construed as to authorize any officer, or agent of the United States, to bind the United States by contract, beyond the amount appropriated by Congress, or to sanction any such contract heretofore made.

I deem that an important amendment; because, if the bill passes, I wish to have it properly guarded. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. CASS. I am altogether in favor of the proposition if it is a proper one; but I consider it unnecessary.

Mr. SEWARD. What right have they to do so, even without that provision?

Mr. CASS. The only question is, whether they could do so. I am in favor of the principle of the amendment; but would not the adoption of such an amendment authorize a general impression that the Administration did go beyond its power? That is a thing which I do not believe. I can understand that, under an administration a deficiency may occur which might create the necessity of an expenditure beyond the actual appropriations for a specific purpose. It might be necessary to go beyond appropriations to keep soldiers from starving; but I do not understand the necessity of any Administration going beyond the appropriation, in a case of this kind, when imperious necessity does not require it, and when Congress does not order it. I do not believe the Administration has done it; but still, if any one believes it, I am willing to make the declaration which is contained in this amendment.

Mr. HUNTER. In relation to the power of any Administration to make contracts, I believe it is defined in the law of 1820. They may make contracts for supplies for subsistence in the quartermaster's department, and for certain supplies for the Navy. They may make contracts without appropriations, when specially authorized by law, and not otherwise. But, by way of abundant caution, I am willing to vote for the amendment of the Senator from Arkansas.

Mr. HALE. I wish to say a single word with regard to the practical working of this principle. I think it is within the knowledge of the Senator from Virginia, [Mr. HUNTER,] that Congress once appropriated \$250,000 for a dock, and when the work was stopped, for want of means to carry it on, the Administration asked and obtained the opinion of the Attorney General, which was that they could not go on. The consequence was that the work was suspended for a whole year, because they could not go on without money. I think they have no such authority, and my objection to the amendment is, that if it is adopted the bill will have to go back to the House of Representatives, and it will be a month or two perhaps before the appropriation can be made. I am in favor of the principle, but as it is not necessary to declare it, I hope the amendment will not be adopted.

Mr. UNDERWOOD. I am afraid that the gentleman's amendment will defeat the object he

has in view. I agree with him in principle that such things ought never to be done. I do not believe that they have any right to do it; and if this bill is so qualified by inserting this provision, how will the matter stand hereafter? It will be as much as to say, that unless you make this provision in every bill by which the Administration is allowed to disburse a certain amount of money hereafter, that Administration, for the time being, may go on and make contracts and incur expenses *ad libitum*. I am not ready to say that; and it seems to me that this amendment would lead to the very thing to which the gentleman is opposed. I think that the Executive has no such authority now; and by the adoption of that amendment, you seem to me to say, and the legitimate inference will be, that they have such power. I do not believe it.

Mr. BORLAND. I think I can answer the Senators from Michigan and from Kentucky without difficulty, and very briefly.

The Senator from Michigan [Mr. CASS] says that he sees no necessity for such an amendment, because he can conceive of no such power in the officers of the Government. I agree with him that no such power does rightfully exist. But this amendment is to make that certain, beyond dispute—is to make a positive prohibition of this power which is not possessed, but which this Administration seems to be constantly exercising. Why, sir, in the answer of the President to the call for information as to the contracts, we find that the contracts cover the whole work for five years, involving some millions of dollars. Here is the exercise of this very power.

Allusion has been made to the deficiency bill. In that we have proof that not only have contracts been made, and debts contracted, beyond the amount appropriated, but in the very face of the positive and express refusal of Congress to make the appropriations. Why, before the preparation of the appropriation bill of last year, estimates were sent in from the Departments, for certain amounts for the public service; and after a long debate, and hard struggle, they were refused—that is, they were much reduced. The Administration was told, in the most solemn forms of legislation, that only so much money, and no more, should be expended in certain branches of the public service. Here was a positive rejection of its estimates. Yet, in despite of that, we find this same Administration setting Congress at defiance—treating its laws with contempt, and spending millions of the public money, not only without authority, but in defiance of an express, positive, and solemn prohibition of law. And, in this matter of the Capitol, we find again, with authority of law to expend but \$100,000, obligations upon the Government have been incurred to the amount of millions, and for years to come. Sir, it is because there is no such lawful power—and yet it is constantly exercised—that this very provision is necessary. It is to arrest and prevent this flagrant usurpation, and dangerous abuse of power.

I know it is said that those contracts are not binding, because they are conditioned to be contingent upon the appropriations. Now, sir, we know very well what that means. We know very well, and so does the President and the contractors, that if the materials be furnished, and the work be done, whether by authority of law or not, we will pay for them. Everybody understands that; and hence the readiness to enter into these contracts, and push on the work in advance of appropriations. This has grown to an abuse which it is necessary now to arrest and remedy.

I cannot understand how the amendment to this bill can create the necessity to attach it to all other appropriation bills; but if it should, as suggested by the Senator from Kentucky, tend to "exclude the conclusion," he apprehends then, it will be very easy to put it upon all. It is proper and necessary here, and ought to be adopted.

Mr. MANGUM. The Administration, as I was advised—and I have no doubt I was advised correctly—or the managers of this work, whichever you please, have at no time exceeded their lawful authority. They have made no contract in violation of the authority conferred upon them by the clause in the appropriation bill appropriating \$100,000 for the extension of the Capitol.

Mr. RUSK. Will the Senator from North Carolina allow me—

Mr. MANGUM. Yes, sir, in a moment. I was about to say, that every contract that has

been entered into with the view of having materials at hand where the work should be done, has been made on the express condition that appropriations shall be made by Congress; and there is no obligation whatever, either upon the President or upon Congress in regard to these contracts, unless Congress shall choose to make the appropriations.

One other remark. I was prepared to vote for the amendment of the honorable Senator from New Hampshire [Mr. HALE] when it should be offered, but I hope he will not propose it upon this bill. I shall vote for it as a matter of punishment to ourselves, for having been delinquent in doing our duty in the right time. I mean the amendment in regard to the payment of the laborers. I hope the Senator will not persist in his amendment, because if the bill is not passed as it came from the House, it will have to go back there, and will be much delayed, and the work will never be got under way. The season, the public interest, the advancement of the building, every consideration requires that we should proceed forthwith. I trust, therefore, that the amendment will not be offered to this bill, for the one especial reason I have just assigned.

As to the amendment of the Senator from Arkansas, it involves a principle, the truth and propriety of which I have never heard anybody dispute. But we understand from gentlemen who are no doubt well informed upon this subject, that the law already furnishes sufficient security in reference to this matter; and why should we reenact here that which is already provided for? I do trust, therefore, that this amendment will not pass, for it will send the bill back to the House of Representatives, and delay action upon it.

Mr. GWIN. I do not intend to oppose the passage of this joint resolution; but if the Senate intends to prohibit, or withdraw its sanction from, the contracts which have been made, it is absolutely necessary to adopt this proviso. I have some knowledge of the manner in which these contracts are made. Contracts have been made for the whole of the materials which are to be used in the building. To be sure, there is a proviso in all these contracts that they shall be of no effect to an amount beyond the actual appropriations; but whenever an appropriation is made, the contracts hold. I know that such is the constant practice in all cases of this description. I know this was the practice when some of our large custom-houses were built. A contract is made for the whole, and a proviso put in that the contract shall not be binding unless the appropriations are made; but if made, it stands. If we intend to prohibit contracts being made beyond the amount of the actual appropriations, this proviso is absolutely necessary; for if it is not put in, contracts may be made at once for the whole building and all the materials, with a proviso that they shall not be binding until the appropriations are made, but that when the appropriations are made, they shall be binding.

Mr. BORLAND. I know that the provision of which the Senator speaks is in all the contracts which have been made for materials for the extension of the Capitol. In each of the contracts there is this provision:

"It is also expressly understood and agreed by the parties, that if Congress shall at any time fail to make the necessary appropriations for the execution of said work, then and in such case the execution of this contract shall be suspended, without thereby creating any claim on the United States by the contractor."

I know that is in all these contracts; but does not everybody know that if the work and labor is done, we will recognize it and not deprive the individuals, who have done the work and furnished the materials, of payment, although the debt may have been improperly contracted? This clause would not exonerate us. It would in a court of law; but it would not exonerate us if the men should furnish the labor and the materials, and then come before us and ask for payment. In that case, would we refuse it? Who believes that Congress would refuse to pay for labor and materials thus furnished? Is there a member of the Senate or the House of Representatives who would vote against paying for them in such a case? No one could do it in conscience, or in common fairness. Therefore the clause in the contracts which I have read, amounts to nothing at all.

Mr. GWIN. The gentleman has mistaken my argument entirely. I say the proviso is necessary.

Mr. CLEMENS. I shall vote against this amendment, and against all other amendments which may be offered to this resolution. As I understand it, the law now prohibits the President making contracts beyond the actual appropriations. Then if you put this clause in the resolution, you do not strengthen it. If he will disregard a law already in existence, what is to prevent him disregarding this? If you cannot punish him for disregarding that, how are you to punish him for disregarding this? How do you strengthen the law by adopting this provision? What good does it do? What is the effect of it but to send the resolution back to the House of Representatives? I shall vote against it.

Mr. RUSK. I shall vote for this appropriation. I voted to reduce it, and thought we ought to have done so. I believed that we might, perhaps, have produced a little economy by that course. The greatest abuses that I have noticed in my short service here are the interminable claims that are created by these agents. You make an appropriation, they are bound by law not to go beyond it; but they still enter into these kind of contracts, by which a claim is created against the Government. Gentlemen may say it is not a legal claim; that it is made conditional upon an appropriation of Congress. If they make the appropriation, then it purports to be a binding contract. It is true that they may make another contract. But here they have gone on and contracted for the whole of the materials for the building, which is certainly a reckless extravagance in the matter. It is true, under the law, possibly this contract might be set aside, and a new one made if cheaper and better materials could be procured; but, then, have you not created here, in the very teeth of, and contrary to the law, and contrary to good policy, a sort of equitable claim that will fill your galleries with agents pressing on you to relieve such contractors by appropriations of money as damages? It is the greatest abuse in this Government, and one that must be stopped, or it will ruin it. You made an appropriation some time ago for running the boundary line between the United States and Mexico. You sent a commissioner there; he exhausted that appropriation, and, if I am correctly informed—and I received my information from an intelligent gentleman—three fourths of the money has been squandered upon objects not at all appropriate to the expedition; and here, in the deficiency bill, is an appropriation of \$80,000, to cover that deficiency which has been expended in collecting lizards, bugs, and plants, and one nonsense and another, which he was attending to, whilst the commissioner on the part of Mexico was absolutely cheating him out of a large portion of valuable territory, properly belonging to us, and of vast importance to the United States. We have that appropriation to make. You are informed by the quartermaster's department that drafts are coming in, which cannot be met, constantly. Well, sir, it is time to stop this kind of expenditure.

When the appropriation of \$100,000 was made, what gentleman, who voted for it, dreamed that a contract or contracts with favorites (or not, I do not care; it makes no difference, because I do not know anything about the contractors or about the agents employed; but still it is opening a door which may be used improperly) for several millions would be made depending simply upon the appropriations by Congress, which, I must say, have always heretofore followed too much as a matter of course? We are embarrassed in regard to this measure. First, I want this work to go on; it is proper and right that it should. Next, I want to relieve these laborers—these men who get but a very small pittance out of this; and in order to effect that object, to do justice to these few laborers, I am bound here to sanction this monstrous assumption of making contracts for several millions of dollars, to extend, perhaps, throughout ten years, for the materials to be used upon the building here.

Mr. HUNTER. I understand from the chairman of the Committee on Public Buildings of the House of Representatives, who has given more time to the examination of this matter than I have, that the whole amount of the contracts made amount to about \$419,000, which is less than the appropriation contemplated in this bill.

But I rise to another question, and that is, as to the propriety of this amendment. I made a state-

ment in relation to the law of 1820; the section is a short one, and I will read it to the Senate:

"No contract shall hereafter be made by the Secretary of State, or of the Treasury, or of the Department of War, or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment, excepting always contracts for the subsistence and clothing of the Army or Navy, and contracts of the quartermaster's department, which may be made by the Secretaries of those Departments."

The exceptions are for the quartermaster's department, the subsistence and clothing of the Army and Navy, and when Congress, by a law, authorizes a contract to be made, but makes no appropriation. The difficulty that may arise in relation to this law is, whether it is such a law as authorized this contract or not; therefore it was, that I said that out of abundant caution I was disposed to vote for the amendment of the Senator from Arkansas; and I shall do so, because it leaves no doubt on that question. If there can be any doubt, it must arise on the question whether this is such a law—if the joint resolution passes—as will authorize a contract, without appropriations. If the amendment is passed, it will leave no such doubt. They will have then no authority to make contracts, except as appropriations are made; and I think that would be the safer course; I am, therefore, willing to accede to the amendment, and shall vote for it.

Mr. BORLAND. I, perhaps, owe an explanation to the Senator from Texas, as it was on my statement he based some of his remarks. I stated that the contracts amounted to some million dollars. That was my inference from the report which I have before me, which was made in answer to a call of the Senate. So far as I have been capable of understanding that report, or as anybody has explained it to me, the contracts cover the whole work. How much that will be, I do not know, and cannot know; and I do not believe we have any evidence that will enable any one to know; and that is one of the objections I have to the passage of the resolution—that it is a sort of entering wedge to the expenditure of money, the amount of which we cannot estimate. How much it will be, I do not know; but my inference, and the only inference I can draw from the report that has been sent in to us embracing all the contracts, is, that it covers the whole work. If it does not, then I am incapable of understanding the report.

The question being taken on the amendment, by yeas and nays, resulted—yeas 24, nays 17; as follows:

YEAS—Messrs. Adams, Atchison, Borland, Bradbury, Brodhead, Cass, Chase, Davis, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Gwin, Hamlin, Hunter, King, Mallory, Norris, Rusk, Shields, Stockton, Sumner, Walker, and Weller—24.

NAYS—Messrs. Berrien, Clemens, Cooper, Dawson, Fish, Geyer, Hale, Mangum, Miller, Morton, Pratt, Seward, Smith, Spruance, Underwood, Upham, and Wade—17.

So the amendment was agreed to.

Mr. HALE. If the Chair has in his possession the amendment which was offered by the Senator from Arkansas, I will now offer it as additional to the amendment of the House.

Mr. HUNTER. I hope the Senator will bring that question up in a separate measure, and not as an amendment to this resolution.

Mr. HALE. I would not offer it but for the fact that we have already made one amendment, which will create the necessity of sending the resolution back to the House.

Mr. SHIELDS. I have drawn up an amendment which I think will suit the gentleman's purpose. It is to add—

"That the laborers employed upon the Capitol shall be entitled to and receive pay for the time during which the work was suspended, according to the regular prices at which they were originally engaged."

Mr. HALE. I accept that.

Mr. HUNTER. For what time are they to receive pay?

Mr. HALE. Up to the present time.

Mr. HUNTER. From when?

Mr. HALE. From the time the work was suspended.

Mr. SHIELDS. I understand that these men were brought here by advertisements which were published inviting them to come, and a stipulated price was promised to them. They have been kept here while the work has been suspended, and have been unable to obtain employment. I propose to pay them for the time they have been kept here during the suspension of the work.

Mr. HUNTER. For the whole winter?

Mr. SHIELDS. I do not know, nor do I care, what may have been the length of time. That does not affect the question whether they ought to be paid.

Mr. HALE. It certainly cannot be a new principle to pay men who have been "waiting orders," and I think that if there has ever been a set of men waiting orders, it is these workmen. I understand that a great many of them have been induced to come from a great distance by the advertisements of the officers of the Government. They came here expecting work. They have been here during the whole winter. They are out of money; they are out of credit; and they are out of heart. I trust that we shall pass this amendment, so that they will not be wanting, in all respect, for the candor and good faith of the Government.

Mr. SEWARD. I want to hear the amendment read again, in order to see whether it describes who are the workmen to be paid, and whether it can be ascertained at all who have been waiting, and will be entitled to claim pay; or whether all the workmen in the city of Washington and in the city of New York are to be paid.

The amendment was again read.

Mr. WELLER. I believe some of the workmen went home, and are engaged in other work.

Mr. UNDERWOOD. I want some gentleman who has examined the subject, to tell me, if he can, how this work was carried on? Was it done by contract? Did contractors engage to carry on the work and employ their own laborers? or was it done by officers of the Government, who were charged to carry on the work? I want to know what was the nature of the contract under which these men were employed before I vote. If some gentleman can inform me, I would be glad to receive the information.

Mr. SEWARD. I wish to ask, also, whether, besides the laborers who have been out of employment who are to be paid, those who may have found employment elsewhere, are also to be paid by the Government?

Mr. BORLAND. It seems to me that this question is very easily understood. If the officer whose duty it shall be to execute this provision of the law, be a man of common sense—a man of common fairness and honesty—he will have no difficulty in carrying it out. It refers to the laborers—not to the superintendents, but to the laboring men who get their seventy-five cents or a dollar a day for their manual labor, in erecting this building. We all know what we mean by laborers. It seems to me that those Senators who are willing to make this large appropriation of \$500,000 need not stop at all. They need not hesitate to pay the small additional sum which is proposed to be paid to the poor men who have been kept here, and have had to live, with their wives and children, on expectation, during a long and severe winter. Many of them, I know, are almost in a state of starvation. I see many of them daily who are fit objects of relief. I do not care what amount it costs. I would vote more to pay them than I would to build the Capitol. This appeals more strongly to my sense of justice, and my sense of public duty, and our common feelings of humanity. I think it is the highest obligation that can rest upon the Government to relieve the necessities of those men who have been brought here without authority, as I contend, and kept here without authority, but not by their fault, but by the fault of those whom they have entrusted with the power and with the money, to whom we gave credit before the country to operate upon the minds of these laboring men. We have incurred, therefore, an obligation which we cannot, in my opinion, now repudiate. I, therefore, will vote for this amendment, if it costs double the amount that it is proposed to appropriate for the continuation of the work on the Capitol.

Mr. UNDERWOOD. I must try again to get some information. If the gentleman from Arkansas can answer my question, I would be very glad to hear from him.

Mr. BORLAND. I did not introduce the amendment—it was the honorable Senator from Illinois.

Mr. UNDERWOOD. I see nothing at either end of the Capitol but some stone work which has been done. Now, I want to know whether that stone work was let out upon advertisement to

contractors, or whether it was done by an officer of the Government, employing men to do it? I want to know what was the nature of the contract, if I can get at it.

Mr. SEWARD. It was done by day labor.

Mr. UNDERWOOD. If the gentleman from Arkansas can tell me the nature of the contracts, and how the work was done, I should be very glad to obtain the information.

Mr. BORLAND. If the gentleman wishes to know what the agents, and architects, and superintendents appointed by this Administration, have done, and how they have done the work, he must go to other sources. I have no means of knowing it. The gentleman must ask his political friends, who are carrying on this work, and are now asking this large amount of money at our hands to continue it. If he paid any attention to the remarks which I originally made, he might recollect that I stated that this work was carried on at an expense five or ten times as great as it ought to have been. Whether it was done by contract or not I do not know; but I expect it was done by day labor, and that the superintendents, getting their five dollars a day to superintend, took especial pains to employ as many laborers as they could, and to keep them doing as little as possible. I have stood myself, for an hour at a time, and looked on at the work; and I think that two good men could have done more labor than was done by ten at that time.

Mr. UNDERWOOD. I have made various inquiries after information from the gentleman from Arkansas, because I thought, from his connection with the subject, that he would be enabled to give me the information. He tells me I must go elsewhere and hunt it up; therefore, I do not still know how these laborers were employed, or by whom they were employed. I do not know what contracts were made on entering into employment; and, in the total ignorance under which I labor in regard to these points, the gentleman gets up and says that the laborers are entitled to claim against the Government so much damages, and that therefore we have nothing at all to do but to pay them. I, for one, cannot legislate upon any such grounds. I never give a vote, unless I know the propriety of giving it, and see that there is justice in it. If these laborers have been employed during the suspension of this work, profitably for anybody else, and made double as much as they are to receive by their contracts, is it proposed that they are to pocket this too? Can anybody tell me anything about it? Are we to vote this blindfold, for sympathy? Why, if so, it is worse than any material aid granted to Kossuth, as great a humbug as I conceive him to be.

Mr. GWIN. It is very evident that this work has all been done by day labor. These parties are not contracted with at all. I take it for granted that the architect advertised for laborers—that they came here, and that they were employed by the day. There is no contract about it; but I conceive this to be a very dangerous precedent. If you pay these laborers for the time the work has been suspended, you will have to pay other laborers on every public work in the United States when it is suspended, and the laborers are thrown out of employment in consequence of the failure of the appropriations. Why, the chairman of the Committee on Finance knows very well that applications are being made to us constantly to put appropriations in the deficiency bill for such objects, because it is said if we do not make appropriations now, the workmen will be thrown out of employment at some future period. There will be a precedent here established if we adopt this amendment, by which laborers can come in and receive compensation during the interval after one appropriation is exhausted until another is made. Such applications will come up from every part of the Union, and there is no telling what amount of money it will cost the Government.

Mr. COOPER. If the amendment is to pass, I think it ought to be amended.

The PRESIDENT. It is not susceptible of amendment. It is an amendment to the amendment of the House.

Mr. SHIELDS. I would suggest, then, in order to obviate the difficulty, and to make it reasonable, to insert in my amendment, after the words "laborers that have been employed," the words, "and who have been retained, but kept out of employment."

Mr. COOPER. That is the amendment which I was about to suggest.

Mr. HALE. I am willing to have it in any way, so that we may get a vote.

Mr. SHIELDS. Let the language of the amendment be, "laborers who have been employed and detained here waiting for employment."

Mr. WELLER. I know a great many people of that sort.

The PRESIDENT. The amendment can be so amended by unanimous consent.

Mr. HALE. I want to say a word in answer to the Senator from California. I think he has taken a mistaken view of this question. Congress frequently suspend work from Thursday to Monday, or from Friday to Monday. I want to know whether those who are waiting here, draw for Saturday and Sunday; because if they do, there is a precedent. Further, I have been informed that there are some members here, who sometimes suspend labor with a view to go home, and stay some two or three weeks. I have actually heard it intimated that I have done that very thing. [Laughter.] I want to know whether the Secretary, when he makes up the pay roll, deducts the *per diem* for that time. I have heard it said further, and I think it is a fact, that members of Congress who receive eight dollars a day, do, in addition to that, vote themselves a vast amount of books, which cost something like \$1,000. I think it has been done at this session for new members. And what do we do here besides? At the end of every session we vote an additional compensation to laborers who have been here—not waiting pay—to our messengers, clerks, pages, and everybody else. We give them a donation of some \$250 or \$500, and nobody's constitutional stomach is disturbed; but when we come to the mere laboring man, who gets but little, and that little is exhausted, constitutional objections rise up, like Roderick Dhu's men, from every bush, and coppice, and hill, so thick that it is almost impossible for a man to make his way through; and people are wonderfully in want of information. I wonder why gentlemen do not want information when some other case comes up than that of the day laborer. Look at the Navy Register of men, "waiting orders," and see men getting \$2,500 and \$3,000 a year, who have been "waiting orders" almost ever since they came out of their cradles. There are no constitutional scruples in regard to that; there is no bad precedent there; but is a wonderful bad precedent to propose to pay the day laborer while he has been "waiting orders."

Mr. President, let us have the vote. I am sorry that I have had to make this speech. I will admit any modification of the amendment, with the sense of the Senate; but just let us have a fair vote, and do something like justice to men who came here, who left their homes, and who have been living on what little they earned, and then living on that "hope deferred" which "maketh the heart sick" and the body faint. I trust we will do justice to them.

The PRESIDENT. Does the Senator propose to modify his amendment?

Mr. HALE. Yes, sir; any way Mr. COOPER says. [Laughter.]

By unanimous consent, the amendment was modified by adding the following:

"Provided, That they shall not be entitled to such pay unless they remained unemployed at the seat of Government, awaiting the appropriation."

Mr. RUSK. We can very frequently express great sympathy for the suffering of individuals, and in our conduct, so far from carrying out these sympathies, by a particular process defeat the very end which we seem to have in view. I regard it, that this amendment will have precisely that effect. Here are a number of laborers that have been thrown out of employment. That fact is known. The contracts under which they came here are not known. We are not in a condition, from want of information, to do them justice at all. Suppose that we adopt this amendment, and it goes to the House, does anybody suppose that it will not be discussed there, and that it will not delay the passage of the joint resolution? Now, sir, whether or not it is better for these men, who are idle and wanting work, and who cannot go on from the want of this appropriation, which has been delayed week after week—many of whom are without credit in this city; brought here by



the Government, and have been suspended in their work—would it not be better for them if this resolution passed, without this embarrassment, which will create discussion, and delay the passage of the resolution? There will be a discussion on it, beyond all doubt, in the House of Representatives. The passage of the bill will, perhaps, be delayed two or three weeks longer by it. Should we keep them in that state of starvation, under the delusive hope that they are to get some extra pay? If this is a claim, (and I apprehend it is a good claim against the Government of the United States—they have been brought here by the Government, and have been thrown out of employment by it,) it can be put in another bill, and not embarrass this.

Mr. HALE. I want to say that I have no purpose of embarrassing this resolution by offering this amendment. I gave early information that I would offer it but upon the suggestion of some of the friends of the resolution that it would embarrass it in the other House; I refrained, and did not offer it; and it was not until after another amendment was agreed to by the vote of my friend from Texas, who has read me so kind a lecture, which created the necessity of the bill going back to the House, that I offered this amendment. Now, sir, if some gentleman who voted for that amendment will move to reconsider it, I will be willing to withdraw this, and put it forward in a separate measure. If any suggestion is made to the effect that the amendment will be reconsidered, I will withdraw this.

Mr. RUSK. I cannot, for my life, see that the amendment which has been adopted in relation to preventing gentlemen making contracts upon suppositions of appropriations hereafter to be made, can meet the slightest objection in the House. I understand the only objection which was made here to it was, that it created the necessity of sending it back to the House; but I am utterly mistaken if the amendment which is now under consideration would not create discussion there. I understand from members of the House who ought to know all about it, that the amendment which we have adopted will not create any discussion there, and that it is likely this one will.

Mr. DODGE, of Iowa. I demur to arguing about the amendment which has been adopted. I think it is decidedly a salutary one, and I wish to hold on to it. More than that; I wish to defend the people's Representatives from the imputation which my friend from Texas makes upon them. If the Senate, with its aristocratic feature, its six years, and everything else, does an act of justice to the working men, I take it that the more immediate Representatives of the people of this country will not dare to withhold their consent. I have no fears of that sort. This amendment will pass there much more easily than it will pass this body. I hope we shall adopt it. "The laborer is worthy of his hire."

Mr. SEWARD. I think that the honorable Senator from Arkansas, who, I believe, favors this amendment, and who complained of the interested influence which is brought to bear upon Congress by the gathering of these laborers, would find that a stronger influence would be created against the passage of this resolution, if this amendment should be agreed to. It would have as great a tendency to make a delay in its passage as any that was ever found to delay a bill before Congress; for these laborers, with all their friends, would have the authority of the Senate for the position that they ought to be paid until the bill passes, if it should be in August or September, just as much as if they worked all the time.

Mr. SHIELDS. I merely wish to make a short reply to the honorable Senator from Texas, who seemed to intimate that this amendment was intended, perhaps, to defeat the measure. Certainly I have no such intention as that. On the contrary, I look upon this as the most equitable provision in the whole resolution, and certainly I think it ought to meet with the strongest support in the House of Representatives; and I will state why in a few minutes. As I understand it, these men were brought here by public advertisement. They were promised uninterrupted employment. They came here. When the appropriation was exhausted they expected to be employed, and they were kept here from day to day, as I understand it, by the agents of the Government who had the control of this work. That is my under-

standing; that these agents expected that an appropriation would be made immediately for this purpose; they did not want to break up the arrangements they had made, and they kept these laborers here from day to day. It is not the fault of the agents, nor of these men, but it is the delay of Congress. Now, the only question in a case of this kind is, whether it is just and equitable to allow these men daily wages for the time they were thus detained by officers of the Government for the purpose of being employed upon this work?

It is said this amendment will defeat the resolution, as it will have to go to the other House. I should not have offered or insisted upon this amendment if a previous amendment had not been made. But it goes to the House now, and if they refuse to pass this amendment and it comes back to us, and gentlemen are anxious to pass the resolution, we can recede from it. But let it all go together if it is just. If this is not just, vote against it at once. If these men are not entitled to pay for the time they have been kept here by the agents of the Government, waiting, as I have already said, and expecting that every day an appropriation would be made, then reject it; but if it is just that they should be paid, then let all go to the House together, and let us see how the House will act upon it. My impression is, that this will be the strongest provision in the resolution when it goes back to the House.

Mr. RUSK. In the few remarks which I had the honor to submit to the Senate, I cast no imputations upon the motives of any one. I am not in the habit of casting imputations upon any one's motives. I attempted to address myself to the effect of the provision. Nor did I make any charges against the representatives of the people of the United States.

Mr. DODGE, of Iowa. If my friend understood me as making any assertion of that sort, he misunderstood me very much. I desired simply to say that I had not the least doubt that any amendment of this sort which we might adopt would be readily adopted by the other House. I made no sort of implication against the Senator's intentions.

Mr. RUSK. I am glad to receive the information, though I would not consider it a very high compliment to pay to the House of Representatives to say that they will do nothing but register the Senate's decrees. I have not the least objection to paying these laborers what is equitable and right. I will vote to pay them whenever a proposition is presented of a proper character. I will be one of the first to vote what I conceive to be equitable. Beyond that I will not go. I will go that far whether there is one laborer or a thousand to be affected by it. This amendment as it has been modified, is in these words:

"That the laborers employed upon the Capitol shall be entitled to and receive pay during the time for which the work was suspended, according to the regular prices at which they were originally engaged: *Provided*, That they shall not be entitled to such pay unless they remained unemployed at the seat of Government, and waiting the appropriation."

Now, what sort of an amendment is that?

Mr. BROADHEAD. It is all right.

Mr. RUSK. Some gentleman says it is all right. Let us see whether it is or not. Suppose the case of a man with a family, who was engaged on this work at two dollars a day, but who has been out of employment: That man, if he properly regarded his family, would go and work at a quarter of a dollar a day if he could not get more, in order to endeavor to support his family; and yet the fact that he did get employment at a quarter of a dollar or half a dollar a day, would exclude him from the benefits of your justice. It is only the idle man who will not employ himself, but who goes to grog shops and walks about the streets, who is to get the benefit of this justice. Will not the House of Representatives be likely to discuss a proposition of that sort? The objection that I have to it is, in the first place, that it embarrasses this resolution, and in the next place that it is not digested in such a form that I can vote for it. If there is any distinction to be made, I would prefer to pay the man who showed his industry by working for small wages when he could not get larger, rather than reward one who would not work at all.

Mr. CASS. It seems to me that this is a peculiar case, and it demands peculiar action. There

is a great number of laborers who have been invited here to aid in a great public work for which an appropriation was made. They have been collected in this District, where there is very little demand for labor, and being thrown out of employment, they become necessarily destitute of the means of support. This is not like a large city, such as Philadelphia or New York, where labor is constantly in demand; but being thrown out of employment here, they have no means of livelihood. We have been in session for over four months. The appropriation made for this object has long since been exhausted. We have suffered time to pass on without making another appropriation, and I feel myself responsible for it to some extent. Some two months since, or more, some of these very men came to me, and I told them that I expected we would make an appropriation immediately. I encouraged them to remain, inasmuch as an appropriation would certainly be made in a few days. But I have been deceived; the measure has been delayed until the session is half over, without any good reason under heaven why we have not made the appropriation. Under these circumstances I am willing to pay a just and reasonable compensation to these men. I think an honest, and just, and reasonable man would do it in his own case. If he had collected together a large number of laborers, and they had been thrown out of employment in consequence of pure neglect on his part, I think he would do so. I think the amendment is sufficiently guarded. At first I thought it provided for all the laborers, but it only provides for those who have been unemployed, and who have been thrown out of employment by the action of the Government, and had no means of subsistence. I am willing to go that far; but certainly men who have been employed elsewhere in the mean time, ought not to be paid by the Government.

Mr. SHIELDS. I merely wish to state that, in 1839, there was a precisely similar provision made for the laborers on the Treasury Building. It is in these words:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the commissioners appointed by the President of the United States to superintend the prosecution of the work on the construction of the new Treasury Building, be and they are hereby authorized to examine the claims of the workmen to indemnity for the loss of their time during the suspension of the work upon said building by order of the President of the United States, pending the question before Congress on the bill reported by the Committee on Public Buildings, providing for the removal of the walls of the Treasury Building, and the erection of a fire-proof building for the Post Office Department, and that said commissioners allow to such of said workmen respectively as were suspended from labor during the pending of said appropriation bill, with the encouragement and under an authorized assurance that, upon the decision thereof, their labor would again be required by the Government, and who immediately had no opportunity of obtaining employment in the city of Washington, such reasonable indemnity for the loss of wages for labor during the suspension of the work, as, under the circumstances of their respective cases, justice and equity may require; not exceeding, however, in any case, the average rate of the earnings of said workmen in the employment of the Government for a like preceding period of time."

Mr. RUSK. If the Senator will put the amendment in that form, I shall vote for it.

Mr. SHIELDS. I wish to offer it in that shape.

Mr. RUSK. It is not in that form now.

The PRESIDENT. With the consent of the Senate, the amendment before offered can be withdrawn, and this substituted in its place.

There being no objection, the amendment was so modified.

Mr. UNDERWOOD. There is a precedent which, like the gentleman from Texas, I am willing to follow. I am not willing that these laborers should suffer from any violation of a contract on the part of the Government, or on the part of the agents of the Government, that has been legitimately entered into with them. Not at all. They are entitled to their damages for a violation of that contract, as much so as if it were made with me; and I am for paying them under such circumstances. But I have objected from the beginning that, under what I think a sympathy misplaced upon the occasion, Senators get up here and offer an amendment not at all matured in any of its bearings, and we are called upon to adopt it without knowing what we are voting for. Now, if you will not embarrass this resolution, introduce a proposition according to the precedent, or even appoint a committee of Congress, if you choose to investigate it in that way; or name any set of

individuals of respectable standing in the city, to make the investigation, and I will pay these laborers every cent to which they are entitled most cheerfully. But I think it is ill-timed and ill-placed to attempt to embarrass this resolution in this way, in this hasty manner, and it ought not to be done.

Mr. GWIN. The law of 1839, which has been read, was a separate law, providing for the payment of laborers who had been employed on the Treasury Building. Why incur this resolution with such a proposition? I am opposed to putting it into it; I think it will jeopardize the resolution.

Mr. SHIELDS. I ask the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDENT. The amendment will have to undergo great modification. The resolution in the book which has been read, and which has been offered, relates to another matter, and is not applicable to this.

Mr. SHIELDS. It will only be necessary to change a very few words.

Mr. HUNTER. I would like to suggest to the gentlemen who are pressing this amendment, that this is probably a new principle which they are introducing. The work was stopped in the winter, and those workmen who have been employed at day labor remained in the city under the hope of being again employed in the spring. We did not make an appropriation so soon in the spring as I think we ought to have done, and I desired we should do; but the question arises whether we ought to pay them for the whole of the time they have been waiting and took the chances like everybody else? If we adopt this principle, will it not apply to every other public work which is suspended? Will we not then have to pay the workmen who may say they have been waiting until an appropriation shall have been made? This is a very important principle which we are establishing. I hope it will not be ingrafted in this resolution. I trust gentlemen will not embarrass this measure by forcing us to vote on this amendment. If they want to have this carried through, let them bring it forward in a separate measure, where the merits of the claim can be examined and separately passed upon, and let this bill go as it now stands. I hope gentlemen will not press the amendment, but will withdraw it, and allow us to pass the original measure.

Mr. BORLAND. There seems to be great objection to adopting the amendment to pay these day laborers for work which they have not actually done. Now, look at the architect—look at the superintendent, getting their \$2,000 or \$3,000 a year, whether they are employed or not. You do not propose to stop their pay because they have not been employed. You do not propose to stop the \$3,000 or \$5,000 per annum which the architect gets, or the \$2,000 which one superintendent gets, or the \$1,000 which another superintendent gets. Gentlemen do not look at that. They do not propose to cut off their pay because they have no employment, and have been lounging about as idly as the day laborers. I cannot understand how it is that gentlemen find such difficulties in the way of paying a dollar a day to the laborers who have, without any fault of their own, been kept here waiting, feeding on expectation, from day to day. I admit that it is very unsubstantial food, and not enough to support them and their wives and children. The superintendents of this work get their pay per annum. We are giving them from \$2,000 to \$3,000 a year, whether they work or not, and there is no difficulty in the way of that.

While I am up, I would answer the inquiry made by the honorable Senator from Kentucky a while ago, with regard to the amount of information I have on the subject of these contracts. He asks me where the contracts are? Here they are. Upon the resolution introduced by me, the President has sent in what purports to be copies of all the contracts which have been entered into. I have looked through them, and I see not one word on the subject of laborers; and I take it for granted, therefore, that they are employed by the day. There are contracts covering every sort of work—stone, sand, lime—everything but labor. There is no contract in regard to labor. I take it for granted, therefore, that the officer of the Government employed the laborers by the day.

Mr. BADGER. My friend from Illinois having

moved this amendment suddenly, without making the verbal alterations necessary to make it applicable to the present case, I ask the unanimous consent of the Senate that it may be modified by striking out the inapplicable words, and inserting words applicable to the present case; so as to make it read, instead of "the commissioners appointed," &c., "that the architect appointed by the President of the United States to superintend the prosecution of the additions to the Capitol, be authorized," &c.; and then, instead of "during the suspension of the work upon said building by order of the President of the United States," insert "during the suspension of the work upon said building for want of an appropriation;" and put in the word "architect," in place of "commissioners," where it again occurs; so that the amendment shall read:

"That the architect appointed by the President of the United States to superintend the prosecution of the work in the construction of the additions to the Capitol, be, and he is hereby, authorized to examine the claims of the workmen to indemnity for the loss of their time during the suspension of the work upon said building for want of an appropriation; and that the said architect allow to such of said workmen respectively as were suspended from labor during the pendency of said appropriation bill, with the encouragement and under the authorized assurance, that upon the decision thereof their labor would again be required by the Government, and who immediately had no opportunity of obtaining employment in the city of Washington, such reasonable indemnity for the loss of their wages for labor during the suspension of the work, as under the circumstances of their respective cases justice and equity may require; not exceeding, however, in any case, the average rate of the earnings of said workmen in the employment of the Government for a like preceding period of time."

There being no objection, the amendment was so modified.

Mr. BADGER. I think another verbal alteration is required in the amendment—to substitute for the words "during the suspension of the work," the words "from the suspension of the work to the making of the appropriation."

Mr. UNDERWOOD. I think that is exactly right; but I put it to the friends of the workmen, whether it would not be better to pass this amendment as a separate and independent measure, rather than, by sending it to the House of Representatives, delay the passage of the original resolution?

Mr. GWIN. I am willing to vote for this amendment as a separate measure; but I am not willing to put it in this resolution to embarrass it.

Mr. DODGE, of Iowa. As one of the friends of the workmen, I say let this be a part of this resolution. It is legitimate to the subject. This is a resolution to continue the work upon the two wings of the Capitol. These workmen have been engaged upon that, and therefore this amendment is appropriate to the resolution.

Mr. RUSK. I regard that as a very important compromise, which was made with the laborers upon the Treasury Building in 1839; and, as the order of the day is the finality of compromises, I shall vote for the amendment.

Mr. ADAMS. I merely want to inquire how often a Senator has the right to speak upon the same day upon the same subject?

The PRESIDENT. Only twice, if it is objected to.

Mr. BADGER. I wish to suggest another verbal amendment in this amendment, which, it appears to me, may be necessary. There is in it a clause providing for the payment of these laborers "during the pendency of said appropriation bill, upon the encouragement and under an authorized assurance that, on the decision thereof, their labor would again be required," &c. I think perhaps it would be better to strike out the words, "under an authorized assurance."

The PRESIDENT. It requires unanimous consent to make that change.

Mr. GWIN and others objected.

Mr. BADGER. Then it will do well enough as it is.

Mr. DODGE, of Iowa. I must express my extreme regret that my friend from California will not allow the Senator from North Carolina, who has come to the side of the workmen on this occasion, to modify the amendment in the mode he has proposed.

The PRESIDENT. The objection did not come alone from the Senator from California; other Senators objected.

The question being taken, by yeas and nays, on the amendment offered by Mr. SHIELDS to the

amendment of the House of Representatives, resulted—yeas 29, nays 15; as follows:

YEAS—Messrs. Adams, Badger, Borland, Brodhead, Brooke, Cass, Chase, Cooper, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Geyer, Hale, Mangum, Miller, Norris, Rusk, Seward, Shields, Stockton, Sumner, Underwood, Upham, Wade, Walker, and Weller—29.

NAYS—Messrs. Atchison, Berrien, Bradbury, Dawson, Downs, Gwin, Hamlin, Hunter, King, Mallory, Morton, Pratt, Sebastian, Smith, and Spruance—15.

So the amendment was agreed to.

Mr. ADAMS. We have already adopted a proviso prohibiting officers of the Government from making contracts beyond the actual appropriations. I think it would be proper to add some penalty for a violation of that provision, and therefore I move to amend, by inserting after the proviso that we have adopted, the following:

"And that if any person or persons shall violate the provisions of this proviso, he or they shall be liable to indictment in any court having jurisdiction of criminal offenses; and on conviction, shall be removed from office, and confined in the penitentiary for a term not exceeding five years."

Mr. HAMLIN. I desire to learn from my friend, whether that would not subject the Senate, who have already voted for the amendment just adopted, to indictment. It strikes me that it might. We adopt a provision that the Departments or the President shall not make a contract beyond the amount of appropriation. Now, we have just voted large sums to a certain class, who have labored—who have remained here without any appropriations—and hence we have supposed that a debt has been incurred by these officers, which the very provision we have adopted to-day provides they shall not have the power to create. Most clearly, therefore, I think Senators themselves may thus be subjected to indictment under this provision.

Mr. ADAMS. I will answer the Senator. The gentleman did not notice the proviso offered by the Senator from Arkansas, and which has been adopted by the Senate, or he would have perceived that there was no penalty affixed to its violation. If I understand the proviso, it prohibits only persons making contracts in behalf of the Government, to an amount not exceeding the appropriations actually made. But the proviso affixed no penalty to its violation. The amendment which I offer proposes to fix a penalty, not to past, but to future offenses. Congress cannot violate the law. How does the Senator say that they can? Congress is the law-making power. If it modifies the law, its modification becomes the law. Congress cannot violate the law. It is the authority—the legislative body—to make the laws.

What use is there in adopting a provision that contracts shall not be made beyond the amount of the appropriations, if you do not affix a penalty to a violation of the provision? As has been suggested, a law was passed before prohibiting any such thing; but there was no penalty affixed to it; hence we see that it has been done, notwithstanding the law. Now, my amendment is only to affix a penalty to a violation of the law.

Mr. BORLAND. I should like to have the yeas and nays on that amendment.

The yeas and nays were ordered, and, being taken, resulted—yeas 12, nays 28; as follows:

YEAS—Messrs. Adams, Atchison, Borland, Brodhead, Brooke, Dodge of Iowa, Hamlin, King, Mallory, Sebastian, Walker, and Weller—12.

NAYS—Messrs. Badger, Berrien, Bradbury, Cooper, Davis, Dawson, Dodge of Wisconsin, Douglas, Downs, Felch, Fish, Geyer, Hale, Hunter, Mangum, Miller, Morton, Norris, Pratt, Rusk, Seward, Shields, Smith, Spruance, Stockton, Underwood, Upham, and Wade—28.

So the amendment was not agreed to.

The PRESIDENT. The question now is on concurring with the amendment of the House of Representatives as amended.

Mr. HALE. Is the resolution now in committee or in the Senate?

The PRESIDENT. Neither. The question before the Senate simply is on adopting the amendment of the House of Representatives as it has been amended. The Senate passed the resolution originally. It was sent to the House, there amended, and returned to the Senate with an amendment. The question now is on concurring with the amendment as amended.

Mr. HALE. I had supposed that we were considering the resolution as in Committee of the Whole, and that it was now in the Senate.

The PRESIDENT. The question is simply on the amendment of the House of Representatives

as amended; and that does not go through the stages of a bill.

Mr. HALE. Is it in order to move to amend the amendment as amended?

The PRESIDENT. It is in order to add to it.

Mr. HALE. Is it in order to move to strike out?

The PRESIDENT. It is in order to move to strike out any portion which has not been inserted by the Senate.

Mr. HALE. I want to put one other question to the President. Is it in order to move to concur in the amendment as amended, with an exception?

The PRESIDENT. No, sir.

Mr. BADGER. I suppose the question comes up on these various amendments which have been agreed to, whether the Senate will concur in them?

The PRESIDENT. That is the question.

Mr. BADGER. Upon that point I wish to say a word. I wish to suggest to gentlemen who are in favor of the appropriation, that we should not concur in the amendments which have been made; but that we should permit the resolution to pass without incurring it.

The PRESIDENT. The Senator will not get at his object by not concurring; for if the amendments are not concurred in, the amendment of the House of Representatives will be rejected.

Mr. HALE. The Senator can move to reconsider.

Mr. BADGER. I did not vote in favor of it, therefore I cannot make the motion. But I will let it go.

Mr. BORLAND. I wish to know if the vote we are about to take now is on adopting the amendment as it comes to us from the House?—whether it is the final vote?

The PRESIDENT. It is the final vote; but it is on the amendment of the House of Representatives as it has been amended.

The amendment of the House of Representatives as amended was concurred in.

#### PRIVATE BILLS.

On the motion of Mr. RUSK, the Senate proceeded to the consideration of the bill for the relief of Anna Norton and Lewis Foskit. It was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to pay to Anna Norton and Lewis Foskit, the only heirs of Zephaniah Ross, a revolutionary soldier, the amount of pension which would have been paid to said Ross had his pension been continued to him from March 4th, 1822, to January 1st, 1828.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

The bill for the relief of Francis E. Baden was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Francis E. Baden upon the pension roll, and pay him the compensation of a major in the United States Army for five years from January 1st, 1851.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### EXECUTIVE SESSION.

On the motion of Mr. HAMLIN, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned until Monday.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, April 9, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

Mr. MACE. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. DANIEL. I hope the gentleman will yield, in order to enable me to offer the usual resolution to close debate upon the bill for the relief of the legal representatives of General James C. Watson, late of the State of Georgia.

Mr. MACE. I will yield for that purpose.

Mr. DANIEL. I then move the following resolution:

*Resolved*, That all debate in Committee of the Whole House, upon House bill No. 136, for the relief of the legal representatives of General James C. Watson, late of the State of Georgia, shall cease in thirty minutes after it shall next resume the consideration of the same; and, if the committee shall not sooner come to a conclusion, it shall then proceed to vote upon such amendments as are pending, or may be offered, and report the bill to the House, with such amendments as it may have agreed to.

Several Voices. "One hour."

Mr. DANIEL. Well, I will put it one hour.

Mr. JOHN W. HOWE. I rise to what ought to be a privileged question. I do not know whether it is or not. Upon the first day on which this bill came before the committee, I obtained the floor, and, after speaking about twenty minutes, I gave way for a motion that the committee rise. When the bill again came up in committee, I was confined to my bed by sickness, from which I have not yet entirely recovered. But I lost my right to the floor. Now, I should feel under very special obligations to the House if they would postpone the time for closing this debate long enough to give me an opportunity to occupy the remainder of my hour. I do not know whether it is a privileged question or not.

Mr. DANIEL. I think the gentleman will have ample time within an hour if he can get the floor, and as far as I am concerned, I hope he will get it.

Mr. HOWE. I understand the floor has been taken for one hour in committee, by the gentleman from Vermont, [Mr. BARTLETT.]

Mr. DANIEL. Well, I suppose we can close debate at any time.

The question was then taken, and upon a division of the House there were—ayes 71, noes 32; no quorum voting.

Mr. DANIEL. I ask for tellers.

Mr. CABELL, of Florida. I would suggest to the gentleman from North Carolina, that if he will make the time two hours, I presume there will be no opposition to the resolution.

Mr. DANIEL. I have very little choice in the matter. The bill has already been discussed two days, and I think it is all that will do any good. If gentlemen wish it, however, I will make the time two hours.

The question was then put on the resolution as modified, and it was adopted.

The question then recurred upon the motion of the gentleman from Indiana, [Mr. MACE], to go into Committee of the Whole on the Private Calendar.

Mr. LANE. It will be recollected by the House that Monday after the next is the day set aside for the consideration of territorial bills. I hold now in my hand three bills which I desire to present and have referred.

The SPEAKER. The gentleman can present them by unanimous consent.

There was no objection, and the following bills were introduced, read a first and second time by their titles, and severally referred as indicated below:

A bill making appropriations for the improvement of Yam Hall river, in the Territory of Oregon. Referred to the Committee on Roads and Canals;

A bill making appropriations for the completion of light-houses, and the erection of a custom-house and a warehouse in the Territory of Oregon. Referred to the Committee on Commerce; and

A bill to amend an act entitled "An act to settle and adjust the expenses of the people of Oregon, in defending themselves from the attacks and hostilities of the Cayuse Indians in the years 1847 and 1848." Referred to the Committee on the Territories.

#### PRINTERS' UNION.

Mr. FLORENCE. I ask the unanimous consent of the House to submit a resolution adopted by the Printers' Union of Philadelphia, approving of the establishment of a public printing office, and urging the passage of the bill already introduced for that purpose. As the subject of printing may occupy the attention of this House and the country soon, an expression of opinion upon the subject, coming as it does from a numerous and most important branch of the arts, and being one of the most respectable and intelligent of the industrious classes, should be entitled to the respectful consideration of this House.

Mr. MEACHAM. I object.

Mr. FLORENCE. I hope at least the resolution may be read for information.

Mr. MEACHAM. I object.

Mr. MACE. I now insist on my motion to go into Committee of the Whole.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to introduce the following joint resolution, of which previous notice had been given:

Joint Resolution in regard to the Public Printing.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the second section of the joint resolution of 1846, "directing the manner of procuring the printing for the two Houses of Congress," shall not be so construed as to allow the joint committee of the two Houses to discharge one contractor and employ another; but in all cases where the committee shall deem that there has been unnecessary delay or neglect, the facts shall be reported to Congress, and the committee shall be governed by its direction.

Objection was made to its introduction.

Mr. STANTON, of Tennessee. I wish to suggest that there is business upon the Speaker's table, which the chairman of the Committee of Ways and Means is very anxious to get at. Objection has been made to its being taken up out of its order. Now, I propose that we consume the morning hour upon the bill in reference to discipline in the Navy, which has been up for several mornings past. I think we can dispose of it during the morning hour, then proceed to take up and refer the bills upon the Speaker's table, and then go into Committee of the Whole on the Private Calendar. I hope the House will adopt that course.

Mr. DANIEL. I object.

Mr. STANTON. I do not ask to submit a motion to go to the business upon the Speaker's table, but to spend the morning hour upon the naval bill, so that we might then get at the business upon the Speaker's table. We can dispose of it during the morning hour. That bill has been under discussion for several days in the morning hour.

Mr. DANIEL. We can hardly expect to dispose of that bill during the morning hour, and we have devoted so little time to private business during this session of Congress, that I trust that we shall now proceed to that business.

The SPEAKER. The proposition of the gentleman from Tennessee [Mr. STANTON] is objected to.

Mr. SIBLEY. The gentleman from Indiana [Mr. MACE] has given way to allow me to ask the unanimous consent of the House to introduce certain resolutions from the Legislative Assembly of Minnesota.

Mr. DANIEL. I feel bound to object.

The SPEAKER. Objection is made, and the memorial cannot be introduced.

Mr. SCUDDER. I ask the unanimous consent of the House to allow me to introduce resolutions from the Legislature of Massachusetts.

Mr. MACE. I object.

Mr. SACKETT. I wish to inquire whether it is in order to move to receive reports from committees for one hour?

The SPEAKER. It is not in order during the pendency of the proposition now before the House. The gentleman from Indiana [Mr. MACE] insists upon having his question put to the House.

Mr. FLORENCE. I arise to a privileged question, or I beg to ask the Speaker whether it is not a privileged question? When I had the honor to ask the unanimous consent of the House to present a resolution from the Printers' Union of Philadelphia, I understood the gentleman from Vermont [Mr. MEACHAM] to object to its introduction because I had, on some previous occasion, objected to the introduction of a resolution by him. Is that a privileged question? I desire to ask the gentleman whether he made the objection for that reason?

[Cries of "Order!" "Order!"]

The SPEAKER. There is no privileged question involved in that.

Mr. STANTON, of Tennessee. I rise to a question of order.

Mr. FLORENCE, (interrupting.) I wish the gentleman from Vermont [Mr. MEACHAM] to withdraw his objection to the introduction of the resolution, and that it be read.

The following is the resolution Mr. F. desired to present, viz:



*Resolved*, That we recommend the immediate passage of the bill now before Congress, introduced by Mr. Doty, for the establishment of a public printing office, believing it to be the commencement of that progressive reform, which will eventually secure to the toiling millions their true position in society, and a fair compensation for labor in every useful occupation.

M. C. BROWN, *President*.

JAMES W. WOLF, *Secretary*.

The SPEAKER. The gentleman from Tennessee [Mr. STANTON] was recognized by the Chair, as upon the floor.

Mr. STANTON. The question of order I desire to make is this: that the bill, which was discussed yesterday morning by the gentleman from Virginia, [Mr. BOCKOCH], and the morning previous, by the gentleman from Michigan, [Mr. STUART], and another gentleman from Virginia, [Mr. MILLSON], was admitted into the House by unanimous consent of the House, and is therefore the first thing in order this morning, as the unfinished business during the morning hour of yesterday, and I insist that it has precedence.

The SPEAKER. Even if the gentleman's proposition were true, it could not affect the motion made by the gentleman from Indiana, [Mr. MACE.] He regularly obtained the floor, and has made a motion which is a privileged one.

Mr. STANTON. I hope I may be allowed to state to the House that last week we went through the Private Calendar, and there is but little to do. We can properly spend the morning hour in disposing of this naval bill, and it ought to be disposed of.

Mr. DANIEL. I beg leave to correct the gentleman. There is a great deal upon the Calendar of a litigated nature.

The question was then taken on the motion of Mr. MACE, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the Private Calendar, (Mr. STUART in the chair.)

GENERAL JAMES C. WATSON.

The CHAIRMAN. The first business in order before the committee is House bill No. 136, for the relief of the legal representatives of General James C. Watson, late of the State of Georgia; and upon that bill, the gentleman from Vermont [Mr. BARTLETT] has the floor.

Mr. BARTLETT. Being a new and inexperienced member of this body, I wish to make an inquiry of the Chair. I desire to know, sir, from the volume of your experience, whether the same rule obtains, in relation to the latitude of debate, in the Committee of the Whole House, that, by custom, obtains in the Committee of the Whole House on the state of the Union?

The CHAIRMAN. The Chair would state to the gentleman from Vermont, that by the rules of the House, discussion in the Committee of the Whole House on the Private Calendar, is confined to the bill under consideration.

Mr. BARTLETT, (resuming.) I regret that this is so, for this reason: that since the opening of the present Congress, on different occasions, allusion has been made to myself, and never expecting, in the course of time, to be able to obtain possession of the floor again, I should be willing to record the sentiments which I feel, and should be happy to express, in reply to the allusions to myself, made by the honorable gentleman from Florida, [Mr. CABELL], who at an early period of this session, when he opened the political ball, alluded to my humble self—a Representative from the far North, among the cold regions of Vermont, where gentlemen are not easily excited, slow to anger, but when really aroused and thoroughly warmed, retain the heat for a long period of time. But being reminded by the Chair that I am under obligation by the rules of the House to confine myself strictly to the question under debate, I shall confine myself to the more substantial things of earth, and discuss the merits of this bill, so far as I am able, now called up for consideration.

Mr. CABELL. I ask the gentleman to permit me to say a single word. The gentleman speaks of my having alluded to him in a former debate. I will say that the only allusion made, was the reading from a newspaper a list of names of gentlemen who composed the central Democratic committee. It seems to me that it was perfectly fair and legitimate. That is the only allusion I have ever made to any of them.

Mr. BARTLETT. I would have been contented to give a silent vote against this bill, had it not been for the positive and emphatic declaration of the gentleman from North Carolina, [Mr. DANIEL], who reported it, that if this bill had not involved the title to slave property, there would have been no opposition to its passage; accompanied with the declaration on his part, that, inasmuch as the bill involved the consideration of slave property, the gentleman from New York [Mr. SACKETT] pricked up his ears, and started in a stampede. The gentleman from New York can answer for himself; and I wish the members of this House to distinctly understand that I do not belong to that class of cowards who ever run. I never dodge. Being constrained, from my convictions of duty, and from what I believe to be right, to vote against this bill, I choose to state the reasons which influence my judgment and control my mind in relation to the merits of this bill, rather than leave them to the tender mercies of the advocates of this bill. The invitation of the honorable gentleman from Michigan, [Mr. STUART], now in the chair, addressed to Northern men, and to Southern men, to discuss the subject-matter involved in this bill in the same spirit and in the same manner in which they would discuss any other matter; accompanied with the prophetic declaration, that the discussion of this subject in the same spirit, will do more than all other causes combined to allay irritation, has had some influence upon my mind, in calling me from that silent and still position which I have hitherto occupied as a member upon this floor.

Mr. Chairman, the word *agitation*, in the popular sense which it has obtained at the present day, is a word obnoxious to me. And I commend the good taste, and the good judgment of the honorable gentleman from Michigan, [Mr. STUART], now in the chair, for substituting in lieu thereof, the word *irritation*.

Mr. Chairman, ever since I arrived at my majority, and until the present moment, I have been an ardent and devoted member of the Democratic party of the United States. I have not belonged to "young America," neither have I belonged to "old America." Sir, I belong to the United States of America, without distinction of party. Yes, sir, to the United States, as they now exist by virtue of the solemn compact between the States and the Federal Union.

Sir, the first President of the United States for whom I ever voted, was Andrew Jackson; and I have voted for every Democratic nominee since, General LEWIS CASS included. In 1848, I had something to do with his nomination; but, since I have taken my seat as a member of this Congress, I have learned, to my chagrin and to my deep mortification, that I am not entitled, even by membership with the Democratic party, to meet in Democratic caucus with my friends. If I am not entitled by membership—if I am not entitled by my devotion, and my desire to promote the interests of the Democratic party, to membership in the party, I am willing, at any time, to enter into the proof whether or not I am entitled to my discharge, with a certificate of good conduct; but, sir, not with a view of entering into the service of any other party. No, sir. If I cannot serve with the Democratic party, I wish the country to understand distinctly that I serve nowhere.

But, one word on this subject of irritation. If there be any evil in the history of this Government that I have more reason to deplore than another, it is the discussion of the subject of slavery in the Congress of the United States. Sir, I am willing to abide by the Constitution and its compromises, and the just construction of that instrument, together with all laws that are passed pursuant to that sacred instrument. But, in the spirit of kindness, in the best of feeling, in the kindest motives of the human heart, let me say to the country and this nation—inasmuch, sir, as I have a desire to allay the spirit of *irritation*—let me say to all men, irrespective of all party considerations, that the proper way to allay irritation is for gentlemen to cease to apply their irritants. When the representatives and members of this Confederacy shall learn not to arraign and impugn the motives of men; when they shall learn not to arraign and impugn their integrity, their patriotism, their democracy, and their love of the Union, and stigmatize them as traitors, apostates, and dogs, for the reason that, from birth, education, reli-

gious habits, and from all their associations, from their youth up, entertain sentiments and feelings in relation to a *peculiar and delicate* institution not in accordance with their views, then, sir, irritation will cease; and, what is far better, *counter irritation* will also cease!

Mr. Chairman, it becomes us who represent the people, as wise and sworn legislators, to remember that there is in man a spirit of resistance; I say it emphatically, sir, a spirit of resistance. It is in the very nature of man; it is interwoven in his mental constitution; and God has endowed him with the physical elements of manifesting this innate disposition within him, and he will do so to the resisting and overcoming that power which annoys, oppresses, and afflicts him. I, sir, am not insensible to the fact that I stand in the presence of the most *august, awful, dignified*, and *orderly* Representatives of the most mighty and powerful Government among the nations, and I feel a degree of timidity and embarrassment creeping over me when I reflect that I am in this great, august, and awful presence; but I think the honorable Speaker of this House, for whom I had the pleasure of voting, would have but very little hammering to do—very little of the *material rapping* as contradistinguished from the *spiritual*—to keep this House in order, if every member was as obedient to the rules of this House as myself.

Sir, when I came to Congress, I was disposed to look upon the Representatives of the Southern portion of this Confederacy as men who had no sympathy in common with the North in relation to national affairs. I have been a quiet, and, I hope, a patriotic observer of the events which have here transpired, and I do not see but what the Southern members of this Confederacy are as much interested in, and appear to take as active and interested part in all the deliberations of this body, which concern the interests of this nation, as the members from the North, and seem to identify themselves with the interests and prosperity of this great nation. They seem to act in complimentary harmony with the Constitution and the laws which have been made in accordance with the provisions of that Constitution; and, therefore, I have come to the conclusion, in my own mind, that the Representatives in this body, without respect to party, to section, or to location, are all friends of the Union.

Mr. Chairman, I regret exceedingly that I am not at liberty to explain my position. I regret it exceedingly, because I represent a portion of the people of the North, and as a Democrat, and a man who has devoted more time than any man in the north of Vermont to promote the interests and welfare of the Democratic party, justice to myself and my constituents demands that I should have an opportunity to express my views and reflect their will upon the subjects that interest the country. Sir, at this late period, to have it spread before the members of the Democratic party in this body in scurrilous, mean, contemptible sheets, that I am not entitled to membership in the Democratic party, makes me wish the rules of the House would permit me to pour out the sentiments and feelings of my heart upon these calumniators, who so richly deserve it. [Laughter, and cries of "Good!" "Pour it out!"]

Mr. POLK. I move, Mr. Chairman, that the gentleman be permitted to pour it out.

Mr. BARTLETT. I do not know, Mr. Chairman, whether these suggestions of the gentlemen about me are made in the spirit of kindness or ill will.

Mr. POLK. Out of kindness.

Mr. BARTLETT. I ask, Mr. Chairman, no suspension of the rules. I ask for nothing which I have not a right to demand, and what I have a right to demand I will stand up to. I know, sir, that there is a difference of feeling, and a difference of sentiment prevailing in different portions of this Union in relation to a certain institution, and there is one gentleman upon the floor of this House—I look to the honorable gentleman from Kentucky, and if by the rules of this House I am permitted to speak his name, I allude to the honorable Mr. BRECKINRIDGE—who, if I understood the temper and the tenor of his speech, delivered in this House some time ago, said, that he did not require that Northern men should indorse and approve of the compromise measures of the last Congress.

Mr. Chairman, with these preliminary observa-

tions, I now proceed to the investigation of the bill called up for consideration, and I am not insensible to the fact that I have no influence, nor any consideration in this body, by which I can seriously endanger the passage of the bill. I know that very well. But, sir, I wish to record, and have recorded, the reasons which influence my opposition to this bill.

Before I proceed to the discussion of the merits of the bill, I wish to bring before the committee the facts of the case. I understand that, in 1836, General Jesup, the commander of the military forces of the United States engaged in Florida in the Seminole war, entered into a written stipulation and agreement with the Creek nation, that, in consideration that that nation would raise some six hundred to one thousand valiant fighting men to aid and assist the United States in their war against the Seminoles, they should receive the pay and emolument of the regular soldiers of the United States, together with such *plunder* as they should capture, belonging to the Seminoles. I learn, in the prosecution of that war, that a certain number of negroes were captured, and when taken, were in an attitude of hostility to the United States. I learn, further, from the advocates of this bill, that, at a subsequent time, General James Watson, for the relief of whose heirs this bill is introduced, through the agency of General Armstrong, the agent of the Creek Indians, entered into a contract by which he purchased the right of the property of the Creek nation in these negroes, for the consideration of \$14,500, which sum was paid by Watson to the Creeks, who distributed it to those to whom it belonged. I never address the Chairman (the Chairman being in conversation with a member) when he is talking to somebody else; for it is contrary to the rules of the House. [Laughter.] I do not thank any gentleman to intervene between him and myself. [Renewed laughter.] I have seen that course of proceeding too long not to reprobate and condemn it. So long as I am orderly addressing the Chairman, I am entitled as a matter of right to his respectful consideration.

The CHAIRMAN. The Chair will endeavor to give the gentleman his especial consideration.

Mr. BARTLETT. It is time for "young America" to insist upon her rights. [Prolonged laughter.] I will do it, sir, though the gallews stands between me and the desk; and the old men of this House must learn that while reverence is due to old age, good manners are due to both young and old.

General Watson purchased these negroes, and it is said that he purchased them with the sanction of the Government of the United States. Now, inasmuch as I have accepted the invitation of the gentleman from Michigan, [Mr. STUART,] I feel bound to accept it upon the terms proposed, and to discuss the bill in a spirit of kindness and goodwill, keeping in remembrance the Constitution and law. It is impossible to discuss the matter involved in the bill, without referring to the subject of slavery. It is as much impossible as it was for the boy who was extremely timid and bashful, and could not declaim in public. His father, with the view to have the poor boy overcome his timidity and his bashfulness, erected a stage in his cabbage garden. Now, said he, "My son, take your place upon this stage, and imagine that all these cabbage heads are men, [laughter,] and address them as such. [Renewed laughter.] It proved a most perfect failure. Why? The boy said "Father, it is very easy to suppose men are cabbage heads, but it is not equally easy to imagine cabbage heads are men." [Laughter.] Now, it is impossible to discuss this subject without referring to the institution of slavery. With a view to answer the arguments of the gentleman from Georgia, [Mr. JOHNSON,] I acknowledge that the institution of slavery existed in this country prior to the formation of the Federal Constitution. I acknowledge, in the spirit of candor as an American citizen, as the Representative of a portion of the American people, that our forefathers in the framing of that Constitution, recognized the existence of this institution, and the man who will not recognize this I am disposed to think is a fanatic. This is most clearly proved and demonstrated by the second article of the Constitution of the United States. It is most clearly proved by that provision of the Constitution, which in substance enacts that no person, whose services are due to

another, shall be discharged by reason of any law of the State to which he has escaped, but shall be delivered up to his owner. I acknowledge that this provision in the Constitution of the United States must relate to slaves. If it does not relate to slaves, then that article in the Constitution is without any meaning, as there is no other description of persons to whom it can possibly apply. Slavery, in my judgment, as I understand the theory and interpretation of the Constitution, is a social and domestic institution, and belongs to the several States in which it exists. Am I right? There are gentlemen around me who understand all about the institution of slavery, who understand the relative and reciprocal rights of master and slave. I ask, am I right, then, in the view which I express, that the institution of slavery is a domestic and social one, belonging exclusively to, and under the sole and absolute control of the States within which it exists? I am a Free-Soiler; that kind of Free-Soiler compatible with the Constitution. If these sentiments which I have advanced are erroneous, let Southern gentlemen, more intimate with the institution of slavery, who understand the relative rights of master and slave, say so. Now, I am not going to condemn the Florida war. I have been always on the side of my country in every war in which she was engaged, and, right or wrong, I ever will be. That is my motto. I respond to the gentleman from Mississippi, [Mr. WILCOX,] whose acquaintance I have not the pleasure to have, that, when my country is involved in war, I am for fighting her out, right or wrong. I am for relieving her from the embarrassment of the present exigency in which she may be involved.

Mr. Chairman, how many minutes have I left? The CHAIRMAN. Twenty-three.

Mr. BARTLETT. I have not yet got into the pith of the matter. I must proceed, then, with great rapidity, to state the reasons of my opposition to this bill. I do not know that my intellectual machinery will operate with sufficient rapidity to enable me to express even the reasons of my opposition. I do not find any proof to show that the institution of slavery existed amongst the Seminole Indians, either *de facto* or *de jure*. How does slavery exist in the several States? Does it exist by the law of brute force? No, sir. Slavery exists in the several States where it obtains, by virtue of the local and respective regulations of those States. It is upheld, it is maintained by virtue of the local laws and regulations of the several States. Let me assert here a principle, a proposition. Repeal all of the local legislation of the several States where slavery exists; repeal all general legislation where Congress has identified itself with the subject of slavery within the territory where it has exclusive jurisdiction, and slavery would exist nowhere in all our borders.

Slavery, then, exists by virtue of the local regulations of the several States, and I hold, and am willing to maintain, that the Congress of the United States has no right, by the Constitution, to interfere with it at all. If slavery exists by virtue of law, where is the evidence tending to show that slavery existed in the Seminole nation, either *de facto* or *de jure*?

Mr. JOHNSON, of Georgia. I will ask the gentleman, if there is any evidence before this committee, that the institution of marriage is recognized by the Creek tribe of Indians? I will ask the gentleman, furthermore, if there is any evidence before the committee, or country, that the Creek or Seminole Indians were governed or guided by statutory laws? I will ask the gentleman, further, if slavery cannot exist by virtue of customary laws without statutory laws?

Mr. BARTLETT. These questions, provided I have time, I will dispose of. [Laughter.] I had no idea that the mere suggestion of the proposition that there was no proof tending to show that slavery existed by virtue of law among the Seminole Indians, would bring out so quickly and suddenly the advocates of this bill. I had no idea that they would flutter so suddenly, but it has brought them out in full tilt.

If slavery exists by virtue of law, it must exist, if it existed at all amongst the Seminoles, by virtue of law, and not by force. Did slavery exist among the Seminoles by the laws of Florida, or was it by the savage statutes of the Seminole nation? We do not know. These gentlemen who represent the institution of slavery would not

doom a free man to slavery. They are too magnanimous—they have too great a respect for the rights of man—they would give a man a fair trial. Now, let me ask, in the spirit of candor, where is the evidence tending to show that by law the institution of slavery existed amongst the Seminole nation?

Slaves are that description of persons who are wholly subject to the control of another, without any voluntary freedom of action—whose persons and services are, in law, the property of another. But we learn that these negroes, who are the subject-matter involved in this bill, had great influence with the Seminoles, and that the Seminoles were subject to their influence. These negroes exercised a controlling and powerful influence over these Seminoles. If this is true, they were not slaves *de facto*. Why? If I am absolutely subject to the control and will of this gentleman who sits upon my left, [Mr. BOGOCCK,] without any freedom of action, and my sinews, my bones, and my blood are his, then I am his slave. But reverse it. This gentleman is subject to my will and control, and I influence and direct him. Am I his slave *de facto* or *de jure*? Congress has power to declare war by the Constitution. It has power to raise munitions of war. It has power to provide compensation for officers and men, but I deny that a military commander has any authority, by the Constitution or by law, to promise an extra consideration to a favorite regiment, unauthorized by law. When a boy, I recollect the beautiful and laconic letter of J. K. Paulding, addressed to Commodore Elliot. I was a mere student then. I recollect it, and can repeat it nearly *verbatim et literatim*. He says:

DEAR SIR: You are requested to point out to this Department the article of war authorizing the importation of jackasses in national ships.

J. K. PAULDING, Secretary of the Navy.

Commodore ELLIOT.

[Laughter.]

Let me request the advocates of this bill to point to the article of war authorizing a military commander to raise or enlarge the compensation of a favorite regiment engaged in the war against the Seminoles, or any other nation. I deny that the commander of any American force has a right to enter into a stipulation promising a part of the military force of this country, and in consideration that they will fight valiantly for this country, they shall be paid for their services in the bodies of the enemy. I learn, from the facts in this case, and from the advocates of this bill, that a portion of these negroes were contending against the whole military power of the United States, and all the appliances which this Government could bring to bear. I deny, according to the law of nations, that obtains among civilized and Christian nations, that a military commander has the right, by the law of nature, to enter into an engagement with the Creek nation, in consideration that they would fight valiantly against the Seminole nation, that they should receive—and we all know it was a war of extermination—the bodies and souls of their enemies taken in such war. Ah! thank God—thanks to the Constitution under which we live, move, and have our beings as a Republic, our forefathers did not incorporate in it any such authority or power. The exercise of such an assumed and unwarranted authority would not be binding upon the Government. Gentlemen around me, who understand the institution of slavery and its reciprocal rights, have seemed to acquiesce in the sentiment I advanced—that it is a domestic and social institution. Are there any contingencies which may happen—and I wish to be distinctly understood upon this subject—in the fortunes of war, by which the social and domestic relations of life can be severed? Can the fortunes of war dissolve the marriage relation? Can the fortunes of war change the relation of parent and child, husband and wife, guardian and ward, master and servant? No, sir; the result of war cannot change any of these relations. Then, for the sake of argument, suppose slavery, in point of fact and in law, did exist among the Seminoles. The Seminoles were subdued; they were subjected to the military power of the United States. Did that dissolve any of these domestic relations? No, sir. Though I cannot complete, by way of argument, what I desire to say in relation to this subject, I shall proceed, in that same connection which I had proposed for myself. The Seminole war terminated; and I wish to say, if that war had been continued to the present moment for the same cause,

I would still vote to prosecute the war, and to provide the munitions of war. And I would vote to raise men and supplies, because there may be a time when the value of this Union will be worth nothing—when the Federal Government shall forget and cease to exercise the power granted to it by the States to protect and defend them from foreign invasion and domestic violence. Then the time will have arrived when the Union will be of no value to the States, and when, in my judgment, for this cause alone, it will be the duty of the States to resume and exercise those attributes of sovereignty which they have, by the Constitution, granted to the General Government. I hold, and wish to state this, in illustration of what I am hereafter to say, that this Government is not a slaveholding nation. The Government of the United States is not a slaveholding Government. The powers not granted by the States are reserved to the States, or to the people, respectively. No power to hold men in slavery is granted by the States. I submit it, as a question of law—as a question of constitutional law, to all gentlemen who are members of this House, and who are in favor of a latitudinarian construction of the Constitution, to say what express grant of power made by the States, cannot be exercised by the General Government without the exercise of an implied power to hold slaves. Why, the Government of the United States has no more power to enter into this domestic and social relation of slavery, than it has to contract marriage. I should demur, if I were a lady, to be the bride; and lawyers will understand what I mean when I say there is a constitutional impediment to contracting any such relation, and it would be void *ab initio*. There would be no power to consummate it, and, therefore, the relation can never exist.

What, if anything, has this to do with the subject now before us? Why, if the Government is not a slaveholding Government—if the Federal Government has no authority by law to hold slaves—then it had no authority by the Constitution, or by law, to sanction the contract made by General Jesup with the Creek nation; and that is the end of the whole matter. If the Government had no authority to hold slaves, if General Jesup had no authority by law to enter into this contract, then the advocates of this bill may talk as long as they please about the Government sanctioning this transaction, and about the Secretary of War, or the Commissioner of Indian Affairs, sanctioning it, because all statesmen and all lawyers know that that which is void in its inception is incapable of any confirmation afterwards.

Mr. Chairman, how much time have I left?

The CHAIRMAN. Just seven minutes.

Mr. BARTLETT. Well, sir, if I had not great confidence in the patriotism of my ancestors, and in the previous legislation of Congress, in the adoption of these rules, I should claim that this one-hour rule was unconstitutional, as abridging the freedom of speech. [Laughter.] I never expect to obtain the floor again in the American Congress; but I have only stated my programme; the performance has not begun yet. [Renewed laughter.] But I must proceed. These negroes were the property of the Creek nation, were they not? The advocates of this bill claim that the Government of the United States made this contract. Why, the documentary evidence that has been put into this case most clearly and most manifestly proves that the right of property was in the Creek nation, by virtue of the contract with General Jesup, and by virtue of the capture. Where did they acquire the title? It was by virtue of the contract and the capture.

Now, let me ask, What interest had the United States in these slaves? Not the least in the world. The documentary evidence shows that General Watson bought these slaves of the Creeks, through the agency of General Armstrong, and that he paid the consideration to them. Yet the gentleman from Georgia [Mr. JOHNSON] declares that there is no jury in the country that would hesitate a moment to return a verdict for the claimants in this case. Suppose the gentleman had his declaration filed in *assumpsit*, there was no contract on the part of the Government. The right to the property was in the Creek nation. They undertook to sell it through the instrumentality of their agent, General Armstrong, and they received the money. The Government never had the least interest in the property. But these gentlemen here say that the

General Government gave an order, and that they were bound to deliver this property. Sir, the position is untenable. This gentleman upon my left has \$14,000 worth of property in my possession, and with my knowledge; he sells it to my friend from Ohio upon my right, [Mr. EDGERSON,] and he gives an order upon me to deliver it to Mr. EDGERSON; but before I can deliver it an armed force—a third power, claiming this property, interferes, and by force prevents my delivering it in pursuance of the order; am I responsible for that property? Sir, I deny the proposition that because of this direction to me I am bound to deliver the property at all hazards. It has no foundation in law or reason.

Then, again, I deny that the word “plunder” comprehends negroes. The gentleman from Georgia, [Mr. JOHNSON,] the gentleman from North Carolina, [Mr. DANIEL,] and the gentleman from Maryland, [Mr. EVANS,] contend for a proposition that never had any soundness in England or America, nor anywhere else where jurisprudence is cultivated and known as a science. They do not contend that the word “plunder,” in its legitimate and true sense, comprehends negroes and slaves, but they say it was understood by the parties to comprehend slaves. They say it is the interpretation and understanding of the parties that is to be the governing rule. I deny it, sir. It is the understanding and interpretation of the parties that is to govern in relation to the construction of the contract, so far as it can be collected from the instrument itself. Will the lawyers in this body rise up and tell me—will they state it to the nation, and let it go upon the record, that the understanding of the parties is to control, without reference to the instrument? No. The understanding and intention of the parties, as far as it can be collected from the instrument itself, is admissible; but it is a well-settled principle—settled in England, settled in America, settled in every State in this Union with which I am acquainted—that parol evidence of a parol contemporaneous understanding, inconsistent with the terms of the instrument itself, is never admissible to control, to vary, enlarge, or diminish the terms of the instrument. But gentlemen may say that in equity the claimants in this case ought not to be bound by this rule. Sir, the rule in equity is the same. I have not consulted legal authorities, but relying on my general reading, I assert, in the presence of the American nation and of the world, that the principle in the courts of equity is the same as that which obtains in the courts of law, in relation to the rejection of parol evidence. Talk about the understanding of the parties! Are you to rely upon the frail, uncertain, and dishonest memories of men, to the exclusion of the written and dedicated memorial? But perhaps the advocates of this bill may appeal to moral equity—to moral equity as contradistinguished from legal equity. Well, sir, let me refer to the statement of the gentleman from Indiana, [Mr. MACE,] one of the committee from which this bill emanates. He says it was the object and intention of General Watson to purchase these negroes and sell them into eternal bondage, without reference to their condition, whether they were free or whether they were slaves. Ah! Why, sir, my Lord Coke, whom I studied more than seventeen years ago, lays down this great axiom, that “he who comes into a court of equity claiming equity, must come into court with clean hands.”

[Here the hammer fell.]

Mr. WALSH. Mr. Chairman, I propose to say a very few words upon the subject of this bill, and I shall not detain the committee long.

It seems to me that some gentlemen who have engaged in this discussion have fallen into singular legal errors, and it shall be my purpose to attempt a correction of them. The gentleman from Vermont, [Mr. BARTLETT,] who has just submitted a very able address, repeated the error into which the gentleman from New York, [Mr. SACKETT,] who opened this discussion when the bill was first before the committee, fell; and that was, the position that it was incumbent upon the advocates of this bill to prove that slavery existed among the Seminole nation, as gentlemen term them, precisely as if, under the Constitution of the United States, or any of the laws of the United States, any Indian tribe had a distinct existence as a nation. In common courtesy, we call them nations; but if the gentleman had looked

twenty years back in the decisions of the Supreme Court of the United States, he would have found that that fiction was attempted to be used in the case of the Cherokees; that a distinguished professional man, who had previously been Attorney General of the United States, attempted to arrest the action of the local authorities of Georgia, who were proceeding to execute Tassell, an Indian, for murder, by an appeal to the Supreme Court, and was turned out of that tribunal almost with ridicule. The Indian tribes, although for certain purposes, and in view of certain considerations, they are treated as nations, have no such character whatsoever in view of the Constitution of the United States, or of any law passed in pursuance of that Constitution. They are only *quasi* nations, recognized as such for some purposes. But so far as legal relations are concerned, they have not one constituent as a nation; they are members of the community or State in which they are located, part of its population, subject to the control of its municipal laws, and to be punished for breaches of those laws, precisely as the Supreme Court decided in the case of Tassell, to which I have referred.

Mr. SACKETT. I would ask the gentleman from Maryland whether there is authority, or ever has been, either in the United States, or in any of the States, to settle the rights of property among the Indians of any of the tribes?

Mr. WALSH. There may have been special treaties, by which particular rights of property were to be settled by their own tribunals; but that depended on the laws that the United States chose to pass for that purpose. But, except so far as this Government has given them the privilege of deciding on their own rights of property, they belong to the State, and are subject to the State in which they reside. The gentleman will assert what every professional man and every reader of constitutional law knows to be heresy, if he means to say that these Indians located within the limits of particular States, are not subject to the control of the State laws.

Mr. SWEETSER, (interrupting.) I desire to submit a legal proposition to the gentleman. Waiving the question that these Indians were citizens of the State of Florida, and that they held slaves in conformity to the laws of that State, I ask the gentleman to answer this point: If that was their relation to this domestic institution, under the protection of the laws of Florida, by what authority did the Government of the United States, in a contest with these tribes in a state of war, authorize a transfer of that property to any individual, or to the Creeks?

Mr. WALSH. Why that does not depend at all upon the laws of Florida. But I am not looking to that question now. I was alluding to the point made by the gentleman from New York, [Mr. SACKETT.] My answer, however, is, that if they live within a State where slavery is recognized, they can hold slaves just as well as any other portion of the population. The law in Maryland, and the law I believe in every Southern State, is, that even a free negro may own slaves. The only essential to the right to hold slave property, is the freedom of the owner. And under this law, the spectacle is often presented in Maryland, of free negroes asserting dominion over slave property. Now, the question as to the existence of slavery in Florida, I am not aware has been raised here. There can be no controversy upon that subject. That this institution was known under the laws of the State, and was sustained by those laws, cannot be a question which will give rise to any difficulty.

Mr. SWEETSER. The gentleman does not distinctly understand my point. I desire that the gentleman will answer this as a legal proposition. For the sake of the point, I am willing to take the position he assumes for granted, that these Indians were authorized by law to hold slaves. But I desire to know by what authority the United States could give instructions for the transfer of these slaves. Why, if you admit that these Indians were the rightful owners, they would revert back to them, even though the transfer was made when they were in a state of war. I again say, I desire to know by what right the United States directed this transfer to be made? These slaves could not be taken, unless condemned by a judicial tribunal of the country, and I know of no authority existing in the Government to direct any such transfer.



Mr. WALSH. I will come to that directly.

Mr. JOHNSON, of Georgia, (with the permission of the gentleman from Maryland,) [Mr. WALSH.] I desire to ask the gentleman from Ohio [Mr. SWEETSER] a question: If the Government had no right to take these slaves, I desire to know by what authority they took the horses and cattle of the Seminoles?

Mr. SWEETSER. Two wrongs cannot constitute a right. If there has been an assumption of power upon the part of this Government in one instance, that cannot be pleaded to justify it in again disregarding the rights of any man, or set of men.

Mr. JOHNSON. One further question. By what right, or what authority, did this Government levy contributions upon the citizens of Mexico during the late war?

Mr. SWEETSER. That was an entirely different thing. There was an independent nation, and the principle which has been maintained by the gentleman from Maryland, [Mr. WALSH.] These Seminoles were, to some extent, under the protection of the flag of this country; and this Government was bound to protect the rights of these individuals, as citizens of the State of Florida or Georgia, or in whatever State they resided.

Mr. WALSH. Why, if the gentleman concedes we could take this property from Mexico, could we not do it in regard to any portion of the people which should rebel against the authority of this Government?

Mr. SWEETSER. I do not wish to be misunderstood. I did not concede that there was any such authority as the gentleman indicates in relation to Mexico. There was no power in the Army of the United States, or in the Government to enlist men, and to offer them, as inducements, the control over the persons and liberties of the citizens of Mexico. No such power whatever was asserted.

Mr. WALSH. That goes upon the Abolition ground. I will come to that directly. That depends upon the question of whether these negroes were persons. The gentleman will not deny that, during the war with Mexico, the Government had the right to take the property and levy contributions upon the citizens of the country we had invaded. We had the right of conquest. Now, if that right exists with regard to a foreign country, the same principle of the right of conquest exists with additional force with regard to a rebellious tribe of Indians within our own limits. Why, sir, it is one of the punishments which are inflicted by a nation whose rights have been invaded, upon the nation invading those rights. This taking of property and levying of contributions is a right of conquest, and is the means of enforcing just demands. You must do it by making your enemies suffer in person and in property. You did it in Mexico, by contributions, and you may do it in any state of war where it is necessary to subdue any people who have disregarded your rights. The only inquiry which can arise in regard to the gentleman's point is, whether these negroes are to be regarded as property. That the General Government had the right to make such a contract, or that even the commanding officer had the right, cannot be a matter of any successful controversy. The Government employed these Indians against another savage tribe of Indians. We have had all the sympathy expressed here which is usual by a certain class of persons whenever the question of slavery is brought up. The gentleman who spoke upon the first day this bill was before the committee, and who, I suppose, will have the floor to speak upon it to-day, [Mr. JOHN W. HOWE] made a great parade of the ages of these slaves. There was one man seventy years old, and one infant two years old. All these things are uniformly thrown in by these Abolition orators, to excite hatred against this institution.

Now, I know nothing of the condition of these particular people, but I do know that, as a general thing, men of seventy years of age, and children of two years of age, are generally better cared for among the slave population than are the free negroes of a similar age in the cities of your Northern States. But this sympathy is continued to be poured out. Gentlemen do not seem to recollect that, at the period when the Government was forced into this negotiation with the Creek Indians, that murders had been committed. The dwellings and habitations of the citizens of Florida had been fired and made desolate. Under the pressure of

such a necessity, the Government was called upon to invoke Indian strength against the Indian tribes which had rebelled against it. The officers of the Government made that contract, and it was one reasonable under the circumstances. It was called for by the nature of the service to be performed. Under this contract these slaves were captured, and they were justly and fairly the property of the Creek nation.

Now, Mr. Chairman, they were property. We hear a great deal said upon this clause of the Constitution. We hear it asserted that, because there is a provision in the Constitution which recognizes the slave population, to a certain extent, as a basis of representation, that, therefore, slaves lose their distinctive character as property. Do not gentlemen see, that that very recognition was put into the Constitution for the purpose of throwing additional guarantees around the Constitution. It was like one of those fictions in the common law, sometimes adopted for the purpose of insuring truth and justice. That was the very reason for placing this fiction in the Constitution. That was the reason for making this species of property to some extent a basis of representation. It was, that being made so, the strength of the South would be increased in our national councils, an additional guarantee thrown around the institution of slavery. Sir, they are recognized as property. But that is not the question before us. If this House, by the rejection of this bill, is to say that slaves are not property, and that slavery is not protected by the guarantees of the Constitution, why, the South will indeed have new cause for alarm and terror. Are we to be told that these negroes are to be taken from these Indians, and no return made to them upon the part of this Government, because they are recognized as property? The proposition cannot be maintained. They are property. That is not an inquiry to be ascertained.

Now, the gentleman over the way, [Mr. SWEETSER] who argued this subject with a great deal of ability, seemed to suggest particular forms of action, which, he says, could not have been maintained against the Government or against any private individual standing in the position the Government occupies in this matter. Does the gentleman deny or doubt, that when these negroes were captured and came into the custody of the United States at Fort Pike with the Indians, who had been captured in the same campaign, they were in the hands of, and under the control of the Government, and could not be disposed of without the consent of the Government? Now, it is plain that General Watson made this purchase with the consent of the recognized agents of the Government, and upon the faith of the Government. And, no matter whether they were slaves or not, by this contract these Creeks had a right, and upon the assertion of that right this man is compelled to part with his money. Now, what is this Government to do? what are we bound in good faith to do? These negroes being under the control, and in the possession of the officers of the Government, they were bound to deliver them up, and in case of refusal, they were liable to an action in the nature of trover, the same as for any other property. No lawyer would question that. The General Government having these negroes in possession, the Creeks parted with their title. They transferred whatever title they had to Watson, and he, the owner and possessor of that title, might bring an action of trover against any party who withheld that property from him. But the case is still stronger against the General Government. They not only failed to deliver up this property, which, according to the terms of this contract, belonged to the Creeks, but they actually permitted the Seminoles to carry the slaves along with them west of the Mississippi. Now, will the gentleman from Ohio [Mr. SWEETSER] tell me, if I own property which I have gotten under a regular bill of sale, or by a regular purchase, and another person shall step in and take that property from my dominion, and out of my jurisdiction, whether that third person would not be liable in an action of trover? That is the real question at issue, for that is precisely what the General Government have done in this case.

Mr. SWEETSER. I understand the gentleman to put this case upon the ground that the Government has failed to discharge its duty, waiving the question of original right. The Govern-

ment has failed to discharge its obligations to General Watson. If the gentleman puts it upon that ground, it changes the whole face of the case. But the gentleman is talking in relation to an action of trover. Now, the gentleman understands perfectly well that an action of trover cannot be maintained except against the person who has possession of the property, or who has converted it to his own use. Now, I do not understand that it is claimed in this case that the General Government have been guilty of converting the property, or have failed to protect it in conformity with its engagement, or of diverting, or using, or disposing of it in any way. The question then arises, upon what ground in law or equity can this case be maintained?

Mr. WALSH. The gentleman is mistaken, I apprehend, as to this law. I can maintain an action of trover against a party who meddles with my property, or diverts it, though he gets no pecuniary benefit from it. I can bring a special action against an individual who takes my property for no pecuniary purpose, and transfers it from my dominion and out of the jurisdiction of the State where I live.

Mr. SWEETSER. I am sure my friend does not wish to misunderstand me. My point is here: If the Government of the United States have transferred the property, over which they have no right of ownership, and thus prevented the real owner from coming in possession of his property.

Mr. WALSH. Then, I hold the gentleman to his pledge. This property was in the hands of the United States authorities at Fort Pike; it was under their control. They know General Watson purchased the title of the Creeks, which they themselves have admitted to be good, and knowing that, they have entirely refused to deliver upon demand, but they have transferred it with the Seminoles, beyond the Mississippi. Now, it seems to me that this is as clear a case as was ever presented. They are liable, not only for the non-fulfillment of the contract they had authorized their agents to make, but they are liable in trover for refusal to deliver upon demand, and they would be liable to a special action for transferring these slaves, to go along with their masters west of the Mississippi.

They got a good consideration for it, which makes this case conclusive upon the Government. The gentleman who opened this debate thought that, in the conclusion of the treaty, or the agreement made by General Jesup with the Indians, the clause permitting them to go with all their property and slaves, west of the Mississippi river, conflicted with this claim.

Sir, the Government, by getting Watson's money, were enabled to fulfill that stipulation, and the slaves were permitted, according to the terms of the treaty, to be carried west of the Mississippi river, under the authority of the Government. Watson had paid his money, and enabled the Government to complete their treaty stipulations, and fulfill them at his expense. It seems to me, without enlarging upon this consideration, that if ever there was a just claim presented to the consideration of this House, the claim set forth in this bill is one.

Mr. SUTHERLAND. Some weeks ago, when this matter was under consideration, I looked through all the documents referred to in the report of the committee, and referred to in this claim, and made a memorandum of the facts, and came to the conclusion that the Government were clearly liable, and bound by every consideration of equity and justice, to pay this money to Watson's heirs. I have not thought much upon the subject since; and, as I did not arrive at the House to-day in time to hear the remarks of the gentleman from Vermont, [Mr. BARTLETT], I do not know what different light he may have thrown upon this subject. I thought then, and I have not altered my opinion, that the question whether those negroes were slaves in fact, is not in issue, or at least not directly in issue, so as to make the validity of this claim depend upon it. And I will answer the question propounded by the gentleman from Ohio, [Mr. SWEETSER], because it will give to the committee my view of the case—a question which I did not understand the gentleman who just now addressed the committee [Mr. WALSH] to answer. The gentleman from Ohio [Mr. SWEETSER] asked this question: Could the Government of the United States transfer these slaves to the Creek nation?

Now, I answer, No. The Government of the United States never did transfer these slaves to the Creek nation. The Government never had any property in these slaves. The question assumes a fact contrary to the truth, and contrary to the proof before the committee—a fact which never existed. Now you see what a different case will be presented, if you follow that idea out. How did the Creek nation get their title to the slaves? By capture. It was well said by the gentleman from Vermont, [Mr. BARTLETT,] by capture. Was the title or ownership of these slaves ever in the United States? Never, never. The gentleman from New York [Mr. SACKETT] asked a question the other day, which was followed up by a question of the same import by the gentleman from Michigan, [Mr. STUART,] which is this: Can the Government of the United States own slaves? Can the Government of the United States deal in slaves? The answer to that question is not involved in this issue. I am not going to answer it, because I do not think it necessary, and I do not think it is right towards these claimants, to answer an immaterial question, when the answer might provoke an immaterial issue to the prejudice of the claimants.

Mr. FREEMAN, (interrupting.) Will the gentleman allow me to state a fact? I know the fact that the Government of the United States have dealt in slaves, and that they have sold slaves under execution to pay debts due to them. And they have taken slaves in payment of obligations, due upon United States bonds of public officers in the South.

Mr. SUTHERLAND, (resuming.) I do not say whether the Government can or cannot own slaves. What I say is, that that question is not involved in this case. Most clearly the Government might be compelled to sell slaves in a certain contingency; for instance, upon an execution issued upon a judgment obtained against Government defaulters, especially if that was all the property that could be levied upon. How could the Government avoid selling them? Whether the Government could or ought to bid them off on such sale, and hold them as Government property, is another thing. But that is a question which I think is not involved in this matter. Now, what are the facts upon which this claim rests? I will state what the facts are, and I will ask the gentleman from New York, [Mr. SACKETT,] and the gentleman from Vermont, [Mr. BARTLETT,] when I state those facts, to say which of them is not a fact. As I stated before, I made a memorandum of the facts, and noted the documents referred to by the committee to prove the facts.

In 1836 (August) General Jesup, in command of our troops in Florida, made an engagement with certain Creek warriors for their services in the Seminole war. They were to have all the *plunder*, they should take from the Seminoles; they were to have all Indian negroes and other Indian property taken by them; they were also to have \$20 as a reward for each slave belonging to citizens of the United States captured.

Mr. SACKETT, (interrupting.) No, sir. That is not so.

Mr. SUTHERLAND. Well, they were to have all the plunder they might take from the Seminoles; and they were to have \$20 for each slave captured belonging to citizens of the United States.

Mr. SACKETT. That is not so.

Mr. SUTHERLAND. I say General Jesup says by the written contract that the Creeks should have all the *plunder*, and General Jesup says he subsequently agreed to pay them \$20 a head for such of the captured slaves as might be the property of white citizens, as an inducement for them to save their lives.

Mr. SACKETT. General Jesup said at a subsequent period of the war, that he would give them \$20 for each slave captured, belonging to the whites.

Mr. SUTHERLAND. We do not differ. The original contract between General Jesup and the Creek warriors was, that they should have all the plunder they took.

This is one fact. We will strike out all the rest. The Seminoles then had many negroes living with them reputed to be slaves; some of which belonged to citizens of the United States, principally in Florida—some they had bought.

Is that fact disputed? There was at that time, when the contract was made, negroes living with

the Seminole Indians, which General Jesup says in his letter were slaves; which Colonel Humphrey and other citizens of Georgia say were slaves; and a gentleman by the name of Heath, informs us of the names of the persons from whom about forty of them were purchased by the Seminole Indians.

Mr. WALSH, (interrupting.) Will the gentleman allow me a moment to say, what I intended to have said in connection with my remarks. The gentleman from Vermont [Mr. BARTLETT] admits that slavery is a State institution, and that the laws in the several States are to govern that institution and protect it. Now, I stated as a principle of law, that will not be contradicted, that color in the whole Southern country is *prima facie* evidence of slavery, and if a black man denies that he is a slave he is bound to prove it. That principle is universal in the slave States.

Mr. SWEETSER. Inasmuch as this discussion is intended to get the facts fairly before the committee, if the gentleman will permit me, I will propound one question, touching this point, to which he has directed the attention of the committee. I understand that Mr. Harris, the gentleman at the head of the Indian Bureau, authorized this arrangement to be made in relation to the transfer of these slaves to Watson, of whom the present claimants are heirs, and that it was done independently of the Secretary of War. Now, I should like to know by what authority Mr. Harris did authorize the transfer and holding of these men, whom we captured in this war with the Seminoles? I do not know that there is any authority.

Mr. SACKETT. There is no authority at all.

Mr. SUTHERLAND. I have already stated that the Government of the United States never owned, and never claimed to own these slaves. Nor did Mr. Harris, or any other agent, ever undertake to transfer the property in these slaves to the Creeks, if that is what the gentleman means.

Mr. SWEETSER. I understand that the ground upon which the claimants seek remuneration for these slaves, rests upon the basis that there was an understanding made with Mr. Harris, acting upon the part of the Government, authorizing the transfer of these captured slaves to Mr. Watson; and I understand the gentleman from Maryland [Mr. WALSH] to predicate his argument upon the ground that the Government, after having authorized this transfer, authorized this purchase to be made by General Watson. I understand the course of the argument of the gentleman from Maryland [Mr. WALSH] is, that this arrangement was made under the authority and by the sanction of the officers of the Government of the United States. The question I propound to the gentleman from New York [Mr. SUTHERLAND] is, upon what authority did Mr. Harris act? He admits that he had no authority.

Mr. SUTHERLAND. I have no interest in this matter. I merely wish to give my legal view of the case. Now, in the first place, permit me to remark, that in ninety-nine cases out of a hundred, if men are honest in their differences of opinion, these differences arise from a mistake about facts. In this case, these children, or heirs, are likely to be prevented from obtaining their just rights, in consequence of a mistake of the facts—in consequence of assuming that for fact, which never existed. Now, I have stated the contract that General Jesup made, in the way the gentleman from New York [Mr. SACKETT] wants it stated; and I have stated that at the time the contract was made, there were negroes living with the Seminole Indians, and that they were called slaves by General Jesup; called slaves by the Secretary of War; called slaves by the citizens of Georgia; called slaves by the Creeks and by the Seminoles; and the negroes themselves never denied that they were slaves, and never claimed to be free. Now, I state that they were black, and that they are called slaves in these papers, and were reputed to be slaves. Is it disputed? Well; what then? As I mentioned before, I made some time since a memorandum of the facts, and a reference to the documents which prove those facts, but so much of my time has been consumed, I will have no further reference to it, but can probably more briefly state the facts without any further reference to it. And I am sure that no gentleman will deny what I state. The Creek warriors did aid the troops of General Jesup in the war with the Seminoles.

The Creek warriors did capture slaves. General Jesup says they did; the Government has said so; everybody has said so. They did capture certain negroes, whom the Creeks claimed to be slaves; the negroes, so captured, themselves did not deny they were slaves; and the General Government has admitted them to have been slaves, and, through its officers, proclaimed them to have been slaves, over and over again.

There were about one hundred and three slaves and free negroes captured under this arrangement, besides the slaves belonging to white persons—of the latter there were ninety-three, which were returned to their owners. There were about one hundred and thirty negroes captured, belonging to white citizens of Georgia; and General Jesup paid the Creek warriors twenty dollars a head for them, and sent them home to their owners. General Jesup says there were some eighty slaves—he calls them slaves—which the Creek warriors had captured, whom he sent to Fort Pike. There were seventeen left behind, and he says that some one or two or more, on examination, might be found to belong to white citizens of Georgia, but that the greater part of these slaves at Fort Pike were captured by the Creek Indians, and were their property under the contract. What then? The documents are full of evidence to show that the Government was embarrassed as to what they should do with these negroes. Why embarrassed? Why, sir, from knowing human nature well enough to know that the question raised upon this debate, and that the very excitement produced here, would be produced by any act of the Government in relation to these negroes. General Jesup knew that it would not do to send them west—such was the declaration of the officers of the Government—because it would renew, as was supposed, the war between the Seminoles and the Creeks. What, then, were they to do? General Jesup imprudently—imprudently, I say, because it would have been extremely imprudent for the Government to buy these slaves—offered the Creeks \$8,000 for their interest in them, over and above the \$20 paid for each slave captured, belonging to the whites; which offer was sanctioned by the Government, but the Creeks refused to take it. What then? Still the policy of the Government was not to allow the negroes to go west with the Seminoles, or with the Creeks. What then? In May 1, 1838, a deputation of the Creek Indians, with Captain Armstrong, came to Washington to ascertain from the Department of War, whether they, the Creeks, were to be permitted to take the negroes, (then reduced to sixty or seventy,) or were to be paid for them. And Mr. Armstrong swears that this whole matter was discussed, and that the Government, to relieve itself from the dilemma, sent for General Watson, and procured him to purchase the slaves.

Mr. SWEETSER. I ask the gentleman if, when he speaks of the Government, he alludes to Mr. Harris, as Commissioner of Indian Affairs?

Mr. SUTHERLAND. I understand that is disputed. I have not time to read the affidavit of Mr. Armstrong; but I say that it is full, unequivocal, and explicit as to these facts.

What further? General Watson did purchase these slaves, with the knowledge, with the approbation, and at the instance and suggestion of the Government, and did pay in cash, part here and part in Philadelphia, \$14,000 to Captain Armstrong, and, Captain Armstrong swears that he took it, and paid it over to the Creek Indians. Now, what more? Where were the negroes, the slaves, that Watson had bought? At Fort Pike, in the possession of the Government, under the care of Lieutenant Reynolds. Now, what were the Government bound to do—what ought the Government to have done? You have to bury every principle of justice, every principle of right and wrong, to say that the Government were not bound to deliver these negroes—negroes, sir, whether they were slaves or not. What, after all these acts of the Government, after procuring Watson to purchase them—after acknowledging over and over again, through its officers, that they were slaves—can the Government say that they were not slaves? That is the point of this matter. Can the Government set up now as against this claim, that these negroes were not slaves? It is not pretended that they were the slaves of the Government. They were the slaves of the Creeks, and the Creeks sold them to Watson, and the Government, a day or

two after the sale to Watson, issued an order for their delivery to Mr. Collins, the agent of the Creeks, that they might be delivered over by him, as the agent of the Creeks, to Mr. Watson, in pursuance of the sale. The officer, Lieutenant Reynolds, having the custody of the negroes, declined obeying the order, for which act the Secretary of War reprehends Lieutenant Reynolds, and tells Lieutenant Reynolds that it is much to be regretted that he did not obey the order of the Government. This is enough. The negroes were not delivered up, as they ought to have been. They were moved west, with the Seminoles, by the officer or officers of the Government. Watson could not, and did not, ever get possession of one of them; and it was through the fault of the Government of the United States.

Now, where do you get, in this case, the question whether these negroes were slaves or not? Is this a question between these negroes and the Creeks? Is this a question between these negroes and their Seminole owners? Is it a question whether they are slaves or not? Certainly not; certainly not. Whom is this claim against? Against the Government of the United States. Do not the principles of law and equity estop the United States from saying they were not slaves? I procure you, or permit you to purchase property in my possession, assuming it to be slave, or any other particular property, and you purchase it at my instance and request, where do you get your rule of morality, or your rule of law, that permits me, after you have paid your money, to set up a defense by saying that what I said was false? What kind of morality is this to preach in a Hall like this, which ought to be, if it is not, a hall of justice? Why, sir, not slaves! Is it any difference whether they were slaves or not? Is the equity of the case depending upon the question as to whether they were slaves or not? Not slaves! Did not the Government say they were slaves? Did not the Government procure this man to buy them? Is it here a question between Congress and these negroes, and are they pleading for their liberty before us? Mr. Speaker, is that the question? If the question of slavery comes up at all, it does not come up directly. It is merely collateral.

I say again, that cannot be considered the issue in this case, because the Government, by the acts and declaration of its officers, has put itself in a position which precludes it from setting up now that these negroes were not slaves. The negroes are not here asking us to manumit them. The question here is not a question between the negroes and those claiming them as slaves; a question of their freedom or slavery. The payment or non-payment of this claim will not alter their condition. Will refusing to pay this claim bring them from the Seminoles? Then why this sympathy, why this excitement? It is not a question of slavery. Will your vote and your determination upon this floor to pay or not to pay this money affect, in any manner, the rights or condition of these negroes? If they are free, will it make them slaves? If they are slaves, will it make them free? If they are, in fact, slaves, will they not still remain slaves whether you pay the money or not? Mr. Chairman, it is this which has induced me to say a word upon this subject—I mean the unnecessarily involving and bringing an issue into this case which has nothing at all to do with it; and in my judgment a plainer, more just, and more equitable claim never was made out than this. Now, let me ask who is it, who sets up and pleads here that they are not slaves? Whose duty is it? I say, the Government's mouth is closed. It has no right to assert that they are not slaves as against Watson or his representative. Do gentlemen ask me whether they were slaves or not? I say, it is no matter whether they were slaves or not. You are bound to pay the money—the claim is not for slaves, but for money. Why, the question put by the gentleman from New York, [Mr. SACKETT], whether this Government can own slaves or not, is not at all involved in this matter.

Now, one word about this contract. What is meant by the term plunder? Anything taken from an enemy without his consent, and by force of arms, or by capture in war or battle, is called plunder. The term characterizes not so much the kind of thing taken, as the manner or mode by which the thing is taken. If I purchase your horse, and you give me a bill of sale and deliver the horse to

me, I thereby acquire a possession and title by purchase. So of slaves. But if you are a public enemy or foe, and I take the slave from you by force—if I take the horse from you by force—the slave, or the horse, is plunder. It does not mean any particular thing or kind of property; it only means a mode of acquiring the thing as distinguished from purchase, as distinguished from a peaceful acquisition; it means an acquisition or possession acquired by force. In old times, when by the law and custom of nations, the captive, whether bond or free, became the slave of the captor, it was plunder. These negroes were the slaves of the Seminoles; so it must be assumed here, in looking at this claim. I have shown that the Government are estopped, by the acts and declarations of its officers, from setting up now, as against Watson or the Creeks, that they were not in fact slaves. The Seminoles and the Creeks were engaged in open war, as the enemies of each other. The Creeks took these negroes from the Seminoles, in open war, by force. This was their title, and all the title they had. Their title was the capture, and not the contract of General Jesup. Indeed that contract prevented the Government from acquiring or claiming any title, because it said that the Creeks might acquire this title by capture. Nor can it be made a question here, between the Government and Watson's representatives, or between the Government and the Creeks, whether General Jesup was in fact authorized to make this contract:—

1st. Because we have shown, that the possession and the title of the Creeks, whatever it was, was acquired by capture from the Seminoles, and not under or through that contract, by purchase or otherwise from the United States—and therefore the question of authority is immaterial.

2d. If the authority of Jesup is material, as between the Government and third parties, Watson or the Creeks, it must be assumed that he had authority, the subject-matter of the contract being within his proper jurisdiction and cognizance. If Jesup exceeded his authority, that is a question between him and the Government, and not between the Government and Watson, and between the Government and the Creeks—innocent third parties must not suffer.

3d. The Government, through its officers, have ratified and confirmed this contract, and the right and title of the Creeks, however acquired, by their repeated acts and declarations; by the offer to purchase the negroes of the Creeks for \$8,000; by their procuring Watson to purchase the negroes of the Creeks as the slaves and property of the Creeks; and by uniformly treating them as the slaves and property of the Creeks; and therefore the Government cannot now deny the right and title of the Creeks, or of Watson, under the purchase from them.

Now, Watson paid the purchase money to Armstrong, and he paid it over to the Creeks, as is expressly sworn to by Armstrong in his affidavit, and as is acknowledged by the Government; and the Government has had the benefit of this money, because it was the settled policy of the Government not to deliver the negroes to the Creeks to be moved west with them; and it is apparent from the evidence, that if Watson had not purchased the negroes, the Government would have been compelled either to purchase them itself, or to procure some other person to purchase them.

It can make no difference whether this claim is presented here by the Creeks or by Watson. The Government, I think, is bound by every principle of justice to see that Watson, or his representatives are repaid at least the amount paid by him to the Creeks, with interest; and such payment to them would absolve the Government from all liability to the Creeks.

Mr. SWEETSER. Mr. Chairman, how many minutes are there left before the termination of the debate?

The CHAIRMAN. Thirteen.

Mr. SWEETSER. I had intended to trespass for a few moments upon the attention of the committee, by the courtesy of the gentleman from North Carolina, [Mr. DANIEL], but the time remaining previous to the closing of debate will be sufficient for my purpose. It is my desire that this bill shall be explained with reference to certain points, so as to authorize me to cast my vote in favor of its passage. It involves, in my judgment, a very grave and important principle, and I

intend, in the few minutes allotted me, to direct my attention to two points of the bill. I do not wish to introduce into this debate any question which shall excite the feelings of members so that their judgment may be withdrawn from a full and fair consideration of the merits. I have no time to go back into the details of the bill, but will at once approach the two points I desire to make, and to these points I will call the attention of the gentleman from North Carolina, [Mr. DANIEL], who will close this debate. I waive all of the questions touching the right of these Indians to hold slaves, or their peculiar condition under the laws of the State in which they reside. In order that the claimants may recover the amount claimed by an intelligent vote of the House, there are two points which must be answered, and answered fully. Now, Mr. Chairman, I take this first position, and call the attention of members particularly to it, that the Government of the United States, through the instrumentality of any of its officers, had no power under the Constitution to make the arrangements they did make with these Indians, in order to induce them to engage in the Seminole war, and that the possession acquired as the result of the arrangement conferred no title whatever upon these Creek Indians, to the supposed slaves found fighting with Seminole Indians. I do not undertake to discuss the elements of a title by capture. I take the broad ground and predicate my position upon the argument adduced by the gentleman from New York, [Mr. SUTHERLAND], that the United States Government had no power under the Constitution to make any such arrangement. The doctrine of the transfer of the LIBERTY OF PERSONS—of individuals captured in war, is unknown to our institutions. It is without any precedent in civilized warfare. I desire to raise my voice here distinctly against any such principle as that. I will not, however, dilate upon that subject.

Mr. SUTHERLAND. You say, then, because the Government had no power, that this man ought to lose his money!

Mr. SWEETSER. I am coming to that point.

Mr. SUTHERLAND. Then I would not take the position that it has no power. It makes no difference.

Mr. SWEETSER. If the gentleman will listen he will find that I will dispose of that point. The gentleman said that the slaves were captured fighting with the Seminoles, and sent to Fort Pike, and that the Government was embarrassed by the then condition of the matter. Certainly, they were embarrassed; and they were so because the intelligence of the Government at once perceived that this arrangement, made by General Jesup, was not authorized by law, or the customs of war, but was, on the contrary, in direct violation of those principles which should always govern the administration of this Government in time of war, was a barbarism that even savages would scout as unworthy of even savage warfare. They saw that the Government had no power to hold these men, or to transfer them to the Creek Indians, engaged in the war with them, as stipulated by General Jesup. There can be no doubt upon that subject.

Now, I will call the attention of the gentleman from North Carolina to another point. I hope he will reply to these points. I know the intelligence and candor with which he always argues questions before the House. Watson became a speculator in these negroes, and, if he had been a prudent man, it was his duty to have ascertained by what right these Creek Indians claimed these slaves, which they proposed to transfer to him. It was his duty to have ascertained whether General Jesup had any authority to make the contract alleged to have been made. It was his duty to find out by what authority the officers acted in delivering over to an Indian ally, men taken in battle, to the Creek Indians, to be by them sold into perpetual slavery, and whether they had the power to bind this Government to such an arrangement, alike disgraceful to the Government and the age. Upon the explanation only of these points can this claim rest. All these duties were enjoined upon the man who sought to deal in this kind of property. He was bound to consult the record to ascertain if he was acquiring a title which would avail him. He acted at his peril with these officers of the Government, who had no right to enter into this contract, and his title



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failing, he has no right to appeal to Congress to be indemnified for the loss he has sustained. I know the gentleman will take pleasure in answering this point. Let me repeat it again, that the gentleman may more fully understand me. I maintain, before the House and the country, that the Government were embarrassed in consequence of the arrangement which was made by General Jesup. They were alarmed as soon as they discovered they had no authority to make such an arrangement, and fully realized the awkwardness of this, if not its criminality. Harris, the Superintendent of the Bureau of Indian Affairs, alone entered with Mr. Watson into the agreement, who was purchasing these slaves, if rightfully slaves, worth \$50,000 or \$60,000, for about \$14,000, as a speculator. If, I say, he did not look into the title, and see what position it rested upon, and has not now a perfect title, there is no obligation upon this Government to indemnify him for what he paid the Creeks for their invalid claim. He has no business here to ask, at the hands of the Government, to be remunerated for his loss.

I will go no further. There is one ground upon which this claim can be predicated. If this Government, through its authorized authorities, have entered into a final arrangement with this man, and encouraged his aforesaid purchase, and have pledged the faith of the Government, to deliver these slaves to him—I will not discuss the question of morals involved, and I care not how unlucky the compact—we are bound to maintain the pledged faith of the Government, and hold the authors responsible to the animadversions, by public opinion. If such a case is made by the proof, the claimants have the right to be here to-day asking Congress to be remunerated for the loss they have sustained. When that point is made out, my vote for the bill will be given most cheerfully. I beg gentlemen to waive all minor considerations. The question is, whether the faith of the Government shall be preserved inviolate, or shall be trampled in the dust in the Halls of Congress.

Mr. DANIEL. I suppose the gentleman is throwing out these arguments to be answered. I think that is the true view of the case, though I differ in many respects from the gentleman.

Mr. SWEETSER. That is the point upon which this committee are to vote and act in relation to the indemnification of this man. I do not care how long the engagement of the Government was anterior to this time. If it is shown by the record that this man Watson, made this purchase not exactly under the authority, but under the advice of the Government, with the faith of the Government pledged that his right, whatever it might be, should be secured to him, this Government is bound to indemnify him. Now for the argument of the gentleman from Maryland, [Mr. WALSH.] He puts it upon the ground that the Government has converted the property—or done some act inconsistent with the right of Watson. I understand that to be his assumption.

Mr. WALSH. They refused to deliver them upon demand, and permitted their officers to take them west of the Mississippi.

Mr. SWEETSER. Now, if the Government, after having sanctioned this arrangement made by General Jesup with the Creek Indians, and the subsequent, made by Watson with the Creeks for the purchase of the slaves, has been guilty of any act or connivance to relieve themselves from the original contract—have been guilty of any wrong, it is the duty of this Government, and it is the duty of this House of Representatives, to fully indemnify that man. There can be no question about it. LET THE FAITH AND HONOR OF THE GOVERNMENT BE PRESERVED ALTHOUGH THE HEAVENS FALL. That is the principle which will control my vote here. I hope the honorable gentleman who will close this debate will show to this committee, and the country, that this bill is based upon the faith of the Government pledged to Watson at the time he made the purchase of these slaves, or that the Government have been guilty of some act of bad faith towards Watson, the purchaser, which fixes a moral obligation, if any

such facts exist, which will authorize the passage of a bill so repugnant to all my opinions of propriety or right.

I thank the gentlemen of the committee for the indulgence they have given me upon this occasion. I say this case involves a grave and important principle. Let us now determine it upon this bill, at a time when there is a comparative calm in regard to this matter, in relation to the character of property that is so exceedingly delicate, and which has caused so much excitement in the land. Let us come up here, and vote like American representatives; and where the faith of the Government has been pledged, I care not with what understanding, it is sufficient for me that the honor of the country is at stake, to command my vote. Let that be shown, and let us record our votes in favor of a bill which will show, not only to the South, but to the whole country, that the people's representatives, acting upon a great principle like this, will speak out, discharge their duty, and put their names upon the record of the country like men.

Mr. JOHN W. HOWE. I understood that it was out of courtesy to me, and at the instance of friends, that another hour was to be given to this debate. I feel under strong and lasting obligations to this committee, though, owing to some circumstances not now fully made known and for which I cannot account, I have not had a moment of that time.

Mr. DANIEL. As nobody else seems disposed to occupy the floor, I will commence.

Mr. SACKETT. I desire to move that the committee rise, for the purpose of extending the time, for the benefit of the gentleman from Pennsylvania, [Mr. Howe.]

The motion was made for extending the time one hour, to enable him to resume the floor to finish his remarks, which sickness prevented him from doing heretofore.

Mr. STANLY. I hope the committee will not rise that we may extend the time for debate, but I trust that by common consent the gentleman from Pennsylvania, [Mr. Howe,] who differs from me in views as widely as man can, will have that courtesy granted to him which was never denied to any gentleman under similar circumstances; and I move that by general consent he have the balance of his time, which he lost on account of illness.

Mr. DANIEL. I have no objection, if it is the pleasure of the House.

The CHAIRMAN. The Chair will state that the only method of which he is aware, under the rules, by which the gentleman from Pennsylvania can get the floor, is by the courtesy of the gentleman from North Carolina, [Mr. DANIEL,] who reported this bill, to yield him a portion of his time. The House having fixed the time at which the debate is to be closed, it is not in the power of the committee, even by common consent, to extend it.

Mr. DANIEL. I do not know whether I shall have an opportunity of reading to the House some testimony which has not yet been read, and submit such remarks as I may deem pertinent. If I was sure I should have ample time, I would not have the least objection to yield a portion of my hour to the honorable gentleman from Pennsylvania. I will do this much: I will endeavor to get through the material points of the case as soon as possible, and then, if I can, I will yield to the gentleman a portion of my time.

Mr. HOWE. I will only state—

Mr. DANIEL. How much time had the gentleman before?

Mr. HOWE. There is no record of it.

The CHAIRMAN. The time for closing the debate is known.

Mr. DANIEL. The gentleman commenced and spoke some days ago.

Mr. HOWE. I spoke, I should think, about twenty minutes. I called upon Mr. DISNEY afterwards to know the length of time—

Mr. SACKETT. I move that the committee rise.

Mr. DANIEL. I hope the committee will not

rise. We have consumed some two days in this debate already. I am entitled to the floor, and will not yield it for any such purpose.

Mr. STANLY. Has anybody objected to the proposition I made? I ask that by general consent, and as an act of courtesy, the gentleman from Pennsylvania be allowed the balance of his hour, without interfering with the rights of my colleague.

Mr. DANIEL. I have no objection if it is not taken out of my time.

The CHAIRMAN. The Chair will state to the gentleman from North Carolina, [Mr. STANLY,] that, inasmuch as the House has by its own order fixed the time for closing this debate, the committee cannot, by unanimous consent even, change that order.

Mr. DANIEL. I have heretofore expressed the opinion that a great deal of irrelevant matter had been introduced into this discussion—matter which was not at all necessary to decide upon the merits of this claim. I really think the true view to be taken of this case is in accordance with the suggestions made by the gentleman from Ohio, [Mr. SWEETSER,] though I differ from the views which he entertains as to what the decision should be. Although this irrelevant matter has been introduced into the discussion, it may not be improper to notice some of the points adverted to before I shall proceed to show that, independent of these considerations, the petitioner is clearly entitled to the relief which he demands. The chief objection which has been raised is, that these captors of the Seminole Indians possessed no property whatever in these slaves. That objection has heretofore been raised by the gentleman from New York, [Mr. SACKETT,] who addressed the House at a former occasion upon this bill. He insisted first, that the contract would not embrace slaves. He further insisted that General Jesup had no right to make such a contract. That is reiterated by my friend from Ohio, [Mr. SWEETSER.] He further remarked that this transaction between General Jesup and the Seminoles had not been recognized by the Government. Taking all these positions to be on his side, he said that there was no merit in this claim, and that we are not authorized to pay it. I think the gentleman is clearly wrong in all these positions. I have seen a very intelligent letter from General Jesup, published after the discussion, some days ago, explaining the agency which he had in this matter. He reiterates in that letter all the facts, and shows that slavery did exist among the Seminoles.

Mr. BARTLETT. I rise to a point of order. I desire to know whether the gentleman from North Carolina [Mr. DANIEL] is at liberty, by the rules of the House, to discuss this question, and bring into the case matter that has not heretofore appeared in evidence before the House? That is my point of order.

Mr. DANIEL. The gentleman himself has just given us an evidence of such a range of remark—

The CHAIRMAN. The Chair will state, that the rule cannot be applied in this case. In this committee the gentleman from North Carolina, [Mr. DANIEL,] in the opinion of the Chair, will be in order when he confines himself to the subject before the House, whether the evidence has appeared heretofore or at any period whatever, or whether it has been introduced into this discussion before or not.

Mr. DANIEL. It is not very material, but I thought it proper to state this. I have seen the letter. General Jesup states what he had previously stated, and expresses the opinion that the petitioner was entitled to \$8,000, he having agreed to give that price for the slaves. So far as the contract is concerned, it is unnecessary for me to consume any more time in reading the several dispatches made to the War Department by General Jesup and the Commissioner of Indian Affairs. They have all been referred to by the gentleman from New York, [Mr. SUTHERLAND,] who has just taken his seat. They show the understanding of General Jesup, and the understanding of the Com-

missioner of Indian Affairs, (Mr. Harris.) But there is some additional testimony I propose to read, showing the understanding of the Secretary of War, (Mr. Poinsett.) All of this, I think, goes conclusively to show what construction was put upon the engagement made by General Jesup with the Creek warriors. The Creeks understood this contract in the same light in which General Jesup says he understood it—in which Mr. Harris understood it, in which the Secretary of War understood it. After all this, can there be any doubt, notwithstanding the objections raised and expressed by gentlemen opposed to this bill? It seems to me that it would be exceedingly unreasonable for us to shut our eyes against all these expositions of the true import of that contract, as to the power of General Jesup. We know in what light the Indians have always been regarded by this Government. We exercise a supervisory and parental control over them, but, in a great many respects, we regard and treat them as independent nations. They are *quasi* nations, and in that light we make treaty stipulations with them. We make conventions and arrangements with them through the Executive branch of the Government. That is very frequently done. How was it here? We were engaged in a war with the Seminoles in Florida. There was another tribe of Indians who were friendly to the United States. They were willing, by the inducements held out by General Jesup, to engage as his allies in that war. They did engage as allies, and received pay. In addition to that, they were to have all the property they captured, slaves as well as other property. Now, it may be said that this arrangement was never submitted to the Senate. But it has received the sanction of the Government subsequently—of every branch of the Government. Whether there was doubt or not, as to the authority of General Jesup to enter into this arrangement with the Creek warriors, there can be no sort of doubt that, in pursuance of such arrangement, the slaves in question were captured by the Creek warriors, who claimed them as their property.

Well, sir, what was to be done with them? Hostilities were going on. They were taken into the custody of the United States by authority of the United States officers, and they were held in the custody of the United States for the use and benefit of the Creek warriors. That is plainly to be seen in the whole correspondence in relation to this matter, as I showed on a former occasion. General Jesup entered into negotiations with the Creek warriors, who were entitled to the slaves, to purchase their interest in them, with a view of sending them to Africa; and he actually ordered Lieutenant Searle to pay the Creeks \$8,000 for their interest in the slaves. When that sum of money was tendered to the Creek warriors, they refused to accept it; they wanted more. The arrangement, therefore, was not consummated, and the slaves were still held in the custody of the Government for the use and benefit of the Creek warriors. Well, sir, what takes place next? A delegation of the Indians proceeded to Washington, in company with Indian agent Armstrong, for the purpose of making some arrangement in regard to these slaves. They came here and demanded the delivery of the slaves then held in the possession of the United States, for their use and benefit. The Government of the United States was then engaged in the work of removing, not only the Seminoles, but the Creeks also, west of Arkansas, and they were sensible of the consequences which would result if the negroes were removed to the territory to which those tribes were to be transferred. If they had been sent there as the property of the Creeks, the Seminoles would, no doubt, have claimed them. If they had been permitted to go there as the property of the Seminoles, the Creeks would have been dissatisfied, and would have claimed them, and a deadly war would, in all probability, have ensued. This, then, was the position in which the Government was placed; and, if Judge Iverson is to be believed—and no one who knows him can doubt his statement—while the Government was thus perplexed, from motives of humanity, and seeking some means whereby such direful consequences to the two tribes might be avoided, a proposition was made to General Watson, on the part of the Commissioner of Indian Affairs, to buy out the right of the Creek warriors, the Executive Department of the Government informing him in advance that

the negroes were in the custody of the Government, and that they should be delivered to any person that the Creek warriors would authorize to receive them. After this was fully understood, after the price was agreed upon between Watson and the Creek warriors, under the advice of the Indian agent, he procured the money, and paid it to the Indian agent, Armstrong, and a bill of sale was made to Watson; and a power of attorney given by the Creek warriors to a man by the name of Collins, authorizing him to go to Fort Pike, and to demand the slaves of the officers who had custody of them; and orders were issued from the War Department to deliver them up.

Collins proceeded to Fort Pike and demanded the negroes. But before he got there, and indeed, it would seem from the different dispatches, just about the time that the Creek warriors arrived in Washington, the Seminoles reached Fort Pike on their way to the West. They were there brought in contact with these slaves previously captured from them and sent there. Being thus brought together the Seminoles manifested great unwillingness to go west unless their former slaves were permitted to accompany them. Lieutenant Reynolds, who was charged with the transportation, was unable to detach the slaves from their former owners and effect a delivery, to use persuasive means, which alone he felt authorized to use. Hoping that he might find an opportunity of delivering the slaves at or before he reached Fort Gibson, Mr. Collins accompanied Lieutenant Reynolds and the emigrating party to Natchez, and there ineffectual efforts were made to deliver the negroes without the application of force. Not succeeding in obtaining them there he proceeded to Fort Gibson. First, however, at Little Rock an application was made to the Governor of Arkansas for aid in effecting a delivery of the slaves, but the Indians manifested so much excitement when they saw that there was some disposition to wrest their slaves from them that the Governor refused to afford any aid, and directed those having the Indians and slaves in charge to remove them as soon as possible. At Fort Gibson an appeal was made to General Arbuckle, and he was requested to deliver the slaves to Collins. He saw that there was no prospect of doing it without the application of force, and as he did not feel authorized to resort to force, he declined and permitted the Seminoles to retain possession of the slaves.

These are the material facts of the case. The money which was paid by Watson was taken to the Creek nation and divided among the Indians. The affidavit of Colonel Armstrong shows that the money was received and divided. It is as follows:

*District of Columbia, Washington County:*

Personally appeared before me, William Armstrong, who being sworn, saith that he now is, and was in the year 1838, superintendent of the Western Indians, and was at Washington city in the spring of 1838, in company with a delegation of Creek chiefs, who represented and acted as the agents or attorneys of the Creek warriors who served in Florida under General Jesup, and who claimed a number of negro slaves whom they had captured in Florida from the Seminole Indians, under and by virtue of an arrangement or contract made with General Jesup. That said delegation of chiefs acted under a power of attorney from the said Creek warriors, and had ample and full authority to ask for, demand, receive, and dispose of said negroes, who at that time were understood to be in the possession of the officers of the United States, at Fort Pike, near New Orleans, and had been there for several months previous. That whilst at Washington in said spring of 1838, deponent, at the instance and on behalf of said delegation, made application to the Secretary of War, to cause said negroes to be delivered to said Indians, or their agents, or to be paid a fair value for them. That it was advised and deemed better by the officers of the Department, or at least by the Commissioner of Indian Affairs, that the negroes should not be transported to the west by said Creeks, but that it would be more prudent and proper to sell or dispose of the same, so that they might remain east of the Mississippi. In this opinion, this deponent fully concurred, under the conviction that such population ought not to be increased amongst the Western Indians, and because their presence there was likely to give rise to serious difficulties between the Creeks and Seminoles. This deponent concurred in the advice given to said delegation to sell said negroes, and they were accordingly sold by said delegation to General James C. Watson, of Columbus, Georgia, who was then at the seat of Government on other business, and for the sum of \$14,600, which was paid in cash, part in this city, and part in the city of Philadelphia, which said money was placed in my hands by said chiefs, for safe-keeping and distribution amongst the warriors who were entitled to the same; and which was subsequently carried by deponent to Arkansas, and paid out to those entitled thereto, at a council held on the 4th of July, 1838. This deponent knows that at the time of the consummation of said contract, a bill of sale for said negroes, in number about one hundred and three, was executed by all of said delegation, to the said Watson,

which was witnessed by deponent and other witnesses. Deponent has no doubt that said sale and purchase was fair and *bona fide*, and that it was the most politic disposition which could have been made of said negroes, both for the Indians and the Government of the United States. This deponent is fully satisfied that said negroes, being now in the possession of the Seminole Indians west, and having been surrendered to them by the Government officers who had charge of them at the time of said sale, could not now be obtained or reclaimed by said J. C. Watson, or any other person, on behalf of said Creeks, without the aid of the Government, and the use of a military force, and even then their recovery would be attended with great difficulty and expense, and, probably, produce much excitement amongst the Indians.

With a full knowledge of the facts in the case, this deponent feels it his duty, as an officer of the Government, and as intimately connected with Indian relations, and thoroughly acquainted with these interests, to express the opinion that every consideration of justice and policy requires that the said J. C. Watson should be remunerated and paid for said negroes, the amount which he has expended in consequence of said sale, and the prosecution of his claim under it.

WM. ARMSTRONG,

*Act. Sup. Ind. Affairs, West.*

Sworn to and subscribed before me, this 26th June, 1840:

CLEMENT T. COOTE,

*Justice of the Peace.*

P. S. In addition to the foregoing affidavit, the deponent, William Armstrong, further swears that he knows that the said claimant, James C. Watson, incurred large expenses in the prosecution of said claim. That as many as three agents, to wit: John H. Watson, of Georgia, Nathaniel F. Collins, and Barrant Dubose, of Alabama, were all west of Arkansas, the two latter of whom remained some months in the country west, endeavoring to obtain possession of said negroes, which was finally refused by the officers of Government who had them in charge, and the negroes delivered over to the Seminole Indians West by the said officers.

WM. ARMSTRONG,

*Act. Sup. Ind. Affairs, West.*

CLEMENT T. COOTE,

*Justice of the Peace.*

Now, Mr. Chairman, it seems to me, from this statement, that those points which have been raised by the gentleman from New York, [Mr. Sackett,] and by other gentlemen who are opposed to the passage of this bill, do not necessarily arise. I think it is perfectly immaterial to determine whether the Creek warriors had a valid title or not. The Government was the bailee of the Creeks, for these slaves. They had received them into their custody, for the use and benefit of these Creek warriors. The Creek warriors transferred their title—perfect or imperfect—to Watson, and he paid them for it. But he was so cautious and provident that, before he would purchase, he even obtained from the bailee—if I may so express myself—who, upon principles of law, was under obligation to deliver the property to the bailors, without any previous arrangement or assurance, that the slaves should be delivered to the Creek warriors, or to their regularly-authorized agent, when required. But, sir, the slaves were not delivered to the agent of the Creeks, when required. Then was there not a clear violation of a legal obligation on the part of the Government, to the prejudice, nay, the ruin of a citizen? And is not the Government bound, upon every principle of law and equity, to indemnify that citizen, whose rights have been thus violated?

Why, sir, it seems to me that there never was a case of greater injustice than the facts of this case present. This money, paid by Watson, inured to the benefit of the United States. Suppose that the interest of the Creek warriors had not been purchased by Watson, do you think they would have rested content, and allowed the slaves to remain in the possession of the Seminoles? No, sir; if they had not been paid by Watson, or by the Government, they would have made efforts to obtain possession.

And now, forsooth, after the Government has received the benefit of the purchase-money, and been released from its engagement with the Creek warriors, we find gentlemen rising here and saying there is no obligation here to refund the money, and redress an injury, which the Government itself has occasioned. It seems to me that law, justice, and honor, equally require the redress of this grievous and ruinous injury.

I said, the other day, when I attempted to reply to the objections which had been raised to this bill, that it was hardly necessary to do so. I think so now. They can all be met and answered, both in regard to the facts and to the law. If I deemed it necessary, I would attempt to show that in all their objections, as well of fact as of law, the opponents of the bill are mistaken. But I will not consume the time of the House by going into that part of the subject.

In regard to facts, I propose to have read some

papers which have not been before read, and which will go to disprove the position taken by the opponents of the bill. It has been said that this arrangement has not been sanctioned by the Government. Here is a letter from the Secretary of War to John W. Jones, chairman of the Committee of Ways and Means, which I read the other day; but as some gentlemen are here to-day who were not on that day, I will read it again:

WAR DEPARTMENT, July 11, 1840.

SIR: I have the honor to acknowledge the receipt of your letter of this date, accompanied by a copy of a resolution passed by the Committee of Ways and Means, in relation to the claims of Smith and Watson, to the effect that if the War Department will say that it requires the appropriations to carry into effect the Indian treaty under which those claims respectively arise, and upon such an appropriation being made, will pay the claims, the committee will put the appropriation in the bill.

These claims did not both arise from the execution of a treaty, but stand on distinct grounds. The claim of Smith arises from transactions to carry into effect the treaty of New Echota for the removal of the Cherokees from the States east to the territory set apart for them west of the Mississippi. The appropriation asked for is therefore wanted to carry into effect the treaty, and upon its being made for that purpose the Department will pay Mr. Smith's claim.

Mr. Watson's claim arises under a contract made by General Jesup with the Creek warriors, which was sanctioned by the Department. The appropriation asked for is required to enable the Department to comply with that contract, and to carry it into effect—and upon its being made by Congress this claim will also be paid.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Hon. J. W. JONES, Chairman of the Committee of Ways and Means, House of Representatives.

WAR DEPARTMENT, }  
OFFICE INDIAN AFFAIRS, May 9, 1838.

SIR: The decision made a few days since, that the negroes captured by the Creek warriors in Florida should, in compliance with the engagement of General Jesup, be delivered to the delegation now here, has been communicated to them, with the intimation that when they had determined what disposition would be made of them, and communicated information of the same to this Department, the necessary orders would be issued. In a communication just received from the delegation, they state they have appointed Nathaniel F. Collins, of Alabama, their attorney in fact, to receive the negroes. I have the honor to request that an order may be issued to the commanding officer at Fort Pike, to Major Isaac Clark, at New Orleans, to the commanding officer in Florida, and to any other officers who may have charge of them, to deliver to Mr. Collins all the negroes in question. He will, of course, hold them subject to the lawful claims of all white persons. Abraham and his family should be excepted, in consequence of a promise made by General Jesup. The officers should be instructed to exercise due caution, so as to deliver only those captured by the Creeks. It is proper to remark, that it appears from a letter received from Lieutenant Under the direction of General Jesup, for their interest in these negroes.

Very respectfully, your most obedient servant,

C. A. HARRIS, Commissioner.

Captain S. COOPER, Acting Secretary of War.

WAR DEPARTMENT, }  
OFFICE INDIAN AFFAIRS, July 1, 1840.

SIR: Since my report to you of 8th April last, was transmitted to the honorable Mr. Dawson, a member of the Committee of the House of Representatives of Claims, authentic information has been received of the price paid by General James C. Watson for the negroes taken by the Creek Indians in Florida, to the capture and purchase of whom that report related.

These prisoners were the property of their captors, by the agreement between the Creek warriors and General Jesup. The difficulty about the possession of them, the action of the Government thereby, and the purchase of them by the present claimant, have been heretofore examined, and are fully understood. These negroes cannot, under the circumstances, be obtained by General Watson, and I have heretofore recommended that the money be paid the Creeks for them, and interest on it, should be refunded to him—but the amount of the consideration was then unknown here.

It now appears from the testimony of Captain Wm. Armstrong, taken on the 29th ultimo, that the contract between the Creek chiefs and General Watson for these slaves, (which it seems is now mislaid or lost,) was witnessed by him in the spring of 1838, that it was fair, and, considering the risk of collision between the Creeks and Seminoles in the west on the subject of the negroes, should they be carried there, he thinks the sale of them, before they reached Arkansas, was politic; that the consideration of the said sale was \$14,600, which was, by the direction of the Creek chiefs, who were empowered to act in the premises for the Creek warriors that had been in Florida, paid to the deponent in trust for those entitled to it, and that it was actually paid over to them by him in the Indian country, on the 4th of July, 1838. The dates of the contract and of the payments to Captain Armstrong are not given; but the 1st of May may be regarded as the time, without the risk of injustice either way.

These negroes cannot be obtained by General Watson. Any attempt at enforcing a claim to them under the Creek warriors would perhaps have resulted in a conflict, and as the hazard of such an issue prevented the use of more than persuasive means, I think General Watson has a just claim on the United States for the money he paid, and interest.

The amount paid, as already stated, was.....\$14,600  
Interest from May 1, 1838, to July 1, 1840..... 1,898

\$16,498

For this sum of \$16,498 I think an appropriation ought to be made, and respectfully recommend, if it meets your approbation, that a communication be made to the chairman of the Committee of Ways and Means, asking for it.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Hon. J. R. POINSETT, Secretary of War.

I have before me other letters and documents, recognizing this transaction, but I think it unnecessary to consume the time of the House by reading them. They fully sustain the case as it has been presented. The Executive branch of the Government having failed to discharge the obligation which it had incurred, has repeatedly recommended what the Government is, in equity, in conscience, and in honor, bound to do—to refund the money to General Watson's representatives, with interest. It is the recommendation, also, of the Commissioner of Indian Affairs.

Now, Mr. Chairman, I call upon those who oppose this bill, if they will not refund the money, to say what they will do. Will they comply with our engagement, and have these slaves now delivered up to the Creek warriors? If you will not refund the money, the Creeks will be satisfied, perhaps, if the Government will fulfill its engagement, and deliver up the negroes; and Watson's representatives will probably be satisfied with such an arrangement. Having taken possession of the slaves, and stipulating to deliver them up, and failing to do so, it seems to me there is no alternative left, compatible with justice and honor, but to refund the money, or for the Government to discharge its obligation to the Creek warriors by delivering up the slaves to them.

Mr. Chairman, as I have time, I will offer a few remarks in opposition to the position which has been advanced, that slavery is not recognized by the Constitution and laws of the Federal Government. Some instances have already been cited, to show that this is altogether erroneous. The Constitution does recognize slaves both as property and as persons; and it seems to me that no gentleman having any correct knowledge of the Constitution can doubt it. Most of the enlightened men of the North, whose constitutional opinions are of any weight, however strong their anti-slavery feelings may be, admit it. But that is not all. Slaves have been recognized as property by our navigation laws. They have been so recognized by our laws imposing direct taxes, and in enforcing executions at the instance of the United States against owners of slave property in the slave States. Yet gentlemen assert that slaves are not recognized as property in the action of the Federal Government. Why, sir, there never was a grosser mistake, with all due deference to those who assert the position.

Mr. Chairman, those who insist that there must be a local law to authorize slavery, are altogether mistaken. I believe there are no States where any regulations by law were made anterior to the introduction of slave property. That is the case in my own State, and in Virginia and Georgia; and it was the case, I presume, in all the States in which it does and has existed. Slavery was introduced into the colonies, there being no legislative enactment against its introduction, mainly by the African Company, which was chartered, I think, in the reign of Queen Elizabeth. Queen Elizabeth, herself, is said to have been interested in the slave trade.

There are, it is true, laws recognizing this species of property in most of the States—not authorizing it, for it previously existed there. Most of these laws are humane in their provisions. Slavery existed by virtue of the manners and customs of the Cherokees. That it did exist there, that slaves were recognized as property by the Cherokees, we have abundant proof, from the dispatches of General Jesup who was amongst them, and who knew what their institutions were; and also from officers who were there, and who certainly were more competent to speak upon this point than any of us. All join in testifying that slavery did exist there. And I think, therefore, that General Jesup was warranted in assuming that the negroes that were captured were slaves, unless the contrary appeared. That, sir, is the presumption of law in the slave States. A man is presumed to be a slave because he is black. And why? Because nearly all the black people are slaves. But a man is at liberty, if he is a freeman, to show that fact. Now, such was the case here. Slavery existed among the Cherokees. It was

confined to that class of the population, and General Jesup, and those who captured these slaves, were warranted in assuming that they were the property of the Seminoles, unless the contrary appeared. I think, Mr. Chairman, all the objections which have been urged against this bill are not well founded in fact or law. And if the objections were well founded, it would not put the Government in any better position. The Government failed to comply with its engagement. If it had complied with it, no matter whether the property was worthless or not, that was Watson's business. But there is no doubt but it would have been a very valuable speculation to General Watson, if the Government had complied with its assurances. But, sir, not only have all the advantages he anticipated been lost to him, but it is actually insisted that he shall not even get back the money which went to relieve the Government from its engagements to the Creeks.

It seems to me, Mr. Chairman, that those who can considerably oppose this bill do not evince that sensitive regard for the honor of the nation which they ought. It has been suggested to me by a colleague of mine, or rather a question has been asked, Why all this delay since 1838? Why, sir, I think very likely that this sort of feeling that has exhibited itself upon this occasion has had some tendency to produce it.

I can say this much, that the Executive Department of the Government, the Secretary of War, and the Commissioner of Indian Affairs, have repeatedly recommended an appropriation to meet this claim against the Government. For some cause or other it has not been made by Congress. It has been before no committee, so far as my knowledge extends—and I believe I have examined the whole case—that have made an adverse report upon it.

[Here the hammer fell.]

Mr. DANIEL. I move that the committee do now rise, and report the bill to the House.

The question was then taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported, that the Committee of the Whole House had had under consideration House bill No. 136, being a bill for the relief of the legal representatives of General James C. Watson, late of the State of Georgia, and had instructed him to report the same back to the House without amendment, and with a recommendation that it do pass.

The SPEAKER. The question is upon ordering the bill to be engrossed for the third reading.

Mr. DANIEL. I demand the previous question.

Mr. GOODENOW. I rise, sir, to a privileged question. I move that the House do now adjourn.

The question was then taken, and the House refused to adjourn.

The previous question was seconded, and the main question ordered to be put.

The bill was then read a second time, and ordered to be engrossed for a third reading; and having been engrossed, was read the third time.

Mr. CABELL, of Florida. I move that when the House adjourns to-day, it be to meet on Monday next.

This motion was agreed to.

Mr. STEVENS, of Pennsylvania. I move that the House do now adjourn.

Mr. STUART. For the purpose of determining the sense of the House upon this question, I demand tellers upon the motion to adjourn.

Tellers were ordered, and Messrs. HAMILTON and CHANDLER were appointed; and

The question being taken, the tellers reported—ayes 47, noes 75.

So the House refused to adjourn.

The SPEAKER. The question now recurs upon the passage of the bill.

Mr. DANIEL. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question was ordered to be put.

Mr. STEVENS, of Pennsylvania, demanded the yeas and nays; which were ordered.

The question was then taken, and the result was—yeas 79, nays 53; as follows:

YEAS.—Messrs. Aiken, W. Appleton, Ashe, Averett, D. J. Bailey, Bocoek, Bowie, Bragg, Breckinridge, Brooks, Albert G. Brown, E. Carrington Cabell, Chandler, Chastain,



Clark, Clingman, Cottman, Daniel, Dean, Dockery, Ewing, Faulkner, Florence, Freeman, Grey, Hamilton, Haws, Henn, Hibbard, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, George W. Jones, Kuhns, Landry, Letcher, Humphrey Marshall, Martin, McCorkle, McMullin, McNair, McQueen, Miller, John Moore, Morehead, Nabers, Orr, Andrew Parker, Samuel W. Parker, Penningman, Phelps, Polk, Porter, Powell, Price, Riddle, Robbins, Ross, Schermerhorn, Scudder, Scurry, Stanley, Frederick P. Stanton, Abram P. Stevens, St. Martin, Strother, Stuart, Sutherland, Taylor, George W. Thompson, Venable, Wallace, Walsh, Ward, Watkins, Wilcox, and Woodward—79.

NAYS—Messrs. Willis Allen, Allison, Barrere, Bartlett, Bennett, Brenton, Briggs, Joseph Cable, Chapman, Cobb, John G. Davis, Dawson, Dimmick, Doty, Durkee, Eastman, Edgerton, Fitch, Floyd, Fowler, Gamble, Gaylord, Goodrich, Grow, Harper, Hendricks, John W. Howe, Thomas M. Howe, Hunter, Jenkins, John Johnson, Daniel T. Jones, Preston King, Mace, Mann, Meacham, Molony, Murray, Newton, Olds, Perkins, Russell, Sackett, Skelton, Smart, Snow, Thaddeus Stevens, Stratton, Sweetser, Tuck, Walbridge, Washburn, and Wells—53.

So the bill passed.

Pending the call of the yeas and nays, Mr. THOMPSON, of Virginia, stated that Mr. BEALE had desired him to make known to the House the fact that he had been suddenly called home by sickness and a death in his family.

Mr. CAMPBELL, of Ohio, also stated that he was opposed to the bill and would so vote, but that he had consented to pair off with Mr. WILLIAMS, of Tennessee, who was in favor of it, and had been called from the Hall to transact some business of importance.

Mr. GOODENOW also stated that he had paired off with Mr. GENTRY on all questions connected with the bill.

Mr. DANIEL moved that the vote just taken, by which the bill was passed, be reconsidered, and the motion to reconsider do lie upon the table; which latter motion was agreed to.

On motion, the House adjourned until twelve o'clock on Monday next.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PORTER: The petition of 51 citizens of the Second and Fifth Congressional Districts of Missouri, asking the establishment of a mail route from Little Prairie post office, in Crawford county, Missouri, (at Benjamin Wishou's), to Crane Creek post office, in Barry county, Missouri.

By Mr. BOYD, of New York: The petition of the inhabitants of the State of New York, for a grant of land to aid in the building the Saratoga and Sackett Harbor Railroad, on Lake Ontario.

By Mr. STUART: The petition of citizens of Lincolnville and Antleup, Maine, for a beacon on Haddock's ledge, in the Penobscot bay.

By Mr. LETCHER: The petition of C. C. Strayer and other citizens of Rockingham county, Virginia, to establish the bridges of the Wheeling and Belmont Bridge Company as post roads, &c.

By Mr. BROWN, of Mississippi: The petition of Reuben Craft, of Smith county, Mississippi, praying a grant of land in lieu of certain tracts purchased from Choctaw Indian reserves, and afterwards sold by the United States.

By Mr. SIBLEY: The memorial of the Legislative Assembly of the Territory of Minnesota, praying a further appropriation for the construction of the road from Point Douglas to the St. Louis river.

Also, the memorial of the same Assembly, praying for the establishment of a mail route from St. Paul, via Red Wing and Reed's Landing, in Wabashaw county, in the Territory of Minnesota, to Lansing in the State of Iowa.

Also, the memorial of the same Assembly, praying for a grant of land to the settlers on the public lands, ceded under the Pembina treaty.

Also, the memorial of Joseph McAlpin and 121 other citizens of Minnesota Territory, praying for an appropriation of money to be applied for the removal of obstructions in the Mississippi river, between St. Paul and the Falls of St. Anthony.

By Mr. CURTIS: The petition of citizens of Clarion county, praying for the establishment of a mail route from Clarion, Clarion county, Pennsylvania, to Corsica, Jefferson county.

By Mr. EASTMAN: The memorial of the Rock county Agricultural Society and Mechanics' Institute, in the State of Wisconsin, asking for the establishment of an Agricultural Bureau at Washington.

Also, the memorial of the Legislature of Wisconsin, in relation to Fort Crawford.

Also, the petition of H. L. Dousman, praying for confirmation of land title.

By Mr. WILLIAMS: The petition of Major John Jones and the accompanying papers.

#### IN SENATE.

Monday, April 12, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate, certain official documents relat-

ative to the Empire of Japan, and serving to illustrate the existing relations between the United States and Japan; which was ordered to be printed for the use of the Senate.

Also, a communication from the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, the report of Engineer Ellis and other officers, of a test of coals made at the navy-yard in Washington; which was ordered to be printed for the use of the Senate.

Also, a report of the Secretary of the Interior, in answer to a resolution of the Senate, calling for the names and number of claimants of the liquidated balance of indemnity due the friendly Creek Indians for losses in the Creek war of 1812; which was referred to the Committee on Indian Affairs.

Also, a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, a copy of the charges preferred against the present Commissioner appointed to run and mark the boundary line between the United States and Mexico; which was ordered to be laid on the table and printed.

#### PERSONAL EXPLANATION.

Mr. UNDERWOOD. I wish to make a correction (which, I think, ought to be made) in the report of some remarks delivered by me last Friday, in reference to a pending amendment to pay the laborers upon the Capitol. Thereporter makes me say:

"Can anybody tell me anything about it? Are we to vote this blindfold, for sympathy?"

So far I am correctly reported.

"Why, if so, it is worse than any material aid granted to Kossuth, as great a humbug as I conceive him to be."

Now, sir, I did not say "him;" I said "that"—

"as great a humbug as I conceive that to be."

The humbuggery, in my opinion, is on the part of the sympathizers, and not the sympathizee, if I may make a word. I had no intention, certainly, to make any personal attack upon Mr. Kossuth, by applying any remark that could be at all offensive to him. Hence I have thought it proper to make this statement.

#### PETITIONS, ETC.

Mr. DOUGLAS presented three petitions of citizens of La Salle county, Illinois, remonstrating against the extension of McCormick's patent for a reaping machine; which were ordered to be laid on the table.

Mr. SHIELDS presented six petitions of citizens of Illinois, praying a grant of land to the Southern Illinois railroad; which were referred to the Committee on Public Lands.

Also, two memorials of citizens of Illinois, praying that the transportation of the mails on Sunday may be prohibited by law; which were ordered to be laid on the table.

Also, a petition of citizens of Illinois, remonstrating against an extension of McCormick's patent for a reaping machine; which was ordered to be laid on the table.

Also, a petition of S. D. Sturgis, a lieutenant of dragoons, praying additional compensation for the time he served in California; which was referred to the Committee on Military Affairs.

Also, a petition of members of the bar of Chicago, Illinois, praying that the salary of the United States district judge for the district of Illinois may be increased; which was referred to the Committee on the Judiciary.

Also, the proceedings of a public meeting held at Upper Alton, Illinois, recommending that provision be made by law for the settlement of the Nebraska Territory; which were referred to the Committee on the Territories.

Also, the proceedings of a public meeting held at Upper Alton, Illinois, in favor of granting land in limited quantities to actual settlers not possessed of other land; which were referred to the Committee on Public Lands.

Also, the proceedings of a public meeting held at Edwardsville, Illinois, in favor of granting land in limited quantities to actual settlers not possessed of other land; which were referred to the Committee on Public Lands.

Mr. SEWARD presented a memorial of citizens of Pennsylvania, praying Congress to declare their recognition of the doctrine of non-intervention and prevent its infraction; which was ordered to be laid on the table.

Mr. HAMLIN presented a resolution of the Legislature of Maine against the extension of

Woodworth's patent for a planing machine, and Parker's patent for an improvement in reaction water-wheels; which was referred to the Committee on Patents and the Patent Office, and ordered to be printed.

Mr. CASS presented the petition of Jabez Rogers, praying a pension for services in the late war with Great Britain; which was referred to the Committee on Pensions.

Also, a petition of citizens of Lower Saginaw, Michigan, praying the construction of a ship-canal around the Falls of the Sault Ste. Marie river; which was ordered to be laid on the table.

Mr. DAVIS presented a petition of citizens of New Bedford, Massachusetts, remonstrating against an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. FISH presented a petition of publishers and booksellers from various parts of the Union, attending the semi-annual trade-sale in the city of New York, praying a reduction of the rates of postage on pamphlets, and other modifications of the postage laws; which was referred to the Committee on the Post Office and Post Roads.

Mr. WALKER presented the memorial of John W. Quinney, a civilized and educated Indian, praying that a law may be passed giving him the rights and privileges of a citizen of the United States, and that he may be permitted to continue the occupancy of land on which he resides, in the State of Wisconsin, and that all his rights in the Stockbridge nation may enure to him; which was referred to the Committee on Indian Affairs.

Mr. GEYER presented a petition of citizens of Clarke county, Missouri, praying an appropriation of land for improving that part of Des Moines river which forms the boundary between Missouri and Iowa; which was referred to the Committee on Public Lands.

Mr. ATCHISON presented the memorial of Helen Mackay, praying to be allowed a per centage on moneys disbursed by her late husband, Colonel Aenes Mackay, of the Army; which was referred to the Committee on Military Affairs.

Mr. BRODHEAD presented sundry petitions of citizens of Pennsylvania, remonstrating against the extension of Woodworth's patent for a planing machine; which were referred to the Committee on Patents and the Patent Office.

Also, two petitions of citizens of Western Pennsylvania, remonstrating against any action by Congress that will sanction the Wheeling bridge as it now is; which were referred to the Committee on the Judiciary.

Also, a petition of citizens of Pennsylvania, remonstrating against a renewal of Austin and Zebulon Parker's patent for improvements in reaction water-wheels; which was referred to the Committee on Patents and the Patent Office.

Also, six petitions of citizens of the counties of Montgomery and Bucks, Pennsylvania, praying the establishment of a mail route from Skippack to Charleston; which were referred to the Committee on the Post Office and Post Roads.

Also, four memorials of citizens of Pennsylvania, praying a modification of the bounty land law; which were referred to the Committee on Public Lands.

Also, two memorials of assistant marshals of the counties of Schuylkill and Lebanon, for taking the seventh census in Pennsylvania, praying additional compensation; which were referred to the Committee of Claims.

Also, a petition of citizens of Pennsylvania, praying a modification of the tariff; which was referred to the Committee on Finance.

Mr. BORLAND presented a petition of citizens of Jenny Lind, Arkansas, praying the establishment of a mail route from Fort Smith to Waldron; which was referred to the Committee on the Post Office and Post Roads.

#### NORTH CAROLINA RIVERS AND HARBORS.

Mr. BADGER. I have three memorials which I desire to present to the Senate this morning. They are from citizens of Wilmington, and its vicinity, North Carolina. One of them calls the attention of Congress to the condition of one of the inlets at the mouth of Cape Fear river, and makes out a case from which I think it will be very difficult to resist the conclusion that they are entitled to the assistance of the Government to have that channel deepened. Another sets forth the reasons

why a first-class light-house is indispensably necessary near one of the shoals near the mouth of the river; and asks that additional buoys may be placed on the shoals in the waters connected with the harbor of Wilmington.

The third prays, upon grounds both strong and peculiar, that there should be a marine hospital established at that point. I move the reference of these memorials to the Committee on Commerce; and, before they are referred, I beg to say, without making a speech, that I hope that committee will take them into very early consideration; and I feel very sure that if they do so, they will be obliged to come to the conclusion that all three of these applications ought to be granted, in behalf of the most important seaport of our State, which, for the last ten or twelve years, has been growing in importance, increasing in trade, and enlarging in population, and that they will feel a disposition to do what is a just and necessary act for a State which certainly has not received very large favors in that way from the General Government.

The motion to refer was agreed to.

#### THE TEXAS DEBT.

Mr. UNDERWOOD. Mr. President, I have the memorial of Leslie Combs, a citizen of the State of Kentucky, which he has requested me to present to the consideration of the Senate. In order to explain it, I beg leave to state some facts in regard to the legislation of Texas. It appears from the laws of Texas, which have been placed in my hands by Mr. Combs, that on the 20th of March, 1848, that State passed a law requiring her creditors to present their claims on or before the second Monday in November, 1849. The claims were to be presented to the auditor and comptroller of that State; and the auditor and comptroller were to give receipts for the claims thus presented, specifying upon the face of each receipt the value of the claim at the time the debt was contracted. In other words, they were to scale the claim and receipt to the holder for the value of the claim, according to its rate in the market at the time the debt was contracted. The act goes on to provide, that the claims that were not presented by the second Monday of November, 1849, should be postponed.

On the 8th of February, 1850, another act was passed, extending the time to the 1st of September, 1851; and that act states that the claims that were not presented by that day, should be barred. Mr. Combs says that he has claims against the State of Texas, amounting to \$69,200, without interest. He says that he did not present them by the days that were specified in these acts, and that he could not present them, for various reasons, which he assigns in his memorial—among others, that the evidence of his claim had been filed, with his release, in the Department here, according to the act of Congress of September, 1850. The consequence is, that by the failures to present these claims within the time specified, they are now, by the law of Texas, barred.

It further appears, from the legislation which he has placed in my hands, that an act of Texas went into operation on the 1st of May, 1850, by which the holders of claims, audited and reported to the Legislature, under the act of 20th March, 1848, were authorized to surrender their claims to the commissioners of the land office, and receive land certificates, at the rate of fifty cents per acre, in payment of their claims. By that act, Texas provided for the payment of the outstanding debts that had been audited and reported to the Legislature by the auditor and comptroller, under the act of 1848, in land. But no provision was made by that law, as Mr. Combs says, which could embrace his claims. By an act of the 31st of January, 1852, passed by the Legislature of Texas, that State appropriated \$2,000,000 of the United States stock she held, to pay the claims against her which had been submitted to the auditor and comptroller for adjustment, under the act of 20th March, 1848; and out of these \$2,000,000, thus appropriated by the act of 1852, no payment was to be made, except of those claims which had been submitted to the auditor and comptroller, to be scaled in the manner which I have stated. The act further provides, that no payment shall be made, even out of those \$2,000,000, until the authorities of Texas were informed by those of the United States that this Government was ready to issue \$5,000,000 of stock, which yet remained

behind. And it further provides, that the payment is not then to be made, unless the holder of a claim will give a receipt to the accounting officers of Texas, stating that the amount received is in full satisfaction of the demand, and also releasing the Government of the United States from all liability to pay the amount of the demand.

These are the facts, which I have felt it my duty to state, by way of explaining the petition which Mr. Combs has desired me to present. He states that he is not willing to submit to be scaled in this way; and he exhibits a report, showing that such debts as his have been rated at seventy cents on the dollar. Others have been rated at fifty cents, some at thirty cents, some at twenty-five cents, and some even as low as twenty cents on the dollar. One of these acts stops the payment of interest on the part of Texas, after the 1st of May, or 1st of July, 1850. He sets out all these facts, and states that he is not willing to submit thus to be scaled, and looks upon the Government of the United States as liable to pay the amount of his demand; having, by the passage of the law of September, 1850, assumed the debts for which the duties pledged by Texas were liable. All his claims are of that character, falling within the description of those that were to be scaled at the rate of seventy cents on the dollar.

There is also a decision of the Secretary of the Treasury, made a part of this petition, which I, perhaps, ought to state. The Treasury Department have required the whole of the creditors of Texas, who were provided for by the legislation of Congress, to file their releases before the retained \$5,000,000 can be handed over to Texas; and, considering all these debts of General Combs embraced in the provision made by Congress, his claim cannot be paid until all the creditors release their claims.

These are, substantially, the facts of the case; and, to show the urgency of it, I will conclude by reading the latter part of General Combs's petition. He says: "Your petitioner has thus plainly presented his case to the Congress of the United States, and hopes he will not be considered impudent in urging their early attention to his individual claim, or to the passage of some general law, which will afford him relief, when he informs them that, at this very moment, the dwelling in which he left his wife and children has been levied on by the sheriff, and must be sold, if justice is either much longer delayed or refused him." Now, under this presentation of facts, I move that the petition be referred to the Committee on the Judiciary; and I beg them to consider the urgency, and take the subject into immediate consideration.

Mr. RUSK. Mr. President, I desire to say a single word. We have had a good deal of *ex parte* lecturing upon the subject of the Texas debt, both in and out of Congress; and I do trust and hope, that, whatever committee this petition shall go to, will furnish us with a report which shall legitimately bring up that subject for discussion. If I am not mistaken, the honorable Senator from Kentucky himself, in an argument in regard to a certain bill which passed here, appropriating \$10,000,000 to Texas, assumed that, what he now terms the scaled debt of Texas, was the real debt; and offered some reasons why that amount of \$10,000,000 should not be appropriated, because a less amount would pay the debt. I remember very well, that when I was before the committee of thirteen, I stated what was the amount of the Texas debt. It was upwards of \$12,000,000. The appropriation made by the Government of the United States was only to the amount of \$10,000,000.

I do not intend to go into this matter now; but I hope some bill will come before Congress, by which the whole of the facts in this case can be stated; and I pledge myself then to show what Government it is, Texas or the United States, that in this matter is the repudiator. I will show where the repudiating is. I know that the appropriation of \$10,000,000 has furnished a fruitful theme for stump speeches all over the country; and whenever this matter comes before Congress in such a shape as to justify its investigation, I will show that, in any court of conscience or equity, the United States are bound for more than two thirds of the debt of Texas, by a policy which, in any other Government would have been disgraceful.

Mr. UNDERWOOD. I cautiously avoided expressing an opinion upon the subject to which I called the attention of the Senate. I felt a sen-

timent of delicacy that operated upon me, to prevent an expression of any opinion of mine whatever, and intentionally avoided it. It is true, as the gentleman from Texas well knows, that I have expressed my opinion heretofore against the liability of this Government for the whole of these claims. Congress settled it against my opinion. I did not intend to revive that; but I merely called the attention of the Senate to the facts, as represented by the memorialist, without giving any opinion of my own. If the gentleman supposes that I intended to make any reflection upon his State, or to commit myself in one way or the other, he is entirely mistaken. I did not expect that he would have made any allusion to my past conduct, when these subjects were under discussion years ago, merely because I chose to present the memorial of a constituent, and state his views of the subject, founded upon the laws of Texas. I make this statement to show that I stand fully uncommitted in reference to the merits of this memorial, when the report of the committee shall come in. But I will say this, in behalf of the memorialist, that, according to everything which appears to me, he is entitled to a very large sum for these \$69,200; and, as the Government has retained \$5,000,000 until Texas shall make provision for such claims as his, and Texas has not yet made that provision, it becomes this Government to see that my constituents, as well as yours, sir, shall be paid out of the \$5,000,000 retained. I think that is proper. But I do not wish to go into the subject now; and I am sorry that the gentleman has adverted to my conduct heretofore, which has drawn these remarks from me.

Mr. RUSK. Mr. President—

The PRESIDENT. This discussion is not in order. The question is merely on the reference of the memorial to the Committee on the Judiciary.

Mr. RUSK. I know it is; but I believe, on the question of reference, subjects involved in memorials are frequently debated. I simply wish to say, in answer to the honorable Senator, that I alluded to him in no unkindness. I merely referred to him because he formerly assumed what the Texas Legislature assumed, that they were only bound to pay the amount made available to them. I did not intend to express any opinion on that assumption—either to sanction the proceedings of Texas, or to say that the honorable Senator, when he assumed that argument in relation to the Texas bill, was right.

I have read the memorial which has just been presented, and it is in perfectly respectful language towards Texas. It shows a very strong case against the Government of the United States. It shows that when the Government of the United States undertook to act as a commissioner in bankruptcy over the State of Texas, it passed a very absurd reservation. I have read it very carefully; and it is couched in terms to which nobody in Texas, or anywhere else, can take exception. It is a plain statement of the case of the memorialist. It shows this fact: that he went forward and complied with the terms of the law of the United States requiring releases to be filed at the Treasury before payment could be made. He went forward instantly, and filed his release to the United States; and that very fact precluded him from complying with the Texas law in submitting his claim to Texas. He complied with the United States law; and that law is couched in such terms, that, until releases are filed for the very last dollar of the Texas debt, none of it can be paid. A large portion of the debt is held by orphans and minors, who cannot come forward now and file releases. The Government of the United States, by this provision, has placed him in a position where he cannot avail himself of the law of Texas, and, at the same time, puts him at the mercy of every creditor of Texas; for if the last one, having a thousand dollar claim, should refuse to file a release at the Treasury Department, not one single dollar of the five millions could be paid out.

The memorial was referred to the Committee on the Judiciary.

#### ARSENAL IN GEORGIA.

Mr. DAWSON. I have received from the Governor of the State of Georgia, resolutions concurred in by both branches of the General Assembly of that State. They represent that the Government of the United States has established in the

vicinity of Augusta, Georgia, an arsenal under the direction of the Ordnance Department; and they ask that, from its location, the dryness and salubrity of the climate, the great and increasing facilities of communication with the seaboard and the interior, Congress should take into consideration the propriety of increasing the number of arms placed in that arsenal. They also ask that inasmuch as a canal has been cut through the lands which inclose the arsenal, by which there is created a fine water power, such machinery may be erected as may be necessary to preserve the arms, and put them in proper order in time of emergency. I move that the resolutions be printed and referred to the Committee on Military Affairs.

The motion was agreed to.

#### PUBLIC EXPENDITURES.

Mr. DAWSON. I have also received, Mr. President, a petition from a number of citizens of Harris county, in the State of Georgia, men known to myself to be very respectable, asking of Congress to take into consideration the public expenditures of the country. They state that they have seen a charge that the Administration of this Government is chargeable for these large disbursements of the public revenue; and they ask whether it is not within the power of Congress to restrain it? whether any officer of this Government, or in the Administration, can use the public money without an appropriation first being made by Congress? They make this request in order that a report may be set before the country to ascertain whether the executive or the legislative department is responsible for these vast appropriations. They also state that they have seen, with alarm, the increase of what are called mail facilities by the General Government, appropriating large sums of money for the construction of ocean steamers. They ask that Congress may take that subject into consideration, and ascertain whether that system is kept up merely for the purpose of gratifying national pride, or whether it is for the convenience of the country at large. The same petitioners also enter their protest against the extension of Woodworth's patent. I move that this portion of the petition may be referred to the Committee on Patents and the Patent Office; and that the remainder of it may be referred to the Committee on Finance.

Mr. BRADBURY. I think part of that memorial ought to go to the Committee on Retrenchment.

Mr. DAWSON. I would ask of the gentleman from Maine, who is at the head of that committee, whether they would probably report on the subject.

Mr. BRADBURY. We will endeavor to let the gentleman from Georgia understand that there is such a committee, if he will make that reference.

Mr. DAWSON. As the memorial treats of financial questions, I thought it would be proper to refer it to the Committee on Finance.

Mr. RUSK. I think it would be better to refer it to the Baltimore or Philadelphia Convention. [Laughter.]

The motion to refer was agreed to.

#### WOODWORTH PATENT.

Mr. BORLAND. I present the memorial of a number of citizens of Arkansas, among whom I recognize the name of the Governor, and most of the principal officers of the State, remonstrating against the further extension of the Woodworth patent for a planing machine. In presenting it, I deem it proper to say that if it had been received under ordinary circumstances, as I have received many others of the same kind, I should not have attached a great deal of importance to it. But it is accompanied by a letter from a gentleman of my State, Mr. George Brodie, a man of remarkable intelligence, and perhaps one of the best mechanics in the United States, who, from his general understanding of the subject, and his observation throughout the Western country, is well qualified to give information on this matter. He points out in his letter very strong, and, to my mind, satisfactory reasons why no further extension of that patent should be granted. I have deemed it proper to say thus much in regard to the memorial on presenting it. I move that it be referred to the Committee on Patents and the Patent Office.

The motion was agreed to.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. CLARKE, it was

Ordered, That the petition of Nancy Bowen, on the files of the Senate, be referred to the Committee on Pensions.

On motion by Mr. SEWARD, it was

Ordered, That the petition of Sarah Crandall, on the files of the Senate, be referred to the Committee on Pensions.

On motion by Mr. CLEMENS, it was

Ordered, That the documents on the files of the Senate, relating to the claim of Jim Capers, be referred to the Committee on Pensions.

On motion by Mr. DODGE, of Iowa, it was

Ordered, That Henry H. Marsh have leave to withdraw the documents on the files of the Senate, relating to his claim.

#### PERSONAL EXPLANATION.

Mr. CLARKE. Mr. President, I feel it due to myself, as well as to the Senate, to make a short explanation of a circumstance which occurred here some ten days ago, and which, I fear, may have been misapprehended. On Friday week last, I was about to leave here for the North. On the morning of that day, supposing that the bill for the relief of Elizabeth Arnold had, by a vote of the Senate, been laid upon the table, I moved that it be taken from the table and reinstated on the Calendar. I was under the impression that it had been laid on the table; and when I made the motion the Senate very courteously acceded to it, and ordered the bill to be reinstated on the Calendar. About an hour afterwards, I was told by the Secretary at the desk that the bill had been rejected and not laid upon the table. A debate was going on, and I could make no personal explanation to the Senate; nor had I any opportunity to move that the Senate recede from the vote ordering the bill to be reinstated on the Calendar; but, being about to go away, I requested my friend from North Carolina [Mr. BADGER] to make a statement of the facts, and ask the Senate to recede from that vote and put the bill in the same condition that it was before I made my motion. Fearing, however, that he might forget it, I requested the Secretary to remind him of it, so that it should certainly be done. Yesterday, on my return, I found, on conversation with the Senator from New Jersey, that that explanation had not been given, and that the Chair, feeling himself bound to do so, had stated to the Senate the facts so far as they were within his knowledge.

I make this explanation now, merely for the purpose of assuring the Senate that I made the motion under an entire misapprehension as to the disposition which had been made of the bill. I supposed that it had been laid on the table and not rejected. On that supposition, I made the request which was so courteously complied with by the Senate. If my honorable friend from North Carolina, who happened to be out of the Chamber at the moment of adjournment on that day, had been present at that time, the vote would have been receded from. I went away, supposing that it had been done; and I have taken the first opportunity, on my return, to make this explanation, for the purpose of showing that it was from an entire misapprehension that the course proposed by myself was adopted by the Senate.

Mr. BADGER. I wish to explain, in this connection, why I appeared negligent of the request made by the Senator from Rhode Island. I did not either forget or overlook it; but a debate was going on at the time he made it, and while the debate was going on, I stepped out of the Senate chamber for a moment, having no idea at all that the debate would be concluded, or an adjournment moved before I should return. On returning, however, after an absence of about five minutes, I met the Senators leaving the chamber, the Senate having adjourned.

The PRESIDENT. The Chair will take occasion to state that, on bringing the subject to the attention of the Senate, he said expressly that the motion was made by a mistake of the Senator from Rhode Island, and therefore he did not direct it to be put on the Journal. He considered that the motion was not really made, inasmuch as the order of business precluded it.

#### REPORTS FROM STANDING COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which was referred the bill for the redemption of certain Choctaw annuities, reported it without amendment, and submitted a report on the subject; which was ordered to be printed.

Mr. SHIELDS, from the Committee on the

District of Columbia, to which the memorial of citizens of the District of Columbia, and a resolution passed by the Legislature of Maryland, were referred, reported a bill for the improvement of Maryland avenue, from the Capitol to the turnpike road leading to Baltimore, and for making free and improving that road as far as the District line; which was read, and passed to the second reading. He submitted a report on the subject, which was ordered to be printed.

He also, from the same committee, to which was referred a report of the Secretary of War of the 24th March, reported a bill directing a survey and estimate of the cost of constructing a canal basin at the terminus of the Ohio and Chesapeake canal, in Georgetown; which was read and passed to the second reading. The report was ordered to be printed.

Mr. PRATT, from the Committee of Claims, to which was referred the petition of Mary E. D. Blaney, widow of the late Major George Blaney, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. BRODHEAD, from the Committee of Claims, to which was referred the petition of John A. Lynch, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. STOCKTON, from the Committee on Pensions, to which was referred the memorial of Mary F. B. Levely, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading. The report was ordered to be printed.

#### ST. GENEVIEVE PLANK ROAD.

Mr. DODGE, of Iowa, from the Committee on Public Lands, reported a bill to grant the right of way to the St. Genevieve, Iron mountain, Pilot Knob Plank Road Company; which was read a first time and ordered to a second reading.

Mr. GEYER. I hope that bill will be considered now. It proposes nothing but to grant the right of way to the plank road company from St. Genevieve, and Iron mountain, to Pilot Knob. It will hardly take five minutes to pass it; and it is important that it should be passed at an early day. The road is one of great importance, and persons are engaged now in entering the lands. I do not know of any instance in which the request has been refused when reasonably asked for.

No objection being made, the bill was read a second time, and considered as in Committee of the Whole. It provides that the right of way shall be granted to said company for the road now in process of construction between St. Genevieve and Iron mountain, so called, in Missouri; and authorizes them to locate said road through any of the public lands of the United States which lie on the route selected for the location of the road, to survey and mark through said public lands a tract on the side of the road of one hundred feet in width; and furthermore, an additional quantity of twenty-five feet in width along each side of the road; which land shall be reserved from sale, and shall be vested in the State of Missouri for the use of said Plank Road Company forever, and for no other use. It enacts, further, that the company shall have the privilege to cut and use all such timber, and use all such stone, gravel, and other materials on the public lands of the United States, as may be necessary for the construction and repair of the road, to erect such buildings, &c., as the same may require, use such water as may be wanted, and cross such streams as may be necessary for the completion and use of the road; provided, that said company, when said plank road shall be completed, shall carry the mails of the United States on such terms as the Postmaster General may be enabled to contract for similar service with other plank road companies.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### PUBLIC PRINTING.

Mr. BORLAND. I rise, Mr. President, to make a report—a somewhat informal, and perhaps anomalous, one—from the Committee on Printing.

It is, perhaps, known to the Senate, or at least to many members of it, that a new arrangement has been, or is about to be made for the execution of the public printing. In view of this, I deem it



proper for myself, and my duty to the Senate, to state, in my place here, what has been done by the committee in regard to it.

For this purpose I will read certain resolutions adopted by the Committee on Printing.

The first resolution, adopted on the 8th of this month, is in these words:

*Resolved*, That the committee enter into a contract with Donelson & Armstrong to do the future printing of the present Congress in the House, and with Gideon & Co. for the Senate, upon such terms as shall be agreed upon hereafter."

Adopted. Yeas—SMITH, of the Senate, and GORMAN, STANTON, and HAVEN, of the House—4; Nays—BORLAND and HAMLIN, of the Senate—2.

The second resolution, adopted on the 12th, (this day,) is in these words:

*Resolved*, That for so much of the public printing as may be deemed necessary by the committee to remedy any neglect or delay on the part of the contractor, Mr. Hamilton, to execute the work ordered by Congress, the persons doing the work, under the direction of this committee, be allowed the same price as contained in Mr. Rives's bid for printing for the Thirty-second Congress: *Provided*, That in no case shall pay be allowed for double composition."

Adopted. Yeas—SMITH, of the Senate, and GORMAN, STANTON, and HAVEN, of the House—4; Nays—HAMLIN of the Senate—1.

The third resolution is in these words:

*Resolved*, That Mr. GORMAN confer with Messrs. Donelson & Armstrong, and with Messrs. Gideon & Co., and get from them, in writing, their acceptance or non-acceptance of the foregoing proposition."

Adopted, April 12—no dissent.

Mr. President, it is due to myself to remark the fact, that these resolutions of the Printing Committee were adopted without my concurrence. I was present when the first was adopted, and was absent when the last two were adopted.

In my opinion, the committee have the power here exercised under the joint resolution of August 3, 1846, under which the Committee on Printing was raised, and under which it has acted up to this time, and is now acting.

There are many members of both Houses of Congress, and particularly of the Senate, who dissent from this opinion—who do not believe the committee have any such power; but, on the contrary, believe that, when there is a failure on the part of the contractor, as in the present instance, to comply with his obligations, as to time and the quality of his work, it becomes the duty, as it is only their authority, to bring the whole subject before Congress, as one that can be legitimately disposed of by Congress alone, by additional legislation, instead of disposing of it definitively by the action of the committee; and this difference of opinion I am bound to hold in high respect.

I repeat, however, that I do entertain, and unhesitatingly express, as I have well considered, the opinion that the committee do, technically, or in the terms of the law, have this power even to the extent they have exercised it in this case. But while I hold this opinion as to the power itself, I am equally clear in the opinion, and as unhesitatingly express it, that it has been improperly exercised in this case. And that this is so, I remind the Senate that it has been done in part against my vote, when I was present, and altogether without my concurrence or approval.

In justice to myself, and to the Senate committee too, I must state further, that I think the process by which this improper action of the joint committee has been consummated has been, in itself, equally improper. I think the rule which obtains in joint committees—which are in their constitution like committees of conference, and should in their powers and action represent equally each its respective House—has been violated. That rule, as I understand and believe, requires a majority of each committee to make a concurrent vote of the two, or a final decision of the joint committee upon any question before them. In this opinion, however, as in the others I have presented, a majority of the Senate committee have been overruled by the vote of the House conjoined with that of one member of the Senate committee.

This statement, Mr. President, as plain and as brief as I could make it, places the matter of the public printing, as affected by the present action of the committee, fairly before the Senate. It is for the Senate itself to consider and determine what shall be done, if anything, in regard to it.

For myself, believing that this action of the joint committee has not been proper—believing that the policy adopted by the committee is wrong in itself,

has been adopted by improper means, and requires wrong to be done, though by authority of law—I cannot, with my sense of self-respect and of duty to myself and the public interest, become the instrument (as I should be as chairman of the committee) of its consummation.

Without disrespect, therefore, to any of the committee, and without undertaking to censure what they have done, I conclude by asking the Senate to excuse me from further service on the Committee on Printing.

The request was complied with, and on motion by Mr. GWIN, and by unanimous consent, it was

*Ordered*, That the President of the Senate fill the vacancy on the committee.

The President appointed Mr. RUSK.

#### DISTRICT JUDGE OF ILLINOIS.

Mr. SHIELDS submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Judiciary be requested to inquire into the expediency of increasing the salary of the judge of the district court of the United States for the district of Illinois, to the sum of \$2,000 per annum.

#### NEW MAIL ROUTE.

Mr. SHIELDS submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be requested to inquire into the expediency of establishing a mail route "from Jerseyville, in Illinois, via Jersey Landing and Portage des Sioux, to St. Charles, in Missouri."

#### COMMISSIONER TO CHINA.

Mr. BADGER submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Foreign Relations inquire into the expediency of allowing an outfit to the Commissioner to China.

#### BILLS INTRODUCED.

Mr. HUNTER, agreeably to previous notice, asked and obtained leave to bring in a bill appropriating land-scrip in full and final satisfaction of Virginia military bounty land warrants; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. MORTON, agreeably to previous notice, asked and obtained leave to bring in a bill to authorize the sale of reserved lands, and for other purposes; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had passed a bill entitled "An act for the relief of the legal representatives of James C. Watson, of Georgia; and that it had agreed to the first, and disagreed to the second amendment of the Senate to their amendment to the joint resolution to authorize the continuance of the work upon the two wings of the Capitol.

The bill for the relief of the legal representatives of James C. Watson, was read a first and second time by its title, and referred to the Committee on Indian Affairs.

#### BILLS PASSED.

The following engrossed bills were severally read a third time and passed:

An act for the relief of Frances E. Baden; and  
An act for the relief of Anna Norton and Lewis Foskit.

#### ORDER OF BUSINESS.

Mr. BRADBURY. I now move that the Senate proceed to the consideration of the bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliation committed by the French prior to July 31, 1801.

The PRESIDENT. There are some bills on the table which the Chair will put upon their passage with the consent of the Senate.

Mr. BRADBURY. They can be taken up any other time.

Mr. GWIN. I hope we will take up the unfinished business of Thursday last. We then adjourned in the midst of a vote, because there was no quorum present.

Mr. HUNTER. Before the vote is taken on the motion, I think it would be better to dispose of the bills upon the table. I hope that course will be taken.

Mr. BRADBURY. I have no objection to disposing of those bills if my motion will stand next in order. I supposed that it was the common understanding that the French spoliation bill would

be taken up this morning, yet I find several Senators proposing to press other bills.

Mr. BADGER. I would suggest a compromise to my friend from Maine, that, whether his motion is agreed to or not, it shall be the common understanding that if he allows the bills upon that table to be disposed of his motion will then be taken up and disposed of.

Mr. BRADBURY. Very well.

The PRESIDENT. The joint resolution providing for the continuance of the work upon the two wings of the Capitol has been returned from the House with the following message:

*Resolved*, That the House of Representatives agree to the first amendment, and disagree to the second amendment of the Senate to the amendment of the House to the joint resolution to authorize the continuance of the work upon the two wings of the Capitol.

Mr. HUNTER. I move to concur in the action of the House.

Mr. BRADBURY. I am admonished that this will lead to debate, and therefore renew my motion to postpone all prior order to take up the French spoliation bill.

Mr. HUNTER. I hope the resolution of the House will be acted upon; it will lead to no debate. Let us finish one thing at a time. I give notice that, if we postpone prior orders, I am ready with the deficiency bill, and will struggle to get it up.

Mr. PRATT. I ask for the yeas and nays upon the motion.

Mr. HALE. I hope the Senator from Maine will not press his motion. I think this other measure should be disposed of now; and besides that, I must insist on having the compromise finally resolutions taken up, if other matters are brought forward. [Laughter.]

Mr. DOUGLAS. I dislike to interpose, but I have been waiting a week or two for a chance to get the action of the Senate upon the territorial business. The House of Representatives has set apart next Monday for the disposition of such business. There are three or four territorial bills here, which it is necessary to pass; and I shall appeal to the Senate to take them up—they will probably take but an hour or two—either to-day or to-morrow. I feel it my duty to give this notice, because if they are not passed in time to be referred to, and reported from, the committee in the House, before Monday next, they will have to go over to next session.

Mr. GWIN. I wish to state to the Senate, that we adjourned on Thursday evening, on the taking of the yeas and nays on a question, which was thoroughly debated, and can now be disposed of in a short time. I hope that it, being the unfinished business, will be taken up now.

Mr. HAMLIN. I desire to say that the Senator from Ohio [Mr. CHASE] is now absent, in the Supreme Court room, and he desired me to say that, when the bill to which the Senator from California refers, comes up, he desires to submit his views. He has prepared some tabular statements upon it, which he will submit to the Senate, and at his request I ask that this subject may be postponed until he returns.

Mr. GWIN. We can send for him very soon.

Mr. BRADBURY. I supposed that it was the common understanding that, after two months time, the courtesy of the Senate would be extended to-day, to considering and acting upon the bill which I have moved to take up. I therefore insist upon my motion, and hope the yeas and nays will be ordered upon it.

The yeas and nays were ordered.

Mr. UNDERWOOD. I beg to inform the Senate once more that, if they intend to pass the Cumberland dam bill, they ought to do it now. If we intend to do anything for that work, time is passing by, and it is time to put the hands to work; I therefore hope that will have the precedence after you have got your Capitol bill disposed of, and appropriations for other quarters. I do not intend to make any speech about it; if the Senate will take it up, I am for voting upon it.

The PRESIDENT. The question is upon the motion of the Senator from Maine, to postpone all prior orders for the purpose of taking up the bill named by him.

Mr. UNDERWOOD. I know that; and I present this as a reason why I think we ought to vote it down, and take up the Cumberland dam bill in preference to his bill.

Mr. RUSK. For fear I may be misunderstood, I think it necessary to say that I intend to vote to take up the French spoliation bill. I am opposed to the bill itself, but shall vote to take it up, because I think we ought to get through with it. There are three subjects which I want to see disposed of; one is the Woodworth patent, the second the French spoliation bill, and the third the intervention question. [Laughter.] I want to get clear of them all, and shall therefore vote to take them up for the purpose of getting clear of them.

The question being taken, by yeas and nays, on the motion to postpone all prior orders, with the view of taking up the French spoliation bill, resulted—yeas 23, nays 19; as follows:

YEAS—Messrs. Badger, Bayard, Bradbury, Clarke, Davis, Dodge of Iowa, Downs, Fish, Hale, Hamlin, James, Jones of Iowa, Mallory, Miller, Norris, Pratt, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, and Wade—23.

NAYS—Messrs. Adams, Atchison, Borland, Brodhead, Brooke, Cass, Clemens, Dawson, Dodge of Wisconsin, Douglas, Felch, Geyer, Gwin, Hunter, King, Mangum, Morton, Underwood, and Walker—19.

So the motion was agreed to.

Mr. BADGER. I hope it will not be considered a violation of order to say that I shall, on Thursday next, if nothing particular or special intervenes, ask the Senate to take up the finality of the compromise resolution, in order that I may finish a speech which I commenced on the first of February, on that subject.

#### FRENCH SPOLIATIONS.

The Senate accordingly proceeded, as in Committee of the Whole, to consider the bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to July 31, 1801.

Mr. BRADBURY. I thank the Senate for this expression of their willingness to consider this bill at the present time; and, as the best return I can make for this courtesy, I will say that, as the subject has been so often discussed, and is, or ought to be, so well understood, I am willing to submit it to the action of the Senate without detaining Senators by any extended remarks from me. I desire votes rather than speeches. The claimants, constituting a large number of our citizens, have, for half a century, been making application to Congress for redress, without being able, except on three or four occasions, to obtain a direct vote upon the subject of their application.

Perhaps I ought to explain in a few words the provisions of the bill.

It will be sufficient to say that it contemplates the appropriation of an amount not exceeding \$5,000,000, in full satisfaction of the claims of our citizens for the spoliations referred to. It provides for the appointment of a board of commissioners, whose duty it shall be to ascertain the validity and amount of the demands of the several claimants; it contemplates the appropriation of the \$5,000,000 at a future time; and further provides that the claimants shall receive a *pro rata* dividend, in case the aggregate of their claims exceed the amount of \$5,000,000, and that they shall file, with their respective claims, a release, declaring that the dividend they may receive shall be a full discharge. It is my purpose, in order to secure a faithful execution of the commission, to offer an additional section to the bill, providing for the appointment of an attorney to the board, whose duty it shall be to resist all unjust claims, and protect the interests of the United States, and of the fund that may be appropriated to carry the bill into effect. Having said thus much, I propose to submit the bill for the action of the Senate. I prefer to let the twenty-eight favorable reports that have been made by committees of Congress advocate its justice. I prefer to let Marshall, Madison, Monroe, Livingston, and other distinguished men of that day, who were acquainted and identified with the facts, out of which the claims arose, speak in their behalf. If they are not heard, nothing that I can say will be likely to receive attention.

Perhaps, in frankness, I ought to state the position upon which the claims are placed. We contend—

1st. That previous to the ratification of the convention of September 30, 1800, numerous American citizens had just demands against the Government of France, for property of the value of several millions of dollars, seized and confiscated under authority of that Government, in violation of treaties and national law, for which France was bound to make indemnity to the sufferers.

2d. These demands were recognized and insisted upon by our Government as just.

3d. Their justice was acknowledged by France, who professed her readiness to make indemnity, and at the same time preferred claims of her own against the United States.

4th. Our Government undertook the prosecution of these demands, invited the sufferers to forward their evidence, and pledged the public faith that proper proceedings should be adopted for their relief.

5th. Our Government, in the ratification of the convention of September 30, 1800, canceled these demands, and, in distinct terms, forever released and discharged France from all claims therefor.

6th. Our Government obtained for this release a renunciation by France of claims of a national character which she preferred against the United States, for which our negotiators had offered large sums of money, and the offer had been repeatedly rejected by the French authorities.

These are the positions upon which we rest the bill, and I am willing to leave it here. I believe that the facts are sufficiently understood to rest the claims without a further exposition of them. If there is nothing urged against them, I shall willingly leave the matter here; if anything is urged, I shall desire an opportunity to make only a brief reply to such points as may be pressed, where silence might lead to misapprehension, but not to go into an elaborate discussion of the subject.

Mr. UNDERWOOD. I have heretofore voted for this bill, and I intend to do so again; but there is one clause of it which I wish to have amended, if the Senator from Maine will consent to it. The bill now states that this stock is to be payable at any time, at the pleasure of the Government, after twenty years. I desire to strike out from the thirteenth line of the seventh section the words "twenty years from."

Mr. BRADBURY. I accept of that modification.

Mr. UNDERWOOD. I see no reason why we should hamper the Government in its operations. If the bill is amended in the manner I have proposed, it will read, "and each certificate of stock shall be redeemable at the pleasure of the United States at any time after the date of the termination of said commission."

Mr. HALE. I want to suggest to the gentleman who had charge of this bill, that if the amendment is adopted, some notice should be given when these certificates shall be redeemable. I think the Government should give at least twelve months' notice.

Mr. UNDERWOOD. Say six months.

Mr. BRADBURY. Twelve months, I think, would be better.

Mr. HALE. I move to insert "twelve months."

The PRESIDENT. It is not in order to move that amendment till the question is taken on the motion to strike out.

The motion to strike out the words "twenty years from" was then agreed to.

Mr. HALE. I now move to add at the end of the section the words "upon twelve months' notice."

The amendment was agreed to.

Mr. BRADBURY. I will now offer an amendment, which I propose as an additional section:

"And be it further enacted, That an attorney to said board be appointed by the President of the United States, by and with the advice and consent of the Senate, whose duty it shall be to resist all unjust claims, and protect the interest of the United States, and of the fund that may be appropriated to carry this bill into execution; and to this end he shall have power to examine witnesses, and to cause testimony to be taken, and have access to all testimony before the commission for the purpose of examining it, and the right to be heard in all cases. He shall be sworn to a faithful performance of his duty as attorney, and shall be entitled to the same compensation as one of the commissioners."

The amendment was agreed to.

Mr. ADAMS. Is it in order to move now to lay this bill on the table?

The PRESIDENT. Certainly.

Mr. ADAMS. As that will be a test question, I make that motion; for if the majority are inclined to pass the bill, I will offer some amendments, which I desire to have adopted if it passes. If it is not to pass, it is useless to consume the time in considering the amendments.

Mr. FELCH. I hope the Senator will withdraw that motion for a short time.

Mr. ADAMS. I withdraw it with pleasure, to accommodate the Senator.

Mr. BORLAND. I move to amend the first section of the bill by striking out of the fourth and fifth lines, the words "to an amount not exceeding five millions of dollars."

Mr. MILLER. How will the bill read then?

The PRESIDENT. It will make it unlimited.

Mr. WELLER. Then it will take a hundred millions of dollars to cover all the claims.

Mr. BORLAND. The object of the amendment is to strike out the limitation of five millions of dollars, which is now contained in the bill.

It seems to me that those who contend, as the advocates of this bill do contend—I am not one of them—that these are just claims against the Government of the United States, cannot fairly and properly, or with any regard for that justice to the claimants, on which they so much insist, limit the amount to be paid. If we recognize these claims at all, as constituting a debt—as we shall do by the passage of this bill—we must recognize all that may be proved. That is my view of the justice of the case. I do not see, and have never been able to understand, how far, or on what principle, we can, with justice or propriety, limit the amount to be paid. We know that a large number of these claimants are children. Now, because some of the claimants, in person or by their attorneys, come forward and ask us to reduce the amount, so that the country may not be frightened at the enormous amount, and the Congress might not dare to burden the Treasury with it, as they will do by recognizing it as a debt—because such claimants, who are willing to catch at a part rather than risk the loss of the whole, as they fear they would do if the whole thing was exposed beforehand, come here and ask us to reduce it to an amount which the country might be induced to tolerate, and Congress may venture to give—shall we, I ask, from considerations like these, violate the very principle upon which, alone, we dare recognize the claims at all, and in disregard and derogation of the claims of these children, who, if we owe them at all, cannot release us from any part of it, unless we pay them all? I ask, shall we do this?

I have not risen to make a speech; I shall not attempt one. My only purpose was to indicate what I regard as the principle in the case—the only principle—and what, in my opinion, inevitably follows as our duty, if it be recognized as a principle at all. We either owe the money, or we do not. If we owe any, we owe what can be proved; and that we must pay in full, or we repudiate the just debts of the Government. We cannot properly compound with our creditors without acknowledging ourselves either bankrupt or dishonest. I do not believe we are the former, and I cannot acknowledge we are the latter. If we do not owe it as a debt, we have no authority, no right, to give the public money away.

Mr. BRADBURY. The Senator from Michigan, [Mr. FELCH,] I believe, had a design to make some remarks to the Senate in regard to this bill, and I hope that he may be allowed to proceed. With his permission, however, I will occupy a moment or two in response to what has fallen from the Senator from Arkansas. That Senator moves to strike out of the bill the words "to an amount not exceeding five millions of dollars," and argues that, if anything should be paid, the whole amount should be paid. At the same time, the honorable Senator informs us that he is individually opposed to the payment of anything. It would be a sufficient answer to the argument of the honorable Senator to say, that the claimants generally would be very glad to obtain their dividends of the five millions proposed to be appropriated. They are satisfied with this amount, and the motion to increase it or leave it indefinite, does not come from them.

I have heard another remark, that very probably this bill would involve the expenditure of an indefinite amount—twenty, thirty, or perhaps a hundred millions of dollars. Permit me to say that the claims were estimated at the time by our envoys to France at from fifteen to twenty millions of dollars. This embraced the entire mass of the claims—the claims of those who have received satisfaction under the Louisiana treaty, as well as those who have been paid under the Florida treaty. There has been received, under those treaties and a subsequent treaty, in round numbers \$7,157,000.

If, then, the whole claims amounted to the largest estimate of \$20,000,000, there would be now due \$12,842,954. If, however, that estimate was too large, and the amount due was but \$15,000,000, there would still remain to this class of claimants, who have received nothing, \$7,843,000.

But, sir, I think the principle is a correct one, which is proposed to be adopted in this bill. The Government of the United States undertook the prosecution of these claims, and received, in consideration for their release, a discharge from the claims made by France against the Government of the United States. The Government did not receive compensation in dollars and cents, but it received a release from claims against itself. These claims were indefinite in amount, and had to be estimated. There is no tribunal to estimate them except the Congress of the United States. They are, I repeat, indefinite in amount, and they might have swelled to \$20,000,000, or a \$100,000,000; or they might, in the judgment of some, have fallen to \$5,000,000. By this bill Congress undertakes to estimate the amount of the claims of France, which was consideration received, and fixes it at \$5,000,000. We thus determine that the claims against France were worth \$5,000,000 to the claimants, and that that is the value of the consideration received by our Government for these releases. It would not be correct to assume the amount of a claim to be in all cases the true measure of damages, when the Government makes itself liable to the claimant; but the value of it to the claimant, and that is to be determined in this case, in part, by the value of the consideration received in exchange, which we fix at \$5,000,000.

But this amendment is urged by those who are opposed to paying anything. It is not for them to make this objection when the claimants say that although their demands may be greater, they are willing to accept \$5,000,000 in full compensation of all their claims.

Mr. BORLAND. I ask the yeas nays on the amendment.

The yeas and nays were ordered.

Mr. FELCH. If the Senator who proposed to lay this bill on the table desires now to test the sense of the Senate on that question, I will yield the floor in order that he may make the motion.

Mr. ADAMS. I withdraw the motion with great pleasure.

Mr. FELCH. If the question is not taken on that motion, I desire before the vote is taken on the amendment proposed by the Senator from Arkansas, to say something on the subject.

The honorable gentleman then proceeded to address the Senate on the subject generally; and having spoken for some time without concluding, he gave way.

And on motion the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, April 12, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of Friday was read and approved.

The SPEAKER. The first business in order is the reception of petitions from the State of Maine.

[A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., their Secretary, notifying the House that the Senate had concurred in the amendments of the House to the joint resolution authorizing the continuance of the work upon the Capitol, with certain amendments, in which they asked the concurrence of the House.]

### BUSINESS ON THE SPEAKER'S TABLE.

Mr. COBB. My object in rising this morning, is to ask the unanimous consent of the House, that the business upon the Speaker's table be taken up and referred—that is, such business, only, as will not give rise to debate. I do this disinterestedly, desiring that the business upon the Speaker's table may be referred to the committees and acted upon.

Mr. KING. Such as may not be objected to.

Mr. CLINGMAN. I object to any qualification. I would be willing to go to the business referred to regularly.

Mr. COBB. I move a suspension of the rules for the purpose of proceeding to the consideration of such business upon the Speaker's table as may not give rise to debate.

Mr. SMART. I claim the right to the floor.

The SPEAKER. The gentleman from Alabama is entitled to the floor, and moves to suspend the rules to enable him to submit a motion to proceed to such business upon the Speaker's table as will not give rise to debate.

Mr. SMART. The Speaker having called the State of Maine for petitions, I claim the floor for that purpose, as one of the Representatives of that State.

The SPEAKER. Maine was called for petitions, but it is also in order to move to suspend the rules.

Mr. COBB. I hope the gentleman will interpose no objection.

The question was then taken, and the House refused to suspend the rules, to go to the business upon the Speaker's table.

### THE ADDITIONS TO THE CAPITOL.

Mr. STANTON, of Kentucky. The joint resolution for the continuance of the work on the extensions of the Capitol, has just been reported from the Senate, and I desire the unanimous consent of the House, that it may now be taken up and disposed of. But, before making that request, I will state what I desire doing in reference to the matter. Two amendments have been made, by the Senate, to the resolution: one restricting the architect and the Secretary of the Interior, in their contracts, to the amount of the appropriation. I have no objection to that amendment, and shall move that the House concur in it. The other amendments propose to indemnify the workmen for the loss of their time, during the suspension of the work upon the wings of the Capitol—to pay them, as if they had been to work during the whole period. I will move to reject that amendment. It will not take five minutes to dispose of the resolution. I hope it may be taken up.

[Cries of "Agreed!" "Agreed!"]

Mr. BROOKS. Money will be saved, if the resolution is now considered.

Mr. FLOYD objected.

Mr. STANTON. Objection being made, I move a suspension of the rules, for the purpose I have indicated.

Mr. OLDS. The resolution is upon the Speaker's table.

The SPEAKER. The resolution referred to was reported a few moments ago, from the Senate.

Mr. OLDS. We have just refused to proceed to the business upon the Speaker's table, and this joint resolution lies there.

The SPEAKER. The gentleman from Kentucky moved to take from the Speaker's table a particular resolution, which being objected to, he moves a suspension of the rules for the purpose of submitting that motion.

Mr. JOHNSON, of Georgia, demanded the yeas and nays; which were not ordered.

The question was then put, and it was decided in the affirmative. And the rules were suspended.

The amendments of the Senate were then read by the Clerk, as follows:

1. *Provided*, Nothing herein contained shall be so construed as to authorize any officer, or agent of the United States, to bind the United States by contract, beyond the amount appropriated by Congress, or to sanction any such contract heretofore made.

2. That the architect appointed by the President of the United States to superintend the prosecution of the work in the construction of the additions to the Capitol, be, and he is hereby authorized, to examine the claims of the workmen to indemnify for the loss of their time during the suspension of the work upon said additions for want of an appropriation; and that the said architect allow to such of said workmen respectively as were suspended from labor during the pendency of this joint resolution, making such appropriation, with the encouragement, and under an authorized assurance, that upon the said appropriation being made their labor would again be required by the Government, and who, intermediately, had no opportunity of obtaining employment in the city of Washington, such reasonable indemnity for the loss of their wages for labor during the suspension of the work, as under the circumstances of their respective cases, justice and equity may require; not exceeding, however, in any case, the average rate of the earnings of said workmen in the employment of the Government for a like preceding period of time.

Mr. STANTON, of Kentucky. Mr. Speaker—

[Cries of "Call the previous question!" "Call the previous question!"]

Mr. STANTON. If the previous question can be called upon both amendments, I do so.

The SPEAKER. The call for the previous question would operate upon both.

Mr. STANTON. I call for the previous question then.

Mr. ORR. Do I understand the gentleman to move to non-concur in the second amendment?

Mr. STANTON. That is the understanding. The call for the previous question was seconded, and the main question was ordered to be put.

The question was then put upon the first amendment, and it was agreed to.

The question now being on the adoption of the second amendment,

Mr. JONES, of Tennessee, demanded the yeas and nays; which were ordered.

Mr. ORR. Is the vote upon a motion of non-concurrence in the amendment?

The SPEAKER. The regular vote is upon the adoption of the amendment. That there may be no misunderstanding upon the part of any gentleman in regard to the nature of the vote, those in favor of the amendment will vote "yea," those opposed "nay."

The question was then taken upon the adoption of the second amendment of the Senate, and it was decided in the negative—yeas 19, nays 136, as follows:

YEAS—Messrs. Barrere, Bowne, Dean, Florence, Gentry, Gorman, Harper, Martin, Newton, Samuel W. Parker, Poik, Price, Sackett, Schermerhorn, Schoolcraft, Stanley, Walsh, Washburn, and Yates—19.

NAYS—Messrs. Aiken, Willis Allen, Allison, John Appleton, William Appleton, Ashe, David J. Bailey, Thomas H. Bayly, Bennett, Bocoek, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, Buell, Burrows, E. Carrington Cabell, Joseph Cabell, Lewis D. Campbell, Chandler, Chapman, Chastain, Clark, Clingman, Cobb, Curtis, Daniel, John G. Davis, Dockery, Doty, Dunham, Durkee, Eastman, Edgeron, Edmundson, Picklin, Fitch, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Gaylord, Goodenow, Grey, Hall, Hamilton, Hammond, Isham G. Harris, Haven, Hendricks, Henn, Hibbard, Hillyer, Horsford, Houston, Howard, John W. Howe, Hunter, Jackson, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Gandy Jones, George G. King, Preston King, Kuhns, Kurtz, Landry, Leifer, Lockhart, Mace, Mann, Humphrey Marshall, Mason, McCorkle, McDonald, McLanahan, McMullin, McNair, McQueen, McEacham, Miller, Milson, Molony, Henry D. Moore, John Moore, Morehead, Murray, Nabers, Olds, Orr, Outlaw, Andrew Parker, Penslee, Penn, Pennington, Perkins, Phelps, Powell, Robbins, Ross, Russell, Scudder, Scurry, David L. Seymour, Skelton, Smart, Smith, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abram P. Stevens, Thaddeus Stevens, Stone, St. Martin, Statton, Strother, Stuart, Sutherland, Taylor, George W. Thompson, Thurston, Tuck, Walbridge, Wallace, Ward, Watkins, Wells, Alexander White, Wilcox, Williams, and Woodward—136.

So the amendment was rejected.

Mr. STANTON. I move that the votes by which the first amendment was adopted and the second rejected be reconsidered, and that the motion to reconsider do lie upon the table; which latter motion was agreed to.

### PUBLIC PRINTING.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to introduce a joint resolution, of which previous notice has been given, in regard to the public printing.

The Clerk read the resolution, as follows:

Joint Resolution in regard to the Public Printing.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That neither the joint resolution of 1846, "directing the manner of procuring the printing for the two Houses of Congress," nor any other act or resolution of Congress authorizes, or shall be so construed as to authorize, the Joint Committee on Printing to discharge one contractor and employ another, or to take the printing from one person and give it to another. But in all cases where the committee shall deem that there has been neglect of duty or unnecessary delay on the part of the public printer, the facts shall be reported to Congress, and the committee shall be governed by its advice.

Mr. STANTON, of Kentucky objected.

Mr. BROWN. I move a suspension of the rules, to enable me to introduce the resolution, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. GORMAN. Will the House indulge me by having read a clause of the law of 1846?

Mr. BROWN. I object. If it is read, I will ask the privilege of replying to it. If it be read, it will be by way of argument. We are not now to vote upon the passage of the resolution, but only upon the motion to suspend the rules to allow it to be introduced for consideration. It will be open to amendment and debate, when introduced.

[Cries of "Let it be read!" "Let it be read!"]

Mr. BAYLY. The motion for the reading can be put to the House.

Mr. BROWN. I withdraw my objection to the reading of the law.

Mr. POLK. If objection is made to the read-



ing of the clause indicated, I will move to lay the whole subject upon the table, as I am unwilling to vote upon the passage of that which I am not allowed to understand.

The SPEAKER. The matter is not yet before the House.

Mr. HOUSTON. I understand the motion to be to suspend the rules for the purpose of allowing the resolution to come before the House for consideration.

Mr. BROWN. That is all that is intended by the motion now pending.

The SPEAKER. That is the proposition. The gentleman from Indiana [Mr. GORMAN] asks to have read a clause of the law of 1846, which the pending resolution proposes to affect.

Mr. CLINGMAN. Until the subject comes before the House for consideration I object to debate or the reading of anything. Debate will be proper when the resolution is regularly before the House.

The question was then taken upon the motion to suspend the rules, and it was decided in the negative—yeas 98, nays 60; as follows:

YEAS—Messrs. Aiken, Allison, John Appleton, Boeck, Bowie, Bragg, Brenton, Albert G. Brown, Buell, Joseph Cable, Lewis D. Campbell, Chandler, Clingman, Cobb, Culom, Curtis, Daniel, John G. Davis, Doty, Durkee, Edgerton, Edmundson, Ficklin, Fitch, Florence, Floyd, Fowler, Gamble, Gentry, Goodrich, Grow, Hall, Hamilton, Harper, Isham G. Harris, Henn, Hibbard, Horsford, Houston, John W. Howe, Hunter, Jackson, Jenkins, James Johnson, John Johnson, George W. Jones, J. Glancy Jones, Preston King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Martin, Mason, McDonald, McLanahan, McNair, McQueen, Millson, Miner, Molony, Henry D. Moore, Morehead, Murray, Nabers, Newton, Olds, Orr, Outlaw, Andrew Parker, Peaslee, Penn, Penniman, Perkins, Phelps, Powell, Rantoul, Robbins, Russell, Sackett, Schoolcraft, Scurry, Smart, Smith, Snow, Abraham P. Stevens, Thaddeus Stevens, Stone, St. Martin, Stratton, Tuck, Venable, Walbridge, Wallace, Watkins, and Woodward—98.

NAYS—Messrs. William Appleton, Thomas H. Bayly, Barrere, Bartlett, Bennett, Bowne, Briggs, Brooks, Burrows, Chapman, Chastain, Clark, Dawson, Dean, Dockery, Freeman, Thomas J. D. Fuller, Gaylord, Goodenow, Gorman, Grey, Hammond, Haven, Hendricks, Hillyer, Howard, Ingersoll, Andrew Johnson, George G. King, Letcher, Lockart, Mace, McMullin, Miller, Samuel W. Parker, Polk, Price, Riddle, Ross, Savage, Schermerhorn, Skelton, Stanley, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stuart, Sutherland, Taylor, Benjamin Thompson, George W. Thompson, Thurston, Walsh, Ward, Washburn, Alexander White, Wilcox, Williams, and Yates—60.

So the rules were not suspended.

Mr. HAVEN. I will say this to the House. Inasmuch as this subject of public printing has excited some attention in the public newspapers, and inasmuch as the House, by a vote already given just now, manifested a desire to know something upon the subject, I wish to show to the House, if there is any desire on their part to know, what the state of business is. I am ready and willing to tell them how the matter stands.

Mr. KING, of New York. I hope the committee will report.

Mr. ORR. Unless the gentleman will allow a resolution by way of correction to be introduced, I object.

Mr. POLK. I rise to a question of order. I ask what there is before the House connected with this subject?

The SPEAKER. Discussion is not in order, unless by unanimous consent.

Mr. KING. Is not a report from the Printing Committee in order at this time?

The SPEAKER. It is, but there is no report proposed to be made. The gentleman from New York can make a report from the committee, but not a verbal one.

Mr. ORR. I believe there is nothing before the House.

Mr. HAVEN. Is it in order for me to move to reconsider the vote just taken to suspend the rules?

The SPEAKER. It is in order, but the proposition would not be debatable.

Mr. HAVEN. I can only say, I have no desire about this matter, if the House do not wish to hear. I am willing to disclose all that has been done.

Mr. KING. The House wishes to hear.

#### DUTY ON RAILROAD IRON.

Mr. ORR. I ask leave to introduce the following resolution:

Resolved, That the Committee of Ways and Means be instructed to report on Tuesday, the 20th instant, at half past twelve o'clock, p. m., a bill in the words following, to wit:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the iron for the construction of all railroads in the United States, or the Territories thereof, may be imported free of all duty: *Provided, nevertheless,* That in all cases hereafter, whenever it is proposed to claim this exemption from duty in case of the importation of iron for such purposes, it shall be the duty of the person or persons importing the same, to give bond in such manner as may be prescribed by the Secretary of the Treasury, conditioned to show that, within three years from the time of said importation, the said iron has been laid down for permanent use on some railroad; or in the event of failure to make it so appear, then the person or persons importing said iron to be required to pay double the rates of duty now required by law: *Provided further,* That in the event of its being made to appear, to the satisfaction of the Secretary of the Treasury, that the omission to lay down said rails has not occurred by reason of any fraudulent purpose to evade the payment of the prescribed rate of duty on such iron, that then it shall be his duty to give further and reasonable time for the bona fide application of said iron to the purposes of railroads.

SEC. 2. *And be it further enacted,* That all duties now due on account of the importation of iron for railroads be, and the same are hereby remitted: *Provided however,* That in all such cases the importation shall be in the name and for the use of some legally incorporated railroad company, or for a State or Territory of the United States.

Mr. ROBBINS objected.

Mr. ORR. I move to suspend the rules, and upon that motion I call for the yeas and nays.

Mr. HOUSTON. I desire to know of the Chair whether the resolution proposed by the gentleman from South Carolina [Mr. ORR] is in order. The point I make upon it is this: that under the express standing rules of the House committees are to be called in a particular specified order for reports. This resolution proposes to change one of the standing rules of the House so far as to make it the duty of the committee, or enable it, to report at any time it pleases without a regular call of committees, and in violation of that law of the House.

The SPEAKER. The proposition is not to change the standing rules of the House, but to suspend the rules of the House, which stand in the way of the introduction of the measure proposed.

Mr. HOUSTON. That may be true, but I would like to know whether that is a mere suspension of rules, or whether it is not a proposition to change the rules? The rules say that committees shall report in a certain specified order, but—

The SPEAKER. The gentleman from South Carolina [Mr. ORR] proposes that the rules shall be suspended for a particular purpose, which requires two thirds.

Mr. ORR. There is a precedent for it.

The SPEAKER. The Chair has no difficulty with regard to the rule.

Mr. POLK. Will a motion that the House resolve itself into the Committee of the Whole on the state of the Union take precedence of the one now under consideration?

The SPEAKER. Such a motion would be in order.

Mr. POLK. I move, then, that the rules be suspended, and that the House resolve itself into the Committee of the Whole.

Mr. ORR. Can the Speaker entertain these two propositions at the same time?

The SPEAKER. Both are privileged questions, and they will be voted upon in the order in which they have been submitted.

Mr. ORR demanded the yeas and nays upon the proposition submitted by him; which were ordered.

The question was then taken and there were—yeas 55, nays 97; as follows:

YEAS—Messrs. Aiken, Boeck, Bragg, Briggs, Albert G. Brown, Joseph Cable, Chapman, Clark, Clingman, John G. Davis, Doty, Eastman, Edmundson, Fitch, Freeman, Gentry, Gorman, Grey, Hall, Hendricks, Henn, Howard, Jackson, James Johnson, John Johnson, Robert W. Johnson, Landry, Lockart, Mace, Humphrey Marshall, McCorkle, McQueen, Molony, John Moore, Nabers, Orr, Outlaw, Samuel W. Parker, Penn, Penniman, Rantoul, Scurry, Smart, Smith, Frederick P. Stanton, Stone, St. Martin, Venable, Wallace, Watkins, Wilcox, Williams, Woodward, and Yates—55.

NAYS—Messrs. Willis Allen, Allison, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bartlett, Bennett, Bowie, Bowne, Brenton, Brooks, Buell, Burrows, Chandler, Chastain, Cobb, Conger, Curtis, Daniel, Dawson, Dean, Dockery, Dunham, Durkee, Edgerton, Florence, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Gaylord, Goodenow, Goodrich, Grow, Hamilton, Hammond, Isham G. Harris, Haven, Hibbard, Hillyer, Horsford, Houston, John W. Howe, Hunter, Ingersoll, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kuhns, Kurtz, Letcher, Mann, Martin, Mason, McDonald, McLanahan, McMullin, McNair, Meacham, Henry D. Moore, Murray, Newton, Andrew Parker, Peaslee, Perkins, Polk, Price, Riddle, Robbins, Ross, Russell, Sackett, Savage, Scher-

merhorn, Schoolcraft, Scudder, David L. Seymour, Skelton, Stanley, Benjamin Stanton, Abraham P. Stevens, Thaddeus Stevens, Stratton, Stuart, Sutherland, Taylor, Benjamin Thompson, George W. Thompson, Thurston, Tuck, Walbridge, Washburn, and Alexander White—97.

So the House refused to suspend the rules.

Mr. SMART obtained the floor.

Mr. POLK. I rise to a question of order. I ask the Chair if the motion I made to go into Committee of the Whole is not now first in order?

The SPEAKER. The motion could not be made during the pendency of the motion which was made by the gentleman from South Carolina [Mr. ORR] to suspend the rules.

Mr. POLK. Having made the motion, I ask if I will not by proper courtesy be entitled to the floor?

The SPEAKER. The Chair recognized the gentleman from Maine, [Mr. SMART,] who is entitled to the floor.

Mr. SMART, by unanimous consent of the House, presented resolutions from the Legislature of the State of Maine adverse to the extension of patents of Woodworth's planing machine, and Parker's reacting water-wheel; which were referred to the Committee on Patents, and ordered to be printed.

Mr. GOODENOW, by unanimous consent, presented resolutions from the Legislature of the State of Maine in support of the memorial to Congress asking the assistance of the United States Government in behalf of the European and North American railway; a portion of which was referred to the Committee on the Post Office and Post Roads, and a portion to the Committee on Roads and Canals; and they were all ordered to be printed.

Mr. POLK moved to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BARKER, from the Committee on Enrolled Bills, reported as correctly enrolled "An act to extend the time for selecting the lands granted to the State of Wisconsin for saline purposes," which received the signature of the Speaker.

Mr. STANTON, of Ohio. I hope the gentleman from Tennessee [Mr. Polk] will withdraw his motion, and permit me to offer a report from the Committee on Roads and Canals.

Mr. POLK. I do not withdraw my motion.

The question was then taken, and there being only forty-seven in the affirmative, the House refused to suspend the rules to go into committee.

#### COMMITTEE ON PRINTING.

Mr. BAYLY, of Virginia. I move that the rules be suspended, so as to allow the gentleman from New York [Mr. HAVEN] to make a verbal report from the Committee on Printing. I desire to know the facts in the case.

Mr. HOUSTON. If that report is to be made, I would rather see it in writing.

Mr. SEYMOUR. I move to amend that resolution.

The SPEAKER. The motion is to suspend the rules, to enable the gentleman from Virginia [Mr. BAYLY] to submit a motion, or for the purpose rather of authorizing the gentleman from New York [Mr. HAVEN] to make a verbal report from the Committee on Printing.

Mr. HOUSTON. May I make an inquiry of the Chair? Is it not the privilege of the Committee on Printing to report whenever it sees fit, and at any time?

The SPEAKER. It is the privilege, under the rules of the House, for the Committee on Printing to make a report at any time.

Mr. BAYLY. I rise to a question of order. Can any committee of this House make a verbal report?

The SPEAKER. Not without a special order of the House. The Chair thinks it competent for the rules of the House to be suspended, so as to allow the gentleman from New York [Mr. HAVEN] to make a speech, or to make a verbal report from the committee.

Mr. STUART. If the rules of the House are suspended, according to parliamentary law, can a verbal report be made?

The SPEAKER. The Chair thinks it is competent to suspend the rules to allow the gentleman to make a speech—and a verbal report is but a speech.

Mr. WOODWARD. I wish to make a point of order, and the point I raise is this: not whether you cannot suspend the rules so as to authorize a report to be made, but whether, under a suspen-

sion of the rules, you can present a report which is not a report?

Mr. BAYLY. I withdraw my motion.

Mr. STANTON, of Ohio. Mr. Speaker—

Mr. HOUSTON. I believe I am entitled to the floor.

The SPEAKER. The gentleman from Ohio [Mr. STANTON] is entitled to the floor.

Mr. HOUSTON. The gentleman from Virginia [Mr. BAYLY] took the floor from me, and propounded a question.

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] withdraws his motion. The gentleman from Alabama [Mr. HOUSTON] must remember that it is not a debatable question, and he is not entitled to the floor.

Mr. HOUSTON. The chair must recollect, that I was upon the floor, and the gentleman from Virginia [Mr. BAYLY] had no right to withdraw his motion, and take the floor from me. I should like to know, if the motion can be withdrawn when I am upon the floor?

The SPEAKER. The Chair overrules the point of order made by the gentleman from Alabama, [Mr. HOUSTON,] upon the ground that he was not entitled to the floor, the question not being debatable.

Mr. HOUSTON. It is a question of fact, and I do not wish to submit a question of that sort to the House. I was upon the floor, recognized by the Chair, and propounded a question, and intended to propound additional questions, when the gentleman from Virginia [Mr. BAYLY] interrupted me.

The SPEAKER. The gentleman from Alabama will remember, that these questions can be propounded only by the courtesy of the House, and under the rules of the House, he cannot decide that the gentleman from Alabama [Mr. HOUSTON] is entitled to the floor.

Mr. STANTON, of Ohio. I move to suspend the rules of the House, so as to enable me to submit a report from the Committee on Roads and Canals, in regard to the construction of a canal around the Falls of the Ohio.

Mr. HAMILTON objected.

The question was then taken on Mr. STANTON's motion, and there being only thirty-five in the affirmative, the rules were not suspended.

#### ADJOURNMENT OF CONGRESS.

Mr. ROBBINS asked the unanimous consent of the House to offer the following resolution:

*Resolved*, (with the concurrence of the Senate,) That the President of the Senate and Speaker of the House of Representatives close the present session of Congress by an adjournment of their respective Houses on Monday, the fifth day of July next, at the hour of twelve o'clock, meridian.

Mr. CHANDLER objected.

Mr. ROBBINS moved a suspension of the rules to enable him to offer the resolution.

Mr. CLINGMAN demanded the yeas and nays on this motion; but only eighteen members rising, they were not ordered.

Mr. CLINGMAN called for tellers on the demand for the yeas and nays; but they were not ordered.

The question was then taken on Mr. ROBBINS's motion, and (two thirds not voting in the affirmative,) it was disagreed to.

#### BRANCH MINT IN CALIFORNIA.

Mr. McCORKLE asked the unanimous consent of the House to enable the Committee of Ways and Means to report a bill for the establishment of a branch mint at San Francisco, which that committee had been prepared to report for some time.

Mr. MARSHALL, of Kentucky, objected.

Mr. McCORKLE moved a suspension of the rules.

And the yeas and nays being put, the House refused to suspend the rules, (two thirds not voting in the affirmative.)

#### REPORT FROM COMMITTEE ON PRINTING.

Mr. GORMAN. As much anxiety has been manifested this morning on the subject of a report from the Committee on Printing, I will state to the House that I have commenced the preparation of a report, but I do it without law. I ask the House, however, to indulge me till to-morrow morning to write out the report, as I cannot do it here, and I will then present it to the House the first thing after the meeting of the House to-morrow.

[Loud cries from all parts of the Hall, of "Agreed!" "Agreed!"]

#### PRINTING OF THE CENSUS.

Mr. SMITH asked the unanimous consent of the House to offer the following resolutions:

*Resolved*, That it is unnecessary and inexpedient to print the census reports upon the plan as presented by the Secretary of the Interior.

*Resolved*, That, with a view to economy and public convenience, a committee of three be appointed, whose duty it shall be to inquire into the expediency of so condensing and arranging the said census reports that the same may be embraced in one volume, and to bring in a plan of condensation, and a bill to carry out the same.

Mr. DAWSON objected.

Mr. SMITH moved a suspension of the rules to enable him to introduce the resolutions; and on that motion he asked for the yeas and nays.

Mr. ORR demanded tellers on the yeas and nays; which were ordered; and Messrs. CHANDLER and FULLER of Maine were appointed.

And the question being put, the tellers reported 35 in the affirmative.

So the yeas and nays were ordered.

Mr. STANLY. Suppose the House adjourns now, will this matter come up in the morning hour to-morrow, or on Monday next?

The SPEAKER. The Chair will decide that question when it arises.

Mr. STANLY. In order to save time, I move that the House do now adjourn.

The question being put, the motion was disagreed to, on a division—yeas 64, noes 78.

So the House refused to adjourn.

The question recurring on Mr. SMITH's motion to suspend the rules—

Mr. TUCK moved that the rules be suspended; and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair is of opinion that, as the motion of the gentleman from Alabama, [Mr. SMITH,] and the motion of the gentleman from New Hampshire, [Mr. TUCK,] are both privileged motions, they must be taken in the order in which they were made. The motion of the gentleman from Alabama is of such a character that it must be put before a motion to go into the Committee of the Whole on the state of the Union can intervene.

The question was then taken on Mr. SMITH's motion, and there were—yeas 78, nays 77; as follows:

YEAS—Messrs. Willis Allen, John Appleton, Averett, Thomas H. Bayly, Barrere, Bocock, Bragg, Brewster, Buell, Joseph Cable, Chastain, Clark, Clingman, Cobb, John G. Davis, Dean, Doty, Eastman, Edmundson, Fitch, Florence, Floyd, Gamble, Grow, Hall, Hamilton, Hammon, Isham G. Harris, Sampson W. Harris, Hendricks, Houston, Howard, Ingersoll, Jackson, Jenkins, Andrew Johnson, James Johnson, John Johnson, George W. Jones, J. G. Jones, Preston King, Lockhart, Mace, Humphrey Marshall, McDonald, McMullin, McQueen, Milson, Morehead, Murray, Nares, Olds, Orr, Outlaw, Samuel W. Parker, Penslen, Pennington, Perkins, Phelps, Polk, Robbins, Russell, Sackett, Schoolcraft, David L. Seymour, Skelton, Smart, Smith, Snow, Richard H. Stanton, Abraham P. Stevens, Stone, Stratton, George W. Thompson, Venable, Wallace, Watkins, and Woodward—78.

NAYS—Messrs. Allison, William Appleton, Bartlett, Bennett, Bowie, Bowne, Briggs, Brooks, Burrows, E. Carington Cabell, Chandler, Chapman, Cullum, Dawson, Dockery, Durkee, Edgerton, Fowler, Freeman, Thomas J. D. Fuller, Gaylord, Gentry, Goodnow, Goodrich, Gorman, Grey, Harper, Haven, Henn, Hibbard, Horsford, John W. Howe, Hunter, Robert W. Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Mann, Martin, Mason, McCorkle, McLanahan, McNair, Meacham, Miller, Miner, Molony, Henry D. Moore, Newion, Andrew Parker, Porter, Price, Ross, Schermerhorn, Scurry, Stanly, Benjamin Stanton, Frederick P. Stanton, Thaddeus Stevens, Stuart, Sutherland, Taylor, Benjamin Thompson, Thurston, Tuck, Wallbridge, Walsh, Ward, Washburn, Wells, Alexander White, Wilcox, Williams, and Yates—77.

So (two thirds not voting in the affirmative) the rules were not suspended.

#### BILLS ON THE SPEAKER'S TABLE.

Mr. HIBBARD. There are many bills from the Senate on the Speaker's table, which it is highly important should be acted upon. A portion of them have lain there for more than two months. Such delay is a reproach to legislation. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the House now proceed to dispose of such bills from the Senate on the Speaker's table as shall not be objected to, and shall not give rise to debate.

Mr. OUTLAW objected.

Mr. HIBBARD moved to suspend the rules, to enable him to offer the resolution; and on that motion he demanded the yeas and nays.

The yeas and nays were not ordered; and the question being put, the motion to suspend the rules was disagreed to, (two thirds not voting in the affirmative.)

Mr. HOUSTON. It is evident that we shall accomplish nothing by these motions to suspend the rules, and I therefore ask the House, by unanimous consent, to proceed to the call of committees for reports.

Mr. CABELL, of Florida, objected.

Mr. HOUSTON. I move to suspend the rules, to enable me to move that there be a call of committees for reports. We ought to do something or other.

Mr. BENNETT. I ask the gentleman from Alabama to withdraw that motion, to enable me to submit a resolution which it is necessary should be passed. A new post route has been established in my district, and, by order of the Department, the mail is being carried on that route; but the Postmaster General has no authority to pay for carrying it.

Mr. HOUSTON. I would gladly yield to the gentleman, but there are several gentlemen here who are making similar requests, and I must, therefore, decline to withdraw my motion.

Mr. OUTLAW moved that the House do now adjourn.

Mr. HOUSTON demanded the yeas and nays; but they were not ordered.

Mr. LETCHER called for tellers on the adjournment; and they were ordered.

Mr. OUTLAW withdrew the motion to adjourn.

Mr. FITCH renewed it.

Mr. CLARK demanded tellers; which were ordered, and Messrs. CHANDLER and FULLER were appointed.

The question was then taken, and the tellers reported—yeas 73, noes 36.

So the motion was carried in the affirmative, and The House adjourned till twelve o'clock to-morrow.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MACE: A memorial from James Melhany, of Montgomery county, Indiana, asking for a grant of land to construct a railroad from Thorntown, Boone county, Indiana, to some suitable point on the Pacific ocean, in Oregon, via New Richmond, Attica, up Pine Creek, so as to pass north of Walnut Grove, Peoria, south to the Kansas river; also, to erect a monument on said road, at some suitable point, in the State of Illinois, to the memory of Christopher Columbus, five hundred feet high, surmounted with the Holy Bible.

By Mr. JONES, of Pennsylvania: The resolutions of the Legislature of Pennsylvania, in relation to the Woodworth patent.

Also, the resolutions of the Legislature of Pennsylvania, in relation to the canal around the Falls of the Ohio.

Also, the petition of citizens of Schuylkill county, for the increase of compensation to the deputy marshals for taking the census.

By Mr. MARTIN: The remonstrance of 100 inhabitants of Cattaraugus county, New York, against the renewal of the Woodworth patent.

By Mr. ROBBINS: The petition of Benjamin Sage, William M. Evans, and 34 other citizens of the county of Philadelphia, asking Congress to modify the bounty land act of September 28, 1850, so as to give each person intended to be benefited thereby, and to each seaman and marine who served in said war, not less than one hundred and sixty acres of land.

By Mr. PARKER, of Pennsylvania: The remonstrance of William Baker and 91 others, of Blair county, Pennsylvania, against any action by Congress legalizing the Wheeling bridge over the Ohio, at its present height.

Also, the remonstrance of David Watson and 90 others, citizens of Blair county, Pennsylvania, of similar import.

By Mr. KUHN: The joint resolutions of the State of Pennsylvania, adverse to the Woodworth patent.

Also, the joint resolutions of the State of Pennsylvania relative to the construction of a canal around the falls of the Ohio river, at Louisville.

By Mr. FITCH: The remonstrance of John Winder and others, citizens of Elkhart county, Indiana, against the renewal of a patent to Austin and Zebulon Parker "for alleged improvement upon reaction water-wheels."

By Mr. PORTER: The petition of James P. Harrison, assistant marshal of Pulaski county, Missouri, and that of John Orricks, assistant marshal of St. Charles county, Missouri, each asking additional compensation for taking the seventh census.

By Mr. MOORE, of Pennsylvania: Resolutions of the Legislature of Pennsylvania against the extension of the Woodworth patent.

Also, resolutions from the same, in favor of the construction of a canal around the falls of the Ohio river.

Also, resolutions of the Pennsylvania State Agricultural Society, in favor of the establishment of an Agricultural Bureau.

Also, memorial of citizens of Pennsylvania against the extension of the Woodworth patent.

By Mr. BURROWS: The petition of William R. Dau

rels and 120 others, citizens of Niagara county, New York, praying for further remedies to patents.

By Mr. EASTMAN: The memorial of citizens of Grant county, Wisconsin, for a grant of land for a railroad from Milwaukee to Potosi, on the Mississippi river.

By Mr. CHANDLER: Two memorials, signed by J. W. Bray, S. M. Day, and many other citizens of Philadelphia, asking Congress to construct a canal around the Falls of St. Mary.

Also, the petition of Oliver Byrne and other citizens of Pennsylvania, praying the extension of a patent for Uri Emmons's patent for a planing machine.

By Mr. McLANAHAN: Resolutions from the Legislature of Pennsylvania instructing the Senators and requesting the Representatives from that State in Congress to vote for the construction of a ship canal around the falls of the Ohio river.

By Mr. GAYLORD: The petition of Philip Adams and 50 other citizens of the counties of Morgan and Perry, asking the grant of 100,000 acres of the public lands to aid in the construction of a certain plank or Macadamized road within said counties.

## IN SENATE.

TUESDAY, April 13, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

### EXTENSION OF THE CAPITOL.

Mr. HUNTER. I desire to ask the general consent of the Senate now, to permit the joint resolution in regard to the extension of the Capitol to be taken up, so that we may act upon the message of the House, rejecting one of the Senate's amendments. This matter ought to be decided at once, and I think we can decide it in a very few minutes, this morning. I hope it will be the general pleasure of the Senate to take it up, and I therefore make that motion.

The PRESIDENT. It is moved to take up the joint resolution authorizing the continuance of the work on the two wings of the Capitol, which has been returned from the House. If taken up, the question will be upon receding from the amendment made by the Senate, to which the House has disagreed.

Mr. BRADBURY. We were admonished by a gentleman yesterday that he should debate that joint resolution when it comes up. I therefore hope we will not take it up, but go on and finish the business which we commenced yesterday.

Mr. HUNTER. I only ask for a portion of the morning hour. I think we can get through with it in that time. I shall be willing, after one o'clock, to give way, if it is not disposed of then. I hope no objection will be made to that.

Mr. BRADBURY. If the Senator consents to give way at one o'clock, I withdraw my objection.

The motion to take up the joint resolution was agreed to.

The PRESIDENT. The motion made by the Senator from Virginia is, that the Senate recede from their amendment, which has been rejected by the House.

Mr. BRODHEAD. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. Before the vote is taken, I want to state, for the information of the Senate, that I have prepared, agreeably to notice given a day or two since, a joint resolution, precisely to the same effect as the amendment which has been rejected by the House, with one single verbal alteration, which was suggested by the honorable Senator from North Carolina, [Mr. BADGER,] when that amendment was before us, and which it would have required unanimous consent then to adopt. If we recede from our amendment, I have this joint resolution, which I will present on the first opportunity.

Mr. MANGUM. I very much hope that it will be the sense of the Senate to recede from its amendment. This work should be going on; and there is no probability that the House will ever agree to that amendment. All my information is derived from the newspapers, where I find that the vote was so overwhelming that it is impossible to entertain the suspicion for a moment that the House will recede from its disagreement. I hope we shall recede from the amendment.

Mr. BORLAND. I have occupied so much of the time of the Senate upon this question, that I shall trouble them but a short time now. But there are some considerations connected with this bill, or with the amendment now before us, which occur to me, and which I feel it my duty to present.

As has been said of some other bills that have been before the Senate, to speak against this is, indeed, in my opinion, speaking against a "foregone conclusion." It is one of that class of bills which always passes, and always will pass. I had no hope that anything I could say in opposition to it, from the beginning, would have had any influence towards defeating it. My object was, however, as it was my right, and, as I think, my duty, to put upon the record the opinions and views I entertain upon the subject, and let them go before the country—at least before that portion of it which I represent.

In the several contests which have marked the course of my life, I have always thought, and often said, it was exceedingly unwise and impolitic to "knock my head against a stone wall." Sir, the contest I have had with this bill has not tended to change this opinion. I have, indeed, in this instance, "knocked my head against a stone wall."

Mr. WELLER. Knock the wall down.

Mr. BORLAND. I wish I could. But I have been unable to knock it down with the poor means at my command upon this floor. But, although the strength of my head has not been sufficient to knock down these walls, I have no doubt whatever that, with no aid to the hands and arms which nature has given me, I have muscular power (though I am of a small and feeble person) to displace and remove every stone from the foundation of these two wings of the Capitol. This is my opinion, and there are others—men of high intelligence and experience—who agree with me. I mention it to indicate my opinion of this work as a piece of masonry, and especially as a foundation for buildings of such size as it is proposed to erect upon it.

But this view of the subject has been sufficiently presented here. It has availed nothing, and will avail nothing. There is something stronger than the stone walls behind the walls, against which such considerations never have, and never can avail. For the present, at least, I give it up. But I desire to say a few words upon the particular question now before the Senate. It is, whether we shall adhere to or recede from that provision we adopted in justice to the laboring man?

In the first stages of this measure before the two Houses of Congress, we heard much, and read much, about the poor laborer out of employment and starving—aye, sir, *starving*; and our galleries were filled with them for argument, to get up this bill, and hasten its passage. Yes, sir, this was the array of the advocates of the bill; while its opponents were denounced as enemies to the laboring man, withholding from the mouths of his starving wife and children the absolute necessities of subsistence. But, sir, how stands the matter now? Now that the appeal has been successful—now that the poor laborer has been made use of to serve a purpose—now that the bill has been taken up, and it is found that it can pass without the help of the poor laborer—he is forgotten, and cast aside—his wife may starve, his children may cry for bread, and these good friends of his are blind to his wants, and deaf to his claims; while we, who were once called his enemies and oppressors, are now denounced, on the other hand, for obstructing a great public work, because we maintain the claims of the same laboring man—claims whose justice, but three days ago, was acknowledged by the Senate. In this view, sir, the practical question before us is, shall we withhold this well-earned bread from the mouths of these poor men, in order to pour half a million of dollars into the already gorged pockets of those who, already rich, would multiply their gains by coining into money the toil, and sweat, and misery of these poor laboring men?

That is the question we have to decide; and I desire to put myself at least right in regard to it, and to let it be seen, upon the record of yeas and nays, where those gentlemen who were so considerate of the poor laboring man in the beginning, when something was to be gained by using them, and whose conduct, in contrast with ours, was held up to the country as such bright examples of propriety, and justice, and humanity, stand now, and where we stand. I want it to be seen who is for taking care of the laboring man, and who is not; who is for recognizing his claims upon the justice and humanity of Congress, and who is for repudiating those claims; who is for still further

paying money into the pockets of speculators, and who is for withholding it when, in my opinion, there is no public necessity or propriety for its appropriation. Let the vote be taken, and let the people judge.

The proposition is to recede from the amendment to the joint resolution which provides payment for those laboring men, who have been brought from their homes and employment in other cities by promises of constant work, and kept here under promises and expectations held out to them that they would be provided for if they remained. And in support of the proposition, I understand it has been represented that these poor men have withdrawn all pretensions to this claim; that they are perfectly willing that this amendment should be stricken out of the bill, and the appropriation be made for continuing the work, without making them any allowance at all for the time they have been induced to remain here, and almost compelled to lose. I have good reason for saying that this is not so; that they have not withdrawn that claim, and never will, as, in my opinion, they never ought. To recede from the amendment, will not only not be in accordance with their wishes or their feelings, but in opposition to both, as it will be destructive of their hopes of relief. These superintendents of the work—those who have brought these poor men here, with false promises, and kept them here upon delusive expectations—these are the individuals who are now for casting off their dupes and their victims, and setting them adrift upon the world, without a dollar to pay the debts which they were compelled to contract to get bread for their own mouths and those of their wives and children. These are the individuals who are willing—nay, urge us—to recede from the amendment. No wonder. They have received their own compensation all the while, whether employed or not, and are to continue to receive it. They are therefore willing and desirous to remove all the obstacles out of the way of their own interest, no matter upon whom the hardship shall fall. No wonder, I repeat—no wonder! How characteristic of him who speculates upon the necessities of the laboring poor! Kindness of look and of voice, and loud professions of sympathy for want, until the poor dupe is converted into use! But the moment after he has been used, and is no longer useful for the particular end in view—and especially if he stands in the way of another end—he is repulsed with insult, cast aside in scorn, and, if occasion require, even trampled under foot.

Mr. President, I will read a communication I received this morning from a number of these poor men:

WASHINGTON, April 12, 1852.

SIR: The undersigned, stone-masons and laborers who have been induced to come to this city from various parts of the country for the purpose of obtaining work upon the extension of the Capitol; who have been induced to come here in compliance with the request of the Government, as contained in advertisements in the newspapers published in the city of New York and elsewhere; who, having obtained work during the last season, were further induced to bring on our families, or make arrangements to abide here permanently, and that at the expenditure in many instances, of all our available means; who have, in compliance with the above-mentioned reasons, and for want of due additional appropriations by Congress to carry on the work, been without employment since its suspension; who, in consequence of the loss of wages sustained by us on account of the refusal to give us employment, are now destitute among strangers, and without credit—have had the still further mortification to witness the failure in the lower House of Congress of the bill remunerating us for this loss of time. We are at a loss to know what course it further becomes us to pursue. Our only hope is that our friends—the friends of the laborer—who occupy positions of influence will lend us their aid.

We therefore appeal to you, and solicit your good offices in aid of justice and humanity.

Yours, most respectfully,

HON. SOLON BORLAND, *United States Senate.*

Many of these men I know are in a state of utter destitution. Some of them have had the very beds taken from under their wives and children, and sold in the market-place to purchase the means of living. During the suspension of the work, they have had to incur debts which they are now utterly unable to satisfy; and unless they obtain these means, they will be turned out of house and home, without money, without a change of clothes, and without food. This, sir, added to their own simple, modest, and to my heart, most touching letter, makes up my appeal to the Senate for justice and humanity to these poor men. Let it pass for what it may be worth. I have no more to say.



The question being taken on receding from the Senate's amendment, which provided for the payment of the laborers during the time they have been unemployed, it resulted—yeas 30, nays 16; as follows:

**YEAS**—Messrs. Atchison, Badger, Bayard, Bell, Berrien, Bradbury, Clarke, Clements, Cooper, Davis, Dawson, Douglas, Felch, Fish, Geyer, Gwin, Hamlin, Hunter, King, Mangum, Miller, Morton, Sebastian, Seward, Shields, Smith, Spruance, Stockton, Underwood, and Upham—30.

**NAYS**—Messrs. Adams, Borland, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Hale, James, Jones of Iowa, Norris, Rusk, Sumner, Wade, Walker, and Weller—16.

So the Senate receded from its amendment.

Mr. HALE, agreeably to previous notice, asked and obtained leave to bring in a joint resolution; which was read, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the architect appointed by the President of the United States to superintend the work in the construction of the additions to the Capitol, be, and he is hereby authorized to examine the claims of the workmen to indemnity for the loss of their time during the suspension of the work upon said additions, for the want of an appropriation; and that the said architect allow to said workmen, respectively, as were suspended from labor during the pendency of the joint resolution making such appropriation, with the encouragement that upon said appropriation being made, their labor would again be required by the Government, and who intermediately had no opportunity of obtaining employment in the city of Washington, such reasonable indemnity for loss of wages for labor during the suspension of the work, as, under the circumstances of their respective cases, justice and equity may require; not exceeding, however, in any case, the average rate of the earnings of said workmen in the employment of the Government for a like preceding period of time.*

#### PETITIONS, ETC.

The PRESIDENT *pro tempore* laid before the Senate a petition of Thomas G. Clinton, praying that the reasons which influenced the chief examiner of the Patent Office to grant E. S. Renwick a patent in 1850; for an invention identical with one for which a patent was refused William Wheeler in 1847 and 1848, be required of the Patent Office; which was referred to the Committee on Patents and the Patent Office.

Mr. HUNTER presented the petition of Susan Campbell, asking for a pension; which was referred to the Committee on Pensions.

#### PAPER WITHDRAWN AND REFERRED.

On motion by Mr. RUSK, it was

*Ordered*, That the petition of Isaac Houston, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

#### REPORT FROM A STANDING COMMITTEE.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the memorial of Pursuer T. P. McBlair, asking to be allowed credit for certain payments to forward officers of the steamship Princeton, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

#### ST. GENEVIEVE PLANK ROAD.

The engrossed bill, to grant the right of way to the St. Genevieve, Iron Mountain, and Pilot Knob Plank Road Company, was read a third time and passed.

#### NON-INTERVENTION.

Mr. CLARKE. I move the postponement of all prior orders of business, that the joint resolutions, which I had some time since the honor to present, on the subject of non-intervention, and which were assigned for consideration to-day, and upon which the honorable Senator from Tennessee [Mr. BELL] has the floor, may now be taken up.

Mr. CASS. That will place my colleague [Mr. FELCH] in an awkward position, for he got half through his speech yesterday, and yielded the floor for a motion to adjourn.

Mr. BADGER. I have been in similar circumstances for two months.

Mr. CASS. I hope the Senator from North Carolina does not mean to intimate that that should be a precedent to us all, and that we should be so long hatching an egg as that. [Laughter.]

Mr. BRADBURY. I hope that this motion will not prevail. It will be recollected that the honorable Senator from Michigan [Mr. FELCH] has not concluded his speech, and it is my wish that we may go on with the bill that was under consideration yesterday, and sit till we get a final vote on it. Let us decide one question at a time.

Then the honorable Senator from Tennessee can get an opportunity to address the Senate. It is true, that some days ago this day was assigned to take up these resolutions on non-intervention; but the spoliation bill was made the special order at a much earlier period, and is entitled to priority.

Mr. CLARKE. I think there will be no inconvenience to the honorable Senator from Michigan [Mr. FELCH] if my motion prevails. The observations he has to make he has, probably, so perfectly at command, that he will have no difficulty in presenting them to-morrow as well as to-day. To-day was assigned for the consideration of these resolutions. The honorable Senator from Tennessee has had possession of the floor for some time, and has yielded it on several occasions. At this moment he is prepared to go on, and we are prepared to hear him. In consideration of these circumstances, I hope that an opportunity will be accorded to the honorable Senator to proceed at once. In that case he will get through early, and the consideration of these resolutions will not be again pressed on the Senate so as to interfere with other business. I trust that the Senate will accede to the request.

Mr. BRADBURY. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BELL. I have certainly never witnessed an instance of this kind before. After the determination which has been manifested by so great a number of gentlemen to take up the French spoliation bill, it would be utterly discourteous in me to press any claims, which I may appear to have, to the attention of the Senate. I have, however, sat silent a long time. I was willing, in the first instance, that this subject should be postponed for ten days, in order that the apportionment bill, and the deficiencies bill, and one or two other important measures, should be taken up and disposed of, thinking that these bills might be disposed of in that time; but that not being done, I waited ten days longer. With any will or disposition to address the Senate on this question, it appears to me that personal respect for myself would require that I should not yield. The honorable Senator from Maine [Mr. BRADBURY] pressed me privately to yield. I told him that I was awkwardly situated; that I was in a ridiculous position if, thinking it of any importance that I should address the Senate on this subject, I should yield. The honorable Senator from Maine postponed the taking up of the French spoliation bill until yesterday, the very day before the day fixed for the consideration of the resolution of the Senator from Rhode Island. In regard to these non-intervention resolutions, and the remarks I had to make in regard to them, I referred it to the judgment of the Senate when they should be taken up for consideration, because I supposed that it would make no material difference to me when I addressed the Senate. I was as well prepared three weeks ago as I am now; but, after the manifestation of gentlemen in regard to taking up the French spoliation bill, I feel that I must yield; and, in doing so, I give my heartfelt thanks to the Senator from Rhode Island for his endeavors to call up this subject.

Mr. SHIELDS. I am satisfied that the Senator from Tennessee is mistaken in the vote which has just been taken on the call for the yeas and nays. My impression is, that in rising to sustain the call for the yeas and nays, the desire of Senators is, to assign the floor to the honorable Senator from Tennessee; because I do not believe that there is any Senator who will vote against a motion which is uniformly conceded as an act of courtesy. There is no Senator on this floor more uniformly courteous than the Senator from Tennessee. He has deferred making his remarks from day to day, until to-day—the day which the Senate assigned him for the purpose; and I really am astonished and surprised that my friend from Maine should have asked for the yeas and nays, on the motion to take up these resolutions.

Mr. WELLER. I am somewhat surprised at the ground upon which the honorable Senator from Maine places his opposition to taking up the non-intervention resolutions to-day. It will be recollected that on Thursday last, in order to accommodate the honorable Senator from Louisiana, [Mr. DOWNS,] I made a motion, which he was precluded from making, as he had voted in the minority, to reconsider a vote in the Senate con-

curring in an amendment made as in Committee of the Whole on the apportionment bill, to enable the Senator from Louisiana to submit an amendment, with the understanding that the discussion upon that bill had closed. Yesterday, it came up in its regular order again. It was still unfinished business; but the Senator from Maine [Mr. BRADBURY] then insisted that the French spoliation bill should be taken up, notwithstanding the effect would be to postpone the apportionment bill. And now, after the apportionment bill has thus been driven over—I do not know how long—to-day, when the time has arrived—a time which was fixed ten days ago—for the consideration of the subject upon which the Senator from Tennessee has the floor, the Senator from Maine demands that we shall proceed with the French spoliation bill. The Senator from Illinois [Mr. SHIELDS] is right, when he suggests that I desire to record my vote against the proposition of the Senator from Maine, [Mr. BRADBURY.]

Mr. BRADBURY. The honorable Senator from Illinois [Mr. SHIELDS] remarked that he was surprised that I should insist on proceeding with the orders of the day. If the honorable Senator had attended to the course of the discussion, I think he would have withheld that expression of surprise. Yesterday was assigned for the consideration of the French spoliation bill, and the friends of that measure did not occupy the floor five minutes; the honorable Senator from Michigan took the floor against it; he had proceeded with his speech, but had not closed when the Senate adjourned, and was entitled to the floor to-day. His colleague [Mr. CASS] addressed the Senate, expressing the hope that the Senator might be permitted to conclude his remarks. It was under these circumstances, and in accordance with the wish expressed by the honorable Senator from Michigan, [Mr. CASS,] that his colleague might be permitted to conclude his speech commenced yesterday, on a subject which had been made the special order for to-day, that I desired the Senate to refuse a postponement for any other subject. It is under these circumstances that the honorable Senator from Illinois gives utterance to the expression of his surprise. It is now more than two months since the bill, to which I have alluded, was made the special order; but one bill after another is pressed on to take the precedence. It is for the Senate to do as it pleases. In appointing me chairman of the committee it placed the bill in some measure under my charge. It is a subject that my constituents have comparatively little interest in, and if those Senators, whose constituents are much more deeply interested in the passage of the measure, see fit to have it thrown over to the end of the session, I can make no further objection. I wish only to do my duty.

With regard to the honorable Senator from Tennessee, I would observe that it was from no discourtesy to him that I opposed the motion to postpone the special order. I know the uniform courtesy and kindness of that distinguished Senator, and there is no one to whom I would more cheerfully render any act of courtesy; but as his speech was to be made on a subject of no very pressing importance to the country at this moment, I hoped he would consent that the Senator from Michigan should conclude his remarks. If the French spoliation bill is postponed now, I do not know when it is to come up again.

Several SENATORS. To-morrow! To-morrow!

Mr. CASS. I fully accord with all that has been said by the Senator from Illinois in regard to the courtesy which is due to the Senator from Tennessee. No member of this body is more uniformly courteous than that Senator; and in expressing the hope that my colleague might be allowed to finish his remarks, I had not the most remote idea of exhibiting any discourtesy. However, I would simply remark that my colleague commenced his speech yesterday on the French spoliation bill, and gave way to the motion of the Senator from North Carolina [Mr. MANGUM] to adjourn, and he was entitled, on every principle of courtesy, and by uniform practice, to go on to-day.

The honorable Senator from North Carolina says that he gave way. So he did, voluntarily; but nobody would have stopped him. Is it, therefore, surprising that I should have risen to ask that my colleague should be allowed to go on with his speech? Such a thing as a refusal in an instance of this kind has never happened before.

I beg to assure the honorable Senator from Tennessee that it is not with the least discourteous feeling toward him that I have made this request; and, in taking my seat I will say, that my colleague most cheerfully gives way, and hopes that the Senator from Tennessee will go on with his remarks, which I have no doubt will afford us all a great deal of pleasure.

Mr. FELCH. I have not the control of the bill which was under discussion yesterday, and as the Senate very well understands, I have uniformly voted against taking it up. I commenced some remarks yesterday, however, in regard to it, and I certainly did desire to conclude them today. I am aware that it must be a dull speech upon a dull subject, and I wished to get it off my hands as soon as I could conveniently. But I most cheerfully yield, if it can be understood that I can proceed to-morrow and close my remarks.

Mr. BRADBURY. I will, with the consent of the Senate, withdraw the call for the yeas and nays.

Consent being given, the call was withdrawn.

Mr. BADGER. I was going to mention that I hope the Senator from Maine will have no hesitation, after what has been said by the Senator from Michigan, [Mr. FELCH], in giving my friend from Tennessee an opportunity to be heard to-day. And I was about to add, that I have given notice that on Thursday I should ask the Senate to take up a certain matter, to the consideration of which I have some claims upon the courtesy of the Senate; but rather than interfere with business which Senators are anxiously pressing upon the consideration of the Senate, if they yield now to the Senator from Tennessee, on Thursday I will waive any purpose I may have then to address the Senate.

The motion to postpone all previous orders, for the purpose of resuming the consideration of the joint resolutions relative to non-intervention, was then agreed to.

Mr. BELL then addressed the Senate for two hours and a half against the intervention doctrine. [His speech will be found in the Appendix.]

Mr. COOPER. Mr. President, I know that the Senator from Michigan [Mr. FELCH] desires the floor to-morrow to continue his remarks upon the French spoliation bill; and that the Senator from North Carolina [Mr. BADGER] is waiting for a day to finish his speech, commenced some two months ago. I am willing to occupy any portion of the time of the Senate that it shall allot to me, in the course of a few days, on the subject which is now under discussion.

Several Senators suggested to-morrow week.

Mr. COOPER. It is suggested that to-morrow week will be a convenient day. I have no objection, if that be the pleasure of the Senate. I desire to submit my views on the question at some time, and I wish to do so at such time as will best suit the convenience of the Senate. I move to postpone the further consideration of these resolutions until to-morrow week.

Mr. HUNTER. I would suggest to the Senator from Pennsylvania, that the deficiency bill is pressing upon us. I must endeavor to get it up to-morrow or next day.

Mr. COOPER. My motion is to postpone the subject until to-morrow week.

Mr. HUNTER. I hope we shall get through the deficiency bill by that time; but, at all events, I am willing to agree to that day.

The motion was agreed to.

#### EXPEDITION TO JAPAN.

Mr. BORLAND. I desire to make a remark somewhat in the nature of a personal explanation of my own course with regard to the resolution of inquiry which I introduced some time since in relation to the expedition to Japan. I stated to the Senate the other morning, that I should call it up, and ask its consideration again. Since then, at the request of other Senators, I have agreed to let it lie, for the reason that a Senator proposes to introduce a similar resolution in Executive session, calling for the information to be communicated by the President to the Senate in Executive session. It is proper that I should say that I do not approve of such a proceeding, but as many who desire this information as much as I do, seem to think that will be the better course, I have agreed to it, not yielding, however, my opposition to all such proceedings in Executive session.

On motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, April 13, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read.

Mr. GOODENOW. I rise to a privileged question. The resolutions which I had the honor to introduce yesterday, from the Legislature of the State of Maine, are reported in the Journal as having been referred, in part, to the Committee on the Post Office and Post Roads, and in part to the Committee on Roads and Canals. I moved to refer them, in part, to the Committee on Roads and Canals, and in part to the Committee on Public Lands. I ask that the Journal may be corrected.

The SPEAKER. The Chair recollects perfectly well that the gentleman did ask to have them referred to two different committees.

Mr. GOODENOW. I ask that the Journal may be corrected, by inserting "the Committee on Public Lands," instead of "the Committee on Roads and Canals."

The SPEAKER. The correction will be made. The Journal was then approved.

The SPEAKER. The first business in order is the bill to enforce discipline in the Navy. The motion pending is to recommit to the Committee on Naval Affairs.

Mr. STANTON, of Tennessee, obtained the floor.

Mr. STANTON, of Ohio. I rise to a privileged question. I move to reconsider the vote by which the House, on yesterday, refused to suspend the rules, so as to enable the gentleman from Mississippi [Mr. BROWN] to introduce a resolution relative to the public printing.

The SPEAKER. In the opinion of the Chair that motion is not in order. It not being in order to move to suspend the rules upon any day except Monday, the Chair thinks the action of the House in relation to such motions must be confined to that day.

Mr. STANTON. I did not suppose it was in order to suspend the rules, but I thought the motion to reconsider might be made now, so that it would come up as unfinished business on Monday next.

The SPEAKER. The Chair is of the opinion that it has been the practice of the House not to allow motions to reconsider motions to suspend the rules. All action upon such a motion must be confined exclusively to the time at which the motion was made. The Chair, however, will consider the question of order, so that the gentleman may have all the benefit of it to which he is entitled.

Mr. STANTON. I wish merely to say that I voted upon this motion yesterday, as doubtless did a good many others, without knowing what the resolution was. If I had known, I should have voted differently.

The SPEAKER. The Chair will say to the gentleman from Ohio, that upon examination he finds that the House, during the last session of Congress, decided that a motion to reconsider a motion to suspend the rules was not in order. The Speaker made that decision, and the House acquiesced. In conformity to that precedent, the Chair now decides that the gentleman's motion is not in order.

Mr. FREEMAN. I ask the gentleman from Tennessee [Mr. STANTON] to give way for a moment, in order to allow me to present certain resolutions from the Legislature of Mississippi.

Mr. STANTON, of Tennessee. I will yield for that purpose.

Mr. FREEMAN then, by unanimous consent, introduced the following resolutions; which were severally disposed of as indicated below:

A memorial of the Legislature of Mississippi, asking an appropriation to remove a sand bar from the mouth of the Pascagoula river; referred to the Committee on Commerce, and ordered to be printed.

A memorial and resolution of the Legislature of Mississippi, asking a donation of the public lands to the New Orleans and Jackson Railroad; referred to the Committee on Public Lands, and ordered to be printed.

A joint resolution of the State of Mississippi, asking a donation of the public lands to aid in the construction of the Gulf and Ship Island Railroad;

referred to the Committee on Public Lands, and ordered to be printed.

A memorial of the Legislature of Mississippi, praying for the erection of a custom-house at Biloxi, and also for the delivery of the mail twice a week between Biloxi and New Orleans, and intermediate places; and a weekly mail from Jackson to Mobile; referred to the Committee on Commerce, and ordered to be printed.

Mr. SCUDDER, by unanimous consent, presented certain resolutions from the Legislature of Massachusetts, instructing the Senators and requesting the Representatives from that State to use their influence to procure an appropriation to prevent the destruction of Cape Cod harbor, in that State; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. CHANDLER, by unanimous consent, presented a preamble and resolutions from the Legislature of Pennsylvania, requesting the Senators and Representatives from that State to use all proper means to have some action taken by Congress for the construction of a canal around the Falls of the Ohio river, at Louisville; which were referred to the Committee on Roads and Canals, and ordered to be printed.

Mr. HOUSTON. I desire to inquire of the Chair if the morning hour has commenced?

The SPEAKER. It has commenced.

Mr. FLORENCE, by unanimous consent, presented certain resolutions of the Legislature of Pennsylvania, instructing the Senators and requesting the Representatives from that State to use all honorable means to prevent any further extension by Congress of the Woodworth patent, for an improvement in the method of planing, &c.; which were referred to the Committee on Patents, and ordered to be printed.

Also, a preamble and resolutions of the Legislature of Pennsylvania in relation to constructing a canal around the falls of the Ohio river at Louisville; which were referred to the Committee on Roads and Canals, and ordered to be printed.

Mr. ROBBINS, by unanimous consent, presented resolutions from the Legislature of Pennsylvania upon the same subject; which were referred to the Committee on Roads and Canals, and ordered to be printed.

Mr. JOHNSON, of Georgia, by unanimous consent, presented a memorial and resolutions from the Legislature of the State of Georgia, praying for the establishment of a depot of arms at the Sand Hills, near Augusta, in that State; which were referred to the Committee on Military Affairs, and ordered to be printed.

Mr. CHASTAIN, by unanimous consent, presented a memorial from citizens of Cobb county, Georgia, praying that the Woodworth patent should not be further extended; which was referred to the Committee on Patents.

Also, the memorial of citizens of Polk county, Tennessee, and Murray county, Georgia, asking for the establishment of a mail route from Sylco, Tennessee, to Fancy Hill, Georgia; which was referred to the Committee on the Post Office and Post Roads.

Mr. DURKEE, by unanimous consent, presented a memorial of the Legislature of Wisconsin, praying Congress to restrict the jurisdiction of the district court for the district of Wisconsin; which was referred to the Committee on the Judiciary.

Mr. ST. MARTIN, by unanimous consent, presented resolutions from the Legislature of the State of Louisiana in favor of the purchase of Grant's Pass, and the establishment of a harbor or breakwater on Lake Pontchartrain; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Also, a resolution in favor of the establishment of a naval depot at New Orleans, Louisiana; which was referred to the Committee on Naval Affairs.

Mr. TAYLOR. I ask the gentleman from Tennessee, [Mr. STANTON], to allow me to offer a bill, of which previous notice was given some weeks ago.

Mr. STANTON. I cannot give way for that purpose; I gave way for the resolutions to be introduced from State Legislatures, but I cannot for any other purpose, because it would consume too much of my time.

Mr. HUNTER. I ask the gentleman to permit me to introduce a memorial of one hundred

and twenty-one members of the Ohio Legislature.

Mr. STANTON. I will yield for that purpose.

Mr. HUNTER then, by unanimous consent, presented the memorial of members of the Ohio Legislature, in relation to the wire suspension bridge at Wheeling; which was laid upon the table and ordered to be printed.

Mr. TAYLOR. I hope the gentleman will not object to my introducing my bill, and having it referred.

Mr. STANTON. There are a dozen gentlemen upon the floor asking the same privilege, and if I yield to one, I shall have to yield to them all.

#### DISCIPLINE IN THE NAVY.

Mr. STANTON, of Tennessee, said: I would not press upon the consideration of the House, the bill which comes up this morning, if I were not impressed with the absolute necessity of some action upon the part of the House, to complete what the Senate has already done in reference to this matter.

When the subject was up one day last week, the House was addressed by the gentleman from Virginia, my colleague upon the Committee on Naval Affairs, [Mr. BOGOCCK,] who gave so clear and distinct an exposition of all the questions involved in the bill, that it will be necessary for me to say but little in addition. There are, however, some things which fell from the lips of the gentleman from Michigan, [Mr. STUART,] and also of the other gentleman from Virginia, who addressed the House upon this subject, [Mr. MILLSON,] which require some notice from me.

In the first place, it was stated by the gentleman from the Norfolk district of Virginia, [Mr. MILLSON,] that this bill was originally presented in the Senate in a different form, but that it had been amended in such a way by the Committee on Naval Affairs, that he supposed the Senate did not know what it was when it adopted these amendments as a substitute, but supposed they were adopting the original bill. Now, this is a very serious charge to make against so grave a body as the Senate of the United States. It amounts to nothing more nor less than that the Senate of the United States did not know what they were about, when they changed the whole form and substance of this bill, and sent it to us in its present form. The gentleman ought to do justice to that body. I learn that it is true, that this bill was originally introduced into the Senate as stated by the gentleman from Virginia, but it is equally true that, by the unanimous vote of the Committee on Naval Affairs in the Senate, one of the members of that committee was instructed to report the amendment, which gave the bill the form in which it was sent to this House. The object of the committee was, I am informed, to present the two plans distinctly before the Senate, in order that they might know exactly what they were about, and that they might then determine between them; not for the purpose of blinding their eyes, but for the purpose of opening them, and enabling them to know exactly what they were doing. It was for the purpose of presenting the subject clearly and unequivocally for their decision. This was done, and the bill comes here with all the force which follows from a deliberate investigation, and an intelligent decision upon the part of the Senate of the United States, if that be entitled to any consideration in this body.

The gentleman from Michigan [Mr. STUART] stated that he should be opposed, under any circumstances, to giving this high discretionary power to any single individual, and especially, he said, to the officers of the Navy of the United States, not appointed according to merit, but, as he said, occupying their positions by mere accident. Well, sir, if the officers of the Navy are promoted not according to merit, but by accident, it is not the fault of the Committee on Naval Affairs, nor is it the fault of the Senate or House of Representatives. The power of the President of the United States to promote officers, or to appoint them in that branch of the public service, or any other, cannot be controlled by either House of Congress, or by both; because it is a constitutional right of the President, by and with the advice and consent of the Senate, to appoint such officers as he pleases. I know that the system has grown up. I know that it is the custom upon

the part of the President to appoint officers in the Army and Navy by seniority. The country has felt the evil of this system for a long time. The Naval Committee of this House have made various attempts to correct it, but, sir, the corrective is entirely within the power of the President of the United States. He is not bound to appoint officers by seniority; he ought not to appoint them by seniority, and he does not so appoint them, altogether regardless of qualifications.

Mr. STUART, (interrupting.) Will the gentleman allow me to ask him a question?

Mr. STANTON. I will, of course.

Mr. STUART. Does the gentleman intend to lay down the principle that it is not within the power of Congress to establish by law the mode in which the officers shall be appointed?

Mr. STANTON. Certainly I do. Unless the gentleman can change the Constitution of the United States, which gives to the Executive that right, I do not see how he can contend for the proposition that it is in the power of Congress to control the appointment of officers on the part of the President. The Constitution says that—

"The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of Departments."

Mr. STUART. Now, I want to ask the gentleman if he intends to say that Congress may not by law define the mode of the selection, and that they are compelled to leave it to the discretion of the Executive entirely? Because if he means to say that, I differ with him.

Mr. STANTON. Mr. Speaker, Congress has the power to vest the appointment of inferior officers in the President alone, or in the Courts, or in the heads of Departments. But Congress has not the right, by anything I can see in this Constitution, to prescribe whom the President shall appoint. Accordingly, the President has always exercised the power to appoint officers in the Army and Navy, by seniority, by merit, or altogether to disregard the whole corps in the service, and take others not before in the service. And I apprehend that, by the terms of the Constitution, it would not be in the power of the Congress of the United States to control the discretion of the President in his appointments to office. I believe, so far as I am concerned, that the officers in the Army and Navy of the United States ought to be appointed, partly upon the principle of merit, and partly upon the principle of seniority. I say it would not be proper altogether to disregard length of service, where this service had been faithful, and where the officers are capable and fit for the place. It would be unusual to disregard such length of service, and unjust to do so; at the same time, it would be equally unjust and injurious to the public service to disregard merit.

One of these gentlemen—the gentleman from Michigan, [Mr. STUART]—has spoken of a total revision of the code for the government of the Navy. I agree with him entirely; and I must admit that the measure now before the House is but a partial one, designed to meet a present exigency, but not going to the whole extent of the difficulty. I admit, and contend, as fully as he does, for the absolute necessity of a complete and entire revision of the code by which the naval service is governed. And this opinion is not new to myself, or to the Naval Committee; for during the last Congress I had the honor to present to this House a report, No. 35, in which this sentence is contained:

"With regard, however, to the naval laws, they are old, and have been the subject of complaint—well-founded complaint—for many years. The attention of Congress has frequently been invited to the subject. The 'rules and regulations' now in force by law for the government of the Navy are old, barbarous, savage, and cruel. Since they were enacted, every State in the Union has modified and altered, not only its laws, but its constitution."

And, sir, with that report, I was instructed by the Naval Committee to introduce a bill, which was presented and referred to the Committee of the Whole, and there it slept the sleep of death, as almost all the bills which have been introduced from the Naval Committee have, and I fear will

continue to sleep, from the little interest manifested in the subject by the great mass of the members of this House. In that bill it was provided, "that 'it shall be the duty of the President to cause to be prepared a suitable code of laws for the Navy, and submit the same to Congress as soon as practicable, for such further action as may be required.'"

Now, sir, I am instructed again by the committee to report a bill containing a similar clause providing for a complete revision of the code of naval laws. The Naval Committee did not feel itself prepared—and I think I may say did not feel itself capable—of doing justice to a subject of this kind. It is a great subject—one of much interest—one requiring extensive knowledge, as well as experience, on the part of those who should undertake to prescribe a code of laws for the government of the Navy. How could any of us, who have never crossed the ocean, and who know nothing of the practical workings of these laws on board a ship, undertake to prepare such a code? Now, it is proper, and I conceive that it is the only proper mode, to call upon the President to present the views of the Navy Department, and of such officers as may be required, to give their advice in order that Congress may act on the subject with proper intelligence and discrimination, establishing a code worthy of the age in which we live, and worthy of a free, republican people.

And in this matter of promotion, so far as it is in the power of Congress to control it, the Naval Committee have repeatedly, since I have had the honor of being a member of it, presented bills for the purpose of accomplishing all that is in the power of Congress to accomplish towards that end; and I have now ready to be reported a bill which I think will be very effectual to the accomplishment of that object; not that we can control the discretion of the President in making his appointments, but we can enable the President, and require him, to get rid of all officers incapable of doing duty.

But, sir, to come down to the provisions of this particular bill. I have already said that it does not reach the whole code of naval laws; that it is partial, and therefore temporary in its character, and designed to meet a particular exigency which is pressing upon the country, and which, I think, must be met for the good of the service. But objections have been made to the particular provisions of this bill.

The first is, that this power is given to the commander of a ship, and is placed in his discretion without control; and the opposite proposition presented by the gentleman from Virginia [Mr. MILLSON] is the establishment of a court-martial—a summary court-martial, as he calls it—to be convened on board of ship for the purpose of punishing these offenses. It will be necessary for me to add but little to what has been so well said by the gentleman from Virginia, [Mr. BOGOCCK,] I think that he has shown the insufficiency of the proposed system, its inapplicability to the purposes for which it was intended, as stated by the gentleman from the Norfolk district, [Mr. MILLSON,] It is true that this was first proposed by a board of officers; not, however, as gentlemen are probably aware, from choice, not because they ever would have selected that mode of enforcing discipline in the Navy from choice, but because they believed that the feeling which controls the gentleman from Virginia, [Mr. MILLSON,] probably would control both branches of Congress, and that they would not be able to obtain anything better.

Now, in addition to the objections stated by the gentleman from Virginia, [Mr. BOGOCCK,] I think but very little reflection is necessary to see that this is the worst system that can be devised—worst for the service, and worst for the sailor himself. The gentleman from Virginia [Mr. BOGOCCK] has well depicted the bad consequence that would result from bringing up a sailor before a court, on board of a ship, and confronting him with his commanding officers, and permitting him to argue and dispute with them; for, unless you give him the right to defend himself, it is worth nothing.

But I say there is a still graver objection, and that goes to the advantage of the sailor, too. I say that this court-martial, on board of a ship, will be but a mockery. I say you cannot organize a court there which will do justice, as a court ought to do justice, upon the trial of a sailor. You will thereby divide the responsibility between



the captain and two lieutenants; whereas, by the system proposed in this original bill, you leave the responsibility undivided in the hands of the captain. In the one case, you establish a court that is not responsible for its decisions, except as those decisions may be impeachable in the same manner in which the decisions of any other court are impeachable; but in the other case, you place the sole responsibility upon the captain, not as a court, but as a military commander, having the right to inflict punishment, to a certain extent, for offenses of a certain character. I say, that this would be better for the sailor, and he would be more likely to have justice administered with mercy, than by the decision of an irresponsible court of three officers, assembled in the cabin of a ship, or upon its deck, who would enter into such an investigation, as in all probability would be allowed upon such occasions.

Look at the circumstances of the case. What does a sailor know about defending himself? What does he know of the quirks and quibbles of the law? I wonder, sir, very much that these gentlemen did not also provide for an attorney on board a ship, to assist in the defense of the sailors, and tell them upon what points they might rest their defense, and to conduct and argue it for them.

But, sir, there is another objection to this system of court-martials on board a ship, and it is this: That on many of the public vessels you cannot get the officers required by this bill, on the terms of it, as presented by the gentleman from Virginia, because they are not upon board a ship; and then, in other instances, you will take all the officers, or nearly all the officers, on board from their duties; and, while they are trying the sailor in the captain's cabin, or on the quarter-deck, the ship will be in the hands of somebody else, and you thus give an opportunity for all the difficulties and dangers of mutiny and insubordination which this bill was intended to prevent, by taking the officers from that supervision which is indispensably necessary for the safety of the ship and the honor of the service.

It seems to me, sir, that the fundamental difficulty in the minds of gentlemen in this case, arises from the fact that they leave out of view the great and important principle that the Navy of the United States is a military establishment; that military discipline is necessary; and that you must sanction and clothe the commander of a military establishment, whether upon land or upon sea, with a certain degree of absolute power, which is indispensable. It has been so in all ages of the world, and is so now in all countries of the world. Sir, when this subject was up upon a former day, I attempted to call the attention of the House to the character of a ship-of-war. I then said, that one of our large ships—a ship-of-the-line—having on board something like one thousand men, would take the bone and sinew out of a town of ten thousand inhabitants, thus taking them away from all the ties of family and society, and crowding them together in one ship—one structure, and isolating them from all other society, on the broad and boundless sea. I said, sir, that independent of the military nature of the establishment, the ordinary principles of government could not be adopted upon such a vessel. Why, sir, look at the merchant service. A gentleman of this House, well acquainted with such matters, informed me, the other day, that even in the merchant service—not upon ships-of-war, but in the merchant service—there were such difficulties under the new law, of enforcing discipline, that the sailors were in the habit of using the lash upon each other. They take a delinquent sailor and flog him, thus carrying out the old system; and when they are prosecuted for it upon shore they deny it, and know nothing about it, so that it is impossible to convict the offenders. This shows, that in the merchant service, upon the seas, very strict discipline is absolutely necessary, and opposite to that which obtains, or can obtain, in civil society upon shore; but when you add the element, the military element, to this establishment; when you consider the necessity of military discipline for military purposes, the necessity becomes infinitely stronger.

Now, sir, I was not an advocate for flogging sailors with the lash. I think that mode of punishment was liable to great abuse, and was objectionable in its very nature; for it was calculated to degrade and disgrace the sailor, leaving upon

him the mark which constituted the brand of his degradation. I have always understood, sir, that it was for this reason chiefly, if not entirely, that it was objected to; and the law was repealed by both Houses of Congress, not because the punishment was inflicted in a summary manner by the commander, but because of the character of the punishment, and its liability to abuse. Upon a former occasion, I said that it was liable to abuse, because, in the moment of passion, or anger, an officer might direct a sailor to be whipped, and after the punishment no reparation could be made. I contrasted that mode of punishment with the modes prescribed in this bill in which it is chiefly length of time which constitutes the severity of the punishment; and upon reflection, I think the mode of punishment prescribed in this bill is not liable to abuse in as great a degree as the mode formerly in use. But, sir, I never for a moment doubted the indispensable necessity of placing some mode of summary punishment in the hands of the commanding officer of a ship.

Now, sir, I will call the attention of the House for a few moments to the changes which I propose to make in this bill, for the purpose of meeting what I take to be the sense of the House. I do not know how far I have been able to ascertain the sense of this House, but my desire has been to conform this bill in all of its provisions to the prevailing sentiments of this body. I stated, when I first spoke upon this subject—although I did not enter fully into the matter, because I did not think it necessary to do so—that I thought the punishments provided in the Senate bill were of a very serious character, and that some of them were almost too severe, but that I relied upon the character of the officers of the Navy to deal justly and mercifully with the sailors under their command. I was disposed to present but few amendments to the bill at first, in order that it might pass as speedily as possible, for the benefit of that portion of the Navy then about to leave the United States. In the first place, sir, to meet one of the objections of the gentleman from Virginia, I have, in the amendments I propose, confined the punishments to any of those enumerated in this bill. I have reduced the length of time which the officer may prescribe as punishment in any one of the cases provided for in the bill. First, by discharge from the service with bad-conduct discharge, and of solitary confinement in irons, single or double, on bread and water, provided no such confinement shall exceed ten days. Thus, you will perceive, reducing the time from thirty to ten days. So, also, in solitary confinement, single or double-irons, I have reduced the time from thirty days to ten days. I have also reduced the time of confinement not exceeding three months to two months; also by providing that loss of pay shall not exceed one month: whereas in the original bill it was three months. Now, the gentleman from Virginia [Mr. MILLSON] has made one of his strongest objections against what he considered, cruelty in reducing the rations of sailors, and confining them to a diet of bread and water. Now, sir, there are many offenses committed by sailors on board of ship which might be controlled by the—

Mr. MILLSON. The gentleman is mistaken; I did not object to the cruelty of the punishment, for the gentleman will find that my own substitute provides a similar punishment.

Mr. STANTON, of Tennessee. I certainly so understood the gentleman, or perhaps I may have confounded his remarks with those of the gentleman from Michigan, [Mr. STEWART.]

Mr. BOCK. My colleague certainly did object to a man being confined in irons and put upon bread and water, at the same time.

Mr. MILLSON. That is what I objected to.

Mr. STANTON. I have often heard, and I am disposed to believe it is true, that there are many sailors in the Navy of the United States who would much prefer, if they had the option, taking twelve lashes with a colt or cat, to being deprived of their grog for a single week. Many of our sailors, sir, would submit to twelve lashes rather than be deprived of their tobacco; and I think, therefore, that one of the best modes of punishment is thus depriving them of, or reducing, their rations. But this infliction is well guarded by other provisions in the bill, so that it seems to me no one can take exception to it. The provision is as follows:

"Provided, That no sentence to solitary confinement shall be directed to be carried into execution until the sur-

geon or senior medical officer on board at the time, has examined the prisoner and certified that it can be done without serious injury to his health; and it shall be the duty of the commander to remit the whole, or any part of any sentence, the execution of which would, in the opinion of the said surgeon, or senior medical officer, produce such injury."

Now, sir, if the sailor is to be punished at all, surely there is no provision that can be more humane and merciful than this, that while under the infliction of the punishment, his health shall not suffer. I think, therefore, sir, upon the whole, that no objection can be taken to the severity of this punishment; and then the question comes to the single point, whether there shall be for these inferior offenses, requiring prompt and energetic correction, a court-martial organized upon board a ship under circumstances, when it must be manifest to everybody, that a fair and impartial inquiry cannot be given to the prisoner; when you divide the responsibility among those judges who are not responsible by impeachment; whereas, upon the other hand, you put the responsibility upon one man as commanding officer, upon his military honor and responsibility to the Government for any cruelty he may exercise towards the sailors.

I will here stop to repeat what I have already said, that I believe, on some occasions, the lash has been abused in the Navy. The cases are probably not frequent, but some may be shown in which it has been abused; and if anybody is responsible for the repeal of the law authorizing flogging in the Navy, it is those officers who have been guilty of abusing it. But the corrections were in the power of the Government; and so it is the duty of the Government to see that these punishments are not cruelly inflicted in the service, and there would be a better guarantee for due responsibility and the application of the proper correctives upon the principle of inflicting punishments at the discretion of the commander to this limited extent and for these particular purposes. I say, the responsibility would be greater, and the correctives more easily applied, than if you establish a court, which, in the nature of things, is irresponsible.

But the gentleman from Michigan [Mr. STEWART] objects to the latter clause of this bill, the latter section, which provides an asylum for the sailor after serving twenty years; and he [Mr. STEWART] says that he is willing to raise the pay of the sailor, so as to get a better class of sailors. Now, sir, this bill virtually accomplishes that object; and it raises the pay of the sailor by giving him a bounty of three months' pay every two years, upon the condition that he has served faithfully and received a good-conduct discharge at the end of his period of service. It gives him the benefit of three months' pay, which is twelve and a half per cent. additional pay to the other already received. Well, now, sir, the additional inducement to the sailor is the clause which gives him half-pay for life in a naval hospital or asylum after he has served continuously for twenty years, with a good-conduct discharge at the termination of each period of his service. Now, I ask the gentleman from Michigan, [Mr. STEWART], if his proposition, simply to add four or six dollars to the pay of the sailor, without making it dependent on good or bad conduct, is the best? or, whether he would prefer to do it in the shape of a reward for good conduct? Which would be most effective in its operation upon the discipline of the Navy? It would be to give to the sailor for his good conduct a reward, and withhold it as a punishment for his bad conduct.

Mr. STUART. I would like to answer that inquiry upon this point. My object, as I stated, was this: to increase the pay to secure good men who are meritorious, and therefore would act meritoriously, and then there would be no necessity either for rewards or punishments. I insisted that if you would elevate the price to a standard sufficient to secure good men in the Navy, they could be as well obtained for that purpose as for any other business. That is true as a principle, and would be true in practice; and it would be far better economy than to spend your time, and that of your officers, and their pay, in beating and oppressing men who were unfit to be in the naval service. That was the point I made.

Mr. STANTON. I understand the substance of the gentleman's argument to be this: That by giving the sailors \$16, or \$18 per month, instead

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of \$12, you will get rid of the necessity for punishment—that there will be no necessity either for reward or punishment in the Navy. Now, when the gentleman comes to the conclusion that human nature has become perfect—that sailors are all that they ought to be, then he may deprive the commanders of our vessels of all rights to control them—he may leave them to their own moral sense of what is right and what is wrong. But, sir, I apprehend no increase of pay will accomplish this great object. It can only be done by a system of rewards and punishments. I stated upon a former occasion, that the pay in your merchant service was from \$16 to \$18 per month, and the pay in the Navy \$12 per month. Raise the pay of the Navy to \$16, and you increase the cost of the present establishment from this cause alone \$360,000 per annum. I would vote that in a moment—I would not hesitate to vote it if it would accomplish the object, but I should rather put it in the form of rewards and punishments, so it may be an incentive to accomplish the object. But how will you be able to discriminate between the good and bad sailor, except at the end of his term of service? Now, sir, that would be thirty-three and a third per cent. if it were \$4, and fifty per cent. if it were \$6, upon the present rate of pay of the sailors.

This bill provides for a bounty at the end of the term of service of three months' extra pay, which, as I have stated before, amounts to twelve and a half per cent. increase upon the pay for the two years. It is only to be paid in case of good conduct on the part of the sailor, and to be withheld in case of a bad-conduct discharge. Reward is one of the strongest motives you can present to a sailor for good conduct.

Mr. JOHN W. HOWE. How much grog does the Government give each sailor per day?

Mr. STANTON. One gill of whisky—half a gill twice a day. I do not see the pertinence of the question, but I reply. In regard to the operation of the last section of this bill, which provides for the asylum and the half-pay for life, I have already spoken of the absolute impossibility of its being a charge upon the Government equal to the increase of the pay, if you should pay the sailor sixteen or eighteen dollars per month. I said—and I am sure the experience of every gentleman who knows anything upon the subject will bear me out in the declaration—that there is no man on the face of the globe who would be less willing to go into an asylum in a state of inactivity, to remain there doing nothing, enjoying this bounty, than the sailor, so long as he was able to do duty upon the sea. I have seen it suggested in some quarters that instead of giving him an asylum and half-pay for life, it would be better to give him the half-pay and let him go about his business. Now, sir, I object to that for this reason: that, then, a sailor who was competent to do duty—who was not old and worn out—might take his half-pay after twenty years service, and go about his business, perfectly capable of performing service. He might go on the merchant ships, and get his sixteen or eighteen dollars per month after he had served these twenty years in the Navy of the United States, and received his pay; but the bill proceeds upon the belief that a sailor who can make twelve dollars per month with the bounties and benefits to be enjoyed on board of a ship by his service—who is fond of the sea—who loves his ship better, perhaps, than he loves his wife—I say it proceeds upon the supposition—the belief—the well-founded conviction, this man will not remain inactive in an asylum so long as he is able to do duty upon the sea. Hence you will only have in your asylum those old decrepit sailors who have done faithful duty, and who have always received a good-conduct discharge. This is all I have to say in reference to the provisions of this bill.

Something was said, Mr. Speaker, upon a former day, when this subject was under discussion, in reference to the sailing of a portion of this celebrated Japan expedition. I was then reported to have said that the whole expedition, or the

expedition, would sail during that week. I have already corrected that statement. I stated only that a portion of the expedition would sail, and I believe a portion of it has already sailed. My remark was quoted, and something has been said in the other end of the Capitol in reference to the objects of the expedition, and my name was used in connection with it. I have simply to say now to the House, that what may be the objects of this expedition I do not know. I have not felt it to be my duty to inquire; but I do know that there are objects of ample and sufficient importance in the Pacific ocean to justify the sending out of a much larger force. I suppose that the Government, in sending that force to the China seas, is doing so for a legitimate purpose, and not with a view of making war upon any unoffending people; but to protect our commerce—to protect our citizens, and to survey the channels and seas in which our commerce is engaged. These are the purposes, I suppose, for which the expedition has been sent out. But I will remark further, that if any portion of my friends in this House should expect to make any political capital by calling upon the President for the objects of that expedition, I think they would be apt to find themselves mistaken. Every one knows until the expedition sails the instructions will not be prepared. Commodore Perry himself, two weeks ago, told me that these instructions were not prepared, and that he did not know what they were. But I suppose whatever might be the intention of the Government, they would have the game in their own hands, and might reply what they please to any interrogatories which might be propounded from this or the other House as to the objects of this expedition. I think, as a party movement, nothing could be gained; and besides, I will say further, that I do not think that this Administration has shown itself to be very warlike, or much disposed to engage in what are usually termed Filibusterian expeditions. In reply to interrogatories which we might send with regard to the Japan expedition, I think they could relieve themselves from the suspicion of having any such design. I have a word more to say, and that is, that I hope this bill may be taken up and disposed of now; that it may be passed either in its original form, or in the form as presented by the gentleman from Virginia, [Mr. MILLSON,] or in the form of a substitute which I present. It is absolutely indispensable, in my judgment, that something of this kind shall be done, and done speedily—immediately.

A good deal has been said in reference to the Naval Committee and its action upon this and other kindred subjects. I think I have shown, and that other members of the committee have shown, we have done our duty. We have done everything we could do with a view of bringing these subjects before the House to have them acted upon. I must confess I have been discouraged when I have seen this bill laid aside, day after day, for the purpose of making presidential speeches, and speeches having almost as little bearing upon the current business of the House. I have come to the conclusion there is very little hope of anything being done for the Navy. It is not my province—certainly it is not my intention—to presume to censure the House for anything it does. It is probably right, and the business to which they go generally when they leave this bill in the morning, may be vastly more important than it is; but, sir, I cannot agree with the House. I think this is a subject of very great importance. It is for the correction of a crying evil, on account of the existence of which we have had importunities from all quarters ever since the abolition of punishment by flogging. I think whatever may be the judgment of the House in reference to the bills presented for its consideration, it ought to decide upon them, and decide upon them speedily.

[A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., their Secretary, notifying the House that that body had receded from their amendment to the joint resolution authorizing a continuance of the work upon the two wings of the Capitol, rejected by

the House. And that they had also passed several bills, in which he was directed to request the concurrence of the House.]

## THE PUBLIC PRINTING.

Mr. GORMAN. Mr. Speaker—

Mr. PRICE. Has the morning hour expired? The SPEAKER. It is within one minute of its expiration.

Mr. GORMAN. In obedience to a suggestion which I made yesterday, just before the adjournment, I will make a report from the Committee on Printing. I will ask permission to read it, as it is very short. It consists entirely of facts, without argument by the committee, *pro or con*. I will here observe to the House that I especially desire to make a remark, in addition to what is proposed in this written report, in regard to the public printing, and in regard to the pamphlet which has been laid upon our tables this morning by the public printer:

The Committee on Printing, which is charged by law with the duty of remedying any neglect or delay on the part of the contractor to do the public printing for the Thirty-second Congress, ask leave, for the information of the House, to report, that they have had the subject under consideration; and, after repeated conversations with the public printer, (Mr. Hamilton,) and after examining each piece of work or job, and after weighing the paper he furnished, and after a careful examination of the style and texture of the material, came unanimously to the conclusion that Mr. Hamilton had not fulfilled his contract. They, therefore, in the first place, made a *pro rata* deduction of ten per cent. from each bill as it was presented for payment. This deduction not having the effect to improve the work in the least, they rejected much of the work altogether. The committee, after having Mr. Hamilton before them, and notifying him distinctly of the intention of the committee, passed a resolution, which will be found to be in the exact language of the second section of the law of Congress, approved August 3d, 1846, as follows:

On motion by Mr. GORMAN,  
“Resolved, That for so much of the public printing as may be deemed necessary by the committee to remedy any neglect or delay on the part of the contractor (Mr. Hamilton) to execute the work ordered by Congress, the persons doing the work, under the direction of this committee, be allowed the same price as contained in Mr. Rives's bid for printing for the Thirty-second Congress: *Provided*, That in no case shall pay be allowed for double composition.”

The committee proceeded to designate the persons with whom they would contract, if the terms proposed by the committee should be accepted by the said parties. Whereupon the following resolution was adopted, April 8:

“Resolved, That the committee enter into a contract with Messrs. Donelson & Armstrong to do so much of the printing ordered by the House of Representatives for the present Congress, as may be necessary to remedy any neglect or delay of the contractor, (A. B. Hamilton,) to execute the work ordered by this Congress; and, also, with Messrs. Gideon & Co., to do so much of the printing ordered by the Senate as may be necessary for the like purpose. Said contract to be on such terms as the committee and the contractors may agree upon as shall be just.”

The committee further directed Mr. GORMAN, by the following resolution, to confer with Messrs. Donelson & Armstrong and Gideon & Co., and get from them, in writing, their acceptance or non-acceptance of their proposition:

“Resolved, That Mr. GORMAN confer with Messrs. Donelson & Armstrong and Gideon & Co., and get from them, in writing, their acceptance or non-acceptance of the foregoing proposition.”

To which they reply as follows:

“WASHINGTON, April 13, 1852.  
“SIR: We accept the offer of the joint committee of the Senate and House of Representatives, to do the printing of the House of Representatives upon the terms of the bid of Mr. John C. Rives for the printing of the present Congress, with the modification of an exemption from the deduction of sixty-nine per cent. on press work, on numbers exceeding 20,000. This deduction applies, practically, solely to the Patent Office Report, upon which, should we submit to it (as the committee are aware, assuming that the same number of copies are ordered the present as were ordered the last Congress) we should incur a heavy loss. When it is considered that the bid of Mr. Rives was designed to cover the census, and, taken as a whole, including the census, would have yielded a fair compensation, the committee will at once perceive the reasonableness of the modification we propose, inasmuch as the offer of the committee does not include the census.”

“Respectfully, DONELSON & ARMSTRONG.

“Hon. WILLIS A. GORMAN, Chairman.”

“We concur in the foregoing. GIDEON & Co.”

Your committee have now exhibited their proceedings fully to the eye of the House; they will say further, that they have not rescinded or abrogated the contract with Mr. Hamilton. They have supposed that they had no such power, but they have confined their action to the precise letter of the law defining their powers and duties. It is expected to hold Mr. Hamilton to a strict accountability on his bonds for any excess which the Government has to pay

over the contract price of said Hamilton. The prices which your committee have agreed to give the persons with whom they propose to contract, are those stated in the public bid of John C. Rives for the printing to this Congress. This bid was made when he was competing with other bidders for this work, and is believed by the committee to be just and fair in view of all the present circumstances.

Your committee deem it appropriate to this occasion to say, that divers motions and propositions were made to give all this printing to Donelson & Armstrong, in view of the fact that they were the organs of the dominant party; but all were voted down, and generally by a tie vote. It was proposed to parcel it out in divers ways, and to divers persons, but all failed, until the names hereinbefore stated were inserted, and never was anything done until the imperative necessity in view of the interest of the country, and the advancement of legislation, compelled action of some sort.

Mr. GORMAN. Mr. Speaker: In respect to the pamphlet laid upon our tables this morning, the honor of the committee demands that the House should indulge me in making a response to the statements made by Mr. Hamilton. Our individual honor requires this also. This man states that he has never had notice. The honorable gentleman from New York, [Mr. HAVEN,] upon that side of the House, and the honorable gentleman from Kentucky, [Mr. STANTON,] associated with me, can rise in their places, and now state to this House, that that statement of his is willfully and deliberately false. Knowing it to be false, he ought to be branded for it. It is infamy enough to turn him out of his position, if it were possible for the House to do it. I state that he ought to be branded for it. I ask the gentleman from Kentucky [Mr. STANTON] whether that gentleman has not been before the committee upon different occasions? I now ask the gentleman from New York [Mr. HAVEN] if that gentleman has not been before that committee upon different occasions?

Mr. HAVEN. He has, sir.

Mr. STANTON. He has, sir.

Mr. GORMAN. I state to the House that I gave him notice myself, and he came before the committee in obedience to that notice. And here this man comes before the House and brands the committee as liars, for which he deserves to be turned out of his position. It is an insult to each member of the committee—an insult to the country, and an insult to this House of Representatives, for whom he is doing the work. He says, in this statement here, that he has performed his work, and that the only instance where he has failed is in the character of the material. We weighed the paper, and it fell short about ten pounds to the ream. The chairman of the committee [Mr. BORLAND] weighed it carefully with scales prepared for the purpose, and it fell far short of the contract price. There was not margin enough. The type, the impression, and the ink were all miserable, until the chairman of the committee in the Senate sent it back as rejected altogether, and they would not receive such work. In the next place, the President's message and accompanying documents ought to have been on your tables in forty days, and here are four months and more elapsed. In addition to that, the paper upon which he contracted to do your public printing, according to his bid and contract, cost more than all he gets from the Government, for his printing, type, press-work, ink, and everything else. Then, of course he cannot be expected to execute that contract, unless he has a millionaire at his back. I repeat, that the cost of the white paper, if he comply with his contract, will cost more than all he gets under his bid. Allow me, while here, to say, that the impression has gone before the country, that we have abrogated the contract of this gentleman, Mr. Hamilton. The impression has gone out, and it is whispered around this Hall, that we have elected a public printer by this committee; that we have assumed to appoint a printer for this House. We have got public printing upon our desks, ready to be handed over to the public printer, which we withheld, because we could not get it done according to the contract which you made with him. If we act as honorable men, can we give it to a man who, we know, has failed, in every essential particular, in complying with his contract? You say, in the law, that when he does so, we have a right to reject the work altogether. We are acting under a law, and not under a rule of this House. You have designated the Committee on Public Printing by law, and you have also designated their powers.

You cannot abrogate the powers of that committee except you repeal that law.

The law reads as follows:

"There shall be a committee consisting of three members of the Senate and three members of the House of Representatives."

I read from a joint resolution passed the 3d August, 1846. If you desire to see it, you will find it in miscellaneous document number thirty-three.

Mr. STEVENS, of Pennsylvania. I wish to ask the gentleman one question. I cannot find that there has been any committee chosen by this House, and the law requires that they shall be chosen. I wish to know if there has been one chosen at all?

Mr. GORMAN. I will proceed with what I was about to say. I will read first a provision of the law in relation to this subject:

"A committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a Committee on Printing, which shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a *pro rata* reduction in the compensation allowed, or to refuse the work altogether, should it be inferior to the standard; and in all cases, the contractor and his securities shall be responsible for any increased expenditure consequent upon the non-performance of the contract. The committee shall audit and pass upon all accounts for printing; but no bill shall be acted upon for work that is not actually executed and delivered, and which they may require to be properly authenticated."

We have only the power to do what? To remedy neglect to comply with the contract—to remedy any neglect in printing the documents in time. That is our business. We are sentinels placed upon the watch-tower to see that your contractor has done his duty, and to see that you get your public documents when you need them, and in due time. When the conviction forced itself upon us, that he had not done so, we attempted to parcel out the printing, so that it could be done properly. One gentleman proposed that it be done by Donelson & Armstrong. Another gentleman proposed to add the name of Mr. Towers, and so on, until almost everybody in this city was proposed. I frankly tell this House, that I have voted for two months against anybody having this printing but Donelson & Armstrong; and when I asked the honorable chairman what he proposed, and what he wanted, he responded "he wanted nothing." I found that something must be done. The public business must go on. I found that I must vote for somebody; and, finally, after two months' consultation, I voted for the Republic. I have since learned from a publication made in the Southern Press, that there was a secret smothered desired, never made known to the country, to have the Southern Press put in for a part of the spoils of power. When that issue was presented to me, I did not see proper to choose the Southern Press. I have been driven to do a thing to which I would have preferred almost anything else, and that is, to give the printing to a party organ of the other side. I am a party man, and I would not have consented to such a thing under any circumstances, if I could have avoided it, until the public necessity demanded that I should act in some way. When that imperative necessity arose, and forced itself upon me, I acted; and I am here ready to take any responsibility which may be devolved upon me. The Southern Press published this morning an article which would indicate to the country that they desire some of this public printing. I ask the honorable gentleman from New York, [Mr. HAVEN,] who is associated with me, and the honorable gentleman from Kentucky, [Mr. STANTON,] if they ever heard it suggested anywhere that the Southern Press wanted a part of the public printing? We never heard of that name as claiming, asking, or soliciting in any way a part of the public printing. A gentleman across the way says the National Era would like to have a little of this printing. Very likely; because we have some elements here very favorable to extreme opinions; but I shall not go into that matter, and I will not be driven by side-bar remarks into anything of that kind. I only wish to state to the House, in my own justification, that I have been driven to this vote by public necessity, and the imperative demand upon me to act in this way, or not to act at all. One of two things had to be done; the various shades of opinion on that committee forced me thus to act;

every sort of proposition that I can now think of was made to facilitate the public printing, and, unfortunately, almost every vote tied. What was to be done? Could I justify myself in the committee, and not allow the President's message and the accompanying documents, and other official reports to be laid upon your table by a tie vote, from day to day, and then come in here and justify myself on the ground that, because I could not get it for my particular party friends, I should cast a tie vote till doomsday, so that you could not get any documents at all? I would like to know where there is a finger that would not have been pointed at me, with the rebuke written upon it that that was a degree of partisan attachment that is not to be tolerated when the interests of the country suffer by it? I did right; and I stand here to defend and justify myself under the circumstances. We do not intend to give any man more than the prices which have been stipulated in some of the public bids by the public bidders; and we intend to justify the prices which we intend to give by the prices which were made in public market—bids made to the country by the competitors for the public printing. If this House see proper, upon this occasion, to do anything in the premises—to give any direction to the committee, it shall be my pleasure, in respect to the House, and in respect to myself and my position, to do anything they may desire me to do; but I will not be charged by the press as having been connected with a coalition, for I never in my life saw Gideon or Co., until since this action of the committee took place.

Mr. BOCOCK. I find in the law "that the committee shall have power to take such measures as may be deemed necessary to remedy any neglect or delay upon the part of the contractor to execute the work done by Congress." I wish to know if the committee has gone simply to the extent of making contracts with these gentlemen to do the work which has been already neglected or delayed by the public printer, or whether the committee have actually made a contract for the work hereafter to be done?

Mr. GORMAN. The public printer has not been dismissed. The law requires that if he fails to comply with his contract, that we shall let out the printing, and make the contractor, upon his bond, responsible. That is what we are going to do, if you leave the matter to us. We will give him an opportunity of doing all the work he can do under his contract, when he will do it according to that contract we will give it to some one else. Now, the gentleman asks me whether it is to be the printing already ordered, or that which is hereafter to be ordered. It is the printing which has been ordered. We do not look into the future. We will only order printing to Donelson & Armstrong, and Gideon & Co., of such work as comes to our hands by the order of this House, which the contractor will not do promptly according to his contract. There is a large portion of the public printing which has not been given into the hands of the public printer, because he has failed to comply with his contract. Then just so much as we find that he cannot execute according to his contract, just that much, and no more, shall we give to anybody else.

Mr. BOCOCK. Is it the intention of the committee to give the President's message into the hands of new printers, and to have all the types set up anew, and the whole work done over again, or will it remain in the hands of the public printer?

Mr. GORMAN. It will remain in the hands of the public printer, unless he shall fail to comply with his contract. If he fails to comply with his contract, in order to remedy his neglect, we may be compelled to take it out of the hands of the present public printer and give it to somebody else.

Mr. BOCOCK. Has not the public printer already set up the type for the whole message?

Mr. STANTON, of Kentucky. No, not for one third of it.

Mr. GORMAN. Not more than one third of it; and what he has done is a disgrace to the country. I say unhesitatingly, that there are not three gentlemen on this floor of any party who will look at the contract and then examine the character of the work that has been done, and of the materials that have been used, but who will say that it has fallen far, far below the contract in every essential particular.



Mr. STEVENS, of Pennsylvania, (interposing.) I see it stated in this circular which has been laid upon our desks, that all the copy the public printer has received for the current business he has executed the printing of, and that he is running through the press, at the rate of one hundred pages a day, the President's message and accompanying documents. Now, I want to know if that be true; and, if it is true, whether it is designed to throw all that aside and make a new contract for this same matter? I ask the gentleman to give me the information. I have looked at the volume of the President's message which has been already printed, and have compared it with the work of the same kind of last year, and I think it vastly superior.

Mr. GORMAN. The message last year was printed on paper weighing thirty-eight pounds to the ream, and this year's contract requires it to be printed on paper weighing fifty pounds to the ream.

Mr. STEVENS. Well, it is vastly superior.

Mr. GORMAN. It is very little, if any, superior, for the paper used weighs forty pounds to the ream. Mr. Hamilton shall have no injustice done him. Let me say to the House that the bills and reports and other papers that are laid upon our desks, are done very well, and done in such a manner that we have received that part of the work. We do not design to take from him any part that he is executing according to his contract. The first and fifth classes he has executed as well as need be, and, consequently, we have made no complaint. But it is the heavy work which he cannot do, and he must lose \$50,000 if he undertakes to execute it.

Mr. BROOKS, (interrupting.) As I understand the contract with the public printer, the paper on which he was to print the President's message would cost thirteen or fourteen cents a pound, depending on the state of the paper market. The paper upon which he has printed the President's message can, some of it, be bought for eight cents per pound, and some of it for nine cents per pound; so that, in that respect, there has been a great variation from the contract.

Mr. GORMAN. In regard to the President's message, the printer would produce the impression by the paper which he has laid upon our desks, that he has had it all set up. Now, I understand that he has got five hundred pages of it set up, and that the whole of it will make two thousand pages.

The gentleman from New York [Mr. Brooks] is right as to the price of the paper. You can buy paper such as that upon which the President's message has been printed for from eight and a half to nine and a half cents per pound, while the contract required it to be printed upon paper that would cost from fourteen and a half to sixteen cents per pound. You cannot make this man execute this contract under his bonds, for if he did it he would lose \$50,000, and, let me tell you, his bonds only cover \$20,000. There is one bond for \$1,000, one for \$2,000, one for \$15,000, and, perhaps, another for \$1,000.

I stated just now that there were five hundred pages of the President's message set up. That statement was made upon a memorandum handed to me by a gentleman who, I presume, knew all about the facts. There may, perhaps, be a few more pages set up.

Now, sir, I say to the House and to the country, there is our report, what do you want us to do? If I have the power, I shall attempt to carry out the law, and have the printing done at as cheap a rate as it possibly can be done at—at as cheap a rate as any printer in this country, who is responsible, and disposed honestly to comply with his contract—can undertake to do it at; and I will be responsible to the country, and my friends from Kentucky and New York, [Messrs. STANTON and HAVEN,] will be responsible to the country that it shall be so done. We intend to have the printing done upon paper weighing fifty pounds to the ream. Now, one thing more in conclusion. The gentleman from Pennsylvania [Mr. STEVENS] has made the remark here, that this House has not chosen a Committee on Printing. Then, sir, I do declare to you that I most sincerely hope that the House, in choosing, will select somebody else but me; for of all the committees I have ever served on, either in the State Legislature or here, the Committee on Printing is the most burdensome

and the most thankless. If the House will select some one whom they deem more competent than I am to fill this arduous post, they will relieve me of much of the labor which I have been expecting to perform here. We have to go into every little report, to calculate whether the prices are exactly right, and to sign every account before it goes to the Committee on Public Accounts. We have to inspect every item, and examine the weight and quality of the paper, and the character of the binding. With all these arduous duties attached to it, I do not envy the man who desires to be on that committee. This House, through its organ, the Speaker, saw proper to place me at the head of the Committee on Printing. I presume that in appointing that committee, the Speaker exercised no power that was not delegated to him by the rules.

Mr. DUNHAM. The Committee on Printing was appointed under a resolution of the House.

Mr. GORMAN. My friend behind me says that the committee was appointed in obedience to a resolution of the House, and I believe he is correct. If, then, the committee were appointed in obedience to a resolution of the House, I suppose the House chose them.

The SPEAKER, (interposing.) The rule in relation to the appointment of committees is in these words:

"All committees shall be appointed by the Speaker, unless otherwise specially directed by the House."

The Chair does not remember whether there was a special resolution passed in reference to the Committee on Printing, but he is of opinion that, under that rule, his right is very clear to appoint all the committees of this House.

Mr. DUNHAM. There was a resolution adopted expressly requiring the Speaker to appoint the Committee on Printing.

Mr. GORMAN. What do I ask this House to do? Why, I must tell them frankly, that there is not much I have to ask them to do. If the House will pass a resolution reiterating our powers and asking us to see to the public printing in good faith, I think that is all they can do, unless indeed they intend to pass a resolution themselves giving the public printing to some one, or to sanction the course of proceeding of the present contractor. Judge of your own course; but I see nothing that can be done, except to proceed in the manner in which the committee have proceeded.

Mr. HAVEN then obtained the floor.

[Mr. BARRERE, from the Committee on Enrolled Bills, reported back, as correctly enrolled, a joint resolution "to authorize the continuance of the work upon the two wings of the Capitol," and it received the signature of the Speaker.]

The SPEAKER. Will the gentleman from New York indulge the Chair for a single moment, until he responds to the question which seems to have been raised by the interrogatory of the gentleman from Pennsylvania? [Mr. STEVENS.]

Mr. HAVEN. Certainly. I shall be happy to hear what the Chair has to say upon that point.

The SPEAKER. At the beginning of this session, on motion by Mr. GEORGE W. JONES, it was "ordered, that the Speaker be authorized to appoint the Committee on Printing."

Mr. STEVENS, of Pennsylvania, (interposing.) I desire to ask the Speaker a question. The 20th of the joint rules of the two Houses is as follows:

"A committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a Committee on Printing," &c.

Now, that joint rule is copied from the act of Congress itself, and what I want to know is, could any resolution of this House repeal that law?

The SPEAKER. In reply to the gentleman from Pennsylvania, the Chair thinks that this House has certainly, through its organ, appointed this committee in conformity to law. There can be no doubt about that.

Mr. STEVENS. There is a great deal of doubt about it, in my mind.

Mr. STANTON, of Kentucky. The House chose its own way to choose the committee.

Mr. HAVEN. If it be true that there is no regularly-appointed Committee on Printing on the part of the House, why, then, I have nothing further to say, except that I should like, if the House takes away the appointment, to have them take away all the labor and difficulty that the committee have had to undergo.

The SPEAKER. For the more perfect understanding upon the subject of the appointment of the Committee on Printing, will the gentleman again allow the Chair to state the facts?

Mr. HAVEN. Certainly.

The SPEAKER. The joint resolution authorizes the two Houses to choose this joint committee. The House of Representatives passed a resolution authorizing their organ, the Speaker, to appoint the committee on its part. Even if that had not been done, the seventh rule of the House authorizes the Speaker to appoint the committee. But to remove all doubt about it, the House of Representatives, at the beginning of this session, ordered their Speaker to appoint the committee on their part. Such has been the practice of this body in every Congress since the joint resolution was adopted. The Chair hopes that every gentleman will understand the course of the Speaker, and that the Committee on Printing of this body is duly authorized to act under the joint resolution.

Mr. HAVEN. I desire to say one thing before stating some facts to the House. It has been questioned whether the Committee on Printing should not be entitled to vote in separate bodies; that is, that the three members appointed by the House shall be entitled to vote as one body, and the three members appointed by the Senate entitled to vote as a separate and independent body. In answer to that, let me call the attention of the House for a moment to the law which authorized the appointment of the committee. That law provides that "a committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by the respective Houses." The committee is to consist of three members from each House; and when you get the three members from each House, it is to constitute a committee of six, and is the committee provided for under the second section of the act under which this committee is appointed. Hence, I entertain not a doubt that the committee have been acting in strict accordance with the spirit of the second section of this act in that respect.

I now desire to say a few words in reference to Mr. Hamilton, and a portion of the public printing, in relation to which I, as one of the Committee on Printing, and which, I think, the whole six of the committee, are entirely satisfied. It is true, in reference to the light work, such as the calendars laid upon our tables, the bills, and the reports, or, at least, the short reports, that the work has been executed well enough; and I desire to do Mr. Hamilton the justice to say, that I believe it is the opinion of every member of the committee, as it is my individual opinion, that this species of work has been done better than it had been heretofore. I will remark, that the calendars in the early part of the session do not come under that suggestion; but after ten per cent. was deducted from his compensation on account of the inferiority of the material used, the printing of them was improved. Indeed, the only evidence I have seen of benefit resulting from that reduction was the very next day. I believe the calendars came upon our tables printed upon better paper. Gentlemen will recollect the old brown-looking paper that was laid upon our tables in the shape of these calendars at first; and when the change was made, it made such an impression that the honorable member from Georgia [Mr. STEPHENS] rose and called the attention of the House to the fact that we had a public printer who, at least in this respect, was disposed to do his work in a satisfactory manner.

Mr. STANTON, of Kentucky. I wish to ask the gentleman from New York, for the information of the House, whether Mr. Hamilton did not stipulate expressly in his contract that this species of work should be done better than it had been done heretofore?

Mr. HAVEN. The contract is before the members of the House. The committee so understood it. But I am free to say, that, for one, I never expected it would come to the point to which it has come. If the work had come up to a reasonable approach to the contract, I should have been willing to have it go on; if it had come within five or ten per cent. of the contract, I should have considered it as a tight fit, and let it run, because I know this man took this work at a low price.

Mr. STANTON, of Kentucky. The gentle-

man did not understand my question. I inquired if the contract did not expressly require Mr. Hamilton to furnish better paper than that heretofore used?

Mr. HAVEN. I think it does; but I cannot speak with certainty with regard to it. I desire to say to the House, that I believe it is the unanimous opinion of the committee, that Mr. Hamilton is competent to perform that portion of the work to which I have alluded, and that it is their wish that he should continue to perform it, if he does it in the manner in which he has done it heretofore. If it were to be taken from him, I should not be willing to give it to either of the men who have the residue of the printing. I should vote to give it to Mr. Towers or Mr. Rives; and neither of these gentlemen, in my opinion, could perform the work better than does Mr. Hamilton. The difficulty with him is this: It is in the heavy work, like the President's message and accompanying documents, which, as I understand, are to be two thousand pages, or more, like the Patent Office Report, and that of the Coast Survey, and one or two other works, that are of a magnitude that Mr. Hamilton is totally unable and incompetent to cope with.

I need not call the attention of the House to the fact, that more than one hundred and twenty days of the session are now gone. More than four months of the session are already gone; and does this House want any more evidence of the incompetency of this man to do this heavy work than the fact, that the only thing that has yet appeared upon the tables is the first part of the President's message and accompanying documents?

Mr. MARSHALL. I desire to ask the gentleman a question. Have the Committee on Printing furnished the public printer with the documents to which he has referred?

Mr. HAVEN. I will answer the gentleman with pleasure. They have been furnished. The President's message and accompanying documents were furnished on the first days of the session.

Mr. POLK. Have they ever been furnished by the public printer?

Mr. HAVEN. Certainly not. Right here, before it escapes me, I desire to make this suggestion. Some three or four weeks after the President's message went into the hands of the public printer—Mr. Hamilton—we called him to our committee room and put him through a course of questioning, if I may be allowed the expression. We inquired of him particularly, why, up to that period, we had no visible evidence that he was able, or had been so, to perform his contract in reference to the President's message and accompanying documents. His answer was, "I have been delayed; I could have done it before, but I have been delayed because the Committee on Engraving have not determined in reference to the maps which are to go with this printing." "Well, Mr. Hamilton," said we, "suppose we relieve you from that delay, (the committee were rather under the impression that the work might have been done with the exception of the engraving,) in what time can you have the President's message completed?" He said he could have it in twenty days from that time. I inquired of Mr. Rives, and some other gentlemen, and they told me that, taking it from the beginning, it ought to be on the tables of the members in less than forty days. Well, sir, we relieved him at once upon the subject of engraving, which, as I said, was some two or three weeks after the commencement of the session. Since that time the only evidence we have had of his ability to perform this portion of the contract, is the first part of the President's message and accompanying documents, which was laid upon our tables some two weeks ago.

Now, let me call the attention of the House to the printed statement of Mr. Hamilton. I do not desire to say anything rash or hard of that gentleman. Nor do I say my colleague on the committee [Mr. GORMAN] has said anything of the kind. But I am bound to say so much as this: While I do Mr. Hamilton full credit for performing well that portion of the work to which I have before alluded, and while I am willing to continue that work to him, yet it is true, that if he undertakes to say that he has never received any notice or intimation of our intention in relation to this matter, or that he has never had any communication with the committee upon this subject, that he is wholly mistaken; and if his memory is a correct one, then

he is intentionally mistaken. I cannot see how he can have forgotten; for, in addition to the interviews we have had with him in the committee room, we have reported to us from the chairman of the Committee on Printing in the other branch of the Capitol, (Colonel BORLAND,) that he had had various and continuous interviews with him. Indeed, I could not help thinking at the time when that gentleman was relating these interviews that the others upon the committee had very little reason to complain of the labor and trouble which devolved upon us, when ours was so little with that which the chairman [Mr. BORLAND] has been compelled to undergo for the purpose of getting this work along in some reasonable time.

I will now take up the points made by Mr. Hamilton in his printed memorial in their order. In the first place, he says:

"1. That all the bills and joint resolutions of both Houses of Congress are printed and delivered, and he holds receipts for the same."

I do not doubt that. They were printed to my satisfaction, and he has my consent to continue on to print them; and I look with confidence to his fulfilling the contract. But again he says:

"2. That all the reports of committees, except three adverse ones, are printed and delivered, and he holds receipts for the same."

I do not know whether that be true or not. But I have no particular complaint to make in regard to the reports; and I am willing he should continue to print them until I see some more flagrant violation of the contract.

"3. That the Journals of both Houses are ready for press, so far as he has copy placed in his hands, and all is in proof to the first days of April."

With the printing of the Journals I am satisfied. I think he has done it well; and I should not, in regard to this class, be willing, for one, to interfere. I do not think that any measure is necessary upon the part of the committee to remedy any neglect or delay in that particular. But I now come to the suggestions which have before been made in reference to the heavy work. He says:

"4. All executive documents, of every character, are complete, or partially so, so that they might be delivered in a short time, except some eight or ten, heretofore considered of no public importance."

It is to this point that I desire to call the particular attention of the House. Why, there are some eight or ten reports, of an executive character, which he has not touched at all, yet he says: "All executive documents of every character are complete, or partially so." Partially so! What does he mean by that? Is the President's message and accompanying documents complete—or partially so? They are not complete; but partially so; that is, he has printed one part, and laid it upon the tables of the members, in the style with which gentlemen are acquainted. Are the other reports "complete, or partially so?" While Colonel GORMAN was speaking, I asked the Clerk to show me the executive documents which had been sent to the printer, but not heard from. He said he could not do it exactly, but he gave me the list which I now hold in my hand, and gentlemen will see it is a pretty long one. All these documents have gone into that receptacle. I do not mean to say that it is correct in every particular, but I show it, in order to give gentlemen some idea of the truth of the statement made by Mr. Hamilton.

All I intend to say in reference to these executive documents, and this work of a heavy character, is, that it is my opinion, as a member of this House, that you may call from now until the time fixed upon by the resolution of the gentleman from Pennsylvania [Mr. ROBBINS] to adjourn *sine die*, and you will effect nothing beyond what the printer says is now the fact, that "they are all complete, or partially so;" that is, he has taken them up and done something to them, but he cannot complete them.

Now, under this state of things, what could the committee do? They have had an embarrassing time of it. They came to a conclusion early, in reference to this matter; but of that I do not care to speak. Under these circumstances, it seemed the duty of the committee to adopt such measures as might be deemed necessary to remedy the delay upon the part of the contractor, in executing the work ordered by Congress. And what measures could they adopt? Could they go into Mr. Hamilton's printing office, and cause the type to be set

up? No one will pretend it. Could they go into his office, or could any man go there, and set up his type? No man will pretend it. Could they go, with a strict hand, and take them away? That they could do. But of what service would that be? How would that remedy the neglect and delay? The only way by which to remedy the neglect and delay, as the committee understood it, was to take that portion of the work which this contractor could not perform, and give it to some one else, leaving him to do that portion which he could well do. Now, what could the committee do? They might go and take the manuscript away, but that would not remedy the neglect and delay. They must give it to somebody else to print. Now, to whom should they give it?

Mr. STEVENS, of Pennsylvania, (interrupting.) Will the gentleman permit me to ask him a question? I understand that they are to give it to those printers, at the price bid by Mr. Rives. Those printers agreed to accept it, declining, however, to make the discount of sixty-nine per cent., which Mr. Rives offered to make upon certain parts of the work. I ask why it was, if Mr. Rives was a bidder, and they were going to give it upon his terms, that they did not give it to him, he being the next lowest bidder?

Mr. HAVEN. If the gentleman had waited a moment, he would have understood that, and I will not undertake to answer him at this moment. Now, I ask, how was this committee to remedy the neglect and delay? It was to take it away. That was one part of their process. The other was to give it to some one else. Now, to whom should they give it? There was just as great a variety of opinion in the committee upon that subject as there were members of the committee. Some of them worked to get it into politics, and some to keep it out; and they tried it on in every way. I was disposed to give a good portion of the work to Mr. Towers—that is, the portion of the work which he wanted, which was the lighter work. I found that Mr. Hamilton, the contractor, did that work in a manner satisfactory to me, and I could not take it away from him. I would have been entirely willing to have given it to Mr. Rives, but he had a large contract from this House, in reference to the Congressional Globe; but the other members of the committee thought otherwise, and I am free to say that I agree with them, because I have always understood Mr. Rives to say that he did not choose to interfere with these printing contracts. The Congressional Globe, he has always told me, was an offspring of his own, and one to which he intended to devote all his attention. The committee did not think it best to give the work to him. But to whom should they give it? They gave it to the two whom they have selected. They could not agree upon any one else.

But here the gentleman from Pennsylvania [Mr. STEVENS] inquires of me in reference to Mr. Rives's bid—whether his was the next lowest bid. I answer, in reference to that, that I cannot speak from a personal examination of the papers, but I can from a conversation with Mr. Rives upon the subject. And I understood from him, that the very next lowest bid was by a man who, the committee are informed, would not take the contract at all.

The next was by Mr. Towers. As I understood, Mr. Rives told me that Mr. Towers would not be able to perform the work without some aid; that he could make nothing out of it if he took it at his bid, but that he would be willing to aid him in reference to that; and, as I understand him, his [Mr. Rives] bid was the next lowest. Now, when the committee made up their minds that some course must be adopted to remedy this neglect and delay, they were desirous of having it remedied at as low a price as they could, giving anything like a remunerative price to the party who should do it. It seems to me, that by the common law of this House, and the common law of the country, that Mr. Rives is an oracle upon this subject; and it is well understood that his bid was a fair one.

Mr. STANTON, of Kentucky, (interrupting.) Will the gentleman allow me a moment to ask him a question? Has not Mr. Rives a memorial pending before the Printing Committee, in which he makes reference to this bid for the public printing? and in which he says that he is the lowest *bona fide* bidder for the greatest portion of the printing for Congress, and having made ample

provisions for it, &c., he claims, after Mr. Hamilton, to be the lowest *bona fide* bidder?

Mr. HAVEN. I desire to say to the House, that when I was chosen upon this committee the duties of it devolving upon me were those with which I was wholly unacquainted. I knew nothing about printing, practically, in any shape or form, and in governing my action upon this committee, I have endeavored to keep within the language of the law, and within its spirit and meaning. I have felt, for one, that the heavy portions of this work could not be done by Mr. Hamilton. We have had evidence of it in every way—every evidence that can be conveyed to the minds of men. Other portions of the work he can perform well, and it is performed to my satisfaction, and I desire that he should retain it.

Mr. SACKETT, (interrupting.) Will my colleague allow me to ask him a question?

Mr. HAVEN. Certainly.

Mr. SACKETT. Did the committee ascertain at what time the different portions of the executive document were delivered to the House during last session of the last Congress?

Mr. HAVEN. I cannot say. I have no knowledge upon that subject.

Mr. SACKETT. If it did not ascertain that, I desire to know whether the committee cannot, by referring to the records of the delivery of that document, furnish that information to the House.

Mr. HAVEN. I do not know anything upon the subject, but I presume that the message was delivered, last year, before Congress adjourned. There is no likelihood of getting it in that time this year.

Mr. SACKETT. It was delivered, as I understand, in three parts. The first part some time in March, the second some time in April, and the last not until June.

Mr. GORMAN. The gentleman from New York [Mr. SACKETT] asks my colleague on the committee, [Mr. HAVEN], whether these documents were not furnished after the adjournment of the last Congress? Now, if the members of this House are willing to receive the kind of public printing which was delivered then, we are perfectly content.

Mr. SACKETT. If the gentleman from New York [Mr. HAVEN] will allow me to address one word to the gentleman from Indiana, [Mr. GORMAN], I understand that the gentleman from Pennsylvania [Mr. STEVENS] announced that he had examined some part of the documents already printed, and that they were printed in a better style than this document, (holding up a printed document,) which is one that was printed last Congress. And I understand the gentleman from Indiana [Mr. GORMAN] to acquiesce in that statement.

Mr. GORMAN. I certainly do not acquiesce in that statement. The contract this year requires the paper to weigh fifty pounds to the ream. I so said; and if the gentleman had had his ears open, he would have heard it. The contract of last year required the printing to be done upon paper weighing only thirty-eight pounds. Now, if the paper on which the document this year is printed is of the same quality, or about as good as that of last year, the present contractor has failed in performing his contract by twelve pounds to the ream.

Mr. SACKETT. The gentleman misunderstood my question. It is not whether the contractor is directly complying with the contract, but the specific question, whether the document, as printed, is a document superior—as the gentleman from Pennsylvania [Mr. STEVENS] states—to the one I hold in my hand?

Mr. GORMAN. I answer, it is not equal. The type is far inferior.

Mr. HAVEN. There is but a suggestion or two further that I desire to make to this House. It has been asked of me, sitting in my seat, why the committee did not advertise, and by that means get bids again upon this subject? Well, I can only say upon that, that the committee did not regard that, when they came to act upon the subject, as one of the measures necessary for the purpose of remedying this neglect and delay. They would have gladly and willingly have adopted that course; but that it was calculated to take up a large portion of time, and would not secure propositions anywhere, except from this city, and

they could have that communication with the printers here without that delay.

Now, the public printer seeks to convey the impression to the House, that the House has not kept its contract with him. Since this discussion arose this morning, and while the chairman of the committee on the part of the House was reading his report, I took measures to ascertain the amount which had been paid to the printer for his printing. Perhaps it may be of some consequence to the House to know the facts. There has been paid this year for printing, upon the part of the House, \$4,527 72, and upon the part of the Senate \$4,393 04. The deduction of ten per cent., which some gentleman has said to me was calculated to cripple his operations, and which has been withheld in consequence of the non-performance of his contract, amounts to \$800, a little more or less, as the clerk of the committee informs me.

Mr. FLORENCE. May I be permitted to say a word?

Mr. HAVEN. Certainly.

Mr. FLORENCE. I apprehend, sir, that the reference to the crippling of the operations of the public printer, refers more particularly to the fact that three months ago—perhaps more than that—the Joint Committee on Printing of the two Houses intimated that the public printer was not competent to perform his work. Now, sir, I speak of my own knowledge, when I say that persons, paper-makers in another part of the country—in Philadelphia—wrote to me that, in consequence of the action of that joint committee, and if obstacles were to be thrown in the way of the public printer, and if the committee were to anticipate that he was not able to perform his work, that his credit would be destroyed, and they would not be willing to sell him paper upon credit.

Mr. HAVEN. I can only say, that in expressing my opinion here in reference to the heavy portion of this work, Mr. Hamilton is unable to perform it, I have no desire to cripple his resources. Whenever I have expressed any opinion upon that subject, here or elsewhere, I have expressed those which I honestly and sincerely entertain; and if that is calculated to cripple his resources, it is a misfortune which I cannot avoid. When I am called to speak upon these subjects, I speak what I think; still I am not aware that the committee, as such, have ever, outside of their room, expressed an opinion calculated to cripple the public printer, here or elsewhere. One word more, and I have done. The question has been raised as to the time, in previous sessions, when these documents have been delivered?

Mr. FLORENCE. May I be permitted to ask another question?

Mr. HAVEN. I will yield the floor in a moment. This public printer says, that the "President's message and documents are running through the press at the rate of one hundred pages a day." That may be true. I do not know to the contrary; but in what way is it running through at the rate of one hundred pages a day? Does he intend that this House shall understand that one hundred pages of new matter, not before set up, are set up and proof taken from it per day? If that is so, if he intends to be so understood, I desire to say to this House, that from all the information I can get, they are relying entirely upon a broken reed, if they rely upon that statement. At the rate of one hundred pages a day, this man would want but twenty days to dispose of this whole business. He has had now one hundred and thirty days, and the only evidence he has given of life upon this subject is—under the repeated goadings of this committee—the first part of the President's message and accompanying documents. It cannot be true. While I cannot speak from knowledge derived from going into the printing office, and looking at the facts, yet I can speak with great confidence from the results. They did not strike off one hundred pages per day, or twenty days would have disposed of that message.

Mr. DEAN. I rise to a question of order. Is there any proposition before the House for discussion?

The SPEAKER. There is no proposition pending which would authorize debate. The gentleman from Indiana [Mr. GORMAN] rose and asked the indulgence of the House, which was extended to him. Ever since, the discussion has progressed alone by the courtesy of the House.

Mr. DEAN. I then object to further debate.

Mr. FLORENCE. Mr. Speaker, I rise to submit a motion.

The SPEAKER. The gentleman from New York is upon the floor.

Mr. FLORENCE. I understood the Speaker to say that there was nothing before the House, and I rose to submit a motion.

The SPEAKER. The gentleman from New York, [Mr. DEAN,] to the left of the Chair, rose to a point of order, and is entitled to the floor.

Mr. DEAN. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the homestead bill.

Mr. FLORENCE. I trust that proposition will be voted down.

Mr. HAVEN. The gentleman from New York to my right yields the floor. When interrupted I had commenced to say that I had concluded the statement I was making. I intended to close what I had to state upon the subject, by moving the printing of the report which was read by the chairman of the Committee on Printing, [Mr. GORMAN.]

Mr. JOHN W. HOWE. What are the politics of the persons who have been selected?

Mr. HAVEN. There are now so many shades of politics that I cannot tell.

The SPEAKER. The motion to print is in order.

Mr. BROWN, of Mississippi. Mr. Speaker—

Mr. DEAN. Does not the question now recur upon the motion I have submitted?

The SPEAKER. The Chair understood the gentleman from New York to have withdrawn his motion at the request of his colleague.

Mr. DEAN. Not at all. My motion was not withdrawn.

The SPEAKER. That then being the condition of the case, the motion of the gentleman's colleague [Mr. HAVEN] to print is not in order.

Mr. DEAN. I yielded to my colleague only for explanation.

The SPEAKER. It is only to be wondered, in consequence of the confusion prevailing in the House, that more misunderstandings do not occur between the Chair and gentlemen upon the floor.

Mr. DEAN. I stated that I would only yield for explanation, my colleague having requested the floor only a moment. I do not withdraw my motion.

The SPEAKER. The Chair will state as he understands the matter. The gentleman from New York [Mr. DEAN] rose in his place, cut off the debate by raising a question of order, and moved that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union. The Chair then understood the gentleman from New York to withdraw that motion at the request of his colleague.

Mr. DEAN. I, however, did not.

The SPEAKER. His colleague, therefore, submitted a motion to print, upon which the Chair recognized the gentleman from Mississippi, [Mr. BROWN.] The gentleman from New York [Mr. DEAN] now states that he did not withdraw his motion to go into committee, and therefore the motion of his colleague [Mr. HAVEN] is not in order, nor is the gentleman from Mississippi entitled to the floor.

Mr. FLORENCE. I rise to what I suppose to be a privileged question; for I must acknowledge that I am not conversant with the rules of the House. It is this: The chairman of the Joint Committee on Printing submitted a report. His colleague upon the committee [Mr. HAVEN] had the consent of the House to review that report, and to make a statement of facts connected with the public printing. Before he resigned the floor the gentleman from New York [Mr. DEAN] rose in his place to a question of order, as to whether there was anything before the House, and whether discussion was in order. The Speaker decided there was nothing before the House, inasmuch as no motion had been submitted. The gentleman took his seat.

Mr. DEAN. I beg to say to the gentleman that he is mistaken. I have not taken my seat since.

Mr. FLORENCE. The gentleman from New York continued his remarks, and concluded by making a motion to print the report of the Committee on Printing. The gentleman from Missis-



issippi rose in his place, when he had concluded, and was recognized by the Chair—

**THE SPEAKER.** The decision of the Chair is simply this: He did not hear distinctly what was said by the gentleman from New York in reply to his colleague, who made a request of him to suspend his motion. The Chair was under the impression that the gentleman had withdrawn his motion. He affirms that he has not, and whatever has passed since was not in order. The question now is upon the motion to go into the Committee of the Whole on the state of the Union.

**MR. FLORENCE.** Do I understand the Chair to decide that the gentleman from New York was out of order during the hour that he has been speaking upon the subject of the public printing?

**THE SPEAKER.** The Chair has made no such decision. He has not been called upon to decide that point, and, of course, shall make no decision in regard to it.

**MR. DEAN.** I insist upon my motion being put.

**THE SPEAKER.** Whatever has passed in the House has been by the courtesy of the Chair and the House. Since the gentleman from New York submits the motion to go into the Committee of the Whole upon the state of the Union, it being in order under the rules, the Chair is bound to put that proposition to the House.

The question was then taken upon the motion to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union; and there were—ayes 78, noes 36; no quorum.

**MR. ORR** demanded tellers; which were ordered; and Messrs. CHANDLER and HAMILTON were appointed.

The question was again put, and the tellers reported—ayes 78, noes 38.

**MR. CLINGMAN** demanded the yeas and nays; which were ordered.

**MR. FLORENCE.** Before the yeas and nays are called, I desire to ask for information. If the House resolve to go into the Committee of the Whole upon the state of the Union on the special order, what will become of the report of the Committee on Printing?

**THE SPEAKER.** It will go on the Speaker's table.

**MR. FLORENCE.** And then, sir, how can it be reached?

**THE SPEAKER.** The Chair doubts whether it could be reached by a simple motion in the morning.

**MR. JOHNSON,** of Tennessee. It can be reached by calling up the business upon the Speaker's table.

**MR. FLORENCE.** If the House refuses to go into the Committee of the Whole, it is subject to any action the House may choose to take upon it?

**THE SPEAKER.** That is so.

**MR. FLORENCE.** A majority of the House can recommit it to the committee, order it to be printed, or make any disposition of it they choose?

**THE SPEAKER.** Any disposition can be made of it a majority of the House chooses.

**MR. STUART.** I would ask the gentleman who has made the motion to go into committee to withdraw it until the motion can be made to print the report made by the Printing Committee. Then we can go into committee, and, as I understand it, it will be in order to take it up at any time.

**MR. DEAN.** I decline withdrawing my motion. [Cries of "Vote it down! Vote it down!"]

The question was again put, and it was decided in the negative—yeas 53, nays 95, as follows:

**YEAS—**Messrs. Thomas H. Bayly, Bowie, Briggs, Chastain, Clark, Curtis, Dawson, Dean, Dunham, Eastman, Thomas J. D. Fuller, Gaylord, Gorman, Grey, Hamilton, Hendricks, Hubbard, Hillyer, John W. Howe, Ingalls, Jackson, Andrew Johnson, George W. Jones, George S. King, Lockhart, Mason, McMullin, Menchen, Meade, Morehead, Murray, Nabers, Newton, Olds, Samuel W. Parker, Peaslee, Polk, Price, Riddle, Ross, Russell, Savage, Origen S. Seymour, Skelton, Stanley, Fred. P. Stanton, Richard H. Stanton, Abram P. Stevens, Stone, Stratton, Stuard, Sutherland, Wells, Williams, and Yates—53.

**NAYS—**Messrs. Aiken, Allison, John Appleton, William Appleton, Barrere, Bartlett, Bennett, Beacock, Bowne, Bragg, Brenton, Brooks, Albert G. Brown, Buell, Burrows, J. Cable, Lewis D. Campbell, Chandler, Chapman, Clingman, Cobb, Cottman, John G. Davis, Dimmick, Disney, Doty, Edgerton, Fitch, Florence, Floyd, Fowler, Freeman, Gable, Goodnow, Goodrich, Green, Grow, Hall, Harper, Isham G. Harris, Sampson W. Harris, Haven, Henn, Horsford, Houston, Thomas M. Howe, Hunter, James Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kuhus, Kurtz, Landry, Letcher, Humphrey Marshall,

Martin, McDonald, McLanahan, McNair, McQueen, Millson, Miner, Molony, Henry D. Moore, Orr, Outlaw, Andrew Parker, Pennington, Phelps, Porter, Powell, Rantoul, Robbins, Sackett, Schermerhorn, Schoolcraft, Scudder, Scurry, Smart, Smith, Snow, Benjamin Stanton, Thaddeus Stevens, St. Martin, Taylor, Benjamin Thompson, Thurston, Venable, Walbridge, Wallace, Ward, Washburn, Watkins, and Woodward—95.

**MR. BROWN.** I desire to make some remarks to the House upon the subject, but before doing so, I move to print the report from the Committee on Printing.

**MR. FLORENCE.** May I ask the gentleman to give way for a moment, so that I may offer the following resolution?

*Resolved, That the report of the Committee on Printing be referred back to that committee, and that the committee, whenever the public printer fails to do any printing ordered by the House according to his contract, be instructed to advertise, for ten days, for proposals to print each order in the manner prescribed by the printing contract, and to award the printing of each order of the House to the lowest responsible bidder.*

**MR. POLK.** That is, that the public printer be required to tell us when he will print the President's message.

**THE SPEAKER.** Does the gentleman from Mississippi [Mr. Brown] yield for this purpose?

**MR. BROWN.** I yield for that purpose.

**MR. KING,** of New York. The resolution is in order.

**MR. HOUSTON.** It cannot repeal a law without being a joint resolution.

**THE SPEAKER.** The Chair is under the impression, upon hearing the resolution read, that it is so connected with the public printing, that it will not be his business to decide it out of order.

**MR. HOUSTON.** I understand it to be decided out of order. Does the Chair receive it?

**THE SPEAKER.** The Chair stated, from hearing of the resolution, that he could not decide it out of order.

**MR. HOUSTON.** Then I wish to present a point of order in connection with the amendment offered by the gentleman from Pennsylvania, [Mr. FLORENCE.] The Joint Committee on Printing have acted under an existing law; and, if I understand the amendment, it proposes not only to change the law under which the committee acted by a simple resolution of this House, but it proposes to instruct a joint committee of the two Houses, by a mere resolution of one of the Houses creating that committee, to repeal a law by resolution; it must be a joint resolution, and a joint resolution will also be necessary to instruct a joint committee. In that way the sense of both Houses is obtained, and not otherwise.

**THE SPEAKER.** The Chair is very clearly of the opinion, that by the action of a single House a law could not be repealed.

**MR. HOUSTON.** That is the point I make.

**THE SPEAKER.** That is a point for the House to decide. If the House chooses to consider and debate it, it is not for the Chair to decide that they cannot do so.

**MR. FLORENCE.** The amendment is merely instructing the committee what to do, and I think the House are competent to do that.

**MR. BAYLY.** Does the gentleman from Pennsylvania [Mr. FLORENCE] maintain that one House can instruct a joint committee?

**MR. FLORENCE.** I will then offer it as a joint resolution. I so modify it.

**MR. BAYLY.** Suppose this House refers it back, and the other does not, what action can that committee take upon it? It is a joint committee, and one House cannot instruct it.

**MR. FLORENCE.** I submit it as a joint resolution, and then that objection is obviated, I apprehend.

**MR. KING,** of New York. I suppose it is competent for the House to determine what we will do in the matter. The resolution is in order, whether it is in accordance with the joint resolution or not.

**THE SPEAKER.** The Chair decides that it is not competent for him to determine what the House will do, or ought to do, in reference to the repeal of laws or instructions to their committees.

**MR. KING.** Is the resolution decided to be in order?

**THE SPEAKER.** It is germane, and in order.

**MR. BROWN.** I do not intend to detain the House by anything like an elaborate speech upon the subject of the public printing. In the few remarks which I propose to submit, I shall endeavor

to confine myself as nearly as possible to the subjects directly before us; nor should I have asked the indulgence of the House to say a word but for the agency which I have taken heretofore in this matter. When I heard that the Committee on Public Printing had done more than, by the explanation of the honorable chairman I am now induced to think they intended to do, I thought they had exceeded the authority given them by law, and that they had done that which this House ought not to sanction by its silence, much less by its express assent. With the explanation which the honorable chairman has given, I am satisfied the committee have intended to confine themselves to the letter of the law; but I am just as well satisfied that their action will lead to an abuse of the law. The Committee on Public Printing have a right, according to one construction of the statute of 1846, to take so much of the public printing from the present employee as he fails or refuses to execute. Under this authority we now learn from the chairman, that they propose to take from the public printer—what? The work which he has refused or failed to execute, and this alone? No, sir; for in the progress of his remarks the honorable chairman tells you that they have in their possession now a considerable quantity of work, which has never yet been submitted to the public printer. What brought the minds of the committee to the conclusion, that the printer would either fail or refuse to execute the work, when it had never been in his hands? Was it not straining a conclusion to determine that he had failed to execute, and would not execute, work which they had never intrusted to his care, and never asked him to execute? The honorable chairman of the committee says that the public printer has failed to execute some of the work heretofore intrusted to his care. But does the conclusion necessarily follow, that he will continue to fail; or that, having failed in one kind of printing, he would fail in all others?

Was it ever expected that the public printer could execute the printing of this House instantly upon its delivery to him? Has there been any extraordinary delay in the delivery of this work? According to my recollection, the public printing is about as forward, about as near to completion, as it usually is at this season of the year. We have the first part of the President's message, bound and laid upon our tables, one copy for each member; and what matters it whether the extra copies shall be printed this month, the next month, or three months hence? When was the last part of the President's message and accompanying documents printed during the long session of the last Congress? According to my recollection, we were getting along towards the dog-days before it was laid upon our tables. Was the then venerable and highly-respected public printer [Mr. Ritchie] hauled over the coals for a failure to perform his duty? Was Mr. Ritchie—against whom I have no word of complaint to utter here—held up to the country as a defaulter in the discharge of his duties? Ah! some gentleman answers, in a low tone, Yes. It is well the tone is low. No gentleman ought to answer yes, in a loud voice. The House knows what was the action taken upon that subject two years ago. At the close of the session of 1850, there was found to be, in one House of Congress, a large majority not only indisposed to call Mr. Ritchie to an account for any failure to comply with his contract, but actually disposed and determined to give him some sixty or seventy thousand dollars of the public money as extra compensation. Mr. Ritchie was paid every dollar that he claimed under his contract, and his friends were anxious to give him a great deal more. I never understood that he did the work any better, or any more rapidly than the contract called for; and yet there was a large party in this House ready to vote him sixty thousand dollars, or more, over and above what the contract called for; and it was only, according to my recollection, by parliamentary manoeuvring that the thing was prevented. You had two or three committees of conference upon the subject, and the subject was pressed upon our attention as no other subject was ever pressed upon us. And let me remind certain gentleman, who are enforcing a very rigid observance of the law against Mr. Hamilton, that the journals show them to have been more than liberal towards Mr. Ritchie. Now, sir, I desire to know why it is, in this land of laws,

in this land of equality, and before this Democratic House of Representatives, this kind of distinction is made between one employee and another? I know nothing of Mr. Boyd Hamilton; I have never seen him. If I were to meet him to-day I should not know him from any other man in Christendom. I care not one single solitary farthing about him, but I do care for justice. I will not willingly make myself a party to a transaction so unjust as this. I will not say to one man, who wields a powerful party press, We will pay you the full amount of the bond, wink at your short-comings, and pay you sixty thousand dollars extra; and then to another, who has no press, no power, no influence, We will crush you, because you have not lived up to the very letter of the law.

Mr. GORMAN. I want the gentleman distinctly to avow whether he charges that as a motive operating upon the committee?

Mr. BROWN. Not at all.

Mr. GORMAN. Your words do.

Mr. BROWN. I disavow any personal application; but this I will say: If the House of Representatives shall perpetrate such an act of gross injustice, it will merit, and will assuredly receive, the reprobation of every just man in the nation. We hear continually that the contract system has proved a failure. I do not think so. The contract system has had no fair trial. There has been, what seemed to me, a determination from the beginning to bring this system into disrepute—never to give it fair play. Powerful parties, holding the most influential positions, have engaged in this work. The system has operated against their interest, and they have labored to break it down. Its triumph is not complete, but it has not failed. Let us see how the system has worked so far. Your first contractors were Wendell & Van Benthusen. Did they execute their contract? I understand they did. I am forced to that conclusion because there has been no suit entered upon their bond for a failure to execute their contract. Thus far the system worked well—at least it did not fail. You received the work and paid for it; and if it was not well done, it was because you did not require it to be well done. During the last Congress, the then venerable editor of the Union (Mr. Ritchie) had the contract. Did he execute it? I understand he did. It is my understanding that he executed it to the satisfaction of the Committee on Printing and the satisfaction of Congress. I so understand, because no suit has been instituted upon his bond for a failure to execute the contract. You again received the work and paid for it, and we shall presently see that certain gentlemen proposed to do a great deal more. Surely there could have been no failure, when you not only received the work and paid for it, but wanted to give large extra compensation. Then Mr. A. Boyd Hamilton has the contract for this session. The only specification, according to my present recollection, which the honorable chairman makes against him is, that a portion of the paper is some twelve pounds in the ream lighter than the contract requires. This I find Mr. Hamilton accounts for in the printed paper lying upon our tables. He says, that for a brief season during the past winter, on account of the closing of navigation, he was unable to get a better article of paper. The cold weather having suspended steamboat and railroad operations, he could not procure transportation.

Mr. STANTON, of Kentucky. I wish to make a statement, and it is this: I understand from the chairman of the Senate committee, or rather the late chairman of the Senate committee, that he has rejected nearly all the work sent to the Senate by the printer, and rejected it not solely for the reason that the paper was of an inferior article, but because the whole committee concurred in the idea that a great fraud had been practiced upon the Government if this paper should be received as the quality of paper which he has now furnished, it being one fifth less in value, than what he was required to furnish.

But there is another defect in the paper, to which the chairman of the House committee, and of the Senate committee, I understand, objected; and it is this: that the sheets of paper upon which the printing is done, are too small; that they have too little margin; that when the pages are folded together, and the edges clipped or cut, it leaves too little margin, and that in the books in which plates are

to be placed, the plates are frequently disfigured and destroyed in consequence of the smallness of the sheets.

Nor is this all. The printing which has been sent to us, is so imperfect in consequence of defects in the manner in which the press-work is done, and defects in the quality of the ink that is used, that there are not half a dozen sheets in any one book that we have examined, that are perfect. They are full from the top line to the bottom of the page, with what printers call technically, "monks," and "friars," that is, here a white place, and here a black blotch. So that the work in every view in which it can be regarded, is inferior to what was agreed for under the contract.

Mr. FLORENCE. Did the gentleman submit any of this work to the House? I understood the chairman of the Committee on Printing [Mr. GORMAN] to say that there had been no documents except the President's message and accompanying documents, given to the public printer. His complaint was, that there had been no work done; but now the gentleman from Kentucky, a member of the Committee on Printing, rises in his place and says that these have been condemned. Where are they?

Mr. POLK. I will ask the gentleman from Pennsylvania, if there are not thirty or forty Executive documents that have been furnished to the printer during the last three months, and that have not been printed yet?

Mr. FLORENCE. I do not know anything at all about that, for I am not a member of the Committee on Printing. I attend to the business of the committee to which I belong, and cannot answer the gentleman's question.

Mr. POLK. Then I say to the gentleman from Pennsylvania that he ought not to talk about things he knows nothing about.

Mr. FLORENCE. I rose for the purpose of being informed; and if the gentleman had had his ears open, he would have heard my question, and would not have made the remark he did.

Mr. POLK. I am sorry I did not hear the gentleman; but it is my misfortune, if my ears are not as long as his. [Laughter.]

Mr. GORMAN. The gentleman from Pennsylvania misunderstood me, if he understood me as saying that no document but the President's message had gone into the hands of the printer. A great many documents have gone into his hands, but we have never seen anything of them since; when they get there, it is the last of them. A part of the President's message has, however, come to us, and it is to that that the gentleman from Kentucky alludes. If you look over the pages, you will find the "monks" and "friars," or, as I should call them, blotches of white and then blotches of black. They are really so insufferably bad that we could not receive them. I hope the gentleman from Pennsylvania is satisfied. I will produce a copy, and hand it to him.

Mr. BROWN, (resuming.) I was proceeding to inquire, when I was interrupted, whether it was true that the contract system had been fairly tried, and had proved a failure? I had shown that there was no evidence of its failure up to the commencement of this session of Congress, and I had stated that I believed there had been combinations to break it down. If it has failed, or shall hereafter fail, in the hands of Mr. Hamilton, is that conclusive that the system is wrong, and ought to be abandoned? That it must fail in his hands, under the policy that the committee propose to pursue towards him, is to my mind the most evident proposition on earth. If the committee suspends a job when it is half completed, takes other jobs from him entirely, and makes large deductions from time to time on the work which he has executed, who does not see that the man's credit must be broken down? If he was worth a quarter of a million of dollars, he could not execute the contract under such a policy as this.

But I do not mean to dwell upon this branch of the subject. I have said that, in my judgment, the system has not proved a failure. If it has failed at all at any time, or in any man's hands, it is because you have not given it a fair trial.

Mr. FREEMAN, (interrupting.) I did not understand the chairman of the committee to say that the contract had been abrogated, but only that they should employ others to carry out such parts of the contract as the contractor has failed to carry out. I do not understand that this is an

attack upon the contract system, but only upon the manner in which this party has acted under his contract. Is not that the fact?

Mr. GORMAN. It is.

Mr. BROWN. If the committee take the printing from this man and hand it over to others, or if they refuse to deliver it over to him, what is it but an abandonment of the contract? Is not that a breaking up of the contract? Does not every man see that the result of this action on the part of the committee must be that the whole of the House printing will go to Donelson & Armstrong, and the whole of the Senate printing to Gideon & Co.? Mr. Boyd Hamilton will be left at the end of three weeks from to-day with not a penny's worth of work on hand. It is useless to say what the committee mean to do, or what is meant by this proceeding. The question is, what does their action inevitably lead to? If the work is taken from Hamilton by the committee, and their action is sanctioned by the House, there is an end of his contract; and with it we all see that the whole contract system will end. It cannot be otherwise.

The committee has notified us that they have ceased to send the work to Hamilton, and have made arrangements with other parties to do it. Is it not ridiculous, then, to say that they have not abrogated the contract? They have, to all intents and purposes, abrogated one contract and made another. It is stultifying ourselves to pretend that it is otherwise.

My reason for introducing a resolution in reference to this subject was this—and I had no other purpose to subserve—I wanted to arrest what I thought a dangerous proceeding. I knew the committee were acting without having made a report to the House. I did not pause to inquire whether they had authority to do all that they proposed. I looked only to the effect which their action was certain to produce. Mr. Hamilton says he has made an outlay of \$50,000 in preparing himself to execute the printing of Congress. It is proposed summarily to take the contract from him—and by whom and in what manner, pray? Not by Congress—not by a committee of Congress, but by three members of the House and one member of the Senate; for, bear you in mind, this is not the act of a full committee. And this fragment of a committee are doing this without consulting Congress, and without reporting its proceedings. Now, let Congress sanction this act of the committee, and think you, sir, that this man will not come here at the next Congress and ask indemnity for his losses on this outlay? No man will question that. And what do you suppose he will prove? If he is half as smart in making proof as others have been, he will prove that he was executing the work as well as it had ever been done; that he was delivering it as fast as it had ever been delivered; that his contract was rudely and summarily snatched from him, his business broken up, his credit destroyed, and himself ruined. And instead of your getting the penalty of the bonds, he will present a claim for some \$100,000 or more against you. Then, if a committee is appointed, as there will be, to investigate the subject, what evidence will there be on the record to show that you were justified in this proceeding? Take the contract from Mr. Hamilton, under these circumstances, if you will; but I ask you to leave upon the record the evidence which shall justify your action to those who are to come after you, and who will be charged with an investigation of Hamilton's claims. Do not go out of this contract and leave no trace behind to mark your exit. Before you sanction the acts of this committee, demand a report, a full report, one that will justify you before another Congress in dismissing Hamilton from his contract—for rest assured he will present his claim from year to year, and send it down to his children after him, from generation to generation. It will be presented time and again, until, finally, Congress will be brought to pass it. It is this result against which I now raise my warning voice.

If there is anything to justify this step on the part of Congress, let the committee report it. Let the House take the responsibility. Let us know where we stand. Let those who are to come after us have something with which to meet Mr. Hamilton, when he comes here by himself, or through his attorney or successors, to make a demand for damages on account of the breaking up of his contract.

We are told day after day in the newspapers and elsewhere, that the contract system has failed, and that Congress ought to abandon it. I am no friend of the system. I am not its friend, or its apologist. But it has not failed. Its success has been wonderful, considering the amount of opposition it has encountered. Does it not strike us all as being rather remarkable, that a member can take up one of these printed documents on his desk, direct it to some one in some remote corner of California or Oregon, put his frank upon it, call a page and send it to the post office of the House, and that it should then be taken up and carried from one point to another, and that too by contract, until finally it reaches its far off destination, and yet that this document thus borne from one part of the continent to another by contract, cannot be printed here, under the eye of Congress, by contract? Your Army and Navy can be supplied by contract; your troops on the distant frontier of Texas, California, and Oregon, can be furnished with supplies by contract; and yet you cannot print a book by contract. If these manuscripts belonged to a private individual, could he not get them printed by contract?—and would he not do it? Why is it, then, that we cannot do the same thing? I do not profess to know, but I will tell you what I think may be the cause. I do not say why it is we have failed, but I will tell you what I think has interfered with our success. There are party editors in the city of Washington—Whigs as well as Democrats—and there may be such a thing as this going on:

"If you'll tickle me, I'll tickle you."

If a member will vote large supplies to a party editor, and thus tickle him—and it applies not more to one party than the other—why, then, the editor speaks well of the member to his constituents, and thus tickles him in return; but before an excuse can be given for voting these supplies the contract system must be broken up. Besides, it may be possible that party men, after all, care more for the success of party editors than for the success of a system like this. And they may strive to bring the system into discredit and to destroy it in public favor, in order that party editors may come up and be elected public printers, or have contracts given to them, out of which they may realize large sums of money. I say these things may be. I do not say they are so. But these are reflections which force themselves on my mind. And when I can find no good reason why the contract system is failing, or is likely to fail—no reason why it is cried down—my mind dwells here; and I inquire of myself, whether it is not possible, that at the bottom of all the difficulty in executing this contract system, there does not lie some hidden and secret causes like these? If these be the causes of failure, let them be removed. Let us fling defiance in the teeth of those who would use the National Treasury to purchase favor. Let members stand on their merits, and editors, like other men, work for what they get, and the contract system will triumph.

I do not say the contract system is the best; I only say it has not had a fair trial, and we have no reason to conclude that it has failed. If I had my own way, or if my suggestions are worth anything to the House, I would say, that above all other modes, I should prefer to have the public printer elected, and that it should be required of him, by law, that he should have no connection with any party press, Whig or Democratic, during his service; but that he should be what his vocation indicated him to be—the public printer, and nothing else. If I had my own way, I should prefer to have the work executed by a public printer who should be well paid. But of all the schemes that I have ever seen or heard of, this last one of the Committee on Printing, is to me the most objectionable—objectionable in many points of view. I do not like these combinations between Whigs and Democrats. I do not say there has been a combination or coalition for bad purposes, because I will not charge my honorable friend from Indiana [Mr. GORMAN] with entering into combinations; but it will strike the mind of this country as a coalition; and however well intended, its effects upon the Democratic party must be most disastrous. Talk about the Massachusetts coalition! Why, sir, the honorable chairman of the committee ought to have retained the gentleman from Massachusetts, [Mr. RANTOUL], to defend this business. He is a capital defender of coal-

itions, as he has given us good reason to know. [Laughter.]

This whole thing looks to me, and I fear it will strike the country, as very much like a combination or coalition between the Whigs and Democrats, or rather between the organs of the two parties, to control the Government printing, keep the game in their own hands, and pocket the profits. I do not say that it is so, but it occurs to me that it looks that way, and that the country will so regard it.

Mr. GORMAN. I want to put a friendly question to the gentleman from Mississippi. I ask that gentleman whether the present coalition suits him?

Mr. BROWN. It does not.

Mr. GORMAN. I understand it does not. Would the Southern Press suit him?

Mr. BROWN. It would not.

Mr. GORMAN. I am inclined to come to the same conclusion in relation to my friend from Mississippi that he does in relation to myself. He suspects me of forming a coalition with the organs of the Whig and Democratic parties. I suspect him of doing precisely the same thing with the Southern Press. He suspects me, therefore, of exactly what I suspect him; so, if he kills my dog, I will kill his cat in the same way. [Laughter.]

Mr. BROWN. Let me say to my friend from Indiana, that he was never more mistaken. I have at no time sought, directly nor indirectly, to give any part of the public printing to the Southern Press. And what is more, if it were left to me to direct the whole subject, I would not give one dollar of it to any party editor.

Mr. VENABLE. Wouldn't you give it to the National Era? [Laughter.]

Mr. BROWN. About as soon as to some others.

Mr. POLK. I ask the gentleman if he would not vote to give it to the Southern Press?

Mr. BROWN. No, sir. I have already stated, and I believe it to be true, that it is wrong in principle to give the public patronage to party editors at all. It destroys that independence and boldness which should belong alike to editors and Representatives; it begets a sort of paralyzing sympathy between the recipient of a favor and the giver of it, which stands palpably in the way of a fair, upright, equitable, and honest administration of political justice.

Mr. RANTOUL. The suggestion which the gentleman from Mississippi, [Mr. BROWN], has thrown out, that I might be employed to defend this coalition, places me in a rather unpleasant situation; and, therefore, I beg leave to say, in advance, that I shall decline entirely to undertake any such task upon any conditions whatever. A coalition which is founded in principle, I can defend; but one which looks entirely to the division of the spoils, seems to me to be entirely indefensible. [Renewed laughter.]

Mr. BROWN. Well, I have only said that if a coalition should be completed, better counsel could not be found to defend it.

Mr. GORMAN. I congratulate the gentleman upon his new coalition.

Mr. BROWN. If my friend, the chairman of the Committee on Printing, will look over the vote of yesterday upon this subject, he will find some reason to congratulate himself upon another coalition. My recollection is, that he was found in very strange company on that occasion. If he will but turn to his friend over the way from New York, [Mr. HAVEN], he will find in him a coadjutor with whom he struck hands in making this bargain.

Mr. GORMAN. I was congratulating the gentleman upon his coalition with the gentleman from Massachusetts, [Mr. RANTOUL].

Mr. BROWN. Upon the great issues which unite us as Democrats, we work together. And on these issues, I believe there is not a more trustworthy member of the party on this floor than the honorable gentleman from Massachusetts, [Mr. RANTOUL]. Those are the issues upon which the gentleman from Massachusetts and myself unite. Upon other issues, there is no bond of sympathy between us. The bond which unites us is political only; and the points of affinity are those which unite the gentleman from Indiana and myself, and indeed all Democrats. But my friend from Indiana, [Mr. GORMAN], and the gentleman

from New York, [Mr. HAVEN], seem to me to be united, and to have formed a coalition to obtain the spoils. [Laughter.]

Mr. Speaker, although I listened with the most profound attention, as I always do, to the remarks of my friend from Indiana, [Mr. GORMAN], I am at a loss to know why it became necessary to employ two party organs to aid in the public printing? I cannot understand why somebody else could not have done it just as well. There were other printing establishments here. There was the Towers's establishment. There was Mr. Rives's establishment; and there were others. But I understood the committee voted down all these establishments; they even voted down Donelson & Armstrong, as my friend [Mr. GORMAN] says. And in order to secure to them a part of the work the right hand of fellowship was extended by him to his Whig co-laborers, they agreeing to divide it between the two great party organs, the Union and the Republic. I ask my friend [Mr. GORMAN] if he did not vote against Rives, and against Towers, and against others.

Mr. GORMAN. I did!

Mr. BROWN. Exactly; and other members of the committee voted against Donelson & Armstrong, and in this way no conclusion was arrived at, until at last the two Whigs on the Committee obtained their own terms, and got half the job for the Republic. It seems to me that if my friend from Indiana, [Mr. GORMAN], and my friend from Kentucky, [Mr. STANTON], who was a member of that committee, had gone with the other members of the committee for Mr. Rives, there would have been no difficulty.

Mr. ORR. Will my friend from Mississippi yield for a motion to adjourn?

Mr. BROWN. I will yield for that purpose.

Mr. ORR. I move, then, that the House do now adjourn.

The motion was put and agreed to; and

The House adjourned till twelve o'clock tomorrow.

#### NOTICE OF A BILL.

Mr. CLARK gave notice that he would introduce the memorial of certain citizens of the counties of Des Moines and Dubuque, in the State of Iowa, and accompanying bill respecting land for county seats for said counties.

#### PETITIONS, &c.,

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MILLER: The petition of George Railey, of Lewis county, Missouri, praying Congress for additional compensation for services rendered as assistant marshal in taking the census of that county.

By Mr. MOORE, of Pennsylvania: A memorial from Anthony Shermer, of Philadelphia, for the extension of a patent; also, resolutions of a meeting of citizens of Philadelphia, in favor of granting land to actual settlers, &c.

By Mr. MACE: The petition of Charles Ruffing and 90 others, citizens of Carroll county, Indiana, asking for a post route from Logansport, in Cass county, to Camden, in Carroll county.

By Mr. CHANDLER: Resolutions of the Legislature of Pennsylvania, in favor of improving the navigation of the Ohio, at Louisville.

Also, the memorial of the Board of Trade of Philadelphia, recommending the establishment of a Light-house Board.

Also, the memorial of Henry O'Reilly, proposing a system of intercommunication by mail and telegraph, along a military road through our own Territories between the Atlantic and Pacific States.

By Mr. PHELPS: The memorial of James M. Gatewood, of Henry county, Missouri, in relation to Mexican indemnities.

Also, the petition of John B. King, of McDonald county, Missouri, praying additional compensation for services in taking the census of McDonald county in 1850.

By Mr. GOODENOW: The memorial of Pamela A. S. Dearborn, widow of the late Lieutenant Colonel Greenleaf Dearborn, of the seventh regiment United States Infantry, praying for relief.

#### IN SENATE.

WEDNESDAY, April 14, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

#### SALINE LANDS IN WISCONSIN.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that its Speaker had signed an enrolled bill to extend the time for selecting lands granted to the State of Wisconsin for saline purposes.

The PRESIDENT *pro tempore* also signed it.

#### PETITIONS, ETC.

Mr. GWIN presented a petition of importing merchants of San Francisco, praying the remis-



sion of duties on merchandise stored in the Government warehouses in that city, and injured or destroyed by a land-slide; which was referred to the Committee on Finance.

Mr. WADE presented a petition of assistant marshals for taking the Seventh Census in Ohio, praying additional compensation; which was ordered to be laid on the table.

Mr. SEWARD. I am requested by Ebenezer G. Atwater, to present his petition to the Senate, in which he states that, in the month of May, 1851, when the President of the United States, with several members of his Cabinet, were traveling through the State of New York, he was engaged to fire a salute, and that, in performing that act of duty, as a courtesy on the part of the citizens, he lost both his arms and one eye; and he has come here, and now presents a petition to the Senate, asking them to afford him some relief in his destitute and deplorable condition. I move that it be referred to the Committee on Pensions. It was so referred.

Mr. DAVIS presented a petition of Benjamin F. Hallett, Rufus Choate, John C. Park, and about one hundred other citizens, members of the bar in Boston, praying that the salary of the United States district judge for that district may be increased; which was ordered to be laid on the table and printed.

Mr. CLARKE presented the petition of John Potter Secord, and seventy other inhabitants of Coventry, Rhode Island, praying the establishment of a mail route from Washington Village to Rice City; which was referred to the Committee on the Post Office and Post Roads.

Mr. WALKER presented a petition of citizens of De Witt county, Illinois, praying that one hundred and sixty acres of land may be granted to citizens of the United States upon becoming actual settlers; which was referred to the Committee on Public Lands.

Mr. SUMNER. I present a remonstrance from citizens of Plymouth county, Massachusetts, against the restoration of flogging in the Navy. The person through whose agency this petition was signed, states, in a letter, that he is convinced, after thirty years' service in the Navy, that flogging is not necessary to preserve discipline, and that this would be particularly the case if the grog rations were abolished. I move the reference of the remonstrance to the Committee on Naval Affairs. It was so referred.

Mr. GEYER presented a petition of the legal representatives of Jacques Clamorgan, praying the confirmation of a grant of land made to said Clamorgan by the Spanish authorities in 1797; which was referred to the Committee on Private Land Claims.

Mr. UNDERWOOD presented additional evidence in the case of William Money; which was referred to the Committee on Foreign Relations.

Mr. SMITH presented a petition of citizens of Norwalk, Connecticut, praying an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

#### TONNAGE ON GOODS ENTERING CUBA, OR PORTO RICO.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be instructed to report to the Senate, such information as he may be able to furnish: First, in regard to the character and amount of discriminating duties exacted on the tonnage of the United States entering the ports of Cuba or Porto Rico, in the dominions of Spain, at the time and also subsequent to the passage of the act of Congress approved July 13th, 1832; and second, the character and amount of similar discriminating duties exacted at the time of the passage, and subsequent thereto, of the act of Congress approved June 30th, 1834.

#### PUBLIC LANDS IN OHIO.

Mr. CHASE. I wish to ask a favor of the Senate this morning. I have never before made such a request, and I hope they will indulge me at this time. A bill granting the unsold residue of the public lands in Ohio, which, at the present time, are reduced to only two hundred thousand acres, by the process of sales, which has been going on more than sixty years, stands second upon the Calendar. I am obliged to leave Washington for a few days; and unless the bill is taken up

now, it cannot receive the action of the House. But, desirous as I am to take it up, I pledge myself that, if it takes over half an hour, I will consent to lay it upon the table, and submit to the inconvenience. I therefore move to postpone the previous orders, with the view of taking up that bill.

Mr. UPHAM. I hope we shall go through with the morning business. Reports from committees have not yet been called for.

Several SENATORS. Let us take up the bill.

Mr. MANGUM. I hope we will not take it up. I have a resolution which I wish to introduce.

Mr. DAVIS. And I have another.

The PRESIDENT. Neither reports nor resolutions have been called for. The motion is to postpone all other business, to take up the bill named by the Senator from Ohio.

Mr. MANGUM. I hope we will proceed with the regular order of business.

Mr. CHASE. I am sure the honorable Senator from North Carolina could not have heard the appeal which I made.

Mr. MANGUM. I did not.

Mr. CHASE. I am obliged, in consequence of peculiar circumstances, to leave Washington for a few days, and unless this bill is acted upon now, it cannot receive the action of the House. It stands the second on the Calendar, and was introduced at the very commencement of the session. If, however, the consideration of it will consume more than half an hour, I pledge myself to let it lie on the table, as I am unwilling to interfere with other bills.

The motion to postpone was agreed to, and the Senate proceeded, as in Committee of the Whole, to the consideration of the bill to grant to the State of Ohio the unsold and unappropriated public lands remaining in that State, which was reported from the Committee on Public Lands, with various amendments. It enacts that all the lands remaining unsold and unappropriated in the State of Ohio, after March 31, 1852, shall be granted to the State, provided that the grant shall not affect any pre-emption or other individual right, or include any land within the Virginia military district; and provided, also, that fifty-five cents per acre shall be paid to the United States, for the use of certain Indians, for reserved lands, which, by treaty stipulations, are required to be paid in part to them. It enacts, also, that on the passage of the act, the Commissioner of the General Land Office shall close the current land business in the State, and on or before July 31, 1852, transfer to the Governor of the State, or such person as he shall designate, all the archives relating to lands within the State, now in the district land offices there.

Mr. CHASE. I hope the amendments of the committee will be agreed to.

Mr. DAWSON. I wish to ask a question for information. The reservations of Indian lands are put down at fifty-five cents per acre. Has the General Government the right of fixing the price of lands reserved for Indians under treaty? For if it is not in their power to dispose of the lands at that price, you will have an application to pay out of the Treasury the amount they could have obtained for these very lands.

Mr. CHASE. The answer to that question is very short. The matter was very carefully considered by the Committee on Public Lands. The Government is bound to account to the Indians for the proceeds of these lands at one dollar and twenty-five cents per acre, less seventy cents allowed charges. If, then, the State of Ohio pays to the United States the sum of fifty-five cents per acre, the Treasury will receive the whole amount which the Government is bound to pay to the Indians.

Mr. DAWSON. Then these lands, which may be worth one dollar and twenty-five cents per acre, reserved to the Indians, which could have been disposed of if thrown into the market, we are to give conditionally to the State of Ohio, upon the payment of fifty-five cents per acre by that State for the lands, thereby taking from the lands which are reserved to the Indians, and giving seventy cents to the acre of their value to the State of Ohio.

Mr. CHASE. The Senator does not understand the point. The lands are not reserved to the Indians; they belong to the United States. The United States is bound to account to the Indians at the rate of one dollar and twenty-five cents per acre, reserving seventy cents per acre for charges incident to sales of the lands. There will remain,

then, fifty-five cents per acre, in the event they be sold, which would go to the Indians. But, instead of waiting for a long period until they are sold, the State of Ohio is at once to pay into the Treasury fifty-five cents per acre, so that the Indians can get it without further delay. The lands have been offered for sale, and are subject to private entry.

Mr. DAWSON. My position is this: If the lands, which were reserved to the Indians, had been in the market up to this time—I presume they were good lands—they could have gone at one dollar and twenty-five cents per acre; and if they were now in a condition to be taken up by any person, I presume one dollar and twenty-five cents would be paid for them.

Mr. CHASE. They have been offered for sale, within ten or twenty years past. They are not good lands, and therefore they are not taken up. They are refuse lands.

Mr. DAWSON. The Government will not lose a dollar, I suppose?

Mr. CHASE. Not a cent.

Mr. DAWSON. And has your State the payment of the costs incurred in the disposition of the lands?

Mr. CHASE. Yes, sir.

Mr. DAWSON. And you say the fifty-five cents per acre belong to the Indians?

Mr. CHASE. Yes, sir.

Mr. DAWSON. And that you propose to pay them? Perhaps it will not be \$1 25. The committee may have looked into the matter more carefully than I have.

Mr. HUNTER. I understand this bill proposes to give the lands in the State of Ohio, which have not been sold, to that State. I should like to know how much land it is proposed to give?

Mr. CHASE. If the Senator will allow the amendments to be acted upon, I will answer his question very briefly.

Mr. HUNTER. Very well.

The amendments were agreed to.

\*Mr. CHASE. The bill, now under consideration, Mr. President, is one of considerable importance to the people of Ohio. It grants to the State the unsold residue of the public lands within her limits, except that portion lying within the Virginia Military District, which cannot be ceded without the consent of Virginia. The quantity of land granted is not large; but it is large enough to make the grant desirable to the State. Nor is the land of much value; but it is of much greater value to the State than to the General Government. The principal object of the measure is to terminate Federal ownership within the limits of the State; and I think the time has arrived when all will agree, that so far as Ohio is concerned, the proprietorship of the General Government should come to an end.

I ask the attention of Senators to a brief statement of facts which will exhibit clearly the merits of the bill.

The quantity of land, unsold in Ohio, on the 30th of September last, was only 216,070 acres. The quantity sold by the General Government in Ohio, up to that time, had been 12,616,909 acres. Besides these large sales there had been granted to the States of Connecticut and Virginia, as inducements to the cessions made by them to the United States, 7,376,769 acres; and to companies and individuals, mostly in large tracts and for resale, 1,485,564 acres; and to satisfy claims for military purposes, 1,564,997 acres. The aggregate quantity of lands for which the people of Ohio have had or have yet to pay the Government or its grantees, is, therefore, 23,046,484 acres. There have been reserved for Indians and salines, 40,547. There remain, as I have stated, only 216,070 acres unsold. It follows, therefore, that the whole amount contributed by the United States, as the proprietor of this immense domain, to its improvement and preparation for sale, is only 2,273,859 acres. This includes all the grants for schools, colleges, religious purposes, and internal improvements.

The amount of money paid by the people of Ohio—the individual citizens of Ohio—into the Treasury of the United States for the privilege of occupying and tilling the soil, is \$20,853,694. The

\* The substance and leading facts of the above remarks only, were submitted to the Senate, time and the condition of business not permitting more without delay of the bill. It is thought best to publish them in full.

sums paid to the grantees of the Government for lands granted to States, companies, and individuals not included in the ordinary sales, estimating these lands at the minimum only, amount to \$13,036,968. The vast aggregate swells to \$33,890,664. Make every deduction from this sum which any fair consideration can suggest; exclude the value of the grants to individuals—such as the grants to John Cleves Symmes and the Ohio company, and the grants for military services—and still the amount paid by the people of Ohio to this Government and its grantees, for the soil on which they live, and from which they draw, by honest toil, the means of life, will greatly exceed \$30,000,000.

The history of the world does not afford another instance of the original ownership of wild lands being acquired by the inhabitants of any State or country at such a price.

I will now state somewhat more particularly the grants made to Ohio for education, internal improvements, and other purposes, and compare their amount with similar grants made to other States.

The grants made to Ohio, are these:

For schools, colleges, &c. . . . 727,528 acres.  
For internal improvements. . . 1,243,001 "  
For swamp lands. . . . . 303,329 "

In all. . . . . 2,273,858 "

The Senate will observe that I have included every grant of every kind made to the State. The sections sixteen, for the use of schools—all the canal lands—all the swamp lands—are included; and the total is nearly 500,000 acres less than the single grant to the State of Illinois in aid of her Central Railroad, at the first session of the last Congress.

But I invite attention to the grants made to other States, a little more in detail.

There have been granted to the State of Indiana:

For schools, colleges, &c. . . . 673,357 acres.  
For internal improvements. . . 1,609,861 "  
For public buildings. . . . . 2,560 "  
For swamp lands. . . . . 981,682 "

Making an aggregate of. . . 3,267,460 "

The grants to Indiana exceed the grants to Ohio by nearly 1,000,000 of acres.

There have been granted to Illinois—

For schools, colleges, &c. . . . 1,001,795 acres.  
For internal improvements. . . 500,000 "  
For public buildings. . . . . 2,560 "  
For swamp lands. . . . . 1,833,412 "  
For Central Railroad. . . . . 2,700,000 "

Making an aggregate of. . . 6,036,767 "

The quantity granted to the Central Railroad is not precisely ascertained. It is set down in the official tables at 2,246,400 acres; but these figures are certainly much below the real quantity. In the debate on the Iowa land bill, Senators who sustained the Illinois grant, stated the quantity to be from 2,500,000 to 2,700,000; and I have reason to believe the largest quantity is not outside the truth. It appears, then, that the grants to Illinois exceed the grants to Ohio by more than 3,700,000 acres.

There have been granted to Missouri—

For schools, colleges, &c. . . . 1,222,179 acres.  
For internal improvements. . . 500,000 "  
For public buildings. . . . . 2,560 "  
For swamp lands. . . . . 1,517,287 "

Making an aggregate of. . . 3,244,206 "

The grants to Missouri fall short of the grants to Illinois by 2,750,000 acres; but exceed the grants to Ohio by nearly 1,000,000 of acres.

There have been granted to Iowa—

For schools, colleges, &c. . . . 951,224 acres.  
For internal improvements. . . 825,078 "  
For public buildings. . . . . 3,480 "  
For swamp lands. . . . . 33,813 "  
Add Des Moines lands claimed, say. . . . . 900,000 "

Making an aggregate of. . . 2,713,595 "

The grants to Iowa, the youngest of the land States, exceed the grants to Ohio, the oldest, except Tennessee, nearly 500,000 acres, while they fall short of the grants to Illinois by 2,250,000 acres.

I will not extend this comparison. I will merely add, that Alabama alone, of all the land States, has

not received grants largely exceeding the quantity granted to Ohio; that Alabama has received nearly as much, and that there remains in that State 15,426,566 acres undisposed of, of which I, for one, am ready to grant her enough, at any time, to make her equal, in this respect, to the most favored State. I will hand to the reporter a statement prepared early in this session at the General Land Office, at my instance, of the condition of the public lands up to the 30th of September last, by which any one, so disposed, can test the accuracy of the statements I make.\*

I make no complaint of our sister States. I do not regret that they have received much because Ohio has received comparatively little. I rejoice rather in the liberality which has been exhibited towards them, and congratulate them on their prosperity, promoted and stimulated by the wise and just beneficence of the National Government. May it increase more and more, and continue forever.

In truth, Mr. President, this prosperity, though promoted and stimulated, as I have just said, by the beneficence of the Government, is due, in a far greater measure, to individual energy and individual intelligence, assured of protection in their freest and fullest development by the strength of our American Union and the spirit of our Ameri-

can institutions, and operating either directly or through voluntary associations and the State Governments. Of this great benefit, Ohio has partaken no less than her sister States. Unannoyed by external aggression, except for a short period during the second war with England, undisturbed by internal commotion, she has strenuously urged her upward way, without pause, for sixty-five years. For fifteen years, while a part of the Northwestern Territory, she shared the fostering care of the National Government. Admitted into the Union as a sovereign State in 1802, she cheerfully submitted to the condition imposed upon her, that the national domain within her limits should be reserved to the United States, as property exempt from taxation, to be sold and applied in discharge of the national indebtedness. And it was not till the debt of the Revolution had been fully paid, and the debt of the war of 1812 had been reduced to an inconsiderable amount, that Ohio ever applied for any grant of lands in aid of any of her works of internal improvement. Unassisted, her people bought their farms, felled the forest, built their log cabins, reared their school-houses, constructed their churches. Unassisted, they joined the lake to the river by the Ohio canal, and thus completed the first internal waterway from the Atlantic ocean to the Gulf of Mexico.

\* Statement of Public Lands sold, and otherwise disposed of, to the 30th of September, 1851; showing, also, the Lands remaining unsold and undisposed of at that date.

States and Territories.	Area of the land States and Territories.	Acres sold up to Sept. 30, 1851.	Receipts for lands sold to Sept. 1851.	Grants for schools, &c.	For dead and dumb improvements.	For internal improvements.	To individuals and companies.	For seats of government, &c.
Ohio. . . . .	39,964	20,576,960	13,616,909.46	\$20,853,694.33	727,528	1,243,001.77	33,141.24	2,560
Indiana. . . . .	31,637,809	13,637,809	13,637,809.70	\$1,879,255.57	673,357	1,609,861.61	843.44	2,560
Illinois. . . . .	55,403	33,453,900	13,632,139.58	20,491,177.17	1,001,795	500,000.00	924.64	1,630
Missouri. . . . .	67,380	43,123,200	10,516,286.95	13,674,958.62	1,222,179	500,000.00	1,911.53	1,630
Alabama. . . . .	(a) 50,040	(a) 32,037,490	10,516,286.95	17,722,124.74	825,078	500,000.00	15,965.31	1,280
Mississippi. . . . .	(a) 27,327	(a) 23,398,628	9,381,564.98	(a) 12,811,656.54	860,634	500,000.00	8,412.98	1,280
Michigan. . . . .	46,431	35,395,520	9,380,304.99	4,401,389.76	951,224	500,000.00	4,080.00	13,200
Arkansas. . . . .	56,343	33,406,720	3,246,965.03	4,071,191.73	825,078	500,000.00	139,386.25	10,600
Florida. . . . .	53,198	37,031,720	1,006,338.03	1,994,893.62	951,224	500,000.00	8,114.00	6,240
Iowa. . . . .	50,914	32,584,960	2,735,732.04	3,402,878.88	951,224	500,000.00	18,228.86	3,480
Wisconsin. . . . .	53,924	34,511,360	4,969,725.10	6,241,321.13	1,004,728	500,000.00	5,705.82	6,400
California. . . . .	188,981	120,947,840	15,740.16	19,886.95	2,997,191	500,000.00	50,800	
Minnesota Territory. . . . .	83,000	53,120,000			12,166,967			
Oregon Territory. . . . .	341,463	218,526,320			7,483,120			
New Mexico Ter. . . . .	210,744	134,876,160			6,661,707			
Utah Territory. . . . .	187,923	130,270,720						
Northwest Territory. . . . .	187,923	376,040,960						
Nebraska Territory. . . . .	126,700	87,488,000						
Indian Territory. . . . .	187,171	119,789,440						
Total. . . . .	2,536,462	1,616,935,596	101,033,930.83	\$136,353,265.95	40,558,978	(b) 14,971.11	9,036,341.00	50,800
States and Territories.	For military services.	Reserved for salines.	Reserved for benefit of Indians.	Reserved for companies, corporations, &c.	Confirmed private claims.	Swamp lands granted to the States.	Total of acres unsold and ungranted offered on the 30th Sept. 1851.	
Ohio. . . . .	1,564,997.96	24,216	16,320.73	(c) 8,245,975.00	58,459.80	367,329.00	216,070.04	
Indiana. . . . .	819,736.61	23,440	15,920.71	149,100.00	339,880.52	981,682.00	1,002,070.40	
Illinois. . . . .	5,663,640.30	121,639	48,989.69		1,833,412.61	1,517,287.00	7,996,757.22	
Missouri. . . . .	1,443,853.20	23,040	92,587.61		1,362,425.10	1,517,287.00	80,489,901.14	
Alabama. . . . .	169,889.00	46,080	2,770.02		213,285.65	436,450.00	15,431,566.00	
Mississippi. . . . .	70,002.52	46,080	277,012.04		688,063.32	2,238,987.00	8,841,389.17	
Michigan. . . . .	387,160.00	46,080	109,300.83		8,877,998.58	8,877,998.58	13,547,759.86	
Arkansas. . . . .	331,996.97	46,080	327.49		2,092,903.93	4,344,189.00	22,944,261.86	
Florida. . . . .	43,000.00	46,080	119,183.34	3.75	1,367,211.23	5,021,673.00	19,502,179.96	
Iowa. . . . .	2,377,153.06	46,080	137,994.27		118,451.13	5,021,673.00	33,845,759.89	
Wisconsin. . . . .	1,669,028.17	46,080			1,939,789.00	38,813.00	25,416,697.45	
California. . . . .	49,930.00	46,080			26,890.99	1,250,969.00	130,447,848.00	
Minnesota Territory. . . . .							208,349,533.00	
Oregon Territory. . . . .							177,383,040.00	
New Mexico Ter. . . . .							113,589,013.00	
Utah Territory. . . . .							376,040,960.00	
Northwest Territory. . . . .							67,488,000.00	
Nebraska Territory. . . . .							119,789,440.00	
Indian Territory. . . . .								
Total. . . . .	16,019,065.83	422,335	3,400,725.53	\$3,953,383.75	7,103,903.21	(e) 27,287,260.52	1,399,680,140.33	

(a) Exclusive of Chickasaw cession.

(b) Grant not finally closed.

(c) The State has alleged a claim for the estimated quantity of 900,000 acres, in addition to this amount, for lands situated above the Racon Fork, in virtue of the grant of lands on the Des Moines river.

(e) Acres reported by the Surveyors General.

(d) Connecticut reserve. . . . . 3,666,921  
Virginia military reservation. . . 3,709,848  
Symmes's purchase. . . . . 284,698  
Ohio Company's purchase. . . . . 1,144,509

8,805,976

(f) Estimated.

Almost unassisted, this people, energetic and intelligent, extended their system of canals, making, among others, a second canal from the river to the lake; covered the surface of the State with a network of turnpikes and railways; improved their watercourses; constructed their public edifices, among which they point as their chief glory to the various asylums for those children of sorrow, the deaf, the dumb, the blind, and the insane.

I say almost unassisted. Ohio alone, of all the land States, except Tennessee, received no aid in the construction of her public buildings. Ohio, less than any other State, except Alabama, and less than Alabama if regard be had to the proportion of population or of unsold lands, has participated in the grants for internal improvements. While she has received less, she has, as I have already stated, paid more to the Government and the grantees of the Government than any other State. She has, besides, borne her full proportion of the indirect taxation of the tariff, and contributes, at this moment, nearly one tenth of the national revenue.

I submit to the Senate that an irresistible case has been made out for the grant of the residue of public lands in Ohio to the State. If anything were wanting, I might urge, in addition, the precedent of the grant to Tennessee in 1846. In that year, Congress terminated Federal ownership in that State, by the act "to surrender to the State of Tennessee all title the United States have to lands in Tennessee, south and west of the line commonly called the Congressional Reservation Line." Indeed the act went further than this. It released to the State the proceeds of lands already sold.

But the case of Ohio is even yet stronger. Had she received as much more than her sister States as she has received less; were there no direct precedent as the case of Tennessee to be pleaded; there would still remain adequate, nay, controlling reasons for the grant.

Sixty-five years have elapsed since the commencement of the sales of public lands within the limits of Ohio—more than the period of two generations of men. The unsold residue has probably been in market for the average period of a quarter of a century. It does not, indeed, deserve the name of residue. It is a mere residuum. It very little exceeds in quantity two hundred thousand acres. It is less than one hundredth part the original domain. The cost to the General Government, of the land office in the State, during the last year, exceeded \$5,000; and now that land warrants have been made assignable and receivable for all lands, and must, therefore, hereafter constitute the chief, if not the sole currency in which payments will be made for the public domain, it is not probable that the receipts at these offices will defray their cost. The unsold residue, therefore, however valuable it may be to the State, is not worth keeping to the Government.

Besides, no statesman who has ever discussed the subject of the public domain has ever suggested that the United States shall hold on to the lands with unrelaxing gripe, until the sale of the last acre and the payment of the last dollar and a quarter. On the contrary, all have concurred in the opinion, that at the proper time the land States should be relieved from the disparagement of their proper sovereignty by national ownership of untaxed and untaxable lands within their limits, by cessions of the unsold residue. It was the opinion of a distinguished Senator from Missouri, not now a member of this body, [Mr. Benton] that these cessions should in all cases be made upon the reduction of the quantity in any State to 500,000 acres. I concur in this opinion. Indeed I should be better pleased with an earlier termination of Federal ownership. But, whatever may be thought as to the proper time, no one will question the propriety of such a cession at some time, and no one will doubt, I think, that in the case of Ohio, at least, that time has come.

I forbear to enlarge upon these considerations. I know the desire of the Senate to proceed to other business, and I cheerfully submit this case of Ohio, believing it to be impregnable, to the liberality, to the wisdom, and, above all, to the justice of my fellow Senators.

Mr. HUNTER. It is not so much the amount proposed to be given by ceding these lands to the State of Ohio to which I object, as that it seems to me that the bill proposes to establish a new prin-

ciple; in other words, to give to the State of Ohio two hundred and sixteen thousand acres of land. It is true, sir, that this land has been exposed for sale for twenty or thirty years at \$1 25 per acre; but it never has been offered for a less price. Now, I should be willing to graduate these lands according to the term of years during which they have been in market. I believe that I would even go further. I would allow the State to come in as pre-emptor, for I believe that it would be a very desirable thing to terminate the ownership of this land by the Government of the United States; but I am afraid of beginning this principle, which appears to be involved in this bill.

The Senator from Ohio admonishes me that he is anxious to obtain a vote on the bill, and I will therefore do no more than merely state that I have objections—that I cannot vote for the bill as it is, but that I would be willing to dispose of these lands in the manner I have indicated.

The bill was then reported to the Senate, and the several amendments made as in Committee of the Whole were concurred in.

The PRESIDENT. The question is on ordering the bill to be engrossed for a third reading.

Mr. HUNTER. I ask the yeas and nays.

The yeas and nays were ordered.

Mr. SHIELDS. I desire to say a single word, without meaning to delay the action of the Senate on this bill. These lands have been so long in market that it is obvious they are mere refuse lands, as has been stated by the Senator from Ohio—the refuse of all the lands that have heretofore been sold in that State. I recollect very well, when I was at the head of the Land Office, it appeared to me that it would be very expensive to the Government to keep up the necessary machinery merely for the sale of lands of this kind; and it was felt by all that there was a time when a State should have control of all the lands within its limits. I will merely state further, that these lands are of no use to the General Government, of no profit, of no advantage; but, on the contrary, that the Government will have to keep up this machinery at great expense, without any prospect of these lands being sold even so as to pay expenses. I trust, therefore, that there will be no opposition to this bill.

Mr. DAVIS. I would like to know of the Senator from Ohio, if he has it in his power to answer the question, what the sales of these lands have been during the last year and the preceding year, within the State of Ohio?

Mr. CHASE. I cannot state precisely what the amount is. I know that the expenses of the two land offices within the State of Ohio were \$5,000 for the past year; the amount of land sold last year, I suppose to be of slight importance. No inference can be made from it as to the amount likely to be sold next year. The Senator knows we have made land warrants assignable, and that they will be received in payment for public lands hereafter. My opinion is, that the sales for the next year will not pay the expenses. The Senator from Illinois [Mr. Shields] was on the committee which reported this bill, and has given it his examination.

Mr. DAWSON. I wish to state one or two reasons why I cannot vote for this bill. In the first place, we are now about to establish a precedent, that will be followed by all the other States that have a public domain within their limits; and it is at once settling the question of the graduation of the price of the public lands. We are determining not to reduce the price below \$1 25 per acre, and that all the lands which cannot be sold at that price, shall be given to the several States in which they lie.

Now, my position is this: If the public lands belong to the State, the proceeds go into the Treasury; and, if not worth \$1 25 per acre, put them down to fifty cents an acre, and let that go into the Treasury. It is but fair and right. I prefer a system of graduation to this system decidedly; for I am confident that, if we establish this precedent to-day, it will be followed, year after year, in all those States that have public lands, until the remnant of the lands go to those States. And I submit now, whether it is not better to have some general regulation by which all these remnants of land may be disposed of? I am willing to vote that they should be placed at fifty cents in the State of Ohio, and that, in the language of the Senator from Virginia, the State should have the right of preemption.

I feel rather disposed to go into the argument at once, for this reason: that I consider that we shall establish a precedent to-day, if we pass this bill; that it will be followed up, and we cannot avoid it. The question comes up under such very peculiar circumstances; the Senator from Ohio is, unfortunately, obliged to leave the city, which I regret very much; and he begins by stating his position, endeavors to enlist our sympathies, and calls on us to establish an important principle without any discussion. These circumstances, which surround us to-day, will not be known to the next Congress; and the States of Indiana and Illinois may come up, and ask us to act towards them on the principles which have guided us with respect to Ohio; and how shall we be able to deny them? Michigan will, very possibly, come in under very favorable auspices—perhaps the head of the Government may come from that State, and may recommend such a course. Illinois may, perchance, occupy the same position, under the same auspices.

Mr. CHASE. If the Senator will allow me to interrupt him for a moment, I will state that the precedent has already been set. It is now too late to require that. The only question is, whether the same justice which has been extended to Tennessee shall be accorded to Ohio? I have in my hands the act by which the lands were surrendered to the State of Tennessee some years ago. It has this title:

"An act to surrender to the State of Tennessee all title the United States have to lands in Tennessee, south and west of the line commonly called the Congressional Reservation line."

And the act not only provides for the surrender of the lands to Tennessee which were within her limits, but it goes further, and provides that the State of Tennessee may retain the proceeds of the lands already sold. The precedent is already set.

Mr. DAWSON. I was going on to say, that the State of Alabama will be presenting her claim to this particular kind of favor, and probably under the same auspices. But I am called upon at once to see the influence of a precedent already made, under circumstances quite different. The Senator from Ohio will understand, that the lands in Tennessee were reduced to twenty-five cents per acre, before the release was made to that State; and it was said they could not be sold for twelve and a half cents per acre. Those lands were given to Tennessee for purposes of education within the State, and not given to the State, except for the prescribed purpose.

Have we not asked this body already to give to the various States of the Union a very small portion, a few thousand acres, of the public domain for purposes of education and internal improvement? and yet it is denied, while it is proposed that the State of Ohio shall take this land; and they refuse to let it lie in market another year, to see if it can be sold for fifty cents per acre. If it is not disposed of in five years, I would be willing to let it go to the State. No, sir; the object is to establish a precedent now, to lay down a position in which all the new States will combine to take all these lands. Hence it is that I cannot lend my aid to such a proceeding. I think it is unjust on the part of the new States to make such a demand on the old States; for it is, I think, violating the rights of the old States, which we ought not to allow, if we can prevent it. But out of respect to the feelings of the Senator from Ohio, I will say no more on the subject.

Mr. DAVIS. I do not feel quite prepared to vote for this bill without a little more information on the point which I suggested. My inquiry is, as these lands are represented by the Senator from Illinois, and the Senator from Ohio, to be refuse lands, and of no value, what have been the practical operations of the Government for some time past, in regard to sales in the State of Ohio? That seems to me to be a pertinent matter to be understood, prior to voting for this bill. I am not prepared to turn to documents to show the facts up to the present time; but I have been able to cast my eye on a document lying here, and I find that on the first of January, 1849, there were rising of eight hundred thousand acres of land unsold in the State of Ohio. I understand the honorable Senator from Ohio to state that there are two hundred thousand acres remaining. From this it appears that there have been large sales within these few years, and I shall be glad to know what has



been the progress during the last year, in order that I may be able to judge whether these are refuse lands or not; or whether there is any demand for them. If these lands are of no value, as has been stated, then I think you make out a case similar to that of the State of Tennessee, and I will vote to give the State of Ohio these lands—such state of things being made out; but I have a strong impression upon my mind that that state of things does not exist in Ohio, and I am not prepared to vote for the bill till I know precisely what is the state of the facts.

The question was then taken on ordering the bill to be engrossed for a third reading, and resulted—yeas 28, nays 13; as follows:

YEAS—Messrs. Adams, Atchison, Borland, Cass, Chase, Clemens, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Geyer, Gwin, Hale, Hamlin, James, Jones of Iowa, King, Mallory, Rusk, Sebastian, Seward, Shields, Smith, Stockton, Sumner, Wade, and Walker—28.

NAYS—Messrs. Badger, Berrien, Bradbury, Brodhead, Clarke, Davis, Dawson, Hunter, Mangum, Norris, Spruance, Underwood, and Upham—13.

So the bill was ordered to be engrossed for a third reading.

#### COMPENSATION TO WORKMEN.

Mr. HALE. I move to suspend all previous orders, with a view to take up a resolution which I offered yesterday, providing for the payment of the workmen employed on the wings of the Capitol.

Several SENATORS. No! no! no! no!

Mr. HALE. Mr. President, I should like to know who has the floor? If I have it, I desire to be heard, and I wish that other gentlemen would be kind enough to wait until I get through.

The PRESIDENT. The Senator from New Hampshire is entitled to the floor.

Mr. HALE. I merely wish to say, that if the Senate will indulge me by taking up this resolution, I have an amendment prepared which I think will meet with the concurrence of most Senators. It was suggested to me by the architect of the Capitol, and involves but a small sum, not exceeding \$12,000, which will do justice to the workmen. If Senators will agree to take it up, I promise them not to occupy any time upon it at all, but will only ask that we proceed at once to take a vote.

Mr. UNDERWOOD. It will not pass without discussion. It will take up time.

Mr. HUNTER. I hope we shall proceed with the regular order of business. I have been ready, since Monday last, to call up the deficiency bill, and there is a pressing necessity that it should be called up; but I give way to the honorable Senator from Michigan, [Mr. Felch,] who is half through with a speech which he has commenced, and is entitled to the floor. Unless he is permitted to go on to-day, we shall be unable to get up the deficiency bill to-morrow, as he will not have had an opportunity to conclude his remarks.

Mr. RUSK. I shall vote against taking up the resolution proposed by the Senator from New Hampshire now, for I trust we shall go on with the unfinished business which is before us. I voted yesterday against receding from the amendment adopted in the Senate, in order to avoid further discussion; and if I am not mistaken, the Senator from New Hampshire voted to recede.

Mr. HALE. The Senator is mistaken; I voted against it.

Mr. RUSK. I saw then what would be the difficulty if we abandoned it, that it would be a fruitful source of further discussion. I hope that hereafter, when we have any matter before us which we can dispose of without splitting it in two, we shall vote against everything of that kind.

Mr. HALE. I consider that this proposition will fail, unless it is taken up now. If Senators are determined not to do anything on the subject, they will refuse to consider this resolution at this time; otherwise I hope they will take it up. I ask the yeas and nays.

Mr. HUNTER. I would inquire if a majority can suspend the regular order, or whether the rules of the Senate do not require unanimous consent?

The PRESIDENT. It requires only the vote of a majority, and not the unanimous consent, to take up any order.

Mr. BORLAND. I hope that the Senate will take up the measure of the Senator from New Hampshire. I feared when we receded, yester-

day, from our amendment to the House resolution, that it was an abandonment, or, rather, a final rejection, of the claims that these laborers have put up—very properly, I think—for this compensation; but if there is a chance to give them any relief, I think that an effort ought to be made, and that there is no better time for it than now. I am unwilling that they should be kept any longer in suspense. If we mean to recognize their claims at all—as we all fully understand the question, and as there is no necessity for any further debate—I cannot conceive why we should not proceed at once, at least to relieve them from suspense.

Mr. BADGER. I am in favor of this joint resolution, but I hope that it will not be taken up now.

Mr. HALE. Then it will never be taken up.

Mr. BADGER. It will give rise to debate, and do injustice to the honorable Senator from Michigan, [Mr. Felch,] who is entitled to the floor, and should be permitted to go on with his remarks to-day.

Mr. CASS. I shall vote for the resolution, if its being taken up does not prevent my colleague [Mr. Felch] from going on with his speech. If it occupies the time of the Senate, so as to prevent him from going on, I shall vote against it. He is entitled to the floor by every rule of courtesy, and should be allowed to proceed.

Mr. HALE. I understood that the Senator from Michigan would not occupy the time of the Senate for more than an hour. If this resolution is taken up and occupies more than an hour I will myself move to lay it on the table.

Mr. CASS. It will then be too late in the day. No person wants to commence a speech at almost three o'clock. The Senator from New Hampshire is meting out to my colleague a measure which he would not like to receive himself.

Mr. HALE. I withdraw it, although it is so difficult for me to obtain the floor that I despair of ever getting it again. [Laughter.]

#### FRENCH SPOILIATIONS.

Mr. BADGER. I move to postpone all previous special orders, with the view to take up the French spoliation bill.

The motion was agreed to, and the Senate accordingly resumed the consideration of the bill to provide for the ascertainment and satisfaction of the claims of American citizens for spoiliations committed by the French prior to 1800.

Mr. FELCH spoke for over an hour and a half in continuation of his speech commenced on Monday, in opposition to the bill. His remarks will be published hereafter.]

Mr. DOWNS. I desire to have an Executive session, and I move therefore to postpone the further consideration of the bill until to-morrow. In making this motion, I will state that I have no disposition to address the Senate upon the subject.

Mr. CLARKE. I wish the honorable Senator would waive that motion for a moment, and allow me to ask the unanimous consent of the Senate to present a memorial.

The PRESIDING OFFICER. (Mr. HALE temporarily occupying the chair.) The subject before the Senate must first be disposed of.

Mr. BRADBURY. I hope the honorable Senator from Rhode Island will withdraw that request, and leave this bill in its present position. He can present his memorial to-morrow, in the morning hour.

Mr. CLARKE. That will make no difference as to the disposition of this subject.

Mr. BRADBURY. It will be no longer the order of the day.

Mr. HUNTER. I hope the bill will be disposed of, for to-morrow I shall ask the Senate to take up the deficiency bill.

Mr. DOWNS. I wish to get an Executive session. If it can be obtained without a postponement of this bill, I would take that mode.

The PRESIDING OFFICER. This subject must be disposed of.

The motion to postpone was not agreed to.

Mr. BRADBURY. The honorable Senator from North Carolina made an appeal to me that he may be permitted to occupy the floor for a few moments, on a matter personal to himself, without any postponement of the subject. By general consent, I hope that privilege will be accorded to the honorable Senator.

Mr. MANGUM. I made the application re-

ferred to by the honorable Senator from Maine. I did desire, that by the courtesy of the Senate, it would extend to me the privilege of being heard for some ten or fifteen minutes, upon a matter which might be dove-tailed in as a sort of parenthesis in the discussion of the French spoliation bill. But it is a matter that pertains more particularly to myself; and it is asking a very large favor of this body for one so very humble to be allowed that length of time. I hope that in the morning the Senate will have the courtesy to extend to me the favor of occupying its attention. I believe this is the first time in my life, after a service of many years, that I have asked such a favor.

Mr. ADAMS. Will the Senator proceed now?

Mr. MANGUM. I would prefer to go on to-morrow morning; and, therefore, I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 14, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. L. F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the report of the Committee on Printing, upon which the gentleman from Mississippi [Mr. Brown] has the floor.

Mr. SIBLEY. I desire the unanimous consent of the House to introduce a resolution, which I ask may be read for information.

It was read by the Clerk, as follows:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency—first, of reporting a bill to allow the settlers on the public lands in Minnesota Territory, who have settled on school sections previous to the survey, to enter such lands upon payment of the minimum price; and secondly, of permitting the Territory aforesaid to select other lands, of equal value, in lieu thereof.

There was no objection, and the resolution was received and adopted.

#### THE PUBLIC PRINTING.

Mr. FLORENCE. If my friend from Mississippi, [Mr. Brown,] who is entitled to the floor, will permit me to place the resolution I had the honor to offer yesterday in a better position before the House, I will be very much obliged to him.

Mr. BROWN. I do not know what the gentleman wants.

Mr. FLORENCE. I will inform the gentleman. I offered yesterday, during the confusion, a resolution. It now appears by the rules of the House that a joint resolution was necessary—

Mr. BROWN. Before the gentleman progresses with his resolution, I desire to inquire of the Speaker how much time I have left?

The SPEAKER. The Chair understands from the gentleman who occupied the chair when the House adjourned, that the gentleman has twenty minutes.

Mr. FLORENCE. I will occupy but a minute of the gentleman's time.

Mr. BROWN. I hope the gentleman will be as brief as possible.

Mr. FLORENCE. That joint resolution, offered amidst the confusion of the debate yesterday, was not read, as the rule requires, a first and second time, and it is a matter of doubt whether it is properly before the House. I now desire to withdraw that resolution. It will leave the proposition to print before the House, and the gentleman from Mississippi [Mr. Brown] occupies the floor upon that motion. I will then move to recommit the report to the Committee on Printing, with instructions to report the following bill, which I ask to have read.

Mr. BROWN. I cannot spare the time for reading all those papers.

Mr. HAVEN. I rise to a privileged question. Not, however, to occupy the gentleman's time.

Since I have taken my seat this morning my attention has been called to a report of the remarks which I made yesterday, which I now desire to put right, as it may do some injustice to Mr. Towers and Mr. Rives. I am reported as saying:

"The next was by Mr. Towers. As I understood, Mr. Rives told me that Mr. Towers would not be able to perform the work without some aid; that he could make nothing out of it if he took it at his bid, but that he would be

willing to aid him in reference to that; and, as I understand him, his [Mr. Rives] bid was the next lowest."

There is a slight inaccuracy in this. I learn from Mr. Towers that his bid for this fourth class of printing, which includes these extra numbers, was a better bid for the bidder than that of Mr. Rives; that is, it was not so low as Mr. Rives's bid. Mr. Towers informs me that his was a fair business bid, at a low price, but upon which he could make something. I have made this explanation at the request of these gentlemen.

Mr. FLORENCE. I wish to submit my bill.

The SPEAKER. The Chair understood the gentleman from Pennsylvania [Mr. FLORENCE] to withdraw his resolution of yesterday, and to signify his purpose to offer another one.

Mr. FLORENCE. That will answer.

Mr. BROWN, of Mississippi. Before I enter upon the subject which was under consideration at the time of adjournment yesterday, I desire to correct an impression which I ascertain to have made a lodgement upon the minds of some gentlemen, whose opinion I prize very highly. And that is, that I have been actuated in my course by some feeling of personal hostility to the parties engaged by the committee to execute the public printing. I desire to say, once for all, that I distinctly disavow any such feeling. My personal relations with all the gentlemen, (or with all of them that I know,) are of a friendly character, and I know of no reason why they should not so continue. I owe them no thanks for past favors, and no grudge for past injuries. Occupying such a position, I can deal out to each one, and to all of them, equal and exact justice.

It seems to me, that in the action of the committee upon this subject of printing, there has been no *bona fide* effort to employ any one to execute the work, except Donelson & Armstrong. With the majority of the committee on the part of the House of Representatives, this appears clearly to have been the case. It seems that no other establishment was thought of, in connection with this printing, or was treated as worthy to receive it, except the Union establishment. With the majority, it was Donelson & Armstrong at the beginning—it was Donelson & Armstrong through its whole progress—it was Donelson & Armstrong at the conclusion.

Mr. STANTON, of Kentucky, (interrupting.) Will the gentleman from Mississippi allow me to say a word?

Mr. BROWN. If I am at all mistaken, I want to be corrected—

Mr. STANTON. The remark the gentleman has just made does not apply to me. I attempted, at an early part of this struggle, to get this work divided out to Donelson & Armstrong and John T. Towers, and offered a resolution to that effect. I did so for this reason: because there was a necessity, at the time, of doing something. I thought those gentlemen were prepared to do the work, and I proposed to the committee to give to them such work as the public printer could not, or would not, do.

Mr. BROWN. Still I find, from the explanation of my friend from Kentucky, [Mr. STANTON,] that he insisted upon having Donelson & Armstrong in the contract somewhere. Now, sir, while these gentlemen [Messrs. STANTON and GORMAN] were indulging their predilections for their friends, it seems they never thought of indulging other gentlemen to the same extent. They, it seems, had their likes for Donelson & Armstrong, and their dislikes for other printers and editors, and it was all right that they should indulge them. But if other people indulge their likes and dislikes, then these gentlemen think it is all wrong. They think it very odd that other gentlemen should refuse to give up their opposition to Donelson & Armstrong; but they seem at no time to have been willing to yield their position in favor of these gentlemen. These facts being true, I say there does not seem to have been a *bona fide* single purpose of procuring the public work to be done in the speediest manner, and by those who would do it the cheapest and best. But there seems to have been but one purpose, running throughout the whole proceedings, from the beginning to the end, and that was to favor the printing establishment of Donelson & Armstrong. That I object to. I do not object to those particular individuals. What I object to is this: that the committee did not go to work in good faith to

obtain the printing upon the best terms, but that they made the public interest secondary to the private interest of the Union establishment. Their position appears to have been, that unless Donelson & Armstrong could be included in the contract, they would make no contract. This, in my judgment, was wrong. Why not contract with other parties, if they would do the work as speedily and as cheaply? Why did the committee, from the beginning to the end, insist, without special reference to the speedy completion of the work, that this particular establishment should be included in whatever contract was made? It was the duty of the committee to have given the contractor every reasonable indulgence, and if he failed or refused to do the work, to have reported that failure to Congress; and if they put the work in other hands they ought to have employed the man who would do it the quickest, cheapest and best.

The honorable gentleman, the chairman of that committee, [Mr. GORMAN,] in the course of a colloquy yesterday, endeavored to impress upon the minds of this House, and so far as his printed speech could do it, upon the minds of the country, that there was something like an understanding between gentlemen entertaining extreme views; or, in other words, between what is called the Southern ultras and Northern Free-Soilers. An intimation was more than once made in the progress of the debate that there was something like a coalition between these extremes, and that by agreement they were acting in concert upon this question. No such thing is true of me. I repudiate any such insinuation, come from what quarter it may. I act here solely and alone, upon my own responsibility, never asking, never inquiring, and never caring whether any other man North or South is or is not acting with me.

The gentleman from Indiana [Mr. GORMAN] intimates that he will expose these understandings. For me, he is quite at liberty to begin. But before he puts my friends or myself on trial, I would advise him to try his hand on his associate, the gentleman from Kentucky, [Mr. STANTON.] He is a capital subject to practice on. I shall expect to hear him say, "RICHARD STANTON, slaveholder and pro-slavery Democratic Representative from the slaveholding State of Kentucky, stand up and answer to this House, by what warrant you were found in an unholy coalition with TRUMAN SMITH, Free-Soiler and Abolition Whig Senator from Connecticut, voting to divide the public printing between the Union and the Republic?" It would be an interesting trial, and I should watch its progress with great interest. Let the gentleman settle accounts like this between his colleagues on the committee before he charges coalition upon others. It seems there is no account taken of coalitionists like theirs. But if persons occupying such extreme positions as the gentleman from Massachusetts and myself are found opposing a bargain made by others holding quite as extreme positions as we do, we hear a great outcry about Coalition! Coalition! If the bargain was made by a coalition, it may be opposed in the same way. If there was nothing wrong in the gentleman from Kentucky [Mr. STANTON] and TRUMAN SMITH acting together in making the bargain, there can be nothing wrong in the gentleman from Massachusetts [Mr. RANDOLPH] and myself acting together in opposing it. If I am found acting with gentlemen entertaining extreme views against the contract, it will be found that it was made by gentlemen holding opinions just as extreme.

Mr. STANTON, of Kentucky, (interrupting.) If the gentleman from Mississippi will allow me, I will tell him the result. We succeeded in bringing over a Connecticut Whig Senator and Abolitionist to the support of a compromise press.

Mr. BROWN. Yes, sir; and when he came over he brought with him a Whig paper which has heaped more abuse upon the Democratic majority of this House than all the presses from Maine to Louisiana. Its columns teem from day to day with abuse of members of this House whose Democracy has never been questioned—Northern men and Southern men. When you talk about your Free-Soil ally from the North going for a compromise press, let me remind you, that he carried you over to the Whig press, and that one, the most vindictive of them all. The country will inquire how this was brought about; how, with an overwhelming Democratic majority in this

House, and an equally effective Democratic majority in the Senate, you have not been able to choose a Democratic printer? Why it was that the Republic was fastened upon us? Why has this coalition been formed? These are the questions that will be asked. And the answer will be, that Donelson & Armstrong might be provided for. That is the whole secret of the matter—that is the nest in which the coalition was hatched.

Mr. POLK, (interrupting.) Will the gentleman from Mississippi allow me to propound a question to him?

Mr. BROWN. Simply a question.

Mr. POLK. Will you vote to elect the compromise Union press to be public printer?

Mr. BROWN. I will not vote to elect any newspaper editor public printer. I said so yesterday.

Mr. KING. I rise to a question of order.

Mr. POLK. I see the coalition is now formed. The gentleman from New York, [Mr. KING,] a Free-Soiler, says I am out of order. [Laughter.]

Mr. BROWN. I beg not to be interrupted by a side-bar colloquy.

The SPEAKER. The Chair understood the gentleman from Mississippi to yield the floor to the gentleman from Tennessee, [Mr. POLK.]

Mr. BROWN. I did for a question, but not for a colloquy. Now, let us see, sir, to what strange reasons gentlemen of this committee are driven in justification of their course. The honorable gentleman who sits before me [Mr. HAVEN] says that he objected to Mr. Rives's doing this work, he already had a large and important job from the Government. How many important and profitable jobs has the Republic under the Government? Who does not know that the Republic newspaper is fattened and made sleek by the pap it receives from the Executive Departments? All this the gentleman takes no account of. It was his sow that was drinking the swill, and he never thought it worth his while to change it.

If this printing had to be divided out, why was not mere justice observed in the division? Why should the committee have confined themselves exclusively to the Union and Republic? Why take two newspapers, occupying extreme positions, and turn all others out? Why not take in the "old fogies" of the Intelligencer? Why were they, like Nebuchadnezzar, turned out to grass? I do not see any reason why they should not have had a share. They are for the compromise. Was it because they had not been peculiarly abusive of the Democratic party, and of the Democratic members of this House? I must confess, sir, if I had to elect between Donelson & Armstrong and the Intelligencer, on the one hand, and Donelson & Armstrong and the Republic, on the other, I would take the Intelligencer by large odds.

I ask the attention of those gentlemen to what I am about to say. What are we to understand by this procedure? My friend from Indiana, [Mr. GORMAN,] on yesterday, when he came to allude to the Southern Press, to which he evidently thought I was much attached, and in whose service I was laboring, (and in all of which he was very much mistaken,) became almost frantic. His manner was excited, and he became a little denunciatory for a gentleman of his amiable temper. [Laughter.] Why was this? Why was it thought necessary thus to denounce the Southern Press. That paper, as is well known, reflects the sentiments of a large number of the Southern Democrats. Are we to understand in its exclusion, and the bitter denunciations which follow the mention of its name, that such portion of the Democracy as sympathize in the sentiments uttered through its columns, are also to be proscribed, excluded, and denounced? Is this what we are to understand? And if we are, where is this proscription to stop? If Southern Democrats, who sympathize with the sentiments uttered through the columns of the Southern Press, are to be proscribed before the election, what is to be their position after the election? These are matters, sir, to be reflected upon.

Now, I am free to say to you, Mr. Speaker, to the House, and to the country, that my vote and my course in the presidential canvass are not to be controlled by your action upon this subject. But I am not authorized to say that your action may not control the votes of hundreds and thousands of others in the South. If you shall indicate to them, that because certain newspapers and gentlemen have defended what they believe to be the

rights of the Southern States, they are therefore to be proscribed, they will probably feel it to be due to their own dignity and self-respect to proscribe you in return. Lightly as gentlemen may think of it, this view of the subject may be found worthy of consideration. There are in the States of Georgia, Alabama, and Mississippi alone, one hundred thousand State-Rights men. Proscribe them, proscribe the organ that more nearly than any other in this city reflects their views, and do it because of those views, and I tell you, I will not be accountable for the manner in which they will dispose of their votes. They may not ask favors at your hands for themselves or for any one else, but they may feel it to be due to their own self-respect to resent an insult—to resent proscription. I will not undertake to say what they will do. I am not authorized, as I have said before, to state what their future action will be; but I do feel authorized, in a friendly way, to say that you should be cautious how you act. You may endanger the success of your presidential candidate. You may endanger a matter infinitely more important to me than the public printing. You may endanger the patronage of the President, and the distribution of the \$50,000,000. A little caution and a little good temper, properly exercised, and a slight sprinkle of justice and common sense, may save a deal of trouble by and by. It is one thing to give up that which is one's due voluntarily, and it is another thing to have it snatched away, and that in so rude a manner as to give offense. I repeat again that I do not want any part of this printing for any friend of mine on earth. But I should not like to be told that certain parties could not have it because they were my friends. And I think it likely this may be the feeling of a great many Southern people.

I do not care, sir, to pursue this discussion. I have said about all that I care to say, and if I go further, I may say that which had better be left unsaid. The concluding portion of my remarks, I throw out only as a friendly warning to my political brethren here. They can receive them in a friendly spirit or not. I want it to be understood, and it is all I have to say, that when proscription commences for opinion's sake, there can be proscription upon one side as well as upon the other. I offer the following resolution. It is not my own, and does not fully meet my approbation. A friend has handed it to me, with a request that I should offer it. I do so in compliance with his request:

*Resolved*, That the report of the Committee on Printing be referred to the Committee on the Judiciary, with instructions to report upon the whole subject, and to recommend for the adoption of Congress such a system for the execution of the public printing as they may deem most expedient, and that they especially take into consideration the plan for a printing bureau, for the execution of the work under the supervision of a Government officer."

Mr. BROWN. The Judiciary Committee had been selected, because in taking this contract, if it must be taken, out of the hands of Hamilton, and disposing of it otherwise, legal questions must necessarily arise, which it will be better to have passed upon by the Judiciary Committee than any other. I have done, sir.

Mr. FLORENCE. I move to amend the instructions by adding thereto the words, "and that they especially take into consideration the following plan for a printing office:"

A BILL to establish a public printing office, and to provide for the appointment of a superintendent of public printing.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be appointed by the President, by and with the advice and consent of the Senate, a superintendent of the public printing, who shall be a practical printer, of education and experience in the business of printing, the term of whose office shall be four years, unless sooner removed by the President, or by joint resolution of the Senate and House of Representatives; who shall receive an annual compensation for his services of \$3,000, and give bond to the United States in the sum of \$10,000, with sufficient sureties, to be approved by the Secretary of the Interior, for the faithful performance of the duties of his office.

*Sec. 2. And be it further enacted*, That the said superintendent shall take charge of and be responsible for all original or other matter directed by the proper authority to be printed, and cause the same to be promptly executed, as required, and shall return it in good order to the officer from whom it was received, as may be required by such officer; and it shall be his duty to purchase of A. Boyd Hamilton, for the United States, his printing establishment in the city of Washington, now used by him as the public printer, at such price and upon such terms as they may agree; such agreement to be approved by the Secretary of the Interior, not exceeding \$—; and also to purchase for the United States, as the same may be required, at the

usual and at reasonable prices, such presses, type, and other printing materials as may be necessary for the execution of all the printing required at the seat of Government, by or for the use of either of the Executive Departments of Government, or by either or both Houses of Congress; to employ, at the usual and proper wages, such foremen, compositors, pressmen, proof-readers, and other persons, as he shall deem indispensably necessary for the accurate, speedy, economical, and faithful execution of the public printing, and to discharge either of them for incompetency or other sufficient cause, to be stated by him on the records of the office; to purchase by contract, after due notice for sealed proposals, of the lowest and best bidder, and according to the quality of the samples to be exhibited by him, all such paper as may be necessary for said printing; and to render an account annually to each House of Congress, (or oftener if required by either House,) of all his expenditures for the purposes aforesaid.

*Sec. 3. And be it further enacted*, That it shall also be the duty of the said superintendent to pay, on the first day of every month, all bills for the purchase of materials for the use of the said office, and all wages due to the persons employed in and about said establishment for their labor during the preceding week; and for that purpose he shall be authorized to draw monthly from the Treasury of the United States all such sums of money as may be required therefor, to be ascertained by a statement thereof to be made by him, and presented to and approved by the Secretary of the Interior; and on such approval he shall be authorized to receive the said sum from the Treasury.

*Sec. 4. And be it further enacted*, That the said superintendent shall appoint a practical bookbinder, possessing a thorough knowledge of the business, who shall receive \$1,000 a year for his services. And the said bookbinder may, with the approbation of the superintendent, employ such bookbinders and other persons as may be indispensably necessary to a neat, prompt, and economical execution of the folding, stitching, and binding, that may be directed by law, or by the order of either House of Congress, or be necessary to secure together the several sheets of which a document may consist; the wages of such bookbinders and other persons to be regulated by those paid for similar services in other binderies in the United States, and be paid by the said superintendent; and the said superintendent shall have the power to discharge the said binders and other persons whenever the public interest shall require, and he shall purchase all the materials required for said binding in the same manner as is heretofore directed for the purchase of paper.

*Sec. 5. And be it further enacted*, That all printing directed by law, or by either of the Executive Departments of the General Government in pursuance of law, or such as may be necessary to the execution of law, and all other printing directed by the Senate or House of Representatives, or both, and all folding, stitching, and binding required for the same, or directed by law, shall be executed at the said public printing office, and in the manner required; but no private printing or binding of any description whatsoever, or for any person or persons whatsoever, shall be received at or executed in the said office; and any infraction of this prohibition, by any person belonging to either of said offices, shall be deemed and acted upon as a good cause for the removal of such person so offending from public employment.

*Sec. 6. And be it further enacted*, That for the regulation and government of the persons, business, expenditures, and every other object or matter connected with the said public printing office, rules shall be prepared by the said superintendent, the Secretary of the Senate, and Clerk of the House of Representatives, which, when confirmed and approved by the Committees on Printing of both Houses of Congress, shall be binding, and shall be observed and enforced by the said superintendent.

*Sec. 7. And be it further enacted*, That the resolution entitled "Joint resolution directing the manner of procuring the printing for the two Houses of Congress," approved August 3, 1876, shall be and the same is hereby rescinded.

*Sec. 8. And be it further enacted*, That the said superintendent shall not be the editor, proprietor, or publisher of any newspaper, pamphlet, magazine, periodical or printed paper of any sort, nor in any way concerned or interested therein, or connected therewith. He shall only employ in said offices skillful, practical, industrious, and sober workmen, to be selected by him on his own responsibility, with a view to their qualifications only; and the said superintendent, before entering upon the duties of his office, shall take an oath before a judge of the circuit court of the District of Columbia, which oath shall be filed in said court, that he is in no way interested in any such newspaper, magazine, or periodical aforesaid, and will not become interested therein during the term for which he shall have been appointed; and if at any time he shall become so interested, the said office shall thereupon become vacant, and the person so offending shall be incapable of holding the said office hereafter; and if it shall appear that he was so interested, either at the time of his appointment, or at any time thereafter, he shall be prosecuted before the said court, and on conviction, punished for wilful perjury.

*Sec. 9. And be it further enacted*, That the Committee on Printing, whenever the public printer fails to do any printing ordered by the House according to his contract, be instructed to advertise, for ten days, for proposals to print each order in the manner prescribed by the printing contract, and to award the printing of each order of the House to the lowest responsible bidder.

The SPEAKER. Does the gentleman from Pennsylvania withdraw his motion made yesterday to recommit the bill?

Mr. FLORENCE. I do, if the proposition I have submitted will then be in order.

The SPEAKER. It will be in order.

Mr. FLORENCE. Then I withdraw my motion to recommit, and submit the proposition to amend the instructions moved by the gentleman from Mississippi, [Mr. BROWN.]

Mr. JONES, of Tennessee. Is it in order to amend a resolution by a bill for an act of Congress?

The SPEAKER. The gentleman from Pennsylvania has the floor, and proposes to amend the instructions to the Judiciary Committee, that they consider specially the propriety of reporting the bill indicated by him.

Mr. JONES, of Tennessee. They are instructed in the resolution of the gentleman from Mississippi, to take into consideration the establishment of a Government bureau.

The SPEAKER. The Chair understands the gentleman from Pennsylvania as proposing to add these words: "That the said committee shall consider specially the propriety of adopting and reporting the particular bill."

Mr. FLORENCE. Yes, sir, if it is in order.

The SPEAKER. It is in order, in the opinion of the Chair. Does the gentleman from Pennsylvania desire to address the House?

Mr. FLORENCE. I do, sir.

The proposition to amend was then read.

Mr. STANLY. Will the gentleman from Pennsylvania allow me to ask him a question. I desire to know, sir, if this bill, or the resolution of the gentleman from Mississippi, makes any provision for the printing of the present session of Congress until that bill shall be enacted into a law?

Mr. FLORENCE. The last section directs the Committee on Public Printing to contract with any person, after ten days' advertisement, for the work that the public printer fails to execute. It is the same as the resolution which the gentleman will find reported in the Globe of this morning, and which I offered yesterday.

Mr. STANLY. Of course, that does not operate until this law is enacted.

Mr. FLORENCE. There is not any provision for the purpose suggested by the gentleman from North Carolina, [Mr. STANLY,] for I take it for granted that the public printer is able—if he is permitted to do so—to complete the work for which he has contracted; at least, such is his declaration.

Mr. Speaker, I do not desire to detain the House for a very long time in reference to a subject so fruitful, and the cause of so much agitation, as the public printing has been for the last quarter of a century. I desire only to go briefly through the history, as I best can, from a recollection of the circumstances and facts, of the many ungenerous attacks that have been made upon the gentleman now holding the contract, and to assume the position, which, to my mind, is incontrovertible, that this is the reason why he is not able to perform his work, and the sole cause of the present difficulty in relation to it. But before I proceed with that, I desire to say that I do not agree with my friend from Mississippi, that the contract system ever can be perfected. I do not believe that it is susceptible of any improvement. My acquaintance with the plan, method, or mode by which contracts for all the supplies of the Government are generally entered into, justifies me in this conclusion.

Now, sir, every gentleman who is engaged in commercial or any other of the various mercantile pursuits, or who has ever had an opportunity of contracting with the Government, is acquainted with the plan which it is very generally understood is adopted. Why, sir, I can take up any newspaper in which the proposals are published for contracts with the Government, and show the manner in which they are given out. If any gentleman here has a copy of the Republic with him of this morning, I will be much obliged to him for it, and I will give a sort of illustration, as I understand it, how contracts are obtained at low prices.

[A MEMBER here handed a copy of the Republic to Mr. FLORENCE.]

For instance, Mr. Speaker, here is an advertisement for small stores, issued by the Bureau of Provisions and Clothing. Well, sir, those gentlemen who are familiar with the subject of taking contracts, may perhaps (I do not wish to asperse anybody) have a friend at court—one of the clerks in the Department, perhaps—who knows the exact quantity of articles that are required, and who informs the bidder for the supplies that so many of one article is required, and so many of another; and the consequence is, that the gentleman making the proposal agrees to supply a certain article, of which very few are wanted, at a very low price.



For instance, here are shaving-boxes, shaving-brushes, scrubbing-brushes, shoe-brushes, down to *beeswax*. There is a large number of shaving-boxes, shaving-brushes, scrubbing-brushes, and shoe-brushes wanted, in all probability, but a very little *beeswax*, and the consequence is, that the contractor puts down *beeswax* at a *very low price*, and all the other articles—the shaving-brushes, and so on—at a *high price*. This course is adopted with respect to every article, and the consequence is, that a general average price is made, and the man who offers to supply *beeswax for nothing*, gets the contract. So it is, it is but fair to presume, with printing. I had a conversation with a gentleman this morning, who had offered to contract for the public printing—

Mr. POLK. Let us have his name, if you please.

Mr. FLORENCE. I do not think it at all necessary to give his name.

Mr. POLK. If the gentleman intends to make a proposition to the House, we should know the name of the person with whom he had this conversation.

Mr. FLORENCE. I merely intend to state the nature of the conversation.

Mr. POLK. If any man intends to make a tangible proposition, we should know the name of the person with whom he conversed.

Mr. FLORENCE. I do not intend to do any such thing, but I merely wish to state the conversation I had with him this morning, which was quite accidental. As, however, there is no secret to divulge, I presume I may, without impropriety, or a violation of confidence reposed in me, mention the gentleman's name; and to gratify the honorable member from Tennessee, [Mr. Polk,] I will do so. I have, therefore, no hesitation in informing the gentleman and the House that the name of the gentleman to whom I have alluded is JOHN C. RIVES. He told me, if I understood him correctly, that he had, in his proposal for the printing, offered to supply the "yawls" and "gun-boats," as he called them, for nothing; but that he intended to be reasonably paid for the "seventy-fours" that he furnished to the Government. But let me explain this more fully. The gentleman of whom I speak, said that he had offered, in his contract, to give to the House the list of yeas and nays, the calendar, the bills, all of which he represented, in his peculiarly facetious manner, to be the "gun-boats" and "yawls," for nothing; but that the "seventy-fours," consisting of the public documents, out of which, as I understand it, the profit was to be made, he intended to supply at a pretty good price, to liberally compensate him for the responsibility so assumed. That, sir, is the practical working of the whole contract system, and for this reason I am not in favor of it; because I do not believe that the public good is thereby promoted, or is the work perfected as it ought to be; nor do I believe, sir, that it is of any advantage to the Government, so far as excellence of workmanship or expedition is concerned. At the time that the bill which I have had the honor to submit to the House was presented—or nearly the same bill, because there are only one or two sections added to it—I took pains to inform myself, as far as I could, of the opinions of various gentlemen engaged in the printing business. The Printers' Union of Philadelphia, composed of from five hundred to six hundred very intelligent gentlemen, at my request—I do not, however, egotistically state this fact—appointed a committee for the purpose of considering the bill offered by Mr. Doty to this House, and after full investigation of the matter before them, the committee reported the following resolution, which was adopted with marked unanimity, as will be seen, by the laudable and praiseworthy association, who have united to mutually promote the interests of "the craft," of which they are worthy and exemplary members. I will read their proceedings, so far as action has been had upon the subject of the establishment of a National Printing Office:

"At a recent meeting of the Printers' Union, of Philadelphia, the following resolution was unanimously adopted:

"Resolved, That we recommend the immediate passage of the bill now before Congress, (introduced by Mr. Doty,) for the establishment of a public printing office, believing it to be the commencement of that progressive reform which will, eventually, secure to the toiling millions their due position in society, and a fair compensation for labor in every useful occupation. M. C. BROWN, President.

"Extract from Minutes.

"JOS. M. WOLFF, Secretary."

This, sir, is the deliberately-considered opinion of the Printers' Union of Philadelphia, and I believe it to be a disinterested one, because I cannot suppose that a single one of these gentlemen could ever have expected, or is, indeed, looking forward with any reasonable degree of hope to occupy a position, for which all or any of them are eminently qualified, in the national printing office. But if he did, sir, there is an assurance that he would render a full equivalent for any compensation the Government might be called upon to give him; and hence, the position the gentleman would occupy in his industrial or professional relation to the Government, would be *equal*, as he would render a full and fair equivalent in labor for all he might receive, in the shape of pecuniary compensation from the National Treasury. I repeat that I regard this, sir, as a perfectly disinterested opinion, given from the practical knowledge, or the practical anticipations of the working of such an establishment, and the advantage which would be derived from it to the Government.

It has been said, that Mr. Hamilton is not able to execute his contract; I stated at the commencement of my remarks, which I beg to repeat, that, in my humble opinion, the opposition made against him brought about this result. I stated that, sir, and it is my opinion that such is the fact. About the time, or soon after this contract was made—with which every gentleman is familiar—it was spread broad-cast over the land, that the price for which Mr. Hamilton had contracted to do this work—to perform the public printing—would result, inevitably, in his ruin; and that it would be impossible for him to accomplish it. It was then further said, sir, that no responsible person would consent to become surety for him; and I believe—and if I am not correct in my recollection, I hope to be corrected by some gentleman upon the floor of this House—I believe the heretofore unsullied character of his securities was grossly assailed, their responsibility doubted, and, indeed, I am informed that such declarations were given general currency to in one or more of the papers of Washington city. They were alleged to be "men of straw," to use the language applied to them; and it was said that there was no responsibility either in the public printer or in his sureties. Now a word to as that, sir. One of these gentlemen to whom I have referred, in his relation as surety for the public printer, is a constituent of mine, who I have the honor to represent on the floor of this House. I refer particularly to Mr. William Badger, and I assert here before this House and before the nation, that there is not a more responsible gentleman than he is, so far, at least, as he has entered security, and I have no hesitation in declaring it to be my belief that his means are quite ample enough to justify him for entering into the responsibility which he has assumed. I repeat, sir, then, I believe his resources are quite ample, and I further say that he is worthy of the consideration of this House, and that it is a libel upon that gentleman; it is an assault upon him which I cannot permit to pass by unnoticed, without saying as much as I have said in relation to him.

Mr. STANLY. Mr. Badger is a responsible surety, you say?

Mr. FLORENCE. I do, sir. He is a responsible surety. He is not "a man of straw." I have good reason to know that, for he voted for me and helped to send me here. [Laughter.]

The name of another of these gentlemen is Mr. Louis Pelouze, who resides in Philadelphia, and who supplies most of the types that are used upon the different newspapers in the city of Philadelphia, throughout the State of Pennsylvania, and perhaps for those published here. This gentleman is possessed of a very large establishment, and I take it for granted that he is entirely competent for the amount for which he has assumed the responsibility, and hence, I do not consider that he is "a man of straw." But, sir, sufficient for the purpose is it that I have said as much as I have in vindication of Mr. Badger and Mr. Pelouze. I believe them—I verily believe them to be entirely competent for the performance of the obligation they have assumed, at least in becoming sureties for the execution of the contract entered into by Mr. Hamilton.

During the third week of this session, the subject of the public printing was introduced into this House. It was alleged then, because it was anticipated I suppose, that the public printer was not

competent to fulfill either the letter or spirit of his contract. Well, now, if gentlemen will go back with me, they will recollect that during or about that time all of us were frozen up here in Washington—communication by means of the railroad or by the river Potomac with the East was interrupted. It was said and urged, as a forcible reason why the appropriation should be made for the extension of the wings of the Capitol, that a large number of the working men engaged upon that work were frozen up here and were suffering, because they were deprived of the proceeds of their labor. The Susquehanna river, for a long time, was filled with ice. I recollect perfectly well that I remained in Washington about two months, because I did not feel it safe to trust myself in crossing the Susquehanna.

Mr. POLK. I suppose, good men being scarce, the gentleman took care of himself.

Mr. FLORENCE. Yes, sir, I did. To resume: Consequently the supplies he had contracted for failed to reach him. I suppose the contractor with him failed to fulfill his agreement, as almost all contractors do, unfortunately. He contracted for the paper, he contracted for other material—all else that was required for the adequate establishment of his printing office, all of which was prevented from being transmitted over the roads or by the river to Washington. I understand that the public printer adduced that as a reason why he failed in the immediate performance of the work which was intrusted to him at that time. I understand him to say that a large lot of paper which had been sent in a vessel from the East, or from New York, or Philadelphia, was frozen up in the Potomac river. It is not material for my purpose to specify particularly from whence it came. The fact alleged by the public printer I believe to be true. While the public printer could not control the elements—while the winter was the most severe we have experienced for a series of years, and it could not have been anticipated that this interruption would have occurred—it was at least some excuse why the work had not progressed beyond the point which it had at that time. For that reason the Committee on Public Printing should have extended some generosity to him. However, the chairman of the Committee on Public Printing—and a most energetic and devoted chairman he is—declared—and he is to be commended for his candor—that his object was to give the printing to a party press—that his object was to give the printing to Donelson & Armstrong, and that it became the Democratic majority of this House to support their organ. Well, Mr. Speaker, I know by experience the disadvantage resulting from a want of support to the organ of a party. So far as that matter is concerned, if it could be legitimately given, I sympathize most deeply with the gentlemen. I have myself paid for the privilege of printing a Democratic newspaper. I am a victim—a martyr, perhaps, in the field of Democratic newspaper enterprise. [Laughter.] Well, sir, to accomplish the purpose in view, I am forced to conclude, was only to be brought about by breaking down A. Boyd Hamilton, the public printer, so as to enable the committee or the House to give the printing to Donelson & Armstrong. Now, while I was very willing—perhaps I even participated somewhat in the desire to do so, or perhaps I did not, it is not material either way, to permanently establish a Democratic organ, and to practically sympathize with them, by voting "material aid" to Donelson & Armstrong, I was not willing to consent that one Democrat should be broken down to elevate and build up another.

A VOICE. That is the point.

Mr. FLORENCE. Mr. Hamilton happened to be a constituent of mine. He happened to be for a long time connected with the Democratic press of Philadelphia city. I could not understand, and I so declared upon the floor of this House, the policy of giving the public printing to a Democrat with a newspaper, to the exclusion and destruction pecuniarily—for that would have been the inevitable result—of a Democrat without a newspaper. Ruin would stare the latter in the face. For the life of me, with all the investigation I have been enabled to give the matter since—with all the labor I have bestowed upon it—although four months have transpired—I cannot see how this discrimination can be justified. A. Boyd Hamilton, it is said, is not competent to perform his contract. I venture the assertion, notwithstanding

the declaration made in the House yesterday, in relation to the *monk and friar* work, that his work will bear comparison with any public work heretofore done by contract; or in any other manner, in the city of Washington. I have, accidentally, before me a report, known as "Foster & Whitney's Report;" I open it at the two hundred and forty-first page, and venture the assertion here, because I have had some experience, that the printing, typography, paper, and general appearance of the work—there is an absence of *monks and friars*, (printers' technical phrases,) and all other strange gentlemen—will compare with any other printing previously done for the Government.

Mr. GORMAN. Will the gentleman say whether the document he holds in his hands complies with the contract, or not?

Mr. FLORENCE. I cannot say.

Mr. GORMAN. Do you not know that it does not?

Mr. FLORENCE. I do not, sir.

Mr. GORMAN. I hold in my hand the specimen which was attached to the contract. The paper upon which that document is printed is inferior to it by ten pounds.

Mr. FLORENCE. That assertion only sustains me in the declaration I made in the beginning, that it is good enough for all practical purposes. If it does not come up to the contract, it only argues the greater necessity for the establishment of a national printing office. Then there will be a certainty of the Government having good work and it promptly executed. I took from a shelf, under my desk, this morning, a book which bore upon its title page the imprint of Wendell & Van Benthuyssen. It is not my purpose—indeed, it would be ungentle—to reflect upon those gentlemen. I do not intend to find any fault with their work. It did not strike me as being as well executed as this, (holding up in his hand a document published by A. Boyd Hamilton,) nor quite as clean. That much I will say. This is better work than that previously executed for the Government; but still, not coming up to the contract entered into by Mr. Hamilton, it argues the necessity of Congress and the country protecting itself against any future dereliction, by taking the matter into their own hands, by establishing a national printing office, and by that means prevent the eternal squabble that occurs at every session of Congress, upon the subject of the public printing.

It was asserted, as I understood yesterday, that most of the paper was deficient about ten per cent. in weight.

Mr. GORMAN. It is more than that. We deducted ten per cent.

Mr. FLORENCE. I understand, however, that some of it is overweighed. At all events, the gentleman from New York [Mr. HAVEN] said that such of the work as had been executed well, the Committee on Printing did not intend to take away from the contractor—consisting of bills, yeas and nays, calendars, &c. How much of the work does that class constitute? Four fifths?

Mr. GORMAN. The first and the fifth class constitute about one tenth.

Mr. FLORENCE. By my conversation with Mr. Rives this morning, I took it for granted that the "yaws" and "gun-boats" were a small proportion, and the "seventy-fours" were a much larger number.

Mr. ORR. I desire to make a remark, in the shape of an inquiry, so that the chairman of the Committee on Printing, or some other member of that committee, will be able to answer it. It is proposed by the report submitted by the Committee on Printing, to give the House printing to Donelson & Armstrong, and the Senate printing to Gideon & Co. They also state, that they have proposed to give to Donelson & Armstrong and Gideon & Co., the printing at the rates of Mr. Rives's bid at the last session. I hold an abstract of all the biddings before me. There were some ten bidders for the public work. The aggregate amount of all the work to be performed by Mr. Rives's bid reaches the sum of \$196,000. Mr. Hamilton agreed to do it, and he has the contract, for \$87,000. And I find amongst the bidders, that Gideon & Co.—one of the parties who is to receive one half of the work—

Mr. GORMAN. I do not want the gentleman to get into any further errors. It is not Gideon & Co. of the Republic office.

Mr. ORR. Very well. It serves my purpose as well. I thank the gentleman for the correction. I thought it was the same company. I find the name of Jacob Gideon, and I supposed it was the same. I stand corrected. Mr. Rives's bid—I recur to that—makes a larger aggregate than the bid of any other one of the list, with one exception. The bid of Flinn amounts to \$226,000. The bid of Rives amounts to \$196,000, and there are eight bidders below this point. One of the bids amounts to \$108,000; another to \$148,000; another to \$128,000; another to \$133,000; another to \$127,000, and another to \$168,000. The latter bid from Messrs. Towers, of this city. They are practical printers; have an office here; are known to be men of capabilities in their profession; able and responsible, and who are willing to take this contract now at their original bid. Their bid was \$30,000 less than Mr. Rives's. Now, the question I desire to propound is, why should the contract be assigned to Gideon & Co. and Donelson & Armstrong at Rives's bid, when there were eight bidders lower than Rives? and when Towers will do the same work at \$30,000 less than the price which the Printing Committee are to pay the proprietors of the Union and Republic? and why should the committee give the work to a Whig and Democratic editor at Rives's bid, who was a *bona fide* bidder, without first tendering it to Rives?

Mr. GORMAN. Rives deducts sixty-nine per cent.

Mr. ORR. Mr. Rives proposed to deduct a certain amount, but it does not reduce the amount I stated his bid to be—\$196,000 is the net amount of his bid after making the deduction the gentleman speaks of. Here is a report which was made out by the Secretary of the Senate and the Clerk of the House upon the subject of the biddings. The aggregate net amount of Mr. Rives's bid is \$196,000. Rives concedes himself that Towers's bid was \$30,000 under his. Another point to which I desire to call particular attention is this: The communication addressed by Donelson & Armstrong and by Gideon & Co., in which they say they will accept the proposition of the committee with one qualification, is calculated, it seems to me, to involve the committee and the House in an expenditure much larger than they might imagine. They say that for the extra numbers beyond 20,000, where Rives proposed to take off sixty-nine per cent. for the press-work, they must be allowed to retain that sixty-nine per cent.; that applies to the Patent Office report; 100,000 copies will probably be ordered by the House, and 60,000 by the Senate, making in all 160,000. I undertake to say if the committee determine to strike a contract with Donelson & Armstrong at their prices, that the increased cost of the Patent Office report alone under that contract will be \$60,000 greater than it would be even under Rives's bid; so it really, if that is to be conceded, swells up the aggregate of Rives's bid to \$256,000, and makes the Government pay the enormous sum of \$169,000 more than A. Boyd Hamilton undertook the same work for. When my friend from Indiana [Mr. GORMAN] shall take the floor, and reply to these matters, I hope he will give the House a satisfactory exposition of these interrogatories which I have thrown out.

With the indulgence of the gentleman from Pennsylvania, [Mr. FLORENCE], I will make another remark. I indorse fully the sentiment expressed by my honorable friend from Mississippi [Mr. BROWN] as to the Southern Press, which is said to be, and is perhaps truly, the organ of a portion of the Democratic party of this House; and I would vote, as the gentleman from Mississippi [Mr. BROWN] stated, against the Southern Press, because I believe whenever a newspaper is unable to support itself at the seat of Government or elsewhere without relying upon the public Treasury, and without bounties from the Government, it ought to go by the board. I am, therefore, opposed to giving this printing to any partisan editor to sustain partisans. I sustain therefore the remark made by my friend from Mississippi [Mr. BROWN] upon that point. As to the Executive printing which the Southern Press was entitled to last summer and fall, I think that the Cabinet treated that paper most illegally, and I would have no objections to seeing it get such printing as by general law it was entitled to by having a greater number of subscribers than other papers here. There is

a general law providing for certain printing from the Departments to be done in the newspaper having the largest circulation, and the Southern Press was justly entitled to it in that way. If I was the editor of that paper, I would sue out a writ of mandamus, and compel the officers to comply with the law, in conformity with their oaths. Having said this much, and returning my thanks to the gentleman from Pennsylvania [Mr. FLORENCE] for his kindness, I yield the floor.

Mr. GORMAN. I pledge myself now to the House to show that Towers's bid, taking into consideration Mr. Rives's deduction of sixty-nine per cent., is \$15,000 more than Rives's bid. I pledge my word of honor to show that, upon the very next bid, Towers never made a single solitary cent of deduction, and Rives made sixty-nine per cent.

Mr. ORR. Let me correct my friend, as he was beginning to correct me before I fell into an error. Let me correct him before he falls into one. I have conversed with both of these parties within the last twenty-four hours. Towers's statement was, that he was willing to do the work; and Rives's statement was, that Towers could not do the work at the price he bid; but at the prices which he (Rives) bid for it, he would be able to make something handsome. That is the statement of Mr. Rives.

Mr. GORMAN. If Rives got the census, he would. That is his statement; and it is the statement before this House, and upon the paper presented to you, and referred to the Committee on Printing. I now state that Rives's bid is \$196,000, Flinn's \$225,000, and Farnham's \$186,000, for two classes, when Rives's bid is only \$196,000 for five classes. The gentleman could just as well state that as to have stated the balance.

Mr. FLORENCE resumed. I hold in my hand a little paper which, no doubt, has been placed upon the desks of all the members, which contains the aggregate amount of the bids for all the classes of public printing for the Thirty-second Congress. If gentlemen will refer to this little piece of paper, they will be able to inform themselves of the comparative amount for which each of these bidders offered to do the public work. I will read it:

Aggregate amount of gross bids for all the Classes of the Public Printing for the Thirty-second Congress.

Bidders.	Bills.	Reports.	Journal.	Ex. Docs.	Mis. Docs.
Baptiste .....	\$4,136	\$13,855	\$3,183	\$106,651	\$8,611
Flinn .....	9,008	19,466	3,794	181,192	13,257
Towers .....	3,245	15,990	3,590	139,217	6,767
Gideon .....	4,737	12,072	3,998	150,187	9,265
Cook .....	6,881	19,031	4,445	89,703	
Bowen .....	3,197	-	-	-	5,580
Rives .....	8,563	24,098	5,367	207,675	5,146
Hamilton .....	3,011	9,207	2,325	75,985	4,976
Crowell .....	3,756	13,180	3,259	106,448	9,234
Nafew .....	6,286	13,131	2,973	100,871	7,197
Farnham .....	-	-	-	145,466	41,011

Mr. STANTON, of Kentucky. I think there is an error in the statement, for it makes Rives's bid for the Executive documents over \$207,000, while the official reports of this House show that it is only \$152,000. You give him more for the Executive documents than he offered to do the whole work.

Mr. FLORENCE. That is not an error. According to the official report of the bids it will be found that this amount is correct. By reference to table No. 4, of the report—class 4, the Executive documents—it will be seen that the gross bid of Mr. Rives is \$207,675. The amount to which the gentleman refers, is the amount of Mr. Rives's net bid, after deducting some \$54,979 to cover the sixty-nine per cent. reduction on all documents of which more than twenty thousand copies shall be ordered.

If there is any errors in the statement I have read, the Committee on Public Printing may now have an opportunity to correct them. I do not desire to state to this House anything which is not the fact. I happened accidentally to see this. I took it for granted that it was submitted here "semi-officially," and that it was printed correctly, or I would not have presented it to the House. All I desire to do, is to present to the consideration of the House the facts of the case, that members of Congress may vote intelligently upon the

# THE CONGRESSIONAL GLOBE.

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subject, which has claimed so much of their time and attention during the present session.

Mr. GORMAN. How did you get this statement?

Mr. FLORENCE. It was lying upon the desk. I have run through this table, and it has required so much time that I will give up the figures, and talk of facts, if figures are not facts. I wish only to make a few remarks, and then "get out of the way" for other gentlemen who have an anxiety to address the House upon the subject of the public printing, the system of awarding contracts, or, which is more important, and above and beyond either in merit, the mode of securing promptness and excellence in Government printing, by the establishment of a national printing office.

The following is the official report of the net bids, which gentlemen can contrast with what I have just read, and see which is right and which is wrong:

Names of individuals making proposals.	First class.	Second class.	Third class.	Fourth class.	Fifth class.	Aggregate amount of all the classes.
	Bills and joint resolutions of Senate and House of Representatives.	Reports of committees of Senate and House of Representatives.	Journals of both Houses.	Executive messages, reports, and documents.	Memorials, resolutions of State Legislatures, confidential documents of Senate, and other miscellaneous matter.	Aggregate amount of all the classes.
A. Baptiste, jun.	\$4,136 28	\$13,734 99	\$3,165 99	\$104,306 70	\$8,611 11	\$133,955 07
William Flinn.	9,098 69	19,466 33	181,192 74	13,257 96	226,720 52	256,720 52
John T. Towles.	3,254 63	15,844 02	3,547 21	138,306 46	6,767 81	168,320 13
Robert Farrham.				145,466 07	41,011 74	186,477 81
Jacob Parham.	4,737 10	11,665 87	3,911 27	78,455 58	9,265 57	108,035 39
Alanson Cook.	6,883 24	19,031 15	4,445 19	118,309 83		148,669 40
John Bowen.	3,197 71	24,598 35	5,287 76	152,696 65	5,580 53	196,372 53
John C. Rives.	8,563 38	68,495 50	9,295 38	4,796 32	87,631 00	169,511 33
A. Boyd Hamilton.	3,011 38	12,411 21	3,085 14	100,065 39	9,234 26	127,802 33
Joseph T. Cawell.	5,386 65	13,014 82	2,938 11	99,503 52	7,127 08	137,970 18
John S. Newell.						
Average amount of the proposals for all the classes.						151,370 33

From the foregoing statement it appears that A. Boyd Hamilton is the lowest bidder in each of the classes of the printing for the Thirty-second Congress.

I here submit, although the truth of the statement is denied by my friend from Indiana, [Mr. GORMAN,] the chairman of the Committee on Printing. But to the statement. Let Hamilton be heard in his own defense:

PUBLIC PRINTING.—Notice has been given to the House of Representatives that the following resolution, which was freely circulated yesterday, will be offered this morning, April 13, 1852:

Resolved, That the Committee on Printing enter into a contract with Donelson & Armstrong to do so much of the printing ordered by the House of Representatives for the present Congress as may be necessary to remedy any neglect or delay of the contractor, A. Boyd Hamilton, to execute the work ordered by this Congress, and also with Gideon & Co., to do so much of the printing ordered by the Senate as may be necessary for the like purpose, such contracts to be on such terms as the said committee and the contractors may agree upon and shall be just.

The contractor has never received notice from the Committee on Printing that he has "neglected or delayed" any of the work intrusted to him. He cannot, therefore, more satisfactorily refute the allegation than by the following statement:

I. That all the bills and joint resolutions of both Houses of Congress are printed and delivered; and he holds receipts for the same.

II. That all the reports of committees, except three adverse ones, are printed and delivered; and he holds receipts for the same.

III. That the Journals of both Houses are ready for press so far as he has copy placed in his hands, and all is in proof to the first days of April.

IV. All Executive documents, of every character, are complete, or partially so, so that they might be delivered in a short time, except some eight or ten, heretofore considered of no public importance.

V. All the current work in this class is delivered, and the contractor holds receipts for the same.

The President's message and documents are running through the press at the rate of one hundred pages a day. This work will make a volume of over two thousand pages; and, to give an idea of its relative bulk, the contractor begs to say, that the following table will explain to the members of both Houses its magnitude:

Comparison of the extent of the printing of the President's message and documents for the last twelve years.

Date.	No. of pages.	No. of extra copies ordered.	Printers.
1840—1841..	541	-	Blair & Rives.
1842—1843..	767	10,000	Gales & Seaton.
1844—1845..	702	3,500	Blair & Rives.
1845—1846..	893	3,500	Ritchie & Heiss.
1846—1847..	1,618	25,000	Contract.
1849—1850..	1,789	20,000	Contract.
1852—	over 2,000	25,000	Contract.

In addition, the regular number of copies are now greater than ever; and maps and plates, unknown to the early messages, are introduced.

1842-'3.—Gales & Seaton, printers, the number of extra pages printed were..... 7,670,000  
In 1852.—The extra pages will be about..... 500,000,000

The contractor has invested more than \$50,000 to fulfill his contract; he has the best and only establishment in this city for the prompt execution of the work; he has one hundred operatives in his employment, practical and experienced persons, and he is fully prepared at all points to execute the public printing; he made his bids in good faith, at low rates; he has not met with the consideration due to one who professes, through his economy and labor, to work cheaply for the public—on the contrary, he has encountered an opposition as unjust and ungenerous as ruinous. The very economy of his bids has been alleged as a crime. His means have been slandered, and his credit impaired.

In the earliest days of this session, a motion was made to take from his contract the printing of the census, for the avowed purpose of patronizing a party press. This measure failing, the same object is now sought in another form, by the union of elements otherwise hostile, that thus, out of the ruins of the contractor, Messrs. Donelson & Armstrong on the one hand, and Messrs. Gideon & Co. on the other, may be enriched.

The contractors respectfully begs to call the particular attention of Congress to the fact, that if the contemplated procedure prevails, his work is to be let out to the new contractors at prices greatly advanced; and that, under a strict construction of the law, this excess would have to be charged to the contractor and his sureties. This fact is studiously kept out of view. The contractor protests against his being made the means of enriching any gentlemen. While it is right that Congress should consult its predilections in bestowing patronage out of its own legitimate means, every just mind will recoil from the deliberate attempt to construct the necessary patronage out of the ruins of innocent individuals.

In other respects, also, the contractor has just cause of complaint.

His only alleged deficiency has been that, when navigation was closed and his heaviest paper could not be forwarded for the early printing, some of it slightly varied from the standard. For this an oppressive remedy was applied by withholding ten per cent. of all his accounts; not

ten per cent. on the price of paper alone, but also on that for his printing and other work; and, in many cases, he has been charged this deduction on the work of others.

Again, after presenting, and with much labor getting his accounts approved, often losing days in the effort to get a single signature, harassed, and his time squandered, by innumerable vexatious delays, he has in the end encountered an empty Treasury, by the exhaustion of the contingent fund of both Senate and House, and has thus been driven for many weeks to cash his admitted accounts, by sale at usurious rates, in order to obtain money to pay for labor in his office, and obtain material to perform other parts of his contract.

The contractor respectfully submits that there is a mutuality in every contract. The party who does his work is entitled to his pay, and the party who does not so pay, breaks faith. If, in this case, the contractor had in truth "neglected or delayed" work, he might well have been excused by the "neglect and delay" in the performance of this dependent and cardinal covenant.

The contractor respectfully represents that he is fully prepared and anxious to fulfill his contract. He asks but justice and fair play. The contractor has had no notice of the action of the committee, if a committee has been duly chosen by the House, as provided by law; nor notified of any alleged default; no opportunity for explanation or argument has been afforded, and he has first learned their action by its publicity in the House. The veriest criminal is informed, at a right, of his alleged offense. He is entitled to a hearing and counsel. But in this case, it is sought to sweep away the vested rights of a contract without notice, hearing, or specification.

The contractor respectfully appeals to the justice of the House, and solicits their protection from a course of procedure so repugnant to the institutions and spirit of the country.

A. BOYD HAMILTON.

WASHINGTON, April 13, 1852.

I repeat, sir, by Hamilton's statement I find that he has invested over \$50,000 to enable him to fulfill this contract. I know that he has in his employment as good compositors and practical printers as there are in the country. I have the honor of an intimate acquaintance with a number of those gentlemen, and I conceive that it is slandering them to allege, as was alleged here yesterday, that this work has not been done as it should be. I have before me evidences to the contrary, and I feel it to be my duty to say here, upon this floor, that I believe—indeed, sir, I know—the gentlemen employed by Mr. Hamilton, are, in point of skill, ability, and intelligence, in the pursuit of their profession, quite as competent to the entire and faithful performance of the duties of their vocation as any practical printers in the Union. I speak, sir, from a personal knowledge of these gentlemen. Many of them—perhaps the greater proportion—are residents of the county of Philadelphia, which locality of our good and patriotic "old Keystone" State I have the honor to represent upon the floor of this House. Some of them—the majority I am inclined to believe—are constituents of mine, although temporarily residing here. I am proud of their acquaintance. I esteem them highly, without reference to their party-political bias. Indeed, sir, I am proud of all of my constituency. They are an honest, intelligent, thrifty, and industrious class of citizens.

I may ambitiously say, in the language of a distinguished statesman, now deceased—the eccentric but eloquent John Randolph—"that such constituents no man ever had." I desire to represent all of them faithfully upon this floor. My only ambition is, to perform my duty as a faithful public servant in their cause and behalf, in the councils of the nation. Their interest is my interest. While I have the honor and privilege of raising my voice, or of occupying a seat in this House, my best efforts will be directed to promote the "greatest good of the greatest number" of those I represent, and of the people generally; so that, when I am called upon to give up the honorable trust confided to me, I may hear, on all hands, from all classes and parties of those I represent—indeed, sir, from all, "without distinction of party,"—for I hold it to be the duty of a Representative implicitly to "obey the will of his constituents,"—that I may hear, sir, the welcome, the soul-inspiring, the labor-rewarding shout of the masses at my home, when I shall again appear before them, of "Well done, good and faithful servant." I seek for, I aspire to, no other or higher honor than this.

But, sir, I ask pardon for this digression from the subject under discussion. To resume, Mr.

Now, a word or two more, and I will conclude. It seems to me that, in justice to the contractor, so long as he executes the printing within any reasonable time, he should at least have an opportunity of saving himself from inevitable ruin. I find, by this statement, which was laid upon our desks yesterday, and which, to complete the record—for it will occupy too much of my time to read it—



Speaker. There are more than a hundred operatives at present employed in the public printing office. Take this work from the contractor, turn these one hundred men into the street, ruin the contractor, if you will, but for what purpose? To get the work better done? What assurance have you of it? Have you any assurance that if you give the work to the gentlemen who have been named by the Committee on Printing, it will be better done or sooner done than it would be by the public printer? Have the Joint Committee on Printing, in the contract they have made with these gentlemen, fixed the time within which documents shall be furnished to the House? If they have not—if no such assurance has been given, what are we to gain? What is the country to gain? What is to be accomplished by turning A. Boyd Hamilton into the street, and closing up his printing office?

I have myself ascertained, from personal observation, or rather investigation, that the public printer has press power equal to 1,500,000 pages per day, and that he is now putting an additional press into operation. This proves to my mind that he intends to do the work, and that he bid for it in good faith. I consider the opposition to his continuance in the performance of the work to be almost, if not quite, persecution. It has impaired his credit; it has prevented him from operating as effectually and efficiently as he would have done; and hence has retarded him in the desirable accomplishment of a more speedy and faithful performance of his contract. This is a reasonable and a fair conclusion. I asserted yesterday, upon this floor, and I now repeat it, that a paper manufacturer in Philadelphia, induced no doubt by the fact that there had been a doubt thrown in the early part of the session, upon the capability of the public printer to fulfill his contract, had written to me to know what situation the public printing was in, and whether Hamilton's credit was good, based, beyond a question, upon his contract for the performance of the public printing. This gentleman was willing to sell paper to Hamilton upon a fair credit, if he was assured that he would proceed to fulfill his contract, and that he would be continued in the execution of the public work by the House. Well, sir, if gentlemen are not to have credit who offer to do the public work, and if the contract system is to be continued, you build up a privileged class in this community, and in this nation, that I am not willing to sustain by my vote in this House. It will require, as was said by the gentleman from Indiana, [Mr. GORMAN,] yesterday, a *millionaire* to come here, and submit a contract for the public printing.

Mr. POLK. Who is he?

Mr. FLORENCE. I do not know. But the gentleman from Indiana [Mr. GORMAN] said yesterday, if I understood him, that a man ought not to attempt to do the public printing, unless he had capital; that a man could not pretend to do it upon reasonable business credit.

Mr. GORMAN. Unless he had capital, I said.

Mr. FLORENCE. Well, a *millionaire* has some capital.

Mr. GORMAN. I said that the public printer could not perform his contract and pay the losses he would incur under it unless he had a *millionaire* at his back.

Mr. FLORENCE. Well, sir, it requires credit—reasonable business, commercial credit. I do not accuse the members of the Committee on Printing—God forbid that I should!—of any improper motives; but the fact stares us in the face, that, from the first moment this contract was entered into up to this very hour, there seems to have been a systematic detraction of the public printer; he, and indeed the nation having heard it universally, proclaimed that he was unable to perform his contract, notwithstanding every fact is adduced to the contrary.

I have not time, however much I may have the inclination, to follow the subject further. My time, I regret to say, is nearly out, or I would refer more at length to the advantages to the country which, I conceive, would be obtained by the establishment of a national printing office. It would elevate and dignify the industrial labor of the nation; it would insure to those who toil—the “toiling millions,” sir, in the language of the resolution of the Printers’ Union, which I have read to the House—their true position in society, and a fair compensation for labor in every useful occupation. This is the “good time coming,”

which I desire may soon arrive. I am, I am free to acknowledge it, in favor of that kind of legislation which will promote the happiness of the masses of society, especially of the working class. But I am admonished, sir, that I have but a moment longer. I hope, earnestly hope, the subject of a national printing office may be referred to the Committee on the Judiciary, and that they will, at an early day,—

[Here the hammer fell.]

Mr. POLK. I am very sorry to interrupt the gentleman from Pennsylvania in the progress of remarks so interesting to himself, and I presume to the House also. It is not my purpose or object to discuss the question of public printing. I do not desire, nor will I so far forget my allegiance to Democracy—my allegiance to principle—as to follow or answer the argument which was illegitimately used this morning by the gentleman from Mississippi, [Mr. BROWN,] when he warned us that men have a power in the South, and that they will exercise that power, to control the Democratic party. Sir, when he comes here to tell the Democratic party, in whose soul, I believe, virtue dwells—when he comes to tell us that his party in the South will exercise a controlling influence, I say to him that he may form a Union party with the Free-Soilers. I say to him, and to other gentlemen, that I have been a Democrat as long as they have. If they intend—coming either from the North or the South, I care not which—to exercise an influence which will destroy the Democratic party; if they intend to perform such an outrage as that upon the party, I want them to proclaim it like men, and I shall be ready, as I am at this moment, to uphold the pillars of the Constitution, and to denounce those that prowl upon the outskirts of the camp, be they who they may. I have endeavored to be conciliatory; I have endeavored to harmonize our party, as far as any expression of sentiment upon my part could do it; but do not ask me to fraternize, to coalesce, and to sympathize with men who stand ready to stab the party, and bring about its dissolution. When the gentleman from Mississippi makes this threat upon us, he must understand that there is a ponderous arm in the party, that is for the safety of the nation, and that that ponderous arm will be found to battle against him.

But I am diverging into a discussion of matters that, I suppose, ought to be discussed in caucus, and I shall therefore abandon them; I do not consider it proper to introduce any of these irritating questions into Congress.

But about this question of public printing—is there a member here—and I will pause for a reply—is there a single member here, even the gentleman from Pennsylvania, [Mr. FLORENCE,] in whose peculiar keeping Mr. Hamilton seems to have placed himself—

Mr. FLORENCE. Oh no, not at all, sir.

Mr. POLK. If the gentleman is not his keeper, I am glad of it, because I think he would be very badly taken care of.

Mr. FLORENCE. I only desire that the House should arrive at a proper conclusion, and that the public printing should be properly executed. I have no especial partiality for Mr. Hamilton. I only wish that he may have justice done him—nothing more. This is the reason why, almost without conversation with Mr. Hamilton, I have entered into this debate—indeed, I may say, into his defense. I do not, however, assume to be his defender. I am for the establishment of a national printing office.

Mr. POLK. Is that a public document which you hold in your hand, or is it the work of the public printer?

Mr. FLORENCE. By accident, I have this sacred book [the Bible] in my hand, having brought it to my seat from the Speaker's table, this morning, for perusal. I think it would be very much better if some of us would consult it more than we do. If it would not be improper, I might, perhaps, read to the House a passage from it that would be pertinent to this occasion.

Mr. POLK. I would say to the gentleman, in the language of Scripture, “Go and sin no more.” [Laughter.]

Mr. FLORENCE. Let me, in all candor, sincerity, and humility inform the gentleman—and I do so with a full knowledge of my accountability to the “Giver of all good,” that exalted Being who holds the destinies of our great Republic “in the

hollow of his hands”—that I never sit down to the perusal of this sacred book but with pleasure, nor rise from it but with profit and advantage. My friendly advice to the gentleman from Tennessee [Mr. POLK] is, “Go thou and do likewise.”

Mr. POLK. Mr. Speaker, the gentleman from Mississippi, in answer to a remark made by the gentleman from Massachusetts, [Mr. RANTOUL,] said: “Upon the great issues which unite us as Democrats, we work together.” Now, I wish to know if the gentleman from Mississippi [Mr. BROWN] stands this hour, shoulder to shoulder, with a man from Massachusetts who would steal our negroes if he had a chance? I say this, and take the full responsibility that follows it. I wish to know of the gentleman from Mississippi whether this be true? The gentleman from Massachusetts will permit me to say that his opinions are upon the records of the country, as proclaimed in his speeches, and he will therefore allow me to put the question to the gentleman from Mississippi, whether he to-day stands side by side with the gentleman from Massachusetts?

Mr. BROWN. I said yesterday, and I repeat it to-day, that upon the old issues of the Democratic party, I do recognize the gentleman from Massachusetts; but I need not answer the gentleman when he asks me whether I coalesce with that gentleman upon the question of slavery. He knows very well, without asking, and without my answering, that I do not.

Mr. POLK. The gentleman says he does not coalesce with the gentleman from Massachusetts upon the question of slavery. Why, sir, those two gentlemen are found voting together in this House upon questions which agitate the harmony, and, if you choose, the power of the Democratic party.

Mr. RANTOUL. I wish to interrupt the gentleman, not because I think it necessary upon my own account to notice the remarks he has made, but because it is right that the House should be informed upon this historical fact relating to the position of parties and members upon this floor. I therefore ask the gentleman to produce the record upon which he founds his charge against me.

Mr. POLK. What are my charges?

Mr. RANTOUL. I understood the gentleman to say that I stood upon the record in a peculiar position, of which I am not at all conscious.

Mr. POLK. I will answer the gentleman's interrogatories plainly. If he claims to be a Democrat, I claim to act not in the same fold, not in the same party with the gentleman. I say to him, that I understand he was elected to this House as a Free-Soiler; and I believe that any gentleman who would prostitute himself to such a miserable sympathy with Abolitionists, would steal a negro.

Mr. RANTOUL. The last remark of the gentleman I shall not notice; but that preceding it, which I suppose he stated as a matter of fact, I think I ought to notice. The gentleman says he understands I come here elected as a Free-Soiler by the Free-Soil party, if I understand his words. Now, sir, I come here nominated unanimously by the old line Democratic party of my district in the fullest caucus that has been held for many years for the purpose of making a nomination. I come here unanimously nominated, in the first place, by a convention composed of delegates from the different towns; and in the second place, unanimously by a mass convention to which every Democrat in the district was invited. I desire, in the next place, to say, that I have never accepted the nomination of a Free-Soil party in my life; but have kept strictly within the old Democratic organization. The Free-Soil party have voted for me, and I am proud to receive their votes.

Mr. POLK. Oh, yes; I do not doubt that.

Mr. DUNHAM. Will the gentleman allow me to ask a question?

Mr. POLK. I cannot yield further.

Mr. RANTOUL. I desire to say further; first, particularly to the gentleman from Tennessee, and next, to any other gentleman who may choose to assume the same position with him, that he does not desire to hold fellowship with me upon this floor as a Democrat, that it is a matter for his own option entirely. It is not a matter for me to decide whether he and I shall act in the same political party, or continue on board the same political ship. If he decides that we shall not remain together, it is for him to step out of the party

whenever he shall please; for I shall certainly not step out of it. [Laughter.]

Mr. POLK. I imagine the gentleman will not be allowed that privilege; for they will order him out.

Mr. FOWLER. I rise to a question of order. [Laughter.] I am extremely sorry to do it; but I take the ground that this is all out of order, and I appeal to the Chair to sustain the rules of the House.

The SPEAKER. The Chair is of the opinion that the debate is not strictly in order.

Mr. POLK. There is no man whose advice I would sooner follow than that of the honorable gentleman from Massachusetts.

Mr. NABERS. The only purpose I have in rising is this: My colleague [Mr. BROWN] makes the remark that, upon the old issues of the Democratic party, himself and the gentleman from Massachusetts stand together. Now, I desire to ask my colleague, with the permission of the gentleman from Tennessee, [Mr. POLK,] whether the old Democratic party issues do not require a strict observance of the Constitution, and if there is not a clause in that Constitution guarantying to the people of the South the recapture of their fugitive slaves? I repeat, it is not one of the great issues of the Democratic party, that "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due?" Is my colleague [Mr. BROWN] willing to recognize any man as a Democrat who, under any pretext whatsoever, justifies the non-enforcement of the above provision of the Constitution of the United States?

Mr. POLK. Right there, upon that point.

The SPEAKER. The Chair must arrest this discussion as out of order, unless permitted by the unanimous consent of the House.

[Cries of "Leave!" "Leave!" ]

Mr. FOWLER. I insist upon my point of order.

Mr. RANTOUL. The gentleman from Mississippi [Mr. NABERS] has inquired whether his colleague [Mr. BROWN] and myself stand upon the same ground in regard to the strict observance of the Constitution, and especially that clause of the Constitution which provides for the delivery of fugitive slaves. Now I ask the gentleman to allow me to answer that question.

[Mr. RANTOUL handed to the Reporter the following memorandum of the reply which he had wished to make, when he was prevented by the enforcement of the rules.

Before the gentleman from Mississippi [Mr. BROWN] can tell whether he agrees with me on these points, he must first know my views upon them. I insist upon the "strict observance of the Constitution," not in unmeaning words, but in fact. If there is any doctrine fundamental to the creed of the Democratic party, it is that the CONSTITUTION BE STRICTLY CONSTRUED. By the 10th amendment, "powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The third clause of the 2d section of article 4th of the Constitution, just quoted by the gentleman, does not, in terms, grant one scintilla of power to the Federal Government. It does not, by any implication, necessary, or even unnecessary, grant any power, any more than the first clause of the same section, touching immunities of citizens. At the time it was adopted, there is no reason to suspect that any one dreamed that it contained a grant of power. It was borrowed from the ordinance of 1787, in which instrument nobody has yet pretended that it contained a grant of power. The fugitive law, pretended to be based on this clause, is a naked usurpation of power, without one syllable in the Constitution to justify it—a gross, palpable, flagrant violation of the Constitution, which we have sworn to support.

Such a usurpation, a Hamiltonian Federalist may justify. A State-Rights Democrat cannot. This I should have argued, if the previous question had not been employed, last week, "to quiet agitation," cutting off all debate.]

The SPEAKER. Will the gentleman from Massachusetts [Mr. RANTOUL] and the gentleman from Tennessee [Mr. POLK] allow the Chair to say

that this course of remark cannot be indulged, except by the unanimous consent of the House.

[Cries of "Go on!" "Go on!" ]

Mr. HOUSTON. I object.

Mr. BROWN. I ask that I may be allowed to answer the interrogatory of my colleague, [Mr. NABERS.]

The SPEAKER. It is objected to on the right and on the left of the Chair. The Chair was disposed to indulge a very wide latitude in the discussion, until admonished by gentlemen upon all sides, that the discussion was out of order, and demanding that the rules of the House should be enforced.

Mr. BROWN. I have but one remark to make, and that shall be in order. It appears to have been in order for my colleague [Mr. NABERS] to ask a question, but it is not in order for me to answer it.

The SPEAKER. Does the gentleman from Mississippi intend to cast an imputation upon the Chair?

Mr. BROWN. I simply mean to state what was the fact.

The SPEAKER. Then the gentleman is out of order.

[Mr. BROWN requests the Reporter to say, that if he had been allowed to respond to Mr. NABERS and Mr. POLK, he would have said: The time was when the gentleman from Massachusetts [Mr. RANTOUL] was accepted as a sound Democrat. Mr. Polk appointed him United States district attorney for Massachusetts, and thus indorsed him to me and to the nation. He was a Democrat then on the old issues. If he has changed his opinions, I have yet to learn it; and if he has not, he is a Democrat on these issues yet. If the bank charter, or protective tariff, distribution, wasteful appropriations, or the repeal of the Sub-Treasury, any one or all of them shall be proposed, I will not reject the aid of the gentleman from Massachusetts [Free-Soiler though he be] in upholding the Democratic side of these questions. These were the issues—the old issues—when the honored brother of the gentleman from Tennessee appointed ROBERT RANTOUL district attorney. On these he was sound; we all trusted him then, and if he has not changed his opinions, I know of no reason why we should not trust him now.

On the new issues—those growing out of the slavery strife and the territorial acquisitions—there is no bond of sympathy, no affinity between the gentleman from Massachusetts and myself. On all these issues, direct and collateral, that gentleman and myself are as wide apart as the poles. This the gentlemen from Tennessee and Mississippi know full well.

If the gentlemen on both sides of the House who passed the compromise are to be trusted, the slavery question and all the incidental issues growing out of it have been settled; they were all compromised; and it was but the other day that we passed a finality resolution, which meant, as I supposed, that there was an end of the main issue and all its incidents. Now we have it dug up, resurrected, and dragged in here again, and that, too, by its own best friends. I hope we shall be done with this matter.

If fidelity to the Democratic party means that I must vote large and fat jobs of printing to Donelson & Armstrong, and if I can only signalize my fidelity by voting other large and fat jobs to the Republic, I must say to the gentlemen who are croaking "coalition!" "coalition!" that in this view I am not faithful, and never mean to be.

I would as soon have the aid of the gentleman from Massachusetts in severing the unholy bonds which unite the Union and Republic as I would in pulling down protection or upholding the independent treasury. When a good work has to be done, I will accept aid from any quarter.

It is a weak invention of the coalitionists to raise this hue and cry, and expect thereby to divert public attention from the fact that they have fastened the Union to one teat of the National Treasury, and then, by way of quieting the Republic, giving it another and a better one. Cry coalition as much as you please, the people will inquire by whom and for what reason these things were done.]

Mr. POLK. I think I can arrange this matter between the Chair and the gentleman from Mississippi. As the remainder of the hour belongs to me, I am willing that the gentleman from Mississippi [Mr. BROWN] should answer his colleague.

The SPEAKER. The gentleman from Tennessee will suspend. The gentleman from Mississippi, if he had marked the proceedings, would have noticed the fact that the Chair was disposed to indulge the debate to an almost unlimited extent; but he was admonished by the gentleman from Massachusetts, [Mr. FOWLER,] and again by the gentleman from Alabama, [Mr. HOUSTON,] that the debate was out of order, and called upon by them to enforce the rules of the House. He endeavored to do so, for a long time without success; and he shall continue to endeavor to perform his duty, whatever may be the opinion of the gentleman from Mississippi.

Mr. RANTOUL. I ask the gentleman from Mississippi—

The SPEAKER. By the unanimous consent of the House, the Chair will be happy to hear the gentleman.

Mr. POLK. Will the gentleman from Massachusetts again explain his position?

Mr. RANTOUL. The explanation I proposed to make— [Cries of "Order!" "Order!" and confusion in the Hall.]

The SPEAKER. The Chair cannot allow this debate to go on. The Chair calls gentlemen to order.

Mr. LETCHER. I move that the gentleman have leave to proceed.

Mr. GENTRY. You cannot take the floor from my colleague [Mr. POLK] without his leave.

The SPEAKER. The gentleman from Virginia [Mr. LETCHER] moves that the gentleman from Massachusetts [Mr. RANTOUL] have leave to proceed with his remarks. The Chair will state what the rule is upon that subject.

Mr. McMULLIN. I rise to a question of order.

The SPEAKER. The Chair is upon a question of order. He was proceeding to say, that if the House agree to give the gentleman leave to proceed with his remarks, as a matter of course, it must be done under the rule, and that rule does not allow this latitude of debate. In order, therefore, to reach the object sought by this motion, there must necessarily be the unanimous consent of the House. The Chair will now hear the question of order made by the gentleman from Virginia.

Mr. McMULLIN. My point of order is, that my colleague [Mr. LETCHER] had not obtained the floor from the gentleman from Tennessee, [Mr. POLK,] and, therefore, had no right to submit the motion.

Mr. POLK. I am for harmony in the House, and in that spirit, I will even forego the privilege I have of continuing my remarks. I move that the whole subject do lie upon the table.

Mr. CLINGMAN. I demand the yeas and nays upon that motion.

Mr. CABLE, of Ohio. Has the morning hour expired?

The SPEAKER. It has not yet commenced.

Mr. CABLE. Would it be in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. The motion has been made to lay the subject of the public printing upon the table; and, in the opinion of the Chair, that is a privileged motion.

Mr. FLORENCE. I desire to know what will become of my bill, if the subject is laid upon the table?

The SPEAKER. That will be for the House to determine. The Chair cannot anticipate the action of that body.

Mr. WOODWARD. The motion is, to lay the whole subject upon the table now. I desire to know what is meant by this motion?

The SPEAKER. The Chair will state that the proposition is, to lay the report upon the table.

Mr. WOODWARD. Will it include the gentleman from Pennsylvania?

The SPEAKER. It will.

Mr. POLK. I understand it carries with it everything connected with the matter.

The SPEAKER. It does.

The yeas and nays were then ordered.

Mr. MARSHALL, of Kentucky. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole upon the special order.

The SPEAKER. That motion is not in order,

as there is a privileged motion pending before the House. The motion to lay upon the table, is one of those privileged motions which must be put, in the order in which they are made.

Mr. MARSHALL. I should like to know if the motion to lay upon the table, is regarded by the Chair as a privileged motion?

The SPEAKER. The Chair does so regard it. If the gentleman will indulge the Chair, he will turn to the rules upon the subject.

Mr. MARSHALL. Certainly.

The SPEAKER. The Chair doubts what the practice of the House has been, in reference to the point of order raised by the gentleman from Kentucky, [Mr. MARSHALL,] but I am disposed to decide that it is in order, at this stage of the proceedings, to move to go into the Committee of the Whole upon the state of the Union.

Mr. MARSHALL. I, then, make that motion.

Mr. JONES, of Tennessee. I demand tellers upon that motion.

Mr. POLK. Has the motion to go into Committee of the Whole precedence of the motion to lay upon the table?

The SPEAKER. The Chair has so decided.

Mr. POLK. I appeal from the decision of the chair.

Mr. OLDS. I move to lay the appeal upon the table.

Mr. POLK. I withdraw the appeal.

Tellers were then ordered, upon the demand of Mr. JONES, of Tennessee; and Messrs. Houston and Fowler were appointed.

The question was then taken on the motion of Mr. MARSHALL, and the tellers reported—ayes 90, noes 39.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

#### HOMESTEAD BILL.

The CHAIRMAN. The first business before the committee is House bill No. 7, for the promotion of agriculture, and for other purposes, and upon that question the gentleman from New York [Mr. JENKINS] has the floor.

Mr. JENKINS spoke during an hour; and in the course of his remarks he deprecated the notion that the public lands must all be voted away; spoke in favor of the present system of disposing of the public domain, by which it can be purchased for one dollar and a quarter an acre. He contended that it has worked well, and that no scheme of speculation has successfully competed with it. He denied the right of Congress to give the lands away for the purpose designed by the bill, and argued to show that the operations of this measure would not be productive of the benefits claimed by its friends. [Mr. J.'s speech will be found in the Appendix.]

Mr. NEWTON obtained the floor, but yielded to Mr. CHANDLER, who moved that the committee rise.

The question was put, and the motion agreed to. The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HIBBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified, and had come to no conclusion thereon.

Mr. ORR. I move that the House—

Mr. MOLONY. I rise to a privileged question.

Mr. ORR. So do I rise to a privileged question. I move that the House do now adjourn. I will, however, yield to the gentleman.

#### CORRECTION OF THE JOURNAL.

Mr. MOLONY. In looking over the Journal of Monday, I see that upon a motion to suspend the rules to enable the gentleman from Alabama [Mr. SMITH] to introduce a resolution in relation to the census printing, I am recorded in the negative. I voted in the affirmative. I ask to have the Journal corrected.

Mr. STANLY. I ask whether the gentleman alludes to the Journal or the Globe?

Mr. MOLONY. The Globe.

Mr. STANLY. Then it is sufficient to call attention to the fact—

The SPEAKER. The Chair understands that the same mistake occurs upon the Journal. It can now only be corrected by unanimous consent.

No objection was made, and the Journal was accordingly ordered to be corrected.

Mr. ORR. I now urge my motion.

Mr. HOUSTON. I appeal to the gentleman from South Carolina to withdraw his motion.

Mr. ORR. The gentleman can accomplish his purpose some other time.

Mr. HOUSTON. As I cannot persuade the House to take up the business on the Speaker's table, I do hope the House will allow Senate bill No. 271 to be taken up, for it is very important that it should be acted upon.

Mr. CLINGMAN. I object to taking up the bill out of its order.

Mr. ORR. I now insist upon the motion to adjourn.

The question was put, and the motion agreed to, and

The House adjourned till twelve o'clock to-morrow.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ———: The petition of 80 citizens of the town of Sweden, Monroe county, New York, against the extension of the Woodworth patent.

By Mr. BRENTON: The petition of F. P. Randall and 45 other citizens of Allen county, Indiana, asking an appropriation for the construction of a canal around the falls of the Ohio river.

By Mr. FITCH: The papers in the case of Henry H. Marsh, asking compensation for relinquishment of a tract of land erroneously entered.

By Mr. SMART: The petition of William Singer and others, citizens of Thomaston, Maine, for an act prohibiting the carriage of freight and passengers for hire by Government steam-vessels.

By Mr. RUSSELL: The petition of John L. Gilpin, postmaster at Athol, Warren county, New York, and 165 other inhabitants of said county, praying for a repeal of the fugitive slave law.

By Mr. PORTER: The petition of 48 inhabitants, and the commissioner, directors, and clerk of Congressional township No. 45, range one west, in Warren county, Missouri, asking the privilege of locating a half section of land on some vacant public land, in lieu of section 16, in said township, one half of which 16th section is covered by a confirmed Spanish claim.

Also, the petition of William Porter, late assistant marshal of Lincoln county, Missouri, asking additional compensation for taking the Seventh Census.

Also, the petition of Celestino Gonzales, for the value of property destroyed in Mexico by the American army after the suspension of hostilities.

By Mr. DISNEY: The memorial of Enoch Sheppard, praying for a pension.

Also, the memorial of journeymen segar makers in Cincinnati, praying for an alteration of the tariff, so as to remunerate them for their labor, on segars under the value of ten dollars per thousand.

Also, resolutions of the Chamber of Commerce of Cincinnati, advocating the creation of a new United States district court in the State of Ohio.

Also, the remonstrance of sundry citizens of Cincinnati, against the extension of Woodworth's patent.

Also, a memorial of the Cincinnati bar, asking for the creation of a new district court of the United States in the State of Ohio.

#### IN SENATE.

THURSDAY, April 15, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, a report of the Commissioner of Indian Affairs, relative to debts contracted by Indian agents in California; which was ordered to be laid on the table and printed.

#### PETITIONS, &c.

Mr. COOPER presented two memorials of practical printers, of Philadelphia, praying the establishment of a national printing office; which were referred to the Committee on Printing.

Also, two memorials of citizens of Philadelphia, praying the construction of a ship canal around the Falls of the river St. Mary; which were referred to the Committee on Commerce.

Also, resolutions of a meeting of citizens of the Northern Liberties of Philadelphia, in favor of an act granting lands to actual settlers in limited quantities; which were referred to the Committee on Public Lands.

Also, the petition of Anthony Shermen, praying the renewal of his patent for an improvement in

the axles of railroad cars; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of Philadelphia, praying a renewal of Emmons's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of Philadelphia county, Pennsylvania, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Also, a petition of citizens of Lancaster county, Pennsylvania, remonstrating against any action by Congress that will sanction the Wheeling bridge as it now stands; which was referred to the Committee on the Judiciary.

Also, a petition of citizens of Alleghany county, Pennsylvania, remonstrating against the further extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. CLARKE presented the memorial of E. Ritchie Dorr, praying compensation for services as Chargé d'Affaires to the Argentine Republic; which was referred to the Committee on Foreign Relations.

Mr. SEWARD presented the petition of the heirs of Peter Gansevoort, praying to be allowed for the depreciations on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Mr. JONES, of Iowa, presented the petition of Sarah L. Russell, praying the payment of a certain Texas bond held by her; which was referred to the Committee on the Judiciary.

Mr. SHIELDS presented the petition of Jane Kearny, praying to be allowed a pension and bounty land; which was referred to the Committee on Public Lands.

Mr. SUMNER. I have in my hand a memorial from John L. Sullivan, who signs himself a nephew of Major General Sullivan, of the revolutionary army, relative to the preservation and national uses of one half of the gold from the public lands in California. In this memorial, which is a very elaborate document, he sets forth five specific objects to which he wishes that national fund to be appropriated. Without going into it at length, or occupying the time of the Senate by any further statement of the object of the memorial, I move its reference to the Committee on Public Lands.

The motion was agreed to.

#### PETITION WITHDRAWN.

On motion of Mr. JONES, of Iowa, it was

Ordered, That James Carrigan have leave to withdraw his petition and papers.

#### PERSONAL AND POLITICAL EXPLANATIONS.

Mr. MANGUM. Mr. President, I indicated, yesterday, a purpose to ask, by the courtesy of the Senate, that I might be permitted to speak on a matter which, I am aware, is not strictly in order this morning. I hope that the consent of the Senate will be given.

The PRESIDENT. The Senator will proceed unless objected to.

There was no objection.

Mr. MANGUM. Mr. President, I have no speech to make, in the ordinary acceptance of that term. I desire to make a few remarks touching, as briefly as I may, upon a few points which, in fact, are mainly in reference to my own personal position, which, I am aware, is of little consequence to anybody but myself—a topic on which most men are supposed to speak fluently, and but few wisely. I shall be as brief as I can.

It is known to the Senate, that, during the past winter, my health has been, I may say, bad, but at best very variable; and I have not participated at all in the business of the Senate, except occasionally and very slightly—still less have I participated in any arrangements or intrigues touching presidential questions, or anything of that kind. Yet I find, humble an individual as I am, that I am made the subject of newspaper speculations, represented variously and conflictingly at different points. However small may be the taper which I hold, I am unwilling that every wind should play upon it and extinguish it. I desire to be understood correctly.

It has been my habit, throughout life, on all occasions of this character, never to be doubted; and I desire, if I shall succeed in explaining myself perfectly, that I may here not be doubted on these



subjects. In regard to the next Presidency, I shall, very probably, stand prepared to support the nominee of the Whig Convention. I profess to be a party man, and shall act upon that principle; I shall yield, as I was compelled to do, four years ago, against my own judgment, if necessary, against all my own inclinations, to support, as I did then, most strenuously, the nominee of the Whig Convention.

But while I shall probably do this, I have my preference. I had the same four years ago; and that preference implies no dereliction of principle upon my part, nor any departure from or modification whatsoever of the principles that I have steadily maintained, for now nearly thirty years, in both branches of the National Legislature. I know, if I go in a particular direction, that we have conservatives both North and South of what is esteemed the peculiar institution of the South, who imagine that a man is unfaithful to them—is untrue to them, if he does not happen to tread in the path indicated by them. I am old enough, if not wise enough, to act upon the suggestions of my own understanding; and, wise or unwise, I shall probably do so without fear, favor, or affection, reward or hope of reward—unintimidated by the menaces of power—unseduced by the blandishments of flattery.

Upon this interesting question, I unhappily am informed, and believe, that I differ as regards my first choice, from a portion of the constituency whom I have the honor to represent. It has not been an uncommon thing for me, in the course of my public service, to differ profoundly, upon several occasions, from my constituents. They have been forbearing and kind, and that is the ground of many griefs and regrets when my sense of public duty impelled me to such difference. Perhaps the boldest actions of my public life have been those in regard to which these differences have arisen, and have, in the long run, given me whatever little strength I may have had at home. I shall continue to pursue the course that my judgment shall indicate as the best for their interest, safety, happiness, and prosperity, during the short time that the relations now subsisting between myself and my constituents shall continue.

My purpose is to retire from public life. I am a candidate for nothing; nor do I expect to be ever again a candidate for anything. During nearly thirty years of service in both branches of the National Legislature, I have never sought employment under any Executive, under any power. I should always feel a sort of humiliation in giving up the kind confidence of a whole State to hold any office, however exalted and illustrious, by the feeble tenure of the will of one man. I have never sought it for myself or for mine. I shall never do so. I will also say that I have never felt a sense of humiliation in appealing to my constituents, the people of my own State; and, if successful, that success has invariably produced upon me the impression of a sense of my unworthiness or inability to render this service compatible with the degree of confidence which has been reposed in me.

I should not feel now any sort of humiliation to appeal to them for any place of honor, trust, or profit, if they had it in their bestowal, though I am no candidate, and, in all probability, never shall be again, even for the favor of a people who are nearer and dearer to my own heart than any others; and I trust the whole American family are near to me.

I understand, from evidences which I cannot question, that a majority of the people of North Carolina prefer the present President for the succession, as their first choice. That is not exactly my condition. I stand where I stood four years ago. I prefer another as my first choice. This diversity of opinion between my constituents and myself, can lead, I trust, to no results that may be detrimental to the public interests. I know perfectly well that the avowal of this preference on my part will grate harshly on the ears of the friends of the present Executive, both here and elsewhere. But, according to the custom of my whole life, I feel it to be my duty to speak truly my honest and sincere convictions. I will speak even unpleasant things to my constituents, if I believe the public interests require it.

Sir, I will further say, that I believe that the people of North Carolina are so averse to all the agitations that have existed here upon a particular subject, and to all the agitations of a local and sec-

tional character of every kind whatsoever, that they would very reluctantly bestow their support upon any one who either directly or indirectly encourages such agitation. In that respect we do not differ at all; for I hold that no enlightened patriot can ever desire to see this country pass again through such terrible, such alarming scenes as we all witnessed during 1849 and 1850. I pray God that such may never happen again in this country.

I know very well that there are certain gentlemen who make light of it; who supposed, or affected to suppose, that no evil was likely to result from that agitation; who considered that the Union was safe; or who, to conceal their unpatriotic and traitorous devices, affected to consider it safe. Yes, sir, if they had been at sea, and in a storm, perhaps they might have made light of it when they regained *terra firma*; but they were not less affrighted, perhaps, during the time when the elements were beating and struggling, and warring above, beneath, and around them. The wisest men in this country did think there was great and imminent peril. I thought so then—I think so yet. I hope we have escaped it. But with all the finalities, there is not yet a finality to the disposition to agitate. I disapprove the whole of it. I think that in this burning focus of faction at the city of Washington, quite as much is done to produce this agitation, as is produced either by the abolitionists of the North, or the disunionists of another portion of the Union. I have no sympathy with either of them. I have never been heard to speak in any factious spirit upon this delicate question within my recollection. It is not my purpose to do it now.

Instead of preferring the present President of the United States as my first choice, I prefer Winfield Scott; and, if he shall be the nominee, I have little fear of the result. I know how difficult it is for a man, powerless, without patronage, and without official influence, to get a nomination against the power of an administration, which can wheel into the ranks a hundred thousand office holders, and dependants perhaps to the number of half a million. I know that if they unscrupulously use this power, it will be next to impossible to obtain a nomination against them. The present President is entitled to the declaration from me, that I believe he would scorn the use of such means. But what some of his friends might do, I should not undertake to vouch for. Their activity, premature and somewhat absurd, as I thought, seems to furnish a full guaranty, that they will not be in the future sluggards, and disloyal to their practices in the past.

I have said that North Carolina will not be inclined to support any man who is in favor of reopening agitation upon these delicate subjects; and on that point I here express the conviction, and I might almost say my knowledge, that General Scott can show as clean a bill of political health, on these questions, as either the present President, Mr. Webster, or Mr. Clay. I say what I think I know, during the pendency of these questions. After the successful adjustment of them, good and patriotic and pacific men met the "All hail!" of the entire country; but, before those measures passed, when men stood upon a plank, trembling over a precipice—that was the time to try the sincerity, the candor, and the truthfulness of men's professions and men's conduct. During that period, General Scott unqualifyingly went ahead to produce an adjustment of those angry difficulties, and a pacification upon which honorable men—North, South, East and West—could stand upon in reference to the questions that were then agitating the country so menacingly and appallingly. I do not pretend to say that he approved of everything that was done in the various acts of compromise, and concurred in all their details. Far from it. I would venture to say, as a mere matter of opinion, that there was not a member in either branch of the Legislature that approved of everything in every one of those bills. I certainly did not. But I acted upon this principle: I went for an adjustment upon which an honorable man could stand at both ends of the Union. I did not desire to obtain an advantage, or a victory, or a triumph over my opponents in that sectional controversy. I think there is no enlightened patriot who would not scorn to acquire a victory or a triumph over his friends and his brethren. In that respect, I believe, from my

intercourse with General Scott, that he more nearly coincided with my personal feelings than any other man with whom I conversed. Sir, national in all his feelings, in all his proclivities, in all his inclinations, in all his professions; he desired neither a triumph of the North over the South, nor of the South over the North. Nor did I. I desired an adjustment of any sort, upon which men might stand with honor at both extremes of the Union, and preserve that heritage, without which, liberty, I think, would be extinguished, and, perhaps, forever. Imagine this Union separated exactly in twain; once set that example, and it would crumble down into the smallest and most contemptible, and factious, and warring fragments, and we would become a by-word and a scorn to all the enlightened portions of mankind, who feel any interest in human liberty, and in the progress of civilization.

I believe, therefore, that in doing what I do, in indicating the preference which I have, I in no degree depart from the principles I have always advocated; not at all. But yet I find gentlemen whose ambition may be limited to a township, or a county, or a Congressional district, or at most, perhaps, to a State, impugning me in the public prints as a tail to the kite of the honorable Senator from New York, [Mr. SEWARD,] for whom I have all due respect, except for his opinions upon the delicate subjects to which I have referred. There we are wide as the poles asunder. In regard to that, we agree to disagree. Yes, sir, these gentlemen of but yesterday are arraigning my consistency, my steadfastness to the South, to Southern principles and Southern institutions. Where can the boldest of them find, that in a public life of nearly thirty years, I have quailed in the presence of an enemy to the peculiar interests of my region of country? where the intimidation of power has made me succumb? or the blandishments and the arts of flattery have seduced me from the course which I had marked out for myself? No record of the sort can be produced. I may be a little ultra on this subject, yet I hope that does not extend so far as to make me sectional, and to forget that I have a great duty that I owe to every portion of this blessed Union. I hope not, sir. But some gentlemen are so extremely wise that they cannot associate with gentlemen who entertain different views on this subject. We must introduce into our platform and our creed a new principle. We are to take the compromise as a new article in our political creed. I have not looked at it very much of late; but I well remember, when it was passed, if you went South, you would find but a mere majority of Whigs and Democrats combined in favor of it; and if you went North, you would find the majority the other way—more Democrats in favor of it than Whigs, I admit. Well, that would be a platform! I suppose our friends in South Carolina, and even of Alabama and Mississippi, would be very unwilling to see it constructed; and some as sound Democrats as there are in this land, and as sound Whigs too, would be unwilling to meet on that platform. The compromise measures have passed into laws. There is no longer any territory open for the agitation of provisos; and I hope no more territory may be acquired, either by the spirit of rapacity or otherwise, to revivify these questions. They are now settled. There is nothing upon which agitation can act. If any triumph was obtained, it was but upon a single point—in accordance, I believe, with the principles of all parties in this country—that each State may determine for itself what shall be the character of its domestic institutions. I think there was no loss of honor on either side. Yet it has gone to the South, that there was an entire destruction of all the elements of honor, and that men cannot stand upon the settlement. They are asked to stand out of the Union; but they would not stand there long. So, in the North, it is said the Constitution must be disregarded. And who alleges it? Men who desecrate the Holy Bible and the religion of our Saviour himself. But this will not, in the long run, weigh with the common sense of the country; for I have an abiding belief, that whenever this country shall be deeply stirred to its foundations, it will show common sense enough, and conservatism enough, to maintain our institutions. In a word, I think a separation of the States almost a political impossibility. I thought otherwise, or rather feared otherwise, during that terrible session of 1849-'50. I had strong appre-

hensions, as one would have had even for a parent or a child that hung by a thread over a bottomless gulf. The bravest of men were made to tremble, and almost to quake; were sleepless at night; ridiculous as it is represented to be by some gentlemen who recklessly went forward, lighting their little tapers and making their way through the world, trying to get a little flash popularity which would not live longer than their tapers would burn. Recklessly as they pushed forward to results, fearful and destructive to everything of political philosophy, every lover of human liberty and human freedom must have felt that, on the decision of the questions then pending, depended the hopes of mankind; and that, if these reckless counsels should prevail, this Union—the hope of mankind—would have been buried for a time, if not forever. I hope never to be endowed with that sort of recklessness; and I hope that the majority of the American people will never be endowed with it. I hope that, with a fraternal, kindly, and affectionate sense, we will watch our institutions, watch their progress, and endeavor to perpetuate their safety.

In the preference I have indicated for the next Presidency, I feel that our interests will be as secure in those hands as in any hands that could be selected in this Union. I feel that in the purity, the nationality, the known honor, the honest and steadfast principles of that gentleman, they would be as safe as they would be anywhere. In the providence of God, it is not the highest ability and most practiced statesmanship that is required to give us a good government. It would be most unfortunate for the world, and especially for this American world, if it were so. Right intentions, a sound and a firm heart, and a steady purpose, with the elements of good, strong, common sense, are all that are required for carrying out all that is necessary to make the people happy, prosperous, and even glorious.

The practiced Machiavellians, intimately acquainted with all the sinuosities, tortuosities, and adroitnesses of the cunning politician, yield to strong and high sense, a firm heart, and right intentions and directness of purpose, as quickly as our cousins—the wily Mexicans—yielded to a greater than Cortez, in his triumphant, glorious, and almost miraculous march from Vera Cruz to the old city of the Aztecs.

There is another circumstance which leads me to my preference in favor of the gentleman whom I preferred four years ago. I think it was a great national misfortune that he was not selected at that time. If he had been President, we should have never had the scenes which occurred here during the winter and spring of 1849-'50; we should not have had the Buffalo Convention, with all its disasters. But this other reason of mine is, the ground of availability. It has been my steady, unwavering conviction, for more than a year and a half, that Winfield Scott is the only Whig in this Union, who can reach the Presidency by the voice of the people. I admit that he has been somewhat crippled and damaged at the South—and I say it with all due respect—by the development of a premature, and, as I have thought, somewhat absurd ambition of the present "powers that be." They have endeavored to ally him with Free-Soil and Abolition influences; and the unerring instincts of fear, have brought the ever-watchful Democracy into harmonious cooperation with the "powers that be" on this point. Sir, there is no Abolitionist who believes there is any truth in that allegation, or cunningly-suggested insinuation—nor do they believe it themselves. There is no Free-Soiler who ever expects to be able to use him as an instrument. Of all the men upon the earth, I should select him among the first who would never be made an unworthy instrument in the hands of any faction, whether South or North. That is my opinion. I undertake to express the belief, that he is the only Whig in the Union, who has any chance to be elected to the Presidency; and I would say to my honorable and respected friend from Michigan, [Mr. Cass,] that I should never repine to see any honor conferred upon him by the American people. Though perhaps this is praise coming from a quarter that may rather damage than benefit him, I must say, that I shall never forget the unwavering, steady, anxious solicitude that that Senator exhibited in the committee of thirteen, from the day of its first meeting, until the report was finally

made. I say again—not as a Whig, but as an American citizen—that I should never repine at any honors the country might think proper to confer upon him: yet I should feel some sympathy for him to see him in collision with my friend, General Scott; for I rather apprehend that the scenes of Cherubusco and Chapultepec would be reenacted; though, of course, I do not mean to compare the Senator from Michigan to the Mexicans. I venture to express the opinion, that there is no intelligent person within the hearing of my voice, who has turned his attention to these subjects, who believes that either of the other Whig candidates presented, can get even half the number of electoral votes necessary to make an election. There is not an intelligent person, I think, who has turned his attention to the subject, who does not entertain this opinion in common with me.

I have a strong feeling of *auld lang syne* for my old friend, the editor of the Union; for I have been distressed at his sorrow that the Whigs did not seem to pay a sufficient degree of respect to certain other gentlemen who are named for a certain high office. I sympathize with his solicitude and anxiety; for I have none but the kindest personal feelings for him, and great respect for his sagacity—a quality which I think he possesses in a very high degree. It is the old doctrine of New York Democracy, first avowed, I believe, by Governor Marcy, now a very prominent candidate for the Presidency, that the spoils belong to the victorious party. It is said, that there are fifty millions of spoils to pass to the victorious party. And let me say, that if a satisfactory guarantee could be given to the friends of the editor of the Union, that we would nominate A or B, or any other than Winfield Scott, as a candidate for the Presidency, they might be willing to advance, in the Hungarian scrip style, ten per cent. of these fifty millions, or five millions; and they would make by the operation, forty-five millions, with an absolute certainty. Our friends of the Democracy are keen at a sharp bargain. But if our choice should fall upon the hero of Chapultepec and Cerro Gordo, and of all other fields where his proud war-steed has champed the victorious bit, they would not get off quite so easy. If this could be a business transaction, divested of everything supposed to be dishonorable, sustained by public opinion; if we could give satisfactory guarantees of who should be the nominee of the Whig Convention, we would have the money paid over, after reasonable notice, in a short time after the books were opened. By going into the political marts, where offices are bought and sold, and arranged "out," and "in," the thing would be very easy.

This is a very dull, and a very dry business to be giving in a confession here which is exactly at war with the feelings of my own constituents; but so it must be. I have seen, also, on the part of my friend—the editor of the Union—great solicitude to exclude General Scott from any intimation, in the terrible session of 1850, directly or indirectly, of desiring any law to be passed which should be more efficient in restoring fugitives from labor to their former service. I find, by looking at the Journals, that as early as the 3d of January, 1850, that bill was introduced and referred to the Committee on the Judiciary; and, as early as the 17th of January, it was reported back from that committee. It underwent several days' discussion, upon a motion which I myself had the honor to make, that with the resolution introduced by the Senator from Tennessee, [Mr. Bell,] and the resolutions and bills introduced by an honorable Senator from Mississippi, [Mr. Foote,]—no longer here—and the resolution of the Senator from Kentucky, [Mr. Clay,] should be referred to that much-reviled committee of thirteen. We afterwards (what seemed to me to be an anomaly in parliamentary business) retained in this body the fugitive slave bill, subject to occasional discussions, while the same subject was before the committee of thirteen. The committee reported a bill on that subject, which we supposed would be quite as efficient, and less offensive to Northern sentiment, than the bill which finally became a law.

By an amendment which was introduced—if I should speak of committee affairs—I think by the Senator from Michigan, and which was adopted and reported by the committee, it would have placed this law in a much more acceptable and less offensive condition to the North than the law

which finally passed. But there was a wreck of the omnibus, and we had to gather the *membra disjecta* as we could, and fix them together. In doing so, we lost sight of the old fugitive slave bill, reported by the committee of thirteen, and took that already prepared to our hands by the Committee on the Judiciary, and that was passed. General Scott, when he addressed the Union meeting at Castle Garden—when he wrote his letter to Mr. Clay—when he spoke in the Capitol and the lobbies of this Chamber, manifesting the utmost degree of anxiety and solicitude that some plan of adjustment should be agreed upon by which the Union would be relieved from the menacing condition in which it was placed, must have had in contemplation that with the other great objects. That he went for all the details of that measure, or for all the details of all the measures usually called the compromise, I do not undertake to say. I have never heard him declare it. There were many things in those several bills which I would have had out of them if I could. But the Union, like divers other papers, with a very patriotic spirit, looking very much to the pacification of the country, desires to reopen this question upon the fugitive slave bill, and to indicate that General Scott must say what were his purposes, or that he cannot be supported by honorable men from the South. Well, sir, we shall see. I have no apprehensions upon that subject. I consider him as national and as patriotic as any man whatsoever who is named for the Presidency by either of the parties of the country. He would scorn to acquire a triumph for one section of the country over another; and nobody would do it but a little two-penny politician. No enlightened patriot or statesman, with enlarged views, would ever desire it. It would be the nidus—the nest of unnumbered ills in the future—the nest from which, instead of birds with brilliant plumage, to delight the eye, and warblings to regale the ear, would issue serpents to sting the American people to madness. It is unbrotherly, and it is as unwise as it is unbrotherly to desire such sectional advantages, miscaled triumphs. No American patriot can, or will ever desire it.

If I were placed upon the confines of the most distant frontier of the East, or if I were placed upon the banks of the Rio Grande; or if, again, I were placed in the furthest West, upon the wild sea-banks, laved by the waves of the Peaceful sea; or if I were upon the cold heights of the Rocky Mountains, I should desire to be able to say, with a full heart, with a swelling, exultant pride, *This is my country; I am an American citizen.*

Sir, every portion of the Union, to the enlightened public man, if not equally dear, is dear to this extent: that he would acquire no undue advantage over that, in favor of his own. A man who would do that, I would not trust with my purse, in the private walks of life—that is, if it had anything in it.

But it is said, by a certain class of politicians, that General Scott should give out a letter and his views; of what were, and what are, his sentiments and opinions. I should like to have seen what would have been said of a man who would have required that General Washington should ride over to his neighbors, in Alexandria, and have his views duly made out, under proper seals of office, that he was an honest man and a good citizen, and might be trusted with the management of the Government. What would have been said if such a thing had been proposed with regard to the elder Adams, Mr. Jefferson, or Mr. Madison? It is indicative of a sad declension in the times, when you require of such a man the same sort of certification that you would for a thousand-dollar clerk in one of your bureaus. I had supposed that the Whig party, with a fresh recollection of the *Kane letter*, of the watchword of "Polk, Dallas, and the tariff of '42," would not have desired any more of such things. I do not.

I mean not, on this occasion, to indulge in anything like eulogium upon my first choice. I think eulogies of the living are always in bad taste. I think they are very often misapplied, and not unfrequently quite ridiculous. I shall attempt no such thing. Let him stand forth, upon his own foot, and look upon him as one of the ablest and most prominent public servants of the country, who has illustrated our annals in a way that has commanded the respect and the approbation of his countrymen, and secured for him the admiration

of the world, as much for his goodness as his unquestioned greatness. You will not think there is danger of his being swayed by free-soilism, or abolitionism, or anything of that sort, proceeding from the North or the South, the East or the West, or any quarter less than his country, his whole country. It is an insult to suppose such a thing of a man who was born in a Southern State, brought up in the midst of Southern institutions, who was educated for one of the learned professions; who has been, all his life, a law-abiding man; who has been, for the last twenty-odd years, the mark for the hostility of every Administration. They feared him, and they hated him. He has been placed in the most difficult situations; and in the closing scene of the last war, when he was about to be brought home to his own country almost in chains, the indignant refusal of his American heart to accept propositions made to him in Mexico, is worth more than all the speculations as to free-soilism, and abolitionism, Kane letterism, and all the rest of such things. I do not include in this the Nicholson letter, for I understood that perfectly. I do not think there was any mystery about it. I reviewed it four years ago, and I then put the proper interpretation on it. It was honorable to the gentleman who wrote it; and his whole life, especially that portion of it which has come under my observation, has been devoted to what he considers to be the true principles of Government.

The remarks which I have made upon this occasion, by the forbearance of the Senate, for which I return my sincere thanks, are made most disinterestedly. I make them honestly to my constituents. Though they may grate harshly upon their ears, and may produce temporary anger, yet it has been my fortune to have differed with them before; and, after their long-continued kindness to me, I feel a perfect confidence that they will not imagine that I would abandon any of their essential interests, or would see them abandoned without a struggle. I feel it due to them now to call their attention to the fact, that upon a false principle, to some extent, they are giving all their sympathies and all their affections in one direction, where they can be no better sustained nor justified than if they were given in the direction in which I give mine. I stand ready to compare the record, and I will make out as clean a bill of political health for my first choice as can be made out for either of the other gentlemen named by the Whig party. When I superadd to this the fact that we have an Eclipse that can outrun time itself, and that will pass over Young America, and old fogysism as he would split the currents of air that meet him, I feel braced and confirmed in my judgment that the selection I have made is wise, judicious, patriotic, and, in the event of success, will redound to the interest, the happiness, and the glory of the country.

I feel that I have trespassed most unreasonably upon the indulgence of the Senate; but before I take my seat, I wish to remark that the present Secretary of State won much upon my affections. I should at one time have felt willing to vote for him with a great deal of pleasure. I think that his position, and what he did, entitled him to the respect, and, in some sense, to the gratitude of the country, though I have yet to learn that a man deserves very much for the simple performance of his duty, particularly when such great stakes are to be played for as the preservation of the Union. In the course of my public life, I have found that I have more frequently been put in a false position by a certain ardor, warmth, and susceptibility of temperament, than by the opposite and, perhaps, less amiable weaknesses. I must say that certain events supervening have modified, if they have not entirely changed, the current of my feelings in that direction, not uncorroborated by the suggestions of my judgment. I stand first as in favor of one without competition, difficulty, or doubt. So I wish to be understood. Yet, as a party man, I shall be prepared to yield to the decision of those to whom is usually intrusted the selection of a candidate for the Whig party, unless I shall think that there is something unfair about it. In that case, I shall feel and recognize no binding obligation upon myself. That, however, is of no moment to any one, or to any thing, or to any result.

I have been among our friends of the East and the North, and I have studied them as carefully as I was able to do during a two or three months'

visit. They have more elements of greatness in the highest state of excitation and activity, than perhaps any portion of the world of equal population. While they eviscerate many truths—much philosophy, they also turn up a great deal that is worthless and useless, and even pernicious. While it is a land of intelligence and vigor, of energy, of power, it is also a land of all sorts of *isms*, which, among our more sluggish, and perhaps less mercurial, or it may be less conceited population of the South, are hardly ever known to exist. Well, I have seen on the list of *isms* what I regard as the most respectable of any that has appeared in modern years, and that is *anti-liquorism*. It is one of a character that must command the approbation of every reflective man who has lived half as long as I have. It is an endeavor to cure a national evil. Whoever shall discover the means of doing it may be regarded as a great public benefactor. Looking upon it in that sense, it may be regarded as in some spirit national, as we have all seen, with more or less regret, from the highest positions in the Republic to the lowest. If they can suggest, either by legislation or otherwise, or by moral suasion, and find a remedy for it, they must be regarded as great public benefactors, and as eminently conservative, (as I believe the Whig doctrines generally are,) and promotive of life and domestic happiness. I wish them God speed; but I wish they would keep that question out of the range of partisan politics; for our recent disasters, proceeding from that cause, are not quite agreeable to my feelings. I think that so pure and so unselfish a movement as that must be supposed to be, ought not to be connected with partisan politics. Nothing can be imagined so pure, which, when it is brought into the arena of party politics, does not become soiled by the contact, and dragged in the mire and filth. Let these things stand upon their own footing. I hope we shall have no more national catastrophes. They are godsend to the gentlemen who fix their eyes upon the Presidency—a sort of windfall, from which they may carve quite capital enough to make a President. And that has reminded me of an amusing book I have recently read, where, in South Africa, the successful hunters shall strew the ground with the dead carcasses of his game, and where vultures and the savage natives flock by hundreds and tens of hundreds, and gorge, and gorge themselves until they and all about them are monuments of disgusting rottenness. They are essentially jacobinical, and are the best representatives of communism, of jacobinism, of modern notions of liberty and equality, and of equal rights born with mankind. They are to my mind a perfect type of some of those who advocate the jacobinical doctrines of liberty, equality, and communism, as samples of European republicanism. Sir, I beg pardon for this wandering digression. I did not imagine that I was going to occupy the Senate half the time which I have occupied it; but I hope that in future I shall not be misunderstood. This is interesting to nobody but myself and my constituents. Upon this question I shall be as free as they are. Though humble in retirement at home, as I am here, I shall exercise my suffrage, I trust, as free as anybody; and when I leave this seat and go into retirement, I shall be ready to cry "All hail!" to my successor, and all promoters of rational liberty and well-regulated order, and I fervently hope that he may be vastly more successful than I have been in serving all the public interests. That, while he will be more active, may be also vastly more able. I fervently pray for this for the honor of my native State, to the undying love and deep sense of gratitude which I cherish for her, which can cease only with the last gleams of memory and the last throbbings of my heart.

Mr. GWIN. The Senator from North Carolina has stated that General Scott can present as clean a bill of health as any member of the Whig party whose name has been used in connection with the office of President of the United States. Now, I wish to know whether the honorable Senator speaks by authority, when he says that General Scott occupies the same position with regard to the fugitive slave bill as the President of the United States does? That is to say, I wish to know whether the honorable Senator speaks by authority in making this announcement? whether he wants the country to come to the conclusion that General Scott is in favor of the fugitive slave law as it is, and as it passed through Congress?

and, if elected President of the United States, will execute the law as it is, and oppose any modification or amendment whatsoever?

Mr. MANGUM. I will reply to the gentleman. It is not my habit to bask in the smiles, or to be cooled in the shade, of great men.

I have had no conversation with General Scott on political matters since December of the year before last, nor on this subject, except in the galleries and lobbies of the Senate Chamber, or other portions of the Capitol, during the pendency of the "omnibus" bill. I speak what I know—I speak of his wishes, purposes, and desires at that time, and I say he can present as clean a bill of political health as any gentleman who is named for the Presidency, either on the Whig or Democratic side. This is satisfactory to me, and the experience of "the Kane letter" should satisfy the Whig party. We need no such letter from General Scott.

That was a time that tried men; when public opinion was *in dubio*; when it was shaking in stays. It required a little robustness of principle to step forward and take hold of questions of that kind, before there had been any indications of public opinion in coincidence with theirs. The honorable Senator from Michigan [Mr. CASS] did so, and so did General Scott, with equal zeal, and equal ardor, and equal fearlessness of responsibility—that bugbear, that evil genius of trimming and cunning politicians.

As to the provisions of the fugitive slave bill, can the Senator from California name to me a single person, who voted for what is now usually termed "the compromise measures," who is satisfied with all the details of all the bills embraced in those measures? If he will show me such an one, he will show me what I have not yet seen or even heard of. I was not satisfied with many of those measures myself; but I took them because I saw it was a platform on which all honorable men could stand, and because it did not give a triumph to one section over the other. I did not desire that it should. General Scott did not desire it, for I think he is as purely national as any one who voted on that question.

Mr. GWIN. The answer is just what I expected it would be, that the Senator is not authorized to say that General Scott was in favor of the bill as it is, and, if elected President, will maintain it unimpaired, as the present President of the United States has done. I have as high a respect for the personal and military character of General Scott as any member of this body; but this is a very important question; and this is a very important era in the history of the country. I believe no gentleman in the Senate can get up and say that General Scott is in favor of the fugitive slave law, and will execute it as the present President of the United States has; and I undertake to say that, when the Senator from North Carolina asserts that General Scott can present as clean a bill of health, in regard to the compromise measures, including the fugitive slave law, as Mr. Fillmore or any other Whig candidate for the Presidency, he cannot say that he (General Scott) is pledged to execute the law as it has been executed, and that he would oppose any alteration of that law, if elected President.

Mr. MANGUM. Sir, I have no difficulty in answering the question; or, at all events, in giving my opinion as to that. I have not gone to ask General Scott the question, nor have I exchanged a word with him touching the Presidency, since last December was a year. I act upon my own knowledge and responsibility. You can make no President who will not endeavor to have every law executed, as long as it is a law, and as far as his power will go, unless he be a perjured, reckless, unprincipled man. I believe, sir, that General Scott, if elected President of the United States, would have all laws executed, according to the best of his ability—every one. He would be sworn to do it; and we must form a very low estimate of his morals or character, if we suppose otherwise.

Now, sir, I should like to know from the Senator from California, who feels so deep an interest in the opinion of General Scott on this subject, whether, supposing I got his authority to state here, that he would sustain these measures precisely as they exist, he may hope to get the vote of that Senator?

Mr. GWIN. I will answer the Senator from North Carolina.



Mr. MANGUM. I suppose I can as well answer for the Senator. [Laughter.] Gentlemen, therefore, need not show so much solicitude in regard to a matter in which they have so little personal interest—California, as a State, has just none at all. But, sir, I beg pardon, they have an interest—a deep interest—an interest involving fifty millions of dollars; because, I repeat, that if we give them a satisfactory guarantee to make a certain nomination, they hope to get in. I have nothing further to say on that subject, except that it might be a little inconvenient to some of the Democratic candidates to be placed on the stand, and I were permitted, unskilled as I am of late years, to run them through a course of searching examination. I should like to know what are their opinions about the existence of Mexican law in certain cases. Sir, I have but little respect for the legal opinions of some on that subject. I have my own opinion, however, on that matter, and should like to know their opinions on that and divers other small matters. Those opinions, however, will not influence my vote, and I would say further, that I do not think it proper nor decorous to place those gentleman on the stand to answer such inquiries.

Mr. GWIN. I shall detain the Senate but a moment.

The Senator from North Carolina presented himself formally before the Senate this morning, according to a notice which he had given last evening, for the purpose of announcing the fact, that he is in favor of General Scott for the Presidency. He has given his reasons, and among those reasons he has said that General Scott is as much in favor of all the compromise measures, including the fugitive slave law, as any candidate of the Whig party, for the Presidency. I therefore inferred that he spoke from authority, and thought it pertinent and respectful to make the inquiry. No Democratic candidate has been brought forward this morning in connection with this question; but I will say that if the nominee of the Baltimore Democratic Convention is not in favor of executing the fugitive slave law as it is, and opposed to any alteration of that law, I shall oppose his election. I take that responsibility in my place here, and I take the further responsibility of saying that the gentleman can name no person, who is prominent among the proposed candidates of the Democratic party, who does not intend to maintain that law, or who has a shadow of doubt as to his position on this question.

Mr. MANGUM. That is true.

Mr. GWIN. There is a doubt in regard to General Scott's position. He has written letters heretofore; let him write another, and pledge himself to the country and the world, that if elected President of the United States, he will execute this law as it is, and oppose any amendment of it.

Mr. DAWSON. I consider this a fit occasion upon which to ask the indulgence of the Senate, for the first time in my Congressional career, to say a word or two in relation to myself.

The PRESIDENT. The Senator can proceed if such is the pleasure of the Senate.

There was no objection.

Mr. DAWSON. What I have to say, Mr. President, is entirely in relation to myself. It is known to this body that it is not my habit to speak of myself in the Senate, or to "define my position." My acts heretofore have determined my public and party relations. But a position has been assigned to me, without any action of my own, in the New York Herald, a widely-circulated and influential journal, which requires some notice from me. I refer particularly to articles published on Sunday and Tuesday last. The first is headed "The Whig Caucus at Washington—Scott and the Fugitive Law—Trouble in the Camp." It is a long and interesting and admirably written article, containing many things which receive my approval; but that part which refers to me is founded in mistake.

The article of Sunday, the 11th of April, is in these words:

"THE WHIG CAUCUS AT WASHINGTON—SCOTT AND THE FUGITIVE LAW—TROUBLE IN THE CAMP.—We published, exclusively, yesterday morning, the proceedings of the Whig Congressional caucus, held in the Capitol on Friday night, for the purpose of arranging the time and place for the Whig National Convention. As our readers will have discovered, there was involved in that caucus the most important movement, by all odds, that has sprung up at Washington since the meeting of Congress. It is far more important than any public measure of legislation, passed or proposed, because it involves the permanent

question whether the powers of the Federal Government shall be surrendered into the hands of Seward and the anti-slavery agitators, as far as the Whig party are concerned, or whether the Union, the Compromise, and the Constitution shall be proclaimed as the basis of Whig principles. That is the issue between the Whigs of the North and the Whigs of the South. That is the issue upon which General Scott is to be tried.

"The two most prominent characters in this Whig caucus, were Mr. Mangum, of North Carolina, the chairman, and the gallant Humphrey Marshall, of Kentucky, the leader of the forlorn hope of the South, possibly with the advice and consent of Mr. Clay. Mr. Truman Smith, the chief cook and bottle-washer of the Taylor campaign, was, of course, on hand, and very prompt to move a snap judgment upon anything like a declaration of principles. But Marshall intercepted him in a very explicit proposition, requiring the Northern Whigs to show their hands upon the slavery question, before the South were called upon to join them in a national convention. The suspicious affiliations of Scott with Seward, and his piebald anti-slavery and abolition associations, and the equivocal hide-bound attitude of Scott on the fugitive slave law, were the reasons submitted for this demand. And they were enough. Mr. Marshall will be justified before the whole country for grappling the bull by the horns, upon the threshold. If Southern men submit to be dragged unconditionally into a national convention, they will go out of it with a capitulation to Seward and his schemes, and a base surrender of their birthright, for the very doubtful chances of a mess of pottage. Let the Southern Whigs bear in mind that if, by a surrender to Seward, they succeed in the election, it will be the signal for renewed war upon the South, backed up by the whole power of the Administration; for there will be a power behind the throne greater than the throne itself. But let them also bear in mind, that by an open alliance with Seward and his various knots and cliques of agitators, they demoralize the National Whig party—destroy it in the South—with all the hazards before them of a most inglorious defeat, even in the pitiful contest for the spoils.

"There was a fair exhibition of firmness among the Southern Whigs, in support of the proposition of Mr. Marshall; but the notice of Mr. Mangum, that he should consider the motion out of order at the next meeting, and the adjournment of the caucus to meet again on Tuesday evening, gave a sickly and bad complexion to the whole affair. Mr. Mangum would undoubtedly, upon a satisfactory platform, be a very popular candidate to run with General Scott. Perhaps his colleagues—Mr. Badger of the Senate, and Mr. Stanley of the House—entertain the same opinion. It may be that Mr. Senator Dawson, of Georgia, has some aspirations for the Vice Presidency. At all events, the apparent willingness of all these distinguished Southern Whigs to take Scott and his right bower—Seward—upon trust, give a bad aspect to the whole case—the aspect of a final caving in to the most insidious and dangerous of all the enemies of the South.

"We have our misgivings that, in the second meeting of the caucus, the Northern Whigs, aided by a few members from the South, more intent upon 'the spoils' than upon principles and fidelity to their own institutions, will succeed. We have our fears of just that sort of a compromise upon which General Taylor was elected, and which resulted in driving the country headlong to the verge of civil war on the Texas question. It is not for us to presume that the death of General Taylor was a Providential interposition for the salvation of the Union; but we have reason to suppose that, had he lived, the influence of his Seward cabinet would have held him to his mistaken policy, and that the very next step in it would have been a war between Texas and New Mexico. It is hardly necessary to follow the consequences of such a step at that time; the end, in all human probability, would have been an abrupt dissolution of Congress, the secession of the South, and the destruction of the Union.

"Now, the question is, are the Whigs of the South willing to run the risks of another campaign without a platform? We repeat, that we have our misgivings that Mr. Humphrey Marshall and the compromise Whigs of the South will have to yield the wall to the force of numbers, or secede from the Northern Whig party. If they cannot, neither in person, nor by proxy, induce General Scott to show his hand or open his mouth upon the fugitive law, then it will be a duty which they owe to the Union and the South to bolt, and leave the Northern Whigs to help themselves. The late violent denunciations of the fugitive law, upon the case of Horace Preston, by the leading organs of Seward in this city and State, abundantly show that there is to be no peace upon that question—no finality, no acquiescence on the part of the Seward wing of the Whig party. Resistance and agitation are to be renewed in every case of the recapture of a runaway slave, till the law is repealed, and other measures are substituted, which will secure freedom to the fugitive upon crossing Mason and Dixon's line, or the Ohio river. And this is but a step in the abolition programme, the ultimatum of which is nothing less than the total abolition of slavery in the South, by a peaceable or bloody revolution. There is no disguise in all this. It is published to the world by the anti-slavery societies themselves, of whom Seward is the willing organ in the Senate. Every inch of ground which is lost by the South is a gain to them, and they never recede an inch. Will, then, the Southern Whigs knock under and cave in to the dictation of Seward, and accept his candidate upon his own terms, to conciliate his favor and the support of his allies? That is the question.

"The Whigs and the Democrats of the South have each the alternative of running an independent ticket, if their Northern allies will not toe the mark. They have thus the power of throwing the election into the House of Representatives, where they will have the strength to defeat the schemes of Seward, and the power of giving both parties an example of their principles, which will do them immense good for the future. Yet, we suspect this Congressional Whig caucus will stifle all inquiries for principles, and blindly follow Seward for the spoils. Will the Southern Whigs then withdraw? We doubt it; but we shall see. It is difficult to get over 'the cohesive power of the public plunder.' But we shall see."

Now, Mr. President, I did not attend that caucus, nor did I participate in its conclusions, either directly or indirectly; nor am I under any pledge to abide by the determinations to which those gentlemen may come. My position, I thought, was well known. It was publicly announced more than a year since that I would support no man for the Presidency who would not support the measures, one and all, known as the Compromise, openly and honestly, and with no view to deceive either the friends or the opponents of these measures. Hence I avow that I will act with no party which shall endeavor, either directly or indirectly, to open for agitation the questions adjusted by the compromise, even for the purpose of securing votes at the ensuing presidential election. Nor will I combine to elect any man to the Presidency, whose opinions are not beyond doubt or cavil on the finality of the compromise; nor shall I, under any circumstances, act with any party that shall not have the firmness publicly to avow their support of the compromise. Nor shall I commit myself by attending the Whig or Democratic convention, as at present advised. I desire to see our friends in the non-slaveholding States, by their own action, determine for themselves what is their true position in regard to the agitating questions of the day. If the South is to have no quiet upon these questions, I want to know it. The South herself desires to know it; and if it shall be determined that agitation is to be continued, then my word for it there will be no division in the South; there will be, as there should be, but one sentiment—that of union against unconstitutional aggressions.

The next editorial, from the paper of last Tuesday, is headed, "The Crisis of the Whig Party and the South." It is a long and interesting, and—like the other—a well-written article. It contains many truths; but that part which relates to myself is also founded in mistake. It is a mistake which places me in an attitude, known by all who surround me to be untrue. The article, which was published on Tuesday last, the 13th instant, is as follows:

"THE CRISIS OF THE WHIG PARTY AND THE SOUTH.—We have transferred to our columns to-day, several extracts from our Wall street contemporaries on the subject of the late Congressional Whig caucus at Washington. They throw but little additional light upon the matter, yet are not without interest as confirming the character and extent of the great trouble which threatens the most abject humiliation of the Whigs of the South, and the utter demoralization of the whole Whig party.

"The proposition of Mr. Humphrey Marshall in the late caucus, for a recognition of 'the finality' of the compromise measures, brings the Whig party to a crisis which involves the question of its nationality, and the still more important questions of the restoration of the confidence of the South, or the reopening of sectional animosities, and the agitation of disunion, from a base surrender to Northern Abolitionists. It involves the question of the restoration of quiet and good will between the two sections, or the revival, with the connivance of Southern Whigs, of all the disastrous influences and consequences of the anti-slavery agitation. It is an issue which makes the Whig party a Union party, or an Abolition and Disunion party; a sectional party, or a national party; a party upon principles, or a party for plunder; a party of law and order, or a party of sedition and nullification; a constitutional party, or a 'higher law' party; a party organized for the support of Seward and his anti-slavery coteries, or a party standing upon the broad platform of the compromises as they are; a party for the suppression of agitation—for the observance of good faith towards the South, for the recognition of State Rights, the reestablishment of peace, and the preservation of the Union. This is the issue upon which the Whig Congressional caucus of Friday night last adjourned over to this day week.

"This adjournment is ominous—the defection among the Southern Whigs is ominous; but the declaration of Mr. Mangum that he should consider a motion for the declaration of principles out of order, is the most significant feature of the whole affair, and the most to be deplored. What are the facts of this Whig caucus? The North was there in strength. William H. Seward, Thaddeus Stevens, Mr. Wade, of Ohio, and other notorious ringleaders of the Abolitionists, were there, apparently the most efficient members in the practical action of the caucus. Certain spirited and consistent Union Whig members, from Kentucky, Tennessee, and North Carolina, were there, boldly demanding an understanding with the North, as the first step to united action; but they were overwhelmed. There was a debate of four hours; but the question was deferred, and Mr. Mangum intimated that he should, at the next meeting, rule the motion for an understanding to be out of order. This is bad, and places Mr. Mangum in a bad position; and the apparent concurrence in his views by Messrs. Badger, Dawson, Jones of Tennessee, Stanly, and some other Southern Whigs, places them in the same questionable attitude. Let us briefly explain.

"In the spring of 1850, both Houses of Congress were sorely perplexed with the complicated unsettled issues growing out of the slavery question. Serious apprehensions were entertained of a violent dissolution of Congress and a speedy disruption of the Union. Henry Clay had thrown

himself into the breach, but he was powerless without some efficient aid from the North. The leading Southern Whigs, such as Mangum, and Badger, and Dawson, rallied upon Mr. Webster, seized upon him, stuck to him, and brought him finally up to the mark. His speech on the 7th of March gave a new impulse to the compromise movement, and the whole country felt that the danger was substantially passed. But it is curious that, in the proceedings upon the committee of thirteen, Mr. Webster wavered again, voting this time against, and that way, and was only held to his place by the unceasing vigilance of Messrs. Mangum and Badger. It was a terrible trial to give up Massachusetts sure, for the doubtful prospect of a settlement of the slavery dispute; but he did it through the example of Henry Clay, and through the personal influence of such men as Mangum, and Badger, and Underwood, and other Southern Whig Senators. They stood virtually, if not directly, pledged to indemnify Mr. Webster in the future for the loss of Massachusetts, in the cordial support of the South; and it was that impression, and the general popularity of Mr. Webster's course in the South, that rendered him at once a promising candidate for the Presidency.

the Presidency. "The South are under similar obligations to Mr. Fillmore. General Taylor's policy conflicted with Mr. Clay's policy; and it was not till General Taylor was succeeded by Mr. Fillmore and a new Cabinet, that there was any really satisfactory prospect of a compromise. Mr. Fillmore sided with the policy of Mr. Clay, and threw into both Houses a conciliatory message or two. The way was cleared on the Texas question, the compromise bills were passed triumphantly and in quick succession, and the work was done. But the agitators had yet one hope of a failure—it was the stringent and effective fugitive slave law. Fillmore would be eternally damned in New York, to sign it. But he looked to the South, and the South looked to him. The bill was signed, and it has been enforced. The President may justly demand, in good faith, the support of the South in return. But what do we see? While the Whigs of all the Southern States, from Virginia to Louisiana, at home have declared for Fillmore, as their choice for the Presidency—while they all stand upon his platform of the compromise measures—the leading Whigs of the South in Congress—such men as Mangum, and Badger, and Stanly, and Governor Jones—are juggling with Seward and Thaddeus Stevens for a platform, and a candidate that will secure the support of the Northern Abolitionists. What a falling off is this in Southern dignity, Southern chivalry, and Southern statesmanship! Is there any security to the South, when her leading men are thus willing to throw wide open the doors of agitation, in the pitiful prospect of the Vice Presidency, upon a ticket with a candidate whose only pledge is a pledge to Seward not to commit himself against the Abolitionists? What is the South worth—what is the Southern Whig party worth—if its principles are thus to be sacrificed for the prospects of plunder?

Mr. Lincoln explained the obligations and partiality of the House of Representatives, and the influence of the South to Fillmore and Webster, it is easy to give the solution of their desertion by leading Southern Whig politicians. The late vote in the House of Representatives on the question of the fugitive law as a finality will solve the mystery. Mr. Jackson's resolution was carried—yeas 101, nays 64. Of this vote, there was only seven Northern Whigs in the affirmative to thirty Northern Whigs against it, the rest being absent, from reasons best known to themselves. Of the Southern Whigs, the vote was twenty for the finality to one in the negative. Thus, while the Whigs of the South are substantially unanimous in favor of the compromise as a permanent settlement, only seven men of the whole Northern Whig representation in the House of Representatives are found in the affirmative—only seven! This shows that the Whig party of the North is radically, if not hopelessly, infected with the leprosy of abolitionism. It shows that his element of the party must be conciliated, or that New York, Massachusetts, and Ohio may go by the board. And in this view of the case, we apprehend that the Southern compromise Whigs in the Congressional caucus, on Tuesday night next, will be overruled—that an understanding will be dodged, and that it will be dodged in the National Whig Convention. We also suspect that the Democrats at Baltimore will dodge the compromises—in fact, that the candidate of both conventions will be put forward with the lockjaw upon the slavery question.

lockjaw upon the slavery question. "Will the South submit? Will Southern Whigs submit to support a candidate whose only pledge is a pledge to Seward? Can either party of the South, jealous of the critical tenure of their social institutions, and aware of the steady increase of the anti-slavery elements of the North, submit to go into the election with their Northern allies, with no other argument than that the door is to be left wide open to the abolition agitators? We have our fears. There is reason to fear that, in uniting for the spoils, the Abolitionists will gather the fruits of the unholy alliance—demoralize both parties—overthrow the fugitive slave law—carry the abolition of slavery in the District of Columbia, assail it in the States, and drive the South, in the end, to secession or civil war. The Whig caucus of Tuesday next will probably solve the riddle."

This article refers to the last caucus of the Whig party, which I did not attend. I have not participated even in the outside discussion of the alleged intentions of the presiding officer of that caucus. My preference, as an individual, for a candidate for the Presidency is well known; but I shall in all probability support the man who shall be sustained by the friends of the compromise measures, whether he be the nominee of either of the old parties, or of the friends of the Union, and the Constitution, and the compromise; and these friends may be designated as conservative Whigs and Democrats, or, if gentlemen desire it, as "outsiders" of both of the old parties. But my object is to quiet the country; to have peace and harmony; to have unity and brotherly feeling throughout the land. Can any honest man suppose that

I would loan myself as an individual, or as a Senator in Congress, to sustain any party that would unite for the purpose of creating or continuing agitation in this country upon the slavery question?

As to my courtesy upon the presidential election, this is not the place, nor is this the time, to discuss it. I merely make these statements as a reiteration of my declarations, made more than a year ago, to wipe off the wrong impression which the article in this paper may create, although such, I doubt not, was not the intention of its writer. Hence, as I have said, my remarks are entirely of a personal character; and, in all probability, I should never have asked for this courtesy from the Senate but for the occurrence of this morning—the explanation of the Senator from North Carolina.

### EMPLOYMENT OF WORKMEN.

Mr. HALE. I throw myself upon the indulgence of the Senate, to make a motion pertaining to the business of the Senate; and that is, that all previous orders be postponed, for the purpose of taking up a measure which I understood yesterday it was agreed should be considered to-day. It was postponed yesterday, as I understood, in order that the Senator from Michigan might conclude a speech which he commenced on Tuesday. I move to postpone other orders to take up the measure for the relief of the laborers on the Capitol.

Mr. BADGER. I do not intend to make any personal explanation with regard to my position upon the various subjects spoken of by my colleague, [Mr. MANGUM,] or the Senator from Georgia, [Mr. DAWSON;] but I am sorry, nevertheless, that the Senator from New Hampshire got the floor to make the motion which he has submitted. I propose that the Senate, this morning, proceed to the consideration of the deficiency bill. As I have said before, I now say again, that I am in favor of the measure proposed to be taken up by the Senator from New Hampshire; but I hope we shall now take up the deficiency bill, and act upon it speedily, in order to save the credit of the country, and to save the country from dishonor.

Mr. HUNTER. I hope we shall not take up the measure proposed by the Senator from New Hampshire, but that we may take up the deficiency bill.

Mr. BRADBURY. I shall ask the Senate to take action upon the French spoliation bill, which was under consideration yesterday. I shall not occupy much of the time of the Senate, merely desiring to reply briefly to some points which were urged by the Senator from Michigan, [Mr. FELCH,] and then to have a vote taken immediately. I regret that the Senator from New Hampshire [Mr. HALE] should think it necessary to urge the consideration of another question at this time. I regret, also, that so many embarrassments should, from time to time, have been thrown in the way of bringing up this bill for consideration, and that almost all the objections to the consideration of the subject unfortunately come from gentlemen who are friendly to the measure, but who are anxious to press other measures. I thank Senators for the courtesy they have manifested in permitting the subject thus far to be disposed of, and I trust the Senator from New Hampshire will allow us to have a vote. I will ask for but a very few minutes. I will not occupy half the time which has been occupied by those who are opposed to the bill.

The PRESIDENT. The question is on the motion of the Senator from New Hampshire.

Mr. BADGER. On that I ask the yeas and nays.

The veas and nays were ordered.

Mr. HALE. We shall never get this resolution up again unless we get it up now.

Mr. RUSK. I shall vote against taking up this resolution, though I intend to vote for it when it comes up. I do not think it necessary to be in a hurry in regard to the subject. We struck out a similar provision the other day, and a little delay now will do no harm.

Mr. MANGUM. I shall, with great pleasure, vote to take up this resolution to-morrow morning; but I really think it better to proceed with other important business to-day.

Mr. HALE. I have made various attempts to get action upon this subject, and I simply say now that this is the last time; for I have no idea we shall be any better prepared to consider it to-morrow than we are to-day.

Mr. RUSK. Somebody else will move to take it up.

**Mr. BORLAND.** I shall vote to take up this resolution. I do not anticipate that there will be any discussion. The Senate have already adopted a resolution precisely similar, and I have no idea the opinions of Senators have changed.

The question was then taken, and the result was—yeas 14, nays 29; as follows:

YEAS—Messrs. Borland, Brodhead, Cass, Clemens, Davis, Dodge of Wisconsin, Douglas, Hale, James, Jones of Iowa, Shields, Upham, Wade and Walker—14

NAYS—Messrs. Atchison, Badger, Bayard, Bell, Berrien, Bradbury, Chase, Clarke, Cooper, Dawson, Downs, Fish, Geyer, Gwin, Hamlin, Hunter, King, Mallory, Mangum, Miller, Morton, Norris, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, and Underwood—29.

So the motion was not agreed to.

FRENCH SPOLIATIONS.

Mr. BRADBURY. I hope the Senate will now proceed with the consideration of the French spoliation bill, otherwise we shall be unable to finish it to-day.

Mr. HUNTER. Does the Senator from Maine expect to be able to get through with it to-day?

Mr. BRADBURY. I do. I expect to get a vote on it to-day.

Mr. BORLAND. I hope that if the bill is taken up, it may not be pressed to its final passage to-day. I am not myself prepared to vote upon it. I may have something to say upon the subject, and I do not wish to occupy the time of the Senate to-day. For that reason, I hope the Senator from Maine will not press its passage.

The PRESIDENT. If no motion is made, it comes up, of course.

Mr. BORLAND. I move that its consideration be postponed till to-morrow.

Mr. BRADBURY. I suppose I can proceed with what I have to say as well under that motion as any other. I hope, however, the Senator will withdraw the motion.

Mr. BORLAND. There is no necessity that I should do that, in order to give the Senator an opportunity to speak.

Mr. BRADBURY. I will then submit to the opinion of the Senate. I do not wish to proceed, if the Senate do not wish to hear me now.

The question was taken on the motion to postpone, and it was not agreed to.

Mr. BRADBURY addressed the Senate at length in defense of the bill. [Mr. B.'s speech will be found in the Appendix.]

Mr. HUNTER. We were told by the Senator from Arkansas, [Mr. BORLAND,] that he wished this bill postponed, because he wanted to speak upon it. I move now to postpone its further consideration until to-morrow. My object is to get up the deficiency bill, so that we may adjourn pending it, and consider it to-morrow.

Mr. BRADBURY. I understand now that the Senator from Arkansas does not want to speak upon the subject.

Mr. HALE. I wish to suggest to the Senate, that it would be better for us to get the bill out of committee and order it to be engrossed, and then let the test vote be taken to-morrow on its passage.

Mr. SEWARD. I desire to ask the honorable Senator from Maine, whether he wishes to have a vote taken to-day?

Mr. BRADBURY. I hope the vote will now be taken. The Senator from Arkansas told me that he did not desire to speak.

Mr. SEWARD. Then I hope the motion to postpone will not prevail.

Mr. DAVIS. I hope the vote will be taken. The motion to postpone was not agreed to.

The question then recurred upon the amendment of Mr. BORLAND, to strike out of the first section of the bill the words "to an amount not exceeding \$5,000,000."

Mr. ADAMS called for the yeas and nays; but they were not ordered.

Mr. DODGE, of Iowa. I move to amend the bill by adding:

*And it is hereby expressly provided, That the appropriation in this act contained, until the whole amount be made up, shall take effect upon, and authorize the expenditure of only such surplus or excess of money as shall remain in the Treasury of the United States at the end of each fiscal year, after deducting from the amount of the public revenues in the Treasury the sums necessary to execute existing laws for the payment of private claims, for the improvement of Western rivers and harbors, and for all other objects which are required by law to be provided for previous to the end of each fiscal year.*

Mr. BRADBURY. I desire simply to say to my honorable friend, that this is not the occasion to offer his amendment, for we do not propose to make any appropriation in this bill. When a proposition is made to appropriate money, then will be the proper time to offer this amendment.

Mr. DODGE, of Iowa. I was aware that the friends of the bill were managing it most judiciously. I suppose the reason why no appropriation is put in the bill is because, if it contained an appropriation, it would, when it reached the House, have to go to the Committee of the Whole on the state of the Union.

Mr. BRADBURY. Undoubtedly.

Mr. DODGE, of Iowa. That is known to be sometimes a place of difficulty for such bills. I wish very much to have this amendment made to this bill, and I am the more desirous of it because it is an exact copy of an amendment offered by my friend from Maine, to the river and harbor bill at the last session. It will be remembered that when that bill was then under discussion, we sat days and nights voting upon it. My friend was then exceedingly troubled about the condition of the Treasury of the United States, and he exerted his ingenuity to protect and guard that Treasury, and the private claimants and others who were likely to have demands upon it. With the aid of certain friends, he fixed up an amendment which I have literally copied, and which I now propose to this five million appropriation bill—a bill involving the appropriation of double the amount contained in the river and harbor bill. Although it does not technically appropriate a single dollar now, such will be the result of it. I think that in all fairness, provision ought to be made for the payment of the commissioners to be created by this bill. I have no doubt they will be most honest and upright, and competent gentlemen; and that, unlike almost every other board of commissioners who have ever held their sessions in or about this Capitol, they will take the judges of the Supreme Court of the United States for their model; and that you will never find any Gardiner or Galphin claims allowed by them under this bill. And believing that these gentlemen will be most high-minded, honorable, competent, and disinterested, and far above those influences which sometimes have been found to exist in commissioners, I want to have them paid. If my amendment is not in order, I want to offer one to pay the commissioners.

The PRESIDENT. It is perfectly in order.

Mr. BRADBURY. I wish only to say, that had the Senator from Iowa and his friends accepted that amendment to the river and harbor bill, to which he has referred, the bill might have been passed, and the money partly expended.

Mr. DAWSON. I move that the Senate do now adjourn. My reason for making the motion is this—

Mr. HALE. The motion is not debatable.

Mr. DAWSON. I know it is not.

Mr. BADGER. I call my friend from Georgia to order. He has no right to speak until he withdraws the motion.

Mr. DAWSON. I withdraw the motion. This is a vastly important bill. It ought not to be passed except by a full Senate. It ought not to be rejected but by a full Senate. There are a great many Senators who had no idea that the vote would be taken to-day, and they have gone home. It is now beyond the usual hour of our adjournment, and I think it is due to those who are absent, as well as to those who are present, that the vote should not now be taken. I therefore move that the Senate do now adjourn.

Mr. HAMLIN. I beg the Senator from Georgia to withdraw that motion for a moment.

Mr. DAWSON. I will, if the Senator will renew it.

Mr. HAMLIN. I will renew the motion, and vote against it. I desire to say to the Senate that I would not myself vote to urge this bill to a final vote this evening, but we may vote upon the preliminary questions, and may order it, if the Senate shall so determine, to its engrossment, and then we can take the final vote to-morrow, or on some subsequent day, when the Senate shall be full. These preliminary votes may as well be taken now as at any other time. I renew the motion to adjourn, but I shall vote against it.

Mr. CHASE. I wish to ask the Senate to allow a bill to be passed, which was yesterday ordered to a third reading.

The PRESIDENT. This question must first be disposed of.

There was a division, and

The PRESIDENT announced that there were for the motion 13; against it 20.

Mr. DODGE, of Iowa. I wish to modify my amendment by inserting before what I have already read, the following:

And be it further enacted, that a sum not exceeding \$5,000,000, to satisfy the claims herein provided, be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The PRESIDENT. The Chair will take this occasion to say that on an examination of the rule, he finds that the change which has taken place, authorizes any gentleman to make a modification of a proposition, as was suggested by the Senator from North Carolina the other day, before any vote is taken; and after the yeas and nays are ordered, it can be withdrawn by the consent of the Senate. The Chair thinks proper to make this statement, because he fell into an error the other day by looking at the old rule instead of the new one. The modification proposed by the Senator from Iowa can be made without the consent of the Senate.

Mr. HALE. I want to move an amendment to the amendment, by adding at the end of it the following:

"And after all the States of the Union, having public lands within them, shall have received as much of the same as they ask for constructing railroads, canals," &c.

Mr. DODGE, of Iowa. I accept the amendment, and call for the yeas and nays.

The yeas and nays were ordered, and being taken resulted—yeas 5, nays 29; as follows:

YEAS—Messrs. Atchison, Borland, Brodhead, Dodge of Iowa, and Felch—5.

NAYS—Messrs. Adams, Badger, Bayard, Bradbury, Chase, Clarke, Cooper, Davis, Dawson, Downs, Fish, Geyer, Hale, Hamlin, James, King, Mallory, Mangum, Miller, Morton, Sebastian, Seward, Shields, Smith, Spruance, Sumner, Underwood, Upham, and Wade—29.

So the amendment was not agreed to.

Mr. DODGE, of Iowa. I move to amend the bill by adding what was the tenth section of Mr. Clayton's bill:

"And be it further enacted, That, for carrying this act into execution, the sum of \$5,000 be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated."

Mr. BADGER. I hope the Senator will withdraw that.

Mr. DODGE. Does the Senator desire me to do so?

Mr. BADGER. I do.

Mr. DODGE. I withdraw it, but I really think we ought to provide for the payment of these commissioners.

Mr. BADGER. We will take care of them at another time.

Mr. BAYARD. I wish to move an amendment which, I think, may possibly prevent a difficulty hereafter in the construction of the bill, if it should pass. There is a proviso in the first section—

"That in all cases of transfer or assignment, no claimant shall be entitled to receive an amount beyond the consideration paid, and interest thereon."

I should object to the whole proviso, because I think it wrong in principle; but I wish to avoid a difficulty in the construction of the proviso, and I therefore propose to insert after the word "assignment," the words, "except gifts or donations;" and to strike out "claimant" and insert "assignee." The use of the word "claimant" is certainly improper in that connection. The effect of the amendment will simply be to prevent donations, such as from parent to child, being construed to be assignments.

Mr. BADGER. That is all right.

The amendment was agreed to.

Mr. DAWSON. I now propose to amend the bill, by adding after the word "donations," which has just been inserted, the words "made prior to the passage of this act." My object is to prevent those who have already in effect made assignments, giving their claims as donations hereafter, so as to get the full amount.

Mr. COOPER. That would be entirely destructive of justice.

Mr. BADGER. This amendment would prevent a man making a will, and giving his claims to his children, after the passage of this act.

The amendment was rejected.

Mr. HALE. There is one suggestion that I

wish to make to the friends of this bill. They have provided that the assignee of one of these claims shall only receive the consideration paid and interest thereon, excepting those who have obtained the claims by gift or donation. They should also make provision for assignments of these claims as collateral security for the payment of debts. Where these claims have been hypothecated in that way it would be difficult to tell exactly what consideration was given for them.

Mr. BADGER. I do not think there will be any difficulty about that. The consideration received would be the value of the debt.

Mr. HALE. If gentlemen are satisfied with it, I shall offer no amendment.

The bill was then reported to the Senate as amended; and the amendments made, as in Committee of the Whole, were concurred in by the Senate.

Mr. BRADBURY. Allow me to suggest that the bill had better be ordered to be engrossed, and the test vote can be taken upon its final passage.

Several SENATORS. That is the proper course.

Mr. BRADBURY. I hope that course may be pursued. Let it be understood that we are to have the test vote upon the final passage of the bill.

Mr. BORLAND. I hope that will now be done. It is very clear here, that in voting upon this bill there is a bare quorum present. This is an important bill, involving an expenditure of \$5,000,000, and I do not think it is right to vote upon it when there is merely a bare quorum present.

Mr. BADGER. I would suggest to the Senator that he might as well let the bill now pass to its engrossment, and we can have the question upon the final passage of the bill to-morrow, by yeas and nays, in a full Senate.

Mr. BORLAND. I hope that course will not be pursued. I think it is probable—in fact I know—that certain amendments are to be offered to the bill; and if it is now ordered to be engrossed, these amendments will be cut off.

Mr. BADGER. That is what we want to do.

Mr. ATCHISON. I think it is apparent that about two thirds of the Senate are in favor of the bill; and for my own part I am anxious to get rid of it. I doubt not that any amendment that might now be presented, whether it be right or wrong, would be voted down. The Senate seems to be satisfied with the bill as it now stands.

Mr. BADGER. Oh, yes; it is an excellent bill.

Mr. ATCHISON. I am for acting on the bill now. Let it be considered as engrossed, read a third time, and disposed of.

Mr. FELCH. I believe the custom has been, in the Senate heretofore, to take the test vote on any important matter upon the question of ordering the bill to its engrossment for a third reading. I hope that the usual course will now be pursued in respect to this bill. Anybody who looks on this side of the chamber particularly, will see that a large number of members are absent. Some of them, I know, have left the Senate chamber with the expectation that no vote would be taken to-day. I know I am in a minority. There are a very few of us in the minority, but we would like to muster as strong as we could. So far as the engrossment is concerned, it is very well known that the clerks will, if it is desired, proceed to engross the bill, so that it would be ready to-morrow.

Mr. BADGER. If it is not ordered to be engrossed now, there will be fifty amendments offered to-morrow.

Mr. ADAMS. I am perhaps as much opposed to the passage of this bill as any Senator on this floor; but the reason given by the Senator from Arkansas, why we should not vote upon its engrossment, I do not consider to be any reason at all. It is no reason for delay, that gentlemen are not here when they should be here. If gentlemen are not here, it is their business. This method of postponing the action of the body for gentlemen who think proper to absent themselves, is altogether, in my humble conception, very wrong. If gentlemen feel an interest in what is going on, they ought to be here. That is my view of it. I do not think that the majority who take any interest in business, should postpone their action for the sake of gentlemen who do not choose to attend. I am, therefore, in favor of taking the vote now.

Mr. DAWSON. This discussion, going out to



the country, might induce people to believe that some of the most attentive gentlemen on this floor have absented themselves from the Senate at an improper time. Now, it is long past the hour at which we usually adjourn; and it is due to those gentlemen to say, that it was not expected that the vote would be taken this evening. I suppose I am with the majority—I am in favor of the bill; but I think it is wrong to take any advantage of this kind to place the bill beyond the reach of the body, merely for the purpose of getting forward a step in the progress of this measure. I think it is wrong to take such an advantage, and especially in a body of the character of the Senate of the United States. I should move an adjournment, but for the fact that the Senator from Ohio [Mr. CHASE] desires to take up a measure in which his State is interested.

Mr. HAMLIN. I wish to say only a word. If we now order the bill to be engrossed for a third reading, we do not place it beyond the reach of the Senate. And I would say to my friend from Michigan, who remarked that this would not be pursuing the ordinary course, that he is certainly mistaken. We as frequently take the test vote upon the final passage of a bill as upon ordering it to be engrossed. I will call the attention of my friend from Michigan to the fact, that at this very session we allowed the Iowa land bill to be ordered to its engrossment without a division, and then upon the question of its final passage we took the yeas and nays, and I was one of a very small minority—ten in number—that voted against it. Here, then, is a case in point which occurred not very long since. The object is to save another day, and stop another discussion.

Mr. HALE. I want to say further, that I shall vote for the engrossment of the bill now; and if to-morrow any gentleman who may be absent to-day shall come to me, and tell me, that in good faith he meant to be here, and has an amendment which he wishes to insert in the bill, I pledge myself to move a reconsideration.

Mr. ADAMS. In justice to two absent members, perhaps it is not improper that I should say that my colleague, [Mr. BROOKE,] who is unwell at this time, and one of the Senators from California, [Mr. WELLER,] have agreed to pair off, as they are on different sides.

Mr. HUNTER. I ask the yeas and nays upon ordering the bill to be engrossed.

The yeas and nays were ordered.

Mr. BORLAND. As I am called upon to vote upon this bill, I desire to state what my position is. I am as thoroughly convinced in my own mind as I have ever been upon any occasion, or upon any subject, that this bill ought not to pass; but I stand in a peculiar position. I am under the instructions of my State Legislature to vote in favor of this bill. I acknowledge the right of instruction; and on this occasion, as on all others, unless some very great necessity, or some extraordinary occasion arises, I shall obey instructions or resign. I wish to say, however, for the information of my constituents, that if on this occasion the vote was so near a tie that my single vote would determine the fate of this bill, and defeat it, I should disobey instructions, and defeat the bill, and justify myself before my constituents. When I find, however, that there is a decided majority in favor of the bill, and that my vote against it would do no good, I do not choose to put myself in a position of controversy with my constituents on the subject of my instructions; and therefore I shall vote very reluctantly for the bill, not doubting, however, if the bill shall not pass until the next meeting of the Legislature of my State, that I shall be relieved from these instructions, and be able to comply with my own sense of propriety, in voting against this bill.

The question being taken by yeas and nays, resulted—yeas 26, nays 10; as follows:

YEAS—Messrs. Badger, Bayard, Borland, Bradbury, Clarke, Cooper, Davis, Dawson, Downs, Fish, Geyer, Hale, Hamlin, James, Mallory, Mangum, Miller, Morton, Seward, Shields, Smith, Spruance, Sumner, Underwood, Upham, and Wade—26.

NAYS—Messrs. Adams, Atchison, Brodhead, Chase, Dodge of Iowa, Douglas, Felch, Hunter, King, and Walker—10.

So the bill was ordered to be engrossed and read a third time.

#### PUBLIC LANDS IN OHIO.

On the motion of Mr. CHASE, the bill to grant to the State of Ohio the unsold and unappropriated lands remaining in that State, came up on its third reading.

Mr. CHASE. I wish to state to the Senate, that before this bill was engrossed, it was discovered that, as it had been reported at a very early period of the session, the dates were made earlier than they ought to be. I therefore now ask the unanimous consent of the Senate to amend the bill by striking out, in the sixth line of the first section, "March," and inserting "July;" and in the sixth line of the second section, by striking out "July," and inserting "October." I would further state, that a gentleman, who has some interest in a private claim to some of the lands which the bill affects, but which he does not consider a vested claim, wished me also to strike out the words "vested in," and insert "of;" so that it shall read, "This grant shall in no manner affect any right of preemption, or other right of any individual." I ask the unanimous consent of the Senate to make this amendment also.

The amendments were agreed to, and the bill was read a third time and passed.

On motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, April 15, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the motion to lay upon the table the report of the Committee on Printing, upon which the yeas and nays have been ordered.

Mr. BENNETT. I ask the unanimous consent of the House to introduce a resolution, upon which it is very necessary, for the interest of my constituents, that there should be some action on the part of Congress. I ask that it may be read for information.

It was read by the Clerk, as follows:

Joint resolution declaring certain roads post routes.

Resolved, &c., That the road from Vallonia Springs post office, in Broome county, New York, via Nineveh and Coventry, to Oxford, Chenango county, be and the same is hereby declared a post road; and the road from Oxford, by the way of Coventryville, to South Bainbridge, be and the same is hereby declared a post road; and the Post Office Department is hereby authorized to pay the persons who have carried the mail on said routes, by the order of said Department previous to this time, a suitable compensation therefor.

Objection was made.

Mr. BENNETT. I appeal to the House to allow me to say a word in explanation of this resolution.

By the recommendation of the Post Office Department, a new post route has been established in my district, and the mail has been carried upon it for a considerable time past. The Postmaster General, however, says he has no authority to pay for carrying the mail upon it until this resolution shall have passed Congress, authorizing the establishment of this route. It is a matter of some importance to my constituents, and one to which I think no one can reasonably object. I hope I shall now have the unanimous consent of the House to introduce the resolution.

Mr. CLINGMAN. Does the gentleman design putting the resolution upon its passage?

Mr. BENNETT. I do.

Mr. CLINGMAN. Then I do not see the necessity of doing this business out of its regular order. If the gentleman desires to refer it to the Committee on the Post Office and Post Roads, I have no objection.

Mr. BENNETT. But the mail has already been carried upon this route for eight months past.

Mr. CLINGMAN. I understand there are several other just such cases here. I object.

Mr. SEYMOUR, of New York. I would inquire of the Chair whether it will be in order to move that the morning hour shall be devoted to the reception of reports from committees?

The SPEAKER. It cannot be done except by unanimous consent.

Mr. CLINGMAN. I object, and call for the regular order of business.

#### PUBLIC PRINTING.

The SPEAKER. The question now is upon the motion to lay upon the table the report of the

Committee on Printing, and upon that question the yeas and nays have been ordered.

Mr. BROWN, of Mississippi. Would it be in order at this time to move a call of the House?

The SPEAKER. It would be.

Mr. BROWN. I then move a call of the House.

The question was put to the House, and it was agreed to.

The roll was then called, and one hundred and sixty members answered to their names.

Mr. CLINGMAN. I apprehend that it is not necessary to progress any further in the call of the House; and if it is in order—and I presume it is—I move to suspend any further proceedings in the call.

The question was then taken and agreed to, and all further proceedings in the call were dispensed with.

Mr. CLINGMAN. The pending question before the House is the motion of the gentleman from Tennessee [Mr. POLK] to lay the report of the Committee on Printing upon the table, is it not?

The SPEAKER. That is the motion.

Mr. CLINGMAN. I would be obliged to the gentleman from Tennessee [Mr. POLK] if he will withdraw that motion. I wish to say a few words in explanation of my course of action upon this question. I will renew the motion if the gentleman will withdraw it.

Mr. POLK. I am always disposed to act courteously towards gentlemen upon this floor. I will, at the request of the gentleman, withdraw the motion, provided he will hold the floor long enough to have it renewed, or for a proper answer to be made to his remarks.

The SPEAKER. Bargains of this kind are not admissible.

Mr. POLK. I withdraw the motion.

Mr. ORR. Will the gentleman from North Carolina [Mr. CLINGMAN] give way for a moment, to allow me to suggest an amendment to the resolution offered by the gentleman from Mississippi? [Mr. BROWN.]

Mr. CLINGMAN. I will hear the suggestion of the gentleman from South Carolina [Mr. ORR] for a moment, if I am permitted to do so. I only want to occupy a few moments of time.

Mr. ORR. I propose to amend the resolution offered by the gentleman from Mississippi, [Mr. BROWN,] by striking out the "Committee on the Judiciary," and to insert in lieu thereof the "Committee on Printing." While I disapprove of the action of the committee, I do not desire to cast any reflection upon them.

Mr. CLINGMAN. Upon this point I desire to say a single word.

The SPEAKER. The Chair is not certain that the amendment of the gentleman from South Carolina [Mr. ORR] is in order. However, it will be entertained.

Mr. CLINGMAN. I want to say but a word or two upon this question, and then I will give the floor to the gentleman from—

Mr. BROWN. My friend from South Carolina [Mr. ORR] says that he proposes to amend the resolution offered by me, because he does not like to cast any reflection upon the Committee on Printing. I wish simply to say, that in offering this resolution, I did not contemplate, in the phraseology employed, to reflect upon the Printing Committee.

Mr. ORR. I had no idea that my friend from Mississippi [Mr. BROWN] had any such intention; but some are of the opinion that the phraseology of the resolution may have that effect.

Mr. POLK. It will so read to the country. There is no doubt of it.

Mr. CLINGMAN. I wish to make a few remarks in explanation of my vote upon this question. I have been an attentive listener to the debate which has taken place upon this matter, without any feeling about it further than a desire that we may succeed in getting some judicious system by which to have executed the public printing, and, of course, that we shall take that which is least objectionable in all points of view.

This seems to be a bad piece of business as it now stands; and every one admits that we must take some step to get out of the difficulty. At least that is the general opinion. Now, what is it that the Printing Committee propose to do? As it was stated, Mr. Speaker, upon the day when the de-

bate first arose, and as I understood from some members of that committee, by conversation with them—and particularly with gentlemen upon that committee in the Senate—they had not only made an arrangement to have the printing already given out executed, but that they had provided for the future printing; and that they had selected Donelson & Armstrong to do the printing for the House, and the Republic to do the printing for the Senate; intending thereby to cover all the printing which may be ordered by Congress during the present session. That is what I understand to be their action; and I find, in confirmation of that opinion, in the reports of the Senate proceedings—which I have a right to refer to, as appearing in the newspapers—that Mr. BORLAND, from the Printing Committee, reports exactly such a resolution as that. Now, that resolution, I consider, is clearly beyond the authority of the committee. The existing law provides that, where there is neglect and delay in the execution of the printing ordered by Congress, the Printing Committee may take the necessary steps to have it done, and they may deduct what is due to the contractor, or refuse to receive his work, and that in all cases they may proceed upon his bond, and hold him and his security liable. Of course, nobody will contend that the contractor will be liable for not printing documents never placed in his hands; and if it was the intention of the framers of that law, no doubt that condition only covers the printing actually given out, where the public printer had been guilty of neglect or delay, and where his security may be liable.

I have no doubt, that in accordance with this view, after the discussion in the House, the Printing Committee changed their original purpose—as I understand they did—and abandoned the resolution as reported in the Senate by Mr. BORLAND, and they submitted the one which we now have before the House, in their report. This resolution I shall not trouble the House to read. Gentlemen understand it, and they will find that it amounts to precisely the same thing, in substance, with the former one. But these gentlemen have ingeniously managed to get over the legal difficulty thrown into their way by an arrangement which I will now describe. They say that they did not propose to dismiss Mr. Hamilton, but to retain him as public printer; but that they will from time to time remedy his neglect and delay, by giving the printing of the House to Donelson & Armstrong, and that of the Senate to the Republic. They intend to make use of this man, Boyd Hamilton, and keep him in the position of a nominal public printer. You see, at once, the difficulty in the way, if they take any other course. If they had dismissed him—if they had said that he could not have carried out the contract, why it would have been necessary for this House to take some action; and the House could, no doubt, have made an arrangement to let out the public printing to the lowest bidder, or in some other way spoken of. And in either of these points of view, Donelson & Armstrong and the Republic could not have come in. Well, these gentlemen, adroitly, with a view of giving the printing to their favorites, adopted this mode. They intend that this man, Boyd Hamilton, shall be, nominally, the public printer. But the moment this printing is to be executed, they will say to Mr. Hamilton, "You cannot execute this work; you will not be able to do it"—and they tell us he is not able—and therefore they give this to Donelson & Armstrong, and that to the Republic. In this way they will keep Boyd Hamilton in that nominal position of public printer during the whole session, and turn over the work to the other printers—he being thus a mere sort of conduit pipe to convey the printing from Congress to their friends. Now, what is Boyd Hamilton's position? He may well say to himself, "If I commence on this document, and should set up one half of it, the committee will come in and snatch it from me, and turn it over to Donelson & Armstrong."

Mr. JONES, of Tennessee. Will the gentleman from North Carolina [Mr. CLINGMAN] permit me to ask him one question?

Mr. CLINGMAN. I will.

Mr. JONES. Does the gentleman from North Carolina [Mr. CLINGMAN] believe that Boyd Hamilton can execute the printing of this House and of the Senate?

Mr. CLINGMAN. I will answer the gentleman with pleasure. It is a point I know nothing

about. I think it very likely he cannot. But it is very certain that he has had no fair chance to execute it. It is very certain that this committee, three months ago, committed a war upon him calculated to discredit him, and put it out of his power to get along. It is clear, according to his own statement, that he has been embarrassed all the time, and I say it by no means follows that he cannot execute the printing.

Mr. JONES. One more question, with the permission of the gentleman. This contract with Boyd Hamilton was entered into on the third of March, 1851. Did he not have, from that time, knowing that he had the contract, up to the first day of December last, to prepare his materials, his paper, press, ink, type, and everything else in hand, to come here to do the work? And should he not, had he been able to do it, have fully prepared himself for it? If he had been thus prepared, does the gentleman from North Carolina [Mr. CLINGMAN] suppose that any gentleman upon this floor, or in the other wing of this building, or any member of this committee, could have any objection to his doing his work?

Mr. CLINGMAN. I hear this inquiry of my friend with great pleasure; but he will see that it does not remove the difficulty which now stands in the way. I tell him, candidly, that I do not know whether this man can execute the printing or not. I think, probably, he cannot. But suppose he cannot, what was the duty of the Printing Committee? Unquestionably to report to this House that this man could not execute it, and leave the House to determine whether they would let it out to the lowest bidder, or adopt the plan of the gentleman from Wisconsin, (Mr. DORR,) or some other mode. But these gentlemen of the committee say clearly, as their action shows, that if that was done, Donelson & Armstrong would not get any part of it, and the Republic would get no part of it, and therefore they have arranged matters in the present mode. They intend to hold on to Boyd Hamilton, and make him the instrument of keeping the control of the printing from the House, and to convey it into the hands of their favorites, where they are determined it shall go, and where they know that they cannot get it in any other way. That is what I object to. The plan recommended by the committee is the worst plan you can possibly have. You will have three printers, one a legal one, and two others foisted on us by this mode.

The difficulty will be, when you do not get any printing done, that you will have three printers to look to, and one will shift the responsibility upon the others. Boyd Hamilton will say, "I expected to have had this printing, but I found that the committee had given it to some other people." No matter what the condition of the public printing, we are to be bedeviled during the whole session, having no one responsible person to look to.

The Printing Committee have left things in this condition, and I can only account for it upon the supposition of a strong and overruling desire to benefit their friends.

Now, I was pleased, at the beginning of this session, with the candor of the chairman of that committee. He came out very frankly and told the House that his object was to benefit a political friend; that he was a party man; and he called upon his party, all around the House, to sustain him; and I have no doubt that that gentleman will admit that he is now actuated by the same feelings. I have no doubt that he will admit, if the question is put directly to him, that he does not intend to recommend any proposition that cuts out Donelson & Armstrong altogether. That is the situation of that gentleman upon the committee. They see that we are in a difficulty, and they do not mean to let us get out of it in any way, except through Donelson & Armstrong.

Mr. GORMAN. I wish to ask the gentleman if he is not actuated by the same motive to cut out Donelson & Armstrong?

Mr. CLINGMAN. Not at all.

Mr. GORMAN. I can, with the same propriety, say, Not at all.

Mr. CLINGMAN. I ask if it is not his fixed purpose not to recommend any plan which will cut out Donelson & Armstrong altogether?

Mr. GORMAN. I ask the gentleman from North Carolina the same question over, whether his fixed and determined purpose is not to cut out Donelson & Armstrong?

Mr. CLINGMAN. It is not. If they will do it as cheaply as anybody else, I am willing that they should have it. Now, will the gentleman answer my question?

Mr. GORMAN. What is it?

Mr. CLINGMAN. I say, if Donelson & Armstrong will do this work as cheaply as any one else, I want them to have it. How is it with the gentleman?

Mr. GORMAN. If Donelson & Armstrong do not do this printing as cheap as anybody else, in view of promptness and contract price, they cannot and shall not have it, so far as my vote is concerned.

Mr. CLINGMAN. Will the gentleman recommend a proposition to let out the public printing to the lowest bidder, and let Donelson & Armstrong take their chance?

Mr. GORMAN. I have no such power in the committee, or in the House.

Mr. CLINGMAN. Will the gentleman vote for it in committee?

Mr. GORMAN. I will not.

Mr. CLINGMAN. The gentleman will not vote for it at all.

Mr. POLK. Will the gentleman allow me to ask him a question?

Mr. CLINGMAN. Certainly.

Mr. POLK. The gentleman says that he will vote for the contract system. I want him to tell me if, since the contract system has been adopted, there has been a single contract given out that we have not had men at our portals asking relief under it? And, further, if it has not cost more, by consuming the time of this House, to consider these applications for relief under the contract system than one half of the whole public printing costs?

Mr. CLINGMAN. I will answer that question of my friend in a moment; but I will not leave the committee yet. I want to show to the House, as the committee has not, how this matter stands. They say that this man is not capable of executing the public printing, and they will take a certain other bid. But there were eight lower bids than that of Mr. Rives, although they have selected his bid. Every one admits Towers is a good printer—a responsible man. According to the statement given to us, Towers's bid is \$30,000 or \$28,000 and a fraction, less than Rives's, and yet Towers was passed over. Why pass over Towers's bid? And remember, according to the statement given to us, Rives's bid was about \$60,000 better than the terms upon which they proposed to give the contract to Donelson & Armstrong; for Rives agreed to make a deduction for a large number of the documents. You will see from the statement given in the Congressional Globe, that that deduction amounts to about \$60,000; so that it turns out that they propose to give to Donelson & Armstrong this contract at \$90,000 more than Towers was willing to do it for.

Mr. GORMAN. Most certainly not.

Mr. CLINGMAN. How much more, then?

Mr. GORMAN. I told the House yesterday, but the gentleman seems to have forgotten it, that Towers did not propose to deduct a single per cent.—not one per cent. off the round numbers; but that Rives did propose to deduct sixty-nine per cent. upon all copies over twenty thousand, and that Rives's bid was, thereby, the lowest.

I say further, sir, that Mr. Rives has published—"I am the lowest *bona fide* bidder for the greatest portion of the printing of Congress, and have made ample preparations to execute it, and I am prepared to prove this before a committee. I therefore ask the Speaker of this House for a committee to investigate this fact, that I am the 'lowest *bona fide* bidder.'"

Mr. CLINGMAN. I ask the gentleman, then, how it stands that they have given it to Donelson & Armstrong upon Rives's bid, without that deduction of sixty-nine per cent. upon the largest number?

Mr. GORMAN. No, sir; that is not so.

Mr. CLINGMAN. It is published in the papers that he accepted it, upon condition that he should not be held to the reduction. It so appears from their letter published in the Globe, as a part of the committee's report made yesterday. Did the committee and these persons come to that understanding?

Mr. GORMAN. They expressly declined to accept that proposition.

Mr. CLINGMAN. As I understand the gentleman, he has taken Donelson & Armstrong at Rives's bid, and they have refused it with his proposed reduction. Did the committee assent to Donelson & Armstrong's proposition, as they made it?

Mr. GORMAN. We have made no contract with Donelson & Armstrong.

Mr. CLINGMAN. Then, this matter is in a worse condition than I thought it was. We seem to be entirely at sea, and, according to the present statement, this committee has not, in fact, made any contract at all. It seems to me, that this committee, instead of doing the business of this House, and making recommendations for getting out of the difficulty, want us to adopt their action when they have had no final action.

Mr. GORMAN. I wish to lay this proposition on the table; and I will, on Monday, give a tangible proposition: the reason why we cannot make the contract, and why the parties will not accept the proposition made. We will proceed to give estimates of what it can be done by by Donelson & Armstrong, Rives, or anybody else. I am one of that committee, and when we agree upon the subject, we will report the fact.

Mr. CLINGMAN. I am glad to get the gentleman's explanation, but I will not wait for the committee. They are too supine and slow; for, three months ago, they told us that this man Hamilton could not execute the public printing. This was said again and again by the committee during the debate on the census report. And yet, with a full knowledge of this, that committee has utterly failed to take any action on the subject.

Mr. GORMAN. I never made a proposition to this House to give out one single particle of the public printing. I proposed three months ago to give Donelson & Armstrong the contract to print the census, and nothing else.

Mr. CLINGMAN. I understood the gentleman perfectly in the speech he made upon that occasion. He then said that Boyd Hamilton could not do it. He went into a long argument to show that Boyd Hamilton could not execute it, and he has rested upon his oars ever since, without bringing forward any specific proposition to remedy the evil. It is very obvious that the gentleman's motive has been to provide for Donelson & Armstrong. That is his object, and he intends to baffle the House until they find themselves so much worried to get this printing done, that they will adopt that proposition. Therefore, sir, I am not for it; and I propose a reference of this subject to the Judiciary Committee. I differ with my friend from South Carolina [Mr. ORR] as to the propriety of recommitting this matter to the Committee on Printing. The chairman of that committee has avowed it to be his object to benefit his political friends—and I refer the gentleman to his own speech—and therefore he is not prepared to modify his views.

Mr. GORMAN. The gentleman cannot be permitted to do mean injustice, and I do not think he will try to do it. The gentleman says I claim this particularly for Donelson & Armstrong, upon party grounds. Now, the gentleman must be aware that what I said was, that if patronage had to be bestowed, I should prefer bestowing it upon a political friend rather than on a political foe. That is all I did say, and from that he cannot adduce the conclusion he has.

Mr. CLINGMAN. I will remind the gentleman that if he had stood upon that ground, he might very well have taken the proposition I suggested to him some months ago in debate, and that was, to let the lowest bidder take it. Then his friends would have had an equal chance. My colleague put the question again and again in his speech: Why was it they took the highest instead of the lowest bidder?

Mr. STEVENS, of Pennsylvania. I understand that this committee called upon Mr. Rives, and he told them that he made this bid far above its value, not expecting to get the work. They asked him to furnish a statement at which the work could be well and fairly done, which statement he did furnish them, far below the rates which the committee have proposed to give Donelson & Armstrong, and Gideon & Co., but the committee have said not a word about this to the House. Is that true?

Mr. GORMAN. Not one word of it, sir. Mr. Rives was called upon by the chairman of the joint

committee to furnish a just estimate of the prices, and he furnished these prices, which are higher, and not lower.

Mr. STEVENS. Will the gentleman furnish them to this House?

Mr. GORMAN. Yes; I will furnish them.

Mr. CLINGMAN. It was stated the other day by, I believe, the gentleman from New York, [Mr. HAVEN,] that Rives said, that upon his own bid the contractor might make a handsome profit. That is so; but I am not disposed to go into this matter at length. The committee have not only passed over the bids of Towers and others, but when they took Rives's bid, they repudiated him. If you take his bid, why repudiate him? But, Mr. Speaker, I say that this is an attempt like the first was, to get a portion of the public Treasury for the benefit of friends.

Mr. GORMAN. If my friend will allow me again to interrupt him. I must have justice done me before the House. I tell the gentleman from North Carolina—and my colleague here, my friend from Kentucky, [Mr. STAGGON,] knows it—that I made the proposition in the committee to take Towers's bid, but an honorable Senator upon that committee made a calculation, and demonstrated to us that Rives's bid, with sixty-nine per cent. deducted, was the cheapest of the two. My proposition was for Towers's bid.

Mr. ORR. My friend from Indiana has fallen into an error in reference to this sixty-nine per cent. of which he speaks. Here is a table, and I will read the caption of it, prepared by the Clerks of the two Houses on the 3d of March last:

"Statement showing the amounts of the several proposals for each class of the printing of the Thirty-second Congress, as calculated upon the quantities of printing of the two Houses of Congress ordered at the first session of the Thirtieth Congress, and showing also the aggregate amount of the proposals of the several individuals for the printing of all the classes upon that data, together with the average amount of the whole."

Now, sir, the gentleman from Indiana [Mr. GORMAN] states that Mr. Rives's bid comprehended the census, but the caption of this statement shows that the aggregate bids were calculated upon the assumption that the printing for this Congress would be equal to that of the Thirtieth Congress, when, as we all know, no census printing was ordered by the Thirtieth Congress; and Rives's bid, after deducting the sixty-nine per cent. on the long numbers, is, as I stated, \$169,000. Apprehending that I might have misunderstood this matter, since yesterday I have seen both Rives and Towers, and both concur in the statement that Towers's bid is \$30,000 less than Rives's.

Mr. CLINGMAN. That corresponds with the published report in the Congressional Globe, which I read this morning, and which is given at length in that paper. But I now wish to say a word upon the political bearing of this matter. You well recollect, Mr. Speaker, when the contract system was originally adopted, that at that time the Democratic party had a majority of sixty or seventy upon this floor; but the Whigs had been discussing it from session to session, and, finally, under the lead of one of your colleagues, (Garrett Davis,) a vigorous effort was made at that time, and the whole of the Whig party came up, and the Democratic party, with their large majority of sixty or seventy, came forward and helped it through. The Whigs did not want to bear the burden of carrying upon their shoulders an odious system of favoritism. Now it is proposed to abandon it, and for no new system that would do better, but to go back into that old system of favoritism, of party organs, which was found to be so mischievous. I should like to know upon what principle any man upon this side of the House—referring to party organization as existing on the old basis—I should like to know upon what principle we are to go over, and abandon this contract system. Look back to the constant denunciations of that day, and for many years, of the Government patronage and power, and its influence upon the press and country, and it will be seen that the whole Whig party came up to carry out the system now proposed to be abandoned. What is the consideration? Why, the only consideration offered for this surrender of principle—for there was principle in it originally, and there is still—the only consideration is, that the Republic is to have some share of the printing, it being a Whig organ. We are to sell out, and transfer whatever principle there was in this matter, in consideration of the favor

done this year. For you will remember, Mr. Speaker, when this proposition was originally brought up to give it to Donelson & Armstrong, the whole Whig party, without any single exception, voted against it; and now it is supposed by a combination with the Republic that we will go over.

Now, Mr. Speaker, party principles are very cheap at this time, I admit. I did say, last session, that I looked upon the present parties as not divided upon any principle at all—that the old parties were merely bodies of men or combinations, struggling to get at the public offices. I still entertain that opinion to a great extent. But, sir, are we to be called upon now to surrender any relic of party principle, and that the whole Whig party enter into this system for that consideration? Now, I should like to know of the chairman of the Committee on Printing, whether any precedent like this can be found? It is said that Esau sold his birthright for a mess of pottage; but Esau intended to eat the pottage himself. There is no evidence whatever before us, that Esau would have sold that birthright for pottage for somebody else to eat. Yet we are to be so well satisfied, if this Republic can get into the public Treasury, and obtain a share of the money, that we are to sell out whatever of principle we had upon this question. That is the point, Mr. Speaker.

The Union endeavored, early this session, to get, through the aid of its friends, into the public Treasury; but found that it was not strong enough to get in, and had to agree to divide; just as, a few years ago, when the Patent Office was robbed of its jewels by two or three accomplices. Do you suppose the man who first conceived the design of getting in the Patent Office, and taking away these jewels, proposed to call in others and divide, from a mere feeling of generosity? Not at all. I do not doubt that he found he could not get in alone, and upon the principle of necessity, he made a bargain with several others, that they should aid him, and divide the spoil. This illustrates this principle. They wish to get into the Treasury, and finding that they are not strong enough alone, they say to the Whigs, if you come in and help us, we will divide with you. That is the amount of it, sir. It is a violation of the existing law, to get at the money. If the committee are of opinion that the system established by law is wrong, let them come up, and report a proposition to repeal the law; but they have no right to endeavor, while that system is the law of the land, to evade it in this way.

Mr. HAVEN. I shall only trouble you for a moment, sir, because in reference to all these party divisions I propose to have nothing to do; but there is one question which I desire to lay before the House, and let the gentleman have the benefit of it, too. The first thing is simply this: is the House satisfied with the execution, or attempted execution, of the contract by Mr. Hamilton? The committee were not satisfied; but if the House is satisfied, so far as I am concerned, I am willing to leave this matter where it is. But, as one of the committee, I have come to the conclusion that he did not perform his contract, and I choose that this House should make war upon Hamilton for not performing it, rather than upon the committee for having neglected their duty. Let the House take the issue. If they are satisfied with the quality and quantity of the work, let them have the responsibility; if they are not satisfied, then the second section of the act requires the committee to take such means as they may deem necessary to remedy the neglect or delay on the part of Hamilton. The committee have taken pains, so far as they have been able, to remedy that neglect and delay. They have not consummated these means. They have tried to, and will, if the House have confidence in the committee; but from the time that the House have not confidence in the committee I shall be happy to transfer into their hands that duty, and let them see with how much greater unanimity they can come to a conclusion than the committee have. I submit this proposition: If the House or country are satisfied with the printing, in quantity and quality, as delivered, and in amount, that they relieve the committee from any responsibility upon that subject; if they are not, then the committee, occupying the place they do, will take the best means in their power to remedy that inconvenience. It was because it was intimated or suggested by gentlemen here,



that the committee were desirous to lay before the House their proceedings; and if the House have no confidence in the committee, if they think this work was all well done, let them take the responsibility and say, when they have waited twelve months for these heavy documents, that it was at their own suggestion that they waited upon Mr. Hamilton, and not through the inefficiency of the committee.

Mr. CLINGMAN. I understand the gentleman. He is mistaken about the fact. He is anxious to shift the dilemma from the committee to the House. He cannot do it. I have no doubt but he believes exactly what he states; but what I wish to say is, that the committee themselves have been in default. If they were satisfied that this man had not the capacity to execute the printing, they ought to have reported that fact to the House, and requested its advice. The House might then have disposed of it to some one else.

Mr. HAVEN. The law requires that the committee shall act—that they shall remedy the failure of the contractor.

Mr. CLINGMAN. That is the gentleman's construction of the law. My construction is a different one. The gentleman has construed the law erroneously. He has acted honestly and fairly, I do not doubt. I do not charge upon any of the gentlemen as having any such motive as the one I have been speaking of. He has made no statement bearing it out. Every one knows there has been a powerful outside pressure to take care of Donelson & Armstrong, and others. That is the point. And it has been intimated in the debate upon this floor, that one of the reasons why those gentlemen should have that contract, was that they had rendered important services to their country. I see it now stated in newspapers—the Baltimore Sun, and others—we hear it all around, that these editors have been fighting for the Union against the ultras, &c., and for that reason they are endeavored to be pushed forward in the way now proposed. You know, Mr. Speaker, that they have been, and are endeavoring themselves—in their editorials—to create the impression that there are a few ultra men—Disunionists, Secessionists, Abolitionists, and others—opposed to their patriotic effort to get into the Treasury. Why, if that were really true, that the only guardians of the public Treasury were a few ultra men, it would tell badly for the country. But there is nothing in it.

Mr. POLK. If the gentleman will allow me, I cannot permit such a charge to be made without the facts coming to light. I ask any member of that committee whether Gideon & Co., or Donelson & Armstrong, ever made propositions to them for the public printing? I will put another question to them. I ask these men—the gentleman from North Carolina [Mr. CLINGMAN] is one of them—and if we have to go into this fight, we will contend brow to brow, and bosom to bosom—if the editor of the Southern Press did not approach that committee with a proposition to divide the spoils, but could not get it?

Mr. CLINGMAN. I know nothing about it; but the gentleman from Indiana [Mr. GORMAN] stated the other day that the editor of the Southern Press did not make any proposition to the committee.

Mr. POLK. Let any member of the committee answer my questions.

Mr. CLINGMAN. I do not care anything about it. The gentleman is endeavoring to get me upon a point to which I attach no weight. I am opposed to the giving of that printing to the Southern Press, Union, or any other political press.

Mr. POLK. I hope the gentleman will, in this connection, allow a member of the Printing Committee—the gentleman from Kentucky [Mr. STANTON]—to state the facts.

Mr. STANTON, of Kentucky. With the gentleman's permission—

Mr. CLINGMAN. I will, in a moment. I will give the gentleman an opportunity. I desire now to state what I understand to be the operation here. It may be that the editor of the Southern Press applied. I do not care if he did. The gentleman from Indiana said that he did not. That is a matter between the gentlemen. I am not the representative of the Southern Press, but I fully concur with the gentleman from South Carolina.

Mr. GORMAN. He made no proposition to me. He made no proposition that I know of.

Mr. CLINGMAN. I know nothing about it. That is a matter between the gentlemen. What I was speaking of when interrupted, Mr. Speaker, was the obvious effort made upon the part of the editors of the journals here interested to create the impression in the House—and we hear it all around the Hall—every one knows the attempt is being made—to force the measure through under that idea to enable them to get into the Treasury—under the idea that they had been performing important service in the saving of the Union, and making war upon extreme men. Gentlemen here press them forward under that idea. There is hardly a newspaper in which you do not see something about it. Look in the morning papers at the puffis which go out to the country. Look at the effort made to get up a strong impression in behalf of those individuals under the idea that they have performed patriotic public service. Now, to give you, Mr. Speaker, a notion of how high the services they have rendered are in the estimation of those who are pressing their claim here, let me state a case. Suppose a soldier had been in every battle of our late war with Great Britain, and brought away honorable scars—suppose that he had gone with Scott's column to Mexico, that he had fought at Buena Vista—that he had participated in all of the conflicts in Mexico, and I should introduce a proposition to give that man ten or twenty thousand dollars out of the public Treasury, how would it be received? It would be voted down at once. Unless I could show that he had actually been disabled in the public service, there is not a committee in this House which would vote to give him a dollar. No, sir, not one! They would not put him upon the pension roll. If I were to introduce a proposition to give a man who had struggled against a foreign enemy in any way, or a man who had filled all the civil departments of the Government, from the President down to the lowest, and who was now in poverty, a few thousand dollars out of the public Treasury, it would be voted down at once. Well, then, how grand must have been the services those two organs performed for the country to justify gentlemen in pressing their claims here upon that ground! They will make \$100,000, \$200,000, or \$300,000 if they get the printing. Statements vary. According to a statement of Mr. Rives, from one class of printing alone—the census printing—they would, if 100,000 copies were printed, and the prices given as proposed, make nearly \$1,000,000! I will tell you, Mr. Speaker, what I think we ought to do if this contract system cannot be carried out, and I have great doubts as to whether it can. Let us try the experiment of the gentleman from Wisconsin, [Mr. DOTY], of a national establishment. I do not speak with reference to the details of his bill, as I have not sufficiently examined them. Let us appoint some man with a salary of \$2,000 or \$3,000, and let him hire workmen to do the public printing. Let us make that experiment. If you do that, you separate the press from the political control of this House. I am willing to start there. This is an additional reason why this matter should go to the Judiciary Committee. I hope that committee will report some system which will take from the Government, and every part of the Government, the control over the newspaper press. That can easily be done. Let it be provided that the paper in which are to be published the laws and advertisements shall be selected solely with reference to the largest circulation. The result would be that no party could exercise any control over the press.

The press is one of the great estates of this country. Every gentleman admits that it ought to be independent; but if the Government is able to control it here at the centre, the administration that happened to be in power could control it to a great extent, in all the States. Papers are selected upon the principle of favoritism, in which to publish the laws. Advertisements, and such favors, are extended to such papers as may agree in sentiment with the administration in power. By selecting a few leading papers at different points, to which they give these crumbs, they are enabled to control their party press. Now, that whole thing is wrong. For example: Every paper in this country, employed to print the laws and advertisements, should not be a Whig paper.

There is no reason why a Democratic paper should not have them sometimes. If the Democratic party come into power, it is wrong that Whig newspapers shall be excluded from every advertisement, and the publication of the laws. Every one will admit that. Let us then rid Congress of all control over the printing here, and pass proper laws, either such as I suggest, to make the printing depend upon the circulation, or do something else to remove control over the press, if possible. Then you will have an independent press, and the people will have a chance to get at the truth. I have occupied ten times as much of the time of the House as I had intended. My object was simply to throw out a few observations. I have been led away by questions of gentlemen upon the other side. I want to know from the gentleman from Tennessee [Mr. POLK] whether he desires me to renew his motion, which I promised to do?

Mr. POLK. I consented to withdraw it on the condition that it should be renewed. I expect the gentleman to renew it.

Mr. CLINGMAN. I, then, feel bound by my promise to renew it. I move to lay the whole matter upon the table, and upon that motion demand the yeas and nays.

Mr. JONES, of Tennessee. I hope the gentleman from North Carolina will withdraw that motion. I have but a very few remarks to make upon this subject, which I desire to make at this time.

Mr. STANTON, of Kentucky. I wish to address the House upon this subject also.

Mr. POLK. I relieve the gentleman from North Carolina from any obligation to renew my motion.

Mr. CLINGMAN. Then I withdraw the motion I have just made.

Mr. JONES. I have, Mr. Speaker, but a very few remarks to make upon this subject, and I desire to make those in justification of the vote I expect to give upon this occasion. I expect to vote to lay this whole matter upon the table. However we may differ as to who should execute this work, whether Whig, Democrat, or Free-Soiler, or Southern-Rights man, I think every gentleman upon this floor has arrived at the same conclusion to which I have been irresistibly forced—and that is, that the present contractor, A. Boyd Hamilton, cannot execute the contract he has made with Congress to do the public printing. I do not say this to prejudice his case, or out of any disrespect to him. I would much have preferred that he had obtained this contract upon terms which would have enabled him to execute it as it should have been,—without loss, but with a fair equivalent for the time and labor devoted to its execution. Then, if that is so, if Congress are satisfied that the present contractor cannot execute the work, something is required to be done in order that it shall be executed. We have Executive communications made to us from the first to almost the last day of the session. It is important that these documents should be in the hands of the Representatives of the people, to enable them to legislate understandingly for the benefit of the country. It is important, then, that this work should be done; and if the present contractor cannot do it, something should be done by which the printing may be executed. The Joint Committee upon Printing of the two Houses, in the exercise of a power which they believe is vested in them by the joint resolution of 1846, have proposed to give this work—a portion of it to one firm, and a portion to another firm of this city. What is the objection to their doing this under these circumstances? Why, the great objection here to giving the work to Donelson & Armstrong—that ordered to be printed by the House—is, I believe, that they are Democrats. That, sir, is the only objection I have heard urged against them; but, Mr. Speaker, in the sincerity of my heart, I say to you, and this House, that it is no objection with me.

Mr. ORR. As one of those who object, I desire to say, that the price has as much to do with my objection, and more, than politics.

Mr. FLORENCE. I would also say that my objection is not based upon politics.

Mr. JONES. The principal objection urged against Gideon & Co. is, I believe, that they are Whigs. That would be a pretty good one with me, if I had the distribution of this patronage, if it may be so called. This is known, I presume, to a majority of those who occupy seats upon

the other side of this Hall. I have said that I expected, or intended, to vote to lay this whole subject upon the table. I intend to so vote that this committee may have this work executed; and I hope that they will not stop at that. I hope that that committee will report to this House, and to the Senate, a proposition to repeal the joint resolution of 1846, providing for this contract system. I voted for that contract system, and I am satisfied that it has proved an utter failure. I am satisfied that it will not work well; and, so long as it is continued, and remains upon your statute book, that it will prove a fruitful source of discord, contention, and strife, in both ends of the Capitol. I hope that the committee will not stop at the point merely, of repealing this system, but that they will investigate this question, and consult with honest men, who are practical printers, in regard to it. There are printers by trade in this, and the other House. There are others in this city, and in the cities adjacent to this Capitol. I hope that committee will investigate this subject, and report to this House a bill establishing the prices for the public printing; and, that that being done, I hope that each House will elect its own printer. We can establish the prices, and we will have no individuals before us for whom we should vote favor at the time. Then let each House elect its printer, and let him do the work. Let each House, for itself, through its committee, superintend the quality of paper, and the execution of the work, and report, from time to time, if it is according to the law, or the conditions which the law may require. My friend from Virginia [Mr. BAYLY] says, let the House buy the paper. I would have no objection to that; but, as a commentary upon this House buying paper, walk into the room adjoining the post office, where each member is supplied with stationery. It is done upon this low-bid system—this contract system.

The contractors furnish samples when they bid, to the Clerk of the House and the Secretary of the Senate, and these gentlemen say that they hardly ever furnish an article equal to the sample. If you are going to buy the paper, send your agent into the market, as you would go yourselves, to select the material, and when he finds an article suitable for the purpose, let him purchase it at a fair price, and not offer a bonus to dishonest men to swindle the Government. Then, suppose this should be done. First, I will say that I am opposed to this printing bureau project. I think that it will be one of the most fruitful sources of favoritism and abuse that can be conceived and carried into practice. How will you fix the compensation of the hands, who are to work in this great printing establishment of the United States? There are printers scattered all over this country. I believe they have printers in every Congressional district in the United States, except that of my friend from Accomac, [Mr. BAYLY.] [Laughter.] and members of this House and the other House—

Mr. BAYLY. The gentleman has referred to a fact, which has been very often referred to in this House, that the district I represent, with twelve counties in it, has not a newspaper in it. [Laughter.] I am happy to admit that such is the fact. We have no large towns in that district, and I regard as a great nuisance a village press. The reason that such presses cannot live in my district is, that my people are a well-educated and thrifty people, and they prefer to take metropolitan and city papers, which are well edited, to taking little miserable village papers. I will lay a wager, [cries of "Oh, no! oh, no!" and laughter,] I will venture the assertion then, [laughter,] that there are more Intelligencers, more Unions, more Enquirers and Whigs, leading political papers, taken in my district, than in any country district represented upon this floor.

Mr. JONES. The gentleman says that his towns are small, and will not support a paper. If you establish this printing bureau, there will not be a district represented upon this floor, but what will have some of these small towns unable to support the printer, and he will be brought here perhaps for his partisan services to his friends, and forced into that bureau. He will not come here to do work. He will come here to be quartered upon the Government, and in all probability you will have five times as many of these printers here, as John C. Rives would have in his establishment, or any other good printer, to do the same amount of work. You would have continual applications

here to increase the compensation, for extra compensation, and all sorts of propositions would be brought forward here from that establishment. These are a few of the evils, which I think would result from it, and which determine me uncompromisingly against having that work executed in such a manner. I desire that the prices shall be fixed, and, when fixed, that each House shall elect its own printer. In my opinion it is the very best system which can be adopted, and the only one which will work well. You ask me for whom I would vote, if this question were to come on now? I have no hesitation in saying it here, and to the world, that I would vote for Donelson & Armstrong. Are there any more worthy or better men in this country than they are? I ask the honorable gentleman from North Carolina, [Mr. CLINGMAN,] who addressed the House this morning, and I ask also my friend from Mississippi, [Mr. BROWN,] if he was here, and in the majority, and this printing was to be given out, would he not vote for those who agree with either one or the other of them, as the case may be? I would myself, and I have no doubt—

Mr. CLINGMAN. If the gentleman will allow me, I will answer the gentleman's question. I admit, if you had by law the right to elect a printer, and were obliged to elect him, that gentleman and myself might vote for our friends; but I am opposed to the system, because I think it a bad one; and I am especially opposed, while we have another system in operation under the law, to resorting to this system in violation of the law.

Mr. JONES. I object to this system, because we are fighting about the prices and about individuals at the same time. Let us fix the prices when we have no individuals before us, and then let us contest the matter, who they shall be, when we have settled upon the prices.

Mr. CLINGMAN. If the gentleman will allow me, I will beg leave to remind him, that when Congress have, in two or three instances—he will recollect the case of Gales & Seaton—fixed the prices and elected the printer, and he has agreed to do the printing at those prices, that his friends, being in power, have come in at the end of the session and enlarged the prices, just as they attempted to do with Mr. Ritchie.

Mr. JONES. These were your political friends when they had the power.

Mr. CLINGMAN. I am not justifying it, and I am only reminding the gentleman that his suggestion will not answer the purpose. It was done by the Whigs, and was attempted to be done by the Democrats, and would have been done in the last Congress, but for a few outsiders who defeated it.

Mr. JONES. There was a law, as the gentleman will recollect, fixing the price for the printing of Congress. When this House came to elect a printer, they fixed it in the resolution which provided for the election of a printer that he should do the work at fifteen per cent., I believe, less than the prices of 1819. After he had executed the work, at the close of the Twenty-seventh Congress, his friends came forward and said that the House could not repeal a law by its own action, and deprive him of the prices designated by law. The case will be different if you fix the prices by law, and elect a printer under that law. But I have said that I would vote for Donelson & Armstrong. I ask gentlemen here, every one of them, to say, when they come to elect a printer, if they would not do the same thing, and vote for the men who concurred with them in political opinions and principles—who were not only thus situated towards them, but were their personal as well as political friends? I take it that there is no man upon this floor who will say nay to that proposition. Then, I ask gentlemen, what objection can those of us, at least those who claim to be Democrats, who are of the compromise school of Democrats as designated at present, have to voting for Donelson & Armstrong? Major Donelson is not only well known to this Congress, but to the country. He has occupied various important public political trusts under the Government, and I believe that his escutcheon is untarnished by the breath of slander, or in any other way. He stands before the country as a man of honor and of integrity.

Now, sir, the other gentleman who is associated with Major Donelson in the Union establishment of this city, is not so well known to this House as Major Donelson; he is not, perhaps, so well

known to the country. I believe the inquiry has been made in this House, "Who is General Armstrong?" At least the gentleman from Maryland [Mr. EVANS] said, he did not know him. Well, Mr. Speaker, General Robert Armstrong is a native of the State of Tennessee, from which I hail. He has been raised, and has spent his days, up to the time when he came on here, as a citizen of Tennessee, and in all the relations of life, public and private, his character and course have been marked by an honor and integrity unsurpassed by that of any other man in that State, or in any other State.

Mr. CLINGMAN. Will the gentleman allow me to interrupt him for a moment? I merely want to say that my remarks certainly will not bear the construction which the gentleman from Tennessee seems to have put upon them.

Mr. JONES. Oh no; I did not say they would.

Mr. CLINGMAN. I have a great respect for Messrs. Donelson & Armstrong personally. I think highly of them—very highly.

Mr. JONES. I was referring to a remark made some time since by the gentleman from Maryland, [Mr. EVANS,] not now in his seat.

Mr. GENTRY. Will my colleague allow me to perform a pleasing duty in reference to the gentlemen of whom he is speaking?

Mr. JONES. Yes, I will yield the floor to my colleague.

Mr. GENTRY. Not that these gentlemen need any indorsement or certificate from me in regard to their standing or character, but simply from the fact that they are of adverse politics, I volunteer to adopt all that my colleague has said in relation to Messrs. Donelson & Armstrong, as individual citizens.

Mr. JONES. Mr. Speaker, General Robert Armstrong, from the days of his youth, was the confidential and bosom friend of Andrew Jackson; and that great and illustrious man—the greatest of his age—when he came to lay down his life, bequeathed that sword, with which he achieved the glorious victory of the 8th of January, 1815, to this same humble individual, General Robert Armstrong, with the confident belief in his breast, that it would ever be wielded by him to whom he had bequeathed it, in defense of that country, whose liberties he so cherished. And, sir, as my colleague said, General Jackson never mistook a man. He always knew his man before he intrusted him with his confidence.

But, sir, General Armstrong is not dependent merely upon the friendship of General Jackson for his history and character. He was at the battle of Emucklaw, in the Creek war of 1814, and commanded one of the most gallant companies of artillery that ever fought in the maintenance of the rights of these United States. In that battle, he fell, as was thought by some, mortally wounded. His exclamation then, to those around him was, "Boys, don't give up the guns." This, sir, is who General Robert Armstrong is—a man who stands before the country and before the world, of as high-souled honor, as unsullied integrity, as pure patriotism, and as sound democracy, as any man in it.

Mr. FITCH. I feel some delicacy in saying anything upon this subject. The charge of coalition has been so freely made here, that I fear there may be an attempt to make me a party to it. Heretofore, however, I believe, it has only been charged that the members of the committee, of opposite politics, have coalesced, for certain purposes of their own, and that, in the House, a coalition has been formed to defeat their action, between the extremes upon both sides—the State-Rights men and the Free-Soilers. Now, as you very well know, I occupy something of a conservative position. I am not among those who would encourage runaway slaves on the one side, nor am I, on the other side, among those who would dissolve the Union because slaves will run away. I cannot, therefore, be properly classed with either of these sectional parties, and I cannot, consequently, be justly charged with being a party to any coalition they may make. But I do not believe in this thing of a coalition so suddenly developing itself here, in the House. Its existence is imaginary.

I wish, very briefly, to give a view of the action of this committee from a point different from that presented by my colleague, [Mr. GORMAN,] the chairman of the Committee on Printing; and it is because the chairman of the committee is my col-

league, that I prefer that the expression of my views should precede my vote.

I acknowledge the binding force and obligation of party usage. I pay as much deference to such usage as any member upon this floor, in all proper matters. I acknowledge, likewise, adhesion to party principles; obligation either to defend them when assailed, or no longer to consider myself as a part and parcel of the party proclaiming them. But when I see an effort made—not designedly, probably, but having that effect—when I see an effort made to pervert party machinery in such a manner as to make it conducive to the prostration of the best interests of the country, or the violation of a settled policy and existing law, I cannot follow the lead. Attempted leading of a like injudicious character has developed anew differences here among Democrats, which otherwise might soon have been healed by time; or, if the lead has been followed by a majority, has placed us in a false position before the country.

Let me say in the outset, that I am not the advocate of the contractor for public printing. I do not know him, and even if I did, should have no disposition to appear here as his defender. Indeed I admit prejudice against him; but prejudice shall not govern my action, unless proof is adduced to sustain it. He may or may not be able to fulfill his contract. The committee say he is not. Members upon this floor say he is not. But I have no proof of it, other than the delay in the delivery of one class of printing—a delay which we know occurs during every Congress almost to as great an extent as it has done during this. But I will admit that the public printer has violated his contract, and still I cannot vote to sustain the action of the committee. I may as well state here, that my objection to sustaining the action of the committee, grows out of no dislike, personal or political, to Donelson & Armstrong. I have none of the political objections to those gentlemen which were avowed by the gentleman from North Carolina, [Mr. VENABLE,] not long since; and I wish to say to that gentleman, in this connection, that not only do I sustain the policy of the Union, and esteem most of its political principles highly conservative, but that any attempt—although I do not suppose that he will make any—to ingraft principles of an opposite character upon the Democratic creed, cannot succeed, and must result in the overwhelming defeat of himself and those who act with him.

Mr. VENABLE. Did I understand my friend—

Mr. FITCH. Simply as saying I did not believe you would attempt to ingraft the grounds of your objections to Donelson & Armstrong upon the Democratic creed.

Mr. VENABLE. It is but justice to myself, and to the parties concerned, to say that I have no personal objection to Messrs. Donelson & Armstrong; my remarks concerning them were purely political. I am no creed-maker for one party or the other. I am rather a free-fighter than otherwise. I never make creeds for the Democratic party, for the Whig party, or for the Federal party; but I know what Democratic doctrines are, what Whig doctrines are, and what Federal doctrines are. I will say to the gentleman from Indiana, that I have never endeavored to enlarge, or diminish, or alter the Democratic creed, or to ingraft any new principles upon it. According to the strictest sect of our religion, I have been considered a Democrat for the last thirty or forty years. I have never taken from the Democratic creed or added to it.

Mr. FITCH. I did not understand the gentleman from North Carolina as objecting, personally, to the editors of the Union, but only to the principles avowed in their paper—principles which he could not sanction by voting them any portion of the public patronage. I have said that I have not only no personal objection to those gentlemen, but that I have no objection to the principles which they avow. On the contrary, sir, if the contract system was annulled, and the House was called upon to elect printers, I might prefer them to almost any other men, and cast my vote accordingly. But there is the difficulty; the contract system is in force, and the committee had no right to assume legislative power, and practically repeal it, without the consent of the House.

Sir, the contract system was adopted in order to avoid the objections which were brought on all

hands against the old system of election. It is well known that system was a corrupt one, and that there never was an election of printer to Congress which was not mingled, more or less, with intrigue, coalition, and corruption; and there never was a printer elected by Congress who did not subsequently ask for some modification of the terms of the contract under which he was required to do the printing. We know that political printers were paid by their party when in a majority, some \$40,000 over and above the price at which they undertook to do the printing of Congress. And where a bonus in that shape was not given, it was customary for the elected printers to charge extras, not strictly permitted by the terms of election, but which were allowed by the committees and by Congress, in order—not to compensate them for their losses, for they pretended to no losses—but to make up the profits to which they thought they were entitled.

Well, sir, that system was repealed—repealed, as the gentleman from North Carolina [Mr. CLINGMAN] well said, by a Democratic Congress. A gentleman then representing, in part, my State was chairman of the Committee on Printing. He urged the adoption of the contract system as the right one. It was so esteemed by the people, and no statement made here, before the system has had a fair trial, can convince them to the contrary. If it has not been found to work well, the fault is in the manner in which the system has been managed, and not in the system itself. Why should there be any more objection to the contract system for the public printing than for supplies to the Army, or for the transportation of the mails? You do not elect the gentlemen who perform such service. They take contracts according to bids, and are expected to fulfill those contracts. If the system is mismanaged, the mismanagement is mostly our own fault.

My objections to the action of the committee will be stated briefly, for I wish to occupy as little of the time of the House as possible. Their action was improper, inasmuch as they have assumed, and so reported to the House, that the contract is violated, without adducing any satisfactory proof of the correctness of their assumption, and without giving the contractor notice of their final intention with regard to the contract. The contractor, as I understand it, denies not that he received no notice that action of some kind would be had upon the part of this committee, but that he was specifically notified of their intention to annul in part the contract with him, and give the work to somebody else. And I do not understand the committee to assert that they did give him such notice.

Mr. STANTON, of Kentucky. Will the gentleman allow me for a moment to submit a question to my colleague upon the committee? [Mr. GORMAN.] I desire to know of him whether he did not go, personally, to this contractor and tell him what we designed to do—if he did not show how much he was in default, and propose to give Mr. Hamilton a written notice to that effect?

Mr. GORMAN. I went to Mr. Hamilton in the Hall, and said to him, "We are going to take some action upon this matter of public printing, wherein we suppose you have failed, and want to see you. Do you want a written notice?" "By no means," says he, "I will be sure to be there." And, in obedience to that notice, he did go before the committee, where I saw him—where the gentleman from Kentucky [Mr. STANTON] saw him, and where the gentleman from New York [Mr. HAVEN] saw him. And the course of the contractor in relation to this matter, has only added insult to injury.

Mr. FITCH. That is precisely the case I put. I said there was no doubt that the contractor had received notice of some action upon the part of the committee, but that he had received no specific notice of the kind of action which that committee was to take. He had not been notified that they intended to declare this contract null and void, and of their further intention to give the printing to somebody else.

Mr. GORMAN. My friend has fallen into an error in this. We have not abrogated the contract.

Mr. FITCH. I will come to that presently.

Mr. GORMAN. We have not only not abrogated this contract, but, on the contrary, we have expressly pursued that contract, insisting that he should execute his contract, and requiring that he should pay all damages.

Mr. FITCH. I will come to that presently. I am aware that the committee have not formally abrogated the contract. But, first, I will proceed with stating my objections to their action. Their action was further improper in bestowing the work upon partisan editors—the favorites of members of the committee—and highly improper in bestowing a portion of it—half or more—upon an editor, or publisher, whose opinions, and those expressed in his paper, differ with those of three fifths of the members of both Houses of Congress. If the work is to be given to partisan editors, why not give it to those whose opinions coincide with those of a majority here? It is wrong to bestow it, unless as a contractor by a bid, where all can compete, upon any partisan, but especially upon one whose paper has teemed with abuse of a majority of those who are to bestow the patronage, and whose office has poured forth slanders by the wholesale upon the party of that majority. I allude to Gideon & Co. It is true, that it was said yesterday, that the Gideon & Co. who were included in this new printing distribution, were not the Gideon & Co. of the Republic. But I apprehend such subterfuge—

Mr. GORMAN. That was in relation to the bid, not in relation to our present arrangement.

Mr. FITCH. I object further to the action of this committee, because they have left in the hands of the public printer a very large branch of the public printing, of which they declare he has delayed or neglected the execution, and has not laid upon our tables within a reasonable time. The second section of the law under which the committee acts, very clearly implies that it is their duty to see to that portion of the public printing which is neglected or delayed. But we have the admission of the honorable gentleman from New York, [Mr. HAVEN,] that every class of the printing is well done, and delivered according to the contract, except class No. 4—that of Executive documents; while we have the testimony of the chairman of that committee, [Mr. GORMAN,] that this very class, or a large portion of it, is left in the hands of the printer; while matter of the other classes, which they admit he executes properly and promptly, is retained, and has not been put in the hands of the printer at all. The committee have withheld, in part, the work from him, but not of the only class which it appears they charge him with neglecting or delaying, and now endeavor to prejudice us against him, by attributing to him "neglect or delay" of the whole work, including that which they have never given, and for the delay of which they are responsible. Their duty under the law very clearly was to have taken that which the contractor had delayed or neglected to execute, and bestowed it upon some one else, charging the contractor the difference between what they paid for it and the contract price. But instead of doing this, they have left this portion of it in his hands, still further to be delayed, while they have withheld from him work he might have done, and which they admit he previously had done, and properly. What better grounds could he have for coming here hereafter, with a claim for indemnity? All he will have to do to establish a claim, will be to prove that the committee have withheld from him the work which he was ready to execute—proof which it will not be difficult to obtain, when the admission of the committee furnish him with most of it.

Mr. GORMAN. If the gentleman will permit me to interrupt him, I will say that we should have taken this work from him long ago, but for the fact that we could not agree who to give it to. We could not agree upon any one to make a contract with.

In reference to this withholding work from the public printer, I will say that we do not put this work into the hands of the printer. That is the business of the Clerk of the House of Representatives and of the Secretary of the Senate. If they have gone to him it is their fault. But we could not take this document, which he has delayed or neglected to print, out of his hands, until we could agree upon some one to give the printing to.

Mr. FITCH. Mr. Speaker, it would certainly have been as well for the committee to have taken those documents out of the contractor's hands, and retained them till they could have found some one to do the work, as to leave them to be delayed in his hands, and better than to have withheld those which they have never presented to him, and which,



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if we are to judge by his own assertion, and the admission of the committee, he would have executed long ago.

Mr. STANTON, of Kentucky. I am not aware that the committee have withheld from the printer any document, except the first part of the Patent Office report. That is a document which, if printed at all, must be printed all alike; and when we get the balance of it, we will then dispose of it. It will be time enough for that when the whole of it is before us. I am not aware that, with this exception, anything has been withheld from the public printer.

Mr. FITCH. If I am not mistaken, my colleague [Mr. GORMAN] stated to the House that a large portion of other branches than Executive documents of the printing had been withheld; but if I am, let him correct me. Such was my understanding, and I presume that of the House generally, of his statement. Now, I am no lawyer; and it is sometimes said that common sense and law are contradictory—are incompatible; but I should think the common-sense reading of the second section of the law of 1846 dictates a course to the committee contrary to that pursued by them in this matter. It was their duty to have taken away from the contractor that work which he had delayed or neglected to deliver according to the contract, and not to have withheld that which he professes to be, and probably is, prepared to execute, and has heretofore executed. I object, further, to the action of this committee, because they have assumed to themselves legislative powers—powers which were never delegated to them. They have assumed the power of practically annulling, or suspending during this Congress, the contract system—a power resting with Congress only.

I come now to the remark made by my colleague [Mr. GORMAN] a short time since, that the committee had not abrogated the contract with Mr. Hamilton. Disguise it as you may, the action of this committee amounts to a virtual abrogation of this contract, and to a suspension of the contract system, for the present Congress at least. They have assumed to say who shall, and who shall not, be the public printer; to turn out Mr. Hamilton, and substitute others. While the contract system is in force, that system declares who shall be the public printer, viz: the lowest bidder. If that system is to be repealed, it is for us to repeal it; and with us only then will rest the power of electing a printer, or pointing out the manner of his selection. The committee have nothing to do with either, except to enforce the contract while it exists. They cannot usurp the power to annul it, or elect a printer. If they believed the contractor could not carry out his contract, why did they not come here, and declare that the contract was void; that the contractor had violated it, and ask the advice and direction of the House in the matter? But instead of pursuing this, which would have been the proper course, they proceed to elect a printer for the whole of the present Congress; and though they do not formally abrogate the contract, yet they must know that the only possible result of their action, as regards the present contract, must be its abrogation; for they propose to withhold from the contractor those portions of the work which he can and has promptly executed, and leave with him only that portion, his delay of which, they allege, has already violated his contract.

Mr. FREEMAN. Will the gentleman permit me to call the attention of the House to the second section of this law? It is as follows:

“And he it further resolved, That a committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a Committee on Printing, which shall have power to adopt such measures as shall be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a *pro rata* reduction in the compensation allowed, or to refuse the work altogether, should it be deemed inferior to the standard; and in all cases, the contractor and his securities shall be responsible for any increased expenditure consequent upon the non-performance of the contract. The committee shall audit and pass upon all accounts for printing, but no bill shall be acted

upon for work that is not actually executed and delivered, and which they may require to be properly authenticated.”

Mr. FITCH. This committee have the power to do what? To declare that the contract is void, and that some one else shall do the work? No, sir; they have the power to remedy any “neglect or delay” in the delivery of the work; and did they do that? On the contrary, by their own confession, they have left all that work in the hands of the public printer with which they charge him with “neglect or delay,” and withheld other portions of it from him which he has heretofore promptly executed. Is that remedying the “neglect or delay?” Leaving that which, according to their own statement, is delayed to still further delay and neglect, and withholding other printing which he was prepared to execute and deliver! Is that what the law contemplated? Clearly not.

Mr. FREEMAN. Does the gentleman assume that this House is to be the judge of the discretion to be allowed the committee?

Mr. FITCH. Most certainly.

Mr. FREEMAN. Well, sir, this committee has by law discretionary power. Now, there is not a judge in the land; there is not a court in the land, which is allowed to exercise discretionary powers, which is not decided to be a court from which there is no appeal as to matters of discretion merely. Now, I undertake to say, as a legal proposition, that when discretionary powers are given by law to this committee to judge what is necessary in the case, it is not for any member upon this floor to say when they shall or shall not exercise that discretion.

Mr. FITCH. I am not learned in the law, but I fancy when the gentleman has been in Congress even the short time I have, he will find that we do constantly exercise control over our committees. They have never assumed the power of acting irresponsible to this House. They have no such power; they cannot have, from the very nature and manner of their constitution.

Mr. DUNHAM. Will my colleague allow me to ask him a question?

Mr. FITCH. Why, I am beset on all sides by lawyers.

Mr. DUNHAM. I desire to inquire of the gentleman, whether we can exercise control over the jurisdiction of committees where that jurisdiction is fixed by law?

Mr. FITCH. We give a power, a jurisdiction, relative to the extent of which there is a difference of opinion. Who shall decide that difference, and define that extent—the agent or the principal, the creature or the creator, the committee or the body which constituted it and gave it whatever of power it has? It was the duty of the committee to have sought the advice and action of those under whose authority it was acting—not attempt the exercise of even a doubtful power, much less the usurpation of one never contemplated to be bestowed upon them. They have attempted to make themselves greater than the separate bodies which created them.

Another objection to their action is, that it was concealed from this House, and probably ever would have been concealed, until we had known it by its effects—by having printing laid upon our desks from some one else than the contractor—had it not been for the introduction of the resolution of the gentleman from Mississippi, [Mr. BROWN.] That resolution elicited what the committee had done, and what they proposed to do; and the frequently-expressed sentiment of the House since the matter has been under discussion, has, as I have reason to believe, changed the original determination of the committee; and it will be still further changed if the power is left in their hands.

I object to it again, upon grounds somewhat personal to the members of the committee. I object to it because it subjects the committee to the imputation and the charge of having been governed, in the distribution of this printing, by improper motives. It subjects them, in fact, to the charge of having done precisely what some members of the committee charge others upon this floor

with having done—entered into a coalition, not upon principle, but for patronage and for money. I have no idea that any such motive governed any member of that committee, but they should have anticipated that the charge would be made; and it will be made, and it is no answer to the charge that another coalition has been entered into here. Two wrongs never make a right. If there is another coalition here, it does not justify one upon their part. I say again, however, that I have no idea that motive governed their action. But the charge will be made, and may as well be alluded to here, and now, that they may prepare to defend it—for defend it they must; and so must every man who votes to sustain their action. Having no disposition to place myself in that predicament, I shall not so vote. I will make myself no party to a transaction of the kind they contemplate. I will make myself no party to a political warfare, wherein I will be compelled to defend the very course which, a few years since, the Democratic party itself opposed. It is but a short time since the Democratic party repealed the law of the elective printing system. Shall we now place ourselves in the inconsistent position of repealing what we have done, and defending what we once condemned? On the contrary, if this contract system is to be repealed, I prefer at once the adoption of the bill introduced by the gentleman from Wisconsin, [Mr. DORR,] or some other, to the old system, condemned because of the well-founded charges that intrigue, coalition, and improper motives were permitted to enter into the election of the printer. I have done.

Mr. STANTON, of Kentucky, here obtained the floor.

Mr. STANLY. Has the gentleman from Kentucky the floor?

The SPEAKER. (Mr. JONES, of Tennessee, being in the chair.) He has.

Mr. STANLY. I do not object; but *four* on that side, and *one* on this—it is rather hard. [Laughter.]

The SPEAKER. The Chair will state the considerations which influenced him in giving the floor to that gentleman.

Mr. STANLY. I do not desire any explanation.

The SPEAKER. But the Chair prefers to give his reason. The gentleman from Kentucky [Mr. STANTON] is a member of the committee.

Mr. STANLY. That is all right—I am glad to hear it; but five to one is pretty hard.

Mr. STANTON, of Kentucky, said: I am, unfortunately, a member of the Printing Committee, and if I were not, I should not now trespass upon the indulgence of the House, wearied as it must be with this discussion. But, I think I have a right, under the circumstances, to avail myself of the opportunity of stating the reasons which, to my mind, justify the course I have thought proper to pursue, as a member of that committee, in assigning such of the public printing to Donelson & Armstrong, and Gideon & Co., as the present contractor could not, or would not do.

In connection with this subject, much has been said upon this floor about a supposed coalition entered into by the committee; and I am placed in the category of those who are charged with entering into a combination with men differing from me in political sentiment, to secure for the publishers of the Union a portion of the public patronage. From the manner in which this charge has been made elsewhere, and repeated here, it may be supposed that corrupt motives are implied. So far as my own action is involved, I say to the House and the world, that such imputations are not true, and that I had no agency in any combination or coalition of any kind. My sole motive, in the course I pursued, was an honest desire to secure to the House, in the most speedy manner, the printing which was necessary for legislative and other purposes. I believe my colleagues upon said committee were each and all of them actuated by the like honest intention; and I affirm, in denial of the statements which have been made here, that no coalition, for any political or other pur-

pose, was made by that committee, or any of its members.

No combination or coalition for any purpose was talked of by the members of the committee, or any attempt made to form one for the purposes charged. The only thing which occurred that had any semblance of a coalition, originated with the editor of the Southern Press, and which has been alluded to by the honorable gentleman from Tennessee, [Mr. Polk.] In relation to this I should have been silent, if he had not called the attention of the House to it, and appealed to me to disclose the circumstances.

When it was known that the contractor, Mr. Hamilton, would not be able to complete the public printing in the time limited by the contract, and at a period when it would be useful for legislative purposes, the committee had a meeting, talked over the matter, and, without any hesitation, came unanimously to the conclusion that the public interest demanded some immediate steps to be taken to remedy the default. It was determined, that the delay which had taken place in the delivery of the work, the bad materials upon which it was printed, and the known want of pecuniary means of the contractor to carry on the work, were enough to justify the committee in the exercise of the power conferred upon them by the law of Congress on the subject. I voted to give the work, which could not be done by the contractor, to Donelson & Armstrong, and this I did before I ever had a word of conversation with them upon the subject. The House has been already informed of the action of the committee in endeavoring to unite upon some one to do the work. While this struggle was progressing in the committee, Mr. Elwood Fisher, one of the editors of the Southern Press, and the leader of the State-Rights party, came to me, as a member of the committee, and proposed a combination between him and the editors of the Union, requesting that the printing should be divided between these two presses. He informed me that such a combination would produce a union between the State-Rights party of the South and the national Democratic party. I frankly informed him that I thought it would be utterly impossible for him to get any part of it; that under no circumstances could he calculate upon more than two votes in the committee; that there were but two men upon it from Southern States, and he had nothing to expect from the four other gentlemen who were Northern men. I told him, that to secure the speedy execution of the work, I would go for his press, and I would have voted for him, or any other man in the Union, who would do the work speedily and upon good terms, if the committee could have united upon him. But that was impossible. I did not believe that any political idea was involved in the result, and could not see how any political effect was to be produced by simply employing men as a temporary necessity to do the portion of the public printing not executed by the contractor. Mr. Fisher, finding that his efforts to secure a portion of the printing by persuasion was unavailable, tried what could be accomplished by threats. He informed me that if we entered into a combination between Donelson & Armstrong and other persons, and did not associate him in the arrangement, that it would be a proscription of the Southern Press, and he would make war to the knife upon the Democratic party. He avowed that the whole State-Rights party would go off in a body, and that he and they would do all they could to defeat the Democratic candidate for the Presidency.

Mr. WOODWARD. Mr. Speaker, with the indulgence of the gentleman from Kentucky, [Mr. Stanton,] I will make a single observation. He imputes to the Southern-Rights party a wish to have the Southern Press included in the arrangement with the Union and the Republic, and refers to a supposed threat from the gentleman from Mississippi, [Mr. Brown,] that the exclusion of the Press would be avenged by that party. Now, I suppose there is not on this floor a single member less disinclined to see a war break out between the Southern-Rights party and those disposed to make war upon them, or who would go into that war with more promptitude than myself; and yet I declare that I do not know a single member of the Southern-Rights party, including myself, who has taken any step whatever to obtain for the Press a participation in the public printing, or with whom

such a thing has been an object. There is not one, as I believe, who would vote for the proposition of the Committee on Printing, though the Press were included with the Union and the Republic. We do not object to Donelson & Armstrong because they are Democrats, or to others for being Whigs; our objection to them is that they are party editors, and not printers.

Mr. STANTON. I certainly acquit my honorable friend from South Carolina, [Mr. Woodward,] and all other Southern-Rights men in this House, from any participation whatever in an effort to make that combination. Mr. Fisher had this conversation with me in the rotunda of the Capitol.

Mr. WOODWARD. I can only say that Mr. Fisher had the perfect right to do it.

Mr. STANTON. The first attack made upon the subject was made by the Southern Press, and my friend from Mississippi, [Mr. Brown,] reiterates to some extent what was said by the Press; and his language might well be construed into the same sort of a threat, that the Southern branch of the Democratic party would go off and not unite with us in the election of a President.

Mr. BROWN. Will the gentleman indulge me for a moment?

Mr. STANTON. Certainly.

Mr. BROWN. If I was understood in any thing I said yesterday, or the day before, or at any other time, as intimating directly or indirectly a threat that the Southern-Rights, or State-Rights party, or any portion of the Southern people, would be governed in the presidential canvass by the action of this House upon this question, then I say I have been misunderstood. What I meant to say was this: that if the Press, which reflected the views of a portion of the Southern people, was proscribed—and it was stated that it had been proscribed—because it reflected the views of a portion of the Southern people, I thought it exceedingly probable that the votes of those people could not be relied upon in the presidential election. I did not mean to say what they would do. I had no authority to speak for them. The remarks I made were by way of argument, or rather by way of friendly suggestions, that it was better not to proscribe the press which reflected the views of anybody, and gave as a reason for doing so that it reflected those views. If you calculated upon the votes of the friends of that press, such policy was decidedly bad.

Mr. STANTON. I do not think the gentleman's explanation alters the case at all.

Mr. FREEMAN. I would like to ask my colleague [Mr. Brown] a question. From the remarks that were made yesterday, it may be presumed that my colleague [Mr. Brown] considers the Southern Press of this city, the organ of some portion of the Democratic party in the State of Mississippi. I do not believe that it is; and if it be, will my colleague state who it is that the Southern Press represents in the State of Mississippi?

Mr. BROWN. It represents, like all other papers, its patrons, and those who agree with the opinions it expresses. I stated yesterday, explicitly—I thought, sufficiently explicit to be understood by everybody—that my action in the presidential election would not be controlled by anything you might do, in reference to the Southern Press. But it has its patrons in the South, and most of them belong to the Democratic party; and I say again, that if you proscribe it, because it is the organ of those for whom it speaks, they will, perhaps, resent the injuries.

Mr. FREEMAN. Then, I understand my colleague to say that the Southern Press is not the organ of any organized party, or any party that has heretofore been organized in the State of Mississippi?

Mr. BROWN. I do not know that it is. I do not undertake to say whose organ it is. It was established here, as must be recollected by those who were members of the last Congress, upon the recommendation of a large number of gentlemen, some of them now the leaders of the Union party. I recollect the distinguished gentleman from Georgia, [Mr. Toombs,] was one of the sponsors when that paper was started, or rather when it was accouched and brought into existence. I do not know whether it is his organ now or not. I recollect, too, that certain distinguished gentlemen, in the other branch of Congress, now active and leading

Union men, recommended it to the Southern people. They have never withdrawn their recommendation. Whether it is their organ now or not, I do not know. But they established it; they recommended it to the Southern people, and told them that it was a capital good paper, and many of them subscribed for it on their recommendation. Messrs. Dawson, Mangum, and others of the Senate; and Messrs. Toombs, Stephens, and various other gentlemen of this House, united in this recommendation. If those are responsible who brought it into existence, the Union men may respond for the Southern Press.

Mr. FREEMAN. I doubt not but that there are a great many persons who subscribe to that paper; but my own opinion is, that the number of persons in the State of Mississippi who agree with the sentiments of that paper are exceedingly few. I think a strong impression will be created from my colleague's remarks, that that paper is his organ.

Mr. BROWN, of Mississippi. I never said any such thing.

Mr. FREEMAN. I would not have such an opinion prevail, whatever may be the difference between my colleague and myself in regard to the doctrine of secession. I do not desire the opinion to go out here, from any remark he might make, that the balance of the delegation agree with the sentiments uttered in that paper in relation to the doctrine of secession and dissolution, or that they are the opinions of any respectable portion of the community of Mississippi. I would ask my colleague if the Southern Press is his organ?

Mr. BROWN. One solitary word upon the subject of organs. My colleague asks me—

Mr. DEAN. I rise to a question of order.

Mr. BROWN. I hope I am not again to be ruled down on a point of order.

A Voice. Let Mr. Brown reply to his colleague.

Mr. BROWN. I have only to say in reply—

Mr. DEAN. I rise to a point of order. Is the debate between the two gentlemen from Mississippi in order?

Mr. BROWN. I will say that the Southern Press is not my organ. I am my own organ.

The SPEAKER, (Mr. Jones, of Tennessee, in the chair.) It has been the practice of the House during this session for the gentleman in occupancy of the floor to yield it to another gentleman; and upon one occasion the present occupant of the Chair took an appeal from a decision to that effect, and the House sustained the decision.

Mr. DEAN. My point is, that the discussion is irrelevant.

Mr. POLK. I call the gentleman from New York to order. I do not see any point in his point of order. [Laughter.]

Mr. STANTON, (resuming.) I alluded to this subject for the reasons I have stated, and because the Southern Press was the first to attack the committee, denouncing its action as a flagitious outrage. I repeat, that I know of no other attempt at coalition than this made by Mr. Fisher, and the effect of his disappointment has been seen in the columns of his paper.

Allusion has been made, by my honorable friend from Mississippi, [Mr. Brown,] to the fact, that there was a Senator from Connecticut upon that committee, who happened to be a Whig and a Free-Soiler; and he places me beside him as forming a sort of unholy coalition for corrupt purposes.

Mr. BROWN. No; not for corrupt purposes.

Mr. STANTON. Political purposes, then. I do not think it necessary to say more than I have already to exculpate myself from the imputation of political motives in voting as I did in the committee. It is due, however, to truth, and the honorable Senator referred to, [Mr. Truman Smith,] to say that he was not in favor of giving any portion of the printing to the conductors of a political press. He was warmly in favor of giving the work to John T. Towers, a practical printer, and former printer to Congress. He opposed the Republic to the last moment; and it was only after every other expedient had failed, and, under the stern necessity of the case, that he yielded and gave his vote to the two firms which were selected by the committee. I have no reason to believe that he did not act from a sense of public duty, and with the sole desire to do what he deemed best for the public interest.

Now, Mr. Speaker, I propose to state briefly the reasons which made it necessary to give a portion of the public printing to other persons. I think they are such, when calmly considered, as will fully justify the committee in the course they have thought proper to pursue. The contractor, on the third day of March, 1851, executed his contract to do the public printing for the Thirty-second Congress. Its terms are such as to require him to execute the work, in all respects, in a better manner than the printing heretofore has been done. I have the contract now before me, signed by himself and his securities. It stipulates that the work shall be done according to a sample attached to the instrument, and made part of it. A further requirement is, that the paper shall weigh fifty pounds to the ream, and be of a quality equal to a sample which is also attached, and made part of the contract. Now, sir, these provisions of the contract are such, that, if he had fully complied with them, would have secured to Congress better work and better materials than any ever before furnished by the predecessors of Mr. Hamilton. It is not the fault of the committee that these provisions were in the contract. The law prescribed the duty of the committee, and our course was plain, and we had no alternative but to enforce the contract as we found it. We had no power to vary its terms. The paper heretofore used had never been equal to what was required by Mr. Hamilton's contract, perhaps never to exceed forty pounds to the ream. The paper agreed to be furnished by Mr. Hamilton weighed fifty pounds to the ream, and upon this quality of paper the whole work was to be executed.

The Committee on Printing met at an early day of the session, organized itself, and entered upon the discharge of its duties. It was not long, however, before it was apparent to every member that the contractor was a mere man of straw, who had undertaken this work—not with the expectation of carrying it on in good faith—and I quote his own statement when I say so, because he gave the committee, during an interview we had with him, distinctly to understand that he did not expect fully to comply with the terms of the contract—but relied upon the indulgence of the committee to allow him to do the work upon an inferior quality of paper. This would have been a fraud upon Congress which the committee could not tolerate; and he was promptly informed of it. I came then to the House, and in the course of a debate which was progressing at the time, announced the fact that the public printer was greatly in default with the public printing, and that he did not expect to execute it in good faith. The next morning he laid upon your table a statement flatly contradicting what I had said, and containing as reckless a string of misstatements as that laid upon your table yesterday. I deemed it necessary, not knowing much of the man, and never having seen him before the interview in the committee-room, to vindicate my own veracity. I was fortified by the statements of the members of the House who belonged to that committee, in support of the truth of my assertions. The members from the Senate on the same committee, who heard Mr. Hamilton's remarks, concurred with the members of the House. They all gave a flat contradiction to his printed statement.

Mr. MEADE. Will the gentleman allow me to ask him, whether I understood him just now—and I ask purely for information—to state, in the words of the contractor, that he told the committee that he did not undertake this business with a view of carrying it out, but to be able to perpetrate a fraud upon Congress.

Mr. STANTON. No, sir, you are mistaken. This is what I meant to say.

Mr. MEADE. What were his words?

Mr. STANTON. In conversation with the gentleman from Indiana, [Mr. GORMAN,] he gave us distinctly to understand, as has been stated by other members of the committee, that he did not expect to come up to the requirements of the contract, but relied upon the indulgence of the committee to tolerate an inferior quality of paper. It would be a fraud upon Congress, for it was an express violation of his contract. His contract required him to furnish paper of a particular weight, and to do work in a particular style.

Mr. MEADE. One other question. I wish to know if the contractor, at the same time, informed the committee, that he expected to be remunerated

out of the printing of the census, which he claimed under his contract?

Mr. STANTON. I do not remember that the subject of the census printing was mentioned in that conversation. I know the public printer, at that early period in the session, began to make excuses for not having complied with his contract in regard to time, as well as in regard to the quality of the work and the quality of the material. One of his excuses was alluded to on yesterday by my friend from Pennsylvania, [Mr. FLORENCE,] and that was, that the rivers were frozen up, the railroads obstructed, so that conveyance could not be had to the city of Washington by which the paper could be received in time. We regarded it as no excuse. No excuse, for the reason that this man had ten months from the execution of his contract in which to prepare his stock, and get ready for the prosecution of the work. The rivers were not then frozen up—the railroads were not then obstructed. All the means of getting paper to this city were at his command, if he had the capital and disposition to comply. When we called him before us, the printing was lamentably behind. From the manner in which he was progressing, his equivocation and want of frankness with the committee, we were all impressed with the conviction that there was no prospect of getting in time for any useful purpose the greater portion of the important work. And I now assert, Mr. Speaker, that if the President's message and accompanying documents remain in his hands, and he makes no more rapid progress than he has already done, that we shall not see the work completed before Christmas, if then. In the interview referred to, the honorable gentleman from Indiana [Mr. GORMAN] demanded to know when we might expect to have the message completed. He informed us that we might expect them upon our tables in two weeks from that time. Three months have since elapsed, and not one third of the work is yet done. Three hundred and fifty copies were accepted by the House committee, to be laid upon our tables for the convenience of the members. We took that number, while the Senate committee rejected the whole of those sent to that body, for the reason they were not printed in a style the contract required. It is not only in reference to the President's message that the public printing was behind, but nearly all of the important documents are even behind at this day—doubly more so than they were then. The committee found it the cause of a great deal of complaint in the House, that the printing was so far behindhand. If at that early period, the default of the contractor was a just cause of complaint, how much more so is the condition of the work now? I hold in my hand, sir, a list of eighteen important Executive documents, embraced in a single class of the public printing, not one of which has been completed, and not one of them yet touched, except the annual message of the President. That the House may see the importance of these documents, I will read the names of some of the most important ones:

*The Annual Message of the President.*

*The Treasurer's Accounts.* This document was the third one put into the hands of the contractor, and has, therefore, been in his office for more than four months. It should have been printed, and in the hands of the Committee of Ways and Means, long ago. It was necessary and useful to that committee in the discharge of its important duties.

*The Contingent Expenses of the Treasury Department.* This document also was an important one for the same committee.

*Army and Navy lists, Amount of Pay, &c.* This, I suppose, would have been equally useful to the Committee on Naval Affairs.

*The Coast Survey Report.*

*Receipts and Disbursements of the Post Office Department.* I am sure the chairman of the Committee on the Post Office and Post Roads could have found this document useful to his committee.

*Contingent Fund of the Interior Department.*

*Report upon the Light-house System.* This document is, I understand, a very important one; and the Committee on Commerce having that subject before them, I cannot see well how they could do without it.

But I will not weary the House further by reading from this list. It is sufficient to say, that these documents have been for some time in the printer's hands, and cannot be got out of them.

The honorable gentleman from Indiana [Mr. FIRCEN] thinks it exceedingly oppressive upon the contractor, that the committee have not thought proper to place in his hands that portion of the Patent Office report which has been made to the House. Now, sir, under the circumstances, I ask, what sufficient reason was there for intrusting that to him? Let him show a disposition to execute the work already placed in his hands—let him execute the documents contained in the list to which I have referred, and which are needed every day, and it will then be time enough to intrust him with more work. In the last two months, he has printed about four hundred pages of the President's message and documents, and this is all.

This contractor came to Washington a mere adventurer, without a dollar in his pocket to carry on the immense contract he had undertaken to execute—a contract which, if complied with in good faith, would cost him more for the materials consumed than the whole amount of money he could receive from the Government. The committee were well apprised of this. Mr. Rives, in a letter dated December, 1851, and addressed to the officers who made the contract with Mr. Hamilton, says that “the prices stipulated in Mr. Hamilton's bid would not enable him to pay for the white paper.” The contractor gave the committee to understand, in the interview I have before referred to, that he had no means, and was dependent upon what he received for his work to enable him to pay the hands who did it. Here, then, was a contractor, who had secured the printing at an inconsiderable price, unable to go on with the work, a large part of it in arrears, and with not the slightest possible prospect of the condition of things becoming better. Under these circumstances, what alternative was left the committee? The work must remain in its present condition, or some one must be employed to execute it. The emergency was one which imposed upon the committee an important responsibility. The law of Congress, under which the committee was formed, prescribed our duty. It required us to remedy the neglect or delay, and clothed us with power to do so. We should have been recreant to our trust if we had not endeavored to perform the duty imposed upon us. The gentleman from Indiana [Mr. FIRCEN] supposes that we have transcended the law, or infers that we intend to do so. I do not know in what respect. So far, we have complied literally with the terms of the law. It is not the intention of the committee to take away from the contractor any portion of the work except that which he cannot or will not execute.

The committee have voted to give such portions of the work as the contractor will not do, to Donelson & Armstrong, and Gideon & Co. The House has already been apprised of the difficulty experienced in the committee of arriving at this conclusion; and I shall not repeat what has already been said upon that subject. These gentlemen were selected, so far as my own action was concerned, because they were men of character, and prepared with the proper materials and necessary means of proceeding immediately with the execution of the work. The emergency was such as to justify me in voting for this expedient, I valued more the public necessity for this expedient, than I did any political effect that might be supposed would result from our action.

The work was assigned to these gentlemen, if they would perform it upon the terms proposed. A source of complaint is, that we have offered them a price which will enable them to make extravagant profits. We are told that we ought to have taken the bid of John T. Towers, and not that of John C. Rives, because the former was the lowest of the two. Now, sir, I will call up Mr. Rives, and put him upon trial before this House. You have informed the honorable gentleman from North Carolina, [Mr. CLINGMAN,] the honorable gentleman from Pennsylvania, [Mr. STEVENS,] and, perhaps, a dozen others on this floor, that your bid was much higher than that of Mr. Towers. How happens it, sir, that this discovery is just made? Why are we only told this morning that your bid is so extravagant? Now, sir, here is a letter in your own handwriting, with your proper signature attached, dated as late as the first day of December last, before the Committee on Printing had ever been appointed, and directed to “the President and Secretary of the Senate, and the Speaker and the Clerk of the House of Rep-



representatives," who constituted the board which gave out the contract, demanding the work, because you were the lowest "bona fide bidder." Here are some extracts from this letter, from which it will be seen that Mr. Rives considers himself unfairly dealt with, because the contract was not given to him, "the bona fide injured bidder."

"As I am the lowest bona fide bidder for the greatest portion of the printing of Congress, and have made ample preparation to execute all that may devolve upon me, I have felt it my duty to assert my claim; and I herewith tender as security, Messrs. John W. Maury and George Parker, of this city—as sufficient men as can be found anywhere—who are prepared, as you will see by the inclosed, to enter into bond for the execution of this work, according to the terms of your advertisement and my bid.

"I am ready to verify the statements of this note by testimony before you. But if, as agents for letting the printing of Congress, you should not determine to set aside a sham bid in favor of the bona fide injured bidder, (according to the usage in the Executive Departments of this Government), but choose, rather, to submit the matter to the body immediately interested, I beg leave respectfully to solicit, through you, an investigation of the case by a committee of Congress."

Mr. Rives not only asserts that he is the lowest bona fide bidder, but proposes to adduce testimony to the committee to prove that fact. He says, in another part of his letter:

"Foreseeing, long since, that this would be the case, (Mr. Hamilton's inability to do the work,) and feeling it to be my right and my duty, as the bona fide bidder entitled to the work, to provide that Congress should not be embarrassed by delinquency in printing its documents, I have procured a large supply of new Congressional type," &c.

It will be thus seen that he regards himself as entitled to the work, and claims it as his right. Now, why did he set up this claim if he did not then think his prices the lowest? So certain was he that he had underbid all others, that, in the anticipated delinquency of Mr. Hamilton, he provides new material to execute the work. Yet, in the face of all this, he now asserts to members upon this floor, that his bid was higher than that of Towers.

Mr. ORR. I have one remark in reference to the communication he speaks of. I perhaps was the person who brought that matter before the House, that Rives's bid was higher than that of Towers. I did it upon the authority of the printed statement of the Clerk of the House and the Secretary of the Senate. The aggregates show that Rives's bid was \$30,000 above Towers's.

Mr. STANTON. I will show that you are as much in error as the gentleman from Pennsylvania, [Mr. FLORENCE.] The gentleman was misled by the little paper laid upon our tables, and accidentally found by him at that moment.

Mr. FLORENCE. I have informed myself, since I had the honor of speaking yesterday, that the paper which I read was substantially correct—the little paper to which the gentleman from Kentucky [Mr. STANTON] refers. I had that information from the person who compiled the table, which will be found in this public document, (holding up the document No. 17,) in relation to your public printing.

Mr. STANTON. When the gentleman first made his statement, he took up a little piece of paper and said that he had found it accidentally there. Somebody had perhaps desired to furnish him with information, and had laid it there for that purpose, and out of that he read. He finds there that John C. Rives's bid for the fourth class of printing was \$207,000, being \$50,000 more than the President and Secretary of the Senate and the Speaker and Clerk of the House, had determined it to be. I find by examining the official documents, prepared under the direction of the board and reported to the House, that John C. Rives's bid for the fourth class of printing, which embraces the Executive documents, is only \$152,696. That is the net amount of his bid, and what he would have received if the same quantity of that class of work which was done for the last Congress, should be ordered for this. If you add to it what he never bid for, and what he never said he wanted, you may make the sum as large as your imagination may please. The bid of John T. Towers for the same class of printing, is \$133,000, or only about \$14,000 less than that of Rives. The aggregates are set down in another table.

Mr. FLORENCE. They say that figures cannot lie, and here is a fact. In this very document, from which the gentleman quotes, it will be found, under the head of total aggregate of the gross amount of each proposal, opposite the name of

John C. Rives, the very figures I quoted yesterday, from the little piece of paper.

Mr. STANTON. And which he attempted to create the impression in the House, was the amount of money Donelson & Armstrong and Gideon & Co. would get for doing the same work.

Mr. FLORENCE. I did not desire to create any such impression.

Mr. STANTON. That is not John C. Rives's bid. His bid does not amount to that. That is a mere calculation to show you what it would have amounted to, if it had been a different bid from what it really was, and if he had got the same proportionate price for 100,000 copies of the Patent Office report, that he would have received for 20,000. I refer to this matter only to show that the committee were disposed to do what they believed to be right. They do not, upon the one hand, give these men extravagant prices, nor do they give them prices at which they could not live. Supposing Mr. Rives to be an honest man, of which I have no doubt; supposing him to be an experienced and practical gentleman, the committee preferred to take his proposition, in connection with the letter which was lying upon their tables at the time, and to make his bid the basis of the prices which they were to pay for this printing. The parties themselves are dissatisfied with it, because, they say, it is too low; and they have indicated to us that they will not accept our proposition, unless we make a slight modification. Mr. Rives hands me this paper, which I will read:

"I still say, that I am the lowest responsible bidder for the greatest portion of the public printing. I am the next lowest bidder to Hamilton on the fifth class, which always has included the census—and the census will make more than all the other four classes.

"I will show clearly, in the Globe of to-morrow, that my bid is higher than Towers's." J. C. RIVES."

It is possible he can make it out. He says in his letter, that he is the lowest bona fide bidder, who bid in good faith, and that he is prepared, by testimony, to prove it to the committee. We took him at his word.

Mr. PHELPS. The gentleman has fallen into an error. Speaking of the bid of John C. Rives, I differ with the gentleman in the statement which he has presented to the House. Mr. Rives made his proposals to perform the printing for Congress. It was divided into different classes. The proposition which is here presented, is made under the expectation that at this Congress there will be as many copies of your documents printed as were printed for the last Congress. He proposed, then, that upon certain Executive documents, if they exceeded a certain number of copies, that there should be a certain discount for the press-work, &c., as for instance, if you will turn to page forty three, you will find—I now look at his extended bid—a per centage deduction for additional copies of three classes.

For deduction on the prices above stated for the press-work, paper, folding, and stitching, for furnishing additional copies of matter included in either of the aforesaid classes, the additional copies to be printed on the same paper, with the same ink, and in the same style, as the usual numbers, viz:

For deduction for any number of copies—	
Exceeding 1,500, and not exceeding 5,000 —	per centum.
Exceeding 5,000, and not exceeding 10,000 —	"
Exceeding 10,000, and not exceeding 20,000 —	"
Exceeding 20,000 —	69

Now, the computation which the gentleman from Kentucky [Mr. STANTON] has offered, where he states the amount of his bid for the fourth class of printing to be \$207,000, is without the deduction. If he will look still further in another column, he will find a deduction of \$54,979 20 to be taken from that amount, and which makes the proper estimate and proper calculation \$152,696 65.

Mr. STANTON. We do not differ about that matter at all. You are perfectly right, and so am I. His bid was not \$207,000—

Mr. PHELPS. But that was a part and parcel of his bid; and upon the Patent Office report, if there were 100,000 or 160,000 printed, there was a certain deduction to be made from the prices at which it was proposed to print it.

Mr. STANTON. The calculation was based upon the number of the Patent Office report printed at the last session. It was expected at the time this calculation was made, that a portion of his bid would apply to the excess, because sixty-nine per cent. was to be deducted from it. But the statement of the gentleman from South Carolina [Mr. ORR] was, that Towers's bid was really \$30,000

less than that of Rives. I refer to these documents for the purpose of correcting it; and the official statement shows that there is really only a difference of \$14,000 between Towers and him upon that particular class of work. Rives proceeds upon the assumption, as he states in this little memorandum which he sent me, that he was to have the census printing; but the census printing is not calculated here. It is not considered by the board, who made out the statement, and is not included in this aggregate of \$186,000.

I have but little more to say, and that relates to the character of the work. We have seen some gentlemen hold up a portion of the documents to show the House that they were done in good style, and, as an argument to induce us to retain this man. I am willing to retain him, if he will give us any guarantee in the world that he can go on and do the work as he has contracted to do it. We have a work laid upon our tables, called Foster and Whitney's report, which is not a part of the printing ordered by this House, and which had no business here. It was put upon your desks as a sample, and it is the best job he has done; but it was not done as the regular printing of this House. It was done under the direction of the Commissioner of the Land Office, and under a special resolution of the Senate. It was really done so badly, that the Senate committee have rejected the whole lot, and will not take one of them. He was to get a fair price for that printing, to print it on good paper, and to do it in a workmanlike manner. He did not do it in any respect according to what his contract required. As I said yesterday, the sheets of paper on which part of this work is done, are too small for the purpose, and leave too little margin; so that when the books come to be trimmed, the edges are cut off so close as to disfigure the book, and in some instances, where there are plates, the names of the plates have been cut off.

Mr. FLORENCE. I ask the gentleman if that difficulty does not arise in consequence of the plates being wider than was originally contemplated? and if the paper is not of the size that was originally contemplated?

Mr. STANTON. I never measured the paper, but the chairman of the Senate committee informed me that it was less in size than the contract required. The plates, I know, are of the usual octavo size, and if there had been margin enough to the book the plates would never have been disfigured.

But this is not all. You may take up the very book that has been laid upon our desks, and you will find that there is scarcely a page of it that registers. Everybody who understands printing knows what I mean by registers; the pages do not lie exactly over one another; they have slipped sideways, and you sometimes find a page which has slipped a distance of two ems from where it ought to be. Then there are places where the printing is so light that you can hardly read it, and other places where it is so black as quite to disfigure the page. In consequence of these defects in this particular book, the Senate committee rejected it entirely, and threw it upon the hands of the printer. So of that portion of the President's message which has been printed; the whole of that was rejected because it was inferior to what the contract required; and so it has been with all the important work which has been brought in.

The gentleman from Indiana [Mr. FITCH] assumed that we are abrogating the contract with this printer. Now, we have done no such thing. If the gentleman will take the pains to examine the resolutions that were passed in the committee, and to compare them with the powers given to us by the law, he will see that we have followed the law strictly. It never was, for a single moment, the intention of any member of that committee to so far violate the provisions of the law under which we are acting, as to abrogate the contract. That never was contemplated.

Mr. FITCH. What I said, when I was on the floor before, was, that by profession they had not abrogated the contract, but that that must be the inevitable effect of their action; because, by withholding a portion of the printing from the contractor, which a member of the committee alleges he has hitherto delivered according to the contract, they of course justify him in refusing to do such work as they may give to him; the contract is, of course, null and void; and the printers designated

by the committee must become the printers of Congress.

Mr. STANTON. I do not understand what the gentleman means by "profession." We profess nothing that we have not put upon the record, which is there for the inspection of the gentleman, or of any member of the House. What we have said, we designed to do—we intend to do in good faith. When this man shows that he cannot do the work, and will not do it, we will take it away from him, and give it to somebody else, and not till then. If he can do it, he will get the whole of it. But he cannot do it. He has not done the President's message yet, which has been in his hands for nearly five months. He promised, three months ago, that he would have it finished in two weeks, and only one third of it is done now. It is true that we did withhold from him a portion of the manuscript of the Patent Office report; but that work, gentlemen will recollect, embraces two volumes, and is not yet reported complete. If that work is printed at all, it must be done by one man, in order that the two volumes may be uniform. But we saw, as plainly as could be, that this man was not capable of doing the work, and did not design to do it; and hence the reason why we did not put that portion of the Patent Office report in hand. The truth is, I do not know that we have got the power to do it yet. It was referred to us, to report to the House as to the number of extra copies to be printed. We have made no report upon that subject yet, and it may be that we have no power to send the book to the printer, until the House has decided upon the number of copies to be published. At any rate, it would not be good policy to send it to the printer, until it is known what number will be required.

The gentleman from Indiana [Mr. Fitch] says, further, that we gave Mr. Hamilton no notice. I tell you, sir, that he has had notice from the first day he commenced this work, down to the present time, that he was not acting in compliance with his contract, but was in default all the time. The deduction of ten per cent. on the first work he brought to the committee, was notice enough, in all conscience, that he was in default. The continued deductions of that amount up to the present time, was standing notice to him that he was not complying with his contract, but was in default. Mr. Speaker, I have nothing more to say upon the subject, and as other gentlemen around me desire to speak, I shall give way for them.

Mr. PARKER, of Indiana, next obtained the floor.

Mr. POLK. I desire to renew the motion to lay this whole subject upon the table. It was my purpose to do it when the gentleman from Kentucky had concluded his remarks.

The SPEAKER. The gentleman from Indiana was recognized by the Chair. The Chair cannot anticipate the purposes of gentlemen.

Mr. STANTON, of Kentucky. I did not understand that I was under obligations to renew the motion, or I should have done it.

The SPEAKER. If there was any such understanding, it is too late now, for the gentleman from Indiana is entitled to the floor.

Mr. PARKER then said: I did not intend to make a single remark in reference to this subject, until my attention was attracted to it by a suggestion that this matter was probably to be referred to the Committee on the Judiciary. The Speaker of the House, at the opening of this session, saw fit to place me upon that committee, and I confess that when the idea of referring this subject to the Judiciary Committee saluted my ear, I was somewhat astonished. It struck me as strange that a matter of printing should be referred to that committee. I have had my attention somewhat attracted to this thing since then, and it strikes me, with my humble knowledge of judicial affairs and the interpretation of laws, that there never was a clearer question presented to this House.

One of the members of the Committee on Printing made an allusion, yesterday, to the fact, that in numbers of these documents that had been presented to us, there were instances of what printers call "monks" and "friars," brief margins, and so forth. It strikes me that there are as many "monks" and "friars" to be found in the course of this debate as there are in any of those documents; and I confess that they are, as they appear in our printing, disgraceful to this House. I make this

remark with due deference to the House, and without intending disrespect to any gentleman here. I should be happy, if I had it in my power, in calling the attention of the House to the law of the land—above which we are not—to relieve this chamber from some of the "monks" and "friars" that have intruded upon us here; and I would be extremely gratified if, in addition to all that, I could cut this thing off so as to leave no "margin" for future difficulties.

Now, sir, I am a new member of this House, but I am not altogether a new man. I am getting old. I have had my attention somewhat attracted to public affairs. I am aware of the fact that Congress has existed for more than half a century, and I think it would strike any wise man with wonder that we should be involved in such interminable difficulty as we have been for days, in reference to the mechanical execution of work that appertains to us. Why, I expect the next thing will be troubles in regard to the cleaning of this Hall. These things are all provided for. I ask gentlemen to suggest to me wherein I am wrong in the representations that I am about to make to the House. I hold in my hand the act in reference to this subject, approved August 3, 1846. I suppose that is the law that is to rule us. We of this House cannot make or repeal laws alone. Our resolutions do not override laws. Our reports do not override laws. We must see what the law is, where there is a law in the case. It is our rule, as much as the Constitution is our rule.

The fourth and last section of that law reads in these words:

"And be it further resolved, That all laws and parts of laws now in force, not in conformity with the provisions of this joint resolution, be and the same are hereby repealed."

I understand, then, that the three preceding sections cover the case. Now what are they? I ask the attention of gentlemen, who have been wandering for days through this maze of difficulties in which the whole politics of this nation, the price of printing, and every other considerable thing, has been involved, to this law.

The first section of this law provides, that at the beginning of the final session of every Congress, the Secretary of the Senate and the Clerk of the House of Representatives shall advertise for proposals to do the printing of the next Congress. It provides, over and above this, that they shall prepare and show specimens of the kind of work that is to be done—bills, resolutions, reports from committees, Journal, Executive documents, and so forth—and they are also to provide samples of the paper and of the type, and of the manner in which the work is to be done. After that is done, and bids are presented and examined, a contract is to be made with the lowest responsible bidder, and then the duties of those officers in this respect are concluded.

I now beg members to look to the second section; and if there ever was a clear proposition since the sun shone upon the earth, it seems to me it is clear that we have been involving ourselves in the most useless difficulties that can be imagined. If this law be good for anything, if it is to be as effective as any other law, if it is to cover the case that it pretends to cover, I ask you, when you look into this second section, what is there left for us to quarrel about? The second section reads:

"And be it further resolved, That a committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a Committee on Printing, which shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractor (provided for above) to execute the work ordered by Congress."

Well, now, that looks very simple indeed; and it is a most beautiful exemplification of the difficulty we have been involved in here. Two hundred and thirty-three members have been for several days trying to do the work of this committee. The law has precluded us from being troubled with any of these difficulties. The committee "shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a *pro rata* reduction in the compensation allowed, or to *refuse the work altogether*, [mark that,] should it be inferior to the standard" set up here in the first section.

But, sir, who is to be the judge? That committee is as much a tribunal as is the Supreme

Court of the United States; and we have no more to do with its decisions than we have with the decisions of that tribunal. This section goes on to say: "or to refuse the work altogether if it shall be inferior to the standard; and in all cases the contractor and his securities shall be responsible for any increased expenditure consequent upon the non-performance of the contract." The committee shall audit and pass upon all accounts for printing," &c.

The third and last section but one, which one only provides for repealing all laws not in conformity with this resolution, provides—

"That all motions to print extra numbers of any bill, paper, or document, in either House, shall be referred to the members of the committee of that House, who shall report upon the propriety of printing, and the probable expense thereof, as early as convenient. And all expenses for printing shall be paid from the contingent fund of the two Houses in proportion to the number of copies ordered by each, except the expense of composition, which shall be paid by the House which shall have first ordered the printing of the paper or document; and if there shall be a second composition, it shall be paid for by the House which shall authorize and direct the same; and when extra copies of any document or paper shall be ordered by both Houses, they shall be delivered to the two Houses simultaneously, in proportion to the number of copies by them respectively ordered."

Now, that is the business of the committee, and we have nothing to do with it. We can do nothing unless we get the consent and help of the President and Senate to amend the law. And there is great wisdom in that provision, as I said before. We have had a beautiful illustration of it here for the last two or three days, when we have been resolving ourselves into a sort of committee of censorship upon the Committee on Printing. For myself, I know but very little upon the subject of printing; and if we were to act upon the matter—if the House were to undertake to direct the committee how to act—I should wish for a good deal of time, and to take a good deal of pains to inform myself upon the subject; and so with every other gentleman here. It is for that very reason that the law provides that three intelligent gentlemen should be selected from this, and a like number from the other branch of Congress, who should have specially in charge this whole matter, and thus relieve the House. Now, it seems to me that there can be no difficulty whatever in the case; but if any exist, it is that suggested by the honorable gentleman from Pennsylvania, [Mr. STEVENS,] in relation to the constitution of this committee. That gentleman is an old and able lawyer, and went right to the head of the difficulty, if there be any. If this committee be rightly constituted, we have nothing more to do with it—we have no right to direct them. If we were to pass ever so many resolves for that purpose, they would not be worth the paper they were written on. They would be the merest chaff; for we cannot rise above this law. If you would strike at the substance of this case, you will find that if there be any difficulty whatever, it is in the constitution of the committee. There is an old maxim—and a very good one it is, too—it would be well if this House would adopt it—that "what a man does by another he does himself." Now, I have given this question but a moment's thought, and I conclude there can be no difficulty in relation to the constitution of this committee.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. PARKER. Oh, certainly.

Mr. STEVENS. I wish to inquire whether this House can delegate its legislative powers *per se*, and whether it can delegate its judicial powers *per se*, and whether the choice of the committee is not one of them?

Mr. PARKER. This House has no legislative powers *per se*, nor has it any judicial powers *per se*. It has certain official duties to perform, and I presume it will be its own judge of the manner in which those duties are to be performed. My friend from Pennsylvania was here at the opening of the session, and why did he not interpose objections then to this mode of constituting this committee? The judgment has gone now by default, and too many days have now passed to allow a motion to be entertained to set it aside for a new trial. I suppose, too, it would now be a work of supererogation, and my friend is too old and wise a lawyer to demand a new trial when he knows the judgment must still be the same. That would be a culpable creation of costs. The decision of the Speaker would, of course, be the same, and

the decision of the House would be the same. The Speaker decided this matter on yesterday, when the point was made, and there was no appeal from his decision. I consider the matter, therefore, as settled. We of this Congress have settled it by our tacit consent from the opening of the session, when the Speaker must have been guilty of usurpation when he exercised the right, the authority, and power to constitute this committee just as it is. And, sir, I understand that in this we have done only what our predecessors have in like manner done.

Now, Mr. Speaker, what is there so terrible in this case? I know how men's feelings and sensibilities are wrought upon. I tell gentlemen that this law, with all the power it gives this committee, was made for wise, practical purposes. No other law than just such an one as this will do for all cases that may arise. This country has for years been engaged in an extensive system of public works. Millions and millions of dollars have been expended—and, I had almost said, millions of millions—in the public improvements in the different States. Yet, what is the fact in regard to these works? I have had occasion to look into them, not only in my own State, but in New York, Massachusetts, Pennsylvania, and Ohio, and in every instance where the work was being constructed under a general law, the whole matter in relation to contracts, when made, the progress and kind of work, is referred to the engineer in charge.

Mr. VENABLE. Do I understand my friend from Indiana to say that this committee is wholly irresponsible to the House? That, under the law, the House cannot control or restrain them?

Mr. PARKER. I do most unequivocally and absolutely, in all cases covered by this law, as I deem this case covered.

Mr. VENABLE. And having reported their action to the House, it cannot have any further control over the matter.

Mr. PARKER. So far as the law covers this case, their power is supreme. The law made it so. There can be no mistake about it. But I was going on to elucidate this question. I say that when we assume, as a body, to settle these difficulties, we load a very large gun to shoot small game, and game, too, that is ever on the wing. The committee, most wisely, have absolute control in this matter. They are not required to report to the House in relation to it at all, and I am only surprised that the committee have given way to the responsibility and delicacy of their situation so much as to have done it. It only shows their great delicacy, and their disposition not to act further than the majority of the members upon this floor would approve, were they placed in their situation, not that they were required to do so.

Mr. FREEMAN. I desire to call the attention of the gentleman to this very point, for the gentleman's remarks agree with my own opinions. I desire to call the attention of the gentleman to this interrogatory: How was this matter brought before the House?

Mr. PARKER. Out of order.

Mr. FREEMAN. Not by a regular report of the committee, but by the introduction of a resolution by the gentleman from Mississippi, [Mr. Brown,] calling the attention of the House to the subject.

Mr. PARKER. That was out of order.

Mr. FREEMAN. Thereby forcing the committee to make a report, which was commenced to be made verbally, but finally written out. Then the discussion came up on the motion made to print that report, by the gentleman from New York, [Mr. HAVEN.] Upon that motion this whole debate has ensued. I concur with the gentleman from Indiana, that the whole matter has been out of order, from beginning to end. It has been out of place, and it ought to be laid upon the table.

Mr. PARKER. It seems to me that there can be nothing clearer. This rule was made in connection with that body at the other end of the Capitol, and we cannot alter it of ourselves, if we desire.

Mr. STEVENS, of Pennsylvania. I understand the motion was made to refer a bill, in connection with this subject, to the Committee on the Judiciary, with instructions to them to report back a bill providing a plan for executing the printing.

Mr. PARKER. The motion was to refer the whole matter to that committee.

Mr. STEVENS. Well, I understand they are instructed to report back a bill upon this subject. Do I understand the gentleman to say we cannot do that?

Mr. PARKER. I understand that we have a law already in reference to the case. And that we cannot interfere with the duties under the law of the Committee on Printing. Why, sir, in this debate we are, as we are proceeding, mixing up with the duties of this committee all the politics of the country. We can have nothing to do with them in this wise.

Mr. CLINGMAN. Will the gentleman allow me to ask him a single question? I agree with the gentleman from Indiana, that the public printing has been given to Mr. Hamilton, and if there has been any neglect upon his part, this committee have ample powers to remedy it. They may go on and get the work done, and make him pay the difference in the cost of printing, if it be above his contract prices. But I will inquire of the gentleman whether, if they shall find that he is incapable of doing the work, they are authorized, under this law, to make a contract for the entire printing—that is, for the printing hereafter to be ordered?

Mr. PARKER. If the gentleman will tell me what is the meaning of the phrase, "or to refuse the work altogether," I shall probably be able to answer his question, to his satisfaction.

Mr. CLINGMAN. That has reference to work already ordered, and delivered to him for execution.

Mr. PARKER. I do not so understand it.

Mr. CLINGMAN. Do I understand the gentleman to say, that they can proceed upon his bond? Do I understand the gentleman, as a lawyer, to say that he believes they could make the securities of the public printer liable for his non-execution of work ordered by Congress, but never delivered to him?

Mr. FREEMAN. Here is the contract. It states that the printing shall be for the term of the Thirty-second Congress.

Mr. CLINGMAN. I desire to ask—

Mr. PARKER. I will submit to no further interruption. I want to finish what I have to say, and then the gentleman can get the floor. I want to make my positions clear before they are attacked.

The gentleman from North Carolina [Mr. CLINGMAN] asks me, in substance, if I understand the law as giving the committee power to take the whole printing from the contractor to whom it has been assigned? Mr. Speaker, in a proper case, I have no doubt but such is the law. The particular clause to which I have referred in that behalf, empowering them "to refuse the work altogether," to such contractor, is enough, in my mind, to settle the question. But when the whole statute is looked to—when the several other places in the statute where the phrase "the work" occurs, and the practical working of the whole thing, are contemplated—I see no room for doubt or cavil left, as to the integrity of my position.

I take it, sir, that the words "the work," wherever they occur, mean no more and no less than "the necessary printing" for Congress that the printer may have stipulated to perform. In fact, those two phrases appear only separated by one line, near the beginning of the first section of the act, and are obviously used as equivalent expressions. Subsequently, in at least two places, those words, "the work," are found in the same section, and twice in the next; and clearly mean as before stated, wherever found.

Now, Mr. Speaker, I ask the attention of the House to the "power" vested in this joint committee by the law as it appears in the next section. There it is expressly provided, that the committee "shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay" in the performance of the contract. And amongst the powers specifically delegated is this: "to refuse the work altogether" stipulated to be performed by him; and, as a matter of course, to employ somebody else, or others, to do "the work."

Mr. Speaker, no rules of judicial interpretation are better established than these: To resort to the context to determine the meaning of all words and phrases found in the particular statute, and to always give an uniform meaning to the same

words and phrases whenever found recurring. Thus guided, I see no escape from my conclusion. But the gentleman intimates to me that the words, "the work," in the connection where this controversy particularly hinges, does not mean *all* "the work" contracted to be done, but only a particular part of it. Now, sir, if we concede that, we make the words mean what another and different word means, used in the first section, and apply conveying that idea of part. I have reference to the word "class," as there found and so used. Sir, such a mode of interpretation is too absurd to be admitted.

But, again, Mr. Speaker, I ask the attention of the House to the practical working of this thing, if you abridge the "power" of this committee—if you do not adopt the position I have assumed. This law unquestionably was enacted with a view to relieve the House from all trouble in the procurement of its printing, in determining the style of the same, the speed with which the work shall be executed, &c. These things are all devolved on the committee. Now, I would inquire of gentlemen, what is to be done in case the printer die, get sick, run away, or squarely refuse to do the work? The law does not in terms provide for such exigencies; it nowhere, in terms, says a word about the committee's making a new contract with another printer. But who doubts their authority to do that very thing, and that it is imbedded in the clause "shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay?" &c.

Well, now, if they may recontract, "the work" in such a case, pray tell me why they may not do the same thing where the printer undertakes to do the work, but neglects his duty in that behalf—delays the work unreasonably, or furnishes work "inferior to the standard?" Sir, they have the "power" "to refuse the work altogether" to such a printer. If they have not, this House may be imposed upon by a bad man, who gets your printing, almost at will, and we have no means of relief. You compel your committee to run to him with every item of each "class" of "the work," though he may have been willfully, basely, flagrantly, in default, in the same thing an hundred times before. Who would serve on such a committee? And what body, that regarded its own self-respect would suffer itself to be placed in such a predicament?

This argument, arising from the inconveniences of the case, it strikes me, ought to be deemed conclusive. If I am right, the committee have all power in the premises. Let them exercise it, and I have no doubt they will be sustained, here and elsewhere.

I was proceeding to direct the attention of gentlemen, when interrupted some time ago, to a matter which I presume is not a new one to them. I mean that of the internal improvements of this country. A system has been adopted in regard to this matter, from the first to the last, equivalent to this. The whole power in relation to the construction of those works, is thrown into the hands of the engineers, under whose direction the works are constructed. Let me again invite the attention of the committee to that law of 1846, and I will read the section through without comment. We all understand the English language:

*"And be it further resolved, That a committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a Committee on Printing, which shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a pro rata reduction in the compensation allowed, or to refuse the work altogether, should it be inferior to the standard; and in all cases, the contractor and his securities shall upon the non-performance of the contract. The committee shall audit and pass upon all accounts for printing; but no bill shall be acted upon for work that is not actually executed and delivered, and which they may require to be properly authenticated."*

Now, I cannot be mistaken, it seems to me, in regard to the construction of the law. It is a thing which is beyond our power. It has passed out of our hands, by virtue of action under this law, and we have no concurrent jurisdiction with this tribunal, created by the two Houses. We have none. It is all referred to them, and when it came in here it came in out of order. They have all the power, and all they have to do, is to do as General Jackson was wont to do, "take the responsibility," whatever it is.



Mr. MEADE. Will the gentleman allow me to make a suggestion to him? I concur cordially with the gentleman from Indiana [Mr. PARKER] in the views he has taken in relation to the powers conferred upon the committee. I believe, with him, that the law gives them plenary powers over the subject; but the gentleman seems to argue the proposition as if there were actually propositions before this House, to revoke what the committee has done. I do not understand that to be the question.

Mr. PARKER. Well, that will do; I wish to proceed; if the gentleman wishes to call me to order, perhaps I may be ruled down.

Mr. MEADE. It is a different object that I have in view. I wish to hear the gentleman's views in relation to what I suggest. The committee have made a report, and a resolution has been offered by the gentleman from Mississippi, [Mr. BROWN,] not to abrogate what the committee has done, but to refer that report to the Committee on the Judiciary, with instructions to inquire into the general subject of the printing of Congress, with a view to recommend to Congress some future plan in relation to the manner in which that work should be done; and with that resolution there is coupled an amendment from the gentleman from Pennsylvania, [Mr. FLORENCE,] referring at the same time the bill introduced by the gentleman from Wisconsin, [Mr. DOTY,] That seems to me to contemplate future action, not to contemplate the abrogation of the action of the committee.

As the gentleman has allowed me to interrupt him for a moment, I would like to hear him upon another question. The gentleman certainly will not assert that any plenary powers have been conferred upon this committee, which this House cannot discuss; and censure, if they please, the manner in which they have discharged their duty.

Mr. PARKER. I will state the reasons at another time; I will answer the question now. The power of this House to discuss is plenary, as the action of the House is, when we get into the Committee of the Whole on the state of the Union. We may discuss and discuss, it seems, forever. I have ascertained that to my heart's content.

The gentleman suggests to me that the matter now before the House looks to future action, rather than present, so far as the printing is concerned. I agree with him in that; but that is not all. We have wandered many a league beyond that. The case turns out exactly the case I thought it was at the outset. It is most beautifully illustrated by the interminable confusion and debate we have involved ourselves in. Can it be that this law leaves us subject to these troubles in the matter of our printing? Heads too wise have gone before us, for me to believe it; and these endless and multiplied questions are what we now have up before us. It is future action, and present action, presidential elections, politics, of every hue, pay for partisan service—and punishments too—motives of members, personal action, personal knowledge, and everything else, and nothing, so far as the printing is rightfully concerned, upon which to predicate any part of it. And what are we doing in the House now? What can we do? Nothing at all. Nothing. I am very happy to see that gentleman, [Mr. MEADE,] in whose judgment I have the greatest confidence, concurring with me in my general view of this case. It seems to me that there can be no mistake about it from any quarter; none whatever. We have nothing under heaven to do with this matter until that law is repealed, and then the whole thing may be brought up anew, and then we can change or modify it, in connection with the other branch of Congress, and the President. We cannot do so ourselves. It is utterly out of the question.

A VOICE. We can give the committee instructions.

Mr. PARKER. Grant we can, which I do not; that will not relieve us from the difficulty we are in. I understand that gentlemen are complaining, and I have complained for two months, because we have not our printing upon our tables here. It is a disgrace to the country, and I look to the committee to remedy the difficulty.

Mr. HAVEN made a remark, mostly inaudible to the reporter; but was understood to say that the bill introduced by the gentleman from Wisconsin, [Mr. DOTY,] in reference to future action, had been referred to the Committee of the Whole.

Mr. PARKER. Yes. It shows again that this *hotch-potch* is even greater than I expected. He suggests that this same bill, for some future action, is already referred to the Committee of the Whole. Mr. Speaker, I was going to observe that this matter has all grown out of the fact that this printer has not complied with his contract. Can there be any doubt of that? Look at this disreputable document, placed upon our tables, [holding up a printed document.] This is the first time that I have ever had the honor of a seat upon this floor. I confess to you, sir, that my notions were a little enlarged when I came from my State Legislature to this national council. I expected to see printed documents nearly equal in execution to those of the State of Indiana. I expected to see documents nearly equal to those we have out there in the wild woods! We are now upon the fifth month of our session, and the President's message, with the accompanying documents, is not yet before us. How does this happen? There is wrong here, and I am only surprised at the forbearance of the committee with this man, who has been trifling with us and our constituents so long. I ask the committee to act. They have the power, a power that has been given to them by both Houses, because it was a power without which, lodged somewhere, we could not act; and they have it all completely within their possession. I have said all I designed to say, upon this subject; and I have predicated my remarks upon a motion I designed to make to lay the whole matter upon the table.

But I wish to make another remark while I am upon the floor. I expect it is as painful to other gentlemen here as it is to myself, to see ourselves involved in such difficulties as these. It was the design of this law to remedy them; and if the law were left to have its full force, and be so executed, it would accomplish that object to a great extent; but still I think there would be trouble in connection with this matter any way, under the guidance of this law. There is money involved in this thing to the amount of millions, which I think may be saved to the country. I have not had my attention particularly directed to this matter for years. But I have thought, and still think, that we ought to have a Government printing office. I know that some gentlemen think that this would build up a power for great patronage—a power for overruling the people, and awing them into doing the behests of the Administration of the Government. I cannot look upon it in that light; and I do not think it is a correct view of the case. We may manage a Government printing office as we may manage our Land Office, or any other bureau. Put a head to it, let him manage the matter, purchase the materials, the paper, at the Government expense, and let no profit be made upon it, except the profit of the paper maker. We shall thus save the paper profit—an immense one—and it goes into the coffers of no favorite of the Administration, but remains in the Treasury. Sir, tens of thousands of keen eyes would be directed at once to the action. The Government would select one establishment, and give them the market price for paper, as it is furnished to others. Then only will we get paper cheaply as others get it. After that is done, you have here the head of the bureau at all times, from the third of March until the third of March come again, two years, to provide for and do his duty. He knows what his duty is, and has the credit of the national Treasury to back him. He can call to the journeymen printers, and employ them, as the National Intelligencer and the other papers employ printers, and do the work as economically as they do theirs. And so we shall not only save upon the paper, but upon the printing; too; and who can estimate that great saving? Now, sir, in building up such an establishment as this, we would have to expend some money in erecting the right kind of an office—say a million—two millions if you please. Look at this census printing. Why, sir, I hear millions spoken of as the cost of that printing alone, first and last. Now, when the thing is done, it is done forever. Disconnect it by law from all partisan presses, and you get rid of incalculable difficulties constantly recurring. They ought to be corrected, and I hope that the proposition which has been presented for the establishment of a printing bureau will ultimately succeed.

Mr. ORR. I rise for the purpose of reminding the gentleman from Indiana, [Mr. PARKER,] that

one of the propositions contained in the subject-matters now upon the Clerk's table, is a proposition of that character.

Mr. PARKER. So I am informed.

Mr. ORR. It is an instruction to the Committee on the Judiciary to establish a Government printing office.

Mr. PARKER. If it be the duty of the Judiciary Committee to inquire into the propriety of establishing such a concern as that, I suppose they will act; but I do not believe its consideration belongs to us.

Mr. STANLY. I wish to say, Mr. Speaker, that the Judiciary Committee—I speak respectfully as to its members, individually and collectively—is the last committee of the House that this matter ought to be sent to. As I understand it, there are upon that committee three advocates for the right of secession, and one gentleman who goes against the fugitive slave bill, wishes its repeal, and of course is opposed to the "Union" and "Republic," and all newspapers that bear such names, and all other papers of that kind in the country. I wish any other committee than that, for I do not believe that is the right committee in the abstract.

Mr. PARKER. I agree with my friend from North Carolina, [Mr. STANLY,] I do not think that is the right committee in the abstract, or the concrete either. I will observe further, that the gentleman's remarks indicate to us what ought to follow. Our predecessors settled this trouble; and all we have to do is to put it upon the table, or rule it out of order, as a matter determined as belonging to the Printing Committee. Their power is as great as the power of any other body in this land, that is not provided for in your Constitution. It is provided for by law; and they have the plenary right to act in every and all matters connected with printing, as I have sufficiently indicated, if we can understand a very plain law in our own mother tongue. I move to lay this whole subject upon the table; and if my views are right, it ought to, and will, I hope, go there.

[Cries of "That is right!" "That is right!"]

Mr. BROOKS. I would say, that after the legal gentlemen of the House have discussed this question, it is quite time for the printers to say a word upon it.

Mr. FREEMAN. I rise to a question of order. I am not entirely familiar with the rules of the House, but there is a printed rule to which I wish to call the attention of members. It is the 20th rule of the House, which is a copy of the second section of the law discussed by my friend from Indiana, [Mr. PARKER,] It is a joint rule of both Houses, as is the law under consideration. Here let me say, that I agree with the gentleman from Indiana that it is not in the power of this House alone to repudiate that law. The point to which I wish to call the attention of the House is this: "It shall be in order for the Committee on Printing to report at any time." Now, the Committee on Printing consists of three Senators and three members of the House of Representatives. There has been no report made to this House by the Committee on Printing.

A VOICE. Yes there has.

Mr. FREEMAN. The Joint Committee on Printing have never authorized or required the chairman on the part of the House [Mr. GORMAN] to report. He was called out here by the resolution of the gentleman from Mississippi [Mr. BROWN] to give information to the House of what had been done by the committee. There is no regular report now before the House, and the point of order I make is, that the Committee on Printing have not made any report in this matter.

Mr. GORMAN. They did not authorize me to make any report, nor did I, except for the information of the House. My statement was only made for the information of the House.

The SPEAKER. The Chair has then been greatly misled. He had supposed there was a report made.

Mr. GORMAN. If the Chair will allow me—I made a written statement only, for the information of the House. I so stated.

The SPEAKER. The Chair understood that the gentleman from Indiana had, for the information of the House, submitted a report of the proceedings of the Joint Committee on Printing by order of that committee.

Mr. GORMAN. I never had any order in the world.

Mr. VENABLE. I rise to a question of order—

The SPEAKER. The gentleman from Mississippi is already upon the floor to a question of order.

Mr. FREEMAN. I agree with the gentleman from Indiana in the remarks which he has made. It struck me at the time that this whole proceeding was out of order. Had I been one of the old members of the House, I should have mentioned the fact a long time ago. We have now ascertained that there is no lawful report from the Committee on Printing before this House; that all of this discussion has occurred out of order; and, therefore, I conclude that the motion to print this report, and the motions to amend, are all out of order.

Mr. FLORENCE. I wish to recall the gentleman's recollection—

The SPEAKER. The gentleman will suspend until we reach an important fact. It is impossible we can all talk at once, and be understood. The Clerk, for the information of the House, will read the report of the committee.

The Clerk read as follows:

"The Committee on Printing, which is charged by law with the duty of remedying any neglect or delay on the part of the contractor to do the public printing for the Thirty-second Congress, ask leave, for the information of the House, to report, that they have had the subject under consideration," &c.

The SPEAKER. The Chair must overrule the point of order raised by the gentleman from Mississippi, [Mr. FREEMAN.] He must continue to regard this document, upon its face, as a report from a committee.

Mr. FREEMAN. I wish to make this suggestion to the Chair: That there seems to be a misunderstanding, upon the face of that report, of what this committee intended to do. The Chair is familiar with the mode in which this thing was brought before the House, and he knows the fact that it was not brought before this House upon the motion of the committee itself.

The SPEAKER. The Chair knows of no such fact.

Mr. FREEMAN. The chairman of the committee expressly stated that it was not their duty to report; but if the House desired the information they would report. It says expressly upon its face, "done for the information of the House."

The SPEAKER. Does the gentleman from Mississippi appeal from the decision of the Chair? The Chair again states to the gentleman—

Mr. FREEMAN. I wish to make this point, seeing that the equity of the thing would lay the whole subject upon the table—

Mr. MARSHALL, of Kentucky. And thereby confirm the action of the committee.

Mr. PARKER. The remarks of my friend from Mississippi [Mr. FREEMAN] have brought to my mind a matter to which I would direct the attention of the House for a moment. Now, it will be observed in this second and third section that there is a plain distinction drawn between the committee as a whole, and that portion of the committee which belongs to this House. The committee as such, constituted by the Senate and by the House, have certain powers. One portion of the committee have certain other powers. All of these powers to which I have referred, it struck me, that this House was assuming to itself to exercise, and especially to determine whether the printer has been in the line of his duty, and whether he has complied with his contract. Look here, again: "that all motions to print extra numbers of any bill, paper, or document, in either House shall be referred to the members of the committee of that House." There the members of the committee of this House have certain powers, and the committee as a whole is a legal body, and their powers as such are designated. My intention was, when I arose, so many gentlemen having discussed this bill so fully upon both sides of the House, and some of them having seemed to me to wander so far from the true track, to try and put an end to this discussion. In making these suggestions, I do not desire to do a discourteous thing to any gentleman. A few friends ask that I shall not make a motion to lay upon the table, while numerous others are pressing me to make it. With the views I have in this case, concurred in as they appear to be, I cannot do otherwise than make the motion. If the House disagree with

me, they can vote down my motion, which is to lay the whole matter upon the table.

Mr. BROOKS. I rose to ask the gentleman from Indiana [Mr. PARKER] to let us have a vote directly upon referring this question to the Judiciary Committee.

The SPEAKER. It is moved to lay the report upon the table, and upon this proposition the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. HARRIS moved that the House adjourn.

Mr. GORMAN. I hope the gentleman will withdraw the motion.

Mr. BAYLY demanded tellers on the yeas and nays.

Mr. HARRIS. Being urged by several of my friends around me, I withdraw my motion to adjourn.

Mr. VENABLE. I renew it.

Mr. HALL demanded the yeas and nays; which were not ordered.

Mr. GORMAN. I wish that the House would consent to take one vote, that we might act one way or the other.

[Cries of "Order!" "Order!"]

Mr. JONES demanded tellers upon the motion to adjourn; which were ordered.

The question was then taken, (Messrs. VENABLE and WILLIAMS acting as tellers,) and there were—yeas 73, noes 61.

The House then adjourned to twelve o'clock to-morrow.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. SCHERMERHORN: The petition of Angus C. Mann and several others, citizens of the town of Wheatland, county of Monroe, New York, against the extension of the Woodworth patent for a planing machine.

By Mr. DOY: A petition of James Pratt, C. J. Marsh, and others, citizens of Marquette county, for a mail route from Montello to Grand Rapids, on Wisconsin river, by Harrisville, Long Meadow, and Sylvester's.

By Mr. ROBBINS: The memorial of Fayette Piersen and 26 others, practical printers of Philadelphia, respectfully urging Congress to establish a national printing office on Governor Doty's plan.

Also, the memorial of William D. Jones and 32 others, practical printers of Philadelphia, who also recommend the propriety of establishing a national printing office.

By Mr. PHELPS: The memorial of Charles S. Wallach and others, asking the incorporation of the Washington Cemetery Association.

By Mr. THOMAS M. HOWE: The remonstrance of John Stewart and others, citizens of Pennsylvania, against the extension of the Woodworth patent.

By Mr. FLORENCE: The memorial of John H. Taggart, M. C. Brown, John H. Fasy, R. B. Smyth, and 32 others, practical printers, of the city of Philadelphia, in favor of the establishment of a national printing office.

Also, the memorial and papers of Edward J. Cadwalader, praying for an invalid pension.

Also, the memorial of Griffith Williams, W. W. Fulton, Louis B. Crozet, Hiram M. Grosh, and 25 other practical printers of the city of Philadelphia, in favor of the establishment of a national printing office.

Also, the memorial and papers of Charles Conner, an inmate of the naval asylum at Philadelphia, praying for an invalid pension.

By Mr. CABLE, of Ohio: A memorial from citizens of Stark county, Ohio, against the monopoly of the soil, and in favor of the freedom of the public lands to actual settlers.

Also, a remonstrance from John Murphy, and 82 other citizens of Jefferson county, Ohio, against the extension of the Woodworth patent.

By Mr. MARSHALL, of Kentucky: The memorial of W. F. Gough and 73 others, residents of Louisville, Kentucky, praying modification of the tariff on cigars of less valuation than \$10 per thousand, so as to afford employment to American labor, and to shield it from foreign fraudulent competition.

Also, the memorial of sundry merchants and citizens of Louisville, praying Congress to act for the relief of the Wheeling bridge.

Also, the memorial of Sarah L. Russell, widow of Col. Thomas A. Russell, of Kentucky, praying the payment of a certain certificate on the ten per cent. consolidated fund of the late Republic of Texas.

#### IN SENATE.

FRIDAY, April 16, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

On motion by Mr. GWIN, the execution of the order setting apart Friday for the consideration of private bills was postponed until one o'clock.

#### PERSONAL EXPLANATION.

Mr. BORLAND. I throw myself on the indulgence of the Senate while I make an explanation personal to myself, in respect to my course while a member of the Committee on Printing.

The PRESIDENT. If such is the pleasure of the Senate, the Senator will proceed.

Mr. BORLAND. Mr. President, I do not occupy a position of such prominence as to make what I do or say of any great importance to the country at large. Fortunately for myself, and perhaps more fortunately for the country, this is the case. But what I do or say is of importance to myself and to my constituents; and I wish therefore always to stand right upon the record—that is, to be known for just what I am, and responsible for just what I do and say, no more and no less.

It will be recollected, that the other day I made an informal report from the Committee on Printing, and at the conclusion of it, and the explanation which I then gave, asked to be excused from further service on that committee. I was excused. And I did hope that with that transaction all my connection with the Printing Committee, and all my concern, beyond a motion or vote, with the printing of Congress, would cease. For three years and more it had been my duty and my misfortune to be chairman of the Committee on Printing. I say my misfortune, for, although the duties which devolve upon that committee are of no great importance to the general interests of the country, they did impose upon me an amount and character of labor more trying to my feelings and my powers of endurance than any other of which I can well conceive. They were not heavy cares that oppress, but small ones that irritate—irritate and annoy to a degree that unfitted me for other and more important business. That consideration, with the others which I then stated to the Senate, induced me to withdraw from that committee. After that I did hope to have nothing more to do with it, or the business before it.

It will be recollected, further, that in my remarks on that occasion I expressly disavowed any intention to treat with disrespect any member of that committee, or to cast censure upon anything they had done. I expressed the opinion that the action of the majority of the committee had been wrong, and that I could not concur in it; adding, at the same time, that I did so without disrespect to any member of the committee, and without casting censure upon its action. I did so deliberately—I did it with a purpose. That purpose was to disconnect myself from all matters relating to that committee and its action, so that I might not even seem to be involved in anything like controversy about them afterwards. But it seems that I am not permitted to escape, even after I have voluntarily withdrawn, and been excused by the Senate from further service on the committee.

I will read a paragraph from an editorial in the Union newspaper of this city, which appeared yesterday morning, in respect to my course on the committee, connected, as it is, with the debates of the House of Representatives, as I find them reported in the city papers. The editor of the Union newspaper, in commenting upon the course pursued by the Southern Press of this city, says:

"We should not have noticed such acknowledgments of profligacy, had not the honorable member from Mississippi manifested so great an anxiety in his remarks lest the public interest should fall a sacrifice to the party bias of the members of the Printing Committee. That gentleman called to his aid his friend from Massachusetts, Mr. Rantoul, who declared that he could defend his own *coactions*, but not those founded on public plunder. Coalitions to break up the Union were all excusable, but coalitions to execute the laws were infamous! It was all right enough to prevent the Washington Union from being employed as public printer, as long as thereby the door of hope was kept open for the Southern Press and the National Era; but the moment the committee acted, as they were bound to do by the provisions of law, all is wrong! All was right as long as Mr. Borland continued to put his veto on the Washington Union."

In my report from the committee, and in my remarks upon it, I made no reflections upon the Washington Union. I said nothing about it, except to state the action of the committee in regard to it. And yet connecting the last sentence of the paragraph which I have read with the other portions of it—although it does not do so directly—it does, by implication and innuendo, place me, together with a Representative from the State of Mississippi, [Mr. BROWN,] and Mr. RANTOUL, of Massachusetts, in the attitude of delaying and obstructing the public business for the purpose of getting patronage, or because we could not give patronage, to the editors of the Southern Press and of the National Era. If it means anything, it means that.

I shall not, however, comment upon this separately. I will now read, in connection with it, from a speech which appears in the Washington Union of this morning, as delivered by Mr. GORMAN, of Indiana, on the 13th of this month on the same subject. Mr. GORMAN, as chairman of the House Committee on Printing, in giving an account of what the majority of the committee had done, and in justification of himself for the course he had pursued, said:

"We have only the power to do, what? To remedy neglect to comply with the contract—to remedy any neglect in printing the documents in time. That is our business. We are sentinels placed upon the watch tower to see that your contractor has done his duty, and to see that you get your public documents when you need them, and in due time. When the conviction forced itself upon us that he had not done so, we attempted to parcel out the printing, so that it could be done properly. One gentleman proposed that it be done by Donelson & Armstrong. Another proposed to add the name of Mr. Towers, and so on, until almost everybody in this city was proposed. I frankly tell this House, that I have voted for two months against anybody having this printing but Donelson & Armstrong; and when I asked the honorable chairman what he proposed, and what he wanted, he responded 'he wanted nothing.'"

It is here attributed to me, that when asked what I wanted to do with the public printing, I answered, I "wanted nothing;" and the words are given with quotation marks, as the identical ones used by me. I will not comment upon this separately; but will read further, in connection with it, a passage from the remarks of Mr. STANTON, of Kentucky, another member of the Committee on Printing, delivered in the House yesterday, as I find them reported in the National Intelligencer of this morning. In defending the action of the majority of the Committee on Printing, Mr. STANTON alludes to something that had been said about giving a portion of the public printing to Mr. Fisher, the editor of the Southern Press, and says:

"While negotiations were going on to obtain the execution of the public printing, Elwood Fisher, of the Southern Press, proposed a combination between himself and the editors of the Union. Mr. Fisher requested the committee to divide the printing, for this reason—that it would produce a reunion between the Southern Democrats and Compromise Democrats. He (Mr. S.) told him that such a thing was utterly impossible; that under any state of circumstances he could not get more than two votes—those of himself and Mr. BORLAND—all the other members of the committee being from the Northern States."

Mr. President, taking the article in the Union, this statement of Mr. STANTON, with the general drift of the remarks of Mr. GORMAN, all together, the impression is likely to be made that I sat in the committee as the representative either of the Southern Press singly, or of the Southern Press and National Era together, seeking to obtain for those papers, as patronage, a portion of the public printing. I have to say, upon that, in few words, that from beginning to end, in every line, word, and syllable, so far as any such impression or imputation upon me is intended, it is false in fact—

The PRESIDENT. The Senator is aware that he must not speak of what has taken place in the House of Representatives.

Mr. BORLAND. Mr. President, I am alluding to proceedings published in newspapers—to articles published in newspapers reflecting injuriously upon me—doing me gross injustice, and I am giving them my contradiction. I apprehend that is not out of order.

The PRESIDENT. The Senator will listen to what is the rule, and then confine himself within its limits:

"It is a breach of order, in debate, to notice what has been said on the same subject, in the other House, or the particular votes, or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting therein might beget reflections leading to a misunderstanding between the two Houses."

Mr. BORLAND. Mr. President, I know that you would not do me injustice, or put a wrong construction on what I said, or intended to say. I think, however, if you will recur to the beginning of my remarks, and my reference to the several articles I have read, you will recollect that I spoke of them as newspaper publications reflecting upon me. I did not treat them as the proceedings of the House of Representatives.

The PRESIDENT. The Senator expressly named the individuals who made the speeches from which he read.

Mr. BORLAND. I named the individuals as the reputed authors of the articles which appeared in the public press. What I mean to say, without

referring to those articles as the proceedings of the House, or to those gentlemen as members of the House, but as publications in the Union and the National Intelligencer, is, that so far as they represent me as occupying any such position as I have mentioned—that is, as either seeking or desiring the public printing, or any portion of it, for the Southern Press, the National Era, or any other press, they are in every sense, and in every way, false. So far from representing any one upon that committee, or desiring to obtain patronage for any one, I expressly declined to advocate the claims of any one. This is well known to every member of the committee. I will say, further, that when applied to by Mr. Fisher, the editor of the Southern Press, to agree to an arrangement by which he supposed a portion of the printing could be given to him, I told him at once, and decidedly, that I would do no such thing. I told Mr. Fisher, I told the committee, and say it here now, to place myself right, once for all, that in regard to patronage, either to the party press, or to partisans of any class, I hold this position: I will not create patronage for any one—I will not increase prices or patronage for any one; but when public work is to be dispensed, and I have to choose, at fair prices, and for proper public purposes, for the execution of the work, between my political opponents and my political friends, I will give to those who agree with me in political sentiment, and rejoice if they can make it useful either to themselves personally, or to the party to which we belong.

This is the position which I have always occupied. And the statement of it, brings me to my course upon the committee.

I will repeat here, as I said the other day, I believe that, under the law, the committee had the power to take the printing from the contractor, and to give it to other persons. I did not agree to the particular direction in which they gave that printing, because, as I expressly said to them, and say now, neither of the parties to whom they gave it agree with me in sentiment, or pursue, as conductors of the public press, a policy which, in my opinion, fairly represents the views I entertain, or which is calculated to promote the public interests, or the special interests of the Democratic party.

The position in which I seem to have been placed before the country by the articles I have read from the newspapers, and by the general course of the majority of the committee in defending their own course, is that of obstinately disregarding the public interests in an exigency which required prompt action, because I could not obtain patronage for certain presses or individuals, for whom I sought and desired it. I repeat, that I occupied no such position; and there is no truth in any assertion, or implication, which tends to place me in any such position. I did not say, I "wanted nothing," or was willing to do nothing. When applied to by the chairman of the House Committee, to propose some person as a recipient of this patronage, I said I had no proposition to make. I said I sat there, then, as chairman of the committee, presiding over its deliberations, ready to hear, and put to the vote, any proposition that might be made. I had no proposition of my own to make; but if one should be made which met my views of propriety and policy, I would vote for it.

Now, Mr. President, I presume it will not be out of order, or, if it be, you will correct me, to remark somewhat further upon the course of the committee, while I was a member of it. To do so is necessary to a full understanding of my position, alike on the committee and as a member of the Senate.

The PRESIDENT. The Chair will state to the Senator, that, strictly speaking, it is not in order to detail what takes place in committees. However, it has been done, over and over again, in the Senate without objection, and, if no objection be now made, the Chair will interpose no obstacle.

Mr. BORLAND. The action of the committee to which I particularly allude, is that which has, in part, been reported, in the form of resolutions, both to the Senate and to the House of Representatives. If it were true that I had thus obstinately thrown myself in the way of the execution of the public work, I should be culpable before the country. If it be true that the action of the committee, in disposing of the public printing, was such as the exigencies of the pub-

lic service made necessary, or was even the best that could have been taken, under the circumstances, I should still have been culpable, to some extent at least, for resisting or obstructing that action. But, sir, I deny that this was so. I deny that this action was either necessary, or that it was even the best that could have been taken. This is my opinion. I think facts warrant me in entertaining it, and a sense of duty induces me to express it. I say that, although the public printer had violated his contract, and it was proper that the work should be taken, in part at least, from him and given to some one else, yet that it has not been given to the persons best prepared and best qualified to do it; and it was not agreed to be paid for at prices which, in my opinion, were warranted by the public interest, or the rights of the superseded contractor. There were persons every way well qualified and prepared, in my opinion, even better qualified and prepared than those to whom it was given, ready and willing to do the work for a smaller price than was agreed to be given. And, then, there stood the contractor who, however far he had failed to do his duty, was still, with his securities, liable on his bonds, to pay the difference between his contract price and this new price. So much for that.

Now, sir, a word upon the resolutions reported to the two Houses, respectively, as representing the action of the committee. On the 12th, (last Monday,) I reported, as the action of the committee on the 8th, this resolution:

"Resolved, That the committee enter into a contract with Donelson & Armstrong to do the future printing of the present Congress in the House, and with Gideon & Co. for the Senate, upon such terms as shall be agreed upon hereafter."

This is copied from the journal of the committee, as the official action, by a vote of four to two, of the joint committee.

The other resolution, as reported by the chairman of the House committee, as representing the same action of the same committee on the same day, as I find it published in the newspapers, is in the following words:

"On motion by Mr. GORMAN, 'Resolved, That, for so much of the public printing as may be deemed necessary by the committee to remedy any neglect or delay on the part of the contractor (Mr. Hamilton) to execute the work ordered by Congress, the persons doing the work under the direction of the committee be allowed the same price as may be contained in Mr. Rives's bid for printing for the Thirty-second Congress: *Provided*, That in no case shall pay be allowed for double composition.'"

The two resolutions are found to be materially different. The one I reported here on the 12th is the one adopted on the 8th, and as I copied it from the journal, unaltered by any recorded action of the committee up to that time. How the alteration was made I do not know, nor why it was done. I merely state the facts in order to show that what I reported was the recorded action of the committee. I have attended no meeting of the committee since the 8th, when that resolution was adopted.

I have been censured because I refused my vote to give the printing to Donelson & Armstrong and the Republic—especially because I refused to give it to Donelson & Armstrong. In my opinion they do not fairly represent the views which I entertain upon important matters of public interest and policy, now before the country. However binding, then, I might have felt the obligation to give any patronage at my disposal to a political friend, instead of a political opponent, the Union newspaper, as conducted by them, does not sustain towards me, at least, such party relations as would require or justify such consideration at my hands. I am not disposed to quarrel, nor will I quarrel, with them, or any one else, because they differ with me on matters of public policy. But I am bound, nevertheless, to act from my own sense of propriety, and convictions of duty, in all such cases; and when I do so act, I am not amenable to censure—no one should quarrel with me on account of my opinions; and surely no one, who claims to think for himself, or to act from his own convictions, can justly charge me, for my course, with any want of regard for public duty, or party fealty.

But I never understood, until recently, that the proposition to give this printing to Donelson & Armstrong was placed upon the ground which I now find it placed by the committee; that is, the exigencies of the public service, or the necessity



for having the work done at once and promptly. The main, if not only, consideration suggested by Mr. Donelson himself, to me, and his active friends, to induce me to support that proposition, was the necessity of it to sustain the Union as a party press; it being alleged that in no other way could the paper be sustained and kept up. Sir, the appeal was distinctly, and repeatedly, and openly, made to me, as a party man, to do this as a party measure, whereby patronage would be given to that paper, which was a losing concern, and could not be sustained except by profitable jobs of public printing. Appeals were made to me upon that ground, and that ground alone, not merely in connection with this printing, but when Mr. BRIGHT's resolution was reported from the Committee on Printing, to give to Donelson & Armstrong the printing of the Seventh Census, the appeal was made to me upon the same ground by the active friends of the Union, and by one of its conductors in person—I mean Mr. Donelson. I was told that it was necessary in order to sustain the paper, that it must have that printing. Nay, sir, I was told—and I am sorry to have to say it, but it is necessary to my full justification—I was told by one of the most active friends of that press—one who had its interests specially in charge, in regard to this patronage, that unless the printing was given to Donelson & Armstrong, and that, too, within three weeks, the Democratic party would be disorganized and disbanded. The gentleman who told me so, said he had agreed with some fifty others of the House of Representatives, that the proposition should be made a test of the Democratic party organization; and that unless it were conformed to, the party would be disorganized and disbanded.

Whether the gentleman making that declaration to me had the authority to speak for the fifty others, I do not know. I do not know, even, that he was really in earnest, for himself. But the declaration he did make repeatedly, and often most vehemently. My answer to that was in very brief terms. I stated, with perfect candor, that if the integrity and organization of the Democratic party, much as I loved it, depended upon the patronage to be given in the form of profitable jobs of public work to newspapers at Washington, or was to be sustained only by services to be paid for in money out of the public Treasury, I would, at that very moment, vote for its disorganization and annihilation; and further, that if such was the conditions of partisan service to be rendered by the Washington Union, the sooner the Democratic party was clear of it, the better.

I am as thorough a party man as any one upon this floor. I have been devoted to the interests of my party ever since I first took part in the business of life. I do not care what cries may be raised against me—what statements may be made as to my position, or my party associations, or the considerations which control me. I am willing to stand upon the declarations I have just made, as a rule for my conduct in all matters involving my public duties, or party relations. I feel, in my heart, that I have a clean bill of political and party health. I shall trust to it. But, sir, supposing the Union to have satisfied me ever so well as a party organ—supposing its course to have been ever so acceptable to me, as a Democratic press, when it was proposed to me, as a means of sustaining and supporting it, that I should support, also, a paper directly opposed to the principles and the views I entertain—my antipodes in politics, and engaged in the daily denunciation of the party to which I belong, I would have seen the whole concern, and every other paper along with it, sunk into the bottom of the sea, before I would have moved one finger, or said one word in acquiescence—or hesitated to declare, as I now declare, my disavowal and repudiation of all such means or arrangements. Tell me, sir, about Democratic organization, and party fealty, to be manifested by such propositions and arrangements as this! Why, sir, what is it but a coalition with our political opponents? And for what? Not, sir, for political advancement, or party advantage. No, sir, it is political amalgamation, and abandonment of party, with the effect only of giving money to particular individuals—and one of those individuals an active, unscrupulous, vindictive political opponent! To my mind, it has no considerations of propriety to commend it to favor—no item of party advantage to justify it. It is, to my

apprehension, neither more nor less than an amalgamation of parties—an utter disregard of all party distinctions, for mere pecuniary gain. Such is my opinion. Let it pass for what it may be worth. I neither censure nor condemn that of others.

And here, Mr. President, lest I be misunderstood, I must do an act of simple justice to an individual. I had heard, from an early period of the session, that an arrangement had existed between the Union and Republic newspapers, to get, and divide the public printing. I was sorry to hear it. The rumor was contradicted. I accepted the contradiction. I heard it again, on what seemed to me pretty good authority, the day before the committee met. This arrangement was made on the 8th of April. On that morning, as I was coming to the Capitol, I met one of the proprietors of the Washington Union—I mean General Armstrong; and I had a conversation with him on this subject. I stated to him, that I understood that this arrangement was about to be made. And, as I expected from him—a gentleman whom I have known for years, and for whom I have ever entertained the highest respect—with an expression of indignation which became him, he said, in substance: "Sir, I know of no such arrangement; and if any such arrangement should be made, I should repudiate it; I love my party; I labor for my party; and any legitimate advantage, in a pecuniary point of view, that I can get in the faithful discharge of my duty to that party, I will receive; but if it is to be obtained by amalgamation and coalition with my political opponents, I would scorn to touch it." I honored him for the sentiment. It was what I expected from what I had known, and what I had always heard, of his course through life. And I do not believe now, that such an arrangement as that of which I have spoken, meets, or can meet, his approval, or would, under any circumstances, be accepted or concurred in by him.

Mr. President, I have said all that I desire to say, in a manner somewhat incoherent and disconnected, it is true, yet, expressing, in substance, the views I entertain. I beg pardon of the Senate for having trespassed so long upon their attention, and am now done.

Mr. SUMNER. May I throw myself for one minute, and only one minute, on the indulgence of the Senate? I also have a personal explanation to make.

Mr. BADGER. I must interpose an objection. Three quarters of an hour have already been taken up on private bill day with personal explanations.

Mr. SUMNER. I only wish one minute.

Mr. BADGER. Then I withdraw my objection.

Mr. SUMNER. I see by the telegraphic reports in the New York and Boston papers, of what passed in this body on the question of granting lands to the State of Ohio, that the remarks which fell from the honorable Senator from Virginia [Mr. HUNTER] are attributed to myself. I am, by that fact, placed, if I may say so, in a false attitude. I am made to say that I would not vote for the bill; and then, upon the yeas and nays, my vote appears as in favor of it. I wished simply to make a correction of that fact, that the inconsistency should not appear before the country. I did not speak on that occasion, but simply voted for the bill, believing that, in doing so, I did an act of justice, at once to the State of Ohio, and no injustice to the old States.

#### ORDER OF BUSINESS.

Mr. UNDERWOOD. I have had some petitions to present, which I wish to get before the committees, and I have been trying for a day or two without succeeding. I want to get through with the morning business. I expect that other gentlemen have petitions as well as myself. I move to suspend the order, requiring this day to be set apart for private bills, until half past one o'clock.

The motion was not agreed to.

Mr. HUNTER. I must ask the permission of the Senate to make a motion to take up the deficiency bill to-day.

The PRESIDENT. That cannot be done without a suspension of the order.

Mr. HUNTER. Then I move that all prior orders of business be suspended for the purpose of taking up that bill.

Mr. WALKER. Is that in order? We have just decided not to postpone private bills.

The PRESIDENT. This is for a different purpose.

Mr. PRATT. I think it would be much better to have a general understanding that we will meet to-morrow for the purpose of taking up the deficiency bill, if the Senator from Virginia desires it. If there is that understanding, it will produce a general attendance on the part of Senators, and private bills will be proceeded with to-day, as it was expected. The general expectation was that private bills would be taken up to-day, and there are many Senators who desire to vote on the bill, to which the Senator from Virginia refers, who are not in their places, but who would be here to-morrow if such an understanding was had.

Mr. HUNTER. I have no expectation of being able to get through the bill in one or two days, for I have already received notice that it will probably be debated. If it is in order for me to make the motion, I should like to have the sense of the Senate upon it. I have nothing to say. I merely wish a vote.

The PRESIDENT. It will be in order for the Senator to move to suspend the order of business for a specific purpose.

Mr. HUNTER. I submit that motion, for the purpose of taking up the deficiency bill.

Mr. DOUGLAS. I have been trying to get the floor for the purpose of making an appeal to the Senate in behalf of the Territorial bills, which, if not passed by the Senate this week, may not be acted upon in the House of Representatives this session. Seeing that there is a disposition on the part of the Senate to proceed to the consideration of the Private Calendar, I am unwilling to ask it to take up the Territorial business to-day, but I ask the Senate to meet to-morrow, and then let us act upon the Territorial bills. Those who do not feel an interest in Territorial business may stay away to-morrow. We will take no exception to it. Those who do take an interest in it are certainly enough to make a quorum, and I hope they will gratify me by coming to-morrow and acting on these bills.

Mr. ATCHISON. If it is in order, I will move, as I find the Senator from North Carolina has neglected his duty, that when the Senate adjourns to-day, it be to meet on Monday next.

The PRESIDENT. The motion is not now in order, as there is a motion pending which was made by the Senator from Virginia.

Mr. ATCHISON. I move to lay that motion on the table.

Mr. BADGER. I would suggest to my friend from Missouri to withdraw the latter motion. He need not be alarmed that I shall neglect to attend to my duty.

The motion to lay the motion of Mr. HUNTER on the table, was not agreed to.

Mr. SHIELDS. I would suggest to my honorable friend from Virginia, that it would be better to make the deficiency bill the order of the day for Monday. I am willing to take it up now, and postpone it, and make it the special order for that day. That is the reason why I voted against laying his motion on the table. I know he is in duty bound to press this matter. He is only acting as the chairman of the Committee on Finance ought to act. It is evident that the bill cannot be disposed of this week, and therefore I would suggest that it would be much better, by common consent, to set aside Monday for its consideration.

Mr. HUNTER. I am very reluctant to press this matter, day after day, upon the Senate; but I have received a letter from one of the Departments, informing me that drafts have been drawn upon the Government, and that there are no appropriations to meet them. I believe that every cent of appropriation for the transportation of the Army is exhausted; every cent for forage has been exhausted. I am placed in a disagreeable position. I stand responsible before the country for this delay. All I ask, is for the Senate to give me a vote. If they vote me down, I shall trouble them no more.

The motion to postpone the order of the day was agreed to.

#### DEFICIENCY BILL.

The Senate accordingly proceeded to consider, as in Committee of the Whole, the bill of the House of Representatives, to supply deficiencies in the appropriations for the service of the fiscal year ending June 30th, 1852.

It was reported by the Committee on Finance with a number of amendments.

The PRESIDENT. The first amendment occurs in the first section of the bill, and is as follows:

"For completing the floating dry-dock at San Francisco, California, authorized by act of 3d March, 1851, \$360,000."

Mr. HUNTER. Mr. President, it will, perhaps, facilitate the passage of this bill, if I explain its objects and purposes before we enter upon it, and endeavor to define the relations which Congress and the Executive Departments bear towards it. So much has been said elsewhere in relation to the propriety of passing any deficiency bill at all, and so much is likely to be said here in relation to it, that it seems to me that it will perhaps save time if I were to open the consideration of the bill with an explanation of its objects and purposes.

It has been objected that there ought not to be any deficiency bill; that enough ought to be estimated in the beginning and that the Government should confine itself to the appropriations which were then made. Experience will show, if we look back, that the Government has never been able to confine itself to the sum originally appropriated; and, sir, when we look to it, we will find that this capacity in Congress to pass deficiency bills may be eminently useful and serviceable. The deficiency bill grows out of a change in the fiscal year—a change made in the year 1842. Before that time, when appropriations were made for the fiscal year, we used to have constantly—certainly, from 1820—two bills, the first a partial appropriation, the second an appropriation in full. Whoever will refer to the bills of appropriation in the Synoptical Index of the Laws will find abundant evidence of this fact. The first, or partial appropriation, was made that the Government might be supported until the full appropriation was made by Congress, so as to give them time to discuss it. They came then in this order—the partial appropriation first, and the full appropriation afterwards. But when the fiscal year was altered, and made to commence on the first of July, this order was changed; first comes the appropriation, which purports to be a full appropriation for the year, and then comes the deficiency bill, that is to say, the partial appropriation.

Now, I say that this faculty, this capacity to pass a deficiency bill is eminently useful. Without it Congress could not trim down the estimates as they ought to do. Without it, neither Congress nor the Executive could make those experiments towards economical reform which would be practicable, when we know that we can, at any time thereafter, pass a deficiency bill to remedy any mistake or error which would occur. Indeed, the necessity of this capacity to provide for deficiencies I cannot better illustrate than by reference to the history of this very bill. Whatever is indispensable in it originates mainly in this—I now speak of those items which are most essential and important—namely, in the necessity for the military appropriations. The House of Representatives last year were discontented with the estimates for the Navy and War Departments. The chairman of the Committee of Ways and Means addressed a letter to the Secretaries of the War and the Navy Departments, at the request of the committee, requesting them to diminish their estimates. The Secretaries replied that they could not do so. They did not think their estimates were too high. The chairman of the Committee of Ways and Means addressed another letter, saying that the committee were determined to reduce, and asking them to designate the items upon which the reduction could be made. The Secretary of War declined, and said that the whole amount was necessary. The Secretary of the Navy did designate some items in his estimates, and the committee made the reductions. In relation to the quartermaster's estimates in the Army, the House cut down one half, striking, as they themselves said, in the dark. Now, I never would (although it is true these bills came up to the Senate too late to give us much time for action) have taken the responsibility of recommending the Senate to pass an appropriation bill with only half the estimated items, if I had not known that if any mistake should occur, we would have the power to remedy it in a deficiency bill. Knowing that, I concurred in the movement of the House most cheerfully, for I believed that the estimates were too large. I believed that the admonition would

be wholesome and do good. And I think such was the result, in point of fact. It did good in this: the Secretary of the Navy, for the most part, confined himself within the reduced appropriation. The estimates that are now made for the deficiency bill, added to the appropriations which are made for this fiscal year, do not quite amount to the sum estimated in the quartermaster's department; for instance—there is one large sum of \$250,000 for incidental expenses stricken out, for which no estimate is made in the deficiency bill.

But that is not all. I think I shall show, as I proceed in the history of the matter, that whatever reforms have been made—whatever steps have been taken towards reform—and some have been taken—have originated since the criticism on the estimates of last year, and probably originated out of the action of Congress.

But there is another objection to the deficiency bills, and that is, that it is sanctioning the Executive in pursuing a course contrary to law. We pass a law, saying that we appropriate so much; and if we allow the Executive Department to expend more than the sum thus applied, it is said that we sanction them in departing from the law made by Congress, and thus set a dangerous precedent. If that were so, I should acknowledge the force of the objection; but I had occasion the other day to read the section of the act of 1820, in which it was provided—

"That no contract shall hereafter be made by the Secretaries of State, of the Treasury, or the Department of War, or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and excepting, also, contracts for subsisting and clothing the Army or Navy, and contracts for the quartermaster's department, which may be made by the Secretaries of those Departments."

It was obviously necessary that such a power should be reposed in the heads of the Departments, to keep our troops from suffering—to keep them from mutiny, from the want of necessary supplies. These are the most essential items in the bill; and indeed the public service would not suffer greatly, though it would somewhat, if you were to strike out every other item except those in relation to appropriations for subsistence and transportation. Most of those items come under that law. I know there are some things in the deficiency bill which cannot be deemed indispensably necessary at present—some which, in my opinion, ought not to pass; some, again, which were put in it by the committee because they must be paid either in this fiscal year or the next, as they were certainly due, or certainly to be required, during the one year or the other. Some matters included here were omitted in the appropriation last year, and now added, because we shall certainly have to put them either in this bill or in that for the next fiscal year. For instance, we now make the appropriation of \$360,000 for the dry-dock in California, instead of providing for it in the regular bill of the next fiscal year. It is put in this, because it will be necessary to provide for it some time or other. The dock was finished sooner than it was expected, and we were asked to put it here, and take it out of the general appropriation bill for the next year. I say, with the exception of items of that character—and one to which I am opposed, that for the Collins line of steamers—the essential provisions of the bill relate to the estimates for the quartermaster's department; for the contracts which they were allowed to make, without any special appropriation, under the law of 1820. So much for that objection.

But there is another objection. It is urged by many—and I believe it is a reason which induced many gentlemen to vote against this bill in the House of Representatives—that the expenditures have been extravagant; and that, if they vote for this deficiency bill, they are admitting that the Executive Departments have made these expenditures properly, and that they are economical; and so believing, they could not vote for it. If I believed that such was the issue upon the vote upon this bill, it would affect my course in relation to it: for I cannot lay my hand on my heart and say, that I believe that the expenditures have been moderate, and proper, and economical. But that is not the issue presented to us upon the passage of this bill. What would be the consequence of our refusing to pass it? Why, the Army would be without forage, or subsistence for the horses, and the necessary means of transportation. They would have to sell the public property, beasts of

burden, horses, &c., to get those means; and then, when we come to make an appropriation for the next fiscal year, we shall have to buy them over again—thus subjecting the Government to five times the expense, if we refuse to pass the bill, that we should incur by adopting it, even admitting that many of the items cover extravagant expenditures. It may be asked, then, what is the remedy? Has Congress to sit with its hands tied? Is it to make appropriations when it believes the expenditures have been extravagant? Has it no remedy? There is a remedy: and that remedy is with the people. Let each branch of the Government discharge its duty, within its appropriate sphere. Each is responsible to the common constituency, the people, for the mode in which they have discharged their duties. And what is the duty of Congress? It is to appropriate only to necessary and proper objects; to appropriate to no object which is not necessary and proper. And when the appropriation is made, it is the duty of the Executive so to disburse it, that the Government shall receive the worth of a dollar for every dollar expended.

But suppose that, by lavish and wasteful expenditures, the Government does not receive the worth of the dollar, but only ten cents to every dollar, what is the remedy? It is for Congress to expose the fact before the people; and we have never yet had, in my opinion, and I hope we never will have, the Administration which would not feel the full weight of its responsibility to the people. I believe that this, in the long run, would prove an adequate remedy for abuses of this sort. I acknowledge that the process is slow. But what are we to do, except for each to keep within its appropriate sphere, and discharge its own duties. The theory of our Government supposes a certain discretion to belong to the Executive, and for its exercise he is responsible to those who elected him. Congress is not responsible for the mode in which the money is expended. Could Congress, when it made the appropriations for the year 1849, have foreseen and provided against the fact that an escort was to be sent across the plains to carry Mr. Collyer to California; to carry a collector to his post, at an expense of \$34,000 or \$35,000, with such a *cortège* and equipage as might have befitted a Persian satrap, going to his province? Could Congress, when it made the appropriation for the quartermaster's department, for the same year—1849—have foreseen that barracks would be put up in California out of lumber at \$500 a thousand? Could Congress provide against the fact that the army in New Mexico would be posted in towns where everything was expensive, and difficult to be obtained, instead of being posted in places where they could have easy access to fuel and provisions, and have the means to obtain them upon cheaper terms? Could Congress foresee or prevent the fact that one quartermaster in New Mexico should have expended, in the fiscal year ending June 30, 1851, for forage alone, \$566,892? when, in the year 1844, I believe, the whole of the expenditures for the quartermaster's department was not quite \$900,000. (See Quartermaster General's Report for 1850.)

Mr. BRODHEAD. What is the name of that quartermaster?

Mr. HUNTER. His name, I believe, though I am not sure, is Reynolds. The name is not given; but the amount is. He was an assistant quartermaster in New Mexico—not California, as I stated, by mistake.

A SENATOR. Was it at one post?

Mr. HUNTER. There were about seven or eight posts. I will refer to the papers to get at the exact state of the case. I find that this expenditure was for forage in military department No. 9, New Mexico.

I was asked what was the entire expenditure of the quartermaster's department in New Mexico, for the year ending June 30, 1851? I believe it was \$806,154. But I will come to that subject presently. I have merely referred to these items for the purpose of showing that it is impossible that Congress can be held responsible for the mode in which the money was expended, and that its sole responsibility was, in appropriating money only for necessary and proper objects, and in providing the sums necessary to carry them out, even although they might be somewhat too large, owing to maladministration. But, sir, I have been asked in private, what is the remedy, if there has been

maladministration, and how shall we hold the Executive responsible? Why, sir, we can do so, by exposing the facts to the public. But, it is asked, "How shall we ascertain those facts? There may be abuses, and Congress may not be able to reach one in ten." I admit that fact; and yet, when there has been great expense and extravagance, there will always be a mode of reaching it. One method is, to expose the sum total, to hold up the aggregate result; and if it be of a character calculated to startle the public mind, then the Administration must explain how that expenditure is made. Another mode of reaching and correcting such extravagance is, by going into specific items, and showing that these expenditures were extravagant and improper, as may sometimes be done. I believe that, when we look at the subject in either way, we shall find there has been extravagance and maladministration. Some of these extraordinary expenses might, perhaps, appear to be necessary in the administration of the Government, in distant portions of the country; and it was, at all events, difficult for the Executive to prevent abuses; but these abuses do exist, to a fearful and alarming extent, and I propose, presently, to call the attention of the Senate to some of them.

In the report made a year ago last December, for the year 1850, the Secretary of the Treasury, for the purpose of showing the expenses of the Mexican war, made a table, from which it appears that the average expenses for the years 1843, 1844, and 1845 are taken in one table by way of comparison, and then the years 1846, 1847, and 1848, and then three other years. The average expenses, exclusive of the trust fund expenses in the Post Office Department, and the payment of the principal and interest of the public debt, for the three first years was \$25,410,000. The average annual expenses during the years of the Mexican war were \$45,729,888. Let us see what is the sum total of the expenditures now. According to his statement, there was expended during the last year \$38,028,801, after deducting payments on account of trust funds and the public debt. In the quartermaster's department, there was expended, according to a statement furnished me by its head, \$5,286,142 for the fiscal year ending in June, 1851. By a statement furnished me from the Register's office, it appears that of this sum, \$5,064,295 were drawn from the Treasury; so that the residue of \$1,221,850 was probably derived from Mexican contributions and the civil fund in California. Now, as the statement of expenses in the Secretary's report was taken from the Register's books, we must add this \$241,847 to the \$38,028,801 to find the real expenditure of \$38,270,648 for that year. Such, sir, were the disbursements of one year, and that in time of peace. The estimated expenditures for the present year, exclusive of debt and interest, is \$41,533,000, and since that statement, new and large additions have been proposed in this deficiency bill. Now, it will not do to say that this expense was on account of these distant possessions. We had large armies afoot during the Mexican war; and, according to the statements of the present Secretary of the Treasury, the annual expense then, as appeared from the Register's books, was about \$45,000,000, or about ten per cent. more than the sum estimated for the present fiscal year. I say, then, that these results show something which requires an explanation.

I find, on comparing the expenditures for the Army proper, for the year ending the 30th of June, 1845, and the year ending June, 1851, that in 1845 the whole expense under that head was \$3,155,027; and in 1851 the expense of the Army proper was \$8,949,000. When you come to add to that \$241,847, to be for expenditures in the quartermaster's department, not appearing in the Register's books, you have an expenditure for the Army proper of upwards of \$9,000,000, being about three times as much as it was in 1845. We have the estimate for 10,500 troops in the field; and when we come to take the expense for the quartermaster's department for the last fiscal year, we find it comes very nearly \$500 per man under that head alone. In the Army proper, the expense, when the sum of \$241,847 is added as above to the Secretary's statement, is about \$875 per man. And the whole military expenditures of that year are \$11,811,792, as stated in the report of the Secretary of the Treasury, \$241,847, as appears from the evidence to which I have re-

ferred, and \$2,062,267 for military pensions would amount to \$1,344 per man.

But the fair mode of estimating these expenditures for purposes of comparison, is to take those for the Army proper; and under that head we have, as I have before stated, \$875 per man for the last fiscal year. But when we come to look at some of these items, we find they are of a character that must of necessity startle us. During the last fiscal year they spent, in the Quartermaster's Department in Texas alone, \$1,040,000; in California, \$827,000; in Oregon, \$187,000; in New Mexico, \$806,154—and how does all this come about? Why, it results from the fact that there has been no elasticity, no flexibility, in the system of administration as applied to new and entirely different circumstances. They persisted in following an old system, designed for an old and thickly-settled country, and applied it to a wilderness. Every other people, exhibiting any administrative genius, and having distant possessions, have adapted their system of administration to the circumstances to which it was to be applied. The old Roman soldier marched with his implements of labor, as well as with his weapons of war, designed to cover himself at night after the march of the day was over. The soldier of the French Imperial Army, when his object was speed, dispensed with the cumbersome equipage of a tent, and found a temporary substitute in the fire of the bivouac. And if something of this sort of administrative genius and talent had been shown in our service, how much might we have reduced the expenditure of the Army at these distant posts! But nothing of this sort was done until very lately. Nothing was done towards making the soldiers help to cover and subsist themselves until very recently. Now, there is a change. On the 8th of January 1851, an order was issued requiring the soldiers to raise provisions for their own use at the posts, and allowing them such prices for them as the United States would have given in the nearest city in which such supplies were usually purchased. This order was but a renewal of one that was originally issued by Mr. Calhoun, when Secretary of War, on September 11, 1818. Why was it allowed to slumber so long, a dead letter on the records of the Department?

We find by reports that this plan is working well. The first quarter from which we have had any account in regard to it is Fort Leavenworth, in which instance we have a cheering report of its good effects. We are also informed that Colonel Sumner intends to execute this order in New Mexico, with a good prospect of effecting a reform in the expenditures, as we are informed by Colonel Swords. (See Quartermaster General's report.) The fact of the change is evidence of the sense of the Department as to its propriety. Have we not a right to complain that this old policy was not sooner renewed?

Another reason of this great expense is, that the army was improperly posted. This, too, is evidenced by the fact, that these posts have been changed, and by the testimony of Colonel Swords. Colonel Swords states that he found the army in New Mexico, posted in towns where everything in the nature of fuel, provisions, and forage, was dear; but they are now taken out of these towns to places where grass grows spontaneously, and the troops may supply themselves on cheaper terms with fuel and quarters. And thus a large expense for forage may, perhaps, be avoided. We also learn that it has been the habit to feed horses with large quantities of grain, and that in a wasteful manner, in a country where corn is sold from \$1 60 to \$2 80 per bushel. He says that there is one route, especially, which he has been over, on which it is not necessary to feed grain. He mentions an instance of one private train which had been three times across the plains without corn, merely feeding upon grass. He says that he is trying the same experiment successfully, and is feeding in that way. And yet we find this immense expenditure for forage—\$600,000 for forage in New Mexico alone—clear in the last fiscal year. We find by his report that the expense of a mule is something like \$180 or \$190 per year for corn alone, and about \$13 50 annually for farriery and medicines. We find the estimate for forage in Oregon, at Steilacoom, to be nearly \$20 per month, and at other points \$14 36 per month. All this in a country where horses run wild, and mounted Indians ride about with no

other support for their horses than the spontaneous growth of the plains. In California the estimate for forage for horses, mules, and oxen, is nowhere less than \$20 per month; and in some places, such as Rancho Delcino, the estimate is \$40 25 per month, or upwards of \$480 per year. In the same estimates we find that at Monterey it is \$20 25 per month. And now permit me to read you something in relation to that matter. The estimate for forage at Monterey, California, for the present fiscal year is \$20 25 per month, or \$243 per annum. I read now from a document from the quartermaster's department, being a report made by Alfred Sully in 1849, while at Monterey. He says:

"For fuel, the country is well supplied with wood on the spot. For forage, the grazing about four miles from here, where most of the public animals are now kept, is pretty good the year round."

So that in 1849 we have an officer reporting to the quartermaster's department that the subsisting of animals by grazing is pretty good the year round, and yet here is an estimate of \$20 per month for forage for animals at that point.

But, sir, there is another cause, which I believe has led to a great deal of unnecessary expense. I acknowledge that there are great difficulties in the way. I trust that I am speaking in no captious spirit, but solely with the object of revealing the truth. That other cause which has operated in increasing the expenditure, is the mode in which provisions and other supplies are transported to the army. It is the interest of the subsistence department to purchase provisions, &c., as cheap as they can, and hence they are often purchased at distant places, without regard to the cost of transportation. It is also the interest of the quartermaster's department to have them purchased at points where the transportation will be as little as possible; and in this conflict of interest it is the duty of the Secretary of War to see that the public interest is not thereby damaged. But owing, perhaps, to this conflict of interests, it not unfrequently happens that these stores are transported at a very heavy cost, sometimes at the rate of twenty-two or twenty-three cents per pound, when all things are estimated. Such, I think, was the expense of transporting supplies through Indianola, in Texas, to posts in New Mexico. It is true that the Department is altering this, and, in this respect, I will not say an abuse, but an error, is reforming. They are now contracting for their transportation from Fort Leavenworth, in such a way as to make it cost not more than from twelve to fourteen cents per pound to the contractors, although the expense of escorts and other things swell this rate somewhat. But with respect to all, except a few contracts for transportation made about two years ago, it will be found that these beginnings of reform originated since the criticism of the estimates from the War Department, at the last session of Congress. I do not say that we should not have had them without this, for necessity would have forced them upon the attention of any head of the departments. But one of the great evils is, that the public agents at a distance seem to act without any sense of responsibility to the Government. Sir, we have had cases brought up in which officers of the Army have become contractors to furnish the Army with forage and hay. We shall soon have another case brought before us, in which the Indian commissioner in California undertook to feed thousands of Indians, thereby spending hundreds of thousands of dollars, without the authority of this Government.

Mr. DAWSON. May I ask the permission of the Senator from Virginia to make a remark? He speaks of this case as being brought out by his call; he ought to do the Secretary of War the justice to say that, so far back as the 9th of February, he made a communication to the Senate of that very fact; and asked this body to provide some legislative remedy, as there was no law in existence applicable to it.

Mr. HUNTER. That is certainly the fact. The Senator from Georgia informed me, sir, that the Secretary of War had addressed a letter to him on the subject. I mentioned the call to identify the case.

But, as I was going on to say; these facts show that the hand of authority is wanting to hold the reins with a firmer and more vigorous grasp in those distant portions of our immense empire; that some voice should be raised that would be heard



and heeded in those distant regions, or else our agents and officers will act on their own responsibility, without obedience to what is desired or ordered here. But I believe that the expense of keeping up an army in those distant countries must be great—no matter who administers the Government. I believe that there are great and inherent difficulties in the case; and I think that they have not been met in the true spirit of administrative reform. I believe that they did not begin in time; and that, when they did begin, they did not proceed with sufficient vigor. But I am inclined to think that the appropriate committees will have to turn their attention to this subject—for it is impossible that the Finance Committee can attempt it—for the purpose of devising such measures as will enable us to defend these distant possessions at less cost.

Sir, in Oregon we have already made grants of land—why not adopt some system of military colonization, so as to promote the settlement of the country, and render its defense more cheap? some plan which would in fact make the public lands in that Territory support this expense, and in a mode which would facilitate their settlement? This system of military colonization was one of the modes by which the old Romans defended their distant possessions.

Austria now subsists seventeen of her best regiments on her "military frontier," where they furnish not merely military service to the Government, but supply their own rations in consideration of the occupancy of the land. I mention these facts as instances of the modes in which other nations conform their systems of administration to the circumstances of the case, not as examples to be strictly and exactly followed. What should be the system that we should adopt I do not pretend to say. It has been suggested that something is necessary, and I think the subject is worthy of careful consideration. In California General Jesup has recommended, on account of the evil resulting from the desertion of the troops rendering it difficult to defend the country, that a portion of the men should be employed in working in the mines of gold, nearly the whole of which belongs to the Government; and some portion might, perhaps, be thus employed so as to furnish the means for defending the country. How far this suggestion may be worthy of consideration I do not know; but I think it may be of some importance. I understand that the Pueblo Indians, in some places, have been driven away, and are now swelling the bands of the roving tribes who were menacing the frontiers of California. How far these Indians may be made to subserve the general object I cannot say, either by working the mines, or as an auxiliary force in keeping down the Indians—wild hordes who threaten the peace of the country. But I believe it will be better to employ them than to do as the Indian commissioners have done, by attempting to support and feed them at the expense of the Government. If we are to keep peace among them, so as to prevent their destruction by war, and furnish them also with food to support them, it is obvious that they will increase faster than the whites, and the more we do the more trouble we shall have. It seems to me that something in relation to this matter must be done, and done speedily, in order to diminish these expenses.

But I pass from matters merely conjectural and speculative, and come to some facts which are more immediately connected with this bill. I say that the Department ought to push still further the measure it has commenced towards making the troops support and cover themselves.

Before, however, I pass from these matters, I must say, in justice to General Jesup, that I do not think he is responsible for most of the errors to which I have referred. He could not post the army, if the troops were placed in towns, instead of places where fuel and forage were convenient. He could do nothing less than transport the supplies as ordered. If he was ordered to transport supplies by way of Indianola to Santa Fé, he was obliged to do it, if it did cost twenty-two or twenty-three cents per pound to effect it. I believe he did not use the means in his power quite as well as he might have done; but it is very easy to criticize at this distance of place and time—much easier, I know, to criticize than to do; and I, at least, shall not attach any censure to that officer for the matters to which I have referred. I also say, in

justice to the head of the War Department, that I think he has been endeavoring to reform abuses; he has been making efforts to do so; but my object is to point out the errors of the Administration, not for purposes of attack, but in order that they may be remedied. There is a class of difficulties to which we are exposed, in regard to which I must say, I think there is a want of efficiency in the quartermaster's department. The accounts of the quartermaster are in arrear ever since the last quarter of the year 1847, and have not been fully settled for five years. For that the quartermaster is not responsible; but I went to the office of the Third Auditor, and I found that there were great and intrinsic difficulties in the way of settling them, from the want of a proper promptness and accountability in the quartermaster's department itself. There was a system commenced during the war—a system of drafts—under which quartermasters draw on each other. Instead of requiring that these drafts should be paid where drawn, within a reasonable time, they were made payable anywhere, and without giving any notice to the accounting officer here. They were made payable, in fact if not upon their face, anywhere, and, I believe, have been paid at other points than those upon which they were drawn; if drawn on New Orleans, they might be paid in New York; and thus they floated about the country as a kind of bills of exchange; whereas it should have been ordered that they should be made payable at a certain place, and within a certain and proper time. Under these circumstances, it became impossible to settle the quartermaster's department. If accounts are not presented and settled at proper times and at fixed periods, it is impossible to make the rests and strike the balances often enough for strict accountability.

It is indispensable that rests and balances should be made periodically, and every exertion should be made to cause them to report promptly. It is a much more important matter than it seems to be; for without it there can be no due degree of responsibility. I was shown, at the Third Auditor's office, a pay roll upon which a clerk signed his receipt for his pay by making his cross mark. Another person, a teamster, signed his in the same way; and yet there was a certificate stating his account, in which his name was signed in a good clerical hand. I was also told that, in one account there was found an error of \$25,000 in addition. Another quartermaster brought in, during the Mexican war, the accounts for at least eleven, and perhaps thirteen quarters at one time. The consequence is; that the accounts are all behindhand, and no man can tell what the real amount of the deficiency is. I do not believe there is a man inside or outside of the Department who can pretend to make even a reasonable approximation to the real amount. Accounts of deficiencies have come in from California since this bill was reported which will probably add largely to the amount already estimated. I asked General Jesup how much these would add, and he said he could not tell till the accounts were settled. I know that it is a difficult thing to enforce order and strict regularity in those distant States and Territories, and it is a matter to be accomplished by degrees. It is, however, time to endeavor to enforce a strict and prompt accountability. Without it the Executive cannot know the condition of the public Treasury, nor can Congress know in what manner and in what sums to appropriate money, as I shall show more fully presently. As long as this is the case, they are indeed striking in the dark, as was said in the House of Representatives, when they cut down an appropriation one half. And who can blame them for striking in the dark under such circumstances? for move with what care we may, we are compelled to act without proper light and information.

But why is it that these quartermasters' accounts are in arrears in the Third Auditor's office since the year 1847? I know that Auditor to be an honest, industrious, hard-working man, and that he found the accounts in arrears when he came in, and has not had force enough since to enable him to bring them up. He told me that it was useless to give him any additional force, unless he could have that kind of experience which was required to make out these accounts. How can we know what force to add, or where to add it, unless we have some assistance from the Executive Department? It is now more than a year

since the Senate, on my motion, ordered a call upon the Executive to present some plan for equalizing the salaries in the same grade of service, and for reorganizing the clerks in the several Departments, for the purpose of making the force more efficient; and up to this day we have had no answer to the call, although these facts and others were staring them in the face.

I know something about the clerks in the Executive Departments. Some of them, I know, have genius and talent and character enough to fill any post in those Departments, from the highest to the lowest. I know that incompetent and idle men are also to be found there—men who encumber the Departments, and live as useless pensioners upon Government. Good men are laboring there, toiling sometimes by night as well as by day, under the heart-sickening consciousness that no degree of merit can insure them promotion, or always preserve the places which they already fill; but that idle and incompetent men may be placed over them merely because they can command more political influence. If these Departments were reorganized—if their modes of transacting business were more systematized, and the machinery so adjusted as to show by its working both the competent and incompetent hands which it employed—and, above all, if this organization held out a proper prospect of reward and promotion to merit—the public business would be better performed, and by fewer persons, and at less expense.

Sir, let the clerks once know that merit will be rewarded, and that idleness will be punished, and you will soon see another and a different spirit animating them. There is talent enough in these Departments, if they were properly organized, to make them such models of business establishments as any Secretary who presided over them might well contemplate with pride and pleasure. But, sir, to effect this desirable end these Departments must be so organized as to do justice; the employees must know, as every American citizen in any other occupation knows, that the road to promotion is open to them, if they are industrious and honest and capable; and that if worthless and incompetent, they must leave the places for better men to supply. In doing this, we would not only insure at less than the present cost a much more efficient service, but we should elevate the character and respectability, and increase the happiness of the corps of clerks themselves; and I submit if this be any small object. Is not a corps of efficient and experienced clerks as essential to the good government of our country as an army or a navy? And yet, sir, notwithstanding these circumstances, which appeal so strongly not only to the sense of policy, but to the humanity of those who administer the Government, the call to which I have referred has been slumbering in the Executive Departments for more than a year, and no answer has been given to it as yet. Sir, surely the condition of these Departments calls for some amendment and reform. The Third Auditor requires some additional force, and we ought to give him force enough to settle the current accounts promptly as they come in, and to bring up the old arrearages of accounts as rapidly as can well be done. It is a shame that with an overflowing Treasury we cannot state what is its true condition, or settle promptly the accounts of our public servants. What is so likely to demoralize the public service as the want of strict and prompt accountability on the part of the agents of Government?

But, Mr. President, this is not the only difficulty. There have been innovations upon old usages, in my opinion upon old laws, which have been highly detrimental. I do not say that these innovations originated with this Administration. Some of them were ready-made to their hands, and some of them, so far as I can ascertain, did originate with this Administration—abuses which Congress ought to suppress. I shall show you some of the reasons for the present confused state of our public accounts, and how it is that we cannot act intelligently in relation to them.

We all know that in 1795 a law was passed, requiring all balances of appropriations, with certain exceptions, which were unexpended after two years from their date, to be carried to the surplus fund. Then, in 1820, we passed a law covering cases in which these appropriations were drawn by the Secretaries of the War and Navy, and requiring that they should be returned to the fund

within two years. Well, how have they regarded that law? They have been acting on it, I am told, for eight years past, under the idea—and how they derived it I know not—that unless the Secretary of War, or of the Navy, said the purpose was accomplished for which the appropriation was made, it would not go into the surplus fund; and that in opposition to a lucid and cogent opinion of an Attorney General, given upon the very case to which I refer. I mean that of Mr. Berrien, Attorney General of the United States, on the 13th March, 1831, when his opinion was taken in reference to this very matter, and in which he gives it as his clear and decided opinion, that the money must go into the surplus fund. It is too long to read here, but I wish I had time to do so; and I submit that every person who does read it, must come to the conclusion that it is the correct construction of the law.

But, permit me to go one step further before I proceed to illustrate how this practice of reserving appropriations from the surplus fund, after the two years have expired, is working in the Departments. We all know, that when the system of specific appropriations was adopted, there was nothing about which Congress showed so much jealousy as the power of transfer. It was a power that they confined to the President, alone. It was a power that they restricted to certain appropriations for the War and Navy Departments. In this same act of 1820, there are two sections, (three and four,) which forbid a transfer of any appropriation made for one year in a succeeding year, and allowing a limited power of transfer within the year for which the money was appropriated; (see act, May 1st, 1820;) but this power was vested in the President alone, and strictly guarded. But, in 1842, when the present President was chairman of the Committee of Ways and Means—at a time when they were very anxious to restrict executive discretion, and when everything was being done to diminish it;—for at that time the Committee of Ways and Means was not very favorable to the acting President—they passed an act entitled "An act legalizing and making appropriations for such necessary objects as have been usually included in the general appropriation bills, without authority of law, and to fix and provide for certain incidental expenses of the Departments and offices of the Government, and for other purposes."

But observe, Mr. President, that this was passed for the purpose of limiting Executive discretion, to fix everything by law, and to allow as little discretion as possible as to these incidental expenses. Towards the end of the act, in the twenty-third section, it is provided, that "In case the sum appropriated for any object shall be found more than sufficient to meet the expense thereby contemplated, the surplus may be applied, under the discretion of the head of the proper Department, to supply the deficiency of any other item in the same Department or office."

This was obviously designed to apply to the objects mentioned in the act itself. But the Secretaries now undertake to transfer, upon their own authority, from any one head to any other in their own Departments, and this under the very provision designed to restrict and curtail the Executive power as much as possible. The consequence is, that, with this construction of power in relation to the surplus fund, and this claim of power in relation to transfer, we never know what is appropriated; and all attempts to limit expenses by specific appropriations have been perfectly vain and futile.

Let me come back to a case that will illustrate the mischiefs, both from the construction of the surplus fund clause and from the power of transfer, as it is now claimed: There was a case from Florida, of the steamer Watchman. A bill was rendered for service in 1835 and 1836. The Third Auditor reported on the case in 1850. There was nothing to pay the claim, in the event that it was allowed, except by using an old appropriation, which ought to have passed to the surplus fund, and then by transferring it to a different object from that which was originally designed. There was an old appropriation for the payment of Florida militia men, in 1839 and '40. Under the act of 1820 no such transfer could be made even within two years from the date of appropriation, and accordingly this twenty-third section of the act of 1842 was invoked for the purpose. The Secretary

of War drew a transfer warrant upon this old appropriation, made in 1839-'40, transferring it to another head, and paying the claim of \$24,750, a claim which, I believe—I will not speak positively—was for the use of a steamboat for fifty-five days. You now observe, that if this appropriation, which was made in 1839-'40, had gone to the surplus fund, as it ought to have gone, they could not have used it for the purpose of paying that debt. I examined the case of the transfer of that appropriation, and I found there were two opinions—one in which the Secretary of War showed, as I think, that the power did not exist; and the other, in which the Attorney General said it did. The Secretary of War said, however, that he felt bound to defer to the opinion of the Attorney General.

Well, what is to be the result of all this? In the first place, every old appropriation which has not been carried to the surplus fund, constitutes a source of strong temptation to the clerks to sell their knowledge to persons who work for such claims, and every facility is afforded to easy and pliant, or to corrupt public officers, should such exist, to allow these claims, and pay them in a mode which would scarcely ever attract public observation with such practices as these in regard to these surplus fund and transfer warrants. How is it in the power of Congress to limit the expenses? Of what use are specific appropriations? We make a specific appropriation that we may spend so much under such a head, and yet it turns out that it is no limitation at all; for the Departments go to some old appropriation, which has not been passed to the surplus fund, and transferring it under the act of 1842, they thus swell the amount far beyond what we dreamed of when the old appropriation was made. Allow me to illustrate this. The appropriations actually made for the year 1851 for the Quartermaster's Department, as far as I can ascertain them from the House documents, amounted to \$3,915,912. Now, by a statement obtained from the Register's office, as to the whole sum expended under appropriations and repayments, and transfers, I find that it amounted to \$5,064,295; but the amount actually expended, according to General Jesup's statement, was \$5,286,142. So that we commenced with an appropriation of \$3,915,912 for the year 1851, and expended actually \$5,286,142. This amount was composed of Mexican contributions, of appropriations made for that year, of balances of old appropriations, and of transfers to the amount of \$730,000.

Let us see where some of these transfers came from. One of them came from an appropriation for paying the regular troops, made the 18th of March, 1847, amounting to \$150,000, an appropriation which ought long since to have gone to the surplus fund. Another case is that of an appropriation made for extra pay, in August, 1848, of \$380,000, which was transferred also, making in all, of these old appropriations, \$530,000. These transfers were made in April, 1851.

Sir, how can Congress limit expenses by limiting the appropriations, while the Departments are thus allowed to refer to old appropriations and transfer them *ad libitum*?

Thus we see that in every way we are mystified, and that it is impossible to restrict expenditures by specific appropriations, as we neither know what is wanting nor how much is already applicable to the particular service under old appropriations.

Now, I do not charge this on the Administration as having been designed. I say that these abuses have been accumulating, some for eight years past, and some within the last four years. The present construction of the act of 1842, and the practice of transfer under it, originated, I believe, under the present Administration. In relation to the abuses, or what I believe to be abuses, as to the surplus fund, the Administration is responsible not for originating, but continuing them. Certain it is that these practices ought either to be abandoned, or we should give up the system of specific appropriations. The two cannot coexist without a manifest contradiction. I know that they excuse it by saying when an appropriation is made for an object which is not completed, it is useless to pay money into the surplus fund which has not been expended within two years, because it may be required to satisfy existing contracts. But how easy would it be, after the expiration of that

period, to pass it to the surplus fund, and then get it reappropriated.

What, sir, was the object of the provision? The Attorney General (Mr. Berrien) said that one object was to enable the Government to have its means at its disposal. But there was another and a more important object, which was, to create periodical rests and balances, so as to enable the Government to know the true state of its accounts; to know how far certain objects were already provided for by existing appropriations, and how far new appropriations would be necessary. In short, sir, such a system of rests and balances was indispensable to accomplish the objects proposed by the mode of specific appropriations.

Now, sir, a word or two in relation to the present estimate for deficiencies in the quartermaster's department. If I were to express an opinion in regard to those estimates and the real deficiency—and I do not believe that any man can speak of the amount of the deficiency with anything like certainty—I should say that the estimate is under what will be wanted. I find, when we come to add what is estimated for deficiencies to what is already appropriated for this fiscal year, that the sum is about \$900,000 less than was expended last year. I know, too, that there are many unsettled accounts that remain to be adjusted; but I do not know what they will disclose. I think it probable, however, that they will disclose still greater deficiencies; and, under these circumstances, I think it is not only proper, but necessary that we should appropriate the amount which is asked for these objects. I wish, sir, I could believe that the amount estimated would pay all demands under the present deficiency bill. If that were so, I should be glad to pass these estimates, and take a receipt in full. But, however that may be, there is one thing to which we think Congress should turn its attention, and that is, to the adoption of such laws as will enforce a strict and prompt accountability of the Departments. The Executive, too, should take such steps, and call upon us, if necessary, to pass the measures proper for adapting our system of military administration to the circumstances of the country in which it is to be applied. I think, too, that a strict accountability and obedience to orders ought to be exacted from our officers and agents who are acting at a distance from the seat of Government.

Sir, this thing of officers undertaking to pledge the credit of the Government, and to incur large expenses without authority, is a matter which it seems to me should be promptly put a stop to. But these are affairs which more properly belong to the Senator from Illinois, the chairman of the Committee on Military Affairs, and to the Senator from California, as chairman of the Committee on Naval Affairs. These are matters of reform which I beg to commend to their attention; for I believe they are grave enough to demand their attention, and that of the Executive too. I regret, sir, that I have had to trespass so long upon the time of the Senate in making these remarks; but I thought that it would facilitate the progress of the bill if I did so. I felt it due to myself, because I advocate the passage of the deficiency bill now, and because some of my friends think that it is sanctioning a spirit of extravagance to do so. I wished to place the matter upon the true ground, and to defend myself against all such imputations.

I had another reason: it was my duty to make an exhibit of the state of the Treasury in relation to these matters, as far as I could do so, and as clearly and as explicitly as I could. I regret that I was not able to obtain all the information necessary to enable me to make a clear and explicit statement of our financial condition. The state of our public accounts is such that I do not believe any man can do it; and any person who attempts to straighten the tortuous thread of the discourse of our Executive Departments will find that he has a tangled yarn to deal with. It was once said by a distinguished Frenchman, that "words were made to conceal ideas;" I think I might say, with greater truth, that our system of public accounts has been perverted so as to conceal facts. I do not charge this on the heads of departments, for I am speaking now, not so much of persons as of a system. So far as I know them, they are clever gentlemen; and it is not my purpose to wound or disparage them. I believe, that so far as they are concerned, they inherited some errors;

that they have made large additions of their own to the stock on hand; and that, when they come to transmit the inheritance, it will be sadly incumbered.

I know the difficulty surrounding the whole subject, and I feel that more allowances should be made for errors in applying a system to a new country, than in administering it to an old one. In short, my opinion is that "the times are out of joint;" and I do not feel quite sure that these gentlemen "were born to set them right."

Mr. GWIN. I wish to say something to the Senate in reference to some of the remarks which have been made by the Senator from Virginia, but as it is a matter of importance that we should have an Executive session, I move that the further consideration of this bill be postponed till to-morrow, in order that the Senate may proceed to the consideration of Executive business.

Mr. UNDERWOOD. I wish the gentleman would withdraw the motion, to allow me to ask a question of the chairman of the Committee on Finance.

Mr. GWIN. Certainly.

Mr. UNDERWOOD. I have not read the bill, but I wish to know from the gentleman from Virginia whether he proposes any remedy to obviate the abuses, and to repeal the obnoxious laws of which he has spoken?

Mr. HUNTER. I will say to the Senator from Kentucky, that it is my design to try the sense of the Senate by an amendment on that question. Some of these things did not come to my knowledge until after the bill was reported.

Mr. UNDERWOOD. I should like to make a few remarks, if they would not interfere with the Executive session asked for by the Senator from California. I shall conclude directly, so that he can take the floor and occupy it when the bill comes up in the morning. I asked the chairman of the committee whether there were any propositions in this bill to remedy the evils of which he complains, and he tells me there are not; but with that quickness which belongs to him, foreseeing, I suppose, that the attack upon the Administration was altogether misplaced, unless there was a proposition pending to remedy the evils of which he complains, he notifies me that he intends, before we get through the bill, to offer amendments for the purpose of meeting the objections which he has pointed out.

The tenor of the remark which he has made has been to place the fault upon the Administration, in many respects, when the fault, as I conceive, belongs to Congress. Where did that system of abuse, of which he has complained, in respect to the inefficiency of the clerical corps of the Department originate? I admit that it exists. But it originated in that system of removals from office which had its origin in an Administration, which we all know ought to be charged with it. The system has been continued. The system exists; and if it does continue, it will, in my humble opinion, render totally inefficient the operations of the Government here. Who can rely upon holding a clerical office in any of the Departments? The man that gets an office, expects, upon a change of Administration, to lose his office. What incentive has he to qualify himself for the station? What motive has he to be faithful to the country? What hope can he have of advancing himself by promotion? What chance of promotion ahead is there to stimulate him to do his duty? None whatever. As for the gentleman's complaints in respect to the system of an inefficient clerical corps here, he must attribute it to the party with which he is identified—with which he associates—and not to the party now in power in the Executive branch of the Government. Sir, all my life, I have been for reforming these abuses. All my life I have been against this system of things; and I commend to the country the remarks of the honorable gentleman when he says that he is in favor of a system of things which shall hold out some hope of promotion to the individuals who are thus employed in the performance of clerical duties in the Departments here. Let them be put upon the footing of the Army and Navy. I will go for that. He will find me standing at his back, when he brings forward a system by which something like security, permanence, and promotion shall be held out to these individuals, to stimulate them to do their duty. Sir, if there be an object upon the

face of the Almighty's earth deserving of sympathy, it is the condition of a poor clerk, with a wife and starving children, which administration after administration has deprived of office, without any fault on his part, and turned upon the world to starve. I know of instances of this sort. I know of Democratic instances of this sort that have been made victims to Whig administrations. This state of things is not confined to Whigs alone. Sir, I know of individuals acting with the Democratic party, who have received this treatment; though many more on the other side have received it, from those to whom I am politically opposed. It is a system every way warring against the public interests, and which ought to be broken up; and the man who can do it, be he of what party he may, will deserve the thanks of the country for accomplishing it.

The gentleman speaks of the condition of the Departments; but who is to blame for that? Time and again, session after session, year after year, I have occasionally got up and suggested the propriety of appointing committees to go and inspect these Departments, and see how their business is conducted, and to inform the country how it is carried on, and what is the condition of the various bureaus. I have not even got one respectful listener to a proposition of that sort, much less have I been able to find an individual willing to cooperate in such a scheme. Never has a response been made on the part of a member of this body or of the other House, so far as I know, to institute these examining committees, which every State Legislature in this Union is in the habit of appointing in relation to the administrations of the various States. It is no wonder, then, that we should hear complaints as to our total ignorance of the manner in which the public business is conducted in the Departments. You will not examine; you will not take the steps necessary to get that information, either for yourselves or for the country; and then, when you do not do it, you speak of your total ignorance of what has been going on in the Departments, and the bad manner in which they conduct their business.

A word, now, in regard to some of the abuses which are alleged to exist. A year or two ago, I proposed a plan by which we should endeavor to arrive at them. It was to get annual reports of the prices of labor, of the prices of every kind of agricultural produce, and to get this information at every part of the country. I submitted a series of resolutions, to get all that information expressly with a view to enable us to form some idea, when the Departments reported, as to the contracts for supplies for forage and subsistence, &c., whether they had exceeded that reasonable economy in the management of the public affairs which an individual would observe in conducting his own business. Yet, a celebrated gentleman, on the opposite side, when such resolutions were brought up for consideration some years ago—the late Senator from Missouri, [Mr. Benton]—endeavored to convert the whole proposition into ridicule; and so far succeeded that nobody thought of adopting it. The inefficiency of this body and the other House, in taking the necessary steps to watch over every Administration, is the great fault why the public business is not better managed.

Now, in reference to these abuses which are complained of, can the gentleman tell me how much cheaper any given amount of work could have been performed by the quartermaster's department than it has been performed for? You cannot tell whether there has been an abuse; you cannot tell whether the quartermaster's department has paid more than it ought to have paid for any given article, unless you can tell me the prices at which the article had been furnished, and the cost of transportation to the place where it was wanted. How can you get up and make a general denunciation in reference to the abuses of any of these departments, unless you can specify the prices and show the difference between what the thing could have been furnished for and what it was furnished at? There is no possibility of telling whether there has been extravagance or not. You require a given amount of service; you say that so many rations shall be placed at a given point in California, for instance. You say this thing, that thing, and the other shall be done. Of course, you include the means of doing it. Then you can only tell whether the Executive Department has performed the duty in a proper manner,

and at a proper price, when you are furnished the data on which the contracts were made. Now, is it right to indulge in denunciation without having that data? Can anything of that sort be tolerated? Give us the data. Show the thing which the law required to be done. Show the thing which the public service required to be done. Show the price at which it was done, and then show, by satisfactory evidence, how much less it could have been done for. When all this information is given, we can see whether it has been done properly, correctly, and economically.

Mr. PRATT. The Senator from Virginia, I believe, suggested the idea of starving the Indians, to prevent them from multiplying, in order to save expense.

Mr. UNDERWOOD. Yes, sir, that idea has been suggested.

Mr. HUNTER. I have advanced no such idea. I said it would be better to employ them in work, than to feed them in idleness. I did not say that they would starve by being employed.

Mr. UNDERWOOD. I was about to borrow the idea; but if the gentleman disclaims it, of course, I will not do so. I believe I will not follow out the train of remark which, perhaps, I might indulge in, and which it might be well enough for me to indulge in. But these remarks can be suggested when the honorable Senator from Virginia shall offer the amendments which he contemplates to offer, and which I am glad that he intends to offer. I shall most assuredly vote for everything that shall tend to put proper restrictions upon every Administration. I hold to the doctrine of specific appropriations; and if the Departments are in the habit of committing abuses, by transferring appropriations, or in any other way, so as to cover up the facts, I shall, most assuredly, vote for that remedy which will make them exhibit the facts, and enable us, by looking, if we will look, into the accounts kept at the Departments, to ascertain what are the facts. I think that all these appropriations, after a given time—and you may shorten it, if it is not short enough already—which go into the surplus fund, ought to constitute a part of the mass in the Treasury, subject to specific appropriations; and that the discretion of the Departments ought to be taken from them after a given length of time. Some little latitude must be allowed to all Administrations. You cannot get along by exact rules without some little discretion. The public service will require some discretion to be lodged in the Departments. But I am for allowing as little discretion as possible, in reference to money and its appropriation for specific objects. If the system is found to work well, I regret that those who are charged with the financial concerns of the country—those committees of the two Houses of Congress, whose business it is to look into that subject, (and it has never been mine—and I have sometimes been sorry that it has not been,) should not have corrected those laws which admit of the abuses of which the Senator from Virginia has complained.

Mr. PRATT. It was at my suggestion, made in a laughing manner, that the Senator from Kentucky referred to the Indians. Now I understood the Senator from Virginia distinctly to say, that if the United States continued to furnish the Indians with bread, they would multiply faster than the whites, and consequently would occasion trouble and expense to the Government. That was his argument. So, of course, the *sequitur* from it is, beyond all doubt, correct, that the better plan would be to starve them, or, still better, perhaps, shoot them, and get rid of them in this way.

Mr. HUNTER. What I said was, that certainly it would be better to employ them in work than to feed them in idleness.

Mr. PRATT. Perhaps that was what the Senator meant to say.

Mr. HUNTER. I do not know that we are under obligations to feed everybody who is hungry. I do not know that any obligation rests upon us to support all the Indian tribes. I am not aware that this is a part of the obligations that rest upon us. I did say, that if we are to support every idle and wild Indian who rides over the plain, and give him as much as he wants, and then pay to keep the peace for him, and prevent any man killing him, the Indians would probably increase at this rate faster than the white men who are to support them. The difference between the



Senator from Maryland and myself is this: he has more sympathy for the Indian who rides about doing nothing, and I have most sympathy for the white man whom he would make labor to support the Indian. [Laughter.]

Mr. PRATT. I did not attempt to express any sympathy or opinion of my own. I only stated what the Senator from Virginia had said, not what he meant to say; and I appeal to every one who heard him first, whether I did not, in words, state *verbatim* exactly what he did say, that if the Government of the United States furnished the Indians with bread, it would necessarily occasion their multiplication beyond the whites, and would bring with it, as a consequence, increased expense to the Government. That is what he said.

Mr. HALE. I listened to the Senator from Virginia with a good deal of satisfaction. But I want to say this, not so much for his benefit as for the benefit of the country, that he may expose just as many abuses as he pleases, but the idea of getting Congress to remedy them at this time, is perfectly idle. I will tell him the reason why it is so. He belongs to the dominant party—not exactly, however, for the parties are so fixed now, that it is hard to say which is dominant—but he belongs to the dominant majority in this body, and the Senator from Kentucky belongs to the friends of the Administration. Let the honorable Senator point out as many abuses as he pleases in the Administration—does he suppose that the Democrats will reform them now? No, sir; they will take care to see that they are properly used by their friends, who are ready to come into power so soon. That is the result. There will not be one of those abuses reformed by any enactment of Congress at this time. Gentlemen are exceedingly opposed to them; but there is not time to reform them. Besides that, it is very inconvenient to reform them, when the party practicing them are going out, and the other party are shortly to have the benefit of them.

But if the honorable Senator from Virginia thinks that he has brought to the consideration of the Senate, at this time, the most glaring abuses which exist in the Administration—which exist palpably with the light of the sun shining upon them, so that everybody can see them—he is exceedingly mistaken. I hold in my hand a report submitted to this body by the Secretary of the Navy, near two years ago, by which he discloses to the Senate the fact, that he is expending and disbursing thousands upon thousands of dollars of the public money annually, not only without law, not only in abuse of law, but in the direct face of the law.

I refer to the Senate Executive document No. 51, of the first session of the Thirty-first Congress, laid upon our tables on the 28th of May, 1850, by which it appears that the Secretary of the Navy, by virtue of an order issued on the 20th October, 1842, and subsequently on the 30th of September, 1848, (and I wish the members of the Senate would read it,) is paying annually thousands upon thousands to every officer of the Navy who is attached to a navy-yard, in the shape of allowances, which he regulates and graduates in the face of a provision of the law of March 3, 1835, which enacts that the pay there provided shall be in full of all compensation, and shall exclude all allowances under any circumstances whatsoever. Now, while we know this, and while the Secretary of the Navy comes here and tells us that he is paying out, not only without law, but against law, and in spite of the law, this amount of money, what is the use of talking about abuses? Let us see, first, that these things, which are palpable, and which are not abuses of the law, but direct violations of the law, running in its very face, can be remedied. After that has been done, let us attempt to remedy abuses; and until that is done, it will be idle to attempt it.

I rejoice exceedingly that the attention of the Senate, and of the country, has been called to these abuses; but I want to call the attention of the country to the state of things that will exist. Congress will adjourn at the end of this session, and will finally conclude its labors on the 3d of March of next year, and there will not be the first letter of a law passed that will remedy one single one of these abuses; but they will stand, and the next year they will increase and will be larger. Instead of the Administration being more efficient in regard to them, it will be more loose, and the

abuses will increase and go on just exactly as long as the present system of things continues.

Mr. CASS. Does the Secretary in his report say that he makes the allowances against law?

Mr. HALE. No, sir.

Mr. CASS. Is it a question of construction?

Mr. HALE. I will read the law.

Mr. BADGER. Give us the items for which the payments are made.

Mr. HALE. I will give the items. The act to which I allude was passed on the 3d of March, 1835, and it is entitled "An act regulating the pay of the Navy." The second section of the act (and I call the attention of the Senate to it) is in these words:

"And be it further enacted, That no allowance shall hereafter be made to any officer in the naval service of the United States for drawing bills, for receiving or disbursing money, or for transacting any business for the Government of the United States; nor shall be allowed servants, or pay for servants, or clothing or rations for them, or pay for the same; nor shall allowance be made to him for rent of quarters, or for rent for furniture, or for lights, or for fuel, or for transporting baggage. And it is hereby expressly declared, that the yearly allowance provided in this act is all the pay, compensation, and allowance that shall be received under any circumstances whatever by any such officer or person, except for traveling expenses, when under orders, for which ten cents a mile shall be allowed."

In the face of that provision, which, it seems to me, does not admit of very great latitude of construction, by an order of the Secretary of the Navy, of September 30, 1848, there is allowed to every commandant of a navy-yard—

#### For one parlor.

1 dozen chairs, not to exceed.....	\$60 00
1 sofa, not to exceed.....	50 00
1 pier, or centre table, not to exceed.....	40 00
1 looking-glass, not to exceed.....	40 00
1 pair andirons, (if no grate,) not to exceed.....	10 00
1 fender, not to exceed.....	10 00
1 set shovel, tongs, and poker, not to exceed.....	8 00
1 carpet, not to exceed (per yard).....	1 75
1 hearth-rug, not to exceed.....	8 00

#### Dining-room.

1 set dining-tables, not to exceed, in the aggregate amount.....	\$50 00
1 sideboard, not to exceed.....	50 00
1½ dozen chairs, not to exceed.....	36 00
1 pair andirons, (if no grate,) not to exceed.....	10 00
1 fender, (if no grate,) not to exceed.....	10 00
1 set shovel, tongs, and poker, not to exceed.....	8 00
1 carpet, not to exceed (per yard).....	1 75
1 hearth-rug, not to exceed.....	8 00

#### Passage, or Hall.

1 stove and fixtures, (if no furnace,) for houses north of the Potomac, not to exceed.....	\$35 00
1 hall-lamp, not to exceed.....	6 00
Oil cloth, or painted carpet, for hall, and the first flight of stairs front, per square yard, not to exceed, per yard.....	1 25

#### Chambers.

3 bedsteads for commandant, not to exceed in aggregate amount.....	\$60 00
3 bureaus for commandant, not to exceed.....	54 00
3 wash-stands for commandant, not to exceed.....	24 00
18 chairs for commandant, not to exceed.....	27 00
3 pairs andirons (if no grate) for commandant, not to exceed.....	12 00
3 sets shovels and tongs for commandant, not to exceed.....	10 00
3 carpets for commandant, not to exceed (per yard).....	1 25

There is thus an increased pay allowed to these officers, under the order of the Secretary of the Navy, in the face of the law, I should think something like six hundred or a thousand dollars a year. This provision is made not only for the commandants, but also for the commanders, lieutenants, pursers, surgeons, masters, assistant-surgeons, boatswains, carpenters, sail-makers, and God knows who; I do not, sir. This fact has been before the Senate for nearly two years. In the face of the most direct and positive prohibition that the English language, by any possibility, is capable of, this order of the Secretary of the Navy is allowed to exist—raising and increasing the compensation of these officers thus much. Now, if we allow such things; if we say nothing about such things, why should we talk about abuses? If the compensation of these gentlemen is not enough, raise it, until it is enough. But while such is the law, and while such is the prohibition expressed in as plain a manner as the English language can make it, and the Secretary of the Navy comes in with his order, and increases the compensation ten, fifteen, or twenty-five per cent., what is the use of talking about abuses? The fact is, that the administration of these various Departments practically, is above any legislation we can have here; and, until there is some efficiency in seeing the laws that we pass executed, it is perfectly idle to pass them. If a system of account-

ability, or something else, cannot be established, which will give efficiency to the laws that we pass, it is idle to undertake to talk of reforming anything by the passage of laws.

Mr. BADGER. The remarks of the Senator from New Hampshire afford a striking instance, how easy it is to assert that one thing is in direct opposition to another, and that it is clear, plain, certain, inevitably and indisputably opposed to the other; when perhaps on a little examination it may appear, that there is no inconsistency between them at all. Now, so far from my being able to perceive that there is any opposition between the law, which the Senator has read, and the order of the Secretary of the Navy in 1848, they strike me as relating to subjects of an entirely different kind, and that the order is perfectly consistent with the law. The law of 1835 gives an increase of annual compensation to the officers of the Navy, graduating it in each grade according to the particular service upon which they were placed; and it declared that the compensation should be in full of all pay and allowances to them, with the exception of the allowance for traveling expenses. What is all this long list of "pokers," and "sofas," and "sideboards," and "shovels and tongs," and "carpets," which the honorable Senator has read? What has that to do with the provision of the law? Those pokers, and shovels and tongs, and other articles are not given to the officers—not at all. It would be just as much in place, to allege inconsistency, if he were to say that a commodore, who is in command of a seventy-four which has sofas and chairs, and beds, and other articles of the kind, on board, which are put there for the accommodation of the commodore, and also other accommodations put there for the convenience and advantage of the lieutenants, and for the convenience and advantage of the subordinate officers, and of the men, are compensations made to them in violation of law. Sir, it is not so. The law has no application to it.

The Government has certain navy-yards. They build houses to accommodate the officers and the men who are to be stationed there. I wish to ask the Senator if the use of the houses, in addition to the pay and allowance, is forbidden by the act? Why, certainly not; no more than the use of the ship which shelters the officers, and is to them a floating house, is a violation of the act of 1835. The Government puts furniture on board the ship, or floating house. Is that any violation of the law? Why, certainly not. It is not a bit more a violation of the law than to say that the planks which form the floor of the cabin, which are paid for by the Government, and upon which the officers walk, or the deck which covers their heads, and forms a roof to protect them from the weather, is an additional allowance, and in violation of the law. What the Government does with regard to the floating house upon which the officer is put, it does with regard to the stationary house upon shore, in which the officer is put. It does not take an officer and send him to these navy-yards, where he is to stay, according to the regulations, for two, or at best three years, and compel him to expend thousands of dollars from his own money to furnish the house in which he is to live—which would be just as reasonable as to require him to build the house in which he is to live. He is a temporary occupant, according to the regulations, having to go to some other station every two or three years. Therefore, it was thought just and reasonable that the house on shore should be furnished, in which a man lives who is to command a yard, as that the house at sea, or ship, should be furnished. But the furniture does not belong to him. It belongs to him no more than the ship or house at sea belongs to him. It is Government furniture. It is put there for his accommodation when he is ordered to a station. And when he is transferred somewhere else, and does not need the use of it, it belongs to his successor.

Mr. UNDERWOOD. Like furnishing the President's House.

Mr. BADGER. I thank the honorable Senator for the illustration. The Constitution of the United States declares, that the compensation of the President, fixed by law, shall be neither increased nor diminished during his continuance in office. Congress cannot, without violating the Constitution, add one dollar to his salary; but, I pray you, did it ever enter into any man's head that we were increasing the compensation of the President, in

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violation of the Constitution, when we voted a sum of money to pay for the furniture of the President's House? Why, Mr. President, did you, or did any gentleman imagine that he was violating the Constitution and increasing the pay of the President when, in the course of the last session, we made appropriations for carrying gas-lights into the President's House, a convenience which he had not had before? Now, are not the two cases precisely parallel? That law is a rule of conduct to the Departments, and the Constitution is the rule of law to us. If we may furnish the President's House without violating a provision of the Constitution which inhibits us from increasing his salary, surely it is equally true that there is no violation of that law when the Secretary of the Navy fixes the rule by which furniture shall be put into the house to be occupied by the commander of the yard. The Secretary's order was in every respect a correct one. It was the usage of the Government to furnish these houses. It was the duty, and properly the duty, of the Government to furnish them. That order, so far from being liable to censure, is, in my judgment, entitled to great praise. It was to prevent extravagance in furnishing these houses. It was to have furniture suitable, decent, creditable, and proper to the rank of the individual, and, at the same time, prevented any charge on the Government which might be considered extravagant or ostentatious. That was the whole matter. It seems to me, therefore, that if this is the only additional case the Senator has to present of a plain, palpable violation of the law, he has been very unsuccessful in the search.

My friend from Maryland reminded me, and the Senator from New Hampshire will know whether it is correct or not, that at a former session, the Senator moved some provision or limitation to the naval appropriation bill, prohibiting money being paid for these expenditures.

Mr. HALE. I do not remember ever having made such a proposition. I know that I moved a resolution which called out the report from which I have read.

Mr. BADGER. We were under that impression, however; and we also supposed that that had been voted down. If that was so, why we have the construction of Congress coinciding with the construction of the Secretary. But there is the law. It is nothing more in conflict with what the Senator has read than the Constitution, in regard to the compensation of the President, is in conflict with what we have done from the foundation of the Government. The practice to which the Senator refers did not date in 1848. It was coeval with the act of 1835. It existed then. It has existed continually since, and I apprehend that nobody but the Senator from New Hampshire has supposed that there was any conflict between the law and that practice. But the Secretary of the Navy, by his order of 1848, intended to restrict the amount of the allowance and prevent abuses. That is, I take it, the whole matter.

Mr. HALE. I am glad to hear this explanation. I think the Senator from North Carolina has satisfied everybody of the wide diversity of the case he has taken to illustrate the matter, and the one I have brought before the Senate. He illustrates the order of the Secretary without law and against law; for when I am talking about the English language I can talk as plain as anybody, to an appropriation made by Congress to furnish the President's House. I am not going to discuss the constitutionality of that provision. I produced an order of the Secretary of the Navy, made, I say, by the plainest construction of language, against the law, and it is likened to an appropriation made in pursuance of law—an appropriation made by law.

I am glad that this matter has come up. I do not expect to reform these abuses. I only expect that they will be increased by the next Administration. Let me, however, give an illustration. Our compensation is fixed at eight dollars a day. Suppose some gentleman here should go and hire a house in the city of Washington, and call upon

the Secretary of the Senate to give an order to the upholsterers and cabinet-makers, and other gentlemen who keep wares that are suitable for furnishing a house, and the Secretary issues an order for some \$1,500 or \$2,000 worth of furniture—not to be furnished to the Senator—oh, no, sir, the Senator is not to have a dollar's worth of it, but it is to be put into his house, and he is to use it—the United States all the time owning it. According to the argument of the Senator from North Carolina, that would be no abuse. It would be no violation of the law. The Senator would not have received more than eight dollars a day. To be sure there would have been some property paid for; but the United States would own it, and he would have had but the use of it. It is said that this constitutes no compensation, pay, or allowance of these officers. Why? Because the Government own the furniture all the time, and he has had nothing but the use of it.

I have nothing to do with the argument that this is exceedingly convenient. If the compensation paid to the officers of the Navy is not enough, I am willing to go ever so far to increase it to what is necessary. If it is necessary that this allowance should be made, let them have it; but let them have it under the law, and not against the law. That is my complaint. It seems to me that the Secretary of the Navy, when he made this order, was perfectly sensible of the impropriety of it; for I will tell you how it reads: "The allowance of furniture to the several houses provided 'by the Government, at navy-yards, stations, and hospitals, occupied by officers and others, in the service of the Government,' shall be so and so." The Secretary of the Senate might make an allowance to the houses that we occupied, and furnish them at the expense of the Government, and then, of course, there would be no increase of pay, allowance, or compensation to us. We should be receiving only eight dollars a day, and have this in addition.

This system of extra compensation and allowance for rent, for furniture, quarters, traveling expenses, &c., prior to the passage of the act of 1835, had got to be an enormous abuse. By the act of 1835, if I am not exceedingly mistaken, the average pay of these officers was raised nearly one hundred per cent. It was nearly doubled. I think that will be found to be the fact. It produced a good deal of opposition, and a good deal of discussion; but whoever will read the reports at that time will see, that to obviate the objections that were raised against it, and to make this thing palatable to the body who passed it, and satisfy them that the door was to be shut against the abuses which had grown up under the extra allowances for these very things—for fuel, for rent, for quarters, for furniture, for servants, &c.—this very sweeping clause, to which I have called the attention of the Senate, was put in, providing that—

"It is hereby expressly declared"—mark the very pungent manner in which it is expressed—"It is hereby expressly declared, that the yearly allowance provided in this act, is all the pay, compensation, and allowance that shall be received under any circumstances whatever, except for traveling expenses according to orders, for which ten cents per mile shall be allowed."

The Senator undertakes to compare this to the furniture of a ship. Why, there is no comparison at all. Not the least in the world. We all know what a ship is; and we all know what a house is. A ship is a place where a man is ordered for duty, and it is connected with his duty. It is as much a part of the instruments with which he executes his duty, as is the fire-arm which is put into the hands of the soldier or the sailor. Not so with a house and furniture. It may be said that it is convenient for gentlemen to have these things, and that they cannot live without them; that they cannot discharge the duties assigned by the Government without them. The same argument would apply to the officer's food. He cannot go to a navy-yard, and discharge the duties imposed upon him without eating, without drinking, without being clothed. And the argument of necessity, upon which the Senator from North Carolina would justify this abuse—for I must call it so—I

must speak from the dictates of my own understanding—the same process of reasoning which would justify this, from the necessity of the case, because the officer cannot otherwise discharge his duty, would apply to all his personal expenses. It would apply to his food; it would apply to his clothing, and to every single article of expense which it is necessary and convenient for him, in order to enable him to discharge his duty.

Let me not be misunderstood. I have no objection to gentlemen in the Navy receiving this allowance, and receiving it twice over, if it is necessary, or fourfold, if it is necessary; but I do ask that it shall be done by some semblance of law; that it shall not be in its very face a contradiction to the plainest construction which the simplest understanding cannot help putting upon the law. That is what I complain of. I repeat again, that if it is possible for the human intellect to discover variance as wide apart as the two subjects could possibly be, it is the express, pungent, stringent, unequivocal provisions of the law, and in the circular of the Secretary of the Navy, issued, as I contend, by the plainest force of language in contravention and in contradiction of it. Now, I say, while you have such things as these staring you in the face—while you have the construction of an executive officer of the Administration repealing, setting aside, nullifying, and trampling upon a provision of law, it is not, it seems to me, very much worth while to be talking about reforming some abuses which have grown up under the law. Let us learn first to make our laws respected. Let us see that laws are executed where they are plain as language can make them. Then, and not till then, let us begin to talk about reforming abuses.

Mr. BADGER. For the purpose of illustrating the meaning of the proviso which the Senator from New Hampshire has read, he has informed us that it is "expressly provided." Now, I suppose those terms do not help us to understand what is provided; and nobody has ever imagined that what is put down in a statute, and written there as a proviso, is an implied proviso. I think every man must admit that the force of it would have been just the same if the word "expressly" had been left out. It is "expressly provided;" then the question comes up, what is expressly provided? That what is paid to the officers shall be in full for their services, and that no other pay, compensation, or allowance shall be made to them under any circumstances. What is the meaning of that? The pay which is given to them is a sum of money paid into their pockets to be used for their own benefit. It is in full of what? Of all compensation, pay, and allowance. Then, those words must mean something analogous to that thing which is given to them as a substitute for all these matters. I think that is clear. The furnishing of a house for an officer of a navy-yard is not making any addition to his pay; it is not giving him any additional compensation for doing his duty. It is not making any allowance to him at all; not the least in the world. If it is, then the furnishing of the President's House is making an allowance to him; and, if that is making an allowance to the President, then we increase his salary in violation of the Constitution.

But the Senator reiterates over and over again, with a large collection of epithets which do not add exceeding force to what he says, and certainly do not tend to show that what he says is reasonable, that all this is in plain, unquestionable opposition to, and defiance of law. That is the Senator's opinion; is it that of anybody else? Is there a single member of this Senate, but the Senator from New Hampshire, who believes that there is any opposition to law in the order which was made by the Secretary in 1848? I apprehend there is not a single one. The Senator says there is no analogy between the two cases of furnishing a ship and furnishing a house. He says the officer is ordered to the ship to perform a certain duty there, and that the ship is a necessary means of enabling him to perform the duty. That is very true; but do these officers go and quarter themselves at the navy-yards of their own will and

pleasure, and for their own accommodation? Is not each and every one of them ordered to the station to which he goes, whether on sea or on shore? An officer who is living in New Hampshire or Massachusetts receives an order from the Navy Department, to proceed to Norfolk and take command of the navy-yard there. He goes there, and the Government has provided a house for him to live in; is it not necessary to have the house? The Government has built it. The honorable Senator does not object to that. The Government builds the ship. But the Senator says the furniture of a house does not bear the same relation to the house that the furniture of a ship bears to the ship. Why not? The only furniture of a ship that the Government wants for its own purposes, are the guns, and means of making the ship an instrument of defense and annoyance. The sofas, the mirrors, the chairs which are put there—

Mr. CASS. A chair is a chair, wherever it is.

Mr. BADGER. Yes, as my friend from Michigan says, a chair is a chair, whether on board a ship or in a house—I say all these are put there to be used by the officer, and the Government gets no benefit from them. The cases, therefore, are analogous; and if the argument of the Senator from New Hampshire be true, in every instance in which a chair, or any other furniture, has been provided for the use and accommodation of an officer on board a ship, or in which anything has been put on board the ship except what was necessary as means of war, that law of 1835 has been violated. But no man will be so absurd as to maintain that; and, therefore, no man will be—I will not say absurd, but so mistaken—as to maintain the other.

I dislike to see these things raked up to the Senate, for the purpose of casting reflections on the reputations of gentlemen who were at that time at the head of the Department, but who are no longer here. Besides, the Secretary necessarily makes his estimates every session of Congress, in which he states what he wants for this purpose, and the sense of Congress has determined the interpretation which they give to the statute, because they have yearly voted to give the supplies for this as for other purposes.

Mr. BERRIEN. I have been struck with the peculiarity of the discussion with which we have been favored from the chairman of the Committee on Finance upon the subject of deficiency bills. I was gratified at the explanation which was given of the origin of such bills. It was perfectly satisfactory, I have no doubt, to the Senate. But I had little expected, in the discussion of a bill, the object of which was to supply deficiencies to meet the present exigencies of the Government, to have found a general arraignment of the Administration. Sir, I am not prepared to enter into a discussion of that sort at this moment; and I note it merely for the purpose of having it understood by the country that this Administration is capable of a defense when the proper moment arrives for making it.

But I rose particularly for the purpose of replying to the suggestion of the Senator from New Hampshire. So far as regards the perfect analogy of the cases which have been stated by the honorable Senator from North Carolina, [Mr. BADGER.] I think there is not an individual who hears me who doubts it. But one place of refuge was left to the Senator from New Hampshire. It was that, while the appropriation for the furnishing of vessels, and for the furnishing of the President's House, were made by law, and had received the sanction of Congress, this act was done at the sole will of the Secretary of the Navy, entirely without law, and opposed to law. When that suggestion was made, it at once occurred to me that the Secretary of the Navy could not, of his own funds, pay for these articles of furniture; that he must have been furnished by Congress with the funds which were necessary for such a disbursement; and, consequently, that the articles of furniture must be found mentioned in the estimates of the Secretary of the Navy, made to Congress, and had, therefore, received their approbation. I asked, therefore, for any one estimate of the Secretary of the Navy, in order to test that fact; and I now offer it to the Senate. It is the general estimate from the Bureau of Yards and Docks for the year ending June 30, 1850, in addition to the balances remaining unexpended on the first of July, 1849, "for contingent expenses which accrued during

the year, for freight and transportation of materials, for stores, for yards and docks," &c. I need not read them all; but it goes on and says, "for postage of letters on the public service, for furniture for Government houses." There is the precise appropriation, acting upon which the Secretary of the Navy has endeavored to limit this expenditure. Congress has, therefore, authorized the expenditure of this appropriation anterior to the time.

Mr. HUNTER. One remark of the Senator from Georgia renders it necessary that I should say a few words. He complains that I have made a general arraignment of the Administration. I have not meddled with the economy of the Administration, except so far as it is connected with this bill. I was obliged to show—it was my duty to show, so far as I could—what was the deficiency; and, for that purpose, it was necessary to ascertain what it was for. I was obliged, also, to allude, in reference to this matter—because it has been largely canvassed—to the question whether the expenditures were economical. I was obliged to show how far we were responsible, and how far the Administration was responsible. I submit that, in all this, I have not departed from the line of my duty in relation to the deficiency bill. I have not touched the conduct of the Administration in regard to any matter, which was not intimately and immediately connected with this very bill.

Mr. BERRIEN. It was not my purpose to call in question the correctness of the conduct of the honorable Senator. It was my purpose, not to charge him with any departure from his duty, but to express my surprise that the argument by which the Senate would be induced to vote for the deficiency bill should be one which would show the wrong conduct of the Administration under which the deficiency occurred.

Mr. ADAMS. I wish to inquire if there is any existing law authorizing the furnishing of houses for officers?

Mr. BADGER. I cannot answer that. All I know is, that it has been the uniform custom of the Government.

Mr. DAWSON. Money has been frequently appropriated for it.

Mr. BADGER. Yes; every year appropriations have been made for furnishing the houses. I now make the motion to postpone the further consideration of this subject until to-morrow.

The motion was agreed to.

#### RECESS.

Mr. BADGER. I desire now to submit the motion that when the Senate adjourns to-day, it be to meet on Monday next. My friend from Missouri, [Mr. ARCTURUS], this morning, charged me with neglect of my duty to do it; but I now make the motion.

Mr. CASS. The honorable Senator from Illinois, the chairman of the Committee on the Territories, [Mr. DOUGLAS], has been called away by an indispensable engagement which he could not break. I promised him to renew to the Senate his wish that they should meet to-morrow to take up territorial business. I believe, myself, it should be done, and therefore shall vote for it, and in obedience to my promise have mentioned it to the Senate.

Mr. ATCHISON. I shall vote for the motion to adjourn over. I know of nothing that is so pressing in relation to the Territories. There is one bill, in relation to them, that has yet to be reported, which I consider highly important. But that has not been reported, and cannot be acted on to-morrow. Therefore, I feel no interest in it, except a general interest to adjourn until Monday. [Laughter.]

Mr. CASS. The honorable Senator from Illinois stated—and I believe such to be the fact—that if we do not meet to-morrow, the time assigned by the House for the consideration of territorial subjects will have passed away, and the opportunity to take them up will be lost. He mentioned three or four things, not of any special interest to me, but of very great interest to the Territories that require the action of Congress. I hope this will be a sufficient reason for meeting to-morrow.

Mr. ATCHISON. I have not heard from the chairman of the Committee on the Territories, or from any member of it, a proposition to take up any measure connected with the Territories heretofore;

but now the matter, all at once, is of very pressing interest, because Monday has been set apart by the House for the purpose of acting on such business.

Mr. CASS. The honorable Senator from Illinois mentioned it half a dozen times.

Mr. ATCHISON. I do not recollect it.

The motion to adjourn over was agreed to.

#### REPORTS AND PETITIONS.

Mr. JONES, of Iowa. If in order, I desire to make a report.

The PRESIDENT. It can only be done by unanimous consent, as the rule is that private bills shall be considered on Fridays.

Mr. JONES. I am instructed by the Committee on Pensions, to which was referred the petition of Susan Campbell, to report it back, and ask for the adoption of the following resolution:

Resolved, That the petition and accompanying documents be transmitted to the Commissioner of Pensions, and that the committee be discharged from the further consideration thereof.

The resolution was agreed to.

Mr. PRATT. As it may not be in my power to be here on Monday, I will now, as instructed by the Committee of Claims, report a bill for the relief of Hodges & Lansdale, and the legal representatives of Rinaldo Johnson, deceased.

The bill was read a first time, and passed to a second reading; and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, reported a bill for the relief of Hiram Paulding; which was read a first time and passed to a second reading, and the report was ordered to be printed.

Mr. PRATT. An officer in the Navy—Lieutenant Pinckney—who is just ordered to sea, has sent me a memorial which he is very anxious to have presented to the Senate. It represents that in the publication of the account of Commander Wilkes's exploring expedition, great injustice, detrimental to his character as a professional man and officer of the Navy, has been done him. He first applied to the Navy Department on the subject; and a letter affixed to his petition from the Secretary of the Navy, states that inasmuch as this book has been published by order of the Senate, the Navy Department could not assume jurisdiction of the matter. There is also a letter of Commander Wilkes, written in 1839, when a memorial was presented by the same gentleman, in which he promised that in future editions of the work the necessary corrections should be made in order to make it conform to the truth as represented by this officer. He now says that whilst he was at sea two editions of the work have been published without making the promised amendments. I ask that the memorial be referred to the Committee on Naval Affairs.

It was so referred.

Mr. UNDERWOOD presented the petition of George Morris, a soldier who had been taken prisoner and kept with the Indians three or four years, asking a grant of land as compensation for the detention; which was referred to the Committee on Public Lands.

#### PAPERS REFERRED.

Mr. UNDERWOOD. Early in the session I made the motion to refer the petition of the heirs of Isaac Shelby to the Committee on Revolutionary Claims; but by some means the proper entry has not been made. I now renew the motion to take the papers from the file and refer them to that committee.

The motion was agreed to.

#### H. B. DORSEY.

Mr. GWIN. The memorial of H. B. Dorsey was referred to the Committee of Claims, and reported upon adversely by that committee. I have ascertained, by inquiry of the Commissioner of Indian Affairs, that it is a claim that properly belongs to the Committee on Indian Affairs. I wish now to move to refer it to that committee.

The PRESIDENT. When was it presented?

Mr. GWIN. It was presented this session, by myself. It was referred to the Committee of Claims, and reported back adversely, and is now on the table for consideration. It went to the wrong committee. It is a claim which has arisen out of Indian depredations. My motion is to refer it to the Committee on Indian Affairs, that it may have the administrative examination of the bureau, under the law.



No objection was made, and the motion was agreed to.

#### NOTICE OF A BILL.

Mr. BADGER gave notice of his intention to ask leave to introduce a bill to prohibit the public execution of criminals within the District of Columbia.

#### BILL INTRODUCED.

Mr. MALLORY, agreeably to previous notice, asked and obtained leave to bring in a bill to regulate the surveying and sale of lands belonging to the United States, in certain cases; which was read a first and second time, and referred to the Committee on Public Lands.

#### RESOLUTIONS.

Mr. DODGE, of Iowa, submitted the following resolution; which was considered by unanimous consent and agreed to:

*Resolved*, That the report of Captain Stansbury upon his expedition to the Great Salt Lake, which was ordered to be printed at the last special session of the Senate, be executed, together with the extra numbers ordered during the present session, under the special direction of the Topographical Bureau.

Mr. HALE submitted the following resolution for consideration:

*Resolved*, That the Secretary of the Navy be directed to inform the Senate how many officers of the Navy, if any, are receiving greater compensation than is provided by the act to regulate the pay of the Navy of the United States, passed March 3, 1835: if any officers are receiving such greater pay, the amount thereof, their names, the time during which they have respectively received such pay, and the laws or authority by which they received it.

#### EXECUTIVE SESSION.

On motion by Mr. GWIN, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened,

And the Senate adjourned till Monday.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, April 16, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

#### THE PUBLIC PRINTING.

The SPEAKER stated, as the first business in order, the motion to lay upon the table the report and resolutions in reference to the printing of Congress, on which motion the yeas and nays had been ordered on yesterday.

Mr. EDGERTON moved that the rules be suspended, and that the House resolve itself into a Committee of the Whole on the Private Calendar.

Many VOICES. "Oh! no; finish the printing business."

The question was then taken on Mr. EDGERTON's motion, and on a division, there were—ayes 35; noes not counted.

So the motion was not agreed to.

The question recurring upon the motion to lay on the table,

Mr. GORMAN moved that there be a call of the House.

Mr. JONES, of Tennessee. I presume that the object of that motion is merely to have a call of the roll, in order that members may have time to come in; and I therefore ask for the yeas and nays upon it.

The yeas and nays were ordered, and the question being put, it was decided in the negative—yeas 39, nays 106.

So a call of the House was not ordered.

The question was then taken on the motion to lay upon the table; and it was decided in the negative—yeas 81, nays 89; as follows:

YEAS—Messrs. Willis Allen, William Appleton, Thomas H. Bayly, Bartlett, Bowie, Bowne, Briggs, Brooks, Burrows, E. Carrittong Cabell, Chastain, Clark, Cobb, Cullom, John G. Davis, Dawson, Dean, Disney, Dockery, Dunham, Faulkner, Thomas J. D. Fuller, Gaylord, Gentry, Gorman, Hamilton, Hammond, Haven, Hendricks, Higginson, Andrew Johnson, Robert W. Johnson, George W. Jones, George G. King, Landry, Letcher, Lockhart, Mace, Martin, McCorkle, McLanahan, McMillin, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Nabers, Outlaw, Samuel W. Parker, Penn, Polk, Porter, Price, Riddle, Ross, Russell, Sackett, Savare, Seimensmerhorn, Schoolcraft, Scurry, David L. Seymour, Ongen S. Seymour, Skelton, Staudt, Frederick P. Stanton, Richard H. Stanton, Stone, St. Martin, Sutherland, Taylor, Benjamin Thompson, George W. Thompson, Thurston, Ward, Watkins, Wells, Alexander White, Wilcox, and Yates—21.

NAVS—Messrs. Aiken, Allison, John Appleton, Ashe, Averett, Barrere, Beacock, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Carter, Cas-

kie, Chandler, Chapman, Chugman, Curtis, Dinmick, Doty, Eastman, Edgerton, Edmundson, Ficklin, Fitch, Florence, Floyd, Fowler, Giddings, Goodenow, Goodrich, Green, Grey, Grow, Hall, Harper, Isham G. Harris, Sampson W. Harris, Denn, Hibbard, Horsford, Houston, John W. Howe, Thomas M. Howe, Hunter, Jackson, James Johnson, John Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kuhns, Kurz, Mann, Humphrey Marshall, Mason, McDonald, McNair, McQueen, Meade, Millson, Miner, Molony, Morrison, Murray, Newton, Olds, Orr, Andrew Parker, Peaslee, Pennington, Perkins, Phelps, Powell, Rantoul, Robbins, Scudder, Smart, Smith, Snow, Benjamin Stanton, Thaddeus Stevens, Sweetser, Venable, Walbridge, Wallace, Washburn, Addison White, and Woodward—89.

So the House refused to lay the report, and the motions in reference thereto, upon the table.

Mr. ORR demanded the previous question.

Mr. STANTON, of Ohio, moved that the rules be suspended, and that the House resolve itself into a Committee of the Whole on the Private Calendar.

Mr. ORR. Which of those motions takes precedence?

The SPEAKER. In the opinion of the Chair, the motion to go into a Committee of the Whole House takes precedence.

Mr. ORR. I desire to inquire of the Chair what would be the effect, if the motion of the gentleman from Ohio should prevail, and the House should go into a Committee of the Whole House, and this question should not be reached to-day? Would not this subject go to the Speaker's table?

The SPEAKER. It would not.

Mr. ORR. Then, when would it come up?

The SPEAKER. It would come up as the unfinished business to-morrow morning.

[Cries of "Let us finish it now."]

Mr. POLK. I would like to know of the chairman of the Committee on Printing, whether it will not facilitate the action of that committee, if the House act upon this subject at once, without deferring it by a reference to a committee?

The SPEAKER. That interrogatory can only be made by unanimous consent.

[Cries of "Object!" and "Let us take the vote."]

The question was then taken on Mr. STANTON's motion, and it was not agreed to.

The question recurring on seconding the demand for the previous question.

Mr. STANLY. I ask what is the question before the House?

The SPEAKER. There is a motion pending, to refer the report of the Committee on Printing to the Committee on the Judiciary, with certain instructions.

Mr. STANLY. Is there no other motion pending?

The SPEAKER. Yes; there is a motion pending to refer the report to the Committee on Printing, with the same instructions; and there is a motion also pending to amend the instructions.

Mr. STANLY. I hope the several propositions will be read.

The SPEAKER. If there is no objection, the papers will be read.

Mr. JOHNSON, of Arkansas, objected.

Mr. STANLY. I must know what I am called to vote upon, and therefore I move that the propositions be read.

The motion was put, and agreed to.

Mr. HOUSTON. I desire to ask a question, before the reading commences, and before the previous question is seconded. I understood the gentleman from South Carolina [Mr. Orr] to propose to strike out "the Judiciary Committee," and to insert "the Committee on Printing," and that that amendment was accepted by the gentleman from Mississippi, [Mr. Brown.] Is that so?

Mr. BROWN, of Mississippi. No; I did not accept it.

Mr. ORR. That amendment is now pending.

The Clerk then read the various propositions.

The question being upon seconding the demand for the previous question, it was put, and, on a division, there were—ayes 84, noes 53.

Mr. BRIGGS demanded tellers on the second.

Tellers were ordered, and Messrs. Brooks and Hall were appointed; and the question being put, the tellers reported—ayes 86, noes 43.

So the previous question received a second.

The question being, "Shall the main question be now put?"

Mr. DOTY demanded the yeas and nays.

Mr. FITCH. I am confident there is a misap-

prehension as to the effect of the main question. It brings us, I believe, first to vote on the proposition to strike out "the Committee on the Judiciary," and insert "the Committee on Printing."

The SPEAKER. The first vote is on the amendment to the instructions.

Mr. FITCH. That is, on the adoption of the bureau bill.

The SPEAKER. On the adoption of the proposition of the gentleman from Pennsylvania, [Mr. FLORENCE.]

Mr. FITCH. That is the bureau bill—is it not?

The SPEAKER. It is. When that question is decided, the Chair will put the question on referring this whole subject to the Committee on the Judiciary; and if that fails, then upon the motion to refer it to the Committee on Printing. That is the order in which the Chair proposes to put the questions.

Mr. FITCH. Are the instructions imperative? I understand not.

The SPEAKER. They have been read several times.

Mr. HALL. I wish to make an inquiry of the Chair. If these instructions are all rejected; will it then be in order to move additional instructions?

The SPEAKER. It will not. Under the operation of the previous question, no new matter can be introduced.

Mr. HALL. Will not the previous question be exhausted, when all these resolutions are rejected?

The SPEAKER. Not until the whole matter is disposed of.

Mr. ORR. With all due deference to the Chair, I have a different opinion with reference to the order of questions. My proposition was a motion to strike out "Judiciary Committee," and insert "the Committee on Printing;" and I submit that the question must first be put upon my motion.

The SPEAKER. Our rules provide that, when motions are made to refer a matter to the Committee of the Whole on the state of the Union, or to a Committee of the Whole House, and to other committees, it shall be the duty of the Chair to put the question upon sending it to the Committee of the Whole first, and then on the motions to refer to the other committees, in the order in which they were made. The Chair thinks that the most convenient mode of reaching the object of the gentleman from South Carolina is, to take the vote upon the reference to the two committees in the order in which they were proposed. The result will certainly be the same.

Mr. POLK. Is it in order now to move to lay this whole matter upon the table? We are getting into such confusion, that I desire to submit that motion.

[A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., their Secretary.]

Mr. POLK. I will withdraw my motion for the present.

Mr. BROOKS. I rise to a point of order. I desire to inquire if it will be in order to move to postpone this matter to a day certain?

The SPEAKER. It is not in order during the pendency of the demand for the previous question.

Mr. BROOKS. I beg to call the attention of the Chair to a decision made by him on the 27th of February upon this very point. When the bounty land bill was up before the House, it was decided that, after a demand for the previous question upon the final passage of the bill, a motion to postpone to a day certain was in order. From that decision an appeal was taken, and the Chair was sustained by the House.

A MEMBER. The Chair has since reversed that decision.

The SPEAKER. The decision of the Chair was, that a demand for the previous question, or the ordering of the main question, did not cut off a motion to postpone to a day certain. Since that time, however, the Chair has reversed that decision, for reasons which he then briefly stated. The Chair is now very clear in the opinion that after the demand for the previous question has been made, a motion to postpone to a day certain cannot be made.

Mr. BROOKS. Do I understand the Chair to

decide that a motion to postpone to a day certain is not in order?

The SPEAKER. It is not, for the reason that the demand for the previous question is pending.

Mr. BROOKS. But that decision of the Chair was reversed the other day.

The SPEAKER. If the gentleman from New York will allow the Chair, he will say that the gentleman has not stated the decision to which he alludes correctly. That was not a case equivalent to the present one. There was then a motion pending to postpone to a day certain, pending which the previous question was demanded and seconded, and the main question was ordered to be put. The Chair then decided that the previous question did not cut off the motion to postpone. That was the decision to which the gentleman refers, and the circumstances of the case were totally unlike the present. No such motion was pending in this case when the previous question was demanded—none whatever. The decision of the Chair is, that no new motion can be made to amend, to commit, or to postpone while the previous question is pending.

Mr. BROOKS. After the main question has been ordered to be put, will it not be in order then to make the motion?

The SPEAKER. It will not. No such motion can be made during the operation of the previous question. In the other case, which has been alluded to, the question was, whether the ordering of the main question affected a motion pending before it was ordered. Since that time, however, the Chair has become satisfied that his decision was incorrect according to parliamentary law.

Mr. BROOKS. I have no doubt the decision of the Chair is correct. I wish only to know how to be guided in future.

The SPEAKER. The Chair is willing to have his decision criticised, corrected, or exposed to the House.

Mr. DOTY. I will withdraw my demand for the yeas and nays.

Mr. MARSHALL, of Kentucky. I desire to inquire of the Chair, whether, if the main question is not ordered to be put, the question will not come up again to-morrow and every succeeding day, until it is disposed of?

The SPEAKER. It will come up to-morrow. Mr. MARSHALL. Then it cannot alter the question at all, if it is postponed.

The main question was then ordered to be put—ayes 104, noes not counted.

Mr. POLK. I believe now, that by the decision of the Chair, a motion to lay the whole matter on the table is in order. I make that motion.

The SPEAKER. As there has been no action by the House affecting the proposition before the House, since a similar motion was made and voted down, the Chair repeats the decision made some weeks ago, by him, upon that point, that the motion is not, at this time, in order.

Mr. POLK. If I am not mistaken, there has been two distinct votes taken since the other motion, to lay upon the table, was voted down.

The SPEAKER. There has been no amendment voted on, no vote upon sending it to a committee, nor anything which would be likely to change the disposition of the House with reference to it; and upon that ground, the Chair decides that the motion is not in order. That has been his decision heretofore, and he is disposed to adhere to it, unless overruled by the House.

Mr. STANLY. Is it not now in order to move to postpone to a day certain?

The SPEAKER. Not in the opinion of the Chair.

Mr. JOHNSON, of Arkansas. As we have progressed thus far in this business, and as we have been always taking steps backward at every opportunity, I move to reconsider the vote just taken, by which the main question was ordered to be put, and to lay the motion to reconsider upon the table—if the motion is in order—so that we cannot retrograde in our action.

The SPEAKER. That motion is in order.

The question was put, and the motion to reconsider was laid upon the table.

Mr. GORMAN. Mr. Speaker, I propose to address the House.

The SPEAKER. The gentleman is entitled to one hour to close the debate.

Mr. CLINGMAN. I rise to a point of order. The Chair will recollect that it has been twice de-

cided, the present session, that, upon a motion to refer, that right did not arise. I also make the further point, that the gentleman from Indiana, yesterday, declared to the House that he had made no report from the Committee on Printing, and if such was the fact he has no right to close debate.

Mr. HOUSTON. But the House decided that he did make a report.

Mr. POLK. I desire to say to the gentleman from North Carolina, that he appealed to me yesterday, and I withdrew the motion to lay upon the table, in order to give him an opportunity to make a speech.

Mr. CLINGMAN. I am aware of that. I know that it is a well-settled question, that the chairman of the committee has the right to be heard before the question is finally disposed of; but I doubt whether he can do so upon the motion to refer.

The SPEAKER. The 34th rule provides that "No member shall occupy more than one hour in debate in the House or Committee; but a member reporting the measure under consideration from a committee may open and close debate."

The Chair thinks that, under this rule, he has no discretion, and overrules the point of order.

Mr. CLINGMAN. I appeal from that decision, and upon it I ask the yeas and nays.

Mr. BAYLY, of Virginia. I move to lay the appeal upon the table. The Speaker has decided this matter as his predecessor did.

The question was put, and the appeal was ordered to lie upon the table.

So the decision of the Chair was sustained.

Mr. GORMAN. I did not intend again to address the House upon this subject, after the brief explanation I gave when I made what has been determined by the House to be a report. A disposition upon the part of the House was manifested to hear what the Committee on Printing had done in relation to this matter. Whispers went round this Hall, that there was something behind the committee did not desire to have made known. My own honor, as I then stated, and the honor of the committee, demanded that I should report the facts of the case to the House, for its information. I was not instructed by the joint committee to make that report, and I did not intend that it should be considered as a regular report from that committee. I do not propose now to go into the general merits. I have a few things, however, that I desire to say, and I shall endeavor to confine myself as much as possible to the points which I desire the House to hear me upon.

What is the state of things in relation to this matter now? The Committee on Printing, under the law which has been read over and over again during this debate, have the power to remedy any neglect that may occur on account of the inability of the public printer to execute his contract. That committee, by a unanimous vote, as has been stated to the House, declared that Mr. Hamilton, the public printer, had failed to execute his contract in almost every particular, and there was no remedy left them but to adopt such measures as their judgment in the premises might dictate. Under the power given them, they did execute that judgment in the best manner they could under the circumstances. But it so happened, as the committee was constituted, that no one could command the votes of a majority of the committee; and, consequently, the printing which the public printer had neglected to execute, was not taken from him. We found that some seventy-six of your reports, which had been placed in the hands of the public printer, had never been touched; we found that of all the work which had been presented to the committee for their examination, not a single copy came up to the requirements of the contract. In view, then, of the total failure of the public printer to execute his contract, the committee deemed it their duty to adopt measures to get some one else in his place to do what he could not or would not do. This, I suppose, will sufficiently explain the reasons for our action.

Now, Mr. Speaker, of the motives which have been attributed to that committee, I have something to say; and, if I deal in words which bear as strongly upon others as the implications of others have upon this committee, I trust gentlemen will bear with me. And, if the language I shall use towards them shall hurt, they know where it comes from. That is understood.

It has been said that this committee acted with

a view of accomplishing a party purpose to plunder the public Treasury; not that the committee proposed to plunder the public Treasury themselves, but that Donelson & Armstrong, and the editor of the Republic, proposed a coalition to this end. That is what I understand the gentleman from North Carolina [Mr. CLINGMAN] to say. Now, sir, I do not know what understanding may have taken place between the editor of the Republic and the editors of the Union; but I wish to say to the gentleman from North Carolina, that the Committee on Printing never consulted with Gideon & Co., not one word was ever heard from them. No one was consulted with, except Donelson & Armstrong, from the beginning to the end, so far as my knowledge extends, unless some Whig member of that committee may have consulted with others in private. If they did, it never came to the knowledge of the committee, as a committee, nor to me individually. This subject of public printing, therefore, has always been a bone of contention before the country. Now, I say again, that that committee have been acting upon this matter for two months. They have been trying to adopt some measure to remedy this neglect for more than two months. For myself, I can say to the gentleman from North Carolina, [Mr. CLINGMAN,] that I have, from the beginning, and until the last final vote was taken, voted against the Republic. That last and final vote was given the day before I reported what I did to this House. I have continued rather faithful against them, than faithful for them, for I had been voting for others to have that patronage from first to last.

Whatever Boyd Hamilton could not do under his contract—whatever he would fail to do—that part, and that part alone, did I ever think we had a right to give to anybody else. Now, the gentleman from North Carolina [Mr. CLINGMAN] says that we undertake to impose upon this House a public printer without consulting them. Is that the record? We undertake to propose to certain printers in the city of Washington to do—what? To do some work which the public printer has failed or neglected to do. How do you know says my honorable friend from North Carolina, [Mr. CLINGMAN] that he has failed? Have we not examined the specimens? Have we not examined the copies which he furnished to us? Have we not examined the character and style of the printing, the impression, the ink, the paper? That is our business, and if we had failed in that, we should have been derelict in our duty, and I should have failed to recognize in myself a principle which I would apply to others, and I should have failed to do that myself which I denounced others for not doing, if I had not looked to the type, the press-work, the ink, the paper, and everything; to see whether or not it complied with the contract. Then, have we undertaken to elect a public printer? I understand that when you propose to elect a public printer, you propose to give into his hands the whole printing of Congress. We have made no such proposition. A decided majority of the Printing Committee, so far as I have understood them, are in favor of giving the contract system a full and fair test; and, from the indications in this House, I should judge that there is a majority in this House in favor of giving that contract system a fair test. The gentleman from North Carolina [Mr. CLINGMAN] insists that it will not be giving it a fair test. He tells the House that the action of the committee will destroy the contract system, when that committee comes up and says that this public printer shall have every job that he can do in accordance with his contract. When we show in that report that he has failed to do it—when we show that we do not propose to give to any one else a single job, except what he fails or neglects to do, in the language of the law, we also say that we intend to hold him to a strict accountability upon his bond. We say that the next remedy is, to put that bond in suit, to recover whatever excess we have to pay. We are carrying out the letter of the law, precisely as you have directed us. The law of the land has prescribed those duties. It says that your public printer shall be held responsible for any excess paid for printing, which he has failed or neglected to perform, over his contract price. We propose to hold him responsible for this excess, if we have to pay any.

But the gentleman from North Carolina, [Mr. CLINGMAN,] in the face of these facts, says to the House that we are undertaking to destroy the con-

tract system, and that if we are not undertaking to destroy the contract system, he says the practical effect of our action will be to destroy it. How can that be the effect of our action, if we hold this man responsible, as the law requires? But gentlemen upon this floor from that side of the House, come to me and say, if we hold this poor man to his contract, under the law, he will be ruined, and other innocent persons will be ruined. We have come up to the stern letter of the law, and have cast aside all questions of clemency and mercy, supposing that mercy to be in your hands, but not in ours. We have met the question boldly in the face, and we have said that the contract shall be carried out in accordance with the instructions which that law lays down. Yet this House has been told that we have attempted to do away with the contract system. We deemed that we had no power to do so.

In the next place the gentleman from North Carolina [Mr. CLINGMAN] says that we have offered a resolution which the former chairman of the Committee on Printing [Mr. BORLAND] reported, but that we adopted another and different course. Certainly we did; and had the gentleman exercised his usual sagacity, he would have seen the reason for it. When the proposition was first made to give the future printing to some one beside the contractor, the question immediately sprung up, whether or not we had the power to do that. The gentleman from New York, [Mr. HAVEN,] one of the members of the committee, who has the reputation of being as good a lawyer as any other in the country, suggested that it was doubtful whether that power could be exercised by the committee. What did we do? Persist in doing a thing about which there was a doubt of our power to do? No! We conceived, therefore, that we had no power to make this transfer for the future printing. Whatever the contractor fails or neglects to do of the printing that is ordered now, according to his contract, we may make arrangements to have done. That was our argument there; it is our argument here, and I am satisfied it convinces everybody here. The gentleman himself must know that that motive operated upon us.

If the motive had operated upon us to go contrary to the law, and to carry out a resolution which the gentleman says was contrary to our power, then he would have come up here and have said that we exercised a power not granted by the law, and he would have sustained it, too. But we discovered the error ourselves. We retraced our steps. We adopted the very language of the law, and reported that to the country, "to remedy any neglect of the public printer to comply with his contract." There we stopped. That gentleman and this House is convinced that we controlled our action precisely according to the letter of our power, and went not one inch beyond it. Our powers as a committee are laid down clearly in the law of 1846, which reads as follows:

"And be it further resolved, That a committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a Committee on Printing, which shall have power to adopt such measures as shall be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a *pro rata* reduction in the compensation allowed, or to refuse the work altogether, should it be deemed inferior to the standard; and in all cases, the contractor and his securities shall be responsible for any increased expenditure consequent upon the non performance of the contract. The committee shall audit and pass upon all accounts for printing, but no bill shall be acted upon for work that is not actually executed and delivered, and which they may require to be properly authenticated."

Now, sir, after carefully perusing this law, and the powers granted, and the duties enjoined, it would take more than the gentleman's declaration, here or elsewhere, to convince me that there is a man upon this floor, of any party, who believes that the committee has transcended its powers in any single point, or in any contingency. I do not believe a word of it, when the pretense is set up that we exceeded our powers. You do believe, in my opinion, that we have done exactly what the letter of the law authorized us to do. He says, that, for political purposes, we undertook to give it to Donelson & Armstrong.

Mr. CLINGMAN, (interrupting.) Will the gentleman allow me a moment?

Mr. GORMAN. If I have misrepresented the gentleman, I will.

Mr. CLINGMAN. My remark as to the gentleman from Indiana [Mr. GORMAN] being influenced by political bias, was founded upon a statement which I read from the Congressional Globe. It is from the gentleman's speech upon the census printing. I will read but a few sentences:

"I ask my friend what more there is in this transaction? Donelson & Armstrong are to do it, and it is complained because their names are inserted here. I tell you, if that contract can be given them, so far as my influence and vote go, they shall have it. Why will I select them in preference to other Democrats? I will do so, I tell my friends, because they are the organs of the Democratic party. Is that plain enough? Is that understood?"

These are the grounds upon which I based my remarks.

Mr. GORMAN. I repeat them now, and I never uttered a sentiment more true than that. The gentleman has not driven me from the record. I stand there yet, and the man who tells me that he is not a party man, he is, as I stated before, a kind of animal that I have not often seen in human shape in this country. But I had the candor to come out on that occasion, and state boldly that I would give it to a political friend, where I could do it upon terms equally fair as those offered by a political foe, in preference to that foe. And I apprehend that there is not a man upon the Whig side of the House, who would not have done the same thing, if the consideration upon each side were equal.

But to the point. The gentleman from North Carolina [Mr. CLINGMAN] says I was actuated by political motives. The first motive which actuated me was to discharge my duty, and to place the public printing before the country. The next motive was to look about and see whom we could get to perform the work, as the public printer had failed to perform it in obedience to his contract. Was that a legitimate step? What other step could we have taken, than to look about and see who could perform the duty that your public printer had failed to perform? Was not that the next legitimate duty of the committee? It was. Then comes up the question, to whom shall it be given? First, the committee considered and proposed to give it to A, B, C, &c. To whom could we give it? Almost every printer in the city of Washington was proposed. There could be no concurrence of opinion. As a matter of course, in obedience to what I said before, in my speech upon the census printing, I preferred to give the contract to a political friend, instead of to a political foe, where the terms were equal. I acted upon that principle, and I shall continue to act upon that principle.

In the next place, what did we do? We laid down the prices that we agreed to give. Those prices were those contained in the recent bid of John C. Rives. The gentleman says that John C. Rives's bid was higher than that of Towers. I have said that I proposed Towers's bid; but I was satisfied, by a calculation, by deducting the sixty-nine per cent. upon the long numbers, that Rives's bid was the cheapest to the country, and acting under that conviction, I accordingly agreed to that bid.

What next, sir? Why, it is now stated in this morning's Globe, by Mr. Rives, that his bid was higher than Towers's. If it is, Mr. Rives led his friends, and myself particularly, into an error; for he published, over his own signature, and in his own paper, of 13th December, 1851, as follows:

"As I am the lowest *bona fide* bidder for the greatest portion of the printing of Congress, and have made ample preparation to execute all that may devolve upon me, I have felt it my duty to assert my claim; and I herewith tender as security, Messrs. John W. Maury and George Parker, of this city—as sufficient men as can be found anywhere—who are prepared, as you will see by the inclosed, to enter into bond for the execution of this work, according to the terms of your advertisement and my bid."

"I am ready to verify the statements of this note by testimony before you. But if, as agents for letting the printing of Congress, you should not determine to set aside a sham bid in favor of the *bona fide* injured bidder, (according to the usage in the Executive Departments of this Government,) but choose, rather, to submit the matter to the body immediately interested, I beg leave respectfully to solicit, through you, an investigation of the case by a committee of Congress."

I can say to you, and to this House, that if my vote controls it, that contract goes to no man that does not agree to do it as cheaply as any responsible bidder under the law. Gideon & Co., or Donelson & Armstrong, have never proposed to have a stipulated price over and above either Rives's or Towers's bid. They did not ask the

committee to give them this or that price. They only asked the committee for the printing, if any one but the contractor got the work. Indeed, Gideon & Co. never asked the committee for anything, that I know of. I asked the committee, in behalf of Donelson & Armstrong, for it. But I tell this House that Gideon & Co.'s hands are clean of this. They never talked to me, and I did not know Mr. Gideon until after the final vote was taken. If there has been any coalition on the part of the Printing Committee, they could, and more readily would have coalesced, as a matter of course, with some other printer than that of the Republic.

But, sir, let me look one moment at this question, as presented by the gentleman from North Carolina, [Mr. CLINGMAN,] and the gentleman from Mississippi, [Mr. BROWN;] for I conceive, of all the speeches made upon this subject, that gentleman [Mr. CLINGMAN] has presented the most unfair issues. He has presented them with that degree of force which usually characterizes his ability upon the floor, but he did it in that kind of iron-heeled way which would seem to carry that *imperium in imperio* manner that I do not think proper to submit to. When any gentleman undertakes to charge coalition, their hands should be clean. It is said, sir, in law, that when you come into a court of justice for equity, you must come in first with clean hands. Now, sir, how did we give this printing to these two men? The National Intelligencer was one of the public presses of the Whig party. The Southern Press was a kind of "quasi" organ of the South, of what is called State-Rights men; and I have one word upon that question of State-Rights to say, at the proper time. I believe the Southern Press is composed of one Whig and one Democratic editor. I believe Mr. De Leon was always a Whig, and I have never heard that he has changed. Now, as to this coalition, if there had been a disposition on the part of the committee to make a coalition they had the opportunity tendered them by the Southern Press. I state to the gentleman from North Carolina, from information, that a distinguished and worthy Southern gentleman, the editor of a newspaper in Columbus, Georgia, came to this place, and propositions and arrangements were upon foot, as I have understood, for the purpose of making him editor of the Southern Press. I have also understood that he was to come out and declare his acquiescence in the compromise, and declare himself in favor of the nominee of the Democratic party. He used the above words in conjunction with Southern men I learn. Could not there have been an alliance here that would have suited part of the opposition of this House? and could not part of the public printing have been given to them? Could we not have made such an arrangement as that? I say we could, as I have been informed.

But, sir, that gallant man, General Armstrong, who has stood the fire that tried men's souls, and who bears upon his person the marks of his country's foes, rejected it. Not because the association would have been disagreeable personally, but because he wanted to avoid any combinations that might be charged as coalitions. I, sir, was opposed to any alliance with any press, North or South, East or West, but the Democratic organ. You would have had an alliance here, if you had taken the editor of the Columbus Times, as I learn. If you could have had him at the head of the Southern Press, you would, in my opinion, have been satisfied, and we would not have been compelled to answer the charge brought against us here, of bargaining and coalescing. The extremes might then have been satisfied. Possibly the Abolition organ's friends—the National Era—might have yet been refractory without a slice. That is the first start of all this coalition, and the first thing I ever heard of it was, that it was rejected by one of the proprietors of the Union. On the other hand, I did not hear of Mr. Fisher, or Mr. De Leon making a suggestion in reference to this matter; but I afterwards learned that such suggestions were being made quietly in the rotunda, at the National Hotel, and in the street. The proposition crept to the ears of gentlemen upon that committee, that Fisher would like to have a slice. And now, sir, owing to that failure, possibly, I see the two gentlemen from North Carolina, and some other gentlemen on this floor, whom I could name, of extreme opinions upon the doctrine of State-Rights, attacking



Donelson & Armstrong, right and left, and for no other reason, as I am induced to believe, than that they had opposed the action of the Nashville disunion convention, and would not submit to the doctrine of the right of secession *without cause*, and at the will and pleasure of a State.

The gentleman from North Carolina [Mr. CLINGMAN] would not have me call him a Disunionist, for I suppose that he would deny it in its offensive sense. But the gentlemen who have been known as Secessionists or State-Rights Secessionists, it seems are determined to proscribe the friends of the compromise if they can. I know that most of the so-called State-Rights men are sound and thorough Democrats. But, sir, we ought not and cannot submit to be ruled or ruined by a small section of the party any more; we have felt this before, and have been defeated by it, and yet have tolerated their recreancy; but I bid adieu to the hopes of success if it has to be purchased at the expense of our long-established principles. Defeat is much better than success, if we are to be dragged into a toleration of factions and fanatics, North or South. The gentleman from North Carolina led off the last Congress with denunciations, strong, loud, and burning against this glorious Union. Sir, the first voice that was heard here last Congress sending denunciations against this Union, and the action of this Government under the Constitution of the country, came from that gentleman from North Carolina. That war he has kept up with a perseverance worthy of a better and more patriotic cause; up to this hour he stands here ready to destroy the harmony of both the great parties of the country, his object being seen only in the distance. Sir, parties are essentially necessary in a liberal Government like ours—they hold in check the usurpation of power; they check the extravagance of Government; they act as censors over each other's error; and are calculated to stimulate all to a higher national patriotism. He may say he loves this Union, but he has a very exalted opinion of a Southern Confederacy. His acts, his record, his conversation, are all to that point, and have been ever since I have known him. I would like to know now where is the combination? I see a cordiality between these extremes that is big with meaning whenever any question comes up involving, directly or indirectly, or even by implication the compromise measures of the last Congress—my friend from New York, [Mr. KING,] with GIDDINGS & Co., and the Southern extremes, cheek-by-jowl, in fraternal coöperation, to proscribe and put aside Donelson & Armstrong, who are known to be as true men and as true Democrats as any in the land. Sir, if these elements are to triumph, and every Democrat is to come under their ban, defeat is preferable by far. It is folly to hearken to professions of acquiescence in these measures, if it is to give them power to proscribe whom they please. In this coalition the venerable gentleman from Ohio [Mr. GIDDINGS] has been faithful, and promises fair to keep the faith. Keep the faith, my venerable friend! [Laughter.] Be faithful to your instincts.

Sir, where is the next coalition? The gentleman from Mississippi, [Mr. BROWN,] who prides himself upon his ultra Southern views, after he had made his speech the other day, and had charged coalition upon this subject, who came up and almost enveloped him in their eager arms? Why, the honorable gentleman from New York, [Mr. PATTERSON KING,] the leader of the Free-Soil party, and the honorable gentleman from Massachusetts, [Mr. RANTOUL,] and the honorable gentleman over the way, [Mr. STEVENS, of Pennsylvania.] All were cordial to him indeed, and after he concluded his remarks, their cordiality seemed most delightful, and the association highly agreeable. What coalition is this, sir? A coalition of gentlemen, not to break down the Republic—for when I come to Democratic gentlemen of these ultras North and South, and ask if they will sustain Donelson & Armstrong, proprietors of the only Democratic press of the Metropolis, if we give out a portion of this printing to them which the printer fails to execute, and which we have under the law the power to give, they answer invariably No, no, no. Of course Whig gentlemen, upon that side, will not vote for them alone. Now, they say, they will not agree to give patronage to friend or foe, unless they let them alone in their extreme doctrines; especially do they propose to vote against

Donelson & Armstrong, who are known to be sound, consistent, faithful, talented Democrats. Where did you learn that Democracy that would not permit a committee of your House to give a fair contract, at reasonable prices, to a political friend on equal terms with others? But if it is too high or too extravagant a price, you have a right to object to it as guardians of the public Treasury of your country. But, sir, do you deny that the Abolitionists upon this floor, and such gentlemen occupying such extreme grounds as the gentleman from North Carolina, [Mr. CLINGMAN,] and my friend Mr. VENABLE, and such gentlemen on the other extreme of this House, intend to break down Donelson & Armstrong?

Mr. VENABLE. I would simply ask my friend—

Mr. GORMAN. I meant you as well as the others; but do not take much of my time.

Mr. VENABLE. I rarely take anybody's time. I will merely say, sir, that if the Free-Soilers and Southern-Rights men would combine and keep people from plundering the Treasury, that they are a more honest party than those who combine to let men in the Treasury, either at the gable-end or at the door.

Mr. POLK. Does the gentleman intend to make the slightest imputation that that was done by the other party?

Mr. VENABLE. I made no allusion to the gentleman from Tennessee.

Mr. POLK. I ask the question—having voted that way—and I demand to know.

Mr. VENABLE. As to the demand made to me, I have just this reply to make to it: My friend from Indiana tells me that he alluded to me as one willing to break down the Government.

Mr. GORMAN. The Union office, I said; and pretty nearly the Union, too.

Mr. VENABLE. I am responsible to my constituents, and to no one else, upon that subject.

Mr. GORMAN. I am speaking to them, too, and I wish them to hear what I say.

Mr. VENABLE. I will say to the gentleman from Tennessee, that I do not impute any improper motives to him. I seek no collision, personally, with any individual. But I say to my friend from Indiana, if he has undertaken to make a coalition between Free-Soilers and those whom he is pleased to call extreme Southern-Rights gentlemen from the South, whose purpose is that the public money should not be wasted for the public printing, I shall be proud to coöperate with anybody who will save the hard earnings of my constituents from any such operation. A grave old man in my country had an account to settle with one of his neighbors, who, meeting him one day, said: "Caleb, you are a cursed rascal, and I can whip you." "No," replied the old man, "I am no rascal; and supposing that I am a rascal, and you can whip me, that does not settle the account. Let us settle the account before we settle the other two questions. Whether I am a cursed rascal, or not, you will have to settle the account at last." And all I ask of you, is to settle the account. Who does the printing cheapest? If the Free-Soilers and State-Rights men are unwilling to put it out to the highest bidder, and, instead of that, will give it to the lowest bidder, and are willing to save the hard earnings of the working people, I will follow in that company.

Mr. GORMAN. The gentleman is highly patriotic on this especial occasion. But I was upon the point of saying, what I now will carry out, that it is the determination of the gentlemen composed of what is called the Disunion and Secession, or State-Rights party—I care not by what name they go—to break down the organ of the Democratic party, so called, edited by Donelson & Armstrong, because they oppose the doctrines of the Nashville Convention; and if they fail, I say I will fall with them. I tell gentlemen, I go for the doctrine of State-Rights as far as any party who understand themselves, that are not inclined to be disunionists *per se*. How far do I go? I hold "That a State, or any other great portion of the people, suffering under long and intolerable oppression, and having tried all constitutional remedies without the hope of redress, may have a natural right, when their happiness can be no otherwise secured, and when they can do so without greater injury to others, to absolve themselves from their obligations to the Government, and appeal to the last resort. The existence of this

right, however, must depend upon the causes which may justify its exercise."

And, "I admit the right of a State to secede for just cause, to be determined by herself."

"Being a party to the compact which the Constitution forms, she has the right which all other parties to the compact possess, to determine for herself when, where, and how the provisions of that compact have been violated. The right of a State to secede in case of oppression or a gross and palpable violation of her constitutional rights as derived from the reserved sovereignty of the States, I am prepared to recognize."

"In such case 'each State,' in the language of the Kentucky and Virginia resolutions of 1798 and 1799, 'is to be the judge, not only of the infractions, but the mode and measure of redress.' In the next place, would the citizens of the seceding State be liable to the penalties of treason? I answer, no. 'In my opinion no man commits treason who acts in obedience to the laws and authorities of a regularly organized Government, such as we recognize our State governments to be.'"

In reply to my friend, [Mr. ASHE,] whether the General Government can use force to compel such a State to submission, involves too many other material questions which my time will not allow me now to answer as I would desire. I will, however, say that the other States would certainly have a right to levy war upon her as she would upon any other foreign Power.

Therefore, in this view of the case, the exercise of this right by any one or two States of this Confederacy must necessarily involve them and the other States in a war. On the other hand, I utterly deny the right of secession by a State without just cause, or merely at her own will and pleasure; for example, I utterly deny the right of a State to set up as an excuse that she can form a better and more advantageous alliance with a foreign Government, and for this cause secede, or merely by saying she is tired of the association. But she must exhaust all her legal and constitutional remedies for redress before this right begins. If it were otherwise, our constitutional Government would be a mere rope of sand, liable to fall to pieces at any moment.

Mr. VENABLE. That is good State-Rights doctrine enough for me.

Mr. HULLYER. That is my doctrine.

Mr. FREEMAN. That is my doctrine.

Mr. GORMAN. Here, Mr. Speaker, is State-Rights men and Union men all around me, saying that this is good enough State-Rights principles for them. Then, pray, what do they differ about? This is the doctrine of the Washington Union; this is the doctrine of General Jackson; this is the doctrine of Governor Cobb, of Georgia; for the above quotations are from General Jackson and Governor Cobb, copied word for word. Where is the man who goes further? Does any member upon this floor? I suppose there are a few extreme men of the South who do, but I apprehend they are not very numerous.

Now, sir, although these facts are, or ought to be, known to these Southern men, yet they seem determined to proscribe the Democratic press at this national capital—the Union—because the editors of that paper have not seen proper to go as far as some men upon the subject of secession. I deny the right of a State to secede at will. She is to be the judge herself of her wrongs, in accordance with the natural right which every people possess. And I say, that the very doctrine I have laid down here, is laid down in the Washington Union, *verbatim et literatim*, and my Southern friends come up here and denounce it. They refuse to read, it would seem, what the editors have said upon that subject. My honorable friend from Virginia [Mr. MEADE] was present when I expressed my sentiments in this manner once before, in the presence of the distinguished gentleman from Georgia, [Governor Cobb,] and in that doctrine he concided fully. Another gentleman from Virginia, [Mr. BOCKEL,] entertaining extreme views, says that he acquiesces in this position. It is sustained by the "Washington Union." It is the doctrine of Jackson, Jefferson, and Madison. Yet, sir, they have undertaken to break down Donelson & Armstrong, and they have done it under the supposition or pretense that this paper is not advocating the sound State-Rights doctrine. I say that that paper has advocated State-Rights in its true sense, and to

the full satisfaction of nearly all, when properly understood, excepting those who affirm the right of secession as an absolute, unconditional right at will. That, I apprehend, many of you have never done. The gentleman from Virginia [Mr. BOGGS] says that they have not done it. Sir, if secession is to be tolerated as a right, to be exercised at will, and without first resorting to all constitutional remedies, you have got no bond of Union whatever, nor have you any security for the permanency of this Union for a day.

Mr. FREEMAN. The Nashville Convention adopted a resolution that a State had the right to secede at its own pleasure; and the Southern-Rights party adopted it as their platform.

Mr. GORMAN. If they had added "for cause" after exhausting all constitutional remedies for redress, it would have been well enough. Can Southern-Rights gentlemen expect to force me or the great body of the Northern Democracy into a support of doctrines so intolerable as the right of secession at will, without just cause? They ought not to try it. I am confident that my political friends do not desire it. I will not act with any party—I will not be recognized as being connected with any party—which recognizes the right of secession at will, without cause. That is the disunion doctrine and policy. Gentlemen entertaining those opinions are the ones to whom I allude, when I assert that it seems to me that he is a disunionist *per se* who promulgates such intolerable heresy. Now, what is proposed to be done? The compromise has been passed and acquiesced in by the most extreme men in the South. The "Washington Union" has acquiesced in it, and the Democratic party have acquiesced in it from Maine to California—from the Atlantic to the Pacific. Do you expect to obtain harmony in your ranks if you attack Donelson & Armstrong for the reason that they do not agree with some of you upon the right of secession? I say that they do, however, in its true sense, as understood by Jefferson, Madison, and Jackson; and that the whole Democratic party of the North will stand substantially by the declaration that I have made, which is in the language of General Jackson. Donelson & Armstrong have been the steadfast, firm, uncompromising advocates of the finality of the compromise. From whence do members upon this floor see this attack emanate? From Free-Soilers and Abolitionists, who have with a vengeance been howling upon the track of the editors of the "Union" ever since this proposition has been introduced into the House. Every man advocating extreme doctrines upon the right of secession has howled on their track ever since this matter was hinted at; and if they do not make war to the knife, if driven to the wall—if they, Donelson & Armstrong, do not die like gallant Democratic men, I will denounce them as unworthy the name of sound national Democrats. If they are put down, the country will understand that it has been for that reason. You know it. You have put the handwriting upon the wall too plain. It cannot be misunderstood. Your ire was kindled up with renewed vengeance at the "Republic's" being associated with them in this printing, which has also advocated the finality of the compromise. The onslaught was first commenced by the gentleman from North Carolina, [Mr. VENABLE], by saying that Major Donelson was the administrator of General Jackson's opinions. God grant that I may be following the lead of such old fogies as General Jackson; and if Major Donelson only administers the old hero's opinions faithfully, he will hold a high seat in the affections of the good old time-honored Democracy.

Mr. VENABLE. I said that he was the administrator of General Jackson's opinions in his own wrong.

Mr. GORMAN. I thank God that I have followed such a lead. I will continue to do so. You might as well undertake to tell me that you can dam up the Mississippi with your hand, as to tell me that you can convince the country that you do not intend to break down Donelson & Armstrong, because they advocate and have advocated these compromise measures. They did not agree to the extreme doctrines of some of the Southern-Rights men running for office in the States of Mississippi and Georgia. That has given offense to some. Sir, put them down, and you strike a blow at the success of the Democratic party. So help me God! I will wield whatever of influence I may

have in their support. I will die hard. I wish them to know, that struggling for this glorious Union and for our glorious Democratic party, that they will be surrounded by those who will stand forward as martyrs to the last hour. I hold no political association with men who are disunionists *per se*. I hold no political association with men who undertake to proscribe this press because its editor will not say that the fugitive slave law ought not to be executed, and is all wrong. The opposition and assaults come from that quarter, also. That is true in every word and syllable. I have some little right to speak to my Southern friends; for no man went further than I did in the last Congress upon the doctrine of State-Rights, and of opposition to the Wilmot proviso and all exclusions of the Southern people. I have the right, therefore, to say, that if the friends who have acted with me in this matter are to be proscribed, we will die hard. I say, when we go down, we will pull into a common grave some others in our firm embrace. I am not to be told by the gentleman from Mississippi that my action here may lead to worse consequences than the emptying of the Treasury, or the dismembering of the Democratic party. I am not to be told by the gentleman that it may lead to the dissolution of these United States, without a reply, such as I have made. What did he mean when he spoke of the one hundred thousand men who followed or patronized the principles of the Southern Press—the one hundred thousand men for whose action he would not be responsible when the Democratic party organizes at Baltimore. As I understand him, he means distinctly that he will not be responsible for their action, and that the consequences of our action may lead them off from the Democratic party, by proscribing the Southern Press. Who proposes, or ever proposed to proscribe that press? If any one ever did, I never heard of it. If they do go off from the Democratic party, it will be upon a question of public printing, involving indirectly the compromise, and nothing else. It will be because they could not kick Donelson & Armstrong out of position for their compromise opinions. The country will understand of what materials these opponents were composed, and the country will apply the corrective. Mark that! Do they want to go off? We can only suffer defeat if they do. And let it come rather than that compromise men shall go down for such reasons, when eighteen twentieths of the sound Democracy are with them; when we know they have stood firm for the last three years trying to settle this vexed question of slavery. The time, I sincerely pray, has gone by forever when a mere handful of partisans shall again successfully attempt to force the great body of the Democratic Republican party to tolerate their factious or fanatical views.

Mr. McLANAHAN. I think that it becomes necessary that I should interrupt the gentleman from Indiana, [Mr. GORMAN], at this stage of his remarks; and, as the first question before this House is the reference of the bill under consideration, I beg leave to state that, in my humble judgment, to take this business out of the hands of the joint committee, which has been constituted by Congress for the purpose of attending to this special subject, would be highly discourteous. The business of the Judiciary Committee is defined in the 87th rule: "It shall be the duty of the Committee on the Judiciary to take into consideration such petitions and matters or things touching judicial proceedings, as shall be presented, or may come in question and be referred to them by the House."

Mr. SWEETSER. Will the gentleman allow me to propound a question?

Mr. GORMAN. I cannot. This colloquy may take up my time.

Mr. McLANAHAN. Here we have the duties of the Judiciary Committee defined by the 87th rule. There is no judicial question here. It is a question of fact; a question of fact properly submitted to the joint committee, constituted in virtue of the law of 1846. That committee had the plenary power either to curtail the amount of compensation, that the law authorizes them to give to the public printer, or they had still further and fuller power to annul and abrogate the contract. If, in the exercise of the power thus delegated to the committee, they do an act of injustice to the contractor, the contractor's remedy is an application to the equity of Congress. If the contractor does

injustice, and fails to fulfill his contract, the remedy of the United States is an action at law against the contractor and his sureties. The action of the committee, within the power thus delegated to them by the law of 1846, is an action full, complete, and effectual for the purposes for which that law was intended. If Congress wish to stop that committee in their action, it must, by a joint resolution, annul and repeal the law. If this House think that this committee, in the exercise of the powers thus delegated to them, are doing injustice either to the contractor, or are failing to do justice to the interests of the United States, it is competent for the House to declare, by resolution, that the committee shall be discharged, and the matter referred to another committee. It has been suggested, with a good deal of skill, I admit, that the respective Houses should choose the committee; but I submit to this House that, although the Speaker constituted the committee, and the House acted through the Speaker, yet it is too late for the House now to repudiate the act of the Speaker. That committee thus constituted, in the fulfillment of their duty, have entered into a contract, and the printing done under that contract is now lying around upon our tables. It is impossible for the House to go behind the action of the committee. If that action, as I have said before, does injustice to the contractor, his remedy is an appeal to the equity of Congress, and it can be done in no other way. In my opinion, it seems, then, that the committee have not transcended the powers delegated to them by law.

Mr. MARSHALL, of Kentucky. I rise to a question of order. I wish to know, if it is in order for the gentleman who has the exclusive privilege of the floor for an hour, to give way to the chairman of the Judiciary Committee to make a speech upon an independent question, without any person having a chance to answer it?

The SPEAKER. The Chair decided some days ago, that the gentleman upon the floor had a right to yield for explanation to others. It has been done by members of the House, from time to time, and the Chair cannot fix his limit.

Mr. McLANAHAN. The gentleman need not press it. I neither belong to the Abolitionists or Secessionists, and I did not suppose he would raise such a point.

Mr. MARSHALL. I thought it was out of place.

Mr. GORMAN. When I was interrupted, I was speaking upon the subject of our political relations to this question. If I have not taken the proper view of it, it has not been done for the want of any personal respect to the gentlemen with whom I differ, and with whom I am associated—an association which has always been agreeable to me. But facts, and actions, and votes, speak louder than mere words sometimes, and the record upon this occasion has shown to the country, and I hope that the vote which has been taken, and the vote which is to be taken, will show the country, the true secret of this attack on the Democratic organ, although I know there are associated with the opposition many gentlemen who differ with me upon various points connected with this question, other than those before stated. But those gentlemen, in a body, who have held extreme opinions, North and South, have been acting together for the same common object.

Mr. VENABLE. I rise to a point of order. In speaking some time ago about printing the census, I was called to order for saying not one tenth part of what was said by the gentleman from Indiana, [Mr. GORMAN], and I was ruled out of order, and made to sit down.

The SPEAKER. The gentleman from Indiana is not properly in order.

Mr. VENABLE. I thought it was not right to make fish of one and flesh of the other. [Laughter.]

The SPEAKER. The Chair will state to-day, as he did yesterday, that when a gentleman upon the floor is called to order, the Chair is bound to enforce the rule.

Mr. CLINGMAN. When a gentleman is replying to remarks, I do not think he is out of order.

Mr. VENABLE. With regard to the question of order, I wish simply to be understood, that I have no disposition to stop my friend from Indiana, [Mr. GORMAN]. I have permitted him to go on for more than half an hour. I wish to sug-

gest it, as I had been borne down under the rule. I thought it might operate gently upon others, as well as myself.

Mr. GORMAN. I shall not go on out of order, and I will not disobey the suggestion of the Speaker. In conclusion, I will say to the House, that I shall be perfectly satisfied to see them take any course they may think proper in their wisdom and judgment in referring this matter back to the committee, with any instructions they may desire. The committee, however, have their powers defined by law, and any instructions given by this House without first repealing the law, cannot control their action in the case of the present contractor, or the present printing. The House committee will faithfully and respectfully reflect the wishes of this body; and it is their duty to do so, provided it is consistent with their views of public interest. If it should be inconsistent with our views of the interest of the country, they can report that fact to the House for future action. I have no kind of objection, as I said before, to referring it back to the Committee on Printing; and it would be perhaps out of place and indelicate for me to say what my feelings would be, provided you were to take it out of the hands of the Committee on Printing after such a long-protracted and tedious debate, and place it in the hands of the Committee on the Judiciary. I frankly confess that I should not feel it compatible with my own honor and my own self-respect longer to remain in my position in that committee; but anything which this House may ask me to do as one member of that committee, I shall cheerfully do to the best of my judgment and ability. I have this to say in the little time left to me. There is an element in this printing question—a patronage which has always been a bone of contention in this Government, and always will be in every Government constituted as ours is, and it will always be entering more or less into and becoming a part of the motive in the action of parties. There is an element in this question of patronage, connected as it has been with the politics of your country, that is dangerous to the organization and harmony of the Democratic party. It will be regarded by the country, in spite of whatever you may say or do to-day, as a proscription, marked out and aimed at one who has stood upon the watchtower as a faithful guardian of the Democratic party, and of the measures known as the compromise measures of the last Congress. I say to the country, that if this question is decided in such a manner as to proscribe this press, you cannot keep the country from believing that you did it from those considerations when they analyze the vote throughout upon this subject. If you refer this matter back to the Committee on Printing, the committee will pursue the even tenor of their way, and they will proceed to make a contract with some person to do the remainder of the printing at such prices as we may regard reasonable and just. I can assure the honorable gentleman from North Carolina, [Mr. CLINGMAN,] that the next proposition we shall make will be Towers's bid; and we will take that as a standard, and proceed accordingly. If this matter is referred back to the committee we must act, or we must not do our duty, which you have ordered us to do.

Mr. CLINGMAN. I am for referring it back if the committee will make up their minds to this, and take it fairly. I will vote to refer it back.

Mr. GORMAN. "If we will take it fairly!" Every kind of insinuation seems to be pointed at the committee, as if they will not do right. I shall not pledge myself at any time, or in any place, to do right. I will do right independent of any such pledge, so far as my judgment goes. I shall act fairly, independent of pledges, so far as I am capable. I leave the matter to the judgment and wisdom of the House.

Mr. POLK. If it is now in order, I move to lay this whole matter upon the table, and call for the yeas and nays. I suppose the House is well satisfied that—

[Cries of "Order!" "Order!" "Order!"]

Mr. FITCH. I believe that the Speaker has decided that question to be out of order.

The SPEAKER. The Chair thinks that it is now in order to move to lay upon the table. Debate has taken place, which, in the opinion of the Chair, might influence the judgment of the House, and it is in order to make the motion.

Mr. HOWARD. I appeal from the decision of the Chair.

Mr. STANLY. I move to lay the appeal upon the table.

Mr. MARSHALL, of Kentucky. I demand the yeas and nays upon that motion.

The SPEAKER. There having been no action at all upon the part of the House, and no discussion an hour ago, the Chair decided that it was not in order to repeat the motion to lay upon the table. The Chair now decides that, as discussion has been had, it is in order.

Mr. WOODWARD. I would inquire of the Chair what would appear upon the Journal immediately before this motion?

The SPEAKER. The Chair believes the motion made by the gentleman from Tennessee [Mr. POLK] would appear, and the decision of the Chair that it was not in order.

Mr. BAYLY, of Virginia. I desire to ask the Chair if the rule is not that two motions to adjourn cannot be made until business has intervened? And whether, after a motion to adjourn has been voted down, and a speech made, it is not in order again to move to adjourn?

The SPEAKER. There can be no question about that; and the Chair has confidence in the correctness of his decision.

Mr. STANLY. It has been so decided in this House fifty times.

The SPEAKER. The House, however, may differ with the Chair.

The question was then put on Mr. STANLY's motion to lay the appeal upon the table, and it was decided in the affirmative.

So the appeal was laid upon the table.

The question recurring on the motion to lay the report upon the table,

The yeas and nays were ordered.

The question was then put, and it was decided in the negative—yeas 82, nays 88, as follows:

YEAS—Messrs. J. Appleton, W. Appleton, T. H. Bayly, Bowie, Bowne, Briggs, Brooks, Burrows, Chandler, Chastain, Clark, Cobb, Cullom, John G. Davis, Dawson, Dean, Disney, Dockery, Dunham, Faulkner, Freeman, Thomas J. D. Fuller, Gaylord, Gorman, Hamilton, Hammond, Haven, Hebard, Hendricks, Hillyer, Ingersoll, Andrew Johnson, Robert W. Johnson, George W. Jones, George G. King, Landry, Letcher, Lockhart, Mace, Martin, McCorkle, McLanahan, McMullin, Meacham, Miller, Henry D. Moore, John Moore, Murray, Nabers, Outlaw, Samuel W. Parker, Penn, Polk, Porter, Price, Riddle, Ross, Russell, Sackett, Savage, Schermerhorn, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Stanly, Frederick P. Stanton, Richard H. Stanton, Stone, St. Martin, Sutherland, Sweetser, Taylor, Benjamin Thompson, George W. Thompson, Ward, Watkins, Wells, Alexander White, Wilcox, and Yates—82.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, Barrere, Bococek, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Carter, Caskie, Chapman, Clingman, Conger, Curtis, Dimmick, Doty, Eastman, Edgerton, Edmundson, Ficklin, Fitch, Florence, Floyd, Fowler, Gamble, Giddings, Goodnow, Goodrich, Grey, Grow, Hall, Harper, Isham G. Harris, Sampson W. Harris, Henn, Hibbard, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, James Johnson, John Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kulms, Kurtz, Mann, Humphrey Marshall, Mason, McDonald, McNair, McQueen, Meade, Millson, Molony, Morehead, Morrison, Newton, Olds, Orr, Andrew Parker, Peaslee, Pennington, Perkins, Phelps, Powell, Rantoul, Robbins, Scudder, Smart, Snow, Benjamin Stanton, Thaddeus Stevens, Thurston, Venable, Walbridge, Wallace, Washburn, and Woodward—88.

So the House refused to lay the report upon the table.

The question recurred on the amendment moved by Mr. FLORENCE to the instructions proposed by Mr. BROWN, of Mississippi.

Mr. BROWN, of Mississippi. Would it be competent, at this stage of the proceedings, for me, as the mover of the resolution, to strike out the Judiciary Committee and insert the Committee on Printing?

[Loud cries of "No, no!"]

Mr. POLK. Would that be in order?

The SPEAKER. Has the attention of the gentleman from Mississippi been drawn to the rule controlling the case?

Mr. BROWN. No, sir, it has not.

The SPEAKER. The 45th rule is in these words:

"After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in the possession of the House, but may be withdrawn at any time before a decision or amendment."

The Chair thinks the gentleman may modify his motion.

Mr. BROWN. Well, sir, I am willing that the Judiciary Committee should be stricken out—

Mr. STANLY. What was the decision of the Chair? I did not understand it.

The SPEAKER. The gentleman from Mississippi proposes to modify his original proposition; and as there has been no decision on it, or amendment, the Chair is of opinion that the gentleman has a right to do so.

Mr. JOHNSON, of Tennessee. What is the previous question?

The SPEAKER. Is that a decision upon the subject-matter?

Mr. JONES, of Tennessee. I would suggest to the Chair that the gentleman from Mississippi does not propose to withdraw his resolution, but he proposes to make it a different resolution from that upon which the main question has been ordered. He can withdraw his resolution before a decision or before it has been amended; but that is a very different thing from changing the character of the proposition and bringing us to vote on a question different from the one on which we have ordered the main question.

Mr. BROWN, of Mississippi. To get rid of this difficulty, I withdraw my application to amend or modify my proposition, simply remarking that I do not care whether the Judiciary Committee is stricken out or not.

Mr. JONES. If I understand this question as it now presents itself to the House, we come first to vote upon the amendment of the gentleman from Pennsylvania [Mr. FLORENCE] to the resolution of instruction proposed by the gentleman from Mississippi, [Mr. BROWN.]

The SPEAKER. That is the first question.

Mr. JONES. If that is voted down, we come then to vote upon the resolution referring this report to the Committee on the Judiciary, with certain instructions. If that is voted down also, I understand that we then come to a vote upon the motion of the gentleman from South Carolina [Mr. ORR] to recommit the report without instructions, for the gentleman offered no instructions. Those are the three propositions before the House.

The SPEAKER. The Chair understands the last proposition differently.

Mr. JONES. Well, sir, the motion of the gentleman from South Carolina must either be in that shape or else it does not come in at all. There was an amendment to the resolution pending at the time he made his motion, and it would therefore have been in the nature of another amendment.

The SPEAKER. The gentleman from South Carolina distinctly proposed to strike out the Judiciary Committee and insert the Committee on Printing.

Mr. JONES. Then I submit that he could not make that motion to amend the original resolution while the amendment of the gentleman from Pennsylvania [Mr. FLORENCE] was pending. It could only come in in the nature of an independent motion to recommit. The gentleman from South Carolina could have offered an amendment to the amendment of the gentleman from Pennsylvania, but he could not, while that amendment to the original resolution was pending move to amend the original resolution.

The SPEAKER. The Chair will state to the House his understanding of the propositions before the body. In his opinion, the vote will first be upon the amendment proposed by the gentleman from Pennsylvania to the instructions originally offered by the gentleman from Mississippi. Then will follow the vote on referring, with those instructions, to the Committee on the Judiciary. If that fails, the Chair proposes, as the most convenient order of disposing of the various propositions before the body, to put the question on referring to the Committee on Public Printing with instructions.

Mr. JONES. Those instructions would have been voted down if we rejected the proposition to refer to the Committee on the Judiciary.

The SPEAKER. The Chair will ask the House to instruct him on this point, for it is but a matter of convenience. If the decision of the Chair in this respect is overruled, the Chair supposes it will be in order for the gentleman from South Carolina to amend by striking out one committee and inserting another. The Chair is convinced, however, from his experience here, that the mode he proposes is the most convenient mode of disposing of this matter.

Many MEMBERS. "No doubt about it," and "Put it in that order."



Mr. HAMILTON called for the yeas and nays on Mr. FLORENCE's amendment to the instructions; and they were ordered.

Mr. CLINGMAN. I ask for the reading of the first part of those instructions. I want to know whether they are positive instructions, or merely instructions inquiring into the expediency, and so forth.

Mr. FLORENCE. Merely to inquire into the expediency.

Mr. CLINGMAN. Let the original instructions be read.

The SPEAKER. The Chair hopes there will be no objection to the reading of the first clause of the instructions.

There being no objection,

The Clerk read the resolution, which is as follows:

*Resolved*, That the report on the Committee on Printing be referred to the Committee on the Judiciary, with instructions to report upon the whole subject, and to recommend for the adoption of Congress, such a system for the execution of the public printing as they may deem most expedient; and that they especially take into consideration the plan for a printing bureau, for the execution of the work under the supervision of a Government officer."

The question was then taken on Mr. FLORENCE's amendment to the instructions, (which has been heretofore published, and which proposes to append to the instructions submitted by Mr. BROWN, a bill for the establishment of a printing bureau,) and it was decided in the negative—yeas 61, nays 105, as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, Barrere, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Currier, Chapman, Clingman, Conger, Disney, Doty, Eastman, Fitch, Florence, Floyd, Fowler, Gaylord, Giddings, Goodenow, Goodrich, Grey, Grow, Sampson W. Harris, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, John Johnson, Daniel T. Jones, George G. King, Preston King, Kulsns, Mace, Mann, McLanahan, McQueen, Millson, Newton, Orr, Andrew Parker, Samuel W. Parker, Pennington, Perkins, Phelps, Rantoul, Robbins, Scudder, Snow, Thaddeus Stevens, Thurston, Venable, Walbridge, Wallace, Addison White, and Woodward—61.

NAYS—Messrs. John Appleton, William Appleton, T. H. Bayly, Boocock, Bowie, Bowne, Briggs, Brooks, Caskie, Chandler, Chastain, Clark, Cobb, Cullom, Curtis, John G. Davis, Dawson, Dean, Dimmick, Dockery, Dunham, Edgerton, Edmundson, Faulkner, Ficklin, Freeman, Thomas J. D. Fuller, Gorman, Hamilton, Hammond, Haven, Hendricks, Hillyer, Ingersoll, Jackson, Andrew Johnson, Jas. Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Kurtz, Landry, Letcher, Lockhart, Humphrey Marshall, Mace, Martin, Mason, McDonald, McMullin, McNair, Meacham, Miller, Miner, Molony, Henry D. Moore, Morehead, Murray, Nabers, Olds, Outlaw, Peaslee, Penn, Polk, Porter, Powell, Price, Riddle, Ross, Russell, Sackett, Savage, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Smart, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard B. Stanton, Stone, Sutherland, Sweetser, Taylor, Benjn Thompson, George W. Thompson, Ward, Watkins, Alexander White, Wilcox, and Williams—105.

So the amendment was not agreed to.

Mr. BRIGGS moved that the House do now adjourn.

ADJOURNMENT UNTIL MONDAY.

Mr. CABELL moved that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. DEAN called for the yeas and nays.

Mr. JONES, of Tennessee. I would ask the gentleman from Florida if it would not be better to sit to-morrow, and then adjourn till Tuesday? Monday is always a dead day, when no business is done.

Mr. CABELL. No. I will adhere to my motion.

The yeas and nays were not ordered.

Mr. JONES demanded tellers on Mr. CABELL's motion; which were ordered, and Messrs. JONES, of Tennessee, and FOWLER were appointed.

The question was then put, and it was decided in the affirmative—ayes 77, noes 56.

So the motion was agreed to.

The question was then taken on the motion to adjourn, and disagreed to—ayes 23, noes not counted.

The question then recurred upon referring the report to the Committee on the Judiciary, with the instructions moved by Mr. BROWN, of Mississippi.

Mr. FITCH. I have a point of order which I wish the Chair to decide.

Mr. POLK. I call the gentleman to order.

Mr. FITCH. I am upon a point of order. A vote has been taken upon an amendment containing instructions to establish a printing bureau;

now, I want to know whether, after this has been rejected, it is in order to vote upon another proposition embodying the same provision?

The SPEAKER. The Chair overrules the point of order. The Chair cannot tell but the House, after rejecting the amendment, will adopt the original resolution. At least it is not for the Chair to determine what should be the vote of the House.

Mr. FITCH. Will the Chair decide whether it is in order to ask for a division of the instructions? They contain two propositions.

The SPEAKER. The Chair will examine them.

Mr. JONES. If gentlemen will look at the resolution, they will find that if the resolution is divided, and the first portion rejected, there will be no intelligible proposition left.

The SPEAKER. Will the gentleman from Indiana indicate the precise point at which he asks a division?

Mr. FITCH. The resolution proposes, in the first place, to instruct the committee to report such a system for the execution of the public printing as they shall deem expedient; and in the second place, it instructs them, especially, to take into consideration the plan for a printing bureau. I desire that the resolution shall be divided after the word "expedient."

The SPEAKER. The first part of the resolution would then read—

*Resolved*, That the report of the Committee on Printing be referred to the Committee on the Judiciary, with instructions to report upon the whole subject, and to recommend for the adoption of Congress such a system for the execution of the public printing, as they may deem most expedient."

That would stand as an intelligible proposition. The other proposition would then read—

"And that they especially take into consideration the plan for a printing bureau, for the execution of the work under the supervision of a Government officer."

This could not stand by itself as an independent proposition. The Chair decides that the resolution is not divisible.

Mr. FLORENCE. I desire to suggest a question of order. An amendment was offered by myself, directing the committee to take into consideration, especially, a bill which accompanied it. Now, I learn that gentlemen around me understand that amendment as directing the committee absolutely to report that bill. I only desire to say that such was not the case. It did not so instruct them.

[Cries of "Too late for that." "Your amendment has been rejected."]

Mr. MEADE. I desire to inquire of the Chair whether, if the amendment be rejected, it will then be in order to move a reference of the report to the Committee on Printing?

The SPEAKER. It will not be in order during the operation of the previous question.

Mr. KING, of New York. I understand that is precisely the motion now pending.

The SPEAKER. The resolution before the House is to refer the report to the Committee on the Judiciary, with instructions. If that motion be voted down, the question will then recur upon the motion to refer to the Committee on Printing, with instructions.

Mr. MEADE. But if that motion be voted down, I wish to know if it would be in order to move to refer to the same committee, with different instructions?

The SPEAKER. After the previous question has been exhausted it will then be in order for the House to take such action as to them shall seem proper.

Mr. MEADE. When will it be exhausted?

The SPEAKER. As soon as a vote has been taken upon the motion to refer to the Committee on the Judiciary, and upon that to refer to the Committee on Printing.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the last amendment was rejected, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. JONES. I now move to lay the whole subject upon the table.

Mr. MARSHALL, of Kentucky. Upon that motion I demand the yeas and nays.

Mr. VENABLE. I move that the House do now adjourn.

The question was put, and the House refused to adjourn—ayes 18, noes not counted.

The yeas and nays were ordered, and the question being put, the result was—yeas 78, nays 89; as follows:

YEAS—Messrs. John Appleton, William Appleton, Thomas H. Bayly, Bowie, Bowne, Briggs, Brooks, E. Carrington Cabell, Chandler, Chastain, Clark, Cobb, Cullom, Cullom, John G. Davis, Dawson, Dean, Disney, Dockery, Dunham, Faulkner, Freeman, Thomas J. D. Fuller, Gorman, Hamilton, Hammond, Haven, Hendricks, Hillyer, Ingersoll, Andrew Johnson, Robert W. Johnson, George W. Jones, George G. King, Landry, Letcher, Lockhart, Mace, Martin, McLanahan, McMullin, Meacham, Miller, Henry D. Moore, John Moore, Murray, Nabers, Outlaw, Samuel W. Parker, Polk, Porter, Price, Riddle, Ross, Russell, Sackett, Savage, Schoolcraft, Scurry, David L. Seymour, Skelton, Stanly, Frederick P. Stanton, Richard B. Stanton, Stone, St. Martin, Sutherland, Sweetser, Taylor, Benjamin Thompson, George W. Thompson, Ward, Watkins, Alexander White, Wilcox, Williams, and Yates—89.

NAYS—Messrs. Aiken, Allison, Averett, Barrere, Boocock, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Carter, Caskie, Chapman, Clingman, Conger, Curtis, Dimmick, Doty, Eastman, Edgerton, Edmundson, Ficklin, Fitch, Florence, Floyd, Fowler, Gamble, Gaylord, Giddings, Goodenow, Green, Grey, Grow, Hall, Harper, Isham G. Harris, Sampson W. Harris, Henu, Hibbard, Horsford, Houston, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, James Johnson, John Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kurtz, Mann, Humphrey Marshall, Mace, McDonald, McNair, McQueen, Meade, Miller, Miner, Molony, Morehead, Morrison, Olds, Orr, Andrew Parker, Peaslee, Pennington, Perkins, Phelps, Powell, Rantoul, Robbins, Scudder, Smart, Snow, Benjamin Stanton, Thaddeus Stevens, Thurston, Tuck, Venable, Walbridge, Wallace, Washburn, Addison White, and Woodward—89.

So the motion to lay upon the table was not agreed to.

The question then recurred upon the adoption of Mr. BROWN's resolution, to refer the whole subject to the Committee on the Judiciary, with instructions.

The yeas and nays were demanded and ordered, and the question being taken, the result was—yeas 41, nays 118; as follows:

YEAS—Messrs. Aiken, Allison, Barrere, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Carter, Chapman, Clingman, Conger, Doty, Eastman, Fowler, Gentry, Giddings, Grey, Grow, Harper, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, Daniel T. Jones, Preston King, Kulsns, Mann, Humphrey Marshall, McQueen, Newton, Perkins, Powell, Rantoul, Robbins, Scudder, Thaddeus Stevens, Tuck, Venable, Wallace, and Washburn—41.

NAYS—Messrs. John Appleton, William Appleton, Averett, Thomas H. Bayly, Boocock, Bowie, Bragg, Brenton, Briggs, Brooks, E. Carrington Cabell, Chandler, Chastain, Clark, Cobb, Curtis, John G. Davis, Dawson, Dean, Dimmick, Disney, Dockery, Dunham, Edgerton, Edmundson, Faulkner, Ficklin, Fitch, Florence, Thomas J. D. Fuller, Gamble, Gaylord, Green, Hall, Hamilton, Hammond, Isham G. Harris, Hebard, Hendricks, Henu, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, George G. King, Kurtz, Landry, Letcher, Lockhart, Martin, Mason, McDonald, McLanahan, McMullin, McNair, Meacham, Meade, Miller, Millson, Miner, Molony, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Murray, Nabers, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Peaslee, Pennington, Phelps, Polk, Porter, Price, Riddle, Ross, Russell, Sackett, Savage, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Smart, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard B. Stanton, Stone, St. Martin, Sutherland, Sweetser, Taylor, Benjamin Thompson, George W. Thompson, Thurston, Walbridge, Ward, Watkins, Alexander White, Wilcox, Williams, Woodward, and Yates—118.

So the resolution was not adopted.

The question then recurred upon the motion to recommit to the Committee on Printing, with instructions the same as those proposed to the Judiciary Committee.

Mr. GORMAN. I suppose we shall have unanimous consent to refer the subject back to the Committee on Printing.

[Cries of "Agreed!" "Agreed!"]

Mr. DEAN moved to reconsider the vote just taken by which the House refused to commit to the Committee on the Judiciary, with instructions, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. JONES. I now rise to a question of order. I desire to inquire whether it is competent for the House, by its own resolution, to instruct a joint committee of the two Houses? That committee cannot be instructed without a joint resolution adopted by both Houses of Congress, and approved by the President.

Mr. LETCHER. Is it in order to move to lay the whole subject on the table?

The SPEAKER. It is in order.

Mr. LETCHER. I make that motion.

Mr. VENABLE. We have voted down that motion three times already, and we will do it again.

Mr. BROWN, of Mississippi. Upon that motion I demand the yeas and nays.

Mr. BROOKS. I rise to a privileged question. I want more time to consider upon this subject. I move that the House do now adjourn.

The question was put, and the House refused to adjourn.

The yeas and nays were then ordered on the motion to lay on the table.

Mr. LETCHER. I will withdraw the motion to lay upon the table.

Mr. JONES. I now desire again to submit the question to the Chair whether it is competent for this House to instruct a joint committee, except with the concurrence of the Senate? I also submit further, if the whole duties of this committee are not specified by the joint resolution of 1846, by which this committee was constituted. I submit that it is not a committee appointed under the rules of the House, nor of the Senate, but by a joint resolution passed by both Houses, and approved by the President; and that their duties are defined by law.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Tennessee, upon the ground that it is not the province of the Chair to decide what the effect of the proceedings of action of this House will be. That is a question for the House to decide.

Mr. JONES. Well, I will call for a division of the question, so that the vote shall first be taken upon the question of reference, and then upon the instructions. I believe it is competent for us to do that.

Mr. STEVENS, of Pennsylvania. I rise to a point of order. I submit that the motion of the gentleman from Tennessee is not in order, because the question is indivisible. If you take a vote upon the first half of it, and reject it, you cannot vote upon the second part as an independent proposition.

The SPEAKER. The Chair decides that, according to the uniform practice of the House, so far as it has come under his observation, the division asked for by the gentleman from Tennessee cannot be made. The question must be taken upon the motion as a whole. The gentleman can, however, have a separate vote upon the motion to print, which is pending, if he desires it.

Mr. JONES. Is there such a motion pending?

The SPEAKER. There is; unless a separate vote is demanded upon the motion to print, the question will be, "Shall the report be recommitted to the Committee on Printing, with instructions?"

Mr. HALL demanded the yeas and nays; which were not ordered.

Mr. BROWN asked for tellers; which were ordered.

Mr. JONES, of Tennessee. If this question to recommit to the Committee on Printing be voted down, will not the previous question be then exhausted, and will it not be in order to move to recommit without instructions?

The SPEAKER. The previous question will be exhausted when this question is taken, and the vote upon printing.

Mr. STANLY. The question is now upon referring this matter to the Committee on Printing, with instructions to report. Is that the question?

The SPEAKER. The proposition is to refer to the Committee on Printing, with the instructions proposed by the gentleman from Mississippi, [Mr. BROWN.]

Mr. STANLY. Does that include the printing bureau?

[Cries of "Read the resolution!" "Read the resolution!"]

The SPEAKER. The resolution is very short, and, unless it is objected to, it will be read.

No objection being made, the resolution was accordingly read, as previously inserted.

Mr. STANLY. That is the only proposition that is to go to the Printing Committee?

The SPEAKER. It is proposed to send the report back to the committee, with the instructions just read.

Mr. POLK. Is it in order to move to divide the resolution, with a view to laying the instructions upon the table?

The SPEAKER. It is not.

Mr. POLK. One is clearly a question of reference, and the other of instruction. The in-

structions may include something that is objectionable.

The SPEAKER. When the House shall have refused to recommit, (if it shall so do,) I should like to know what becomes of the instructions? Are there any legs or feet left for it to stand upon?

Mr. FLORENCE. I rise to a point of order. If the motion to refer to the Committee on Printing is passed, does it take the bill which I offered with it?

[Cries of "No!" "No!" "No!"]

The SPEAKER. The gentleman's bill has been lost.

Mr. FLORENCE. I was perfectly aware of that; but I supposed that when the resolution referring the subject to the Committee on the Judiciary was not concurred in by the House, and the question came up upon referring it to the Committee on Printing, with the same instructions, that it would take that proposition along with it. I rose for information, and I am sorry to learn that it does not.

The SPEAKER. It does not. It was voted down by the House.

Mr. PARKER. I rise for the purpose of making an inquiry. It is certainly a matter of wisdom for us, when we take a step, to see where we are to land. The object is now to refer to the Committee on Printing, with instructions. Suppose the committee refuse to obey?

[Cries of "Order!" "Order!" all over the Hall.]

The SPEAKER. Upon the motion to commit with instruction, tellers were ordered.

Mr. ORR. I called for tellers upon the yeas and nays.

The SPEAKER. The Chair was never apprised that there was such a call till this present moment. The Chair has no doubt of the fact that the gentleman has a right to tellers upon the yeas and nays.

Mr. ORR. But that question has not been put.

The SPEAKER. There was not a sufficient number up to demand the yeas and nays.

Mr. ORR. I suggest that there were a sufficient number up.

The SPEAKER. The Chair distinctly said there was not a sufficient number, and the yeas and nays were not ordered. If the gentleman from South Carolina, [Mr. ORR,] or any other gentleman, asked for tellers upon the yeas and nays, the Chair certainly did not hear it. The Chair's recollection is, that several amendments intervened, and the vote was about to be taken, when some one called for tellers, upon the proposition to refer to the committee, and tellers were ordered upon the recommitment.

Mr. CAMPBELL. I move that the House do now adjourn; which motion was not agreed to.

Messrs. STANTON, of Tennessee, and VENABLE were then appointed tellers, on the motion to refer the resolution, with instructions, to the Committee on Printing.

The question was then taken, and the tellers reported—ayes 82, noes 74.

So the resolution, with the instructions, was referred to the Committee on Printing.

Mr. BAYLY, of Virginia. I move to reconsider the vote by which the resolution, with instructions, was recommitted to the Committee on Printing.

Mr. VENABLE. And I move to lay that motion upon the table.

Mr. BAYLY. And I call for the yeas and nays.

Mr. STANTON, of Tennessee. I move that the House do now adjourn.

Mr. CARTTER demanded tellers; which were ordered; and Messrs. STEVENS, of Pennsylvania, and HIBBARD were appointed.

The question was then taken, and the tellers reported—ayes 74, noes 67.

So the House adjourned, to meet again on Monday next.

#### NOTICE OF A BILL.

Mr. FLORENCE gave notice of his intention to ask leave on to-morrow, or upon some subsequent day, to introduce a bill providing for the immediate establishment of a national printing office.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. KUHN: The petition of William Lemmon and

other citizens of Western Pennsylvania, praying Congress to pass a law granting pensions to the officers and soldiers of the Indian war of 1793.

By Mr. HENDRICKS: The memorial of David Reynolds, Adjutant General of the State of Indiana, praying that a reimbursement be made to the State of Indiana of money paid in the organization of the Indiana regiments for the war with Mexico, and which was not provided for in the law of June, 1848.

By Mr. SMART: The petition of Peter Hopkins, of Maine, praying for a pension on account of injuries sustained while on public service during the war of 1812.

By Mr. APPLETON, of Maine: Petition of Jacob McLellan and others, owners of the ship George Turner, of Portland, Maine, for remission of a fine imposed last December for an alleged violation of the passenger laws.

By Mr. TUCK: The petition of Jesse Barker, a revolutionary soldier, for a pension.

By Mr. DAWSON: The resolution of the Legislature of the State of Pennsylvania, requesting their Representatives in Congress to use all honorable means to prevent any further extension by Congress to the heirs and assigns of the late William Woodworth of the patent granted originally on the 27th day of December, 1828, and the amended specifications thereto for his improvement in the method of planing, tonguing, grooving, cutting into mouldings planks, boards and other materials.

By Mr. GREY: The petition of Leslie Combs, of Kentucky, praying payment by Congress of \$69,200, besides interest, due him by the late Republic of Texas, under the act of June 7th, 1837, for which the custom-house duties were specially pledged, and which are now being received by the United States; said claim being one of those recognized by the Texan boundary bill of the 9th September, 1830, according to the report of the Secretary of the Treasury of the 13th of September, 1851.

By Mr. GAMBLE: The petition of Colonel L. B. Crist, Wm. Cameron, esq., and others, citizens of Union county, Pennsylvania, asking for a modification of the bounty land law of 1850, so as to give to the persons intended to be benefited by said law not less than one hundred and sixty acres of land.

Also, the petition of Mrs. Elizabeth Hall, of Northumberland county, Pennsylvania, widow of John Hall, a revolutionary soldier, asking for a grant of bounty land.

By Mr. MOORE, of Louisiana: The petition of P. C. Bethel, asking permission to build a wharf and warehouse on an oyster-bed reef in Atchafalaya bay, and a grant of a portion of the reef for that purpose.

By Mr. FLORENCE: The resolution adopted by the Printers' Union of Philadelphia, in favor of, and recommending the immediate establishment of, a national printing office.

Also, the proceedings of a meeting of the citizens of the city and county of Philadelphia, in favor of granting to the soldiers of the war of 1812 at least one hundred and sixty acres of land, and praying Congress to pass a law to that effect.

By Mr. IVES: The petition of 63 citizens of New York for aid in the construction of a railroad from Saratoga to Sackett's Harbor, in said State.

Also, a remonstrance of John Sigourney, and 52 others, citizens of New York, against the renewal of a patent granted to Austin and Zebulon Parker for alleged improvements upon reaction water-wheels.

#### IN SENATE.

MONDAY, April 19, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 23d ultimo, a report of the Colonel of the Corps of Topographical Engineers, containing "the report, estimate, and plan, in reference to the beacon, or light-house structure for the new South Shoal, off Nantucket;" which was ordered to be laid upon the table.

#### PETITIONS, ETC.

Mr. MILLER presented a petition of inhabitants of Sussex county, New Jersey, praying the establishment of a mail route from Newton to Deckertown; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented the petition of Philip G. Van Wyck, executor of Philip Van Cordandt, an officer in the war of the Revolution, praying an allowance for depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Also, a petition of citizens of Minnesota, urging the early ratification of the treaties made with the Sioux Indians in the summer of 1851; which was referred to the Committee on Indian Affairs.

Mr. GWIN presented the memorial of Volney Ostrander, praying the appointment of a tribunal to review the decisions of the late Board of Commissioners for the settlement of claims of American citizens against Mexico; which was referred to the select committee appointed on that subject.

Also, the memorial of Duncan W. Murphy, and others, praying the right of way through the public lands for the purpose of constructing a railroad from Benicia to Sliasta City, in the State of California; which was referred to the Committee on Public Lands.

Also, the petition of William A. Wood, praying compensation for his unlawful detention in the military service of the United States, and malicious treatment during such detention by officers of the United States; which was referred to the Committee of Claims.

Mr. SUMNER presented the petition of merchants and citizens of Fairhaven, Massachusetts, praying that further aid be extended to Collins's line of mail-steamers; which was ordered to be laid on the table.

Mr. BRODHEAD presented resolutions of the Legislature of Pennsylvania, against the extension of Woodworth's patent for a planing machine; which were referred to the Committee on Patents and the Patent Office.

Also, sundry petitions from practical printers of Pennsylvania, praying the establishment of a national printing office; which were referred to the Committee on Printing.

Mr. RUSK presented the petition of John P. McElderry, praying compensation for two months' services as a clerk in the Bureau of Docks and Yards; which was referred to the Committee of Claims.

Also, a memorial of members of the Cincinnati and Pittsburg Associations of Steamboat Engineers, of captains and owners of steamboats, of officers of insurance companies, and other citizens of the United States, directly interested in the navigation, by steam, of the Ohio and Mississippi, praying the enactment of such laws as will more effectually secure the safety of life and property on board vessels propelled, in whole or in part, by steam, and recommending some remedies, which their practical experience in the business of steam navigation has suggested to them; which was ordered to be laid on the table.

Mr. SHIELDS presented two memorials of citizens of Illinois, praying that the bridges of the Wheeling and Belmont Bridge Company may be established as mail routes; which were referred to the Committee on the Judiciary.

Mr. FISH presented a petition of citizens of the city and county of New York, remonstrating against the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. UNDERWOOD presented the petition of Andrew Fountain, praying the payment of Texas bonds, of which he is the holder; which was referred to the Committee on Finance.

Also, a petition of merchants and other citizens of Louisville, Kentucky, praying further aid to Collins's line of steamships; which was ordered to be laid on the table.

Mr. HUNTER presented a report and resolutions of the Legislature of Virginia, on the subject of the Virginia military land warrants, issued for services in the war of the Revolution; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. DAWSON presented a petition of the officers of the "Washington Yagers," praying that the arms necessary to equip that company in accordance with law may be granted them; which was referred to the Committee on Military Affairs.

Also, a petition of the officers of the "Washington Boone Riflemen," praying that the arms necessary to equip that company in accordance with law may be granted them; which was referred to the Committee on Military Affairs.

Mr. SMITH presented a petition of inhabitants of Stonington, Connecticut, praying that further aid may be extended to Collins's line of mail-steamers; which was ordered to be laid on the table.

Mr. DODGE, of Wisconsin, presented a petition of residents at or near Darlington, Wisconsin, praying the establishment of a mail route from Mineral Point, by way of Willow Springs, Darlington and Gratiot, to Warren; which was referred to the Committee on the Post Office and Post Roads.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SEWARD, it was

Ordered, That the petition of Nancy Whiting, on the files of the Senate, be referred to the Committee on Pensions.

On motion by Mr. DOWNS, it was

Ordered, That the petition of William Pumphrey, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion by Mr. SHIELDS, it was

Ordered, That the memorial of the members of the bar of the District of Columbia, on the files of the Senate, relating to an increase of the salary of the judge of the orphans' court for that District, be referred to the Committee on the Judiciary.

REPORTS FROM STANDING COMMITTEES.

Mr. ATCHISON, from the Committee on Indian Affairs, to which was referred the memorial of Calvin B. Seymour, asking indemnity for merchandise destroyed by the Creek Indians in the year 1836, submitted a report, accompanied by a bill for the relief of Calvin B. Seymour and Willard Boynton, surviving partner of the firm of W. and H. Boynton; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee to which was referred the petition of John W. Quinney, praying to have the rights of a United States citizen and a home, and that all his rights in the Stockbridge tribe of Indians may inure to him, reported a bill for his relief; which was read and passed to the second reading.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of the legal representative of James C. Watson, of Georgia, reported it back without amendment.

Mr. WALKER, from the Committee on Revolutionary Claims, to which was referred the memorial of Catharine G. Finney, in behalf of herself and other heirs of officers of the Revolution, of the Rhode Island brigade, praying remuneration for depreciation of pay-certificates for services during the Revolution, asked to be discharged from the further consideration thereof, on the ground that it was embraced in the general claim of the Rhode Island brigade, now under consideration. It was so ordered.

He also, from the same committee, to which was referred a memorial of citizens of New York, praying that pensions may be granted to the widows and children of officers and soldiers of the Revolution; the petition of the children of Brinton Paine for back pay and pension, with the report of the Committee on Pensions thereon; and the documents in support of the claim of William Read for compensation for services in the Indian war of 1793, asked to be discharged from the further consideration thereof, and that the last-mentioned be referred to the Committee of Claims; which was agreed to.

Mr. WADE, from the Committee on Claims, to which was referred the petition of Priscilla C. Simonds, praying remuneration for the effects of her son, Moses H. Simonds, who died in the service, and were taken possession of by his superior officer and lost, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the memorial of the heirs and legal representatives of Samuel Prioleau, praying indemnity for property destroyed by order of General Lincoln during the revolutionary war, reported a bill for their relief; which was read and passed to the second reading.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of Maurice K. Simons, reported it back without amendment.

He also, from the same committee, to which were referred the memorials of William Butler, and of Joseph H. Marsh, reported adversely thereon. The report on the first-named memorial was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the bill from the House of Representatives for the relief of Sergeant Leonard Skinner, reported it back without amendment.

He also, from the same committee, to which was referred the memorial of Julius A. Pratt, praying to be employed to clear out the river San Antonio, in Texas, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the Committee for the District of Columbia, to which was referred the several memorials relating to the amendment of the charter of Washington, reported a bill to amend the charter of the city of Washington; which was read and passed to the second reading.

Mr. UPHAM, from the Committee on the Post Office and Post Roads, to which was referred the

petition of Samuel F. Butterworth, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. HAMLIN. The Committee on Commerce, to which was referred the memorial of the Legislature of Tennessee, praying the establishment of a marine hospital at Memphis, have directed me to report adversely thereon. I desire to say in this connection, that the memorialists do not really ask for the establishment of a marine hospital, but for a State or county poor-house, and such most assuredly is not within the view of the law. There is a letter from the Secretary of the Treasury in relation to the matter. I move that it be printed for the use of the Senate.

The motion was agreed to.

Mr. DAWSON, from the Committee on Patents and the Patent Office, to which was referred the petition of William R. Nevins, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which was referred the memorial of Jonathan Lewis, reported a joint resolution for his relief; which was read and passed to the second reading.

Mr. BRADBURY, from the Committee on the Judiciary, to which was referred the petition of C. E. Gredendux, reported a bill for his relief; which was read and passed to the second reading.

#### NOTICES OF BILLS.

Mr. GWIN gave notice of his intention to ask leave to introduce a bill to grant the right of way through the public lands of the United States for the construction of the following railroads, to wit: From Benicia, by the way of Sacramento City, Marysville, and Shasta City, to Shasta Balle City; from San Francisco to San José; from Sacramento City to Nevada City; from Sacramento City, via Coloma, to Placerville; from Stockton to Mokelumne Hill; from Stockton to Sonora; from Stockton to Agua Fria; from Monterey, via San Juan, to Agua Fria; from San Pedro to Los Angeles; from San Diego, via San Luis Rey, Los Angeles, San Juan, to San José; and from Los Angeles to Agua Fria.

Also, a bill supplemental to the act of Congress approved March 3, 1851, to ascertain and settle the private land claims in the State of California.

Mr. DOWNS gave notice of his intention to ask leave to introduce a bill, providing for the issuing of patents for a certain class of confirmed private land claims in Louisiana.

Also, a bill for the relief of Leonard Dyson, as assignee of Edward McLaughlin, or his legal representatives.

Mr. BRODHEAD gave notice of his intention to ask leave to introduce a bill for the relief of Mary E. Davis, widow of E. W. Davis.

Mr. GEYER gave notice of his intention to ask leave to introduce a bill to provide for the improvement of the navigation of the Mississippi river, and the navigable waters leading into the same.

#### BILLS INTRODUCED.

Mr. GWIN, agreeably to previous notice, asked and obtained leave to introduce a bill, to provide for a monthly mail from San Francisco, via the Sandwich Islands, to Shanghai, in China; which was read a first and second time by its title, and referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### EXECUTIONS IN DISTRICT OF COLUMBIA.

Mr. BADGER, in pursuance of previous notice, asked and obtained leave to introduce a bill to prohibit public executions in the District of Columbia; which was read the first time, and ordered to a second reading.

Mr. BADGER. I ask the Senate, by unanimous consent, to permit that bill to be now read the second time; and if, after it is read, there be no objection, I hope the Senate will agree to put the bill immediately upon its passage. There are circumstances that render the bill not only proper, but, if proper in itself, proper to be passed immediately.

There being no objection, the bill was read a second time, and the Senate proceeded to consider it, as in Committee of the Whole. It provides that persons now under sentence of death, and who shall hereafter be adjudged to suffer death



within the District of Columbia, shall be executed within the walls of some prison in the District, or within a yard or inclosure adjoining said prison, and not elsewhere; that the marshal of the District, or one of his deputies, (with such officers of the prison, constables, and other peace officers as the marshal or his deputy shall deem proper,) shall attend at said execution. It also provides, that the marshal, or his deputy, shall invite the district attorney, two or more physicians, and twelve respectable citizens, to be present at every such execution, and, at the request of the person to be executed, shall also allow any ministers of the Gospel, (not more than three in number,) his or her counsel, or any of his or her near relatives, to be present thereat; but no person or persons other than those mentioned in the act, and no person whatever under the age of twenty-one years, shall be allowed to witness any such execution.

Mr. HALE. I want to make a single suggestion to the honorable Senator from North Carolina. I see that the bill, as it now stands, makes it imperative on the marshal to request the presence of the district attorney; and he is to request the attendance of the prisoner's counsel, if the prisoner shall desire it. I wish to transpose the words "his or her counsel," so as to make them come in immediately after the words "shall invite the district attorney;" so that it shall be incumbent on the marshal to invite the district attorney, and also the prisoner's counsel, without the request of the prisoner. I hope there will be no objection to this change. I propose an amendment to transpose the words I have indicated.

Mr. BADGER. I have no objection to it. I put the bill in its present form because I hardly supposed it would be proper to invite the prisoner's counsel unless the prisoner desired it. But I have no objection to the proposed change.

The amendment was agreed to; the bill was reported to the Senate as amended; the amendment was concurred in, and the bill was ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### MARINE HOSPITALS.

Mr. HAMLIN submitted the following resolution; which was referred to the Committee on Commerce:

*Resolved*, That the Secretary of the Treasury be, and he is hereby directed to cause such an investigation as he shall deem necessary, to ascertain if any of the marine hospitals erected by the United States Government, are used for any purpose other than for the relief of sick and disabled seamen, and other persons by law entitled to relief; and if it shall be found that said hospitals are used for any purpose except such as specified by law, that the Secretary be directed to adopt such rules as shall prevent said abuse.

#### UMPQUA AND ROQUE RIVERS.

Mr. GWIN submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of War communicate to the Senate a copy of report and survey in reference to the Umpqua and Roque rivers of Oregon, made by Lieutenant Williamson, captain topographical engineers.

#### ORPHANS' COURT OF WASHINGTON.

Mr. SHIELDS submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of placing the compensation of the judge of the orphans' court for the county of Washington, in the District of Columbia, upon an equality with that of the judges of the district court for said District.

#### PENSION AGENTS.

Mr. SHIELDS submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Pensions be instructed to inquire into the expediency of so amending the second section of an act entitled "An act making appropriations for the payment of revolutionary and other pensions of the United States, for the year ending 30th June, 1848," approved 20th February, 1847, as to extend the compensation allowed by said section to pension agents for services rendered since the passage of said act, to all pension agents who had rendered similar services previous to the passage of said act.

#### COAL USED IN THE NAVY.

The Senate proceeded to consider the resolution submitted by Mr. COOPER, the 2d instant, in relation to the qualities of the several species of coal used by the Navy; and it was agreed to.

#### PAYMENTS TO NAVAL OFFICERS.

The Senate proceeded to consider the resolution submitted by Mr. HALE, the 16th instant, in relation to unauthorized payments to naval officers; and it was agreed to.

#### FRENCH SPOILIATIONS.

The engrossed bill to provide for the ascertainment and satisfaction of claims of American citizens, for spoiliations committed by the French prior to the 31st day of July, 1801, was read a third time.

On the question, "Shall this bill pass?"—the yeas and nays were demanded by Mr. BRODHEAD, and ordered; and it was determined in the affirmative—yeas 26, nays 13; as follows:

YEAS—Messrs. Badger, Berrien, Borland, Bradbury, Clarke, Cooper, Davis, Dawson, Downs, Fish, Geyer, Hale, Hamlin, James, Mangum, Miller, Pearce, Sebastian, Seward, Shields, Smith, Spruance, Sumner, Underwood, Upham, and Wade—26.

NAYS—Messrs. Adams, Atchison, Brodhead, Cass, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Gwin, Hunter, King, Norris, and Walker—13.

Mr. RUSK rose when the roll was about to be called, and said: I simply wish to say that I should vote against that bill, but the Senator from Louisiana [Mr. SOULE] having gone home, I agreed to accommodate him by pairing off with him. He would have voted for the bill, if he had been here. I mention this fact as my reason for not voting on this bill.

Mr. JONES, of Iowa. A similar request was made of me by the Senator from Maryland, [Mr. PRATT,] who is now absent, as we are on different sides of the question in relation to this bill, he having determined to vote for it, and I against it.

Mr. BROOKE. The Senator from California, [Mr. WELLER,] who is absent, requested me to pair off with him on this bill, and I have agreed to do so.

Mr. BORLAND, on his name being called, said, I vote "aye," under protest.

Mr. MANGUM, when his name was called, said, I vote "aye," under instructions.

#### THE DEFICIENCY BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852.

Mr. GWIN. Mr. President, it was not my purpose to make any remarks in reference to this bill, except to explain some of the amendments which have been offered by the committee on Finance. But the discussion which took place on Friday last has made it a duty on my part to present some facts to the Senate, which I shall do as briefly as possible. Although I dissent from the chairman of the Finance Committee in some of the positions assumed by him in opening this discussion, I should, nevertheless, have remained silent, but for a remark which fell from the Senator from Georgia, [Mr. BERRIEN.] That Senator stated that he was struck with the peculiarity of this discussion, with which we have been favored, from the chairman of the Finance Committee, on the subject of deficiency bills. And he went on to state that he was not now prepared for the discussion; but he added:

"I note it merely for the purpose of having it understood by the country, that this Administration is capable of a defense, when the proper motion arrives for making it."

Now, here is a notice given to us, that the Senator intends to defend this Administration at the proper time; and, in order that he may have additional materials to those that were furnished by the Senator from Virginia, [Mr. HUNTER,] I will give him some other items which will demand explanation from the champions of the Administration. I shall commence by calling the attention of the Senator to this provision of the Constitution of the United States:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office."

I will then ask him to refer to a letter from the Secretary of State, which he will find in the documents accompanying the President's message, on California and New Mexico, addressed to the Hon. Thomas Butler King, who was, at the time, a member of Congress elect from the district, I believe, in which the Senator resides. The Secretary of State says:

"The President, reposing full confidence in your integrity, ability, and prudence, has appointed you an agent for the purpose of conveying important instructions and dispatches to our naval and military commanders in California."

At the close of this letter he says:

"Your compensation shall be at the rate of eight dollars per diem, from the time of your departure on the business of your mission, until your return home; and you will be allowed your traveling and other expenses during your absence."

Mr. DAWSON. What is the date of that letter?

Mr. GWIN. It is dated April 3d, 1849. Mr. King was at that time a member of Congress from Georgia. He had been elected, I believe, the previous October. His term had commenced; and here he receives one of the most important appointments, as I shall presently show, ever conferred upon any individual, from the beginning of the Government to the present time, still retaining his seat in Congress, and receiving compensation at the rate of eight dollars a day, and his traveling expenses, in addition to what he might receive as a member of Congress. Now, what was Mr. King's mission? He had placed under his control the whole power of this Government on the Pacific coast, or that portion of it included within the Territory of California. He had placed at his disposal the army, navy, and Treasury of the United States. I have the documents to prove what I state. I read from a letter from General Smith, who was in chief command in California, addressed to the Secretary of War. He says:

"Sir: I have the honor to acknowledge the receipt of your communication, by the hands of the Hon. T. Butler King."

"With the view of affording him every possible opportunity of acquiring information relative to California, its present situation, its capabilities and prospects, I have prepared the means of making a journey over the most part of the Territory that is inhabited—going from the upper part of the Sacramento along the foot of the Sierra Nevada to the upper waters of the San Joaquin, and returning by a route nearer the coast, after visiting the country north of this bay, near the sea. Several officers of the staff will accompany us; and an experienced geologist, Dr. Tyson, of Maryland, has promised to go along. Commodore Jones will also be of the party, if he finds he can be spared from the court. We shall leave as soon as the steamer is dispatched."

Now, this expedition is one of the items that has within a few years swelled the expenditures in the quartermaster's department to such an extraordinary amount. It was fitted out by the quartermaster at great expense, and Mr. King was escorted by the general and commodore in command of the army and navy on the Pacific coast into the interior of California, accompanied by an armed escort. The authority by which Mr. King controlled these movements, emanated from the President of the United States. There was no discretion left to the military commanders in California. I will show now what Mr. King did as to the navy. He delivered his instructions to Commodore Jones, in command on that station, who writes a letter to the Secretary of the Navy as follows:

"Sir: I have the honor to acknowledge the receipt of your letter of the 7th of April, handed to me on the 5th instant by Lieutenant Ringgold of the Navy, in company with the Hon. T. Butler King. A more acceptable visitor than Mr. King could hardly have been sent to California; nor could his arrival here have been more opportune, being himself the bearer of the first authentic intelligence of the failure of all efforts in Congress to extend the laws of the United States over this Territory. Mr. King will doubtless report by the first steamer the state and condition of affairs here as he found them. It is very gratifying to that portion of the army and navy serving on this station, to find that the measures they have adopted for the security of persons and property, and for the collection of duties on foreign imports, are approved by Mr. King, as we hope they will be by the President."

To show what unlimited power was conferred on Mr. King, I will read a letter addressed by him to Commodore Jones, dated

SAN FRANCISCO, August 13, 1849.

Sir: In carrying into effect the views and policy indicated in the letter of the Secretary of the Navy, which I had the honor to deliver to you on my arrival in this place, it has become necessary that I request you to dispatch the steamer Edith, as soon as practicable, to St. Diego, touching at the intermediate ports, and to return to Monterey by the 1st proximo. Please to have her supplied with stores, &c., to accommodate some twenty persons in her cabin. As she is now, I am informed, undergoing repairs, I must beg that you will not hesitate to employ such force as will insure her being ready for sea, if possible, by Saturday next.

I have the honor to be, with very great respect and esteem, your most obedient servant,

T. BUTLER KING.

Commodore T. A. C. JONES, &c., &c., &c.

Commodore Jones, on the first of September, notifies the Secretary of the Navy of this order:

"Sir: The steam-propellers Edith and Massachusetts have been transferred from the War to the Navy Department—the former to the squadron and the latter to the joint commission. The Edith was in a very unserviceable condition—that is, her propelling machinery, which has been

repaired at a very considerable cost, (\$3,500;) and she is now in charge of Lieutenant McCormick, with two engineers hired for the occasion, and has gone to leeward upon a requisition of the Hon. T. B. King, to bring the members elect from San Diego, Los Angeles, and Santa Barbara, to Monterey, where the convention for forming a State constitution will this day meet."

On the 12th of September, he writes another dispatch to the Secretary as follows:

FLAG SHIP OHIO, SAN FRANCISCO, }  
September 12, 1849. }

SIR: The inclosed copy of a letter from Lieutenant James McCormick will inform you of the shipwreck and total loss of the United States steam propeller "Edith." My letter (No. 65) of the 1st of September last informed you of the object for which the Edith was dispatched to leeward, which will be better understood by the accompanying copy of a letter from the Hon. T. Butler King, to me addressed. I am pleased to say that, notwithstanding the loss of the "Edith," the object of her visit below has not been defeated, as all the members elected to the convention from the southern districts, with a single exception, were in attendance at Monterey when the convention organized for business on Monday, the 3d instant, and, by last accounts, were proceeding harmoniously in their great work.

I have the honor to be, most respectfully, your obedient servant,  
THOS. AP C. JONES,

Commander-in-chief U. S. Naval forces, Pacific ocean.  
Hon. WM. B. PRESTON, Secretary of the Navy.

It will thus be seen how this vessel was lost, that cost, I believe, \$120,000, and thus lost in the exercise of authority conferred on Mr. King, giving him the control of the army and navy of the United States, who originated an expedition that turned out to be wholly useless, as the delegates, with a single exception, had proceeded to the convention independent of it. The vessel could have rendered important service at that particular juncture, in carrying supplies from one part of the country to another. Its total loss makes another large item in the expenditures of the Government, which have been so enormously increased of late.

I will progress a little further. I wish it distinctly understood that I speak on this subject without the slightest intention of reflecting on anybody—certainly not upon Mr. King. What he did he conceived to be in the discharge of his duty to the country. But I intend to hold this Administration responsible for the expenditure of public money that has taken place in California, and which is now creating a prejudice against necessary appropriations for that State; and I intend to show that the expenses heretofore incurred in that State, with the concurrence and sanction of the Administration, have been, in some instances, wholly unnecessary, and a waste of the public money. I will proceed with Mr. King; and I wish to call the particular attention of the honorable Senator from Georgia, who is prepared to defend this Administration, to another fact. Mr. King returned to the United States, and made a report on California.

Mr. BERRIEN. With the permission of the Senator from California, without disclaiming a disposition to defend the Administration when I think proper to do so, I beg to say that the Senator has totally misconceived the declaration which I made the other day. I said that this Administration was capable of a defense, when the proper occasion should arrive. I have not said (as the Senator now says) that I was prepared to make that defense. But I desire to say that there was nothing in the remark which I made the other day that authorized the Senator from California to appeal to me in the manner in which he has done.

Mr. GWIN. I am very sorry that I misunderstood the Senator. I certainly understood him to make a general statement to the Senate, that he was very much surprised at the course of remark pursued by the Senator from Virginia.

Mr. BERRIEN. So I was.

Mr. GWIN. I understood him to say further, that he was not then prepared to go into a defense of the Administration, but that it was capable of defense; and I drew the inference that it was his intention hereafter to make that defense. If the Senator's attention had been turned to what I said in the opening of my remarks, he would have discovered that I stated I would give items to be defended additional to those which the Senator from Virginia had presented to the Senate, for I thought the Administration needed a defense on these subjects. I was merely calling the attention of the Senator from Georgia to these facts, because he had, as I conceived, on the part of the Administration, thrown down the gauntlet, and I was prepared to take it up.

I will proceed very briefly to call the attention of the Senate and of the country to one fact. Mr.

King, after his return to the United States, and during the recess of the Senate, was appointed to the important office of collector of customs for the district of San Francisco—the second appointment conferred upon him during the time for which he had been elected a member of the Thirty-first Congress. He proceeded to San Francisco, and, instead of remaining there to discharge the duties of his office, he repaired with dispatch to the seat of Government, and became a candidate for the Senate of the United States. He spent weeks at the seat of Government, keeping "open house," electioneering for the office of Senator, while the duties of the office of collector were left to be performed by persons inexperienced at least, if not incompetent. The incumbent of this high office of the Government, enters the political arena with all the power it conferred—power that he used on that occasion, if I am not misinformed, to promote his election to the Senate; for one of the most important considerations with some who sustained him was, that they expected to get his place in the event of his election to the United States Senate. He carried on that contest during one hundred and forty-two ballots for Senator with a spirit and energy rarely if ever before known in this country. The Legislature adjourned without making an election. Mr. King, holding this high Executive office, went before the people of California as a candidate for the Senate. It was charged—and I have not seen it contradicted by authority—that a large number of individuals were employed in the custom-house who traveled through the State of California, and endeavored in every way they could to carry the election in favor of the present Administration, and especially to secure a Whig majority in the Legislature in favor of the election of Mr. King to the Senate.

We have seen, in the newspapers, a good deal of credit given to the Treasury Department, because it had recently greatly retrenched the expenses of the custom-house at San Francisco. I wish to bring to the notice of the Senate, and I wish the inquiry answered at the proper time, whether or not these expenses had not been increased to an extraordinary extent, to accomplish political objects; and when there was no necessity for these additional forces for these objects, the election being over and the Whigs defeated, then the retrenchment took place; and, to divert public attention from the fact, credit is given to the Administration for this evidence of reform. Under the unlimited power that we have given to the Treasury Department, to exclude California from the operation of the general law, which makes it necessary to report the expenditures appropriated in collecting the customs; for, owing to the great distance of that country from the seat of Government, I have reason to believe that the expenses of collecting the revenue there has increased to treble what they were under the *de facto* Government; when the price of everything in that country was higher.

There is another fact which, if in order, I wish to bring to the notice of the Senate and the country. That the nomination of Mr. King, which it was known to the Administration would be contested on constitutional grounds, was withheld from the Senate, so that we could not act upon it, until after the 4th of March last, when the time for which he had been elected a member of the Thirty-first Congress expired—thus giving this coordinate branch of this Government in making appointments to office no opportunity of passing upon the constitutionality of the appointment.

The Senator from Virginia referred the other day to the extraordinary expense that was incurred in sending Mr. Collier, the first collector, to California. He stated that from official papers in his possession he knew that there was nearly \$35,000 expended for that purpose, furnished by the quartermaster's department. What became of the property? Was it, or any portion of it, ever returned? Certainly not. Here was an expenditure of near \$35,000 of public money in sending a collector to California, when he could have gone there by Panama in five or six months less time for \$500, and should have paid his own expenses. He had as long a tail in his escort as a comet. A number of them, when they got to California at the expense of the Government, went their way—some to the gold diggings, not connecting themselves with the Government at all. I do not wish to do an injury to any person, but

it is my duty to state these facts, when, as I believe, the malpractice of the officers of the Government in California is likely to do great injury to that State in the appropriations which she now asks, and so much needs. It is a painful duty to arraign any individual, but I must state that this collector notoriously violated the law, in seizing the cargoes of French vessels; that he confiscated those goods, and, in further violation of law, peddled them through the country; sold them here and there, and never made any return of the proceeds of the sales of these goods, or none that was intelligible. When his acts were disavowed by the Secretary of the Treasury, and he was ordered to return these goods, they had been thus disposed of, and we were compelled, in order to do justice to the citizens of France, to pass a law to pay them from the Treasury of the United States. Claims thus arising from the illegal acts of this collector to the amount of a million of dollars, as I was told by the French consul at San Francisco, have been presented to this Government, and have and now are being paid at greatly reduced estimates by the Secretary of the Treasury. Was not this a great abuse of power, which has resulted in a great loss to the Government? In addition to this, it was charged against this officer by members of his own party that he had, in violation of the sub-treasury law, used the public funds that came into his hands for speculative purposes, which should subject him to criminal prosecution. Notwithstanding these violations of law, the knowledge of which was in possession of the Administration, when the districts were changed; the same individual, with these heavy and grave charges hanging over him, was again renominated to the Senate for the very important office which he had before held. But such was the effect produced on the Senate by the rehearsal of these facts that he was almost unanimously rejected. The official records of the country prove that this gentleman, on whom I wish to inflict no injury, stands charged on the books of the Treasury as being in default to the Government for hundreds of thousands of dollars.

Mr. DAWSON. Will the Senator from California give the name of the officer to whom he alludes?

Mr. GWIN. I have already stated that these charges are against Mr. Collier, the first collector of San Francisco. I do not wish to inflict any injury on him, or prejudice him in the defense of his case; which is now undergoing investigation in the courts. I will state another fact. I want the Senate to bear in mind the dates of these transactions. Mr. King's appointment was in April, 1849, immediately after the coming in of the present Administration; for I look upon it as being but one Administration from the 4th of March, 1849, to the present time. The date of Mr. Collier's appointment is coeval with that of Mr. King's. I have read from official documents to show that the whole of the military and naval power of the Government on the Pacific coast were put under the control of Mr. King. I will now show, from the same documents, that the collector holding the revenues of the Government was subject to a similar control, as I stated some time ago:

TREASURY DEPARTMENT, April 2, 1849.

SIR: This will be handed to you by the Hon. T. Butler King, if there should be in his opinion occasion for so doing. The object of this letter is to impress upon you the desire of the President that you should, in all matters connected with Mr. King's mission, aid and assist him in carrying out the views of the Government as expressed in his instructions from the Department of State, and that you should be guided by his advice and counsel in the conduct of all proper measures within the scope of those instructions.

I am, very respectfully, your obedient servant,

W. M. MEREDITH,  
Secretary of the Treasury.

JAMES COLLIER, Esq.,  
Collector of the Customs, Upper California.

About the same time, in 1849, a gentleman from the State of Missouri, General John Wilson, was appointed an Indian agent for Salt Lake; and he, also, was furnished with an extravagant outfit and escort to conduct him to his agency.

He went to the Salt Lake, and stayed there long enough to write a letter or two. He then went to California with his family, his books, and his baggage of all descriptions. He was an emigrant, moving at the Government expense. He landed in the valley of the Sacramento about the commencement of the winter season, could carry his effects no further; buried them, and hurried on

with his family: By an order that emanated from the Secretary of War, a detachment of the army was ordered out the following spring to bring in the private property belonging to the Indian agent, transported for him at Government expense by the Salt Lake to California. I was told by the assistant quartermaster, who fitted out the expedition, the principal object of which was to perform this service, that the cost was little less than \$100,000. This is another of the items that creates the necessity of deficiency bills, and charged as an expenditure in California. After General Wilson got to California, he resigned his agency, but no censure was cast on him for having passed through the country where he was assigned to duty, and emigrating, at such an enormous expense to the Government, to another part of the country; but he was actually appointed to another office in California. He was made navy agent at San Francisco, an office of great importance, the emoluments of which he received for a long time without giving the bond required by law; and he never did give bond that was accepted, and the office was abolished to get clear of him. This same gentleman is one of the high priests of the Whig party in California. He lately presided over one of the largest Whig conventions ever assembled in that State.

I allude to General Wilson in no spirit of unkindness, but to show where a large amount of the public money charged to California has gone. I put it to the account of a mal-administration of this Government, which commenced in the spring of 1849.

I will now go back and show the origin of the abuses of which I complain, which is inflicting such deep injury upon my State; for I believe that there was never such recklessness known since this Government was formed in the expenditure of the public money, as has been exhibited there.

It was an important era in the history of this country, when, on the 4th of March, 1849, a successful General was installed into the office of President of the United States—one who had been all his life, from early manhood, in the Army of the United States—who had never voted, and possessed no knowledge of civil affairs.

This important event has laid the foundation of the subsequent recklessness and disregard of law in expending the public money, especially in the military department of the Government. I speak for my own section of the Union. Let others speak for theirs.

In order that I may be fairly understood by the Senate, when I am speaking of events that occurred in California, which may not be so familiar to other members as to myself, I will read an extract from a letter addressed by Colonel Mason, Military Governor of California, to the Secretary of War, after he received the news of the peace with Mexico. After stating that he had anticipated the instructions in regard to the peace, he says:

"The first part of the Secretary's instructions were therefore anticipated, and I have now only to fulfill the latter part, viz: 'to take proper measures with a view to its (Upper California) permanent occupation.'"

"The above are the only instructions I have received from the Department to guide me in the course to be pursued, now that war has ceased, and that the country forms an integral part of the United States. For the past two years no civil government has existed here, save that controlled by the senior military or naval officer; and no civil officers exist in the country, save the alcaldes appointed or confirmed by myself. To throw off upon them or the people at large the civil management and control of the country, would most probably lead to endless confusions, if not to absolute anarchy; and yet what right or authority have I to exercise civil control in time of peace in a Territory of the United States? or, if sedition and rebellion should arise, where is my force to meet it? Two companies of regulars, every day diminishing by desertions, that cannot be prevented, will soon be the only military force in California; and they will be of necessity compelled to remain at San Francisco and Monterey, to guard the large depôts of powder and munitions of war, which cannot be removed. Yet, unsupported by military force, or by any positive instructions, I feel compelled to exercise control over the alcaldes appointed, and to maintain order, if possible, in the country, until a civil governor arrive, armed with instructions and laws to guide his footsteps."

"In like manner, if all customs were withdrawn, and the ports thrown open free to the world, San Francisco would be made the depôt of all the foreign goods in the north Pacific, to the injury of our revenue and the interests of our own merchants. To prevent this great influx of foreign goods into the country duty free, I feel it my duty to attempt the collection of duties, according to the United States tariff of 1846. This will render it necessary for me to appoint temporary collectors, &c., in the several ports of entry, for the military force is too much reduced to attend to those duties."

Here is an honest avowal that he has no author-

ity to exercise civil control in times of peace in a territory of the United States. The necessity of the case may have justified this assumption of power, but never that of levying duty by his simple edict under the tariff of 1846.

Thus at the close of the war with Mexico, this officer, who was in command of the Army in California, notified the Government, that to prevent anarchy, a *de facto* government must be maintained until Congress established a legal one. He also, under the tyrant's plea of necessity, extended the revenue laws of the United States to California. Before Congress acted at all, he decreed that the tariff of 1846 should be enforced there, and under this decree duties were exacted. When this letter reached the Secretary of War, the assumption of civil authority was overlooked, as the emergency arising from the neglect of Congress to create a government justified it. The Secretary of State, Mr. Buchanan, in a letter to Mr. Voorhies, post office agent, justified the formation of this *de facto* government. The question as to the power to collect duties, which had been assumed by Governor Mason, was referred to the Secretary of the Treasury. On the 7th October, 1848, he issued a circular, in which he stated explicitly that there was no power to collect duties in California. I will read it:

"On the 30th of May last, upon the exchange of ratifications of our treaty with Mexico, California became a part of the American Union; in consequence of which, various questions have been presented by merchants and collectors for the decision of this Department."

"By the Constitution of the United States it is declared that 'All treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.' By the treaty with Mexico, California is annexed to this Republic, and the Constitution of the United States is extended over that Territory, and is in full force throughout its limits. Congress, also, by several enactments; subsequent to the ratification of the treaty, have distinctly recognized California as a part of the Union, and have extended over it, in several important particulars, the laws of the United States."

"Under these circumstances, the following instructions are issued by this Department:

"1st. All articles of the growth, produce, or manufacture of California, shipped therefrom at any time since the 30th of May last, are entitled to admission, free of duty, into all the ports of the United States."

"2d. All articles of the growth, produce, or manufacture of the United States, are entitled to admission, free of duty, into California, as are also all foreign goods which are exempt from duty by the laws of Congress, or on which goods the duties prescribed by those laws have been paid to any collector of the United States previous to their introduction into California."

"3d. Although the Constitution of the United States extends to California, and Congress have recognized it by law as a part of the Union, and legislated for it as such, yet it is not brought by law within the limits of any collection district, nor has Congress authorized the appointment of any officers to collect the revenue accruing on the import of foreign dutiable goods into that Territory. Under these circumstances, although this Department may be unable to collect the duties accruing on importations from foreign countries into California, yet, if foreign dutiable goods should be introduced there, and shipped thence to any port or place of the United States, they will be subject to duty, as also to all the penalties prescribed by law when such importation is attempted without the payment of duties."

He reiterated this statement in his annual report at the opening of the next session of Congress; and President Polk, in his last annual message, said most emphatically that no such power could be exercised. Here is what they say:

"The revenue laws not having been extended to California, no duties could be collected there, but the Department exercised all its authority by issuing the circular hereto annexed, [which I have just read,] (marked S,) opening free trade, under the Constitution, between its ports and those of the rest of the Union, at the same time guarding the revenue from loss, as far as practicable."

"No revenue has been, or could be, collected at the ports in California, because Congress failed to authorize the establishment of custom-houses, or the appointment of officers for the purpose."

"The Secretary of the Treasury, by a circular letter addressed to the collectors of customs on the 7th day of October last, a copy of which is herewith transmitted, exercised all the power with which he was invested by law."

When the news of this disavowal of the power that had been exercised by Colonel Mason, as *de facto* governor of California, reached that country, application was made to Commodore Jones, (who was in the bay of San Francisco with a naval force, to execute the tariff of Governor Mason,) to know whether the circular of the Secretary of the Treasury, and the message of the President, did not make it his duty to permit vessels carrying supplies to the citizens of California to enter the ports of that country and land their cargoes without paying duties? What was his reply? It was very brief. He said he intended to execute the tariff established by Colonel Mason, with all the

power under his command; that is to say, if it was not obeyed by the citizens of California, and by those carrying supplies to them, he would use the Navy of the United States to sink their ships, and starve the people into obedience.

When intelligence of this expected collision between the people of California and those in command of the Government forces reached here, was the conduct of these officers censured? Not at all. It was silently acquiesced in, and therefore tacitly approved.

I have thus stated, at some length, the history of events in California, which resulted in the collection of what is known there as the "civil fund;" and will be pretty well known here by the same title before you are done with it. The temptation to use it for objects not provided for by any law, could not be resisted; and thus was laid the foundation of the enormous expenditures upon objects of doubtful necessity, of which we have heard so much. But I will state here, in reference to the responsibility of expending this money, charged upon the assistant quartermasters in California, that I do not indorse this charge unless it is proved that they acted without authority. If they acted under orders from a superior officer, which were sanctioned, or not disavowed, by the Secretary of War, the head of the Department, and not the subordinate, is responsible. The Quartermaster General is a subordinate—is the head of a bureau; and if he, or any of his subordinates, violated the law in expending the public money, it was the duty of the head of the War Department to report him or them to the President of the United States for dismissal, or to be tried by a court-martial. I am prepared to say, that the Quartermaster General, and his subordinates in California, so far as I know, have always acted under orders from superior authority; and that every abuse (and there are many in the expenditure of the public money in that country) has been sanctioned, either tacitly or openly, by the head of the War Department. I do not attach the least blame to the present Secretary, because the abuses and assumptions of power to which I have referred originated before he came into office, and I believe he is diligently engaged trying to put a stop to the extravagant expenditures of his Department. But I am looking to the system which was established in 1849. The Quartermaster's Department is not responsible, and should not be made the scape-goat, and bear the blame that properly attaches to the head of the Administration.

Mr. DAWSON. Will my friend from California yield the floor for a moment, for the purpose of examining into this matter? He says that, in the Quartermaster's Department particularly, enormous abuses have been practiced. As he has drawn our attention to them, will he state where they are ascertained to exist, that we may know where to guard against them for the future?

Mr. GWIN. I am coming to that, and shall read from the documents presently. But the gentleman misunderstands me, when he says I refer to the Quartermaster's Department particularly, and charge it with enormous abuses. I say that there has been a wasteful expenditure of public money in California, not only in the Quartermaster's Department, which I will show has only obeyed orders, but I think I may add in nearly every department of the Government under Executive control. I will now read from a report of Major Vinton, one of the most intelligent officers of the Quartermaster's Department, and the senior officer of the department in California, dated March 29, 1850:

"GENERAL: I have the honor to report that, in compliance with your orders of the 5th of April, 1849, to proceed to California, and there take in charge the direction of the affairs of the quartermaster's department of the Pacific division of the Army, I embarked at New York on the 17th of April, 1849, (with \$150,000 in specie under my care,) and arrived at Panama on the 2d of May. At that place I was detained twenty-four days by untoward circumstances, and re-embarked on the Pacific the 23d of May, for San Francisco."

After going on to state the situation of affairs which he found on his arrival in California, he describes the point which had been selected as the great depôt for the army and navy of the United States on the Pacific. I will read what he says on that subject:

"By the united judgment of Major General Smith and Commodore Jones, a place situated on the north bank of the straits of Karquinez, called Benicia, has been selected as the most favorable locality for our military and naval depôts. It is with great reluctance, therefore, that I ven-



ture to describe this position, believing, as I do, that most of its important features are objectionable, or rather, that it is lacking in many attributes which are requisite in a site designed for the purposes that this has been. Geographically it has but few defects, being in a direct line of communication with the ocean, having good anchorage, deep water, and free approaches to its shore for the unloading of the largest class of ships. Here its advantages cease, and they relate more to the interests of commerce than to the peculiar fitness of the place for a military station and a depot of supplies. Topographically, it is uninviting in the extreme, possessing an aspect neither of beauty nor of usefulness. Hills, barren of trees or any other vegetation but the wild oats, rise abruptly from the water, and, swelling onward to the interior for six miles, are utterly destitute of wood; but beyond that region the scrubby oak makes its appearance in single trees, or in small clusters, affording but a scanty supply for present consumption. Fresh water is only found in one small spring, about a mile westward from the depot. This has to be shared with the citizens of the town of Benicia.

"Having in view, then, that these two great elements, which invariably form the first principles in making a choice for the residence of a community, are wanting at this place, I think the defects of the position are made manifest.

"It has been supposed that the waters of the straits, at certain seasons of the year, may be relied on for the use of the troops; but I think this erroneous. It is only at a certain stage of the tides, combined with very high water in the Sacramento and San Joaquin rivers, that the water of the straits is palatable, and then it is deemed by some to be unwholesome. A well fifty feet in depth was dug by Lieutenant Colonel Casey's company, but the water proved brackish and unsuitable for use.

"The rocks forming the base of the hills seem to have been, by some convulsion of nature, thrown upwards from a horizontal position, giving a dip towards the straits, by which the water cannot be retained below the surface. Artesian wells may, by persevering probing, remedy this great evil, and it is the only reliance we now have. No expense should be spared to procure scientific as well as practical men to push, vigorously, the search for water by such means; and I must earnestly urge the subject to your notice as an enterprise upon which the welfare of the depot and its inhabitants are to depend.

"Previous to my departure for Oregon, I caused to be purchased an instrument for boring, and placed it under the management of Mr. Bonford, whose report will be found in the appendix. Although he has not met with full success, I feel confident that, with more perfect apparatus, water of a good quality may yet be obtained convenient to the depot. But to guard against a failure through such means, the commanding general is desirous of providing in another manner for a supply of water for the use of the post.

"He proposes that, at a point adjacent to some of the larger buildings, a cistern to contain from two hundred thousand to three hundred thousand gallons of water be constructed; the bricks and cement of which it is to be formed to be brought from the United States. But as expensive as artesian wells are, they would cost far less than such an undertaking. Water remains to be provided, and the choice of means is left for your decision. Small wooden cisterns have been constructed near the store-house already erected; but the supply from them is only adequate in the rainy season.

"Wood can be obtained on Suisun bay and on the Sacramento river; but if procured by contract, under the present rate of wages for labor, it would form an item of expenditure surpassing the belief of the most credulous; and if attempted by the labor of our troops, desertion would inevitably follow, to the annihilation of the military force so employed."

This selection laid the foundation of large expenditures in California. The officers who made the selection were subordinate to the Secretaries of War and the Navy. Their action was not final or effective until sanctioned by the heads of these Departments. The Secretary of the Navy did not approve of the selection, or if he did, there has been no expenditure of public money towards the establishment of a navy-yard there. He waited for Congress to act, and we now have the subject under consideration. Not so with the Secretary of War. Notwithstanding the report of Major Vinton, made near two years ago and laid before him, in which he shows the most palpable defects in the location, he has never disapproved of the act of the commander of the Pacific division; and therefore I hold him responsible for the entire expenditure of the public money there. I will call the attention of the Senate to a few more extracts from this document, and will thus show why I introduced the civil fund into this discussion:

"In some of my reports, made while stationed in California, I had occasion to call your attention to the fiscal concerns of the quartermaster's department under my charge. The large sums carried to that country by Major Fitzgerald and myself, were speedily expended. Indeed, I found that on my arrival there the debts contracted by my predecessors were so large as to leave no other resort for means to carry on the current duties of the department than the 'civil fund' of California, so called, which had been raised, in part, by military contributions during the Mexican war, and otherwise by the collection of duties at the custom-house.

"This fund, being under the control of the Governor of the Territory, was placed for safekeeping in the custody of some one of the disbursing officers of the quartermaster's department. As it had accumulated to a cumbersome amount, and, from the character of the buildings at San Francisco, no good place of security could be found in which to de-

posit it, it was deemed expedient and safe to lend such sums as were needful for the urgent wants of the army, to be replaced at a subsequent and convenient period by remittances from the United States. But for this resource the operations of the quartermaster's department would have been much impaired if not entirely stopped for want of funds. And such had been the extravagant wants of the department, by the unforeseen increase of the demands upon it—extending beyond any, even the wildest conjectural estimates that could have been formed—that the drafts upon this fund had at one time become alarming, and I was apprehensive that the sums so expended might exceed the appropriations for that division of the army. Being assured, however, by the general commanding, that any excess of expenditures would be provided for by future appropriations by Congress, the 'civil fund' continued to be our reliance. In relation to this subject I have written extensively enough before to render further remarks unnecessary; yet, as it may not be well understood how the civil fund has been created, I will remark that in its accumulation it may be classed under three distinct heads, viz:

"1st. The money received from military contributions during the war with Mexico.

"2d. The amount derived from the collection of duties on imports under the administration of Colonel Mason, without the authority of law, and subsequent to the treaty of peace with Mexico, and prior to the arrival of Major General Smith; and

"3d. The amount which accrued from the collection of customs after the 1st of March, 1849, under the circular letter of General Smith, which made the duties collected subject to the future action of Congress—the sums being voluntarily deposited by the importers in the hands of the agents of the Government.

"All drafts upon these deposits by the disbursing officers of the army have been considered as loans, to be replaced after the action of Congress shall have been had in relation to the fund."

These extracts show an extraordinary state of affairs. The \$150,000 taken out by Major Vinton, and I know not how much by Major Fitzgerald, is speedily exhausted. But this was but a drop in the bucket in fitting up this new depot, and carrying on the services in other parts of the State. The depot was likely to be brought to a stand-still. What is to be done? Why, borrow from the civil fund. Presently the sums thus borrowed become so enormous, fears are entertained that they will exceed the appropriations made by Congress, but the commanding general tells the quartermaster to go on, and pledges Congress to provide for this excess of expenditure. This pledge in this quartermaster's report is brought to the notice of the Secretary, who expresses no dissatisfaction at this assumption of power. He tacitly assents to this use of the civil fund, and thus with his sanction hundreds of thousands of dollars are expended in establishing a depot, in the face of a most unfavorable report of Major Vinton as to the site.

The quartermasters were frightened at this system of borrowing money to carry on a work not authorized to be built by Congress—were frightened at exceeding the appropriations made by Congress to meet the expenses of their department; but the commanding general said go on; the Secretary of War acquiesced, and another large item is thus made up for a deficiency bill.

One word more, and I will pass on. Major Vinton acknowledges that Colonel Mason collected the civil fund without authority of law. He also refers to the voluntary deposit made under General Smith's regulations, these voluntary deposits being made under the threat, that if any importer should refuse, his vessel would be driven from the coast by Commodore Jones's guns.

Now, I ask this question, *Cui bono?* What was the necessity for these expenditures? It may be said, to protect the people of California in the event of war. There could have been no other justifiable reason given for expending such vast sums of money without authority of law, unless there was a pressing necessity for it. I will read from the report of another quartermaster, Major Allen, to show what benefit the people of California were to derive from expending such sums in establishing a new and expensive depot on a large scale to quarter the army:

"I entered upon duty in California on the 1st of July, 1849, and took post at the place selected for a general depot, on the straits of Karquines, near the town of Benicia, under the direction of my predecessor. The quartermaster's stores had been transferred to this location from San Francisco, and were piled upon the ground near where it was proposed to erect storehouses; having no cover but the old sails of vessels, and no protection but the watchfulness of a single agent. The time for which the storehouses at San Francisco had been rented, expired on the 1st of July, and the enormous rent demanded per month for their continued occupation determined the commanding general to remove the stores in advance of any improvements, presuming that the loss of property would be less in value while thus exposed, than the expenditure required for its storage.

"I found two companies of the 2d infantry stationed at

this point; the officers with families were quartered upon an old hulk moored near the shore, and the single officers, together with the soldiers, were living in tents upon the shore. One half of the men belonging to these companies had already deserted, and the remainder had ceased to be soldiers excepting in name. They refused to work unless paid the mining value of labor, and they could not be trusted as a guard over the public property. So lax had become the discipline, and so little confidence had their immediate commanding officer in their fidelity, that he declined issuing arms to them, and did not attempt to exact from them any extra duty whatever."

To avoid the enormous rents of San Francisco, hundreds of thousands must be expended in building a new depot. And for what? To quarter troops for the defense of California, that could not be trusted by their officers with arms in their hands; the officers starving, (for it is well known they could not live on their pay,) and the soldiers, to whom the people were to look for defense, deserting. Vast sums paid to laborers to build barracks for soldiers, in such a state of insubordination, that they would not work, and could not be intrusted with arms, or with the charge of the public property! With a full knowledge of these facts, the Secretary of War sanctions these enormous expenditures on a depot established without authority of law, with the full knowledge that no corresponding benefit could result from its establishment, either to California or the United States. I intend it to be distinctly understood, that these extraordinary expenditures were known to the Secretary of War, and not disapproved of by him.

Hear what Major Allen says, in the report I have just read from. The italics are mine:

"That the cost of the improvements made, and services rendered, have no parallel in the history of the quartermaster's department, I am fully aware; but private, as well as public interests, have been subordinate to a state of things—have acknowledged a standard of value—which has no parallel in the history of the world. My correspondence with you, during this year, will show with what reluctance I have submitted to circumstances which I could not control. The silence of the War Department, until recently, induced the commanding general, to believe that the improvements he was directing had at least the tacit consent of the higher authorities; and, as the expenditures had periodically been reported, it was presumed that they had acquiesced in the necessity of submitting to the current rates of the country."

"I do not remind you of this state of things for the purpose, at this late day, of giving you information. For a portion of the period to which I now refer, the Department, here, was represented by an officer of superior rank to myself. It was the special duty of this officer to report to you every circumstance attendant upon the extraordinary expenditure of money in this division. He had full knowledge, being present, of every transaction. I have not seen his report, but I have no doubt, from the vigilance, zeal, and intelligence manifested by this officer, that but little was omitted which the subject suggested, and nothing that was requisite to a clear and explicit understanding of the condition of the country. From this source alone, I may venture the presumption that it was made known to the Department at an early day, the impossibility of making any improvements here without enormous cost, or of fitting out or providing transportation for any military movement, without an expenditure of money exceeding in amount tenfold, at least, the outlay incident to like service on the Atlantic side. A retrospective inquiry implies an absence of this knowledge, and in vites explanation, which I have given, not, however, with the expectation of stating any new facts."

"Every transaction of mine has, however, been subjected to the watchfulness and control of a superior authority, and a superior discretion. My immediate commanding general is accordingly my most competent witness; and you will find in the accompanying papers ample evidence that my whole conduct has his full and entire approval."

Mr. DAWSON. What is the date of that report?

Mr. GWIN. June 30, 1851. It is in the Quartermaster General's report, sent in at the commencement of this session. I repeat the fact, these expenditures were known to the head of the War Department; and that the commander of the military division on the Pacific had no reason to believe that he was acting contrary to the wishes of the head of that Department, when he received no intimation of it. Major Allen entertained no doubt but that all of his acts were approved, until a very late period. He was not censured, nor attempted to be censured. No one can assert that he acted without authority. He refers to his commanding general, who approved all of his acts. Has this commanding general been censured for giving this approval? Not at all. The whole of this movement, and of this extraordinary expenditure of the public money was known to the head of the War Department, and he never disapproved of it. As to its necessity, I have shown that the army was in a state of utter disorganization; that the officers were starving—that is to say, no officer could live on his pay—and the men deserting; that the soldiers at Benicia—and I suppose it was the

case at every other point—could not be trusted. The regiment commanded by Major Seawill, as he informed me, was reduced to two hundred men; the soldiers would not labor without the pay of a workman in the mines—would desert if they were required to do the duty of a soldier; which made it necessary to hire laborers and mechanics at from four to fifteen dollars a day, to do what soldiers in other parts of the country were required to do, and did do; to build barracks for the army, when, from desertions, there was no army, and but few soldiers who could be relied upon.

I invite the attention of the Senate to the fact that there was a much larger number of officers and soldiers in California before the arrival of those for whose accommodation this expensive depot was established, who were comfortably quartered in convenient and appropriate sections of the Territory; that there were quarters for soldiers, as well as for the officers and their families, (without the necessity of the latter being cooped up in old hulks of ships)—at Monterey, Santa Barbara, Los Angeles, San Diego, and Sonoma. There were the New York regiment, the Mormon battalion, with the officers and soldiers of the regular army, which formed a larger force in California before the close of the war than we have ever had since. It is thus evident that these extraordinary expenses to provide new quarters were entirely unnecessary, and that the soldiers were thus brought nearer to the mines, and tempted to desert. Major Vinton says, in regard to the post at Benicia, when he arrived there, there was no wood, that they would have to get it from Suisun and the Sacramento river at extraordinary prices, probably \$100 a cord. I do not pretend to be familiar with military affairs, but officers of the army in California, of high character, have always asserted that there was no necessity of establishing the depot at Benicia. This I know to be the opinion of General Riley. I do not censure the chief in command of the Pacific division; it was a matter of judgment with him; but the head of the War Department, if he differed from General Smith, should have disapproved of his acts, as did the Secretary of the Navy, by not carrying out the recommendation of Commodore Jones, until it was approved and sanctioned by Congress.

I have brought to the notice of the Senate the enormous expenditure of the War Department in California not authorized by law, and sanctioned by the head of the Department, in order to show the contrast in the other Departments of the Government. I will refer first to the Navy Department, which was cautious in adopting the recommendations of the commodore in command on the Pacific, involving the expenditure of large sums of money until Congress was consulted. The Navy could not participate in the brilliant achievements of the Mexican war, for Mexico had no navy to contend with on the ocean. The glory and renown of that war was monopolized by the Army. One of its most successful generals was, from the enthusiasm of the moment, elected President of the United States. The success and brilliant achievements of the Army, during the war, seemed to impress upon the mind of some of the officers of that branch of the public service that they were privileged to vary from the rigid restrictions that had been imposed upon them before the war, and that they could expend the public money on objects which they conceived to be for the public good, without the previous sanction of law, and they relied on the military chief who ruled the country to shield them from censure.

Mr. DAWSON. I would inquire of the Senator from California, at what particular time that depot was ordered in the neighborhood of Benicia?

Mr. GWIN. In the spring of 1849.

Mr. DAWSON. What time in the spring of 1849?

Mr. GWIN. It is mentioned in the reports of General Smith, to which I have not yet referred. The report of the location was forwarded to this city after the 4th of March, 1849. It was not known to the former Administration.

Mr. DAWSON. What I desire to know is, whether the location was made under the present or the last Administration?

Mr. GWIN. It was made since the 4th of March, 1849.

Mr. DAWSON. Under what orders?

Mr. GWIN. There were no orders issued to General Smith by the last Administration to make any such location.

Mr. DAWSON. By whom was the depot established?

Mr. GWIN. By the general in command of the Pacific division, and sanctioned by the Secretary of War.

Mr. DAWSON. I want to know who the military commander was at the time the depot was ordered?

Mr. GWIN. General Smith.

Mr. DAWSON. General Persifer F. Smith.

Mr. GWIN. I give General Smith full credit for acting as he thought for the good of the country. But I contend that it was the duty of the Secretary of War, who should have been familiar with the revenues of the department, and the extraordinary expenditure that would result from the establishment of this depot, to have required that the old quarters of the army during the war, should be used until Congress should determine to establish new localities in the sections of the State where they were needed.

Now, Mr. President, I come to another matter. In the Indian appropriation bill, passed on the third of September, 1850, we have this clause:

"To enable the President to hold treaties with the various Indian tribes in the State of California, \$25,000."

This is a modest sum of money, nothing like as much as it should have been, but all that Congress thought proper to appropriate. Acting under the authority thus conferred upon him, the President of the United States proceeded to organize a Board of Commissioners. He appointed three, two of whom were resident on this side of the Rocky Mountains. He sent them to California, no doubt at the public expense, to negotiate treaties. These commissioners took with them authority to call to their aid the army of the United States stationed in California. That is to say, they took with them authority to call upon the commander of that military division for escorts. I wish it to be borne in mind that all this was to be done under an appropriation of \$25,000.

One of the Board, and its disbursing officer, on the 11th of December, addresses the Commissioner of Indian Affairs, as follows. After casting a slur on the State authorities, that they were belligerent; that war with the Indians was profitable, because soldiers got from five to ten dollars per day, and "Uncle Sam" would foot the bill, (very doubtful,) he proceeds to say:

"We are now en route for the Mariposa country, with an escort of one hundred and one picked men, ten officers, three six mule covered wagons, and some one hundred and fifty pack mules, to carry our provisions, ammunition, and Indian goods; all under the command of Captain E. D. Keyes, an experienced and excellent officer, from whom we feel assured not only of protection, but of cordial co-operation, in our endeavors to pacify the Indians, with the olive branch rather than the sword. We arrived here by steamer from Benicia, on the 8th instant; yesterday evening, the horses and mules for transportation arrived; to-day, we are arranging for the journey, and expect to be on the road, in the direction of the Tulare Lake, early to-morrow morning."

"We are gathering all the information we can, and by no means despair of effecting, in the name of their Great Father, the President, a very general pacification; but it will be a work requiring address, time, and, probably, a large outlay of money for goods and provisions."

I will now show how this escort was fitted out, by reading from a letter of T. Butler King, collector at San Francisco, to the Commissioner of Indian Affairs. The quartermaster's department was out of funds, and had made application to the collector for assistance. He says:

"I may be permitted to add, that having heretofore made advances to the amount of \$150,000, for the purpose of enabling the troops to move in support of the commissioners; and without I had taken the responsibility, not a step could have been taken for the pacification of the Indians, and the prevention of probably a long and disastrous Indian war; and though four months subsequently I received an approval of that advance by the Quartermaster General, yet I have been reminded by the Commissioner of Customs, in a letter received by the last mail, that my conduct in this matter is contrary to law."

Here is information that will enlighten the chairman of the Finance Committee as to the origin of these deficiencies. The collector is surprised to find he has acted "contrary to law," in advancing public money to an officer in advance of an appropriation made by Congress. I have been anxious to ascertain what amount was expended on these escorts, but cannot get the information from the Quartermaster's Department, owing to the mixing

up of accounts. I therefore adopt Mr. King's letter as the most definite information I can command.

I wish it to be borne in mind that this commission was organized on an appropriation of \$25,000; and, before they commence their labors, they involve the Quartermaster's Department in an expense of \$150,000, which is borrowed from the collector at San Francisco.

The collector is charged with acting contrary to law in loaning the money; but he is in no danger. He will be indemnified by transfer warrants, or in a deficiency bill. I allude to this transaction to show that the War Department has become the predominant power of the Government, whose subordinates act without authority of law, with an impunity not tolerated in any other Department in the Government. Thus I find this escort provided with money from the collector's office, contrary to law, paid to agents subordinate to this Board of Indian Commissioners, and obeying their orders. That, while from this \$150,000 all supplies for this escort are paid for, the supplies for the commissioners and Indians, with whom they are treating, are bought on a credit, and have not been paid for to this day. And here in this deficiency bill there is, no doubt, an estimate for the deficiency thus created, which we are called on to make an appropriation to meet, while not a dollar is appropriated to defray the expenses of the commissioners, and to pay for their supplies and those furnished the Indians while the commissioners were treating with them.

The commissioners, having the entire control of the expedition, are limited in their expenditures to the sum of \$25,000 appropriated; and, although they have drawn drafts for the overplus of their expenditure, these drafts are protested, and the parties furnishing the supplies are unpaid; nor has the Department of the Interior asked for their payment, although the Secretary is aware that the expenditures have largely exceeded the appropriation.

In proof of this, I will read extracts from letters of the commissioners, found in the annual report of the Commissioner of Indian Affairs:

"We arrived accordingly at this camp on the 15th ultimo, found some Indians on the ground, and others continued to arrive daily until the 26th; when, having meanwhile treated the red men and their families to as many provisions as they could eat, and finding them in excellent good humor, we met them in council, explained to them the object and purposes of our mission, and submitted to them our propositions for a general treaty of peace, and a settlement of all existing difficulties."

"We have, therefore, been under the necessity of making pretty liberal provision under the head of 'subsistence,' and now advertise you that this course will have to be pursued throughout the whole State."

"For pressing demands, we have to do the best we can, fully satisfied that our policy is correct, and that it is, in the end, cheaper to feed the whole flock for a year, than to fight them for a week."

"The country set apart for them so far is very poor soil; but a small portion of it is adapted to agricultural purposes, but remarkably well adapted to the raising of stock; and we think it would be good policy to supply them liberally with brood stock, in addition to the beef cattle, which is indispensable for present consumption, as the faithful fulfillment of the treaties on their part will measurably depend on it. They must have food."

"This will require money, and it is a subject of surprise and regret that the appropriation for our use has been cut down so small. The amount required will be seemingly large, but, by pursuing the foregoing policy, it will be found to be small, in comparison, to all treaties where annuities are given."

"I have sent men among them who speak their language, and are influential, and placed beef cattle under the care of the traders, in order to supply their pressing necessities for food, and to induce them to come down from out of their mountain fastnesses, all of which it is to be hoped will have the desired effect of causing them to come in and conclude a treaty. I speak of this as the only true policy; further experience only confirms previous statements, that the Indians are numerous and formidable; and it is difficult, if not impossible, to subdue them by waging war; it is possible to make terms with them by exercising a proper and humane policy, making them not only useful to themselves, but to the white community at large."

"I determined to discharge the escort that accompanied me through to that place, and return to San Francisco, or proceed down the coast with an escort of citizens, who kindly proposed to accompany me to the Indian villages in the vicinity."

"On the 17th day of June, I addressed a note to Captain E. D. Keyes, who had command of the escort, dispensing with the further services of his command, a copy of which, together with his reply, I herewith inclose."

These extracts show that the commissioners controlled the escort, that they were incurring expenses largely exceeding the appropriation, yet we do not find that they were checked by the Department.

# THE CONGRESSIONAL GLOBE.

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Soon after I returned home an alarming rumor prevailed, that there was danger of a general Indian war in the northern portion of the State, and in Oregon. One of the commissioners applied to me to urge Mr. King to make an advance on the appropriation of \$25,000, which was made at the last session of Congress, but which had not been transmitted by the Department to the commissioners. I did advise Mr. King to make an advance of \$5,000 on the appropriation, but distinctly disavowed any sanction of the policy or acts of the Board.

Some days since my colleague [Mr. WELLER] offered a resolution, which was adopted, calling for information in regard to the acts of the Indian agents in California. The reply of the Secretary of the Interior is not yet printed, which I very much regret, for I am anxious to use it on the present occasion. I have procured a copy of the letter of the Commissioner of Indian Affairs, which accompanies that report, which I will read to the Senate:

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS, April 13, 1852.

SIR: In answer to the resolution of the Senate of the 3th instant, in which you are required to inform that body—

1. Whether the Indian commissioners or agents in the State of California, in their negotiations, have contracted any debts for which the Government is liable, and if so, the amount thereof; and

2. Whether any drafts drawn by said commissioners, or agents, have been protested by the Department, and if so, the amount—

I have the honor to transmit, herewith, copies of sundry communications from the Indian agents in California, from which it appears that they have contracted debts to the amount of \$716,394 79; also, copy of a communication from the late sub-agent, (Johnson,) showing that he, too, has contracted liabilities to a considerable extent. The precise amount is not given, but it is believed to be upwards of \$50,000, as I understand that his drafts to near that amount have already been presented.

The whole amount of the appropriations for Indian purposes in California was placed in the hands of the agents, and they had no authority whatever for exceeding that amount in their negotiations. They allege, however, that the pressure of circumstances was such as to justify them in the course they have pursued. Upon the correctness of this allegation depends, I apprehend, the liability of the Government to pay the debts they have contracted. To what extent it is correct, the Department has not the power to determine, nor has it the means of forming a satisfactory opinion. The question of the liability of the Government to pay these debts, must necessarily be decided by Congress; and presuming that a thorough investigation into the whole matter would be required, I have heretofore recommended that an appropriation be made to meet the expenses of such investigation.

A large portion of the debts above referred to, are in the form of drafts drawn by the agents on the Secretary of the Interior, and as they have not been presented to this office, I am not able to state the amount to which they have been protested.

In connection with this subject, I have the honor to transmit, herewith, copy of a communication, with accompanying papers, addressed to you by Hon. Thos. H. Benton, and referred by you to this office.

It may also be proper to state, that, in addition to the foregoing liabilities, a claim has been presented by Dr. W. M. Rye, to the amount of \$13,402, for his services in vaccinating Indians in California, the particulars of which are set forth in papers, copies of which are herewith submitted.

Very respectfully, your obedient servant,  
L. LEA, Commissioner.

TO THE SECRETARY OF THE INTERIOR.

From this official statement, it appears the Indian agents in California have contracted debts beyond the appropriations made by Congress, to the amount of \$766,000. That the greater portion of this indebtedness is represented by drafts drawn by the agents on the Secretary of the Interior, which were protested on presentation. I have before shown that \$150,000 was drawn by the quartermaster's department from the collector at San Francisco, to defray the expenses of escorts to these Indian agents, which, added to the above amount, shows an expenditure in one year of about \$1,000,000 based upon an appropriation of \$50,000. The Commissioner of Indian Affairs, in the letter I have read, is quite non-committal. He says these agents had no authority to exceed the amount of the appropriation. Why, then, are they not dismissed? Here is an acknowledgment that they have exceeded their authority under the law, yet they are permitted to go unpunished. Two of them are still acting, and probably drawing more drafts, to meet with the fate of their predecessors,

and the third left California, and at his leisure repaired to this city and resigned, drawing his salary up to the date of his resignation. These drafts are circulating all over the country. They were given for supplies for the Indians, transferred by the parties who furnished the supplies, and large amounts are in the hands of third parties, who took them under the confident belief that they would be paid on presentation, by the Government. A single mail sometimes brings drafts to the amount of hundreds of thousands of dollars; all are protested on presentation, and the agents who are thus dishonoring the Government are permitted to go unwhipped of justice, and continue the system. This stand-still policy of the Executive will not shield him from the responsibility of these transactions. They must be defended or disavowed; if not disavowed by the dismissal of the officers, which is not the case, then the Department is tacitly sanctioning these acts, and will be responsible for the difficulty that must follow. The citizens of California have furnished these supplies, upon drafts drawn by officers of the Government. They did not ask for the authority under which these officers acted. It was not supposed that they would act without authority. Yet the drafts given in exchange for their property are dishonored, and no steps taken to get an appropriation to pay them. Numerous treaties have been made with bands of Indians, which treaties are withheld from us. In regard to them the Department preserves towards the Senate the silence of death. A part of the treaty-making power, yet treaties are made, and without waiting for our action, they are executed as laws of the land, if not with the approval of the Executive, certainly without any marked disapproval; for the parties who have committed these unlawful acts are still in the public service. A more dangerous assumption of power has never occurred in this country. It is without a parallel in the history of the Government. Three Indian agents, under the exclusive control of the Executive, make numerous Indian treaties, and before they are laid before the Senate, or even transmitted to the Executive, they commence executing these treaties as laws of the land; seize upon the country reserved; drive off the whites, in some instances buying out their possessions, and pledging the Government for payment, (I have numerous claims of this sort) make large purchases of provisions to feed the Indians, which are paid for in drafts upon the head of the Department—drawn without authority, and protested on presentation; and yet these men are permitted to retain their offices, and continue in their lawless course. Can the Administration escape censure for these acts of its subordinates, by remaining silent? Are these transactions to be covered up by withholding the treaties from the Senate? While the dishonored drafts of the Government for near a million of dollars are still unpaid, shall the Executive be permitted to avoid all responsibility, by giving no opinion as to the acts of its subordinates? Where are the treaties? Why are they not transmitted to us? Some of them have been made for more than a year. We have been near five months in session, and yet we are not officially notified of their existence. Does the Executive approve of the policy chalked out in these treaties? If so, why not send them to us for our action? If he does not sanction this policy, why not notify the Senate of the fact, and appoint other agents to adopt a different policy? Is the Executive in favor of paying these protested drafts? If so, why not ask for an appropriation? I have been urging action on this subject ever since the session commenced, and all that I have been able to extract from the Department was an estimate for \$10,000, to pay the expenses of an investigation into the acts of the Indian agents. The Commissioner of Indian Affairs speaks very complacently of this estimate, as if, by making it, the Department had done all that it was in duty bound to do. Charges of fraud rest upon these transactions. It is the duty of the Department to probe them to the bottom, and punish the guilty. Has this been done?

I say no; and yet we are complacently told that Congress must look into it, as it is no business of the Department.

I am not disposed to cast censure upon any one, but there must be action on this subject. The people of California are up in arms against these treaties; yet they are withheld from us. I think I can anticipate their fate in this body, if they are ever sent to us. To show the state of public feeling in my State, I will read from a report made by a committee of the Legislature, to which the question of these treaties was referred:

"The committee to whom certain resolutions of the Senate, having reference to the Indian treaties made by the United States Commissioners, Messrs. Wozencraft, McKee and Barbour, and the true policy that the interest of the State of California requires should be adopted by the Federal Government, have, according to order, had the same under consideration, and respectfully submit the subjoined report and resolutions:

"Your committee in approaching the consideration of this subject, were deeply impressed with its importance. They saw a policy adopted by the Indian commissioners, deeply affecting the present and future prosperity of the State. Regardless of the extraordinary circumstances which impelled the wave of population to this State, they have undertaken to assign to the Indian tribes a considerable portion of the richest of our mineral lands. Regardless of the topographical character of our State, which presents an extensive surface of the most valuable grazing land of the earth, but with a comparatively limited quantity of land fully adapted to agricultural purposes, those gentlemen have undertaken to assign no inconsiderable portion of the latter in exclusive property to the Indian tribes, wholly incapable, by habit or taste, of appreciating its value.

"Your committee cannot understand the wisdom of this policy, nor can they believe that it is one to which this State will ever quietly submit. In examining this subject, they have been surprised to find that the policy of the Indian commissioners is not sustained, either by the practice of the Mexican Republic, or that for the last forty-five years of our own.

"It is well known to all those who are acquainted with the history of the Indian policy of Spain and Mexico, that the right of the Indian in the soil was never admitted nor recognized. The general policy of those Governments was to Christianize the Indians, and teach them agriculture, by bringing them into the missions, which were from time to time subject to their authority. The Indians thus brought together were subject to the authority of the priest, even to the extent of inflicting corporal punishment for disobedience of orders, &c., &c.

"This policy has produced a marked effect upon many of the tribes in California. Many of them had lost their wandering character, abandoned their hunter state, and had become valuable and indeed indispensable servants to the large rancheros, upon whose estates they were content to live. The policy of the Indian commissioners in collecting these Indians together, has been, so far, eminently injurious. They have deprived those engaged in agriculture and herding of their usual labor. They have burdened the country with the expense of supporting those who had previously supported themselves. They have taken from the labor of California some of her most important agricultural districts, and from the hardy adventurer from the distant States of this Union, large bodies of the mineral lands filled with the precious metals; and they have wrought all this mischief without one redeeming or corresponding equivalent. The Indian, though fed and clothed, is no happier; though professedly under the protection of the United States Government, he is less safe; though the land assigned him is interdicted to the white man, he swallows his little substance, and the destruction of the race we desire to save is accelerated by the very means to which they have resorted. What, then, is to be done? It is a question full of interest and difficulty. Yet, your committee are firmly of opinion, that the true policy towards the mission Indians, and all those who are brought within the influence of the mission policy, is to let them alone. If thus treated, they will resume their former occupation, and supply, to a great extent, what is so much needed—that labor without which it will be long before California can feed herself. The Indians, moreover, would be happier, safer, and longer preserved from that destruction which seems to be inevitable.

"As to the wild Indians now located within this State, your committee must protest against locating them within our limits. Occupying an important frontier position on the great Pacific—a position of the greatest importance to the whole Republic—it is indispensable that this State should be wholly occupied by a homogeneous population, all contributing, by their character and occupation, to its strength and independence.

"To take any portion of the country west of the Sierra Nevada, for the home of the wild, and generally hostile Indians, would be so manifestly unwise and impolitic, that your committee cannot think that anything more is necessary, than thus to present it to public consideration. But the policy which suits California, has been one long established, and to which we claim an undoubted right. That policy is to remove all Indian tribes beyond the limits of the State in which they are found, with all practicable dispatch.

"Your committee ask if this has been the policy of every Administration since 1804—if in its prosecution, millions have been expended—if the happiest results both to the red man and to the white, have followed it—the country



strengthened, and the Indians rescued from destruction; why is it, that the policy has not been pursued here, that the mischievous and antiquated system condemned by every Administration for nearly fifty years, and at war with all experience, should be attempted to be revived in this State from which especially it should have been excluded?

"Your committee therefore respectfully recommend the adoption of the following resolutions, with the concurrence of the House of Assembly:

*Resolved*, (as the sense of the Senate and Assembly of the State of California,) That the policy pursued by the Federal Government towards the Indian tribes in this State, is wholly and radically wrong, and should be rejected.

*Resolved*, That our Senators in Congress be instructed to oppose the confirmation of any and all treaties with Indians of the State of California, granting to Indians an exclusive right to occupy any of the public lands in the State.

*Resolved*, That the policy so long and steadily pursued by the General Government, of removing the wild Indians beyond the jurisdiction of States is conceived in wisdom and dictated by humanity, and is productive of tranquility and happiness to the whole country, and that no other can with safety be adopted within this State.

*Resolved*, That our Senators be instructed, and our Representatives requested, to use their best endeavors to procure the adoption, by the Federal Government, of the same course, towards the Indians of this State, that has been pursued in other States for the last quarter of a century.

*Resolved*, That the Governor be requested to present to our Senators and Representatives, each, a copy of the foregoing report and resolutions.

M. M. WAMBAUGH, Chairman.

J. H. RALSTON,

B. FRANK KEENE,

JAMES MILLER."

There was but one dissenting voice in the committee in making this report, and the member dissenting was, as I am informed, personally interested in having the treaties confirmed.

There is danger in the delay of the Executive in acting upon this subject. The Indians expect to be fed, to be maintained without labor. Stop their rations and they will become vicious. They have been withdrawn from their usual habits of labor and former means of support, and they will not return to them. They will steal, rob, and murder, and thus bring on collisions with the whites that will result in the extermination of the Indians. They are located by these treaties in the midst of the white settlements; collisions must and will occur, if this policy is adhered to.

Mr. UNDERWOOD. Will my friend be kind enough to answer the question, whether this bill contains appropriations for money thus expended in the execution of treaties not yet ratified?

Mr. GWIN. Not in the execution of the treaties; but no doubt part of the deficiency in the Quartermaster's Department, which is provided for in this bill, resulted from the acts of these Indian agents, who, in making the treaties, were furnished with escorts at the expense of the Quartermaster's Department.

Sir, I have said, and again repeat, that the translation of a victorious general from the head of his army to the presidential chair, with no experience in or qualification for civil affairs, has had a baneful effect upon the administrative departments of the Government. With a military President to shield delinquencies, the executive officers of that department have exhibited a looseness in the performance of their official duties that was before unknown. When called on by Congress to reduce their estimates, they decline. When their estimates are cut down by Congress, they go on and spend largely over the amount appropriated, and demand of us the passage of a deficiency bill. Sir, we are losing all control over this department of the Government. If this military spirit continues to prevail—if we continue the policy of taking our Presidents from the chiefs of the Army—we will very soon be required to stop our deliberations, and merely register edicts. The subordinates of the War Department in their expenditures exceed the appropriations; the Government steps boldly up and demands additional appropriations, and they are granted. The subordinates of another Department exceed the appropriations in their expenditures. Are we called on to meet these deficiencies? Oh, no, the Department repudiates.

The military is the overshadowing power of the Government. In that department the subordinates may exceed the lawful appropriations with impunity. Yet when a couple of young officers, who had gallantly faced the enemy in Mexico, take a small contract to supply a portion of the army with forage, which is not prohibited by law, a great noise is made about it; and they are subjected to a court-martial. If I am not mistaken in this, there was personal pique, as well as a stern discharge of public duty. I mean in the proceed-

ings in California, not with the head of the Department. Yet we observed the other day that the Senator from Georgia [Mr. Dawson] was tenacious in giving the War Department the credit of investigating this abuse, instead of dividing the honor with the Senator from Virginia, [Mr. HUNTER,] whose resolutions brought the proceedings in this case before the Senate. There are much greater abuses (and I do not justify this one) in that Department, for which the Secretary will get yet greater credit if he eradicates them.

The Senator from Virginia [Mr. HUNTER] has stated that the expense of the quartermaster's department in California the last fiscal year was \$827,000, and this statement has gone all over the Union; and when we ask for appropriations that are indispensably necessary, we are met with the argument that the expenditure there has already been enormous. This, as I have shown, has arisen from the unauthorized expenditures in that country, and the abuses that grew out of collecting the civil fund. Can the chairman of the Finance Committee inform me whether we will be called to pass a deficiency bill to pay back the money borrowed from that fund?

Mr. HUNTER. I stated in the remarks I made on Friday, that the quartermaster's accounts were in arrears; they have not been settled, particularly those of California. But, I have been informed by General Jesup, since this bill was reported, that large accounts had come in from California, and that they would no doubt swell the amounts. I do not know the amount; General Jesup could not inform me what it was; and I do not believe that any man can tell the amount.

Mr. GWIN. I differ with the chairman of the Committee on Finance, when he says that the law of 1820 authorizes or sanctions, in the slightest degree, some of the items in these deficiency bills. Sir, I want to know what is to become of this provision of the Constitution of the United States, that—

"No money shall be drawn from the Treasury except in consequence of appropriations made by law."

The chairman of the Committee on Finance has shown that the appropriations made for the quartermaster's department for the year ending 1st of June, 1851, was \$3,915,912, and the expenditures of the year, \$5,286,124. I should like to know if there is any sanction under the law of 1820 for such a use of the public money, right in the face of this provision of the Constitution? Here is the appropriation, as shown by the chairman of the Committee on Finance, amounting to upwards of \$3,900,000, and yet we are told that the actual expenditure exceeds \$5,000,000. Now, I cannot see that any law can sanction any such use of the public money in the face of this provision of the Constitution.

I do not believe any law of Congress can authorize an expenditure of five millions, under an appropriation of three millions. I think the Senator is mistaken in his construction of that provision of the law. I think there is a necessity for rigid accountability, and that all subordinate officers, whose expenditures exceed the appropriations, or who fail to make returns, should be dismissed from the public service and disgraced.

I am in the performance of a painful duty, in commenting on these transactions. But that duty must be performed. The extravagant expenditures and lawless acts of Government officers in California, are producing fatal effects upon the best interests of that country. I am mortified to see a disposition in both Houses of Congress to withhold appropriations, and abstain from passing laws of vital necessity to my constituents, under the belief that there is no restraint upon public officers there, and what money is appropriated will be wasted with no benefit to the State or Government. I must expose transactions that give cause for these suspicions, and I will, regardless of the consequences. No portion of the country is suffering as much for the want of legislation as California. All we want is the proper and legitimate aid of the Government, and we will continue to advance with the giant strides of past years to the important position we are destined to occupy in the Union.

Mr. HUNTER. It is not my purpose to make a speech on this matter. I merely wish to correct a misapprehension into which the Senator from California has fallen. I did not say that the act of 1820 would justify the Quartermaster's Depart-

ment, or any other Department, in departing from the law or violating the law. The section of the law of 1820, to which reference has been made, reads thus:

"That no contract shall hereafter be made by the Secretaries of State, of the Treasury, or of the Department of War, or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and excepting, also, contracts for subsisting and clothing the Army or Navy, and contracts for the Quartermaster's Department, which may be made by the Secretaries of those Departments."

I said that this law authorized such contracts on the part of the Quartermaster's Department for subsistence and clothing; and when a contract was made it was for us to say whether or not we should appropriate for it. That was not saying that the money could be drawn out of the Treasury without an appropriation by law. I know that cannot be done. But contracts can be made, and these contracts, according to law, may be made, and good faith will require us to pay them. I said, therefore, in relation to these deficiencies, as far as they have been presented to us by the Quartermaster's Department, we ought to provide for them, inasmuch as they were debts incurred under legal authority, unless it could be shown that any portion of them were contracts in violation of law; unless it could be shown that any portion of these accounts were improper and ought not to be allowed. Whenever that is done, I acknowledge a case is shown in which the appropriations ought not to be made; but until that is done, as the Department has the right to make the contracts, when it presents us these estimates, I see no other course, unless we mean to deny the Army the means of transportation and subsistence, but to make the appropriations, unless we can be shown specific cases of abuse. That is what I said. Not that you could draw money out of the Treasury without appropriations by law, but that there was a right to make contracts for these objects, and that, when contracts were made, it seemed to me good faith required us to fulfill them. I said, the probability was, that they would be found necessary, because I found that the money provided for these objects in the deficiency bill, added to the appropriations already made for the present fiscal year, was less than the actual expenditures for the last fiscal year by something like \$900,000. It therefore seemed to me that it would be unsafe to appropriate less than was estimated for in this deficiency bill. This is the explanation which I have to make.

Mr. GWIN. I think the Senator gave a broader construction to this law a few days ago than he does now. I said, and I say now, that the act of 1820 was passed for the purpose of making contracts for clothing and subsistence, and the building of navy-yards and fortifications that could not be completed within one year. Time was necessary to have competition in the market for subsistence and clothing. But was it ever supposed that this gave power to any Department of this Government to go beyond the appropriations made by law to make contracts to an enormous amount? The law is specific in its character to invite competition, and also that contracts might be made for a large amount of materials, to build a fort or a navy-yard. But all these contracts were based upon the fact that they were to be binding only in the event of an appropriation being made. But this is an entirely different case. The case that I have brought to the notice of the Senate is where an unconditional draft has been drawn upon the Treasury. These are not contracts. This furnishing of money by the Quartermaster's Department, to carry out this Indian expedition, has reference to nothing of this sort. They have spent the money. They have not made a contract to spend the money when the appropriation should be made. They have spent the money and are coming to us to foot the bill. This spending of money and calling on Congress to meet the deficiency is an enormous abuse that is yearly increasing. I do not think the law of 1820 justifies these expenditures; nor do I think it should have any other than a literal construction, such as was put upon it at the time it was passed, which was to get the best market for certain materials for the public service.

Mr. HUNTER. I did not say that this clause would shelter any abuse, or cover any departure from the established laws of the land. I said that this clause gave to the Quartermaster's Department the right to contract for these objects. But when

the contract was once made, it seemed to me that it was our duty, in good faith, to provide for it. That was as far as I went. As to the particular item to which the Senator has referred, in regard to the recent transactions with the Indians, I am aware that these matters depend upon an entirely different thing. The matters which he has brought to our notice may be right or wrong, and when the case is presented for action the Senate will judge. According to the showing of the Senator from California, they seem to be wrong. He considers that a great abuse has grown up there. Notwithstanding this abuse, the power to which I referred is a very different thing, and might exist, as it undoubtedly does exist. I have read the law giving this power to the Quartermaster's Department.

Now, in relation to expenditures under this appropriation. The Senator has quoted the appropriations of one year. Does he mean to say that they had no right to expend the balance of outstanding appropriations for the year before? Does he mean to say that they had no right to expend money paid into the Treasury by repayment? But, in addition to that, they expended money by transfer, to which I objected. That was one of the very abuses to which I objected, and which I pointed out. But there is an expenditure over and above that of moneys which were derived out of the civil fund of California. That is another and a larger question—a question which I do not touch—namely, the right of the Government to spend the money raised by military contributions and this civil fund, without an appropriation by law. That belongs to another bill, and to another question entirely. The Senator from California either confounds questions, or he misunderstands me totally. All that I meant to say was, that this power to contract given to the Quartermaster's Department existed, and where a debt was thus made under the law, and in pursuance of the law, I saw nothing left for us but to provide for its payment.

Mr. ATCHISON. I now move to postpone the further consideration of this bill until to-morrow, for the purpose of going into Executive session.

The motion was agreed to.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Monday, April 19, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. Butler.

The Journal of Friday last was read and approved.

The SPEAKER. The first business in order is the motion made by the gentleman from North Carolina [Mr. VENABLE] to lay on the table the motion made by the gentleman from Virginia [Mr. BAYLY] to reconsider the vote by which the report from the Committee on Printing was recommended to said committee.

#### TERRITORIAL BUSINESS.

Mr. CLINGMAN. I beg leave to make an inquiry of the Chair upon a point of order. The Chair will, perhaps, remember, that this week, commencing with to-day, was set apart, especially, for the consideration of territorial business. I have been instructed by the Committee on the Territories, in the absence of the chairman, to suggest to the House, if it be more agreeable to the members, in view of other pressing business, to move the postponement of the consideration of the territorial business to the third week in May.

Mr. JONES, of Tennessee. I rise to a question of order. The question pending, I think, is not debatable under any circumstances.

The SPEAKER. The gentleman from North Carolina is not proposing to debate anything; but merely requests the unanimous consent of the House to allow him to submit a motion that the territorial business—the consideration of which was fixed for this week—shall be postponed until the third week in May.

Mr. CLINGMAN. I do that, because I presume it will be more agreeable to the House, we

having before us a special order—the homestead bill—and other pressing business. The territorial business can as well be considered at the time to which I propose to postpone it; and I hope there will be no objection. If there be objection, I shall move to suspend the rules for the purpose of enabling me to submit the motion indicated. I make this motion with a view that it shall be a special order for that week.

Mr. STANLY. Is that motion now in order? The SPEAKER. It is not in order if objected to.

Mr. STANLY. I object to anything other than the regular order of business.

Mr. CLINGMAN. I stated that if my motion was objected to, I would move the suspension of the rules, and, if possible, effect my object in that way.

The SPEAKER. The Chair thinks a motion to suspend the rules is not in order, while the House is in the execution of an order under the previous question.

Mr. CLINGMAN. I will remind the Chair, that the previous question is not now pending; and the subject I propose to postpone being, also, a special order for to-day.

The SPEAKER. The Chair will state, that the previous question is pending upon the motion to print, and will operate until the House decides the motion upon the printing of the report.

Mr. CLINGMAN. I will remind the Chair, that this is a motion to reconsider. The previous question has exhausted itself upon the motion to recommit, and on the motion to reconsider it does not, therefore, operate.

The SPEAKER. The decision of the Chair upon that point is, that the previous question continues to operate upon all questions connecting themselves with that report until the last proposition is disposed of; and no motion to reconsider an intermediate vote can be debated.

Mr. VENABLE. I understand the Chair to decide, that the motion having passed under the previous question, it prevents debate upon the motion to reconsider?

The SPEAKER. There can be no debate so long as the previous question is operating upon any one of the questions connected with the subject.

Mr. VENABLE. I had supposed otherwise.

Mr. STANLY demanded the yeas and nays upon the motion to lay upon the table the motion to reconsider; which were ordered.

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] moved, on Friday last, to reconsider the vote by which the House recommitted to the Committee on Printing, with instructions, the report made by that committee. The gentleman from North Carolina [Mr. VENABLE] moved to lay the motion to reconsider upon the table, and the question is now upon the latter motion.

The question was then put upon the motion to lay the motion to reconsider upon the table, and it was decided in the negative—yeas 71, nays 84; as follows:

YEAS—Messrs. Abercrombie, Aiken, Allison, Ashe, David J. Bailey, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Chapman, Clark, Clingman, Cottman, Curtis, Dimmick, Doty, Eastman, Ficklin, Floyd, Fowler, Gaylord, Giddings, Goodenow, Grey, Grow, Sampson W. Harris, Howard, John W. Howe, Thomas M. Howe, Hunter, Jackson, Andrew Johnson, John Johnson, Daniel T. Jones, Geo. W. Jones, J. Glancy Jones, Preston King, Kuhns, Mann, Mason, McLanahan, McNair, McQueen, Meacham, Meade, Milson, Molony, Morrison, Newton, Orr, Andrew Parker, Pennington, Perkins, Phelps, Powell, Robbins, Scudder, Smart, Benjamin Stanton, Alexander H. Stephens, Thurston, Townsend, Tuck, Venable, Walbridge, Wallace, Washburn, and Woodward—71.

NAYS—Messrs. Willis Allen, Andrews, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bowie, Bowue, Briggs, Brooks, Buell, E. Carrington Cabell, Chandler, Chastain, Cobb, John G. Davis, Dawson, Dean, Disney, Dockery, Edgerton, Edmundson, Ewing, Freeman, Thomas J. D. Fuller, Gentry, Gorman, Green, Hall, Hamilton, Hammond, Harper, Isham G. Harris, Hart, Haven, Hebard, Hendricks, Henn, Hibbard, Horsford, Houston, Ingersoll, James Johnson, Robert W. Johnson, George G. King, Kurtz, Landry, Letcher, Lockhart, Mace, Humphrey Marshall, Martin, McCorkle, McMullin, Miller, John Moore, Morehead, Murray, Nabers, Olds, Outlaw, Samuel W. Parker, Peaslee, Polk, Sackett, Schermerhorn, Scurry, Origen S. Seymour, Skelton, Snow, Stanley, Frederick P. Stanton, Richard H. Stanton, Stone, Stuart, Sutherland, Sweetser, Taylor, George W. Thompson, Ward, Watkins, Addison White, and Williams—84.

So the motion was disagreed to.

Mr. FITCH, previous to the announcement of the result of the above vote, stated that he had

paired off with his colleague [Mr. DUNHAM] upon the questions then pending connected with the public printing.

The question then recurred upon the motion to reconsider.

Mr. ORR demanded the yeas and nays; which were ordered.

The question was then put, and it was decided in the affirmative—yeas 87, nays 72; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bowie, Bowue, Briggs, Brooks, Chandler, Chastain, Cobb, Cottman, Cullom, John G. Davis, Dawson, Dean, Disney, Dockery, Edmundson, Ewing, Freeman, Thomas J. D. Fuller, Gorman, Green, Hall, Hamilton, Hammond, Harper, Isham G. Harris, Hart, Haven, Hebard, Hendricks, Henn, Hibbard, Hillyer, Horsford, Houston, Ingersoll, James Johnson, Robert W. Johnson, George W. Jones, George G. King, Kuhns, Letcher, Lockhart, Mace, Martin, McCorkle, McDonald, Meacham, Miller, Morehead, Murray, Nabers, Olds, Outlaw, Samuel W. Parker, Peaslee, Penn, Polk, Porter, Ross, Sackett, Savage, Schermerhorn, Scurry, Origen S. Seymour, Skelton, Snow, Stanley, Frederick P. Stanton, Richard H. Stanton, Stone, Strother, Stuart, Sutherland, Sweetser, Taylor, George W. Thompson, Ward, Wells, Addison White, Alexander White, Williams, and Yates—87.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, David J. Bailey, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Carter, Caskie, Chapman, Clingman, Conger, Curtis, Dimmick, Doty, Eastman, Ficklin, Floyd, Fowler, Gaylord, Grey, Grow, Sampson W. Harris, Howard, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kurtz, Landry, Mann, Humphrey Marshall, Mason, McLanahan, McNair, McQueen, Meade, Milson, Molony, John Moore, Morrison, Newton, Orr, Andrew Parker, Pennington, Perkins, Phelps, Powell, Rantoul, Robbins, Scudder, Smart, Benjamin Stanton, Alexander H. Stephens, Thurston, Townsend, Tuck, Venable, Walbridge, Wallace, Washburn, and Woodward—72.

So the motion to reconsider was agreed to.

Mr. GORMAN moved to lay the whole subject upon the table, and upon that motion demanded the yeas and nays; which were ordered.

The question was then taken, and it was decided in the negative—yeas 74, nays 90; as follows:

YEAS—Messrs. Willis Allen, Thomas H. Bayly, Barrere, Bowie, Bowue, Briggs, Brooks, E. Carrington Cabell, Chandler, Clark, Cobb, Cullom, John G. Davis, Dawson, Dean, Dockery, Ewing, Freeman, Thomas J. D. Fuller, Gaylord, Gentry, Gorman, Hamilton, Hammond, Harper, Haven, Hebard, Hendricks, Hillyer, Andrew Johnson, Robert W. Johnson, George W. Jones, George G. King, Kuhns, Letcher, Lockhart, Mace, Martin, McCorkle, McLanahan, McMullin, Meacham, Miller, Murray, Nabers, Outlaw, Samuel W. Parker, Penn, Polk, Porter, Ross, Sackett, Savage, Schermerhorn, Schoolcraft, Scurry, Origen S. Seymour, Skelton, Stanley, Frederick P. Stanton, Richard H. Stanton, Stone, Stuart, Sutherland, Sweetser, Taylor, George W. Thompson, Ward, Watkins, Wells, Alexander White, Wilcox, Williams, and Yates—74.

NAYS—Messrs. Abercrombie, Aiken, Allison, William Appleton, Averett, David J. Bailey, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Carter, Caskie, Chapman, Clingman, Conger, Curtis, Dimmick, Doty, Eastman, Edgerton, Edmundson, Ficklin, Floyd, Fowler, Giddings, Goodenow, Grey, Grow, Hall, Isham G. Harris, Sampson W. Harris, Hart, Henn, Hibbard, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, James Johnson, John Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kurtz, Landry, Mann, Humphrey Marshall, Mason, McDonald, McNair, McQueen, Meade, Milson, Molony, John Moore, Morehead, Morrison, Newton, Olds, Orr, Andrew Parker, Peaslee, Pennington, Perkins, Phelps, Powell, Rantoul, Robbins, Scudder, Smart, Smith, Snow, Benjamin Stanton, Alexander H. Stephens, Thurston, Townsend, Tuck, Venable, Walbridge, Wallace, Washburn, Addison White, and Woodward—90.

So the motion was disagreed to.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House of the passage by that body of the French spoliation bill.]

The question then recurred upon the motion to recommit the report of the Committee on Printing, with instructions.

Mr. BROWN, of Mississippi. Is the previous question now exhausted?

The SPEAKER. It is not, in the opinion of the Chair.

Mr. POLK. I would inquire of the Chair, whether it is in order to move to lay the instructions upon the table?

The SPEAKER. In the opinion of the Chair, the instructions cannot be separated from the proposition to refer.

Mr. HOUSTON. In this connection I propose to present a point of order. It is a point which was incidentally brought up on Friday, and is this: I understood the Chair on Friday to decide that the resolution of the gentleman from Mississippi [Mr. Brown] was not divisible; that it was not only not in order to divide the instructions,

but to divide the resolution so as to separate the motion to commit from the instructions.

The SPEAKER. That was the decision of the Chair.

Mr. HOUSTON. I raise this point: The motion to commit made by the gentleman from South Carolina, [Mr. ORR,] is entirely distinct from the instructions which were presented by the gentleman from Mississippi, [Mr. BROWN,] and I ask the Chair whether it is not first in order to take a vote upon the instructions, and afterwards upon the motion to commit?

The SPEAKER. The Chair stated to the House on Friday, that the precise motion made by the gentleman from South Carolina was to strike out the motion to commit to the Judiciary Committee, and to insert the Committee on Printing. The Chair also distinctly stated, that the most convenient mode of reaching those propositions would be to take the vote first upon referring with instructions to the Committee on the Judiciary, and secondly to refer to the Committee on Printing, with instructions. The House acquiesced; and in that form the questions were severally put to the House; but the Chair here suggests, that if that decision of the Chair were overruled, and the suggestion of the gentleman from Alabama followed, the gentleman from South Carolina would, as a matter of course, have been misled and overreached in his object.

Mr. HOUSTON. The Chair misunderstands me. I do not present the point now for the purpose of excluding the motion of the gentleman from South Carolina. I am willing to take it that his motion is in order—the motion to reconsider, with instructions; but I now ask that the House be allowed first to vote upon the instructions, and then upon the motion to commit. That, it occurs to me, is the usual mode upon a motion to commit, with instructions. If the mere motion to commit, with instructions—

Mr. JOHNSON, of Arkansas. I call the gentleman to order. Debate is out of order.

The SPEAKER. Debate is not in order.

Mr. JOHNSON. It is too much to have to sit here listening to nothing but debate upon points of order.

Mr. HOUSTON. I am not debating.

The SPEAKER. The Chair understands the proposition which the gentleman makes, and is prepared now to give his decision to the House. He is frank to confess that it would be a very convenient rule if the proposition to refer to a committee with instructions could be so divided that the vote of the House be had separately upon the proposition to refer and to instruct. But the Chair has looked at the precedents to some extent upon that subject, and he has also looked at the parliamentary law, neither of which justify, in his opinion, such a decision, however convenient it might be to this body under the operation of the previous question. For instance: If the House refuse to refer at all, every member will see at once that there is nothing left in the shape of instructions upon which the House could act. The Chair, therefore, overrules the point of order raised by the gentleman from Alabama.

Mr. GORMAN. I wish to submit a point of order, upon which I desire the Chair's decision. It is, that the House of Representatives cannot instruct a joint committee created and acting under the law.

The SPEAKER. However fully the Chair might agree as an individual with the conclusion to which the gentleman has come as to the effect of the action of the House, still he is of opinion that it is a matter to be considered by the House, and not to be decided by the Chair as a mere question of order. It is not competent, in other words, for the Chair, in such a case, to determine what the action of the House will be. That is a matter for the House to decide, and not the Chair. The Chair, therefore, overrules the point of order submitted by the gentleman from Indiana.

Mr. GORMAN. With great respect to the Chair, I am so confident that my point of order is well taken, that I take an appeal from the decision of the Chair.

Mr. ORR. I move to lay the appeal upon the table.

Mr. CLINGMAN. I inquire of the Chair whether this point was not made on last Friday, decided by the Chair, and acquiesced in by the House?

The SPEAKER. There is no doubt about it. Mr. GORMAN demanded tellers upon the motion to lay the appeal upon the table.

The SPEAKER. The gentleman from Indiana raises the question of order, that it is not competent for this branch of Congress to instruct a joint committee of the two Houses. The Chair decides that that is a point to be determined by the House and not by the Chair—the proposition itself being germane, intimately connecting itself with the subject of printing, which is pending before the House for consideration. The Chair thinks that it is not his province to determine what the effect of the action of the House will be, but that it is the House itself. From this decision the gentleman from Indiana takes an appeal. A motion is made that the appeal do lie upon the table, and upon that motion tellers have been demanded.

Mr. FREEMAN demanded the yeas and nays, which were not ordered.

Tellers were then ordered, and Messrs. LOCKHART and EWING were appointed.

The question was then taken, and there were—ayes 98, nays not counted.

So the decision of the chair was sustained.

The question then recurred upon recommitting the report to the Committee on Printing, with instructions.

Mr. ORR demanded the yeas and nays; which were ordered.

Mr. McMULLIN. May I be permitted to inquire what the character of the instructions are?

The SPEAKER. They are those voted upon on Friday last. If it is the pleasure of the House, they will be read.

Mr. McMULLIN. Is it competent to make a motion to amend?

The SPEAKER. It is not, the previous question operating.

Mr. STUART. I wish to make a point of order, and it is this: that the motion to recommit the report to the committee with instructions, is divisible in this way, so as first to take the vote upon the motion to recommit; if that carries, then the vote upon the instructions?

The SPEAKER. If the House refuses to recommit, will the gentleman inform the Chair what becomes of the instructions? Can the House vote upon the instructions.

Mr. STUART. Of course, they fail—

The SPEAKER. The Chair again overrules the point of order made by the gentleman from Michigan, [Mr. STUART,] for reasons which have already been stated.

Mr. STUART. In that case, I wish to appeal from the decision of the Chair.

Mr. ORR. I move to lay the appeal upon the table.

The question was then taken, and the appeal was laid upon the table.

Mr. EWING. May I inquire whether the motion cannot be divided, and the question taken upon the commitment first?

The SPEAKER. That is precisely the question which the Chair has decided, from which an appeal was taken, and the decision of the Chair sustained.

Mr. KUHN. Is it in order to have the instructions read?

The SPEAKER. It can be done by unanimous consent.

Mr. JOHNSON, of Arkansas. I object.

Mr. BROWN, of Mississippi. Can it not be done by a vote of the House?

The SPEAKER. How often that motion can be repeated is questionable.

Mr. STEPHENS, of Georgia. Once a day.

Mr. JOHNSON. I withdraw my objection.

The instructions were then read, by the Clerk, as follows:

“Resolved, That the report on the Committee of Printing be recommended to the Committee on Printing, with instructions to report upon the whole subject, and to recommend, for the adoption of Congress, such a system for the execution of the public printing as they may deem most expedient; and that they especially take into consideration the plan for a printing bureau, for the execution of the work under the supervision of a Government office.”

Mr. STEPHENS, of Georgia. I call for a division of the question of instructions.

The SPEAKER. Does the gentleman from Georgia [Mr. STEPHENS] ask a division of the instructions themselves?

Mr. STEPHENS. Yes, sir.

The SPEAKER. That is precisely the point

which the Chair has already decided, and from which an appeal was taken, and the decision of the Chair sustained.

Mr. STEPHENS. No, sir, that was as to a division upon committing and upon the instructions themselves. I ask only for the division of the instructions themselves.

The SPEAKER. The gentleman from Michigan [Mr. STUART] asked in substance precisely the same thing.

Mr. STEPHENS. I did not hear the point of the gentleman from Michigan, [Mr. STUART,] but certainly it is in order to ask for a division of any question, if it is susceptible of division. These instructions comprise two very distinct propositions. I call for a division of the instructions.

The SPEAKER. Will the gentleman indicate at what point the question is divisible?

Mr. STEPHENS. I will, if the Clerk will read the instructions again. I think a division can be made after the word “expedient.”

Mr. FITCH. The object of the gentleman is the same I had in view on Friday last, and which the Chair decided out of order. I think the decision was incorrect, and I hope the Chair will reverse its own decision. I will not take an appeal, nor would I be willing to vote for it if taken.

Mr. JONES, of Tennessee. Read the last branch of the instructions.

The Clerk then read the latter branch.

Mr. STEPHENS. That is a very distinct proposition. Here is what the 53d rule says:

“Any member may call for the division of a question, which shall be divided if it comprehends propositions in substance so distinct, that one being taken away, a substantive proposition shall remain for the decision of the House.”

If the first part of these instructions are stricken out, there will be a substantive proposition left; and if the second is stricken out, there will be also a substantive proposition left.

Mr. STANTON, of Tennessee. It is plain to me, that the first decision of the Chair was right, and that the present one is right. If the second proposition may stand, the first may; and should it be now decided that the instructions can be separated, the proposition of reference itself may also be separated from the instructions.

The SPEAKER. There is no question of that; but the resolution itself is not fairly divisible. But if it were, and contained two propositions entirely distinct, the difficulty would occur again, and the House would be voting first upon the reference, and then upon the instructions. If they cannot separate the two votes, first upon referring to the committee, and then upon the instructions, surely it is not competent for the House to vote first to refer, and then to instruct in part. The Chair must, therefore, overrule the point of order.

Mr. WILLIAMS. I desire to state a fact to the Chair, before he overrules the point of order. The Chair will, doubtless, recollect the celebrated resolutions of Mr. Gordon, of Virginia, upon which a motion was made to commit with instructions—

The SPEAKER. As old a member as the Chair is, they were presented before his time.

Mr. WILLIAMS. A distinct vote was taken to recommit, which failed, and of course the instructions failed. It has been almost the uniform practice of the House, first to take the question, whether the House will commit the subject or not.

The SPEAKER. The gentleman from Tennessee [Mr. WILLIAMS] is aware that the Chair decided the proposition, and an appeal was taken ten minutes since, and the decision of the Chair was sustained. The Chair would be very willing indeed to reverse his own decision; but to reverse his own decision and that of the House so soon, is rather more than can be reasonably expected of him. [Laughter.]

Mr. WILLIAMS. Very well, sir.

Mr. MARSHALL, of Kentucky. I desire, in order to regulate my vote, to ask a question of the Chair. If the reference with instructions is voted down, and we come back to the motion to print, and it is carried, will the report then be before the House freed of the previous question, so as to take any direction that the House chooses to give it?

The SPEAKER. The report was regularly before the House; a motion was made to commit to two different committees, with instructions; a motion was also made to print the report; and upon these several propositions the previous question



was ordered. If the House shall refuse to commit the report, the House will then, under the operation of the previous question, be brought to vote upon the proposition to print, alone. When that motion is disposed of, the Chair is of opinion that it will then be competent for the House to make such other disposition of the report as it may see fit.

The Clerk here commenced the call of the roll, but before any response was made,

Mr. STEPHENS, of Georgia, said: I did not understand the ground upon which the Chair placed his decision against the point of order made by myself. Was it upon the ground that the Chair had previously decided the question that a motion to commit with instructions was itself indivisible?

The SPEAKER. The Chair decided that it was not competent for the House first to take the vote upon the commitment, and then upon the instructions.

Mr. STEPHENS. So I understood.

The SPEAKER. In that the Chair was sustained by the House. If, therefore, it is not in order, the Chair remarked, to take a separate vote first upon committing, and then upon the whole of the instructions, in the opinion of the Chair, it would not be in order to take a separate vote upon a part of the instructions.

Mr. STEPHENS. Well, I take an appeal from that decision.

The SPEAKER. The Chair further remarked, that the instructions were, in his opinion, scarcely divisible, independent of that objection.

Mr. HOUSTON. They are, certainly, not divisible.

The SPEAKER. The Chair thinks that upon two grounds he may well decide against the proposition of the gentleman from Georgia, and they are these: that if gentlemen will look at the instructions they will see, the Chair thinks, that they are not divisible, as proposed by the gentleman from Georgia; and secondly, that if they were so, it would not be in order under the decision of the Chair, in which he was sustained by the House, to divide the instructions, for the reason that the Chair has decided, and the House has sustained that decision, that it is not in order to take the vote first upon committing, and then upon the whole of the instructions, and that therefore it would not be in order to take a separate vote thus, upon a part of the instructions. Upon these two grounds, the Chair overrules the point of order raised by the gentleman from Georgia.

Mr. STEPHENS. I shall submit to the Chair a very few remarks on the appeal which I take.

Mr. HOUSTON. The previous question has been ordered.

Mr. STEPHENS. I hope the House will indulge me only for a few moments.

The SPEAKER. The Chair would be very happy to hear the gentleman if it was the pleasure of the House.

Mr. STEPHENS. I wish to give the Chair my views.

Mr. CABLE. I object to the gentleman proceeding, as it is too late to take an appeal. The call of the roll having commenced, it is certainly too late to take an appeal. If, however, it is not too late, I shall not object to the gentleman proceeding.

The SPEAKER. No response had been made to the call.

Mr. FICKLIN. I desire to ask the Chair a question. If the vote now is in the negative—against committing with instructions—

Mr. STEPHENS, of Georgia. I have the floor, I believe.

The SPEAKER. The gentleman from Georgia cannot debate the appeal, and therefore the Chair doubts whether he has the floor.

Mr. STEPHENS. I am entitled to the floor, if anybody is.

The SPEAKER. The gentleman from Illinois rises to a question of order, in this immediate connection.

Mr. STEPHENS. Do I understand that any gentleman objects to my giving a brief explanation of the views I entertain upon this point?

The SPEAKER. It was objected to by a gentleman on the right of the Chair.

Mr. STEPHENS. I thought the objection was made on the ground that it was too late to take an appeal.

Mr. JOHNSON, of Arkansas. If one debates, all will have to debate, and therefore, with all respect to the gentleman from Georgia, I must object to any debate.

Mr. FICKLIN. I now desire to ask the Chair this question: if this vote is in the negative, will it then be competent to commit without instructions, or to make any other disposition of the report that the House chooses?

The SPEAKER. The Chair thinks that it would be.

Mr. STEPHENS. I call for the reading of the first clause of the 53d rule of the House, and then for the reading of the resolution down to the point where I ask that the division may take place, and the subsequent proposition commences.

The Clerk read the first clause of the 53d rule, which is as follows:

"Any member may call for a division of a question, which shall be divided if it comprehends propositions in substance so distinct that one being taken away, a substantial proposition shall remain for the decision of the House."

The first portion of the resolution, if divided as proposed by Mr. STEPHENS, would read:

"Resolved, That the report of the Committee on Printing be recommitted to the Committee on Printing with instructions to report on the whole subject, and to recommend for the adoption of Congress such a system for the execution of the public printing as they may deem most expedient."

The second branch of the resolution reads as follows:

"And that they especially take into consideration the plan for a printing bureau, for the execution of the work, under the supervision of a Government officer."

The SPEAKER. It would then read, if the first branch of the instruction was rejected,

"Resolved, And that the committee especially," &c.

Mr. STEPHENS. "That the report be recommitted to the Committee on Printing, and that they especially take into consideration," &c. I appeal from the decision of the Chair.

Mr. CABLE moved to lay the appeal upon the table.

Mr. STANTON, of Ohio. I ask if this identical question has not been already decided?

The SPEAKER. It has been decided, in substance, some three or four times since we have been engaged on this matter.

Mr. STEPHENS. This question of order has not been raised, as I will show to the House, if I am allowed to proceed. It is an entirely distinct question.

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair and the House decided, ten minutes ago, that it was not competent for the House to vote first upon a proposition to refer, and second on a proposition to instruct. The Chair, therefore, decided, that even if there were two distinct propositions contained in the instructions, if the House cannot vote separately upon the whole of the instructions, they certainly cannot do so upon a part of those instructions. It is, however, for the House to determine the question.

The question was then taken on Mr. CABLE's motion, and it was agreed to.

So the appeal was laid upon the table, and the decision of the Chair sustained as the judgment of the House.

[A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., their Secretary, transmitting a bill which had passed that body to prevent public executions in the District of Columbia.]

The question then recurring on the commitment of the report of the Committee on Printing, with instructions, it was put and decided in the negative—yeas 75, nays 89; as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, David J. Bailey, Bragg, Brenton, Albert G. Brown, Joseph Cable, Thompson Campbell, Carter, Caskey, Chapman, Clingman, Conger, Curtis, Dimmick, Doty, Eastman, Ficklin, Floyd, Fowler, Gaylord, Giddings, Goodenow, Grey, Grow, Sampson W. Harris, Howard, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, J. Quincy Jones, Preston King, Kurtz, Landry, Mace, Mann, Mason, McLanahan, McNair, McQueen, Meade, Milson, Molony, John Moore, Morrison, Newton, Orr, Andrew Parker, Pennington, Perkins, Phelps, Powell, Rantoul, Robbins, Scudder, Smart, Smith, Benjamin Stanton, Alexander H. Stephens, Thurston, Townsend, Tuck, Venable, Walbridge, Wallace, Washburn, Addison White, and Woodward—75.

NAYS—Messrs. Abernethy, Willis Allen, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bowie, Bowne, Briggs, Brooks, E. Carrington Cabell, Clawson, Chastain, Clark, Cobb, Cullom, John G. Davis, Dawson, Dean, Disney, Dockery, Edgerton, Edmundson, Ewing, Freeman, Thomas J. D. Fuller, Gentry, Gorman, Green, Hall, Hamilton, Hammond, Harper, Isham G. Harris, Hart,

Haws, Haven, Hendricks, Hibbard, Hillyer, Horsford, Houston, Ingersoll, James Johnson, Robert W. Johnson, George W. Jones, George G. King, Letcher, Lockhart, Humphrey Marshall, Martin, McCorkle, McDonald, McMullin, Meacham, Miller, Miner, Morehead, Murray, Nabers, Olds, Outlaw, Samuel W. Parker, Peaslee, Polk, Porter, Ross, Sackett, Savage, Schermerhorn, Schoolcraft, Scurry, Origen S. Seymour, Skelton, Stanly, Frederick P. Stanton, Richard H. Stanton, Stone, Stuart, Sutherland, Sweetser, Taylor, George W. Thompson, Ward, Watkins, Alexander White, Wilcox, Williams, and Yates—89.

So the motion was not agreed to.

Mr. HALL. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

Mr. STANTON, of Tennessee. I raise the question of order, that the vote having already been reconsidered once, the motion of the gentleman from Missouri is not in order.

The SPEAKER. The Chair decides that the motion is not in order.

Mr. OLDS. Is it in order now to move to commit without instructions?

The SPEAKER. Not until the previous question has exhausted itself upon the motion to print.

Mr. OLDS. Suppose the House should refuse to print, would it then be in order?

The SPEAKER. The Chair thinks it would. The question was then taken on the motion to print, and it was not agreed to.

Mr. VENABLE moved the following resolution:

Resolved, That the Joint Committee on Printing be requested to contract with the lowest responsible bidder, after ten days' notice, for such work as the present contract or has failed, or may fail to execute according to contract.

Mr. VENABLE addressed the House an hour in explanation of his opposition to the action of the Committee on Printing; and in support of the proposition submitted by himself.

[For the speech of Mr. V., see the Appendix.]

Mr. GORMAN. I move to strike out from the resolution the resolving clause, and insert the following:

Resolved, That the report be recommitted to the Committee on Printing.

And upon it I move the previous question.

Mr. MARSHALL, of Kentucky. I trust the House will not suffer this—[Cries of "Order!" "Order!"] I trust that they will hear the proposition I design to submit by way of information, if the previous question is not sustained.

Several MEMBERS. Read it! Read it!

The SPEAKER. If not objected to, the proposition of the gentleman from Kentucky [Mr. MARSHALL] will be read.

Mr. POLK objected.

Mr. HOUSTON. Is there a proposition now before the House to commit without instructions?

Mr. MARSHALL. I have the floor.

Mr. HOUSTON. That proposition comes up as an amendment. Will the Chair rule that as a simple proposition to commit without instructions? I wish to know that.

The SPEAKER. There have been no instructions to the Committee on Printing.

Mr. MARSHALL. Do I understand the Chair to state that there is objection to reading the proposition I wish to offer?

The SPEAKER. The Chair stated so distinctly.

Mr. MARSHALL. Is it competent for the House to have it read?

The SPEAKER. The gentleman has his remedy. Does he appeal?

Mr. MARSHALL. I do not appeal, but it is strange.

The SPEAKER. The Chair begs leave to state that there is a demand for the previous question, which cuts off all debate and all amendments.

Mr. MARSHALL. I am not designing to reflect upon the Chair at all.

The SPEAKER. The gentleman from North Carolina [Mr. VENABLE] submits a resolution, based upon the report, declaring that the Committee on Printing be requested to let the printing out to the lowest responsible bidder. The gentleman from Indiana [Mr. GORMAN] proposes to strike out the whole of that resolution; and he submits a simple resolution that the report be recommitted to the Committee on Printing, and upon that proposition the previous question is demanded.

Mr. ORR demanded tellers on the previous question.

Mr. HOUSTON. My object is to inquire of the Chair, so that there may be no doubt about it. If the proposition made by the gentleman from Indi-

ana [Mr. GORMAN] should be regarded as strictly in order, I desire now, before the previous question is ordered, to submit a simple proposition to recommit the bill.

The SPEAKER. If the proposition of the gentleman from Indiana [Mr. GORMAN] prevails, the report will be recommitment, without instructions, by a vote of the House.

Mr. McMULLIN. I rise for the purpose of requesting the gentleman from Indiana [Mr. GORMAN] to withdraw the demand for the previous question, so as to permit the remarks of the gentleman from North Carolina [Mr. VENABLE] to be replied to by some one.

Mr. STANTON, of Ohio. I wish to know if the motion of the gentleman from North Carolina [Mr. VENABLE] to recommit, without instructions, is an independent resolution?

The SPEAKER. The gentleman presented it as an independent proposition.

Mr. STANTON. Then I submit, it is not in order, because a question was pending.

The SPEAKER. The Chair thinks there was no question pending. The Chair begs leave to state to the House, and for the information of gentlemen upon all hands, that under the joint rule of the two Houses the Committee on Printing has a right to report at any time. The decision of the Chair has been—and about the correctness of which he has no doubt—that the right to report carries with it the right of the House to dispose of the matter reported upon. The Committee on Printing has made a report, and the gentleman from North Carolina [Mr. VENABLE] offers a resolution based upon that report, which the Chair thinks is in order. The gentleman from Indiana [Mr. GORMAN] moves to strike out that resolution, and insert the one proposing to refer the report back to the Committee on Printing, without instructions; and upon this motion the previous question is demanded, and tellers asked for.

The question was then taken upon the demand for the previous question, (Messrs. Orr and Dawson acting as tellers;) and there were—ayes 83, noes 54.

So the previous question was seconded, and the main question ordered.

Mr. HOUSTON moved to reconsider the vote by which the main question was ordered, and to lay that motion upon the table; which latter motion was agreed to.

Mr. ORR demanded the yeas and nays; which were ordered.

The SPEAKER. The question recurs upon the motion of the gentleman from Indiana, [Mr. GORMAN.]

Mr. ORR. I ask for the reading of the original proposition and amendment.

Mr. McMULLIN. I object.

The question on reading was put to the House, and carried in the affirmative; and the reading was ordered, and had.

Mr. STEPHENS, of Georgia. If the House adjourns now, will not this matter come up as the first business in the morning?

The SPEAKER. It will.

Mr. STEPHENS. I move, then, that the House adjourn.

The question was then taken, and it was decided in the negative.

So the House refused to adjourn.

The question was then taken upon Mr. GORMAN's amendment; and there were—yeas 86, nays 79; as follows:

YEAS—Messrs. Abernethy, Willis Allen, John Appleton, William Appleton, David J. Bailey, Thomas H. Bayly, Bowie, Bowne, Bridges, Brooks, E. Carrington Cabell, Chandler, Chastain, Clark, John G. Davis, Dawson, Dean, Disney, Edmundson, Ewing, Freeman, Thomas J. D. Fuller, Gaylord, Gentry, Gorman, Green, Hall, Hamilton, Hammond, Harper, Isham G. Harris, Hart, Hays, Haven, Hendricks, Henn, Hubbard, Hillyer, Houston, Howard, Ingersoll, Andrew Johnson, James Johnson, G. W. Jones, Letcher, Lockhart, Mace, McCorkle, McDonald, McLanahan, Meacham, Miller, Murray, Nabers, Olds, S. W. Parker, Peaslee, Polk, Porter, Price, Riddle, Ross, Sackett, Savage, Schermethorn, Schoolcraft, Scurry, Origen S. Seymour, Skelton, Stanly, Frederick P. Stanton, Richard H. Stanton, Stuart, Sutherland, Sweetser, Taylor, George W. Thompson, Ward, Watkins, Addison White, Alexander White, Wilcox, Williams, and Yates—86.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, Bragg, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Carter, Caslie, Chapman, Clingman, Cobb, Conger, Curtis, Dimmick, Dockery, Doty, Eastman, Edgerdon, Edmundson, Ewing, Fitch, Floyd, Fowler, Giddings, Goodenow, Grey, Grow, Sampson W. Harris, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, John Johnson, Daniel T. Jones, J. Glancy

Jones, George G. King, Preston King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Mason, McMullin, McNair, McQueen, Meade, Millson, Miner, Molony, Morehead, Morrison, Newton, Orr, Andrew Parker, Pennington, Perkins, Phelps, Powell, Robbins, Scudder, Smart, Smith, Benjamin Stanton, Alexander H. Stephens, Strother, Thurston, Townshend, Tuck, Venable, Walbridge, Wallace, Washburn, and Woodward—79.

So the amendment was adopted.

Mr. GORMAN moved to reconsider the vote by which the amendment was adopted, and to lay the motion to reconsider on the table.

Mr. ORR moved that the House adjourn; and upon that motion demanded the yeas and nays.

The yeas and nays were not ordered.

The question was then taken, and the House refused to adjourn.

The question was then taken upon Mr. GORMAN's motion to lay on the table the motion to reconsider, and it was decided in the affirmative.

Mr. MARSHALL, of Kentucky. I ask the unanimous consent of the House that I may introduce my resolution.

The SPEAKER. If the gentleman will allow me, the question recurs under the operation of the previous question upon the adoption of the resolution as amended, which is to recommit the report.

The question was then taken upon the adoption of the resolution as amended, and it was agreed to.

Mr. MARSHALL. I move to reconsider the vote by which the resolution as amended was passed.

Mr. GORMAN. And I move to lay that motion upon the table.

Mr. MARSHALL. I did not intend to take any advantage of the House, and being perfectly satisfied myself that the Speaker yielded me the floor with the understanding that it was done for the purpose of enabling me to introduce my resolution, I will confine myself to my original intention; and I shall ask the indulgence of the House to permit the resolution which I have offered, and which I send to the Clerk's table, to be read. I shall not offer to take any advantage of the gentleman from Indiana [Mr. GORMAN] to move to reconsider his proposition.

[Cries of "Read it!" "Read it!"]

The resolution was then read, as follows:

Resolved, That a select committee of five be appointed by the Speaker, to whom shall be referred the existing laws and orders on the subject of the public printing, with instructions to report to this House, by bill or otherwise, what amendments to said laws may be expedient in order to insure the faithful and prompt execution of the printing for Congress.

Mr. HALL. I object to the introduction of the resolution.

Mr. MARSHALL. I move a suspension of the rules, in order that the resolution may be considered.

Mr. JONES, of Tennessee. I rise to a question of order. I ask if it is in order to move a suspension of the rules when a privileged question is pending?

Mr. MARSHALL. A privileged question is not pending.

Mr. JONES. I understand the gentleman from Kentucky [Mr. MARSHALL] to make the motion to reconsider the vote on the proposition to commit.

Mr. MARSHALL. I withdraw it.

Mr. JONES. Then I rise to a privileged question.

Mr. MARSHALL rose to a privileged question also. I moved to suspend the rules.

The SPEAKER. The gentleman from Kentucky [Mr. MARSHALL] having moved to reconsider the vote, if the Chair recollects aright, the rule places it in the power of any gentleman to demand its consideration at once. Did the gentleman from Kentucky [Mr. MARSHALL] withdraw his motion to reconsider?

Mr. MARSHALL. I desire to say, that I felt myself bound by a sense of propriety, that instead of availing myself of an opportunity to throw these gentlemen off their balance, or to give way to the motion to adjourn, or address the House for an hour, I stated distinctly, without yielding the floor, that I would not interfere with the object of the gentleman from Indiana, and would not present the motion to reconsider, but would adhere to my own original intent; because I supposed the Chair gave me the floor, expecting that I would carry that intent into effect.

The SPEAKER. Does the Chair understand

the gentleman from Kentucky as having withdrawn the motion?

Mr. MARSHALL. Certainly I did.

Mr. JONES. I rise to a question of order, and that question is a privileged question, to move to reconsider the vote by which that resolution to commit was adopted.

Mr. MARSHALL. The gentleman must first get the floor for that purpose.

Mr. JONES. The gentleman obtained the floor to move to reconsider the vote, but then he says he withdrew it. I did not so understand him. The Chair did not so understand him; for the Chair inquired whether he did withdraw it or not. If he obtained the floor for the purpose of offering his resolution, or of moving to suspend the rules to introduce it, I rise for the purpose of making a privileged motion, that is, to reconsider the vote on the commitment, and it would take precedence of his motion to suspend the rules.

The SPEAKER. The usual practice, so far as the Chair recollects, in such cases, has been, that when an individual is upon the floor addressing the House, and wishes to yield to another, he signifies his wish to have his proposition to reconsider entered upon the record, and also his wish for the proposition to be called up at a more convenient season than the one when he is addressing the House. The Chair doubts whether the gentleman from Tennessee can take the floor from the gentleman from Kentucky, for the express purpose of considering a privileged motion.

Mr. JONES. I say, that we arose at the same time.

Mr. MARSHALL. I rise to a question of order. I wish to know how the gentleman from Tennessee [Mr. JONES] gets the floor from me?

The SPEAKER. The Chair decides that the gentleman from Tennessee [Mr. JONES] cannot take the floor from the gentleman.

Mr. MARSHALL. Then, I hope the gentleman will permit my motion to proceed. My motion is, to suspend the rules, in order that I may introduce the resolution which has been already read.

Mr. STANTON, of Tennessee, moved that the House adjourn.

The question was then taken, and the House refused to adjourn.

The question being on the motion to suspend the rules,

Mr. MARSHALL, of Kentucky, demanded the yeas and nays; which were ordered.

Mr. McMULLIN moved that the House do now adjourn.

Mr. STUART. I appeal to the gentleman from Virginia to withdraw the motion, and allow the House to fix a time for the consideration of the territorial business. This is the only day on which it can be done.

Mr. McMULLIN. I cannot withdraw the motion.

The question was then taken on Mr. McMULLIN's motion, and it was disagreed to, on a division—ayes 76, noes 86.

So the House refused to adjourn.

The question was then taken on Mr. MARSHALL's motion to suspend the rules, and there were—yeas 111, nays 48; as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, David J. Bailey, Barrere, Bowie, Bowne, Brenton, Albert G. Brown, George H. Brown, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Carter, Caslie, Chapman, Clingman, Cobb, Conger, Curtis, Dimmick, Dockery, Doty, Eastman, Edgerdon, Edmundson, Ewing, Fitch, Floyd, Fowler, Gentry, Giddings, Goodenow, Grey, Grow, Sampson W. Harris, Hays, Haven, Hebard, Horsford, Houston, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, James Johnson, John Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Preston King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Mason, McNair, McQueen, Meacham, Meade, Miller, Millson, Miner, Molony, John Moore, Morehead, Morrison, Newton, Orr, Orr, Andrew Parker, Pennington, Perkins, Phelps, Porter, Powell, Rantoul, Robbins, Sackett, Schermethorn, Schoolcraft, Scudder, Smart, Smith, Stanly, Benjamin Stanton, Alexander H. Stephens, Strother, Sweetser, Taylor, Thurston, Townshend, Tuck, Venable, Walbridge, Wallace, Ward, Washburn, Watkins, Alexander White, Williams, Woodward, and Yates—111.

NAYS—Messrs. Willis Allen, John Appleton, Thomas H. Bayly, Briggs, Brooks, Chandler, Chastain, Clark, John G. Davis, Dawson, Dean, Ficklin, Freeman, Thomas J. D. Fuller, Gaylord, Gorman, Hall, Hamilton, Hammond, Isham G. Harris, Hart, Hendricks, Henn, Hubbard, Hillyer, Howard, Ingersoll, Andrew Johnson, George W. Jones, Letcher, Lockhart, McDonald, McMullin, Murray, Nabers, Samuel W. Parker, Peaslee, Polk, Ross, Savage, Scurry, Origen S. Seymour, Skelton, Frederick P. Stanton,

ton, Richard H. Stanton, Stuart, Sutherland, and Wilcox—48.

So (two thirds voting in the affirmative) the rules were suspended.

The question recurring on the adoption of the resolution,

Mr. MARSHALL moved the previous question.

Mr. STANLY. I ask the gentleman from Kentucky to allow me to offer an amendment to that resolution?

Mr. MARSHALL. I cannot. I must insist on the previous question.

Mr. HOUSTON. I would like to ask the gentleman from Kentucky to modify his resolution, so that it will be referred to the Committee on Printing?

[Cries of "Oh no," and laughter.]

Mr. STANLY. I ask the consent of the House to have the amendment I wish to offer read for information. I think it will save \$100,000. I want to reach that Ritchie claim which we were prevented from investigating last session, and which we shall be called upon to appropriate for at the end of the present session, in all probability.

There being no objection, the amendment was read, as follows:

"And that said committee be directed to investigate the accounts of John H. Trenholm and William M. Belt, for printing executed in their names for the Senate and House of Representatives for the Thirty-first Congress, whether rendered before, during, or since the adjournment of that Congress."

Mr. MARSHALL. I insist on the previous question.

Mr. APPLETON, of Maine, moved that the House do now adjourn.

The question was put and decided in the negative.

So the House refused to adjourn.

Mr. GORMAN. I want to know if I have not a right to move to reconsider the vote by which the report of the Committee on Printing was recommitted, and to lay the motion to reconsider upon the table?

The SPEAKER. There is a privileged question already pending—the demand for the previous question, but the motion of the gentleman from Indiana to reconsider can be entertained by general consent.

Mr. WASHBURN objected.

The previous question received a second, and the main question was ordered to be now put, and being put, the resolution was agreed to.

Mr. MARSHALL moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. GORMAN moved to reconsider the vote by which the report from the Committee on Printing was recommitted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

#### TERRITORIAL BUSINESS.

Mr. STUART. I wish now to move that the territorial business, which was made the special order for this week, be postponed and made the special order for the third week in May next.

There being no objection, it was so ordered.

#### CLAIM OF TRENHOLM AND BELT.

Mr. STANLY. I move to suspend the rules to enable me to offer, as an instruction to the select committee on the public printing the resolution which I had read just now.

Mr. DEAN moved that the House do now adjourn.

#### PUBLIC EXECUTIONS.

Mr. FICKLIN. I appeal to the gentleman from New York to withdraw that motion. A bill has passed the Senate directing that all executions in this District shall be private, and not public. There is to be an execution here on Friday next, and it is very desirable that that bill should be acted upon.

Mr. ORR. I object to that.

The SPEAKER. Does the gentleman from New York withdraw his motion?

Mr. DEAN. If I withdraw it, will not the first business in order be the motion of the gentleman from North Carolina to suspend the rules?

The SPEAKER. It will.

Mr. DEAN. Then I cannot withdraw it.

The question was then taken on Mr. DEAN's motion; which was agreed to,

And the House adjourned until to-morrow at twelve o'clock.

#### NOTICE OF A BILL.

Mr. McMULLIN gave notice of his intention to ask leave to introduce a bill fixing the salary of members of Congress at a sum not exceeding \$1,500 per annum, and their traveling expenses to and from the seat of Government at not more than ten cents per mile.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. McMULLIN: The petition of R. Saunders, assistant United States marshal for King and Queen county, Virginia, praying extra compensation for his services in taking the Seventh Census.

By Mr. MASON: The petition of Andrew Fountain, for the payment of \$2,100 Texas notes, and interest thereon. Also, the petition of C. M. Hawks and others, for the establishment of a mail route.

By Mr. THOMPSON, of Virginia: The memorial of 53 citizens of the county of Ohio, Virginia, against the desecration of the Sabbath by the transportation of the mails on that day.

Also, a communication of the city of Burlington, Iowa, to the city of Wheeling, in relation to the construction of a railroad from Peoria, Illinois, through Burlington, to the Missouri river.

By Mr. THOMAS M. HOWE: The remonstrance of all the transportation companies upon the public works of the State of Pennsylvania, between Pittsburg and the Eastern cities, remonstrating against any action by Congress sanctioning the *Wheeling Bridge*, and designed to defeat such remedy as may be provided by the Supreme Court of the United States to secure the navigation of the Ohio river.

Also, a similar remonstrance from individual transporters on the public works of Pennsylvania.

Also, a similar remonstrance from King, Pennoek & Co., Spring & Co., and other citizens of Pittsburg, Pennsylvania.

By Mr. WILLIAMS: The petition of the citizens of Henderson county, asking a mail route from Red Mound, Henderson county, by the way of Brodee's Ferry, to Wood post office, Perry county.

By Mr. RIDDLE: The petition of "The Journeymen Printers' Protective Union" of the city of Wilmington, Delaware, praying Congress to take such measures as may be necessary for the establishment of a national printing office.

By Mr. LITCHER: The petition of William Frazier and 106 other citizens of Augusta county, Virginia, praying Congress to establish the bridges of the Wheeling & Belmont Bridge Company, as post roads.

By Mr. JOHNSON, of Tennessee: The memorial of James Elliot, in which he sets forth his views in regard to the proper disposition of the public domain; also his views on the right of petition, &c.

By Mr. SCHERMERHORN: The petition of William Baldwin and other citizens of the county of Monroe, New York, asking for a free and unrestricted commercial intercourse between the inhabitants of the United States and the Canadas.

By Mr. ALLISON: The petition of James McClee and 107 others, citizens of Washington county, Pennsylvania, for an act to prohibit the transportation of the mails on the Christian Sabbath or Lord's day.

Also, two petitions of similar import, signed by Rev. Alexander Murray and 63 others, citizens of Beaver county, Pennsylvania.

Also, the petition of John Ferguson and 97 others, citizens of Lawrence county, Pennsylvania, for a modification of the existing tariff laws, so as more effectually to encourage and protect the manufacturing interests of the country.

Also, the petition of H. P. McKee and others, citizens of Freedom, Beaver county, Pennsylvania, for an act incorporating "The Social American Brothers' Council of the United States, No. 1."

By Mr. BROWN, of Mississippi: The petition of William P. Trotter and 19 other soldiers of the United States, praying Congress to pass an act authorizing them to locate their bounty land certificates on the reserved lands within six miles of the Mobile & Ohio Railroad.

Also, the memorial of Edward Logan, of Mississippi, praying that Congress will give him 160 acres of land, he having been unjustly deprived of his bounty as a volunteer in the Mexican war.

Also, the petition of A. Delmas, of Mississippi, praying remuneration for losses sustained by him as light-house keeper at Pascagoula, in the State of Mississippi.

Also, the petition of John McDonald, praying increased compensation as a census taker in Mississippi.

By Mr. CURTIS: A petition praying for a mail route from Brookville, Jefferson county, to Smicksburg, Indiana county.

Also, a petition from Warren county, praying for a mail route from Titusville to Sugar Grove.

By Mr. ROSS: The petition of R. T. Donatt and others, practical printers of Doylestown, Bucks county, Pennsylvania, asking for the establishment of a national printing office.

By Mr. CHANDLER: The memorial of the Pennsylvania Academy of the Fine Arts, asking that Mr. M. F. Rethermel, historical painter, may be employed to paint one of the national pictures for the Capitol.

By Mr. CLARK: The memorial of S. C. Trowbridge, G. S. Hampton, and 69 others, citizens of the county of Johnson, in the State of Iowa, in which the memorialists state that "they regard the Wheeling bridge, in its present condition, as a noble triumph of art; one of the most signal achievements of science in this age, and they would regard its overthrow as a triumph of vandalism. They therefore ask that said bridge may be declared a post road."

By Mr. HENN: Petition of J. A. Painter and 23 others, citizens of Mills county, Iowa, asking a grant of land to aid

in the construction of a railroad from Burlington, via Fairfield and Ottumwa, to the Missouri river, opposite the mouth of Platte river.

Also, petition of Israel Miller and 75 others, citizens of Clarke county, Iowa, asking a grant of lands to aid in the construction of a railroad from Burlington to the Missouri river.

Also, petition of David Newton and 15 others, citizens of Clarke county, Iowa, asking for a mail route from Charlton, Lucas county, via Glens, White Breast, and Hopeville, to Pisgah, in Union county.

Also, petition of Alfred B. Webber and 65 others, citizens of Iowa, asking for the establishment of a mail route from Marengo, through the counties of Benton, Poweshiek, Tama, and Marshall, to Mariette.

Also, the petition of Devore Salmer and 31 others, citizens of Fort Madison, Iowa, asking for the construction of a free canal around the Falls of the Ohio river.

#### IN SENATE.

TUESDAY, April 20, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, Captain Howard Stansbury's Report of his Exploration of the Valley of the Great Salt Lake; which was read, and ordered to be laid on the table.

#### CORRECTION OF THE JOURNAL.

Mr. HALE. I perceive by the reading of the Journal this morning that there is an error with regard to the resolution which I offered on the 16th instant, and which was adopted yesterday. The Journal states that it is a resolution to inquire into unauthorized payments to naval officers. It was not so; but to inquire into payments greater than the law authorized. I wish the Journal may be corrected.

The PRESIDENT. The correction will be made.

#### PETITIONS, ETC.

The PRESIDENT *pro tempore* laid before the Senate the memorial of P. H. Watson and E. S. Renwick, praying that an investigation may be made into the unjust charges brought against the Commissioner of Patents for granting E. S. Renwick a patent for an improved railroad chair; which was referred to the Committee on Patents and the Patent Office.

Mr. SEBASTIAN presented the petition of John S. Gibson and Paul A. Swink, contractors for carrying the mail, praying to be relieved from the fines imposed upon them by the Post Office Department; which was referred to the Committee on the Post Office and Post Roads.

Mr. PEARCE. I have been requested to present the memorial of a committee appointed at a meeting of the creditors of Texas held in the city of Washington on the 14th of April, 1852, praying the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9th, 1850, in the manner proposed by the Secretary of the Treasury in his report of September 13, 1851. As this is a very important memorial, and relates to an important subject, and may involve a large expenditure of money, I ask that it may be printed, and be referred to the Committee on Finance.

The motion to refer was agreed to.

The PRESIDENT. The question of printing goes to the Committee on Printing under the rule.

Mr. PEARCE. This is a special memorial of claimants against the late Republic of Texas. It is very short, but it embodies a decision made by the Executive, who gave his construction of this matter in 1850, and shows his opinion with regard to the claims of this class of creditors for whom the \$5,000,000 was reserved. I think the memorial very important, and I hope it may be printed.

The motion to print was agreed to.

Mr. DODGE, of Wisconsin, presented a petition of citizens of Adams county, Wisconsin, praying the establishment of a mail route from New Haven to Nevada; which was referred to the Committee on the Post Office and Post Roads.

Mr. BRODHEAD presented a memorial of the Board of Trade of Philadelphia, praying the establishment of a light-house board; which was referred to the Committee on Commerce.

Mr. FISH presented three petitions of citizens of the State of New York, praying the renewal of Uri Emmons's patent for a planing machine; which were referred to the Committee on Patents and the Patent Office.



## REPORTS FROM STANDING COMMITTEES.

Mr. COOPER, from the Committee on Indian Affairs, to which was referred the petition of Amos Kendall and John E. Kendall, praying to be reimbursed certain moneys wrongfully paid out by the Government of the United States to the Western Cherokees, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. WADE, from the Committee on Claims, to which was referred the petition of Sally J. Mathews, praying payment for services of her husband as clerk in the Treasury Department, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. HALE, from the Committee on Private Land Claims, to which was referred the petition of Catharine Strubing, widow of James Strubing, submitted an adverse report; which was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the petition of James Harrington, praying to be allowed compensation for loss of time and sickness, caused by melting lead while in the employment of the United States, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

Mr. GEYER, from the Committee on Pensions, to which was referred the petition of F. M. Balster, widow of John Balster, who was killed at Charleston Arsenal while in the discharge of his public duties, praying a pension, submitted a report, accompanied by a bill to grant a pension to the widow and children of John Balster; which was read and passed to the second reading.

The report was ordered to be printed.

He also, from the same committee, to which was referred the petitions of Lucie Ann Garner and of William Heumann, submitted adverse reports thereon; which were ordered to be printed.

Mr. HAMLIN, from the Committee on the Post Office and Post Roads, to which was referred the petition of Joseph Nock, praying remuneration for losses sustained in consequence of the violation of a contract for supplying the Post Office Department with locks, submitted an adverse report; which was ordered to be printed.

## CONFIRMATION OF LAND TITLE.

Mr. HALE. The Committee on Private Land Claims, to which was referred the petition of William Thompson, on behalf of himself and other heirs of Joseph Thompson, senior, deceased, praying the confirmation of their title to a tract of land in the State of Missouri, have instructed me to submit a report, accompanied by a bill confirming their title to the said tract.

The bill was read a first and second time, and, by unanimous consent, was considered by the Senate as in Committee of the Whole.

Mr. HALE. The grant mentioned in this bill is a Spanish grant, on which the petitioners have lived since the year 1807. They have some show of title, but that title is not legally perfect, and they come to Congress to ask that it may be confirmed. This bill has already passed the Senate three times, and this is the fifth favorable report that has been made. It has, however, on every occasion, failed in the House of Representatives. The petitioners say that there has not been a court held in their county for the last six years, and the judge of that county says that this is the only case that he has to try; so that if Congress will only confirm this title, he will never need to go into that county at all. [Laughter.]

The bill was reported to the Senate without amendment, and was ordered to be engrossed for a third reading.

## EFFICIENCY OF THE ARMY.

Mr. SHIELDS. The Committee on Military Affairs, to which the subject was referred, have instructed me to submit a report, accompanied by a bill to improve the efficiency of the Army of the United States.

The bill was read a first time, and ordered to a second reading.

Mr. SHIELDS. The report that accompanies the bill embraces some very important provisions in relation to the Army. I move, therefore, that it be printed, and that two thousand additional

copies be printed for the use of the Department, and that copies may be sent to the officers in different parts of the country.

The motion to print the usual and the additional copies was agreed to.

Mr. SHIELDS. I will ask that the same number of copies of the bill may be printed with the report. I will state my object. This bill nearly concerns the state of the Army; and changes, to a considerable extent, some of the provisions for its government, now in force. For instance, it abolishes the brevet pay, double rations, and various other matters in detail. My wish is, that we may have the benefit of the experience and suggestions of officers in all parts of the country, in order that we may legislate advisedly and with a due degree of caution. The best mode of attaining that object, in my opinion, is to send these gentlemen copies of the bill and report.

Mr. ATCHISON. I desire to know from the Senator from Illinois what necessity there is for printing the additional copies of the report? I am aware that a vote was taken on the subject a few minutes ago, but am not aware of the contents of the report, and should be glad to hear from the honorable Senator the reasons for printing the two thousand copies.

Mr. SHIELDS. I will state that readily. The report is brief, and the bill itself is brief. But the report refers to different acts which are affected by this bill, which could not be pointed out by this bill itself; and it shows the effect that will be produced if this bill should become a law on previous legislation, and the changes, modifications, and consequences of this act so far as the committee has been able to accomplish that object.

Mr. BADGER. It enables everybody to see what the object of the bill is.

Mr. SHIELDS. Certainly; that is the object of my motion. It enables everybody to see at once what is proposed, how much of previous legislation it will change, and what will be the consequence of these innovations to the Army generally.

Mr. ATCHISON. I desire to hear the bill read. I do not even know what the object of it is.

Mr. SHIELDS. Oh, then I withdraw my motion.

## VOLUNTEERS IN DISTRICT OF COLUMBIA.

Mr. DAWSON. The Committee on Military Affairs, to which was referred the petition of certain volunteer companies in the District of Columbia, have directed me to report a joint resolution, which I ask may be considered now.

The resolution was read, as follows:

Joint resolution for supplying arms to the Washington Yagers and the Washington Boone Riflemen.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be and he is hereby authorized and directed to cause to be furnished to the Washington Yagers and the Washington Boone Riflemen, two volunteer companies raised and organized in the District of Columbia, the necessary arms and equipments to said companies respectively, under such rules and regulations as may be deemed proper for the safety of such, and for their return to the Department.

The resolution was read a second time, and considered by the Senate as in Committee of the Whole.

Mr. SHIELDS. These are two volunteer companies in this District to which the Department cannot furnish arms under the present state of the law. The Department recommends that permission may be given to furnish arms to these companies, and to have the control of them, so as to secure their return.

Mr. WALKER. I desire to inquire of the Senator from Illinois whether it is the ordinary arms which it is proposed should be furnished to these companies, or whether new ones are to be purchased for them.

Mr. SHIELDS. It is the ordinary kind of arms, which the Department has in great abundance.

The resolution was reported without amendment, and was ordered to be engrossed for a third reading.

## CLAIM AGENTS.

Mr. BRODHEAD. The Committee on Claims, to which was referred the bill to amend and extend the provisions of an act approved July 29th, 1846, entitled "An act in relation to the payment of claims," have instructed me to report the same back, with an additional section, and one or two

other slight amendments, and recommend its passage, as thus proposed to be amended. The first section of this bill makes absolutely void all agreements and powers of attorney entered into for the purpose of prosecuting claims against the United States, if executed prior to the allowance of the claim, and the issue of a warrant for the payment of the same. The second section of the bill makes it unlawful for any officer of the Government, connected with any of the Executive departments, to be in any manner concerned in prosecuting claims against the United States, or furnishing information, except in the proper discharge of his duty, to aid in the prosecution of claims. The third section (which is the additional one proposed to be inserted by the committee) makes it unlawful for any member of either House of Congress to be concerned in the prosecution of any claim against the United States.

The provisions of this bill will, I think, commend themselves to the favorable consideration of the Senate. If it shall be adopted, as the committee propose to amend it, it will be in these words:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all transfers and assignments hereafter to be made of any claim upon the United States, or any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all contracts or agreements hereafter to be made for allowing compensation to any agent for claims, or other person or persons, for or on account of services performed or to be performed in procuring testimony in support of, or otherwise aiding in obtaining the allowance of any such claim; and all powers of attorney, orders, or other authorities, for receiving payment of any such claim, or any part or share thereof, shall be absolutely null and void, unless the same shall be freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof.

Sec. 2. *And be it further enacted,* That any officer of the United States, or person holding any place of trust or profit, or discharging any official function under or in connection with any Executive Department of the Government of the United States, who, after the passage of this act, shall act as an agent for prosecuting any claim or claims against the United States, or shall in any manner or by any means, otherwise than in the discharge of his proper official duties, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment as for a misdemeanor, and on conviction in any court having cognizance thereof, shall pay a fine not exceeding one thousand dollars, or suffer imprisonment not exceeding six calendar months, or both, as the court in its discretion shall adjudge, due regard being had to all the circumstances of the case.

Sec. 3. *And be it further enacted* That any member of either Houses of Congress who, after the passage of this act, shall for compensation, paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, or shall in any manner, or by any means for such compensation, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment and prosecution as in the case mentioned in the 2d section of this act.

Sec. 4. *And be it further enacted,* That the provisions of this act, and of the act of July 29th, 1846, entitled "An act in relation to the payment of claims," shall apply and extend to all claims against the United States, whether allowed by special acts of Congress or arising under general laws or treaties, or in any other manner whatever.

Mr. BRODHEAD's motion to consider the bill at this time was not agreed to.

## BILLS INTRODUCED.

Mr. DOWNS, agreeably to previous notice, asked and obtained leave to introduce a bill, providing for the issuing of patents for a certain class of confirmed private land claims in Louisiana; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

Also, a bill for the relief of Leonard Dyson, as assignee of Edward McLaughlin, or his legal representatives; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

Mr. GWIN, agreeably to previous notice, asked and obtained leave to introduce a bill to grant the right of way through the public lands of the United States for the construction of the following railroads, to wit: From Benicia, by the way of Sacramento City, Marysville, and Shasta City, to Shasta Balle city; from San Francisco to San José; from Sacramento City to Nevada City; from Sacramento City, via Coloma, to Placerville; from Stockton to Moukolumne Hill; from Stockton to Sonora; from Stockton to Agua Fria; from Monterey, via San Juan, to Agua Fria; from San Pedro to Los Angeles; from San Diego, via San Luis Rey, Los Angeles, San Juan, to San José; and from Los Angeles to Agua Fria; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. BROADHEAD, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of Mrs. Mary A. Davis, widow of Daniel W. Davis; which was read, and passed to the second reading.

#### PRIVATE LAND CLAIMS IN CALIFORNIA.

Mr. GWIN. Pursuant to previous notice, I ask leave to introduce a bill supplemental to the act of Congress, approved March 3d, 1851, to ascertain and settle the private land claims in the State of California.

Leave was granted, and the bill was introduced and read a first time.

Mr. GWIN. Mr. President, I ask the unanimous consent of the Senate that this bill may now have a second reading, with a view to reference. In making this motion, I propose to show its object, and the reasons which induce me to urge that it may be speedily matured into a law.

It is known that under the governments which preceded the United States in sovereignty in California, a number of large claims had their origin, in virtue of which extensive bodies of lands are claimed as private property; and that before and since the change of government, and at the passage of the act of 3d March, 1851, there were titles of this class in which there was so much uncertainty as to what was their limits or position, that it was often impossible for settlers, in locating themselves, to know whether they were on the public lands, or upon what might be claimed under a Spanish or Mexican title. The consequence is, that settlers, innocent of any intention to encroach upon the claims of others, have gone to work and reduced into possession small parcels of land, and made valuable improvements within what it now appears is claimed as the property of others, under titles derived from the former governments. In doing this, they have imparted such additional value to the adjacent property as, in the ordinary transactions of life, might be regarded as a full equivalent for the small parcels they occupy. But I am not willing, even under this view of the case, that the owners of *bona fide* foreign titles shall lose a single acre of their lands. The object I have in contemplation is to do justice both to the settler and to the claimant under Spanish or Mexican titles. I wish to secure the *bona fide* settler in the soil covered by his actual improvements, according to the most minute legal subdivisions of the public lands that will embrace his residence and those improvements, and, at the same time, indemnify the Spanish or Mexican claimant by giving him other lands now the property of this Government. I think I know enough of the justice and liberality of the people of our country to satisfy me that a measure like this could not fail to be acceptable to them. I cannot believe that there is an extensive landholder or claimant in the State of California, that would be willing, had he the power, to dispossess and drive off the actual settler from the small piece of land on which he has established himself, and leave him and his family homeless, and without a remedy.

I propose, then, to quiet this class of rights, and to indemnify the parties claiming under written titles; and find that I am not only fortified in this measure by what seems to me an obvious act of justice under the circumstances, but by the policy of Congress in analogous cases. The whole legislation, general and special, of the country, indicates the tender and constant regard which has ever been extended towards settlers, and the liberal provision which Congress has felt to be their due. Hence, from the acquisition of Louisiana and Florida up to the present session of Congress, we find our statute books full of laws for the security of settlement rights. It was my anxious desire, and I made an effort, to have a principle inserted in the act of March 3d, 1851, kindred to that contemplated by the bill I now propose to introduce. The importance of the early passage of that act, and the apprehension that the enactment of it might be endangered for want of time if I insisted on this amendment, then induced me to defer the subject for a more suitable opportunity, knowing that my object could be effected in a supplemental bill. The time is now arrived, when it is necessary and of the highest importance to our people that this bill should be passed.

It is plain and explicit in its provisions, which are few and simple. The board have the power finally to confirm these settlement rights, and issue a certificate of confirmation. This is the mode

prescribed in the fourth section of the act of Congress, approved March 3d, 1807, entitled "An act respecting claims to land in the Territories of Orleans and Louisiana," by which the commissioners appointed for the purpose of ascertaining the rights of persons claiming land in those Territories had "full power to decide" according to the laws, usages, &c., and for a tract not exceeding a league square; which decision that law declares, "when in favor of the claimant shall be final against the United States, any act of Congress to the contrary notwithstanding;" and the fifth section of that act provides for the granting to a party of "a certificate (confirmation certificate) stating the circumstances of the case, and that he was entitled to a patent for a tract of land therein described;" and then, as proposed in the present bill, makes provision for the survey and the subsequent issuing of the patent. But I come now to consider the policy of Congress, and the reasons for it, in dealing with titles analogous to these. In our early legislation, laws were passed for ascertaining and adjusting titles and claims in the former province of Louisiana; and the sixth section of the act of March 3d, 1811, expressly interdicted the offering for sale of any "tract of land" to which a claim had been duly filed according to law for the purpose of investigation, until the final action of Congress thereon. Notwithstanding this, in the progress and rapid growth of the country, many of these claims, which were indefinite in extent or limits, or difficult of identification, were settled upon by our citizens. Sales of portions of them were made by the officers of the Government, settlement claims were confirmed by Congress as donations, and school sections allotted.

Congress, however, in forbidding the sale of lands covered by foreign titles, reserved the right "to do what should seem to itself agreeable to equity and reason on a full and final survey of the whole subject."

A profound jurist of this country, Mr. Legaré, late Attorney General of the United States, has placed our relation to this subject in a most striking point of view. "We all know," he said, "how impossible it is for the Government to stay, or even regulate the eager rush of our people into the new lands. It accordingly did, in that case, what it has been over and over again constrained to do, as against itself by its own preëmption laws; it sanctioned what it could not prevent, and made compensation to the claimant under a treaty with a foreign government, which it could no more execute literally than it could its own laws with regard to the sale of its domain. I say, claims under a treaty—claims against itself as a Government—claims which no court has any right to enforce, and which bind Congress, only in conscience, and bind the other Departments only so far as Congress has been pleased to acknowledge. For although by referring these claims to the decision of a district court, with an appeal to the Supreme Court of the United States, they are made, to a certain intent, judicial questions; yet it is only so far as regards their validity as claims, or *jura ad rem*. The inquiry, is this a good and valid, or a false and groundless claim? is, under these acts, to be answered by the courts; but the subsequent question, supposing it to be the former, how shall it be executed? is one which, under the acts of 1824 and 1836, (read together,) Congress has, in my opinion, in all cases, within the exception referred to above, reserved for its own decision, and in regard to which it has decided that the execution shall be by an equivalent in land."

And what is the provision which Congress made in this matter in the act of the 26th May, 1824, the first law that was ever passed for the adjudication of foreign titles by the court, being "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims?" Why, by the eleventh section, it is declared that, "if in any case, it should so happen that the lands, tenements, or hereditaments, decreed to any claimant under the provisions of this act, shall have been sold by the United States, or otherwise disposed of, or if the same shall not have been heretofore located; in each and every such case it shall and may be lawful for the party interested to enter, after the same shall have been offered at public sale, the like quantity," on other lands.

The justice and constitutionality of this measure necessarily came by appeal in review by the supreme judicial tribunal of the country, and were fully sustained, as we find in the case of Antoine Souldard's heirs vs. the United States. (10 Peters's Reports, page 100.) In that case there was a grant in 1796, by the Lieutenant Governor of Upper Louisiana, for a tract of 10,000 arpens, French measure, many years before we acquired the province from the French Republic, and an actual survey of it was made in February, 1804, being prior to the date in which possession, under the treaty of cession, was taken of Upper Louisiana in behalf of the United States.

By these proceedings the title of the sovereign had been diverted in favor of Souldard, and the tract absolutely detached and severed, by actual survey, from the map of the public lands.

Notwithstanding this, the Supreme Court sustained the principle now contended for, in decreeing the claim of the petitioners to the land "to be a good and valid title thereto, by the law of nations, the laws, usages, and customs of Spain, (under whose Government the title originated,) the treaty between France and the United States, for the cession of Louisiana, and the stipulations thereof;" (with which the treaty of Guadalupe Hidalgo is almost identical, in terms, in regard to the security of property,) "as well as the acts of Congress in relation thereto." For we find that the court, in decreeing the title valid in that case, did so, except as to certain parts of the lands surveyed for Souldard, which had been sold by the United States; and the court then further ordered and decreed "that the title of the petitioners to all said land embraced in said concession and survey, which has not been sold by the United States, is valid by the laws and treaty aforesaid, and is hereby confirmed to them, agreeably to the said concession and survey." That court, at the same time, in ordering the surveyor general to survey the land, directed him to "certify, on the plats and certificates of such survey to be made, what part or parts of the original survey of such land had been sold by the United States, with the quantity thereof;" and further declared the confirmees entitled to take the area of the interfering sales in other lands.

This act of 26th of May, 1824, for the adjustment of claims by the courts, and which was limited to Missouri and the Territory of Arkansas, was, with certain limitations, extended to Florida, by the sixth section of the act of Congress of 23d May, 1828, "supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and, since the same act of 1824 was revived and extended to Missouri, Arkansas, Louisiana, and so much of the States of Mississippi and Alabama as is included in the district or country south of the thirty-first degree of north latitude, and between the Mississippi and Perdido rivers.

Thus we see the principle which Congress has deemed proper to lay down in making the courts the instruments of adjudicating foreign titles, and that the correctness of that principle has been fully sustained by the judiciary.

We will now see what course was pursued by Congress in regard to a large and important class of titles in Missouri, which remained unadjusted after the passage of the act of 1824, and before the enactment of the law of 17th June, 1844, and where Congress retained to itself the power finally to confirm or not. By an act, approved 9th July, 1832, "for the final adjustment of private land claims in Missouri," provision was made for the appointment of a board of commissioners for the examination of French and Spanish titles. The second section of that act required the board to lay before the Commissioner of the General Land Office a report, under a certain classification, of the claims so classed, "stating therein the date and quantity of each; whether there be any, and what, conflicting claims, and the evidence upon which each claim depends, and the authority and powers under which the said claim was granted by the Spanish or French Governor, commandant, or sub-delegate, to be laid before Congress for their final decision upon the claims contained in such first class." A report was accordingly made by the commissioners, on the 27th November, 1833, and communicated to the Senate in January, 1834. In that report the commissioners contemplate a state of things analogous to that for

which I now propose making provision. They reported that—

"There are numerous cases of lands lying within the French and Spanish claims, belonging to the individuals whose right of claim originated under the Government of the United States; some depend upon purchasers, some upon the laws allowing preemption; some others upon New Madrid locations; and some, again, upon settlement rights which have been conferred."

"Most of those persons have been for a long time settled upon their lands. Their claims being of a *bona fide* character, derived from the Government of the United States, they went on to improve their lands, making for themselves and families comfortable homes, without any belief that they would ever be interrupted in their possessions. Should the claims reported by the Board be confirmed by Congress in whole or in part, Congress will, in their wisdom, no doubt, notice the suggestions here made, and carve out such a course as will quiet the uneasiness and anxiety which are felt, by doing everything which even the most scrupulous demands of justice could desire."

Congress did notice this suggestion, and, in exercising the power and right of final confirmation in the case of the greater portion of the claims then recommended, declared, in the second section of the act of Congress, approved 4th July, 1836, "confirming claims to land in the State of Missouri, and for other purposes," that if it should be found "that any tract or tracts, confirmed as aforesaid, or any part thereof, had been previously located by any other person or persons, under any law of the United States, or had been surveyed and sold by the United States, this act shall confer no title to such lands in opposition to the rights acquired by such location or purchase; but the individual or individuals, whose claims are hereby confirmed, shall be permitted to locate so much thereof as interferes with such location or purchase" on other public unappropriated lands subject to private sale.

I think I have shown that the principle embodied in this bill is just, reasonable, and proper, and not at all inconsistent with our treaty obligations; that it is sanctioned by enlightened reason, sound policy, by the most deliberate legislation of Congress and solemn adjudications of the Supreme Court of the United States; and, wherever it has operated, it has been fully acquiesced in as equitable and necessary when applied to the most important and widespread landed interest of the country.

In behalf, then, of the hardy emigrants, of the industrious settlers, I ask of you to protect, by law, their settlements, to secure them in their homes, and, in the name of equity and good conscience, where such settlements are *bona fide* foreign titles, to do justice to that class of my constituents who are the owners of such titles by making them at the same time amply indemnity on other lands.

The bill was read a second time, and referred to the Committee on Public Lands.

#### ORDER OF BUSINESS.

Mr. HUNTER. I move that all prior orders be postponed in order that the deficiency bill may be taken up.

Mr. GWIN. I hope the Senator will allow us to take up the apportionment bill. It has been fully discussed, and can immediately be ordered to be engrossed and be put upon its passage.

Mr. HUNTER. It is for the Senate to determine which bill shall be taken up. If I thought the bill alluded to by the Senator from California could be disposed of without further discussion, I would not object to its consideration, but I must insist upon my motion.

The motion was agreed to.

#### THE DEFICIENCY BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852; the question pending being upon the first amendment of the Committee on Finance to insert the following clause:

For completing the floating dry-dock at San Francisco, California, authorized by act of 3d March, 1851, \$330,000.

Mr. HUNTER. This is a sum which was originally estimated for the next fiscal year, and was accordingly placed in the civil and diplomatic bill for the next fiscal year, by the Committee of Ways and Means. But it seems that the dock will be finished sooner than was anticipated. It will be finished before the end of the present fiscal year; and it is recommended by the Department that we should pay it in this bill. The Committee on Finance concurred in that recommendation.

The amendment was agreed to.

The next amendment of the Committee on Finance was to strike out the proviso in the following clause:

For compensation to temporary clerks in the office of the Third Auditor of the Treasury, employed in making out certificates of service from the muster-rolls of 1812, and the several Indian wars, \$11,800: *Provided*, That no clerk shall receive more than at the rate of \$1,000 per annum under this act;

And insert in lieu of this proviso, the following:

Which sum shall be distributed among the clerks, according to the direction of the Secretary of the Treasury: *Provided*, That no salary from this fund shall exceed \$1,200 per annum.

The amendment was agreed to.

The next amendment of the committee was to insert the word "temporarily," after the word "employed," in the following clause:

For compensation to extra clerks employed in the office of the Auditor of the Post Office Department, \$4,000.

The amendment was agreed to.

The next amendment of the committee was to strike out "fifteen" and insert "twelve," in the following clause:

For subdividing fifty townships into sections, at a rate not exceeding \$15 per mile, \$36,000.

The amendment was agreed to.

The next amendment of the committee was to insert the following item:

For compensation of the surveyor general of Arkansas, per act of August 8th, 1846, \$2,000.

The amendment was agreed to.

The next amendment of the committee was to insert the following item:

For clerks in the office of the surveyor general of Arkansas, per act of August 8th, 1846, \$6,300.

Mr. HUNTER. That is in pursuance of estimate.

The amendment was agreed to.

The next amendment of the committee was to strike out "five" and insert "six," in the following clause:

For surveys in the mineral region of Michigan, at a rate not exceeding \$5 per mile, \$20,650.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

For completing the improvements of New Jersey avenue, north of the Capitol, \$9,000.

Mr. HUNTER. This is for the improvement of New Jersey avenue, which runs by the railroad depot. It is in pursuance of an estimate from the Department of the Interior. These improvements have been commenced, and the report of the Commissioner of Public Buildings shows how the money already appropriated has been expended. This amount will have to be expended either during this or the next fiscal year. It is for the Senate to determine which.

The amendment was agreed to.

The next amendment of the committee was to insert:

For planting and finishing the roads and walks through that portion of the public mall surrounding the Smithsonian Institution, \$7,000.

Mr. HUNTER. This item is estimated for by the Secretary of the Interior. It is proposed to appropriate this amount in this bill, instead of appropriating it for the next fiscal year, as this is the planting season.

The amendment was agreed to.

The next amendment of the committee was to insert this clause:

For deficiency in the appropriation for defraying the expenses of preparing the Opinions of the Attorneys General, \$1,220.

The amendment was agreed to.

The next amendment of the committee was, to strike out, in the appropriation for extra clerks in the Pension Office, "one thousand," and insert "twelve hundred," in this proviso:

*Provided*, That no clerk shall receive more than at the rate of one thousand dollars per annum, under this act.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

For expenses of establishing the superintendency of Indian affairs in California, authorized by the act of 3d of March, 1852, viz:  
For salary of superintendent.....\$1,318 68  
For salary of clerk.....824 17  
For rent of office for superintendent.....1,000 00  
For stationery, fuel, lights, &c., for office of superintendent.....275 00  
For messenger, expenses, &c.....400 00  
For labor, miscellaneous items, and contingent expenses of the superintendency.....275 00

For presents and provisions for Indians visiting superintendent on official business.....\$1,000 00  
For traveling expenses of the superintendent and the necessary attendants.....2,500 00  
For furniture for superintendent's office.....1,000 00  
For iron safe for superintendent's office.....1,000 00  
For erection of buildings for the use of superintendent.....17,000 00  
For erection of warehouse for the storage of Indian goods, and public property.....8,000 00  
*Provided*, That the entire cost of the buildings for the use of the superintendent and of the warehouse aforesaid, shall not exceed the sums hereby appropriated, including the expense of procuring sites.

For United States flags, for distribution among the tribes.....\$500 00

Mr. HUNTER. I hope the question will be taken on all the items together, except on those in relation to the erection of buildings. I am opposed to the items in relation to the erection of buildings, and I am in favor of the others.

The PRESIDENT. That course will be pursued. The question will first be taken on the items previous to the one "for the erection of buildings for the use of superintendent."

The question being taken, those items were agreed to.

The PRESIDENT. The question now is on inserting, "for erection of buildings for the use of superintendent, \$17,000."

Mr. GWIN. I think I can give good reasons why this item ought to pass. If it does not, we shall have to pay that amount in rent nearly every two or three years. This is to cover the entire expense of putting up the buildings. We know that rents in that country are enormous. In addition to this, the superintendent ought to be entirely removed from the cities. He ought to have his residence where the Indians will not be tempted by the dissipation of the cities. He must have around him Indians all the time; because he must become familiar with them, and they must become familiar with him. It is absolutely necessary that the superintendency should be located at some point where he can have them out of the reach of vicious white men.

As I said before, if we do not pass this item, we will have to pay a large rent. The Government is now paying, for the custom-house, appraisers' stores, United States courts, and the post office at San Francisco, about \$120,000 a year for rents. In this item the whole expense of buildings is limited to the \$17,000 appropriated.

It seems, also, to be absolutely necessary that there should be a store-house erected. If the Indians there are to be treated as they are elsewhere, we must have a place to put the articles that are to be given to them. I think it would be economy to put up these buildings at once. The Department has estimated for them, after full examination.

Mr. HUNTER. In relation to the erection of these buildings, my impression is, that we had better postpone it until we know where the buildings are to be located—until we can have some accurate information on the subject. They may be located at a place where the natural resources of the country would enable us to build them much cheaper than is here proposed. I believe there was an estimate for a store-house for the Indian agent in Oregon, which was stricken out in the House of Representatives for some such reason as that, I presume. The amount, however, is not very large.

Mr. GWIN. The site has already been indicated by the superintendent. He has been instructed to select the site. I think the best thing to be done would be to erect the buildings at once, and thus get clear of the payment of rent. This proviso fixes a limitation beyond which it cannot go; and with that limitation the buildings can be put up at once.

Mr. CASS. I would ask the honorable Senator from California where the location of the superintendency is proposed to be?

Mr. GWIN. The superintendent has been instructed to make the location; and he will report in favor of a site near the confluence of the Sacramento and San Joaquin rivers with the Suisun bay, near the head of the bay of San Francisco—a point where he can have immediate communication with the whole of the interior, by the rivers and the country up and down the coast by San Francisco bay. It is the best location which can be pointed out. It removes the Indians entirely from all the towns, while it is within two and a half hours run by steamboat of San Francisco.



It is at the mouth of two large rivers, where agents and messengers can be sent north and south, at any time. It is remote from all the towns, and is cut off by the bay from San Francisco, Benicia, and all those places where the Indians can get liquor, and become dissipated.

Mr. CASS. The question, to my mind, is about expending so large a sum of money for so temporary a purpose. It seems to me impossible that that can long be a station for the Indians. In a very short time, perhaps, they will pass away from there; and, therefore, I doubt the expediency of appropriating so large a sum for so temporary a purpose.

Mr. GWIN. I hope the Senator is right, when he says they will soon pass away.

Mr. CASS. By their passing away, I mean going from the white settlements.

Mr. GWIN. There is a vast number of Indians in that country. Their number is variously estimated at from fifty thousand to seventy-five thousand. The point of which I have spoken is the most convenient to have communications with all the Indians. It is the very best place which can be selected. These rivers are well known to those acquainted with the geography of the country. One runs north, and the other south, and they come together at this particular point, and enter the Suisun bay. The Indians are on the sources of these rivers, and up and down the Pacific coast, which makes this location a very favorable one.

It is said that this must be a temporary establishment. Why, the superintendency in Missouri has been in existence for thirty years, although the Indians are passing away from that locality in a great degree. I am perfectly confident that their buildings ought to be made permanent, and that this appropriation ought to pass now, in order that the superintendent may be enabled to bring the Indian chiefs around him, to get them accustomed to the habits of our people.

Mr. CASS. I doubt the expediency of bringing the Indians there, at all. My experience has led me to doubt the expediency of holding out inducements for them to come within the white settlements. I doubt whether it does any good. If these Indians have any business to do, they always have some of their principal men to do it. I doubt very much the expediency of bringing large bodies of them in contact with the whites. I do not see any advantage to be gained by it; and I can see manifest injury which might be accomplished.

Mr. GWIN. It is not intended to bring large bodies of Indians to the superintendency, but merely to bring the principal men, who are to have intercourse with the superintendent. There are superintendencies established on a similar principle in other parts of the country. I am just informed that the Superintendent of Indian Affairs in Missouri has intercourse with Indians to the Rocky Mountains; but yet he has an office in St. Louis. I have said before, that the position which I have indicated, is the most convenient position in the State. I think, when located there, the buildings ought to be permanent. Unless you make this appropriation, the superintendent will be forced to go into the towns and hire houses.

Mr. ATCHISON. I do not know whether the object of this appropriation is to erect a dwelling-house for the superintendent, or merely to erect an office for his use.

Mr. GWIN. The superintendent must have a house to live in.

Mr. ATCHISON. In the city of St. Louis, I believe that even up to this hour the Government pays rent for offices. The superintendent has his own house. He pays for his own house.

As for the use of a warehouse, that must only be a temporary building for storing such goods as may be intended for the use of the Indians in payment of annuities and presents. It will only be temporary. Those things might, perhaps, as well be landed at San Francisco, and from that point distributed north, south, east, and west, to the Indians all over the State. I do not see the necessity of the erection of buildings for a warehouse. But, at the same time, I submit to the better knowledge and greater experience in California affairs of the Senator who represents that State. For my own part, I am willing to vote the appropriation. I am willing to take his word and his judgment in regard to it.

Mr. HALE. I have one objection to this. If

you pass this year an appropriation of \$17,000 to build a house, next year you will have to make an appropriation of \$17,000 more for furnishing it; and we shall have to make an additional appropriation every year for furniture. I have had occasion to look at the estimates, on which are supposed to be founded the authority for buying furniture, and I find that they are very indefinite indeed. The furnishing of houses comes in under the head of "contingent expenses," as "furniture for Government houses," without telling what they are. I am perfectly willing to give to California everything she wants; but I do not want to build houses when I know what the result will be, for the next thing will be to furnish it; and furniture will not last a great while, and replenishing it will be very expensive. It would be better for us to pay a liberal rent. It would not cost near so much as building a house. These remarks apply to the dwelling-house. I know nothing about the necessity for a warehouse.

Mr. RUSK. I dislike to oppose this amendment. I know the difficulties under which California labors, in relation to the Indians, and I would be willing to vote a large and liberal sum to relieve her from those difficulties. But I think this is beginning entirely at the wrong end, and, so far from relieving, my deliberate opinion is, that it will but increase those difficulties. I believe the superintendent of Indian Affairs in California gets about \$4,000 or \$4,500 a year. And I see in this bill an appropriation of \$324 17 for the salary of a clerk to the superintendent. And I see an appropriation of \$1,000 for rent of office for superintendent; and for stationery, fuel, lights, &c., for office of superintendent, \$275; for messenger, expenses, &c., \$400; for labor and miscellaneous items, and contingent expenses of the superintendency, \$275; for provisions for Indians visiting superintendent on official business, \$1,000; for traveling expenses of the superintendent and the necessary attendants, \$2,500; for furniture for superintendent's office, \$1,000; for iron safe for superintendent's office, \$1,000; for the erection of buildings for the use of superintendent, \$17,000; and for the erection of a warehouse for the storage of Indian goods and public property, \$8,000.

Now, this looks to a permanent establishment. If we build houses, at the public expense, for the Indian superintendent in California, it ought to be done everywhere else. Our Indian affairs have grown up to an enormous expenditure. Unfortunately, the number of agents that we have appointed, have not improved the condition of the Indians—rather the reverse. The principal thing, in my opinion, that a superintendent in California will have to do for some years, if he discharges his duty, will be to travel about and visit those Indians. They are not going to come to him. A few of them who will learn the tricks of cheating, and getting blankets and presents of various kinds, may go to him, while those who commit the depredations, will not come near him. Yet here we are to make a permanent establishment, at an enormous outlay of money. If we do it in this instance, we must do it elsewhere. The extent of our territory is very large. There are a great number of Indians in New Mexico; and if we make this appropriation, we must, as a matter of course, make like appropriations for permanent buildings, iron safes, and everything of that description, for the superintendency of Indian affairs in New Mexico. It will be the same case in Oregon, and it will be the same case in Texas.

The great objection which I have to all these gross appropriations, is this: I do not know of any officers who have improperly exercised their powers upon this subject; but here is a temptation to speculation and fraud upon the Government. Here is an appropriation of \$17,000, to build a house. Well, you tempt a man to make false returns. You tempt him to build a house for five or ten thousand dollars, and falsify his accounts, by charging the Government the amount appropriated. These things are complained of. I know nothing in regard to them. But it is, in my opinion, an ill-digested plan for the expenditure of a large amount of money, without the necessary checks; and so far from accomplishing the object of keeping the Indians quiet, and preventing depredations on the white settlements, is inclined the other way, to increase them.

Mr. GWIN. I do not wish to detain the Senate about this matter, but the Senator from Texas

is altogether mistaken when he says this is an ill-digested plan. It has been most thoroughly examined in the Department of the Interior, and there is no doubt that it will cost as much in a few years for the payment of rent as it is proposed to pay for constructing these buildings. This item is based on an estimate for these buildings. They are absolutely necessary. If the superintendent is compelled to rent an office in San Francisco, I presume he cannot get it for less than \$500 a month. In addition to that, you must have store houses for the purpose of keeping the goods intended for the Indians. The rents alone, if the Government is to pay rent, will amount to this sum in two or three years. If the Senator is informed of the cost of labor and materials in that country, he knows that it will take this amount of money to put up such a building as will be required for the public business; and I wish to say to the Senate that the location of the superintendency ought to be permanent. Every Indian superintendent and agent in the country has a residence furnished by the Government. Persons who are appointed to these offices cannot sleep on the ground, and live in tents, as the Indians do. The superintendent of Indian affairs in California has an administrative examination of all the accounts of the agents and sub-agents in that State. He has the power of removing them instantly, and the controlling power over the whole management of Indian affairs there. If the Senator from Texas will look into this very bill, he will find an appropriation for completing buildings for the superintendency in Oregon. There is not one superintendent in the United States, with the exception of Missouri, where rents are cheap, but has some such building. The superintendent of the Indians, west of Arkansas, has a commodious residence prepared for him. These buildings are required, if you intend to give any efficiency at all to the office. It is not proposed that any tribe of Indians shall come to the superintendent here, but the chiefs will visit him at his home; and when he wishes to see the tribes, he will go to them. I wish him to travel extensively. Provision is made in this bill for his traveling expenses; but at the same time he ought to have a permanent office; and if he is to pay annuities to the Indians to get them to remove, he ought to have a safe in which to keep the money to pay them. This estimate was made by the Department after a full examination into the case. I know that it is economizing the public money to put up buildings at once.

The amendment was not agreed to.

The PRESIDENT. The next amendment is to insert in the bill the following:

For the erection of a warehouse for the storage of Indian goods and public property, \$8,000: *Provided*, That the entire cost of the buildings for the use of the superintendent, and of the warehouse aforesaid, shall not exceed the sums hereby appropriated, including the expense of procuring sites.

The amendment was not agreed to.

The PRESIDENT. The next amendment is to insert the following:

For United States flags for distribution among the tribes, \$500.

The amendment was agreed to.

The PRESIDENT. The next amendment is to strike the following clause from the bill:

For payment to the Seneca Indians of New York, for moneys wrongfully withheld from them by an agent appointed by the Government for the management of their affairs, as per report of Thomas B. Stoddard, commissioner, selected by the Secretary of War, to make the requisite investigation, pursuant to the direction contained in the fourth section of the act of 27th June, 1846, making appropriations for the Indian department, \$28,505 50: *Provided*, That the Secretary of the Interior is hereby required, upon payment of the money herein specified, to take such further steps, if any may be necessary, as shall enable the United States to recover the amount due from said agent.

Mr. ATCHISON. I trust the Senate will not agree to that amendment. This appropriation has been frequently reported from the Committee on Indian Affairs, in the shape of a separate bill. It is now recommended as one of the estimates—as a portion of the deficiency—by the Secretary of the Interior. I will state the facts of the case briefly. In 1836, 1837, and 1838, there were certain funds belonging to the Seneca Indians, a portion of which were to be paid by an agent, as the agent of this Government, to them. He reserved them in his hands. He never did pay them over—he never accounted for them. There were other funds—not, perhaps, funds of the Govern-

ment of the United States, but the funds of the Indians—that were placed in his hands—under his control—for their use, and for their benefit, as had been the case with the former agent for that tribe of Indians. This agent's name was Stryker. He embezzled this money—defrauded and cheated the Indians out of it, and never paid them a dollar. An act of Congress was passed, authorizing the President to appoint a commissioner, who should go and examine into the matter, and ascertain whether the agent Stryker had embezzled the money of the Indians, and withheld it from them; and if so, what was the amount. The name of the agent thus appointed was Stoddard. He went, instituted an investigation into the matter, and made a report; and he found that the sum of \$28,000 proposed here to be appropriated; was due to the Indians—that they had been swindled out of it by Stryker. Year after year frequently, since I have been a member of the Committee on Indian Affairs, this matter has been brought before us, and I believe there was never any dissent to the appropriation in the committee. The House of Representatives have now made this appropriation a part of the deficiency bill, and sent it to the Senate, and the Committee on Finance propose to strike it out, which I hope will not be done. I have thus stated briefly the sum and substance of this matter.

Mr. PEARCE. I recollect that two years ago, when the Indian appropriation bill was up for the consideration of the Senate, an amendment, appropriating this sum of money, was offered by a then Senator from Delaware, the Committee on Finance having refused to insert it. They then examined into it. I was then familiar with all the papers and facts. I will not profess to be so now. But I have a general recollection of the ground upon which the Senate, very deliberately and with a full argument of the case, rejected it. This man Stryker, it is true, was the Indian agent. He received and embezzled the funds of the Indians; but it was not as Indian agent that he did it. Besides being the Indian agent, he was the agent of the Seneca tribe of Indians; and this sum of money consisted but in small part of the moneys which he received from the Government, and in a very considerable degree of annuities due the Indians from the State of New York, and from other sources. I do not recollect the amounts, but my general recollection is, that a very large amount of the funds which he thus embezzled never came from the Government of the United States in any shape whatever.

Now, if the Government of the United States is liable for anything, it is liable only for so much of the embezzled funds as were derived from it and paid into the hands of Stryker, as Indian agent. He was constituted by the Indians their agent, and held their moneys; if it had not been for that, he would have been obliged to pay over, and no doubt would have done so. But they trusted in him. Besides the trust reposed in him by the Government of the United States, there was a special, private trust reposed in him by the Indians themselves. He was their constituted agent for all these purposes; and in the capacity of their agent he committed the embezzlement. I dare say the Senator from Kentucky must remember that when this subject was formerly under discussion the question was asked, if anybody could say that the bond of this agent would be responsible for any of the peculations. I do not recollect that any member of the Senate had the least idea that it would; and we thought that if his bond would not be liable to the United States, surely the United States were not liable to the Indians. I was willing to admit that, if the agent of the United States had not paid over the moneys which the United States had placed in his hands, there being no other circumstance to enter into the consideration of the case, then the United States ought to make them good. But when the Indians had made him their agent to hold their money, and he was to account to them, he was accountable to them, and the United States Government could not be called upon, and ought not to pay the money. And most undoubtedly, if the United States are responsible at all, they are responsible only for the portion of the funds which went into Stryker's hands as Indian agent of the United States; but this provision of the bill does not so discriminate, and, therefore, I think it ought not to pass.

Mr. MILLER. I was in favor in the committee, of retaining this part of the bill. There is no doubt of the fact, that this Indian agent received the money for the Indians; that he has never paid it over to them; that he defaulted, and that they have lost the money. It also appears by the report which was made by the commissioner appointed, under the authority of law, to the War Department, that the money was received by this Indian agent in his official capacity; that it was paid to him as Indian agent, and, as such, to be paid over to the Indians. It may be that he was constituted by them as their agent. But we acknowledged him also as our agent in the transaction of the business upon which he was sent; and it is stated in one of the reports of the Secretary of War that it has been the policy of this Government, in treating with the Indians, to make all the funds, not only which they are to receive from the United States, but which they have been receiving from the different States, under contracts with them, pass through the hands of our agents, so that no other person should have, at any time, dealings with the Indians. It can be shown, if any gentleman has the report, that the money was paid into the hands of the agent, not at the mere request of the Indians, but that it was under the authority and direction of the Secretary of War; and that although the Indians consented to it, yet it was because that direction was given to the money by the Government at Washington. It may be true that Stryker was not technically the agent of the United States in this matter, that he may have been constituted, by the consent of the Indians, to receive the money, yet they trusted in him because this Government trusted him—they trusted him with the money because he was our agent; and if our agent committed default, and pocketed the money, surely the Government is legally and morally bound to the Indians for that money. That is the case here; and not only that, but the Secretary of War, in his estimates, has recommended the appropriation. Before the report of the commissioner was made, there was a doubt about the matter; but on that report being made, the Secretary of War estimates this as a part of the expenses of the Government, and recommends it to be passed. Under these circumstances, it appears to me that although the agent may not have been technically the agent of the Government in this matter, yet he was recognized as such, the Indians understood him as such; and therefore we are bound to pay the money.

Mr. SEWARD. I think when the Senate come to examine this subject they will find that this is the very last appropriation in the bill which ought to be struck out. It is well known, that from the foundation of this Government the United States have assumed the office of guardian and protector of the Indian tribes. As such they, a few years ago, extended their guardianship and care over the Seneca Indians of New York, who were the remains of the ancient and renowned Six Nations, who had, until that period, been under the guardianship of the State of New York, living independent of the control and supervision of the United States. The Government appointed the agent Stryker, to exercise the office of superintendent, which office is that of actual guardian for the interests and affairs of the Indians, nothing more and nothing less. They deputed to this person the office of taking care of the affairs and interests of this relic of the Six Nations. Having invested him with their confidence, and with the possession of the funds which were to be paid by the United States to the Indians, he was in possession of the highest confidence of the Government. The Indians finding such confidence reposed in him by the United States, necessarily, as the wards of the United States, also reposed in him their confidence, and intrusted him with their money—money which somebody must keep for them; and who so worthy as he? The funds which thus came into his possession by virtue of the confidence which they yielded to him, he abstracted, and after the most strenuous efforts on their part they were unable to obtain any compensation or indemnity. They came to the Government of the United States and asked relief. The Government instituted an inquiry into the facts, through the agency of Mr. Stoddard, thus implying that if it should be found that the funds which the Indians had intrusted to Stryker, by virtue of his character as the agent of the Government, had been embezzled by the pub-

lic agent, the Government would indemnify them. The report was complete and satisfactory, and the Secretary of War—to whose province the superintendency of Indian affairs then belonged—recommended the appropriation. It seems to me, therefore, that this is a case in which, whether you consider the nature of the subject, or the relations of the parties, the Government of the United States will not plead specially so as to exempt themselves from the legal obligation to pay these moneys, but that they will, in the spirit of the relation which they hold towards the Indians, and in the discharge of their responsibility as guardians, indemnify the Indians for the money they have lost by the act of an agent who had obtained their confidence, at the instance of the Government of the United States.

Mr. COOPER. It seems to me that there can be no difficulty whatever in this question. If the facts be as stated by the Senator from New Jersey, viz: that the agent Stryker received the money as agent of the United States, then the United States are bound to pay the Indians. If it be regarded simply as a legal proposition, under that state of the facts the United States are liable to the tribe. It does not matter at all that Stryker was the agent of the Indians as well as of the United States. In a court of justice, if it were a question between individuals, if the facts are as stated—and if my memory serves me right the Senator from New Jersey is correct in the statement he has made of them—the Government would be liable. It placed the money in the hands of the agent; to be paid over to the Indians; the agent embezzled the funds; he embezzled them, not as the agent of the Indians, but as the agent of the United States. It was the duty of the Government to see that the funds took the proper direction, and reached the proper hands, and it was its default that they did not. Now, I repeat again, in a contest between individuals, the facts being as stated, the law would be with the Indians, independent of that humane, generous policy which this Government has always thought it its duty to pursue towards the helpless and ignorant Indian tribes. I can see no reason why this money should not be paid over. If the agent received it as the agent of the Indians, and reaped to the Government for it as such, then, of course, in a legal point of view, the Indians, whose agent Stryker was, would be the losers; but if, on the contrary, he received it as the agent of the Government of the United States, it remained in his hands as its agent, and the loss must be the Government's, and not the Indians.

Mr. SEBASTIAN. I dislike to prolong this discussion, and should not do it but for the reason that there are some facts that were submitted to the consideration of the Committee on Indian Affairs, which had this subject under discussion, which seem to have escaped the attention of the different Senators who have spoken upon it. The objections which this claim has heretofore encountered, proceeded on the ground that the agent of the United States received this money, not in his character as a United States agent, but as the agent of the Seneca tribe of Indians, selected by them as such, and upon other considerations. If that proposition were true—which it does not appear to be in point of fact—this claim would, of course, be entirely different in its character, and it would be the mere ordinary consequence of misplaced confidence on the part of the Indians, a mischief which we would be under no obligation to redress for them. Such, however, was not the fact. The Seneca Indians, receiving some of these moneys from the United States, and some by way of annuities from the State of New York, and from a private land company, had, from a remote period, no other agent for their administration than those successively appointed and indorsed by the United States, refused, in terms, to intrust them to the United States until he was so ordered, authorized, and his obligation to do so, to receive them, recognized by the United States. I call the attention of the Senate to two letters, which were written from the War Department to Mr. Stryker, recognizing his obligation to receive the money from the previous agent of the United States, and to make a certain disposition of it on the part of the Seneca Indians:

DEPARTMENT OF WAR, March 11, 1819.

SIR: I am informed by Mr. Parish, sub-agent to the Six Nations, that there are in your possession bonds and mort-

gages which belong to the Seneca Nation, and that you are ready to give them up to him, whenever he produces an order from this Department to that effect.

This is, therefore, to request you to deliver to Mr. Parish all such bonds and mortgages, and other property belonging to the Six Nations, and likewise all public property belonging to the agency you lately filled, which may remain in your hands.

I am, &c.,

J. C. CALHOUN.

DEPARTMENT OF WAR,  
OFFICE OF INDIAN AFFAIRS, August 7, 1832.

Sir: In addition to the further evidence and explanation required of you by a letter forwarded this day from the office of the Second Auditor, you are directed to place in the hands of your successor, Mr. Stryker, whatever amount you may now hold by nature of your office of agent, as the trustee of the Indians, and if you have invested any portion of the amount you have so received, you will transfer to the same gentleman, the securities upon which such investment has been made. His receipt will be required as your voucher, upon which the amount now charged to you will be passed to your accounts.

I am, &c.,

ELBERT HERRING.

JUSTUS INGERSOLL, Medina, New York.

The letters just read were two letters directed from the War Department to the sub-agent, at the time Mr. Calhoun presided over that Department. They show, conclusively, not only that he received the money by the express directions of the Government, but that he was directed to charge himself with the amount of money received, and that the Department was to settle with him for these funds, and with no other person whatever. The letter alludes, also, to money received from the State of New York, denominated trust funds. His authority embraces not only the trust funds, but also those which were the annuities from the United States to the Seneca Indians. Our relations, indeed, with those Indians have never assumed their full capacity to manage their own affairs, but have been those of mild and paternal authority and guardianship on one side, and confidence and dependence on the other. Thus, all their national funds, whether by law or usage I cannot say, had been uniformly invested and administered by our agents, and as uniformly turned over to their successor, until this sweeping embezzlement left nothing but a claim upon our justice. This must leave the fact beyond question or dispute as to the authority which this Government exercised, and the obligation of the sub-agent to receive them in consequence of the orders of the Secretary of War of the United States.

There is but one other fact to which I wish to refer. It is a fact showing that, in consequence of what has been stated, and in consequence of subsequent legislation upon the subject, our investigation is confined to a much smaller compass than Senators have supposed. If it is in order to advert to the past legislation of the other House as well as this, it can be shown that, in 1846, this subject was before Congress, and was the subject of disagreement between the two Houses. The one insisted on the insertion of this article, and the other that it should be expunged; and the result was—a compromise recommended by the committee of conference—the enactment of the fourth section of the act of 1846, referring the whole matter over to the investigation of a commission, to be instituted under the authority of the Department of War. That commission was authorized to inquire what amount of moneys had gone into the hands of the agent, and what amount thus received by him had been embezzled or withheld from the Indians; in other words, the real extent of the defalcation. This investigation was a very searching one, and the report very voluminous; and it showed the true amount to be due to the Indians, and embezzled by the agent, to be that for which an appropriation is proposed. In this manner was the doubts of Congress, in 1846, removed. The question which it referred to that commission covered the whole controversy, and their report leaves us no other duty but to appropriate the amount, as was contemplated by that act of Congress.

Thus, sir, you perceive that the facts of the case have already become an adjudicated matter; and it appears to me, that the subject narrows itself down to the smallest compass, and that the question really before us is, Whether the amount contained in the bill is the result of the investigation of the agent of the Government authorized for that purpose? I will not trouble the Senate with any further remarks upon the subject, than to express my hope that the amount may not be struck out.

Mr. PEARCE. I have found the report to

which I alluded. From this, it appears that the claim consists of various items. The first is one of \$7,143, known as the Phelps & Gorham annuity fund. This money the Indians obtained by the sale, in 1788, of some lands to persons of that name.

The Government had no connection with the sale, but the agent of the tribe had always managed it. While Stryker was agent, it was made use of by him, and although he mortgaged his property to them to secure it, yet they never obtained any portion of it, the property being exhausted by prior liens or mortgages. The annuity on this was \$500 per annum, from 1837 to 1850, inclusive; in all, \$7,500 more.

The next item is, for the amount of an annuity of \$500 per annum, payable by the State of New York, under an arrangement made in 1815, which the same agent received for two years, 1837 and 1838, but never paid over to the Indians.

The third item arose in this way: In 1838, the Indians had some difficulty in relation to the distribution of part of the annuity due from the United States, "in consequence of a change in the established custom of paying such money to the chiefs, to be disposed of by them, by distributing the annuity money directly and equally among the heads of families." The money, at first, was deposited in the bank of Buffalo, to the credit of certain chiefs, who drew it from the bank and took it to the council house, and it was afterwards re-deposited in bank to their credit. They were induced by Stryker to let him have it for distribution, and then he embezzled it. This is \$3,482 50.

The last item is for moneys deposited by Polly Jameson, a wealthy woman of the tribe; it was her own money—no part of any annuity or Government fund.

The only passage in the report showing the charge which the agent had over these affairs, says:

"This superintendent or agent has always had charge of, and been required by his appointment and instructions to exercise a careful supervision over all their affairs and interests;" and "the Indians have ever looked up to him as a safe depository of their interests, and as a person to be confidently relied upon in all matters connected therewith."

I suppose no doubt that his official character gave him credit with and the confidence of the Indians. They were induced by his official character voluntarily to place their funds in his care; and they authorized him to receive their dividends from the bank in the same way as Mrs. Polly Jameson had been induced to place her individual funds in his hands; and I think the Senate must decide, as they did three years ago, that these funds were not placed in his hands as the agent of the Government, and that, therefore, the Government is not responsible, unless we mean to affirm that the United States guaranty the fidelity and responsibility of all Indian agents to whom the various tribes may choose to intrust funds of which the Government has no knowledge, and over which they have no rightful control.

Mr. ATCHISON. The Senator from Maryland has stated the facts pretty nearly as they exist. A portion of the funds in the hands of this agent were the funds of Indians, intrusted by them to his care. They made him their trustee. Now, I take the broad ground that he is responsible as agent of the United States for any default that he may have made when acting in that capacity; and that the Government is bound to recognize any breach of trust to the Indians; for when you send an agent or a sub-agent to an Indian tribe, you indorse his honesty, and you guaranty all the losses that the tribe may sustain by means of his villainy or his fraud, and should be responsible for them. Now, the Government of the United States sent this man (Stryker) to take charge of these Indians, both in regard to the interests of the Government, and the interests of the Indians themselves. If, then, they could not place confidence in him, in whom could they place confidence? Their great father sent them this man, giving him a letter of credit, fully indorsed; and I hold that the United States is responsible for all frauds perpetrated on that tribe by him; and not only on the tribe, but on individuals of the tribe—just as if I gave a letter which was fraudulent, or calculated to deceive the friend to whom it was addressed. I hold that this doctrine as applied to Indian agents has peculiar force.

Mr. DAWSON. Will the Senator from Missouri answer me one question in relation to this matter? I see, among the letters dated 1832, that

this agent was instructed to procure the assent of the Indians to act as their agent; and to obtain it in writing as a power of attorney; which he was instructed to deposit in the proper office in Washington. Is it not so?

Mr. ATCHISON. I am not able to answer the question.

Mr. DAWSON. What I want to know is, whether the instructions were complied with, and whether the power of attorney was obtained, and placed here as required?

Mr. ATCHISON. I am not able to say; but I think that the letter read at the Secretary's table sustains the position fully, both that the act of Stryker was sustained, and that it was ratified and sanctioned in Washington city.

Mr. BRADBURY. If the Senator from Missouri will allow me, I will state that the fact adverted to by the Senator from Georgia, is contained in the latter portion of the letter which was read. That letter, which related to the receipt of the property of the Indians, also required that the previous assent of the Indians should be obtained and filed, in writing, and deposited with the Department.

There was another qualification in one of the other letters deserving of notice, which speaks of "whatever may be held by virtue of your office as trustee of the Indians;" thus limiting the application to such funds as may be, by virtue of his office as agent, intrusted to him, and which has no reference whatever to funds received in any other capacity. It related to those funds which went from the United States, and not to any funds which were intrusted to him either by the State of New York, or by the Indians themselves, for if he misapplied the funds derived from the State of New York, that State might be called upon to make reparation.

Mr. CASS. I understand that this is demanded as a deficiency by the War Department?

Mr. HUNTER. It is.

Mr. CASS. Then I shall vote for that appropriation.

Mr. HALE. That is right.

Mr. CASS. This is the last and feeble remnant of one band of the great tribe of Iroquois, who, at the time that our forefathers landed upon this continent, carried their victorious arms from Canada to Florida. We have driven them before the great tide of civilization west of the Mississippi to the forests and the prairies. We have got their country, and now gentlemen get up here and ask us to argue this point, as though we were arguing a suit for six and a quarter cents before some justice of the peace. Mr. President, I trust that it rests on higher and better principles and feelings. Here is an agent of the United States sent to them by the President of the United States, whom they call in their language, their "Great Father." He has got the money for which we all agree that we are responsible. He has also got their money from the State of New York, which was placed there by them for safe-keeping, and as they had been in the habit of doing for years and years.

Mr. BADGER. Ever since the year 1794.

Mr. CASS. And now I ask, if gentlemen are willing to place this on a principle so small? You have got their country; you have driven them from their native soil; your agent has got their money, and embezzled it, and you are bound to refund it. That is all there is about it.

Mr. BERRIEN. From the statement which has been presented to the Senate, and from the letter submitted by the honorable Senator from Arkansas, I am compelled to believe that this appropriation ought to be made by Congress.

The claim consists of moneys which had been embezzled by an agent of this Government, of two different descriptions: First, of money placed in his hands by this Government, for the purpose of discharging a debt due to the Indians. Secondly, of money which he had received from the Indians as their agent or trustee. In regard to the first, there can be no doubt that it was a debt due by the United States to the Indians; and the Government had endeavored to discharge it by placing money in the hands of their agent. He embezzled the money instead of paying it to the Indians. The Government is therefore responsible. In regard to the second, I doubt whether it is necessary to go into the general principles adverted to by the honorable Senator from Michigan. In my judgment there is a direct responsibility. If this Gov-



ernment had furnished Stryker with a letter of introduction to that people saying, "We send this man as our agent, for the purpose of transacting any matters that may occur between us, and we recommend him to you as a man in whom you may safely place confidence—under these circumstances, I apprehend, the failure of Stryker to discharge any trust reposed in him by the Indians would have involved the Government of the United States; and I ask what stronger letter of recommendation could have been given him than by constituting him their agent in these matters? I apprehend there is a distinct liability on that ground; but when I look at the letter submitted by the Senator from Arkansas, all doubts seem to vanish. The Government had been aware that there were funds belonging to these Indians held by the predecessors of Stryker; they required his predecessor to transfer these funds to him, and thereby constituted themselves the trustee of those Indians, and were responsible for the misconduct of the agent in their character as trustees.

I observe that reference is made to a section of that letter, by which the agent is directed to obtain the assent of the Indians, and to transmit the written evidence of that assent to the Department. That provision can have no effect as to the liability of the Government. It was directory on the part of the Government to their officer, who was constituted their agent for the purpose of executing this trust. In whatever possible view the subject is considered, it seems to me that the claim is just.

The question was then taken on the amendment, and it was not agreed to.

The PRESIDENT. The next amendment is to strike out the words—

For compensation to three special agents, and four interpreters for the Indian tribes of Texas, and for the purchase of presents, and to negotiate with said Indians under instructions from the Commissioner of Indian Affairs for their removal from that State to some designated unoccupied territory of the United States, \$25,000.

Mr. RUSK. Before the question is taken on striking out, I wish to amend that portion, and I hope I may be able to suggest such emendations as will render that part of the bill acceptable. I propose to amend by striking the words "compensation to three special agents, and four interpreters for the Indian tribes of Texas, and for;" and further to amend by striking out the word "said," and insert the article "the," and also to insert after the words "Indians" the words "in Texas," so that when thus amended it will read as follows:

For the purchase of presents, and to negotiate with the Indians in Texas under instructions from the Commissioner of Indian Affairs for their removal from that State to some designated unoccupied territory of the United States, \$35,000.

Mr. BADGER. Will the Senator from Texas explain why these amendments are necessary or proper?

Mr. RUSK. I will, sir. As that portion of the bill now reads, it stands thus:

For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, and to negotiate with said Indians under instructions from the Commissioner of Indian Affairs for their removal from that State to some designated unoccupied territory of the United States, \$25,000.

The special agents have been provided for in the annual appropriation bills, which amount is not expended. There was a bill passed by the last Congress, making permanent Indian agents, and in the next fiscal year we made an appropriation for their salaries; so that, so far as that matter is concerned, there is no necessity for this appropriation. With regard to the other, however, I consider that there is an important necessity. Sir, I suppose the explanation of the other amendment will more properly be made after the question has been taken on the first one.

Mr. HUNTER. I understand it is proposed to strike out the provision which relates to the three special agents and the four interpreters.

Mr. RUSK. Yes, sir.

Mr. BELL. Is that the proposition of the Senator from Texas?

Mr. RUSK. It is, sir.

The question was then taken on striking out the words "compensation to three special agents and four interpreters for the Indian tribes of Texas, and for;" and the motion was agreed to.

The PRESIDENT. The next proposition of the Senator from Texas is to amend line 259, by

striking out the word "said" and inserting the word "the;" and after the word "Indians," the words "in Texas."

Mr. RUSK. As I apprehend that the Finance Committee would not have proposed striking out this part of the bill if they had had the necessary information, I wish to give that explanation to the Senate.

There are a great many Indians, Mr. President, in the State of Texas who do not belong to that State. The Seminoles, and Creeks, and Cherokees, and portions of various other tribes of Indians, whose lands have been purchased and who have been moved west to lands given to them by the Government of the United States, have left these lands, and become intruders in Texas for a number of years past. The intercourse laws in relation to Indian tribes, which would apply to them in the territory to which they belong, do not apply to them in Texas; and for years past we have been obliged to submit to their depredations, without any sort of appeal to the intercourse laws in regard to Indian tribes. Now, it is clear and palpable injustice, that the United States should take these Indians, and either force them, or permit them, to settle down in our territory. They do us an immense mischief; and it is for the purpose of getting rid of them that we ask for this very small appropriation, and to negotiate with them to induce them to go back to their own tribes, and to the lands assigned to them by the Government of the United States, and to cease their intrusions upon us. All we ask for this is \$25,000.

Mr. BADGER. Will the Senator from Texas allow me to ask him, if he strikes out these words, how the fund is to be administered?

Mr. RUSK. We have Indian agents there already, and, therefore, do not need others. They were provided for under the annual appropriations.

Mr. BELL. I would like to know if these gentlemen who are to have the management of this fund are the agents who have been there for two or three years?

Mr. RUSK. No, sir. Two of them have been appointed recently—one of them, a gentleman named Howard, has been appointed within the last few days. Another is a gentleman from Maryland, with whom I have not the pleasure of an acquaintance. These three Indian agents are there under the last annual appropriation, and they are capable men.

Mr. BELL. I understand that these funds are to go into their hands; but I do not understand the object of the amendment which was agreed to a moment ago.

Mr. RUSK. I will read that portion of the bill as I propose to amend it. It runs in these words:

For the purchase of presents, and to negotiate with the Indians in Texas, under instructions from the Commissioner of Indian Affairs, for the removal from that State to some designated unoccupied territory of the United States, \$25,000.

Mr. BELL. I would like to inquire if these refugee Indians, of the Creeks, Cherokees, Seminoles, or whoever they may be, have established places of residence, if they have villages in Texas? I have understood that a large portion of them, especially those who are so mischievous, are Indians who are beyond the control either of Texas or of any of their own tribes; that they are really outlaws who live a free and roving life, having fled from the Cherokees, Chickasaws, and Creeks. If this is so, we cannot control them any more than we can control the wild Camanches, who have always plundered the borders of Texas. I should be glad to have the honorable Senator from Texas, as I know he has well settled opinions on that subject, explain to us whether he supposes there will be any good resulting from further expenditure, with a view to that object. I think we have appropriated to this object heretofore large sums of money, for the purpose of enabling agents to treat with them. I think they have been threatened in those cases where they have been settled in villages with being driven off.

I make these inquiries in order to learn the views of the honorable Senator from Texas, who, I know, has examined this subject with his usual good sense and candor. I know that, by the amendment he has proposed, it is implied that he thinks there is some chance of effecting a valuable object. For my own part, in view of our past history in

connection with this subject, and the efforts made to restrain the Indians both by Texas and the United States Government, it appears to me that we cannot expect any good result from holding conferences with them. They will receive this \$25,000, or what remains after the agents are paid; they will profess every sort of friendship with their fathers, and a disposition to forbear hostilities upon the frontier; but they will only keep their pledges until they feel the impulses moving them on to make depredations, or until they become necessitous. I take it there must be some other policy than this to restrain these outlaws of the great tribes settled on our western frontier, as well as the Camanches; some policy to restrain, if possible, their inroads upon the frontiers besides that of an annual distribution of presents. For although they may not come in regular bands to murder and rob upon the frontiers, there are those among the bands who perpetrate these outrages, and who disclaim any interest with the bands. I wish the honorable Senator from Texas to state what are his views, whether we have any grounds to suppose that it is worth while to hold conferences and make treaties with them, and bestow presents upon these wandering bands of outlaw Indians, who cannot be restrained by the tribes themselves? If the Senator can give any reason for hoping that they may be removed from Texas, I shall be glad.

I would be glad if he would designate some territory of the United States upon which they may be located, where they will not be the robbing and murdering bands which they now are. Where will he place them? Will he place them on the western border of Missouri, or carry them to the borders of New Mexico, and let them unite with the other tribes there, the Navajos or the Camanches, or will he carry them further North? Nowhere is there any place where he can send them, where they will not cause the same annoyance to those persons settled on the frontiers of the United States. If he can suggest any place or point where, under the instructions of the Commissioner of Indian Affairs, there is any probability of effecting his object, I will cheerfully go with him.

Mr. RUSK. I begin my explanation to the Senator—and I am sorry that I have no more time to make it—by stating that not one dollar has ever been appropriated by this Government, for the purpose of bringing back its roving Indians from their encroachment on our territories. And I can accompany that statement by another: that thousands of dollars have been appropriated by the Government of the United States, to put arms into the hands of those very Indians, to murder the women and children on the frontier of Texas, at the hour of midnight. For eighteen or twenty years those Indians have been encroaching on us.

I desire the attention of the Senator. There are some questions that he asked me, which I cannot answer. He asked where we are to remove these Indians? That is a question I cannot answer, except by saying that the United States had no right to thrust them on Texas. That is a question for the Government of the United States to consider.

I am necessarily compelled to be more concise on this subject than I could wish; for it is one that has been a source of annoyance to me for many years. In 1833 a treaty was entered into between the United States and Mexico, requiring the United States, on their pledged faith, to restrain these Indians, and prevent their encroachments on the territories of Mexico. But they went over in large bands—several thousands of the Cherokees, several thousands of the Kickapoos, and almost the entire Caddo nation, besides several other tribes—and commenced their depredations. The matter was brought to the attention of the Government of the United States, but nothing was said or done to remedy the evil. In 1835, in the face of that treaty—having the same provisions as the treaty which now exists between the United States and Mexico—the Government of the United States made a treaty with the Caddo Indians, one article of which was, that they were to leave the territories of the United States, and never to return to them again. There was no other territory to which they could go but that of Texas. And this was in the very teeth of the treaty, with its obligations binding on them, to protect Texas! It did more: another article bound the United States to pay \$10,000 per annum to this

tribe of Caddoe Indians. They immediately complied with the terms of the treaty, by removing from the territories of the United States, and settling down on those of Texas. And every day when their \$10,000 became due, they came to the agent of the United States—for Texas was not then admitted into the Union—and they received their \$10,000 donation in arms and ammunition; and scarcely traveled a hundred miles before they commenced their depredations—not on men, but on women and children—with the means you had furnished them. Sir, I speak what I know, and what I have seen.

Mr. BELL. What Indians were they?

Mr. RUSK. The Caddoes. These people are there now. They have settled in villages, and their chiefs have more influence than those of any other tribe. You have thrown them on us; and we now ask you to remove them, and give them a portion of your own territory. But not a single dollar has been appropriated for this purpose.

Mr. SHIELDS. There is no feeling on the part of the honorable Senator from Tennessee, as I understand him, to oppose this appropriation. I have a question in my mind in relation to this matter, which I propose to ask of the honorable Senator from Texas, and I hope he will treat it dispassionately. I would like to know whether the object of this is to remove, not the Indians who have gone in upon Texas from the territory of the United States, but the original Indians, living along the Rio Grande—some of them in little pueblos? I wish to know whether it is meant to apply to all the Indians now in Texas? for the honorable Senator knows very well that some of these Indians were in Texas before the whites, and are there still. If so, I would like to know it. And I would ask the same question which the honorable Senator from Tennessee propounded: Where are we to send these Indians? If we remove them out of Texas, and send them to New Mexico, shall we not be compelled to remove them out of New Mexico, and send them elsewhere? Now, there are along the Rio Grande tribes that are half civilized, that have their little towns and pueblos; and this provision will apply to them as well as to those bands who have gone in there—those refugees, as the Senator from Texas calls them.

I wish to vote for this appropriation, and, therefore, I would like to have a satisfactory answer to the question, where are they to be sent, and who are to be sent? Who are to be removed, and where are they to be removed? And if they become troublesome again, where are they then to be removed? Are we to continue to remove them until we get them into the Pacific?

Mr. RUSK. This is not an amendment of my own. It comes from the House of Representatives, suggested, evidently, by the Commissioner of Indian Affairs. What purpose he has in view, it is impossible for me to tell. So far as I am concerned, I have no objection to limiting it to the taking back of those Indians that properly belong to the United States.

Mr. SHIELDS. That is right. Confine it to them, and there will be no trouble.

Mr. RUSK. I have no objection to that at all. This amendment comes from the House of Representatives, and was asked for, I presume, by the Commissioner of Indian Affairs. I see that it is put under his control to enter into these negotiations. I will not detain the Senate longer. I shall have occasion hereafter to advert to this subject, and then I shall go into the whole matter from the beginning to the end. All that is asked here now, is a very small amount to be appropriated for the purpose of removing, or of entering into negotiations to remove, those Indians who are clearly not entitled to be there. If it is the policy of the Government of the United States—if it is the policy of this Senate—when they have troublesome Indians, to thrust them upon us because we have some territory, and to take no sort of steps to remove them, or to defend the frontier against their depredations, the Senate may strike out the amendment. That is all.

Mr. BELL. I do not think the remarks of the honorable Senator from Texas answer my suggestions at all. I have often heard him allude to the facts which he has alluded to to-day, with a good deal of feeling then, as now; but I have no feeling upon this subject. This is the remnant of an old quarrel which remains here between Texas,

as an independent State, and the United States. I do not remember the article alluded to in the Caddoe treaty; but I think it is very likely to be what the honorable Senator has stated it to be. If there be any such article in the treaty, it is certainly an improper and an unneighborly one towards Texas or Mexico, whichever might then be regarded as being on our frontier. But I deny that it has ever been, within my recollection, the policy of the Government of the United States—I mean a policy recognized and acted upon—to send the Indians out of our territory into that of any of our neighbors. That treaty may have been a departure from the policy, and may have passed the Senate of the United States without reference to the policy of intruding the Indian tribes upon our neighbors.

My remarks before were based upon the hypothesis that the honorable Senator sought this appropriation for the purpose of removing back to some other territory of the United States these Creeks, and Cherokees, and Seminoles, as well as other lawless bands of Indians. I think the honorable Senator, in his first remarks, alluded to them. I heard then no reference made to the remnant of the Caddoe Indians, that had been settled in villages. I had always understood that they were a peaceable, and rather an imbecile, and not a warlike tribe of Indians at all. If they have become so, I think it must have been since they founded themselves in a part of the territory of Texas; and that, by uniting with the Comanches and the refugee Cherokees, Creeks, and Seminoles, they may have had their original habits deteriorated, and may have become robbers. I did not understand that this appropriation was asked for the removal of the Caddoes on the ground of the national courtesy between the two nations at the time the stipulations of the treaty were entered into. But even in regard to that, if the appropriation is to apply to the Caddoes, while I am willing, if that be the object, to vote this appropriation, yet I doubt very much the practicability of removing them out of the territory of Texas. It may be that some of them, in the western part of Texas, may have found the most suitable home for themselves—certainly I know of no other more suitable. If you take them northwest of the Cherokees, Choctaws, and Chickasaws, as they are now settled, you take them upon Indian territory, or territory applied to the outlet of those tribes. If you take them still further north, you bring them in contact with the western frontiers—with the white settlements. So, then, I can perceive no probable good result from this appropriation.

In regard to the general policy of the Government towards Texas, I consider that the Government of the United States, in virtue of the guardianship which it assumes over the Indian tribes, and the powers which it claims of directing intercourse with the Indian tribes upon the great policy of preserving peace on the frontier, is bound to remove all those Indians as speedily as may be, with safety and with propriety to the people. And whenever there is a proper demand by the growing population of the State of Texas, this Government is bound, furthermore, in virtue of the same power which it has assumed to control the affairs of the Indian tribes, to preserve them in peaceable relations with the people of Texas as far as it is in its power to do so. I understand that this is the policy of this Government, now recognized as being proper. We expend hundreds of thousands of dollars annually for the purpose of preserving peace upon the frontiers of Texas against these Indians. I understand, indeed, that it is done but very ineffectually; that murders and robberies are still committed; and that they would be committed, if there was no Creek, nor Choctaw, nor refugee Seminole, nor Caddoe, within the territory of Texas. Will the honorable Senator deny it? Would there have been peace and quiet? Would there have been no plundering, no robberies, no murders of women and children on the frontiers of Texas, but for these Indians having been thrown into that territory by the Government of the United States?

Mr. RUSK. I conscientiously believe there would not.

Mr. BELL. I cannot deny that that is the Senator's belief. But whence the accounts we daily receive from the Rio Grande, of bands of Comanches making inroads into that country, carrying off

horses and cattle? Some of those desperate and warlike Seminole chiefs have thrown themselves upon that country, and become the leaders of these hostile Indians. Now, can we repress those bands? Does the honorable Senator suppose we have it in our power to hang or to shoot "Wild Cat," unless we have him in our power?

Mr. RUSK. We had him once.

Mr. BELL. Yes; but we cannot catch him again. Nor is it a very easy thing to catch any of those desperate leaders who fled from the United States. The policy of the United States, and its duty to Texas, is to defend that frontier; and whenever we can find territory to which to remove these Indians, to make treaties with them—not at the expense of \$25,000, but at an expense of \$500,000, or even of \$1,000,000, in one bill, or even a larger sum, to get rid of them. Although these tribes are not large, it would be economical for the United States to appropriate three or four millions at once, if you could effect the object of removing these Indians altogether from the territory of Texas by that amount; because, in four or five years, it will cost us that sum to keep them in order.

My interrogatories to the Senator from Texas were with a view to have him satisfy us—to satisfy the Senate—or that, in regard to my own course, he might give me some reasonable expectation that the object of removing these Indians would be effected by voting these \$25,000. Seeing, however, that the honorable Senator manifests so much feeling and solicitude about the matter, I am not disposed to vote against it, even if he gives no other reason for it, because I see that his heart is in it. I presume him to be perfectly patriotic; and though his grounds may not altogether satisfy me, yet I will trust him as a Senator and representative from that part of the country, for the conclusion that it may conduce to some good result, and relieve the frontier of Texas.

Mr. SHIELDS. To accomplish the object which the honorable Senator from Texas has in view, and which I think is a very proper object, and to make the amendment clear and definite, I move to add after the word "Indians," the words "in Texas, who have been intruded into that State from the territories of the United States." That, I presume, will accomplish the object in view.

Mr. HUNTER. I understand that the Senator from Texas agrees to restrict the amendment so as to apply it only to the Indians forced into Texas by the Government of the United States. That being done, I hope that we shall pass the item.

The amendment of Mr. SHIELDS was agreed to.

Mr. ATCHISON. I now propose to strike out, after the word "State," the words "to some designated unoccupied territory of the United States."

I wish to make this amendment for this reason: It is obvious that those Indians who have intruded themselves into Texas from the territories of the United States, should be removed from Texas. There are two ways of getting them out of Texas. One is by negotiation, as proposed here; the other is by the use of the United States troops and the Texas rangers. We can make an effort to negotiate them out, at an expense of \$25,000, or \$50,000, or \$100,000, if necessary. If they cannot be got out in that way, then the other means of forcing them out must be resorted to. If the words which I propose to strike out, are stricken out, it will then leave it with the United States to restore the Seminoles, who have intruded themselves into Texas, to the territory belonging to them; and to restore the Cherokees to the Cherokee country, the Delawares to the Delaware country, and the Kickapoos to the Kickapoo country. It will leave the Government of the United States to purchase them out of Texas, and restore them to their own tribes; or, if that cannot be done, then, as I said before, resort must be had to the sabre and the rifle.

The amendment was agreed to.

The PRESIDENT. The question now is on striking out that portion of the bill recommended to be stricken out by the Committee on Finance, as it has been amended.

Mr. HUNTER. As the clause has been amended, there is no object in striking it out. I believe that, as amended, it is right.

The PRESIDENT. The question must be taken.

Mr. SEBASTIAN. I would like to have the section proposed to be stricken out read as it has been amended on the motion of the Senator from Missouri and the Senator from Illinois.

It was accordingly read, as follows:

"For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, and to negotiate with said Indians in Texas who have been intruded into that State from the territories of the United States, under instructions from the Commissioner of Indian Affairs, for their removal from that State, \$25,000.

Mr. BADGER. As the clause now reads, it would seem to imply that these Indians had been instructed to go there by the Commissioner of Indian Affairs.

Mr. HUNTER. I move to transpose the words "under instructions from the Commissioner of Indian Affairs," so as to insert them immediately after the word "negotiate," and to strike out also "Commissioner of Indian Affairs," and insert "Secretary of the Interior," so that the clause will read:

"For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, and to negotiate, under instructions from the Secretary of the Interior, with said Indians in Texas who have been intruded into that State," &c.

The amendment was agreed to.

Mr. BORLAND. I now move to amend the clause proposed to be stricken out, so as to strike out the words, "and for the purchase of presents." I think the power to negotiate is sufficient. I have always thought this giving of presents was an objectionable feature in our legislation. I have looked upon it as paying tribute, pretty much the same as we formerly paid tribute to the piratical tribes on the Mediterranean.

Mr. CASS. I merely wish to inquire precisely what is to be the object and effect of this proposition. Is it meant that, under the power to negotiate, presents may be given? If that is meant, what is gained by not saying so? If it is proper to give presents, it is proper to say so.

Mr. BORLAND. I do not like to make a confession that we are to buy peace.

Mr. RUSK. There is no Indian treaty, to my knowledge, that has not contained a clause for the giving of presents.

Mr. CASS. I think it would be better to retain the clause; because, if it is stricken out, it may impose some difficulty on the Department.

Mr. BORLAND. In order to satisfy gentlemen, I withdraw my amendment.

The PRESIDENT. The question is now upon agreeing to the amendment of the Committee on Finance, to strike out the clause as it has been amended.

The motion to strike out was not agreed to.

The next amendment of the committee was to add to the clause, "for continuing the collection and for publishing the statistics and other information authorized by the act of 3d March, 1847, and subsequent acts, \$17,000," this proviso:

*Provided, That the work shall be completed in five volumes, and that at least one volume shall be published in each year until the whole series of five volumes shall be finished.*

Mr. BADGER. I should like to hear some explanation of that proviso.

Mr. HUNTER. This proviso was put in after consultation with the Department of the Interior. I addressed a letter to the Secretary of the Interior; but he had been called away. I then went to the Commissioner of Indian Affairs; and, after consultation with him, I found that the work would probably be finished in five volumes, and at the rate of one volume a year.

Mr. BORLAND. I would like to ask the honorable Senator from Virginia if he knows the amount of money that will have to be paid for these books? What will the five volumes cost?

Mr. HUNTER. I think they will cost about \$20,000 a volume for the publication and printing, exclusive of the salary of Mr. Schoolcraft, and, perhaps, one clerk. I am not aware whether one or two clerks are employed. I can hardly give the Senator all the information he desires now, but I can do it by to-morrow morning.

Mr. BORLAND. I certainly have had a good deal of gratification in examining the two volumes of this work which have been published. It is the most beautiful piece of work that I have ever seen in my life. I believe the world cannot furnish such a piece of typography as we have in this book; but I have not examined its contents

with sufficient care to be enabled to pronounce an opinion satisfactory to myself in regard to it. I am inclined to think, however, that we may draw the distinction here which was drawn in the criticism of several works, between a work that is very beautifully got up, and a work which is, in itself, not very beautiful; or, to express the idea more clearly, perhaps I had better repeat a criticism that was applied to a book of poems some years ago. In a criticism upon a certain poetical work that was published in our country a few years ago, a remark was made that it was a very beautiful book of poems. Such was the announcement of the critic. The question was asked whether the term "beautiful" applied to the book or to the poetry? Here is certainly a very beautiful book; a magnificent book as a piece of book-making; but can any one tell whether the book contains anything that is really valuable or not?

Mr. BADGER. It contains some beautiful pictures.

Mr. BORLAND. Yes, sir, very beautiful; and the typography is more beautiful. I believe it is the best specimen of typography that the world has ever produced.

Mr. HUNTER. If the Senator desires it, I can now furnish him the information. I have here a statement of the cost of this work. The amount expended in the course of the last five years has been \$39,361. That is independent of this deficiency. Here is a letter in which there is a statement of that deficiency. The Department states that this work can be completed in five volumes.

Mr. WHITCOMB. From whom is the letter?

Mr. HUNTER. From the Department of the Interior, to which I addressed inquiries about the matter.

Mr. BORLAND. We have here, then, a statement about equivalent to what the Senator said before as to the cost of the volumes. He said—and this statement now proves it—that they would cost about \$20,000 a volume; so that the whole work will cost \$100,000. Can any one say, from examination of the work, or from his knowledge of the materials, that it is worth that, or will be worth one half of that? Of what does it consist? It does not consist of matters which are necessary for our legislation. It adds nothing to the scientific knowledge of the country; but it consists of speculations upon what we may call, I suppose, the romance of the history of the red men of this country. It does not state anything beyond mere speculations. It states nothing that can be relied upon with any great degree of confidence; but it consists of certain philosophical speculations upon the character, and condition, and probable fate in the future of the various Indian tribes of our country. It may be very valuable, but I do not think that we have such assurances of its value as will justify us in expending \$100,000 in its publication. For one, I am not satisfied to that extent, and for that reason I shall be unwilling to continue it. The books are very beautiful. I have received the different volumes, and I have examined them with a great deal of interest; but I have not discovered in them that character, kind, and amount of information which I think would repay us for the money we propose to expend in the publication of the work.

Mr. BADGER. Mr. President, having arrived, in the progress of our investigations and inquiries into the amendments proposed by the committee to this bill, at the stage at which we now are, it seems to me there could be no more fitting occasion for the Senate to adjourn. We cannot get through the bill this evening.

Mr. HUNTER. I hope we shall not now adjourn. We may get through all the amendments but the last—that in relation to the Collins line of steamers, which I know will be debated. The others, I think, can be adopted without much debate.

Mr. BADGER. There is a previous amendment which the Senate has not yet reached, which I wish to debate. It is one which undertakes, by act of Congress, to regulate what the officers of the Senate shall do.

Mr. HUNTER. When we get to that, I shall ask the Senate to let it lie over, for reasons which I shall state.

Mr. BADGER. There is only one formal amendment between the one we are now on and that.

Mr. HUNTER. I think we had better get through with them before we adjourn.

Mr. BADGER. We can accomplish nothing by sitting here any longer. It is a dark and a dismal day. The feelings of everybody are depressed, and after the suggestion of the Senator from Arkansas as to this book of "pictures," [laughter,] or this romance of history, as he called it—I should rather say history of romance—I do not think we can get to the question. As I do not believe we can get to a vote upon the amendment to-day, and as it is a fit time to adjourn, I move that the Senate do now adjourn.

Mr. HUNTER asked for the yeas and nays upon the motion; and they were ordered, and being taken, resulted—yeas 25, nays 17; as follows:

YEAS—Messrs. Atchison, Badger, Bell, Berrien, Brooke, Cass, Clarke, Cooper, Davis, Dawson, Felch, Fish, Geyer, Hale, Mangum, Miller, Morton, Rusk, Sebastian, Seward, Shields, Smith, Spruance, Sumner, and Upham—25.

NAYS—Messrs. Adams, Borland, Bradbury, Brodhead, Dodge of Wisconsin, Dodge of Iowa, Downs, Gwin, Hamlin, Hunter, James, Jones of Iowa, King, Norris, Underwood, Wade, and Whitecomb—17.

So the motion was agreed to, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, April 20, 1852.

The House met at twelve o'clock, m.  
The Journal of yesterday was read and approved.

### SELECT COMMITTEE ON PRINTING.

The SPEAKER has appointed the following gentlemen as the select committee to whom has been referred the existing laws and orders on the subject of the public printing, viz: Messrs. MARSHALL of Kentucky, HARRIS of Alabama, CHANDLER, FULLER of Maine, and HAMILTON.

The SPEAKER announced as the first business in order the consideration of the bill of the Senate to enforce discipline and promote good conduct in the Navy of the United States.

### CLOSE OF DEBATE ON HOMESTEAD BILL.

Mr. JOHNSON, of Arkansas. I rise to a privileged question; and that is, to move the usual resolution, to close the debate on the homestead bill, which has been the special order since the first of March—more than seven weeks—when there are ten general appropriation bills of this Government to be considered; and if we give but a week to each of those bills, it will take us until August to get through. I would move to close the debate to-morrow, at one o'clock; but if gentlemen are anxious for a little more time, I will allow them until Thursday, but I cannot allow them more than that. I offer the usual resolution, to close the debate on the homestead bill on Thursday next, at one o'clock.

Mr. JOHNSON, of Tennessee. The gentleman from Arkansas seems to manifest some anxiety in relation to the termination of this debate, and while manifesting that anxiety, he indicates to the House that he has this thing entirely under his control, and that he will allow—

Mr. JOHNSON, of Arkansas. I have not indicated any such thing. I am in favor of the passage of the homestead bill.

Mr. JOHNSON, of Tennessee. I understood the gentleman to say that he would allow us more time.

Mr. JOHNSON, of Arkansas. I meant so far as my motion was concerned.

Mr. JOHNSON, of Tennessee. I wish to say that but very little of the time of the House has actually been consumed in the discussion of this subject.

Mr. JOHNSON, of Arkansas. Fifteen days, sir.

Mr. JOHNSON, of Tennessee. Not at all.

Mr. JOHNSON, of Arkansas. I say, sir, that fifteen days have already been devoted to this bill.

The SPEAKER. The Chair hopes that gentlemen will recollect that this is not a debatable question.

Mr. JOHNSON, of Tennessee. I do not propose to debate it.

The SPEAKER. If the House will indulge the gentlemen, the Chair will be very happy to hear them.

Mr. JOHNSON, of Arkansas. I ask the gentleman from Tennessee to inquire of the Clerk how many days have been devoted to this bill.

Mr. STANLY. I want to get on with the



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THURSDAY, APRIL 22, 1852.

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public business, and therefore I must object to this discussion.

Mr. ALLISON. Several gentlemen here are anxious to be heard upon this subject. I hope they will be heard, and that the debate will not be thus summarily closed. [Cries of "Order!" "Order!"] It is true that this bill has been before the House for a very long time.—[Loud cries of "Order!"]

The SPEAKER. Debate is out of order.

Mr. McMULLIN. What is the question before the House?

The SPEAKER. A motion to close the debate on the homestead bill on Thursday next, at one o'clock.

Mr. SMART. Oh! withdraw it.

Mr. JOHNSON, of Arkansas. I never will, while there is so much of the public business to be done.

Mr. McMULLIN moved to amend the resolution by striking out "Thursday" and inserting "Monday" in lieu thereof.

I beg the indulgence of the House to say one word in reply to the argument of the gentleman—

[Cries of "Order!" "Order!"]

The SPEAKER. It is the duty of the Chair to enforce the rule; and he begs the indulgence of the House in saying that debate is out of order upon this question, and cannot be allowed by the Chair.

Mr. McMULLIN. It is not out of order for me to speak, any more than it was for gentlemen over the way.

The SPEAKER. The gentleman from Virginia is out of order, and will take his seat.

Mr. McMULLIN. But it was not out of order for the gentleman from Arkansas [Mr. JOHNSON] to—

[Cries of "Order!" "Order!"]

The SPEAKER. The gentleman from Virginia is out of order. The Chair did call the gentleman from Arkansas [Mr. JOHNSON] and other gentlemen to order. He cannot permit any further debate.

Mr. ORR demanded the previous question; and on the question, Is there a second to the demand?

Mr. CLINGMAN called for tellers; which were ordered.

Mr. SWEETSER. Is it in order to move to lay the resolution of the gentleman from Arkansas upon the table?

The SPEAKER. It is in order.

Mr. SWEETSER. I make that motion.

Mr. HOUSTON demanded the yeas and nays, which were ordered; and the question being taken, the result was—yeas 108, nays 52; as follows:

YEAS.—Messrs. Willis Allen, Allison, Ashe, Averett, Thomas H. Bayly, Bartlett, Bowie, Bowne, Brenton, Albert G. Brown, Buell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Chastain, Cottman, Cullom, Curtis, John G. Davis, Dawson, Dean, Dimmick, Disney, Dockery, Eastman, Edgerton, Ficklin, Florence, Floyd, Fowler, Thomas J. D. Fuller, Gaylord, Giddings, Goodenow, Goodrich, Gorman, Grow, Hall, Hamilton, Hebard, Hendricks, Henn, Hibbard, Hillyer, John W. Howe, Thomas M. Howe, Ives, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Preston King, Kulms, Kurtz, Letcher, Mace, Mann, McDonald, McMullin, McNair, McQueen, Menck, Miller, Millson, Miner, Molony, Henry D. Moore, Morrison, Murray, Nabers, Newton, Andrew Parker, Samuel W. Parker, Peaslee, Perkins, Polk, Porter, Powell, Price, Rantoul, Riddle, Savage, Scudder, Origen S. Seymour, Skelton, Smart, Snow, Richard H. Stanton, Alexander H. Stephens, Stone, Sutherland, Sweetser, Taylor, George W. Thompson, Thurston, Townsend, Washburn, Watkins, Wells, Addison White, Alexander White, Williams, and Yates—108.

NAYS.—Messrs. Abercrombie, Aiken, John Appleton, David J. Bailey, Barrere, Bragg, Brooks, Geo. H. Brown, Carter, Caskie, Clark, Clingman, Cobb, Doty, Edmundson, Faulkner, Fitch, Gentry, Grey, Harper, Isham G. Harris, Sampson W. Harris, Hart, Houston, Howard, Hunter, Ingersoll, Jackson, Robert W. Johnson, George W. Jones, Lockhart, Martin, McCorkle, Meacham, John Moore, Morehead, Olds, Orr, Outlaw, Penniman, Phelps, Robbins, Sackett, Schoolcraft, Scurry, Stanley, Benjamin Stanton, Frederick P. Stanton, Stuart, Wallace, Ward, and Woodward—52.

So the resolution was laid upon the table.

PUBLIC EXECUTIONS IN THE DISTRICT.

Mr. FICKLIN. I now ask the unanimous consent of the House to take up the Senate bill,

which passed that body and came here yesterday, to do away with public executions.

As I understand it, a man by the name of William Wells was convicted of murder, and sentenced to be hung. That sentence is to be executed on Friday next. If there is no objection upon the part of the House, I desire, at the request of numerous citizens of this District, that that bill be taken up, and that the sense of the House shall be taken upon it, without delay.

Mr. CLINGMAN. I object.

DISCIPLINE IN THE NAVY.

Mr. PRICE. I would inquire of the Chair, if the first business in order is not that in reference to the enforcement of discipline in the Navy?

The SPEAKER. That is the first business. There is a motion pending to recommit the bill, and there are also sundry amendments pending.

Mr. PRICE. Well, sir, I claim the floor upon it.

Mr. ORR. I desire to ask the gentleman to waive his right to the floor for the present, that we may have one hour devoted to the call of committees for reports.

Mr. PRICE. I desire to inquire of the Chair if the consideration of this bill is not confined to the morning hour?

The SPEAKER. It is only the regular order for the morning hour.

Mr. PRICE. I shall probably occupy the whole of that hour, or nearly so.

Mr. ORR. I do not desire, by any means, to deprive the gentleman from New Jersey of the floor, but I would suggest that, by unanimous consent, one hour be devoted to receiving reports from committees, and that then the gentleman shall have his hour to speak upon the Navy bill.

Mr. PRICE. I have no objection, if the House will agree to that.

The SPEAKER. This bill constitutes a portion of the business for the morning hour, and, as unfinished business, will take precedence of the calling of committees for reports.

Mr. ORR. But, by unanimous consent, the morning hour could be extended so that we could have one hour for each, could it not?

The SPEAKER. It could, with the unanimous consent of the House.

Mr. ORR. Then I hope it will be given.

Mr. ALLISON. I object.

Mr. STANTON, of Tennessee. I desire to say, that I am anxious, as the House knows very well, to arrive at some conclusion upon this bill. I am disposed to accommodate the gentleman from South Carolina, [Mr. ORR,] and I shall not object to the arrangement he proposes, if the House agree to it. But I desire, at an early period, to have some definite action upon this bill, and to have it disposed of in some way or other.

Mr. RANTOUL. I rise to a privileged question. I desire to ask that the gentleman from New Jersey, and the House, will allow me to make a personal explanation. It will take but two or three minutes.

Mr. STANLY. From public considerations I am compelled to object. The gentleman, perhaps, will not take up more time than he says, but somebody will want to reply to him. Let the gentleman publish his explanation.

Mr. RANTOUL. I ask the gentleman to withdraw his objection. My explanation will need no reply, because it does not reflect upon anybody in this House.

Mr. STANLY. This species of explanation is a great abuse of the public time. I feel it to be my duty to object.

Mr. PRICE said: Mr. Speaker, from my long association with the Navy, I naturally feel a lively interest in any measure or law relating in any way to that branch of our country's service; and particularly do I regard the bill now under consideration as important to the well-being of the Navy, and in consequence is depending its value and worth to the country, as the efficiency of the Navy depends entirely upon its discipline.

I have not lost the attachment, regard, and sympathy created whilst associated with those brave,

noble, and generous sailors constituting the right arm of our country's defense. They expect me, sir, to raise my voice here, whenever any measure is before this House that so intimately affects them, as I am the most immediate and direct representative of the Navy has ever had upon this floor; and whatever views I may express here, believe me, sir, will be the honest convictions of my mind, drawn from my knowledge and experience of naval affairs, derived from ten years' service, as best calculated to promote harmony and good feeling on board our national ships, and tend most to elevate the officer and the man. I regret, sir, that the obligation has not fallen upon one more experienced and capable than myself. Without any eloquence or powers of rhetoric, I fear that I shall not do the subject justice; that I shall disappoint my old associates, for all I shall say will be said in simple and plain terms, and, I fear, fail in enlisting any feeling upon this subject, or creating any sympathy for our gallant Navy. The indifference exhibited here upon all naval matters almost forbade my saying one word upon a subject I consider of the first importance to the country; so chilling and paralyzing is the air of this House upon naval matters, that the honorable chairman of the Naval Committee [Mr. STANTON] tells you that he is discouraged in the hope of anything being done for the Navy.

Now, sir, the title of this bill is unpretending, and may seem to most members unimportant in comparison to the political speeches which are daily made here to the exclusion, postponement, or delay of this and other legitimate business before this House—a practice that is indulged in in Committee of the Whole, which, in my humble opinion, is wrong, against the rule, and depreciating the character of this House before the country and the world. We were not sent here to make presidential speeches, and waste the time and money of the people in expressing our personal preferences, or advocating the claims of candidates for the Presidency. Our constituents do, and have a right to complain of such irregularities in our proceedings. Nor has the National Legislature to do with the local, State, or sectional differences of party, which have been brought in here this session, and so openly and fully discussed, with such a great consumption of time. I solemnly enter my protest against such abuse, and mean thereby to exonerate myself from any censure which may be cast for allowing debate irrelevant to the subject under discussion.

But, sir, let us reflect upon the object of the bill before us—to enforce discipline and promote good conduct in the Navy. Is this a subject to be treated indifferently or lightly? Is naval discipline unimportant? Is not the power, efficiency, and value of your Navy dependent upon its discipline? And is not the Navy the surest standard of a nation's greatness and power? And, sir, if we continue to trace this chain of reasoning, we will find that naval discipline is one of the keystones of the arch upon which our grandeur as a nation rests, and is to be maintained. Unless discipline is maintained, we had better sink our ships and save the annual cost of our Navy, which is \$6,000,000 or \$7,000,000; for without discipline the Navy is only calculated to bring dishonor and disgrace upon our flag; and with discipline, it is our country's shield and glory. Sir, by good conduct and good discipline, our Navy has won imperishable renown, and added a golden empire to the area of freedom. We are now the first naval and maritime power on the globe. The victories won by our ocean steamers, and the yacht America, and the performance of our clipper ships, have fully attested our superiority on the ocean, and the truth of what is well and truly said by the poet:

"The empire of the sea has passed away from Albion's shore;  
Columbia rules the ocean now—Britannia ruled of yore."

The importance of maintaining discipline in the Navy is in the prospective still more important; for in the progress and spread of republican principles, they are sure to come in conflict with the monarchical principles of the Old World, and many

sanguinary battles are to be fought upon the ocean before the great truth is acknowledged by the Powers of Europe, that man is capable of self-government. The necessity of keeping our Navy well prepared to meet such a crisis, which is inevitable, is most apparent. Her career must be the most conspicuous; and in any contest, the Navy, if she is appreciated and sustained properly by Congress, I can foretell, will reflect the brightest victory which the historian has yet recorded, and continue to promote and extend Democratic republican principles and government. I hope, sir, I may impart some of my feelings and views and enthusiasm to this House.

I regret, in discussing this bill, that I shall take views directly opposed to so devoted and zealous friends of the Navy as the honorable chairman of the Naval Committee, and the honorable gentleman from Virginia, also a member of the Naval Committee, [Mr. BOGGS], who have advocated the amended bill as presented by the honorable chairman; but, sir, I find some gratification in advocating the principle contained in the bill offered by the honorable gentleman from Virginia representing the Norfolk district, [Mr. MILLSON], which is essentially a naval district, and he ought to be well posted up on naval matters. I believe, however, that he and myself do understand and represent the voice of the Navy and the country, in advocating the principle of summary courts-martial, instead of giving supreme, absolute, and undivided authority to the captain to punish, which is the difference between the bill of the honorable chairman of the Committee on Naval Affairs and the substitute offered by the gentleman from Virginia, [Mr. MILLSON]. Difference of opinion in regard to this principle is not confined to the members of the House, for the officers of all grades of the Navy are very much divided in opinion upon this subject. Indeed, I believe if it were referred to Jack, he would settle it by preferring the old system of flogging. There is no doubt that the Navy has lost some of its best men by the law abolishing flogging; for I am told that it is not an unusual occurrence for the old Navy seamen to enter the recruiting rendezvous, and ask the officers if flogging is restored; and upon receiving a negative reply, they refuse to ship or enlist. I am well satisfied that the discipline of our Navy has diminished since the passage of that law, and that there is a want of alacrity, quickness, respect, and prompt obedience of orders that was before known and observed in our Navy, and which constituted the pride of a man-of-war's company, and sustained and compensated the officer for the labor of exercising the crew in working ship, and drilling his division at the battery; for without the observance of military etiquette, and all the internal regulations of a ship, inefficiency and discord prevail; whereas, on the other hand, efficiency and harmony go together.

On a well-ordered, well-disciplined ship, you will find great contentment and pride of ship; every person on board feels that he contributes to it, and whilst the men are proud and satisfied with the officers, the officer in return feels a corresponding feeling for the men, which creates a confidence and belief in their ability to cope successfully with an enemy. Such boasting is the surest evidence of a high state of discipline. But, sir, I am not sure that the old discipline and tone of the service would not, in time, be as high as it ever was. Under the present law, all the power to punish now exists that ever did exist, with the exception of flogging; and I am not sure but that, in a short time, some mode of maintaining discipline may be found more humane, more civilized than flogging, which was, I must admit, a most wholesome and salutary restraint, and did preserve most exact and precise discipline, whilst it was inflicted with discretion and humanity; but when abused by a tyrannical, passionate, or intemperate officer, it destroyed discipline and harmony. Many expedients are now resorted to, and with great success, I am informed; but still the punishments are cruel. But the low moral state of the crews demand it; nor can they be ameliorated or lessened, until the moral character of the men of the Navy is improved; and to do this, we want the entire naval system revised, and an entire new naval code. In this view, every gentleman who has spoken upon this subject agrees; and I have no doubt it is the prevailing sentiment of this House. The honorable chairman of the Committee on Naval Affairs

informs this House, that he contends for an entire revision of the code by which the Navy is governed; that he presented a report and bill to the last Congress, for that object, upon which no action could be had; and that he is now again instructed by the committee to report a bill, with the same object; and the honorable gentleman admits that the measure now before the House is only a partial one, designed to meet a present exigency; but he fears, from the little interest manifested by the mass of the members, that it will again be allowed to sleep.

But, sir, I think if the honorable chairman had an entire new code and system to present, it would command prompt and immediate action. I am opposed to partial legislation. I want, also, to see the entire naval system revised; there is a crying necessity for it. I think it would be better to wait until such a system is devised, than to pass this bill in any shape. I do not believe there is such a pressing exigency for this law. I do not see what new power or principle it confers of punishment, that makes its passage so necessary; for, as I said before, all the power to punish ever conferred upon the commander, he now has, with the exception of flogging—and they are a long list of punishment, known under the usages and practices of the sea service. Indeed, I do not see that the bill, as reported by the honorable chairman, confers any new authority upon the commander of a ship, unless it is the single punishment of the loss of three months' pay, provided by the bill before us. Still, in cases of theft or waste of public property, I have known the captain to order the amount charged against the offender, and credited accordingly, that restitution might be made. So that, in truth, there is no new authority to be conferred by this bill, and the records of the Department do not show that the discipline of the Navy has been so seriously interfered with. Certain it is, they do not show any serious acts of insubordination, mutiny, or revolts. No men have been shot down or hung; and, I believe, there have been fewer offenses, and fewer courts-martial. And as to the effect of the discontinuance of flogging in the mercantile marine, the records of our United States district and admiralty courts will show fewer cases of revolt and mutinous conduct tried before those courts since the passage of that law, than for the same period of time before. I can state this as a fact, as regards the southern district of New York, which has jurisdiction over the large commerce of the great commercial emporium, as I am assured by an officer of that court, who gave me as a reason for this, that most of the complaints formerly grew out of cruel flogging by the captain, and the generous impulses of the crew, who would attempt to resist the authority of the captain, by preventing flogging. Entertaining these views, I should much prefer that this bill should not be acted upon, but that we should await the presentation of an entire revision of our naval system. And I will here remark, that I should feel the greater confidence in such a code if it emanated from the Naval Committee, in preference to the manner proposed last Congress, and to be renewed at this, as we are informed by the honorable chairman of the Naval Committee, viz: "That it shall be the duty of the President to cause to be prepared a suitable code of laws for the Navy, and submit the same to Congress, as soon as practicable, for such further action as may be required." And the honorable gentleman made the following remarks a few days since:

"The Naval Committee did not feel itself authorized—and, I think I may say, did not feel itself capable—of doing justice to a subject of this kind. It is a great subject—one of great interest—one requiring extensive knowledge, as well as experience, on the part of those who should undertake to prescribe a code of laws for the government of the Navy. How could any of us, who have never crossed the ocean, and who know nothing of the practical workings of these laws on board a ship, undertake to prepare a code of laws for the government of the Navy? Now, it is proper, and I conceive it is the only proper mode, to call upon the President to present the views of the Navy Department, and of such officers as may be required, to prepare a code, in order to alter and amend, if it may be necessary, and perfect into the shape of a law, a code which shall be effectual for the government of the Navy."

Mr. STANTON, of Tennessee. The gentleman from New Jersey will allow me to suggest that this is a very imperfect report of my speech. My idea was, that these officers of the Navy might be called upon to suggest the principle upon which the code should be prepared, and upon being pre-

sented to Congress, it should then be perfected by committees, and by the action of Congress itself. Mr. PRICE. I object to that course.

Now, I beg leave to entirely dissent from this mode of obtaining a code of laws for the government of the Navy. Pass such a bill, and what is the effect? The President, under the requirement of the law, refers it to the Secretary of the Navy. The Secretary of the Navy, who knows no more about the practical workings of these laws on board a ship than the gentlemen composing the Naval Committees of Congress, naturally refers the subject to the officers immediately around him, who are the old captains of the Navy, and they digest a code which in time will be presented to Congress. This mode of obtaining a naval code I object to; for it is partial, and will only represent one grade in the naval service, who are men accustomed to the old usages, and the young, ambitious, and progressive officer has no voice in framing a code governing a service under which he is ambitious, and hopes some day to gain renown. The talent of the sea officers of the Navy to-day is in the junior grades; and when I say this, I do not mean to disparage the old naval veterans; I only mean to say, they are not the men to prepare a code for naval government. Again, sir, under such a law the staff officers of your Navy would not be consulted—officers of the highest intelligence and cultivation would not be represented, and the result would be great dissatisfaction on the part of the whole Navy, causing great delay in the legislation, and in the end a postponement or rejection. No, sir, the Navy and the country expect Congress, through their committees, to frame the laws which are to govern the Navy.

I beg leave to differ, most respectfully, from the committee as to any want of authority or capability, on their part, to do justice to so great and interesting a subject. They have the power, or if they consider they have not, this House will grant it to them, as a matter of special reference, of obtaining all the required knowledge and information requisite to prepare such a code. And no laws emanating from any other source will be satisfactory or acceptable. Let the different grades be heard: the old and the young. It is a great labor, but one I trust the Naval Committee will not shrink from. It is the only way of reconciling all the conflicting opinions existing among the different grades of officers, who are extremely tenacious as to the action of officers or influence of any grade over another in the framing of laws or regulations—particularly should the attention of the Naval Committee be drawn to the present mode of promoting the officers, and the present system of enlisting the men; and also to assimilated rank and naval uniform, now regulated by the Navy Department, which are sources of great annoyance and bad feeling between the sea officer and the staff officer of the Navy, and ought, in my opinion, to be regulated by law. A late order of the Department, entirely changing the naval uniform, is now a source of great complaint and dissatisfaction. The uniform is subject to constant change, as it is changed almost as often as the head of the Navy Department, which works a very great evil, and gives great discontent, and great expense to the officers, and should be fixed permanently by law. I am informed that a board of sea officers drew up the regulations for this change, and the staff officers complain that they were not represented, and that they are depreciated, in a military consideration, by the new regulations.

But now, sir, I will proceed to examine this bill now under consideration, in the view that it will pass in some shape; and first, as neither bill nor amendments meet my entire approbation, I will give notice of the amendments I propose to offer to the bill of the honorable gentleman from Virginia, as I infinitely prefer it to the bill that came from the Senate, or the amendment offered by the honorable chairman of the Naval Committee, who has so far changed his views, since the bill was first introduced by him, of giving to the commander of a ship the discretion to punish without control, as to reduce the punishments so conferred, from thirty days' confinement to ten days' confinement. This is a great falling off; and if it is done in the spirit of compromise, I regret I cannot meet the gentleman and support his amended bill. But I believe authority to punish more severely than is contemplated by that amendment should exist

somewhere, on board ships cruising alone and absent a long time from the squadron, to preserve proper discipline. This authority I would give to the summary court, as provided by the bill of the honorable gentleman from Virginia. The amended bill, therefore, is more objectionable than the Senate bill, as it would fail entirely of its object. First, then, I propose to repeal all the articles of the act of 1800, entitled "An act for the better government of the Navy," which empowers a captain of a ship to inflict, of his own authority, punishment. I do this, as some doubt exists as to the discretion and authority which the commander of a ship has of inflicting those cruel tortures alluded to by the honorable gentleman of the Naval Committee from Virginia. Under this act both bills are alike objectionable, as neither repeal those barbarous punishments that have been practiced under that law—and there can be no objection to repealing a law which might by possibility be construed to confer the authority to inflict such monstrous punishments. That law repealed, I will propose a further amendment, defining the authority of the captain, which shall be restricted to confining in irons, or otherwise, for the space of ten days, the imposition of extra duty; and also, if the offense is of a very serious character, and deserving a greater punishment than the summary court-martial is authorized to inflict, to detain the man in confinement until he is tried by a general court-martial. For offenses meriting punishment beyond the authority of the captain, summary courts-martial may be ordered. Against this system of courts-martial on board ship, the honorable chairman of the Naval Committee, and his colleague on that committee, have raised several objections, which I will now proceed to answer. They have argued that bringing up a sailor on board ship before a court, and confronting him with his judges, and permitting him to argue with them and dispute with them, would have a bad tendency. Now, I ask, sir, has such been the consequence of general courts-martial, which have been so long known and acquiesced in? And would not such reasoning apply as well to a general court as to a summary court?

The honorable chairman of the Naval Committee says this court-martial, on board of a ship, will be but a mockery. This is a broad declaration, and one that I meet by just as broad a dissent and denial. I believe that those courts would have a most beneficial and conservative influence on board ship. The honorable gentleman wants to leave the responsibility undivided with the captain, and says that the members of the court are not responsible for its decision, except by impeachment. The bill provides that the court shall consist of three commissioned officers; a record of their proceedings is to be kept, and the proceedings to be conducted under such forms and rules as may be prescribed by the Secretary of the Navy. Now, I ask, is not each member of a court quite as responsible, and as likely to administer justice, as a captain? They are officers holding the same commission as a captain, and in every degree as responsible; influenced by the same high honor and consideration, and equally desirous of sustaining good discipline, and their decision is also subject to the approval of the captain. I am opposed, sir, and make the most positive and direct issue with the gentleman, upon the policy of giving the sole power into the hands of the captain, to punish on board ship. I prefer to divide the authority. I am willing to give the captain power to a certain extent. It is right that he should have power to meet, promptly, any insubordination or breach of discipline; but when you come to severe punishments, it is better that that authority should be divided. It is only in consonance with the spirit of our institutions. As to the impracticability of organizing courts upon some of the small vessels, urged by the honorable gentleman, on the ground that the officers are not on board, required to form it, such a case could scarcely arise; and if it should, the captain can carry the offender to the squadron, as is now the custom. This is no difficulty in the working of the system.

Again, the gentleman has assumed that summary courts-martial are unmilitary, and therefore inapplicable to the Navy, as a military establishment. I contend, on the contrary, that courts-martial are essentially military. The Army, for instance, have a garrison court, which assimilates

with the summary court proposed by this bill; and during the Mexican war, in the city of Mexico, General Scott established military commissions, which was a court composed of three officers, for the trial of military offenses, which was found to work well; and there never was stricter military discipline maintained in the Army or the Navy than was maintained in the city of Mexico during its occupation by our troops. Now, I ask the honorable chairman whether he thinks the three officers, as a board, were as capable of doing justice as one of the generals of division? He may prefer to yield to General Scott, the hero of so many battles, to myself. Military and naval discipline is necessary. No one feels this more sensibly than I do. No one is more tenacious of the honor and glory of our military and naval character. The powers of commanders must be limited to a certain degree of authority, and beyond that let it be shared by officers equally capable and responsible. Power often makes men tyrants; there is always danger of abuse when unlimited, and it is this that we want remedied. Summary courts were proposed by the naval officers, and they presented a bill with that provision; but the honorable gentleman says it was not from choice. This is strange, that a board of officers should propose a system that has been characterized by the honorable chairman of the committee as a mockery, and impracticable; for he contends, in another part of his speech, that they are the source from which the Navy ought to draw a code of laws for its government; he ought not to invalidate his own witnesses.

In regard to the last section of the bill from the Senate, which provides for an asylum and half-pay for life, this section so greatly extends any pension law now existing, that I shall oppose it. To furnish an asylum and half-pay at the same time, is so far beyond what has ever been done, that whilst I have as lively an interest in the welfare of the sailor, and am as anxious to see him well and comfortably provided for as any person can be, still I think it best not to change the present regulations of the asylum. The rewards provided for good conduct is a most admirable feature, and are the same in both bills, and cannot fail to meet the sense of the House, the Navy, and the country. It will prove a valuable stimulus to good conduct, and a strong inducement for men to enlist. A man that has been one cruise, in the Navy, is worth much more than one that has not. It is very important to retain men in the naval service, and the country can well afford to give a bounty as an inducement for men to return and remain in the Navy. In the numerous objections which I have urged against the bill reported by the honorable Chairman of the Naval Committee, I hope nothing I have said can be tortured into a reflection upon the action of that committee; for I mean to accord to the committee, and every member of that committee, full credit for the industry and labor that they have bestowed upon naval subjects, and for the zeal and anxiety they have manifested to have them acted on. In conclusion, I hope that whatever judgment the House may come to on this subject, that they will give the further instructions for an entire new naval code, to be prepared and presented to this House, a system that will elevate the moral standard of American seamen, and teach them to know that degradation is not in the punishment, but in the offense or crime which renders it necessary.

Mr. FITCH. Mr. Speaker, this is a matter that has occupied the attention of the House during the morning hour for a long time, and being desirous of reaching reports from committees, I call for the previous question.

Mr. CABLE, of Ohio. Is a motion to go into the Committee of the Whole on the state of the Union upon the special order now in order?

The SPEAKER. It is.

Mr. CABLE. I then submit that motion.

Mr. MILLSON. I ask my friend from Indiana to withdraw his call, in order that I may submit a few remarks upon this bill, made necessary by what fell from my colleague [Mr. BOCOCK] a few days ago. In some respects what I wish to say may almost be called personal explanation.

Mr. FITCH. I would withdraw my motion to permit the explanation by the gentleman from Virginia, [Mr. MILLSON,] as I understand it is somewhat of a personal character, but I am appealed to by others to withdraw it for them; and if I yield

to one, I must to all. I must, therefore, decline altogether to withdraw it.

Mr. MILLSON. If my colleague were here there would be less necessity for my speaking, for I am sure he would himself admit that some of his statements were too broad, and did me injustice, though, of course, without any intention to do so; but he is not here, and I desire to make an explanation myself. I do not wish to appear upon the records of the proceedings of this House as entertaining, without explanation and without denial, the views attributed to me. My statement will not occupy more than a few minutes. If the gentleman will withdraw his call for the previous question, I will renew it.

Mr. FITCH. If the gentleman will promise to renew the call, I will withdraw it.

The SPEAKER. In the mean time I must say to the gentleman that he cannot deprive the gentleman from Ohio [Mr. CABLE] of the right to the floor to move, as he has done, that the House go into the Committee of the Whole on the state of the Union.

Mr. CABLE. I withdraw my motion.

Mr. MILLSON. I am perfectly willing to let the matter go over until to-morrow, I still retaining possession of the floor.

Mr. CABLE renewed the motion to go into committee; which was agreed to.

The House accordingly resolved into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

#### HOMESTEAD BILL.

The CHAIRMAN stated that the first business before the committee was upon the special order, being House bill No. 7, for the promotion of agriculture, commerce, manufactures, &c., and the gentleman from Ohio [Mr. NEWTON] is entitled to the floor.

Mr. HALL. Will the gentleman from Ohio yield me the floor for a moment?

Mr. NEWTON. I will for a few moments.

Mr. HALL. By the courtesy of the gentleman from Ohio, I desire only to say, that I have committed to paper some remarks I had intended to deliver to the House had I been successful in obtaining the floor for the purpose. I ask, instead of occupying the time of the committee, to have the privilege of publishing my remarks.

[Cries of "Agreed!" "Agreed!"]

[Mr. Hall's speech will be found in the Appendix.]

Mr. NEWTON then addressed to Committee for an hour. He said that from 1796 to the present time the subject of an agricultural bureau has been recommended to Congress by the Executive branch of the Government. Nothing, however, has effectually been done. While other interests have been sedulously guarded and liberally patronized, agriculture, the foundation on which they rest and grow, has been struggling alone, without being acknowledged in the great relationship. We have increased in population—from less than four millions of people we have grown to nearly twenty-five millions. Our territory now stretches from ocean to ocean and from a tropical sun to near the polar regions, embracing various climates, soil, and people from all nations, with intelligence generally disseminated. More than eighteen millions of our citizens are engaged in the cultivation of the soil. It is this which gives us national prominence over every other people. In the course of forty years our country will contain more absolute freeholders than all the rest of the world beside. Improvement in agriculture is the strongest bond of union; but its neglect is too palpable. The great object of such a bureau as that which is proposed, is to elevate the social condition of agriculturists. At present the business appertaining to this class is confined to a small apartment of the Patent Office; but it has no more connection with the Patent Office than it has with the War or the Navy Department. The bill reported from the Committee on Agriculture, organizing an agricultural bureau, proposes an outlay of \$10,350; an inconsiderable sum compared with the great and beneficent objects sought to be accomplished. He earnestly contended that such a bureau is demanded by justice as well as the vast interests involved. [Mr. N.'s Speech will be found in the Appendix.]

Mr. RIDDLE, after a few preliminary remarks, said that the sooner we dispose of the unsettled and uncultivated territory, the better it will be for the



public treasury and the people of the United States. The sooner we donate the public lands to the States for purposes of education, internal improvement, or whatever else the constituted authorities may direct, the better it will be for the people of the entire country. He then referred to the question of party politics; spoke in the highest terms of the Democratic Presidential candidates—Cass, Douglas, Buchanan, and Butler, and others—and condemned the arraying of them the one against another by their respective friends on this floor. Each and all of them are worthy of the support of the Democracy, and entitled to the confidence of freemen. The Democracy, as represented in the Baltimore Convention, will settle all the differences which now exist. He paid his respects to the Whigs, whose policy he condemned; and he claimed the passage of the Compromise measures as the triumph of the Democracy. [Mr. R.'s speech is published in the Appendix.]

Mr. HOWARD obtained the floor, but yielded to Mr. STANTON, of Tennessee, who moved that the committee rise.

Mr. JOHNSON, of Tennessee. I would state, on behalf of the friends of this proposition, that it is their desire to bring this debate to a close. I know there are many gentlemen who desire to speak, but we are anxious that this debate shall be brought to a close at an early day. I suggest that we continue the debate one hour longer.

Mr. ALLISON. I appeal to the gentleman from Texas [Mr. HOWARD] to yield the floor to me. I desire to leave this place to-morrow, and I have been anxious for the last month to obtain the floor, and speak upon this question. If the gentleman from Texas would grant, and the House would concur in it, I should like very much to have about three quarters of an hour to say what I wish upon this subject.

[Cries of "Agreed!" "Agreed!"]

Mr. BROWN, of Mississippi. I would suggest that the gentleman over the way [Mr. ALLISON] may be allowed to speak this evening, and that, by common consent, the gentleman from Texas [Mr. HOWARD] be allowed to retain his place in the morning.

Mr. HOWARD. I have no objection.

Mr. STANTON, of Tennessee. I withdraw my motion that the committee rise.

Mr. OUTLAW. I should like it to be generally understood, that no business was to be taken up in the House, after the honorable gentleman from Pennsylvania [Mr. ALLISON] shall conclude his remarks.

[Cries of "Certainly not!" "Certainly not!"]

Mr. SUTHERLAND. I wish to understand, if these gentlemen who make this compromise between themselves, cut off other gentlemen who have been waiting to speak here for some three or four weeks?

Mr. ALLISON. It facilitates them.

Mr. SUTHERLAND. I want to understand upon what principle it is made.

Mr. SWEETSER. I rise to a question of order. I do not wish to extend to one gentleman a privilege which is not extended to all; and I therefore object to the gentleman from Texas yielding the floor to the gentleman from Pennsylvania.

The CHAIRMAN. The Chair asked if there was objection, and hearing none, assigned the floor to the gentlemen from Pennsylvania, who now has the floor. The objection comes too late.

Mr. ALLISON then addressed the Committee. He contended that the lands belong to all the States, and constitute a common fund, out of which all should receive an equitable portion. Eighty-four millions of acres have been given to the new States. He did not say that he complained of this, but he only asked that equal justice be rendered to the old States. He thought that he might at last ask for an approximation to justice for the old States. He preferred the scheme of the greatest living statesman, (Mr. Clay,) with regard to the disposition of the public lands. As to the bill under consideration, like the cure-alls and patent medicines placarded, he feared it claimed too much. If the benefits which its title promises could be secured, the House should not hesitate to give this bill their favorable consideration, and speedily pass it. [Mr. A.'s speech is published in the Appendix.]

Mr. GROW moved that the committee rise.

The question was put, and the motion agreed to. The committee accordingly rose, and the Speaker

having resumed the chair, the chairman [Mr. HILBARD] reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified, and had come to no conclusion thereon.

Mr. FLORENCE. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given. It is a bill to provide against the collision of steamers and sailing vessels in the night.

Mr. FOWLER. I object. There was an understanding that there should be no business transacted after the gentleman from Pennsylvania [Mr. ALLISON] had concluded. I move that the House adjourn.

The question was then taken, and it was decided in the affirmative.

So the House adjourned till to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BOWNE: The memorial of E. Carrington Bowers, in behalf of his mother, sole heir of Ebenezer Sage, deceased.

By Mr. EASTMAN: The petition of 460 citizens of Wisconsin, for grant of lands to aid in the construction of a railroad from Chicago, in Illinois, to Janesville, in Wisconsin; and branching at Janesville, to construct one branch by way of Lake Winnebago to Lake Superior, and another branch by way of Madison to Falls St. Croix; and that Allen's Grove, in Walworth county, may be named as a point on said line between Chicago and Janesville.

By Mr. CHASTAIN: Additional testimony on the claim of Robert Kirkham, of Cass county, Georgia.

By Mr. MCNAIR: The petition of sundry citizens of Montgomery county, in the State of Pennsylvania, in favor of a modification of the bounty land act.

By Mr. ROBBINS: A memorial signed by Michael W. Ash and 46 other citizens of Philadelphia county, Pennsylvania, praying Congress to modify the act of September 28, 1850, so as to place those soldiers who served in the war of 1812, the Indian wars, and other wars of the Republic, on a footing with the recruits enlisted to go to Mexico; and thereby give to each soldier, for his services, one hundred and sixty acres of land. They say that Congress should be just, before undertaking to be generous, and not give away the land to new settlers in the country, before providing for those, or their representatives, that periled their lives to give value to the public lands.

By Mr. IVES: The petition of Elisha Camp, for aid in completing a railroad from Sackett's Harbor to Ellisburg, in Jefferson county, New York.

By Mr. KING, of Rhode Island: The petition of Asa Gray and others, of Tiverton, Rhode Island, for a buoy to be placed on a sunken rock in Nanaguet channel.

By Mr. PARKER, of Indiana: The petition of Benjamin McCarty, assistant marshal of Lake county, Indiana, praying additional compensation for taking the census.

By Mr. FLORENCE: The memorial of Hugh S. Steele, Wm. C. Kelly, James A. Sawyer, Francis J. McCaffrey, James Montgomery, and other practical printers of the city of Philadelphia, petitioning Congress to establish, by law, a national printing office.

Also, the memorial of Charles W. Hawkins and others, citizens of New York, praying for the extension of Uri Emmons's patent for a planing machine.

By Mr. HART: The memorial of Charles L. Barrett and others, citizens of New York, praying for the extension of the patent of Uri Emmons for a planing machine.

#### IN SENATE.

WEDNESDAY, April 21, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Second Auditor of the Treasury, transmitting, in compliance with the act of 30th June, 1834, copies of such accounts as have been rendered by persons intrusted with the disbursement or application of moneys, goods, or effects, for the benefit of the Indians, for the two fiscal years ending 30th June, 1850, and the 30th June, 1851; which was read and referred to the Committee on Indian Affairs.

Also, a report of the Secretary of the Treasury, relative to the disbursement of the appropriations made for locating life-boats, &c., on the coast of the United States; which was ordered to be laid on the table and printed.

Also, a report of the Secretary of the Treasury, in answer to a resolution of the Senate for information relative to the use of the marine hospitals of the United States for other purposes than the relief of sick and disabled seamen; which was

read and ordered to be laid on the table and printed.

#### PETITIONS, ETC.

Mr. ADAMS presented a memorial of the assistant marshals for taking the Seventh Census in the northern district of Mississippi, praying additional compensation; which was ordered to be laid on the table.

Mr. MORTON presented a petition of mechanics, planters, merchants, and others, citizens of Florida, praying that a ship-of-war may be built at the Pensacola navy-yard, and that measures be taken to prepare that navy-yard for the construction, equipment, and repair of all classes of vessels-of-war; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented a petition of members of the Legislature of Massachusetts, remonstrating against an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. CASS presented a petition of citizens of Ottawa county, Michigan, praying the establishment of a mail route from Grandville to Holland; which was referred to the Committee on the Post Office and Post Roads.

Mr. JONES, of Tennessee, presented a petition of citizens of Memphis, Tennessee, praying that further aid may be extended to Collins's line of steamers; which was ordered to be laid on the table.

Mr. UNDERWOOD presented additional evidence in favor of the claim of William Meredith; which was referred to the Committee on Revolutionary Claims.

#### COLLINS'S LINE OF STEAMERS.

Mr. BRODHEAD. I have a resolution of the Board of Commissioners of the incorporated district of Northern Liberties, of the county of Philadelphia, on a very important subject. It reads as follows:

"Resolved, (as the sense of this Board,) That the appropriation, by Congress, of the sums of money prayed for to endow the Collins steamers of New York, and similar projects, to pamper the overgrowth of that city, with her dictation to the rest of the country, could be better spent in aiding to build the Sunbury and Erie railroad, connecting the Lakes with the Atlantic—a route which will secure an early spring and late fall transportation; and that our Representatives be requested to urge such aid being extended."

The PRESIDENT. Is the resolution addressed to the Senate?

Mr. BRODHEAD. It is addressed to their Representatives, and I am requested to present it to the Senate. It raises the question whether it is proper for Congress to be making such large appropriations for the benefit of the external foreign commerce, to the prejudice of the internal commerce of the country. I move that the resolution lie upon the table.

The PRESIDENT. The Chair will receive it, although it is not a paper which properly comes before the Senate.

Mr. HALE. I think there was a doctrine laid down upon that subject, at the last session, that the proceedings of meetings which were not addressed to Congress, nor to the Senate, should not be received.

The PRESIDENT. The Chair stated to the honorable Senator that it was not a paper proper to be presented to the Senate, inasmuch as it was not addressed to the Senate, but simply a request to Representatives in Congress to present it. However, if there is no objection, it will simply be received and laid on the table.

Mr. BRODHEAD. The matter to which it relates is before the Senate.

The resolution was laid on the table.

#### REPORTS FROM STANDING COMMITTEES.

Mr. WALKER, from the Committee on Revolutionary Claims, to which was referred the memorial of the children and heirs-at-law of Nathaniel Leavitt, asked to be discharged from the further consideration of the same, and that leave be granted to withdraw the petition; which was agreed to.

Mr. CLEMENS, from the Committee on Private Land Claims, to which was referred resolutions of the Legislature of Michigan in relation to claims to lands of Joseph Sansfacion and others, reported a bill authorizing a certain class of private land claimants to file their claims with the register and receiver at Detroit, Michigan, for

investigation; which was read and passed to the second reading.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of James G. Bell, praying to be permitted to enter certain school lands in Louisiana; the petition of Charles P. Colston, praying the location of certain bounty land warrants; the proceedings of a meeting of citizens of Marion county, Illinois, in favor of the enactment of a law granting the right of preemption to actual settlers along the line of the Illinois Central Railroad; and the petition of John L. Sullivan, praying that one half of the gold produced by working the mines on the public lands in California be set aside for certain purposes, submitted adverse reports on the first three; which were ordered to be printed, and that the committee be discharged from the further consideration of the last-mentioned petition; which was agreed to.

Mr. HAMLIN, from the Committee on Commerce, to which was referred two memorials of citizens of Philadelphia, praying the construction of a ship-canal around the falls of the River St. Mary, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred resolutions of the Legislature of Louisiana in favor of a donation of land for the use and benefit of the Pine Grove Academy, submitted a report, accompanied by a bill for the relief of the Pine Grove Academy; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. UNDERWOOD, from the Committee on Public Lands, to which was referred the petition of George Morris, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Claims; which was agreed to.

#### BILLS INTRODUCED.

Mr. DAVIS, agreeably to previous notice, asked and obtained leave to introduce a joint resolution authorizing the closing of the accounts of certain officers of the Army; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

Mr. GEYER, agreeably to previous notice, asked and obtained leave to bring in a bill to provide for the improvement of the navigation of the Mississippi river and the navigable waters leading into the same; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. BRADBURY, by unanimous consent, asked and obtained leave to introduce a bill to incorporate the proprietors of the Washington Cemetery; which was read a first and second time by its title, and referred to the Committee on the District of Columbia.

#### CIVIL OFFICERS IN NEW MEXICO.

Mr. FELCH submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of War be directed to report to the Senate the number of civil officers employed in the Territory of New Mexico, while the same was under military government; by what authority they were appointed; their names, and the amount of salary allowed to each; how long they remained in office; what amount was paid to, and what is still due to each of them; and why the same is not paid to them out of the balance in the Treasury, belonging to the Mexican military contribution fund.

#### BILLS PASSED.

The following joint resolution and bill were severally read a third time, and passed:

Joint resolution for supplying arms to the "Washington Yagers," and the "Washington Boone Riflemen," in the District of Columbia; and

An act confirming the claim of the heirs of Joseph Thompson, deceased, to a tract of land in Missouri.

#### NON-INTERVENTION.

Mr. HUNTER. I move to take up the joint resolutions offered by the Senator from Rhode Island, [Mr. CLARKE,] in relation to non-intervention, for the purpose of moving to postpone them till next Wednesday. To-day was selected for taking them up, by the Senator from Pennsylvania, who has the floor upon that subject; but he has told me that he will give way, to allow us to go on with the deficiency bill.

Mr. COOPER. At the request of the Senator from Virginia, who is very anxious that the deficiency bill should be passed, I yield the floor,

and will postpone my remarks upon the resolutions until such time as the Senate may suggest. I am ready to go on to-day; but I know that the chairman of the Committee on Finance is anxious that the deficiency bill should be disposed of, and I therefore waive any claim which I have to the floor.

The motion to take up the joint resolutions was agreed to; and then, on motion of Mr. HUNTER, the further consideration of them was postponed until Wednesday, the 28th instant.

#### THE CUMBERLAND DAM.

Mr. UNDERWOOD. As fifteen minutes remain of the morning hour, I hope the Senate will oblige me by devoting that time to the consideration of the Cumberland dam bill; and I promise that I will waste no time by debating it. It has been under consideration here for years, and I feel pretty sure that we can dispose of it in fifteen minutes.

Mr. HUNTER. I hope the Senator from Kentucky will not oppose the motion which I now make to take up the deficiency bill.

Mr. UNDERWOOD. It will come up at the regular hour. There are yet fifteen minutes remaining of the morning hour, and I hope they will not be occupied with the consideration of the deficiency bill.

Mr. HUNTER. If I thought the bill proposed to be taken up by the Senator from Kentucky could be disposed of in fifteen minutes, I would make no objection, and would not persist in my motion. But I fear it will lead to lengthened debate, and interfere with the deficiency bill.

Mr. UNDERWOOD. If the Senator from Virginia will not persist in his motion, I will agree that if this bill is not passed in that time, I will move its postponement.

Mr. HUNTER. Very well; then I withdraw my motion.

The question was then taken on the motion to take up for consideration the "bill to provide for the repair and improvement of the dam at the head of Cumberland Island in the Ohio river," and it was agreed to.

The PRESIDENT. The bill is before the Senate as in Committee of the Whole, and will be read.

The bill provides that the sum of \$50,000 be appropriated out of any moneys in the Treasury not otherwise appropriated, to be expended, or so much thereof as may be necessary, under the direction of the Secretary of War, for the repair and improvement of the Cumberland dam in the Ohio river.

Mr. HAMLIN. I believe that bill has been referred to no committee. I know that the Senator from Kentucky will inform us that the Senate and the country are so well apprised of the character of the bill, from their long acquaintance with it, that it requires no reference to a committee; but if we are now to depart from the rule, I would like to know why, when appropriations for specific objects, with respect to which the Senate is as well advised as in this case, they should not also be put on their passage without reference to a committee? It is a departure from the rule to take this measure from among those which are presented to Congress for its action; and is such a departure from the course that the Senate has pursued in other cases, that would justify the Senate in refusing to act upon it at this time.

Mr. UNDERWOOD. I will answer simply that the bill is word for word the same as a bill which passed through the last Congress, and then went through all the regular forms of reference to a committee. I think any further reference useless and unnecessary; but if the bill is liable to objection on that ground, I hope that the Senator will himself move the reference to the proper committee.

Mr. DODGE, of Iowa. I hope the bill will not be referred to the Committee on Commerce, or any other committee, but that it may be passed now. The bill has once passed the Senate, upon the yeas and nays, by a majority of three or four to one; and on that occasion the Senator from Mississippi, one of the most strenuous opponents of the system of internal improvements, said that this was an isolated case, that the Government put the obstruction in the river, and ought to remove it, as the whole of the commerce of that country was suffering from the obstruction. I hope the Senate will act upon it now.

Mr. ATCHISON. The Senator from Iowa is

right. Some few years since, an appropriation to a large amount was made for the purpose of constructing this dam. The avowed object was to deepen the channel of the Ohio river, so that boats could ascend and descend with facility. But there was a covert object, as I have heard. The deepening of the channel was not the real object; it was to throw the channel of the Ohio upon the Kentucky side of the river, where the town of Smithland is situated, at the mouth of the Cumberland river, for the purpose of building up that town, more than for the purpose of facilitating the navigation of the Ohio river. But it is a matter of indifference, whether that was the real object or not. The obstruction was placed in the river by this Government at a great expense.

I desire, however, to have the bill corrected, so that the truth may appear upon its face. I desire that it may not be styled a bill to repair the dam, but a bill to remove it—to remove the obstruction in the Ohio river—for this is the only improvement that can be made. I move to strike out the word "repair."

Mr. HALE. The title of the bill is not under consideration.

Mr. ATCHISON. That word occurs in the body of the bill, as well as in the title. It provides that the sum of \$50,000 shall be placed in the hands of the Secretary of War, for the purpose of "repairing" the dam. That is the substance of it now; but I wish the money to be appropriated for the purpose of removing the dam, and therefore I move to strike out the word "repair" and insert the word "remove."

The PRESIDENT. If the Senator will look at the bill, he will perceive that it will be necessary to strike out other words. The appropriation is for the "repair and improvement" of the dam.

Mr. ATCHISON. Then I move to strike out the words "repair and improvement," and insert the word "removal."

Mr. HUNTER. It is obvious that this bill will lead to much debate, and hence I ask the Senator from Kentucky to withdraw the bill.

Mr. UNDERWOOD. Very well, I consent, sir.

Mr. DODGE, of Iowa. I hope not, sir. I trust we will get a vote on the bill.

Mr. UNDERWOOD. I cannot assent to the amendment offered by my friend from Missouri, and I shall be able to show reasons why the amendment should not prevail.

Mr. HUNTER. Then, I hope the bill will be laid aside.

Mr. UNDERWOOD. I will make a statement in one minute, and then leave the matter. The object was as the gentleman supposed—to improve the mouth of the Cumberland river, below the island. There is a bar below the island, and by concentrating the waters of the Ohio river at the mouth of the Cumberland river above the head of the island, you throw a volume of water over the bar at the head of the island, which makes the navigation good up to the head of the island. If, however, you do not concentrate the water at the bar, and allow the Cumberland river to spread, it will operate in such a way as to destroy the navigation up to Nashville. That is one objection.

The other objection is, that the best channel for navigation has always been on the Kentucky chute, and it is so now. I have myself been over it in low water in a steamboat, and this filling up the dam will make it altogether better. These are the reasons why the gap in the dam ought to be filled up, instead of taking out the whole dam.

Mr. HAMLIN. Will the Senator from Kentucky have the kindness to inform me whether any estimate has been made by the topographical department in relation to the improvement, for which he now asks an appropriation?

Mr. UNDERWOOD. I do not know that any estimate has been made of the expense of taking away the whole dam; I can, however, inform the Senator, from personal observation, that it is more than a mile in length; and if you take away the whole of the rocks that you placed there, the expense will amount to hundreds of thousands of dollars. Nor has there been any estimate made, that I know of, as to how much it will cost to fill the breach in the dam; but I think fifty thousand dollars will be sufficient for the purpose.

Mr. HUNTER. I move that the bill be now referred to the Committee on Commerce; for it is

obvious that it will be impossible to obtain a vote to-day.

The motion was agreed to, and the bill was accordingly so referred.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill of the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852. The question pending was upon an amendment of the Committee on Finance to add to the clause, "for continuing the collection and for publishing the statistics and other information authorized by the act of 3d March, 1847, and subsequent acts, \$17,000," this proviso:

*Provided*, That the work shall be completed in five volumes, and that at least one volume shall be published in each year until the whole series of five volumes shall be published.

The amendment was agreed to.

The next amendment of the Committee was to substitute "Indiana," for "Indians," in the clause—

For expenses of removal and subsistence of Pottawatomies of Indians, \$22,500.

The amendment was agreed to.

The next amendment of the Committee was stated to be to strike out—

For expenses of continuing negotiations with the Indian tribes of Oregon, lying west of the Cascade mountains, \$12,000.

Mr. HUNTER. This item was put in by the House of Representatives according to estimate. The Delegate from Oregon suggested that perhaps there was something in it which required examination, and that it would be better for the present, to strike it out. He has since been satisfied that the item is a proper one, and that the objection raised to it was groundless. I do not therefore press the amendment to strike out.

The amendment was rejected.

The next amendment of the committee was after the following item in the appropriations for the contingent expenses of the Legislative Assembly of Minnesota: "For payment to Messrs. Babcock, Wilkinson, and Holcombe, for revising the laws, \$500 each—\$1,500;" to add:

*Provided*, That hereafter no expense incurred by a Territorial Legislature shall be paid out of the Treasury of the United States, unless previously sanctioned by law.

Mr. HUNTER. This is an item for some expenses incurred by the Territorial Legislature of Minnesota, for the revision of their laws, without any appropriation from Congress, or any authority by law. The Committee on Finance determined to grant it with the proviso which they have offered as an amendment, for the purpose of putting an end to such practices, which are deemed to be irregular.

The amendment was adopted.

The next amendment of the committee was stated to be to insert this clause:

For contingent expenses of the Senate, \$137,755: *Provided*, That, at the commencement of each session, the Secretary of the Senate shall report, through the President, to the Senate, the occupation of each person employed or who has been employed during the previous year in the service of the Senate, the compensation he receives, (distinguishing the regular from the extraordinary,) and also stating what he may receive under contracts to perform services or furnish anything to the Senate; the said statement to be accompanied by a reference to the law or resolution under which such person is employed; and *provided further*, That no officer or other person in the employment of the Senate shall hereafter become a contractor to furnish anything, or perform services for the Senate other than those imposed on him in consideration of the salary which he receives; nor shall a draughtsman be employed for the purposes of the Committee on Public Lands after the expiration of his present session.

Mr. HUNTER. I am informed by the Senator from Iowa, that he has this subject under consideration, that it has been specially referred to his committee by order of the Senate, and that he intends to report some provision in relation to this matter very nearly similar with this, and that he thinks it better that we should act on this matter, not by law, but by resolution. I have determined not to press this amendment, hoping that he will report his resolution.

Mr. BADGER. I did not exactly understand the purport of the remarks of the honorable Senator from Virginia. Do I understand him that he wants the whole amendment voted down, or only the proviso?

Mr. HUNTER. Only the proviso.

Mr. BADGER. Then I move to amend the amendment by striking out the proviso, so as to leave nothing but the appropriation for the contingent expenses of the Senate.

Mr. DODGE, of Iowa. The Senator from Virginia has correctly stated the facts. On the motion of the Senator from North Carolina, [Mr. MANGUM,] the committee to audit and control the contingent expenses of the Senate, of which I am a member, has been instructed to inquire into the expediency of reducing these expenses. The draughtsman for the Committee on Public Lands is referred to in this amendment by name, and if the bill should become a law, with the amendment as it now stands, the Senate would be estopped from the employment of any such officer. I was opposed to the passage of the resolution offered by my friend from Illinois, [Mr. SHIELDS,] for the employment of the draughtsman. I thought, at the time, that such an officer was unnecessary. I am now satisfied that the Senator from Illinois was right—that he understood the business of the Committee on Public Lands much better than I did. I know that the gentleman who holds the position has been employed with very great benefit to the public service. He has been of very great service to the committee. I suppose his employment will be temporary. I was opposed originally to having such an officer, but I am now in favor of it. I should object, however, to his continuance as a permanent officer. We can dismiss him by resolution at any time. He is now engaged most industriously in the service of the public, and the committee will bear evidence to his efficiency.

Mr. HAMLIN. There is a single reason which has not been stated either by the Senator from Virginia or the Senator from Iowa, which, I think, will settle this matter immediately with the Senate. The proviso which the Senator from North Carolina moves to strike out, proposes to put our contingent fund under the provisions of law, and leave the contingent fund of the House entirely under the control of the House. I think we should be in a position where we could use our own contingent fund, or, if there is any restriction, the same restriction should apply to the House of Representatives.

The amendment to the amendment was agreed to; and the amendment as amended was adopted.

The next amendment of the committee was to insert the following:

To enable the Secretary of the Senate to pay for the copies of the report of Dr. David Dale Owen, United States geologist, on the geology of Iowa and Wisconsin, and Minnesota Territory, heretofore ordered to be executed for the use of the Senate, under the special direction of the Commissioner of the General Land Office, \$33,750.

Mr. HUNTER. Since this bill was printed we have received a reformed estimate from the Land Office, reducing the amount to \$31,218 75. I move to amend the amendment, by substituting that amount for \$33,750.

The amendment to the amendment was agreed to.

The question recurred upon the amendment as amended.

Mr. HALE. I should like to hear some explanation of this appropriation for the payment of thirty odd thousand dollars for printing geological reports for individual States. There are other States that have made geological reports at their own expense, which would be glad to have them published at the expense of the General Government.

Mr. HUNTER. This was originally part of the estimate for the contingent fund of the Senate. In pursuance of a resolution passed by the Senate, at this session, a certain number of volumes of these reports were ordered to be printed. We have had two estimates from the Land Office as to their cost—the last cheaper than the first. According to the last estimate, they will cost the sum mentioned in this amendment. I do not know when the order of the Senate was passed for the printing of these books. I was not aware of it until I saw the estimate in the contingent fund; but it struck me that the item ought to be in the appropriation bill, and not in the contingent fund; and, accordingly, there is a corresponding amendment which we wish to offer, to provide for the copies ordered by the House of Representatives.

Mr. HALE. I wish that the Senator from Iowa would favor the Senate with some of those remarks which he made in the early part of the session, against this book-making business. I

wish he would expose the policy of the Government and of Congress, in these wasteful expenditures for the printing and publishing of books. It seems to me, that instead of appropriating these \$30,000, the better plan would be to rescind the order for the publication of the books. But I have nothing to say as to that. I hope the honorable Senator will be so kind as to repeat now what he has said in opposition to this system before. Perhaps other Senators do not remember so well as I do, what he has been accustomed to say against this system. I remember his remarks perfectly; and if he will favor the Senate with the same remarks now, I have no doubt that we shall strike out the appropriation.

Mr. BADGER. I hope the Senator from Iowa will do no such thing, because I should be sorry to hear him make a speech which would be entirely out of order. The question is not now on the propriety of printing the books; but the Senate having ordered them to be printed, the question is, whether we will pay for them. It is a matter of no importance, therefore, to know what were the reasons which induced us to make the order.

Mr. HALE. We can rescind the order.

Mr. DODGE, of Iowa. I have so very accommodating a disposition that, notwithstanding the advice of my worthy and excellent friend from North Carolina—whose counsel I always receive with the greatest deference, and to whom, for his legal and other advice when we were members of the committee to audit and control the contingent expenses of the Senate, I acknowledge myself greatly indebted—yet, notwithstanding his admonition to the contrary, I feel that I am bound to respond to the call of the Senator from New Hampshire. I will then reiterate for his information that I am now just as much opposed to the seven, or eight, or ten hundred dollars' worth of plunder, in the shape of books, that are voted to the members of each House of Congress as I was at the beginning of the session, and as I am quite sure I shall be at the end of the session, and at all times and sessions. As the Senator has alluded specially to me in connection with this book matter, I will make him a proposition. He and I have each enjoyed a share of this plunder. I propose, then, that, for the benefit of the country, we mutually disgorge. If he wishes to make an exhibition of his patriotism and economy in this matter, let him just turn over the books he has got to the Librarian, and I will pledge myself to join him, and turn over mine too, for the benefit of the public. Then, when our geologists go on, under the appointment of the Executive, and in pursuance of appropriations made by Congress, into the Territories of the United States, and upon the public lands of the United States, and make these geological reconnoissances, we may be better able to publish them. The Treasury is not, I believe, at this time, very hard pushed, but still a sacrifice of the kind I offer may give it some little relief; and I propose that he and I should set a good example. Upon the other subject, I wish to say to the Senator and the Senate that these reports are not of States, but of Territories.

Mr. HALE. Both States and Territories.

Mr. DODGE, of Iowa. They commenced when the States named were Territories. When they were all your lands and your property, you desired to know, as far as science could inform you, whether there were contained, within the bowels of the earth, minerals—lead, coal, tin, copper, &c., which they do contain; and for your own purpose, with a view to the increase of the minimum price, which you always raise in a certain case, when, by scientific investigations, you ascertain that the lands come within a certain category. For this purpose, you commence these scientific surveys, which have received the attention of the Senate, and for which, from year to year, just as now, these sums have been appropriated. This report was ordered at the special session of the Senate last year, and the extra numbers were ordered at this session; and, but for the difficulty in relation to the printing, would have been long since printed and distributed. They are not for Senators. They are for the public—for the people. They are for distribution, if every man who receives them does his duty to his constituents, as I doubt not all will.

The final report of Dr. D. D. Owen, for the publication of which this appropriation is proposed, embraces a country equal in area to four times the



State of New York, and twice and a half as large as the island of Great Britain.

It defines the limits of the geological formations, and their mineral character, from the great lead region, on the south, to the extreme northern limits of the United States, embracing the country bordering on Red river of the north; the whole of that part of the Lake Superior country situated both in Wisconsin and Minnesota; the country lying to the sources of the Mississippi, the St. Louis river, Rainy Lake, the Lake of the Woods, and Red Lake. It defines the boundaries of a new coal field, lying on the west side of the Mississippi, in Iowa, as well as the underlying and overlying formations that encircle and abut against it.

It describes, with the aid of minute local detailed sections, the elements of stratification of all the beds of rock which present themselves, along the course of the principal streams in Wisconsin, Iowa, and Minnesota; especially on the upper Mississippi, north of the Wisconsin river; the Wisconsin river, from its mouth to the gravities and traps that commence near "Whitney's Rapids;" of the Des Moines river, from its mouth to the "Great Plaster Bed," near its "Lizard Fork;" of the Missouri river, from Council Bluffs to its confluence with the Mississippi. It exhibits, by a map—the original of which is nearly ten feet by four—the superficial area of those great geological formations, not only as they extend through Wisconsin, Iowa, and Minnesota, but also their connection with the formations of Illinois and Missouri. By means of these sections, sources of information are laid open to the miner, which will enable him to estimate the depth, hardness, consistence, and mineral contents of the various beds which he must penetrate in his search after mineral treasures, and the data thus furnished to him by which he can calculate the labor and expense of any proposed work, whether it be mining or internal improvement. They, moreover, lay bare to the inspection of the quarryman the various materials best suited for constructions along the lines of public works, or for private enterprise. They designate the position, succession, and inclination of the workable beds of coal throughout the valleys of the Des Moines, Iowa, Missouri, and Mississippi rivers.

Mr. HALE. As the honorable Senator has made a personal appeal to me, that he and I should disgorge our books, I want to tell him that I have anticipated him in that respect. I should not have mentioned the fact—and I do not wish to boast of it—but for his personal appeal to me. I have given away every single one of the books I have received, by the order of the Senate, to a public library in the town in which I live, on the express condition that they shall always be kept for the inspection of the whole people; and that, when the institution to which they are thus transferred shall fail thus to keep them, they shall become the property of the State library. Thus, so far as I am concerned, I have anticipated the Senator's proposition; and I am obliged to him for the speech, because it gives me instruction. I want instruction; and I would as lief take it from a Senator here as from my own Legislature.

The Senator has defined his position. He is opposed to the sins that have been committed, but in favor of those that are to be committed prospectively. He is opposed to the books that we have distributed, and in favor of those that have not yet been distributed. I think that is his position. I do not expect to be successful in my opposition to this, but I confess that I cannot see the difference.

The Senator says that these books are not for the Senate—that they are for distribution. Is not every single document of which you order the printing of extra copies, printed upon the supposition that they are for distribution? This document stands upon the same footing with every other document of which you order extra copies. I have uniformly voted against the whole of them. I remember, when I made a motion, in the early part of the session, for printing an extra number of some documents that related to a great national affair—the government of the Navy—an honorable Senator from Missouri, [Mr. ARCHISON,] whom I always hear with pleasure and with profit, said, that he did not know what possible benefit the printing of an extra number of that document could be to the people of Missouri; and, as he

was there to look out for the people of Missouri, and they had not any salt-water sailors upon whom the discipline of the Navy was to work, he was against going into this national expenditure for such a local object. He thought it was a local object, because he was not aware of any possible interest that it would be to the people of Missouri. If I had not heard that from a Senator standing so high in the Senate and in the public estimation as the honorable Senator from Missouri, I should not have thought it was exactly proper. But I do think so now. [Laughter.] But to apply the same principle here, let me ask, if a publication relating to a public interest of the Government is not as interesting to the citizens of all the States as the local geology of one or more of the States of the Union?

I am not so vain as to believe that I shall be successful in my opposition to this item; but, as I understand the Senator from Virginia, there is also provision to be made for printing these documents for the House of Representatives, at an additional expense of \$30,000.

Mr. HUNTER. Only \$17,000 for the House.

Mr. HALE. That makes the whole, then, about \$50,000. If you are going to print at the public expense the geology of the States, the explorations of which have been made at the expense of the General Government, I do not see why other States which have made geological explorations at their own expense, should not come in and ask to have their geological reports published at the expense of the General Government. Now, I know that several of the New England States, and, I think, New York and Pennsylvania, and some other States, have, at great expense, prepared geological reports of their own States, and I do not see any reason why they should not be published as well as these. But I leave the subject.

Mr. BORLAND. I think the Senator from New Hampshire makes his objection to this a little too late. He ought to recollect that this is simply a proposition to pay for the work that has already been ordered by the Senate, and which is now in the course of preparation. Last spring, at the called Executive session, the Senate ordered this work to be done. And, in order to have it properly done, it was ordered that it should be done under the supervision of the General Land Office. Since the meeting of Congress at this session, additional numbers have been ordered of this work, and Dr. Owen, under the direction of the Commissioner of the General Land Office, is now in Philadelphia, passing the work through the press. So it has been done under the supervision of the General Land Office, rather than under the supervision of the Committee on Printing, or the Secretary of the Senate, as has been usual. There seems to be some question whether it should be paid for out of the contingent fund of the Senate, or by a separate appropriation. To meet that difficulty—as the money has to be paid either one way or the other—the proposition has been made to pay it in this appropriation bill. I think it is a very proper place for it, and, in fact, the only place proper for it.

Mr. HAMLIN. The propriety of paying for this work which has already been ordered, cannot, I think, be well questioned by the Senate. But there is one point in relation to it, which I feel it to be my duty to state, and which may induce the chairman of the Committee on Finance to suggest a smaller amount of appropriation than the amendment now provides for. This work was originally ordered to be printed by the Senate at its called Executive session last spring. I have not been able to put my hand upon the proceedings of the Senate for that session, and I have not, therefore, the language in which the order was made. But I think the order was, that there be the ordinary number of the work printed and executed under the direction of the Commissioner of the General Land Office.

At some day during this session there was an order passed by this body for 5,500 additional copies of the work, to be printed under the direction of the General Land Office. Under these two orders, it is said that the Commissioner of the General Land Office includes both printing and binding. It is also said that the binding is to cost \$2 50 a volume. These facts were communicated to the Committee on Printing. Before these extra numbers were ordered by the Senate, the Print-

ing Committee had made a contract with Mr. De Camp to do all the binding of the Senate at twelve and a half cents per volume. The binder made an application directly to the Committee on Printing, stating that he was entitled to the binding of these 5,500 additional copies, because they had been ordered subsequent to the making of his contract with the Senate. Under that view of the case, the Joint Committee on Printing unanimously passed a resolution that in their opinion the binder to the Senate was entitled to this work under his contract, at the rate of twelve and a half cents a volume, and they passed a resolution directing the Commissioner of the General Land Office to hand over this work to the binder of the Senate for the purpose of having it bound by him under his contract.

If the Commissioner of the General Land Office shall regard the order of the Printing Committee, this work will be bound for twelve and a half cents a volume; while if it shall be bound under the direction of the Commissioner of the General Land Office, I am told that it will cost \$2 50 a volume. If the Commissioner of the General Land Office, therefore, shall carry out what is fairly a vote of the Senate, and what he has been directed to do by the unanimous vote of the Joint Committee on Printing, then there will be a diminution which may be made in this appropriation of some \$10,000 or \$15,000. I make these suggestions to the honorable chairman of the Committee on Finance, that he may take such course as he shall see proper.

I desire, further, to say that I believe the binder to the Senate, at this session, has complied with his contract, and the works that he has already bound are bound in a very neat and proper manner, and in a manner which is fully adequate to the wants of the country. I hold in my hand a volume of the report on commerce and navigation, which has been bound by him, and it is bound in a very respectable manner—in a way, I think, which will do ample justice to this work. It seems to me that this is a point to which the Senate may well direct its attention, and that we may thus save nearly \$2 50 on each volume of this work in its binding.

Mr. HUNTER. I would suggest to the Senator from Maine, who is cognizant of all the circumstances of the transaction, that he should propose a proviso, requiring the Commissioner of the General Land Office to have the books bound by the binder to the Senate. I believe that would accomplish his object.

Mr. HAMLIN. I have no objection to that. I have already stated that the Committee on Printing have unanimously directed the Commissioner of the General Land Office to have them bound there; and I think that a proviso, such as suggested by the Senator from Virginia, might be unnecessary. I was about, however, to suggest a proviso, that not more than twelve and a half cents a volume should be paid for the binding.

Mr. DODGE, of Iowa. I have no doubt in the world that the Commissioner of the General Land Office will receive and act upon the suggestions of the Committee on Printing.

A single word in regard to these reports. They are not reports for Iowa, or Wisconsin, or Minnesota. They are geological reports of the lands of the United States, ordered by ourselves. We have nothing to do with it. If New Hampshire and other old States have made geological surveys, they are surveys of their own lands. We do not own these lands. They are not our property.

Mr. BORLAND. I would say to the Senator from Maine that I think he must be somewhat mistaken on some point, as to the cost of binding these books. I cannot suppose it possible that the binding will cost \$2 50 a volume. I do not understand how it could possibly cost that for binding these books. I should suppose fifty or seventy-five cents a volume would be as much as would be required. With regard to the binder of the Senate, I apprehend that, if the proposition were made to him, though it were at his own suggestion, that he should bind these books under his contract, he would refuse to do so. His contract relates altogether to books in the octavo form. If we require him to bind a book of a double size, in the quarto form, I think he would hardly do it for twelve and a half cents. If the binder will do it for twelve and a half cents, of course it ought to be done; for the lowest sum ought to be paid. But

I apprehend he would not be willing to do it for that, and I apprehend that it does not come under his contract. I cannot think, however, that under the present arrangement it can cost \$2 50 for binding the volume. Why, for that price the binding would be the most elegant we have ever had in this country. The Senator must be mistaken as to that point.

Mr. BADGER. I very much doubt whether any binding of these works that is suitable and proper can be procured for twelve and a half cents per volume. It should be recollected that it is a quarto book—that it is a book intended for preservation, and from the nature of the materials that are contained in it, it requires a strong binding. The little binding—such as was exhibited in the book held up by the Senator from Maine—may answer for the ordinary books, on light paper, for ordinary purposes; but for books of the kind to which this amendment refers, containing plates, and being of a description requiring also very heavy and solid binding for their preservation, it is all idle to talk about being able to bind them for twelve and a half cents per volume. A man may contract to do it for that sum; but you may take it for granted beforehand that he will not do it as he ought to do it, for that sum. I agree with the Senator from Arkansas, that the idea of this volume costing \$2 50 per volume for binding must be an entire mistake. But I think it is preposterous to suppose that such books as these could be properly bound for twelve and a half cents per volume.

Mr. CASS. They would be better without binding.

Mr. BADGER. Yes, sir; it would be a great deal better to let the books be without binding, and let each person bind them for himself, than to have them bound in such a manner as they would be for twelve and a half cents per volume.

Mr. HAMLIN. I do not state the fact of my own knowledge. I have stated what was communicated to the Committee on Printing, that the binding of this volume was to be in morocco, and gilt, and at a cost of \$2 50 per volume. I do not understand by what process the book can cost the amount proposed to be appropriated here, unless there is some extraordinary expenditure of this character. Well, suppose the binder to the Senate shall not be able to place upon them a binding for twelve and a half cents—his contract, as it is said, holding him only to bind volumes in a quarto form—a binding which should compare with this which I hold in my hand?

Mr. BORLAND. I hope the Senator did not understand me to say that the contract of the binder obliges him to bind volumes of that size. I meant to say that it contemplated books of that size, and that he could not and would not have undertaken to bind quarto volumes at twelve and a half cents.

Mr. HAMLIN. Very well; whether his contract binds him or not to it in terms—whether, under the terms of the contract, he is obliged to bind the work or not, I will not stop to inquire. But if he is bound to bind volumes of the octavo size for twelve and a half cents, he can bind a quarto book for twice the sum, and make the same profit upon it, and will do it. Consequently, in that view of the case, you may save at least two dollars upon each volume by transferring the binding of the book to the binder of the Senate. I think by the terms of his contract he is bound to bind it for twelve and a half cents a volume. Still, if we have presented a volume that was not contemplated when the contract was made, certainly I would not hold him to the rigid terms of it, but would allow him a proportionate sum, and twenty-five cents would be that sum; and thus we would at least save two dollars on each volume above its cost, if it should be bound in morocco and gilt at a cost of two dollars and a half a volume.

Mr. CASS. If there is the least probability that the binding is to cost such a sum, it ought to be prevented; and I would suggest the propriety of inserting a provision to let the work be bound under the direction of the Committee on Printing. That would obviate all difficulty. We would be sure then of having it done for a reasonable sum.

Mr. BADGER. I do not know whether the Senator from Maine has attended at all to the binding of the Indian statistics, to which we made some reference yesterday, under various names—

as the history of romance, and the romance of history, in regard to the Indians. But that book furnishes a conspicuous example of the penny wisdom and pound folly of having valuable books, or books supposed to be valuable, bound in a light and insufficient manner. I can speak in regard to my own copy of the work, that in less than a month after I had it, it was coming to pieces. It was bound with such insufficient and frail materials that they were not capable of holding the weight of the paper together. Now, I would much prefer, according to the suggestion of my friend from Michigan, that we should put in a limitation here, which would leave a reasonable range as to the amount to be paid for binding—say not to exceed a dollar in value. If these books are to be published for preservation, and are of the valuable description supposed by my friend from Iowa, they ought to be bound well and substantially, or else the money paid for their printing would be so much thrown away. If these books should be bound for twenty-five cents a volume, they will be bound in paper that will hardly stick together for a month. Transferring them from place to place will so detach them that the several plates and sheets cannot be held together. This is the case, I know, with the other book to which I have alluded, at least with the one which came into my possession. Other Senators may have been more fortunate in the description of binding of the books that reached them.

Mr. HAMLIN. One word in reply to the Senator from North Carolina. I understand him to say that the volumes to which he alluded—I believe they are the historical account of the Indians—

Mr. BADGER. Indian romance.

Mr. HAMLIN. Yes, "Romance of History." I think the Senator called it—came to pieces, after a very short time, by their usage. Now, I think the example which the Senator has given us is a very unfortunate one for the position which he has taken. The printing and binding of that work cost ten dollars a volume.

Mr. BADGER. How much did the binding cost?

Mr. HAMLIN. I do not know what proportion the one bore to the other. I do not know what was the cost of the binding separate from the printing; but I understand that the edition of two thousand volumes cost \$20,000, which is ten dollars a volume. I do not believe that the durability of the binding depends so much upon its exterior appearance as upon other matters.

Mr. BADGER. Nor do I.

Mr. HAMLIN. I believe that a substantial binding, and one which is fully adequate to this work, may be put upon it for half a dollar; and for that reason I move, to test the sense of the Senate, to strike out \$31,218 75, and insert \$20,000. That will leave a margin of more than half a dollar for binding.

Mr. BADGER. The case I referred to is not unfortunate for my purpose. If the Senator will look at that book he will find that an immense outlay of money was required for the superb engravings which it contains, and the very superior letter-press and paper of which it is composed. The real fact was, that they printed the book in an admirable style, and then they thought they could bind it in any, however imperfect, manner.

The PRESIDENT. The amendment of the Senator to the amendment of the committee is not in order, inasmuch as the sum appropriated was amended to \$31,218 75 by a vote of the Senate.

Mr. BORLAND. I offer the following amendment to the amendment, which I think will meet the difficulty:

*Provided*, That no more than fifty cents a copy shall be paid for the binding of the book.

The amendment to the amendment was agreed to, and the amendment as amended was adopted.

Mr. HUNTER. I now offer an amendment, according to the instruction of the Committee on Finance, to come after the one which has just been adopted, to provide for this work for the House.

The PRESIDENT. A proviso has been inserted in this clause that the binding of the work shall not cost more than fifty cents a volume.

Mr. HUNTER. I propose to add that proviso to the amendment which I now offer, as follows:

To enable the Clerk of the House of Representatives to pay for three thousand five hundred copies of the report of Dr. David Dale Owen on the geology of Iowa, Wisconsin, and Minnesota Territory, ordered by a resolution of the

House of Representatives to be executed under the special direction of the Commissioner of the General Land Office, \$16,187 50: *Provided*, That no more than fifty cents a copy shall be paid for the binding of the book.

Mr. BRADBURY. I would suggest whether, before adopting the amendment, it might not be advisable to limit the sum. It will be seen that the sum of \$16,187 50 is proposed to be paid for a limited number of books. That sum undoubtedly embraces the expense of binding contemplated. We therefore appropriate a much larger sum than will be necessary. The construction might be that the whole sum would be paid, deducting the amount of the binding for the work itself. I think we ought not to appropriate beyond the necessary sum.

Mr. HUNTER. The estimate was made by the Commissioner of the General Land Office. I have no means of knowing how much was estimated for the binding, and how much for the other portion of the work; and I therefore have not the information to enable me to reduce the estimate with sufficient certainty. I apprehend, however, that if we attach this proviso to it—to pay not more than fifty cents a volume for the binding—the Commissioner will spend so much less than he originally estimated for that part of the work; how much that was, we have no means of knowing.

The amendment was agreed to.

The next amendment of the committee is to add to the clause "for payment of the second and third volumes of the Fifth Series of the Documentary History, under contract with the Secretary of State, in addition to the balance of the appropriation of \$35,000 per act of the 30th of September, 1850, \$11,294," the following:

*Provided*, That in addition to the conditions imposed on the contractors in the act of March 3, 1843, making appropriations for the civil and diplomatic expenses of Government for the fiscal year ending the 30th of June, 1844, it is hereby prescribed that not less than two volumes annually shall be published, and that the whole shall be completed in five years: *And provided further*, That the parties interested in this contract shall signify their assent to this further condition in the manner prescribed in relation to the other conditions conferred upon them in that act.

Mr. HUNTER. Before this proviso was introduced, I consulted one of the contracting parties—the printer—who was very willing that it should be introduced; and it was a desirable object to hasten the publication, if we could do so; but Colonel Force, the gentleman who collects the materials, came to see me in relation to it, and said that it was impossible that he could get it out so fast. I called at his office this morning, and he showed me the mode in which he is collecting the materials; and he convinced me that this proviso would require him to bring out the work faster than he can do so consistently with the character and objects of the work. He says that, although he cannot pledge himself, yet it is his interest to get out the work as fast as possible; and he will endeavor to bring out three volumes in two years. That being the case, I think we had better not pass the proviso; and, therefore, I do not press it.

The amendment was not agreed to.

The next amendment of the committee is to add to the clause "to cover the balance of compensation due to the United States geologists for the Lake Superior region, and for Wisconsin, Iowa, and Minnesota, and to their respective assistants, including the cost of superintending the printing of their final geological report, \$5,952," the following proviso:

*Provided*, That there shall be no further geological survey prosecuted in Oregon, unless authorized by law.

Mr. HUNTER. That proviso was introduced by the committee, because they found that a part of this estimate of deficiencies was occasioned by the employment of a geological surveyor in Oregon, for which there had been no previous appropriation, and no law authorizing it. It had been done because it was earnestly asked for by the inhabitants of the Territory, I believe, or, at any rate, by the Delegate, and because they thought it, at the Department, politic to do so. But the committee believed that it was a dangerous practice, and have offered this proviso to check it. I think that geological surveys, especially after the specimens which we have had of their expense, ought not to be carried on without the authority of Congress.

The amendment was agreed to.

The next amendment of the committee is in the clause for compiling, printing, and binding the

Biennial Register for 1851, in addition to the amount appropriated per act of 3d of March, 1851, to strike out \$1,800, and insert \$2,253.

Mr. HUNTER. This is rendered necessary on account of a clerical error. It was suggested by the Department.

The amendment was agreed to.

The next amendment of the committee is to insert the following:

And also a sum not exceeding \$10,734 65 is hereby appropriated to pay Adam Boyd Hamilton, according to contract, for printing 20,000, and binding 18,610 copies, of 396 pages each, of the Register's report of the commerce and navigation of the United States, for 1851.

Mr. HUNTER. This appropriation is made upon an estimate from the Department, and upon the recommendation of the Committee on Printing. Owing to some mistake, provision was not made for it in the last appropriation bill.

The amendment was agreed to.

The next amendment of the committee is to insert the following:

The sum of \$10,000 is hereby appropriated, to be paid to and expended under the direction of the Attorney General of the United States, in procuring such copies or other evidence of the laws, decrees, or ordinances of the Spanish or Mexican Governments, relating to or affecting land claims in California or New Mexico, and also such copies or memorials of said claims as may be obtained from the records of the Mexican Government, with all such other documents and official evidence as the said Attorney General may deem necessary and proper, and may direct to be procured. And for the purpose of procuring the information aforesaid, the said Attorney General is hereby authorized to employ or appoint an agent, who is to act under the direction of, and to receive such compensation as the said Attorney General may allow and order. *Provided, however,* That the whole expense of agency, of procuring books and documents, of transportation, and of translation, and everything connected with the work, except the printing, shall not exceed the sum herein appropriated.

Mr. HUNTER. I have a letter from the Department in relation to this subject, which I would like the Secretary to read.

The following letter from the honorable J. J. Crittenden, Attorney General of the United States, addressed to Mr. HUNTER, was accordingly read.

DEPARTMENT OF THE INTERIOR, April 7.

SIR: I have the honor to request that an appropriation of \$10,000 may be made, by the deficiency bill, now pending before the Senate, to enable the Department to send an agent to the city of Mexico, to collect, translate, and compile the various laws of the Mexican Congress, and the ordinances of the Supreme Executive of that Republic, having reference to donations and grants of public lands, &c. The Board of Commissioners, appointed under the act of 3d of March, 1851, to ascertain and settle land titles in California, is now in session at San Francisco, and it will probably soon become necessary, in the discharge of their functions under that act, for the courts of the United States to adjudicate and determine the validity of those titles according to the laws, usages, and customs of the Government from which they were derived. Prior to the treaty of Guadalupe Hidalgo, these laws and customs were foreign to the country, and are now but little known or understood; and the necessity, therefore, of placing in the hands of the officers of the Government and of the Judiciary, the laws, usages, and customs by which their action is to be governed, is alike obvious and indispensable.

Mr. DAWSON. I move to strike from the amendment the words "Attorney General" wherever they occur, and insert in lieu thereof, the word "President," so as to make it read "President of the United States."

Mr. GWIN. I hope that will not be done. This matter has been thoroughly examined, and the necessity of the appropriation brought to the notice of the Secretary of the Interior, and by that Department to the Committee on Finance, by the Judges of the Supreme Court of the United States, and by the Attorney General. It is exclusively a law question, and one that pertains to the Law Department of the Government. I am perfectly confident that the amendment is in its right place; that the provision is right as it now is; and I hope it will not be changed. The only question in the Finance Committee was, whether the Attorney General or the Supreme Court of the United States should appoint the agent; it was considered that one or the other should do it.

The PRESIDENT. There is a letter here, signed by the Hon. John Catron, one of the associate justices of the Supreme Court of the United States, and addressed to the Secretary of the Interior, which will be read:

"WASHINGTON, April 7.

"SIR: On yesterday I was shown a document signed by the two Senators and one of the Representatives from the State of California, asking your opinion as to what amount of money would be necessary to send an agent to Mexico, for the purpose of collecting the laws applicable to land claims, now in course of investigation by the board of commissioners in California, and likely to be presented (in part) to the Supreme Court of the United States.

"I agree with Attorney General Crittenden's statement, indorsed on the paper referred to, that the compilation of the laws proposed is not only necessary, but indispensable, in my opinion, to a proper understanding of the laws according to which the claims originated. The eleventh section of the act of March 3d, 1851, imposes the duty, in terms, on the district and supreme courts to adjudicate the claims according to the 'laws, usages, and customs' of the government from which each respective claim is derived. This duty Congress demands, and it must be performed. But it is impossible to do so unless the laws are known to the judges, according to which they are commanded to decide. These laws were foreign to our country previous to the treaty of Guadalupe Hidalgo. Since that treaty, they are as much municipal laws as those of Louisiana; and the courts of justice are equally bound to administer them, without proof of their existence and import. I therefore hope the courts will, at the soonest day, be furnished with a collection of those laws, and a true translation of them. As to the amount of the expense, it is a mere trifle compared with the enormous amount in dispute."

Mr. DAWSON. Under the suggestion of the Senator from California, I will change the motion which I made. I will only move to strike out "said Attorney General," and insert "President" in the following part of the clause:

"And for the purpose of procuring the information aforesaid, the said Attorney General is hereby authorized to employ or appoint an agent, who is to act under the direction of, and to receive such compensation as the said Attorney General may allow and order."

The President has the appointing power, and the amendment is for the purpose of requiring that the President shall employ the agent, who will still be under the control and direction of the Attorney General of the United States. Yesterday, in a case where the appointing power was conferred upon the Commissioner of Indian Affairs, we changed it, and put it upon the President of the United States. I now propose to make the same change.

Mr. BADGER. I think the amendment is nearly right as it now stands. The amendment proposed by my friend from Georgia [Mr. Dawson] originally, would, I think, have been wrong; but whether it was right or wrong, undoubtedly the amendment now proposed by him is clearly and unquestionably wrong. By the amendment proposed, at present, this money is to be placed in the charge of the Attorney General. He is to take measures for embodying, collecting, and translating these laws for the adjudication of the land claims, and then after you direct him to perform the duty, you interpose a subsequent provision—that the President of the United States is to elect the agent whom the Attorney General is to employ. There is nothing irregular in the bill as it now stands; the President of the United States has the appointment of all officers under the Government, with a few exceptions; but we have a right to give the heads of Departments the appointment of agents and subordinate officers.

Now, this is a matter relating to the legal department more immediately under the control of the Attorney General, who is the general law adviser of the Executive; and my friend from Georgia has fallen into a mistake. The amendment we passed yesterday did not confer on the President the power of nominating the officer to whom he alluded, but put it in the power of the head of that Department in which the Commissioner of Indian Affairs is a subordinate.

It seems to me that the amendment is right as it now stands. There is no intrusion on the authority, respect, or dignity, of the President of the United States. On the contrary, it appears to me that there would be a large infringement on both by this new amendment, which would put the President on the footing of a joint agency with the Attorney General, the latter having the control and management of affairs, and the President merely the power of appointing the agents through whom the duty is to be carried out.

Mr. DODGE, of Iowa. I shall vote for the amendment of the Senator from Georgia. I think it is right. I recollect that my friend, in the able speech that he made with regard to the abuses which took place on the Pacific coast, declared that he dealt not with commissioners, nor with subalterns and subordinates. Here is an important duty to be discharged, and I am for dealing with the President of the United States; I prefer him; he is accountable. I do not know which is most likely to be the candidate for the Presidency, the present President or the Attorney General. Both of them are excellent gentlemen. I desire that the present President should be held accountable.

Mr. GWIN. This is exclusively a legal question, and relates to the collection of law papers, and is merely temporary in its operation. These papers are to be collected for the purpose of having them brought here to the Supreme Court of the United States; and if they come there, it is that they may be used in the examination of the claims of the commissioners in California, and others. I agree with the honorable Senator from North Carolina, that the Attorney General should not only have the power to collect these papers but to appoint the agent. The Attorney General is the head of a Department, and he should be held responsible for the appointment. I would not give this duty to a chief clerk, but the Attorney General is the responsible law officer of this Government, and is the head of a Department.

Mr. BADGER. As much so as the Secretary of State or the Secretary of War.

Mr. DAWSON. I maintain that it is improper to confer this appointing power on the Attorney General. It is a part of the duty of the Executive. It is said that this is entirely a legal question. Would gentlemen contend that the appointment of a judge of the Supreme Court of the United States could be better performed by the Attorney General than by the President of the United States? Will it be said that the Attorney General is a better judge of the qualifications of the individual to preside upon that bench than the President of the United States? I cannot see for my life why this course is preferred; why gentlemen prefer this violation of the course which is usually pursued. Here is an appointment to be made. In what department of the Government is the appointing power? It is in the Executive Department; and, in the language of the Senator from Iowa, [Mr. Dodge], he is the responsible head. I do not understand why this appointment should be given to a department—and not exactly a department either, for the Attorney General is merely a member of the Cabinet by courtesy; he is responsible to the President of the United States.

Mr. BADGER. He is always his counsellor.

Mr. DAWSON. The plan I propose is this: That the execution of the order should be in the hands of the Attorney General, and that the appointment of the individual should be in the hands of the President. I have no objection to the Attorney General; none at all.

Mr. FELCH. I do not see the object of making the amendment proposed by the Senator from Georgia. It seems to suppose that this is a matter which can only be properly intrusted to the gentleman who is now at the head of the Executive Department, and that that would be the only proper way of making this appointment. I rise, however, for the purpose of calling the attention of the Senator to a case calling for an appropriation precisely similar in its character to the one called for here. Three sessions ago the Senate passed a resolution providing for obtaining the information which is now sought to be obtained under this provision. A resolution passed the Senate by which the Committee on Public Lands were instructed to provide the means necessary for obtaining this information; and in order to accomplish that, they were authorized to employ some person who might be competent to perform the duty thus required, and an appropriation was accordingly made for that purpose. The committee proceeded to appoint an individual, (Mr. Jones,) who made that examination. He obtained the laws, ordinances, &c., required; he made a translation of them, and presented them to the committee, but, for some reasons, he afterwards withdrew them, and refused to submit them again to the committee. He received no pay for the duties which he performed. The manuscript was withdrawn, and by that withdrawal we were prevented from obtaining the necessary documents. In that instance it was not thought at all necessary to go to the President of the United States, or even to the head of the Department. It was a subordinate matter, and was submitted to the charge of the committee in the manner I have mentioned, and was left entirely to their discretion. The object was considered very important by the committee, and was again submitted; but no resolution was passed by the Senate on the subject. The Senator from Missouri objected, and the proposition failed.

Now, in this case it will be observed, that the



first part of the provision commits the charge of the matter to the Attorney General. He is to superintend the matter, as the law officer of the Government. It is a highly responsible duty—one requiring a great deal of care and attention in obtaining all the documents which are necessary, and in rejecting those which are voluminous and not necessary, and which cannot be properly embraced in this proposal. But the duty which is to be imposed on the person, whoever he may be, is merely the duty of an agent to assist the Attorney General in gathering together the materials to be used. That agent is to be sent to Mexico for the purpose of getting up the materials which the Attorney General makes use of, to be arranged and presented in a proper form for the action of the Senate of the United States, so that we may have them before us, worthy of being printed, and furnishing all necessary information on this great and important subject.

Mr. BADGER. I dislike to trouble the Senate again upon what appears to me to be a very small matter. I was not aware, until I heard the remark made by my friend from Iowa, [Mr. Dodge], that there was any connection between this appointment and the issues of the next presidential campaign. If I had been aware of that, I would have considered the matter of more intrinsic importance, and would have taken more time to inform myself before I decided in my own mind in relation to this important question, as to whether this person should be appointed by the President of the United States, or whether this high, important, overruling, awful trust, should be allowed to rest in the hands of so insignificant a person as the Attorney General of the United States. But having thus far committed myself, I am disposed to maintain my consistency.

Now, my friend from Georgia says, that as the President of the United States is the head of the Executive, he has the appointing of all officers. In answer to that I will say that, with the exception of a few officers specified by the Constitution of the United States, the President holds the appointment of every officer, subject to the will of the Senate. The Constitution declares that judges of the Supreme Court and others—enumerating certain officers—shall be appointed by the President, by and with the advice and consent of the Senate. But Congress may vest the appointment of such inferior officers as they please, either in the President alone, or in the heads of Departments, or in the courts of law. Therefore, if this were an office, in the strictest sense of the term, implying continuous employment, or the successive appointment of new persons to hold an office, it would be nothing to the argument of the Senator from Georgia. None at all. Our power over the subject is absolute. But, in the proper sense of the term, this is no office. It is a mere temporary trust or agency. A person is not appointed to fill an office with permanent duties, embracing in the nature of the case a succession of new individuals to keep it up, and carry it on; but here is a man appointed to go and collect some papers, under the direction of somebody; but this amendment proposes to place \$10,000 in the hands of the Attorney General, for the purpose of accomplishing this object. Now, the Senator from Georgia says it will not be treating the President exactly well, to give the Attorney General the power of appointing this agent. That is all. Suppose this matter carried out: the Postmaster General appoints to office a number of post office agents—men who go round and investigate accounts; who superintend a great portion of our great postal system. It never entered the head of any man that it was either proper, or necessary, or useful, or expedient, or advisable, that the appointment of these persons should be placed in the hands of the President of the United States. Is it not the uniform course and custom of the Government, whenever an agent is to be appointed to discharge certain duties, the general supervision of which is under a particular head, that that particular head is allowed to select the agent to carry them out? Certainly it is. Look at the Department of the Interior—the head of that Department appoints all the subordinates; and it appears to me that if this money is to be placed in the hands of the Attorney General, and if he is to collect certain papers, it would be proper to leave to him the appointment of the agent who is to collect them. I must confess that I think it would be a very small business to

call on the President of the United States to make the appointment.

Mr. BAYARD. I agree with the honorable Senator from North Carolina, that with regard to the constitutionality of the question, there can be no doubt. I believe that Congress can appoint this officer, or agent, or whatever name you please to give him, without any reference to the appointing power on the part of the President of the United States. I think it is a question of expediency. And I disagree with the Senator from North Carolina, [Mr. Badger], and also with the Senator from Michigan, [Mr. Felch], when he speaks of the duties of this agent as being merely to collect papers and arrange them for the use of the Attorney General. When we look at the scope and the power given to him, I will answer for it, that the agent is to perform the whole business, and that the Attorney General will merely appoint the agent. It requires for the superintendence of such a work as the collecting of legal documents in Mexico, intelligence of a very high order, and a legal acumen and capacity which few possess. It is not to go there to pick up a document here and a paper there for the Attorney General to arrange afterwards, for the benefit of the country. I submit that this appointment is more important than has been supposed, and that the real and important duties will be performed by this agent.

The question is one of expediency, as to who shall exercise the expediency of appointing this agent. The President may appoint him, and I think he should do it. You place in the hands of the Attorney General the sum of \$10,000 for a variety of purposes, among which is the payment of the agent himself. I ask if it is not wiser that the discretion to appoint the agent should be different from the discretion exercised in superintending the work afterwards, and in expending the money? On that ground I shall vote for the amendment of the Senator from Georgia.

Mr. BORLAND. If the Senator from Georgia insists on his amendment, he ought to propose to amend still further, and provide that the President should send the name of the person he appoints to be confirmed by the Senate. If this is a matter of so much importance that the Attorney General cannot be intrusted with it, I think it must be of sufficient importance to require the further amendment I have suggested.

The PRESIDENT. The question is on the amendment of the Senator from Georgia.

Mr. BORLAND. I ask for the yeas and nays.

The yeas and nays were ordered and taken, and resulted—yeas 18, nays 21; as follows:

YEAS—Messrs. Atchison, Bayard, Bell, Brodhead, Brooke, Clemens, Dawson, Dodge of Wisconsin, Dodge of Iowa, Geyer, Hunter, Jones of Iowa, Jones of Tennessee, Mangum, Rusk, Spruance, Wade, and Walker—18.

NAYS—Messrs. Adams, Badger, Borland, Cass, Clarke, Cooper, Davis, Douglas, Downs, Felch, Gwin, James, King, Miller, Morton, Pearce, Sebastian, Seward, Shields, Sumner, and Whitcomb—21.

So the amendment was rejected.

The question then recurred on the adoption of the amendment proposed by the committee, and it was decided in the affirmative.

The PRESIDENT. The next amendment is as follows:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500.

Mr. BORLAND. As that amendment is likely to give rise to considerable discussion, I would suggest to the honorable Senator from Virginia, [Mr. Hunter], the chairman of the Committee on Finance, that he should withhold it for the present, and let other amendments be acted upon which will give rise to no discussion, reserving this to the last, as upon it I presume the main discussion will take place.

Mr. BADGER. This is the last amendment of the committee.

Mr. BORLAND. I have an amendment to propose to another portion of the bill, which, I think, will give rise to no discussion, and I would like to have it acted upon first.

Mr. HUNTER. There are other amendments from the Committee on Finance, which we can go

on with by letting this be passed over for the present, which I am quite willing to do.

The PRESIDENT. It can only be done by unanimous consent. The Chair must call for amendments from the committee, before any other can be received.

Objection was made to taking up any other amendments.

Mr. GWIN. The amendment proposes to increase the number of trips per annum of the Collins' line of steamers to twenty-six, and give additional compensation for the whole service. The memorial of Mr. Collins and his associates, asking for this increased compensation, was, at an early period of the session, referred to the Committee on Naval Affairs. After a thorough examination of the subject, the committee came to the conclusion that it was proper to increase the service to twenty-six trips, and the compensation per trip to the amount stated in the amendment. Being a member of the Committee on Finance, as well as chairman of the Naval Committee, I was instructed to present to the Finance Committee the amendment under consideration, to be offered as an additional section to this bill.

The successful and masterly policy of Great Britain, in uniting the elements of a commercial marine with those of a naval force, attracted, at an early period, the attention of our National Legislature. Some years elapsed, however, before any active measures were taken by Congress to meet this policy by competition. Meanwhile Great Britain had intersected the waters of the world with the tracks of her swift and powerful mail steamers, and was extracting immense sums annually from American citizens in the shape of freights, postages, and passage money. The twenty thousand American vessels afloat on all the seas, with their countless millions of property, were dependent on the enterprise and courtesy of a foreign nation for the transmission of every letter that passed between them and their owners. Thus Great Britain was enabled to sustain a numerous fleet of mail steamers, (convertible into efficient war steamers,) by contributions levied to a large extent on American commerce; because, unaided American enterprise could not enter into a successful rivalry with the self-sustaining policy and inexpensive liberality of the British Government. For several years this subject was pressed with unavailing assiduity upon the attention of Congress. At length contracts were made which established the present lines of the United States mail steamers, running between New York, Liverpool, and other important commercial points.

The interest with which this experiment was watched by the American people is well recollected. The establishment of the line between New York and Liverpool was regarded as the beginning of a national contest, the issue of which was to decide for many years the question of maritime superiority. If the United States mail steamers had failed in any important particular—in accommodation, security, or speed, as compared with the British lines—the failure would have been a source of national mortification and regret. Impressed with this view of their undertaking, the contractors determined to spare no expense that might be necessary to enable them in all respects to surpass their rivals. Without regard to the calls of their contract, they have built larger vessels than those of the Cunard line, with improved machinery; and it is officially before the country, in the last annual report of the Postmaster General, that these vessels exhibit "*unrivalled qualities*," and establish the "*superiority*" of American skill and enterprise in the construction of ocean steamers. Indeed, it is admitted on all sides, that they are the finest models afloat—the swiftest, strongest, and most beautiful steamers in the world. They are thus, in fact, a school for the steam marine of the country. This school necessarily educates good machinists, engineers, firemen, mechanics, and officers of every grade, alike useful to the commercial and naval marine of the country.

The enterprise and public spirit which induced the contractors to make this effort, and incur these large expenses, have stripped their contract of its commercial value, and rendered it financially disastrous to all who are interested in it. From satisfactory evidence, laid before the Committee on Naval Affairs, it appears that the entire cost of the four steamers of this line, viz: the Atlantic, Pa-

cific, Arctic, and Baltic, amounted to \$2,944,142 71. The sworn statement of the company, showing the actual expenses and receipts of the first twenty-eight voyages of these vessels, exhibits the actual average cost of each voyage at \$63,215 64, and the actual average receipts at \$48,286 85; leaving an average deficiency on each voyage, of \$16,928 79, or for twenty voyages, the sum of \$338,574 40.

Under these circumstances, the contractors call upon the Federal Government for additional assistance, on the ground that they have built larger and better vessels than their contract required of them; that they have been compelled to combat a most extraordinary and unequal competition; that the cost, the interest account, the expense of running, and the premiums of insurance have been thereby largely augmented; and that without thus exceeding the stipulations of their contract and incurring these extraordinary expenditures, they could not have accomplished the great object to which the nation looked with so much solicitude, and now contemplate with so much pride and satisfaction.

This view of the case embraces many considerations which entitle the parties to such an increase of their compensation, as may enable them to maintain against the Government steamers of Great Britain that competition, which will continue, at least, to divide the advantages of the mail and passenger service of the Atlantic with our great commercial rival; for it is sufficiently obvious that, from the moment the British Government made its first contract with Mr. Cunard to carry the Atlantic mail, at £60,000 per annum, (a sum now largely increased,) the door was closed to mere individual enterprise, or commercial competition.

The tonnage of the Collins steamers largely exceeds the whole amount stipulated in their contract, and is competent to perform the increased service required by the Post Office Department. And it should be observed in this connection, that the sum now paid to this line constitutes no charge on the Treasury, but is overpaid by the transatlantic postages, as will be seen from the letter of the Postmaster General to the Naval Committee, extracts from which I will now read:

*Exhibit of postages on mails received and sent by the Cunard and Collins steamers from February 21st, 1849, to March 31st, 1852:*

Postages by Cunard line from February 21st, 1849, to April 27th, 1850.....	\$663,311 55
United States portion.....	\$138,606 55
British portion.....	526,705 00
	<u>\$663,311 55</u>

Postages by Cunard line from April 27th, 1850, to March 31st, 1852.....	1,071,302 34
United States portion.....	\$223,188 00
British portion.....	848,114 34
	<u>\$1,071,302 34</u>

Postages by Collins line from April 27th, 1850, to March 31st, 1852.....	373,337 80
United States portion.....	\$326,670 58
British portion.....	46,667 22
	<u>\$373,337 80</u>

\$2,109,951 69

*United States revenue for the same period.*

1st. By Cunard line letters to 27th April, 1850.....	\$138,606 55
2d. By Cunard line from 27th April, 1850, to 31st March, 1851.....	223,188 00
3d. By Collins line from 27th April, 1850, to 31st March, 1851.....	326,670 58
4th. Newspaper postage to December 31st, 1851.....	46,858 88
5th. Balance on closed mails.....	90,151 58
6th. Postage for State Department.....	3,200 00
	<u>\$628,675 59</u>

The increase of transatlantic postage in 1851 over that of 1850 was.....	\$197,435 61
Increase by Collins line.....	\$143,734 05
Increase by other lines.....	13,701 56
	<u>\$197,435 61</u>

In the preceding statement, the closed mails are estimated for the quarter ending December 31st, 1851, and the newspaper closed mail accounts for the quarter ending 31st March, 1852, are not included.

I will state for the information of the Senate, that the closed mails here alluded to are those sent to Canada and other colonies of Great Britain, upon which a stated sum per pound is paid. Let

it also be borne in mind that the compensation paid the Collins line is \$385,000 per annum; that it has not yet been in operation two years, and we have already received into the Treasury, from postage, by the establishment of the line and the postal treaty, more than the compensation paid to the contractors.

The returns of postages show that they are steadily increasing; and with the enlarged immigration, travel, and commercial intercourse, must continue to increase during the term of the contract.

The postage receipts accruing to the United States Government by the establishment of this line, and postal arrangement with Great Britain, up to the quarter ending 31st March, 1852, amounted, as above stated, to the sum of \$828,675 59, of which amount \$138,606 55 accrued to the Government by the postal treaty, and before the commencement of service by the Collins line, all of which in the absence of our own steamers, and the postal treaty, that resulted from the policy of establishing these lines, would have been contributed by American citizens to the maintenance of the powerful commercial and naval marine of a foreign Government. And this would have been but a small portion of the contribution; for the passage money, the freights on bullion and on expensive articles of merchandise, largely exceed the sum that is levied in the shape of sea postage. Indeed a more ingenious and successful scheme for the maintenance of a formidable steam navy, at the expense of the other nations of the world, and to the actual profit of the British Exchequer, could not have been devised.

I am aware that the objection has been urged against this line of mail steamers or the contemplated increase of pay, that it builds up a monopoly by which individuals are sustained at the expense of other members of the commercial community. But, in my opinion, the aid of Congress was invoked to neutralize an existing foreign monopoly, against which American enterprise could not venture to struggle, until it was also encouraged and stimulated by the aid of the General Government. The aid asked for is to prevent the resumption, by Great Britain, of a monopoly now lost, and which, cost what it may, she ought never to be permitted to regain.

But, passing over this view of the case, the present application loses all semblance of a monopoly, from the stipulation of the contractors themselves to transfer their ships at cost, with their contracts, and all the additional facilities that may be extended to them by Congress, to any persons who may be acceptable to Government, and capable of carrying out an enterprise of such vital interest and importance to the nation. In addition to this, there is \$1,000,000 of the stock of the company, now represented by its bonds and debts, not yet taken, which will continue open to the subscription of American citizens, in the event of a favorable issue to the present application for additional compensation. In considering this important subject in all the aspects in which it has been presented, I cannot avoid the conclusion that it is the true policy and obvious duty of the Government to sustain this line of steamers by such appropriations as may be necessary. The enterprise is one of a national character. It elicits national feeling, pride, and interests, and must be regarded in a broad and liberal view, without reference to the narrow apprehension that too large a remuneration may accrue to individual beneficiaries. If this objection were not entirely removed by the stipulation to transfer the contract, a sense of justice would dictate that the parties who have run the hazard of this enterprise and have achieved its remarkable results, should receive their reward.

Their success has elevated the American name and character; it has wrested from Great Britain the palm of the maritime dominion, and merits such a substantial recognition by the American Government as will indicate that the contest is a national one upon both sides, and not a strife between an association of American citizens and the greatest governmental power of the world. Their enterprise cannot fail to commend itself to every American mind as worthy the spirit of the age, and the genius and destiny of our people.

Mr. HUNTER. Mr. President, I am opposed to this amendment. I know that the opposition which I shall raise will be perfectly vain and fruitless; but I hold it to be a duty which I owe to the

Senate and to the country, to raise my voice against the continuance of a principle which I think I can show is the adoption of that of the protective system in one of its very worst forms. That, sir, is the greatest, but not the only objection to it. In the first place, this is an amendment to a deficiency bill. There is no pretense that we have not provided for Mr. Collins \$385,000 per annum, the sum specified in his contract. There is, therefore, no deficiency.

In the next place, if we should believe that the change made by the Postmaster General ordering up, as they call it in that Department, the service from twenty to twenty-six trips a year, to be right and proper, the addition that should be made *pro rata* would only be, according to his own statement, about \$96,250 for the additional trips, which would make the compensation something like \$481,000 a year for the twenty-six trips. But, in this amendment, (which has been offered to this bill, I think, very improperly—for if Congress mean to bestow this gratuity on the Collins line, it seems to me it should be done as a separate measure, or, at any rate, in one of the general appropriation bills,) we find, as I think, a manifest contradiction. The amendment provides, that the increased service from the first of January, 1852, shall be at the rate of \$33,000 per trip, in lieu of the present allowance; and it also appropriates the sum of \$236,500, in addition to what is already provided. Now, the addition of the sum of \$236,500 to \$385,000, the amount they now receive, makes a fraction over \$620,000 per annum. But twenty-six trips, at \$33,000 per trip, would be \$858,000 a year, which they would get for this service. But take either sum, the higher or the lower, it seems to me, that there is no good reason for granting it in this bill, and at this time. Nor do I believe that it can be justified by sound policy or justice, at any time.

Sir, we are told that this is a grand enterprise, in which the credit of the nation is concerned. On the one hand, we are assured that these individuals cannot keep up this contest without further aid from the Government, because the British Government gives a greater support to the Cunard line; and, on the other hand, we are assured that it has already brought in postages enough to pay us. I understood the honorable Senator from California to contend that the Collins line has already brought in postages enough to compensate for what we have paid for it. In short, we are told that, according to a fair calculation, thus far the line has not cost us a cent. Now, I propose to look a little into that matter.

Mr. GWIN. I stated that the postages received under the postal treaty—which was the result of the policy of establishing these steam lines—into the national Treasury, had exceeded our expenditures for the Collins line.

Mr. HUNTER. Then I understand that the Senator from California does not maintain that the Collins line has brought in as much as we have expended on it?

Mr. GWIN. I never said so. I said the amount received—both by the Cunard and Collins lines, since the postal treaty—exceeded the amount paid for the Collins line.

Mr. HUNTER. Then I submit that it has nothing to do with the question before us. The amount of money that we receive under the postal treaty, and from the Cunard line, has nothing to do with the question as to what the Collins line brings, or how far it is calculated to bring, in money.

Mr. GWIN. It is a part of the same policy. Mr. HUNTER. We charge, on every letter brought by the Cunard line, five cents inland postage. So we do on every letter brought by the Collins line. Is all that to be given to the credit of our share in this grand national enterprise? Why, if we had had no postal treaty—if we had had no steam lines—undoubtedly we should have made a charge for this inland postage upon letters brought here by the Cunarders. Now, if you want to see what it is that the Collins line have brought in to us, and what it is that we have expended, let us look at the report of the Post Office Department.

In the first place, we had to make an advance, I think, of something like \$380,000, to enable the company to build the ships. In the next place, we have given them \$385,000 a year for twenty trips. That is something like \$19,000 a trip.

Now, how can it be said that the English have given a better support, and a larger support, to the Cunard line, than we have given to the Collins line? That is one of the grounds upon which this appropriation is invoked. Why, it is found that the English have given, for fifty-two trips, a sum, as stated by the chairman of the Committee on the Post Office and Post Roads, I think, of \$660,000.

Mr. RUSK. Six hundred and ninety-six thousand dollars.

Mr. HUNTER. Well, that is less than \$14,000 a trip. The English give the Cunard line less than \$14,000, and we give the Collins line about \$19,000 a trip; yet the Collins line comes in here for more assistance. It is proposed to give Mr. Collins \$33,000 a trip, to enable him to sustain this great contest.

Mr. RUSK. I presume the honorable Senator does not wish to be mistaken. He has referred to me for one of his statements, and I hope he will allow me to correct him on that point. The annual pay, according to the last accounts I have seen, (and I understand it is from an estimate of the Admiralty,) of the Cunard line, is \$696,000. To arrive, however, at the conclusion to which the honorable Senator does, that we make a larger payment to the Collins line than the English Government does to the Cunard line, he includes the advance, as he chooses to term it, by this Government, of \$385,000 to the Collins line.

Mr. HUNTER. We pay them that amount annually.

Mr. RUSK. But I understand the Senator to include the \$385,000 given as an advance, as he called it.

Mr. HUNTER. I stated that fact.

Mr. RUSK. Yes, sir, and I wish to put the Senator right about it. The advance was made by act of Congress, to enable them to complete their ships. The \$385,000 were to be paid back to the Government, in annual instalments of ten per cent., with six per cent. interest on the amount, and there has been paid back under that arrangement, out of that amount of \$385,000, the sum of \$77,500.

Mr. HUNTER. That does not alter the main statement upon which I relied in the comparison. We give them \$385,000 a year for twenty trips. That is a compensation of something like \$19,000 a trip. This statement has no reference to any sums heretofore advanced to them, and I say that is a larger compensation per trip than the English give to the Cunard steam-ships; and yet, notwithstanding that, it is now proposed to give them \$33,000 a trip—a great deal more than twice what is appropriated by the British Government to the Cunarders per trip.

But, sir, the statement has been made elsewhere, if not here, (for I have had appeals made to me upon that ground,) that the Collins steamers were bringing enough, or very nearly enough, in the shape of postages to compensate the Government for what had been expended upon them. Let us see how that is. Here is a statement, given to me by the Post Office Department, of the amount of postages brought in by the Collins line, from the 27th of April, 1850, to the 31st of March, 1852, which is a period of very nearly two years. The amount thus brought in has been \$373,337; and it is to be observed, that of this sum, (\$373,337,) the Collins line itself only brought in two thirds. Upon every sea letter twenty-four cents are charged, of which the British Government receives three cents for inland postage; the United States receives five cents for inland postage, and sixteen cents are left to go to the account of the steamers, or only two thirds of twenty-four cents. Therefore, all that can be justly or properly credited to the Collins line is two thirds of the amount of \$373,337, with certain exceptions to which I now come. One is, the newspaper postage, which amounts to \$46,858. That is, as far as I can ascertain, the entire amount of the newspaper postage brought in not only by the Collins, but by the Havre, and Bremen, and the Cunard line; and that is the entire amount which we receive not only for the sea postage, but for the inland postage, on newspapers. Therefore, the whole amount of this newspaper postage is not, and cannot be, properly a credit to the Collins line. How much should be credited to them I suppose no man is prepared to say—certainly not half the amount. I have endeavored to ascertain at the Department how

much of it was fairly to be credited to the Collins line, but I have not been able to do so.

The next item for which perhaps credit may be claimed is, the balance of the closed mails, \$90,150. A portion of this is a credit to the Collins line; but I believe that far the larger portion of it should be no credit to them. These closed mails are for this purpose: The British are allowed to send a closed mail through to their provinces, from New York and Boston, at so many cents per ounce. They are also allowed to send a closed mail by our steamers from New York to the West Indies. This amount of \$90,150 is the aggregate that was received for sending all the closed mails. Observe, also, these closed mails are not brought by the Collins line only, but are also brought by the Cunard line. Some come by the Bremen and Havre lines, so that it is impossible to tell what proportion of this property belongs to the credit of the Collins line—probably not one half of it.

But if you will take the whole of these items for closed mails, and for newspapers, and add them to two thirds of \$373,337 received from postages by the Collins line, within a period of nearly two years, you would still have a sum vastly under what we have given them, by way of compensation during that period, at the rate of \$385,000 a year. The whole, sir, would not equal the amount of one year's bounty. So, then, it is not true that they receive less compensation than the British give to the Cunarders per trip. Nor is it true, that they have brought in to us, by the receipts of postage which are fairly to be credited to them, anything like the sum which they have already cost us.

Well, then, what does this amendment mean, when fairly considered? It is a proposition to enable Mr. Collins and his company to sail these steam-ships as they may choose, from the proceeds of the Treasury of the United States. They are to sail the ships as they choose. And how, I submit, is national credit, or national reputation concerned in such a contest as this? Why, we all know that, if we open the doors and enable the owners of steam-ships and steam lines to come in to be supplied with money *ad libitum*, out of the Treasury, we can maintain that sort of competition with Great Britain. But what do we gain by such an achievement, after we have accomplished it? It would be an achievement, I admit, if we were to develop a self-sustaining business. It would be an achievement if we were to develop a new resource, which hereafter would sustain itself and redound to the profit and credit of the country. But is it any credit to us to succeed in this barren contest, not for power, for it would give us no power, but merely to gratify this desire to sail a ship across the Atlantic as fast as the English ships, if we do so at the expense of our National Treasury? When we come to examine it a little further, we shall find that we do it by ingrafting a dangerous principle upon our system of legislation; that we do it by inflicting great injustice upon other and meritorious classes of the community; that we do it to the injury of a branch of the navigating business which is self-sustaining, and which can sustain itself, if the Government does not interfere to favor others at its expenses.

Sir, is there anything, in such a triumph as this, to be effected by legislation so unjust, which can gratify national pride? Would it not excite a far different emotion in the minds of those who look to wise and just legislation as the chief glory of the country?

Upon what principle is it, then, that we thus justify the grant of this bounty, this meregratuity, to enable steam lines to carry freight and passengers at the expense of the Government? I know that, at one time, it was said that we could thus maintain a navy upon cheaper terms than we could without this system. It was said that it was a substitute for a navy. Under that plausible and seductive cry, many, I know, were carried off; but I believe that there are very few who now maintain that it is in this way that we can build up a steam navy. Why, the very officers who reported upon these ships when they were examined, have said, in relation to them, that the term in the contract that they should be adapted to war purposes was indefinite; that a vessel might be used for many purposes in war, and yet not be fitted for war steamers. Commodore M. C. Perry and Commander R. B. Cunningham, in their report, say:

"In the conversion of these vessels to war purposes, considerable alteration would be required; and though they can never be made equal to those steamers originally designed and constructed expressly for the Navy, still, they can be rendered available in cases of emergency, and without any very great disbursement of money."

Commander Cunningham, in his report, says:

"The term 'adapted to war purposes,' used, I believe, in all contracts heretofore made by the Government, with individuals or companies, is, in my opinion, too vague and general to admit of strict or rigid construction. A sea steamer may in truth be said to be adapted to war purposes, in a certain degree, when she is capable of transporting a large body of men, with their necessary baggage and munitions of war from any one point to any other point on our Atlantic coast—be fully equal to the severe duty of towing the largest class of line-of-battle-ships in or out of action, as the case may be—and yet be incapable, from the slight construction of her upper works, of carrying three heavy pivot guns or a small battery of carriage guns."

In the report of the Secretary of the Navy, which is to be found in the same document, it will be seen that he distinctly repudiates the idea that these steamers are fit for the purposes of war steamers. Who would take any war steamer, built for the purposes of war, either in the British or American service, and attempt to maintain a competition with steam-ships for passengers and freight? Why not? Because, in fitting steamers for war, they are necessarily so heavy in their construction that they cannot have the requisite speed to accomplish such purposes as the Collins liners and the Cunarders accomplish.

Again: I have heard it doubted by officers of the Navy, in whose opinions I have great reliance, whether side-wheel steamers can be converted into efficient war steamers. I have heard it doubted whether the side-wheel itself does not incapacitate a steamer; whether it does not prevent the training of the guns properly; whether the machinery of such steamers is not so much exposed as to cause them to be disabled at the commencement of an action; whether, in short, any but a ship that has its wheel in the stern can be fitted up for war purposes. But these are questions with which I do not meddle. They belong to "experts;" and I do not claim to belong to that class. I only speak of such information as I have derived from conversation with some of the most intelligent officers in our service. But suppose, for the purpose of testing this thing, that the British were to undertake to convert their navy—the vessels which move by sails—to the carrying of freight and passengers, should we emulate them, by engaging in the same business? Suppose that a company were to come here from New York or Boston, and say that, if the Government would help them, they would build such packets to move by sails as could be converted into war ships hereafter; and that, in the mean time, if we would give them so much per annum, they would carry passengers and freight, would any one think of agreeing to any such proposition? No, sir. And yet such vessels of commerce could be as easily converted into ships-of-war as these commercial steamers could be used for the purposes of war. The real purpose was to build up a steam marine by bounties and the aid of Government; and the naval service was rather the pretext than the object.

Then it comes to this, that we must maintain this line, cost what it may, in this struggle of national rivalry; because, if we do not (and that is the real ground on which the appeal is made) the British will sustain their steamers, and then they will get the business of transporting by steam, freight, passengers, and mails—that they will thus acquire a monopoly of the business, and that we shall nothave our share. Clearly, then, the object is to establish a commercial steam marine by Government bounties. Now, I ask if that is not precisely the argument with which the iron men come to us and ask for more protection? What do they say? They say just as it is said for the Collins line, that the British have raised up their works by a long system of protection. They say, "Give us protection, that ours may become sufficiently strong and secure to withstand the effects of competition." The Collins line men say, "Give us this assistance for a while, and we will become a self-sustaining enterprise; we will find that we shall be able to sustain ourselves—that the business will support itself." The iron men say, "Give us a little more protection for a while, and, after some time, these duties will no longer be necessary, for we shall be able to sustain ourselves in the face of all competition."



There is not an argument which can be used for the support of these steamers out of the Treasury of the United States, which, to my mind, does not apply with equal force to the imposition of duties for the protection and support of the iron interest. There is not an argument against protection to iron which does not apply, in my opinion, against protection to steam. Why, what is the complaint? That you protect one class at the expense of another. Have we not before us a memorial from merchants and ship-owners of New York, who protest that they are injured by these steamers which we support out of the Treasury; that the steamers compete with them for the carriage of passengers and freight? Have we not a memorial signed by most respectable merchants and ship-owners in that city attesting this fact? Is it not true? Does it not interfere? and is it proper that we should thus give from the Treasury bounties to an enterprise which is calculated to interfere with the legitimate profits of a self-sustaining business, and one so meritorious, one so worthy of the pride of every American heart as that of our great navigating interest, which heretofore has sustained itself? Look at the contrast. We have, in relation to that interest, thrown the gauntlet to the world. We have said to the rest of the world, Repeal your discriminating duties upon tonnage, and we will repeal ours. All that we ask is fair play and an open sea; and if you can beat us we will take the consequences. What has been the result? What has it been but triumphant and glorious to us, in trying the generous self-reliance of those who dared to risk the experiment? Now, we have commenced this system; and it is proposed that we shall plunge still deeper into a system which is calculated to encourage the steam marine at the expense of the other interests of the community, not only injuring them, but producing complaints, jealousies, and dissatisfactions, which, in my opinion, are well founded.

Let us see how nearly these arguments are analogous. How does it operate as between sections? It is complained of the protective system, when we come to apply it to iron, and woolsens, and cottons, that it benefits one section at the expense of another. How is this? Why, you start these lines from New York. She has lines supported at the expense of the Government, and running everywhere. If you are to afford Government aid and patronage, would not justice require that you should give it to poorer cities—to those that are less able to help themselves? Would not justice require that you should afford it to some other towns, in order to develop the resources of the places from which other lines might start and open a new trade in the country? If we pursue this system, shall we not be bound in justice to attend to other sections? If we give this aid to the Collins line, and New York, how can we refuse it to Philadelphia, and Charleston, and Norfolk, and Baltimore, and Mobile, and New Orleans? With what justice can we thus afford it to the richest city in the Union, and deny it to all the others? I desire to see New York grow. I desire to see her commerce have every facility and aid which legitimately belongs to it; but I am unwilling that injustice shall be done as between classes in this country, or as between different sections. Nor is there anything in this argument (for it is the old protective argument over again) that, if we do not sustain our lines in the competition, the British will acquire a monopoly, and that they will sweep our steamers from the seas. Now, the business of carrying freight and passengers is a business which either pays by itself, or it does not pay. If it does pay, there is no need of a bounty to aid it from Government. If it does not pay, then the more the British lines carry at the expense of that Government, the worse it will be for her, and the better it will be for us; because it will be a transfer which she will be annually making from the pockets of her people to ourselves.

But it is said that a period will come at which the business will be self-sustaining—at which the business will have grown to be so large, that those persons will no longer want this protection. I pray to know, if, when that period comes—when the business is self-sustaining, will not our steamers, our merchants, and our enterprising men go into it? When it does sustain itself, will they not go into it with as many chances of success as the English ship-owners? With greater chances, indeed; for in the interim we shall have

gained, and the British will have lost by carrying our freights and passengers at less than the real cost. And in so large a business would not the less grow so much from year to year as to prove intolerable to those who suffered it? Look at it in whatever light you may, I think you will find that you cannot conduct this system without manifest injustice and impropriety. This thing of national steam-yachting over the ocean—a contest between the two nations to see who can run the fastest steamship, out of their respective treasuries—is a very expensive amusement, and one which will hardly pay. It is an amusement which will cost the people of both countries dearly, if they enter fully into it. For one, I am not disposed to carry it further. I am for carrying out the contract with Collins. I am for giving him what we promised to give him, and if he should come to bring any more to the Government by the sea postages than we give him, I am willing that he should have all of that. I am willing to give it, because that would be putting the enterprise on a self-sustaining footing. I am willing to hold out that sort of encouragement to encourage enterprise and develop trade; but I am not willing to enable him, or any other person, or company, to run steamships at the expense of the Treasury of the United States.

Mr. UNDERWOOD. With the consent of the Senator from Virginia, I wish to make a few inquiries of him. I hardly know how to vote, and I have come to no determination as to the manner in which I shall cast my vote; but I want information. I wish the gentleman to state, because his attention has been directed, no doubt, to the point, if he knows, or whether he does or does not know, that this line is not self-sustaining. I wish to know, from those who may address the Senate upon the subject, whether they have turned their attention to the amount of the capital they invested in building the ships, and the capital employed in hands and labor, and then the profits from freight and passengers? It seems to me, that in this investigation before us, these would be very proper inquiries, and I should like to hear some information in regard to them.

Mr. GWIN. If the Senator from Virginia will permit me, for a moment, I will state that there was a sworn statement laid before the committee. These vessels cost within a fraction of \$3,000,000.

Mr. UNDERWOOD. How many vessels are there?

Mr. GWIN. There are four: the Atlantic, the Pacific, the Arctic, and the Baltic. The average running expense of twenty-eight trips was \$65,000 and odd, and the actual receipts \$48,000; showing a loss on each trip of nearly \$17,000, or on twenty trips of \$338,000. This statement was sworn to before the Naval Committee.

Mr. BORLAND. Does that include the amount received from the Government?

Mr. GWIN. Everything.

Mr. HUNTER. They state the loss to be \$17,000 a trip, after the \$19,000 paid by the Government is taken out. If this statement of the proprietors of the Collins line be true, then the amendment is futile. I wish to call the attention of the Senate to the amendment in connection with this statement. The proprietors of this line say, that after this receipt of \$19,000 per trip from the Government, they still lose \$17,000 each trip. It is proposed in this amendment to raise the price paid to them from \$19,000 to \$33,000 per trip. That is an increase of about \$14,000 a trip; so that if we add that sum, they will still be losing \$3,000 or \$4,000 per trip. There will be that loss on the mere running of the ships, allowing nothing for a fund to be laid up for repairs—nothing for interest on the investment. What good will it afford them, then, to extend the relief asked for by this amendment? When these vessels want repairs, and when they are worn out, there will be no fund to supply them, and they will go down. Then, in point of fact, this amendment would afford no relief.

Mr. GWIN. There was an estimate made of the amount necessary for annual repairs. The overplus was the interest account, which the committee were not determined to allow. The loss is interest upon the capital invested. There is an estimate made for annual repairs. There is an estimate made for each of the twenty-six trips. We know how much it has cost to keep the vessels in

repair, and how much has been received, and what has been expended.

Mr. HUNTER. That would still leave a loss of some three or four thousand dollars a trip, and of all the interest—say \$180,000—annually. I submit, then, that they could have no motive to go on with a business which was inflicting on them an annual or a monthly loss of even that amount. But why should we go to an expense of more than \$600,000, or perhaps more than \$800,000 a year—and I do not know which alternative of this amendment will be adopted. I do not know whether they will be rated at \$33,000 for twenty-six trips, or that the \$236,000 additional is to be added to the \$385,000 now allowed.—I ask, why should we go into this expenditure for the purpose of enabling these men, who have embarked in the enterprise, to regain the money which they have lost?

We agreed to their own proposition. They came here and made proposals. They petitioned for a law, which we granted them. We not only gave the sum of \$385,000 per annum, but we advanced to them \$385,000, to enable them to complete their ships. In trying the experiment, they have lost; and they make such a showing as renders it improbable that they ever can make out of it a business which will sustain itself. What motive, then, have we to prosecute it any further? What good will it do to us to run these ships some three, or four, or five years longer, and, at the end of that time, come to the same conclusion to which we are brought now, that the business will not support itself, and that it must be abandoned, unless we choose to preserve it by way of a national amusement?

Why, it would be better to abandon it now; and if we thought, from the circumstance of their having entered into the enterprise, that they had claims upon the nation, it would be better to compensate them for whatever they have lost, and put an end to the system, rather than to ingraft it upon our legislation. If we commence with this, we must favor other lines. We cannot, with justice, shut our eyes to the claims of other parts. Shall we feed only the rich, and deny everything to the poor? If you are to act upon the principle of treating the different portions of the country with a parental care, you ought to turn to the weak, for the purpose of sustaining them, and not feed to repletion the strong, for the purpose of sustaining them, and in such a manner as throws the expense upon the weak.

Mr. MILLER next obtained the floor; but yielded to the suggestions of Senators; and, On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 21, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER stated as the first business in order, the consideration of the bill from the Senate, "to enforce discipline and promote good conduct in the Navy of the United States."

### VIRGINIA MILITARY LAND WARRANTS.

Mr. MEADE, by unanimous consent, presented the joint resolutions of the Legislature of the State of Virginia, upon the subject of the Virginia military land warrants; which were referred to the Committee on Public Lands.

### ORDER OF BUSINESS.

Mr. ORR. I desire to renew the request made yesterday, that an hour may be appropriated this morning to the call of committees for reports.

The SPEAKER. The gentleman from Virginia [Mr. MILLSON] is entitled to the floor. If that gentleman and the House assent to it, the course suggested by the gentleman from South Carolina will be pursued.

Mr. FITCH. I rise to a question of order. My object yesterday in moving the previous question on this bill was to devote the morning hour, which has been occupied for some time by this bill, to the call of committees for reports. It strikes me that this bill is improperly occupying the morning hour. If it can be placed elsewhere, I have no desire to move the previous question.

The SPEAKER. If the Chair recollects aright, this bill was introduced by unanimous consent.

Mr. FITCH. It is a Senate bill.

The SPEAKER. So the Chair understands, but it was reported from the Committee on Naval Affairs, by the unanimous consent of the House, and therefore is not confined exclusively to the morning hour.

Mr. FITCH. If the bill can be set aside until the morning hour has passed, I shall not insist upon the call for the previous question.

Mr. DEAN. I object to the bill being set aside.

Mr. MILLSON. Suppose the House should devote the morning hour to the call of committees for reports, when will the House resume the consideration of this bill?

The SPEAKER. This bill is the first thing in order in the House during the morning hour, and throughout the day; and its consideration can only be interrupted by the introduction of a privileged motion, such as to go into the Committee of the Whole on the state of the Union on the special order.

Mr. ORR. The bill would come up then at the expiration of the morning hour.

The SPEAKER. It would. The bill can now be passed over informally, if the House desires it.

Mr. SMART. I object.

Mr. FITCH. I must then insist that the gentleman from Virginia shall renew the call for the previous question, when he has made his personal explanation.

Mr. STANTON, of Tennessee. I hope, then, that the gentleman from Virginia will allow me five minutes for personal explanation.

Mr. MILLSON. I will do so.

Mr. JOHNSON, of Tennessee. I want to see if I understand what point of the compass the House is at. I understand that this matter comes up regularly in the morning hour.

The SPEAKER. The Chair decides that this bill, having been reported from the Committee on Naval Affairs by the unanimous consent of the House, is the first business in the House during the morning hour, and throughout the day, on each day until it is disposed of.

Mr. JOHNSON. I understand, then, that it comes up regularly during the morning hour.

The SPEAKER. It comes up in the House regularly from day to day until disposed of, as the unfinished business of the preceding day.

Mr. ORR. Does the time consumed in the consideration of this bill come out of the morning hour?

The SPEAKER. It does not.

#### DISCIPLINE IN THE NAVY.

Mr. MILLSON. I should not have thought it necessary to trouble the House with any further observations upon this bill, but for some remarks made by my colleague [Mr. Bocock] a few days ago. I do not believe that he intended to do me any injustice, but he was not so discriminating as he usually is in the selection of his phraseology, and he has thus attributed to me designs and sentiments which are just the reverse of those I really entertain. I am very much surprised that there should have been any issue between my colleague and myself. The House will recollect, that although he sustained the bill reported from the Naval Committee, yet, he has since said that he means to support the amendment offered by the honorable gentleman from Tennessee, [Mr. Stanton,] to the substitute introduced by me. And, sir, when the House recollects that my colleague distinctly stated that the amendment of the honorable chairman had been prepared almost for the express purpose of obviating the objections which I had urged against the bill, it will be a matter of surprise that, while thus giving this practical evidence of his concurrence in the views which I submitted, he should have thought it at all necessary to place himself in an attitude of antagonism towards me. In the recent debate, he, himself, said that the bill gave a larger discretionary power to the commanding officer than was at all necessary or desirable. My objection to the bill was based upon that ground; and yet, concurring with me, as he did in those views, there was scarcely a single position that I assumed which he did not eagerly, and even virulently, assail. He declared that he could not support my substitute because it was too severe. Sir, I wish he was now here; I would ask him—and in his absence I call upon the honorable chairman of the committee to tell me—one single instance in which the substitute that I introduced is more severe than the original

bill. I will tell him many in which it is less so. All the punishments provided for in the substitute are of the same kind as those contained in the bill, and whenever there is any difference at all, it is because I have modified and softened them.

But, sir, my honorable colleague, doubtless by the injudicious selection of language—and I am sure, without the least intention to do me any injustice—has placed me in a position in reference to this question which I am very unwilling to assume. The reports made of his remarks in the National Intelligencer and Republic—reports entirely justified by the tenor of his speech—represent me as having come forward to recommend a system of punishments most inhuman and revolting in their nature. Thus, he says:

"My colleague has come forward to readopt that old act, (the act of 1800,) with all its faults, and with all its antiquated punishments."

Again he says:

"I maintain that the bill of the committee is better than the gentleman's bill which reenacts the law of 1800."

Again he says:

"These are the provisions of the law of 1800, reenacted by my colleague's substitute."

Again:

"Let these sympathetic gentlemen listen to a description of the punishments which are still authorized in the Navy, and which they recommend still to retain."

Again:

"My colleague puts in a special provision in his bill to reenact and authorize those modes of punishment."

And again he says:

"If there be stricken from my colleague's substitute the provision reenacting the law of 1800," &c.

Now, here are six distinct instances in which my colleague attributes to my substitute a provision reenacting the law of 1800. Sir, there is not a solitary clause or feature in the substitute which "reenacts," as my colleague phrases it, "the law of 1800." Why, sir, the law of 1800 has never been repealed. It is now the law of the land, except as to the punishment by stripes. There is no occasion to reenact the provisions of that law.

The substitute which I offered does not repeal the law of 1800; and because it does not do so, my colleague refers to it as reenacting the law of 1800. Why, sir, I might say exactly the same thing of the bill reported by the Committee on Naval Affairs, and of the substitute now offered by the gentleman from Tennessee, [Mr. Stanton,] for neither repeals the law of 1800.

Mr. STANTON, of Tennessee, (interposing.) The gentleman's colleague is not present to answer for himself, but I think I understand the position which he intended to maintain, and I think his position is correct. The provision in the law of 1800, allowing the commander of a vessel to confine a sailor *ad libitum*, in irons, or otherwise, in my judgment would unquestionably be repealed by the bill proposed by the Committee on Naval Affairs. That was the idea of Mr. Bocock, and that was my belief. The bill expressly provides that no confinement shall exceed a certain length of time. Besides that, in providing specific punishments, and designating the punishments which the commander of a vessel can inflict upon a sailor, all others previously employed are necessarily excluded by a well-known principle of law. But with the gentleman's bill, it is precisely the contrary, and it is, as Mr. Bocock asserts, a virtual reenactment of that provision of the law of 1800; because nothing is given to, or taken from the commander of a vessel; but all the power is put in the hands of a court-martial.

Mr. MILLSON. The gentleman's explanation does not remove the difficulty in the least degree; and he would have found, if he had listened a moment longer, that I intended to do justice to my colleague's opinions upon this subject, by showing how he had fallen into error, or rather into the loose phraseology which he adopted in referring to my bill. I say, sir, that conferring particular powers upon a commanding officer of the Navy does not necessarily take from him the powers which the law confers upon him at the present time, if there be no express provision in the bill repealing the act of 1800, and depriving him of the authority conferred upon him by that law.

But, sir, however that may be, it does not touch the point I am now considering. My object is to call the attention of the House to the statement of my colleague, that certain punishments, which, I

say, never were lawful, and others which are no longer so, were recommended and reenacted by my substitute. He quotes from the articles of war several clauses providing for the infliction of punishments by the captain, and among them one which declares that, for some offences, "a private shall be put in irons, or flogged, at the discretion of the captain," &c. And then, he says, these are provisions of the law of 1800, reenacted by my substitute. Now, my colleague does me great injustice when he makes that statement. He certainly did not mean to say that my substitute reenacts punishment by flogging. Yet his statement amounts to that. I know that he is the last man in this House intentionally to do me injustice. The kind feelings and cordial regard existing between us would forbid such a thing, even if he were capable of such a course towards any one. I am now complaining of his want of care in presenting his argument; but this renders it not the less necessary to set my own position right before the House.

Now, what is the provision in the substitute offered by me, upon which my colleague bases his argument? It is this:

"Sec. 10. And be it further enacted, That any punishment authorized by this act to be inflicted by a summary court-martial, may likewise be inflicted by any general court-martial: *Provided*, That nothing herein contained shall be deemed to abridge the powers of such general court-martial in respect to punishments now authorized to be adjudged, nor to take from any commanding officer the right to order such punishments as, by law, he may now inflict of his own authority."

Now, the sole object of that section was to prevent the inference from being drawn, that by conferring these powers upon the summary court-martial, you thereby took them from the general court-martial; and that, by giving them to the general court-martial, you meant to deny all of them to the commanding officer, who, by the existing law, is vested with some of them—such as the power of confinement. It is only the exclusion of a conclusion. It was put in for greater precaution. My leading object in offering this substitute was to provide for the establishment of a summary court-martial. But I did not wish, in any degree, to interfere with the existing powers of the general court-martial, or of the commanding officer. And, as far as the effect of that proviso is concerned, neither the court nor the commander could inflict any punishment not now authorized by law.

But my colleague read, from a literary magazine, accounts of certain cruel punishments which, he says, have been, and may be, inflicted in the Navy, such as cruekying, bucking, and keelhauling; and he states that I put in a special provision in my bill to reenact and authorize these modes of punishment. He doubtless alludes to the provision I have just read. The bare reading of it is a sufficient answer to this charge. Can my colleague really suppose that these punishments are authorized by the existing law? He seems, indeed, to think so; and I do not know but he succeeded in making an impression upon the House, the other day, by the recital of these cruel punishments. Now, here I take issue with my colleague. I say that no such punishments can be, or ever could be, inflicted by law, in the American Navy.

I go further. I say that no such punishments ever have been inflicted in the American Navy. As to this punishment of keelhauling, which my colleague says is authorized and sanctioned by law in the American Navy, I beg to inform him that it has never been inflicted in any navy within the last hundred and fifty years, and I believe it has never been resorted to in any naval service except, perhaps, in the Dutch Navy, in the time of Van Tromp.

As to the punishment of bucking, of which my colleague gave so graphic an account the other day, I will inform him that within the past few days I have held conversation with three officers of the highest rank in the American Navy. Two of them informed me that about a year ago they were members of a court-martial held in the city of New York, and composed of twelve captains. One of the witnesses having in the course of the testimony used the expression "bucking," the judge advocate, after the court was cleared, inquired of some member what was meant by that term; and out of these twelve naval commanders there was not one who even knew the meaning of the phrase; and yet my colleague speaks of this punishment of bucking as one authorized by the

act of 1800, and which he supposed it was the special object of my substitute to recommend and reenact! Now, will my colleague say that these unusual punishments, a description of which he read from some literary journal, are expressly authorized by the existing law? I am sure he cannot say that. How, then, does he seek to establish his position? Why, he says the commanding officer is authorized to inflict punishment according to the usage of the sea service. Yet, that gentleman, in another part of his remarks, said these punishments were so cruel that commanding officers would not inflict them at all. Now, if they are so cruel that they are not inflicted at all, then they are not usages of the sea service—if not usages of the sea service, they are not authorized by law. So that my colleague's argument is a complete *felo de se*. His very reasoning disproves his own conclusions.

Mr. BOCK. I have this moment come into the Hall. I regret that I have not heard my colleague's logic.

Mr. MILLSON. I regret that my colleague has not: for though I have not as much of that commodity as he was pleased to ascribe to me some days ago, I endeavor to make the best use of what I have; and I wish that he could have had the opportunity of judging whether it was too attenuated to go to the mark, as he seemed to think was the case on a former occasion. Now, sir, my colleague has been endeavoring to prove that the punishments provided for in my substitute were so severe that he could not sustain my proposition on that account. He thus places himself in a position of direct antagonism with the chairman of the Naval Committee, [Mr. STANTON,] as well as other gentlemen who urged the passage of this bill. My colleague says it was designed to take from the captain the exercise of these arbitrary powers. But they urged the passage of that bill for precisely the opposite reasons. The gentleman from Maryland [Mr. EVANS] complained of the defeat of the bill, and said he had been told by a naval surgeon that insubordination had been carried to such an extreme that sailors on board our vessels were daily and habitually accustomed to use the foulest, most profane, and even the most licentious language to their officers, and that there was no punishment for it. The same gentleman also quoted a remark made by my colleague from the Accomac district, [Mr. BAYLY,] about a sailor who threw a missile at his commanding officer, and he said he did not wonder at it, for insubordination had run riot. On the same occasion, the chairman of the Naval Committee said: "Crime must not go unpunished. 'You must give this high and important power to the commanders of vessels, or else the service will go to destruction. This is the feeling of the whole Navy.' It was a proper and just remark of the chairman of the committee. But how does this consist with the declaration of my colleague, who urged the passage of the bill, not for the purpose of strengthening the executive arm, not for the purpose of giving authority to the commanding officer to repress this insubordination, but for the purpose of weakening his authority, and taking from him the right to inflict those inhuman and cruel punishments, which he styled 'bucking,' 'crucifying,' and 'keelhauling?'" No, sir, my colleague, in another part of his address, seemed to think that it would be difficult to sustain his original position, and, forgetting, perhaps, that he had said there was too much authority in the commanding officer, and that it was the object of that Senate bill to take from him this arbitrary power, he appealed to the House most earnestly and said that it was absolutely necessary that there should be some authority vested in the hands of the captain, and protested against taking it from him.

Mr. BOCK. (interrupting.) If my colleague will allow me, I will say that I have not had the pleasure of hearing the whole of his remarks this morning. If the whole of it has been like the specimen which I have heard, I think his logic, always good, has not been particularly successful in this case. The first thing I heard my colleague say, when I came into this House, was this: that because the punishment is too arbitrary to be used by an American captain, that, therefore, it is not in conformity with the usages of the sea. Perhaps my colleague's view of sea service does not extend beyond American ships. The

usages of the sea are made up of the usages of all sailors, on all ships, and on all seas, whether they are American sailors or not. The thing, or act, may be exactly conformable to the usages of the sea, and yet it may be true that it had gone into disuse among American officers, and would have continued in disuse in American service, unless recognized by the substitute of my colleague.

The next thing I heard my colleague say to the House was, that I was forgetful in one part of my address of what I had stated in another part. But, sir, he confounds what I said in relation to one subject, with what I said in relation to another subject. In the latter part of my remarks, I was combating the idea of taking all authority from the captains of vessels, and giving them to these ship courts. I was not saying that there was no authority now in the captains. I did not countenance any such idea as that. I was combating the doctrine that there were to be ship courts, and that all power was to be given into their hands, and it was in that connection that I said that it was absolutely essential that some authority should be left in the hands of the commanding officers of vessels.

Mr. MILLSON. I am always pleased to hear my colleague, and particularly when he speaks as earnestly as he has recently done. I wish he had heard the whole of my remarks. If he had, I think he would have found that there was little necessity for the warmth which he displays upon this occasion. For while I was combating the position of my colleague, yet I was careful to do him all the justice to which I knew he was entitled. I expressly absolved him from all intention to place me in an unfair and unjust position before this House. I was following the argument of my colleague, and combating it.

Mr. BOCK. When I came into this House this morning, from which I have been detained by indisposition for several days past, I did not know what had been the style and character of that part of my colleague's remarks which had been made before I came in. I thought that the latter part, the part which I did hear, was a little unfair, and calculated to do me injustice. From what he has now stated, I am free to say, that if I had known the real character of the remarks which my colleague had made, I should not have said anything on the occasion, or else I should have pitched my remarks upon a different key. I am glad, however, that I have not said anything calculated or designed to injure or wound my friend, for there are few men in this House whom I can so designate with as much propriety as my colleague. I take this occasion to say that I had no idea, and did not intend to convey the idea, in the remarks which I made upon this subject upon a former occasion, that my colleague did actually design to reestablish these antiquated usages, though I thought that it would be the effect of his bill to do so. I had no idea that he designed it; but he had argued against the Senate bill—a bill which met the approval of the Committee on Naval Affairs—by adverting to the remote and possible abuses to which it might lead. I thought it was a fair argument to show the possible consequences which might result from his bill. I only did it as an offset to the remarks which he had made.

Mr. MILLSON. My purpose is to show, that by no forced construction of language could any such design, or any such effect, be imputed to my amendment.

But first, I must resume the thread of my discourse, at the point where my colleague interrupted me, and that is in reference to what he supposes the unfair presentation of his argument. I take him now upon his own explanation. He says, that when he declared there must be some authority vested in the captain, he was commenting upon the idea presented in my substitute, of taking the power from the hands of the captain, and giving it to a summary court-martial. That is what my colleague now says he intended to express. Well, sir, I knew that very well; and it was precisely that inconsistency which I was about to show to the House; for while, in the first part of his argument, he maintained that my bill did not take these powers from the hands of the captain, but that the very effect of it would be to reenact and reestablish these cruel punishments, and authorize the commanding officer to inflict them, he afterwards argued, as if he supposed no such effect would be produced, and that

the passage of my substitute would take too much power from the commanding officer; for he insisted that it was "absolutely necessary that there should be some authority vested in the hands of the captain," and complained of the attempt to transfer it to a summary court. Well, sir, if my substitute does take so much power from the hands of the captain, and vest it in a summary court-martial, as he said the other day, and as he now says again, how can it be that it increases his authority by recognizing his right to inflict all those old punishments?

My colleague says that he does not refer to the substitute, but to the remarks I made in support of the substitute. I refer my colleague to the printed report of my remarks, and he will find that I expressly stated, that I did not design so take any power from the hands of the captain, but to leave him to the exercise of that authority which he now has by law.

But I pass from the consideration of this part of the subject altogether, which has already employed me a much longer time than I intended.

I will say a word or two in reference to that part of the bill to which my colleague objects, and that is the part establishing a summary court-martial. One of his objections to this is, that he does not wish to encourage disputes between the captain and his sailors, and he says the captain must not squabble on every little petty affair before his inferior officers. My colleague has, perhaps, never attended a naval court-martial. My locality has given me an advantage over him in this respect. I have been a frequent attendant at naval courts-martial. It has been my fortune, from time to time, to appear before such courts, as counsel for officers of every grade and rank, from captain down to midshipman. I am somewhat familiar with their proceedings, and if my colleague supposes that there ever has been, or ever can be, under the existing organization of these courts, any squabble between the captain and the sailors, or anybody else, he entertains erroneous notions of these tribunals. Does he suppose that the captain is to be the prosecutor? The captain is vested, by this bill, with the power of pardon. My colleague need not apprehend, then, any squabbling over little affairs between the captain and the sailors. Indeed, he will find that the substitute which I have offered does not provide for the establishment of a court-martial to determine little affairs at all. It expressly declares that no case shall be brought before the summary court-martial, except such as require greater punishment than the captain is now authorized to inflict of his own authority. He says, too, it may sometimes happen that you cannot get a sufficient number of commissioned officers to form a court-martial. Certainly it may. In rare cases it may so happen; but what then? The substitute provides a tribunal for the ascertainment of crimes, and the punishment of offenses which could be promptly organized in a vast majority of cases; and if it should not apply to all, it leaves them exactly where they now are. I have known instances where sailors have been brought into port, charged with serious offenses, and in consequence of their term of service having expired before they arrived in the United States, where only the Secretary of the Navy could convene a court-martial, they were obliged to be discharged without any trial or punishment at all.

Now, sir, the summary courts-martial will enable the commanding officer to try all offenses which are not of so heinous a character as imperatively to demand a trial by a court of higher jurisdiction; but I do not deem it necessary to amplify this part of the case, for my friend from New Jersey, [Mr. PRICE,] in his remarks on yesterday, has expressed himself so clearly, and urged such forcible replies to the objections stated to that part of the bill, that it would be a work of supererogation to add anything to what he has so ably said.

Mr. STANTON, of Tennessee. I ask the gentleman to allow me a few moments.

Mr. MILLSON. Certainly; but before I yield to the gentleman, I wish to make another observation. The gentleman from Tennessee, [Mr. STANTON,] the other day, thought it necessary to advert to my remark in reference to the action of the Senate upon this bill, and seemed to suppose that I had urged a grave charge against that body, and declared that they had acted upon this bill without due consideration. Now, sir, I am very



unwilling to be supposed unmindful of those courtesies which are due from the members of this House to the other branch of Congress. I assure the gentleman that I designed no disparagement to the Senate, nor should I have alluded to their action upon this bill at all, but that the gentleman himself had previously referred to it, saying that the bill had borne the light there, and would bear the light here. I only meant to say that that bill seemed to have met with but little consideration in the Senate. It excited little interest; very little attention seemed to have been given to the subject, and the yeas and nays were not even called. What I said was, that I strongly suspected the Senate may have supposed they were voting upon the bill in its original form, rather than that in which it was presented by the amendments offered from the committee. I have thought it proper to say thus much, because I am not willing to be considered unmindful of the proprieties which should be observed towards the other branch of Congress.

Mr. STANTON, of Tennessee. With the gentleman's permission, I desire to make a few remarks, in reply to some that fell from the gentleman from New Jersey [Mr. PRICE] yesterday. I shall detain the House but a very few moments, and then, by the arrangement made with the gentleman from Indiana, [Mr. FITCH], the previous question will be called.

Now, one of the objections made to this bill by the gentleman from New Jersey [Mr. PRICE] was, that it did not go to the whole extent of the mischief to be remedied, and that it was not a total revision of the naval code. The gentleman admits, and everybody must admit, that such a revision of the naval code would be a work of very great importance; and the Naval Committee upon former occasions, and during this session, have thought that the proper mode of reorganizing the Navy would be to apply to the head of the Navy. Now, the gentleman from New Jersey [Mr. PRICE] seems to think that course objectionable, because, he says, the Secretary of the Navy consults nobody but the old officers around him. But I wish to say to that gentleman, and to the House, that this very provision was suggested to me, and adopted upon the recommendation of one of the lieutenants of the Navy, whose authority, I am sure, would be as great and as commanding as that of any other officer in that corps, or all of them combined. I will further say, that I never introduced a bill into this House, bearing essentially upon the interests of the Navy, without consulting officers of all grades; and I do not think the gentleman from New Jersey is doing exact justice to the Secretary of the Navy, to the Administration, or to any person who may, at any time, occupy those high positions, in the supposition that in providing for the government of the Navy they will take the advice of a single corps of officers, high or low. The true difficulty in this case, and the only point of difference between the gentleman from New Jersey [Mr. PRICE] and the gentleman from Virginia [Mr. MILLSON] and the Naval Committee is, whether the punishment of the sailor for these inferior offenses should be inflicted by the commanding officer or by a court-martial.

I have said, sir, and I adhere to the declaration, for I believe the truth of it firmly, that such a court-martial, upon the deck of a ship at sea, would be a mere mockery of justice. Those stiff and formal rules of proceeding, to which the gentleman refers, as being peculiar to courts-martial, would be impossible; or, if they would be possible, upon the deck of a ship they would be nothing more than a mere farce. The proceedings would be conducted in writing, with all the formalities of a regular court-martial; and I must be allowed to say, sir, that if there be anything which needs reform in our Navy, the very thing of all others which needs it the most is this proceeding by court-martial; for you frequently see proceedings of this kind conducted at very great expense, day after day, and month after month, and upon a cause which would be tried as well, and justice administered perhaps better, in any circuit court in the country, in the course of two or three days. And this, sir, is the system of proceeding these gentlemen propose to substitute for the effective mode of punishment recently repealed by Congress. Now, sir, the gentleman from New Jersey [Mr. PRICE] does not object to the cruelty of these punishments, but on the contrary, he says that the punishments which I propose, in my substitute, are

not sufficient. They are not sufficiently severe, he says; but the difficulty is, that the severe punishment which he proposes, shall be inflicted in a court-martial, composed of three officers, upon the quarter-deck of a ship. Now, I hold in my hand a paper, the National Democrat, published in New York, which finds fault with the bill presented by the Naval Committee, as passed by the Senate, representing the punishments contained in it as very cruel—very cruel, indeed. It says:

"We have always acknowledged the necessity of strict discipline in the Navy. It is a service that from its nature does not admit of the principles of republicanism. You cannot have a jury on board of a ship. You cannot have a republic in the military service of the country, upon shore or on sea."

"The commander, of necessity, is an autocrat, and the officers are his nobles; but, surely, in this free Republic, and in this enlightened age, some rules of discipline might have been framed and approved of that would not have subjected the so-called free American seaman to punishments that a savage would die rather than submit to."

Well, now, this paper thinks that the savage would die rather than submit to the punishment, the power to inflict which this gentleman proposed should be conferred upon the commanding officer.

Mr. PRICE. Do me the justice to say that I did prefer that no action should be had before this House upon either of these bills; and that an entire revision should be made, and more humane punishments should be provided in that revision. And I further distinctly said, that if one of these bills should pass this House, I should prefer the authority to inflict punishment to be given to the summary court-martial.

Mr. STANTON, of Tennessee. The highest and severest punishment proposed by the original bill was thirty days in irons, on bread and water, with the loss of three months' pay. This was the very severest punishment. Now, by my substitute, I propose to reduce that punishment to ten days on bread and water, or ten days in irons, with the loss of but one month's pay; but that the captain shall not be allowed to inflict but one of these punishments for any single offense. If punishment is to be effective at all, it seems to me that these punishments cannot be considered too severe. This, sir, is all I have to say. The question is between courts-martial upon board a ship, and giving to the commanding officer authority to inflict the punishments necessary to maintain the discipline of the ship. I will further say, sir, it is suggested by the gentleman from Virginia, [Mr. MILLSON], that this provision for the establishing of courts-martial on board a ship was stricken out of the bill at the suggestion of Commodore Stockton, chairman of the Naval Committee in the Senate, who is as humane a man, and uttering as humane sentiments as any that have fallen from the gentleman from Virginia, or the gentleman from New Jersey, or any one else.

Mr. PRICE. The gentleman will also state that he has since understood that Commodore Stockton changed his views in this regard.

Mr. STANTON, of Tennessee. I have not so understood it.

Mr. PRICE. And I further state in all my views expressed yesterday, that I was looking forward to the ameliorating of the punishments that are now known in the Navy, and substituting bounties for good conduct and good discipline, instead of those punishments.

Mr. MILLSON. I am very happy to hear the gentleman from New Jersey [Mr. PRICE] say that Commodore Stockton has changed his views upon that subject. But, sir, with all deference to the high authority of Commodore Stockton, I should not have changed my original views had there been no alteration in his; for, sir, notwithstanding that the two gentlemen from the Naval Committee distrust the efficacy of the summary court-martial, I cannot forget that this very system of summary courts-martial was recommended by the board of naval officers convened in the city of Washington, of whom I need only mention the names of such men as Morris and Shubrick. I am glad, however, to hear that Commodore Stockton now concurs with them. I will state, moreover, that this system is favored by a large number of other officers of the Navy; and since the original discussion of this question, I have received letters from several of them, favoring the establishment of this very system of summary courts-martial. I do not see the difficulty presented by the gentleman from Tennessee [Mr. STANTON] and my colleague from Virginia, [Mr. BOCK], neither of whom,

I imagine, ever attended a naval court-martial in their lives. A word as to the substitute presented by the gentleman from Tennessee. The House will perceive how vast the falling off from the original bill. The Naval Committee, after recommending the passage of the Senate bill, now come forward and propose to vest in the commanding officer only about one thirtieth part of the power which they first proposed. The bill gave him the power to inflict ten punishments, and this amendment only gives him the power to inflict one; and they take off two thirds of the severity of these separate punishments by restricting the punishment of confinement to ten days instead of thirty; so that one third of one tenth makes only one thirtieth of the original severity. Sir, this is certainly a very complimentary tribute to the judgment of this House, in rejecting this bill.

One more remark, and I have done. I must express my dissent from the views of the gentleman from New Jersey [Mr. PRICE] upon one point, which is, that we should stay all action upon this subject until we can revise the whole naval code. I doubt very much whether there ever will be such a revision—at least, in our time; and I see no propriety in postponing action upon a subject which demands immediate attention, because there may be necessity for revising other parts of the system also. In compliance with the promise I made the gentleman from Indiana, [Mr. FITCH],—

Mr. PRICE. I want, with the permission of the gentleman from Virginia, [Mr. MILLSON], to address one word of reply to the remark of the honorable chairman of the Naval Committee, [Mr. STANTON], made a few moments ago. It seems that he wished to impress upon the House that I advocated the cruel and barbarous punishments provided for in this bill.

Mr. STANTON. I do not think they are cruel.

Mr. PRICE. I think that they are. I am taking ground against both of the bills. Let the system of punishments continue as it now exists, in preference to passing the bill or amendments as they are now presented, until a new system can be devised and presented, more fully embracing the principle of rewards—giving bounties, increased pay, and good treatment for good conduct. This is my wish, and I believe my remarks made yesterday will sustain this view.

Mr. MILLSON. In compliance with my promise to the gentleman from Indiana, [Mr. FITCH], I call for the previous question.

Mr. BOCK. I withdraw the motion submitted by me to recommit the bill. I moved it for the purpose of keeping this business before the House.

The call for the previous question was then seconded, and the main question ordered to be put.

Mr. LOCKHART. I move that the bill do lie upon the table.

The question was taken and disagreed to.

The question recurred upon the adoption of the amendment of Mr. STANTON of Tennessee, to the substitute of Mr. MILLSON, for the original bill.

The amendment of Mr. STANTON was read by the Clerk.

Mr. JONES, of Tennessee. I understand that the amendment which has just been read is offered by the Committee on Naval Affairs, in lieu of the amendment of the gentleman from Virginia, [Mr. MILLSON].

The SPEAKER. It was submitted by the gentleman from Tennessee as an amendment to the amendment.

Mr. JONES. The difference between them is, that one (the amendment to the substitute) extends power to a court-martial, and the other (that of Mr. MILLSON) to the commanding officer. The amendment of my colleague [Mr. STANTON] provides an asylum for the sailor who has served twenty years, and who has continuously received good-conduct discharges.

Mr. GOODENOW demanded the yeas and nays on the question; which were not ordered.

Mr. TUCK demanded tellers; which were ordered; and Messrs. STANTON, of Tennessee, and VENABLE, were appointed.

The question was then taken upon Mr. STANTON's substitute, and the tellers reported—yeas 50, noes 52; no quorum.

# THE CONGRESSIONAL GLOBE.

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Mr. CLINGMAN asked for another count, to which there was no objection.

Mr. TUCK asked that the amendment be again read.

Mr. HENDRICKS objected.

Mr. STANTON, of Tennessee. Is it too late to demand the yeas and nays?

The SPEAKER. They have been refused by the House.

Mr. TUCK. Let the amendment be read. I am perfectly confident that it is not fully understood.

The amendment was again read.

Mr. JONES. I demand the yeas and nays upon the amendment of my colleague; and I submit to the Chair that the right to have the vote entered upon the Journal, is a constitutional right, and not to be decided as a question of order under the rules. Again: if my recollection serves me, when the Chair counted the affirmative vote that he announced, there were only twenty-two rising—not a sufficient number. It does not require any specific number other than one third of those present to call the yeas and nays; so that, were there only fifteen in the House, three could order the vote to be entered upon the Journal.

The SPEAKER. The Chair thinks that it is fair that the sense of the House should be taken as to whether or not the yeas and nays shall be ordered. For the reason that there was not a quorum present when the call was made and refused, no fair test has been made of the will of the majority, for or against the yeas and nays.

Mr. CABLE, of Ohio. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. That motion, in the opinion of the Chair, is not in order, the main question having been ordered, and the House being about to proceed in the execution of that order.

The yeas and nays were then ordered.

Mr. GOODENOW. I ask that the amendment be again read, for gentlemen do not, generally, understand it.

Mr. DEAN. I object to the reading.

Mr. GOODENOW. I ask, then, that the sense of the House be tested as to whether the amendment shall be read or not.

The question was then put, and upon a division there were—yeas 63, noes 22; no quorum.

Mr. FOWLER demanded tellers.

Mr. CABELL, of Florida. I understand the request is, that the particular amendment be read which we have to vote upon. It appears to me that there can be no objection to that; and I trust the gentleman will withdraw his objection, and let us have the amendment read and none other, so that we may know what we are voting upon.

Mr. DEAN. I withdraw my objection.

The amendment of Mr. STANTON, of Tennessee, to the substitute of Mr. MILLSON was then again read, as follows:

Strike out all of the said amendment and insert: That the commander of any vessel in the Navy shall have authority to punish offenses committed by petty officers and persons of inferior ratings, by any one of the following punishments, to wit:

First: By diminishing their rations; by restricting their diet to bread and water; by imposing extra police and other duties; and in cases of theft, in addition to any of the foregoing punishments, by making good from the wages of the offender to the owner of the value of the article or articles stolen.

Second: By discharging from the service, with bad-conduct discharge.

Third: By solitary confinement in irons, single or double, on bread and water: *Provided*, No such confinement shall exceed ten days.

Fourth: By solitary confinement in irons, single or double, not exceeding ten days.

Fifth: By solitary confinement not exceeding two months.

Sixth: By confinement to next inferior rating.

Seventh: By reduction to next inferior rating.

Eighth: By deprivation of liberty on shore, and loss of pay, not to exceed one month, may be added to any of the above-mentioned punishments: *Provided*, That no sentence to solitary confinement shall be directed to be carried into execution until the surgeon, or senior medical officer on board at the time, has examined the prisoner, and certified that it can be done without serious injury to his health; and it shall be the duty of the commander to remit the whole or any part of any sentence, the execution of which would,

in the opinion of the said surgeon or senior medical officer, produce such injury.

Sec. 2. *And be it further enacted*, That the commander of every ship or vessel in the Navy shall cause a conduct-book to be kept, embracing every petty officer and person of inferior rating under his command, in which shall be noted every instance of meritorious or bad conduct of each man; and the punishment inflicted under this law; and whenever a man is discharged, either at or before the expiration of his term of service, he shall take care that his general character be noted on his discharge, giving to those who merit them, good-conduct discharges; and to those who deserve them bad-conduct discharges; and to those whose conduct shall merit no particular note, discharges in the usual form: *Provided*, That the character to be given on a discharge shall be ascertained and established under such rules as shall be prescribed by the Navy Department.

Sec. 3. *And be it further enacted*, That any petty officer, or person of inferior rating, who shall be discharged with a good-conduct discharge, after a service of not less than two years, shall have a preference on reentering the service, and in advance to higher ratings over persons of similar qualifications, but who have not so served; and whenever a petty officer, or person of inferior rating, shall be transferred from one ship or station to another, his character shall be noted on the transfer roll.

Sec. 4. *And be it further enacted*, That every petty officer, or person of inferior rating, who shall receive a good-conduct discharge, after a continuous service of not less than two years, shall, if he reenters within three months after his discharge, be entitled to a credit on the books of the ship to which he may be first ordered, of three months' wages, at his former rating; and after twenty years' service in the Navy, with good-conduct discharges at the termination of each enlistment, every such petty officer or person of inferior rating shall be entitled to admission to and provision in the Naval Asylum for life, with half the monthly wages of his last enlistment.

The question was then taken on the above amendment, and it was decided in the negative—yeas 63, nays 86; as follows:

YEAS—Messrs. Abercrombie, John Appleton, William Appleton, Bartlett, Bocoek, Bowie, Briggs, Geo. H. Brown, E. Carrington Cabell, Lewis D. Campbell, Chandler, Chapman, Clark, Clingman, Doekert, Florence, Fowler, Thos. J. D. Fuller, Goodenow, Goodrich, Grey, Harper, Hart, Haws, Hebard, Hillyer, Horsford, Howard, Thos. M. Howe, James Johnson, George G. King, Kurtz, Landry, Mann, Martin, McMullin, Meacham, Meade, Miller, Miner, Henry D. Moore, Nabers, Outlaw, Samuel W. Parker, Pennington, Perkins, Porter, Rantoul, Scurry, Smart, Standley, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Sutherland, Taylor, Benjamin Thompson, Tuck, Venable, Ward, Addison White, Alex. White, and Williams—63.

NAYS—Messrs. Aiken, Willis Allen, Ashle, Averett, D. J. Bailey, Barrere, Bowne, Bragg, Brenton, Joseph Cable, Thompson Campbell, Carter, Caskie, Chastain, Cobb, Conger, Curtis, John G. Davis, Dean, Dimmick, Doty, Durkee, Eastman, Edgerton, Faulkner, Picklen, Fitch, Floyd, Freeman, Gaylord, Giddings, Green, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hendricks, Hens, Hibbard, Houston, Jno. W. Howe, Hunter, Ingersoll, Ives, Jackson, Andrew Johnson, John Johnson, Robt. W. Johnson, George W. Jones, J. Glancy Jones, Letcher, Lockhart, Mace, Humphrey Marshall, McNair, McQueen, Milson, Molony, John Moore, Morehead, Morrison, Murray, Newton, Olds, Orr, Andrew Parker, Peaslee, Phelps, Price, Robbins, Ross, Origen S. Seymour, Skelton, Benj. Stanton, Stone, St. Martin, Stuart, Sweetser, Geo. W. Thompson, Thurston, Townshend, Walbridge, Wallace, Watkins, and Yates—86.

So the amendment was disagreed to.

Mr. ORR. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

The question then recurred upon the substitute of Mr. MILLSON for the original bill.

Mr. MOORE, of Louisiana, demanded the yeas and nays; and tellers on the yeas and nays were ordered; and Messrs. STUART, and STANTON, of Tennessee, were appointed; who, having made a count, reported—yeas 41, which was deemed to be sufficient.

So the yeas and nays were ordered.

The reading of the bill and substitute having been called for, the bill was read, as follows:

*Be it enacted, &c.*, That the commander of any vessel in the Navy, or of any shore station, shall have authority to punish offenses committed by petty officers and persons of inferior ratings, by any one or more of the following punishments, to wit:

First: By diminishing their rations; by restricting their diet to bread and water; by imposing extra police and other duties; and in cases of theft, in addition to any of the foregoing punishments, by making good from the wages of the offender to the owner of the value of the article or articles stolen.

Second: By discharging from the service, with bad-conduct discharge.

Third: By solitary confinement in irons, single or double,

on bread and water: *Provided*, No such confinement shall exceed thirty days.

Fourth: By solitary confinement in irons, single or double, not exceeding thirty days.

Fifth: By solitary confinement, not exceeding thirty days.

Sixth: By confinement not exceeding two months.

Seventh: By reduction to next inferior rating.

Eighth: By ball and chain, but not to be worn at sea.

Ninth: By deprivation of liberty on shore and loss of pay, not to exceed three months, may be added to any of the above-mentioned punishments: *Provided*, That no sentence to solitary confinement shall be directed to be carried into execution until the surgeon, or senior medical officer on board at the time, has examined the prisoner and certified that it can be done without serious injury to his health; and it shall be the duty of the commander to remit the whole, or any part of any sentence, the execution of which would, in the opinion of the said surgeon, or senior medical officer, produce such injury.

Sec. 2. *And be it further enacted*, That the commander of every ship or vessel in the Navy shall cause a conduct-book to be kept, embracing every petty officer and person of inferior rating under his command, in which shall be noted every instance of meritorious or bad conduct of each man; and whenever a man is discharged, either at or before the expiration of his term of service, he shall take care that his general character be noted on his discharge, giving to those who merit them good-conduct discharges; and to those who deserve them bad-conduct discharges; and to those whose conduct shall merit no particular note, discharges in the usual form: *Provided*, That the character to be given on a discharge shall be ascertained and established under such rules as shall be prescribed by the Navy Department.

Sec. 3. *And be it further enacted*, That any petty officer, or person of inferior rating, who shall be discharged with a good-conduct discharge, after a service of not less than two years, shall have a preference on reentering the service, and in advance to higher ratings over persons of similar qualifications, but who have not so served; and whenever a petty officer, or person of inferior rating, shall be transferred from one ship or station to another, his character shall be noted on the transfer roll.

Sec. 4. *And be it further enacted*, That every petty officer, or person of inferior rating, who shall receive a good-conduct discharge, after a continuous service of not less than two years, shall, if he reenters within three months after his discharge, be entitled to a credit on the books of the ship to which he may be first ordered, of three months' wages, at his former rating; and after twenty years' service in the Navy, with good-conduct discharges at the termination of each enlistment, every such petty officer, or person of inferior rating, shall be entitled to admission to and provision in the Naval Asylum for life, with half the monthly wages of his last enlistment.

Sec. 5. *And be it further enacted*, That any punishments authorized by this act may likewise be inflicted by any general court-martial.

Mr. MILLSON's substitute was then read, as follows:

Strike out all after the enacting clause, and insert the following:

That summary courts-martial may be ordered upon petty officers and persons of inferior ratings, by the commander of any vessel in the Navy, for the trial of offenses deserving greater punishment than the commander of a vessel is now authorized to inflict of his own authority, but not sufficient to require trial by general court-martial.

Sec. 2. *And be it further enacted*, That summary courts-martial shall consist of three commissioned officers, and of some competent person to act as recorder, to be appointed by the commanding officer, who shall have authority to order any officer under his command to act in that capacity. Before proceeding to trial, the members shall take the following oath or affirmation, to be administered by the recorder:

"I, A. B., do solemnly swear (or affirm) that I will well and truly try, without prejudice or partiality, the case now pending, according to the evidence which shall be adduced, the laws for the government of the Navy, and my own conscience."

After which the recorder of the court shall take the following oath or affirmation, to be administered by the senior member:

"I, A. B., do solemnly swear (or affirm) that I will keep a true record of the evidence which may be given before this court, and of the proceedings thereof."

Sec. 3. *And be it further enacted*, That all testimony given before such court shall be given orally, on oath or affirmation, and shall be delivered in presence of the party accused, who shall be allowed to interrogate the witnesses.

Sec. 4. *And be it further enacted*, That summary courts-martial may sentence petty officers and persons of inferior ratings to any one of the following punishments, according to the nature and degree of the offense, viz:

First: Discharge from the service, with bad-conduct discharge: *Provided*, That no person shall be discharged in a foreign country, without the approval of the commanding officer of the squadron to which the vessel may be attached.

Second: Solitary confinement in irons, single or double, not exceeding thirty days.

Third: Solitary confinement on bread and water, not exceeding thirty days.

Fourth: Solitary confinement not exceeding thirty days.

Fifth: Confinement not exceeding two months.

Sixth: Reduction to next inferior rating.

*Seventh:* Deprivation of liberty to visit the shore.

*Eighth:* Loss of pay, not to exceed three months.

SEC. 5. *And be it further enacted,* That no such sentence shall be carried into execution without the approval of the officer ordering the court, who shall have the power to remit in part, or altogether, but not to commute any such sentences: *And provided,* That no sentence to solitary confinement shall be directed to be carried into execution until the surgeon, or senior medical officer on board at the time, has examined the prisoner, and certified that it can be done without serious injury to his health; and it shall be the duty of the commander to submit a court-martial, the execution of which would, in the opinion of the said surgeon or senior medical officer, produce such injury.

SEC. 6. *And be it further enacted,* That the commander of every ship or vessel in the Navy shall cause a conduct-book to be kept, embracing every petty officer, and person of inferior rating, under his command, in which shall be noted every instance of meritorious or bad conduct of each man; and whenever a man is discharged either at or before the expiration of his term of service, he shall take care that his general character be noted on his discharge, giving to those who merit them, good-conduct discharges; and to those who deserve them, bad-conduct discharges; and to those whose conduct shall merit no particular note, discharges in the usual form: *Provided,* That the character to be given on a discharge shall be ascertained and established under such rules as shall be prescribed by the Navy Department.

SEC. 7. *And be it further enacted,* That any petty officer, or person of inferior rating, who shall be discharged with a good-conduct discharge, after a service of not less than two years, shall have a preference on reentering the service, and in advance to higher ratings over persons of similar qualifications, but who have not served; and whenever a petty officer, or person of inferior rating, shall be transferred from one ship or station to another, his character shall be noted on the descriptive list.

SEC. 8. *And be it further enacted,* That every petty officer or person of inferior rating who shall receive a good-conduct discharge, a continuous service of not less than two years, shall, if he reenters within three months after his discharge, be entitled to a credit on the books of the ship to which he may be first ordered, of three months' wages at his former rating.

SEC. 9. *And be it further enacted,* That the proceedings of summary courts-martial shall be conducted under such forms and rules as may be prescribed by the Secretary of the Navy, with the approval of the President of the United States; and all such proceedings shall be transmitted, in the usual mode, to the Navy Department.

SEC. 10. *And be it further enacted,* That any punishment authorized by this act to be inflicted by a summary court-martial, may likewise be inflicted by any general court-martial: *Provided,* That nothing herein contained shall be deemed to abridge the powers of such general court-martial, in respect to punishments now authorized to be adjudged, nor to take from any commanding officer the right to order such punishments as by law he may now inflict of his own authority.

The question was then taken on the substitute of Mr. MILLSON, and it was decided in the negative—yeas 66, nays 79; as follows:

YEAS—Messrs. Willis Allen, Averett, Bowne, Briggs, Albert G. Brown, Lewis D. Campbell, Carter, Caskey, Chapman, Chastain, Clark, Conger, Curtis, Edgerton, Ficklin, Floyd, Fowler, Gaylord, Giddings, Green, Grow, Hall, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Henn, Houston, Ingersoll, Ives, Jackson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Lockhart, Mace, Humphrey Marshall, McMullin, McQueen, Mencham, Milson, Miner, John Moore, Morrison, Murray, Orr, Andrew Parker, Samuel W. Parker, Polk, Price, Robbins, Ross, Origen S. Seymour, Skelton, Benjamin Stanton, Stuart, Sweetser, George W. Thompson, Thurston, Townshend, Walbridge, Wallace, and Watkins—66.

NAYS—Messrs. Abercrombie, Aiken, John Appleton, William Appleton, David J. Bailey, Barrere, Bartlett, Bocoek, Bowie, Bragg, Brenton, E. Carrington Cabell, Joseph Cable, Thompson Campbell, Chandler, Clingman, John G. Davis, Dean, Dinmick, Dockery, Doty, Eastman, Fitch, Florence, Freeman, Thomas J. D. Fuller, Goodenow, Gorman, Grey, Hamilton, Harper, Haws, Hebard, Hibbard, Hillyer, Horsford, Howard, John W. Howe, T. M. Howe, Andrew Johnson, James Johnson, George G. King, Kuhns, Landry, Mann, Martin, Mason, McCorkle, McNair, Miller, Molony, Henry D. Moore, Morehead, Nabers, Newton, Outlaw, Penslee, Penniman, Phelps, Rantoul, Riddle, Schermerhorn, Schoolcraft, Scudder, Scurry, Smart, Stanly, Frederick P. Stanton, Richard H. Stanton, Stone, Strotter, Sutherland, Taylor, Benjamin Thompson, Tuck, Venable, Ward, Alexander White, and Yates—79.

So the motion was disagreed to.

[A message in writing was here received from the President of the United States, by the hands of his Private Secretary, MILLARD P. FILLMORE.]

Mr. MOORE, of Louisiana. I move to lay the whole subject upon the table.

Mr. STANTON, of Tennessee. I move that the vote just taken be reconsidered, and that that motion do lie upon the table.

The question was put on the latter motion, and it was agreed to.

Mr. CARTTER demanded the yeas and nays upon the motion to lay upon the table; which were ordered.

The question was then taken, and it was decided in the affirmative—yeas 85, nays 66; as follows:

YEAS—Messrs. Aiken, Willis Allen, Ashe, Averett,

Barrere, Brenton, Albert G. Brown, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Carter, Caskey, Chapman, Chastain, Clark, Cobb, Curtis, John G. Davis, Dean, Dinmick, Doty, Durkee, Eastman, Edgerton, Ficklin, Fitch, Floyd, Fowler, Gaylord, Green, Grow, Hall, Hamilton, Isham G. Harris, Hebard, Hendricks, Henn, Hibbard, Houston, John W. Howe, Hunter, Ingersoll, Ives, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Lockhart, Mace, Mann, Humphrey Marshall, Mason, McCorkle, McDonald, McMullin, McNair, McQueen, Milson, Molony, John Moore, Morrison, Murray, Nabers, Orr, Penslee, Perkins, Phelps, Price, Robbins, Ross, Schoolcraft, Origen S. Seymour, Skelton, Smart, Benj. Stanton, Stuart, Sweetser, Thurston, Townshend, Walbridge, Wallace, Addison White, and Yates—85.

NAYS—Messrs. Abercrombie, William Appleton, David J. Bailey, Bartlett, Bocoek, Bowie, Bowne, Bragg, Briggs, E. Carrington Cabell, Chandler, Clingman, Conger, Cottman, Iockery, Evans, Ewing, Florence, Freeman, Thomas J. D. Fuller, Goodenow, Goodrich, Gorman, Grey, Harper, Sampson W. Harris, Hart, Haws, Hillyer, Horsford, Howard, Thomas M. Howe, Jackson, James Johnson, Robert W. Johnson, George G. King, Kuhns, Landry, Martin, Mencham, Meade, Miner, Henry D. Moore, Morehead, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Porter, Riddle, Schermerhorn, Scudder, Scurry, Stanly, Frederick P. Stanton, Richard H. Stanton, Sutherland, Taylor, Benjamin Thompson, George W. Thompson, Venable, Ward, Washburn, Watkins, and Alexander White—66.

So the whole subject was laid upon the table.

Mr. STUART. I move to reconsider the vote by which the bill was laid upon the table; and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

#### REPORTS FROM COMMITTEES.

The SPEAKER. Reports are in order from the Committee on Public Lands.

Mr. CABLE, of Ohio. I now renew my motion that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. ORR. With my friend's indulgence for a moment, I will state that I desire to leave the city to-morrow morning. I have a few reports which I would ask now to submit from the Committee on Public Lands.

[Cries of "Agreed!" "Agreed!"]

Mr. CABLE, of Ohio. I withdraw the motion.

#### FLORIDA, ATLANTIC AND GULF RAILROAD.

Mr. ORR, from the Committee on Public Lands, to which was referred the memorial of the Board of Internal Improvements of the State of Florida, made a report thereon, accompanied by a bill granting the right of way and a portion of the public lands for making the Florida, Atlantic and Gulf Central Railroad; which bill was read a first and second time by its title, and committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

#### RESERVATIONS IN ARKANSAS.

Mr. ORR also, from the same committee, to which was referred the petition of R. W. Johnson, reported a bill to release from reservation and restore to the mass of public lands certain lands in the State of Arkansas; which was read a first and second time by its title.

Mr. JOHNSON, of Arkansas. Will the gentleman from South Carolina [Mr. ORR] allow me to say a word to the House? A great many years ago, it will be recollected, bounty lands for the purpose of rewarding services in the late war, were set apart in the States of Arkansas, Illinois, and Missouri; and in other States. Those bounty land claims, at that day created, were to be then discharged by the names being put into a wheel, and drawn out, and the numbers that were drawn out with them, gave title to certain parts of tracts in specific regions of country. One of these military bounty tracts was in Arkansas; another in Missouri; another in Illinois; and another in Indiana. Thus a large tract of country in Arkansas, and in each of these other States, was reserved from public sale, and for the express purpose, by a system of lottery, of satisfying military warrants. The land is kept now from going into the market at all; it is not all drawn out for bounties, by a vast deal. In all the States but Arkansas, this reserved land has been released from reservation, so it goes into the Treasury of the United States, and is offered for sale just as all other public lands. The object of this resolution is to produce the same effect. At present the United States cannot sell, and whole counties cannot be settled. There can be no difference of opinion about it. There is no favor

given to anybody by this resolution; it enables the land to be entered and sold, by and for the benefit of the United States, as other public lands are. In other words, it restores this land to the mass of public lands. I ask, therefore, my friend, the gentleman who has reported the bill, that he will express the opinion of the Committee on Public Lands, who have examined the case, and if what I have stated is correct, I hope the House will pass the bill. It gives nothing to Arkansas, and it only restores this land to the mass of public lands.

Mr. ORR. The facts stated by the gentleman from Arkansas, [Mr. JOHNSON,] have been ascertained to be correct by the committee. I have no objection to the passage of the bill. If there is objection in the House, I shall feel constrained to move its reference to the Committee of the Whole on the state of the Union.

The SPEAKER. The question is upon engrossing the bill, and ordering it to be read a third time.

Mr. STANLY. I hope it will be read through. The bill was then read by the Clerk.

Mr. STANLY. That bill, it seems, releases to the State of Arkansas land which has been hitherto set apart for a particular purpose. What becomes of the claims outstanding?

Mr. JOHNSON. I will state that it releases nothing to the State of Arkansas. It restores the land to the mass of public lands, and those claims which are unsatisfied bounty land claims, are put where they ought to be. If I understand rightly, they are put upon the same footing with the bounty land claims of the present day, so that the person who has the claim, may locate it *anywhere*, without being confined to a comparatively narrow strip, much of which is very poor land, and *upon any tract* subject to sale at private entry, without being subjected to a ridiculous raffling-box and a chance location upon the number drawn from its wheel.

Mr. STANLY. The bill is not understood by the House at all. I do not wish to prevent its passage, or refer it to the Committee of the Whole, where it cannot be got out, but I do object to hurrying it through the House, not understanding what it is, in advance of other measures. I shall probably vote for it.

Mr. JOHNSON. I will ask the gentleman from North Carolina [Mr. STANLY] to allow me to state the case, because the citizens of the old States are interested in this matter as well as ourselves. This bill enables the persons entitled to this bounty, to locate, as in the case of the present bounty land claims; if not passed, all this class are compelled to go under the hot-pot lottery law, and draw by chance, and they will not be enabled to act under the existing laws for all other bounty land claimants, and locate upon other public lands subject to private entry.

Mr. STANLY. I dare say the gentleman is right. I do not wish to defeat the bill.

Mr. ORR. Does the gentleman wish to refer it to the Committee of the Whole?

Mr. STANLY. No; but I do not know its provisions. I object to picking out particular bills from the Committee on Public Lands, and pushing them in advance of the great measures of the country. I like to favor these Western States, and I have voted for them sometimes to such an extent, that it has brought down censure upon me for so doing—and I will do so again when they are proper measures. I do not wish to refer this bill, but I want some time to examine it. If it is not put upon its third reading, it will come up hereafter, without being referred, and no harm will be done to the public or the State of Arkansas. I would respectfully suggest to the chairman of the committee that it go over informally, that we may have time to examine it.

Mr. JOHNSON. I would be very glad that the gentleman from North Carolina [Mr. STANLY] or anybody else may examine it.

The SPEAKER. If it goes over informally, the Chair will state that it will go upon the Speaker's table.

Mr. STANLY. That is nothing unfair. Then we must get it out in its proper order.

Mr. HALL. I understand that the gentleman from North Carolina [Mr. STANLY] wants time to examine this bill. I suppose that two or three days would be sufficient. I suggest, then, that the bill be committed to the Committee of the Whole on the state of the Union, and that a motion to



reconsider be made, and then it will go over, and in this way be brought up.

Mr. STANLY. That is an indirect way. I do not wish to defeat the bill.

Mr. EVANS. I wish to ask, if the House now passes to other business, whether this would not remain on the Speaker's table? I recollect that, four years ago, when I was on the Committee on Public Lands, and we had this measure before us, there was no doubt of its being right. The gentleman from North Carolina wants time to examine it, and I therefore suggest to the House that we pass to other business. It will not be worth while to make the motion to reconsider, suggested by the gentleman from Missouri, [Mr. HALL,] as we should never reach it again. Better let the gentleman go on with other reports.

Mr. JOHNSON. In what class of business will it come upon the Speaker's table? There is a class of business there which never ought to, and never will, be reached. I do not want this bill to get into that class, because it is just and right. Does it come in the fifth class?

The SPEAKER. It comes within that class.

Mr. ORR. If a particular motion I propose to make will have the effect indicated—

The SPEAKER. A motion to recommit would keep it before the House.

Mr. ORR. I make the motion, then, to recommit.

The SPEAKER. The Chair understands, by general consent, that the vote upon the recommitment will be passed informally.

[Cries of "Agreed!" "Agreed!" "Agreed!"]

On motion by Mr. ORR,

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following petitions, and that they do lie upon the table, viz:

The petition of citizens of Arkansas for a donation of land to the Arkansas and Central Railroad Company; and  
The petition of the Jacksonville and Alligator Plank Road Company.

Mr. ORR. The Committee on Public Lands, to whom was referred the petition of Silas Noble and nineteen other registers and receivers of the Land Office, asking additional compensation for locating bounty land warrants, have instructed me to report back the same with the recommendation that they lie upon the table. They are petitions from the late and present registers and receivers at different places in the United States, having the same object in view. The bill which passed the House some two or three weeks ago, making bounty land warrants assignable, has superseded further legislation upon the subject. I ask, then, to refer back all these petitions with a recommendation that they lie upon the table.

It was so ordered.

#### COMMITTEE ON ELECTIONS.

On motion of Mr. HAMILTON, it was

Ordered, That the Committee on Elections be discharged from the further consideration of the petition of A. W. Reynolds, contesting the legality of the election of R. H. WRIGHTMAN, as a Delegate from New Mexico, and that the same do lie upon the table.

Mr. DEAN moved that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JOHNSON, of Arkansas. I rise to a privileged question. I am glad to see my friend from Tennessee, [Mr. JOHNSON,] who was not here a short time since. The privileged question I wish to make is to renew to-day the motion I submitted yesterday morning, with this difference only, that I will defer the day and hour at which I proposed to close debate upon the homestead bill, to Monday next, at one o'clock. I will make no remarks, but call the previous question.

Mr. DEAN. I rise to a question of order. I ask if my motion is not also a privileged motion, and if it is not to be put first?

The SPEAKER. It is a privileged motion, but, in the opinion of the Chair, the motion of the gentleman from Arkansas has precedence.

The question was then taken on seconding the demand for the previous question, and on a division there were—ayes 50, noes 61.

Mr. STUART demanded tellers.

Mr. JOHNSON, of Arkansas. I will withdraw my resolution, believing the House are determined not to pass it.

The resolution was withdrawn.

The question recurred on the motion submitted by Mr. DEAN.

Mr. NABERS. I would suggest to the gentle-

man from New York, that he should change his motion to one to proceed to the business on the Speaker's table.

Mr. DEAN. No, sir; I cannot.

Mr. HOWARD. I hope the gentleman from New York will withdraw his motion; there is a large amount of business on the Speaker's table.

Mr. DEAN. No, sir.

Mr. VENABLE. With the indulgence of the House, I desire to make a suggestion. There are a great many gentlemen who wish to speak upon the homestead bill, and I would, therefore, suggest that we should have a night session, to give them an opportunity to do so.

Mr. HALL. I rise to a question of order; it is this: that the gentleman from Mississippi [Mr. FREEMAN] was entitled to the floor, and that the gentleman from New York had no right to take the floor from the gentleman from Mississippi to make the motion that he did.

The SPEAKER. The Chair overrules the point of order, on the ground that we are acting under a special order, and that the gentleman from New York, therefore, had a right to arrest the proceedings of the House, to submit the motion which he did, that the House resolve itself into the Committee of the Whole on the state of the Union on the special order. Ordinarily, the gentleman from Missouri would be correct in his view; but as we are acting under a special order, the Chair thinks he is not correct, and overrules the point of order.

Mr. VENABLE. I ask the gentleman from New York to yield the floor, to enable me to submit a proposition, that when the House adjourns it adjourn to meet at seven o'clock this evening.

Mr. SWEETSER. I object.

Mr. DEAN. Then I insist upon my motion.

Mr. MEADE. I ask the gentleman from New York to allow me to state that my drawer is so full of reports from the Judiciary Committee that it can hold no more. I would suggest that reports should be delivered from committees before any other business is done.

Mr. DEAN. I cannot withdraw my motion.

The question was then taken on Mr. DEAN's motion, and it was agreed to, on a division—ayes 68, noes 63.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HUBBARD in the chair.)

The CHAIRMAN stated, as the business before the committee, the consideration of House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and for other purposes, on which the gentleman from Texas [Mr. HOWARD] was entitled to the floor.

#### COMPROMISE MEASURES—WHIG CAUCUS—GENERAL SCOTT.

Mr. HOWARD said: Mr. Chairman, were I to confine myself exclusively to the subject under debate, or, more properly speaking, to the subject before the committee, it might be construed into an intentional disrespect to the usage and custom of this committee. I therefore propose, in the first instance, to address a few observations to the political aspect of the country, and to that common topic, the next presidential campaign. I intend to say a few words in relation to the principles on which that canvass must be fought; and when we consider how much of public interest depends upon the result of that contest, we cannot be astonished that it has occupied so large a portion of the attention of this House.

In the outset, I desire to say, that I am opposed to anything like a separate Union party, and for the plain reason that I do not believe that the condition of the country makes such an organization necessary. I admit, that there are questions in this country, which may rise above party, and when the time shall arrive that the existence of the Government itself depends upon such an organization, such an organization will necessarily take place. But that is not the present condition of affairs.

I am one of those who believe it necessary to keep up the old party organizations. I believe it is expedient, for the reason that an opposite course would lead directly to sectional parties, and to geographical organizations, which can only exist for a short time in this country without the destruction of the Government itself. I would there-

fore postpone the evil day of such a state of things, to the time when it may be necessary for the preservation of this Government.

I am in favor of adhering to the old Democratic platform—adding to it no more than the absolute wants of the country, at this time, may require; for, as to party creeds, when old party creeds do not answer the purpose, it is as legitimate to have new ones as it was to adopt the old in the first instance. It is for this reason that I have voted in this House for the passage of the resolutions approving, or rather, acquiescing in the compromise measures, and asserting the principle that the fugitive slave law should be enforced. I do it, not for the purpose of reflecting on the past action of any one, but because I conceive that such action is necessary to the welfare of the nation, and indispensable to the peace of society in our country, at this moment. Nor do I see how any gentleman opposed to those measures can complain of such a course, unless he be one of those who think that this Government has lasted too long, and that what has taken place is a sufficient ground for breaking it up. I may be permitted to say that if nothing was involved in the question but the aspect of parties at the South, I should esteem such a vote unnecessary. But such is not the case. I should esteem a resolution approving or acquiescing in the compromise unnecessary, for the obvious reason that every Southern State, in some form or another, has acquiesced in the measures adopted by the Thirty-first Congress. If it was intended, therefore, to operate upon Southern parties and Southern politicians alone, it would be unnecessary. But, sir, that is not the state of the case. We have been notified here by the Free-Soil connection, that they hold the fugitive slave law to be unconstitutional, and that they regard the acts in relation to the territorial governments to be as subject to modification and repeal as any ordinary acts of the American Congress. It is to reach these, mainly and principally, that I am in favor of adopting the compromise as a finality. I do not wish to reflect even upon the Free-Soilers, or to thrust them out of the party. But if they are to continue to act with us, they must give bonds to keep the peace. If they do not, then, in my estimation, we ought to hold no further affiliation with them. These persons ought not to be allowed inside of the Democratic party, by further agitation to furnish a fresh cause for secession, or to endanger the public peace and the stability of the Government. Agitation should cease on this subject.

Now, sir, I am unable to perceive how any Southern man, however extreme his opinions may be in relation to this subject, can feel any reluctance in adopting the compromise as a finality in reference to the whole subject. There is, in my estimation, a necessity growing out of the enforcement of the fugitive slave law; as it is obviously the purpose of the Free-Soilers and Abolitionists to remain quiet for the present, and then, after the presidential election has terminated, to come into Congress and agitate for the repeal of the fugitive slave law. It is not only that measure which makes the adoption of the compromise resolution proper, but the whole subject of slavery in the Territories. If there was anything well understood when the compromise measures were adopted, it was that the question of slavery in the Territories stood upon the Constitution, that it should be maintained there, and that the Territories should be open to slavery if the Constitution permitted slavery to exist in those Territories. Now, we are notified by these extreme gentlemen that it is their purpose to agitate the subject of slavery in the Territories, and to introduce bills for the exclusion of slavery from the Territories of New Mexico and Utah. This is the more necessary on the part of the South, because the census returns show that slavery actually exists both in Utah and New Mexico. I think, therefore, that it is incumbent upon the Democratic party to say that that which was a settlement shall remain a settlement, unaltered, unmodified, and unrepealed. And, sir, it becomes, in my estimation, the more necessary to say so because I see certain opinions advanced since the adoption of these measures touching this subject, to which, in another aspect, I wish, for a few moments, to call the attention of the Committee.

Mr. MEACHAM. Will the gentleman allow me to ask him a single question?

Mr. HOWARD. If you will be brief.

Mr. MEACHAM. I ask the gentleman whether he, in sustaining the compromise, will go against the proposed division of the boundary of California, so as to make two States instead of one?

Mr. HOWARD. I am astonished that such a question should be asked by a gentleman who is a member of the Judiciary Committee. California is in the Union. She is a sovereign State. She has the right to divide herself with the consent of Congress, and one portion has the right to come here and demand admission into the Union after the consent is given; and when it comes here we have no power then but to look into their constitution, and see whether it has or has not adopted a republican form of government.

Mr. MEACHAM. Will not you be varying the compromise if you say you will go for that division?

Mr. HOWARD. Not at all. The idea is preposterous, for the simple reason that California was admitted into the Union with all the privileges, all the powers, and upon the principles of equality with the other States. No man doubts that any one of the old States has the power to exclude slavery, or to retain it, at its own will and in its own time. The compromise did not go beyond the admission of California. It did not extend to maintaining or excluding slavery there, nor to retaining the State with its present limits or institutions.

But to return to the subject upon which I was commenting. It has been put forth, in certain quarters, that although the exclusion of slavery in the Territories, by a direct act of Congress, would be unconstitutional, yet that it was constitutional for the Territorial Legislatures to exclude it. Now, for one, I desire to say that I repudiate altogether the idea of the squatter's sovereignty—that it can have no existence in the Constitution, or in the brain of any sound-reasoning lawyer. And why? The territorial governments are organized by Congress. Their political powers are charters derived from Congress. They can look to that charter for their powers, and not beyond it. To say, therefore, that we can confer upon a Territorial Legislature a power we do not ourselves possess, is an idea which, in my opinion, cannot be defended by even plausible argument. A government organized by Congress cannot contain a grant of constitutional power which Congress does not possess. If Congress cannot adopt the Wilmot proviso, much less can a Territorial Legislature, which is its creature.

But there is another doctrine advanced in reference to this matter, which I desire to notice. It is said that all the inhabitants of a Territory possess inherent sovereign power. Now, the idea of sovereign power disconnected from political organization is one which is difficult to comprehend, if it have any existence. The idea of sovereignty is represented by the State; and if the people are sovereign, it is because they are a part of the State, living within an organized political community, and constituting a part of an organized political government. The idea that Daniel Boone, when he migrated outside the boundaries of civilization and settled there, possessed the powers of sovereignty in any legal sense, is one which I shall never be able to appreciate. There is no sovereignty in separate individuals, or in man in a state of nature. Sovereignty, in a legal or political sense, is created only when men form a government by giving up a portion of their natural rights. It is an idea inseparable from organized government. Squatters on the public domain, without legal government, are not sovereign; they are at best tenants at sufferance. But suppose that a certain amount of political sovereignty may be admitted to be inherent in the people of the Territories, I deny that there can be anything in the proposition put forth; and for this reason, that they have exercised it in adopting the territorial governments prepared for them by Congress. Admit, if you please, that they are sovereigns, the Congress of the United States have conferred a certain restricted form of government upon the people of the Territories, placing them in a condition of pupillage, and they have accepted of the Government with those powers. They have agreed to live under the Government thus framed by the Congress of the United States. In the exercise of their sovereignty, even if they possess it, they have accepted of the charter thus

given them by Congress. That charter contains their powers, and by it they have submitted to the jurisdiction of Congress, and cannot set up any authority inconsistent with the supervision and control of this Government, much less in opposition to constitutional powers of Congress. I deny as a constitutional proposition the existence of "squatter sovereignty." It has no foundation in sound reasoning or the practice of the Government. It is inconsistent with the jurisdiction of the Federal Government over the public domain as expressly conferred by the Constitution.

In relation to these compromise acts, I desire to say, that I look to the Democratic party alone to maintain and enforce them. That party has made the Government and country the great power that it is, and can alone preserve the Union. It should, therefore meet these questions boldly, and preserve the public tranquillity by avowing a platform adequate to the occasion, in its approaching national convention. I look to the Democracy in this crisis, because it is their principle of strict construction which alone can render the Federal Government immortal and preserve the Union by keeping the Government within its legitimate sphere; for I must be permitted to say, that, however good may be the intentions of certain individual members of the Whig party, or however sound may be the views and intentions of a certain sect of that party in relation to the great questions of acquiescence in and the enforcement of the compromise measures, I do not think the Whig party, or, at least, the majority of the Northern section of it, can be depended upon. I say it not from any intention of casting any unjust censure upon that party, or of imputing any improper motives to any one, but I say it because I have been forced to the conclusion from the political action of that party for the last twelve months. And what has been that action? Why, sir, it is known that the gentleman who now occupies the presidential chair, and who, during all this controversy, has shown himself to be a patriot and a gentleman, is now to be sacrificed because he has taken ground in favor of the fugitive slave law, and has maintained and enforced it. If I may judge from what I see in the newspapers, I should think that last night he had been bound, and that in a very few weeks he is to be taken, thus bound, to the funeral pile, there to be immolated, to propitiate that power in the North which is in favor of repealing, or of resisting, the fugitive slave law—that great conservative measure for the enforcement of a clear constitutional right of the South. I understand, from what I can gather from the papers of this morning, that in the Whig caucuses held last night, those who were for standing up for the Constitution were confined almost exclusively to the Southern section of the Union, and were not very numerous at that. I see some gentlemen upon the other side of the House who, no doubt, could give us some information upon this subject. Perhaps the gentleman from New York [Mr. Brooks] could tell us something in relation to the matter. I understand that upon that occasion the compromise measures were not only so unpopular as not to be adopted, but they were actually ruled out of order. If this be untrue, there are many gentlemen present who were there, and they can correct me. I think, then, that we have small hope from the Whig party. It is suggested to me that the gentlemen on the other side of the House are mum now, as their candidate will be when the final conflict comes off; and I take it for granted that General Scott is to be that man. If they will allow him to say anything at all, it will be with the consent of Mr. Seward, and it will be about as explicit as the expressions of opinion which were made to serve the turn of the Whig party during the last presidential contest.

Several Members called for Mr. CLINGMAN to explain in relation to the caucus.

Mr. CLINGMAN. I hope gentlemen will not call me up. I was there, it is true, but I was there rather as a spectator than an actor. I hope the gentleman from Massachusetts, [Mr. FOWLER,] who recited the proceedings of the other caucus, or my colleague, [Mr. OUTLAW,] who was the chairman of that other caucus, or the distinguished gentleman from Kentucky, [Mr. MARSHALL,] will be called up. [Laughter.]

Mr. HOWARD. I think it must be very apparent that the convention which sat last night,

and of which we have heard so much, is not very communicative in relation to the principles upon which it intends to act in the next presidential election. I understood, when these resolutions were ruled out of order, there were found only eighteen in that meeting who were willing to stand up for the finality of the compromise, and to say that the public peace shall be maintained in relation to these measures.

Mr. STANLY. Will the gentleman from Texas permit me to ask him a question?

A MEMBER. Make him promise to answer yours first!

Mr. HOWARD. Oh! I know the honorable gentleman from North Carolina will not be so discourteous as not to answer my question afterwards.

Mr. STANLY. That is another affair. [Laughter.] I dislike to interrupt the gentleman—and would not do so, but because he seems to solicit an answer—and I will do so but for a moment. When I get the floor, I will show that gentleman that he is wholly in error about the proceedings of the caucus of last night. I cannot do it now, for it would take up the whole of his time.

If the gentleman from Texas will answer me this question, he will afford me some information which I have been wholly unable to get from any member of Congress this session: Why did not General Cass vote upon the fugitive slave bill, when he was in the Senate the day it was passed? When he was in his seat a short time before the vote was taken? Will my friend from Texas say why General Cass did not vote?

Mr. HOWARD. I would suggest to the gentleman that he had better ask that question of General Cass himself.

Mr. STANLY. That would be impertinent. It might offend the old gentleman, and I would not do that for a great deal.

Mr. HOWARD. It is a matter that I have never had any conversation with him in relation to. I understand from his speeches—

Mr. STANLY. The gentleman cannot answer, the "noise and confusion" is so great. [Laughter.]

Mr. HOWARD. There may be some private reason, of which I know nothing; but I know that, in speeches made before and afterwards, which are published in the Union of this morning, he expresses himself in favor of the fugitive slave law, in clear and distinct language.

Mr. STANLY. He expresses one thing in his speeches, and votes the other way. Why did not he vote for the bill? Can any gentleman on the other side answer that question?

Mr. HOWARD. As the gentleman proposes to conduct this debate by asking questions, I want to know of him—for I understand General Scott is his *Magnus Apollo* in this matter—whether he can say that General Scott approves of the fugitive slave law as it at present exists? and whether, if elected President of the United States, he would employ the power of the Government to execute that law?

Mr. STANLY. He would be a perjured man if he did not execute the law. [Much laughter.]

Mr. HOWARD. Well, that would be a question of morals, as well as a question of law. What I want to ask my honorable friend from North Carolina [Mr. STANLY] is, whether he knows, as a matter of fact, that General Scott is in favor of this measure, and will resist its modification or repeal?

Mr. STANLY. He is as good a compromise man as my friend from Texas, [laughter]—a true compromise man. For further information, I refer my friend to my letter to my constituents, published a few days since, which no man can misunderstand.

Mr. HOWARD. I did not hear distinctly, but I understand the gentleman refers me to General Scott's letter.

[Cries: "No!" "No!" "No!"]

Mr. STANLY. I beg leave to refer the gentleman to General Scott, as he has referred me to General Cass; and when he gets General Cass's answer, I will not vote for General Scott when he is nominated, if he should be, if I do not give you his. Is not that a fair trade? [Laughter.]

Mr. HOWARD. That is a trade at which I should be likely to be cheated, if I accepted the bargain; for, if General Cass would answer, the gentleman would not only have an answer, but an answer to the point—an answer that he would maintain it by his veto power before he could get

my vote, if there was no other chance, except a Whig precisely in the same predicament. But it is suggested that the gentleman from Massachusetts [Mr. FOWLER] would probably give us a more lucid explanation of that matter, and show us in what light he understands the position of General Scott on the fugitive slave law.

Mr. FOWLER. I suggest that there are other gentlemen who can tell the truth besides myself. [Laughter.]

Mr. HOWARD. The gentleman gave such lucid testimony, and so much to the point, on a former occasion, that I was in hopes that upon this he would also have enlightened us in relation to this subject. He says there are perhaps other gentlemen who could tell the truth as well as himself. That may be, if they happened to know it. But the misfortune of the thing with my Whig friends upon the other side is, that they do not know whether General Scott will stand up to the Constitution or not.

Mr. STANLY. I know it. I answer the gentleman, I know it. I say, he is as good a compromise man as my friend from Texas, [Mr. HOWARD,] or myself.

A VOICE. The fugitive slave law included?

Mr. STANLY. The compromise measures, and the fugitive slave law, too. As good a compromise man as my friend from Texas, [Mr. HOWARD,] and I rather think in favor of more of them than he was.

Mr. HOWARD. If the honorable gentleman can state that of his own knowledge, or by authority of General Scott, I shall be happy to receive the information. And I would like to know whether that is the understanding of the honorable gentleman from Massachusetts, [Mr. FOWLER,] who always has to be consulted in relation to these matters.

Mr. BAYLY, of Virginia. Come out, Mr. FOWLER. Give us your experience.

Mr. HOWARD. The gentleman [Mr. STANLY] could relieve us from the difficulty, by saying, whether General Scott has authorized him, or any one else, to make that declaration? [Laughter.]

Mr. STANLY. I will answer my friend from Texas. I have not talked with General Scott, I think, in three months. I have other business to attend to—a great deal—and I suppose he has. I do not speak by anybody's authority. He never authorizes anybody to speak his opinions. He will speak for himself. He is able to do so. I only tell the gentleman—and I told my constituents in the letter I wrote—what I know, of my own knowledge, from his own lips. There is no mistake about that. If I would say I heard my friend from Texas [Mr. HOWARD] say a particular thing, so and so—my veracity not impeached—I take the ground that I speak what I know. Is that an authority in fact? I say, therefore, what I know. Before the compromise measures were passed, during their pendency—during the time when Texas was so much alarmed about the bill, which my friend [Mr. HOWARD] had to change his vote to get passed—General Scott was as anxious for the passage of the compromise measures, as my friend from Texas. I know that after the passage, he is as true, as firm, and as unyielding a friend, to the measures, as the gentleman from Texas, [Mr. HOWARD,] or myself.

Mr. OUTLAW. I would like to know from my colleague, [Mr. STANLY,] why General Scott, if he is a compromise man, does not say so?

Mr. STANLY. That is a strange question from my colleague. He knows as well as I do, that General Scott is in favor of the compromise measures. But, sir, as to why he does not say so, I suppose there are ways by which everybody regulate their own affairs. Each general has his own notion of propriety about the manner of acting; and I think General Scott would descend from the high position which becomes him, and would act an unworthy part, if he were to write letters every ten days to every popinjay politician of every cross-road and dram-shop in the country, who might address him a letter, and asks his opinion. That he will give a full and satisfactory answer to the National Convention, and that his position will be so plain that no one can misunderstand it, I have no more doubt about than that I am now living. Whether that National Convention shall nominate that man whom both my colleague and I prefer, or any other, I think I can safely say he will not have my support, if my colleague, with

the honorable and patriotic motives that always animate him, cannot also support the nominee.

Mr. OUTLAW. The gentleman from North Carolina [Mr. STANLY] seems to think that it is a strange question I ask him. Well, in response to that, the gentleman well knows the position I occupy upon this subject. I will vote for no man for the Presidency, or the Vice Presidency of the United States, who is not publicly pledged, so that there can be no mistake about it, that he will maintain each and all of those measures, as a final adjustment of the slavery question. Nor am I satisfied, nor will my constituents be satisfied, by declarations made to individuals in private conversation. They wish to judge for themselves of the extent to which he is committed to the maintenance and upholding of these compromise measures. When General Scott shall make that public declaration, I shall be able to judge, and everybody else will be able to judge how far he is committed to maintain them as a final settlement.

Mr. STANLY. I agree to all that, except what my colleague may think about the pledge. I rather prefer a man's past life and high character for patriotism, truth, and honor, to pledges. He signed a pledge during the last Congress, which I did not sign. I do not sign temperance pledges. I will not do so, because I think it wrong to pledge to man that I will not sin. I will not put my name to a paper to say that I will not lie, nor steal, nor drink, but I object to no man's signing a pledge about anything. If that is what my colleague [Mr. OUTLAW] means, by a pledge, I hope General Scott will never give one. But if he means by it, his expressing his full opinions, without any reserve, and without any mistake, there is no difference between us upon that point, and my colleague will be satisfied, as I will. I repeat, my preferences are like those of my colleague. I have said, and I say again; it is due to General Scott's character—worth more to him than the Presidency—that he should not allow his opinions upon great questions at issue to be misunderstood. It is due to the country, as well as to himself. And I venture the prediction, if General Scott is nominated, his opinions will be as distinctly known to the public, as they have been to all persons who have conversed with him. I have no doubt, after the nomination, I shall be side by side with my colleague, or rather, in my proper place, following his lead.

Mr. OUTLAW. I shall be happy to see that prediction, when it is forthcoming. But confidence is a plant of slow growth. It is not a part of my political creed to render my confidence without knowing the grounds upon which it is rendered. And I tell my colleague, [Mr. STANLY,] that when I signed that pledge it was nothing more than a declaration. I was elected upon that ground to a seat upon this floor, and I appeal to him, if he, too, was not elected a member of this Congress upon the express ground that he would vote for no man for the Presidency or Vice Presidency who would not uphold these compromise measures. I ask him if he did not fight the battle against those who were opposed to this settlement?

Mr. STANLY. That I did; and I told my constituents that I would rather have the support of any honest Union Democrat than of any secessionist scoundrel who advocated the dissolution of the Union from opposition to the compromise measures, no matter how good a Whig he might pretend to be. I said all that; and I have no more doubt of General Scott's opinion upon the compromise question than I would of my colleague's, [Mr. OUTLAW,] if he had not just expressed it.

Mr. GOODRICH. I was present in caucus last night, and I can answer the question which the gentleman from Texas [Mr. HOWARD] has put. I was there from the commencement to the close. The only reason given for ruling the resolution out of order last night was the same which has been assigned in this House for laying the same resolution upon the table in the Democratic caucus at the commencement of the session; to wit: that it belonged to the National Convention. No other reason was given.

Mr. HOWARD. I have only to say that, for general national purposes, that was only a single resolution; but that they should have adopted it at the first caucus, and made it an issue before the country, and repudiated it at the second, can have only one explanation, and that is, that they have repented of what they have done, and intend to

take a new position. I infer that from the facts I have stated.

Mr. BROOKS. Will the gentleman indulge me for only a moment?

Mr. HOWARD. Very well. They say free confession is good for the soul.

Mr. BROOKS. I understand the gentleman from Texas to ask—and it is a question in which I am somewhat interested, and for that reason I answer it—why, in a caucus of fifty-one members, we adopted that resolution, and subsequently repudiated it in the House of Representatives by only seven Whig votes from the North?

[Cries: "No!" "No!" "That is not the point."]

Mr. BROOKS. I only want to get at the gentleman's question. I understand him to ask why it was that, in a Whig caucus of fifty-one members at the opening of the session, we adopted the compromise resolutions, and why we subsequently had this action in the House, in which there appear only seven Northern Whig votes? I will tell the gentleman the reason, and it will unfold to him the whole story, and it may as well be unfolded. In the prior caucus we had no record made; and it was then the settled policy of the Whig party that the compromise measures were to be final. Subsequent to that time it has been found to be the interest of a portion, or supposed to be the interest of a portion, of the great body of the Whig party North, and a portion of the Whig party South, to repudiate that compromise.

[Cries: "That is it!" "That is it!" "That is it!"]

But when there was a resolution introduced into this House, upon the part of the Southern Whigs, a resolution to support the Whigs of the North, who were compromise national Whigs—and that resolution was introduced here by the honorable gentleman from Georgia, [Mr. HILLYER]—all our hearts wavered, because the Southern Whig column wavered, and did not stand by us national Whigs; and the cry was of Napoleon at Waterloo, "Take care of himself who can." For, if the whole Southern column would not stand by the Northern conservative Whigs, it was useless to fight Southern battles on Northern ground. Hence, when the gentleman from Georgia [Mr. HILLYER] introduced his resolution here, the cry of every Northern man was, "Save himself who can." So the record was reversed, and there were found but seven Northern Whigs voting for the finality of the compromise.

That is the resolution of the subsequent caucus. In the organization of the Whig caucus, held last night, we were not permitted to approach a discussion of that subject. Upon a resolution, in a Whig caucus, called for Whig purposes, it was held to be out of order to speak of the compromise, or even to agitate the subject, until we had decided upon the time and place—is that a mistake?—for the meeting of the Convention; and there stood behind those ready, the moment we had fixed upon the time and place, to adjourn, and afford us no opportunity to vote upon the compromise resolutions at all.

[Great confusion in the Hall.]

Mr. CAMPBELL, of Ohio. Will the gentleman allow me to say a word?

Mr. HOWARD. Certainly.

Mr. CAMPBELL. I only desire to correct the gentleman from New York, [Mr. Brooks,] I do not come here to testify in relation to this matter at all; but I desire that what information may be communicated with reference to what was done in the caucus last night, shall be correct. The gentleman from New York is mistaken in his statement of what was the decision of the Chair last evening. A proposition was presented to the caucus, fixing the time and place for the holding of the National Whig Convention. A substitute to that resolution was then offered, embodying the question of the finality of the compromise. The presiding officer decided, notwithstanding the proposition submitted as a substitute might, or might not, be entertained at another stage of the proceedings, that it was not germane to the resolution then before that body; that it was not pertinent to the proposition for the fixing of the time and place of holding the convention. That was the decision of the Chair; and while I am up, allow me to correct the gentleman, or rather to make a statement which he has omitted; which is, that while the Chair was sustained in that de-



cision, gentlemen from the North, from the South, from the East, and the West, expressly declared their opinion for and against the resolution; and that they did not at all desire to shirk it, but that when it was introduced at the proper time as an independent, substantive proposition, they were willing to entertain it; that they were willing to propose such modifications or amendments as they might see proper, embracing other questions. That is the history of the matter. That is the reason why it was properly ruled out of order, as any similar resolution would be in this, or any other deliberative body.

Mr. STANLY. Will my friend from Texas allow me a little while?

Mr. HOWARD. Be brief, if you please.

Mr. STANLY. I will be brief. The gentleman himself has called us out. Now, sir, there was no rejection in the Whig caucus of this compromise resolution, and there never has been any. There has been no Southern Whig waiving or repudiating the compromise measures. I know of but one called a Southern Whig who ever has voted against this compromise resolution—but one—one of my colleagues, [Mr. CLINGMAN,] who left the caucus last night, as he stated a moment ago. Is there another Southern Whig who has voted against those resolutions? Where is the man? I do not know, nor have I ever heard of him. Yet the gentleman from New York says that the cause of the proceeding alluded to was the faltering, the wavering of Southern Whigs. How did they falter? I deny, most emphatically, and as positively as courtesy will admit, the statement made by the gentleman from New York. The gentleman takes the whole Southern Whig party under his protection, and because we do not follow his lead, he seems to think that he is to be sacrificed—bound and taken to the altar—that he is to be sacrificed because we do not follow his dictation, and regulate our conduct according to his manifestoes and his lead; that the compromise measures are all lost, unless all Southern Whigs implicitly obey his mandate.

Mr. HOWARD. I cannot yield further to allow the gentleman to go into an argument.

Mr. STANLY. I wish, then, only to say that there was no rejection of the compromise resolution. But one Southern Whig was against it. We invited gentlemen to come and go for it. If the gentleman who left had staid, we would, as I believe, have adopted the resolution submitted by the gentleman from Tennessee. What the gentleman from Ohio [Mr. CAMPBELL] states, is correct. There was no intention to prevent discussion; but we did not intend to allow the caucus to be broken up, without recommending time and place.

Mr. BROOKS. One word in reply. This matter of parliamentary law I will not undertake to discuss, but it is a fact—and the intelligent people of this country will understand it—that in a Whig caucus the Whig compromise resolution of the caucus which met at the opening of this Congress was introduced, action asked upon it, and it was ruled out of that Whig caucus as not in order.

Mr. CAMPBELL, of Ohio. I hope that I may be allowed to add—

[Cries of "Order!" "Order!" and great confusion.]

Mr. STANLY, (the confusion having subsided,) obtained the floor and said: The gentleman from New York, I feel authorized to say, has written letters announcing, in advance, the intention of some persons to leave that caucus before the thing was done. I got my authority from the New York Express.

Mr. BROOKS. Where is it?

Mr. STANLY. Does the gentleman deny he wrote it? Here it is in the New York Express, [holding up that paper,] which I have received this morning. I have shown it to eight or ten gentlemen, and it has been admitted by all of them to contain the argument, and some of the very expressions, *verbum verbo*, used by the gentleman from New York last night in the caucus, and like those made by him here to-day. The article is contained in the paper which I hold in my hand.

Mr. BROOKS. Has the gentleman no other authority than that?

Mr. STANLY. Does the gentleman deny it?

Mr. BROOKS. I do, from the beginning to the end, and, before high Heaven, in the presence of God, I say I wrote not one word of that letter.

Mr. STANLY. Did you not see it before it was sent? Did you adopt or approve it?

Mr. BROOKS. I will reply to the gentleman's question. The person by whom that letter was written submitted it to me. It contained harsh expressions against the gentleman from North Carolina, [Mr. STANLY,] which I demanded should be stricken out.

Mr. STANLY. I do not thank the gentleman for so doing, for he approved what remained.

Mr. BROOKS. A considerable portion I caused to be erased. For not a sentence of that letter do I hold myself responsible in any degree, nor for one word or syllable of it. There are sentiments in that which I have expressed, which are my sentiments, and of gentlemen with whom I associate, and to which, at all times and upon all occasions, in social circles, I give expression.

Mr. STANLY. The gentleman has confessed that the letter was submitted to him and corrected by him. What motive his correspondent could have to assail me, as I do not know him and never injured him, I cannot imagine. What kindness there was in erasing will appear by reading what is left.

Mr. BROOKS. The gentleman's allegation was that I wrote a letter announcing my intention to leave the Whig caucus.

Mr. STANLY. That the letter was written by the gentleman's authority and consent he has confessed.

Mr. BROOKS. The gentleman stated that I wrote a letter announcing my intention—

Mr. STANLY. No, sir; letters written by your authority and consent. It was then your letters in your paper announcing the intention of some persons—

Mr. HOWARD. I would like to hear what is going on. Let the gentlemen speak one at a time, and I have no objection to giving way. [Laughter.]

Mr. WASHBURN. Will my friend from Texas permit me for one moment?

Mr. HOWARD. I think that I have as much of this as I want. The evidence is pretty full. [Cries of "No!" "No!" "Let him go on!"]

Mr. HOWARD. I yield to the gentleman.

Mr. WASHBURN. Reference has been made by the honorable gentleman from New York [Mr. Brooks] to the caucus of the Whig members of the House, held at the commencement of the session, and, also, to that held last night. He has said that at the former the compromise measures were affirmed, and that they were repudiated at the latter; that the Whig party North were then in favor of them, and are now against them, and he alleged that this change had been wrought by considerations growing out of the altered condition of affairs in regard to the Presidency. I wish to repel this allegation. I was present at both caucuses, and occupied the same ground at both. The Whigs of the North, I have no hesitation in saying, and the Whig members of Congress from the North, hold the same opinions and occupy the same position to-day respecting those measures, that they held on the first day of the session.

Mr. PHELPS. What was that position?

Mr. WASHBURN. I will answer if I have time. Their course and their aim has been to restore harmony and peace. There are those among them who approved of those measures, and those, also, who sincerely disapproved of some of them. They would not—certainly the latter would not—oppose the nomination or election of any man to the Presidency because he differs from them in opinion concerning these measures. They would not oppose Mr. Fillmore, Mr. Webster, or General Scott, or any man, North or South, simply for the reason that they do not agree with them as to the wisdom or propriety of the compromise. [Cries of Order! order!] They will allow men to differ on this subject; they know that men from different sections, and from the same section of the country, will differ upon questions growing out of the institution of slavery. But this I may safely say—they will not consent that the Whig party shall be denationalized by the introduction of any new test of political orthodoxy. They will never consent that the finality of the compromise measures shall be made a part of the Whig creed; and any candidate, whether he be General Scott or any other man, who insists upon that, or who is nominated by a convention which affirms or requires it, cannot, in my judgment, obtain the

vote of a single Northern State—not one. Gentlemen may as well understand this first as last. If we are to exist as a party, it must be upon a platform on which men of all sections of the country can stand together, without any sacrifice of opinion, of principle, or of honor; and not upon one which may well hold men of all parties in one section, and exclude all in another. Gentlemen should remember that if they can make a test of this kind, it will be equally competent for others to make tests in reference to the same general subject—they yield the question of jurisdiction and make slavery a national affair.

Mr. HOWARD. I want to know whether my friend from Maine, and his party in Maine, are opposed to any modification of the fugitive slave law; and whether they are in favor of enforcing it?

Mr. WASHBURN. They will not agitate for its repeal or modification when agitation can be but useless or mischievous. They have not come here with petitions. I have made no inflammatory speeches, and shall make none—

Here Mr. HOWARD claimed the floor. [Cries all over the Hall of "Order!" "Order!"]

The CHAIRMAN. The gentleman is called to order. This discussion is not in order. The Chair has permitted it by common suference, and if no member of the committee interposes against it, the Chair hereafter will deem it his duty to arrest it.

Mr. DURKEE. It will break up both parties. [Laughter.]

Mr. HOWARD. My object in yielding to the gentleman from Maine was to obtain some testimony—some facts in relation to the caucus.

Mr. WASHBURN. It was my desire to satisfy the gentleman.

Mr. HOWARD. Of facts his speech will be found extremely barren. The Whig party, with which he is connected, is opposed to political orthodoxy, if I understand his explanation.

Mr. WASHBURN. They are very much in favor of political orthodoxy.

Mr. HOWARD. They are opposed to making an explicit avowal of their opinions.

Mr. WASHBURN. They are opposed to making—

[Great confusion. Cries of "Order!" "Order!"]

Order having been restored—

Mr. HOWARD resumed. From all the statements made by our friends on the other side, the Whigs have changed their party tactics. It appears that they were, at the commencement of this Congress, in favor of the compromise measures, and that they now find it expedient to go against them, or at least to give them the go by. The expression of the gentleman from North Carolina, [Mr. STANLY,] makes that conclusion manifest. He said that he hoped General Scott never will condescend to pledge himself upon the subject of the compromise measures.

Mr. STANLY. To signing pledges.

Mr. HOWARD. I have only to say, in relation to that subject, that it must be sufficiently apparent to an intelligent public, that the man for the first office in the world, who comes before twenty-five millions of freemen, and is above stating the principles which he himself entertains, must live in a region of pride far above republican institutions, or he must intend to cheat and gull those who take him upon trust.

Mr. STANLY. Nobody said that.

Mr. HOWARD. But what is the history of this matter? The nomination is to be made. Under this miserable pretense of parliamentary rule, a resolution of approval was ruled out of order, when it was known that the decision was to be a test of party action. What is parliamentary law? What is it here upon political questions? It is precisely what a majority of the House choose to make it, and if there is anything for which I hold supreme contempt, it is the parliamentary law of this House. But in relation to this subject, what does every man of sense know? He knows this, that the object of starting that parliamentary law by a Whig President of a Whig caucus, the object of ruling it out of order, has no other motive and purpose than that of stifling all inquiry and action directly upon the resolution which was intended to evoke and elicit party action. I feel that I should be insulting the intelligence of the country, if I contended for such

a position, and I am astonished that a man so bold as my friend from North Carolina, [Mr. STANLY,] should take shelter behind a question of order in relation to a matter which involves the interests of the whole country.

Mr. STANLY. I will tell my friend why: I believed there was a design to break up and have no National Convention at all. That is the reason. I thought the people sent us here not to instruct their representatives in the National Convention in doctrine, but in caucus, to recommend time and place for holding the National Convention. That body will attend to their own appropriate duties.

Mr. HOWARD. Let me say to the gentleman, what I would say in reference to my own party, that if, instead of giving a clear and explicit pledge, it took shelter behind an unimportant parliamentary rule, which can have no existence in a caucus of a political character, that the party deserved to be broken up, for it has nothing worth preserving to hold it together; and the party who wish to administer the Government, must be destitute of any lofty, sound principle, that will take shelter behind a question of that sort.

Mr. STANLY. Let the gentleman look to the Democratic Convention, as I will to the Whig Convention; and then if he, and I, and Southern men are not satisfied, we may stand shoulder to shoulder.

Mr. HOWARD. I am glad to hear the gentleman indicating that wish. But it looks inauspicious at a time like this, when it is necessary to settle principles upon which a great canvass is to be conducted, and upon the assertion of which a great majority of the country looks to for the perpetuity of our institutions, to be quibbling about parliamentary rules, dodging questions, and refusing to answer. This is not the way to address freemen in a free country, which depends for its existence upon the representative principle. With out knowing the opinions of men who are candidates for office, it is impossible to administer the Government according to its theory, because the theory is, that the people shall administer the Government. The theory on the other side of the House, so far as it has been developed, is not that the people shall administer the Government, but that the trustees—the officers shall be taken upon trust, without expressing their opinions; and then after they succeed in being elected, that they shall be governed by temporary expedients in the administration of a Government of a Democratic cast and character.

[Here the hammer fell.]

Mr. HOWARD said that he had not yet touched upon the argument he intended to deliver. He would avail himself, however, of the privilege extended to others of writing out his remarks. [His remarks will be published hereafter.]

Mr. MOLONY obtained the floor, but gave way to

Mr. JONES, of Tennessee, who moved that the committee rise.

The motion was put, and carried in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 7, and had come to no conclusion thereon.

Upon motion by Mr. JONES, the House then adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CABELL, of Florida: The petition of Joseph M. Hernandez, for himself and others, asking the passage of a law to insure the fulfillment of certain stipulations of the treaty ceding Florida to the United States.

By Mr. EASTMAN: The petition of L. H. Johnson for additional compensation for taking the census.

By Mr. MOORE, of Pennsylvania: The resolutions of the board of commissioners of Northern Liberties of Philadelphia, against a further grant of money to the Collins steamers.

Also, two memorials from the printers of Philadelphia, in favor of the establishment of a national printing office.

By Mr. YATES: The petition of citizens of Woodford and McClean counties, for the establishment of a mail route from Bloomington to Spring Bay.

Also, the petition of H. N. Marsh for extra compensation for taking the Seventh Census.

Also, the petition of Joseph C. Howell for the same purpose.

Also, the petition of Moses Shepherd for the same purpose.

Also, the petition of A. C. Hardin and others, for a grant of lands to the State of Illinois, to aid in the construction of the Burlington, Peoria, and Lafayette railroad.

Also, the petition of L. A. Cunningham and others, for the same purpose.

Also, the petition of John O. Fallon, president of the Ohio and Mississippi Railroad Company, for a grant of lands to the State of Illinois for a railroad from Illinois town, on the Mississippi, to Vincennes, on the Wabash.

Also, the petition of Luther M. Kennet, mayor, and the aldermen of St. Louis, to reimburse that city for moneys expended by the corporate authorities in removing obstructions in the harbor of St. Louis.

Also, the petition of B. Kellogg and others, of Tazewell county, against the extension of the Woodworth patent for a planing machine.

Also, the petition of L. L. Bullock, president of the Buel Institute, Granville, Putnam county, Illinois, for the establishment of an Agricultural Bureau.

By Mr. GREEN: The petition of R. R. Sloane and others, for the extension of the mail route from Fremont to Port Clinton, to Ottawa City, Ohio.

By Mr. FOWLER: The remonstrances of Daniel Fillmons, Henry Baylie, and 51 other members of Providence conference, (of the Methodist Episcopal Church,) against the reestablishment of flogging in the Navy.

By Mr. SCUDDER: The petition of Joseph C. Delano and others, of New Bedford, Massachusetts, asking for light-boats to be placed on Minot's Ledge, and the south shoal of Nantucket.

Also, that a buoy boat may be placed near the shoals called the Bass and Great Rips.

#### IN SENATE.

THURSDAY, April 22, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, relative to the state of affairs in Oregon, growing out of a conflict of opinion among the authorities of that Territory in regard to the location of the seat of government of the Territory; which was read, referred to the Committee on the Territories, and ordered to be printed.

Also, a report of the Secretary of State, communicating statements showing the number of passengers who arrived in the United States from 30th of September, 1850, to 1st of January, 1852; which was read, and ordered to be laid on the table.

Also, a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, Lieutenant Williamson's report and survey in reference to the Umpqua and Rogue rivers; which was read, and referred to the Committee on Military Affairs.

#### PERSONAL AND POLITICAL EXPLANATION.

Mr. MANGUM. I desire again to throw myself on the indulgence of the Senate for the space of five minutes. When a man begins to speak of himself, he generally becomes garrulous, and occupies a good deal of time; but I will be very short, Mr. President; I will limit myself to five minutes.

The PRESIDENT. It requires unanimous consent.

Several SENATORS. Go on.

Mr. MANGUM. A newspaper was placed in my hands by a friend yesterday—a paper that I am not accustomed to read—in which I find a violent, unjustifiable, and a most atrociously injurious personal assault made upon me. Here it is:

WASHINGTON, April 17.

The presidential movements here continue to be the engrossing topics, and they absorb all other matters of interest. It is in vain to disguise facts, and to face them always is true heroism.

An impression prevails—be it true or not, it is yet the impression—that Mr. Senator Mangum made the speech in the Senate he has made in consequence of the lure of the Vice Presidency on the Scott ticket; and an impression prevails that a like lure is held out to Mr. Senator Jones, of Tennessee, in consequence of which is the division manifested among the Southern Whigs in Congress. I must not be censured for writing you of the existence of this impression. I did not create it. It is my bounden duty, as your correspondent, to write you not only facts, but widespread rumors affecting public men; and when these rumors are put by me into print, I but confer an obligation in giving them a reason to contradict in public what is everywhere whispering in private. The rumor and the belief among many, therefore, is, that at supper parties and at dinner parties a coalition has been formed between Mr. Mangum and ex-Governor Seward on one side, involving others on their respective sides, that with General Scott, as the unwritten candidate for the North, is to be run Mr. MANGUM South, or Mr. JONES, with the distribution of other high offices among their followers in North Carolina, and Tennessee, and Kentucky. Hence this astonishing coalition!

Mr. Mangum was selected, rumor adds, to preside over the Whig Congressional caucus at a private meeting, where Governor Seward was the prominent spirit, and it was there determined that the Whig compromise resolution of the first Congressional caucus should be ruled out of order. All this may be most untrue, and I indorse not one word of

it; but such rumors are as current in the Washington circles as any item of news in circulation. I have before me names of men alleged to have been present at these private dinner and supper caucuses, but it is not my business to invade social circles further than as they produce public measures. The Scott speeches agreed upon in these caucuses to follow Mr. Mangum, from Tennessee and North Carolina, and to back him up, will soon tell what I need not write.

It is agreed, too—and Mr. Mangum's speech already discloses it—that the Whig compromise resolution of the early Congressional caucus is to be repudiated, not only for the coming Congressional caucus, by being ruled out of order, but in the Whig National Convention, repudiated as unequal for and unnecessary also. Some of the Southern Whigs in this new movement insist upon it, that the waiving of the issue now is but its adjournment to a more fitting body—the Whig National Convention—and such of them as are in earnest (for some of them are) are but dupes, as dupes they should be. The whole compromise, as a "finality," is to have the go-by, then, in the convention, and such is the supper and dinner caucus understanding among the high contracting parties, and the go-by it will have and should have in the present position of things. Why? I think I hear you ask, in astonishment. Why? Hear me, then, and I will tell you why.

We Northern Whigs can never fight for Southern constitutional rights on Northern ground, if Southern men abandon us. The provision in the Constitution for the surrender of fugitive slaves is to us a most unpopular, often a most revolting and shocking duty; but it is a duty imposed upon us by the Constitution, and as sacred—solemn a part of that instrument, as any other section in it. If such leading men as Mangum, Stanly, Jones of Tennessee, or any portion of Kentucky, ever abandon us when we struggle in the North for the unquestioned, unquestionable rights of the Southern States, we must fall before the unpopularity of the fugitive slave provision of the Constitution. We cannot stand up for men who refuse to stand up for themselves. We have no earthly interest in protecting the odious parts of the Constitution, surrendered by the South itself. We will never be the catchers of negroes that North Carolina men or Kentucky men do not want. If we can evade that provision of the Constitution by Southern acquiescence, we must assuredly will. Slave catching, next to slave trading, is thought by most people to be the meanest of all occupations. We Whigs who, in the North, have sacrificed ourselves, our popularity, our power, to preserve the consecrated instrument as George Washington and a John Adams bequeathed us, are resolved from all obligations to continue this self-sacrifice when such men as Messrs. Mangum, Stanly, Jones, and others, acting for their States, acquit us from the contract.

And why should we continue this sacrifice? Answer ye me that, Messrs. Editors. You have given the country from Western New York an anti-slavery man for President, whose education, every feeling of whose nature, beyond all doubt, was and is anti-slavery, but who, upon becoming President, and taking the oath faithfully to administer the Government under the Constitution, remembered there was a South as well as a North, and who now, for this remembrance only, is assailed by all the violence of abolition, assisted even in this assault by such men as Mr. Mangum in his echoes of what they say, viz: that Mr. Fillmore is unavailable among the Whigs of the North, and in the demand of his immolation therefor. This Southern man admits, in his own State, that Mr. Fillmore is preferred above all others, but he advances the extra judicial dictum that he is not available in the land of his boyhood and birth, and that the State which has hitherto crowned him with its highest honors, will now turn its back upon him. Why, however, it may be asked, I suppose, can he not carry Northern Whig votes,—an avowment by the way, as unfounded as cruel in Mr. Mangum's mouth—why, (if admitted,) because he has been faithful to the Constitution and to the South, as well as to the North. We see in Mr. Fillmore, therefore, (and the same may be said of Mr. Webster, for their course is one,) Northern men sacrificed by Southern men, and sacrificed by Southern men, too, because, in obedience to their oaths to support the Constitution, they have supported in good faith that provision of it which secures the rights of the South.

The path of duty, therefore, for Northern National Whigs, if Mr. Mangum and his followers persist in their course, and are satisfied at home, or even by divisions at home, is clear; and that path is, to let the South take care of itself, its fugitive slaves and all. If Southern men encourage the reopening or the keeping open the anti-slavery issues, why, let the reopening come, and if slavery be an institution that cannot stand the test of law, or religion, or popular opinion, it must tumble down. If Mr. Mangum can embrace in caucus, Governor Seward, fresh from the Bloomer anti-slavery demonstrations of Auburn, and Thaddeus Stevens, with hands red with the blood of the Gorsuch murder in Christiana, without any definition of principles—nay, declaring them all as out of order—why cannot you, the editors of the Express? I see no reason why you Northern Whigs, who, as forlorn hopes, have led on even the Democratic columns from the errors of the Wilmot proviso to the defense of the Constitution and the Laws, should act as forlorn hopes any more. When the Southern generals—chief are deserting you on the field of battle, you would be fools to be leading forlorn hopes in their behalf. There are periods in politics, as in war, when to surrender is a duty as well as discretion. I counsel no surrender now, however, but more vigilant action than ever until it is settled whether Mr. Mangum leads, or even divides the South. New York and New England Whigs of the national faith should stand by their principles, and such exponents of them as Mr. Fillmore and Mr. Webster, as long as the Southern Whigs are true in mass; but if the Southern Whig regiment even stagger, or begin to stagger, *sauve qui peut* be the cry. Mr. Mangum, however, it is believed, will soon be put hors du combat.

General Scott will certainly be nominated President in the Whig National Convention, if the Southern Whigs divide between him and any Northern man, and of that there can be no doubt; or, *vice versa*, if the Southern Whigs are united, Mr. Fillmore or Mr. Webster will be the man. If

General Scott is nominated on Mr. Mangum's programme, it is wisely calculated, in these dinner or supper caucuses of which I have been speaking, that he can carry the Northern States, with some (one only) Southern State. Even such a State as Maryland is given up on the canvass I have seen! Ohio, Pennsylvania, and New York, with their solid columns, are set down for him sure! North Carolina, Tennessee, and Louisiana, are utterly sacrificed in this calculation. It is felt and known that, with such able men from Tennessee speaking, as Mr. Gentry is reported to have spoken the other night, in the Whig caucus, or such as Mr. Outlaw, of North Carolina, speaking with the energy he is reported to have done, there can be no possible hope of these States.

Mr. Mangum's programme, therefore, is a wise one: *utter abandonment of the compromise bills, and the permission to run General Scott in the free States, with the repeal, or virtual annulment, of the fugitive slave law, upon every Whig banner.* His strength in the free States will be determined by the candidate the Democracy run against him; but it is obvious, already, that in Ohio, central and western New York, Abolition Democracy will beat Whig Abolition in this scheme, two to one. The best Whig districts in Ohio have been cut out by demagoguing Democratic Abolition; and in this race of demagoguing, there is nothing that can equal, much less eclipse, such men as Rantoul, in New England, or the Chase and Giddings free Democracy of Ohio.

I have no right to advise you, Messrs. Editors, but the programme I have marked out for myself I may ask you to publish for others to see. As a Northern man I shall go—nay, I must go—with the Northern Whig party, even with this threatened new inscription of it: "*The practical nullification of the fugitive slave section of the Constitution;*" simply because I have nowhere else to go, save into the arms of a Democracy, three fourths of whose presses in the State in which I reside go for the very same thing, and almost everything else besides. No single man, or single set of men, can breast the flood of Abolitionism when such men as Mr. Mangum take away their dykes. He who attempts it would only be drowned in some Zuyder Zee. The Whig party is dear to me, and I cannot abandon it now, even with these its great faults, to cling to something worse. General Scott, if nominated and elected by us, is a man whom, of himself, we can trust; and we must live as well as we can in the malaria and the influences that will have nominated and elected him. They do us all to proscription, to utter proscription; we see, know, and feel, as like influences did under General Taylor; but what men suffer are things unimportant, as long as a principle can be maintained. Parties are never perfect, and a man must make a choice of the best of them. Under General Scott, as under General Taylor, if General Scott is faithful to the influences that make him President, Mr. Webster must hang around ante chambers, as he hung before, repulsed or frozen, and Mr. Fillmore must be sneered at as not having the power to get even a clerkship for a friend, or Mr. Clay be denounced, as denounced he was when he introduced his omnibus bill.

The future is big with events. No human being can foresee or control them. It seems to me an utter disruption of all old parties is portending.

#### AN EYE ON THE CAPITOL.

The following editorial article I find in the same paper which contains this letter—The New York Evening Express, of Tuesday, April 20th:

"The letter from our occasional Washington correspondent to-day being of that kind which will probably create an excitement at the Capitol, we have, for the sake of peace, delayed its publication, so that it will not appear at the Capitol until after the meeting of the Whig caucus to-night. The writer, in one thing, expresses our own views, and in others he does not. He argues his case ably, and with effect. Had he passed the whole winter at Washington, in stead of a portion of it, his view might have been different, but, being an independent citizen, and just as independent of the present Administration and all its influences, as of all candidates for the Presidency who hope to succeed the present Administration, and above administering to any popular or official caprice, his views are as frankly given as they are strongly expressed.

"The tone of this letter leads us to apprehend that the Whig caucus this evening will not be harmonious; that Mr. Davis should attend it, and some other Whig Senators from the South, should they be present, will leave the caucus, together with Messrs. Gentry, Marshall, Williams, Cabell, Landry, and other Representatives from the South. Messrs. Mangum, Jones, Stanly, Calhoun, of Tennessee, Gray of Maryland, and others, we judge, from recent public incidents and letters, will remain, and, of course, these will control the result.

"If Southern Whigs choose to divide upon such an issue as the compromise measures, it is not for us to complain. Upon the merits of these measures our views are unalterably fixed, and neither time nor circumstances can change them. It is, however, to us a source of deep mortification to see Whigs doubly disagreeing upon this question—first, as to its utility and justice; and secondly, upon the propriety of sustaining it publicly. The enemies of the compromise, especially at the North, are made happy by this state of fact; and if this is any source of gratification to either of the Southern Whig sections, we long they will make much of it. It has, however, been so long the fashion for Northern Whigs to be divided upon the compromise questions, that perhaps we shall be rebuked for arraigning those at the South who now disagree as to their merits, and the propriety of sustaining them. We of the North, however, who have sustained these measures, have been made the pack horses for all sort of Free Soil abuse; and if there is a party at the South who prefer such alliances to others, we can have no sort of objection to the coalition. The full freedom of such fellowship may teach both sides more of charity towards different sections of country."

I do not notice these communications when they proceed from the usual organs of communication; but when there is internal evidence that

they proceed from a higher official quarter, I may feel myself called on, as I now do, to stigmatize their falsehood, and brand their mendacity as they deserve, and to fix the burning brand upon the mendacious and sycophantic calumniator. In this letter to the New York Express, I am charged with a coalition with the Senator from New York, formed at "supper parties and dinner parties;" the rewards of which coalition is to bring high offices to the "high contracting parties," and their friends respectively. Sir, every charge of coalition, preconcert, or agreement with that Senator, on any public question, I pronounce to be unqualifiedly and absolutely false. We are understood to agree on the presidential question. On that I have not been deflected, for I stand now where I stood four years ago, as my colleague [Mr. BADGER] well knows, and will be ready to verify on all proper occasions.

The author of the letter undertakes to assign motives to me—the desire of high office, &c., &c.—and yet is somewhat at fault to designate it. The only one named is indivisible, notwithstanding two gentlemen are named for it. The terms of the coalition are singularly inexplicit and indefinite. The calumniator is at fault—not in his dirty trade, but as to the stipulations contained in the coalition.

Another is still more serious—it represents me in the light of venality, as having been selected in a private caucus—the New York Senator being present, and a prominent person in it—to preside in a Congressional caucus, to rule certain points of order to suit the views of these conspirators. This is equally false, as is well known to the Senator from Kentucky, [Mr. UNDERWOOD,] who nominated me in a caucus of the Whigs of the Senate as chairman, as he likewise did of the Congressional caucus; which passed on both occasions without dissent, and was done upon his own motion, and without consultation (as I presume) with any one.

With a proper respect for the Senator from New York, and estimate of his talents; but he has as little influence on my opinions and my actions as any one in this body; and I think he would verify that, as matter of opinion, upon oath, if required. [Laughter.] Sir, with regard to the charge of venality, I may say that I have had the honor of occupying, for several years, the high seat which you now so worthily and ably fill; and the last act of this body, on my retirement, I look upon as the proudest honor ever conferred upon me; which was the unanimous vote of the Senate—with a majority in politics adverse to me, and when one objector could have arrested the proceeding—to give me the amount of salary fixed by law for a Vice President elected by the people. I suppose the gentlemen who observed my course here for years, saw nothing like venality or conscious partiality; otherwise, such a result could not have been realized.

These are the material allegations. I believe they have been willingly, wittingly, and wickedly made, with a full knowledge or belief of their falsehood, on the part of him who made them; and these allegations and insinuations I here pronounce to be—in the aggregate and in detail, in the whole and in every part—and I do it under every responsibility, moral and otherwise, that a gentleman can assume—utterly and absolutely false and unfounded, so far as they affect my honor or my integrity. The insidious and skulking editorial, designed to screen the malignant miscreant, speaks of *an occasional correspondent*!—who has been here *but a part of the winter*!—otherwise, he might have had other impressions. The skulking hypocrite! The base, cut-throat calumniator!

Sir, I have in my own mind no sort of doubt about the authorship. I have recently heard a speech in this Chamber, not from a Senator, between which and portions of the letter to the Express there is a remarkable identity of sentiment, identity of language, and singular identity or coincidence in minute turns of phraseology. It is incredible that *both* did not proceed from the same forge which has hitherto turned out much base, uncurrent coin, and I have thought proper to notice and brand it with the stigma of base, unprovoked, deliberate and deliberated falsehood, so far as I am able to do so; and if the author can think of anything (as doubtless he can in his vocation) that will more strongly and pointedly express contempt and contumely on my part, he has, by these

presents, a *carte blanche* from me to write it, and print it, too, in the Express, always with the reservation that he is neither to make me say or insinuate that, in my opinion, the author has any essential element of a true gentleman. A half-way mendicant of an editor, who fishes up his dirty and dependent bread from the filthy pools of slander and calumny, may, in some sort, in some circumstances, be an object of pity, for "his poverty and not his will consents."

But when some freak of fortune shall throw an editor into a high official position, and he shall affect the loftiest airs of a brilliant court, and majestically roll in his splendid coach through the broad avenues of the capital of the Union—his official position serving as a passport to refined and virtuous, and the highest and most polished circles of society, it is always to be deplored to find him devoid of the principles, the sentiments, and the feelings of a gentleman—and when this passport enables him to find his way to "private supper or dinner parties," and we find him prowling about for the means of picking up calumny and slanders or facts, as the case may be, in the way of his vocation, to minister to the rabid appetites of the readers of his press or Express, and thus abusing the hospitalities in which he unworthily participates, he is a fit subject to be kicked out of every decent circle, and banished the society of honorable men. That is my opinion.

I am alleged to have met the Senator at "dinner and supper parties," where all the mischief has been concocted, and the coalition perfected.

Sir, I have met the honorable Senator but once on a social occasion this session, where all parties met, Southern-Rights, Whigs, and Democrats, and where an elegant and refined hospitality excluded every debatable and party matter.

Sir, I turn from this subject as I do from its author, with loathing, contempt, and scorn.

The identity of language, of sentiment, and other circumstances, plainly enough indicate the author. I have little doubt he is one of the editors of the Express. And I here pronounce, under all the responsibilities that can appertain to me, that he is a malicious slanderer, a mendacious calumniator, and devoid of all the essential principles, instincts, and feelings of a gentleman—a man of honor. That editor of the Express, I take to be now a member of the House of Representatives.

The PRESIDENT. The Chair cannot permit such language. It is altogether out of order.

Mr. MANGUM. I am aware, sir, that it is out of order; and I am done.

#### PETITIONS, ETC.

Mr. CLEMENS presented a petition of citizens of Benton county, Alabama, praying a grant of land to aid in the construction of the Alabama and Georgia railroad; which was referred to the Committee on Public Lands.

Mr. ADAMS presented the petition of the administrator of John F. Wray, deceased, praying that the money paid for certain lands purchased of the United States, his title to which has been declared null and void by the courts of the State of Mississippi, may be refunded; which was referred to the Committee on Private Land Claims.

Mr. BRODHEAD presented the petition of William T. Zollickoffer, praying arrears of pension and his traveling expenses from the place of his discharge from the army to his home; which was referred to the Committee on Claims.

Also, a memorial of members of the Presbyterian churches in the District of Columbia, praying the donation of a portion of the public land in the District as a cemetery or place of burial; which was referred to the Committee on the District of Columbia.

Mr. DAVIS presented two petitions of merchants and others, citizens of Massachusetts, praying that further aid may be extended to Collins's line of mail steamers; which were ordered to be laid on the table.

#### PETITION WITHDRAWN.

On motion by Mr. GEYER, it was Ordered, The petition of John Moore, on the files of the Senate, be referred to the Committee on Military Affairs.

#### REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Jacob Gideon, asking indemnity for damages sustained in consequence of a violation of contract by



the Navy Department, submitted a report, accompanied by a bill; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of Hezekiah Miller, submitted an adverse report thereon; which was ordered to be printed.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of Jane Kearney, praying to be allowed bounty land for the services of her son, submitted an adverse report; which was ordered to be printed.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred documents relating to the claim of Emily Hooe, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. BRADBURY, from the Committee on the District of Columbia, to which was referred the bill to incorporate the proprietors of the Washington Cemetery, reported back the same with amendments.

Mr. HALE, from the Committee on Private Land Claims, to which was referred the bill from the House of Representatives for the relief of the heirs of Jeremiah Wingate, reported back the same without amendment.

Mr. BORLAND, from the Committee on Public Lands, to which was referred the bill to revive, for a limited time, "An act in relation to donations of land to certain persons in the State of Arkansas," reported back the same without amendment.

Mr. HAMLIN, from the Committee on Printing, to which was referred a motion to print the memorial of Henry M. Price, reported adversely thereto; and the report was agreed to.

He also, from the same committee, to which was referred a resolution of the 15th March, for the printing of "five thousand copies of a journal of a military reconnaissance from Santa Fé to New Mexico, to the Navajo country, by Lieutenant James H. Simpson," reported adversely thereto; and the report was agreed to.

#### O'REILLY TELEGRAPH TO THE PACIFIC.

Mr. DOUGLAS, from the Committee on Territories, reported a bill for the protection of the emigrant route, and a telegraphic line, and for an overland mail, between the Missouri river and the settlements in California and Oregon; which was read and passed to the second reading, as follows:

A Bill for the protection of the emigrant route, and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon.  
*Be it enacted, &c.*, That the President of the United States be and he is hereby authorized to raise, organize, and equip, in conformity with the first, second, and third sections of the "act to provide for raising a regiment of mounted rifle men, and for establishing military stations on the route to Oregon," approved May 19, 1843, three regiments of volunteers, of ten companies to each regiment, and one hundred men to each company, to serve for the period of three years, in guarding and protecting the emigrant routes and telegraphic lines, and of conveying the mails between the Missouri river and the settlements in California and Oregon, in the manner hereinafter provided:

There shall be established a line of military posts—say ten in number—at convenient and suitable points on said routes, and garrisoned by a sufficient force—say one hundred men at each post; and there shall also be established, in addition to said military posts, station-houses at suitable places, and distances not exceeding twenty miles apart, throughout the entire length of said routes, to be guarded and protected by at least twenty men at each station; said posts and station-houses to be of a cheap and temporary character, yet strong enough for the purposes of defense, and of affording the protection contemplated by this act, and to be erected by the volunteers, from materials to be obtained in the vicinity of the route.

Sec. 2. *And be it further enacted*, That it shall be the duty of the said volunteers, under the direction of the President of the United States, to keep the roads on the said routes in good traveling condition, with safe bridges and ferries across the streams; to carry the mails and to protect all telegraphic lines, and persons employed in establishing and working the same, and all emigrants, travelers, settlers, and traders along the line, and in the vicinity, from hostilities and depredations by the Indians, and to aid in the execution of the laws whenever called upon by the proper authorities.

Sec. 3. *And be it further enacted*, That the said volunteers, in accordance with such regulations as the President shall prescribe, shall be required to raise, gather, and preserve, all the provisions, bread-stuffs, forage, and supplies of whatever kind, which shall be necessary to sustain themselves and their animals, without cost to the Government, to the fullest extent that the country can be made to yield and produce the same.

Sec. 4. *And be it further enacted*, That the colonels of the said regiments shall be appointed by the President, by and with the advice and consent of the Senate; and all other officers of said regiments, commissioned and non-commissioned, shall be elected by the volunteers in accordance with such regulations as the President shall prescribe. And the volunteers shall be enrolled for the period of three years; and all the officers and men composing said regiments shall be entitled to the same pay and emoluments as are allowed, by the act referred to in the first section, to the officers and men of the regiment of mounted riflemen respectively; and, in addition thereto, shall be entitled, so soon as said military posts and stations shall have been established, to select, each for himself, one section, or six hundred and forty acres of land, along said routes, but not to include the tracts upon which said posts and stations shall be located, which are hereby reserved for public uses; and they shall receive patents from the President for said lands upon the expiration of their respective periods of service; and in case any such volunteer or officer shall die while in the service, the land to which he would have been entitled shall be granted to his heirs. But the said volunteers shall furnish their own clothes and horses, and horse equipments; and when mustered into service, shall be armed at the expense of the United States.

Sec. 5. *And be it further enacted*, That whenever it shall become necessary for the purpose of carrying the objects of this act more fully into effect, the President of the United States is hereby authorized to increase or to reduce the number of said posts and stations, or to change their location, or to increase or diminish the number of men to be stationed in any of them, according to the necessity and circumstances of the case.

Sec. 6. *And be it further enacted*, That Henry O'Reilly, and such persons as he shall associate with him, are hereby authorized, at their own expense, to establish and operate lines of telegraphic communication over the public domain, along said routes, and under the protection of said military posts and stations, subject to such regulations and conditions as shall be prescribed by the President, and during the period of three years, shall be permitted to use the military posts and stations as telegraphic stations free of charge.

Sec. 7. *And be it further enacted*, That in order to enable the President to carry into effect the provisions of this act, including the supplies of live stock, agricultural implements, and the extinguishment of the Indian title to lands along the route, the sum of \_\_\_\_\_ is hereby appropriated out of any money in the Treasury not otherwise appropriated.

#### JUDICIAL SALARY.

Mr. BRODHEAD submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of increasing the salary of the judge of the western district of Pennsylvania.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORTNEY, its Clerk, announcing that it had passed the following bills:

An act to authorize the Legislature of the State of Mississippi to sell the lands heretofore appropriated for the use of schools in that State; and to ratify and approve the sales already made; and

An act to release from reservation, and restore to the mass of public lands, certain lands in the State of Arkansas.

#### APPORTIONMENT BILL.

Mr. GWIN. I hope the apportionment bill will now be taken up and finally acted upon. It will give rise to no debate, and will consume only a moment. I hope that, as an act of courtesy, it will be taken up.

Mr. BADGER. That bill ought to be disposed of.

The PRESIDENT. Is the Senator aware that an amendment is pending which was offered by the Senator from Louisiana, [Mr. Downs,] who is not now in his place?

Mr. GWIN. Yes, sir; but he agreed to have it taken up this morning. He said he was going to make no speech on the subject, and was quite willing that the bill should be taken up. I make the motion to take up the bill.

The motion was agreed to, and the Senate resumed the consideration of the "bill supplementary to 'An act providing for the taking of the 'Seventh and subsequent Censuses of the United States, and to fix the number of the members of the House of Representatives, and provide for their future apportionment among the several States,' approved 23d May, 1850."

The pending question was on the amendment of Mr. Downs, to strike out "four" and insert "five," so as to make the number of Representatives two hundred and thirty-five, and to add at the end the words, "and Louisiana shall have five instead of four Representatives."

The amendment was not agreed to.

Mr. BRADBURY. I now move to amend the bill by striking out all after the enacting clause, and inserting what I send to the Chair. The amendment which I offer embraces the provisions of the bill as it now stands, in such language as to relieve it from the obscurity which some found in it. I have shown it to several individuals, and I

believe it relieves the objections which they had to the bill.

The substitute is as follows:

That the Secretary of the Interior proceed forthwith to apportion the two hundred and thirty-three Representatives among the several States, in accordance with the provisions contained in the twenty-fifth section of the act of 23d of May, 1850, and according to the returns of the population which have been completed and returned to the Census Office, in the Department of the Interior; and it being made to appear that the returns of the population of California are imperfect or incomplete, it is further enacted that said State shall retain the number of Representatives prescribed by the act of admission thereof into the Union, until a new apportionment; and for this purpose the whole number of Representatives is hereby increased to two hundred and thirty-four, until such apportionment.

Sec. 2. *And be it further enacted*, That if, at any future decennial enumeration of the inhabitants of the United States, the census of any district or sub-division in the United States shall have been improperly taken, or if the returns of any district or sub-division shall be accidentally lost or destroyed, the Secretary of the Interior shall have power to order a new enumeration of such district or sub-division.

Sec. 3. *And be it further enacted*, That the twentieth section of the said act be amended by striking out the words "has been" from the last line, and inserting the words "may necessarily be" in lieu thereof.

Mr. BRADBURY. I believe that is very clear.

The PRESIDENT. The Chair, in looking to the proceedings, finds that the amendment offered by the Senator from Louisiana was an amendment to an amendment offered by the Senator from Maine. The question, therefore, comes up on the amendment offered by the Senator from Maine, which is to add an additional section.

Mr. BADGER. The Senator can withdraw it.

The PRESIDENT. The vote has been taken on amending it.

Mr. BADGER. True; but it has not been amended, and until it is amended it is under the control of the Senator.

Mr. BRADBURY. I suppose, as I now propose to strike out not only the entire amendment, but also another section of the bill, it is in order.

The PRESIDENT. The Senator must be aware that another amendment, offered by himself, is pending. But he can withdraw that, and offer the present one.

Mr. BRADBURY. I will do so.

The PRESIDENT. It is proposed to amend the bill by striking out all after the enacting clause and inserting what has just been read.

Mr. BORLAND. I concur in the propriety of the proposed amendment of the Senator from Maine, with one exception. I think that it would be better to omit the reason assigned there for permitting California to retain her present representation in the House—to make the enactment without assigning a reason, I think is sufficient. If the reason be omitted, each Senator, in giving his vote, will be controlled by whatever reason may be present in his own mind. But in assigning a reason, it may require Senators to vote for that which they do not believe to be proper. I suggest, therefore, to the Senator to omit that portion, and let the enactment be, that California shall retain her present representation without assigning any reason for it.

Mr. BRADBURY. I do not regard the reason as very important. It is for the Senate to determine whether they will retain it or not. The language to which the Senator from Arkansas refers, giving the reason, is in the beginning of the following:

"And it being made to appear that the returns of the population of California are imperfect and incomplete, it is further enacted that said State shall retain the number of Representatives prescribed by the act of the admission thereof into the Union, until a new apportionment."

I supposed there was a propriety in this case, in suggesting the reason why we introduced an apparent anomaly.

Mr. BORLAND. I consider the effect of the words which I propose to strike out, as they stand in the proposed amendment, as unimportant so far as the meaning and effect of the act is concerned; but I am unwilling to give my vote for a reason which does not control my action, and I apprehend there are others similarly situated. And as the giving of the reason is not necessary to give efficiency to the bill, I think it would be better to strike it out, and let each Senator vote upon the provision which is complete in itself, and be governed by what reason he may. I move to strike from the amendment the words, "it being made to appear that the returns of the population of California are imperfect and incomplete."

Mr. BRADBURY. I apprehend that the diffi-

culty is founded upon an erroneous construction of the Constitution. The Constitution requires that the apportionment shall be made upon the population, and not upon the returns. And we give the reason here, why we allow California to retain her present representation contrary to the returns—because we believe that there are people there who are not returned. I think there is a propriety in retaining the reason.

Mr. BORLAND. The Senator does not seem to understand my view. I do not differ with him at all about what he has just said. The ground upon which I shall vote on this question, for allowing California to retain her present representation, is, that she was not in the Union, and was not contemplated by the act of May 23d, 1850, which requires an enumeration to be made in accordance with the requirements of the Constitution; and that the act which admitted her, dated 9th of September, after this whole transaction had taken place, is a piece of subsequent legislation; and that the provision in that giving her two Representatives, until the enumeration of the inhabitants of the United States, gives her the right to retain those two Representatives until the next enumeration ordered by an act of Congress. She rightfully holds them, therefore, in my opinion, by the legislation as it now stands. That being the reason which controls my judgment in voting to allow her now to retain them, I cannot properly vote for the proposition assigning a reason which does not control me.

Mr. BADGER. I think my friend from Arkansas will see that, at last, it comes round to precisely the ground which is presented in the words proposed to be stricken out. Assuming what he says to be correct, that the act providing for the taking of the census was passed before California was admitted into the Union, and that it did not strictly and properly apply to California; yet, suppose that, under the law, the returns from California had been complete and perfect, we should undoubtedly have given her a representation according to the returns. Therefore, the real reason, however it originates, whatever might have been the original difficulty in the case, which makes it necessary now to introduce this provision, and which determines as to introduce it, is the fact, that there are no complete returns for California. It seems to me, as the Senator from Maine has said, that as the enactment is anomalous, it is better that the reason for the anomaly should appear on the face of the enactment.

The amendment to the amendment was not agreed to.

The amendment was agreed to, and no further amendment being offered, the bill was ordered to be engrossed for a third reading.

#### THE DEFICIENCY BILL.

The Senate resumed the consideration of the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852.

When this bill was taken up for consideration on the 16th instant, Mr. HUNTER explained its provisions. We are now requested by Mr. HUNTER to state, that in those remarks he made an error of calculation in stating the excess of expenditures, as stated by the Quartermaster General, over that given from the Register's office, as showing a sum of \$1,221,856, which was probably derived from military contributions or the California civil fund. The real excess is \$241,847. The most material error to which this led was in stating the expenditure for the Army proper in the fiscal year ending June, 1851, at \$965 per man. It should have been \$875 per man. The error is corrected in the pamphlet edition.

The pending question was now stated to be on the item making additional compensation for the Collins line of steamers.

Mr. BORLAND. I rise to a question of order. It is, that the pending amendment to this bill is not in order under the rule.

Mr. BADGER. I rise to another question of order. It is, whether the Senator from Arkansas can take the floor from my friend from New Jersey? [Mr. MILLER.]

The PRESIDENT. Certainly; he can raise a question of order.

Mr. BADGER. Then I rise to another question of order. It is, whether the Senator can raise the question whether an amendment is in order

which has been received by the Senate, and had several speeches made upon it?

The PRESIDENT. The question can be raised. The amendment has been reported by a committee. The question now arises, whether, under the rule, the committee could report such an amendment.

Mr. BADGER. When can that question be raised?

The PRESIDENT. Whenever the subject comes up for the consideration of the Senate.

Mr. BADGER. That is true; but can it be raised after the subject has been debated for two days?

The PRESIDENT. The Chair cannot distinguish, as to that, between different periods.

Mr. BORLAND. My question of order arises under the 30th rule of the Senate, which is:

"No amendment, proposing additional appropriations, shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate, during that session, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

The PRESIDENT. The Chair is fully aware of the rule which has been read. But it is not for the Chair to decide, when an amendment is proposed, whether it is in conformity with a resolution that has been passed, or with an estimate that has been furnished. When objection is made, that fact is to be established; otherwise, according to the rule, it would be considered out of order to make the amendment. The Chair cannot, by intuition, determine that no estimate has been made.

Mr. BADGER. I desire to make a suggestion. In the first place, the rule has nothing to do with this bill. This is not a general appropriation bill. The gentleman must look where we get our idea of general appropriation bills, and he will see that the House of Representatives have a rule which requires that their committees shall prepare their general appropriation bills which are specified. They are the regular general appropriation bills of the year. It is no part of the duty of the committee in the House, under the rule there, to prepare a deficiency bill. It comes up incidentally. It is not a general appropriation bill; and the rule has no application to it. It might as well be said, that, if a bill should be brought here to appropriate a particular sum of money to a particular object or purpose, you could not move an amendment to put in an appropriation. The object of the rule, which was adopted at the instance of the Senator from Virginia, [Mr. HUNTER,] is to prevent the general appropriation bills of the year from being loaded with all sorts of private or other unascertained claims.

But, in the next place, if my friend from Arkansas had waited until my friend from New Jersey [Mr. MILLER] had made his speech, he would have found that this amendment is proposed in consequence of an estimate from the proper Department.

The PRESIDENT. That being the case, the Chair, of course, retains the amendment, until the Senator produces the evidence.

Mr. BORLAND. I understand the decision of the Chair to be, that the amendment is in order.

The PRESIDENT. The Senator from North Carolina states, that it is in conformity with an estimate which will be shown by the Senator from New Jersey. The Chair states—waiving the question of this bill being a general appropriation bill, which the Chair does not deem it necessary to decide—an estimate being furnished, of course there can be no question as to its being in order.

Mr. HUNTER. I think it would be best to postpone the decision of this question of order, until the Senator from New Jersey makes his speech. I do not think the estimate to which the Senator from North Carolina refers, is such an estimate as brings the amendment within the rule. But that will be for the Senate to determine, and I think it will be better to determine it after the Senator from New Jersey has made his speech.

The PRESIDENT. The Chair must have the evidence before he can decide.

Mr. BORLAND. I am perfectly willing to postpone the decision of the question, until the Senator presents the case.

The PRESIDENT. The Chair cannot decide without the whole evidence.

Mr. BADGER. I do not know what estimate will be satisfactory to my friend from Virginia. We have an estimate from the Department of the sum required, founded upon a recommendation in the report made at the commencement of the session.

Mr. MILLER. Mr. President, I was one of the majority of the Committee on Finance which agreed to report this amendment. The subject had been recommended to Congress by the head of one of the Departments, and a general estimate made; which was produced before the committee by the honorable Senator from California, [Mr. GWIN.] The question presented by the amendment I consider to be one of very high importance to the country; in which not only the parties to this contract, but many of the great interests of the country are concerned. In the year 1849, a contract was entered into by this Government, through the Navy Department, with Mr. Collins, to build a certain number of mail ocean steamers, giving a description of their general power and capacity, and specifying the purposes for which they were to be used. By that contract, the steamers were to perform twenty trips a year—that is, monthly trips during four months of the year, and semi-monthly trips during eight months of the year; and for which service he was to receive the sum of \$385,000.

The objects that the Government and Congress had in view in entering into this contract were of a national character. They were, in the first place, to secure the speedy and cheap transportation of letters from Europe to this country, and from this country to Europe. In the second place, the Government desired to have built ocean steamers of sufficient power and capacity, that might, in case of an emergency, be employed by the Government in war. Other collateral and public objects were taken into consideration—such as the transportation of passengers, the transportation of light articles of freight and specie; which at that time were under the control of English steamers. These were the objects which induced Congress to pass the law authorizing the contract.

Now, Mr. President, I intend to show in the few remarks which I shall make on this occasion, that all these national objects have been accomplished; that Collins & Co. have built four ocean steamers of great power, and superior speed; that they are transporting the mails from Europe to this country, and from this country back again, in less time than was ever accomplished before; that the Government may at any time, in case of any emergency, command the service of four of the most splendid steamers that were ever built, surpassing in speed, in power, and in tonnage, any ships of the kind now afloat; that by means of the establishment of the American line we now successfully compete with, and even surpass in speed its great English rival, the Cunard line; that the American people now enjoy all those great advantages which were contemplated by Congress at the time the contract was made, and that every obligation on the part of the contractors has been faithfully performed by them. But, sir, in performing this great enterprise, so advantageous to the country, the contractors have sustained great losses. They state their loss during the last year to be \$338,574—in other words, that in every trip which they performed during the last year they lost \$16,928 79.

Some time during the last autumn, the Cunard line of steamers having been ordered up to weekly service the year round, the Postmaster General deemed it his duty to direct Mr. Collins to increase the trips of his line from twenty to twenty six per year, and to commence on the first of January last, with assurances of additional compensation, to be made by Congress.

This arrangement appears by the letters of the Postmaster General and the Secretary of the Navy, which I will read:

POST OFFICE DEPARTMENT, }  
November 15, 1851. }

Sir: By their contract, the proprietors of the Collins line of steamers between New York and Liverpool, as you are aware, are required to perform only twenty voyages per annum—that is, monthly trips during four months, and semi-monthly trips eight months, of each year. In alternating, as at present, with the steamers of the Cunard line, we are informed by Mr. Collins that, by the 1st of January next, his steamers will have made seventeen trips, leaving only three voyages to be performed from the 1st January to the 31st April, the end of the contract year.

The Cunard line has now been ordered up to weekly service the year round; and deeming it highly important,

therefore, that the trips on the Collins line should be increased from twenty to twenty-six a year, I have already given Mr. Collins the assurance, that if he shall see fit to run the necessary additional trips, to alternate, as at present with the British lines through the year, and will look to Congress for compensation, I will recommend to Congress the allowance of *pro rata*, or such additional, pay therefor as shall be considered fair and proper under the circumstances.

It cannot be doubted that it is for the interest of the United States to afford such aid to the Collins line as will enable it to compete successfully with the British lines running in connection therewith; and I beg leave to call your attention to the subject, in the hope that you will unite with me in such recommendation to Congress as will secure the increase of the service of the Collins line from twenty to twenty-six trips a year as a permanent arrangement.

I have the honor to be, very respectfully, your obedient servant,

N. K. HALL,  
Postmaster General.

Hon. W. A. GRAHAM, Secretary of the Navy.

NAVY DEPARTMENT, November 28, 1851.

SIR: Your letter of the 25th inst., in relation to further mail service for your steamers between New York and Liverpool, has been received.

You are informed, in reply, that this Department concurs with the Postmaster General in his requirements of additional service by the mail steamers from New York to Liverpool, as expressed by him in his letter to this Department, of which you have been furnished with a copy.

You will, therefore, be pleased to furnish a schedule of the days of sailing of the Liverpool mail steamers of your line at as early a day as practicable.

The subject relating to compensation will be referred by the Postmaster General for the consideration of Congress.

I am, very respectfully, your obedient servant,

WM. A. GRAHAM.

EDWARD K. COLLINS, Esq., and associates, New York.

The Postmaster General, in his annual report, also expressly refers to this subject, and recommends that an appropriation be made. I will read part of what he says:

"The contract with the Collins line of mail steamers between New York and Liverpool, requires the performance of but twenty trips out and back during the year. For the purpose, however, of arranging weekly trips in American steamers, alternating with those of the Cunard steamers, which depart weekly from this country and England, these steamers have made departures each alternate week, and have thus completed a weekly line of American steamers from New York. If these trips are continued as heretofore, there will have been performed in the present year three more trips than are provided for in the contract, and to continue the weekly trips thereafter will require six additional trips per year.

"As the English Government had made new arrangements, by which the weekly trips of the Cunard steamers were to be continued through the year, it was deemed highly important to continue the weekly trips of the American steamers also. Under these circumstances, Mr. Collins was requested to continue his trips every other week, and was assured that the payment by Congress of a *pro rata* compensation would be recommended. It is claimed by the contractors, and it is believed justly, that a *pro rata* compensation for these extra trips, in the winter season, will not fully indemnify them; and if the extra trips are performed, it is earnestly recommended that a *pro rata* compensation, with such addition, if any, as may be necessary to give the contractors a fair and liberal compensation for the extra service, be authorized by Congress. The unrivaled qualities and speed of the ships of this line, and the very satisfactory manner in which the service has been performed, establishing the superiority of American skill and enterprise in the construction of ocean steamers and in ocean steam navigation, entitle the proprietors of this line to the most favorable consideration, and I cannot doubt that Congress will make the appropriation recommended.

Here is the recommendation from the head of a Department which is called for by Senators. There was also an estimate made by the Department and submitted to the committee. This estimate was confined to the *pro rata* allowance mentioned by the Postmaster General. No estimate, of course, could be made by the Department for such additional compensation as Congress might think proper to give for the purpose of sustaining this enterprise. I therefore submit, that this amendment is not subject to the technical objection made by the Senator from Arkansas, [Mr. BORLAND.] We are not obliged to confine our action to the amount of the estimate. The whole subject is before us.

These additional trips were to be performed in the winter, with but few passengers, at an extraordinary expense; therefore a mere *pro rata* allowance would be no fair compensation. Collins & Co. have submitted a statement showing the great losses which they have sustained in running their ships under the present contract; that statement has been verified by affidavit; and no Senator who is acquainted with the character and high honor of the persons connected with the Collins line, would hardly require such a verification of their statements. At all events, the committee were entirely satisfied that these losses have been sustained; and I think I can satisfy the Senate that unless the company receives this additional

compensation from the Government the enterprise must fail.

I will now state to the Senate what will be the additional compensation proposed by the amendment. Under the original contract, they were to perform twenty trips a year, and receive for them \$385,000, or \$19,250 per trip. The six additional trips per year, under a *pro rata* allowance, would be \$115,500, making for the year's service the sum of \$500,500, under the present contract. The amendment proposes to give them at the rate of \$33,000 per trip for twenty-six trips; making \$858,000 a year. This increases the compensation on the fifty-two trips, \$357,500, or \$13,750 on each trip; but from this increase should be deducted the additional costs of running winter trips. In the statement of losses to which I have referred, there is given the cost of their ships, the actual average cost of every voyage, and the amount of capital invested. The cash cost of the steamers ready for sea is stated at \$2,948,000, a little less than \$3,000,000. The actual average cost of each voyage to England and back is stated at \$65,215 64; the average receipts for each voyage at \$48,286 85, making a deficiency of \$16,928 79, on each voyage, which for twenty trips would amount to \$338,575 80, and on twenty-six trips \$440,148.

The Senate will perceive by this statement that the amount proposed by the amendment falls a few thousand dollars short of the loss which may be sustained upon the twenty-six trips to be run under the new arrangement.

I now wish to call the attention of the Senate to what I consider to have been the causes of these great losses sustained by the company. It has been asserted that they are owing to extravagance; that the ships are larger and more splendid and costly than the company were bound to build by the contract. It is true that these ships are of a superior character in style, size, and power to those contemplated by the contract; but ought we to complain of this? The company may, in their laudable ambition to surpass their foreign rival, have expended more money than was required by their contract; but surely we ought not to take advantage of this, and object to their doing more for the success of this great enterprise than they were bound by law to do. But, sir, the most of these losses arose from other causes—from circumstances over which they had no control. One great cause of extra expenditure on the part of the company was owing to the fact that the enterprise was an entirely new one in this country—so new that when they commenced building their first ship, it was found that the very machinery and the tools necessary for the construction of their powerful engines were not to be found in the country. These implements of construction had to be either procured from England, or made here at great expense; and large sums of money were necessarily expended in experiments upon this preliminary machinery required in the construction of the ships.

But that is not the principal cause of their losses. By the contract, Collins & Co. were not bound to build ships of the size and power of those they have constructed. They might have merely followed in the wake of the Cunard line; taken their ships as models, and imitated them in size and model, and been contented with their speed. But they felt, as every American citizen felt, that this was a great undertaking—that it was a national contest, and in competing with Great Britain upon this subject of ocean mail steamers, they desired to produce to the country and to the world ocean steamers a little superior to those built by Great Britain, and with which she then commanded the trade of the world. In accomplishing that, they have made great sacrifices; but they have by so doing put afloat ships far superior to those of the Cunard line in power and speed. For this they have expended large sums of money, and sustained great losses upon their capital.

Another cause why they have lost money is, that the moment their ships were put afloat, they met with a fierce and active competition in England, backed by the influence of the English Government. It was not a mere struggle between Mr. Collins and Mr. Cunard; it was not a mere struggle between the enterprise of an American citizen and a subject of Queen Victoria, standing upon their individual capital, talent, and enterprise. No, sir, it became a contest with the English Government. The moment the Collins line was established, it

became a national concern with the people and Government of England to put down the Collins line, by extending encouragement to the Cunard line. At the same time, some of the first trips made by our steamers were unfortunate, and immediately the cry was raised in Europe, and especially in Great Britain, that they were not safe, consequently, passengers refused to go in them; and they made many trips in which they sustained great losses, on account of this alarm.

It may be true, as stated by the Senator from Virginia, [Mr. HUNTER,] that these gentlemen, under such circumstances, expended more money than they ought to have expended. But yet, we all know the feeling which exists in the mind of every American, for Brother Jonathan to beat John Bull in any enterprise of this character. Urged on by that national feeling, and, perhaps, carried to an extravagant extent, these gentlemen may have expended more money than was necessary to fulfill their contract; but surely they are not to be sacrificed on that account.

In accounting for the losses sustained by the Collins line, it is necessary also to compare the ships of his line with those of the Cunard line. By this comparison it will appear that this Government is enjoying the service of ships far superior in size, tonnage, power, and speed to those of the Cunard line, and at a less compensation upon their relative costs and power of service. I have prepared a comparative statement of the two lines, which I here submit to the Senate:

COLLINS STEAM-SHIPS.

Names.	Tonnage.	Horse power.	Capable of working.	Length.
1. Atlantic.....	3,000	1,000	1,500	274
2. Pacific.....	3,000	1,000	1,500	274
3. Baltic.....	3,000	1,000	1,500	280
4. Arctic.....	3,000	1,000	1,500	280
	12,000	4,000	6,000	

Days. Hrs. Min's.

Baltic..... 9 13 0 from Liverpool to N. York.  
Arctic..... 9 17 10 from N. York to Liverpool.

CUNARD STEAM-SHIPS.

Names.	Tonnage.	Horse power.	Capable of working.	Length.
1. Africa.....	2,266	800	1,000	280
2. America.....	1,832	650	800	249
3. Asia.....	2,266	800	1,000	280
4. Cambria.....	1,423	500	700	217
5. Canada.....	1,832	650	800	249
6. Europa.....	1,832	650	800	249
7. Niagara.....	1,832	650	800	249
	13,382	4,700	5,900	

Days. Hrs. Min's.

Asia..... 10 23 30 from Liverpool to N. York.  
Asia..... 10 12 15 from N. York to Liverpool.

Asia..... 10 22 30 from Liverpool to N. York.  
Baltic..... 9 13 0 " " " " " "

Difference.. 1 9 30 of time.

Asia..... 10 12 15 from N. York to Liverpool.  
Arctic..... 9 17 10 " " " " " "

Difference.. 0 19 5 of time.

These are the principal reasons why this company have sustained the loss mentioned. But what has been their loss? has been the country's gain. While they have been losing \$16,000 per trip, we have been gaining great national advantages. I will endeavor to show that, in the first place, great advantages have been accomplished for our commerce generally. In order to illustrate this, we must look back to the commencement of the navigation of the ocean by steamships.

England commenced this system in the year 1838. It is true, that, as far back as 1819, an American ship, called the "Savannah," had gone from New York to Liverpool, partly by sail and partly by steam, in twenty-six days. If the American Government, at that time, had taken up the new enterprise with the same energy and force with which the English Government afterwards took it up in 1838, we should have had the honor and the glory of being the first to establish successfully the navigation of the ocean by steamers. In 1838 the "Great Britain" was built. She sailed on the 8th of April of that year from Liv-



erpool, with, in the language of the history of that time, "seven adventurous passengers;" and she arrived in New York after a passage of fifteen days. In the year 1839, the Cunard line was established by a contract made by the British Government with Mr. Cunard, of Halifax, in Nova Scotia, for carrying the mails twice a month from Liverpool via Halifax to Boston, for seven years, for £65,000, or \$325,000. Afterwards, the Government increased the compensation to £35,000, or \$425,000; the service to be performed by ships of twelve hundred tons and four hundred and fifty horse power. Upon the establishment of the Collins line in 1839-'40, the English Government again increased the compensation to Mr. Cunard to £145,000, or \$725,000, and not \$697,000, as stated by the Senator from Virginia yesterday.

Mr. HUNTER. Does the Senator from New Jersey refer to the statement which I made, as to what is given by the British Government to the Cunarders?

Mr. MILLER. I do.

Mr. HUNTER. Then I would say to the gentleman, that that statement was obtained from the Senator from Texas, [Mr. Rusk,] the chairman of the Committee on the Post Office and Post Roads, from a statement which was put into his hands by the Postmaster General. I received a letter from the Postmaster General, requesting me to examine the statement, but, somehow, it was lost. But this memorandum was given to me by the Senator from Texas, and it is presumed to be the most authentic account we have of what is given by the British Government to the Cunard steamships. The account was made out, I believe, by the Admiralty itself.

Mr. MILLER. I know there are different statements in regard to what the English Government now pay to Mr. Cunard. I am informed—and I have confidence in the information—that the compensation is higher than I have stated, and that it is now actually over \$1,000,000 a year. But I have authority here for the amount which I have stated. It is "Chambers's Papers for the People," a work of great authority, published in Edinburgh, in 1851. It contains a chapter on the English ocean mail routes, giving a full history of the rise, progress, and present state of the English policy upon this important subject. It is full of statistics, which must have been taken from the most authentic sources. I will read to the Senate what is stated to be the compensation received by Mr. Cunard in 1849, and the reason why it was then increased to the sum of £145,000:

"But with the exception of the voyage of the *Savannah*, in 1819, the citizens of the United States had not hitherto taken any part in conducting the steam navigation of the Atlantic; and it was not until after all but Cunard's ships had been withdrawn, that American-built steamers began to ply between England and New York. The formation of several companies for this purpose made Mr. Cunard anxious to cut out his contract, so as to carry the mails once a week, and thus render him more able to meet the expected competition. Mr. Cunard said before a committee of the House of Commons in July, 1849: 'I was most anxious to have [the extension of the contract] done, because I knew the consequences of having these rival lines of packets running against us, and that it would affect the Government more than it would affect us. I could not increase the number of passengers; but the number of letters would be considerably increased, or doubled, because if one person writes, the whole must write.' The proposal was agreed to; the mails were to be carried from Liverpool every Saturday, and from Boston or New York every Wednesday night, during four winter months, when it was to be fortnightly. Arrangements were made by which the *Savannah* to Halifax was to be abandoned. To effect this service, the vessel must steam altogether about 272,800 miles every year, and for it Mr. Cunard was to receive £145,000 per annum. This is the contract now in force. Mr. Cunard considered it not a new arrangement, but as an extension of the old; and as the service was doubled, and as the postage received of the steamers had hitherto been equal to the cost of money, he naturally supposed that the payment would not be doubled. But Mr. Goulburn, then Chancellor of the Exchequer, would not give more than £145,000, when Mr. Cunard said was 'a very unjust thing; and grandly added—'I beg to say this not with any disrespect to Mr. Goulburn: he did it to save the money to the country, but he took £25,000 a year from me for the good of the country.'"

This is the last contract that I have any certain information of, although I am informed that the compensation has been increased, in order to pay for the additional trips in winter. Mr. Cunard's "complaint" reply to the Chancellor of the Exchequer, ought to be noticed, and might, with propriety, be used by Mr. Collins in answer to the Senator from Virginia, [Mr. HUNTER.] Mr. Goulburn, the Chancellor of the Exchequer, acting in pretty much the same capacity in which

my friend from Virginia acts, cut down the compensation to £145,000, on which Mr. Cunard said, "he did it to save the money to the country, but he took £25,000 a year from me for the good of the country." I have shown, therefore, upon what I consider good authority, that the Cunard line is now receiving \$725,000 a year instead of \$696,000, or \$15,000 a trip instead of \$13,000, as stated yesterday by my friend from Virginia.

Mr. BORLAND. I wish to understand fully the authority upon which the Senator from New Jersey relies in this case. I would ask him if all the information on this subject, as far as it relates to the action of the British Government, is not to be found in the official records of the proceedings of that Government, and whether they are not to be had in this city? I understand that we interchange official records with the British Government, and I apprehend that all their official action in regard to this matter is to be found in these records, which must necessarily be more reliable than a popular publication, made, I do not know whether in this country or in England, and thrown into general circulation—a sort of newspaper publication. I think, in a matter of this importance, involving facts which lie at the bottom of this question, we should have, as authority, official information, which I apprehend our Post Office Department has, and which is probably in the Library of Congress, or in some of the Departments of the Government. I would prefer, for that reason, to rely on official authority rather than on this popular publication.

Mr. HUNTER. The statement of \$696,000 a year, which I derived from the chairman of the Committee on the Post Office and Post Roads, I used because I supposed he had the most authentic information. He derived it from that document, to which my attention was directed by the Postmaster General. I confess that I had supposed, before that, the amount given the Cunard line was about £140,000 sterling per annum. It would not, however, vary it much if you were to take that amount; for the difference between \$725,000 and \$696,000 is not very great.

Mr. MILLER. I will answer the question of the honorable Senator from Arkansas. I have no knowledge at all of there being any official information in the Departments here such as he speaks of. I think there is none. The author I have quoted, may be relied upon: his statements appear to be taken from the official documents in Great Britain, and if the gentleman will take the trouble of reading the article, I think he will be satisfied of its authenticity.

Mr. BORLAND. The Senator misunderstood me if he supposed I questioned at all the authority. I simply called attention to the character of the work. I said that I would prefer, in the formation of my opinions, to have official information. The Senator says I would find that it contained a good deal of authentic information. I might find a great deal of information in it, but surely, taking it as one of what we may call the "fugitive publications" of the day, I should not know, unless it was from an official source, whether the information was authentic or not. That is the point.

Mr. MILLER. The Senator asked me a question, and I have answered it. The regulation of the Cunard steamers, I understand, is under the control of the Admiralty, and are connected somewhat with the war service; these compensations are increased or diminished without having a special law passed by Parliament for the purpose. I also understand, that since the Cunard line was ordered up to additional weekly service, during the last year the compensation has been again increased. But as I have no information upon this point, other than that which has been stated to me by gentlemen here, I do not rely upon it as a fact in my argument.

The keel of the first steamer on the Collins line was laid in 1844, and their first steamer left New York about the beginning of the year 1850. What was the condition of things at that time? I call the attention of the Senate to it, for the purpose of showing what has been accomplished since by this line. At that time Great Britain had the monopoly of all the foreign postage to this country. She had, also, driven off our sailing-packets from the carrying of passengers. She had beaten them off in the transportation of all light articles of merchandise, and of specie, and of all transportations across the Atlantic which depend upon time, speed,

and certainty. Up to 1840, the American sailing-packets had the control of these matters. They had beaten the English packets away from even a competition for the carrying of passengers, specie, and light merchandise. England then resorted to ocean steam-navigation. Her Government, finding that her sailing-vessels were beaten by the Yankee vessels, they resorted to steam, and by a most liberal policy she built up the Cunard line; and such had been the success of this policy that on the day when the keel of the first steamer of the Collins line was laid, England had a complete mastery of the ocean on all these great interests. What has taken place since? It must be recollected, that, in the carrying of letters and passengers, speed and certainty are everything. By the establishment of the Collins line, we have beaten them upon both of these points. By that line we carry letters and passengers in less time than the Cunard line can carry them. By the accounts of the very last arrival of the steamers, we are informed that, although one of the Cunard line left Liverpool four days before the Collins line, yet the mails of the two steamers were delivered simultaneously at the post office here. This is what the Collins line has accomplished in this great race of national steamers.

The carrying of light articles of freight and of specie has become a very important matter in our foreign commerce. Before the establishment of the Collins line, it was altogether under the control of the Cunard line. We may now control it—we ourselves, if we sustain our own people. We beat England with our sailing-vessels, and we will beat her with our steamships, if this Government will only protect our commerce with the same liberality with which the English Government has protected hers. That is the great question in this case.

The English Government and the English people are very wise and very liberal too, with regard to the management of their own great interests. They do not accomplish as many magnificent projects as we do; but they have a keener eye to their own interests. We established a line of mail steam-packets to Havre and Bremen. They bring freight and passengers from the continent, by way of Havre and Bremen, to New York. Now, what do we find the Cunard line doing? Why, in order to cripple our line, and secure to themselves the monopoly of the carrying trade from the continent, the proprietors of the Cunard line have, I understand, established a line of small steamers, running from Liverpool to Havre, by which they carry, free of charge, all goods from that point to Liverpool, intended to be conveyed in their steamers to the United States. This they have done, and are now doing. The very last packet which arrived, brought this piece of foreign news:

"*Belgium*.—The Belgium papers state that it is the intention of the Cunard line to establish a line of steamers between Antwerp and Liverpool, to connect with the American line."

Is it not evident that England is endeavoring to control the passengers, the freight, and the postage, from the continent to the United States?—and that, unless we sustain our line of steamers, she will control all these great interests?

I desire here to call the attention of the Senate to the effect produced upon the public mind of England, by the establishment of the Collins line. I read from the same authority, (Chambers:)

"The American steamer that first plied regularly on the Atlantic route, were the *Washington* and *Hermann*, of about two thousand tons burden. They, however, did not depend entirely on the British traffic, but made the port of Bremen, at the mouth of the river Weser, in Germany, their terminus in Europe, calling at Southampton on their passage up and down the British Channel. The line of vessels that enter into direct competition with Cunard's, was projected by Mr. Collins, of New York, and consisted of two steamers, of the thousand tons burden, three hundred feet long, and propelled by engines of one thousand horse power. They were named after the various corners of the world—the *Atlantic*, *Pacific*, *Arctic*, *Baltic*, and *Adriatic*. They are longer and more powerful than any steamer yet built, except the *Great Britain*, and their competition is not to be treated lightly. The merits of the rival lines will become a national question."

"Thus was commenced that rivalry which has made a gigantic race course of the Atlantic ocean—a race course so long that the difference in the longitude of its termini makes a difference of nearly five hours in the time of day; and thus, while the people at the American end are rising from their beds, those at the European have got through much of their day's work. The flying horse children, and other notions of the turf, have done great deeds in their way, but they shrink into utter insignificance compared with the performances of a steamer, propelled by a power equal to that of a thousand horses, sailing three hundred miles each day,

over angry, restless waves, twenty-four, and sometimes forty three feet high, chasing each other at a distance of about five hundred feet, and at a speed of more than thirty miles an hour. All the prizes of the turf are pailry compared with that for which these steamers are contending—the proud distinction of establishing the most speedy and safe communication between two great continents and two mighty nations. Hitherto the superiority has not been distinctly declared on either side, nor can any correct judgment be formed until at least a year has elapsed."

But what is more important in this case is, to show what has been the result of the establishment of the Collins line upon our interests at home. In the first place, its effect upon our Treasury, of which we have heard much: Have we lost money by it? By the statement furnished by the Post Office Department, and laid before the Senate by the Senator from California, it appears that we have not lost a cent; but, on the contrary, gained \$58,675 59. That statement shows, that the revenue derived by the United States under the operation of the treaty, and by the Collins steamers, is.....\$828,675 59 Of which there had been paid to Collins, for his service for two years.. 770,000 00

\$58,675 59

Or nearly \$50,000 per annum into the hands of the Government, over and above what they have paid. I do not pretend that all this postage was derived from letters or newspapers carried by the Collins line. No man can understand the account in that way. But it is nevertheless true, that all this postage, whether received from Cunard's line or Collins's line, has been received in consequence of that policy which established the Collins line. There was no postal treaty made between this Government and Great Britain, until the keel of the first steamer of the Collins line was laid; and we should have no control whatever of this postage fund, had not the Collins line been established, and put in competition with the Cunard line. So far, then, as the policy is concerned, and its effect upon the Treasury, the Collins line is entitled to the credit for the money received for postage, against the charge for the money which has been paid for its support.

It is true that the amount received during the last year will not cover the amount proposed to be given by this amendment; yet this does not prove that the receipts of the coming year will not be sufficient to cover the appropriation. There is already an increase of postage this year. The increase in the number of trips by both lines will add to the amount. That has been the result heretofore. As the number of trips and the speed of the steamers have been increased, the postage receipts have advanced, and, therefore, in considering this proposition, we can safely rely, that for the coming year, there will be a considerable increase of the postal revenue. Heretofore the Collins line proposed only monthly trips during the winter, and the Cunard semi-monthly. Now, they alternate weekly during the whole year; and although there are not as many passengers in these winter trips, there are just as many, and perhaps more, letters in the winter season. I shall not go into the estimate of this obvious increase of postage; but it is manifest that by this great increase of this service there will be a corresponding increase in the postages received during the next year. The Postmaster General states that the increase of trans-Atlantic postages in 1851 over 1850 is \$197,439 61. It will be much greater in 1852; so that my friend from Virginia need not be afraid of the Treasury being ruined by this appropriation. It must also be recollected, that unless we increase the service of our line, we will not be able to divide the postage with our confederates. England gets much the largest proportion of the postage now; but the moment we put our steamers upon an equality with hers, we shall be entitled to divide the whole postage, and put half of it into our Treasury.

But the advantage to be derived from maintaining this line is not to be confined to a mere calculation of the amount of postage of what may be put into the Treasury. There are other considerations of much higher importance. The great route now from England, and from Western Europe, to the East Indies, is from Southampton, by way of Gibraltar and Alexandria. But who does not perceive that the time is coming, that it is not far distant, when the great mail route to the East Indies, not only from New York, but from London and from Paris, will be over the Atlantic, and by either the Cunard line or the Collins line,

under the control either of the English Government or of the American Government. That presents this important question to the Senate and to the country—whether we shall not, at all hazards, sustain this line, in order to preserve for our people, and for our Government, the control of that great world's route which is to pass along the shores of this country, and across the Isthmus of Panama, and thence to the East Indies?

The honorable Senator from Virginia said, that if this line could not sustain itself, let it go down. The Cunard line will not go down. The great West India mail steam route of England will not go down. But if our line alone goes down, what happens? All the communication—the passengers, the letters, and the commerce, passing over the Atlantic, crossing the Isthmus of Panama to the Pacific ocean, and there spreading out to the great East—is under the complete control of the English Government. But if you sustain an American line of steamers—and if that route turns out, as I believe it will, to be the most direct route, even from London, and from Western Europe, to China—our line, having the superiority in speed, and of certainty, will be the grand carrier of letters and of passengers from Europe, through America, to the East Indies.

It is stated, in the book from which I have already quoted, that last year a letter written in the city of New York, passing in the Cunard line to England, and then put on board the steamer at Southampton, thence to go by way of Alexandria to Suez, reached Hong Kong in fifty-five days.

Now, sir, it is reduced to almost a certainty, that a letter written in London, passing with the speed of the Collins line over the Atlantic, and by Panama to the Pacific, will reach the same place in forty days. This route is ours! The great commerce of the world by steam is thus under our control. Yet, the honorable Senator says: Let this line go down; or let it fight its way as best it can under the protection of individual enterprise.

As I said before, our people can contend single-handed with any people on the face of the earth; but they cannot contend with the capitalists of Great Britain, backed by the protection of the English Government. They may contend with them for a short time, but the stubborn endurance of John Bull will break down the enterprise of a Yankee, unless he also is supported by his own Government. Therefore, I say, throwing aside the matter of dollars and cents—whether it costs us a thousand dollars more or less—here are national considerations which should induce us to sustain this line. There are other considerations. By the contract, these ships are to be made war steamers; and I intend to show they are war steamers—the best of the kind in the world for certain purposes of war, and that they can, at small expense, be used as such in any emergency. I have here a letter of Commodore Perry on this subject, dated February 18, 1852, and addressed to the Secretary of the Navy. Speaking of these ships—the Collins line—he says:

"According to my calculations, the cost of the conversion of either the before-mentioned vessels, exclusive of armaments, repair of machinery, &c., would not, or certainly ought not to cost for each steamer over \$21,000, and it could readily be done for this at any of our navy-yards. With respect to the description and weight of their respective armaments, I am clearly of the opinion that the first class steamers already named, could easily carry four 10 inch Paixhan guns on pivots, two forward and two aft, of the weight of those in the Mississippi; and ten 8-inch Paixhan guns on the sides; and this armament would not incommode the vessels, and the weight less than the ice, which is usually forty tons, and stowed away in one mass."

Commodore Perry continues, that—

"In the general operations of a maritime war, they could render good service, and especially would they be useful from their great speed as dispatch vessels, and for the transportation of troops, at days capable of attack and defense, and of overhauling or recouping from an enemy."

"The Atlantic, Pacific, Baltic, and Arctic have all been built, inspected, and received by the Navy Department."

Commodore Perry adds to this letter a note, and says "that an ocean steamer of 3,000 tons is 'of the maximum dimension for safety and efficiency, whether for war or commercial purposes.'"

At the time of the construction of these ships, every attention was given to their form, strength, and models, by the contractors, under the special direction of the Navy Department. To show that,

I will merely refer to the communications upon the subject. They are as follows:

E. K. Collins's letter to the Secretary of the Navy, in relation to the *side-lever engine*, with the Secretary of the Navy's approval.

E. K. Collins's letter to the Secretary of the Navy, asking for consent to modify specifications, with answer of the Secretary of the Navy, that Commodore Skinner, of the Bureau of Construction, had approved of the alteration.

E. K. Collins's letter to the Secretary of the Navy, asking for the appointment of a naval constructor and superintendent, with Secretary of the Navy's answer, appointing Captain S. Skiddy Naval Constructor.

Secretary of the Navy's letter to E. K. Collins, accepting the Arctic, with report of Commodore Perry and Commander Bell to Secretary of the Navy, in reference to the capacity and usefulness of the Arctic for war purposes.

UNITED STATES NAVY-YARD,  
PHILADELPHIA, April 14, 1852. }

SIR: In answer to yours of the 13th, I have to state, as chief naval constructor, the specifications for building the Collins line of steamers were submitted to me and approved, as in accordance with the act of 3d of March, 1847.

They can be converted into war steamers, to carry a battery equal to our largest steam-frigates, in a short time, and the necessary alterations to be made to receive such a battery, will not exceed a cost of \$20,000 each.

I am, sir, with great respect, your obedient servant,  
FRANCIS GRICE.

To the Hon. WM. M. GWIN,  
U. S. Senate, Washington.

It appears by these letters, which are on file in the Navy Department, that the vessels have been constructed with special reference for war service, if necessary; that naval officers of high character and great experience, were not only consulted in their construction, but superintended their building, who all say that they are capable of being used in case of war, at the small expense of about \$20,000 each.

I submit to the Senate whether this is not a consideration which should induce us to sustain these ships, and to keep them under the control of the Government, to be used in the case of war. No man who has seen these ships—no man who has heard these evidences—can doubt for a moment but that they would be, at this very hour, if war should break out, the most effective steam-ships now under our control. They may not be as strong as war steamers especially constructed for the purpose. They may not be as powerful as many ships constructed by the English Government; but their great utility would be their speed and their power of action. If we can, by an expenditure of \$20,000, put these splendid ships into the war service, that of itself is a sufficient consideration for us to appropriate this money in order to keep them afloat. We cannot maintain or keep up war steamers of equal power at anything like as cheap a rate as we can these steamers.

With regard to the capacity of these ships, and their usefulness in war, my honorable colleague, who has had great experience upon this subject, will, I have no doubt, sustain me in the opinion I have expressed, that these ships will be of great service to the country in time of war. These steamers surpass in speed any vessel which has yet been constructed by the Government, with all the advantages and experience of the Navy in the construction of ships.

I noticed that the United States steam-ship San Jacinto arrived at Cadiz on the 25th of March, having left Norfolk on the third of the month. Twenty-two days steaming only thirty-five hundred miles, or one hundred and fifty-nine miles per day.

Mr. STOCKTON. That ship was built on an entirely different plan.

Mr. MILLER. I intended to compare her speed with the Collins line, and to state that, at this rate of steaming, it would require nineteen days for the passage from New York to Liverpool, instead of nine and a half days. My colleague states, however, that that ship was built upon an entirely different principle, and therefore there cannot be any fair comparison between them.

I have called the attention of the Senate to the speed, the models, and the capacity of these vessels for another purpose—that is, to show that this company have, in executing this enterprise, made experiments, secured information, and given to the country models of steam-ships, with their engines, of great practical value to the public. If

we never received a cent of postage, we should be fully compensated, in this way, for the money we have paid, by the increased knowledge we have received with regard to the building of ocean steamers. Collins & Co. have, at an immense expense of time and money, rendered all these services to the country, and we have reaped all the advantage of their enterprise. They have sustained all the loss. I say, therefore, that these considerations ought to enter into the minds of Senators when they vote on this proposition.

Again: the building of them and running of these ships have produced to the country a class of practical engineers that it would not have had without that undertaking. It has been a school for our young engineers. These vessels are now every year training up engineers, who are to take charge of our steam-ships of war, to be employed in the commercial marine. Thus the country is acquiring knowledge at the expense of the owners of the Collins line. This, also, ought to be taken into consideration. So great has been the skill, and so perfect the skill, in the construction of these ships and of their machinery, that no accident, of any moment, has happened to them.

Mr. HALE. The Atlantic broke her shaft.  
Mr. MILLER. True; but it was one which was made in England!

In advocating the policy of our Government sustaining these steamers, I wish to call the attention of the Senate and the country to what Great Britain is doing upon this subject of ocean mail steamers, not only with regard to the Cunard line, but in regard to many other lines. She has established five great routes of ocean mail steamers, every one of which may be converted into war steamers. The aggregate power of these steamers is twenty-nine thousand six hundred and twenty horse power—their tonnage is sixty-one thousand three hundred and forty eight—they annually steam one million five hundred and seventy-five thousand miles. These routes are, in the first place, the Atlantic route, from Liverpool to New York. The second is the route to the West Indies and the eastern coast of South America. That route has its depot at St. Thomas, from which they branch out with about twenty steamers, to the various West India Islands—to the coast of South America, and to Mexico. I have prepared a statement of the different minor routes connected with this line, showing their destination, the amount of tonnage, and the number of miles they steam. Then there is the great East India line, which sails twice a month from Southampton, in England, touching at Gibraltar, and then to Alexandria, thence taking the overland route for a short distance, take steam again at Suez to Calcutta, and Bombay, and China. Then there is also the route by way of the Cape of Good Hope; also, the Pacific route from Valparaiso to Panama. There are several other proposed routes, and which I understand have been contracted for, to Australia and other portions of the East. I have prepared tabular statements of these different routes, showing the number of steamers, tonnage, power, and the miles steamed.

No. 1.

Names of Steamers.	Length.	Horse power.	Tonnage.
From Southampton to West Indies and South America.			
Avon.....	216	430	1,881
Clyde.....	213	430	1,841
Conway.....	186	300	929
Dee.....	214	410	1,818
Eagle.....	164	250	501
Great Western.....	207	400	1,467
Medway.....	212	420	1,666
Reindeer.....	155	260	554
Severn.....	215	430	1,886
Tay.....	214	430	1,858
Teviot.....	214	430	1,793
Thames.....	215	420	1,676
Trent.....	215	420	1,666

Miles steamed annually, 684,816.

Six hundred and eighty-four thousand eight hundred and sixteen (684,816) miles, or not much less than thirty times the circumference of the globe.

The steamships of this company traverse routes twenty-seven degrees north of the tropic of Cancer, to twelve degrees south of the tropic of Capricorn—embracing in their circuit every island of importance in the West Indies, or the West coast of Africa—seaports round the Gulf of Mexico, the great cities of South America, and bestows the

blessings of a postal communication for every civilized nation.

	Horse power.	Ton'ge.	Miles an'y steamed.
Pacific Company from Panama to Valparaiso—this company possesses five steamers, average tonnage.....	995	3,000	110,887
Cape of Good Hope Company—just commenced monthly in vessels of not less than (each). 200			80,400

## ROUTE TO THE EAST INDIES.

- 1st. From Falmouth to Gibraltar.
  - 2d. From Gibraltar to Alexandria.
  - 3d. From Suez to Bombay.
  - 4th. From Bombay to Calcutta.
  - 5th. From Calcutta to Madras, Ceylon, and China.
- All of these routes are now formed under one company, called the "Peninsular and Oriental Company."

No. 2.

## MEDITERRANEAN AND PENINSULAR SERVICE.

Names of Steam-ships.	Length.	Horse power.	Tonnage.
Erin.....	199	280	797
Euxine.....	222	400	1,165
Ganges.....	237	500	1,200
Iberia.....	155	190	515
Jupiter.....	158	210	543
Madrid.....	163	140	478
Montrose.....	166	240	606
Pasha.....	160	210	548
Singapore.....	237	500	1,200
Sultan.....	224	420	1,490
Tagus.....	182	286	782

## Between Southampton and Alexandria.

Hindustan.....	217	620	2,017
Indus.....	208	450	1,782
Ripon.....	231	450	1,925

## Between Suez and Calcutta, via Ceylon and Madras.

Bentlnck.....	217	520	1,974
Huddington.....	217	450	1,647
Oriental.....	230	430	1,787
Precursor.....	239	460	1,817

## Between Ceylon and Hong Kong, via Singapore.

Achilles.....	205	420	992
Braganza.....	188	264	655
Lady Mary Wood.....	160	260	553
Mulla.....	205	460	1,217
Pekin.....	214	400	1,182
Pottinger.....	220	450	1,350

## Between Hong Kong and Canton.

Canton.....	172	150	348
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All of these vessels with their contract with the Admiralty, "Are to be good, substantial (and efficient) steam-vessels, of such construction and strength as to be fit and able to carry guns of the largest calibre now used on board of her Majesty's steam-vessels of war."

Number of miles steamed annually by this company, three hundred and eighty-one thousand nine hundred and sixty, (381,960.)

No. 3.

## PROPOSED ROUTES BY GREAT BRITAIN.

- 1st. From Panama, (?) across the Pacific, to the Gallapagos Islands, thence to Sydney.
- 2d. From Cape of Good Hope, across the Indian Ocean, to Western Australia.
- 3d. From Singapore, via East India Islands, to Eastern Australia.

## Recapitulation.

No. Steam-ships.	Horse power.	Ton'ge.	Miles an'y steamed.
Pacific and Cape of Good Hope line.. { 45	28,625	56,348	1,571,063
Cape of Good Hope vessels..... { 15	995	3,000	
		2,000	
	60	29,620	61,348

I will also read to the Senate a description of this great Oriental route. Its extent and magnitude are astonishing:

"At Suez, at the head of the Red Sea, two steamers are in waiting for the passengers and mails conveyed from Alexandria in small steamers up the Nile, and in vans across the desert. One of the steamers at Suez belongs to the East India Company, and has Bombay for its destination; the other is the property of the Oriental Company. The tenth of the month is fixed as the day of departure; and all persons and things having been shipped, the vessels steam down the Red Sea to Aden, distant from Suez 1,308 miles. Here they part company; the Oriental steamer pursues a course almost due east, across the Indian ocean, to Point de Galle, in the Island of Ceylon, a distance of 2,134 miles. Having exchanged mails with the vessel for China, she steams up the Coromandel coast to Madras, and on to Calcutta, where she arrives in about twenty-eight days from Suez, after traversing 4,757 miles, and spending in stoppages about five days.

"The vessel in waiting at Point de Galle, as soon as she

receives what the other has brought her starts eastward, and after traversing 1,286 miles, arrives at Penang, in the peninsula of Malacca; from thence, steaming down between Sumatra and the mainland, she arrives at the little Island of Singapore, almost under the line, and then up the Chinese sea, terrible for its typhoons, to Hong Kong, where the little steamer in No. 5 is ready to continue the line of communication to Canton.

"The number of miles steamed by the vessels of this company, under contract, is 381,960, and the payment £204,500 per annum. The company makes an annual dividend of eight per cent. on a capital of about £1,000,000; and supposing that the same fleet was kept up, and the revenue reduced to that derived from passengers and merchandise alone, not only could no dividend be paid, but an actual loss sustained every year of more than £120,000—another striking illustration of a fact already adverted to, that, without a post office contract such schemes of regular and efficient ocean steam navigation could not be maintained."

This shows that, although the proprietors of this Oriental line now divide eight per cent. dividend per annum, yet if the contract under which they carry the mails were taken away, it could not be sustained, but that there would be a loss of £126,000 per annum.

There is no doubt about it, that that is the policy of England. She looks to the great return, to her commerce and to her manufactures, and, as this writer states, if not a cent of money is added to her revenue, by means of her postal contracts, yet she would be the gainer by establishing and keeping up these immense lines of steam navigation. These sixty-three ocean steamers, with a tonnage of 65,348, steaming 1,575,000 miles per annum, are under the control of the Admiralty, and are capable of being converted, at any time, into war steamers. Now, Senators, look at the policy of England. By her lines of steamers she has surrounded the world. We all remember that striking simile of England's power, "that the roll of her drum is heard from the rising to the setting of the sun." That figure will be changed. War will give way to peace, and the merry ring of the ocean steamer's bell will be heard, bell sounding to bell, the world round.

With these facts before us—with this mighty demonstration made and making by the English Government for the commerce of the world—are we to stand still and to doubt about keeping up the most important line of war steamers that we have afloat? No, sir. While gentlemen alarm themselves about him whom they call the Bear of Russia, and are terrified lest he may march an army across Asia—"dragging its slow length along," with all its cumbersome and costly appendages—and thereby control the destinies of the world!—yes, sir, while we are dreaming of transcendental ideas about the trodden down nations of Europe, England is plowing the oceans from pole to pole with her mighty fleet of steamers, and sowing the seeds of a commerce and of trade from which she will hereafter reap a harvest such as no nation on this earth ever garnered before. That is her policy. It should be ours. It is our mission. It is the mission of commerce to civilize the world. It is commerce, aided by steam, that is to carry those principles of liberty and enterprise which have given to this country its prominence and its glory throughout the world to the other races and nations of mankind. I am for sustaining this policy. I am for keeping up these lines. I am for increasing them. And as soon as a communication is opened between the Atlantic and the Pacific—as soon as the dream of the old Spaniard shall be fully realized, when the two oceans shall unite—I am for continuing these great lines of steam commercial navigation across the Pacific, and to meet England there with her great line which passes from Southampton to Alexandria, to the Indian seas, and to China. Then the two great nations of the world—one blood, descending from the same great stock—will, by means of the enterprise of their citizens, protected and defended by their Governments, carry commerce and civilization round the world.

\* "The Indian mail which left Southampton in August last filled 157 chests, each capable of holding 10,000 letters, and at Malta 120 smaller chests were added that had been brought through France. Making allowance for the newspapers contained in these, the number of letters must still have been enormous. All this writing and transmission of intelligence necessarily increase trade, and consequently bring additional supplies of articles to this country, the duties on which must more than make up the difference between the payments to the companies and the revenues of the post office. But on higher considerations than those of mere profit and loss, we have no hesitation in saying that the blessings to the country of these lines of speedy communication would not be purchased dearly if not one farthing of the contract money were returned."



An honorable Senator suggests that we will have to fight for it. That may be; but I think the fight is going on now. That fight is between Collins and Cunard. The English Government stands by her man. He failed once, and broke down; but the Government put him on his feet again. Collins says he is now in the same position; that he wants a little of the sinews of war, \$14,000 more per trip, in order to sustain the contest. The question is, whether this Government will do for him what the English Government have done for Cunard—sustain our man in this fight. I much prefer this war of steam and commerce to any other war. No blood will be spilt in it. The "sinews of war" employed are only a little money; and if the Government will only stand by its citizens in the contest, the victory is won.

But the honorable Senator from Virginia says, that this would be encouraging a monopoly. My object is directly the contrary. We established this line for the purpose of putting down the monopoly which England had over our commerce. Let me say to the honorable Senator, that if the Collins line goes down, or is withdrawn, then there will be a monopoly over which we will have no control. The English Government will have the control of the transportation of every letter, and every pound of specie, of passengers, and of most of the freights from and to Europe. Then, indeed, we shall be subject to a complete monopoly.

Again: it is said that if we protect this branch of business, we should protect other branches. Sir, I am willing to protect every branch of American labor and American enterprise which needs protection against English capital and English combination. Whenever we find England, by means of Government patronage, building up and protecting her manufactures, I say we are bound to give the like protection to the same kind of manufactures in this country, unless we intend to yield entirely to her. The gentleman referred to the iron manufactures of the country. I know that they need protection. Every man who has examined their prostrate condition, must admit that they require protection at once, by some modification of the present tariff laws. While I give my vote for the purpose of protecting this branch of American enterprise and labor, I am also ready and anxious to give proper protection to the manufacturers of iron, and other manufacturers in this country. I go for the principle, and will stand by one and all of the great American interests, to sustain them against the overbearing competition of England.

Again, it is said that if we grant the favor to New York, other cities will be coming in and asking similar favors. Now, in the first place, I do not consider this is a favor granted to the city of New York. I look upon it as a national question, in which we are all concerned. I look upon it as a matter of policy for the whole country, and that every city in the Union is as much interested in that policy as New York itself. But if the gentleman will bring forward for any city a case like this, where there is competition between an American and an English line of steamers, I will go for sustaining the American line. For instance, we have now established, or are about to establish, a line from New Orleans to Mexico. If England establishes a line along side of it, I am ready to protect our line against any competition that England may bring against it.

But I know of no such case. It is easy to defeat an application of this kind, by saying that if you grant this, you may grant others. Wait till they come, and let us judge of every case upon its own merits. It turns out, upon examination of the petitions sent here, that twenty-one cities of this Union have petitioned in favor of this appropriation; and I have not heard of more than one remonstrance against it; and that is from the city of New York. I have not heard the slightest objection to this allowance from any other city of the Union. I have no doubt that there is some opposition to it in the city of New York; but that opposition is confined to a very few.

I have thus presented my views with regard to this subject. I have done so at much length, for I consider it to be one of high importance to the country. I must beg pardon of the Senate for having trespassed so long upon its attention.

Mr. SEWARD. I wish to submit some considerations in favor of the passage of this amend-

ment, but as it is too late to proceed to-day, I move that the Senate do now adjourn.

Mr. HUNTER. I would suggest to the Senator from New York that, if he is not ready to go on with the discussion of this amendment, it can be laid over until to-morrow. There are some other amendments of the Committee on Finance, on which we might act, and of which we might dispose, during the next half hour, if this amendment is laid over. I hope that I shall have unanimous consent to pursue this course.

Mr. SEWARD. I have no objection to that course, if it be understood that I am to have the floor. I therefore withdraw the motion.

The PRESIDENT. It will require unanimous consent to pass over the amendment reported by the committee, to take up any other subject, while it is under consideration; but, if there be no objection, the Chair will pursue that course.

There was no objection.

The next amendment of the committee was a verbal one, to strike out "hereafter," after the word "Government," in the 3d section of the bill, and insert the words "hereafter made" after the word "contract," so that the 3d section should read:

SEC. 3. And be it further enacted, That no part of the appropriations herein made for the benefit of any tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such tribe, or part of a tribe; but shall, in every case, be paid directly to the Indians themselves, to whom it shall be due, or to the tribe or part of a tribe, *per capita*, unless the imperious interest of the Indians shall require the payment to be made collectively. Nor shall the Executive branch of the Government recognize any contract *hereafter made* between any tribe or part of a tribe, and any attorney or agent, for the prosecution of any claim against the Government, or under this act.

The amendment was agreed to.

Mr. HUNTER. I have several amendments to offer, under instructions from the Committee on Finance. The first is to insert this clause:

For the pasting, in books prepared for the purpose, canceled certificates of the registry and enrollments of vessels returned by the several collectors of the customs, \$500.

This is according to estimate. The work is very necessary.

The amendment was agreed to.

Mr. HUNTER. I am also directed by the Committee on Finance to move to amend by inserting the following:

For the reappropriation of \$10,000 for the redemption of outstanding loan office and final settlement certificates; this being a portion of the sum of \$37,589 59 heretofore appropriated for that purpose, and carried to the surplus fund on the 31st day of December, 1843: *Provided*, That hereafter all claims on account of such loan office and final settlement certificate, unless presented at the Treasury of the United States within two years from the date of the passage of this act, shall be considered as barred, and not hereafter payable.

This is in pursuance of estimate. There was an outstanding appropriation of \$37,589 59 for the payment of these loan office certificates. It was carried to the surplus fund. Since then, certificates have been presented to the amount of \$5,000; and the Secretary estimates that an appropriation of \$10,000 will probably cover those that are to be brought in. The Committee on Finance propose to add the proviso contained in the amendment. As this is a very old transaction—as the certificates were issued in 1793 and 1795, the committee thought it better to provide that they should be closed within two years.

Mr. WALKER. I simply wish to remark, in regard to this matter, that there has been a bill, during the present session, referred to the Committee on Revolutionary Claims, making provision for the payment of these outstanding loan office and final settlement certificates. The bill has been reported upon by the committee. If I remember the bill correctly, it proposes to reappropriate the sum of \$70,000, which was once appropriated for this purpose, and which had reverted to the surplus fund. I do not very well understand why this appropriation should now be made for such a small amount, when there seems to be a necessity for the reappropriation of the sum of \$70,000, which has reverted to the surplus fund, for the purpose of meeting these outstanding certificates. I do not know but there may be something to which the mind of the chairman of the Committee on Finance has not been called in regard to this matter.

Mr. HUNTER. This is strictly in pursuance of estimate. I have no other knowledge of the matter than that furnished by the Secretary of the Treasury. He informed the committee, in a letter,

that certificates to the amount of \$5,000 had been presented, and he asked for an appropriation of \$10,000. There were outstanding certificates to the amount of something like \$133,000; and that amount was appropriated some years ago for their payment. A part of this amount has since passed to the surplus fund. The Secretary now asks for an appropriation of \$10,000; and the committee proposed to insert the proviso, that all these certificates should be barred, unless presented within two years. The residue of the amendment is strictly in accordance with the estimate.

Mr. BADGER. I have no objection to the amendment, but I want to suggest to my friend from Virginia, a modification of the phraseology of part of it. In the limitation of time, I observe the phrase "from the date of the passage of this act." Now, there are two considerations which I think would suggest the omission of the words "the date of," so as to leave it "from the passage of this act." The first is, that there can be no conceivable difference between the passing of the act, and the date of passing the act; and the second consideration which I suggest to the Senator from Virginia, as he is an advocate for reform and economy, is, that it would save so much in the printing of the law by leaving out the words "the date of." [Laughter.] I therefore move to strike out those words.

Mr. HUNTER. This is rather a small beginning, to be sure, but as it is the first effort at economy which the Senator from North Carolina was ever known to make, I am disposed to indulge him. [Renewed Laughter.]

Mr. CASS. Allow me to add, that as this is the first evidence of progress I have seen on the part of the honorable Senator, [continued laughter.] I accord it to him.

Mr. HALE. I wish to suggest to the Senator from North Carolina, that, like all new converts, his zeal has carried him too far. He has moved to strike out too much. The word "from" should be left in.

Mr. BADGER. I have left it in.

Mr. HALE. Then it is right.

The amendment to the amendment was agreed to, and the amendment as amended was adopted.

Mr. HUNTER. I have another amendment to offer from the Committee on Finance. It is to insert—

For payment to Augustus Humbert of the balance of his salary as United States assayer of gold, in California, under the act of 30th of September, 1850, \$1,250.

This is in accordance with estimates for the balance of a salary due according to law.

The amendment was agreed to.

Mr. HUNTER. The Committee on Finance have also instructed me to move to insert the following item:

To enable the Secretary of State to pay William E. Anderson, for the loss of time and expenses incurred in coming from Rio Janeiro to New York, under the direction of the American Minister at the Brazilian Court, to testify against certain persons alleged to have been engaged in the slave-trade, \$250.

Mr. BORLAND. I wish to suggest that this amendment certainly provides for a private claim, and is therefore excluded by the rule, as I understand it.

Mr. HUNTER. This is not, I think, a private claim. This man was a witness, who was sent home by our Minister at Brazil, to appear at a trial in this country. There happened to be no appropriation applicable to this purpose, and therefore it is necessary to put it in this bill. This individual, with his family, is now in New York in great distress. I have a letter from him on the subject, which I will read if any Senator desires it.

Several Senators. It is not necessary.

Mr. BORLAND. I do not object to the allowance at all. I do not know but that it is entirely right. I would merely suggest that, in my opinion, the rule excludes it.

Mr. HUNTER. It is for the service of the current year.

Mr. BADGER. It is a public claim.

The PRESIDENT. The Senator makes no question for the Chair to decide.

The amendment was agreed to.

Mr. HUNTER. I present another amendment under the direction of the committee. It is to insert—

For the contingent expenses of the Library of Congress, \$800.

This is in pursuance of an estimate of the Committee on the Library.

Mr. PEARCE. I will explain to the Senate that that appropriation was rendered necessary, in great part, by the late fire. We were obliged to purchase a great many new books, the transportation of which has cost a large sum of money. On this account, and because of the incidental expenses attending the transportation, this amendment is necessary.

The amendment was agreed to.

Mr. HUNTER. I now offer the last amendment which I have in charge. It is to strike out \$20,650, in the appropriation for surveys in the mineral region of Michigan, and insert in place of it \$24,780. This is rendered necessary by a previous amendment, which the Senate has adopted, raising the price of those surveys from five to six dollars per mile. That amendment was reported by the committee, and adopted by the Senate, on the recommendation of the Department, and because of that amendment, this alteration becomes necessary.

The amendment was agreed to.

Mr. HAMLIN. I offer the following amendment:

For the payment of James W. Hale, of the city of New York, in full for discharging the duties of dispatch agent, from September, 1849, to June, 1850, inclusive, the sum of \$800.

I desire to say, that I am directed by the Committee on the Post Office and Post Roads to offer this amendment, on the recommendation of the Secretary of State, who has furnished me with an estimate, which I hold in my hand, and it can be read, if required. The duties of the office were discharged by Mr. Hale, for the time mentioned in the amendment, during the indisposition of Matthew L. Davis.

The amendment was agreed to.

Mr. STOCKTON. I desire to give notice to the Senate that on Tuesday next, during the morning hour, I shall ask of it the favor to permit a bill that is on the table, for the construction of a war steamer, to be taken up.

Mr. BORLAND. I have an amendment to offer to the bill. As this seems to be a sort of omnibus, I suppose there will be no objection to the amendment on the score of irrelevancy. The amendment is to add—

That the selection of newspapers for the publication of the laws of the United States shall, after the passage of this act, be made by the Secretary of State, as follows: The number selected shall be one in each Congressional district in each State—one in each Territory—and four in the District of Columbia. And the preference shall be given, in all cases, to the papers which at the time of selection shall have in the States or Territories respectively in which they are printed, the largest number of weekly subscribers; and to those in the District of Columbia which shall have at the time of selection the largest number of weekly subscribers in the United States; the amount of such number of subscribers to be ascertained by the affidavit of the publishers respectively, and by such additional evidence as may be requisite to establish the facts in each case to the satisfaction of the postmaster at whose office such papers respectively commence their circulation.

And be it further enacted, That when it shall be necessary to publish any public advertisements, except advertisements of letters in any State, they shall be published in the two papers in said State having the largest number of subscribers, as provided in the preceding section of this act, for the publication of the laws, the amount of circulation to be ascertained in the same manner as provided in the preceding section aforesaid.

And be it further enacted, That said public advertisements shall be published in the newspapers having the publication of the laws as aforesaid in the District of Columbia, and in the papers having the publication of said laws in the Territories, when and as often as may be deemed necessary.

And be it further enacted, That as soon as may be after the passage of this act, and at the beginning of the first session of every succeeding Congress, a copy of the list of newspapers selected, according to the terms of this act, for the publication of the laws of the United States, shall be communicated by the Secretary of State to the heads of the several Executive Departments, and to the Senate and House of Representatives respectively.

And be it further enacted, That the President shall cause to be communicated to the Senate and House of Representatives, annually a list of all newspapers that shall have published by authority, during the next preceding year, any advertisement as aforesaid, with the names of the publishers, the place of publication, the nature of the work performed, and the amount paid to each publisher.

And be it further enacted, That all acts and parts of acts inconsistent with this act be, and they are hereby repealed.

I do not think this amendment will require much explanation. The object of it obviously is to secure a thorough publication, or a thorough distribution of the publication of the laws passed by

Congress, among the different States and Territories. I think the number of newspapers to be selected, according to the amendment, will be sufficient for that purpose. The amendment will secure the publication of the laws in a paper in each Congressional district, in a paper having the largest weekly circulation within that district, that is, the circulation which throws the paper generally among the people of the country. It is not necessary to publish the laws in the other editions of the paper, because the publication once in the weekly edition will be sufficient to carry them before the readers of the paper. One paper in each Congressional district, one in each Territory, and four in the District of Columbia, I take to be a sufficient number.

With regard to the public advertisements, I did not suppose that so many papers would be necessary, and therefore I have provided in the amendment for their publication in the two papers in each State of the largest circulation. The amendment provides that here, at the seat of Government, both the laws and the public advertisements shall be published in the four papers having the largest circulation.

The object of this amendment is, as I suppose every one will perceive, to take out of the hands of any and every Administration the use of a kind of patronage, the tendency of which is to subsidize the newspaper press of the country, particularly the small local press scattered all over the country, which we know has a very considerable influence upon public sentiment. I cannot be supposed to be actuated by any party considerations in this matter, because whatever others may think, I do conscientiously believe that the party to which I belong will very speedily be in power.

Mr. HALE. What party is that?

Mr. BORLAND. The great Democratic party of the nation, without division. For that reason I had no hesitation in offering this amendment. I would be unwilling to put myself in the attitude of offering a proposition, the sole effect of which would be to throw obstacles in the way of, or take power from an Administration to which I was politically opposed. This provision is to be prospective. I presume that very little effect will be produced by it during the few months that the present Administration will remain in power.

At the suggestion of a Senator, who wishes to look into the matter a little more closely, I will not press the adoption of this amendment now; but as I suppose it can be printed by to-morrow morning, I move that it be printed for the use of the Senate.

The motion was agreed to.

Mr. BADGER. I wish to say, that I think the general purpose of this amendment is very correct, but the details of it, perhaps, require a little examination; and I was about to suggest to the honorable Senator from Arkansas, that he should permit this amendment to lie over. I wish to say, also, that as I do not concur in the opinion which he has so confidently expressed, that the great Democratic party to which he belongs is soon to be in power, and as I am afraid that this amendment is looking forward to some very irregular restrictions upon the succeeding Whig Administration, I wish to have a very full opportunity for its examination, and therefore I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, April 22, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

#### MILITARY RESERVATION IN ARKANSAS.

The SPEAKER. The first business in order is the consideration of House bill No. 238, being an act to release from reservation certain lands for military purposes, in the State of Arkansas. The question pending is to recommit the bill.

Mr. JOHNSON, of Arkansas. I will ask the gentleman from Missouri, [Mr. HALL,] if he pleases, to state to the House the objects of this bill. As I have looked at the matter, however, I will also make a statement, and then give up the floor, and let the House do with it what it pleases. There are three propositions in this bill, which are

distinct. One is to restore these lands, now reserved from sale, to the mass of the public lands, so that they may be subjected to sale, and entered as any other lands. I ask for that, on the part of my State, because it operates oppressively not to permit the public lands in Arkansas to be sold, as any where else.

Another provision is, that where the land offices have suffered these lands to be sold, or, in other words, have sold portions of them, to the people of Arkansas, in despite of the act of reservation, that the titles and patents which have been issued therefor by the Government of the United States shall be confirmed and made valid—the Government having received the money, and there being nothing objectionable in the matter, and the only peculiarity being that they were among the mass of reserved lands, and were allowed to be entered by the land officers through mistake.

Another proposition is, that those who have settled upon these reserved lands in that State, and made *bona fide* improvements, shall, upon paying the Government price, be allowed the same privilege of preemption which is granted in respect to all other public lands of the United States.

These are the propositions. It is for the interest of the Government that this bill should be passed. It grants nothing to the State of Arkansas. Under these circumstances, I ask that, as it has now come to a final vote, it shall be permitted to pass. I will ask the gentleman from Missouri [Mr. HALL] to explain the matter, if he pleases, should there be anything different from what I have stated.

Mr. ROBBINS. For what purpose were these lands reserved?

Mr. JOHNSON. I will state the purpose for which they were reserved. Gentlemen will recollect, that just after the war of 1812, military bounty lands were set apart for the satisfaction of the military land warrants provided to be allowed at that time. Amongst these tracts of country set apart, was a large tract of country in the then Territory of Arkansas. Those warrants and claims, or very nearly all, have long since been satisfied. That was the reason of this reservation being made, which is no longer of any use.

Mr. HALL. I believe that the gentleman from Arkansas [Mr. JOHNSON] describes the bill correctly; but, as the gentleman from North Carolina, [Mr. STANLY,] on yesterday suggested that some of the warrants for the satisfaction of which the lands in Arkansas were reserved might remain unsatisfied, and the holders of these warrants might, therefore, be deprived of some rights which they already possessed under existing laws, I will propose, for the purpose of removing that objection, to amend the bill by adding the following—

The SPEAKER. This can only be done by unanimous consent.

There being no objection, the amendment was then read, as follows:

And that the said warrants which have not been satisfied, may be located upon any of the public lands subject to private entry at the time of the location of the same.

The question was then taken, and the amendment was agreed to.

The SPEAKER. The question now is upon the recommitment of the bill.

Mr. HALL. I withdraw the motion to recommit.

Mr. STANLY. I have no disposition further to postpone the bill. I only desired an opportunity to examine it, and to call the attention of the House to it.

Mr. FULLER, of Maine, made an inquiry, which was entirely inaudible to the reporter.

Mr. JOHNSON demanded the previous question; which was seconded, and the main question ordered.

The question being, "Shall the bill pass?" it was taken, and decided in the affirmative.

So the bill was passed.

Mr. JOHNSON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was taken on the latter motion, and it was agreed to.

Mr. OLDS. I ask the unanimous consent of the House that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 144; which is a bill to amend an act entitled "An act to reduce

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and modify the rates of postage in the United States, and for other purposes." It is a bill merely affecting newspaper postage. It is desirable that this House should pass it at once, that it may take effect from the thirtieth of June next.

Several MEMBERS objected.

Mr. ROBBINS. called for the regular order of business.

## CONTESTED ELECTION FROM PENNSYLVANIA.

Mr. ASHE, from the Committee on Elections, made a report in the case of H. B. WRIGHT, contesting the seat of H. M. FULLER, as a Representative from the State of Pennsylvania, accompanied by the following resolution:

*Resolved*, That the election at the Danville precinct, county of Montour, eleventh Congressional district, in the State of Pennsylvania, was illegally and irregularly conducted, and the seat of the member is vacant, and that the Speaker inform the Governor of that State of the decision of this House, that a new election may be ordered.

Mr. ASHE moved that the report and resolution be printed.

Mr. JONES, of Tennessee. If this report be now ordered to be printed, and the House shall pass over it informally, cannot the chairman of the committee call it up at any time?

The SPEAKER. It will go to the Speaker's table, but a motion to take it up will be a privileged motion.

The question was then taken upon the motion to print the report, and it was agreed to.

Mr. FREEMAN, from the Committee on Public Lands, to which was referred the petition of the Board of Trustees of the State University of Indiana, reported a bill to supply the deficiency to the State of Indiana, in a township of land granted to said State for the use of said University, by act of Congress, approved 19th of April, 1816; which was read a first and second time by its title.

Mr. F. said: I have been requested by the committee on Public Lands to ask that this bill may be put upon its passage immediately.

Mr. VENABLE. What is the bill?

Mr. FREEMAN. I will state to the House what is the object of the bill. There was a grant of lands made by the Government of the United States to the State of Indiana for a State University. It was subsequently ascertained that about four thousand acres of the land so granted had previously been sold by the United States, and disposed of in such a manner that the State of Indiana could not acquire a title to the land. This fact being made clear to the Committee on Public Lands, they have introduced this bill for the purpose of granting to the State of Indiana the right to locate these four thousand acres at some other point in the State. I trust, therefore, that the House will pass the bill, and pass it forthwith.

Mr. HARRIS, of Tennessee. I do not know that I have any objection to the passage of the bill; but this habit of moving to put bills upon their passage when reported from the committee, has kept the Committee on Public Lands reporting for the last three months. I therefore move to refer the bill to the Committee of the Whole on the state of the Union, and I ask for the previous question on that motion.

Mr. FREEMAN. What is the gentleman's objection to the bill?

Mr. HARRIS. I have none at all; but I desire that other committees shall have an opportunity to report.

Mr. GORMAN. I appeal to the gentleman from Tennessee to let this bill pass.

Mr. HARRIS. I cannot withdraw the demand for the previous question.

Mr. GORMAN. It will not take a minute to pass the bill.

Mr. HARRIS. That is invariably the argument.

The previous question received a second, and the main question was ordered to be now put; and the question being put on the motion to refer the bill to the Committee of the Whole on the state of the Union, on a division there were—ayes 67, noes 48; no quorum voting.

Mr. CLINGMAN demanded tellers; which were ordered; and Messrs. GORMAN, and HARRIS of Tennessee, were appointed.

The question was then again put, and it was decided in the affirmative—ayes 64, noes 63.

So the bill was referred to the Committee of the Whole on the state of the Union.

## SCHOOL LANDS IN MISSISSIPPI.

Mr. FREEMAN, from the Committee on Public Lands, reported back a bill "authorizing the Legislature of the State of Mississippi to sell the 'sixteenth sections heretofore reserved from sale for the use of schools in that State, and to ratify and approve the sales already made," with a recommendation that it do pass.

The bill having been read through, and the question being upon its engrossment,

Mr. FREEMAN said: I desire to state the object of the bill, and I hope the House will grant me its ear for a moment, for there is nothing in the bill save what every member can understand by a moment's attention.

The House is aware that in the survey which has been made of the public lands, the sixteenth sections have been granted to the States for school purposes. In the State of Mississippi, a large portion of the public lands have been reserved, under the Indian treaties, from sales for the purpose of settling with the Indians, and a portion of the sixteenth sections are upon those lands. They have, however, been disposed of, to a considerable extent, by the State of Mississippi. They have been leased for ninety-nine years. Now, suits have been brought upon notes payable in one, two, three, and four years, against the purchasers, and those who have leased these lands, and the judicial tribunals of the State of Mississippi have decided that the school commissioners cannot recover those notes, because the purchasers have obtained no title. Why? Simply because the title still remains in the United States, and is not in the school commissioners or in the State of Mississippi. And why? Because the only title conferred by the United States was a simple reservation of the sixteenth sections for school purposes. The United States, therefore, it has been decided, have not conferred any title upon the State of Mississippi which that State could confer upon the vendees.

In consequence of this decision of the courts of the State of Mississippi, and to prevent further litigation, and to quiet agitation—and I know there are a great many gentlemen in this House who are opposed to agitation—we desire this bill to pass.

Mr. SWEETSER. I would inquire of the gentleman from Mississippi—as the decision of the courts of his State are at variance with the decisions in all the other States of the Union, as far as I am acquainted with them—whether he concurs in the decisions of the courts of Mississippi, that their State has no such title to these lands as it can make legal titles to the vendees? It seems to me that such a decision is quite contrary to the decisions of the courts of all the other States on the subject, and I ask the gentleman whether he, as a lawyer, concurs in that decision?

Mr. FREEMAN. The State of Mississippi has not made me a supreme court, or even elected me a judge of that tribunal, and it is not in my power to reverse the decisions of the courts. The decisions of State courts in matters pertaining to State policy, as the gentleman well knows, are always respected in the Supreme Court of the United States. It is therefore, I think, unbecoming in gentlemen of the profession, even upon this floor, to get up and repudiate the judgment of the supreme court of Mississippi. I know the gentleman from Ohio is too good a State-Rights man to do it, and I shall not interfere with the judgments of the supreme court of his State.

Mr. SWEETSER. The gentleman is really making a serious matter of what I did not so intend. I intended merely to maintain a legal principle, which I believe to be correct. I am not making any reflection on the judicial tribunals of Mississippi. That State comes here through her

Representatives, and asks Congress to pass a law ratifying the title which the United States have heretofore conferred upon the State, to the sixteenth sections; and inasmuch as she is asking what has never been done before, I am opposed to raising any doubts by our legislation here in regard to the titles of other States, that have received and sold their school lands, under the authority conferred by their respective legislatures. It seems to me, upon the statement of the gentleman from Mississippi, that the proposed legislation is entirely unnecessary, and it is for that reason that I make the inquiry.

Mr. BROWN, of Mississippi. If my colleague will allow me, I will correct the gentleman from Ohio. The gentleman is mistaken when he says that the State of Mississippi is asking Congress to do what has not been done heretofore. This precise thing was done for the State of Ohio.

Mr. SWEETSER. I was not aware of it.

Mr. BROWN. It was also done for the State of Indiana.

Mr. HOUSTON. It was done for all the new States.

Mr. BROWN. Yes. It has been done for all the new States, and it has not been done for Mississippi, simply because our delegation in Congress have heretofore overlooked it, until finally, for want of this very legislation, the purchasers of the sixteenth sections have got into difficulties. No matter whether the judgment of the judicial tribunals of Mississippi be correct or not—and, as a lawyer, I think it is correct—the Department here has sustained it, in a written communication to me, which I submitted to the Committee on Public Lands.

There is an absolute necessity for the passage of this bill, and for its passage immediately, in order to protect innocent parties from the severest kind of suffering, growing out of a transaction which they could not by any possibility control. The legislation proposed in this bill, is just such as has been applied to other States, and such as Congress would have applied to the State of Mississippi if she had ever asked for it. The Government of the United States has no interest in these lands, and I trust there will be no difficulty in passing the bill.

Mr. SWEETSER. I beg to say that so far as Ohio is concerned, she has always exercised jurisdiction over these lands, both in leasing and selling them; and I am not aware that Congress has ever before been asked to ratify any title which has been conferred upon a State by the compact, under which their sixteenth sections were granted; neither do I believe that any act of Congress is necessary to confirm the title of the vendees, who hold their titles under the State legislature.

Mr. BROWN. I did not mean to say, that Congress had ratified the title. But Congress authorized the State of Ohio to sell the lands before she made the sales, and therefore it was not necessary.

Mr. SWEETSER. That power was given in the original grant.

Mr. BROWN. No, it was by a separate act.

Mr. FREEMAN. I believe that the gentleman from Ohio is right in the legal principle, but mistaken in the facts. What our courts decided was, that a simple reservation in the survey did not confer a title on the State of Mississippi.

Mr. SWEETSER. I agree with them on that point.

Mr. FREEMAN. Then we do not disagree at all. That is what our courts decided.

Mr. BROWN, of Mississippi, moved the previous question.

Mr. MEACHAM. I move to refer this bill to the Committee of the Whole on the state of the Union.

The SPEAKER. That motion is not in order during the pending of the demand for the previous question.

Mr. FREEMAN demanded tellers on seconding the demand for the previous question; which were ordered, and Messrs. TAYLOR, and BROWN



of Mississippi, appointed; and the question being put, the tellers reported—ayes 80, noes 45.

So the previous question received a second.

The main question was ordered to be now put.

The bill was then ordered to be engrossed for a third reading, and being engrossed, was read a third time and passed.

Mr. STANLY gave notice of his intention to move to reconsider the vote by which the bill in relation to the lands for the University of the State of Indiana was referred to the Committee of the Whole on the state of Union.

Mr. BROWN, of Mississippi, moved that the vote just taken, by which the bill passed, be reconsidered, and that the motion do lie upon the table; which latter motion was agreed to.

#### PRE-EMPTIONS TO CERTAIN SETTLERS.

Mr. FREEMAN, from the Committee on Public Lands, reported back without amendment and with a recommendation that it do pass, House bill for the protection of actual settlers occupying land upon the line of the Chicago and Mobile Railroad and branches, by granting to them preemption rights.

Mr. F. I hope the bill will be read for information, and then I will state the reasons why I think it ought to pass.

The bill was read, as follows:

*Be it enacted, &c.,* That each and every person who, on the twentieth day of September, in the year of our Lord one thousand eight hundred and fifty, was the owner of any improvement made previous to that date on any tract of land now owned by the United States, and situated within the limits reserved from sale by order of the Government, because of the grant of alternate sections to the States of Illinois, Mississippi, and Alabama, in aid of the construction of the Chicago and Mobile Railroad and branches, by virtue of an act of Congress, approved September twentieth, eighteen hundred and fifty, entitled "An act granting the right of way, and making a grant of land to the States of Illinois, Mississippi, and Alabama, in aid of the construction of a railroad from Chicago to Mobile," and who became such owner with a view to a residence on, or occupation of, such tract of land for agricultural purposes, shall have the right to purchase, at the price established by law in regulating the sales of said lands, a quantity of the tract so improved not less than forty, nor more than one hundred and sixty acres, in legal subdivisions, on which said improvement may be situated: *Provided,* That any person claiming the right to purchase under any provision of this act, shall, within three months from the date hereof, file with the register of the proper land office a notice describing the land by its numbers, accompanied with an affidavit stating the date and object of the improvement, the time and manner, when and how, he, she, or they, became the owner thereof, and also the affidavits of at least two residents of the county in which such improvement is situated, proving that said improvement was made with a view to residence, or for agricultural purposes: *And provided, further,* That the right of way upon and across any tract of land claimed under the provisions of this act, not exceeding two hundred feet in width, shall be reserved and retained for the said railroad and branches, as the same may be located and constructed; and any person claiming the right to purchase as aforesaid, shall, within twelve months from the passage of this act, pay to the receiver of the proper land office, the sum of money so established by law to be paid as aforesaid; and on failure of said actual settler either to prove his right of preemption within three months, or to pay for the land within twelve months after the passage of this act, as herein required, the said land containing the improvements as aforesaid, shall be subject to entry by any other person making application therefor.

*Sec. 2. And be it further enacted,* That when two or more persons claim the right to purchase the same tract of land, and file proof of ownership as herein required, the person proving the first residence by himself, or by those with whom he claims the improvement, shall have the right to make the purchase, but no sale or conveyance of any tract of land under the provisions of this act shall affect the rights or equities of parties claiming the same as between each other.

Mr. MEACHAM. I move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. FREEMAN. I have not yielded the floor. The SPEAKER. The gentleman from Vermont [Mr. MEACHAM] cannot take the floor from the gentleman from Mississippi to make his motion.

Mr. FREEMAN. That bill, I think, explains itself, and I also think commends itself to the immediate attention of the members of this House. It is just as easy to act upon it now as it will be at any future time.

A railroad has already been chartered, and is in process of construction, from Chicago, Illinois, to Mobile, Alabama. The public lands for fifteen miles on either side of the road, have been reserved from sale for eighteen months, and are now to be re-exposed for sale. Upon those lands the hardy pioneers of the forest have already acquired by their actual settlement, a claim to the rights of pre-emption.

The object of this bill is simply to enable these men, who have gone to the wilderness and erected their homes upon the public lands, to complete their titles. That is simply and substantially the nature, and the only object of the bill. I am sure no man within the sound of my voice needs any further argument upon this point. Now, I ask gentlemen if they will vote to send this bill to the Committee of the Whole on the state of the Union, where it will sleep the sleep of death for the balance of the session? I appeal to the House in behalf of the hardy pioneer of the forest. I appeal in behalf of the man whose axe cuts down the first tree in the forest, and whose plow first turns the virgin earth to the sun. I appeal to the members of this House to come forward and give these log-cabin men a vote in this, their hour of need. I call for the previous question upon the passage of the bill.

Mr. HUNTER. I desire to ask the gentleman from Mississippi what need there is for any other provision than that contained in the general pre-emption law for these people?

Mr. FREEMAN. Because, by the act of the Government, they have been prevented from complying with the general preemption laws.

Mr. HUNTER. Had they settled upon the land at the time the act passed reserving it from sale?

Mr. FREEMAN. They had. The time of settlement is a matter which each individual will have to prove for himself. That is not for this House to decide. This bill applies only to such as have a legal preemption right.

Mr. FULLER, of Maine. Will the gentleman allow me to ask him a question?

The SPEAKER. Discussion is out of order.

Mr. FREEMAN. I have called the previous question, and I hope it will receive a second.

The House was divided upon seconding the demand for the previous question; and 49 gentlemen rose in the affirmative.

Mr. FICKLIN demanded tellers; which were ordered; and Messrs. FREEMAN and MEACHAM were appointed.

The question was then taken; and the tellers reported—ayes 58, noes 45; no quorum voting.

Mr. FICKLIN. I ask for a recount.

Mr. STANTON, of Ohio. I object.

Mr. JONES, of Tennessee. I move a call of the House, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BROWN, of Mississippi. There is evidently a quorum present. I hope the gentleman from Tennessee will withdraw his motion for a call of the House. It is simply a waste of time.

Mr. JONES. I have no disposition to impede the business of the House. I will withdraw the motion.

The SPEAKER. The tellers will again take their places.

Mr. STANLY. I object.

Mr. JONES, of Tennessee. I should like to know upon what ground the gentleman from North Carolina has the right to object to having a recount?

The SPEAKER. The Chair is of the opinion that he has a right to divide the House again for the purpose of ascertaining whether there is a quorum of the House present.

Mr. STANLY. I hope the Chair will not depart from his own decision which he has heretofore adopted when there is no necessity for it. I move that there be a call of the House, and upon that motion I ask the yeas and nays. That is the proper way to ascertain whether there is a quorum present or not.

Mr. JONES, of Tennessee. I submit this suggestion to the Chair: Suppose we have a call of the House, and ascertain that there is a quorum present. If the Chair then doubt whether a majority voted for or against seconding the demand for the previous question, has he not a right to divide the House, or has not any member the right to call for a division or for tellers?

The SPEAKER. The Chair has before decided that he has a right to recount the House; but that is not a question to be decided now. The gentleman from North Carolina [Mr. STANLY] moves that there be a call of the House, and upon that motion demands the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and the result was—yeas 62, nays 89; as follows:

YEAS.—Messrs. Abercrombie, Aiken, Willis Allen, John Appleton, William Appleton, Ashe, Barrere, Bartlett, Bo-  
cock, Bragg, Briggs, Lewis D. Campbell, Chapman, Chas-  
tain, Churchwell, Cobb, Doty, Eastman, Edgerton, Faulk-  
ner, Fitch, Floyd, Fowler, Gentry, Giddings, Goodenow,  
Green, Grey, Harper, Hart, Haven, Hebard, Horsford,  
Howard, John W. Howe, Hunter, Ivcs, Jackson, Jenkins,  
James Johnson, George G. King, Mace, Martin, McDonald,  
Miller, Henry D. Moore, Morehead, Pennington, Phelps,  
Scudder, Skelton, Smith, Snow, Benjamin Stanton, Alex-  
ander H. Stephens, Sweetser, George W. Thompson,  
Tuck, Walbridge, Wallace, Washburn, Alexander White,  
and Williams—62.

NAYS.—Messrs. Averett, Thomas H. Bayly, Bowie,  
Brenton, Albert G. Brown, E. Carrington Cabell, Thomp-  
son Campbell, Chandler, Clingman, Conger, Curtis, John  
G. Davis, Dawson, Dean, Dimmick, Durkee, Fiekin, Flor-  
ence, Freeman, Thomas J. D. Fuller, Gaylord, Goodrich,  
Gorman, Grow, Hall, Hamilton, Isham G. Harris, Ben-  
drieks, Hilbard, Hillyer, Houston, Andrew Johnson, Rob-  
ert W. Johnson, Daniel T. Jones, George W. Jones, J.  
Glancy Jones, Preston King, Kuhns, Kurtz, Landry, Letch-  
er, Lockhart, Humphrey Marshall, Mason, McMullin, Mc-  
Nair, McQueen, Meacham, Meade, Millson, Minor, Mo-  
lony, John Moore, Morrison, Murray, Nabers, Ods, Out-  
law, Andrew Parker, Samuel W. Parker, Peaslee, Penn,  
Perkins, Polk, Price, Riddle, Robbins, Ross, Sackett, Sav-  
age, Scurry, Origen S. Seymour, Smart, Frederick P. Stan-  
ton, Richard H. Stanton, Stone, St. Martin, Stunt, Taylor,  
Thurston, Townshend, Ward, Watkins, Wells, Addison  
White, Wilcox, and Yates—89.

So the call of the House was not ordered.

The SPEAKER. The tellers will again re-  
sume their places.

Mr. STANLY. Has not the morning hour  
expired?

The SPEAKER. It has expired.

Mr. STANLY. I move that the House do  
now proceed to the business upon the Speaker's  
table.

The House was being divided upon the motion,  
when

Mr. STANLY withdrew the motion, and moved  
that the rules be suspended, and that the House  
resolve itself into the Committee of the Whole on  
the state of the Union.

Mr. COBB. I ask the Chair if the gentleman  
holds the floor to make two motions?

The SPEAKER. The gentleman has the right  
to withdraw one motion and make another.

Mr. PHELPS. I submit whether the gentle-  
man from North Carolina could get the floor to  
make the motion while the House was in the act  
of dividing?

The SPEAKER. The gentleman withdrew  
the motion upon which the House was dividing.

Mr. PHELPS. Then the question is now in  
the state in which it was before the first motion  
was made. Now, I submit that the House was  
then in the act of dividing, and that the gentleman  
had no right to make the motion.

The SPEAKER. The previous question had  
been demanded, upon which tellers had been or-  
dered, but the question had not been taken.

Mr. PHELPS. I was under the impression  
that a division was being made.

The question was then put, and carried in the  
affirmative.

So the rules were suspended, and the House  
resolved itself into the Committee of the Whole  
on the state of the Union, (Mr. HIBBARD in the  
chair.)

#### HOMESTEAD BILL.

The CHAIRMAN stated, as the business be-  
fore the committee, the consideration of House  
bill No. 7, being a bill to encourage agriculture,  
commerce, manufactures, and for other purposes,  
on which the gentleman from Illinois [Mr. Mo-  
lony] was entitled to the floor.

Mr. MOLONY addressed the House an hour.  
He alluded to the present condition of parties in  
view of the approaching canvass, and expressed his  
belief that the Democratic party would triumph-  
antly elect the nominees of its convention for  
the Presidency and Vice Presidency, whoever  
they might be—whether Cass, Buchanan, Doug-  
las, or Butler. He then entered into an argument  
in favor of the homestead policy, maintaining that  
grants of lands from the public domain to actual  
settlers thereon was not a Western measure mere-  
ly, but was one which affected favorably every  
interest in every section of the country, and added  
to the national wealth. He further maintained  
that the argument of the gentleman from Maine  
[Mr. FULLER] was unsound, that the policy of  
the bill would injuriously affect the old States, by  
draining them of their population; and quoted

from the census statistics to show that in the last ten years, embracing the period of the greatest increase of population and settlement in the West, that there had been an almost corresponding increase in some of the Eastern States. Hence he argued that, if the bill should pass, it would not diminish the population in the old States, but drain them of their surplus agricultural labor, and place it in a condition where it would become productive, and thus create a market for the products of the Eastern manufactures. [Mr. M.'s speech will be found in the Appendix.]

Mr. SUTHERLAND next obtained the floor, and occupied it an hour in opposition of the policy of the bill. He maintained that it was unjust, because it took the public domain, which belonged to all the people of the country, and bestowed it as gratuitous upon certain classes or portions of the people; and that being thus unjust, it was unconstitutional. He maintained that it involved a departure from the Democratic policy, which was, that these lands should be held as a source of revenue. The consequence of such a departure would be an increase of taxation in the indirect mode to support the Government. [The speech of Mr. S. will be found in the Appendix.]

Mr. YATES obtained the floor, but gave way to

Mr. JOHNSON, of Arkansas, who moved that the committee rise.

The motion was put, and carried in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 7, and had come to no conclusion thereon.

Upon motion by Mr. EDGERTON, the House then adjourned until to-morrow at twelve o'clock, m.

#### NOTICE OF A BILL.

Mr. LOCKHART gave notice that on to-morrow, or some subsequent day of the session, he will ask permission to introduce a joint resolution, explanatory of the act of 22d March, 1852, entitled "An act making land warrants assignable, and for other purposes."

#### PETITIONS, &c.,

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. STANTON, of Ohio: The petition of 114 citizens of the city of New York, for Whitney's railroad to the Pacific.

By Mr. MILLER: The petition of the heirs of William Young, deceased, praying Congress to grant them compensation for services rendered the Government during his lifetime.

By Mr. LOCKHART: The petition of Samuel Hall, Robert Stockwell, Richard Skinner, and others, asking for a grant of lands in aid of the construction of the Evansville and Illinois railroad, from Evansville to Indianapolis, in the State of Indiana.

By Mr. GOODENOW: The memorial of John M. Marston, for relief.

Also, the memorial of John A. Bates, for relief.

By Mr. MCNAIR: The memorial of the members of the congregations of the Presbyterian Church in the District of Columbia, praying the grant of a lot of ground for a cemetery.

By Mr. DUNCAN: The petition of Samuel Webber and other citizens of Lawrence, Massachusetts, for an appropriation in aid of American contributors to the "London Industrial Exhibition."

Also, the petition of Nathaniel Webster and 51 other citizens of Salisbury and Amesbury, Massachusetts, for alterations in the present tariff.

Also, the petition of Micajah Lunt and 45 other merchants and ship-owners, of Newburyport, Massachusetts, for the passage of an act prohibiting the carriage of freight and passengers for hire in Government steam-vessels.

By Mr. ROBBINS: The petition of Hon. Charles H. Dougherty, and a number of other citizens of New York, recommending to Congress the propriety of extending letters patent to the heirs of Uri Emmons for his invention of a planting machine.

Also, a resolution passed by the Board of Commissioners of the Northern Liberties, Philadelphia county, requesting the Representatives in Congress to oppose the appropriation of money prayed for to endow the Collins line of steamers of New York, and urging them to cause the money to be spent in aiding to build the Sumbury and Erie railroad, connecting the Lakes with the Atlantic.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, April 23, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order

is, the passage of the bill entitled "An act for the relief of the Monroe Railroad Company, and their sureties."

#### PERSONAL EXPLANATION.

Mr. BROOKS. I find a long article in the Congressional Globe, which, undoubtedly, has reference to me, and I rise to ask the indulgence of the House to make a personal explanation.

[Cries of "Agreed!" "Agreed!"]

Mr. STANLY. I object, unless the understanding is, that members of the House involved in this explanation shall have the same privilege in reply. I want a fair field.

Mr. BROOKS. The gentleman from North Carolina, I trust, will not object. I would not request this indulgence of the House, if it were possible for me, elsewhere than in this House, to make an official record of my explanation in reference to the speech I have alluded to.

Mr. STANLY. If it is the understanding that members of this House implicated in the gentleman's explanation, shall have also the opportunity of explaining, I do not object.

[Cries of "Certainly!" "Certainly!"]

Mr. STANLY. Very well; with that understanding, I have no objection.

Mr. BROOKS. Mr. Speaker, I did not believe that the time would ever arrive when I should be called upon to exhibit the bad example of rising, so to interrupt the ordinary course of business, as to ask, in a personal explanation, to refer to my own private affairs, or to speak of matters, which, if they interest members of the House, can have no immediate influence upon public affairs, or with the business before it. It has been my pride and ambition, while I have been a member of Congress, to devote myself exclusively to public business, and upon all occasions, and at all times, whenever a topic was before the House, to confine myself and my attention, if I had anything to say upon it, to the discussion of that topic, and that topic only. My excuse now for this deviation in this House from the proper practice, and my excuse to my constituents is what I said before—that here, in this "Congressional Globe," to go down to posterity, are recorded statements against me, which, if I make an appeal through a newspaper in the form of a card or otherwise, save at the bar of this House, it is impossible for me to send a like record of, down to those who may possibly be interested in my humble reputation, or who may wish hereafter to be accurately informed of what led to this attack upon me.

Before I go further, I will say that I have taken occasion in this House before, to remark that I have but little respect for that chivalry which, before it assaults a member of Congress, carefully consults the lines of latitude and longitude, in order to direct its assaults, and which has billing, cooing tones for every man south of the Potomac, but rough and rugged bluster for every man north. I need not, however, have made this remark, in this case, because the speaker of this article before me, is of an age, and in a position to protect him from any personal assault of mine—from any assault here or elsewhere—for I should as soon think of vindicating myself in that way, from his remarks, as if I were assaulted by my own grandfather.

There are in this article, Mr. Speaker, various allegations, and the first one which I propose to notice, but which I have before noticed in this House, is, that a certain letter which appeared in the New York Express, was written or indited by me. That, in the most solemn manner, I have already denied upon the floor of this House, and any further contradiction would be unavailing.

My position here as an editor of a public newspaper at home, and, as a member of Congress, has often embarrassed me; and upon becoming a member of the last Congress, I took occasion then publicly to say, that in political or personal matters, or in anything appertaining to persons, I would have no concern whatsoever, and be in no degree responsible for what was in my paper; because I foresaw, if I did not adopt that course, I should be holding personal relations with gentlemen of opposite politics, or political relations, which, from the greater freedom of newspaper discussion than that which exists upon the floor of this House, would very often pain and embarrass me.

That course I have faithfully kept, and former correspondents, who have been writing for the

New York Express, some of whom may be now in the sound of my voice, if called upon here or elsewhere, will, under solemn oath, testify, that to them, upon all occasions, I have said, "Show me none of your letters; let me hear nothing of them—tell me nothing; you may write, for I do not wish to know anything of the record you make of the proceedings in Congress." That order which had previously been given, embarrassed me in the previous sessions of Congress exceedingly, because there were often personal attacks—I, perhaps, use a harsh expression in saying personal attacks—but personal comments upon members of the House, which, in my own heart, I did not approve, and which I would wish to correct if I had been at home. On account of this, I felt it necessary to say to the correspondents of that paper, at the opening of this Congress, whenever there is anything in your letters in the nature of personal attacks or assaults upon members of Congress, before your letters go to New York, at least bring them to me, and while I will not be responsible for what you say, or a single sentiment you may utter, yet I will not approve of anything which may embarrass my social relations by attacks in the newspaper with which I am supposed to be connected. This letter, to which the honorable gentleman from North Carolina [Mr. STANLY] alluded the other day, was brought to me. No inconsiderable portion of that letter I struck out. Indeed, all the personal matters I wished to strike out; but remonstrance was made to me, that the rumors which were put forth in that paper were rumors which were in the mouth of almost every man—rumors, of course, but the existence of which I could not deny in the form they were stated. The letter went before the public; and but yesterday, or the day before yesterday, I disclaimed all personal responsibility for its statements, facts, or allegations.

There is also connected with this letter an editorial article, said to have been written by me. This editorial article bears evidence upon its face, in mislocating the homes of members of Congress, that it could not have been written by me. And, to add to the strength of this statement, before God, I say in the presence of you all, that I never saw one word or one item of that editorial article, until it reached me in the New York Express, and I never read it in full until I first read it in the "Congressional Globe," reported here in the paper before me. These are the facts of the case, which I state fully and frankly. But it is said, that there is a remarkable similarity of language between that letter and the language which I used in the caucus in the Senate Chamber the other evening. Having seen the letter, and having been fired by such of its sentiments as I felt to be just and true, it is but natural that in the warmth and excitement of controversy I should have given utterance to the same thoughts in the same style; for the earnest, energetic language and indignant thoughts were such as deeply impressed me when written—and they were the language and thoughts of many others associated with me. Amazement, wonder, astonishment, and passion have one common language, and like "thoughts that breathe, and words that burn," spring from the tongue of every man when astonishing events occur. Hence this similarity of language. Hence this identity of thought. This accounts for it, and nothing more.

Now, Mr. Speaker, there are other insinuations in this article of the Congressional Globe in the main amusing, though enough insulting; and the first is, that I am no gentleman. No gentleman! Well, that would indeed be a severe verdict against my reputation if the person who renders it, was some Beau Brummel, the head of some fashionably-constituted board which had a right to pass upon what constitutes gentility, and to adjust the qualities and character of a gentleman. There is nothing on earth more difficult to describe—though every one has the idea in his mind—the *beau ideal* of what constitutes a gentleman; but when you approach the language of definition, of what constitutes gentility, there is nothing upon which mankind will more disagree. But as to what constitutes not a gentleman, there is really very little difference of opinion among mankind; and all the world will agree in saying, that he who comes fresh from the purlieus of Billingsgate, or from the bacchanalian orgies of some midnight revel, and vomits forth his bile in an American Senate against

an associate member of Congress in another House, is no gentleman.

And there is yet another allegation against me, Mr. Speaker, which descends, indeed, to low-water mark, and becomes amusing enough, if for nothing else, at least for its originality. I have had during a long political life many, very many, astonishing insinuations directed against me, both in my public and my private relations; but this I am about to state bears off the palm, in freshness and novelty. It has been alleged that much of my political action has been affected by the fact, that in my more youthful days, it was my misfortune (or fortune, rather,) to suffer from that common frailty of youth—the loss of my heart, but, alas! on the wrong side of the Potomac, and so have become allied to the South by matrimonial connection. That certainly was a very grave crime, and I plead guilty to the charge uttered against me, and which continues to be uttered against me in the Northern States. But a charge of far higher importance is made against me now, that I am the owner of a carriage, or that I or my family roll in luxury, with liveried servants, in the streets of the metropolis. The author of this charge has undoubtedly mistaken the carriage of another member of Congress, who sometimes kindly gives me a ride, for mine, for his imagination has invested a common-clad driver with a livery. Such are my simple habits and tastes, that I have never been in the carriage to which he alludes but two or three times in my life; for I much prefer, when I can get the time, walking to riding to the Capitol. But what if I had liveried servants, and own up to the mighty fact? Well, sir, I had rather be driven by a negro in livery, than, a Southern man, be the liveried coachman of Northern Abolitionists driving an Abolition team for the Presidency. [Applause.]

Such trifles as these, however, Mr. Speaker, could not have strung into print such a jewelry of words as I have before me. There must have been some other provocation than what appears here in this letter of the New York Express, or its editorial article. I know full well what it was. It was the remarks which I made in the other end of the Capitol, a few evenings since—remarks which could have no effect out of that place, and were, therefore, innoxious, because no reporters were present, and because they could not go forth to the country from the secrecy of that Chamber. But when like sentiments and similar ideas were published elsewhere, naturally enough those who felt themselves hurt within doors, became outrageous when these ideas got out, and they felt it necessary to rise up, and, if possible, to overawe me and break me down as a public man. Sir, it will require much more than this fulmination, to overawe me in the discharge of my public duties, or to make me neglect, at all times, and upon all occasions, fearlessly to utter my sentiments of public measures and public men. But the great cause of this onset upon me, comes, I repeat, from what I said in the other wing of the Capitol. I, then and there, implored the presiding officer of that convocation—if he was about to surrender me, to surrender me and such as act with me, as prisoners of war—that we should have the soldier's honor of being shot, and not be strung up on a gallows erected by executioners educated at Christiana or Syracuse—that when the halter was about my neck, I should be taken by white men to the execution ground, and not be dragged there by ropes in African hands. Thus much in reply to what I believe really prompts this assault upon me.

One word more, before I sit down, in justice to my Southern Whig associates, who may have misunderstood what I said here the other day in the House, amid numerous interruptions, to the effect that the Southern Whig column faltered or wavered, and that was the reason why Whig Northern national men were depressed, and why they staggered, and why there was an apparent change from the action of the old Whig caucus, to the record of the votes made in this House. I did not mean that the whole column faltered or wavered, or any part of it, beyond the first shock felt when its chosen head gave himself up, and us Northern national Whigs, without stipulation or condition, as set forth in a certain speech in the United States Senate. He has been captured and taken by the enemy, and is now in their possession; but—and I say it with delight—so far as I know now, no Southern Whig of the column

wavers, but all are true and faithful to the Constitution, and to the Northern men who were connected with them in the hour of trial. If there has been any misconstruction as regards that sentiment, I withdraw it freely as to all of them. After that trying scene which occurred the other night, in the other wing of the Capitol, when the great body of the South felt it necessary to separate from us Northern Whigs, the sentiment of every Southern Whig who remained behind, and opened his mouth to speak, was, that Northern men should be protected, and that the pledges of the compromise should be fully sustained, and that no candidate for the Presidency should be put forth who would not come out for the finality of these measures, and who would not stand recorded for their finality, too.

Am I not right in this announcement of a general Southern Whig public sentiment? It was due to us, Northern men, that we should have such support from them; for in that terrible hour of trial here, two sessions ago, our services were necessary for them, and they were given to them freely, with the implied, if not expressed understanding, that they would protect us to the extent of their ability. Ever since that, we have been hunted down in the North, as the Missouri compromise men were, who acted with the South in 1820, under the lead of Mr. Clay, as we Northern Whigs acted under his lead in 1850. But one or two Northern members of Congress who voted for that compromise, survived the political shock of that day; nay, almost the whole of them were buried in their political graves. If, therefore, we feel unusually sensitive now, amidst the adverse public opinion about us in the North, we must be pardoned for our anxiety, as again and again we demand countenance and protection, in carrying out what a great mass of our people deem to be an odious provision of the Constitution, or in creating a sounder sentiment of respect for the execution of that instrument in its very spirit and letter. In demanding all this, with sincerity and energy, we demand but what is our right, and what it is your duty to give us. And if we can have it cheerfully, unitedly, we can support ourselves and our common Union upon the basis of the Constitution. Without it, we must all become the miserable victims of fanaticism and political fury.

Mr. SACKETT. I move that the House resolve itself into a Committee of the Whole House upon the Private Calendar.

Mr. SMART. I move that the House resolve itself into the Committee of the Whole House on the state of the Union, upon the special order.

Mr. STANLY. I desire to make a single remark. I have not seen the article in the Globe. Several MEMBERS objected.

Mr. JOHNSON, of Arkansas. It is too late for gentlemen to object now. There was an understanding that this matter should be permitted to proceed.

Mr. STANLY. Gentlemen have not a right to object. I will leave it to the Speaker of the House. I have only a word to say.

The SPEAKER. When the gentleman from New York [Mr. Brooks] asked leave of the House to make a personal explanation, the gentleman from North Carolina [Mr. STANLY] arose and said that he had no objection, provided if the gentleman from New York [Mr. Brooks] alluded to any member upon this floor, that that member should also have the privilege of responding. The Chair certainly thought that there was a tacit assent upon the part of the House to that proposition. The question arises now whether or not the gentleman from North Carolina [Mr. STANLY] has been so alluded to in the speech of the gentleman from New York, [Mr. Brooks.]

Mr. SWEETSER. The gentleman from Massachusetts [Mr. RANTOUL] the other day proposed to make a personal explanation, but the gentleman from North Carolina persisted in objecting.

Mr. STANLY. I would rather have the gentleman from Ohio object to anything I may wish, than not. I hope that gentleman will never approve of any effort of mine to do or to undo anything. Have I the leave of the House to go on or not?

[Cries of "Go on!" "Go on!"]

The SPEAKER. The Chair cannot decide.

Mr. STANLY. With all respect, I insist that the Chair must decide.

The SPEAKER. The Chair cannot decide, if the gentleman will allow him, that there was—  
Mr. STANLY. I beg pardon of the Chair, but I insist most respectfully, that it is the duty of the Chair to decide.

The SPEAKER. The Chair did not intend to say that he could not decide, but the gentleman would not allow the Chair to say what his decision was. The Chair intended to say that he could not decide whether it was the order of the House, by unanimous consent, that the gentleman from North Carolina should be allowed to make a speech.

Mr. STANLY. Will the Chair state, then, what was the understanding of the House?

The SPEAKER. The Chair will again state, that when the gentleman from New York rose and asked the unanimous consent of the House to make a personal explanation, the gentleman from North Carolina rose and said he must object, unless it was the understanding that if the gentleman from New York referred to any gentleman on this floor—the Chair thinks that was the expression—that that gentleman should have a right to respond. There was a general expression—perhaps not universal—of assent to that proposition, and the Chair is free to say that the gentleman from North Carolina might well come to the conclusion that he had, under these circumstances, a right to make a speech.

Mr. SWEETSER. If the gentleman from North Carolina will confine his remarks to the allusion which was made to him, I certainly will make no objection. He is, perhaps, entitled to that. But I shall object if he travels into a defense of a certain gentleman at the other end of the Capitol, who has been alluded to.

Mr. STANLY. I would rather the gentleman should object than not.

Mr. SWEETSER. If the gentleman from North Carolina invites me to object, I will do it. [Cries of "Oh, no!"]

Mr. STANLY. I shall not trespass long upon the attention of the House. I regret exceedingly the appearance of the speech in the Globe, which has been referred to by the gentleman from New York. I have not seen it or read it. The gentleman from New York has said nothing at all which calls for any personal reply on my part, and I leave it to the gentleman who has been assailed to take care of himself as he thinks proper, and as he can, if he pleases. He does not ask or need any defense. He would not thank me for attempting it, for that would imply he needed it. He has spoken in the Senate, to my regret, for I deprecate all personal matters, both there and here. If he needs any defense here—as I have been sitting behind the gentleman from New York, and could not hear him distinctly—I call upon my colleague, [Mr. VENABLE,] who represents his district, to do it, or another colleague, [Mr. CLINGMAN,] who sat immediately in front of the gentleman from New York, and who, I suppose, is on as friendly relations with that honorable Senator as myself.

Both these gentlemen [VENABLE and CLINGMAN] have heard what was said. I only want to say this, that I deplore the existing state of things, and these charges and counter-charges against gentlemen in the Senate and in the House. I do not know where we shall stop, if we begin to reply to newspapers. I wish to say but one single word, in all calmness, and without reflecting upon anybody. The only point in the speech of the gentleman from New York, which touched me, the other day—and which he generously withdrew this morning, if I understood him aright—was the idea that Southern gentlemen "wavered" upon this question of the compromise acts. I felt hurt at what I thought was a charge of infidelity to the people who have honored me with their confidence; and, as the gentleman from New York has referred to a remark he made in the last Congress, of "cooling" tones towards Southern men, and fierce tones towards Northern men, I will say, that several gentlemen were restrained from replying to him in harsh terms, for the consideration that their previous relations had been friendly with the gentleman from New York, and that it was improper to indulge in the "fiercer" tones towards gentlemen from his "latitude."

The feelings I speak of animated me. To accuse a Southern man of wavering in that respect, is to say that he is destitute of patriotism, personal



honor, and regard for the rights and interests of his constituents. No Southern gentleman could bear a remark of that sort without feeling his heart burn with indignation, as did the hearts of every Southern gentleman the other day. He has, however, made the *amende honorable* this morning, as I understand him; and on that point, therefore, I have no more to say.

Mr. BROOKS. Will the gentleman allow me to interrupt him for one moment? I know he does not mean to say that I made that *amende* upon the suggestion, advice, or insinuation of anybody from the South. I do not want the idea to go forth that I was intimidated into it. I know the gentleman will do me justice on that point.

Mr. STANLY. I intimated no such thing as intimidation—not by any means.

Mr. BROOKS. I would not make even a just qualification, under intimidation.

Mr. STANLY. I did not intend to intimate such a thing.

Now, sir, a word in reference to one remark made by the gentleman from New York, and that was, that the "large body" of the Southern gentlemen left the caucus. If the gentleman had counted the Southern gentlemen who were present and those who left, he would have found that he was mistaken in point of fact. I think a majority of Southern members remained—that is my impression. I beg pardon of the House for having trespassed on its time even for these four and a half minutes.

#### MONROE RAILROAD COMPANY.

The SPEAKER. This being private bill day, the Chair announced that the bill upon the Speaker's table "for the relief of the Monroe Railroad Company and their sureties," was the first business in order. The gentleman from New York [Mr. SACKETT] moves that the House resolve itself into a Committee of the Whole on the Private Calendar. The gentleman from Maine [Mr. SMART] moves that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. That bill upon the Speaker's table will give rise to no debate. It is merely to relieve some sureties for a considerable amount of money. It has been lying over since last private bill day, and gentlemen who wished to examine it have had an opportunity of doing so. It will take no time, and therefore I hope it will be taken up.

Mr. SACKETT. That bill is a private bill, and one which has been partly considered by the House. I will, therefore, waive my motion to go into a Committee of the Whole House, in order that it may be first disposed of.

Mr. SMART. I will also withdraw my motion if the bill is going to lead to no debate.

Mr. STEPHENS. I move the previous question on the passage of the bill.

Mr. HOUSTON. Is not the first business in order the call of committees for reports?

The SPEAKER. This is private bill day, and the first business in order is the consideration of the private bill upon the Speaker's table.

Mr. HOUSTON. Does the Chair decide that on private bill days, there is no morning hour?

The SPEAKER. The Chair decides that if there is private business on the Speaker's table, it is his duty to take up that business. In the absence of any business on the Speaker's table, there would be a morning hour.

Mr. HOUSTON. I hope the gentleman from Georgia will let us have the call of committees for one hour.

[Cries of "No!" "No!"]

Mr. GORMAN. I would inquire of the Chair whether the motion of the gentleman from North Carolina [Mr. STANLY] to reconsider the vote by which the bill in relation to the State University of Indiana was referred to the Committee of the Whole on the state of the Union, does not take precedence during the morning?

The SPEAKER. It is not the duty of the Chair to call up the consideration of that motion.

Mr. GORMAN. The subject will not take more than three minutes, and I ask that it may be called up.

The SPEAKER. The Chair thinks that that is a question which belongs more appropriately to the morning hour, it being a report from a committee.

Mr. STANLY. I will call it up at a very early day. It shall not be lost by my neglect.

The SPEAKER. The Chair thinks that the motion to reconsider is not one which can be considered now. This day is set apart for private bills, and we are considering a private bill, on which the previous question has been demanded.

Mr. BRIGGS demanded tellers on the second; which were ordered; and Messrs. VENABLE, and STEPHENS of Georgia, were appointed.

The question was then put, and the tellers reported—80 in the affirmative.

A further count not being demanded, the previous question received a second.

The main question was ordered to be put.

Mr. SKELTON demanded the yeas and nays on the passage of the bill, but they were not ordered.

And the question being put, the bill passed.

Mr. STEPHENS moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. SACKETT moved that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. SMART moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOWARD. Is it not in order now to refer the private bills from the Senate upon the Speaker's table?

The SPEAKER. It is not in order, because that business has not been taken up.

#### CLOSE OF DEBATE ON HOMESTEAD BILL.

Mr. JONES, of Tennessee. If the House shall vote down the motion to go into a Committee of the Whole House on the Private Calendar, I shall take it as a determination on the part of the House to proceed with the special order, and I shall then offer a resolution to close the debate on the special order on Tuesday next.

The SPEAKER. The Chair is of opinion that the question will be first taken upon the motion to go into the Committee of the Whole on the state of the Union on the special order. That motion will have the precedence, because it is the special order.

Mr. JOHNSON. By the permission of the House, I wish to say a single word. Usually on Fridays and Saturdays we do but little; and the chances are that if we do not go into committee on the special order, we will adjourn over to-morrow. Now, I wish to say to the House, that it is the determination of many of the friends of the homestead bill to bring the debate upon it to a close; and if the House will devote to-day and to-morrow to the special order, we can close the debate on Tuesday at one o'clock.

I offer the usual resolution to close debate on the special order, in the Committee of the Whole on the state of the Union, on Tuesday next, two hours after the committee shall have resumed the consideration of the same.

Mr. HENDRICKS. I move to strike out "Tuesday," and insert "Thursday, in lieu thereof."

Mr. DEAN. Before voting upon this question, I desire to ask a question.

Mr. JOHNSON. I am disposed to accept of whatever is agreeable to the House.

Mr. DEAN. If we pass this resolution, to close the debate on Tuesday next, and the House then refuses to go into the Committee of the Whole on the state of the Union, gentlemen will have no opportunity of being heard.

Mr. HOUSTON. There is no danger of the House refusing to go into committee if we close the debate.

Mr. VENABLE. I would suggest to my friend from New York, [Mr. DEAN,] that there are a number of gentlemen who desire to speak upon this subject, and I hope, if debate is closed upon this bill, that we shall have night sessions, and allow them to make their speeches.

Mr. HOUSTON. Let us stop debate, and then agree upon the night sessions afterwards.

Mr. JOHNSON, of Tennessee. If it is the pleasure of the House, I will accept of the modification proposed by the gentleman from Indiana, [Mr. HENDRICKS,] and leave the resolution so as to provide for closing debate upon Thursday next.

Mr. HOUSTON. I hope the gentleman will allow his proposition to remain as originally made, so as to enable the House to decide between them.

Mr. JOHNSON. Certainly; I will allow both to come before the House.

Mr. HOUSTON. I am anxious that debate shall be closed, and that the bill shall be disposed of as soon as possible. There is much other important business which is suffering from neglect. I hope the earliest day will be adopted.

The question was then taken upon the amendment to substitute "Thursday" instead of "Tuesday;" and it was agreed to.

The resolution as amended was then adopted.

Mr. CARTTER moved that the vote just taken, by which the resolution passed, be reconsidered, and that the motion to reconsider do lie upon the table; which latter motion was agreed to.

The SPEAKER. The question now recurs upon the motion to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SACKETT. I rise to a point of order. My point is, that as the business upon the Private Calendar has preference over other business on Fridays and Saturdays of each week, the motion to go into the Committee of the Whole on the Private Calendar takes precedence to that to go into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair decides that the motion to go into Committee of the Whole on the state of the Union takes precedence, for the reason that the special order takes precedence of all other business from day to day—Fridays and Saturdays not excepted. Ordinarily, the gentleman would be correct in his point of order; but inasmuch as a special order is now pending, the Chair has no doubt in the correctness of his decision.

Mr. SACKETT. Well, if the motion is voted down, will it then be in order to move to go into Committee of the Whole on the Private Calendar?

The SPEAKER. It will then be in order.

The question was then put upon the motion to suspend the rules and go into the Committee of the Whole on the state of the Union, and carried in the affirmative. Accordingly the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the Chair.)

#### HOMESTEAD BILL.

The CHAIRMAN stated, as the business before the committee, the consideration of House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and for other purposes, on which the gentleman from Illinois, [Mr. YATES,] was entitled to the floor.

Mr. YATES occupied the floor an hour in favor of the policy of the bill, arguing that it would result beneficially to the new States, the General Government, and to the people of the country at large. He advocated the policy of liberal grants to the new States for the purpose of constructing railroads, and especially grants for the benefit of the indigent insane in all the States. He maintained that the giving of lands to actual settlers, whilst it would provide homes for the poor laborers of the old States, would destroy the tenantry system of the new States, and give to the thousands of tenants these lands to cultivate for themselves, instead of cultivating those of their landlords. [Mr. Y.'s speech will be found in the Appendix.]

Mr. SMART addressed the committee in defence of the North, and to show that there was no substantial foundation for the charges repeatedly made of wholesale wrongs, aggressions, exactions, and oppression by that section upon the South. [Mr. S.'s speech will be found in the Appendix.]

Mr. DEAN spoke of the state of parties in New York, claiming that State as Democratic, and asserting that her electoral vote will be given to the nominee of the Baltimore Convention. He utterly repudiated the doctrine of "claims" on the Democratic party. He said that the Democrats would go into the canvass on principles, while the Whigs would "go it blind" for the spoils. [Mr. D.'s speech will be found in the Appendix.]

Mr. EWING next obtained the floor, but yielded to

Mr. OUTLAW, who moved that the committee do rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had, according to order, had the Union

generally under consideration, and particularly the homestead bill, and had come to no conclusion thereon.

#### APPROPRIATION BILL.

Mr. HOUSTON, from the Committee of Ways and Means, by unanimous consent, reported the following bills, which were severally read a first and second time by their titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed, viz:

A bill making appropriation for the naval service for the year ending June 30, 1853;

A bill making appropriation for the Post Office Department during the fiscal year ending June 30, 1853; and

A bill making appropriation for the transportation of the United States mail by ocean steamers, or otherwise, during the fiscal year ending June 30, 1853.

Mr. PRICE. I move that when this House adjourns it adjourn to meet again on Monday next. The question being put, it was disagreed to.

Mr. ROBBINS. I move that the House do now adjourn.

Mr. MEADE. Will the gentleman withdraw his motion for a moment?

Mr. ROBBINS. I will.

Mr. MEADE. I wished the motion to be withdrawn, that I might ask for the State of Alabama the special favor of introducing a bill from the Committee on the Judiciary, with the view of having it passed by the House, authorizing a change in the time of holding the courts in that State.

Mr. HOUSTON. The bill involves no appropriation. It simply provides for changing the time of holding the courts.

No objection being made—

Mr. MEADE, from the Committee on the Judiciary, reported back, without amendment, and with a recommendation that it do pass, Senate bill No. 209, entitled "An act to change the time of holding the United States district courts in Alabama, and for other purposes."

The bill was then ordered to be read a third time; and, having been read a third time, it was passed.

On motion by Mr. MEADE, the House then adjourned to meet to-morrow at twelve o'clock.

#### NOTICE OF A BILL.

Mr. STANTON, of Ohio, gave notice that, on to-morrow or some subsequent day of the session, he would ask leave to introduce a bill entitled "A bill to surrender to the State of Ohio the unfinished portion of the Cumberland road in said State."

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BOYD, of Kentucky: The petition of John G. Ramsey, praying that a patent may issue in lieu of the one heretofore issued James Ramsey, son and the other heirs-at-law of John Ramsey.

By Mr. LANDRY: The petition of A. B. Roman, of Louisiana, praying the confirmation of his title to a tract of land in said State.

By Mr. CHANDLER: The memorial of Messrs. Robert & Kneeland, Benjamin L. Swan, and the executors of Thaddeus Phelps, of New York, and Jacob Idler, of Philadelphia, asking Congress to interpose in behalf of their claim upon the Government of Venezuela.

By Mr. BROWN, of Mississippi: The petition of E. Douglass and 36 others, citizens of Mississippi, praying a grant of land for the benefit of the Franklin Institute, a literary and scientific school, in Copiah county, Mississippi.

By Mr. ALLEN, of Illinois: The petition of S. W. McChell and 86 others, citizens of Williamson county, Illinois, praying the establishment of a post route from Raleigh, in Saline county, to Marion, in Williamson county, Illinois.

Also, the petition of L. M. Riley and 89 others, citizens of Saline county, Illinois, praying the establishment of the same route.

By Mr. MACE: The memorial of Joseph E. McDonald, Isaac C. Elston, Henry S. Lane, Jacob Winn, John Wilson, Alex. Thomson, and William Swining, committee in behalf of the people of Fountain, Montgomery, and Boone counties, asking a grant of lands to aid in constructing a railroad from Springfield, Illinois, via Danville, to Covington, Crawfordsville, and Andersonstown, Indiana.

By Mr. SIBLEY: The petition of George W. Campbell and 101 others, citizens of Minnesota, praying that the engineer in charge of the Government roads in that Territory be authorized to change the route of the road from Point Douglas to the Falls of the St. Louis river, so that it shall pass by Bowles's Mills, instead of by Cottage Grove.

By Mr. JOHNSON, of Tennessee: The petition of Geo. Hickman, of Tennessee, praying Congress to grant him a pension for services rendered in the war of 1812 with Great Britain.

By Mr. APPLETON, of Maine: The petition of John Starling and others, of Portland, Maine, praying that the fishing bounty may be allowed to the owners of the schooner Elizabeth, lost at sea.

#### IN SENATE.

FRIDAY, April 23, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Commissioner of Patents, submitting the annual agricultural report of that office.

A motion by Mr. HAMLIN, to print the report, and also to print 30,000 additional copies thereof for the use of the Senate, was referred to the Committee on Printing.

#### ORDER OF THE DAY.

Mr. HUNTER. I move to suspend all the prior orders, for the purpose of taking up the deficiency bill; and, before the vote is taken on that motion, I should like to have read a letter which I have received from the Secretary of War.

The PRESIDENT. The Senator must make another motion, and that is, to suspend the order requiring private bills to be taken up to-day.

Mr. HUNTER. I make that motion. Before the question is taken, I ask for the reading of the letter which I have received from the Secretary of War.

The Secretary read the letter, as follows:

WAR DEPARTMENT, }  
WASHINGTON, April 15, 1852.

SIR: I take the liberty of informing you that I am apprehensive that serious injury will result to the service if the passage of the "deficiency bill," now pending in the Senate, should be much longer delayed. The movements of troops, so far as it depends on orders from this Department, are entirely arrested by the want of funds to pay for transportation. It is considered highly important to march several companies of mounted men along the route to Oregon, during the next summer, for the protection of the north-western frontier, and of emigrants to the Pacific coast; but there are no horses for this purpose and no means to purchase them, and it is feared that, before the necessary arrangements can be made, the season will be too far advanced to carry this plan into execution.

For these reasons I respectfully urge an early consideration of the bill in question.

I have the honor to be, very respectfully, your obedient servant,

C. M. CONRAD,  
Secretary of War.

Hon. R. M. T. HUNTER,  
Chairman of the Committee on Finance,  
United States Senate.

Mr. CLEMENS. I hope that course will not be pursued. The deficiency bill has occupied the attention of the Senate to the exclusion of all other business for several days. I have no objection to considering it at the proper time, and in its proper place, but we have for two weeks postponed the consideration of private bills. The private claimants who have been here waiting on the justice of Congress, have been delayed for two weeks. This day was specially set apart for the consideration of their claims, and I do object to thrusting in other business to take precedence of them. Besides, there are other reasons why the deficiency bill should not be taken up to-day. It is well known that the Senator from Texas, [Mr. Rusk,] who is prevented by indisposition from being here to-day, is exceedingly anxious to address the Senate on that bill. We would owe it to him, if it came up properly, to postpone it, in order to give him an opportunity of doing so. I hope we will proceed to the consideration of private business to-day, and take up the deficiency bill at a proper time and in its proper place. As to these contracts for the transportation of troops mentioned in the letter of the Secretary of War, we all know better than that. We all know that the law authorizes the Secretary to contract for the transportation of supplies, without any appropriation.

Mr. HUNTER. I can only say, so far as the Senator from Texas is concerned, that I called to see him this morning, and told him that if the question was likely to come to a vote, in the event of the Senate taking up the deficiency bill, I would send for him, and let him know. But I told him that I also understood that there were several speeches to be made on the subject, and that I did not suppose we would be able to get to a vote to-day. But even supposing that we should be able to get a vote on the amendment giving additional compensation to Collins's line of steamers, when we got to that point, the amendment might be laid aside by general consent, and we might go on with other amendments.

As to the propriety of attending to the consideration of private bills, or taking up this measure, the Senate can judge as well as I can. I leave it to them to say.

Mr. HAMLIN. The Senator from Texas,

who is chairman of the Committee on the Post Office and Post Roads, is very desirous of submitting some remarks on the amendment pending to the deficiency bill. As it is one connected directly with the administration of the Post Office Department, his indisposition is, I think, a full justification why we should not proceed with that bill to-day. But the other reasons which the Senator from Alabama has stated, certainly will induce me to vote to adhere this day to private bills. I hope the Senate will do so.

Mr. CASS. I saw the Senator from Texas about half an hour ago. He desired me to say that he would not oppose the consideration of this bill to-day; but considering his relation as chairman of the Post Office Committee, and the inquiries which he has made into this matter, and knowing that he is very anxious to address the Senate on the subject, I hope we will not take up the bill to-day.

Mr. DOWNS. I hope that the private bills will not longer be delayed. They have already been delayed, not only for two weeks, but for two or three weeks previously nothing was done except to discuss some particular private bills. I take it that this rule, setting apart to-day for private bills, meant something. If we are constantly to dispense with it, it would be better to abrogate it at once. I see no pressing necessity for acting on the deficiency bill to-day. It cannot be disposed of to-day; and for the mere gain of one day I think it will be better not to take it up, but go on with the Private Calendar.

Mr. WALKER. I hope the rule will not be dispensed with. I am at the head of one of the committees from which private bills come. That committee has reported bills of an important character. If we are to have those bills considered at all, I hope the Senate will bestow the one day allotted to them to their consideration. I hope their consideration will not be longer postponed. I make this appeal to the Senate, as I am at the head of one of the committees from which private bills come.

Mr. ADAMS. I beg leave to suggest that there are evident indications of the public requiring the attention of this body; and as it is desirable to act upon the deficiency bill, I suggest that to-morrow, by common consent, and without any motion, be set apart for the consideration of that bill. It is a leisure day—a day on which we are in the habit of taking holiday. Now, if the public business requires the action of the body, I hope that to-morrow will be set apart as a day for its consideration; and that we shall proceed to-day with the regular order of business.

Mr. HUNTER'S motion was not agreed to.

#### THE CARMELITE NUNNERY—ORDER OF BUSINESS.

The PRESIDENT. The first question before the Senate will be on the motion to reconsider the vote rejecting the bill from the House of Representatives for the benefit of the Carmelite Nunnery of Baltimore.

Mr. DOWNS. I would suggest that this is a bill in which the Senator from Maryland [Mr. Pratt] takes a deep interest. He is absent to-day; and, therefore, I move that its further consideration be postponed until next Friday.

Mr. DAWSON. I hope that this bill will not be postponed. I presume that there will be no difficulty about passing it now. It is for a very small amount, and I do not think there can be any difficulty about passing it.

Mr. HALE. The Senator from Georgia is very much mistaken.

Mr. DAWSON. If it be not desired by the Senator from Louisiana that the bill should lie over, I would be very much pleased to have the vote taken on it now.

Mr. DOWNS. I do not object to that course, and therefore I withdraw my motion.

Mr. HUNTER. I think it would be better to lay over that bill. The Senator from Maryland, who takes a deep interest in it, is absent, and I apprehend that it will not pass without opposition. It is the same bill which has been debated here before.

Mr. DAWSON. I did not know that the bill was to be re-debated. I thought that the debate before had covered the whole ground. And I was under the impression that the vote could be taken at once.

Mr. SEWARD. I do not know that we shall have more time, or that we could adopt a better rule with regard to the Private Calendar than to dispose of the business as it comes up. For two weeks we have not considered the Private Calendar; and I hope that we will now dispose of this bill and go on with bills on the Private Calendar in their regular order.

Mr. GWIN. I wish to suggest that it would be better to take up and adopt a resolution offered some time since by the Senator from New Hampshire, [Mr. NORRIS.] It is a resolution proposing that private bills to which there is no objection should be considered immediately; and that those which are objected to shall go over till the next Friday.

The PRESIDENT. That cannot be taken up without a motion to suspend the order for the purpose.

Mr. HUNTER. I did not object to taking up the Carmelite Nunnery bill in its order. I merely made a suggestion that it was probable the bill would be debated, in order that the Senate might consent to lay it over, and get along faster with other business.

Mr. GWIN. Is it not in order to move to take up the resolution of the Senator from New Hampshire?

The PRESIDENT. Not without a suspension of the order setting apart this day for the consideration of private bills.

Mr. GWIN. I hope that course will be pursued. The resolution relates exclusively to private business, and I move to suspend the execution of the order for the purpose of taking it up.

Mr. BORLAND. I would suggest that the motion of the Senator from California belongs to private bills. All the action that he asks for is in reference to private bills, and in order to facilitate their passage.

The PRESIDENT. It is a resolution; not a private bill.

Mr. NORRIS. I trust there will be no objection to taking up the resolution.

The question was taken on the motion of Mr. GWIN, and the PRESIDENT announced that it was not agreed to.

Mr. GWIN. I hope that before the Chair decides whether the motion is agreed to, or not, the resolution will be read. I do not think the Senate understands it. It pertains exclusively to private business, and its object is to accelerate private bills.

The PRESIDENT. The Chair has decided that the motion is not agreed to; and there was no division called for.

Mr. MANGUM. Will the Chair be so kind as to inform me what the resolution is?

The PRESIDENT. It will be read, if desired. The resolution was read, as follows:

*Resolved*, That Friday next, and every succeeding third Friday thereafter, shall be devoted to the consideration of such private bills upon the Calendar as shall not give rise to debate; and whenever debate shall arise upon a bill, or any Senator shall express a desire to debate the same, it shall go over to the following Friday."

Mr. SEWARD. I understood the resolution perfectly. It was because I did not see that it was a practicable or just mode of proceeding, that I voted against suspending the order.

Mr. HALE. Is it in order to make a motion to suspend the consideration of private bills?

The PRESIDENT. It is not, because that motion has just been decided, and no question has since been taken.

Mr. HALE. Then I will make a motion. I move that the motion to reconsider the vote rejecting the bill for the benefit of the Carmelite Nunnery of Baltimore be laid on the table.

Mr. DOWNS. By laying the bill on the table, it will be taken off the Calendar. I object to that course; but I have no objection to its postponement.

Mr. HALE. I would suggest to the Senator from Louisiana, that if it is laid upon the table, a majority can take it up at any time.

The PRESIDENT. The motion to lay on the table is not debatable.

Mr. CLEMENS. I do not wish to debate it; I want to know whether, if the motion to reconsider be laid upon the table, the effect of it will not be to preclude a reconsideration hereafter?

The PRESIDENT. Not at all. If the motion to reconsider is laid upon the table, it can be taken up at any time hereafter. The regulation of the

House of Representatives on this point is different from that of the Senate.

There was a division, and sixteen were in favor of the motion, and fourteen against it—no quorum voting.

Mr. HALE. I withdraw the motion, and move to postpone the further consideration of the motion to reconsider until to-morrow.

The motion to postpone was agreed to.

#### PRIVATE BILLS.

Mr. HALE. I now renew the motion made by the Senator from California, to postpone the order of the Senate in relation to taking up private bills, for the purpose of taking up the resolution introduced by my colleague. And I want to say to my friend from New York, that he is altogether mistaken in supposing that this would be an impracticable rule. There has been such a rule in the House of Representatives for years, and its operation is exceedingly just and equitable. Under the present rule of the Senate, if you get a Carmelite Nunnery bill, or something of that sort, at the head of the Calendar, it blocks up all other private bills; and all those bills, the justice of which is manifest to the whole Senate, are delayed. Whereas, if we were to go over the Calendar once, and take up the bills to which there is no objection, we can dispose of them, and then go back and take up the disputed ones. I hope this resolution will commend itself to the good sense of the Senate.

Mr. SEWARD. I understand it perfectly. Its effect will be this: When you get a Carmelite Nunnery bill before the Senate, or something of that sort, it can never pass, because any Senator will be able to prevent its passage by saying that he intends to discuss it; that is to say, the effect of the resolution will be to give priority to those who can get their bills through without discussion, and prevent relief to those parties who have meritorious claims which require to be discussed.

Mr. GWIN. I appeal to the Senate if that is any argument against this resolution. The amount of the Senator from New York's position is, that because a portion of the Senate are opposed to a bill, therefore we shall not pass any private bill to which they are not opposed. That is the whole point of the case. There are a vast number of bills on the Private Calendar to which nobody objects, and shall they be kept behind those bills, which are constantly being contested? I think that it is due to those claimants who have claims reported upon favorably, which are on the Calendar, and cannot be reached except through this rule, that they should have some opportunity of knowing whether any member of the Senate objects to them. These disputed claims should not always have preference. There are two or three claims which have occupied the attention of the Senate for two or three private bill days, and we have not made any progress on the Private Calendar for a month past. I say it is unjust and unfair to those claimants, to whose claims there is no objection, that they should be thus postponed, and that doubtful claims should occupy the whole time of the Senate.

The motion to postpone was agreed to.

The Senate proceeded accordingly to consider the resolution.

Mr. NORRIS. I have modified the resolution so as to read:

*Resolved*, That to-day, and every fourth Friday hereafter, shall be devoted to the consideration of such private bills upon the Calendar as shall not give rise to debate; and whenever debate shall arise upon a bill, or any Senator shall express a desire to debate the same, it shall go over to the following Friday.

The resolution as modified was adopted.

#### THOMAS H. LEGGET.

The PRESIDENT announced that the bill for the relief of Thomas H. Legget was the first on the Private Calendar.

Mr. HUNTER expressing a desire to debate it, it was laid over.

#### IRA DAY.

The PRESIDENT announced the next bill to be one for the relief of Ira Day, of Vermont.

Mr. BAYARD expressing a desire to debate it, it was laid over.

#### ALEXANDER Y. P. GARNETT.

The joint resolution for the relief of Alexander Y. P. Garnett was read the second time, and con-

sidered as in Committee of the Whole. It directs the Secretary of the Navy to cause to be paid to Alexander Y. P. Garnett the sum of \$166 10 for his services as Surgeon on board the ship "Cyane," from March 1, 1843, to August 6, of the same year.

It was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### EXTENSION OF PATENTS.

The bill for the relief of George G. Bishop and the legal representatives of John Arnold, deceased, was read the second time, and considered as in Committee of the Whole. It provides that the letters-patent granted to John Arnold, dated July 15, 1829, for a new and useful improvement in the machine for forming the web of cloth, of wool, hair, or other suitable substances, without spinning, or weaving; and also the letters-patent granted to John Arnold and George G. Bishop, dated October 20, 1836, for a new and useful improvement in the same machine be renewed, revived, and extended for the term of fourteen years from and after the passage of the act. That the patents so revived, renewed, and extended shall have the same effect as if they were originally granted for a term of years extending to fourteen years after the passage of the act: *Provided*, Such renewed and extended patents shall be open to legal inquiry and decision in the same manner as if they were issued under the general laws regulating the renewal of patents: *And provided, further*, That all persons now enjoying the lawful use of the machines so patented, and the purchase of any such machine so in use, or lawfully constructed, shall continue to use the same notwithstanding the provisions of this act.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### HARRIET F. FISHER.

The PRESIDENT announced that the bill next in order, was a bill for the relief of Harriet F. Fisher, widow of Marvin W. Fisher.

Mr. BORLAND. Before the bill is read a second time, I wish to call the attention of the Senate to the fact that the Committee on Military Affairs have reported a bill, which they offer and insist on, as a substitute for this one. I think, therefore, it had better be passed over for the present.

The PRESIDENT. It will be passed over under the rule.

#### ALBRA TRIPP.

The bill from the House of Representatives for the relief of Albra Tripp, was read a second time, and considered as in Committee of the Whole. It provides that the name of Albra Tripp, a soldier in the service of the United States in the late war with Great Britain, be placed on the roll of invalid pensions, at the rate of \$4 per month, commencing the first day of December, 1851; to continue during his natural life.

The bill was reported to the Senate without amendment, read a third time, and passed.

#### JOSEPH JOHNSTON.

The bill for the relief of Joseph Johnston was read a second time, and considered as in Committee of the Whole. The bill provides that the Secretary of the Interior place the name of Joseph Johnston, of Addison county, Vermont, on the pension roll, at the rate of \$8 per month; said allowance commencing on the first day of January, 1850, and continuing during his natural life.

There being no amendment offered, the bill was reported to the Senate, read a third time, and passed.

#### SYLVANUS BLODGET.

The House bill for the relief of Sylvanus Blodget was read a second time, and considered as in Committee of the Whole. It provides that the Secretary of the Interior place the name of Sylvanus Blodget upon the pension roll, at \$8 per month, commencing on the seventh day of January, 1846.

Mr. DAWSON. If there is a report in this case I wish it may be read.

The report was accordingly read.

The petitioner was a private in the company of volunteers from the town of Jericho, in the county of Chittenden, State of Vermont, commanded by Captain Peter L. Allen, of that town. On hearing



that the British forces were advancing upon Plattsburg, in the State of New York, early in September, 1814, that militia company marched to Lake Champlain, which they crossed, and were actually engaged in the battle of Plattsburg. The petitioner, while in the line of his duty, by reason of fatigue and exposure, lying out on the ground in cold rainy nights without covering, took a severe cold, and was subsequently carried home sick, with severe pain in his head, back, and hips, and also a very sore throat and mouth. He was then confined by sickness, rheumatism, and inflammation in his eyes, which rendered them weak and sore, gradually growing worse ever since; and has been able, but a small portion of the time, to perform manual labor. He has lost the use of one of his eyes, and can see but dimly with the other. Before he went to Plattsburg he was in good health, but since his return his health has been very poor, and he is fully satisfied that his afflictions came upon him in consequence of going to Plattsburg. He is poor, and now about sixty-five years of age. The facts of the petitioner's service, and faithful performance of his duty, are sworn to by his Captain and Colonel, and the fact of his being healthy and robust previous to his service, is sworn to by his Captain, and several of his neighbors. There is also the testimony of two physicians, who certify that the petitioner is in the condition set forth by him, and that it is their opinion that the cause of his complaint was the exposures at the battle of Plattsburg.

Mr. DAWSON. I should be pleased to have the chairman of the Committee on Pensions explain to the Senate the principle upon which the committee base the report in favor of placing this individual upon the pension roll. It is nearly forty years since the battle was fought, and his claim seems to be urged in consequence of his sufferings from a cold that he took, and not from wounds received in battle. I think it is a new principle.

Mr. JONES, of Iowa. There is no new principle in this case. If he had made his application before, he would have received his pension. There is no reason for refusing to grant it now, except that it has remained so long.

Mr. HALE. I object to this.

The PRESIDENT. Then it must pass over.

Mr. HALE. I do not mean to object to the bill, but to the debate. I will, however, move to amend the bill, by striking out "1846," and inserting "1852."

Mr. DAWSON. That does not change the principle.

Mr. HALE. Then let it pass over.  
So the bill was passed over.

#### ARTEMAS CONANT.

The Senate next proceeded, as in Committee of the Whole, to the consideration of House bill for payment of arrears of pension to the guardian of Artemas Conant.

The bill provides that the arrears of pension now due to Artemas Conant, an invalid pensioner, by an act passed July 6th, 1815, be paid to his guardian, at the rate of \$5 33 $\frac{1}{3}$  per month, from March 4th, 1830, to April, 1846.

Mr. FELCH. I desire that the report, if there is one in that case, may be read.

The report states that Artemas Conant, while in the service, in the line of his duty, as a soldier in the Army of the United States, during the late war, received a wound in the hip which disabled him, and for which disability he was inscribed on the pension list, at the rate of \$5 33 $\frac{1}{3}$  per month, to commence on the 6th day of July, 1815; that in 1821 he became deranged in mind, in consequence of sufferings occasioned by his wound, and other injuries received while in the service in the line of his duty; and that his pension was paid to his guardian up to the 4th of March, 1830. The act of the 3d of March, 1819, required all invalid pensioners, who were not disabled by the loss of a limb, to be examined biennially by two respectable surgeons or physicians, before receiving their pensions. In consequence of Conant's insanity, he was not examined from 1830, to April, 1846. On the 19th day of May, 1846, the renewal of his pension took effect. In a communication from the Commissioner of Pensions, dated July 3d, 1846, he says:

"My opinion is, that he (Artemas Conant) is justly entitled to the pension from the 4th of March, 1830, when it was stopped, to the 9th of May, 1846. The law, however,

gives the Department no such power, and it is because we cannot afford relief that the guardian now petitions Congress for the pension."

The bill was reported to the Senate, read a third time, and passed.

#### ROBERT ARMSTRONG.

The bill for the relief of Robert Armstrong was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Robert Armstrong, of Tennessee, on the roll of invalid pensioners, and to pay him a pension, at the rate of thirty dollars per month, during his life, to commence on the 14th day of May, 1845.

Mr. DAWSON. I ask for the reading of the report of the Committee on Pensions, to which the bill was referred.

The report was accordingly read; by which it appeared that the memorial of Robert Armstrong, the petitioner, was first presented to the Senate, and referred to the Committee on Pensions, on the 18th December, 1845; that on the 3d February, 1847, Mr. Crittenden obtained leave to bring in a bill founded on the petition; that it was referred to a select committee, and thence reported without amendment on the 12th of the same month.

It further appeared that the Committee on Pensions, on the 11th August, 1848, were discharged from the further consideration of the case. The bill reported from the select committee on the 12th February, 1847, directed the Secretary of War "to place the name of General Robert Armstrong, of Tennessee, on the roll of invalid pensioners, and to pay him a pension at the rate of \$17 a month, from the 23d day of January, 1814, during 'his natural life.'"

On a careful examination of the proofs filed with the memorial, the committee consider Robert Armstrong's claim to the bounty of the Government to be well established, and highly meritorious; and they state that they can only account for the delay in extending to him the benefits of existing laws, by supposing that it was occasioned by a disagreement among the members of the Committee on Pensions, touching that provision of the bill, which relates to the period when the pension shall commence.

On the 23d of January, 1814, the memorialist, then a lieutenant, in command of a company of volunteers called the "Artillery Guards," under General Jackson, was severely wounded at the battle of Enotchopee Creek, in which battle he and his company behaved in the most brave and gallant manner. General Jackson, in a certificate written with his own hand, dated 16th of May, 1845, says that—

"In the battle of the 23d of January, 1814, known by the name of Enotchopee Creek, the shameful flight of my rear guard, producing flight and confusion in my whole army, it was the undiminished bravery of Lieutenant Armstrong, acting as captain of the volunteer artillery guards, that saved my army from total and shameful defeat, and all my wounded from horrid massacre. 'This little spartan band, about twenty-five in number, met, and bravely faced, upwards of five hundred of the bravest Creek warriors—checked them in their desperate onset, and at one fire of the savage host I saw seven of this little heroic band fall—among them was Lieutenant Robert Armstrong, severely wounded. He fell by the side of his cannon, exclaiming, 'Some of you, my brave fellows, must perish, but save the cannon!' They did save the cannon, and my whole army from shameful and total defeat, and my brave wounded from barbarous massacre."

From the testimony of two surgeons, it is shown that Armstrong was wounded by a ball in his left hip, which penetrated deep into the muscles, and lodged near the spine, where it now remains, rendering his degree of disability total.

The committee, in consideration of the gallantry of the memorialist, and the important service rendered by him at the time he received his wound, were unanimously of opinion that he should be placed on the list of pensioners, at a rate exceeding that usually allowed under the existing general laws. The committee could not, in any case, find a sound reason for departing from the principle established by the act of 10th April, 1806, and, in the case of the memorialist, do not deem it expedient to extend his pension back to the period when he was wounded; and, therefore, recommend that it should commence at the time when he completed his proof of a claim to a pension.

Mr. HALE. The principle involved is the same as in the bill already passed over, in consequence of objection being made. I am opposed to the payment of these long arrears of pension.

If the committee pass a bill for the grant of a pension commencing with the present year, I have no objection; but I do object to the principle contained in these bills. I move to strike out the year "1845," and insert "1852" instead.

Mr. CASS. What will be the effect of that amendment?

The PRESIDENT. The pension will commence from 1852, instead of from 1845.

Mr. CASS. I object to the amendment.

Mr. BADGER. I hope it will not pass. If the principle is right in one case, it is right in all.

The question was then taken on the proposed amendment, and it was not agreed to.

Mr. HALE. Then, I propose to debate the bill: let it lie over.

Mr. CASS. I very much regret that it cannot be passed now. If there is any bill that should be acted on instantly, it is this. The case which it proposes to relieve is one of the most extreme hardship and daring courage ever recorded.

Mr. JONES, of Iowa. The honorable Senator from New Hampshire himself reported the bill from the committee last year.

Mr. HALE. You are greatly deceived.

The PRESIDENT. If there is any intention to debate the bill, it must be passed over, in accordance with the rule.

Mr. SEWARD. I hope, under the circumstances, that the Senate will agree to the amendment, in order to secure the passage of the bill.

The PRESIDENT. No amendment can be offered now. The Senator from New Hampshire has given notice of his intention to debate the bill, and it must, therefore, be passed over.

It was passed over accordingly.

Mr. HALE subsequently rose and said: Upon my objection, a bill for the relief of General Armstrong was laid over. I wish to say, that I do not want to stand in the way as an objector to a bill for a meritorious old officer. I think the principle involved in that bill is wrong; but I am willing to leave that to be passed upon by the Senate.

Mr. UNDERWOOD. I cannot consent to that; because I am utterly opposed to placing any one officer on a better footing than all the rest. Let all fare alike.

#### JACOB YOUNG.

The Senate next proceeded, as in Committee of the Whole, to consider the bill for the relief of Jacob Young. The bill requires the Secretary of the Interior to place the name of Jacob Young upon the pension roll, and pay him a pension at the rate of eight dollars per month, during his life, said pension to commence on the 8th day of December, 1851.

Mr. DAWSON. Let the report be read.

The report was accordingly read; from which it appears that the petitioner was a soldier in the war of 1812, and that he received a wound at the battle of Maguago, in the vicinity of Detroit, on account of which he asks a pension. He belonged to a company of Ohio volunteers, attached to Colonel McArthur's command; and omitted to make application for a pension till this late period, because he has been able to support himself. He now, in consequence of increasing disability from his wound and age, asks the aid from Government to which he deems himself entitled. He was wounded in the shoulder by a rifle ball, which has never been extracted. The committee deemed the evidence, both in regard to his service and the nature of the wound, satisfactory, and such as would justify the passage of an act for his relief.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### MARGARET FARRAR.

The Senate next proceeded, as in Committee of the Whole, to the consideration of a bill for the relief of Margaret Farrar.

It provides that the Commissioner of Indian Affairs be authorized and required to ascertain the amount of interest, at the rate of six per cent. per annum, due and unpaid to Margaret Farrar, a half-breed Indian, under the treaty of 1836, with the Sac and Fox Indians, and that said Commissioner cause such sum of money as he may find due, if any, to be paid to said Margaret Farrar; and that the sum of \$400 be appropriated out of any money in the Treasury not otherwise appropriated, for the purpose aforesaid.

Mr. BAYARD. As there is no report accom-

panying the bill, and as I do not understand the facts in this case, I move that it be passed over.

It was accordingly passed over.

Subsequently, the consideration of the bill was resumed.

Mr. ATCHISON. The Senator from Delaware [Mr. BAYARD] objected to the consideration of the bill for the relief of Margaret Farrar for the want of an explanation. There is no report accompanying the bill. It was so small a matter, and so clear a case that I did not deem it necessary to make a written report. The claim arises under a treaty with the Sac and Fox Indians in 1836. As I have shown the treaty to the Senator from Delaware, he tells me he withdraws his objection.

Mr. BAYARD. The Senator has shown me the treaty, and I have no doubt that the bill should pass. I withdraw my objection.

Mr. ATCHISON. The treaty ordered the sum of \$1,000 to be invested for the use and benefit of this half-breed Indian girl, to be loaned out, and the interest applied for her benefit. The agent who had charge of the money did loan it, and when she reached the age of twenty years, the principal was paid. There were, perhaps, one or two years when the interest was not paid. This bill requires the Commissioner of Indian Affairs to inquire into the matter, and ascertain the amount of interest due, if any, and pay it. That is the sum and substance of the bill.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### VASQUEZ AND COLLIGAN.

The Senate then considered, as in Committee of the Whole, a bill authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan to enter certain lands in Missouri.

The bill provides that the legal representatives of the parties aforesaid may enter, without payment, at any land office in the State of Missouri, in such quantities, agreeably to the United States surveys, as the claimants may desire, a quantity of land subject to private entry, not exceeding eight hundred arpents for each of the three persons first above named, and twelve hundred arpents for said Colligan, in lieu of and in compensation for a claim of that quantity allowed to them by the Board of Commissioners appointed for the final adjustment of private land claims in Missouri, and confirmed to them by "An act confirming claims to land in the State of Missouri, and for other purposes," approved July 4th, 1836, the register or registers of the land offices aforesaid to receive the proper application and proofs, and to issue the necessary certificates, on return of which to the General Land Office, with proofs sufficient, in the opinion of the Secretary of the Interior, to establish the right of the claimants as such legal representatives, a patent or patents shall issue as in other cases.

The bill was reported to the Senate without amendment.

Mr. DAWSON. I would like to have one question answered. Is this giving away lands for which no consideration at all has been paid?

Mr. DOWNS. Land was given to these persons; and before they located it, it was sold by the United States. This is to grant them land in place of that which was allowed them by the Board of Commissioners.

Mr. DAWSON. By what power was it confirmed?

Mr. DOWNS. The title was incomplete as given by the United States, if I recollect right. There is a report, however.

Mr. DAWSON. I am satisfied.

The bill was then ordered to be engrossed for a third reading.

#### MARTIN FENWICK.

The Senate then considered, as in Committee of the Whole, a bill for the relief of the legal representatives of Martin Fenwick.

The bill provides that the claim of Martin Fenwick to five hundred arpents, which is entered as number one hundred and fifty-one in the second class of the decisions of the late Board in Missouri, be confirmed against any claim on the part of the United States to the said Martin Fenwick, or his legal representatives; and that upon the rendition to the General Land Office of an approved plat of the location a patent shall issue, which shall oper-

ate only as a relinquishment of title on the part of the United States; which claim shall be located according to the lines of the public surveys, and so as to embrace the ancient original settlement and improvement—the location to be made as near the aforesaid area of five hundred arpents as may be consistent with the legal subdivision, and shall not interfere with any sale which may have been made by the United States, nor with any claim which may have been confirmed by or pursuant to any law of the United States.

Mr. DAWSON. I wish the report may be read.

The report sets forth that the claim is demanded on the ground, that an alteration had been made in a grant made by a former Spanish Governor. The petitioner represents that the application for an alteration in the grant was not made either by him or his legal representatives, nor by his authority.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### THOMAS PEMBER.

The Senate next took up the bill for the relief of Thomas Pember; which was read a second time.

The bill provides that the proper accounting officers of the Treasury be authorized and directed to audit and adjust the account of Thomas Pember, and to pay to him the difference between the compensation of a captain's clerk and a purser on board the United States steamer Vixen, from the 23d October, 1848, to the 20th day of June, 1850, and the difference between the compensation of a captain's clerk and a purser, on board the ship Electra, from the first day of July, 1847, to the 28th day of February, 1848, out of any money in the Treasury not otherwise appropriated.

Mr. DAWSON. I must object to that.

The PRESIDENT. It will be passed over.

#### DAVID P. WEEKS.

The Senate then proceeded to consider, as in Committee of the Whole, a bill for the relief of David P. Weeks. The bill provides that the Secretary of the Interior be required to pay to David P. Weeks the amount of his pension for and during the time said pension was discontinued, and while he was employed in the Ordnance Department.

The bill was reported to the Senate without amendment.

Mr. DAWSON. I desire to ask one question of the chairman of the committee. It is stated that this person is to be paid while he was employed in the Ordnance Department. I want to know why his pension was suspended while he was in the Ordnance Department?

Mr. JONES, of Iowa. There is a report, I believe. I ask that it may be read.

From the reading of the report, it appears that the petitioner lost his left arm in the war with the Florida Indians, and was in consequence placed on the pension list, at \$8 per month. On the 4th of September, 1846, he was employed in the Ordnance Department, and continued thus employed until the 4th of March, 1850, during which time his pension was stopped by the Commissioner of Pensions, who deemed himself authorized to do so by the act of the 30th of April, 1844; which provides that "no person in the Army, Navy, or Marine Corps, shall be allowed to draw both a pension as an invalid and the pay of his rank or station in the service, unless the alleged disability for which the pension was granted be such as to have occasioned his employment in a lower grade, or in some civil branch of the service."

In a letter from the Commissioner of Pensions to the chairman of the committee, dated December 30, 1851, it was stated that when employed in the Ordnance Department, "Weeks was not an enlisted soldier," "but held his appointment" by "authority vested in the Secretary of War;" and in reply to further inquiries made by the chairman of the committee, the Commissioner of Pensions, in a letter dated February 6, 1852, refers to the act of the 5th of April, 1832, for the organization of the Ordnance Department, as furnishing some portion of the authority by which the pension of the petitioner was suspended.

But neither of the acts above referred to, in the opinion of the committee, conveys the authority to suspend the pension of any person employed in the Ordnance Department, unless the pensioner

belongs to the Army, Navy, or Marine Corps. The petitioner was neither an officer, non-commissioned officer, nor private in the Army when employed, nor did he enlist during his employment. The Commissioner of Pensions states that the petitioner held the appointment of Ordnance Sergeant during his employment, by authority vested in the Secretary of War.

The act of April 5, 1832, authorizes the Secretary of War "to select from the sergeants of the line of the Army," &c., "as many ordnance sergeants as the service may require;" but that act conveys no authority to the Secretary to appoint any citizen, not belonging to "the line of the Army," to the station or office of ordnance sergeant; and if the petitioner was required, during the time he was employed in the Ordnance Department, to perform the duties of sergeant, that fact furnishes no legitimate reason for suspending his pension.

The committee believe that the petitioner was engaged under the authority given to employ citizens to labor in the Ordnance Department who do not belong to the Army, Navy, or Marine Corps, and therefore the construction given to the acts alluded to, by which his pension was discontinued, is erroneous. By no existing law can a citizen, not enlisted and employed in the Ordnance Department, claim a pension for a hurt received while thus employed. Neither by any existing law can a person, not belonging to the Army, &c., entitled to and receiving a pension, be deprived thereof on obtaining employment in said department. The bill was reported to the Senate without amendment, and was ordered to be engrossed for a third reading.

#### GUION AND McLAUGHLIN.

A bill for the relief of Guion and McLaughlin was then read a second time.

The bill directs the Postmaster General to pay to E. P. Guion and Benjamin McLaughlin the sum of \$1,640, from the appropriation for mail transportation, being the amount due them, under the equitable terms of their contract with the Postmaster General, for two months' extra pay, upon the discontinuance of the transportation of the Southern mail, on route 2,802, from Raleigh to Fayetteville; on route 2,811, from Fayetteville to Cheraw; and on route 3,111, from Cheraw to Columbia, South Carolina, on the 6th of February, 1845; the Postmaster General having only paid the allowance for two months' extra service upon the amount dispensed with, when it should have been upon the whole amount of the contract.

Mr. BAYARD. I would rather prefer to have that bill go over for the present. It involves a question of some importance, in respect to which I cannot at present agree with the committee. I may change my opinion. My objection is to the propriety of admitting evidence to change the construction of a contract with the Postmaster General; or in other words, of allowing a clerk in the Post Office Department to show by deposition that the intent of a contract is different from that which would be drawn from the written language. I doubt the propriety of passing it.

It was passed over.

#### ELIZABETH V. LOMAX.

The next bill upon the Calendar was the bill for the relief of Elizabeth V. Lomax, reported from the Committee on Pensions, which was read a second time, and the Senate proceeded, as in Committee of the Whole, to its consideration. It directs the Secretary of the Interior to place the name of Mrs. Elizabeth V. Lomax, widow of Mann Page Lomax, deceased, late a Major of the Ordnance Corps in the United States Army, on the pension roll, at the rate of \$30 per month from the 27th of March, 1842, for and during her natural life.

Mr. HALE. I move to strike out "1842," and insert "1852."

Mr. BORLAND. Will the Senator permit the report made in that case to be read. This bill has been twice reported. Last year I reported it from the Committee on Pensions. I hope that report will be read. No report was made this year.

Mr. HALE. If the Senate will allow me two minutes, by unanimous consent, I desire to make a single statement. I do not desire to be placed in the attitude of pressing captious objections to these bills, and therefore I desire to make a remark to

the Senate. About four and a half years ago, the honorable Senator from Michigan [Mr. Cass] stated to the Senate that the Committee on Pensions had selected the strongest case they could find asking for arrearages of pension, and they reported a bill giving arrearages. The Senator stated at the time that the committee would be thereafter governed by the action of the Senate upon that case, which was the strongest—asking for arrearages of pension. The Senate, by a very decided vote, as will be seen in Houston's report, voted against paying the arrearages of pension in the strongest case which could be presented.

Mr. JONES, of Iowa. At that time.

Mr. HALE. For that reason I have thought it my duty to interpose these objections, and must do so until a decided vote be taken upon the question.

Mr. CASS. Is that bill up for consideration?

The PRESIDENT. It is. A proposition is made to insert "52" in place of "42."

Mr. CASS. I hope and trust—

The PRESIDENT. If the question be debated, the bill will have to go over.

Mr. UNDERWOOD. Let it go over.

Mr. BORLAND. I hope the Senator will withdraw his objection, and let action be taken upon the bill.

Mr. UNDERWOOD. I cannot. I want to know why we make a different rule here from that which prevails in the Pension Department.

Mr. BORLAND. I merely wish to suggest to the Senator from Kentucky that this is a case precisely like one which he introduced into the Senate, which was reported upon by the Committee on Pensions, and passed in favor of a lady in Kentucky.

The bill was accordingly passed over.

#### THEODORE E. ELLIOTT.

The bill for the relief of Theodore E. Elliott, reported from the Committee on Indian Affairs, was read a second time, and the Senate proceeded to consider it as in Committee of the Whole. It enacts that the sum of \$300 be appropriated to pay to Theodore E. Elliott, in satisfaction of his claim for a keel-boat furnished to P. M. Butler, late agent for the Cherokees, for transporting supplies under the treaty to the Indian Territory, to be paid as other moneys disbursed by the Commissioner of Indian Affairs.

At the request of Mr. BAYARD the report was read, from which it appears that, in 1842, Elliott was the owner of the steamer Effort, then running on the Arkansas river, having in tow a keel-boat for P. M. Butler, Cherokee agent; that Butler proposed to buy the boat for the use of the agency, at the price of \$300, for the purpose of transporting iron, agricultural implements, and other supplies for the Cherokees, as the river was too low to enable the steamer to ascend above Webster's Falls. The proposition was accepted to by Captain Elliott. The contract is fully proven by credible witnesses, one of whom was the pilot on board the steamer. It further appears, by a communication from the Indian Office, and from the Second Auditor, that nothing was ever paid for the boat, nor is there any charge for the same in the accounts of Mr. Butler, as agent.

Mr. BAYARD. I would ask of the Senator who reported this bill, whether there is any evidence of the contract being recognized by the Department in any mode? I am not altogether satisfied in relation to it myself, and therefore should prefer to pass over the bill that I may look into it.

Mr. SEBASTIAN. I reported the bill from the committee, and would merely say that the evidence as to the contract was plenary, full, to the satisfaction of the committee. They called upon the Department to know whether the contract had ever been complied with and the debt discharged. Upon an inspection of Governor Butler's accounts, as Cherokee agent, it was found that he had given no credit for it, and that the debt had never been discharged. The committee, therefore, reported the bill.

Objection being made, the bill was passed over.

#### BARBARA REILY.

The bill for the relief of Barbara Reily, reported from the Committee on Pensions, was read a second time, and the Senate proceeded to consider it as in Committee of the Whole.

It enacts that the Secretary of the Interior be

required to pay to Barbara Reily, widow of Captain Reily, an officer in the Army of the Revolution, the amount of pension due her husband from the time he was last paid, to March 4, 1820.

Mr. FELCH objected to the consideration of the bill, and it was passed over.

#### ROBERT MILLIGAN.

The next was House bill for the relief of Robert Milligan, reported from the Committee on Pensions, which the Senate proceeded, as in Committee of the Whole, to take into consideration.

It enacts that the Secretary of the Interior be directed to place the name of Robert Milligan upon the invalid pension roll, at the rate of \$4 per month, in addition to the sum of \$4 to which he was entitled under the law of Congress, approved June 25, 1834, to commence on the 1st of January, 1852.

At the request of Mr. DAWSON, the report was read, from which it appears that the petitioner states, in his petition, that on the 27th of January, 1812, he enlisted in the Army of the United States, and served in the third regiment of infantry, and was honorably discharged at Washington, Pennsylvania, by General Macomb, on — day of —, 1817, having served out his full time. It further appears that, while in the service, he was employed as an artificer in the construction of Fort Wayne, and while there received an injury in his left knee from a broad-axe with which he was working. He also had an arm crushed and dislocated from the elbow joint, besides contracting asthma, and becoming deaf in one ear, caused by exposure while on duty as a soldier. Of these facts, however, he could procure no certificate of a surgeon, as there was no such officer stationed at the fort. At the expiration of his term of service, upon a petition and a representation of these facts to Congress, a law was passed and approved in June, 1844, to allow him \$4 a month pension, commencing January, 1833. The petitioner now prays for arrearages of pension from the time of his discharge, at the rate of \$4 a month, up to the first of January, 1833, when his name was first put on the pension roll. In support of the petition, he produces the certificate of two surgeons, whose respectability is certified by a justice of the peace. They certify that in consequence of the injuries set forth, the petitioner is laboring under total disability.

The committee state that they are averse to granting back pensions, as in almost every instance where they are applied for, it is at the solicitation of speculators, whose greediness prompts the pensioner to suffer himself to be made the means of a fraud upon the Treasury; but from the facts disclosed in this case, and in view of the age of the petitioner, and his inability to perform any labor by which he can procure for himself a comfortable subsistence, and in view of the fact that Congress has heretofore recognized his case as a meritorious one, they are of opinion that the additional sum of \$4 a month should be allowed, to commence from the first of January, 1852.

Mr. DAWSON. I object to the consideration of that bill now. I want to see the general principle settled.

The bill was accordingly passed over.

#### MARK BEAN AND RICHARD H. BEAN.

The Senate proceeded, as in Committee of the Whole, to consider the bill for the relief of Mark Bean and Richard H. Bean, reported from the Committee on Public Lands.

It enacts that the Secretary of the Treasury be directed to pay to Mark and Richard H. Bean, of Arkansas, out of any money in the Treasury not otherwise appropriated, the sum of \$15,000, as compensation and indemnity, in full, for losses sustained by them in their removal under the third article of the treaty with the Cherokee Indians, of May 16, 1823, by which they were compelled to abandon not only lands they had settled, cultivated, and improved, but an extensive manufactory of salt, warehouses, dwelling-houses, and other large improvements, of which, and the prospective advantages therefrom, they were thus deprived by the act of the Government.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

Mr. UNDERWOOD subsequently rose and said: I was called out a little while ago, and while I was absent a bill was called up for the relief of

Mark Bean and Richard H. Bean. I was opposed to the passage of that bill, and I wanted to call the attention of the Senate to some facts in connection with it.

Mr. ATCHISON. To accommodate the Senator from Kentucky, I move to reconsider the vote ordering that bill to be engrossed.

Mr. BORLAND. I presume that, upon that motion, the merits of the bill will come up. I am prepared to explain the bill.

Mr. BADGER. I move to lay the motion to reconsider on the table. That will get rid of it for the present.

The motion to lay on the table was agreed to.

#### DAVID CORDEROY.

The joint resolution for the relief of the heirs of David Corderoy, reported from the Committee on Indian Affairs, was read a second time, and the Senate proceeded to consider it as in Committee of the Whole.

It provides that the proper officers of the Treasury shall ascertain and pay to the legal representatives of David Corderoy, deceased, the value of a certain reservation of six hundred and forty acres, as unimproved land at the date of the treaty of 1835, which reservation was allowed under the eighth article of the treaty of 1817, and the thirteenth article of the treaty of 1835, made with the Cherokee Indians; and that the amount so ascertained, without interest, be paid out of any money in the Treasury not otherwise appropriated.

At the request of Mr. FELCH, the report was read, from which it appears, that by the treaty of 1817, David Corderoy, as the head of an Indian family, was entitled to a "life estate" in a reservation of six hundred and forty acres, with reversion to his widow and children. That treaty ceded to the United States a portion of the country of the Cherokees, east of the Mississippi, for a like quantity west of that river in the then Territory of Arkansas. It allowed such reservation to each head of an Indian family, who resided upon territory then or thereafter to be ceded to the United States, who might wish to become a citizen of the United States; and provided that the register of the names of such reserves should be filed in the office of the Cherokee agent. By the treaty of 1819, a further tract of country was ceded, and the same provision as to reservations extended to those heads of families who resided within the ceded territory, those enrolled for emigration to Arkansas excepted. Corderoy registered his name for reservation under the treaty of 1817, but was not embraced within the territory ceded in 1819. By the thirteenth article of the treaty of 1835, which ceded the remaining territory of the Cherokees, reservations were to be allowed to the heads of families who were entitled under the treaty of 1817, who had complied with its stipulations, notwithstanding the lands were not included within the lands ceded by the treaty of 1819. The right of Corderoy was thus revived and provided for. A supplemental article of the last-named treaty, adopted in 1836, extinguished all reservations and substituted a compensation in lieu thereof. The proof is clear that Corderoy was a Cherokee, with a white woman as a wife; that he resided upon his reservation until forcibly dispossessed by the State of Georgia, in 1833 or 1834, and soon after the treaty died, leaving a wife and children. A commission was authorized by the treaty to adjudicate all claims under the treaty, and their decision was to be final. Several commissions successively rejected the claim of Corderoy.

The ground upon which his claim was rejected was that stated by the first board—that the register showed that he was not the head of an Indian family, within the meaning of the treaty, because the figure "one" stood, in the column which indicated the No. of the family, opposite the name of Corderoy, and they held that "one" could not constitute a family. The committee do not concur in this conclusion, upon these premises. The legal effect of a registration under this treaty has become a subject of judicial decision; and received a consideration different from that of the commissioners; and a registration is deemed an expression of a desire to become a citizen of the United States, and entitles the party to a reservation. The committee, therefore, are of opinion that Corderoy is entitled to compensation for his reservation as unimproved land; and they report the joint resolution directing the proper officers to



pay the value of said reservation, at the date of the treaty, as unimproved land.

The joint resolution was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

NOAH MILLER.

The bill for the relief of the legal representatives of Noah Miller, of Lincolnville, in the State of Maine, and for the relief of other persons, was read a second time, and the Senate proceeded to consider it as in Committee of the Whole. It enacts that there shall be paid out of the Treasury, from any money not otherwise appropriated, the sum of \$10,000 to the legal representatives of Noah Miller, and such other persons, or their legal representatives, who aided either as boats' crew or pilot, in making prize of the British schooner *Mary*, and taking her into port in the year 1814, in Penobscot Bay, in such proportions to each as the Secretary of the Treasury shall determine—which vessel and cargo, after having been taken into port, was libeled, condemned, and sold, and one half of the proceeds, amounting to more than \$32,000, paid into the Treasury of the United States, said vessel and cargo having been surrendered to the collector of the customs for that district.

Mr. BAYARD. I shall have to object to the consideration of that bill to-day.

Mr. HAMLIN. Will the Senator allow me to say that it has passed the Senate three times and the House twice? I hope he will not object to it.

Mr. BAYARD. I have read over the report, which is very long. It seems to me that it involves the question as to the extent to which we should go in authorizing, or rather in sanctioning and encouraging, a system of private warfare during a public war, which, I think, is a very doubtful policy as it regards a nation like the United States. Having some doubts about the propriety of the bill, I should prefer to read the report a little more carefully. I should be unwilling to vote for the bill as at present advised.

The bill was accordingly passed over.

MARTHA L. DOWNES.

The bill for the relief Martha L. Downes was read the second time, and considered as in Committee of the Whole. It provides that the widows, if any such there be, and in case there is no widow, the child or children, and if there be no child, then the parent or parents, or if no parents, then the brothers and sisters of the officers, seamen, and marines who were in the service of the United States and lost in the United States schooners *Grampus* and *Seagull*, shall receive out of the Treasury a sum equal to six months' pay of their relatives in addition to the pay due to said relatives when the vessels were lost.

At the request of Mr. DAWSON, the report of the Committee on Naval Affairs was read; from which it appears that the petition of Martha L. Downes, widow of Lieutenant Downes, commander of the United States schooner *Grampus* at the time it was lost, praying that the same allowance may be made to the widows and officers of the men of said vessel as has been made in similar cases, was referred to them. They find that in several cases laws have been passed granting to the widows and orphans of the officers, seamen, and marines of various vessels which were lost the extra allowance. The act of June 15, 1834, directed that the widows and orphans of those on board the schooner *Grampus* should receive the compensation which was due them at the time of their loss, but made no provision for the extra pay as in other cases. The act of August 14, 1848, grants to the widows, children, parents, or minor brothers and sisters of the officers, seamen, and marines, lost in the brig *Somers*, twelve months' pay in addition to what was due. No reason is known to exist for the discrimination against the widows and children of the officers, seamen, and marines lost in the *Grampus* and *Seagull*; and without such reason the discrimination must be deemed unjust; and the committee, therefore, report a bill to supply the omission in the act of June, 1844, and place those persons on a footing of equality with others for whom provision has been made.

Mr. DAWSON. Let the bill go over. I wish to give it some examination.

The bill was accordingly passed over.

ROBERT T. NORRIS.

The bill for the relief of Robert T. Norris was read a second time, and considered as in Committee of the Whole. It directs that there shall be paid to Robert T. Norris, in consideration of injuries received by him while acting as pilot under the direction of the collector of customs at New York, the sum of —, to be paid out of any money in the Treasury, not otherwise appropriated.

Mr. DAWSON. Let it lie over.

The bill was accordingly passed over.

LEWIS H. BATES AND WILLIAM LACON.

The bill for the relief of Lewis H. Bates and William Lacon was read a second time, and considered as in Committee of the Whole. It authorizes and directs the proper accounting officers of the Treasury, to audit and allow the claim of Lewis H. Bates and William Lacon, or either of them, for losses and damages sustained by them in consequence of the proceedings of custom-house officers at New York, in exacting from them for certain importations of iron into that port, made between June 15th, 1829, and January 1st, 1832, higher duties than were required by law; and in seizing and libeling some of said goods, upon the refusal of Bates & Lacon to enter the same, as subject to the said higher duty; and for certain costs of court paid by them, and not reimbursed. There is a proviso in the bill, that no greater sum shall be allowed than will reimburse the parties for the costs and expenses actually paid by them, and not repaid to them, in the various suits touching said importations; and certain sums paid by them for the storage of said goods, while kept out of their possession; and such sum also as will pay them for the damage they sustained by the detention of the money exacted from them by the collector, and allow for said detention a damage not exceeding the rate of six per centum per annum, from the time the moneys were paid, to the time they were refunded.

Mr. HUNTER. I object to that bill.

The PRESIDENT. Does the Senator propose to discuss it?

Mr. HUNTER. I cannot tell until I have examined it.

The PRESIDENT. The resolution provides, that when debate arises, or when a Senator says he intends to discuss a bill, it shall be passed over.

Mr. ADAMS. I think the objection is sufficient.

The PRESIDENT. The Chair must follow the resolution of the Senate. Does the Senator from Virginia propose to discuss the bill?

Mr. HUNTER. I cannot tell until I examine it. I want time to examine it.

Mr. DAVIS. I understand that bill very well; and, in my judgment, it requires some modification. I think it ought to be passed over.

The PRESIDENT. It will be passed over.

RICHARD MACKALL.

The bill for the relief of Richard Mackall was read a second time, and the Senate proceeded to consider it as in Committee of the Whole. It directs the proper accounting officer of the Treasury to audit the claim of Richard Mackall, for the destruction of his tobacco house, wheat, and tobacco, by the British, in June, 1814; and to ascertain the losses sustained by him by reason of the destruction of that property. It also provides, that if the amount of damage, as ascertained, shall not exceed \$5,000, it shall be paid to the claimant.

Mr. BAYARD. I shall certainly discuss that bill. I have a very decided opinion that it ought not to pass. The Committee on Claims were divided in opinion in regard to it.

The PRESIDENT. It will be passed over.

ROBERT SEWALL.

The bill for the relief of the heirs and representatives of the late Robert Sewall, was read a second time, and considered as in Committee of the Whole. It directs the Third Auditor of the Treasury to audit the claim of the heirs and representatives of the late Robert Sewall, and to determine the amount that may be due to them; and that when he shall report that amount to the Secretary of the Treasury, that officer be authorized and required to cause the same to be paid.

Mr. BAYARD. I do not know that I shall oppose that claim; for I do not know the facts on which it was founded, though it was once in my hands. I shall, however, certainly move to amend

the bill so as to limit the amount which is to be paid, and that proposition will probably give rise to debate. I should be unwilling to pass any bill of this kind, in reference to a transaction which occurred forty years ago, without fixing some limit to the sum to be paid. The Senator who reported the bill is not in his seat. I shall move that amendment, which will probably lead to discussion, and therefore I suppose it would be as well to lay it over.

The PRESIDENT. It will be passed over.

URSULA E. COBB.

The bill for the relief of Ursula E. Cobb, was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Ursula E. Cobb, widow of the late Charles Cobb, a gunner in the naval service of the United States, upon the list of those pensioners who were allowed pensions by the act approved March 3, 1837, entitled "An act for the more equitable administration of the naval pension fund," and to allow her, as the widow of said Cobb, a pension agreeably to the provisions of that act.

Mr. DAWSON called for the reading of the report of the Committee on Pensions, and it was read.

From the report, it appears that the husband of the pensioner died in the naval service May 9, 1848, from illness produced by exposure and fatigue on board the ship "Plymouth," during severe, cold, and stormy weather, while on the passage from Brooklyn to Norfolk. He served the country during the war of 1812, with bravery and efficiency, having assisted in taking many prizes from the enemy, and receiving two wounds while boarding hostile vessels. The petitioner applied to the Pension Office for a pension, but was unsuccessful, for the reason that the Commissioner of Pensions was not furnished with the proof required by the regulations of the office. There is, however, a letter of the Commissioner of Pensions accompanying the report, which states that, although there was not sufficient technical evidence to justify the allowance of the pension, yet he had no doubt that the case was a meritorious one, and deserving the favorable consideration of Congress.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

WILLIAM BEDIENT.

The Senate proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of William Bedient, late a sergeant of the 4th regiment of artillery, on which the Committee on Pensions had made an adverse report. The bill directs the Secretary of the Interior to place the name of William Bedient, at present of Newark, in the State of New Jersey, and late a sergeant of the 4th regiment of artillery, on the roll of invalid pensioners, at the rate of \$8 per month.

Mr. ATCHISON. I suppose the question is upon concurring with the report of the committee adverse to the bill.

The PRESIDENT. This is a bill. It can be indefinitely postponed, or the Senate can refuse to order it to be engrossed.

Mr. ATCHISON. I move to postpone indefinitely the further consideration of the bill.

Mr. JONES, of Iowa. If the bill be postponed indefinitely, will it not be liable to be again referred to the committee at the next session?

The PRESIDENT. This vote rejects the bill. The motion to postpone indefinitely was agreed to.

JAMES GLYNN.

The bill for the relief of James Glynn was read a second time, and considered as in Committee of the Whole. It provides that James Glynn, a commander in the United States Navy, shall be entitled to a credit in the settlement of his accounts at the Treasury as acting purser of the sloop-of-war "*Preble*," while cruising on the western coast of Mexico, in the year 1850, of the sum of \$1,338 70, the said allowance to be in full for losses of public money and other property stolen or embezzled from the vessel during his temporary absence therefrom on official duty.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

## HENRY KING.

The bill for the relief of the representative of Henry King was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to the legal representative of Henry King, the sum of \$8,140, it being for the service of said Henry King, as sergeant of the 3d Maryland regiment, and in the Commissary's Department during the revolutionary war.

Mr. DAWSON. I should like to hear the report of the Committee on Revolutionary Claims in that case.

The report was read accordingly; from which it appears that the claim was presented in the form of an account showing that Henry King served as a sergeant in the third Maryland regiment, from May 30, to October 20, 1778, at \$10 per month; as Commissary's clerk from October 21, to December 31, 1778, at \$35 per month; as same from January 1, 1779, to April 19, 1780, at \$50 per month; as Assistant Commissary of Issues, from May 10, 1780, to September 10, 1781, at \$75 a month, and for a retained ration during a small part of the above period, which item is £8 15s. The total is £862 10s. The United States are credited with various payments during that time, amounting to £180 18s. 6½d., leaving a balance to King of £681 10s. 3½d. The petitioner, it seems, had a claim against the United States, but not having made a timely presentation of it, the act of Congress of July 23, 1787, barred its admission. The claim was first presented in 1794. At that time the committee lamented that there was any obstacle to prevent the immediate adjustment of a claim so just and equitable; but they hesitated to record it, as it would lead to the necessity of making provision for all demands similarly situated. Henry King, living in Kentucky, at a distance from the seat of Government, did not again present his claim until 1817. His original papers were destroyed when the capital was taken in 1814. The statement of Mr. Hagner, of January 8, 1842, states that all the papers connected with the settlement of such accounts as King's were no doubt destroyed in burning the Treasury buildings. There is, accompanying the report, a certificate from the register of the land office in Maryland, dated January 25, 1841, stating that the office of auditor-general of that State had been abolished a few years before, and that the records and papers of the Revolution were under his charge. He has carefully examined them, and found certificates of the enlistment of Henry King, of the date of 25th May, 1778, as sergeant in the third Maryland regiment, and a certificate that he was transferred to the Commissary's Department, in October, 1778. There were several depositions of his fellow soldiers filed with the petition of Henry King originally. The House of Representatives, in April, 1818, when acting upon the subject, reversed an unfavorable report of one of its committees on this claim, and passed a bill directing its payment; but from the lateness of the session, it was left among the unfinished business. King died in Kentucky in 1820, and no execution of his will was had until 1835, when the claim was again presented. In consideration of these facts, the committee think it proper that the claim should be allowed. As to the question of interest, the committee think that the claim should bear interest from the time of its presentation in 1794.

Mr. BAYARD. Although on the face of this bill it would seem that it proposes nothing but an appropriation of the sum of \$8,140 for the payment of the services of Henry King during the war of the Revolution, yet I judge from the report that the bill includes also interest from the year 1794. I suppose the interest is on the sum of £681 10s. 3½d. Maryland currency. That seems to be the sum which is due. It will be necessary to reduce it into dollars and cents. When that is done, I wish to move to insert it in place of the \$8,140 allowed by the bill. I suppose the calculation will have to be made in Maryland currency at the rate of 7s. 6d. to the dollar.

Mr. ATCHISON. Let the bill go over; I think it needs looking into.

The PRESIDENT. It will be passed over, as Senators manifest a disposition to discuss it.

## JOHN W. ROBINSON.

The Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Rep-

resentatives for the relief of John W. Robinson. It directs the Secretary of the Interior to place the name of John W. Robinson, of the State of Maryland, a soldier in the late war with Great Britain, on the invalid pension roll, at the rate of \$8 per month—to commence from June 1st, 1850, and to continue during his natural life.

Mr. HALE. I move to strike out "1850," and insert "1852."

Mr. BADGER. Let it lie over.

The PRESIDENT. Does the Senator from North Carolina propose to discuss it?

Mr. BADGER. My disposition is to find out why "1850" should be stricken out, and "1852" inserted. I cannot find that out without discussion.

The PRESIDENT. The bill will be passed over.

## JOHN McVEY.

The bill for the relief of John McVey was read a second time, and considered as in Committee of the Whole. It requires the Secretary of the Interior to place the name of John McVey, of the State of Arkansas, a soldier in the late war with Great Britain, upon the pension roll, at the rate of \$8 per month—to commence on the first day of April, 1850, and to continue during his natural life.

Mr. UNDERWOOD. I move to strike out "1850," and insert "1852."

Mr. BORLAND. There is no report in this case; but I can state the merits of it in a very few words. I will accept the amendment of the Senator from Kentucky as far as I am concerned, and I suppose I am the principal one concerned.

Mr. BADGER. Is it right to accept it? I do not think the Senator from Arkansas should be forced to accept it. I wish to know why this amendment should be made, and therefore I propose that the bill should lie over, as I wish to discuss it.

It lies over accordingly.

## THOMPSON HUTCHINSON.

The bill for the relief of Thompson Hutchinson was read a second time, and considered as in Committee of the Whole. It requires the Secretary of the Treasury to pay to Thompson Hutchinson, son of Thomas Hutchinson, who was late a revolutionary pensioner, and whose name was erroneously stricken off the pension roll in 1818, the amount of pension which would have been due to him at his death, in February, 1835, if he had not been erroneously deprived of it. The amount so to be paid to be computed from July 24, 1818, the date of his pension certificate, to February 1, 1835, at the rate of \$8 per month.

Mr. FELCH. Is there a report in this case?

The PRESIDENT. There is.

Mr. FELCH. I would like to hear it read.

The report of the Committee on Pensions on the claim was accordingly read.

From the report of the committee it appears that the name of Thomas Hutchinson was placed on the pension roll on the 24th of July, 1818, in consideration of his services as a private in the regiment of Colonel George Gibson. In pursuance of a decision of the then Secretary of War, that Gibson's was not a Continental regiment, and therefore not embraced in the act of March 18, 1818, his name was stricken from the pension roll. That the decision of the Secretary of War was erroneous, is distinctly established by the fact that the act of May 15, 1828, induced a full examination of the claim of Gibson's regiment to the benefit of that act, which, in the exact language of the act of March 18, 1818, allowed pensions to such officers and soldiers as had served a specific time upon the Continental establishment. There was a decision under that act to allow its benefits to Gibson's regiment, which, though not a continental regiment by its original organization, was by an act of the Virginia Assembly of October, 1787, transferred to service on the Continental establishment, in lieu of and as a substitute for the 9th Virginia Continental regiment, which had then recently been annihilated at the battle of Germantown, and in that service it continued more than a year, under the immediate command of the Commander-in-Chief of the Continental Army. Such being the character and the actual service of Gibson's regiment on the Continental establishment, the Secretary of War has ever since decided that those who served in Gibson's regiment were

entitled to pensions under the act of 18th March, 1818.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

## ELIZABETH JONES AND OTHERS.

The bill for the relief of Elizabeth Jones and the other children, if any, of John Carr, was read a second time, and considered as in Committee of the Whole.

It requires the Secretary of the Treasury to pay to Elizabeth Jones and the other children, if any, of John Carr, late a revolutionary pensioner of the United States, the amount of pension ascertained to have been due to him at the time of his death; the amount so paid to be computed at the rate of \$8 a month, from the 18th day of May, 1818, to June 7, 1831.

Mr. UNDERWOOD. I do not wish to be captious; but it is manifest that the Senate is determined to decide the question of the retrospective operation of these pension laws.

Mr. BORLAND. I can relieve the Senate of all difficulty on that point. This bill is not to allow arrearages of pension, but it is simply to pay a pension already ascertained to be due under a preceding law.

Mr. JONES, of Iowa. This case is precisely similar to that of Thompson Hutchinson, in favor of which we have just decided.

Mr. UNDERWOOD. Then I have nothing to say.

The bill was reported to the Senate, without amendment, and ordered to be engrossed for a third reading.

## PAYMENT OF WITNESSES.

The bill for the relief of John Jackson, Joseph Pineau, and Louis A. S. Smith, was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to John Jackson, Joseph Pineau, and Louis A. S. Smith, the mileage allowed by law to witnesses attending the courts of the United States, for their attendance from Port-au-Prince, in the Island of St. Domingo, to the city of Boston, in the State of Massachusetts.

Mr. BAYARD. I object to the principle of this bill. It proposes to extend the allowance of mileage to witnesses who were attending from a distance, beyond where the process of the United States courts would reach, at the same rate of compensation that is given to witnesses who attend from a short distance. I do not like to have the principle extended so far; and, therefore, I would prefer that the bill should be passed over. I do not object to making some allowance; but I object to giving the same rate of allowance to witnesses who come a great distance, as to those who come but a short distance.

The bill was passed over.

## HEIRS OF JOHN JACKSON.

The Senate proceeded to consider, as in Committee of the Whole, the bill of the House of Representatives for the relief of the heirs of John Jackson. It directs the Secretary of the Treasury to pay to the heirs and legal representatives of John Jackson deceased, the pilot on board the "Bon Homme Richard," during her brilliant engagement with the British frigate "Serapis," in which action Jackson lost an arm, such a sum as would be equal to a pension at the rate of \$6 a month, from November 15th, 1779, to the day of his death, agreeably to the pledge given by the Captain of the "Bon Homme Richard," and the report of the committee of the Continental Congress made September 28th, 1785.

Mr. FELCH. I hope that the bill will be passed over. I wish to discuss it.

The bill was accordingly passed over.

## THOMAS NOEL.

The bill for the relief of the heirs of the late Major Thomas Noel, of the United States Army, was read a second time, and considered as in Committee of the Whole. It enacts that in the settlement of the accounts of the late Major Thomas Noel, the proper accounting officers of the Treasury shall pass to his credit all payments and disbursements which were honestly and faithfully made by him while acting as a disbursing officer, any irregularity or informality in the vouchers by him filed to the contrary notwithstanding.

The bill was reported to the Senate without amendment, and ordered to be engrossed, and read a third time.

#### DON B. JUAN DOMERCQ.

The bill for the relief of Don B. Juan Domercq, a Spanish subject, was read a second time and considered as in Committee of the Whole. It directs the Secretary of War to examine and investigate the claim of Don B. Juan Domercq, a Spanish subject, for a quantity of tobacco belonging to him, which was taken and used for the purposes of defense, by order of Colonel Childs, at the siege of Puebla, in Mexico, in the year 1847, and to allow and pay him for so much of said tobacco, not exceeding in quantity 721 bales, at a price not exceeding \$24 a bale, as shall be proved, to the satisfaction of the Secretary of War, to have been destroyed or lost in consequence of said tobacco having been taken and used as aforesaid. It also provides that the Secretary of War shall allow to the said Domercq for the injury done to 823 bales of tobacco returned to him after being used in barricading the streets of Puebla, at the rate of one dollar per bale, provided that the said damage shall be proved to the satisfaction of the Secretary. It also directs the Secretary of the Treasury to pay to Domercq such sum as shall be allowed him upon such investigation.

Mr. GEYER called for the reading of the report of the Committee on Claims; and it was accordingly read.

It appears from the reports that General Worth, commanding the advance of the army under General Scott, entered Puebla, in Mexico, in May, 1848, and finding a quantity of tobacco stored in that city belonging to the Mexican Government, caused it to be seized and sold for the benefit of the United States. The whole quantity, 2,081 bales, was accordingly sold at public auction by Major Allen, of the Quartermaster's Department, to Mr. L. S. Hargous, at \$10 a bale, amounting to \$20,810. On the 16th of June following, Mr. Hargous sold the 2,081 bales of tobacco to Don B. Juan Domercq, the claimant, at \$20 a bale, amounting to \$41,620. One thousand three hundred and twenty-five bales of this tobacco were, at the time of the sales, deposited in the quartel, or public barracks of San José, occupied by the American troops, and the remainder in other places in the city. It appears, also, that 219 bales of the tobacco, deposited in other places than the quartel, were, some time in August following, deposited by the claimant, in house No. 6, Second street, of San José, near the quarters of Colonel Childs. The whole quantity of tobacco deposited in each of these places remained there till seized by order of Colonel Childs at the time of the siege of Puebla by the guerrillas in September following. At that time, Colonel Childs being informed that the tobacco deposited at No. 6, Second street, San José, was Mexican property, ordered it, as well as that deposited in the quartel, which he supposed belonged to the United States, to be taken and used in constructing parapets on houses, and in protecting the streets, and in fortifying the quartel. There is a statement from Colonel Childs corroborating these facts. There is also a statement of Mr. William Spencer, the agent and interpreter of Captain Webster, testifying as to the use that was made of the tobacco. Soon after the siege, Colonel Childs directed Quartermaster Webster to advertise and sell the tobacco remaining, and 500 bales were accordingly sold at \$22 a bale; which were again sold by the purchaser for \$24 a bale. Colonel Childs, being informed by Doctor Schadler and the Spanish vice consul of Mr. Domercq's claim to the tobacco, he ordered the sale to be stopped, and all that remained on hand to be delivered to the claimant. Under this order, 323 bales were delivered. Soon afterwards, the 500 bales which had been sold, were recovered and delivered—making in all 823 bales of the 1,544 originally deposited in the quartel, and house No. 6—leaving a deficiency of 721 bales. Under these circumstances, the committee report in favor of allowing, for these bales, at the rate of \$24 per bale—that being the highest wholesale price at which any of the sales were made.

Mr. HALE. As there are a great many facts in this case, which it is not in order to debate, I will move, in order to get time to understand them, that the Senate adjourn.

The motion was not agreed to.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### CHARLES G. HUNTER.

Mr. CLEMENS. I must throw myself upon the indulgence of the Senate, to ask that the bill for the relief of Charles G. Hunter, may now be considered. I hope there will be no objection to it. I move to postpone all prior orders, for the purpose of taking up that bill.

Mr. BADGER. That is a very strong, pressing, and urgent case.

The motion was agreed to, and the bill was read a second time and considered as in Committee of the Whole. It requires the proper accounting officers of the Treasury Department to allow to Charles G. Hunter credit for the sum of \$7,949 88, being the amount of losses sustained by him while commanding and acting as purser of the steamer "Scourge," and the schooner "Taney."

Mr. CLEMENS. That bill has been reported unanimously from the Committee on Naval Affairs. They have made no written report; and, therefore, I think it necessary to state the grounds upon which the claim for relief is urged. This is not a payment of money. The gentleman asks no payment of money. He simply wishes to have his accounts settled. He was appointed to the command of two different war vessels, and connected with that was the inconsistent duty of acting as purser. He failed to take such vouchers as the Department require, in order to enable them to settle his accounts. But we all know that a steamer must have coal; and that is the chief item, I believe, in the account. He bought coal for the steamers. His vouchers were informal and such as would not enable the Department to settle with him. He lost his pay during the whole of that time, and for a long time previous, because it has all been absorbed by the order of the Department requiring him to perform the inconsistent duties of commander and purser of a vessel at the same time.

I suppose every member of the Senate understands who this gentleman is. He is Charles G. Hunter, who has acquired the name of "Alvarado Hunter," from the fact of having taken, with one vessel, the town of Alvarado, which the whole Army and Navy had been deployed to capture. The bill has been reported unanimously by the Naval Committee, after a full examination of the facts.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

On motion, the Senate adjourned until Monday.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, April 24, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

Mr. MARTIN asked and obtained the unanimous consent of the House to introduce a joint resolution, passed by the Legislature of New York, relative to an appropriation by the General Government for a canal around the Falls of St. Ste. Marie; which was read, referred to the Committee on Commerce, and ordered to be printed.

#### APPOINTMENT OF MIDSHIPMEN.

Mr. ROBBINS. I ask the unanimous consent of the House to submit a resolution; which was read for information, as follows:

*Resolved*, That the Committee on Naval Affairs be requested to inquire into the expediency of modifying the existing laws in relation to the appointment of midshipmen at the United States Naval Academy, so that when a vacancy occurs, the member of Congress representing the district entitled to the appointment shall be authorized to make the nomination, and that they report to this House.

Mr. STANLY. I think there will be no objection, if the word "instructed" be inserted instead of "requested."

Mr. ROBBINS. I consent to the modification. The resolution, as modified, was then adopted.

Mr. STANTON, of Ohio, asked and obtained the unanimous consent of the House to introduce a bill, of which previous notice had been given, "to surrender to the State of Ohio the unfinished portion of the Cumberland road, in said State;" which was read a first and second time by its title,

and referred to the Committee on Roads and Canals.

Mr. CHANDLER. I ask the unanimous consent of the House to take up the bill from the table for the relief of Lieutenant Speedwell, that it may be considered. He is desirous of going with the fleet about leaving the country, but his accounts are now unsettled. We know how much complaint has been made with regard to the leaving of accounts unsettled. He only asks that they may be settled. The bill is on the Speaker's table.

Mr. HOWARD. I do not wish to object, but there are a great many bills upon the Speaker's table which have been there for nearly two months waiting a reference. I suggest that the House proceed to the consideration of the business upon the Speaker's table.

Mr. CLINGMAN. I object to taking any bill from the Speaker's table, unless it be regularly reached.

Mr. CHANDLER. I ask leave to present a memorial, containing about seven yards of good names, praying for the passage of the homestead bill.

Unanimous consent was accorded, and the memorial was referred to the Committee on Public Lands.

Mr. MCCORKLE. I ask the unanimous consent of the House to allow me to introduce a resolution.

The resolution was read for information, as follows:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of directing the Clerk of the House to purchase for the use of members—copies of the memoir and maps of the waters of the Bay of San Francisco, and of the rivers Sacramento and San Joaquin, by Commander C. Ringgold, of the United States Navy.

Mr. FICKLIN objected.

Mr. FOWLER. I ask leave to introduce a bill, of which previous notice has been given, for the purpose of reference.

Mr. CAMPBELL, of Illinois. I object.

Mr. HOWARD. I insist upon proceeding to the regular order of business.

Mr. JONES, of Tennessee. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

#### FRANKING PRIVILEGE.

Mr. BRENTON. I ask the gentleman to withdraw his motion for a moment, as a matter of courtesy. In consequence of my ill health I will be compelled to leave the city, and before leaving I am desirous of presenting a resolution of inquiry.

The resolution was read for information, as follows:

Whereas, the Postmaster General, in his last annual report, has shown, that in consequence of the present reduced rates of postage there is a large deficit in the receipts of that Department, which must be met by further aid from the Treasury; and that "the practical extension of the franking privilege to the Senators and Representatives elected to the present Congress, aided slightly in producing this reduction;"

And whereas it is further stated, that "if all the free matter now carried in the mails was charged with postage, even at the present rates, from one to two millions of dollars would be added annually to our receipts from postage;" And whereas it is stated further, that "the increased abuses of the franking privilege render desirable some further legislation thereon;" Therefore,

*Resolved*, That the Committee on the Post Office and Post Roads be, and they are hereby instructed to inquire into the expediency of providing by law for the correction of said abuses, and of repealing all laws now in force granting the franking privilege to Senators and Representatives in Congress.

[Cries of "I object!" "I object!" all over the House.]

Mr. FREEMAN. I ask the unanimous consent of the House to present the petition of certain citizens of Mississippi, praying for the establishment of a certain mail route in that State, in order that it may be referred to the Committee on the Post Office and Post Roads.

Mr. FOWLER. I object.

The question was then put upon the motion to suspend the rules and go into the Committee of the Whole on the state of the Union, and carried in the affirmative. Accordingly the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HISSARD in the Chair.)

#### HOMESTEAD BILL.

The CHAIRMAN stated, as the business be-



fore the committee, the consideration of House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and for other purposes, on which the gentleman from Illinois, [Mr. EWING,] was entitled to the floor.

Mr. EWING addressed the committee. After expressing himself in favor of the bill, he entered at some length upon the subject of American progression, in which he repudiated the policy of forcing the United States, at this time, to intervene in the affairs of Europe. He, however, was in favor of that conservative progression, which, while it did not trench upon the rights of other nations, would tend to develop the physical and intellectual resources of this nation, and give it a commanding influence in the affairs of the world. He viewed, as in consonance with such a progression, the policy of opening up the avenues of commerce with Japan; which would doubtless enlighten, civilize, and christianize that distant people.

Mr. SIBLEY next addressed the committee. He expressed himself in favor of making grants to actual settlers upon the public domain; but was opposed to the policy of making large grants of lands to the States for the benefit of the insane, and for other purposes, to be located by them, and to be held by them, in the several Territories. He believed that grants of that character would retard the settlement, and prevent the growth of those Territories.

[These speeches will be found in the Appendix.]

Mr. FICKLIN said: I am gratified, Mr. Chairman, that I have obtained the floor for the purpose of giving my views upon the homestead bill; and as I do not intend to indulge in any remarks upon politics, or any irrelevant matter, I may be permitted, before entering into the discussion of this bill, to say a word in reference to a kindred measure, which was before the House a few days ago, and which was left in somewhat an equivocal position by the House going into the Committee of the Whole on the state of the Union. I refer to the bill granting preemption rights to persons who have made improvements along the line of the Chicago and Mobile Railroad, and propose, in a very few words, and in a very brief manner, to submit my views upon the provisions of that bill, and then to pass on to the discussion of the homestead bill.

Mr. Chairman, the last Congress (as is well known to the members of this House) passed an act granting alternate sections of land for the construction of the Chicago and Mobile Railroad and branches, which act was approved by President Fillmore on the 20th day of September, 1850. By virtue of the provisions of this act, the States through which this road was located owning public lands are entitled to the alternate sections near the line. Prior to the passage of the act granting these lands to the States to aid in the construction of the Chicago and Mobile Railroad, and without any reference whatever to the action of the General Government in making such grant, many individuals had become actual settlers on and adjacent to the lines of said roads, upon the public lands of the General Government. These persons belong, if you please, to that class which in times past were most unjustly branded as "squatters," but who are, in point of fact, meritorious and deserving citizens. They located upon those lands, supposing that they would be able to pay for them, and their great sin consists in not having had the money to do so.

The State of Illinois, understanding the condition of things, and the merits of this class of actual settlers located on that portion of the public lands to which the State was entitled, passed an act, which was approved February 10th, 1851, granting a preemption right to actual settlers, and allowing them three months to prove their preemption, and twelve months to make the payment. I give the following extract from the twenty-fifth section of the act of the Illinois Legislature:

SEC. 25. That each and every person who, on the twentieth day of September, one thousand eight hundred and fifty, was the owner of any improvements made previous to that date, or any lot of land conveyed to the said company, and who became such owner with a view to a residence on, or occupation of such lot of land for agricultural purposes, shall have the right to purchase, at not exceeding \$2 50 per acre, a quantity of the lot so owned, to be bounded by the legal subdivisions, not exceeding one quarter section, to consist of the quarter quarter, half quarter, or quarter section, which will include the improvement afore-

said: *Provided*, That any person claiming the right to purchase under the provisions of this act, shall, within three months from the date of selecting the lands, file in the clerk's office of the circuit court of the county in which the land claimed is situated, a notice to the said trustees and corporation, of his, her, or their claims, describing the land by its numbers, accompanied with an affidavit, stating the date and object of the improvement, the time and manner when and how he, she, or they became the owner thereof, and also the affidavits of at least two residents of the county, proving the facts in relation to such claim: *And provided further*, That the right of way upon and across any lot of land sold under the provisions of this section, not exceeding two hundred feet in width, shall be reserved and retained for the passage of the road, as the same may be located and constructed, and any person claiming the right to purchase as aforesaid, shall, within twelve months from the date of commencing work on the road within the county in which the land is situated, pay the said trustees or the corporation, the consideration money for the land claimed; which payment shall entitle him, her, or them, to a deed conveying an estate in fee; but in case of failure to make such payment, the right to make the purchase shall cease. When two or more persons claim the right to purchase the same lot of land, and file the proof of ownership as herein required, the person proving the first residence by himself, or those under whom he claims the improvement, shall have the right to make the purchase, but no sale or conveyance of any lot of land under the provisions of this section shall affect the rights or equities of parties claiming the same, as between each other.

This proves to you what Illinois believed to be right, in regard to this meritorious class of citizens. She has protected such of them as were on her side of the line, on the sections falling to that State; and now we ask that the General Government shall do likewise, in regard to those who are on her side of the line, by passing a bill similar in its provisions to the law of Illinois.

Within a few days of the commencement of this session, I introduced a bill to accomplish that object. It was referred to the Committee on Public Lands, and met their approval. A few days since it was reported to the House by the Hon. Mr. FREEMAN, of Mississippi, and owing partly to the indisposition of members to having the great number of bills reported by the Committee on Public Lands, and partly to a misapprehension of its provisions, growing out of the hasty reading of the bill, some opposition was manifested to its immediate passage, and the bill now remains on the Speaker's table.

The following is a copy of the bill:

*Be it enacted, &c.*, That each and every person who, on the twentieth day of September, in the year of our Lord one thousand eight hundred and fifty, was owner of any improvement made previous to that date on any tract of land now owned by the United States, and situated within the limits reserved from sale by order of the Government, because of the grant of alternate sections to the States of Illinois, Mississippi, and Alabama, in aid of the construction of the Chicago and Mobile Railroad and branches, by virtue of an act of Congress, approved September twentieth, eighteen hundred and fifty, entitled "An act granting the right of way, and making a grant of land to the States of Illinois, Mississippi, and Alabama, in aid of the construction of a railroad from Chicago to Mobile," and who became such owner with a view to a residence on, or occupation of, such tract of land for agricultural purposes, shall have the right to purchase, at the price established by law in regulating the sales of said lands, a quantity of the tract so improved not less than forty, nor more than one hundred and sixty acres, in legal subdivisions, on which said improvement may be situated: *Provided*, That any person claiming the right to purchase under any provision of this act, shall, within three months from the date hereof, file with the register of the proper land office a notice describing the land by its numbers, accompanied with an affidavit stating the date and object of the improvement, the time and manner, when and how, he, she, or they, became the owner thereof, and also the affidavits of at least two residents of the county in which such improvement is situated, proving that said improvement was made with a view to residence, or for agricultural purposes: *And provided, further*, That the right of way upon and across any tract of land claimed under the provisions of this act, not exceeding two hundred feet in width, shall be reserved and retained for the said railroad and branches, as the same may be located and constructed; and any person claiming the right to purchase as aforesaid, shall, within twelve months from the passage of this act, pay to the receiver of the proper land office, the sum of money so established by law to be paid as aforesaid; and on failure of said actual settler either to prove his right of preemption within three months, or to pay for the land within twelve months after the passage of this act, as herein required, the said land containing the improvements as aforesaid, shall be subject to entry by any other person making application therefor.

SEC. 2. *And be it further enacted*, That when two or more persons claim the right to purchase the same tract of land, and file proof of ownership as herein required, the person proving the first residence by himself, or by those with whom he claims the improvement, shall have the right to make the purchase, but no sale or conveyance of any tract of land under the provisions of this act, shall affect the rights or equities of parties claiming the same as between each other.

That road, so far as it relates to Illinois, has now been located. We know where it goes, and through what country it passes, and whose rights and interests are affected by it.

It will be recollected, sir, by those who are familiar with the preemption bill which was passed in the year 1841, that by the provisions of that act an individual, wishing to obtain the benefit of a preemption, was required within thirty days, I believe the time is, after he first made his location and selection of land, to make an application at the proper land office, designating the tract of land on which he had located, and signifying his intention to claim his preemption, and he was also required, within twelve months of that time, to enter and pay for the land at the Government price.

Within a short time after the passage of the act granting alternate sections of land to the Chicago and Mobile road, there was issued an Executive order to the officers of the several land offices for the withdrawing and withholding from sale those lands. They were taken out of market for the purpose of permitting the railroad to be located, and the alternate sections granted to the State to be selected. The road has now been located, and the alternate sections have been selected, and consequently the offices will be opened for the sale of the remaining lands as usual. Notice has already been given by the proper officer, that the land offices will be opened in July next for the sale of these lands. What, then, is the result, Mr. Chairman, and gentlemen of the committee? Persons who had made improvements, and who then were, and now are, actual settlers along the line of that road, have been unable to enter their land, because it was reserved from sale for more than twelve months; consequently they are not protected by any preemption law now in force, and additional legislation is necessary if he would save them from the speculator. It is a question, when these lands shall come into market in July next, whether the provisions of the bill which is upon the Speaker's table shall be passed, so as to protect the actual settler against the speculator, and to give the man, the sweat of whose brow, and the labor of whose hands, have made the improvement, the first right to purchase the land from the Government at \$2 50 per acre? or whether the land shall be thrown open to a scramble between the man who made the improvement and the swarm of speculators who wish to avail themselves of the benefit of the labor of another? The question is distinctly made between the actual settler, who has erected his cabin upon the land, fenced in and cultivated it, and the speculator, who seeks to wrest it from him. That bill was published the morning after its presentation, by my honorable friend from Mississippi, [Mr. FREEMAN,] in the "Globe," and is open to the inspection and examination of all who desire to examine it. I trust it has been, or will be, so examined, and so considered, that when it shall again be called up there will be no objection to its passage. If these people shall not be protected in the improvements which they have made when the land offices shall be opened, any person will have a right to enter those lands; and he who can reach the office first, having the money to pay for them, will be the successful applicant. In this way those whose labor has imparted value to the land, are liable to be turned out of doors, without shelter from the heat of a summer's sun, or the pitiless peltings of a winter's storm. I cannot believe that Congress will either refuse or neglect to pass a bill so salutary in its operation.

Mr. HUNTER. I ask the gentleman whether it is not a fact, that the law making this grant of lands, in terms saves the preemptions which had attached at the time of the passage of the bill?

Mr. FICKLIN. It saves all preemption rights that had then attached, because such rights could not be divested.

Mr. HUNTER. I wish to ask, further, what is the nature and meaning of the term attach?

Mr. FICKLIN. If the actual settler had made his application at the proper land office for a preemption, according to law, prior to the passage of the act granting alternate sections, his right to a preemption would have attached, and he could have proceeded to complete his title; but the men which this bill is intended to protect, had located on the land before the bill passed, but had not taken this preliminary, but necessary step.

Mr. HUNTER. Does this preemption bill refuse to extend protection to those only who were actual settlers at the time of the passage of the alternate section act?

Mr. FICKLIN. It protects, and is intended for the benefit only of those who were *bona fide*

settlers at the time of the passage of the act granting alternate sections. That is all I desire to do, and no amendment, excluding all others, can be too strong for me. Those who have been attracted to the line of the road since the lands were granted, have gone there for speculation, and can take care of themselves; but the actual settler, the poor man who has labored to make himself a home, is very differently situated.

Mr. HUNTER. My objection to the bill was purely on the ground, that I supposed it protected those who had made locations on the line of the road since the alternate sections were granted to the State; but I have no objection whatever to granting a preemption to the actual settler whose improvement was made prior to the grant of the lands.

Mr. FICKLIN. That is all I desire; and I cannot believe that any gentleman who understands the bill, will object to its being called up and passed.

Mr. HALL. I will state to the gentleman from Ohio, with the permission of my friend from Illinois, what the Committee on Public Lands understand by this bill. It has been represented to them, and I suppose truly, that there were certain settlers upon some of this land—which, under the bill alluded to, was reserved to the United States—who had not complied with the preemption law, and of course were not protected by the terms of that bill; and yet they had made settlements and improvements. The State of Illinois has secured to all such who have settled upon the land granted to that State, their rights, at \$2 50 per acre. This bill merely proposes that those who had settled upon the land reserved to the Government, before the passage of the bill referred to, shall have the land at \$2 50 per acre; although they had not complied with the preemption law.

Mr. FICKLIN. Mr. Chairman, having said thus much in regard to that preemption bill, I propose to proceed to the consideration of the subject immediately before the committee—the homestead bill, which was introduced by my friend from Tennessee, [Mr. JOHNSON.] From the opponents of this bill we have had some speeches, to which I have listened with great interest. They were marked with thought and ability.

I have carefully read the speech of the honorable member from Maine, [Mr. FULLER;] and although I have bestowed as much thought in the investigation of his reasons as I was enabled to do, I see nothing in them, although his arguments are speciously put together, which is calculated to raise a doubt in the minds of those in favor of the homestead bill—nothing at all. Sir, my friend lives too near the Canada line to understand our land system. He quotes authorities which are not consonant with our interests in this country. He cites the opinions of British lords. I would rather have the opinion of one of our lords of the soil—one of the sovereigns of our land, on this subject, (although he may never have read a book on entails or contingent remainders,) than the opinion of a British lord, with all his legal lore. It is known to me, and it is known to all of those who have given any attention to the British land system, that it is directly the opposite of ours. Under the English law, the lands are in the hands of a few wealthy families—a few pampered aristocrats. Their policy is to hold them in the hands of the few—ours is to have them pass into the hands of the many, to distribute them amongst those of the people who will cultivate them. We desire to see them owned and occupied by the lords of the soil, the sovereign people of this country. The British theory is, that every acre of land in that country has its lord; and there is a regularly-graduated dependence from the King down to the humblest tenant who tills the soil. The title descends from the Crown. Her policy is to preserve a pampered landed aristocracy, which policy is at war with the best interests of this country.

The honorable member from Maine talked about the unconstitutionality of this measure, as have some others upon this floor. I have not taken the trouble to examine whether those gentlemen who question the unconstitutionality of this bill did or did not vote for grants of bounty land to the soldier. Nor shall I do so, because their vote cannot change the power of Congress in the premises. If, however, they voted to grant bounty lands to soldiers, I should like to know where they will find

the distinction. I should like to know under what clause of the Constitution they will find the power delegated to grant bounty lands to soldiers, that does not at the same time confer the power to grant lands to the landless and homes to the homeless and houseless of this country. The principle is the same. I hold that we have unlimited control over the public lands of this country. I hold that ample power is delegated to us by express grant of the Constitution, whereby we are authorized to dispose of the property belonging to the United States, land included. This is the constitutional provision:

“The Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States.”

It has been the uniform custom and practice of Congress to grant lands to individuals, corporations, and States, in great and small quantities, from the foundation of this Government up to the present time. The right, it seems to me, cannot now be questioned, for it has been sanctioned, I think, by every President who has had the honor of a seat in the Executive chair, from President Washington down to President Fillmore. Each and all have signed bills granting lands to individuals, corporations, or States.

My friend from Maine [Mr. FULLER] seems to think that we are going to run out of lands some of these days—that the time is coming on when we shall have no public lands whatever. In looking through the vista of time, I cannot, aided even by fancy, reach the point when this Government will be without public lands. I venture the prediction, that while these States are bound together, and we have a Government, we shall have more public lands than would furnish homes for all of our people. If, like Rome, and some other ancient Governments that have preceded us, we shall become so dissolute and so corrupt as to be overthrown, then, as a matter of course, land, liberty, and all that is dear to us, will go together. But while the States continue united, and while ours is a free, independent, and republican Government, we shall not only have lands, but we shall have more lands than we can settle. It was Lorenzo Dow, or some one else, who, speaking of the great desire of an acquaintance to increase his lands, said, if the individual owned the whole world he would want a small piece outside for a potato patch. It seems to me that that desire would be about as rational as the desire of my friend from Maine, [Mr. FULLER,] who maintains that we should not pass this bill granting these lands, because, forsooth, some day or other we should need them. I am one of those who believe that this is to be an ocean-bound Republic. I am one of those who believe, if we remain a free and independent people, that we are to occupy this whole continent. How was it in regard to Mexico? Is it not known that at the close of our war with that people, many of them desired to be annexed to this country, and have our laws extended over Mexico? How is it at this moment with that country? Do we not all know that our difficulty is rather in keeping these Mexican States away from us, than in attracting them to us? Is it not manifest that quite as soon as our population shall be prepared for it, and perhaps much sooner, the feeble Government of Mexico will totter to its fall, and drop like a ripe pear into our lap? It will devolve upon us the responsibility either of placing it under our own jurisdiction and government, or of seeing that it does not pass into improper hands. It is impossible that it shall maintain itself much longer.

We were told a few days ago by the honorable gentleman from Pennsylvania, [Mr. CHANDLER,] to whose remarks I listened with the most profound pleasure and to whom I return my thanks for his able and instructive speech, that we have upwards of an acre and a half of land for every human being upon the face of the globe. It is estimated that the globe contains between nine and ten hundred millions of souls, and this Government now owns between fourteen and fifteen hundred millions of acres of land, to say nothing of the hundreds of millions of acres of land in the old States owned by individuals; thus it will be seen that the time is not near at hand when we shall be in need of elbow room on this continent.

Then, so far as my friend from Maine, [Mr. FULLER,] or my friend from New York, [Mr. JENKINS,] is concerned, or any others who may enter-

tain fears in regard to a scarcity of land in this country owned by this Government, I beg them to dismiss all fears upon that subject, because they are entirely groundless. One word more in regard to the speech of my friend from Pennsylvania, [Mr. CHANDLER.] He saw the true point in this case. We are now receiving in this country, from 250,000 to 400,000 emigrants per annum. The tide of incoming population is rapidly increasing. He had read in the British prints that it was a part of the policy of Great Britain to rid herself of the Celtic population in Ireland, and he had perceived that our cities must be so crowded with this population, as to produce great inconvenience. He had seen with the eye of a statesman that this population must be disposed of in some way or other, and not be pent up in the confines and purlieus of cities where they would soon become vicious, if they were not so already. It is but the part of wisdom and far-seeing statesmanship to provide means of transportation and to send these people into the rural districts of this country, where they may enter upon the new lands, the virgin soil of the West, Southwest, and Northwest, and where they would be out of the way of many temptations to crime, and where by the sweat of their brows they can make a living. This would be not only beneficial to the cities themselves, but it is of the utmost importance to our emigrant population.

While I have voted land bounties to our soldiers whenever these bills have come up, I may be permitted here to say, that this measure is more salutary and more beneficent in its effects and operation than any bounty land bill which has ever passed this House. The bounty land bill receives more votes—and why? Because it affects all the States, and because the citizens of all the States feel a direct interest in it. When they obtain land warrants, they sell them, and the money is appropriated by them to serve their wants and supply the necessities of life. Those land warrants are very frequently located by the speculator, who holds them until the adjacent lands have been cultivated and improved, and thereby imparted value to his. But in this case it is different. You require the one who receives the benefits of this bill to locate upon the land, and remain there five years; and I ask you whether five years' probation on wild lands, where the occupant is subject to the privations incident to a new country, is not equal to a three months' campaign?

We are told by some that they are apprehensive, if this bill should pass, that there will be a rush from the old States to the new States—a kind of general stampede in the direction of the western and north and southwestern portions of this country. That will not be the case, however. In the first place, there are a great many individuals who are attached to home, kindred, and the fireside of their youth. This is a strong feeling of the human heart, and one, too, which is not so readily relinquished. This feeling alone will prevent many from quitting the home of their youth. Those who are able to purchase will not select a tract of land in this new wilderness country, but will prefer to buy a home of their choice land, that has been improved by the erection of comfortable houses, and other conveniences, rather than take one not of their choice, and remain on it five years before perfecting their title.

There is still another class that will not avail themselves of this bill; they are such as are too poor to find means to pay the expense of emigrating from the older to the new States, and of settling on these lands; therefore those persons can not go. When, then, you come to make the calculation, you will find that those not now residents of the new States, who will secure to themselves the benefits of this bill, will be generally of the middle, or rather not of the very poorest class, and that the number will not be so large by a great deal as is anticipated by some gentlemen. The man who is too poor to purchase land, but who has means to defray traveling expenses, will go and select him a home under this bill, improve the land and obtain a patent for it at the end of five years; but the man who is too poor to reach the lands cannot, of course, enjoy their benefits, for though “the waters are troubled, he cannot step in.”

I have heard it suggested by some of my friends from the older States, that if this bill shall become a law, it will put an end, now and forever, to all

revenue from the public lands; and by others, that it disjointed and discontinued the surveys of the public lands. If that were the case, much as I am in favor of this bill, I should be reluctant to vote for it, because I regard our present system of land surveys as one of the most perfect ever devised by the wit of man. I would not for anything break it up, and have ourselves thrown back into that confusion of land titles which has been witnessed in the State of Kentucky, and in other States of this Union, where our present model system of land surveys has not obtained. I repeat, that I would not be willing, upon any reasonable terms, to return to that old system so fruitful of lawsuits and so fraught with evil to the community. Such is not, however, the operation of this bill. But gentlemen ask, "Do you think that the Government will pay the expense of these surveys of the public lands, and derive no benefit from the sales?" Not at all. I do not expect any such thing. But I do expect the Government to bear the expense of these surveys, and derive about the same revenue as is now derived from the land sales. How do I prove it? In this way, sir. When, in 1846 and 1850, the bounty land bills of those two years became laws, we all know that the same cry went forth of "no more revenue from the public lands." But was that the effect? Was that prediction verified by the result? Certainly not. The land sales went on as usual, and though they were not as large as in the years 1835, '36, and '37, when we were cursed with an inflated paper currency, yet they ran up about to the average sales in those years when the currency was in a healthy condition. And the reason of this is, that the man who to-day makes a location on Government land, and in five years receives his patent for it, will purchase other lands for himself and his children, just as soon as he accumulates funds enough to accomplish it. And if he can collect together sufficient money even before he obtains his patent, he will purchase the land around him. There is a desire common to all mankind, and not less striking in the American than in the European character, to acquire title to land. This is one of the instincts of our nature, and men will drain their pockets of the last dollar to buy land. They will almost suffer, and let their families suffer for want of the common necessities of life, in order that they may accumulate land for their children. Such will continue to be the case when this bill is passed, and my word for it the receipts from land sales will continue, and we shall see repeated the results of 1846 and 1850, granting military bounty land warrants to our soldiers; it will not materially diminish the receipts of the land office from the sales of the public lands. It may do it to some extent, but not so much as is anticipated.

Now, my friend from New York, [Mr. JENKINS],—and the same remark has been made by two or three gentlemen—referred to the receipts in 1835, '36, and '37, as a criterion in estimating these land sales. But that is no safe criterion at all. Those exorbitant sales of lands were produced by an inflated paper currency, which flooded the whole country, and resulted not only in bankruptcy to the people of the land States, but also to those of the manufacturing and mercantile sections of the Union. I believe that the land sales ran up to something like forty millions of dollars in two years, in those times. But that is no criterion whatever. That was one of those great monetary expansions superinducing a crisis that bankrupted the greater portion of those who had been engaged in speculation. Under the healthy operation of our land system, the land sales in this country have yielded not far from two millions of dollars a year.

I believe it was the honorable gentleman from New York [Mr. SUTHERLAND] who undertook to prove by figures—and I do not at all question his proof—that one million of acres a year had been, in times past, about the amount required in this country for actual settlement. Well, now, gentlemen, by a little calculation, can see how long it would take, at the rate of one million of acres a year, to exhaust the fourteen hundred millions of acres of land that this Government owns. And then there would have to be an abatement from that amount of the lands which would be purchased by those who would prefer to select and pay for a home of their choice, rather than to be under the necessity of occupying land five years before perfecting their titles.

Mr. Chairman, this is a bill which appeals

directly to the human heart, and awakens the best feelings of our nature. It is a bill which says to the landless, and homeless, and houseless, who are tenants to others, You shall have a home, to be won and earned by your own perseverance and industry. You have but to locate upon the lands of this Government, and after remaining there faithfully for the term of five years, you shall receive a patent, and then you will feel that you are one of the lords of the soil—that you are an American citizen, and have a home to live upon.

Gentlemen have compared the objects of this bill to the provisions made by the French Government, and by other Governments, to furnish labor and support to their needy citizens. Sir, there is no resemblance whatever between them. Our pension system is much more analogous. This bill does not propose to furnish bread to the breadless, or meat to the hungry, but it says to all such, "There is the land of the Government. Go upon it and work, and make a living for yourself." It stimulates industry. It says to the man who is without a home: "There is a home for you. There is a place where, by industry and by work, you can make a living, and secure an independence for yourself and your family." Instead of furnishing meat and bread to the hungry, to the idle, the lazy, and the loafer, they are each told to earn their living by the sweat of their brow, and are pointed to the land on which it can be done. We thus offer an additional admonition, and furnish an additional stimulant to our people to go and earn a livelihood by honest industry. The opponents of this mode of granting land insist that it is a gratuity or charity, which I think is clearly not the case. If their premises are wrong, the force of their deductions from these premises will be destroyed. It is no charity, because there is reciprocity in the agreement; there are mutual understandings or covenants between parties competent to contract, by which corresponding rights are acquired, and obligations imposed.

The Government virtually says to one of her citizens: I have a wide domain of public lands, and desire their settlement; do you go and select a tract of one hundred and sixty acres, and as a condition precedent reside on it for five consecutive years, and I will grant you a title in fee simple; which proposition the citizen accepts; and when he complies with the condition precedent, that being the consideration on his part, then, and not till then, is he entitled to a patent.

The same thing is done by private individuals and companies owning town sites on large tracts of wild lands. They make grants for the purpose of inducing settlement and improvement, and regard themselves as benefited by the operation. These undertakings are regarded as mutually beneficial to the parties concerned, and such will be the effect of these grants by the Government. When a farm is made on a tract of land, we all know that it brings into market the neighboring lands. The one follows the other, as certainly as effect follows its cause in any other instance. The Government has those lands. What can she do with them better than to have them settled by hardy and industrious farmers? What other use, indeed, has she for them? None that I can conceive of. The farmers who would occupy these lands must of necessity augment the exports and imports of the country, increase the revenue from duties, give employment to seamen, manufacturers, citizens, and indeed the products of their labor would be felt in all the ramifications of life.

I indorse all that has been said by the friends of this bill in regard to its efficacy in transforming the same community into better citizens; it will elevate their character, make them feel that they have a stake in the country, and awaken in their hearts an imperishable love of, and attachment to, their homes. It will nerve the arm of the soldier in the hour of peril; and though all cannot say, "This is my own, my native land," yet the emigrant in our midst will feel that in consequence of the bounty of our Government, the home of his adoption is more dear to him than the land of his nativity.

In the year 1795, during the administration of General Washington, and near its close, the following bill was passed, granting land to the French inhabitants of Gallipolis, and approved by him on the 3d of March of that year:

"SEC. 4. And be it further enacted, That the President

of the United States shall be, and he is hereby, authorized and empowered to cause to be surveyed, laid off, and divided, the remaining 20,000 acres of land, residue of the 24,000 acres, into as many lots, or parts, as the actual settlers of Gallipolis shall on ascertainment aforesaid amount to, and the same to be designated, marked, and numbered on a plat thereof, to be returned to the Secretary of the said Territory, together with a certificate of the courses of the said lots, the said lots or parts of the aforesaid tract, to be assigned to the settlers aforesaid by lot. And the President of the United States is hereby authorized and empowered to issue letters patent as aforesaid, to the said actual settlers and their heirs, for the said 20,000 acres, to be held by them in severality in lots to be designated and described by their numbers on the plat aforesaid, with condition in the same letters patent, that if one or more of the said grantees, his or her assignees, shall not, within five years from the date of the same letters, make or cause and procure to be made an actual settlement on the lot or lots assigned to him, her, or they, and the same continue for five years thereafter, that then the said letters patent, so far as concerns the said lot or lots not settled and continued to be settled as aforesaid, shall cease and determine, and the title thereof shall revert in the United States, in the same manner as if this law had not passed."

The Gallipolis act, it will be perceived, grants the title prior to the expiration of the term of five years' occupation and settlement, whilst the bill now under consideration requires the five years' occupation to be complied with as a condition precedent; otherwise the measures are very much the same in principle.

Arkansas grants her public lands that have been forfeited to the State for taxes to actual settlers, for the purpose of inducing immigration. Texas has offered similar inducements to immigrants. This Government has held out similar inducements to persons who would emigrate to Oregon.

Now, let us look for a moment at the system which has been adopted by some of the other States. Take, for example, Kentucky. That State became the owner of large tracts of public land. She reduced the price to a mere nominal amount, in some instances as low as twelve and a half cents per acre. And what has been the result of it? Has it been, as my friend from Maine [Mr. FULLER] seemed to anticipate, that the country would be settled by loafers and idlers, such as they have in Canada? Not so. The result has been that Jackson's purchase, in the southern part of Kentucky, represented now for some fourteen years on this floor by the Speaker, (the Hon. LINN BORN, of Kentucky,) has been settled by worthy, intelligent, and enterprising people; who, though poor at first, are gradually becoming wealthy, and that country is rapidly growing and improving; and the passing traveler is astonished at the growth of its towns and cities, and the number and extent of its farms. Look at the State of Georgia. By an arrangement between that State and the General Government it was agreed that the latter should extinguish the Indian title to a large tract of land known as the Cherokee country; and what was the policy of that State? It was a wise policy—the same as that adopted in parceling out the lands at Gallipolis. She determined to give that land to her citizens without charge, and she proceeded by lottery to decide the tract that each one should receive. This being done, the title was at once perfected, without requiring previous settlement on the land.

What has been the result? Has it been to people the Cherokee country with a set of loafers and loungers, whose only object was to obtain a title to the land and then dispose of it as has been supposed would be the operation under this bill by my friend from Maine? Not so. I will venture to say that there is not in any one portion of that Empire State of the South, nor is there in any portion of the whole country, a more enterprising, industrious, and thrifty people than is to be found in the Cherokee country, in Georgia. A few years since that was an Indian country, but it now contains perhaps one third of the population of that State.

It is not necessary for our friends to seek for examples drawn from Canada, Great Britain, or any other foreign Government. Let them rather come home to our own country, and profit by the examples of such of our States as have practiced upon this policy. I hold, sir, that the plan of this bill is better, if possible, than that carried out by the State of Georgia, or that adopted in regard to the grant to inhabitants of Gallipolis; because in the State of Georgia the settler was not required to remain upon the land for any length of time in order to secure his title. This, I regard as a most essential feature. By the provisions of this bill, the settler is not only required actually to take



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possession, but he must live upon the land for five years in order to secure his title. In that time he will have made many improvements—his cabin will have been built—his fields will have been cultivated, and he will have erected many monuments about his home which he will cherish, and with which he will not willingly part.

Some gentlemen have said that all those who acquire land under this bill will sell it as soon as they once obtain the patent, or that they will squander it away. That may be done in some cases, because in all countries there is a certain portion of the population who are thriftless and who cannot hold what they possess. But there will be many others, and probably much the largest portion, who, when they obtain their titles, will remain upon the land until the day of their death, who will die in the house they have built, and will leave a home and land as an heritage to their children.

Now, Mr. Speaker, there may be some gentlemen in this Hall who suppose I am in favor of giving these grants of land to everybody who would ask for a patent for them. I tell those gentlemen, that when this bill comes to pass the ordeal of amendment before the committee, I propose to scan it closely, and guard it at every point. I shall call to my aid the light furnished by twenty years' experience and observation in the land States, to aid me in securing to the actual settler, the industrious man, the benefits of this bounty, and exclude therefrom the mere speculator and the idle loafer. I propose so to guard it that no one shall obtain a patent for a tract of land under this bill, who shall not live upon it in good faith the length of time required, and that, too, with the intention of becoming a citizen. I propose so to amend it that loafers and loungers, and worthless fellows, who are men of straw in the hands of others, and operate for their benefit, and who do not in good faith seek to obtain the land for the purpose of settlement, shall not profit by their frauds, nor shall those who employ them. But rather that the benefits of this bill shall inure to all such as really need a home for themselves and family, and are willing to secure it by honestly complying with the provisions of the law during the probationary period of five years. No occupation of the land by proxy should give even color of claim to title. When you bestow land upon the man who will till the soil, and who will erect his log cabin upon it, you plant there a citizen, who, when your country is invaded by a foreign foe, will bare his breast in its defense.

It would not surprise any one if the sons of those men who would receive land from the bounty of the Government under this bill, should rise to eminence in all the pursuits of life, and cause their influence to be felt in either end of the Capitol. Why, sir, if I am not mistaken, there are men in this House, whose fathers never owned an acre of land in their lives; men from the walks of poverty, who have struggled against adversity and trial, and have come up to fill offices of the highest honor and profit. When I hear my friends speaking of this class of people as being undeserving and worthless, I have only to ask them to look at the history of mankind. Look at the history of families and of men in this country, and you will discover that here, where the laws of primogeniture and entail do not obtain—where property does not of necessity descend in families from generation to generation—that lands, and fortune, and honors too, are passing from those who enjoyed them in one generation, to their overseers, their tenants, employees, and their descendants the next. [Here the hammer fell.]

Mr. BOWIE obtained the floor, but yielded it to Mr. HUNTER, who moved that the committee rise.

The question was put, and agreed to—ayes 48, noes 21.

Mr. COBB. A very large amount of business has accumulated upon the Speaker's table, as the House well knows. If it is in order, I therefore move that we do now proceed to the business on the Speaker's table.

Mr. CARTTER. I rise to a privileged question. I move that the House do now adjourn.

The SPEAKER. The gentleman from Ohio, [Mr. CARTTER] cannot take the floor from the gentleman from Alabama, [Mr. COBB], to make that motion.

Mr. COBB. I then insist upon my motion.

The SPEAKER. The motion can be entertained by unanimous consent.

Objection was made, and the motion was not entertained.

Mr. HALL. I reported a bill some weeks ago granting the right of way and making a grant of land to the State of Missouri, to aid in the construction of certain railroads in that State, which was referred to the Committee of the Whole on the state of the Union; but, through inadvertence in making the motion, it was not ordered to be printed. I ask that the bill may be ordered to be printed.

No objection being made, it was so ordered.

Mr. MOORE, of Pennsylvania, by unanimous consent, presented the memorial of 1,522 citizens of the city of Philadelphia, and of Philadelphia county, in favor of granting lands to actual settlers; which was referred to the Committee on Public Lands.

Mr. FOWLER. I ask the consent of the House to present a bill, of which previous notice has been given, for the purpose of having it referred.

Mr. JONES, of Tennessee. I object. It is evident, from the last vote taken, that there is no quorum present. I move that the House do now adjourn.

The motion was agreed to, and the House adjourned till Monday next.

## PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. STANTON, of Ohio: The petition of 118 citizens of New York, in favor of Whitney's railroad to the Pacific.

By Mr. McNAIR: The resolutions of the Legislature of the State of Pennsylvania, in relation to a canal around the falls in the Ohio river.

Also, the resolutions of the Legislature of the State of Pennsylvania, against the extension of the Woodworth patent for a planing machine.

By Mr. MACE: The petition of Elias Shoemaker, asking to be placed on the pension list.

By Mr. PEASLEE: The petition of Beniah Dove, for a pension.

By Mr. HASCALL: The petition and accompanying documents of Mary Stanton, widow of General Phineas Stanton, deceased, praying that a pension may be granted to her on account of wounds received by her deceased husband in the war of 1812.

By Mr. HARPER: The petition of the Mayor and Council, and of the Board of Trade of the city of Zanesville, praying the construction of a canal on the Indiana side of the Ohio river at the falls.

By Mr. CHASTAIN: The memorial of Thomas Towers, of South Carolina, praying Congress to remunerate him for a wagon and team, pressed into the colonial service in the war of the Revolution, in the year 1780.

By Mr. MOORE, of Louisiana: The petition of Robert M. Cooke and 127 other citizens of Cudd's Parish, Louisiana, praying that a post road from Greenwood, Louisiana, to Boston, Texas, by Cooke's Store (Capon) and — ferry, be established.

By Mr. CHANDLER: The memorial, most numerous signed, by citizens of Philadelphia, asking for the passage of a homestead bill.

## IN SENATE.

MONDAY, April 26, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Treasury Department, in compliance with a resolution of the Senate of the 14th instant, in relation to the character of the discriminating duties exacted on the tonnage of the United States entering the ports of Cuba and Porto Rico, at the time and subsequent to the acts of Congress approved July 13, 1832, and 30th June, 1834; which was read, and referred to the Committee on Commerce.

Also, a report of the Secretary of the Treasury, in answer to a resolution of the Senate calling for information in relation to contracts for the erection

of light-houses on the coast of the Pacific ocean; which was read, referred to the Committee on Commerce, and ordered to be printed.

## PETITIONS, ETC.

Mr. SEWARD. I am instructed by the Legislature of the State of New York to submit certain joint resolutions. I ask that they may be read.

The Secretary read them. They are in favor of an appropriation for the construction of a ship canal around the Falls of the St. Ste. Marie.

Mr. SEWARD. In submitting these resolutions, I desire leave to say that I am proud of the catholic spirit and patriotism which inspired them; that I shall conform myself to the wishes of the Legislature of New York; and that I shall coöperate with the Representatives of Michigan, and all others who may take an interest in the matter, with alacrity and perseverance in securing the earliest possible achievement of so great and truly national a work as a canal around the Falls of St. Ste. Marie. I move that the resolutions be laid on the table and printed.

The motion was agreed to.

Mr. SEWARD. I am also requested to present the petition of citizens of the State of New York, embracing a large number of the members of the Legislature of that State, praying that a contract may be entered into with the Irish and American Steamship Company, for the transportation of the mails between the United States and Ireland.

I regard this, sir, as a most important postal and commercial enterprise, which, on some future occasion, I shall be happy to explain and defend. In the mean time, I beg leave to commend it to the present favorable consideration of the Committee on the Post Office and Post Roads, to which I move that it may be referred.

The motion was agreed to.

Mr. SEWARD also presented a petition of merchants and others, citizens of New York, praying that further aid may be extended to Collins's line of steamships; which was ordered to be laid on the table.

Also, two petitions of citizens of Albany, New York, praying that the bill giving further remedies to patentees may become a law; which were ordered to be laid on the table.

Also, a petition of the heirs-at-law of William Peters, deceased, an officer in the war of the Revolution, praying an allowance for the depreciation on commutation pay certificates; which was referred to the Committee on Revolutionary Claims.

Also, a petition of Louis Charette, praying the relief to which he was entitled under the treaties between the United States and the Ottawa and Ojibwa Indians, of 28th March, 1836, and 2d August, 1847; which was referred to the Committee on Indian Affairs.

Mr. JAMES presented the petition of John Williams, praying an increase of pension on account of wounds received in the late war with Mexico; which was referred to the Committee on Pensions.

Mr. HAMLIN submitted additional documents in relation to the claim of Lewis Allen; which were referred to the Committee on Commerce.

Mr. UNDERWOOD presented the memorial of George Stealey, praying compensation for his services, and remuneration of expenses, while on a mission to the Indian tribes in the northern portion of the State of California, under the authority of the Indian Commissioners of that State; which was referred to the Committee on Indian Affairs.

Mr. HUNTER presented the petition of the heirs of Everard Meade, praying an allowance for the depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Mr. SUMNER presented a petition of citizens of Chelsea, Massachusetts, praying the establishment of a system of cheap ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS presented the petition of H. H. Stevens, praying authority to import free of duty, machinery to be used in the manufacture of linen goods; which was referred to the Committee on Finance.

Mr. WALKER presented a memorial of the Legislature of Wisconsin, praying a grant of land to aid in the improvement of the Wisconsin river between Fort Winnebago and the Beaulieu Rapids; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. FELCH submitted additional documents in relation to the claim of Sylvanus Culver; which were referred to the Committee on Public Lands.

#### PUBLIC LANDS.

Mr. WALKER. I have a petition in my hand, which measures fifty-two feet in length, and is signed about as closely throughout as it may be seen to be here at the commencement, praying that Congress may take such steps, and adopt such measures, as will throw open the public lands to free settlement by actual occupants. At a very early day in this session I had the honor of introducing a bill into the Senate upon this subject, which was referred to the Committee on the Public Lands. It was before that committee during the last Congress, and was then reported upon adversely. I have not heard from the bill since it went to the committee at this session; but I know the industry of that committee, and I know that it has a great deal to do, for it has before it many subjects of weighty importance. I had hoped, however, that we might have had a report on the bill which I had the honor to present, one way or the other, either favorably or adversely, before this time; and I am still in hopes that, notwithstanding the committee has been so fully occupied, they may do so at an early day. This subject is growing in importance before the country, and I believe I can say for one—having, perhaps, as intimate, if not a more intimate, knowledge upon this subject—having, perhaps, more correspondence than any other individual in the Senate in relation to it—that it is not looked upon as a matter of so great importance, perhaps, by the Committee on Public Lands as it is by those whom we represent throughout the country. I will ask that this petition also be referred to the Committee on Public Lands. It is signed by a number of thousand people in the city and county of Philadelphia, and I hope it may be considered promptly by the committee, and that we may have a report upon it as early a day as practicable.

The memorial was referred to the Committee on Public Lands.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SEBASTIAN, it was

Ordered, That the report of the Secretary of War and the accompanying papers, on the files of the Senate, relating to the claims of certain friendly Seminole Indians for military services in the Florida war, be referred to the Committee on Indian Affairs.

On motion by Mr. BRODHEAD, it was

Ordered, That Robert Dickey have leave to withdraw his petition and papers.

#### REPORTS FROM STANDING COMMITTEES.

Mr. CLEMENS, from the Committee on Private Land Claims, to which was referred the petition of the heirs of Wolcott Lawrence, late of Monroe, Michigan, deceased, praying remuneration for lands improperly sold to him by the General Government, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. DAVIS, from the Committee on Private Land Claims, to which was referred the bill from the House of Representatives for the relief of the heirs of Semoice, a friendly Creek Indian, reported it back without amendment.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the petition of Rosanna Sowards, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the petition of C. Hansen, of Brooklyn, New York, praying that a contract may be entered into with him for carrying the mail by steamers between the city of Brooklyn and Gluckstadt, Holstein, for the term of ten years, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which

was referred the bill for the relief of William Richardson and others, asked to be discharged from the further consideration thereof, inasmuch as the claim has been adjusted under existing laws; which was agreed to.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of James A. Fawns, reported it back without amendment.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of Monmouth B. Hart, Joel Celley, and William Close, securities for the late Benjamin F. Hart, a purser in the United States Navy, reported it back without amendment.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to which was referred the petition of Isaac Houston, reported a resolution for his relief; which was read and passed to the second reading.

It simply provides for the payment of \$47 05, being a balance due under a contract for carrying the mails on a route embracing parts of the States of Iowa and Missouri, during portions of the years 1848 and 1849. At the request of Mr. Rusk, it was read a second time, and considered as in Committee of the Whole. No amendment being made, it was reported to the Senate, and ordered to be engrossed for a third reading.

#### NOTICE OF A BILL.

Mr. SUMNER gave notice of his intention to ask leave to introduce "a bill to enforce liens in admiralty, and to regulate proceedings therein."

#### TEMPLE'S MEMOIR.

Mr. BELL submitted the following resolution for consideration:

Resolved, That the Secretary of the Navy be requested to furnish the Senate with a copy of a memoir of the landing of the United States troops at Vera Cruz in 1847, by Lieutenant Granville Temple, with an appendix, containing the written orders of General Scott and Commodore Connor, on file in the Navy Department.

#### REV. CHARLES L. BRACE.

Mr. CASS submitted the following resolution for consideration:

Resolved, That the President of the United States be requested to transmit to the Senate, so far as may be compatible with the public interest, a copy of the correspondence of the American Chargé at Vienna, with the Department of State, on the subject of the apprehension and imprisonment by the Austrian authorities of the Rev. Charles L. Brace, an American citizen.

#### MEXICAN REFUSAL OF TOBACCO PERMITS.

Mr. RUSK submitted the following resolution for consideration:

Resolved, That the President of the United States be requested to lay before the Senate the proofs upon file in the State Department, submitted by Turner and Penschaw, of the city of New Orleans, in relation to the refusal of the Mexican Government to grant guias or permits to take into the interior for sale certain lots of tobacco imported into Mexico prior to the treaty of Guadalupe Hidalgo.

#### CONTRACTS FOR MAILS.

A motion by Mr. RUSK that fifteen hundred additional copies of the reports of the Secretary of the Navy and the Postmaster General in relation to the contracts for carrying the mails by steamships between New York and California, communicated the 23d, 25th, and 26th of March last, be printed for the use of the Senate, was referred to the Committee on Printing.

#### BILLS PASSED.

The following engrossed bills and joint resolution were severally read a third time and passed: Joint resolution for the relief of Alexander Y. P. Garnett;

Bill for the relief of George G. Bishop, and the legal representatives of John Arnold, deceased;

Bill for the relief of Jacob Young;

Bill for the relief of Margaret Farrar;

Bill authorizing the legal representatives of Antoine Vasquez, Joseph Vasquez, and John Colligan to enter certain lands in Missouri;

Bill for the relief of Martin Fenwick or his legal representatives; the title of which was amended on motion by Mr. Downs;

Bill for the relief of David P. Weeks;

Joint resolution for the relief of the heirs of Joseph Cordurey;

Bill for the relief of James Glynn;

Bill for the relief of Thompson Hutchinson;

Bill for the relief of Elizabeth Jones and the other children, if any, of John Carr;

Bill for the relief of the heirs of the late Major Thomas Noel, United States Army;

Bill for the relief of Don B. Juan Domercq, a Spanish subject; and a

Bill for the relief of Charles G. Hunter.

#### URSULA E. COBB.

On motion by Mr. BADGER, the vote on ordering the bill for the relief of Ursula E. Cobb to be engrossed and read a third time was reconsidered. Since that vote was given, an error has been discovered which will render an amendment necessary.

#### REPRESENTATIVES OF T. D. ANDERSON.

The bill for the relief of the representatives of Thomas D. Anderson, deceased, late Consul of the United States at Tripoli, was read a second time and considered as in Committee of the Whole.

On motion by Mr. UNDERWOOD, it was

Ordered, That it be recommitted to the Committee on Foreign Relations.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed a bill entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys to the General Land Office."

#### JAPAN EXPEDITION.

Mr. BORLAND. I desire to give notice to the Senate that on Wednesday of this week I shall ask the Senate to take up for consideration the resolution which I had the honor to offer some time ago on the subject of the expedition to Japan. I give notice of it for the reason, that some week or so since I stated that I should let it lie, without asking for it to be taken up, in consequence of the wish of some Senators to bring the subject before the Senate in Executive session. The considerations in regard to that have ceased to exist; and I shall on Wednesday, in accordance with the views of several other Senators besides myself, ask the Senate to take it up for consideration.

#### SCHOOL LAND IN MISSISSIPPI.

The following bill from the House of Representatives was read a first and second time by its title, and referred to the Committee on Public Lands:

An act to authorize the Legislature of the State of Mississippi to sell the lands heretofore appropriated for the use of schools in that State, and to ratify and approve the sales already made.

#### PUBLIC LANDS IN ARKANSAS.

A bill from the House of Representatives, to release from reservation and restore to the mass of the public lands certain lands in the State of Arkansas, was read a first and second time.

Mr. HUNTER. I move to refer it to the Committee on Public Lands.

Mr. SEBASTIAN. There is no earthly necessity for doing that. A bill of precisely similar import to, and almost a literal copy of this, was introduced by me early in the session, and referred to the Committee on Public Lands; which reported favorably upon it. It is simply a bill to release from reservation the small remnant of military lands yet remaining undisposed of in the State of Arkansas; and it possesses that rare virtue of tendency to bring money into the Treasury, rather than voting an appropriation out of it. As the matter has received the full consideration of the committee, there is no necessity for its reference. Under these circumstances, I conceive there can be no objection to its immediate consideration. I ask that the bill, without reference, may be acted upon now.

Mr. HUNTER. I withdraw the motion to refer.

Mr. FELCH. I would inquire of the Senator whether the bill from the House is precisely the same as that reported from the Committee on Public Lands?

Mr. SEBASTIAN. It is the same in substance.

The Senate proceeded, as in Committee of the Whole, to consider the bill. It enacts that the several tracts of land in the State of Arkansas heretofore reserved for the satisfaction of military bounties under the law of 1812, and which now remain undisposed of, shall be released from such reservations, and restored to the mass of the public lands, to be disposed of in the same manner as any

other public lands; provided that the person who may, at the date of the act, be an actual settler on any one of said tracts, and who, but for the reservation thereof, might have claimed the right of preemption thereto under the act of September 4, 1841, shall be authorized to enter the same, or any subdivision thereof, upon making proof of said right, and paying the minimum price per acre, within a year after the passage of the act, or prior to the day fixed for the public sale of the tract. It enacts, further, that all the sales of said lands, or locations thereof by military warrants, other than those of the war of 1812, which have been inadvertently permitted to be made, and which are in all other respects fair and regular, except as embracing the reserved lands not offered at public sale, shall be confirmed, and the patents thereon which have been issued shall be as legal and valid as if said lands had been released from reservation, and offered at public sale prior to such sales or locations; and that all said warrants which have not been satisfied may be located on any public lands subject to private entry at the time of the location of the same.

Mr. HUNTER. I would inquire of the Senator from Arkansas, whether this is not an extension of the preemption system?

Mr. SEBASTIAN. In reply to the question of the Senator from Virginia, I can say, that, as I understand the bill, it does not embrace the extension of the preemption system. It extends the present preemption system to a new class of lands, which would have been subject to preemption but for the fact, that they were reserved by the act of 1812 for the satisfaction of military land warrants. Those military land warrants have been satisfied almost to the full extent of those which are out; but, long since, by two acts of Congress heretofore passed, the claims to military land warrants, which were to have been satisfied out of this military reserved district, were converted into rights at large; and it was a mere omission of Congress at the time; it was what they should have done at the very moment the military land warrants were turned into rights at large, and located on the public lands of the United States that they did not release these lands at the same time from this reservation. In the mean time, however, settlements have been made upon the lands, and this bill merely gives to those persons the right of settlement in the same manner as if the lands had not been reserved during this time. It does not extend the preemption system, except to these particular lands; and it removes this one objection. Had they not been embraced within the technical reservation, they would have been subject to the right of preemption ever since 1840, but they have been, since that time, reserved for land warrants which have been satisfied and turned into rights at large, for the satisfaction of which this military district had been formerly set apart. The Senate, therefore, will see that there is no reason why the bill should not pass. There can arise no conflict except between the settler and the Government; and this bill proposes to give the right of preemption in precisely the same class of cases to which it would have extended, but for this technical reservation.

Mr. FELCH. There is one respect, I think, in which the bill which has been read, does extend the preemption right. The preemptor now has the right to make his entry of land at any time previous to public sale. This bill gives him the right to enter it at any time previous to public sale, or within one year after the passage of the act. In that respect, I think it does extend the time for making the entry.

Mr. SEBASTIAN. I think the Senator misapprehends the effect of the bill. The settler, is at all events to make proof of his preemption right, and enter the land within twelve months, or sooner if it is proclaimed for sale, and that is incident to all preemption rights under the general law. I so understand it.

Mr. FELCH. If that is the provision of the bill, it is in accordance with the present law. If the Senator would consent to strike out the words "within a year after the passage of this act," it would then correspond with the general law.

Mr. HUNTER. I hope the Senator from Arkansas will either make the bill conform to the present law or consent to refer it. I move to refer it to the Committee on Public Lands.

The motion was agreed to.

#### MONROE RAILROAD COMPANY.

The bill from the House of Representatives, for the relief of the Monroe Railroad Company and their sureties, was read a first time, and ordered to a second reading.

Mr. DAWSON. I would be pleased if the Senate would consent to consider the bill now.

The PRESIDENT. It requires unanimous consent to read it a second time now.

There being no objection, the bill was read a second time and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to cancel the several bonds given by the Monroe Railroad Company, for the duties on certain bars of railroad iron imported for the use of that company, at Savannah, in the State of Georgia, in the year 1841; and also to enter as "satisfied," the judgments which have been or may be obtained by the United States against said company, or their sureties on their bonds—the defendants paying the costs of the suits.

Mr. HUNTER. I would suggest to the Senator from Georgia that it would be better either to refer this bill to the Committee on Finance, or to let it lie over for a day. If he will give me a chance to examine it, I shall not press the reference.

Mr. DAWSON. Certainly.

The PRESIDENT. The bill is now before the Senate as in Committee of the Whole, and must be disposed of.

Mr. DAWSON. I asked that the bill might be considered, and passed at this time, because the court meets on Monday next—the first Monday in May.

Mr. HUNTER. I suppose that by general consent the bill can be informally passed over until to-morrow.

Mr. DAWSON. I have no objection to that course, but it is setting a bad precedent.

The PRESIDENT. The Chair would suggest, that as the bill is now in Committee of the Whole, it would be better to allow it to be reported to the Senate, and to be ordered to a third reading. If that course is pursued, the bill will come up to-morrow on its third reading.

Mr. HUNTER. I have no objection to that course.

The bill was reported to the Senate without amendment, and ordered to a third reading.

#### APPORTIONMENT BILL.

The bill supplementary to "An act providing for the taking the Seventh and subsequent Censuses of the United States, and to fix the number of the members of the House of Representatives, and to provide for their future apportionment among the several States," approved May 23, 1850, was read a third time and passed.

#### THE DEFICIENCY BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1852, the pending question being upon the amendment of the Senator from Arkansas, [Mr. BORLAND.]

Mr. BORLAND. I desire to make a slight modification in the amendment which I have offered. It is to add to the first section of the amendment the following proviso:

*Provided, That in no State shall the papers selected for the publication of the laws and public advertisements be less than two in number.*

Mr. HUNTER called for the reading of the amendment as modified; and it was accordingly read, as follows:

That the selection of newspapers for the publication of the laws of the United States shall, after the passage of this act, be made by the Secretary of State, as follows: The number selected shall be one in each Congressional district in each State—one in each Territory—and four in the District of Columbia. And the preference shall be given, in all cases, to the papers which at the time of selection shall have in the States or Territories respectively in which they are printed, the largest number of weekly subscribers; and to those in the District of Columbia which shall have at the time of selection, the largest number of weekly subscribers in the United States; the amount of such number of subscribers to be ascertained by the affidavit of the publishers respectively, and by such additional evidence as may be requisite to establish the facts in each case to the satisfaction of the postmaster at whose office such papers respectively commence their circulation. *Provided, That in no State shall the papers selected for the publication of the laws and public advertisements be less than two in number.*

*And be it further enacted, That when it shall be necessary to publish any public advertisements, except advertise-*

ments of lists of letters in any State, they shall be published in the two papers in said State having the largest number of subscribers, as provided in the preceding section of this act, for the publication of the laws, the amount of circulation to be ascertained in the same manner as provided in the preceding section aforesaid.

*And be it further enacted, That said public advertisements shall be published in the new-papers having the publication of the laws as aforesaid in the District of Columbia, and in the papers having the publication of said laws in the Territories, when and as often as may be deemed necessary.*

*And be it further enacted, That as soon as may be after the passage of this act, and at the beginning of the first session of every succeeding Congress, a copy of the list of newspapers selected, according to the terms of this act, for the publication of the laws of the United States, shall be communicated by the Secretary of State to the heads of the several Executive Departments, and to the Senate and House of Representatives respectively.*

*And be it further enacted, That the President shall cause to be communicated to the Senate and House of Representatives annually a list of all newspapers that shall have published by authority, during the next preceding year, any advertisement as aforesaid, with the names of the publishers, the place of publication, the nature of the work performed, and the amount paid to each publisher.*

*And be it further enacted, That all acts and parts of acts inconsistent with this act, be and they are hereby repealed.*

Mr. HUNTER. I would suggest to the Senator who moved this amendment, to modify it by striking out the word "weekly," so as to let the publication of the laws and advertisements be given to the paper which has the largest number of subscribers, without reference to the fact whether they are weekly or daily.

Mr. BORLAND. I have no particular desire that the publication should be limited to the weekly subscribers but for this reason, which I suggested when I offered the amendment the other day, that the daily circulation, or the tri-weekly circulation of a paper is of very little consequence for the circulation of the public advertisements and laws. The weekly edition of a paper is that which generally goes to all the readers throughout the country, where we desire the public advertisements and laws to be made known. It brings them to the fireside of every reader of a newspaper throughout the country. Those who reside in cities, and who take daily and tri-weekly papers, will certainly find in their papers all that would be put into the weekly papers, or they could get the weekly papers also. For that reason I have put in the weekly circulation. I have no particular desire, however, to limit it. I wish to give it to the papers having the largest circulation. But we know very well that the daily and tri-weekly papers do not circulate generally throughout the country.

Mr. HUNTER. If the Senator has no particular objection to it, the amendment would be much more acceptable to me by striking out the word "weekly," so that the publications may be given to the papers having the largest number of subscribers.

Mr. BORLAND. Before I decide upon that, I wish to call the attention of the Senator from Virginia to the fact, that it will limit the publication of the laws and public advertisements to the papers of the large cities, which circulate within the cities and very little beyond them. Under this modification, those papers, of course, would always command all this public work—the publication of these advertisements and the laws—although they might be limited in their circulation to the corporation limits of a city. If you take the daily editions of papers in large cities, they will monopolize these advertisements and the publication of the laws, and the laws and advertisements will not go into such general circulation as they would if they were published in the weekly editions of newspapers.

Mr. BADGER. Without referring at all to the general purpose of the amendment of the honorable Senator from Arkansas, which may be very correct, it seems to me that there are three objections to it; two to the form of the amendment as it stands, and a third to the proposition to introduce it at this time, and on this bill. The first of the two objections which I think apply to the amendment itself is, that the publication of the laws and the public advertisements, in one paper in every Congressional district in the United States, seems to me to be entirely unnecessary, for any purposes for which laws and advertisements are required to be made known. It will involve a considerable additional charge upon the Treasury, of which you know, sir, I should think, perhaps, as little as any gentleman in this body. But I object to it, not on account of the amount, but because it seems to me



it would be so much money entirely wasted. If the laws of the United States are published in two or three papers in each State, and I believe three is the present number—

Mr. COOPER. Two.

Mr. BADGER. By their publication in that number of papers every purpose is answered which the publication of the laws can accomplish. It is not necessary to have them printed in every little village newspaper. It is not necessary that every man in all the walks and conditions of life should read the laws that we pass here. It is sufficient that that amount of publicity is given to them which the present regulations require. We all know, that if there be particular bills which are interesting to particular portions of the country, they are at once transferred to the little papers and become known to everybody in the State who has any interest in them, or any desire to see them. That is the first objection.

The next is, the provision to which the Senator from Virginia has adverted, of determining the amount of circulation which shall entitle a paper, in this District or elsewhere, to the publication by the number of weekly papers issued. I do not understand the argument of the honorable Senator from Arkansas, that the advertisements do not find their way to those who may be interested in knowing them, through the daily and tri-weekly issues. I think they do, quite as much as through the weekly editions. It seems to me, therefore, that the amount of issues to entitle a paper to be allowed the privilege of publication, should include all the issues of the paper—daily, tri-weekly, and weekly.

In addition to these two objections, I do not see why the Senate should be called upon to consider this amendment on the present occasion. There is no necessity for it. It will have no operation now that it will not have if put upon one of the general appropriation bills. The arrangements for the publication of the laws are made in the winter for the coming year. The papers which are to publish the laws, which may be passed at this session of Congress, are not now to be designated. They are already designated. The Departments are in the habit of designating the papers to publish their advertisements at the commencement of the season. There is therefore no purpose to be accomplished by requiring this amendment to be considered now; and I would suggest that we should permit this matter to stand for the present. Let this amendment be laid over. If the Senator from Arkansas would be kind enough to withdraw it, we should have an opportunity of becoming familiar with its details; and let it be digested better, if it can be, and let it be put as an amendment on one of the appropriation bills. Every object will then be accomplished, while, at the same time, we shall have an opportunity of knowing, with accuracy and precision, what is the change we propose to make, and whether, on the whole, it will do good or not.

Mr. BORLAND. Mr. President, the Senator from North Carolina has at least brought a very formidable array of logic, for which he is, as we all know, distinguished, against this poor amendment of mine.

Mr. BADGER. I beg pardon. I was very far from calling this amendment of the Senator a poor amendment. I dare say it is a very good amendment.

Mr. BORLAND. I shall not attempt, as I should not be able, I apprehend, to make an argument, in detail, to meet all the objections of the honorable Senator. I thought the amendment so plain, and it was, to my mind, so obviously proper, that I could not think it required an argument, hardly an explanation, to commend it to the favor of the Senate. I really did think that it was one of those propositions so plain, that argument was not necessary to enforce it, but would, rather, impair its force. To my mind, it is a self-evident proposition. It is simply a proposition that we will fix, by law, the number of newspapers in the United States which shall be selected to lay before the people, who are interested in the laws under which they live, and the advertisement of their Government transactions, in a manner to inform the greatest number, by bringing them to every man's door, under every man's eye, and to every man's knowledge. That is the object of it. That is the object which it proposes in every one of its provisions.

It does not stop quite so short as that, however; that is, its intention is to go a step further, in the same general direction, and while it diffuses, better than has yet been done, this useful information among the people, to correct what I consider a very great abuse. I do not know whether it is known to the Senator from North Carolina, or whether the same thing is to be observed in his State, but I am sure it has been the observation of almost every other Senator who hears me now, that the publication of the laws and public advertisements is made use of as Executive patronage for political purposes, and to an extent which not only fails of the proper object of these publications, but is positively mischievous in its tendency. I know that in my State the publication of the laws and public advertisements is made use of as political patronage for political purposes upon a small scale, it is true, because the opportunities there are limited. But even there, it is brought to bear as a means of political party influence. I learn from other Senators that it is so in their States. I have reason to believe it is so in most of the States. I have gone to the Departments here, and have shown by statements of facts which they were bound to admit, that certain papers in my State had the largest circulation; and I have been told that papers of smaller circulation must have the publication as patronage, as political partisans—

Mr. BADGER. Political friends.

Mr. BORLAND. Although I could show that the paper which I named had twice or three times the circulation of the one having the publication of the laws and advertisements, no heed was given to the fact, and the publication was continued where it would reach the smallest, instead of the greatest number. That was what I meant the other day, when I said that the present practice gave any Administration power, to a considerable extent, to subsidize the public press. We know that such is the effect.

I wish I had full information on this subject to lay before the Senate now. I shall to-morrow offer a resolution of inquiry, which I am satisfied will bring to the attention of the Senate facts which no one can controvert, showing that these abuses have been practiced to a very great extent. I shall offer a resolution of inquiry, calling upon the different Departments to communicate to the Senate what has been in done in this way.

The Senator from North Carolina says, that, for all the purposes for which we publish the laws and public advertisements, the daily circulation of the newspapers will be sufficient. Why, if he considers it only necessary and proper that persons living in cities, or in their immediate vicinity, and who take daily papers, should know the laws, then I admit he is right.

Mr. BADGER. The Senator misunderstands me altogether. I think that every class of readers should have a fair and reasonable opportunity of seeing the laws and public advertisements; and I think, that by taking the largest circulation of a paper, including daily, tri-weekly, and weekly, you give that opportunity; but if you exclude those who take daily papers I know no reason for it. I do not see why they should not have an opportunity to see the laws and advertisements as others. So with regard to the readers of tri-weekly papers. Why, I ask, confine the enumeration to weekly papers, and exclude both daily and tri-weekly? Here, in this city, for instance, is the National Intelligencer, and here is the Union, both printed at the seat of Government. They have large lists of daily subscribers, and probably much larger lists of tri-weekly and weekly subscribers. By selecting such papers as these you reach every class of the community. That is what I meant to say.

Mr. BORLAND. If this provision excluded the publication from the daily or tri-weekly press, then there would be, I think, some force in the remarks of the Senator from North Carolina. But we know that in making up the weekly paper the matter contained in the daily paper is put into it.

Mr. BADGER. Those who take the daily do not take the weekly papers.

Mr. BORLAND. If these laws be published in the weekly, they will go, as a matter of course, into the daily papers, because we know that the practice of the publishers is to make up the weekly from matter of the daily papers. The weekly is a collection of the contents of the daily paper. In

that way we know that where these publications are made in the weekly papers, they will also be published in the daily papers. But the Senator from North Carolina must recollect, that in providing, under the present system, for the publication of the laws in the daily papers of Washington city, they are given not for the people at large, but for a class of population who have the information right before their eyes, in the daily publication of the proceedings of the two Houses of Congress. I want this for the benefit of the people at large, throughout the country, and in the country districts, not for the special benefit of persons congregated in the cities, who have the means of obtaining this information without looking into the newspapers for it.

The Senator says that this amendment is not in its proper place—that it ought to go upon another bill. I think it is too late to make objection to anything of this character coming into this bill. It has already been made an "omnibus." It is a general appropriation bill. It may be called a partial appropriation bill, but it is truly a general appropriation bill, as contradistinguished from a special appropriation bill. The proposition is therefore legitimately here as an amendment to this bill. Certainly a Senator who has gone for putting into this bill some provisions which are now in it, cannot object to this on the score of irrelevancy.

I know that a suggestion has been made that the effect of this amendment will be to give these publications to certain papers. I do not care to what papers they go, so that the publication in these papers will carry out the object of the amendment which is to spread the laws and public advertisements fairly and fully before the greatest number of people. If, as has been objected in some quarters, the effect of the amendment is to throw the publication of the public advertisements and laws into Abolition papers, I do not care. I am not giving it as patronage. But if there is any class of people, in my estimation, before whom, above all others, we should lay our laws, fully and fairly, so that their eyes shall rest upon them, from day to day, it is this very class of people, to whose organs, it is said, will be given the publication of the laws by this amendment. Perhaps, if they had before them the laws which we have passed here, in pursuance of constitutional authority, and which are binding, not only upon the actions but upon the consciences of good citizens, we should hear less about the "higher law" which is raised up for the purpose of interfering with the execution of the constitutional laws of the country. Let them have these publications, not as patronage to newspapers, but to inform their minds, enlighten their understandings, teach them their duties, and thus accomplish a great public good.

Before I sit down, I wish to remark, that if I had any doubt as to my own soundness upon the slavery question, or any thought that my standing at home was such as to subject me to the suspicion of a want of soundness upon it, I might have hesitated before offering this amendment; for I knew very well that the suggestion would be, as it has been made—not here, of course—that I was favoring the Abolitionists. But, sir, as I have no doubt of myself, so I have no fears of unjust suspicions among those to whom I am accountable for my conduct here. For that reason, if these publications do go into an Abolition paper, I have no objection. Not that I would give it patronage, but because I would make use of it as a vehicle for disseminating among the greatest number of the people a knowledge of the laws under which we all have to live.

Mr. BADGER. I wish to make a remark, and only one, in reference to a suggestion of the Senator from Arkansas, as to the great evils of the partiality which he has discovered in the administration of this patronage of the Government. We have not found those evils in North Carolina. Whenever the Democratic party has been in power, it has of course put this patronage in the hands of Democratic editors. Nobody had a right to complain of that. When the Whig party has been in power, it has had this printing done through papers friendly to its interests. But that was a matter which did not concern the object in view. Whether the laws and public advertisements were printed by Whig or Democratic papers did not concern the object. They were printed and circulated. That is what we have found to be the case in our State. And if there was in the

Senator's State some poor fellow who was struggling along with a small subscription list, endeavoring to do good in his vocation, but not having a sufficient number of subscribers adequately to support his paper, why, if it was not strictly justifiable to give him the publication of the laws, charity would induce one to pardon a friend for giving him a "lift" in that way, and helping him along in the good cause he was endeavoring to sustain. But in the State in which I live, we have found no difficulties of that kind.

The laws have been published, and every one has had a chance to read them, although they have not been published in a paper in every Congressional district in the State. I do not see any necessity for such a large publication. But my principal objection to this amendment is, that I think it ought to be looked into. There is no necessity for considering it now. It can have no present effect. These advertisements have already been given out. If we should pass some such amendment in one of the general appropriation bills, and give it such a shape as will answer the great ends in view, every object will be accomplished. The present arrangements exist for the year.

Mr. MANGUM. Mr. President, I am friendly to the general objects of this amendment, though I think it might be much improved. For instance, I feel very strongly the force of the objection made by my colleague, that publishing the laws in a newspaper in every Congressional district is wholly unnecessary; yet I coincide with the object of the amendment, which is to extend this information as generally as may be requisite. I think that the old practice of the Government was to give the publication of the laws and public advertisements to those papers in the respective States which were supposed to have the largest circulation. In truth, very few persons are much concerned in reading the laws, except professional gentlemen; and professional gentlemen will always have access to them through the papers of the largest circulation. I wish therefore to see the amendment modified in that respect. I think that, as it stands, it will create an unprofitable expenditure. I think that the publication of the laws and public advertisements ought to be given to those papers having the largest circulation, including daily, tri-weekly, semi-weekly, and weekly issues. If, in a daily paper, information can be communicated to certain communities better than in any other way, that is a matter easily stipulated for by the Secretary of State, who has control of this matter.

But I am in favor of the great principle at the foundation of this amendment. I am utterly unwilling to leave to any Administration, whether Whig or Democratic, the power of playing upon the press by this patronage, to have either beneficial or injurious influences. Let it be regulated by law, and that law, of course, will look to the widest extension and diffusion of this intelligence. These laws all reach the professional men, who are most interested in this knowledge; and if there be any peculiar laws that may be of much interest in any locality, they can be easily obtained, and would be obtained. My colleague suggested that they would be published in the local papers in the vicinity in which they were of interest. Perhaps that would be so.

I think it would be better to postpone this matter. If it should go over for a day, we could have a little more consideration on it. It would be more agreeable to me to have it laid over.

As to the idea of any irrelevancy or inpropriety in putting such an amendment into this bill, I suppose it is about as well here as anywhere. A great principle is, to regulate by law this whole matter of the printing of the laws and public advertisements. I desire that it should be regulated by law. I desire it as much under one Administration as another. I think it tends to a wholesome condition of the press, and to preserve its soundness and purity. I do not like to see small broken fragments of a loaf held up to tempt a man. I do not like to see a hand holding it up and waving it in the distance, tempting him to follow it. I am unwilling to see the press exposed to any temptation of that kind. When this matter is regulated by law, the press is not affected by it, because the actual status of a paper, in regard to its circulation, will either include or exclude it from the list of those publishing the laws and public advertisements.

I suppose the bill can hardly be disposed of to-

day; and I think it would be as well to withdraw the amendment for the present, or to let it lie over until to-morrow. I would like to consider its details. I really think that it is unnecessary to publish the laws in a newspaper in every congressional district,—not merely on account of the expense, but for other and additional reasons. For all the usual and necessary purposes, the object could be attained by a different course. I am decidedly in favor of asserting the great principle of leaving nothing to discretion, under our system, but what may be absolutely necessary for the public interest. I would regulate everything, as far as possible, by law.

Mr. HAMLIN. I rise to make a suggestion to the honorable Senator who offered the amendment. I find that, in the State of Maine, the public advertisements would, in accordance with the principle contained in the amendment, be published in a literary and in an agricultural paper. I believe that they are the papers published in the State which possess the largest aggregate circulation, whether daily, weekly, semi-weekly, or tri-weekly. The literary paper is furnished very much to lady readers; the agricultural paper principally to agricultural readers: they are therefore that class of papers which would not furnish the greatest amount of information to the public on any subject which the Government might find it necessary to advertise. In relation to the publication of the laws, I would add, that we have, in Maine, and I think there is in every State in New England, a paper that is designated the "State paper." In that paper the public advertisements and laws of the State are printed, and persons who do not subscribe to it, and are desirous of ascertaining what public advertisements of importance there may be, resort to it for information. I therefore suggest to the Senator from Arkansas—and I hope he will be ready to adopt the suggestion—that he will so modify his amendment as to include the "State paper," even though it should not have the largest circulation, in the number of those papers which are to publish the laws and the public advertisements.

If the matter goes over, I shall offer an amendment to that effect when it comes up again. I throw out the suggestion now, in order that the Senator from Arkansas and other honorable Senators may have time to reflect on it.

Mr. BORLAND. I have no disposition to press this matter this morning; though I thought it a proper time to have it considered. But as there are many Senators who have the same general object in view, and who think that object can be accomplished better by some modification, I have no objection to the postponement of the further consideration of the question for the present, that Senators may examine the subject further, and suggest some appropriate modification.

Several SENATORS. Withdraw the amendment.

Mr. BORLAND. If the Senate will permit me I will withdraw the amendment.

Mr. DAVIS. I wish to say that I concur in the request that this matter should be postponed for a short period of time. In this connection, I wish to throw out one or two suggestions for the consideration of the mover of this amendment. The proposition is, that those publishers who exhibit the greatest weekly subscriptions, shall have the publication of the laws. Now, there is oftentimes a daily press without a weekly subscription, though the paper has a large circulation. There are many daily papers which have no subscription at all, but depend upon their daily sale for their support. I believe that many papers which have the largest circulation, have no subscription at all. I do not know that it would be deemed necessary to advertise or publish in papers of that description, but I wish to present that fact for the consideration of Senators generally.

I think, too, there is a great deal in the suggestion made by the Senator from Maine. There are religious papers that have a large circulation. I have no objection that the laws should be published in them; and it may be very proper that they should. There are agricultural papers that have a very broad circulation, and they may be a very proper medium for sending the laws, perhaps the very best, because they circulate among persons of all political parties, and thus the objection with regard to the papers being of any peculiar political character, is overcome. Perhaps such papers furnish the best mode of circulating the laws.

But I wish to throw out another consideration. We had some years ago, in Massachusetts, a provision respecting the publication of the laws, which may commend itself to the Senate. There had been a little of this scrambling for the publication of the laws, or, as the Senator from North Carolina says, the little fragments of loaves which were held up before them. We then passed a law that all the papers in the Commonwealth might publish the laws if they chose, and a very moderate compensation was given for it. We said, if you wish to publish the laws for the proposed compensation, you may do it, and send forward the evidence that you have done it for the proper time. When that was done, and the evidence was sent and filed in the proper department, the compensation was paid. I am not certain, if you wish the laws of the United States generally published, that this is not the best way, giving a moderate compensation, and allowing the whole community to do the work. I would be glad to abstract the publication of the laws from political considerations. They are laws for the whole community, for the government of all; laws in which all are interested, and therefore they should be published to all, though I do know that the effect has been to limit the publication very much to a party press. I should be very glad if this subject could be extricated and withdrawn from that condition of things in which it has been, so as to give a more liberal and wider circulation to the laws. It seems to me that some means might be devised, that would place the publication of the laws upon a more liberal footing, and meet the approbation of all parties.

Mr. BORLAND. At the request of several Senators who desire to look at the matter a little further, and have the same general object in view, I will, if permitted by the Senate, withdraw the amendment for the present.

There being no objection made, the amendment was withdrawn.

The Senate then resumed the consideration of the amendment in relation to Collins's line of steamers.

Mr. BORLAND. I again rise to the question of order that I raised the other day, under the thirtieth rule of the Senate. The rule was read on that occasion, and the two points on which I would insist, under it, and to the exclusion of this amendment, are: First, that it does not come before the Senate upon an estimate from any of the Departments; and, secondly, that it is not necessary to carry into effect any existing law of Congress. It has been said, Mr. President, that an estimate has been received. Well, I admit that an estimate has been received from the Navy Department; but it is not such an estimate as is contemplated by the rule. If I understand it correctly, a member of the Naval Committee addressed a communication to the Secretary of the Navy, and asked him what would be the additional cost if a certain arrangement should be made; and the Secretary, in reply, says: if the committee conclude to recommend this arrangement, then it will cost the sum proposed here; and this amendment, as I understand, has been based upon that letter. If I am in error, the chairman of the Committee on Finance will correct me.

Mr. HUNTER. The Senator from New Jersey, no doubt, has the estimate of the Secretary of the Navy.

Mr. MILLER. The Senator from North Carolina [Mr. BADGER] has it.

Mr. BORLAND. I should like to hear it read.

THE PRESIDENT. It must be sent to the Chair, before the Chair can decide the question of order.

Mr. BADGER. I will explain the action of the Committee on Naval Affairs, to whom this subject went, in consequence of the mail service by this steam line being put under the direction of the Secretary of the Navy, instead of that of the Postmaster General, as I think it should have been. I called on the Secretary of the Navy, in consequence of the facts communicated at the commencement of the session by the Postmaster General, to prepare an estimate for the additional appropriation necessary in consequence of the additional contract entered into between the Secretary and the Postmaster General and the Collins's line, to defray the additional expense at the estimate which the committee proposed to recommend to the Senate, to be made during the half fiscal year

which remains unexpired; and that letter is the answer which was received.

The PRESIDENT. The Chair will ask the attention of the Senate while the letter is read:

NAVY DEPARTMENT, April 5, 1852.

SIR: I have the honor to state, that the estimate prepared at this Department on the 29th ultimo, in compliance with your request of the 27th ultimo, was confined to the increased service contemplated for the half year, commencing on the first of January last, to supply the deficiencies of existing appropriation, compensation for said service at the rate of \$33,000 per trip in lieu of the present amount. It is the intention of the Committee on Naval Affairs of the Senate, to substitute a new rate of compensation, under the contract for mail service between New York and Liverpool, from the 1st of January, 1852, and to authorize increased services from that date, then the estimate to supply the deficiency of the existing appropriations, furnished on the 29th ultimo, is erroneous, and should be as follows, viz: For thirteen trips at \$33,000 each, \$429,000. Deducting existing appropriation \$192,500, the deficiency is \$236,500.

It should also be noticed, that the annual estimates of this Department for the fiscal year ending upon the 30th of June, 1853, for mail services, were based upon the compensation fixed in the contract. If the compensation for mail services between New York and Liverpool, proposed by the Committee on Naval Affairs, is to be extended to the fiscal year above referred to, the estimate should be changed, and instead of \$585,000, the sum asked for, there should be provided the sum of \$858,000.

WILLIAM A. GRAHAM,  
Secretary of the Navy.

To the Hon. Mr. BADGER, of the Committee on Naval Affairs of the Senate.

The PRESIDENT. The Chair will now read to the Senate the rule which precludes amendments to general appropriation bills, unless there is an estimate:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate, during that session, or in pursuance of an estimate from the head of some of the Departments, and no amendment shall be received, whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

At the last session of Congress, and at the previous session, after this rule was adopted, various amendments were made to general appropriation bills, in pursuance of estimates, furnished in answer to calls made by individual Senators upon their own application, and not included in the general estimates furnished from the Departments. The Senate, on that occasion, gave a construction to its own rule, that any estimate which was furnished, though procured by the application of an individual Senator, was such an estimate as justified them in making the appropriations. In this case, the Chair will advert to the fact, that this amendment is reported from a committee; whether that varies it or not, it is not for the Chair to say. The estimate which has just been read was made by the Secretary of the Navy, under a call from the Naval Committee. The Senate having decided in the manner which the Chair has stated, at a previous session, that estimates thus furnished brought the amendment within the rule, so that the appropriation could be properly made, it would not be for the Chair now to say that this estimate would not produce the same effect. And inasmuch as the Senate adopted that construction with a full knowledge of what they intended the operation and effect should be, the Chair will leave it for the Senate to say whether that is such an estimate as will authorize the amendment to be made, without any reference to the fact that it was reported by a committee.

Mr. BORLAND. I shall not make any speech on this subject; but I wish to call the attention of the Senate to the fact that this estimate is altogether conditional, that it is not a recommendation. I have always understood an "estimate" from a Department to mean a recommendation of a measure, and the statement of the amount of money necessary to carry that measure into execution. If the rule be construed so as to receive such a statement as this as an estimate, then it is in the power of any Senator, at any time, to procure just such an estimate, and move anything he may choose as an amendment upon an appropriation bill. If I wished to propose an amendment to a bill, and wanted an estimate for the purpose, I could address the head of a Department, and ask him how much it would cost, and I could go on with item after item, until I had loaded the bill down. If anything is an estimate, which any Senator may choose to get from the head of a Department upon a supposition—for this is from the Navy Department is only hypothetical—then anything may

be offered as an amendment, by evasion, and in despite of this rule.

Mr. BADGER. It would be singularly unhappy for the dignity and authority of the Senate, and would serve to show, in a very clear and cogent manner, the folly of the Senate in fettering itself with that rule, if it would receive any interpretation that would preclude it from the consideration of this proposed amendment. There is no necessity to inquire whether the case supposed by the Senator from Arkansas exists—that any Senator can write to any head of a Department for information on any point, and move it as an amendment to any appropriation bill; for that is not like the case now submitted for the consideration of the Senate, nor anything like the case. But, if the Senator will permit me, I will say that even if his interpretation of the rule were adopted, it would be totally out of his power to load down an appropriation bill with amendments. He might move the amendments under such an interpretation, if he saw fit to do so; but without the consent of the Senate it would be impossible to include them in the bill.

What is the case as it now stands? The Senate learns that, in the course of last autumn, the Secretary of the Navy and the Postmaster General deemed it highly important, for national purposes, that the amount of service of the Collins line of steamers should be increased, and entered into an arrangement for the purpose of procuring the performance of the additional service which they considered necessary. The proprietors agree to perform the service and run the risk, whether Congress would sanction the agreement and pay them an increase of compensation, or a *pro rata* compensation, for the additional service. And now we learn from the report of the Postmaster General, that he recognizes this arrangement, and that, with the concurrence of the Secretary of the Navy, he recommends Congress to sanction it, and to make an adequate compensation. Now, in the practical operation of this Government, all appropriation bills originate in the House of Representatives—we originate nothing—and now we are told that, while we originate nothing, we can propose no addition to any appropriation bill that the House of Representatives may think fit to introduce, although we may approve a contract conditionally made by the head of a Department, although the proper head of that Department recommends us to assume and carry it into effect, and communicates to us the amount of money necessary to accomplish that object. Now, I would like to know what would be the condition to which the Senate would voluntarily degrade itself by the adoption of such an interpretation of that rule. Is it not manifest that the Senate will have very little else to do, whenever an appropriation bill comes up, than simply to pass whatever the House of Representatives may choose to send, without addition and without consideration? Why, suppose that this matter stands over to the general appropriation bill, what will be the effect? What has been done during the last two sessions? It is very well known to every member of this body that we have received the appropriation bills within the last two or three days of the session, and we are always warned by the Committee on Finance that they are assured by the committee of the other House that if the Senate make any amendment to the bill it will be lost; and we have been thus practically excluded from that jurisdiction over questions of this nature which are vested in the Senate by the Constitution; and thus it will be this session. Five months of the session have already passed away, and this is the only appropriation bill we have received. I know not whether the House of Representatives has passed another; but, judging of the future by the past, we may safely conclude that three months more will pass before we receive another. Now, if the Senate have not given any practical exposition of this rule, the considerations I have urged show that we cannot, with a due regard to our own dignity and authority, accept the interpretation given by the Senator from Arkansas.

But this is not the case. The Senate has construed the rule in the manner which the Chair has stated, over and over again, that that is an estimate which is furnished by the head of a Department, upon the call of an individual Senator upon his own responsibility. Now, we are told we must retrace our steps; that although we had tied ourselves with cords, we must now bind ourselves

down with rivets of iron. We had narrowed our own action by a rule; and now we are told that we must narrow that rule so as to take away all discretion. I ask what can be entitled to our consideration under the rule, if this is not? An estimate came here from the head of a Department, having been called for by a committee of this body charged with the subject to which it relates; and upon that estimate, as a basis, the Committee on Finance report, and now we are told that we have no authority to consider it. If so, the sooner we abrogate the rule the better. If so, the sooner we relieve ourselves from the degrading position in which we are placed the better.

It is the same rule that we had at the last session and a part of the session before. No word has been added to it, and no word has been taken from it; what it meant then it means now. The Senate then settled what it meant, and I should be sorry to see the Senate now unsettle what it so wisely determined. The object of the rule was not to prevent anything from being brought to the consideration of the Senate, that was fairly and properly a fit subject for their consideration; it was to prevent individual Senators spontaneously bringing forward measures for an appropriation, founded upon no action of an Executive Department of the Government, in pursuance of no law, and having no estimate furnished.

I have doubted the propriety of any rule which should fetter the appropriate action of the Senate on questions of this character; and I am not willing to have my own hands tied, so as to prevent me from doing what I consider to be right. At all events, I hope we shall not now give such an interpretation to this rule, as will make it so positively mischievous as it would become by the interpretation now sought to be given to it.

Mr. HAMLIN. I think that, if this question stands upon the basis which it is considered as standing upon by the Senator from North Carolina, it cannot be made to appear that the estimate furnished by the Department does not take it clearly out of the rule. I do not propose, however, to say anything with reference to that point. There is another consideration to which I wish to call the attention of the Senate.

It may be well for the Senate to consider what the Senate attempted contemporaneously with the adoption of this rule. What was the evil which it was designed to obviate by its adoption? When the appropriation bills were before us, private bills that had never had the sanction or investigation of any committee, measures that were wholly private were offered as amendments to the appropriation bills, because there was no rule to exclude them. That was the state of things existing in the Senate at the time of the adoption of this rule. Now, does the rule, when fairly considered, go beyond what it was necessary to correct in the then existing state of things? I think not.

If this were a case which called for an estimate from a Department, that estimate has been furnished. In my judgment, it is not a case which requires an estimate; and it would be in order if no estimate were offered. It is the report of a committee, as the Chair well remarked in his suggestions a few moments since. This bill comes from the other House, and it is referred to the appropriate committee of this body. There are various modes in which that committee may report on the bill to this body. If they please, they may report back the bill with whatever amendments they may see fit to incorporate in the original draft, retaining in their hands the original bill. That would be agreeable to parliamentary law, well recognized the world over. They have not seen fit to do so in this case, but have reported back the original bill with amendments.

Now, the rule, it is true, provides that "no amendment shall be offered." That means, in my judgment, that no individual Senator may rise in his place and offer an amendment, unless fortified by the recommendation that the rule requires. Such is not the case here; this is not an amendment of a Senator on this floor; it is not an amendment of the character designed to be excluded by the rule; but it is a report of a committee as much as if it had been reported in a new bill with an original draft—only in the one case, we should take the question on adopting all the amendments in one vote, while here we take them *seriatim*. That is my view of the case; and either on the ground that it is within the rule, and that



we have an estimate, or on the ground that it is without the rule, it is not of a character designed to be affected by the rule; but is a report from the committee, and I shall vote for retaining it.

Mr. RUSK. We find ourselves engaged in a discussion on what I conceive to be a very important amendment, arrested by a motion to get clear of that amendment under a rule of the Senate. I think it would have been much better to have met the question fairly upon its merits, have gone through with the discussion, and voted upon its merits, if there had been the slightest doubt in the Senate; but, in my mind, there is not the slightest doubt with regard to the rule, and I think the reading of it will show that there can be no doubt about it:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or in pursuance of an estimate from the head of some of the Departments," &c.

Now, what is the paper which has been produced by the Senator from North Carolina, and read by the Chair? I do not understand the English language if it is not an estimate. You can offer an amendment, if it is in conformity with an estimate from the head of a Department, whether it is to carry out a law or anything else. That, then, is clearly and unconditionally an estimate. The rule prescribes, that with an estimate from the head of a Department, you may offer an amendment. What is the fact here? Here is an increased service upon a mail route recommended by the Postmaster General, and in the deficiency bill for this year, to meet the increased expenditure for that increase of the service, here is an amendment founded upon a legitimate estimate from the head of the Department. Is this not carrying out a law? If you choose to sanction an increase of service upon a mail route, do you make a new law? Not at all. You carry out the law, already in existence, to establish the mail route. Upon these considerations, then, there is in my mind no sort of question as to the amendment being strictly in order.

Mr. BORLAND. It may be very wrong to arrest a public measure on a question of order, and not on its merits; yet, sir, while I do not consider that precedents are always binding, but are to be followed or disregarded according to their reasonableness, I beg to call the attention of the Senate, and particularly of the Senator from Texas, [Mr. RUSK,] to the action of the Senate upon this very subject last year, when, upon a question of order raised by a Senator from Louisiana, [Mr. SOULE,] an amendment making an increased allowance for this very steam line was ruled out of order by a decision of the Chair, which decision, upon an appeal being taken from it, was sustained by the Senate. On the 3d of March of last year—the last day of the session—the Journal of the Senate bears the following record:

"On motion by Mr. PEARCE, to amend the bill by inserting at the end thereof—

"SEC. —. And be it further enacted, That the Secretary of the Navy be authorized to pay E. K. Collins and his associates, for the further conveyance of the mails between New York and Liverpool, at the rate of \$600,000 per annum: *Provided*, That the increase of compensation hereby allowed may at any time be discontinued by authority of Congress.

"A question being raised by Mr. SOULE, whether the proposed amendment was in order,

"The PRESIDENT *pro tempore* decided that the proposed amendment was not in order."

After some other action of the Senate had been taken, on motion again of Mr. PEARCE, to amend the bill in the same manner,

"The PRESIDENT *pro tempore* decided that the proposed amendment was not in order.

"From this decision an appeal was taken; and, on the question, 'Is the decision of the Chair correct?' it was decided in the affirmative—yeas 26, nays 24."

Then the yeas and nays were ordered on the motion of the Senator from Illinois, [Mr. SHIELDS,] and they stand on the record.

In the Congressional Globe of that date we find, from the debate on the subject, that when the Senator from Maryland [Mr. PEARCE] proposed the amendment, Mr. SOULE raised the question of order, and the amendment was ruled out of order. Then, after some intervening business, Mr. PEARCE renewed the offer of his amendment, when the following took place:

"Mr. HUNTER. I rise to a question of order. This amendment was decided by the Senate to be out of order."

"The PRESIDENT. It is the same question which was decided by the Senate, in committee, to be out of order, and the Chair cannot entertain it."

When the question was first raised Mr. SOULE asked, "Has there been an estimate for this?" Mr. PEARCE replied:

"There have been letters received from the Secretary of the Navy. I do not know whether the Senate will consider the one which I now hold in my hand as a precise estimate. But it is a letter in which he states:

"Understanding from E. K. Collins, Esq., that the Committee on Naval Affairs propose to pay him at the rate of \$600,000 per annum, I have the honor to suggest that if such be the determination of Congress, there will be needed a further appropriation of \$200,000."

Here, in this letter, in answer to an inquiry as to what amount would be required if Congress agreed to give Mr. Collins the additional compensation, the Secretary of the Navy estimated \$200,000. It is precisely such a case as we now have before us. Then, when it was proposed to give Mr. Collins the increased compensation, the Secretary of the Navy was inquired of and answered, 'If you propose to give the increased compensation, the estimate is \$200,000 in addition. Now, when it is proposed again to increase the compensation for the same line, the same Secretary of the Navy is inquired of as to the necessary amount; and he says if you give the increase, it will cost so much in addition. That is the case before the Senate. Upon the question formerly presented, the President of the Senate decided the proposed amendment to be out of order, and upon an appeal, his decision was sustained by the Senate.

Mr. President, I desire to be consistent, as nearly as I can. I do not wish, humble as I am, to be considered as taking a position which has not some reason for it. I beg leave, therefore, to read a very short paragraph from the debate at the last session, in which I gave my views before voting to sustain the decision of the Chair. I said:

"I desire to state why I consider the decision of the Chair correct. Under the rule, I understand that no amendment to a general appropriation bill requiring an appropriation of money, can be made, unless it is accompanied by an estimate furnished by a Department, or unless it is an amendment which provides for the execution of a provision of a preëxisting law. Under no circumstances can an amendment be made providing for a private claim. Now, I think upon all three of these points this amendment is clearly excluded by the rule. In the first place, it comes in without an estimate from a Department. Secondly, it is not in compliance with a preëxisting law; and, in the third place, no one understands it to be anything but a private claim—a gratuity to an individual."

The last point then made, I shall not insist upon now. The others I do.

The Senator from Texas refers to the terms of the rule, and says that the amendment is in conformity with it. It seems to me that he does not look to the requirement of the rule, that an amendment, to be in order, shall be in "pursuance of an estimate," &c. Now, I apprehend that, in this instance, instead of the amendment being in "pursuance of an estimate," the reverse is true, and the so-called estimate has been made in pursuance of the amendment. The estimate has been furnished now, as it was done last year, when a similar proposition was made. There did not then come here, in the regular and legitimate order of proceeding, a recommendation or estimate from the head of a Department, as of a public measure; but the proposition was made at the instance of the individual who was to be the beneficiary of the appropriation. Then the estimate was sought and was made, in pursuance of a preëxisting purpose of making the amendment, and not the amendment made in pursuance of the estimate, as the rule requires. But, whether the rule be right in itself, or whether the action of the Senate last year was right under the rule or not, in the view of my honorable friend from North Carolina, [Mr. BADGER]—and a favorite view it seems to be with him—by the precedent of the Senate's decision action, in a similar case, and for the sake of consistency, the position I have taken is fully sustained, and the proposed amendment is excluded by the rule.

Mr. DOUGLAS. My first impression was very clear that this amendment was out of order; but if the facts be as stated by the Senator from North Carolina, [Mr. BADGER,] I do not see how it can be held to be so. I understand him to make this statement of the facts: that during the recess of Congress, the Department entered into an arrangement with this company for extra mail service; and that, in the annual report to Congress,

the head of the Department stated the fact, and recommended Congress to provide by law for carrying the arrangement into effect. Here, then, is a distinct recommendation for extra service and for such legislation as is necessary to carry the arrangement for that extra service into effect, including, of course, the necessary money to be appropriated for that purpose. But there was an omission in the recommendation on one point, and that was to state the specific amount of money which the Department needed to carry out the recommendation. The committee write to the Department to know how much is required to carry out the arrangement which had been entered into, and which they propose by this bill; and the Department answer it requires so much money. If the two facts taken together, first the arrangement, and secondly, the estimate of the amount, do not form a distinct recommendation, I am unable to comprehend the meaning of such a communication to Congress. The specific arrangement being first made, and the estimate of the amount subsequently sent in, makes as clear and as distinct a recommendation and estimate as it is in the power of a Department to make. Under that state of the facts—although I was at first of the impression that the amendment was out of order, and if I had then been called upon to vote should have so voted—I am now of the opinion that it is based upon an estimate, and is therefore in order.

Mr. BADGER. There is one slight misapprehension into which the Senator from Illinois has fallen, and that is this point: The recommendation of the Department in the beginning of the session was, that Congress should ratify this contract for increased service with such increase of compensation as they might deem adequate. The appropriation increased the compensation. The Committee on Naval Affairs, to which the subject was referred, called upon the Department to know what appropriation would be necessary to carry out the recommendation with the rate of increased compensation which we proposed to allow.

One word as to the precedent of the last session, to which my friend from Arkansas has referred. I voted with him to sustain the Chair in its decision at that time, but the case has no resemblance to the one now under consideration. Now, we are acting under a contract made in the recess by the head of a Department, and communicated in the report at the commencement of the session with the recommendation to the favorable consideration of Congress that such a rate of compensation as Congress might deem adequate should be allowed. A determination as to the rate of the additional compensation was made by a committee, and a call upon the head of a Department was made for information as to the sum necessary to be put in the deficiency bill in consequence of that contract, and confirmation, and increase of compensation; and we have the estimate. That is the case now before the Senate. What was the case at the last session? I remember the transaction well. On the last night of the session—all these important bills for two sessions, at least, have been disposed of in the Senate, I believe, on the last night of the session, some time about daylight in the morning, though still considered as a part of the preceding night—in the hurry and confusion, a Senator moved for an appropriation of \$600,000 founded on no recommendation of a Department, upon no call of a committee, and upon no estimate except one in an answer to a private note written to the head of a Department by the Senator. It seems to me it is difficult to state the two cases without seeing their total and irreconcilable difference. I do not want to prolong this discussion. All I have to say is to repeat what I have said, that if the rule of the Senate, fairly interpreted, excludes the consideration of this amendment, it is high time the rule was altered.

Mr. GWIN. I think it has been made perfectly clear, not only by the argument of the Senator from North Carolina, [Mr. BADGER,] but by that of the Senator from Maine, [Mr. HAMLIN,] that the amendment is strictly in order. I take this ground, and I take it elsewhere, and I think it is correct, that there was no necessity for an estimate in this case at all; and that the Finance Committee can report any amendment to any appropriation bill of which a majority of that Committee are in favor. No other committee of the Senate can report an appropriation bill. The rule, under which the point of order is raised, was intended

to limit the amendments that were offered to appropriation bills, and this limitation was looked upon at the time as being proper. When the estimate in this case was prepared, it was the intention of the Committee on Naval Affairs to have brought up an amendment upon it, because then the estimate was necessary; but subsequently, when the question was brought up in the Finance Committee—the committee that has a right to originate appropriation bills, the committee that could have originated this deficiency bill, or any other of that description brought before the Senate—there was no necessity for an estimate. We had a right to strike out the whole original bill after the enacting clause, and bring in a substitute for it, or bring in an entirely new bill. I take the ground that the Committee on Finance can bring in an appropriation bill. That is the view which I have taken of it, and which, I am sure, the Finance Committee have taken of it. We have had it under our serious consideration whether it was not our duty to bring in a portion of the appropriation bills, and not have them all thrust upon us at the close of the session as heretofore. With that view of the case, I have never entertained a doubt that the Committee on Finance have power at any time to make any appropriation, independent of any estimate.

The PRESIDENT. The Chair, in justice to himself, will take the liberty of stating to the Senate, that when this proposition was made at the last session, by the Senator from Maryland, [Mr. PEABODY], and objected to, on the ground that there was no estimate, the Chair, without hesitation, decided that it could not be received, and that it was out of order, as it conflicted with the rule. That decision was sustained by the Senate. The letter that was afterwards produced by the honorable Senator, did not vary the case at all. It was simply a letter written to a Senator, hypothetical in its terms, making no estimate, in fact. The question here is one which the Chair, under ordinary circumstances, would have decided; but inasmuch, as he has stated already, the Senate, on several occasions, have decided that estimates furnished on calls of Senators, brought such an amendment within the rule, he feels unwilling to give a construction to it which would preclude the Senate practically from entertaining what they might believe to be in order, and within the rule which they have adopted. Although an estimate is not exactly made by the Postmaster General, in his report, yet he designates the arrangement which, if made, would involve this appropriation; but owing to the regulation mentioned by the Senator from North Carolina, the Committee on Naval Affairs had to apply to the head of the Navy Department, who furnished the paper which has been read. It is for the Senate to say whether, in conforming with the communication made by the head of the Post Office Department, and thus far carried out by the head of the Navy Department, it is not such an estimate as brings the amendment strictly in order, and within the rule that has been adopted. The Chair therefore preferred that the Senate should decide this question for itself, although ordinarily he does not feel disposed to shrink from the decision of any question that may be presented.

Mr. BRADBURY. As this question of order is one of some interest, I desire to submit a single suggestion. Is it not too late to make objection to the amendment?

Mr. MANGUM. The Chair has already decided that point.

The PRESIDENT. A question can only be made when an amendment comes up for consideration; for that is the first time it is properly presented to the body.

Mr. MANGUM. I desire to understand the Chair aright. Do I understand that the Chair considers the amendment in order?

The PRESIDENT. The Chair has left it to the Senate to decide under the rule which has been adopted, whether, under the circumstances of the case, the estimate said to have been furnished by the Navy Department, does not bring the amendment within the rule.

Mr. BORLAND. I desire that the Senate shall act understandingly hereafter upon all these matters, and I wish to settle the principle for my own government hereafter. I therefore call for the yeas and nays on the point.

The yeas and nays were ordered.

Mr. BRADBURY. As this is a question of some importance in guiding our action in future, it is desirable that our decision should be such as may not embarrass us. The rule to which reference has been made declares that "no amendment proposing additional appropriations shall be received," &c. Now, do we receive an amendment which comes to us from a committee? If we do, have we not already received this amendment? The Committee on Finance have reported, as rule No. 34 authorizes them to do, an amendment to the bill, and that amendment has been received and printed. Therefore, is it a question whether we shall now receive it? It seems to me that this single view of the subject shows that the rule to which reference has been made, is confined to cases of amendments proposed by individuals, and not those coming from a committee. Otherwise, we might find ourselves in this dilemma: The House might omit, for instance, to provide any contingent fund for the Senate, and the Committee on Finance would be precluded from reporting and the Senate from considering, a proposition to provide that which is indispensably necessary. I therefore regard this as a matter entirely aside from one of those cases where no estimate is required.

The PRESIDENT. The question is, Is the amendment reported by the Committee on Finance in order? Is the Senate ready for the question?

Mr. BORLAND. Before that question is taken, I wish to call the attention of the Senate to one thing. I did not observe it so closely at first as I have now. It seems to me that the case presented by this letter of the Navy Department, which is called an estimate, is of itself sufficient to show that the proposed amendment is not in order. The letter says:

"I have the honor to state, that the estimate prepared at this Department, on the 29th ultimo, in compliance with your request of the 27th ultimo, was confined to the increased service contemplated for the half year commencing on the 1st of January last, to supply deficiencies of existing appropriation, compensation for said services at the rate of \$53,000 per trip, in lieu of the present allowance. If it be the intention of the Committee on Naval Affairs of the Senate to substitute a new rate of compensation under the contract for mail service between New York and Liverpool, from the 1st of January, 1852, and to authorize increased service from that date, then the estimate to supply the deficiency of existing appropriations, furnished on the 29th ultimo, is erroneous, and should be as follows," &c.

It appears from that, that the estimate furnished by the Department was altogether for a different amount and for a different purpose. The Secretary says now, that if it be proposed to do something else, then it is necessary that we should give more money. He does not ask it. He does not recommend it. Our action here, if we adopt this amendment, will not be in pursuance of an estimate as the rule requires.

Mr. RUSK. I desire to say one word in regard to this being in pursuance of an estimate. Are we to be the mere registers of the decrees of the Departments? When a Department makes an estimate, can we not cut it down or increase it? If we are the mere registers of the decrees of the Executive Departments, then we must construe the rule to the very letter.

Mr. BORLAND. I do not wish to be misunderstood upon this subject. The Senator from Texas clearly misconceives the position which I took. I did not contend that we should be the mere registers of the decrees of the Executive Departments. I was merely following the rule which, so long as it is the rule, is the law by which we are to be governed. The Department does not ask this. I do not propose to limit myself to what they ask, but I say, as long as we have a rule, which excludes certain things from our legislation, I consider it our duty to adhere to that rule. If we choose to abolish it, very well. I do not know that I should much object to that; but while it is a rule we are bound by it, and I shall vote for sustaining it.

The PRESIDENT. The Chair will state the question again. The question is simply whether the amendment reported by the Committee on Finance is in order. Those who think it is in order will, as their names are called, answer "yea;" those who consider that it is not in order will answer "nay."

The question being taken resulted—yeas 29, nays 12, as follows:

YEAS—Messrs. Badger, Bayard, Bell, Berrien, Brad-

bury, Brooke, Clarke, Cooper, Davis, Dawson, Douglas, Downs, Geyer, Gwin, Hamlin, James, Jones of Tennessee, Mangum, Miller, Norris, Rusk, Seward, Shields, Smith, Spruance, Sumner, Underwood, Upham, and Wade—29.  
NAYS—Messrs. Atchison, Borland, Brodhead, Cass, Dodge of Wisconsin, Dodge of Iowa, Hunter, Jones of Iowa, Mason, Morton, Sebastian, and Walker—12.

So the Senate decided that the amendment was in order.

On the motion of Mr. SEWARD, the further consideration of the bill was postponed until tomorrow.

#### EXECUTIVE SESSION.

On the motion of Mr. GWIN, the Senate proceeded to the consideration of Executive business, and, after some time spent therein, the doors were reopened, and

The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, April 26, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of Saturday was read and approved.

The SPEAKER. The first business in order is the motion made by the gentleman from North Carolina, [Mr. STANLY], on Monday last, that the rules of the House be suspended in order to enable him to introduce the following resolution:

*Resolved*, That the select committee on public printing be directed to investigate the accounts of John H. Trenholm and William M. Belt, for printing executed in their names for the Senate and House of Representatives for the Thirty-first Congress, whether rendered before, during, or since the adjournment of that Congress.

Mr. STANLY. I propose to modify the resolution into a call upon the Secretary of the Treasury, and then the House can send it to whatever committee they please. I hope there will be no objection to it. I propose to modify the resolution, as follows:

*Resolved*, That the Secretary of the Treasury furnish this House with copies of all the accounts of John H. Trenholm, and of William M. Belt, for printing executed in their names for the Senate and House of Representatives for the Thirty-first Congress, whether rendered before, during, or since the adjournment of that Congress.

The question was then put to the House, and there were, on a division—yeas 64, nays 24; no quorum voting.

Mr. STANLY. I call for the yeas and nays on the motion to suspend the rules. By the time the roll shall have been called through, the members will be in.

The yeas and nays were ordered.

Mr. HAMILTON. I ask the Chair what is the condition of the question now submitted to the House? Is it the original resolution pending?

The SPEAKER. The original resolution is withdrawn, and the resolution just read by the Clerk substituted in its place by the mover of the original resolution. It will be read again for the information of the House, if there is no objection.

Mr. JONES, of Tennessee. If I understand correctly, the gentleman from North Carolina [Mr. STANLY] withdrew the original resolution, and asks for a suspension of the rules to admit the substitute which has been just read at the Clerk's table, which merely proposes to call upon the Secretary of the Treasury to furnish the accounts of Trenholm & Belt for the public printing.

Mr. STANLY. That is all.

The SPEAKER. The Clerk will read the resolution for the information of the House.

The resolution substituted was read by the Clerk, as above inserted.

Mr. JONES. I wish to inquire of the Chair if these accounts are not on file in the Clerk's office—if they were not paid by the Clerk, and the accounts retained in his office, and never sent to the Secretary?

Mr. STANLY. I reckon not.

The SPEAKER. The Chair is unable to inform the gentleman.

Mr. GORMAN. Allow me to suggest to the gentleman from North Carolina [Mr. STANLY] that the accounts of Trenholm & Belt, and all other printers, are paid out of the contingent fund of the House of Representatives, and are all filed in this House, and that the Secretary of the Treasury has them not on file, unless they were left there when the Clerk settled his accounts at the Treasury. I have no objection, however, to the resolution.

Mr. BAYLY, of Virginia. I presume that the

information called for is already before the House, or it ought to be.

Mr. STANLY. Yes, ought to be.

Mr. BAYLY. It is before the House, I presume, and the question is, whether a resolution of this sort is to be introduced as an excuse for not acting upon the report of the Committee on Printing.

Mr. STANLY. The question is, whether gentlemen intend to vote against this information to give them an excuse to Galphinize a hundred thousand dollars out of the Treasury, without the facts before the country.

The SPEAKER. The question is not debatable.

Mr. STANLY. If debate is right on one side, it is on the other.

Mr. BAYLY. I should like to say one word, merely.

The SPEAKER. It can only be done by unanimous consent.

Mr. HALL. I object to all further debate.

The question was then taken, and there were—yeas 104, nays 31; as follows:

YEAS—Messrs. Willis Allen, William Appleton, Averett, David J. Bailey, Thomas H. Bayly, Barrere, Bocoek, Bowie, Briggs, Brooks, Bushy, Joseph Cable, Lewis D. Campbell, Carter, Chandler, Chapman, Clingan, Cobb, Cottman, John G. Davis, Dimmick, Dockery, Doty, Duncan, Durkee, Eastman, Ewing, Ficklin, Fitch, Florence, Floyd, Fowler, Gentry, Giddings, Goodenow, Goodrich, Grow, Hall, Hamilton, Harper, Isham G. Harris, Hart, Haws, Hascall, Haven, Hebard, Holladay, Horsford, Houston, John W. Howe, Thomas M. Howe, Ives, Jenkins, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Kuhns, Landry, Lockhart, Mann, Martin, McCorkle, McQueen, Meacham, Miller, Millson, Miner, Molony, Henry D. Moore, Morehead, Murray, Nabers, Newton, Olds, Andrew Parker, Samuel W. Parker, Peaslee, Pennington, Perkins, Phelps, Robbins, Savage, Schermerhorn, Scudder, Smart, Staley, Benjamin Stanton, Stone, Taylor, Benjamin Thompson, Thurston, Townsend, Venable, Wallace, Walsh, Ward, Washburn, Watkins, Wells, Alexander White, Williams, Woodward, and Yates—104.

NAYS—Messrs. John Appleton, Ashe, Bragg, Thompson Campbell, Chastain, Churchwell, Curtis, Dean, Edmundson, Thomas J. D. Fuller, Gaylord, Hammond, Sampson W. Harris, Hendricks, Hibbard, Ingersoll, Jackson, Robert W. Johnson, J. Glancy Jones, Kurtz, McNair, Morrison, Penn, Poik, Price, Skelton, Snow, Frederick P. Stanton, St. Martin, and Wilcox—31.

So the rules were suspended to allow the resolution to be introduced.

Mr. CASKIE asked the privilege of recording his vote, as he was without the bar when his name was called.

Objection was made, and his vote was not recorded.

Mr. CASKIE. If I had been permitted to vote, I should have voted in the affirmative.

Mr. BAYLY, of Virginia, was here recognized by the Chair.

Mr. STANLY. Am I not entitled to the floor?

The SPEAKER. Unless it is a question of privilege, no person is entitled to the floor.

Mr. STANLY. I yield most explicitly to the decision of the Chair.

Mr. SPEAKER. The gentleman is entitled to the floor if he has any motion to make.

Mr. BAYLY. I rise to a privileged question.

Mr. STANLY. I yield to that.

Mr. JONES. Is the resolution before the House, before the gentleman from North Carolina [Mr. STANLY] offers it?

The SPEAKER. It is not. The gentleman from North Carolina [Mr. STANLY] is entitled to the floor, unless the gentleman from Virginia [Mr. BAYLY] rises to a privileged question.

Mr. BAYLY. I do rise to a privileged question. I move to reconsider the vote by which the rules were suspended, on the ground that I hold in my hand a printed copy of the information for which the resolution calls.

Mr. STANLY. That is a mistake, and I hope the House will refuse to reconsider the vote.

Mr. JONES, of Tennessee. I ask if the gentleman from Virginia [Mr. BAYLY] can move to reconsider the vote?

A Voice. On which side did he vote?

Mr. BAYLY. I voted in the affirmative, with the majority.

The SPEAKER. The Chair doubts the right of the gentleman to move a reconsideration.

Mr. BAYLY. I withdraw the motion.

The SPEAKER. The Chair was about to decide that the gentleman had not the right to make the motion.

Mr. BAYLY. But I withdrew my motion first.

Mr. STANLY. I offer the resolution, and, without detaining the House, I ask the previous question upon it.

The SPEAKER. The Chair must remind the gentleman and the House, that there is a rule requiring all resolutions calling upon the Departments for information to lie upon the table for one day. That rule must also be suspended before the resolution can be considered.

Mr. STANLY. I make the same motion to suspend that rule.

The question was then taken, and the motion was agreed to.

The question was then taken upon the adoption of the resolution, and it was agreed to.

So the resolution was adopted.

Mr. STANLY. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

#### PROPOSITION FOR ADJOURNMENT.

Mr. JOHNSON, of Arkansas. I rise to a privileged question. It is a resolution which I ask may be read for information. It relates to the adjournment of this Congress at a given day.

The resolution was then read, as follows:

*Resolved*, (with the concurrence of the Senate,) That the President of the Senate and the Speaker of the House of Representatives close the present session of Congress, by an adjournment of their respective Houses, on Monday, the ——— day of August next, at the hour of twelve o'clock, m.

The SPEAKER. The resolution does not embrace a privileged question.

#### VIRGINIA MILITARY BOUNTY LAND WARRANTS.

Mr. TAYLOR. I ask the unanimous consent of the House to introduce a resolution, which I have striven to introduce for the last eight weeks, providing for opening a land office in my county, in the State of Ohio, which has been closed since the 1st of January, because a bill, No. 6, lying upon our table, has not been passed. I hope there will be no objection. It will not detain the House five minutes.

Mr. STANTON, of Ohio. If my colleague would consent that the bill be reported to the House, and that I may have an hour or half an hour to state my objections to it, I shall have no objection to his introducing his resolution. Otherwise, I cannot consent, as I have objections to the bill.

Mr. TAYLOR. I cannot consent to it.

The resolution was then read for information, as follows:

*Resolved*, That the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 6, further to extend the time of locating the Virginia military land warrants, and returning surveys thereon to the General Land Office, and that the same be put upon its passage.

Mr. TAYLOR. I move to suspend the rules of the House for the purpose of introducing the resolution.

The question was then taken, and there were, upon a division—yeas 81, nays 36.

So the rules were suspended, and the resolution was introduced.

Mr. TAYLOR. I move the previous question upon the adoption of the resolution.

The previous question received a second.

Mr. STANTON, of Ohio. If this bill is to pass under the operation of the previous question, I wish to know how many gentlemen are in favor of it, and call for the yeas and nays.

Mr. STEPHENS, of Georgia. I would suggest to the gentleman from Ohio, [Mr. STANTON], that the previous question is not called upon the passage of the bill, but only upon the adoption of the resolution, and after the resolution is adopted, the bill will come before the House for consideration.

The question was then taken on the demand for the yeas and nays, and they were not ordered.

Mr. BELL. I rise in order to ascertain the effect of this vote. If this resolution now passes to put the bill, named in it, upon its passage, will it cut off all debate?

The SPEAKER. It will not, unless the House cut off debate by the adoption of the previous question, when the bill is up.

The main question was then ordered.

Mr. SKELTON. I ask for the reading of the resolution.

The resolution was then again read, as above inserted, and adopted.

Mr. TAYLOR. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. TAYLOR. I now move to take up the bill entitled "A bill to further extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office," approved July 5th, 1848; and that the bill be put upon its passage.

I will detain the House but a single moment in explaining it.

Mr. JONES, of Tennessee. I wish to suggest to the gentleman, that perhaps it would be as well to amend the bill, by striking out the words "the 1st of January, 1854." I suppose the Government intends to satisfy all those land warrants. If that modification is adopted, it will save the trouble of passing another bill.

Mr. TAYLOR. I do not object to that; but I think it necessary to detain the House for a moment in stating the object of this bill, for many gentlemen, probably, are not familiar with the situation of our Virginia military district in Ohio. It is well known by gentlemen who have served in Congress, that a bill of this kind becomes necessary every few years, from the policy of the Government, which endeavors to bring about the entry and locating of the land in what is called the Virginia military land district, in the State of Ohio. In 1784, when this reservation was made, and at the time of the general cession of Virginia of the Northwestern Territory, there were about 4,000,000 of acres of land within that district. All those lands, save about 100,000 acres, have been entered and appropriated by Virginia land warrants, entered in the Virginia military district land office, in the town of Chillicothe, in the State of Ohio, which is an office under the General Government requiring frequent legislation here. The time has been extended for the last twenty or thirty years, two or three years at a time, with the hope that those lands would be appropriated. Many of them are of little value; some not worth twenty cents an acre, some worth less; some fifty cents or more; but still there remains about 80,000 or 100,000 acres of this land not surveyed; and for the want of action on this bill, the land office of that district has been closed against the entering of the lands, since the 1st day of last January. I will state, Mr. Speaker, for the information of the House, that this bill has been reported by the Committee on Public Lands to this House, and is in the exact words of the bills repeatedly passed heretofore by Congress. Its only object is, to keep the land office open there, to enable the persons holding Virginia military land warrants to enter them, until some final disposition may be made of these lands.

I am aware of the objection of my colleague, [Mr. STANTON], and am sorry that I cannot accommodate him. His object is to prevent litigation in the district. There has been a vast deal of conflict between persons entering these warrants; but if we close the land office, I do not think he would accomplish his object; for persons will litigate about their titles, and the boundaries of their land. I do not think he ought to desire to close this office in the State of Ohio, and leave 60,000 or 100,000 acres of land unsurveyed. It is the only portion of public land in the State unsurveyed, while it is subject only to entry by persons holding Virginia military land warrants. The land, which was of little value, is growing more valuable, as the settlement increases. I will state, that within the last four years, under a bill similar to this, 100,000 acres have been appropriated by persons holding Virginia land warrants; and the only object of this bill is to enable the holders of such warrants to continue to locate them so far as they desire. I believe, during the progress of this session, another bill will be introduced, probably by some of my friends from Virginia, contemplating the entire relinquishment of the residue of the land of this Virginia military land district, so far as it is inappropriate, to the United States, or to the State of Ohio, upon certain conditions, which shall have my cooperation when it comes up. That will afford my colleague ample opportunity to make his hour's speech. I do not wish to detain the House further, and will conclude by calling for the previous question.



Mr. STANTON, of Ohio. I hope the gentleman will permit me to make a proposition to him. I desire to offer an amendment to that bill, which I think will obviate the objection I have to it; and for that purpose I submit a proposition that the bill be committed to a select committee to consist of three.

Mr. TAYLOR. Submit your amendment now.

Mr. STANTON. Let it be submitted to the investigation of a select committee, of which the gentleman and myself shall constitute members. We may agree upon an amendment.

Mr. TAYLOR. Have your amendment read.

Mr. STANTON. I have not yet prepared it. The character of the amendment I desire should be made to the bill is this: That the vacant land shall be surveyed, laid out in sections and fractional sections by the surveyor of the district, and that the location shall be confined to the lands so surveyed; thereby to prevent locations upon lands which have been once bought and paid for, and now in the hands of actual settlers. That is the amendment I desire to ingraft upon the bill.

Mr. TAYLOR. I withdraw my call for the previous question, for the purpose of replying to my colleague.

Mr. STANTON. The gentleman will not allow me to make an explanation, and yet withdraws the call to make one himself.

Mr. TAYLOR. It is from no discourtesy to my colleague. I wish simply to state that he appears desirous of amending this bill in such a manner as that the United States surveyors shall lay off these lands in sections, according to the present mode of laying off the public lands. That is impracticable. The system of surveys adopted under the cession making this reservation, is entirely different from the general land survey system of the United States; a system which authorizes anybody holding a warrant to locate it where he pleases. Until an entire supervision and revision of the laws making this grant and reservation shall be made, it is impossible to change the present system. The Government has, at the present time, a land office in that district. Certainly, it is not the desire of Congress to shut it up! And this is the only system by which the lands may now be appropriated. It seems to me to be a plain matter. It is a very ample one; I ask no change, but merely that the land office may be kept open. I now renew the call for the previous question.

Mr. STANTON. I wish to make an explanation why the bill should not be passed, and I appeal to the House to vote down the call for the previous question.

The previous question was seconded.

The question recurred, Shall the main question be now put? And on a division, there were—ayes 55.

Mr. TAYLOR called for tellers; which were ordered, and Messrs. TAYLOR, of Ohio, and STANTON, of Tennessee, were appointed.

The question was again put to the House, and the tellers reported that there were—ayes 74, noes 43.

Mr. STANTON. I hope the House will indulge me in having the yeas and nays upon the question, which I demand.

The yeas and nays were ordered.

The question was again put, and it was decided in the affirmative—yeas 80, nays 44; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, William Appleton, Averett, David J. Bailey, Barrere, Bocoek, Brooks, Chandler, Chapman, Churchwell, Clingman, Cobb, Cottman, Dean, Dockery, Duane, Edmundson, Evans, Ewing, Ficklin, Fitch, Florence, Gilmore, Goodenow, Goodrich, Gorman, Hall, Hamilton, Hart, Haws, Haveu, Hendricks, Holladay, Horsford, Houston, Howard, Thomas M. Howe, Andrew Johnson, Robert W. Johnson, Geo. W. Jones, Kuhns, Landry, Martin, McDonald, McQueen, Meacham, Meade, Miller, Miner, Henry D. Moore, John Moore, Morehead, Olds, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Polk, Porter, Price, Riddle, Schermerhorn, Origen S. Seymour, Snow, Stanley, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Strother, Taylor, Thurston, Venable, Wallace, Walsh, Ward, Watkins, Wells, Addison White, and Williams—80.

NAYS—Messrs. John Appleton, Bell, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Carter, Chas. rain, John G. Davis, Dimmick, Doty, Fowler, Freeman, Giddings, Grow, Hascall, Hibbard, Hillyer, Jno. W. Howe, Ingersoll, Jenkins, John Johnson, Daniel T. Jones, J. Glancy Jones, Geo. G. King, Preston King, Kurtz, Mann, McCorkle, McNair, Milson, Molony, Murray, Nabers, Penniman, Perkins, Phelps, Robbins, Skelton, Benjamin Stanton, St. Martin, Sweetser, Townsend, Walbridge, and Wilcox—44.

So the main question was ordered to be put.

The question now being upon ordering the bill to be engrossed and read a third time—

Mr. STANTON. I ask of the House ten minutes to make a few remarks on the bill. When I have occupied that much time, the Speaker's hammer may fall. As a statement has been heard in favor of the bill, I trust one will be heard against the bill. This is a question in which my constituents are deeply interested.

[Cries of "Agreed!" "Agreed!"]

Mr. TAYLOR. I object. I shall require ten minutes to explain it. I have no objection, however, to the gentleman's proceeding, provided I have an opportunity to reply.

Mr. STANTON. That will meet entirely with my consent.

A VOICE. Let them have ten minutes each.

The question was put to the House whether the gentlemen should have ten minutes each to speak to the bill, and it was agreed to.

Mr. STANTON then said: Mr. Speaker, it is not without much hesitation and doubt that I have been able to come to a conclusion as to what course it was my duty to pursue in relation to this bill.

Laws, like the one now under consideration, have so long passed almost as a matter of course, without opposition from any member who has heretofore represented any part of the Virginia military district in Ohio, that I feel very reluctant to oppose its passage. But after much reflection, and upon consultation with some of the most intelligent citizens of my district, I have come to the conclusion that it is my duty to do so. As the subject is purely local in its character, it cannot be supposed that members from other States are familiar with the subject; and I must, therefore, beg the indulgence and attention of the House for a short time, to state the grounds of my opposition.

The bill proposes to grant further time to the holders of Virginia military bounty land warrants to locate their warrants. I oppose it; in the first place, because I believe it will have a tendency to disturb locations made many years ago, and interfere with existing titles. Very near one half of the district, which I have the honor to represent here, is within the Virginia military reservation, between the Little Miami and Scioto rivers. This territory, as I shall notice more fully hereafter, was reserved by the State of Virginia in her deed of cession, to satisfy bounty land claims that were outstanding against her in favor of her troops who served in the Virginia line on Continental establishment in the war of the Revolution. The great body of the lands, in the portion of the district which I represent, were located and surveyed between the date of the Greenville treaty, 1795, and the year 1815, a period of twenty years. That portion which lies north of the Greenville treaty line was not subject to location until the 4th of July, 1819, but was nearly all located and surveyed within the next five years.

And I doubt whether there is now an acre of vacant land in my district. And hence gentlemen may think it strange that I should be opposed to further locations. The difficulty is, that these lands are now very valuable, generally well improved, and highly cultivated. And hence the holders of these warrants are very anxious to make vacancies where there are none. From what I have stated, it will be recollected that the great body of these lands has been located from thirty-seven to fifty-seven years. These locations almost uniformly cover from ten to fifty per cent. more land than the entries, surveys, and patents call for. The lines, when measured upon the ground, are uniformly longer than the lines called for in the patent. The original corner and line trees are very generally lost, either from time and accident, or in clearing up the lands. The witnesses who can identify the corners, and testify where they originally stood, are fast passing to that "bourn from whence no traveler returns." The owners have neglected to perpetuate the evidence of their existence in any authorized and legal manner. So far as boundary conflicts between neighbors are concerned, the lines can generally be established by reputation, and very soon they will all be settled by the statute of limitations.

But when they have to contend with recent entries, surveys, and patents, lapse of time only makes it worse. The difficulty of establishing ancient boundaries is increased, and the statute of limitations does not run against the Government.

These warrants are generally held by gentlemen who reside in the district represented by my colleague who introduces this bill, and where the surveyor's office is kept. They have spent their whole time in dealing in Virginia military lands, have daily access to the records, and are thoroughly familiar with every survey in the district.

They know what surplus there is in every survey, and generally contrive to find out what corners are destroyed. And they very well understand the principle of law, that when a corner is lost, and its original position cannot be established by proof, that the boundaries of the survey must be established by running again, and accurately, the courses and distances called for in the original survey and patent.

This will almost uniformly leave from two hundred to three hundred acres of vacant land for each survey of one thousand acres. A warrant is forthwith laid upon it, a survey made in some lawyer's office, calling for the corners of the adjoining surveys, and a patent issued. A deed is thereupon made to some gentleman in another State, who is totally ignorant of the whole transaction, and an action of ejectment brought in the United States circuit court. And, as a general rule, it is of very little consequence whether the suit can be sustained or not; for, in nine cases out of ten, the farmer who is sued is not able to encounter the expense of a litigation in that court. If he prosecutes the case to a trial he is ruined, whether he fails in his suit or not. He is, therefore, very glad to get off by paying \$5 or \$10 per acre for the land in controversy, by way of compromise. This is the state of things there at present. I hope the next generation may see the end of it. If these locations are stopped now, the end will probably come in a quarter of a century. But it will never come so long as these locations are allowed. Time only aggravates the evil, by increasing the difficulty of establishing ancient boundaries.

In 1804, an act of Congress was passed, giving to the holders of the warrants three years to "complete their locations." Undoubtedly, the primary object of this law was to dispose of the residue of the lands in this district after the military warrants were satisfied. But I think it may also be fairly presumed that it was also intended, like all other statutes of limitations, to be a statute of repose—to prevent previous locators from being disturbed by new locations, after the landmarks of the original location should be destroyed. There is no more propriety in passing this law than there is in passing a law to relieve any other class of persons from the operation of the statute of limitations.

The lands upon which they propose to make their locations, I presume have been there ever since their rights accrued, though I am aware that their rights are very ancient, and will not undertake to speak with certainty on that point. I know it is said that they have a just claim to these lands, and that they ought not to be deprived of them. If the justice of their claim were admitted, there is no more injustice in this than in all other cases where a State claim is barred by the statute of limitations.

By the laws of Virginia, the soldiers entitled to land bounties from that State were required to exhaust the good lands in the district set apart for them, in what is now the State of Kentucky, before resorting to the lands reserved in her deed of cession between the Little Miami and Scioto rivers. But the statesmen of Kentucky, with a sagacity and foresight that does them infinite honor, provided, in their compact with Virginia, that no warrants should be located in Kentucky after the year 1792. And although Kentucky has passed through an ordeal of litigation in regard to titles to real estate, that has probably done more than all other causes combined to retard her prosperity, yet, if I am correctly informed, it is now almost, if not entirely, at an end. And I also understand, that she owes her exemption from this calamity at this time, mainly if not entirely to the lapse of time, and to the operation of the statute of limitation. But I undertake to say, that if the time for locating land warrants in Kentucky had been extended from that time until this, as it has been in Ohio, she would still have been harassed with litigation, arising out of recent locations and patents.

Every civilized country has found statutes of limitation, as to the title to real estate, indispens-

able to the security and repose of its people. And I see no reason why the people of the Virginia military district should, by these extraordinary extensions of time to the holders of Virginia military land warrants, be deprived of the wholesome and beneficial influence of such laws. But I deny the justice of the claims that are now outstanding, and propose to show that the warrants that are now unsatisfied, have been improvidently issued. To do this, a brief history of the origin of these warrants will be necessary, for the information of many gentlemen here who cannot be supposed to be familiar with the subject. During the revolutionary war, the State of Virginia furnished to the Continental army sixteen regiments of troops, which were called the Virginia Line on Continental Establishment.

She also raised three regiments for the more immediate defense of the State, which were under the control of the State authorities, and were called the "State Line."

She also furnished some twenty or twenty-five small vessels-of-war, that were called the "State Navy," which were estimated as being equal to one regiment of land forces.

She also furnished several "Partisan corps," such as "troops of cavalry," "battalions and legions of infantry," and artillery companies, which were estimated to be equal in the aggregate to two regiments, making twenty-two regiments.

At the earnest solicitations of the Continental Congress and General Washington, she held out the strongest inducement to her people to enter the service, by offering large bounties in land to such as would enlist and serve for three years, or during the war.

The Legislature of the State of Virginia, by various laws, running from the year 1778 to 1784, provided the following bounties for her officers and soldiers who had or should enlist, and serve for the term of three years, or during the war:

To a Major General .....	15,000 acres.
To a Brigadier General.....	10,000 "
To a Colonel.....	5,000 "
To a Lieutenant Colonel.....	4,500 "
To a Major.....	4,000 "
To a Captain.....	3,000 "
To a Subaltern.....	2,000 "
To a non-commissioned officer..	400 "
To a soldier or sailor.....	200 "

for those who served during the war.

For those who served during three years:

To a non-commissioned officer...	200 acres.
To a soldier or sailor.....	100 "

As to commissioned officers, there seems to have been no distinction made between those who served three years, and those who served during the war. The heirs of any officer or soldier who died in the service, were entitled to the same bounties their ancestor would have been if he had served during the war.

Warrants were to be issued by the Governor upon proof of service. In May, 1779, a tract of country bounded by Green river, the Cumberland mountain, the Carolina (now Tennessee) line, the Tennessee river, and the Ohio river, was set apart by the Legislature of Virginia to satisfy these warrants.

In November, 1781, a further tract, included within the Mississippi, Ohio, and Tennessee rivers and the Carolina line, was granted for the same purpose, which was said to be in lieu of a part of the former tract, which had fallen to Carolina in the extension of the Carolina line westward.

In 1774, Virginia ceded to the United States all the land claimed by her, lying northwest of the Ohio river, reserving the lands lying between the Little Miami and Scioto rivers, to satisfy any unsatisfied balance of land that might be due to the soldiers of the Virginia line on Continental establishment, after exhausting the Kentucky reservation. An examination of the phraseology of this reservation, will show that neither the Legislature of Virginia, nor the Congress by which the deed was accepted, considered it at all probable that there would be any deficiency in the Kentucky reservation. And the only contingency, it will be observed, which it was supposed could possibly create a deficiency, was, "should the North Carolina line bear in further upon the Cumberland lands than was expected," and deficiency thus be created, it was to be satisfied from the Ohio reservation. There is something singular about this. Three years before an additional grant had been

made in Kentucky, for the reason that the North Carolina line had then been extended, so as to include a part of the original grant. It is a little remarkable, therefore, how there could then have been any uncertainty about the Carolina line.

It is worthy of remark, also, that the deed of cession was executed after the close of the war, when the authorities of the State of Virginia must have been able to ascertain, with very considerable certainty, what amount of land would be necessary to satisfy the legal claims of her officers and soldiers. It seems, that very soon after the execution of the deed of cession, and before the deficiency of the Kentucky reservation was ascertained, locations commenced on the Ohio side of the river. But Congress, still satisfied that the Kentucky lands were sufficient, passed a joint resolution in July, 1788, declaring all locations between the Little Miami and Scioto rivers, in Ohio, void, until the deficiency in the Kentucky reservation was ascertained and established. Soon after this, the superintendent of the surveys reported to the Executive of the State of Virginia, that the deficiency of good lands on the southeast side of the Ohio, contemplated by the deed of cession, had been ascertained, and an act of Congress was passed, August 10, 1790, legalizing the locations that had been made, and prescribing the mode of perfecting the title. This law also required the Secretary of War to furnish the Governor of Virginia with a list containing the names of the officers and privates of the Virginia troops, and the aggregate amount of acres to which they were entitled. It is believed that this list was furnished; but the original, from which it was taken, was destroyed in 1801, when the War Office was burned. A copy, however, was furnished by the auditor of the State of Virginia to the Secretary of War, and is still on file in the Pension Office.

In 1804, Congress acting, doubtless, upon the supposition that very nearly all who were entitled to warrants had had them issued and located, passed an act, requiring all claims to be located within three years, and prohibiting further locations after that time. In 1807, when this law was about to bring these locations to a close, it was represented that there were still a few claims not satisfied; and as there was no provision of law authorizing their location elsewhere, these warrants would be entirely worthless. An extension of two years was then given.

These periodical extensions have been continued every two or three years from that time to the present. And it is worthy of remark, that the annual issue of warrants from 1810 to 1816 was diminishing rapidly every year, the amount issued in 1810 being 119,456 acres, and in 1816, 773 acres.

The issues again commenced to increase, and warrants were issued in large quantities until 1825, when they were again reduced to 200 acres against 36,177 acres in 1822, and 60,980 acres in 1824. The explanation of this will probably be found in the fact, that in 1816 nearly all the good land, then subject to location, had been located. But by the treaty of Fort Meigs in 1818, the lands north of the Greenville treaty line were ceded to the United States, about 500,000 acres of which were within the Virginia military reservation in Ohio, which became subject to entry and survey after July 4, 1819. Between July, 1819, and 1825, these lands were nearly all exhausted. And we find but few warrants issued from 1825 to 1830. In 1830 an act of Congress passed, authorizing the issue of 310,000 acres of scrip to satisfy warrants that were alleged to be still outstanding and unsatisfied. In 1832 a further issue of 300,000 acres was authorized. In 1833 a still further amount of 200,000 acres, and in 1834 one of 650,000. In 1829 the issue of land warrants had been reduced to 1,589 acres for that year. During the issue of this scrip, new warrants were issued as follows:

In 1830.....	112,700 acres.
In 1831.....	176,618 "
In 1832.....	239,337 "
In 1833.....	158,917 "
In 1834.....	425,994 "
In 1835.....	162,208 "

In the law of 1834, liberal as the appropriation was, and sufficient—as they were assured it would be—to satisfy all claims, Congress seems, from some experience of the recent miraculous increase of these warrants, to have determined to avoid further applications for the future by providing

that this grant should be in full of all outstanding claims. And to provide for the possibility of a deficiency, it required the holders of warrants to file them with the Commissioner of the General Land Office before the 1st of September, 1834; that no warrants should be satisfied before that time; and that, if there was on file warrants covering more than 650,000 acres, that they should be satisfied ratably. When the time arrived, it appeared that warrants for some 710,000 acres were filed, of which the appropriation of 650,000 acres of scrip satisfied about ninety per cent.

From that time up to 1845, application was made at about every session of Congress for further issues of scrip in satisfaction of these warrants. At the first session of the Twenty-sixth Congress the subject was referred to the Committee on Revolutionary Claims. The whole subject was thoroughly investigated by that committee, and two reports made; one by the honorable Hiland Hall, of Vermont, for the majority, and one by John Talliaferro for the minority. Both sides of the question are fairly presented by these reports, and an appendix to each presents a large amount of documentary evidence in support of the views which they respectively present.

Mr. Hall reports against any further issue of scrip, upon the distinct ground that all the just claims for bounty lands to the Virginia troops had been satisfied, and that the outstanding warrants had been improperly issued. The report of Mr. Hall was sustained by the House, and the bill for the further issue of scrip was defeated. These reports will be found in volume two of Reports of Committees of the first session of the Twenty-sixth Congress, No. 436. The subject was again brought before the House at the second session of the Twenty-seventh Congress, and referred to a select committee, of which a distinguished gentleman from North Carolina, [Mr. STANLEY,] now a member of this House, was chairman. Mr. Hall, of Vermont, was a member of the committee, and made a report which purports to be the report of the entire committee, enlarging upon his former report, and coming to the same conclusion. He was again sustained by the House. This will be found in volume five, Reports of Committees of the second session of the Twenty-seventh Congress, No. 1,063.

Another effort was made to procure a law authorizing the issue of additional scrip, at the first session of the Twenty-eighth Congress. It was now referred to the Committee on Public Lands, from which a very elaborate report was made by Mr. Hubard, of Virginia, in favor of the passage of the law. The House, however, refused to sustain the report, and the bill was defeated. This report will be found in volume two of Reports of House Committees, first session, Twenty-eighth Congress, No. 457.

In these reports, Mr. Hall labored to establish the proposition, that the warrants which had then been issued and satisfied, covered a larger amount of land than the Virginia troops could by possibility have been entitled to.

The difficulty was, to ascertain with precise accuracy the number of the troops who were entitled to bounty lands. The rolls of the revolutionary army do not show the time of service, and hence it was impossible to ascertain with precise accuracy, what proportion of the Virginia troops were entitled to bounty lands by the Virginia laws, which required three years' service, or until the end of the war. The heirs of those who died or were killed in the service, were also entitled, when the enlistment was for three years.

The amount of pay was resorted to by Mr. Hall as furnishing an approximation. But this would be defective, so far as the claims of those who died or were killed in service were concerned. For no matter how short the actual service, or how small the amount of pay may have been, if the enlistment was for three years, the heirs of the soldier would be entitled to pay.

There is, however, a "pay roll" in the Pension Office, which includes all the troops of the Virginia line, who received pay to any amount for their services. This, it is presumed, includes the whole of the officers and soldiers of the Virginia troops who were mustered into the service during the war of the Revolution. This is the roll furnished to the Governor of the State of Virginia, under the act of Congress of August, 1790.

Believing that this list might aid me in arriving

at correct results on this subject, I called on the Commissioner of Pensions for a statement of the aggregate number of the officers and soldiers of the sixteen regiments composing the Virginia line on Continental establishment. He informs me in reply that there were 2 major generals; 13 brigadier generals; 47 colonels; 31 lieutenant colonels; 55 majors; 372 captains; 440 lieutenants; and 258 non-commissioned officers.

Making an aggregate of 1,218 officers; and that there were 8,459 soldiers—making a grand total of 9,677 troops.

It will be obvious, however, that of this number there must have been a very large proportion who did not serve the time required to entitle them to bounty land. But supposing them all to have been entitled, the result would be as follows:

2 Major Generals, one only of whom has received bounty lands.....	15,000 acres.
13 Brigadier Generals, only six of whom have received bounty lands.....	60,000 "
47 Colonels received 6,666 $\frac{2}{3}$ acres each.....	312,333 $\frac{1}{2}$ "
31 Lieutenant Colonels received 5,000 each.....	155,000 "
55 Majors received 5,333 $\frac{1}{3}$ acres each.....	293,333 $\frac{1}{3}$ "
372 Captains received 4,000 acres each.....	1,508,800 "
555 Subalterns received 2,666 $\frac{2}{3}$ acres each.....	1,479,963 $\frac{1}{3}$ "
143 Non-commissioned officers received 400 acres each.....	57,200 "
8,459 Privates received 100 acres each....	845,900 "
Making an aggregate of.....	4,722,730 "

Which would satisfy the claims of all the troops of the Virginia line on Continental establishment, as well those who were entitled as those who were not, except one Major General and seven Brigadier Generals, for whose services no warrants have ever been issued, probably because they had not served the time required to entitle them to bounty lands.

I am aware that officers who served six consecutive years, and till the end of the war, were entitled to one sixth, in addition to the amount originally granted, upon which the foregoing computation is based. And also that soldiers, who enlisted for the war, and served until its close, were entitled to two hundred acres, instead of one hundred. But no one who has the slightest knowledge of the times, and of the difficulties which the armies of the Revolution encountered on account of short enlistments and time of service, can suppose for a moment that the amount to be added for these two classes of cases can be anything like equal to the amount to be deducted for those who served less than three years.

I know it has been claimed that there was a larger number of troops than I have stated; but I am wholly at a loss to imagine how there could have been a larger number of men in the service than is found upon the pay rolls. This would give six hundred and five men to each of the sixteen regiments. And this is quite as large an average as we have any reason to suppose was ever in the service. As to the term of service, there can be no doubt; but a large proportion of those found upon the pay rolls served for a period short of three years, and were not entitled to bounty lands.

Prior to October, 1776, Virginia passed laws authorizing the raising and embodying of eleven regiments, one battalion, six troops of horse, and nineteen companies of infantry, all for terms less than three years. How many of these were actually raised, or what proportion of those actually raised went into the State line, and what proportion into the Continental line, it is difficult to ascertain; but there is no doubt many of them must have gone into the Continental line; and none of these troops would be entitled to bounty land by virtue of their enlistment and service under those laws.

There is no doubt but many who entered the service under these laws, renewed their enlistment at the expiration of their term of service, and ultimately became entitled to bounty land; and I suppose it is equally certain that many left the service at the expiration of their term, and never became entitled to land; but they are all on the pay roll, and included in the aggregate which I have given.

Chief Justice Marshall gave it as his opinion, in 1836, that there must have been an average of five hundred persons for each of the sixteen continental regiments who were entitled to bounty land. This would leave one hundred and five for each regiment who were not entitled to it. And when

the condition of the army at Valley Forge, in the winter of 1777-'8, is considered, almost reduced to a skeleton by desertion, expiration of the terms of service of the men, and the resignation of the officers, it is believed that the estimate of the Chief Justice will be considered liberal.

But, leaving all these considerations out of view, and supposing every officer and soldier found upon the pay rolls entitled to bounty land for three years' service, and their claim will amount, in the aggregate, as I have said, to 4,722,730 acres.

They have already received, in land warrants, located in Kentucky and Ohio, and in land scrip issued under various acts of Congress, and applied to the satisfaction of their warrants, as follows, to wit:

Warrants located in Kentucky.....	724,045 acres.
Warrants located in Ohio.....	3,620,848 "
Scrip.....	550,225 "

Making an aggregate of.....4,944,118 "

being 221,338 acres more than the whole rank and file of the Continental troops could by any possibility ever have been entitled to. There is also on file in the General Land Office 85,000 acres of unsatisfied warrants, besides those that are in the hands of individuals. The inquiry at once arises, how it can be possible that the State of Virginia should ever have issued warrants that were wholly unauthorized, for such an immense quantity of land. To this I answer: first, that any system which authorizes one government to adjudicate claims that are to be paid by another, is radically wrong, and fatally, and almost necessarily, begets a loose mode of doing business, and inevitably leads to fraud and imposition on the part of claimants. The rules of evidence are relaxed to meet what are supposed to be hard cases, and the door is opened to all manner of imposition. It will be found that these results have, in fact, followed. During the war of the Revolution, and for many years after, a warrant could only be issued to an officer upon the certificate of a general officer of the line, stating the term of service of the applicant, and the regiment or corps in which he served. In 1816, this law was repealed, and the Executive was authorized to issue the warrants when "satisfactory evidence was adduced." Since that law, warrants have been issued upon *ex parte* affidavits of the most vague and unsatisfactory character. I do not charge that the State of Virginia, or her citizens, have acted differently from what any other State or people would have done under the circumstances. The whole system of granting and locating warrants, is radically and fatally defective; and nothing but fraud and imposition could possibly grow out of it. All I ask is, that inasmuch as the right to locate these warrants is now barred by the statute of limitations, that they shall not be relieved by further legislation. This, as well as all other statutes of limitation, proceeds upon the presumption, that if a man does not assert his claim within a reasonable time, it is because he is conscious of its injustice. The rights of these claimants accrued near seventy years ago. They have had from that time to the present to assert them.

Forty-eight years ago a law was passed requiring them to assert them within three years, or they should be forever barred. Since that they have been indulged with an extension of time for forty-five years. I submit, that in reason and common sense, as well as in law, if there are any such claims outstanding, they will be presumed to be unjust. The proofs which I have submitted fortifies this presumption so strongly that it amounts to demonstration.

But my colleague says there is a large amount of vacant land in his district, and that his constituents are interested in having it settled and brought into cultivation. It was undoubtedly contemplated at the time of the execution of the deed of cession by Virginia to the United States, and for many years afterwards, that there would be a large amount of vacant and unappropriated land in this reservation after satisfying the Virginia troops. It was mainly with the view of bringing these lands into market, and making them subject to private entry, like other Government lands, that the act of 1804, and subsequent acts requiring the soldiers to complete their locations within a short period, were passed. And if Congress shall refuse a further extension of time for making these entries and surveys, it will undoubtedly be our duty to provide for having them surveyed, and subject to

entry and sale, like other Government lands. A bill has passed in the Senate to cede to the State of Ohio the unsold public lands lying in that State; and if the House shall refuse to pass this bill, these lands ought to be included in that cession.

That the lands are of scarcely any value, either to the State or the nation, is abundantly evident from the fact that they lie in the neighborhood of some of the oldest settlements in the States and have been subject to appropriation by Virginia military land warrants, worth from thirty to fifty cents per acre, for sixty years. I care very little, therefore, what becomes of the land. My main objection to this bill is, the effect of the extension of the time to make these locations upon existing titles in my own district. I will say to my colleague, if he is very anxious to have these huckleberry knobs in Pike and Adams counties subjected to the warrants that are still outstanding, I will interpose no objection if he will so modify his bill as to keep his land-sharks from devouring my constituents. If he will so modify it as to confine the locations to certain counties in the district, or if he will provide for having the vacated lands surveyed by some disinterested public surveyor, within a limited time, into sections and fractional sections, and such other subdivisions as are now provided for the public lands, and confine future locations to the lands so surveyed, I shall interpose no objection to the passage of the bill. But I assure my colleague that he will be very fortunate if he gets it passed in its present form during this Congress.

Mr. TAYLOR. I am very sorry to detain the House. I do not wish to occupy much of the time of this House, as it seems to me to be a plain matter. The Committee on Public Lands investigated this matter as early as January, and reported a bill to this House, unanimously, to extend the time for locating the warrants in this district. I thought it was unnecessary to place this bill upon the Calendar, and hoped very much that the chairman of the Land Committee would have asked that it might be passed, when it was first reported. Since the 1st day of January, the Virginia military land office in the district which I have the honor to represent, has been closed against the entering of public lands for the want of some action of Congress upon this bill. My friend and colleague [Mr. STANTON] intimates here, that my constituents have sent a private surveyor up to his district to molest his constituents. He ought in candor to have stated to the House that this surveyor is a surveyor of the United States—an office created more than sixty years ago—and the surveyor holding the title of surveyor general of the Virginia military district, appointed under law by the President. He holds an important office there, preserving the land titles of millions of acres. The county in which my colleague lives is situated some one hundred miles from where I reside. It does seem to me improper for the gentleman to insinuate that this public surveyor, of your public lands in this district, is carrying on a system of fraud and speculation upon those lands. It is true, that many of the old surveys were irregularly made. Conflicts about lines and titles have arisen in my colleague's county, as well as my own, and it has been a fruitful source of litigation. But does the gentleman suppose, that by closing the land office, and preventing persons not only in my part of the country, but in Virginia, Kentucky, Illinois, Missouri, and elsewhere, who own Virginia military land warrants, from entering the balance of these lands, he can accomplish his purpose and prevent litigation? Surely, as a lawyer, he will not advocate such a proposition here. Suppose some individual should claim 1,500 acres, in what he called 1,000 acre entry, and some other person, with a warrant recently issued, finds himself without the means of satisfying that warrant, and upon investigating the claim, finds an old entry for more than the warrant called for, or finds a vacant space between him and some subsequent locator: I ask if the gentleman would restrain him from entering the land warrant, and testing his rights in the courts of justice of that State? You cannot prevent litigation by closing this land office; and it would be improper to have it closed.

Mr. HALL. I understand the gentleman from Ohio, [Mr. STANTON], who preceded the gentleman, to state that if this bill should pass, the titles in his district would be disturbed. I wish to ask



the gentleman from Ohio, [Mr. TAYLOR,] if an individual who located a warrant for 1,000 acres under a previous law, does not hold it beyond the power of interference of this or any law heretofore passed?

Mr. TAYLOR. Undoubtedly.

Mr. HALL. It is, then, as I understand it, that if an individual locates a 1,000 acre warrant, he cannot by any possibility get 2,000 acres?

Mr. STANTON. It is the purchaser under him—the man who is holding it, and who does not know whether it was a 1,000 acre warrant under which the location was made, or not.

Mr. TAYLOR. I admire the zeal of my colleague in his desire to prevent litigation amongst his constituents, by shutting up the land office of my district. It might be of great convenience, but I presume that this House is not ready to say that we shall shut up a land office where there are nearly 100,000 acres of land not yet surveyed, and where that land is only liable to be entered and surveyed, under a system of legislation which has been in existence for sixty years. I should be perfectly willing, if the members of the House generally understood the situation of that district, to sit down, and trust to the good sense of the House to pass this bill. I am sorry to hear my colleague intimating that the surveyor general of the Virginia military district, in Ohio, a public officer who has been fifteen or twenty years in office, and whom I believe to be every way a respectable and trustworthy gentleman—who was appointed in General Jackson's or Martin Van Buren's time—would be guilty of peculating upon the public lands in his district. We have no desire to do any injury to the gentleman's constituents. I wish to say that the only object of this bill is to enter and survey the unappropriated lands, about 80,000 or 100,000 acres.

Mr. SWEETSER. Will my colleague allow me to interrupt him for a moment? I am fearful that my colleague is confounding this Virginia military district and the manner of making surveys with the surveys of the United States military district.

Mr. TAYLOR. Not at all.

Mr. SWEETSER. Will my colleague permit me to make a single remark? Now, all these lands in the Virginia military district are subject to entry by the individuals who hold warrants. The entry and surveys were made by the interested party at their peril. The Government of the United States has no agency—

Mr. TAYLOR. I was about to explain that myself.

Mr. SWEETSER. If this bill was confined to the counties in the south part of the State, where there are unsurveyed lands, then I would have no objection to it; but in the northern counties of the Virginia military district, all these lands have been taken up and occupied for more than twenty years. There is not an acre of land in the northern counties that is not now claimed to have been surveyed, and in most cases now in the possession of actual settlers. There are from eighty to one hundred thousand acres in the southern counties of the Virginia military district, which have never been surveyed or entered. Confine your bill to that district, and I have no objection.

Mr. TAYLOR. I will say to the gentleman who last occupied the floor, that it is not the desire of any gentleman holding a military land warrant, or the surveyor of the district, to touch one acre of land which is honestly appropriated. But if any of this land is dishonestly appropriated, I trust the officers of the General Government, and all other officers of the land office, will ferret it out. I trust that men having warrants will locate upon these lands. Some of the citizens of my colleague's district may have improperly held these lands; but that is a question to be decided by the courts of justice. I am willing to trust the courts to control the titles to any land I hold in that State, the Virginia military district, or elsewhere. It is impossible for both of my colleagues to resist this bill, and reach their object, by shutting up this land office. This bill simply proposes to extend the time for the short space of two years. It has been extended twenty years. I feel that I have already occupied enough of the time of the House, and I move the previous question.

Mr. STANTON, of Tennessee. I desire to ask a question of the gentleman from Ohio. I understand that his colleague [Mr. STANTON] wishes

that, by an amendment, Congress shall settle the titles of those gentlemen who have entered more land than they were entitled to.

Mr. STANTON, of Ohio. Not at all.

Mr. TAYLOR. That is exactly it. But I do not know how Congress is to settle the titles of conflicting land claimants. The courts were established to do that.

Mr. STANTON, of Tennessee. Neither do I see how they can do it.

Mr. STANTON, of Ohio. I move to lay the bill upon the table.

The question was put, and the motion was not agreed to.

The bill was then ordered to be engrossed for a third reading, and having been engrossed, was read the third time.

Mr. TAYLOR called for the previous question upon the passage of the bill.

Mr. GIDDINGS. I rise to a privileged question. Is it not in order to move a reconsideration of the vote by which the bill was ordered to be engrossed?

The SPEAKER. It is in order.

Mr. GIDDINGS. I do not want to speak on this bill myself, but as my colleague [Mr. STANTON] wishes to speak, I make the motion to reconsider for the purpose of giving him a chance.

Mr. TAYLOR. I move to lay the motion to reconsider upon the table.

Mr. STANTON, of Tennessee. I rise to a question of order. It is this: That the gentleman from Ohio [Mr. GIDDINGS] cannot get the floor for the purpose of giving it to any one else.

The SPEAKER. No other gentleman has been recognized by the Chair.

Mr. GIDDINGS. I withdraw the motion to reconsider.

The motion was accordingly withdrawn.

Mr. TAYLOR moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and also, to lay the motion to reconsider upon the table; which latter motion was agreed to.

The question recurred upon seconding the demand for the previous question.

Mr. STANTON, of Ohio. I wish to move to recommit the bill to a select committee of three, or to the Committee on Private Land Claims, whichever my colleague prefers.

The SPEAKER. If the House fails to sustain the previous question, that motion will be in order.

Mr. STANTON. Is it not in order now?

The SPEAKER. It is not.

Mr. STANTON. Then I hope the House will not sustain the previous question.

The question was then put on the second; and, on a division, there were—ayes 64, noes 35.

Mr. MOORE, of Pennsylvania, demanded tellers: which were ordered; and Messrs. STANTON, of Ohio, and TAYLOR, were appointed.

The question was again put, and the tellers reported—ayes 67, noes 41. No quorum voting.

Mr. VENABLE moved that there be a call of the House.

Mr. CAMPBELL, of Illinois, called for the yeas and nays; but they were not ordered.

Mr. STEPHENS, of Georgia. I ask for tellers on the motion that there be a call of the House. That will disclose whether there be a quorum present.

Tellers were ordered; and Messrs. STEPHENS and CHANDLER were appointed.

The question was then put and decided in the negative—ayes 38, noes 64.

So a call of the House was refused.

The SPEAKER. If there be no objection there will be a recount on seconding the previous question.

Mr. STANTON, of Ohio. I object.

Mr. JONES, of Tennessee. For the purpose of ascertaining whether there be a quorum present, I move that the House do now adjourn; and I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was then put, and it was decided in the negative—yeas 15, nays 127.

So the House refused to adjourn.

The question then recurred upon seconding the demand for the previous question.

Mr. McMULLIN. Is it in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

Mr. McMULLIN. I make that motion.

Mr. TAYLOR. I appeal to the gentleman to withdraw the motion till this bill can be disposed of.

Mr. McMULLIN. I cannot withdraw the motion.

Mr. TAYLOR. I desire to inquire of the Chair what will become of the bill now under consideration, if the motion of the gentleman from Virginia prevails?

The SPEAKER. It will go to the Speaker's table.

Mr. TAYLOR. I hope that the gentleman from Virginia will withdraw the motion long enough for me to make the motion to recommit the bill, so that it may not go to the Speaker's table. I would inquire of the Chair if a motion to recommit would not bring the bill before the House to-morrow morning?

The SPEAKER. The gentleman has not the floor to make the motion.

Mr. TAYLOR. I hope the gentleman from Virginia will at least withdraw his motion for that purpose.

Mr. McMULLIN. I will withdraw the motion for the present.

Mr. TAYLOR. I now ask that the question may be taken upon seconding the demand for the previous question.

Mr. CARTTER. I did not understand the gentleman from Virginia to withdraw the motion to go into committee for any other purpose than to enable the gentleman from Ohio to move to recommit the bill. I renew the motion that the rules be suspended that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I rise to a question of order. The bill has been engrossed and read a third time, and the previous question has been called upon its passage. Now, I submit that the gentleman from Ohio can neither move to amend nor to recommit the bill. No other motion can be made in reference to it. The bill must either be passed or rejected as it is.

The SPEAKER. The gentleman from Tennessee is correct in his statement.

The question was then taken upon the motion that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union, and there were—ayes 60, noes 64.

Mr. CARTTER demanded the yeas and nays; but they were not ordered.

Mr. STANTON, of Ohio, demanded tellers upon the motion to go into committee; which were ordered, and Messrs. TAYLOR and STANTON, of Ohio, were appointed.

The question was then again taken, and the tellers reported—ayes 58, noes 68.

So the House refused to go into committee.

The question was then again taken upon seconding the demand for the previous question upon the passage of the bill; and the tellers reported—ayes 96, noes 21.

So the previous question was seconded, and the main question was then ordered to be put.

Mr. STANTON, of Ohio. Is it now in order to move to lay the bill upon the table?

The SPEAKER. It is in order.

Mr. STANTON. I make that motion.

Mr. SWEETSER. Has not the previous question exhausted itself?

The SPEAKER. It has not.

Mr. STANTON. I will withdraw the motion to lay upon the table.

The question was then taken upon the passage of the bill, and carried in the affirmative.

So the bill passed.

Mr. TAYLOR. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

Mr. STANTON, of Ohio. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The SPEAKER. The motion to reconsider is a privileged motion. The motion to go into the Committee of the Whole on the state of the Union is also a privileged question. The Chair thinks that the first one made should be first put.

The question to reconsider the vote was then taken, and the motion was agreed to.

The title of the bill was then passed.

Mr. TAYLOR. I rise to a privileged question. I move to reconsider the vote confirming the title of the bill, which has just been passed, and that the motion to reconsider do lie on the table.

The latter motion was agreed to.

Mr. LOCKHART, from the Committee on Territories, by unanimous consent, reported a "joint resolution approving and confirming the act of the Legislative Assembly of the Territory of Oregon, entitled 'An act to provide for the selection of places for the location and erection of public buildings for the Territory of Oregon, and for other purposes;'" which was read a first and second time by its title.

Mr. CARTTER. I ask for the reading of the joint resolution just reported.

The resolution was then read through, and ordered to be engrossed for a third reading, and having been engrossed, was read the third time and passed.

Mr. LOCKHART moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. STEPHENS, of Georgia. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANTON, of Ohio. I hope the gentleman from Georgia will permit me to make a report first.

Mr. STEPHENS. There are several gentlemen who desire to make a speech upon the special order, and I amongst the rest. I hope we shall have a speech to-day. The House will soon adjourn unless we do so. I insist upon my motion.

The question was then put upon the motion to suspend the rules and go into the Committee of the Whole on the state of the Union, and carried in the affirmative. Accordingly the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the Chair.)

#### HOMESTEAD BILL.

The CHAIRMAN stated, as the business before the committee, the consideration of House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and for other purposes, on which the gentleman from Maryland [Mr. BOWIE] is entitled to the floor.

Mr. BOWIE addressed the House an hour in opposition to the bill. He maintained that, instead of its being a bill, as indicated by its title, to benefit the agricultural, commercial, and manufacturing interests, its effect would be to blight every interest of the country. He viewed it as a measure which appealed to the venality of voters, and as one which, in its principles and policy, was to be found in the decay of the Roman Republic. The public domain, he contended, was the rightful and common property of the United States, held for the common and general welfare; and that the disposition proposed to be made by the bill of this property, by giving it to certain persons or classes, was subversive of the trust reposed in the United States. He looked upon the whole scheme as another evidence of the destructive tendencies of legislation, which, if persevered in, must result in most deplorable consequences. [His remarks will be found in the Appendix.]

Mr. STEPHENS, of Georgia, next obtained the floor, but gave way to

Mr. CHANDLER, who moved that the committee do now rise.

The question was put, and the motion agreed to. The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HIBBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified, and had come to no conclusion thereon.

Mr. FLORENCE, by unanimous consent, presented a petition several yards long, signed by citizens of the city of Philadelphia, in favor of ap-

portioning the public lands, in limited quantities, to actual settlers; which was referred to the Committee on Public Lands.

Mr. FOWLER asked the unanimous consent of the House to enable him to introduce, for the purpose of having it referred, a bill "to refund the balance due to Massachusetts for disbursements during the late war with Great Britain."

Mr. McMULLIN moved that the House adjourn.

Mr. FOWLER. I appeal to the gentleman to withdraw that motion, to allow this bill to be read twice and referred.

Mr. McMULLIN. I will withdraw it, provided the gentleman will renew it.

Mr. FOWLER. I will renew it.

The motion to adjourn was withdrawn.

Mr. FOWLER then, by unanimous consent, introduced his bill; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. STROTHER asked the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Public Buildings do inquire into the expediency of reestablishing communications by bridges between the District of Columbia and Virginia, which have been broken by the recent freshet, and report by bill or otherwise.

Mr. CABLE objected.

Mr. STROTHER. I believe the Committee on Public Buildings is the proper committee. The resolution merely calls the attention of the committee to the subject, and I cannot well see how any gentleman can object to it.

The SPEAKER. Is the objection withdrawn? Mr. AVERETT. I object.

Mr. POLK. I ask the unanimous consent of the House to enable me to move to take up from the Speaker's table, Senate bill for the relief of Charles G. Hunter.

[Cries of "Object!"]

Mr. FOWLER. I promised to renew the motion to adjourn, when the gentleman from Virginia withdrew it, and I desire to make that motion now.

Mr. McMULLIN. I release the gentleman from the obligation.

Mr. FOWLER. Very well, then; I will not submit the motion.

Mr. POLK moved to suspend the rules to enable him to move to take up the bill which he had indicated.

Mr. MEACHAM moved that the House adjourn.

Mr. POLK. I should like to know if the gentleman can make that motion whilst I am upon the floor?

The SPEAKER. The gentleman from Tennessee must remember that he is not entitled to make a speech, and is therefore not entitled to the floor.

Mr. POLK. I hope the gentleman from Vermont will withdraw the motion to adjourn. I will state to the House that my purpose is not to press for action on the bill now.

The SPEAKER. Does the gentleman from Vermont withdraw the motion to adjourn?

Mr. MEACHAM. I cannot.

The question was then taken on Mr. MEACHAM's motion, and it was not agreed to.

So the House refused to adjourn.

The question was then taken on the motion to suspend the rules; and on a division, there were—ayes 49, noes 24; no quorum voting.

Mr. POLK. If the House will permit me to make an explanation of ten words, I will say, that it is not my purpose to press action on this bill to-day. I only want to put it in a condition that it can be reached at some early day. I do not ask the House to pass upon a question of any importance when it is so thinly attended. But I hope that, by general consent, the House will allow the bill to be taken from the Speaker's table, and placed where it can be reached to-morrow or the day after. That is all I ask.

The SPEAKER. There being no quorum in the House, it is impossible to take any action.

Mr. POLK. I hope it will be allowed by general consent.

Mr. COBB. I must object, unless we go to the business generally on the Speaker's table.

On motion by Mr. KING, of New York, The House then adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. GAYLORD: The petition of Isaac C. Hardy and 20 other citizens of Morgan county, Ohio, praying the grant of 100,000 acres of public land to aid in the construction of a certain plank road within said county.

Also, the petition of James A. Adair and 50 other citizens of Morgan county, Ohio, for a post route from McConnellville, via Hook's Salt Works and N. Coburn's, to Frisby's Ferry, in said county.

By Mr. MOORE, of Louisiana: The petition of Thomas Hicks, of Louisiana, praying to be confirmed in his title to a tract of land.

By Mr. MOREHEAD: The memorial of Alexander Vestel and other citizens of North Carolina, asking Congress to grant a homestead to actual settlers in the Territories.

By Mr. BELL: The petition of citizens of Dayton, Ohio, in favor of the Western Farm and Village Association of the city of New York.

By Mr. FLORENCE: The memorial of John Pollock, jr., and other citizens of New York, praying for the extension of the patent of Uri Emmons for a planing machine.

Mr. GROW: The petition of citizens of Bradford county, Pennsylvania, for a post route from Lawrenceville in said county, to Seely Creek Post Office, in said county.

Also, the petition of citizens of same county for post route from Wyalusing to Sugar Run Post Office.

Also the petition of citizens of Susquehanna county, Pennsylvania, in favor of intervention.

By Mr. STANTON, of Ohio: The petition of 121 citizens of the city of New York, in favor of Whitney's Railroad to the Pacific.

By Mr. STANTON, of Ohio: The petition of 117 citizens of the city of New York, in favor of Whitney's railroad to the Pacific.

#### IN SENATE.

TUESDAY, April 27, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. HAMLIN. I ask the indulgence of the Senate for a moment in relation to a publication, which I hold in my hand, connected with the district judge of the United States court for the district of Maine.

I find in the Boston Daily Mail, of April 13th, a gross, uncalled-for, and unjustifiable attack on the Hon. Asher Ware, judge of the district court of the United States for the district of Maine. It accuses him of being an applicant, with various others, for an increase of salary; and runs a parallel between that application and an application to increase the pay of one of the black messengers belonging to this body. It appears in the editorial columns of that paper; but whether it emanated from the purloins of this capital, or was written by the editor of that paper, I know not. I have risen for the purpose of saying that this gentleman—who may, perhaps, be the only district judge who is an exception to what seems to be the general rule—has made no application whatever for an increase of his salary. I learn that there is no application before the Committee on the Judiciary, in the Senate; and I have also made inquiry in the House of Representatives, and there is no application there; and have authority for saying that there is no application whatever from him before Congress. I have felt it just and due to that distinguished individual to make this correction, that a contradiction may go forth from the point or place where the alleged application is charged to have been made. Of the taste, tone, and spirit of the article alluded to, I need not speak. My object only is to give a full denial to what is charged, and that I have done.

I need not speak of the character of this gentleman assailed, but I may, without injustice to any one, say, that wherever he is known he is esteemed as one of the best district judges in the United States.

Mr. BRADBURY. Perhaps I ought to add, as a member of the Committee on the Judiciary, that my colleague is entirely correct in his statement. I know of no application having been made by that judge for an increase of his salary. He stands almost as an exception in that respect.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating information called for by a resolution of the Senate of the 19th instant in relation to the qualities of the several species of coal now used by the Navy of the United States; which was ordered to be laid on the table and printed.

Also, a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, the names of naval officers who have received greater pay than is provided by the act regulating the pay of the Navy, the amounts paid,

and the authority thereof; which was ordered to be laid on the table and printed.

#### PETITIONS, ETC.

Mr. WADE presented a petition of Joseph Hutchinson and others, citizens of the West, praying the construction of an additional canal around the Falls of the Ohio, on the Indiana side of that river; which was referred to the Committee on Roads and Canals.

Mr. SUMNER. I have a memorial from the American Statistical Association, which is established at Boston, in Massachusetts. It is devoted to the purpose of collecting, preserving, and diffusing information in the different departments of human knowledge. This association now asks Congress, by an act or resolve, to appropriate to it one copy of the Journals and documents of the Senate and House of Representatives, and of the Executive Departments, for the present and for all future time, the same as is granted to other associations. I ask its reference to the Committee on the Library.

It was so referred.

Mr. COOPER presented a petition of citizens of Pittsburg, Pennsylvania, and two petitions of citizens of the United States, remonstrating against any action by Congress to sanction the Wheeling bridge as it now is, or any interference in the decisions of the Supreme Court in that case; which were referred to the Committee on the Judiciary.

Also, a memorial of practical printers of the city and county of Philadelphia, praying the establishment of a national printing office; which was referred to the Committee on Printing.

Mr. BRADBURY presented a petition of merchants, ship-owners, and others, of Bath, Maine, praying the enactment of an act prohibiting the carriage of freight and passengers for hire, by Government steam-vessels, and the prohibition of entry into any ports of the United States of all vessels belonging to the navies of foreign Powers, carrying freight and passengers; which was referred to the Committee on Commerce.

Mr. BAYARD presented a memorial of practical printers of Wilmington, Delaware, praying the establishment of a national printing office on the plan proposed by the Hon. Mr. Dorr, of Wisconsin; which was referred to the Committee on Printing.

Mr. JONES, of Tennessee, presented the memorial of William Clarke, praying indemnity for losses sustained under a contract for the delivery of materials for an embankment at the navy-yard, Memphis, and damages for a violation of his contract by an agent of the Government; which was referred to the Committee on Naval Affairs.

#### PAPERS WITHDRAWN.

On motion by Mr. GWIN, it was

*Ordered*, That Mariano G. Vallejo have leave to withdraw the documents on the files of the Senate relating to his claim.

On motion by Mr. SEWARD, it was

*Ordered*, That the Committee on Indian Affairs be discharged from the further consideration of the petition of Louis Charette.

#### REPORTS FROM STANDING COMMITTEES.

Mr. DODGE, of Iowa, from the Committee on the Contingent Expenses of the Senate, to which was referred the memorial of Charles Gordon, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. DAWSON, from the Committee on Military Affairs, to which was referred the petition of George Talcott, reported a bill for the relief of George Talcott, Brevet Brigadier General United States Army, and Colonel of Ordnance; which was read and passed to the second reading.

#### NOTICE OF A BILL.

Mr. BRADBURY gave notice of his intention to ask leave to introduce a bill providing for holding the district courts in the District of Columbia, in case of the sickness or other disability of the district judge.

#### BILLS INTRODUCED.

Mr. BORLAND, agreeably to notice, asked and obtained leave to introduce a bill to authorize the correction of erroneous locations of military bounty land warrants, by actual settlers on the public lands in certain cases; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. SUMNER, agreeably to previous notice, asked and obtained leave to introduce a bill to enforce liens in admiralty, and to regulate proceedings therein; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

#### CONVENTION WITH BRAZIL.

Mr. MASON submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Foreign Relations inquire into the expediency of making the same provision by law for adjusting conflicting claims to awards made under the convention with Brazil, which is provided by the eighth section of an act approved March 3, 1849, entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico, of the second day of February, 1848."

#### COMPENSATION TO NAVAL OFFICERS.

Mr. HALE submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of the Navy be instructed to inform the Senate if any officers of the Navy are receiving greater compensation than is provided by the act of March 3, 1835, whether settled at the office of the Fourth Auditor or elsewhere, and especially whether any of those officers employed on the Coast Survey are receiving such compensation.

#### BILLS PASSED.

The following engrossed bills were read a third time and passed:

An act for the relief of the Monroe Railroad Company and their sureties; and

An act for the relief of Isaac Houston.

#### HOUSE BILL REFERRED.

The bill from the House of Representatives, further to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, was read a first and second time by its title, and referred to the Committee on Public Lands.

#### PUBLIC BUILDINGS IN OREGON.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed a joint resolution approving and confirming an act of the Legislative Assembly of the Territory of Oregon, entitled "An act to provide for the selection of places for location and erection of the public buildings of the Territory of Oregon, and for other purposes."

On the motion of Mr. DOUGLAS, it was read a first and second time by its title, and considered as in Committee of the Whole. No amendment being made, it was reported to the Senate, read a third time, and passed.

#### WAR STEAMER FOR HARBOR DEFENSE.

The Senate proceeded to the consideration of the joint resolution to authorize the completion of a war steamer for harbor defense, which Mr. STOCKTON, during the morning hour, had frequently solicited the Senate to take up. It was read a second time, and considered as in Committee of the Whole.

It proposes to authorize the Secretary of the Navy to cause to be completed without unnecessary delay, the war steamer contracted for with Robert L. Stevens, in pursuance of an act of Congress passed in 1842.

Mr. RUSK. I would like to have some explanation as to the probable cost, or whether the act authorizing the completion of the steamer, makes the necessary appropriation. These experiments cost, in some cases, a large sum.

Mr. STOCKTON. Mr. President, I thank the Senate for their courtesy in consenting at this time to take up this bill for a war steamer, shot and shell proof. But, sir, I cannot consent so far to impose upon their courtesy as to attempt to do what may be impracticable. If I proceed now I fear that I cannot fulfill my obligations to the chairman of the Finance Committee, who wishes to call up the deficiency bill at one o'clock. The clock is now within five minutes of one, and I must, therefore, once more thank the Senate for their kindness, and wait for a more favorable time, when I hope the Senate will feel that they have an additional reason for a renewal of their courtesy.

Mr. JONES, of Iowa. Take ten minutes more.

Mr. STOCKTON. It is now too late to commence, and therefore I move to postpone the further consideration of the resolution until to-morrow morning.

The motion was agreed to.

#### THE DEFICIENCY BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852, the pending question being upon the amendment of the Committee on Finance to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$336,500.

Mr. SEWARD. What will Congress do—what has Congress done—for the Collins steamers? These are questions which meet every visitor returning from the capital on his arrival at New York, and which every traveler from America encounters, on "Change in Liverpool and London, and in the Courts of Paris and St. Petersburg. There is reason enough for all this curiosity and interest among the merchants and statesmen of the two continents.

Mr. President, under a contract with the United States, made on the 19th of April, 1849, between Edward K. Collins, James Brown, and Stewart Brown, merchants of New York, and the United States, those persons now prosecute, between the ports of New York and Liverpool, forty voyages across the ocean, or twenty outward and inward voyages annually, in steam-ships carrying freights and passengers on their own account, and also public mails on account of the United States, and receive from the Treasury, as a compensation for that service, \$335,000 a year, which is equivalent to somewhat more than \$19,000 for each outward and return passage. The Committee on Finance propose an amendment to the annual deficiency bill, the effect of which is to increase the number of mails and voyages from twenty to twenty-six, and the compensation from \$19,000 to \$33,000 for each voyage.

#### SHOULD THIS MEASURE TO BE ADOPTED?

I assume, for the present, that the existing enterprise is to be perseveringly sustained. In that view the question arises—

*Whether the proposed increase of mail service is expedient?*

When this line was established, the British Cunard steamers, consisting of seven vessels, were making semi-monthly voyages and carrying semi-monthly mails between the same ports during the eight temperate months, and monthly mails during the four other months; and thus they had a monopoly of steam ocean postage between the two countries. We authorized the Collins line to carry just the same number of mails, alternating with the Cunard steamers; and so we broke up the monopoly, and divided the postages of the route equally with Great Britain. So far, all was right and well. But recently the Cunard steamers have continued their semi-monthly mails throughout the whole year, while ours were limited to the eight temperate months; and so the equality of postage revenues has been subverted, and the early British monopoly has been partially restored. By the proposed increase of mails we shall exactly alternate again; and on every day that an American or European mail steam-vessel shall leave New York, one of the other line will leave the opposite port; and so the monopoly will again be broken, and the complete equality of postage revenues will be re-established. We must do just this, or relinquish in an important degree the great postal object of the enterprise. The Postmaster General and the Secretary of the Navy, and the Senate's Committees on the Post Office, on Naval Affairs, and on Finance, agree that the service must be thus increased, if it is to be at all continued. The increase, then, is not merely expedient, but even necessary and indispensable.

Assuming now that the service is to be increased, the question comes up—

*Is the increase of compensation from \$19,000 to \$33,000 per voyage just and reasonable?*

It is just and reasonable, if necessary. It is clear that some increase is necessary. The proprietors decline to make the six new voyages for nothing, and even to make them for \$19,000 a voyage. We cannot oblige the contractors to make them for that compensation, nor even to make them for



any compensation, for they are beyond the contract. No one else offers to make them on those terms, or, indeed, on any terms. We must therefore apply to Mr. Collins and his associates to enlarge the contract. But opening the contract for enlargement opens it for revision. They consent to enlarge, but they equally appeal to us to remodel it; and they show for reasons that while the average cost of each voyage is....\$65,216 64 The average receipts are only..... 48,286 85

And that they incur an average loss of \$16,928 79

And an aggregate loss annually of... \$338,574 40 They further show that a capital of three millions invested has paid no dividends, and been reduced by inevitable losses to a little more than two and a half millions; that their stock is sold in Wall street at fifty cents on a dollar; and that, even if they would, yet they cannot dispatch another ship of mail after the 15th of May next. Something must be allowed, if not for profits, at least for renovation; and so the actual loss of each voyage being in round numbers \$17,000, it is quite certain that an increase of not less than \$19,000 is necessary to keep the steamers in vigorous and sure operation.

All questions of the fairness of this showing are precluded by the offer of the contractors to relinquish the enterprise to the United States or to any assignee indicated by them after the contract shall have been remodeled, and by the neglect of any other party to propose for a new contract, even on the terms thus recommended.

So, the increase of compensation solicited is just and reasonable, and is, moreover, like the increase of the mail service, necessary and indispensable.

Now, sir, we have arrived at the very question of the whole question. We must do just what is thus proposed, or relinquish the contract altogether.

The honorable chairman of the Committee on Finance, [Mr. HUNTER,] dissenting from his associates, advises that alternative. Sir, with a profound respect for that distinguished Senator, not now for the first time, nor for mere effect, expressed, I must have his pardon, nevertheless, for preferring the authority of his associates. Extreme caution is apt to be the fruit of the patient and patriotic labors of his office. An appropriation bill seldom has passed this House without calling forth from him or his predecessors eloquent, yet groundless, alarms of an exhausted treasury, and of impending taxation, if not bankruptcy.

While we cannot, without wounding the national sensibilities and impairing the national character, abandon any great enterprise, it is equally true that indecision is among the worst vices of the statesman, and vacillation in the conduct of public affairs is fruitful of national demoralization, and indicative of certain national decline. Persistence, when practicable, invigorates national energies, discourages foreign rivalry, and prevents foreign insult and aggression. Compare France—enlightened, vigorous, and energetic, but unstable as water—with England, cautious, constant, and persevering, or even with Russia, unimpassioned and cold as her climate, yet with her eyes unswervingly and forever fixed on Stamboul, and you have an apt illustration of my moral. Nevertheless, these general observations are inconclusive, and I grasp, therefore, cheerfully with this great question.

If this enterprise must be abandoned, it must be for one of two reasons, namely: either because—

1. It was erroneously conceived; or because 2. It has been rendered unnecessary, unwise, or impracticable, by subsequent events and circumstances.

1. Was it erroneously conceived? To determine this question, we need to ascend some high eminence of time, from which we can look back along the past, and pierce, as far as is allowed to human vision, through the clouds and darkness that rest upon the future. Come, then, Senators, and suppose that you stand with me in the galleries of St. Stephen's Chapel, on a day so long gone by as the 22d of March, 1775. A mighty debate has been going on here in this august legislature of the British empire. Insurrection against commercial restriction has broken out in the distant American colonies; a seditious assembly in Philadelphia has organized it, and a brave, patient, unimpassioned, and not untried soldier of Virginia, lies, with

hastily gathered and irregular levies, on the heights of Dorchester, waiting the coming out of the British army from Boston. The question whether Great Britain shall strike, or concede and conciliate, has just been debated and decided. Concession has been denied. A silence, brief but intense, is broken by the often fierce and violent, but now measured and solemn, utterance of Burke:

"My counsel has been rejected. You have determined to trample upon and extinguish a people who have, in the course of a single life, added to England as much as she had acquired by a progressive increase of improvement, brought on, by varieties of civilizing conquests and civilizing settlements, in a series of 1,700 years. A vision has passed before my eyes; the spirit of prophecy is upon me. Listen, now, to a revelation of the consequences which shall follow your maddened decision. Henceforth there shall be division, separation, and eternal conflict in alternating war and peace between you and the child you have oppressed, which has inherited all your indomitable love of liberty and all your insatiable passion for power. Though still in the gristle, and not yet hardened into the bone of manhood, America will, within the short period of sixteen months, cast off your dominion and defy your utmost persecution. Perfecting the institutions you have not yet suffered to ripen, she will establish a Republic, the first confederate representative commonwealth, which shall in time become the admiration and envy of the world. France, the hereditary rival whom, only twenty years ago, with the aid of your own colonies, you despoiled of her North American possessions, though they had been strengthened by the genius of Richelieu, will take sweet revenge in aiding the emancipation of those very colonies, and thus dismembering your empire. You will strike her in vain with one hand, while you stretch forth the other to reduce your colonies with equal discomfiture. And you, even you, most infuriated yet most loyal prince, will, within eight years, sign a treaty of peace with the royal Bourbon, and of independence with republican America! With fraud, corruption, fire, and sword, you will compensate England with conquests in the East, and within half a century they will surround the world, and the British flag shall wave over provinces covering five millions of square miles, and containing one sixth of the inhabitants of the globe. Nor shall you lose your retaliation upon your ancient enemy; for she, in the mean time, imbibing and intoxicated by the spirit of revolution in her American affiliation, shall overthrow all authority, human and divine, and, exhausting herself by twenty-five years of carnage and desolation throughout continental Europe, shall at last succumb to your victorious arms, and relapse, after ineffectual struggles, into the embraces of an inglorious military despotism. Yet, notwithstanding all these unsurpassed conquests and triumphs, shall you enjoy no certain or complete dominion. For, on the other hand, wild beasts and savage men, and uncouth manners shall all disappear on the American continent; and the three millions whom you now despise, gathering to themselves increase from every European nation and island, will, within seventy-five years, spread themselves over field and forest, prairie and mountain, until, in your way to your provinces in the Bahamas, they shall meet you on the shores of the Gulf of Mexico, and, on your return from the Eastern Indies, they will salute you from the eastern coast of the Pacific ocean. In the mean time, with genius developed by the influence of freedom, and with vigor called forth and disciplined in the subjugation of the forest, and trained and perfected in the mysteries of ship building and navigation, by the hardy pursuits of the whale fisheries under either pole, they will, in all European conflicts, with keen sagacity, assume the relation of neutrals, and thus grasp the prize of Atlantic commerce dropped into their hands by fierce belligerents. In the midst of your studies and experiments in hydraulics, steam and electricity, they will seize the unpracticed and even incomplete inventions, and cover their rivers with steam-boats, and connect and bind together their widely-separated territories with canals, railroads, and telegraphs. When a long interval of peace shall have come your merchants, combining a vast capital, will regain and hold for a time the carrying trade by substituting capacious, buoyant, and fleet packet-ships, departing and arriving with exact punctuality; but the Americans, quickly borrowing the device and improving on your skill, will reconquer their commerce. You will then rouse all the enterprise of your merchants, and all the spirit of your Government, and wresting the new and mighty power of steam from the hands of your inveterate rival, will apply it to ocean navigation, and laying hold of the commercial and social correspondence between the two continents, increasing as the nations rise to higher civilization and come into more close and intimate relations, as the basis of postal revenue, and you will thus restore your lost monopoly on the Atlantic, and enjoy it unclouded through a period of ten years. During that season of triumph you will mature and perfect all the arrangements for extending this mighty device of power and revenue, so as to connect every island of the seas and every part of every continent with your capital. But just at that moment your envious rival will appear with steam ships still more capacious, buoyant, and fleet, than your own, in your harbors, and at once subverting your Atlantic monopoly will give earnest of her vigorous renewal of the endless contest for supremacy of all the seas. When you thought her expelled from the ocean, her flag will be seen in your ports, covering her charities contributed to relieve your population stricken by famine; and while you stand hesitating whether to declare between republicanism and absolute power in continental Europe, her ambassadors will be seen waiting on every battle-field to salute the triumphs of liberty; and when that cause shall be overthrown, the same constant flag shall be seen even in the Straits of the Dardanelles, receiving with ovations due to conquerors the temporarily-overthrown champions of freedom. Look towards Africa: there you see American colonies lifting her up from her long night of barbarism into the broad light of liberty and civilization. Look to the East, you see American missionaries bringing the people of the Sandwich Islands into the family of nations, and American armaments peacefully

seeking, yet firmly demanding, the rights of humanity in Japan. Look to the equator, there are American engineers opening passages by canals and railroads across the isthmus which divides the two oceans. And last of all, look northward, and you behold American sailors penetrating the continent of ice in search of your own daring and lost navigators."

Sir, this stupendous vision has become real. All this momentous prophecy has come to pass. The man yet lives who has seen both the end and the beginning of its fulfillment. It is history. And that history shows that this enterprise of American Atlantic steam navigation was wisely and even necessarily undertaken, to maintain our present commercial independence, and the contest for the ultimate empire of the ocean. Only a word shall express the importance of these objects. International postal communication and foreign commerce are as important as domestic mails and traffic. Equality with other nations in respect to those interests is as important as freedom from restriction upon them among ourselves. Except Rome—which substituted conquests and spoliation for commerce—no nation was ever highly prosperous, really great, or even truly independent, whose foreign communications and traffics were conducted by other States; while Tyre, and Egypt, and Venice, and the Netherlands, and Great Britain, successively becoming the merchants, became thereby the masters of the world.

But the learned and honorable chairman of the Committee on Finance raises a question on a warlike feature of the enterprise which has not yet come under our notice. Departing, after the most profound consideration, from the ancient naval policy which separated the National Ocean Polices from the National Mercantile Marine, Great Britain constructs all the steam-ships employed in her postal service; so that they are "good, substantial, and efficient—of such model and strength as to be fit and able to carry guns of the largest calibre used on board her majesty's steam-vessels of war," and they are subject to be taken in emergencies by the Government at cost for the public naval service. And in this way Great Britain is rapidly and steadily building up a new and peculiar naval force, which will always be in complete condition, and ready for effective use. The same principle was adopted in the contract with Collins and his associates; and the evidence is complete that it has been faithfully and fully carried out. The honorable Senator now disputes the soundness of the principle itself, and insists that merchant steam-vessels cannot be constructed so as to be practically useful for warlike purposes. I reply, first, that having, on such careful examination, and with such weighty example, adopted the principle, we could not now wisely abandon it without proof, by practical trial, long I hope to be delayed, that it is erroneous. Secondly: No ship-of-war, however constructed, is adapted to all the exigencies of naval service; while these steam-ships are certainly adapted to some of them. Commodore Perry, on the 15th of February, 1852, reports to the Secretary of the Navy, that—

"These steam-ships (of the Collins line) may be converted at an expense of \$20,000 each into war-steamer of the first class; and that each of them could carry four 10 inch Paixhan guns on pivots, fore and aft, of the weight of those in the model-ship Mississippi; and ten 8 inch Paixhan guns on the sides; and that this armament would not incommode the vessel; and that, in the general operations of a maritime war, they would render good service; and especially that, from their great speed, they would be useful as dispatch vessels, and for the transportation of troops, being always capable of attack and defense, and of overhauling and escaping from an enemy."

The Secretary of War reports to the Senate, on the 20th of March, 1852, that the readiness of the steamers to be used at the shortest notice, their capacity of being used as transports for goods and munitions of war, and their great celerity of motion, enabling them to overhail merchantmen, and at the same time escape cruisers, would render them terrible as guerrillas of the ocean.

Thirdly. Great Britain has already more than two hundred and fifty steamers armed and capable of armament. What would be our situation, in the emergency of a war, if we were unprovided with a similar force for defense and aggression?

But, fourthly. The warlike adaptation of the steamers is a collateral and contingent feature of the enterprise, which will stand safely on the accomplishment of its postal and mercantile ends, even if that feature should prove valueless. These steamers, at least, are built and in use, and accom-

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plish their important civic purposes. We may correct our system, not in this, but in future operations.

Thus, Mr. President, it appears that the enterprise was wisely adopted. And now I pray you to take notice, that it has not been rendered unwise or impracticable by any change of circumstances or of public interests. Everything in these respects remains as it was, except that we have increased ability and increased need to put it forth in the struggle for the freedom of commerce and the command of the seas.

Nor does the expense complained of affect the question of perseverance. The excess of expense above the estimates results from the wise policy of building larger and better ships than were at first contemplated, whereby in achievement we have not merely equaled but surpassed Great Britain.

Nor is the expense of the American steamers disproportionate to that of the British; although we all know that for a time it might well be so, because the rate of interest, and the cost of labor and of skill are higher on this side of the Atlantic than on the other, and because higher insurance must be paid on more valuable vessels. Nevertheless, the Cunard steamers, seven in number, have an aggregate capacity of 12,252 tons, averaging 1,750 tons for each, and they cross the Atlantic eighty-five times annually; thus the whole tonnage worked by them across the Atlantic is 148,750 tons.

The Collins steamers have an aggregate tonnage of 13,720, averaging 2,425 tons for each; and the aggregate tonnage worked by them across the ocean is 178,000 tons; the cost to the Government is \$850,000, not exceeding, in proportion to their work, the expense of the Cunard line. At the same time they excel the Cunard steamers in speed. The shortest westward passage of the Cunard steamers was ten days and twenty-two hours, and the shortest eastward passage ten days and twelve hours; while the quickest westward passage of the Collins steamers was nine days and twelve hours, and the quickest eastward passage was nine days and eight hours.

Nor is the expense disproportioned to the benefits received. The first effect of the enterprise was a postal treaty with Great Britain, and under that treaty, in lieu of receiving no steam ocean postage, as before, we now receive postages, amounting in round numbers to \$400,000; and this revenue must swell, and is actually swelling, at the rate of \$200,000 annually. Thus, in the first place, it is clear that in two years the postal revenue alone will defray the expense; and secondly, there lies very near to us in the future what my friend from Massachusetts [Mr. SUMNER] so justly denominates, and what every patriot and philanthropist so earnestly seeks, the great boon of cheap ocean postage.

And now, while we maintain postal communication to every part of our country, at no matter how great expense, provided that the revenue of the whole system shall equal the cost of all its parts, I desire to know why we should depart from a principle so enlightened in foreign postal conventions, which are ancillary to commerce, to immigration, and to political influence and power? But if we change the terms of the question it will be more easily solved. What then shall we lose by arresting the enterprise? We shall lose all the postages on steam mails, and all the hopes of cheap postage, and all the profits on passengers and freight transported by steam. It is not easy to estimate these losses; but we have some knowledge of the profits of Great Britain arising from the monopoly she enjoyed before our competition. The duties received into the Treasury from the Cunard steamers rose, in six years, from \$73,809 to \$1,054,731. She paid the steamers for carrying the mails six years, \$2,550,000; and received postages in return amounting to \$7,836,800; giving her a clear profit, on the postal revenue, of \$5,286,800, or little less than a million a year. We have gained at least one half of what benefits Great Britain has lost by reason of our enterprise. Let that monopoly be restored and reestablished, we shall then lose all that gain, and with it we shall see the postages,

and freights, and rates of passage raised to their ancient standards, and continually adjusted equally to injure our prosperity, and promote the interests and gratify the caprice of Great Britain. What shall we then look for but decline of trade and industry, with a long train of commercial embarrassments and national humiliations?

At most, we can save by abandoning this enterprise only about \$300,000 in two years. Could we not now easily retrench to that extent in some other quarter? We can save as much, and more, by laying up one of our frigates in ordinary during the same time, and twice as much by burning it down to the water's edge. No one would advise this, and yet it would be far less disastrous than the retrenchment now proposed.

Still, sir, the argument that the expense exceeds the estimates is pressed. Well, there is nothing new in that. This is a deficiency bill. It makes appropriations of some millions to supply deficiencies in the customs service, in the construction of public edifices, in the improvement and embellishment of the capital, in the Department of Indian Affairs, in the Department of the Territories, and in the Department of Foreign Relations. And just such a deficiency bill comes up from the House of Representatives, at the middle of every session of Congress, as punctually as the estimates for the year come in at the beginning, and as the appropriation bill based on these estimates appears at the close. Shall we, then, abandon the customs, the public edifices, the seat of Government, the Army and Navy, the Indian tribes, the Territories, and all foreign intercourse, because we can never estimate accurately at the beginning the cost of maintaining them throughout the fiscal year?

But it is said that the enterprise is a departure from the principle of free trade. Sir, it is a departure from that principle, but not a divergence from the fixed and ancient policy of the country. Widely, and I think unwisely, as we have differed among ourselves about the policy of protecting agriculture and manufactures, to the hindrance of the growth of commerce itself; yet we have, from first to last, uncompromisingly and unwaveringly adhered to the policy of protecting navigation. We inherited it from England, whose navigation act, passed by the Long Parliament, and coöperating with her encouragement of manufactures, broke the monopoly of Holland, and secured to the British Islands the commerce of the world and the command of the ocean. If this measure enhances protection of our navigation, it is because British largesses enhance the protection of her navigation. Let her revert to her old measures of protection, and we can at once safely return to ours.

The honorable Senator from Virginia tells us that it is wise to give up now, because the system, being unprofitable, we shall be obliged to give up at last. But this is only a temporary contest, not yet fully decided, and growing in success. Collins's contract has eight years to run. Long before that time, Atlantic steam navigation will prove itself to be either self-sustaining or not self-sustaining. In either case, Great Britain will withdraw her patronage from her line, and we can then safely discontinue our contributions to our line.

The honorable Senator from Virginia seeks to divide us on this question, by presenting the claims of what he calls the poorer cities for a share in the benefits of this policy, now concentrated upon New York. I learn that a bill is near its third reading in the Legislature of the Old Dominion, having for its object to establish a line of first-class steam-ships between Norfolk and Antwerp. Sir, I assure the honorable Senator that when a proposition shall come before us for material aid to the trade of any of our Atlantic cities, which shall at the same time be beneficial to the whole Union—whether that city be Boston, or Philadelphia, or Baltimore, or Charleston, or New Orleans—I shall greet it with no reluctant hearing. But in the mean time the field of battle is chosen, not by us, but by the enemy; it is not a provincial contest, for provincial objects, but it is a

national one. We must meet our adversary on that field, not elsewhere; and we must meet him, or surrender the whole nation's cause without a blow.

And now I pray honorable Senators to consider what it is that we are invited to surrender: It is no less than the proud commercial and political position we have gained by two wars with Great Britain, and by the vigorous and well-directed enterprise of our countrymen through a period now reaching to three quarters of a century.

Next, I pray you to consider what position we must take after that surrender—the position of Mexico, of the Canadas, and of the South American States. Surely there is nothing attractive in such a change, in such a descent.

I conjure you to consider moreover that England, without waiting for, and, I am sure, without expecting so inglorious a retreat on our part, is completing a vast web of ocean steam navigation, based on postage and commerce, that will connect all the European ports, all our own ports, all the South American ports, all the ports in the West Indies, all the ports of Asia and Oceania, with her great commercial capital. Thus the world is to become a great commercial system, ramified by a thousand nerves projecting from the one head at London. Yet, stupendous as the scheme is, our own merchants, conscious of equal capacity and equal resources, and relying on experience for success, stand here beseeching us to allow them to counteract its fulfillment, and ask of us facilities and aid equal to those yielded by the British Government to its citizens. While our commercial history is full of presages of a successful competition, Great Britain is sunk deep in debt. We are free from debt. Great Britain is oppressed with armies and costly aristocratic institutions; industry among us is unfettered and free. But it is a contest depending not on armies, nor even on wealth, but chiefly on invention and industry. And how stands the national account in those respects? The cotton-gin, the planing machine, steam navigation, and electrical communication—these are old achievements. England only a year ago invited the nations to bring their inventions and compare them together in a palace of iron and glass. In all the devices for the increase of luxury and indulgence America was surpassed, not only by refined England and chivalrous France, but even by semi-barbarian Russia. Not until after all the mortification which that result necessarily produced did the comparison of utilitarian inventions begin. Then our countrymen exhibited Dick's anti-friction press—a machine that raised a power greater by two hundred and forty tons than could be raised by the Bramah hydraulic press, which, having been used by Sir John Stevenson in erecting the tubular bridge over the Straits of Menai, had been brought forward by the British artisans as a contrivance of unrivalled merit for the generation of direct power.

Next was submitted, on our behalf, the two inventions of St. John, the variation compass, which indicated the deflection of its own needle at any place, resulting from local causes; and the velocimeter, which tells, at any time, the actual speed of the vessel bearing it, and its distance from the port of departure; inventions adopted at once by the Admiralty of Great Britain. Then, to say nothing of the ingeniously-constructed locks invented by Hobbs, which defied the skill of the British artisans, while he opened all of theirs at pleasure, there was Bigelow's power-loom, which has brought down ingrain and Brussels carpets within the reach of the British mechanic and farmer. While the American plows took precedence of all others, McCormick's reaper was acknowledged to be a contribution to the agriculture of England, surpassing in value the cost of the Crystal Palace. Nor were we dishonored in the fine arts, for a well-deserved medal was awarded to Hughes for his successful incorporation in marble of the ideal Oliver Twist; and the palm was conferred on Powers for his immortal statue of the Greek Slave. When these successes had turned away the tide of derision from our country, the yacht America

entered the Thames. Skillful architects saw that she combined, in before-unknown proportions, the elements of grace and motion, and her modest challenge was reluctantly accepted, and even then only for a tenth part of the prize she proposed. The trial was graced by the presence of the Queen and her court, and watched with an interest created by national pride and ambition, and yet the triumph was complete.

In the very hour of this, of itself conclusive demonstration of American superiority of utilitarian inventions, and in the art "that leads to nautical dominion," a further and irresistible confirmation was given by the arrival of American clippers from India freighted at advanced rates with shipments, consigned by the agents of the East India Company at Calcutta to their own warehouses in London. Such, and so recent are the proofs, that in the capital element of invention we are equal to the contest for the supremacy of the seas. When I consider them, and consider our resources, of which those of Pennsylvania, or of the Valley of the Mississippi, or of California, alone exceed the entire native wealth of Great Britain; when I consider, moreover, our yet unelicited manufacturing capacity—our great population, already nearly equal to that of the British islands, and multiplying at a rate unknown in human progress by accessions from both of the old continents; when I consider the advantages of our geographical position midway between them; and when I consider, above all, the expanding and elevating influence of freedom upon the genius of our people, I feel quite assured that their enterprise will be adequate to the glorious conflict, if it be only sustained by constancy and perseverance on the part of their Government. I do not know that we shall prevail in that conflict; but for myself, like the modest hero who was instructed to charge on the artillery at Niagara, I can say that we "will try;" and that when a difficulty occurs no greater than that which meets us now, my motto shall be the words of the dying commander of the Chesapeake—"Don't give up the ship."

Mr. UNDERWOOD. Mr. President, I do not rise for the purpose of entering at large upon the advantages of a steam connection between the United States and the continent of Europe for postal purposes. I am in favor of that object. I believe it to be beneficial. I wish to preserve it, and keep it up. But I rise to address myself particularly to this amendment, having made various inquiries for the purpose of getting facts, and not having got them to my satisfaction. I am willing to vote for the increase of six additional trips per annum. I am willing to make an additional allowance for these additional trips. But, then, I apprehend that this amendment goes greatly beyond the point of reason and propriety; and I rise for the purpose of submitting to the Senate some plain, practical facts; which, as it seems to me, will prove the ideas which I entertain to be such as should govern our action.

We have had recently an application made here, by way of a memorial from Vanderbilt & Co., to perform the mail service from New York through Nicaragua to Astoria, or, at all events, to San Francisco—a much longer route than that from New York across the Atlantic to Liverpool—for \$150,000 a year, the trips to be, I believe, as numerous as those from New York to Liverpool. Now, this is a startling fact to me; when you already allow \$385,000 a year to these navigators of the Collins line, here are persons memorializing you to perform the service between New York and San Francisco at this diminished rate. It has set me to thinking about the matter, and to ask myself how is this difference to be accounted for? I suppose the chairman of the Committee on the Post Office and Post Roads, whose business and whose pleasure I have no doubt it has been to look into the performance of the mail service in every direction, can give the Senate the facts connected with the California service, and with the European service, much better than I can. I shall hear him upon this with very great pleasure; for, as I have already stated, both from a sense of pride in reference to this rivalry between Great Britain and the United States, as well as from a conviction of its utility, I am for maintaining this line, provided it can be done upon proper principles.

But, sir, my mind was not only directed to this subject, from the consideration of the fact which I have just mentioned, but other matters had oc-

curred to me, which brought my mind to think about it; and I am very happy to state, that this morning there was laid upon our tables a document which shows a fact that had passed through my mind, and to which I wish to call the attention of the Senate. On page thirty-one of the document from the Navy Department, to which I refer, some facts will be found. It is there stated, that a ship of the line of the first class can be navigated for twelve months for \$287,500. Now, we already pay to the Collins line, for twenty trips a year, \$385,000, or near \$100,000 more. This line, I suppose, employs from one hundred to two hundred hands, but exactly how many I do not know. We already pay for twenty trips across the Atlantic, some \$100,000 more, according to the report of the Secretary of the Navy, than we pay for navigating a seventy-four of the first class for one whole year, with her crew, of from a thousand to fifteen hundred persons on board.

Mr. COOPER. There are four vessels for the Collins line.

Mr. UNDERWOOD. I believe there are four vessels; but I am giving the facts. We pay to the Collins line, for employing four ships and performing twenty trips, \$100,000 more than it costs to pay for navigating a seventy-four. A frigate of the first class only costs \$186,000. A comparison of the cost of navigating war steamers, perhaps would be more to the purpose than any other. According to this report, the cost of navigating a war steamer per annum, is only \$190,000. I am unadvised as to how much time these four steamers of the Collins line rest at the ports at which they arrive. The trip is made in about twenty-two days, and twenty trips would give, at that rate, four hundred and forty days, or seventy-five days more than a year for the running time of the four ships, or one hundred and ten days running time for each ship, on the supposition that each makes five trips. This would leave them in port more than two thirds of the year.

Sir, I am a Western man, living in the Valley of the Mississippi, some five or six hundred miles from any sea-port; and it may be presumed that I ought not to speak on any subject connected with the navigation of the ocean; but the great country which I represent, has as much interest in postal arrangements as any other portion of the Confederacy. The great country from which I come will have to manage, in the process of time, perhaps the whole of this Government, aided by the weaker sections of it upon the sea-board; and it is time for us to look into all these matters which lie at the foundation of national prosperity. We ought to make ourselves somewhat acquainted with them.

Now, I have referred to the annual expense of keeping our ships-of-war in commission, as affording some data of comparison. It costs only \$190,000 a year to navigate one of our first-class war steamers with all her crew. How much these steamers rest at the different points at which they arrive, I do not know.

This application for increased compensation for the Collins steamers is made on the ground, that at the present, they are engaged in a losing business; and that in the rivalry between us and Great Britain, we ought not to suffer the Collins line to go down. Well, I have asked repeatedly to get the facts upon which this assertion rests; and I have been told that it was sworn to before the committee, that the aggregate expense of each trip was \$65,215; and that the aggregate receipts upon the average for each trip were \$48,286 15, and of course, the difference between the two, showed, it was said, the amount of loss, to wit: \$16,928.

This matter ought not to be estimated by the actual loss which any company of navigators may sustain in point of fact; but ought to be estimated by the actual loss which they necessarily sustain after using all due economy, all due skill, and all due management and diligence to make a profit. A company engaged in any business or performance whatever, where money is concerned, may lose an immense amount from the want of skill, the want of energy, the want of knowledge, or the want of economy. If the loss of profit results from the want of skill, knowledge, economy, energy, and management, there is no propriety in calling upon Government, or in calling upon anybody to make amends for losses which have thus been incurred. I had wished to see, in the very

beginning of this investigation, what were the data upon which these losses rested, and where were the evidences that all the skill, energy, management and economy which necessarily should be employed in conducting a great undertaking of this sort, had been employed; and that, after the application of all this economy, management, energy, and skill, these losses were the unavoidable result of the operation. Nobody has turned attention to this very element and foundation upon which the calculation rests, and upon which our judgment ought to be formed. We seem to take it for granted, that if a loss has been sustained, the Government should bear it without any inquiry into the system of management under which it has occurred, and without knowing whether it has been the consequence of wasteful extravagance and exorbitant salaries, or any other abuse which may have been practiced. Sir, we should have had minute information in regard to the various items of expenditure, instead of mere general statements that there has been a loss. If we had been shown the particulars, we could have seen whether the loss resulted from causes likely to be permanent, or only temporary. Sir, I am unwilling to act in such important matters upon partial information, under the influence of mere declamation. No sensible man is willing to act, in his own affairs, without the fullest information. An honest statesman should be equally cautious in the management of public affairs.

It is the easiest thing in the world to sing pæans upon the future glory of our country, and to excite that national feeling which grows out of our relations to our old rival, and to stir up the passions of our people. But all that is foreign to my present purpose in the investigation of the question before us. The question with us, whether there is sufficient utility in this postal communication by steam with Europe to authorize us to continue it. The Government cannot pension a navy for commercial purposes, and carry on all the commercial operations of the country by bonuses out of the Treasury. To pay a bonus to a commercial marine out of the Treasury of the United States, is but to take taxes from the people to be handed over to those who bring merchandise here to sell. But if you allow the people to buy the products brought here, the expense lies upon the consumer, and it is not an improper operation.

With regard to postal arrangements, the correspondence of the country, I am willing to make that an exception so far as this line and other lines are concerned. But it comes around at last to the question, whether these losses spoken of grow out of the necessary operation of the line when coming in competition with British lines, after we have used all the economy, skill, and industry that we possess. I have seen, as yet, nothing in the whole of this debate coming from any one which gives the foundation upon which that estimate is to be made. There are, however, some things upon which we may make proper calculations and deductions; and I beg leave, for a short time, to present to the Senate some of the calculations and estimates I have made. I think there is a great deal in them. If there is nothing in them, before I am called upon to vote, I hope that gentlemen who may turn their attention to the subject, and those who have done so much more than I have, will answer me, and satisfy me that I am incorrect. My first inquiry is, how much capital has been invested in this line? for when you have the amount of capital invested, you have the basis upon which to say how much interest, or how much profit should be made to constitute a fair remuneration. We have the basis of that estimate. We are told, by the reports laid upon our tables, that the capital invested to fit these steamers ready for service, amounts to \$2,944,142. It may be considered \$3,000,000 in round numbers. But I give the sums accurately, according to the documents, and that which we have gives \$2,944,142 as the actual outlay to fit these four steamers for operation. It therefore includes everything which belongs to them. Six per cent. interest upon that capital makes only \$176,648 52 per annum. Twelve per cent. interest upon that sum makes \$353,297 per annum; and we pay \$385,000 a year. We therefore pay twelve per cent. interest upon the capital invested, and about \$32,000 over and above that.

A Government bonus, amounting to more than twelve per cent. on a capital invested in a private



business, by private individuals, is a greater bonus than I have ever known to be given, for the purpose of helping individuals in a business connected with the public service. There can be no denial of this fact, and of this view of the subject; that the compensation you already pay amounts to more than twelve per cent. on the whole capital invested; and then, in addition to that, you allow all the profits which are made by a trip. Let us see how that matter presents itself. This document says that the average amount made on each trip is \$48,286, and some cents; twenty trips at that rate make \$965,737 a year; in addition to that, the owners of the line have the Government pay \$385,000.

Mr. HALE. That estimate includes the Government pay.

Mr. UNDERWOOD. I had supposed not.

Mr. HALE. Yes, it does.

Mr. UNDERWOOD. If that is the case, my calculation is wrong. I do not so understand it.

Mr. SEWARD. With the permission of the Senator, I will state one or two facts which should be taken into consideration. The first is, that the insurance on these four ships amounts to more than half of all that is allowed by Congress for their support. The other is, that the deterioration of steamers by wear and tear, amounts to twelve per cent.

Mr. UNDERWOOD. My honorable friend will not permit me to come at it in my own way. I have included those items in my calculations. From this document I learn that the average receipts of each voyage have been \$48,286—I am right according to the paper—the \$48,286, the average receipts of each voyage, multiplied by the twenty trips, makes \$965,737; add to that the \$385,000 paid by Government, and you have \$1,350,737 as the actual receipts of this line of steamers. No one can deny that, if the documents are correct. Here is the contract for the \$385,000; here is the document which states that the average receipts per voyage is so much; and it makes in all this sum of \$1,350,737. Now, what is the loss, or what is the expense, according to this same document, for each trip? It is \$65,215, and twenty times that sum will give the whole outlay, amounting to \$1,304,300; showing, by a calculation which cannot be gainsayed, that there is a clear gain of \$46,437. There can be no resistance offered to that calculation; none whatever. It is according to the documents, and cannot be otherwise.

Now, I admit that this sum of \$46,437 is no compensation for the insurance, for the capital invested, and so forth. It is deficient. It is not enough. It does not form a profitable investment. But when you engage in a great enterprise of this kind, and the Government patronizes it to the extent I have shown, and you bring out a clear profit of \$46,437, there is some little allowance to be made for that increase of the business which lies ahead, and which the Senator from New York pointed out, I think with a good deal of propriety, and I hope with a prescience that will be realized. Although this profit is not sufficient as an immediate compensation for the capital invested, and the insurance and risk, yet something has to be risked in all undertakings of this nature. I have thus proved from the data before me, that this idea which has been started and harped on from the beginning, of an entire loss, cannot be indulged in.

Mr. SEWARD. If the Senator from Kentucky will allow me, I wish to inquire whether I understand him to include a portion of the \$385,000 in this item of the receipts?

Mr. UNDERWOOD. I did not. I said that according to the document, the \$385,000 was exclusive of the average receipts of \$48,286.

Mr. SEWARD. The Senator is under a misapprehension with regard to that.

Mr. UNDERWOOD. If I am under a misapprehension, then my calculation is wrong.

Mr. SEWARD. I am sure it is so. The \$48,286 includes the proportionate share of the \$382,000.

Mr. UNDERWOOD. I will state again that the document reads, "the average receipts of each voyage, \$48,286." I understand from that, that the profit from each voyage, independent of the Government pay, amounts to that sum.

Mr. RUSK. Will the Senator allow me to explain that?

Mr. UNDERWOOD. Certainly. I only want light.

Mr. RUSK. The expenses of each trip amounts to \$65,000.

Mr. UNDERWOOD. Yes, I see that.

Mr. RUSK. The receipts of each voyage amount to \$48,286, and there is just the loss complained of by these contractors. They pay out for each trip which they make \$65,000. They receive \$48,286. And that is the sum and substance which they complain of. There is the loss which they show to you. This comes to us from their book-keeper, under the formality of an oath; and I know the Senator does not want to be mistaken. As he refers to the report which I had the honor to make a few years ago, where the cost of sailing a war steamer of the first class was estimated by the Secretary of the Navy to be \$190,000, I must say that I think the honorable Senator did not remember that if you give these men the same amount per ship which was given according to the estimate of the Secretary of the Navy, it will amount to within a few dollars of what they ask. If you multiply this \$190,000 by four, you will have \$760,000. The Senator was taking one ship in commission and comparing it with four ships run by the Collins line. He will also remember that this estimate of \$190,000 was made upon two voyages which a steamer of the first class made, in commission, while these ships of the Collins line are running every day, and have a constant expense. The estimate of the Secretary of the Navy was made upon the distance which was sailed, which was little or nothing compared with the constant service performed by the Collins line.

Mr. UNDERWOOD. I only referred to the cost of sailing our own men-of-war—our war steamers—as reported by the Secretary of the Navy, as a matter which had induced me to think upon this question, and enter upon its investigation. I had never seen the particular sums until I saw this report this morning. I had thought about them, and had a faint recollection in regard to them before, however. I do not now refer to them for the purpose of going into a minute comparison, because I have not had the information necessary to enable me to do so. But my friend's explanation does not relieve the difficulty between myself and the honorable Senator from New York, at all. He states exactly what the document says, and what I have read again and again. It is here stated that the amount expended in each trip is \$65,215, and that the amount received is \$48,286, and they show the difference between the expenditure and the receipts to be \$16,929. Now the matter in doubt is this: Whether any part of \$385,000 enters into the receipts? whether any part of the Government pay goes into the amount to make the receipts amount to \$48,286? If it does not, then when you multiply the \$48,286 by twenty, the number of trips, you should add the \$385,000 to it; and when you add that, it makes \$1,350,737. The only question with me is, whether the \$48,286 embraces any part of the Government pay. According to a fair interpretation of this document, it does not. But, as I said, I am not sufficiently informed. And I may be wrong. So much for "receipts" for each trip is what they get for freight and passengers if I understand it.

Mr. MILLER. The Senator is mistaken about that.

Mr. UNDERWOOD. Is there anything to prove it besides this document which I have read? If there is I should like to see it?

Mr. MILLER. That is not the fair interpretation of the language of the document read. I understand that in giving an account of the receipts for each trip, the Senator has an idea that the \$19,000 given by Government is not estimated in that amount.

Mr. UNDERWOOD. Yes, sir, that is my idea.

Mr. MILLER. The Senator is entirely mistaken. That amount is made up from an estimate of the actual receipts from each voyage; and in these receipts are included \$19,000 received from Government.

Mr. UNDERWOOD. Then, if that is a proper understanding of it, I again acknowledge that my calculations are, to that extent, wrong; as I have done several times already. The question is, whether the \$19,000 paid by Government form a part of the receipts.

Mr. RUSK. Certainly.

Mr. UNDERWOOD. Then, if it is, I should not add the \$19,000, as I have done. That is very clear. I take it that these receipts, of so much per voyage, show the amount of money derived from the conveyance of freight and passengers, only without regard to the compensation growing out of the contract with the Government. It should have been explicitly stated that these "receipts" embraced what the Government paid, if such had been the fact. Let us, if you please, very briefly examine what information we have as to the expenditure of the \$65,215 for each trip in crossing the Atlantic. Mark you, sir, the information states that the whole capital—less than three millions—pays the cost of all these ships, ready for service. Of course, all the engines and fixtures, all the furniture, all the rigging, tackle, and everything belonging to the ships, are paid for by the capital to start with, of \$2,944,142. What other expenses, then, can enter into the navigation of these ocean steamers to bring the cost of navigating them up to \$65,215 a trip? That's the inquiry. On that point, no person has yet deigned to give me the information necessary to form a judgment; and in the absence of all information, communicated to enable a Western landsman to judge of sea matters, I have been compelled to proceed on the best lights I had. What are they? In estimating the cost of navigating these ocean steamers, I was compelled to compare them with the operations of our little steam water craft on our little spring branches in the West. Perhaps gentlemen may say that it is a very poor comparison to institute between one of our little shackling craft, that is knocked all to pieces by coming into contact with the first snag, or *Polk stalk*, as it is used to be called, in the Mississippi river, and one of the great ocean steamers. Well, inferior as it may be, and humble as it may be, in point of comparison, it is the best standard I have; and until I have a better, which some of the gentlemen who understand ocean navigation better than I do can furnish, I must resort to that I have. Well, in navigating our steamers, the cost of fuel forms a very considerable item; and in navigating the ocean steamers, the cost of fuel is also one great item, and I have endeavored to ascertain, as nearly as I can, what the cost of fuel would be for one of these steamers for one trip; and I will give the item, for I wish Senators to go into these items, and illuminate the subject for the benefit of the public. According to my information, the expenditure of coal has now been reduced to something like fifty tons a day, but I have allowed seventy-five tons, and I have looked into the New York Prices Current, in reference to the price of coal, and allowed \$8 a ton, the highest price according to the quotations, and I find, by allowing seventy-five tons, at \$8 per ton, the expense of fuel would amount to \$600 a day. Now, what other expenses are there, everything else being paid for by the capital? Why, sir, there is food and water. I will go through my list, and give the items, and then gentlemen, in the prosecution of these investigations, can supply anything that I have omitted.

Food and water come next. The old military rations, when I was a soldier a long time ago, used to cost twenty cents per day. But in these days of progress, when California gold is felt here as well as upon the Pacific, we will not even stop at double that sum; I will not put it down at forty cents per day, but will allow fifty cents per day. I have excluded spirit rations, for perhaps if you were to put in spirit rations, and run up a Kos-suth bill of expense, you might possibly go beyond my calculations. I know some liberal gentlemen, such as I know the Senator from North Carolina [Mr. BADGER] to be, would take in champagne and Madeira, and every other thing that is good.

Mr. BADGER. I wonder if the gentleman himself would take a little in?

Mr. UNDERWOOD. A little, perhaps, but not as much as the honorable Senator from North Carolina. But to go on, and give some serious thoughts in reference to this matter, I had supposed that fifty cents per day would be a reasonable allowance for the material for food and drink; because you find the cooks provided for in another item. I do not know that we are to have wine and things of that sort paid for at the public expense. And I am not speaking of providing for the passengers, because you will remember that

when they are to be provided for they pay for their own wine and luxuries, and it comes amply out of their own pockets. I am speaking of the provisions necessary for the crews of these ships—for the officers and men, stewards, cooks, and servants, on board, and whose services are necessary in navigating and attending to the management of the ship and duties on board.

I beg to make a distinction between the passengers and crew. When you come to the passengers, there is an increased expenditure depending upon the amount gentlemen are willing to consume and pay for in the way of luxuries, wine, &c. That has nothing to do with furnishing the necessities for the ship's crew; and when you come to them, if our ships are furnished at a greater rate than fifty cents per day, or half of that, it is an extravagance that has not yet crept into the management of our Government vessels. But to show that I am liberal in the extreme, I allow fifty cents per day, which will provide the necessities of life in a much more costly manner than they are provided for in our national ships. Now, how many hands have you to provide for? I suppose not more than one hundred and fifty. I have made some inquiries, and I was informed that that number would probably embrace the whole ship's crew. I have now provided for food; I have provided for water; I have provided for fuel. What more expense is there? Nothing but wages; for out of the wages, the clothing and other necessities are provided by the crew themselves. How much must be allowed for the wages of these one hundred and fifty officers, men, and boys, who navigate these ships? I suppose a dollar a day would be a very extravagant sum for many of the hands that can be hired by the month. How much for the officers on board? I am told that most of these ships are navigated by our own officers, and I suppose they draw their salaries from Government while navigating these ships.

Mr. MILLER. Not at all.

Mr. UNDERWOOD. I am told they do not now. Then they are paid out of the profits of the ship. What salaries ought to be paid to the officers on board of these ships? These are proper inquiries; and I have allowed in my calculations something like California prices; because, not knowing how much the cook, the fireman, the waiter, the sailor, and engineer would get, I was compelled to lump them off at \$5 per day, all around. That is very liberal, I think, and will bring them all nearly to the notch of \$2,000 a year. Allowing \$5 a day for each officer, man, and boy, and putting their number at one hundred and fifty, it would bring their wages to \$273,750 per annum—a sum sufficient to pay one hundred laborers on board \$2 per day throughout the year, and leave enough to give salaries to fifty officers, exceeding \$4,000 to each! Sir, I have allowed for wages three times as much as it ought to be.

Five dollars a day for each of one hundred and fifty hands, makes \$750. Then, according to this report or memorial, it takes eleven days, upon an average, to cross the ocean. Multiply all these sums by that number, and it gives an aggregate of \$15,675; and to come back again, it makes it amount to \$31,350 for a trip—the sailing time of a trip. I have already said that I have no means of estimating for the resting time of the trip; nor do I know how much time is spent in port. According to this calculation, then, it does not make the half of the \$65,000 for the expense per trip, as the memorial states.

I again advert to the idea with which I started. These gentlemen may have expended the \$65,000; but, I repeat, that is not the question. They may have lost double, triple, quadruple that, for aught I know; but the question is, were they compelled to lose it by economical management? Were they compelled, in carrying on the business in which they were associated with the Government, to incur the expenditures in the necessary performance of the business in which they sustained the loss? That is the inquiry; and there is nothing before me, from any fact communicated by any individual or committee, which enables me to judge further than I have attempted to judge from these, perhaps you may say, very crude considerations. I have made no allowance for wear and tear, for repairs, and for insurance, because I do not know how much they amount to, and no one has taken the trouble to ascertain, and to inform us. The

amount of repairs are always uncertain, because they depend much upon accidents, which cannot be anticipated or estimated. It is the fault of the documents before me, that these things were not all exhibited.

Mr. BORLAND. I would ask the Senator if he has taken into his account of expenses the expense of that very remarkable trip made to Washington, a few months ago, by one of those ships?

Mr. UNDERWOOD. No, sir; I left that out. I thought it might come in under the head of "extras," for which compensation is sometimes made by a vote of the Senate, to a great many people.

Mr. MILLER. If the Senator will permit me, I desire to make one statement. As I understand the honorable Senator, according to his calculation, what he calls a trip across and back costs \$31,350.

Mr. UNDERWOOD. According to the data which I have thus given.

Mr. MILLER. In that he does not take into consideration the expense of sustaining the passengers, or the money received from them.

Mr. UNDERWOOD. Not at all.

Mr. MILLER. Then, if the ship merely performs the service of carrying the mail from New York to Liverpool, it will cost the company \$31,650; and yet they get from the Government only \$19,250 per trip. The gentleman makes out the whole case, that they ought to receive the amount proposed by the amendment—a little over \$30,000 per trip.

Mr. UNDERWOOD. Very well; let us attend to the suggestion of my friend from New Jersey. He thinks it would be right for the Government just to pay all the expenses of performing this service, and give all the profit on freight and passengers away for nothing at all. Is that the thing we are to be engaged in?

Mr. MILLER. The Senator misunderstands me. He has made a calculation, the results of which he presented to the Senate as the actual cost of running one of the ships without regard to the passage money. He discards the account that has been presented, and makes his account merely with regard to the actual cost.

Mr. UNDERWOOD. I will explain it all.

Mr. MILLER. If the Senator takes that view, I say the actual cost of running the ship, without regard to passengers, will amount to the sum designated. But if he takes the other view, and gives the amount of expense sustained by the ship in carrying the passengers, he must also take in the amount of passage money.

Mr. UNDERWOOD. I will do that. The only difficulty is, that I cannot get to do it in my own way. But, as to the suggestion of the honorable Senator, in the view in which I was going to present it, would he think it reasonable for the Government to have to pay all the expenses both ways, and allow the company to derive all the profits? Certainly that would not be reasonable. I have given you the expenses by showing what the fuel, and food, and wages, to support the ship's crew, would amount to; and I have shown, according to the data which I have given—and if I am not right, I want to be corrected—that the support of the ship's crew, and the running of the vessel, would not amount to the half of the sum which has been expended in the navigation. But then the gentleman comes forward, and says: "You do not take into consideration anything which is furnished to passengers; you do not take into consideration any of the expenses of loading and unloading the vessel; you do not take into consideration the various things connected with passage, and with the trade and commerce carried on by the ships." Sir, I intentionally left all that out. And why? Because every man knows that the passenger on board the ship pays his own way, and more than pays it. He pays it with a great profit to the owners of the ship. Every one knows that every article of food, every luxury, everything of that kind, which is put on board for the benefit of the passengers, they get at a very great profit to those who furnish it. Every one knows that every pound of merchandise put on board the ship for commercial purposes, or transportation, is paid for, and at a profit. Therefore, there is nothing in the suggestion of the Senator from New Jersey. All that ought to be left out, because, when you take it into consideration, it is the great source of profit to the owners of the ships.

Now, I want gentlemen to show me, if they

please, how it is that we could, by economical management, with paying just wages, make the expense amount to \$65,000. And when they make out a "clean bill"—to use the expression of yourself, sir, [Mr. Mangum temporarily occupying the chair]—and let me see it, I can tell then whether it is proper to vote for the amendment, or give up the enterprise. But we have not the facts now sufficiently before us to justify a correct judgment. As far as I have got the facts, it appears to me that the \$33,000 proposed in the amendment to be given, is altogether exorbitant. And now, to prove that, you propose, by the amendment, to increase the trips to twenty-six, and to give \$33,000 for each trip. That makes \$858,000 per annum. Well, sir, that \$858,000 per annum would, in less than four years, more than pay the capital invested. Was there ever such a business as that before?

Mr. RUSK. The Senator seems to forget altogether that we are receiving postages from this line. He makes the calculation as if we were not receiving back a single cent; when the fact of the business is, that the postages themselves, for the first two years, amounted to within \$256,000 of the amount paid out by the Government.

Mr. UNDERWOOD. I do not forget anything; but I do not go on, perhaps, as rapidly as other minds.

Mr. RUSK. You forget that one side of the account.

Mr. UNDERWOOD. Oh, no; I do not forget it. The question I am investigating is, How is Mr. Collins affected by going on with the performance of this service? I am not investigating how much the Government loses or gains, but I am investigating whether Mr. Collins sustains an expenditure of \$65,000 per trip; and if we pay him \$33,000 a trip, how long it will take to pay or return his capital; and, in reference to that investigation, whether the Government gets postage, or gets not a cent, has nothing to do with it. I am upon one thing, and the gentleman's mind is running upon another. I am endeavoring to show that \$65,000, with good economy, and skill, and management, according to the facts, could not be spent; and that has nothing to do with the receipts or losses of the Government. I say, though, that if you give \$33,000 a trip, for twenty-six trips, it makes \$858,000; and that that \$858,000, according to the data here, pays for the whole capital invested in a little more than three years—between three and four years it pays for the capital invested, and gives to the owners of the line every cent of profit they can make from passengers and freight. Now, sir, I am going to take no such leap as that in the dark. I must be fully informed of everything before I can think a moment of doing it.

Now, sir, it is said that we get, to be sure, some compensation for these \$858,000. Suppose we do, does that alter the fact that the capital is repaid in between three and four years? Not at all. And I bring forward the fact to show that this is a business that cannot be sustained by the Government, if it costs as much as that; that we cannot pay for steam lines, if we are to reimburse the owners of those lines for the whole capital invested in between three and four years. I want to manage this postal affair so that I can avail myself of the liberal doctrines which the Senator from New York has avowed here—to give some aid to lines from Boston, New Orleans, Charleston, and other ports—even to the ports of the Old Dominion, when they shall be put into operation. But when I am showing the facts that carry out the view, that if you apply it to everybody it will make it necessary to pay in three or four years those capitalists who invest in steam-ships the whole amount of the capital out of the Treasury of the United States, I am answered by being told, "Why, you receive a portion of the earnings of the ships, in the shape of postage!" I admit that it is so; but I rely upon this to show that this is either partiality to the port of New York, or, if you make it general, and extend it according to the suggestion of the gentleman—as I am anxious to do, if you go into the business at all—it is to go upon principles which cannot stand. I therefore say, from the facts which we have before us, that these \$858,000 a year, to be paid for the performance of these trips, is an exorbitant allowance, and before I can go for it, it must be reduced.

Sir, I will not detain the Senate by going into

the sum which I think would be reasonable. I think I can stand \$25,000 a trip; but I cannot go beyond that. From the view which I have of the subject, I would be willing to allow that amount; and if it will not enable this line to go on, I am pretty much inclined to think that we had better put an end to it. If it is to come to this, that when lines are started from every part of the country we are to reimburse to their proprietors, within four years the capital which they have invested in them, I cannot consent to it. It ought not to be done, and I hope it will not be done. But as we are about to allow this line, and as I am anxious to allow this line to perform additional trips with the view of making the competition between it and the Cunard line complete as regards the amount of trips, I am for enlarging the compensation somewhat. I believe it would be better for these parties to take \$20,000 per trip, (which is about the amount that they now receive,) for twenty-six trips, than for twenty trips; for I suppose it would be better for them to keep their ships in motion, but I have not sufficient information to form an opinion as to that point.

I have now indicated my difficulties. I have indicated my wishes. I shall sustain them by my vote. I cannot vote for the amendment as it now stands.

Mr. JAMES. I have a few remarks which I would like to make on this question; but as the hour is late, and as it is desirable to have an Executive session, I move to postpone the further consideration of the subject until to-morrow at one o'clock.

The motion was agreed to.

#### EXECUTIVE SESSION.

On motion by Mr. HUNTER, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, April 27, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER announced, as the first business before the House, reports from the Committee on Public Lands.

Mr. MOORE, of Pennsylvania. We have a very important matter before the House, upon which we shall be called to vote in a day or two; and I therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

Mr. DEAN. If the gentleman will withhold that motion for one moment, I desire to ask the unanimous consent of the House to report a private bill, and have it referred to a Committee of the Whole House. I shall have to leave town to-night or to-morrow morning.

Mr. HENN. I object.

Mr. HOUSTON. I hope we shall have the call of committees during the morning hour.

The question was then taken on Mr. MOORE's motion, and, on a division, there were—ayes 63, noes 56; no quorum voting.

Mr. HOUSTON demanded tellers; which were ordered; and Messrs. WILLIAMS, and JOHNSON of Arkansas, were appointed.

And the question being again put, it was decided in the affirmative—ayes 72, noes not counted.

#### THE HOMESTEAD BILL.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN stated, as the business before the committee, the consideration of House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and for other purposes; on which the gentleman from Georgia [Mr. STEPHENS] was entitled to the floor.

Mr. STEPHENS, of Georgia, addressed the committee an hour. In regard to this bill he took occasion to say, that if the public lands were to be disposed of as indicated by the action of the last Congress, in the form of grants, he was decidedly in favor of disposing of them in the manner provided for by this bill. He preferred this mode

of benefaction to the poor men of the country to that wholesale system of giving the lands to railroad companies and to States. He was inclined, however, to favor the postponement of this question if the land was to be given away, until a general system could be devised in regard to an equitable disposition of the public domain. He also discussed at some length the condition of parties in regard to the compromise measures, maintaining that no party can or ought to succeed in the coming canvass, unless it adopted as the basis of its organization an adherence to those measures. The conventions, he said, might meet and patch up platforms to suit party purposes, but none of them would be sustained by the popular will of the country, unless based upon the Constitution. [Mr. S.'s speech will be found in the Appendix.]

Mr. SMITH next obtained the floor, and addressed the committee in favor of the bill, maintaining that it was constitutional; and that it would not do at this late day to controvert the constitutionality of the measure, when the abstract question of the right of Congress to dispose of the public domain by grants, donations, and benefactions, had been yielded years ago. [Mr. Smith's speech will be found in the Appendix.]

Mr. HENDRICKS, of Indiana, addressed the committee on the subject generally of the public lands, and in support of the bill under consideration; and towards the conclusion of his remarks, to obviate objections which had been urged against the measure, he suggested the propriety of recommending the bill with instructions to amend it, so that the lands may be purchased at the cost price to the Government. [Mr. H.'s speech will be found in the Appendix.]

Mr. BROWN, of Mississippi, next obtained the floor, but gave way to

Mr. CHANDLER, who moved that the committee do now rise.

The question was put, and the motion agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman [Mr. HIBBARD] reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified, and had come to no conclusion thereon.

Mr. VENABLE. I will suggest that, as the debate is soon to close upon this bill, and as there are a number of gentlemen who yet desire to speak upon it, that we take a recess till half-past seven o'clock, or to any hour which gentlemen may name, in order to give those gentlemen that opportunity.

[Cries of "Agreed!" "Agreed!"]

Mr. JONES, of Tennessee. I have no objection to the proposition, provided it be understood that no business shall be transacted at the night session.

Mr. VENABLE. Certainly, I suppose that is the understanding.

Objection was made to the proposition.

Mr. VENABLE. Does an objection overrule the proposition entirely?

The SPEAKER. It does. It would require a suspension of the rules; and a motion to suspend is not in order except on Mondays.

Mr. DEAN. I ask the unanimous consent of the House to permit me to report a bill for the purpose of having it referred to a Committee of the Whole House. I would not make the request, were it not that I have to leave the city to-morrow morning.

Mr. HENN objected.

On motion by Mr. HALL,

The House then adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

Mr. BOYD, of Kentucky: The petition of citizens of St. Joseph county, Indiana, in favor of an appropriation for the construction of a canal around the Falls of the Ohio river.

By Mr. WASHBURN: The memorial of the Androscoggin Railroad Company in Maine, for remission of duties on certain railroad iron, and for other relief.

By Mr. CURTIS: A petition of John L. Hickman, praying for compensation as messenger in 1841.

By Mr. PARKER, of Indiana: The petition of M. L. Bundy, Joel Reed, and 41 others, citizens of Henry county, Indiana, praying for another canal around the Falls of Ohio.

By Mr. KUHN: The petition of Rebecca Mansfield, widow of Samuel Mansfield, late of Westmoreland county, Pennsylvania, a soldier of the late war with Great Britain, praying Congress for a pension.

By Mr. SMART: The petition of Tina H. Spinney and others, citizens of Georgetown, Lincoln county, Maine, asking for a repeal of the rendition law of 1850.

#### IN SENATE.

WEDNESDAY, April 28, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. COOPER presented the petition of William Marcus Bayly, praying indemnity for loss of property in consequence of his forcible expulsion from Mexico during the late war with that Republic; which was referred to the select committee appointed on the subject of claims against Mexico.

Mr. MORTON. I present the petition of Mrs. Rebecca Munden, in behalf of herself and children, who represents that her late husband, Emanuel Munden, was an inhabitant of Florida in 1812 and 1813, when it was invaded by the United States army; that all of his property was destroyed or lost in consequence of said invasion; that he was entitled under the treaty of 1819 with Spain to indemnity for said loss. She further represents that her husband was prevented by poverty, and other causes, from reaching St. Augustine (where the judge resided) in time to file his claim under the act of 1834; and, inasmuch as other sufferers similarly situated have been allowed by special act of Congress to file their claims, she asks that the like privilege be allowed her, in behalf of herself and children. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SEBASTIAN, it was

Ordered, That the documents on the files of the Senate relative to the claim of the children of Hannah Scott, widow of William Scott, be referred to the Committee on Pensions.

#### REPORTS FROM STANDING COMMITTEES.

Mr. DAVIS, from the Committee on Commerce, to which was referred the bill to provide for the repair and improvement of the dam at the head of Cumberland Island, in the Ohio river, reported back the same without amendment.

On motion by Mr. DAVIS, it was

Ordered, That sundry papers received from the Department on the subject be printed with the bill.

Mr. UNDERWOOD, from the Committee on Public Lands, to which was referred the petition of Cadwalader Wallace, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to which was referred the bill granting the right of way and making a grant of land to the States of Indiana, Illinois, and Iowa, to aid in the construction of a railroad from the Wabash to the Missouri river, reported back the same with an amendment.

#### BILLS INTRODUCED.

Mr. HALE, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of the legal representatives of Amos Proctor; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. BRADBURY, agreeably to previous notice, asked and obtained leave to introduce a bill to provide for the holding of the district court for the District of Columbia during the sickness or other disability of the district judge; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

#### CLAIMS ARISING OUT OF THE CONQUEST OF CALIFORNIA.

Mr. GWIN. I ask the indulgence of the Senate this morning, to permit me to make a motion to take up Senate bill No. 8, which provides for the settlement of claims which originated in the military operations in California during the years 1846



and 1847. I will briefly state the reasons which induce me to make this motion at this time.

By the mail this morning, I received a letter from Colonel John C. Frémont, late a member of this body, dated London, April 13, 1852, in which he states, that on the evening of the 8th instant, as he was stepping into a carriage with his family, to visit a friend, he was arrested by a party of four Bow street officers, who were of a low order, rude and insolent; that they were accompanied by a solicitor's clerk of the same character. No time was allowed him to collect information, or have intercourse with his friends; he was simply informed that he was arrested, at the suit of unknown parties, for the sum of \$50,000; that he subsequently ascertained that he was arrested on liabilities connected with his military operations in California during the years 1846 and 1847; that he was confined under lock and key for twenty-four hours, subjected to the most exorbitant extortions. He also says, that he will be compelled to maintain an expensive law suit, employ solicitors and able counsel, and go through all the anxiety, delays, and incidental expenses of the law, or pay \$50,000. He further says, he has reason to believe that this suit will be followed by many others for large amounts beyond his ability to give security, thus permanently endangering his personal liberty.

I have reason to believe that the whole proceeding was unusual, and such as could not have happened to an Englishman of character; and that it is considered by American citizens, resident in London, conversant with the circumstances, not only an outrage to Colonel Frémont, but disrespectful to our Government.

I am requested by Colonel Frémont to bring the subject to the notice of Congress; and in doing so, I make this appeal to the Senate to take up the bill I have indicated and act upon it. The subject of these claims was thoroughly examined by the Senate three years ago; and a bill, reported by Mr. Cass, chairman of the Committee on Military Affairs, was passed, providing for the creation of a Board of Commissioners to examine these claims, and appropriating \$700,000 for their payment. In the House this Senate bill was referred to the Committee on Military Affairs, which reported a substitute providing for a Board, and appropriating half a million of dollars; but it was not acted on, owing to difficulties about our territorial acquisitions, which obstructed most of the legislation at the close of that session.

I brought this subject to the attention of the Senate at the last session, and again at an early period in this session. The Committee on Military Affairs have reported a bill, which I wish may be taken up now, that we may act upon it, so that we may relieve Colonel Frémont from his unpleasant situation. I therefore move that all previous orders be postponed for the purpose of considering the bill to create a Board of Commissioners for the examination and payment of claims against the United States, growing out of the conquest of California.

Mr. BORLAND. The chairman of the Committee on Military Affairs is not now present, and I think it is very important that he should be present when this bill is taken up for consideration. Nor can I see that there is any necessity for proceeding at this time to its consideration, for it cannot, in my opinion, afford the immediate relief that Colonel Frémont's situation seems to require.

Mr. HALE. I am told that the chairman of the Committee on Military Affairs is within the Capitol, in the library room, and I hope he may be called for.

Mr. GWIN. I desire that he may be sent for.

Mr. SHIELDS having arrived, the motion to proceed to the consideration of the bill was agreed to, and the Senate proceeded to its consideration as in Committee of the Whole.

The bill, as it was originally introduced by Mr. Gwin, proposed to authorize the President of the United States, by and with the advice and consent of the Senate, to appoint three disinterested persons to act as commissioners in California to ascertain and pay all proper, reasonable, and just claims and demands against the Government of the United States, growing out of the conquest of California by the American volunteers, army and naval forces, the military occupation thereof by the conquerors, and the administration of the civil

government thereafter established. The bill further provides that the persons appointed as commissioners should be sworn or affirmed; that they should not be interested in any claim which they would have to examine and allow; that they should appoint a clerk, keep a record of their proceedings, and return a duplicate thereof to the War Department; that they should take testimony on oath for or against any claim when deemed necessary; that they should have power to send for persons and papers, and should allow or disallow the claims in whole or in part, according to the justice of the case. The bill further provides that the troops enlisted or enrolled in California and employed there should be paid as volunteer mounted riflemen, finding their own horses or forage, and that they should have all the benefits of the acts of Congress in favor of the troops engaged in the war with Mexico. The Board, it was provided, should give three months' public notice of the times and places at which they would sit; and all claims not presented within twelve months from its first sitting, should be deemed and held to be unfounded and unjust, and should be forever barred; provided, however, that such time might be extended by the President of the United States for twelve months. The decisions of the majority of the Board were to be final, and should authorize a certificate to be issued to the claimant for the immediate payment of the amount allowed, by some disbursing officer to be appointed by the President of the United States. Provision was also made for the payment of salaries to the members of the Board, which were not to exceed in the aggregate, in full for all traveling expenses of each or other allowances, the sum of \$5,000 per annum. The remuneration of the clerk was limited to \$4,000, and that of witnesses to the amounts established by law to witnesses in attendance upon the district courts of the State of California.

The bill was referred to the Committee on Military Affairs, and by that committee it was reported back with an amendment, striking out of the original bill all after the enacting clause, and inserting a substitute, providing that the troops enlisted or enrolled in California, under the direction of the military and naval officers, should be paid as volunteer mounted riflemen, finding their own horses and forage, and that they should have all the benefits of all acts of Congress in favor of troops engaged in the war with Mexico. It further directed the Secretary of War to ascertain, by the agency of three competent officers, and report to Congress, on the second Monday in January, 1853, the amount of all just claims and demands for supplies furnished or services rendered to those troops, and moneys advanced for their support, and all other debts and liabilities contracted with a view to the active prosecution of hostilities by those troops. The substitute provided further that the sum of \$10,000 be appropriated for the expenses of the examination of the claims, including such allowances to the officers of the Board as the Secretary of War should consider proper.

Mr. GWIN. I propose to offer a substitute for the bill reported by the Committee on Military Affairs. I retain in my proposed substitute the first section as it is reported with regard to the payment of the troops. I have changed the second section, so as to make it more simple and effective. I therefore move to strike out the second section, and insert what I send to the Secretary.

The substitute was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the troops enlisted or enrolled in California, under the direction of the military and naval officers, shall be paid as volunteer mounted riflemen, finding their own horses and forage, and shall have all the benefits of all acts of Congress in favor of troops engaged in the war with Mexico.

*SEC. 2. And be it further enacted,* That the Secretary of War be directed to ascertain and report to Congress, as soon as practicable, the amount of all unpaid claims and demands for supplies furnished or services rendered to said troops, and moneys advanced for their support, and all other debts and liabilities contracted with a view to the active prosecution of hostilities by said troops, which may be or have been presented to any officer of the United States or Department of the Government of the United States, together with such evidence to sustain them as may be submitted to him or those charged by him with the investigation of those claims in support thereof.

Mr. GWIN. My object is to do away with the Board of Commissioners, for this reason: There are officers connected with the Paymaster's and Quartermaster's Department, who can be

ordered forthwith to report to the Secretary of War. These officers understand the terms necessary to present the claims properly, and they know the kind of evidence which is proper to be received in order to sustain any claim. Besides, I am anxious that the claims shall be acted upon speedily by Congress. I understand that the Secretary of War can obtain the information without the aid of a Board of Commissioners.

Mr. SHIELDS. I was not in the Chamber when this measure was called up this morning, and did not expect that I should be called on to meet the case; I am not, therefore, very well prepared to understand the lengths to which this amendment may go. I understand very well the original bill, or rather the bill which was reported by the Committee on Military Affairs; and I think I can understand how far that may go, and what it was intended to accomplish. I, for one, regard it as a very liberal measure in relation to California—extremely so. We found great difficulty in the Committee on Military Affairs to devise any plan to meet this particular case; and, up to the present session, there was a total refusal on its part to act on the subject. As I understand, the difficulty is to separate those cases which are fair, just, and equitable, and make an appropriation for them, from what we regard as the numerous spurious claims which have been hatched up somehow or other in California. We could get no information from the Department on the subject, for it had none in its possession, except an immense amount of reclamations against the Department for services rendered to the troops, for provisions, and for various services rendered, as the claimants assert, to the Government, in what is termed the "conquest of California." We finally concluded that the best plan would be to authorize the War Department to select three competent officers; and as these officers would be the best judges of what was absolutely necessary and essential during the military service in California, they were to determine who were the persons actually called out by those in command, what services they rendered, how long they were on service, and when discharged; and, further, to pay them for the time and service rendered. These officers were to ascertain: First, who rendered service to the Government; and next, what the amount of the service was before any claim was paid. We cannot venture to legislate on this subject, in my opinion, before we settled those points.

Mr. GWIN. That is provided in the amendment.

Mr. SHIELDS. The honorable Senator says that provision is contained in the amendment. The first section of the substitute offered by the Senator is exactly similar, it is true, to the first section of the bill reported from the committee; but here is the difference: in our amendment we propose to appoint a "Board," to examine into the claims, and in his bill there is no Board mentioned.

Mr. GWIN. If the Senator will permit me, I will say that the Secretary of War has the power to establish a "Board," in both cases. The only difference is, that my substitute simplifies the proposition of the committee, and while it gives the Secretary of War the power of appointing a "Board," consisting of more than three persons, if he chooses; if he should prefer, he can also collect the information through the officers of the Quartermaster's and Paymaster's Departments, if, in his judgment, the appointment of a "Board" of three officers were unnecessary to promote the public interests.

Mr. SHIELDS. I will again ask the honorable Senator a question. Does he intend, by this amendment, that the Secretary of War shall pay these claims, before making a report to Congress?

Mr. GWIN. Certainly not. He must first report.

Mr. SHIELDS. Then the bill does not give the Secretary one particle of power that he does not possess at this moment. He has now power to receive evidence, and lay the whole matter before Congress. Does the Senator know that the Committee on Military Affairs has the whole subject before it now, precisely in the shape contemplated by him? The claims against the Government; the amount of the claims; the persons who make the claims; together with the relative amounts for money, provisions, cattle, services, and so forth—all are before the committee. "And

why not legislate on it now?" What we want to do is to separate the just from the spurious and fraudulent claims. How is that to be done by the Senator's bill? He asks us to gather up all these claims, and bring them into Congress for us to fight them out here.

We have now an immense bundle of papers before that committee, embracing claims for provisions, claims for money, claims for military service, for horses bought and sold, for horses lost and killed. All these are now before the committee.

Now, what I want the gentleman to do—and mark, I am in favor of the general object sought, as much as the gentleman himself is, and the Senator from California knows this, for I have urged it from the very commencement—what I want is, a plan upon which I have acted at the suggestion of the War Department, and in regard to which the Committee on Military Affairs are unanimously agreed, and which is to select three competent officers. I have very little confidence in Boards of Commissioners which may be established. I have had sufficient evidence to satisfy my mind that they are not to be relied on.

We concluded that the cheapest way, and that which would be most easily accomplished, would be to appoint three competent officers here in the city of Washington, to determine what are the peculiar claims that should be paid, and that those which cannot be determined in Washington, shall be examined by the officers going to California, and determined there, and then bring before Congress, not the whole of these claims, but so many as are just and ought to be paid, and then let Congress act upon their report. I am perfectly willing, if the gentleman will show me a quicker or better method of settling these claims, to adopt that method. But so far as the substitute of the Senator is concerned, if I understand it, there is no provision in it which gives the Department any authority which they have not now under the law.

"Be it further enacted, That the Secretary of War be directed to ascertain, and report to Congress as soon as practicable, all the unpaid claims and demands."

He has reported all that he has been able to ascertain already.

"For supplies furnished and services rendered to said troops, and moneys advanced for their support," &c.

The object of this is merely to get a report from the War Department of all the claims against the Government. It accomplishes nothing. It does not authorize their payment; it leaves the whole matter for Congress to act upon when this information is received. I will therefore ask, if the gentleman objects to the bill as reported by the committee, that he will examine the report from the War Department, which embraces all that he asks for.

Mr. GWIN. I have very little choice about the form in which this matter is accomplished. My great objection is, that the mode proposed by the committee requires the appointment of a Board of Commissioners. I am perfectly confident that the War Department has refused to report on many claims which I have presented there.

Mr. SHIELDS. I will answer the Senator, because, I presume, he only wants to accomplish the same object as desired by the committee, and to do it fairly and honestly. I have contemplated an amendment to enable these three officers, when selected here by the Department and the Secretary of War, to sit in Washington and determine before they set out for California, what bills should be drawn and moneys paid. Now, I would ask if that is not a speedier mode of accomplishing this object, than the one proposed by the Senator? If I were not called on to act so suddenly, I should have reported that amendment in connection with the bill.

Mr. GWIN. I was not aware of that fact. Let the Senator prepare his amendment.

Mr. BRODHEAD. As the morning hour is about to expire, and as the Senator from Illinois is to prepare an amendment, I think it would be better to allow this bill to lie over until to-morrow, as my colleague has the floor to-day on the subject of non-intervention.

Mr. SHIELDS. I want to have it out of the way; I therefore move to recommit the bill, together with the amendment of the Senator from California.

The motion was agreed to, and the bill so re-committed.

#### NON-INTERVENTION.

The Senate resumed the consideration of the joint resolutions submitted by Mr. CLARKE, reaffirming the doctrine of non-intervention; the pending question being on the amendment submitted by Mr. CASS.

Mr. COOPER addressed the Senate upwards of two hours and a half. [His speech will be found in the Appendix.]

Mr. WADE. I desire to make some observations upon the matters now under consideration. I will move, therefore, to postpone the further consideration of the subject, until such time as shall be thought proper by the Senate. I do not wish to interfere with any of the practical business that is pressing on the attention of the Senate.

Several SENATORS suggested to-morrow (Thursday) week.

Mr. WADE. I move, then, to postpone the further consideration of the subject until to-morrow week.

The motion was agreed to.

On motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 28, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the call of committees for reports, beginning with the Committee on Public Lands.

Mr. CABLE, of Ohio. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

Mr. OLDS. I ask my colleague to withdraw the motion in order to enable me to introduce a resolution calling on the President for information.

Mr. CABLE. I will withdraw it for that purpose.

#### THE HARGOUS AND GARDINER CLAIMS.

Mr. OLDS then presented the following resolutions; which were read by the Clerk for information, viz:

*Resolved*, That the President of the United States be requested to transmit to this House, if not deemed incompatible with the public interest, a copy of such report, or reports, as may have been received by the Government from Mr. George Slacum, the agent dispatched to Mexico to investigate the merits of the Hargous, the Gardiner, the Mears, and other claims against Mexico, allowed and passed by the late Board of Commissioners upon the claims against the Mexican Government, and a copy also of all reports or dispatches upon the same subject which may have been received from Mr. Letcher, the Minister of the United States at the city of Mexico, or from any member of that Minister's legation.

*Resolved*, also, That the President communicate such official information as he may have received of the cause of the long delay of the criminal court of the District of Columbia in bringing to trial Dr. George A. Gardiner, who, many months ago was arrested and held to bail in the sum of \$40,000 upon a charge of perjury in the matter of obtaining an award of \$428,750 out of the Treasury of the United States.

*Resolved*, also, That the President inform the House whether he has any official information that either of the Cabinet Ministers received, for professional services, and for moneys advanced, any portion of the so-called Gardiner's award.

Mr. BROOKS. The gentleman can get that information personally, if he will apply to the President. This is a matter of judicial investigation, and I do not think this House should go into it. I can be prepared to answer a portion of the questions, if the gentleman desires it, and I shall be happy to do so; but I do not think it is the business of the House to interfere with the judicial department of the Government.

Mr. OLDS. If the gentleman objects, I cannot offer it, as a matter of course.

Mr. BROOKS. I wish it to be distinctly understood that I object to it only because it is a matter which the House has no right to investigate. The language of the resolution calls for information which it would be incompatible with the public interest to communicate.

Mr. OLDS. Well, I suppose it will be entered upon the Journal from whom this objection comes.

Mr. WOODWARD. I ask the unanimous consent of the House to introduce the following resolution:

*Resolved*, That the Clerk procure for the use of the members a sufficient number of revolving chairs, of the style and description of those occupied by the Clerk and his assistants.

Mr. WOODWARD. I will remark, if the House will indulge me, that the expense of repairing the old chairs we have in use is more than the interest upon the money it would require to purchase new ones.

Mr. STANLY. The position of all parties at present is revolving enough anyhow. I object. [Laughter.]

Mr. HASCALL. I ask the unanimous consent of the House to present two petitions—one from the citizens of Albany, and one from the citizens of Genesee county, praying that an act may be passed to protect patentees against infringers of patents from Canada; and move that the petitions be referred to the Committee on Patents, with instructions to report a bill in pursuance of the prayer of the petitioners.

Mr. CABLE. I object, if it is to go with instructions; and renew the motion to go into committee.

Mr. HASCALL. Then I ask that it be referred without instructions.

Mr. CABLE. I have no objection to that.

The petitions were then received, and accordingly referred.

Mr. BRIGGS. I call for the regular order of business.

Mr. MCNAIR. I ask the unanimous consent of the House to present a memorial, signed by Charles Greenawalt and two hundred and fifty-eight other citizens, in favor of a modification of the bounty land act of 1850, so as to give each benefited by said act and the seamen and marines who served in the war of 1812 not less than one hundred and sixty acres of land.

Mr. JONES, of Tennessee. I object, and renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and there were—ayes 72, noes 21; no quorum voting.

Mr. COBB demanded tellers; which were ordered; and Messrs. JONES, of Tennessee, and CLINGMAN, were appointed.

The question was then again put, and the tellers reported—ayes 89, noes 13; still no quorum voting.

Mr. JONES, of Tennessee, demanded the yeas and nays; which were ordered; and being taken, the result was—yeas 108, nays 14.

So the motion was agreed to.

#### HOMESTEAD BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN stated, as the first business in order, House bill No. 7, being a bill for the encouragement of agriculture, commerce, manufactures, and for other purposes, upon which the gentleman from Mississippi [Mr. BROWN] was entitled to the floor.

Mr. BROWN, of Mississippi, claimed to be among the earliest and most steadfast friends of the wise and humane policy of providing homes for the homeless. His mind was not only clear, but free from the shadow of doubt, as to the constitutional power to pass such a law. The power was in express terms, and nothing is left to implication. He then proceeded to show how the interests of the entire country would be benefited by the measure, and the moral, social, and political condition of the people improved. He answered some of the objections which had been urged against the adoption of such a policy, and explained the provisions of a substitute which he intended to offer to the bill under consideration. He regarded the present preemption system as a curse to the settler. How many persons would accept the bounty proposed by this bill he could not say; but that many will, he had no doubt. He warned its friends, in conclusion, that it is an old trick when the enemies of a measure cannot openly fight it, they attack it in ambuscade. Many bills are killed in this way; and the hands thus employed can no more be seen than that which struck Billy Patterson. One of the modes is by going into committee upon a bill. The yeas and nays are not taken in committee, and, as a consequence, there is no record and no responsibility. When an amendment is offered in good faith, much the greater portion of members make it appear ridiculous. The ques-

tions are taken by passing between the tellers, until the features of the bill are so distorted that its friends do not recognize it; and it is then left to the tender care of its enemies, who kill it without mercy. On this measure he anticipated the usual course of proceedings; and should not be surprised to see an amendment offered to give every man a horse and cow, another to give farming utensils, and another a negro to work his land; and all intended to bring the bill into ridicule, and thus procure its defeat. Give us a fair record vote; and if the bill shall be lost, the country will then know who are its friends and who are its enemies.

Mr. PARKER, of Indiana, next obtained the floor, and addressed the committee an hour. He adverted to the manifesto of certain Southern Whigs, which appeared in the Republic of this morning, to the people of the United States, in regard to the failure of the recent Whig caucus, in the Senate chamber, to indorse the compromise measures. By that manifesto, he said that he and others, who were present on the occasion alluded to, had been placed in a false position. He therefore presented his protest, in reference to the deductions of those who signed that paper, so far as he was concerned. If these gentlemen so regarded it, yet he did not; that "the vote on GENTRY's amendment was an emphatic declaration" by that meeting, that the persons present remained uncommitted as to their own support of the adjustment measures, or that they refused to establish any such test of the qualification of the nominee of the National Convention. That was not his position, by any means. Although he did not withdraw from the meeting, as did those who signed the manifesto, yet, for one, he stood committed to the compromise measures. He stood before his constituents so committed, and that was the reason that they had returned him as their Representative. He did not evade the question of a test by any connection of his with the action of the caucus, so far as his candidate was concerned, for he would expect, whoever he supported for that exalted position, to be as sound as he was upon the Constitution and the compromise measures. His view, in reference to this whole matter, was this—and it was upon that he had acted, and acted consistently—he had deemed the question as decided by his constituents, when they sent him to Congress. They were willing to abide by the compromise measures, but were opposed to further agitation upon the questions involved therein.

In regard to the policy proper to be observed in disposing of the public domain, he argued in favor of the following basis for a system:

1. That hereafter the sales of the public lands of the United States, when made for cash, shall only be to such persons as will make oath that they purchase for actual settlement; and sales so made shall be at the rate of twenty-five cents per acre, and no more. And patents shall issue on such sales so soon as there shall have been five years' continuous occupation by the purchaser, his heirs, or assigns.

2. That all the public lands now in market, if not sold within five years, shall vest in the States respectively where they are situate; and all lands hereafter brought into market, if not sold within five years thereafter, shall in like manner vest; and all lands so vesting shall be sold by the proper State, within a reasonable time, for such reasonable sum per acre as to the State may seem expedient. And the net proceeds of all such last-mentioned sales shall be appropriated as follows: One third thereof to the State making the sale, for a perpetual common school fund; one third to be ratably apportioned among the other States and the District of Columbia, in proportion to the representation of each State in Congress, and regarding the District as entitled to one Representative, for a like purpose; and the remaining third to the American Colonization Society, for the colonization of the free blacks of the United States, with their own consent, in the Republic of Liberia.

Mr. MILLISON next obtained the floor, and made an argument in opposition to the bill, maintaining that it was unconstitutional, and that that clause of the Constitution which conferred upon Congress the power to dispose of and to make all needful rules and regulations respecting the territory or other property belonging to the United States, did not confer unlimited power in regard to the disposition of the public domain; but, like all

other powers in that instrument, was limited by the objects for which the Government was created.

[These speeches will be found in the Appendix.] Mr. WALSH here obtained the floor, but yielded to

Mr. GROW, who moved that the committee rise.

The question was put, and the motion agreed to. The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HUBBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified, and had come to no conclusion thereon.

Mr. FLORENCE, by unanimous consent, introduced resolutions of the General Assembly of Pennsylvania, in relation to the Parker patent for cast-iron submerged reaction water-wheels; which was referred to the Committee on Patents.

Mr. STANTON, of Ohio. I ask the unanimous consent of the House to report, from the Committee on Roads and Canals, a bill for the construction of a canal around the Falls in the Ohio river, at Louisville.

Mr. McMULLIN. I object.

The SPEAKER. Objection is made, and the report cannot be received.

On motion of Mr. McMULLIN, the House then adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BELL: A petition of citizens of Preble county, Ohio, praying for the establishment of a mail route from Eaton, by the way of Sugar Valley, to West Floren, in Preble county, Ohio.

By Mr. McNAIR: The memorial of Charles Greenwalt and 258 others, citizens of Lebanon county, Pennsylvania, in favor of a modification of the bounty land act of 28th September, 1850, so as to give each person benefited by said act, and the seamen and marines who served in the war of 1812, not less than one hundred and sixty acres of land.

By Mr. DAVIS, of Indiana: A statement of T. W. Sail, in relation to his claim for additional services as assistant marshal in taking the Seventh Census.

By Mr. JOHN W. HOWE: The petition of D. McCoy and 38 others, citizens of Clarion county, Pennsylvania, praying Congress to establish a post route from the borough of Coudersburg to Catfish post office, in said county.

By Mr. FLORENCE: The memorial of Frederick Klett, Peter Yeager, Robert Flanagan, J. E. Hagert, and 107 others, citizens of Philadelphia, petitioning Congress to pass a law to grant one hundred and sixty acres of land to soldiers of the war of 1812, the Indian, and Florida wars, &c., &c.

Also, the memorial of Fayette Pierson, Lewis Snell, Ralph H. Knowles, and 13 others, citizens of Philadelphia, petitioning Congress to pass a law granting one hundred and sixty acres of land to soldiers of the war of 1812, the Indian and Florida wars, &c., &c.

#### IN SENATE.

THURSDAY, April 29, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. PEARCE presented the memorial of Zabdriel W. Potter, praying compensation for services rendered as acting United States Naval Storekeeper at Valparaiso; which was referred to the Committee on Naval Affairs.

Mr. DOWNS presented the petition of Aaron Livingston and Randal D. Livingston, praying to be allowed certain privileges in entering lands in the Bastrop Grant, upon which they have made improvements; which was referred to the Committee on Private Land Claims.

Mr. SEWARD presented the memorial of Rue. Van Brunt, praying indemnity for losses incurred by him in consequence of the occupation of his property in 1814, by troops raised for the defense of the city of New York; which was referred to the Committee on Claims.

Mr. DODGE, of Wisconsin, presented seven petitions of citizens of Wisconsin, praying a grant of land for the construction of a railroad from Chicago through Janesville and Fond du Lac, to Lake Superior; which were ordered to be laid on the table.

Mr. WALKER presented several petitions of

citizens of Wisconsin, numerous signed, praying a grant of land for the construction of a railroad from Chicago through Janesville and Fond du Lac to Lake Superior; which were ordered to be laid on the table.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. DOWNS, it was Ordered, That John S. Maunsell and William Parker have leave to withdraw their petition and papers.

#### RULES OF THE SENATE.

Mr. BADGER submitted the following resolution for consideration:

Resolved, That the thirtieth rule for conducting the business of the Senate be amended by inserting after the word "session" the following:

"Or moved by direction of a standing committee of the Senate."

Resolved further, That the following be added to the rules of the Senate:

"A motion to suspend, or to concur in a resolution of the House to suspend, the sixteenth and seventeenth joint rules, or either of them, shall always be in order, and shall be decided without debate."

If the thirtieth rule should be amended as proposed by the Senator from North Carolina, it will stand thus:

30. No amendment, proposing additional appropriations, shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act, or resolution previously passed by the Senate, during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate.

The sixteenth and seventeenth joint rules referred to in the second proposed amendment, are as follows:

16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session.

17. No bill or resolution that shall have passed the House of Representatives and the Senate, shall be presented to the President of the United States for his approbation on the last day of the session.

#### DEPARTMENTAL PRINTING.

Mr. BORLAND submitted the following resolution for consideration:

Resolved, That the Secretaries of the Departments, respectively, of State, Treasury, War, Navy, and Interior, and the Postmaster General, be directed to communicate to the Senate statements of the quantity of printing, binding, and public advertising, which has been done for, or by order of the Department over which he presides, and on what account, and the amount of money paid for the same, and to whom paid, for each year since the 4th day of March, 1849, up to this time; and what remains to be done, and how much is to be paid for it under any existing contracts, arrangements, or agreements, written or verbal. Also, copies of the several contracts under which said printing, binding, and advertising, has been or is to be done; and also, statements whether said contracts, arrangements, or agreements, have been made in pursuance of public advertisement or otherwise.

#### REV. C. L. BRACE.

The following resolution, submitted by Mr. Cass, on the 26th instant, was considered and agreed to:

Resolved, That the President of the United States be requested to transmit to the Senate, so far as may be compatible with the public interest, a copy of the correspondence of the American Chargé at Vienna, with the Department of State, on the subject of the apprehension and imprisonment by the Austrian authorities of the Rev. Chas. L. Brace, an American citizen.

#### NOTICE OF A BILL.

Mr. MORTON. At the request of my colleague, who is confined by indisposition, I beg leave to give notice that to-morrow, or on some subsequent day, I will ask leave to introduce a bill, to be entitled "A bill to establish a steam mail line between California or Oregon and Shanghai, with a branch thereof to the Sandwich Islands."

#### BILL INTRODUCED.

Mr. BORLAND, by unanimous consent, asked and obtained leave to introduce a bill, granting to the State of Arkansas the right of way and a portion of the public land, to aid in the construction of a railroad from Gaines's Landing to Fulton, in said State; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on Printing, to which was referred a motion by Mr. Rusk, that one thousand five hundred additional copies be printed of the reports of the Secretary of the



Navy and the Postmaster General, in relation to the contracts for carrying the mails by steam-ships between New York and California, reported that the same be printed.

The report was concurred in.

He also, from the Committee on Printing; to which was referred a motion to print that portion of the report of the Commissioner of Patents which relates to arts and manufactures, reported that the same be printed.

Mr. BORLAND. Let it lie over.

Mr. HAMLIN also submitted the following resolution for consideration:

*Resolved*, That seventeen thousand additional copies of that portion of the report of the Commissioner of Patents, which relates to arts and manufactures, be printed; fifteen thousand copies thereof for the use of the Senate, and two thousand for the use of the Commissioner of Patents.

This also lies over with the original motion.

Mr. HAMLIN also, from the Committee on Printing, to which was referred the motion to print the agricultural portion of the annual report of the Commissioner of Patents, reported that the same be printed.

Mr. BORLAND. I desire that that also may lie over.

Mr. HAMLIN. I also submit, from the Committee on Printing, the following resolution:

*Resolved*, That thirty-two thousand five hundred additional copies of the Agricultural Report be printed, thirty thousand for the use of the Senate, and two thousand five hundred for the use of the Commissioner of Patents.

I desire to remark simply, that the number reported by the committee corresponds with the number reported last year, with the addition that we set apart 2,000 copies of the report on arts and manufactures, and 2,500 copies of the report on agriculture, for the use of the Commissioner of Patents.

The PRESIDING OFFICER. The resolution is not now before the Senate.

Mr. HAMLIN. I am aware that it is not; but I wished to show the action of the committee last year.

The whole subject was then passed over.

#### CLAIMS ARISING OUT OF THE CONQUEST OF CALIFORNIA.

Mr. SHIELDS, from the Committee on Military Affairs, to which was recommitted the bill to create a Board of Commissioners for the examination and payment of claims against the United States growing out of the conquest of California, with the amendment reported thereto, reported the same with amendments.

Mr. GWIN. I ask that this bill may now be acted upon. I think it will lead to no debate at all. If it should, I will consent that it be laid over at one o'clock.

The motion was agreed to, and the Senate proceeded to the consideration of the bill, as in Committee of the Whole.

The first amendment reported this morning to the amendment of the committee heretofore reported, proposes to strike out of the second section the words "on the second Monday in January, 1853," and insert the words "as soon as practicable;" so that the section will provide "that the Secretary of War be directed to ascertain, and report to Congress, as soon as practicable, the amount of all just claims," &c., &c.

The second amendment proposes to insert the word "Washington," before the word "California," so that another clause of the same section will provide that "the Secretary be directed to appoint a Board of three competent officers to examine witnesses and receive evidence in Washington, California, and elsewhere," &c.

The third amendment proposes to strike out the word "same," and insert the words printed in italic in the residue of the sentence above quoted, which will then read thus: "in relation to such claims, and to report the claims which they may consider just, with the evidence in support of them, to the War Department."

Mr. SHIELDS. These amendments make no essential change whatever in the amendment heretofore reported by the Committee on Military Affairs. The bill, thus amended, will provide for the appointment of three officers to adjudicate in relation to the claims arising out of the conquest of California; it will also provide for the appointment of a secretary. The next change is, that instead of directing the Department to report next January, it will authorize the Department to re-

port as soon as practicable; so that the report may be made in a few days, if they shall have adjudicated on any claims within that time. The next change is, that the commissioners may sit in Washington, and decide, previous to setting out for California, on such a portion of these claims as the testimony at hand will enable them to decide. The next is merely a verbal change, that they may report such claims as they consider to be just, with the evidence on which they are based. Those are the only changes; and I have reason to think that there will be no opposition to their passage.

The amendments were concurred in; and the question recurred on the adoption of the amendment reported from the committee, as amended.

Mr. GEYER. I desire that the second section may be read, as amended.

The section was read, as follows:

*And be it further enacted*, That the Secretary of War be directed to ascertain and report to Congress as soon as practicable the amount of all just claims and demands for supplies furnished or services rendered to said troops, and moneys advanced for their support, and all other debts and liabilities contracted with a view to the active prosecution of hostilities by said troops; and for this purpose the Secretary be directed to appoint a board of three competent officers, to examine witnesses and receive evidence in Washington, California, and elsewhere, in relation to such claims, and report the claims which they may consider just, with the evidence in support of them, to the War Department: *Provided*, That public notice be given of the times and places of the sittings of said Board.

The amendment as amended was agreed to. The bill was reported to the Senate as amended, and was ordered to be engrossed for a third reading.

#### RAILROADS IN WISCONSIN.

Mr. WALKER. I move that the Senate now proceed to the consideration of the bill granting to the State of Wisconsin the right of way and a donation of the public land, for the purpose of locating and constructing a railroad from Fond du Lac to Janesville. I wish to take it up mainly for the purpose of submitting certain amendments, that we may perfect the form of the bill. We can dispose of the amendments in a very few minutes, and then it may lie over, if it is desired.

Mr. PEARCE. I wish to know if it is intended to occupy more than the morning hour?

Mr. WALKER. No, sir. I simply wish to get some amendments introduced; and then it may lie over, if it is desired.

The motion to postpone the previous orders for the purpose of taking up the bill was agreed to, and the Senate proceeded to its consideration, as in Committee of the Whole.

Mr. WALKER. This bill has been referred to the Committee on Public Lands, and reported back, with a substitute, in the form of the bills which have been recently passed in relation to similar grants to other States. There are certain amendments, however, which have been incorporated in those other bills which are not in this. I wish to make this bill conform to the bill granting land to Missouri for a similar purpose. I wish, also, to amend it in another respect. There are two bills reported for Wisconsin, and it may be as well not to make two bites at the cherry, but to amend them both at once. The first amendment is, to add at the end of the sixth line, after the word "State," the following words: "and also a railroad from Milwaukee, on Lake Michigan, to Prairie La Cross, on the Mississippi river."

The amendment was agreed to.

Mr. WALKER. In consequence of that amendment, there are certain amendments required, as matters of course, changing certain words from the singular to the plural; for instance, "railroad" to "railroads," &c.

The PRESIDING OFFICER. They will be made, of course.

Mr. WALKER. The next amendment proposed to strike out the words:

"That the right of way shall not exceed one hundred feet on each side of the line of the road and a copy of the survey."

And insert the words:

"That in locating the railroads aforesaid, and assigning limits to the easement, no more land shall be taken from the United States than is necessary for a convenient construction and use of said roads as a public way for transportation, including stations, with the usual buildings of all kinds, turn outs, and such other appurtenances as are usually enjoyed by railroad companies, and a copy of the location."

The amendment was agreed to.

Mr. WALKER. The next amendment is, to

add at the end of section first of the amendment of the committee, the words, "to be recorded," so that it will read, "shall be forwarded to the proper local land offices respectively, and to the General Land Office at Washington city, within ninety days after the completion of the same to be recorded."

The amendment was agreed to.

Mr. WALKER. The next amendment is to incorporate, at the end of section third, such words as have been incorporated in other similar bills:

"Which lands shall from time to time be offered at public sale to the highest bidder, under the direction of the Secretary of the Interior, and shall not be subject to entry until they shall have been so offered at public sale."

The amendment was agreed to.

Mr. WALKER. That makes the bill conform to other bills of this character.

The question was then taken on striking out the original bill, and inserting the amendment reported by the committee as amended; and it was agreed to.

The further consideration of the bill was then postponed till to-morrow.

#### THE DEFICIENCY BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852.

Mr. PEARCE addressed the Senate for two hours and a half, in reply to the remarks made by Mr. GWIN some days ago, on the governmental administration of affairs in California. Without concluding he yielded the floor at the request of Senators. [Mr. P.'s speech will be found in the Appendix.]

On motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, April 29, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the call of the Committee on Public Lands for reports.

Mr. JONES, of Tennessee. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. GORMAN. I would ask the gentleman from Tennessee to withdraw that motion, that I may obtain the permission of the House to report, from the Committee on Military Affairs, the bill from the Senate for the settlement of the accounts of General Riley. That distinguished officer has been here for four or five months, awaiting the action of Congress upon this subject. The bill does not propose to take any money out of the Treasury; and it will not take more than five minutes to dispose of it.

Mr. McMULLIN. I object.

Mr. BARRERE, from the Committee on Enrolled Bills, asked the unanimous consent of the House, that the Speaker might be authorized to appoint an additional member upon that committee.

No objection being made, an order to that effect was entered upon the Journal.

Mr. BARRERE, from the Committee on Enrolled Bills, reported, as correctly enrolled, the following bills; which severally received the signature of the Speaker, viz:

1. An act for the relief of Albra T. Tripp;
2. An act for the relief of James Lewis;
3. An act for the relief of Joseph Johnston;
4. An act for the relief of the Monroe Railroad Company and their sureties;
5. Joint resolution approving and confirming an act of the Legislative Assembly of the Territory of Oregon, entitled an "Act to provide for the selection of places for the location and erection of the public buildings of the Territory of Oregon, and for other purposes;" and
6. An act for the payment of the arrears of pension to the heirs of Artemas Conant.

Mr. JONES, of Tennessee. If it is the wish of the House to receive the report of the gentleman from Indiana [Mr. GORMAN] with regard to the bill for the relief of General Riley, I will not interpose any obstruction. If there is no objection to

receiving the report, I will withdraw my motion to go into committee.

Mr. McMULLIN. I object, because the debate upon the homestead bill is to be closed to day.

The question was then taken upon the motion of Mr. JONES, that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and it was agreed to.

#### HOMESTEAD BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN stated that the business before the committee was House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period therein specified, and that upon that question the gentleman from Maryland [Mr. WALSH] had the floor.

Mr. WALSH addressed the committee an hour principally upon the subject of the compromise measures, for the maintenance of which he was in favor, and in reciting the wrongs which had been perpetrated upon the South by the past legislation of the country. He also alluded to the manifesto of the Southern Whig members, who had withdrawn from the recent caucus held in the Senate Chamber, and indorsed the sentiments embodied in that paper. [His speech will be found in the Appendix.]

Mr. HENN said he had prepared a speech in favor of the bill, and would hand it to the printer for publication. [It will be found in the Appendix.]

Mr. JOHNSON, of Tennessee, addressed the committee an hour in favor of the bill, arguing to show its constitutionality, and its expediency. He maintained that it was constitutional, and that the whole practice of the Government, ever since, and during the days of Washington, had been to make grants and benefactions of lands. He showed that some of the very gentlemen who had opposed this bill on the ground of the want of constitutional power in Congress to pass it, had themselves, at the last Congress, voted some forty-eight millions by way of bounty to the soldiers who had been engaged in the several wars of the United States, and some twenty millions of swamp lands to the States. He pointed out the good effect the passage of the bill would have upon the agricultural, commercial, and manufacturing interests of the country. He dwelt at some length upon its moral effect upon the institutions of the country; and showed that its tendency would be to make the citizen a freeman in the proper sense of the term. [Mr. J.'s speech will be found in the Appendix.]

The CHAIRMAN stated that the hour had arrived which the House had fixed for closing the general debate.

Mr. McMULLIN availed himself of his right under the rule, as chairman of the committee who reported the bill, and addressed the committee an hour. He differed with his colleagues [Mr. AVERETT and Mr. MILLSON] who had opposed this bill on the ground of unconstitutionality. He had himself been opposed to this policy, but not on constitutional grounds. He was now in favor of the original bill, but preferred the plan suggested by the gentleman from Mississippi, [Mr. BROWN], of allowing occupancy upon the land, and eventual payment to the Government by the settler of a nominal price. He then expressed some views in favor of the compromise measures, and a hope and belief that the Baltimore Convention would select a man as the Democratic candidate for the Presidency known to be in favor of an adherence to the fugitive slave law. [His speech will be found in the Appendix.]

Mr. MOORE, of Pennsylvania, inquired whether an amendment to the bill was in order?

The CHAIRMAN said that it was not.

Mr. GOODENOW moved that the committee rise.

The question was put, and the motion agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr.

HIBBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting every man who is at the head of a family and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified, and had come to no conclusion thereon.

On motion of Mr. CAMPBELL, of Illinois, the House then adjourned till to-morrow, at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PRICE: The petition of the citizens of the city of Newark, New Jersey, praying for the improvement of the Newark harbor.

Also, the petition of the citizens of the city of Newark, praying for the improvement of the Passaic river.

Also, the memorial of the Mayor and Common Council of the city of Newark, praying for the removal of the obstructions in Newark bay and the Passaic river.

Also, the resolutions of the Common Council of the city of Newark, asking for an appropriation for the removal of the obstructions at the mouth of the Passaic river.

Also, two resolutions of the Legislature of the State of New Jersey, for the removal of the obstructions, and improving the navigation of the Passaic river, and Newark bay.

By Mr. HASCALL: The petition of Benjamin F. Hays, of Chicago, Illinois, praying for the passage of an act to authorize him to locate certain lands at Oconto Falls, in Brown county, State of Wisconsin.

Also, the petition of Sheldon Henry, of Pembroke, in the State of New York, praying for the passage of an act allowing him back pay for services rendered in the late war with Great Britain.

By Mr. SIBLEY: The petition of A. E. Ames and 56 other citizens of Minnesota, praying that a pension be granted to Anthony Page.

By Mr. ASHIE: The memorial of John N. Caulsby and others, praying an appropriation for removing obstructions at the mouth of the Cape Fear river.

By Mr. DAWSON: The memorial of James Parson and others, asking the passage of a law to authorize the construction of a railroad, commencing at or near Council Bluffs, on the Missouri river, and extending up the valley of the Platte river to the South Pass in the Rocky Mountains, to California and Oregon; and that the Territory of Nebraska be laid off by suitable boundaries, and wholly appropriated to the purpose of making said road, which they apprehend would be from the forty-first to the forty-third degree of north latitude, and extend the breadth to the Pacific ocean; and that the right and title to the whole of said Territory be by law vested in such company as will make said road, in a style commensurate with its importance to the people of the United States, and who will transport thereon the property and troops and public mail of the United States free of charge.

By Mr. EASTMAN: The petition of citizens of Iowa and Lafayette counties, Wisconsin, for a mail route from Mineral Point, via Darlington and Avon, to Shullsburg.

By Mr. DURKEE: The memorial from the masters of vessels at Chicago, Illinois, in favor of a harbor appropriation at Racine, Wisconsin.

Also, a memorial of the Mayor and Aldermen of Racine, for the same object.

Also, the petition of citizens of Chicago, praying for the same object.

Also, a remonstrance from the Mayor and Council on the same subject.

By Mr. POLK: The petition of citizens of Bedford, Marshall, Giles, Lawrence, and Wayne counties, in the State of Tennessee, praying for the establishment of a mail route from Shelbyville, via Pulaski and Lawrenceburg, to Waynesborough.

#### IN SENATE.

FRIDAY, April 30, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. PEARCE. I ask the consent of the Senate to postpone the business assigned to this day for the present, for the purpose of taking up the deficiency bill; and I will very briefly state the reasons why I ask this. They are partly personal and partly public. My health is very precarious just now, and I do not know that I shall be able on another day to continue the speech which I commenced yesterday. To-day I am able, and desirous of doing so; and, in addition to that, it is very desirable that the deficiency bill should be disposed of speedily. I know the fact, as I learn from the Quartermaster's Department, that there are troops now on their way to Oregon which must be aided if possible.

Mr. HAMLIN. I desire to know if the Senator wishes to take up the bill named before the expiration of the morning hour?

Mr. PEARCE. Yes, sir, now; and I will be through by the time the morning hour expires.

Mr. SHIELDS. There was a bill on its passage yesterday, which was arrested by the honorable Senator from Rhode Island, [Mr. CLARKE,] in order that it might be amended still further. I have inquired of the honorable Senator if he cannot as well attach his proposed amendment to another bill, and he has consented to do so. As the bill which I wish to have passed is one which the Senator from California is also anxious to have passed immediately, I hope it may be taken up and disposed of.

Mr. PEARCE. I withdraw my motion, to accommodate the Senator.

The bill entitled "An act to create a Board of Commissioners for the examination and payment of claims against the United States growing out of the conquest of California," was then read a third time, and passed.

#### THE DEFICIENCY BILL.

Mr. PEARCE. I now move to proceed to the consideration of the deficiency bill.

The motion was agreed to.

Mr. PEARCE resumed, and concluded the speech which he commenced yesterday.

Mr. GWIN replied at considerable length.

[These speeches will be found in the Appendix.]

Mr. HALE. As the debate on the deficiency bill has taken a very wide range, I wish to inquire of the Chair if it would be in order for me, on that bill, to make some remarks, which I wish to submit, in reference to the policy of the Democratic and Whig parties as to adopting the compromise finality platform. [Laughter.]

The PRESIDING OFFICER (Mr. MANGUM occupying the chair.) It would not be in order.

Mr. ADAMS submitted the following resolution for consideration:

*Resolved*, That the Senate meet to-morrow at eleven o'clock, and consider the deficiency bill until one o'clock, when all debate shall be closed, and a vote taken upon the bill and amendments then pending.

Objection being made, it was laid over under the rule.

On the motion of Mr. RUSK, the further consideration of the bill was postponed until Monday.

#### PETITIONS, ETC.

Mr. RUSK presented the petition of Charles B. Brower, late a lieutenant in the Army, dismissed by a court-martial, praying to be reinstated in his former rank; which was referred to the Committee on Military Affairs.

Mr. SEWARD presented the petition of Samuel Church, praying remuneration for the loss of clothing and health in the military service of the United States during the last war with Great Britain; which was referred to the Committee on Pensions.

Mr. HUNTER presented the petition of Octavius Haymond, assistant marshal for taking the Seventh Census in Virginia, praying additional compensation; which was referred to the Committee on Claims.

Mr. WHITCOMB presented a petition of citizens of Noble county, Indiana, praying an alteration in the mode of calculating time, and the establishment by the United States of an Almanac on a new plan; which was referred to the Committee on the Library.

#### PAPERS WITHDRAWN.

On motion by Mr. SUMNER, it was

*Ordered*, That leave be granted to withdraw the petition and papers of J. B. Tobey & Co., and others.

#### REPORTS FROM COMMITTEES.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the memorial of Hugh Wallace Wormeley, formerly an officer in the Navy, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to which was referred the memorial of John S. Van Dyke, asking payment of the prize money due his brother in the case of the capture of the French frigate, L'Insurgente, submitted an adverse report; which was ordered to be printed.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Combs Greenwell, praying an allowance of pay while suffering from a fall from a United States vessel, while in the discharge of his duty as a machinist at the Navy-Yard, Washington, District of Columbia, submitted a report, accompanied

by a bill for his relief; which was read, and passed to a second reading.

The report was ordered to be printed.

#### INDIAN TREATIES.

Mr. ATCHISON. I desire to give notice now, that on Monday next I shall ask the Senate to go into Executive session, immediately after the expiration of the morning hour. It is important, or deemed to be important, by the people of Iowa, Minnesota, and Wisconsin, that certain treaties now pending shall be acted upon.

#### NOTICES OF BILLS.

Mr. BROOKE gave notice of his intention to ask leave to introduce two bills—one to attach the county of Attala, in the State of Mississippi, to the southern judicial district of said State, and the other to regulate the liens of judgments of the courts of the United States in the State of Mississippi.

Mr. SEBASTIAN gave notice of his intention to ask leave to introduce a joint resolution respecting the various laws granting pensions to soldiers of the revolutionary and subsequent wars.

#### SWAMP LANDS IN MISSISSIPPI.

Mr. BROOKE, by unanimous consent, asked and obtained leave to introduce a joint resolution giving the assent of Congress to an act of the Legislature of the State of Mississippi, appropriating a portion of the swamp and overflowed lands granted to said State by the act approved September 28, 1830; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### DISTRICT COURT OF THE DISTRICT OF COLUMBIA.

Mr. BRADBURY. I am instructed by the Committee on the Judiciary, to which was referred a bill to provide for the holding of the district court for the District of Columbia in case of the sickness or other disability of the district judge, to report the bill back without amendment.

I have also been instructed by the same committee to ask the unanimous consent of the Senate to consider this bill at the present time. There is necessity for prompt action. Judge Cranch, the venerable chief justice of the circuit court of this District, who is sole judge of the district court, is in feeble health—too much so to hold court at present. There is pressing business of importance in the court, in some of which the Government is interested. I will refer to a case: It is known that during the Mexican war our public vessels made several captures on the Pacific coast, where we had no regularly-organized courts to take cognizance of the subject, and the distance was too great to send home the prizes for adjudication. As a matter of apparent necessity, a temporary admiralty court was organized there, under the authority of the naval and military commanders on that station, with the assent or approval of the Secretary of the Navy; and the captors, in obedience to the orders of their superiors, carried their prizes before this court of admiralty, which undertook to adjudicate, and in some cases to condemn and decree the sale of them. The owners of one of the captured vessels and cargo, the *Admittance*, have commenced an action against Captain Montgomery, the commander of the vessel that made the prize, since his return to this country, and that action is now pending in court. The Supreme Court of the United States has recently held in the case, that the so-called admiralty court at Monterey had no authority in the premises, but if there was good causes of capture, the captors might justify the taking by establishing that fact; that the district court of this District has original jurisdiction in such cases; and that the captors could proceed and libel the vessel and cargo therein, and if they succeeded in making good, in that process, the cause of capture, it could be given in defense in the action against the officer who commanded in taking the alleged prize. The amount in this case is large, and the proceeds of the sale have been paid into the United States Treasury. It will be seen, without further remark, that it is important that this officer should have the means of making his defense, which can only be done by prompt action of this bill.

Mr. BADGER asked that the bill might be read.

It was read accordingly. It provides that in

case of the sickness or other disability of the judge of the district court of the United States for the District of Columbia which shall prevent him from holding any stated or appointed term of the district court, and upon that fact being certified by the clerk of the district court to the Chief Justice of the United States, it shall be lawful for the Chief Justice of the United States to designate and appoint any district judge within one of the judicial districts next contiguous to the District of Columbia to hold the district court for this District.

Mr. BADGER. I cannot give my consent to have this bill acted upon to-day; and for a very obvious reason. I see no necessity for requiring the Chief Justice of the United States to send to some contiguous judicial district for a judge to come here and hold the district court. The chief judge of the circuit court of the District of Columbia also holds the district court for this district. It is proper that provision should be made for holding the district court in case of the sickness or other disability of the chief judge. But the circuit court here consists of three judges; and it would be the simplest provision in the world to say that in case of the sickness or disability of the chief judge, one of the other judges should be authorized to hold the district court. Whence the necessity for requiring the Chief Justice of the United States to send to ask the district judge in another district to come here to hold the district court, when there are three judges of the circuit court, every one of whom is competent to perform the duty? All that is necessary is to have an act of Congress authorizing one of the puisne judges of that court to hold the district court when, from sickness or disability, the chief judge should be unable to hold it.

Mr. BRADBURY. I was solicited to introduce the bill by gentlemen of the profession in this city, who had conferred with the court here; and they adopted the phraseology of the bill which provides for similar difficulties in other courts. The suggestion was made that it would be better to ask the district judge of Maryland to step over here for only an occasional service, because an appeal lies from the district court to the circuit court of this district; and as there are but two judges of that court now able to perform service, it would be an appeal from the decision of a judge to himself. If, however, there is any objection to the present consideration of the bill, it can be laid over, and I hope it will be taken up on Monday morning. An amendment of the kind suggested by the Senator from North Carolina, would reach the difficulty which we are endeavoring to avoid. I think it is immaterial which course is adopted.

Mr. BADGER. The Senator says that this bill adopts the provisions made by other bills. Now, he has proceeded to adopt a provision which was proper in regard to other cases, and to make it applicable to a case where there is no propriety in its application. In the case of a district judge of a State, there is but one district judge, and if you invoke any assistance, it must be the assistance of a district judge from another State. Now, there are three judges of the circuit court in this district. One of them can hold the district court just as well as a judge from another State. As to the idea of the Senator in relation to appeals from the district to the circuit court, here he takes it for granted that the chief judge of the court is never going to sit, which is a presumption not founded on fact, I trust, and which is not consistent with law. I hope the bill will lie over.

The PRESIDING OFFICER. If there be no objection, the bill will be laid over until Monday.

Mr. BRADBURY. If it is laid over, an amendment can be laid over in the mean time.

Mr. BERRIEN. I am not disposed to urge the present consideration of the bill spoken of by the Senator from Maine, but I wish to ask the Senator from North Carolina, in consideration of the importance and pressing urgency of this bill, that he will, in the intermediate time between this and Monday, examine its provisions, and ascertain whether they are really liable to the objections which he urges. The case is this: Officers of the Navy of the United States have made seizures, and have prosecuted to condemnation, before tribunals summarily and irregularly constituted, their several prizes. One of these cases, has been before the Supreme Court of the United States, which has recognized the correctness of

the seizures, and the liability of the property seized to condemnation, but requires that the prizes should be libeled. In the mean time, the officers of the Navy have been sued by the proprietors of the vessels seized, and it is to provide for them the protection which this bill affords, that it is submitted to the consideration of the Senate. I would suggest to the Senator from North Carolina, in regard to his objection, that the jurisdiction for which this bill is intended to provide, is original admiralty jurisdiction, which belongs to the district judges of the United States, and does not belong to the circuit judges; therefore it is that the aid and assistance of a district judge from a contiguous district, having original admiralty jurisdiction, has been invoked, and not one of the circuit judges, who does not possess this original admiralty jurisdiction.

The bill was laid over until Monday.

#### EXECUTIVE SESSION.

On the motion of Mr. BADGER, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned until Monday.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, April 30, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

Mr. CURTIS. I move that the House resolve itself into a Committee of the Whole House upon the Private Calendar.

#### PATENT OFFICE REPORT.

Mr. GORMAN. I desire to make a report from the Committee on Printing, for printing an extra number of the Patent Office Report. It will take but little time.

Mr. FICKLIN. Is that in order?

The SPEAKER. The motion of the gentleman from Indiana [Mr. GORMAN] is a privileged motion. So is the motion made by the gentleman from Pennsylvania, [Mr. CURTIS.] The Chair thinks the motion first made is the one that should be first put to the House.

Mr. GORMAN. It will not take much time to order this amount of printing to be done. It is the usual number.

The SPEAKER. If the gentleman from Pennsylvania [Mr. CURTIS] does not withdraw his motion, it will be put first.

Mr. CURTIS. I withdraw my motion.

Mr. GORMAN. I report from the Committee on Printing, the following resolution:

*Resolved*, That there be printed for the use of the House of Representatives fifty thousand copies of the mechanical part of the Patent Office Report, and three thousand additional copies for the use of the Commissioner of Patents.

Mr. CLINGMAN. Before this question is put, and before I vote upon this matter, I desire to know who is to do this printing, and upon what terms. I am greatly surprised that so much time has elapsed without our being apprised by that committee, which is authorized to report at any time, what arrangement they have made for the public printing. Nearly two weeks since we were told by the chairman of the committee [Mr. GORMAN] that he would make a report to the House on the following Monday, which was Monday of last week, more than ten days since, and inform us definitely what they had done. Since that time he has made no report. If he has made any report it has escaped my notice and that of the House. I am sure he has not. Before we order any document to be printed, I wish to know who is to print it, and upon what terms, and at what time we are likely to get it. These are matters which ought to be understood by the House. I do not desire at this time to go into any discussion upon this question. I trust the chairman of the Committee on Printing will let it lie over until the committee think proper to apprise us what is to be done with the matter of the Congressional printing.

Mr. POLK. I trust the gentleman will withdraw his motion, and let us go to the regular order of business.

Mr. CLINGMAN. I take this occasion to say to the committee again, if they have made any disposition of the public printing it was due to the House that they should have made it known long



ere this. They knew of the refusal of the House, with a view of showing its disapprobation of their conduct, again and again to lay upon the table their report. We were tried over and over upon it, and at the instance of the chairman himself. They know that the House recommitted it to them partly upon the statement of the members of the committee, that they would regard a different course as discourteous to them. I have heard several gentlemen say that they voted to send it back to them upon the ground that they did not want to do anything discourteous to the committee; for members of the committee said they would regard a recommitment to another committee as a censure upon them personally. The House sent it to them at their pressing request. Now, it seems nearly two weeks have elapsed, and we do not know whether any arrangements have been made. It is well known that it is now reported in this city that they have given out the printing at an advance of twenty-five per cent. over that for which responsible men offered to do it—men who put in bids, and avowed themselves willing to give bonds in any amount required, to do the printing at those rates. The printing is given out at an advance of twenty-five per cent. upon the bids of those responsible men. I do not affirm these things, but I am told by respectable men, the bidders themselves, that they are true; and I have no doubt of it.

Mr. SWEETSER. I call the gentleman from North Carolina [Mr. CLINGMAN] to order. I do not wish to be captious, but I wish to understand if it is the desire of the House that this whole debate should be opened again?

Mr. CLINGMAN. This question is debatable, and I think I am strictly in order.

The SPEAKER. The question of printing is debatable, and the gentleman can debate anything connected with the public printing.

Mr. HOUSTON. I think it would be decidedly better, if the House would do so, for us to get through the special order to-day.

Mr. CLINGMAN. I agree with the gentleman, and I am about to make a suggestion. As I happen to be upon the floor, and as there is a deep interest felt in this printing question, I think, Mr. Speaker, with due deference to your decision, that it is a privileged question; and, inasmuch as that committee is authorized to report at any time, I think the corresponding right exists in the House to call upon the committee at any time for a report.

The SPEAKER. The gentleman misunderstood the Chair. The Chair made no such decision.

Mr. CLINGMAN. That at least was my impression. I did not affirm that the Chair so decided; but, as it was held that a two-thirds vote was necessary to get in such a call, of course I supposed the Chair must have held that it was not a privileged motion. I think the Chair, upon the point being directly presented, would perhaps see that a suspension of the rules to call upon that committee for a report was not necessary. If that be the case, we can get it out one of these days. All I desire is this, that gentlemen may now understand that this matter will have to be investigated. I am much surprised that the committee have failed before this to give the House any information upon this subject, considering the reports to their prejudice that are now in circulation. Surely the members of the committee do not mean to wait until the House makes an imperative call upon them directly. They are aware that we are in suspense, and anxious to hear from them. This is all I desire to say now. I had no idea of the subject coming up at this time, and I do not wish it to be smothered or hurried through without notice or investigation. I trust the house will consent to the proposition that it lie over.

Mr. SCURRY. I wish to ask the gentleman a question. Does the gentleman from North Carolina [Mr. CLINGMAN] know whether Gideon & Co. are connected with the Republic further than publishing it?

Mr. CLINGMAN. I suppose there is no doubt about the fact that Gideon & Co. are the publishers.

Mr. SCURRY. Are the owners and proprietors of the Republic the printers of the Cotton Plant?

Mr. CLINGMAN. I do not know who prints it. I know very well the name of the gentleman who is the editor. He may get it printed at the

Republic office for aught I know. I do not see, though, what connection there is between his question and the present subject. The House has a right to know what disposition has been made by the committee of the printing; and I hope this matter will go over until they inform us what they have done with the matter.

Mr. GORMAN. I have introduced the usual resolution which is introduced every year, and which it is my duty to do. Upon it I call for the previous question.

Mr. FITCH. I trust that my colleague will withdraw his call for the previous question.

Mr. GORMAN. I cannot do so.

Mr. FITCH. I hope, then, it will not be sustained.

Mr. CLINGMAN. I move to lay this motion of the gentleman from Indiana, [Mr. GORMAN,] and the report, upon the table; and upon that motion I ask for the yeas and nays.

Mr. FOWLER. May we have that resolution read?

The SPEAKER. If it be not objected to, the House having divided upon the demand for the yeas and nays.

Mr. CLINGMAN. Let us have the yeas and nays.

Mr. HOUSTON. I desire to inquire of the Chair, what the effect of laying this matter upon the table will be? Unless we take it up by a two-thirds vote, will it preclude the action of the House upon the subject of printing?

The SPEAKER. The Chair will reserve to itself the right to decide these questions as they arise. The gentleman from Alabama [Mr. HOUSTON] is aware that a resolution or any matter laid upon the table in this body generally remains there. That is the usual course. It will be in order for the House, when it is in order to submit a proposition for the purpose, to take it from the table. The Chair will further state, that the right of the Committee on Printing to report at any time, is a very clear one under the rules. Whether that committee could report precisely such a resolution as the one pending before this body is questionable, and the Chair thinks it would be out of order.

Mr. HOUSTON. Therefore I desire to say to the gentleman from North Carolina, [Mr. CLINGMAN,] that it would be better, in my view of it, to give this matter some other direction. If you put it upon the table, it is not expected that the Committee on Printing will make another report. We had better take some other course.

Mr. POLK. Let it go upon the table, and we will thereby dispense with the printing. Let the gentleman take the responsibility.

Mr. HART. Is it in order to debate this question now?

The SPEAKER. The debate is out of order.

Mr. CLINGMAN. As my motion to lay on the table will be in order after the previous question is sustained, I withdraw it for the present.

The question recurred upon seconding the demand for the previous question.

Mr. CLINGMAN demanded tellers; which were ordered.

Mr. CHANDLER. Is the previous question upon the passage of the resolution?

The SPEAKER. In response to the gentleman from Pennsylvania, [Mr. CHANDLER,] the Chair informs him and the House, that the immediate question is upon seconding the demand for the previous question on the passage of the resolution, upon which tellers have been ordered.

The question was then taken, (Messrs. VENABLE and CHURCHWELL acting as tellers,) and resulted—ayes 46, noes 87.

So the demand for the previous question was not sustained.

Mr. DANIEL. Will it be in order to move to postpone this matter with the view of submitting another motion?

The SPEAKER. It will be in order to make such motion.

Mr. DANIEL. I move, then, to postpone it until Tuesday next, with a view of transacting private business to-day. We have not transacted any business of that kind for several weeks.

Mr. HOUSTON. Make it Monday.

Mr. DANIEL. I hope that my motion will be submitted.

Mr. HOUSTON. I would suggest to the gentleman to put it Monday. We will lose Monday

unless we appropriate it to something of a general nature.

Mr. DANIEL. I will, then, modify my motion, and make it Monday, as there seems a general desire that I should do so.

Mr. BROWN, of Mississippi. If this matter is postponed to Monday, will it take precedence of motions to suspend the rules for other purposes?

The SPEAKER. Unless it is made the special order, I think it would not.

Mr. POLK. I trust the gentleman will adhere to his original motion.

Mr. ROBBINS. Will it be in order to amend and make it Tuesday?

The SPEAKER. It will.

Mr. ROBBINS. I propose to amend the motion, and to postpone this question to Tuesday instead of Monday.

The question was then taken upon Mr. ROBBINS's amendment, and it was agreed to.

The motion, as amended, was then agreed to.

Mr. CURTIS. I renew the motion that the House resolve itself into a Committee of the Whole House upon the Private Calendar.

The question was put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole House upon the private Calendar, (Mr. STUART in the chair.)

#### OSBORN CROSS.

The CHAIRMAN. The first business before the committee is House bill No. 137, for the relief of Osborn Cross, authorizing and directing the Secretary of the Treasury, in adjusting his accounts as a quartermaster in the United States Army, to give him credit for a sum equal to the amount of the Treasury notes of the United States of which he was robbed, in New Orleans, in October, 1842, being about the sum of \$3,265 47.

The principal facts of the case, as set forth in the report, which was read, are, that said Cross, as quartermaster, in October, 1842, received three drafts from Government, amounting to \$34,000. One of the drafts, for \$10,000, was paid out to Peters & Millard, of New Orleans, for a debt due them, and he received the change in Treasury notes, to the amount of over \$6,000. He endeavored to place the Treasury notes on deposit in the Union Bank of said city, the usual depository of Government funds, but was refused. On the 8th of October, 1842, before leaving his office, he locked up the said funds, together with \$300 of private funds, in an iron safe, and during the night the office was robbed by some negroes, who opened the safe containing said funds, and rifled it of its contents. Mr. Cross succeeded, in a few days, in recovering about \$3,000 of said notes. A court of inquiry was afterwards held to investigate the conduct of Major Cross, which, after a full investigation, found that no blame or neglect could be attributed to him.

Mr. MACE. I am satisfied that the passage of this bill will establish a dangerous precedent, and one which might result in great danger to the Treasury of the United States. The facts of the case seem to be, as reported by the committee, and no doubt truly, that Major Cross sought and took upon himself the situation of quartermaster. He assumed the duties of quartermaster, and as such gave to the United States a bond, for the faithful accounting of all moneys which might come to his hands. He alleges that a large amount of money did come to his hands, some of which were in Treasury notes; that while in the city of New Orleans, his safe was robbed by some negroes, and funds to the amount of some \$6,000 taken out of it. He therefore claims that the United States should exonerate him from the repayment of this money.

Now, Mr. Chairman, he stands in the precise condition of our State officers, of our sheriffs, administrators, guardians, and other persons who assume the duties and give a bond for the faithful performance of a trust. In case the United States should bring an action against him upon his bond for a full account of this money, it would be no defense whatever to say that it was stolen from him, and the United States must recover a judgment against him. Now, a precedent should not be established by the Congress of the United States, and recorded, unless that precedent is a good one. I have no doubt that this is an ex-

tremely hard case, and one that ought to be relieved, unless, as I before remarked, the precedent is one which the Congress of the United States will have to abandon at some other time.

Now, sir, what will be the condition of things, if this bill is passed? The Government of the United States, through its agent, disburses fifty-five, or sixty millions of dollars a year. All this is to pass into somebody's hands. This is certainly an age of progress; and I apprehend, and fearfully apprehend, that if we establish the precedent in this case, that it is a good defense for an officer to set up that he was robbed of the money, we shall have more robberies in the United States, than were ever heard of before.

Mr. SACKETT. I wish to know if the proofs in this case do not clearly establish the fact that the money was stolen? and whether there is any shadow of evidence, tending to show either criminality or neglect on the part of the officer?

Mr. MACE. I will state in reply, Mr. Chairman, that the evidence in this case does establish those facts. And I will state further, that, as a member of the Committee on Claims, I have examined fifty cases where the claim which is put in is fully established by evidence, and by affidavits duly sworn to. I have in my mind one case now, where a man establishes by evidence, that he lost \$600,000, because he was not permitted by the Government to go on with his contract, and claims that amount. I say here, that if this was the only case before the Congress of the United States now, or the only case which might hereafter be submitted similar in its character, I would vote for it most cheerfully. But if we say that Major Cross shall be relieved from the payment of this money because of this larceny, let the collector of New York be robbed of a few millions of money under similar circumstances, he would come in and say that because of that robbery he ought to be exonerated. Now, I state these considerations, which operate upon my mind, for the serious consideration of the committee. I think it is a wrong precedent, and I believe it is better that Major Cross, and all others who seek office, and give bonds for the faithful performance of its duties, should be held to a strict account, in the same manner as we hold to account our State officers.

Mr. SWEETSER. I desire to call the attention of my friend, [Mr. MACE,] who has discussed this case most fairly, to a distinction which will most manifestly show the inapplicability of his arguments. The rule which should govern the House in this case is controlled by the fact, that in relation to these paymasters in the Army and in the Navy, they are not surrounded by the Government with those safeguards which attach to the collector of the port of New York, or by those which attach to the officers of our State governments. Their employment necessarily exposes the public funds in their hands to dangers to which other officers are not subjected, who are located in situations of comparative safety, and whose means of safety are ample. This is a claim which addresses itself to the equitable jurisdiction of Congress. Here is a man called into the public service, and his friends give a bond for his faithful performance of its duties, and in the honest discharge of those duties he has lost money in consequence of the precarious position in which he was placed. I can imagine a paymaster placed in a position, in time of war, with an amount of money under his control which might be taken by the public enemy—and such a case would present the same principle as the case before the House. I desire to know if there is any gentleman in the committee who desires to lay down a rule for the government of this House which will defeat a claim of this kind, where there has been no wrong, no neglect, no laches, on the part of the officer, who has been robbed by the public enemy or by robbers? I can say to my friend that the rule which I have established for myself is this, that wherever there is no wrong or neglect on the part of the officer, where he has been placed in a position of great peril, and the public money has been taken from him, and the question comes up here, whether the Government shall lose the money or the individual's security shall pay the penalty of the bond, my vote shall be against the Government, and in favor of the surety. The Government requires faithful discharge of duty only. This House will ascertain first whether there has been neglect or dishonesty. If they find no laches on the part of the

public officer, they require no penalties by a bond for misfortune or unavoidable accident.

Mr. MACE. The gentleman's remarks are proper in regard to the safeguards thrown around these men. I do not know what safeguards were thrown around Major Cross, but the record shows that the iron safe was in a certain room in which he deposited this money, in the city of New Orleans. Now, I think it would be better for the Government of the United States to refuse to pay all such demands as this, although it might operate hard upon an individual citizen. The principle contended for by my friend from Ohio, [Mr. SWEETSER,] settles no principle. We must look at the peculiar facts of each case, and it might strike the mind of one man that it was right to pay, and another that it was not. We should say sternly to every agent of this Government who is in possession of public funds, that in taking that duty upon him, if he is robbed of that money, he shall be held responsible for it. If we do not adopt that principle, I greatly fear—and I apprehend every other man who has looked into the records of this House, upon the subject of claims, will fear—that we will, session after session, have claims presented for the loss of money without the least show of foundation whatever. I have no doubt that this money was lost, as the report indicates; but I am opposed to establishing the principle that the party shall, in such cases, be relieved. He took this responsibility upon himself when he sought the office, and he knew, or ought to have known, what the law was; and if he was robbed of the money, why, as a matter of course, he ought to be the loser.

Mr. PORTER. I admit the correctness of the proposition laid down by the gentleman from Indiana, [Mr. MACE,] that the loss of this money by robbery would not be a legal defense to an action for the recovery of the same from the officer by the Government. And if it were not a correct proposition, Major Cross could have no occasion to apply to Congress for the purpose of being relieved from that strict legal liability. That proposition does not reach the merits of this claim. If it were a legal defense that he was robbed of this money which he held as quartermaster, then he would have no occasion to apply for relief at the hands of Congress as to so much as he failed to recover. And it is precisely for the reason, Mr. Chairman, that the strict iron rule of the law, as applicable to the case, subjected him to this liability, and that it was not competent for the accounting officer of the Treasury to allow him a credit therefor, that he has applied to Congress for relief. I contend that this is a very strong, urgent, and imperious call upon the justice and magnanimity of the Government.

Now, sir, the facts of this case are undisputed, to wit: that Major Cross, as quartermaster, had charge of a certain amount of public funds; that he used all proper and reasonable care in taking charge of and preserving those public funds; there is no pretence on the part of the gentleman from Indiana, [Mr. MACE,] and there can be no well-founded pretence on the part of any gentleman, that Major Cross was guilty of a single scintilla or particle of negligence or default in regard to taking care of and preserving these funds from loss. He placed that money in a strong box in the usual place of deposit; he was compelled to keep it in his personal custody because he was needing it from day to day to meet the wants of the Government; he kept it just where his predecessor in office had kept the public funds—in a strong box, in a safe and secure public building, provided for that purpose. A robber entered that building, concealed himself, and unfastened the fastenings of two of the back doors, unknown to the custodian and guardian of the building; he returned at night by stealth, in company with others, got the keys of the safe from the place where they were kept, unlocked the safe and took out the money—the details of which are explained by the report and other papers in the case. There is no pretense that the quartermaster did not use all reasonable and proper care and precaution for the purpose of preserving the public funds committed to his charge. That fact is not only apparent from the evidence before the committee, and from the report of the committee, but it is also verified by a court of inquiry, called at the instance of Major Cross, for the purpose of investigating his conduct, and who reported that he

had been guilty of no negligence or default, but had used all precaution. Then, sir, that fact is established.

It also appears, further, that he made use of all possible diligence for the purpose of indemnifying the Government for the loss of those Treasury notes, by notifying the Treasurer of the United States the day after the robbery occurred, of the fact that the notes had been stolen, of the numbers of the notes, and a description of them, so that the Treasury of the United States might refuse to pay the notes when they should be presented.

It appears from evidence in the case, that all possible diligence was used for the purpose of recovering the money which had been stolen, from the robbers, and of bringing them to punishment. Soon after the robbery occurred, he recovered a portion of the money which had not yet been made way with, detected and arrested the robbers, and prosecuted them to conviction. All this is shown by the record in the case, filed with the papers. It appears, therefore, that all possible diligence was used by the quartermaster for the recovery of the money which had been stolen.

Mr. KUHN. I beg leave to ask the gentleman whether the notes that were not recovered from the robbers have ever been presented at the Treasury?

Mr. PORTER. Yes, sir, I suppose they were afterwards presented and paid—for the Department, from the correspondence with Major Cross, seems to have held, that the notes having got into the hands of *bona fide* holders, uncanceled, it had no right to refuse the payment of them. These are substantially the facts of the case.

The only remaining question to which I will call the attention of the committee, is in regard to the practice of the Treasury, and the rule recognized by the Government in similar cases to the one now pending before the committee. As far back as the year 1791, the rule was laid down by the Treasury Department, and acquiesced in by the House of Representatives. There was a case pending before the House in the year 1791—the case of George Webb, who was a receiver of continental taxes, and who petitioned for further compensation and indemnity for money stolen from him. The committee of the House of Representatives submitted the case to the then Secretary of the Treasury, in the year 1791, and the Secretary of the Treasury made a report to that committee, laying down the principle which had obtained in practice, and the rule which the Government of the United States should observe in relieving public receiving officers from liabilities, or indemnifying them. I call the attention of the committee to an extract which I have made from that report, which will be found in the volume of American State Papers, entitled "Claims," at page 32. It reads as follows:

"It is a principle which has been admitted in practice at the Treasury, upon the strength of legal opinions, officially given, that where a receiver of public money, as a mere agent, is robbed of such money which may have been in his keeping, the loss is to be borne by the Government; but from the very great danger of abuse to which a principle of this nature is liable, it is conceived to be essential to the public safety that the utmost strictness and exactness should be observed in the manner of proceeding. Several circumstances appear necessary to be insisted upon: due caution and care on the part of the agent; full, precise, and unexceptionable proof of the theft, and immediate notice of it to the proper superior or Department. In the last particular, this petitioner altogether failed; no notice was given—no notice of the robbery was given to the Treasury till several months after it had happened," &c.

Now, sir, the rule is laid down in general terms, that where a receiver of the public money is robbed of that money, the Government will indemnify him or relieve him from the consequences of that robbery. But in order to protect the Government, and in view of the principle laid down by the gentleman from Indiana, [Mr. MACE,] as to the danger of setting a bad precedent—and which, to that extent, I admit to be correct—it must appear, in the first place, by unexceptionable evidence, that the robbery was committed. There is no dispute about that point, that the robbery was committed. It must also appear that he used all proper and due precaution to prevent the robbery; and that, after the robbery took place in spite of that precaution, he gave notice to the proper Department, in order that they might be relieved as far as possible from the consequences of that robbery. These facts also appear from the evidence in this case. Major Cross, therefore, brought himself within this rule,

which has been considered as the settled practice of Congress from that time down to the present. Then we are not setting a new precedent, as the gentleman from Indiana seemed to intimate, by allowing this claim, but simply seeking to follow in the track of the sound and safe precedent then set. Major Cross is only asking that he shall be relieved according to the principles laid down in that report.

Now, the fact that we may open the door to abuse, if we grant this relief, ought to have no weight here. If that argument was allowed to weigh with the committee, it would put an end to all legislation in cases of this description, because there is no claim either upon the justice or the bounty of the Government, the allowance of which may not tend to abuse. We are not infallible; we are liable to be imposed upon; and if that argument was allowed to weigh to defeat a just claim, that we are setting a dangerous precedent, it would, if it proved anything, prove quite too much, and amount to a denial of justice in almost, if not all cases, however hard they might be, where relief could not be obtained according to the strict rules of law.

Now, the case which the gentleman from Indiana has stated of a collector of the revenue, or sheriff, does not at all reach this case; it merely shows that the collector of taxes, or the public receiving or disbursing officer, whoever he might be, would be liable, legally, to pay to the Government the money of which he had been robbed, and that in this case the quartermaster cannot be relieved in the usual course of legal proceedings, from liability for this money of which he has been robbed and failed to recover. But the question is, whether the Government, on principles of justice and equity, should not relieve him from that legal liability, which, without any fault on his part, and by the acts of others which he could not have controlled, by any reasonable care and caution, has been imposed upon him. If a collector of the public revenue in one of the States should be robbed of a portion of the public money, he might appeal to the Legislature of that State for relief; and if it appeared that he had been robbed without any default of his, but by inevitable accident—that he had been deprived of the money by force and violence, or theft, it would present a case somewhat analogous to this.

The gentleman admits that this is a strong case; but the objection to it is, that it is setting a dangerous precedent. I answer that by saying, that we are following out the precedent that has been already set for us. We are only seeking to do to this individual that justice which any magnanimous, liberal-minded man (the law out of the question) would say ought to be awarded to him. It would be much better for the Government, in this case, to lose this small amount than that an honest and meritorious officer should be crushed or ruined by having to pay the same in consequence of the refusal of Congress to relieve him from his existing liability to account for the whole amount which came to his hands.

Let me say, in conclusion, that the question of strict law not being before the committee at all, it being conceded, that according to the strict rules of law this claimant is liable to have this amount coerced out of him, I contend that not only upon principles of justice and equity, as between the Government and its officers, but according to the very just and proper rule laid down by the Treasury Department, in 1791, and acquiesced in by this Government since, he is entitled to the relief he asks at the hands of Congress.

Mr. GOODENOW. Mr. Chairman, I am desirous of calling the attention of the committee to the decision of the Supreme Court of the United States in a case almost precisely similar to the one now under consideration.

I do not rise to oppose this bill, but I feel it to be my duty to present to this committee the law, as laid down by the Supreme Court of the United States, in order that they may determine whether, in a case of a similar character, they will be governed by that law, or will take up each individual case, and decide it upon its particular merits.

I am not at all disposed to controvert the facts, as stated by the gentleman from Missouri, [Mr. PORTER.] I am willing to concede that this is a hard case. But I suppose that in this case, as in all others, Major Cross gave bonds to the Gov-

ernment in the usual form, such as are given by all those to whom public money is intrusted.

In the case of *United States vs. Prescott et al.*, in the 3d Howard's United States Reports, the facts are similar to those in this case, and Mr. Justice McLean, who delivered the opinion of the Court, said:

"Public policy requires that every depositary of the public money should be held to a strict accountability. Not only that he should exercise the highest degree of vigilance, but that he should keep safely the moneys which come to his hands. Any relaxation of this condition would open a door to frauds, which might be practiced with impunity. A depositary would have nothing more to do to lay his plans and arrange his profits, so as to establish his loss, without laches on his part. Let such a principle be applied to our postmasters, collectors of the customs, receivers of public moneys, and others who receive more or less of the public funds, and what losses might not be anticipated by the public? No such principle has been recognized or admitted as a legal defense. And it is believed that the instances are few, if indeed any can be found, where any relief has been given in such cases by the interposition of Congress. As every depositary receives the office with a full knowledge of its responsibilities, he cannot, in case of loss, complain of hardship. He must stand by his bond, and meet the hazards which he voluntarily incurs. The question certified to us is answered, that the defendant, Prescott, and his sureties, are not discharged from the bond by a feloniously stealing of the money, without any fault or negligence on the part of the depositary."

Now, Mr. Chairman, the principles involved seem to have been very clearly laid down there, by Mr. Justice McLean, in a case precisely similar to this; and the question before the committee now is, whether they will depart from those principles of law, and investigate every particular case that comes before them, and decide it according to their own notions of what is just. If that be the opinion of the committee, and they will signify it in such a manner as that it may be regarded as a precedent, I have no objection to voting in favor of the bill. There are many claims before the committees of Congress that involve the same principle as this does, and it seems to me that it would be as well for this committee to settle the principle on which those claims shall be disposed of, at once, as to take up time in discussing every individual case that may be brought before us. I have therefore felt it to be my duty to present this decision of the Supreme Court for the consideration of the committee, at the same time saying that I have no objection to voting in favor of this claim—which, I doubt not, is a meritorious one—if it shall be the opinion of the committee that the law, as laid down by Justice McLean, is not to govern this House, but that each case is to be decided on its own merits.

Mr. SWEETSER. Mr. Chairman, I am glad that the gentleman who has just taken his seat has been willing to make this case the leading one, in relation to all this class of cases; and inasmuch as he has read a strong case from a high judicial tribunal of the country, and presented a question of some moment, I hope the committee will listen to me for a few minutes. It is well known by the committee, that the courts of the United States could not take equitable jurisdiction for the purpose of granting relief to the sureties, and that the principles that apply between individuals in relation to equitable rights could not be made the ground of equitable jurisdiction in that court. The only reason under Heaven, why this class of cases are before Congress, is that the courts of the United States can only enforce the strict rules of law, and whenever an individual forfeits the penalties attached to his bond, they have no power to relieve him. But this House holds the equitable conscience of the nation, and we are here to-day to determine whether we will hold a public officer, who has faithfully discharged his duty, responsible for public property of which he was deprived, when there are no laches or default on his part, but through the villainy of others. He has lost the possession of public money. And in such a case as that, we are asked to look into precedents, where cases have been decided on the strict rules of law, in order to determine whether we will grant relief in a case like the present. Sir, my conscience is confined by no precedent in this case, or in any similar case. This House of Representatives—this Congress is the only tribunal in the land to which individuals in the public service, who may be stricken down by accident, misfortune, the public enemy, or the felon, can appeal for adequate relief. In the case before us, there seems to have been no default or wrong on the part of this officer. In the honest discharge of his

public duties, he has been robbed of a portion of the public funds. He immediately gave notice of the robbery to the officers of the Government, and has done all that duty required to detect the thief, and save the Government from loss, and to protect the Government from the payment of the Treasury notes which had been stolen. Could he have done anything more? An appeal is made to the equitable conscience of the House to discharge this man and his sureties, from the obligation to pay this money, which is the question we are now to determine.

But I rose for another purpose, and that was to enter my dissent from the doctrine advanced by the gentleman from Missouri, [Mr. PORTER,] wherein he seems to admit the obligation of the Government to pay Treasury notes which had been stolen, which seems to be admitted was done after Major Cross had given due notice of the larceny. Now I do not believe that even an innocent holder of stolen Treasury notes, has any right to demand their redemption by the Government. The law merchant does not attach; his remedy is upon the person from whom he received the paper.

Mr. MACE. Suppose the bill had passed this body?

Mr. SWEETSER. That is the very case I put.

Mr. MACE. I understood the gentleman from Ohio to say that the holder would have no property.

Mr. SWEETSER. Not at all. I care not how many hands stolen property may pass through; it makes no difference. Why, cases often occur where bank drafts are stolen from the mail, and are indorsed, and pass into the hands of an innocent person, and are paid to the holder. Yet it is well settled that the owner can compel the bank to pay the money over again, for the reason that the thief acquired no title to the paper, neither can a subsequent holder. This is as strong a case as can be made. I know there is a different rule prevailing here at Washington, to which I dissent. It has been determined in the Land Office that when land warrants have been stolen, and the thief or holder has obtained a patent for the land, that the injured party has no remedy as against the Government. It may be policy so to decide; but in my judgment it is not right, and I will not yield my assent to any such doctrine. I say deliberately and understandingly that if these Treasury notes were stolen, and they can be identified as stolen property, I care not who is the unfortunate man who may buy or hold them, he would have no right to come here and demand payment. If any public officer has paid drafts under such circumstances, he has done it without authority of law.

Now, in relation to this doctrine of precedent, I hold that each bill must stand upon its own merits. You cannot find any two cases which are exactly analogous. I am prepared to say, with regard to this class of cases, where a public officer has been guilty of no negligence or wrong, and where public funds placed in his hands have been taken from him, as is admitted in this case, that he and his sureties should be discharged; and as a member of the House of Representatives, I am prepared to vote in favor of this claim. I shall do so upon considerations of public duty and policy.

Mr. SACKETT. I am a member of the committee which reported this bill, and I am in favor of its passage. The facts upon which the claim rests, have been generally stated by the gentleman who reported the bill. But as there has been a defense set up against those facts, I beg to briefly recapitulate those facts, so that the committee may be able to see how the facts are, and judge the better of the defense.

A public officer is put in the possession of certain funds of the Government, and while thus in possession, he is robbed. The evidence in the case clearly and indisputably proves that he was robbed of these funds, or of a portion of them, without his connivance and not in consequence of his negligence. These are the general facts. Now what is the reason that this officer, thus situated, should not be released? It is that if we do it we set a precedent dangerous to the Treasury of this country. In other words, it is asked that this House shall do "evil that good may come." To do a deliberate wrong, with the facts before us, for fear that wrong to the Treasury in some future,



or imaginary case, might result from our doing right in this, it seems to me that is the whole of the matter of the defense. This man has been robbed. He has lost \$3,000. He lost \$6,000 in the first place, but by his diligence, he recovered \$3,000. But he has lost \$3,000, and cannot settle his accounts. It was lost by no fault of his. The question then is, whether Congress shall deliberately hold a man responsible to restore to the Treasury what has been taken by robbers in felonious violation of the laws, by those whom the laws of the country have failed to restrain from robbing him of the money? I say we are deliberately asking to compel a man under these circumstances, to account for the money and to relieve the Treasury. What is it except to deliberately do wrong to a citizen, for fear of harm in some other case? Such a doctrine is the height of injustice. The petitioner has done no wrong. He is guilty of no fault? He has lost the money and now comes to ask of the equitable powers of this House to relieve him, so far as to enable him to settle his accounts. That is all. We pay him no money, and we are not asked to pay him any. We are only asked to enable him to settle his accounts.

Mr. MOREHEAD. I beg leave to submit a few remarks to this committee. There are a number of other cases which are similar in their nature to the one now before the House, and I think it is necessary, in order to save time, to settle the principle in our decision upon this case, so as to furnish a rule by which we may be guided hereafter.

I confess that I am against this claim. Taking every view in which its advocates have presented it, I think the whole question resolves itself into one isolated point, and it is this: whether we shall establish a rule against the public policy, in order to relieve an individual hardship in a particular case. It is said that extreme cases are the most dangerous quicksands in the law; and so may it also be said that extreme cases are the most dangerous in legislation. I admit that this seemingly operates unjustly, perhaps against this individual. But suppose the same circumstances existed between individuals. Why, it is conceded, I believe, by every gentleman who has advocated the bill, that if he were a judge, and such a case were presented, he would be bound to decide against the applicants. I ask whether such would not be the decision in a case between man and man? And if the principle be a good one when it is to be applied between man and man, where is the difference when it is to be applied by this House between twenty-four millions of people and one man? Is not the principle exactly the same?

Mr. SWEETSER. If the gentleman will allow me. In the case between individuals there is a benefit supposed to be resulting from having possession of the property, and from the performance of the contract; while in the case of a public officer, he undertakes faithfully and honestly to discharge the duties pertaining to the office to which he was appointed or elected. Now, it seems to me, that if that officer has faithfully and honestly discharged his duty, and yet has been stricken down by a misfortune occasioned by circumstances not within his control, that the Government is bound to relieve him from any responsibility in the matter.

Mr. MOREHEAD. Then if the gentleman is under obligation to do it, there is no necessity for his coming here. The ordinary courts of the country would relieve him at once. It is not the province of the National Legislature to perform the functions of an ordinary court of justice, and decide questions of private right. It could have been done in the local court where it took place, where the sitting of the court would have cost not more than \$20 per day, and not have been brought to one the cost of which is \$3,000 per day.

But I was about saying that I do not believe there is a man in this body who will say that a case in which twenty-four millions of people were on one side, and one man on the other, should be decided differently from a similar case in which individuals alone were interested. Now, I submit this case to the consideration of this body, and I beg it to be borne in mind that we are the Representatives of these twenty-four millions of people, (and it is admitted, that if this were a case between one man and another, the applicant could not make his case good,) and I ask, whether we are to apply one principle of equity here and an-

other there? If you are to do that, you abandon principle entirely. But the gentlemen who have argued this case have laid down the proposition that this rule was adopted as early as 1791. Well, sir, if it was, it was adopting a bad principle, and the sooner we reject it the better. But if it has not been adopted as a uniform rule of action by which we are to be governed in such cases, then we ought to be extremely cautious in adopting it as a rule now. Why, look at the proceedings in our ordinary transactions. I can readily imagine a hundred cases where the hardship is greater than this, yet our State Legislatures are never called upon to relieve them. In many cases this is a principle fixed. It is a *quid pro quo*. It is a consideration which men are to look to before they take upon themselves the responsibilities of the office. But, Mr. Chairman, you may rely upon it, there never was a time in the history of the Government, and there never will be, when there will not be applicants to fill all the offices in the gift of the Government, and these applicants must look to the consequences before they take upon themselves the responsibilities of office. Every prudent man will do that. Your officers should be responsible. Nothing should constitute an excuse unless it be an act of God or the enemies of the country. Why, no man, I suppose, ever knew the Legislature of a State, or the judge of a court, to relieve a man because his was an extraordinary case. Why is it that public agents and common carriers are never excused unless it is by an act of God or the public enemies of the country? And when we are about to establish a rule of public policy, it is infinitely better that we should seem to treat an individual case harshly, than that you should make inroads by which frauds in numberless instances will be perpetrated upon the country. I will venture this Government has as many as fifty or sixty thousand recipients of the public money. Now, if a little country postmaster, whose salary does not amount to more than from \$10 to \$20 per quarter, were to be robbed of his money, and then come here and present a claim—

Mr. MOORE, of Pennsylvania. I wish to ask a question of some member of this committee. I have been informed that an iron fire-proof safe was furnished to this man at first, but that it was afterwards taken from him. I desire to inquire whether that is so?

Mr. MOREHEAD. I cannot inform the gentleman. I do not know.

Mr. PORTER. I do not think such was the case. At least nothing of the kind has ever come to the knowledge of the committee.

Mr. SACKETT. The money was taken from the safe when it was stolen.

Mr. MOORE. Was it the first safe the Government furnished him with?

Mr. SACKETT. It was the same safe used by his predecessors. But these are the facts in regard to the money being in a safe. The Government had heretofore been in the habit of depositing large sums of money in the bank, and this officer had deposited it there, but the bank had refused to receive it, and this was the safe he was authorized to keep it in.

Mr. MOREHEAD. Be that so, or not so, the question comes back, Had this receiver contracted with the Government that they should furnish him a safe place to deposit his money? If so, and he had been guilty of no negligence with regard to it, then the Government violated its contract, and there is no necessity for his coming here, because the courts of justice will give all he now asks for. The Government must perform its duty, before it can hold him responsible. I say again, there is, then, no necessity for his coming here. Let the Government sue him upon the bond. If it covenanted with him, if it had contracted to furnish him with a place of safety for the money, then it cannot hold him responsible. But, be that as it may, I understand the gentleman from Pennsylvania [Mr. Moore] founds his argument upon the suggestion that the Government furnished him with a safe, and then took it away. Well, suppose it did. Did the Government contract with him to furnish that safe? Was it under obligations to furnish it? And did it violate any obligation by taking it away?

Mr. PORTER. There was a safe there—one which his predecessor had.

Mr. MOREHEAD. That still leaves the case the same as before. Here is a man who under-

takes to perform certain duties. He obligates himself to keep the money of the Government safely. He makes no reservations to himself, nor any contingencies by which he is to be excused; and if under these circumstances he loses the money, he is bound in justice to make it good.

But I observed that I suppose there are some fifty or sixty thousand recipients of the public money in the United States. Now, I take it that were a little country postmaster robbed, no matter how careful he might have been—as the highest evidence of his diligence and precaution, we will suppose he had kept it with his own money—but notwithstanding his diligence and prudence, we will suppose \$10 of this postage money had been stolen with his own, why he would be laughed at if he were to come here, and ask this Government to relieve him from all responsibility in the case. The only difference between that case and the one under consideration is in the amount. But does the amount vary the principle?

Now, sir, these offices are all intended for the benefit of the people. No man is bound to take upon himself the responsibilities connected with the performance of the duties of an office like this. It is his duty, as a prudent man, to look to the liabilities and the consequences, and to consider whether the compensation is sufficient to warrant him in meeting them. If it is not, let him not touch the office. If it be enough, why, then, let him stand up to them.

I say that it would be wrong in principle, in reply to appeals to this House, to grant relief in all extraordinary cases. I make no imputation in this case. I take for granted every fact that gentlemen have placed before the committee; and in relation to the conduct of the claimant, I put him, as he is by everybody else, above suspicion. Is it not better that in one particular case hardship should be endured than that by granting the relief prayed for in this instance, you should open the door to more than one hundred scoundrels to practice fraud upon the Treasury? Entertaining the views I have here presented, I shall vote against the bill. My vote is based upon a matter of principle. I vote against it because all around me is heard proclaimed that there are many claims waiting adjudication of a similar character—involving the same principle. If the door is now opened, claims of this kind will be pressed and pressed, until Congress will be compelled to close their ears against the admission of extreme cases, or do nothing else but to adjudicate them.

Mr. GORMAN. Mr. Chairman, an officer of the army, not regular in the staff, but transferred from the line, gives no bond generally. If within a given time under the law, he fails to make a settlement of his accounts, he is liable to be dismissed or cashiered. Under another law—the Independent Treasury law—he is liable to the pains and penalties for defalcation. But, sir, the gentleman from North Carolina [Mr. MOREHEAD] states that if you grant relief in this instance, ninety-nine others of a similar character may come in, ninety-eight of which may be unjust. There is, I believe, a maxim founded upon justice, equity, and mercy, that you had better let ninety-nine guilty men escape, than one innocent man should be punished. A defalcation by our present Independent Treasury law is declared to be criminal. It is in some instances made a felony. Now, in this case, Major Cross has proved before this committee he lost the money specified in their report, and that it was not because of any default or neglect on his part; that he used all diligence for the purpose of preserving the public money. A majority of the Committee on Claims are satisfied that his case has been fully made out, and that he is entitled at least to a settlement of his accounts before the Department. What has he to do when he presents himself before the Department?

Mr. PORTER. The committee were satisfied of the facts as stated to them, and the only difference was as to the question of public policy, upon which ground a minority opposed the bill.

Mr. GORMAN. I understood that he had satisfied the committee of the entire correctness of his proof. When he comes to settle his accounts, the Department acting under law, will require him to produce his vouchers for every dollar that he has expended. They hold his receipts for every dollar that has been deposited in his hands by the Government. If he cannot produce vouchers for every dollar that has passed from him, the

balance is charged to his account. He can produce the vouchers for every dollar that he has disbursed, but not for the \$3,000 which he says was stolen. He cannot produce proof before the Department upon which to obtain settlement of his accounts, because that Department is not the tribunal clothed with the power to pass upon cases of this kind. They act under a fixed rule of law. There is the law staring them in the face. They say, "when you settle you must present the proper vouchers for what you have expended. If you cannot do that you must then go to the law-making power—you must appeal to Congress to grant you relief and to authorize your proof of the money being stolen, to become a sufficient voucher before the Department." They say that they cannot allow this credit; Congress is the only body which can grant it. It is not within the purview of the principle laid down by the gentleman, of common carrier, that every person is responsible, saving by act of God, or the enemies of the country. Why? He gives no bond. In the second place, there is no liability beyond that of his official character as an officer in the army; and in the third place, he is bound to produce vouchers for every cent that has passed from his hands. The only body that can grant this excuse is Congress. This is the only court he can appeal to. He cannot sue the General Government, and the Government cannot sue him as an officer. He is, however, liable to the pains and penalties of the Independent Treasury law, making defalcation a felony. He has acted throughout in good faith. He has shown the authorities of the Government that he has not misapplied this money—that he has not appropriated it to his own use. He comes forward and proves that this money has not been lost through his own default or neglect. You must give us proper vouchers under the law, says the Department. He replies, I cannot do that; the money has been stolen. This is the only court from which he can get the power of settling with the agents of the Government. What do you do by this bill? You merely authorize the agents of the Government to give him credit for the amount he has lost after he has satisfied them that it has been lost, which fact, the committee fully admit. This should be done, if it is honestly believed that he has lost this money from no default or neglect of his own.

Has it come to this, that when an officer of the Government proves conclusively that his house and goods—bank and Treasury notes—have been consumed by fire, the only tribunal which can, will not interpose to save him from ruin, and as an officer of the Army, to save him from the imputation of default? For, unless he makes his settlement at a given time, he is, under the law, dismissed from the service. He appeals to Congress to grant him relief, and if you refuse to extend it, after he has made out a clear case, what other tribunal, I ask gentlemen, has the power to do so? Is he to suffer. If he can prove that the money was lost by robbery; if he shows the fact that you did not give him—for it is one of the rules of military law, that an officer disbursing the public funds has the right—to a military escort, the relief proposed to be extended in this bill should be granted. He has the right to have armed soldiery to guard the boxes in which are deposited the public money. Did you give him that guard? If you did not, you have not complied with your contract—with your obligation under the military law. Whether there was an armed soldiery guarding it or not, it was by no default of Major Cross that it was lost. Where is your court of chancery to relieve him?

Mr. MACE. With my colleague's permission, I will ask him a question. Would he be willing to change the policy of this country, and incorporate into the law that its officers shall not be liable for public money that has been stolen from them?

Mr. GORMAN. I will answer my colleague, that were the courts of justice opened to the parties, and they could approach the chancery side of the court, and obtain relief according to the equity of their case, I would not relax the rule of law. I will now inquire of my colleague where else than in Congress can this gentleman appeal to get relief?

Mr. MACE. I will answer, that he has no relief at all.

Mr. GORMAN. My colleague replies that he has no relief at all. I again ask, when an officer

of the Government is acting in good faith, has the money-chest—the money-bag containing the public money, or other public property, under his care, destroyed by the act of God, or the act of the enemy, where is the court of equity but in the hands of the Representatives of the people? They have the power to relieve him—to authorize that he shall be accredited for the amount lost in the Department. It would be wicked in the extreme—an outrage upon the country—I had almost said a discredit to our national character—to deny relief to him, when we believe he acted in good faith, and had honestly and truly discharged his duty. I have done.

Mr. GOODENOW. I understood the gentleman from Indiana to state that this man, under the military law, had a right to a guard.

Mr. GORMAN. It is a part of the rules and regulations of the Army that an officer disbursing the public funds has a right to a military escort—a military guard.

Mr. GOODENOW. Would it be a neglect on his part not to ask for it?

Mr. GORMAN. During a war, and while he was in the enemy's country, not to ask a guard would be a neglect of duty on his part. If he was in our own country, at a time of peace, with no other liabilities than those to which every man's property and transactions are subject, he would not be guilty of neglect in not requiring a guard.

Mr. MOREHEAD. It certainly was the duty of the officer, the Government, in compliance with its obligations being bound to furnish him a guard, to notify it that he required an escort.

Mr. BOWIE. Mr. Chairman, the case cited by the honorable gentleman from Maine, [Mr. Goodenow,] of the United States against Prescott, was an action brought upon the bond of a receiver of public money. Mr. Justice McLean, who delivered the opinion upon that case, explicitly declared that it was not a case of bail—that it was not a case even of special bailment; that it was an action originating upon the bond, and one which must be governed by the stipulations of the condition of that bond. The defendant in that case having expressly stipulated that he would preserve the public moneys, it was no defense to an action upon that bond that the public moneys had been feloniously stolen and carried away. He then went on to remark upon the danger of this policy of relieving all who had undertaken to enter into explicit stipulations to preserve the public money from any accident of this kind. And he expressly comments upon the probability and practice of the receivers of public money combining and colluding with others in order to absolve themselves from their legal obligations. I think it enough, sir, to warrant our voting any bill of this kind, that the authority of the Supreme Court of the United States is not against it. If the authority of the Supreme Court of the United States were against the claim expressly, I should hesitate long before resisting an opinion emanating from so high a source. But I apprehend that the reasons assigned by the gentleman from Indiana, [Mr. GORMAN,] are abundantly sufficient to justify the action of this committee in supporting the report of the Committee on Claims. He informs us that quartermasters and paymasters in the Army give no bond; that they do not stipulate to receive and keep the public money safely against all persons, but that, on the contrary, their moneys are confided in their hands as men and as officers, and that the penalties which they are subject to are degradation and dismissal from the service. If such be the case, and it is made manifest to the supreme Legislature that the depositary of the public money in this instance is wholly exempt from blame; that he appears before them with pure hands, entirely unpolluted by the suspicion of fraud, it justifies us in absolving him from the imputation which would otherwise rest upon him and his descendants so long as his accounts remained unsettled at the Department.

I think, Mr. Chairman, that we might assume the responsibility even of declaring that that policy which is based upon the presumption that all men are dishonest, ought to be changed by express legislation. High as the responsibility would be, broad as it would be, revolutionary as it might seem in regard to the previous legislation of this Government, I would rather array myself in behalf of so startling a position as that, than be instrumental in convicting an innocent man of a

crime of which he was not guilty. If it is the law of the land that all our officers are supposed to be guilty until they are proved innocent, it is time, I think, in the nineteenth century, that the principle should be expunged. But it is not necessary we should adopt any such radical change in our institutions, in regard to those who assume to be the special depositaries of the money of the Government, and who are willing to bind themselves to keep it at all hazards, who receive a compensation adequate to the risk, and take it knowingly, and abide by the consequences; but those who receive these funds collaterally, in the discharge of military duty, and who are subject to military discipline, ought to be exonerated, and especially when they are acquitted, as in this case, by a military tribunal, of all blame. Major Cross has been tried by his peers; he has been absolved from all imputation, and it is only necessary this House should authorize the accounting officers of the Government to grant him this allowance, in order that his record may be pure hereafter. It is not for the paltry sum of \$3,000 that he has approached this committee. It is in order that his descendants may hereafter be able to point to him, as one who has left his accounts with the Government entirely adjusted. It is for these reasons, notwithstanding the authority of the case quoted by the honorable gentleman from Maine, and notwithstanding all the high principles of public policy which may be justly involved, according to the circumstances of that case, I have concluded to support the report made by the majority of the Committee on Claims.

Mr. SACKETT. Mr. Chairman, I wish to submit a remark or two upon the subject of public policy, that has been so elaborately presented in the consideration of this matter. What is this principle on the part of the Government that holds its financial officers to strict accountability? It is spoken of as something having a degree of latitude of the most unbounded character—as a certain indescribable, unapproachable essence or theory, that compels us to do absolute wrong in each individual case that good may come on general principles. Sir, I do not subscribe to any such doctrine. Is there anything in public policy that requires a public servant to be held unjustly accountable to the Government? I deny the existence of any such policy. I deny that this Government ever adopted any such policy in any case or class of cases. What! the Government adopt as a deliberate and universal principle, to be applied to its public officers, that they hold them accountable as against equity. Where is any such rule to be found? It is against manifest, distinct, and positive justice, that a Government should hold its citizens upon a principle of public policy to any such doctrine as this. I deny, utterly, that there ever was any such doctrine in this or any other Government regulated by law. It is sound policy, it is the universal policy of the Government, to have its citizens governed by law, and to have their interests, rights, liberties, and property regulated by law. But there are cases where the equitable powers of the Government are proper to be exercised in regard to all these rights. Are there not? Shall we abandon such cases? What are we asked to adopt that the Government shall, by its policy of holding officers to accountability, hold a particular officer to accountability, that every man, upon his conscience, will say is an unjust responsibility. It is an inequitable responsibility.

Mr. CABLE, of Ohio. I would like to ask the gentleman a question. I wish to know if there are not grounds of suspicion, that the man in this case, who locked a colored man in the office, had not preconcerted a plan with this colored man? If not so, how does it happen that that amount of money could not be traced to where it was expended?

Mr. SACKETT. I do not know what the gentleman means by the question, how it comes that the money could not be traced to where it was expended? All there is in the case upon that point is simply this, that the officer had raised three several drafts, and that in payment of one of the liabilities of the Government, he received Government Treasury notes in change for the balance of one of these drafts to the amount of \$6,000—that that \$6,000 was stolen, and by his diligence and perseverance, he hunted out and secured \$3,000 back again. The felons who took the money were traced out and criminally convicted of the offense.

# THE CONGRESSIONAL GLOBE.

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Three thousand dollars were recovered, but the remaining \$3,000 have never been found, and I wish to say that this claimant at the time was tried by a court-martial who investigated the whole affair, and they reported distinctly, that there is no shadow of suspicion resting upon him in regard to the transaction, and that he was guilty of no neglect.

Mr. CABLE. Do I understand the gentleman to say, that there is no ground of suspicion against the person who was acting for Major Cross, and who had charge of the door and keys, and locked the colored man in?

Mr. SACKETT. As to whether there is suspicion resting against any person for stealing the money, other than those who have been convicted, I have no knowledge. It is a subject of quite too wide a range for discussion here. There is not the slightest suspicion resting on the claimant, and that is all that is important to us. Those who have been proved to be criminally connected with the transaction, have been convicted of the offense. Whether there may be any others who were accomplices, or had any knowledge of it, is beyond my knowledge. There is not the slightest ground of suspicion in any quarter from any part of the evidence, either of the claimant or of any one, other than those who have been convicted.

Mr. PERKINS. I wish to make an inquiry of the gentleman. I understood one gentleman—I may not have understood him right—to say that the robber came in, "as the door was left as it was, and obtained the keys and opened the safe."

Mr. SACKETT. I did not report the bill, and know nothing of the details as to the mode or manner in which the robbery was committed.

Mr. PERKINS. I understood the gentleman to remark that the robber obtained the keys and opened the safe. Was it so? The next inquiry is, how came he by the keys? Was it safe to lock up the safe and leave the keys there?

Mr. SACKETT. I understand the keys of the safe were left in a particular place of deposit, which had been used for that purpose before. As to the mode, manner, and detail of this robbery, the gentleman who reported the bill is more familiar with the evidence on that head than myself. He can undoubtedly give the required information.

Mr. PERKINS. What advantage is a safe to put money in, if you leave the keys there for the robber to unlock it? When I put money in a safe I take care of the keys.

Mr. SACKETT. The keys were properly taken care of.

Mr. PORTER. This negro, who was concealed in the office, had been employed there for some weeks previous, but had been dismissed, and a new one had been employed there. Major Cross put this key in a certain private desk, which was locked. When the opportunity occurred for making the robbery the robber had to find the place where the key was kept, break open the desk, and unlock the safe.

Mr. PERKINS. That does not help my friend. I see a deficiency on the part of the officer. As we do business where I live when at home, when we lock up the safe we take care of the key, and do not put it in a drawer, where a robber can take it out and unlock the safe. It is said that this officer is particularly clear of blame, but it seems to me there is some defect or neglect here.

Mr. SACKETT. So far as the details of the mode and manner of the robbery are concerned, I am not familiar with it. It is enough for me to know that the robbery was committed; that it was not committed either collusively or otherwise, by the party here seeking relief; that the felons who committed the robbery have been charged with the offense, and convicted under your laws, and that a portion of the money they took has been recovered and restored to the Government, so that the loss of the money by a robbery is a thing too clearly shown to admit, I think, of cavil. What was the mode and manner the robbers adopted to accomplish their purpose, I am unable to say, nor is it important.

I wish to say one word more as to this policy. Such a policy that requires us to "do evil that good may come," to deny individual justice upon a pretended general principle—such a policy is nothing in the world but the policy of Shylock. It is the penalty of the bond. It is the pound of flesh. There is not one principle of equity or justice in it, and no moral principle can maintain it for one moment. It is nothing more nor less than the Government holding its public officers to an accountability, that every man will say, as applied to this individual case, is a principle of manifest, palpable injustice. Why should this man pay this money? No man can assign one reason why he should be compelled to do so. If we are to go back and investigate elementary principles, the Government is bound by its laws to protect its citizens against felons. They are bound to protect all citizens against robberies and personal violence; and it is the effort of all good government to do so. And it is a strange doctrine, if it fails to hold that its own officers shall make up the losses of its Treasury for its violated laws—such a doctrine is monstrous. If we are to go into examinations of questions of this kind upon general principles, it is a mighty wide field of examination. But it is enough to say in this case, that here is an entirely innocent party asking relief from a power which has the authority to give it. It is true, that in the courts of law, there would be manifestly no defense in the case, whether there was a bond in the case, or the officer was individually liable. Therefore the case presented from the Supreme Court, has not the slightest application to the present case. It is one of the cases, for which this tribunal is to grant relief. A relief against what? Against the arbitrary rules of law, against the obligations of parties which, from any circumstances, no matter what, have become inequitable as between the Government and its citizens. Why do we grant relief in any case? A man has a claim upon the Government; he undertakes to settle his accounts with one of the Departments; and he finds that, according to the strict terms of contract, he is not entitled to an allowance, but there is a manifest case of equity why he should have it. That is the reason he applies here. It is that we may grant relief in a proper case of equity, as against the arbitrary rules of law, and against the general policy that sustains the arbitrary rules of law. That is the very object of applications here in all cases. That is the very power of this tribunal, which could not be as safely deposited anywhere else. So we have a simple application here to grant equitable relief, as against the legal obligation and the legal liabilities of the party. That is plain, I apprehend. This is clear to every man, that the claimant in equity and justice is entitled to relief; I have not heard it disputed by a single opponent to this bill. It is plain to every man that to do justice, we ought to afford the relief asked for in this case.

Mr. KUHN. If this debate is to be protracted, it will cost the Government more than the amount of the claim. If it were in order I should move the previous question.

The CHAIRMAN. That is not in order in Committee of the Whole.

Mr. GOODENOW. I will make a simple suggestion in reply to the argument of the gentleman from Maryland, [Mr. Bowie,] and also in reply to the statement of the gentleman from Indiana, [Mr. Mace.] I find by looking at the Army Register, which I hold in my hands, that Osborn Cross is a quartermaster. He is described in the committee as quartermaster. If he was a quartermaster, I apprehend he was compelled to give and did give a bond as the law requires. I understand the honorable gentleman to state that this is only a case of an officer of the line, and for temporary purposes, acting as quartermaster.

Mr. GORMAN. Quartermasters regularly appointed for that purpose give bond, but if they be taken from the line of the Army, and only acting for temporary purposes, they do not give bond.

Mr. GOODENOW. I hold in my hands the Army Register, which bears his name as quarter-

master, with the rank of major. This is the Army Register of 1852.

Mr. PERKINS. I move that the bill be reported to the House with a recommendation that it do not pass.

The question was put, and on a division, there were—ayes 33, noes 59; no quorum voting.

Mr. CHANDLER demanded tellers; which were ordered, and Messrs. CHANDLER, and DAVIS of Indiana, were appointed.

The question was then again put, and it was decided in the negative—ayes 54, noes 63.

So the motion was disagreed to.

Mr. MARTIN moved that the bill be laid aside to be reported to the House with a recommendation that it do pass; which motion was agreed to.

Mr. SCURRY. At the request of many members of the House, I move to take up Senate bill No. 248.

Mr. SWEETSER. I object to taking up any business out of its regular order on the Calendar.

The CHAIRMAN. The Chair is of opinion that the motion of the gentleman from Texas is not in order.

Mr. SCURRY. I seldom trespass upon the House, and should not do it now, were it not that many members of the House are interested in this bill, and desire that it should be taken up.

Mr. SACKETT. I rise to a question of order. It is not competent for the committee, except by unanimous consent, to pass over the Calendar.

Mr. SCURRY. The gentleman from New York may make his points of order if he chooses. I have no objection to it. But his course in the House has brought me to the conclusion that he is the most disorderly man in it.

[Cries of "Order!" "Order!" and laughter.]

The CHAIRMAN. The gentleman from Texas is out of order.

JOHN A. MCGAW.

The next bill on the Calendar was Senate bill No. 67, "granting relief to John A. McGaw, of New York."

This bill provides for the payment of \$1,400 demurrage on a vessel chartered by the United States.

The bill, and the report which accompanied it, having been read, it was laid aside to be reported to the House, with a recommendation that it do pass.

LIEUTENANT BARTLETT HINDS.

The next bill on the Calendar was House bill No. 149, "for the relief of the heirs of Lieutenant Bartlett Hinds."

This bill authorizes the Secretary of the Interior to pay the heirs of Bartlett Hinds, an officer of the Revolution in the Massachusetts line of Continental troops, five years' full pay of lieutenant in such service, being the commutation half pay for life, together with interest.

Mr. JONES, of Tennessee. I think this bill came up the first Friday of this month, which was objection day. I then objected to its passage, and it went over. I subsequently wrote to the Third Auditor for information upon this subject, and have his answer, which is as follows:

TREASURY DEPARTMENT,

THIRD AUDITOR'S OFFICE, April 7, 1852.

SIR: I have the honor to return the report and resolution of the House of Representatives on the claim of Bartlett Hinds, and in reply to your inquiry, "Whether he or any other person for him ever received the five years' full pay or half pay for life?" I have to state, that the revolutionary records here furnish no evidence that an officer of that name was returned as having commutation pay due to him. The different Massachusetts regiments are found to have been settled with; and upon returns of balances due, final certificates were issued in the name of each individual claimant for the amount opposite his name. Bartlett Hinds is found returned as a member of Colonel Thomas Marshall's regiment, and certificates No. 32,614 for \$4 60, and No. 33,610 for \$43 82 issued in his name. His name is not among the officers who received commutation, nor does it appear he was returned as being entitled to such allowances.

I have the honor to be, very respectfully, your obedient servant.

JNO. S. GALLAGHER, Auditor.

HON. G. W. JONES, House of Representatives.

From this letter it appears that Bartlett Hinds



was settled with, and that all that was due him was paid. It appears that we have the record of the Massachusetts troops in the Third Auditor's office, and that the name of Bartlett Hinds is not returned amongst those who are entitled to commutation. It appears further from the report of the committee in this case, that he was afterwards placed upon the pension roll. He must have lived, then, some forty years or more after he would have been entitled to a commutation, if entitled at all; and he certainly would have known his rights better than any one else. I thought, when this bill came up on the first Friday of this month, that he could not be entitled to this commutation, and the answer of the Third Auditor, which has been read, confirms me in that belief.

Mr. FULLER, of Pennsylvania. Having reported that bill, with the indulgence of the House I will state the facts in relation to it, which were before the committee, and which induced them to make the report which has just been read. The evidence before the committee showed that Lieutenant Bartlett Hinds enlisted as a private in the year 1776, for the period of one year. After his term of service had expired, he reenlisted, and for his gallantry during the previous year, he was promoted to a lieutenancy. He served up to the year 1780, when he was placed upon the supernumerary list. About three months afterwards he was again called into active service and remained in the army till the close of the war. During his whole period of service he conducted himself, according to the best record we have, with gallantry. He was a brave and meritorious officer. At the close of the war, he became a member of the Cincinnati society, in evidence of which his diploma was before the committee. During his service he was at the battle of Bemis's Heights, where he was dangerously wounded. He was also at the storming of Stony Point, where he led a detachment at a forlorn hope. Indeed, he distinguished himself in every engagement in which he took part.

By the resolution of the 21st of October, 1780, it was provided that the officers who continued to the end of the war, were to be entitled to half pay during life. But another resolution of the same date, gives them commutation pay. It is for this commutation pay, which was pledged by this Government to the officers of the Revolution, which this bill provides. And the evidence which was before the committee, proving that he was in the army during the whole period of the war, from 1776 to 1783, induced the committee to make the report which accompanies the bill.

I know nothing further about this case, and have no interest in it, beyond the fact that it was before the committee with the evidence, the substance of which I have stated. I will, however, say further, that the bill has been before the House at two or three previous sessions, and two favorable reports have been made upon it. It has once passed this body, and I think wisely.

Mr. SACKETT. I understand this bill provides for the payment of interest upon it, from 1780 down to the present time. I ask the gentleman who reported this bill, [Mr. FULLER], what amount the bill entitles the party to, as principal, and for what period of time interest is allowed upon it?

Mr. FULLER. I ask that the bill may be read again.

The bill was again read through by the Clerk.

Mr. FULLER. In answer to the gentleman from New York, I will state that the amount would be at the rate of \$26 75 per month. As for the commutation pay, I am not able to answer the gentleman's questions in relation to it; though I suppose it is computed in the usual manner—that it is five years' full pay of a lieutenant.

A VOICE. It is six per cent. upon the principal, from 1789 down to the present time.

Mr. STROTHER. I will state for the information of the committee, if the amount to be paid in this case is to be computed according to past usage, that the action of Congress in relation to these cases has not been uniform. Out of eighteen hundred cases that have been allowed by Congress, in all, except some fifty odd, interest has been allowed; so that almost the entire action of Congress since 1832, has been in favor of the payment of interest upon those claims. I state that fact for the information of gentlemen.

Mr. SACKETT. The gentleman says that in-

terest has been allowed on all, except some fifty cases out of eighteen hundred which have been allowed. Now, I do not know what cases, the gentleman alludes to. I ask the gentleman what class of cases it is upon which he says interest has been almost always allowed?

Mr. STROTHER. I referred to that class of cases in which the party was entitled, at the end of the war of the Revolution, to commutation of five years' full pay, in lieu of the half pay for life which had been provided by Congress. Of all the cases where the party was entitled by the law of 1790 to subscribe his scrip for commutation pay to the national debt, Congress has acted upon this presumption—and it was, in my opinion, a just and fair presumption—that the party would have received his interest if his scrip had been funded stock. But the action of Congress in a few years thereafter debarred the parties from right to fund. Now, as that scrip, or the right to it, was purchased by service, the results of which we now enjoy, was it not wrong that these men, who had drawn and funded their commutation scrip, should suffer the penalty of the action of Congress?

Mr. HALL. I wish to ask the gentleman from Virginia one question. Was not the act of 1790 intended to be applied to those who were entitled to scrip under that act? Did it contemplate the allowance of interest to those to whom the money had been paid in the place of it? Is there anything in that act which conveys the idea that where the individual received money, he should also receive interest? As I understand it, it only provided or intended to provide that where the individual did not receive money, but scrip, that the scrip should bear interest.

Mr. STROTHER. Undoubtedly. The purpose of Congress was, that those debts should be funded, because the Government was not prepared to pay them at that time. I will answer the gentleman's question. The bonds of the Government, the scrip issued, were to bear interest till they were paid. Now, if the class of debts like the one under consideration had been funded, that scrip would have borne interest until these debts had been paid. But they were not presented for payment, because they could not be funded. And why were they not funded? It was because the action of Congress, not long after 1790, debarred the party from the right to fund these debts. And this statute of limitation continued until 1832, when a sense of justice came upon Congress, and this limitation was removed. Since then, these claimants have been here from year to year, seeking the opportunity between the intervals in the debates upon presidential elections for the rendition of justice. Now, I submit that this class of cases upon principles of justice, are clearly entitled to the interest they would have got if their debts had been funded.

Now, as to the question of money, if the money had been paid these men in the first place, they would have received interest or its equivalent, in the ordinary pursuits of business. But the money was not paid, and is still due, and the right to interest is incident to the right to the principal.

Mr. HALL. I have this to say. I understand the law of 1790 never contemplated the payment of interest. Where the debt was paid in scrip, it should bear interest, but where it was paid in money, the law never contemplated the payment of interest, and I do not think it ought to.

Mr. STROTHER. You will remember that as Congress was not prepared to pay money, it gave its bonds, and as the subsequent non-payment of money was an act of Government, Government ought to bear the consequence, and not the individual.

Mr. STEPHENS, of Georgia. I wish to reply to the gentleman from Missouri [Mr. HALL] upon this general question. The act of 1790 never contemplated the payment of money at all, because they had no money. It was all a funding act, and the act of 1791 recognized that wherever the debt was established it was to be funded, and interest went with the scrip until it was paid. It did recognize the great principle that interest went with the debt.

Mr. GROW. In answer to the objection made by the gentleman from Tennessee, [Mr. JONES], that the claimant having made application to Government for balances due to him, thirty or forty years after the Revolution, when, of course, he knew his rights, it was evident that he had no

claim, because he did not call for it. If we act upon such presumptions, there are few claims that come before this House, for revolutionary services, but what would be thrown out. It is no evidence that a man is not entitled to a claim against the Government, because he did not call for it within a few years of the time when he might first have done so. The evidence is clear that he was an officer in the American Revolution, and the commutation act gives such men half pay. Because he did not call for it is no evidence that he is not entitled to it. It is no objection to any claim that a man chooses to delay the enforcement of his rights, and fails to call for a claim which the Government owes him.

Mr. SACKETT. I apprehend that the class of cases referred to by the gentleman from Virginia [Mr. STROTHER] are those cases where the Department has given a construction to a general law allowing interest. He does not intend to say that Congress, in separate individual cases, has passed eighteen hundred acts, and allowed interest from the time they would have been entitled, if they had taken under the original law. I apprehend that is intended by the general character of the remarks of the gentleman from Virginia, [Mr. STROTHER.] Now, I wish to state a rule which I apprehend this Government has ever adopted, and I think it is the only safe rule which they can adopt in cases of this kind. If a party intends to apply for, or supposes himself entitled under the resolution adopted in the year 1790, he is to make an application for it; and unless he does make the application, the Government is in no way in default until that application is made. Clearly, then, if this man has slept upon his oars, and never made an application, there is not a shadow of equity in the Government being called upon to pay interest, in consequence simply of his neglect. That is all there is in it touching the question of interest. It would violate the well-established rule in regard to cases of invalid pensions, where soldiers and officers have been wounded, and special provision made for them in various acts. If such a principle is to be adopted, there is no reason in the world why, if a man is entitled to a pension under the act of 1832, and does not get it at the time, he should not be allowed interest back to 1832, for he was clearly entitled to his pension then, if at all. If the one ought to bear interest, the other ought to. I think the question of interest is one which cannot be maintained at all.

But we come back to the question of principal. What is the evidence that this party is entitled to the principal? I wish to see that. The gentleman from Tennessee [Mr. JONES] has furnished direct evidence from the Department, so far as the records of the Government show, that he is not entitled to a pension.

In addition to that, it is shown that at an early day, upon two distinct occasions, he applied to the Government for certain balances which he claimed to be due him, and the balances were struck, and he received the money. Now, it is passing strange—and I think it calls upon the committee for some explanation here—it is passing strange, if long after the conclusion of the war—the last demand being made in 1790—he had applied to the Department for the balances which were his due, and received them, that he should never have made any application under the law for commutation, if he was entitled to it.

There is another question I desire to put to the committee, as a question of law. It appears that at a later period, some forty years after the war, he applied to the Government for a pension, and then he made no application for his commutation of five years' pay. He received that pension as a captain. Now, I ask how is it that he applied here to receive a pension—and must have made out his papers as a captain—and made no application for this commutation pay? Unless there is some explanation of it, I think I can see a reason for it. He may well have been entitled to a pension if he had served six months, but he would not have been entitled to commutation pay, unless he served to the close of the war. It seems to me this requires some explanation at the hands of the committee.

Mr. FULLER, of Pennsylvania. For a period of three years' service, the officers of the revolutionary war received a diploma from the Cincinnati Society; and I find, in looking over a number of cases reported by the Committee on Revolu-

tionary Claims, that a diploma of the Cincinnati Society has been recorded as evidence of three years' service. The evidence is, that he enlisted in 1776, that he served during that year the term of his service. After the expiration of that term, he enlisted again, and served until 1780, when he went upon the list of supernumeraries, and under a resolution of 31st October, 1780, being upon that list, if he had never been called into service at all until the close of the war, he would have been entitled to commutation pay. But at the expiration of three months, he was again called into active service, and remained in the Army until the close of the war, and upon the disbanding of the Army in 1783, he received this diploma from the Cincinnati Society.

Mr. FOWLER. The gentleman states that if he had not again been called into the service he would have been entitled to commutation pay. I think the gentleman is mistaken. I believe there is a provision that he should have one year's pay.

Mr. FULLER. My impression is, that being upon that list, and subject to the call of the Government at any moment, and being required to enter the Army whenever summoned to do so, he became, under that resolution, entitled to commutation pay. Such, I believe, is the law.

Mr. FOWLER made an inquiry, not distinctly heard by the Reporter, but the object of which was to ascertain whether these supernumeraries were entitled to one or five years' commutation pay.

Mr. STROTHER. I have not the law before me now. There was a class of supernumeraries, who, I believe, under the act of 1778, were to receive one year's pay, and but one. But a subsequent act, which I think was passed in 1781, gave to the supernumeraries their right to half pay, and of course to the commutation pay. For, at that time, the desire of the Federal Congress was to preserve to the Government, by that resolution, experienced officers who could be called into service at any time. They were to continue liable to serve, and liable to be called upon, and the holding of the position of liability was regarded as being in service. They were not required to be actually in service, but subject to be ordered into service at any time. That has been so decided.

Mr. HALL. I have now the extract from the law, upon which this claim must rest. It does not rest under the act of 1790, because it does not cover its provisions. It rests upon the act of 1783, which provides "that such officers as are now in service and continuing therein to the end of the war, shall be entitled to receive the sum of five years' half pay in money or securities bearing interest at six per cent." Now the committee will perceive that this act does not contemplate what the gentleman from Georgia [Mr. STEPHENS] says it does. It does not contemplate that the scrip shall bear interest from the close of the war, but only from the date of the issuing; and if the certificates were never issued at all, and payment is made in money, then this law does not contemplate that the party should receive any interest at all. The present proposition is to pay this man in money, and therefore he is not, by the provisions of the act of 1783, entitled to interest. If he had a certificate, then he would be entitled to interest.

Mr. MOORE, of Pennsylvania. I request the indulgence of the committee for one moment. It will be remembered that I have been practicing gymnastics for the last three or four days, trying to get the floor, to submit my views upon the homestead bill, which has been before the Committee of the Whole on the state of the Union for consideration for some time. I am obliged to leave the city within an hour, and I ask permission of the House, like my friend from Missouri, [Mr. HALL] to file my argument under the rule.

There was no objection, and permission was granted.

Mr. FLORENCE. Is it in order to offer an amendment to the bill granting homesteads to actual settlers upon the public lands, to give the soldiers of the war of 1812, without regard to the term of their service, one hundred and sixty acres of the public domain?

The CHAIRMAN. The Chair thinks, at this time, no amendment can be presented to the homestead bill.

Mr. FLORENCE. I desire to offer such an amendment as I have indicated, to submit my reasons thereon, and the subject generally, and shall therefore ask that the same privilege may be

extended to me as has been extended to my colleague—permission to print my argument. I am in favor of the bill. Being about to start for Philadelphia, I have requested this indulgence, that on this question my position might be placed truly before my constituents and the country.

There was no objection, and permission was granted.

Mr. FULLER, of Pennsylvania. The facts in this case are these: Lieutenant Bartlett Hinds was in active service from the time of his original enlistment, in 1776—being part of the time a supernumerary—down to the disbanding of the army on the 9th of July, 1783. If he was in the service until the end of the war, he would be entitled, under the resolution of 1780, to commutation pay. If he was a supernumerary, he would be entitled to commutation pay under another resolution of the same year, so that in either case—in both cases—he is entitled to the commutation asked for in this bill. With regard to the matter of interest, all we ask for him is, what has been granted to other meritorious soldiers of the Revolution. If they have received interest upon their claims, Lieutenant Hinds, having rendered as valuable, as gallant, and as meritorious services as they did, is entitled to the same interest. We only ask for him equality. We only ask for that justice, for that bounty, if you may call it so, which has been given to other soldiers of the Revolution. This question has been fully discussed, and I trust that no more speeches will be made, but that the vote be now taken.

[Cries of "Question!" "Question!"]

Mr. GAYLORD. I move that the bill be laid aside to be reported to the House, with the recommendation that it do pass.

Mr. HARRIS, of Tennessee. Will the motion to report the bill back to the House, with the recommendation that it do not pass, take precedence of the motion submitted by the gentleman from Ohio?

The CHAIRMAN. It will not. If the motion of the gentleman from Ohio is voted down, the motion of the gentleman can then be entertained.

Mr. JONES, of Tennessee. I will make but one remark. The letter read at the Clerk's table, from the Third Auditor, is, I think, conclusive that there is no commutation due in this case. Take that, in connection with the fact, that Bartlett Hinds lived until 1820, and then had himself placed upon the pension roll under the acts of 1818 and 1820. How long he lived after he was entered upon the pension roll, the report does not show. I think, from all these circumstances, it is conclusive that the man who would have himself placed upon the pension roll thirty years after it was alleged he was entitled to commutation, would certainly, if he was entitled to it, have applied to receive it. I cannot see how they can make out that commutation is due him.

Mr. HALL. I move to strike out all that part of the bill providing for the payment of interest.

The question was put, and the amendment was agreed to.

Mr. SACKETT. Is it in order, Mr. Chairman, to postpone action upon this bill until we can ascertain from the Department how he described his services when he made application for a pension under the law of 1818?

The CHAIRMAN. In the opinion of the Chair the bill could be laid aside for consideration at a future day, by unanimous consent, but not otherwise.

Mr. GOODENOW. I ask if it is in order to move that the bill be reported back to the House with the recommendation that it be recommitted to the Committee on Pensions, that they may report all the facts of the case?

Mr. STEPHENS, of Georgia. There can be no doubt about it. A motion can be made to postpone the bill. It will come up regularly the next day upon the Calendar. That is the rule.

The CHAIRMAN. The question propounded to the Chair was, as to whether this bill could be postponed to a particular day by the committee? It is in the power of a majority of the committee to pass by this bill, to the next one on the Calendar.

Mr. SACKETT. It was to enable the committee to get at the facts of the case, that I submitted my motion. I trust it will meet the approbation of the committee.

Mr. FULLER. I have no objection to any

reasonable postponement, for the purpose of a full inquiry into the merits of the bill. If it is not meritorious, we do not want it.

The CHAIRMAN. The question is not debatable.

Mr. GAYLORD. What position upon the Calendar will this bill occupy, if the motion of the gentleman from New York prevails?

The CHAIRMAN. It will be the first business in order. It will stand in the same relation that it does now.

The bill was then laid aside.

PATRICK GASS.

The committee next proceeded to the consideration of House bill No. 152, being a bill for the relief of Patrick Gass.

The bill provided for a grant of three hundred and twenty acres of the public land to Patrick Gass, in consideration of his services in the expedition of Lewis and Clark to Oregon.

There being no proposition to amend, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

WILLIAM H. WELLS.

The committee next took up for consideration House bill No. 155, being a bill for the relief of William H. Wells and others.

The bill was read through.

Mr. SACKETT. I see in the bill already reported that there is a clause left out, which has been uniformly inserted in other bills—"any lands subject to private entry for bounty lands." Under this bill, they may take alternate sections of lands which are specially granted to railroads and canals. It has been usual to insert the clause I suggest in all of these bills; but I see that it has been left out in this, and the preceding case. I move to insert the words, "subject to entry for bounty lands."

Mr. JOHNSON, of Tennessee. I would suggest "such lands as are subject to private entry at the minimum price."

The question was then taken upon Mr. SACKETT's amendment, and it was agreed to.

Mr. GORMAN. I would suggest another amendment. It is the business of the Secretary of the Interior to issue the patent, and therefore I move to strike out of the bill the words "Secretary of War" and insert "Secretary of the Interior."

The question was then taken upon Mr. GORMAN's amendment, and it was agreed to.

Mr. STANTON, of Ohio. I am at a loss to understand upon what principle the bill has been disposed of, and I do not know any reason in the world why this man cannot get his land warrant as others do, who were volunteers; I cannot imagine any reason upon which this distinction rests. It is a matter of small consequence, and I do not propose to make any trouble about it. I move that the bill be laid aside to be reported to the House with a recommendation that it do not pass.

Mr. MILLER. I did not hear the gentleman's objection.

Mr. STANTON. I cannot understand why this man cannot get his land warrant at the proper Department, as others do who are entitled.

Mr. MILLER. It has been some time since I referred to the testimony in this case, but the committee entertained no doubt, that the heirs of Lemuel Wells were clearly entitled to the benefit of the act of Congress of 1811, granting bounty land to the soldiers who enlisted in the service of the United States for five years and were honorably discharged, or died in the service. The facts, as I remember them, are, that Lemuel Wells enlisted in the year 1814, at the city of New Orleans, and during the war with Great Britain, for the period of five years, and before the expiration of that period, and while in the service, he died. Under this state of facts, the committee believed that the heirs of Lemuel Wells, deceased, were entitled to the bounty provided by the act of 1811. It is clearly right and proper, that his heirs should have the benefit of that act, and I can see no evil that will result from the passage of the bill.

Mr. JOHNSON, of Tennessee. I hope the gentleman from Ohio [Mr. STANTON] will withdraw his motion. The report fully explains the whole matter, and there is no doubt as to the justice of the claim.

Mr. STANTON. I will not interpose any objections, if the House are disposed to pass it. I withdraw my motion.

Mr. JOHNSON. I move, then, that the bill be reported to the House, with a recommendation that it do pass.

The question was then put, and agreed to. So the bill was laid aside to be reported to the House with a recommendation that it pass.

On motion by Mr. HARRIS, of Tennessee, the committee rose, and the Speaker having resumed the chair, the chairman of the committee [Mr. STUART] reported that the Committee of the Whole House had had under consideration sundry private bills which they had directed him to report back, some with amendment and a recommendation that they do pass, and some without amendment.

The SPEAKER. The following bill is reported from the Committee of the Whole House, with a recommendation that it do pass:

A bill for the relief of Osborn Cross.

The question being upon ordering the bill to be engrossed and read a third time—

Mr. FICKLIN demanded the yeas and nays; upon which motion the House was divided, and there were—ayes 22, noes 58; no quorum voting.

Mr. HART. Is it in order to move that when this House adjourns, it adjourn to meet on Monday next?

Mr. JONES, of Tennessee. I would submit a question to the Chair, that it does not require that there shall be a quorum present to call the yeas and nays.

The SPEAKER. It requires a quorum to do business.

Mr. JONES. It is a constitutional right of one fifth to have the yeas and nays. When you get through with the roll, and there is not a quorum voting, it is a lost vote. That is all.

The SPEAKER. That is a mere experiment. The Chair is of the opinion that the House cannot do business without a quorum.

Mr. JONES. Have we not a right to order the yeas and nays without a quorum? The Constitution says that one fifth may order the yeas and nays.

The SPEAKER. Upon such a question as that taken awhile ago, the Chair thinks not.

Mr. JONES. The Constitution says that one fifth of those present shall order the yeas and nays.

The SPEAKER. The Constitution provides also that it shall require a majority to do business. If brought upon the question of adjournment, the gentleman would be correct, in the opinion of the Chair, and one fifth might order the yeas and nays.

Mr. JONES. It is a constitutional question, and I will make a point of order upon it.

Mr. HART. I move that the House adjourn. The question was then taken, and there were—ayes 47, noes 62.

So the House refused to adjourn.

Mr. HART. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. FICKLIN. I demand the yeas and nays. Mr. JONES, of Tennessee. Is there a quorum present?

The SPEAKER. There was not according to the last division.

Mr. JONES. Then we cannot adjourn over. The House have ordered the yeas and nays on the passage of that bill.

The SPEAKER. The Chair decided that the yeas and nays were not ordered, only twenty-three sustaining the call for them.

Mr. JONES. Will the Chair have that provision of the Constitution read which relates to the yeas and nays?

The SPEAKER. If the gentleman takes an appeal from the decision of the Chair.

Mr. JONES. I cannot appeal on a constitutional question. It is not a question of order.

Mr. STUART. Is it not in order now to ask for tellers on the motion of the gentleman from New York, [Mr. HART] that we may determine whether there is a quorum present?

The SPEAKER. It is in order.

Mr. STUART. Then I ask for tellers, with that view.

Tellers were ordered.

Mr. FICKLIN. I ask for the yeas and nays on the motion to adjourn over.

[Loud cries of "Oh, no;" and great disorder prevailed in the Hall.]

The SPEAKER proceeded to put the question on ordering the yeas and nays.

Mr. HOUSTON (interrupting.) I do not understand what question the Chair is now putting.

The SPEAKER. The Chair is dividing the House on the demand for the yeas and nays on the motion to adjourn over till Monday.

Mr. HOUSTON. Did I not understand the Chair as deciding—

[Loud cries of "Order!"]

The SPEAKER. The gentleman from Alabama is out of order.

Mr. HOUSTON. I suppose I have a right to ask a question of the Chair.

The SPEAKER. The gentleman may ask a question of the Chair. The right, however, is not a very clear one. But the Chair is disposed to be very courteous to the gentleman. [Laughter.]

Mr. HOUSTON. I understood the Chair to decide that there was no quorum upon the proposition submitted before, and to refuse to entertain this motion to adjourn over, made in the face of the fact that there was no quorum present.

The SPEAKER. Does the gentleman from Alabama appeal from any decision which the Chair has made?

Mr. HOUSTON. No, sir; I do not know what the Chair has decided.

The SPEAKER. Then, debate is not in order.

Mr. HOUSTON. I am aware of that, but I want to know what decision the Chair has made.

The SPEAKER. Upon the engrossment of the bill, the yeas and nays were demanded. Twenty-three only rising in favor of the yeas and nays, and a number which the Chair does not recollect, but insufficient to make a quorum, rising on the other side, the Chair stated that there was no quorum voting, and that the yeas and nays, therefore, were not ordered, notwithstanding that one fifth of those present had risen for them.

Now a motion is made which is perfectly in order, that when the House adjourns it adjourn to meet on Monday, and upon that motion the yeas and nays are demanded. The Chair, when interrupted by the gentleman from Alabama, was in the act of dividing the House upon that demand for the yeas and nays. There may be a quorum voting upon this proposition, and it is in order.

Mr. JONES, of Tennessee. I rise to a question of order. When the yeas and nays were demanded upon the engrossment of the bill, there was a division of the House called for. Twenty-three voted for the yeas and nays, and fifty odd against it. Then, is not the House in a dividing state, under the decision of the Chair, until there is a quorum here? And can any other motion be made when the House is dividing? But I would ask the Chair to permit the third paragraph, of the fifth section, of the first article of the Constitution of the United States to be read.

The Clerk read the paragraph, as follows:

"Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the Journal."

The SPEAKER. That is the constitutional provision, but the construction which the Chair puts upon the provision in reference to this subject is this: that it is competent for the House to adjourn with less than a quorum from day to day, but it is not competent for less than a quorum to pass a bill. There is another provision of the Constitution, the gentleman will remember, which requires a quorum to be present to do business, and, therefore, for the purpose of doing business, less than one fifth of a quorum, in the judgment of the Chair, cannot call the yeas and nays.

Does the gentleman appeal from the decision of the Chair?

Mr. JONES. I do; and let the House decide whether one fifth of those present have not a right, under the Constitution, to order the yeas and nays.

Mr. STEPHENS, of Georgia. Do I understand the Chair to decide, that less than a quorum cannot have the yeas and nays recorded upon any question?

The SPEAKER. The Chair does so decide.

Mr. STEPHENS. But the Constitution says, that one fifth of those present may order the yeas and nays upon any question.

The SPEAKER. That is the language of the Constitution. But there is an another provision of the Constitution, the gentleman will remember, which requires that there shall be a quorum present to do business.

Mr. STEPHENS. That is very true.

The SPEAKER. We cannot pass a bill with less than a quorum, and the yeas and nays would be idle, therefore, less than a quorum being present. That is the decision of the Chair.

Mr. STEPHENS. Then I understand the Chair to decide—

The SPEAKER. The Chair simply decides that in this case the yeas and nays were not ordered on the passage of the bill.

Mr. HOUSTON. Although more than one fifth of those present voted for the yeas and nays.

Mr. STEPHENS. Ah! that is another question.

The SPEAKER. That is the question on which the Chair had decided. The decision of the Chair would have been very different on a motion to adjourn.

Mr. STUART. I ask for tellers on the appeal.

The SPEAKER. The Chair will further state, in explanation, that it was competent for the Chair, in his opinion, to ascertain, at any time, whether there was a quorum present. It was competent, and perfectly in order, for tellers to have been called upon the division of the House on the demand for the yeas and nays. But as it is impossible that the House can, under the Constitution, do business with less than a quorum, the Chair decides that the yeas and nays cannot be ordered by less than one fifth of a quorum.

Mr. STEPHENS. And that in this case they were not ordered?

The SPEAKER. Yes; and that in this case they were not ordered.

Mr. STEPHENS. Well, I think the decision of the Chair is right.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] insists that the yeas and nays were ordered, and appeals from the decision of the Chair; and the question is, "Shall the decision of the Chair stand as the judgment of the House?" On this question tellers are demanded.

Mr. HART moved to lay the appeal upon the table.

Mr. STUART demanded tellers on that motion.

Mr. JONES, of Tennessee, called for the yeas and nays.

The question was put on ordering the yeas and nays, and on a count, there were, ayes 20, noes 101.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

Mr. HART withdrew the call for tellers.

The question was then taken upon the motion to lay the appeal upon the table, and it was carried in the affirmative.

So the decision of the Chair was sustained as the judgment of the House.

Mr. GOODENOW. I move that when this House adjourns to-day, it adjourn to meet on Monday next.

The SPEAKER. That motion is already pending; and the question is upon ordering the yeas and nays.

The yeas and nays were ordered.

Mr. HART then withdrew the motion.

Mr. EVANS moved that the House adjourn.

Mr. NABERS. I appeal to the courtesy of the gentleman from Maryland and the House to indulge me for a moment. From intelligence I have recently received, it is likely that I shall be obliged to leave the city in a day or two. I have a bill, the notice of which I gave months ago, which I ask leave to introduce merely for the purpose of having it referred. It will take but a single moment. It is a bill to regulate the compensation of certain postmasters.

[Cries of "Leave!" "Leave!"]

There was no objection, and the bill was accordingly read a first time by its title.

Mr. JONES, of Tennessee. I object to the reading of any bill, unless there is a quorum.

The SPEAKER. The Chair has stated that there is a quorum present.

Mr. JONES. Then I call for the vote upon the other bill, which was pending.

The SPEAKER. The Chair must remind the gentleman from Tennessee that this bill was in-



troduced by unanimous consent. It has been introduced and read a first time. The Chair therefore decides the objection as coming too late.

The bill was then read a second time by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. POLK. I move that when this House adjourns, it adjourn to meet on Monday next.

Mr. FICKLIN. Upon that motion I demand the yeas and nays.

Mr. STANLY. I rise to a point of order. I understood that the motion to adjourn was only withdrawn for the gentleman from Mississippi [Mr. NABERS] to introduce his bill. I submit that the motion to adjourn must now be put.

The SPEAKER. Notwithstanding that, the motion to adjourn over was in order, and under the rules must be first put to the House.

Mr. STANLY. I believe the Chair is right in his decision.

The yeas and nays were then ordered, and, being taken, the result was—yeas 67, nays 72.

So the House refused to adjourn over.

Mr. ROBBINS. I move that the House do now adjourn.

Mr. HENN. I ask the gentleman to withdraw, to enable me to report from the Committee on Enrolled Bills.

Mr. ROBBINS. I will withdraw for that purpose.

Mr. HENN then, from the Committee on Enrolled Bills, reported, as correctly enrolled, the bill for limiting the time for holding the United States district courts in Alabama, and for other purposes; which received the signature of the Speaker.

The question then recurred upon the motion to adjourn.

Mr. POLK. I demand the yeas and nays.

Mr. HENN. I move that when this House adjourns, it adjourn to meet on Monday next.

Mr. ROBBINS. I ask whether it is in order to make that motion when we have just voted down the same motion?

The SPEAKER. It is, strictly speaking, in order, inasmuch as other business has intervened.

Mr. FICKLIN. I demand the yeas and nays. The yeas and nays were ordered.

Mr. HENN. I withdraw the motion.

Mr. ROBBINS. I renew the motion to adjourn.

Mr. POLK. I demand the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. SACKETT. Is it in order to move to amend the motion to adjourn?

The SPEAKER. It is not.

Mr. HART. I move that when the House adjourns, it adjourn to meet again on Monday next.

Mr. CABLE, of Ohio. I demand the yeas and nays upon that motion.

Mr. JONES, of Tennessee. I ask if these two motions can be alternated. Nothing has been done since the last motion was made.

The SPEAKER. The motion to adjourn was voted down by yeas and nays.

Mr. JONES, of Tennessee. Nothing has been done since that, except the motion to adjourn until to-morrow.

The SPEAKER. The Chair thinks this is such action as to authorize the Chair to receive the proposition.

Mr. JONES. If this motion fails, they can move to adjourn again, and thus keep on all night.

The SPEAKER. I do not know indeed, what they will do. [Laughter.]

Mr. HENN. I withdrew the motion to adjourn over; consequently there has business intervened.

The SPEAKER. There is no doubt about business having intervened, and that very important.

The question was then taken on the demand for the yeas and nays, and they were ordered.

Mr. STANTON, of Ohio. Is it in order to call the other side upon the question for the yeas and nays?

The SPEAKER. It is too late, in the opinion of the Chair.

Mr. McMULLIN. I move that the House do now adjourn.

The SPEAKER. The Chair decides that the proposition now before the House must first be taken, which is the proposition to adjourn over until Monday.

The question was then taken on the motion to

adjourn until Monday, and there were—yeas 52, noes 41—no quorum voting.

Mr. SEYMOUR. I move that the House do now adjourn.

Mr. CAMPBELL, of Illinois. Is it in order to move a call of the House?

The SPEAKER. It is not in order pending the motion to adjourn.

Mr. St. MARTIN. I call for the yeas and nays upon the motion to adjourn.

The yeas and nays were not ordered.

The question was then taken on the motion to adjourn, and it was agreed to.

So the House adjourned to meet again to-morrow.

#### PETITIONS, &c.,

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. NEWTON: The petition of John Henry, of Ohio, for a pension.

By Mr. BRAGG: The petition of Gerald B. Hall, United States assistant marshal, southern district of Alabama, praying for extra compensation for taking the Seventh Census.

By Mr. WELCH: The petition of 116 citizens of Meigs, Vinton, and Athens counties, Ohio, for a mail route from Wilksville, in Vinton county, to Lee, in Athens county, in said State.

By Mr. FLORENCE: The memorial of James McGahey, William Penn Feeney, Edward M. Meader, John Lawlor, and 29 others, practical printers, of Philadelphia, petitioning Congress to pass a law for the establishment of a national printing office.

Also, the memorial of Thomas A. Braceland, John P. McPadden, Edward F. Maddock, John H. Cunningham, and 10 others, practical printers, of Philadelphia, petitioning Congress to pass a law for the establishment of a national printing office.

By Mr. CHANDLER: The resolutions of the Legislature of Pennsylvania, in opposition to a renewal of the patent for Parker's water-wheel.

Also, the memorial of William S. Hart and many other citizens of Philadelphia, asking an enlargement of the bounty land provisions to soldiers, and to extend them to marines and seamen.

By Mr. THOMPSON, of Virginia: Three several memorials from citizens of Harrison county, in favor of the Wheeling bridge.

By Mr. HIBBARD: The memorial of B. W. Clark and others, citizens of Lyman, New Hampshire, remonstrating against the further extension of the Woodworth patent.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, May 1, 1852.

The House met at twelve o'clock, m. Prayer

by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read.

The SPEAKER. The first business before the House is the unfinished business of yesterday, being the bill for the relief of Osborn Cross, of the United States Army.

Mr. JONES, of Tennessee. I rise to a question of privilege, in reference to the correction of the Journal. It is stated in the Journal that when the yeas and nays were called upon a proposition, I rose to a question of order. I raised no question of order, and so distinctly stated; but I raised a constitutional question. There is nothing in the rules or orders of this House, as to what number shall order the yeas and nays. The right is one derived from the Constitution, and not from a rule. I hope the Journal will be made to conform to these facts.

Mr. STANTON, of Tennessee. That is still a question of order, based upon the Constitution.

The SPEAKER. The Chair still thinks it is a question of order; but the gentleman has submitted a motion to amend the Journal, by striking out certain words pointed out by him, and inserting others.

Mr. JONES. I move that the Journal be corrected, and made to conform to the state of facts, as they were.

Mr. SWEETSER. It is a question of order under the Constitution.

The SPEAKER. Will the gentleman from Tennessee [Mr. JONES] submit the precise correction he desires?

Mr. JONES. Will the Clerk read that part of the Journal, and I will state my correction. The proceedings are not reported in the papers this morning.

The Clerk then read the part of the Journal referred to; which was as follows:

"Mr. GEORGE W. JONES moved the point of order, that inasmuch as one fifth of the members voting had voted in favor of taking the vote on the engrossment of the bill by yeas and nays, it was not necessary that a quorum should have voted—the Constitution providing that the yeas and

nays—shall, at the desire of one fifth of those present, be entered on the Journal; and that proportion of those voting having expressed such a desire in the present case, he insisted that they were entitled to have the yeas and nays taken."

Mr. JONES. I move to strike out the words "the point of order," and insert "the constitutional right."

The SPEAKER. The Chair regards the question made by the gentleman as a question of order. The reason upon which the gentleman bases his position is, that the right is a constitutional one—that there is a constitutional provision controlling the case; all of which is stated by the Journal. The gentleman moves to strike out the words recognizing his motion as a question of order, with a view to insert a declaration that it is a constitutional right which he demands.

Mr. WOODWARD. I suggest to the gentleman from Tennessee [Mr. JONES] that he withdraw his motion. It is a rule of order established by the Constitution, and, therefore, an irreversible rule; but still it is a rule of order and procedure.

Mr. JONES. Notwithstanding the opinion of the gentleman from South Carolina, [Mr. Woodward,] from which I differ, I must insist upon my motion.

Mr. JOHNSON, of Arkansas. Was the gentleman entitled to make remarks in explanation of his action, and give his reasons for it, or not?

The SPEAKER. The Chair thinks he had.

Mr. JOHNSON. If he did not do so, he cannot add to the Journal his argument in behalf of it to-day.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] gave the grounds upon which he appealed from the decision of the Chair. The gentleman insists that it is not a point of order at all—that it is a constitutional question, and he wants that fact inserted in the Journal. It will be for the House to determine whether or not it would be better to give to the country the history of the transaction.

Mr. ROBBINS. I would inquire how the Journal would read in its amended form?

The Clerk accordingly read the Journal as it would appear as amended.

Mr. JONES. I demanded it as a constitutional right that one fifth of the members present could order the yeas and nays upon any question.

Mr. JOHNSON, of Arkansas. I move to lay the motion upon the table.

The SPEAKER. The Chair thinks that the motion to lay upon the table is in order.

The question was taken upon the motion to lay on the table the proposition to amend the Journal, and decided in the negative.

The question recurred upon the motion to amend the Journal.

The SPEAKER. The Chair, if the House will indulge him in his own behalf, will state, that, according to his recollection, the Journal states substantially the history of the matter. It certainly was the object of the Speaker, and of the Clerk, to state it. The Chair thinks that it must at last be a question of order to be determined by the House. The question is, whether the Journal reports correctly all the facts?

Mr. STUART. I desire to inquire as to a fact, which is the only thing that troubles me. I have no doubt that the Chair is correct; but if this motion to lay on the table is entertained, will not the effect be, according to parliamentary law, to carry the Journal with it?

The SPEAKER. The Chair thinks not. However, the House have voted down the motion to lay upon the table, and that, therefore, cannot be a question now.

Mr. STUART. I had a contrary impression. The question was then put upon the motion to amend the Journal as indicated by Mr. JONES, and it was disagreed to.

#### OSBORN CROSS.

The SPEAKER. The question first in order is the unfinished business of yesterday, being "A bill for the relief of Osborn Cross," reported from the Committee of the Whole, with the recommendation that it do pass, and upon its engrossment the yeas and nays have been demanded.

Mr. ROBBINS. Would it be in order to move that the House resolve itself into the Committee of the Whole on the special order?

The SPEAKER. The Chair thinks not, inas-

much as the House was dividing upon the bill. They cannot, therefore, be interrupted by any motion of that kind.

Mr. SACKETT. I ask the unanimous consent of the House to submit a very brief statement in regard to the bill upon which the vote is just about to be taken. I do not wish to debate the subject. The gentleman who reported this bill, in a statement of fact to the House—

[Cries of "I object!" "I object!"]

The SPEAKER. Will the gentleman suspend for a moment, until the Chair ascertains if the demand for the yeas and nays is accorded? While the House was dividing, and previous to the adjournment, they were demanded.

The question was then taken, and, upon a division, there were—yeas 22—

Mr. GOODENOW. I call for tellers upon the demand for the yeas and nays.

Tellers were ordered, and Messrs. WILLIAMS and INGERSOLL were appointed.

A count being had, the yeas and nays were ordered.

Mr. SACKETT. I ask the consent of the House to submit a correction of the statement made by the gentleman who reported this bill.

The SPEAKER. The gentleman has a right to debate the question.

Mr. SACKETT. I do not wish to enter into a debate of this bill, but simply to correct a misstatement made by the gentleman who reported the bill, owing to a misapprehension. He has examined the facts since, and so have I looked into them. It was stated here on yesterday, that the key of the iron safe which contained the notes stolen was left in an unlocked desk. That statement may prejudice, perhaps, the minds of some members of the House against the bill. The facts are these: The key of the iron safe containing the notes was locked up in a smaller safe, the key of which was locked up in a desk. The key of that desk Major Cross had in his own pocket. These were the facts proved before the committee.

Mr. STANTON, of Ohio. I want to know of the gentleman how the key of the safe was then obtained by the burglars?

Mr. SACKETT. They broke the safe open.

Mr. STUART. I desire to ascertain from the gentleman from New York, or some other gentleman, the fact as to how these individuals became locked in the room where the safes were kept?

Mr. SACKETT. An individual was secreted there clandestinely.

Mr. STUART. How did he get there?

Mr. SACKETT. The proof shows that he was secreted in the building when it was locked up. This fact was brought out in the examination of this case before the court-martial. They examined elaborately all the facts in the case, and reported upon them.

Mr. STUART. It has been stated that he was a man in the employ of this office.

Mr. SACKETT. He had been discharged previously from the employment. He was clandestinely in the house.

Mr. GIDDINGS. I wish to make an inquiry of the gentleman. Do I understand him to state this claimant locked up a man in the building?

Mr. SACKETT. No, sir. This is the fact in the case: When the office was closed that night, as has been ascertained in a subsequent investigation of the matter, there was an individual clandestinely secreted in the building. It was not known he was secreted there. He opened the back door, admitted his accomplices, and accomplished the burglary.

Mr. GIDDINGS. I understand the gentleman from New York to say that the great care exerted was such as to leave the felon locked up in the building. Am I correct about that? I wish the information. I desire to know whether this man who now petitions for relief, was so careful as to lock up the very identical individual who stole the money?

Mr. SACKETT. I wish simply to reply to the gentleman upon that subject, that he had no knowledge of any person being there. He was secreted.

Mr. GIDDINGS. I would like to know how it is that he arrives at the conclusion this man did not know the burglar was there?

Mr. SACKETT. From the report of the court-martial which tried Major Cross, made after a full investigation of all the facts.

Mr. GORMAN. I rise to a question of order. Debate is out of order, as the call for the previous question has been seconded, and the yeas and nays ordered.

The SPEAKER. The call for the previous question was not sustained.

Mr. SAVAGE. I think there is a misunderstanding in relation to the facts of this case; and for the purpose of correcting a statement of the gentleman from New York, I will read the following extract from the report of the Committee on Claims on this bill:

"It also appears that he endeavored to place said Treasury notes on deposit in the Union Bank of said city, the usual depository of the Government funds, on general deposit, so that the funds (being needed for constant and immediate use) might be drawn on, but was refused. On the 8th of October, 1842, before leaving the office of quartermaster, he locked up said funds, together with some \$300 of private funds, in an iron safe, (the best that could be procured, the place in which he had been in the habit of keeping the Government funds.) Four negro men, however, had entered into a conspiracy to rob said office; one of them, 'Tohn,' who had been waiting about the office some weeks previous, laid a plan to rob the office. He had made arrangements to conceal another negro, 'George,' in the store room of the lower floor, which communicated with the office; but, as he could not get the porter of the establishment out of the way, he waited till the porter went up stairs to blow out the light and fasten the office windows, when he slipped in the store room, unhooked the back door, (each of which was fastened by a large iron hook,) and disappeared. This was about, or shortly after, dark. The porter left under the impression that all was secure. The said negro man, it appears, returned that night, entered the said store by the back doors, succeeded in opening the safe containing said funds, and rifled it of its contents."

Mr. GIDDINGS. I have frequently found it a hard task in this House to oppose a claim, be it good or bad, but there are certain rules of evidence from which we ought not to depart. I think we should hold our public officers to that strict and careful attention which we, as individuals, exercise over our own property. The gentleman from New York [Mr. SACKETT] is laboring under a mistake, if I understand the report. The report shows that this quartermaster exercised not even the care and attention to lock up his own premises. He trusted that matter entirely to another individual, and that individual left the back door of the House unlocked and unfastened. The porter, of whom we know nothing, save that he acted as a servant of the claimant, was intrusted with these funds, and whether he shared a part of the spoils, or whether he has a portion of the money now in his pocket, we know not; nor is there a particle of proof to show that he was not accessory to the larceny. As I was about to remark, this porter leaves the house unlocked. Should we say that it was such a care of our funds, that we will now compensate this man for the loss?—that we will impose it upon the people of the United States?—that we will pay it out of the public Treasury? Had I lost those funds in the manner stated, I should never have asked indemnity.

Mr. SWEETSER. If my honorable colleague will allow me to interrupt him. I desire to make the point with him, which I made in the Committee of the Whole yesterday. His mind is now taken up with a question that may not have a controlling influence in the decision of this case. I desire to state that I take the facts, as collected and reported by the Committee on Claims, as true.

It seems to me, that when he admits that the Treasury drafts which were stolen from the safe of Major Cross, at New Orleans, had not been put in circulation, but were transmitted to him to be used at a proper time, there is very little ground for a difference of opinion in relation to the legal rights of the respective parties. I maintain that the thief—or any person to whom he may have negotiated the Treasury drafts—had no title in the same; and that the Government, after having had notice of the larceny, accompanied with a description of the drafts, should have withheld payment and treated the drafts as void; and all persons presenting them, and demanding payment, as *particeps criminis*. If a bank at New Orleans purchased these Treasury notes of a negro, or an unknown person, they had no right to complain; and if from a responsible person, let them send them back from one to another until they headed the thief. It cannot be contended, with any reasonable hope of success, in this House, that if the Government have paid these drafts improvidently—that in order to make the Government whole, it is justice to insist upon the penalty of Cross's bond.

I confess that the facts disclosed in this case

have aroused my sensibilities; and I desire my colleague to answer the legal point which I present, conceiving that the facts warrant the conclusions which I draw from the testimony. Now, I protest against any blinking of this case. Let us meet it fairly, and not sacrifice an innocent man and his sureties, who has done all that the law of the land required him to do in order to save the Government from loss.

Sir, I cannot consent to remain silent and permit—if it is in my power to prevent it—so grievous a wrong.

I hope my colleague will permit the point I make to have its due influence upon his mind, and that this House will not suffer this case to be controlled by surmises and suspicions unworthy of a liberal exercise of the equitable power which they have to sustain an officer who seems to have done his duty, and his whole duty, in the premises.

I repeat what I said yesterday, in relation to the first point I then made. In a case where no laches can be imputed, and when it is a question between an individual and the Government, I will always with my vote place the loss upon the Government, and excuse the individual; and I must be permitted to insist, that if there is wrong in this case, it consists in the conduct of the Government in paying the stolen Treasury notes, and now seeking to enforce the penalty of Major Cross's bond. I thank my colleague for his kindness.

Mr. CAMPBELL, of Illinois. I inferred from the gentleman's remarks that the Government has paid these Treasury notes. I would like to know if the Government has paid them or not?

Mr. GIDDINGS. I will answer the gentleman's question if I understand this case. My colleague [Mr. SWEETSER] has misapprehended it. The Treasury drafts were cashed at one of the banks in New Orleans, and it was not Treasury drafts which were taken from the safe. It was bank paper which was stolen, and not Treasury drafts. If my friend will look at the report, he will find that to be so.

Mr. SACKETT. Treasury notes were received in exchange.

Mr. GIDDINGS. It was not then the original draft of \$30,000, but paper already negotiated.

Mr. SACKETT. Will the gentleman from Ohio allow me to ask him a question? The gentleman states that the office was left unlocked. He misapprehends the statement of the report; for it is not so stated there. But that is the sense in which the gentleman uses it. The porter—I suppose the person usually employed for such a purpose—was engaged in locking the office and fastening the windows up stairs. The men who entered into the conspiracy were in waiting, intending to slip into the building. After the porter had fastened one door, the back door, and had gone up stairs to fasten the windows, they slipped in, unhooked the hooks which fastened the back door, which the porter supposed remained shut, as he had fastened it not five minutes before.

Mr. GIDDINGS. The porter went out, leaving the back door unfastened, because he did not look to it after he came down stairs, and the thief went in at that door thus left open, perhaps for that very purpose. Am I right?

Mr. SACKETT. I say the gentleman is not right. The evidence shows that the porter had just fastened the back door, and went up stairs to fasten the upper windows. While he was up there the thief entered into the building and instantly unhooked the back door and slipped out.

Mr. GIDDINGS. I believe that almost every member of the House clearly understands these facts. This porter went up stairs, and while in the chamber, the thief came in and unfastened the back door and went out again, and when the porter returned down stairs he went out, leaving the back door unfastened, instead of going to see whether it remained fastened. He left this back door without any examination whatever after returning from the chamber.

Mr. SACKETT. He had just fastened it.

Mr. GIDDINGS. Yes, he had done so the day before, and the hour, perhaps the minute; but he then went out and left it unfastened. My position is this: While that porter left this door unfastened, there was no such caution and care shown by him which a prudent man would exercise over his own property. My friend, or any other man, would not have left his property in that way. I merely made the inquiry of the gentleman, to

show that the committee were under a mistake in regard to this man being secreted in the House. He was not secreted there. The porter locked the front door and went out, leaving the back door unfastened.

Mr. SACKETT. The committee reported the facts correctly. I was under a misapprehension as to the report, as I had not seen it for some days. The facts of the case show that the thieves were not able to get into the building except by slipping in and unbolting the door which had just been fastened.

Mr. GIDDINGS. The whole question arises from a misapprehension of our own duties. Instead of facts proved to this House, gentlemen take the say-so of this court-martial, or court of inquiry without law, without any kind of authority, and where but one party is heard. They bring that in here to bind our conscience and direct our judgment. Instead of taking the say-so of that court, the committee should have given us proofs of the facts. It is for us to draw our own conclusions from the proofs. I disregard the opinions of that court altogether, and I am to judge of the facts as they are proven to me. I take the conclusions of no man in such a case as this.

Mr. STUART. I wish to submit a few remarks in reference to this proposition, if I understand it. I may be as unfortunate as other gentlemen, and I may not understand it. But there is one leading fact in this case which seems to me ought to control the House, and that is, there is no evidence in this case, which shows that this officer exercised that care in reference to this subject which a prudent man would have exercised in his own affairs. We have no difficulty whatever in relation to the law of the case. Something was said yesterday about that. Some one remarked to-day that the rule of law that an individual, under these circumstances, cannot excuse himself by pleading larceny, is not only well settled, but a very wise one. Congress ought to be governed by a rule of law universal in its application; and this rule, as laid down and adhered to, will, in almost every case, work properly. It is the peculiar business of the law-making power to relieve the cases which form a proper and legitimate exception. That the courts cannot do; that the law-making power can and ought to do. It will be recollected by gentlemen that this is the best showing of the case that can be made. We should not fail to remember that this is the showing of the party himself. It is the best exhibit that he can make, without any controversy on our side. Now, upon his own showing, he exhibits a degree of neglect that ought not to excuse a bailee; and unless a Government officer can make out a case that shows that he has exercised all that ordinary care and diligence that a prudent man is bound to exercise in his own affairs, the Government of the United States should not relieve him. Now, has he done that? I ask any member of this House to test it by his own prudence. If he had an amount of money in an iron safe, locked up in one of the rooms of his own house, and he, either by leaving the key with his servant, or by his own omission, allowed a burglar to rob him of that money, and he not know it, and thereby lost his property, would he have the face to ask the surrounding community to indemnify him upon the score of charity? Sir, would he not feel that such negligence as he would be obliged to admit would not bear the light of day? It so seems to me; and it seems to me that the present aspect of this case, from the leading facts standing out here upon the officer's own showing—and, I repeat, certainly as good a showing as the case is susceptible of—is sufficient to induce Congress to withhold relief, and place it upon the ground which I shall, in my vote: that this individual has not exercised sufficient prudence—not even that prudence that is due from one citizen to another, or from that citizen over his own concerns. These are my views, Mr. Chairman, and these views will control my vote.

Mr. CAMPBELL, of Illinois. I desire to say a word or two in regard to this matter, in reply to the remarks of the gentleman from Michigan, [Mr. STUART.] I do not think he places it upon the proper ground. This matter, it seems, has undergone an investigation before the proper tribunal. That tribunal has reported upon the facts; and from the report of that tribunal, it seems to me that this officer made use of the ordinary dili-

gence which his immediate predecessor was in the habit of using—that diligence which was necessary to protect these funds. Now, sir, if he used the ordinary diligence which a private individual would use over his own property, I hold that he has done everything which the law requires him to do as a public officer. Do we not hear every day of private individuals, who have had their stores robbed, precisely in the same way that this public officer was robbed—by burglars and robbers concealing themselves in the day time in some secret part of their store rooms, and after the store was closed at night—the clerks, perhaps, sleeping in that very store—and it has never been contended that the owner of the goods had not exercised a proper and necessary discretion in protecting his property? It seems to me, that all this watchfulness was exercised by this public officer.

But I desire to place it upon another and higher ground, and one which this House cannot, and is not at liberty to disregard; and it is this: Admitting that he was guilty of neglect—concede, for the sake of the argument, that he was guilty of neglect in this case—as soon as he discovered that a burglary had been committed, he informed the Government thereof; he identified the property; he gave them the number of the Treasury notes, so as to enable them to ascertain, when these notes were presented for payment, their identity. What did the Government do under these circumstances? It seems that when the notes were presented, the Government paid them; and upon what principle? Why, at the very time that this property was stolen, it was the property of the Government.

Mr. SACKETT, (interrupting.) With the permission of the gentleman from Illinois, I desire to add one word at this point. He not only notified the Government of the burglary, but he diligently ferreted out the felons, and secured \$3,000 of the stolen property, and the conviction of the felons.

Mr. CAMPBELL, (resuming.) And not only exercised the energy that was necessary for the discovery of the perpetrators of this act, but he gave to the Government such information as would enable them to detect the stolen property, whenever it should be presented at the Government counter for payment. Now, I hold it to be a legal principle, which, if properly considered, must influence the vote of this House upon this question, that when this property was stolen it was the property of the Government of the United States, and no matter into whose hands it afterwards passed, that property never passed out of the hands of the Government. Larceny, no matter into whose hands the stolen property may pass, never changes the right of property in the article stolen from the original owner. If these notes were the property of the Government when they were presented, the Government had no business to redeem them to the holder, no matter who he might be.

Mr. STUART, (interrupting.) This is a question of equity. I coincide entirely with the gentleman in his ideas of law. They are the same ideas presented yesterday and to-day by the gentleman from Ohio, [Mr. SWEETSER.] But let us try how this thing would operate. Suppose the Government had declined paying this paper, which was in the hands of a *bona fide* holder, who had paid full value for it. He would have had the legal right to go back upon the man from whom he got it. And so successively would they trace it back until they came to the man who got it from the thief, and he would lose it. Now what would be the consequence, upon the question of equity? Where one of two innocent persons must suffer, the established rule of law is, that he shall suffer who has been the originator of the mischief, so that they would come back to the man who took the notes from the thief, who, being scamps, they would not be able to collect it.

Mr. SWEETSER. Oh, that is begging the question.

Mr. STUART. No, it is not begging the question at all. In this case the man who suffered injury from his own negligence must lose. This is a question of equity, not of law. Adopt the course which the gentleman from Illinois [Mr. CAMPBELL] contends for, and you throw the loss upon the man who had no earthly means of preventing it, for he took the paper from the man who held possession, and *prima facie* owned it, without any power to determine that he was the thief.

Mr. CAMPBELL, (resuming.) I feel thankful to the gentleman for the views with which he has favored the House. I conceive it makes the claim of this applicant still stronger. He admits the law; he admits that the Government of the United States was not bound to pay these Treasury drafts when they were presented. What did they pay them for? Why it seems that they paid them for the purpose of inflicting a punishment and a penalty upon a public officer, who was charged with being guilty of neglect. Is that the course which the Government of the United States should pursue?

But let us follow the gentleman's argument a little further. He says the equity of the case is against this claim. I deny it. The equity of the case is with the claim. He says that if the Government had refused to pay these Treasury drafts, they would have been traced back from one to another, until finally the thieves would have been discovered. That is the very object we had in view, and that is the very course the Government should have pursued. When they came to the last man they would have required of him to have examined into this matter. When he received Treasury drafts, of a large amount, from negroes—I believe they were negroes that stole this money—it should have been sufficient to have put him upon inquiry, whether or not it was right to receive that money.

Mr. HARRIS, of Tennessee, (interrupting.) If the gentleman will allow me, I desire to submit an inquiry to him. If it be true, as contended by the gentleman, that the officer in this case used such diligence as an ordinarily prudent man would have used in taking care of his own property, will not that furnish him a good defense at law? If that be true, what is the necessity for special legislation in the case?

Mr. CAMPBELL. The Government is on one side. It is shown here that the Government has paid money which it had no right or authority to pay, and then it turns round and denounces and harasses an individual, because it has done an act itself which it was not justified in doing under the law of the land. Is that a correct principle? Is it a principle in equity? This is not a question between individuals. The claimant comes here and makes a question between the Government and himself, and he asks relief. I think if ever there was a case before this House, which entitled an applicant to relief, it is this case. If the Government has lost anything it was by its own act. And when it does that, I cannot see where there is any equity in the Government turning round and calling upon the individual to reimburse it.

Mr. SACKETT, (interrupting.) There has been considerable said here about the question of the diligence and care of this claimant. I should like to know what sort of standard this House intends to set up? The evidence is that he exercised all the care and diligence that had been exercised by the public officer who had previously occupied the same place, in pursuing the same business.

It is proved, in the first place, that he could not deposit the money in the banks, because they refused to receive it. Then certainly he is not to blame for that. It is proved that he deposited the money in a secure iron safe. Certainly he was not to blame for that. It is proved, too, that the safe was locked, the key of that safe locked up in another safe, and the key of the latter safe locked up in a desk, and the key of the desk in his own pocket. Certainly he is not to blame for that. I should like to know what sort of standard gentlemen would set up?

Mr. CAMPBELL. I cannot yield to any more interruptions. I have but a few words more to say. I put it upon this ground: that if the claimant was guilty of neglect; if he did not exercise that strict watchfulness over this money which, perhaps, an individual might exercise over his own property—yet, I maintain, that so far as we have the facts before us, he did so—and that his conduct afterwards, in giving the Government notice, to enable them to identify this property whenever it was presented to them, and the Government discharging him of all responsibility which he owed to this Government in relation to the particular amount of money he had in his custody.

Mr. JOHNSON, of Arkansas. I think this debate has gone far enough. I call the previous question.



The previous question was seconded, and the main question ordered to be put.

The question now was upon ordering the bill to be engrossed and read a third time, upon which the yeas and nays had been ordered.

The question was then taken, and the result was—yeas 91, nays 49; as follows:

**YEAS**—Messrs. Abercrombie, William Appleton, Thomas H. Bayly, Barrere, Beale, Bell, Bockock, Bowles, Briggs, Albert G. Brown, Thompson Campbell, Carter, Chandler, Chapman, Chastain, Conger, Curtis, George T. Davis, Doty, Duncan, Durkee, Evans, Fitch, Fowler, Thomas J. D. Fuller, Gaylord, Gentry, Gilmore, Goodenow, Gorman, Harper, Sampson W. Harris, Hart, Hebard, Henn, Hillyer, Holladay, Horsford, Howard, Thomas M. Howe, Thomas Y. How, Ingersoll, Jackson, John Johnson, Robert W. Johnson, J. Glancy Jones, George G. King, Kuhns, Kurtz, Landry, Humphrey Marshall, Martin, Mason, McCormick, McDonald, McNair, Meade, Miller, Millson, Miner, Morrison, Murphy, Nabers, Outlaw, Andrew Parker, Samuel W. Parker, Porter, Powell, Price, Sackett, Scudder, David L. Seymour, Origen S. Seymour, Snow, Stanley, Alexander H. Stephens, Stone, Strother, Sweetser, Taylor, George W. Thompson, Thurston, Walbridge, Ward, Washburn, Welch, Addison White, Alexander White, Wilcox, and Williams—91.

**NAYS**—Messrs. Willis Allen, Babcock, Buell, Busby, Joseph Cable, Churchill, Clark, Cleveland, Cobb, Culion, Daniel, John G. Davis, Dawson, Dimmick, Eastman, Ficklin, Floyd, Giddings, Grow, Hall, Isham G. Harris, Hendricks, Hibbard, Houston, John W. Howe, Ives, Jenkins, Andrew Johnson, George W. Jones, Mace, McLanahan, McQueen, Morehead, Murray, Peaslee, Penniman, Perkins, Polk, Robbins, Savage, Skelton, Smith, Benjamin Stanton, Stratton, Stuart, Townshend, Watkins, Wildrick, and Woodward—49.

So the bill was ordered to be engrossed and read a third time; and having been engrossed, it was read the third time.

Mr. SACKETT moved to reconsider the vote just taken, by which the bill was ordered to be engrossed and read the third time, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. HOWARD. There has a large amount of business accumulated upon the Speaker's table, which, as every gentleman must see, it is very necessary should be taken up and disposed of in some way. I move that we do now proceed to the business upon the Speaker's table.

Mr. SACKETT. I hope the gentleman will not press that motion, at least until he allows this bill to pass.

The SPEAKER. This being private bill day, and there being private business upon the Speaker's table, reported by the Committee of the Whole House, it is the opinion of the Chair that the House is now engaged in its regular business, and that the motion of the gentleman from Texas [Mr. Howard] is not in order.

Mr. HOWARD. But the Chair will recollect that to-day is Saturday.

The SPEAKER. But it is private bill day, nevertheless.

The question was then taken, and the bill passed.

Mr. ROBBINS. Is it in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order?

The SPEAKER. It is in order.

Mr. ROBBINS. I make that motion.

Mr. HOWARD. I demand the yeas and nays upon that motion.

Mr. JOHNSON, of Arkansas. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn—yeas 52, nays 70.

Mr. ROBBINS. I now insist upon my motion to go into the Committee of the Whole on the state of the Union.

Mr. McLANAHAN. I ask the gentleman from Pennsylvania to withdraw his motion for a single moment.

Mr. ROBBINS. I am appealed to by several gentlemen round me not to withdraw the motion, and with all due respect to the gentleman, I decline.

Mr. FOWLER. I desire to inquire of the Chair if it will be in order at this time to move to go into Committee of the Whole on the Private Calendar?

The SPEAKER. If this motion be voted down, it will then be in order.

Mr. FOWLER. Is it not in order to make the motion now?

The SPEAKER. If the gentleman makes the motion, the question must be first put upon going into Committee of the Whole on the state of the Union, on the special order.

Mr. FOWLER. Well, sir, I make the motion now, so that it may come up if the motion to go into Committee of the Whole on the state of the Union fail.

The SPEAKER. The motion will come up if the pending motion be voted down.

Mr. SEYMOUR, of New York. I inquire of the Chair whether there are other bills upon the Speaker's table which were reported from the Committee of the Whole House on yesterday?

The SPEAKER. There are several other bills upon the Speaker's table.

Tellers were demanded upon the motion to go into Committee of the Whole on the state of the Union, but refused.

The question was then taken and the House refused to go into committee.

Mr. FOWLER. I now ask for the question on my motion, to go into Committee of the Whole upon the Private Calendar.

Mr. DANIEL. I would suggest to the gentleman from Massachusetts that there are only two bills remaining upon the Speaker's table yet to be acted upon. I hope he will withdraw the motion till they are disposed of.

Mr. FOWLER. I am perfectly willing to do so if we can go on with those bills.

The SPEAKER. They are the business regularly in order.

Mr. FOWLER. I withdraw the motion.

Mr. JOHNSON, of Arkansas. I move that the House do now adjourn, and upon that motion I ask for tellers.

Tellers were ordered, and Messrs. JOHNSON, of Arkansas, and FOWLER were appointed; and the question being then taken, the tellers reported—yeas 62, nays 38.

Mr. STUART demanded the yeas and nays; which were ordered; and the question being taken the result was—yeas 58, nays 80; as follows:

**YEAS**—Messrs. Abercrombie, Willis Allen, John Appleton, David J. Bailey, Beale, Bell, Bockock, Busby, Thompson Campbell, Carter, Chandler, Chastain, Clingman, Conger, Culion, George T. Davis, Dawson, Dimmick, Dockery, Eastman, Edmundson, Gaylord, Goodenow, Grey, Hall, Hart, Henn, Jenkins, John Johnson, Robert W. Johnson, Kurtz, Landry, Mace, Mason, McNair, McQueen, Miner, Morehead, Murphy, Murray, Nabers, Outlaw, Samuel W. Parker, Powell, Scudder, Skelton, Snow, Stone, Sweetser, Thurston, Townshend, Ward, Addison White, Wilcox, Wildrick, Williams, and Woodward—57.

**NAYS**—Messrs. William Appleton, Thomas H. Bayly, Barrere, Bowne, Bragg, Briggs, Albert G. Brown, Buell, Cabell, Caskey, Chapin, Churchill, Clark, Cleveland, Cobb, Curtis, Daniel, John G. Davis, Doty, Duncan, Durkee, Evans, Ficklin, Fitch, Fowler, Thomas J. D. Fuller, Giddings, Goodrich, Gorman, Grow, Hamilton, Harper, Isham G. Harris, Sampson W. Harris, Haws, Hebard, Hendricks, Hibbard, Hillyer, Holladay, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Andrew Johnson, George W. Jones, J. Glancy Jones, Kuhns, Mann, McCormick, McLanahan, Meade, Miller, Millson, Morrison, Newton, Andrew Parker, Peaslee, Penniman, Perkins, Porter, Robbins, David L. Seymour, Origen S. Seymour, Smith, Stanley, Benjamin Stanton, Alexander H. Stephens, Stratton, Strother, Stuart, Taylor, George W. Thompson, Washburn, Watkins, and Welch—80.

So the House refused to adjourn.

Mr. FOWLER. I now renew the motion to go into Committee of the Whole on the Private Calendar.

Mr. McMULLIN. If it is in order, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The question was put, and the motion was not agreed to.

Mr. GAYLORD. I move that the House adjourn.

Mr. JOHN W. HOWE demanded the yeas and nays; but they were not ordered.

The question was then put and the motion was agreed to, and

The House adjourned till Monday next, at twelve o'clock, m.

## IN SENATE.

MONDAY, May 3, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretaries of the Treasury, of the Interior, of War, of the Navy, and the Postmaster General, in answer to a resolution of the Senate, calling for some plan of classifying, compensating, and appointing clerks in the several Departments; which was referred to the Committee on Finance, and ordered to be printed.

## PETITIONS, ETC.

Mr. BRODHEAD presented four memorials of citizens of Pennsylvania, praying a modification of the bounty land law; which were referred to the Committee on Public Lands.

Also, two memorials of citizens of the city and county of Philadelphia, praying the establishment of a national printing office; which were referred to the Committee on Printing.

Also, a petition of citizens of Wayne county, Pennsylvania, remonstrating against the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, the memorial of Joseph Hopkinson, praying to be allowed the difference between the pay of a passed assistant surgeon and that of a fleet surgeon, and surgeon, for the periods he performed the duties of the latter grades in the East India squadron; which was referred to the Committee on Naval Affairs.

Mr. BORLAND presented a petition of citizens of Scott and Sebastian counties, Arkansas, remonstrating against the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of Waldron, Arkansas, praying the establishment of a mail route from that place to Fort Smith; which was referred to the Committee on the Post Office and Post Roads.

Mr. HAMLIN presented four petitions of citizens of Bangor, Maine, praying the erection of a fog-bell on the Monegan, and buoys on the Old Man's Ledge, and the improvement of the Penobscot river; which were referred to the Committee on Commerce.

Mr. SUMNER presented a resolution of the Legislature of Massachusetts, in favor of a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Mr. FISH presented a petition of citizens of New York, praying a renewal of Uri Emmons's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, the petition of Amelia Miller, widow and legal representative of George S. Miller, praying the appointment of a tribunal to review the decisions of the late Board of Commissioners for the settlement of claims of American citizens against Mexico; which was referred to the select committee appointed on the subject.

Also, five petitions of citizens of Greene county, New York, remonstrating against the extension of Woodworth's patent for a planing machine; which were referred to the Committee on Patents and the Patent Office.

Mr. MALLORY presented the petition of the guardian of Ellen H. Wood, heir of James Hall, deceased, praying for the bounty land and money to which said Hall was entitled under the resolves of September 16, 1776, and May 15, 1778; which was referred to the Committee on Revolutionary Claims.

Mr. WALKER presented a memorial of the Legislature of Wisconsin, praying a grant of land to aid in the construction of certain railroads in that State; which was ordered to be laid on the table.

Also, the petition of Frederick Rikow, praying an increase of pension, and to be allowed the amount of money of which he was robbed while in Mexico; which was referred to the Committee on Pensions.

Mr. UNDERWOOD submitted additional documents in relation to the petition of Leslie Combs; which were referred to the Committee on Finance.

## LABORERS ON THE CAPITOL.

Mr. BORLAND. Mr. President, I have been requested to present a memorial which makes a very strong appeal, at least to my feelings. It is this: To the honorable members of the Senate and the House of Representatives of the United States:

We, the laborers, who were employed in working on the Capitol, would again most respectfully and most earnestly call your attention to our distressed condition. We humbly beg leave to make this truthful statement to you:

A large majority of us are from different parts of this country. We came to Washington, and went to work on the Capitol under the belief that our employment on the same would last for years. But so far from this being the case, we were thrown out of work on the 13th December last, and were not again employed until 15th of April, and we now find ourselves discharged; and that without giving us any previous notice, and that without any fault on our parts as far

as we know, and other men have been employed in many of our places.

This has been done, though, during the last winter, we were led to believe, from the manner of our discharge, that we would be again employed and continued in such employment. Under this belief we continued in Washington, and were necessarily forced to contract debts during the past winter and spring for our support, expecting to pay the same out of the proceeds of our labor during the present season. You will thus see our unfortunate position; many of us, far from our homes, and our families, and without means of returning to the same, and in debt here, and those of us who live in Washington are also sufferers; for we, too, have contracted debts, expecting to meet the same when the work on the Capitol should be recommenced; and, believing that we would at that time be thus employed, we did not endeavor to get work elsewhere. All of us are thus thrown out of work unexpectedly, and at a time when the necessities of life are very dear in Washington. We would, therefore, most respectfully and earnestly ask you, who are the representatives of the rights and the wants of the people, to take our case in consideration, hoping that you will deem it just to allow what we do by this petition most respectfully ask, namely: the usual wages for the time that we were unemployed on the Capitol, and waiting to be employed on the same—that is to say, from the 13th of December, 1851, up to the 15th of April, 1852.

JEREMIAH SHEAHAN, } Committee on  
MICHAEL O'CONNOR, } the part of the  
JAMES COLLINS, } laborers.

WASHINGTON, May 1, 1852.

It is the memorial of certain persons who have been employed in work upon the Capitol, asking that some measure may be adopted by Congress to afford them relief in their present destitute and suffering condition. It will be recollected—I think it proper to give this explanation before presenting the memorial—that, when the joint resolution making an appropriation to continue the work upon the two wings of the Capitol was before the Senate, an amendment was made to it, giving to the workmen who had been engaged on that work an allowance for a portion of the time that they had been detained here without work, but promised and expecting it. Before that amendment was made, the advocates of the appropriation to continue the work on the extension, made a very strong appeal both here and elsewhere in behalf of these poor men, who were represented as being in a suffering condition, who had been kept here expecting work, who had incurred debts, and who were suffering exceedingly for the means of living. The appeal was made to Congress; the men were brought into our galleries; their sufferings were so strongly represented as to appeal very powerfully to the sensibilities of Congress, and were held up, by those who desired the appropriation to continue the work to be made, as a means of obtaining support for the measure. To what extent that appeal was influential upon the minds of members, I am not prepared to say; I know very well, however, it was a very strong one to my own sensibilities. At any rate, the advocates of the measure made use of it as a means to accomplish their purpose. Under the feeling raised, and from the consideration suggested, by the appeal, I was a warm advocate, with others, for a provision in the appropriation to afford some relief to those suffering men. The amendment which was made here went to the House of Representatives, and there failed. Opposition was made to it here and elsewhere upon the ground that the laborers had abandoned all desire or expectation, and withdrawn their petition for relief in the way of back pay; that all they wanted was work. Give them employment for the future, and they would be satisfied to put up with the privations of the past. This was said to be all they wanted. This statement, although not authorized by a large majority of those men, was freely made use of, and seemed to be sufficiently influential to defeat the proposition to afford them relief at that time, and in that way. It was deemed sufficient that they should have employment for the future; that that would satisfy all purpose.

But what has been the consequence? All the individuals then employed, and in whose behalf the appeals had been made, who failed to come forward and say that they did not wish any back pay, have now been summarily dismissed from work, and persons not employed before have been substituted in their places. Those very individuals, with all the inconveniences and sufferings that they have suffered, by having been thrown out of work in winter, which sufferings were made use of as an appeal in support of the appropriation to carry on this work, have been thrown upon the world without employment, with prospective suffering added to their past privations. They now come forward with their memorial,

present their case to the Senate of the United States, and ask that it may be taken into consideration and some relief afforded. I present the memorial, and ask that it may be laid on the table and printed.

The PRESIDENT. The motion to print goes to the Committee on Printing.

#### PETITION WITHDRAWN.

On motion by Mr. UPHAM, it was Ordered, That leave be granted to withdraw the petition of certain clerks in the Second Auditor's office.

#### REPORTS FROM STANDING COMMITTEES.

Mr. BORLAND, from the Committee on Public Lands, to which was referred the bill granting to the State of Arkansas the right of way and a portion of the public lands, to aid in the construction of a railroad from Gaines's Landing to Fulton, in said State, reported it back without amendment.

Mr. DOWNS, from the Committee on the Judiciary, to which was referred the memorial of Charles Mason, judge for Des Moines county, Iowa, submitted a report, accompanied by a bill to refund to the county of Des Moines, Iowa, certain expenses of the district court which were paid by that county; which was read and passed to the second reading. The report was ordered to be printed.

Mr. CLEMENS, from the Committee on Military Affairs, to which was referred the bill to refund to the State of California the expenses incurred in suppressing Indian aggressions in that State, submitted an adverse report thereon.

Mr. FELCH, from the Committee on Public Lands, to which were referred the following bills from the House of Representatives, reported them back without amendment:

An act to authorize the Legislature of Mississippi to sell the lands heretofore appropriated for the use of schools in said State; and

An act to legalize certain entries of public lands made in the State of Florida.

He also, from the same committee, to which was referred numerous memorials in favor of a modification of the bounty land law, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the documents in relation to Jim Capers, submitted a report, accompanied by a bill for his relief; which was read, and, by unanimous consent, was ordered to a second reading.

The Secretary commenced reading the bill.

Mr. HALE. I object to the second reading of the bill at this time.

The PRESIDENT. The Chair stated expressly that it could be read a second time only by unanimous consent, and no objection was made in time.

Mr. JONES. It is a negro bill.

Mr. HALE. I object to the second reading.

Mr. JONES. You are too late.

Mr. HALE. I do not understand that I am too late.

The PRESIDENT. The Chair stated that unanimous consent was required, and no objection was made.

Mr. HALE. I want to make a suggestion for the benefit of the Senator from North Carolina, [Mr. MANGUM,] who, when in the Chair the other day, sustained the objection, made by his colleague, to the reading of a bill the second time, after the reading had commenced.

Mr. JONES. I apprehend my friend from New Hampshire does not know that the bill is for the relief of a negro. He was one who served his country gallantly, and in consequence of his faithful service, the committee have reported this bill for his relief.

Mr. HALE. For that very reason I objected; because I thought it indecorous for the Senator from Iowa to suggest that I would be governed by different principles in respect to my action for one man, from those which influenced me with regard to another. Therefore it was that I insisted on my objection.

The PRESIDENT. The Chair thinks the objection came too late.

The bill was then read a second time.

It provides that the Secretary of the Interior shall place the name of Jim Capers upon the list of revolutionary pensioners, and pay him annu-

ally the sum allowed as the pension of one who served as a musician during the revolutionary war; said pension to commence on the 3d day of August, 1850.

Mr. HUNTER. I hope the Senator from Iowa will consent to lay aside that bill, that we may take up the special order of the day.

Mr. JONES. I hope the bill will be considered now.

Mr. HALE. Let the report be read.

The report states that documents were referred to the Committee on Pensions, setting forth the fact that Jim Capers served in the capacity of a drum major, in the revolutionary war, and that the testimony with regard to that fact was quite satisfactory to the committee. Among the documents was a letter, dated June, 1850, from the Hon. B. Fitzgerald, before whom Capers made his declaration, in which he states that there are papers among the documents, relating to the case of Capers, which speak of him as a slave; but that the time when he was mustered into the service and out of it can be proved, as well as the fact of his freedom now, and when he left the service. The committee reported, therefore, that there was no conclusive ground to suppose, that during his service or since, he was a slave, and accordingly reported a bill for his relief.

Mr. HALE. I would like to know from the committee, as I see it is made a great point in the report, if this man had been so unfortunate as to have been a slave, notwithstanding he had established such a character as to have been made an officer in the Army, whether that circumstance would have debarred him from receiving a pension? I do not know of any such rule; and if there be such a rule, I should like to know it.

Mr. DODGE, of Iowa. Question!

The bill was then reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### BILL INTRODUCED.

Mr. DOWNS, by unanimous consent, asked and obtained leave to introduce a bill granting to the State of Louisiana the right of way and a donation of the public lands, for the purpose of locating and constructing a railroad from Shreveport to the Mississippi river, in said State; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed a bill entitled "An act for the relief of Osborn Cross, of the United States Army;" also, that it had passed the bill from the Senate for the relief of Charles G. Hunter, and a bill from the Senate entitled "An act for the relief of Jane Irwin," with an amendment.

On motion by Mr. BERRIEN, the Senate proceeded to consider the amendment of the House of Representatives to the bill for the relief of Jane Irwin, and concurred therein.

The amendment is to add at the end of the bill the words "without interest."

URSULA E. COBB.

Mr. HALE. I move to suspend the morning business for a few minutes, for the purpose of taking up a bill for the relief of Ursula E. Cobb. It has been ordered to be engrossed by the unanimous vote of the Senate; but the Committee on Enrolled Bills saw that the name of this lady was put on the list of pensioners under an act that had been repealed. The committee have ordered a change to be made, and as the bill has been ordered to be engrossed, I hope it may be taken up and amended.

The motion was agreed to.

Mr. HALE. I now propose to amend the bill by striking out all after the enacting clause and inserting the following:

That the Secretary of the Interior be required to place the name of Ursula E. Cobb, widow of the late Charles Cobb, a gunner in the Navy of the United States, on the list of navy pensions, and pay her at the rate of half the pay which her husband was receiving at the time of his death; said pension to commence on the 9th day of May, 1848, and to continue during her widowhood.

Mr. UNDERWOOD. I think this is a suitable occasion to settle the question, whether we shall have pensions granted which are retrospective in their operation.

Mr. HALE. Then I move to amend the amendment by striking out "1848," and inserting "1852."

Mr. JONES, of Iowa. I hope the amendment will not be adopted. The rule adopted in the Department, and carried out under existing laws, is to pay the pensioner up to the time he completes his testimony. The Committee on Pensions have adopted that rule for themselves, and they agreed in this case to give the pension up to the time when the testimony was completed. I think the rule is a fair and correct one, and that the pension should be paid to the time when he ceased to discharge his duty. It is the duty of the pensioner to show the time to which he is entitled to it. I hope the Senator from New Hampshire will withdraw his amendment.

Mr. HALE. I make it to help the woman.

Mr. JONES. I wish to help her still more, and I hope the pension will be given for the full time.

Mr. UNDERWOOD. When this bill was before us the other day, the chairman of the Committee on Pensions did not view the rule which he now states as that by which the committee had been governed. The objection then, to all the bills granting pensions, and which were laid over, was, that we were about to make a different rule from that which has prevailed in the Department. Now, if it is understood that our action is to be the same as that at the Department, I have not a word of objection to make. The principal ground of objection the other day was, that Congress was making or applying one rule, and the Departments another; the rule at the Departments being that the pension shall take effect from the time the proof is completed, and which I am willing to adopt. If the gentleman shows that she completed her proof on the day referred to in the bill, then it is all right.

Mr. HALE. I withdraw my motion to amend the amendment.

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment concurred in.

Mr. ADAMS. I move to strike out the word "widowhood," and insert the word "life," so that the pension shall be during life.

The PRESIDENT. It is too late to make an amendment now, as the amendment made in committee has been concurred in in the Senate. It can only be amended by a reconsideration.

The bill was ordered to be engrossed for a third reading.

#### RAILROADS IN WISCONSIN.

Mr. WALKER. I now move that the Senate resume the consideration of the bill granting to the State of Wisconsin the right of way and a donation of the public land for the purpose of locating and constructing a railroad from Fond du Lac to Janesville.

Mr. HUNTER. I desire to know if the Senator will consent to lay the bill aside at one o'clock, if it is not disposed of at that time.

Mr. WALKER. Certainly. It is not my intention to go beyond that hour.

The motion was agreed to, and the Senate resumed the consideration of the bill as in Committee of the Whole.

Mr. WALKER. All the amendments proposed were agreed to on Thursday last.

Mr. SHIELDS. When the bill was under consideration the other day, I desired some time to prepare a slight amendment. The bill, as it now stands, proposes to aid in the construction of a railroad from the boundary line of the State of Wisconsin to Lake Superior; and I think there can be no objection to that road. It runs through an open and a very fine country. The amendment which I propose is merely to extend the road from the boundary line of Wisconsin to Chicago in Illinois. As the Senate are aware, Chicago is a very important point, and my proposition is merely to continue the road for a short distance in my own State to Chicago. I will offer my amendment, stating at the same time, that, as is well known to the Senators from that section of the country, the road will run through a portion of the country where there is no public land, and that the amendment only proposes the extension of the road to the important point which I have named. I propose to add the amendment as an additional section.

"That the said road be extended from the southern boundary of the State of Wisconsin to the city of Chicago in the State of Illinois, and that the same rights and priv-

ileges be granted to the State of Illinois for that purpose, as are already granted to the State of Wisconsin, and subject to the same restrictions, conditions, and limitations, as those imposed upon the State of Wisconsin: *Provided, however, That the lands for this purpose shall be selected in the State of Illinois.*"

Mr. WALKER. I regret somewhat to see this amendment offered, and would be glad if it might be withdrawn. It is true that the design of the amendment is, to extend this road from the southern boundary of Wisconsin to Chicago. It then operates as an extension of the Central Railroad from your own State, Mr. President, through Wisconsin to Lake Superior. This bill concerns Wisconsin alone, and I could wish that nothing else might be attached to it. Very nearly the same amendment was offered to a bill on the subject of the Central Railroad, which I have named. I was one who then helped Senators to defeat that amendment, and I hope, as this only concerns the State of Wisconsin, this amendment may be withdrawn. Illinois has already had large grants made to her; and although I do not believe this bill so amended would give a single acre of land to the State of Illinois, still it will look like it, and may prejudice the bill. Illinois, as I said, has had large grants, while Wisconsin has had nothing. As the Senator from Illinois has remarked, the road passes through an extent of country where I do not believe there is an unsold acre of land that will sell for five cents an acre. I cannot, therefore, see the necessity of the amendment, and I am sure the Senator does not wish to embarrass this bill. The road will terminate in Chicago, at any rate; but I believe it will be injurious, and even disastrous, to the State of Wisconsin, to have it terminate outside of that State. It will have the effect to drain the State of its very marrow and vitality, as it were; but the Legislature of Wisconsin have acted in favor of the measure, and it is not for me to oppose my wishes to theirs. I do, however, sincerely believe it is an Illinois road, that it pours into the State of Illinois, and takes from the State of Wisconsin almost every interest she has. I am, however, under instructions to aid the passage of the bill, because the people of Wisconsin are in favor of it. I must say that the proposition seems to me to be calculated to embarrass the bill, though I have no idea that he designs to prejudice it. On the other hand, I believe he wishes it success, and I do also, for the reasons I have stated; but its success will be more certain, if the amendment is not incorporated in the bill.

Mr. DOUGLAS. I will state one fact, which may have some influence on the mind of the Senator from Wisconsin with regard to this bill. When I was first consulted with regard to this measure by its friends, the bill proposed to extend the road to Chicago. As I happened to live there, and knew that there was not an acre of land to be granted to Illinois, and that probably the word "Illinois" would raise a prejudice in the minds of some who have supposed that Illinois was getting more than she was entitled to, I suggested to strike out Illinois altogether, and that if this road could be made to Lake Superior, it must be made up to Chicago without any aid, and that we do not need any. And if we did, we could not get a particle by this bill. As the bill does not help us at all, I still think it will be better for our reputation not to have the amendment attached to it, for we have now too much of the feeling against us, that we get bounties when we do not. In consequence of these facts, I appeal to my colleague to withdraw the amendment, although I admit it would be a far more national road to have it so connected with other roads as to terminate at Chicago.

Mr. SHIELDS. I certainly did not offer the amendment with a view of embarrassing the bill. On the contrary, I hoped it might give it some little strength; in other words, that it would give this road a connection with other great roads that have been undertaken. But as it is the opinion of my colleague, as well as that of the Senator from Wisconsin, that the name "Illinois" may prejudice the bill, and as I have no wish to embarrass it, I withdraw the amendment.

Mr. BRADBURY. It would seem from the remarks of the Senators from Illinois, that this road is not an Illinois road, nor is it designed to confer any substantial benefit on that State; and the Senator from Wisconsin states that, in his opinion, it must be prejudicial to the interests of his State—in which opinion I think he is correct. I therefore move that the bill be laid on the table.

Mr. BADGER. The amendment is withdrawn.

The PRESIDENT. The question is on ordering the bill to be engrossed for a third reading.

Mr. BRADBURY. I understood the question. The bill, as it would appear from the statement of Senators, is one which will benefit nobody; and I therefore hope that it will not pass.

The PRESIDENT. The Senator from Maine has moved that the bill be laid on the table.

Mr. BRADBURY. I withdraw the motion.

Mr. DOUGLAS. The Senator's comprehension of what I said is very imperfect, if he supposes I said that this road will benefit nobody. I said that the State of Illinois would not derive an acre of land from the adoption of the proposed amendment to the bill; and as I did not desire to create the impression that we did get benefit, without obtaining the reality, I desired that the amendment might be struck out. So far as the construction of a railroad from Chicago to Lake Superior is concerned, it will be of immense benefit not merely to my State, but to all the Eastern roads connecting with the Atlantic coast. The advantage conferred will be immense; but so far as it relates to a grant of land to Illinois, the bill will not benefit that State to the value of a cent.

Mr. WALKER. I wish not to be misunderstood. I wish it to be understood that my opinion is that this road will be most prejudicial to the interests of my constituents, and I state it here now; in order that when it shall be seen to be so, they may know that was now my opinion. This road is merely an extension of the great Northern and Eastern route, and in supporting the bill now before the Senate, I am acting on the principle of obedience to the people and Legislature of my State, because I do not desire to set my opinion up in opposition to theirs, although I am convinced that it will be a sacrifice of their interests. I therefore hope that the Senator will allow the question to be taken on ordering the bill to be engrossed.

Mr. BADGER. As I understand the honorable Senator from Wisconsin, he is decidedly of the opinion that the bill will be injurious to his State; though I learn that the people of his State entertain a different opinion. Now, I am called upon to vote upon a measure which the Senator thinks will be injurious to his State. I have the greatest regard and the highest respect for his State. I wish his State well; I wish it every good, and no evil. I have more confidence in his opinion on this measure, than in that of the Legislature; and as the question is to be determined, not by wishes, but by considerations of actual good or evil, I cannot give my vote for the bill. I therefore renew the motion made by the honorable Senator from Maine, to lay the bill upon the table.

Mr. DAWSON. I wish simply to ask the Senator from Wisconsin whether this railroad route has ever been surveyed.

Mr. WALKER. It has; and something like ninety miles of it are now under contract.

Mr. DAWSON. Is that the whole extent?

Mr. WALKER. No, sir. Only ninety miles are under contract.

Mr. HALE. I call the Senator to order.

Mr. DAWSON. There is no disorder in that.

Mr. HALE. I call both the Senators to order.

The motion to lay the bill upon the table was not agreed to.

The bill was ordered to be engrossed for a third reading.

#### THE DEFICIENCY BILL.

Mr. HUNTER. I now renew my motion to take up the special order of the day.

The PRESIDENT. The special order comes up as a matter of course.

Mr. ATCHISON. I hope that the special order will be postponed, and that the Senate will proceed to the consideration of executive business.

The PRESIDENT. Two motions cannot be blended. The Senate must proceed to the consideration of one at a time.

Mr. ATCHISON. I trust that the Senate will vote down the motion for taking up the special order, and that we may proceed to act on certain Indian treaties in executive session.

The PRESIDENT. The Senator is aware that the special order comes up without motion.

Mr. MANGUM. What is the order?



The PRESIDENT. The deficiency bill.

Mr. ATCHISON. I move to postpone the further consideration of that bill?

Mr. MANGUM. I hope the Senator will not press that motion. The Indian treaties are certainly of importance, but they cannot be of so much importance as to render it a consideration of any consequence whether they are discussed to-day or next week; but the deficiency bill is of immediate importance, and should be acted on at once. I hope it will not be postponed. The public service is suffering from delay; and really, without any reference to party connections of any sort or description, as it is a question in which the whole country is interested, I trust it will be taken up at once.

Mr. ATCHISON. I am aware that the deficiency bill should have been passed a week ago. I admit the necessity of its passage, but I cannot see any end to that bill. I can assure the Senator from North Carolina, although it may not be proper to give the reasons in open session, that it is highly important that the Sioux treaty should be acted upon, and that immediately. I am urged by the Delegate from Minnesota, and by Representatives from Iowa and Wisconsin, on this subject; and I receive letters daily containing the proceedings of public meetings in relation to this matter; and I have letters, also, from the Superintendent of Indian Affairs, and Indian agents, all urging action upon this treaty. It is important that the treaty should be acted upon, whether it be ratified or rejected, that the people of that section of the country may know what to depend upon.

Mr. HUNTER. I hope that the motion for the postponement of the special order will not prevail. I have received numerous letters, urging immediate action on it a week ago. With reference to the argument used by the Senator from Missouri, [Mr. Atchison,] I would reply, that these Indian treaties may occasion debates, and no one knows how long they may continue.

The question was then taken on the motion to postpone the consideration of the special order; and, on a division, there were—yeas 13, nays 22.

So the motion was not agreed to.

The Senate then resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852—the pending question being on the amendment proposed by the Committee on Finance, as follows:

"For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, in conformity to his last annual report to Congress, and his letter of the 15th of November last, to the Secretary of the Navy, commencing said increased service on the 1st of January, 1852, at the rate of \$23,000 per trip, in lieu of the present allowance, the sum of \$235,500."

Mr. RUSK. I ask the indulgence of the Senate while I make a few remarks on the pending amendment, which I regard as very important. In doing so, I shall be as brief as possible.

The question does not concern merely the continuance of the Collins line of steamers, but it in reality involves the issue, whether we shall continue or abandon the system of ocean mail steamers altogether. It is very evident to me that the opposition to this amendment is not so much to the increase of service upon this line, as it is to the whole policy of ocean mail steamers.

I think the Senator from Virginia [Mr. Hunter] has not brought to its consideration his accustomed fairness, but has raised against it the cry of "monopoly," "protection," and other arguments of the same class. The subject has been treated with reference solely to one of the objects which Congress had in view in adopting this policy, and has been considered merely as a means of making or of losing money.

At the time when this policy was adopted, in 1845, the British Government, as is well known, had been for some time engaged in the contract system, not merely for the purpose of conveying the mails to different countries, but at the same time—and perhaps this was the most important object in view—to provide, at a cheaper rate than it had hitherto been possible to do, a strong steam navy in case of war, as well as to extend her commerce, which has always been the chief element of her great prosperity and power. The argu-

ments made use of at the time the law, under which this contract was made, was passed, were the necessity for providing means to carry the mails, facilitate intercourse with Europe, extend our commerce with other nations, and also to provide a cheap and reliable arm of defense on the ocean in case of war; and, it seems to me, that unless these propositions are met, and it be shown that this line has failed to effect the objects proposed, the argument in opposition to it becomes a failure.

One charge, and perhaps the most grave one, in the mouths of the opponents of a republican form of government is, that it is unstable, subject to sudden changes, and incapable—dependent as it is upon the popular will—of pursuing any steady system of national policy. Are we now to make good this charge? This system has been adopted after mature deliberation, and is intended to accomplish great national objects, and has been in operation but a little over two years. Scarcely any policy, in so short a time, ever gave promise of such great results; and with an overflowing Treasury, we are asked suddenly to abandon it, without giving it anything like a fair trial. Such a course, I think, would be unwise. There is no monopoly in this matter; and to set at rest that objection, I will read a section or two of the law under which this contract was made:

"That the Postmaster General of the United States be, and he is hereby authorized, under the instructions and provisions of the existing laws, to contract for the transportation of the United States mail between any of the ports of the United States and a port or ports of any foreign Power, whenever, in his opinion, the public interests will thereby be promoted; and it shall be his duty to report to the next ensuing Congress a copy of each of said contracts, with a statement of the amount of postage derived under the same, as far as the returns of the Department will enable him to do. And such contracts may be made, if it shall appear to the Postmaster General to be required by the public interest, for any greater period than four years, and not exceeding ten years.

"And be it further enacted, That the Postmaster General shall, in all cases of offers to contract for carrying the mail between any of the ports of the United States and any foreign port or place, give the preference to such bidder for the contract as shall propose to carry the mail in a steam ship or ships, and the said contractor stipulating to deliver said ship or ships to the United States, or to their proper officer, upon demand made, for the purpose of being converted into a vessel or vessels of war; the United States being bound, on their part, to pay to said owner or owners the fair, full value of every such ship or vessel, at the time of such delivery; said value to be ascertained by four appraisers to be appointed, two by the President of the United States, and two by the owner or owners; and in case of disagreement among said appraisers, the President of the United States to select and appoint an umpire, who shall fix the value."

That law exhibits no partiality for any particular company. There is nothing like a monopoly established. The law leaves the contract open to capital and enterprise, wherever found, instead of being confined to any particular section or place. As the Senator will recollect, (for I believe he was a member of the other House at the time,) a good many other reasons were urged and deemed to be conclusive, in favor of the adoption of the policy in question by the Government of the United States. Some ten years previous to that time, the British Government had established several lines of mail steamers, under what is called the contract system. They had contracted with a company to carry the mail between Liverpool and Boston, at a high rate of compensation. The result of the operation of that system was to take all the mail matter from sailing vessels; to take all the traveling and a considerable portion of the freight of light and valuable articles of merchandise; and from calculations made at the time this law was under discussion, it appeared that the "Cunard line," as it is called, not only paid back to the Treasury the amount received on the contract, but also the additional sum of \$5,286,800, in the shape of net revenue to the Government, within six years after its establishment.

Mr. HUNTER. Will the Senator be good enough to mention his authority for that statement? I have frequently heard it made before.

Mr. RUSK. It is contained in the speech of Mr. King, a member of the House of Representatives some years ago, founded upon statements obtained by him from the postmaster at Boston.

Mr. HUNTER. I suspect that is a mistake. I called at the Post Office Department this morning, and could find nothing of this kind. They have no data to show the amount received by the British Government.

Mr. RUSK. I do not apprehend that there was any mistake. That was the amount deriva-

ble from the single item of postage alone; and if the Senator will reflect for a moment on the number of letters which passed between this country and England in the Cunard steamers, and the enormous sum charged on them for postage, he will, I think, perceive that there could be very little, if any, mistake in the amount stated. Mr. King investigated this subject very fully, and obtained all the information in his power relative to the number of letters received and dispatched by those vessels. That statement went into a report then, has since appeared in another report, has met with no contradiction from any quarter, so far as I know, and I think it is to be relied on.

There was another matter that entered into the discussion on this subject, and that was, that the Cunard line had the monopoly of all the travel, and of a large portion of the carrying trade between this country and Great Britain. On that subject there is no mistake. We had no steam marine; we had nothing then that could be compared with the Cunard ships in accommodation for travelers; and the result was, that every individual who desired to go from this country to Europe, by steam, paid for his passage in the Cunard line; and all who had freight to pass between the two countries, which required rapid dispatch, paid for it at the prices of that line. By these means we were furnishing an active capital, transporting it from our own citizens to the pockets of British subjects, and, at the same time, encouraging the latter in the establishment of a strong steam marine. But this was not all. The British Government had, at that time, and had had for several years, a contract with another company, called the "West India and Gulf of Mexico Company," to which they were then paying, and have continued to pay annually since, \$1,200,000 per annum, or within \$200,000 of the entire amount that we pay for all the lines that we have at this time. The ships of this line, built suitable for war purposes, strong and substantial, the best ships in the contract service, were visiting our ports constantly. That line was to consist of twenty ships. They visited Mobile, then Orleans; and, in fact, we were dependent upon them for our intercourse with the neighboring country of Mexico. They were visiting our coasts constantly; and who does not know that every British officer and seaman, wherever he stops, is on the look-out for all the information which may be made available to his country in time of war? What was our condition, then? Sailing vessels were beginning to be superseded by steam; and whether the steam-ships referred to would have answered for war purposes or not, one thing is very certain, their celerity of motion would have enabled them to keep out of danger; and in case of any rupture between Great Britain and this country—and our defenseless condition would have been the strongest inducement to such a rupture, if she had had any national object to accomplish—what would have been the condition of our Southern coast? Every city there would have been liable to be burnt at the shortest notice. This state of affairs required that we should put ourselves in a condition for defense; and, in order to effect this, we had to do one of two things: we were obliged to strengthen our steam marine, by adopting the ocean mail-contract system; or by adding, at an immense cost, to our steam-navy proper, a large additional number of steam-ships. The experience of Great Britain on the subject, had shown that the contract system was better than the construction of ships for the navy proper; that it was less expensive, and that, at the same time, it produced equally as good, or perhaps better, vessels, and furnished them with a large number of engineers, who could be employed in managing vessels of that description in time of war.

Under these circumstances this contract was made. Who at that time supposed, when the British had had ten years the start of us, that we should be able, within two years after this man Collins and his associates made the contract, even to compete with the British line, with its immense capital, its immense Government pay, and ten years experience! Who ever imagined it! No man was found daring enough to hazard such an opinion. The man would have been considered as visionary then who would have said, that in two years "you would bear off the palm from your adversary who has always boasted of being the mistress of the seas, and that even she would

admit your victory, so soon after you put this machinery in operation." I say, such a man would have been considered more wild and visionary than I can be in hazarding the declaration now, that twenty years will not have passed before steam will have in a great measure superseded sails as the great motive power on the ocean. Under these circumstances these men entered into the contract for the purpose of establishing this line.

I know it is said that they have not complied with their contract, and, therefore, we should abandon it. I know it is said that they have not built vessels suitable for war purposes, and, therefore, the enterprise should be abandoned. I know it has been said that it is not an economical measure; that we shall lose money out of the Treasury if we continue the system, and that therefore it had better be abandoned.

As economy is the order of the day, suppose we take up, in the first place, the financial portion of the system. The Collins line has received, in two years, \$770,000. It has returned to the Government, in postages on letters, up to the 1st of March, 1852, \$373,337 80. I know that in some speeches made upon this subject—I believe in one made by the Senator from Virginia—the latter amount is reduced to something like \$313,000, by taking away three twenty-fourths of the sum, which, under the postal treaty goes to Great Britain. I know the gentleman did not intend to argue unfairly. By the postal treaty, we are entitled to five twenty-fourths of the postages received by the Cunard line, which more than offsets the amount paid to Great Britain by the Collins line out of the \$373,000.

Mr. HUNTER. I think the Senator from Texas did not understand me: \$373,000 was the entire amount of the sum of ocean postage received for letters transported by the Collins line. Out of that, I say, the Collins line can only be fairly credited with two thirds—that is, sixteen cents on each letter. Five cents on each letter go to the United States for inland postage. The Collins line does not earn that; that is necessary for inland transportation. Three cents on each letter go to England for inland postage. The Collins line does not earn that. All that it earns is sixteen cents on each letter—that is, two thirds of the whole amount, which is all that should be credited to them.

Mr. RUSK. Yes, sir; and with that very statement we have, under the postal treaty, received from the Cunard line an amount which more than counterbalances the sum paid to Great Britain, for which no credit has been allowed to the Collins line.

Mr. HUNTER. We would not transport these letters through this country for nothing. We must be paid for it.

Mr. RUSK. And how are the letters or the pay for them received except by the Collins line? and but for its existence we should not receive, as we now do, a part of the earnings of the Cunard line. So that, so far as that matter is concerned, the calculation which the honorable Senator made falls, and the Collins line is entitled to a credit of more than \$373,000 on their letters. It is a matter of small moment, however.

The Government dispatches have been estimated for one year at \$3,200; and now there have been two years since this line was set in operation. I feel confident that the estimate is about as correct as the estimate for the franking of documents—that it is about one half of what it should be, for it is a mere estimate. No account has been kept of it, although it was furnished from one of the Departments, and is for one year; and the ships have now been running two years. Then, the closed mails have amounted to the sum of \$39,151 58; newspaper postage to \$46,858 88; leaving a balance against the United States Government of the enormous amount of \$256,459! which is the balance left from this ruinous expenditure, in return for which we have four of the finest ships that float on the ocean, and the reputation of having surpassed the English in two years upon their favorite element. But there are other considerations of high moment and importance, to which I shall allude hereafter.

In 1850, the first year this line was in operation, the postages amounted to \$169,907. In 1851 it amounted to \$343,641; showing an increase in the second year of their running, over the first, of \$183,734. Remember that this increase took place

in the face of the fiercest opposition that could possibly be waged against any enterprise, and in the face of ruinous disadvantages. In the first place, the Collins line made but one trip to the Cunard line's two; and does not everybody know that it is a matter of importance to commercial men to transmit their communications with celerity and promptitude? Hence the delay took letters from the Collins and gave them to the Cunard line. But that was not all. Every effort was made to break them down in every way. It was said that their ships were unsafe. Every man knows that Englishmen, from the highest to the lowest, will stand to the last by their own country, and its industry and productions. I hope the time will soon come when America will stand as fast by theirs. Every effort, then, was made to break down the Collins line. Freight, which was £8 per ton in the Cunard line, came down, when they went into operation, to £4 per ton. More than that: I have seen, by the advertisements, that when a Cunard ship was to sail from Liverpool, and there was no ship of the Collins line there, freight would run up to £7, and when one of the Collins line was there it would run down to £4, and even lower. In many instances freight was transferred from Havre to Liverpool, free of charge, for the purpose of getting it in the Cunard line.

Collins and his associates, then, have contended against this opposition; and when they have accomplished vastly more than was promised by the law when it was passed, they are fiercely encountered in the Senate of the United States, with those words so potent, "economy" and "monopoly."

Sir, I know but little of Mr. Collins; but I understand that this is not a monopoly with him; that any gentleman can purchase stock in the enterprise who chooses to do it; and that it has been a losing business with him. I understand further, from official authority, that he has produced four of the finest ships that float on the ocean. I know besides—and I know it from English testimony—that he has succeeded in distancing English ships upon the ocean, and in producing better vessels, which have greater speed and more safety, which, to my mind, is a consideration of great importance. I know these to be facts; and for them, he is charged with being a monopolist. He would be very differently treated if he were an Englishman, and had accomplished such a victory over any other rival Power, as that which America, through his means, talent, and capital, has accomplished over the Power that has claimed, for ages past, to be the mistress of the seas. There would have been no man in England who would have charged him that he lived in a particular section; that he had fine mirrors in his ships; that he was an aristocrat; that he was a monopolist. There would have been no man in Parliament who would have charged him with any of these things. No, sir; but there would have been men there to have heaped honor and distinction upon him, for having, at an immense cost to himself, as I will show, maintained the honor and reputation of his nation against the rivalry of a strong company, supported by a foreign Government.

But, say gentlemen, it is a monopoly. Well, sir, if I were going into monopolies, this would be just such a one as I would like to keep out of. All had a chance to go into it. All had a right to come forward, and endeavor to obtain the contract, and risk their capital in it. But it seems that none availed themselves of it but Mr. Collins and his associates. The ships of the Collins line have made twenty-one voyages between New York and Liverpool, at an average expense of \$65,215 44 a trip. The whole expense of running the ships amounts to \$1,369,528; and the whole cost of the ships to \$2,944,142. The entire amount of money which has been expended is \$4,313,671. They have received per voyage \$48,286; or in all, for passage-money, freight, and mail pay, \$1,014,023 85; so that they are left upwards of \$2,000,000 minus in their operations. This is a sort of monopoly which it seems to me they need not be very thankful to Congress for having conferred upon them.

It has been said that they have not complied with their contract, and have not produced ships that will answer for war purposes. I desire, from official documents, to prove the contrary. I read, in the first place, from what Commodore Perry said in 1850, before the vessels commenced operation:

"The delay in the completion of the vessels that have actually been commenced under the contract with E. K. Collins and associates, and A. G. Sloop, may be chiefly ascribed to the overpress of work at the steam engine manufacturing in the city of New York—the demand for steam machinery having been greatly increased by circumstances growing out of the accession of territory to the United States; and probably the manufacturers, unaccustomed to the construction of engines of such magnitude—some of them almost unprecedented as marine engines (in extent of power) in any part of the world—may have miscalculated the time that would be required to complete them. The contractors used every means of hastening the completion of the engines. Such as have been put in operation reflect high credit on those who constructed them.

"It will appear, from the reply to the first question, that most of the vessels contracted for have been somewhat larger than was probably contemplated by the contracts, and, of course, are proportionately more costly; but they have not been rendered thereby less effective for the transportation of the mails, or for war purposes. The cost of the hulls of these vessels may be estimated as coming within fifty-five to seventy dollars per ton, according to the value of the materials and manner of construction."—Commodore Perry and Cunningham, 12 June, 1850, p. 12.

Captain William Skiddy, January 21, 1849, says:

"Mr. E. K. Collins's specification and agreement with the Government call for much less than has been executed, such as iron diagonal framing only one way; whereas they are double, crossing each other at right angles, and well bolted to timbers, and riveted together; also the filling in amidships has been extended the whole length of the ship, with many other additions.

"The dimensions of these ships are: length of keel, 274 feet; on deck, 280 feet; extreme beam, 45 feet; depth, 31 feet; between decks, 8 feet; middle deck, 7 feet 9 inches; orlop, 7 feet; and the custom-house tonnage about 2,700. They are well built and thoroughly fastened. It is to be regretted that live oak could not be procured for their entire frames, as they are mostly bolted with copper throughout.

"The engines constructed by Messrs. Stillman, Allen, & Co., and J. P. Alaire & Co., are, for each ship, two engines of 95 inches cylinder, with 9 feet stroke, equal to 800 horse nominal power.

"These ships have great buoyancy, flat, broad floors extending well forward and aft, with sharp ends, and are considered beautiful models.

"They have spacious deck-room, and could carry guns of the largest calibre on the gun or middle deck. They are now preparing to launch.

"These ships can all, in case of emergency, be converted into fast war steamers. They would by law be received by appraisement on their original cost, and their efficiency as to strength and materials.

"The necessary alterations included, would cost the Government much less—perhaps one half the amount required to build or purchase for the occasion.

"In case of war, there would be no time to build; and these are the only ships of sufficient strength and size in the United States that could be converted into war steamers, with two or three exceptions."

Commodore Perry, January 30, 1849, again says:

"The contract of Mr. E. K. Collins and associates is in progress of completion. Two ships, the 'Atlantic' and 'Pacific,' are nearly or quite ready for launching, and their engines and boilers are sufficiently advanced for commencing the work of putting them on board. Great pains have been taken to make the engines of these vessels, as well as those of the 'Georgia' and 'Ohio,' worthy the high reputation of the respective establishments at which they are being constructed.

"As the contract with Mr. Collins does not refer to any particular vessel as a guide for the model or manner of construction of his ships, he has availed himself of the best materials at command, and of his well-known judgment and experience in ship building, in producing two very superior sea-steamers. The deviations from the provisions of his agreement are, in some respects, that his vessels are, according to the statement of Captain Skiddy, better fastened than was contracted for, and instead of engines of direct action, he also has preferred the side-lever engine. These will be, of nominal power, about nine hundred horses, but of sufficient capacity to work conveniently at a higher rate.

"The several contracts provide that all these steamers shall be so constructed as to be easily converted into war vessels, should the Government exercise its right of taking them into the public service, under certain stipulations. So far as respects their suitability for convertibility, it may be remarked, that in view of the service which they are expected to perform to their present owners, in the transportation of the mails, with passengers and freight, they will be fitted with numerous cabins below and above deck. These, or most of them, would be necessarily removed for the reception of an armament and the requisite crew of a vessel of war, and it would also be necessary to arrange magazines, shell-rooms, shot-lockers, and other secure lock-up places in the hold, for which there would be ample space.

"Steamers are more easily armed than sail vessels, inasmuch as they have greater space on deck for heavy pivot guns, which are decidedly preferable for vessels of this description, possessing, as they do, greater facilities of motion, and consequent choice of position. Very little time would be required in arming and equipping them for war service, as nothing more would be wanting than the removal of their light deck and cabins and the arrangements for the armament, munitions, and stores, with some necessary strengthening of the gun-deck.

"On the whole, therefore, I feel myself free to observe, that as a first experiment, the three contracts above referred to promise to result to the United States, and to the contractors, as favorably as could have been expected under all the circumstances. The undertaking is one of vast

magnitude for individual enterprise, and of momentous character to the commercial interests of the country—an undertaking alike creditable to the liberal views of the Government, and the public spirit of the contractors; and though it may not be possible to accomplish, according to the very letter, all the stipulations originally contracted for, yet enough will be done to reflect honor and credit upon both contracting parties.

"If the vessels are not constructed with as much care and expense as those at our navy-yards, it has been in some measure because the best materials could not be obtained; and whether they are as substantially built or not, they are only to be taken into the public service at an appraised valuation.

"They will have the merit of possessing the great essentials of capacity, buoyancy and fleetness, and capability of carrying effective armaments; and if taken for their estimated worth at the time of transfer, the Government will be the gainer at a period of emergent want for such vessels."

NEW YORK, April 5, 1850.

STR: In obedience to your instructions of the 29th ultimo, we have inspected the new steamship "Atlantic," recently built under the contract with Mr. E. K. Collins and his associates, authorized by the act of Congress of 3d March, 1847, for the mail service therein contemplated, and have the honor to report that, in our opinion, she has been built in conformity with the requirements of the act of Congress above referred to. Although not in accordance with every particular stipulation of the contract, as has already been made known to the Department by the superintendent in charge, she is constructed of suitable dimensions, build, and finish, to conform with the contract for carrying the mails on her destined route; and, with the preparations and additions of suitable war appointments, she could be easily converted into a war steamer of the first class.

The "Atlantic" is now ready to receive the officers of the Navy provided for by the third section of the act above indicated.

We have the honor to be, very respectfully, your obedient servants,  
M. C. PERRY.

The Hon. WM. BALLARD PRESTON,  
Secretary of the Navy, Washington.

NEW YORK, October 8, 1850.

STR: In obedience to your instructions of the 23d ultimo, we have inspected the new steamship "Arctic," recently built under the contract with E. K. Collins and his associates, authorized by the act of Congress of 3d March, 1847, for the mail service therein contemplated, and have the honor to report that, in our opinion, she has been built in conformity with the requirements of the act of Congress above referred to.

Although not in accordance with every particular stipulation of the contract, as has already been made known to the Department by the superintendent in charge, she is constructed of suitable dimensions, build, and finish, to conform with the contract for carrying the mails on her destined route, and with the preparations and additions of suitable war appointments, she could be easily converted into a war steamer of the first class.

The "Arctic" is now ready to receive on board the officers of the Navy provided for by the third section of the act above indicated.

We have the honor to be, very respectfully, your obedient servants,  
M. C. PERRY.

The Hon. W. A. GRAHAM, CHAS. H. BELL,  
Secretary of the Navy, Washington.

I concur in this report, as to her being a mail steamer of the first class.  
JOHN LENTHALL.

NEW YORK, November 2, 1850.

STR: In obedience to your instructions of the 30th ultimo, we have inspected the new steamship "Baltic," recently built under the contract with Mr. E. K. Collins and his associates, authorized by the act of Congress of the 3d March, 1847, for the mail service therein contemplated, and have the honor to report that, in our opinion, she has been built in conformity with the requirements of the act of Congress above referred to.

Although not in accordance with every particular stipulation of the contract, as has already been made known to the Department by the superintendent in charge, she is constructed of suitable dimensions, build, and finish, to conform with the contract for carrying the mails on her destined route, and with the preparations and additions of suitable war appointments, she could be easily converted into a war steamer of the first class.

The "Baltic" is now ready to receive on board the officers of the Navy provided for by the third section of the act above indicated.

We have the honor to be, very respectfully, your obedient servants,  
M. C. PERRY.

The Hon. WM. A. GRAHAM, CHAS. H. BELL,  
Secretary of the Navy, Washington.

I concur in this report, as to her being a mail steamer of the first class.  
JOHN LENTHALL.

Commodore Perry says, April 9, 1850:

"The mail steamers of the contracts of Howland & Aspinwall, of George Law, and of E. K. Collins, can be easily converted into war steamers for temporary service, in cases of particular emergency. These vessels, with little strengthening of the decks, can be made to carry each a few guns of heavy calibre, and may be rendered useful in convoy, in the transportation of troops, carrying dispatches, conveying public functionaries, &c., &c., but their service could only be contingent, and, as before remarked, temporary."

February 18, 1852, he says:

"According to my calculation, the cost of the conversion of either of the before-mentioned vessels, exclusive of armaments, repair of machinery, and ordinary repair, would not, or certainly ought not, exceed, for steamers of the first class, \$30,000, and for those of the second class, \$15,000; and it could be readily done for this at any of our navy-yards, provided that useless alterations were not made.

"It should be taken into view that those mail steamers,

if called into service as war vessels, would be considered as forming an auxiliary force to the regularly-constructed ships, and hence the impolicy of expending much money on them. The requisites of sound hulls and powerful engines, with efficient armaments, should alone be considered, leaving superfluous ornament out of the question.

"The armaments of the respective vessels would, of course, be a separate cost; and to arrange the guns on the upper deck, it would only be required to close up three or four of the hatches or sky-lights; to strengthen the deck by additional beams and stanchions; to cut ports, and construct the pivot and other carriages; probably it might be desirable to shift the capstan and cables.

"With respect to the description and weight of the respective armaments, I am clearly of opinion that the first-class steamers already named could easily carry each four 10-inch Paixhans guns on pivots, two forward and two aft, of the weight of those in the Mississippi; ten 8-inch Paixhans, as side guns, ditto.

"The second-class steamers could with equal ease carry each two eight-inch Paixhans on pivots, one forward and one aft, and six 6-inch ditto, as side guns.

"With the additional strengthening recommended, I am perfectly satisfied that the armaments suggested would not, in the least, incommode the vessels. Indeed, the weight of armament would be actually less than that which would be taken away by the removal of the upper decks and cabins; and the miscellaneous articles usually stowed on one or the other of two decks—such, for instance, as ice, of which not less than forty tons is generally packed in one mass; nor would the munitions and provisions required for the war vessel be of greater weight than the goods now carried as freight, saying nothing of the provisions and stores carried by the steamers for an average of one hundred and fifty to two hundred and fifty souls, including crew and passengers."

Captain Kiddy says, February 18, 1852:

"STR: I herewith acknowledge your communication of the 10th instant, to Commodore M. C. Perry and myself, relative to United States mail steamers built under contracts with the Navy Department, and others carrying the United States mails.

"In reply, I will commence with the first-class ships, which are the 'Atlantic,' 'Pacific,' 'Baltic,' and 'Arctic,' of Collins's Liverpool line; the 'Franklin' and 'Humboldt' of Mortimer Livingston's Havre line.

"These ships, although equal in strength, probably, to any steam-ships afloat, are not suitable for immediate war purposes, but can be made efficient in four or six weeks capable of carrying the armament or battery of a first-class frigate—say four 10-inch guns and twelve 8-inch guns. These alterations would consist of the removal of the deck-houses, spar or upper deck, forward and abaft the paddle-wheel boxes, fitting the after and forward bulwarks in sections, cutting port-holes, fitting hammock cloths or nettings, putting in extra beams and knees and stanchions, moving the windlass below, building magazines, shell-rooms, officers' rooms, &c., &c. The cost of all these alterations and fixtures would not exceed (\$15,000 or \$20,000) \$30,000 each ship. These ships would then be relieved of about one hundred and fifty tons' weight, or nearly double the weight of guns and carriages, with less resistance to water and wind, adding an increase to their already great speed."

House document 91, page 2, Mr. Graham, Secretary of the Navy, March 8th, 1852, says:

"The contractors of the Liverpool line engaged to build five steamships, of not less than 2,000 tons measurement each, for the transportation of the mail between New York and Liverpool, and each with steam machinery of one thousand horse-power, or thirty-three cubic feet of cylinder to every one hundred tons register, each ship to be of sufficient strength for war purposes, and to be so constructed that she may be converted, at the least possible cost, into a war-steamer of the first class; the materials, dimensions, and full specifications of the hull of said ships, and their steam machinery, being contained in two schedules, which belong to and form part of the contract; the first of the steamships to be ready for service in eighteen months from November 1st, 1847, and three others as soon thereafter as each may be required, and the fifth to be commenced and built as early as may be practicable thereafter. The service stipulated under the contract is as follows: 'And said Collins and his associates further agree, that they will carry said mails, as aforesaid, in said steam-ships, twice each month, (that is to say, twice from New York and twice from Liverpool,) during eight months of the year, and once a month, (that is to say, once from New York and once from Liverpool,) during four months of the year; and for the service, as stipulated, they are to be paid 'the just and full sum of \$385,000 per annum; the contract to continue in full force and virtue for the term of ten years from the commencement of service, the contractors agreeing and binding themselves to sell, convey, and deliver said steamships to the Navy Department, whenever they may be required for public purposes; that the said Department shall at any time have the right to take them for the exclusive use of the United States, and the proper value of the said ships, when so taken or sold as aforesaid, to be ascertained by appraisers, two of them to be selected by the Secretary of the Navy, and two by said Collins and his associates, which four, in the event of disagreement, shall elect a fifth, and the valuation to be then fixed by a majority of the appraisers, and to be paid by the Government for the vessels so taken. By the seventh section of the act approved March 3d, 1849, the Secretary of the Navy was authorized so to modify the contract with E. K. Collins and his associates, as to postpone the commencement of the mail service stipulated to be performed, until as late as the 1st day of June, 1850, which was accordingly done.

"This line has had a powerful competitor in the Cunard line of mail steam-ships, under liberal patronage from the British Government; but has thus far been victorious in the speed of its passages across the Atlantic, having, in several instances, performed them in less than ten days."

"While the discussions of these officers justify the conclusion that vessels of this description cannot be relied on to supersede those modeled and built only for purposes of

war, it is respectfully suggested that a limited number of the former, employed in time of peace in the transportation of the mail, would be found a most useful resource of the Government on the breaking out of war. If conforming to the standard required by these contracts, their readiness to be used at the shortest notice, their capacity as transports for troops and munitions of war, and their unequalled celerity of motion, which would enable them to overhaul merchantmen, and at the same time escape cruisers, would render them terrible as privateers or guerrillas of the ocean, if fitted with such armaments as could be readily put on board, even in their present condition."

These statements come from officers who are not at all prejudiced in favor of the system of contract steamers, and whose regard for the truth cannot be questioned.

I desire now to call the attention of the Senate to some extracts which will show what the British Government thinks on this subject. Captain William H. Hall, of the British Navy, in the course of his examination before the special committee of the House of Commons, says:

"I some time ago sent to the Admiralty a plan for making the whole of the merchant steamers available in case of need; and if there were an act of Parliament that these ships should be strengthened forward and aft to carry guns, it might be then done with a very trifling expense; that would give this country more power than any other country in the world. We have nearly one thousand steam vessels, half of which, at least, might be made available in case Government required their services. Our merchant steamers are some of the finest in the world, and five hundred of them might be turned to account. They should all be numbered and classed, so that Government would merely have to ask for the number of vessels they wanted, when they might go to Woolwich, or other places, and put the guns on board, and then they would be ready for service."

Here is the opinion of a Captain in the British Navy with reference to the availability of steam-vessels for national defense; and what a lesson does it teach us in America, where steam navigation is found penetrating every portion of the Union, and spreading itself on our maritime and lake frontier in every direction! Here is found no expression of apprehension lest the mercantile steamers might interfere with the growth or efficiency of the navy to which the witness belonged. This opinion, moreover, is expressed in a country where, according to the testimony before the committee already named, there were, in 1848, 174 war steamers, with an aggregate horse-power of 44,480 horses; and where Mr. Alexander Gordon states, in a letter addressed to the same committee, the steam navy had then cost the country £6,000,000 sterling, or \$30,000,000, "exclusive of all reinstatement and expenses during commission;" the same gentleman also alleging that the annual repairs amounted to..... £108,000  
Annual cost for coals..... 110,000  
Depreciation at a moderate allowance..... 600,000

Making the total amount of annual cost..... £818,000  
Or..... \$4,094,000

The regular employment of the best engineers on board of contract vessels, and the great experience they would acquire from being constantly on active duty, would furnish to the naval service, in the event of a war, a corps that would be invaluable. In speaking of the superiority of the engineers on board of contract vessels in the employ of the British Government over those on board of the Queen's ships, a witness before the select committee of the House of Commons says:

"Last year there was a universal complaint of the inferiority of the engineers and all persons connected with steam employed in her Majesty's service. It was explained, and very easily explained, by the superior advantages in the merchant service, and particularly the high wages paid. In all contract steam-packets, they have men on board the vessels who are competent to superintend any alterations or repairs in the machinery which may be required."

Mr. HUNTER. What was the date of that examination?

Mr. RUSK. It was in 1847. Since that time a number of additional contracts have been made by the British Government.

There is one thing here to be remarked in relation to this agent—steam. I know that it is said that it cannot be applied to war purposes; and the opinion of officers of the Navy, who are prejudiced against it, have been cited in support of this opinion. But with the steam power which the British Government possesses at this moment, if it became her policy to do so, I hazard but little in saying that she could sweep the commerce of any nation from the ocean—not even excepting her great rival, the United States. In 1847 she could bring nearly a thousand steamers into service, and



twenty-seven of them she had upon our coast, all suitable for war purposes. All the steamers which are built and put afloat upon the ocean by the British, are so built, under their laws, that they can be used for war purposes. This is not the case with us. We have not twenty steamers belonging to the Navy proper, that we can use for war purposes. Without the steamers which we have under the contract system, we have not twenty that can be so used; and, including the contracts, we have but about forty that can be applied to war purposes. Our ordinary steamers cannot be so applied; and why? It is because of that sort of economy which neglects, in time of peace, to prepare for emergencies that may hereafter happen. The British Government permits no vessel to be propelled by steam that is not inspected, and required to be of a certain amount of tonnage, and of sufficient strength. We, on the contrary, go in for cheapness, and for the saving of money. The experience of the two countries has displayed itself fearfully upon that subject. We may, perhaps, have made money; but we have sacrificed human life to an awful extent.

Then, sir, under these circumstances, considering the disproportion which exists between our steam marine and that of England, what are we to do? Must we abandon this enterprise? When the victory is in our hands are we to throw it away, and say that it is too costly to keep it? and that, too, at a time when any reasonable man, who will examine the case, must see that these lines, so far from being a charge on the Treasury, will not be ten years old before they will bring a large revenue to the Government. Are we, then, to put ourselves in a position to invite foreign Governments to be our rivals? for it must be remembered that the British Government is not the only one that is making use of this mighty power of steam. Are we, under the cry of economy, which is so potent just before a presidential election, to abandon everything which looks toward putting ourselves in a position to defend our rights upon the ocean? Are we now, for temporary purposes, to abandon a system, which, in my opinion, will, in a very few years, not only extend our commerce, but which, without additional expense, will furnish us on the ocean, as we have on the land, with strong arms and stout hearts, ready to defend us, which are not quartered upon the Treasury of the United States.

Sir, we are extending our commercial relations. The world is extending its commercial relations. If we would build a Chinese wall around our country, we cannot stop the enterprise of our citizens. They will go to every country under the sun, and they will trade; and our commerce will be exposed on every sea. Shall we take no step to put ourselves in a condition to defend it? We are liable at any moment, in the present disturbed condition of the world, if all that we have heard here about intervention, and the outburst of slumbering revolutions in favor of the liberal principle in Europe be true—and probably there is some truth in it—to be involved in a rupture with some foreign Government. What would be the result? We would have to allow our merchants to be robbed upon the ocean, or we would have to adopt another system. If we should not adopt the contract system in time, we would have to do as England did before she adopted it, and spend thirty or forty, or perhaps an hundred millions to increase our Navy proper.

Much has been accomplished by this line. Its proprietors have fully complied with their contract. It is so stated by your own officers. The outlay which you have made is only \$126,000 a year, and that under circumstances which show you that the next year you will be paid back a part, or the whole of it; and that in a very few years, especially if you put this line on an equality with the Cunard line, it will be a source of revenue, even if we increase the compensation to the amount asked for. Of this I have no sort of doubt. This system has, then, produced you four of the finest ships in the world. There are no finer ships afloat. It has not only done that, but it has put you in a condition which it would have taken you five years, by the operation of the Government, to attain, in order to defend yourselves in case of a maritime war. At the time Collins and his associates went into this business, there were no machine shops here; machinery for steam-ships, before that time, had to be imported from England.

There were no engineers in this country who could be trusted to carry a steam-vessel across the Atlantic. This company have, by their outlay of capital, and at a ruinous loss to themselves, created machine-shops here that can vie in their productions with England or any other country, and they have now engineers who can be more safely trusted than even those who have been educated in England for a lifetime; because they take the kind of materials out of which they can make those who are not bound down to certain rules, but who have a spirit of enterprise and experiment, and reason as well as learn by rote. This company has changed the direction of millions on millions of capital from the pockets of British subjects to American citizens. It has raised up mechanics who would be indispensable to us in case of a rupture with any foreign nation. It has created a school of engineers, which will also be important, and who will reflect high credit upon the American name.

Sir, as I said before, you cannot stop this. Steam has revolutionized the world; it is bringing men of different nations face to face; it is bringing distant nations close together, and it draws after it in its train, consequences which the most daring statesman cannot now foretell, or foresee. You must control it, or it will control you. In the hands of others, it will control you. Controlled as it is in our power to control it, it will become the element of infinite prosperity to us, but in the hands of rival nations it must become the source of national degradation and loss to us. Before the enterprise of these men; before they run this risk—and a great risk it was; before they applied their capital and ingenuity and talent to the production of this line of steamers, you were paying just whatever price a British Company chose to ask of you for the transmission of your light and valuable freights, and for the passage of every citizen of this country who chose to visit Europe. You were taking out of the pockets of American citizens and putting into those of a British Company millions upon millions of capital, while you were paying taxes and expenses to make Great Britain the strongest naval Power upon earth.

Gentlemen have cried out that if we adopt this proposition it will be protection. It is a protection to all. As you extend your commerce, every man that will work is protected by it.

Under such circumstances it would be very ridiculous, in my conception, to abandon a measure of such vast national importance. The British Government would laugh at you. It has been too much the case that they have availed themselves of American inventions heretofore. The cry of monopoly has broken down a great many useful institutions in this country; and the cry of monopoly will be and has been raised against these vessels. Steam is your own invention, and England is using it. I think the Senator from Virginia said he was in favor of free trade and an "open ocean." Sir, I could not regard the ocean as very open when a thousand British war vessels were hovering upon our coasts, and we have but forty to meet them.

This is a sort of openness of the ocean, from which, may God deliver me. It would indeed be open to England, and our ports would be open to her too. This, however, is a kind of "open ocean" and free trade, against which I solemnly protest.

A great deal has been said about sectional feelings in this matter. Now, it seems to me, that of all parts of the country, the Southern portion is more interested than any other in this system. In the Northern part of the Union there are many towns and a dense population; and there are means of transportation between different parts of the country, so that a force could soon be concentrated to defend any particular point of attack. In the South, however, it is altogether different. There there is a sparse population over a great extent of country, without the means of rapid concentration at any particular place. Thus, with the advantage of ocean mail steamers in the hands of an enemy, all the Southern coast towns could be reached and burnt before you could get a national vessel near them, or could concentrate the power and force of the country to defend the coast. It seems to me, then, that opposition to this measure on sectional grounds comes strangely from the Southern section of the country. Southern oppo-

sition seems to me strange upon another ground. It is evident that the multiplication, as far as possible, with wisdom and without extravagant cost to the Government, of the means of commerce with foreign nations will enlarge our commercial relations to a vast extent. Our commerce has been greatly increased within the last few years. Is that any damage to the South? What section of the Union is most interested in the extension of commerce? Certainly the producing portion of the country. When it is remembered that the Southern section produces two thirds of all the exports that go from the country, it is a most suicidal policy for it to oppose anything that tends to extend, as far as possible, our commercial intercourse with the balance of the world. We have nothing to fear, but everything to hope from such a source. Our prosperity is involved in it. The defense of our towns depends upon it. We must do something for our self-protection, either by expenditures of this description, or by an enormous outlay for the increase of the navy in every case of emergency. Is it not wiser to expend a few hundred thousand dollars now, even if there should not be any expectation of its being returned to the Treasury, than to have to expend millions in case of an outbreak in Europe or elsewhere? But there is no fear that every dollar that you invest in an enterprise of this description, when wisely invested and upon proper lines, will not be returned a thousand fold into the Treasury, in the shape of postages and duties upon importations, on account of increased commercial intercourse with foreign nations. Even should the cost be great, would it not be wiser to put yourselves in a situation of defense beforehand, by the encouragement of this system, than to run the risk of having to do it at an enormous expense in case of emergency?

If you abandon this system, you will not have the proper kind of mechanics or machine shops, nor proper safeguards to human life. Ships will be built on the cheap plan, and will be slaughter-houses on the seas. They may be built at one half or one third the cost of the Collins steamers, but as soon as they get into a storm upon the ocean, down they will go, and will carry thousands upon thousands to their watery graves. Unfortunately, such has been too much the case with all our operations with steam in this country. Since peace was concluded with Mexico, there have been more widows and orphans made by this agent—steam—within the jurisdiction of the United States, than were made during the war with that country. It was done because we have not acted wisely upon this subject. We have the right to control this matter, but we have left it to unrestricted private enterprise, and we have seen what the consequences have been. We have been economical with money, but we have displayed more recklessness with regard to human life than any other civilized country on the globe.

Our people will travel upon the seas—we have the power, and it becomes our duty to provide for the safety of human life.

This system has been in operation for more than two years. We have twenty-four noble ships in the service, capable of adding much to our general prosperity in peace, and dealing heavy blows to an enemy in war. To these ships, so far, no accident has occurred involving the loss of life. Although there have been two or three instances in which the most thrilling anxiety has been felt for persons on board, yet, in the end, they have been restored to their anxious families, after having passed in safety through the perils of the ocean.

We have many steamers upon the economical "open sea" plan; in what manner have they succeeded in this respect?

Sir, the bitter tears of widows and orphans can answer this question more feelingly and more eloquently than I can.

There is, to my mind, a vast advantage in extending this system. It brings your citizens into immediate intercourse with all the nations of the earth; and, as they unite with those nations, as they mingle with them, they will bring back for the improvement of their own country whatever they may find worthy of imitation; while whatever they may see worthy of their condemnation will but make them the more strongly attached to that liberty and those institutions which they so happily enjoy.

By assuming the place that Providence seems to have designed for our common country, we

should effect, not by war, not by interference with foreign nations, but by extending a commerce which shall be profitable to our own citizens, and furnish them with employment, and by using steam, which is your own invention, do more towards enlightening and christianizing the world, if we are true to ourselves, in the administration of the powerful resources which Providence has thrown into our hands, than the boldest statesman would dare now to prophesy. Under these circumstances, it seems to me that we cannot abandon this system. I must hear some better reason than I have yet heard, to induce me to do so. I feel certain that it will remunerate the Treasury, if you will give it a fair opportunity. While the British Government is paying the Cunard line \$696,000 a year—and I am informed that that amount has lately been increased nearly \$500,000 more; and while it is paying \$1,200,000 more to lines to visit the waters in our immediate neighborhood, within \$200,000 of all that you pay for ocean mail steamer service, has the Senate of the United States become so *economical*, so fearful of increasing *monopoly*, that it will refuse to make an appropriation of less than one fourth of that amount, without which these noble ships must be drawn off their station, and the supremacy of the seas acknowledged still to rest in England?

Mr. HUNTER. Mr. President, if no one wishes to say more on the same side of the question on which the Senator from Texas has spoken, I should like to close the debate. My views have been a good deal assailed, and I feel bound, in justice to myself, to say something in reply to the various gentlemen who have spoken on the question. If, however, there be any gentleman who desires to speak in favor of the amendment, I shall decline speaking now, and wait until he has done. I would prefer to say what I have to say now; I would like to close debate immediately, as I seem to be almost alone in opposition to the amendment.

Mr. CLARKE. Mr. President, I would suggest to the honorable Senator from Virginia that my colleague [Mr. JAMES] was desirous of delivering his views upon the subject, and obtained the floor for that purpose during the last week, but was called away. He will probably be here by tomorrow. The day is now pretty well spent; I think there is hardly time enough for the honorable Senator from Virginia to close his remarks to-day; I think that it would therefore be proper to postpone the further consideration of this subject until to-morrow, and we could meet the views of the honorable Senator from Missouri, [Mr. ARCHISON,] by going into Executive session for the remainder of the day. If my colleague does not return by to-morrow morning to deliver his views to the Senate, the Senator from Virginia can take the floor and proceed with his remarks.

Mr. BADGER. Mr. President, I do not understand exactly the position which my friend from Virginia occupies on this subject. He says he would be glad to close the debate. Now, if he had reported this amendment from the Committee on Finance, and had supported it, I could understand him. But this is an amendment reported from a committee of which he is a member, and he opposes that amendment. Yet he says he wishes to close the debate upon it, after those who are in favor of it shall have said what they wish to say. I had supposed that the parliamentary usage or courtesy referred to would enable the member of a committee who reported an amendment or a bill, to close the debate upon that amendment or bill, and in support of it. I do not exactly understand how it is that the Senator from Virginia, being opposed to the amendment, claims the privilege of closing debate upon it.

Mr. HUNTER. Of course, I claim no right or privilege upon the subject. Almost all of the speaking on the amendment has been on one side of the question. I am very willing to go on now, if it is desired by the Senate.

Several SENATORS suggested that it would be desirable to have an Executive session.

Mr. HUNTER. As it is evidently the desire of the Senate to have an Executive session, I move to postpone the further consideration of the bill until to-morrow, at one o'clock.

The motion was agreed to.

#### EXECUTIVE BUSINESS.

On the motion of Mr. ATCHISON, the Senate

proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, May 3, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Saturday was read and approved.

LIEUTENANT CHARLES G. HUNTER.

The SPEAKER. The first business in order is the motion submitted by the gentleman from Tennessee, [Mr. POLK,] last Monday, to suspend the rules for the purpose of taking up the Senate bill for the relief of Charles G. Hunter.

Mr. STUART. I wish to appeal to the gentleman from Tennessee to allow me to submit a motion that the House proceed to take up and dispose of all the business on the Speaker's table. It certainly ought to be done. The business of the country is suffering from neglect.

Mr. POLK. I would like very much to accommodate the gentleman from Michigan, but really this bill is one which requires immediate action. The object of the bill is to do justice to a gallant naval officer.

A MEMBER. It is not in order to discuss it now.

Mr. POLK. I know it is not in order to discuss it now; but I hope the House will take up the bill now and dispose of it. It is a meritorious bill. There is nothing complicated about it. It can be understood merely from its reading. It was reported unanimously by the committee in the Senate, to which it was referred, and passed the Senate unanimously. It is for the relief of as gallant a man as there is in the world.

The question was then put; and two thirds voting in the affirmative, the rules were suspended.

The bill was then taken up, and read a first and second time by its title.

The bill, which was then read through by the Clerk, authorizes the accounting officers to allow the said Hunter, in adjusting his accounts, the sum of \$7,949 88, being the amount of losses sustained by him while commander and acting purser of the Scourge and schooner Taney.

The question now being, "Shall the bill pass?"—

Mr. POLK demanded the previous question.

Mr. STANTON, of Ohio. Has the bill ever been referred to a committee in the House?

The SPEAKER. It is a Senate bill, and it has not been referred.

Mr. STANTON. I move that it be referred to the Committee on Claims. I want the bill to be examined by a committee before I vote for it.

[Cries of "No!" "No!"]

Mr. CARTTER. It is a Senate bill, and has been thoroughly investigated there.

Mr. STANTON. I will withdraw the motion to refer.

Mr. DANIEL. Is there a report from the committee in the Senate? If there is, I ask that it be read.

The SPEAKER. There was no report accompanying the bill sent here from the Senate. The Chair is not informed whether there was a report made to that body or not.

Mr. POLK. The matter was thoroughly investigated in the Senate, and there was no difference of opinion in relation to the merit of the claim.

Mr. DANIEL. I should not like to vote on it in the dark.

Mr. FOWLER. I should like, before I vote for this claim; to know something with regard to it. I hope the gentleman [Mr. POLK] who brings the bill forward, will make a statement of the case, so that we may know upon what it is we are called on to vote.

The SPEAKER. The Chair will state that debate is not in order during the pendency of the demand for the previous question.

Mr. FOWLER. I am aware that it is not; but I ask the gentleman to withdraw the demand for the previous question until he has made his statement in relation to it.

Mr. POLK. When the previous question is adopted I will explain it.

Mr. FOWLER. I want to know what the merits of the case are, before I vote upon it.

Mr. DANIEL. It is said now to be all fair,

but when we come to investigate it, we may find a different state of affairs.

The SPEAKER. The Chair must interpose, and remind gentlemen that this subject is not debatable during the pendency of the previous question.

Upon seconding the demand for the previous question, sixty-one rose in the affirmative.

Mr. CARTTER. I ask for tellers.

Mr. DANIEL. I rise to a question of order. I ask if this bill does not make an appropriation, and whether, under the rule, it must not go to the committee of the Whole on the state of the Union?

The SPEAKER. The Chair understands that it does not make an appropriation.

Tellers were then ordered, and Messrs. CARTTER and FOWLER were appointed, and a count being had, the tellers reported—ayes 78, noes 42.

So the previous question received a second, and the main question was ordered to be put.

The bill was then ordered to, and received its third reading.

The question recurred on the passage of the bill.

Mr. POLK. I call for the previous question.

The previous question received a second; and the main question being on the passage of the bill was ordered to be put.

Mr. EVANS. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

Mr. FOWLER. I now ask the consent of the House, that the gentleman who introduced this bill may make an explanation of it.

Mr. CARTTER. I call the gentleman to order. The question is not debatable.

Mr. STANLY. Is there any report from a committee?

Mr. CARTTER. It is recommended by the unanimous vote of the Senate.

Mr. STANLY. It is a proverb, "The Senate passes anything." I should be glad to hear something about this case. Let us know what it is.

The SPEAKER. The main question having been ordered to be put, discussion is not in order. Whether there was a report in the Senate upon this subject, the Chair is not informed. The Clerk will again read the bill.

The bill was accordingly read by the Clerk.

Mr. EVANS. I wish to call the attention of the Speaker to the bill, to see if it does not include an appropriation, which makes it necessary that it should go to the Committee of the Whole on the state of the Union. It evidently takes from the Treasury \$7,000.

Mr. POLK. It does not take a dollar from the Treasury.

The SPEAKER. The Chair thinks it does not contain an appropriation.

Mr. POLK. If the House will allow me—

The SPEAKER. The gentleman from Maryland [Mr. EVANS] rises to a question of order, and the Chair begs leave to respond to that question of order. The Chair would inform the gentleman from Maryland that it has been uniformly held that a bill, for instance, fixing the salary of officers, does not involve an appropriation within the meaning of the rule which would require it to go to the Committee of the Whole on the state of the Union. The Chair thinks this bill is of the same nature, and need not, under the rules and practice of this body, go to the Committee of the Whole.

Mr. COBB. I rise to a privileged question. I move to reconsider the vote by which the bill was ordered to be engrossed. That will present the opportunity for gentlemen to tell us something about this bill.

Mr. HART. Is it in order to make that motion?

The SPEAKER. It is; but the question is not debatable.

Mr. HART. Then I move to lay the motion to reconsider upon the table.

Mr. OLDS. I rise to a question of order. My point of order is, that after the House has ordered the main question to be put upon the passage of the bill, we are under the operation of the previous question, and the motion to reconsider cannot be debated.

The SPEAKER. That has been the decision of the present Speaker of the House upon several occasions.

Mr. COBB. Is that the Speaker's decision now?

The SPEAKER. It is; for the Chair is not very apt to disregard his own decisions.

The question was then taken upon the motion of Mr. HART, to lay the motion to reconsider upon the table; and it was agreed to.

Mr. MASON. I should like to know why it is that gentlemen wish to press this bill through the House without some explanation.

The SPEAKER. Any explanation or discussion upon the subject of the bill must be by unanimous consent of the House, the main question having been ordered to be put upon the passage of the bill.

Mr. CLEVELAND. I move that the gentleman from Tennessee [Mr. POLK] have the unanimous consent of the House to make an explanation of this bill.

Mr. STEPHENS, of Georgia. I object. The previous question has been ordered.

The question was then taken on the passage of the bill, and there were—yeas 104, nays 56; as follows:

YEAS.—Messrs. Aiken, Willis Allen, William Appleton, Ashtie, David J. Bailey, Thomas H. Bayly, Bartlett, Beale, Bockock, Boyne, Bragg, Breckinridge, Briggs, Albert G. Brown, George H. Brown, Burrows, Busby, E. Carrington Cabell, Joseph Cable, Carter, Caskey, Chandler, Chapman, Chastain, Clingman, Curtis, George T. Davis, John G. Davis, Dawson, Dimmick, Doty, Duncan, Edmundson, Ewing, Faulkner, Fitch, Floyd, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gaylord, Gentry, Gilmore, Goode, Gorman, Sampson W. Harris, Hart, Haws, Haven, Hubbard, Hobaday, Houston, Howard, Ingersoll, Jackson, Robert W. Johnson, George W. Jones, J. Glaney Jones, Kurtz, Letcher, Humphrey Marshall, McCormick, McDonald, McLaanahan, McMullin, Meade, Morrison, Murray, Olds, Andrew Parker, Samuel W. Parker, Penna, Polk, Porter, Powell, Robbins, Sackett, Savage, Schermerhorn, Scudder, David L. Seymour, Skelton, Stanley, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stone, St. Martin, Stratton, Strother, Stuart, Sweetser, Taylor, George W. Thompson, Thurston, Ward, Watkins, Wells, Addison White, Alexander White, Wilcox, Wildrick, Williams, and Woodward—104.

NAYS.—Messrs. Allison, Averett, Babcock, Barrere, Buell, Churchwell, Clark, Cleveland, Cobb, Conger, Cottman, Cullom, Daniel, Dockery, Eastman, Evans, Ficklin, Fowler, Giddings, Goodrich, Grow, Harper, Hascall, Hebard, Hendricks, Henn, Hillyer, Horsford, John W. Howe, Thomas M. Howe, Ives, Jenkins, John Johnson, George W. King, Kuhns, Lockhart, Mace, Mann, Martin, McNair, McQueen, Metcalf, Miller, Miner, Morehead, Murphy, Newton, Pennington, Perkins, Benjamin Stanton, Abraham P. Stevens, Thaddeus Stevens, Townshend, Tuck, Walbridge, and Wallace—56.

So the bill was passed.

Mr. POLK. I move to reconsider the vote by which the bill was passed and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### JANE IRWIN.

Mr. McDONALD. I ask the unanimous consent of the House to make a report from the Committee on Revolutionary Claims. The committee have had it in hand for two months, seeking an opportunity to make a report.

Mr. STEPHENS, of Georgia. I would inquire if it is the bill for the relief of Miss Jane Irwin?

Mr. McDONALD. It is.

Mr. STEPHENS. I hope the House will permit the bill to be reported.

Mr. HAMILTON. I object.

Mr. McDONALD. I move that the rules be suspended, to enable me to report the bill.

The question was put upon the motion, and it was agreed to.

Mr. McDONALD then, from the Committee on Revolutionary Claims, to which was referred Senate bill No. 171, for the relief of Jane Irwin, reported that they had adopted the report of the Senate, as to the facts of the case, and instructed him to report the bill, with a recommendation that it do pass.

The bill, which was then read by the Clerk, authorizes the Secretary of the Treasury to pay to Jane Irwin, for services and losses sustained by her father, Colonel Jared Irwin, an officer in the war of the Revolution, half pay as captain for the period of thirty-five years.

Mr. STEPHENS, of Georgia. I move to suspend the rule of the House which requires this bill to go to the Committee of the Whole on the state of the Union.

The question was put, and there were, upon a division, yeas 112; noes not counted.

So the rule was suspended.

Mr. DANIEL. I hope the report will be read. The report, which was read by the Clerk, shows

that Jane Irwin is the only surviving child of General Jared Irwin, who was an officer in the war of the Revolution; that he was in many sieges and battles, in each of which he distinguished himself for his bravery and gallant conduct; that he continued in service during the whole war, and contributed much valuable aid in the struggle for independence; that such was his zeal and activity in the cause of his country, that he rendered himself peculiarly obnoxious to the enemy, who omitted no opportunity of laying waste his fields, burning, and destroying, and carrying off his property; that at one time he lost one hundred head of cattle, a number of valuable horses, also two negroes, very valuable; that he built a fort, called Fort Burke, in which the inhabitants all took shelter, at his own expense; that from all that is known, it does not appear that he received any remuneration for his services, or for the heavy losses he sustained, either from the General Government or from Georgia, except a bounty of two hundred and fifty acres of land from the latter. That after the close of the revolutionary war he was much engaged in suppressing Indian hostilities on the borders of the State; that in order to protect the citizens he built and garrisoned, with four hundred men, with his own means, for two months, a fort at White Bluff; that during these border difficulties, himself and family suffered many losses and hardships; that he had much of his property destroyed and carried off, and his wife and family were often compelled to leave their home and seek safety in the swamp, in which they remained all night in great peril and exposure; that it does not appear that Colonel Irwin ever received any pay for his services, or remuneration for the money expended or losses sustained in quelling these disturbances, or protecting the citizens. It is further shown that Jane Irwin, the petitioner, has been reduced from affluence to dependence, and is now almost entirely destitute.

Mr. McDONALD. I move that the bill be put upon its passage, and upon that motion I call for the previous question.

Mr. HALL. I ask of the gentleman from Maine, [Mr. McDONALD], who reported this bill, if there is any provision in it which provides that interest shall not be paid upon the amount specified in the bill? If the bill is passed in its present form, I have no doubt but that interest will be paid upon it.

Mr. McDONALD. If the House will allow me, I will reply to the gentleman from Missouri, that no Department of the Government can have any pretense for the payment of interest under this bill.

The SPEAKER. Demand has been made for the previous question, and debate is out of order during its pendency.

Mr. HALL. I will request the gentleman from Maine to withdraw his call for the previous question, that I may be able to propose as an amendment, the addition of the words "without interest."

Mr. McDONALD. I will interpose no objection to the gentleman's amendment, provided the unanimous consent of the House be granted for the introduction of the amendment, without the withdrawal of my call for the previous question.

There being no objection, the words "without interest" were ordered to be inserted in the bill.

Mr. DANIEL. I wish to propound a single inquiry to the gentleman from Maine, who reported the bill, and it is this: For what time will half pay be given by the bill?

Mr. McDONALD. Thirty-five years.

Mr. DANIEL. Why did not General Irwin make a demand for the half pay to which he was entitled during his life?

Mr. STEPHENS, of Georgia. I will answer the gentleman. It was because General Irwin at that time was a man of affluence. He built these forts, and expended all the property for which indemnity is asked out of his own ample funds. He did not during his lifetime need it.

Mr. DANIEL. How long did he fail before his death?

Mr. STEPHENS. He did not fail at all. He died a man of wealth. His family since have become involved in difficulties.

The call for the previous question was then seconded, and the main question, which was on the third reading of the bill, was ordered to be put.

The question being taken, the bill was ordered

to be read a third time. The bill was then, according to order, read the third time.

Mr. CLINGMAN. I move to reconsider the vote by which the bill was ordered to a third reading, and to lay the motion to reconsider on the table.

The question was put on the latter motion, and it was agreed to.

The question then recurred upon the passage of the bill.

Mr. CLINGMAN. I call for the previous question.

The call for the previous question received a second, and the main question was ordered to be put.

Mr. DANIEL. Upon the passage of the bill I demand the yeas and nays.

The yeas and nays were not ordered.

The question being taken, the bill was then passed.

Mr. POLK. I move to reconsider the vote by which the bill was passed; and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

#### BUSINESS ON THE SPEAKER'S TABLE.

Mr. COBB. There are a great many bills from the Senate and Executive communications upon the Speaker's table, awaiting reference to the committees, and I think it is better that we should proceed to their consideration. I therefore submit the motion that the House proceed to the consideration of the business on the Speaker's table.

Mr. McMULLIN. Would it be in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole House upon the state of the Union on the special order?

The SPEAKER. It will be in order, provided the proposition submitted by the gentleman from Alabama [Mr. COBB] is not agreed to.

Mr. McMULLIN. I object to the motion of the gentleman from Alabama.

Mr. COBB. I move that the rules of the House be suspended, that I may be able to submit my motion.

The question being taken upon the motion to suspend the rules, it was agreed to—yeas 101, noes not counted.

Mr. COBB. I now submit the motion, that we proceed to the consideration of the business upon the Speaker's table.

The question was then taken, and the motion was agreed to.

Mr. STANTON, of Ohio. I trust the gentleman from Alabama and the House will yield their unanimous consent to the introduction of a bill merely for the purpose of reference.

Mr. COBB. I have no objection.

Mr. STUART. Until the Speaker's table has been cleared, I object to the transaction of any other business.

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER, according to order, laid before the House the following Executive communications, which were severally read, viz:

To the Senate and House of Representatives of the United States:

I invite the attention of Congress to the state of affairs in the Territory of Oregon, growing out of a conflict of opinion among the authorities of that Territory in regard to a proper construction of the acts of Congress approved the 14th of August, 1848, and 11th June, 1850, the former entitled "An act to establish a territorial government in Oregon," and the latter entitled "An act to make further appropriations for public buildings in the Territories of Minnesota and Oregon." In order to enable Congress to understand the controversy, and apply such remedy with a view to adjust it as may be deemed expedient, I transmit.

1st. An act of the Legislative Assembly of that Territory, passed 1st February, 1851, entitled "An act to provide for the selection of places for the location and erection of public buildings of the Territory of Oregon."

2d. Governor Gaines's message to the Legislative Assembly of the 3d February, 1851.

3d. The opinion of the Attorney General of the United States, of 23d April, in regard to the act of the Legislative Assembly of the 1st February, 1851.

4th. The opinion of the supreme court of Oregon, pronounced on the 9th December, 1851.

5th. A letter of Judge Pratt, of the 15th December, 1851, dissenting from that opinion.

6th. Governor Gaines's letter to the President, of the 1st January, 1852.

7th. Report of the Attorney General of the United States on that letter, dated 22d March, 1852.

If it should be the sense of Congress that the seat of government of Oregon has not already been established by the local authorities pursuant to the law of the United States for the organization of that Territory, or if so established,



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should be deemed objectionable, in order to appease the strife upon the subject which seems to have arisen in that Territory, I recommend that the seat of government be either permanently or temporarily ordained by act of Congress, and that that body should, in the same manner, express its approval or disapproval of such laws as may have been enacted in the Territory at the place alleged to be its seat of government, and which may be so enacted until intelligence of the decision of Congress shall reach them.

MILLARD FILLMORE.

WASHINGTON, April 19, 1852.

On motion by Mr. LOCKHART, referred to the Committee on the Territories, and ordered to be printed.

*To the House of Representatives:*

In compliance with the resolution of the House of the 31st ult., I have the honor herewith to transmit a report from the Secretary of War, accompanied by the original manuscript report of Captain Thomas J. Crane, dated February 3d, 1844, on the best mode of improving the navigation of the Ohio river at the Falls of Louisville; together with the original map accompanying the same.

MILLARD FILLMORE.

WASHINGTON, April 6, 1852.

On motion by Mr. TAYLOR, referred to the Committee on Roads and Canals, and ordered to be printed.

*To the House of Representatives:*

In compliance with the resolution of the House of Representatives of the 18th instant, I transmit a copy of the correspondence with John P. Gaines, Governor of the Territory of Oregon, relative to the seat of government of the said Territory.

MILLARD FILLMORE.

WASHINGTON, March 26, 1852.

On motion by Mr. GAYLORD, referred to the Committee on Territories, and ordered to be printed.

*To the House of Representatives:*

I transmit herewith the report of the Inspectors of the Penitentiary of the United States, in the District of Columbia, for the year ending 31st December last.

MILLARD FILLMORE.

WASHINGTON, April 2, 1852.

On motion by Mr. FICKLIN, referred to the Committee on the District of Columbia, and ordered to be printed.

*To the House of Representatives:*

As a further answer to the resolution of the House of Representatives of the 5th of January last, requesting information in regard to a circular of her Britannic Majesty's Secretary of State for colonial affairs, in respect to the encouragement of the emigration of colored laborers from the United States to the British West India Islands, I transmit another dispatch addressed to the Department of State by the Minister of the United States at London.

MILLARD FILLMORE.

WASHINGTON, March 25, 1852.

On motion by Mr. BAYLY, of Virginia, referred to the Committee on Foreign Affairs, and ordered to be printed.

*To the Senate and House of Representatives*

*of the United States of America:*

At the close of the commission to adjudicate upon the claims of citizens of the United States, under the treaty of Guadalupe Hidalgo, I directed a list to be made of papers which had been presented to that commission, and, pursuant to the act of Congress approved 3d March, 1849, the papers themselves to be carefully arranged and deposited for safe keeping in the Department of State. I deemed all this necessary, as well for the interest of the claimants, as to secure the Government against fraudulent claims which might be preferred hereafter. A few days since, I was surprised to learn that some of these papers had been fraudulently abstracted by one of the claimants, and upon the case being made known to me by the Secretary of State, I referred it to the Attorney General, for the purpose of ascertaining what punishment could be inflicted upon the person who had been guilty of this offense. I now communicate to you his opinion, and that of the attorney of the United States for this District, by which you will perceive that it is doubtful whether there be any law for punishing the very grave offense of fraudulently abstracting or mutilating the papers and public documents in the several Departments of this Government. It appears to me, that the protection of the public records and papers requires that such acts should be made penal, and a suitable punishment inflicted upon the offender, and I therefore bring the subject to your consideration, to enable you to act upon it, should you concur with me in this opinion.

MILLARD FILLMORE.

WASHINGTON, March 26, 1852.

On motion by Mr. SWEETSER, referred to the Committee on the Judiciary, and ordered to be printed.

The SPEAKER also laid before the House the following communications, viz:

I. A communication from the Department of State, transmitting tabular statements, agreeably to an act of Congress of March 2d, 1819, regulating passenger ships and vessels; showing the number

and designation of passengers that arrived in the United States from the 30th September, 1850, to the 1st January, 1852, compiled from the returns made to that Department by the collector of customs; which, on motion by Mr. SEYMOUR, was referred to the Committee on Commerce, and ordered to be printed.

II. A communication from the Treasury Department, transmitting from the Second Auditor's office, copies of such accounts as have been rendered by persons charged or intrusted with the disbursement and application of the money, goods, and effects, for the benefit of the Indians, for the two fiscal years terminating, respectively, on the 30th June, 1850 and 1851, together with statements containing lists of the names of persons to whom goods, moneys, and effects, have been delivered within the same period, specifying the amounts and objects for which they were intended, &c.; which,

On motion by Mr. SWEETSER, was referred to the Committee on Public Expenditures and ordered to be printed.

III. Also, a communication from the Treasury Department, transmitting a report from the First Comptroller, covering copies of the correspondence between that Department and E. Hamilton, Secretary of Oregon Territory, as required by resolution of the House of Representatives of the 18th ultimo; which,

On motion by Mr. STUART, was referred to the Committee on the Territories and ordered to be printed.

IV. Also, a communication from the Treasury Department, transmitting a report from the Register of the Treasury, with a transcript of the accounts of Trenholm & Belt, for the printing executed in their names for the Senate and House of Representatives of the Thirty-first Congress, in compliance with a resolution of the House of Representatives of the 26th ultimo; which,

On motion by Mr. ROBBINS, was laid on the table, and ordered to be printed.

V. Also, a communication from the Treasury Department, transmitting, at the request of the Secretary of War, an estimate from the Commissary General of Subsistence for the service of his department for the fiscal year ending the 30th June, 1853, which he desires shall be substituted for one for the same object transmitted to Congress at the commencement of the present session; which,

On motion by Mr. HOUSTON, was referred to the Committee on Ways and Means.

VI. Also, a report from the Secretary of the Treasury, showing that the appropriations of the 28th and 30th September, 1850, of \$10,000 cash, made by Congress for locating the life-boats, &c., on the coast of the United States, had been expended in pursuance of the law, under the direction of the Life-Saving and Benevolent Association of New York, by authority of this Department, in building boat-houses, purchasing boats, life-cars, and other articles for the saving of life and property from shipwreck on the coast; and that many persons had been rescued from imminent peril by means of these boats being located at different points on the coast. The report asked for a further appropriation of \$20,000.

On motion by Mr. SEYMOUR, it was referred to the Committee on Commerce, and ordered to be printed.

VII. Also, a communication from the Treasury Department, covering a letter from the Secretary of War, showing that a reduction of \$525,522 52 can be made in the estimates submitted at the commencement of the present session from the War Department, for the fiscal year ending June 30, 1852; which,

On motion by Mr. HOUSTON, was referred to the Committee on Ways and Means, and ordered to be printed.

VIII. A communication from the Department of the Interior, transmitting, in obedience to the requirements of the 11th section of the act of the 26th August, 1852, a list of the clerks and other persons employed in that Department and its

bureaus during the last year, and showing the time employed, and the amount paid to each; which, on motion by Mr. CARTTER, was laid upon the table and ordered to be printed.

IX. A communication from the Post Office Department, transmitting, in obedience to the requirements of the 4th subdivision of the 22d section of the act to change the organization of the Post Office Department, and to provide more effectually for the statement of the accounts thereof, a statement of the finances of the Post Office Department for the year ending the 30th of June, 1851, duly certified by the Department of the Treasury for the said Department; which,

On motion by Mr. OLDS, was laid upon the table and ordered to be printed.

X. Also, a communication from the Post Office Department, transmitting, in obedience to the same act, statements from the Contract Office, duly certified by the Second Assistant Postmaster General, of the contracts preceding the first day of July, 1851, other than those let to contract at the annual lettings of mail contracts; which,

On motion by Mr. OLDS, was laid upon the table and ordered to be printed.

## PATENT OFFICE REPORT.

XI. Also, a communication from the Patent Office, transmitting the agricultural portion of the report for the year 1851.

Mr. CARTTER. I move that the report lie upon the table and that it be printed; and I give notice that, when the printing question is settled, I will move the printing of an extra number.

Mr. ALLISON. I wish to inquire whether the motion of the gentleman from Ohio [Mr. CARTTER] is not to print the report?

Mr. CARTTER. That was my motion; but I stated that as soon as the question of printing was settled, I would make a motion for the printing of extra copies. I now make the motion that one hundred thousand extra copies of the report be printed. That is the number which was ordered by the House last year.

The SPEAKER. By an express rule of the House, any motion to print extra copies must go to the Committee on Printing.

Mr. CARTTER. Well, I make the motion.

The SPEAKER. Does the gentleman move to refer his motion to the Committee on Printing?

Mr. CARTTER. No; I move that one hundred thousand extra copies of the report be printed.

The SPEAKER. That motion is not in order.

Mr. HOUSTON. I understand that the motion of the gentleman from Ohio is in order; but as soon as he makes the motion, that rule itself refers the motion to the Committee on Printing. If the Chair thinks it necessary, I will move to refer the motion of the gentleman from Ohio to the Committee on Printing.

The SPEAKER. The motion must go to the Committee on Printing.

Mr. CARTTER. I make a motion simply for the printing of a hundred thousand extra copies. The reason why I do not move the reference to the Committee on Printing is, as is known by every one in the House, that the question of printing is, at this time, undisposed of.

The SPEAKER. The proposition of the gentleman must go to the Committee on Printing, and the Chair will so order.

Mr. CARTTER. If that is the operation of the rule, of course I cannot object to it.

The SPEAKER. The Chair thinks that has been the practice, but he is not quite sure.

Mr. HASCALL. I move to amend the motion of the gentleman from Ohio, by adding after the word "hundred" the word "fifty," so as to make it read one hundred and fifty thousand extra copies.

The SPEAKER. The Chair hardly thinks that that amendment can be entertained. The proposition of the gentleman from Ohio is simply to print an extra number of copies, and under the rule it must go to the Committee on Printing, to be considered and reported on. When the Committee make their report, it can be amended.

Mr. CARTTER. I would inquire of the Chair what disposition has been made of my proposition.

The SPEAKER. The Chair has decided that under the rule, the proposition must go to the Committee on Printing. The Chair does not remember what has been the practice of the House under that rule.

Mr. CARTTER. Has any motion to refer been made?

The SPEAKER. Such a motion has not been made. A motion to print extra copies having been made by the gentleman from Ohio, that proposition must go to the Committee on Printing. The Chair thinks, however, that it would be more regular that a motion to refer should be made.

Mr. CARTTER. It appears to me so, and I move to refer the agricultural report to the Committee on Printing, with instructions to report to the House in favor of printing one hundred thousand extra copies.

The SPEAKER. Does the gentleman from Ohio propose to instruct the committee?

Mr. CARTTER. Yes, sir.

The SPEAKER. Then the Chair is half inclined to think that the motion must lie over for consideration.

Mr. CARTTER. Then let it lie.

The SPEAKER. It cannot be considered, in the opinion of the Chair, in the shape in which the gentleman from Ohio has proposed it. The gentleman from Ohio proposes to instruct the Committee on Printing to order certain extra copies to be printed.

Mr. STANTON, of Ohio. I suppose a motion to refer to the Committee on Printing is not in order, because it implies the power to vote down the reference, and the rule is absolute, that a motion to print extra copies shall go to that committee.

The SPEAKER. The rule is imperative that every proposition to print an extra number of copies—no matter what the number—must go to the Committee on Printing. What the practice of this body has been under that rule, the Chair does not remember; the rule is not a very old one. The gentleman from Ohio proposes to instruct the committee to order a certain number of extra copies, to be printed, and the Chair thinks that that motion must lie over.

Mr. STUART. I rise to a question of order. This House cannot instruct the Committee on Printing, which is a joint committee.

The SPEAKER. The Chair decides that the motion is out of order. It is not competent for this House to instruct that committee.

Mr. CARTTER. Then I move that the report be laid upon the table and printed.

Mr. FULLER, of Maine. I desire to arrive at the same result as the gentleman from Ohio, [Mr. CARTTER], and I would therefore inquire of the Chair if it would not be in order to instruct the Committee on Printing to inquire into the expediency of reporting that a certain number of extra copies of this report shall be printed, thus indicating to the committee the sense of the House on the subject? If it be in order, I will make that motion.

The SPEAKER. The Chair thinks it is hardly competent for this House to instruct that joint committee. There is a joint rule which requires that all propositions to print extra copies shall go to the joint committee. That is under the general law. If, therefore, the gentleman submits a proposition to print an extra number of copies, the Chair must rule that that proposition must go to the joint committee under that joint rule, which is the law governing both Houses.

Mr. HOUSTON. The gentleman from Maine will accomplish his object by making a simple motion to print an extra number of copies; and it matters not whether the number be ten thousand or one hundred thousand. That motion, under the joint rule, to which the Chair has correctly referred, carries the subject to the Committee on Printing. It is made the duty of that committee to take up the whole subject connected with the document and report to the House what number they think ought to be printed.

The SPEAKER. What was the precise motion made by the gentleman from Ohio?

Mr. CARTTER. My first motion was to lay on the table and print.

The SPEAKER. That has been ordered.

Mr. CARTTER. I will withdraw my subsequent motion.

The motion was withdrawn.

Mr. HIBBARD. I move to print one hundred thousand extra copies.

The SPEAKER. That motion, under the joint rule, goes to the Committee on Printing.

The following bill from the Senate was taken up in its order, and read a first and second time by its title, viz:

"An act (No. 157) for the relief of the securities of Elijah J. Weed, late quartermaster of marines, deceased."

Mr. STANTON, of Tennessee, moved to refer the bill to the Committee on Naval Affairs.

Mr. DANIEL moved to refer the bill to the Committee on Claims.

The question was first put upon Mr. STANTON's motion; and, on a division, there were—ayes 12, noes 32; no quorum voting.

Mr. CARTTER demanded tellers; which were ordered; and Messrs. FULLER of Maine, and STANTON of Tennessee were appointed; and the question being again put, there were—ayes 44, noes not counted.

So the motion was not agreed to.

The question was then put upon Mr. DANIEL's motion; and it was agreed to.

So the bill was referred to the Committee on Claims.

#### IOWA LAND BILL.

The following Senate bill, coming up in its order, was read a first and second time by its title, viz:

"An act (No. 1) granting the right of way and making a grant of land to the State of Iowa, in aid of the construction of certain railroads in said State."

Mr. CLARK. I move that that bill be referred to the Committee of the Whole on the state of the Union, and that it be made the special order for the second Tuesday in June, and from day to day thereafter until disposed of.

Mr. HOUSTON. Can we have a division of that question?

The SPEAKER. The Chair thinks that a motion to make a special order is not in order, without a suspension of the rules.

Mr. CLARK. Then I move to suspend the rules.

Mr. HOUSTON. We are acting under a suspension of the rules now.

Mr. HIBBARD. Is it in order to move to amend the motion of the gentleman from Iowa by striking out that part of it which proposes to make this bill the special order?

The SPEAKER. The Chair thinks that the motion to make the bill the special order for a particular day is not in order.

Mr. CLARK. I would ask the Chair for what reason it is not in order?

The SPEAKER. The Chair must reply that the rules of the House do not allow it.

Mr. CLARK. I ask for information, in order that I may know if I can make the motion so as to be in order.

The SPEAKER. If we were engaged in clearing the Speaker's table in the ordinary way under the rules, it would be competent for the gentleman, on Monday, to move to suspend the rules for the purpose he desires. But it is not in order now, for the reason that we are acting under a suspension of the rules, and the Chair does not see how it can well admit of a motion to suspend the rules a second time upon business on the Speaker's table.

Mr. CLARK. If we are acting under a suspension of the rules, it does not exactly appear to me why my motion is not in order.

The SPEAKER. We are acting under a suspension of the rules, which enabled us to go to the business on the Speaker's table.

Mr. HIBBARD. I move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. That motion has already been submitted by the gentleman from Iowa, and that gentleman further submits a motion that the bill be made the special order for a particular day. The Chair thinks, upon reflection, that the gentleman may move to suspend the rules for the purpose of submitting the latter proposition.

Mr. CLARK. Very well, sir; then I make that motion.

Mr. FOWLER. Will it be in order to move to amend that motion?

The SPEAKER. In what way?

Mr. FOWLER. By striking out what proposes to make the bill the special order for a certain day in June. If it is in order, I will submit that motion.

The SPEAKER. The motion is not amendable, until it is before the House. The motion now is, to suspend the rules to enable the gentleman to submit that motion.

Mr. STANTON, of Ohio. I desire to move, that the bill be referred to the Committee on Public Lands, and I submit that whilst in the execution of a special order, under a suspension of the rules, we cannot be arrested by another motion to suspend the rules.

The SPEAKER. This motion to suspend the rules, is in connection with the business for which the rules were suspended and the order made, and the Chair thinks that we cannot well separate the motion proposed to be made by the gentleman from Iowa, from the business before the body.

Mr. STANTON, of Ohio. Would a motion to refer the bill to the Committee on Public Lands, take precedence of the motion to suspend the rules?

The SPEAKER. It would not.

Mr. HOUSTON. Let me inquire whether the motion of the gentleman from Iowa is an entirety, or whether there are two motions embraced in his proposition?

The SPEAKER. They are separate and distinct motions. One is to refer the bill to the Committee of the Whole on the state of the Union; the other is to make it a special order. The question will first be taken on referring the bill to the Committee of the Whole on the state of the Union.

Mr. CLARK. My proposition, then, resolves itself into two motions?

The SPEAKER. It does.

Mr. CLARK. Then I withdraw the motion, and move to refer the bill to the Committee on Public Lands.

The motion was agreed to, and the bill was so referred.

The following Senate bills were respectively read a first and second time by their titles and referred as indicated below, to wit:

An act (No. 33) for the relief of Mrs. E. A. McNeil, widow of the late General John McNeil. [By Mr. HIBBARD, to the Committee on Invalid Pensions.]

An act (No. 152) for the relief of John F. Callan, administrator of Daniel Renner, deceased. [By Mr. COBB, to the Committee on Claims.]

An act (No. 153) to authorize T. H. McManus to enter by preemption certain lands in the Greensburg land district, Louisiana. [By Mr. HALL, to the Committee on Public Lands.]

An act (No. 285) appropriating a sum of money for the completion of the interment of officers and soldiers who died in Mexico, in the American cemetery near the city of Mexico. [By Mr. CARTER, to the Committee of the Whole on the state of the Union.]

An act (No. 87) to grant the right of preemption to settlers on the public lands known as the "Maison Rouge Grant," and for other purposes. [By Mr. JOHNSON, of Arkansas, to the Committee on Public Lands.]

An act (No. 158) for the relief of Nancy Wright. [By Mr. HARRIS, of Tennessee, to the Committee on Invalid Pensions.]

An act (No. 159) for the relief of Robert Jemison and Benjamin Williamson. [By Mr. CABLE, of Ohio, to the Committee on Claims.]

An act (No. 160) for the relief Nathaniel Kuykendall. [By Mr. FAULKNER, to the Committee on the Post Office and Post Roads.]

An act (No. 166) to provide compensation to William Woodbridge and Henry Chipman, for services in adjusting titles to land in Michigan, and for other purposes. [By Mr. STUART, to the Committee on the Judiciary.]

An act (No. 168) for the relief of Sarah Flinn. [By Mr. HARRIS, of Tennessee, to the Committee on Invalid Pensions.]

An act (No. 169) for the relief of Thomas D. Jennings. [By Mr. JOHNSON, of Arkansas, to the Committee on Private Land Claims.]

An act (No. 173) for the relief of John McReynolds, of Detroit, in the State of Michigan. [By Mr. STUART, to the Committee on Commerce.]

An act (No. 177) for the relief of Samuel Bray. [By Mr. CABELL, of Florida, to the Committee on Commerce.]

An act (No. 178) for the relief of Thos. Rhodes. [By Mr. ROBBINS, to the Committee on the Post Office and Post Roads.]

An act (No. 3) granting the right of way to the State of Missouri, and a portion of the public lands to aid in the construction of certain railroads in said State. [By Mr. HALL, to the Committee on Public Lands.]

An act (No. 36) to authorize the State of Wisconsin to select the residue of the land to which that State is entitled under the act of 8th of August, 1846, to aid in the improvement of the Fox and Wisconsin rivers. [By Mr. HALL, to the Committee on Public Lands.]

An act (No. 109) making an appropriation for the erection of a marine hospital at Portland, Maine. [By Mr. APPLETON, of Maine, to the Committee on Commerce.]

An act (No. 121) granting to the State of Arkansas the right of way, and a portion of the public land, to aid in the construction of railroads in that State. [By Mr. JOHNSON, of Arkansas, to the Committee on Public Lands.]

A resolution (No. 23) to provide for straightening the eastern boundary line of the naval hospital lands at New York. [By Mr. STANTON, of Tennessee, to the Committee on Naval Affairs.]

An act (No. 163) for the relief of G. Thomas Howard. [By Mr. BAYLY, of Virginia, to the Committee on Foreign Affairs.]

An act (No. 181) for the relief of William C. Easton. [By Mr. SWEETSER, to the Committee on Military Affairs.]

An act (No. 186) for the relief of Bryan Callaghan. [By Mr. HOWARD, to the Committee on Military Affairs.]

An act (No. 250) to divide the State of Ohio into two judicial districts, and to provide for holding the district and circuit courts of the United States therein. [By Mr. NEWTON, to the Committee on the Judiciary.]

An act (No. 39) to authorize the payment of invalid pensions in certain cases. [By Mr. HARRIS, of Tennessee, to the Committee on Invalid Pensions.]

An act (No. 53) to compensate the owners of certain military lands in the State of Kentucky, granted to the officers and soldiers of the Virginia State line of the army of the Revolution, which have been taken by paramount claims. [By Mr. HALL, to the Committee on Private Land Claims.]

An act (No. 271) amendatory of existing laws relative to the half dollar, quarter dollar, and half dime. [By Mr. HOUSTON, to the Committee of Ways and Means.]

An act (No. 52) increasing the salary of the district judge of the United States for the district of New Hampshire. [By Mr. HIBBARD, to the Committee on the Judiciary.]

An act (No. 324) to enable the proper accounting officers to complete a settlement with Captain Henry L. Kinney. [By Mr. HOWARD, to the Committee on Military Affairs.]

An act (No. 328) for the relief of Seneca G. Simmons. [By Mr. JOHNSON, of Arkansas, to the Committee on Indian Affairs.]

An act (No. 333) to change the name of Joseph Lewis Breese, a midshipman in the Navy of the United States. [By Mr. CHANDLER, to the Committee on the Judiciary.]

An act (No. 331) to grant to certain settlers on the Menomonee Purchase, north of Fox river, in the State of Wisconsin, the right of preemption. [By Mr. HALL, to the Committee on Public Lands.]

An act (No. 314) for the relief of James Jones. [By Mr. ROBBINS, to the Committee on Private Land Claims.]

An act (No. 227) for the relief of Francis E. Baden. [By Mr. HARRIS, of Tennessee, to the Committee on Indian Affairs.]

An act (No. 2) to grant to the State of Ohio the unsold and unappropriated lands remaining in that State. [By Mr. SWEETSER, to the Committee on Public Lands.]

#### WILLIAM A. CHRISTIAN.

Senate bill No. 162, for the relief of William A. Christian, was next taken up, and read a first and second time by its title.

Mr. BAYLY, of Virginia. I move that it be referred to the Committee on Naval Affairs.

Mr. STANTON, of Tennessee. I move that it be referred to the Committee on Claims.

Mr. BAYLY. I know the character of the bill. It concerns a purser in the Navy, was referred to that committee in the Senate, and I think ought to go to that committee in this House.

Mr. STANTON. I beg leave to say to the gentleman that it does not go to the Committee on Naval Affairs more appropriately than did a bill which the House a little while ago referred to the Committee on Claims. I hope the House will be consistent with itself, and refer it to the Committee on Claims.

Mr. COBB. I will say to the gentleman from Virginia, [Mr. BAYLY,] and the gentleman from Tennessee, [Mr. STANTON,] that the Committee on Revisal and Unfinished Business have not a solitary bill before them; and if nobody else will take this bill, I presume they will not object to taking it. [Laughter.]

The question was first put upon referring the bill to the Committee on Naval Affairs, and it was not agreed to—ayes 31, noes not counted.

The bill was then referred to the Committee on Claims.

#### WILLIAM SPEIDEN.

Senate bill No. 217, for the relief of William Speiden, was next taken up, and read a first and second time by its title.

Mr. CHANDLER. I would ask, from the peculiar circumstances connected with this bill, that it be put upon its passage. It is the case of a purser in the Navy, who desires that his accounts may be settled before he goes to sea. I ask that the bill may be read through, for the information of the House.

The bill was read through by the Clerk.

Mr. CARTTER. I would inquire if that bill does not make an appropriation?

The SPEAKER. It does.

Mr. CARTTER. Then we cannot put it upon its passage now.

Mr. CHANDLER. I should be glad if we could get the bill upon its passage in some way. I think it is a bill which demands our immediate action.

Mr. CARTTER. I move that the bill be referred to the Committee on Claims.

The question was put and the motion agreed to.

#### LAWS OF THE UNITED STATES.

Joint resolution No. 15 of the Senate, authorizing the purchase of the ninth volume of the Laws of the United States was next taken up and read a first and second time by its title.

Mr. JENKINS. I hope that resolution will be put on its passage. I ask that it may be read for the information of the House.

The resolution was then read through.

Mr. JENKINS. I would remark with regard to that resolution, that no officer of the House, nor any committee of the House, has a single copy of this ninth volume. And from the great inconvenience, not only to the committees of the House, but to the officers of the House, arising from the want of this volume, I hope the resolution will be put upon its passage, and that it will be passed.

[Cries of "Move the previous question?"]

Mr. JENKINS. Well, I move the previous question.

The previous question was seconded, and the main question ordered to be put, and under the operation thereof the resolution was read a third time and passed.

Mr. JENKINS. I move that the vote by which the resolution was passed be reconsidered, and that the motion to reconsider do lie on the table.

The question was put on the latter motion, and it was agreed to.

Senate bill No. 14, granting to the State of Alabama the right of way and a donation of public lands for making a railroad from Selma to the Tennessee river, was taken up and read a first and second time by its title.

Mr. COBB. I move to refer that bill to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I do not propose to interfere with my colleague's disposition of that bill; but I would suggest that, inasmuch as all the other bills of that nature have gone to the Committee on Public Lands, the condition of his bill would be better if he would allow it to go there also.

Mr. COBB. The condition of it will be bad enough any how, so far as our reaching it is concerned. I, however, prefer that it should go to

the Committee of the Whole on the state of the Union.

Mr. HOUSTON. Well, I will not make any other motion.

The question was then taken, and the bill was referred to the Committee of the Whole on the state of the Union.

Senate bill No. 179, for the relief St. John's church, in the city of Washington, was next taken up, and read a first and second time by its title.

Mr. POLK. That bill seems to be for a charitable purpose, and I think we might as well dispose of it now. I move to suspend the rules for the purpose of putting it upon its passage.

The bill was read through by the Clerk for information.

The SPEAKER. The bill contains an appropriation, and must go to the Committee of the Whole on the state of the Union.

Mr. BAYLY, of Virginia. My own impression is, that it involves an important legal question, and ought to be referred to the Committee on the Judiciary. My own opinion is, that as a church is not a corporate body we cannot transfer the land to it. I move that it be referred to the Committee on the Judiciary.

The question was put, and the motion agreed to.

#### SALARIES OF TERRITORIAL OFFICERS.

Senate bill No. 175, relating to the salaries of officers of the Territories of the United States, and to repeal the proviso in the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th June, 1852, and for other purposes," approved March 3, 1851, was next taken up, and read a first and second time by its title.

Mr. STUART. I move to refer that bill to the Committee on the Territories.

Mr. McLANAHAN. I move to put that bill upon its passage. The Committee on the Judiciary have had a copy of that bill under its consideration, and they have instructed me to report it in the form in which it now stands. I hope the gentleman from Michigan [Mr. STUART] will withdraw the motion to refer to the Committee on the Territories, and allow the bill to be put upon its passage.

Mr. STUART. This bill has not been directly considered by the Committee on Territories, but incidentally it has. It may have been considered by the Committee on the Judiciary. But I think it involves certain inquiries which belong exclusively to the Committee on the Territories—certainly questions which are highly important to the Territories themselves. This question of how long territorial officers, and especially judicial officers, may be absent from our remote Territories, has become a very important one; and I think this measure, which proposes to change the law from what it now is, ought to be considered by that committee, and all the facts of the case ought to be brought fully before the House before any bill is passed upon the subject whatever.

This provision, which it is sought to repeal, as I understand it, is a provision prohibiting these officers from leaving the Territory under certain restrictions; and among those restrictions is one, if I mistake not, which takes from these their pay. Now, the Committee on the Territories have a sufficient amount of evidence before them in regard to this matter to enable them to say to this House that at this time this very act is one fraught with a vast amount of evil; and before a change is made in the law as it now stands, or before any bill making that change is passed into a law, I think the matter should be fully investigated and fairly submitted to the House. I beg the gentleman from Pennsylvania [Mr. McLANAHAN] to consider that I mean to show no disrespect to the Committee on the Judiciary, when I say that this subject is much more legitimately under the jurisdiction of the Committee on the Territories than that of the Committee on the Judiciary, and I trust this bill will take that direction. Inasmuch as a week is set apart for the consideration of territorial business—the third one in May—there is no danger of any delay that will be deleterious to the interests of the public. This business comes up as a special order, and can be acted on by the House at that time advisedly.

Mr. McLANAHAN. In passing the general appropriation bills, the 3d of March, 1851, a proviso was inserted depriving Territorial officers,



who should absent themselves for more than sixty days, of all their salaries. This bill proposes to repeal that proviso, and in its stead proposes to enact that, if any officer shall be absent from the Territories without the leave of the President of the United States first obtained, or without afterwards furnishing to the President satisfactory proof that his absence was necessary, shall not receive, during said absence, the pay to which he would otherwise have been entitled to under the law.

It is well known that the extraordinary circumstances which occurred, within the last year, in the Territory of Utah, have induced two of the judges to desert their positions. It is impossible for them, under the existing law, to obtain any compensation for any services they have rendered, or may render hereafter. These judges thus remain here unpaid, and it is impossible, under the circumstances, for them to receive any remuneration until they return to the Territory in which they preside. The bill now before the House provides for their payment for the time they are absent. Whether they had sufficient cause to induce them to leave their positions or not, I will not now pretend to determine. If this bill shall become a law, it will provide that they shall receive some compensation for the time for which they have held their offices. As the law now stands, it would be impossible for an appointee to return home to look to his family, or for any other purpose whatever, so as to be absent for more than sixty days, without being deprived of his entire salary.

Now, sir, the Judiciary Committee in the Senate had this bill under charge, and it passed the Senate, as I have heard, with but one vote against it. A copy of the bill was informally handed to the Committee on the Judiciary of this House, which, after considering its provisions, instructed me to report in its favor; and it is for that reason, sir, that I moved the amendment I did to the motion of the gentleman from Michigan, [Mr. STUART], that this bill be now put upon its passage. It strikes me, sir, for the reasons I have suggested, as well as for the general propriety of the modification of this law, that this House ought at once to proceed to its consideration.

Mr. SIBLEY. In reference to this subject, I wish to state that the clause appended to the appropriation bill at the last session of the last Congress, was inserted by the gentleman from Tennessee, [Mr. GENTRY], and met my approbation. My own Territory had suffered so much from the absence of its officers, for months together, that I was willing to bring the subject, in some manner or other, to the notice of this House; and when that proposition was introduced here, it was passed without any serious opposition; indeed, almost unanimously. I have been spoken to frequently in regard to the operation of this law upon the more distant Territories. I am not here to speak with reference to those Territories; nor have I anything to say in connection with the law referred to, except so far as the interests of my own constituents are affected thereby.

Now, sir, I have prepared an amendment to this resolution, which, if it is put upon its passage, in accordance with the suggestion of the gentleman from Pennsylvania, [Mr. McLANAHAN], would do away with the effect intended by that resolution, and leave the enactment as it now is, making it, however, optional with the President of the United States, in case of absolute necessity, to excuse an officer for being absent more than sixty days. I think that the original proviso, withholding salary from any officer who is absent for more than sixty days from his Territory, without good cause can be shown for such absence, is a proper and just one. And I hope that that clause in the bill, if it is now put upon its passage, will be left as it now is in the last appropriation bill. By the present resolution, if an officer is absent from his post for sixty days or upwards during the same year, without permission of the President, he merely loses his pay for the time of his absence. The difference between the two is a very essential one, and I do not believe the provisions of the proposed resolution are sufficient to keep these officers at home, if they have a desire to absent themselves.

Mr. HALL, (interrupting.) I suppose the gentleman understands this matter, and I wish to ask him if, according to his recollection, the abuses

under the old law were not so enormous, that this House unanimously passed the provision which this bill proposes to repeal?

Mr. SIBLEY. I have just stated to the House that this clause placed in the appropriation bill met with my approval, and that the abuses complained of were of so grave a character, as to demand some action on the part of Congress.

Mr. HALL. I wish to ask the gentleman if he finds that the provisions of the present law acts injuriously upon the people of his Territory?

Mr. SIBLEY. I reply, that so far as my own Territory is concerned, I do not believe that it does operate injuriously; but I am not prepared to speak for the people of other Territories, or of the operations of that clause of the bill, within their limits.

Mr. HALL. I would ask the gentleman from Minnesota, if, so far as his knowledge extends, the present law is not a beneficial one in its operation upon the Territories?

Mr. SIBLEY. I beg leave to answer the gentleman by repeating, that I am insisting upon that very fact. I do not wish any law of Congress to have a special bearing upon the officers of Minnesota Territory. Such action would justly be regarded as reflecting upon them. I desire the officers of all the Territories to be included in the same category, and that they may all be subjected to the same penalty, for absents themselves for more than a reasonable time from their posts.

Mr. STUART. I merely wish to say, Mr. Speaker, that this subject of territorial officers, and of their conduct, especially those connected with the Judiciary, is one of much greater magnitude than gentlemen may seem to suppose, from what has fallen from honorable members in this House to-day; and inasmuch as there is no evil to grow out of it by postponing it for two weeks—that is no considerable evil—when the House will be advised thoroughly of the whole effect of it, I certainly think the reference which I have moved ought to be made.

Now, I refrain purposely from expressing any views in regard to the conduct of these judicial officers. I do not think that the sentiment of this House should be affected by any previous announcement upon the subject. I will say that I have from the President of the United States, incidentally, that this subject has given him more trouble than any other one that has come under his supervision within the year. It is one of great magnitude, and one which requires the attention of Congress. I insist, therefore, upon my motion; and for the purpose of determining the question, as well as of preventing its consuming the time of the House, I call for the previous question.

Mr. STANTON, of Tennessee. I trust the gentleman from Michigan [Mr. STUART] will allow me to say a few words.

Mr. STUART. So far as I am concerned, I have no objection to giving the gentleman an opportunity to make any statement. I made the motion because it seemed to be the sense of the House. If the House is disposed to hear the gentleman, I have no objection, and will withdraw my motion; but I hope he will renew it.

Mr. STANTON. I will renew the motion. I do not see how this question requires the grave consideration, or at least the length of time for consideration, which the gentleman from Michigan [Mr. STUART] seems to desire for that purpose.

Now, sir, it is the simple question whether the officers of a Territory shall be permitted to absent themselves for a longer time than sixty days; and in the next place, whether, if they do so, the President should not have the power to pay them their salaries notwithstanding, where the circumstances would justify; or whether you should say peremptorily, and without qualification, that when an officer does absent himself he shall not be paid, whatever may be the circumstances, and however urgent may be the cause which induced him to be absent for that length of time. In regard to the statement made by the gentleman from Michigan, [Mr. STUART], in reference to the propriety of sending this particular bill to the Committee on the Territories, the House knows, and everybody knows, that the conduct of the judicial officers of the Territory of Utah, or the report of those officers to the President of the United States, has been before that committee for a number of months, and they have not reported anything in regard to it. Those officers traveled from this

portion of the country to Utah; and on their way to that Territory they were robbed by the Indians of all of their property, and even their very clothes were taken from their backs. When they got to that Territory they were virtually driven away, and during the whole of this time they have not, on account of the provisions of that law, been able to receive one dollar of their salaries. I do not think this bill ought to be longer postponed. It should be put upon its passage at once. I think there is no provision in the bill that can require more than a moment's consideration, if it is understood. It proposes simply to change the operation of the former proviso, so as to put it in the power of the President to excuse officers from the operation of that proviso.

Mr. STEPHENS. I wish to inquire if the gentleman proposes that those judicial officers who run away from the Territory ought ever to be paid their salaries? The object of this bill is, that they shall be paid. I give the gentleman notice that I am against it. I am against paying any officer that runs away from the discharge of his duty. I not only would not pay them, but I would have them discharged.

Mr. STANTON. I take a view of this question different from that taken by the gentleman from Georgia, [Mr. STEPHENS.] I think the judicial officers of the Territory of Utah were forced to leave. I think that they had no alternative left, and that no honorable man who regarded his character would have remained there under the circumstances.

Mr. STEPHENS. Did not one of the judicial officers remain there?

Mr. STANTON. Yes; but he joined the Mormon Church shortly after going there, and was placed in a position to remain there. But I conceive that the other gentlemen could not stay. They were forced to go away; and I conceive the President of the United States has scarcely done his duty in making no recommendation in relation thereto, and in taking no steps to maintain the laws in that Territory. If the gentleman from Michigan [Mr. STUART] insists upon it, I call for the previous question.

Mr. STUART. Certainly I do.

Mr. STANTON. Then I am under the necessity of calling for the previous question, as I am pledged to do so.

Mr. JONES, of Tennessee. I ask the gentleman from Michigan, [Mr. STUART], that the motion may be withdrawn.

Mr. STUART. I consent to it.

Mr. STANTON. Then I withdraw the motion.

Mr. JONES. I have but a few words to say upon this bill. It is composed of two sections. The first one proposes to enact, or rather to reenact, what the second section proposes to repeal. The first one proposes to make as a permanent law what is now the permanent law in the proviso which that second section proposes to repeal; and the first section, if I understand anything about this bill, is placed there as a pretext for carrying through the second one.

Some gentlemen here say I am mistaken as to the effect of the first section. The first section proposes to provide that no territorial officer who shall have absented himself from the Territory for a longer period than sixty days, shall be paid his salary, except under certain circumstances.

Mr. SIBLEY. This bill from the Senate proposes that if any territorial officer shall be absent in any one year for the period of sixty days, he shall not receive any pay for the time he shall be absent. There is an essential difference between this clause and the law of last year, which specified that if any officer was absent for sixty days in any one year, he should receive no salary for the whole year.

Mr. JONES. The gentleman must be mistaken with regard to that proviso.

Mr. SIBLEY. I am not mistaken. Such is the construction given to it by the accounting officers of the Treasury.

Mr. JONES. The second section proposes to repeal that proviso, so that it would give to certain officers of one of the Territories their salary for the time they have been absent from the post of their duty, and, perhaps, for the whole year, if the construction the gentleman puts upon it is correct. Now, sir, I am opposed to paying officers any salary except for the discharge of the duty in-

trusted to them. If these officers left the Territory under circumstances which would justify their absents themselves, they should have, when they returned with no intention of going back again, resigned their commission and allowed the appointing power to select others. Then the laws of the country might have been administered, and men who discharged the duties received the salary. If these judicial officers have left the Territory under justifiable circumstances, some committee of the House ought to take the subject into consideration, and report a bill providing for the payment of their expenses and such compensation as they are entitled to. But, here this bill makes a general provision covering all of the Territories, and all their officers hereafter, when only one special case is to be provided for. In compliance with requests of gentlemen around me, I renew the call for the previous question.

Mr. MARSHALL, of Kentucky. I think the passage of this law should not be interrupted by an attempted application of its provisions to a particular case. The proviso of the law of 1851, attempted here to be repealed, applies to the whole salary of the judicial officer, no matter what the cause of his absence may be from the seat of his duties. It is not within the competency of the President of the United States or any other officer of the Government, to afford relief or to give leave of absence for any cause. And should an officer be absent from the Territory for sixty days, no matter for what reason, his salary for the whole year is forfeited. That is manifestly unjust, and the first section of the bill is intended to remedy it. The remedy is applied in two ways. First, it only takes from him the salary *pro tanto*—the salary for the time which he was absent; and second, it affords to the President the right to give him leave of absence, and in which case deduction is not made from his salary at all. It brings upon the Executive head of the Government the responsibility of judging of the validity of the cause for which a party may be absent from a Territory. These are the simple provisions of this section. I think the repealing clause is manifestly just and proper, and that the true and fair basis is urged by the emendation of the law as afforded by the first clause. I do not see what the case of the Utah judges have to do with it.

Mr. STUART. I wish to state to the gentleman from Kentucky, that did I deem it proper at this time, I could satisfy him beyond all question, that the effect of this law upon certain individuals is entirely wrong. While it is true certain other individuals ought to be, and I trust will be, exempted from its effects, I think when the evidence is before this House, which ought to be, and can be, if the reference for which I have asked is made, it will be seen that there is a clear distinction between the officers of the respective Territories of this Government. Some of them ought to be relieved, and some of them have no pretext for it whatever. This law affects them indiscriminately.

Mr. MARSHALL. I take it for granted, that the first clause of this bill provides a rule by which the President or Secretary of the Treasury will act hereafter.

Mr. STUART. Hereafter, if you repeal that provision of the law which cuts off the payment of certain men now in office.

Mr. MARSHALL. The salaries of such officers which have heretofore accrued, shall be paid, in the language of the proviso; and, on the contrary, if they have absented themselves even without cause heretofore, this second section relieves them from the effect of the proviso; and the law for the future is established upon the basis suggested by the first section.

Mr. STUART. There is no fault to be found with it, so far as the future operation of that law is concerned, but it affects cases which have passed by repealing this provision of the law now taking away their salary. It affects them indiscriminately; and for the purpose of benefiting a particular individual who ought to be benefited, it confers the same thing upon others who have no right to it whatever.

Mr. MARSHALL. I understand, Mr. Speaker, the only case in point to which the gentleman refers, is that of the Utah judges. They now labor under the disability imposed by this proviso. They cannot now draw their salary, even for the time they did actually serve, and their absence,

whether with or without cause, operates as a forfeiture of all they did earn. I think that it is better we should withdraw this case beyond the action of the proviso, in order to remedy the injustice which the proviso certainly would work. A man starts with a judicial commission in his pocket. His destination is the Territory of Utah. It takes him ninety days to reach that destination. He serves nine months, and from some cause, whether sufficient or insufficient, he absents himself for the last sixty days. The effect of the existing law would be, to forfeit his salary for the whole year. Is that fair, is it just, upon the part of the Government towards those persons who have honestly earned ten months' wages? And is it not better to repeal the proviso, than to let a law stand upon the statute-book, which operates such manifest hardship and injustice? Now, I do not pretend to go into the question about the Utah judges. I feel very much like the gentleman from Georgia, [Mr. STEPHENS,] that they should have remained at their posts.

Mr. WEIGHTMAN. With the permission of the gentleman, I will draw his attention, besides what he has been presenting to the House, to the inequality which the law works. The judges, or any other officers of the Territory of Minnesota, can avail themselves of this sixty days' permission. They can leave the Territory of Minnesota, and transact business in various parts of the United States, and return within the sixty days' limit. Not so, however, with either the officers of the Territory of Utah or New Mexico. In respect to the officers of those two Territories, it amounts to almost an absolute prohibition. They cannot for one day, or one hour, leave their place of business to go elsewhere, without a forfeiture of their whole year's salary; for there is no place to which you can go, out of the Territories of New Mexico or Utah, from which you can return within sixty days.

Mr. GENTRY. I think it is not a sound principle of legislation to repeal a general law, the general effects of which are salutary, because of the occurrence of a case of individual hardship under it. All that has been said in this debate satisfies me of the propriety of referring this bill, that it may be subjected to the consideration of a competent committee. I think a committee would, doubtless, be able to present to the House something better than the bill before us—perhaps something better than the proviso in the appropriation bill of 1851. That proviso was intended to correct a very great abuse—an abuse so very flagrant, that certainly some remedy was necessary.

Mr. MARSHALL. It has been considered by the Judiciary Committee.

Mr. GENTRY. I was not in the House when the statement to that effect was made. I am not satisfied to vote for this bill.

Mr. McLANAHAN. This bill was informally referred to the Committee on the Judiciary. A copy of the bill, as it passed the Senate, was handed to me as chairman of the Judiciary Committee. It was considered by that committee, and I was instructed to report favorably upon it. Whether or not we were competent to discharge that duty is left for others to judge.

Mr. GENTRY. I beg the gentleman's pardon. I was not aware that it had received the action of that committee; nevertheless, with all the respect which I have for that committee, I am not yet satisfied that this bill ought to pass. It was a custom for gentlemen to persecute the Executive here for months, to obtain office under this territorial government; but so far from going to the scene of their official duties, and confining themselves to the performance of those duties, they were elsewhere. Why, in the Territory of Oregon, sir, one of the judges of the supreme court was digging gold in California. Another was here in the United States expending his entire time, to the utter neglect of the official duties which properly devolved upon him. It has grown the almost universal custom with these territorial officers, that they receive their pay without pretending to perform the duties attaching to them in their official character. Now, all have incurred the penalties of the proviso of the appropriation law of 1851. Where sufficient cause is shown for absence, I believe that penalty ought not to apply; but I am not willing to repeal the law to release them from the penalty. If there be cases of individual hardship under the operation of this general law, let them be reme-

died by special acts, if they can be shown to have merit.

Mr. McLANAHAN. I am sorry to interrupt the gentleman, but I agree with him in regard to the cases which have already occurred. The law which the present one is intended to repeal, was passed on the 3d of March, 1837. It is but justice to the honorable Delegate from Minnesota [Mr. SIBLEY] to state that he has an amendment which he exhibited to me, and which he intends to submit before the passage of the bill, which restricts its provisions to the judges of the Territory of Utah. The question, therefore, will be fairly before the House, whether, under the circumstances, this bill ought to pass for their relief. Its future operation has been sufficiently explained by the honorable gentleman from Kentucky, [Mr. MARSHALL,] and I myself have endeavored to show that the operation of the law of the 3d of March, 1851, is unjust and oppressive. Leaving it hereafter to the President of the United States, as we do by this bill, to say whether there is sufficient justification for an officer to leave the Territory, or, if he leaves without the permission of the President, he is to exhibit satisfactory evidence to the President that he left under proper circumstances.

Mr. GENTRY. I rather prefer to make provision in the law, absolute and imperative. I am quite opposed to conferring this discretion upon the Executive, of giving leave of absence. The officers who can concentrate influence here upon which to obtain the office will, in nine times out of ten, gather influence sufficient to obtain a remission of the penalty.

Mr. LANE. The gentleman from Tennessee [Mr. GENTRY] has stated a thing, which I was not aware, until this morning, had become current in the country, that one of the judges of Oregon had absented himself for months and years, and that another was digging gold in California. Not one of the judges in Oregon Territory has ever engaged in digging gold. One of them was absent, and did not return to the Territory.

Mr. GENTRY. Was he in California?

Mr. LANE. No; sir.

Mr. GENTRY. Was he not there on business other than official?

Mr. LANE. I do not know about that. I know that not one of them was engaged in digging gold.

Mr. GENTRY. I will remark, that such was the statement here, when this controversy was under discussion. Whether he was digging gold or attending to other business than that is not material to the merits of the question. I was about to remark when the gentleman from Oregon [Mr. LANE] interrupted me, that I was quite opposed to conferring discretion upon the President to give leave of absence, or to say whether the penalties of law shall apply or not; because the same influence which might procure an appointment would, generally speaking, procure such a decision upon these questions as suited the purpose of the individual, to the neglect of the interests of the Territory. I am utterly opposed to such policy. I shall support the motion to refer this bill. I think some legislation is demanded. Doubtless a law wiser and better matured in its provisions than the proviso to the appropriation bill of 1851, can be offered to the consideration of this House, and unless some such proposition is presented, I shall vote against this bill.

Mr. JOHNSON, of Arkansas. I imagine that this subject on such a day as this has been discussed enough, and I now call the previous question, in order that we may get rid of the balance of the business on the Speaker's table. And I give notice that I will not withdraw it.

Mr. LANE. I am sorry the gentleman has stated he will not withdraw his motion.

The previous question was seconded and the main question ordered, which was upon referring the bill to the Committee on the Territories.

The question was then taken and agreed to, and the bill was so referred.

Senate bill No. 191, to provide for a tri-monthly mail from New Orleans to Vera Cruz, via Tampico, and back, in steam-vessels, was next taken up, and read a first and second time by its title.

Mr. McCORKLE. This bill, if I am at liberty to state this much, simply provides that the Postmaster General shall be authorized to contract with the lowest bidder for carrying the mails between New Orleans and Vera Cruz. It is a mat-

ter which interests my constituents to a considerable extent, inasmuch as it will shorten the transmission of mail matter to California some ten days. The necessity for its reference is not important, and I think that we can take it up now and act upon it. I move to suspend the rules for that purpose.

Mr. FOWLER. I move its reference to the Committee on the Post Office and Post Roads.

Mr. McCORKLE. Does that motion take precedence of mine?

The SPEAKER. It does.

Mr. STUART. I demand the previous question; which was sustained, and under the operation thereof the bill was referred to Committee on the Post Office and Post Roads.

Senate bill No. 248, entitled "An act for the relief of Anna Norton and Louis Foskit," was next taken up and read a first and second time by its title.

This bill provides for paying to Anna Norton and Louis Foskit, the children and only heirs of a revolutionary soldier, the amount of pension which would have been paid to said heirs had his pension been continued from the 4th of March, 1822, to the 1st day of January, 1828.

Mr. HOWARD. It is a bill which passed the Senate unanimously, and is for the relief of those persons who are in indigent circumstances; and it is a meritorious bill, I believe. It is accompanied by a short report from the Senate. I ask that the rules be suspended and that the report be read.

Mr. McNAIR. That is a bill which ought to pass. I move that the bill be put on its passage. The question was then taken upon suspending the rules, and it was agreed to.

Mr. CLARK. I have a few remarks in reference to this bill.

[Cries of "Let it pass!" "Let it pass!"]

Mr. HOWARD demanded the previous question; which was seconded, and the main question ordered.

The question then being "Shall the bill pass?" it was taken, and decided in the affirmative.

So the bill was passed.

Mr. POLK: I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

#### RECESS PROPOSED.

Mr. JOHNSON, of Arkansas. I ask the unanimous consent of the House to introduce the following resolution:

*Resolved*, That the Clerk of the House be authorized and directed to have the Hall refitted and cleaned for the summer session, and that the House adjourn on Thursday the 13th day of May, until Monday the 17th of May, in order to allow the usual time for that purpose.

Mr. JOHNSON. I will state to the House that this is the usual resolution, and that the middle of May is the usual time employed for that purpose.

Mr. CLINGMAN. I would inquire of my friend from Arkansas [Mr. JOHNSON] if we took that course two years ago? I would suggest to the gentleman whether it will not be better to let this matter go over until the first of June, as the Democratic Convention will then be in session.

Mr. JOHNSON. This matter has been done frequently as early as the first day of May heretofore. We shall find great inconvenience and discomfort if we leave the Hall as it is until the first of June. I will not, therefore, make that change myself, but if the House desire to make it they can do so.

The SPEAKER. Is there any objection to the resolution?

Mr. STANLY. I object to that time. I would rather have the time in June, for the benefit of one or the other of the conventions.

There being objection, the resolution was not received.

The Senate bill No. 362, entitled "An act to grant the right of way to the Ste. Genevieve Iron Mountain and Pilot Knob Plank Road Company," was taken up and read a first and second time.

Mr. HALL. This bill makes no appropriation of public lands. It grants simply the right to a plank road. I ask that the bill be put upon its passage.

Mr. GAYLORD. I object, and move to refer the bill to the Committee on Public Lands.

The question was then taken, and it was so referred.

Mr. CLINGMAN. I beg to inquire of the Chair whether the order we are now acting under will enable us to go on until we have disposed of all the business on the Speaker's table, or whether it is limited to this day only in case the House should adjourn before it is all disposed of?

The SPEAKER. It is limited to to-day.

Mr. CLINGMAN. Then I wish to modify the order—to which, I presume, there will be no objection—so that we may continue at the business on the Speaker's table until it is all disposed of.

[Cries of "Object!"]

#### FRENCH SPOILIATIONS.

Senate bill No. 64, to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801, was next taken up, and read a first and second time by its title.

Mr. JONES, of Tennessee. I move to reject that bill.

Mr. BAYLY, of Virginia. I move to refer it to the Committee on Foreign Affairs.

The SPEAKER. The Chair thinks the motion made by the gentleman from Tennessee, to reject the bill, is first in order.

Mr. JONES. I withdraw the motion.

Mr. HIBBARD. I move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The question will first be taken upon the motion to refer to the Committee of the Whole on the state of the Union.

Mr. BAYLY, of Virginia. The question has been very frequently put to me, what that claim had to do with foreign affairs? All I have to say upon that point is, that from 1804 down to this time, that bill, when it has been voted upon at all, has been reported by the Committee on Foreign Affairs, without a single exception, so far as I know. Hence it is that I have made the motion to give it that destination. I ask for the yeas and nays upon the motion of the gentleman from New Hampshire, [Mr. HIBBARD.]

Mr. STANLY. If that bill goes to the Committee of the Whole on the state of the Union, it will require a vote of two thirds to get it up again.

[Cries of "No it won't!"]

Mr. JONES, of Tennessee. We can take it up at any time by passing over the business on the Calendar which precedes it.

Mr. STANLY. I ask the Chair if I am not right in my supposition that it would require a two-thirds vote to take up that bill out of its order?

The SPEAKER. It would require a two-thirds vote to take it up out of its order. But it could be reached by moving to pass by the bills that stand in its way.

Mr. STANLY. Yes; we should have to pass by all the other bills before we could reach it, and that is a moral impossibility. I hope, therefore, that the bill will not be referred to the Committee of the Whole on the state of the Union, but that it may go to the Committee on Foreign Affairs, and have a fair chance.

Mr. JONES, of Tennessee. In reply to the gentleman from Virginia, that this bill has always gone to the Committee on Foreign Affairs; I will merely remark that it has nothing to do with any foreigners at all. It is entirely and purely a domestic bill.

With reference to what the gentleman from North Carolina says as to getting up this bill, if it goes to the Committee of the Whole on the state of the Union, I will say that if the bill is referred to the Committee on Foreign Affairs, or to any other standing committee, when it shall be reported back here, it must go to the Committee of the Whole on the state of the Union, unless two thirds can be got to suspend the rules. The rule requires that all appropriation bills shall be referred to the Committee of the Whole on the state of the Union.

Mr. STANLY. There is no appropriation in this bill.

The yeas and nays were then ordered on the motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. HARRIS, of Tennessee, moved that the House do now adjourn.

Mr. SEYMOUR, of New York, demanded the yeas and nays.

Mr. BAYLY, of Virginia, called for tellers on ordering the yeas and nays.

Tellers were ordered, and Messrs. BAYLY, and HARRIS of Tennessee, were appointed.

The question was then put, and the tellers reported—yeas 31, noes 70.

So the yeas and nays were ordered.

Mr. HARRIS, of Tennessee, withdrew the motion to adjourn.

Mr. MARSHALL, of Kentucky, renewed it.

And the question being put, on a division, there were—yeas 84, noes 56.

So the motion was agreed to.

And the House adjourned until to-morrow, at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MACE: The petition of Jacob Haines, William G. Montgomery, and 350 others, citizens of Montgomery, Fountain, Warren, and Benton counties, Indiana, asking for a post route from Crawfordsville to Oxford, via Independence and Pine Village.

By Mr. KING, of Rhode Island: The petition of Josiah Chapin and others, officers of the Rhode Island Society for the Encouragement of Domestic Industry, and of the Rhode Island Horticultural Society, praying for the establishment of an Agricultural Bureau.

By Mr. KUHN: The resolutions of the Legislature of Pennsylvania, relating to the Parker patent for cast-iron submerged reaction water-wheels, and in opposition to any further extension of said patent.

By Mr. PENNIMAN: The memorial of Peter Farlick, asking relief for citizens of Salem, Washtenaw county, Michigan, on account of erroneous or false and fraudulent surveys of said township of Salem.

By Mr. SCHERMERHORN: The memorial of Samuel P. Ely and 93 others, citizens of the city of Rochester, and the county of Monroe, New York, asking for free trade between the United States and Canada.

By Mr. HIBBARD: The petition of Patience Stone, of Plainfield, New Hampshire, praying for a pension.

By Mr. DAWSON: The resolutions of the Legislature of Pennsylvania, in opposition to the further extension of the Parker patent for cast-iron submerged reaction water-wheels.

Also, the resolutions of the Legislature of Pennsylvania, relative to the construction of a canal around the Falls of the Ohio river, at Louisville.

By Mr. ROBBINS: A resolution of the Legislature of Pennsylvania, requesting their Senators and Representatives in Congress to oppose the further extension of the Parker patent for cast-iron submerged reaction water-wheels.

By Mr. HENDRICKS: The petition of citizens of Shelby county, Indiana, praying the improvement of the Ohio river at the Falls.

By Mr. MURRAY: The petition for the establishment of a mail route from Ellenville, Ulster county, via Woodbourne to Liberty, Sullivan county, New York.

By Mr. FULLER, of Maine: The petition of Benjamin F. Stinson and 40 others, citizens of Swan's Island, asking of Congress to make an appropriation for the erection of a light-house on Swan's Island, at the entrance of Old Harbor.

By Mr. McQUEEN: The memorial of Thomas Shaw and others, of Georgetown, South Carolina, for buoys and beacons in Georgetown harbor.

By Mr. PORTER: The petition of 56 citizens of Lincoln county, Missouri, asking the establishment of a certain post road.

By Mr. KING, of New York: The petition of sundry inhabitants of the county of Lewis, New York, praying for a grant of lands to aid in the construction of a road from Sackett's Harbor to Saratoga, in the State of New York.

#### IN SENATE.

TUESDAY, May 4, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tem.* laid before the Senate a communication from the Navy Department, in compliance with a resolution of the Senate, calling for information in regard to officers of the Navy receiving greater compensation than is provided by the act of March 3, 1835.

Mr. HALE. That communication is in answer to a resolution which I introduced, and I move that it be laid upon the table and printed. I wish to take this occasion to say, that the information which the Secretary of the Navy communicates shows that the rumor upon which the call for that communication was based was unfounded, and that the abuse which it was intended to reach does not exist. I am happy to be able to say that there has been one rumor of abuse which was not well founded.

The motion to lay upon the table and print was agreed to.

#### PETITIONS, ETC.

Mr. MILLER presented a petition, very numerously signed, of inhabitants of Ocean and



Shrewsbury townships, New Jersey, praying an appropriation for the improvement of South Shrewsbury river; which was referred to the Committee on Commerce.

Mr. SUMNER. Mr. President, I hold in my hand resolutions of the Legislature of the State of Massachusetts concerning the liquidation and payment of the claims of American citizens for French spoiliations anterior to September 30, 1800. In these resolutions the Senators in Congress are instructed, and the Representatives of the State are requested to use their best exertions to procure from the Government as full and adequate indemnities therefor, as though said claims still existed against the Government of France, and to aid by all proper means the passage of any bill for the speedy and equitable liquidation thereof; and his Excellency the Governor was requested to transmit copies of these resolutions to each of the Senators and Representatives of the State and request them to lay the same before their respective Houses. As the subject referred to in these resolutions has already been disposed of in this body, I do not ask for their reading, but simply move that they be laid on the table, and printed for the use of the Senate.

The motion was agreed to.

Mr. SUMNER also presented another series of resolutions from the Legislature of the State of Massachusetts, concerning the construction of a ship canal around the Falls of the Sault Ste. Marie, in the State of Michigan; which was read, and ordered to be printed for the use of the Senate.

#### DEATH OF HON. CHARLES ANDREWS.

A message from the House of Representatives, by Mr. FORNEY, its Clerk, was received, communicating to the Senate information of the death of the Hon. CHARLES ANDREWS, a member of the House of Representatives from the State of Maine, and the proceedings of the House thereon.

Mr. HAMLIN. I ask that the communication from the House of Representatives may be read. The Secretary read it accordingly.

Mr. HAMLIN rose and said:

Mr. PRESIDENT: The resolution which has just been read, informing the Senate of the decease of my colleague in the House, is but another admonition to us all, of the frailty of human existence. It may, as it should, subserve a useful purpose. I am, indeed, forcibly reminded, as it becomes my duty to pay a tribute to his memory, that, under the decrees of an inscrutable Providence, he might have been spared to perform a like service to mine.

He came to this city, in November last, to discharge the duties of a Representative in Congress, which had been devolved upon him by a generous and confiding constituency. I accompanied him from his home, and took rooms with him here. He was then in feeble health; but it was the hope and belief of himself and his friends, that a more genial climate than his home afforded, would restore him to health. It, however, soon became evident to all but himself, that the fatal disease, so prevalent at the North, and which allows of no mastery, was deep-seated upon him. Still, with a wonderful energy and signal fidelity, he continued to discharge all of his various duties until within about three weeks since, when, gradually failing in his strength, under the earnest solicitation of friends, he returned to his home in Maine, where he expired on the morning of Friday last, in the bosom of his family. He was a few weeks more than thirty-eight years of age. He died from a pulmonary consumption, in the spring-tide of time—in the summer of his manhood, and has gone to that repose which must succeed the toilsome day of human life.

While he was in this city it was my duty, as it was my pleasure, to be with him much of his time, to aid him in his labors, to cheer him in his distress, and to sympathize with him in his pain and trials. He endured his sickness with great fortitude, and was sustained in a most remarkable manner by that delusive hope which seems always to accompany that disease. All that kindness and careful attention could do was done by all his friends while he was here. Still, to me, and, I may say, to all my colleagues, it is a matter of consolation to know that friends, and home, and wife, all contributed to cheer and alleviate his pain and suffering in the last days and hours of his life. There is no place for those who suffer like home, and no hand to alleviate it like that of a wife.

He was a man of vigorous intellect and great energy. The speech delivered by him in the House, at this session, on American intervention, affords remarkable evidence of his energy—when it is known, as it was to his friends, that it was prepared under that state of disease which would have prostrated most men. Frankness and generosity were distinguishing traits in his character, serving to draw around him warm and ardent friends. Frankness and generosity may challenge our admiration; while they may even betray into difficulties from which cool, calculating prudence would escape.

He was a member of the legal profession, and sustained a good reputation as an advocate at the bar in his native county, where he resided and practiced. He was eminently a self-made man. Without the aid of a thorough early education; without the aid of wealth, family influence, or other adventitious circumstances, few men in Maine, of his age, have shared more of public trust and confidence. He was three times elected a member of the Legislature, and once as Speaker of the House of Representatives. He was then the candidate of his party for a seat in the other House. Afterwards he was elected to the office of clerk of the judicial courts for Oxford county, which office he filled for the term of four years; a member of the Baltimore Convention in 1848, and of the National Democratic Committee, and again a candidate for, and elected to, the seat which he held in the House at the time of his decease. All his duties were discharged to the acceptance of those who had conferred them upon him. Those public trusts, and the manner in which they were performed, convey a most appropriate commendation of the man. They are facts which speak a eulogy to his worth and his memory, more truthful and appropriate than I could pronounce.

"Leaves have their time to fall,  
And flowers to wither at the north-wind's breath,  
And stars to set; but all,  
Thou hast all seasons for thine own, oh, Death!"

I mourn his loss as a sincere friend. The State is bereft of one of her distinguished sons. His constituents are deprived of the valuable and efficient services of an able representative. A widowed wife and orphan children weep, in a home made desolate, for the irreparable loss of a kind husband and an affectionate father. But into that mourning circle it is not my province to enter. Time, "with healing on its wings," will assuage their grief, and their reliance must be on "Him who doeth all things well."

The House has paid a tribute to his worth, and manifested their appreciation of the man, in their resolutions which have been communicated to the Senate. I ask the Senate to join with the House in an expression of respect for the deceased, and of sympathy for the surviving relatives, by adopting the resolution which I send to the Chair.

The Secretary read the resolutions, as follows:

*Resolved*, That the Senate receives with sincere regret the announcement of the death of the Hon. CHARLES ANDREWS, late a member of the House of Representatives from the State of Maine, and tenders to the relatives of the deceased, the assurance of their sympathy with them under the bereavement they have been called to sustain.

*Resolved*, That the Secretary of the Senate be directed to transmit to the family of Mr. ANDREWS, a certified copy of the foregoing resolution.

Mr. BRADBURY. In seconding the resolutions offered by my colleague, I desire to express my full concurrence in the just tribute of respect he has paid to the memory and character of the deceased.

Although my acquaintance with him was more recent than that of my colleague, I had yet known him long enough to appreciate his honesty of purpose, his energy and ability as a public man; and his kindness, generosity, and amiability as a citizen, a neighbor, and most of all in that family circle, which must always mourn his loss.

The resolutions were unanimously adopted, and on motion of Mr. BRADBURY the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, May 4, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

Mr. McDONALD obtained the floor.

Mr. COBB. I ask the gentleman from Maine

to yield, in order to allow me to make a motion which cannot be made unless made to-day. I move to reconsider the vote by which Senate bill No. 14, granting to the State of Alabama the right of way and a donation of public lands for making a railroad from Selma to the Tennessee river, was referred to the Committee of the Whole on the state of the Union.

Mr. POLK. I object.

Mr. COBB. I believe I have the right to make the motion.

The SPEAKER. The gentleman has the right to make the motion, and it will be entered on the Journal.

#### OBITUARY.

Mr. McDONALD said: Mr. Speaker: I do not rise to make any motion in relation to the ordinary business of the House, but to perform the sad duty of bringing to its attention the recent death of one of its members.

The Hon. CHARLES ANDREWS, but a few days since in our midst, evidently greatly debilitated in body, yet strong in the belief that the mildness of approaching summer would impart new vigor to the springs of life, left this city on the morning of the 13th of April last, for his distant and loved home.

By the last mail from the North the delegation from Maine received the afflicting intelligence that their colleague has been disappointed in his hopes, and died at his residence, on Paris Hill, surrounded by his family, on Friday last.

Colonel ANDREWS, although comparatively a young man, had received many tokens from his fellow-citizens of their esteem and confidence.

Educated a lawyer, he was called, when the duties of his profession were hardly begun, to represent his town in the Legislature of the State. He was elected and served in that capacity for three consecutive years, and was chosen Speaker of the House of Representatives during the last year of his service in that body.

Voluntarily retiring from the Legislature, he returned to the pursuit of his profession, but was shortly afterwards elected clerk of the judicial courts for the county of Oxford.

When his official term expired, he declined a reelection to that office, and resumed the active business of a counsellor within the courts.

In September, 1850, his political friends elected Colonel ANDREWS a member of the present Congress; but here must end their tokens of confidence and esteem, as he has been called to pass that bourn from which no traveler returns.

It can hardly be said of our friend, that "a prophet is without honor in his own country," for he lived and died in his native county.

In all the various stations filled by Colonel ANDREWS, he fully met the measure of private and public expectation.

The disease which preyed upon his system, and finally proved the master of his strength, prevented his active participation in the transactions of this body; but the character of his mind, his industry and diligence in investigation, are strongly manifested in the elaborate speech on the subject of American intervention, which he prepared in this city during the very period of his illness, and published for the gratification of his constituents.

In private life he was humble and ardent—qualities which give type to character, making its excellence more prominent, and shading, "as with an angel's wing," its faults.

For his family, let his example of charity in private, of zeal in doing good to others, of resignation under affliction, bud and blossom from his grave.

For his fellow-citizens, and especially for the young men of his native county, let his successful and honorable life feed the flame of laudable ambition within their bosoms.

For his fellow-members of this House, let his death admonish us of our mortality, and teach us the lesson, that every moment of time is a moment of mercy.

In conclusion, Mr. McD. offered the following resolutions:

*Resolved*, That the House has heard, with deep regret, the announcement of the death of the Hon. CHARLES ANDREWS, late a member of the present Congress; and, from a sincere desire of showing every mark of respect due to his memory, will wear crape on the left arm for thirty days.

*Resolved*, That the Clerk of the House be directed to communicate a copy of these proceedings to the family of

the deceased; and that, as a further mark of respect, the House do now adjourn.

The resolutions were unanimously agreed to. And the House accordingly adjourned.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees: By Mr. STEVENS, of Pennsylvania: A remonstrance against any Congressional action in the Wheeling Bridge case.

Also, a memorial praying Congress to relieve the officials of Government from the violation of the Lord's day by secular employment.

Also, the resolutions of the Legislature of Pennsylvania relative to the Wheeling Bridge.

Also, the petitions and documents of several assistant marshals, praying for additional compensation.

By Mr. HARPER: The petition of Ebenezer Smith, administrator *de bonis non* of the estate of Captain Thomas Cook, praying for five years' commutation pay for services of said Cook in the Pennsylvania Continental line in the war of the Revolution.

By Mr. THURSTON: The memorial of citizens of Newport and Providence, Rhode Island, praying Congress to establish a line of mail steam-ships to run from Newport to the principal places in the world.

By Mr. WELCH: The petition of 18 citizens of Athens county, Ohio, for a post route from Coolville to Hibbardsville, in Athens.

By Mr. BRECKINRIDGE: The memorial of Benjamin F. Williams, assistant marshal for the first district of Bourbon county, in the State of Kentucky, praying additional compensation for taking the Seventh Census.

By Mr. SEYMOUR, of New York: The memorial of certain citizens of the State of New York, praying the erection of certain lights to aid in the navigation of the Hudson river.

#### IN SENATE.

WEDNESDAY, May 5, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate calling for information in relation to civil officers employed in the Territory of New Mexico, while under military government; which was read, and ordered to be laid on the table and printed.

#### PETITIONS, ETC.

Mr. SEWARD presented the petitions of the heirs of Willis Clift, an officer in the Army of the Revolution, and the heirs of Lemuel Clift, a captain in the same army, praying allowance for depreciation on commutation certificates; which were referred to the Committee on Revolutionary Claims.

Mr. HALE presented the memorial of inhabitants of Lawrence county, Pennsylvania, praying that the transportation of the mails on Sunday may be prohibited by law, and that the employees of the Government may not be permitted to work on that day, under penalties to be provided, where the public safety does not require it; which was ordered to be laid on the table.

Mr. FISH presented concurrent resolutions of the Legislature of New York, in favor of the enactment of a law making grants of land upon some equal and just principle of appropriation to all the States; which were read, ordered to be laid on the table, and printed.

Also, the petition of the children and heirs-at-law of Major Godfrey Rinehart, of the revolutionary Army, praying compensation for services rendered by their father during the war of the Revolution; which was referred to the Committee on Revolutionary Claims.

Also, a memorial of the officers of the United States steamer Missouri, praying compensation for loss of clothing and other personal effects, by the destruction of that vessel by fire, in Gibraltar Bay; which was referred to the Committee on Naval Affairs.

Mr. SUMNER presented certain resolutions of the Legislature of Massachusetts, stating that Massachusetts deems it expedient and just that Congress appropriate a portion of the public lands to establish and endow a National Normal Agricultural College, which shall be to the rural sciences what West Point Academy is to the military, for the purpose of educating teachers and professors for service in all the States of the Republic; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. BORLAND presented the memorial of Robert Mills, proposing a plan for a railroad and telegraphic communication to the Pacific ocean; which was referred to the Committee on Public Lands.

Mr. CASS presented a memorial of inhabitants of Michigan, praying that the transportation of the mail on Sunday may be prohibited by law; which was referred to the Committee on the Post Office and Post Roads.

Mr. MALLORY submitted additional documents in relation to the claim of Kennedy and Darling; which were referred to the Committee on Claims.

Mr. PRATT presented resolutions of the Legislature of Maryland, in favor of an appropriation for placing buoys in Pocomoke Sound, Tangier Sound, and the channels between Fox's and Watts's Islands, and between Pocomoke and Tangier Sounds; which were referred to the Committee on Commerce.

Mr. GWIN submitted a document in relation to the establishment of a line of steam-ships between San Francisco and China; which was referred to the Committee on the Post Office and Post Roads.

Mr. DODGE, of Iowa, presented a petition of citizens of Iowa, praying the establishment of a mail route from Dubuque to Fort Atkinson, in that State; which was referred to the Committee on the Post Office and Post Roads.

#### REPORTS FROM STANDING COMMITTEES.

Mr. NORRIS, from the Committee on Patents and the Patent Office, to which was referred the petition of Thomas G. Clinton, and the memorial of P. H. Watson and E. S. Renwick, submitted a report thereon, and asked to be discharged from the further consideration thereof. The report was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the bill for the relief of the legal representatives of Amos Proctor, reported it back, and asked that it be laid on the table; which was agreed to.

He also submitted a report on the subject, which was ordered to be printed.

He also, from the Committee on Printing, to which was referred a motion to print the memorial of Robert F. Pinkney, a lieutenant in the Navy, reported in favor of printing the same; which was agreed to.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the following documents and petitions, submitted adverse reports thereon, which were ordered to be printed:

Documents relating to the claim of Captain George E. McClelland's company of Florida Volunteers;

The memorial of John A. Rogers; and

The petition of John W. W. Jackson.

Mr. BORLAND, from the Committee on Public Lands, to which was referred the memorial of the Legislature of Mississippi, praying a reduction in the price of the public lands in certain land districts—the Augusta, Washington, and Columbus—asked to be discharged from the further consideration thereof; which was agreed to.

Mr. ADAMS, from the Committee on Claims, to which was referred the petition of Samuel Noah, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the petition of Charles B. Brower, late a lieutenant in the Army, dismissed by a court-martial, praying to be reinstated in his former rank, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the petition of Charles Lee Jones, praying compensation for expenses incurred in raising and subsisting volunteers for the war with Mexico, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the memorial of the permanent clerks in the office of the Adjutant General, praying compensation for additional services rendered during the war with Mexico, submitted an adverse report thereon; which was agreed to.

He also, from the same committee, to which was referred a communication from the Secretary of War, transmitting Lieutenant Williams's report and survey of the Umpqua and Rogue rivers, asked that it be laid on the table; which was agreed to.

He also, from the same committee, to which was referred the petition of William Gorham, W. L. Gothrop, and others, non-commissioned offi-

cers, asking for additional pay for bravery during the Mexican war, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred a resolution of the Legislature of Louisiana, praying that the corporation of the town of Baton Rouge may inclose and use as a cemetery a portion of the grounds attached to the barracks in said town, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred certain resolutions of the Legislature of New Mexico, instructing their Delegate in Congress to procure the passage of a law authorizing two regiments to be raised for the defense of said Territory, and the establishment of arsenals therein, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the bill to provide for the better protection of the people of California and Oregon, asked to be discharged from the further consideration thereof; which was agreed to.

#### MILEAGE OF DELEGATE FROM OREGON.

Mr. DOUGLAS, from the Committee on Territories, to which was referred the bill to regulate the mileage of the Delegate from the Territory of Oregon, reported it back without amendment; and asked that it might be now considered.

The bill was considered as in Committee of the Whole; and, no amendment being offered, it was reported to the Senate, and the question was put, "Shall it now be read a third time?"

Mr. SEWARD. I desire to have some explanation of the objects, and the necessity of that bill, before I can give my consent to it.

Mr. DOUGLAS. The explanation which I have to give is very simple. The object of this bill is to put the Delegate from Oregon on the same footing with the members from the Pacific coast. They travel the same route, and should be governed, in the payment of their mileage, by the same principle. This bill is designed to amend an act, passed in 1849, which placed a limit on the mileage of the Delegate from Oregon, to which others are not subjected.

Mr. CASS. Its object is to administer equal justice.

The bill was read a third time and passed.

#### NOTICES OF BILLS.

Mr. UNDERWOOD gave notice of his intention to ask leave to introduce a bill to repeal all laws allowing compensation to members of Congress, and substituting an entirely new system of compensation in lieu thereof.

Mr. SEBASTIAN gave notice of his intention to ask leave to introduce a bill for the holding an additional term of the circuit court at Little Rock, Arkansas, and further defining the jurisdiction thereof, and of the district court.

#### BILL INTRODUCED.

Mr. MALLORY, agreeably to previous notice, asked and obtained leave to introduce a bill to establish a steam mail line between California or Oregon and Shanghai, with a branch to the Sandwich Islands; which was read a first and second time by its title, and referred to the Committee on the Post Office and Post Roads.

#### MEXICAN CONTRIBUTION MONEY.

Mr. SHIELDS submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of War be instructed to report to the Senate what further provision, if any, beyond what is contained in the act of March 3, 1849, for the settlement of accounts connected with the Mexican contribution money, is necessary to authorize proper and just compensation to be made to persons not included in the above act for services connected with the collection, safe-keeping, and accounting for the said money, or other useful services rendered in relation thereto.

#### HOUSE BILL REFERRED.

The following bill from the House of Representatives was read a first and second time by its title, and referred to the Committee on Military Affairs:

An act for the relief of Osborn Cross, of the United States Army.

#### BILLS PASSED.

The engrossed bill granting to the State of Wisconsin the right of way and a donation of public land for the purpose of locating and constructing

a railroad from Fond du Lac to Janesville, was read a third time; and, on the title being amended by striking out all after the word "constructing," and inserting "certain railroads in that State," it was passed.

The following engrossed bills were also read a third time and passed:

An act for the relief of Ursula E. Cobb; and  
An act for the relief of Jim Capers.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, their Clerk, announcing that it had passed an act for the relief of Anna Norton and Louis Foskit, and a joint resolution authorizing the purchase of the ninth volume of the laws of the United States.

#### ROADS AND CANALS IN MICHIGAN.

On the motion of Mr. FELCH, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill granting to the State of Michigan the right of way and a donation of public land for the purpose of constructing a canal or railroad across the peninsula of Michigan.

This bill, it was stated, was in the established form, in which several bills for other States have recently been matured, with the exception of several amendments, to make the substitute proposed by the committee to conform to the model bill, which the Senate has sanctioned. The amendments were similar to those adopted a few days since, on the motion of Mr. WALKER, in a like bill for the State of Wisconsin.

The amendments to the amendment were agreed to; and the amendment of the committee as amended was then adopted. The bill was reported to the Senate, the amendments were concurred in, and the bill was ordered to be engrossed and read a third time.

On the motion of Mr. FELCH, the Senate, as in Committee of the Whole, next proceeded to the consideration of the bill granting the right of way and making a grant of land to the State of Michigan, in trust for the Zilwaukie, Grand Traverse, and Mackinaw Plank Road Company, in aid of the construction of a plank road from Zilwaukie, on Saginaw river, to Grand Traverse Bay, thence to the Straits of Mackinaw.

The bill was amended on the motion of Mr. FELCH, to make it conform to the bill which preceded it.

Mr. DAWSON. I desire to ask the Senator from Michigan if he has not changed the original conditions on which such bills have been heretofore passed. The usual course has been to give certain limited quantities of land, but the Senator has so amended the bill that it gives so much as will be convenient for the purposes of this company. They are to have what is convenient, according to the usual wants of railroad and canal companies; but who is to be the judge of what is convenient?

Mr. FELCH. The location and survey of the road are to be made under the direction of the State authorities. They are to report to the Secretary of the Interior, and the report is to be approved by him. The amendment which I offer was proposed and adopted in the other bills of a similar character; and I now move it, so that this bill may conform to the others which have already received the sanction of the Senate.

Mr. DAWSON. I beg to state to the Senator that, if I understand him aright, so many feet, not to exceed one hundred, on each side of the road, were allowed by the original amendment; and now that is stricken out, and it is proposed to allow whatever may be convenient. That is to be decided by the State authorities, and reported by them to the Secretary of the Interior for his approval; but as he will have no power to decide on the merits of the case, not having surveyed the land, he will be compelled to conform to the report of the State authorities. I see no necessity, myself, for a departure from the course pursued heretofore.

Mr. FELCH. I preferred the other form myself, but the Senate decided otherwise. The amendment now proposed was originally moved to another bill by the Senator from Massachusetts, [Mr. Davis,] who was opposed, I believe, to the main features of the bill, for the purpose of restricting the grant of land to a less amount than that proposed by the bill. I merely conform to the expressed wishes of the Senate.

The bill having been reported to the Senate, and the amendments having been concurred in, was ordered to be engrossed and read a third time.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," the pending question being upon the amendment of the Committee on Finance to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500.

Mr. HUNTER. I regret very much to be constrained to address the Senate again in relation to this amendment; but the criticisms which have been made here upon my course, render it necessary for me to say something in self-defense. I know, too, what lies behind this amendment; I know that it is the *avant courier*, the pioneer, of a system; and I desire to expose the pernicious effects and tendencies of that system before we are committed to it. The responsibility of the debate which has arisen in relation to this proposition rests not on me, but on those who have forced the amendment, as I think very improperly, into this deficiency bill. I will, however, endeavor to make my remarks as brief as possible, and to be as concise as may be consistent with the fair presentation of my views to the Senate.

What is this proposition? Some years ago, Collins & Co. proposed to carry the mails between New York and Liverpool in five steam-ships. They proposed to carry the mails on certain terms, to which the Government acceded. They were not able to complete the ships within the time stipulated, and asked an extension of it; we agreed to that extension. They asked for an advance of money to enable them to build the ships; and we made that advance. They asked to be relieved from one of the conditions, which required that they should employ naval officers as commanders; and we relieved them from that condition. And now, when the Post Office Department had ordered them to increase the number of their trips from twenty to twenty-six, they come here, and say they cannot perform the service unless we increase the amount of compensation; accordingly, this amendment appears—an amendment that was offered in the Committee on Finance by the Senator from California, under instructions, as I understand, from the Committee on Naval Affairs. And what is the nature of that amendment? Why, it proposes that we shall give this line of steamers \$33,000 per trip, being a large addition to the existing rate of compensation; and also that the sum of that compensation shall be \$236,500. Now, what does this mean? Does it mean that we shall give \$33,000 each for the whole twenty-six trips? If so, the additional sum is not \$236,500 but \$473,000. Or does it mean that we shall give \$33,000 per trip for the six additional trips? If so, the sum is not \$236,500, but \$198,000. Or does it mean that we shall give \$236,500 in addition to what they now receive? If so, this provision in relation to the \$33,000 per trip is mere surplusage.

But, sir, I venture to predict, that if this appropriation should pass, it will be so construed as to grant the company the whole amount of \$33,000 per trip, or something very like \$858,000 per annum.

Mr. BADGER. I do not think it is necessary that the Senator should make any prediction as to what this amendment should be construed to mean. The amendment means to increase the compensation for each and every trip from \$19,250 to \$33,000. And if the Senator from Virginia will allow me to explain the reason why this sum is appropriated, I would say that it is necessary to pay, during the half fiscal year which expires on the 30th of June, and commenced on the first of January, the additional compensation upon the trips for which provision was made in a former contract, and the whole compensation for the additional trips agreed upon by the Postmaster General and the Collins Company. So that there is no misunderstanding.

It is to increase the whole compensation from \$19,250 to \$33,000 per trip.

Mr. HUNTER. Then if it is, as I supposed it was, to increase the whole compensation to \$33,000 per trip, let us see to what other consequences it will lead us. These twenty-six trips are part of a schedule. The design is, that the Collins line and the Bremen and Havre lines shall alternate with the Cunard line, making in all fifty-two trips, or perhaps only fifty, the other lines running only twenty-four trips. So that the whole service is to be performed by these three lines. If we increase the compensation of the Collins line from \$19,250 to \$33,000 per trip, shall we not be compelled to increase the compensation of the Havre and Bremen lines at the same rate? But I understand it is doubtful whether the contract for the Bremen lines will not expire in two or three months, that is, on the first of July. I believe the Postmaster General has taken the opinion of the Attorney General on the subject. What that opinion is I have not heard. Suppose it shall be determined that the contract does expire on the first of July, will they not order up these ships of the Collins line to take the other twelve or thirteen trips, at the rate of \$33,000 per trip? So that we cannot tell to what an expense this amendment will finally lead. This, however, we may anticipate with tolerable certainty, that we shall be compelled to raise the compensation upon the Bremen and Havre lines in the same proportion that we raise it upon the Collins line. If so, the whole expense will be something like \$1,500,000 per annum, including that for the twenty-four trips to be made by the Havre and Bremen lines, from Southampton to Havre, and from Southampton to Bremen. So that when we make up our minds to increase the compensation for the Collins line, we must also expect to increase it upon the others; for, with what justice can we grant it to one and refuse it to the other?

But on what pretense is it that we are asked to give this additional compensation to the Collins line? For you will observe that we have done all that we contracted to do; we have given all that we agreed to give. He comes, however, and says that unless you give him more than double what you contracted to give, it will be impossible to perform the service. What is the pretense? At one time, it was said that the British Government gave more to their line, and on that account we should increase the compensation for the Collins line. So far from that being the case, I showed the other day that the British Government did not give quite \$14,000 per trip to the Cunarders; and I find that the compensation which is given to their most expensive line, which is the one to the West Indies, is only three dollars per mile. I find they have made a contract with a line for carrying the mail to Brazil, by propellers, for two shillings and nine pence per mile—less than seventy cents. I find, also, that the whole expense of the British Government for carrying the mail in steam-packets in 1849—and she had then enough of them to encircle the world once each week in the year—is only about £700,000 sterling.

Mr. RUSK. When was that?

Mr. HUNTER. The last report I saw was made in 1848.

Mr. RUSK. The expense is £809,000.

Mr. HUNTER. There may have been a more recent statement than that to which I have had access. The last that I saw was a statement from Lord Auckland, who, I believe, was connected with the Board of Admiralty in 1848. Suppose, however, that the expense is £800,000 for the whole, it is only \$3,840,000. Yet here is an amendment, which is to involve an expense, at least, of \$1,500,000, for maintaining one line between New York and Liverpool; with the addition, to be sure, as I said before, of these trips to Havre and Bremen. They cannot, therefore, claim the additional compensation upon the ground that the British Government give more for any line which they have in their employment; for, so far as I can ascertain, they pay only three dollars per mile upon their most expensive lines, and the Cunarders receive less.

Mr. RUSK. I am sure that the Senator does not wish to be in error in regard to the allowance made by the British Government to the Cunard company. The first allowance, before the Collins line went into operation, was £80,000 sterling. It was then increased to £145,000, immediately on the Collins line commencing their trips. That



made the sum of \$696,000; though I believe there was a difference of opinion between myself and the Senator from New Jersey as to the amount when rendered into American currency. I calculated the pound sterling at \$4.80, and he rated it at \$5; that made the discrepancy between \$696,000 as calculated by me, and the \$725,000 as calculated by the honorable Senator from New Jersey.

I have understood, as I before stated, that an additional allowance to the Cunard line has been made, making their pay now £175,000 per annum. I believe it is correct. The authority from which I obtain this information is highly respectable; and besides, the British Government have shown that they conceived it to be a matter of importance by increasing the amount of compensation as soon as the Collins line began to run. So that the Cunard company receive, if my information is correct, \$875,000 a year.

Mr. HUNTER. Who was the authority for that statement?

Mr. RUSK. I received it from a respectable citizen of Washington, as coming from Mr. Livingston, of New York. I have no doubt of its correctness.

Mr. HUNTER. The Senator must excuse me if, upon this occasion, I do not accept hearsay testimony. If the fact be so, there are official documents to show it; and, until they are produced, I shall continue to rely upon the information given us by our own Post Office Department, and heretofore used by the Senator himself. I think I shall be able to show, before I have done, that we have already gone too far in acting upon testimony derived from unofficial sources.

But assuming that he is correct, that the British Government does pay £175,000 to the Cunarders, it would be \$840,000, a much less compensation per trip than is proposed by this amendment to be paid to the Collins line. It would be still a less sum for fifty-two trips than it is proposed to pay Collins for twenty-six. I say, therefore, that there is nothing in the compensation granted by the British Government which would justify the extravagant allowance contemplated by the amendment. But it is said that, if we make this grant we shall be repaid by the postages receivable by the Collins line hereafter. To test this statement, let us see what we have already received during nearly two years, of which we have an account. I have here an account, made out at the Post Office Department, and according to that statement, which is signed by the Auditor, the entire receipts by the Collins line, from the 27th of April, 1850, to the 31st of March, 1852, amount to \$373,337.

As I explained before, the Collins line can be fairly credited with only two thirds of that sum, because, of the twenty-four cents paid upon each letter, the British Government receives three for inland postage, and the United States receives five cents for inland postage. Sixteen cents, then, is the postage on each sea letter; and I submit that all that the Collins line is entitled to by way of credit for postages, is sixteen cents each, for the sea letters. Five cents is to reimburse the Government for inland transportation, and it can in no manner be reckoned in favor of the Collins line. There is an item of \$90,000 for closed mails, and \$46,000 for newspapers. These come by the Cunard, the Havre, Collins, and Bremen lines, to say nothing of the British closed mail which we carry to the West Indies, and to credit the Collins line with one half the sum would be quite too large an estimate. The same may be said of the item of \$46,858 for newspaper postage. But the amount to be credited in these cases must be conjectural, for there are no means of separating, at the Department, what is brought by the Collins line from that which is brought by others. The one half of these two items, when added to two thirds of \$373,337, the letter postage amounts to about \$320,000. But we pay them \$385,000 per year; so that we do not receive in the shape of postages one dollar for every two which we have paid. And yet we are asked to pay more than double the amount of the present compensation, under the delusive hope that we shall be repaid by what we shall receive from postages.

I know that the honorable Senator from Texas [Mr. Rusk] referred to our share of the receipts from the Cunard line, and introduced that as a sum to be credited to the Collins line. How is that to be done? Why do we receive anything

by the Cunard line? We receive five cents for inland postage upon the letters which they bring. That is no credit to the Collins line. We should receive that if there were no Collins line, and no postal treaty. So that in no manner or sense can the receipts from the Cunard line be placed to the credit of the Collins line. So far as actual receipts go, it appears, then, from accounts rendered at the Department, that while we pay at the rate of \$385,000 a year, we have not received one dollar for every two which we have paid out. But we are told that we have a right to hope that we shall receive this back, because of the immense receipts of the British Government from the Cunard line, before the Collins line began to run. When I sought for the authority for that statement, it turned out to be a statement made in a speech of Mr. Thomas Butler King, upon the authority of the postmaster at Boston, who supposed that a certain number of letters went out from New York and from Boston, and supposed—that he could know nothing about—that a certain number went out from Canada to England; and who supposed, further, without pretending to know or state the actual price, that the Cunarders charged the same price for the transportation of letters which was charged by the packets. And upon all these suppositions he made an estimate, which I think I can show, from circumstantial evidence, was manifestly wrong. It was manifestly impossible that there should have been any such receipts.

Why, sir, according to that estimate, the British Government received from postages by the Cunard line, during six years, a sum amounting to \$7,836,000, or something like \$1,300,000 per annum. Now, it appears from the statement of our Auditors that the amount of receipts for postages for nearly two years, from the 27th of April, 1850, to March 31st, 1852, is only \$1,071,000; and of this, only two thirds can be credited to the Cunard line. Add two thirds of this amount to the \$320,000 which was shown to be about the amount received by the Collins line for the same time, and you will find the entire receipts of the two to be but little more than half a million of dollars per annum.

If that is the case, how is it possible that before the Collins line started, the Cunarders should have brought in \$1,300,000 per annum? It is impossible. Besides, I find in a report of a special committee of the British House of Commons, in 1848, one of the members raised the question, and asked of Mr. Ward, who was connected with the British Admiralty, "whether it is not expected that a great part of the increased amount of the North American line will be repaid to the public by the increased receipts on account of postage?" Answer. "I know nothing of the receipts. I only know that the payment is a very large one, and it appears as an annually increasing charge in our estimates." And Lord Auckland, in reply to the same question, stated that he did not know, he had been told that they probably did pay, but was not aware of its being actually the fact. Evidently, they had not the advantage of the estimates of the postmaster at Boston, or they would have been better informed. I find, also, that Mr. Anderson, a member of Parliament, stated, in 1849, that "the annual loss on the three great lines—the North American, the West Indian, and the Peninsular and East Indian—was £209,000 a year." How, then, is it possible to believe that the Cunard steamers were making these large profits for the Government in the shape of postage? The fact would have been known everywhere. But the statement is incredible. I go further, however; these parties prove themselves out of court, if it be true that the Cunard vessels, in six years, produced to the Government five millions more than they cost. There was no necessity, in that case, for the aid of Government to sustain them. It was a self-sustaining business, and the two Governments ought not to interfere, but ought merely to make such mutual arrangements as would enable them to run and receive what they make in the shape of postage. If, in six years, they could make \$5,000,000 beyond their expenditure, in postage alone, with what face can they ask for other relief than an increased share of the postage made by themselves? If they had yielded postages enough to repay the Government advances, they would scarcely have required an increase of those advances, as their other business would have been somewhat proportionate to the income from this

source. It is possible that the Cunard line which ran cheaper than the Collins, may have repaid the Government its advances, but it is utterly improbable that they could have done much more than that, which, it must be observed, was less than one half of what is paid them now. I say there is nothing in these statistics to justify the expectation that the Collins line will repay the allowance back in the shape of postage. But I propose to examine their own statement—for mark, sir, we are called on to act here on *ex parte* testimony. I know nothing of the book-keeper who has been mentioned, or of the elements of those calculations, which have been sent here; but in order to test them, I went to the Bureau of Construction, and endeavored to procure a conjectural estimate of the cost of twenty trips of such steamers as Collins's. I was referred to a young gentleman, Mr. Isherwood, a chief engineer, as good authority upon these subjects. He made the estimate, and said that, without particularizing, or pretending to know what was actually expended, yet, after calculating for all the sources of expense known to him, and allowing one hundred and twenty-five passengers per trip, the result was, that \$300,000 a year would be an "outside estimate" for the whole cost of making twenty trips with those boats. In that estimate, he included large wages, and a large outfit for the accommodation of passengers, and he said it was impossible to make a conjectural estimate reach a larger amount, on any data that the Department had in its possession.

I find it stated before the same committee of the British House of Commons of which I have before spoken, by Mr. Williams, the manager of "the City of Dublin Steam-Packet Company," that a steamer, to do a fair business, ought to make "twenty-four or twenty-five per cent. per annum" for the money invested in her. I presume he meant over and above the actual expense of running her.

He states it thus: "We calculate eight per cent. at least for maintenance, that is, the ordinary price for keeping the vessel always up in the most perfect order; keep her in running for business. Some companies consider it should be ten per cent.; we have found eight is sufficient. I should say the insurance alone would be five per cent., and there is the depreciation, which would require at least four, six, or seven per cent., say four per cent. at the lowest, the fund for replacing the vessel, and six per cent. profit." "You consider the ordinary life of a working steam-vessel is about twenty years, do you not?" "Yes, we have vessels twenty years old in very fine order now."

Now, sir, if Mr. Collins received what he said he did, that is, independent of what the Government gave him, the sum of \$28,000 per trip, he received for twenty trips, \$560,000. Adding the Government bounty of \$385,000 per annum, and he would then be in the receipt of about \$945,000. When you come to deduct the expense of \$300,000 a year, for which all these ships ought to be run, as I am informed, and allow twenty-five per cent., or one fourth of what ought to have been the cost of the vessel—yes, sir, even more—allow him \$700,000 apiece, allow that the four cost \$2,800,000, you will find that the twenty-five per cent. upon \$2,800,000, the estimate for repairs, insurance, profits, &c., and the \$300,000 for making twenty trips, amount to a very little more than he now receives according to his own showing.

Mr. RUSK. I dislike to interrupt the Senator, but I have a distinct statement here upon the subject, which I have not derived from the information of a clerk. If the Senator will permit me, I will read it.

Mr. HUNTER. I suspect that I have seen it. I suppose it is published in the statement of Mr. Collins.

Mr. RUSK. No, sir; it is a written statement which is sworn to.

Mr. HUNTER. I think it is the same that I am commenting upon.

Mr. RUSK. I imagine not.

Mr. HUNTER. Very well, let it be read.

Mr. RUSK. It is as follows:

NEW YORK AND LIVERPOOL U. S. M. S. Co. }  
No. 56 Wall Street, NEW YORK, December 15, 1851. }  
Statement showing the actual expenses and receipts of the first twenty-eight voyages of the New York and Liverpool United States Mail steam-ships, Atlantic, Pacific, Arctic, and Baltic:

<i>Expenses, Wages of Crew, and Provisions for same.</i>	
Average of each voyage, as above.....	\$5,845 04
Fuel do do.....	8,612 28
Repairs to machinery do do.....	4,571 90
Do do extras, average as above.....	4,643 00
Ordinary expenses, including carpenters and joiners, port charges, sailmakers, light and dock dues, passengers' provisions and waiters, and other necessities, average as above.....	12,762 73
Insurance, average on above voyages.....	8,904 64
Interest do do do.....	8,438 00
Deterioration at seven per cent. per annum on do.....	8,438 00
Total.....	\$65,215 59
<i>Receipts.</i>	
Passage money, average as above.....	\$21,292 65
Freights do.....	7,744 20
Mail money from Government do.....	19,250 00
	48,286 85
Deficiency average, per voyage.....	\$16,928 74

Mr. Wm. L. Youle, Secretary of the New York and Liverpool United States Mail Steam-ship Company, swears that he is not interested in said company, and that the foregoing statement is true.

Mr. HUNTER. That is substantially the same statement as that upon which I was commenting. I was aware that they had a statement, sworn to by their secretary. I do not mean to disparage his testimony. I know nothing about it. I only know that the Government of the United States has had no opportunity to look into that evidence through its agents. I know that it is an *ex parte* statement. I do not know how it is, or why it is; the secretary cannot know whether these sums ought to be expended. It has been charged upon them that they run their ships at too great an expense. I know—and this affords the best means within my reach—for checking and correcting the calculation which proceeds from the parties interested—that Mr. Isherwood, an engineer-in-chief in the Navy Department, a young gentleman apparently of science and ability, has given a very different estimate of the proper cost of running these ships. I acknowledge that it is a conjectural estimate, but it is a conjectural estimate of one who is skilled in such matters, and I have no doubt that it is good for this: to show what the running of these ships ought to have cost if they had been properly managed and built. But I dwell upon this estimate because it brings me to another point.

It is said that if you do not give this additional compensation to the Collins line, it will go down, and we shall lose all chance of participating in the steam communication, or in the steam marine, which is to run between New York and Liverpool. On the contrary, I believe that if it were to go down, and if you were to advertise for steam-ships to carry the mails, built without reference to the war feature, which, I think, I shall show is utterly unnecessary, we would get vessels as safe as the Collins steamers and as fleet, which would carry the mails, and which could be built for the sum of \$500,000, and indeed less. Yes, sir; I am told that if they were to be only sixteen hundred tons, they would cost but \$400,000 apiece. Mr. Livingston—the same Mr. Livingston to whom the Senator from Texas has referred—says, in a late communication which I have seen, that if you had not required him to make them suitable for war purposes, he could have built his ships for less than what they have cost by \$200,000 apiece—ships that would go as fast and have as much capacity as those he already had. I am told that if these ships had been built plainly, such ships as the Collins steamers could have been, and ought to have been, built for half a million of dollars apiece. If you take them upon that estimate, you will find that what we have already given them, in addition to what they make, would not only pay the expense of running them according to the estimate, but that they would pay a profit largely above the twenty-five per cent., which the Englishmen say is all that is necessary to cover all the charges and to rebuild the ships, and an ample profit besides. So that, so far from losing an American steam marine; so far from losing our share of the carriage of mails and the transportation of passengers and freights by steam between Liverpool and New York, if these Collins ships were out of the way, we should, on the contrary, probably raise up a set of steam-ships which would do the business upon self-sustaining principles. And I submit that it would reflect much more credit upon our legislation if we were so to manage these matters that the business should be done upon self-supporting principles, than if we were to do as is now pro-

posed—pay Mr. Collin's losses upon a mere consideration of fleetness, merely to keep up a set of ships unfit for naval purposes, as I shall presently show, and which are unsuitable also for a commercial marine.

Now, sir, I propose to examine the pretense that they are fitted for war purposes; and I think I can show by authorities, both American and English—not only by our own officers, but by English naval officers—that they are not war steamers in any true and correct sense of the term. I begin with our own. What says Commodore Perry?

Extract of a letter of Commodore M. C. Perry to the Secretary of the Navy, dated April 9th, 1850:

"The mail steamers of the contracts of Howland & Aspinwall, of George Law, and of E. K. Collins, can be easily converted into war steamers for temporary service, in cases of particular emergency. These vessels, with little strengthening of the decks, can be made to carry each a few guns of heavy caliber, and may be rendered useful to convoy, in the transportation of troops, carrying dispatches, conveying public functionaries, &c., &c.; but their service could only be contingent, and, as before remarked, temporary.

"The cost of converting them to war purposes would be large, and in no respect would they be as economical, or in any way equal to vessels built expressly for Government service; nor should they, in my opinion, interfere in the least with the organization and gradual increase of an efficient and permanent steam navy. The use of steam-ships in our future naval operations must inevitably change in a great degree the art of naval war. Indeed, no one can imagine what changes will be effected, as well upon the ocean as upon the land, by means of the new agencies which have been more practically developed within the last quarter of a century."

Extract from a communication to the Secretary of the Navy, dated April 20th, 1850, by Charles H. Haswell, Chief Engineer of the United States Navy:

"With a large majority of the commercial ocean steamers now built, the proportions, capacities, and construction of their hulls, and the design and arrangement of their engines and boilers, are such as to render them incapable of efficient and economical war service, without incurring an expenditure in alterations and a loss of time that would not, except in cases of national emergency, be at all repaid by the ultimate durability of the hulls of the vessels in their ready transfer to, or in their economical performance of active service."

"They are so deficient in stability, without the spars and armament of a naval steamer, that it is necessary to depress them beyond their intended limits, in order to effect their passages with the probability of security."

"The steamers of Mr. Collins's line, now in progress of construction, will cost \$550,000 each. Yet the boilers of these vessels, and all the other mail steamers, are of iron, their hulls are not constructed of live oak, and the vessels are without the spars, rigging, armament and equipment of naval steamers."

"The first mail steamers have proved inadequate to their service, from the insufficiency of their construction; and after but two and a half years' service, and at a cost of repairs and alterations exceeding their first cost, they are now incapable of any useful naval purpose; they therefore, an ignorance of their worthlessness existing, are estimated in our means of naval defenses; and when required for such purpose, the dependence would prove as disastrous to our national interests as their construction has been to our professional reputation as constructors and engineers."

Extract from the report of Commodore Charles William Skinner, to the Secretary of the Navy:

"7. What is the best instrument for propelling commercial ocean steamers, the paddle-wheel or submerged screw? and do these instruments require different models for the hull?"

"Answer. The paddle-wheel is generally considered the best instrument of propulsion, where speed is required; but for the purposes of war the screw would be preferable, and they do require different models.

"8. Do you consider commercial ocean steamers, as now built, convertible at once into war steamers, and capable of efficiently performing war service?"

"Answer. They cannot be converted into war steamers without great expense, and then they would be inferior to those designed solely for that purpose."

Extracts from Mr. John Lenthall's letter to Commodore C. W. Skinner, dated 18th of February, 1852:

"I would, in the first place, state, that there is some doubt whether a side-wheel steamer can be made into a war steamer of the first class.

"The machinery of such a steamer should be placed below the level of common dangers from shot; and to enable her to become a cruiser requires that she should be a perfect sailing vessel in all respects—not only in the power of the sail, but also in its position. The fullness of the extremities should be such that the motions of pitching and seending may be within moderate limits, and they should be able to support the heavy guns at their extremities, which are deemed essential to their armament. It is desirable that they should be fast vessels, but they must be capable of using as well as carrying their armament; and as no other quality can compensate for a deficiency in this, it becomes a primary consideration."

"The words 'suitable for immediate conversion into steamers for war purposes,' I

understand to mean the state in which an actual ship of war would be if temporarily employed in carrying the mail or passengers.

"From the superficial examinations I had the opportunity of making, these ships appeared in about the same degree of readiness for immediate conversion into steamers for war purposes as merchant ships, according to their size and speed, are into frigates or other classes of ships of war possessing the advantages common to large vessels of a capacity permitting, if required, the additional materials necessary, and the armament and equipments required to be placed on board to make them war vessels."

Extracts from a letter to the Secretary of the Navy, from Commodore M. C. Perry, of 18th of February, 1852:

"It will be well, however, to premise that, under no circumstances, and at whatever cost, can a steam-vessel, built expressly for the transportation of freight or passengers, be made, in any manner, equal in convenience and efficiency to a vessel originally intended for war purposes, even assuming that the materials of which the respective vessels are constructed are in all respects equal. And for the obvious reason, that in the construction of a vessel of war, from the laying of the keel, every part of the vessel is, in the progress of completion, made subservient to the accommodation and arrangement of the armament, the safe-keeping of the munitions, provisions, water, &c., and the berthing of the several classes of officers, and the crew; while in mail or packet steamers—in this country—no preparations are made for any armament, the ingenuity of the builder being alone taxed to render them extravagantly showy and best adapted for the accommodation of numerous passengers and the stowage of freight."

"Question first. 'Whether the steam-ships employed in the transportation of the United States mail, under contract with the Navy Department, or any other steam-ships employed in the transportation of our foreign mails, are, in all respects, suitable for immediate conversion into steamers for war purposes, capable of carrying the armament or battery appropriate to the class specified in the contract?'"

"In answer to the foregoing [first] question, I am of opinion that they are not 'in all respects suitable.'"

"It should be taken into view that those mail steamers, if called into service as war vessels, would be considered as forming an auxiliary force to the regularly-constructed ships; and hence the impolicy of expending much money on them. The requisites of sound hulls and powerful engines, with efficient armaments, should alone be considered, leaving superfluous ornament out of the question."

Extract from note accompanying the letter from Commodore Perry, of 18th February, 1852, from which the above extracts were taken:

"The deterioration of ocean mail steamers, growing out of wear and tear and gradual decay, notwithstanding every possible repair, may be estimated at five per cent. per annum for live-oak ships—perhaps a trifle less."

I could go further, and produce you the same sort of testimony from other sources; but that is enough. I know the friends of the amendment rely upon a letter which Commodore Perry wrote, and which, I suspect, is to be interpreted into an opinion that the ships might suit for temporary purposes—for transportation, and kindred services. I looked into the proceedings of the special committee to which I have referred, raised in the British Parliament, in 1848, upon the subject of steam-ships, and I found there the same opinion ex-

\* Extracts from the "Minutes of Evidence taken before the Select Committee on Steam Navy," ordered by the British House of Commons in 1849.

At page 73 of the printed report, is the testimony of Captain W. H. Henderson, R. N., C. B., as follows:

"741. 'Do you think that vessels of that packet class, taking a superior class of vessels, might be made useful in the case of war, for channel purposes and protecting our coast, and for looking out?' 'Very useful.'"

"742. 'But not to supersede men-of-war?' 'No; I consider that they are a different kind of vessel; they are made for working against the head-winds of the Atlantic, and they are under-rigged, and are not intended for sailing.'"

At page 81, same report, is the testimony of Captain H. D. Chads, R. N., as follows:

"892. 'Do you think that they would supersede the use of steam-ships built expressly as ships-of-war?' 'I should apprehend that we should make a sad mistake if we attempted to do away with our own. I think that under no circumstances could you apply them as men-of-war, strictly in the meaning of the term 'men-of-war.'"

"893. 'Do you not conceive that they are so well adapted for fighting purposes, and for keeping company with fleets, as ships that are built for the Royal Navy?' 'I apprehend that they would be always required to be under steam, to keep company with our fleet; I do not think, from their rig, that they have sufficient canvas to enable them to keep way with our vessels without steaming; that they would be constantly under a certain portion of steam, consequently their coals would be soon exhausted.'"

At page 89, of same report, is the testimony of Rear-Admiral Sir Charles Napier, K. C. B., as follows:

"1015. 'Would you confine the use of those vessels to the channel, or would you make use of them by sending them abroad into our Colonies?' 'I do not think they would be fit to go abroad with that fitting, which I think they ought to have at all times, because it is too late to begin to fit when the enemy is on your shores. I do not think they would be fit to go abroad, because they would be too small, and as the greater number of large ones would be abroad at the time, you would not be able to get hold of them.'"

pressed by Captain Henry D. Chads and by Captain Henderson, and by Admiral Napier, all of the Royal Navy. They said that their merchant steamers could not supersede the war steamers, and were not equal to them for war purposes. They all said that such steamers were not fit to send abroad, and would burn out all their coal before they could get abroad. But they said—that is true in their country—that they might be eminently serviceable for purposes of defense in time of an invasion—to defend the channel in case their country should be invaded. It is evident that this examination was made under great apprehensions of a French invasion, for their inquiries seemed to be directed to that contingency. Upon being questioned, in order to ascertain whether they could make war steamers out of those ships, Captain Chads said, that if they were strengthened, fore and aft, so as to make them capable of carrying guns, they would lose the quality of superior speed; and he intimated that a British war steamer was not much more valuable for the quality of superior speed, if she was not able to fight anything of her cost and size. Of what advantage was that to her, but to run away?—and was that a quality which was valued in a British steamer? Sir, if that is a quality which is not to be valued in a British steamer, I would ask whether it should be highly valued in an American steam-ship of war?

Now, if you will look to the testimony of Commodore Perry, you will find that he had some ideas of the same sort, for he italicizes the words “for temporary purposes.” And why for temporary purposes? You could not use them long. They would soon burn out their coal and use up their fuel. They could not carry guns enough for any extensive service. But they might be made eminently useful for channel defense in England, because in such a country, without very many forts, they could prevent for a while the landing of troops, and in such a case a check for a few hours might save infinite mischief to the country.

They could carry armament enough, too, to protect the coasting commerce against privateers. I submit, however, that when you look at our position on the map of the world, and to that of England, you will find that the circumstances of the two countries are very different. We should want such steamers only for purposes of transportation. We might now and then need a swift side-wheel steamer to bear dispatches. We might want them to transport our troops, and ordnance, and stores; but our own commercial marine would furnish steamers enough of that character. We should find no difficulty even if we did not give the bounties which are proposed in the amendment.

But, sir, I go further: I am authorized in saying, from all that I can see, and from all that I can learn, that it is now an admitted fact amongst professional men, that steamers with the paddle-wheel cannot be made efficient war-steamers—that the screw-propeller is the only mode of making a war-steamer which can be efficient. That is distinctly proved as the opinion of those English officers who were examined at the time to which I have referred. I have recently read a book of great interest, written by Captain Halstead, of the British Navy, in 1850, in which he demonstrates that fact. The screw-steamer is superior for these reasons: 1. She can carry a whole broadside, which a paddle-wheel steamer cannot carry; 2. Her machinery can be effectually protected from shot—and I am told that it was but last year, or the year before, that a British paddle-wheel steamer was disabled by a single shot fired from a slaver off the coast of Africa; 3. She can go to sea with a much less supply of coal, for she uses steam only as an auxiliary power to sails. She is capable of being built upon the finest models for strength and speed, which cannot be done with the side-paddle, because the necessity of carrying the armament fore and aft impairs the force of the ship.

The propeller thus having the advantage in all of these elements—that of carrying greater weight of metal, that of going to sea at less expense, that of fighting with greater safety, and of being built on a finer model—there can be no possible reason for supposing that a steamer with paddles would come into competition with a screw-propeller as a ship-of-war. The French, as I understand, are using the screw-propeller. The English are now using it, as auxiliary to sails, and applying it to their ships-of-the-line. I am told that they are now putting a screw-propeller in a ship which is

twelve feet longer than the *Pennsylvania*. They are building for war purposes now none but screw-propellers. I believe that it is the universal opinion of the Navy, certainly it is the opinion of every officer of our Navy with whom I have conversed, that there is no other mode of using steam, which is adapted to war purposes, except by the screw-propeller. Captain Halstead gives the reason for this. He says, to reduce the matter to an axiomatic form, that she screws best with the aid of her sails, and sails best with the aid of the screw; while a paddle-wheel steamer paddles best without her sails, and sails best without her paddles. In the one case the two are auxiliary to, while in the latter case the one mars the efficiency of the other. Another difference, as Captain Halstead says, is, that with a screw-propeller you can go to sea with a small supply of coal, and carry a large freight of other things, whilst with the side-wheel paddle, you have to go to sea with a large supply of coal and a small supply of other things. He says it has been proved in the merchant service, that the auxiliary screw-steamers can carry freight at twenty-two per cent. less than the others. He says, further, that the expense of a ten-thousand horse power, with paddle-wheel machinery, would be £245,000; just one half that amount would be necessary if you use the screw-propeller. He says, also, that the very service for which the British are paying paddle-wheel steamers 12s. 6d., or about \$3 per mile, to perform, was offered to be performed by screw-steamers at 2s. 9d. a mile; so that the difference between the cost of employing screw-steamers and paddle-wheel steamers, was the difference between paying 2s. 9d. or 3s. 4d. a mile, and 12s. 6d. a mile. I find, too, that in the examination, in England, in 1848, Lord Auckland says the English are using the screw-propeller to a large extent, as an auxiliary power in the merchant service; and Mr. Ward said that they had answered perfectly, in the Holland trade, when they had been tried. He was asked in 1848: “Are you aware whether it has become common in the merchant service to use the screw-propeller?” He answered:

“It is extending in the merchant service, and has produced some very curious results. The experiments had been particularly successful in the case of those small schooners which are built for the trade with Holland, and then they seem to have succeeded completely. They have engines which occupy only one seventh of the vessel, while the engines of the *Blenheim* occupy nearly one third. And they attain very considerable speed, eight knots, eight and a half knots, and nine knots. The screw is never raised. The apertures are all immersed, and the voyage of two hundred and sixty miles, upon a long series of experiments, averages about thirty-six hours.”

I was shown, this morning, a letter just received from Boston, from a gentleman of high authority and great experience in such matters, who says:

“My opinion is so strongly in favor of propelling with strong auxiliary steam, that I believe if two steamers were to be sent on a survey, or a naval cruise of any kind, the paddle starting to-day, and the propeller being laid down a month hence, at the end of eighteen months the latter would be ahead in her work, at a cost fifty per cent. less! In short, the paddle must be constantly near the coal-yard and the machine-shop, while the other would be independent of both.”

Indeed he says much to justify the opinion, that the screw propeller, as an auxiliary, is destined to make a revolution in the merchant service. It is a fact of which I have no sort of doubt. I was told, on Monday, at the Navy Department, that they had made a comparison of the log of the “*San Jacinto*,” before her machinery broke down, with the log of the “*Saranac*,” the “*San Jacinto*” being a propeller, and the “*Saranac*” a side-wheel

steamer. The “*Saranac*” beat the “*San Jacinto*” less than three per cent. in point of speed, while the superiority, in every other respect, was with the “*San Jacinto*.” Captain Halstead says, at pp. 62 and 63:

“Of armed vessels, the ‘Terrible’ has been selected for comparison, because she is the most powerfully-equipped paddle-steamer in the navy, whether in guns, engines, or sails; and after carefully rejecting all distances performed when towing, when cruising, or when disabled in machinery, I find, from the special reports of the ‘Terrible,’ that she performed, in 1846, ‘47, and ‘48, a distance of 15,731 miles, and shows, for this period, a mean rate, or ‘duty of ship,’ of 6.83 knots per hour. This is a vessel of 1,847 tons, and 800 horse power, or with a proportion of one horse power to every 2.31 tons. But it must be observed, with regard to the armed steamer, that, unlike the sister ship in mail employ, she is required, for the sake of economy, to use her canvas whenever possible; and, of the whole distance completed by the ‘Terrible,’ 6,277 miles, or forty per cent. of it, was performed under sail alone.”

“Now, we have seen that the two auxiliary vessels which have been quoted as standards, performed eighty-nine voyages in the year 1847, making good a distance of 45,548 miles, and showing a mean rate, or ‘duty of ship,’ of 8.25 knots per hour.”

Again: he says it has been found, inasmuch as the screw and sails are auxiliary to each other, that, instead of having to build them of clumsy moulds, as heretofore, these steamers can be built of the very finest forms. If I were to hazard a conjecture, I would say that I have no doubt the day will come when the screw propeller, as an auxiliary, will be used with our fast clippers, and make the finest merchant ships in the world. I say, therefore, that the Collins steamers are not suitable for war purposes, not only upon this testimony in relation to them, but upon other considerations.

I omitted the testimony of Lieutenant Roberts, of the English navy, in 1848. He was asked whether the American steamers could carry guns? He said, no better than their own, and not quite so well as their own merchant steamers. I say, that these facts prove undoubtedly, that, according to the opinions of all, or almost all, the professional men of eminence, both in the British navy and in ours—and my friend from Florida [Mr. MALLORY] tells me that such also is the practice and opinion in the French navy; it is considered that no other steamer is fit for purposes of war except the screw-propeller. So that if we are to expend the money which ought to be expended in the gradual increase of the Navy in thus keeping up side-wheel merchant steamers, we will not only expend it in a service to which it will not be ultimately useful, but we take away a fund which is necessary, in order to increase the Navy in a mode which will be useful to it, and which will enable us to exercise our officers. Why, what is our policy in relation to the Navy? We seek to maintain just such a Navy, and no more, as will preserve the police of the seas, so far as it is incumbent on us to maintain that police. We also keep up a skeleton arrangement, capable of extension and expansion in time of war. To make that skeleton arrangement efficient, it is indispensable that we should have all possible means of exercising and training our young officers. How can we do it, if we expend the money on steamers to be commanded by merchant captains? And that is the case, I understand, with these Collins steamers. Ought we not to expend the money which we can devote to such services upon war steamers of proper models, and with proper machinery, so that our officers may command them, and be exercised in a steamer with all her appointments, and complete as to machinery, sails, and battery?

I go further. I have seen rather a striking view of this question suggested by Commander Dupont, in a very interesting essay which he has written on our national defenses, and I find that, to some extent, the same view was presented, on an examination before the committee of Parliament of which I spoke, by the manager of one of the steam-packet companies. Commander Dupont says, that in time of war we should injure our commerce by withdrawing the commercial steamers, and after all, have ships not well suited for such a service, and that the alterations necessary to be made to fit them for war, would greatly impair their commercial capacities.

The manager of the British steam-packet company to whom I refer, when questioned by the committee of the British House of Commons as to the ability of his company to furnish their steamers, if there should be an invasion, for war purposes, says, we could furnish a part of them; but

\* Extracts from a work entitled “The Screw-fleet of the Navy,” by Captain E. P. Halstead, of the English Navy. He commends the adoption of screw-ships in the Brazil mail service, for the following reasons: At page 87—

“Because it is a principle which is capable of reducing public expenditure, at the same time that it improves general commerce. Because it takes less out of the public purse, and puts more into private ones; while paddle propulsion draws very largely upon both; for, instead of carrying goods, the paddle is compelled to carry coals only, and then it calls upon all of us to pay for the expense of burning them.”

And again, he says, at page 89:

“I am not in error when I state that the practical difference between paddle propulsion and screw propulsion, that is to say, between large ships carrying large cargoes of coal and small cargoes of goods, amounts to this, viz: That the auxiliaries are able to make a profitable return upon freights which are twenty-two per cent. lower than those demanded by the full powered steamer.”



it would be a very serious disadvantage to commerce if you were to take them all away. Why, in time of war, the ships that we should want more than all others for commercial purposes, would be these steamers, which are fleet enough to run away from privateers, and might carry guns enough to protect themselves against them. So that, if you were to attempt to unite a naval and commercial marine in relation to steam—and you do not attempt it by vessels moved by sails, (and the same reason, it seems to me, should apply to both)—you will injure both; because if you attempt to make the vessels somewhat stronger and heavier for war purposes, in time of peace, they will not be so well fitted for carrying freights and passengers; and if, in time of war, you take these steamers for military purposes, you would not have steamers so well fitted for that service, as if they had been originally constructed for war alone.

I say, then, that so far as the clause requiring these steamers to be fitted for war purposes is concerned, it is a humbug. I say that these ships of Collins are not suitable for war purposes, unless you discredit the testimony of all these officers. It is to be remembered that Captain Halstead was the officer appointed by the British Admiralty to try experiments between the relative powers of the screw and the side-wheel paddle steamers. I say you must discredit all this testimony, if you maintain that the Collins ships, or any ships built upon that plan, are suitable for war purposes. They may be suitable for carrying supplies, and for dispatch vessels, but there is no necessity for Government bounties to secure them; we shall be always able to command enough of them, from our commercial steam-marine.

Then, upon what other pretense can these grants to the Collins line be sanctioned? Why, it is said that we make these grants for carrying the mail. I crave your attention a little while on this point. It is a principle in relation to our domestic mail arrangements, that we make the business of carrying the mail pay for itself. We will not extend it further than it can be extended when it supports itself. It is true that we have made lately an experiment in relation to cheap postage, and that it is yet doubtful whether in the first years it will repay or not; but it was done under the distinct hope and assurance, so far as assurance could be given, from conjectural estimates, that the receipts from postages would repay the cost of transportation after the rates were reduced. There may be some obligation to carry the mails here at home in our own country which cannot be otherwise supplied, at a greater cost, than the postage would repay; but there can be no obligation upon us to carry mails between our people and foreign nations at a greater expense than will be repaid to us again. As a proof that it is not the mail service, but something else that is really moving us, I would ask, does any man doubt, that, if all the ships belonging to the Collins line were to be sunk to-morrow, the British ships would bring us the mail? Does any man suppose that, if we were to advertise and dispense with the unnecessary clause in relation to war purposes we would not have ships of our own that could be made suitable for carrying the mail, and suitable for commercial purposes? I have no sort of doubt but that in this mode, a steam system would be developed which would support itself from the proceeds of postage and the natural profits of their mode without any other assistance from Government.

In order to test this pretense in relation to carrying the mails, I ask, who can doubt but the English would carry them for us? Suppose we did not believe that the effect of it would be to enable the English to build up their commercial marine, but that they would only be able to sustain a few mail steam-vessels, and should we then think of interfering with them: would we not say that if they were foolish enough to do the business for nothing, or for rates that would not pay us to engage in the enterprise, they might do it. And certainly we should not run the risk of breaking down our post office establishment by saddling on it an expense vastly greater than would be repaid by postages. But we are not willing to do that. Why? Because we are afraid that England will build up a commercial marine in that way, and we want to build up a commercial marine of our own; and in order to enable these parties to maintain themselves, and in the pursuit of that object, we are about to resort to a system of

bounties; and that is the point to which I wish to bring the attention of the Senate.

If, then, there is any faith to be placed in human testimony—in the testimony of experienced professional men—I think I have shown that such steamers as those of the Collins line are not fitted for war purposes. I have shown, also, that if we look at it as a mere post-office matter, we cannot give these large sums which will not be repaid in the shape of postages without departing from the practice which we pursue here at home, where we make the business of carrying the mail pay for itself. What other reason, then, can be given for it, except that of the establishment of a commercial marine? I say that it is building up a commercial steam marine by a system of bounties and monopolies to enable these men, by money from the Treasury of the United States, to carry freights and passengers lower than other ships can carry them. I say that it is a system of bounties and monopolies, because, in addition to all that they make in the shape of postages, and from freights and passengers, they require this large grant from the Government to enable them to procure a business which other individuals prosecute at their own expense. And thus in a large branch of the general business of the country you propose to give them special advantages. For this sum is to be given that they may thus be enabled to carry freights and passengers lower than other ships that might be called into existence by private enterprise for the same purposes. Now, can anybody show me an argument against the protective system in any other form that does not apply to this? I know the Senator from Texas [Mr. Rusk] said that this word "monopoly" has destroyed many a good thing. I do not know what it has destroyed in this country. It was used against the United States Bank. I suppose the Senator does not regret its use in connection with that institution. It was used in relation to a protective tariff. I know he does not regret it in connection with that. Then I know of nothing else which this term has ever been used to attack. I say that all the objections which apply to a protective tariff, as I showed the other day, applied to this system. You propose to give these vessels a bounty from the Government to enable them to carry freights and passengers at lower rates than vessels which rely upon their own resources. It is true, they say, that the British protect their vessels, and therefore we must protect ours. Do not the manufacturers say the same thing? But why should I pursue this branch of the argument any further? The truth of what I say is obvious upon its face. Now, I say that the answer to all these appeals should be the same that is given in relation to the tariff. The business will either pay or it will not pay. It is either self-sustaining or it is not. If it will pay, it is self-sustaining; we believe that our people are not afraid of competition, but that they will be as able to take a share of it as anybody. If it be not self-sustaining, then, the more of this business which the English do, the more they will lose by it, and the less temptation and inducement there is for us to enter into it.

But I have been reproached with using a sectional argument in relation to this matter. I said that the same sectional argument which applied against the protective system applied against this, if we were to give New York these lines of steam communication, and refuse them to other cities. I say so again. Suppose we should pass a law that we would pay out of the Treasury of the United States the freight upon all goods carried into New York from abroad; would not that be a bounty—a monopoly given to New York? And who would give the sectional vote, he who voted this special privilege to New York, or he who voted to deal equally by all the sections of the Confederacy, and all the cities of the Union? Sir, I am willing to do for New York all that I would do for any other city; but I am not willing to do more. I do not believe she asks more than justice. She certainly ought not to ask it. A sectional man, in such a case, would be—not he who opposed it, but he who favored it. Suppose it were proposed that you should build a line of railroads to connect with New York, and with no other city on the coast of the Union, who would be the sectional man, he who would vote for such a system, or he who would oppose it?

This is no supposed case that I am putting. It

so happened that during this winter some of the iron-masters of Pennsylvania were here—gentlemen who represented the great iron interests of the country, and who believed it was not sufficiently protected. They were stating their case to me, and estimating the various elements which entered into the cost of home-made and foreign iron. I said to them, upon looking over the list, did you make sufficient allowance for freights upon the foreign iron? "Yes, (said they,) and too great an allowance; for these steamers often bring iron almost as ballast. They sometimes bring iron for little or no freight. They are doing this business to an extent which becomes annoying to us." Now, I wish to know, if we go into this system of bounties by which we are to pay the owners of these steamers for their losses, and enable them to carry freight and passengers upon their own terms, if they will not bring goods into New York for a less price than they can be carried, at the same speed, anywhere else. Will Philadelphia have an equal chance—will Baltimore have an equal chance in the great business of importation? Why, suppose this Government were to pass a law saying they would pay out of the Treasury the freight upon all goods brought to New York, would they not all go there? Or suppose they should pass a law, not going to that extent, but still a great way, saying we will not pay the whole, but we will pay the half, would we not be giving a preponderant advantage to New York? Would we not be placing her in such a position that no other city could rival or enter into competition with her for the foreign trade? What is it that we propose to do? Why, sir, twice a week two of these immense steamers leave the port of New York loaded with freights to be carried, partly at the Government expense, and twice a week they enter it. An American and an English steamer kept up by a system of government bounties—kept up by government assistance—so that they may actually carry freights cheaper than vessels that move by sails, or steam-vessels that would be started by private enterprise. They would thus make one hundred and four trips a year. Does any one suppose this would not have a serious effect, not only as between the different cities, but as between different interests in the community? How will it affect the vessels that move by sails? Nay, will it not prevent our creating a steam marine of the kind which might be self-supporting and self-sustaining?

I see it stated that there is a scheme already to get up steam-propeller merchant ships, using the screw as an auxiliary to run between Liverpool and New York. But how can they run? How can they be sustained, when the United States Government and the English Government interfere, to enable their paddle-wheel steamers, which are fleet, to carry in less time the same commodities at the same rates? If you want to get up a steam navy, get up a steam marine; and if you want to get up a steam marine, leave it where you leave your other commercial marine. Leave it where you leave the ships that move by sails. Leave it to a free competition. I have no doubt, that if you were to do that, a steam marine would spring up upon self-supporting principles; such a one as every American heart might rejoice in and be proud of. But I see nothing to gratify national pride in such bungling legislation as this, which would keep up, at an immense expense, a kind of steamers alike unsuitable for naval and for commercial purposes, and having a tendency to keep down those which would suit the demands of trade, and be started by private enterprise, if the Government did not interfere.

Now, Mr. President, I acknowledge (and it was a matter which escaped me when I was alluding to the sectional views of the matter) that New York has natural advantages which the Government should recognize, and which I would be the very last man to refuse her. I believe that such a line of commercial steamers could be sustained at New York by the profits on freight and passengers and postages alone; and I would give the postages to these steamers, not only there, but elsewhere. I believe that the effect of this system would be that, for some time to come, we should have steam lines from New York only. But that would be a temporary advantage to which she would be fairly entitled. It would result from her position, from her population, from her wealth. I believe that every place and every city ought to

enjoy the advantages which fairly and naturally belong to her.

I am not, therefore, giving up the undisputed supremacy on the seas to Great Britain. I am not for destroying the chances of a steam marine. On the contrary, I am in favor of those principles, and of that system which would enable us, most surely and most certainly, to build up a commercial steam marine upon self-supporting principles. I therefore protest against being held responsible for those conclusions from my arguments which the Senator from New York [Mr. SEWARD] chose to draw from them. Sir, I will not agree to be responsible for any man's conclusions from my premises or from my arguments. I am responsible for my own, and I support my views of the case, not for the purpose of sweeping American ships from the ocean, but for the purpose of placing them more surely, more safely, and more certainly there. It is true, I do not believe in this protective system. I never did. I see no more reason why we should protect a steam engine because it floats, than we should protect one which is stationary in a factory.

If I have succeeded in stripping this scheme of the pretenses that these ships are fit for war purposes, or that we would be justified in anything like such an expenditure for post-office purposes, I have shown that it is nothing more nor less than a naked proposition to maintain a steam line by a system of bounties. I know that the Senator from New York relied upon a letter from Commodore Perry, to prove that these ships might be converted into war steamers. If that letter is to be interpreted as he interpreted it, then I discredit Commodore Perry as a witness by his own testimony, which I have read; and I could have read still more. But I have no idea that Commodore Perry meant to say that, in the true technical sense of the term, these could ever be converted into war steamers. He meant that they could be used for temporary purposes; that they could be used to transport supplies and troops. I have no idea that he could have meant that they can be converted into real, effective war steamers, when he wrote the letter which has been read. I have no idea of it; because I presume that Commodore Perry has consistent opinions; and I find, upon sifting the testimony of naval men, of officers both in England and in this country, that when they talk of these commercial steamers being used for war purposes, they mean only for temporary services; they mean for coast defense, for they all say that you could not send them abroad; that you could not send them far to sea, as their coals would soon be exhausted. The naval officers all say that you cannot trust them for war purposes, because they cannot carry, in proportion to their size, armament enough. You could only use them at home, and for purposes of mere coast defense. Now, I submit that, situated as we are, we are under no necessity of establishing, by a system of steam monopolies and bounties, and at such an expense, a commercial marine for that purpose. We but embarrass them by the war feature, and we injure ourselves by attempting to substitute them for war steamers.

But the Senator from New York was not content with arraying living testimony against me. Like another Witch of Endor, he called the dead prophet to the stand. By some touch of his necromantic art, he transported us nearly a century back, and called up Edmund Burke to astonish the world once more with the wonderful range of his vision into the dark and distant future. But, sir, I must admit, that upon that occasion he showed more courage than Saul, and more presence of mind than the Witch of Endor; for while he had his prophet up, he made good use of him. I have examined that vision, and the best description I can give of it is, that the Senator made him prophesy very nearly the whole of what is contained in one of our annual documents on "Commerce and Navigation." But he did not give the whole of it. I also have seen a version of that prophecy—of that vision. The modesty of the Senator from New York forbade him to give the whole of it. I can repeat it to you, sir; not like the Senator from New York, in the very words of Edmund Burke, but I can give you the substance. It concluded somehow thus:

"And on the 27th of April, there shall appear in the Senate of the United States a man from New York who shall prove to their satisfaction

that he can think as I would have thought, and that he speaks as I would have spoken; and he will establish before the world his title to the character of the American Edmund Burke."

Sir, I thought it but an act of justice to the Senator to give the suppressed passage; for I am sure it was only his modesty that prevented him from reading it. [Laughter.]

There was one point, however, on which I would have been greatly gratified if we could have had a little further information from the one or the other Burke; and that is, I should have been delighted if either of them would have told us what the Collins line is to cost the Government of the United States before we are done with it. Why, unless we get this information, I shall think the Senator from New York is but an *ex post facto* prophet after all, for the main, the material point, is unanswered.

The Senator from New York was kind enough to excuse me for my opposition to this amendment. He says that my position on the Finance Committee, and my habit of watching appropriation bills have narrowed my mind. Indeed, he says it has that effect generally on persons placed on that committee. If that is the case, it ought to be used as a sort of school of practice. I know of some two or three Senators here who might have need of it. I have a friend from North Carolina, who ought to be put forthwith at the head of that committee, if it would have any such effect. [Laughter.]

Well, Mr. President, if I had ever been elevated to that region where reigns a law higher than the Constitution, higher than the objects for which it was formed, and higher than the principles on which it is founded, I do not know but that I might have enjoyed a horizon as extensive as that over which the delighted vision of the Senator from New York roamed with so much self-complacency. Perhaps if I could see more, like him I should want more. But as I do not look beyond the pale of the Constitution for the field of my political exertions, I am content to look within it for their objects. In point of fact, however, we belong to different political schools. Different! Ay, sir, opposite schools. There is a class of politicians, I know, who believe that individuals are incapable of attending to their interests; who believe that industrial systems have no capacity of self-development; but that it is the duty of Government to inform the one and direct the other; who believe, not that the course of the Government should be directed by the will and the intelligence of the people, but that the course of individuals should be directed by the Government; who are restless unless they are doing something, and who think they are doing nothing unless they arrest the course of nature, and disturb the natural flow of events; men who have long since come to the conclusion at which Washington Irving said the good people of Connecticut once arrived, who, according to him, determined to abide by the laws of God until they could make better for themselves.

Sir, I belong to a very different, and to an opposite school. If that Government is best which is self-developed by the genius of the people, out of the workings of their own peculiar interests, I believe that, of human characters, those are strongest which are self-inspired; whose steel is tempered in the internal fires of that forge whose secret beatings are known only to Him who owns it, and to Him who made it. I believe that the industrial systems rest upon a broader, firmer, and a more secure basis, when they are developed by the suggestions of individual interest, and directed under the conservative checks of a free and universal competition. I go further. I believe that if society would make a progress which shall be at once rapid and safe, it must throw open all the prizes of life, whether of profit or of honor, whether of fortune or of fame, free to a general and universal competition; and that the genius of our people, and the character of our institutions, especially require, in awarding these prizes, that "*deus digniori*" should be our motto. Let the best and worthiest take them. I know that this makes sharp work and imparts a sterner cast to the conflicts of life; but I know of no other mode by which the advancing column of society will be led by those who are fittest to lead it. Sir, I know that under such a guidance, and under the impulses which sometimes prevail, it will occa-

sionally strike off at a fearful pace; that the timid will shrink, and that the fearful will faint under the heat of the march. But these are the accidents and the chances of life. In the words of divine command, "Let the dead bury their dead." The word is forward and onward, the mighty column marches far away into the future, behind whose inscrutable shadows lie concealed the secrets of human destiny.

Sir, I believe that the administration of our Government must be based upon some principle as wide and as just as this, or that our experiment will be a failure. I believe that if we undertake to protect, to foster, and sustain every interest, this Government will become one vast jobbing concern; that temptations will beset our legislation until corruption becomes the order of the day; and that the centralization of power will go on here, until nothing shall be left to the States, and but little to the people. I believe that in a country so large as ours, with interests so vast, society must work much of its own machinery; and that then, what will be necessarily left for us to do, will be full as much as a free representative Government can possibly manage. If we go further, and insist upon taking more subjects under our charge, in such a country as this, to accomplish it we shall require a higher degree of centralization, and a more refined and despotic system of organization.

I know that these views may seem narrow and poor to those who believe that it is the duty of Government to attend to everything, to sustain and support every interest; and who believe that they are doing good when they attempt it. But I would appeal to them, to the most considerate and experienced amongst them, when they come to make a calm retrospect, to say whether they do not find that, in nine cases out of ten, when they interfered for such purposes, they have failed in their expectations, in their generous aspirations, if you will, after the good of their race.

They may call it a protection of industry, an encouragement of enterprise; they do indeed become the artificers of the fortunes of a few; but at what an expense to the many, whose just claims are forgotten or overlooked! They satisfy the demands of importunate capitalists who clamor around the Treasury door; but it is done at the expense of the silent millions who toil for their daily bread, too little heedful of the measure in which they are taxed or the manner in which the money thus raised is afterwards distributed.

Mr. RUSK. Mr. President, I do not intend to trespass on the time of the Senate. If a stranger had happened to be in the gallery, one who had not heard what the question was, he would be very much astonished to find, after all the admonition that we have had against monopoly and against drawing money out of the Treasury, that we have a company now performing a certain number of mail trips between Liverpool and New York for which we pay \$385,000 a year, and that the proposition now before the Senate was jointly to require them to perform an increased service for which, upon the recommendation of the Postmaster General, we propose to give them \$558,000 a year instead of \$385,000 for the service they now perform.

Mr. HUNTER. The amendment requires the performance of twenty-six instead of twenty trips a year, and the additional six trips do not double the service.

Mr. RUSK. It largely increases the service; and I see by the statement before me, furnished on the 15th December last, that they had then only performed twenty-eight trips or voyages in nearly two years.

But I simply rose for the purpose of showing how the British Government act. The Senator from Virginia has shown to the Senate how some of these officers talk. It is unnecessary for me to account for or answer the prejudices which may have found expression from certain officers of the British Government or Navy. I propose to read a paragraph to show how that Government acts:

"The departure of the expedition from Bombay to Rangoon, with 6,000 troops, for the prosecution of the Burmese war, furnishes additional evidence, if any were wanting, of the value of a commercial steam marine for the purposes of naval warfare. The squadron, consisting of five first-class steamers, is intended to force the passage of a river defended by formidable and extensive fortifications, and of course it was necessary that it should be heavily armed, and capable of great endurance. But one of the ships employed was a steam-frigate, belonging to the Royal Navy; the other four were the East India Company's steamers,

appertaining to a mail line like our own Atlantic and Pacific lines, and constructed upon similar principles for a similar purpose. Orders arrived at Bombay, on the 20th of February, to convert them at once into war-steamers. This was accomplished, and they were submitted to the inspection of the Governor General in three days. On the 24th they set sail. One of them, the *Feroze*, is particularly mentioned. She was a vessel of 1,500 tons burden, and was taken directly off her route, armed with a heavy battery of 8-inch pivot guns, and every requisite alteration made in less than three days. Another of the same size was in dock, and was got in readiness with equal celerity; and all of them were pronounced by the naval authorities on the station as strong and efficient as any ships of their class in the regular service, and as readily capable of being fitted for the purposes required as any in the navy-yards of Great Britain. The only difference between the East India mail steamers and our own is, that the latter, with equal strength and capabilities for adaptation, are faster and of greater burden."

Mr. HUNTER. Can the gentleman inform me whether those steamers are screw or side-wheel steamers?

Mr. RUSK. They are side-wheel steamers.

Mr. HUNTER. My impression was that they were screw steamers.

Mr. RUSK. If the Senator had pushed his investigations as to the relative advantages of the side-wheel and screw steamers, he would, I think, have found that the English Government are now converting their sailing ships into steamers. A sailing vessel, built for war purposes, cannot be converted into a side-wheel steamer; but it can, I understand, at very little cost and expense, be converted into a screw propeller. That is what the Senator will find at the bottom of the cry in England about the advantages of screw steamers. When the experiment comes to be made, I think it has been found that about six miles an hour is the average speed that can be made by screw-propellers.

Mr. JAMES. Mr. President, I have some remarks that I would like to make on the subject now before the Senate; but at this hour I would prefer not to go on until to-morrow.

Several SENATORS. Move an Executive session.

Mr. JAMES. I move to postpone the further consideration of the subject until to-morrow.

The motion was agreed to.

#### EXECUTIVE BUSINESS.

On the motion of Mr. JAMES, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 5, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the consideration of the report of the Committee on Printing.

Mr. SEYMOUR, of New York, obtained the unanimous consent of the House, and presented resolutions of the Legislature of the State of New York, instructing the Senators and requesting the Representatives from that State to urge upon Congress the propriety of making grants of land, upon some equal and just principle of appropriation, to all the States, for the purpose of education, and for other useful public purposes, having due regard to the grants already made, and the population of the respective States; which were laid upon the table and ordered to be printed.

Mr. STRATTON, by unanimous consent, introduced a bill, of which previous notice had been given, for the relief of John L. Cooper; which was read a first and second time by its title, and referred to the Committee on Claims.

Mr. FOWLER, by unanimous consent, presented the following resolutions of the Legislature of the State of Massachusetts; which were severally disposed of as indicated below:

1. Resolution in favor of an appropriation by the General Government to construct a ship-canal, three fourths of a mile in length, around the Falls of Sault Ste. Marie, in the State of Michigan. Referred to the Committee on Public Lands.

2. Resolution in favor of full and adequate indemnities to American citizens, who had just claims upon the Government of France for spoliations upon their commerce prior to the 30th of September, 1800, and for which that Government admitted its liabilities. Referred to the Committee on Foreign Affairs.

3. Resolution in favor of an appropriation by the General Government for the erection of a light-house on Minot's Ledge, near the entrance to Boston harbor. Referred to the Committee on Commerce.

4. Resolution in favor of Congress appropriating a portion of the public lands to establish a *National Normal Agricultural College*, which shall be to the rural sciences what West Point Academy is to the military, for the purpose of educating teachers and professors for service in all the States of the Republic. Referred to the Committee on Public Lands.

Mr. TUCK. I rise to a point of order. I submit that the first business in order is to vote upon the motion to refer to the Committee of the Whole on the state of the Union, the French spoliation bill—that bill having been taken from the Speaker's table, and that motion being now pending.

The SPEAKER. The consideration of the report of the Committee on Printing was postponed until this morning, and is, in the opinion of the Chair, the first business in order this morning.

Mr. TUCK. I would inquire of the Chair whether the French spoliation bill will come next in order after the report of the Committee on Printing shall have been disposed of?

The SPEAKER. The Chair will decide that question when it comes up.

Mr. HOUSTON. I wish to bring to the attention of the Chair, and the House, the point which I now submit. I understand the decision of the Chair to have been that the report of the Committee on Printing was not a privileged question after it was made to the House. Now, if it be not a privileged question, so as to enable it to ride over other business legitimately before the House, it seems to me that it does not take precedence of the special order which has been and is still under consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. It is certainly in order to move to go into the Committee of the Whole on the state of the Union, and then the homestead bill comes up as a special order. But that bill is not a special order in the House, and therefore cannot affect the business in the House.

Mr. HOUSTON. This bill was made a special order in the committee by the House, and the House has a knowledge, therefore, of the existence of the special order in committee. I hope the gentleman from Tennessee [Mr. JOHNSON] will make a motion to go into the Committee of the Whole on the state of the Union, so that we can take up the homestead bill and dispose of it.

Mr. JOHNSON, of Tennessee. I have certainly no objection to going into committee.

The SPEAKER. The gentleman from New Hampshire [Mr. TUCK] is on the floor on a question of order. The Chair decides that the first business in order is the report of the Committee on Printing.

Mr. TUCK. I desire again to inquire of the Chair what will come up next after this report is disposed of?

The SPEAKER. The Chair will determine the question when the House approaches that subject. According to the practice of the House heretofore, the French spoliation bill, which is confined to that class of business on the Speaker's table, will be the first business in order when the House recurs to the business on the Speaker's table.

Mr. TUCK. I make the inquiry because it will be convenient for us to know when that bill is to come up.

The SPEAKER. The Chair is at present of the opinion, that as a part of the business on the Speaker's table, this bill can only come up when the House is considering the business on the Speaker's table. He is, however, disposed to consider the matter further, and will decide when it comes up.

Mr. GOODENOW. I ask the unanimous consent of the House to report three or four bills from the Committee on Naval Affairs for the purpose of having them referred. I expect to leave the city to-morrow morning, and for that reason I hope there will be no objection.

[Cries of "Agreed!" "Agreed!"]

No objection being made—

Mr. GOODENOW, from the Committee on Naval Affairs, reported the following bills; which

were severally read a first and second time by their titles, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed, viz:

A bill for the relief of James Glynn;

A bill for the relief of Captain Lewis E. Simmonds; and

A bill for the relief of Harlow Spaulding.

Mr. GORMAN. I wish the unanimous consent of the House to take up a resolution from the Senate.

The SPEAKER. If the gentleman will allow the Chair, he would state that the House is now receiving reports from the gentleman from Maine [Mr. GOODENOW] by unanimous consent.

Mr. FREEMAN. I ask if the gentleman is making reports from a committee?

The SPEAKER. He is.

Mr. FREEMAN. Then I think the Committee on Public Lands have the floor.

Mr. GORMAN. There is a joint resolution on the Speaker's table, from the Senate, authorizing the Secretary of War to give, to a military company in this city, some arms and equipments. They are exceedingly anxious to have them.

The SPEAKER. The Chair begs again to say to the gentleman from Indiana [Mr. GORMAN] that the House agreed, by unanimous consent, that the gentleman from Maine [Mr. GOODENOW] should make certain reports from the Committee on Naval Affairs, and the House is in the act of receiving those reports.

Mr. GOODENOW, (resuming,) from the same committee, made adverse reports upon the petitions in the two following cases; which reports were ordered to lie upon the table:

In the case of Charles Olcott, asking for compensation for a violation, by the United States, of his patent-right.

In the case of James W. Wilkins, praying to be allowed the salary of purser, for the time he performed the duties of that office, during the late war with Mexico.

On motion by Mr. GOODENOW, it was

Ordered, That the Committee on Naval Affairs be discharged from the further consideration of the petition of Samuel Graves, and that it be referred to the Committee on Invalid Pensions.

Mr. HASCALL. I ask the unanimous consent of the House to withdraw from the files of the House, the papers of Alanson Pool, presented on his application for bounty lands for services in the war of 1812, that they may be returned to the petitioner.

Mr. LETCHER. I object.

Mr. BAYLY, of Virginia. I call for the regular order of business.

Mr. HOUSTON. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

Mr. GORMAN. Will my friend from Alabama [Mr. HOUSTON] withdraw that motion, in order to let me make a motion to take up the resolution from the Senate, authorizing the Secretary of War to hand over arms and equipments to a military company of this city? They are exceedingly anxious to have them, and it will not take the House three minutes to dispose of the resolution.

Mr. HOUSTON. That resolution will be reached in a few days in its regular order, and I hope the House will now go into Committee of the Whole.

The SPEAKER. Debate is out of order.

Mr. STANLY. If it is in order, I want to know what will be the business in order, if this motion is voted down?

The SPEAKER. Then the business will be the consideration of the report of the Committee on Printing, which was postponed until this day.

Mr. BAYLY. Was that postponed to this day?

The SPEAKER. It was.

Mr. BAYLY. Will not the unfinished business of yesterday and of Monday have precedence?

The SPEAKER. It will certainly have precedence when the House proceeds to the consideration of the business upon the Speaker's table.

Mr. BAYLY. Did not the motion to refer the spoliation bill keep that bill off the Speaker's table?

The SPEAKER. The Chair will decide that question when it arises. But the Chair is inclined



to the opinion that the universal practice of this House has been to confine such business to the Speaker's table, from which it was taken. The Chair has always doubted the correctness of the practice; but so it has been.

Mr. BAYLY. I dislike to make a point upon the Speaker, but—

The SPEAKER. The gentleman cannot make a point upon the Speaker at this time, because the question upon which he would make it is not now before the House.

The House was then divided on the question to suspend the rules, and that the House resolve itself into the Committee of the Whole House on the state of the Union, and there were—ayes 68, noes 69.

Mr. HOUSTON. I ask for the yeas and nays upon the motion to suspend the rules.

The yeas and nays were not ordered.

Mr. CARTTER. I ask for tellers.

Tellers were ordered, and Messrs. CHANDLER, and BROWN of Mississippi, appointed; and the question being taken, the tellers reported—ayes 63, noes 77.

So the House refused to suspend the rules.

Mr. BAYLY. I call for the regular order of business.

#### PATENT OFFICE REPORT—THE PRINTING.

The SPEAKER. The regular order of business is the consideration of the report of the Committee on Printing; which will be read by the Clerk.

The report was accordingly read, as follows:

*Resolved*, That there be printed for the use of the House of Representatives, fifty thousand copies of the mechanical part of the Patent Office Report, and three thousand additional copies for the use of the Commissioner of Patents.

The SPEAKER. The Chair understands the point of order raised by the gentleman from New Hampshire, [Mr. HIBBARD,] when this subject was last up, to be this: that inasmuch as no motion was made to refer this resolution to a committee, it would necessarily go upon the Speaker's table. In reply to that, the Chair said that the report was in order when it was introduced into this House by the Committee on Printing, it always being in order for that committee to report. Instead of disposing of it in any form, the consideration of it was, by motion, or by unanimous consent, postponed until to-day; and to-day, in the opinion of the Chair, this resolution stands before the House precisely as it did when it was presented by the committee, and decides that this resolution is in order.

Mr. TUCK. I move to proceed to the business upon the Speaker's table.

Mr. CLINGMAN. Is such a motion in order?

The SPEAKER. It is not in order. The gentleman will recollect the rule, that when one hour has been consumed in reports from committees, it is in order to go to the business upon the Speaker's table.

Mr. CLINGMAN. Then the pending question is the report of the Committee on Printing?

The SPEAKER. It is.

Mr. CLINGMAN. The House, the other day, refused to sustain the previous question when it was moved, and the whole matter is now before the House. I am not disposed to occupy the time of the House in discussing this question. I regret that the gentleman from Indiana, [Mr. FRENCH,] who had a motion to propose in reference to this matter, is not in his seat. I know what his purpose was; and, with a view of ascertaining the sense of the House without taking up any time in discussing it, I move to recommit this report to the Committee on Printing, with instructions that they report to the House what arrangements they have made for the execution of the public printing. I make that motion in order that, if the previous question shall be moved by the gentleman from Indiana, [Mr. GORMAN,] and the House should sustain it, we may get a vote upon that.

Mr. STUART. I rise to a question of order. I submit that it is not in order for this House to give any instruction to the Committee on Printing.

The SPEAKER. The gentleman will remember that the Chair decided the other day, that that was a question rather for the House, than for the Chair to determine. As to the effect of instructing a joint committee, it must be for the House, and not for the Chair to decide.

Mr. STUART. The Speaker will recollect that

when I raised the question of order the other day, the Chair decided that it was not in order to instruct the committee, inasmuch as it was a joint committee. I am aware of the decision, to which the Speaker refers, made at a former period, but I made the point subsequently, at which time the Speaker decided as I have said.

The SPEAKER. In the hurry of business, the Chair may have made such a decision. The Chair now decides that it is for the House to determine what the effect will be of any attempt to instruct the Committee on Printing. It is a question rather of power, than of order arising under our rules. The matter being germane and connected with the subject under discussion, the Chair thinks that is the proper decision.

Mr. CLINGMAN. I will barely say, then, that I was in hopes that before I occupied the floor, to see, in his seat, the gentleman from Indiana over the way, [Mr. FRENCH] who I know desires to make a proposition. I desire that the question may be placed in such a position that we may get the sense of the House upon it. I move, therefore, to recommit this report to the Committee on Printing, with instructions to report to the House what they have heretofore done, what steps they have taken to secure the execution of the public printing; and with the further instruction to the committee to let out such printing as the present contractor cannot execute, to the lowest responsible bidder upon ten days' notice.

Mr. STUART. I wish to submit a question of order upon that proposition, if it is submitted in writing?

The SPEAKER. The Chair requires the proposition to be submitted in writing.

Mr. McMULLIN. Has the gentleman from North Carolina [Mr. CLINGMAN] a right to the floor?

The SPEAKER. The gentleman from North Carolina is in the act of preparing a proposition connected with the subject of printing.

Mr. McMULLIN. Will it now be in order to submit a motion to the House?

The SPEAKER. If the gentleman from North Carolina will yield the floor for that purpose, it is in order. Does the gentleman from North Carolina relinquish the floor?

Mr. CLINGMAN. I do not desire to occupy the floor. I want to put my amendment in writing, and I will give way to the gentleman from Virginia.

The SPEAKER. The gentleman from Michigan was recognized, who also postponed his remarks, as he stated himself, until the gentleman from North Carolina had offered his proposition.

Mr. CLINGMAN. I will yield to the gentleman, or anybody else. I merely want to get my proposition before the House.

Mr. McMULLIN. Allow me to appeal to the gentleman from Michigan, [Mr. STUART.] I was desirous, in order to have this matter fully and fairly understood, to let the gentleman from Indiana, [Mr. FRENCH,] who is not now in his seat, submit his proposition. My purpose is, to move that the rules be suspended, and that the House go into Committee of the Whole upon the special order. Will the gentleman yield for that purpose?

Mr. STUART. I do not desire to occupy the floor until the gentleman from North Carolina submits his proposition. Then I intend to raise a question of order upon that proposition; and, if the whole subject is to go over, I, of course, will yield the floor. Whenever that subject comes up in order, I wish to state to the Chair, for his decision, the point of order I shall make upon it.

Mr. McMULLIN. Then I appeal to the gentleman from North Carolina, who seems to desire that the gentleman from Indiana [Mr. FRENCH] should be in his place, to yield the floor to me for the purpose of moving that the rules be suspended, and that the House go into the Committee of the Whole upon the special order. Will the gentleman yield to me for that purpose?

Mr. CLINGMAN. I cannot relinquish the floor until I get my amendment before the House.

The SPEAKER. The gentleman from North Carolina declines to give his assent, although he has no power to do so, as the gentleman from Michigan has the floor.

Mr. CLINGMAN. I will submit my proposition, so as to present both questions separately, so that, if either should be ruled out of order—and

I take it both are in order—the House will still be brought to a vote upon one. I am satisfied, however, that we have a right to instruct this committee, just as we may instruct the Library, or any other joint committee. It will be a question whether that instruction is binding upon the whole committee, or only upon a part of the committee—that part appointed by the House. I have no doubt that the Chair is right in deciding that it is a question for the House to determine, and not a question of order, to be determined by the Chair.

The SPEAKER. The proposition will be read by the Clerk:

*Resolved*, That the House Committee on Printing be, and are hereby, instructed to report to this House what, if any, arrangement has been made to have the public printing executed; and if any other than the public printer has been employed, to report what prices they have agreed to pay; and that the said committee be instructed to let out such printing as the present contractor cannot execute, to the lowest responsible bidder, after ten days' notice.

The SPEAKER. In the particular form in which the gentleman presents this resolution, the Chair determines it out of order.

Mr. CLINGMAN. Then, sir, I appeal from that decision.

The SPEAKER. From this decision the gentleman from North Carolina appeals. The Chair feels very confident, however, that he can satisfy the gentleman, if he will hear a suggestion from the Chair.

Mr. CLINGMAN. I will yield with pleasure, to hear any suggestion from the Chair.

Mr. BROWN, of Mississippi. I was about to appeal to the gentleman from North Carolina to yield me the floor, to make a suggestion which I think it right to submit.

Mr. CLINGMAN. I shall be pleased to hear any suggestion upon this point of order.

The SPEAKER. This is an independent resolution, having upon its face no connection with the report of the committee.

Mr. CLINGMAN. The first part of the resolution was handed to me by a friend.

The SPEAKER. It is not a motion to recommit.

Mr. CLINGMAN. Then, sir, I must insert the words. I commenced writing, when a friend handed me those, which he thought would answer my purpose, and I added other words to it. I desire the following words to be inserted: "That this report be recommitted to the committee, with instructions."

The SPEAKER. Then there is no question of order between the gentleman and myself.

Mr. STUART. I rise to a question of order upon that proposition, which I should like to state to the Chair, and have his decision distinctly. It is twofold in its character. In the first place, there is no such committee as that referred to in the proposition, (the House Committee on Printing.) There is no such committee.

The SPEAKER. The question of order is well taken to that extent.

Mr. STUART. I wish to state the remainder of this proposition, but I do not want to disturb the House.

The SPEAKER. Will the gentleman wait until the resolution is modified?

Mr. CLINGMAN. I ask that my proposition, as modified, may now be read.

Mr. STUART. I wish to state that it is not competent to instruct the committee in regard to anything except that which was pertinent to the subject-matter recommitted. This is a proposition to print a given number of extra copies of a particular report; and you cannot, in submitting such a proposition as that, submit instructions unconnected with it and reaching the question of printing generally. Your instructions can be no broader than the subject-matter recommitted, for the reason that it is not germane to the main proposition.

The instructions were again read by the Clerk, as was also the original resolution reported by the committee, (as inserted previously.)

The SPEAKER. That resolution embraces the Patent Office Report as part of the public printing, and connects itself so intimately with the public printing that the Chair does not feel authorized to rule the instructions out of order upon that ground.

Mr. CARTTER. I wish to suggest to my friend from Michigan that he seems to misapprehend the tenor of these instructions.

Mr. STUART. I desire to take an appeal from the decision of the Chair.

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Mr. CARTTER. The instructions to which the attention of the House is called are not instructions directing the committee to do anything involved in the point of order made against the jurisdiction of the House over that committee. All that these instructions embody, all that they seek to ascertain, is to know what this committee have done. Against that inquiry, sought through those instructions, the honorable gentleman from Michigan [Mr. STUART] protests a want of jurisdiction in the House. What kind of a fix are we placed in here if this logic is to govern the question before the House? First, that the committee created by the House, originating out of the House, to perform its business, is not only irresponsible to it, but stands upon still higher grounds, and say they are even irresponsible to let the House know what they are doing. You not only job out the power of the House to this committee, but you estop the right of the House to obtain knowledge upon the subject.

Mr. STUART. The gentleman is mistaken in supposing that any such point as that is raised now. The question, can this committee be instructed by the House? is not a point of order before the House. I did not make it.

Mr. CARTTER. I am aware of that.

The SPEAKER. The Chair hopes that the gentleman from Ohio [Mr. CARTTER] will confine himself to the question of order raised by the gentleman from Michigan, upon which an appeal is taken, that you cannot instruct the committee to inquire generally upon the subject of the public printing, while we are engaged in considering the propriety of recommitting a proposition having in view the printing a certain quantity of a particular thing.

Mr. CARTTER. With due respect to the argument of the gentleman from Michigan, [Mr. STUART], that was the only point I raised. One point was, that we had no control over the committee; that we could not instruct it; and the other point was, that the instructions were not germane to the subject before the House. It was only to the first point I was addressing the remarks which I have already made. But how is it in reference to the second point made in the proposition of the gentleman from Michigan? Why, sir, if it is relevant to the discharge of the duties of this committee, that we shall know what they are about; whether they are executing the doings of this body; whether they are transcending it, or whether they are directly violating it; I say, if it is germane to know what they are about, these instructions are germane. All that the House ask in these instructions is, that this committee shall deliver up its secrets, that we may, in our places here, act upon those secrets; and that they shall not first assert a want of jurisdiction in the body who created them to perform their labors, and, in the next place, assert that we shall not be permitted to know what they were performing within their secret chamber.

I hold, for the security of the public service, and without any reflection upon this committee, or without any desire to pass any reflections upon the committee—for I do not know what they have done, and the House is uninformed as to what they have done—that we should be made acquainted with these matters; but I will neither censure nor praise until I know what has been done. But, for the purpose of this House being informed as to what course they are to pursue, it occurs to me that we ought to know what our agents are doing in the matter—if there are abuses, to correct them; and if there are none, to justify the action of the committee. I move to lay the appeal of the gentleman from Michigan upon the table.

Mr. STUART. I ask the gentleman to withdraw that motion, that I may submit a few remarks.

Mr. CARTTER. I withdraw it.

Mr. STUART. Mr. Speaker, when I raised this point of order, and took an appeal from the decision of the Chair, I did it from the best motives; and I would like now to appeal to the House for a few moments, to see whether we are not

bound, irrespective of any personal or any party feeling, to go on with the business of the House; and whether we can go on with it without having the printing done. Now, here is the resolution:

"That the report be recommitted, and the Committee on Printing are hereby instructed to report to the House what, if any, arrangement has been made to have the public printing executed; and if any other than the public printer has been employed, to report what price they have agreed to pay, and that the said committee be instructed to let out such printing as the present contractors cannot execute to the lowest responsible bidder after ten days' notice."

Here, on a question of the printing of an extra number of the report of the Commissioner of Patents—a document of the highest value to the country—one which every member is desirous should be in our possession at the earliest moment, and should be well done—

Mr. CARTTER. I was called to order by my friend for departing from the question of order, and as I understand the gentleman is not discussing it, but the importance of public documents, I call him to order.

Mr. STUART. I submit to the Chair whether I am out of order or not?

The SPEAKER. The Chair cannot well determine until the gentleman proceeds further. The precise question of order is, whether the instructions offered by the gentleman from North Carolina are germane to the resolution reported from the committee? As the Chair understands it, that is the point.

Mr. STUART. Upon a proposition to recommit the resolution which is sought to be recommitment, I was describing its characteristics and the instructions sought to be appended to it, opening the whole subject-matter of the printing which is regulated by law. This is a matter which the House has a right to decide. They have a right to determine how many thousand copies of these documents shall be printed for their use. Over this the Senate have no jurisdiction. They have nothing to say about it. They decided how many copies they will have printed for their own use, and the House decides how many copies they will have printed for their use. That is now the subject before the House as reported by the Committee on Printing. Over that subject the House has the entire and exclusive control, and no one will dispute it. What is now sought to be done by the instructions? It is sought to append instructions to recommit this subject. For what purpose? To modify the number? To inquire into the propriety of reporting to print a greater or less number of extra copies, to report for a different distribution, or to modify the report which is now before the House, and sought to be recommitment in any respect? No, sir, not at all. I call the attention of every gentleman in the House to this fact. It is not sought to modify the report at all in any respect. What then? Why, sir, to inquire as to the whole subject of the public printing; and, Mr. Speaker, not merely to that, but to direct that committee to let it out to the lowest bidder after ten days' notice. The point I make is, that these instructions have nothing to do with the subject-matter proposed to be recommitment, and I submit, if this doctrine prevail in this House, there can be and will be no other business done. Why so? Here the public printing is regulated by law. It seems to be supposed by certain gentlemen that we can get up a discussion in the House, and by instructing the committee, we can change the mode of executing the public printing. It is impossible. There is an existing law upon our statute-books which requires that the public printing be done in a certain manner, and that the very same law makes it the duty of the Joint Committee on Public Printing, whenever it is not done in that manner, to have it executed in some other way which will give a proper facility to it, and give the House the printing at a proper time and in a proper manner.

Now, as I have said, I have made this point of order for the purpose of saving time, and not consuming it; and I call upon gentlemen in the House, and I say to them, if they believe me, that I care not personally who does this printing. I have

never had a jot of feeling upon that subject. But is it not time, when we have been five months in session, that we should have the public printing executed? Shall we ever get it if we constantly, when the question comes up of referring the printing of an extra number of copies, under our rules, to the Committee on Printing, insist upon reopening this whole subject? I ask, when will we get the public printing, and when will Congress adjourn? Not in forty years. May we not, I ask gentlemen of this House, with propriety to-day adopt a report in which we all agree? I presume there are not two gentlemen in this House who object to the printing of this extra number.

Mr. BROWN, of Mississippi. With the permission of the gentleman from Michigan, I will ask him a question. The report of the committee proposes the printing of 50,000 extra copies. I ask the gentleman if he does not recognize it as legitimate that we should know what we are to pay for these 50,000 volumes, before we order them to be printed? If they are to cost us 50 cents a volume, we may have but 50,000 extra copies printed; if we are to pay a dollar, we will have but half that number. That is the point made by the first resolution.

Mr. STUART. Now, I am prepared to answer that very satisfactorily to myself, and I hope it will be satisfactory to the House. By the existing law, the public printer is to print everything that is referred to him for that purpose; according to his contract; and that contract determines the amount of the payment. If he fails to do it, by that same law the Committee on Public Printing are authorized to have it done. That law is a part of his contract; and if they have to pay more than he agreed to do it for, he is to pay the balance.

Mr. JOHNSON, of Arkansas. I rise to a question of order. Is the question before the House debatable?

The SPEAKER. The gentleman is debating the appeal which he has taken from the decision of the Chair.

Mr. JOHNSON. I merely ask whether it is debatable? whether gentlemen can go into the merits of the subject upon a question of order?

The SPEAKER. The gentleman must confine his remarks to the question of order raised by him. The Chair would request the gentleman from Michigan to reduce his question of order to writing, that we may not be misled in its consideration.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., their Secretary, notifying the House of the passage by the Senate of certain bills, and requesting the concurrence of the House therein.]

Mr. STUART. The point of order which I make, and which I have written down, is this:

That the subject sought to be recommitment is a report from the Committee on Public Printing, directing the printing of a certain number of extra copies of the report of the Commissioner of Patents. And that the instructions do not propose any modification of the former report, or substitute for it, but relate to the subject of public printing generally—and are in contravention of the existing law.

Mr. MEACHAM. Has the morning hour expired?

The SPEAKER. The House is not engaged in the morning business. The morning hour is employed in receiving reports from committees.

Mr. STUART. Mr. Speaker, I had nearly finished my reply to the question propounded by the gentleman from Mississippi. I had stated that, to my own mind, that answer was perfectly satisfactory, and I hoped it would be to the House. We are not to argue, I think, the responsibility of the sureties of the public printer at all. We are not to argue his incapacity to do the printing. The presumption is the other way. The presumption is, that this public printer will execute his contract. The presumption is, that this very printing which the committee have reported shall be done, will be done by this contractor. If it is not done, the law fixes the manner in which its failure is to be remedied. It is fixed in terms which are irreparable by this House. I had stated mainly the views which I entertained in regard to the propriety of

this action; but I desire to be distinctly understood as having no feeling of a personal character in regard to this subject, and I intend, from this time henceforth, as I have hitherto, to refrain entirely from any participation in this discussion of the public printing. I think, sir, that there is a great question involved in it, which is paramount to all divisions and all subdivisions of party, and it is this: the importance of having this printing done promptly, and in a manner creditable to the country. I will only say, for myself, that I have been opposed to this principle of contracting from its inception, as being one of those things wrong in principle, and utterly worthless in practice. There is no remedy for the evil. I care not how good a man's security may be, even if you will concede that the country will prosecute him, and will recover the damages. Why, your public records are printed upon worthless paper, that will not survive very long the ordinary decay of time, and there is no remedy for it.

Mr. BROWN. I rise to a point of order, and it is this: Upon the point of order made by the gentleman, he has no right to discuss the contract system, or the manner in which the public printing is executed. He is now going into that kind of argument which needs reply, and there is no telling where it will stop.

Mr. STUART. I am not disposed to discuss that at all. I was about to say this: After stating the grounds upon which I take this appeal, and it is all I desire to say, and that is, to call upon this House to put an end to this sort of discussion—not to tolerate these points of instruction.

Mr. CLINGMAN. I must submit that the gentleman's remarks are irrelevant to the point of order made on the instructions.

The SPEAKER. The Chair thinks that the gentleman is wandering.

Mr. BROWN. I am willing that the gentleman shall proceed, provided we are to have the opportunity of replying.

Mr. STUART. Does the Speaker decide that I am not in order in asking gentlemen to vote to sustain this point of order against the admissibility of these instructions, and to state my reasons for so doing?

The SPEAKER. The gentleman has that right.

Mr. STUART. Now, is it not the most legitimate reason which can be urged, to say that these instructions delay this printing—that they delay all the printing of Congress?

The SPEAKER. The Chair understood the gentleman to go into the general question of printing by contract or otherwise. In doing so, the Chair thinks the gentleman was not in order.

Mr. STUART. No, sir. I expressly disclaimed anything of that sort.

The SPEAKER. I beg the gentleman's pardon.

Mr. CARTTER. I desire to ask the question, whether the peculiarity of circumstances attending this printing is not the occasion of delay.

Mr. STUART. That is a very general question, and may be answered by a very general answer. I am disposed to keep in the line of argument which the Speaker has laid down, and which the House seems to require. I will say to the gentleman from Ohio, [Mr. CARTTER,] that I know of no peculiar circumstances attending this question, except those circumstances which grow out of the very system itself.

Mr. GORMAN. Do I understand the gentleman as making a point of order upon the question, whether the House have a right to call upon us for the prices of this printing? One branch of this resolution calls upon us for the prices, as I understand it. Am I right? Is that the branch of the resolution upon which the gentleman makes his point of order?

Mr. STUART. I make it upon this point, that the instructions relate to the subject of the public printing generally, and do not relate to the subject-matter sought to be recommitteed.

Mr. GORMAN. I wish to say to the House, and to the gentleman from Michigan, [Mr. STUART,] that the House have an unquestionable right, under the law, to know about the prices. They have an unquestionable right to require a report of the prices; and I have here the precise sum to a cent. The law requires us to do so.

Mr. CLINGMAN. After we are done with the subject-matter now pending, I trust this question will be gone through with. I object to this irregular discussion, because it will not be in order

to reply to these points. Let us settle the question of order first.

The SPEAKER. The proposition made by the gentleman from Indiana [Mr. GORMAN] is not strictly in order; certainly not upon an appeal from the decision of the Chair.

Mr. GORMAN. I trust the Speaker will indulge me. I thought that the suggestion would obviate the necessity of making a point of order.

The SPEAKER. The report of prices would not be in order now.

Mr. GORMAN. The law requires the probable expenses to be reported to the House.

Mr. CLINGMAN. I must submit that this can have nothing to do with the point of order before the House.

Mr. STUART. I was about to say, that I thought this question was one which was paramount to all party divisions and subdivisions. If we tolerate the principle that every time a subject comes up under our rule—which is an imperative one—carrying the question of printing the extra number to the Committee on Public Printing; if, every time they make a report we adopt the principle that that report cannot be recommitteed; and that instructions can be sent with it that do not propose to modify or change that report in the least; if, as I was saying, (and I presume there are not two gentlemen in the House who take exceptions to the publication of this report, and the extra numbers,) we tolerate the principle involved now in these instructions, I ask gentlemen of this House, when will we get the business done? What is the prospect in that view? What length of time has been consumed already?

Mr. CARTTER. I call the gentleman to order. He is not discussing the question of order. He is discussing a question of time in transacting the ordinary business of the House.

The SPEAKER. The gentleman is out of order in the latitude he has taken.

Mr. STUART. I regret it, indeed, if I am out of order; and if I supposed I was talking against the sense of the House, I would not consume its time an instant. I care not, personally, what becomes of this matter. I do not care where it goes to. But I do say that it is our duty—our imperative duty—to take such a course in legislation here under the rules, as will facilitate the business of the country. If we adopt the principle now sought to be established by these instructions, and resume this question of public printing every time the question of printing extra numbers goes to the committee under the rules, I ask, when, in the name of God, when will we get through the public business? It never can be done. I feel, myself, individually, the effects of this proposition. At the end of five months in this session, I feel the responsibility which rests upon this Congress, and upon me as one of the members of this House, when it may be almost literally said that we have done nothing. Can it be that we can go thus far? Can it be that we can go in the very teeth of an existing law? The law fixes this matter imperatively. The direction and supervision of the public printing is given over to the Committee on Printing by law. Can it be that upon an isolated subject, such as the printing of the extra numbers of this document, we can, by instructions, open up the whole subject of printing—for this will be the whole effect of it. If these instructions prevail, and the committee report this subject back to the House, what will be the consequence?

The whole subject is before this House. Is it necessary to embrace a proposition to amend the law in your instructions? Is it necessary for the purpose of amending the law? Not at all. The law can be amended without this incipient movement. It has no relation to it. It does not facilitate it. And if this subject can be opened up, I say upon the score of instructions that can have no pertinency to the subject under consideration, I can conceive of no time when the regular business of the country will probably be done. It is upon this principle, and this principle only, that I call upon gentlemen in this House, in the most friendly manner, (and I hope it is not necessary for me to disclaim any intention to dictate to honorable gentlemen what they shall do, or any attempt to lecture anybody upon their course and conduct,) to stop such procedure which will defeat action upon the public business. I make these remarks in the way of appeal to gentlemen

who I know are as honest and sincere in their desire to facilitate the legislation of the country as I possibly can be. Let us, then, at once proceed to the legitimate and regular business of the House.

Mr. CLINGMAN. Has that any reference to the question of order?

Mr. CARTTER. He wants to save the time of the House.

Mr. STUART. The Chair has expressly decided—and if his decision prevails, the consequences will be such as I have pointed out.

The SPEAKER. The Chair did not make such a decision.

Mr. STUART. If the gentleman from Ohio [Mr. CARTTER] will allow me to say that if I have been understood by this House, I am not only abundantly satisfied, but greatly obliged. I will save the gentleman the trouble of raising any further questions of order, by taking my seat.

Mr. CARTTER. I passed it over, with the condition that he would move to lay the subject upon the table.

The SPEAKER. The Chair did not hear the last remark of the gentleman from Michigan, [Mr. STUART.] Did the gentleman make a motion just before sitting down?

Mr. STUART. I said I would leave the subject, so as to relieve the gentleman from Ohio from further trouble.

Mr. CLINGMAN. Mr. Speaker, I desire to say—

Mr. STANLY. I rise to a question of order. I have not addressed the House upon this subject, and I have only a word to say. My colleague has spoken. Am I not entitled to say that word?

Mr. CLINGMAN. I beg leave to remind the Chair, that I have not spoken upon this point of order, made by the gentleman from Michigan, [Mr. STUART.] He made his point, and has been the only speaker. I spoke upon the first proposition.

The SPEAKER. The gentleman from North Carolina, [Mr. CLINGMAN,] according to the recollection of the Chair, has not had the floor upon this question, except by the courtesy of the gentleman from Michigan, [Mr. STUART.]

Mr. CLINGMAN. I will not follow the gentleman from Michigan, [Mr. STUART,] as he has discussed this matter at considerable length. I will speak directly to his point of order, and I ask the attention of the gentleman but for a single moment. The first point made by the gentleman is, that these instructions do not require the committee to change the number of documents ordered to be printed. Why, I need not argue the question with him, and this House, that we have a right to recommit this report without any instructions at all. Nothing is more common than for the House to recommit, and it is certainly singular for a gentleman now gravely to make it a point of order that we do not instruct the committee upon a specific point. Why, we have a right to do it, with or without instructions, and the House may make them as broad or narrow as they please. The second point to which I now come—for these two points are all I shall say anything about—is this, that this will change the existing law. What is the existing law? The gentleman from Michigan [Mr. STUART] states it correctly when he says that this contractor, when the printing shall be let out to somebody else, is liable for the difference. How are you to make him liable? Only by letting it to the lowest bidder. For example, if this piece of work be worth \$1,000, Boyd Hamilton's price, and he neglects to do it, and the committee employ another man by the name of Towers, who offers to do it for \$1,500, why, if he be the lowest bidder, of course Hamilton would have to pay \$500. Suppose the committee, as a matter of favoritism, should give it to Donelson & Armstrong for \$2,000, will the gentleman from Michigan [Mr. STUART] contend, that when this printing was worth but \$1,500, these men, to do a favor, should be allowed to charge \$2,000 for it. Why, it is preposterous. There is no court upon earth that would sanction it, and no principles of common fairness and honesty to this printer would justify it. This resolution, therefore, instructs the committee to carry out the existing law, which is to let out the public printing to the lowest bidder, and make the public printer liable for the difference.

Mr. JOHNSON. For one minute, which the



gentleman wished, I have given him two minutes and a half.

Mr. CLINGMAN. I was about to say, in relation to the point raised by the gentleman that we are getting no printing, I find that out of ninety-three pieces of printing which have gone to this man, he has finished eighty-five, and seven are in progress.

Mr. JOHNSON. Is that in order?

The SPEAKER. It is not.

Mr. CLINGMAN. I move to lay the appeal upon the table, as I promised the gentleman from Arkansas, [Mr. JOHNSON.] I omitted it at the close of my remarks.

Mr. STANLY. Will the gentleman allow me to say a word?

Mr. JOHNSON. I do not like to refuse the gentleman.

The SPEAKER. Is the motion to lay upon the table withdrawn?

Mr. CLINGMAN. I will withdraw it, if my colleague will renew it.

Mr. STANLY. I will pledge myself to do both, or either, as the gentleman may think proper. I concur with the views taken of this subject by the gentleman from Michigan, [Mr. STUART.] I should like very much, whenever I can, to vote to sustain the Chair, unless it is clear to my mind that I cannot do so with propriety. I wish to submit this consideration to the Chair with all respect: If the Committee on Pensions of this House report a particular bill to give a pension, I would like to know of the Chair, if this House can recommit that particular bill to the Committee on Pensions, with instructions altering the whole pension law? It strikes me that they could, according to the decision of the Speaker this morning, because this subject relates to pensions. I think that the House possesses no such power. We have no right to alter the whole law, in relation to pensions, to suit a particular case. I concur with the views of the gentleman from Michigan, and I think the Chair is wrong, and am bound to vote against it. I will make the motion which my colleague desires, to lay upon the table, or the previous question, as gentlemen may wish.

Mr. JOHNSON. I call for the previous question.

Mr. EVANS. I ask the gentleman from Arkansas to withdraw his motion for a few moments. I will renew it.

The SPEAKER. The previous question being demanded, no debate is in order.

Mr. POLK. I desire to ask the Chair if it would be in order to move to lay the whole subject upon the table, and to go into the Committee of the Whole on the state of the Union?

The SPEAKER. The appeal from the decision of the Chair must first be disposed of.

Mr. POLK. I supposed that the appeal would go upon the table with the rest of the subject.

Mr. EVANS. I believe I have the floor with the consent of the gentleman from Arkansas.

Mr. JOHNSON. I would yield to the gentleman with pleasure if he desired to propound a question; but the kindly relations which exist between that gentleman and myself, authorize me to refuse to yield to him at all times when I deem that the public business requires it.

Mr. EVANS. Then I move to lay the appeal upon the table. That expresses my views.

Mr. JONES, of Tennessee. If the appeal is laid upon the table, will not that sustain the decision of the Chair, and bring the House to a vote upon the instructions?

The SPEAKER. It certainly will. The gentleman from Michigan appeals from the decision of the Chair upon two separate and distinct grounds: first, that it is incompetent for this House alone to instruct a joint committee of the two Houses. In regard to that point, the decision of the Chair is, that it will be for the House, and not for the Chair, to determine how far their powers extend in that direction.

But the gentleman from Michigan bases his point of order upon the ground, secondly, that it is not in order for the House to instruct the committee to inquire into the general question of public printing whilst they are considering a part only of that public printing. The decision of the Chair is, that it is in order thus to consider of the mode and manner of doing the public printing.

Mr. STUART. I wish to say that the point

upon which the Speaker has just decided is not precisely the one which I made.

The SPEAKER. The grounds upon which the gentleman takes his appeal, will again be read for the information of the House and of the Chair.

The Clerk read the paper, as follows:

"The point of order raised is this: That the subject sought to be recommitted is a report from the Committee on Public Printing, directing the printing of a certain number of extra copies of the report of the Commissioner of Patents. And that the instructions do not propose any modification of the former report, or substitute for it, but relate to the subject of public printing generally, and are in contravention of the existing law."

The SPEAKER. Whether it is in contravention of the existing law, is also a matter for the House to determine, and not for the Speaker to decide, as a question of order. The report from the Committee on Printing proposes that fifty thousand extra copies of the Patent Office Report be printed. That is certainly a part of the public printing. A motion to recommit that resolution to the committee to inquire how the fifty thousand copies are to be printed, the Chair supposes, would be in order, according to the gentleman's view. Well, the Chair decides that that cannot be ascertained at all, without touching the general law and the general subject of public printing. It so intimately connects itself with the general subject of the printing of Congress, that the Chair does not feel at liberty to decide it out of order. It is certainly a matter to be properly considered in determining whether we will print fifty thousand copies of the Patent Office Report, to ascertain who is to print them, how they are to be printed, when they are to be printed, the character of the paper, and all that sort of thing—all of which must lead to an examination of the law upon the subject, and the general question of the public printing. Connecting itself thus with the general subject of printing, the Chair therefore decides against the question of order raised by the gentleman from Michigan.

Mr. HOUSTON. I want to have the opinion of the Chair upon a point which is a little ahead of us, but which will control my vote upon the question now before the committee. I wish to know whether the instructions—

Mr. CLINGMAN, (interrupting.) I am sorry to object to the question; but I think that we had better first dispose of the question whether or not the appeal shall lie upon the table, and then other questions can come up.

Mr. HOUSTON. The gentleman does not know what he is objecting to yet.

The SPEAKER. The Chair supposes that the gentleman from North Carolina objects to any discussion whatever.

Mr. HOUSTON. I merely want to know whether the instructions are divisible?

The SPEAKER. The Chair thinks they are not.

Mr. BAYLY, of Virginia. I desire to obtain some information from the Chair. When the gentleman from Michigan [Mr. STUART] was addressing the House upon this question of order, and was going into the subject of the public printing generally, and was undertaking to show that there had been delay in the public business in consequence of the want of the public printing, I understood the gentleman from North Carolina [Mr. CLINGMAN] to call him to order—

Mr. JOHNSON, of Arkansas. I rise to a question of order. My friend's premises are too enlarged entirely. The information he desires cannot be furnished by the Chair.

Mr. BAYLY. Well, I will make the inquiry more brief. I desire to know if the Chair did not, on a point of order made by the gentleman from North Carolina, rule the gentleman from Michigan out of order for discussing the public printing generally?

The SPEAKER. Did the gentleman from Arkansas move the previous question, or to lay the appeal upon the table?

Mr. JOHNSON. I call for the previous question.

Mr. EVANS. I made a motion to lay the appeal on the table.

The SPEAKER. Well, that is not a debatable question, so the previous question is unnecessary.

Mr. STUART demanded the yeas and nays on Mr. EVANS's motion; and they were ordered.

The question was then put, and it was decided

in the affirmative—yeas 122, nays 44; as follows:

YEAS—Messrs. Abercrombie, Aiken, Allison, John Appleton, William Appleton, Ashe, Averet, Babcock, David J. Bailey, Barrere, Beale, Bell, Bibbhausa, Bocoek, Bragg, Breckinridge, Albert G. Brown, George H. Brown, Buell, Busby, E. Carrington Cabell, Joseph Cable, Thompson Campbell, Carter, Chandler, Chapman, Clark, Cleveland, Clingman, Cottman, Cullom, Daniel, Blinnick, Doty, Duncan, Durkee, Eastman, Edmundson, Evans, Faulkner, Ficklin, Floyd, Fowler, Henry M. Fuller, Gentry, Giddings, Gilmore, Goodenow, Goodrich, Gorman, Green, Grey, Grow, Hall, Harper, Isham G. Harris, Sampson W. Harris, Haws, Hascall, Hebard, Henn, Hibbard, Hillyer, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, John Johnson, J. Glancy Jones, George G. King, Preston King, Kuhns, Landry, Mace, Mann, Humphrey Marshall, Mason, McDonald, McLanahan, McMullin, McNair, McQueen, Meacham, Meade, Miller, Millson, Molony, Morrison, Murphy, Murray, Oids, Outlaw, Samuel W. Parker, Peaslee, Penn, Pennington, Perkins, Phelps, Porter, Robbins, Savage, Scudder, Origen S. Seymour, Smith, Benjamin Stanton, Abraham P. Stevens, Thaddeus Stevens, Stone, St. Martin, Strother, Townshend, Walbridge, Wallace, Washburn, Watkins, Welch, Addison White, and Williams—122.

NAYS—Messrs. Willis Allen, Thomas H. Bayly, Bartlett, Chastain, Churchwell, Cobb, George T. Davis, John G. Davis, Dawson, Dockery, Ewing, Freeman, Thomas J. D. Fuller, Gaylord, Hamilton, Haven, Hendricks, Houston, Howard, Andrew Johnson, Robert W. Johnson, George W. Jones, Letcher, Lockhart, Martin, McCorkle, Minor, Morehead, Polk, Schermerhorn, Scurry, David L. Seymour, Stanley, Frederick P. Stanton, Richard H. Stanton, Stratton, Stuart, Sweetser, Taylor, Geo. W. Thompson, Thurston, Walsh, Ward, and Wilcox—44.

So the appeal was laid upon the table, and the decision of the Chair was sustained as the judgment of the House.

The question recurred upon recommitting the report to the Committee on Printing, with the instructions offered by Mr. CLINGMAN.

Mr. BAYLY, of Virginia, moved to amend the motion by inserting after the word "resolved," the words "by the Senate and House of Representatives."

Mr. BAYLY said: I have no disposition to detain the House by discussing that proposition—

Mr. HOUSTON. I understood the gentleman from Arkansas to call for the previous question.

The SPEAKER. That was upon the appeal, and the appeal has since been laid upon the table.

Mr. GORMAN. When I made the report recommending the printing of 50,000 extra copies of the report of the Commissioner of Patents I neglected to state the cost. I now send to the table a statement of the cost of the printing per copy.

The SPEAKER. For the information of the House?

Mr. GORMAN. It is my duty to do it under the law.

The SPEAKER. Then it is a separate report.

Mr. GORMAN. No, sir; it is a part of the report now under consideration. The resolution I reported was to print a certain number of extra copies. The law requires that the committee shall report on the propriety of printing "and the probable expense thereof." I forgot to do that.

Mr. CARTTER. The House is inquiring into the action of a committee, and seeking to instruct that committee. I understand that the chairman of the committee now desires to make a report himself as an addition to the original report. Now, I conceive that it is not in order for him to do that.

The SPEAKER. The gentlemen from Indiana proposes, as the Chair understands it, to make what he sends to the Chair a part of the report made the other day.

Mr. GORMAN. Certainly, sir; it was my duty to have done it then, but some how or other I neglected it.

The SPEAKER. The gentleman from Ohio raises the point of order that that cannot be done.

Mr. CARTTER. It must proceed from the committee, as a part of their report, and not from an individual member of the House.

Mr. STANTON, of Kentucky. I understand the gentleman from Indiana to propose to amend the report; and he does it with the assent of the committee, who have authorized him to do it.

Mr. CARTTER. Has there been any action upon this proposed amendment to the report on the part of the Senate branch of the committee?

Mr. STANTON. The Senate branch of the committee have nothing whatever to do with it. The law sends this matter to our branch of the committee.

Mr. CARTTER. I thought it was a joint committee.

Mr. STANTON. So it is, for all other purposes except this.

Mr. JONES, of Tennessee. I submit to the Chair whether the committee who have made this report, have not a right to modify it, and make it conform to the facts and the law? They have not performed their duty, until they have done so. Ordinarily a proposition presented by any member, until it shall be altered, or some action had upon it, is subject to the control of the mover, and he can withdraw or modify it. That is the uniform and everyday practice of the House. And I submit to the Chair, whether the chairman of the Committee on Printing, under the direction of that committee, has not a right to modify the former report, or to make this supplementary report, under the rule which gives him the right to report at any time.

Mr. CARTTER. The point I make is evidently misapprehended by the gentleman from Tennessee; I do not question the right of the committee to make a report, or to amend one when it is made. But the determination of the prices is the work of the joint committee, and the report is the work of the joint committee.

Mr. JONES. The gentleman is entirely mistaken.

Mr. CARTTER. The attitude of the matter is this: Neither the joint committee nor the constituents of that committee, comprehending the House branch of it, have made any amendment or authorized any amendment; but the chairman of the committee gets up here as a member of the House, and informally, and upon his own figures, proposes to amend the report, without there being any action on that amendment on the part of the joint committee, or even on the House branch of the committee.

Mr. GORMAN. The Senate branch of the committee have nothing to do with it; the House branch made the report.

Mr. STANTON, of Kentucky. The gentleman from Ohio is altogether mistaken.

Mr. CARTTER. I understand that the House committee made this report, but the joint committee have to determine on the prices.

Mr. STANTON. The Joint Committee on Printing is not composed of two separate committees—one from each House. It is "a committee consisting of three members of the Senate, and three members of the House of Representatives." That is the exact language of the law. The third paragraph of that joint resolution of 1846 provides, "that all motions to print extra numbers of any bill, paper, or document, in either House, shall be referred," not to the joint committee, but "to the members of the committee of that House, who shall report upon the propriety of printing, and the probable expense thereof, as early as convenient."

This matter was referred to the three members of this House composing a portion of the joint committee, and those three members have made this report. Now, the chairman, with the consent of the other two members, proposes to amend that report. That is the exact state of the case.

Mr. CABLE, of Ohio. Would it be in order to move the previous question?

The SPEAKER. It will be in order after this question of order is disposed of. It is more regular to determine that, before we take action upon the main question before the House.

The law reads thus:

"That all motions to print extra numbers of any bill, paper, or document, in either House, shall be referred to the members of the committee of that House, who shall report upon the propriety of printing, and the probable expense thereof, as early as convenient."

The Chair supposes that the members of the committee of this House, and not the joint committee, made this report. Those members of the committee of this House propose now to modify their report. The rule of the House upon that subject reads thus:

"45. After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in the possession of the House, but may be withdrawn at any time before a decision or amendment."

There has been no decision or amendment in this case, and the Chair therefore decides that the committee have a right to modify their report.

Mr. CARTTER. I call for the reading of the modification.

The Clerk read as follows:

"The cost of printing said mechanical part of said Patent Office Report will be about forty-nine cents per copy."

"W. A. GORMAN,  
Chairman Committee on Printing."

Mr. STANTON, of Tennessee. I rise to a question of order. The point of order which I am about to submit is suggested to me by the fact which has just been made known to the House, and which has not been adverted to before; that this report does not come from the Joint Committee on Printing, but from the members of this House, who belong to that committee. The gentleman from North Carolina [Mr. CLINGMAN] proposes to recommit this report to that committee, with instructions that they shall give such of the printing as the present contractor cannot execute to the lowest responsible bidder, after ten days' notice. The point of order that I make is, that that proposition is directly and unequivocally in the face of the law. The law requires the joint committee to do it, but there is no law which authorizes the House members of that committee to do it.

Mr. CLINGMAN. I submit that that point has been already decided by the Chair. But if it is open to discussion I have a word to say upon it.

The SPEAKER. The gentleman from Tennessee has certainly presented a new view of this question.

Mr. CLINGMAN. I would remind the Chair that this point has been substantially decided already. The gentleman from Michigan [Mr. STUART] raised the point that the instructions were inconsistent with the existing laws. That point was argued by the gentleman from Michigan and myself, and was decided.

Mr. STANTON, of Tennessee. Will the gentleman allow me to make a suggestion? The point raised by the gentleman from Michigan was, that the instructions to the joint committee were inconsistent with the law. Now, it is perfectly in the power of the House to instruct the joint committee. But the point I make is, that when the House undertake to instruct the House members of that committee, it undertakes to do a thing which it has no power to do by law.

Mr. CLINGMAN. The gentleman is mistaken about the fact; my resolution proposes to instruct the Joint Committee on Printing, no one branch of that committee. The gentleman is entirely mistaken in the fact.

Mr. STANTON. The proposition is to recommit.

Mr. CLINGMAN. The proposition is to recommit to the Committee on Printing. Now, there is but one Committee on Printing known to the law, in this House or in this Congress. There is but one Committee on Printing known to our rules. I never pretended that we had the power to instruct one branch of that committee. There are no two branches to that committee. It consists of one committee, and I intend to make the point, if it becomes necessary, that the House committee and the Senate committee have no right to divide the public business, as I am informed they have done, and assume to act separately.

Mr. STANTON. If the gentleman from North Carolina will allow me, I will make this suggestion: The rule of the House requires that propositions of this kind shall go to the members of that committee from this House, and not to the joint committee; and therefore another point of order would be, that the House have no right to instruct the joint committee upon a subject which by its own rules is referred directly to the House members of that committee. Such a proposition is directly in violation of the rules of this House.

A MEMBER. That is a matter of law.

Mr. STANTON. Well, then it is directly in violation of the law, and therefore it is out of order.

Mr. CABLE, of Ohio. Is it in order to move to go into the Committee of the Whole on the state of the Union upon the special order? I think we can get this matter straightened out by to-morrow. [Laughter.]

The SPEAKER. It is in order.

Mr. CABLE. I make that motion.

Mr. BAYLY, of Virginia. I believe I have the floor. It was only taken from me by raising a point of order, and I suppose I can resume it. I wish to be heard upon my amendment.

Mr. STANTON. That point of order has been decided long ago.

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] rises in his place and states that he had not yielded the floor, and that therefore it is not competent for the gentleman from Ohio [Mr. CABLE] to take the floor to make the motion to go into the Committee of the Whole on the state of the Union.

Mr. CABLE. I had supposed that, at the expiration of the morning hour, I had even the right to take the floor from the gentleman to make the motion.

The SPEAKER. The Chair decides that the homestead bill is a special order in the Committee of the Whole on the state of the Union, but not in the House. That must be considered in committee, and cannot arrest business in the House.

Mr. CLINGMAN. Has not the morning hour expired?

The SPEAKER. The gentleman cannot take the floor from the gentleman from Virginia [Mr. BAYLY] to move to go into the Committee of the Whole on the state of the Union.

In regard to the point of order which has been raised, the Chair knows of no rule by which the House of Representatives could distinguish very clearly between the duties assigned to the Joint Committee on the Public Printing, and those assigned to any portion of the members of that committee. It is rather an embarrassing question. By the joint resolution of the two Houses a Joint Committee on the Public Printing has been created. There is a clause in that resolution which the Chair begs leave to repeat. It is, that all motions to print extra numbers of any bill, paper, or document, in either House, shall be referred to the members of the committee of that House, who shall report upon the propriety of printing, and the probable expense thereof. The Chair has not had time to look to the whole law upon the subject, and is therefore, to some extent, groping in the dark. The Chair, however, is not disposed to make that distinction between the committee and the members of the committee.

Mr. CLINGMAN. I was about to say, in support of the view of the Chair, that we have the right to commit to the Committee on Printing anything we think proper, whether a part of the committee made the report or not.

Mr. GORMAN. That matter is out of order now.

Mr. CLINGMAN. I stand corrected. It is out of order.

The SPEAKER. It makes no difference to the House whether this report came from the whole of the joint committee, or whether it emanated from the members of the committee on the part of the House. It is regularly here, and may be committed to the Committee on the Judiciary, or any other committee.

Mr. STANTON, of Tennessee. I understand the proposition to be, to recommit the report; and I understand the law to be that all such propositions as this shall be committed, not to the Joint Committee on Printing, but to the members of that committee which belong to this House. But I understand the Chair now to decide that this House can instruct one half of that committee, directly against the law.

The SPEAKER. The Chair decided that this House will determine for itself what will be the effect of its action. The Chair decides that it is in order to recommit this report to the Committee on Printing.

[A message was here received from the President of the United States, by MILLARD P. FULLMORE, his Private Secretary, announcing that he had signed sundry bills passed by Congress.]

Mr. JONES, of Tennessee. I wish to present another view of this subject to the House. The joint resolution provides that when a motion is made to print an extra number of any document it shall be referred to the members of the joint Committee on Printing of the House in which the motion is made. Now upon the original motion to print fifty thousand copies of the Patent Office Report, would it be competent for any member of this House to move to refer that motion to the joint committee of the two Houses, in direct violation of the joint resolution, passed by both Houses of Congress, and approved by the President? And is it strictly in accordance with that clause in the Constitution which prescribes that each House shall prescribe the rules of its proceeding and government? Now, if it would not be in

order, originally, to move to commit to the Joint Committee on Printing, it certainly is not competent to move to recommit a report of the House branch of the committee, upon a subject which has been referred, to that committee. It cannot be competent or in order, as I think, to entertain a motion to recommit that report to the Joint Committee on Printing. It is not a recommitment, because the subject has never been referred to that joint committee. I make the point of order, first, that it would not be in order to move originally to refer the subject to that committee; and, second, that it is not in order, and the motion cannot be entertained, to recommit to that committee after the report has been made.

Mr. CLINGMAN. I beg leave to say that under a proper suggestion, I have stricken out the syllable "re," so as to relieve the gentleman from the difficulty—so as to provide to commit the report to the Committee on Public Printing.

Mr. JONES. Then it is out of order, because we have no power to commit it to that committee at all. It is an indirect violation of the joint resolution. And I further maintain that the resolution cannot be introduced here except by unanimous consent.

Mr. CLINGMAN. In reply to my friend from Tennessee, [Mr. JONES,] I will say that report is now under consideration, and we have the right to refer it to any of the standing committees of the House; or to a select committee. My resolution is based upon the report now under consideration.

Mr. JONES. I do not understand how we have the right to recommit this to any committee of the House in direct violation of the laws of the land, which are a part of the rules of this House, because made so by the proper authority.

Mr. GORMAN obtained the floor.

The SPEAKER. Is there an appeal from the decision of the Chair? for this debate is irregular unless an appeal is taken.

Mr. GORMAN. No, sir, I do not take an appeal, I do not care about it one way or the other.

The SPEAKER. The Chair overrules the point of order made by the gentleman from Tennessee, [Mr. JONES,] upon the ground that there can be no question that this report is regularly and properly here, from the members of the Committee on Printing belonging to this House, and the Chair thinks the House has the power to refer it to whom it chooses. It may refer it to the Committee of the Whole on the state of the Union, or to any other committee of the House, notwithstanding the fact, that when the original motion was made to print the extra numbers, it must have been referred to the Committee on Printing. But it was referred to that committee, and was reported upon by them; and the Chair thinks that it is competent for the House now to make any disposition of that report which it may think proper. That is the decision of the Chair.

Mr. STANTON, of Tennessee. I appeal from that decision.

Mr. CARTTER. I move to lay that appeal on the table.

Mr. STANTON. The gentleman from Ohio, I apprehend, cannot take the floor from me to make that motion.

I submit that the decision just announced by the Chair, is nothing more nor less than to put a stop to the public printing. He may not have intended it, but such is the effect. But to adopt that decision, would be perfectly nugatory, for it is in direct violation of an express provision of the law which was read in the hearing of the House this morning; and which being a law passed by both Houses of Congress, and signed by the President of the United States, is, at least, as high authority as any rule of this House, if any rule could be made in contradiction of that law.

Here is a proposition to print fifty thousand copies of the Patent Office Report. The law which has been read this morning, provides that that report shall be referred to the members of the Committee on Printing belonging to the House, and to no other committee. It requires that this subject shall go to them. Yet now your proposition is, that this report shall be committed to the Joint Committee on Printing—and for what? That the Joint Committee on Printing shall report that five thousand, or seventy-five thousand, or any other number of copies shall be printed, although the law requires that such a proposition shall emanate

not from the joint committee, but from the members of that committee belonging to this House.

Mr. STANTON, of Ohio. I understand that this question of order has been decided once, upon the appeal of the gentleman from Michigan, [Mr. STUART.] Now, I submit that this same question cannot be made over and over again.

A MEMBER. It is the same question precisely.

The SPEAKER. The appeal taken by the gentleman from Michigan, was upon the ground that the instructions were not legitimate—that it was not competent for the House to make them. The gentleman from Tennessee [Mr. STANTON] insists that we cannot commit to that committee at all.

Mr. STANTON, of Ohio. I did not so understand it. I thought the points made by the gentleman were the same.

Mr. STANTON, of Tennessee. There is no point in the case I have made which has been heretofore decided—not at all. This was a report emanating by virtue of the law which was read this morning, not from the joint committee, but from the members of that committee from this House. It was made in the performance of the duties devolving by law upon these members of that committee. Now, in connection with the proposition which peculiarly belongs to the House members of the committee, it is proposed to go into the whole policy of the public printing.

Mr. FULLER, of Maine. As I served upon the Committee on Printing in the last Congress, it will not be improper for me to state, that the practice has been invariably, under that law, that each branch of Congress authorized or ordered the extra numbers of every document for its own use, and each branch of the committee has always considered the propriety of printing the extra numbers belonging to its own House. And there is good reason for it. Suppose the House should propose to order 500,000 copies of a document to be printed. This committee is constituted of an equal number from both Houses; and suppose the Senate portion of it should refuse to concur with the House Committee. In that case the House could not control its own printing.

Mr. STANTON, of Tennessee. That is the true spirit, and that is the substance of the law, and I have no doubt that it was upon that consideration that the law was based. But the point I make now is, the incongruity and the inconsistency of appending instructions to a report, emanating from that part of the committee which belongs to this House, made in the performance of functions which properly belong to it, and in sending that same report back to the joint committee, and giving instructions which go to the whole policy of the public printing, and to the alteration of the law.

Mr. CLINGMAN. Will the gentleman allow me to ask him a question?

Mr. STANTON. Certainly.

Mr. CLINGMAN. I will then ask my friend from Tennessee, if any member should introduce a proposition here upon the subject of printing, as he might do when resolutions or bills are called for, whether it would not be competent for the House to refer that, or any other report relating to that subject, to the Committee on Printing?

Mr. STANTON. If it were a proposition to print extra numbers, you could not refer it to the Committee on Printing, because the law says that such a proposition shall go to the members of that committee who are members of this House. The effect of that law is to constitute the members of this House who are upon that committee a quasi committee—a committee for this particular purpose—and by virtue of that law, such a proposition must go to that committee, and you can send it to no other. Now, the effect of this proposition of the gentleman from North Carolina [Mr. CLINGMAN] is, to send the proposition to print extra copies, together with his instructions, to the Joint Committee on Printing; which is contrary to law.

Mr. CARTTER. I move to lay the appeal on the table.

The SPEAKER. The Chair would call the attention of the House for a single moment to the view which he feels clear in taking upon the subject. The gentleman from Tennessee [Mr. STANTON] will not doubt that this report is properly before the House for its consideration.

Mr. STANTON. That is, the motion for fifty thousand extra copies? Not at all.

The SPEAKER. The House may adopt it, or amend it with the amendment, or they might refer it under the law.

Mr. STANTON. Except where the law says it shall be referred to a particular committee.

The SPEAKER. So the law says, that all questions relating to constitutional questions, or involving law questions, shall go to the Committee on the Judiciary; all questions relating to finance, to the Committee on Ways and Means; and all questions involving the right of a member to his seat, to the Committee on Elections. The law has been complied with in that respect in regard to this matter.

Mr. STANTON. If the Chair will allow me, I would ask if there is any law relating to those committees, such as relates to the Committee on Printing? and are not the duties of the Judiciary Committee, and of other committees, regulated only by the rules of the House?

The SPEAKER. The Chair would again repeat, that, under the joint law of the two Houses, this report is made by the members of this House, forming, as they do, a part of the general Committee on Printing. It is then properly here. The law does require that all questions in regard to printing extra numbers of any document or bill, shall go to that portion of the Printing Committee belonging to this House. The law has been complied with in that respect, and that committee has made its report, which report is subject to the direction of this House, and may, in the opinion of the Chair, be committed to any committee of this body, or be voted upon, passed, or rejected. That is the decision of the Chair; and from that decision the gentleman from Tennessee [Mr. STANTON] takes an appeal. The gentleman from Ohio [Mr. CARTTER] moves to lay the appeal upon the table.

Mr. BAYLY, of Virginia. Will the gentleman allow me to ask a question? Is the language of that resolution to recommit to the House committee?

The SPEAKER. The language is to commit it, not to recommit it. It is to commit this report to the Joint Committee on Printing. The Chair decides that it is in order.

Mr. BAYLY. How long has that been the language of the resolution?

The SPEAKER. It was modified by the mover some time ago.

Mr. BAYLY. It was done, then, when I was upon the floor, and when he had no right to do it.

The SPEAKER. The gentleman did not object to it. The gentleman from North Carolina [Mr. CLINGMAN] rose and proposed to do so, and the gentleman from Tennessee, [Mr. STANTON,] who had the floor upon a point of order, gave the floor for that purpose. He made the modification, as he certainly had a right to do, if he could get the floor at all.

Mr. BAYLY. I was not aware that the gentleman from Tennessee [Mr. STANTON] yielded the floor.

The SPEAKER. He yielded for that express purpose, the gentleman from North Carolina [Mr. CLINGMAN] appealing to him to do so.

The question was then taken on the motion of Mr. CARTTER, and it was agreed to.

So the appeal was laid upon the table.

Mr. BAYLY. I have heard a great deal, sir, about the higher-law party in this country, and the object of my amendment is to ascertain how many of that higher-law party there are in this House; and I undertake to say that my own opinion is, that one of the branches of the Legislature of the United States sets more examples of "higher law" than any other body of the same number. They do it every day, sir, in riding down our rules. By the Constitution of the United States, each House has the authority to adopt its own rules of proceeding. After they have done that, those rules adopted in pursuance of the Constitution are precisely as much the law of this land as any other laws, and yet this House constantly undertakes to exercise the higher-law privilege of running over those rules.

Now, sir, there is, upon this occasion, a still more palpable effort to assert the doctrine of the higher law, and I have moved my amendment with the design to see how many of the higher-law party there are in this House.

By the law of 1846, this subject of the public printing is committed to the Joint Committee on



Printing of the two Houses, and during this whole session there has been an attempt of one House to assert here the higher-law doctrine without the concurrence of the other, and without the sanction of the other, to control that law—in other words, there has been a practical attempt made to assert here the higher-law doctrine.

I shall not go into a minute discussion of this law regulating the public printing, because it has already been discussed, and I have no disposition to go over the ground again. But I undertake to say that the Printing Committee have plenary power over this subject, and that neither one of the two Houses can control that committee.

Mr. CARTER. That is higher-law doctrine.

Mr. BAYLY. I undertake to say that when one of the two Houses undertakes to repeal a law of the two Houses, sanctioned by the President, they are asserting the higher-law doctrine, and I am utterly opposed to that. Now, as to our rules in respect to the subject of public printing, they are perfectly clear, and the reason of them is manifest enough. As has already been explained here, when the question arises before either House as to the number of extra copies it will issue, the committee of that House has the sole authority to decide for the House to which it belongs—for the Senate may want one number and the House another. In the exercise of that courtesy which has always been observed between the two branches of Congress, each branch has allowed the other to decide for itself as to the number of documents it wants, and the description of the document.

But, as to these other questions; as to how these documents are to be printed; how the public printing is to be executed; as to whether the public printing has been executed according to contract or not—they, by the law, have been committed to the joint committee, whose conduct is regulated not by the rules of the House, or by the rules of the Senate, but by law, which is established by the concurrence of the two Houses of Congress, and the approbation of the President. These instructions, sir, go to the joint committee, constituted by law; and I undertake to say here, that we have no right to give instructions to that committee in any other mode than by a joint resolution of the two Houses. That is the whole point I wish to make about the subject.

Mr. EVANS. Mr. Chairman, I wish to say a few words—

Mr. CABLE, of Ohio. Will the gentleman give way to a motion to go into the Committee of the Whole?

Mr. EVANS. If such is the disposition of the House I will do so.

A VOICE. No! No! It is too late. Go on.

Mr. EVANS. I will yield to the desire of the House, but I will not keep the floor for any great length of time at any rate.

"This whole subject of public printing has occupied the attention of this House ever since the Twenty-eighth Congress. Persons in this city made contracts; and made such profits, and put such sums of money, out of the public Treasury, into their own pockets, that the Twenty-ninth Congress—as Democratic as this, with as great a majority upon that side—determined that the contract system should be the law of the land. That law has been violated in every step since. Combinations have been formed in this city, between presses of both parties, for the purpose of breaking down this contract system. Such plans have found, notwithstanding the difficulties and delays to which they have given rise, ready but unwitting supporters amongst us. I very much regret it. But what is the difficulty this morning? I speak in no unkind sense, and I trust I shall not offend anybody, but it is said that the Senate of the United States—the body that sits in the other end of the Capitol—in carrying out its part of the contract—the bargain that is said to have been made—have given to the Republic, in this city, the printing of fifty thousand copies of the Patent Office Report, doubtless at some considerable profit.

The question now comes forward as to whether Donelson & Armstrong shall have their portion under the same agreement, and we have the whole matter in a pretty complication. They cannot obtain their portion of the contract; it is said, because of some shrinking here, which, I think, is hardly fair. It does not, however, bind me. My hands are clean. I am against all corrupt

combinations for corrupt bargains to bestow patronage upon the public press of the one or the other of the two great parties; but I suppose that the gentlemen who agreed this printing should be fairly divided, ought now to stand up to the rack. The Republic is proceeding with the printing of the Patent Office Report. It has a fine rackful before it—grain in abundance—mangers replete, and lofts full of fodder. When Donelson & Armstrong come forward and request their share, we are unfortunately in such a condition that we cannot grant it. That is the secret of this whole debate, and everybody is aware of it. With regard to the public printing, the House of Representatives owes it to itself at once to put a stop to the system of paying the public press of either party. I shall do what I have always done, to which effect I now pledge myself to the House, viz: I never will vote one cent to any Whig party press, although I am a Whig, be it published in this city or elsewhere. I trust that the members of the Democratic party will do the same thing. Let us adhere to the contract system, compel its execution in good faith, and once for all put down those men combined against us in the endeavors to prevent us from the performance of our duty, and who are constantly obstructing our path with difficulties at every step. They make new members say "we cannot get our printing executed." We cannot obtain the Patent Office Report to send to our constituents, for which we have demands from day to day. It is necessary we should have them." What is to be done? Let us set our face against those people who attempt to control the House of Representatives. Let us, either at every risk carry out the contract system, or resort to what other Governments have resorted to—a public printing office. It is not difficult to have erected here a public printing office, free from all fraud and collusion. In the law creating it, there can be easily inserted a proviso that no person shall have its superintendence who is connected with, or the proprietor of any public print, or interested in any periodical or magazine whatever.

Gentlemen assert that the neglect of our duty, the long way we are behind hand in the public business is owing to the want of the public printing. My friend from Michigan [Mr. STUART] made, I believe, that assertion. I think he labors under a very great mistake. The neglect is due to other causes. I will here remark that there are now before the House printed bills, resolutions, &c., more than we could act upon, were the House to proceed with the business as they have been doing for the next five consecutive years.

Mr. STANTON, of Tennessee. Will the gentleman allow me to suggest that I have been trying for several months past to obtain the report of the Secretary of the Navy? I have some small portions of it as they have been successively printed by the public printer; but the entire report is not yet printed. We have never had it before our committee—the Committee on Naval Affairs.

Mr. EVANS. There is no report before any committee of this House. I am on the Military Committee, and we have never officially seen the report of the Secretary of War. Why? Because it has not been referred to that committee; and had the gentleman's committee the report to which he has alluded they could not have acted upon it officially, it not having been referred.

Mr. STANTON. Yes we could.

Mr. EVANS. I think otherwise; but no matter as to that. You can have erected, in this city, a public printing office; you may call it a printing bureau if you please, although I do not like the term. You can provide that its superintendent shall have no connection or interest in any party paper, magazine, or periodical. I will venture to say that the New York Herald office—and I take that paper because it is one of the most enterprising in the Union—can print and deliver to us the next morning any reasonable number of extra copies which we may choose to order. And it can be done here. There is no difficulty about the execution of the public printing, except what is caused by ourselves; and, although I dislike to allude to the past, and will not, in any unkind spirit—I have had difficulties about the public printing, probably because I looked into the matter in advance of other gentlemen—yet I must say that the testimony sworn to by men upon oath, shows that there has been a deliberate design, since the Twenty-ninth Congress,

to put an end to the contract system. That there is and has been a deliberate design has been sufficiently proved, and you are now about to yield to it. You are about to forget the duty you owe to the country, to yourselves, and to your own consciences. You are about to give way underneath the pressure of the combination to which I have referred. It ought not to be done; and if such influences are resisted, there will be no need of members coming here to talk about delay in the public business for the want of the public printing. There will be no delay when it is executed in accordance with the law, and without improper motives. If I could advise—were it my province to do so—I would say to the House, erect a public printing office here, and have your printing done properly. If it is, however, to be given to party journals, the Democrats have the majority here and in the other House, and why do they not take the whole of it? I do not want any of it. I am not connected with those journals, and never want to be.

If there has been an agreement for the division of the printing, why is not it fully carried out? Why do they not give to Donelson & Armstrong their fair share? They have granted the Republic its portion. This printing ought to be entirely disconnected, in my opinion, from the public newspapers. They ought to support themselves in the way in which honest, independent papers throughout the country are supported—by subscriptions and advertisements. They ought not to be fed out of the Treasury—they ought not to be nurtured by the Government—they ought not to get any of this public printing; and everybody here knows it.

The honorable gentleman from Wisconsin, [Mr. DOTY,] has introduced for the consideration of the House a bill, not quite perfect, but which may be made so by the House, by which you can have the printing executed in one week. I do not know what my friend from Indiana [Mr. GORMAN] has done, but I know one thing he has not done, and that is, anything corrupt. I am quite certain that the honorable gentleman from Indiana, [Mr. GORMAN,] the honorable gentleman from New York, [Mr. HAVEN,] or any other member of the Committee on Printing, would not consent to any proposition which they thought was wrong. Yet the action of that committee will strike various minds differently. It appears to me that they have overlooked (though I know nothing as to what they have done) John T. Towers, the only contractor who executed his contract during the last Congress, when everybody else who had contracted to do the printing violated their contracts, as no one knows better than my friend from Indiana. With all deference, I conceive that, however honestly they may have acted, they have not done what is right.

The gentleman is acquainted with the whole history of the difficulties in relation to the printing at the last Congress. Contractors then violated their contracts, and nothing was said about it. There was no taking away of the public printing from the violating contractor then; no relating to other parties. I believe the President's message and accompanying documents were not delivered until long after they were required. John T. Towers went on and executed his contract faithfully—to the letter—although he had underbid the other contractors, who were desirous of having the contract for the printing of all the classes. If the committee have passed by him, John C. Rives, and other faithful and honest men, who can give good security, and given the printing to Donelson & Armstrong, or Gideon & Co.—whom I believe to be worthy gentlemen, and against whom I would be sorry to say anything—at a higher price, it is due to the House that it should be reported. The gentleman should not suppress the facts, nor should he, when asked a question by a member, as to what had been done by the committee, have moved the previous question. He should have communicated the whole proceedings of that committee. We should have known the price of the bid, and how much higher it was than other bids. If competent and safe men have been passed by, to give the printing, at a higher price, to others, the committee have done what I think is wrong, and it behooves this House to correct that wrong. If, however, the House thinks that there has been a solemn bargain made, although I have had nothing to do with, nor ever knew of it, they ought to

carry it out, and Donelson & Armstrong ought to have their fair share.

Mr. STANTON, of Kentucky. I have to say in reply to the remarks the gentleman has just made, that the price adopted by the committee and Donelson & Armstrong, is precisely what John T. Towers says is a fair and reasonable price for the work. John T. Towers himself made the estimate upon which the price was fixed.

Mr. EVANS. This is the first information the House has had with regard to the price to be paid for the printing, and it comes from my friend from Kentucky for the first time, after unparalleled exertion on our part. But my friend does not say that was the bid of John T. Towers himself. Is it upon the basis of the bid he put in at the beginning of the session?

Mr. STANTON. No, sir; it is not exactly.

Mr. EVANS. It is higher?

Mr. STANTON. Because John T. Towers himself, by submitting an estimate to us, indicated clearly that his bid was not a fair and reasonable price for the work. He submitted a statement of what would be a fair and reasonable price, which did not exceed his bid more than three per cent., and in one case not more than five per cent.; and the whole difference between John T. Towers's bid for doing the 50,000 extra copies of the Patent Office Report, and John T. Towers's estimate of what is a reasonable and fair price, is only \$300 on upwards of 50,000.

Mr. EVANS. I now understand the gentleman to say, that John T. Towers has stultified himself, and if he has done so, I desire to have nothing more to do with him.

Mr. STANTON. He made a bid at the beginning of the session, which he now acknowledges is not a fair and reasonable price for the printing.

Mr. EVANS. The gentleman knows enough about the printing to be aware of the fact, that a large portion of the profits made by the printer is upon the long numbers. The portion remaining unfinished, which will fall into the hands of Donelson & Armstrong, is the heaviest and most profitable.

Mr. STANTON. We would have done those gentlemen injustice, because they repudiated and refused to accept the proposition upon the terms of John C. Rives's bid, which everybody said was greater than that of Towers. In order to make the thing fair, and to give a reasonable price for this expensive work, which this office was to have, John T. Towers increased his own price some three or five per cent.

Mr. EVANS. That is very strange! Everybody knows that the profit is upon the long numbers. As yet, there has not been a long number printed—not one. Where are your long numbers of the President's message? The gentleman tells me that the profitable portion of the printing has been executed, and that the unprofitable portion yet remains to be printed; but I think he is entirely mistaken.

Mr. STANTON. John T. Towers's bid made no deduction upon the long numbers, while the present bid makes a deduction of five per cent.; and, so far as they are concerned, they are done, absolutely, under this estimate, five per cent. cheaper than they could have been done under his bid.

Mr. EVANS. There is one thing which I rejoice at, as the result of all this discussion: that we have, at last, a single fact.

Mr. BOCOCK. With the consent of the gentleman from Maryland, I desire to propound a question to my friend from Kentucky, [Mr. STANTON.] I understand the gentleman from Kentucky to have explained to the House that the committee have agreed to give these newspaper editors a higher price than that at which Towers agreed to do this printing, and for this reason: The gentleman states that a large portion of the public printing which is profitable has already been done by the public printer; and therefore not being able to give that to these gentlemen, it has been found necessary to increase the price upon this other description of printing. I desire to ask the gentleman from Kentucky if bids for the public printing are not put in separately for the different classes of printing, as they are required by law to be? and whether Towers did not bid separately for the different classes of printing? I desire to know from the gentleman, further, if Towers's bid for this class of printing had been lower than

that of other persons, whether he would not have been the printer of it—whether he might not have been the printer for one class, while some other gentleman might have been the printer for some other class? Now, I wish to know, also, whether they have given increased prices to these gentlemen over those which Towers made for this specific sort of printing, and whether they have not given more to these men than that for which Towers is now willing to execute this particular printing? As I stated before, I am informed that Towers's bid was made for this particular printing as a separate matter.

Mr. STANTON, of Kentucky. It is true that the public printing is bid for in classes. But all the classes of the public printing are bid for in mass, and all the classes are bid for by the same men, and the contract is given out to the same men. One man does not get one portion of it, and another man another portion of it, because if it had been so, John C. Rives would have got a portion of the public printing at two cents a page, when it would hardly pay for the paper upon which it was printed. While other printers were charging a dollar, and a dollar and a quarter, John C. Rives bid two and a half cents. They average the whole bid, and give the printing to him who is supposed to be the lowest bidder upon the whole average, and not to him who is the lowest upon a particular class. I went perhaps a little too far when I said that all the profitable printing had been done. I do not mean to say that; but it is in the hands of the public printer who is now at work upon it—as, for instance, the President's message with the accompanying documents, the Coast Survey, and a great many other documents which the printer has begun, and with which he is progressing very slowly. They are profitable to the printer.

Mr. BOCOCK. Has not the price been raised from the recent bid for this particular sort of printing?

Mr. STANTON. No, it has not. I understand that Towers's bid, with the exception I have just stated, of this portion of the public printing which will go to Donelson & Armstrong, which is supposed to be less profitable than the other, and upon which he has increased his prices but lately, is substantially what it was before.

Mr. EVANS. If these prices are to be increased, why do you not increase Boyd Hamilton's? He has got the largest printing office in the city, and the most presses. Why do not you give him the increase of price, if any one is to have it? He is a good Democrat, and never voted for a Whig. If the increase of price must be given to somebody, why not let Boyd Hamilton have it? for, with a little flattering encouragement, and a little more money, he might perhaps struggle through his difficulties.

Mr. STANTON. The committee had no power to increase the prices of Hamilton. We were compelled, under the law, to remedy his neglect, and employ somebody else to do the work.

Mr. EVANS. Why not remedy it with him? When the Committee have the power to apply a remedy, why let some one else be the subject of remedy, and not Boyd Hamilton?

Mr. GORMAN. I wish to make this statement before any one else proceeds, in this House or elsewhere, to make any charge: I have got John T. Towers's bid, which he made in public market. I have his estimate, which he made to the Committee, at fair prices. Whoever circulates, in this community or elsewhere, that the committee have varied, in any material point of view, from those prices, circulates a falsehood. I pronounce the statement false, wherever it comes from. I say to this House, that we have adopted, substantially, the whole bid and estimate of Towers, and that the price we propose to give does not vary \$1,000 on this work—the Patent Office Report—from that estimate.

Mr. EVANS. As I never said that the gentleman had varied from Towers's contract, and never knew what Towers's contract was, I presume the gentleman cannot refer to me.

Mr. GORMAN. Certainly not. But it has been whispered about in certain quarters.

Mr. EVANS. I never said anything of the sort, and do not say so now. I am sorry there are so many personal difficulties surrounding this printing discussion. I announced, at the begin-

ning of this discussion, and notwithstanding all that has been said about it, I can announce it to-day from the bottom of my heart, that I can attribute no improper or corrupt motive to the gentleman from Indiana, [Mr. GORMAN;] or the gentleman from Kentucky, [Mr. STANTON;]. They are the last gentlemen to whom I could attribute any such motives. I know nothing about Towers's bid. But this is a matter of public interest, and we have to base this public printing upon some system. It becomes us, therefore, to have a free, fair field, and candid discussion upon this subject, doing justice to all men, and injuring the feelings of no man. I would not willingly do it. It strikes me as a singular thing, that Boyd Hamilton's prices were not increased, to enable him to go on, for "money makes the mare go."

Mr. STANTON. We had no power to increase the prices of Boyd Hamilton; and we were compelled, by law, to employ some one else to do the work, and charge him and his securities with the difference in price.

Mr. EVANS. The House will judge between me and the gentleman in regard to the power. I will not pursue that branch of the subject any further. I will not dwell upon the short-comings or long-gongs of the committee, or express any sentiment at all upon it. They have done differently, it is true, from what I would have done. They have acted upon different principles and from different motives. There are combinations existing in this city; combinations bearing heavily upon us all, and which I myself—I will not say found it impossible—but difficult to resist; combinations which have appealed to me as well as to you all. These combinations ought to be resisted at once, or they will exist here forever; for this is not the work of one day, but of all time. And all future Congresses will find the same things, unless we now at once, and with all our manliness and force, resist them. For one, I am prepared to do it. They are found nowhere else. I will not quote the example of absolute governments for our imitation, for I love freedom, and I hate absolute governments; but in certain matters we may look abroad to see if we cannot meet with something that may benefit ourselves. The English Government have a national printing office, which, as far as I know, has been carried on without any charge of corruption being made against it. So has the French Government; so has the Prussian Government, and so has the Austrian Government.

At the late exhibition at the World's Fair—the House will forgive me if I am a little wild in the numbers I state, but I will not state them materially different from what they are—the Austrian Government sent there certain papers, printed in more than four hundred languages, from their national printing office, beautifully executed. Of these four hundred languages, two hundred and fifty of them were executed in the original character of the language. For instance, they sent specimens of the Hindoostanee, the Singalese, the Chinese, the Japanese, the Arabic, the Coptic, the Syriac, or any language which employed a peculiar character, and which required peculiar skill in the printing office. All of these languages require a peculiar character which needs special discrimination and attention on the part of those who use it. I have found that out of four hundred languages presented there, and printed, more than two hundred and fifty were in the original character. Now, I do not propose that we should go into such a labored thing as this; but surely, when Governments abroad have distinguished themselves so highly in this great art—for it is an art—when they have succeeded in founding establishments like these, which are at once the wonder and admiration of the whole world, and which were thought worthy of exhibition and particular mention, I think that we might go a little way. Gentleman get up here and state that it is impossible to found a national office, without having at the bottom a sink of corruption. Can we not take this whole thing out of the hands of designing men? The House must discard every party—Whigs, Democrats, Free-Soilers, and everything else. Suppose the next President is a Democrat; I am willing that he shall appoint the superintendent of the public printing, as I have no doubt he would appoint a skillful man. I do not know any candidate of that party for the Presidency who would not appoint a proper officer. There are

gentlemen here whom I very much respect and esteem, who say that compositors would gather here from every State of the Union, and press members of Congress with solicitations to get them appointed. I apprehend there is nothing in that, for the trade in this city have fixed and settled a list of the prices to be paid to compositors, which cannot be departed from. They agree upon so much for composition, so much for press-work, and so on. The persons who are concerned with a national printing office, as well as other men, have reputations at stake.

Mr. JONES, of Tennessee. I will state to the gentleman that one of the persons, who has done heretofore as much of the public printing as almost any other person in Congress, has assured me that he could never employ journeymen printers to do Congressional printing by the piece. Sometimes he has a press of work, when the compositors have to work all night; and at other times they have little or nothing to do, and he must pay them for all the time, or he cannot get the hands necessary to do the work. He has also assured me that when he was public printer, members of Congress used to bring printers to him, and tell him that he must employ those men and take care of them. If you had such an establishment here, members of Congress would have great control over it, I doubt not, and would have five times as many printers, perhaps, in the establishment as were necessary to do the work, and it might become a great poor-house or pauper asylum for the disabled and incompetent printers of the country.

Mr. EVANS. If that is so I hope it will be broken up; I do not care how soon it goes; there is nothing in it which I should wish to maintain. The gentleman has pointed out sufficiently the person to whom he alludes. Every one knows that he alludes to John C. Rives, who does the Congressional printing of this body. With the aid of the faithful reporters here before me, and the aid of the compositors at that office, does the gentleman suppose, if we should employ him as a public printer, that we should get into difficulty? Suppose he had to pay his compositors a little more, who grudges it to them? I do not grudge the honest workmen anything at all; and I would rather they had a little more for their labor, if we could only get rid of this great difficulty. Other Governments do it,—why should not ours? Workmen are found in Europe honest enough, patriotic enough, to serve the government. The honorable gentleman from Tennessee [Mr. JONES] gets up and tells me that no man can be employed in the city of Washington to work for the Government who will not cheat the Government. There is not a printer in town who will not work for the Government upon as fair terms as he would for a private press or a newspaper. I think the gentleman is laboring under a great mistake in regard to that matter, and I think he has done great injustice to this whole class of persons.

Mr. JONES. The gentleman does much greater injustice to me.

Mr. EVANS. I did not intend to do any injustice to the gentleman.

Mr. JONES. I do not suppose that the gentleman intended it. I made no such statement as that a man, because he worked for Government, would become corrupt, though there are a great many such instances, I have no doubt.

Mr. EVANS. I state expressly that the gentleman did not say any such thing; but that is the only inference that can be drawn from his argument.

Mr. JONES. Not at all; not at all.

Mr. EVANS. Certainly; no other inference can be drawn from it.

Mr. GORMAN, (interrupting.) With the permission of the gentleman from Maryland, I desire to make a suggestion to the House. This Patent Office Report has to be printed by some one. I wish the House to understand that I have simply reported the usual resolution for the printing of the number that you usually order. I have done nothing else. I am not going to do anything else. When they are printed they will be printed at the price agreed upon unanimously, I believe, by the joint committee.

Now, sir, I only want to state to the House, that really you can have no printing done unless you order it. The House must order it. These things cannot be done by the committee. You cannot have these reports printed unless you order

them to be printed. I want the House also to understand that they can get all the information they desire about prices by referring to the public bids which are on public record in Miscellaneous Documents, No. 10. They will find Towers's bid there; and the prices that we have given to the printers who are to do the work for the House, although not identical in all the items, are substantially the same as Towers's bid. All I ask the House to do is, to order this printing. If they order it, well and good; if not, it is all the same to me. The old members are not particularly interested in these things. If the new members want them, they will have to order the printing.

If Boyd Hamilton can do the work, he shall certainly do it. If he can do it according to his contract, it is the duty of the committee to let him do it, and they intend that he shall do it. All the documents which have been in his hands for more than a month, and which have not been commenced by him at all, we have taken from him. He has had some documents for four months and a half which are not finished, and some which have not been commenced yet.

I will state another fact for the information of the House. A proposition was submitted to the joint committee to give the printing to Donelson & Armstrong and the Republic, and that proposition was voted down when the new committee met. A proposition, introduced by a Senator, was then agreed to, that the committee of each House should exercise its own judgment in giving out such printing as it saw fit. The committee on the part of the House have, therefore, executed a contract with Donelson & Armstrong; and they have ordered one single document, and that is all, to be given to them. We have strenuously kept the contract, and required Boyd Hamilton to come up to it, as far as we possibly could. We have written notes and called on him specifically to say wherein he can comply with his contract. Wherever he can do it, we have assiduously and earnestly insisted on his fulfilling that contract. That is what we have done. The committee on the part of the House are not responsible for any printing that may have been given to the publishers of the Republic, the Globe, or the National Intelligencer, or any one else. The Senate committee can give the printing of that body to the Republic, or withhold it, or let Hamilton do it. I do not know what they have done. It is very probable, however, that they have done what the House committee have done—given it to Donelson & Armstrong.

I thank the gentleman from Maryland for his kindness in allowing me so much of his time. I really do not want to make a speech upon this matter. But I do not want to be misrepresented before the country. I have no desire to get into personal difficulties, but I do not choose gentlemen to circulate it through the country that I have acted in bad faith towards my fellow-Democrats. I will state here, because if I know my own heart, I have no secrets on this subject, I did say to some of my Democratic friends that under the new organization of the committee, probably the whole of this public printing would be given to Donelson & Armstrong. When the proposition was made in the committee to give it to Donelson & Armstrong and the Republic, it was voted down. It was then proposed that each committee should dispose of the printing of its own body in its own way, and at its own time. That was carried, and that is the way we are acting now.

Now, I have said this for my own justification. I will not suffer, here or elsewhere, gentlemen to circulate rumors that I have acted in any manner except in good faith, according to the best of my judgment. When my personal character is at stake, I should lose my self-respect if I failed to defend it. I am anxious to report to the House just what is done by the committee, what directions are given, and precisely what is the state of things. I would not conceal anything. If I did, it would be improper, unjust to the House, and doing injustice to myself, and the country would rebuke me for being silent when I should speak. I will not be silent when I should speak. And, therefore, I will not permit insinuations to be made, either here or elsewhere, that I have acted in bad faith, or that there has been anything like collusion or concealment. I have acted according to the best of my judgment, although I have not arrived at the same conclusion as some of my poli-

tical friends have done. There was little or no disagreement in the committee, and the country shall know what we have done. They know it now.

But, sir, if you want the public printing done, you must order it to be done. Certainly, I have no disposition to disobey any suggestion the House may make. I repeat again and again to this House and to the country, that any suggestion made by this House to me, I shall feel bound in honor to carry out. I should do so out of respect to the House, and to myself.

I will say further to the House, that the public printer has sent in a memorial asking relief. I will state to the gentleman from Maryland that Towers has sent in a memorial asking relief.

Mr. POLK. Have not all the public printers, under the contract system, applied for relief?

Mr. GORMAN. Every single one. Towers has sent in a memorial to the committee, stating that, if others are relieved, he demands to be relieved also, for that his was an onerous contract, too. I candidly assure you, that so onerous, terrible, ruinous, and destructive, is Mr. Hamilton's contract, that I shall feel very much disposed to give him the ten per cent. which we have already deducted from his contract, and even more. We have deducted that amount, and kept it in the coffers of the Government, for the purpose of trying to force him up to the contract. He cannot do it. He says so, in a communication to the committee. You are at sea, without chart or compass, unless you ratify the action of the committee. We will have printing done at fair prices, if we are permitted by the House to do it; and we will have it done at the Union office. The whole of the jobs, at the prices given, will be contemptible in amount and profits, and at most is only temporary. I again thank the gentleman from Maryland for having permitted me to occupy thus much of his time.

[Mr. WILDRICK, from the Committee on Enrolled Bills, reported back, as correctly enrolled, the following bills, which received the signature of the Speaker, to wit:

An act for the relief of Jane Irvin; and

An act for the relief of Charles G. Hunter.]

Mr. BROWN, of Mississippi, (Mr. EVANS yielding the floor.) I desire to ask the chairman of the Committee on Printing a question. He says that Mr. Towers has sent in a memorial for relief. The question which I wish to propound is this: Has not Mr. Towers asked simply to be put on the same footing with others? If others are relieved, then he asks relief; but he asks nothing on his own account.

Mr. GORMAN. That is what I said.

Mr. BROWN. Well, that is not asking relief. It is only asking that the same measure of justice may be meted out to him that is meted out to others. Now, I understand the chairman of the committee to say, that the committee of the House is acting upon its own responsibility, not being under the control of the committee of the Senate, as far as the House printing is concerned. Then, it is acting as a House committee, and I hope we shall hear no more of this point—that we cannot control it, because it is acting jointly with the Senate committee. If its action is confined solely to the business of the House, and it acts upon its individual responsibility, I suppose it must be responsible to the House, in the capacity in which it acts.

Mr. GORMAN. The Joint Committee on Printing deemed it competent for them to pass a resolution giving specific powers to each separate committee to act separately upon one particular point. Upon that point, and that alone, have we authority to act, by the joint order of the whole committee.

Mr. BROWN. Still I understand that the joint committee has undertaken to throw the responsibility which attaches to it under the law, off itself as a joint committee, and to divide it between the two committees, or rather between each half of the committee—the House committee assuming the responsibility of all that attaches here, and the Senate committee of all that attaches there. In fact, they are two separate committees in their action.

Mr. BAYLY, of Virginia, (Mr. EVANS still yielding the floor.) I wish to understand this point, because if the assumption of the gentleman from Mississippi be correct, the Joint Committee



on Printing have clearly exceeded their authority. But I do not so understand the chairman of the committee. He does not say that the House committee is acting separately and alone, without the concurrence of the Senate committee; he says that each act of the committee is a joint act, but that through courtesy—and I will undertake to say a very proper courtesy, such as always prevails and ought to prevail between the two Houses of Congress—the committee of the House defer to the committee of the Senate, and the committee of the Senate defer to the committee of the House, but it still is the joint act of the two committees.

Mr. BROWN, of Mississippi. As the Senate committee could not act jointly with the House committee, in giving this printing to Donelson & Armstrong, I suppose the House committee were at liberty to give it to whom they pleased?

Mr. STANTON, of Kentucky. So far as I was concerned as a member of the joint committee, I held myself responsible for that act, and by no means repudiated it.

Mr. GORMAN. The joint committee agreed nearly unanimously in fixing the prices. They also agreed unanimously that the members of the committee from each House should give out to Donelson & Armstrong such printing as they pleased, or withhold it.

Mr. BROWN. I understand that the House portion of the committee throw off all responsibility for the act of the Senate portion in giving the Senate printing to the editors of the Republic.

Mr. EVANS. I must now take the floor.

Mr. BROWN. Very well, I only wish this matter to be understood.

Mr. EVANS. I have only to remark, that it seems to me the gentleman from Indiana [Mr. GORMAN] has shown entirely too much feeling in relation to the intentions of anybody in this House. I think no one desires to attack his character or motives; certainly I do not. For myself I have to say that there is no printer in this city who has suggested to me anything in relation to this matter. I do not stand here in consequence of any interviews I have had with any printers or any one else. Not at all. And therefore it is, that I say I think the gentleman from Indiana is entirely too sensitive in relation to what has been said. But I say this whole system of public printing is wrong. Why did the committee not let this printing to A. Boyd Hamilton at the same prices at which they are about to let it to Gideon & Co. and Donelson & Armstrong?

Mr. STUART. I wish to ask the gentleman a question in connection with this proposition. The law requires that when the contractor fails to execute his contract, the committee shall get the printing done, and if it is done at an increased price, they shall charge the difference to the contractor. Now, if they were to increase the price upon Boyd Hamilton's contract, and then charge the difference to him, I want to know how much he would make by it? [Laughter.]

Mr. EVANS. The question is a very pertinent one. There is no doubt that Boyd Hamilton is bound, according to the strict letter of the law, under his contract, to make up any deficiency; but I have no doubt that the spirit of the law would not exclude this particular man for the benefit of others. I presume if the committee had not the power to give Boyd Hamilton the benefit of these increased prices, they could have come here and got the power. I do not see why he should be specially excluded.

But, in this connection, I would like to ask the chairman of the Committee on Printing, [Mr. GORMAN,] whether Boyd Hamilton, in his memorial to that committee, asked for an increase in his prices, or whether he asked for relief in consequence of the action of that committee?

Mr. GORMAN. I will answer the gentleman. Boyd Hamilton came to the committee with a memorial stating the fact that he had not complied with his contract, in paper and some other particulars, and asking for general relief.

Mr. EVANS. I am about to close this hour which the continuous courtesy of this House has accorded me.

Now, sir, I do not care anything about Boyd Hamilton, or Gideon & Co., or Donelson & Armstrong, or anybody else, in connection with this public printing. But I think a due regard to this House, to the character of the country, to our own reputation, and to the interests of the

Union, requires that the public printing should be executed well, and as speedily as possible. They require that you should resort to some other system if necessary. Then, while you adhere to this contract system, it is due that it should be enforced, or at least that you should make some respectable effort to do so; that we should no longer permit these abuses to continue; that we should no longer submit to dictation, let it come from what quarter it may, whether from one party or the other. Let us not be seduced by the plausible pretenses set up here that we have been delayed a great while in getting the public printing executed, and that we cannot get it under the present arrangement, and that we had better accede to this proposed one, or we shall not get it done at all. All these are illusions which we hear when it is wanted to confer a particular favor upon particular individuals. No, sir; let us resort to an effectual cure. Let us establish, in this city, a public printing office, upon a plan which shall insure as much economy as is consistent with promptness and efficiency, and then let us require that every particle of printing ordered upon one day shall be laid upon our table the next. There is nothing easier than this. I observe that the New York Herald offered to do it, and I have no doubt it would do it. I believe it can be done by the printers of this city. Let us demand that this shall be done. Is there anything in the way? I can see nothing, except partisan editors. I mean no disrespect to them when I call them partisan editors.

I do not know Donelson & Armstrong, but I respect their character as much as any man can do. I appreciate the high compliment paid to General Armstrong by General Andrew Jackson, when, in his last will and testament, he bequeathed to him his sword, with which he conquered in the battle at New Orleans. Mr. Donelson, I am told, has filled many high public stations with credit to himself and his country; and I have every reason to believe he is a gentleman of the highest character and abilities. Messrs. Gales & Seaton, every one knows for their urbanity, and for their high character, and distinguished attainments. Mr. Gideon is a personal friend of mine. And I mean no disrespect to any of these gentlemen, when I say that this system is one which ought to be abandoned for its innate corruption. As long as you adhere to it—as long as you persist in it—not ourselves only, but those who succeed us, will be exposed to endless corruption, and this House will be involved in all these difficulties and confusions which it now experiences.

Mr. BAYLY, of Virginia. Will the gentleman allow me to interrupt him for one moment? The gentleman speaks very highly of all these gentlemen, yet he says the system is one fraught with corruption. Now, will he be good enough to explain—for I know he is a good deal of a philosopher—how it is that the system can be so corrupt, when the men who manage it are pure and high-minded?

Mr. EVANS. I did not suppose I should be asked to explain such a matter as that. Each individual naturally desires to get as high a price as he can. It does not strike him as doing anything wrong to get a good price for his work. He does not intend to do any wrong to the Government, or to anybody. But I say that the system necessarily exposes those concerned in it to corrupting influences, and when bad men come to administer it, will lead to corruption, even if it has not done so now.

Now, I want to appeal to gentlemen candidly. I have no interest in the world to subserve in the matter. This contract system was entered into some years ago, when this subject was not so well understood. But we have seen the difficulties in which it has involved us. Now, we can get out of it easily, and with honor to ourselves. We can leave these political journals to stand upon the same footing with other public journals, upon their respectability, their character, and their subscription, and we can execute our own public printing.

Mr. GAYLORD. Will the gentleman permit me to interrupt him? This House is getting tired of this discussion. Besides, it has been suggested to me that he has spoken more than an hour.

Mr. EVANS. I am sorry the gentleman should say anything so discourteous to me. I have yielded to every gentleman who has desired to interrupt me, as I am sure the great body of the House will bear me out in what I am saying. They may be tired

of me, it is true. The gentleman himself, I have no doubt, is tired of a discussion which has brought the light to shine upon some acts which he might rather have left in the dark. It is true that this discussion and explanation have made the light shine in dark places, but it will serve to point out those things which ought to be amended. I assure the gentleman I would never have interrupted him. But it is no matter. What I want the House to do is this: If you choose to adhere to the contract system, let that system be enforced.

Mr. GAYLORD. I meant no offense in what I said.

Mr. EVANS. Oh, I took no offense.

Mr. GAYLORD. I assure the gentleman I meant not the least disrespect.

Mr. EVANS. I am quite confident of that. I am sorry I showed so much warmth in relation to it.

But I was about to say that the price of composition and press-work being fixed, if we supply the paper ourselves, we can have the work done without difficulty. But the other is the best plan. It is best to establish a Government printing office [Here the hammer fell.]

Mr. JONES, of Tennessee. I demand the previous question.

Mr. McMULLIN. I move that the House do now adjourn.

The motion was agreed to, and  
The House adjourned till twelve o'clock to-morrow.

#### NOTICE OF A BILL.

Mr. SCUDDER gave notice that he would to-morrow, or some subsequent day, ask leave to bring in a bill granting to the State of Massachusetts seven hundred thousand acres of the public lands to aid in the extension of the Cape Cod Branch Railroad, from Sandwich to Cape Cod harbor; and the establishment of steam communication from some point on said road to the island of Nantucket.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MACE: The memorial of Alfred G. Hall, M. D., of the city of Cincinnati, asking for the passage of a law to protect him in a new and valuable discovery in the healing art.

By Mr. STRATTON: The petition of Isaac Wilson and 328 others, citizens of Bridgeton, in the State of New Jersey, asking a more adequate protection to the articles of iron and glass, and to protect the labor of the country against the ruinous effect of foreign competition.

Also, the petition of R. C. Nichols and 135 others, citizens of the county of Cumberland, in the State of New Jersey, asking that a duty of at least forty per cent. ad valorem on the average prices of the last ten years, to be levied on the article of iron.

By Mr. JOHNSON, of Ohio: The memorial of John Hutchinson and 199 other citizens of Holmes County, Ohio, praying Congress to relieve the officers of Government from the violation of the Lord's day by secular employment.

By Mr. FAULKNER: Petition of sundry citizens of the county of Jefferson, State of Virginia, setting forth the loss sustained by the mechanics employed in the service of the United States, at the national armory at Harper's Ferry, from the recent floods, and praying Congress to make some provision for their relief.

Also, the petition of Marinus Lang, for an increase of his pension.

By Mr. HENN: Petition of Paul Shepherd and 60 others, citizens of Green township, Wapello county, Iowa, asking for a grant of land to aid in the construction of a railroad from Lafayette, Indiana, via Burlington, Iowa, to the Missouri river.

By Mr. BARRERE: Two petitions signed by numerous citizens of Clermont county, Ohio, praying for the establishment of a mail route from Williamsburgh, in Clermont county, Ohio, to Winchester, in Adams county, Ohio.

By Mr. DAVIS, of Indiana: The memorial of George H. Sears and others, of Vermilion county, Indiana, for a grant of one section of the public lands lying within said State, to each civil township for the support of common schools therein.

By Mr. COTTMAN: Resolutions of the Legislature of Maryland, in relation to the survey of Pocomoke sound, and the channel running between Watt's Island and Fox's Island, and between Pocomoke sound and Tangier sound, with a view to affixing buoys on the bars in said channel and sound.

By Mr. LETCHER: Memorial of James Raynes of Rockingham county, Virginia, for arrears of pension.

By Mr. J. W. HOWE: Two petitions of citizens of Mercer county, Pennsylvania, praying Congress to establish a post route from the borough of Mercer, in said county, via Sandy Lake and New Lebanon to Deer Creek post office.

By Mr. CONGER: The petition of C. B. Stebbins, special mail agent, A. S. Williams, postmaster at Detroit, and others, praying that that part of post route No. 3,757 from Detroit to Utica, by way of Royal Oak, Michigan, be changed so as to run by way of the plank road from Detroit to Utica.

Also, the petition of James Morton, and others, citizens of Michigan, against running the mails on the Sabbath, &c.

By Mr. McQUEEN: The memorial of Dr. John C. Anderson, for compensation for a slave lost in the Mexican war service.

By Mr. CHURCHWELL: The petition of Samuel Martin, of Tennessee, praying Congress to establish a system of public printing, that will distribute the journals and public documents among the people.

By Mr. APPLETON, of Maine: The petition of R. C. Johnson, and 32 others, of Gorham, Maine, in favor of extending the Woodworth patent.

## IN SENATE.

THURSDAY, May 6, 1852.

Prayer by the Chaplain, the Rev. C. M. BUTLER.

Mr. NORRIS presented the petition of the heirs of John Stark, a Major General in the army of the Revolution, praying to be allowed depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Mr. BRODHEAD presented the petition of George V. Mitchell, praying that the costs of a suit brought against him by the United States, may be refunded, with interest; which was referred to the Committee on Claims.

Mr. SUMNER presented the petition of Abigail Stafford, only daughter and heir of Henry Smith, praying compensation for the services of her father during the war of the Revolution; which was referred to the Committee on Revolutionary Claims.

Also, resolutions of the Legislature of Massachusetts, in favor of an appropriation for the erection of a light-house on Minot's Ledge; which were read, referred to the Committee on Commerce, and ordered to be printed.

Mr. HALE. I hold in my hand the memorial of John R. St. John, in which he states that he is conversant with the construction of steam vessels, with navigation, and with the rocks of the Atlantic; and he professes to be able to build a steam vessel that can neither be burnt, nor sunk, even if stove against icebergs or rocks, and that cannot be blown up by its boilers, and which will sail at an average speed across the Atlantic of fifteen miles an hour. He also will undertake to build the vessel in five years, provided the Government will remunerate him in case of success. I move that it be referred to the Committee on Naval Affairs. It was so referred.

Mr. HALE also submitted documents in relation to the compensation paid to Charles A. Davis, a lieutenant in the Navy, for services in preparing the Nautical Almanac; which were ordered to be printed.

Mr. SEWARD presented the petition of the heirs of Johannes Schultz, or Shultys, praying compensation for the services of their ancestor during the war of the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. DOUGLAS submitted an additional document in relation to the memorial of Robert H. Caffee and others, of the Mexican Boundary Commission; which was referred to the Committee on Claims.

## REPORT FROM STANDING COMMITTEE.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the memorial of the Legislature of Tennessee, praying an appropriation to complete the navy-yard at Memphis according to the original plan, submitted a report on the subject; which was ordered to be printed.

## BELDEN &amp; COMPANY.

Mr. RUSK submitted the following resolution; which was agreed to:

*Resolved*, That the President of the United States be requested to lay before the Senate all papers and proofs, on file in any of the Executive Departments, touching the claim of Samuel A. Belden & Co., of Brownsville, Texas, against the Mexican Government, for injuries inflicted upon said Belden & Co., as alleged by them, in violation of the treaty of Guadalupe Hidalgo.

## FLORIDA VOLUNTEER COMPANIES.

Mr. MORTON submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the payment of the volunteer companies raised and commanded by Captains S. L. Sparkman, J. Parker, R. D. Bradley, E. E. Mizell, and A. Jernegan, upon the frontier settlements of Florida, in the year 1849, for the protection of the citizens against the Seminole Indians.

## BILLS PASSED.

The following engrossed bills were severally read a third time and passed:

An act granting to the State of Michigan the right of way and a donation of public land, for

the purpose of constructing a canal or railroad across the peninsula of Michigan; and

An act granting the right of way and making a grant of land to the State of Michigan, in trust for the Zilwaukee, Grand Traverse, and Mackinaw Plank Road Company, in aid of the construction of a plank road from Zilwaukee on Saginaw river, to Grand Traverse Bay, thence to the Straits of Mackinaw.

The last-mentioned act was amended by striking out all after the word "Michigan," and inserting "for making a railroad from Saginaw river to Mackinaw."

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the bill from the Senate, entitled "An act concerning the sessions of the courts of the United States in the district of Delaware."

## FAYETTEVILLE AND CENTRAL PLANK ROAD.

Mr. BADGER. I ask the unanimous consent of the Senate to introduce a joint resolution, of which I had not an opportunity yesterday to give notice. It is a mere local matter.

No objection being made, the resolution was accordingly read, as follows:

Resolution granting the right of way to the Fayetteville and Central Plank Road.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way through the public lands of the United States at Fayetteville, North Carolina, which are not at present improved, be, and the same is hereby, granted to the Fayetteville and Central Plank Road Company: *Provided*, That in the opinion of the President of the United States, such grant be not injurious to the public interest: *And provided further*, That if said road be not completed within two years, or if at any time after its completion the said road be discontinued or abandoned, the grant shall cease and determine.

Mr. BADGER. I wish to make a very brief explanation, and ask the indulgence of the Senate for the second reading of the resolution, with a view to put it on its passage.

Mr. CASS. Does the resolution specify any particular width?

Mr. BADGER. No, sir.

Mr. CASS. Would it not be better that it should?

Mr. BADGER. I have no objection. All I want is the width of the plank road; and I am quite willing to amend it, so as to meet the views of the Senator.

I merely wish to mention that a plank road is being constructed, of some importance to the State of North Carolina, at least to a large portion of her citizens; and unless they have the right of running this road through the lands referred to in the resolution, they will have to make a long and expensive detour. As part of the road is made over high land, it is important that it should not be made to deflect from the direct course. And as it is the first application made by North Carolina for the right of way, and as it does not make a demand for any extensive grant of land, I hope that the Senate will consent to its being put on its passage.

The resolution was read a second time, and considered as in Committee of the Whole.

Mr. BADGER. I now beg leave to make the amendment suggested by the Senator from Michigan, [Mr. Cass,] by inserting in the proper place, the words: "provided that the right of way so granted shall not exceed forty feet in width."

The amendment was agreed to.

The resolution, as amended, was then reported to the Senate; and the amendment having been concurred in, the resolution was ordered to be engrossed and read a third time. It was subsequently read a third time and passed.

## PROSECUTION OF CLAIMS BY MEMBERS OF CONGRESS.

Mr. BRODHEAD. Some days ago, I reported back from the Committee on Claims, a bill making it unlawful for certain persons therein named to prosecute claims against the United States; I presume there will be no objection to its consideration now, or to its passage. The bill has been well considered, and I would be glad if the Senate would consent to take it up now.

The PRESIDENT. It is moved to postpone the prior orders, for the purpose of proceeding to the consideration of "A bill to amend and extend

the provisions of an act approved July 29, 1846, entitled "An act in relation to the payment of claims." The bill has been reported from the committee with amendments.

The motion to postpone the prior orders was agreed to, and the Senate proceeded to the consideration of the bill as in Committee of the Whole.

The bill provides that all transfers and assignments hereafter to be made of any claim upon the United States, or any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all contracts or agreements hereafter to be made for allowing compensation to any agent for claims, or other person or persons for or on account of services performed or to be performed in procuring testimony in support of or otherwise aiding in obtaining the allowance of any such claim; and all powers of attorney, orders, or other authorities, for receiving payment of any such claim, or any part or share thereof, shall be absolutely null and void, unless the same shall be freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof.

The second section provides that any officer of the United States, or person holding any place of trust or profit, or discharging any official function under or in connection with any Executive Department of the Government of the United States, who, after the passage of this act, shall act as an agent for prosecuting any claim or claims against the United States, or shall in any manner or by any means, otherwise than in the discharge of his proper official duties, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment as for a misdemeanor, and on conviction in any court having cognizance thereof, shall pay a fine not exceeding one thousand dollars, or suffer imprisonment not exceeding six calendar months, or both, as the court in its discretion shall adjudge, due regard being had to all the circumstances of the case.

The amendment proposed to add the following additional section to the bill:

SEC. 3. *And be it further enacted*, That any member of either House of Congress who, after the passage of this act, shall, for compensation paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, or shall in any manner or by any means, for such compensation, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment and prosecution, as in the cases mentioned in the second section of this act.

The fourth section, as originally proposed, is as follows:

SEC. 4. *And be it further enacted*, That the provisions of this act, and of the act of July twenty-nine, eighteen hundred and forty-six, entitled "An act in relation to the payment of claims," shall apply and extend to all claims against the United States, whether allowed by special acts of Congress, or arising under general laws or treaties, or in any other manner whatever.

Mr. HAMLIN. It strikes me that that amendment is not quite definite enough. I take it that any member of Congress may have occasion to argue a cause in the court-room below, in the prosecution of a claim. I would like to have the amendment made specific, and embrace precisely what the Senator intended it should embrace.

Mr. BRODHEAD. I think there can be no difficulty with regard to that section. The United States cannot be sued, and therefore members of Congress cannot be concerned in suits against the United States.

Mr. BADGER. I would suggest, that though I concur with the view expressed by the Senator from Pennsylvania, that there is no necessity for such an amendment, perhaps it will relieve the difficulty if the Senator will consent to insert an amendment, so as to provide against the prosecution of any claim pending before either House of Congress, or any of the Executive Departments.

Mr. BRODHEAD. I have no objection to inserting such an amendment; but I think it is unnecessary. The amendment is sufficient as it is.

Mr. BADGER. I think it is sufficient as it is; but it may relieve the difficulty which exists in the minds of some.

Mr. BERRIEN. That amendment is obviously important. There are cases which occur in the Supreme Court of the United States, in which a claim is prosecuted against the United States. The United States authorize individuals in the Territo-

ries to bring the United States into court, in the assertion of their titles to real estate. These claims are brought up before the Supreme Court of the United States, and they afford instances of claims against the United States which are prosecuted by counsel in that court. The amendment suggested is, therefore, obviously important.

Mr. BRODHEAD. I am aware that the Congress of the United States sometimes authorizes suits to be brought against the United States. That, however, is very seldom. But in order to obviate all difficulty, I am willing to agree to the amendment suggested by the honorable Senator from North Carolina. I think it will obviate all difficulty.

The PRESIDENT. It is proposed to amend the amendment of the committee, by inserting after the words "United States," in the first section, the words "before either House of Congress, or any of the Executive Departments."

The section as proposed to be amended would then read as follows:

Sec. 3. *And be it further enacted*, That any member of either House of Congress who, after the passage of this act, shall, for compensation paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, before either House of Congress or any of the Executive Departments, or shall in any manner or by any means, for such compensation, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment and prosecution, as in the cases mentioned in the second section of this act.

Mr. BRODHEAD. The object of the committee in reporting this amendment, was to prevent members of Congress from prosecuting claims anywhere. Now, if the amendment suggested by the honorable Senator from North Carolina should be adopted, that is prescribing that members of Congress shall not prosecute claims before either House of Congress or any of the Executive Departments, it might be inferred that they would go before boards of commissioners, and therefore it will become necessary to insert "nor before any board or boards of commissioners."

Mr. HALE. I think the amendment to the amendment had better be left out. It is well enough as it is. It seems to me that it implies the existence of something wrong, although I am willing to concede to it so far as members of Congress act upon claims before Congress or before the Departments. But, sir, if the bill stands as it is reported, it is general, and members of Congress cannot practice in the prosecution of these claims anywhere. Now, there is a species of claims against the United States, which is prosecuted in the Supreme Court directly, and which is familiar to many gentlemen who now hear me.

There is also a case of doubtful construction of law, as in the case of *Kendall vs. Stockton & Stokes*, and there is a proceeding in the nature of a mandamus against the officer, which is, in substance, a proceeding against the United States, and it is as liable to all objections, so far as members of Congress may be concerned in it, as if they were prosecuting a claim before Congress or any of the Departments. I think the amendment is well enough as it is, and I hope the amendment suggested to be made to it will not be adopted.

Mr. BADGER. I am very anxious that the bill should be passed, and passed in an effectual form. At the same time, I do not concur with the Senator from New Hampshire, and I think that if there is any doubt about the amendment as originally reported by the committee, it would be better to adopt this provision. The evil intended to be guarded against, is that of enabling members of Congress to be engaged in the prosecution of claims otherwise than in their *quasi* duties which they perform for their constituents, and gratuitously, before such tribunals, and under such circumstances, that it may not be supposed their position as members of Congress may give them an undue influence in prosecuting them. But if the United States authorizes a judicial tribunal or *quasi* judicial tribunal to take cognizance of and decide claims against the United States, I see not why a member of Congress should not be at liberty to prosecute his ordinary profession before such tribunals as in other instances. The objection to the prosecution of any claim before either House of Congress or the Executive Department, is that which I have stated. Such aid by members of Congress should be entirely gratuitous, and performed from considerations of duty, and should never be mixed up with the business

of Congress. But beyond that, it seems to me, we should not extend the prohibition.

Mr. BAYARD. I should like to hear some reason given for the necessity of the amendment which is proposed. I cannot see that the construction of the law will be affected materially, though it might become more complicated by the addition of the words proposed. As I view the law, it does not interfere with the professional right of any person to advocate and defend the rights of his constituents in any of the courts of the United States. I cannot see that there is any right to prevent a member of Congress from prosecuting claims against the United States Government under any and all circumstances. I hope the bill will pass as it is, as I cannot perceive the necessity of the amendment.

The question was then taken on the amendment to the amendment, and, on a division, it was agreed to—ayes 24, noes 14.

The PRESIDENT. The same amendment will be necessary in the fourth section; and will be inserted to make it correspond with the rest of the bill.

Mr. BRADBURY. I desire further to amend the amendment, by inserting the following words after the word "Departments: "Or before any board of commissioners constituted by any act of Congress, or made necessary by treaties between the United States and any other Power."

This will make that section read as follows:

*"And be it further enacted*, That any member of either House of Congress, who, after the passage of this act, shall, for compensation, paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States before either House of Congress, or any of the Executive Departments, or before any board of commissioners constituted by any act of Congress, or made necessary by treaties between the United States and other Powers," &c.

Mr. BRODHEAD. The committee which reported this amendment, intended to make it unlawful for members of Congress to prosecute claims anywhere, and I believe that the amendment, as it is, would effect that object. I do not, therefore, consider the amendment to the amendment at all necessary. It may, however, become necessary now, since the adoption of the amendment proposed by the Senator from North Carolina; but the object of the committee in proposing the amendment, as reported, was what I have stated.

The question was taken on the amendment to the amendment, and it was agreed to.

The PRESIDENT. The question is now on the amendment as amended.

Mr. UNDERWOOD. I have received, within the last five minutes, a letter, which, in connection with one of the amendments proposed to the bill, has suggested to me an idea that I will communicate to the Senate. The amendment says, "Or shall, in any manner, or by any means, for such compensation, aid or assist in the prosecution or support of any such claim or claims." Now, suppose that a lawyer—a member of Congress—holds a power of attorney, or is engaged half a day in preparing papers, does he, in charging office fees, come within that provision? Say that I receive a letter, requesting me to go to some department, and aid a person who has some claim against the Government—possibly for lands—do I come within the operation of the amendments by complying with the request of the writer, and aiding him in the prosecution of the claim?

Mr. BRODHEAD. The clause speaks of "compensation." If the performance of the service was gratuitous, it would not be within the operation of the amendment.

Mr. UNDERWOOD. I never accept any compensation for such services; but I do not know that my practice, in that respect, should be a rule for everybody. I know that many persons are pretty extensively engaged at home in prosecuting that office business, and they receive that office business, which is connected with the prosecution of claims here, and receive compensation in the shape of fees.

It seems to me that the action of members of Congress should be distinct from that of chamber-petty and maintenance, and from obtaining part of their supply from the Government. That is the evil which should be guarded against, and nothing but that. I move to strike out that part of the amendment.

The PRESIDENT. What part does the Senator refer to?

Mr. UNDERWOOD. From the words "or inclusive," in the fifth line of the third page, the following words: "Or shall, in any manner, or by any means, for such compensation, aid or assist in the prosecution of any such claim or claims."

Mr. BADGER. I wish to say that the adoption of the amendment offered by the Senator from Kentucky will leave the provision entirely vain and useless.

Mr. UNDERWOOD. Then I withdraw it.

The question was then taken on the amendment to the amendment, which was concurred in.

Mr. BORLAND. I wish to make an inquiry of the Senator from North Carolina. He stated the other day, in speaking on this subject, what he considered to be a very great evil, which was the recognition of agents by the different Executive Departments here in the prosecution of claims, and, if I recollect right, he stated that the Executive officers were in the habit of retaining the fee of the agent out of the compensation which was due to the claimant.

Mr. BRODHEAD. This bill reaches that case.

Mr. BORLAND. This bill only relates to remedies for the future; it is entirely prospective. Do I understand that where there are pending claims which have been allowed, but not paid, and where there is a dispute between the claimants and agents—as I understand there are in some cases—the fee will be paid into the hands of the Executive officers, and the whole claim not be paid to the claimants?

Mr. BADGER. It is not the habit of the Executive Departments to retain out of claims any sum of money for the purpose of fees for compensation; but where there has been an actual assignment of any part of a claim they treat the assignee *quoad hoc* as being in the situation of the original holder, or assignor. The bill as originally introduced made no distinction in terms between the assignments already made or assignments hereafter to be made. The committee thought proper to restrict it to future assignments. The committee thought it was proper that we should not have even the appearance of undertaking to invalidate by act of Congress, or by any *ex post facto* provision, any assignment made in conformity to the laws.

Mr. BAYARD. I do not think that any difficulty can possibly arise from the source suggested by the Senator from Arkansas. I think that difficulty is obviated by looking at the difference of structure of the power of attorney and of an assignment. The committee did not think they could recognize the right of the Government to invalidate any existing contract, where it amounted to an assignment. They left it as it stood in that respect.

The question was then taken on the adoption of the amendments made in the Committee of the Whole, and they were agreed to, and the bill was ordered to be engrossed for a third reading.

#### WAR-STEAMER FOR HARBOR DEFENSE.

Mr. GWIN. The Senator from New Jersey [Mr. STOCKTON] is deeply interested in the resolution authorizing the building of an iron steamer. His wishes were gratified the other day by having the resolution taken up; but, on a motion made by me, the subject was postponed for the purpose of taking up the bill relating to the claims arising from the conquest of California. I know that it is highly important that the deficiency bill should now be disposed of, but I give notice that I shall call up the resolution, in which the Senator from New Jersey is so much interested, on Tuesday next.

#### NON-INTERVENTION.

Mr. HUNTER. The Senator from Ohio, [Mr. WADE], who would have been entitled by courtesy to the floor to-day upon the resolutions in regard to non-intervention, has consented to postpone his remarks, and will not probably call up the resolutions until Thursday next.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," the pending question being upon the amend-



ment of the Committee on Finance to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum; at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1853, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$33,500.

Mr. JAMES. Mr. President, I am fully aware that the Senate has become tired of the discussion of this amendment; and I am tired of it myself, as I believe the people are tired of hearing of it. Nothing would induce me, sir, to lengthen out the debate by taking part in it, but a sense of duty to my constituents, to the people of this country, and to myself as an American citizen. I deem the question one of great importance, not only to individual interests, but, in a national point of view, to the whole American people. It is simply for this reason that I feel a deep interest in the question. Novice as I am, sir, in parliamentary affairs, I cannot expect to cope with honorable Senators of far greater powers and much longer experience, nor yet to add much weight to the arguments already advanced in support of this measure; much less can I hope to bring home conviction to the mind of the honorable Senator from Virginia, to whom I regret to find myself opposed. I hope, however, that powerful and discerning mind will yet discover the error of its ways as regards this important subject; and when this shall occur, I know the honorable Senator's high sense of honor will not withhold an acknowledgment.

Mr. President, I do not propose to take up the time of the Senate by attempting a thorough investigation of the subject now before us, with a view to ascertaining the precise number of dollars and cents which this Government should advance to enable the Collins line of ocean steamers to compete successfully with their old, skilled, and experienced antagonists of the British Cunard line. I would, however, take a brief, practical, general view of the subject; and however imperfect that view may be, I trust it may be found truthful, if not satisfactory and convincing. I trust, also, that whatever I may say will be national in its character and bearing.

The honorable Senator from Virginia, [Mr. HUNTER,] whom I am always pleased to hear on this floor—because, however I may differ from his views on this question, always brings great force and power to his aid on any subject that calls him out—assumed the other day that the amount to be paid by the Government in aid of this enterprise would be so much paid for protection against foreign competition. The honorable gentleman then added, and very properly too, in my opinion, that there were other interests equally meritorious, which stand in as much need of protection as the Collins line of steamers—such as the manufacture of iron, woolen, and other articles. I have the pleasure to agree most fully with the honorable gentleman on this point, and can but hope that we may not disagree on a partial remedy for the evils experienced in all these cases.

But, Mr. President, the honorable Senator stated, I think, that to extend pecuniary aid to the Collins line of steamers, would be protection in its worst form. Whether worst or best, however, sir, it is the only available form. For the Government to discriminate between this line and the British line, by means of custom duties, port charges, &c., would be a direct infraction of treaty stipulations; and hence the only protection we can extend to the American line is pecuniary aid from the National Treasury. But as the honorable Senator from Virginia incidentally introduced the subject of protection to manufacturers, it may not be deemed irrelevant should I, in passing, stop to offer a remark or two on that subject as incidental to the question now before us.

It is an idea that has long been considered by many as an incontrovertible fact, that any aid bestowed by Government on any branch of business, in the form of discriminating duties, or otherwise, is a tax imposed on the consumer, and to be paid by him, in addition to what would otherwise be the cost of the article consumed, and that for the sole benefit of the manufacturer or producer. In other words, that, if the purchaser were to pay a duty of twenty per cent. *ad valorem* on the article purchased, the domestic and foreign

fabric both would be enhanced twenty per cent. in price to the consumer, which addition would become a perpetual tax, and find its way into the pocket of the manufacturer or producer to enhance his profits.

No doubt, Mr. President, this idea has been, and is, very honestly entertained and advocated; yet I think it is a mistake, and feel well assured that there are facts in abundance to prove it so. But I am not about to go into the argument on this subject at the present time, and will merely notice one or two facts to illustrate what I have said.

It is believed, sir, that all articles of manufacture produced in the United States, iron included, the manufacture of which may be said to have gained a firm footing, and been fostered so as to enable them to compete with similar foreign articles, have continually diminished in price to the present moment, and are to be had at less prices in our own market than in any other market in the world. In fact, the reduction of price in most articles has been more than double the amount of protective duties that have been imposed on similar articles from foreign countries. Certainly this does not look very much like taxing the consumer.

It is truly essential to success, and therefore as important to all branches of business, especially manufactures; that skill and practical knowledge should be obtained by long and close application and thorough training in regular practical operations, and as much so as that candidates for office in our Army and Navy should be trained in our military or naval schools, and in the field or on shipboard be made practically acquainted with the duties of their professions. The evidence of the benefits of such a course of training with the artisan and the operative is to be seen in every city, town, village, and hamlet, and on the person of every citizen, in the astonishing improvements that have been made in every department of the mechanic arts, and the equally astonishing reduction that has been effected in the cost of almost every production.

Mr. President, in the very nature of things it is impossible for our mechanics and operatives to compete with those of Europe in those branches in which their mechanical ingenuity has not been called out and developed. Practice is necessary. We have as good mechanical ability as any country on the globe, and practice, and practice alone, is necessary to its full development. When Government grants to that ability protection against foreign competition, it calls it into successful action; and whether in the manufacture of cloth or iron, or the construction and management of steamships, or anything else, that talent will not fail to return to the Government and the country a thousand fold for all the protection thus granted.

Permit me, sir, to ask, how is our mechanical talent to be fully developed? How are our artisans, our engineers, and our hosts of others, necessary to the business, to become skilled in the construction of large ocean steamers and their machinery, and in their management, without practice? Yet sir, in accordance with the progress of the age, the skill required for this business will become as necessary on the seas as railroads have already become to displace the mail-coach and baggage-wagon on the land. I will here introduce a fact to show what difficulties have had to be encountered, and what large expenses incurred, in carrying out such an undertaking as the Collins line.

The main shaft of a large ocean steamer—a war steamer, if you please—was to be made: its length some thirty feet, more or less, and its diameter some twenty-four inches. You at once see that that was a huge mass of iron. For such a work we had no furnace of sufficient dimensions and capacity—they were altogether too small for such work. Our hammers were far too light; and our fires, while burning the surface of the metal, scarcely warmed the center. Our best and ablest forgers were entirely unacquainted with the process of working such a huge mass of metal; and all, sir—all had to learn, who undertook to do it—all had to learn by practice. Experiment on experiment failed, and resulted in consequent heavy losses, until, by costly improvements in the means, the artisan, by long and determined perseverance, had learned to perfect this work.

Mr. President, permit me to inquire who is to be benefited by these experiments, these failures, these losses, this long perseverance, and this final success? The community is, or will be, as much bene-

fited by them as those who achieved the success and paid the cost; and infinitely more so. And the Government—yes, sir, the Government—is, or will be, as much benefited as the community. And, sir, what I have said of this massive shaft is equally applicable to every portion of that huge machine—the marine engine—which propels the mammoth ocean steamer with such mighty speed across the Atlantic, and with which we have beaten the ablest mechanics and the best steam-ships and steam-engines of the Old World. And is this nothing to our Government? Is this nothing to the people of the United States?

Mr. President, the period is rapidly approaching when canvas will be a scarce article on the ocean, and when our steamers will constitute our navy. Then it will be found that whatever aid our Government may have extended to our merchant steam marine will not have been lost, inasmuch as, by that means, they will have enabled our mechanics and artisans to render invaluable aid, which they would not have been qualified to render without it.

Sir, the Government of the United States is emphatically dependent on the community for talent, ingenuity, and practical skill. They have no schools or other institutions for the purpose of mechanical instruction; and when ship-builders, engineers, or other mechanics are wanted, the Government, like an individual employer, must at all times be compelled to seek them where they are to be had. It is certainly, then, for the interest of the Government to foster those enterprises, by means of which the very talent and skill required for Government purposes may be the most readily developed and most properly disciplined.

In what school has been reared and qualified a race of the best seamen in the world, and among them a fair proportion of as bold and skillful navigators as ever trod a quarter-deck on the stormy Atlantic? Sir, that school is our eastern fisheries—a business that has long been fostered by the hand of the Government by the payment of large sums of money in the form of bounty; and these hardy denizens of the ocean have returned fourfold to their Government and their country for every dollar thus bestowed on them. Our great ocean steamers are rare schools for the purpose of turning out first-rate practical seamen, practical navigators, practical mechanics, and practical engineers; and I feel fully assured it is not affirming too much when I say there are no institutions in the United States in which all these professions—except, perhaps, those of the seaman and the navigator—can be studied to so great advantage, where practical knowledge of a high order can be so readily obtained, or where men can become so well qualified to discharge the duties of those professions, as on board those steamers. And, sir, is this nothing to our Government?—nothing to our country? Is it a matter of trivial importance to have our naval and merchant marine officered and manned by the best seamen, navigators, engineers in the world? Is it a matter of no moment to this Government and this people to know that they have at their call mechanics who are capable of beating the world in the construction and equipment of ships, either for peace or war? Is it a matter altogether unimportant that, in case of war with a foreign nation, we can fill our ships with men reared in such a school, instead of those picked up here and there, without training, without experience, and without practical knowledge? Sir, I consider the question before the Senate as one that bears directly on this important subject. On its face it is a proposition to aid the Collins line of steamers, but practically, I look upon it as one in which the Government and the country are deeply interested for the reasons I have stated.

Mr. President, the honorable Senator from Virginia [Mr. HUNTER] has taken the ground that aid is, in this instance, called for merely to enable the proprietors of the Collins line of steamers to keep up a ruinous competition with a foreign line, in a trial of speed on the ocean; and, as the Collins line has not yet been able to sustain itself, he has come to the conclusion that it never can do so. Such being the case, he seems to think, that the sooner the business is given up to the Cunard line the better. Further, he thinks, also, that the business being a losing one, the more of it the Cunard line does, the sooner that line will be ruined. I do not think, sir, that the honorable gentleman, in coming to these conclusions, manifested his usual depth of thought, or clearness and force of argu-

ment. Sir, were these conclusions correct, and had a line of conduct been pursued in conformity with them with regard to our manufactures, not a yard of cloth, nor a ton of iron, would have been manufactured in this country. At first, and for a long time, it was a losing business in this country; and, to carry the honorable gentleman's conclusions out, our manufacturers ought to give up the entire business to the foreign manufacturers at once, in order to involve them in speedy ruin.

Every one acquainted with the history of manufactures in this country well knows that those manufactures—especially that of iron, and that of cotton by machinery—were encouraged by bonuses and exclusive privileges, bestowed by the governments of the several States in which they were situated. Thus early did our ancestors deem it a matter of great public importance to encourage private enterprise for the public good, against foreign competition. But, sir, none of these enterprises were at first able to sustain themselves, even with the legislative patronage they received. One after another they all failed, and retired from the field of competition. And why was this? Simply because in this country the business was an untried experiment. It failed, as experiments, subsequently successful, frequently do at first, for the want of that skill which is to be acquired only by means of experience and practice.

Mr. President, suppose our manufacturers had finally adopted the conclusion arrived at by the honorable Senator from Virginia, and because their business had hitherto been a losing one given it up entirely into the hands of the foreign manufacturer, with the view of working his speedy ruin, what would have been the result? The foreign manufacturer would have retained the monopoly. He would have ruled our markets, and he would have exacted and extorted from us prices at least fifty per cent., and in many cases a hundred, above what we are now required to pay. To the fixed determination and indomitable perseverance of our mechanics, operatives, and manufacturers, to compete with foreign skill, aided by protective duties, are due the invaluable improvements that have been made in all branches of manufactures, and the great reduction in prices that has taken place. This view of the subject in most of its bearings is equally applicable to the question now before the Senate.

In the enterprise of steam navigation on the ocean, Great Britain was many years ahead of us. Her first experiments were partial, and some of them total failures. So have some of ours been, not excepting even some made by our Government. But by the time we had commenced in the same line of business, it had called to its aid in Great Britain the best scientific skill and knowledge in the world, and their powerful energies have been concentrated on the mighty work before them. After years of trial and toil they succeeded; and it was not till the proprietors of the Collins line had projected their gigantic enterprise that any attempt at all to be compared with that of the British company had been made in America. We had, to be sure, multitudes of steam-engines, and fleets of steam-boats, and few, very few, steam-ships; but among the whole there was no one to serve as a model or a guide for the construction and equipment of a steam-ship such as the object required, or the nature of the contract with the Government demanded. Suppose the ships already built, there were no facilities adequate to the construction of their immense engines. All was to be created, sir, at an enormous expense of time, skill, and money—all was created. By long and determined perseverance, the mechanical skill and ingenuity were found equal to the emergency. Practically the experiment has proved eminently successful. But so great has been its cost, and so powerful the rivalry, that hitherto it has not rewarded its projectors and proprietors as such a noble enterprise should. In this dilemma, the honorable Senator from Virginia advises those proprietors to relinquish the business to their rivals as the speediest means of bringing ruin on those rivals. We will examine this proposition.

Mr. President, to relinquish the Collins line would be precisely what the Cunard line particularly desires. To compel the Collins line to withdraw from its route is precisely what the Cunard line is attempting to do. Such a result once accomplished, and the business becomes a monopoly in the hands of the proprietors of that line.

They can then have their own way, regulate prices to suit themselves; and not only sustain their line by means of their business; but enrich their company. To this end, together with a pride of feeling, they have formed the determination that no American line to rival theirs shall traverse the same route. True to this determination, and well knowing that the British Government will sustain them, they have adopted that petty species of competition which has long been practiced to an extent injurious to all parties, and ruinous to some, between rival steam-boats and stage-coaches in this country. In other words, the British line has determined, cost what it may, to drive the Collins line from the ocean. The Collins line, or its proprietors, though strong in wealth, cannot compete with the Lords of the Admiralty, with the British Treasury at their command; and the question is, as our neighbors on the other side of the Atlantic seem unwilling that we should run a line of steamers to one of their ports, whether we will or will not do it at any rate. To do it, sir, some further Government aid must be granted for the present. Without such aid, the enterprise must be relinquished, and we must be reduced to an absolute dependence on Great Britain for all the facilities required by the Government and the people of this country by means of steam navigation between our own ports and those of Great Britain. But, sir, the honorable gentleman does not believe it requires the aid asked for to enable the Collins line to go on. I need take up no more time in reply to this point than to say, and which is the fact, that the stock of the company can now be purchased in the market, in any quantity, at a discount of fifty per cent. from par. This simple fact will be, to every man at all acquainted with business, a full and sufficient reply to all argument based on calculations which may be intended to show that this line can continue in operation without the aid which this amendment is intended to afford. In order to show, sir, that the proprietors of this line and the citizens of New York wish for no monopoly, I am authorized to say that \$1,000,000 of the stock of the company will be sold at par, if wanted, to the citizens of any State in the Union, should this amendment prevail.

Mr. President, the honorable Senator from Virginia has characterized this competition as a mere trial of speed on the ocean. Sir, I have shown that it embraces much more than this. But, sir, no doubt this has had much to do with it; and, in my opinion, the gratification of a high and honorable feeling of national pride is worth something to a Government and a country. Up to the period of the war of 1812, the American people had almost unanimously yielded their assent to the oft-reiterated boast that "Britannia rules the waves." That war afforded some practical data that cast some doubts on the legitimacy of the claim in a naval point of view. Our clipper ships have increased those doubts; and the superior speed of the little yacht America, and our Collins steamers over any vessels of their description ever constructed in Great Britain, has set the matter at rest. And can it be matter of surprise that the American people, who have been so long, constantly, and bitterly taunted by the English, for their supposed inferiority in everything, should manifest some degree of national pride at these demonstrations? Is it not an amiable, patriotic feeling? It is not wonderful, then, that they, the people, should expect, and, sir, they will expect, that some aid should be rendered to this line of steamers, which, at such a heavy cost, and so much loss, has achieved the greatest victory, whether of war or peace, that was ever achieved on the ocean: a victory, not of brute force, but of science and skill!

Mr. President, I ask if the Government and the country gain nothing by this enterprise? The vast improvements introduced by this company into steam machinery for sea-going purposes, and also into the vessels themselves, are invaluable, and worth more, vastly more, to the country, than all the aid the company has heretofore received from the Government and that now solicited by them. Certainly, such an enterprise does, on the score of the public good, demand some reward for all the sacrifices it has cost.

Sir, whether this line of steamers will or will not, with the aid now asked for, be able to sustain itself, is a question which time only can definitely answer. For my own part, I should think it would. The proprietors are good business men;

and they, together with those engaged in managing and navigating these ships, will, of course, be learning every day, by means of practice, where improvements can be made and expenditures reduced; and, by a truly business-like and economical line of conduct, I believe the experiment will finally be found profitable, as it has most assuredly proved successful as to speed and safety. As an American citizen and an American mechanic, I feel, in common with my fellow-citizens, proud of the Collins line, and hope it may be sustained. Sir, I see no necessity for the apprehension expressed by the honorable gentleman from Virginia, that aid now rendered shall become a precedent for the future action of Congress. Congress will hereafter, as now, should such a question come up, act on the necessity, the justice, or the expediency of the case, without regard to precedent. These ships are partially in the employment of the Government—on them the Government has a lien—and, whenever the exigencies of the case may require, they will be converted exclusively to the Government service. Shall we, then, under such circumstances, withhold the aid required, and thus second the efforts of its foreign competitors to crush the enterprise at once, and thus deprive the Government and the country of the invaluable services of the finest and best line of steam-ships in the world? Sir, I hope not. It would mortify me, and so it would, I am certain, the great body of our citizens, to witness such a result.

The honorable Senator, however, does not seem to look with a great deal of regret on the apprehended failure of the Collins line. Let it go down, he says, and by advertising we can have vessels as fleet as theirs, for a great deal less money. That the Government, by going into the market, and dickering, as the cant phrase is, with steam-ship owners, might obtain vessels for less money, is altogether likely; but whether equally fleet, is another question. They do not exist now, neither in this country nor any other. But, sir, the prudent man looks at the quality of an article as well as the price. You may procure vessels at much cheaper rates; but what will be their quality? You will not find those that have been built under the eye of the Government agent, and in accordance with the requirements of a Government contract. They may be good vessels. They may be safe vessels. Who will know, and who is to hazard the trial? Besides, sir, shall we exercise no magnanimity—no justice? True, sir, the Government has fulfilled the contract to its letter with this company, and paid all that was stipulated—all that was asked. But what then? Will the Government drive a hard bargain with its citizens; and, because they happened to make a miscalculation, compel them either to relinquish their contract, after having made enormous sacrifices in struggles for its fulfillment, or to fulfill it at a sacrifice still greater? I trust not—I trust the Government has more magnanimity, more justice, more honor, than to suffer such a result. I hope the aid to prevent it will be cheerfully afforded, and that this company will receive the encouragement and support they so richly merit.

But, sir, the honorable gentleman from Virginia went still further. He assumed that, in case the aid now asked for was granted, Congress would lie under obligation to extend similar aid, if required, to companies in any and every other port formed for similar purposes. Sir, I cannot see the force of this argument. My own impression has been that Congress possessed some discretionary powers not exactly limited by precedents. The object in view in this case seems to me to test thoroughly our steam communication with England, the ablest mechanic power in the world, and in which attempt we necessarily come in competition with her own steam-ships, for the satisfaction and benefit of our whole country. By the result of this trial people in all the ports in our country will be ruled. Those who would wish to engage in this business are as much interested in having this experiment carried out, as are the proprietors of this line. Should the experiment fail of success, then, of course, it must be abandoned, and others would not be very ambitious to renew it. Should it succeed, no further aid would be required; and thus the people everywhere will learn the result without the further sacrifice of either private or public means. But there is still another important feature of the case to be considered.

Mr. President, can any other company come here under similar circumstances with those connected with the Collins line, and present similar claims? I believe not. The gentlemen constituting this company have invested in their noble steamers the amount of very nearly \$3,000,000. These ships have been regularly run at a continual heavy loss, in the fulfillment of the company's contract with the Government; and without some additional compensation for their services to the Government, their operations must cease, and the immense capital invested be very much impaired, if not lost. I believe it a case without a parallel in this country; and whenever another like it may come up here, it will be time enough to meet it. These facts would be sufficient to justify me in my own mind in voting for the relief asked for in this case; but I have others, if possible, more potent still. I refer, sir, to the contract between the Government and this company.

The Government required vessels of great strength and burden, capable of being converted into ships-of-war when required. The mail and passenger service required speed. Hence the company had to secure both objects. The ships are much heavier than would have been required for the mail and passenger service. Therefore they cost more than they would otherwise have done, required much heavier and more powerful engines, and are propelled and navigated at a much heavier expense. All these items combined make up the sum total of the extra expense for which the appeal is now made to the justice as well as magnanimity of Congress. The proprietors of the line say, and I have no doubt truly, that, in building their vessels so much stronger and heavier than they would otherwise have done in carrying out their contract with the Government, and thereby incurring a greatly-increased expense in constructing, equipping, and sailing, they acted in conformity with the wishes and instruction of the Navy Department. All this has been done by them in good faith; and after this, for them, in the face of a ruinous competition by a foreign line, sustained by a foreign Government, to be compelled to run their ships at a tremendous sacrifice to themselves, in the Government service, is, in my view, a flagrant violation of the principles of justice and equity.

Mr. President, during the discussion of this amendment, the amount paid per annum, or per trip, by the British Government to the Cunard line, has been stated and spoken of by way of comparison with the amount paid by our own Government to the Collins line. I have also made the statement, the truth of which will appear self-evident, that the cost of construction, equipment, and navigating the steamers of the Collins line, had been greatly enhanced by reason of their excess of strength and tonnage, over what would have been required for ordinary mail and passenger service alone. And the additional strength and tonnage were given to these vessels to fit them for war vessels. And, sir, I am now prepared to show, from the statement I hold in my hand, the amount paid to the Collins line will not be, all things considered, including what is contemplated in the amendment before the Senate, quite equal to the amount paid to the Cunard line.

The Cunard line has seven ships, the aggregate tonnage of which is 12,252 tons. These ships cross the Atlantic eighty-five times per year, or, rather, what is equivalent to eighty-five trips for one ship. This makes the total tonnage worked across the Atlantic, in the eighty-five trips, 148,750 tons. For this service they receive from the British Government, in round numbers, \$856,820—making \$5 75 per ton. The Collins line has four ships, of an aggregate of 13,702 tons, which cross the Atlantic fifty-two times per annum, or perform a service equal to fifty-two trips for one vessel, working an aggregate of 178,126 tons, across the Atlantic. The amount to be paid by this amendment, and what is now paid, is \$858,000, or \$4 82 per ton, and a fraction less than twenty per cent. below what is paid by the British Government to the Cunard line.

I have also a statement to which I desire to advert. In the London Times, of the 10th of March, occurs the following statement, which, though part only of it relates directly to the subject under consideration, we give entire, for the benefit of such of our commercial readers as may feel an interest in looking over a complete table of the

ocean-mail service of Great Britain for the ensuing year:

"The following table, partly compiled from a parliamentary paper, will show the estimate for the post office packet service for the coming year, as compared with that for the twelve months which will terminate on the 5th of April. The increase in the contracts last year was £98,135, and now we have a further augmentation of £64,862, caused chiefly by an enlarged allowance to the Cunard line for additional service, the extension of the West India contract to Brazil, and the establishment of new lines to Africa and Australia. On the other hand, there is a diminution of £4,200 in the expense of Queen's vessels employed; and the increase upon the aggregate total is therefore reduced to £60,662:

To and from—	Company.	Year.	
		1852-3	1851-2
Liverpool and Isle of Man.....	.....	£850	£850
Holyhead & Kingston.....	City of Dublin..	25,000	25,000
Aberdeen & Berwick.....	.....	900	900
Southampton & Channel Islands.....	S. W. Railway..	4,000	4,000
England and Hamburg, and England and Rotterdam.....	General Steam..	17,000	17,000
Southampton, Vigo, Oporto, Lisbon, Cadiz, and Gibraltar.....	Peninsular and Oriental.....	20,500	20,500
Liverpool and Halifax, and Boston and Liverpool, & New York.....	Cunard.....	171,364	145,000
Halifax, Bermuda, and St. Thomas's, and Halifax and St. John's, Newfoundland.....	Cunard.....	14,700	14,600
Southampton and West Indies.....	Royal Mail.....	240,000	240,000
Southampton, Brazil, and Buenos Ayres.....	Royal Mail.....	30,000	30,000
Callao and Valparaiso.....	Pacific.....	25,000	25,000
Plymouth and Cape of Good Hope.....	General Screw..	30,730	30,730
England and West Coast of Africa.....	Laird.....	11,500	-
England and Australia.....	Australian.....	26,000	-
England and Alexandria.....	Peninsular and Oriental.....	22,500	23,000
Alexandria and Bombay.....	Hall, Brothers... ..	1,560	1,600
Suez and Calcutta.....	.....	.....	.....
£115,000; less 7-16, payable by East India Company, £50,312.....	Peninsular and Oriental.....	64,688	64,688
Ceylon and Hong Kong £45,000; less as above £19,688.....	Peninsular and Oriental.....	25,312	25,312
Bombay, (proportion paid to East India Company).....	East India.....	50,000	50,000
Allowances of Government agents on board the contract packets.....	.....	10,683	9,285
Expense of Queen's vessels employed in the packet service.....	.....	77,871	82,071
Total expense.....	.....	870,158	809,496

The Cunard line receives, it will be seen for 1852..... £171,364 While it received for 1851..... 145,000

Making an increase of..... £26,364 Equal to..... \$131,820

The amount now received by the Cunard line is \$856,820—being within less than \$2,000 of what is asked for by Mr. Collins.

But, Mr. President, the honorable Senator from Virginia has said that these steamers were not fit for war steamers, as he had been informed by naval gentlemen whose judgment was to be relied on. Well, sir, suppose this statement to be correct, it would weigh nothing in the argument. On the other hand, should these steamers prove the best war vessels in the world, their owners could not claim the credit of it. If they are totally unfit to be incorporated into the Navy, it is no fault of theirs. They were built under the direction of persons appointed by the proper authorities to act for the Government. The company furnished the means, and the instructions from the Navy Department were carried out. If, then, the ships were to prove utterly worthless for war purposes, why, then, should we blame their owners, and compel them to suffer the loss?

No. 1.

NEW YORK, January 19, 1848.

SIR: Having altered the dimensions of the mail steamers to be built by myself and my associates as per contract, dated 1st November last, under a law of Congress passed

3d March last, entitled "An act providing for the building and equipment of four naval steamers," I beg leave to wait on you with a specification for building the same, which, I trust, will meet your approval; and if so, you will please substitute it for schedule "A," now attached to the contract.

Yours, very respectfully,  
To the Hon. J. Y. MASON,  
Secretary of the Navy, Washington.

No. 2.

NAVY DEPARTMENT.

WASHINGTON, January 26, 1848.

SIR: I have received a letter dated at New York on the 19th instant, without signature, inclosing a "specification" for the building of the New York and Liverpool mail steamers for E. K. Collins and his associates. This paper being signed by yourself, it is presumed the communication was made by you. The subject has been referred to the Bureau of Construction for opinion, and, upon the recommendation of Commodore Skinner, the dimensions and specifications for building the mail steamers under the act of 3d March last, above referred to, are approved by the Department.

I am, respectfully, your obedient servant,  
J. Y. MASON.

No. 3.

NEW YORK, February 10, 1848.

SIR: Your letter of the 26th ult. was duly received. The undersigned letter, therein referred to, I hand you herewith, signed. My specifications for building the steamers, as mentioned in yours of the 26th, having been accepted, I am progressing in their building with as much speed as prudence dictates, watching strictly the interest of the Government and the owners, which interests I think inseparable.

I will thank you at an early day to appoint a naval constructor to superintend their construction in conformity to the law. Yours, very respectfully,

E. K. COLLINS.

To Hon. JOHN Y. MASON,  
Secretary of the Navy, Washington.

No. 4.

NAVY DEPARTMENT, February 14, 1848.

SIR: Your letter of the 10th instant, with the inclosure, has been received, and Captain William Skiddy, of New York, has been appointed naval constructor for the purpose of superintending the construction of the steamers to be built under the act of Congress of March 3, 1847.

I am, respectfully, your obedient servant,  
J. Y. MASON.

To E. K. COLLINS, Esq., New York.

The contract referred to in the first of these letters contains the following:

"That whereas the said Collins and his associates submitted to the Postmaster General, on the sixth of March, Anno Domini eighteen hundred and forty-six, proposals to carry the United States mail between New York and Liverpool twice each month during eight months of the year, and once a month during the other four months, for the sum of three hundred and eighty-five thousand dollars per annum, payable quarterly, and for this purpose proposed to build five steam-ships of not less than two thousand tons measurement, and of one thousand horse-power each, to be built for great speed, and sufficiently strong for war purposes."

Schedule A states the "intended size of said steam-ships about three thousand tons."

In this connection, I will introduce the following abstract of letters written by Commodore Perry and Captain William Skiddy, in reference to the Collins line of steam-ships, to the Secretaries of the Navy.

Commodore Perry, in his letter dated February 18th, 1852, addressed to the Hon. William A. Graham, Secretary of the Navy, says:

"That the following-named Atlantic steam-ships may be converted, by slight alterations, into war-steamers of the first class: of Collins's line, the Atlantic, Pacific, Arctic, and Baltic.

"According to my calculations, the cost of the conversion of either of the before-mentioned vessels, exclusive of armaments, repair of machinery, &c., would not, or certainly ought not, to cost, for each steamer, over \$20,000, and it could readily be done for this at any of our navy-yards. With respect to the description and weight of their respective armaments, I am clearly of the opinion that the first-class steamers, already named, could easily carry four 10-inch Paixhan guns, on pivots—two forward and two aft—of the weight of those in the Mississippi, and ten 8-inch Paixhan guns on the sides, and this armament would not incommode the vessels, and the weight less than the ice, which is usually forty tons, and stowed away in one mass."

Commodore Perry continues, and says:

"That in the general operations of a maritime war, they would render good service, and especially would they be useful, from their great speed, as dispatch vessels, and for the transportation of troops, always capable of attack and defense, and of overhauling or escaping from an enemy."

"The Atlantic, Pacific, Baltic, and Arctic, have all been built, inspected, and received by the Navy Department."

Commodore Perry adds to this letter a note, and says:

"That an ocean steamer of three thousand tons is of the maximum dimensions for safety and efficiency, whether for war or commercial purposes."

And this is the precise measurement of the Collins steam-ships.

In another note he says:



"That the best practical relative power of engines to tonnage for ocean steamers is one nominal horse power to every three tons of tonnage custom-house measurement."

And this is the precise ratio of power used in the Collins steam-ships.

Commodore Perry, in his letter to the Hon. John Y. Mason, Secretary of the Navy, dated January 30, 1849, says:

"In accordance with my instructions from the Department, I have carefully examined the vessels (Atlantic and Pacific) at present under construction and equipment, and in comparing them with the precise stipulations, I find some few deviations. The contract of E. K. Collins and his associates is in progress of completion. Two ships (the Atlantic and Pacific) are nearly ready, or quite ready, for launching, and their engines and boilers are sufficiently advanced for commencing the work of putting them on board. As the contract with Mr. Collins does not refer to any particular vessel as a guide for model or manner of construction of his ships, he has availed himself of the best material at command, and of his well-known judgment and experience in ship-building, and in producing two very superior sea steamers."

Commodore Perry says, according to the statement of Captain William Skiddy, "that the ships are better fastened than they were contracted for," and adds:

"The several contracts provide that all these steamers shall be so constructed as to be easily converted into war steamers, should the Government exercise the right of taking them into their public service."

"Steamers are more easily armed than sail vessels, inasmuch as they have greater space on deck for pivot guns, possessing, as they do, greater facilities of motion, and consequent choice of position, and very little time would be required in arming and equipping them for war service."

Commodore Perry concludes this official statement as follows:

"The undertaking is one of great magnitude for individual enterprise, and of momentous character to the commercial interests of the country—an undertaking alike creditable to the liberal views of the Government and the public spirit of the contractors, and reflecting honor and credit upon both contracting parties."

"They (the steam-ships) will all have the merit of possessing the great essentials of capacity, buoyancy, and fleetness, and capability of carrying effective armaments; and if taken for their estimated worth at the time of the transfer, the Government will be the gainer, at a period of emergent want for such vessels."

Captain William Skiddy writes to "Commodore Perry, general superintending agent for the United States ocean mail steamers," on the 21st of January, 1849, as follows:

"I have received your communication of the 18th inst., requesting information respecting the construction and equipment of the United States mail steamers built and building in this port (New York) under my inspection."

"Mr. E. K. Collins's specifications and agreements with the Government call for much less than has been executed, such as iron diagonal framing only one way; whereas they are double, crossing each other at right angles, and well bolted to timbers and riveted together; also the filling in amidships has been extended the whole length of the ships, with many other additions."

"These ships have great buoyancy, flat broad floors extended far forward and aft, with sharp ends, and are considered beautiful models. They have spacious deck room, and could carry guns of the largest caliber on the gun or middle deck."

"These ships can all, in case of emergency, be converted into fast war steamers. They would by law be received by appraisement on their original cost and their efficiency as to strength and materials, the necessary alteration included would cost the Government much less—perhaps one half of the amount required to build or purchase for the occasion."

"In case of a war, these are the only ships of sufficient strength and size in the United States that could be converted into war steamers."

Commodore Perry, April 9, 1850, writes to the Hon. W. B. Preston, Secretary of the Navy, thus:

"The models of the ocean mail steamers, built under the recent act of Congress, whether for the Navy or mail service, may be considered as excellent."

"Experience has shown that the best general proportions for a war steamer, with side-wheels, are six times the breadth for the length, and two thirds the breadth for the depth. [By a singular coincidence, this is the exact size of the Collins steamships.]

"The highest probable speed that can with known machinery be given to commercial steamers of 1,500 tons, and carrying fourteen days' fuel, and embracing an aggregate of voyages across the Atlantic, perhaps ten and a half knots per hour has been the average."

"The aggregate of voyages across the Atlantic by the Collins steam-ships show that twelve knots per hour has been the average."

"The mail steamers of Howland & Aspinwall, and of E. K. Collins, esq., can be easily converted into war steamers."

"These vessels, with little strengthening of the decks, can be made to carry each a few guns of heavy caliber, and may be rendered useful to convoy, and in the transportation of troops, &c. The use of steam-ships in our future naval operations must inevitably change in a great degree the art of naval war."

Captain William Skiddy, on the 18th of Feb-

ruary, 1852, writes to the Honorable William A. Graham, Secretary of the Navy, thus:

"I herewith acknowledge your communication of the 10th inst. to Commodore M. C. Perry and myself, relative to the United States mail steamers built under contract with the Navy Department, and others carrying the mails of the United States."

"These ships (Atlantic, Pacific, Baltic, and Arctic) are not suitable for immediate war purposes, but can be made efficient in four or six weeks, and the cost of these alterations would not exceed for each ship \$15,000 or \$20,000. They would then be relieved of about one hundred and fifty tons weight, or nearly double the weight of guns and carriages, and would then have less resistance to water and wind, adding in increase to their already great speed."

The Hon. Wm. A. Graham, the present Secretary of the Navy, on the 20th of March, 1852, writes to the Hon. Wm. R. King, President of the Senate, in reply to a resolution for information in relation to contracts for the transportation of the mail by steam-ships between New York and California, on the Atlantic and Pacific oceans, as follows:

"It is respectfully suggested that a limited number of them, (steamships,) employed in time of peace in the transportation of the mails, would be found a most useful resource of the Government on the breaking out of war."

"In conformity to the standards required by these contracts, their readiness to be used at the shortest notice, their capacity as transports for goods and munitions of war, and their great celerity of motion, enabling them to over-haul merchantmen, and at the same time escape cruisers, would render them terrible as guerrillas of the ocean, if fitted with such armaments as could be readily put upon them in their present condition."

But, sir, what are the properties necessary for a war steamer? Speed is undoubtedly one. In point of speed what other sea-going steamers equal those of the Collins line? None, sir; none. They have beat the world, and they stand confessed without a rival on the ocean. The want of speed, therefore, cannot be among the supposed delinquencies of these ships. Great strength is another necessary property. Well, sir, I hazard nothing in saying the strength of no ship in the American Navy has been so severely tested as the strength of these steamers. In gales of wind, when sailing vessels are lying to, and merely breasting the force of the waves, these ships are urging their way ahead with the mighty force of their powerful engines, perhaps at the rate of some eight or ten miles per hour, and thus increasing the resistance, and consequent strain, to at least twofold, compared with the sailing vessel. Yet, in this war of the elements, they have never suffered.

Again, Mr. President, consider the enormous power of the engines by which these steamers are propelled. Each of these engines is of the calculated power of fifteen hundred horses, operating directly on the ship itself, as the fulcrum of the mighty lever by which she is driven through the waves. Every stroke of the piston is felt, sir, from stem to stern—from plank-shear to keel—in every plank, in every timber, and in every fibre. Why, sir, one of these engines exerts a power sufficient to propel a ball of the weight of fifteen hundred pounds, with a velocity of thirty-three thousand feet per minute—a body which, taking the velocity into the account, would demolish the largest vessel that ever floated. The recoil of ten of the largest batteries in the world would not exercise so much strain on one of these steamers as does the power of her enormous engines. And yet, sir, with the buffeting of the waves, in gales and storms—with the exertion of all this propelling power—these gigantic ships, like the ocean rock amidst the waves, have withstood, unscathed and unshaken, some of the most terrible storms that agitate the Atlantic. Sir, what more perfect test can be given of strength, solidity, and sea-worthiness than has been applied to these noble ships? For myself, I can conceive of none.

But, sir, the honorable Senator now takes up another position. He says that propellers are superior to side-wheel steamers for war purposes. In this statement I perfectly agree with him, taking it as a general rule. But, sir, propellers would not answer the purpose of our Government for mail steamers. Their speed is not such as the times require. Under the Government direction, therefore, these steamers were equipped with side-wheels; and without which, however much they may take from their value and efficiency for war purposes, they would not have been available for the mail service. With the British or Cunard line the case is the same. However, sir, the honorable Senator admits that we require some side-

wheel steamers; and, sir, it fortunately happens that in the Collins line we have some—that is, we have four side-wheel steamers, the best in the world. The honorable Senator, however, regrets that the Navy and the mercantile marine should be united at all. Sir, the honorable Senator's regrets come too late. As far as these steamers are concerned, it has already been done; and, in doing it we have but copied the example of the greatest naval power in the world; and I am far from apprehensive that any evil will result from the act.

Mr. President, it does appear to me that not only pride of country, but also our mercantile interests demand that this line of steamers should not be left to an untoward fate without at least one more effort of this Government to prevent such a result. Sir, the war of 1812 cost this country \$300,000,000. And for what was that war waged and prosecuted on our part? It was, sir, to procure our rights and promote our commercial interests on the ocean, and to cause them to be respected. The great object was gained; and, sir, as an American citizen, I thank Heaven that my country has never succumbed to a foreign Power. Her flag still waves in all its glory, and is respected by every civilized nation on earth. Nor would I strike our flag of commerce. It has achieved a most important, though peaceful victory; and I will not give my vote to have it furled or struck to any foreign rival. But, sir, such must be the case should we refuse the aid contemplated in this amendment; and we must suffer the mortification of descending in the scale of commercial enterprise, and, for the want of some trifling pecuniary sacrifice, consenting to become second, when we were and might have remained first.

Sir, the superiority of our immense fleet of sailing vessels is already established. Foreign nations, with all their apparent superior advantages, have been unable to cope with us in this species of naval architecture. Our ships traverse every sea and unfurl our flag in every port in the world, and, wherever they appear, command the admiration of all observers. In this, our favorite and unequalled line of ocean steamers, we have also the evidence that we can excel, young as we are in this modern enterprise, all the rest of the world even in navigating the ocean by means of steam. To deprive us of this cause of triumph, and to prevent us from reaping its fruits, it is that those concerned in the British line have conspired to drive the ships of our American line from its route. This effected, and you suffer the spirit of enterprise concerned in the business to be crushed; and it will be a long time before it can again be aroused to action. On the other hand, encourage and sustain it, and but a few years will have elapsed ere we shall have a fleet of steam-ships traversing the ocean in every direction, giving much greater facilities to commerce than it ever yet enjoyed, and greatly facilitating our communication with all parts of the world. Besides this, sir, our superiority in this matter being fully established, and universally known, as it will be, what is to prevent us from obtaining a large share of that lucrative business, now monopolized by Great Britain, of building steam-ships for other nations which lack the skill to build them for themselves? This would be extremely beneficial to our merchants and mechanics, and in fact to all classes in the community.

Mr. President, the increase of our steam-marine would also make heavy draughts on our immense coal fields. From Ohio, from Indiana, from Kentucky, from Virginia, from Pennsylvania, and wherever coal is found, it may be transported to all our sea-ports, from Portland to New Orleans, and at every port it would meet with a ready sale. If all these interests are of any importance in our view, let us unite to promote them by lending a helping hand to the company which solicits it, and whose noble ships, I trust, are destined to become the nucleus of a numerous fleet, all equally excellent.

Mr. President, I cannot permit myself to close these remarks without paying a well-merited compliment to the gentlemanly proprietors of the celebrated Collins line of steamers, equalled by none that float on the bosom of the ocean. Sir, these gentlemen certainly deserve well of their country. With a degree of munificence seldom equaled they have expended their money without stint on an object truly national, and by the result have placed

our country ahead of all others, in point of practical success, with respect to steam navigation on the ocean, and thus wrested the palm of victory from the brow of that mighty naval power which has claimed for centuries to be the mistress of the seas. More than this, sir: the millions they have expended, and by which they have not profited themselves, have gone to reward honest industry and mechanical science and skill. They have probably in this way done more for the working portion of the community and the cause of steam navigation than a like number of men in the same length of time have ever done before in the United States; and, whatever may be the ultimate fate of their enterprise, on which they have expended so much money, they are now honored, and will long be remembered with honor, for their noble work—a work that has opened a new era in the history of steam navigation, the effects of which will be seen and felt for generations yet unborn.

Mr. BADGER. Mr. President, I desire to submit some observations upon the subject of the amendment before the Senate, and if no other gentleman is disposed to say anything, I will submit my remarks now. My friend from Virginia [Mr. HUNTER] the other day, took occasion to remark that he stood almost alone upon this question—most, if not all, of those who had mingled in the debate having taken part in support of the pending amendment. But my friend from Virginia should have remembered, that if in number he is but one, in force he is a host. He stands amongst us like Achilles upon the plains of Troy, driving whole battalions before him, and requiring the concentrated energies of a mighty army to arrest his advance. Therefore, he must not be surprised if, when he opposes, many of us should think it necessary that we should support—well knowing that such is the weight and force of his reasoning, the influence of his position, the keen and skillful dexterity of his logic, by which he is able always to “make the worse appear the better reason,” it is absolutely necessary that we should summon up all our powers to secure that success to this amendment which we believe its intrinsic merits require.

My friend from Virginia yesterday was pleased to say, in reference to a remark made by the honorable Senator from New York, [Mr. SEWARD,] as to the narrowing influence produced upon the mind by occupying the position of chairman of the Finance Committee, that, if the suggestion of the Senator from New York were correct, it would be perhaps a happy thing to place me at the head of that committee, as such a narrowing influence might not be amiss upon what he supposed to be the too profuse liberality of my disposition.

Mr. President, there are several difficulties in the way of my occupying the distinguished position to which the partiality of my friend would assign me. In the first place, I do not belong to the right side of this House to assume the direction of any committee. I am much better placed in the capacity of trailing a pike under the command and direction of the honorable Senator from California, [Mr. GWIN,] to whose committee I have been assigned. An experiment was once made by the distinguished gentleman, who is now the presiding officer of this body, of placing me at the head of one committee of this body, and an important committee it was. He made me the chairman of the Committee on Enrolled Bills. But whether it was that I discharged my duties in that high and important position so badly, or neglected them so much, or, as my honorable friend from Michigan says, discharged them so well, and was so critical and careful about the phraseology of our laws—whatever might have been the reason, I seem to have lost caste and credit; for, at the next session, I was summarily displaced from the position of chief in command, and put where I was but a private soldier.

I am by no means ambitious of assuming the position to which my friend from Virginia would assign me; but he will permit me to say, that, if placing me at the head of that committee would have the narrowing influence which he supposes, by equal force of reasoning, it seems to me he ought to leave the station which he has assumed; for I know of no gentleman in this body, or in this country, with his high understanding and enlarged views, who needs liberalizing more than he does in regard to the public expenditures of the country for great and noble objects.

Mr. President, the question submitted for the consideration of the Senate is, we all admit, a question of high and controlling importance. It has been said in the course of this discussion, that the contest between these two lines has now become a national contest between this country and Great Britain. I desire to amend that statement. From the very moment of the institution of the Collins line, it was a national contest. It has not recently assumed that character. It has always borne it. The enterprise was very far, indeed, from being in fact, or from being regarded by the country, as a mere contest between two rival companies of ship-owners. It was one great, active contest in that mighty drama for the mastery of the seas—for superiority in everything that belongs to strength, speed, effective power, and success for war and for commercial purposes, which long has been, and ever must be, the mightiest contest between this country and Great Britain. After having entered upon this peaceful, and, at the same time, most important contest, the question presented to the American Congress now is, whether we shall dishonorably retrace our steps; whether, when the hand is just stretched out to seize the crown of victory, we shall voluntarily forego all our advantages, retire from the high and eminent position we now occupy in the eyes of all the civilized world, and voluntarily surrender that which to obtain and perpetuate Great Britain would without any hesitation sacrifice a hundred times the amount of money which is involved in the question now before the Senate.

We are now reduced to this position: We must do one of three things: we must either afford the aid which is now asked by this company, and which this amendment proposes to give it; or we must enforce upon it the performance of the contract entered into with this Government to the utter ruin of its members; or we must permit this line to go down, and permit Great Britain to be, by the acknowledgment of the world, first not only in naval power, but in naval enterprise, and in national sympathy for her own glory; and to allow her to take possession of the sea by our own voluntary retreat, which, in a fair conflict, the experience of three quarters of a century has shown she never could obtain by skill and power of her own.

I have said that we must do one of these three things; and is it not manifest that one of the three must be done? Why, sir, it is proved; it is not a subject of debate; it does not depend upon minute speculations in arithmetic; it cannot even be necessary to resort to the square-root of my friend from Kentucky to resolve it; but it is proved by clear, distinct, incontrovertible, sworn testimony, that the running of the Collins line, at the present rate of compensation, has brought, on twenty-eight trips, an average loss of nearly \$17,000 each trip to the company. Now, it requires nothing to be said to show that it is impossible that the line can be kept up and maintained upon the present rate of compensation, with the loss which must necessarily be thrown upon the intelligent, enterprising, wealthy, and patriotic citizens by whom the line has been established. Gentlemen may say—the honorable gentleman from Virginia has said—that there is not a necessity for this increase of compensation. Gentlemen may say, and gentlemen may think, that the line can be run, and will be run, at the present rate of compensation; but if gentlemen so say and so think, they are greatly deceived. The members of this company are now bearing heavy drafts upon their private funds to meet daily recurring deficiencies, so large that a quarter of a year of them accruing upon persons of ordinary ability would crush them, and which no company, however able, can long sustain.

References have been made to the rate of compensation or assistance afforded by the British Government to the Cunard line; and it has been attempted to be shown that the rate of compensation so given is less than what is proposed to be given by this amendment to sustain the Collins line. Well, suppose it were so; do we not all know that the expenses of maintaining a line, consisting of steam-ships, depends not so much upon the number as upon the size of the vessels employed? No doubt, my friend from Virginia is right in saying that we could maintain a dozen steamers and send them across the ocean, not merely for twenty-six trips, but for fifty trips, at far less expense than is incurred by the Collins

line, even at the present rate of compensation. What the expenses are is to depend upon the size of the vessels engaged; and what is that size? Why, there are four Collins steamers—there are seven Cunarders. The aggregate tonnage of the four Collins steamers exceeds the aggregate tonnage of the seven Cunarders by more than a thousand tons. It is, therefore, no accurate mode of proceeding, to ascertain what amount of expenditure may be needed, to calculate only according to the number of ships and the number of trips. You must take into connection with that the relative size of the vessels employed. Why, sir, in a few years, the wear and tear of these vessels, and the outlay required for the purpose of keeping them afloat, will amount to an actual absorption of the whole principal invested. Permit me to add, also, that another element is to be taken into the account, and that is, the speed with which the vessels traverse the ocean. The more the speed is increased, the greater is the injury to the ship, the more rapidly are the works worn out, and a larger outlay is required for the purpose of keeping her in a running condition. So that it may be very true, that if we would reduce our ships to the size of the Cunarders; if we would drop them down to a screw-propeller, going at the rate of six miles an hour, we might, perhaps, be able to run the vessels, to walk them, or to let them creep, at less money than is required to maintain these large ships, and keep them in that state of proud superiority as to speed which now distinguishes them.

Gentlemen may speculate upon the question, whether these ships ought to cost so much money in maintaining and running them; but the fact is, they do cost it. The fact is, that the expenses exceed the receipts of the company at the rate of nearly \$17,000 a trip. Then what is proposed by this amendment? It is to add not the \$17,000, but we propose to increase the rate of compensation from \$19,250 a trip or voyage, to \$33,000, that is, we add \$13,750 to the compensation allowed for each trip. We hope for better and brighter times. We hope that with this addition, these enterprising and patriotic men may be enabled to make good the contest and maintain their superiority. If there be any truth in evidence—if any reliance can be placed upon testimony, the fact is shown that they are losing within a fraction of \$17,000 upon every trip. If, therefore, we are to support or assist them at all, it is difficult to conceive what else we could do than to add between \$13,000 and \$14,000, to the present amount of compensation.

But again, under the additional arrangement entered into by the Post Office and the Navy Departments with these gentlemen, six additional trips have to be made, in order to maintain a constant and equal competition through the winter as well as in the spring and summer months. Then we must recollect that with regard to these winter trips, besides all the enhanced difficulties which accompany them, they fall greatly short in the ordinary remuneration. The winter freights are small, and the winter passengers are few. So that putting all these considerations together, I think it must be evident to every gentleman, that if any assistance is to be afforded, that proposed in the amendment is by no means unreasonably large.

Gentlemen may suppose that if this assistance is withheld, this enterprise will still be prosecuted. Permit me to assure them that they are entirely mistaken. So sure as the proposed amendment is rejected, and Congress declines to give the asked for, the desired aid, the very next step will be an application from these gentlemen to be relieved from the ruinous contract into which they have entered with the Government. If we refuse this aid, the other application we cannot deny. It would be unjust and cruelly ungenerous to deny it. No question can remain but that the moment that application is made to Congress, it will be favorably considered, and promptly granted. Then how should we stand? The line is to be discontinued! Who would benefit by its discontinuance? English capital, English enterprise, English reputation, and the national honor and glory of England. By whom is the loss to be borne? In each and every one of these particulars it is to be borne by us.

My honorable friend from Virginia said, that if at a single stroke all these Collins steamers were sunk into the bottom of the ocean, there was no doubt but that the Cunard steamers would still bring us the mails. No doubt of that, sir. And

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does any man doubt that if the whole American marine were to-morrow gulfed in the depths of the ocean, but that British commercial vessels would still bring us the products of foreign countries, and take away the products of our own? But is there any man here, is there any man in America, whose soul is so dead to the perceptions of national honor and national interest, who would be willing to accept the last alternative? Not my friend from Virginia, I am sure. But, if there be any correctness in the reasoning which he applied to the case of the steamers, the reasoning applies with precisely the same force, and is entitled to just the same weight, in the case to which I apply it. Would anybody be benefited? Why, surely not, sir. Would the vessels engaged in prosecuting, under sail and without the aid of steam, the commercial pursuits of the United States gain the advantage of discontinuing this line? Surely they would not, sir. The passengers would then go by the Cunard line from this country to England, and from England here. And why? Because in the rage for rapid motion now prevailing, men will always travel by that conveyance which gives them the speediest transmission from one end of their journey to the other. Would sailing vessels be benefited with regard to freights by the discontinuance of this line? Surely not; for the freights which are transmitted by the Collins line would then, for a very obvious reason, be transmitted by the Cunard line. If the Collins line were put out of the way, there would be no effectual competition in regard to freights between ordinary sail-vessels and steam-vessels. The steamers carry those freights which are of comparative lightness and of increased value. The ordinary heavy freights which seek sure and cheap transmission cannot afford to bear the additional expense of steamer transportation.

My friend from Virginia mentioned yesterday that he understood from some persons concerned in iron works, that these steamers had actually brought over iron at so small a rate as almost to put it on the footing of taking it in for ballast. Now, I think my friend's informant must have been mistaken. I learn from a source which is, I think, entitled to the highest credit, that not one ton of iron has ever been brought in these steamers as ballast. They do not want ballast, with the immense weight of their machinery, with the immense quantities of coal which they carry. One great object is to reduce the amount of pressure, and to enable them to move, therefore, with more rapidity. Sail vessels are in the habit often of carrying articles in that way, because when they are solid and heavy, it relieves them from the necessity of cumbering themselves with the ballast which they would otherwise require.

Then it seems to me that the discontinuance of this line involves the certain consequence of giving the whole steam communication between this country and Great Britain, and as a consequence of it, the steam communication between this country and the continent of Europe, into the hands of British steam-ship owners. There is no escape from it.

If I were now to suppose that a large outlay would be required during the whole continuance of this contract for a very small remuneration in the form of postages to the United States, I should, for one, be exceedingly unwilling to see this line go down. I do not exactly agree with my friend from Virginia. I do not believe that money is devoted to its proper purposes by being hoarded. I do not believe that money expended to advance the honor, to promote the interests, to maintain the supremacy of my own country, is ever otherwise than well and effectually bestowed—bringing that return which nations should consider as the highest and the best—the improvement of the condition of their people, the elevation of the character of the whole; for with regard to nations, the reputation of strength is strength. He who has established a character of invincibility will not be very likely to have his pretensions put to the test by an actual conflict. Nothing undoubtedly supports independent States more in the world than the reputation

of perseverance, strength, and inflexible integrity. But then is there any reason to suppose that we shall be left in such a situation?

My friend from Virginia does not believe that this line will be so prosecuted, or can be so prosecuted as to make an adequate return to the Treasury, in the shape of postages, for the expenditures which will be involved. Now upon what is that founded? In all our domestic concerns have we not ever found that the postages of the country are upon the increase? that every facility given to correspondence increases correspondence, and that just and reasonable reductions upon the prices of postage are followed by a large increase in the amount received from postages? Postal arrangements by steam-vessels are now in their beginning. They are just in the commencement, where they are showing us what they will do. I entertain a strong and confident expectation and hope, that if we give the required assistance to this line it will be able to maintain itself, and overmaster the competition in which it is now engaged; and that in a few years we shall have not only the satisfaction of knowing that our country has maintained, increased, and consolidated its reputation in the eyes of the world as a great naval power, as a nation of enterprise and untiring perseverance, but that even in a pecuniary point of view we shall receive the just reward of this high and elevated course of conduct, by having immense amounts of money poured into the Treasury. What has been the increase already? Why, the increase of last year over the year before makes nearly \$200,000. Who shall set bounds to it? No one.

If, therefore, it were to be viewed solely as a question of dollars and cents—as the outlay of money with the expectation of a return in money—I think the case is one which, if my friend from Virginia would bring his peculiar tact to bear of calculating, which, as the chairman of the Committee on Finance, he ought to do, how much will be received for a given sum laid out, he will see that even upon that mode of treating this subject, and keeping a careful and watchful eye upon the Treasury, we are likely to bring a great deal more into it than will be paid out of it by this proposition.

Then, Mr. President, there are other considerations connected with this matter. These are war steamers. They enable us not only to accomplish the mastery, and to insure victory in the peaceful contest of skill and enterprise in which we are now embarked, but they are well calculated, in the event of another and bloody contest, to enable us to maintain in that the same superiority. My friend from Virginia thinks they are not calculated for war steamers. I have heretofore said on another occasion, that I should consider them as capable of being efficient vessels of war until the contrary had been demonstrated by experiment. And why, sir? They were built for vessels of war—they were built under the direction of the Navy Department, directed and superintended by all the skill in naval construction of which that Department is master. Every requisition made by Government in their construction was fully and completely complied with, and with regard to strength, the requirements of the Department were even exceeded by the proprietors of the line.

Mr. HUNTER. I dislike to interrupt the gentleman, but does he mean to say that these steamers are built of white oak, as ships of war are built?

Mr. BADGER. I said they were built according to the requisitions of the Navy Department. Although I once had the honor to be at the head of the Navy Department, I do not claim for myself a perfect acquaintance with all the details of naval armament. I do not say that I have not the time, but I have not the energy of my friend from Virginia, to make myself acquainted with these particulars. I take my position here. I have no skill in such matters; I pretend to none. These vessels were built under the direction of an act of Congress, which required that they should be built under the superintendence of the Navy Department. They were built under the supervision of

the proper officers of the Navy Department—those officers to whom the Government trusts when it builds ships of its own, to see that they have the necessary qualities. I suppose that when my friend used the term "white oak," he did not mean "white oak," but "live oak." I understand from my friend from Rhode Island, [Mr. CLARKE,] who comes from a quarter of country where every man understands these matters, even Senators, that they are built of white oak, though not of live oak.

Mr. HUNTER. The Senator from Florida, [Mr. MALLORY,] who is acquainted with these subjects, tells me that they are planked with pine, and not with white oak, as is usual with vessels of war.

Mr. BADGER. Well, sir, I was not speaking of planking. I was speaking of timbers.

Mr. HUNTER. The strength of vessels depends in some degree on the planking.

Mr. BADGER. I wish my friend from Florida would get up and give his testimony now.

Mr. MALLORY. What testimony is it?

Mr. BADGER. I do not know. You are not my witness. [Laughter.]

Mr. MALLORY. If the question is what the steamers are planked with, I will say that every ship that I have happened to know anything about, built under naval directions, has been planked with oak planks. The Collins steamers are planked with pine. If they are not, they have been officially misrepresented. The timbers and frames of naval vessels are live oak; and the timbers and frames of the Collins steamers are a mixture of live oak, locust, and pine.

Mr. BADGER. Well, be it so. I would ask the Senator from Florida one question. He says these steamers are planked with pine. Are they not planked with southern pine?

Mr. MALLORY. Certainly, sir.

Mr. BADGER. Enough said. If they are planked with southern pine, it is a great deal better than northern oak. [Laughter.]

Mr. MALLORY. All I have to say is, that it has not been so considered by the naval authorities of this country, who have uniformly preferred oak.

Mr. BADGER. That is because they have inclined to Northern interests. I am very happy to say that they are coming round. I am for Southern pine against Northern oak. The naval constructors had the direction of these vessels, they were approved by them, and they were accepted by the Department. As I have said, and now repeat, I shall consider them as competent steam war-vessels, until, by some experiments, the contrary shall be shown. Nothing can be urged against this but opinion. My friend from New Jersey [Mr. MILLER] the other day, read two brief opinions upon this subject, one from the naval constructor, and the other from one of the most eminent gentlemen who belong to the Navy.

Commodore Perry, in a letter to the Secretary of the Navy, says:

"According to my calculations, the cost of the conversion of either the before-mentioned vessels, exclusive of armaments, repair of machinery, &c., would not, or certainly ought not to cost for each steamer over \$20,000; and it could readily be done for this at any of our navy-yards. With respect to the description and weight of their respective armaments, I am clearly of the opinion that the first class steamers already named could easily carry four 10-inch Paixhan guns on pivots—two forward and two aft—of the weight of those in the Mississippi, and ten 8 inch Paixhan guns on the sides; and this armament would not incommode the vessels, and the weight less than the ice, which is usually forty tons, and stowed away in one mass."

Again, he says:

"In the general operations of a maritime war they could render good service, and especially would they be useful from their great speed as dispatch vessels, and for the transportation of troops, always capable of attack and defense and of overhauling or escaping from an enemy."

"The Atlantic, Pacific, Baltic, and Arctic have all been built, inspected, and received by the Navy Department."

My friend from New Jersey also read a letter of Mr. Grice, very well known for his skill as a naval constructor. He says in a letter to the chairman of the Committee on Naval Affairs:



UNITED STATES NAVY YARD,  
PHILADELPHIA, April 14, 1852.

SIR: In answer to yours of the 13th, I have to state, as chief naval constructor, the specifications for building the Collins line of steamers were submitted to me, and approved, as in accordance with the act of 3d of March, 1847. They can be converted into war-steamers to carry a battery equal to our largest steam frigates, in a short time, and the necessary alterations to be made to receive such a battery will not exceed a cost of \$20,000 each.

I am, sir, with great respect, your obedient servant,  
FRANCIS GRICE.

To the Hon. Wm. M. GWIN,  
United States Senate, Washington.

We have, then, the opinion of Commodore Perry, that these vessels, in case of a general maritime war, would be exceedingly valuable, not merely as transports, as my friend from Virginia seemed to suppose, but that they would be pre-eminently valuable for war purposes, from two considerations—first, their superiority of speed; and secondly, their power both of attack and defense.

But my friend from Virginia seemed to be of opinion that speed was not any recommendation to a war vessel. "What!" said he, "do we prepare our ships with speed in order that they may run away from an enemy?" I answer, Yes, when there is occasion to run; and we should furnish them with speed to overtake an enemy when there is occasion to overtake him. However dignified and lofty it may sound for a gentleman to say that he does not think it a recommendation that one of our ships-of-war should have speed to escape from an enemy, yet tried by its practical application to things, every man knows that there are occasions in the history of all bodies of men, whether they serve by land or by sea, where nothing is of more importance than to have speed, in order to escape a foe whom they cannot overmaster or successfully resist. My friend from Virginia should recollect, that the very speed which enables them to escape a superiority of force, carries them also with triumphant power and unexpected suddenness, which gives additional force to the attack upon an enemy whom it is desirable to meet, and against whom they are capable of successfully contending.

It seems to me, then, that in either view of the subject, first considering these vessels as mere instrumentalities for the transmission of intelligence, and maintaining our postal arrangements, we have every reason to believe that the money which this amendment proposes to give, in addition to their present compensation, will be amply remunerated to us. And, in the second place, if this were not so, we have, what is of great importance to us, the four largest and fleetest steamers in the world, ready at any and at all times to be incorporated into our warlike marine. The Senator from Virginia talks about there being six or eight weeks required for preparing them for war purposes. Now, they can be speedily prepared, and at a very small cost. What that "speed" means is very readily shown by the extracts which were read yesterday by the Senator from Texas, [Mr. Rusk,] showing that, in the British service, the change of steamers into vessels for war purposes was accomplished in three days, when it was desirable to convert them into vessels-of-war.

But, in order to avoid any difficulty whatever in regard to the supposed loss which the Government is ultimately to sustain, I have an amendment which I mean to propose, if the Senate shall adopt the amendment now under consideration, as a proviso, for transferring to the Post Office Department the charge of this line of steamers, and supposing it should result in such great loss, after a fair experiment has been tried upon the subject, authorizing Congress to discontinue the contract. This, I think, will relieve the amendment of all reasonable objections. I have no fear, myself, that Congress will ever be called upon to exert such a power. On the contrary, I believe that the longer the line exists and is maintained, the more the hearts of the people will cluster around it as a source of national advantage and national pride.

There is, however, Mr. President, one other objection, which has been sometimes urged against this amendment. It is said that, supposing the amendment to be proper in itself—supposing it is proper to be adopted upon a suitable bill, and at a suitable time, it is not a proper amendment to put upon this bill. Upon that subject I wish to say a few words. This is a bill to supply deficiencies in the

appropriations for the service of the present half fiscal year. In my opinion, the amendment is in itself proper, and suitable to this bill. It will be recollected, that, during the recess of Congress, the heads of the Post Office and Navy Departments came to an arrangement or understanding with the proprietors of the Collins line, that they should increase the trips from twenty to twenty-six per annum; that they should commence the increased service on the first of January last, and that they should trust to Congress affirming what had been done, and for fixing the rate of additional compensation, if any should be given. The subject was brought to our attention by reports from the proper Departments. Now, if Congress think proper to give their sanction to this arrangement, there is a deficiency in the appropriations made at the last session for this half fiscal year. I cannot conceive why this provision is not as appropriate to this bill as any of the other provisions which are contained in it. True, sir, the necessity for this appropriation did not exist when the general appropriation bill was passed; true, the arrangement which has caused this deficiency has been made since the close of the last session of Congress; true, it has arisen under a conditional understanding and agreement, subject to the ratification of Congress; but still, if we are disposed to ratify it, we give it validity and effect from the commencement, and thereby produce the very deficiency which this appropriation is intended to supply. But suppose that it is not so. Forms must yield to substance. There is a necessity sometimes for disregarding the ordinary routine in which business is discharged, and to accomplish what is necessary at the time and in the manner in which it can alone be accomplished. Now, if this amendment is not put here, it will be too late. The moment it is rejected, we shall be called upon by this company to discharge them from the obligation of running the line which they are now running at such ruinous sacrifices—a call which we cannot, without great injustice and want of generosity, resist. The consequence will be, if this amendment is thrown out upon an idea that it is not appropriate to the bill now pending before the Senate, that the line will go down.

I had in my possession a few days ago (and which, I am very sorry to say, I have lost) a letter addressed to my honorable friend from New York, [Mr. Fish,] by a very distinguished citizen of this country, well known as once a member of the other House from the State of New York—well known for being one of the most liberal, intelligent, and enterprising of American merchants for many years. I mean Moses H. Grinnell. He wrote a letter to my friend from New York upon the subject of this line, and with that letter I had proposed to support, as by authority, some of the suggestions which I have ventured to throw out. I have unfortunately mislaid it. In that letter he says to my friend, it might be supposed that the maintenance of this line would operate injuriously upon the large packet interests in which he is concerned. But he says that he wishes him distinctly to understand that his pride as an American would never permit him to suffer any such paltry interests of his own to stand in the way of the maintenance of a line which was reflecting such distinguished honor and bringing such distinguished advantage to the country. Besides, he says, that even that view must be considered to a great extent fallacious; because, if this line were discontinued, it would do nothing for the sailing packets, but would merely throw what is now transported of passengers and of freight by the Collins line entirely into the hands of the English steamers. He makes another remark, that enterprising and intelligent merchants who look far ahead—further, I believe, than politicians or even statesmen, for their horizon is generally bounded by the approaching presidential election, and we are too much in the habit of controlling our views and circumscribing our patriotism by considerations connected with the advance or defeat of a particular party—see in the present condition of Europe symptoms of such an outbreak there as may necessarily involve the removal, temporarily at least, of the Cunard steamers from the purposes to which they are now devoted; and, if then the Collins line should go down, one of the greatest benefits to commerce that this country or the world has ever experienced—that of speedy, prompt, almost instantaneous communication be-

tween Europe and this country would be entirely destroyed. So that in any event, whatever may be the case, he is clearly of opinion that the honor and the interests of the country equally require that Congress should give it such aid as is necessary to enable it effectually to succeed—not doled out with a grudging hand, but given with the spirit of men who realize what is their duty to themselves and their country, and who are resolved to discharge it.

Mr. President, I have occupied rather more time than I intended upon this subject. I wish to conclude by merely saying, that though personally I am as far removed from any connection with, or any immediate advantage from, the Collins line, and all the various facilities it affords, as any other gentleman on this floor, and perhaps as any other gentleman in this country, yet, as an American citizen I should deeply regret to see that line go down. I should regret it from a just and honest pride in the superiority of my country—regret it from an eager and anxious desire to see all her interests developed, and to see her growing in wealth, and in power, and in reputation. If we give this assistance, and if, having supported this line with all the available means in our power, we should at last, in a fair contest, be beaten by our English rival, I should regret that, deeply regret it; but I should feel that we had suffered no disgrace, for he who does all he can, and is overmastered, may be unfortunate, but he can never be looked upon with contempt. But if we voluntarily recede from the undertaking in which we are embarked—if we withhold the necessary aid—if we say to England, "Take possession of this great line; we retire from the contest; be you the mistress of the seas in the estimation of all the world; and let us sink into a secondary, contemptible position"—if we should do that, I should feel that we had not only committed a false step, had not only lost what we might have maintained, but had covered ourselves with dishonor. From that I hope my country will ever be safe.

Mr. SHIELDS. Mr. President, I do not mean to occupy the attention of the Senate for more than two or three minutes, under the hope and expectation that the vote will be taken upon this amendment to-night. I should be sorry to say a word which would interfere with the excellent impression which the able speech of the Senator from North Carolina must have made upon the Senate. I shall vote for this amendment. I shall not go into the reasons for that vote. I wish simply to state that there is no enterprise, whether military or civil, in which this nation has been engaged in this age in which I have felt as deep an interest as in the enterprise which is now under debate. There is none that has excited my admiration so highly as this has. I may, perhaps, be incompetent to judge of it, because I have regarded it with a species of feeling that amounted to admiration. I have looked upon it from the commencement as a great trial—as a great contest between American skill, American energy, and, I might add, American perseverance, and the same qualities on the other side of the ocean. When this line was commenced, England had possession of the oceans of the world. She had taken this new power of steam which, in fact, is an American power. She had recovered herself from what the world was beginning to look upon as an expected fall. In sailing vessels, Americans were excelling England. She was beginning to lose her prestige. She then seized this new and wonderful power. She has, by means of it, seized the great lines of the world; for at this moment England has the great lines of trade and travel over the oceans of the world, with the exception of this one. I might enumerate them. There is something remarkable in this. She is levying contributions at this moment, through the medium of her great steam lines, upon the whole globe. In the Mediterranean, in the Baltic, around the Cape of Good Hope, in the East Indian seas, and in the West Indian seas, in the Gulf of Mexico, in South America, and across the Pacific. All these lines are at this moment in the hands of England. She is deriving a revenue from the trade, the commerce, the business, and the correspondence of the whole globe through the medium of this power. This was the condition in which England was when the Collins line was established. For one, I confess I am gratified at the result. The Collins line, so far as it has gone, has determined, as has been

already stated, the superiority of the American line over any other in the world.

I am not going to make a speech, but I will say that to build up a great line, to place it in competition with a line long established by Great Britain, to see that line eminently successful, and then to permit it to fail is to me a most extraordinary policy. How shall we stand when this line goes down? Will it not be an abdication, as it were, of the whole ocean navigation, so far as this country is concerned? Where will you have a line to compete with England, when you permit this line to go down? Where have you a line that can live upon the ocean, but this? Not one. And do you expect, sir, as was stated by the honorable Senator from Virginia, that after you shall have allowed this line to go down, which furnishes four of the best steamers in the globe, you can reestablish lines to enter into competition with the old established lines of Great Britain?

The honorable Senator from Virginia, has made one statement in which I cannot concur. He says he wants to see the Navy and the commercial marine separated. That is not the problem, permit me to tell him, which steam is working out. On the contrary, so far as we have yet gone, steam is working out a new problem—and that is, that you can have an efficient Navy, which will add to the wealth and prosperity and business of your country, in time of peace, while it is waiting for perhaps fifty years, burning coal and exhibiting herself, for no earthly purpose but merely to be ready for the contingency of war.

Sir, I see at this moment, that in the East Indies the English have converted their whole commercial steam marine into an efficient Navy, for the purpose of aiding in the Burmese war. Yet there is not in that whole region, one vessel which is comparable to any one of the Collins line. The report from there to England is, that these vessels, when they have been thus converted into naval steamers, are likely to be as effective as any vessels now in the English service.

Mr. President, I will merely add this: If we let this line go down now, after the immense expense that has been incurred in its establishment; if we let it be abandoned, I will venture to predict, that so long as the Government of Great Britain aids the people of Great Britain, both united, in sustaining their line, the free competition of which the gentleman from Virginia speaks, and which is right in principle, can never be seen. While the competition was between the American people and the English people, the American people were successful; but when the English Government and the English people, united with the immense capital of their country, have devoted the whole energies of that nation to the building up and monopolizing the steam power of the world, it is idle to talk about American citizens entering into competition with them. It is out of the question. You will have to bring home your lines, and confine yourselves to your own inland trade, and to your interior commerce; but never again, in my humble opinion, if you abandon this line, can you enter into competition with Great Britain on the ocean, so far as steam navigation is concerned. Her Government, and her people, and her capital, all unite in sustaining her lines. England has never made such an effort as she is now making to build up a steam commercial Navy. She has recovered the dominion of the ocean by it within a few years. In the face of all this, if you let this line go down, and risk it to private competition at the present time, you will never again find four such steamers as the Collins steamers plying the Atlantic, at least in our day.

Mr. JONES, of Tennessee. Mr. President, I do not intend to trespass upon the Senate with any speech upon this subject. I simply desire to state a difficulty I have in giving my vote for this proposition, with the hope that some of its friends may be able to remove it. I am as anxious, I think, to sustain this line as any gentleman who is in favor of this amendment; and I confess that the sentiments uttered by the gentleman from North Carolina weigh very largely with me. The patriotic view that he has taken of it, the nationality of the question, has affected my mind. I repeat, I am as anxious to sustain this line, I think, as any Senator upon this floor; but with the impressions that I have, and with my convictions of duty to the whole country, I am not prepared to give my vote for this amendment as it is. One

difficulty that operates very much to bring my mind to that conclusion is this, and I have sought in vain thus far from the advocates of this proposition to get an explanation which was satisfactory to my mind. We are paying the Collins line above \$19,000 per trip. The English Government is paying the Cunard line, according to the statement of the gentleman from Virginia, \$14,000 a trip. The Senator from Texas yesterday said that there was an error in the estimate of the gentleman from Virginia, and that the Cunard line were receiving £175,000 per annum. Taking that calculation, then, I find that the Cunarders are receiving between \$16,000 and \$17,000 per trip. We are paying the Collins line \$19,000 a trip; and this proposition is to extend it from \$19,000 to \$33,000 a trip. Taking, therefore, the largest estimate which has been made by the friends of this measure for the Cunard line, to wit: the £175,000 per annum—it makes between \$16,000 and \$17,000 per trip that the Cunarders are receiving. We are asked now to give the Collins line \$33,000 per trip. I confess there is a vast difference between these two propositions, and I cannot for the life of me see how it is possible that our vessels cannot run for less than \$33,000 per trip, when the Cunarders run for \$16,000 per trip.

I know the argument which has been made by the Senator from Rhode Island, [Mr. JAMES,] and reaffirmed by the Senator from North Carolina, [Mr. BADGER.] It is this: That the difference is to be found in the magnitude of the vessel—in the size of the vessel, and the increased cost of running a large vessel over a small one. They argue from that that there is the difference, and that we are justified in making the additional compensation from \$19,000 to \$33,000 a trip. Now, I think there is some mistake about this. I do not profess to have the slightest knowledge upon the subject of navigation; but I do profess to have a little common sense about machinery; and to know that there cannot be that difference between the running of a large vessel and a small vessel, which gentlemen seem to assume. It takes no greater number of officers to command a large vessel than a small vessel. The only difference between running a large vessel and a small vessel, is the amount of the consumption of fuel, and the additional number of hands necessary to supply that fuel. The same captain—the same officers—the same engineers—the same pilots—all are identically the same in a small vessel as in a large one, and therefore there cannot be the difference that is claimed. How will the account then stand? The Cunarders average a little less than two thousand tons per vessel. The Collins vessels are three thousand tons a ship. The Cunarders then receive \$8,000 per ton. For two thousand tons burden they receive \$16,000 a trip. Our vessels are three thousand tons; and if we give them \$8,000 for each ton, it would amount to \$24,000 a trip, and this is the maximum to which gentlemen can carry it by their own arguments and their own estimates. Assuming their ground to be true, that just in proportion as a vessel increases in magnitude and tonnage, in the same ratio you must increase the expenditure for running her, and you cannot get above the sum of \$24,000 per trip. That is my difficulty. If gentlemen can remove it, I am as ready to vote for the proposition as they are.

I should regard it as a national misfortune if this enterprise should fail. I think our pride is enlisted in it. As an American citizen, I am willing to sustain it as far as I can, consistently with my convictions of justice to the parties interested, and to the whole country. But if we are to go on increasing the compensation from \$19,000 to \$33,000 per trip, in my humble opinion, humiliating as it may be, it is better for us to abandon it at once. If this will not sustain them, where shall we find means to sustain them? If this line requires this enormous extension of patronage from the Government, every other line under the patronage of the Government is justly entitled to a like extent. Where is this thing to end?

If gentlemen can satisfy me as to this difference between the two lines, and show me that there is justice or equity in allowing the sum proposed in the amendment, and that it will work no evil to all the parties interested, I am ready to go for it. But with the lights now before me, I shall be reluctantly compelled to vote against the amendment, unless it can be altered in some proper form.

I am willing to vote a large and liberal allowance. I am willing to carry it up to perfect and full equality with the Cunarders. I am willing to go somewhat beyond that; but when you ask me to vote \$33,000 per trip, I am not prepared to stand it just now.

Mr. BADGER. I intimated a short time ago, that I had an amendment which I should propose, if the Senate should adopt this provision for the increase of compensation. I have been requested by some of my friends to read it, in order that the Senate may understand what it is. It is this:

*Provided*, That the contract for the transportation of said mails be, and hereby is, transferred from the Navy to the Post Office Department; and the Postmaster General is hereby required to contract with said steam-ship company, to carry said mail in their present steamers, at the rates aforesaid, payable out of the Treasury, for the unexpired term of the original contract; reserving, nevertheless, to Congress, the right to direct the Postmaster General to put an end to the contract at any time after the first day of December, 1854, upon giving six months' notice thereof to said company.

Mr. HALE. I want to ask the honorable Senator from North Carolina, who proposes the amendment, whether he contemplates the abandonment of the clause permitting these vessels to be used contingently for war purposes?

Mr. BADGER. It contemplates giving to Congress the power of putting an end to the contract on such terms as it pleases.

Mr. HALE. I think the Senator from North Carolina does not understand me. Does he, by this amendment, look to abandoning the idea that these vessels are to be converted into war steamers, whenever they may be wanted as such?

The PRESIDENT. The paper which the honorable Senator from North Carolina has read, is not an amendment properly before the Senate. It is only one which he intends to offer.

Mr. BADGER. I would say, in explanation, that I do not propose anything about it. I propose to reserve to Congress the right, after that time, to put an end to the contract. If the contract is put an end to, I suppose that terminates it.

Mr. HALE. My idea was, that by turning over this matter to the Postmaster General's Department instead of the Secretary of the Navy, we might lose the war feature.

Mr. BADGER. Not at all.

Mr. PRATT. I want to ask my friend from Texas, or the Senator from North Carolina, two questions, if they can answer them. I wish to know what is the cost of the English steamers; and then I would like to know the cost of the American steamers? I wish to know the relative original cost of the Collins and Cunard steamers?

Mr. BADGER. I understand that the English vessels cost about two-thirds what the American vessels cost.

Mr. HUNTER. Does the Senator mean the whole of the vessels?

Mr. BADGER. Each vessel.

Mr. PRATT. My object in making the inquiry was to suggest to the honorable Senator from Tennessee, whether that fact does not furnish an answer to the argument which he makes. His argument is, that the English Government are paying \$8,000 per ton; and that if you make the same payment to the American vessels, it would make \$24,000 instead of \$33,000 per trip. He asked whether any gentleman could show him why there should be a reason for the increased payment to the American vessels according to the tonnage? and that if it could be shown, his mind would be relieved from all difficulty and he would go with those who support this amendment. Now, in the first place, if one vessel costs a million of dollars, and another costs five hundred thousand dollars, the insurance upon the vessels which cost a million would of course be double the insurance upon the other; and the cost of repairs, the damage or deterioration by the use of the vessel would be, of course, in proportion to its original cost. Then, the interest on the money invested in a vessel costing a million of dollars, would be double the interest on a vessel which only cost five hundred thousand dollars. Therefore, according to my humble judgment, the reason which the Senator from Tennessee assigned for the difficulty which prevailed with him is certainly answered, if, in his own mind, he will only run over these considerations.

Mr. JONES, of Tennessee. Mr. President, I am much obliged to the Senator from Maryland for his kind effort to enlighten me on this subject; but I am sorry that I do not perceive it. Now,

if he assumes that the difference in the cost of these vessels is to determine the question of payment, why, I would say to the Senator, we allow that difference in the increased price we have paid. The cost of a vessel is to be determined by its size and finish. The burden of our vessels being three thousand tons, and of the Cunards two thousand tons, we are adding one-third, we are paying an additional eight thousand to our vessels expressly on the ground of their superior cost and the consequently larger expenditure in running them. But, then, if the gentleman's argument amounts to anything, it seems to me it is on the other side; because the vessels of the Cunarders, in the aggregate, cost much more than ours in the aggregate. If the argument of the Senator from Maryland, therefore, proves anything, it proves exactly the reverse of that which he assumes.

Mr. RUSK. Mr. President, the Senator from Tennessee seems to leave out of view the fact, that the receipts of the Collins line and the Cunard line are rendered greatly disproportionate by the fact that the Cunard line makes more trips than the Collins line. Now, as far as the carriage of letters is concerned, as far as mercantile transactions are concerned, as far as the transmission of freight and valuable merchandise is concerned, promptitude and dispatch are important. Does not the honorable Senator from Tennessee see at once that of two rival lines, the one passing oftener between two different points would come in for the larger amount of freight? Does he not see, besides, that this one would get the largest amount of passengers over the other steamships? And that is one of the important elements which has caused this disproportion in the expenses and remuneration of these different lines.

There is another thing which he seemed to forget, and that is this: The Cunard line had something like ten years the start of the Collins line. They had machine shops, because they had gone more largely into the building of steamships in England than in the United States. At the time this enterprise was undertaken by Mr. Collins and his associates, there were, as I understand, no shops here sufficient to make machinery for the vessels, and a large portion of it had to be purchased in England and imported. In addition to this there were no experienced engineers here whom they could put in charge of the vessels. They had to hire foreign engineers at a very large price, more than they now have to pay. This fact, while it accounts for the difference between the two lines, shows one important reason why you should sustain this line.

Four years ago you could not have built a war-steamer of the size of one of the Collins steamers. You would have had to depend for the machinery upon Great Britain. Now you can build one in case of emergency. Four years ago you had no engineers who could be trusted with the charge of ships of this description across the ocean, because you had not entered into the business. Now you have plenty of them, and, perhaps, better engineers than there are in England.

There is another matter which should be taken into account, which manifests itself in the Senate—manifests itself all over the country, but which does not manifest itself in England. It is a sort of disregard of American enterprise. If the Senator will look into the facts, he will find that Americans patronize the Cunard line, and, therefore, enable it to make more profits than the Collins line can make. He will find that the freight of American houses go by the Cunard line. Ay, more, if he will investigate this subject to the end, he will find Americans writing in the newspapers for the purpose of breaking down the Collins line—for British interests and British influence.

I will not pretend to go into all the items which show this difference; but I have given some, and I can give more that conclusively accounts for it. In England, I understand that coal is three dollars per ton; and in this country I believe it is six dollars per ton.

There is another important item which enters into the expenditures in the first instance. These ships, when they first went to England, were so large that there were no docks there into which they could enter; and these gentlemen, as I understand, had, at a large outlay of money, to build docks there for the entrance of these ships.

There are many considerations of this description, but the question to my mind is now: Will

you abandon the enterprise, and force your citizens, whether they will or not, to pay ten or a hundred, or a thousand times perhaps, more in the shape of money to the Cunard line, for the transmission of freight, passengers, and letters, to be taken from the pockets of American citizens and transferred to the coffers of the British Government, to strengthen a steam marine vastly superior to our own in numbers? This, as it seems to me, is the question.

Mr. JAMES. I merely rise to address one remark to my friend, the honorable Senator from Tennessee, [Mr. JONES,] on a matter of fact. The Cunard line now receives from the British Government \$5 75 per ton for each of these steamers that cross and recross the Atlantic. The Collins line, allowing \$33,000 per trip, will only receive \$4 82 per ton; something like twenty per cent. less than is now paid to the Cunard line. One other fact, and I am done: I am not as well acquainted with the cost of building steamships in England as I am with the value and cost of all kinds of English machinery; but I can say that there is a difference of thirty-three and one third per cent. in favor of English machinery in cost. That being the fact, I presume that the English steamers are built at about that difference less than the same vessels could be built for in this country. That is all I have to say.

Mr. SEWARD. I have to submit one remark for the consideration of the Senator from Tennessee, [Mr. JONES.]

The rate of interest in England is three per cent.; the rate of interest in this country on capital employed in operations of this kind, is seven per cent.; a difference of more than one half. That would make a difference of between \$210,000 and \$135,000 against this company. The rate of wages for the persons employed as captains, engineers, and common seamen, is about one third higher in this country than in England. The rate of insurance in this country is six per cent., and in England three per cent.; the insurance on the Collins steamers amounts to about \$175,000 a year, or one half of all the compensation received from the Government of the United States. These items make up very largely the difference that the Senator wishes to have explained. I will state these items more carefully and specifically:

Insurance on the Cunard line of steamships, valued at \$500,000, at three per cent. in England, is.....	\$15,000
Insurance of the Collins line of steamships, valued at \$700,000, at six per cent. is.....	42,000
The total insurance on the Collins line is.....	168,000
The total insurance on the Cunard line is.....	60,000
Making a difference against the Collins line of....	108,000

These items show that we are contending against a very powerful competition with England. I know that the inference will be drawn, that if we contend against such disadvantages, we may as well retire from the contest; but I submit to the Senator, and to all other Senators, that there have been precisely the same disadvantages in the ordinary trade of the country—in the merchant marine; and, notwithstanding these disadvantages, arising from the deficiency of capital in this country, and from the deficiency of persons skilled in the management of such vessels, yet we have excelled Great Britain in the other branch; and, therefore, there is no reason to suppose that we shall not equally succeed in this, provided we continue the competition.

Mr. BORLAND. Will the Senator from New York [Mr. SEWARD] permit me to ask him a question? Whether he states it as a fact, that the Collins and Cunard steamers, both lines plying between Liverpool and New York, pay different prices for the labor they employ, for the fuel they consume, and also pay different rates of interest? That is, are we to understand it as a fact that in the business transactions of this country, as compared with those of England, the business of two lines of steamers, owned and conducted by intelligent business men, is conducted and carried on at double the expense by one as compared with the other?—that, while insurance offices are opened in England and in the United States, Cunard gets his steamers insured for three per cent., and Collins is obliged to pay six per cent.—that, while the price of coal in the United States is double what it is in England, that Collins, although going backward and forward between Liverpool and New York for months, pays double the amount in New York that Cunard pays in Liverpool?—or that he pays double the amount of salary to his

sailors and officers, when he can employ them on one side or the other, just as he thinks proper? If these are facts, to my mind they are astonishing facts. I should like to know whether they are correct or not.

Mr. JONES, of Tennessee. I do not rise for the purpose of detaining the Senate. It was not my intention to say another word on this subject. I simply desire information, so that I may not be called upon to vote in the dark. I confess, however, that the further I go, the worse I get. There is something in the remark of the Senator from New York, [Mr. SEWARD,] that does go to account for this difference; but I want to know from that Senator, and from the friends of this measure, if the allowance which is here asked for, is to be supported on the ground which he assumes? If that be so, and if the advocates of this amendment will withdraw it as it is, in its present restricted shape, and make it a general proposition, applicable to every such case, I will go with them; for it is just the doctrine which I have advocated all my life—the doctrine of protection. Now, the honorable Senator from New York, in my judgment, predicates it upon the only ground on which it can be sustained, and the only objection which I have is, that it is a special law, whereas I am in favor of making the law general.

The Senator says that labor in England is cheaper than it is in America. That is the very argument which I have used in favor of protection to American industry. He says that the cost of building vessels in England, is less than the cost of building them here. That, sir, I again say, is the very argument which I have used in favor of protection to American industry. If that is the argument, I will go for it most heartily, provided you will make it general, and applicable to all similar enterprises.

But the Senator from Texas [Mr. RUSK] made a remark which attracted my attention. It was this: In attempting to account for this difference, or rather in attempting to assign a reason why the Cunarders could afford to run their ships for much less money than the Collinses, he said the difference was to be found in the fact that the first-named proprietors made so many more trips, and thereby secured a larger amount of patronage in the transportation of passengers and property. If that be true, then all that Collins has to do is, to run four or five times as many trips, and four or five times as many vessels, in order to have a complete monopoly of the whole thing. [A laugh.] Now, we are told that the Collinses cannot afford to run these vessels, because they are losing \$16,000 on every trip, when, according to the argument of the Senator from Texas, he has only to multiply the trips, and increase the number of his vessels, to secure an amount of patronage which will place him beyond the necessity of asking this patronage from the Government.

But another argument which that Senator uses is this: that there is an anti-American feeling that sustains the Cunarders, and disregards the Collins line. If that is so, all I have to say is, that the man who disregards it, violates a great principle of nationality according to the argument of the honorable Senator from North Carolina, [Mr. BADGER,] but, sir, no man will deny the right of an American citizen to give his patronage to whom he will; and when we hear of this anti-American feeling, I should like to know who are the guilty perpetrators of this outrage. [Laughter.] If they choose to give their patronage to the Cunarders, and then appeal to the Government to sustain the Collins line, I say that it is a flagrant outrage.

But, sir, I wish to know if the question does not resolve itself back into the same great and glorious principle of giving protection to American industry and enterprise? Put it upon that ground, and I am with you. Make it a general law, and let us give protection to American industry in all its departments, and I shall have my cordial support. If you will do that, I am willing to sit here till Christmas, provided gentlemen will aid me in passing such a law; but I am not willing to pass a special law to aid a particular company, and thus give to one individual, or to an isolated company, an advantage, to the injury of every other interest in the land.

Mr. HALE. It is getting late, sir, and—  
Mr. MANGUM. Let us have a vote.  
Several SENATORS. "Vote!" "Vote!"  
Mr. HALE. I only said it is getting late, sir—



Mr. CASS, (to Mr. HALE.) Move to adjourn.  
Mr. HALE. I have sat very patiently, Mr. President, and listened—

Mr. CASS. Move to adjourn.

Mr. HALE. Very well, sir; then I move that the Senate do now adjourn.

Mr. BORLAND. I ask the yeas and nays on that motion.

The yeas and nays were ordered, and being taken, resulted—yeas 17, nays 28, as follows:

YEAS—Messrs. Atchison, Borland, Brodhead, Brooke, Cass, Felch, Geyer, Hamlin, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Norris, Sebastian, Sumner, Walker, and Whitcomb—17.

NAYS—Messrs. Adams, Badger, Bayard, Bell, Berrien, Bradbury, Clarke, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fish, Gwin, Houston, Hunter, James, Mangum, Miller, Pearce, Pratt, Rusk, Seward, Shields, Smith, Stockton, Underwood, Upland, Wade, and Weller—28.

So the Senate refused to adjourn.

Several SENATORS. "Now let us have the question on the amendment!"

Mr. BELL. I had made some preparation a few days ago to give my views somewhat at length upon this subject; but I have dismissed all intention of doing so on account of the anxiety of the Senate to dispose of this bill. But now it becomes necessary, inasmuch as I may differ with honorable gentlemen on this floor with whom I should be very happy to agree, that I should state in a few words the ground on which I had expected to give my support to this proposition. I believe I stated to the Senator from North Carolina, [Mr. BADGER,] that I could not give my support to it, unless some modification were made. That modification has been proposed by him, either on account of what I said, or perhaps from a desire expressed by other Senators also. I have desired from the first, upon principle, and I expect a good deal upon feeling, to sustain this Collins line; but I have said to some of the more earnest advocates of the measure that I thought it would be more judicious that this proposition should be brought forward in some different shape from that in which it is presented.

I do not pretend to have a very intimate acquaintance with what is the cost of building or running these ships, or what are the probable losses which have been sustained, and may be expected to be sustained; nor am I able to calculate what amount of support this line must receive from the Government, if it is sustained. But I have knowledge enough, and I gather it from the papers that have been read and reported, and from the debates of honorable Senators, to be satisfied in my own judgment, that the running of the Collins line at this time does not cost \$65,000 per voyage. If I am wrong, I hope some gentleman will correct me. But still, that does not satisfy me that the amount of compensation claimed ought not, in justice and in liberality, to be awarded for the support of this line, for the present. The suggestion that I threw out with regard to bringing up the subject in a different shape was founded on this idea. I understood—from no verbal authority—I only infer it from the papers exhibited by different honorable gentlemen, that the estimate of the expense of running this line at \$65,000 per voyage, is founded upon the alleged original cost of these vessels, in the first place.

Mr. RUSK. No, sir.

Mr. BELL. I shall be very happy to be corrected in any item. But I will go through with the enumeration of the basis of the calculation of this cost of \$65,000. If it be based on the ordinary mode of calculating cost, I think I am right. The elements of that calculation must be founded upon the original cost; and when you have the cost, you can estimate the interest and other items of expense. Putting the cost at \$3,000,000, the interest at six per cent. would be \$180,000. That is one element of the cost per annum.

Mr. BADGER. The interest is seven per cent. in New York.

Mr. BELL. I calculated it at six per cent. Another element of the cost in making up the average expense per voyage to \$65,000, is the insurance upon the investment in the ships. Estimating that in this country at six per cent., it will amount to \$180,000 more. Then another element, and perhaps a more important one than either of those I have named, is the deterioration of these vessels. I have put that at ten per cent., including all the ordinary repairs of the vessels and their machinery. These I consider the true elements of the expense

for running these ships one voyage, so far as they go. The insurance upon \$3,000,000, the interest upon \$3,000,000, and the deterioration of the four vessels at a cost of nearly \$3,000,000, calculated at ten per cent., which last item amounts to \$300,000, making an aggregate cost per annum of \$660,000. Add to this sum the salary of officers, the wages of seamen, and the cost of fuel and of provisions for the year, and then divide by the number of trips during the year, and you have the average cost of the trip or voyage to Liverpool and back. I have put the loss by deterioration at ten per cent., though I see that the honorable Senator from Texas has put it at seven per cent. I think that ten per cent. is not too high, if we include ordinary repairs.

Mr. MILLER. It is rather too low.

Mr. BELL. It should, perhaps, be twelve per cent. But this is sufficiently accurate for the purpose of my statement.

If the honorable Senator from Texas should answer me upon this point, there is another element which I wish to know, whether it is proper to introduce into the calculation or not. As I understand, this \$65,000 per trip, based upon these elements, so far as they go, is not all. The \$65,000 is not the average cost of recent trips; it is the whole cost upon the twenty-eight trips which these steamers have made during nearly two years.

Mr. RUSK. The cost is computed up to December last.

Mr. BELL. Undoubtedly. What I thought would be more judicious and proper, would be to state this fairly. Not that I suppose it was intended to state it at all unfairly, but I want it stated so clearly that the country can understand it; because the country will be startled by being informed that these lines cannot be run without a government bounty of \$808,000 per annum. This \$65,000 includes the average cost of all the trips, and therefore includes the early losses incurred by the first experiments made by these vessels. I understand they did not know how to estimate the quantity of coal which would be necessary for their voyages, and, consequently, they found themselves out of coal midway of some of their first voyages. Hence there was a great loss of time, which makes a further element in estimating the cost so as to find the average expense of these twenty trips, or more. The \$65,000 includes also, the breakage of the machinery of the Atlantic, and her long detention in England, which, I suppose, alone must have been upwards of \$100,000; perhaps \$200,000. The immense loss consequent upon want of proper skill in making the machinery, is to be included. I presume I am right in making this estimate an element in making up the cost of \$65,000 as the average expense of each trip. Am I not right?

Mr. MILLER. I cannot say, sir.

Mr. BELL. I presume I am right. I beg gentlemen not to misunderstand me. I do not think that a fair consideration should not be given to all these circumstances. These vessels, as I understand, cost about \$200,000 each, more than they would have cost, if the machinery proper for the purpose of building their engines had existed in the country before this enterprise was undertaken. I apprehend that the cost of these four vessels together would have been \$800,000 less than the Messrs. Collins would have had to pay, if we had the adequate machinery and the adequate skill for constructing engines of the necessary size; and if adequate experiments had been made to test that skill. This patriotic company have made the experiment at their own risk, at a cost, as I believe, of \$800,000—which they would not have had to pay but for the experiment of constructing those ships, from the simple fact that no venture was made in this country on so large a scale at any previous time. The very object which they accomplished, of introducing large machinery for the manufacture of these great engines, I regard as a boon to this country; and I beg to remind the Senate, if I do not trespass on their patience, of a fact connected with this subject, which I read some fifteen months ago, I believe, in the book referred to by the Senator from Virginia, [Mr. HUNTER.] When the English Government resolved on making an experiment to test the value of screw propellers for war purposes, one of the first steps of the Admiralty was to give out a contract to eleven of the best engine manufacturers in England and

Scotland—not limiting the cost, but leaving a large margin for the contractors to derive some profit—by way of experiment. And further, to illustrate the liberality, and not the liberality merely, but the far-seeing policy and statesmanship of the British Government, they gave out thirteen contracts to the best ship-builders for the construction of the hulls of the vessels, in order that they might obtain a model of the fastest running water-lines, and at the same time vessels capable of carrying the greatest number of guns. That was the condition of England in regard to machinery; but what was the condition of this patriotic company when it undertook to put this line in operation? Then, or a short time previous, on the construction of the steamers Georgia and Ohio, by Law & Company, no machinery of this description had been introduced in this country—I am not aware whether they preceded the Collins company or not—but I say that the introduction of the machinery for the purpose of constructing the engines of these vessels as well as of the Georgia and Ohio, was an immense benefit to this country. I do not know how to estimate its value. Who can estimate its value? But I should think if we were to put it down at a million of dollars, considering all its results, it would be a very pitiful calculation.

I had occasion to make inquiry of one of the most experienced officers of the Navy not long since, what would be our condition if we were suddenly called on to meet the Navy of England, or that of any other maritime power of Europe, and I inquired how many of these large steamships could be constructed in a year. I ascertained that only four of the largest steamers could be built within a year. How is that? We have plenty of timber, and we have navy-yards and all the facilities for building vessels, but we have not the machinery. Even now, although we have had machinery introduced for building the engines of these large steamers, it is said that we cannot construct more than four vessels of this description in a year. The fact looked appalling to me. We have machinery which will manufacture the engines for the ordinary steamers of the Western waters and for the coast trade of the Atlantic. But the machinery which is required for the larger engines, setting aside the cost, is such as cannot be obtained upon an order. It must be built, and it requires, perhaps, a year to construct one of these large double engines.

I look upon the introduction of that kind of machinery into this country as a great point gained, and although I have not consulted any one upon that point, I think I may safely infer that the cost of the introduction of such machinery entered into the estimate of these ships. I do not think, therefore, when we have the skill and the machinery which we now have, that the fitting out of one of these ships will cost more than \$500,000; and if so, the cost of four such ships would be \$2,000,000. The insurance and interest upon that would reduce the expense of running them, by the difference of interest and insurance upon \$1,000,000, below what it is, estimating the cost at \$3,000,000. It is a little surprising, that gentlemen make calculations which they do without knowing the elements of them. The cost of running these vessels, by the estimate which has been presented, of \$65,000 per trip, undoubtedly includes the interest and insurance upon the \$800,000 of the extra cost of the vessels, as well as all the other losses incident to a first experiment of constructing and running vessels of this class. Now the question is, ought we to throw upon this company the burden of these losses? Ought not the country, in the exercise of magnanimity, to remunerate these gentlemen for their patriotic feeling and public spirit? I say they are entitled, for their public spirit, to a compensation. I say, for myself, that if this country will not compensate these gentlemen for their losses in taking the initiative in building these ships, it must suffer in the estimation of all liberal-minded men of every country. I would like to know what would be a fair compensation to these gentlemen, for running these vessels at this time, after all these experiments have been made. Then we should show the country what we are doing. I would then vote for a proper sum to indemnify them for the extraordinary cost of introducing this machinery of which I have spoken, and the cost of these vessels, and the necessary cost in making the experiments consequent upon their introduction upon the ocean. I would make

the country bear that loss, as far as my voice could go. I am willing to do this; but I am not prepared to say that I would vote the \$845,000, proposed as an annual compensation to this company for an indefinite time, or until the end of their contract. But I am willing to indemnify the company for the necessary expense and losses in taking the initiative in these experiments. I feel that the honor of the country is concerned in it, and that, as was observed by the honorable Senator from North Carolina, [Mr. BADGER,] the national spirit is kept alive by it.

If the Senate desires to take the question, I will conclude here; but I desire to state further, that, as the proposition of the Senator from North Carolina, [Mr. BADGER,] to limit the compensation proposed in the amendment offered by the committee to the year 1854, may indemnify this public-spirited company for the losses and extra expenses incurred in a new adventure, I am ready to give my vote in its favor; and we shall then be able to see what the remuneration ought to be thereafter, until the contract is closed. At first, and before they had established any character, travelers were afraid to venture across the Atlantic in these vessels; they had to compete with an old company; and people naturally held back; but, having established a character for speed and safety, I should suppose that both as regards passengers and freight, there will be a large increase; and when the limitation of time proposed by the Senator from North Carolina expires, we shall have the means of calculating with some certainty what the future protection and bounty of the Government should be.

Mr. HALE. I have never in my life known the courtesy of the Senate to fail, except upon one condition—

Mr. NORRIS. Will my colleague give way for one moment?

Mr. HALE. I am sorry to say to my colleague that I cannot. I gave way once, and I lost the floor.

A SENATOR. Go on, go on.

Mr. HALE. When I was up before, I was going to say that I had sat patiently through this long and protracted debate without opening my mouth, and I suppose there are some Senators who think that it must have been as great a trial to me as to others of the Senate to sit through this long debate, listening eagerly and patiently and anxiously without saying a word; but that has been my condition, and I have been amply repaid for it; for I have been instructed by a vast amount of eloquence in all its various characters—eloquence forensic and didactic—for which I have felt very grateful to the Senate in general, and to some gentlemen in particular, who have aided to enlighten me. But I felt still more grateful, still more gratified, when I saw the complacency of those gentlemen who had addressed the Senate, and enlightened our minds, so ready to call for the question; and the complacency with which they voted "no," when somebody else rose and moved an adjournment.

Mr. DODGE, of Iowa. Mr. President—

Mr. HALE. I do not blame you, sir. [A laugh.]

Mr. DODGE. The Senator from New Hampshire did not disclose the fact that he wished to address the Senate, or I should have voted for the adjournment. I hope the Senate will accommodate him now.

[Cries of "Adjourn!" "Adjourn!"]

Mr. HALE. I do not know how a gentleman can understand that a man wishes to address the Senate, except by his beginning to do so. I made a beginning, and the Senator from Michigan [Mr. CASS] suggested that I should move to adjourn. I made the motion, and the Senate refused to adjourn. I think we had better have a vote to-night.

Several SENATORS. "Adjourn!" "Adjourn!"

Mr. HALE. No, no; you must have a speech whether you take a vote on the question to-night or not, because the floor is mine, and I promise I will be very short. I say I could not but be gratified with the complacency with which some gentlemen refused to adjourn; but I excuse it on the same ground on which a celebrated Mohammedan conqueror justified the burning of the Alexandrian library. He said if it contained anything contrary to the Koran, it ought to be burned; and, on the other hand, that if there was nothing there but

what coincided with the Koran, then it was unnecessary and useless, and ought to be burned.

Mr. President, I do not expect to enlighten anybody upon this subject; but I rose simply to say, that from the beginning I have been in the situation of a friend of mine in one of our New Hampshire towns at the time of a public election. He was sent out among the voters to canvass, and to see how they stood. When he returned, he said, "In one district they are all Whigs but four, and they are doubtful—of which I am one." [A laugh.] That was just exactly my case in reference to this amendment. I felt an earnest and anxious inclination to vote for it from the first. I felt that there was a sort of "manifest destiny" that I should vote for it; and it strikes me that the opponents of this bill who have undertaken to discuss it on the supposition that it bears any analogy to anything else have mistaken its character. Sir, this belongs to the "manifest destiny" question. [Laughter.] I suppose, sir, that we are bound to have a contest with England in regard to superiority in these matters, and the "manifest destiny" is that we shall beat them. It belongs more exclusively to that school of questions than to any other, not excepting the question of the annexation of Texas, which was a pure one of "manifest destiny," (my friend from Texas will excuse me,) as exclusively to that school as any other question which was ever before the Senate. Now, I confess that that is sufficient. It is said that one good reason for anything is generally sufficient, without any other. I recollect once hearing of an attorney who got up in court to make an excuse for the absence of his client. He said he had many reasons—a dozen or fifteen good and sufficient reasons why his client was not there, all of which he would lay before the court, if necessary; but the first one that he had to assign was that his client was dead, and could not come, [laughter,] and the court very wisely decided that that reason was sufficient, without adducing the other fourteen. And, sir, it appears to me that this reason of "manifest destiny" is a good and sufficient reason why I should vote for this amendment.

But, sir, there is one view of this question which will influence my vote, and I shall vote for the amendment without going into an examination of these details, for I am not able to go into them—and it is this: I see, by a document to which the Senator from Kentucky [Mr. UNDERWOOD] alluded, that the Secretary of the Navy reports that the annual expense of a ship-of-the-line of the first class, is a fraction short of \$300,000. I have it from one of the members of the Naval Committee of the Senate, that the actual expense is over \$300,000; but, in this report, it is put down at \$287,500; while a frigate of the first class is put down at \$186,000, and a steamer of the first class is put down at \$190,000. This expense has to be incurred in one ship or another; and then comes the question of a comparison as to the best mode in which it should be incurred. To keep afloat one of this line of steamers, going to and from Liverpool, making twenty-six trips a year, will cost us, upon the rate of compensation proposed by this amendment, something like \$200,000 a year. To keep afloat one of our war steamers costs just about the same amount. It is put down, in this report, at \$190,600.

In hastily looking over the report of the Secretary of the Navy, I see that we have five of these war steamers now afloat; of the frigates and ships-of-the-line, I do not know how many, but we have a vast number of frigates afloat. I do not know that we have any ships-of-the-line afloat, and the expenses of war steamers and frigates may be set down, in round numbers, at \$200,000 each, and one of these steamers at the same expense. Well, which will result in the greatest benefit to the country, to all the interests of civilized society, to all the interests which should commend themselves to a patriot and a Christian—one of those steamers, making her trip semi-monthly, across the Atlantic ocean, freighted with all the means by which affectionate hearts are bound together; by all the means by which the intercourse of civilized, social, polished, and Christian society is bound together, and kept in operation, ministering to its elevation in the highest sense, and advancing the great cause of human progress, and the amelioration of the human condition, by the multiplication of facilities for the interchange of mutual benefits; or one of your war steamers, which goes out in state, and

anchors at Mahon, or some other port in the Mediterranean, Pacific, or East Indies, there lying in idle state, making, possibly, one or two pleasure cruises, and entertaining some semi-barbarian chief, for which, by the way, a bill of expense will be brought in, when the commander returns—incurs these expenses every two years? The question that suggests itself to my mind is, which of those two is the most meritorious? Which is the more meritorious, your war steamer, which goes out and effects no practical purpose under heaven, except to make drafts upon your Treasury, which ministers nothing to the civilization, refinement, or progress of the age, and after lying in idle state some two years, making and receiving some few visits of ceremony, and then coming home, having cost \$400,000 per trip; or one of the Collins line of steamers, which has crossed the Atlantic some twenty-six times in the same period, and ministered to all the great purposes of social and civilized life, and in addition to that, has been pouring treasures into your coffers in the return of postages which she pays over to the General Government?

It is this view which I have taken, which commends this system and this measure, not only to my judgment, but to my heart; and I say that if these expenditures are to be made, let them be made in such a manner that they shall minister to something that is valuable, something that will advance our progress, and for which, when we have spent our money, we shall have the satisfaction of knowing that it has been spent for some great and noble purpose. These are views which have not been presented to the Senate by any one of all the eloquent and distinguished gentlemen who have edified and delighted the Senate on this subject, and then would not adjourn to give somebody else a chance to say something. But in my darkness these thoughts suggested themselves to me, and these are the considerations which impel me to vote as I shall vote. It is by this process of reasoning that I have come to the conclusion to which I have arrived. Whether I am right or wrong, it is my own conclusion, and one which I think can be demonstrated. And I will go still further. You may take home your *Saranac*, *Mississippi*, and *Susquehanna*, and all the rest of your war steamers, which are nothing on earth but idle pageants abroad, and substitute for them something which has the beauty of utility, and that can minister to something besides national vanity.. For these reasons I shall vote for this amendment.

Mr. JONES, of Tennessee. Is it competent to move to amend the amendment?

The PRESIDENT. It is.

Mr. JONES. I propose to strike out "thirty-three," and insert "twenty-five," so that the amount of compensation shall not be \$33,000 per trip, but \$25,000.

Mr. UNDERWOOD. On that amendment I ask the yeas and nays.

The yeas and nays were ordered.

Mr. CASS. I have an amendment which I wish to offer, and I desire that it may be read before I say anything, in order that the Senate may more fully understand the purport of my observations.

Mr. WELLER. With the consent of the Senator, I move that the Senate adjourn.

Several SENATORS. Let us hear the amendment read first.

Mr. WELLER. I will withdraw the motion for that purpose.

The amendment offered by Mr. Cass was then read, as follows:

And it shall be the duty of the Secretary of the Navy to appoint a commission, composed of three officers of the Navy and of two experienced scientific engineers, who shall make a thorough examination of the said vessels, and who shall report upon their fitness for the purposes of war in the various situations in which it might be necessary to employ them, and whether they are such vessels as would probably be needed, having reference to the different objects of a military steam marine, together with any other information which may be useful in forming an opinion of the importance of such vessels to the public service; and also what additional expense would be required to adapt them to war purposes; and such report shall be laid before Congress, by the Secretary of the Navy, at the commencement of the next session.

Mr. CASS. I wish the number of the officers to be appointed left blank, so as to be filled hereafter.

The PRESIDENT. Does the Senator propose to amend by striking out any portion of the amend-

ment of the committee for the purpose of inserting what has been read?

Mr. CASS. Not at all; I intend to offer it at the proper time as a separate amendment.

The PRESIDENT. Then the proposition now pending is on the amendment proposed by the Senator from Tennessee.

Mr. WELLER. I move that the Senate do now adjourn.

The question was taken, and on a division there were—ayes 17, noes 23.

So the Senate refused to adjourn.

Mr. CASS. As the Senate have determined to sit I will say what I have to say now; if the Senate will hear me.

Mr. ATCHISON. If the Senator will give way I will renew the motion to adjourn.

Mr. BADGER. I have no objection that we should adjourn now, if we do so with the understanding that we can devote to-morrow to the consideration of this bill. I am anxious to have it disposed of.

Mr. PRATT. No, sir; I shall object to that decidedly. We have now devoted three days, which properly belong to the consideration of the Private Calendar, to the discussion of this bill, and I shall object to its being done again to-morrow.

The PRESIDENT. Does the Senator from Missouri persist in his motion?

Mr. ATCHISON. I do.

The question was then taken, and there were, on a division—ayes 24, noes not counted.

So the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, May 6, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the consideration of the report of the Committee on Printing.

Mr. APPLETON, of Massachusetts, having asked and obtained unanimous consent for the purpose, reported from the Committee of Ways and Means a bill for the relief of S. Morris Wain; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

On motion by Mr. APPLETON, of Massachusetts, it was

Ordered, That the Committee of Ways and Means be discharged from the further consideration of the petition of Henry Kershaw, praying to be allowed extra pay as a paymaster's clerk, and that the same be referred to the Committee on Claims.

## COURTS IN DELAWARE.

Mr. McLANAHAN. The session of the circuit court for the district of Delaware is near at hand, and at the same time the supreme court of that State holds its session; consequently the circuit court cannot transact the business before it at the time, as the lawyers are mainly engaged in business before the supreme court of the State. A bill has passed the Senate changing the time of holding the circuit court of the United States in the State of Delaware. This change will save expense to the Government, and afford greater facilities for the transaction of business before the courts in that State.

I ask the unanimous consent of the House, inasmuch as the period for holding the courts has nearly arrived, to report that bill to the House, from the Judiciary Committee, and to put it upon its passage.

No objection being made,

Mr. McLANAHAN, from the Committee on the Judiciary, reported back, without amendment and with a recommendation that it do pass, Senate bill No. 136, entitled "An act concerning the sessions of the courts of the United States in the district of Delaware."

Mr. POLK. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. McLANAHAN. Certainly.

Mr. POLK. Did I understand the gentleman from Pennsylvania to state that the entire delegation from Delaware are in favor of that bill?

Mr. McLANAHAN. I take great pleasure in answering the question of the gentleman, and in informing him that the Chief Justice of the United

States, who holds that circuit court, the Senators from that State, and, I think, the distinguished gentleman who represents that State upon this floor, are all in favor of this bill.

The bill was then ordered to be read a third time; and, having been read the third time, it was passed.

Mr. FREEMAN. I desire to obtain the unanimous consent of the House to permit me to report, for the purpose of reference, three or four bills from the Committee on Public Lands. I desire to leave the city for a few days, and I would consider it a great favor to have that privilege.

Mr. OLDS. I object.

The SPEAKER. Objection is made, and the reports cannot be received.

Mr. SEYMOUR, of New York. I ask the unanimous consent of the House that I may be permitted to report back from the Committee on Commerce an important memorial of the Chamber of Commerce of the city of New York, in relation to the treaty between this country and France, and its operation upon our commerce; and I do this for the purpose of giving it the right direction—of having it referred to the Committee on Foreign Affairs.

Objection was made, and the report was not received.

Mr. FREEMAN. I understood the House to give its consent that I might make a report. The members of the Committee on Public Lands having the right to the floor, I understand it is in order that they may report, at all events. If one objection can prevent me from reporting, I desire to ask the sense of the House upon that subject.

The SPEAKER. The Chair decides that the business in order this morning is the consideration of the report made by the Committee on Printing. That report was made under a special rule of the House, which gives the privilege to that Committee, at any time, to report; and that right carries with it the right to consider the report when made by the committee. That is the first business in order, in the opinion of the Chair.

Mr. FREEMAN. Does the Chair decide that I have not the privilege of reporting this morning?

The SPEAKER. Certainly; none, under our rules, in the opinion of the Chair.

Mr. SEYMOUR. I understand the objection made to my reporting back the memorial I have spoken of from the Chamber of Commerce of New York, is withdrawn.

Mr. JONES, of Tennessee. I call for the regular business.

Mr. BAYLY, of Virginia. I believe the gentleman from Mississippi [Mr. FREEMAN] has the floor, and I am upon it by his permission.

The SPEAKER. The gentleman from Mississippi was upon the floor upon a question of order, which the Chair overruled.

Mr. BAYLY. I only want to say that I thought the remarks of the gentleman from Mississippi [Mr. FREEMAN] were not understood. He stated that he was desirous of leaving the city for a few days, and hence wanted to make a report from the Committee on Public Lands, merely for the purpose of reference.

The SPEAKER. Another appeal is made to allow the gentleman from Mississippi to make a report. Is it objected to?

Mr. FOWLER. I object.

The SPEAKER. It is objected to by the gentleman from Massachusetts. The gentleman from New York [Mr. SEYMOUR] asks the unanimous consent of the House to submit a motion to discharge the Committee on Commerce from the memorial of the Chamber of Commerce of New York, with the view of having it referred to the Committee on Foreign Affairs. Is there any objection?

Mr. HARRIS, of Tennessee. I call for the regular order of business.

Mr. SEYMOUR. I would say that this is an important memorial, relating to a subject affecting the whole commerce of the country; and the only object I have is, to report it back to the House, that it may be referred to the Committee on Foreign Affairs, inasmuch as it relates to a treaty between this country and France. I think there can be no objection to it.

Mr. HIBBARD. I want to inquire of the gentleman whether the memorial relates to the old

treaty as to French spoliation, or to the operation of the present treaty?

Mr. SEYMOUR. It relates to the present treaty.

Mr. AVERETT. I object.

The SPEAKER. It is objected to, and the regular order of business is called for.

Mr. POLK. I rise to a privileged question. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JOHNSON, of Arkansas. I wish to call the attention of the House to one fact. Here is one of our fellow-members, desirous of leaving this city, and he has several bills which he wishes to get off his hands previous to leaving. This is a privilege always granted to members. He asks not to put any bill upon its passage, but merely that he may report them, get them out of his hands, and have them put upon the calendar. We have never refused anything of this sort, and I trust the House will allow the gentleman [Mr. FREEMAN] to have the same privilege.

[Cries of "Agreed!" "Agreed!" all over the House.]

No objection was made.

## SOUTHERN ATLANTIC AND PACIFIC RAILROAD.

Mr. FREEMAN, from the Committee on Public Lands, reported back without amendment, and with a recommendation that it do pass, the following Senate bill, which was read, and referred to the Committee of the Whole on the state of the Union, and ordered to be printed, viz: S. 72, "An act granting to the State of Mississippi the right of way and a donation of public lands, for the purpose of locating and constructing a railroad from Brandon to the eastern boundary of that State, in the direction of Montgomery, Alabama."

Mr. FREEMAN said:

Mr. SPEAKER: This bill for the Mississippi road has passed the Senate three times, and has failed in this House on each occasion because it was not reached on the Calendar before Congress adjourned: I hope, therefore, that the House will indulge me with an attentive ear, while I state a few of the leading facts connected with this enterprise.

The road from Brandon to the Alabama line passes through a portion of the public lands, and is ninety-three miles in length; it has been surveyed and located, and the State is now engaged in grading the road. The public lands through which this road runs have been in market seventeen years, and are the poorest quality of pine lands. By a law of the State of Mississippi, the assessors of taxes have been required to ascertain the quantity and the value per acre of all the public lands in that State. I hold in my hand the official returns of those officers, from which it appears that the average value of the lands in ten counties adjoining the line of this road is twenty-two and a half cents per acre; and unless this road is built, they cannot be sold at all. Hence it will be seen that the Federal Government have much to gain and nothing to lose by making this grant.

From Brandon, west, to the city of Jackson, the State has completed thirteen miles of road, and made it part of the same line. From Jackson to Vicksburg on the Mississippi river, a railroad has been in operation for many years; so that these roads, when completed, will span the State, from Vicksburg, on the Mississippi river, to the Alabama line. The State of Mississippi has already invested \$400,000 in these roads. The State of Alabama has chartered a road running from Montgomery, the capital of that State, to connect with the Mississippi road at the line of the two States, and has made a large loan of money to a company to construct that part of the road. From Montgomery, Alabama, to Savannah, Georgia, and to Charleston, South Carolina, there is a continuous line of railroad, except fifty miles, from West Point to Newnan, Georgia. These fifty miles are already nearly graded, and will be in operation in the course of a year. The completion of these roads connects the great valley of the Mississippi with the Atlantic ocean at Savannah and Charleston. From these points, we have already steamboat and railroad communication with all the Atlantic cities, and thence to the interior of all the Atlantic, Northern, and Western States and Territories on the east side of the Rocky mountains.



## RAILROAD FROM VICKSBURG TO SAN DIEGO ON THE PACIFIC.

The Committee on Public Lands propose, by a bill I am directed to report, to continue this southern chain of railroad from Vicksburg, on the Mississippi river, directly west, to Shreveport, on Red river, and thence to the Texas line. A survey of the route, from the Mississippi river across the State of Louisiana to the Great Bend on Red river, has been made by W. H. Sidell, civil engineer, under the direction of the Federal Government. He reports that the route is in all respects feasible, and that a railroad with a single track, with iron weighing sixty pounds to the yard, and otherwise well constructed, will cost at the rate of \$18,313 per mile.

I am informed by the delegation on this floor from Texas, that the Legislature of that State has already granted the right of way, and donated a tract of land eight miles in width for the entire length of the road, to aid its construction through the territory of that State, a distance of about seven hundred miles. The line of the road runs through the heart of this great agricultural region, and I am authorized to say that any reasonable quantity of lands, necessary to insure the construction of the road, will be freely given by Texas.

## SURVEY OF CAPTAIN MARCY.

In pursuance of an order of the War Department, an accurate survey of the country from Preston, on Red river, through the center of Texas, to El Paso del Norte, has been made by Captain Marcy, of the Topographical Engineers; and the official report of Captain Marcy will be found at length in Senate Document No. 64, pages from 169 to 233, of the First Session Thirty-first Congress.

The following description of the country will be found at pp. 224-'5-'6-'7:

"By a reference to the map, it will be seen that we kept near the plain upon the head branches of the Colorado and the clear fork of the Brazos. Here we found a smooth road over a gently-undulating country of prairies and timber, and abounding with numerous clear spring branches for two hundred miles, and, in many places, covered with large groves of mesquite timber, which makes the very best of fuel. The soil cannot be surpassed for fertility. The grass remains green during the entire winter, and the climate is salubrious and healthy; indeed, it possesses all the requisites that can be desired for making a fine agricultural country; and I venture to predict, that at no very distant period, it will contain a very dense population. It is only necessary for our farmers to see it, and have protection from the incursions of the Indians to settle it at once."

"As there is grass on this route at all seasons of the year, it can be traveled at any time. It is true, that the old grass dries up early in the spring, but appears to cure like hay, and does not lose its nutritious properties."

"From all I can learn of the other routes to California, I am induced to believe, that should our Government at any future time, determine upon making a national road of any description across the continent, the southern route we have traveled is eminently worthy of consideration: We find upon none of the northern routes as much water, timber, or rich, fertile soil, as upon this. There are many more mountains to pass over, and during a part of the year they are buried in deep snows."

"I have been kindly allowed the perusal of a letter written by an officer of the army—an attentive and experienced observer of nature—who has recently passed over that portion of the northern route between Fort Kearny and Fort Laramie, in which he speaks of the country in the following language:

"The country between Fort Kearny and Fort Laramie is a vast, undulating, sandy desert—but little wood or water—totally destitute of interest, and utterly worthless, and must remain so forever: it never can be inhabited to any extent, as there is no soil, and the seasons are too short."

"The distance between these two places is three hundred and sixty five miles. In one place, wood for cooking has to be carried for three consecutive days, in wagons, and, in several places, it is necessary to carry water."

"The road from Independence, after passing through a country of poor soil, and very destitute of wood for a great distance, passes over lofty and rugged mountains near Santa Fe."

"Lieutenant Colonel Emory states that the arable soil upon this road extends to the ninety-ninth degree of longitude. Therefore, if a road could be made from the Missouri river to California, it would pass through a very barren country, which could not be settled or improved; whereas, one constructed through the country we have passed over, from Doña Ana to Fort Smith, with the protection which a chain of military posts along the route would afford, would open a vast tract of beautiful country to the notice of agriculturists, and would be settled in a very short time."

"The advantages which this route possesses over others, adapt it, in a preëminent degree, to the construction of a railroad. For the reasons I have mentioned, and from all the examination and consideration which I have been able to give the subject, I cannot resist the strength of my own convictions, that any experienced and impartial engineer, after a thorough and careful reconnaissance of all the dif-

ferent routes, would at once give this the preference over any other."

"From Doña Ana, or El Paso, to near where we crossed Red river—a distance of seven hundred miles—there are, probably, as few difficulties to encounter as upon any other road that can be found in our country. Throughout this entire distance, it would not be necessary to make a single tunnel, or to use a stationary engine. There would be but few heavy excavations or embankments; and, for a great portion of the distance, the surface of the earth is so perfectly firm and smooth, that it would appear to have been designed by the Great Architect of the Universe for a railroad, and adapted and fitted, by nature's handiwork, for the superstructure. There is an abundance of building stone, and an inexhaustible amount of mesquite timber, which, for its durability, is admirably adapted for use, as sleepers and for fuel."

"From Red river, it would be carried to Fort Smith without difficulty, or to any other point that might be selected. This, united with a railroad from the Rio Grande to the San Diego, would give us a great national highway across our continent, from the Atlantic to the Pacific, in a very direct line, and would enable the traveler to pass safely and comfortably over a distance in a week, which, before, required four months of toil, hardship, and danger. It would afford our Government a cheap and rapid transit for troops and munitions of war, and would enable us to communicate with our far-distant Territories in a few hours."

"These considerations, in connection with the vast and incalculable commercial benefits that the whole civilized world would receive, would render it a monument to the genius, enterprise, and philanthropy of the American people."

## SURVEY OF MAJOR EMORY.

From El Paso del Norte, we have the survey of Brevet Major Emory, of the United States Topographical Engineers, from which we learn that the country west of El Paso del Norte to San Diego, is similar to that described by Captain Marcy, and presents no obstacles to a railway.

With regard to the harbor of San Diego, Major Emory says:

"At present, San Diego is, all things considered, perhaps one of the best harbors on the coast, from Callao to Puget's Sound, with a single exception—that of San Francisco. In the opinion of some intelligent navy officers, it is preferable even to this. The harbor of San Francisco has more water, but that of San Diego has more uniform climate, better anchorage, and perfect security from the winds in any direction. However, the commercial metropolis must be at San Francisco, owing to the greater extent and superiority of the country adjacent, watered by the rivers Sacramento and San Joaquin, unless, indeed, San Diego should be made the terminus of a railroad, leading by the route of the Gila to the Del Norte, and thence to the Mississippi and the Atlantic."

## SURVEY OF MAJOR COOK.

Major Cook, of the 2d United States Dragoons, explored the same country, and in his official report, says:

"I left the river (Rio Grande) when in view of a point marked on the common maps as 'San Diego,' on the Del Norte, and the distant view towards El Paso, proved the country to be unbroken and comparatively level."

After describing the country thence to San Diego, on the Pacific, as unusually level, Major Cook concludes his report as follows:

"The Rio Grande bottoms, for a hundred miles above, and at the point where I left, are well timbered." "Rock is everywhere to be had, secondary rocks of almost every kind; but by this wonderfully level route the continent may be passed with scarcely a view of granite. As far as Tucson, the grama grass is abundant; it will fatten cattle while working and in winter. The route from Tucson passes through a country abounding in exceedingly rich gold mines."

## SURVEY OF THE BOUNDARY COMMISSION.

John N. Bartlett, Esq., the present chief of the Mexican Boundary Commission, under date of September 21, 1851, writes to the Secretary of the Interior as follows:

"I am now enabled to state, with great satisfaction, that the direct route traveled by the commissions nearly west from Ajo de Vacca, is a route far more practicable for a road or railway than that known as Cook's road; that the distance from water to water is less; that the hills and mountains to be crossed are infinitely less in height, and easier to pass; and lastly, that there is a saving in the distance between this route and Cook's of more than one hundred miles. I say this with confidence, having twice been over Colonel Cook's road, nearly to the San Pedro."

"To show the practicability of our route for wagons, I will state that Lieutenant Whipple had one wagon, Mr. Gray and myself another, and Colonel Graham three, making five in all, which came through without difficulty."

This completes the satisfactory evidence as to the entire feasibility of the route.

San Diego on the Pacific, Vicksburg and Jackson, Mississippi; Montgomery, Alabama; and Charleston, South Carolina, are all in a direct line from the Atlantic to the Pacific, of nearly thirty-two degrees north latitude. El Paso del Norte is about fifty miles south of this line, and would curve the road to that extent.

By the treaty with Mexico, we have the privilege of constructing a railway on the Mexican side of the Gila, if we find it either necessary or expedient to do so.

## GRANT OF LAND TO CALIFORNIA AND NEW MEXICO.

All that is now necessary to be done to insure the completion of this entire road, is for Congress to pass the bills reported by the committee, granting lands to Mississippi and Louisiana for the construction of the road through those States, and to grant also to the Territory of New Mexico, and the State of California a tract of land equivalent to thirty miles in width on each side of the line of the road, with the privilege of locating the land on the northern side of the road, in the event that it runs so near the Mexican line as to prevent its location on the south side. Such a donation would enable the Legislatures of that State and Territory to put the road under contract for its immediate construction.

By granting the right of way and the land to the State and Territory, and permitting those local governments to control the construction of the road, we not only perform a bounden duty to those infant republics, but avoid the objection of establishing a system of internal improvements by the Federal Government. At the same time we bring to our aid all the influence of State pride, State interest, and State wealth; and the States, by their local legislation, induce private enterprise and private capital to enlist in the same cause. While this powerful combination of interest and of capital cannot fail of success, it will bind the people of the American Union together by a mutual self-interest stronger than all the ties of Federal legislation.

The integrity and perpetuity of the Union demand the construction of this road. Nature has not only prepared the surface of the earth for the reception of the cast-iron horse, with all his paraphernalia, but excavated the Rocky Mountains for his transit, and profusely strewn his path with all the necessary material to perfect his gigantic race-course.

## ROADS ALREADY CONSTRUCTED.

In fact, one half of the road is already finished. There is now a continuous line of railway from Waterville, in the State of Maine, through the States of New Hampshire, Massachusetts, Rhode Island and Connecticut, to New York, 410 miles.

From New York, through the States of New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, and North Carolina, to Wilmington—thence by steam-boat to Charleston, South Carolina..... 670 "

From Charleston, through South Carolina and Georgia, to Montgomery, Alabama..... 400 "

From Montgomery, Alabama, to Brandon, Mississippi, roads are chartered and building..... 200 "

From Brandon to Jackson, and thence to Vicksburg, a railroad is in operation..... 60 "

Making a continuous line of railroads of..... 1,740 miles, fifteen hundred miles of which are now in operation, and the remaining two hundred and forty miles rapidly constructing.

From Vicksburg to San Diego, via Shreveport and El Paso del Norte, is 1,625 miles.

From Waterville, in Maine, to San Diego, California..... 3,365 miles.—showing 1,500 miles of the road now in operation, and leaving 1,625 miles to be constructed west of the Mississippi. With the wonderful facilities afforded by the perpetual mildness of the climate, the uniform and firm surface of the earth, the fertility of the soil, its numerous valuable productions, and its capacity to furnish immediate support to a dense population, together with the abundance of the best building material everywhere at hand, I am warranted in saying that most of the road may be built at an average cost of \$15,000 per mile, which would make an aggregate of \$27,375,000 to build the road from Vicksburg to San Diego.

## PROBABLE PROFITS OF THE ROAD.

Having shown the feasibility of this route, and its probable cost, let us now look at the profits that would probably arise from it.

All the internal commerce of the United States

flows from the Rocky Mountains and intermediate country to the Atlantic coast and Gulf of Mexico, while all our external commerce flows from the Atlantic and the Pacific to the same points, and thence to the interior of the Union.

There are now 10,814 miles of railroad in successful operation in the United States, and about 15,000 miles projected, with a reasonable prospect of completion. All of these roads, with their freight and passengers, have the Atlantic coast and Gulf of Mexico for their final destination, to and fro, and would therefore be lateral railways to the great trunk of the Southern Pacific Road.

The same is the fact with regard to the rivers east of the mountains—they all flow and carry their commerce to and from the Atlantic and the Gulf of Mexico, and, with their freight and passengers, would intersect and fall into this line of communication.

The inland steam marine of the United States consists of 767 steamers, with a tonnage of 204,723 tons; carrying 5,860,950 passengers per annum.

Our external steam marine consists of 625 steamers, with a tonnage of 212,500 tons, and annually carrying 33,342,846 passengers.

The immense losses which annually occur in steam-boat navigation afford powerful stimulants to the construction of railways, on which no freight is lost, and very few lives.

The shipwrecks in the United States on the Atlantic and Pacific coasts and Gulf of Mexico during the year ending July, 1851, were fifty ships, fifty-nine brigs, one hundred and ninety schooners, nine sloops, and twenty steamers; total, three hundred and twenty;—of which two hundred and seventy-eight were by tempest, fourteen by fire, fifteen by collisions, nineteen by snags, and two by explosions; the number of lives lost was three hundred and eighteen. None of these causes of loss exist upon a railway.

The steam-boat disasters on the Mississippi and tributaries since the introduction of steam to 1848, are, by collision, forty-five; fire, one hundred and four; snags, four hundred and sixty-nine; total, six hundred and eighteen. The original cost of the boats was \$43,955,040 96. The loss in 1849 was \$2,000,000 and six hundred and twenty-eight lives. In fact, almost every mail bears the frightful intelligence of the explosion of a steamboat and a great destruction of human life.

The sea voyage from New Orleans to New York is one of great peril to life and property, and the completion of the railways now in progress from New Orleans to Jackson, Mississippi, and thence to Montgomery, Alabama, would complete the railway connection from New Orleans to New York, and divert all the passenger and a large portion of the carrying trade from New Orleans and the intermediate points to the Northern Atlantic cities.

The total marine insurance paid for the year 1849 was \$6,227,000. This sum of money lost in one year, would build four hundred and fifteen miles of the Southern Pacific Railroad, and in four years, sixteen hundred and sixty miles, which would more than complete the road from Vicksburg, Mississippi, to San Diego, on the Pacific.

These immense losses of property, and the great peril of human life from steam-boat navigation, indicate with unerring certainty that railways are, in a great degree, to supersede the internal steam marine of the United States. They are now running on parallel lines with several navigable rivers and lakes, and competing successfully with steam-boat navigation.

From Maine to Texas inclusive, there are nineteen States bordering on the Atlantic and its bays and the Gulf of Mexico, and with the exception of Florida, Louisiana, and Texas, they are all traversed by a completed chain of railway and steam-boat navigation (less two hundred miles) from Maine to the Mississippi river. Intersecting and crossing this line of road are the following roads projected and in operation:

The New Orleans and Jackson great Northern road, leading through Mississippi to Nashville, Tennessee, and running on a parallel line between the Mississippi and Pearl rivers, in the State of Mississippi—projected, and \$3,000,000 of stock taken.

The Mobile and Chicago road, running north from Mobile, through a part of Alabama, Mississippi, Tennessee, Kentucky, and Illinois, to Chicago, on Lake Michigan, is now building, and

from that point roads are projected to Wisconsin, Iowa, and Minnesota.

The Savannah Railroad, now in operation from that city, through Georgia, to Chattanooga, Tennessee, and projected thence to Nashville.

The Baltimore and Ohio Railroad, now in operation from Baltimore to Cumberland, and thence to Wheeling, on the Ohio river. From Philadelphia 1,146 miles of railway jet out to various points reaching the Ohio, and thence to Cleveland, on Lake Erie. From New York city that great State is traversed with 1,400 miles of railway leading to Lake Erie and Lake Ontario, from which points roads are now constructed or constructing, to most of the Northern and Western States and Territories. From Boston, 1,100 miles of railway traverses Massachusetts, crossing New Hampshire and Vermont, to Lake Champlain, thence to the St. Lawrence and Montreal, in Canada; and roads also extend from Boston to Portsmouth, Portland, and Waterville, in Maine; and from this latter point a road is now chartered, traversing the north-eastern part of Maine to St. John's, in New Brunswick, and thence to Halifax, in Nova Scotia; a distance from Waterville of 800 miles. From Halifax, a line of steam-ships is to connect with Galway, in Ireland, and thence by railway and steamboat to Liverpool and London.

This wonderful accumulation of railways east of the Mississippi and Missouri rivers, demonstrates the fact that our internal commerce, State and National, is to be principally conducted by them.

The completion of the proposed road from Vicksburg, on the Mississippi, to San Diego, on the Pacific, running, as it does, through the richest and healthiest agricultural regions in the world, would immediately flood the whole extent of the adjoining country with our toiling millions, and draw after it the construction of lateral railways from the States of Louisiana, Texas, Missouri, California, the Territory of New Mexico, and even the Republic of Mexico itself.

With an eastern terminus at New York, and a northeastern terminus at Halifax, this road would greatly increase not only our commerce with all parts of Europe, but induce a transatlantic travel and postal communication, the value of which can scarcely be measured. The western terminus on the Pacific would command the entire commerce on that ocean—north and south. The hundreds of millions of gold produced by the mines of California, the rapid development of our possessions in Oregon, the great increase of the whale trade in the North Pacific, now amounting to several millions per annum, an increased trade with Mexico and South America, and the absolute certainty of finally crushing the Chinese walls and Japanese non-intercourse, and opening commercial relations with the seven hundred millions of people who inhabit Asia, would furnish all the transportation the road could carry.

The speed of rail cars, in England, has reached fifty miles an hour; in the United States from twenty-four to thirty miles an hour. The steamship passage from Liverpool to New York, has been made in ten days:

THE DISTANCE—	
From Liverpool to New York by seas .....	3,100 miles.
From New York to San Diego .....	2,955 "
From San Diego to San Francisco .....	500 "
From San Francisco to Canton, China .....	5,400 "
Distance from Liverpool to Canton, China, via	
San Francisco .....	11,955 miles.
TIME OF TRANSIT—	
From Liverpool to New York .....	10 days.
From New York to San Francisco .....	5 "
From San Francisco to Canton, China .....	15 "
Transit from Liverpool to Canton, China .....	30 days.

This would make the trip from New York to San Diego in four days, to San Francisco in five days, and to Canton, China, in twenty days. So that a cargo of teas from Canton could be delivered at New York in twenty days, and at Liverpool, or London, in thirty days. Gold dust could be carried from San Francisco to New York in five days, and to Liverpool in fifteen days.

With this great acceleration of transit, and the perfect security to life and property, it is certain that commerce and travel would no longer undergo the expensive, tedious, and perilous voyage of months around Cape Horn, nor even of weeks across the Isthmus of Panama or Tehuantepec; but everything susceptible of railroad transport-

ation would pass on the Atlantic and Pacific Railroad, and pour millions into its coffers.

The State of Massachusetts has about 1,150 miles of railway, which, in the year 1850, transported 8,973,681 passengers. There is, about 11,000 miles of railway now in operation in the United States. Estimating their passengers by those of the Massachusetts roads, they carried, in the year 1850, 85,822,000. The passengers carried by our steam marine, for the same year, were 8,669,169.

These facts in relation to the "human movement" in the United States, reveal the wonderful influence of railroads upon the internal commerce of the Union. But a small portion of the people of the United States travel for pleasure—they are all engaged in some profitable employment, and those who travel most are usually engaged in the purchase, transportation, and sale of merchandise; so that the "human movement" affords some index of the vast amount of "material movement" that follows in the wake of the railroad passengers in the United States.

The annual commerce of the Mississippi valley alone is estimated at \$300,000,000. The cotton States alone, through which the line of this road passes, produce annually from two to two and a half millions of bales of cotton, and in 1851 the crop was worth \$112,315,317. The lands westward to the Pacific are equally productive, and many large rivers cross the line of the road.

Mr. Asa Whitney, in his memorial to Congress in 1848, for his Northern Pacific route, estimates the value of the foreign trade of Europe and Asia for his road at \$25,000,000 per annum for transit alone. Add to this, for our internal trade to and from California and Oregon, the small sum of \$2,000,000, and we have \$27,000,000 per annum, as the income of a road which will cost but about that sum for its construction from Vicksburg to San Diego.

This Government now pays \$750,000 per annum for the transmission of a semi-monthly mail via Panama to California and Oregon. By the treaty of peace with Mexico, we are compelled to protect that Republic from the incursions of the Western Indians, and shall need a military establishment on the line of this road for that purpose. Our commerce on the Pacific, like our commerce on the Atlantic coast, will require the construction of custom-houses, mints, forts, arsenals, dock-yards, navy-yards, light-houses, and kindred works, and for all these purposes the Government will require the transportation to that country of great quantities of material for all time to come.

The following estimate was made by P. P. F. DeGrand for the Northern Pacific road via St. Louis:

"When the railroad is in operation from Boston to San Francisco, the length of passage, for its 3,000 miles, (going night and day at the rate of 25 miles per hour, including stops,) will, for the express train, be only 5 days.	
"For first class cars, at 2 cents per mile, the fare will be only \$60.	
"For second class cars, at 1 cent per mile, the fare will be only \$30.	
"The cost, then, of transporting from the Atlantic seaboard 150,000 persons to California, and of bringing back 50,000 persons from California, will be as follows:	
Fare of 150,000 passengers, first class, at \$60 each .....	\$9,000,000
Time and food for said 150,000 passengers for five days, at \$5 per day, say \$25 for each person .....	3,750,000
Fare of 50,000 second class passengers, at \$30 each .....	1,500,000
Time and food for said 50,000 passengers for five days, at \$2 per day, say \$10 for each person .....	500,000
Total cost by the railroad line .....	\$14,750,000

Let us now examine what is the expense by the sea route for the same individuals.

To transport, by the sea route, the same number of persons, will cost as follows, part going round Cape Horn, part through the Straits of Magellan, and part through the Isthmus of Panama:

Passage for 150,000 first class passengers, at \$1 50 each .....	\$22,500,000
Time of said 150,000 passengers, for 100 days, on an average, at \$5 50 per day, say \$350 for each person .....	52,500,000
Passage for 50,000 second class passengers, at \$50 each .....	2,500,000
Total cost by the sea route .....	\$77,500,000
Deduct cost by the railroad line .....	14,750,000
Clear saving in the expense .....	\$62,750,000

To this saving we may add the extra risk of life by the sea route, and the disappointments and extra delays occasionally incident to a voyage by sea.

In point of time, of great hardships, and of expense, the route by land, as it now exists, over a trackless waste, compares even more unfavorably with the railroad line.

If, then, we estimate that there will go to California, annually, one hundred and fifty thousand persons, and that one hundred thousand of them will settle there, and fifty thousand will come back, the annual saving of expense, by having the railroad, will be \$62,750,000.

#### WHITNEY'S NORTHERN PACIFIC RAILROAD.

I am aware, sir, that Mr. Whitney's project has many friends in the United States; but for this he is more indebted for the great anxiety that prevails for a speedy and cheap communication with our vast interests on the Pacific, than for any merit pertaining to the location of his road, or his scheme for its construction. The distance from New York city to Lake Michigan is eight hundred miles. From this point Mr. Whitney proposes to construct a railway to the mouth of the Columbia river on the Pacific, which is about one thousand five hundred miles north of San Francisco and the gold mines.

The distance from Lake Michigan to the mouth of the Columbia is estimated by Mr. Whitney at 2,200 miles, which is nearly 700 miles further than the route from Vicksburg to San Diego, and nearly as far as the entire southern route from New York. In his memorial to Congress in 1848, Mr. Whitney states his plan in these words:

"Your memorialist would now represent and explain the plan by which he proposes to carry out his great work. He prays that your honorable body will be pleased to set apart and sell to him sixty miles wide of the public lands (and an equivalent for any which may have been taken up) from Lake Michigan to the Pacific ocean, for this especial purpose. He has explored and examined a part of the route; and from the lake onward, for 800 miles, the land is of the very best quality, but nearly 500 miles of this 800 without timber, and then no timber on to the Rocky Mountains. That after this 800 miles, onward nearly to the ocean, the land is represented as very poor—too poor to sustain settlement; therefore the whole work is based upon 800 miles of the first part, with the belief that the facilities which the road would create and give to settlement, intercourse, and communication with the markets, would render a part of the poor land useful and valuable."

From this it will be seen that Mr. Whitney, although occupied solely for many years on this scheme, has only explored his proposed route to the Rocky Mountains, and he has no accurate information on which to rest the belief that his road can cross the mountains at all.

Again he says, five hundred of the first eight hundred miles of his route is "without timber, and then no timber on to the Rocky Mountains;" and that the balance of the route, being fourteen hundred miles, is "too poor to sustain settlement."

This confession alone, the truth of which is confirmed by travelers, is sufficient to satisfy any practical mind that his road cannot be built. With fourteen hundred miles of uninhabitable country, and more than five hundred miles destitute of timber either for fuel or building purposes in the frozen region of 42° of north latitude, with no means in the immediate country of sustaining either man or beast during the construction of the road, or after its completion, and an entire absence of building material for many hundred miles, the cost of the structure could scarcely be calculated. If the road were built, it could impart no value to the fourteen hundred miles of desert which is "too poor to sustain settlement;" and, consequently, it would not open the public domain to emigration or cultivation, and the road would receive no lateral support whatever.

Add to these objections the certainty of the heavy falls of snow which annually occur in this inhospitable region, with the imminent peril of being frozen to death for six months in the year, and the conviction becomes irresistible that the work will never be accomplished.

The Hon. WILLARD P. HALL, of Missouri, now a member on this floor, has himself made a personal reconnaissance of a part of the country in question, and in a communication to the Committee on Public Lands, under date of May, 1848, he speaks as follows:

"It is exceedingly problematical whether a railroad will be found practicable by the way of the South Pass of the Rocky Mountains to the Pacific ocean. In June last one of the undersigned left California on his return to the Uni-

ted States. On the 22d of that month he crossed one of the ridges of the Rocky Mountains by what is denominated 'a pass.' On that day he traveled for thirty miles over snow which was frequently more than twenty feet deep. He was informed by persons he fell in with from the Willamette Valley that the snows on the Cascade mountains of Oregon were as deep in June last as those he encountered in the California mountains. The whole country, from the South Pass to the valleys of California and Oregon, is not only exceedingly rugged, but is so elevated that, if one may believe his own senses, it is covered for many months in the year with almost impassable snows." \* \* \* \* \*

Again: the donation to one man of a domain sixty miles wide by two thousand two hundred miles in length, covering an area larger than several States of this Union, is a proposition at which every mind revolts. But even if Mr. Whitney's road could be built and put into successful operation, the great length of time it would require to construct it through a barren, uninhabited, and frozen region, forsaken alike by God and man, should be regarded as an insuperable objection.

The memorial of John Plumb to the Congress of the United States, contains the following illustration on this point:

"The following brief letter, which has been repeatedly published, has never been satisfactorily answered, and it is therefore presumed that Mr. Whitney is unable to controvert the general correctness of its contents:

Boston, September 10, 1849.

To the Chamber of Commerce, New York:

GENTLEMEN: We observe that you recommend Whitney's plan for a railroad to the Pacific. We had previously understood that you were in favor of some plan that would insure the use of the road to the present generation. Will you be so kind as to explain to us how the use of the road can be obtained for the present generation by Whitney's plan?

He proposes first to build ten miles of road, and then (by the sale of lands) to create the means of building the next ten miles. May we not safely assume that it will take him at least one year to build the first ten miles, then one year more to sell the land; then three years more to get his pay! Thus, at the end of five years, he will be prepared (money in hand) to build the next ten miles.

According to this ratio of five successive years for each successive ten miles, it will take eight hundred and fifty years to make one thousand seven hundred and fifty miles of railroad! If (by a stretch of imagination) it should be said that he will, in a single year, build the first ten miles, and within the same year sell his land and get his pay, even then it will take one hundred and seventy years to build one thousand seven hundred miles of railroad.

An early reply will oblige, respectfully,

WILLIAM INGALLS,

E. H. DERRY,

J. C. DUNN,

P. F. DEGRAND,

O. D. ASHLEY,

Committee.

A short review of Mr. Whitney's plan makes it evident that the location of his road, and his scheme for its construction, present obstacles which cannot be overcome.

#### SOUTHERN PACIFIC ROUTE.

From this barren, frigid, and desolate picture, we turn with pleasure to the Southern Pacific route, where we find that nature has furnished every inducement, alike to the cupidity and the patriotism of man, to engage in the construction of this magnificent work—the greatest either of ancient or of modern times. Without designing, or even knowing the fact, "a divinity within" has "so shaped our ends," that we have already constructed fifteen hundred miles of this road, and the vast plain that stretches from the banks of the Mississippi to the shore of the Pacific, cries out to us in the language of Scripture, "Why stand ye here all the day idle?" The political events which have successively given to us the territories of Louisiana, Texas, Utah, New Mexico, and California, seem now to have been providential acts whereby our national dominion has grasped the entire breadth of the continent, and planted our infant cities upon its western brink. The same events have possessed us of the Paso del Norte, that great natural breach in the otherwise impenetrable chain of the Rocky Mountains, and on either side spread out before us the grand plateaus that now invite our free and thriving millions to their rich and teeming bosoms, and furnish alike the ample means and the inexorable necessity of constructing the Atlantic and Pacific Railroad.

He was a prophet who declared that "Westward the star of empire takes its way." With the inexhaustible mines, the numerous and abundant agricultural productions, and the more genial climate of our Pacific possessions; with the unruffled surface of the vast Pacific—that great millennium of waters—spread out by nature to receive and secure the commerce of a world; with seven

hundred millions of industrious, but comparatively feeble and inoffensive people on its opposite shore, and with a dependent race of people in Mexico and South America, what is to prevent our Pacific from rivaling our Atlantic coast in its population, its magnificent cities, its shipping, its commerce, its temples of worship, its academies of arts and sciences, and all that constitutes semi-national greatness?

With the facilities that will follow the completion of the railway, what people will dare dispute our empire upon the Northern and Southern Pacific oceans? Who will presume to say the fabled wealth of Ind is not ours?

If we have conquered the rolling tides of the tempestuous Atlantic, and grown rich by a limited commerce with a small portion of the two hundred millions of diplomatic and warlike beings that inhabit Europe, and make pecuniary gain their principal occupation, what profits may we not anticipate from our trade with the untutored Islanders of the mild Pacific, and the seven hundred millions of Asiatics, who have yet to learn the wiles of commercial diplomacy, and who will never compete with us for the mastery of the seas?

Where, then, is the objections to the construction of the road?

As a financial operation, it bids fair to rival the mines of California. As a commercial enterprise, it has no equal in magnitude, and can never be rivaled in its results.

As a national work, it will cement the mutual affections of our people, and bind together the union of our States by all the inducements that can excite a common interest, that can elevate national pride, and perpetuate national fame.

On some future occasion, when it may suit the convenience of the House, I will discuss the legal objections that have been raised against the donations of land to railways constructed by the States.

Mr. FREEMAN, from the Committee on Public Lands, reported, with an amendment, Senate bill No. 121, entitled "A bill granting the right of way and a portion of the public land, to the State of Arkansas, to aid in the construction of certain railroads in that State; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. FREEMAN also, from the same committee, reported the following bills; which were severally read a first and second time by their titles, referred to the Committee of the Whole on the state of the Union, and ordered to be printed, viz:

"A bill granting the right of way and making a donation of public land, to the States of Mississippi and Louisiana, in aid of the construction of a railroad from the city of New Orleans, in the State of Louisiana, to Jackson, in the State of Mississippi;"

"A bill granting to the States of Illinois and Indiana the right of way and a portion of the public lands, to aid in the construction of a railroad from Lafayette, Indiana, via Middleport, Iroquois county, to La Salle county, in Illinois;" and

"A bill granting the right of way and making a grant of land, to the State of Louisiana, to aid in the construction of certain railroads."

Mr. MOORE. I ask the permission of the House to introduce an amendment to the last bill just reported, that it may be printed with the bill—an amendment giving the right of way only, to one of those railroads without any grant of lands, but not affecting the others.

No objection being made, such permission was granted.

Mr. POLK. I now renew my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JOHNSON, of Tennessee. There seems to be a desire of the House to take up the report of the Committee on Printing, and to dispose of it. I hope the gentleman will withdraw his motion for that purpose.

Mr. POLK. I withdraw my motion.

PATENT OFFICE REPORT—PUBLIC PRINTING.

The SPEAKER. The report of the Committee on Printing is in order. It is in the following words:

Resolved, That there be printed for the use of the House of Representatives, fifty thousand copies of the mechanical part of the Patent Office Report, and three thousand additional copies for the use of the Commissioner of Patents.



The gentleman from North Carolina, [Mr. CLINGMAN,] in connection with this subject, has moved the following resolution, viz:

*Resolved*, That the report be committed, and the Committee on Printing are hereby instructed to report to the House what, if any, arrangement has been made to have the public printing executed; and if any other than the public printer has been employed, to report what price they have agreed to pay, and that said committee be instructed to let out such printing as the present contractors cannot execute, to the lowest responsible bidder, after ten days' notice.

The gentleman from Virginia [Mr. BAYLY] has moved to amend the instructions by inserting after the word "Resolved," the words "by the Senate and the House of Representatives of the United States in Congress assembled." When the House adjourned yesterday, the question immediately pending was the demand for the previous question.

I desire the ear of the gentleman from Virginia, [Mr. BAYLY,] who proposed an amendment to the resolution, and also the attention of the House, for a single moment. Under the rules, in the opinion of the Chair, the motion made by the gentleman from Virginia, the object of which was to change the resolution of the House to a joint resolution of the two Houses, is not in order. If its character was thus changed to a joint resolution, it would have all the features of a bill about it, and under the rule which the Chair will read, the House will see at once that it is not in order.

The SPEAKER then read rule 114, as follows: "Every bill shall be introduced on the report of a committee, or by motion for leave. In the latter case, at least one day's notice shall be given of the motion in the House, or by filing a memorandum thereof with the Clerk, and having it entered on the Journal; and the motion shall be made, and the bill introduced, if leave is given, when resolutions are called for; such motion, or the bill when introduced, may be committed."

The Chair decides, therefore, that the motion made by the gentleman from Virginia, which is to change the character of the resolution by giving it the form of a joint resolution, is not in order.

Mr. BAYLY, of Virginia. I rise to a question of order, founded upon two points; the first of which is, that the objection comes too late, because a motion has been entertained in the mean time for the previous question.

The SPEAKER. Let us settle the first point. The Chair begs leave to read the following decision by his predecessor:

"Mr. W. R. W. COBB having called up the motion submitted by him on Tuesday last, viz.: to reconsider the vote by which the House on the previous day had refused to suspend the rules so as to enable the gentleman from Indiana [Mr. JULIAN] to present the memorial of the meeting of anti-slavery friends held at Newport, Indiana, on the subject of slavery and the repeal of the fugitive slave law—

"The SPEAKER stated, that when he permitted this motion to be entered on the Journal, he expressed doubts as to the propriety of entertaining it. Subsequent examination of the subject had confirmed him in the opinion that the motion to reconsider a vote upon a motion to suspend the rules was not in order; and he, therefore, ruled the said motion out of order. In this decision the House acquiesced."

That happened several days after the motion was submitted and entered upon the Journal. The Chair, therefore, overrules the first branch of the point of order.

Mr. BAYLY. The second I shall not press. It is a point of principle—the precise question which was decided yesterday as to its being a question of the propriety of the House to determine upon, and not a rule of order. I will not press the point. I attained my object in moving the objection, which was to exhibit, as far as I could, the absurdity of one House undertaking to instruct a committee in reference to a subject upon which its duties were defined by law. I take no appeal from, but acquiesce in, the decision of the Chair.

The call for the previous question was seconded, and the main question was ordered to be put.

The question was then taken upon the motion to recommit the report of the committee with instructions, and it was agreed to, upon a division—ayes 95, noes not counted.

Mr. CLINGMAN. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### HOMESTEAD BILL.

Mr. POLK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was then put and carried in the affirmative. Accordingly, the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBARD in the chair.)

The CHAIRMAN stated, as the business before the committee, the consideration of House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and for other purposes. The Clerk will read the bill through.

Mr. HARRIS, of Tennessee. Is it in order to move to suspend its reading?

The CHAIRMAN. It may be, as the reading has been suspended before in similar cases.

Mr. HARRIS. I then submit that motion.

Mr. JOHNSON, of Tennessee. I think that it had better be read by sections.

Mr. MEACHAM. I object. Let the bill be read through.

The Clerk then read the original bill through, as follows:

*Be it enacted, &c.*, That every man or widow who is the head of a family, and a citizen of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

*Sec. 2. And be it further enacted*, That the persons applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make an affidavit before the said register, that he or she is the head of a family, and is not the owner of any estate in land at the time of such application, and has not disposed of any estate in land to obtain the benefits of this act; and upon making the affidavit as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses, that he, she, or they have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof, then, in such case, he, she, or they shall be entitled to a patent as in other cases provided for by law.

*Sec. 3. And be it further enacted*, That the register of the land office shall note all such applications on the tract books and plats of his office; keep a register of all such entries, and make return to the General Land Office, together with the proof upon which they have been founded.

*Sec. 4. And be it further enacted*, That all land acquired under the provisions of this act, shall in no event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

*Sec. 5. And be it further enacted*, That if, at any time after filing the affidavit as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven by two or more respectable witnesses testifying upon oath, to the satisfaction of the register of the land office, that the person having filed such affidavit, shall have actually changed his or her residence, or abandoned the said entry for more than six months at any one time, then, and in that event, the land so entered shall revert back to the Government, and be disposed of as other public lands are now by law.

*Sec. 6. And be it further enacted*, That if any individual now a resident of any one of the States or Territories, and not a citizen of the United States, be at the time of making such application for the benefit of this act, shall have filed a declaration of intention as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, as made and provided for in this act, shall be placed upon an equal footing with the natural born citizens of the United States.

*Sec. 7. And be it further enacted*, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands patented under the provisions of this act, that they are now entitled to receive when the same quantity of land is entered with money to be paid by the party to whom the patent shall be issued.

The first section of the bill was then again read with the view to amendment.

The CHAIRMAN. The Chair will announce the question before the committee. The Committee on Agriculture, to whom the bill was referred, reported it back to the House, with sundry propositions to amend. They propose to amend the first section of the bill by inserting after the word "States" the words "on the first day of January, 1852, who is not the owner of any land, nor worth the sum of \$500, and who has not disposed of his or her land for the purpose of obtaining the benefit of the provisions of this act;" and the question immediately pending is upon this amendment.

Mr. BEALE. I move to strike out the first section of the bill.

The CHAIRMAN. There is an amendment offered to the first section of the bill by the Committee on Agriculture, and the Chair is of the opinion, that until that amendment and other amend-

ments to the first section are acted upon, the gentleman's motion will not be in order. It will be hereafter.

Mr. HARRIS. Is it not in order, at the present time, to submit the motion to strike out the first section? It is in order, I am aware, to perfect the section before the vote is taken upon striking out.

The CHAIRMAN. There is pending an amendment to the first section reported by the Committee on Agriculture.

Mr. JOHNSON, of Tennessee. I will suggest, for the purpose of getting rightly started upon this bill, that the committee reporting it have made some amendments to the bill, as it now stands. There is an amendment to be offered in lieu of the first section, in the event that the amendments of the committee are adopted or rejected. The question recurs first upon the section submitted in lieu of the first section of the bill.

The CHAIRMAN. That is the understanding of the Chair. An amendment to the amendment of the committee is now in order.

Mr. CAMPBELL, of Illinois. I propose to submit an amendment to the amendment of the committee.

Mr. HARRIS, of Tennessee. I rise to a question of order. The gentleman from Virginia [Mr. BEALE] obtained the floor, and moved to strike out the first section of the bill. I insist it is in order to entertain that motion at this time. It is, to be sure, in order, before the vote can be taken, to perfect the first section. Gentlemen may offer as many amendments to the first section, before the vote is taken upon the motion to strike out, as they may deem proper. I insist that the gentleman's motion was in order, and that he is entitled to the floor to debate his motion.

The CHAIRMAN. The Chair will state, independently of what has been stated by the gentleman from Tennessee, [Mr. JOHNSON,] that there is now pending an amendment to strike out the first section, and to insert, in its stead, a substitute. It is the decision of the Chair that two questions to strike out the same matter cannot properly be before the committee at the same time. There is now also pending an amendment, reported by the Committee on Agriculture, to the original bill. When disposed of, other amendments, tending to the perfection of the first section of the bill, will be in order. An amendment has already been introduced to strike out the first section.

Mr. HARRIS. Is it not an amendment proposing to strike out the whole bill after the enacting clause?

The CHAIRMAN. There is pending an amendment to strike out the whole of the first section. There is also pending, the Chair believes, such an amendment as he states. The Chair will state, that the gentleman from Virginia [Mr. BEALE] rose in his place, and offered an amendment, which was ruled out of order. Then the gentleman from Illinois [Mr. CAMPBELL] obtained the floor, and expressed his intention of moving an amendment, when the gentleman rose to a question of order.

Mr. CAMPBELL. I move to strike out the first section, and, in its stead, to insert what I send to the Clerk's desk.

The CHAIRMAN. An amendment to the amendment of the committee is now in order. The amendment of the gentleman from Illinois is of another character, and therefore is not in order.

Mr. MOORE, of Louisiana. I move to strike out, in the sixth and seventh lines, the words "nor worth the sum of \$500."

I cannot, Mr. Chairman, see that any good reason whatever can be ascribed for the introduction of these words in this bill. This land, as I understand, belongs to the whole community—to the whole people of the United States. Why should it be, then, granted to those only who are not in the possession of \$500 of real estate? There is, again, this other powerful objection against the insertion of that restriction. It throws out strong temptations to perjury; and you provide that land be given to the man who will swear that he is worth less than \$500 worth of property. The man who holds in possession property to the value of \$499 is entitled to the benefit of this measure, while the man holding real estate worth \$501 is entirely excluded. Is it fair—is it proper to make this discrimination between a man owning prop-

erty of a certain value, and another owning property worth two dollars more? The conscientious man would be fearful that he valued his property too low, while the designing man would take an oath, without any hesitation whatever, that he was worth less than \$500, although he knew that he was worth more. The object to be accomplished, as I understand it, by this measure is to bring into cultivation our public domain. Now, I can very readily conceive that the greatest good will be derived from the cultivation of these lands by men who are worth a little over \$500. Suppose, for instance, that a man worth \$1,000 emigrated to the State of Louisiana, and settled upon a piece of land there in order to put it into cultivation, it would be necessary for his object to hire the services of others to assist him in clearing the land. Money would have to be invested in axes and other implements of labor. He would have to purchase hoes, plows, horses and cattle, to effect the cultivation of the land. When the land had been cultivated it would be necessary—for in our country we raise cotton—for him to expend money in the building of a gin-house. Under this bill this man, and all others worth more than \$500, would be entirely cut off from availing themselves of the privilege granted to this bill. For what reason has this distinction been instituted? By striking out the words proposed to be stricken out by my amendment, the poor man will not be excluded—not at all. He will still be enabled to possess himself of the benefits of this homestead bill. He can still, by settling upon a quarter section of the public domain, and putting it into cultivation after five years' residence, possess himself of its title. Influenced by these reasons, I make the motion to strike out the words "worth more than \$500."

Mr. JOHNSON, of Tennessee. If the Clerk will just read the substitute for the first section of the bill, I think it will set this question all right, and come up to the precise idea which the gentleman from Louisiana [Mr. Moore] desires.

It was read, as follows:

That any person who is the head of a family and a native-born citizen of the United States, or any person who is the head of a family and had become a citizen prior to the first day of January, 1852, as required by the naturalization law of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

I do not intend to be troublesome to the House, for I have but one great object, if I know myself, which I have to accomplish, and that is, the passage of this bill in a form acceptable to the country.

It will be seen that this section carries out the idea intended by the gentleman from Louisiana, and all that in relation, for instance, to the \$500 restriction. We see that this section excludes the part objectionable to the gentleman from Louisiana, which requires the individual to come forward and make oath before making an entry, that he or she is not worth the sum of \$500, and has not disposed of his or her land for the purpose of obtaining the benefit of this act. So far as I am concerned, I will take the section either way, with or without the restraint, but I believe the amendment offered in lieu of the first section of the bill, meets with the approbation of the majority of this House. I think so, at least, and if the House think proper to adopt that in lieu of the first section of the bill, I am inclined to think that the bill is in as acceptable shape as we, in all probability, shall get it. So far as some gentlemen have suggested in relation to foreigners, if I know myself, I repeat again, that my feelings are as kind to foreigners as those of any man. I will go as far as he who goes furthest, under proper circumstances, but I want, so far as the public lands are concerned—so far as an inducement is held out in the bill—to let the public lands rest precisely upon the same principle that they do now; neither to add to, nor diminish, the inducement, so far as foreigners are concerned, in regard to coming into this country. I want to leave that just as it is. This bill provides for all that are in the country, who were naturalized prior to the 1st January, 1852. It provides for all those here, who are not citizens but inhabitants of the States or Territories, upon condition that they will come forward and make a declaration of their intention to become citizens; and their title inures

to the land provided they are naturalized and become citizens. This leaves the land standing as it did before, holding out precisely, and no more, the inducements which were held out before this bill shall have passed.

Now, I make one appeal to the friends and the foes of this bill. This is a naked, clean homestead proposition, which is intended to ameliorate and elevate the condition of our kind. I want to appeal to those who are opposed to it, and to those who are its friends, to desist upon this occasion from offering amendments. Let us withhold our amendments, and adopt this first section in the form most acceptable of the two proposed. The remainder of the bill is, I think, as perfect as we will be likely to make it. What will satisfy one, will not satisfy another. It is impossible for us to perfect this bill to the satisfaction of every member of this body. The Senate must do something. They will do something. And even if we were to make the bill perfect, going upon the ground that the Senate would do something, they would make it imperfect; and hence, if we leave it a little imperfect, we may take it for granted that the Senate will do something towards its perfection. Let us adopt, then, the amendment in lieu of the first section, and take the bill as it is. Let me appeal to the friends of the bill who have amendments to offer, to let them go over. We cannot all secure the adoption of our amendments. It is impossible for that to be accomplished. It is impossible that we can frame such a bill as will be acceptable to all. We cannot do as Minerva, in old times, who sprung from the brain of the Imperial Jove with a complete coat of armor. We cannot perfect a bill emanating from a committee—emanating from members of this House, that would be completely perfect in all its parts. Let us take the principle. Let us get the Government committed to this great policy, and the defects and imperfections of this bill will be cured hereafter. Shall we who are friendly to this bill, after this long struggle—after having routed the enemy, horse, foot, and dragoons; after having met them at all their strong points, demolished them in argument, and driven them from the field; shall we, from a contest among the friends of the measure, after this struggle, see, like the Dead Sea fruit, all our toils and labors turn to ashes upon our lips? I appeal to the friends and enemies of this bill to forbear. Let it have a fair test. Let it go to the country; and if it is wrong, let the country pass upon it.

Mr. SWEETSER. I wish the House to permit me, although it may be technically out of order, in a five minutes' speech, to reply to that point.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. Johnson] has expired, but by the unanimous consent of the House, it will be competent for the gentleman from Ohio [Mr. Sweetser] to proceed, and not otherwise.

[Cries of "No!" "No!"

Mr. SWEETSER. I will not occupy five minutes.

Mr. STEVENS, of Pennsylvania. I wish to make an inquiry of the Chair—

Mr. SWEETSER. Does the Chair consider the amendment submitted by the gentleman from Tennessee as now pending?

The CHAIRMAN. No. The gentleman from Ohio is in possession of the floor.

Mr. SWEETSER. Will the Chair indulge me a moment? The object I had in view was to reply to the gentleman's remarks which attack the amendment, and not the one which the gentleman from Louisiana made to the bill. He picked up his amendment of the 30th March, to which he directed his attention. My object is to reply to the points made upon that amendment.

The CHAIRMAN. That will be in order when the amendment comes up for consideration.

Mr. SWEETSER. I do not wish to be out of order.

Mr. CARTTER. Is the amendment of the gentleman from Louisiana before the House?

The CHAIRMAN. The gentleman from Louisiana proposes to amend the amendment of the Committee on Agriculture, by striking out the words "nor worth the sum of \$500."

The question was then taken, and the amendment was adopted.

Mr. BEALE. I propose to amend the amendment by striking out "\$500," and inserting "\$1."

The CHAIRMAN. The committee have just voted to strike out those words.

Mr. BEALE. I move to strike out the words "1852," and in their place to substitute "1853." Is that in order?

The CHAIRMAN. That is in order.

Mr. BEALE. Mr. Chairman, I wish to give my opinion on this bill particularly, because it involves vital political principles that are about to be disregarded. I can take but a limited view of this subject in the brief time allowed me. In this debate, the finger of scorn has been pointed to a certain class of politicians who have been denominated Abstractionists. Mr. Madison, in his report of 1799, setting out the true theory of Federal powers, and Mr. Jefferson, in carrying out this theory in the practical application of our affairs during his administration, are the prominent offenders of this class, and to those who would direct its action to the accomplishment of selfish and sectional purposes. I belong to the school of 1799. If the plain construction of the Constitution in the early and best days of the Republic is right and true, this bill is in violation of such opinions and the practices growing out of them. No one doubts the just power of this Government to raise money. But any one at all conversant with constitutional law, ought also to know that this power does not carry with it an unlimited discretion in the use and application of money. The objects to which Congress may make a just application of money, or of public property, are limited by the specific grants contained in the Constitution, or to such other incidental powers only as are necessary and proper to carry those grants into execution. This may all have been done in error. It is barely possible that Congress ought to have had the power to suppress the liberty of speech and of the press, to have established a religion, &c., &c. But the facts are otherwise. This Government is derivative in its character, and has no beneficiary powers. That has been reserved to the States and to the domestic circle untrammelled, as it should be. The people and the States, in the fundamental law, have chosen to intrust to you that class of power by which, and by which only, you may work out the public good. Can any one point out such grants of power in the Constitution, or such incidents, as would characterize this bill as a necessary mode of procuring the public good in conformity to the fundamental law? It is scarcely pretended. It is spoken of as an act of supreme beneficence—our feelings of kindness and humanity are appealed to—it is based merely upon the old, and I had hoped the exploded, doctrine of Federalism, that we are neither bound by the will of our constituents nor constitutional limitations, but may legislate at will for the public welfare. I would ask Democrats—who will forgive this repetition—have you any means of promoting the public welfare, except you confine your legislation within the pale of the Constitution? Have not the people and the States chosen to limit your action by the primordial law? If this is not so—if this conclusion is an abstraction, where, I ask, but in your own will and pleasure, is the limitation to the most wild, experimental, and chimerical projects of legislation? Will gentlemen be so good as to point out what project may not be undertaken and, therefore, justified, because of the reason that it admits of the application of money, or is characterized by a lofty beneficence? You have, therefore, no constitutional power to pass this bill.

You are also restricted in the passage of this bill by solemn compact. When Virginia and other States ceded a large amount of those lands, it was upon the clear and well-known conditions that they were to be used for the express purpose of paying the debts and defraying the general charges and expenditures of this Government. Did you not accept them upon those terms, and, having so accepted them, are you not bound, in good faith, to keep holy and untouched the terms of the contract? But some say, in answer to this view, "Virginia was a party to the contract of the Constitution of 1789, and by her consent placed the public lands at the disposal of this Government." The disposal of those lands had been placed there before—there was no change expressed or contemplated in the transfer to the new Government. In proof of the assertion, there was no change in the action of the Government in this relation for many years of the good time of the Republic. Those lands acquired by purchase,

as well as by donation, were used for the purposes set out in the cession act of 1784. You have, therefore, the construction the Government itself put upon this matter for the last forty years. We have had advancement in Government affairs, but no revolution that would abrogate previously-existing contracts in relation to pecuniary matters. But suppose we had, what is the practice of nations in our own times in regard to this matter? Did not Louis Philippe pay to the United States twenty-five millions of francs for captures made of American property under the Imperial Government of France after several revolutions? Shall our Government feel itself less bound to observe its pecuniary contracts, especially when it is remembered that this cession of lands by the States at the period when made removed existing impediments, and greatly contributed to the formation of the Union? Do not tell me of precedents in the bestowal of the public lands heretofore; they were acts of a generous and unthinking beneficence to our own people struggling with the difficulties of settlement in a new country, without a cautious reference to your legitimate power. You may, for the effect it would have upon my judgment, as well refer to the precedents of legislation violative of the rights of speech and the liberty of the press of a former period. I disregard legislative precedent when opposed to what I esteem as fundamental political truth. The very act, however, which you are about to perpetrate will probably be heralded as a precedent hereafter to weaken the force of constitutional obligation, and to break up this noble fabric of constitution and law into a convenient machinery to advance sectional and party interest, or to manage more efficiently a presidential election.

The sole argument made use of in this debate to sustain the constitutionality of this measure, is the mere assertion that the prominent object of the Government in the acquisition of new territory, was to its settlement. That settlement was a consequence foreseen; that it was an element entering into and controlling, to some extent, the idea of its value, is true; that its cultivation, including the building up of towns and cities, with a wide-spread civilization, was anticipated, is probable, and formed, if you choose, a laudable motive for action. But are we not brought back to the inquiry, Does the object to be attained justify you in this description of means for its accomplishment? And does not the history of both the transfer and acquisition by purchase of those lands, give a very different, but the true view of the object intended by the Government? The Conventional Government required of the States the donations that were made. Could, I ask, the Convention which formed the Constitution, have intended to violate the terms of the contract so recently made with the States? Were not those transfers made for the purpose of obtaining money for the uses of the Central Government at a period of great financial difficulty? And were not those acquired by purchase used and disposed of for the identical purposes, to wit, to pay the debt and defray the general charges and expenditures of the Government?

If this is fancy and not fact, why, then, you can not only give them away, as you now contemplate, but you can also hire men out of the moneys of the Treasury, both to settle and to cultivate those lands; which is not pretended. The argument based upon settlement proves too much, and therefore is fallacious.

But suppose those barriers to the passage of this bill were removed, then is it wise and prudent? Is it in conformity to the plan of our ancestors to advance the best interests of man? Is not the scheme of protecting the life, liberty, and property of men sufficient of itself? Let the successful advancement in this country of all that constitutes national greatness and individual happiness, answer this question. Can gentlemen show an instance in the long history of our race, when governmental bounties were ever bestowed, except in the most corrupt times, and for most corrupt purposes? Bounties and despotism are near of kin to each other. Your system of pensions, running into sinecures on the one hand, and of flogging and ball-chaining in the Navy on the other, are weak imitations of European policy, that are hostile alike to the genius of our institutions and the sentiments of our people. Let us keep clear of both. Let us leave men to pursue their own good in their own way. God has implanted in the heart of

man a self-love that impels him with sufficient speed, and needs not governmental propulsion. Let us make clear his way, and take care only that he does not run foul of the rights of others. This is as much, and perhaps more than government has ever effected anywhere or at any time. Beware of bounties. It destroys that energy of character and intrepid perseverance which has spread a high civilization from the Atlantic to the Pacific ocean, and which the drones of gifts and benevolences could never have effected.

What Democrat can go for this bill, when the argument in its support assumes as a government duty to interfere and direct the labor, skill, and capital, by holding the temptation of bounties to a free people, and controlling labor by legislative bribe? Men manage their own affairs better than government can do it for them. To be let alone is in most instances a great blessing of political liberty. The peculiar condition of things in this country will, by the law of demand and supply, direct the labor and pursuits of community.

Will you, at the expense of the rights of the sovereignty and dignity of the State governments, induce the people of the United States to look up to this Federal Government as the only and sole dispensers of gifts and of bounties—indeed, the great beneficiary of the people, to the discredit and disrepute of their State governments, who have less means to bribe with so lavish a hand.

Again, as the public lands belong to all the people of the United States, does not your bill violate all ideas of equality, and therefore of justice, in bestowing it in such a manner that its benefits will only accrue to a part of the people?

Have you not, by the act of 1846, pledged the moneys arising from the sale of the public lands for the redemption of the principal and payment of the interest of some \$40,000,000 expended in prosecuting the Mexican war? and does not this bill, if it pass into law, violate that solemn and voluntary pledge, so recently made?

Suppose so improbable a suggestion as that the Representatives of the manufacturing States should favor the passage of this bill for the reason, that if you withhold the means by which money will be placed into the public Treasury for the sale of the public lands, you thereby induce the necessity in case of emergency of causing an increase of duty on foreign importations by which the interest of your own peculiar labor is advanced. But suppose this effect were to follow, will it not operate in another point of view greatly to your injury? Why are the people of the Northeast engaged in manufactures? Because they occupy a sterile soil, a rigid climate, a dense population, cheap labor, and have acquired an excess of capital. Why are those of the South, the Southwest, and the Northwest consumers of the products of your ingenuity? For causes precisely the reverse—a rich virgin soil, a bland and genial climate, a sparse population, high price of labor, with less pecuniary means. Do you not hasten a condition of things in the West that will change the relations at present existing, much to your disadvantage? How long will the people of the West pay transportation and profits on articles that they will make then as cheaply as you do now?

A strong objection may be made to this bill from its pecuniary consequences. When those lands are given away, no dollar can come into your Treasury from that source. You will then have to look to other means of revenue to sustain the costs of the system incurred by surveys, registers' offices, General Land Office at this place, together with the payment of Indian annuities already amounting to many millions incident to the purchase of those lands.

Gentlemen may think it patriotic if they advance the interest of their particular State or district. This may be so. But to have a regard to equality of rights, to justice, to constitutional obligation, constitutes, in my opinion, a much better, and the American definition of that term.

Mr. SWEETSER. Mr. Chairman, my object in rising is not to speak to the *pro forma* amendment of the honorable gentleman from Virginia, but to reply to the remarks of the honorable gentleman from Tennessee, [Mr. JOHNSON.] I am at issue with him, and with his amendment to the original bill, which was submitted to the House on the 30th March last, the principles of which amendment he has made the subject of his remarks this day.

That amendment limits the benefits of this measure to native citizens, and to foreigners who are residents and citizens of the United States on the 1st day of January, 1852.

Now, sir, I am opposed to any such limitation. I am in favor of extending this bounty of the Government to the *landless*, now residents of the United States, irrespective of any limitation as to the place or time of their birth. I do not wish to be misunderstood in relation to this matter. I am in favor of the bill and the principles it involves, in the most liberal sense; and do not wish to see any invidious distinctions made between native born, or naturalized citizens. Nor do I wish to confine its provisions to the present inhabitants of this country. It is said if we extend its benefits to the future, it will be an invitation to the landless of Europe—be it so. I desire that the whole world may know and appreciate the munificence of this Government; and that its policy proclaims an invitation to the downtrodden and famished Irishman, the prudent and enterprising Dutchman, and the landless and destitute of all countries. That the United States of America has enough and to spare, and that "giving doth not impoverish, or withholding enrich." We have territory enough for all that will seek our shores and become tillers of the soil. Our object is to bring our vacant lands into cultivation, and to develop our resources. We want for that purpose strong arms and patriotic hearts, and we care not from what country they come, or at what period they arrive, if they come with the intention of making our happy country their home, and cast their lot among us, and are willing to take up their abode on our Western frontier—make their declaration of intention to become citizens of the United States. Let them enter and take possession; and after an occupancy of five years, and when they shall have perfected their intention, by becoming citizens in conformity to law, they shall have my vote, and the aid of my voice, to extend to them the benefits of this bill.

Sir, I regret that my liberal and honorable friend should have seen fit to offer an amendment, and to lend his aid to a proposition that will mar the beauty and throw a shade over this great measure. The honorable gentleman will recollect that, in all our contests, when we call for volunteers, (as was the case in the late Mexican war,) the foreigners upon our shores, *aliens and citizens*, volunteered and shed their blood for the honor of our flag on every battle-field in Mexico. Many a gallant spirit, who has manifested his attachment for our Government by fighting under our flag, has a brother, perhaps a father, who has been induced to seek out our country for his future home, by the inducements held out in this bill, and may be now on the billow, with all he possesses, and all that is dear to him, stimulated by the provisions of this bill.

Sir, since this measure has been mooted in Congress, and sustained by an enlightened expression of public opinion, the conviction has been fixed upon the country that our public domain must be surrendered to the actual settlers—to the man who would clear up the wilderness, defend the frontier, and submit to deprivation, disease, and death, for the benefit of a coming generation, because such has been, and will always be, the fate of the pioneer. Sir, the object of the Government is to discharge the trust, and to so dispose of the public domain that the whole people will be fairly dealt by, and that the lands may be brought into cultivation, the resources of the country developed, and the improved lands share the burdens of Government by taxation.

That object being accomplished, will an enlightened statesman ever inquire whether this mighty work has been accomplished by a native-born citizen, or a foreigner, or at what period the foreigner emigrated? I think not.

I confess that my desires are to extend the blessings that will result from this measure to the whole race.

Yet I shall content myself with any and all the amendments which the committee may make to the bill. If I cannot embrace all, I will not picture to the committee the spectacle of a brother or father, of a fortunate man, who emigrated in time to be a recipient—who may settle down beside a more fortunate relation, and pay \$1 25 for their lands. Such a picture would not be gratifying to the honorable gentleman who advocates this amend-



ment, and whose heart is so warm in favor of the great principles involved. It has been my good fortune hitherto to agree with him.

The question was taken upon Mr. BEALE's amendment, and it was not agreed to.

Mr. CAMPBELL, of Illinois. I would ask now, if an amendment to the amendment of the gentleman from Tennessee [Mr. JOHNSON] is in order?

The CHAIRMAN. Not now in order.

Mr. CAMPBELL. Then I move to amend the first section by striking out the word "citizen," and inserting the word "resident."

The CHAIRMAN. That is an amendment to the original section, and is not in order until the pending amendment is disposed of.

Mr. CAMPBELL. I supposed that the amendment had been disposed of.

The CHAIRMAN. The amendment of the committee has not yet been voted upon.

Mr. TOWNSHEND. I move to strike out the words "native born" in the second line, and the remainder in that line after the word "States," and then the third, fourth, and fifth lines.

The CHAIRMAN. The amendment is not now in order.

Mr. BROWN, of Mississippi. Will it be in order to move to strike out the entire original bill, and offer a substitute for it?

The CHAIRMAN. It will not, in the opinion of the Chair.

Mr. BROWN. What is the pending amendment?

The CHAIRMAN. It is the amendment reported by the Committee on Agriculture.

Mr. STEVENS, of Pennsylvania. Is it in order to say a word in opposition to that amendment?

The CHAIRMAN. It is not in order, in the opinion of the Chair.

Mr. STEVENS. There has been no speech made upon it.

The CHAIRMAN. It is not an amendment offered since the committee went into session, and therefore not debatable under the five-minute rule.

Mr. STEVENS. I move to strike out the whole amendment proposed by the committee which reported the bill.

Mr. STUART. That is the pending amendment. A motion to strike that out cannot be in order as an amendment to an amendment.

The CHAIRMAN. It is equivalent to a question upon the original amendment, and is not therefore in order.

Mr. STEVENS. I would modify the amendment if I am entitled to the floor. I move to strike out after the word "fifty-two." I understand it has been amended on the motion of the gentleman from Louisiana, [Mr. MOORE,] by striking out the five-hundred-dollar qualification. I know no reason why a man who owns a farm in one of the old States, and sells it for the very purpose of improving his condition in a new State, and takes the proceeds of his labor with him, should not be allowed the benefits of this bill precisely the same as a man who sells his personal property. I can see no reason in it. If a man chooses to remove from one of the old States into a new State and settle there, let him sell his own land in the old State; let him go and improve this land. As was well said by the gentleman from Louisiana, [Mr. MOORE,] the great object is to have the land cultivated, and it is not desirable that it should be cultivated by poor men altogether.

Mr. CARTER. I wish to ask my friend if he would not become landless after he has sold it?

Mr. STEVENS. But there is a provision that a man who has sold his land for the purpose of going there shall not be entitled. I wish to strike that out. Let him sell his lands for the purpose of emigrating to that country. Let him take the proceeds of it. Let him lay out his money in that country, and improve the land. It would be a very unhappy condition in society if that country was to be settled altogether by paupers—by men who had no means. I do not wish to enlarge upon the subject. I make the suggestion because it is in accordance with the spirit of the amendment of the gentleman from Louisiana, [Mr. MOORE,] which, I think, was a very proper one.

Mr. JOHNSON, of Tennessee. By the permission of the gentleman from Pennsylvania, [Mr.

STEVENS,] I will make a single remark. The idea which he wishes incorporated in the first section is clearly embraced in the substitute which I have proposed for the first section of the bill. It strikes out all in regard to the selling of property.

Mr. STEVENS. What I understand is, that we are first to amend this, and if we cannot get it right, then we will take the vote upon the amendment, and after we have taken the vote upon his we can amend no further. I modify my amendment by striking out all after the words "who is not the owner of land," the balance of the amendment of the Committee on Agriculture, as follows:

"And who has not disposed of his or her land for the purpose of obtaining the benefit of the provision of this act."

Mr. McMULLIN. I understand the object of the amendment of the gentleman over the way, is to allow those persons to sell their land and emigrate to the West, so as to become the beneficiaries of this law. I hope it will not be the pleasure of the House to adopt that amendment. A gentleman upon my right says: suppose the man sells fifty acres? There is a general provision in this bill which provides that persons must not be worth five hundred dollars who avail themselves of the benefits of this law.

A VOICE. That has been stricken out.

Mr. McMULLIN. That, I understand, has been stricken out. The committee, then, has thwarted one of the objects of the committee who reported this bill. I beg gentlemen to remember that if you adopt the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] and allow persons to sell their lands so as to accept the benefits of this law, you will defeat one of the great objects of the friends of the bill. A man may go further, and sell \$50,000 worth of land. It is the purpose, as I understand, of the friends of this bill to allow only such persons to receive at the hands of the Government one hundred and sixty acres of land, as are unable to purchase homes from the Government.

Mr. AVERETT. I wish to know of my colleague whether he contends that this Government is to deny to a man owning land an equality of rights with other citizens, simply because he owns land?

Mr. McMULLIN resumed: I do not mean to discuss the question of equality with him. My colleague discussed that question the other day, and he is too intelligent not to know that one half of the laws passed by Congress are not equal. It is contrary to the legislation of your country that all law shall operate equally and alike. Does not my colleague know—does not every member of this House know, that one half of the laws which we pass do operate unequally and unjust? I say here in my place, as one of the friends of this bill, that if we go on and allow amendment after amendment, you may make this bill so objectionable, that its friends will be compelled to vote against it. I do hope that those gentlemen who, in good faith, choose to vote for this bill, will not allow this amendment to prevail. I repeat again, if this provision is stricken out, I shall be compelled to vote against the bill. I will not allow myself to give one hundred and sixty acres of land to an individual who has the means to purchase a home from the Government. The object of this bill is to be charitable to the poor. The rich men of the country have advantages enough now in the ordinary legislation of the country; and here they are coming forward again to amend this bill so as to allow them to be benefited still further. I trust that the gentleman over the way [Mr. STEVENS] will withdraw his amendment. If he will not, I appeal to gentlemen on each side of the House, who are disposed to go for this bill, and pass it in good faith, to vote it down; and I beg gentlemen, who are the friends of this bill, to remember furthermore, that every gentleman who intends to vote against the bill, will vote for every amendment presented, so as to make the bill as objectionable as possible. I beg gentlemen to be on their guard. I know enough of this sort of legislation not to know that the enemies of the bill will resort to every possible legislative strategy to defeat it by indirection.

Mr. STUART. If the gentleman from Virginia will allow me to say, I deem it the most important thing for the States in which these lands lie, as connected with the whole subject of this bill, to strike out this limitation, so that the very

best population may come into the States, of which the character of the measure is susceptible.

Mr. McMULLIN. I hope my friend will pardon me, but my time is short. I beg gentlemen to remember that there are but few members from the old States who are going to vote for this bill, and that those of us who represent the old States must look to our own interests—

[Here the hammer fell.]

The question was then taken upon Mr. STEVENS's amendment, and it was agreed to.

Mr. SACKETT. Is an amendment in order which would strike out the whole amendment offered by the Committee on Public Lands, and also a part of the original sections? I desire to offer an amendment which embraces a small portion of the original section and the entire amendment of the Committee on Public Lands.

The CHAIRMAN. There is no amendment pending, the Chair believes, reported from the Committee on Public Lands.

Mr. SACKETT. From the Committee on Agriculture, then.

The CHAIRMAN. In the opinion of the Chair, an amendment is only admissible which applies to the amendment reported by the committee.

Mr. SACKETT. I will state my amendment, that the Chair may see precisely what I wish to embrace. I wish to strike out all after the word "every," in the original section, to and including the word "shall," which would comprehend the entire amendment proposed to be inserted by the Committee on Agriculture.

The CHAIRMAN. That will not be in order until the committee have acted upon the amendment of the Committee on Agriculture.

Mr. SACKETT. That is an amendment which I desire to submit at some proper time.

Mr. PARKER. I move further to amend the amendment by striking out the words "who is not the owner of any land."

I think if the committee will direct their attention to that matter for one moment, they will see that it ought to be done. I regard it as very important. I wish to direct the attention of the committee to this fact, that there are frequently large families, who, upon the decease of the head of the family, have the real estate divided out amongst them. That real estate becomes actually invested in them—in each member of the family of some ten or twelve. It is cut up into small parcels, and each member of the family probably will not own an amount exceeding fifty or one hundred dollars' worth of the old homestead. If this feature of the bill is retained, it will debar all the members of that family who may be heads of families from acquiring any advantages by virtue of this bill until they have sold the little estate they have in land. They cannot avail themselves of it until that is done. It is possible they might meet with a purchaser and thus obviate the difficulty, but that could not always be, and they would thus have inducement to sacrifice the little estate they may have for the purpose of acquiring new. I think, however, it is wrong in principle, as my friend from Pennsylvania [Mr. STEVENS] has already indicated. You do not wish to make these Western States an asylum for the poor alone. As the bill now stands a man may own a million of dollars of personal estate, but if he have one hundred dollars of real estate he cannot avail himself of the benefits of this measure. I did not rise to consume any length of time.

Mr. BEALE made a few remarks in opposition to the amendment, which will be found incorporated in his previous speech.

The question was then taken on Mr. PARKER's amendment, and it was agreed to.

Mr. SACKETT. I propose to strike out the words, "and who has not disposed of his or her land for the purpose of obtaining the benefit of the provisions of this act."

The CHAIRMAN. Those words have already been stricken out.

Mr. SACKETT. Then I would inquire of the Chair whether the amendment of the Committee on Agriculture has been so disposed of that an amendment to it is now in order?

The CHAIRMAN. A part of the amendment yet remains to be acted on.

Mr. SACKETT. Then I move to strike out the words, "on the first day of January, 1852."

The CHAIRMAN. The Chair is of opinion

that that amendment is not in order, because it is equivalent to a vote on the adoption of the amendment. The question now pending is on the adoption of the amendment.

Mr. SACKETT. Then I move, as a *pro forma* amendment, to strike out "59," and insert "54."

I hope the committee will indulge me in a little latitude of remark upon this very limited amendment. My object in offering it is to say a few words on the subject of the classification, or rather the limitation of the citizens to whom the bounties of this bill are to apply. I think that all these limitations should be stricken out.

Now, if I understand the objects of this bill, one of the great and important objects to be obtained by it is, that the public lands may become settled, occupied, and cultivated; and that the consequences to the Government, to grow out of the bill, are consequences to arise from the settlement and cultivation of the public lands. If that be so, clearly there should be no distinction as to who should have the right of enjoying the bounties provided by this bill.

Now, this bill is not solely intended as a gratuity. If it is intended as a gratuity, why, then, the bounty is only provided for a certain class of citizens. This is wrong in principle. But gratuity is not the great foundation on which the bill stands. It is a bill, according to its title, for the settlement of the public lands, to promote agriculture, to promote commerce, to promote manufactures—in other words, to promote the general interests of the country. The benefits offered by it are indeed of immense consequence to the people; but that is not the sole principle on which it stands. If this be so, what propriety is there in saying that any one particular citizen or class of citizens shall be the beneficiaries under the law, or instrumentality through which this benefit shall arise to the Government? If benefit is to arise to the Government, it will arise from the occupation of the land by one citizen as well as by another. I intend, at the proper time, to move to strike out all that part of the bill that provides for this limitation, so that the section will read, that every citizen of the United States, of the age of twenty-one years, shall be entitled to the benefits of the law. If we are to act upon the principle which the particular friends of this bill say it is based upon, I can see no propriety in the distinction provided, that limits its benefits to heads of families, and cuts off every young man in the country. I believe in the soundness of the principle which I have stated. I am in favor of the passage of a bill based upon such a principle; I believe it will promote agriculture; I believe it will promote commerce; I believe it will advance the general interest of the community. I am in favor of the principle of the measure, but let the nation at large, and all the citizens at large, have the benefit of the provisions of the bill.

I will not now undertake to say what my views may be, in regard to the details of this particular bill. But in regard to this section, I wish to state that, at the proper time, I shall move an amendment to give each citizen, after he has attained the age of twenty-one years, the benefit of the provisions of this bill.

I am also in favor of securing its provisions to such adopted citizens and foreigners who are permanent residents here, as may wish to avail themselves of it—I have no fear of the influence of farmers, cultivators of the soil, whether born in this or a foreign country.

Mr. HOWARD. I am opposed to the amendment, for the reason that it enlarges the operation of the bill. We are told that the object of this bill is to provide, gratuitously, homes for the poor. Now, I wish to know under what provision of the Constitution we have a right to establish charities within the States, or elsewhere? Have we a right to give away the public treasure for the purpose of establishing charitable institutions in any State? And if we have no right to give away the public money, by what species of reasoning do you arrive at the conclusion that we have a right to give away the public lands, or any other public property, to create a great national alms-house for the benefit of the people of this country? Sir, it strikes me that there is no sound distinction, and that none can be drawn between the public lands and other public property, in the power to give away. We have no right to give away the public money or the public property for these objects. It does

not come within any of the provisions of the Constitution which clothe us with Federal power.

But, if it were constitutional, where is this thing to stop? This year you give to the poor men the public lands. Next year, the men who live in the cities will come and say, "You have given away our public property, you have given away the common property, in which we are all interested—"

Mr. CABLE, of Ohio, (interrupting.) I rise to a question of order. The five-minute rule requires that the speakers shall confine themselves to speaking in favor of, or in opposition to, the pending amendment, and not go into the merits of the bill at large.

The CHAIRMAN. The Chair understands that the rule requires gentlemen to confine themselves to the discussion of the amendment before the committee.

Mr. HOWARD. I am doing it.

The CHAIRMAN. The Chair was about to say that he does not think the gentleman from Texas is wandering from the question now before the committee.

Mr. HOWARD. I am confining myself to the merits of the amendment, which enlarges the operation of the bill.

Well, sir, what is to be the result of this thing? Why, next year the men who are not land-owners—the manufacturers, the mechanics, and artisans—will come and say, "You have given away the public lands in which we were jointly interested; we do not understand farming; we cannot avail ourselves of this law; but inasmuch as you have given away our property, now make us equal by giving us money with which to buy bread, and fuel, and raiment." And how can you answer them? Sir, in my humble estimation, is a wilder scheme of socialism than the French socialist ever dreamed of in his wildest visions. What did he ask for? All he ever asked was, that the Government should furnish him employment by which he could earn the means of procuring food and raiment. But now you come and say that you will buy lands and actually give a farm and a home to every man in the country who is not worth a certain amount, or, rather, to every man, no matter how much he may be worth—for I believe the limitation has been stricken out. Sir, where is all this thing to stop? What is to be the end of it? When once you embark in this system of national largess—of federal donation, there will be no end to the evils of it. One partition of lands will be followed by another, and the gift of land by that of money and food.

Sir, it is one of the signs of the times not the least significant, that almost all the candidates for the Presidency—"old fogies" and all—have declared themselves in favor of some provision of this sort. And how long will it be, if you embark in this system, before the presidential office will be put up at auction to the candidate who will promise the largest donations to the landless in the shape of homes and farms?

I believe that this measure, if it prevails, is one fraught with infinite mischief, and that it will have precisely the opposite effect from that which is contemplated by the distinguished gentleman who introduced it, and whose motives in this matter I know are good. I have lived on the frontier long enough to see the operation of all such measures as this. Wherever you give away property, the possessor of that property, who acquires it for nothing, esteems it at little or no value, and is willing to transfer it for a very moderate compensation. The natural result of this measure will be to throw the public domain into the hands of a few monopolists, and to place it beyond the reach of the honest cultivator, who desires a home for himself and his family. This has uniformly been the effect of holding lands at so cheap a rate as to induce large investments of capital in its purchase.

The question being upon Mr. SACKETT's amendment, to strike out "two" and insert "four"—

Mr. SACKETT, by unanimous consent, withdrew it.

Mr. STANLY. Is it in order to amend that section?

The CHAIRMAN. Not until the vote is taken upon the amendment offered by the Committee on Agriculture.

Mr. ALLISON. I desire to amend the original bill.

The CHAIRMAN. That is not now in order.

Mr. JOHNSON, of Tennessee. But is not an amendment now in order to this section?

The CHAIRMAN. The Chair will again state that an amendment is not in order until the vote has been taken upon the amendment proposed by the Committee on Agriculture.

Mr. MANN. I have an amendment which I wish to offer to the section, to come in in the eleventh line.

The CHAIRMAN. It is not in order until the vote has been taken upon the pending amendment.

Mr. MANN. That is the very amendment which I wish to amend. I wish to offer an amendment to that amendment, to come in in the eleventh line.

The CHAIRMAN. The Chair must again inform the gentleman that the part proposed to be amended by him is not the amendment of the Committee on Agriculture, but a part of the original section; and it is not, therefore, in order.

The question was then taken upon the amendment offered by the Committee on Agriculture; and it was not agreed to.

Mr. CAMPBELL, of Illinois. I ask now, if an amendment is in order to the amendment offered by the gentleman from Tennessee, [Mr. JOHNSON,] which I understand is now before the committee?

The CHAIRMAN. If there be no further amendment to the original action, it will be in order.

Mr. SACKETT. I have an amendment to offer to the original section.

Mr. CAMPBELL. I desire to offer an amendment to the original section. I move to strike out the word "citizen," and insert the word "resident."

Mr. Chairman, this is the substance of an amendment which I did intend to offer to the amendment of the gentleman from Tennessee, [Mr. JOHNSON.] I am aware that amendments are frequently resorted to by the enemies of a measure, for the purpose of securing its rejection. But, sir, in offering the principle which my amendment is intended to assert, I apprehend that I am in no danger of rendering myself obnoxious to any such charge; because, I yield to no man upon this floor, in sincerity and zeal, for the legislative assertion of the great principle contained in this bill. Indeed I feel a little of remorse that I did not avail myself of the sixty minute instead of the five minute rule, to which I am now confined, for the purpose of giving utterance to my views upon this great question; not that I have the vanity to suppose that I could add anything new to that which has already been so eloquently, so strongly, so fervently, and so argumentatively urged by the several distinguished gentlemen who have participated in this discussion, and in doing so, an earnest expectation which very many of my constituents had just reason to entertain would have been realized, and another voice, feeble as it is, would have been heard in this Hall, in vindication of the rights of oppressed labor.

The amendment which I propose, relieves the bill of what I conceive to be an odious distinction, and an unjust restriction. Instead of confining the benefits of the measure to the native-born citizen, or natural citizen, it gives it a wider range, and allows all those who are hereafter to come to this country with the intention of making it their residence—of making it their homes. I desire that when they shall come here and declare their intention, under the laws of the United States, to become naturalized citizens of this Republic; they shall be placed upon an equal footing with those of their countrymen more fortunate than themselves, and who, by this bill, are made participants in all the benefits and all the privileges which it is intended to confer.

If I correctly comprehend the principle upon which this whole measure rests, it is not, as it has been represented to be, an actual gift of a hundred and sixty acres of the public domain to all who are willing to receive it, but it is a sale made by the Government to the citizen for a valuable consideration, indeed a more valuable consideration than \$1 25 per acre. The settler, under the provisions of this bill, instead of paying for the land in gold and silver, pays for it with the labor of his own hands; this is the only difference. Under our present system, the foreigner can purchase with money as much land as he may see fit. By what rule, then, would you exclude the same class

of people from paying for one hundred and sixty acres with his labor instead of dollars and cents? If the danger consists in allowing foreigners to hold real estate in this country before they have become naturalized citizens, the objection is as forcible in the one case as in the other; nay, more so, because when a foreigner pays with his money for the land he purchases from the Government, he feels under no particular obligations to the Government; but when he will receive under the generous and humane provisions of this bill, he will feel inspired with sentiments of the profoundest gratitude to the Government of his adoption. I do not belong to that class that tremble and grow pale whenever they hear of a foreigner landing on our shores lest he bring with him the elements of destruction and disunion. Much less am I disposed to encourage that still narrower prejudice which we too frequently heard urged against our foreign population—I mean that which relates to their religious faith. I for one, sir, say, let them come, and bring their religion along with them; I would not have them without it. While the genius of religious toleration has an abiding place in the country of Washington, the oppressed and persecuted of all lands will find a vine and a fig-tree, under which they can worship their Creator according to the dictates of their own conscience, and there will be none found to molest them or make them afraid. But, sir, if there is any class I would exclude from all participation in the benefits of this bill, it would be those who say in their hearts, "there is no God."

One of the greatest, and indeed the main object which this bill is intended to achieve, is the settlement, cultivation, and productive improvement of the public lands; and what difference does it make whether this great end be attained by native or foreign sinews? Without labor, of what value is your vast public domain? If your hills were gold, and your valleys silver, the earth would not be one grain of wheat the richer. There is no real wealth, except the labor of man. I am for that policy, sir, that will throw open our vast and almost boundless prairies to the hardy sons of toil, no matter from what country they may come. That which was intended for all, the few have no right to appropriate to their own exclusive benefit, while downtrodden millions starve in the garrets of Europe, and cry from its caverns that they, too, were created heirs of the earth, and claim its division. This, by some, may be called agrarian in its tendency; but, sir, if to advocate a policy which will feed the hungry, clothe the naked, reform the depraved, and give stability and permanency to honest labor, then, sir, from my place here, on the floor of the American Congress, I proclaim myself to be—

[Here the hammer fell.]

Mr. HALL. I am opposed to the amendment of the gentleman from Illinois, [Mr. CAMPBELL.] I think we ought to confine the benefits of this bill to the citizens of the United States. I am willing, however, to include those who have come to the country, and become citizens of the United States, or who have declared their intentions to become citizens hereafter.

My object in rising, however, is to notice a remark made by the gentleman from Texas, [Mr. HOWARD,] a remark which, I must confess, I was a little astonished to hear coming from that quarter. If I understand the drift of the gentleman's argument, it is to declare the power asserted by this bill as unconstitutional. Now, I have heard this argument urged from other sources, but it does seem to me, with all due respect to the gentleman who offered it, that it is as baseless as any argument I have heard offered.

For what purpose does the Government of the United States acquire territory? Is it for the purpose of speculation? Is it for the purpose of bringing money into the Treasury of the United States? No, sir; it is for the purpose of extending our population over it. That was the only purpose for which Louisiana was purchased. It was the great purpose for which Virginia ceded her lands.

Mr. AVERETT, (interrupting,) here made a remark which was inaudible to the Reporter.

Mr. HALL, (continuing,) I have only five minutes, and cannot yield to the gentleman.

Now, I say, every gentleman must know that was the great argument, and it is the only argument ever urged in favor of the acquisition of terri-

tory by this Government. It is to cover it with population, and not for the purpose of speculation. Now, sir, if we acquire territory for this purpose, have we not the right to adopt the means which in our judgment will most effectually secure that object? The Constitution gives you no right to buy muskets. Where, then, do you get the right? Why, the right comes from the fact that they are incident to your Army. Your Army would be useless without arms in their hands. The Constitution of the United States nowhere says you have the right to provide your Army with powder and ball; and where do you get the right? You get it from the fact that they are necessary to the efficiency of your Army and Navy. There is where you get it. But when you acquire territory, you do it for the purpose of covering it with population; and for the purpose of securing the great object of that acquisition, you have the right to adopt the means which you deem the best to secure a population for that territory.

But the gentleman says it is contrary to the practice of the Government. I can tell the gentleman that if he will examine the history of the country he will find that it will go but a very little way to confirm his—as they seem to me—very narrow and contracted notions of public policy. He will find that the policy of granting land to actual settlers originated as early as the days of George Washington. There is where he will find it.

But the gentleman from Texas says that if you adopt this policy to-day, and give the land to actual settlers to-morrow, you will have to give money to those who do not go upon the public lands. Now, I ask the gentleman from Texas if that is the fact in his own State? The laws of Texas, I believe, grant lands to actual settlers. If I understand them, every man who goes into the State and settles upon Texas lands, is entitled to a certain quantity of lands, upon the condition of occupancy.

Mr. HOWARD. Oh, that has been repealed.

Mr. HALL. Well, it was the law formerly, and I ask the gentleman if the grants of lands made under the provisions of that law induced the citizens of Texas who were not recipients to come and ask for gratuities out of the public treasury of that State? We give pensions to men who have been wounded in the service of the country; yet does it follow that you must give a gratuity to a person who has never served in the Army or Navy? But it is proposed to confine the benefits of this provision to the citizens of the United States. Now, if an individual comes hereafter to this country, he may claim, that in justice, you ought to give him a quarter section of land.

[Here the hammer fell.]

The question was then taken upon Mr. CAMPBELL's amendment, and it was not agreed to.

Mr. EVANS. Is it in order to move to strike out the whole section?

The CHAIRMAN. Not in the opinion of the Chair.

Mr. SACKETT. I desire to offer an amendment to that section.

The CHAIRMAN. The gentleman from Maryland is entitled to the floor.

Mr. EVANS. I shall not submit any motion unless I can move to strike out the whole section.

Mr. ALLISON. I move to strike out in the third line, the words "who is the head of a family."

Mr. Chairman, we have been making amendments, and striking out parts of sections, for the purpose of preventing invidious distinctions being made. Now, as I am in favor of that object being carried out, I wish to make this amendment. I wish to strike out these words, because they make a distinction against a very respectable portion of our fellow-citizens, and very honorable, some of whom are upon this floor. I should dislike very much that one of my colleagues [Mr. STEVENS] should be prohibited from entering upon the public lands, and appropriating one hundred and sixty acres to himself, or that the worthy gentleman from Tennessee, across the way, [Mr. JONES,] or the distinguished gentleman from Maryland [Mr. EVANS] who has just taken his seat, should be prohibited from appropriating one hundred and sixty acres of the public domain. I wish that they may have the same privilege that we have, who are heads of families. It is wrong to make such a distinction. I hope, further, that if this amend-

ment I have proposed shall be adopted, some of the gallant gentlemen who occupy the positions I have indicated, will have the gallantry to further amend the bill, so as to provide that one hundred and sixty acres of land shall also be given to persons of the opposite sex. [Laughter.] I believe this amendment would be favorably received, and particularly by those bachelor gentlemen who are the most deeply interested.

Mr. JOHNSON, of Tennessee. I am opposed to that amendment for many reasons. It seems to embrace the principles upon which the gentleman from Texas opposes the bill generally. That gentleman is the last one I expected to hear urge upon this floor, the reasons that he has urged against the passage of this bill. In the first instance, when we look to his own State, and that, too, after he manifests such great astonishment at this bill, denouncing it as the perfection of Fourierism, how does the matter stand there? We find that one of the distinguished men of this nation, [Mr. Housron]—an aspirant to the Presidency of the United States, who has distinguished himself in military, as well as in civil life, the individual we may say, who almost spoke Texas into existence; the individual who has shed his blood, and has periled his life and reputation that Texas should be brought into existence—comes forward with a similar proposition before the Senate of the United States, and he does not see any agrarianism or any Fourierism in it. He does not discover it.

The gentleman talks about gratuity. How long has it been since Texas was the recipient of ten millions of dollars at the hands of this Government? Talk about vacant and unappropriated territory! The territory she ceded to the United States was but a song, and valueless. It was a dead limb to Texas; and the Government did a great favor in amputating and separating that dead limb from her body. And for the poor privilege of performing this surgical operation of separating this dead limb from Texas, we come forward, and in principle and substance, give her a gratuity of ten millions, thereby enabling her to pay a debt which was heavy and pressing upon her people.

Might not this idea have been running through the mind of the gentleman from Texas, [Mr. HOWARD,] that, if Congress should adopt the principle of this bill, in relation to the public lands generally, it might interfere with emigration to some extent, which might be setting towards Texas? Would not individuals, would not settlers in Louisiana, in Arkansas, in Missouri, and Alabama, if we adopt this policy, be diverted from going to Texas? Texas offers her lands almost as a gratuity, yet Texas does not discover in that, all these dangerous consequences and effects upon society, which the gentleman predicts will follow this system, if adopted by the Federal Government. No such thing is to take place there. Texas can throw her lands into market cheap, but the Federal Government must hold its lands at high prices, and thereby drive the population into Texas, and prevent it from going into the other States, both the free and slave States. Now, these may be some of the reasons operating upon the gentleman's mind, in opposing this bill. Have they not made large grants of land to individuals, thousands and thousands of acres, conditional that they shall get so many settlers to the country? and do not those individuals, thus obtaining those grants, go into the old States and get settlers, and pay their expenses of going there, and then give them the lands?

[Here the hammer fell.]

The question was then taken upon the amendment of Mr. ALLISON, and it was not agreed to.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, their Secretary, announcing the passage, by the Senate, of certain bills.]

Mr. BROWN, of Mississippi. I rise again, at this stage of the proceeding, to move the substitute, of which I gave notice some days since. I move it, sir, as a substitute for the whole bill, and I ask the Chairman whether I have the right to do so at this stage of the proceeding?

The CHAIRMAN. It is the opinion of the Chair that the substitute will not be in order until the committee have proceeded through with the bill to the end. Then the substitute will be in order.

Mr. BROWN. If the Chair will indulge me, I apprehend that I have the right, at any time, to



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move a substitute to the original bill, but that that does not affect the right of the committee to go on and perfect the original bill before they act upon the substitute. They will first act upon the original proposition, making that as perfect as they can, and then upon my substitute, and take a vote upon it—the motion upon my substitute, in the mean time, being held in abeyance until both the original proposition and the substitute shall have been perfected to the satisfaction of the committee. Taking that view of the subject, I propose, at this stage of the proceedings, to tender my substitute, asking no vote upon it, nor expecting that the committee is to be estopped at all in the process of perfecting the original proposition.

Mr. STEPHENS, of Georgia. What is the pending proposition now?

The CHAIRMAN. If no other or further amendment to the original section is offered, the question will be upon the substitute for the first section, offered by the gentleman from Tennessee, [Mr. JOHNSON.]

Mr. STEPHENS. The pending question, then, is—

The CHAIRMAN. The gentleman from Georgia [Mr. STEPHENS] will wait until the question raised by the gentleman from Mississippi [Mr. BROWN] is disposed of. The Chair is of opinion that, while an amendment is pending upon which action is in order, it cannot be in order to offer an amendment upon which action is not in order. Those two questions cannot be presented at the same time. When, however, the committee shall have proceeded through the bill, and have acted upon such amendments as shall be offered, a substitute to the whole bill will be in order, and such is the ruling of the Chair.

Mr. BROWN. I do not desire to appeal from the decision of the Chairman, but still I think the decision is wrong.

The CHAIRMAN. The Chair will beg leave to say, that he is aware that a different practice has to some extent prevailed, but he believes that a better practice, sanctioned by usage, and in accordance with the rule, is as he states.

Mr. STEPHENS. I beg to state a point of order. Upon all propositions it is in order to move to amend the original proposition, unless the amendment is more than two degrees removed. The pending question I understand now is upon the amendment offered by the gentleman from Tennessee [Mr. JOHNSON] to the original proposition. That is only one degree removed from the original proposition. I submit to the Chair if it is not perfectly in order, at this stage of the proceeding, to move to amend the original proposition, as well as the pending amendment, by moving to strike out the original proposition and pending amendment, and submit the substitute which the gentleman from Mississippi [Mr. BROWN] has offered?

The CHAIRMAN. If the amendment offered by the gentleman from Mississippi were confined to the first section alone, it would be in order, being then such an amendment as the gentleman from Georgia [Mr. STEPHENS] indicates. But the amendment of the gentleman from Mississippi proposes to go further.

Mr. CLINGMAN. I desire to offer an amendment to the section by inserting in the fourth line, after the words "United States," and striking out the rest of the bill, the words—

"Shall be entitled to have issued to him or her by the Commissioner of Public Lands a warrant for one hundred and sixty acres of land, to be located in the same manner as that under which the bounty land warrants heretofore issued have been located on any of the public lands of the United States subject to entry, the applicant being required to make proof, in support of his claim, in such manner and under such regulations as may be prescribed by the Secretary of the Interior."

The few remarks, Mr. Chairman, which I shall make on this amendment will explain its operation. It will be seen by the committee that this is an important amendment. I do not exactly like the policy of this bill, but if it is to pass, I hope it will pass in the shape which I propose. I mean that if we are to make a disposition of the pub-

lic lands, I desire it to be an equitable one. The bill of my friend from Tennessee [Mr. JOHNSON] provides that every man who goes upon the public land, and occupies it for a certain length of time, shall be entitled to the land. I do not regard those persons who have no property—nothing to keep them at home—as the most meritorious class of the community. I have a great many constituents, honest, industrious men, who will not find it practicable to leave their homes—to leave their property and friends—and emigrate to the West. Yet these men pay taxes and contribute to the support of the Government, and are ready to fight for the Government. In fact, as a class, I believe they are more meritorious than the landless, or those who have no property. I will not, however, draw any distinctions between them. I have no doubt many a man is poor, because he is unfortunate, and not because he is not industrious and energetic. But it cannot be pretended that men who have accumulated no property, and have nothing to tie them at home, and can march off at any time and settle for the sake of getting the land, are better citizens than the men who find it inconvenient to do so.

Now, what I desire is, that every citizen of the United States who is at the head of a family, and every widow—according to the language of the first section of the bill—shall have a warrant for one hundred and sixty acres. If the person is poor, and has no property to keep him at home, he may go off and occupy the land, and he will be in just as good a position, as the bill of my friend [Mr. JOHNSON] proposes to place him, and rather better, he having a warrant to locate with, without waiting for five years before he can get a title. On the other hand, those people who have something to bind them at home, having the warrant, may sell it for whatever they can get, or, if they do not choose to sell it, they can keep it until their children grow up, and then let some one of their children go and occupy it.

This is obviously a just mode of getting along, if we are to dispose of the public lands, and put every citizen upon an equal footing. I trust, therefore, that the House will adopt this amendment, and if it is adopted, I rather think I can vote for the bill. At any rate, no one would like to go to his constituents and say, "I am not willing that you, because you have some property to go with, shall have any share of the public domain; but I will give to that man, the poor laborer, a part of your property, and cut you out of it."

This short explanation will enable everybody to understand the operation of the amendment; and I hope, therefore, that if the bill passes, it will pass in the shape in which my amendment will put it.

[Here the hammer fell.]

Mr. CARTER. I am opposed to the amendment offered by the honorable gentleman, which is evidently an attack upon the success of this bill. The honorable gentleman from North Carolina has got it up as a diversion, with a view of killing the bill. That is pretty much all I have to say directly against the amendment. There have been two arguments advanced against this measure which I wish to dissent from. One is, that we have no constitutional power to pass this homestead bill; and the other is, that it will result, if passed, in speculation. Both of these arguments originated from the honorable and able member from Texas, [Mr. HOWARD.] His views are also held by other gentlemen. This constitutional provision in reference to the territory of the United States is a curious thing under the rendering of a political statesman. It was but the other day that my honorable friend from Texas uttered a dissent from what he called "squatter sovereignty" of the right of the Territories to act beyond the powers conferred by the Federal Legislature, under the Nicholson letter construction of the Constitution as I understood it. A large class of politicians contend that under the Constitution you have no power to give the political disposal of the Territories by reducing them to the order of government. Thus, you are deprived of all politi-

cal control over them. Another class of politicians say that you have no power to dispose of the fee. Now put the two arguments together and see what kind of condition you are in. You have neither the power to hold political disposition of the territory, nor the power to give away or sell it. Where is your power over it? I understand my honorable friend to deny the power of the Government to grant away this territory. Now, it is sufficient for all my constitutional compunctions upon this subject to find in the Constitution the plain language that Congress shall have the power to dispose of it. It leaves in Congress a wise discretion in the disposition of it, and this talk about unconstitutionality, in my judgment, is pure gammon, not only in denying your power to govern it, but in denying your power to dispose of it. I believe one position is as absurd as the other.

Another proposition made in resisting this bill is, that its tendency is to speculation in land. It seems to me that it must be obvious to every man who will give the bill a momentary consideration, that its direct tendency is to put an estoppel upon it. The privilege to take possession and occupy land under this bill in behalf of those who wish to bestow their labor upon the cultivation of the earth, will operate upon the speculative grant which we have heretofore made of land warrants, and will control them.

[Here the hammer fell.]

Mr. MOLONY. Is the amendment to the amendment of the gentleman from Tennessee [Mr. JOHNSON] in order?

The CHAIRMAN. It is not. But an amendment to the amendment of the gentleman from North Carolina is in order.

Mr. CLINGMAN. I wish to modify my amendment by inserting the words "except members of Congress." I do not want the members of the House to vote anything to themselves. [Laughter.]

Mr. STEVENS, of Pennsylvania. I do not believe that any member of Congress, after having been here two years, will be able to do much farming. They will never go there.

Mr. POLK. Does the gentleman refer to members of the present Congress, or to those who may hereafter become members?

Mr. CLINGMAN. I refer to members of the present Congress.

Mr. CHANDLER. I am sure that my friend will accept another modification of his amendment. It is, "that the lobby members be also excluded."

Mr. CLINGMAN. I demand tellers upon my amendment.

Mr. CULLOM. From the reading of the amendment of the gentleman from North Carolina, I judge that under its operation widows will be excluded. The grant is only to issue "to him." I desire that the words "or her" shall be introduced into the amendment.

Mr. CLINGMAN. I accept the modification. Tellers were ordered; and Messrs. MOLONY and CLINGMAN were appointed.

The question was then taken upon the amendment, and it was rejected—the tellers having reported—ayes 28, noes 89.

Mr. SACKETT. I move to strike out all in the section, beginning with the word, "that," in the third line, to the word "shall," in the ninth line, and insert, in lieu thereof, "that every citizen of the age of twenty-one years."

The effect of the amendment I propose is this: It strikes out that limitation in the bill which gives the benefit of the bill to the heads of families. The other portions of the bill have been stricken out with regard to property, real or personal. It strikes out the limitation as to heads of families, and leaves the bill, so far as this provision is concerned, in the form that any citizen of the United States of the age of twenty-one years, who will go on to the lands and occupy them according to its provisions, will be entitled to its benefits. I wish to say that I regard this amendment as an important one, and one which I suppose the gentlemen from the frontier States, that portion of the

Union in which the public lands are situated, will be inclined to favor, for if the original provision is retained, it practically excludes the young men of the country from going on to the public lands, because this will be the system of settlement hereafter to be adopted.

Mr. FICKLIN. I do not know what the effect will be if the amendment proposed by the gentleman from New York [Mr. SACKETT] shall be adopted. I wish to give notice to him that the term "enter," which is used in the first section of the bill; I wish to change to the word, "occupy."

Mr. SACKETT. I think that there will be no difficulty in relation to the remaining provisions of the bill. It will be seen; without spending any time upon this question, that it is a question intended to give to the young men of the country the opportunity to settle and occupy these lands, the same as heads of families. I think it is an amendment of decided importance to the frontier States, to that portion of the Union where these lands are situated. I do not know that I can enlighten the committee by spending time upon this matter. It is a plain proposition, and the question is whether the friends of the bill will limit it only to the heads of families; or whether they will give to any citizen, who may be twenty-one years of age, the opportunity of enjoying the benefits of this bill, and occupying these public lands. I hope the amendment I have offered will be adopted.

Mr. HOWARD. I am opposed to this amendment because it tends to squander the public lands much more than the original bill. Some gentlemen who have preceded me have supposed that it was peculiarly inconsistent for me to go against this measure, because the State of Texas at one time adopted a similar policy. It is the evil effect of that policy upon that country which I wish to state here, and it will be found one of the best arguments which can be made against this bill. Texas at one period gave her public lands to settlers in amounts from one hundred and sixty to four thousand one hundred and twenty-eight acres, upon the condition that they should be settled upon. The principal motive for that was to acquire men to defend the country at the time when she was prosecuting an harassing and expensive war with Mexico.

But I wish to speak of the results of the measure. In a short time they released the condition of settlement upon the land, as will be done here in a short time if you adopt this measure. The result of the measure, then, was to throw upon the market a vast amount of land, and that land went down in price to a very few cents an acre. It passed from the possession of the actual cultivator of the soil into the hands of large speculators in public lands, who purchased it up at a few cents an acre; and to such an extent did this system go, that a neighbor of mine owns nearly two hundred leagues of land. Every one will see what will be the natural result of all this. The owner thus monopolizing the land, withdraws it from sale at the Government price, and puts it beyond the reach of the poor cultivator, who wishes to procure for himself a farm and a home. That will be the result here. When you give away your lands, you destroy, to a great extent, the relative value of all your public domain. It is not good policy for the actual settler thus to reduce the price of land, so as to tempt the cupidity of the speculator. And such would be the result of this measure. The settler to whom the land was given, anticipating another donation, would transfer his property for a small consideration. That which is easily acquired, is soon dissipated. The true interest of the people is to hold the public lands so near their intrinsic value as to prevent speculation and monopoly. Keep the land at a fair price—always within the reach of the actual cultivator. That is his highest interest. You then give him the means of owning his own home. The direct result of very cheap lands is to accumulate them in the hands of the wealthy few, cause them to be held at such high prices as to place them beyond the means of the actual settler, and thus withdraw them from cultivation for a long period of time, and delay and impede settlement.

The gentleman from Tennessee seems to think that I oppose this bill because it would retard emigration to Texas, if the Government gives away its own lands. The articles of annexation require Texas to devote her lands to a particular purpose; and it would therefore be unjust to her

for this Government to destroy that property by Federal legislation. It would be more unjust in the Government which sold lands at \$1.25 per acre last year, to give away its own land around the purchaser, and thus destroy the value of the property purchased upon the faith of existing laws, which he had a right to suppose would be continued.

There is a difference between the power of the Federal Government of its public domain, and that of a State over its property. Under the Republic of Texas, her lands were donated to settlers by a provision in her constitution, and therefore no argument of analogy can be drawn from that source, and as little from her late sale to the United States.

The Constitution of the United States treats the public domain as property from which revenue is to be derived. That is the whole history of the subject, and the original motive of acquisition. The Constitution speaks of it as a question of value, and not as a subject of donation. I have heard no argument which sustains the position that Congress has the power to collect revenue to divide out among the people, rich or poor, and quite as little to prove that we may lay taxes for the purpose of purchasing land to give away to the landless.

[Here the hammer fell.]

The question was then taken upon Mr. SACKETT's amendment, and it was not agreed to.

Mr. CLARK. I rise to move an amendment in the tenth line, to strike out the words "free of cost," and insert the words "fifty cents per acre."

I very much regret the restrictions under which I am placed, in attempting to express a few thoughts on this subject. I must say, however, that I have serious constitutional difficulties in reference to this measure. It has been said that the object in procuring and holding lands by the Government was their settlement and cultivation. I admit this was the chief object, but it was not the whole; there were other objects besides this, as could be shown, did time permit. But even if this were all, is it not necessary that the public lands should be disposed of according to the requirements of the Constitution, whatever they may be? It is true that Congress may make all needful rules and regulations for the disposal of the public territory; but does this imply that they may dispose of it in a partial manner, and to the benefit of the few, to the exclusion of vast numbers, who are not in condition to secure the benefits of a particular measure? It seems to me that it is an undeniable proposition, that the public lands are a common fund for the benefit of all the people of all the States. If this proposition can be denied, I should like to hear it denied and maintained. If this be true, then, whatever legislation is for the benefit of a class, is narrow and exclusive—it shuts out a portion of the people from its benefits, and is not in accordance with the spirit and requirements of the Constitution.

It has been said, that there is no special power in the Constitution by which this Government can acquire lands—that it is acquired in virtue of the sovereignty of the Government, and that it may be disposed of in the same way, that is to say, as it may be the sovereign pleasure of the Government to dispose of it. But, in my opinion, there can be no greater error. In the absence of any express provision upon the subject, is it not the clear reason, and therefore the clear law of the case, that the public property must be dispensed with an even hand for the benefit of all? But is that for the benefit of all, of which thousands can by no possibility desire the least advantage? The case of necessity, the sternest and most inexorable of all law, shuts out multitudes from all participation in the benefits of this measure. I contend that all whose avocations are not agricultural are virtually cut off, and that therefore your legislation will be class legislation. It would be but mockery to say, that the immense number of mechanics and artisans of the country might turn agriculturists, and thus take the benefit of the law; the thing is impossible, which no sensible and honest mind will deny. And yet these mechanics and artisans are as much entitled to the benefit of the great land fund of the Government, as those who cultivate the soil.

I agree that the views presented by the gentleman from Texas [Mr. HOWARD] are in accordance with my own, they seem to me just and forcible.

But independent of any constitutional objections upon the subject, a question arises—and a serious one to my mind—as to the expediency of this measure. I know that I have but a moment of time, and that I must hasten on. What will be the result, for instance, as to the State which I in part represent? Those who have gone upon the frontiers and settled themselves there, have purchased lands at great labor, trouble, and privation; and perhaps there is near to them a tract of forty or eighty acres, which they desire to purchase for the extension and improvement of their farms, so soon as they shall be able, but they cannot take the benefit of this bill, because they are already in the occupancy of land, which they have no inducement to abandon; neither can they secure the adjoining lands, because they are immediately seized by virtue of the provisions of this bill.

Mr. DAWSON. I ask the gentleman from Iowa, [Mr. CLARK,] if it is constitutional to grant lands to corporations by the million, and unconstitutional to grant it in limited quantities to actual settlers?

Mr. CLARK. At the proper time I will answer the question, and explain the difference.

[Here the hammer fell.]

Mr. CLARK. Mr. Chairman, is my time out?

The CHAIRMAN. It is.

Mr. CLARK—

"How true it is, we take no note of time  
But from its lapse."

Mr. CHANDLER. I rise, not to correct the gentleman's quotation, but his argument. Upon this very question I have been listening for this whole session to the course of argument from that gentleman, and the gentlemen connected with him, upon what I consider the constitutional propriety or right of disposing of the public lands. He asserts, in the first place, that the Government holds these lands for the benefit of all, and he asks of what service to the people in his State can be the disposition of these lands to those individuals who will, as we contemplate, commence the occupancy of them? I cannot say what particular advantage will result to his State. According to his own assertion, we are not compelled to consult them upon that advantage. We hold these lands for the benefit of all. Permit me to ask that honorable gentleman, and those who hold the argument with him, what benefit will it be to the State of Maine if we take it upon ourselves to violate the Constitution of the country, as he would assert, and grant alternate sections of public land to create a railroad in the State of Iowa. I advocate this measure upon the very grounds upon which I would advocate the granting of these alternate sections to railroads, because the Government of the United States owns these lands in fee simple, and is willing to grant them to promote the benefit of all those who can be benefited by this legislation. We are not to inquire whether Iowa or its Representatives are to be benefited by it, but whether, in the distribution of our legislative benefits, we shall extend advantages to classes of people or individuals, wherever settled. They will, perhaps, create a State for themselves; and they will, perhaps, in promotion of the objects contemplated here, establish communities that will in their turn inquire, why have we given these public lands for railroads and corporations when individuals desire them, and when they might promote the great objects for which it is said the Government holds these lands, namely, the extension of the population of the country over the territories we hold? I see, therefore, nothing in the argument of the gentleman but that which must upset what I consider his favorite scheme, and what, in my opinion, is a good scheme, which uses the public lands to promote the intercourse of the country and the healthful population of the Territories. I therefore trust that the gentleman is not in earnest in the course of his argument, unless he means to throw up his own grants in the object which he contemplates here.

Mr. CLARK. Do you speak of railroad grants?

Mr. CHANDLER. I do.

Mr. CLARK. When I come to that subject I will endeavor to satisfy the gentleman that there is a vast difference between these grants.

Mr. CHANDLER. The gentleman has an argument which suits this question, and another which suits another.

Mr. HENN. I wish to ask the gentleman one

question. I wish to ask him whether he includes me in the remarks which he has just made?

Mr. CHANDLER. By no means—because I do not understand that you take the ground of your colleague.

Mr. HENN. I am a friend of the bill, and opposed to my colleague in this matter.

Mr. CHANDLER. I am sure my friend [Mr. CLARK] will be one of its advocates, when he contemplates its effect upon him.

Mr. HENN. I wish it to be understood by the gentleman that I have never failed to advocate this measure.

Mr. CHANDLER. I know that very well.

Mr. MOLONY moved to amend the amendment by striking out "fifty cents," and inserting in lieu thereof "one cent."

Mr. MOLONY said: Mr. Chairman, I must confess that I was not a little surprised to hear the arguments brought forward by the gentleman from Iowa, [Mr. CLARK.] I was not only surprised at the nature of those arguments, but at the source from which they emanated. I did not expect to hear a gentleman representing Western interests give utterance to such sentiments upon this bill. I regret to find that any gentleman from the West entertains them. I view them, however honestly conceived, as undoubtedly they are by the gentleman from Iowa—prejudicial, yes, suicidal to Western interests. I consider the gentleman wrong in all his positions in regard to this measure—wrong, most emphatically, in regarding it hostile to the interests of the pioneers now in the West—wrong in viewing it as a bill for class legislation, as opposed to national legislation—wrong in his constitutional views upon the subject.

Sir, I find most all of the delegation from the new States supporting this bill, not only because it is calculated to benefit the West, which undoubtedly it will do to a degree far greater than any act that has passed Congress since its existence; but because of their clear, enlarged, national, and correct views of its benefits to the whole country. Sir, is the gentleman from Iowa right in supposing that this bill is adverse to the interests of the actual settler and freeholder now in the West?

What, sir, is it that keeps down the price of lands, now owned and improved by the Western pioneers? Is it not the fact that a great body of public land closely surround them, competing with their improved lands at \$1 25 per acre? Is not this bill eminently calculated to remove that competition, by giving a great impulse to the settlement of those public lands, by transferring them from the Government to the hands of the actual settlers, who will hold them, with his improvements, not at \$1 25 per acre—thereby keeping down the price of improved farms, at or near that standard—but at their real value, of five or ten dollars per acre? Such, sir, is my view of the effects of this bill, should it become a law, upon the interests of the present landholders of the new States. With regard to the objection, that not the nation, but the poor men only, are to be benefited by the passage of this bill—I must say that the discussion with which the committee and the country have been entertained, during the last few weeks, have, to my mind, and as I hope and believe, to the mind of a majority of the House, demonstrated most conclusively, its nationality, expediency, as well as its constitutionality. The bill most clearly and strongly commends itself to the zealous support of members, whether representing the agricultural, commercial, manufacturing, or railroad interests, thus vindicating its claim to nationality. Mr. Chairman, it is difficult for me to understand how any constitutional scruples can be entertained by a member, who has no such scruples in voting away to the States millions of acres of the public domain, for the construction of railroads and canals. Are there any constitutional or expedient objections, which can be urged against this bill, that do not apply with equal force to donations for railroads and canals? Sir, these measures are all based upon the same considerations; they must stand or fall together, and I am pleased to feel assured that Congress, in regard to this bill, will manifest the same enlightened national policy, which has marked its legislation heretofore, in regard to the public lands. Its policy has been to facilitate the settlement of the public domain, by opening to it the markets of the East, by aiding the construction of railroads and canals, and in pursuance of a policy so wise and just, let this bill

be passed, which will incalculably benefit every interest and every section of the country—

[Here the hammer fell.]

Mr. DISNEY. I desire to say a word or two in opposition to the pending amendment, but I very much doubt whether my physical strength will enable me to utter that which, under other circumstances, I should like to say. A long and protracted confinement has prevented me from listening to much of the debate in relation to this bill; and I rise now simply for the purpose of replying to some of the arguments of gentlemen here in relation to the constitutional power of Congress to make this disposition of the public domain. In my judgment, sir, if there be any one question connected with the administration of this Government that is clear and beyond a doubt, it is the power of Congress to make such disposition of the public domain as shall cause its population and settlement. I have not the time now to go into an elaborate examination of, and disquisition on this subject; but I fearlessly venture the assertion, that had I the opportunity, I would convince almost any gentleman who approached the subject with an unbiased mind.

Sir, it is singular that the gentlemen who have found constitutional scruples in relation to this matter, have searched for them everywhere but in the very place where questions of this sort can alone be determined—that is, in the Constitution itself. What is the language of the Constitution? I have it not before me, and quote from memory: Congress shall have power to make the necessary rules and regulations to dispose of the public lands for the purpose of causing the lands to be settled, and formed into republican States.

A MEMBER. No, no; that is not it.

Mr. DISNEY. The verb is in the infinitive mood, which is precisely equivalent to the insertion of the words, "for the purpose of," or "in order to." "To cause them to be settled," is precisely equivalent to the introduction of the words, "for the purpose of causing them to be settled, and formed into republican States." My quotation of the Constitution is disputed. Unfortunately I have not it before me, and cannot give the precise language.

Mr. FREEMAN. I will call the attention of the gentleman to the fact that he is quoting the resolutions of Congress of 1780.

Mr. DISNEY. I was just going to remark that I was probably confounding the original resolution on which the cession of territory was made to the United States with the Constitution itself. But it is equally strong in one instance as in the other. The very object for which the cessions were originally sought, was for the purpose of causing this territory to be settled, and formed into republican States. Gentlemen at all conversant with the history of that period, are doubtless familiar with the fact, that among other objections offered to the possession of these large tracts of land by Virginia and other States, was this: that they rendered those States too large and powerful for the safety and well-being of their sister States.

[Here the hammer fell.]

The question was then taken on Mr. MOLONY's amendment to the amendment, and it was not agreed to.

Mr. PARKER, of Indiana, moved to amend the amendment by striking out "fifty cents," and inserting in lieu thereof "twenty-five cents."

Mr. P. said: Mr. Chairman, I simply desire to make a suggestion to the committee. I had the pleasure of addressing the committee some days ago on this same subject; and, according to the proposition that I then presented, twenty-five cents per acre was set down as the price at which the whole of the public lands might be entered. I think this is one of the most important features connected with this bill. I am in favor of the principle of the bill, but I want the bill put in such a shape as will command the strength of this House, and, at the same time, prove satisfactory to the country.

My colleague, [Mr. HENDRICKS,] who addressed the committee the other day, entered into a calculation, based upon correct data, and which, I have no doubt, was correct, which showed that our public lands cost the Government about twenty-two cents per acre when put into the market. My proposition now is, to draw from those lands a revenue of twenty-five cents per acre, which, I think, will cover all expenses. If we do not do

this, in what attitude do we place ourselves? Why, it is the same, substantially, as if you sent round and received, from every property-holder in this land who pays taxes, a contribution for the benefit of those who are to take these lands. Now, that is wrong. You must still keep up your land offices, and make your Government surveys, keep land offices open and make patents, in order that you may have clear titles. So long as that is done, you must go to the Treasury to pay your officers, and thus you take the money of all for the purpose of putting it into the hands of those who settle on these lands.

Mr. JOHNSON, of Tennessee. If the gentleman will turn to the last section of the bill, he will see that all the fees are to be paid by the parties entering the lands.

Mr. PARKER. I do not so understand it. At any rate, it is better to put it in here. The principle is correct, and it should be adopted.

Whilst I have the floor, permit me to suggest another amendment, which I design to offer at another time, and that is: that all of our public lands shall be open to everybody that wishes to make actual settlement at this price. Sir, I am against confining the settlement of these lands to the heads of families only. I have lived in the Western country a great many years, and I know how the lands are settled. An old farmer has sons growing up to mature years; he gets a piece of land for them, and sends the boys out to make an opening, and subsequently the boys take to themselves wives and settle. Sir, by this bill, you prevent all these proceedings for the purpose of opening the land and compel the settler at once to settle down and be the head of a family at the time. That is wrong. It will not conduce to the strength of the measure. My proposition is to leave the lands open to every one who will settle upon them at this price. If we do not do this, as I said before, we, to some extent, require the other portion of the community to contribute for the benefit of those who settle upon these lands. My people do not ask this. The idea is unpopular with every individual, I know, who does not himself wish to go upon the public lands; and I have never yet seen the man who would get up and say he was desirous the community should contribute for his benefit, to enable him to go and settle upon the public lands. All those who desire to settle are willing to pay what the lands cost the Government; and others, I find, are unwilling to pay contributions to enable them to get there. I think that the principle of the amendment is correct, but that the amount ought to be twenty-five cents, instead of fifty cents.

Mr. FREEMAN said: Mr. Chairman, I am opposed to the amendment of the gentleman from Indiana, [Mr. PARKER.] I wish, however, to say a word or two upon the constitutional power of Congress which is asserted by this homestead bill. The gentleman from Texas [Mr. HOWARD] has denied that Congress possesses any such power. As to this general power under the Constitution, gentlemen have argued as if the sole power which Congress has over the public domain is to be found in the third section of the fourth article of the Constitution. Now, it is a well-settled rule of legal interpretation—applicable alike to contracts, statutes, and constitutions—that all acts and parts of acts in *pari materia* shall be construed together.

Our title to the public lands is not derived from the Constitution, but from the resolutions of the Congress of the Confederation and the grants of the several States based thereon. Looking at the history of the public lands anterior to and in connection with the formation of the Constitution, I undertake to say that there is no point more clearly settled than that Congress has the power to encourage the settlement of the public lands; that power is expressly granted by the resolutions of 1780, and subsequent resolutions passed by the Congress of the Confederation. The object of the States in ceding the lands was, first, to pay the debt incurred by the war of the Revolution, and, second, to settle the public lands and construct them into separate republican States. Now, the debt of the war of Independence has been paid, and the Treasury reimbursed for the purchase of the lands; and I maintain that the Constitution, in connection with the articles of cession, authorizes Congress to dispose of and make all needful rules and regulations in regard to this land, for the purpose of building up the new States of the



Confederacy. The first act of Congress after the lands were ceded was the ordinance of 1787, where in three distinct States were laid off in the Northwest Territory. But, in order to make this provision doubly sure, the Constitution, subsequently adopted, provides that "all debts, contracts, and engagements, entered into before its adoption, shall be as valid against the United States under this Constitution as under the Confederation." Thus the resolutions of Congress, adopted anterior to the Constitution, and the deeds of cession based thereon, are ratified by the Constitution itself. And what are the provisions of these deeds of cession and acts of Congress? They are, that the ceded lands shall be divided into distinct republican States, with all the rights of sovereignty and freedom and independence as the old States. Thus the Government has the power to settle these lands. And in order to encourage their settlement, we have the right to grant one hundred and sixty acres to each actual settler. And why? I do not sustain the bill upon the ground that we have the right to convert the Federal Government into a great almshouse for the support of the poor and indigent. We have no power to bestow charities, nor to donate lands for purposes inconsistent with our well-established public policy of increasing and building up new republican States within our limits. I sustain the principle of the bill on the ground that we have the right to pay for public services rendered. Do we not pay our registers, receivers, and surveyors, our Land Office Commissioner and all his clerks? Are they not engaged in furthering the public land policy by preparing it for settlement, and is not the public service of the settler equal in dignity and public profit? What greater public service can be rendered than that of the pioneer, who shoulders his axe and his gun, leaves the abodes of luxury, ease, and the refined pleasures of life, makes the forest his home and the wild beast his companion, and, braving all the perils of a forester's life, finally subdues the wilderness to the support and comfort of man? Is not such a labor for the common benefit? Is it not for the common benefit of all the States, to encourage the opening of roads in the wild lands, the erection of dwellings, school-houses, churches, towns, and cities? Sir, if there be any public policy marked upon the history of this country, such is the public land policy of the United States in principle and practice.

But my time will not permit me to go into this matter.

I wish to say one word more; was there ever a Government upon the face of the earth whose public policy in relation to its public lands was not to extend its jurisdiction, to increase its population, to increase its productions, to produce all the staples necessary for the country, and to extend its numbers and its power over the face of the earth? If there is one principle plainer than another in the history of our public lands, it is this principle; and have we not the power to aid in the accomplishment of this great work? I think we have.

[Here the hammer fell.]

Mr. CABELL, of Florida. I move that the committee do now rise.

The motion was agreed to—ayes 78, noes 16.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. HIBBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, &c.

Mr. MOLONY, from the Committee on Enrolled Bills, presented, as correctly enrolled, the joint resolution authorizing the purchase of the ninth volume of the Laws of the United States. It received the signature of the Speaker.

Mr. STANLY. I wish to make a motion that the bill of the gentleman from Tennessee [Mr. JOHNSON] be printed for the use of the House. They are all taken from the files of the House because the good old plan which prevailed in the Twenty-ninth Congress is not kept up.

Mr. HALL. I ask that the amendments and substitutes which have been offered may also be printed.

Mr. STANLY. I have no objection to that.

Mr. TOWNSHEND. I object.

Mr. FOWLER. I move that the House do now adjourn.

#### THE PRINTING.

Mr. GORMAN. I ask the gentleman from Massachusetts to allow me to make one remark. The House have given us directions in relation to the public printing, and I now give notice that we intend to execute strictly those directions, and if the House wants any of its printing done promptly, it must give some other directions.

Mr. MASON. I apprehend that the Clerk can order what printing it is necessary to have done until the committee come to some conclusion.

Mr. CARTTER. I rise to a question of order. I desire to inquire if there is any motion before the House?

Mr. GORMAN. I only wish to repeat what I have said, that the House have directed that we shall let out this printing which the public printer cannot execute after ten days' advertisement. Now, the public printer has not done any thing according to the contract, and I give notice that the committee will execute strictly the directions of the House, whatever may be the delay in procuring the printing necessary to be done from time to time.

Mr. CARTTER. I move that the House do now adjourn.

Mr. MEADE. I ask the gentleman to withdraw his motion for a moment, to enable me to introduce a resolution in which we are all interested. It should be introduced now, if at all. It will not, I apprehend, require any discussion.

Mr. CARTTER. I will withdraw the motion if the gentleman will renew it.

Mr. MEADE. I will renew it. In a few days this House will have to be cleaned up, under the summer arrangement. Now, I propose to introduce a resolution which I have sent to the Clerk, and which I desire should be adopted now, in order that the Clerk may be prepared to do at the proper time what the resolution requires. It is, that the Clerk shall cause to be removed and sold, the chairs now in the Hall, and that he shall cause to be supplied in their places, suitable cane-bottom chairs without arms. I ask the unanimous consent of the House to introduce the resolution.

[Cries of "No!" "No!" and "Object?"]

Mr. JOHNSON, of Arkansas. We ought to adopt some resolution to provide for a recess now, unless we want the Clerk of the House and the Treasury to be left at the mercy of those who will enforce their own prices for refitting and furnishing the Hall. I therefore ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the Clerk of the House of Representatives be directed to have the Hall refitted and cleaned for the summer session, and that the House adjourn on Thursday, May 13th, until Monday May 17th, in order to afford him time for that purpose.

Mr. STANLY. I object to the time.

Mr. JOHNSON. I am not very particular in regard to the time. I offer the resolution in this form, but will not call the previous question until one or two amendments have been offered, if gentlemen desire to offer any, and then I pledge myself to call for the previous question.

Mr. STANLY. I only object to the time.

Mr. JOHNSON. Then the gentleman can offer an amendment, fixing his own time.

Mr. STANLY. My amendment would be voted down, and then I should be obliged to take your time. Why not take the week of the Democratic Convention?

Mr. JOHNSON. The gentleman can offer an amendment fixing it at that time. I am satisfied he does not want the whole House to yield to his convenience and wishes. Let him move that the House adjourn on Tuesday, the 1st of June, until Friday, the 4th of June. That amendment will be voted on first, and if it is not adopted, he certainly cannot wish the House to come up to his will in all things.

Mr. STANLY. I object to the gentleman from Arkansas having his way in all things. I want that resolution to be adopted in the form that suits the majority of this House. If the gentleman will put the adjournment at the time of the Democratic Convention, or of the Whig Convention, I shall be satisfied.

Mr. JOHNSON. Then I will alter the resolution to suit the gentleman, and fix the time for ad-

journing on Tuesday, June 1st, until Friday, June 4th.

Mr. MEADE. Is the resolution before the House?

The SPEAKER. It is; and it will be read for information.

The resolution, as modified, was then read by the Clerk.

Mr. GAYLORD. I move to amend the resolution, by inserting "from the 13th to the 17th of May," in the place of the words, "from the 1st to the 4th of June."

Mr. HAMILTON. I move the previous question.

Mr. FOWLER. I would inquire of the Chair, if the previous question is sustained, it will prevent any other amendment?

The SPEAKER. If the previous question is sustained, no other amendments will be in order.

Mr. JONES, of Tennessee. I will merely suggest, that I do not think that this is the ordinary way in which this object is accomplished.

Mr. JOHNSON. The previous question has been called, and I call the gentleman to order, with all respect to him. No argument is in order after the call for the previous question.

Mr. JONES. Then I put this question to the Chair. Suppose that upon the day on which this resolution says the House shall adjourn over a majority of the members in their seats here refuse to do it? I think the usual way is to suggest a day upon which such an adjournment will take place, and that will be a notification to the door-keeper, and upon that day the resolution can be introduced and passed.

Mr. FOWLER. I would request the gentleman from Maryland [Mr. HAMILTON] to withdraw his motion for one moment, that I may move another amendment.

Mr. HAMILTON declined to withdraw the motion.

Mr. FOWLER. I wish to suggest an amendment which will strike the House favorably. My amendment is, that the Clerk be authorized to erect desks upon the inside of those now standing, in the place of these chairs. We are all aware that these chairs are very much in the way. Desks may be erected that will be less cumbersome to the area of the Hall than these chairs.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

Mr. JOHNSON. What becomes of this resolution, if the House adjourn?

Mr. STEPHENS. We can bring it up to-morrow morning.

The SPEAKER. The Chair will decide such questions as they arise, but it will be between that and the unfinished business of yesterday.

The question was taken on the motion of Mr. STEPHENS, and there were, on a division—ayes 65, noes 48.

So the House adjourned until to-morrow at twelve o'clock.

#### NOTICE OF A BILL.

Mr. FREEMAN gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce a bill to encourage the settlement of the public lands in the States and Territories of California, Utah, New Mexico, Louisiana, and Mississippi, and also to aid those States and Territories and the State of Texas in the construction of a railway post road from San Diego, on the Pacific, to Vicksburg, on the Mississippi river.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ROBBINS: The petition of the administrator and administratrix of the estate of Amos Proctor, late of the city and county of New York, deceased, praying Congress to pass an act to enable them to settle and adjust the claim of said Amos Proctor, to one half of one moiety of the appraised value of goods seized and libeled upon his information, and released from forfeiture by virtue of the act of April 27, 1819.

By Mr. SCUDDER: The petition of J. B. Tobey & Co., and Lewis Kinney & Co., of Wareham, Massachusetts, for a return of duties paid on certain merchandise.

Also, a resolution in favor of a buoy being placed on the "Long Rock," near Hyannis Harbor, in the State of Massachusetts.

By Mr. FLORENCE: The memorial of Joseph Hopkinson, asking to be allowed the difference between the pay of a passed assistant surgeon and that of a fleet surgeon and surgeon, for the period he performed the duties of the latter grades in the East India squadron.

By Mr. KING, of New York: The memorial of sundry inhabitants of the county of Lewis, New York, asking for an appropriation in money or in lands, to aid in the completion of a railroad from Sackett's Harbor on Lake Ontario, to

connect with the lines of railroad to New York and Boston.

By Mr. DAVIS, of Massachusetts: Remonstrance of Daniel Hontecron and others, legal voters of Springfield, Massachusetts, against any change in the mode of superintendence of the Springfield Armory.

Also, the memorial of David Le Gro and others, citizens employed in the United States Armory, at Springfield, denying certain statements made in certain memorials, asking for a change in the superintendence of said armory.

By Mr. PARKER, of Indiana: The petition of J. P. Siddal, C. H. Burchenal, and 46 others, citizens of Union, Wayne, and Randolph counties, Indiana, praying for a certain mail route.

By Mr. CABLE, of Ohio: A petition from O. S. Drake, D. C. Stockwell, and 40 other citizens of Portage county, Ohio, in favor of the freedom of the public lands.

## IN SENATE.

FRIDAY, May 7, 1852.

Prayer by the chaplain, Rev. C. M. BUTLER.

Mr. HUNTER. Mr. President, I move to postpone the order of business for this day, for the purpose of taking up the deficiency bill.

Mr. BADGER. I would suggest to my friend from Virginia to vary his motion, so as to suspend for to-day the order setting apart each Friday for private business, that we may go on with the regular business. Let us make reports from committees, and afterwards proceed to the consideration of the deficiency bill.

Mr. BRODHEAD. Let us go on with private business to one o'clock, and then take up the deficiency bill.

Mr. HUNTER. We can do but little up to one o'clock. My motion is to suspend the order of the Senate for to-day.

Mr. BRODHEAD. I would again suggest to the honorable Senator from Virginia that it will be better to go on with the morning business until one o'clock, and then the bill about which he is so anxious may be considered.

The PRESIDENT. The Senate cannot proceed with any other business than that which is prescribed by its standing order until that order shall be suspended.

Mr. HUNTER. I move to suspend the order. When it is suspended, we can go on with the morning business until one o'clock, when we can take up the deficiency bill.

Mr. BORLAND. I hope this motion will not prevail. Some time ago we adopted a rule devoting Friday of each week to the consideration of private bills. We have a very heavy Private Calendar; but the rights and interests of these claimants have been postponed week after week, and I do think that the very consideration that induced us to adopt the rule grows stronger and stronger every day. If it was right, because they had just claims against this Government, that we should set apart a certain day of every week in the early part of the session for the consideration of private claims, certainly that consideration is stronger now than months of the session have passed away. There are still here many persons waiting to have their claims passed upon, and their necessities relieved. To provide for the consideration of the claims of such persons this rule was adopted. There are many of them who are unable to come here to urge the consideration of their claims upon Congress. They are unable to bring influences to bear here, that they may have their claims put before all other business; and this rule was intended for their protection. I do hope, then, that its propriety will again be recognized, and that the rule will be enforced. The question which the Senator from Virginia proposes to take up now, to the postponement of these private claims, is one that needs no protection of rules. It has strength enough in itself, and it will pass this body, in spite of all opposition that can be made to it, at any time when the vote shall be taken upon it.

It is not one of those claims for which there is any necessity of pressing the action of Congress. I see no reason to give it precedence. It can afford to wait a little while, so as to allow us to afford relief to those individuals who are suffering privations because their rights are withheld or postponed. It can afford to wait a little while to allow justice to be done, and I hope justice will be done to this extent at any rate.

The motion to suspend the order of business was agreed to.

## PETITIONS, ETC.

Mr. CLEMENS presented the petition of

Whitemarsh B. Seabrook, Joseph Whaley, and others, praying payment for military service during the last war with Great Britain; which was referred to the Committee on Military Affairs.

Mr. BRIGHT presented a petition of Charles Wilkes, William P. Elliot, and others, praying to be allowed for damages sustained in consequence of the alterations made in the grade of North Capitol street, in the city of Washington; which was referred to the Committee on Public Buildings.

Mr. BRADBURY presented a petition of citizens of Gotham, Maine, praying an extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Mr. JONES, of Tennessee, presented a memorial of the Board of Trustees of the Memphis Hospital, praying that the lot of ground in that city known as the arsenal, may be granted to the Memphis Hospital; which was ordered to be laid on the table.

Mr. HAMLIN presented the petition of James C. Doane, praying to be allowed fishing bounty for the schooner "Ursula," abandoned at sea, in consequence of injuries received in a gale; which was referred to the Committee on Commerce.

Mr. MALLORY presented the petition of the administrator of Isaac L. Battle, deceased, praying that the estate of said Battle may be released from liability as security of Matthews and King; which was referred to the Committee on Claims.

Mr. GWIN presented a memorial of citizens of the town and county of Santa Cruz, California, praying the erection of a light-house at or near that town; which was referred to the Committee on Commerce.

## PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. MILLER, it was

Ordered, That the petition of Mary Brognard, on the files of the Senate, be referred to the Committee on Claims.

On motion by Mr. GWIN, it was

Ordered, That the memorial of Ambrose W. Thompson, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

## REPORT FROM STANDING COMMITTEE.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which was referred the petition of Seneca G. Simmons, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Claims.

The motion was agreed to.

## PROSECUTION OF CLAIMS BY MEMBERS OF CONGRESS.

The engrossed bill to amend and extend the provisions of an act approved July 29, 1846, entitled "An act in relation to the payment of claims," came up on its third reading.

Mr. UNDERWOOD. Mr. President, my attention was called to this bill when we were acting upon it yesterday, and I took some little exception to its provisions. I do not wish to occupy the time of the Senate by stating objections which I have to the bill. Since that time, I have looked into it, and it occurs to me, that if the friends of the bill wish to accomplish the objects designed, and which I think are highly laudable, this bill is altogether insufficient to do it. I think that some of its provisions are exceedingly objectionable, and that some other of its provisions do not meet the case which it is designed to meet. I would, therefore, be glad if the bill should lie over until Monday, and then I shall suggest an amendment, which I hope the Senate will adopt. If, however, it is the pleasure of the Senate to consider it now, I wish to make some remarks upon the subject, assigning my reasons for the course which I intend to take; but I ask for this indulgence, as I believe no evil can possibly grow out of it, and I will, in the mean time, confer with the members of the Committee on Claims, and tell them why it is that I object to the bill in its present shape, and why I think it is insufficient to accomplish the objects in view. I move to postpone the further consideration of the bill until Monday next.

Mr. BRODHEAD. I have no objections to accommodate the honorable Senator from Kentucky, but I am well convinced that the bill is right as it stands.

The motion to postpone was agreed to.

## COURTS IN THE DISTRICT OF COLUMBIA.

Mr. BRADBURY. I ask the Senate to take

up and put upon its passage, a bill which was under consideration on Friday last, providing for the holding of the district court in this district in case of the sickness or other disability of the district judge. An amendment has been prepared which meets all the objections to the bill.

The motion was agreed to, and the Senate resumed the consideration of the bill as in Committee of the Whole.

Mr. BRADBURY moved to amend the bill by striking out all after the word "court," and inserting the following:

To the assistant judges of the circuit court of said District, it shall be the duty of the senior assistant judge to hold the district court aforesaid, and discharge all the judicial duties of the district judge who shall be sick, or otherwise disabled, as aforesaid, so long as such sickness or disability shall continue; and in case of the sickness or other disability of said senior judge, the same duty shall devolve on the junior assistant judge of said circuit court. And the said judges, and each of them, are hereby authorized to exercise original jurisdiction in admiralty cases for the purposes of this act; and all the acts and proceedings in said district court, by or before either of said assistant judges so required to hold the said district court, shall have the same force, effect, and validity, as if done and transacted by or before the district judge of said district court.

The bill, in its original form, provides, that in case of the sickness or disability of the district judge of the District of Columbia, and upon that fact being certified by the clerk of the district court to the Chief Justice of the Supreme Court of the United States, the Chief Justice shall designate and appoint the district judge of one of the adjoining districts to hold the district court in this District. The amendment proposes to strike out the provision which follows the word court, which is italicized above, and insert the words of Mr. BRADBURY's amendment.

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, the bill was ordered to be engrossed and read a third time, and was subsequently read a third time and passed.

## MOBILE AND GIRARD RAILROAD.

On the motion of Mr. CLEMENS, the Senate proceeded to consider, as in Committee of the Whole, the bill granting the right of way and making a donation of land to the State of Alabama, in aid of the construction of the Mobile and Girard Railroad; and having been amended so as to make it conform to similar bills heretofore passed, it was ordered to be engrossed and read a third time.

## FLORIDA, ATLANTIC, AND GULF RAILROAD.

On the motion of Mr. MALLORY, the Senate proceeded to consider, as in Committee of the Whole, the bill granting the right of way to the Florida, Atlantic, and Gulf Central Railroad Company through the public lands of the United States, and to appropriate lands to the State of Florida in aid of the construction of said railroad and branches; and having been amended so as to conform to the preceding bill, it was ordered to be engrossed and read a third time.

## SECURITY OF PASSENGERS.

Mr. GEYER laid upon the table, informally, sundry amendments, which were ordered to be printed, which he intends to offer to the bill to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam."

## RULES OF THE SENATE.

The Senate proceeded to consider the resolutions submitted by Mr. BADGER, on the 29th of April, to amend the rules of the Senate, as follows:

*Resolved*, That the thirtieth rule for conducting the business of the Senate be amended by inserting after the word "session" the following:

"Or moved by direction of a standing committee of the Senate."

*Resolved further*, That the following be added to the rules of the Senate:

"A motion to suspend, or to concur in a resolution of the House to suspend the sixteenth and seventeenth joint rules, or either of them, shall always be in order, and shall be decided without debate."

The proposition is to make the rule read thus:

30. No amendment, proposing additional appropriations, shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate, during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate.

The sixteenth and seventeenth joint rules, referred to in the second proposed amendment, are as follows:

16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session.

17. No bill or resolution that shall have passed the House of Representatives and the Senate, shall be presented to the President of the United States, for his approbation, on the last day of the session.

Mr. BADGER. I will modify the second resolution. I find that there is a rule of the Senate to which it will come in properly as an addition. I propose to modify it so as to read "Resolved, That the following be added to the 26th rule of the Senate."

I will also modify the proposed amendment by adding after the words "shall always be in order," the words "be immediately considered and."

Mr. WALKER. What is the 30th rule?

Mr. BADGER. I will explain the effect of my resolutions. The 30th rule is the rule which was adopted during the last Congress, which provides that no amendment making an appropriation shall be moved to any general appropriation bill, unless it is to carry out some existing law or is founded upon an estimate from the head of a Department. I propose now to add "or moved by direction of a standing committee in the Senate." The object of it is to allow the standing committees of this body, who are charged with various subjects, military affairs, naval affairs, &c., when they deem an amendment proper to an appropriation bill, to direct it to be moved: that is all.

The other amendment of the rules I presume Senators will understand at once. The sixteenth and seventeenth joint rules prevent the sending from the one House to the other, on the last three days of the session, any bill, and also the sending to the President of the United States, for approval, on the three last days of the session, any bill.

The consequence of this is well known to all gentlemen who have been here for two or three years.

We have got, now, in the habit of passing all the important business of the Senate and the House during the last three days of the session. The consequence of the present state of the rule is, that if a bill has been ever so well considered and matured in the Senate, and has been passed upon either of the last three days of the session, we cannot get it to the House of Representatives in order to have their sense upon it. So, if a bill, however well considered, has passed both Houses, we cannot get it to the President of the United States for his approval, because a motion to suspend the rules, if objected to, being in the nature of a resolution, has to lie over a day, and because it is a motion that is subject to debate, and any gentleman, if he thinks proper to do so, can prevent a bill going to the President on the last three days of the session, by simply consuming time in debate. That is the effect of the rule, as it is at present.

Mr. HALE. I desire to ask the Senator from North Carolina if, practically, the rule ever led to any such result? and if, in practice, it ever occasioned any difficulty in getting a bill through?

Mr. BADGER. Undoubtedly. We had a practical illustration of it at the close of the last Congress.

Mr. UNDERWOOD. I can give the gentleman from New Hampshire a practical illustration. At the last session, we passed a bill for the relief of the American Colonization Society. I believe that bill passed on the last day of the session. A motion was made to suspend the rule, in order to send that bill to the President. It was objected to by a gentleman from Mississippi, [Mr. DAVIS,] no longer a member of this body; but, by some means or other, the bill got to the President, and he signed it, it having been passed by both Houses. The question has since come up whether it is a law, in consequence of its having got there and being approved irregularly. I suppose that it is a law, having been approved by both Houses and by the President. But that bill reached the President against the rule; and the question still exists whether that bill is, or is not, the law of the land. These are facts, which answer the case suggested by the gentleman from New Hampshire.

I recollect another thing. We had the river and harbor bill up at the last session. If that bill had been passed during the latter days of the session, the rule would never have been suspended, although

the bill had been debated night after night. It was ultimately surrendered by its friends in this body, because if it had been passed it would have been impossible to get it before the President. I therefore hope there will be no difficulty whatever in modifying the rules according to the suggestions of the gentleman from North Carolina.

Mr. HUNTER. Would it be in order to offer another amendment to the 30th rule of the Senate?

The PRESIDENT. It would be in order to offer an amendment to add to it.

Mr. HUNTER. Then I should like to have this addition made; and if it be made, I shall have no objection to the amendment of the Senator from North Carolina:

But no estimate shall be considered as coming within this rule unless it is accompanied by a recommendation for a corresponding appropriation by the head of the Department who makes the estimate.

I wish to require a recommendation as well as an estimate before amendments, making additional appropriations, can be offered to appropriation bills.

Mr. BADGER. I have no objection to that amendment. It is all right; but I would suggest to the Senator from Virginia, that it would be better to modify his proposition by adding after the word "estimate" the words "accompanied by a recommendation for an appropriation."

Mr. HUNTER. I am willing to modify it in that way.

The PRESIDENT. The proposition cannot be received as an amendment in that shape.

Mr. BADGER. I would suggest to the Senator from Virginia that he can propose his amendment after my proposition shall have been disposed of.

Mr. HUNTER. Very well, sir.

Mr. BRIGHT. I am very unwilling to see the least innovation made upon the rules of this body, without understanding wherein they are to be altered. It occurs to me that the harmony of our rules is very much dependent one upon another. I have no doubt there are important changes that might be made. The question I think was before the Senate at the last session, and was referred to a committee, of which I believe the honorable Senator from North Carolina was a member. I think the committee never acted.

Mr. BADGER. The gentleman is mistaken. There was no committee raised for the general revision of the rules; but there was a select committee raised on a particular amendment to the rules which I offered, of which the Senator from Indiana, the Senator from Massachusetts, [Mr. DAVIS,] and myself were members.

Mr. BRIGHT. That committee was appointed; but I think the committee never performed the duty assigned to it.

Mr. BADGER. O, yes we did.

Mr. BRIGHT. There was a change made in our rules a year or two ago, whereby it was declared out of order for amendments, proposing additional appropriations, to be offered to the civil and diplomatic, and other general appropriation bills, unless they were made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or in pursuance of an estimate from the head of some of the Departments; and absolutely prohibiting amendments whose object was to provide for a private claim, although the same may have been previously sanctioned by the Senate. The object of that amendment to the rules was to prevent private claims, one after another, at the close of the session, being put upon the civil and diplomatic bill at a time when members could have no opportunity of judging of the merits of the measures presented. I approved that change then, as I do now.

Mr. BADGER. I do not propose to alter that portion of the rule.

Mr. BRIGHT. I think the rule as it stands is a very wholesome one, and one well calculated to prevent the passage of claims without mature deliberation. It may be that the change proposed by the honorable Senator from North Carolina is correct. If he says it is so, I should feel very much inclined to think that it was so; but I see no necessity for acting upon it immediately, and therefore I would be glad if it should be passed over until I could have an opportunity of looking somewhat into it.

Mr. BADGER. I hope the matter will not be

passed over. The proposed amendment to the rules is a very simple one, and there is not a member of this body who cannot understand the effect of it in two seconds. The amendment is to authorize additional appropriations to be moved in relation to public matters, by the direction of any one of the standing committees of this body. If the standing committees of this body are not to be intrusted with the consideration of the propriety of moving such amendments, and cannot offer them, I pray you, where is the Senate in regard to these appropriation bills? They originate in the House of Representatives. The committees of that House put what amendments they please upon them. They come here to the Senate, and, though every standing committee of ours may concur in the propriety of making an amendment, and though every member of this body may concur in its propriety, you cannot move an amendment making an additional appropriation. Now, if the Senator from Indiana is willing to sit here as a mere register of the decrees of the House of Representatives, I am not. Before the committee of which I have the honor to be a member, we have large and important subjects connected with the public interests committed to us. It is our duty to examine into them. It is our duty to see what we think proper to be done with respect to them. While I make no objection to a rule which precludes any individual Senator proposing these amendments, I think it is hard, unjust, and injurious to the public service, and invades the just prerogatives of this body when the standing committees cannot propose, for the consideration of the Senate, an appropriation which they think the public interests of the country require.

This resolution has not been sprung upon the Senate. It has been lying upon the table for more than a week. I have waited patiently. I have put it off from day to day, and it seems to me that the sense of the Senate should be ascertained by this time. If they are disposed to adopt the amendment to the rules, I hope it will not be postponed. But if they are not, I shall submit to their authority, as I always do. I bow to the will of the majority. That is my doctrine.

Mr. BRIGHT. I asked for the postponement of this subject for the reason that I before had not had my attention called to it, having been absent. As I said before, it may be all very correct, but I should be glad to have an opportunity of looking at the change proposed, and comparing it with the other rules; but if the Senator wishes to press his motion now, of course I shall not object.

Mr. HUNTER. If the Senator from Indiana wishes to examine the matter, I would ask the Senate to take up the deficiency bill, as it is now one o'clock. We can then take up the resolution on Monday during the morning hour.

Mr. BADGER. I wish to say that I have no personal interest in the matter, and that individually, I care not whether the alteration is made or not. I proposed it as a member of this body. I believed, and I had no doubt that it would, meet the unanimous concurrence of the Senate. I did not believe that our rules were like Scripture, as the Senator from Indiana seems to suppose, absolutely perfect and incapable of amendment. I did not suppose that they had that beautiful harmony and symmetry which he seems to think they possess.

Mr. HUNTER. It is now one o'clock. I think we had better take up the deficiency bill. I therefore move to postpone the further consideration of the resolution till Monday.

The motion was not agreed to.

Mr. RUSK. I hope the amendment will be adopted. I wish it was in such a condition that I could vote for the repeal of the entire thirtieth rule, for I look upon it as a perfectly ridiculous one. In the first place, no gentleman here representing a sovereign State can get up and offer a single amendment to an appropriation bill that appropriates a single dollar for any object, however important, urgent, and necessary, unless he first goes, bowing and scraping, and asks the sanction of the head of a Department. That is the condition in which the thirtieth rule leaves us. I will never make such an application—I will never ask the head of a Department for leave to propose anything here which I may deem necessary and proper for the public service, or for the advantages of my own State. Now, according to this amendment, in place of going to the head of a Department for his sanction to do anything here, we would only



require the leave of a committee. Sir, is not a committee of this Senate to be as much trusted as the head of a Department? The fact is, the whole rule goes upon a reasoning entirely degrading to the Senate. It supposes that members of the Senate will propose here measures that are injurious to the public interests, and it is supposing besides, that here, from a want of capacity, or from inattention, a majority of the Senate would be found to sanction such abuses; and in order to put ourselves under guardianship, we are required to go, cap in hand, and ask some head of a Department whether we shall offer an amendment to an appropriation bill. Now, when we ask to be relieved from this degrading position, and to make our respects to a committee of five of our own body, it seems we are to be refused even that.

Mr. HUNTER. Mr. President, I think the Senator from Texas does not understand this rule which he is criticising so severely. I do not understand that no member can offer an amendment unless he shows an estimate from the head of a Department, or that it was designed to give the Department that sort of supervision over the conduct of our business. The design of the rule was to place the business here as it stands in the other House. It was supposed that the Committee on Finance, like the Committee on Ways and Means in the House, ought only to report appropriations for the purpose of carrying out existing laws, or for the purpose of sustaining estimates founded upon law; and the provision in the rule in relation to estimates, was intended to give to an administration which was in the minority a chance of presenting its measures. I acknowledge that by construction the rule has been somewhat abused; but I propose to offer an amendment which will remedy it, to require that every estimate shall be accompanied by a positive recommendation before it can be the foundation of an amendment. I have not opposed the amendment to the rule proposed by the Senator from North Carolina. On the contrary, I signified my disposition to acquiesce in it, provided we could also obtain this other amendment which I have suggested. I believe that the rule is a most salutary and wholesome one, and that so far from having the tendency which the Senator from Texas intimates, it is rather respectful to the other committees, for it throws all the origination of new business into the hands of the appropriate committees, and takes it from the Finance Committee.

Mr. ATCHISON. Mr. President, I concur with the Senator from Texas. If I understand the matter aright, the thirtieth rule is an interpolation into the rules as they formerly stood. If I can obtain my object by moving to strike out all of this resolution after the word "resolved," and inserting a proposition to rescind the thirtieth rule, I shall do so. The old rules, as they stood, left it discretionary with the Senate. Any member of the Senate might offer an amendment to an appropriation bill. It was then a matter of discretion with the Senate whether they would sustain the proposition or reject it, the same as if it were an amendment offered to any other bill. I wish to get back to the old rules. I do not want the intervention of a committee. I do not desire to be shackled, even by a committee. If it would be in order, I would move to strike out all of the first resolution of the Senator from North Carolina, after the word "Resolved," and insert, "that the thirtieth rule be, and it is hereby rescinded."

Mr. UNDERWOOD. I hope that proposition will prevail. I think my friend from Indiana is the last gentleman in this body who ought to object to it. If I recollect rightly, it was upon his motion, without the sanction of a committee—without any report from a committee—without any recommendation from a Department—that he obtained, under the old order of things, an appropriation to purchase a site for a marine hospital at Evansville. I joined with him most heartily, and the proposition was carried, proceeding entirely from his own motion. Now, I think that the rest of us who represent States, ought to have the privilege, if anything interesting to our States occur, and we shall have the ability and power to convince the Senate of the propriety of its adoption, to bring forward any proposition, and submit it to the calm consideration of the Senate. I want that privilege for myself, and I hope, therefore, that the proposition of the Senator from Missouri will prevail.

Mr. BRIGHT. Mr. President, when I objected to the consideration of this proposition this morning, I stated that I did it without understanding really the merits of the question presented by the Senator from North Carolina, and that I only objected for the reason that I desired time lest the harmony of our rules might be marred by this interpolation. I recollect very well that when the present thirtieth rule of the Senate was offered by the honorable Senator from Virginia as an amendment, it was hailed all over the Senate Chamber as a rule calculated to prevent improper legislation. At the close of every session, previously, each member who had had a claim here that had failed upon its merits, sought at the last hours of the session to fasten it upon some general appropriation bill. In that way were carried through private claims that had not merit within themselves to be carried through by themselves. I say that, when the honorable Senator from Virginia introduced this rule, it was hailed all over the Chamber as a valuable and healthy amendment, and so I think it yet.

One word now in reply to the honorable Senator from Kentucky. It appears that he will never lose sight of the small appropriation which I got for his neighboring town of Evansville.

Mr. UNDERWOOD. I united with you in getting it. I am glad of it.

Mr. BRIGHT. That appropriation was not affected by this rule. It was an appropriation that had been estimated for and recommended by a Department, and therefore did not come within the provisions of the rule. The object of the rule, as I before remarked, is to exclude private claims. If this rule be repealed, it throws us back where we were before, and puts us in a position that private claims may become laws by being attached to the civil and diplomatic bill. To that I am opposed, and I shall oppose any change that gives the privilege of fastening private bills upon bills for public appropriations. It was for the purpose of looking into the proposed amendment, and seeing how far the other rules would be affected by it, that I asked for delay. It is, however, a matter in which I feel no particular interest.

Mr. BADGER. I have already said to the honorable Senator from Indiana, that if he would have the rule read as proposed to be amended, he would see that it leaves totally untouched that provision of the thirtieth rule, which excludes any private claim from being offered as an amendment to an appropriation bill. I wish the Secretary would read the thirtieth rule as proposed to be amended.

It was accordingly read.

Mr. RUSK. I hope the proposition of the Senator from Missouri will prevail. I imagine that it is perfectly safe to trust to the discretion of the Senate against putting private claims upon public bills. If it is not, we can very easily provide a rule which shall provide for that mischief, if mischief it be. But, sir, the illustration furnished by the honorable Senator from Kentucky, shows the ridiculousness of this rule. I believe he said that a marine hospital was necessary at Evansville, Indiana. It was necessary. I voted for it myself. Suppose now that a necessity existed also for marine hospitals at various other points. Suppose it became necessary for me to have an appropriation for a marine hospital at Galveston, and suppose the honorable Senator wanted another in Indiana—suppose he is in the good graces of the heads of the Departments, and gets a recommendation for the passage of his, and I cannot procure it for mine: there are two cases of equal merit, and one Senator, because he does not happen to be in the good graces of the head of a Department, is precluded from offering his amendment, and from asking the Senate to pass upon it.

Mr. BERRIEN. Mr. President, we all recollect the embarrassments which attended the practice of moving amendments to appropriation bills at the very close of the session. The situation of the chairman of the Committee on Finance was an extremely embarrassing one. Under the ancient practice, amendments were moved in rapid succession, and were acted upon necessarily without due consideration. It was for the purpose of avoiding that embarrassment that the 30th rule, which has just been read, and which it is now proposed to modify, was adopted. But it seems to me that that rule may very well be susceptible of the modification which is proposed by the Sen-

ator from North Carolina without subjecting us to the embarrassments which resulted from the ancient practice; and that such a modification of the rule will provide for the difficulty which is suggested by the Senator from Texas. The object which we have in view is to prevent the presentation to the Senate in the last hours of a session of amendments to appropriation bills. The desire which is expressed by the Senator from Missouri and by the Senator from Texas is, that the Senate should reserve to itself the right of exercising its discretion without being dependent upon the head of a Department. Both these objects, it seems to me, may be accomplished by the proposed modification. The Senator from Texas will not be under the necessity of going to the head of a Department for the purpose of getting an estimate, but, at the same time, he will protect the Senate from being called upon, unadvisedly, to act upon an amendment in the very closing hours of a session, by going to the appropriate committee of this body, there making a representation of his desires, and obtaining an investigation before that committee, and then report in favor of the amendment. Thus the Senator will be relieved from the embarrassments which he suggests, the Senate will be relieved from the difficulty of having amendments presented at the very closing scenes of a session, and we shall be enabled to act advisedly and prudently.

At present there is a difficulty. We have, in our anxious desire to avoid the evils which resulted from the ancient practice, carried the restriction, as I think, too far. As it appears to me, we ought to have provided that, when a subject has undergone the deliberate investigation of a committee of this body, their report should be equivalent to an estimate by the head of a Department. That is the effect of the modification proposed by the Senator from North Carolina. I trust, therefore, that the substitute, which proposes the total repeal of the rule, will not receive the acquiescence of the Senate, but that the modification proposed by the Senator from North Carolina will be adopted.

Mr. BORLAND. I shall vote for the proposed amendment of the Senator from Missouri without reference to the merits of the rule which it proposes to strike out, but for the reason that I think that the rule, as it stands, is wholly inoperative, and I am unwilling to see standing, as one of the rules of the Senate, a provision which is not regarded by the action of the Senate. I think I have seen the rule disregarded in every one of its provisions, over and over again, and recently in a very striking case. If it could be executed, so as to answer the purpose for which it was originally intended, I should be for retaining it where it is. But, as I am unwilling to see laws upon the statute-book, as provisions, set down as rules of the Senate, which are not operative, staring us in the face, and which are, in my opinion, daily violated and disregarded, I shall vote for rescinding them.

The PRESIDENT. The Chair will state to the Senate, that, on looking at the rule, he finds that the proposition of the honorable Senator from North Carolina being one to amend the rules, the question must first be taken upon it. If the proposition to amend the rule is rejected, it will then be in the power of the honorable Senator from Missouri to move to repeal the rule altogether. The question now is on the adoption of the resolution proposing to amend the thirtieth rule, which has been offered by the Senator from North Carolina.

Mr. BRADBURY. I would like to ascertain whether the amendment of the honorable Senator from North Carolina would enable a committee to recommend a private claim?

The PRESIDENT. No, sir; it does not relate to that portion of the rule.

The first resolution, relative to the amendment of the thirtieth rule, was adopted.

Mr. HUNTER. I suppose this would be the proper time for me to submit my proposition to amend the thirtieth rule.

The PRESIDENT. That amendment cannot be received but by unanimous consent. The Senator from Virginia wishes to offer an amendment to the rules. Not having given notice of it, and not having laid it upon the table, it will require general consent to receive the amendment; and, if it is received, it will then be for the Senate to adopt it or reject it.

Mr. CLEMENS. I object to it.

The PRESIDENT. Then the Senator from Virginia can lay upon the table his resolution to amend the rule.

Mr. HALE. I want to vote upon the proposition of the Senator from Missouri.

The PRESIDENT. Does the Senator from Missouri make a proposition to repeal the thirtieth rule?

Mr. ATCHISON. I do, if it is in order.

Mr. BRADBURY. That will lie over.

The PRESIDENT. If the Senator will send to the Chair a proposition of that kind it will lie over for one day under the rules.

Mr. ATCHISON. Then I withdraw it.

The PRESIDENT. It will be better for the Senator from Virginia to introduce a resolution to amend the rule which he suggested, so that it can be taken up at a subsequent day, if it is desired.

Mr. HUNTER. I will offer it at another time, as I wish to proceed to the consideration of the deficiency bill.

Mr. BADGER. I ask for the question on my second resolution.

The PRESIDENT. The Chair overlooked the fact that another resolution was offered by the Senator from North Carolina, proposing to amend the twenty-sixth rule of the Senate.

The amendment to the twenty-sixth rule was agreed to.

The twenty-sixth and thirtieth rules, therefore, now stand as follows:

26. Every bill shall receive three readings previous to its being passed, and the President shall give notice at each, whether it be the first, second, or third; such readings shall be on three different days, unless the Senate unanimously direct otherwise. And all resolutions proposing amendments to the Constitution, or to which the approbation and signature of the President may be requisite, or which may grant money out of the contingent or any other fund, shall be treated, in all respects, in the introduction and forms of proceedings on them in the Senate, in a similar manner with bills; and all other resolutions shall lie on the table one day for consideration, and also reports of committees. And a motion to suspend, or to concur in a resolution of the House to suspend, the sixteenth and seventeenth joint rules, or either of them, shall always be in order, be immediately considered, and decided without debate.

30. No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852." The Committee on Finance propose to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500.

The pending question was the motion of Mr. JONES, of Tennessee, to amend the amendment by striking out \$33,000 and inserting \$25,000.

Mr. CASS. Mr. President, I desire to address to the Senate some observations upon the pending question, and I may as well do it at this state of the progress of the bill as at any other time. I have been a good deal embarrassed by this proposition—more so than I usually am by the subjects presented for the consideration of the Senate.

In the first place, I have a great objection to the insertion of this provision in the deficiency bill, which is a bill providing for existing deficiencies; that is to say, for deficiencies arising out of the existing laws, where appropriations have not been made, or have failed. That bill was asked for by the proper departments; they submitted the necessary estimates, corresponding with the nature of the bill. They did not submit an estimate for this application. It was not an existing deficiency. It was not the deficiency of an appropriation for an object warranted by law. It was a new contract, or, rather, an addition to an old one—a condi-

tional arrangement, entered into between the Post Office Department and the owners of these vessels. It was to become obligatory only when approved by Congress; and, therefore, no appropriation could be considered, as a deficiency, till such approval took place. Besides, I thought the attempt to ingraft this appropriation upon this bill would delay the action of Congress—would delay measures that seemed to be essential to the public service, some of them, indeed, to the public faith, and, perhaps, ultimately hazard the bill in the House of Representatives. I am not yet satisfied that it will not thus be put to hazard; but the Senate have overruled me in this opinion. We have taken a vote, and have decided that this is a proper place for the appropriation. I shall submit. We have spent three weeks upon the subject. Three weeks have been devoted to the consideration of this question alone. I am, therefore, unwilling to see all that time thrown away, and the subject again commenced, to go through the same discussion, in another bill, and in another part of the session.

Under these circumstances, I shall make no further objection to the insertion of this provision in this appropriation bill.

But, sir, I had other difficulties, besides the difficulty of position. I did not fully understand the subject. It involves, in some measure, a great experiment. I did not foresee, nor do I now foresee, accurately, all its operations. It embraces a great many very important considerations, requiring the deliberate action of Congress, and the deliberate opinion of the country, before it is adopted as one of the settled measures of our policy.

I listened with much attention and interest, as I always do, to what fell from the honorable Senator from Virginia, [Mr. HUNTER,] chairman of the Finance Committee, upon this subject. I congratulate the Senate and the country, that we have at the head of that important committee a gentleman, as willing as he is able to look into the expenditures of the country, to try them by the test of public utility, to restrain, as far as he can, that disposition, which seems inherent in every Government, to increase its expenses, and to substitute profusion, where it exists, for a wise economy. I coincide with him in much that he said upon this occasion; and particularly do I agree with him in the general views he presented in relation to this branch of the subject; and I was happy to hear the patriotic sentiments that fell from him.

Sir, I have been apprehensive, that this system of steamboat legislation would be carried too far. I have been apprehensive that, however valuable it might be in some respects, it might, from a natural predisposition, be pushed further than the public interests required. Our statute-book furnishes instances of legislation for particular individuals in relation to subjects of this nature, as well as to others. It is a vicious practice—a system to be deprecated. I was myself, therefore, anxious to apply an efficient remedy, because it takes from the Executive Departments the responsibility that properly belong to them. When you assume such a responsibility in Congress, it is divided among three hundred men; so that the share which falls to each of them is but a feeble check to inconsiderate legislation. The object of a Legislature should be to prescribe measures required by the policy of the country, and to leave to the proper Departments to carry them into effect, holding them responsible for the execution of their duties, and taking care to watch with jealous caution that the objects are faithfully carried out. It is the proper duty of a Legislature to legislate, and not to administer the Government. Sir, you know, and we all know, that there is a great external pressure in favor of all subjects of this kind; and it should be guarded against and resisted with ceaseless vigilance, or it will in time acquire an ascendancy, injurious to the best interests of the country.

The very subject of controversy now before us shows, in a marked degree, the danger of legislative interference with such matters in detail. The question, with respect to the amount that should be paid for this mail service, is a question more of administration than of legislation. We are scarcely in possession of the necessary facts to enable us to come to a decision free from doubt. No man can say that there is no doubt upon the subject. We decide as we best can under the circumstances, in which we are placed. Such matters should be

thoroughly investigated by the proper Department, where all the facts should be carefully examined and ascertained, and the result should be reported to Congress under the responsibility of the proper officers, and that report may then safely be taken as the ground-work of our proceedings. But, in the present case, that course is precluded by our own action.

I do not intend to enter into the financial view of the question. It would require a greater knowledge of the details than I possess, and more time than I choose to employ in taxing the patience of the Senate. The subject has been before two of our most important standing committees, and their opinions they have made known to us, and the subject has been debated and discussed in this body for many days. Every member, I suppose, at this time is prepared to express his opinion in relation to it. One fact, however, seems to be certain, if we can depend upon the opinions of gentlemen of our body, every way competent to form a judgment, and entitled, by their character and position, to our full confidence, and that is, that this has proved an unprofitable investment. We are told by the honorable Senator from Rhode Island, [Mr. JAMES,] who, I perceive from his judicious remarks, understands the subject fully, that the stock of this company may be bought in the market for fifty per cent., or one half of its par value. Every man knows, that there is no better barometer of the financial atmosphere, than the prices of stocks. There are few things more sensitive than the operation of the stock exchange. A permanent fall in the price of property in market, then, is an unerring indication, that such fall has been preceded by a proportionate decline in such property. You may take it for granted, that if this stock has gone down to fifty per cent. in the public estimation, it has fallen to that low price because the adventure has been a losing one. I suppose there is no doubt but that this line will be discontinued, unless this conditional arrangement, made by the Post Office Department, be confirmed by Congress. Such is the information communicated to us by the committees, and not contradicted, so far as I know, by any one. So that the question before us involves the fate of the enterprise, and if the application is rejected, the American line will be withdrawn, and all competition on our part abandoned.

There are peculiar considerations connected with this line, to which I shall presently advert, and which do not attach to any other steamboat line, in which the Government is interested. Therefore, what I have to say will relate to this one alone. I leave the others out of view. I pledge myself to aid none of them; and I must say here, in my place, that before I vote to extend additional aid to any other line, there must be very strong considerations presented for my action, such as I do not perceive nor foresee. I would not extend the system any further, till the result is ascertained by actual experiment, and it is ascertained that the interests of the country require that this provision for naval armaments should be continued and enlarged.

It has been said, and I suppose the fact is so, that the receipts for postage will, to a considerable degree, diminish the outlay of the Government for this line. These receipts have already reached a heavy amount; and we all know, from the nature of business in our country, that the intercommunication between us and Europe will go on increasing in a very rapid ratio. It has been so, and it will be so in this, as in all other enterprises. I suppose the time may be fairly anticipated, and soon, too, when the whole expenditure called for by this measure may be met from the postages; or if not the whole, a very large portion of it.

I observed yesterday, in looking over an extract from one of the French papers, that a proposition for a similar object has been submitted to the French Government by a company at Havre. That proposition is to establish a line of steamships from Havre to New York, consisting of three boats. The offer made to the French Government is, to perform the mail service for a million of francs, each boat, annually. This would give, as near as may be, \$200,000 for each boat. Applying this sum to the Collins boats, it would give them about \$1,000,000, as there are to be five hereafter employed.

Mr. BADGER. There are but four steam-ships on this line.

Mr. CASS. I understand, from the chairman of the Naval Committee, that if this arrangement is made, the owners will be compelled to add another vessel. Therefore, if we have five boats, it will require \$1,000,000 a year, calculating at the rate offered to the French Government, and which I suppose, will be accepted.

Mr. BADGER. Those ships are only half the tonnage of this line.

Mr. CASS. I do not know how that is, as I think the tonnage was not stated in the article I read. There was one objection to the proposition before us, urged both by the Senator from Virginia [Mr. HUNTER] and the Senator from Tennessee, [Mr. JONES,] who, although at antipodes upon the principle of the objection, agreed fully as to its practical effect; one gentleman, however, contending that it went too far, and the other that it did not go far enough; and most extraordinary, indeed, to my mind, were the views thus urged. Both these gentlemen said this was a measure of protection, as though it involved the principles of the tariff. Well, sir, it is a question of protection—of high, and important, and holy protection, in the best sense of the term—the protection of our country, of our expatriated seamen, of our commerce, of our interests, of our honor, of our soil, of all that gives dignity and character to nations, protection against defeat, disgrace, and dishonor. That is the protection, which this measure will give, should the experiment be successful. And I am unwilling to abandon it upon mere conjectural objections, till its failure is ascertained by a sufficient trial. If established it will enable us to make such an addition to the Navy as might be necessary at the least possible cost—a Navy, whose great objects we all know, and whose great feats are felt with pride by every American heart. Why, the honorable gentleman may as well tell us that because in time of war you send out armed ships to act as convoys to protect your commercial marine against belligerent cruisers, that is protection; and that if you were to leave your merchant ships a prey to the enemy, neutral powers would do the carrying trade and thus save you from these expensive armaments; that if protection cost anything it should be abandoned, and our commerce swept from the face of the ocean; that other nations may do their business and our own. There is no place in an American heart for such a sentiment, any more than there is in the true view of national interest and honor. This question has no connection with a protective tariff. It rests on other and higher considerations. It is a question of defense. It is an experiment we are making, and which other nations are making, to ascertain how the most efficient military marine can be maintained at the least expense to the public revenue. It may prove a failure; I do not say it will not. But I do say I am not prepared to reject a plan, recommended by so much practical intelligence, a trial of which we have already commenced, without carrying that trial to some reasonable result. It seeks the solution of a question of national defense, vitally interesting to us now, and still more in the times that are coming. It has no more connection with a protective tariff than has the building of your ships of the line. I repeat, if the experiment is a successful one it will provide, to a considerable extent, for the establishment of a self-supporting Navy. In my opinion, if it turns out as many anticipate, it will be one of the most important advances ever made in the policy of a country. Instead of the enormous expense of a Navy, everywhere proverbial, it would enable us to provide an active and adequate military marine of certain useful classes, I do not mean of all, which would be at the service of the country whenever its exigencies required, and which in the mean time could be supported and kept in proper order at a comparative small cost to the public. Thus would be solved one of the most important questions, that belong to the practical operations of governments in our day.

The honorable Senator from Virginia [Mr. HUNTER] seemed to consider the establishment of this line as a partial and exclusive benefit to New York, and that equal justice would require similar favors should be extended to other points; I do not know whether to all or to which of them, upon the principle that we should act with the same impartiality towards every portion of the Union. That principle is a just one in all matters of general legislation, and no Government should depart from it. But

where particular objects are required for the public service, and the selection of particular places, where those objects can be best attained, in such cases it is impossible, that all places can share alike in the accidental benefits that may result from the measure. You cannot put a dock-yard everywhere. You cannot put a mint everywhere, a naval hospital, a fort, an arsenal, or a capitol. But are you therefore to put them nowhere? I repeat, that so far as a Government can, it is bound to confer equal benefits on all; but in the administration of every Government, there are necessary positions to which certain objects must be confined. Everybody cannot have a county seat at his door; nor a bridge, nor an important road; but are we therefore to abandon all these objects, because they incidentally confer greater advantages upon some points than on others? The question is not whether the establishment of this line is peculiarly advantageous to New York, but whether New York is the proper terminus, having relation to the public service and interest. Whether it is the place whence these vessels should go, and to which they should return. Well, I suppose, looking at the communication between this country and Europe, if we are to have this line—and this is the only one that now engages my attention—no gentleman will deny that New York is the proper place for its establishment.

Mr. HUNTER. I would ask the Senator whether I understood him correctly. Did he say that he would vote against aid to all other lines? I so understood him.

Mr. CASS. I did not say that. But I will say that, according to my present impressions, I should vote against any additional compensation to any other line, under any circumstances, unless there are much stronger considerations presented, than I am now aware of. So far as respects the pledge of Congress to other lines, I shall vote to carry it out. But so far as there is no pledge, I hold myself perfectly uncommitted, with a strong leaning against the extension of the system. I maintain and repeat, that there are no other lines in operation which, to my mind, can compare with this in their claims to public support. I am not now speaking of steam-vessels, employed to carry the mail upon public notices from the Department, where competition is insured in the usual manner. That is a mode of proceeding, which removes all fears of partiality or extravagance.

If the line we have established between this country and England should be now abandoned, I take it for granted, that the business would be done by the British line. In that event the postal treaty would probably be terminated by notice, which each Government has the right to give, and the postage would be raised at least as high as it was before the reduction occasioned by the results of competition. The same freights of valuable goods would be carried as now, but at enhanced rates of transportation. Therefore, in a financial point of view, it seems to me, that there are many considerations that weigh against the abandonment of this line.

But, sir, one of the most important questions that belong to modern times must be solved before long; and that is, the change that will be introduced into warlike naval operations by the application of steam. No man knows what is to be its effect. We can foresee that a great change must come. There are signs enough of that. But how and to what extent this mighty power is to operate in the maritime contests of the world, is matter of conjecture, rather than of experience. The most careless observer can see that an impending revolution is at hand, but the wisest is baffled in the practical solution of the problem; we cannot foretell what will be its effect upon the operation of fleets, upon the blockading of ports, upon the attack of places, or upon the various objects to be attained by hostile squadrons, by detached cruisers, or by roving privateers. Under these circumstances it becomes to us a matter of vast importance to be prepared for the results, whatever these may be. I consider it by far the most momentous question, that has arisen in the science of war, since the invention of gunpowder. The experiment has been tried on a small scale on the coasts of Syria and China, but the operations there were not of fleets and ships against fleets and ships, nor one civilized power against another, but ships against batteries unskillfully defended, ships penetrating into the Chinese ports and others

attacking the Syrian coast. But enough has transpired to show, that a new and most formidable element of destruction is about to mingle itself in the contests of nations, and which will operate with destructive energy upon their future belligerent communications.

No man can have any difficulty in foretelling that the next general maritime war, which breaks out in Europe, will present features in its operations, more important, perhaps, than the world has yet seen. No one knows when war will come. All, indeed, know the unsettled condition of the old hemisphere; know that it is a volcano, and that an eruption may break out at any moment. During the interval between the departure and the arrival of one of these very steam-ships, a general war upon sea and land may be kindled in Europe; the general conflagration may ultimately extend to our continent, and involve us in its fearful calamities. It becomes us, then, to be ready. The practical question arises: what kind of preparation should we make? The experience of our own country has shown, and the genius of our people would have taught us without the experiment, that we are unwilling to make extensive preparations, involving large expenditures, unless the crisis requiring them is almost upon us.

We are not in the condition of the Governments of the Old World, placed in contact with one another, with numerous points of collision, and prone to hostilities, and where great military and naval arrangements have become almost a part of the political system. We are a young, an ardent, and an enterprising people, looking around with pride, and forward with confidence. Danger must be almost upon us, before we can realize its approach, and the necessity for the employment of great military means immediate, before we are willing to prepare them.

We rely upon ourselves for proper exertions when the trial comes, and our history shows, that that reliance is not a false one. Still, to a certain degree, every dictate of prudence requires, that some preparation should be made. It is very important to know how that can be effected with the least expense, and that is the very problem now before us.

I repeat what I said before: there are difficulties—doubts in relation to this matter. The experiment is in full operation. I am willing it should go on for a reasonable time, till we can form a more decided opinion, as to its results. A naval war, if we are engaged in one, will present peculiar features in its operations, applicable to the condition of few other maritime nations. I doubt very much whether this country will ever send heavy fleets to sea. I doubt whether we shall ever send out large vessels, operating in masses, except under some very peculiar circumstances, having relation to this hemisphere. It has been well said that fleets and colonies render each other necessary; but what should we do with a heavy fleet at sea? We ought to have the best prepared and the speediest cruisers in the world both heavy and light, some for our own coast and the neighboring seas, and others for more remote cruising stations, where the nature of the enemy's trade may enable us most easily to annoy their commerce.

But we can have no motive to equip powerful fleets to meet those of France or England, and to fight battles, whose results, even when successful, would leave us as we were; for there are no distant acquisitions for us to seek, no colonial dependencies to defend; and I do not believe that the most confident statesman in Europe dreams of sending fleets and armies to operate upon this country.

The proposition before us has been discussed as though but one single object in naval architecture were to be attained; as though we were to ascertain what was the heaviest ship, to which we could apply steam power with a useful result. That is not the object at all. Some of us seem to think that a certain model is to be sought; a model which is to unite in itself all the various properties, that are required for maritime operations. Why, sir, no such standard is possible: and for a very obvious reason. Purposes are sought in naval warfare, which require properties in vessels utterly incompatible with one another. You want a heavy ship to fight in line. You want frigates to detach on cruising service, and as dispatch vessels to carry orders. You want bomb-ships. You want ships for transport service, and for various other objects.



It is not easy—in fact it is utterly impossible—that any one model can be found, which shall unite all these advantages in one ship. You must consider the power of fighting, the speed of the vessels, their capacity for carrying coal, the security of their machinery. All these are elements of the calculation for each of the different classes.

In the event of a naval war between this country and a great maritime power in Europe, what are the assailable points, that we can attack? What are the objects, that we should seek to accomplish? In the first place, let me say, that we talk a great deal about banishing war from the earth. We have got peace societies, and very philanthropic men in our country, who confidently look forward to the near approach of universal and perpetual peace, when national hostilities will no longer come to add their woes to the other calamities incident to human nature.

I regret to say, that I have no faith in these anticipations. I desire universal peace, as fervently as any one; but my judgment overrules my wishes. I do not believe such a thing is possible. There must be an utter change in human nature, before these fond expectations can be realized. He, who made us as we are, must give us new passions, or new powers to control those we possess, before we achieve such a conquest over them. This period of universal peace may indeed come; but it will only come with that time foretold by prophecy, and foreseen by faith, when the kingdoms of this world shall become the kingdom of our Lord and Saviour; and when the reign of the Prince of Peace shall be established, to which time will bring no end. Till then, however the improving spirit of the age may diminish the contests of nations, it will not entirely prevent them.

Under these circumstances, what are we to do? Knowing that war must come; knowing that it will come; knowing that some day or other, sooner or later, it will overtake us, what are we to do? Like wise men, it becomes us to look our difficulties in the face. Modern commerce, the interchange of commodities between the nations of the earth, is important to their improvement and civilization. For some it is essential to their existence, or at any rate to the position, they occupy in the world. It is the very life-blood of English greatness and prosperity. Without it she would fall from that proud preëminence she has attained by many high qualities, which I know how to appreciate as well as any one, and which I have never denied to her. If she has not always employed them to a just and useful purpose, while we condemn her course, we shall find no nation in the world entirely free from a similar reproach. If her commerce should be broken up, she would be precipitated into an abyss of disaster and dishonor. Our object on the ocean, in the event of a war with England, would be to sweep her commerce from existence, and that is the only practical object we should seek to attain by our maritime operations. No man can expect to send a fleet and an army to London. Some men have proposed to send an army upon the Danube; but I was never one of them, though I have many times been charged with that extravagance; and the oftener it has been contradicted, like our old friend "noise and confusion," the oftener and more confidently it has been charged again. [Laughter.] Why Don Quixote was a wise man compared with him, who should propose to send a great belligerent armament to Europe, with a view to produce any serious impression upon the people and nations of the Old World. It cannot be done, sir. And the sooner such an idea is banished from every American head, whether in or out of an insane hospital—if, indeed, any one out of its walls can be found entertaining such a notion—the better it will be. What we want are ships, fitted for the purpose of annihilating the commercial marine of an enemy. And are the vessels composing the Collins line of that character? I understand they are, and better fitted for the purpose than any ships-of-the-line in the world. They have great speed; great power; great capacity for carrying coal, and could range the ocean almost unharmed in pursuit of foreign commerce. In the event of war we must not calculate much upon privateers. Before, in our other wars, they committed immense destruction upon the trade of the enemy. But now the building and equipping of privateers would be too expensive, and the returns would be neither sufficient, nor would their access to our ports be safe for themselves or their prizes. Sailing ves-

sels would be sent home at great hazard, being liable to be recaptured by hostile steam-cruisers. The policy of the war of 1812 was to take the crews from all merchant ships, captured by the public armed vessels, and then to sink them, thus retaining for our cruisers their full strength, and doing the greatest possible injury to the enemy.

I am aware, sir, that the capture or destruction of private property, upon the high seas, during war has been condemned by the Christian and the moralist; and that, however the code of public law may sanction the practice, it finds little favor in the code of ethics. Efforts have been made to abolish it, and to extend to the ocean the same immunity, which, in principle, though often violated in fact, protects the property of individuals upon the land, in the midst of belligerent operations. But these efforts have signally failed, nor is there the slightest reason to believe they will be hereafter more successful. For one nation, resisting the proposed change and holding on to its existing rights, would thereby possess an immense advantage over all others, which might accept it. And it is obvious, that in the condition of the maritime Powers of the world, this is a means of annoying an enemy, which some of them will never relinquish. And in our own defense, we must take part in this mode of warfare, unless we are prepared to see our own commerce annihilated, and that of our enemy, for the time being, pass as unharmed over the ocean, as in the midst of universal peace.

Our object in a maritime war would be to send these steam-cruisers, wherever their operations would be most felt. They have power enough to take any merchant vessel, and great powers also of self-defense. Their means of operation would only be limited by the supply of coal they could carry. In that point of view, England has a great advantage over us, for she has coal depôts throughout the world; whereas we have no foreign possessions, to which we could look for a supply. But then, as I understand it, one of these ships can carry sufficient coal to last for more than twenty days, and by being fitted also as a sailing ship, she might be able to reach her cruising ground with her supply of fuel untouched, and there be in readiness, to avoid or to follow and overtake any vessels that might heave in sight. In that way, she could intercept all the enemy's trade within a given region, and be herself beyond the reach of any hostile efforts, occasionally recapturing or affording protection to our own vessels.

I believe it is now an ascertained fact, that the vessels of this line have outstripped anything else on the ocean. Hereafter it will be found, whatever we do with the Collins line, or any other line, that, in the event of a war, the first object of the Government would be to obtain ships of this description, whose speed would place them at the head of their class, and which would carry such a supply of coal as would enable them to be sent to any reasonable distance. In case of war we ought to shut up the Gulf of Mexico from any belligerent Power. We ought to prevent a single hostile ship ranging along the American coast, even as far south as the equator; and if involved in a war with England, we should close all communication between her and her American colonies, so long as we allowed her to retain possession of them. By sending such ships into various parts of the world; by alternately using wind or steam, as circumstances might require, we should have a most formidable cruising marine, which could not fail almost to annihilate the commerce of the enemy. I repeat, without reference to this proposition at all—without reference to these vessels—that this is the description of force, to which the Government will finally have recourse.

Any man, who recalls the history of the revolutionary war, either traditionally or historically, can appreciate the immense injury, which John Paul Jones did to the British commerce; and, in like manner, the efficient operations of some of our frigates in the destruction of merchant vessels in the war of 1812, are well remembered. Even the commerce, in the neighborhood of the coasts of England was seriously injured.

But apart from these considerations, there is another one very important to my mind, and which has weighed upon me with great force. The contest, between the Collins and Cunard lines, is connected very much with our national character. It has become a trial for speed across the ocean, of which the people of Christendom are the witnesses,

and which they regard with an interest, rarely felt in questions of national competition. It is obvious, that the feeling of the British Government and people is deeply interested in this subject. We know, that the old claim so often urged in prose and poetry, that "Britannia rules the waves," is deeply rooted in the heart of every Englishman. He would make any sacrifice, rather than suffer a young, active, and adventurous rival to drive his country from her proud preëminence. Now, like the honorable Senator from Rhode Island, [Mr. JAMES,] to whose patriotic allusions I listened with great pleasure yesterday, I have an invincible repugnance against striking the flag of my country—against acknowledging our inferiority, and withdrawing from this conflict of skill and enterprise, involving, as it does, some of those elements of national character, that constitute national strength and security, and which depend in a great degree for their value upon the opinion of the world.

The honorable Senator from North Carolina, [Mr. BADGER,] yesterday made some beautiful observations upon this branch of the subject, which I have no doubt found a response in the hearts of all who heard him, as they certainly did in mine. Opinion is strength. "The race is not to the swift, nor the battle to the strong," says the Book of Revelation, and victory does not always perch on the standard of power, says history, the book of human experience. Many a battle has been lost before it was fought, paradoxical as it may seem. The consciousness of superiority on the one side, and of inferiority on the other, have led to results which force alone could not have obtained; and the prestige of a great name at the head of an army, has frequently preceded its march, and rendered its operations, not less easy than triumphant. These are among the moral causes, which direct and control physical force, and the world is full of the lessons they teach. Let us never forget them. There are circumstances connected with our position, our prospects, and our institutions, which fix the attention of the world upon our career. Every man, who recollects the war of 1812, well knows the feelings produced by our first triumph on the ocean. That little contest between two frigates, in which the "Constitution" was victorious, occasioned a sensation, both in this country and in England, which it is now, in the meridian of our power, difficult to realize. It seemed, as though the charm of British invincibility were broken; as though there were another nation, which might claim that it needed "no towers along the steep," and that its march, too, would be upon the mountain wave. Nations, indeed, confident of themselves, have towers of strength in the hearts of their people, far better than any bulwarks, that range the ocean or defend the land. When the shout of that victory rang through the United States and England, it sounded like the warning knell of British superiority. The subsequent career and efforts of our Navy, during the same war, rendered that feeling still stronger. And down to our day, I have no doubt that branch of our service has preserved the same noble character for discipline and efficiency, notwithstanding the reproaches we have sometimes heard addressed to it even in this Senate, and which were as unwelcome, as they were unconvincing to me. I believe the Navy, is just as efficient now, as it was on the day when Hull captured the *Guerriere*. I believe that no naval service in the world has a braver, or more patriotic, or a more able body of officers, than has ours. And every American should look with jealousy upon all attempts to depreciate this great arm of national defense, and should cherish it, not less as an instrument of power, than as a source of glory, in those collisions with other nations, which we cannot hope to escape.

Sir, I know very well that I have been accused of being very inimical to England, and of being desirous of precipitating hostilities between that country and ours. Nothing can be more unjust—nothing can be more unreasonable than this charge against me. I should deprecate a war between the two countries as one of the greatest calamities that could befall them; and I hope never to live to see the day when they will be involved in hostilities. I repeat, no man is more ready than I am, to do justice to the eminent qualities of the English character, nor to those great feats in arts and arms; which have given a proud distinction to England during the most stirring period the world

has ever seen. But while I cheerfully render this justice, it does not therefore follow, that I am forever to forget the injurious aspersions upon my own country, which, at one time, gave a tone, and a very unjust one, to the public opinion of Christendom, respecting the moral, social, and political condition of the American people. No, sir; I, for one, will be guilty of no such subserviency. During a long life, I have watched the course of England, and I want no contest of arms with her; I want a contest of arts, of science, of literature, of all those pursuits which give dignity to man, and prosperity and intelligence to human nature.

I repeat, I have observed from early life the course of England. From the day that John Adams presented himself to George III. as the first representative of the lost colonies, in his Cabinet—a scene which that sturdy old patriot has graphically described in his letters—down almost to the present day, there has been a feeling of aversion in the British breast against the great American Republic. At first, this feeling of aversion was mingled with contempt; but at length, time and events, while they left the sentiment of repulsion in active operation, substituted for contempt some degree of respect, which is now gradually mingling with another feeling, destined to exert a powerful influence upon the intercourse, intellectual and material, between the two countries. I am sure I shall not be accused, in this Senate, of speaking under the impulse of too ardent a patriotism when I say that this sentiment is growing stronger day by day, and that, day by day, its consequences will be more developed.

Mr. BADGER. What is it?

Mr. CASS. Apprehension. Now, sir, I do not pretend that I have borne this national contumely in the Christian spirit of turning another cheek to receive another blow. I have not done so. I have been for carrying the war into Africa. When an Englishman talks about the wickedness of a spirit of aggrandizement, and about that reprobate Brother Jonathan, who covets the goods of all his neighbors, strong and weak, and seizes all where he does not fear resistance, I am ever tempted to refer to a little island, off the western coast of Europe, which boasts that the sun never sets upon her possessions, and which never acquired a foot of territory but by the sword; while the acquisitions we have made, with one exception, have been made by peaceful arrangement to the great satisfaction of the people inhabiting them; and the exceptional case was one which we had conquered in a just and necessary war, and for which we also paid a valuable consideration.

It is perhaps a part of the conformation of an Englishman, certainly improved by constant practice, that he is very acute in seeing the mote in Brother Jonathan's eye, but very obtuse in discerning the beam in his own. I have, from time to time, in public and in private, wherever I have heard or seen these aspersions, met them in the real Hannibalian spirit, in which national attacks ought to be met. It is within the knowledge of the present generation, that, with supercilious cant, a British review asked the question, "Who reads an American book?" And the pregnant inquiry was repeated, with true national complacency, by almost every man, who could read a primer from John O'Groat's house to the Land's End; aye, and it went on its way to Siberia rejoicing. The question meant much more than was asked. It meant: What name, but one, has America ever added to the long list of illustrious men, who have marked their days and their deeds upon the history of the world, from the earliest period of recorded time down to our age? It meant, what single feat in arms, in arts, in science, in literature, or in any of the great pursuits, which elevate the human character, and which give stability to nations, and freedom and prosperity to men—what single feat has America ever performed to illustrate her own character, or to command the respect or the gratitude of the world? Nobody asks that question now. It is a self-answered inquiry. Why, sir, the very subject, that engrosses our attention, the very object, which is now producing this spirited competition between us and England, is the result of the genius of an American—of the genius of Fulton, who first showed the practical applicability of steam to ocean and to inland navigation. He did not, indeed, reveal a new world to an old one, like his great predecessor in the realms of discovery, Columbus; but he brought two worlds

into closer proximity than they had been before. He almost annihilated distance. He practically reduced the circumference of the world to one third of its original extent; and he opened a career for the industry and enterprise of nations, that no vision even of the imagination, had ever before shadowed forth, to stimulate or to reward human exertions.

This power is but in the infancy of its career, and already it has advanced in its work with the pace of a giant. The smoke of the steamboat, as well as the white canvas of the sailing ship, is spread upon the world of waters—aye, and it is seen in every nook of the globe, wherever man is to be found to need the benefits of commerce, the consolations of religion, or the blessings of intellectual advancement, and he must be wiser or rasher than I am, who undertakes to set limits to the effects of this discovery—where it is to lead the world, and what great changes in civilization it is to produce. Why, sir, it is a possession richer than the gold of our modern Ophir, more precious than all the spicy treasures of "Araby the blest." It is the great invention of modern days. It marks the present as the era of civilization above all other recorded epochs in the calendar of time.

One word more upon another point. The feeling, to which I have referred, existing between England and our own country, has felt the softening influence of time and intercourse. It was not at all unnatural that, when we were first violently separated from the parent country, the disruption should lead to mutual aversion, and especially on the part of the defeated nation. We were a small people, who had come happily out of a great contest. By the blessing of God, the justice of our cause, and the valor, patriotism, and wisdom of our fathers, gained a great victory; and with it the best Government (and I hope we shall hold on to it) which the world has ever seen; or, in my opinion, ever will see elsewhere. It is not wonderful, that the intercourse between the two nations, which commenced under such circumstances, commenced and continued in a spirit of unkindness. But I am happy to know, that a sensible melioration has taken place. I trust, that ere long the two nations will have no contest, but that competition, which is at once the incentive and the reward of a generous national rivalry—a strife for superiority in all the pursuits, interesting to civilization and to the prosperity of nations. That is a contest, into which we have entered, and of which the subject before us is an important branch. I am not willing to abandon it. I am not willing to confess, directly or indirectly, that we have been beaten; and that sentiment is to my mind a paramount reason for holding on at present to this enterprise—at any rate, till all the necessary facts are clearly ascertained.

I yesterday had an amendment read for information, which I shall submit at the proper time. Its object is, simply to have a full and practical examination of these vessels, with their cost, and the probable expense of sailing them; and to cause the report in relation to them to be presented to Congress at the next session; so that we may be able definitely to form an opinion upon their value and their properties, and upon the propriety of continuing their employment. I am willing to provide for this additional contract until that can be done; but not beyond that time, if the examination and report should be adverse. I shall vote for the proposition of the Senator from North Carolina to limit the duration of the grant; and if it is pressed by no one else it will be by me. I am desirous to place this matter in such a situation, that Congress may terminate the arrangement, whenever it is found by practical inquiry to be unsatisfactory.

If such a provision is made, the arrangement will be a safe one, as the matter will then be within the control of Congress.

Mr. CLEMENS. Before the vote is taken, I wish to say that I agreed to pair off with the Senator from Delaware, [Mr. SPRUANCE,] who was compelled to go home; and although nothing was said about amendments, I suppose that, in good faith, I must refrain from voting on any amendment which will materially affect the character of the bill.

Mr. MORTON. I wish to state that I have paired off with the Senator from Massachusetts; [Mr. DAVIS,] on all the questions connected with

this amendment. I therefore wish to be excused from voting.

The question was then taken on the amendment to the amendment, and resulted as follows:

YEAS—Messrs. Adams, Atchison, Borland, Brodhead, Brooke, Dodge of Wisconsin, Dodge of Iowa, Felch, Geyer, Hunter, Jones of Iowa, Jones of Tennessee, King, Mallory, Mason, Sebastian, Underwood, Wade, Walker, Weller, and Whitcomb—21.

NAYS—Messrs. Badger, Bayard, Bell, Berrien, Bradbury, Bright, Cass, Clarke, Dawson, Douglas, Fish, Gwin, Hale, Hamlin, Houston, James, Mangum, Miller, Norris, Pearce, Pratt, Rusk, Seward, Shields, Smith, Stockton, Sumner, and Upham—28.

So the amendment to the amendment was not agreed to.

Mr. BROOKE. I move to strike out the amendment proposed by the committee and to insert the following, as another section.

"SEC. —. And be it further enacted, That, in addition to the compensation now allowed to the Collins line of steamers for the transportation of the mails between New York and Liverpool, there shall be appropriated the whole amount of postages received on the mails carried by said steamers: *Provided*, That the number of trips of said steamers shall be increased from twenty to twenty-six per annum, at such times as shall be directed by the Postmaster General; said increase of service to commence on the first day of July, 1852."

The PRESIDENT. It will not be in order to offer that as an amendment, in that form, or without leaving a portion of the original amendment.

Mr. BROOKE. Then I will modify it, so as to strike out all of the original amendment after the words, "For additional compensation," and insert all that part of my amendment which commences with and follows the words, "now allowed to the Collins line," &c., to the end. It will then read, "For additional compensation to the Collins line," &c.

Mr. JONES, of Tennessee. I would suggest to my friend from Mississippi an alteration of his amendment, which is to strike out that portion which gives the present amount allowed to them. His purpose was, I suppose, to give them the whole amount of postages, and not the \$385,000 in addition. I am not willing to give that sum in addition to the postages. I understand from the friends of this measure, that the owners of the line are of opinion that it will be a profitable thing to the Government. If that be so, I am willing the company should have all that may be made out of it; but I am not willing to give the \$385,000 in addition. If the amendment of the Senator from Mississippi is altered so as to correspond to that idea, I will vote for it. I move to strike out "\$385,000."

The PRESIDENT. The modification can only be made with the assent of the Senator from Mississippi.

Mr. BROOKE. I assent to the proposition of the Senator from Tennessee, and will modify the amendment.

The amendment was modified so as to read:

"For compensation, in lieu of that now allowed to the Collins line of steamers, for the transportation of the mails between New York and Liverpool, there shall be appropriated the whole amount of postages received on the mails carried by said steamers: *Provided*, That the number of trips of said steamers shall be increased from twenty to twenty-six per annum, at such times as shall be directed by the Postmaster General, said increase of service to commence on the first day of July, 1852."

Mr. HALE. I shall vote against that proposition, and any other, I do not care what it is, which makes the compensation of this line depend upon the postages which it may receive. I am in favor of cheap postage both on land and water; and the moment we assign over to these gentlemen, as a means of compensating them, the receipts from postages, and make their compensation depend upon them, they will have an interest in keeping the rates of postage where they now stand, and we shall be bound in honor not to reduce them during the continuance of their contract. For that reason I am utterly opposed to making their compensation depend on their receipts from postages.

Mr. DODGE, of Iowa. I certainly cannot favor this amendment, if it will decrease the amount of letter writing; but I am sure it is entirely useless to resist the amendment which is proposed by the committee. It is like the French spoliation bill, and will be carried.

Mr. HALE. Yes, that is its manifest destiny.

Mr. DODGE, of Iowa. I will say, however,

to my friend from Tennessee, [Mr. Jones,] with regard to the trouble he has in consequence of the \$385,000, that if that is left in the amendment of the committee, the bill will pass any how.

Mr. BROOKE. I ask the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. ATCHISON. I desire a little information. I wish to know from any gentleman who can inform me, what was the amount received by the Government through this Collins line of steamers during the last twelve months? I wish to know what we are giving, and what will be the effect of this proposition.

Mr. HUNTER. The amount is much less than is now paid; that is certain.

Mr. PRATT. The effect, as I understand it, of the amendment of the Senator from Mississippi, would be to decrease, instead of increase the amount of compensation given to this line at present.

Mr. BADGER. Certainly.

Mr. PRATT. They are unable to go on now. What they want is present aid; but the effect of this amendment would be to decrease the amount of that aid.

Mr. BORLAND. If the supposition of the Senator from Maryland is correct, I must confess that some of the arguments used by the advocates of this appropriation are unintelligible to me. We have been told, as an inducement to make this appropriation, that this line would pay a revenue into the Treasury of the United States, even at the advance to \$33,000 per trip; and now we are told that if we surrender to it the whole amount derivable from postage, it will not equal by 33 per cent. the \$19,000 we now give. One statement or the other must be incorrect. It must either be untrue that the postages will not pay into the Treasury an amount equal to what it is proposed to give them, or the compensation now moved will not be a diminution of what they at present receive. One statement or the other must be erroneous; but which I am not prepared to say.

Mr. BAYARD. I understand the arguments used in favor of this proposition, differently from my friend from Arkansas. The proposition now made will necessarily defeat the bill. The parties have entered into a contract with the Government, in view of which they have already expended a large sum of money, to carry the mails for a specific sum. The argument used in support of the increased compensation has been, with some variations as used by different gentlemen, not that the postages at present would be a sufficient compensation for all expenses, but that ultimately, we may suppose from present indications, they will be sufficient. That is, when all the arrangements are complete, and the twenty-six trips shall be made, as is contemplated, the Government will not suffer any loss in paying the amount proposed as a compensation for mail service. But I have heard no Senator say that within the first year or the first two years, the postages will be equivalent to what it is now proposed to appropriate. The necessary effect of the proposition is this: these parties made a contract with the Government for the erection of a line of steamers, in pursuance of a policy which you chose to adopt some five years ago, and have already sunk, as private individuals, half a million of dollars of their own capital; and now in the Senate of the United States it is proposed, as if in mockery to them, to give over to them the postages, when your own returns show that they must incur a further loss by it, and you ask them to incur this ruinous loss for the next year. Is this a proposition which is worthy of the American Government; or is the amendment one which the Senate should sanction?

Mr. BERRIEN. In addition to the suggestion of the Senator from Delaware, [Mr. BAYARD,] I think the statement of the Senator from New Hampshire [Mr. HALE] is correct, that this amendment is calculated to affect the power of the Government in its control over the postal arrangements—a power they never should part with.

The Government has entered into a contract, to continue in force for a term of ten years; and it is believed by the advocates of this appropriation, that the amount expended by the Government will be returned in that space of time. In lieu of following the terms of the contract, at a moment of time when its operation has not been sufficiently extensive to produce the beneficent results antici-

pated, we propose to reduce the amount of compensation by transferring to these parties the postages which may be received. Now, I say that this Government ought never to part with the control over the postal arrangements, at least so important a part of them as relates to our postal communications with Europe. We may be inhibited, in the event of this amendment being adopted, from making any modification in the postal arrangements. Desirous, as we may be, in the course of time to reduce the rates of postage, if this amendment prevails we shall have divested ourselves of all power to make any change.

It is suggested that this power may be exercised without injury to these parties, because the reduction of postage increases the amount of the receipts. That is the case; but the instant effect is not that ascribed to it. Some time must be allowed to intervene between the reduction of the postage and the period when the effects of the operation of that reduction will lead to an increase in the amount of receipts. In the mean time, these parties have a contract with us, under which they are transporting our communications across the Atlantic. If they suffer a reduction of their receipts in consequence of a reduction in the rates of postage, we shall have failed in carrying out in good faith the terms of our contract with them, or we must surrender our control over the postal arrangements, which I conceive to be a most important department of the Administration. I hope the amendment will not prevail.

Mr. BROOKE. I accepted the modification proposed by the Senator from Tennessee, [Mr. Jones,] without much reflection; and I am now inclined to believe that my original proposition was the correct one; for by the contract, this company is entitled to compensation by law, and we cannot take it from them by this bill, or any amendment thereto. I propose, therefore, to restore my amendment to its original form; and in answer to the suggestions of the Senators from New Hampshire [Mr. HALE] and Georgia, [Mr. BERRIEN,] I will state that my amendment may be further modified, by retaining, or reserving, the power to the Post Office Department, or to Congress, to reduce the postage whenever they may think proper. I am willing to receive a modification to that effect, and will propose it myself, if no other Senator does so.

The PRESIDENT. Does the Senator from Mississippi propose to modify his amendment?

Mr. BROOKE. Yes, sir; to restore it to its original form.

The PRESIDENT. If the Senator wishes to modify his amendment, the yeas and nays having been ordered, it can only be done by the unanimous consent of the Senate. If there is no objection on the part of the Senate, the Senator can modify his amendment.

No objection being offered, the amendment was modified, so as to restore it to its original form.

Mr. RUSK. If I understand the amendment, it proposes to give the whole of the postages, in addition to the amount now paid, as a compensation for the extra trips.

The PRESIDENT. That is the way the Chair understands it.

Mr. BADGER. No, no. It is to constitute the compensation for all the trips.

Mr. RUSK. I shall vote against it upon two or three grounds. In the first place, if it should run for the balance of the contract—of which there is a period of eight years unexpired—it will take an immense amount, over and above what we propose to give them by this amendment. My own opinion is, that, before the expiration of that time, that amendment will so operate as to give the proprietors of this line more than double what we propose to give them by the amendment of the committee.

Then, sir, the reasons assigned by the Senator from Georgia [Mr. BERRIEN] are very potent, and weigh a good deal with me, namely, that, by the amendment proposed by the Senator from Mississippi, we will surrender all control over postal matter.

Again, sir, there is another principle which I do not like to incorporate with the post office law. I think the Senator from Mississippi had better look to the receipts of the Post Office Department before he proposes such a proposition for our adoption—a proposition to farm out the postages for their proceeds. It might be done in other quarters as

well as in this; and then we should find that Texas and Mississippi do not pay into the Treasury so much as they receive to aid in the transportation of the mails; while some of the larger States, which pay more in the shape of postages than they receive for the transportation of the mails, might fairly ask for the adoption of the same principle with regard to the transportation of the inland mails.

Mr. DAWSON. Will the chairman of the Committee on the Post Office and Post Roads answer me a single question?

Mr. RUSK. Certainly I will, if I can.

Mr. DAWSON. I desire to know whether, from his knowledge of the amount of postages received on letters brought by this line, he does not anticipate that, in a few years, the amount received into the Treasury from postages by this line, will be equivalent, or more than equivalent, to the extra amount which it is now proposed to pay?

Mr. RUSK. I do anticipate it; and I anticipate it from this fact: that the Postmaster General, in his report, states that the postages by this line, in 1851, exceeded the amount received for postages in the year 1850, by the sum of \$183,000.

Mr. BROOKE. I will modify my amendment, so as to add to it this proviso:

*Provided, That power is hereby reserved to Congress to reduce the rates of postage between the said ports.*

Mr. UNDERWOOD. I do not think it would be right to attempt to interfere with the contract as it now exists; and it appears to me that this amendment does interfere with it, and proposes to take from the proprietors of this line the amount of \$385,000 which they now receive, and compel them to receive in lieu of that sum, such amount as may accrue from the postages of letters and other mail matter which they may carry between New York and Liverpool.

Mr. PRATT. Oh, no; the amendment proposes to give them the amount resulting from the postages, in addition to the sum they now receive under the contract.

Mr. UNDERWOOD. Well, then, I am afraid that it would operate as the Senator from Texas has alleged. If the amounts likely to be received from postages in a few years are such as have been estimated, I cannot agree to give them all the postages, and this \$385,000 into the bargain. I cannot vote for the amendment, under that view, neither could I vote for it under the other, because I hold that we have no right to interfere with the contract. It seems to me that the only way in which my friend from Mississippi can attain his object, or can put his amendment in such a shape as to secure my vote, would be to give these contractors the option of receiving these postages in lieu of their present compensation, because we cannot break a contract without a breach of good faith.

And then, sir, the objection would still remain, which has been started in relation to the power of the Government to reduce the rates of postages under such a state of things. This objection could, however, be removed by reserving to Congress the right of reducing the rates of postage on condition of reinstating the parties in the position they occupied under the contract; so that in that way there would be no obstacle—none whatever; no difficulty in getting round that objection. But the difficulty with me is to get round the contract, when it is acknowledged on all hands that this allowance of the postages, according to their present amount, would be vastly less than they now receive; while, on the other hand, if you give them the postages in addition to the compensation they now get, you will, in the course of a short time, make a much greater amount than the amendment of the committee proposes to give them.

Mr. BADGER. It would be a bad bargain.

Mr. UNDERWOOD. It would be a very bad bargain in that point of view; and I therefore think, that unless my friend from Mississippi can modify his amendment in some other way, he had better withdraw it.

Mr. BROOKE. If it should appear at any time that these gentlemen are receiving too much for the service they render, more than is proposed by the amendment of the committee, the power that is reserved by Congress to reduce the rates of postage can always correct the evil. As soon as these parties are in the receipt of more than the



sum to which they are justly entitled, Congress can reduce that amount by a corresponding reduction in the rates of postage; and if it should diminish the amount of their receipts, then the evil can be corrected on the other hand by increasing the rates of postage.

Mr. RUSK. That could not very readily be done, because the rates of postage between this country and England are established by treaty, and in order to change them we must change or annul the treaty.

Mr. BROOKE. I think the Senator from Texas is mistaken; the rates of postage are not established by treaty.

Several SENATORS. "Oh, yes, they are."

The question was then taken on the amendment, and resulted—yeas 9, nays 38; as follows:

YEAS—Messrs. Adams, Atchison, Borland, Brooke, Dodge of Wisconsin, Dodge of Iowa, Jones of Tennessee, Mallory, and Weller—9.

NAYS—Messrs. Badger, Bayard, Berrien, Bradbury, Bright, Brodhead, Cass, Clarke, Dawson, Douglas, Felch, Fish, Geyer, Gwin, Hale, Harlin, Houston, Hunter, James, Jones of Iowa, King, Manum, Mason, Miller, Norris, Pearce, Pratt, Rusk, Sebastian, Seward, Shields, Smith, Stockton, Sumner, Underwood, Upham, Wade, and Whitcomb—38.

So the amendment to the amendment was rejected.

Mr. BADGER. I now offer the amendment of which I gave notice yesterday. It is a proviso, to come in at the end of the amendment proposed by the committee.

The amendment was read, as follows:

*Provided*, That the contract for the transportation of said mails be, and hereby is, transferred from the Navy to the Post Office Department; and the Postmaster General is hereby required to contract with said steam-ship company to carry said mail in their present steamers, at the rates aforesaid, payable out of the Treasury, for the unexpired term of the original contract; reserving, nevertheless, to Congress the right to direct the Postmaster General to put an end to the contract at any time after the first day of December, 1854, upon giving six months' notice thereof to said company.

Mr. BERRIEN. I believe that it is an amendment to an amendment.

The PRESIDENT. It is an amendment to the amendment reported by the committee.

Mr. BERRIEN. I cannot, therefore, offer to the consideration of the Senate as an amendment, that which is now before me; but I shall request the Senator from North Carolina [Mr. BADGER] to accept it as a modification to his amendment, and I shall briefly explain its object. The amendment of the Senator from North Carolina contemplates a modification of the original contract. The United States, by a part of the contract which they entered into with this company, obliged themselves to maintain that contract for the term of ten years, unless, in the intervening time, they should exercise the right which, by the contract, is reserved to them, of taking these vessels at a valuation.

Now, when we are seeking to modify that contract, we are to understand that we are not in the exercise of our original powers as contracting parties; but that we are circumscribed in our action by an actually existing contract. When this subject was first presented to the consideration of the Senate, and engaged my own reflection, I was perfectly satisfied that, from the want of necessary information, we were not competent to determine what amount should be paid to the company, in addition to that provided for in the original contract. I was willing, however, to rely on the action of the Department, or the committee, and to acquiesce in what was recommended by the committee as an advance on the compensation mentioned in the contract. But I was not willing that that advance should of necessity run through the whole ten years of the contract, without any power being reserved on the part of Congress to withhold that grant, if circumstances should subsequently occur to show that it would not be proper to continue it. I therefore acquiesced in the proposal of the Senator from North Carolina, to reserve to Congress the power of terminating the contract at the expiration of the time specified; but after-consideration induced me to believe that we had better modify the amendment in the manner I propose. We have a subsisting contract, and our right to modify is restrained by the principle of good faith which binds us to its performance. We have entered into a stipulation by which we are bound to permit these persons to transport the mails across the Atlantic during a

period of ten years; and we have not reserved to ourselves the right of terminating that contract at any time anterior to that period, unless by taking the vessels at a valuation as provided for in the contract. Good faith requires, then, if Congress should exercise the power which this amendment proposes to assume for it, and in that way to modify the original contract, that Congress should not leave on the hands of these individuals, at the end of four years, expensive vessels which they were induced to construct under a contract covering a space of ten years.

That is one consideration. Then, there is another, which appeals to our sense of what the public interest requires. If it shall be, unhappily, deemed necessary to terminate this contest with Great Britain on the ocean by the exercise of the power provided by this amendment, the considerations which were so forcibly alluded to by the Senator from Michigan [Mr. Cass] to-day, inculcate the propriety of carrying out in good faith what the contract enjoins on us—to take these vessels into the service of the United States. We cannot terminate, at the end of four years, a contract which we originally stipulated should last for ten years, and throw the vessels on the hands of the contractors. Government interests themselves require that we should avail ourselves of this stipulation in the contract which enables us to take the vessels at an appraised price. At any time, during the term of ten years, we have the right to take them at an appraised price, if we should terminate the contract before the expiration of that time; and I think the interests of the public will require that these vessels should be taken into the service of the United States. The necessity for such a course was strongly put by the Senator from Michigan, [Mr. Cass.] It is certainly unquestionable that these vessels are better calculated for all the purposes of a protective steam marine than any others that could be built on the emergency of the moment.

I ask the Senator from North Carolina, [Mr. BADGER,] therefore, to accept this modification of his amendment, and to add at the close the following words:

"And to take the vessels employed in the said line for the exclusive service of the United States on the terms provided in the original contract."

Mr. BADGER. When I drew up the amendment which is now under the consideration of the Senate, I was not aware of the particular terms embraced in the original contract. I had supposed that, according to the terms of that contract, the vessels would belong to the United States at an appraised value whenever the contract was put an end to. But it seems that my understanding of the contract was not correct. I realize the force and justice of our having the right to close this contract, and take these vessels at an appraised value. I cheerfully accept that modification.

Mr. HALE. Before the vote is taken on this amendment, I wish to inquire of the chairman of the Committee on the Post Office and Post Roads, whether, if we continue to pay the \$385,000 to this line, together with the amount proposed by the committee, the amount will come out of the receipts from the Post Office Department, or whether it will come out of the general Treasury?

Mr. RUSK. Of course it will come out of the general Treasury.

Mr. HALE. Then, if this amendment should be adopted, I apprehend the amount will be paid out of the Post Office Department. By turning this contract over to the Post Office Department, it would be an entire transfer of the whole arrangement to that Department; and the effect of it, in my judgment, will be—and I would call the attention of the friends of cheap postage to the fact—to put off any further reduction of postage for a considerable time; because it will increase, by the amount of \$800,000 a year, the cost of the transportation of the mails; and, whenever the calculation is made, it is known that the people will look with very great reluctance to any direct appropriation for carrying the mails. The aim has been hitherto to keep the expenditures within the receipts. Now, if you adopt this amendment, it appears to me that you will have an increased charge upon the Post Office fund, equal to the whole amount which you have to pay to this line of steamers. It strikes me so, and I would be glad to be better informed if I am wrong. I do not care a cent how it is done, unless it is to have

this effect. It strikes me that it will have this effect; and when gentlemen undertake to get up a comparison between the expenses and the receipts of the Post Office Department for the conveyance of the mails, there will be this item of \$800,000 charged to the Post Office fund. But that is not all. The great and forcible purpose for which this appropriation is designed, and which has been so eloquently set forth by the Senator from Michigan, [Mr. Cass,] makes it desirable chiefly as an addition to the Navy. It is with that view that it commends itself to those patriotic considerations which he has addressed to us.

Mr. RUSK. Will the Senator from New Hampshire permit me to interrupt him for a moment? If he will allow me, perhaps I can save him the trouble of pursuing his remarks.

Mr. HALE. Oh, yes; I shall be very glad to be spared that trouble.

Mr. RUSK. I would ask the Senator from North Carolina to withdraw his amendment for the present. It is now an amendment to an amendment, and I cannot offer what I think would obviate all objection. If the Senator from North Carolina will withdraw his amendment, I think he will coincide with me, and support this proviso:

*Provided*, That it shall be in the power of Congress, at any time after the first day of January, 1854, to terminate the arrangement for the additional allowance herein provided for.

I think that covers the whole ground. If this can be agreed to, the amendment of the Senator from North Carolina can be adopted as well afterwards as now.

Mr. HALE. If that course can be adopted, and the amendment of the Senator from North Carolina be withdrawn, and take the substantive proposition of the Senator from Texas it would obviate the difficulty in my mind; but as it now stands, it is liable to this objection—that is, that in the public mind it would be considered as a charge upon the Post Office fund, and would operate in such a way as to prevent a further reduction of postage. And as I hope to see the time when the rate of postage will be reduced both by land and by sea, I am not willing to do anything which can throw any obstacle in the way of its further reduction. If the Senator from North Carolina will accept the proposition of the Senator from Texas, it will obviate all difficulty in my mind.

Mr. BADGER. If my friend from Texas will send me that paper, I believe I can modify my amendment so as to please all parties. However, Mr. President, I will withdraw my amendment for the present.

The PRESIDENT. The question then recurs upon the amendment offered by the committee.

Mr. RUSK. I desire to offer the following proviso:

*Provided*, That it shall be in the power of Congress, at any time after the 31st of December, 1854, to terminate the arrangement for the additional allowance herein provided for, upon giving six months' notice.

Mr. CASS. I would much rather that it should be on the 1st of January, 1854. I have already stated, and I repeat it again, that I consider this as a great experiment, and at present we have no such evidence as satisfies us entirely as to the probable result. I want the matter within the control of Congress, as soon as it is practicable. If the honorable Senator does not move that amendment, I shall move it myself, so as to make it the 1st of January.

The PRESIDENT. The question must be taken on the amendment of the Senator from Texas, and cannot be amended, unless he chooses to modify it.

Mr. CASS. If it should pass, I cannot amend it. Is there any other way that I can accomplish my object?

The PRESIDENT. The Senator can offer his proposition as a separate amendment, if the proposition of the Senator from Texas should fail.

Mr. DAWSON. As I understand the original contract, the number of steamers to be built was five. But according to this bill, it will be reduced to four, and there will be no obligation to build the fifth steamer.

Mr. RUSK. Oh, no; this does not change the contract. It is only an additional allowance for increased service. The original contract requires them to build five steamers, and I am told they are building the fifth. They are bound to build it, and cannot get along without it.

Mr. DAWSON. Then I was mistaken. I was told they were not to build the fifth.

Mr. RUSK. This does not abrogate the original contract at all, it only gives an additional allowance.

Mr. DAWSON. And requires them to build five steamers?

Mr. RUSK. Yes, sir.

Mr. UNDERWOOD. I am a little startled by the fact just announced by the Senator from Texas. I have been informed heretofore that these ships made their trips in about twenty-two days, including the passages in both directions.

Mr. RUSK. Suppose they break a shaft, or something of that kind?

Mr. UNDERWOOD. My calculation is, that in twenty-two days of sailing time, these trips are performed. Unless we have achieved that, we have nothing to boast of, and all the speeches about our triumphs must go for nothing. If we have triumphed in the way which it is said we have, then twenty-two, or at most twenty-four days are quite sufficient to make the round trip. We have four ships already, and all the arguments which have been addressed to us, were based upon the idea that we were not to employ more than four. Now, the Senator from Texas announces that it is necessary to build a fifth, in order to comply with the contract.

Mr. RUSK. Certainly, to comply with the contract, it is necessary to have another ship built.

Mr. UNDERWOOD. To perform the service, I mean. I understood my friend to say, that it was necessary to have another to perform the service.

Mr. RUSK. I say that the building of another will be necessary, for they may break a shaft or meet with some other accident, which will make it necessary to have another boat in readiness to supply the place.

Mr. UNDERWOOD. Now upon that point—

Mr. RUSK. Will the Senator from Kentucky allow me to put him right?

Mr. UNDERWOOD. Oh, certainly. I want all the information I can get.

Mr. RUSK. I said that, under the contract, they were compelled to build five ships. This amendment does not relieve them from that obligation.

Mr. UNDERWOOD. That is no new information.

Mr. RUSK. The other was information without any investigation at all.

Mr. UNDERWOOD. I now understand it. I knew that according to contract they were compelled to build five ships; but I understood my friend to say that five ships were necessary to perform the service.

Mr. RUSK. I meant that it would be, if they should break a shaft, or meet with any serious accident to any one of the present number.

Mr. UNDERWOOD. I understand they make the round trip in from twenty-two to twenty-three days. I should think that to allow a month for each round trip would be quite sufficient.

Mr. MILLER. Will the Senator allow me to interrupt him?

Mr. UNDERWOOD. Certainly.

Mr. MILLER. The gentleman forgets that these ships are under the necessity of remaining in the harbor a week or ten days.

Mr. UNDERWOOD. It is one of my great misfortunes to forget everything, [laughter,] because I have not time allowed me to get it out. I will get it all out if they will allow me time. I am afraid, as has been suggested, that I am striking a tender point. I say, from all the information I have and all that is based on the speeches I have listened to, that one vessel can make one round trip per month; our exultations and boastings have been made upon doing it in twenty days' running time. At the rate of each vessel making a trip per month, two vessels being kept constantly employed for twelve months would give us twenty-four trips per annum; which is within two trips of the number we are about to contract for, and to perform these twenty-six trips the whole number of five ships are necessary, according to the startling announcement of my friend. If a ship can make a trip in the month, the five ships ought to make sixty trips a year—just three times as many trips as we now get, and more than double we propose to contract for. Why so many ships to perform only twenty-six trips?

The gentleman answers, that there is danger of breaking shafts, or destroying wheels, or losing rigging, or getting a plank or a screw loose; and then it requires much time to make repairs, and therefore we must have two or three extra ships, like extra stages, always ready to take the places of those disabled, for the purpose of performing these twenty-six trips. Sir, there never was a greater humbug propagated by persons who are capable of looking into business transactions.

What are these three additional ships to do, when two ships, according to my showing, can perform the service required, unless accident prevents? It seems to me that one extra ship would be quite sufficient for every emergency.

But allow two ships to perform twenty-four trips in the course of a year, would it not be better in case of any accident happening, to permit a little delay of the mails? I think the lovers alluded to by the Senator from New Hampshire should consent to some little interruption in the regular receipt of their *billet dour*, when so much public economy is at stake. I think, that in the event of a little disorder in the ships, when a little repair is wanting, that we might afford to delay a little while, especially if we employed three ships, and they did not punctually perform the service. I am willing to go for three ships, and I made my estimate the other day upon that basis. If you employ three ships, and give them each \$200,000—a sum exceeding the entire cost of keeping one of our national steamers in commission a whole year—you will then have an expense of only \$600,000 in all. That would be a saving of \$258,000 out of the sum which you are now about to allow. Sir, the facts have never been given to us; you have never had, to this day, the data for a business calculation with regard to the management of these ships. What we are to do with five, how they are to be employed, whether to be serving their owners or lie in port, and do nothing after we have paid for them, I know not. The amendment suggested to limit the operation of this appropriation and the new contract under it to one year, would remove some of the objections which I have had from the beginning to the end of this discussion. Such an amendment would allow us time before another appropriation to get the facts which have never been laid in a proper manner before the Senate. We could probably find out before the year expired, whether there was that skill, diligence, and economy in management which is required. At all events, some amendment should provide that these vessels should not be kept in our employment at an expense of \$858,000 per annum, until the expiration of the contract, without reserving the privilege to terminate the new contract at the pleasure of the Government. The contract was made in 1847. It was to run ten years from the time it went into operation; but when the ten years commenced, I do not know.

Mr. SEWARD. There are eight years to run yet.

Mr. UNDERWOOD. Very well; eight times eight are sixty-four. There will then be paid upwards of \$8,000,000 out of the public Treasury, when you make the new contract, and extend the time through the eight years which the contract has yet to run. And then, according to the suggestion of the Senator from North Carolina, [Mr. BADGER,] at the end of that time, we are to "shell out" \$3,000,000 more, and take the vessels off their hands.

Mr. BADGER. I hope my friend from Kentucky will allow me to interrupt him before he makes a statement of that kind. I propose no such thing. I have not proposed anything like it. The gentleman says that I propose at the end of eight years to take these ships at their original cost. I said nothing of the kind; but that they were to be taken at any time by the Government, at their appraised value, after the Government no longer thought it politic to conform to the contract.

Mr. UNDERWOOD. I stand corrected.

Mr. BADGER. I said that if Congress thought proper to put an end to the contract, they ought to take the ships at their appraised value.

Mr. UNDERWOOD. Will the Chair please to send me the amendment offered by the Senator from North Carolina?

The PRESIDENT. The amendment of the Senator from North Carolina is withdrawn. The question is on the amendment of the Senator from Texas.

Mr. UNDERWOOD. I stand corrected in regard to time. It occurred to me that the gentleman stated 1854.

The PRESIDENT. That is not the amendment pending.

Mr. UNDERWOOD. It is not the pending amendment I was alluding to. It was the amendment of the Senator from North Carolina.

The PRESIDENT. But that amendment was withdrawn.

Mr. UNDERWOOD. I am corrected, then, in point of time; but I understood that, at the end of the time specified, the Government was to take the ships at the price which it cost to build them; and, according to a statement which was made here the other day, the amount was within a fraction of \$3,000,000.

Mr. BADGER. It is not to take the ships at any time at the original cost, but at the appraised value, whatever that may be, at the time they are taken.

Mr. SEWARD. If we take them at all. We are not obliged to take them.

Mr. UNDERWOOD. Then I am mistaken in the Government having to pay the amount of the cost of these vessels originally. At the end of that time, instead of paying three millions, the Government will pay two millions, or one million, or ten thousand, or a thousand dollars, just according to the appraisement.

Mr. RUSK. The Senator from Kentucky is confused. If he will allow me, I will set him right.

Mr. UNDERWOOD. Oh, yes, I want light; I want to get at the facts.

Mr. RUSK. If the Senator will turn to Senate document No. 50, page 71, he will find a copy of this contract. It provides, among other things, that, for the purpose of carrying the mail between New York and Liverpool twice each month during eight months in the year, and once a month during four months in the year, for the sum of \$385,000, these parties were to build five steam-ships, of not less than two thousand tons measurement, and one thousand horse-power each, to be built with the view to great speed, and also for war purposes; and that when these vessels are not employed in the mail service, they shall be subject to the orders of the Government for carrying dispatches. The United States, moreover, are to have the privilege of purchasing said steam-ships, whenever they may be required for public purposes, at a fair valuation. Thus the Government can take them under the contract, by paying whatever a duly-appointed board shall determine them to be worth.

Mr. UNDERWOOD. That is what I understood from the Senator from North Carolina, [Mr. BADGER,] and what I have already acknowledged. I did labor under a misapprehension, arising out of a momentary supposition that these vessels were to be paid for at the building cost. Now, I find that if purchased, it will be at an appraised value. But that does not prevent the expenditure of \$8,000,000 in the mean time—\$858,000 multiplied by the eight years they have yet to run. It does not prevent the payment of nearly \$200,000 to each of the five ships—almost \$1,000,000 for the whole. My word for it, the people of this country away from the sea-board will look into the conduct of this Government, paying extravagant sums of money for purposes of this sort, supported by such speeches as that of the gentleman from New York, [Mr. SEWARD,] who makes a patriotic and touching appeal to the pride of every American citizen, and causes our bosoms to swell with feelings of exultation at our triumph; or, like those of my friend, the Senator from Michigan, [Mr. CASS,] descriptive of the race for superiority between this country and Great Britain, and the probable defeat of our ancient rival; our snatching the trident of Neptune from her grasp, and gloriously conquering in all battles both by land and sea; as if all these things depended on the success of the Collins line of steamships! We do not gain battles from considerations of that sort. We are the most military people on the face of the earth, I believe, and will continue to be so, while our institutions continue what they are, and while we continue as free as we are now. Our success in war proceeds from the freedom of our people, and the identification of the soldier and sailor with the citizen; from the knowledge of the fact, that every hero secures promotion to civil offices in the Executive Departments, or in the legislative assemblies of the States, or Halls of

Congress, if he choose, by appealing to the admiration and sympathies of the people.

But I shall make a speech, Mr. President, if I proceed with the consideration of matters of that sort; and that would be entirely foreign to my purpose. My desire was merely to state my objections, growing out of the statement of the Senator from Texas, that these five ships would be necessary for the performance of the mail service. I do not believe that more than three are required, if the line is managed with skill and prudence.

Mr. BADGER. I am going to address you for a moment, Mr. President, on an untried field—that of arithmetic, in which I never boasted any great skill. My friend from Kentucky, [Mr. UNDERWOOD,] who has a great deal of skill in that line, has said, that if for eight years we pay yearly this sum of \$858,000, it will, in that time, amount to \$8,000,000. Now, if it does amount to that sum, it certainly does not do so by the rules of arithmetic given us by Dilworth, in which I was wont to be instructed in my younger days, somewhat deeper than I liked. If the gentleman makes this sum, in eight years, to amount to \$8,000,000, he must work it, not by the rules of arithmetic, but by the "square root." [Laughter.]

Mr. DAWSON. For the purpose of understanding the difference between the Senator from Tennessee [Mr. JONES] and myself, I voted against his amendment this morning. He said I did so under a mistaken apprehension of the fact. I thought not; and I have found now that I was correct. I will read a part of the contract originally entered into between the Government and the proprietors of the Collins line of steamers:

"That, whereas the said Collins and his associates submitted to the Postmaster General, on the sixth of March, Anno Domini eighteen hundred and forty-six, proposals to carry the United States mail between New York and Liverpool twice each month during eight months of the year, and once a month during the other four months, for the sum of \$385,000 per annum, payable quarter-yearly, and for this purpose proposed to build five steamships of not less than two thousand tons measurement, and of one thousand horse power each, to be built for great speed, and sufficiently strong for war purposes—four of them to be ready for service in eighteen months from the day of the date of these presents, the fifth to be built as early as possibly practicable, and, when not employed in the mail service, to be subject to the orders of the Government for carrying dispatches, for which service a fair compensation to be paid; the United States, moreover, to have the privilege of purchasing said steamships, whenever required for public purposes, at a fair valuation, to be ascertained by appraisers mutually selected by the United States, and by the owners."

Now, the object is this: Five ships are to be built according to the contract. We are increasing the number of trips to be performed, and giving greater facilities for mail transportation; and, according to the speech of the Senator from Michigan, [Mr. CASS,] we are also to continue these vessels for the purpose of increasing our naval strength, while we are giving additional facilities to our post office arrangements. If this contract be carried out, the only thing we are doing is doubling the service, and paying an additional sum for doubling the trips. If the Senator had not been misinformed in relation to the number of vessels, there would still have been no difference between us. But the amendment of my friend from North Carolina, confining it to four ships, being withdrawn, it throws the parties back on the original contract. So that, if we confine it down to the five steamships, the mail service will be increased, the naval service will be increased, and the objection of the Senator from Tennessee will be gone, and he and myself are entirely together on this question. The only error grew out of the fact that there was supposed to be four instead of five. We are doubling the compensation for these ships, and increasing the number of trips, and adding strength to our Navy.

Mr. UNDERWOOD. I rise to make my acknowledgments to the Senator from North Carolina, [Mr. BADGER.] I admit that, usually, he exhibits no great skill in arithmetic—that is proved by the votes he gives here. I admit, further, that I stand corrected, for once, by him, and that, calculating in my head, while speaking, I was in error in supposing that eight hundred and fifty-eight thousand, multiplied by eight, made eight millions. I did not make the calculation with any degree of care, but I have made it coolly and deliberately since the Senator called my attention to the subject, and find that the total amount is \$6,864,000. But as millions amount to nothing; as they are mere trifles here, I hope my friend

will excuse me for making a little blunder of *only a million*.

Mr. BADGER. My friend from Kentucky, who stands corrected by so poor an arithmetician as myself, will henceforward, I hope, learn the danger of calculating, as he did on this occasion—in his head.

I did not rise to make that remark, however. I am compelled to leave the Senate now, and hope I shall be excused for making the usual motion, that "when this Senate adjourns, it will be to meet on Monday next."

Mr. JONES, of Tennessee. I hope the Senator will permit me to make my acknowledgments to the Senator from Georgia first.

Mr. DODGE, of Iowa. I hope that motion will not prevail.

Mr. BADGER. It cannot be argued.

Mr. HALE. Yes, it can.

The motion to adjourn over until Monday next was then agreed to.

Mr. JONES, of Tennessee. Mr. President, I desire to make my acknowledgments to my friend from Georgia for his explanation. But I think he is somewhat in error. I stated, in conversation with him, that I apprehended it was not contemplated to build another vessel. I arrived at that opinion, not only from the arguments which had been made by the friends of this proposition here, but from the universal understanding that the four vessels now employed were more than competent to perform all the contemplated service. I could not imagine that there could be any necessity or importance, or that this Government would even require that these individuals should go on and build another vessel, when it was manifest, from the arguments of the friends of the proposition, that four vessels were more than competent to perform the service. But then, to show that I was correct in my opinion, I might refer to the amendment of the Senator from North Carolina, which was specific, and confined it to the four vessels themselves. This convinced me that I was right; and I so stated the matter to my friend from Georgia. If that amendment had been adopted, it would have carried out the express declaration of every friend of the measure on this floor.

While we are correcting each other, I beg to correct my friend from Georgia. He is laboring under a very egregious misapprehension if he supposes that this amendment contemplates increasing the service to the extent which he has stated. It does not double the service by any means. It only increases it six trips per year. If he thinks that six trips added to twenty, double twenty, then his arithmetic is much worse than that of the gentleman from Kentucky; and I beg that both of them should be put to learning arithmetic, if they cannot estimate things better. [Laughter.] It is only proposed to add six trips per annum to twenty. Double twenty trips would make forty. Now, twenty-six trips cannot be made out to be forty! If my friend from Georgia voted for this proposition under the apprehension that forty trips were to be performed instead of twenty-six, I hope he will move a reconsideration, and stand with me on that vote.

Mr. DAWSON. I am laboring under no mistake. I did not say, or I did not intend to say, that it was doubling the service. I only said it was increasing the service to twenty-six trips. If you call a voyage out and in one trip, then it is twenty-six trips; but if a voyage from New York to Liverpool, and again from Liverpool to New York, are to be counted as two trips, then they are to make fifty-two trips. But I intended to speak, and did only speak, of the increase of the number of trips to twenty-six. If the gentleman from Tennessee does not know the rules of arithmetic, I think it would be better for him to correct his lecture, and not to refer me back to Dilworth. I was not at all mistaken. I said that there was to be an increased service. It is certainly an increase; even if we add only two or three trips. I said that there ought to be increased compensation for the increased service.

The PRESIDENT. The question is on the amendment of the Senator from Texas.

Mr. MALLORY. Is it in order to move to amend that amendment?

The PRESIDENT. It is not; because the amendment of the Senator from Texas is an amendment to an amendment.

Mr. UNDERWOOD. If we adopt that amend-

ment, will it be in order for us to strike out "1854," and insert a shorter time?

The PRESIDENT. It will not be in order to strike out that portion of the amendment at this stage of the proceedings. But when the bill shall be reported to the Senate it will be in order to make any alteration in the amendments agreed to in Committee of the Whole.

Mr. UNDERWOOD. That will do.

Mr. MALLORY. I would suggest to the honorable Senator from Texas whether it be not now expedient to incorporate into his amendment the first part of the amendment, which was withdrawn by the Senator from North Carolina, that is to say, the following:

"That the contract for the transportation of the said mail be, and the same hereby is, transferred from the Navy to the Post Office Department."

Mr. RUSK. I think it is useless to insert that. It will cause a great deal of confusion. I can explain why in a moment. There is a peculiar law on the subject of appropriations for the Post Office Department. The proceeds of postages are paid directly into the Treasury by law. We have to make an appropriation out of the Treasury for the support of these steamers. But to support the Post Office Department proper, we are confined to the earnings of the Post Office. This, then, would be throwing these ocean mail steamers upon the inland postage, and produce confusion. I think the law in relation to them is a very confused thing; but there can be no good result from the amendment suggested by the Senator from Florida. It will produce more confusion, I think.

There is another difficulty about it. Everybody knows that this money is paid from the Treasury. Everybody knows where it comes from. It comes from the Treasury. So that neither the Navy Department nor the Post Office Department is charged with it. It is proper that neither should be charged with it as being on their own account.

Mr. MALLORY. I would suggest to the honorable Senator from Texas, that the very object I had in suggesting the proposition was to avoid confusion of ideas on this subject. I noticed a few moments ago that the honorable Senator from New Hampshire seemed exceedingly anxious to keep this expenditure of \$800,000 where it stands now, namely: to the debit of the Navy. He evinced a strong desire to appropriate \$800,000, therefore, for this purpose, and debit it to the Navy, which yesterday he seemed willing to withdraw to our own ports from foreign stations. Unless we adopt some such proposition as I suggest, this expenditure will go into the naval appropriation bill year after year, and the entire Navy appropriations of the country will stand charged with these \$800,000. It is legislation of this kind which swells up the annual expenditures of the Navy proper, by adding these expenditures from which the Navy has never derived a single dollar of interest. During the existence of these ships the Navy has not derived the first benefit from them. I have suggested to the honorable Senator from Texas to place this appropriation where it properly belongs. If it be necessary to legislate specially that the receipts from postal regulations should go to the credit of the Post Office Department, let also the debit go there. That seems to be the most reasonable legislation. But, at all events, on no principle should the Navy continue to be charged with a debit of \$800,000 a year, when, in fact, it derives no advantage from it.

Mr. RUSK. I cannot consent to change my amendment in the form suggested, because the Post Office pays into the Treasury all the money that it draws from the earnings of the mails. What does the Navy pay? Not a dollar.

Mr. HALE. Not one.

Mr. RUSK. The Navy is a charge, from the beginning to the end, on the Treasury. Does not everybody know the amount that is paid for this purpose? Is it not put down in the appropriation bills? Is there the slightest confusion of ideas in regard to it? Does not every one know how much money is paid for mail-steamers? It shows a great want of confidence in the people to suppose that, if such an argument were made use of before them, they could, for a moment, be brought to believe that the Navy proper was chargeable with the amount of money which we pay out for the Gov-



ernment mail-steamers. I do not think my constituents would so understand it.

Mr. HUNTER. I think there is a good deal in the suggestion of the Senator from Florida. This is a matter of complaint, not only in our service, but in the English service. If the Senator from Texas will look into the matter, he will find that Lord Auckland, when he was examined, in 1848, on this subject, said that he thought it did lead to a great deal of mischief to the Navy; that it was charged with £700,000 a year for sustaining steam-packet mail service, while the receipts from the packets went to the credit of the Post Office establishment. So it is here. The receipts from the mail-steamers, in the shape of postages, go to the credit of the Post Office establishment. Money is appropriated to the Post Office establishment just as it is to the Navy. You appropriate what is required for it. We have been appropriating more than is received for the Post Office, and I apprehend we shall continue to do so. It is but fair that you should know how much more we are appropriating than we receive. Therefore, as the Post Office receives the postages arising from the mail-steamers, so it ought to be charged with the expenses.

The PRESIDENT. That proposition is not now before the Senate.

The amendment of Mr. Rusk was agreed to.

On motion, the Senate adjourned until Monday.

## HOUSE OF REPRESENTATIVES.

FRIDAY, May 7, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

On motion by Mr. WALLACE, by unanimous consent, it was

Ordered, That leave be granted to withdraw from the files of the House, for the purpose of reference in the Senate, the petition of Whitmarsh B. Seabrook, praying that a law may be passed to pay the Edisto Island Company for services rendered to the United States, in the State of South Carolina, during the war of 1812.

Mr. GROW asked and obtained unanimous consent to introduce a memorial from George Catlin, now in London, in reference to the purchase, by Congress, of his Indian collection; which was referred to the Committee on the Library.

## THE PUBLIC PRINTING.

Mr. STANTON, of Kentucky. I am instructed, by the unanimous vote of the Committee on Printing, to present a report to the House from that committee, accompanied by a resolution, which I ask to have read.

The Clerk then read the report and resolution, as follows:

The Joint Committee on Printing, who were instructed by the House of Representatives "to report what, if any, arrangement had been made to execute the public printing, and if any other than the public printer has been employed, to report what prices they have agreed to pay;" and who were also "instructed to let out such printing as the present contractor could not execute to the lowest bidder, after ten days' notice," respectfully report:

That under the resolution of the two Houses of Congress, adopted August 3, 1846, the proper officers of the Senate and House of Representatives let out the public printing to the lowest bidder, agreeably to the terms of the said resolution. That A. Boyd Hamilton, being the lowest bidder for each of the several classes of the public printing designated by the law, received the contract, and entered into bonds for its faithful execution on the 3d of March, 1851. The prices at which said Hamilton undertook to do the work are ruinously low, and in the opinion of experienced practical printers are scarcely more than sufficient to pay for the paper upon which the printing is required to be done by the terms of the contract. The officers authorized by the said joint resolution to let out the work and make the contract, in their report to the House of the 3d of March, 1851, estimate the aggregate amount of the contractor's bid at the sum of \$87,631, supposing no greater amount of printing will be ordered by the present Congress than was executed under the order of the previous one. It is conceded by all that the next lowest responsible bidder who offered for the printing, and was willing to take it at his bid, was John T. Towers, an experienced practical printer of the city of Washington. The difference between the sum which the contractor, Hamilton, will receive by his contract and the bid of John T. Towers, for the same amount of printing, is \$30,689, or a difference of nearly one hundred per cent. in the two bids. If compared with the bid of John C. Rives, another competitor for the same printing, the disparity between the sum agreed upon by the contractor and that for which Mr. Rives was willing to execute the work is much greater, being the sum of \$108,741, or more than one hundred and twenty-five per cent. Both Towers and Rives are practical men, engaged extensively in the business of printing, and no doubt offered to do the work at what they deemed fair and reasonable prices.

As might have been expected under these circumstances,

the contractor, Mr. Hamilton, has been unable at any time during the present session of Congress to execute the printing of the two Houses agreeably to the terms of his contract, in no single instance, to the knowledge of the committee, has he fully complied with the requisitions of his bond. Neither the bills, reports, calendars, Executive documents, nor any other specimen of work he has executed, is printed upon such paper, or done in such a style, as his written obligation requires of him. That description of the public printing intended for preservation, as part of the legislative records of the nation, is done upon paper greatly inferior to the standard of the contract, and in such an unskillful manner as to be absolutely disgraceful to Congress. The paper is not only below the standard in weight, but is of coarser texture and of smaller size than provided for by his contract. When bound and trimmed, the margin is necessarily so small as to disfigure the work; and if plates of the usual octavo size are used, they are clipped and seriously injured. The general appearance of the work, arising from the inferior quality of the material, and the unskillful manner of its execution, is shamefully bad, and believed to be worse than that done for any State Legislature in the Union.

It is not only in regard to the inferior quality of the material, and the defective execution of the work, that the committee find the contractor in default, but in point of time in the completion of the work intrusted to his hands, he has been and is now unreasonably behind. The President's message, which might have been completed in three weeks by an energetic and capable contractor, is not now, after a lapse of five months, one half done. There is not the slightest prospect, judging from the conduct of the public printer so far, that this document will be fully completed and ready for delivery to the members until after the adjournment of the present session of Congress. The two Houses will thus be deprived for a whole session of the most important and useful document for legislative purposes, which will be ordered by them, and the expense of its publication only so much money wasted. Other important documents, necessary for the use of the various committees, have been delayed in the same unreasonable manner.

Four months ago the contractor was called before the committee, and notified in regard to the inferior execution of the printing, as well as of the delay in furnishing it to Congress. He promised amendment in these respects; but, in utter disregard of his promises, as well as of the obligation of his contract, he has not shown the slightest disposition to furnish better material or better work, or to execute the public printing with more dispatch. The documents, such as have been furnished, are printed upon the same coarse and inferior paper, in the same unskillful and, in some instances, illegible manner, and with like want of alacrity.

Your committee were required by the provisions of the joint resolution directing the manner of procuring the printing of the two Houses of Congress, in the contingency presented to them by the gross default of the contractor, "to adopt such means to remedy his neglect and delay" in the execution of the work ordered by Congress as they might deem necessary. It was apparent to every member of the committee, not only from the state of the public printing, but the admissions of the contractor himself, that he could not comply with his undertaking, so as to insure to Congress work done upon the proper material, and as rapidly as the terms of his undertaking required. There was then left to the committee no other alternative than to permit Congress to submit to the imposition of inferior work and unreasonable delay, or exercise the power conferred upon them by law. They chose to perform what seemed to them to be their obvious duty, and entered into contracts with Donelson & Armstrong to execute so much of the public printing as had been or might be ordered by the House, and which the public contractor could not, or would not, do; and with Gideon & Co. to do that ordered by the Senate. Each of these firms has entered into bond in the penalty of \$20,000, with good security, for the faithful performance of the work. The prices agreed to be paid to these firms, for the work they may execute under their respective contracts, are hereto appended, and made part of this report. They do not differ materially from the bid of John T. Towers, and are believed by the committee to be such as will afford the contractors no more than a moderate profit.

The arrangement made by the committee with these firms was intended only as a temporary measure to secure the prompt and speedy execution of the public printing, and extends no further than the execution of so much of the work as the contractor could not do. In all cases, if the contractor could execute the work in proper time, and in the manner required by his contract, he would be allowed to execute it. The gentlemen were selected because they were men of character, abundantly prepared promptly and faithfully to discharge their duty under their contracts.

The public printer has filed with the committee a memorial, stating various grounds of excuse for not being able to execute the public work in the manner provided for in his contract, and asking at the hands of the committee such relief as in their judgment may be just and equitable. We refer to this memorial merely because of its admission that the contractor has not been able to meet the obligations of his contract, and to indicate to the House his reliance upon Congress for ultimate relief.

The resolution of the House instructs the joint committee "to let out such printing as the present contractor cannot execute to the lowest bidder, after ten days' notice." The joint committee is created under the joint resolution of the two Houses of Congress, approved August 3d, 1846, and is composed of three members from each House. To this committee, thus created under a law of Congress, certain duties are assigned in regard to the public printing, which cannot be controlled by either House, acting separately. If the House may instruct the committee, so also may the Senate. In the event of conflicting instructions from these bodies, the organization of the committee is such, being composed of equal numbers from each House, that neither set of instructions could be effective. When these instructions contravene the law itself, and require the committee to disregard the obvious duties imposed upon them by that law, surely no one will maintain that they ought to be obeyed.

While your committee have no disposition to disregard the known will of either House, in all matters not involving a violation of law, they cannot, consistently with their obligations under the law, obey instructions not authorized by, but in their opinion against the law.

The second section of the joint resolution referred to is as follows:

"Sec. 2. And be it further resolved, That a committee, consisting of three members of the Senate and three members of the House of Representatives, shall be chosen by their respective Houses, which shall constitute a Committee on Printing, which shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a *pro rata* reduction in the compensation allowed, or to refuse the work altogether, should it be inferior to the standard; and in all cases the contractor and his securities shall be responsible for any increased expenditure consequent upon the non-performance of the contract. The committee shall audit and pass upon all accounts for printing; but no bill shall be acted upon for work that is not actually executed and delivered, and which they may require to be properly authenticated."

Under this provision of the law, the committee have adopted the means they deemed necessary "to remedy the neglect and delay on the part of the contractor to execute the work ordered by Congress." They have entered into contracts which the law authorized, and taken bonds in heavy penalties for their faithful performance. For all damages which may result to the Government from the "neglect or delay" of the contractor, or "increased expenditure consequent upon the non-performance of the contract," a remedy is reserved by the law against the contractor and his securities. The House, by its instructions, require the committee to annul these contracts so authorized by the law, and after ten days' notice give the work to the lowest bidder. If the House, without the concurrence of the Senate, may control the action of the committee in this respect, it may in all others, and to the defeat of the whole purpose of the law, and thus the singular spectacle would be presented of one House, which has no legislative power independent of the other, exercising power which belongs only to the two Houses and the President together. If the House, by its separate action, may control the Joint Committee on Printing, why may it not regulate the conduct and annul the contracts of the members of Congress who are Regents of the Smithsonian Institution, or of any other officers whose duties are prescribed by an act of the two Houses of Congress?

The committee feel confident that they have in their action pursued literally the terms of the law, and believe they have no power to carry out the requirements of the resolution of the House, and abrogate the contracts made with Donelson & Armstrong and Gideon & Co.; and, however much they are disposed to respect the wishes of the House, they cannot execute them under the law without the assent of the contractors and the concurrence of the Senate.

In respect to the report of the members of the committee of the House, proposing to publish fifty thousand copies of the mechanical part of the Patent Office report, the members of the Senate belonging to the committee conceive that they have no jurisdiction over the subject. The law expressly requires that all motions to print extra copies of any document shall be referred to the members of the committee belonging to the House in which such motions are made; and these members having exclusive control of the subject, the members from the Senate decline to express any opinion in regard thereto. The members of the Committee of the House do not deem the number of the Patent Office Report proposed to be published unreasonable, or the price greater than the work will cost. The members of the House belonging to the committee submit the following resolution, and ask its adoption:

Resolved, That the Committee on Printing, under the joint resolution of the third of August, 1846, "have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a *pro rata* deduction in the compensation allowed, or refuse the work altogether, should it be inferior to the standard; and in all cases may hold the contractor and his securities responsible for any increased expenditure consequent upon the non-performance of his contract."

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Mr. STANTON, of Kentucky. I have no desire to discuss this question, and I presume the House has none.  
Mr. CLINGMAN. I have a desire to discuss it, and I announce that to the gentleman now, and I hope he will allow me to say something. I do not want the gentleman to move the previous question.

Mr. STANTON. I had intended to do so, unless the House should manifest a desire to discuss it.  
Mr. FITCH. I also desire to discuss it.  
Mr. STANLY. Will my friend [Mr. STANTON] hear a suggestion? I suggest that the consideration of this matter be postponed until Monday, a day which we generally waste, and in the mean time this report can be printed in the Globe, and every member can have an opportunity to see it.

Mr. POLK. Will not the gentleman make a motion to have the report and resolution printed, and their consideration postponed till Wednesday next?  
Mr. STANLY. I would rather say Monday next, as that is a day we usually give to miscellaneous matters, and we generally throw it away. However, I do not care what time is fixed upon. I only make the suggestion.  
Mr. STANTON. I simply desire to make the remark, that the resolution we have presented is in the language of the law—it is literally the law itself; and the Joint Committee on Printing desire to know of the House, whether they are bound to obey the law as it stands upon the statute-book, or to obey the instructions of the House? If required to obey the instructions of the House, against the law, we cannot do it, and our duties are at an end; and so far as I am individually concerned, I shall be compelled to wash my hands of it, and so also will the rest of the committee.

In reference to the postponement of this matter, I desire to say that I think it extremely doubtful whether the report can be printed at as early a period as Monday. I think it impossible to have it printed by that time. If the consideration of it is postponed until Wednesday next, or some other day thereafter, it can be printed.  
Mr. POLK. If the gentleman will allow me, I will move that the report be printed, and that the consideration of it be postponed until Wednesday next; and on that motion, I call for the previous question.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will include in the motion to print, the memorial of the public printer.  
Mr. POLK. I will include anything suggested. I wish light and nothing else.

Mr. CLINGMAN. I beg leave to remind my friend from Tennessee, [Mr. Polk.] that if he moves the previous question, it will cut off his motion to postpone. I presume that is not his object.

The SPEAKER. If the call for the previous question is sustained, it will bring the House to a vote directly upon the resolution.

Mr. CLINGMAN. I hope the gentleman will withdraw the call for the previous question. I want to say something upon it. If the House, by general consent, will let it go over, will the gentleman from Tennessee [Mr. Polk.] give me the floor?

Mr. POLK. I hope the House will go to the consideration of private bills. I understand the report can be printed by Wednesday, but it cannot by Monday. I am willing to let it go over informally, if the discussion is to be stopped by my motion. I will withdraw my call for the previous question, if the gentleman from North Carolina [Mr. CLINGMAN] does not intend to make a speech now.

Mr. CLINGMAN. I merely wish this question to be placed in a position where I can say something upon it; but I do not care to do it today. If the House will consent, and the gentleman will let me have the floor, I will make a proposition to let the matter go over.

Mr. POLK. If the gentleman will wait until Wednesday, he will have a full opportunity to give the House his views on the subject.

Mr. CLINGMAN. What motion does the gentleman from Tennessee make?

The SPEAKER. He moves to postpone the consideration of the report until Wednesday next, and that it be printed; and upon that he calls the previous question, which will cut off the motion to postpone.

Mr. CLINGMAN. Do you withdraw the call for the previous question?

Mr. POLK. I do. I prefer having the report go over informally until Wednesday.

Mr. CLINGMAN. I am willing that it should go over until Wednesday next.

Mr. JONES, of Tennessee. I wish to suggest to my colleague, [Mr. Polk.] that he make the simple motion to postpone the consideration of this report till Wednesday next, and it will be printed in the Globe as part of the proceedings of this House. A motion to postpone to a day certain is not debatable.

Mr. POLK. I make that motion.

Mr. HOUSTON. Is the motion to postpone the consideration of the report from the Committee on Printing until Wednesday, now before the House?

The SPEAKER. That is the only motion before the House?

Mr. HOUSTON. I would suggest to the gentleman from Tennessee to insert, instead of the word "Wednesday," the word "Tuesday." I know that he sympathizes with me and the rest of the House in the desire to have promptly acted upon the business pressing for our consideration. I would like to have this subject postponed until Monday, that we may have the report printed, reflected upon, and then decided upon finally. My object is not to have it postponed improperly, or to smother investigation, but that it may be as soon as possible, deliberately acted upon. We are having, day after day, matters taken up in preference to the business which urgently demands the attention of the House. I hope the postponement will be until Monday.

Mr. POLK. I am gratified at the suggestion of my friend from Alabama, that the House ought to examine this question properly. I must insist upon my original motion. I believe it is not debatable.

Mr. FLORENCE. I have no objection to the postponement of this report until Wednesday next, but I wish to correct an erroneous impression which prevails upon the floor to a great extent.

[Cries of "Order!" "Order!"]  
The SPEAKER. The gentleman is called to

order, and it is the duty of the Chair to enforce order.

Mr. FLORENCE. I move to strike out "Wednesday," and to insert in its stead "Monday." That is debatable, as I understand. I can state the reasons that operate upon me in moving it.

The SPEAKER. It is not debatable.

Mr. FLORENCE. Gentlemen have been speaking upon this and the other side of the House this morning on this subject, and all that I now desire, is to correct an erroneous impression entertained by some members of the House that this report could not be printed by Monday.

The SPEAKER. The Chair indulged gentlemen upon all sides so long as no objection was interposed. When, however, the gentleman addressed the Chair proposing to debate the question, he was called to order from all sides of the Hall. It is the duty of the Chair to preserve order.

Mr. FLORENCE. Then I ask the unanimous consent of the House to submit a statement.

[Cries of "No!" "No!" "Hear him!"]

Mr. FLORENCE. I desire to submit a few reasons why the question should not be postponed.

[Cries of "Order!" "Order!"]

The SPEAKER. The gentleman is again called to order. Debate is not in order.

Mr. POLK. I move that the gentleman from Pennsylvania be allowed to print his speech.

[Laughter, and cries of "Agreed!" "Agreed!"]

Mr. CARTER. I wish to make an inquiry of the Chair as to whether the gentleman from Tennessee [Mr. Polk] moves the printing of the report, and the various propositions with regard to the public printing?

The SPEAKER. There is but one proposition before the House, and that is to postpone the consideration of the report until Wednesday next, unless the gentleman from Pennsylvania insists upon his amendment.

Mr. FLORENCE. I do not.

Mr. GORMAN. I call for the previous question.

Mr. BROWN, of Mississippi. If the call for the previous question be sustained, in what condition will it place the report?

The SPEAKER. The seconding of the call for the previous question will bring the House to a direct vote upon the resolution of the committee.

Mr. BROWN. Precluding all amendments?

The SPEAKER. It would be to exclude all amendments and all debate.

Mr. GORMAN. I hope neither the Chair nor the gentleman from Mississippi will make a speech upon the subject, unless I am heard.

Mr. BROWN. I trust that the call for the previous question will not be sustained.

The SPEAKER. The Chair calls gentlemen on all sides to order, and will endeavor to keep himself in order.

The question was then taken upon the demand for the previous question, and it was not seconded, there being upon a division—ayes 45, noes 98.

Mr. BROWN. What is the motion now before the House?

The SPEAKER. The motion of the gentleman from Tennessee [Mr. Polk] to postpone the resolution reported by the Committee on Printing, until Wednesday next.

Mr. BROWN. I ask the mover of that motion to give me an opportunity to simply give notice of my intention to offer the amendment, which I send to the Clerk's desk to be read, to the resolution of the committee, and to ask that it shall be printed.

Mr. POLK. I object.

Mr. BROWN. Does the gentleman object to the reading of the amendment?

Mr. POLK. I ought to be no more generous to the gentleman than he has been to the committee; but I do not object to the reading of the amendment.

The amendment was then read by the Clerk, as follows:

*Resolved*, That the House of Representatives has the right to direct the Committee on Printing as to the manner in which they shall discharge their duty in procuring the execution of the public printing, and that it is the duty of said committee to procure the printing to be done in the manner pointed out by the House of Representatives.

Mr. STANLY. I hope the gentleman will amend his proposed amendment, so that it will

read, "and any law to the contrary notwithstanding."

Mr. BROWN. I will do no such thing. I am able to show that that resolution is right when I have the opportunity.

The SPEAKER. Discussion is not now in order.

The question was then taken upon the motion to postpone the resolution reported by the committee until Wednesday next, and it was agreed to.

The SPEAKER. The first business now in order is the consideration of a private bill, which was reported from a Committee of the Whole on Friday last.

Mr. STANTON, of Tennessee. I ask the unanimous consent of the House to allow me to report back from the Committee on Naval Affairs, the Senate bill "for the relief of the widows and relations of certain officers and seamen of the United States brig Washington, lost overboard in a hurricane."

Mr. McMULLIN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

Mr. SEYMOUR, of Connecticut. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the Private Calendar.

Mr. STANTON. I hope unanimous consent will be granted for the purpose I have named.

The SPEAKER. If the gentleman from Virginia insists upon his motion, that the House go into the Committee of the Whole on the state of the Union, it amounts to an objection to the gentleman's request.

Mr. McMULLIN. With great respect for the gentleman, I do insist upon the motion I have submitted. I desire that the homestead bill may be disposed of as soon as may be.

Mr. STANTON. I wish merely to refer the bill I desire to report to the Committee of the Whole.

Mr. McMULLIN. I will withdraw, if the gentleman will renew my motion after he has accomplished his object.

Mr. STANTON. I will.

Mr. DANIEL. I object to the gentleman presenting a report.

Mr. SACKETT. There are on the Speaker's table, I understand, bills of a private character undisposed of, which have been reported, with a recommendation that they do pass, from a Committee of the Whole. I trust the motion to go into committee will not be pressed until they shall have been acted upon. They are private bills, and this is private bill day.

The SPEAKER. The first business in order, if we remain in the House, the Chair again states, is certain private bills which were reported from a Committee of the Whole House upon Friday last.

There being a special order in the Committee of the Whole on the state of the Union, it is in order to submit a motion that the rules be suspended, and that the House resolve itself into committee for the consideration of that special order. That motion has been made. There has also been submitted another, that the House resolve itself into Committee of the Whole House on the Private Calendar.

The question was put on the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and it was not agreed to—ayes 65, noes 80.

Mr. CABELL, of Florida. Is not this objection day in the Committee of the Whole House?

The SPEAKER. It is.

The question was then taken on the motion that the rules be suspended, and that the House resolve itself into Committee of the Whole on the Private Calendar; and it was agreed to—ayes 101, noes not counted.

The House accordingly resolved itself into the Committee of the Whole on the Private Calendar, (Mr. STUART in the chair.)

JOSIAH D. PILCHER.

The committee proceeded to the consideration of House bill No. 157, for the relief of Josiah P. Pilcher, late a private in Company F, 2d regiment Kentucky volunteers.

The bill provides for the payment to Josiah P.

Pilcher, of his monthly pay from the 7th of July, 1846, to the discharge of the company in which he was enrolled, together with his clothing, pay, mileage from New Orleans, three months' extra pay, and a land warrant for one hundred and sixty acres.

The report shows, from the evidence submitted, that Pilcher was received by Colonel McKee at Camp Jackson, six miles below New Orleans, as a recruit, on the 7th of July, 1846, to serve the residue of the twelve months from the date of the mustering of said regiment; that his name was not put upon the rolls of said company; but it is distinctly stated by all the officers of his company, that he served in the ranks as a soldier faithfully, except while he was on furlough to do service in the Quartermaster's Department; that the death of Colonel McKee was the cause of his name not appearing on the final mustering-out rolls of said company; and, although he served faithfully during the full term, yet he was refused his pay and allowances, owing to these circumstances.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

ANTHONY G. WILLIS.

The committee next proceeded to the consideration of House bill No. 159, for the relief of the heirs-at-law of Anthony G. Willis, deceased.

The bill directs the Secretary of the Treasury to pay the heirs of Anthony G. Willis, deceased, the sum of \$251, as remuneration for the services of a wagon and team of their said ancestors, which was pressed into the service of the United States during the war of 1812.

The bill was ordered to be laid aside, to be reported to the House with the recommendation that it do pass.

DR. S. R. ADDISON.

The committee next proceeded to the consideration of House bill 162, for the relief of Dr. S. R. Addison, passed assistant surgeon in the United States Navy.

The bill provides for the payment to Dr. S. R. Addison the difference of pay between that of passed assistant surgeon and surgeon, from the 4th of April, 1848, to the 21st of June, 1850.

The report shows that, on the 4th of April, 1848, by order of the Secretary of the Navy, Passed Assistant Surgeon Addison was required to perform the duties of surgeon on board the United States sloop-of-war St. Mary's; which he did perform to 21st of June, 1850.

The bill was ordered to be laid aside, to be reported to the House, with the recommendation that it do pass.

JACOB J. STORER.

The committee next took up for consideration House bill 163, for the relief of Jacob J. Storer.

The bill provides for the payment to Jacob J. Storer, of \$1,361 82, a sum based upon a certificate of the Fourth Auditor, that that is the amount he would have been entitled to in pay and rations, had he been paid as a purser of the United States Navy.

The report of the committee shows that J. J. Storer, in August, 1847, received from Commodore Storer, who was ordered to the command of the squadron on the coast of Brazil, the appointment of secretary; in that capacity he served until May 21, 1848, when he was ordered by said Commodore Storer to the United States brig Perry, as acting purser, the purser of the Perry having been transferred to the flag ship, to replace the purser of that ship, who had been ordered home on "sick ticket."

Commodore Storer also appointed another person as his secretary, who received the pay and emoluments of that office until December 1, 1848, when another purser having been sent out by the Secretary of the Navy to take the place of J. J. Storer, he returned to the flag ship as secretary. While on board the Perry, he had drawn purser's pay, his right to it not having been questioned at the time. Subsequently, on May 7, 1849, Commodore Storer, at the request of the Fourth Auditor of the Treasury, caused to be checked against J. J. Storer's pay as secretary, the amount he drew as acting purser. Thus, from that time until the termination of the cruise, in December, 1850, J. J. Storer received no pay whatever, although constantly performing duties.

The bill was ordered to be laid aside, to be re-



ported to the House with the recommendation that it do pass.

#### HENRY MILLER.

The committee next took up for consideration, House bill No. 178, for the relief of Henry Miller, a soldier of the war of 1812.

The bill provides that the proper accounting officer pay to Lieutenant Colonel Henry Miller, pension from March 18, 1818, to the 5th of April, 1824, at the rate of \$8 a month.

It was ordered to be laid aside, to be reported to the House with the recommendation that it do pass.

#### WILLIAM LYNCH.

The committee then proceeded to consider House bill No. 179, for the relief of William Lynch, a soldier of the late war with Great Britain.

The bill authorizes the Secretary of the Interior to place said Lynch on the roll of invalid pensioners, at the rate of \$8 per month, commencing from the 8th day of July, 1848, and to continue during the term of his natural life.

The report was read, from which it appeared that the petitioner enlisted on the 1st of September, 1813, as a private soldier in the company commanded by Captain King, and that on the 15th of August, 1814, he was wounded, by the explosion of the magazine at Fort Erie, in the head and knee, and also received an injury in the abdomen, which resulted in hernia. In consequence of these wounds he was sent to the hospital at Eleven Mile Creek, in the State of New York, where he remained until the spring of 1815, when he joined his regiment, and served until the expiration of his service, on 1st of September, 1818.

The bill was then laid aside, to be reported to the House, with the recommendation that it do pass.

#### CHARLES STAPLES.

The committee then took up for consideration, House bill No. 182, for the relief of Charles Staples.

The bill authorizes the said Staples to be placed on the roll of invalid pensions, at the rate of \$6 per month, from the 1st of January, 1848.

The report was read, from which it appeared that the petitioner enlisted as a sergeant, on the 10th of December, 1812, into the company commanded by Captain Oliver Hessick, belonging to the regiment of Colonel McCobb, in the service of the United States, in the last war with Great Britain. It appears that, from severe exposure, he became sick, and unable to perform his duty, and has, up to this time, been affected with a hard cough and lameness, which has rendered him extremely feeble.

The bill was then laid aside, to be reported to the House with the recommendation that it do pass.

#### AARON STAFFORD.

The committee then proceeded to consider House bill No. 183, for the relief of Aaron Stafford.

The bill authorizes the Secretary of the Interior to place upon the roll of invalid pensioners the name of the petitioner, for the sum of \$17 a month, from and after the 4th day of March, 1848, to continue during his natural life, after deducting such sums as the petitioner may have received since that period.

The report was read, from which it appears that the petitioner held a commission as adjutant on the 13th of October, 1812, in the sixteenth detached regiment of the militia of the State of New York, in the service of the United States, during the last war with Great Britain, and that he, on the 13th of October, 1812, accompanied by two hundred men, crossed over from Lewiston to Queenstown, and was engaged in the storming of Queenstown Heights, and in the battle that day. In this battle he received a wound above the right temple, from a musket ball, another from a bullet through his thigh, just below the groin, a third from a rifle ball in the left shoulder, just below the joint, and a fourth from a grape shot, which struck him in front of his left thigh, about five inches above the knee, dividing the muscles to the bone. Notwithstanding the first three wounds received by him, as above described, he still continued fighting until struck by the grape shot, which knocked him down the bank of the Niagara river, about one third of the way to the water, and he was only saved from being precipitated into the river and

drowned by grasping in his right hand, in his descent, a shrub, upon which he retained his hold and thus saved his life. In this perilous position he remained until captured by the enemy.

The bill was then laid aside to be reported to the House, with the recommendation that it do pass.

#### WILLIAM P. GREENE.

Senate bill No. 66, being an act for the relief of William P. Greene, was next taken up for consideration.

The bill authorizes the Secretary of the Treasury to pay to the petitioner the sum of \$324 26, for the faithful discharge of the duties of surveyor of the port of Providence, and measurer of salt at the same time.

The report was read; from which it appears that the two offices performed by the petitioner were by law not compatible with each other, but that the petitioner having been appointed as surveyor, and the Secretary of the Treasury having subsequently confirmed his appointment as measurer, without fault or knowledge of the petitioner that the offices were incompatible, the committee are of opinion that he is entitled to relief, and therefore recommend the passage of the bill.

The bill was then laid aside, to be reported to the House with the recommendation that it do pass.

#### JOHN B. ROGERS.

House bill No. 197, for the relief of John B. Rogers, of South Carolina, was next taken up for consideration. The bill authorizes the payment to the petitioner of \$15 55, being the amount of twenty pieces of stamped paper purchased by him during the late war with Great Britain.

The report was read; from which it appears that several years since, when the United States were at war with Great Britain, the petitioner, being then in mercantile occupation, required for his business many stamps, and that at the close of the war he had several left in his possession, and was never aware until lately that any provision had ever been made by Congress for the redeeming of those which had not been used. The petitioner has been confined to the house from illness for some years, which, together with the stamps having been mislaid, is the cause of the amount never having been requested of the Department until August last. A few weeks since he sent the stamps to the Secretary of the Treasury, who returned them to him, with the information that provision had been made by Congress for all stamped paper, and referring him to Congress for relief.

The bill was then laid aside, to be reported to the House with the recommendation that it do pass.

#### JOSEPH AND PETER ARNOW.

House bill No. 198, for the relief of Joseph Arnou and Peter Arnou, heirs of Joseph Arnou, late of Florida, was next taken up for consideration.

This bill provides for an extension of the act of Congress, approved 3d of March, 1823, "to carry into effect the ninth article of the treaty concluded between the United States and Spain, the 22d day of February, 1819;" and is of like tenor with the act of 26th of June, 1834, and the act of 3d March, 1849.

The bill was then laid aside, to be reported to the House with the recommendation that it do pass.

[A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, stating that the Senate had passed a bill entitled "An act to provide for the holding of the United States district courts in cases of sickness or other disability of the district judges."]

#### BERNHART TODD.

House bill No. 199, for the relief of the legal representatives of Bernhart Todd, deceased, was taken up for consideration. This bill provides for paying to the legal representatives of Bernhart Todd, late of Baltimore county, Maryland, the sum of \$4,315, being the appraised value of buildings and furniture, together with crops and other personal property, which were consumed by the British forces on the 11th of September, 1814, in consequence of the buildings of said Todd being occupied by the American troops for military purposes. The destruction of the buildings by the enemy being in consequence of such occupancy,

brings this claim within the provisions of the act of 1825, and which referred such claims for adjudication to the Third Auditor; but it appears never to have been presented to him, and no action can now be had by the accounting officer, without authority of law.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

#### GEORGE SIMPTON.

House bill No. 201, for the relief of Captain George Simpton, was then taken up for consideration. This bill provides, that the Secretary of the Treasury pay to Captain George Simpton, of Galveston, Texas, the sum of \$1,600, in full payment for his indemnification for the loss of the schooner Alert, while in the public service during the war with Mexico.

It appears by the report, that in March, 1847, the United States steamer Hunter made a prize of the French bark Jeune Nelly, while the said bark was attempting to violate the blockade of Vera Cruz. In the evening after the capture, Captain Simpton, who was then the owner and captain of the Alert, was ordered on board the steamer, and employed as pilot to bring the steamer, her prize, and his own schooner, to anchorage under Green Island. While in the discharge of this duty, a severe norther arose, and made a complete wreck of all the vessels, upon a reef at the mouth of the harbor. Under these circumstances, Captain Simpton claims compensation for the loss of his schooner.

The bill was laid aside, to be reported to the House with the recommendation that it do pass.

#### C. L. SWAYZE.

The next bill in order was House bill No. 232, for the relief of C. L. Swayze, in relation to the location of certain Choctaw scrip.

There being no objection to this bill, it was ordered to be laid aside, to be reported to the House with the recommendation that it do pass.

#### BILLS OBJECTED TO.

The following bills coming up in their order on the Calendar being objected to as indicated below, were laid over for future consideration under the rule giving precedence on the first and fourth Fridays in each month to those bills to which there should be no objection, viz:

House bill No. 200—a bill for the relief of the legal representatives of John H. Piatt, deceased. [By Mr. SACKETT.]

House bill No. 149—a bill for the relief of the heirs of Lieutenant Bartlett Hinds. [By Mr. JONES.]

House bill No. 161—a bill to provide for the payment of the companies of Captains Bush, Price, and Saurez, for military services in Florida. [By Mr. BELL.]

Senate bill No. 32—an act for the relief of Margaret L. Worth. [By Mr. HARRIS, of Tennessee.]

House bill No. 168—a bill for the relief of David Myerle. [By Mr. DANIEL.]

House bill No. 175—a bill for the relief of Anthony Walton Bayard. [By Mr. HARRIS, of Tennessee.]

House bill No. 177—a bill for the relief of E. V. Field. [By Mr. HARRIS, of Tennessee.]

House bill No. 202—a bill for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky. [By Mr. HUNTER.]

House bill No. 203—a bill for the relief of the trustees of the Philadelphia Gas Works. [By Mr. FICKLIN.]

Mr. JENKINS. The bills remaining on the Calendar were only sent to the printer yesterday, and have not been printed yet. I therefore move that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole House had had under consideration divers private bills, which they had instructed him to report to the House, and to ask the concurrence of the House therein.

#### ADJOURNMENT UNTIL MONDAY.

Mr. BRECKINRIDGE moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. JONES, of Tennessee. I ask for the yeas and nays on that motion, and I wish to make an inquiry of the Chair. If there should be forty-five or fifty gentlemen voting for the yeas and nays, and none against them, will the yeas and nays be ordered or not?

The SPEAKER. The gentleman from Tennessee is not in order. The Chair will decide each question of order as it arises.

The question was then put upon ordering the yeas and nays, and on a division, there were—ayes 26, noes 70—no quorum voting.

Mr. PICKLIN asked for tellers on the yeas and nays.

The SPEAKER. While the Chair was in the act of announcing the result of the division, tellers were demanded on the yeas and nays.

Mr. BRECKINRIDGE. I will withdraw my motion.

The motion was accordingly withdrawn.

#### DUTY ON RAILROAD IRON.

The SPEAKER stated as the business first in order, Senate bill No. 185, reported from the Committee of the Whole House on Friday last, "for the relief of the Raleigh and Gaston Railroad Company." On the passage of this bill the previous question had been demanded.

Mr. STUART asked for the reading of the bill.

The Clerk proceeded to read the bill.

Mr. JONES, of Tennessee. I ask by what authority the Clerk is reading that bill? There was no quorum upon the last vote, and there has been nothing to test it since. Certainly it would be as competent for less than a quorum to take any question by the yeas and nays as to pass a bill.

The SPEAKER. The gentleman from Tennessee will recollect that the Chair stated, that whilst he was in the act of announcing the result upon the demand for the yeas and nays, tellers were called for.

Mr. JONES. Still there is no quorum present.

The SPEAKER. The Chair decides that the vote taken, or proposed to be taken, on the motion to adjourn over, had not shown conclusively that there was not a quorum present, for the reason that the Chair was propounding a question, made in time, that the vote should be taken with tellers, when the motion to adjourn over was withdrawn. Possibly, on that vote a quorum would have appeared, and the Chair, therefore, thinks that the conclusion is not irresistible that there was not a quorum present.

Mr. JONES. I object to doing any business until there is a quorum.

The SPEAKER. There is no vote shown on the Journal, the motion having been withdrawn.

Mr. STEPHENS, of Georgia. I move a call of the House, and upon that motion I demand the yeas and nays.

Mr. JONES. There was a motion made, that when this House adjourns, it adjourn to meet on Monday next; upon that motion I demanded the yeas and nays; upon that call, the Chair announced that there were twenty-six voting in the affirmative, and seventy odd in the negative. The Chair then decided that as there was no quorum voting, notwithstanding that one fifth the number present had voted in the affirmative, the yeas and nays were not ordered. Now, I suppose, in order to make a correct Journal, the Clerk must state that upon the call for the yeas and nays, no quorum voted, and the motion was then withdrawn.

The SPEAKER. The gentleman is correct in his statement, with the single addition, that when the Chair was in the act of announcing the vote, tellers were called for, and another vote was about to be taken, upon the effect of which, perhaps, the gentleman from Tennessee [Mr. JONES] and the Chair will never agree.

The Chair begs leave to state, that when no quorum was found voting upon the motion to adjourn over till Monday, in the opinion of the Chair the House could not order such an adjournment. It requires a quorum to do business; and it would also require a quorum to adjourn over till Monday. Less than a quorum can adjourn from day to day, and less than a quorum can compel the attendance of members. But upon a motion like that, to adjourn over, they could not make the order, and therefore less than one fifth of a quorum could not call the yeas and nays upon the

motion. Now, while the Chair was stating the fact that less than a quorum had voted, and that, in his opinion, the yeas and nays were not ordered, tellers were called for, and he was dividing the House upon that call, when the motion was withdrawn.

The Chair therefore thinks that it was not conclusively shown by anything in these divisions, that a majority of the House was not present. However, the gentleman from Georgia, [Mr. STEPHENS], now moves that there be a call of the House, which he has a right to do, and upon that motion, demands the yeas and nays. The question is now upon ordering the yeas and nays.

Mr. SACKETT demanded tellers to make the count; which were ordered; and Messrs. SACKETT and MASON were appointed.

The House was then counted, and the tellers reported—ayes 4, noes 113; the Speaker voting in the negative to make a quorum.

So the yeas and nays were not ordered.

The question was then taken upon the motion, that there be a call of the House, and it was not agreed to.

So the House refused to order a call.

The question then recurred on the passage of the bill.

Mr. COBB. Is the bill now regularly before the House?

The SPEAKER. It is.

Mr. COBB. I desire the attention of the House for a moment. In the first place, I would inquire whether the previous question has been called?

The SPEAKER. It was called by the gentleman from North Carolina, [Mr. CLINGMAN].

Mr. COBB. I do not see that gentleman present; and I am sorry that he is not, for I wanted him to withdraw it, in order to allow me to offer an amendment.

The previous question was then seconded.

Mr. STUART. I rise to a question of order. I had called for the reading of the bill, and the Clerk had commenced reading it, when he was interrupted by the gentleman from Tennessee, [Mr. JONES], who rose to a point of order. I ask that the bill be now read through.

The bill was again read through by the Clerk. It postpones the payment of the bonds given by said company for certain railroad iron imported into the United States.

Mr. SEYMOUR, of New York. Is a motion to lay the bill on the table now in order?

The SPEAKER. It is in order.

Mr. SEYMOUR. I make that motion.

Mr. SWEETSER. I was about to make the same motion. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. HENN. I would inquire if there is an amendment pending, making the bill a general one?

The SPEAKER. There is not.

Mr. COBB. I desired to propose such an amendment, but I could not get the opportunity.

The question was then taken, and the result was—yeas 70, nays 74; as follows:

YEAS—Messrs. Willis Allen, Allison, John Appleton, William Appleton, Bartlett, Buell, Bunby, Joseph Cable, Carter, Chandler, Clark, John G. Davis, Dawson, Eastman, Ficklin, Florence, Floyd, Thomas J. D. Fuller, Gilmore, Goodrich, Grow, Hamilton, Isham G. Harris, Hart, Hendricks, Henn, Hibbard, John W. Howe, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, Jenkins, John Johnson, George W. Jones, J. Glancy Jones, George G. King, Preston King, Letcher, Lockhart, Mace, Mann, Humphrey Marshall, Martin, Mason, McDonald, McLanahan, McNair, Morrison, Murray, Newton, Samuel W. Parker, Peaslee, Perkins, Riddle, Robbins, David L. Seymour, Origen S. Seymour, Smith, Benjamin Stanton, Abram P. Stevens, Stuart, Sweetser, Thurston, Townshend, Walbridge, Walsh, Washburn, Addison White, and Wildrick—70.

NAYS—Messrs. Abercrombie, Aiken, Ashe, Thomas H. Bayly, Barrere, Bell, Bowie, Bowne, Bragg, Briggs, Albert G. Brown, Geo. H. Brown, Thompson Campbell, Caskie, Chastain, Churchwell, Cleveland, Conger, Cottman, Daniel, George T. Davis, Doty, Duncan, Fitch, Fowler, Gaylord, Gorman, Grey, Harper, Sampson W. Harris, Haws, Hascall, Hebard, Holladay, Houston, Howard, Jackson, Andrew Johnson, Kuhns, Landry, McMullin, McQueen, Meacham, Miller, Millson, Miner, John Moore, Morehead, Murphy, Outlaw, Penn, Pennington, Porter, Powell, Sackett, Schermerhorn, Schoolcraft, Scudder, Snow, Stanley, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, St. Martin, Taylor, George W. Thompson, Tuck, Ward, Watkins, Welch, Alexander White, Wilcox, and Yates—74.

So the bill was not laid upon the table.

Mr. HIBBARD. I move that the House do now adjourn.

Mr. STANTON, of Tennessee. I appeal to the gentleman to withdraw that motion. I think

we might pass the bills which have been reported from the Committee of the Whole House, before we adjourn, or at least those to which there shall be no objection. I appeal to the gentleman to withdraw the motion for that purpose.

Mr. BRECKINRIDGE. Is it in order to move that when the House adjourns, it adjourn to meet on Monday next?

The SPEAKER. It is.

Mr. BRECKINRIDGE. I make that motion.

Mr. JOHN W. HOWE. I demand the yeas and nays upon that motion.

The yeas and nays were ordered; and being taken, the result was—yeas 77, nays 72.

So the House agreed to adjourn over till Monday.

The question then recurred upon the motion to adjourn.

#### PENNSYLVANIA CONTESTED ELECTION.

Mr. ASHE. I rise to a privileged question. I desire that the testimony in the Pennsylvania contested election case shall be printed. The testimony was not ordered to be printed with the report of the majority of the committee upon that case. Now, the House could not well pass judgment upon that case unless the testimony was printed. I therefore make the motion to print it.

The motion was agreed to.

Mr. ASHE. I will furthermore take this opportunity to give notice that on Thursday next, I will call up the case for the action of the House.

Mr. STANTON, of Tennessee. I now hope the House will, by unanimous consent, take up the bills which have been reported from the Committee of the Whole House with a favorable recommendation, have them read over, and, if there be no objection, let them be entered upon the Journal as passed.

Mr. HIBBARD. If that be the understanding, I will withdraw the motion to adjourn. But it is on the condition that no bills shall be acted upon to which objection shall be made.

Mr. STANTON. That is my proposition.

The SPEAKER. The proposition can only be entertained by unanimous consent.

Mr. CARTER. I object.

Mr. SEYMOUR, of New York. There were two or three bills reported from the Committee of the Whole the other day which have not been acted upon in the House. If they could be embraced in the proposition of the gentleman from Tennessee, I for one would not object to it, and I presume no one will.

Mr. STANTON. I embraced only those to which no objection should be made.

Mr. SEYMOUR. Then I object.

Mr. STANTON. I hope the gentleman will not object to taking up these bills to which nobody objects, and having them entered upon the Journal as passed. It will only occupy a short time.

Mr. STEPHENS, of Georgia. I object to this informal mode of doing business.

Mr. EWING. In connection with the proposition just made by the gentleman from North Carolina, [Mr. ASHE], to print the testimony in the Pennsylvania election case; along with the majority report, I desire to obtain leave to print the minority report along with the testimony. That report has not yet been presented, but I understand such a report is to be made.

The SPEAKER. That would be an irregular mode of doing business.

Mr. EWING. I know it would be irregular, but I suppose it can be done by general consent. [Cries of "Agreed!" "Agreed!"]

Mr. HIBBARD. I renew the motion to adjourn.

Mr. JOHNSON, of Arkansas. I ask the gentleman to withdraw that motion for a moment, to enable me to call up the resolution which I offered yesterday to provide for a recess, in order to make arrangements in the Hall for summer.

The SPEAKER. The gentleman from Arkansas [Mr. JOHNSON] asks the unanimous consent of the House to take up for consideration the proposition made yesterday in relation to the adjournment of the House from the first to the fourth of June, for the purpose of cleaning the Hall.

A Voice. I object.

The SPEAKER. Objection is made at the left of the Chair.

Mr. JOHNSON. I rise to a point of order. I do not know, nor do I care, who it is that objects; but I will say this, that I know the objection kills all movements in this matter. But the point of order I make is this: whether there is any authority or right under the rules of this House for anybody to be recognized at all, in making an objection, unless he rises in his seat, and shows his face? It is outrageous, that gentlemen who will not take the responsibility of doing an act, should thus object, without making themselves known. I demand whether they can be recognized by the Chair, or in any way be noticed, unless they rise in their seats, and let themselves be distinctly known.

Mr. J. W. HOWE. I insist upon the objection upon my feet.

Mr. JOHNSON. And I hope the Chair will enforce it upon all occasions, that, when gentlemen object hereafter, they shall get up and show their face in doing so.

Can I move to suspend the rules?

The SPEAKER. Such a motion is not in order except on Mondays.

Mr. FOWLER. I move that the House adjourn.

Mr. STUART. I wish to raise a question for the consideration of the Chair. I hope the gentleman will withdraw his motion.

Mr. FOWLER. I withdraw it.

Mr. STUART. I wish to make an inquiry of the Chair, in connection with this proposition for adjournment. The Chair will recollect that when the House adjourned on yesterday, we had this resolution in regard to the cleansing the House under consideration, introduced by the unanimous consent, and I inquire of the Chair whether it is not the business in order?

The SPEAKER. The Chair decides that it is not in order, and will, in support of his decision, read the twenty-ninth rule of the House:

"Friday and Saturday, in every week, shall be set apart for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the House."

Now, if the House were to dispose of all this private business, and also the question in regard to the spoliation bill, that resolution would be in order.

Mr. STUART. Is it not in order, then, under that rule, to move to take up that resolution for consideration?

The SPEAKER. The Chair thinks it is not in order.

Mr. STUART. Does not the last clause of that rule say, "unless otherwise determined by a majority of this House?"

Mr. POLK. I appeal from the decision of the Chair, for the purpose of getting at this business.

The SPEAKER. "Unless otherwise determined by a majority of the House," that is to say, unless a majority of the House determine to go into committee on other business, and it does not apply to this case. The Chair is very clear about it, and thinks it is not applicable to this case.

Mr. STUART. I am under obligation to the gentleman from Massachusetts [Mr. Fowler] to renew the motion to adjourn, and I do so.

The question was taken on the motion, and it was agreed to;

And the House adjourned to meet on Monday next.

#### IN SENATE.

Monday, May 10, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. BELL presented the petition of citizens of Baton Rouge, Louisiana, praying the establishment of a daily line of mail-steamer between Louisville and New Orleans; which was referred to the Committee on the Post Office and Post Roads.

Mr. JAMES presented a memorial of inhabitants of the coasts of New Jersey and Long Island, praying an appropriation for the protection, preservation, and superintendence of the life-boats and apparatus, placed by the Government on the coast, for the preservation of life and property from shipwreck; which was referred to the Committee on Commerce.

Mr. JAMES also presented the documents in favor of an appropriation of \$1,000 to test the

apparatus of Wilson & Meacham, for illuminating light-houses; which were referred to the Committee on Commerce.

Mr. FELCH presented the petition of Anthony Ten Eyck, late United States Commissioner to the Sandwich Islands, praying additional compensation; which was referred to the Committee on Foreign Relations.

Mr. HUNTER presented the memorial of M. F. Maury, of the Navy, praying the establishment of a line of mail steam-ships from Norfolk or Charleston, to Para, at the mouth of the Amazon, to connect with a line running thence to Rio de Janeiro; which was referred to the Committee on the Post Office and Post Roads.

A motion by Mr. HUNTER to print the above petition, was referred to the Committee on Printing.

Mr. SEWARD presented the petition of the heirs-at-law of Derrick Schuyler, an ensign in the Army of the Revolution, praying to be allowed depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Also, the petition of the heirs-at-law of Nicholas Schuyler, a surgeon in the Army of the Revolution, praying to be allowed depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Mr. MALLORY presented the petition of the heirs of John S. Budd, praying to be allowed the five years' full pay to which said Budd was entitled for his services in the war of the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. UNDERWOOD presented the petition of Samuel Winston, administrator of Thomas Martin, deceased, praying to be allowed the difference between the pay of a lieutenant and that of a captain in the Virginia Continental line of the army, during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. BUTLER. I ask leave to present the petition of the heirs of William Hazzard Wigg, of South Carolina, asking compensation for the services of his grandfather, a major in the revolutionary army. I do not know that this would be the proper occasion to say anything on the subject of the petition, further than to commend it to the attention of the Committee on Revolutionary Claims. The petitioner is the grandson of one of the most uncompromising of the patriots of the Revolution. His grandfather was one of those who were on board of a prison-ship when they received the information that they were held as hostages and would be executed in retaliation for any executions which should take place by General Greene's army; and he was one of those who signed a paper asking General Greene to go on and do his duty, irrespective of those consequences. I hope the petition will claim the early attention of the Committee on Revolutionary Claims, to which I ask that it may be referred.

It was so referred.

Mr. DODGE, of Iowa, presented the petition of John H. C. Meyer, praying that a sum of money paid by him for land and not subject to entry, may be refunded with interest; which was referred to the Committee on Public Lands.

Mr. CASS presented the petition of Henry Allen, a pensioner of the United States, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. BRADBURY presented a petition of citizens of Wisconsin, praying the reorganization of the circuit and district courts of the United States, and remonstrating against the memorial of the Legislature of Wisconsin, asking for a restriction of the jurisdiction of these courts; which was referred to the Committee on the Judiciary.

Mr. CLEMENS presented a petition of citizens of Georgetown, in the District of Columbia, praying the construction of a bridge across the Potomac river, at some point west of the Alexandria Aqueduct; which was referred to the Committee on the District of Columbia.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. DODGE, of Iowa, it was Ordered, That the petition and papers of Adam D. Stuart, late a paymaster in the Army, on the files of the Senate, be referred to the Committee on Claims.

#### REPORT FROM A STANDING COMMITTEE.

Mr. HAMLIN, from the Committee on Commerce, to which were referred the several memo-

rials praying to be allowed fishing bounty on wrecked vessels, submitted a report, accompanied by a bill for the relief of the owners of the schooners Ursula, Forester, Grampus, and Stephen C. Phillips; which was read and passed to the second reading. The report was ordered to be printed.

#### SEAMEN'S HOSPITAL MONEY.

Mr. SUMNER submitted the following resolution; which was agreed to:

Resolved, That the Committee on Commerce be directed to consider the expediency of abolishing, by law, the exaction of twenty cents from the monthly wages of seamen in the merchant service of the United States, and of boatmen on the western waters, constituting what is called "Hospital money," so that when sick or disabled they may enjoy their present privileges at the marine hospitals, without the present tax.

#### LIEUTENANT DERBY'S REPORT.

Mr. WELLER submitted the following resolution; which was agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate a copy of the reconnaissance of the Gulf of California and the Colorado river, made in 1850 and 1851, by Lieutenant Derby, of the corps of Topographical Engineers, together with a copy of the report made by said officer to the Department, in relation to the Tulare Lake and its vicinity.

#### JUDICIAL SALARY.

Mr. FISH submitted the following resolution; which was agreed to:

Resolved, That the Committee on the Judiciary be directed to inquire into the propriety of increasing the salary of the judge of the United States for the northern district of New York.

#### OUTRAGES ON SPANISH SUBJECTS.

Mr. MALLORY submitted the following resolution; which was agreed to:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the propriety of authorizing the President of the United States to have investigation made, whether any Spanish subjects, not citizens of the United States, have sustained damage, by loss of property or otherwise, in consequence of public outbreak or violence in the State of Louisiana, growing out of the late Cuban expedition; and into the propriety of authorizing the President to make indemnity to the Spanish Government for such Spanish subjects for said damage.

Mr. MALLORY. I deem it proper to say a word in explanation of the resolution.

The PRESIDENT. It has been adopted.

Mr. MALLORY. Precisely so; but I wish to direct the attention of the Senate more particularly to it. If, however, it is not in order I will not go on.

The PRESIDENT. The Senator can proceed by unanimous consent.

Mr. MALLORY. The resolution is in terms precisely such a one as I had the honor to introduce a short time ago in reference to certain outbreaks, or alleged outbreaks, in Florida. If the members of the body were not sufficiently informed of the origin, character, and results of certain occurrences which took place in New Orleans and in Florida immediately after the late Cuban expedition, I would refer them to a demand which Spain has recently made upon this country for indemnity in favor of certain of her citizens—a demand which I think appeals strongly to the attention of the body. Without expressing any opinion as to the propriety of the demand, or the character of the outbreaks—as I do not desire to entertain the attention of the Senate long—I will assume that a treaty of amity and commerce has existed between Spain and the United States from 1795 to the present moment; that under the thirteenth article of that treaty, the citizens and subjects of Spain, and the citizens of the United States, are secured and guaranteed in the right to move into the Territories of either Power, for the purpose of carrying on trade or commerce, or otherwise. I will assume that citizens of the United States have removed into Spain for this purpose, and that Spanish subjects have removed and are still residing in parts of the United States for similar purposes. I will assume, further, that a body of Spanish subjects residing within the territorial jurisdiction of the United States, without any design of throwing off their allegiance to their crown—without any design of becoming American citizens, were assailed, their property destroyed, and their lives endangered, and that they were compelled, by flight, to consult that safety which the laws of this country were unable to throw around them. I will assume, further, that their property was thus destroyed, and their lives thus endangered—not because they had violated any law of this country; not because they had



infringed upon any public or private right, but because they were Spanish subjects: and that, with this treaty guarantee in their hands, and under the broad shadow of our flag, they were thus assailed because they were subjects of Spain.

Now, assuming these positions to be correct, without expressing an opinion of their truth or character, I will ask, what is the mode and what is the measure of redress of parties thus injured? We are all familiar with the maxim, that there is no wrong without a remedy: and if a class of American citizens had thus been dealt with by Spain, or her colonies, I presume there is not an American who would not immediately respond, that a stern demand upon the Spanish Government, supported by all our force, and a strict indemnity for the losses sustained, could be the only mode, the only measure of redress. I concede, as it has been held, that the municipal authorities of the place at which the property was destroyed, are primarily liable, and may be justly held accountable for the damages sustained; but it is evident, that while this liability offers the shadow of a remedy, it affords no substantial redress whatever; it but holds "a promise to the ear, to break it to the hope;" it is making the mode and measure of redress dependent upon the party legally bound to make it. It is, therefore, as wrong in principle as it is in policy, to turn parties, who have thus been injured, over to the local or municipal authorities of the place where the wrong was committed. I think, sir, of course, that governments are no less bound by the rules of strict morality in this case than individuals; and that our Government, depending, as it does, upon the will of the people, and representing in the aggregate the virtue of the people, has always manifested in its foreign relations, and is bound to manifest, frankness and exact justice; and, in this case, if the assumptions I have made be correct, exact justice is no less dictated by a sound morality than by expediency, policy, and a far-seeing political forecast. Why, sir, foreign nations do not understand the workings of our political system. They do not understand that, politically and socially, our States are

"As distinct as the waves;"

whilst, in our foreign policy, we are

"One, as the sea."

We have dealt with Spain as with the rest of mankind—as a unit; and if it be conceded that the subjects of Spain, whose property was destroyed, are entitled to indemnity, it will be difficult to make her understand why this indemnity should be sought from a single municipality or State, of whose very existence she may in some cases be ignorant. It was not thus that we treated with a sister Republic. We did not condescend to deal with departments or States. Our merchants were deprived of their property, and in many instances of their liberty by departments or States; and yet we did not hold them responsible. We dealt with Mexico as a unit. We made our demands upon her; and surely we are bound to concede to Spain all that we asked from Mexico.

The PRESIDENT. The Chair is unwilling to interrupt the Senator, but the resolution has been referred.

Mr. MALLORY. Well, sir, I will not detain the Senate by continuing these remarks. I have deemed it proper to say thus much, because the resolution which I introduced a few months ago, very similar to this, I have not heard of since. But I suppose attention has not been called to it.

#### SCHOOL LANDS IN MISSISSIPPI.

On motion by Mr. ADAMS, the Senate proceeded to consider, as in Committee of the Whole, "An act to authorize the Legislature of the State of Mississippi to sell the lands heretofore appropriated for the use of schools in that State, and approve the sales already made;" and no amendment being offered, it was read a third time and passed.

#### BILLS PASSED.

The engrossed bill granting the right of way to the Florida, Atlantic, and Gulf Central Railroad Company through the public lands of the United States, and appropriating lands to the State of Florida in aid of the construction of said railroad and branches, was read a third time, and its title being amended to read as follows, it was passed: "An act granting the right of way and a portion

of the public lands to the State of Florida for the construction of a railroad and branches in said State."

The engrossed bill granting the right of way and making a donation of land to the State of Alabama in aid of the construction of the Mobile and Girard Railroad was read a third time and passed.

#### RAILROAD IN FLORIDA AND ALABAMA.

Mr. MORTON. If I had been in my seat on Friday last, when certain railroad bills were acted upon, I should have asked the Senate to consider the bill granting the right of way and making a grant of land to the States of Florida and Alabama, in aid of the construction of a railroad from the waters of Pensacola bay, in Florida, to Montgomery, in the State of Alabama, and for other purposes. It is a bill which was among the first that were introduced to the Senate, and has lingered to almost the last. I now move to postpone all prior orders, for the purpose of taking up that bill.

The motion was agreed to; and the several amendments which were reported by the committee, making the bill conform to the model bill, and which were in all respects similar to those which had been made to bills of a like character, were adopted.

Mr. MORTON. I wish to add, by way of amendment, an additional section:

Sec. 8. *And be it further enacted*, That all the advantages, benefits, and privileges that are hereby granted to the States of Florida and Alabama, and which are granted by this act, shall be extended to the said States for the construction of a railroad from the waters of the Pensacola bay to the waters of Mobile bay, or Tensaw river, in the State of Alabama; and of a railroad or branch railroad to the Chattahoochee and Flint rivers, in the State of Georgia.

Mr. BORLAND. I would inquire of the Senator from Florida, if he intends to embrace in this bill, by that amendment, the provisions of another bill which has been reported from the Committee on Public Lands?

Mr. MORTON. I do.

Mr. BORLAND. Then I think it is a proper amendment, and will save the passage of another bill.

The amendment was agreed to.

The bill was then reported to the Senate as amended, and the several amendments concurred in; and the bill was ordered to be engrossed for a third reading.

#### RAILROAD FROM LOUISVILLE TO ST. LOUIS.

Mr. UNDERWOOD. I move to suspend the previous orders, with the view of taking up another railroad bill. It is "A bill granting lands and the right of way to the States of Indiana and Illinois, in aid of the construction of a railroad from a point on the Ohio river, opposite to Louisville, Kentucky, to a point opposite to St. Louis, in Missouri."

I hope this bill will be taken up. We can dispose of it in ten minutes, or perhaps in five minutes.

Mr. HUNTER. I wish to inquire of the Senator from Kentucky, whether this bill is likely to lead to any debate, or whether it is one of the same character as the bill we have just passed?

Mr. UNDERWOOD. It is of the same character precisely.

The motion to take up the bill was agreed to.

The bill was considered by the Senate as in Committee of the Whole, and several amendments having been made to it, so as to make it conform to the Iowa railroad bill, it was reported to the Senate, the several amendments were concurred in, and the bill was ordered to be engrossed for a third reading.

#### PROSECUTION OF CLAIMS BY GOVERNMENT OFFICERS.

The bill to amend and extend the provisions of an act approved July 29, 1846, entitled "An act in relation to the payment of claims," came up on its third reading.

Mr. UNDERWOOD. I have performed my promise in preparing an amendment to that bill, but I am afraid the consideration of it will take up more time than the Senate will now be willing to bestow upon it. I can, however, very briefly state the object I have in view.

Mr. HUNTER. I hope that bill will be allowed to lie over till to-morrow.

The PRESIDENT. It will not be in order for

the Senator to offer any amendment at this stage of the bill. It is now on its third reading.

Mr. UNDERWOOD. I intended to state the object of the amendment which I propose to make to the bill, and then to move to recommit it. As, however, it might lead to debate, and, perhaps, consume more time than the Senate will be willing to devote to it to-day, it will be agreeable to me that it should be passed over informally until to-morrow.

Mr. HUNTER. Let it be passed over.

Mr. BADGER. I have no objection that it should be passed over to-day, provided it is understood that it will come up to-morrow, during the morning hour. My friend from Kentucky [Mr. UNDERWOOD] can call it up early to-morrow.

Mr. UNDERWOOD. I am perfectly willing to do so, immediately after the Journal is read. The bill was accordingly laid over.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," the question pending being upon the amendment of the Committee on Finance, as it had been amended. As amended, it is as follows:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last, to the Secretary of the Navy, commencing said increased service on the 1st of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500: *Provided*, That it shall be in the power of Congress, at any time after the first day of January, 1854, to terminate the arrangement for the additional allowance herein provided for.

Mr. WADE. I do not rise with the intention of making a speech, or rather of inflicting a speech on the Senate respecting this amendment. I have now been in this body for more than five months, and I am very forcibly impressed with the idea that although we have had speeches and arguments here of the most splendid and showy description, they are among the most useless and worthless things for which this Government pays. I have, generally, contented myself with giving a silent vote on any question proposed, believing that, at all events, other gentlemen understood the several questions as well as I do, perhaps better; and, as I was not in a position to enlighten them, I thought it best to content myself with a simple vote. But, on this occasion, I thought that it possibly was my duty to assign the reasons briefly, why I should vote against the amendment under consideration.

It has now been under consideration for nearly four weeks, and I doubt very much whether the members of the Senate understand it much better than when it was first introduced. [Laughter.] I am induced to come to this conclusion by the fact that most of the gentlemen, who have assigned the reasons why they should support, or why they should oppose the measure, have not generally agreed. And, although I have listened with great attention to the arguments adduced in support, and also to those in opposition to the amendment, I confess I know very little more respecting its merits than I did when it was first proposed. Some gentlemen appear to think that there is involved in it something of that great principle of protection to American industry, which they advocate. Others think it is not incompatible with the great doctrines of free trade, which they generally support; and, therefore, that they may, without any impeachment of their principles, vote in its favor. Others suppose that these steam-ships may be beneficial to the Government, as an arm of the Navy in time of war. Others have supposed that they were, in that view, perfectly useless, and could not answer any beneficial end. And some gentlemen have thought that there is in this measure the hand of "manifest destiny," and appeared to fear that even destiny itself would be frustrated, unless supported by their votes. Others have thought that the broad Atlantic ocean separated many affectionate hearts, which yearn to commune with each other; and they saw no other practicable mode of removing the difficulty than by supporting these huge leviathans of the ocean. I believe all have seen in this measure a means of attaining some desirable object, while, in reality, it is only calculated

to gratify national vanity, by beating John Bull in a boat-race across the Atlantic. There is not much else in it after all.

Now, I should be very well pleased to beat John Bull in a boat-race, or in any other race, if it could be effected without this hot-house process of forcing; if it could be done by the natural growth of the skill, and the ingenuity, and the enterprise of our people. If we could beat him in that way it would undoubtedly gratify my national pride. The trial is not now to be made for the first time; it has been tried before, and we know that, giving us an equal chance, we can and will beat John Bull anywhere. It is not necessary we should be at the expense proposed by this amendment to settle that point; and I conceive that this experiment is too expensive to recommend itself to our favor.

But, then, what is really the measure, and what is the objection to it? It cannot be disguised that it is an open, palpable monopoly, granted to a private company, in order to enable it to compete with others who navigate the Atlantic ocean. I have heard nothing in the arguments of any Senator upon this floor which has removed the difficulty. If I understand it, you propose to give this company something like \$7,000,000 in the course of eight years to come, to enable them to carry your mails across the Atlantic ocean. Well, what is that? What is the great principle of free-trade, except it is that you shall purchase in the market where you can buy the cheapest? I believe that is a leading doctrine of that creed. Will not your mails be carried unless you grant this large amount of money for the purpose of enabling your steamers to compete with those of Great Britain? If I understand it, it is conceded that they will; but then the consequence will be that the mails will be carried in British steamers. Very well, provided they can do it cheaper than we can, and if they will perform it as well, on the principles of free trade, I do not see that we should complain of that. It cannot be disguised but that it stands on the same principles as protection stands upon in all other cases. How can you distinguish it from protection to your great iron interests or to your manufactures generally? It stands, and is really argued here, upon the same principle. What is the reason that we are asked to give some \$7,000,000 in the course of the ensuing eight years to sustain this line? Why, we are told that unless we do, Great Britain will do the service with her steam-ships. And why will she do it unless we grant this aid? Reasons are assigned. It is said that labor is cheaper in Great Britain, that coal is cheaper, that engineers can be hired at a cheaper rate there than in this country, and that insurances can be obtained at about half the price which must be paid here. That is the course of argument by which this amendment is attempted to be sustained; and I am astonished to see those who are the strenuous advocates of all other kinds of free trade avowing their intention to vote for this amendment, for it seems to me to be a direct impeachment of that doctrine.

I say not these things because I am not myself an advocate of the principle of protection generally, for I am an advocate of that principle; and my national pride is not gratified at all by attempting to force up this line of steam-ships like a hot-house plant; for I know that if the vast powers of this nation are brought to bear upon this especial interest, we may beat out Great Britain or any other country. But, regarding this project in the light in which it appears to me, that of a mere monopoly, which comes into direct antagonism with the navigating interest generally, I think this amendment ought not to pass, for we cannot disguise the fact, that it is a monopoly. It seems to me to be the rankest injustice to confer this boon upon these proprietors of steam-ships in conflict with all the other navigating interests of the country. It is said, perhaps, that this appropriation is merely for the carriage of your mails across the Atlantic. But, sir, these huge steamers can carry many other things across the ocean besides your mails. I have no knowledge of such matters myself, but it must be very clear that such immense vessels cannot be required for that purpose. I should like that some gentleman understanding it should tell me how much of these monstrous steamers are to be occupied with the mails. I do not know how it is with regard to the fact, but it seems to me that the mails cannot very much in-

cumber them. I suppose that in addition to the carrying of the mails, they will be freighted with the costliest merchandise to an immense extent, thus coming in direct conflict with other navigating interests; and so far as that is likely to be the case, I hold it to be rank injustice to them; and no argument which I have yet heard in favor of this appropriation has been strong enough to remove this objection in my mind.

Mr. President, if you desire to compete successfully with Great Britain, I think I see a way in which it can be done—a way which will not minister to national vanity in this manner, but which will minister to the laudable pride of any man who truly loves his country. If you will protect the industry, and talent, and ingenuity of our people generally, instead of according your protection to some special interest, as in this case, making an atrocious monopoly, you may in a few years bring us as far in advance of Great Britain as our magnificent rivers, and our country generally, are superior to hers. Give our people an equal chance with the people of Great Britain, and there is no doubt that your national pride will be gratified—not your paltry national vanity in regard to a boat-race, but in regard to those permanent advantages which will administer to the just pride of any lover of his country. In that I will go with you to the fullest extent; but when you ask us to grant this enormous boon, for the purpose of bolstering up the interests of this particular company to the injury of other interests, it seems to me to be rank injustice, and for one, I cannot lend my support to it.

There is another reason why I cannot, as a Western man, vote for this measure, and that was the principal reason that induced me to make any observations upon the subject. It is because, as a Western man, I have looked at the neglect, and I think I may say the injustice of this Government, in fostering any great Western interest, while you propose to grant this enormous appropriation for the mere purpose of carrying your mails across the Atlantic. About twenty years ago—I recollect it very well—this Government, in a fraternal spirit, undertook to cherish the great interests of the West. They commenced a system of internal improvement, of improvement to our rivers, and of improvement to our harbors; and the Government was at an enormous expense in procuring machinery to carry all these great and beneficent purposes into execution; and they progressed to some considerable extent in it. They built harbors along the coast, but did not complete them. They had only just commenced the great measures they had prepared to perform; and some sixteen or seventeen years ago, with all this expensive machinery for carrying out these measures, it came into the head of the Government, somehow or other, that there was fresh water only in the lakes.

All at once, this expensive machinery was packed up together, and Uncle Sam—if I may so express myself—like an absconding debtor, sold out the whole of it at a mere nominal price, and abandoned that part of the country; and he has not been seen there since. We have advertised for him; we have petitioned for him; and endeavored in every way to ascertain where Uncle Sam had gone; but we have not seen him there since, and I suppose it was with the view of ascertaining his residence, that certain interesting questions, as was reported, were addressed to the distinguished Senator from Michigan, [Mr. CASS.] in 1848, amidst "noise and confusion."

Mr. CASS. Will the Senator permit me to interrupt him? This is an old friend of ours, and I believe I have a prescriptive right to get up when those words are uttered. I wish to ask the honorable Senator if he ever saw Governor Wood's letter on that subject?

Mr. WADE. Yes, sir, I have seen it.

Mr. CASS. Then I would ask if the Senator ever read the letter?

Mr. WADE. Yes, sir, I have read it.

Mr. CASS. Then the gentleman knows there is no truth in the story.

Mr. WADE. I understood that the Senator contradicted the statement, and, of course, I said that there was no truth in it.

I suppose that the queries on that occasion, grew out of the anxiety of our people to learn the whereabouts of Uncle Sam, and they thought the distinguished Senator from Michigan might know

as well as any one else. But these questions are no less pertinent now than they were then, and there is no particular "noise or confusion" in this Senate chamber—

Mr. CASS. Not a bit.

Mr. WADE. And the Senator proposes now to give seven millions of dollars within the next eight years, for the purpose of building up and fostering this line of steam-ships?

Mr. CASS. No, sir, I do not.

Mr. WADE. It will amount to but very little less than that.

Mr. RUSK. If the Senator will allow me to ask him a question, I should like to know if he has read the contract, and whether he knows that all the revenue from postages goes to the Government?

Mr. WADE. Yes, sir, I understand all that.

Mr. RUSK. Then, how can the Senator say that the whole is given to the company?

Mr. WADE. I do not know how much will ever get back to the Government again; gentlemen do not know themselves, and they do not pretend to tell us. The honorable Senator from Texas [Mr. RUSK] informed us that he had reason to believe that this project would ultimately remunerate the Government for the outlay, though he said it was matter of opinion.

Mr. RUSK. I showed the reasons; I showed the receipts at the Post Office Department.

Mr. WADE. Yes, sir, you showed the receipts of the Post Office Department, but you are obliged to make the supposition that there will be required an enormous increase, in order to cover the expense which is to be incurred. It is a mere matter of opinion, and the very fact that these gentlemen are asking for this bounty after they have made the trial, is ample proof that they cannot sustain themselves now, and whether they ever will or not, must remain a matter of opinion.

Then, the Senator from Michigan does propose to give his support to a measure which is to take from the Treasury of the United States, within the next eight years, not much less than \$7,000,000, and all for the purpose of enabling this steam company to compete with Great Britain in the carrying of the mails across the Atlantic. That is all there is of it; and now the question that I am about to propose to the distinguished Senator, seeing there is no "noise and confusion" here now, is, whether he will go along with me—whether he believes it is constitutional, just, and reasonable that the same amount shall be appropriated within the same time towards the construction and improvement of our harbors, and the improvement of our rivers in the West and Southwest?

Mr. CASS. Does the honorable Senator from Ohio wish me to answer him now?

Mr. WADE. Yes, sir; and I want to know whether I can count upon the aid of the Senator from Michigan, at this session, for such an object.

Mr. CASS. The Senator talks about that as he does about my old friend, the "noise and confusion." Let me say on that point, that my views were fully disclosed at the last session of Congress. I shall vote for any reasonable appropriation for internal improvements, the items of which have been examined and reported by the War Department. I shall vote for any such bill, which does not extend the appropriation to an unreasonable amount; but I am not in favor of establishing a great system of internal improvements, either for harbors or rivers. When such a bill as I have indicated comes up, I shall vote for it.

Mr. WADE. I am very happy to hear it. I had no doubt the Senator from Michigan would do so. I am glad to hear his response—glad that his "position," in this respect, "is defined." I rejoice that I may count on his support of these great measures of internal improvement. I am somewhat surprised, sir, that after six months of the session have expired, not a single word has been heard of any such measures, and yet our harbors on Lake Erie are running down and going to ruin; and for sixteen or seventeen years we have not been able to obtain one single cent from the Treasury to maintain them.

But, sir, it is said that this is a great war measure, and that we ought to maintain it as an arm of the national defenses in times of war with England. Sir, it is of infinitely more importance to us that we build up and maintain our harbors on Lake Erie and the other lakes, which divide us

from the shore of the British provinces. What should we do in case of a war now, when our sailors on the lakes have to combat the elements as well as an enemy, and have no harbor—no place of safety to fly to in case of storms? What should we do in such a case, seeing that the General Government has virtually withdrawn its consideration from all such improvements and defenses? Talk of war with Great Britain! and let me ask whether it is not a matter of infinitely more importance that you should build up some place to which your ships could resort on these lakes where your commerce is scarcely inferior to what it is on the Atlantic coast itself? Is not that of as much importance as to try this miserable experiment of fostering these steamers for war purposes? Sir, no two men are agreed as to whether these steamers will be of any kind of advantage in time of war. I know that you can get a delegation from our Navy Board to report anything you please. It is precisely like getting the opinion of an attorney in a case. None of them have the least experience in regard to such matters.

I know nothing of war, or of naval operations, nor do I profess to know anything about them; but any man of the least common sense, at the very first glance at these steamers, would perceive that they were not designed for the purposes of war. Nor are they compatible with it at all. Why one cannon ball, raking the paddle-wheels—which form a most palpable mark—of one of those steamers, would cripple her as effectually as a man could cripple a goose on the wing. Talk about their utility as vessels of war! I know they would not be of the slightest use.

Again, if you look at the furniture of these boats, do they look as if they were calculated for the rude conflicts of war? They are fitted up with expensive mirrors, which would grace the palace of a prince, and all the other furniture is on a similar scale. Yet they speak of these vessels as being fit for war! I have heard of an elephant in a china shop, but I think his ravages among the brittle ware would be fully equaled by the raking of a cannon shot through this furniture. I wish I knew the expense of furnishing these boats. No one has told us anything about that as yet, but a bare inspection of them will show that they are better calculated for eastern seraglios than for ships of war. [Laughter.] No, they were not built or designed for that purpose; there is no disguising it, they were not intended for the rude conflicts of war. They are much better calculated to foster and minister to the luxury of those wealthy citizens who desire to cross the Atlantic at a cheap rate; and that, too, at the expense of the hard-handed laboring man. That is the design; and every cent that is paid out of the Treasury for these ships is drawn from the pocket of the poor laboring man, to minister to the luxury of persons who choose to cross the Atlantic. Talk about war! There will be no war with England—none at all. I know that the distinguished Senator from Michigan [Mr. Cass] always talks about a war with England; but there will be no war with England as long as you permit her to reap all the benefits of free trade. There will be no war with England as long as she can give dinners to your Walkers, and other free-traders. As long as she can retain her influence over that class of men England will not go to war.

A SENATOR. You are right.

Mr. WADE. I know I am right. You cannot kick Great Britain into a war while you permit her to enjoy all the benefits of free trade with this country.

We all know how we can humble the pride of Great Britain, and that is by giving protection to labor generally, and not by undertaking to run a boat-race with her. That will do no good. You will not humble the pride of Great Britain if you do run such a race, and even beat her. Sir, from the shores of Canada they can see your utter nakedness; and while you are putting forth all your power to beat that country in a boat-race across the Atlantic, and while its people see the manner in which you neglect other interests, John Bull is shrewd enough to see your folly and to laugh at it. He likes very well to cater to your vanity at such a price. But, sir, go along with me, and we will do John Bull substantial injury, and build up our own interests, and our own country, to such an extent that no man will want the vanity of

beating John Bull in a race across the Atlantic; but you will beat him everywhere, and put your country as far and as permanently above his as your means are superior to his.

I know, sir, that a very patriotic appeal was made to the Senate by the Senator from Michigan. He talked of war; he talked of ministering to our national pride, and called it patriotism to undertake to beat John Bull by fostering and building up this one special interest at the expense of the whole country. I have no pride nor vanity of that kind. I have as much national pride, and as much anxiety to see this country in advance of every other country in the world, as any other man; but I cannot be deceived by any of these hot-house operations—not at all. I want to see the country placed in a condition in which it will grow up prosperously, and supersede others without partial favors being bestowed by the Government on particular and special interests. Besides, as I have already remarked more than once, I think it would be doing injustice to other navigating interests on the Atlantic. These enormous steamers running every week, must come in ruinous competition with other shipping interests not fostered by the Government. Anybody can see that.

I believe, Mr. President, that we have had some remonstrances here on that subject, yet I have not heard a single word said about them. Sir, if I am not mistaken, we have had a great many of these remonstrances presented here from various branches of the shipping interest, showing that those who were not protected by the Government, are materially injured by the protection which is given to this favored company; that they were injured by these boats running once a week in opposition to them, and coming in conflict with their interests. This is a proposition too plain to be argued; anybody can see that this protection would be rank injustice to the other shipping interests. Sir, I wish to see a disposition on the part of this Government to build up and foster the great West, to which I belong. You have withdrawn from the West all aid for more than sixteen years. The voice of the Government has not been heard there; and I cannot consent to grant this enormous sum to the Atlantic coast until I see at least a disposition to do something for us. Then, sir, I am disposed to be liberal; for no man will rejoice in the prosperity of the whole of this country, and in that of every part of it, more than I. I want to see justice done in all its parts; and I must say, that in the West, the justice due to that section of the country has been shamefully neglected. I do not hesitate to say that, and I call upon members of this Senate who live along the Mississippi river and its tributaries, and along the shores of the great lakes of the West, to join with me, and put a face of brass against any further expenditure along the Atlantic coast until a disposition is shown to do justice to us. When that disposition is shown, we will talk with you, and we will be liberal with you; but until that is done, I will not consent to give you another dollar to foster and build up your navigation interests. Your shipping interests, if I am not greatly mistaken, is now protected, and ever has been, under this Government, while all other interests have been comparatively neglected.

Then I cannot consent to go any further until a disposition is shown here, earnestly, sincerely, to do justice to us in the West. Everybody knows, sir, that immense losses in property occur every year upon the lakes for the want of harbors to which our sailors can resort in time of rough weather and storms. We all know the serious obstructions along the Ohio river, and particularly that which has existed for years, for the want of a little help from the Government, at the falls of the Ohio river. These things come more immediately under my own observation; but I have no doubt the same obstruction meets the eye of every Senator here, in his own locality, upon the streams in which he has an interest. They all want the fostering and protecting arm of the Government, and that they have not had for twenty years past. Our people call for it in vain, and almost six months of this session have passed by, and I have not heard a word about it; though they are calling for enormous sums along the Atlantic coast and along the Pacific coast for all sorts of projects. There are your dry-docks, and your marine railways, and you have expeditions to Japan, and you can go over the whole land and ransack heaven

and earth for the purpose of finding an interest to be fostered, but you do not yet know that you have a West.

Mr. CLARKE. You happen to know it.

Mr. WADE. Yes, sir, thank God, I do happen to know it; and if I can, I shall try to make it understood. I wish to see that great interest brought up. I do not intend to be illiberal; I will minister, so far as my voice and my vote can contribute to it, to the building up of every great national interest in every part and parcel of this Union, I care not where it may be located. But I know the West and Southwest have been shamefully neglected; and when you talk to me about engaging in the doubtful project of rearing up a great monopoly on the Atlantic coast, and bring it in conflict with others, until you have at least shown a disposition to do justice by the West, you cannot have my support. I will not say that under any circumstances I would support a measure like this; because I do not think it is just. I do not believe in fostering one company of men and giving them such an enormous sum of money for the purpose of enabling them to compete with Great Britain or anybody else. If Great Britain can carry our mails so much cheaper, on the principles of free trade, I would say, let them do it. You say you can buy your iron cheaper in England than you can here. Then why should I protect you? If the mails can be carried cheaper than at present, why not, on the same principle, allow Great Britain to do it? The fact is, that the free-trade principle is either correct or incorrect. There is no principle applicable to the trade in iron, coal, or to manufactures generally, which is not equally applicable for the purpose of carrying the mails. No Jesuit can draw the line of demarcation on this point, and no Senator has attempted to do it.

These steamers are spoken of as likely to prove an important branch of the naval service, although the Senator from Virginia [Mr. HUNTER] has shown as plainly as argument can show, and as plainly as the experience of naval men can show, that they would not be worth a straw in time of war; and that comports with what the common sense of every man, even though he were not a naval man, would render apparent. But that was not the object. If the object was merely to carry the mails, then they can be carried at a much less expense than the amendment proposes. Further, if the object was to carry the mails, there was no necessity for this costly furniture, this thousand dollar mirror, and those other articles of luxury which have cost such enormous sums. If your object was anything more than this, then these articles are equally useless, and show that there is no intention to use these vessels as war steamers; but that the idea is to foster and build up this line with special privileges to conflict with every other interest in the country. I, for one, will never consent to it.

Mr. BAYARD said: Mr. President, had this debate closed during the last week, I should not have been disposed to trouble the Senate with any remarks on the merits of the appropriation recommended by the committee for the support of the line of steamers between New York and Liverpool, called the Collins line. As it is, however, I shall endeavor to occupy the attention of the Senate but a brief period while presenting my views with reference to the question.

From the very high estimate I have formed of the statesmanlike qualities of the honorable and distinguished Senator from Virginia, [Mr. HUNTER], arising from a close observation of his political course since I have been a member of this body, and anterior to it, and from the profound respect I have for his judgment, I differ from him with both hesitation and regret; and I accede, also, to the truth of most, if not all, of the general rules of policy stated in the very able address which he made to the Senate. I admit, too, that, as a general rule, the less a government interferes in matters of individual enterprise and individual competition, the wiser the policy. But it is not alone in the assertion and vindication of general principles that the sagacity of the statesman is tried; it is taxed to a far greater extent in the application of those principles practically, with their proper modifications and limitations, to the varied affairs of the world. Pickleness of policy on any subject is a source of injury to any nation, and, to a great nation, it is a disgrace.



Now, sir, what policy have you adopted in reference to this question of a steam commercial marine? In 1847, Congress determined that they would adopt this line of policy—that, by Government assistance, they would construct a steam commercial marine, which would be available for purposes of war during war; and during the more natural, and, it is to be hoped, the more prolonged, state of the country—that of peace—would be employed in the transportation of your mails. In pursuance of this policy, you caused advertisements to be sent forth throughout the country; an association of merchants in New York made proposals to you to establish a line of steamers between New York and Liverpool. Those proposals you accepted, and the contract, on being made, was carried out under the superintendence of your own officers, and, after its completion, every vessel constructed under it was accepted as properly constructed, according to the terms of the contract, by your own Departments. The enterprise was new, and, as in all new enterprises, the cost, of course, was greater than had been previously contemplated. The increased cost had been superinduced by a patriotic desire on the part of the contractors to construct vessels which should accord with your avowed policy. And, in a first effort, with American models and the aid of American skill and American genius, they surpassed the rival English line, which had been in existence ten years previous. Is there no merit in this? Those contractors come here now, and tell you, nay, they prove to you, that the cost of this experiment is too great for them. They have shown you that they have already sunk a half million of dollars in carrying it out for the benefit of the country. If the policy which you adopted in 1847 is not to be changed, then two questions arise: Are not these parties entitled to the relief they ask? and, to what extent should that relief be granted?

Sir, in this matter of steam navigation we have followed the lead of Great Britain; and though it may be, and undoubtedly is, true that we should not follow her example in all things, yet in many we may certainly profit by it. What was the state of things as regards this mail service anterior to the introduction of steam navigation for the purpose of traversing the ocean? Great Britain performed all her postal service on the ocean in mail packets, which were owned by the Government, exclusive of all individual connection. Subsequent to the use of steam for the purpose of ocean navigation, (I think either in the Mediterranean or in the East,) Great Britain attempted to follow the same course in reference to steam packets, but the experiment was found too costly, and she abandoned it; and after it was demonstrated by the experiments of the *Sirius* and *Great Western* that the Atlantic, in defiance of the predictions of Dr. Lardner and others, could be safely crossed by steamers, she established the *Canard* line—she established the contract system, by which the aid of the Government, in order to lessen the expense in the transportation of the mails, was given to private citizens, who received, in addition to that aid, such emoluments as they could obtain from the ordinary pursuits of commerce. Such was the origin of this policy. My impression is clear, and I do not think I can be mistaken, that in the first contracts of Great Britain with the *Canard* steam company, there was no clause in reference to the purposes of war. The steamers were not so constructed. Subsequently that was adopted, and therefore they had a double object in view. The primary one was, that they should have steamers which could transport the mails in time of peace; and next, that they might be available for purposes of war, in the contingency of war ensuing. Sir, you adopted this same policy in 1847.

There are two leading objections. I shall not pause to notice all the varied arguments which have been urged against the appropriation recommended by the committee. The first is, that the steamers are not adapted to war purposes; and the second, that their employment in the mail service is an improper and unwise interference with private enterprises, which should always be left free from Government connection, and that, by your appropriation you encourage a commercial monopoly. These I understand to be the substantial objections urged, and strongly urged, by the honorable Senator from Virginia. I propose to examine them in their order.

The objection, that these steamers are not available for purposes of war, is an objection founded on opinion only, and on a conflicting opinion too; (according to all the evidence in this case,) between naval men and naval architects. If you resort to fact,—fact is favorable to their use. The solitary instance you have is that stated by my friend from Texas, [Mr. Russ,] in which, within the last year, the British Government, on three days' notice, have armed and equipped four of their commercial steamers for the purpose of forcing their way in a hostile expedition against heavily armed fortifications. The fact stands against the speculative opinions of those who are opposed to the possibility of such a use of these steamers. I presume it will not be denied, that the steamers of the Collins line are as strongly built—as well built—as speedy and as effectual for purposes of war as any commercial steamers in the British marine. If you have the fact, then, of their actual employment, and conflicting opinions, is it wiser to take fact and opinion combined as the basis of your determination, or to rely on conjectural objections as to the impossibility of the use of these steamers in war? But there is much in the meaning of the term. If you mean by “adapted to the purposes of war,” that these steamers are not adapted to all the purposes of war, I admit that the objection of the honorable Senator from Virginia is unanswered; that is, when I say “all the purposes of war,” that they are unfit for a naval engagement in the line of a fleet or in single combat. But if you mean by the words, “adapted to the purposes of war,” that they are adapted to some of the uses and purposes of war, and can be made available as an auxiliary force in the support of your navy proper, in the event of a war, then I beg leave to differ from the conclusions which the Senator has drawn from the evidence before him. I have the facts with me as regards the state of things in India, in an expedition which has lately been sent from Bombay to Rangoon. I have at least equal weight of opinion for their availability for purposes of that sort—as dispatch vessels—as vessels for the transportation of troops; for take their speed, or their size, can you question their use in that respect? and are not such vessels adapted to purposes of war? But I go further. I cannot see why they should not be adapted to the purposes of cruisers. I will endeavor to illustrate my view in this respect.

You have speed in a side-wheel steamer, and in vessels of this particular line—and to them alone I confine my remarks, and to all such as are equivalent to them in speed and construction—you have extraordinary speed; a speed with which, (in their present state,) on the ocean, they can overtake any vessel which they pursue, and escape from any vessel which they wish to avoid. They are capable, as they stand now, of carrying a light armament, even without the alteration of cutting down the upper deck, which would be all-sufficient for the purpose of a cruiser in order to attack your enemy (if that enemy were Great Britain) in her most vital part—her commerce. They could sweep it from the face of the ocean; because no ship could escape them which was defenseless; and no ship with sufficient power to overcome, could overhail them.

But it may be said that, on account of the construction of these side-wheel steamers, they are unfit for cruisers, because they could not carry a sufficient supply of coal. It is not necessary that a side-wheel steamer should depend alone upon her coal. I ask you to take facts here again. Do not Senators bear in their recollection the fact, that in 1851 the *Atlantic*, leaving Liverpool in the month of December, one of the most tempestuous seasons of the year, and having crossed more than half the ocean, when eight days out broke her shaft? She was left then in the middle of the ocean with nothing but her sails to depend upon. After attempting to combat with adverse winds and reach America, she abandoned that on the 11th of January. She then returned towards England, and in eleven days crossed more than half the ocean under canvas alone, and that canvas but such as is usually carried by a ship of somewhat less than six hundred tons, whilst she was a ship of over three thousand two hundred. I ask you, Mr. President, to what are you to attribute that, but to the perfection of her model? I ask you if such a steamer, properly rigged and properly soared, could not go upon the ocean as a cruiser

as successfully as your *Saranacs* and *Susquehannas*; and with a power and speed equal to sixteen miles an hour when using steam, and the capacity which she has exhibited with her limited amount of canvas which would give her a sailing power of great extent when ordinarily sparred, would she not be the very perfection of a cruiser in time of war? She can carry from twelve hundred to fourteen hundred tons of coal—a sufficient supply for at least eighteen days. In what requisite for a cruiser is she defective?

I know there are conflicting opinions in reference to the side-wheel steamer and the propeller; and if the question was one as to your Navy proper, and the true form of vessels to be constructed for the Navy proper, I assure the Senator from Virginia that he might command my vote upon such a question at all times; that I would vote for no appropriation for the construction of any but a screw-steamer, as applied to the Navy proper. But the reason of that is very obvious. We do not require extreme speed in a war steamer; and the difference between the two is, that in the side-wheel steamers you have speed; and with the propeller or screw-steamer you have economy and comparative invulnerability, but they want speed. That is the difference. As a cruiser, chasing the commerce of your enemy on the ocean, the exposure of such a vessel as the *Atlantic* amounts to nothing. From a man-of-war, she could escape by her speed; and those vessels which she desired to overtake, could not hope to escape. She could carry coal for eighteen days, and, with the capacity exhibited with a deficiency of canvas—that is, with one fifth what she ought to have to traverse the ocean, she returned at the rate of one hundred and fifty miles a day—her superiority cannot be doubted. The *Atlantic* then showed a capacity which would eminently fit her for the purpose of a cruiser. If that is so, she is certainly “adapted for the purposes of war;” though it may be, that such a vessel could not safely encounter, in a naval engagement, either a sailing frigate, or a screw-steamer, because she is more vulnerable. But the objection does not apply to this line. The objection would be well taken if applied to your *Susquehanna*, or even perhaps to your *Mississippi*. Those vessels may be more strongly built; but as to vulnerability—the danger of being disabled—they are in a very little better condition than any of the vessels of the Collins line. They are not equal to the Collins vessels in speed; that is certain. But when you come to the question of defense, you find that the machinery is not the principal part of these steamers which is exposed. The wheels are most exposed. If you cripple a wheel, the vessel is as effectually disabled as if you broke her machinery. The wheels are the most exposed portions; and that objection applies to the vessels which you have built solely for war purposes as much as to the Collins steamers.

Have I not a right, then, to say that one of these vessels is adapted to the purposes of war? But I will go further. I was speaking of her qualities as a cruiser. Allow me to bring before the Senate the evidence of a gentleman whose evidence has been referred to for another purpose by the honorable Senator from Virginia, and which I shall notice hereafter—an engineer in your Navy, Mr. Isherwood. I found on Saturday, in the “*Journal of the Franklin Institute*,” an account by this gentleman of the performance, dimensions, power, and character of the *crack* screw-steamer of the British Navy, the *Arrogant*. He gives the entire dimensions of the vessel, and a description of her boilers and of her whole machinery. He gives her working power; and afterwards, from her log, he gives her performances under all circumstances. What do you suppose is the result? Why, the speed of that vessel in smooth water and in calm weather was but 3.08 knots per hour. The same steamer working with full power, in very fair weather, in a smooth sea, with steam alone, was 5.08 knots—something short of six miles per hour. The *Atlantic*, under sails alone, in a disabled condition, and with all the embarrassments arising from her wheels, and with but one fifth of her proper canvas, exceeded that very much. This gentleman also gives the speed of the *Arrogant* steamer in coming from Gibraltar to Lisbon, with all her sails set under full power, and with a free wind; and it was but 10 knots an hour. One of Collins's steamers would run away from her.

The ordinary speed of the Collins steamers under steam is 14 knots an hour, and oftentimes 15. I speak of a fact of which I am personally cognizant. I timed them day after day for two voyages across the Atlantic, in the steamers Atlantic and Pacific. I speak of what I know with certainty. In an ordinary smooth sea, the common speed of these vessels under full, but not extraordinary pressure of steam, was 14 knots an hour. Is there no difference of comparison here in their favor? Then compare the power of these vessels as cruisers with this crack screw-steamer of the British Navy. The same account states that this screw-steamer can carry fuel for eight days in her bunkers. Shall I be told, then, that a vessel which can probably out-sail, with her sails alone, a screw-steamer using both her screw and her sails is not better adapted for cruising purposes? The best time of this crack screw-steamer, with both her sails and her steam power, was but 10½ knots, or about twelve miles per hour. The Atlantic made nine miles an hour with her sails alone, and with only one fifth of her proper canvas, and without a bowsprit.

Shall I be told, then, that a vessel capable of carrying eighteen days' fuel, instead of one capable of carrying only eight days' fuel—a vessel running at the rate of sixteen to eighteen miles an hour, while the other is capable of running at the rate of twelve miles only an hour, would not be invaluable as a cruiser? It might be, if those two vessels were to come into collision in single conflict, or in a fleet, the vulnerability of the one would render her more exposed than the other. The two vessels might not be equal for all the purposes of war; but for some of those purposes the swifter vessel would be essentially superior. Therefore, in my judgment, these steamers are within the declared purpose of your policy, and are adapted to the purposes of war.

This I judge to be the opinion of Commodore Perry. Nor is that opinion contradicted by the long array of evidence of British officers, brought forward by the honorable Senator from Virginia. They did not touch the question. They spoke of propellers, as compared with side-wheel steamers, for all naval uses. I concede that, for the purposes of the Navy proper, a propeller is the better of the two. With my consent, no future vessel shall be built for the Navy which is not modeled after the fashion of that steamer which was planned and constructed under the superintendence of my gallant and distinguished friend from New Jersey, [Mr. Stockton,] and which did such good service during the war with Mexico—of enlarged dimensions, if you will. As applied to the Navy, I believe such would be the best mode of construction; because, in the naval service, it is essential that a vessel should be able to enter into combat with any vessel of equal force. The pride and honor of the Navy demand this. The auxiliary power, in the contingency of war, that you would derive from the Collins steamers is, however, of immense importance in a country like ours. Notwithstanding the opinions cited by the Senator from Virginia, the Government of Great Britain has not abandoned her policy of aiding in the construction of mail steamers for traversing the ocean. She has extended it; and she has adhered, also, to the clause which requires them to be adapted to the purposes of war. That policy is a wise one, in my opinion. At least, it is but a matter of opinion and fact opposed against opinion, and the policy has been previously adopted by Congress.

The defect, then, in my judgment, of this objection is, that it assumes that these vessels are not available for the purposes of war, because they cannot be used for all the purposes of war. There can be no doubt as to their utility as an auxiliary force. I am not going to repeat all the evidence of this now. I need only refer to the statement of Commodore Perry. He is an officer of high character, and great professional knowledge. He superintended the construction of these vessels, in part. He gives you their dimensions, their strength, and their structure. He tells you that they can be made available for purposes of war, and he also tells you the mode in which that can be done. He gives the reasons why they can be made available. He gives you the cost at which it can be done, which is a mere trifle. You have a statement as to the time in which it can be done, from the evidence of the British experiment lately made in the East Indies, where such vessels were

got ready for purposes of war in the short period of three days. Such a species of force is peculiarly necessary in a country like ours, in addition to your Navy proper. I have no hostility to the Navy proper. I would vote for appropriations to sustain it, entirely apart from these lines; but as an auxiliary force, I hold them to be of great importance, and to be available for war purposes in the contingency of a war. In this country, taking the character of our people and the character of our institutions, Senators cannot doubt that we shall never be thoroughly prepared for war, until it is actually upon us. Therefore, if the uses of these vessels should be but temporary, if they did but enable us to resist until we could buckle on our armor fully in the event of a war, I should still say that they were available for the purposes of war, and were worth the full extent of their cost to the nation.

I have compared these vessels to our war steamers proper. Will the Senator from Virginia tell me that the Susquehanna, the Mississippi, and the Saranac, all, I believe, side-wheel steamers, are not war steamers, and not "adapted for the purposes of war?" Where is the difference between their structure and that of these steamers? As I said before, it may be that the machinery of the Collins steamers is somewhat more exposed than the machinery of these frigates. It was mentioned that these frigates may be somewhat more strongly built; but the speed is with the Collins steamers, and as regards vulnerability, this defect in their structure for purposes of battle, for naval engagements, rests more in the exposure of the wheels, which are prominent objects—a defect common to both—than the exposure of the machinery. My information is, that even as regards the propeller, in scarcely a single case has one of them ever been constructed in which the entire machinery has been below the water line; and in no case is it so with a side-wheel steamer. I conclude, therefore, that the Collins steamers will answer for some of the purposes of war, and that they were built in pursuance of our policy, according to the terms of a contract made by our Executive Department, and sanctioned by that Department as suitable vessels, and those which were adapted to the purposes of war.

But the Senator from Virginia tells us that their capacity in this respect is all a humbug, and that as dispatch vessels, and as vessels for supplies, they might be useful, but that it would not be necessary to maintain them for these purposes, because we could always command vessels enough for these purposes from our commercial marine. Before this policy was adopted, how did our commercial marine stand as regards ocean steamers? Was there a single sea-going American steamer upon the ocean? Sir, the fate of the Home and the Pulaski, and the melancholy catastrophe which attended their destruction, will warn Senators of the necessity of the clause, "adapted to war purposes." It tends to give strength and security to these vessels. Then you have, in my view, the benefits of your policy fully developed in this line, which has been constructed under contract. Will you now abandon those who, in pursuance of that policy, have constructed these vessels, to a ruinous loss, arising out of their faithful adherence to their contract? Is that worthy of so great a nation as these United States?

Passing from this question—for I will not further enlarge upon it, as it would consume too much of the time of the Senate on a subject which has been already extensively discussed—I come to the use of these steamers for the purposes of the transportation of the mail. That is the prolonged use—that is the principal use to which they were intended to be applied at the time you authorized their construction. I come to the question of their use in the postal service of the country, because your policy had a double object. It was not for war purposes alone that you built these steamers. You contemplated the contingency of war; but the principal object was their utility during the continuance of peace, for the transportation of the mails; and for that purpose their utility is not questioned, and it is unquestionable. The mail service in this, and in all countries, on land, is a Government duty, and with all great maritime nations which have the power to control that service on the ocean, it is as much a Government duty, where their maritime interests

are concerned, where their extensive commerce is concerned, as is on land the proper transportation of correspondence. The mail service with foreign countries, on any principle that I can appreciate, is as much a governmental duty, and demands as much the expenditure and the attention of the Government as the transportation of correspondence in the interior of the country. This I suppose to be the principal object of your policy. Certainty and speed are essential to the transportation of the mails. It cannot be doubted, then, that these vessels are fit for the service. Compare the propellers with the side-wheel steamers, and what is the result of the comparison, reasoning not upon opinion but upon fact? It has been tried over and over again. The average voyage of a propeller (and there have been some very fine ones built in England, and some here) is from eighteen to twenty days between this country and England; and the average voyage of a side-wheel steamer, taking the Collins line, or the Cunard line, is from eleven to twelve days—a difference of nearly one half. Does the Senator suppose that a vessel which could by one half less time traverse the ocean, would not command the entire transportation of letters and passengers to the exclusion of a vessel which dragged after her at the rate of two days for one? The argument need hardly be urged in that point of view.

But let me compare for a moment the system which you have adopted on land and on sea; for the duty is the same, as regards the transportation of your mails, whether on land or at sea; whether on the waters of the interior, on land in the interior, or on the ocean. The transportation of the mails is a Government duty. On land, what is your system? Where your post offices are located between points sparsely populated, and there is no sufficient travel to justify an expenditure for transportation in post-coaches, you adopt transportation on horseback; and in that event the entire cost of transportation, as well as the profit of the carrier, must be paid by the Government. Wherever population is sufficiently dense, and your communication is of sufficient importance, then to save yourselves expense in the performance of an avowed duty of the Government, you employ post-coaches, and you pay them such reasonable compensation as, in addition to the emoluments the contractors may derive from passengers, will enable them to transport your mails. Post-coaches are not used for the transportation of the mails alone, but also for the transportation of passengers. Your object in this mode of transporting the mails is to save expense to the Government; and there is no other object whatever. Distinguish it if you can, in principle, from the application of it on a larger scale, to the payment of a line of ocean steamers for the purpose of transporting your mails across the ocean—a line which could not exist, from its costliness, unless the Government aided in its establishment.

It has been objected that these grants create a monopoly. That was the argument of the honorable Senator from Virginia, though he did not much enlarge upon it. It has been repeated to the Senate to-day more than once, by the honorable Senator from Ohio, [Mr. WADE,] who last addressed you. If the argument be true, I ask you if it does not apply with equal force to the transportation of your mails on the land? I ask you if, when you give a contract for \$3,000 a year to a line of post-coaches, you do not, on the same principle, create a monopoly on the part of the contractors for that line, and prevent others running in opposition to them between the same points? Then, the whole Government action is a series of monopolies as regards the post office service. That is the answer to the argument. But the argument itself comes too late. The objection of monopoly, if true, existed as strongly when the policy was adopted in 1847, which authorized the erection of the steamers, as it does now, and it would be gross injustice, and that species of fickleness which is disgraceful to a nation, if, having adopted that policy, and having involved individual capital and individual fortune under your own action, you should recklessly abandon them to destruction, because you choose now to raise the cry of monopoly.

But, Mr. President, this is no monopoly in any sense of the term. The business of transportation between Europe and America was a monopoly before the Collins line was established. That

is a line established by the American Government to encourage and sustain *American competition* for the purpose of destroying a *British monopoly*; and on that ground alone, if no other, this appropriation should be made. Gentlemen can neither evade nor deny this answer to their allegation of monopoly. Anterior to the establishment of this line, the Cunard line controlled the entire postal service between England and the United States, and you may say between Europe and the United States. Since this Government authorized the construction of the Collins line, we have gone far in the competition, and ultimately we will divide the receipts. Is that the establishment of a monopoly? or is it not that you aid American enterprise and American skill in a very costly undertaking with a view to break down a British monopoly. The answer, to my mind, is conclusive. The cry of monopoly can have no rational weight as an objection to this appropriation. I repeat, that if it be a monopoly, your whole postal service system is a monopoly; and that this is peculiarly free from such an objection, because the line cannot exist without Government, and by its establishment you broke down the monopoly which had existed on the part of Great Britain anterior to its establishment. Abandon these steamers now, and you give to Great Britain the entire control of your postal service on the ocean between Europe and America; and you give to her, further, all the passengers, except the emigrants, and a very large share of the freight on light and costly goods.

This does not depend upon opinion. Facts establish it conclusively. Cunard established his line in 1839. At that time the Great Western was running as a private vessel across the ocean. It had commenced the business to New York before him. The Cunard line ran to Boston. The ships of that line were not superior in any respect to the Great Western, which, after an ineffectual contest, was obliged to draw off, because the business would not support it. The British Queen and the President were then established by a British company, running between New York and Bristol, I believe, the Cunard line still running to Boston, which certainly, as a commercial place, has no equality with New York. The President was lost in the depths of the ocean. The British Queen, after a serious loss in the business, was obliged to withdraw, and was sold, I believe, to one of the continental Powers. The Great Britain, a screw-steamer, attempted the same thing; but it is perfectly well known that her losses of capital were very serious during the time she was engaged in the trade. I hold it, therefore, to be certain, that if you abandon this line for want of governmental aid and support, it must go down, and you do, by that act, abandon to Great Britain the entire transportation of the mails across the ocean between Great Britain and America. You abandon to Great Britain the entire transportation of passengers, except emigrants, between England and America, and the great part of the Continent and America, and abandon a very valuable and costly freight, which would otherwise be beneficial to American citizens.

Sir, no American citizen ventured in the lapse of ten years to enter into this business in opposition to the Cunard line. They could not contend with a line which was sustained by the Treasury of Great Britain, when they knew that that line was established by a Government which gave its allowances according to the exigencies of the case, and which, if the allowance was not sufficient, would instantly increase it, in order to establish her commercial policy, and in order to maintain such a line as would aid in giving her the controlling power in reference to the commerce of the world. But the Senator from Virginia said:

"Does any man suppose that, if we were to advertise and dispense with the unnecessary clause in relation to war purposes we would not have ships of our own that could be made suitable for carrying the mail, and suitable for commercial purposes?"

This is but an opinion, and, I confess, one to which I cannot assent. Security and confidence in the strength of a vessel are always great essentials in the carriage of passengers; and most surely these vessels would all be built stronger in consequence of the war clause. Mr. Livingston, in his remarks, to which the honorable Senator from Virginia referred, says, that in consequence of this war clause, the cost of the construction of the steamers was \$200,000 more. I ask you if

these steamers are not infinitely stronger when built under such a clause, and with such additional expenditure, than when built otherwise? The cost adds to their security. You must pay for such vessels as you employ in the mail service, whether you employ fragile or substantial vessels; whether your policy be to uphold vessels which could be made available for purposes of war, and which would give security to life during peace, or you disregard both these purposes, you must still pay for them. The question is merely a question of amount, as to what you shall pay for the transportation of the mails over the ocean. For my own part, I shall place the safety of a single vessel, containing one hundred American lives, if preserved by this clause, above the entire sum which you have to pay for the transportation of the mails in these steamers.

But, sir, the honorable Senator from Virginia used an argument which, I believe, was repeated to-day, by the honorable Senator from Ohio, that this line either pays, or it does not pay; and that if it does not pay, and if Great Britain chooses to be foolish enough to transport your mails at a loss to herself, let her do so; for it would be no injury to you. I think this argument is what we lawyers would call a *non sequitur*. It may be perfectly true, that while Great Britain enjoys a monopoly in the transportation of mails and passengers between Europe and America, a line would pay, both to her and the contractors; but when you establish a rival line, by the aid of the Government, it may also well be, that it would not be profitable to her, because the business would be divided. Shall we weigh \$300,000, or \$500,000, the excess of cost over postages, in comparison with a surrender to our great commercial rival of a business which is profitable so long as she has the monopoly of it, and which enables her to transport the entire trans-Atlantic mails, and thus places them under her control? I believe the British Post Office have not always been remarkably scrupulous in reference to the inviolability of mails in their own country, and I know of no reason to suppose that they would be more abstinent in reference to mails within their custody on the ocean. Will you adopt a policy which will place the entire transportation of your mails under their control; which will put into their hands the transportation of passengers; which will lay a tax on American citizens for the advancement of British commerce, by giving them the freight of light and costly goods between the principal sea-port of your country, and the principal sea-port of England? Will you do all this for the sake of saving from \$300,000 to \$500,000 a year? Such may be the judgment of the honorable Senator from Ohio, but it is not mine, and I trust it will not be that of the American Senate.

As to free competition, it is out of the question, as long as Great Britain makes advances and sustains, by her Treasury, her Cunard line. Our propellers may run, but will our propellers, with a speed of one half that of the side-wheel steamers, carry passengers, or will they carry the mails? No man acquainted with commercial correspondence, or the habits of commercial people, can, for a moment, hesitate as to that. They may attempt it for a time; but they must ultimately give way to the superior advantages arising from speed and certainty, such as have been exhibited either by the Cunard line or the Collins line.

To defeat this appropriation, the honorable Senator from Virginia also throws in this further objection. By a comparison of the postage, made from the month of April, 1850, I think to December, 1851, he exhibited the receipts from the Collins line, in order to show the great extent of cost which it was to the country. I submit—though it is not very material to my views of this question—that the honorable Senator hardly makes a fair comparison in such a case. This line commenced in April, 1850, and had but two ships; they ran at irregular periods—at no stated days. The line was not in full operation till the month of November, 1850. Then the receipts would not afford a just inference as to future receipts, except for a single year, up to the time the returns were stated to be made.

Mr. HUNTER. The Senator is mistaken as to the period. I took the period given at the Post Office Department, which was nearly two years.

Mr. BAYARD. I am perfectly aware that the intention of the honorable Senator was not to

make an unfair comparison. What I mean by "unfair" is, that the comparison is not a just one, for the purpose of ascertaining the probable future receipts from the Collins line.

Mr. HUNTER. The period to which the statement went was up to the 31st of March, 1852.

Mr. BAYARD. Conceding the fact to be so, still these vessels ran from the 27th April, 1850, down to the month of November, for which time the honorable Senator includes the receipts of postage. Now, during that time but two vessels were on the line. They ran at irregular intervals. They were bound to run twice a month, but there was no regularity then, as in the case of the Cunard steamers which ran every week during eight months in the year. Does any gentleman suppose that with an old line established, for ten years, the commercial community would abandon a regular line of postal communication, for the uncertain days at which these two steamers were then running, and that, too, when their merits had not been tested upon the ocean so as to give confidence in the certainty and celerity of their voyages? But again, there were other difficulties, as regards the transportation of the mail by the Collins steamers, which should be considered in reference to the account of the anterior postages, if any inference is to be drawn from them as to what will be the amount of postage for the future. You may not, it is true, receive hereafter an amount of postage sufficient to reimburse your existing allowance to this line of steamers, but I contend that no fair calculation of your receipts for the future can be based upon the previous receipts of postage from the Collins line. After the steamers of the American line were started in the year 1850, so much importance did the British Government attach to the mail system—so much were they opposed to the American line, so much were they determined to destroy it if they could, that a Post Office order was issued, by which they gave notice to the world that every sea letter mailed in Great Britain, which was not indorsed with the specific name of the United States steamer by which it was to be sent, though mailed before the sailing of the American steamer, would be retained until the sailing of the subsequent Cunarder. They adhered to this—after remonstrance by our Government—until they were threatened that the postal treaty would be abandoned if they did not abrogate that order, and they ultimately yielded. This is not all, as to the unfair course which was taken by the Government of Great Britain, in order to prevent the transportation of the mails by the Collins line. Under the postal treaty, France was not included; and on a letter sent from the United States which would be prepaid to the amount of twenty-one cents, that is, five cents for American postage, and sixteen cents for sea postage, the British Government, down to May, 1851, charged sixteen cents additional sea postage, as well as transit postage for transmitting it to France; in other words, a letter going to France from the United States by a Collins line steamer paid precisely double the sea postage of a letter going to France by a Cunard steamer. This course was persisted in down to May, 1851. Again, as regards the transit duty, Great Britain still retains for that duty from twenty-four to forty cents an ounce, for letters sent by our line to the continent and to France. We charge her twelve and a half cents an ounce on closed mails sent from New York to Canada. She charges twenty-four cents an ounce on all letters sent to France, and from that up to forty cents an ounce on letters sent to the Continent.

With these obstacles on the part of the British Government—with this disposition manifested by that Government—is it wonderful that with a line which was not fully organized until the commencement of 1851, you should not have had returns of postage equivalent to what you may expect when that line has evinced its superiority of speed and certainty of passage, and has become by our aid certainly and permanently established? The Postmaster General, at the commencement of the present session of Congress, recommended to our serious consideration the propriety of putting an end to the postal treaty, unless Great Britain should recede from her system, by which she charges twenty-four cents transit duty on letters going to France and the Continent of Europe. I understand this morning from him, that the probabilities now are, that she will recede, and will accept a transit duty of twelve and a half cents, which is



the sum she pays to us on closed mails from New York to Canada; and that such a treaty will probably be negotiated. But this difficulty has heretofore existed, and has afforded a sufficient reason why, in an estimate of the amount of the postage hereafter to be received, you cannot safely and fairly resort to that which has been hitherto received. I cannot doubt, when this line is established alternating with the Cunard line between New York and Liverpool, that at least one half, if not more, of the postage between the two countries will come into the Treasury of this Government.

There is another exception which was urged by the honorable Senator from Virginia, and that is, that this amendment embodies in it some of the worst features of the protective system; and he instances, in support of this objection, as a fact, that certain iron-masters of Pennsylvania, who came here this winter for the purpose of claiming an increased duty upon iron, represented to him, as one of their difficulties, in consequence of which they required protection, that these steamers brought over large quantities of iron in ballast. That has been denied by a Senator on this floor. I think there is an error as regards the fact. I do know—for to my misfortune, though I never was an iron-master myself, I had those intimately connected with me who were engaged in that business—that long anterior to the establishment of this line of steamers, it was a common complaint that transport vessels, passenger vessels, from Scotland, from Wales from Liverpool, brought over iron in ballast, at little or no cost, or that the freights were so small that the American iron-masters could not compete with them, when they brought their iron from the interior of the country to the sea-board. I have never yet understood that that objection applied to these steamers. At all events, the evil existed before to just as great an extent, and did not arise out of this system. But I mean to express no opinion now on the propriety or expediency of increasing the duty on iron, either one way or the other, but I do say, that if it is to be increased it must be from considerations totally different from those which apply to the present appropriation.

It is not a parallel case to say that the iron interest is depressed by the capital and wealth of Great Britain, and therefore ought to be protected. That cannot be compared with the case of the Collins line, which asks an increased allowance from you, based upon the fact of the direct action of the British Government, in support of their line. The British line stands sustained by the treasury of Great Britain. If gentlemen will show me that the iron interest, or any manufacturing interest, or any other interest in this country, is affected by the governmental support of a conflicting interest in another country, I will agree to go to any extent in countervailing that. I will give to the honorable Senator a parallel case, in my judgment: Suppose the Government of Great Britain were to grant a bounty of £5 per ton, or any other sum you please, on iron exported to the United States, I ask that honorable Senator if he or any other man on this floor would count the cost of countervailing that? Would he not impose a corresponding tax on British iron, for the purpose of shielding American industry from the direct action of the British Government? Sir, this is an exceptional case. The very basis on which it stands makes it entirely defensible.

Mr. President, free trade, even by those who advocate it to the utmost extent, must be founded upon the doctrine of reciprocity. Reciprocity is the doctrine of our Government. It is true, that foreign Governments may force you, by their action, into a course of policy which, if they abstained from action, would be unwise on our part. I am willing to trust American skill and American industry in competition with any people on the globe, when they stand nation opposed to nation, without governmental interference. But if the treasury of a foreign nation is poured into the laps of individuals for the purpose of destroying either the iron interest of my country, or for the purpose of building up a commercial marine at the expense of the commerce and prosperity of the United States, I, for one, will count no cost in countervailing such governmental action on the part of Great Britain, or any other foreign power. This is a case, therefore, of the direct application of the funds of the British nation in sustaining their line, which makes

it exceptional to the general rule which the honorable Senator from Virginia advocated, and in which I mainly agree with him. This line stands in a different position from others; and in the vote which I shall give in reference to this appropriation, I do not commit myself to an appropriation for any other line, unless it can be brought within similar circumstances and is affected by similar causes.

There is yet another objection on the part of the distinguished Senator from Virginia, that the effect of this grant is to build up New York to an extent which is invidious and wrong. He spoke of other parts of the country, and said if you made this grant to New York, it would be your duty to make grants for lines from other cities in the Union. Sir, I cannot so view this appropriation. The Senator from Michigan [Mr. Cass] has fully answered this point. The reason why you make this grant to a line from New York results from her locality. New York is the great center of your commerce. Two thirds of it is concentrated there. She is connected with the great center of European commerce—Liverpool. This line runs from the one place to the other. In my judgment, the principle upon which your mail facilities must be granted is, the wants of the community and the course of your commerce. As a general rule, correspondence and travel will follow in the pathway of commerce. I hold, therefore, that this grant is not founded upon any peculiar favor to New York, but is given to her because of her local position, and for the benefit of the interests of the whole Union. The foreign commercial interests of the United States are concentrated at New York. Necessity, therefore, requires that you should establish a commercial line of steamers in connection with that great point of your foreign commerce. Hence I conclude that this line ought to be sustained.

The next question is as to the extent of compensation which is necessary for that purpose. The owners of the line have proved to you, by the oath of an indifferent person, that is an uninterested person, that the average annual amount of their expenses exceeded the amount of their receipts from all sources by nearly \$17,000 a voyage. It is said that this testimony is *ex parte*. Why, that is a strange objection to be heard in this Chamber, when there is not a claim which you pass upon which is not founded purely upon *ex parte* testimony, and testimony, allow me to say, of the loosest character. You have here a detailed statement of the items of cost, taken from the books of this company, sworn to by an uninterested party, showing exactly the amount of their loss. What is the reply to that? The honorable Senator from Virginia tells you that he has had a conjectural statement made by a young gentleman of talents and promise, who is an engineer in the Navy, and that his statement shows that \$300,000 a year ought to cover the running expenses of these vessels; and he goes on to argue upon that basis to show that the extent of the proposed grant would be entirely beyond what ought to be paid by the Government, and that no further extension of aid was necessary to sustain this line. But if the basis of the calculation be wrong, the calculation itself, of course, cannot be right.

Would the honorable Senator oppose a conjectural statement, of which not even the items are given, made out by an individual, who, however talented he may be, can have no particular knowledge of all the expenses incident to a sea-going line of steamers between New York and Liverpool; the dock charges; the extent of the supplies necessary for passengers, and all the incidental expenses of vessels of such a size, in which he may have never traveled, and as to which he can have no practical knowledge, to a statement which gives us the details of actual expenditures? Are we to take an estimate, a mere estimate in gross, without knowing what items enter into the calculation? Are we to take a conjectural estimate, which places the cost of running these vessels at \$300,000, in opposition to the actual expenditures proved by the oath of an uninterested party?

But there is another answer to this species of evidence. You have facts sworn to on the one side; and you have a conjectural estimate, without items, on the other side. You have also the fact that the owners of this line, anterior to its establishment, had been successful merchants in the city of New York, as ship-owners; that Mr. Col-

lins conducted a packet line in New York, with skill and success, for years anterior to his embarking in this business. You have the further fact, that there could be no motive for making the expenditures lavish and unnecessary, with a view to contingent chances of a successful claim upon the bounty of Congress for an enlarged appropriation. It is vain to suppose that such a motive could have entered into the minds of rational men. When you take these undeniable facts connected with the matters sworn to by a disinterested witness, taken from the books of the company, on what ground is it that you can rely upon conjecture, as opposed to facts so supported?

But the honorable Senator from Kentucky [Mr. Underwood] makes an estimate against these facts also, not in order to show that these expenses have not been incurred, but to show that they have been improvidently incurred. His estimate excludes almost all the important items; and because he, as well as I, are both ignorant of the subject, he draws inferences against the expenditures. Now, I should suppose that the former management of these parties in the business in which they were previously engaged, the want of motive on their part for an extravagant expenditure, and the general character of the contractors, may well rebut the inferences of the honorable Senator from Kentucky. The honorable Senator from Tennessee, [Mr. Jones,] will not go beyond \$25,000 a voyage, because, he says, that is larger than the allowance which the British Government makes to the Cunard line. Allow me to remark, that the allowance by the British Government is no criterion for us; but if you will take the example of England, take the whole of her example. Cunard established his line in 1839. At that time the rate of compensation allowed him by the British Government was £65,000 or \$325,000; and after a short time the expenses of the undertaking were so heavy in proportion to the receipts, that he suspended payment. The British Government did not then abandon him, but they advanced his compensation to \$425,000 a year; and in pursuance of their policy, when we determined to establish a line between New York and Liverpool, (for they had no line running there previously,) they doubled the grant to Cunard in order to enable him to establish a rival line. They have gone on and encouraged that line by appropriations sufficient to sustain and enlarge it.

I have said that the amount which they allowed, is no criterion for the allowance which should be made by us. Let me point out here what I consider an error in one of the calculations of the honorable Senator from Virginia, as it affects in part, the argument of the honorable Senator from Tennessee, inasmuch as it shows that the allowance to the Cunard line is greater than is supposed even on the admitted facts. The honorable Senator from Virginia says, that the allowance per trip, or voyage, to the Cunard line, at £145,000 per annum, is \$14,000 a voyage. Now, I make it \$16,354 a voyage. The basis of that calculation, I will state, and if there be error it, the Senator can point it out. Taking £145,000 sterling, which was the sum paid to Cunard anterior to his being ordered up to weekly trips, it would amount to \$703,000, computing the pound sterling at \$4 85, which is about the average rate of exchanges. The variance, however, can be very little, whether you take it at \$4 80 or \$4 85 to the pound. The reduction of the pound sterling to dollars at these different rates produces the difference between the statement which we have heard, of \$696,000 and \$703,000. If we divide \$703,000 by forty-three, the number of trips which the Cunard line were bound to perform before they were ordered up to fifty-two trips, and it gives \$16,354 per trip.

Mr. HUNTER. The Senator will perceive that he is bringing up the old difficulty, as to whether the compensation is £170,000 odd, or £145,000. The statement of £145,000, or \$696,000, was the statement emanating from the Post Office Department, and furnished by the chairman of the Post Office Committee. I took his statement in preference to the one which was made upon a supposition. Now, according to the last accounts we received, the Cunarders were ordered up to fifty-two trips a year. Well, fifty-two trips at \$696,000 would give something less than \$14,000 a trip; but it is now stated that, owing to the fact that they had been ordered up to fifty-two trips, they had already had a *pro rata* increase, making the

compensation £179,000. Even taking that statement, it leaves but a little over \$16,000 a trip.

Mr. BAYARD. I concede that if you divide £145,000 by fifty-two trips, it will only give about \$14,000 a trip; but what warrant have we for the assumption that they only receive £145,000 since they have been ordered up to fifty-two trips? The papers show, and the British Admiralty accounts show, that when the contract was for weekly trips during eight months in the year, and semi-monthly trips during the remaining four months, they received £145,000.

Mr. HUNTER. There was evidence in the Post Office Department that the Cunarders had been ordered up to fifty-two trips, but there was no evidence that there was any increased compensation for those trips.

Mr. BAYARD. The learned Senator then presumes that, because there was no evidence in the Post Office Department that the increased compensation had been made, (and it is a matter which will not be ascertained until the Admiralty reports are published,) it was not to be inferred that when the Cunard line were ordered up to fifty-two trips, their allowance was not increased. Is it reasonable to suppose so? Such has not been hitherto the course of the British Government. The British Government assisted the Cunard line when there was no opposition to it, and raised its compensation from \$325,000 to \$425,000 a year. Afterwards they raised the compensation to £145,000, when they required increased service. Then by what reasonable conclusion can the Senator deduce his argument, that when they ordered up the Cunarders from forty-three to fifty-two trips, they did not also give a *pro rata* increase in the compensation?

Mr. HUNTER. This is no inference of mine. I have given the facts as far as they are known. I can reason upon no imaginary statement of facts in opposition to what is known. The Senator infers that the compensation has been increased. In my argument I have given this line the benefit of this supposition; and if you assume that the Cunarders now receive £175,000, their compensation will still be but \$16,000 a trip. If you assume the old compensation, (and there is no evidence that it has been changed,) it leaves \$14,000 a trip; and both sums are far under what we already give to the Collins line.

Mr. BAYARD. I concede that it is a statement of facts, so far as the alteration of the service goes; but there is no statement of fact to warrant the presumption that the compensation was not increased commensurately with the increase of the service. But the natural inference from one fact to the other would be that the compensation was increased, arguing from the previous conduct of the British Government. I shall, therefore, still contend that, upon the facts cited by the honorable Senator from Virginia, he ought to have drawn the conclusion as an inference of fact that an increased allowance was made, commensurate with the increased service to be performed. Whether the fact had come to the knowledge of the Department or not is of no moment. It is not, at any rate, a matter of much consequence, except as affecting the question of relative amount, and in my view, as I have already stated, that is no criterion for us. But, in truth, you cannot tell what is now allowed by the British Government to the Cunard line. Do you know what is allowed for the line which they have established from Havre to Liverpool, which carries goods without charge at the time when a Cunard vessel is about to sail from Liverpool and an American steamer from Havre, until the American steamer has left the port of Havre, and then charges freight and raises the price across the ocean more than double? Can you tell what allowance is made to the Cunard line by the British Admiralty for this purpose? Can you tell what allowance is made for the Antwerp line, which has been just established in connection with the Cunard line, in order to break down your commercial intercourse across the Atlantic with the continent of Europe? The difference between the modes of transacting business in the two countries is, that in England all those allowances are a matter of Admiralty discretion. They require no legislative discussion, as they do here, and are not brought before the public. The Admiralty, at their will and pleasure, allow such amounts as they may deem proper. The allowance may be made in the name of one man or another. We have

seen enough, in the course which the British Government has taken for the purpose of breaking down the Collins line, to justify us in the belief that they will not be very restrictive in the extent of the grant they would make for the purpose of destroying a rival line. They have already consented to, if not advised subsidiary, lines, which tend to diminish the receipts from freight and passengers of the Collins and the Havre lines. There it is not a matter of parliamentary discussion. You do not know but that the sum granted to-day will be increased by one third more to-morrow. Their alleged allowance, therefore, affords no criterion for that which we should make.

There are also two elements for increased allowance in this case, which do not exist in reference to the Cunard line. The first I presume will be admitted—that there is an increased tonnage and an increased power to propel the tonnage, which is essential to the Collins line; and that increase of tonnage and of power, and consequent expense was incurred in order to enable them to surpass the British line upon the ocean. The boat race, as the honorable Senator from Ohio chooses to call it, was not with a view to a mere exhibition of national vanity; for he may rely upon it that speed and certainty in ocean transit will command the mails and passengers between Europe and America. It is no trivial matter, such as he seeks to represent it. You have the fact that the entire tonnage, according to the British system of measurement, of the seven Cunard steamers is 13,286 tons, while the tonnage of the four American steamers, according to the same measurement, is 13,702, an excess of over 400 tons on the part of the four American steamers.

Mr. HUNTER. That is very different from the statement which I have received from the Navy Department.

Mr. BAYARD. It may be so; but my information is totally different. My information is, that our system of tonnage measurement increases nearly one fourth upon that of Great Britain. Our steamers do not rate by our tonnage as much as they do by British tonnage. The Pacific and Baltic are, I believe, according to our tonnage, over 2,700 tons; the Arctic and Atlantic are, I believe, 2,800 tons. Their average tonnage, according to British measurement, would be 3,425 tons.

Mr. HUNTER. My statement was made out by Mr. Isherwood. He puts the Collins steamers in this way: the Atlantic and Pacific 2,686 tons each; the Arctic and Baltic 2,772 tons each. The two largest of the Cunarders, the Asia and Africa, he puts at 2,226 tons each; and he informed me that including the Canada, there were eight Cunarders, and their average was a little over 2,000 tons. Therefore, the aggregate tonnage of the Cunarders would be something like 16,000 tons, whilst the aggregate tonnage of the four Collins steamers would be only about 11,000 tons.

Mr. BAYARD. I will state to the honorable Senator that, as regards the registered tonnage of our own steamers, there is an error in that calculation from whoever it comes. It will be found to be so, by reference to the published reports from the Navy Department. Commodore Perry's letter [Ex. Doc. No. 91, p. 83] gives you the registered tonnage of the four steamers; the Atlantic is over 2,845, the Arctic 2,856, the Pacific 2,707, and the Baltic 2,727 tons. I am sure of the fact that the Atlantic and Arctic are over 2,800—that is American tonnage. It must be recollected that there is a difference between American and British tonnage.

Mr. HUNTER. In this account, Mr. Isherwood also states, that the average time of the trips of the Collins line is about eleven days and seventeen hours, and of the Cunarders, twelve days. The average for the Cunarders includes the Europa and Canada; but if you take the average of the Asia and Africa alone, they are about equal to the Collins average.

Mr. BAYARD. I am not discussing the question of average time. I know that the Asia and Africa of the Cunard line, are nearly equal to the average of the Collins line. But you must take the average of the two lines together. I do not understand that communication to say that the tonnage stated is registered tonnage; if it does so, then I deny its authenticity. I deny that the registered British tonnage, and the registered American tonnage, are the same. In the one case, you have given you the British registered tonnage for the British vessels, and the statement of Amer-

ican tonnage for American vessels, when, in point of fact, the American tonnage is one fourth greater. I repeat the assertion that, measured according to the British system of measurement, there is a difference of over four hundred tons in favor of the four Collins steamers, as against the seven Cunard steamers; nor are there more than seven steamers in that line, including the Canada. I say, therefore, that the aggregate tonnage of the seven Cunard steamers amounts to 13,286 tons, while the tonnage of the four Collins steamers, according to the same system of British measurement, is 13,702 tons. No man, in his senses, who ever saw the Asia and one of our steamers alongside, can doubt that ours are one third larger, measure them by what system you will.

I submit, therefore, that the average tonnage, which, in the case of the Collins line, is 3,425 tons, against 1,900 on the part of the Cunard steamers, must necessarily have increased power to propel it. With this increased power the Collins steamers have obtained superior speed, for though it may be true that the Asia and Africa approximate very closely to the average time of the Collins steamers, and I admit that they do, yet, taking the average of the British line, they are excelled by at least a day in speed by the Collins line. If we have equaled them in this respect, we have done all that we could expect, and what few men thought could be done at the time this enterprise was entered upon by these gentlemen in New York. Failure was prophesied almost universally. The idea of competing with Great Britain in the construction of steam-vessels which should be able to cross the ocean with speed and certainty was considered a mad scheme. Instead of equaling, they have actually excelled the Cunard steamers. The *quantum* of excellence is a very material matter in this point of view. It is more creditable than the honorable Senator from Virginia seems willing to allow to the enterprise, and genius, and patriotic exertions of his countrymen.

There is another element which must also be taken into the account, for the increased cost of these vessels. I am not going into any details about the question of cost, for it is one which I cannot undertake to determine. The rate of interest in the two countries is essentially different. When the British Government are dealing with capitalists in their country, where capital commands but two and a half per cent. interest, and for the purpose of inducing them to enter into a new and untried business, which is to be of great advantage, both as regards commerce and the national pride, and when the American Government are entering into a similar contract with a capitalist here, and that, too, against previously established and successful lines, the rate of interest here being six per cent. instead of two and a half, I ask whether, in the allowance which ought to be made by this Government to the American line of steamers, that is not an element to be taken into the account, with a view to its increase? I will now state to you a view which I have taken, of a calculation which was brought as evidence before the Senate, by the honorable Senator from Virginia, which, I think, corroborates strikingly the amount recommended by the Committee on Finance as a proper appropriation; and the amount sworn to as a necessary appropriation, by these contractors. I refer to the statement of Mr. Williams, manager of the Dublin Steam-Packet Company, cited by the honorable Senator from Virginia. The estimate of Mr. Williams, I shall show, conforms to the statement made out in detail by the owners of the Collins line. The Senator produces this testimony here, for the purpose of throwing doubt upon the propriety of this appropriation. Surely, I am entitled to have the benefit of his information in favor of its being granted. Mr. Williams was a competent person to judge of the expenses of such an undertaking. He was the manager of the Dublin Steam-Packet Company; and, therefore, better acquainted than the honorable Senator from Virginia or myself, with all the details connected with the management of steam-vessels. He was a man who had been practically engaged in the business, and who knew the average cost of sustaining a line of sea-going steamers. He was under examination by a parliamentary committee, and his statement is, that the average sum necessary to carry on a *fair* business, is from twenty-four to twenty-five per cent. per annum upon the capital

invested. This is exclusive of the amount of running expenses. So the Senator from Virginia admits, and so the rest of his testimony shows. This gentleman then goes on to estimate the items that are always counted amongst business men, for the purpose of ascertaining the cost and probable success of the business. Let us compare his estimates with the statement here, and see if it does not corroborate it. This gentleman states:

"We calculate eight per cent., at least, for maintenance; that is, the ordinary price for keeping the vessel always up in the most perfect order; keep her in running condition for business. Some companies consider it should be ten per cent.; we have found eight is sufficient. I should say the insurance alone would be five per cent., and there is the depreciation, which would require at least four, six, or seven per cent.—say, four per cent. at the lowest—the fund for replacing the vessel, and six per cent. profit."

I will now take the sworn statement of these individuals as to the items, about which there is no room for mistake, or miscalculation—I mean the ordinary and running expenses of the vessels. They are proved to us, in a detailed statement, sworn to by the secretary of the company, who says he has no interest in it. The wages of the crew amount to \$3,845 64 per trip. Fuel is \$8,612 28 per trip. The ordinary expense of passengers' provisions, port charges, and so forth, are \$12,762 73. These three items alone constitute what may properly be called, the running expenses of the vessel; and they amount to \$30,220 65. The average receipts per voyage, from passengers and freight, amount to \$29,036 85, thus leaving an average on twenty-six trips of \$1,183 80 lost on each trip, irrespective of what they receive from the Government—irrespective of the twenty-five per cent. which Mr. Williams says is required. The capital employed is about \$3,000,000 in round numbers; twenty-five per cent. on that would amount to \$750,000. Add that to the \$1,183 80 for each of the twenty-six trips, which amounts to \$30,778 80, and you have \$750,778 80 as the sum which an intelligent, thoroughly-informed, and practical man, says is necessary to enable any line of steamers to do a fair business; and on this but six per cent. profit, mere legal interest, is allowed.

It must be remembered, too, that he was stating the expenditure for a company running their steamers between Dublin and Liverpool, where they were not exposed to the dangers of a voyage across the Atlantic, and therefore did not require the same allowance for wear and tear. Calculating from this, and the estimate approximates within two and a half per cent. with the amount, which it is proved under oath here, that this Collins line have actually expended. Is it not then corroborative of their statement?

I will go further. I will take the other items in order to show what is necessary. The manager of the Dublin Steam Packet Company estimates from eight to ten per cent. for the purpose of keeping the vessels in running order. He allows five per cent. insurance. In this country, it is six per cent. Adding the ten per cent. to six per cent., we have sixteen per cent. Then allowing six per cent. for profit—either as profit or interest, whichever you choose—and we have twenty-two per cent. Then comes the other item of deficiency; that is to say, five per cent. renovation. That makes twenty-seven per cent. on the cost of the vessel independent of the running expenses. Add the twenty-seven per cent. to the running expenses, and you reach the full amount which these parties say they must have in order to enable them to sustain this line. Is not this corroborative testimony of the highest kind? It is given by a man familiar with steam operations—with the conduct of business of this kind. It is given without relation to this appropriation; and he proves to you the average amount which must be earned, over and above the running expenses. That average amount shows that these contractors must have hitherto sustained a heavy loss compared with their receipts from all sources; and that the sum now asked for is not more in addition to what they now receive than is equivalent to give them barely six per cent. interest on their money invested. I say, then, that the Senator's own evidence is strongly corroborative of the propriety of making this appropriation.

But there is an amendment which has been passed by the Senate which prevents the possibility of anything like an exaggerated appropriation. By that amendment, you authorize Congress, at their discretion, to withdraw this increased allow-

ance at any time after December, 1854. If the Senate desire to investigate the future receipts of the line, they have the right to order it to be done. If you find the compensation to be too great in the next two years, you have the power to withdraw the increase. The power to determine the allowance includes the power to reduce it; and surely, with the loss already sustained of half a million of dollars, there is no possible risk that these parties can remunerate themselves for that loss within this brief period of time. The amount of their loss I trust Congress are not unwilling should be returned, as that would be but just and equitable, even if you subsequently determine to abandon your policy.

The honorable Senator from Kentucky urges what seems a strange argument against this appropriation. He tells you that this twelve and a half per cent. is a large bonus to grant to this company. He tells you what they now get—\$385,000 a year—exceeds twelve per cent. on the capital invested. He tells you that the proposed allowance will pay their capital back in four years, and that paying back the capital of a company in four years is a thing unheard-of in this country. If the honorable Senator will take the trouble to look into the contracts of the Post Office Department, I think he will find that the ratio of allowance is not dependent upon the amount of capital invested in the performance of the service, but the annual expense incurred by the contractor in the performance of his contract. And it must be so. Take the case of horse-service. A horse will cost from \$125 to \$150. His keep, and the services of a driver, of necessity amount to more than the capital invested in the purchase of the horse. What is the result? Your contract would be more than one hundred or two hundred per cent. on the amount of capital. Then, what is the argument of the honorable Senator worth? How can he object to giving \$858,000 a year to this company, because it is one fourth of the capital that is embarked in the enterprise? The amount to be paid under the contract depends on the annual expenditure far more than it does upon the capital invested in the undertaking. You may take your post-coach system, and you will find the same principle there. You will find the amount paid for carrying the mail is from thirty to fifty per cent. upon the capital invested by the contractor in carrying out his contract. I derive this information from the Post Office Department. They have no accurate statement of the matter; but they said that there could be no doubt about the fact that the rate paid for carrying the mails in post-coaches was from thirty to fifty per cent. upon the capital. The inference is irresistible, if the honorable Senator will only give to it an unprejudiced consideration; and therefore his argument falls entirely without weight as opposed to this grant, if there should be no other objection to it.

The honorable Senator from Virginia has made an estimate of the postages in this case, with a view to show how great the loss would be to the Government, in the future. I concede, frankly, that I have not been able to come to the conclusion which has been arrived at by some of those honorable Senators who, in common with me, support this amendment, that it is probable that the receipts from postages will repay you the outlay during the term of this contract. I do not believe they will. It is more than probable, from the best estimate that I can make, that you will divide with the Cunard line, and that the amount of your receipts, taking the average for the remaining eight years, will probably reach \$500,000 a year. If you would improve your laws in reference to the transportation of letters on board sea-going vessels; if you would render them more stringent, and have them more efficiently enforced, as regards the illicit transportation of letters, to the exclusion of their transportation in the mail, then I think it not improbable that the future receipts of this line might repay the sum which is now asked. But, in the absence of that, without any supposition that any such legislation will be effected, I admit, upon any estimate that I can make, I do not suppose the receipts will go beyond \$500,000 a year. This would leave a deficiency of \$358,000 a year, to be paid out of the Treasury. Then I would ask the Senate, is this too much to grant to a line which connects the great center of our own commerce with the most important commercial point in Europe?

But it has been said, that it has been the practice to make the revenues of the land service pay the cost of transportation. This may be true. It may be the practice as regards the whole Union; but what is the result as regards States? Perhaps some Senators may learn something of a lesson of liberality from inspecting that. I find, in Executive Document number 2, page 488, that, taking the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Illinois, Mississippi, Tennessee, Alabama, Missouri, Arkansas, and Texas, the amount of the cost of the transportation of the mail in these twelve States, over and above the net revenues of the Department from the postage received in them, was \$527,563 for the year ending June 30th, 1851. In the State of New York, the net receipts over and above the cost of transportation, were \$609,007. In my own little State of Delaware, the receipts are double the cost of transportation; and the excess is absorbed, and more than absorbed, in the cost beyond receipts of the transportation of the mail in the State of the honorable Senator from Tennessee, which amounts to nearly \$10,000.

I do not state this in any captious spirit, or as a matter of complaint. I do not state it because I suppose a single Senator would desire to curtail the service in the different States of the Union, in proportion to the amount of the receipts of the post office within their borders, though I think such an argument might be quite as justly urged, as any argument which can be urged against the grant to this line, because it happens, from the locality of New York, as the center of your commerce, to be established there. I submit to the Senate, when your practice as a whole does not apply to your practice as regards the States severally, that if you expend \$527,000 more than you receive to afford the advantages of mail facilities to the people of the twelve States I have mentioned, you have the same reason, when mail facilities are essential to the commerce of your whole Union, two thirds of which is concentrated at New York, to afford the requisite mail facilities for that commerce, at a cost of \$385,000, or even \$500,000, a year, above the amount of postages. There is no reason that can be given for affording the interior facility for mail communication in the one case, that does not in principle obtain just as strongly as regards the facility which ought to be afforded to your foreign commerce in the other.

It is needless for me to go over the different States, in order to repeat the separate deficiencies. I have given the names of the States where the receipts for postage do not equal the amount expended. Some of those honorable Senators who are opposed to this appropriation, may perhaps find, upon looking over the list, that the people of the rest of the United States are paying an excess of postages, which is appropriated to the transportation of the mails in the States in which they reside.

MR. HUNTER. The case which the honorable Senator from Delaware suggests, is not a parallel one. When I write a letter from Virginia to my correspondent in New York, is it supposed that I pay or do not pay the postage upon a letter which I write upon my own business? You cannot ascertain who pays the postage, by taking the receipts at any one post office. All you can do is, to take the general results. Besides, here we have been paying more than the post office returns, because we have been keeping up mail steamers, the money for which comes out of the general Treasury.

MR. BAYARD. I do not think the answer sufficient; but I do not object to this mode of allowance, because I think that mail facilities should be granted to every State, whether the amount received from postages meets the cost of transportation or not. But I do not think there is any force in the case put by the honorable Senator. He writes to New York, and pays the postage; and he wants to know how we can tell where the postage is paid. I think that the amount of the correspondence of a State is fairly indicated by the amount of postages paid in the State. I think the enterprise, and business, and population of a State combined, will, in general, be in proportion to the postage received within the State.

MR. PRESIDENT, I have now, imperfectly I am aware, developed to the Senate the views which strike my mind in reference to this question. My only regret is that it has not been within the limits



of my capacity to urge them with greater force. If that capacity had equaled the strength of my convictions, I could have left no doubt as to the propriety of this amendment. I am personally unacquainted with Mr. Collins. I believe I saw him once on the deck of the Atlantic; but I should not know him again if we met. His personal interests weigh not with me in any view which I have taken of this appropriation; nor have I had any regard to the peculiar interests of the city of New York in advocating it. I consider it a national question, in which not only the reputation and pride, but the commercial prosperity of this country is involved. With these interests at stake, I am not willing to count closely the cost necessary to sustain this line. The necessary result, if you refuse this appropriation, will be the abandonment of the line. Its abandonment yields to Great Britain the entire postal service between England and America certainly, and between a great part of the continent of Europe and America; for if this line goes down, your other lines of ocean steamers must follow it. Its abandonment yields to her the entire transportation of passengers, except emigrants. It yields to her a tax upon American industry and upon American property, in the shape of freight upon light and costly goods. With success just achieved, I am not willing to surrender this prize to the English Government, to which they attach so much importance, and which, having embarked in the contest, we are just on the eve of dividing with them.

I bear no hostility toward England, peculiarly; but whenever I find that the honor, the reputation, the pride of character of my country is concerned, or her interests, I would assert them without regard to cost, and the more certainly against a haughty and overbearing power like England, than against a feebler State. Sir, withdraw this appropriation, let this line be abandoned, and can you tell me that it will not pass into the hands of a foreign Government? That it will not pass into the hands of your commercial rivals? What would be the feelings of Senators who now oppose this appropriation, if, at a future day, in the contingency of war, these derided vessels should make their appearance on your coast with the British flag flying at their foremast, and aid in the devastation of your country and the destruction of your commerce? Such a thing is entirely within the range, not of imagination, but, I may say, within the range of probability. If you determine that you will abandon this line, you compel the sale of these magnificent steamers, which have been built at so much cost, in pursuance of the policy indicated in your act of 1847, and you know not to whom that sale will be made. It is from these feelings, and because the deliberate result of my own judgment on this appropriation is, that it is a national matter, in which the national interests, national honor, national pride, and national reputation are deeply concerned, I am unwilling, for the sake of \$300,000 or \$500,000, or for any cost, even though it reach millions, to sacrifice them; and give the ascendancy in this contest to Great Britain. Admitting the amount to be requisite, and the principle of relief in accordance with a wise policy, I shall vote for the amendment as reported by the committee.

Mr. MALLORY. Mr. President, I desire now to renew the amendment which I suggested on Friday last. It is to add to the amendment of the committee, as it now stands, the following:

*Provided, That the contract for the transportation of the said mail be, and the same is hereby, transferred from the Navy to the Post Office Department.*

I will briefly explain my object in offering this amendment. The Senate Committee on Naval Affairs, I believe, is unanimous in its recommendation that this transfer shall take place, and that for the obvious reason that year after year an immense sum of money is appropriated for various objects in the naval appropriation bill, which would have been thus appropriated if no Navy actually existed. I do not desire to detain the Senate long, but I will advert to some of those objects, and I will say here, that appropriations for books and maps for hydrographical offices, appropriations for meteorological observations, the testing of magnetic power, the preparation and publication of a nautical almanac, the removal of the wreck of the steamer Missouri, the annual appropriations for steam mail lines, for the suppression of the slave trade, for the survey of certain bays on

our coast, for the purchase of vessels captured on Lake Erie, are all subjects which have been appropriated for under the denomination of "naval appropriations," and have tended year after year to swell up these appropriations. The swelling them up has done more to place the Navy improperly before the country than anything which has ever occurred to it.

I perceive that the estimates for the year ending June 30, 1853, framed by the Navy Department, are \$8,540,693. The bill which has been reported by the Committee on Ways and Means of the House of Representatives cuts that amount down \$1,835,226; thus reducing the appropriations to \$6,705,467. This service, which carried us so gloriously through the war of 1812; which, as was remarked by the honorable Senator from Michigan, [Mr. Cass,] was the first to wrest from Great Britain the wand of naval supremacy—this service, which has been dear to the country ever since 1812—it is quite common now to assail in both Houses of Congress, as useless and expensive. We have heard within these Halls within a few days past an expression of opinion that our naval vessels should be withdrawn from our foreign stations, and that steam lines should be multiplied in their places. As a reason for so doing, appeals were made in regard to these annual exorbitant expenditures, nominally for the Navy, but which really would be appropriated for their purposes if no Navy existed.

It is the opinion of the Naval Committee, after full investigation, and I believe it is the opinion of every man who has the good of the Navy at heart, that these appropriations should be called by their right names; and that if this amendment shall pass—if we are to spend \$2,000,000 for the transportation of the mails on the high seas, under the belief that the vessels thus transporting them may be converted into war steamers, we should not call the money so expended a "naval appropriation." Where is the propriety of calling them naval appropriations, until the vessels shall have been transferred to the Navy? It must be remembered, too, that before the transfer can be called for, these steamers may have been entirely annihilated, or may have become unfit for service. This cannot be considered a naval appropriation until the Navy can have something to do with these ships. I must insist, therefore, upon this amendment, providing for the transfer of the contract for the transportation of the mails from New York to Liverpool from the Navy Department to the Post Office Department.

Mr. BADGER. Mr. President, I wish merely to make a brief statement to the honorable Senator from Florida, and not to discuss this matter. What is said by the honorable Senator is strictly correct. The Committee on Naval Affairs were unanimously of the opinion that this contract should be transferred to the Post Office Department, and it was as the agent and under the direction of that committee, that I had prepared an amendment which I offered a day or two ago for that purpose. That amendment I withdrew in deference to my friend at the head of the Committee on the Post Office and Post Roads, in order to give him an opportunity of presenting an amendment which was adopted by the Senate the last time this subject was under consideration. I wish to say now that I hope the Senator from Florida will withdraw the proposed amendment to the amendment; for although I agree with him, as every member of the Naval Committee did, in the propriety of the transfer, I look upon it as a matter of secondary importance to the adoption of the amendment. I hope, therefore, that the amendment of the Committee on Finance will not be embarrassed with it. If it shall be thought by Senators to be a proper proceeding to make this transfer, it can be just as well done in one of the general appropriation bills as upon this amendment. I hope the Senator from Florida will withdraw the amendment for the reasons which induced me to withdraw it, that it is likely to produce embarrassment and difficulty.

On motion the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, May 10, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of Friday was read and approved.

Mr. McMULLIN. I move that the rules be

suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, upon the special order.

### PURCHASE OF MOUNT VERNON.

Mr. CULLOM. I hope the gentleman from Virginia [Mr. McMULLIN] will allow me to introduce a resolution merely to have it referred. It will not take one minute. It is a courtesy which I have not asked before, and I am sure that when the gentleman knows the object of the resolution, he will agree to it.

Mr. McMULLIN. I will withdraw the motion for a moment, but it is of importance that we should dispose of this special order.

Mr. CULLOM. I ask the consent of the House to introduce the resolution which I send to the Clerk's table.

The resolution was then read for information, as follows:

*Resolved, That the Committee on Public Buildings and grounds be instructed to inquire into the expediency of purchasing, for the public use, Mount Vernon, the last residence of George Washington, and the resting place of his remains; and, also, at what price the same can be purchased, for that purpose, and as to what national use it can with most propriety be dedicated; and that they report by bill or otherwise.*

Mr. BOCK. I object to its introduction.

Mr. CULLOM. I move that the rules of the House be suspended, to allow me to introduce the resolution.

Mr. McMULLIN. Objection having been made to the introduction of the resolution, I hope the gentleman [Mr. CULLOM] will excuse me for now urging my motion.

Mr. CULLOM. Let it be referred. It can do no mischief. The committee will have a right to report according to the propriety of the thing, after they shall have examined the matter. I ask that it may be referred.

Mr. AVERETT. I object.

Mr. FOWLER. I merely wish to make an inquiry. If the House do not sustain this motion to go into committee upon the special order, what will be the regular order of business?

The SPEAKER. The business in order will be petitions from the State of Maine. That is the business in order in the morning.

The question now being on the motion of Mr. McMULLIN—

Mr. COBB demanded tellers; which were ordered; and Messrs. JOHNSON, of Arkansas, and STEPHENS, of Georgia, were appointed.

The question was then taken; and the tellers reported—ayes 68, noes 45; no quorum voting.

Mr. STEPHENS, of Georgia. I move a call of the House.

Mr. HIBBARD. I call for the yeas and nays upon the motion to suspend the rules and go into committee.

The SPEAKER. Upon a division of the House, no quorum voting, strictly speaking, no motion can be in order except a motion for a call of the House, or a motion to adjourn.

Mr. STEPHENS. I ask for the yeas and nays upon the motion for a call of the House.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 37, nays 126.

So the House refused to order a call of the House.

The SPEAKER. The question now recurs upon the motion to go into Committee of the Whole upon the special order, and upon that motion tellers have been ordered. The tellers, Messrs. STEPHENS, of Georgia, and JOHNSON, of Arkansas, will again resume their places.

The tellers accordingly resuming their places, the question was taken, and the tellers reported—ayes 91, noes not counted.

### HOMESTEAD BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union upon the special order, (Mr. HIBBARD in the chair.)

The CHAIRMAN. The business first in order, is the consideration of House bill No. 7, for the promotion of agriculture, commerce, and manufactures, &c. The question before the committee is upon the amendment offered by the gentleman from Indiana [Mr. PARKER] to the amendment of the gentleman from Iowa, [Mr. CLARK.] The gentleman from Iowa moved to amend the first section, in the tenth line, by striking out the words,

"free of cost" and inserting the words, "at fifty cents per acre." The gentleman from Indiana [Mr. PARKER] moved to amend that amendment, by striking out the word "fifty," and inserting the word "twenty-five." The question now is upon the adoption of the amendment to the amendment.

The question was taken, and the amendment to the amendment was not agreed to.

The question was then taken upon the amendment offered by Mr. CLARK, and it was not agreed to.

The CHAIRMAN. If there be no further amendment to the first section of the original bill, the question recurs on the substitute for the first section, submitted by the gentleman from Tennessee, [Mr. JOHNSON.]

Mr. CLARK. I move to strike out from the first section the words "free of cost," and to insert the words, "and hold the same as a preemption for the term of three years, according to the preemption laws now in force, except as to the time which the preemption has to run."

Mr. CLARK. I stated the other day that I had some constitutional difficulty in reference to this section. I did not say that my mind was positively made up upon these questions. I shall be happy to receive light upon them, and that the difficulties should be removed, if gentlemen are able to do it. The gentleman from Ohio, near me, [Mr. CARTER,] said that this constitutional difficulty was all gammon. Now, that is a very hazardous expression. There may be game in it, but I do not see any constitutional light in it. The gentleman from Ohio, [Mr. DISNEY,] who sits furthest from me, was very confident that no gentleman need entertain any constitutional scruples upon the subject. He said they looked everywhere for light but in the Constitution itself, and commenced a search there for the authority which was to dissipate all doubt; but not finding it, he said he had confounded the original resolution on which the cession of territory was made to the United States with the Constitution itself; but that it was equally strong in one instance as the other—meaning, as he said, the resolution of Congress of 1780, the language of which was, "to cause them to be settled."

The gentleman from Mississippi, also, [Mr. FREEMAN,] alluding to the same resolution, stated that contemporaneous history, of the same nature with the Constitution, were in *pari materia*, and that they must be construed together. That our title to the public lands was not derived from the Constitution, but from the resolutions of the Congress of the Confederation, and the grants of the several States based thereon. But if we admit the statements made as true in their whole extent, they apply only to those lands which were then proposed to be detached from particular States, and conveyed to the United States. The proposition involves no question of the manner in which the public lands shall be administered. The question was as to detaching vast amounts of lands from particular States, and giving them to the United States for the purpose of being converted into separate States, to prevent those particular States from overriding, in a political point of view, the smaller States. What position would the State of Virginia occupy in this regard as to her compeers did she wield all the political power of the States northwest of the Ohio in addition to her own? Why, she would be like the fat kine of Egypt, which swallowed up the lean kine. What would the position of Georgia be in point of political power did she wield that of Alabama and Mississippi in addition to her own? The object was to build up separate independent States, so as to divide equally the political power; and there was no question here of the manner in which the public lands should be administered.

Will gentlemen undertake to say that the resolution of 1780 referred to those lands which have been acquired since the donation by Mississippi and Georgia to the United States? Will they undertake to say that the sentiments therein contained apply to those immense tracts of land which have been purchased and paid for out of the general Treasury? Will they undertake to say that the doctrines they have started apply to the Louisiana purchase, to the Florida purchase, and to the purchase on the Pacific? I should like to hear gentlemen upon this point. I should like to hear them prove, if they are able, that this doctrine, which they brought before this House the other day, in-

cludes these purchases—if they were purchases for the same purpose for which grants were ceded from the States of Virginia and Georgia?

[Here the hammer fell.]

Mr. AVERETT. I avail myself of this occasion to reply to the arguments of the gentleman from Ohio, [Mr. DISNEY,] made the other day upon the constitutional power of Congress over the public lands. He said, with an air of great confidence, that, if he had the physical strength, he could, even in a five minutes' speech, convince any man, whose mind was not biased beyond redemption, of the constitutionality of this measure. Forthwith, the gentleman went on to quote the Constitution, as he said; but the very first sentence that he quoted was a quotation not to be found in the Constitution itself.

Sir, it seems to me as clear as a sunbeam, that this bill is at war with the Constitution, with the equal rights of our people, and abounds in bad faith towards the old States.

"The Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging [not to Congress, but] to the United States."

It is that clause that gives Congress power to dispose of the public lands. The United States, then, held no territory except such as had been ceded by the old States. Upon what terms did the United States hold that territory? Why, sir, under a solemn compact and obligation that it should be appropriated to defray the expenses of this Government; to aid the States to defray the expenses of this Government, in proportion to the charges upon them respectively, and "for no other purpose whatsoever." That was the solemn obligation which had been entered into before the formation of the Constitution; and if the gentleman means to say that the power to pass this bill, or any similar bill, to divert these lands from those purposes is given in the Constitution, he means to charge the framers of that instrument with repudiating a solemn contract which had been entered into at the instigation of the Federal Government. The practice of the Government, for fifty-odd years, has conformed to this obligation, and proves that I have truly interpreted the Constitution; indeed, there can be no doubt about it. Unless the gentleman means to say that the framers of the Constitution meant to repudiate that obligation, it seems to me he is bound to admit that the power to divert the lands from these purposes is not given to Congress by the Constitution. It cannot be denied, that power over the public domain was meant to apply to the public domain then in the possession of the Government, which had been acquired from the old States, under the express stipulations just mentioned. Those stipulations give us the true interpretation of the Constitution indubitably. The Government, I repeat, had no other lands, and held them under this obligation; and I repeat that the practice, for more than fifty years, has conformed to it; and it proves that this was what the framers of the Constitution meant, in the clause which I have quoted, the only clause giving Congress power over the public domain. I say, then, to divert these lands from purposes specified in the deeds of cession made by the old States, is usurpation, say what you may about precedents. I look to the Constitution itself, and I defy gentlemen to show the power to pass such a bill as this. I will take this occasion to inquire why it is our Western friends are so eager to kick out of the traces, and divest us of our rights in the public domain. They cannot expect to settle our immense domain in a minute. Their fathers or themselves have gone to the West of their own free will and accord. With what reason can they complain, since we have nurtured them in their territorial condition, yea, petted them, and defended them against the Indians at immense expense? With what reason can they complain that the buffalo and buck are still within the reach of their rifles? Why is it? Is it because they wish to get somebody upon the public lands to tax? Yes, sir; they wish to locate people upon the lands to tax them! It is for that purpose that they are striving to divest us of our rights. They would prefer having the power to tax the lands, to the gift of them. Are we not joint owners of them? Are not the old States members of this copartnership of States? Are you, my Western friends, determined to repudiate the obligations of your fathers? Unquestionably,

you cannot show your power, in the Constitution, to do what you are aiming at; and I proclaim here, if you pass this bill you not only violate the Constitution, but you desecrate the memory of your fathers!

Mr. HALL. I move to amend the amendment by striking out "three" years and inserting "two." I wish to answer the gentleman from Virginia, [Mr. AVERETT,] who inquires why it is that members of the West desire to see these lands taken out of the hands of the Federal Government? I answer, that we do desire it. We who own lands in the West are taxed exorbitantly for the purpose of making roads and bridges, that the laws may be administered over the settlers on these public lands. These the Federal Government own; and while we, the small landed proprietors of the new States, are subjected to these expenses, for the purpose of adding value to your public domain, you stand by, let your public domain improve by our expenditure, and refuse to give us a single cent. We have felt the evil, and have suffered long enough under the operation of this unjust system. I tell the gentleman from Virginia, that if he will deal equitably and fairly with all the parties to whom these lands belong, he will insist that they shall all contribute their fair share towards giving value to the public lands. It is, at present, a one-sided operation. The new States have not only paid the taxes, but have made roads and bridges, and have been at the expense of administering the laws to protect settlers upon your public lands, and we have received nothing in return for it. Now, we think that this thing has gone on long enough. You keep these lands, and speculate with them off of the new States. We have asked you to sell the land for what it is worth, but you will not do it until we, by our expenditure, add value to it; and then when we ask for a fair and liberal policy, accuse us of robbing and plundering you of your property.

Now, sir, I am sorry that the gentleman from Virginia has left, as I wished to call upon him to tell me for what object the Government of the United States has ever acquired territory. For what purpose has any Government upon the face of God's earth ever acquired territory? Was it not solely and exclusively for the purpose of peopling it?—for the purpose of adding to the strength and power of the Government, and for the purpose, in that way, of adding to the greatness and wealth of the nation? And, sir, we have recognized that this is the only purpose for which we have acquired this history, because, from time to time, we have passed laws with reference exclusively to its settlement. We have passed preemption laws to induce people to go and live upon the land. We have established a credit system at one time, and then we have established the cash system at another time, all the time selling the land at a comparatively low price, in the opinion of gentlemen from the old States, with a view of encouraging people to go and live upon it. If we acquire these lands for the purpose of peopling them, I ask the gentleman from Virginia, now, as I inquired the other day, why Congress cannot, in the exercise of a sound discretion, pass a bill, the object of which is to settle the public lands? That is the ground upon which I rest this bill. I do not claim all power at the hands of Congress over the public domain. I do not claim that you have a right to pass a distribution law, like the famous bill of Henry Clay. I do not claim anything of that kind, but I do say, having acquired this land for the purpose of extending population and settlement, that we have a right to adopt a bill which has for its object, in good faith, the extension of our population of this territory. That is the ground upon which I rest this bill, and I am willing to meet gentlemen of the old States in the defense of it. Gentlemen from the old States ought not to complain if the new States are a little restless under the operation of this system. The new States have asked you to graduate the price of the public lands. They have only asked you to sell it for what it is really worth, and this you have refused.

[Here the hammer fell.]

Mr. DISNEY. Mr. Chairman, it was not my purpose to say another word, but that which has fallen from some gentlemen this morning seem to call for a reply. I feel fully the folly of attempting to make a constitutional argument in a five minute speech, nor shall I attempt it, but submit only a

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word or two by way of answer to gentlemen. By the way, gentlemen appear to pride themselves remarkably upon the fact that, not having a copy of the Constitution before me, I inadvertently quoted, as a passage from the Constitution, words which are to be found in the resolutions of 1780. Permit me here to say, that that resolution is more germane and more binding, with regard to the power of Congress over these public lands, than, if possible, even the Constitution itself; because that portion of the Constitution in relation to this measure grew out of and was based upon the language of the resolutions of 1780. As I said before, I repeat now, that, as a mere question of constitutional power, it can be demonstrated beyond all sort of doubt. Prior to the passage of the resolutions of 1780, claims were set up by the different States to large tracts of this unsettled public domain. The other States objected. One of the objections was that to which I have adverted before; that the possession of such large tracts made one State too powerful for the safety of the rest. Congress felt the force of that with other objections. If gentlemen turn to the history of the times, they will find that the entire colonies were at war upon this one subject; and Maryland absolutely refused for a while to enter into the Confederation on account of it.

The difficulty was universally felt, and hence Congress passed that resolution inviting these cessions from the different States, pledging itself to cause them to be settled and formed into separate independent States under a republican form of Government. This was done to quiet the apprehensions, and it was upon this resolution of 1780 that Virginia acted. It was that which induced her to make the deed of cession. She stipulated that these lands should be used as a common fund. The dispute in relation to the unsettled lands continued up to the meeting of the Convention which framed the existing Constitution. The dispute was found to have existence there; and, after various unsuccessful efforts in that Convention to settle the question, they finally abandoned it, simply adopting the words which are in the Constitution as it now exists.

I say to this committee, as has been said already, that the only possible object for which any Government can want a public domain is to have it settled. What want you of jurisdiction over trees and barren acres? It is men only that constitute the strength, power, and the glory of a State. It was to induce the settlement of men—living, breathing men—upon this domain that induced Congress to ask and Virginia to make the cession—that induced North Carolina and Georgia to cede this domain that it might be caused to be settled and erected into distinct States with a republican form of Government. It is true that one of the original objects was to provide for the common debt which existed and hung over the Confederation, growing out of the war of the Revolution; but that object has been accomplished. The debt has been paid, and so far as that condition or limitation is expressed or implied it has been fulfilled. It ceases to apply to the Government of the United States, which is in possession of this domain. There is, then, nothing of the conditions or limitations of deeds of cession but the application of them for general purposes—to that necessary, unavoidable, general intention of causing the domain to be settled.

The question then arises, will the granting of these lands to actual settlers be to the promotion of the common benefit? If it be not for the common benefit, it must be for the exclusive benefit of some particular class or portion of the community. But, sir, will it be denied that the settlement of the wild and uncultivated lands would be for the general benefit of the Republic?

The question was then taken upon Mr. HALL's amendment to the amendment, and it was rejected.

Mr. McMULLIN. I move to amend the amendment, by striking out "three," and inserting "ten." I shall endeavor strictly to confine the remarks which I may make to the subject-matter contained in my amendment. If I should,

in the least degree, deviate from that determination, I beg that the Chair will enforce the rules upon me. I would also request of the Chair, that when any gentleman shall attempt, under the operation of the five minutes rule, to discuss the general features of the bill, that he will enforce vigorously the rule.

Mr. OLDS. I call the gentleman to order. He is not speaking to the point presented by his amendment. [Laughter.]

The CHAIRMAN. The Chair is of opinion that the gentleman is not discussing his amendment, and therefore is out of order. The amendment is, that three be stricken out, and that in its place ten be inserted. Is the point of order insisted upon?

Mr. OLDS. I will not insist upon my point of order.

Mr. HOUSTON. If the gentleman from Tennessee, and the gentleman from Virginia, who have peculiar charge of this bill, do not insist upon the proper and faithful execution of the five minutes rule of debate, I shall endeavor to do so myself, although I have no more right than any other member of this committee. If the rule is not strictly enforced, we shall never get through with the bill. The whole object of that rule is entirely destroyed by its non-enforcement.

The CHAIRMAN. If there be no objection, the gentleman from Virginia will now proceed.

Mr. HOUSTON. I object, if the Chair decides that he is out of order.

The CHAIRMAN. The Chair is of opinion that his remarks were not in order.

Mr. McMULLIN. I have effected my object, which was to call the attention of the Chair and the members of the House to the five minutes rule of debate, and to request its enforcement, and shall, therefore, withdraw my amendment.

The question was then taken upon the amendment of Mr. CLARK, and it was disagreed to.

Mr. MCNAIR. I submit the following amendment, to come in at the close of the second section, viz:

And also every officer, soldier, sailor, and marine who shall have served in the war of 1812, and in the war with Mexico, shall be entitled to a bounty land warrant for one hundred and sixty acres of vacant and unappropriated public land as above; and in case of his death, his widow and children, including what he may have had under the act of 28th September, 1850.

Mr. HALL. I submit the point of order that the gentleman's amendment is not germane to the bill.

The CHAIRMAN. The Chair is not prepared to say that the amendment is not in order.

Mr. MCNAIR. I do not introduce this amendment with any design of producing confusion or difficulty; for I expect, unless this bill is very materially changed from what it is at present, to vote for it. It may be, however, in my judgment, amended with advantage. It is not, as it is, quite equal or just. While, with a liberal hand, there is extended a home to a great many citizens of the United States, I contend that liberality should also be extended towards those who have, in the hour of peril, gone out in the defense of the land; who have stood up, battling for their country's right and protection; and to the widows and orphans of those whose fathers and husbands have died bravely defending their country against the assaults of its foes. I ask gentlemen, whether it is equitable or just to give more to persons who have remained at their homes, subject to no peril, but coolly looking on, than to those who have marched out at the first moment of alarm to defend the country; and who, in so doing, have risked their lives? The widows and orphans of thousands whose bones are now bleaching on the plains of Mexico, are suffering for the want of bread to sustain life; and yet you give more to those who have remained at home than to the soldiers who have endured hardships and privations for their country; and to the suffering widows and children of those who died in their country's service. Our soldiers have fought as bravely, as gallantly, and as successfully, as men ever did before. They contended with the foe arm to arm,

and with steel to steel; with the knowledge that if the Mexicans conquered them, they would have been destroyed at the point of the bayonet, or driven into the ocean.

A large majority of these soldiers who had granted to them land warrants for forty acres, are now selling them at \$20 to \$23 each. What kind of bounty, I ask, is that? It is a very small pittance; indeed, to the defenders of the Republic—to those who pressed forward in the van, to the glory and fame of the country. Extend to them, and to the widows and children of those who have died in the service, the same liberality you propose for those who remained at home.

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. Mr. Chairman, the gentleman from Missouri, [Mr. HALL,] and the gentleman from Ohio, [Mr. DISNEY,] have advanced positions which I do not wish to let pass without reply. They say, that the object of the old States in their cessions of the public lands was to procure their settlement and the formation of new States. The gentleman from Ohio says, that the objects were settlement, population, and new States.

Now, I join issue with these gentlemen upon these points. The object of these cessions can only be known from the deeds of cession themselves. I appeal to the record, and I have before me all the deeds of cession, to which I beg to call the attention of the committee. The first was made by New York the 19th of April, 1780; and contains this language—

Mr. HOUSTON. I make a point of order upon my friend from Georgia, and will let the Chair and committee dispose of it. It is, that the rule requires that only one speech shall be made in favor, and another in opposition to an amendment. I understand the gentleman to be now replying to speeches made in the early part of the morning, when, under the rules his remarks should be confined to the precise amendment before the committee, which is an amendment offered by the gentleman from Pennsylvania, [Mr. MCNAIR,] proposing to give bounty land to marines.

Mr. STEPHENS. I think, if I may be allowed a word, that the gentleman from Alabama is a little too fast. If it be that we have not the authority, under the deeds of cession, to grant these lands as proposed by the amendment offered by the gentleman from Pennsylvania, [Mr. MCNAIR,] of course I am in order in showing it.

The CHAIRMAN. The question is not debatable. The gentleman from Alabama [Mr. HOUSTON] rises to a point of order. The remarks of the gentleman from Georgia [Mr. STEPHENS] are not in order. The question before the committee is upon the amendment submitted by the gentleman from Pennsylvania, [Mr. MCNAIR.] The gentleman from Georgia is entitled to the floor upon that amendment. The Chair does not see the pertinency of the remarks of the gentleman from Georgia.

Mr. STEPHENS. If it is not in order to recur to the deeds under which we held these lands when the pending question is a disposition of them, I do not know what is in order.

The CHAIRMAN. It is difficult for the Chair to say that the remarks of the gentleman may or may not be in order. He is not disposed to rule the gentleman out of order, but would rather beg leave to suggest to all gentlemen, and the committee, the propriety and necessity of confining themselves as strictly as may be practicable to the amendment.

Mr. STEPHENS. I will then proceed.

The first of these cessions was made by New York, the 19th April, 1780, and contains this language:

"And be it further enacted by the authority aforesaid, That the territory which may be ceded or relinquished by virtue of this act, either with respect to the jurisdiction, as well as the right or preemption of soil, or the right or preemption of soil only, shall be and inure for the use and benefit of such of the United States as shall become members of the Federal Alliance of the said States, and for no other use or purpose whatsoever."

The next cession came from Virginia, on the



first day of March, 1784, and contains the following limitation:

"That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in boundaries to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the Confederation or Federal Alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."

Massachusetts ceded her interest in these lands on the 13th September, 1786, and her commissioners appointed for this purpose used the following language:

"Then we do by these presents, by virtue of the power and authority aforesaid, in the name and behalf of the said Commonwealth of Massachusetts, transfer, quit claim, cede, and convey to the United States of America, for their benefit, Massachusetts inclusive, all right, title, and estate of and in, as well as the soil as the jurisdiction which the said Commonwealth hath to the territory or tract within the limits of the Massachusetts charter, situate and lying west of the following line," &c.

The next session in order of time was from Connecticut. This was on the 14th of September, 1786. The language used in that session is as follows:

"Now, therefore, know ye, that we, the said William Samuel Johnson and Jonathan Sturges, by virtue of the power and authority to us committed by the said act of the General Assembly of Connecticut before recited, in the name, and for, and on behalf of the said State of Connecticut, do, by these presents, assign, transfer, quit claim, cede, and convey to the United States of America, for their benefit, Connecticut inclusive, all the right, title, interest, jurisdiction, and claim which the said State of Connecticut hath in and to the before-mentioned and described territory or tract of country, as the same is bounded and described in the said act of Assembly, for the uses in the said act of Assembly disclosed."

The cession of South Carolina was made on the 9th of August, 1787, and is in these words:

"Now, therefore, know ye, that we, the said John Kean and Daniel Huger, by virtue of the power and authority to us committed by the said act of the General Assembly of South Carolina before recited, in the name, and for, and in behalf of the State of South Carolina, do, by these presents, assign, transfer, quit claim, cede, and convey to the United States of America for their benefit, South Carolina inclusive, all the right, title, interest, jurisdiction, and claim which the State of South Carolina hath in and to the before-mentioned and described territory or tract of country, as the same is bounded and described in the said act of Assembly, for the uses in the said recited act of Assembly disclosed."

North Carolina made her cession on the 2d of April, 1790. The language used in it is as follows:

"Thirdly. That all the lands intended to be ceded, by virtue of this act, to the United States of America, and not appropriated as before-mentioned, shall be considered as a common fund for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that use and purpose, and for no other use or purpose whatsoever."

The last cession made, sir, was by Georgia. This was on the 24th of April, 1802. The language of limitation used by that State in her deed of cession, is as follows:

"Thirdly. That all the lands ceded by this agreement to the United States shall, after satisfying the above-mentioned payment of \$1,250,000 to the State of Georgia, and the grants recognized by the preceding conditions, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that use and purpose, and for no other use and purpose whatever."

Now, sir, I have read that part of each one of those deeds of cession relating or pertaining to this point, and in no one of them is *settlement* one of the objects had in view in making the cession. On the contrary, the *leading object* in all of them was to create a *common fund for the use and benefit of all the States of the Union* (the ceding State included) and for no other use or purpose whatever. I therefore not only protest against the doctrine advanced by the gentleman from Missouri, [Mr. HALL,] and from Ohio, [Mr. DISNEY,] that the main object of making those cessions, was settlement and population and the formation of new States; but, sir, as a Representative of one of these old States, making one of these cessions, I protest against any disposition of the public lands so ceded in opposition to the express words of the grants under which we hold them.

Mr. EVANS. I move to amend the amendment of the gentleman from Pennsylvania, [Mr. McNAIR,] by inserting after the words "war with

Mexico," the words, "revolutionary war, war of 1812, and Florida war."

Mr. JONES, of Tennessee. I make a question of order upon this amendment, that it is contrary to the fifty-fifth rule; and that it is upon a different subject from the one before the committee. We have had up this whole subject of the bounty lands for weeks, and discussed it.

Mr. EVANS. I submit to the Chair that it is too late, when I have offered it as an amendment to the amendment. The gentleman should have raised the question upon the amendment itself.

Mr. JONES. I take it upon the original amendment.

The CHAIRMAN. The question must be now upon the amendment to the amendment of the gentleman from Pennsylvania, [Mr. McNAIR.] The Chair is of the opinion that it is in order, as extending the benefits proposed by the amendment.

Mr. JONES. I take an appeal, and ask for the reading of the fifty-fifth rule.

The CHAIRMAN. It will be read, unless objected to.

The fifty-fifth rule was then read, as follows:

"No motion or proposition on a subject different from that under consideration, shall be admitted under color of amendment. No bill or resolution shall at any time be amended, by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House."

Mr. JONES. I take an appeal upon the original amendment.

The CHAIRMAN. The Chair thinks it is too late.

Mr. JONES. It is not too late, while it is pending.

The CHAIRMAN. The Chair decides that the amendment offered by the gentleman from Maryland [Mr. EVANS] is in order, to the amendment offered by the gentleman from Pennsylvania, [Mr. McNAIR.] That is the only question before the committee.

Mr. JONES. I make the question of order upon the original amendment.

The CHAIRMAN. The Chair thinks that the two questions cannot be made, both at the same time. It is too late to make the point of order now.

Mr. JONES. If I withdraw it upon this one, as the Chair understands it, cannot the point of order be taken upon the original amendment?

The CHAIRMAN. The Chair is of the impression that it is too late to take it upon the original amendment. That has been received. The question of order raised upon the original amendment was overruled, and acquiesced in by the committee.

Mr. JONES. It has not been acted upon.

Mr. EVANS. I call the gentleman from Tennessee to order.

The CHAIRMAN. It is the opinion of the Chair that it is too late to raise the question of order.

Mr. JONES. I take an appeal from the decision of the Chair. If that decision is overruled, then I will take an appeal upon the amendment of the gentleman from Pennsylvania, [Mr. McNAIR.]

The CHAIRMAN. The gentleman from Tennessee [Mr. JONES] raises the question of order, that the amendment submitted by the gentleman from Pennsylvania [Mr. McNAIR] is not in order. The Chair rules that at this time the objection comes too late, and cannot be received. From that ruling the gentleman from Tennessee [Mr. JONES] appeals, and the question is now, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. EVANS. The gentleman from Pennsylvania [Mr. McNAIR] has certainly made some patriotic and proper remarks, but what struck me with a great deal of surprise is, that in offering an amendment which he had evidently drawn with great care, and to which he had given a good deal of consideration, he should have overlooked everything that occurred prior to 1846, and should have forgotten that during the revolutionary war and in the war of 1812 we had sailors and marines in our service, who contributed greatly to our honor and renown. The gentleman is not a very old gentleman, but certainly his reading, if not his recollection, goes back to those times. Every

one present must know that the most deserving men that we have ever had in service are these very sailors and marines, in the war of 1812. You had no prestige of success, or any probability of it until they made your flag triumphant. You never gave them any reward for their services, but you have given bounty lands to the soldiers and marines who were engaged in the war with Mexico.

Mr. McNAIR. I think not to the sailors.

Mr. EVANS. Well, I think we have; but we have never granted any to the sailors who were engaged in the war of 1812. For what reason? You state, as an objection, that the sailors are entitled to prize money. Were not those engaged in the Mexican war also entitled to prize money? But take the Florida war, where the sailors and marines of the United States went on shore and fought with the land troops, for years, and never received one particle of bounty land; though they could not by possibility have any prize money. Why is it, I ask the honorable gentleman, that he has forgotten these illustrious men?—has overlooked men of the highest desert and the most brilliant reputation; men who have graced their country by their deeds of arms?

Mr. McNAIR. I will vote for the gentleman's amendment.

Mr. EVANS. I hope the gentleman will vote for it; and I hope the House will not overlook it. It has been said in this House, in former times, that these sailors, who are a class of men scattered over the whole world, and who are seldom at home on the day of election, do not vote, and, therefore, it is useless to stretch our gratitude beyond the borders of our interest. Well, I am prepared to relinquish my share of the interest so that there may be more to distribute among other members; and shall only ask that I may display my gratitude to the gallant sailors and marines who are embraced in my amendment by pressing its adoption upon the committee.

[Here the hammer fell.]

Mr. WOODWARD. Mr. Chairman, I object to the amendment of the gentleman from Maryland, [Mr. EVANS.] It makes an unjust distinction between persons equally meritorious, supposing the bill to be right in principle. And what I have to say will meet the views presented by the distinguished gentleman from Ohio, [Mr. DISNEY,] already properly criticised by the gentleman from Georgia, [Mr. STEPHENS.]

The public lands originally belonged to a portion of the States, and not the whole. But, because the title to, or, rather, possession of these lands had been secured by a war in which all the States had spent their treasure and made great sacrifices, it was considered that justice demanded that the territory thus secured against a common enemy should become the common fund of all the States, to pay a common debt and provide for their common interest. But we propose now to reverse this policy. We propose to take the territory from the whole, and give it to a part.

The gentleman from Ohio says that the territory was ceded to the Union for the purpose of having it settled and erected into republican States, to be admitted into the Union. He confounds the conditions of the cession with the object. The object was to provide the Union with a common fund to discharge a common debt. But these States, which were the original proprietors, refused to make the cession, except upon the condition that the United States should carry out the policy which it was the intention of the original proprietors to pursue—that is, put the lands into market, and thus promote their settlement, and when sufficiently populous, admit the different districts or divisions into the Union as States, on the terms of the Constitution.

Why did Virginia and other States require these conditions? The history of the matter is this: There was an Eastern interest, political in its character, opposed to the extension of the Union westward; opposed to the new communities then growing up west of the Ohio river becoming members of the Confederacy. The proprietary States found that if they gave up the control of their territories to the United States, they might be kept out of market to prevent their settlement, and that when they should be settled, they might be left to take care of themselves, and might eventually attach themselves to the contiguous foreign provinces, and thus fall into the hands of foreign pow-

ers. Such are the reasons why the cession to the United States was made subject to the conditions mentioned. If settlement and the erection of new communities were the objects and not the condition of the cession, then there was no use in making the cession. The proprietary States were full as competent to sell or bestow the lands as the United States could be. And as to the erection of new communities and the establishment of territorial governments, the gentleman from Ohio denies, I think, that Congress has any such power. But no one will deny that Virginia and the other land States had the power to do this. In this respect, there was, therefore, something lost and nothing gained, if the view of the gentleman from Ohio be correct as to the objects of the cession.

I know that in early times, resolutions were adopted by the different parties concerned, favorable to the idea of the sale and settlement of the public domain, but those resolutions, as I have already stated, resulted from fears that it might be kept out of market, with the aim of preventing settlement, and to the injury of the Union which had instant and urgent need for the fund.

[Here the hammer fell.]

[Here a message was received from the Senate by the hands of their Secretary, ASBURY DICKERS, Esq., informing the House of the passage of sundry bills.]

The question was then taken on Mr. EVANS's amendment to the amendment, and it was not agreed to.

Mr. HALL. I move to amend the amendment, by inserting "and the soldiers of the war of 1812."

Mr. MCNAIR. They are already included in the amendment.

Mr. HALL. Then I move to strike out "160," and insert "320." I hold that we have the power to pass this bill, and I wish to say a few words upon that point.

Mr. FLORENCE. I would suggest to my colleague, [Mr. MCNAIR], that the soldiers of the War of 1812 are not included in his amendment.

Mr. MCNAIR. Read the amendment, and it will be seen that they are included.

Mr. HALL. I cannot give way for the reading of the amendment. Mr. Chairman, the gentleman from Georgia [Mr. STEPHENS] and the gentleman from South Carolina, [Mr. WOODWARD], seem to misunderstand altogether the title which we have to the larger portion of our public domain.

According to my reading, Georgia never did own California and New Mexico, Virginia never did own Florida and Louisiana, and a great portion of the territory which we now own, was not obtained by cession from any of the old States, but was obtained by cession from France, Mexico, and Spain. If, therefore, gentlemen find any difficulty in applying the provisions of this bill to the land ceded by the old States, let them propose to except it from the operation of this bill.

With regard to that great portion of the public domain which has not been ceded by the old States, how does the matter stand? Will the gentleman from Georgia, or the gentleman from South Carolina pretend that we ever bought those lands for the purpose of speculation? What sort of an argument would it have been to the American people in favor of purchasing Louisiana; that by acquiring that country we should receive millions into the Treasury from the sale of the public lands? Such an argument as that could not have got a single vote in any part of the country. Was it ever made when we proposed to purchase Florida, or when we bought California and New Mexico? This whole principle on which we acquire territory, was up in the question of the annexation of Texas. On what ground did we go for the annexation of Texas? Was it because we were going to speculate in the land which we supposed we should acquire by the annexation of Texas? Why no, but because we should acquire a great State, extend our area, increase our population, and in that way extend our wealth and multiply our commerce. It was on that ground, too, that we annexed Louisiana, Florida, California, and New Mexico. The idea of speculating in the public lands never entered into the head of any American statesman when we made those acquisitions, and it would have been ridiculous, after the experience we had had in regard to the public lands, to have recommended the annexation or acquisition of territory on any such argument as that. The whole purpose and motive the Government

had in view in acquiring this territory, was to extend our population, to extend the area of freedom—in the phrase of the day—and in that way, to multiply the resources; wealth, and prosperity of the country.

[Here the hammer fell.]

Mr. HOWARD. I am opposed to the amendment.

The CHAIRMAN, (interrupting.) The Chair would beg leave to remind the committee of the rule which requires gentlemen, in speaking to amendments to confine themselves to the question before the committee, and to announce that if gentlemen, in the course of debate hereafter, in the opinion of the Chair, clearly wander from the question, he will feel it to be his duty to call them to order.

Mr. HOWARD. I am opposed to the amendment, for the reason that I do not believe we have a right to give away the public lands. The gentleman from Missouri bases his whole argument upon the ground, that the United States Government has no right to speculate in the public lands.

Mr. HALL. I did not say so. I said that we never bought land for the purpose of speculating in it. That is not the object of this Government, or of any other Government in acquiring territory.

Mr. HOWARD. Then I do not perceive the force of the gentleman's argument. Now, I maintain that the Federal Government, if it has a right to purchase lands at all, it has a right to speculate in the public lands. As has already been said, one of the leading objects of the purchase was revenue. Now, where do we derive power to lay taxes and collect revenue—to distribute it among poor people or among rich people? And if we have no power thus to deal with money, by what right can we collect revenue to purchase land, for the purpose of distributing land among the people generally, or among a particular class? Gentlemen say that it is because we have a plenary power under the Constitution to dispose of the public domain. Now, I deny that the Federal Government has any plenary powers in the ordinary acceptance of the words. The powers are all limited to the object's scope and intention, for which the Federal Government and the Federal Constitution were ordained. There are no unlimited powers.

The CHAIRMAN. The Chair begs leave to remind the gentleman from Texas that the amendment against which he is speaking is to strike out "160," and insert "320," and to suggest that the gentleman must confine his argument to that question.

Mr. HOWARD. Well, sir, I say that we have no constitutional power to give away three hundred and twenty acres of the public domain.

The CHAIRMAN. The gentleman from Texas must confine himself, in the opinion of the Chair, to the merits of three hundred and twenty acres in preference to one hundred and sixty acres.

Mr. HOWARD. I am confining my remarks, as I think, to that question; and I make this application, that it must be perfectly obvious that we have no right to dispose of the public domain for any other purposes than for those which will carry out some power expressly granted in the Constitution. Now, sir, you look in vain for any power in the Constitution which confers upon you the right to give away the public property of any kind. You cannot give away the ships of the Navy. You cannot give away the material of the Army.

Mr. JOHNSON, of Tennessee. (Interrupting.) With the permission of the gentleman from Texas, I desire to ask him a question. The gentleman is raising a constitutional point. Now, I want to ask him where Congress derived the power to give to a portion of the States twenty millions of acres of land, worth twenty-five millions of dollars, and to give not an acre to others? And I want to ask him, further, if he did not vote to make a grant of lands worth twenty-five millions of dollars to some States and withheld it from others?

Mr. HOWARD. I do not see the pertinency of the gentleman's question. One unconstitutional act could not make another unconstitutional act constitutional. But I do not know to what act the gentleman alludes.

A MEMBER. He means the railroad bills.

Mr. HOWARD. That is a proprietary act, to increase the value of the remainder of the public lands, and it is direct in its object. But there is a

manifest distinction between this bill and the bills which have heretofore been passed making concessions to railroads and to other works. Those acts reserve a certain amount of the public domain along the lines of the railroads and increase the price of those lands.

[Here the hammer fell.]

Mr. MCNAIR. I wish to make a brief explanation of my amendment. [Cries of "Order! order!"] But I want to set myself right. [Renewed cries of "Order!"]

The CHAIRMAN. No further debate is in order.

The question was then put upon Mr. HALL's amendment to the amendment, and it was not agreed to.

The question recurring upon Mr. MCNAIR's amendment, it was put, and the amendment was rejected.

Mr. MOREHEAD. Would it be in order now to move to strike out the first section and insert a substitute?

The CHAIRMAN. There is a motion to that effect already pending.

Mr. MOREHEAD. I move to strike out all after the enacting clause of the 1st section, and to insert in lieu thereof the following:

That all the public lands remaining unsold, or unappropriated, on the 1st day of September, 1852, be divided between the several States of the United States, and the citizens thereof, in proportion to the Federal population of each State and Territory.

The CHAIRMAN. The Chair rules that amendment out of order, because it relates to a subject not germane to the subject of the bill, and because there is a substitute for the first section already pending.

Mr. MOREHEAD. Is it in order to offer it as an amendment to the proposed substitute?

The CHAIRMAN. The Chair cannot receive it as an amendment to the substitute, because it is not germane to the bill. The question now is on the substitute for the first section, offered by the gentleman from Tennessee, [Mr. JOHNSON.]

Mr. JOHNSON, of Tennessee. I ask for the reading of the first section of the bill, as it now stands.

The Clerk read the section, as follows:

*Be it enacted, &c.* That every man or widow who is the head of a family, and a citizen of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body, in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

Mr. JOHNSON. I will now withdraw my substitute, as the section embraces substantially what I propose.

The CHAIRMAN. If there be no objection, the gentleman can withdraw his amendment.

Mr. MOLONY. I object. I desire to submit an amendment to that substitute, which I intended to offer when I made my speech upon this bill, but failed to do so for want of time. I move to insert after the words "first day of January, 1852," the words "or shall become a citizen after."

I gave my reasons for supporting this amendment at length in my remarks on the homestead bill, and I shall not, therefore, occupy the time of the committee further than to say that the effect of the amendment, if adopted, would be to allow any emigrant who may hereafter declare his intention to become a citizen, when he shall become a citizen after a residence of five years, to avail himself of the benefits of this bill.

Mr. JOHNSON, of Tennessee. I will merely say that I think the first section of the bill is now about as perfect as we can get it; and it is for that reason that I am willing to withdraw my amendment. I hope the committee will vote down all other amendments.

The question was then taken on Mr. MOLONY's amendment; and it was not agreed to.

Mr. MOREHEAD. I move to amend, in the fourth line, by inserting the word "white," before the word "citizen;" so as to make it read, "and a white citizen of the United States."

Mr. CABLE. Is that in order? Has not the section been passed upon?

The CHAIRMAN. The Chair understands the gentleman from North Carolina to propose an amendment to the first section. He thinks that the amendment is not now in order, the House having passed from that section to the consideration of the substitute offered by the gentleman from

Tennessee, [Mr. JOHNSON.] The gentleman can offer an amendment to the substitute.

Mr. SEYMOUR, of Connecticut. But it is not in order to perfect the first section before the question is taken upon the substitute?

The CHAIRMAN. Not in the opinion of the Chair, after the committee have proceeded to the consideration of the substitute. The Chair thinks the amendment comes too late.

Mr. JONES, of Tennessee. Does the Chair decide that the committee have gone as far, in offering amendments to the original section, as it can go?

The CHAIRMAN. The Chair so thinks.

Mr. JONES. If the Chair will look to the rule, he will see that, so long as amendments continue to be offered to the first section, the committee must continue to consider and vote upon them. Then, when there are no more amendments to be offered to that section, it is in order to proceed to the consideration of the substitute.

The CHAIRMAN. The Chair will examine the rule further upon that subject.

Mr. JONES. If the Chair will allow me, I was proceeding to say, if, however, after the committee have proceeded to the consideration of the substitute, any gentleman wishes to propose an amendment to the original proposition, according to the rule, I think he has clearly a right to do so. That has, at least, been the uniform practice of the House.

The CHAIRMAN. To what rule does the gentleman refer?

Mr. JONES. I think it is the 136th rule. I refer to the clause which provides:

"That the House may discharge the Committee of the Whole House on the state of the Union from the further consideration of any bill referred to it, after acting, without debate, upon all amendments pending and that may be offered."

The CHAIRMAN. The Chair is of the opinion that, as an amendment to the original section, it comes too late. All amendments to the original section were in order, when that section was under consideration. But the Chair announced, that if no further amendments were to be offered to the original section, the substitute of the gentleman from Tennessee [Mr. JOHNSON] would be in order. None were offered; and the committee then proceeded to the consideration of the substitute. If the gentleman from North Carolina [Mr. MOREHEAD] had offered his amendment before the substitute had been taken up by the committee, it would have been in order. But the Chair thinks not after; otherwise there would be no end to this proceeding.

The reading of the substitute was called for, and it was read, as follows:

That any person who is the head of a family and a native-born citizen of the United States, or any person who is the head of a family and had become a citizen prior to the first day of January, 1852, as required by the naturalization laws of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.

Mr. MOREHEAD. I, then, will submit my amendment as an amendment to the substitute. I move to amend, by inserting the word "white" after the word "or" in the second line, so that the clause would read, "or any white person who is the head of a family."

Mr. Chairman, it will readily be perceived that this is an amendment proposed for the sake of form. The object I have in view in offering it, is simply to make a statement to the House, in order that my subsequent conduct may be explained. Under the rules now enforced, it will be impossible for me, or any gentleman, to express views at length upon this subject. It would be wholly impossible. I design, however, some time during the present session, when an opportunity may be presented through some of the bills proposing donations of public lands to railroads, to deliver my views at length upon the subject. I take this occasion to say a few words upon this bill simply for the reason, that when hereafter some of these measures proposing donations of the public lands for particular purposes shall come up, my opposition to this giving away the public domain shall not be attributed to any hostility to any particular measure, or to that particular measure, but to the general principle which all these donations involve. I shall assume the position of my honorable friend

who is before me, [Mr. BEALE.] I shall assume that position so far as the old States are concerned, and I shall assume that all the territory which we have acquired by treaty or otherwise, shall be treated in the same manner. This is my only object in proposing my amendment.

Mr. JOHNSON, of Tennessee. I do not intend to consume the time of the committee in the discussion of this subject. If our present land system were under consideration in the committee, the gentleman's amendment would be a very proper one. Our land system, as it now stands, permits any person who has \$200, to go and become the possessor of a quarter section of land, even if he be a free negro.

Mr. MOREHEAD. I will relieve the gentleman: If it meet with the approbation of the committee, I will withdraw my amendment.

There was no objection, and the amendment was accordingly withdrawn.

Mr. JOHNSON, of Tennessee. I think the first section is now as perfect as we can make it. I will, therefore, with the consent of the committee, withdraw my substitute, and allow the committee to pass to the second section.

Mr. CONGER. Will it be in order now to offer an amendment to the first section?

The CHAIRMAN. The Chair thinks it will be in order.

Mr. CONGER. I then offer the following amendment:

And also that every person who has heretofore purchased any land from the United States and paid for the same, shall be entitled to receive back the amount of money so paid, out of any money in the Treasury of the United States, not otherwise appropriated.

And also that any holder of any military bounty land warrant, which entitles such holder to enter any public lands, shall, upon surrendering up such warrant to be canceled, be entitled to receive from the Treasury of the United States so much money as the number of acres of land specified in such warrant may amount to, at the rate of \$1.25 per acre.

Mr. HALL. I rise to a point of order. I submit that the amendment is not germane to the subject of the bill, and therefore not in order.

Mr. CONGER. I think it is sufficiently germane to the first section of the bill.

The CHAIRMAN. The Chair is of the opinion that the amendment is not germane to the subject of the bill; certainly a part of it is not. He therefore rules it out of order.

Mr. CONGER. I ask for the reading of the first section of the bill and the amendment in connection with it. I think the Chair and the House will then see that it is germane to the subject of the bill.

[Cries of "Object!"]

Mr. CONGER. Then I appeal from the decision of the Chair.

The CHAIRMAN. The Chair decides that the amendment of the gentleman from Michigan [Mr. CONGER] is not in order, upon the ground that it is not germane to the bill. From this decision, the gentleman from Michigan appeals. The question, therefore, is now, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. KING, of New York. I would like to hear the first section of the bill, with the amendment, read.

Mr. CAMPBELL, of Illinois. I object.

Mr. KING. I move that they be read.

The question was put, and the motion was agreed to—ayes 90, noes not counted.

The first section as proposed to be amended with Mr. CONGER's amendment was then read by the Clerk.

The question was then taken upon sustaining the decision of the Chair, and carried in the affirmative—ayes 62, noes 49.

So the decision of the Chair was sustained.

Mr. SACKETT. I move to amend the first section by striking out all after the enacting clause down to the word "shall" in the ninth line, being the following words, viz: "That every man or widow who is the head of a family, and a citizen of the United States"—and to insert the following, viz:

That every person being the head of a family, or widow, or single man over the age of twenty-one years, and a citizen of the United States, or having filed his declaration of intention to become a citizen, as required by law.

I cannot see the propriety of making a distinction, in the persons who shall be the instruments of accomplishing the great benefits to be derived

from the operation of this bill in the settlement of the public lands.

Mr. HALL. I will state that the amendment offered by the gentleman from New York is in accordance with the provisions of all our existing preemption laws, and with all we have ever had since preemption laws were first adopted by the Government.

Mr. SACKETT. I supposed the gentleman [Mr. HALL] would be in favor of the amendment, and I wish he would take it off my hands, and address the committee upon it. My voice is so weak that it cannot be heard. It is plain, perhaps, that the object of this bill, which I am in favor of, is to secure the public lands to actual settlers—to those who will go upon, occupy, and cultivate them for five years. If that be so, I ask the friends of the bill, where is the propriety, where the consistency, of limiting the benefits of the bill to the heads of families? Now, it is a well-known fact that a large majority of those who settle in the Western country are young men, who go there for the purpose of beginning their career upon the public lands. It is for the benefit of the Western country to continue that system, and it would be greatly detrimental to it to confine the settlement to the heads of families exclusively, as it is confined by this bill as it now stands. I think there can be no substantial reason assigned for continuing the provision as it now is. The limitation looks to a system of gratuity, and to a system of giving away the public lands to a certain class, for the purpose of benefiting a certain class. It is plain that such provision cannot be justified by any sound principle of legislation. The principle upon which this bill is based is the benefit which will result to the country from the settlement of these lands. If this be so, the young man who goes to the Western country, selects his land, and remains upon it for five years, and cultivates it, is as capable for the accomplishment of the designs and intentions of this bill, and for the carrying out the principles upon which it is based, as any other man. I certainly think that the friends of this bill ought to accede to the justice of this amendment, and agree to the propriety of its adoption. I am decidedly in favor of the bill, and shall vote for it in either case, whether this amendment is adopted or not.

Mr. McMULLIN. I desire to know of the gentleman, if this amendment is adopted, if he means to vote for the bill as amended?

Mr. SACKETT. I have already stated that I shall vote for the bill, whether the amendment be adopted or not; but I think the amendment ought to be adopted. Now, I can see no principle whatever to justify this sort of class legislation, which gives to "A" and refuses to "B." I hope, Mr. Chairman, the amendment will be adopted; and for the purpose of testing the sense of the House upon it, I will at the proper time call for tellers upon it, to see who are in favor of it.

Mr. GAYLORD. I move to amend the last amendment by inserting "and women over twenty-one years of age."

Mr. CAMPBELL, of Illinois. They will never settle there.

Mr. GAYLORD. They have as much right there as bachelors.

Mr. JOHNSON, of Tennessee. I hope the House will vote down the amendment. It makes the range of discussion too wide.

Mr. GAYLORD. If the amendment endangers the passage of the bill, I withdraw it, if there be no objection.

No objection was made, and the amendment was withdrawn.

Mr. STANTON, of Ohio. In reference to the amendment of the gentleman from New York, [Mr. SACKETT.] I see that one great difficulty in its application would be to decide what would constitute a settlement and occupancy, in cases where there is no family which can fix a residence upon the public lands.

Mr. SACKETT. If the gentleman will allow me, I will ask him whether the bill, in its provisions, does not provide for the evidence to be presented to the proper authorities of the Government as to what constitutes a settlement; and does not the bill itself determine what shall be sufficient evidence of settlement? And would not that same evidence apply as well in one case as in another? The law requires evidence of five years' actual



occupancy and cultivation? There can be no mistake about it.

Mr. STANTON, of Ohio. There again is the precise difficulty—what constitutes occupancy? There is no means of determining what constitutes occupancy, in cases where there is no family to settle. I think the effect of that amendment will be to lead to evasion and false swearing. I think the bill is sufficiently extensive, and I hope the amendment will be voted down.

The question was then taken on the amendment offered by Mr. SACKETT, and it was not agreed to.

Mr. FLORENCE. I desire to offer as an amendment, to come in at the end of the first section, the words:

And that each of the surviving, or the widow or children of deceased officers, soldiers, sailors, and marines, who performed duty in the war of 1812, in the revolutionary war, or in any of the Indian wars since 1790, shall be entitled to one hundred and sixty acres of land, to be located in the manner provided by the act of September 28, 1850.

Mr. OLDS. I rise to a point of order upon that amendment. It is not germane to the bill.

Mr. FLORENCE. It is germane. It extends the privileges of the bill.

A VOICE. It has been rejected once.

The CHAIRMAN. The gentleman from Ohio [Mr. OLDS] makes the point of order, that the amendment offered by the gentleman from Pennsylvania [Mr. FLORENCE] is not in order. The Chair is not prepared to decide the amendment out of order, as it proposes to extend the operation of the bill.

Mr. OLDS. I appeal from the decision.

Mr. FLORENCE. I move to lay the appeal upon the table.

The CHAIRMAN. No such motion can be submitted in Committee of the Whole.

The question was then being taken on the appeal; and there were, on a division—ayes 59, when—

Mr. FLORENCE said: Rather than make any difficulty in the committee, I will withdraw my amendment for the present, and offer it at another time.

The amendment was accordingly withdrawn.

The Clerk then read the second section of the bill, as follows:

SEC. 2. *And be it further enacted*, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register, that he or she is the head of a family, and is not the owner of any estate in land, at the time of such application, and has not disposed of any estate in land, to obtain the benefits of this act, and upon making the affidavit as above required and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however*, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee in case of her death, shall prove by two credible witnesses, that he, she, or they have continued to reside upon and cultivate said land, and still reside upon the same and have not alienated the same, or any part thereof, then, in such case, he, she, or they shall be entitled to a patent as in other cases provided for by law.

The CHAIRMAN. The Committee on Agriculture propose to amend this section, by striking out the words, "and is not the owner of any estate in land, at the time of such application, and has not disposed of any estate in land to obtain the benefit of this act," and to insert the following in lieu thereof, viz:

And does not intend to settle upon said land to sell the same on speculation, but in good faith to appropriate it to his or her own exclusive use and benefit; and that he or she has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he or she might acquire from the Government of the United States, should inure, in whole or in part to the benefit of any person except himself or herself; and that he or she is not worth to exceed the sum of \$500.

The CHAIRMAN. The question is upon the amendment reported by the Committee on Agriculture, which has been stated by the Chair, and read by the Clerk.

Mr. JOHNSON, of Tennessee. I move to strike out from the amendment of the Committee on Agriculture, the words, "and that he or she is not worth to exceed the sum of \$500." The amendment, if adopted, will make this correspond with the first section.

[Cries of "That is right!" "That is right!"]

Mr. HOUSTON. That was stricken out in the first section, and should be, of course, in this.

Mr. STANTON, of Ohio. I should like to have some explanation in regard to this matter, from the gentleman from Tennessee.

A VOICE. The amendment is not debatable.

Mr. STANTON. Is not the question debatable Mr. Chairman?

The CHAIRMAN. It is not, according to the rule; five minutes are allowed for and five against an amendment which may be offered in committee; but this is one of the amendments that had already been before the committee, and must be understood to have been debated previous to the closing of the debate under the hour rule.

Mr. STANTON. Then I move to strike out the word "herself." The gentleman from Tennessee in his original bill did not have any test of property at all. He was willing that a person might be entitled to the benefits of the bill notwithstanding he was worth \$500 or \$1,000, and notwithstanding he might own other lands. I understand that the Committee on Agriculture disagreed with him in that particular, and have reported these amendments. The Committee of the Whole sustained the gentleman, and adopted his principle. Now, I do not understand how this corresponds with the condition of the other section.

Mr. JOHNSON. By striking out the \$500 limitation it corresponds with what was stricken out in the first section.

Mr. STANTON. There was also stricken out the limitation as to the holding of lands. I withdraw my amendment.

Mr. AVERETT. I renew it for the purpose of calling the attention of the committee to one of the most odious features of this odious bill—

Mr. BROWN, of Mississippi. I call the gentleman to order, and insist that he shall confine himself to the question whether "herself" shall be stricken out or not, and that he shall not allude to any feature of the bill.

The CHAIRMAN. The Chair will remark that from the confusion in the committee he was unable to hear the remarks of the gentleman from Virginia. He proposes that the gentleman shall proceed, with the indulgence of the committee.

Mr. JOHNSON, of Tennessee. I rise to a point of order, and it is this: The gentleman from Ohio offered precisely the same amendment that the gentleman from Virginia now proposes. Upon that amendment the gentleman from Virginia made a speech, and by the consent of the House the amendment was then withdrawn. It is not in order, I think, now to offer the same amendment, and to discuss it.

Mr. AVERETT. I will then withdraw the amendment, and move to strike out all of that part of the bill, commencing at the words "make affidavit," to the end of the section. My purpose in doing this—

The CHAIRMAN. That is not an amendment to the amendment, but it is an amendment to the original section, and it is not now in order. The question now is upon the amendment reported by the committee.

Mr. AVERETT. I then move to strike out from the word "and," in the fifth line, to the end of the amendment offered by the committee.

Mr. HOUSTON. That cannot be in order, because it is a mere proposition to strike that out which the committee propose to insert.

The CHAIRMAN. That amendment is not in order. The gentleman proposes to strike out the entire amendment in connection with portions of the bill.

The question was then taken upon the amendment of the committee, and it was agreed to.

The CHAIRMAN. The Clerk will now read the third section of the bill.

Mr. WHITE, of Alabama. I offer the following amendment to the second section.

The CHAIRMAN. The Clerk had already commenced reading the third section, and the Chair is of opinion, unless by unanimous consent, the amendment of the gentleman cannot be received.

Mr. CABLE, of Ohio, objected.

Mr. WHITE. I addressed the Chairman before the Clerk commenced reading the third section, but was not recognized by him.

The CHAIRMAN. There is an amendment proposed by the Committee on Agriculture, which the Chair overlooked, and the gentleman will still

have the privilege of offering an amendment to that section.

The committee propose further to strike out the word "affidavit," and to insert the word "same."

The question was taken, and the amendment was agreed to.

Mr. WHITE, of Alabama. I submit the following amendment to the second section of the bill:

*Provided further*, That in the event such heirs or devisees are under the age of fourteen years, they shall not be required to reside upon or to cultivate such land.

Mr. Chairman, the object for which I have offered that amendment is simply to provide for cases of minor heirs, or persons under a certain age, whom you cannot expect to reside upon or to cultivate this land. Now, that second section provides—

"That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such term, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee in case of her death, shall prove by two credible witnesses that he, she, or they have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof, then, in such case, he, she, or they shall be entitled to a patent as in other cases provided for by law."

I simply propose that we shall provide for persons of such an age as that we cannot presume they are capable of cultivating the land, and who in all probability will not be able to reside upon it so as to give to all the heirs or devisees of the patentee of the persons who have made the entry the benefit of the act. It leaves the section to require that where persons are capable of cultivating and residing upon the land, to do so; but that where they are not, that they shall not be excluded from the benefits of this bill.

The question was then taken upon the amendment, and it was disagreed to.

Mr. WALBRIDGE. I propose to amend by inserting after the word "reside," in the twenty-ninth line, the words "in person." It is a rule of law, Mr. Chairman, that what a man does by another he does by himself; and in order to prevent any construction being given to this section whereby a person by proxy may obtain the benefits of this bill, I propose to insert that the individual who shall have the benefit of this section shall settle and cultivate the land in person. It provides that he shall not send out any other person to occupy it for him, and in that way to obtain title to the land. Those settling upon and improving the public land should be entitled to the benefits of this measure, instead of those desirous of making money, employ others to occupy the land whose labor alone benefits the capitalists, his employer. It is to prevent, in other words, speculation, which may be entered into to obtain the benefits of this bill, without subjecting the speculator to the privations and toil incident to occupation and cultivation of the land.

Mr. BROWN, of Mississippi. I am opposed to the amendment of the gentleman from New York, [Mr. WALBRIDGE.] I apprehend that all residence must be in person. No one resides upon land by proxy. An individual may take and hold possession of it by proxy, but certainly he cannot reside upon it by proxy. I think the amendment is unnecessary, and, therefore, I am opposed to it.

The question was then taken upon Mr. WALBRIDGE's amendment, and it was not agreed to.

The third section was then read as follows, viz:

SEC. 3. *And be it further enacted*, That the registers of the land office shall note all such applications on the tract books and plats of his office, keep a register of all such entries, and make return to the General Land Office, together with the proof upon which they have been founded.

There being no amendment offered to this section, the committee proceeded to the consideration of the fourth section, which was then read as follows:

SEC. 4. *And be it further enacted*, That all lands acquired under the provisions of this act, shall in no event become liable to the satisfaction of any debt or debts contracted prior to the issuing the patent therefor.

The CHAIRMAN. The Committee on Agriculture propose to amend this section by inserting the words "or payment" after the word "satisfaction," and by striking out at the end of the section the words "or debts contracted prior to the issue of the patent therefor."

The question was then taken, and the amendment was agreed to.

Mr. LETCHER. Is it in order now to move to strike out the fourth section?

The CHAIRMAN. It is in order.

Mr. LETCHER. I then submit that motion. I predicate it upon this ground, that that section as it stands is a strict interference with the powers uniformly exercised by the States under the old Confederation, and under the present Constitution. I believe it has been always conceded that the States had a right to pass such local laws as relate to the legal rights and duties of creditor and debtor; but if this provision is to be inserted in this bill, it strikes me that the power heretofore admitted and granted to the States, is at an end in all time to come. If by the insertion of this clause we can undertake to say that the State laws which provide for the collection of debts and for the liability of debtors for their contracts are null and void, then we can undertake to say what shall be the statute of descents within the limits of the several States in which these lands may lie. Now, I apprehend it will hardly be contended that the Federal Government has any constitutional right to interfere in any way whatsoever with those admitted rights of the State Legislatures. They have never undertaken to pass any law which shall diminish or restrict the rights of the creditor, or relieve in any way the debtor from the penalty of his obligations.

A MEMBER. The bankrupt law was passed by Congress.

Mr. LETCHER. It is true. The bankrupt law was passed a few years ago, but public sentiment repealed the law very shortly after. The Constitution itself gives express power to pass a law of bankruptcy, if it shall be uniform. Suppose that, under the provisions of this bill, a man goes into the State of Illinois, and settles there upon the public lands. He contracts debts for the improvement of his lands; and yet the Congress of the United States undertakes to say that the rights which exist between the debtor and creditor in the State of Illinois, shall be null and void; that the obligations which he has incurred after he becomes a resident of that State, shall be set aside: that his property shall not be liable for the payment of his debts, in any way whatsoever, and that he shall be relieved from the obligation which rests upon every other class of debtors within the State of Illinois, or any other State in which the lands may lie. I ask if gentlemen are prepared to assert a power of this sort in the Congress of the United States? Are they willing that a law shall be passed which shall abrogate the State laws of the country—which shall come in and declare that the laws of Illinois, of Indiana, or Wisconsin, are null and void, and which shall undertake, even, to go further than that; for I maintain that they can, with the same propriety, go further, and provide that this land shall descend in a particular way, and shall descend in no other way whatsoever. It seems to me that this is a question of great importance, and one which ought to be seriously considered by this committee before they undertake to insert a clause in this bill which will produce such mischievous results.

Mr. JOHNSON, of Tennessee. I think that the gentleman, with all his acuteness, when he comes to read the section again, will find that he has no basis for his argument. When we come to examine the history of the grant of lands by the Federal Government, we find, for instance, in granting warrants to soldiers engaged in the Mexican war, that the conveyances prior to the issue of the warrant were null and void. We also find that in the act we passed on the 28th of September, 1850, we made any conveyances void until the issue of the patent. No one questions the constitutional power. At present, the fee is in the Government, and the Government makes a proposition. What is it? It is, that if a person settles upon a quarter section of land, and cultivates it for five years, at the expiration of that time we will transfer it to him, and the land shall not be subject to any deed contracted prior to his settling upon the land, or the issue of the patent. Does this come in conflict, in the slightest degree, with State authority? It is merely to control the fee in the Government, and not to have it pass to the individual.

The question was then taken upon Mr. LETCHER's amendment, and it was not agreed to.

The fifth section was then read, as follows:

Sec. 5. *And be it further enacted*, That if, at any time after filing the affidavit as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven by two or more respectable witnesses testifying upon oath, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said entry for more than six months at any one time, then, and in that event, the land so entered shall revert back to the Government, and be disposed of as other public lands are now by law.

The CHAIRMAN. The Committee on Agriculture propose to amend this section by striking out the word "testifying."

The question was then taken upon this amendment, and it was agreed to.

The sixth section was then read, as follows:

Sec. 6. *And be it further enacted*, That if any individual, now a resident of any one of the States or Territories, and not a citizen of the United States, be at the time of making such application for the benefit of this act, shall have filed a declaration of intention as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, as made and provided for in this act, shall be placed upon an equal footing with the natural born citizens of the United States.

The CHAIRMAN. The Committee on Agriculture propose to amend this section by striking out the word "natural," before "born," and inserting the word "native."

The question was then taken upon the amendment, and it was agreed to.

Mr. GROW. I move to strike out the word "now," in the second line of the sixth section. As it now reads, all persons who shall immigrate into the country after the passage of this act, could not avail themselves of its benefits. This section provides that every citizen not naturalized, before he can make his entry of a quarter section under this act, must file a declaration of intention, as required by the naturalization laws of the United States, and he must become a citizen before the issuing of the patent. Why, then, should we make a distinction between foreigners already in the country, and those who may come hereafter? It is proper that you should require them to be naturalized before they take the benefit of this law. I stand not here to make any appeal, specially, in behalf of any class of citizens. I only ask that, in the legislation of the country, all be treated alike. Why should any difference be made in your laws between men, forced by oppression and wrong from the land of their birth, to seek a home in the western wilderness, whether they come in one year or another? After they become citizens, as required by your laws, let them be treated as such, with all the rights and privileges of any citizen. The doctrine of American legislation should be, "equal and exact justice to all men, of whatever state or persuasion, religious or political."

Mr. MOORE, of Pennsylvania. I am opposed to the amendment of my colleague, which would give the benefits of this bill to all foreigners as soon as they land here, for the reason that, I think, we have already sufficient inducements for emigration to this country, as they are now flocking here from various parts of Europe, by thousands and hundreds of thousands; and, if you shall hold out this further inducement, we shall be overflowed with a population from Europe which will neither be for our good nor the good of those who come. We have heard much said, during the debate on this bill, of the liability, if we passed it—of the inducements it would hold out to legislators, to promise an extension of its benefits to all foreigners who might come here, in order to get their votes; and I want to hold out no such inducement for these foreign voters to come here as the amendment of my colleague would hold out; and I am, therefore, opposed to it.

Mr. JOHNSON, of Tennessee. I propose to amend the amendment of the gentleman from Pennsylvania by inserting, in lieu of the word "now," which the gentleman proposes to strike out, the words "who was on the 1st day of January, 1852." It will then read:

"That if any individual who was on the 1st day of January, 1852, a resident of any one of the States or Territories, and not a citizen of the United States, but at the time of making such application for the benefit of this act shall have filed a declaration of intention," &c.

That is the way the section should read, and I therefore offer that amendment.

The question was taken on the amendment to the amendment, and it was agreed to.

The question recurring on the amendment as amended it was put and decided in the negative.

So the amendment as amended was not agreed to.

Mr. CAMPBELL, of Illinois. I move to amend the section by striking out in the ninth line the words, "equal footing with the native born," and insert in lieu thereof the words, "equality with other," so as to make it read "upon an equality with other citizens of the United States."

Mr. JOHNSON, of Tennessee. By the permission of the gentleman from Illinois, I will say that I think we have fallen into a slight error, and that we had better go back to the last amendment and act understandingly upon it. If the amendment of the gentleman from Pennsylvania. [Mr. GROW,] as amended, is disagreed to, we destroy the sense of the section.

The CHAIRMAN. The Chair must remind the gentleman from Tennessee that the gentleman from Illinois is entitled to the floor.

Mr. CAMPBELL. I yield for the present.

Mr. JOHNSON. If the House will agree to the amendment of the gentleman from Pennsylvania, as amended, it will make this section correspond with the first section of the bill.

The CHAIRMAN. That amendment has already been passed upon and rejected.

Mr. HOUSTON. I think it was misunderstood, owing to the manner in which the amendments were submitted to the committee by the Chair. It was the impression of a good many members that the amendment was adopted, when; in fact, it was only the amendment to the amendment which was adopted, and hence gentlemen did not vote when the question was put on the amendment as amended.

The CHAIRMAN. The Chair will inform the gentleman from Alabama that he put the question first upon the amendment to the amendment, and then upon the amendment as amended.

Mr. HOUSTON. I am aware that the Chair put the questions correctly, but the error prevailed, and therefore I hope the question will be put again.

The CHAIRMAN. The Chair will suggest to the gentleman from Tennessee, and to the committee, that as the amendment to the amendment was not agreed to, the word "now" still stands in the section.

Mr. JOHNSON. Very well; then leave it as it is.

Mr. CAMPBELL, of Illinois. I will now submit the amendment which I offered just now. I make this motion for the purpose of securing uniformity not only in this section, but in the whole bill. We have two classes of citizens recognized by this bill, one the native born citizens, and the other the naturalized citizens. My amendment will embrace both of these classes. Besides I object to having the word "native" in this bill. I consider it to be a distinction which ought not to be made here. The language of my amendment is equally expressive with that used in the bill, and embraces both classes of citizens, and I hope it will be adopted by the committee.

The question was then taken on Mr. CAMPBELL's amendment, and it was not agreed to.

There being no further amendments to the sixth section, the Clerk read the seventh section, which is as follows:

*And be it further enacted*, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands patented under the provisions of this act, that they are now entitled to receive when the same quantity of land is entered with money to be paid by the party to whom the patent shall be issued.

The following amendment was reported by the Committee on Agriculture, to come in at the end of the section, viz:

"*Provided, however*, That all persons entering land under the provisions of this act, shall, as near as may be practicable, in making such entries, be confined to each alternate quarter section, and to land subject to private entry: *And provided further*, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing preemption rights."

The question was put on the amendment reported by the Committee on Agriculture, and it was agreed to.

Mr. BELL. I offer the following as an additional section to the bill:

SEC. — If any officer or soldier who would, if living, have been entitled to the benefit of the act of Congress, passed September 28, 1850, shall have died leaving no widow surviving him, the child or children of such officer or soldier shall be entitled to the benefit of said act; and if there are no children living, then the father or mother of such officer or soldier shall be entitled, or in default of father or mother, the right shall descend to the brothers and sisters of such officer or soldier, in as full a manner as though said soldier or officer had himself received the bounty, any act to the contrary notwithstanding.

Mr. OLDS. I raise the point of order that that amendment is not germane to the subject of this bill. It proposes to extend the bounty land bill.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order. It proposes to extend the benefits of another and separate act.

Mr. BELL. Perhaps I may be out of order, but I wish to suggest to the Chair that it embraces the same provision that the Chair ruled to be in order this morning.

The CHAIRMAN. The phraseology of the other amendment was to extend the benefits of this act to another class of persons. The Chair could not rule that out of order. The gentleman's proposition is to extend to a separate class of persons the benefits of another law, and the Chair rules that to be out of order.

Mr. BELL. Very well, sir. I will offer my amendment at the proper time, to some other bill.

Mr. FLORENCE. I now offer the following, as an additional section to the bill:

And that each of the surviving, or the widow or children of deceased officers, soldiers, sailors, and marines, who performed duty in the war of 1812, in the revolutionary war, or in any of the Indian wars, since 1790, shall be entitled to one hundred and sixty acres of land, to be located in the manner provided by the act of September 28, 1850.

Mr. OLDS. I rise to a point of order. The amendment is not germane.

Mr. FLORENCE. Why, yes, it is germane. [Laughter.]

The CHAIRMAN. The Chair understands the amendment of the gentleman from Pennsylvania to be, in effect, to extend the provisions of the bill to another class of citizens, and he is not prepared upon this ground, to rule it out of order.

Mr. OLDS. I take an appeal from that decision. However, if the gentleman from Pennsylvania does not want to hang a speech upon it, I will allow a vote to be taken upon it.

Mr. FLORENCE. I have something to say upon the amendment.

The CHAIRMAN. Does the gentleman from Ohio appeal from the decision of the Chair?

Mr. OLDS. Yes, sir; I do.

The CHAIRMAN. The Chair decides that the amendment offered by the gentleman from Pennsylvania [Mr. FLORENCE] is in order. The gentleman from Ohio [Mr. OLDS] appeals from that decision of the Chair upon the ground that the amendment is not germane to the bill. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken, and carried in the affirmative.

So the decision of the Chair was sustained.

Mr. FLORENCE. I submit this amendment not with a desire to embarrass the action of the committee. I shall vote for the homestead bill, whether the amendment be adopted or not. I therefore submit this amendment in good faith, because I believe it does only an act of justice to deserving, patriotic, and meritorious citizens, and from a sense of duty to them. In the county which I have the honor in part to represent upon this floor, there are some four or five or six thousand worthy and patriotic men who, during the war of 1812, voluntarily gave their services to their country. They cannot understand, as they say in their petitions which they have sent here, and which I have caused to be referred to the appropriate committees, why there should be a distinction between those who served in the war of 1812, or in any of the Indian wars, and those who served in the Mexican war. Numbers of those persons who were engaged in lucrative business, gave up that business. They left their homes at a great pecuniary sacrifice, to defend the honor of their country and "our starry banner," and were absent six, seven or eight months; and for this patriotic and praiseworthy service they received only eighty acres of land. Some of them, it is true, were not absent so long a time. It is true, some of them were not gone more than three or four months. But these, however, only received

forty acres of land. It is known, however, there were persons who only went, during the war with Mexico, from Philadelphia to Fort Mifflin; besides, numbers who did not reach the seat of the Mexican war at all; who received from the Government a bounty of one hundred and sixty acres of land, and three months' extra pay. Now, sir, if there is to be a distribution of the public lands; if the land is to be given to actual settlers—and I acknowledge I am heartily in favor of that measure—the soldiers of the war of 1812, and those who were engaged in the Indian wars, now come forward and ask Congress that justice may be done them. They are, I assure the committee, a class of citizens equally as meritorious, and quite as patriotic, sir, as those brave men who justly received the benefits of the provisions of the act of September 28, 1850, giving them one hundred and sixty acres of land. They believe they are as much entitled to the bounty of the Government as those who were engaged in the Mexican war; and they aver it strongly in their petitions to Congress. They do not desire to detract from the patriotism, valor, love of country, or the merits of those who were engaged in that war; but they think that they are equally entitled to the bounty of the Government, and to the same extent of power. Indeed, sir, they ask it as a right.

As I said before, I shall vote for this bill, giving land to the landless and homes to the homeless; whether this amendment be adopted or not; but a sense of duty impelled me to offer the amendment I have presented at this time, because petitions have been pouring into this House, not only from the first Congressional district in my State, not only from the city of Philadelphia, but from the whole State of Pennsylvania, and from some of the other States of the Union. And I believe the people from any portion of the Union do not desire to interfere with this method of awarding justice to the class of citizens who I desire may have only justice done them. I have not heard a single word of remonstrance, or do I know that any objection has been presented here against such a manifest act of propriety. I have not even heard that a single remonstrance has been presented here against the passage of the bill, giving one hundred and sixty acres of land to actual settlers, and hence I shall vote for it.

I have no conscientious or constitutional scruples to deter me. I look through the vista of time; and the good to come, from the occupancy of the waste lands, now lying idle, looms up before me in majestic grandeur, and bids me press forward hopefully and surely in behalf of thousands who may, by the passage of the homestead bill, be made to occupy a position in our happy country which "Nature and Nature's God" intended they should. Homes for the homeless, lands for the landless, is soul-inspiring music to me. The beneficence of the act alone draws me towards it, and my heart tells me I am right in advocating its humane provisions. Pass this bill, give to the soldiers, sailors, and marines, of the war of 1812, and of the Indian wars, or their heirs, without reference to sex or age, their meed of justice. Many of them, doubtless, will at once occupy their land. They will estimate the value of it the more highly, perhaps, because it was acquired by their, or their parents' toil, in the service of their country. As they put their spade into the virgin soil, they will feel an assurance of possession which will incite them to habits of industry. The land they own, and which was acquired by toil, though in the wilderness, will soon "blossom as the rose." There is LAND enough for ALL. My friend from Ohio [Mr. OLDS] the other day, in the House, quoted from the Methodist hymn-book, with the pages of which I am somewhat familiar, and ever since I have given a thought to the subject of the public lands, either as bounty to our country's patriotic defenders, whether by sea or land, in any of the wars of the Republic, or in giving them to actual settlers in limited quantities, the following paraphrase of a verse of a well known hymn, has involuntarily almost risen to my lips. I fancied (the bill having become a law) that hundreds who had heretofore been suffering in poverty and in distress, who had no hope of happiness in this world, beyond the scanty meal acquired by hard labor and the sweat of their sun-burnt brow, who felt and painfully experienced it daily, "as they labored from early dawn till late at night," they were hopelessly

"inured to toil and bitter bread," raising their voices as they wended their way, with the wives of their bosoms, and the children of their loins, towards literally their "promised land," in praise to their Maker and Preserver, for his goodness to them, and singing *right merrily*:

"Now, I can read my little clear  
To LAND, and HOME, and REST,  
Without a thought to trouble me,  
Or pang within my breast."

I need not wade into a mass of figures to prove the fact that there are millions of acres of unsold land. It has been demonstrated clearly enough, if my memory serves me correctly, by gentlemen who have preceded me, especially in the speech made early in the debate upon the homestead bill, by my talented colleague, [Mr. DAWSON.] The truth that there are "millions of acres want hands" to cultivate them, is admitted; that it is the duty of man to convey them to his suffering brother, is almost unquestioned. How beautifully and eloquently has the poet Duganne, who has written in this wise, illustrated it:

THE ACRES AND THE HANDS.

"The earth is the Lord's and the fullness thereof,"  
Said God's most holy word;  
The water hath fish, and the land hath fesh,  
And the air hath many a bird;  
And the soil is teeming o'er all the earth,  
And the earth hath numberless lands;  
Yet millions of hands want acres,  
While millions of acres want hands.

Sunlight, and music, and glad some flowers,  
Are over the earth spread wide;  
And the good God gave these gifts to men—  
To men who on earth abide.  
Yet thousands are toiling in poisonous gloom,  
And shackled with iron bands,  
And millions of hands want acres,  
And millions of acres want hands.

'Tis writ that "ye shall not muzzle the ox  
That treadeth out the corn;"  
Yet, behold, ye shackle the poor man's hands,  
That have all earth's burdens borne;  
The land is the gift of a bounteous God,  
And to labor his word commands;  
Yet millions of hands want acres,  
While millions of acres want hands.

Who hath ordained that the few should hoard  
Their millions of useless gold,  
And rob the earth of its fruits and flowers,  
While profitless soil they hold?  
Who hath ordained that a parchment scroll,  
Should fence round miles of lands?  
While millions of hands want acres,  
And millions of acres want hands.

'Tis a glaring lie on the face of day—  
This robbery of men's rights—  
'Tis a lie that the word of the Lord disowns,  
'Tis a curse that burns and blights;  
And 'twill burn and blight, till the people rise  
And swear, while they break their bands,  
That the hands shall henceforth have acres,  
And the acres henceforth have hands.

How truly these beautiful lines express the whole truth! How forcibly must it come home to the heart of every one who reads them, that, beyond the peradventure of a doubt, it is our duty here to pass the homestead bill, now under discussion, into a law. Duganne has also written, upon this fruitful and interesting subject, another sweet poem, which I will here introduce:

A billion of acres of unsold lands,  
Are lying in grievous dearth;  
And millions of men in the image of God,  
Are starving all over the earth;  
O tell me, ye sons of America,  
How much men's lives are worth?

Ten hundred millions of acres good,  
That never knew spade nor plow;  
And millions of souls in our goodly land,  
Are pining in want, I trow;  
And orphans are crying for bread this day,  
And widows in misery bow.

To whom do these acres of land belong?  
And why do they thirstless lie?  
And why is the widow's lament unheard,  
And stifled the orphan's cry?  
And why are the poor house and prison full,  
And the gallows' tree built high?

Those millions of acres belong to man!  
And his claim is—that he needs it.  
And his title is signed by the Hand of God—  
Our God—who the raven feeds!  
And the starving soul of each famished man,  
At the throne of justice pleads!

Ye may not heed it, ye haughty men,  
Whose hearts as rocks are cold;  
But the time will come when the fiat of God  
In thunder shall be told!  
For the voice of the great I AM hath said,  
That "the lands shall not be sold!"



I said, sir, I experienced no scruples in voting for the homestead bill. Its constitutionality and justice, I think, has been admitted by the great apostle of American Democracy, Thomas Jefferson, who has written—"I set out on this ground, which I suppose to be self-evident, that the earth belongs, in usufruct, to the living."

The immortal sage of the Hermitage, Andrew Jackson, said, in his message in 1832: "To afford every American citizen of enterprise the opportunity of securing an independent freehold, it seems to me best to abandon the idea of raising a future revenue out of the public lands."

Without quoting further—for I could do so covering several pages—it may be proper to mention that the power of Congress to grant these lands to actual settlers, has been affirmed by President Polk, by Senators Cass, Douglas, Webster, Houston, Walker, and a host of others. In this House, sir, I have listened with delight to the eloquent and truthful speeches made upon this subject. I cannot do better than make selections from these, because no argument I can advance will add to the reasons why this bill should be speedily enacted into a law.

Mr. McMULLIN. I think it is time to stop this debate. I could bring up a case in my own district, much more important than the one given by the gentleman from Pennsylvania, [Mr. FLORENCE,] but I will not trouble the committee with it.

A MEMBER. Oh, bring it up.

Mr. McMULLIN. There was a regiment in my district mustered into service in the war of 1812, and served twenty-eight days, yet they are excluded from the benefits of the act of 1850. I shall vote against the gentleman's amendment.

The question was then taken upon Mr. FLORENCE's amendment, and it was not agreed to.

Mr. HENN. I would ask the Chair whether the proviso offered by the Committees on Agriculture and Manufactures was adopted?

The CHAIRMAN. It was adopted.

Mr. HENN. I now ask whether it is in order to amend the original section before the proviso?

The CHAIRMAN. It is in order.

Mr. HENN. I move to strike out all after the word "effect," in the seventh line, to the word "issue" in the twelfth line, and to insert the following:

And that the registers and receivers of the United States land offices shall be entitled to receive the same fees for their services under this act, that they are now entitled to receive for cash entries: *Provided*, That their whole compensation shall in no case exceed three thousand dollars to each; *And provided further*, That the fees aforesaid shall be paid by the settler at the time of making the proof required under the act.

The object of the amendment is this: It proposes to pay the officers who do the work, instead of the officers who deliver the patent. It proposes to pay the officer who takes the proof, and limits their pay, while the original bill proposes, as I understand it, to pay those who deliver the patent. Now, I wish to pay those who actually do the work, and not those who deliver the patent, because the patent is sometimes not issued in four or five years after the one who took the proof has gone out of office.

Mr. AVERETT. I am opposed to that amendment. I will, however, take this occasion to remark that we are destroying the value of the public lands. [Laughter.] We are about to pass a measure that will add enormously to the expenses of administering the public lands. While we are crippling the Treasury, we are, at the same time, adding new burdens to it.

Now, I would appeal to every gentleman who has had anything to do with carrying out the provisions of the bounty land law of 1850, to look to the trouble—to look to the enormous increase of labor and expense which that bill has imposed upon the Government, and see what additional expense will be incurred by the passage of this bill. There is no telling how much they will be increased.

When you look at the various provisions of this bill, the proofs that are to be exhibited as the conditions on which the benefits of the bill are to rest, gentlemen must see that agents will be required to take those proofs, in addition to the surveyors, clerks of bureaus, registers, and receivers, and recorders now employed. And, sir, if members of Congress are to attend to the rights and interests of their constituents under this law, as they have

done under the bounty land law of 1850, they will have no time to attend to any other business.

Mr. McMULLEN. Will my colleague allow me to interrupt him for a moment?

Mr. AVERETT. No, sir, I cannot. I have but five minutes. I repeat what I said in my speech the other day, that by this measure, you are adding enormously to the machinery and to the expenses of the Government. And you are not only doing that, but you are, at the same time, diminishing the resources and means of the tax payers who bear the expenses of the Government. Yes, sir, you are increasing our burdens, and diminishing our ability to bear them at the same time.

By the passage of this act, you will find the value of lands will be diminished in the whole country, not only in the old States, but in the new States. To the man who intends to live, die, and have his bones buried on his land, their nominal value may not be a very material matter; but when lands have to be sold to pay taxes or debts, or when they have to be sold in order that the proceeds may go as assets in the hands of executors or administrators, or for division among distributees, it becomes a more serious matter. Sir, it seems to me that the passage of this bill will diminish the value of lands, in many instances ruinously. That is a practical matter, which every man, who will look at it attentively, must see and ought to appreciate. Here, then, while you increase the expenses of the Government, you diminish the means of paying those expenses. You add to the burdens of the Treasury, and increase burdens upon the people, while you diminish their ability to bear them. With due respect to the friends of this bill, I say there is not a feature in it which does not deserve the denunciation of every honest patriot.

The question was then taken upon Mr. FLORENCE's amendment, and it was not agreed to.

Mr. HEBARD. I move that the committee do now rise.

[Cries of "No!" "No!" "No!"]

Mr. BROWN, of Mississippi. I am opposed to that motion. We ought to get through with this bill.

[Cries of "Order!" "Order!"]

The CHAIRMAN. That question is not debatable.

The question was then taken, and upon a division there were—ayes 60, noes 48.

Mr. McMULLIN demanded tellers, which were ordered; and Messrs. CAMPBELL, of Illinois, and FOWLER were appointed.

The question was again taken, and the tellers reported—ayes 76, noes 31.

So the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HEBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, &c., and had come to no conclusion thereon.

#### PLANK ROAD COMPANY.

Mr. DOCKERY. I ask the unanimous consent of the House that we may take up and pass a bill from the Senate (No. 36,) which my colleague, [Mr. ASHE,] not now in his seat, had in charge. It is a bill to authorize a plank road company to extend their road through one corner of the land granted for arsenal purposes in Fayetteville: It is important that it should be passed.

There being no objection, the bill was taken up and read a first and second time by its title, as follows: "A resolution granting the right of way to the Fayetteville and Central Plank Road Company."

Mr. JONES, of Tennessee. I would inquire if the road does not cut the grounds in two?

Mr. STANLY. It rather benefits than injures the public grounds there.

Mr. DOCKERY. It cuts off some fourteen or fifteen acres, but I understand it will work no injury to the lot belonging to the United States, but is an advantage to it.

The bill was then ordered to be read a third time, and having been read a third time, it was passed.

Mr. DOCKERY. I rise to a privileged motion. I move to reconsider the vote by which the bill was

passed, and to lay the motion to reconsider upon the table. The latter motion was agreed to.

#### PROPOSED RECESS.

Mr. JOHNSON, of Arkansas. I ask the unanimous consent of the House that we now take up the resolution in regard to the cleansing of this House to prepare it for the summer session. It is now under the operation of the previous question, and the vote can be taken without consuming much time.

[Cries of "Agreed!" "Agreed!"]

The SPEAKER. If the Chair hears no objection, the resolution referred to will be taken up and reported to the House.

Mr. CABLE, of Ohio. I move that the House do now adjourn.

[Cries of "No!" "No!" "No!" all over the Hall.]

The question was taken on the motion to adjourn, and it was lost.

No objection being made, the resolution above referred to was reported to the House, as follows:

*Resolved*, That the Clerk of the House be authorized and directed to have the Hall refitted and cleansed for the summer session, and that the House adjourn on Tuesday, the first day of June, until Friday, the fourth of June, in order to allow the usual time for that purpose.

The SPEAKER. An amendment, offered by the gentleman from Ohio, [Mr. GAYLORD,] is pending; which is to strike out the words "Tuesday, the first day of June, until Friday, the fourth day of June," and insert, "thirteenth of May until the seventeenth of May;" and upon this the previous question has been demanded.

Mr. HARRIS, of Tennessee. I ask that the gentleman from Arkansas [Mr. JOHNSON] will withdraw his call for the previous question for a moment; I wish to make an inquiry of him.

Mr. JOHNSON. I have no control over it.

Mr. HARRIS. I desire to inquire of the gentleman from Arkansas [Mr. JOHNSON] if these repairs have not usually been made under the direction of the Committee on Accounts? I understand from gentlemen, who have served upon that committee, that such repairs have usually been made under the direction of that committee.

Mr. JOHNSON. I will answer the gentleman for his satisfaction, as well as that of the House. Here are the last three precedents, by which it is shown how this thing has been done:

May 18, 1848. *Resolved*, That when the House meets on Monday next, it adjourn to meet on the following Thursday, to afford an opportunity for fitting the Hall for summer occupation.

May 29, 1850. *Resolved*, That when the House adjourns to-day, it adjourn to meet at eight o'clock, A.M., to-morrow, for the purpose of adjourning from that hour over to Monday next, so as to enable the officers of the House to have the Hall cleaned and refitted for summer session.

*Ordered*, That the Clerk of the House be authorized and directed to have the Hall cleaned and refitted for summer session.

The question being on seconding the demand for the previous question,

Mr. JOHNSON, of Arkansas, called for tellers, which were ordered; and Messrs. JOHNSON and ORR appointed.

The question was then taken, and the tellers reported—ayes 78, noes 39; the Speaker voting in the affirmative to make a quorum.

So the previous question received a second, and the main question was ordered to be put.

The question next recurring on the adoption of the amendment,

Mr. JONES, of Tennessee, called for the yeas and nays; which were not ordered.

Mr. MASON. I ask for tellers on the adoption of the amendment.

Tellers were not ordered.

The question was then taken on the adoption of the amendment, and it was agreed to, on a division—ayes 69, noes 62.

The SPEAKER. The question is now upon the adoption of the resolution as amended.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the amendment was adopted, and upon that I ask for the yeas and nays.

Mr. STANTON, of Tennessee. I rise to a question of order. It is this: That the House was divided, and the Chair was putting the question, when the gentleman from Tennessee rose; and it is too late to move the reconsideration of the vote.

The SPEAKER. The Chair decides that the gentleman from Tennessee [Mr. JONES] has a right to move to reconsider the vote. The Chair

sustains the objection of the gentleman from Tennessee upon the left [Mr. STANTON] in this, that it is not in order to address the Chair while the Chair is in the act of dividing the House. There is an express rule to that effect. It is not very often observed, however, as the gentleman is very well aware.

Mr. JOHNSON, of Arkansas. I move to lay the motion to reconsider upon the table.

Mr. JONES. I demand the yeas and nays upon that. We lose two weeks if we adopt this amendment.

Mr. MASON. I move that the House do now adjourn.

The question was taken, and there were, upon a division—ayes 55, noes 66.

So the House refused to adjourn.

Mr. SWEETSER. I move to lay the resolution upon the table.

Mr. STANLY. I demand the yeas and nays upon that proposition.

The yeas and nays were ordered.

Mr. ORR. I move that the House do now adjourn.

Mr. STANTON, of Tennessee. I ask the gentleman from South Carolina [Mr. ORR] to withdraw his motion for a moment to allow me to report a bill.

Mr. JONES, of Tennessee. That cannot be done; I have a privileged motion pending.

The question was then taken on the motion to adjourn, and there were, on a division—ayes 81, noes 45.

So the House adjourned to meet to-morrow at twelve o'clock.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. FLORENCE: The memorial of John W. Boleau, E. W. Hutter, William Hundertmark, and 90 other citizens of Philadelphia, petitioning Congress to pass a law granting 160 acres of land to soldiers of the war of 1812, the Indian wars, and Florida war, &c.

By Mr. STANTON, of Tennessee: The memorial of the citizens of Fairfax and Alexandria counties, Virginia, praying for a reconstruction of the Long Bridge.

By Mr. CHANDLER: The memorial of Thomas Sully, John Neagle, and other artists, of Philadelphia, asking that P. F. Rothwell, of that city, be employed to paint an historical picture for Congress.

By Mr. DURKEE: The memorial of the Mayor and Council of Racine, Wisconsin, in relation to the improvement of the harbor at that place.

By Mr. WELCH: The petition of citizens of Gallia county, Ohio, asking five years' half-pay for Mary Hutchings.

By Mr. RIDDLE: The petition of Thomas Clements, John W. Davis, and 103 other citizens of Kent county, State of Delaware, praying for the enactment into a law of the bill now pending before Congress, for the encouragement of agriculture, manufactures, and other branches of industry, by granting to every man who will settle on and cultivate the same, 160 acres of public land, as a homestead.

By Mr. MACE: The petition of Thomas Lewis, of Carroll county, Indiana, asking to be indemnified for money paid the register of the land office at Crawfordsville, on the purchase of land, which was misapprehended.

By Mr. JOHNSON, of Ohio: The petition of W. F. De La Mater and 97 others, praying for a mail route from Coshocton, via Roscoe, Simmons's Run, Mohawk Valley, to New Castle, in Coshocton county, Ohio.

Also, the petition of James Douglass and 42 others, on the same subject.

By Mr. McNAIR: The resolutions of the Legislature of the State of Pennsylvania, in opposition to the Parker patent.

Also, three petitions of Israel Thomas and 93 others, citizens of Montgomery county, Pennsylvania, and also surviving officers, soldiers, seamen, and marines, and widows and children of those deceased, who served in the war of 1812, praying Congress to modify the bounty land act of September 28, 1850, so as to give to each person to be benefited thereby 160 acres of land.

By Mr. DAVIS, of Indiana: A joint resolution of the Legislature of said State, relative to bounty lands.

By Mr. PARKER, of Indiana: The petition of M. L. Bandy, Samuel Hazzard, and 238 others, citizens of Henry and Madison counties, Indiana, praying for a mail route from New Castle to Pendleton.

By Mr. HASCALL: The petition of William Parker, an Indian chief, for an increase of pension, with pension certificate and accompanying documents.

By Mr. GORMAN: A joint resolution of the Legislature of Indiana, in relation to bounty lands.

Also, the petition of Nelson Robinson and others, for a mail route from Brownstown, Indiana, to Bloomington, in said State.

Also, the petition of Wilson Jones and others, for the improvement of the Falls of the Ohio river.

By Mr. HAWS: The memorial of Roswell B. Mason and William Ballard, asking payment for certain property belonging to them; which they allege has been taken and used by the Government, without compensation to them.

By Mr. KING, of New York: The petition of heirs of John De Groat, of the New York Artillery Continental line, for eighty dollars, bounty and interest, and bounty land.

By Mr. SCHERMERHORN: The memorial of 140 citizens of the city of Rochester, New York, praying for free and unrestricted commerce between the United States and Canada.

#### IN SENATE.

TUESDAY, May 11, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. WADE. Mr. President, I have a petition, numerous signed, by citizens of Logan county, in the State of Ohio, remonstrating against the passage of a bill of the House of Representatives, now pending before this body, to extend the time for the location of land warrants in that military district; which also provides for extending the time for making returns of land warrants in that district. I have also a letter, explanatory of their views of that bill, which I present, and move that the memorial and letter be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. COOPER presented the memorial of Thos. Fitnam, late Warden of the Penitentiary of the District of Columbia, praying that an amount paid by him for messenger hire may be refunded; which was referred to the Committee on Claims.

Also, the petition of the administrator of William Thompson, praying to be allowed "depreciation pay," for services during the war of the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. COOPER. Mr. President, I hold in my hand a memorial, addressed to the Congress of the United States, by Thomas Sully, Rembrandt Peale, John Nagle, John Sartain, and about twenty-five other artists of Philadelphia, praying Congress to employ Mr. Peter F. Rothwell, a distinguished American artist, to execute certain historical pictures for the illustration and adornment of the Capitol or President's House. I need not say a word in reference to the character of the artist to whom reference is made: He is known as one of the most eminent historical painters of the country, who has executed several highly creditable pictures, one of which is now in the rotunda of the Capitol, representing Patrick Henry, on the occasion of one of his great speeches at Williamsburg. Sir, I will not detain the Senate by any further remarks, but I will move the reference of the memorial to the Committee on the Library; and I desire to give notice that I shall at some future day, call up the resolution which I offered in reference to the employment of Mr. Healy and Mr. Leutze, to paint historical pictures, and shall add to it the name of Mr. Rothwell.

The memorial was referred to the Committee on the Library.

Mr. SUMNER presented the petition of citizens of Massachusetts, praying that a better observance of the Sabbath may be ensured, by Congress passing a law prohibiting the transportation of the mails on Sunday; which was referred to the Committee on the Post Office and Post Roads.

Mr. BROOKE presented the petitions of Wm. B. Yerby, Charles Neville Simms, James H. Lusby, Caleb W. Litchfield, and Madison Gassaway, assistants to the commission to run and mark the boundary line between the United States and Mexico, and who were discharged in 1851 by an order of the Secretary of the Interior, praying the settlement of their accounts, and an allowance for their outlays; which were referred to the Committee on Claims.

Mr. MALLORY presented an additional document relative to the claim of Kennedy and Darling; which was referred to the Committee on Claims.

Mr. CHASE presented the memorial of the assistant marshals for taking the Seventh Census in Fayette county, Ohio, praying additional compensation; which was ordered to be laid on the table.

Also, two petitions of citizens of Jefferson county, Ohio, praying that the bill now pending before Congress, granting to every man who is the head of a family and a citizen of the United States, one hundred and sixty acres of land, may become a law; which were referred to the Committee on Agriculture.

Also, a memorial of citizens of Logan county, Ohio, praying that the transportation of the mails on Sunday may be prohibited by law; which was

referred to the Committee on the Post Office and Post Roads.

Also, a petition of merchants and citizens of Cincinnati, praying the erection of a custom-house in that city; which was referred to the Committee on Commerce.

Also, a petition of citizens of Indiana, praying for the construction of another canal around the Falls of the Ohio, on the Indiana side of the river; which was referred to the Committee on Roads and Canals.

Mr. BRODHEAD presented three petitions of citizens of Montgomery county, Pennsylvania, praying a modification of the bounty land law; which were ordered to be laid on the table.

Mr. UNDERWOOD presented two petitions of citizens residing in the Mississippi Valley, praying the construction of a new canal around the Falls of the Ohio; which were referred to the Committee on Roads and Canals.

Mr. FELCH presented the petition of Rockwell Manning, praying compensation for services, and expenses in transporting the mails not required by his contract; which was referred to the Committee on the Post Office and Post Roads.

Mr. HALE presented a petition of citizens of Milford, New Hampshire, praying the adoption of measures for the amicable adjustment of international controversies; which was referred to the Committee on Foreign Relations.

Mr. RUSK. I have been requested to present the petition of Benjamin Crawford, in behalf of the Pittsburg association of steam-boat engineers, in relation to the explosion of steam-boilers and other accidents to steam vessels on the western waters. Mr. Crawford is a practical engineer, and represents the views of a number of them. A bill has been reported to the Senate, having for its object the adoption of some rules for the preservation of life on board of steamboats, which they pray Congress to pass into a law. The number of accidents that have occurred on board steamboats call loudly upon Congress to afford, if possible, some remedy. As the memorial states some matters connected with the subject with which I presume the members of the Senate are not familiar, I move that it be printed for the use of the Senate.

The motion was referred to the Committee on Printing.

Mr. DODGE, of Wisconsin, presented a petition of Hiram Brown, and others, remonstrating against the renewal of Cyrus H. McCormick's patent for a reaping machine; which was referred to the Committee on Patents and the Patent Office.

#### PETITION WITHDRAWN AND REFERRED.

On motion by Mr. JONES, of Tennessee, it was Ordered, That the petition of Anthony Villard and James Ralichon de Saint Vital, on the files of the Senate, be referred to the Committee on Claims.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed a joint resolution from the Senate, granting the right of way to the Fayetteville and Central Plank Road Company.

#### WAR STEAMER FOR HARBOR DEFENSE.

Mr. MALLORY. I move that all prior orders be postponed, for the purpose of taking up the joint resolution authorizing the completion of a war steamer for harbor defense. Notice was given of intention to call it up to-day, by the chairman of the Committee on Naval Affairs; and, in his absence, I have been requested to make the motion.

Mr. UNDERWOOD. I hope the gentleman will allow me to present a petition. I will also say to him that I was under a promise to call up to-day a bill which was engrossed and ready for its passage. I refer to the bill in relation to agencies for claims. I promised the gentleman from North Carolina that I would call it up to-day. I hope that the Senator from Florida will consent that that bill may have preference.

Mr. MALLORY. I withdraw my motion for the purpose of allowing petitions to be presented; but I wish, at the same time, to say to the honorable Senator from Kentucky, that the honorable Senator from New Jersey [Mr. Srockton] was entitled to the floor last week on this resolution, but gave way, as I understand, for other Senators. He is now prepared to address the Senate on that subject.

Various petitions having been presented, Mr. MALLORY renewed his motion.

Mr. SHIELDS. I hope the honorable Senator from Florida will postpone it for a few moments, in order to allow us to get through with the morning business.

Mr. MALLORY. The hour of one is approaching, and at that time the special order of the day will come up. The joint resolution cannot be considered to-day, if it is not now taken up. As I before stated, the Senator from New Jersey is ready to proceed, and I hope the Senate will give him an opportunity.

The motion was agreed to.

The Senate accordingly resumed, as in Committee of the Whole, the consideration of the joint resolution authorizing the completion of a war steamer for harbor defense.

Mr. STOCKTON. Mr. President, when the chairman of the Naval Committee announced to the Senate his intention to call up the resolution now under consideration, he stated that the Senator from New Jersey—myself—felt great interest in the subject. It is quite true; I do feel great, very great interest, in the success of this resolution, and I have no doubt that the result will show that I am not the only Senator who feels deeply interested in the prosperity and safety of New York city. I am interested, principally, because I am of opinion that the defenses of that city require the immediate attention of Congress, and partly because one of my constituents—a gentleman of reputation and usefulness—has been, in my opinion, unfairly, ungenerously, unjustly treated by the Government. I do not mean by the present administration of the Navy, because I understand that this whole matter was, by his remarkable predecessor, placed beyond his control.

There was a report made by the Naval Committee, at the time this resolution was first presented to the Senate. I ask that it may now be read. It will probably relieve me from the disagreeable duty of saying anything further as to the conduct of the late Administration:

The Committee on Naval Affairs, to whom was referred so much of the President's message and accompanying documents as relates to naval affairs, having had under consideration that part of the report of the Secretary of the Navy which refers to the construction of a war-steamer by Robert L. Stevens, report:

That on January 13, 1842, the Board of Commissioners of the Navy recommended Mr. Stevens's plan for a steamer, to be ball and bomb proof, to the consideration of the Secretary of the Navy. Shortly afterwards Mr. Stevens submitted to Congress a printed copy of his plan. The Chamber of Commerce of New York, on the 15th of February, 1842, recommended to Congress the plan of Mr. Stevens.

A joint board of officers of the Army and Navy, to wit: Colonels Totten, Thayer, Talcott, and Captain Huger, Commodores Stewart and Perry, Captain Stringham, and Lieutenant Newman, appointed for that purpose, convened in New York the 8th of July, 1841, to witness, superintend, and report upon Mr. Stevens's experiments with a bomb and ball proof target, suited to the sides of a vessel. The experiments were made in their presence, and a report of the board submitted to the Department in favor of Mr. Stevens's proposed plan of construction.

On the 14th of April, 1842, Congress passed an act authorizing the Secretary of the Navy to contract with Mr. Stevens for a war-steamer, shot and ball proof, to be constructed principally of iron, upon the plan of Mr. Stevens, not to cost more than the average of the steamers *Missouri* and *Mississippi*, and appropriated \$250,000 for the purpose.

On the 10th of February, 1843, Mr. Stevens entered into contract with Mr. Uphur, Secretary of the Navy, to build a war-steamer, "to be shot and ball proof against the artillery now in use on board vessels of war."

In order to launch a vessel of the size and description of the one contracted for, Mr. Stevens found it necessary to excavate, and erect at his own, and an enormous expense, a dry-dock of capacity sufficient to build her in and float her out. This, of course, involved the necessity of delay in her construction; though while engaged in making the dry-dock, he was also assiduously engaged in procuring the materials, fashioning the patterns, and organizing the preliminary details for an undertaking of such magnitude and importance.

In December, 1843, Mr. Henshaw, who succeeded Mr. Uphur as Secretary of the Navy, declined making the necessary payments for materials. In November following, a second contract, very full, minute, and particular, was made with Mr. Stevens, which was followed by a supplemental contract with John Y. Mason, Secretary, in December, 1844, and which provided for the payments on account of the contract. Mr. Stevens then prosecuted with vigor the performance of his duties; and while so engaged, on the 9th of December, 1845, was again arrested in the execution of his contract, by an order from Mr. Bancroft, stopping all further proceedings under the contract, and refusing further payments until the plan for the steamer was furnished. Yet, at this very time, the Department was in possession of the plan of Mr. Stevens, furnished when the original contract was first made, and a further statement of his plan furnished in November, 1844. Thus a second time he was stopped in his work. His health being seriously impaired, he was ordered to Europe by his physician.

In January, 1847, Mr. Stevens applied to Mr. Mason, then Secretary, for an extension of time in which to complete the steamer, and satisfactorily accounted for the causes of whatever delay had been suffered. After more than eighteen months, an additional contract was made, reciting the former, and extending the time of completion to four years from the date of the last. By these several contracts, the most minute details of the work were given, and the complete security for the execution of the project, and every proper safeguard, was provided against loss by the United States.

Hardly a year, however, was permitted to elapse, when, in August, 1849, Mr. Secretary Preston refused to make any further payments to Mr. Stevens on account, and the work was again stopped. Mr. Stevens was then in Europe, engaged in obtaining better materials for some portions of the steamer than could be obtained in this country. Contracts were made by him in Europe for such materials. After which he immediately returned home, and urged the Secretary to permit him to proceed according to contract. Mr. Preston, however, declined taking any other step than to refer the matter to Congress.

Whatever delay took place in the performance of this contract, was indispensable to its faithful and successful execution. The necessity for these delays was not, it is believed, properly appreciated by the Navy Department. The experiments necessary to test the quality of the materials, and demonstrate the details of the plan, involved the consumption of much time. The experiments necessary to establish and improve the character of the propeller which was finally adopted, also required much time. Even from this delay the Government derived the advantage of availing itself of this propeller, in the construction of the *Princeton*; which was thus proved to be superior to any other then in use, or indeed since adopted. Workshops, together with a steamboat, were required to be built for those experiments. Also a large dry-dock was constructed, with a steam-engine, punching and drilling machines, tools, &c., and large pumps, which have kept the dock free from water ever since its completion, at very great expense. One third of the dry-dock within which the Government iron steamer was to have been built, was excavated from solid rock. All this consumed and required unremitting personal exertion and supervision, and large expenditures of money, for which no remuneration has been made. But all delay was satisfactorily explained before the several renewals of the contract, at each period of such renewal.

When the contractor was first arrested, by Mr. Secretary Bancroft, he was in advance, and liable for materials—principally for heavy plates of iron from Pennsylvania, about \$40,000, which was subsequently paid to him. He is now in advance about \$30,000, also for heavy plates and tubes for the boiler, &c., from England. Yet the Government now proposes to sell his property to reimburse itself for previous payments on his contract, for non performance of the same, performance of which has been prevented by the action of the Government itself.

On the 21st January, 1851, Commodore Skinner addressed Mr. Stevens, and informed him that the Navy Department, considering the contract void, designed to sell, shortly, the materials collected by him for the purpose of executing it according to his several agreements.

To sum up the whole subject, it appears that Congress, by the act of 14th of April, 1842, directed a Secretary of the Navy to make a contract with Robert L. Stevens for a war-steamer, and appropriated a specific amount of money towards the construction proposed. The contract was executed. Mr. Stevens, in good faith, proceeded to perform all his obligations. The contract was afterwards made more specific, its minutest details enumerated, and the time for its completion extended by a succeeding Secretary. The amplest security for its faithful execution was required and given. Officers of the United States were appointed to superintend the receipt of materials provided, and payments for such materials were made by the Government from time to time. A subsequent Secretary of the Navy, without any previous notice to the contractor, suddenly suspended the execution of the contract, and refused the payments stipulated therein to be made; leaving the contractor bound to pay large sums for the materials for which he had contracted in the prosecution of his work. Another Secretary renewed the contract, and extended the time for its execution. The contractor again vigorously and actively applied himself to the execution of his contract. While thus industriously employed, another Secretary again arrested his work, and finally suspended all payments, and referred the subject to Congress. The present Secretary considers himself bound by the acts of his predecessor, and treats the contract as at an end, and Congress having omitted to act on the subject, has given notice to Mr. Stevens, under the power to sell, contained in the mortgages executed by the contractor, that the materials collected by him will be sold for the benefit of the Government.

It is, therefore, apparent that, without some legislative action by Congress, the contractor, who is willing and desirous of fulfilling his engagements in good faith, entered into by the direction and under the authority of Congress, will, by Executive interposition, be subjected (against right, as your committee believe) to very heavy and unjust losses, while the Government will lose the advantages to be derived from the genius, skill, and science of one of the most accomplished naval architects in the country, in the construction of that very sort of war-steamer which the service requires.

Your committee, therefore, on full consideration of the whole subject, recommend the adoption of the following joint resolution:

*Resolved, by the Senate and House of Representatives in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized and required to have completed, without any unnecessary delay, the war steamer contracted for with Robert L. Stevens, in pursuance of an act of Congress passed April 14, 1842.

Mr. President, I should have felt disposed to leave this report, and the unanimous recommendation of the Committee on Naval Affairs, without a word of comment, to the Senate, if I had not

been asked to make some explanation, and if the importance of the subject of which it treats, at the present juncture of time, did not seem to require from me some few remarks. Considering the relation which the city of New York bears to this Government, and to the whole country, the committee are of opinion that every reasonable preparation for her defense in time of war, with a maritime Power, ought to be adopted.

I will not dilate on the importance, in a military or naval point of view, of that harbor. Its great importance must be obvious to all minds, who have given the subject of *national defense* any consideration. But I must say, that while thus important, it is the most exposed, perhaps, of any other important city of the first class on the seaboard. Sir, our defenses require immediate attention. The signs of the times are premonitory of war and revolution. Almost every arrival from Europe informs us of warlike preparation by the great Powers of that continent. Upon the throne of France—I say *throne*, for in fact Louis Napoleon is monarch, and supreme arbiter of the destinies of France, as much as Napoleon the Great was in his zenith—upon the throne of France now sits a man, whom the necessities of his position seem to compel to a rivalry of his renowned kinsman and predecessor. If we examine the history of Europe, we will find that since the time of Charlemagne, whenever France was under the control of a bold, restless, ambitious, or unscrupulous monarch, she was invariably engaged in long and bloody wars with her neighbors.

In addition to the national propensity to interfere with the affairs of her neighbors, which modern history shows is the characteristic of the French, as we were eloquently told the other day in the able and instructive speech of the Senator from Tennessee, [Mr. BELL,] they have, as they believe, wrongs to avenge, and dishonor to wipe away. France was never more powerful than she is now. Near thirty years have enabled her to recruit the wars of the Emperor; and for twenty years past, she has assiduously exerted all her resources to regain that military efficiency, which has always given her a commanding ascendancy in the affairs of the world. She has regained it. She is at present the cause of disquietude and alarm to all the contiguous powers. She stands in the panoply and attitude of defiance; and no one can say how soon, or where, she will not pour her mighty armies.

But all will agree that no great European war can take place without endangering our peaceful relations with one or other of the belligerents. We are admonished, therefore, not to neglect those preparatory defenses which, in war, would be indispensable for the protection of our sea-board.

We had some severe lessons on this subject during the late war with Great Britain, and it would be the height of fatuity if another war should find us no better prepared for it than we now are.

And yet, sir, I am not exaggerating when I say that we are at this present time quite as defenseless; our cities and harbors are quite as much exposed to hostile incursions, as they were in 1812. They have grown, in wealth and population, quadruple what they were then; but when we consider the increased facilities for attacks which foreign naval Powers possess, we shall find that, notwithstanding your forts, your most important posts are as vulnerable now as they were in 1812.

Whilst the engines and implements of war have been, of late years, vastly augmented for offensive operations, those for harbor defense have not been correspondingly increased by us. A hostile squadron is no longer dependent on the fickle winds for an opportunity to approach your shores, or enter your harbors. They can hover, at their own chosen distance, on your coast, distracting and alarming the whole sea-board, and pounce, with celerity and precision, under cover of night, upon the devoted place which they doom to destruction.

Steam-ships of great power and speed have been constructed, infinitely more formidable than anything which we had to encounter in 1812. Your forts have not been increased or strengthened in proportion to the increase of power with which other nations have fortified themselves.

There has always been great doubts entertained, by the most scientific and experienced men, as to the ability of the best constructed forts to prevent sailing vessels, with a leading breeze, from passing them; and there seems to be little or no doubt that



steam-ships may be built, which would pass, unharmed, materially, any fort.

Steam-ships may, undoubtedly, be built, which, with aid from the tide, may attain a speed exceeding twenty miles per hour. Such a vessel, in six minutes, might approach and pass any of your forts, at night, without being disabled. One such steam-vessel, moored in New York bay, might kindle that great city into flames, and, screaming the proud note of triumph, leave it a heap of smoking ruins. Nothing could prevent such a catastrophe. Be assured, Senators, and let our fellow-citizens every where be assured, that nothing could prevent such a catastrophe, in the event of a war with a great naval Power, but a steam floating battery, such as that contemplated by the plan of Mr. Stevens—indestructible, shot and shell-proof, and bearing an armament consisting of such guns, a single shot from which would be sufficient to disable the most powerful man-of-war now launched. One such vessel would be sufficient to defend New York harbor from any force which could possibly enter it. It would combine the impregnable qualities possessed by stone and mortar fortifications with the advantages belonging to ships of war for locomotion. The mere knowledge, by any enemy, that a harbor enjoyed the protection of such a formidable protector, would be sufficient to deter them from hazarding an experiment of its omnipotence.

Now, sir, it seems to me, when one of the most accomplished engineers and naval architects of America is willing to construct a war-ship for harbor defense, that we ought, without hesitation, to avail ourselves of his skill and enterprise for such a purpose.

Mr. Stevens is a gentleman of the highest attainments in those pursuits, to which, with hereditary passion, he has devoted the greater part of his life. He is a gentleman of large fortune, and of reputation. He is not an ordinary speculator, seeking a job of Government, but a high-minded, patriotic gentleman, who, from elevated and public considerations, and not from motives of pecuniary profit, tenders his skill, science, and experience (unsurpassed, in his department, by those of any one) to the service of the Government. He is willing to connect his reputation with the Navy of the country. He has acquired, by long years of experience and expensive experiments, a dexterity and felicity in design and execution in nautical architecture, which he is willing to place at the disposal of the Government. He does not want to make money out of you; but he desires to confer on the country the benefit of his superior knowledge, whilst, at the same time, he identifies his reputation with the naval history of the country.

He is the builder and proprietor of the yacht *Maria*, which beat the *America*, which, under his brother, Commodore Stevens, achieved that victory over all the naval chivalry of Great Britain—a victory worthy to be enrolled with those other glorious triumphs of American naval valor during the war of 1812—which have done as much to elevate the national character, and inspire confidence and self-reliance in American prowess, as all your campaigns on shore, from Canada, to the city of the Montezumas.

The offer of such a man to render his skill available to the service of the country, ought to be met with promptitude, alacrity, and liberality by the Government.

It is not proposed by Mr. Stevens to supersede the use of permanent local fortifications. No one thinks of substituting any floating battery for them. The floating steam battery which Mr. Stevens has projected, is designed, not as a substitute, but as an auxiliary to fortifications. They are fixed and stationary, and invaluable at certain points, where they command the channel of ingress for an enemy. In passing such fortresses, the enemy, except under favorable circumstances, may be destroyed or crippled: yet there is no certainty in any such result. In any such attempt by a powerful fleet of war steamers, though some might be destroyed, others would be very likely, under the smoke raised by the broadsides from the fort and its opponent, to force an entrance into the interior harbor; then, without such a vessel as that contemplated by the plan of Mr. Stevens, nothing could prevent the most disastrous consequences.

Mr. Stevens's war steamer, after an enemy had run the gauntlet of the Narrows, and become more

or less crippled, would move upon him, and interpose an effectual barrier to his nearer approach.

I have the utmost confidence, that Mr. Stevens can accomplish all he proposes, if he is met by this Government in the proper spirit of fairness and liberality. He is no visionary, but a practical engineer and ship-builder, who has a high reputation at stake, and which he is willing to risk for the benefit of the country. He is incapable of undertaking to perform what he knows to be impracticable. I will now read from a work just published by the learned and accomplished President of Columbia College, Mr. Charles King, in regard to Mr. Stevens:

"The extent, variety, and value of Mr. R. L. Stevens's labors and inventions in mechanics, should have more fitting commemoration than can be given in any passing notice by one unskilled, as is the writer of this, in the mechanic arts. Yet he cannot suffer this allusion to Mr. Stevens to go forth, without attempting at least to enumerate some of the many services and ingenious inventions and appliances of that gentleman in steam, in gunnery, and in mechanics. From the time when a mere boy, in 1804-5, he was zealously working in the machine shop at Hoboken, up to the passing hour, he has given his time, his faculties, and his money, to what may be justly described as *experimental philosophy*, and the results have been of great public benefit. Of some of them, the following chronological record may bear witness:

"1842. Having contracted to build for the United States Government a large war steamer shot and shell proof, R. L. Stevens built a steamboat at Bordentown for the sole purpose of experimenting on the forms and curves of propeller blades, as compared with side-wheels, and continued his experiments for many months, the result of which we may yet hope to see in an iron war steamer that will be *invaluable*, and so should be named. While occupied with this design he invented about 1844, and took a patent for, a mode of turning a steam ship of war on a pivot, as it were, by means of a cross propeller near the stern, so that if one battery were disabled, she might in an instant almost present the other.

"1848. This year succeeded in advantageously using *anthracite* in first passenger locomotives.

"1849. Witnessed the successful application of air under the bottom of steamer *John Neilson*, whereby friction is diminished, and she has actually gone at the rate of twenty miles an hour; this was the invention of R. L. Stevens and F. B. Stevens. The *John Neilson* also has another ingenious and effectual contrivance of R. L. Stevens, first used in 1849, for preventing ill consequences from the fouling of the boiler. In conclusion of this dry and imperfect chronological recital of some of R. L. Stevens's contributions to the mechanic arts, to public convenience and national power, as well as renown, it must be added that Mr. Stevens is himself the modeler of all the vessels built by or for him, and that many of our fastest yachts are of his moulding; and especially the *Maria*, which beat without difficulty the victorious *America*, which in her turn carried the broom at her mast-head through the British Channel, distancing all competitors, as she continues to do, I believe, under her new owner, in the Mediterranean.

"Of such a man, not the mechanics only of our city, among whom he has worked, and is well known, but the nation may well be proud."

I said that he had an "*hereditary passion*" for those pursuits to which he has devoted most of his life, and here, sir, my State pride may be pardoned, if I advert to the name of his honored parent, to whose services in practical engineering, mechanics, and other kindred departments, the country owes a debt which it is too late to liquidate now.

Sir, John Stevens, of Hoboken, New Jersey, was one of the most extraordinary men of his age, so prolific of great men. He was the compeer of Fulton, and contributed his full proportion towards making steam that powerful locomotive agent which it has become. Like Fulton and Oliver Evans, he was in advance of the age in which he lived. Near fifty years ago, he astonished and confounded a committee of the New Jersey Legislature, by the prediction that the time would come when men would travel as fast as a pigeon could fly. They would hear him no longer; they turned from him with pity and incredulity; they told him, as "*Festus*" told "*St. Paul*," "*much learning has made you mad*." As he was in advance of his age in relation to the use of steam, so he was in relation to railroads. These he used experimentally in his work yards long before public attention was directed to their importance. He in vain solicited from the New Jersey Legislature permission to connect the waters of the Delaware and the Hudson, many years before the Legislature would permit any such enterprise to be attempted. He did as much, if not more, than any other man to bring the steam-engine for locomotion to its present perfection. When his history is written, his name will rank with the names of Franklin, Fulton, Fitch, and Rittenhouse, among the greatest benefactors of his country, and the human race. His genius and his fondness for practical engineering, he has transmitted to his sons, who are among

the most eminent men, in their vocation, of which this or any other country can boast. It is for Congress now to say, whether this Government shall avail itself of the services of such men, in constructing just such vessels for national defense as the necessities of the naval service require.

Had this Government taken by the hand Fulton and John Stevens fifty years ago, there is no telling how far we might now have been, in advance of our rivals in many important elements of national power.

The proposition now submitted to you is intimately connected with the national defense, and the growth and efficiency of your Navy; and I avail myself of the opportunity to make some general remarks on that subject.

Sir, the recent victories of your armies seem to have obscured somewhat the splendor of your naval achievements. I entertain no apprehension, however, that the country will ever undervalue the importance of the Navy, as a sure reliance for the protection of the national honor and the vindication of national injuries. You are destined—(excuse the word)—but if you continue a united people you will be compelled—to become the greatest naval power which the world ever saw. Yet, apparently appalled at the expense to be incurred in any attempt to rival the lavish expenditures of England and France on their navies, we seem to have been embarrassed as to what was the true course to be pursued. Steam has, as you have often been told, revolutionized war upon the ocean. The leviathan ships with which Nelson annihilated the navy of Napoleon at the Nile and Trafalgar, are no longer invincible.

I have long thought that the improvement of our steam marine has not received from the country and from Congress that attention which it deserves. There can be little doubt, that we are at this moment more inferior, as a naval power, for purposes of immediate defense, compared with the offensive means possessed by other powerful nations, than we were forty years ago; while England, France, and Russia have, of late years, vied with each other in the creation of a formidable steam Navy, we have been standing by comparatively passive. In the Admiralty Navy-list of 1850 of Great Britain, is found one hundred and fifty war steamers, and she is constantly building and launching others. In addition to these, she has between sixty and seventy mercantile steamers capable of being converted into war steamers, and whose war equipments are all prepared. In further addition, she has upwards of eight hundred steamers capable of furnishing formidable assistance for coast defense.

France, since 1815, has never lost sight of the importance of maintaining a navy; she is next after England, now the greatest naval power of the world. She had at the commencement of the present year one line-of-battle ship of ninety guns, with screw propeller; fourteen steam-frigates, mounting from eight to sixteen guns of heavy ordnance, and many others of smaller size. We shall have in the Navy of this great Republic—in the Navy of a country whose people, and patriots, and statesmen, (some of them,) are ready to dictate a new code of laws for the nations of the earth, and to throw a fire-brand into Europe, regardless of all consequences, war, or no war—I say, sir, we shall have in our Navy, when completed, five steam-frigates and one steam-sloop, mounting from six to ten guns. Sir, we had better be prepared for a fight before we attempt to bully. This disparity between our naval steam force and that of other Powers is growing greater every year. Yet the tonnage of the United States engaged in foreign or domestic commerce, if we include that of our lakes and large rivers, is about equal to that of Great Britain, and far exceeds that of France or Russia.

Now, these three facts being ascertained—first, our defenseless condition; second, the disparity of our naval power compared with that of the other great powers; third, the equality or superiority of our mercantile tonnage; it becomes a question of great magnitude, what policy is it proper for us to adopt, so as to guard against immense and incalculable losses, in case a sudden war should break out with any of the great Powers.

My mind has been anxiously directed to this subject for many years, and I avail myself of this occasion to throw out a few other suggestions in relation to it.

This gigantic species of warfare it is utterly use-

less and impracticable, at any cost, to wage with the old-fashioned ships-of-the-line and frigates. Indeed, such vessels would only be built and sailed for the benefit of the enemy. In the present improved condition of naval tactics and steam superiority of Great Britain, there can be no doubt that we must take new observations; a new latitude and departure, if we expect to protect our own shores. We must build a sufficient number of war steamers which shall exceed any which she may have built: first, in celerity; second, in their invulnerability; and third, in their superior destructive qualities.

We must build vessels which, in speed and power, will enable one of ours to cope with half a dozen of hers; vessels, any one of which would be sufficient to enter any of her harbors, and sail through or around any of her fleets.

Now, Mr. President, all this is neither impracticable nor difficult; and in Mr. Stevens you will find not the only American engineer and naval mechanic who can accomplish this great object. We have the coal and iron, and all the raw materials which will enable us, with the aid of all the experience obtained by England and France in steam naval architecture, to commence, now, efficient steps for the creation of a steam navy fully equal to anything now afloat.

But, sir, for this purpose you must adopt an entirely new system of constructing your national vessels. By this I do not mean to reflect on the constructors in the Navy; by no means. All of them whom I have known would favorably compare with other naval architects; especially, sir, would I place no one ahead of the able and accomplished naval constructor in Washington, Mr. Lenthall. You must appeal to the emulation of all the naval mechanics of the United States, so as to draw out the utmost capacity of that sagacious, skillful, and enterprising class.

You must invite them all to enter the field of competition. I do not see why, by the offer of a bonus for each separate class of war steamers proportioned to the magnitude of each vessel, or by some other plan similar in principle, you should not make available all the skill possessed by any of our American mechanics for the purposes of the Government. They are superior to those of any other nation. I have some knowledge of, and entire confidence in the genius, the enterprise, and indomitable superiority of the American mechanic and artisan. My avocations and favorite pursuits have brought me into personal, familiar, and confidential contact with them. I honor and respect them; and I speak with a confidence founded on knowledge, when I say that they are superior to those of any nation or age; and I say, furthermore, that the interests of our country in all those great pursuits in which we are most closely pressed with the rivalry of other nations, enjoying the benefit of cheap labor and more abundant capital, may be safely intrusted to their hands. But then you must give them the advantages which our own resources supply in the cheap raw materials of coal and iron. This you can readily do. You have only to adopt the home valuation, or to assess your present *ad valorem* duty on the actual sales in this country. By doing this you will violate no principle of the Constitution, no precept of the resolutions of 1798. You will only be obeying the dictates of an enlarged patriotism. Do but this, and you will rekindle your forge fires, and reopen your workshops, and our constituents in New Jersey and Pennsylvania, and all over the country, will once more hear the merry ring of the anvil. Do but this, and no foreign war steamer, nor English, nor French, nor Russian will scream the hoarse notes of defiance on your coast or in your harbors. Do but this, and you will put a fulcrum in the hands of the American mechanics by means of which they will move the world.

Sir, that they are superior has been proved over and over again; let the following extracts from a newspaper received this morning be added to the proofs. It has been proved by our clippers, whose unparalleled voyages round the world have recently astonished Europe. It has been proved by the speed and superiority of the Collins line of steamers; and it has been proved by the glorious victory of the yacht America:

"QUICK PASSAGE OF THE WITCH OF THE WAVE.—One of the London papers says: A large American clipper-built ship, named the Witch of the Wave, Captain Millett, commander, has recently arrived in the East India Docks, London, from Canton, having made one of the most extraordi-

nary and rapid voyages on record. She has also brought one of the most valuable cargoes of tea that, perhaps, ever entered the port of London, having on board no fewer than nineteen thousand chests of the choicest quality. She is nearly fourteen hundred tons burden, the size of our largest Indianmen, and was built at Salem, Massachusetts, in the course of last year. She proceeded to California, thence to Hong Kong, and sailed from Whampoa, near Canton, on the 5th of January; made the passage to Java in seven days and twelve hours, then had the wind W. S. W. to N. W. for several days, with light trade-wind, and made the Cape in twenty-nine days. Then encountered strong easterly winds from the Western Islands, and took a pilot off the Dungeness on the 4th of April, making a passage from China to the Downs in ninety days, a trip surpassing the celebrated runs of the Oriental and Surprise, American clippers. Had she not encountered the strong easterly winds up the Channel, she would have accomplished the voyage several days earlier. As it was, she was only four days beating up from the chops of the Channel to reaching the river, while some of our large vessels were nearly a fortnight doing the distance. The Witch of the Wave is the object of much interest as she lies in the dock. Her bows are similar to a large-sized cutter yacht. By the above it will be seen that she sailed round the world in ten months and a half, including loading and discharging at the above ports. The greatest distance she ran in twenty-four hours, on the voyage to London, was three hundred and thirty-eight miles."

Another paragraph is in these words:

"Quite a sensation has been created in the English commercial world by the arrival of the American clipper-ship Witch of the Wave, at London, after a run of ninety days from Canton to the Downs—the shortest passage on record. Up to this period the British have retained a nominal advantage in the navigation, of this route, one of their traders having accomplished the distance in a few days shorter than any American or other craft; but by this recent achievement of one of our clipper fleet, their last dream of fancied superiority has been dispelled."

And another is as follows:

"THE YACHT AMERICA IN PARLIAMENT.—Colonel Peel, in a recent discussion of the Navy estimates, in the British House of Commons, took occasion to express his surprise that not one word had been said in reference to the circumstance of a foreign yacht having come to England, and, in the presence of the Queen herself, beaten some of the crack English sailing vessels! That, Colonel Peel said, appeared to him a deeply humiliating event. She was an American yacht, and was described as 'the race-horse of the ocean.' Colonel Peel confessed that he was wholly ignorant of nautical matters, although he was conversant with the pastime of horse-racing, and he flatters himself that he could appreciate such an expression as the 'blue ribbon of the turf,' as used by Mr. D'Israeli. Whatever might be the sailing qualities of the American yacht, Colonel Peel declared that if such a defeat had been sustained by the English sailing vessels at the Isle of Wight, there was not a true sportsman in England but would go to any expense to recover back the lost laurels. Colonel Peel stated that it was part of his creed that 'Britannia rules the waves,' but what became of the goddess on the day to which he alluded he could not say; but if she 'ruled the waves' at all on that occasion, she must surely have done so with a downcast look. Colonel Peel's remarks were received with cries of 'hear, hear.'"

I have alluded to those great sources of national wealth, iron and coal, and as they are so intimately connected with the defense of the country, a few more words in relation to them may not be amiss. It has been those products of her soil which has chiefly made Great Britain what she is, or was. These enabled her to fight the battles of despotism in Europe. These were the conquerors of a Napoleon. They are indispensable for defense, if not for national existence. The nation which possesses them in the greatest abundance, and can produce them the cheapest, must excel all others. They are infinitely more important now, as elements of national greatness and power, than ever before. The race of competition in this age, between civilized nations, depends upon their respective facilities for the use of steam. Steam on the ocean is to fight the battle of supremacy there; and steam on land, in the factory, and on the railroad, is to decide the question of superiority in all the diversified pursuits of human life.

Sir, we should look to them; we have them in abundance. There, in the mountains of my own native State, and of her neighbor and sister, old Democratic Pennsylvania, are the weapons with which alone your victory can be achieved. There are the materials from which your thunderbolts must be fabricated. There is the armory from which to clothe your warriors in an invincible panoply. Strike the rocks of these pregnant mountains, and streams of victorious legions will come forth at your bidding. There slumber the unforged fetters of the seas. You have but to fabricate them from the materials there abounding, and you may fling your chains upon Old Ocean's mane at will, and then you will need no bulwarks, no towers along the steep.

But I may be told, advocating the policy of encouraging the promotion of the production of iron, I am running counter to the principles of my party. Sir, I yield to no one in my sense of abiding obli-

gation, while I represent a Democratic State, to faithfully adhere to the Democratic standard of faith. But surely no one can justly accuse me of not being true to the Democratic party, while I act in accordance with the often-declared principles of Andrew Jackson, and of old Democratic Pennsylvania. There is nothing in the Democratic creed which forbids encouraging the promotion of that which is essential to national defense. Democracy, in my estimation, does not consist in giving or withholding a per cent. above or below the average revenue duty. God help the Democracy measured by such a standard! With me, it is the first duty which I acknowledge to provide for the national defense. It was this elevated view of his duty which impelled the great Chatham to say that he would not permit America to manufacture a hob-nail. Sir, I hope the period is not distant when the cheapness of American iron and coal will not permit Great Britain to manufacture a hob-nail for us, or for any market where we can compete with them on equal terms. Democracy, as I understand, has more immediate reference to the construction of the powers of the Government rather than to the fluctuating policy of discriminating-respecting the imposition of duties. That must be controlled by questions of expediency—by the changing modifications of the commercial and restrictive policy of other countries. But it is in the construction of the powers of the Government where Democracy has proved itself the bulwark of the Constitution and the Union. When the reign of terror was upon them—when the fathers of the Democratic party saw, under the rule of the elder Adams, the rights of the States endangered, and everything tending to the consolidation of all power in this central government, they promulgated what I have always considered, since I have directed my mind to political subjects, as the true standard of Democratic faith. I allude to the Virginia and Kentucky resolutions of '98 and '99. Sir, I know that it is a custom with some politicians to indulge in sneers in relation to those resolutions, and to taunt those who respect them with being abstractionists, impracticables, and dreamy theorists.

Sir, I care little what terms—whether Federalist, State-Rights, or Abstractionist, are applied to me; but I will say what I believe, at the hazard of every consequence, personal or political, and without regard to popularity or unpopularity—the one has no charms to swerve me from what I consider right, and least of all has the other any terror.

I will not say of popularity what Horne Tooke said, that if it was to come in my way "I would kick it out of my way;" but I will say, that I trust I shall always have courage enough, of whatever sort may be needful, to despise any popularity, purchased by any dereliction of principle or any sacrifice of personal honor or independence.

But, sir, the resolutions of '98 and '99! the resolutions! I have to say of them that, in my opinion, they are the most valuable legacy, next after the Constitution, which the early patriots of the Republic have bequeathed to the country. They have, in my opinion, done more to preserve the Constitution from infraction, and to keep this Government within its limits, than any other production of political wisdom from the day of their origin to this time. They have been the touchstone by which wild and visionary theories have been tested, and found to be valueless or dangerous. They have been light-houses along the stormy shoals and breakers of politics—warning us of the only safe and smooth channel of navigation for the Ship of State.

I know well that their enemies have pretended to find in them the germ of nullification. But, sir, I perceive no such dangerous heresy in any of them. I see in them a plain, common-sense, practical scheme for the administration of this Government,—a scheme by means of which the Union and the Constitution may be preserved inviolate, the rights of the States respected, and the Government enabled to exercise all those national functions designed to be performed by it; while it is preserved and restrained within those barriers with which it is invested by the Constitution.

Sir, as a citizen of a small State, which has as much to dread from a dissolution of the Union as any other State of this Confederacy, I acknowledge my gratitude to the great men who promulgated those doctrines, and to their disciples, who, since that time, have remained steadfast to the

Democratic principles they contain. Those are the principles by which I would have my Democracy estimated; by them I will consider myself bound; upon them and the Constitution a long time ago I planted my standard. On the one side is inscribed, "Slavery is no sin of ours;" on the other side is written, "The Wilmot proviso is unconstitutional."

Thus much, sir, I have felt bound to say in vindication of myself, as well as of the Democracy of the patriotic State which sent me here, in relation to the encouragement of the product of iron.

"I hope I don't intrude," as Paul Pry said. I hope that I have not interfered with the prerogative of others—that I have not trespassed on the premises either of Young America, or Old—

A SENATOR. Foggy.

Mr. STOCKTON hesitated; and, looking around to see who addressed him, continued—

I thank you, sir; but my memory did not fail me. No, sir; my tongue refused to utter the ungracious phrase—the instinctive power of my heart forbade it. Thank God for the inspiration.

No, no, "*Conscriptus pater*"—I have, as an American citizen, neither the heart to conceive nor the tongue to speak any sentiment but that of the greatest personal respect and the highest admiration and appreciation of your long and faithful public services. May God prolong your life and health and mind, and may the spirit of your country's gratitude rest upon you.

Mr. President, some time since, in another place, I was as unexpectedly called upon as I have this moment been to say a few words in commendation of a distinguished public man. That was put down "*an explosion*," and this may be recorded as "*explosion second*." Well, sir, I can have but little left, and I propose now to finish the business of blowing myself up by making this declaration before the Senate and the country. Sir, I acknowledge my responsibility to the national Democracy with reference to national questions, respecting the rights of the States and the powers of this Government; but to New Jersey alone I hold myself responsible with reference to questions of a local or transitory character.

Mr. President, I am done; and if your able reporter will do me the justice which he has heretofore done to myself and all others, why then, sir, political quackery may make the most of it.

Mr. HUNTER. I hope the joint resolution will be laid over. I call for the consideration of the special order of the day, and move that the further consideration of this resolution be postponed until to-morrow.

Mr. STOCKTON. I do not think it will take long to dispose of the resolution. I wish to have a vote on it. I hope the Senate will not postpone it.

Mr. MANGUM. If there be any intimation on the part of any gentleman that he wishes to continue the discussion, I certainly shall not object to the postponement, for the deficiency bill ought to be disposed of. This is a question in which I feel much interest. I investigated it some ten years ago, when the original appropriation was made, and I conceive it to be one of the happiest conceptions of one of the ablest men that I have ever known in this country, in respect to harbor defenses—a man as highly gifted, and of as high genius, as he is simple and pure in his conduct. I shall vote with the honorable Senator from New Jersey with a great deal of pleasure on this question. I examined it, many years ago, and, with all the aids and assistances that I could derive from the most experienced gentlemen connected with the naval service, I became perfectly satisfied that it was one of the happiest conceptions.

Mr. HAMLIN. I only desire to say that this is a matter of much importance. I think the motion which has been made by the Senator from Virginia is the appropriate one for this occasion. This is a matter into which I should prefer to look more carefully before I give my vote. I hope it may be passed over.

The motion to postpone was agreed to.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852." The amendment of the Committee on

Finance, as it has been amended, is to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last, to the Secretary of the Navy, commencing said increased service on the 1st of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500. *Provided*, That it shall be in the power of Congress, at any time after the first day of January, 1854, to terminate the arrangement for any additional allowance herein provided for.

The question pending is on the motion of Mr. MALLORY, to amend the amendment by adding:

*Provided*, That the contract for the transportation of the said mail be and the same is hereby transferred from the Navy to the Post Office Department.

Mr. BROOKE. Mr. President, I do not wish to interfere with any Senator who desires to discuss this subject; nor do I intend, by any means, to make a speech upon it, because I am aware that I am not able to add any new facts, or to shed any new light upon a subject that has been so ably discussed as this has been. But, sir, I wish to avail myself of the privilege that I have of explaining to my constituents, if to no one else, the reasons why I shall be compelled, reluctantly, to vote against the amendment of the Committee on Finance.

This is a very important measure. It contemplates an annual imposition upon the Treasury of at least \$500,000, making all allowance for the receipts that will be put into the Treasury from the postages received. Not only does it propose to entail upon the Treasury of the United States in annual expense of half a million of dollars, but a look upon it as the initiatory step, the entering wedge, to a system of mail steamers, to be supported by the munificence and bounty of the Government, the end of which no man can see. The main objection I have to this amendment, or at least the main reason why I cannot now give it my support, is, the extreme state of uncertainty that exists in reference to the facts and figures on which the demand for the appropriation is based. Why, sir, statements have been made here one day, which required explanation, and sometimes an entire retraction on the next. There are no certain data upon which any Senator, as I think, can vote understandingly. I was struck with this the other day, in the little discussion that arose upon an amendment which I had the honor of offering by way of a substitute for the amendment of the committee. Prior to that, it had been represented that the amount of postages to be received by the Collins line would amply repay and reimburse to the Treasury any outlay that might be imposed by the amendment. Indeed, this line of steamers was, with a great deal of certainty, represented as a mine of wealth, richer far than

"—the wealth of Ormus and of Ind;  
Or where the gorgeous East, with richest hand,  
Showers on her kings Barbaric pearl and gold."

To test the truth of this; to test the sincerity of the gentlemen composing the company who own this line, in the simplicity of my heart, I offered an amendment, giving to them the entire postages received from the mails; instead of the compensation proposed by the amendment of the committee. Well, sir, in a single minute, aye, in a single second of time, what had been a magnificent certainty dwindled down to an insignificant probability! We were then told that it was by no means certain that the postages accruing from the line would reimburse the proprietors. Desiring to accommodate myself, as far as possible, to the wishes of my friends, I modified the amendment. I then proposed to give the postages in addition to the \$385,000 now granted by law. In another second this insignificant probability mounted up again to a magnificent certainty, and we were told, Oh! this is too large; it is more than the line asks for.

Another objection was made to my amendment, and that was, that it would deprive Congress of all control of the postages. The Senator from New Hampshire [Mr. HALE] objected, that, in the course of time, Congress might wish to reduce the postages between New York and Liverpool. Feeling desirous of accommodating my amendment to all demands, I modified it so as to reserve to Congress the right to modify the postages. Immediately the objection was made from the other side

of the Chamber, that Congress, under the postal treaty, had no power to reduce the postages. So, sir, in all my efforts to accommodate the amendment to the different objections which prevailed in the Chamber, I utterly failed. I could not satisfy the friends of the amendment of the committee by any modification which I was willing to make to my amendment. If I sat down, I was too short; if I stood up, I was too long.

As an instance of another uncertainty which prevailed about the matter, I find in a publication that was laid on my desk, and, I presume, upon the desks of all the other Senators upon this floor, a statement in detail, giving credit to the Collins line of steamers for the sum of \$58,675 59, as the sum earned by them for the Government, after giving the Government credit for the appropriation that has been made for them.

I admit that in the details of this statement, it is shown that a large amount of this postage is due to the Cunard line; or, in other words, that a large amount of this postage was earned by the Cunard line; but, as very few people ever read the figures in detail, while most look only to the general results, in order to save themselves the trouble, I say that this statement is deceptive, since it gives credit to the Collins line, not only for the whole amount received by the Collins, but by the Cunard line. The aggregate amount received from postages by these lines from the 27th of April, 1850, up to the 31st of March, 1852, which appears to have been derived from the establishment of this line of steamers, is \$898,675 59; and the net gain is put down at \$58,675 59. I repeat that although in the detailed statement, in the figures that follow, due credit is given to the Cunard line, yet in the general result as given in this pamphlet, the whole credit is given to the Collins line of steamers. I adduce these figures to show the erroneous impressions which the facts and figures brought forward by the friends of this amendment are calculated to make upon the public mind; because, as I said, when this comes before the public, not one in a thousand will look at the figures and examine them in detail, but they will look only at the general result, and that, as stated in this pamphlet, is a deceptive one.

Another objection which I have to this amendment is, that I am not satisfied from the statements which its supporters have made here, that this additional appropriation is necessary. We are told, in round numbers, that the expense of a trip of one of these steamers from New York to Liverpool is \$65,215. Now, before we should be called upon to vote away this large amount of money, it seems to me that it is the duty of this company, or of its friends upon this floor, not only to furnish us with the gross amount of expense, but also with a detailed statement of all the expenses. It is furnished to us here merely in a lump, and I expect to show, in a few moments, that this statement, short as it is, is full of errors; and from one error we can learn the rest.

In the first place, it is stated that the average cost of each voyage, for the wages of crew and their provisions, is \$3,845 04. The cost of fuel is \$8,612 28; repairs to machinery \$4,571 90; average of extras \$4,643; ordinary expenses, including carpenters and joiners, port charges, sail makers, light and dock dues, passengers' provisions, and waiters, and other necessities, \$12,762 73; insurance \$8,904 64; interest \$8,438; deterioration, at seven per cent. per annum, \$8,438; making a total of \$65,215 59. Thus, sir, the whole amount of cost per voyage is put down at \$65,215.

Now, I am told that one of these vessels can average one trip a month. Then, sir, the annual expense of one of this Collins line of steamers, according to this estimate, will amount to the enormous sum of \$783,000. Sir, I do not think that this will do to tell to the marines, much less to a sailor. I do not believe a marine would credit it. That amount, I believe, is a little over the cost of building one of these vessels. And are we to be told that the annual expense of running these vessels is more than their original cost? I cannot believe it, nor will I believe it until I see a more explicit statement than that which has been furnished here by the secretary of this company.

But, sir, if I understand the matter fully, this is not all. It does not stop here; but this estimate is furnished as a basis for future action. Look at that estimate. It contains an item for ordinary repairs of machinery of \$4,571 per trip! It con-



tains also an item of nearly the same amount (\$4,643) for extraordinary repairs. Now, if we carry this item for extraordinary repairs through a long series of instances, it ceases to be an item for extraordinary repairs, and becomes, of course, an item for ordinary repairs—an item appertaining to the system throughout. We have no right, nor can we in justice or in reason be called upon to make an estimate and appropriate money through a long series of years for extraordinary repairs; because, if we do this, they are no longer extraordinary but they become ordinary, and attached to this very system itself.

Then, sir, there is another item for insurance of \$3,994 64. I am not acquainted with the rate of insurance charged between New York and Liverpool, but that amount would make it a little over seven per cent. on the cost of the vessels. But, according to these figures and this rate of insurance, the total estimate is incorrect; and, as I before remarked, these estimates are furnished for our future action, and we ought, therefore, to estimate the amount we are called upon to allow now with a reference to the amount which we shall have to pay hereafter. Now, on the original cost of all the vessels—namely, \$2,944,142—seven per cent. would amount to \$206,089. Then, to find out the amount of insurance to be paid for each trip, we must divide that sum by twenty-six, which is the number of trips proposed to be made by this line of steamers, in consequence of the granting of this appropriation. That will amount only to \$7,926—a thousand dollars less than the estimate which we find in the account of details. The same rule, with the same result, will apply in regard to interest, and upon that calculation we will find that they have estimated the total interest \$1,000 too high. So also in regard to the deterioration of the vessels themselves. It is put down at seven per cent., which will amount to \$7,926 instead of \$8,464, as furnished by the estimate. Here then, sir, is the sum of \$2,012 which they have estimated too much in the items of insurance and interest and deterioration of the vessels. This multiplied by twenty-six will give an annual amount of \$52,312 more than the actual estimate. That may be regarded by some gentlemen as a small mistake, but I regard it as a considerable sum.

The Senator from Ohio, [Mr. WADE,] while speaking on this subject yesterday, touched a chord that I think should vibrate through the heart of every Western man who is called upon to vote in regard to this appropriation. I do not wish to be at all sectional in reference to this matter; but I think that, as a Western man, I have a right to ask that justice should be done to that long-neglected section of our country, before we are called upon to vote such large and enormous amounts of money for the sustenance and protection of interests with which we have comparatively but little to do. I have no means of ascertaining the comparative amount and value of the commerce of the West which floats upon the bosom of the Ohio and Mississippi rivers; but I venture to say, from the small means of information which I have, that this Western commerce is infinitely superior, both in amount and value, to the commerce carried on between New York and Liverpool. I find, from an estimate of the Secretary of the Treasury, in a report sent to this body on the 21st of December last, that the whole steam marine tonnage of Great Britain at that time was 142,080 tons. Now, the steam tonnage of the interior of the United States, at the same time, amounted to 204,645 tons. It is well known that at least one third of this tonnage belongs to the West; and from this statement we may form some estimate of the comparative amount and value of the Western commerce, compared with that of Great Britain, as carried on between Liverpool and New York.

Now, allow me to ask what is the amount given by this Government for the last ten years to protect the commerce which is carried on at the West? The last bill passed upon this subject making appropriations for the purpose of protecting the commerce of the West, was passed in 1844, and by that bill the magnificent donation of \$100,000 was made to improve the Ohio river between the cities of Pittsburg and Louisville, and \$180,000 to improve the Ohio below the falls at Louisville, the Mississippi, Missouri, and Arkansas rivers—only \$280,000 in eight years, or about one third of the amount which is asked to be appropriated to this Collins line in one year. This is not just; and I

declare again that I have a right, as a Western citizen, living in that great valley which is washed and drained by these rivers, to protest against any further appropriations from the Treasury for the purpose of sustaining this line until full justice is done to our section of the country. Sir, there is not a newspaper that we receive from the West, nor a breeze that blows from the West and fans our cheeks, but bears upon its wings some account of sad disasters of death and destruction, which have taken place upon our Western waters. And yet to prevent all this the paltry appropriation of \$280,000 is all that has been made in the space of eight years. From the same report to which I have referred, I have gained some interesting facts, which I think should have due consideration and weight in this body, and especially with Senators who hail from the same section of country that I do. By this it appears that the number of vessels lost on the rivers of the Ohio basin, and the Mississippi Valley, up to the year 1848, was six hundred and eighteen. There were lost by collisions, forty-five; by fire, one hundred and four; and by snags, and other obstructions for which the Government is responsible, four hundred and sixty-nine. The value of the boats thus lost, was \$4,719,991, exclusive of explosions, collapsing of flues, &c.; and including them, the value of boats alone which were lost, was \$5,643,791. The losses on cargoes was \$12,698,529, making the total losses on the Western waters, up to 1848, \$18,342,320. The loss of boats has been forty-four and a half per cent. of all that have been built; or, in other words, out of every hundred boats built to run upon those waters, forty-four and a half have either exploded, or been sunk beneath the dark and turbid waters of the Mississippi.

To come down a little later, we find that the value of the boats lost on the Mississippi and its tributaries in 1849, was \$1,585,400. All that loss occurred in one year. In 1851, a year of unusual exemption from steamboat disasters, there was lost on the Western lakes and rivers the amount of \$1,568,106. And I again repeat, that to protect the citizens of the great growing West from those losses to which they have been subject in their property and their lives, there has been expended the sum of only \$280,000 within a period of eight years, which is, I again repeat, but about one third of the amount which is asked to be appropriated for the Collins line of steamers for one year.

By that same report, I find that the number of passengers carried annually by all the ocean steamers belonging to the United States is 190,993, and that the number of passengers carried in the ordinary inland lake and river steamers of the waters of the Ohio, Mississippi, and their tributaries, is 3,782,572. Now, is it not monstrous that this large sum of money should be sought to be appropriated to one single line of ocean steamers, when the whole number of persons who need protection in ocean steamers, on all lines, is only 190,000; and while there are 3,782,572 needing equal protection, who are put off with the poor pittance of \$280,000 for that purpose, and that amount given during a period of eight years?

I remarked when I took the floor, that I had no intention of making a speech, but that I simply wished to state the reasons why I could not, as a Western man, fully identified with all the interests of that immense region of country, give my vote for this amendment. It is an old saying, as just as it is true, that "Charity should begin at home;" and when you have carried this maxim into practical effect, when you have done full justice at home, full justice to the interior, then you may, with some semblance of propriety, call upon us to assist you in doing full justice to the Atlantic coast, by giving protection to that commerce, which is partly domestic and partly foreign.

For these reasons I cannot vote for the amendment. I cannot vote against it, because I have consented to pair off with the Senator from New Jersey, [Mr. MILLER,] and he is not now present. But were I at liberty to vote, I would vote against it most heartily. I am anxious to have this line continued; and I trust I have as much of a national feeling in regard to this matter as any Senator on this floor; but I cannot yield up my sense of what is just and of what is due to my own section of country to any feeling of national vanity or national glory of this sort.

Mr. GEYER. Before the vote is taken, I de-

sire to express, in a few words, the reasons why, under existing circumstances, I feel constrained to vote against this amendment.

I shall do so, not because I participate, on this occasion, in the sentiments expressed by the Senator from Ohio, [Mr. WADE,] in reference to the question of appropriations for the Western rivers. I apprehend that when the votes of Senators and Representatives shall be examined, it will be found that, although a portion of those on the eastern side of the Alleghenies have uniformly voted against these appropriations, a large number have also voted for them; and if blame is to be attributed to any particular section of the country, a portion of it should apply to our own section. The difficulty lies in the erection of platforms to override the Constitution; the allegiance to the platform of a party is stronger than the feeling of allegiance to the Constitution, or the obligations of duty; and that is the reason why we have not had an administration of the powers of this Government for the benefit of those for whom it was instituted. But I have objections to this amendment—objections which I had hoped would have been removed during this discussion; for I am disposed, and have been, from the beginning, to vote an appropriation—all that should be necessary, and no more than should be necessary—for the purpose of maintaining this line of steamers. I am not among those who think that the Post Office should necessarily sustain itself; but, at the same time, I am unwilling to vote so large an appropriation as this in the dark. When I consider how the question has been brought forward, and how it has been discussed, I cannot but express my apprehension that there is something which will not bear examination yet undiscovered.

At the commencement of this session the Postmaster General informed us, in his annual report, that he had obtained additional service by an understanding with the owners of the Collins line, which would give an increase of six trips in the year, making twenty-six instead of twenty; and he recommended, as I understand, that these trips should be paid for *pro rata*, and that certain compensation should be allowed—not "certain," but that some compensation should be allowed—for the trips which it would be necessary to perform during the winter. That is the recommendation of the Postmaster General, as I read it. In the early part of the session a number of petitions were presented from different cities in the Union, praying for increased aid to the Collins line. They were referred to a committee; and I expected, being desirous to vote what was necessary, that we should have a report from that committee, which would inform us, and give us the reasons, why a contract entered into for ten years at a given, stipulated price should now be changed, and the annual compensation increased. I supposed that they would have inquired—not of the owners or clerks of the Collins line, but from experienced persons, or that they would have obtained such information as would satisfy them as to the reasonable expense of navigating these ships, and thus ascertain what would be a proper amount of compensation to be voted by the two Houses of Congress. Four months elapsed, and no report was made; the Committee on Naval Affairs, as I understand it now, having upon it a gentleman who is also a member of the Committee on Finance, agreed among themselves that they would raise the compensation to \$33,000 per trip, and then communicated that fact to the Secretary of the Navy. The Secretary of the Navy told them in reply, that if they approved the arrangement of the Postmaster General, there would be a deficit even if the additional six trips were made at the old rate of \$19,380 each; and that if they concluded to raise the compensation to \$33,000 per trip, then the deficiency would be so much. That is the estimate; on that a member of the Naval Committee takes his seat as a member of the Committee on Finance, and moves this appropriation. According to my reading, it states what is contrary to the records, and that is one reason why I must vote against it.

I will read the amendment:

"For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last, to the Secretary of the Navy, commencing said in-

creased service on the 1st of January, 1852, at the rate of \$53,000 per trip, in lieu of the present allowance, the sum of \$236,500."

Now, the laymen will understand that to mean that this appropriation was inserted at the recommendation of the Postmaster General. But, looking at the recommendation of that officer, it will be seen that he recommends no such thing.

Mr. BADGER. I hope that my friend will permit me to say one word. He puts a wrong interpretation altogether on the amendment. It does not express nor imply, nor was it intended to express or imply that the Postmaster General recommended this allowance at all. It refers to the increase of the number of trips to twenty-six, according to the terms of the agreement with the Postmaster General. That is all. It would be well for the Senator to understand an amendment before he denounces it.

Mr. GEYER. Mr. President, I read this amendment according to the words which I find here, and not to any supposed intent or meaning which might exist in the mind of the Senator who drew it up. The words are:

"For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last, to the Secretary of the Navy, commencing said increased service on the 1st of January, 1852, at the rate of \$53,000 per trip, in lieu of the present allowance, the sum of \$236,500."

Now, sir, let me ask how can uninformed persons out of doors understand that amendment, otherwise than that in consequence of an arrangement made with the Postmaster General, and, in conformity therewith, this appropriation is to be made? Now, the recommendation of the Postmaster General, on which I am willing to vote, is this:

"Under these circumstances, Mr. Collins was requested to continue his trips every other week, and was assured that the payment by Congress of a *pro rata* compensation would be recommended. It is claimed by the contractors, and it is believed, justly, that a *pro rata* compensation for these extra trips in the winter season, will not fully indemnify them; and if the extra trips are performed, it is earnestly recommended that a *pro rata* compensation, with such addition, if any, as may be necessary to give the contractors a fair and liberal compensation for the extra service, be authorized by Congress."

Now, that report declares this fact: that at the time this negotiation was going on between the Post Office Department and the proprietors of the Collins line of steam-ships, the idea was not suggested that they would ask for extra compensation for the trips which were performed in the summer season; but that because the winter trips which were ordered by this new arrangement would not pay, they therefore desired extra compensation for these trips. Still, Mr. President, I should have been perfectly willing to modify the contract, so as to maintain this line, if those who ask for it would furnish the Senate with data, upon which to calculate, with some degree of certainty, the amount which would be necessary, so as to make the line support itself, when its expenses shall have been brought within reasonable limits. Sir, we have been furnished with an aggregate statement—not in the shape of a report, but occasionally, as a Senator has addressed the Chair. We have had a memorandum read, furnished by the chief clerk, which informs us that the expenses, heretofore, have been so much, including, as I understand from some Senators, the loss arising from the detention, and injury, and cost of repair of the Atlantic. Then it is proposed to graduate the compensation for carrying the mail for eight years, by the aggregate expenses certified by their clerk as being incurred for the trips during the past two years. Now, although I am desirous that this line should be supported, I cannot undertake to vote \$858,000 per annum upon any such statement, especially considering that the means existed, and the time has been sufficient, to have brought forward in some form the evidence upon which we could determine, once for all, that the compensation which we ought to give is reasonable, and not any more than is necessary.

The amendment which was made to this amendment, on the motion of the honorable Senator from Texas, [Mr. Rusk,] while on its very face it confesses that we are in doubt, still makes the original proposition worse than it was, and furnishes an additional reason why I shall be compelled to vote

against it. As the proposition came from the committee, it expired on the thirteenth day of next month, and would have been presented in a new appropriation bill, because there would have been no contract. But this amendment recognizes it, as a contract to exist during the whole of eight years, unless an end is put to it by the action of Congress. It carries the operation of the appropriation beyond the time limited by the appropriation itself; it puts an interpretation upon it without the proviso, which would be carried out the whole period of the eight years remaining of that contract; and then, sir, it proposes to throw upon Congress, when that period should arrive for its action, the burden of establishing affirmatively that the compensation is too much, instead of taking the burden now upon themselves of showing that it is reasonable and necessary.

These, Mr. President, in a few words, are the reasons why I feel compelled to vote against this amendment. I regret that the committee to which the subject was referred, and whose attention had been called to it, did not enter upon a full investigation of the matter, and furnish us with a report which would justify those who do occasionally, unlike the Senator from Delaware, think it worth while to "count the cost;" and who look to an appropriation of this amount to run so many years, and amounting to little short of \$7,000,000 for the mere transportation of the mails from New York to Liverpool, as being somewhat extravagant. There are some of us who desire to be shown what it is for, or at least to be shown that the sum is reasonable. And we should not be deterred from making the inquiry by appeals which may be made to us in regard to our public spirit or our national pride. Sir, I feel as much of that as any man here; but, although it may be a matter of exultation to us even in the far West, that an American ship outruns a British ship, we do not understand it to furnish any reason why we should put our hands into the Treasury for the purpose of sustaining that pride beyond what is absolutely necessary.

If the discussion of this question had been confined to what seems to be pertinent to it, we should long since have ceased to discuss it. If gentlemen, instead of informing us of the immense power of steam, and of the prospect they had before them of ultimately enabling us to conquer the world, had contented themselves with inquiring what is the probable and reasonable expense of navigating these ships; and, in the next place, whether it is the duty of the Government of the United States to vote an appropriation of millions for this purpose; the question would have been disposed of long since. I think the appropriation has been improperly imposed on the deficiency bill; and the effect, already, has been to produce a very considerable amount of suffering among those who are public creditors, and who await the passage of the bill, in order to obtain payment for past services to the Government.

I did not, however, rise for the purpose of entering into the discussion of the general question, but merely for the purpose of stating my reasons for objecting to this amendment. If my objections are removed by any honorable Senator, I shall then vote for such an appropriation as shall be found reasonable and proper.

Mr. BADGER. I feel called upon, after the remarks which have fallen from my friend from Missouri, to make a few observations in vindication of the course pursued by the Committee on Naval Affairs.

The Senator from Missouri, in the first place, seems to suppose that the mode by which the proposed amendment is framed conveys the impression that the amount of additional compensation had been fixed and recommended by the Postmaster General. I do not know what impression that may have upon persons who are entirely ignorant of the facts of the case; but it certainly never entered my imagination that it would have any such meaning to members of the Senate, because I supposed that they either were or would become acquainted with the facts before they entered into a discussion of the subject. But as to how it would be considered outside of this Chamber, I confess I did not trouble myself to inquire; and neither at the time the proposition was before the Committee on Naval Affairs, did I care, nor do I care now. But no gentleman here could have been misled, because the answer sent to the Com-

mittee on Naval Affairs by the Secretary of the Navy, furnishing the estimate we desired from that Department, of the amount which would be necessary to insert as the amount of additional appropriation in this deficiency bill, states upon its face that it is written in answer to a letter from the committee, in which the committee had themselves resolved to fix upon this additional compensation as the proper sum. That appears distinctly upon the face of the Secretary's letter. We did not think it to be necessary to inquire of the Secretary of the Navy, or of the Postmaster General, what amount of additional compensation should be made. We did not think it a matter of any importance what might be the opinion of those officers, except as that opinion might guide us in coming to a correct conclusion. We had all the materials for coming to that conclusion ourselves, and all that we had any occasion to refer to an Executive Department for, was to ascertain arithmetically, with a view to the state of existing appropriations, what additional appropriation must be put to this bill to carry out the contract, with the increase which we thought it would be reasonable to allow.

My friend from Missouri complains of two things. In the first place, that the committee has not made a report, and in that report set forth the reasons upon which they propose to allow an increase of compensation, and the grounds upon which they had ascertained the amount of the appropriation proposed to be allowed. Now, suppose they had made a report; how would my friend have been better satisfied than he is now? That written report would but have expressed our opinion and judgment; and the value of that opinion and judgment would have depended either upon the confidence he reposed in us, or upon the value and effect of the evidence exhibited in support of that opinion. He has the benefit of our opinion verbally; and he has the benefit of our opinion of that amendment, in the express declarations we have made upon that point. Am I to understand that my friend would have had any more respect for that opinion, if it had been written on paper, than if expressed verbally? Again, suppose we had made a written report; upon what would we have founded our estimates? Why, upon a written paper—what we thought the best evidence on which we could act. Now, my friend from Missouri repudiates that at once. He says that in order to ascertain the actual expenditure of this Collins line, we should have called upon persons who are skilled in these matters, and should not have resorted either to the members of the company, or the agents or the officers of the company, to ascertain this matter. Then it is very plain, sir, that no report we could have made would have overcome the difficulties which bear upon the mind of my friend from Missouri, because we of the committee, and he, entertain irreconcilable opinions as to the true source from which such reliable evidence is to be derived. We supposed that, because a general estimate is only a secondary means of ascertaining the cost; and we held the best, most direct, and most reliable source of information, was the evidence of those who superintend the expenditure, keep the accounts, and who know, in point of fact, what it costs to maintain the existing establishment. Now, that evidence we have. We have the evidence of a man who is no more interested in this line than the Senator from Missouri, or myself—a man who is merely employed to keep the accounts, which show the outlay and the receipts of the company. We have his sworn evidence, and if that is not satisfactory, I should like to know how my friend from Missouri would be satisfied with opinions of persons, which are merely conjectural with regard to the amount, and who had neither the means of ascertaining what was received, nor what was expended by the company. Then, sir, our case was a very simple one. We ascertained that there was an average loss on each trip of nearly \$17,000. We ascertained, as we thought, that the company might be able to maintain the line, looking to an appreciation of things hereafter by adding to the compensation, not the \$17,000 which had been lost, but a sum a little less than \$14,000; and that sum we proposed to allow.

It seems to me that the difficulty in this matter does not lie in the want of evidence. The evidence is here, and if gentlemen are willing to be convinced, it is satisfactory. But the difficulty lies

in gentlemen's starting back because the sum of money is large.

Then my friend makes another objection: he was one of those, he said, who, in voting the appropriation, desired to know how much they were going to vote. No objection can be made to the action of the committee on that point; the sum is certainly put down with sufficient clearness of comprehension. It is \$33,000 per trip for twenty-six trips per annum. We did not multiply—

Mr. GEYER. Will the Senator permit me to interrupt him?

Mr. BADGER. Certainly.

Mr. GEYER. I did not object because I did not know the amount of the proposed appropriation; but I did state that it was because they asked an increase of compensation on the ground that the line could not support itself at the present rate of compensation. I ask that, when I am called on to vote for an appropriation, the amount of which I know, it be ascertained that it is justifiable by the facts, and that it is reasonable and proper.

Mr. BADGER. I misunderstood my friend, and I take it back again. The gentleman wishes to know the reasonableness of the appropriation. Then, as I have said, if he is not satisfied with the evidence of an average loss of near \$17,000—if he still believes there is no loss on each trip, of course he will vote no addition. But if he believes that it is certainly not possible to maintain that an increased allowance of \$13,750 per trip can be too much, when the loss which has been incurred heretofore has been an average loss of \$17,000 a trip, and hence he should vote for the addition. That is a statement of the case. However, I do not purpose to go into any reinvestigation of it. I only wanted to show, that, in what had been done by the Committee on Naval Affairs, we acted, as we thought, in the best mode to bring this subject fairly before the Senate. Nothing has been kept back.

One word, now, as to the subject being brought before the Committee on Finance. It occurred to the Committee on Naval Affairs, that there being a bill pending for the purpose of supplying deficiencies, if the Senate and House concurred in raising this compensation, the necessary result would be, that there would be a deficiency in this half year's service; and as this company were now daily pressed with large calls for money beyond their receipts, and were asking, and earnestly entreating that Congress would furnish them relief speedily, if they intended to furnish it at all, in order that, if Congress determined that they would not furnish the relief, they might throw themselves on our generosity and justice, to relieve them from the further prosecution of this ruinous contract, we thought it was due to them, due to the justice and magnanimity of the Government, and due to our own fair and frank dealing, that this question should be proposed at once upon this bill, and that the gentlemen who are associated in the enterprise might know the fate to which they were to come. Therefore, the gentleman who is a member of both the Committee on Naval Affairs and the Committee on Finance, brought the subject forward in the latter committee, and they agreed to report the amendment. That is the state of the case.

Mr. RUSK. I hope the honorable Senator from Florida will withdraw his amendment to the amendment. The Navy is supported by appropriations out of the Treasury directly. This line, under the contract, is supported in the same manner, by appropriations out of the Treasury directly. By law, the appropriations which we make for the support of the Post Office Department, come out of the revenues of the Department. Now, does the Senator desire to throw this contract, which was made, and which is paid out of the Treasury, just as are the naval appropriations, and which throws no responsibility whatever upon the Navy fund, because that comes out of the general Treasury, upon the Post Office? I hope he does not; and I hope, after some little reflection, he will withdraw his amendment. I do not approve of this law; because I think the Government of the United States is bound to maintain the postal arrangements of the country, and should make appropriations for that object out of the Treasury. But it does not do it. The United States require the Department to support itself. Well, the Senator's State, and my own, are in the same condition; they do not pay in as much reve-

nue as they draw out for mail transportation; and when we go to the Department and ask an extension of the accommodation to which we are entitled, I think, upon every principle of justice and equity, we are circumscribed by the amount of revenue. The accommodations in the way of mail facilities are not equal to what we should have but for the existence of this law, requiring that the revenues of the Department shall meet all the appropriations made for it. Does the Senator desire to make the mischief worse for his constituents? And there is nothing else about it. Is he willing to separate the Navy from a seeming, and only a seeming connection with this line, by throwing it upon those who pay postage upon letters throughout the country? Why should it be disconnected from the Navy? Is the Navy to stand aloof, and to be allowed to go just the depth it chooses into the Treasury of the United States? Are these contracts to be thrown upon the letter postage, and preclude us from keeping it at the low rate it now is, or even of reducing it, if the convenience of the country should require a still further reduction? I hope the honorable Senator will withdraw his amendment, for, if he does not, I shall be bound to call for the yeas and nays upon it.

Mr. MALLORY. Mr. President, I would withdraw my amendment with a great deal of pleasure, if I could hear one single solitary reason for doing so. If I supposed, for a moment, that I would advance any great public interest by withdrawing it, I would do so. If I supposed it would be in the way of reducing the rates of postage, I would withdraw it. But it is upon the presumption that the present plan is productive of great public mischief, that I feel at liberty to insist upon my amendment. Without desiring to say a word in this discussion as to the propriety of granting this immense amount to the Collins line of steamers, I shall simply testify my feelings on the subject by a silent vote. Throughout the whole discussion, the friends of the measure have maintained, if I understand anything about it, this point: that this is a measure which, if it does not now absolutely yield a revenue to the Post Office Department, will, in a short time, be self-sustaining to the Department. If I understand anything, it has been maintained, throughout this discussion, that the Post Office Department must be credited with the postages received from the Collins line of steamers. Not one single word has been said about their connection with the Navy, except that, ultimately, in the event of war, these steamers might, perhaps, be of public service. Now, I should like to know what reason can be assigned for not transferring the contract where it properly belongs? It is a mail contract. The moneys accruing from postages, whether paid directly or indirectly into the Treasury, or paid into the Post Office Department, are properly credited to that Department. And whenever the reports of the Postmaster General are made up, he may very properly enlighten the country by claiming credit for the postages received from the Collins line of steamers. But the advocates of the measure understand it so well that, throughout this entire discussion, they claim that the Post Office must be credited with the entire receipts of the Collins line of steamers, and some have even gone so far as to include in the estimate the amount received by the Cunard line of steamers.

The reason why I desire to have this contract placed under the charge of the Post Office, instead of under the Navy Department, is obvious. It is insisted on this floor, and in the other Hall of Congress, that the appropriations for the Navy are increasing annually; that no benefits commensurate with this increase arise to the country; and propositions are daily made to cut down our national ships, or to withdraw them from foreign stations. The country, at this moment, exhibits a singular spectacle. Some of the very finest ships of the Navy—some of the most costly ships—some of those which would, in the event of hostilities, afford the greatest benefit to the country, are rotting for the want of a few dollars being appropriated for their repairs. Now, it is to call things by their proper names, that I insist upon my amendment. It is, that appropriations may not be made, year after year, and called naval appropriations, from which the Navy does not derive a single particle of benefit, and, in my opinion, will never derive any benefit, that I insist upon it. Annually

there are some ten or fifteen provisions in the naval appropriation bill, which would be appropriated for, if no Navy existed. Investigations into scientific subjects, the preparation of the Nautical Almanac, the testing of various experiments in regard to motive power, are all appropriated for under the title of "naval appropriations," and from them the Navy proper does not derive one single particle of benefit.

Now, it may possibly touch the amendment of the committee in some other point of view. There may be a point of view from which there may be taken an objection to the transfer of the Collins line of steamers to the charge of the Post Office Department. But I have yet heard no objection sufficient to induce me to withdraw the amendment, and therefore I must insist upon it.

Mr. HAMLIN. I hope the amendment of the honorable Senator from Florida will not be adopted by the Senate. The law requires that all the mail facilities which are furnished to the whole country shall be limited by the amount of revenue which the Post Office Department pays into the Treasury of the Government. If, therefore, we place upon that Department any increased expenditure, there must of necessity be a diminution of that service. That point was correctly made and well stated by the chairman of the Committee on the Post Office and Post Roads. I think the Senator from Florida has entirely failed to answer it.

Now, if it be placed upon the Navy, and an additional amount is required for its support, there are no limitations regulating the expenditures in the Navy, which would affect the facilities which are furnished to the community in the Post Office arrangements. If there were no other reason than that, it would be sufficient to my mind.

But, in my judgment, besides that, there is a more intimate connection between these vessels and the Navy. There are considerations in relation to the great expenditure involved in their construction and sailing which connect them more directly with the Navy Department, than with the Post Office Department. I think this is a consideration which should impress itself upon the mind of every Senator. If we are to add a million of dollars to the expenditure of the Post Office Department, under the decreased rates of postage, and thereby add an additional embarrassment to that service, and to the country, we may fail in preserving the rates of postage which we now have; while, with that increase, which it is believed by all who have examined the subject, will necessarily follow in time from the reduction of the rates of postage, the Department will be able to take care of itself. If other subjects are to be added to it, even the rates which we now have will fail, and we may hope, and hope in vain, for any further reduction. I hope that the amendment to the amendment will not be adopted.

Mr. CASS. I do not think that this amendment is of any importance in itself, and yet, for one, I have a wish that it should not be adopted. It is very evident that it will not make a cent's difference to the United States; it will not be of the slightest consequence in any pecuniary point of view; for the money has to be paid. What is the reason given for the amendment? Simply that heretofore the appropriation for this service has been made in laws providing for naval appropriation, and that therefore the public may be deceived as regards the matter. Now, I do not think that is a sufficient reason. I think every man of intelligence through the country, looking at the expenditures of the Government, and the appropriations, will fully understand what belongs to the Navy proper. I think every man will fully comprehend it. I cannot believe that, in that point of view, the amendment is of any consequence whatever. But the feeling which I have against it is simply this: I do not wish to take the character of war vessels from these steamers. If we retain them, in the event of a war they must be used for war purposes. Hence, I would prefer that they should remain under the control of the Navy Department, be under its superintendence, and be considered as a branch of that arm of the service of the country, to be used whenever the public wants require it.

Mr. BORLAND. Mr. President, it is not my purpose to make a speech on this question. I am too unwell to do so. But I shall vote for the amendment proposed by the Senator from Florida, because, in my opinion, it tells the truth; because it



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represents this matter in its true light to the country, and exposes a condition of things, and a consideration connected with this business which, in my opinion, has not heretofore been fairly and properly represented to the country. I think the first I heard of this proposition was when it originated with the Senator from North Carolina—one of the best friends and warmest advocates of the measure. I considered it, then, as a virtual abandonment of the ground on which this appropriation was asked for, and on which the contract was originally made. We were told, that these steamers were to be fit for war purposes. That was the only ground on which many Senators and Representatives justified their vote for the contract and appropriation in the first instance. It was either that or a monopoly. It was either that, or it was protection, and a gratuity to a particular interest.

The only ground upon which gentlemen holding certain opinions could justify their votes for such a measure, was, that it was no protection, but a simple exercise of the power to create and establish and maintain a Navy. The friends of the measure, I think, were fairly represented the other day, by the Senator from North Carolina, when he made this suggestion. They then came forward and abandoned their own bantling; and we have now before us the naked proposition of giving protection to a particular interest and a particular pursuit; or, on the other hand, of making it a simple mail line, which appeals to Congress and the country, and which ought only to be conducted under the provisions of the general law. Let the Atlantic mail line be placed upon the same footing with all our interior lines, whether by land or water. It is because the amendment of the Senator from Florida presents the question in this aspect, that I shall vote for it. It tells the truth.

Mr. RUSK called for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered, and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Adams, Atchison, Borland, Brodhead, Butler, Cooper, Dodge of Wisconsin, Dodge of Iowa, Douglas, Hunter, Jones of Tennessee, King, Mallory, Mason, Sebastian, Underwood, Wade, and Weller—18.

NAYS—Messrs. Badger, Bell, Berrien, Bright, Cass, Clarke, Dawson, Geyer, Hale, Hamlin, Houston, James, Mangum, Norris, Rusk, Seward, Smith, Sumner, and Upham—19.

So the amendment to the amendment was rejected.

Mr. BORLAND. I propose to offer some remarks upon the amendment as it now stands; but as the day is pretty much consumed, and as I am very much indisposed, I do not think I shall be able to get through to-day, even if I should undertake to speak. I move to postpone the further consideration of the subject until to-morrow.

The motion was agreed to.

## RAILROADS IN FLORIDA.

The engrossed bill granting the right of way and making a grant of land to the States of Florida and Alabama, in aid of the construction of a railroad from the waters of Pensacola bay, in Florida, to Montgomery, in the State of Alabama, and for other purposes, was read a third time; and, after the title had been amended to read as follows, it was passed:

An act granting the right of way and making a grant of land to the States of Florida and Alabama, in aid of the construction of a railroad from the waters of Pensacola bay, in Florida, to Montgomery, in the State of Alabama; also, a railroad from Pensacola bay to Mobile bay; and of a railroad to the Chattahoochee and Flint rivers, Georgia.

## RAILROAD FROM LOUISVILLE TO ST. LOUIS.

The engrossed bill granting lands and the right of way to the States of Indiana and Illinois, in aid of the construction of a railroad from a point on the Ohio river, opposite to Louisville, Kentucky, to a point opposite to St. Louis, in Missouri, was read a third time, and passed.

## ISLAND OF MATINICAS.

On the motion of Mr. HAMLIN, the bill to annex the Island of Matinicas, in the county of Lincoln, in the State of Maine, to the collection district of Waldoboro', in said county, was read a

second time, and the Senate proceeded to consider it as in Committee of the Whole.

Mr. HAMLIN. This bill is simply to change the boundary of a collection district, owing to a change of the limits of a county.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

## EXECUTIVE SESSION.

On the motion of Mr. WELLER, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 11, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

Mr. STANTON, of Kentucky. I ask the consent of the House to make a report from that portion of the Committee on Printing belonging to the House.

## RECESS.

The SPEAKER. The first business in order is the consideration of the following resolution:

Resolved, That the Clerk of the House be authorized and directed to have the Hall refitted and cleansed for the summer session, and that the House adjourn on Tuesday, the first day of June, until Friday, the fourth of June, in order to allow the usual time for that purpose.

The state of the question is this: the resolution has been amended by the substitution of the words the "thirteenth of May until the seventeenth of May," for the words "Tuesday, the first day of June until Friday the fourth day of June."

The gentleman from Tennessee [Mr. JONES] has moved to reconsider the vote by which the amendment was adopted, and the gentleman from Arkansas [Mr. JOHNSON] has moved to lay the motion to reconsider upon the table. Pending the question on which, the gentleman from Ohio [Mr. SWEETSER] moved to lay the whole subject on the table; upon which motion the yeas and nays have been ordered. The question will be first on the motion to lay upon the table.

Mr. JOHNSON, of Arkansas. I call for the regular order of business, and trust that that business may be completed at once.

Mr. STANTON. I trust I may be permitted to make this report, with a view that its consideration be postponed until some future day. I design leaving the city for a few days, and I am particularly anxious to hand in the report before I leave.

Mr. JOHNSON. I will say to my friend that it will not take more than ten minutes to dispose of the resolution with regard to a recess. When this printing comes up, none can tell where discussion will stop. The gentleman can as well submit his resolution after the House have acted upon this matter as at the present time.

Mr. POLK. I think it will take more than ten minutes to consider the resolution in reference to a recess of the House, for the purpose of cleansing the Hall.

Mr. STANTON. This is a report in the case of Mr. Ritchie. It has nothing to do with the controversy now going on upon the subject of printing, but simply provides for a settlement of his accounts. All I desire is, that it shall be introduced, and the action upon it postponed until some future day.

The SPEAKER. If the gentleman proposes to make a report from the Printing Committee, he will remember that he has the privilege of doing so, except when another privileged question is pending. A privileged motion is now pending; and as the reception of the report is objected to by several, it is not now in order for the gentleman to present it. Does the gentleman from Arkansas withdraw his objection?

Mr. JOHNSON. I would ask the gentleman what time it is going to take for him to have his report postponed?

Mr. MEACHAM. I object to anything out of the regular order of business.

Mr. HOUSTON. Is it in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is not during the pendency of the previous question, which was ordered to be put, and while the House are in the execution of the direct orders of the House.

Mr. HOUSTON. Does the Chair decide that the resolution under consideration on yesterday takes precedence?

The SPEAKER. The Chair decides that the resolution is the unfinished business on a privileged motion, and that no motion to go into Committee of the Whole is in order during the pendency of that question.

Mr. JOHNSON, of Arkansas. The gentleman from Tennessee [Mr. JONES] moved, during the session of yesterday, to reconsider the vote by which the amendment was adopted making the adjournment for the recess from the 13th to the 17th of May. I am, and have been, indifferent myself as to the particular time we shall determine upon for the taking of the recess. I moved to lay upon the table his motion to reconsider; but a direct vote is just as well, and I have no objection to the House having it. I will, therefore, withdraw my motion to lay upon the table his motion to reconsider. The House will then be at liberty to reconsider or not, as it deems proper. I believe that the previous question has been already ordered upon the subject.

The SPEAKER. The pending question is the motion made by the gentleman from Ohio, [Mr. SWEETSER,] to lay the resolution upon the table.

Mr. JONES, of Tennessee. I will only say one word. The only objection I have to this resolution is, that if we adjourn over now, another week will be lost after the 1st of June, when the Democratic Convention is in session, and another week after the third week in June, when the Whig Convention will be in session.

Mr. STANLY. That also is my objection.

Mr. JONES. We may save the time that we now propose to adjourn over by agreeing to the time proposed in the original resolution.

Mr. STANLY. That is my only objection. I oppose the amendment simply for that reason.

The question then being taken upon the motion to lay the resolution upon the table, it was disagreed to—yeas 53, nays 106; as follows:

YEAS—Messrs. Aiken, Barrere, Bell, Bibb, Bingham, Bowne, Bragg, Albert G. Brown, George H. Brown, Joseph Cable, Chandler, Clark, Clingman, Cottman, John G. Davis, Evans, Grow, Hamilton, Harper, Isham G. Harris, Haws, Hendricks, Horstoll, Houston, John W. Howe, Ives, Andrew Johnson, George W. Jones, Meacham, Miller, John Moore, Morehead, Peaslee, Phelps, Polk, Porter, Powell, Robbins, Savage, Origen S. Seymour, Smith, Stanley, Benjamin Stanton, Stone, Strother, Sweetser, Taylor, Tuck, Wallace, Watkins, Welch, Alexander White, Williams, and Yates—53.

NAYS—Messrs. Abercrombie, Allison, J. Appleton, Averett, Babcock, Bartlett, Beale, Bissell, Breckinridge, Briggs, Buell, Busby, E. C. Cabell, Thompson Campbell, Carter, Chapman, Chastain, Cleveland, Cobb, Cullom, Curtis, Geo. T. Davis, Dawson, Dean, Dittmick, Disney, Dockery, Doty, Duncan, Durkee, Faulkner, Fitch, Florence, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gorman, Green, Hall, Sampson W. Harris, Hart, Hebard, Henn, Hibbard, Holladay, Howard, Thomas Y. How, Ingersoll, Jackson, John Johnson, Robert W. Johnson, J. Glancy Jones, George G. King, Preston King, Kurtz, Landry, Letcher, Lockhart, Mace, Martin, Mason, McCorkle, McDonald, McLanahan, McNair, McQueen, Milson, Miner, Molony, Murphy, Orr, Outlaw, Samuel W. Parker, Penn, Pennington, Perkins, Richardson, Riddle, Robinson, Ross, Russell, Sackett, Schermerhorn, Scholecraft, Scudder, Scurry, David L. Seymour, Skelton, Snow, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Alexander H. Stephens, St. Martin, Stratton, George W. Thompson, Thurston, Townsend, Ward, Washburn, Addison White, Wilcox, and Woodward—106.

So the motion was disagreed to.

The SPEAKER. The question now recurs upon the motion to reconsider the amendment adopted yesterday to the original resolution.

Mr. JONES. Was not the yeas and nays ordered on this motion yesterday?

The SPEAKER. The Chair thinks not,

Mr. JONES. Then I demand the yeas and nays.

Mr. HART. Is it in order to move to lay the motion to reconsider upon the table?

The SPEAKER. It is.

Mr. HART. I then submit that motion.

The question was then put on the motion to lay the motion to reconsider upon the table; and upon a division, there were—ayes 60, noes 75.

Mr. BAYLY, of Virginia. I demand tellers.

Tellers were ordered; and Messrs. STANTON, of Tennessee, and CABELL, of Florida, were appointed.

Mr. McMULLIN. Will the Chair please to state the question?

The SPEAKER. On yesterday the words "from Tuesday, the 1st day of June, to Friday, the 4th day of June," were stricken from the original resolution, and the words "from the 13th to the 17th of May" inserted, by a vote of the House. The gentleman from Tennessee [Mr. JONES] then moved to reconsider that vote, and it is now moved by the gentleman from New York [Mr. HART] that that motion to reconsider be laid upon the table.

The question being again put, the tellers reported that there were, ayes 79.

Mr. JONES. I demand the yeas and nays.

Mr. CABELL. I rise to a question of order. My point is, that it is not in order to entertain a demand for the yeas and nays while the House is dividing.

The SPEAKER. The Chair sustains the point of order. It is well taken, and the tellers will resume their places.

The tellers having resumed their places, reported, noes 66.

Mr. JONES. I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken upon the motion to lay the motion to reconsider upon the table, and it was agreed to—ayes 92, nays 88; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Allison, John Appleton, Babcock, Thomas H. Bayly, Beale, Bibbiana, Bissell, Breckinridge, Briggs, Busby, E. Carrington Cabell, Thompson Campbell, Thompson Campbell, Carter, Caskie, Chastain, Cleveland, Colcock, Conger, Dawson, Dean, Dimmick, Disney, Doty, Durkee, Eastman, Faulkner, Florence, Fowler, Henry M. Fuller, Gamble, Gaylord, Gilmore, Green, Grey, Hall, Sampson W. Harris, Hart, Hascall, Hibbard, Holladay, Howard, Thomas M. Howe, Ingersoll, Jackson, John Johnson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Letcher, Mace, Mason, McCorkle, McDonald, McLanahan, McMullin, McNair, McQueen, Molony, Henry D. Moore, John Moore, Murphy, Olds, Orr, Outlaw, Samuel W. Parker, Penn, Richardson, Riddle, Savage, Schermerhorn, David L. Seymour, Skelton, Smith, Snow, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Alexander H. Stephens, Stone, St. Martin, Stratton, Strother, George W. Thompson, Toombs, Ward, Addison White, Williams, and Woodward—92.

NAYS—Messrs. Charles Allen, Averett, Barrere, Bartlett, Bell, Bissell, Bocock, Bowne, Albert G. Brown, Geo. H. Brown, Buell, Burrows, Joseph Cable, Chandler, Chapman, Churchwell, Clark, Clingman, Cobb, Cottman, Cullum, George T. Davis, John G. Davis, Dimmick, Dockery, Duncan, Edmundson, Evans, Fitch, Floyd, Thomas J. D. Fuller, Giddings, Gorman, Grow, Hamilton, Harper, Isham G. Harris, Haws, Hebard, Hendricks, Henn, Horsford, Houston, Jno. W. Howe, Thos. Y. How, Ives, Jenkins, Andrew Johnson, George W. Jones, George G. King, Preston King, Lockhart, Mann, Martin, Meacham, Miller, Milson, Miner, Morehead, Newton, Peaslee, Pennington, Perkins, Robinson, Ross, Sackett, Schoolcraft, Scurry, Origen S. Seymour, Stanly, Benjamin Stanton, Sweetser, Taylor, George W. Thompson, Thurston, Townshend, Tuck, Wallace, Washburn, Watkins, Welch, Alexander White, Wilcox, and Yates—88.

So the motion to reconsider was laid upon the table.

The question then recurred upon the adoption of the resolution as amended.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were not ordered, there being, upon a division—ayes 28, noes 127.

Mr. JONES. I call for tellers upon the yeas and nays.

[Cries of "It is too late!" "It is too late!"]

Mr. JOHNSON, of Arkansas. I rise to a question of order, that the gentleman's demand for tellers is made too late. If the Chair sustains my point of order, I insist that the rules of the House be enforced.

The SPEAKER. The gentleman will perceive that his demand for tellers comes too late. The Chair had announced the result of the vote; but the Chair would be glad that the gentleman would be indulged by the House, to allow him to make his demand. It is important, however, that the

Chair should enforce the rule when required to do so by gentlemen.

Mr. HAMILTON. I will state to the Chair that, previous to his announcement of the result of the vote that has just been taken, I rose up in my place and called for tellers upon the demand for the yeas and nays.

The SPEAKER. That being so, the Chair will then entertain the demand.

Tellers were ordered; and Messrs. PENN and CHANDLER were appointed. The tellers, on making a count, reported—ayes 35; deemed to be a sufficient number.

So the yeas and nays were ordered.

The question was then taken, and there were—ayes 89, nays 83; as follows:

YEAS—Messrs. Abercrombie, Allison, John Appleton, Babcock, Thomas H. Bayly, Beale, Bibbiana, Bissell, Breckinridge, Briggs, Busby, E. Carrington Cabell, Thompson Campbell, Carter, Caskie, Chastain, Churchwell, Cleveland, Colcock, Conger, Dawson, Dean, Dimmick, Disney, Doty, Durkee, Faulkner, Fitch, Florence, Fowler, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Green, Grey, Hall, Sampson W. Harris, Hart, Hascall, Holladay, Howard, Thomas M. Howe, Thomas Y. How, Ingersoll, Jackson, Jenkins, John Johnson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Letcher, Mace, Mason, McDonald, McLanahan, McMullin, McNair, McQueen, Molony, Murphy, Olds, Orr, Outlaw, Samuel W. Parker, Penn, Polk, Richardson, Riddle, Savage, Schermerhorn, David L. Seymour, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Alexander H. Stephens, Stone, St. Martin, Stratton, Strother, Toombs, Townshend, Ward, Addison White, Williams, and Woodward—89.

NAYS—Messrs. Aiken, Willis Allen, Averett, Barrere, Bell, Bocock, Bragg, Albert G. Brown, George H. Brown, Buell, Burrows, J. Cable, Chandler, Chapman, Clark, Clingman, Cobb, Cottman, Cullum, Curtis, J. G. Davis, Dockery, Duncan, Edmundson, Evans, Floyd, Gorman, Grow, Hamilton, Harper, Isham G. Harris, Haws, Hebard, Hendricks, Hibbard, Horsford, Houston, J. W. Howe, Ives, Andrew Johnson, George W. Jones, George G. King, Preston King, Lockhart, Mann, Martin, Meacham, Miller, Milson, Miner, Henry D. Moore, John Moore, Morehead, Newton, Peaslee, Pennington, Perkins, Porter, Powell, Robbins, Robinson, Ross, Sackett, Schoolcraft, Scudder, Scurry, Origen S. Seymour, Smith, Stanly, Benjamin Stanton, Sweetser, Taylor, George W. Thompson, Thurston, Tuck, Walbridge, Wallace, Washburn, Watkins, Welch, Alexander White, Wilcox, and Yates—83.

So the resolution was adopted.

Mr. JOHNSON, of Arkansas. I move to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table.

The question was then taken on the latter motion, and it was agreed to.

#### HOMESTEAD BILL.

Mr. McMULLIN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The question was then put and carried in the affirmative. Accordingly, the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

The CHAIRMAN stated, as the business before the committee, the consideration of House bill No. 7, being a bill to encourage agriculture, commerce, manufactures, and for other purposes.

The CHAIRMAN. The last section of the bill is still open to amendment.

The last section of the bill was read, as follows:

"And be it further enacted, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands patented under the provisions of this act, that they are now entitled to receive when the same quantity of land is entered with money to be paid by the party to whom the patent shall be issued: *Provided, however,* That all persons entering land under the provisions of this act, shall, as near as may be practicable, in making such entries, be confined to each alternate quarter section, and to land subject to private entry: *And provided further,* That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing preemption rights."

Mr. HENN. I wish to offer the following amendment to this section, to come in after the word "issued," and before the word "provided," in the same line, viz:

One fourth to be paid at the time of making application and filing the affidavit, as required by the second section of this act, and the remainder at the time of filing the final proof: *Provided,* That the whole compensation of said officers under this and all other acts of Congress shall not exceed the sum of \$3,000.

On yesterday I offered an amendment, the object of which was to pay the officers who shall have

done the work. That amendment did not exactly cover the case. I now propose an amendment which I think covers the whole case. By looking at the second section, it will be seen, that only persons making an application, have a right to one hundred and sixty acres, under this law, and they have to file an affidavit; and an entry has to be made in the books. Perhaps one quarter of the work is then done, and the balance of the work is done at the time the final proof is made. Consequently, it will be fair, and nothing but fair, to pay to these officers who do the work, at the time they do it. The original section as it now stands, would not, in my opinion, authorize pay to the officers who shall have done the work, but those who shall deliver the patent, four or five years after the officers who did the work shall have gone out of office. This I think is clearly wrong, and if it is the intention to pay the officers at all, it should be to those who do the work. I hope, therefore, that the amendment I have offered, will be adopted.

The question was then taken upon the amendment, and it was not agreed to.

Mr. SWEETSER. I move that the committee rise and report the bill.

Mr. BROWN. Before that is done, I desire to offer a substitute of which I have given notice.

Mr. HENN. I wish to add at the end of the section the following words, "or other valid claims." There are individual and State claims which might conflict with these claims.

Mr. HOUSTON. It is not possible. If there is a vested right, this bill cannot take it away.

The question was then taken, and the amendment was rejected.

Mr. EVANS. Is it in order to move to strike out the whole section?

The CHAIRMAN. It is in order.

Mr. EVANS. Then I make that motion; and I do it, not for the purpose of offering any general views with regard to this bill, or for the purpose of making a speech, but for the purpose of calling the attention of the committee, and particularly the honorable gentleman who reported it, to a simple fact. I have taken up the appropriation bills reported by the honorable chairman of the Committee on Ways and Means—

Mr. SWEETSER. I call the gentleman to order. He is not speaking to his amendment.

The CHAIRMAN. The Chair is unable to see whether the gentleman is in order, until he progresses in his remarks.

Mr. EVANS. The Chair held, on a former day, upon a motion to strike out, that remarks of greater latitude might be made. I hope, however, that this interruption will not come out of my time.

The CHAIRMAN. The Chair supposes that the remarks of the gentleman will be confined to advocating the amendment to strike out that section.

Mr. EVANS. The Chair held, on a former occasion, that remarks were in order which gave rise to a greater latitude of debate upon the motion to strike out. I will confine my remarks, however, to the motion to strike out this section. The honorable chairman of the Committee on Ways and Means—I hope the gentleman from Ohio [Mr. SWEETSER] will allow me to state it—

Mr. SWEETSER. I do not wish to be captious, but I insist upon the rule being enforced.

The CHAIRMAN. The Chair is unable to say whether the gentleman from Maryland [Mr. EVANS] is out of order or not, until he proceeds to debate his amendment. The Chair has not intended to rule upon any amendment, that it was in order to travel beyond it in debate. The gentleman must be confined in his remarks to showing that it is proper to strike out this section.

Mr. EVANS. In order to show whether I am or am not in order, it is necessary for me to say something, but I cannot get the chance. [Laughter.] The honorable chairman of the Committee on Ways and Means has reported, in the general appropriation bill, \$971,000 for the purpose of continuing the survey of the public lands.

Mr. SWEETSER. I insist upon my point of order. I make the point of order, that the gentleman is speaking to another subject, and has committed himself to that policy.

Mr. EVANS. I hope the Chair will not take this out of my time. [Laughter.]

Mr. SWEETSER. I make the point of order

seriously, and not out of any disrespect to the gentleman.

The CHAIRMAN. The Chair is disposed to hear the gentleman proceed in his remarks, and thinks that they are confined to the amendment.

Mr. SWEETSER. With all due respect to the Chair, I insist upon my point of order.

The CHAIRMAN. The Chair overrules the point of order.

Mr. SWEETSER. I take an appeal from the decision of the Chair.

The CHAIRMAN. The question is this: The gentleman from Ohio [Mr. SWEETSER] makes the point of order that the gentleman from Maryland [Mr. EVANS] is out of order for irrelevancy in his remarks. The Chair overrules the point of order made by the gentleman from Ohio, [Mr. SWEETSER,] and from this decision the gentleman appeals. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken upon the appeal, and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. EVANS. I would have been done before now, had I not been interrupted. I say, that the chairman of the Committee on Ways and Means has reported \$971,000—for I have added it up myself—for continuing surveys of the public lands, for expenses of the land offices, and the General Land Office in Washington. I submit to my honorable friend, [Mr. JOHNSON,] who sits in front of me, whether he ought not to provide in a bill that the cost of surveys of these lands shall be first paid by the party who takes them under this grant, and whether he ought not to submit an additional clause looking to that end? Does he intend that we shall appropriate \$971,000 every year out of the General Treasury to buy farms? It will have that effect. Shall we make purchases based upon the custom-house revenue for the purpose of granting gratuities to any person? I wonder that the gentleman has not perceived that you ought to have every expense that is connected with these public lands deducted before you donate them. Suppose the expense of surveying the lands is ten cents per acre, you have eleven times one hundred and sixty to pay for the expense of land surveys alone on every quarter section.

Mr. STEPHENS, of Georgia. It is twenty-five cents per acre.

Mr. EVANS. I am told it is twenty-five cents; that ought to be paid by the party before he takes the land. I do not make these remarks out of any feeling; for I have not time, in five minutes, to express my general sentiments in regard to this matter; but I make this suggestion for the purpose of correcting that in this bill which must strike every gentleman who will look at the matter with fairness, as a thing decidedly improper. The whole amount of it is this: I will state it, and then take my seat, so as not to task too much the patience of the committee—that we are to take out of the Treasury \$1,000,000 a year, with which we are to buy lands for the landless. You might as well give them the money; you might as well take the same money and buy lands in the old States at the same cost to the Government, if grantees choose to make their election, and to take their lands there instead of going to the new States at great expense; a journey, indeed, impossible to most who need the benefits of this bill.

Mr. JOHNSON, of Tennessee. I do not desire to discuss this question, but merely wish to show that the objection made by the gentleman from Maryland [Mr. EVANS] to this section, as it seems to me, is not well founded. The appropriation proposed to be made by the Committee on Ways and Means, to keep the land department going on, is made without any reference at all to this bill. They have not increased or diminished the amount in view of the passage of this bill; and it has nothing to do with this matter. I will remark, that it has been demonstrated upon a former occasion, if this system is carried out, it will increase the revenue to an extent greater than we shall receive from the whole land system as it is now.

Mr. HOUSTON. Will the gentleman from Tennessee [Mr. JOHNSON] allow me to say, that the appropriations now contemplated and alluded to by the gentleman from Maryland, [Mr. EVANS,] are for the survey of lands that are not included within the provisions of this bill. They are to

survey lands yet to be brought into market. This bill confines itself to lands subject to private entry, and therefore the argument of the gentleman does not apply.

Mr. EVANS. As soon as they are brought into market, they are certainly subject.

Mr. HOUSTON. The gentleman is mistaken; they are brought into market and first offered at public sale. All that do not sell for as much as \$1 25 per acre, are then subject to private entry.

Mr. EVANS. Unquestionably. I ask the gentleman if there are not 300,000,000 of acres now in the market subject to private entry, and whether these are surveyed?

Mr. HOUSTON. I do not remember the precise amount of acres subject to private entry, but suppose the gentleman greatly exceeds the true amount. If, however, the gentleman desires to strike the balance between this Government and the public lands, he will find that the Government has realized much more for the lands than their entire cost, including all expenses. I admit that this point does not involve the proper principle upon which the friends of this bill should place it—and I have only replied to my friend from Maryland, [Mr. EVANS.]

The question was then taken on Mr. EVANS's amendment, and it was not agreed to.

Mr. BELL. I offer the following, to come in as an additional section to the bill:

That the children, or when there are no children, then the father and mother of any deceased officer or soldier, who would, if living, have been entitled to the benefit of the act of Congress, passed September 28, 1850, shall be entitled to have a patent issued for such quantity of land as such officer or soldier would have been entitled to if living at the passage of said act, and when no land warrants had issued on account of such service, without requiring any occupation upon the same, on proof of the quantity such applicant is entitled to, and, also, on filing an affidavit of such applicant's intention to become an actual settler upon the same, such proof and affidavit to be made in such form as may be prescribed by the Commissioner of the General Land Office.

Mr. OLDS. I make this point of order, that that same amendment was ruled out of order by the Chair yesterday, and is not germane to this bill.

The CHAIRMAN. In the opinion of the Chair, the amendment is not in order, not being germane to the subject of the bill.

Mr. BELL. I call the attention of the Chair to the latter part of the amendment, which changes the time of occupation.

Mr. OLDS. The phraseology of the latter part of the amendment cannot alter the amendment itself, which is to change the descent of the lands granted under the bounty land bill. That cannot be germane to this bill.

Mr. BELL. I wish to suggest, in reply to my colleague, that the bill dispenses with occupation. The amendment is therefore surely pertinent to the bill.

The CHAIRMAN. The bill proposes certain grants of lands; to be entered upon certain terms. The amendment of the gentleman from Ohio proposes to extend the provisions of the bounty land act to a new class of persons. The Chair thinks that cannot be in order.

Mr. BELL. I appeal from the decision of the Chair.

The question being put, "Shall the decision of the Chair stand as the judgment of the committee?" was decided in the affirmative.

So the decision of the Chair was sustained as the judgment of the committee.

Mr. PENNIMAN. I offer the following as an additional section to the bill:

Sec. 6. And be it further enacted, That from and after the passage of this act, any person making a purchase of public lands, shall first make an affidavit before the register or receiver of the land office where entry is proposed to be made, that the said applicant enters, or proposes to enter the same, for his own use and benefit, for settlement and cultivation, by and for himself or herself.

Mr. HALL. Is that amendment in order?

The CHAIRMAN. The amendment proposes to make certain provisions respecting cases where persons purchase public land, and not where they enter land under the provisions of this bill. The Chair thinks this is a new subject, and not germane to the objects of this bill, and that it is not therefore in order.

Mr. EVANS. I move to amend the last section of the bill by adding thereto the following:

Provided, That all the costs of survey and entry shall be paid by the settlers.

I merely offer that amendment for the purpose of making a remark or two in answer to what was said by the gentleman from Alabama, [Mr. HOUSTON.]

Mr. BROWN, of Mississippi. I rise to a point of order, and it is this: that that section having been passed, and two or three additional sections offered, it is now too late to go back and amend the section.

Mr. EVANS. In order to obviate that objection, I offer the amendment as an additional section to the bill. The honorable chairman of the Committee on Ways and Means remarked that the sum of money in his appropriation bills for surveys, amounting to nearly a million of dollars, was for the survey of lands yet to be brought into market, and offered at public sale. That is true, and it is also true that the lands have first to be offered at public sale, before they are subject to private entry. But it must strike everybody that none of these lands will be sold; for, the party desiring land has only to bide his time, and wait until the land has been offered at public sale, in order that he may enter it under this bill.

Now, I do not intend to embarrass the bill by any amendments, and for that reason I have not offered any. I merely desire to show to the friends of the bill the necessity of providing that all the expenses connected with the lands shall be borne by the lands themselves, and should not be made chargeable to the general Treasury.

I will now return to an argument, to which I barely alluded when I was last upon the floor. There are a great many persons in all parts of the country, who would prefer to enter a tract of land in one of the old States, than in a new State. Let us take it for granted that they would prefer twenty acres in an old State, to one hundred acres in a new State. Why, then, should you not, under the provisions of this bill, grant them as much money as the one hundred and sixty acres are worth, in order that they may therewith purchase twenty acres at home? You will provide them with homesteads in that way. There is an abundance of land in the old States, and parties there would really be benefited by not being compelled to go abroad. All the purposes so forcibly urged by the gentleman from Tennessee, and others, would thus be attained; these persons would have homes, they would be sheltered from the inclemency of the weather, and would no longer be liable to become paupers, at the charge of the public. Unless you put a provision in this bill, that the expense of the survey of the lands shall be borne by the settlers, why should you not make a grant of money out of the Treasury, to parties in the old States who would prefer to purchase a small tract of land in those States, rather than to have a large tract in the new States?

I am quite confident that this aspect of the case cannot have struck the friends of the bill, or they would not desire to run into the Treasury to the amount of a million of dollars a year, to keep up expensive land surveys, when there are already three hundred millions of acres of land surveyed, and subject to private entry. Why should you not put a provision in this bill, that the parties who take the lands shall pay the Government the actual expense, and no more? It is but just and fair. I shall not offer the amendment, because, as I intend to vote against the bill, it might be supposed that I offered it to embarrass the bill. But I trust some friend of the bill will offer it.

[Here the gavel fell.]

Mr. HOUSTON. I do not desire to occupy the time of the committee, but I must say a word in reply to the gentleman from Maryland, [Mr. EVANS.] The gentleman says my argument is not a good one, for the reason that the lands when offered at public sale will not be purchased. Now, if he is not mistaken in that fact, he thereby presents the serious charge against the Administration of bringing lands into market before a public demand exists for them. Why are lands brought into market? To satisfy the demands for settlement and cultivation. The President of the United States must withhold those lands from sale until the public necessities and the imperative demands of settlement require that they shall be brought into market. If the lands already in market are sufficient for the wants of the population of the country, no more should be thrown upon the market. It does not follow that because the surveys are kept up, or even extended, that



therefore the lands must necessarily be thrown upon the market—the surveys always do and should largely precede the sales; and a President of the United States fails to do his duty who fails to consult the demand before proclaiming lands for public sale.

The gentleman says he does not intend to press this amendment, but he thinks the friends of the bill ought to offer it. This is the last time I intend to occupy the committee on this bill; and I wish to say to the friends of the bill that if they desire to pass it, they should remain in their seats to-day and press it forward; they should do the voting, and let those who are opposed to it do the speaking. It is proper that we should finish the bill to-day. Every consideration connected with the business of the country demands it. Let gentlemen who are opposed to it offer their amendments, but let the friends of the measure stay in their places and vote them down, and in that way obtain an early vote upon the bill. It is no act of friendship to the bill on the part of any gentleman to be pressing amendments. The bill may be imperfect in some of its details—I have no doubt but it is. All of our legislation is more or less imperfect. It is not to be expected that we shall get this or any other bill perfect. We must rely upon experience to point out its imperfections, and subsequent legislation to correct them. Some of the Representatives from the old States have pursued a course which has forced this state of things upon the country. The Representatives of the new States have not desired this mode of obtaining the public lands; they have not heretofore desired the passing of this bill; they preferred a fair and proper graduation bill. I yet prefer such a bill; but you refused us that—you deny us justice. The lands in the new States should long ago have been graduated according to their true value. We sought that, and time after time pressed it upon your consideration. We regarded it then, and regard it now, as an act of justice to all parties concerned. It was justly due to your general Treasury that it should be done. It was due to the States within whose limits these refuse lands are situated, that they should be allowed to go upon the market for their value, and not withheld because of the unreasonableness of the price demanded for them; and it was equally due to our people who wanted homes in which to live and rear and educate their families that this act of justice should have been done long since. You refused us our reasonable and just demands; you turned us a deaf ear, and you are responsible for the error if wrong exists.

[Here the hammer fell.]

The question was then taken upon Mr. EVANS's amendment, and it was not agreed to.

Mr. BROWN, of Mississippi. I now move to strike out all of the original bill, after the enacting clause, and to insert the substitute which I will send to the Chair.

Mr. SEYMOUR, of New York. Is not this a subject of debate?

The CHAIRMAN. It is when the substitute has been reported to the House.

Mr. COBB. I have an amendment which I desire to propose to that bill at a proper time. I am not certain whether the proper time to offer it is now, or after the substitute proposed by the gentleman from Mississippi [Mr. Brown] shall have been disposed of.

Mr. HARRIS, of Tennessee. I rise to a question of order. I desire to know if the substitute of the gentleman from Mississippi has been read?

The CHAIRMAN. It has not.

Mr. HARRIS. Then I submit that nothing is in order until that substitute has been read, and is regularly before the committee.

The CHAIRMAN. The gentleman is correct, unless the gentleman from Alabama [Mr. Cobb] proposes to offer an amendment to the original bill. If so, that will take precedence.

Mr. COBB. I rise for information. I desire to know whether my amendment is in order now, or whether it is proper that I should wait until the substitute of the gentleman from Mississippi has been disposed of?

The CHAIRMAN. The Chair cannot tell whether the amendment is in order as an amendment to the original bill or not until the amendment is offered.

Mr. COBB. I then offer the following amend-

ment to the original bill, which I send to the Chair, and ask that it may be read.

It was read by the Clerk, as follows:

At the end of the bill insert the following:

Sec. 8. *And be it further enacted*, That all of the public lands of the United States which shall have been in market for ten years or upwards, prior to the time of application to enter the same under the provisions of this act, and still remaining unsold, shall be subject to sale, at the price of one dollar per acre; and all the lands of the United States that shall have been in market for fifteen years or upwards, as aforesaid, and still remaining unsold, shall be subject to sale at seventy-five cents per acre; and all of the lands of the United States that shall have been in market for twenty years or upwards, as aforesaid, and still remaining unsold, shall be subject to sale at fifty cents per acre; and all of the lands of the United States that shall have been in market for twenty-five years or upwards, as aforesaid, and still remaining unsold, shall be subject to sale at twenty-five cents per acre; and all lands of the United States that shall have been in market for thirty years or more, shall be subject to sale at twelve and a half cents per acre: *Provided*, This section shall not be so construed as to extend to lands reserved to the United States, in acts granting land to States for railroad or other internal improvements, or to mineral lands held at \$1 25 per acre.

Sec. 9. *And be it further enacted*, That upon every reduction in price, under the provisions of this act, the occupant and settler upon the lands shall have the right of preemption at such graduated price, upon the same terms, conditions, restrictions, and limitations upon which the public lands of the United States are now subject to the right of preemption, until the next graduation or reduction shall take place; and if not so purchased, shall again be subject to right of preemption for twelve months as before, and so on from time to time, as reductions take place: *Provided*, That nothing in this act shall be so construed as to interfere with any right which has or may accrue by virtue of any act granting preemption to actual settlers upon the public lands.

Sec. 10. *And be it further enacted*, That any person applying to enter any of the aforesaid lands under the provisions of the eighth and ninth sections of this act, shall be required to make affidavit before the register or receiver of the proper land office, that he or she enters the same for his or her own use, and for the purpose of actual settlement and cultivation, or for the use of an adjoining farm or plantation, owned or occupied by him or herself, and together with said entry, he or she has not acquired from the United States, under the provisions of this act, more than three hundred and twenty acres according to the established surveys; and if any person or persons taking such oath or affidavit shall swear falsely in the premises, he or she shall be subject to all the pains and penalties of perjury.

Mr. OLDS. I rise to a point of order. I submit that the original bill provides for the donation of the public lands to actual settlers. The amendment provides for graduating the price of the public lands, which is not germane to the object of the original bill, and therefore not in order.

Mr. COBB. I should like to hear the decision of the Chair upon that. It strikes me as rather strange that this opposition should come from such a quarter.

The CHAIRMAN. It is the impression of the Chair, that this amendment is upon a subject differing substantially from the original bill, and he therefore rules it out of order.

Mr. COBB. I will yield to the decision of the Chair.

A VOICE. Take an appeal.

Mr. COBB. No, I will not take an appeal; but I will say that, after the amount of lands given to the State of Ohio, I did not expect this point would be raised upon me by the gentleman from Ohio, [Mr. OLDS.]

[Cries of "Order!" "Order!"]

Mr. OLDS. When the rules of the House were invaded, I deemed it a matter of duty to raise a point of order.

Mr. COBB. I desire then to state, and I presume there will be no objection, that I am a friend of the homestead bill, and my object in offering this amendment was not to embarrass it. I shall vote for the bill.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The gentleman from Alabama is out of order.

Mr. COBB. Well, I can make my speech upon some other occasion.

Mr. BROWN, of Mississippi. I now offer my substitute for the original bill.

It was read by the Clerk, as follows:

That the laws now in force, granting preemption to actual settlers on the public lands, shall continue until otherwise ordered by Congress, and that the same be extended to all the Territories of the United States.

Sec. 2. *And be it further enacted*, That from and after the passage of this act, the rights of preceptors shall be perpetuated; that is to say, persons acquiring the right of preemption shall retain the same without disturbance, and without payment of any kind to the United States, but on these conditions: First The preceptor shall not sell, alienate, or dispose of his or her right for a consideration; and if he or she voluntarily abandons one preemption and claims another, no right shall be acquired by such claim, until the claimant shall first have testified, under oath, before the

register of the land office when the claim is preferred, that he or she has voluntarily abandoned his or her original preemption, and that no consideration, reward, or payment of any kind has been received, or is expected, directly or indirectly, as an inducement for such abandonment; and any person who shall testify falsely in such case, shall be deemed guilty of perjury. Second, Any person claiming and holding the right of preemption to lands under this act, may be required, by the State within which the same lies, to pay taxes thereon; and in case such lands are sold for taxes, the purchaser shall acquire such rights as the preceptor had and none other. Third, Absence of the preceptor and his family, for six consecutive months, shall be deemed an abandonment, and the land shall, in such case, revert to the United States, and be subject to the same disposition as other public lands.

Sec. 3. *And be it further enacted*, That lands preempted, and the improvements thereon, shall not be subject to execution sale, or other sale for debt; and all contracts made in reference thereto, intended in any wise to alienate the right, or to embarrass or disturb the preceptor in his or her occupancy, shall be absolutely null and void.

Sec. 4. *And be it further enacted*, That the preceptor may, at any time, at his or her discretion, enter the lands preempted, by paying therefor to the proper officer of the United States one dollar and twenty-five cents per acre.

Sec. 5. *And be it further enacted*, That in case of the preceptor's death, if a married man, his right shall survive to his widow and infant children, but the rights of the older children shall cease as they respectively come of age, or when they reach the age of twenty-one years; in all cases the right of preemption shall remain in the youngest child. And in case of the death of both father and mother, leaving an infant child or children, the executor, administrator or guardian may, upon submitting satisfactory proof of that fact to the register and receiver of the proper land office, demand a certificate of title to the land so preempted for the benefit of said infant child or children, and may thereafter sell said lands, or otherwise dispose of them, for the benefit of the infant child or children aforesaid.

Mr. HALL. I rise to a point of order. I understand this substitute changes the existing preemption laws, and is not germane to this bill.

The CHAIRMAN. The gentleman from Missouri makes the point of order, that the amendment of the gentleman from Mississippi [Mr. Brown] is not germane to the bill, and therefore is not in order. The Chair is of the opinion that the point is well taken, and that the amendment is not in order.

Mr. BROWN. I appeal from that decision. I suppose I have the right to state the grounds for my appeal.

The CHAIRMAN. The Chair will hear the gentleman with pleasure, if there be no objection.

Mr. HALL. I object; the appeal is not debatable.

The CHAIRMAN. Objection is made, and the gentleman cannot debate the appeal.

Mr. BROWN. I suppose any gentleman has the right to state the grounds upon which his appeal is made. The simple privilege of saying "I appeal from the decision of the Chair," is no privilege at all.

The CHAIRMAN. The Chair will hear the gentleman with pleasure if there be no objection.

Mr. HALL. But I do object.

The CHAIRMAN. Then the gentleman cannot proceed.

Mr. BROWN. Does the Chair decide that I have not the right to state the ground upon which I appeal from his decision?

The CHAIRMAN. Debate has been closed, by order of the House, upon this bill. The Chair understands that that order applies to all debate upon points of order, and therefore it is not in order for the gentleman to discuss the appeal.

Mr. HALL. I repeat that I object to any discussion upon the question. It is not necessary for me to repeat my objection half a dozen times.

Mr. BROWN. I do not wish to debate it.

The CHAIRMAN. If the gentleman from Mississippi [Mr. Brown] proposes to state any fact, that may be in order as an explanation; but matter in the nature of debate, the Chair supposes is not in order.

Mr. BROWN. I mean only to state that the Chair is mistaken in his decision in this, that the original bill proposes to give the land to the settler, but the substitute proposes to give him only the right of occupancy; and the two subjects are precisely the same, or as near as they can be.

Mr. HALL. I call the gentleman from Mississippi [Mr. Brown] to order.

The CHAIRMAN. The Chair thinks that the remarks of the gentleman [Mr. Brown] partake of the nature of debate.

Mr. BROWN. I have this to say, that if the friends of this bill are disposed to choke debate in this manner, I for one will abandon the bill.

A VOICE. So will I.

Mr. McMULLIN. I desire to know of the

Chair, if the information is in his possession, if this same amendment, or one of a like character, was not offered to a bill of a like character, in the Thirty-first Congress, and it was not then ruled out of order?

Mr. HALL. I call the gentleman from Virginia to order.

The CHAIRMAN. That is not a question for the Chair to decide. The question now before the committee is upon the appeal taken by the gentleman from Mississippi [Mr. Brown] to the decision of the Chair.

Mr. McMULLIN. Do I understand the Chair to decline to answer?

A Voice. Order! Order! I call the gentleman to order.

The CHAIRMAN. It will not be in order for the Chair to debate this question, any more than for any other member of the committee. That matter relates to a point of history, which is argumentative, and not a question of order.

Mr. BROWN, of Mississippi. I ask for tellers upon the appeal.

Tellers were ordered; and Messrs. McMULLIN and Brown appointed.

The question was then taken, and the tellers reported—ayes 56, noes 66.

The CHAIRMAN. The decision of the Chair is overruled, and the substitute offered by the gentleman from Mississippi [Mr. Brown] is decided to be in order. The question now is upon that amendment.

Mr. BROWN. I do not intend to detain the committee even with a five minutes' speech, for I am as anxious as other gentlemen can be that we shall dispose of this question to-day. But I am anxious, sir, that the American Congress, in disposing of the public lands, shall at least protect the persons who are the recipients of this bounty against imposition. It does seem to me, sir, that if we give the occupant the right to settle upon the land, and to remain there so long as he chooses to remain, we shall have accomplished all for the settler that the most benevolent could desire. You secure him in the possession of a home—you secure him in a position against his own profligacy, against his own misfortune, and against all the world, including himself. It is his home; from which he cannot be turned out, under the provisions of this substitute. If you give him the title to the land, you expose him to be turned out by misfortune, by waste, by profligacy, and in a thousand ways; and then the land which you have given to him is gone, not only from the Government, but from the recipient of the bounty.

As I said in a speech I made a few days since, I do not stand here for the purpose of giving men lands to pay their debts with, but I stand here to protect men, as far as I can, against misfortune, and against their own wasteful profligacy. I am ready to give them a home upon the public land, and secure them in the possession of it so long as they think proper to remain there; and whenever they think proper to own the soil, in their own right, I am for taking the money from them, as I would from anybody else.

Mr. JONES, of Tennessee. If the gentleman will permit me, I would ask him what, in his opinion, a tract of land of one hundred and sixty acres is worth, supposing the settler has been on it ten or fifteen or twenty years? How much is it worth aside from the labor which he has put upon it?

Mr. BROWN. That will depend altogether upon the quality of the land, and its location. If it happens to be on a navigable stream it may be worth twenty dollars per acre. If it be in the barren pine lands it will be worth nothing. If it be worth twenty dollars per acre, then the occupant can hold it at one dollar and a quarter per acre and pocket the profits, as he ought to do, and as he ought to be secured the right to do. But if it be a piece of barren pine land, remote from market, and of no value, he can remain upon it ten, twenty, or a hundred years, without buying it at all.

Mr. JONES. I ask the gentleman from Mississippi, [Mr. Brown,] if it is not the labor which the settler may have put upon his tract of land, and the labor which others put upon the land in the neighborhood, that gives the land its value, and not the location? I ask him to say what are the public lands in the new country worth where there are no settlers?

[Here the hammer fell.]

Mr. HALL. I wish to prevent discussion upon this proposition. I am opposed to the amendment.

Mr. HARRIS, of Tennessee. Is it in order to move a substitute for the substitute?

The CHAIRMAN. A substitute is in the nature of an amendment, and is itself amendable.

Mr. HARRIS. Then I offer as an amendment, by way of a substitute for the substitute offered by the gentleman from Mississippi, [Mr. Brown,] what I send to the Speaker's table.

Mr. BROWN. I rise to a question of order. The gentleman proposes to strike out the whole of the amendment proposed by me. That, I think, is out of order. He cannot strike out the whole of it, because it is equivalent to a vote upon the proposition itself, which is not an amendment to an amendment.

The CHAIRMAN. If the motion of the gentleman was simply to strike out the whole of the original amendment the Chair thinks it would not be in order, but as he proposes to strike out, and insert a substitute, the Chair thinks it is in order.

The Clerk then read the substitute offered by Mr. HARRIS, as follows:

SEC. 1. *And be it further enacted*, That all of the lands of the United States lying within any State of this Union, which were subject to entry on the first day of July, eighteen hundred and fifty-one, and have not since been sold, shall be subject to entry for actual settlement and cultivation, for any quantity not exceeding one hundred and sixty acres, as follows, viz: all of such lands which, on that day, had been subject to entry ten years and not exceeding twenty years, may be entered, under this act, at the price of one dollar per acre; all of such lands which had been subject to entry twenty years and not exceeding thirty years, may be entered at the price of seventy-five cents per acre; all of such lands which had been subject to entry thirty years, may be entered at the price of fifty cents per acre; all of such lands which had been subject to entry less than ten years on said first day of July, eighteen hundred and fifty-one, which shall not be sold under the existing laws within ten years thereafter, shall, after that time, be subject to entry as aforesaid, at the price of one dollar per acre. And when any of the aforesaid lands shall have remained ten years subject to entry, at any of the reduced rates aforesaid, without being sold, the price shall be reduced twenty-five cents per acre; and such reduction of twenty-five cents per acre continue to be made every ten years, until such lands shall be sold, or the price thereof be reduced to twenty-five cents per acre. And on any day appointed as aforesaid for the reduction of the price of the said public lands, any other lands of the United States, lying within the said States, not subject to entry on the first day of July, eighteen hundred and fifty-one, which shall have been subject to entry ten years or upwards, on any such future day for reducing prices as aforesaid, shall be subject to a like reduction of twenty-five cents per acre, which reduction shall be repeated every ten years until the land shall be sold, or the price reduced to twenty-five cents per acre: *Provided, however*, That no land shall be considered as entered under this act, unless the price at which it is entered is less than one dollar and twenty-five cents per acre: *And provided further*, That no alternate sections or mineral lands which have been or may be reserved by the United States, shall be entered under this act.

SEC. 2. *And be it further enacted*, That the person making entry or application for entry under this act, at a price less than one dollar and twenty-five cents per acre, shall first make an affidavit before the register or receiver of the land office where the entry is proposed to be made, that the said applicant enters and proposes to enter the same for his own use and benefit, for settlement and cultivation by and for himself or herself, and that the said applicant has made no entry under the provisions of this act, which, with the additional entry then proposed to be made, will make the whole quantity so entered and proposed to be entered exceed one hundred and sixty acres.

Mr. OLDS. I rise to a point of order, which is, that the amendment is not germane to the bill. Its object is precisely the same as that proposed by the gentleman from Alabama, [Mr. Cobb,] to graduate the price of the public lands; which was ruled out of order.

Mr. HARRIS, of Tennessee. The object of the amendment is to change the mode of disposing of the public lands, which is the object of the original bill, and is, therefore, certainly in order.

The CHAIRMAN. The gentleman from Ohio makes a question of order that the amendment of the gentleman from Tennessee [Mr. Harris] to the amendment of the gentleman from Mississippi is not in order, it being not germane to the subject of the substitute.

Mr. CLARK. I wish to ask the question if it is not as much in order as that to which it is proposed as an amendment, which was ruled to be in order by the House, when an appeal was taken from the decision of the Chair, deciding it to be out of order?

The CHAIRMAN. The Chair begs leave of the committee to state that, but for the recent decision of the Chair being overruled, that the amendment of the gentleman from Mississippi was out

of order, it would be the individual opinion of the Chair that the present amendment is not in order. The Chair understands the amendment of the gentleman from Mississippi to provide for a system of preemption, and that of the gentleman from Tennessee in effect a system of the graduation of the price of the public lands to actual settlers.

Mr. BROWN, of Mississippi. The Chair misunderstands the amendment of the gentleman from Mississippi.

Mr. OLDS. The motion is to strike out the amendment which the committee ruled to be in order, and to insert this of the gentleman from Tennessee, which is of the same nature as that presented by the gentleman from Alabama, [Mr. Cobb,] and ruled out of order.

The CHAIRMAN. It is the opinion of the Chair, in accordance with the spirit of the decision of the committee, which he thinks it is proper and his duty to respect, that the amendment of the gentleman is in order, and he so decides.

Mr. OLDS. From that decision I take an appeal.

The CHAIRMAN. The question now is, Shall the decision of the Chair stand as the judgment of the committee?

The question was then put, and, upon a division, there were—ayes 66, noes 56.

Mr. MASON. I demand tellers.

Tellers were ordered; and Messrs. Brown and McDonald were appointed.

The question was again put, and it was decided in the affirmative, the tellers having reported—ayes 68, noes 55.

So the decision of the Chair was sustained.

Mr. HARRIS, of Tennessee. I do not know, sir, with what favor the amendment I have offered may meet in this committee. It indicates, however, very clearly, my own views as to the proper policy of this Government respecting public lands, and I think it should be adopted.

By adopting the policy of this amendment, there will be several important objects obtained—the first of which is to bring within the reach of every industrious citizen of the United States a home at a price so low that he may obtain and make his own, avoiding the doubtful question as to the constitutional power to donate the public lands; and also the question (of equal doubt, in my mind) as to the policy of giving the public lands that belong to all the people of the United States to a portion of the people of the United States. Each of these questions of doubt are avoided by the adoption of my amendment. The prices of the land are reduced twenty-five cents per acre for every ten years they have remained in the market subject to entry, until they are reduced to twenty-five cents per acre, a rate at which, I think, all men may obtain a home without much difficulty, in any part of the United States. The amendment, in another point of view, is, I think, worthy of the favorable consideration of the committee. It is certainly very improper that lands of all qualities, varying as they do in quality and value, should be held at the same price, and anything that approximates fixing them at prices in accordance with the actual value is certainly just and proper. I know that from the length of time that lands have been held in the market, subject to private entry, is not an accurate or infallible standard of value, but it approximates as nearly to it, in my opinion, as any other policy that is practicable that we can adopt. Of course, when the lands are thrown into market, all subject to entry at the same price, the best lands are invariably first selected, leaving the worst lands longest in the market.

Under the provisions of this amendment, it will be observed that none but the actual settler can avail himself of the reduced prices or graduated rates. Before he can make an entry under the provisions of this bill, he must show that the entry is being made for the purpose of actual settlement and cultivation, and he is limited in quantity at these rates, to one hundred and sixty acres. The lands are held subject to entry by persons other than actual settlers at the minimum of \$1.25 an acre, thus securing them at low price to the actual settler, and at the same time, withholding them from the control of the speculator.

For these, and other reasons that I cannot give within the limits of a five minutes' speech, I have thought proper to offer this amendment, reflecting

as it does my own opinions as to the true policy of this Government respecting the disposition of the public lands.

Mr. SEYMOUR, of New York. Mr. Chairman, I have not participated heretofore in this debate, yet I could see in the bill presented by the colleague of the gentleman who has just taken his seat, [Mr. JOHNSON,] a very valuable principle, which I thought ought to be ingrafted upon the land system of the country—one which, if adopted, would contribute vastly to the national wealth, and be doing an act of justice to the hard-working and laborious citizen of the country, who might thereby be induced to settle upon the uncultivated lands of the West. I have, however, all along seen a difficulty about it. I have felt oppressed with the idea of a donation of the public lands under those cessions by which the Government has derived title to them, but I have looked with pleasure to the proposition which has just been presented by the honorable gentleman from Mississippi, [Mr. BROWN,] as relieving us from that embarrassment, while it preserves that grand feature which I think should not be overlooked. Every individual who wishes to enter upon the public lands, to select a proper portion of them, and to become an industrious cultivator of the soil, should have that opportunity, and thereby contribute to the public wealth. The amendment which has just been introduced by the gentleman from Tennessee [Mr. HARRIS] is nothing more than the proposition which has heretofore, for many years, been submitted from time to time to the action of the Congress of the United States. It is the graduation system, and after a vast amount—

Mr. CABLE, of Ohio. I rise to a point of order. Two speeches, I think, cannot be made in favor of the same amendment. The gentleman from Tennessee made a speech in favor of his amendment, and the gentleman is now making another. He is not in order, I think.

Mr. SEYMOUR. I am opposed to the amendment of the gentleman from Tennessee.

The CHAIRMAN. The Chair overrules the point of order raised by the gentleman from Ohio.

Mr. SEYMOUR. When interrupted, I was saying that the amendment of the gentleman from Tennessee [Mr. HARRIS] was but the revival of a proposition which, for many years previous, has been presented to the Congress of the United States for the purpose of graduating, by a general system, the price of our public lands. There are many things about that, to be sure, which should commend it to the favorable consideration of the Government; but there are about it great evils also. One (and I have not the time now to name others) is this, which is known to every member of this committee: The amount of public lands which is exposed for sale is always largely in advance of the demand. We have, at this time, over 3,000,000 acres of public land open to private entry, and awaiting cultivation purchasers. If this system is continued, and the graduation system is applied to it, we can see at once there would be a vast waste of the public domain, inasmuch as there would be a vast quantity of land—good land—always in the market, the price of which should not be reduced; but which will be reduced—not according to its value—not because it is inferior to other good lands—but simply because, on account of the large quantity which has been exposed for sale, it has remained such a period in the market as this bill proposes.

[Here the hammer fell.]

Mr. SKELTON. I rise to a question of order. We have had two speeches upon the same side of the question, and I ask, whether it is not now in order to make one in opposition to it?

The CHAIRMAN. The question of order, if it were well taken, is now too late; but the Chair understands it to be otherwise.

The question was then taken upon the substitute offered by Mr. HARRIS, and it was disagreed to; there being, upon a division—ayes 47, noes 98.

Mr. COBB. I offer as a substitute the amendment which I submitted an hour ago. It is with some difficulty, I know, that I can get what I desire, but I trust that I may be able now to succeed.

Mr. STANTON, of Ohio. That is precisely the same amendment which was offered by the gentleman and ruled out of order, a short time since.

Mr. COBB. It is the same identical amendment I presented to the original bill.

Mr. OLDS. I rise to a question of order. My point is, that this is the same identical amendment that the committee decided to be out of order to the original bill. Though it may be germane to the amendment of the gentleman from Mississippi, [Mr. BROWN,] yet inasmuch as the motion is made to strike out the amendment of the gentleman from Mississippi, it then holds the same relation to the original bill that it did before, if the motion to strike out prevails.

Mr. COBB. The gentleman mistakes the question. The committee has never ruled that amendment out of order. The Chairman did, but the committee did not.

Mr. OLDS. The committee acquiesced in the Chair's decision.

The CHAIRMAN. The question is not debatable. The gentlemen from Ohio raises the question that the amendment of the gentleman from Alabama [Mr. COBB] is not in order. It is the opinion of the Chair, that according to the spirit and effect of the decision of the committee touching the amendment of the gentleman from Mississippi, and the decision of the Chair sustained by the committee touching the amendment just offered by the gentleman from Tennessee, that this amendment is in order.

Mr. OLDS. It is the identical amendment the Chair overruled this morning.

The CHAIRMAN. The Chair supposes that that decision has been virtually overruled, and he is bound to obey the decision of the committee.

Mr. STANTON, of Tennessee. From that decision I take an appeal, and say to the friends of the bill, that if they ever expect to get it through, they must sustain the original ruling of the Chair.

The CHAIRMAN. The question is, then, "Shall the decision of the Chair remain as the judgment of the committee?"

The question was then taken, and the decision of the Chair was sustained by the committee—ayes 78, noes 57.

So the amendment, as previously published, was ruled to be in order.

Mr. COBB. I desire, Mr. Chairman, to have the attention of certain gentlemen, particularly, to the remarks I intend submitting. When gentlemen rise in their places, and admonish this committee to resist all amendments which may be offered, they should especially bear in mind that I am as good and staunch a friend of the homestead bill as any member of the committee. I will here state, and hope it may be borne in mind, that my object in presenting the amendment I have, was not to embarrass the bill in any respect whatever. Since this proposition has been under consideration, I have taken a great deal of pains in making inquiries of gentlemen as to whether they would vote for the bill of the gentleman from Tennessee if my amendment were attached to it; and I announce now, in justification of the proposition I have submitted, that not one gentleman told me he would vote against it in that case. Had but one gentleman told me that my amendment, if adopted, would affect injuriously the homestead as well as the graduation bill, I would not have assumed the responsibility of now submitting it. I would have trusted it to the future action of the House. I wish it distinctly understood here, and throughout the country, that, in sincerity in the support of this bill, I yield to no man. I am an older soldier in favor of this measure than many of those who have advised the committee against receiving any amendment to perfect this bill. Last Congress I submitted an amendment to the Oregon bill—which was then under consideration, and which proposed a grant of a homestead to actual settlers—that the provisions of the bill should be made applicable to all the lands held by the United States. It is to be found in the second volume of the Congressional Globe, for the first session of the Thirtieth Congress, page 1548, and is as follows:

"Provided, That the provisions of the act which relate to a donation of the public lands to actual settlers shall extend to all the public lands belonging to the United States, except as to the quantity, which shall not exceed one hundred and sixty acres to each head of a family."

It will be seen that I am as old a soldier in the cause as some others. I will further state, that during the last summer I discussed this subject fully before my constituents at home. I told them,

from one end of the district to the other, that the question of granting a homestead to actual settlers would be brought before this Congress, and that if—and I looked to its being introduced by the gentleman from Tennessee, [Mr. JOHNSON,] as I gave him the honor of having so done before—it was not proposed, I pledged myself to present it. Go to the record, and you will find that at a very early period of the session, I gave notice of my intention to do so. My action now is but a redemption of the promise I made my constituents, that if I were not instructed to vote against I would vote for the measure. I intend, if I live long enough, to vote for it in some shape or other. But my friend from Tennessee [Mr. JOHNSON] will recollect that I told him I preferred the proposition of the gentleman from Mississippi, [Mr. BROWN,] for the reason, that while it secured to the settler a homestead, it also gave him the privilege of perfecting his title, if he chose to do so. I prefer the amendment of the gentleman from Mississippi, as a separate and distinct question; but if it is lost, I intend to vote for the proposition of the gentleman from Tennessee.

[Here the hammer fell.]

Mr. COBB. I propose to withdraw my amendment.

Mr. HOUSTON. I object to its withdrawal.

Mr. CAMPBELL, of Illinois. I am opposed to the amendment of the gentleman from Alabama, [Mr. COBB,] and he appears to be opposed to it himself.

Mr. COBB. No, sir.

Mr. CAMPBELL. I apprehend that his own speech convinces him that it is wrong: I am also opposed to the amendment of the gentleman from Tennessee, [Mr. HARRIS,] and voted against it, not on account of the principle contained in that amendment, but on account of the object which he seeks to achieve by it. I am also opposed to the amendment offered by the honorable gentleman from Mississippi, [Mr. BROWN,] I am opposed to that amendment upon the ground that it is intended to build up and perpetuate a system of perpetual vassalage between the citizen and the Federal Government. Now, if I understand one great object which this bill has in view, it is to make freeholders of the cultivators of the soil. Under the principle contained in the amendment of the gentleman from Mississippi, [Mr. BROWN,] that great object would be defeated, and instead of being freeholders, the occupants of these lands would become the tenants of the Government—a position which I never desire to see the freemen of this country occupy towards their Government. The amendment should, in my opinion, be entitled *An act to create the perpetual relation of landlord and tenant between the citizen and his Government.* This much I say for the reasons which influenced me in voting against the amendment proposed by the gentleman from Mississippi. I was opposed to the amendment of the gentleman from Tennessee, [Mr. HARRIS,] which is the same in substance as the amendment offered by the gentleman from Alabama, [Mr. COBB,] I do not consider that the bill before the House—the homestead bill; as it is called—makes a final disposition of this question of the public lands. It is only a measure intended to induce and promote the cultivation, and contribute to the productive improvement of the public domain. It is no system for the final disposition of the public lands. The principle contained in the amendment offered by the gentleman from Tennessee [Mr. HARRIS] does propose a system which I think will meet with the approbation of the people of this country. They have directed their attention towards adopting some plan which shall finally relieve the General Government of the responsibility of taking care of this vast public domain. That public sentiment, although it was small at first, has increased in volume until its influence has reached this Hall. If it should be decreed that this bill shall be defeated at the present session, it will be through the instrumentality of the amendment offered by the gentleman from Mississippi, [Mr. BROWN.]

And here permit me to say to the real friends of this measure—to those who, in their hearts, desire to see it enacted into a law at this time, to guard against the effect which the amendment of the gentleman from Mississippi will inevitably produce, and which every true friend of the bill now must see will be produced, if the amendment should prevail; and that effect will be the defeat



of the measure, in every shape in which it can be presented. The amendment is a weapon in the hands of the enemies of the bill; and its originator, whose heart, I believe, is with the principle, should see to this. The responsibility of defeating this great measure, when divided amongst many, is no light matter; but if it should center upon a single head, the weight will be insupportable.

[Here the hammer fell.]

The question was then taken upon Mr. Cobb's amendment, and it was not agreed to.

Mr. MOREHEAD. I submit the following amendment to the amendment of the gentleman from Mississippi, [Mr. Brown:]

*And be it further enacted,* That the lands herein granted shall be exempt from taxation for twenty years from and after the passage of the bill.

I offer this amendment to carry out the object which the friends of this bill have in view. I understand that the object of the measure before the committee is, that the General Government, being abundantly able, shall supply the poor people with homes. The advocates of this measure claim that the Government has abundant means to furnish all the people in the United States, who are in straightened circumstances, with a homestead. It is intended to include no other class of persons. It is intended to have the lands settled, and the wilderness cleared. If our object really is to confer a benefit upon the poor people of the United States, why, let us not stop at a half-way point, but let us carry out, in effect, the terms of the bill, which provide that no one shall go to settle upon these lands, except he is an extremely poor man. In the practical operation of this measure, nineteen twentieths of these settlers will not have as much as a cow when they occupy these lands. Let us not turn loose the tax-gatherer upon the poor man, just as he is settling the country. You must remember that they will occupy a frontier country. I take it for granted that tools of husbandry are much dearer there than in the old States; and the little pittance which the poor man will have when he gets there, will be required directly, not only for the support of himself and family, but for procuring the necessary tools for labor. I say, if we do anything for the poor man, let us do the best thing we can for him. The old States cannot complain of it, for this reason: In many of the States of the Union, the taxes are equable and graduated. I know it is so in my own State. We pay six cents in every \$100.

Mr. JOHNSON, of Tennessee. With the permission of the gentleman from North Carolina, I wish to say—

Mr. MOREHEAD. Any other time in the world but this, but I cannot be interrupted now. I know that in my own State, the freeholder pays six cents in every \$100 value. I will observe that it must be a very poor homestead that is not worth \$100, and it would be a curse to a man to give him one that was not worth that amount.

[Here the hammer fell.]

Mr. JOHNSON, of Arkansas. I am opposed to the amendment of the gentleman from North Carolina, [Mr. Morehead.] It is a release from taxation for twenty years. Upon the same principle that I am opposed to his amendment, I am opposed to the whole substitute of the gentleman from Mississippi, [Mr. Brown.] With all due respect and kindness to that gentleman, I must say, that I believe it will be the death of this bill, if it is to produce any effect at all. If the object of the gentleman from North Carolina [Mr. Morehead] is to relieve the settlers from taxation for some twenty years, I believe it is hardly necessary, because the character of the title itself, which is proposed to be made to those who receive lands under the substitute of the gentleman from Mississippi, is such, that no title exists, and no taxes can be laid. The gentleman from Mississippi proposes, that the mere right to pass the whole title shall remain in the United States. If the whole title continues in the United States, the States themselves have got no right to tax the Government lands. If that be so, what will be the consequence to the new States? The consequence will be, that you give these lands away to persons—which remain merely in their possession—and you destroy the power of the States to support themselves, upon the very basis which exists in every State—you deprive them of the power to raise revenue from a tax on the lands. Permit these settlers to pass from one

spot to another, and though there be thousands settling down upon your public lands, yet no taxes can be levied upon them, because the lands are not theirs, but held by the United States, and not, therefore, subject to taxation.

Under these circumstances, I cannot consent to see a proposition of this sort offered in this manner, without expressing some opposition to it upon my own part. I am for the bill which was offered by the gentleman from Tennessee, [Mr. Johnson,] and I hope to see it passed, for a dozen reasons, all amply sufficient to myself. First, it would relieve my own State from a system of vassalage, and put her upon an equality with the balance of the old States of the Union. The proposition of the gentleman from Mississippi, [Mr. Brown,] is to give a guarantee to protect the profligate and the improvident. Those gentlemen who go for this, in many places, are not gentlemen who will go for women's rights—to give them the right to hold private and separate property, not amenable to the debts of their husbands. That is a much more righteous movement. Those who are virtuous and ought to be protected, are refused such protection by the legislation of men, while we propose, by a bill of this character, to protect the profligate and improvident. Against what? Against their own honest debts and liabilities. These are the reasons which influenced me to vote against the system of tenancy which is to be created by the substitute of the gentleman from Mississippi, [Mr. Brown.] The proposition which he has offered I do honestly believe will have the effect to defeat the whole of this measure, which I deem most glorious in itself—the giving away of lands to those who are landless.

[Here the hammer fell.]

Mr. MINER moved that the committee rise.

The question was put, and the motion was agreed to—ayes 105, noes not counted.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HERRARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, &c.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported back, as correctly enrolled, the following joint resolution; which received the signature of the Speaker, viz:

Joint resolution granting the right of way of the Fayetteville and Central Plank Road.

On motion by Mr. LETCHER, the House adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BUELL: The memorial of 600 citizens of Georgetown, District of Columbia, approving the memorial of the proper authorities of Georgetown, in their application to Congress for the construction of a bridge over the Potomac river, at some point west of Alexandria.

By Mr. LANDRY: The memorial of citizens of New Orleans and Texas, ship-masters and ship-owners, praying for the erection of a permanent light-house on Ship Island Shoals, on the coast of Louisiana.

By Mr. FLORENCE: The memorial of the heirs of Adam Prager, deceased, praying Congress to pass a law indemnifying them for French spoliation, prior to 1800.

By Mr. HENN: The petition of H. M. Taylor, and 92 others, citizens of Poweshiek county, Iowa, asking for a mail route from Union Mills to Montezuma.

By Mr. BUSBY: The petition of John Sünchcomb and others, praying for a mail route from Galion, Crawford county, Virginia, via Corsica, McEwen's cross roads, to Lexington, Richland county, Ohio, semi-weekly.

#### IN SENATE.

WEDNESDAY, May 12, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. SEWARD presented the report of a committee of the Chamber of Commerce of New York, in favor of the establishment of a Light-house Board; which was referred to the Committee on Commerce.

A motion to print the report was referred to the Committee on Printing.

Mr. SHIELDS presented a memorial of the corporate authorities of Georgetown, District of Columbia, praying the construction of a bridge across the Potomac river, at some proper point west of the Alexandria aqueduct; which was referred to the Committee on the District of Columbia.

Also, the petition of a committee of workmen employed on the extension of the Capitol, praying relief for loss of time by suspension of the work; which was referred to the Committee on Public Buildings.

Also, a petition of citizens of Peoria county, Illinois, praying that the public lands may be transferred to the States, for the purpose of being granted to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Also, a petition of citizens of the West, praying the improvement of the Ohio river, particularly at the Falls at Louisville; which was referred to the Committee on Roads and Canals.

Mr. DODGE, of Iowa, presented a petition of citizens of Van Buren county, Iowa, praying a donation of land to each of the distinguished Hungarians at present located in Decatur county, in that State; which was referred to the Committee on Public Lands.

Mr. JONES, of Tennessee, presented the petition of Parry W. Porter, inventor of a patent self-loading fire-arm, praying that the Secretary of War may be directed to furnish the militia with his fire-arms out of the annual appropriations required by the act of 1808; which was referred to the Committee on the Militia.

#### SALARIES OF CLERKS.

Mr. HUNTER. Mr. President, I am charged with many petitions from clerks in the various Departments, in relation to an increase of their salaries. Before presenting them, I will say that they seem to be under some misapprehension in relation to a bill which they suppose I have introduced for that purpose. I have introduced no such bill. Some time ago, I made a call upon the heads of Departments for a plan for classifying the clerks, and for equalizing the salaries of the clerks within their respective classes. The answer to that call has but recently come in. I present the petition of clerks in the War Department, praying for an increase of salary, and ask that it be referred to the Committee on Military Affairs. I present, also, the petition of clerks in the Navy Department, which I ask may be referred to the Committee on Naval Affairs. I present the petition of clerks in the office of the Secretary of the Treasury, and ask that it be referred to the Committee on Finance. I present the petition of clerks in the General Land Office, which I ask may be referred to the Committee on Public Lands. I present the petition of clerks in the Bureau of Indian Affairs, and ask that it be referred to the Committee on Indian Affairs.

The petitions were so referred.

#### REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the petition of Charles G. Merchant, an officer of the Army, praying the settlement of his accounts in the Commissary Department, on just and equitable principles, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

He also, from the same committee, to which was referred the petition of John Moore, praying the settlement of his accounts as commissary of subsistence of the Missouri militia, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

He also, from the same committee, to which was referred the report of the Secretary of the Treasury, showing the amount of rations issued by Robert B. Carter and James Roddy, reported it back and asked that it be laid on the table; which was agreed to.

He also, from the same committee, to which was referred the following petitions, asked to be discharged from the further consideration thereof; which was agreed to:

A petition of the officers of the Army at Fort Leavenworth, in relation to rank and command in the Army;

The petition of Thomas Jefferson Sutherland, praying an act of Congress to aid in the establishment of a Polytechnic Institution in Nebraska Territory; and

The petition of Pamela Preswick and other heirs of William Wigton, for amount due for his services subsequent to the last war with Great Britain.

He also, from the same committee, to which

was referred the bill from the House of Representatives for the relief of Osborn Cross, of the United States Army, reported it back without amendment.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the memorial of the Legislature of Mississippi, praying the establishment of a port of entry at Biloxi, and additional mail facilities to that place, reported a bill to establish a port of delivery at that place; which was read, and passed to the second reading.

He also, from the same committee, to which a letter from the Secretary of the Treasury on the subject was referred, reported a bill authorizing imported goods, wares, and merchandise, entered and bonded for warehousing in pursuance of law, to be exported by certain routes to ports or places in Mexico; which was read, and passed to the second reading.

He also, from the Committee on Printing, to which was referred the motion to print the petition of laborers lately employed on the addition to the Capitol, praying to be allowed pay for the time lost by them in waiting for the work to be continued during the past winter, reported against printing the same; which was agreed to.

He also, from the same committee, to which was referred the motion to print the memorial of M. F. Maury, of the Navy, praying the establishment of a line of mail steam ships from Norfolk or Charleston to Para, at the mouth of the Amazon, to connect with a line running thence to Rio de Janeiro, reported in favor of printing the same; which was agreed to.

Mr. MASON, from the Committee on Foreign Relations, to which was referred the petition of Joseph Balestier, praying to be allowed certain items rejected in the settlement of his accounts at the Department of State, for services and expenses as special agent to Cochín China, and other portions of Southeastern Asia, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. BRADBURY, from the Committee on the Judiciary, to which was referred the report of the Secretary of War, in relation to contracts made with officers of the Army to furnish supplies to the Government, reported a bill making it penal for officers of the United States Army to become contractors, either directly or indirectly; which was read and passed to the second reading.

#### ORGANIZATION OF THE ARMY.

Mr. SHIELDS. The Committee on Military Affairs have instructed me to make a report accompanied by a bill, in relation to the several departments of the Army—the Subsistence Department, the Quartermaster's Department, and the Adjutant General's Department. I may say, at this time, that the bill contemplates the abrogation of those departments, and the filling them up by details from the line. It is a bill to repeal the several acts organizing the Staff Departments of the Army therein mentioned, and to provide for the discharge of the duties thereof by a detail of officers of the line. This is a measure of very great importance, and it is hoped that it will accomplish a very desirable object. It is hoped that it will prevent the abuses which have become so common in those departments. This is a very radical bill, I confess, but it has the approval of the head of the War Department, and the approval of the General-in-Chief of the Army. I may as well add, that the Secretary of War has aided the Committee on Military Affairs very materially this winter in bringing forward measures to prevent the abuses that have become so very prevalent in the Army.

The bill was read, and ordered to a second reading, and the report was ordered to be printed.

Mr. SHIELDS. I rise to request that the bill and report may be printed together. I before stated the reason in one case. We are exceedingly anxious, in making these great changes in the Army, to derive what information we can from the suggestions of experienced officers in the Army in every part of the country, and we can only do that by sending the bill and report together to those officers. In relation to measures that have been brought forward, I have already received from them an immense amount of instruction and information of which I shall avail myself hereafter. I will now move that the bill and report, in this case, be printed together.

The PRESIDENT. No motion is necessary for that purpose. The Secretary can give directions to have them printed in that way.

Mr. SHIELDS. I move that ten thousand extra copies of the bill and report be printed.

The motion was referred to the Committee on Printing.

#### RAILROAD IN CALIFORNIA.

Mr. GWIN, by unanimous consent, asked and obtained leave to introduce a bill granting the right of way and a portion of the public lands to the State of California, to aid in the construction of a railroad from the city of San Francisco to the city of San José, in that State; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### NOTICES OF BILLS.

Mr. RUSK gave notice of his intention to ask leave to introduce a bill to reduce the rates of postage upon newspapers and other printed matter, and to regulate the salaries of postmasters, and for other purposes.

Mr. SHIELDS gave notice of his intention to introduce a bill granting the right of way and making a grant of public lands to the States of Ohio, Indiana, and Illinois, in aid of the construction of a railroad from Cincinnati to St. Louis.

#### ISLAND OF MATINICAS.

The bill to annex the Island of Matinicas, in the county of Lincoln, in the State of Maine, to the collection district of Waldoboro', in said county, was read a third time and passed.

#### IMPROVEMENT IN LIGHT-HOUSES.

Mr. SEWARD submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to transmit to the Senate a communication from J. W. P. Lewis, under date of the 7th of May, or thereabout, with the accompanying documents, relating to the subject of the improvement of light-houses.

#### LIEUTENANT TEMPLE'S MEMOIR.

On the motion of Mr. BELL, the Senate proceeded to consider the following resolution, submitted by him some days since:

*Resolved*, That the Secretary of the Navy be requested to furnish the Senate with a copy of the memoir of the landing of the United States troops at Vera Cruz in 1847, by Lieutenant William Grenville Temple, with an appendix containing the written orders of General Scott and Commodore Conner, on file in the Navy Department.

Mr. CASS. Who proposes the resolution?

Mr. BELL. I have offered it.

Mr. CASS. I hope the honorable Senator will be good enough to state what is the object of it.

Mr. BELL. I understand that this is a very brief memoir of an achievement which I have heard highly spoken of by many officers. I have never yet read a statement of it which was satisfactory or very interesting to me in its details. I understand that this memoir possesses a great deal of merit; that it is very brief, and even including the appendix, mentioned in the resolution, does not exceed forty folio pages of manuscript. I did not suppose that there would be an objector in the Senate to having it transmitted to us. If it should be transmitted, the question of printing would, of course, go to the Committee on Printing; and if it should be found not worthy of publication by order of the Senate, it would be laid on the table. This memoir is an interesting part of our military history. I understand that it is chiefly professional, and designed for the information and gratification of the officers of the Army and Navy. I do not see any possible objection to the resolution in that point of view. I do not see why there should be an objection to having the communication made to the Senate. I have never read it; but I have heard several gentlemen speak of it as a performance within a very brief compass, and possessing a great deal of merit.

Mr. CASS. I would ask the honorable member if this is an official report of this officer to his superior, or to the Navy Department?

Mr. BELL. I suppose it is a volunteer memoir communicated to the Navy Department. I understand that it is approved by the head of that Department.

Mr. CASS. I am unwilling that the Senate should be made the vehicle of these applications. An officer, when he is in the service, may write something, and come to the Senate and endeavor to make the Senate the vehicle of spreading his communication before the country. I think the practice is wrong.

Mr. HAMLIN. When the resolution was first read, I supposed the object was precisely what the Senator from Tennessee now avows it to be—the publication of another small book. I hope the resolution will not pass, if that is the only object—if it is to bring this document here to the Senate for the purpose of publishing the work of this officer. I think we have had enough of that. We have published a variety of books. We have drawn greatly upon our contingent fund for that purpose; and I think we may just as well go into the whole circle of the sciences and publish scientific works, or works of fiction, which would be interesting to some, as to be continuing this system. Recently, if a man wants to make a book, he gets into the Navy, or into the Army, or into some survey, and makes a report to some of the Departments, invites a kind friend here to call it out, and behold, a book is spread before the world! I hope a stop will be put to this. I therefore move that the resolution be laid upon the table; and upon that I ask for the yeas and nays.

Mr. BELL. I hope the honorable Senator will withdraw the motion for a moment.

Mr. HAMLIN. I will.

Mr. BELL. I have utterly disavowed any idea of making a book for the printers, or of making a job for anybody, or of taxing the Senate beyond what it might choose voluntarily to tax the contingent fund.

Mr. MANGUM. I hope honorable Senators will not persevere in their opposition to the resolution. I see that gentlemen already shrink from it with a great deal of sensibility. They seem to be afraid to let the people get at this information. Perhaps it is punishing gentlemen unnecessarily in advance.

Mr. BELL. I beg leave to add, that I had no view of a political character. I had no view of alarming the sensibilities, or of exciting the apprehensions of gentlemen of any political creed, or of exciting their fears by the introduction of this resolution. I have risen for the purpose of disavowing any intention of desiring to add to the number of books which we print. I think this is very small game. I think this is a very small object upon which to settle a precedent for putting a stop to these numerous publications. I admit that a good many communications of this description have been made to this body; but I beg honorable Senators to remember that this is but a very brief detail of an achievement of which the whole country may well be proud. I am told that the circumstances under which the debarkation of our troops at Vera Cruz was effected were very extraordinary; that striking skill was manifested, considering the perils they had to encounter.

This memoir does not exceed forty pages in manuscript, and I suppose it would not make a book of more than twenty pages. Let gentlemen look at the voluminous documents of the regular reports. Gentlemen object to this because it is not an official report. Let them look at their official reports—so ponderous, so voluminous, that not one man in a hundred thousand in the United States ever thinks of wading through them to get at the details of our military transactions. I believe that our documentary reports from the heads of bureaus amount to volumes, instead of, as formerly, a single volume, communicated by the Executive annually to Congress.

In offering this resolution, I had no motive but to have this memoir furnished for my own gratification, and for the purpose of illustrating a portion of the annals of the country that I thought would be interesting to everybody, and, perhaps, taking from the contingent fund of this body some few dollars, if it should be thought worth while to print it. How can honorable Senators object to having this information communicated? If it is furnished to us, honorable Senators can inspect it, and see if it be not worthy of printing, and if it be not a production of unusual merit. One great merit, which it certainly has, consists in its brevity. It condenses within a few pages some of the most important military details, the perusal of which would not only gratify and instruct every officer of the Army and Navy, but particularly those who were not directly engaged in the transaction. It would also be gratifying to every inquiring gentleman on such subjects. Let us have the communication laid on the table. Honorable gentlemen object to making a book of this. Then I shall not urge it any further, if it is objected to by a

majority of the Senate. I had no personal object in asking for this information. I had no motive to gratify distinguished individuals in any quarter, or to impede the prospects of others. Such a consideration never flashed across my mind. I had no communication with gentlemen of that class upon the subject.

Mr. BERRIEN. I ask that the resolution may be read.

The resolution was accordingly read.

Mr. BERRIEN. It does seem to me to be very singular, that when a member of the Senate desires to obtain from one of the Departments a document in which he takes an interest, and which he believes to be interesting to the public, there should be any objection to making the call and having it answered. If, after the paper be laid on the table of the Senate, a motion shall be made, having for its object the making of a book, as gentlemen express it, then, it appears to me, would be the proper time to urge the objection. But, I really think that due courtesy to a member of the Senate who desires such information, should induce us, at least, to acquiesce in the call.

Mr. CLEMENS. Mr. President, it seems to me that after the declarations made by the Senator from North Carolina, the Senator from Georgia need not have been surprised at any opposition being made to the adoption of this resolution. Why, sir, the Senator from North Carolina avowed in as plain language as if he had said it in so many words, that it was intended for an electioneering purpose—that it was offered here to aid a presidential aspirant—that it is to take part in political intrigues. He tells us not to object to this, because we are to be punished sufficiently by the people. Who are to be punished? Why, sir, those who object to this resolution; the Democrats are to be punished by the people. And he supposes that we wished to prevent the publication of this memoir because it might add to the reputation of his particular candidate for the Presidency. I shall vote against it for that reason, and for that reason alone.

I have had as little to do with political intrigues as any member of this body, and I intend to have as little to do with them. But I do not intend to countenance any proposition to print documents here at the expense of the Senate, to aid a political aspirant. Besides, of what use is it to us? The Senator from Tennessee says he wishes this document communicated in order that we may examine it. Suppose it is sent here, how many will examine it unless it is printed and laid upon our tables. Who will go to read it in manuscript? Not half a dozen members of the Senate. The object is to print; the object in bringing it here is to secure its being printed, and a further object which is intimated by the Senator from North Carolina, is to use it as an electioneering document.

I am willing to give to General Scott all the credit to which he is entitled. I have heretofore manifested that willingness again and again. I intend to manifest it at this session. I intend to urge the adoption of a resolution conferring upon him the highest rank which has ever been conferred upon a citizen of the United States save one. But when it is intimated that this document is to be brought here to be used for the purpose of electing him to the Presidency of these United States, I shall go against it, even if the result should be injustice to him.

Mr. MANGUM. Mr. President, the Senator from Alabama entirely and totally misconceives me. I did not know of the existence of such a resolution until the debate was opened. I did not intimate, nor do I now intimate, that there was any purpose whatever to use this as an electioneering document. But what I did intend to say was this: I understood this to be a resolution calling for a memoir that was supposed to be very highly creditable to the commanding general in the late war. I saw that gentlemen winced under its developments. I did not say that the expense of printing this document should be necessarily incurred with the view of advancing partisan objects. What I did say, and what I meant, was, that I thought it a little inhuman to be "piling up the agony" upon gentlemen who felt a little shrinking under the influence of such developments. I had seen, as the debate went on, a motion to lay the resolution upon the table. It is utterly immaterial to me what is done with it. I never con-

ferred with the honorable Senator from Tennessee in regard to it. I do not know what is the nature of the memoir indicated. I take it for granted that it is one highly honorable to the commanding general. I thought it would be a little cruel now to punish gentlemen who vote against it. What I meant, simply was that these gentlemen, in the course of destiny, will have to encounter some very rough and stumpy roads, and I thought it unnecessary to be premature in inflicting punishment. That is all I meant.

Mr. HAMLIN. Mr. President, I regret that there has been anything of a political character connected with this debate. It was the farthest thing in the world from my intention to say aught or to do aught that would be productive of such a debate. Perhaps I should have stated that the subject of printing has been investigated by the Committee on Printing, and I am gratified to be able to say, that upon a full examination, a majority of that committee have come to the conclusion to make an effort to put a stop to book-making in the Senate. I am willing to admit that it is as appropriate to print books eulogistic of individuals as books of any other character, and I should offer no objection to the printing of this memoir that I would not offer to the printing of any other document, looking towards the making of a book. It is upon the general principle that I oppose it.

It is true that the resolution is a simple call on the Navy Department for this memoir. It is equally true that the honorable Senator from Tennessee stated expressly that the object of that call was to print it. It was, therefore, inasmuch as it came within the rule which the Committee on Printing would attempt to enforce, that I made the motion to lay it upon the table. I will not now renew that motion, but I am willing to allow the question to be taken upon the direct passage of the resolution, hoping and trusting that it will be rejected, not because I am unwilling that the utmost publicity in the world should be given to it, but because it is a matter which should not come before the Senate. I think the Senate should not be asked to make a book on this occasion. I will state that the committee have already reported against the reprinting of one of the books which have already been published by the Senate.

In relation to the political character of this debate, I will only say to the Senator from North Carolina, that however many obstructions there may be in the way, yet, at an appropriate time, I trust they will all be easily removed, and that whoever may be the individual favored by that distinguished Senator, the person who shall be nominated by my friends on this side of the Chamber is destined to be the next President of the United States.

Mr. HUNTER. It is now time to call up the deficiency bill, and I therefore move to postpone the further consideration of the resolution until to-morrow.

Mr. CASS. I merely want to say, that when I interposed an objection to this resolution, I had no more idea that it referred to General Scott than that it referred to the Queen of England. I supposed that it was just one of those applications which are made to us by young officers, who think they have written something creditable, and want it to get before the world, and come to the Senate to make it the vehicle of communication. I did not hear one word the Senator from North Carolina said. I was at that time engaged in talking with a gentleman in the lobby. The first intimation that I had that anything was said in relation to General Scott was from the gentleman from Alabama. I should not have said a single word, if I supposed the resolution had any such bearing. But the Senate will do me the justice to recollect that this is the ground I have taken two or three times before. I have opposed the transmission of such information to the Senate. I have been opposed to making the Senate the vehicle to spread papers before the public, but under the circumstances, I shall interpose no further objection to this resolution.

Mr. HALE. As I have a word to say on this subject, and as I do not wish to occupy the time which the Senator from Virginia wishes devoted to the deficiency bill, I move to postpone the further consideration of this subject until to-morrow.

The motion was agreed to.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," the question pending being upon the amendment of the Committee on Finance, as it had been amended, to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500: *Provided*, That it shall be in the power of Congress, at any time after the first day of January, 1854, to terminate the arrangement for any additional allowance herein provided for.

Mr. BORLAND addressed the Senate for some time without finishing, and on his motion the further consideration of the subject was postponed until to-morrow.

#### ENTRIES OF LAND IN FLORIDA.

On the motion of Mr. MALLORY, the Senate proceeded to consider, as in Committee of the Whole, the bill from the House of Representatives to legalize certain entries of public land made in the State of Florida, and no amendment being made, it was read a third time and passed.

#### CLAIMS AGAINST THE GOVERNMENT.

Mr. UNDERWOOD. I now ask the Senate to proceed to the consideration of the bill which has been lying on the table for several days, and which I would like to have recommitted. It is a bill to amend and extend the provisions of an act approved July 29, 1846, entitled "An act in relation to the payment of claims."

The PRESIDENT. The bill will be taken up for a third reading, if such is the pleasure of the Senate.

Mr. UNDERWOOD. I feel very reluctant, Mr. President, to throw myself upon the indulgence of the Senate at this late hour to ask for the consideration of a subject which I really deem of considerable importance. This bill proposes to legislate upon the subject of claims against the Government. It proposes to punish members of Congress and officers of the Government for certain acts; but it allows citizens, who are not members of Congress nor officers of the Government, to escape punishment for doing the same things. I do not feel exactly willing to be prescribing punishments for members of Congress and officers of the Government, and permit everybody else to go scot-free. While we are legislating upon this subject, I desire to embrace the whole, and to prescribe punishments for those agents out of doors who, I think, by their conduct, are as much amenable to the censure of morals, and should be as much under the condemnation of the law as members of Congress and officers of the Government. When you come to examine that bill, you will find that there are no penalties to be inflicted on citizens and agents such as are imposed on members of Congress and officers of Government.

What is the object of this bill? It supposes that there are various improper practices existing in reference to the claims against the Government; that members of Congress prosecute claims for themselves; that by their contracts they become interested in claims, and then vote for bills to pay them, and thus put money in their own pockets. Sir, that imputation, made against members of Congress by the bill itself, is one that I am very much disposed to shudder under. I do not like it. I scarcely know how to express myself with regard to it. But it is an imputation against members of Congress, made by the bill itself, which strikes everybody as a thing to be regretted. But while we make that imputation, I think that in making provision for the punishment of the offense, we should go to the whole extent and reach everything which public rumor has alleged to be improper.

Well, sir, to make imputations against the officers of the Government, and say that they act improperly in the executive stations which they hold, is likewise a matter which should give none of us pleasure; and I am sure that every right-minded Senator would feel a disposition to lament that



such malpractices exist among our executive officers as to require penal statutes for the purpose of reaching and suppressing the evils. But evils, I fear, do exist; not confined to the officers of the Government; not confined to members of Congress; but, I believe, existing in many cases far more injurious than those intended to be suppressed by this bill. One of them consists in this: There are those who go through the country, hunting up claims against the Government, which are not well-founded; and, having sought and found them, they set up and support the claims by subornation and perjury. Sir, I regret to say that, in my own State, we have had cases of that sort, and that we have prosecuted and sent to the penitentiary those who have been guilty of this very crime. Claims may be fabricated and sustained by perjury, and the laws, perhaps, are now sufficient to punish the perjured witness. But claims may be just, in part; and, if speculating agents are allowed to purchase them, there is great temptation operating upon them to enlarge the claim. It is almost, or quite, impossible to convict an agent of subornation. The only effectual remedy is to prevent him from purchasing or prosecuting claims for an interest in the claim, and thus to remove temptations from before him.

There is another class of evils which this bill does not reach; and, if rumor tells the truth, it is a crying evil. There is a class of agents who speculate on those who own just claims against the Government, inducing claimants to believe that they have influence with members of Congress, and then selling their pretended influence to claimants for a large price. They say to such persons: "If you do not pay me so much, I will exercise all my influence with members of Congress to prevent them from passing your claim; but if you fee me, I will secure its passage." In this way, I am told, there are persons in this city, who are rewarded bountifully for the exercise of their real or pretended influence with the members of Congress. It is also said that these persons tell applicants for office, "We have much influence with the Departments, and with members of Congress, and if a Department should be reluctant to appoint you, we can bring in the aid of members of Congress to second your application; and, for \$500 or \$1,000 can obtain a commission for you." Now, if these things do take place—and rumor says that they do—and if there is a class of agents of that description located at the seat of Government, they should be rendered as liable to prosecution as that class of agents who are prowling all over the country, even to the very extremes of our empire, hunting up and purchasing claims against the Government, supporting them by *ex parte* and false testimony, and getting them passed here by transferring an interest to members of Congress.

What does this bill propose to do, even supposing that members of Congress, and the officers of the Government, are guilty of the practices which it is intended to punish? Why, the punishment is only some six months' imprisonment, and a fine not exceeding \$1,000. I ask Senators, what kind of punishment a fine of \$1,000 would be, in a case where the claim was some \$100,000 or \$200,000, and where the agent puts one-half the receipts into his own pocket? It would not be as a "drop in the bucket." What would he care for \$1,000, if he could secure, by the operation, a portion of the public plunder, amounting to hundreds of thousands of dollars? Nothing at all. He would only laugh at you. Sir, if we do anything, I am for making persons, in cases of that sort, disgorge every dollar, and I think I can do it. I can prescribe a mode of reaching him, which will make it certain that there will be a witness against him, and he shall know, when he takes the money, that there is a witness who can expose him. And I can furnish a motive to that witness to expose and take from him every dollar. Do that, and you will remove temptations, and lessen the disposition which now exists to procure *champerty* and *maintenance* contracts. Do this, and the speculating agent, officer of Government, or member of Congress will see, as soon as he has received the money, that there is a witness who knows he has received it contrary to law, and that the witness can make him disgorge every dollar. Men are not likely to offend in the face of certain exposure, when profit is impossible. I think that, when you legislate upon this subject, you should not stop at a fine of \$1,000, but go to the extent of the money

the offender receives, and make him pay back every dollar of it.

Sir, in the wisdom of our English ancestors I have some authority for my opinions. I can state to you what were the old laws of England against *champerty* and *maintenance*, and you will see that these laws have a direct application to the objects of this bill. I wish to adopt, in substance, their provisions, as you will see when I read the substitute which I propose in lieu of this bill. By the statute of 20th Edward I., *champertors* were punished by imprisonment for a term of three years. In this bill we only propose an imprisonment of six months. These contracts in regard to claims, it is true, are not exactly what is called *champerty*; it is not a division of the field; but it is in principle the same thing as a division of the field. Our English ancestors not only punished *champertors* by inflicting an imprisonment for three years, but, in addition thereto, fined them at the pleasure of the Crown. I will refer you to a subsequent statute. Your bill only proposes an imprisonment for six months, and limits the fine to \$1,000, although the party thus prohibited from the prosecution of claims may put a hundred thousand dollars in his pocket by violating your law. I therefore say that in the legislation of our English ancestors there is an authority condemning your present legislation, and showing that you do not go far enough. By the 32d Henry VIII., in order to punish maintainers, the law required them to refund the whole of the amount received—one half to the use of the Crown and the other half to the use of the informer. This, Mr. President, is a principle which I wish to apply in this case. I desire that the individual who, by these forbidden and prohibited contracts, improperly obtains large sums from the Government should be compelled to refund every dollar, precisely as the statute of Henry VIII. required that the maintainer should refund every dollar.

Now, sir, I have suggested my objections and shown that the bill does not, in my opinion, go so far as it ought to go. I will read what I have prepared as a substitute; and then, if the Senate should think it worthy of their consideration, I should be glad to have the original bill and the substitute referred to the Committee on Claims. That committee can compare the bill as it now stands with the substitute, and if the substitute is too stringent, if it goes too far, if it punishes too severely, then modify it, and mollify it; but, sir, it does seem to me that the bill as it now stands, does not take hold of the evil in its full extent; that the penalty of one thousand dollars is wholly inadequate as a punishment to the individual who may receive fifteen, or twenty, or a hundred thousand dollars by violating the law.

Again, there are one or two operations of this bill which I conceive to be unjust, and I desire to call the attention of the Senate to them. This bill prohibits and makes void all contracts whatever, in relation to claims against the Government until after they have been allowed, and the warrant for their payment has issued. Now, I am not disposed to indorse that. I think that if a gentleman has an honest claim against the Government, he should, at least, be permitted to use that claim, to mortgage it, or to pledge it as security for a *bona fide* debt, or, if he pleases, for the purpose of raising money. I do not see any objection to allow him to use what is justly due to him, for purposes of that nature. That is not the evil; the evil that we wish to reach is, to prevent such contracts in relation to claims as will induce the agent or attorney with whom the contract is made, to resort to improper practices for the purpose of getting a claim allowed or passed. That is the evil; and I cannot perceive how an individual's mortgaging or hypothecating his claim for an honest debt, or to raise money which he may wish to use in some other way than in the prosecution of the claim, can amount to any evil at all. I therefore think that the operation of the bill, as it stands, is prejudicial to the rights of contract, and should be modified. You merely declare all transfers void until the warrant for the payment issues, and then you leave it in the power of the agent to appeal to the honor of the claimant to make the assignment or transfer, which he is certain to do, unless he is utterly mean and degraded. And thus it is, your bill leaves the evil to go unpunished, except in regard to officers of Government and members of Congress. Sir, in

regard to all past contracts, they should stand, and agents should have the benefit of them; but, in regard to the future, I am for turning over a new leaf.

There is another provision of this bill, which I think should not be sanctioned. It is this: it punishes officers of the Government connected with Departments, who may aid or assist in the prosecution of claims, although they receive no reward for so doing. In the other provisions of the bill, the punishments are connected with the reception of rewards on the part of the individual who prosecutes improperly. But in regard to officers of the Government, a captain in the Army, or a clerk in a Department, for instance, if he assists an old father or mother, or brother, or sister, or friend, in the prosecution of a claim against the Government, though he does not receive a cent, or any benefit whatever, he is liable to be indicted, and punished by imprisonment for six months, and a fine of \$1,000, under the operation of this bill, as I understand it. Now that seems to me to be a degree of rigor, for the exercise of mere benevolence towards a friend or relation, which is excessively severe. There is no evil, it seems to me, likely to grow out of gratuitous service rendered for a relative or friend. There is no motive to induce an officer to suborn witnesses when he has no interest at stake, or to act corruptly in any manner whatever. If an officer in the Departments should give information to claimants, which the books in their custody would furnish, I think it is all right and proper, provided they do so without fee. Indeed, I think they should be compelled to give such information. I am against Government secrets, which cheat people out of their honest dues. And yet, if a clerk should communicate to a claimant a fact which is verified by the records of his office, I do not know but he may subject himself to fine and imprisonment under the provisions of this bill, for aiding in the prosecution of the claim.

I think these suggestions are worthy of consideration. To inflict punishment in such cases as those I have just mentioned, would be an act of unmitigated cruelty; and yet, if I understand this bill correctly, it may be done.

There is another thing to which I have repeatedly called the attention of the Senate, and which I have provided for in my substitute, but which is not provided for in this bill. It seems to me to be a fit occasion to introduce it, and I hope it may be done. I have again and again called the attention of the Senate to the double payment of claims, for the same service, to two different families, operating by two distinct sets of agents. The Treasury has suffered largely in that way. I have called the attention of the Senate to a case happening in my own family. An old revolutionary uncle of my own, by the name of John Rogers, died shortly after the war, and was entitled only to some few years' half pay, and his family received the amount due for his services some twenty years ago. That family held his two commissions, the one of a captain and the other of a lieutenant, and they held his diploma as a member of the Society of the Cincinnati, and held and used the lands obtained as bounty for his revolutionary services. And a few years ago, another family came forward, claiming to be the heirs of the same Captain John Rogers, and on that claim took some \$10,000 or \$20,000 out of the public Treasury. Now, one of these families ought to disgorge. It is not right that both should be paid in consideration of the same services of the same man. My bill proposes a remedy for cases of that sort. It is that the payments made by the Executive Departments shall not be considered final adjudications, concluding the rights of the United States, but that in all cases like this such payments shall be open to judicial investigation; and it shall be the duty of the proper officers of the Government to institute proceedings to recover the money thus improperly paid. I have mentioned this subject often, and two resolutions have been sent to the Committee on the Judiciary, to request them to consider whether it requires any legislation of this sort, and if it does, to apply the proper remedy, so that where such double payments have been made for the same service the matter shall be rectified and the Government shall not be swindled.

These are the reasons and motives which have led me to pay attention to this bill. I know it may be said that I have sat here, and negligently

allowed the bill to progress until it had passed to its engrossment, and have said nothing upon the subject. In answer to that, sir, my apology must be, that it is impossible to attend to everything in due time. I do my best to keep up with the business; I pay attention to many things, but I find that a great deal passes here that I am unable to notice, and that is the reason why I have not called the attention of the Senate to this matter at an earlier period.

I have nothing to do now but to read what I conceive to be a fit remedy for all the evils which I have mentioned; and if I can so far meet with the approbation of the Senate as to have the matter referred back to the committee, and let them have both the views I have suggested, and the amendment which I propose, I shall be perfectly content if they return the bill back, and say that what I have proposed is not worthy of a moment's consideration.

My substitute provides that it shall not be lawful for any member of Congress, or any other person whatever, to contract for, or to purchase an interest in, any claim against the Government of the United States, or any Department thereof, before the same has been settled and allowed by the proper authority, except as a security for a *bona fide* debt, or for money loaned, having no connection with the prosecution of the claim. Nor shall it be lawful for any member of Congress, or any other person whatever, to engage, contract, or agree, in consideration of an interest in a claim against the United States, whether such interest be the entire consideration or only a part, to aid, assist, or give counsel, in any manner whatever, in the prosecution of such claim. Nor shall it be lawful for any member of Congress, or any other person whatever, in consideration of money or property thereafter to be paid, conveyed, or delivered, upon the condition that the specified claim against the United States is allowed or paid in whole or in part, to engage, contract, or agree to aid, assist, or give counsel in the prosecution of any such claim. Nor shall any member of Congress receive any gift, present, fee, or reward, other than his lawful wages, for his vote, or for attending to any business pending before Congress, or before any board of commissioners, when the Government of the United States is bound to pay the award of such board, or for recommending a person, or using his influence to procure an appointment or office for any person. Nor shall any person whatever receive any gift, present, fee, or reward for his or her influence, to be exercised in any manner whatever, in procuring the passage of a law, or an appropriation by the Congress of the United States, in favor of any individual, company, corporation, or State; or for recommending a person, or using his or her influence to procure an appointment or an office for any person. And all such practices, contracts, and agreements are hereby declared to be misdemeanors, and are prohibited. And any member of Congress, or other person, who shall, in any respect, violate either of the provisions aforesaid, shall, on conviction before any court of competent jurisdiction, be punished by imprisonment not exceeding six months, in the discretion of the court.

Now, sir, the second section goes on to require that he shall refund the money received. The first section, you will perceive, imposes a punishment of six months' imprisonment for violating the provisions of the act. The second section of the bill provides for a fine of \$1,000, in addition to imprisonment. My second section goes on to provide, that any member of Congress, or any other person, who shall receive any sum of money or thing of value, under, or in virtue of, any contract, agreement, or engagement, forbidden by the first section of this act, or who shall accept any gift, fee, donation, or reward, in violation of the said section, shall refund or restore the money or thing received to the person conveying, paying, or delivering the same; and, if it be not so refunded or restored within three months after it has been received, it shall then be lawful for any person to sue for and recover the same in the name of the United States; one half for the use of the person thus instituting the suit, and the other half for the use of the Government.

Then comes my third section, which I intend to meet the last class of evils which I pointed out. It provides that payments of money made by any of the Executive Departments or officers

of the Government, in satisfaction, either in whole or part, of any claim, shall not be considered final and conclusive, so as to bar a suit for the recovery of the money, when it may have been erroneously paid; and all payments made under the decision of any of the Executive departments of the Government, shall be open to reinvestigation in the courts of the United States, before whom it shall be the duty of the proper officer to institute suit for the recovery of any money paid through error, fraud, or mistake.

I am told that where a payment is made under an award of an Executive Department, it is regarded as final and conclusive, like the judgment of a court, so as to bar any suit by way of reinvestigating the matter. The object of this proposition is to prevent a payment made under the award of an Executive Department from having this binding and conclusive effect. I do not know—indeed, I am inclined to question the propriety of that opinion under the law as it now stands—that any payment made by an Executive Department is binding and conclusive, so as to bar a judicial investigation. But surely, if there be any doubt on the subject, it cannot be improper to remove all doubt by an express provision that such payment shall not be final and conclusive. This is a question that I have referred, time and again, to the Committee on the Judiciary, to inquire whether it be necessary to legislate. But whether it be necessary or not, it can do no harm to make a provision, saying, that such payments shall not bar a judicial investigation.

Mr. BADGER. Mr. President, I understand that my friend from Kentucky desires that this bill should be recommitted. I hope that proposition will not obtain the sanction of the Senate. I took great pains, when I introduced this bill, that the nature and purport of it should be, without any loss of time, known to the Senate. The day that I offered it I asked and obtained an order of the Senate that it should be immediately printed, contemporaneously with its reference to the Committee on Claims. It was prepared with some consideration. It was carefully examined by the legal gentlemen who belong to that committee. It was reported with certain amendments. These amendments have been considered and adopted by the Senate, and the bill has been ordered to a third reading. Now, I think, as my friend from Kentucky either would not, or did not, for whatever reason, pay attention to this bill during any of the earlier stages of its discussion, that it is far better that he should allow it to pass; and if there are any further or other evils that require correction, let him bring forward his measure for that purpose; and I assure him, as far as I am concerned, to such an extent as they are real evils, and capable of being relieved, he will receive my hearty concurrence.

Now, sir, the provisions of this bill are very simple. The bill was not intended to embrace and cover, and remove, and provide a remedy against all the evils which exist in the Government. It was confined to one or two specific purposes. It was intended for the benefit of a class of men who are entitled to the aid and assistance of the Government—for the benefit of the poor and ignorant, who have claims against the United States, and who are put under the necessity, as the law now exists, of submitting to the most grinding oppression—the most cruel and merciless oppression—for the purpose of getting their claims brought forward and sanctioned here in Congress, or before the Executive Departments.

It was intended, in the second place, to protect the United States, because, as the law stands at present, the largest inducements are held out to crafty or dishonest men to get up, by whatever means, maintain, and carry through before the Departments, or before Congress, claims that are really unfounded, or claims that are greatly exaggerated. The bill, as drawn, sought to accomplish that object by a simple, plain, and practical provision; in the first place, that assignments of contracts for pay, claims, or portions of claims, should be made void until the claim should have been settled, its amount ascertained, and a warrant drawn for its payment; when the claimant, knowing what he was entitled to, and having the legal means to possess himself of it, no longer needed our assistance or protection, and could make what disposition he pleased of it. There is no hardship in that, certainly.

My friend from Kentucky speaks about the assignment of property. Why, sir, a claim against the Government is not property. According to the principles of those "Old Fogies"—our old English ancestors, in the time of Henry VIII. and before—no debt was the subject of assignment—founded upon the principle, that if A owes B money, B cannot make A debtor to C without the consent of A. The assignability of contracts is a matter of positive law, and they are assigned, or they are made unassignable, just in proportion as public policy and the interests of the country require. Hence, we here, and in England, have allowed the ordinary securities of the country to be assignable. We have allowed promissory notes to be assignable, putting them upon the footing of those foreign commercial securities known as bills of exchange. But, to this day, open, unliquidated contracts are not the subjects of assignment by law; and such assignments are merely void, except as courts of equity, for certain purposes, assume jurisdiction over them, and exercise a large discretion to do justice.

The next object was to protect the Government, by preventing the Executive officers of the Government from employing themselves, while they hold office under the Government of the United States, and are paid by the Government of the United States, from availing themselves of their opportunities to hunt up and to prosecute claims against the Government. It is needless for me to say to what crying abuses such a privilege has already led, and must continue to lead, unless it is put an end to.

Then, the committee incorporate another provision into this bill, for the purpose of prohibiting the discharge of similar services, for compensation, by members of either House of Congress. That would have been, by me, incorporated into the original bill, if I had, at the moment, seen the precise mode which the committee hit upon, of so passing a law as not to impede members of Congress in the discharge of those *quasi* duties which they owe to their constituents, of attending to their interests.

If there are any further evils to correct, let my friend from Kentucky bring forward his bill to remedy them. He has undertaken to enumerate evils. His enumeration, when we come to examine it, is entirely imperfect. He talks about those cases of "*champertry*," and the cases of "*maintenance*," which he says, according to common rumor affect the proceedings of Congress, and affect the proceedings of the Executive Departments. Well now, according to common rumor, there is another class of evils of that kind, to which my friend has not alluded at all. It is said that sometimes measures are carried here; it is said that sometimes measures are carried through the Executive Departments; it is said that sometimes appointments are obtained under the very gentle but powerful influence of the other sex. Under what head of the "old fog" titles of the ancient days he would have included that particular adverse and injurious influence, (if he so considers it,) I do not exactly know; for he has not said. I know but one, and that is the old offense of "*embracery*." [Laughter.] But, Mr. President, I am sorry to be led into anything like a jocose remark upon this subject. This bill is an important one. It is calculated, as far as it goes, to do good, and, so far as I can see, to do no harm. I hope the Senate will not recommit it. It ought not to be delayed. Every hour that it remains here until it becomes a law, is only extending the period within which those harpies that play upon the ignorant and undesigning may secure to themselves, in anticipation of its passage, the assignments which they will afterwards be able to enforce. I hope we shall pass the bill. If there are other evils to be corrected, let my friend bring forward his bill. This has been carefully considered. It has been matured by the Committee on Claims. Amendments have been proposed by that committee. Those amendments have been sanctioned by the Senate. It is now ready for its passage. I hope that we shall not postpone the further consideration of the bill, because it does not reach all imaginable or unimaginable evils.

Mr. UNDERWOOD. Mr. President, I did not object to the bill solely upon the ground that it did not propose a remedy for all imaginable evils. I objected to the bill because it had positive defects, as well as omissions, in my opinion. One

of the defects which I pointed out was a prohibition of the right to transfer a just claim against the Government even to secure a *bona fide* debt, or a sum of money advanced. Now, I know, as well as my friend from North Carolina, whose astuteness as a lawyer I have had many occasions to test and to admire, that, according to the old common law, *choses in action* were not assignable. But I know perfectly well that the policy of this country in many States has modified, and in very many instances, if not in every case in all the States, has repeated this old common-law rule, and made *choses in action* transferable and assignable. That is the rule in my own State. That being the law in my own State, I want to secure to the citizens of my State the same privileges in reference to a claim against the Government of the United States that they would have in reference to claims amongst each other. I want them to have a right to use those claims in the advancement of their personal interests, for lawful and legitimate objects. But at the same time that I want to secure that, I am for punishing them for making any improper use of this privilege. I make that distinction. So much for the argument of my friend on that point.

Now, I have to inform him, by way of correction, as he corrected me the other day in a calculation—and I take pleasure in paying him back—that he was in error. I like to discharge all debts. My friend from North Carolina was so anxious to display his wit—as he generally does upon occasions of this sort—that he did not attend to the reading of the provisions of my substitute. I wish to read a portion of it to him again; and he will find that even “*embezzlement*,” to use his own term, is provided for. My substitute provides—

“Nor shall any person whatever receive any gift, present, fee, or reward for his or her influence to be exercised in any manner whatever in procuring the passage of a law, or an appropriation by the Congress of the United States in favor of any individual, company, corporation, or State, or for recommending a person, or using his or her influence to procure an appointment, or office for any person.”

So, then, it will be perceived that my friend's fruitful imagination in imputing defects to my proposition, has failed on the present occasion. I knew his great susceptibility to that kind of influence, which seems to have entered into his thoughts. That ethereal sex has as much influence upon me, I hope, as upon him. I wanted to guard both him and me against it. Therefore I provided for it in my amendment.

I hope that, as no great delay can occur from this matter again going before the Committee on Claims, who have prepared this bill, and as really the subject, in my humble judgment, is one that is of vast importance to this country, and to our own honor and credit, it may be permitted to take that course, and let the committee see whether there are any suggestions in my proposition worthy of consideration. If there be not, then they can report the bill back to-morrow, or the next day, and I shall be content. I have no pride of opinion in this matter—none whatever. I have already accounted for the reason why I could not attend to the matter earlier. I do not care about making any argument. I do not feel any kind of gratification in submitting a speech on the subject. I have acted because this matter, while I was a member of the Committee on Claims, was occasionally talked of in that committee, and because one branch of this amendment has been a matter that I have looked at for years, for it grew out of personal and family transactions, and it could not escape me. Having thought upon it in the manner I have done, I deemed it proper to bring it to the attention of the Senate.

One remark more. We gentlemen here are to blame, in a great degree, for all this, by not providing a board, or court of claims, before which the claims against the Government could be settled. If we had an efficient court, or board of claims, which should consider all claims presented against the Government, you would never hear of those personal imputations which this bill unfortunately provides for against members of Congress. These claims would then go through a judicial tribunal. That tribunal would settle the merits of the claims, and report to us what allowance ought to be made. If we thought they were improperly settled, we could exercise a sort of revising control over the board. I humbly conceive, that while we are upon this subject, members of Congress cannot do better than to reflect seriously

upon the propriety of establishing a board of claims, before whom these cases should be adjudicated, and thus take them away from the action of members of Congress until they shall have been adjudicated by such a board.

Mr. BADGER. Mr. President, I do not think my friend has relieved himself at all from the difficulty which I pointed out to him; for when you come to consider his proposition, it merely excludes the influence to which I have alluded when that influence is given for “fee or reward.” Now, the danger of that influence is the higher when it is not mercenary, but is gratuitous, and more completely takes away from those upon whom it is brought to bear, the calm exercise of a judicious understanding. That is my answer. I will not go into the question of the propriety of the establishment of a board of claims, for I do not see exactly that it has much to do with this question.

Mr. MASON. I think it is perfectly manifest to the Senate that the unfortunate difference between the honorable Senators from North Carolina and Kentucky is irreconcilable; and as the hour is late, I move an adjournment.

The motion was not agreed to.

Mr. ADAMS. Mr. President, I cannot vote for the recommitment of this bill, for the reason that I think the evils intended to be remedied are, so far as legislation can prevent them, already provided for by the bill as reported by the committee. The main object of the bill is, as I understand, to reach a class of cases which cannot, in any other way than that pointed out by this bill, be reached. It is known that persons having claims against the Government, who are uninformed in relation to their rights; are necessarily compelled to employ others to prosecute those claims. As the practice now is, the whole of the compensation, and the rights of the parties, depend to a great extent, upon the agents for claims. The object of this bill is to shift and to change the character of the rights of the parties, so that the claimant himself, or herself, may have it in his or her power to make such compensation as he or she may think proper, and not leave it to any agent to demand just such compensation as he may think proper.

According to the decision of Attorney General Gilpin, at a former day, upon common-law principles, the agent or attorney had a lien in the Department upon the recovery, against the Government for the amount of the contract, be it one half, or more or less. The Attorney General, in the case of an Indian, decided that inasmuch as the recovery was the result of the labor of the attorney, he had a lien, upon common-law principles, to the extent of his contract, upon the recovery, and that it must be paid to the agent, and to nobody else. When Governor Marcy was Secretary of War, that rule was reversed. But since that time, I understand that the opinion of Attorney General Gilpin now prevails in the Departments, and that when an individual recovers a claim, a *caveat* is filed at once for ten, twenty, thirty, or even fifty per cent., and the claimant is compelled to yield to whatever the agent may demand of him, or may allege or prove that he has agreed, perhaps with an imperfect knowledge of his rights, to pay.

The object of this bill is, that the claimant shall have the liberty of complying with his contract or not, as he shall think proper; so that the agent must rely exclusively upon the honor of the individual who employs him. That is the great object of the bill. For myself, I think that there is no danger of a claimant failing to pay a reasonable compensation. It is utterly impossible to prevent *champerty*. All that Congress can do, is to throw the parties upon the contract, and if individuals make contracts, let them go to the courts of justice to enforce them. Let us not give these agents the privilege of filing their *caveats* in the Departments, and prevent honest claimants from getting their money, after having been delayed year after year in procuring it.

This is the great object of the bill. There are other provisions with reference to members of Congress, and preventing them from prosecuting claims for a consideration. This is right and proper. But, as to the amount of penalty to be annexed, we know that it never will be enforced. If persons are disposed to avoid it, they will do so. But, according to the provisions of the bill—and this is one of its main features—they must go into the courts of justice, in order to enforce their con-

tracts. I do not see that the bill could be much benefited by a recommitment. The Committee on Claims have carefully considered the matter, and I think the bill which they have reported is a very good one.

Mr. BRODHEAD. I have only to say, that I concur in the views expressed by the honorable Senator from North Carolina, and by the honorable Senator from Mississippi. I think this is a very good bill as it stands. It goes pretty far. I do not wish to detain the Senate by any remarks. I will, therefore, merely say, that I hope the motion to recommit the bill to the Committee on Claims will not prevail, but that we shall pass it at once.

The motion to recommit was not agreed to.

The bill was then read a third time and passed.

On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 12, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

### PRINTING OF CONGRESS.

Mr. STANTON, of Kentucky. I desire to make a report from the House members of the Committee on Printing, and I hope that by unanimous consent of the House, the report will be ordered to be printed, and that its consideration will be postponed until Tuesday next, or to any other day that suits the convenience of the House.

Mr. HOUSTON. I object to the reception of the report, if it is to be postponed until any day that will give it the preference over other business.

Mr. KING, of New York. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the report from the Committee on Printing. The gentleman from Kentucky proposes to make an additional report from the same committee. There is a rule which gives that committee power to report at any time.

Mr. HOUSTON. The Committee on Printing have a right to report in connection with the current printing; but will the Chair decide that they have a right to report in favor of private claims that have been referred to them, so as to give those claims a preference over claims referred to other committees? I must object to the report, if it is to take precedence over the regular business.

Mr. OLDS. I make another point of order, and it is this: that the regular order of business is the consideration of a report from the Committee on Printing, which, being a privileged question, cannot be superseded by another privileged question.

The SPEAKER. The Twenty-first joint rule is as follows:

“It shall be in order for the Committee on Printing to report at any time.”

The Chair therefore overrules the point of order made by the gentleman from Alabama, but sustains the point made by the gentleman from Ohio. The consideration of a report from that committee, made in accordance with the rules, must take precedence of another report from that committee.

Mr. FOWLER. I call for the regular order of business.

The SPEAKER. The regular order of business has been called for, and the Chair has stated it.

Mr. FITCH. I understand, then, that the report from the Committee on Printing is the regular order of business, and that it is now under consideration. I ask that the resolution may be read.

The SPEAKER. The question is on the adoption of the following resolution, reported from the Committee on Printing:

*Resolved*, That the Committee on Printing, under the joint resolution of the third of August, 1846, “have power to adopt such measures as may be deemed necessary to remedy any neglect or delay on the part of the contractor to execute the work ordered by Congress, and to make a *pro rata* deduction in the compensation allowed, or refuse the work altogether, should it be inferior to the standard; and in all cases may hold the contractor and his securities responsible for any increased expenditure consequent upon the non-performance of his contract.”

Mr. JOHNSON, of Tennessee. By the permission of the gentleman from Indiana, [Mr.



FITCH.] I would make a single suggestion, and it is this: we have had a measure (the homestead bill) pending before the House for some time, and it seems to have been in the way of other business. Now, if we go into Committee of the Whole on the state of the Union to-day we can dispose of that bill and get it out of the way. I understand from the members of the Committee on Printing that they have no objection to the postponement of this matter; and I would suggest, therefore, that we should go into committee, and finish the homestead bill. The gentleman from Indiana will still be entitled to the floor when this matter comes up again.

Mr. GORMAN. With the permission of my colleague, I will move to postpone this matter until Monday next.

Mr. CLINGMAN. The territorial business is the special order for the whole of next week.

Mr. STANTON, of Kentucky. I desire to know what is the condition of the report I made a few minutes ago? I understood the Chair to say that I had a right to make the report.

The SPEAKER. Then the gentleman from Kentucky cannot have heard the decision of the Chair on the point of order raised by the gentleman from Ohio, [Mr. OLDS.]. The Chair decided that notwithstanding the Committee on Printing have a right to report at any time, they have no right to make reports, the consideration of which will come in conflict, and that, in the opinion of the Chair, one report from that committee being the first business in order, it must be disposed of before the committee can make another report. In other words, the Chair decides that the first report from the committee being the first business in order, it must be disposed of before another report can be thrust on the consideration of the House. Otherwise, where would be the place of the second report, unless, by unanimous consent, it was received, and its consideration postponed to some future day? It could not take precedence of the report now before the House.

Mr. FITCH. I would yield with great pleasure to the gentlemen who desire the postponement of this matter, but it is manifest that if postponed now, it cannot be taken up again for a long time, as there is a special order which will occupy a great part of next week, if not the entire week. It is as important to dispose of this printing question as it is of the homestead bill, which the gentleman desires to take up, for they are both alike in the way of all other business. I therefore prefer the discussion of the former should be had now, particularly as it is a special order for to-day, and the sooner it is disposed of the better for all parties.

The wide range taken in the previous debate upon this subject has necessarily associated with its further consideration questions which were not originally connected with it. But I desire to travel as little beyond the immediate issues before us as an answer to the previous defense of the action of the committee will admit—such answer as that defense seems to require.

My friend and colleague, [Mr. GORMAN,] the chairman of the Committee on Printing, during his closing remarks upon the previous report of the committee, reiterated a charge which had been before made, and before denied; that a coalition existed here, having for its object the defeat of the action of that committee—a coalition composed of gentlemen, mostly Democrats, entertaining opposite sectional sentiments. Now, as I have before said; I do not belong to either of the extremes, (Free-Soilers and ultra State-Rights men,) between which the coalition is alleged to exist; but having acted with those who have opposed the action of the committee, I may be supposed to know something of their motives and views. I can, therefore, say, as I have said before, that no such coalition exists outside of the imaginations of those who make the charge. And even if it did exist, it would be powerless here; at least it would not constitute a majority, as was clearly proved but a few weeks since by the votes upon the compromise resolutions. The two extremes, between whom a coalition is now alleged to exist, opposed those resolutions; but, notwithstanding their opposition, the resolutions passed; and thus it would be now, if such coalition existed—it would be powerless in opposition to the action of the Printing Committee. It has been only by the votes of many of the National Democracy that the proposed action of the committee—the consum-

mation of their intentions—has been hitherto prevented. The only coalition that can even be suspected to exist, is one which might be inferred from circumstances to exist between the members of the committee, of opposite politics, and those who sustain their action in the House. I do not allege that there is such a coalition; but if circumstantial evidence is to be received in proof of its existence, the proof will be found to be so strong as to justify any jury of intelligent men in hesitating long before relieving the parties concerned of the charge by a verdict of "not guilty."

Now, sir, I desire to revert for a few moments to the first report from the committee, and to a resolution adopted by the Joint Committee on Printing, which accompanied that report, and to call the attention of the House to a few facts connected with both. That resolution was irregular, because it was reported from a joint committee of Congress, by a majority not recognized by the rules which ordinarily govern the proceedings of joint committees. It is well known that the majority necessary to enable a joint committee to report must consist of a majority of the committee from each body—the House portion and the Senate portion respectively. But in this instance, there never was a majority of the Senate committee. It was only a numerical majority of the joint committee that adopted that resolution.

Again: that resolution was irregular, because it was not the resolution which the committee directed to be reported; it was another, as the records of the committee will show, and as the then chairman of the Senate portion of the committee [Mr. BORLAND] has declared.

During the discussion upon that report, it was charged that opposition to the action of the committee, was opposition to Donelson & Armstrong, and the chairman of the House portion of the committee [Mr. GORMAN] proceeded to defend those gentlemen before they were assailed, and to defend them against members who had no thought of assailing them—against members who were in fact, better friends of Donelson & Armstrong, and of the Democratic party, than were the Democratic members of the committee themselves, because he was defending them against members who would have saved those gentlemen and the Democratic party from the odium of a partnership with a leading political paper of the opposite party—a partnership, not for the dissemination of political principles, but for a division of profits—of money from the National Treasury; and would have saved them from the charge of corruption, which such a partnership would inevitably originate.

[Here a message was received from the Senate of the United States by the hands of ASBURY DICKINS, Esq., its Secretary.]

Mr. POLK. Will the gentleman from Indiana allow me to make a statement at this point in his remarks?

Mr. FITCH. Certainly.

Mr. POLK. It might be inferred from the remarks of the gentleman that Donelson & Armstrong consented to the arrangement of the committee.

Mr. FITCH. I have not so asserted, but such is the belief. I trust it is erroneous.

Mr. POLK. Messrs. Donelson & Armstrong never consented to the combination of the two presses to which the gentleman has referred. They never consented to the action of the committee on that subject.

Mr. FITCH. I am happy to hear it; exceedingly so. I was about to say, when interrupted, that the committee made no defense of the other parties to whom they proposed to give a portion (half) of the printing—Gideon & Co., of the Republic—other than the general statement of the chairman, that the Republic was in favor of the finality of the compromise. Yet, the committee knew that much, very much of the opposition to their action originated from their proposition to give one half of the printing to that paper. Sir, that paper has abounded in unmeasured and unwarranted misrepresentations of the Democratic party, its men and its principles. Yet we find a Democratic committee of a Democratic Congress proposing to place at its disposal, out of the public Treasury, the means of multiplying its misrepresentations, and propagating them more extensively throughout the country, that they may be more effective! Why did not the committee defend Gideon & Co., and the Republic? The mem-

bers of the committee might then have had the pleasure, or the mortification—whichever they esteemed it—of seeing pamphlet copies of their speeches issuing from the office of that paper embellished, mayhap, with a wood-cut of a coon, significant of the office from which it was issued, and typical of the principles of the paper which it defended.

The same exceptions which I take, and which most Democrats would be disposed to take, to the matter of the political editorials of the Republic, that paper and the Whig party generally would doubtless take to the Democratic press, and, perhaps, not without some foundation. Indeed, sir, it is not a pleasant confession, but probably true, that some foundation for such exceptions appears to be inseparable from the management of a political party press. But that is no recommendation to the support and patronage of an opposite party. The exceptions in the case of the Republic do not extend to the manner, so far as ability is concerned, of its editorship. Its columns display an ability for political warfare, a readable raciness of style rarely equaled, an ability which it is to be wished might be imparted to a few more Democratic papers.

If it be admitted that editorial support of the compromise entitles to a reward out of the National Treasury, where are the rewards to stop? If it be proposed to confine them to this city, and be thought necessary to divide them between a Whig and Democrat, another question presents itself—who is to be the recipient of the Democratic portion, Donelson & Armstrong or Mr. Ritchie? It was Mr. Ritchie who edited the Union during the pendency of the compromise measures; it was he who advocated those measures, defended their friends, and assailed their enemies; it was he who fought through in this city the Democratic editorial fight in behalf of the compromise. But we do not understand him as asking a reward for such services out of the national funds, though he may have some claim upon our justice for services rendered, independent of his political opinions or editorial career. And I should regret to learn that Donelson & Armstrong sought any such reward. However, sir, I make no such admission; I do not admit our right to reward any person out of the National Treasury for partisan political services, especially when it can only be done in violation of the spirit, if not the letter, of existing law. And more especially still do I deny the propriety and the right of a Democratic Congress bestowing a bonus out of the National Treasury upon a somewhat unscrupulous partisan paper of the opposite party, and thus giving it the means of rendering itself more mischievous.

I have before said, and repeat it, that if the contract system was not in existence, and the question before us was the election of a printer, I know no reason why Donelson & Armstrong should not receive my cordial support. But in expressing this preference for those gentlemen, I do it not solely and exclusively because they support the compromise, though that has its weight, but because they are Democrats, and editors of a Democratic paper in this city—the "organ," if you please so to call it. They are opposed, and very properly, to secession, or they could receive no support from me for any position; but they are not understood to be opposed to the proper and legal exercise of reserved State rights. Hence reasonable State-Rights men can, and the contract law out of the way, doubtless would, support them. The defense of State rights, to the extent of preventing encroachments upon them by the General Government, (which it has a constant tendency to make,) is the duty of every editor, and still more, of every Representative. If recreant to that duty, they are unfit to be clothed with any trust. Much as I revere the "Union of the States," if I thought the power of that Union was used, regardless of the Constitution, in a manner destructive of the rights and interests of any State, I would resist; but the resistance should be first under the Constitution—should consist in an appeal to the Judiciary, the United States Supreme Court, the last peaceful arbiter in disputes among the States, and between the States and General Government. If the decision of that court was adverse to me and mine, it would be quietly submitted to; but if in our favor, and disregarded, or upon some pretext evaded by the General Government, and its oppression continued, so help me Heaven, I would

advocate forcible resistance—for that would then become a duty both to State and General Government.

If Southern Secessionists had sought a legal—a constitutional remedy for their real or imaginary grievances, no one would have gainsayed their right so to do, or oppose their effort; but their error was, in advocating as a first remedy, and the only one to which they were willing to resort, one outside of the law and the Constitution. No one can class me with either the Northern or Southern extremes in sectional sentiment. I am, like most of the great West, of and with the Nation as a whole—not with the sectional North or South. I neither opposed all the compromise measures, because they were not as favorable to the North as could have been wished, and thus took rank with the Free-Soilers; nor did I denounce such as were favorable to the North, because of their imagined encroachments upon the South, and thus act with their Southern opponents. I voted for most of them, and readily acquiesce in all, not because I think all of them are right—and not so thinking, no motive shall induce me to say so—but because whatever of evil the measures contain sink into insignificance, when compared with the greater evils which we may reasonably expect to result from reopening and reargiting them. For the votes which I did give, I have no whining regrets—such as we have heard expressed for a dodge on the fugitive slave law. I then esteemed those votes right; and have subsequently discovered no reason to change my opinion. Under the same circumstances, the same votes would doubtless be given again. My negative vote upon the passage of the fugitive slave law, was a vote, not against executing the provisions of the Constitution requiring the delivery of fugitives, but against a bill containing features which I esteemed unnecessarily harsh—features indicative, as I have elsewhere said, rather of angry than of enlightened legislation. But the previous question having been sustained, no opportunity was permitted of objecting to any of its features, or proposing amendments, and the only other means left of dissenting from any of the bill, was a negative vote against the whole of it. There is a wide difference between expressing opinions adverse to a measure; or seeking to amend it while pending; or opposing it on its passage, because of objectionable features, and continuing that opposition after it has become a law. The former is a right to be exercised by every independent Representative—the latter is incompatible with the duty of a good citizen. The compromise has passed, and the measures composing it are, it is to be hoped, settled; and no person has a right to go back to the period of its passage, and attempt to make a vote for or against it the exclusive test of Democracy. And such attempt, whenever made, and by whomsoever, will prove a mortifying failure.

While saying this, however, I must be permitted further to say, that it is the duty of every good citizen to acquiesce in all provisions of the Constitution, and observe in good faith all laws necessary to enforce them, although those laws may contain provisions which he objected to having embodied in them; and especially is this his duty when evils greater than the laws contain are likely to result from his refusal to observe them. And believing all Democrats to be good citizens, and nullification of a law, or of a constitutional provision, no part of the Democratic creed, I therefore believe it right and highly proper for the party, as such, to avow their acquiescence in all the provisions of the Constitution, and their observance, in good faith, of all laws necessary to enforce those provisions, and to place that avowal upon record, that the country may see and know their position, to condemn or sustain it, as the majority may deem proper. I have, therefore, acted with those who sustain the compromise, and shall continue so to do; but it is not hence to be inferred that I wish on the one hand to denounce or *punish* those who opposed it, but violated no law in such opposition, or on the other to myself violate a law, as is proposed by the committee in this printing matter, for the purpose of *rewarding* those who sustain it.

Mr. STANLEY. I rise to a point of order, that it is not competent for the gentleman to discuss the compromise measures in connection with this subject.

Mr. FITCH. The compromise has been connected often with the printing by others in the previous debate. I have followed their example,

though, perhaps, it was erroneous in its inception. But the gentleman makes his point of order too late, for I have no more to say upon the subject of the compromise.

Mr. STANLEY. All I want is fair play. I want the same privilege extended to others as to the gentleman from Indiana.

Mr. FITCH. I know of no one to whom I would more willingly extend any such privilege than to the gentleman from North Carolina. I shall certainly, therefore, not object to his exercising it.

Mr. STANLEY. I am confident the gentleman would not.

Mr. FITCH. It will be remembered that during the debate upon the first report from the Committee on Printing, I expressed the opinion that the committee sought to usurp a power belonging exclusively to Congress—namely, the power to practically repeal or suspend the contract system, and to declare who should, and who should not, be the public printers. I declared that their action, if sustained, must result in making their favorites the printers to Congress, for that, by withholding from the contractor a portion of the printing, perhaps the profitable portion, and that he could readily execute, they would justify him in abandoning his contract, and asking for damages, or perhaps coerce him to such abandonment, and all the printing would thus be placed in the hands of their favorites—they would become the sole printers to Congress. The result I then anticipated, if the action of the committee is sustained, has already arrived. The committee informs us, in the report now before us, that the contractor has memorialized them for relief, and intimated his inability to comply with his contract. Therefore, the committee, in pursuance of their plan, will give the entire printing to men selected by themselves, without the knowledge or consent of the House, and contrary to its heretofore well-understood wish. They will indirectly, by their own dictation, have appointed the printers to Congress, and set aside the law and the contract system. They will not pretend to say they have the power to do this directly—they will not deny but the attempt would be illegal. Then why seek to do it indirectly? The latter is equally in violation of the spirit, if not the letter of the law. During that debate, the chairman of the committee, [Mr. GORMAN,] said:

"When the proposition was first made to give the future printing to some one beside the contractor, the question immediately sprang up, whether or not we had the power to do that. The gentleman from New York, [Mr. HAVEN,] one of the members of the committee, who has the reputation of being as good a lawyer as any other in the country, suggested that it was doubtful whether that power could be exercised by the committee. What did we do? Persist in doing a thing about which there was a doubt of our power to do? No! We conceived, therefore, that we had no power to make this transfer for the future printing. Whatever the contractor fails or neglects to do of the printing that is ordered now, according to his contract, we may make arrangements to have done. That was our argument there; it is our argument here, and I am satisfied it convinces everybody here."

Then the opinion of the committee was, that they had no right to contract for future printing—a correct opinion, and one in which the House will readily concur; but subsequent to that time, the committee appear to have had a new reading of the law, or the gentleman from New York [Mr. HAVEN] has discovered a new version of it, or the committee have received light from without, relative to its proper construction, for it appears from the report before us, that they have arranged with a party other than the contractor for future printing, printing not yet ordered.

Mr. GORMAN. If the gentleman will permit me to interrupt him. We have certainly not given one particle of future printing to Donelson & Armstrong. We have simply done this: We have provided for supplying any deficiency where the public printer fails to execute his contract, but not one job has been voted into their possession upon the part of the committee. We conceive that we have no power to give any future printing into the hands of any party other than the public printer, until we find he fails to execute it.

Mr. FITCH. I may have more to say upon this point in another connection. I will now only say, that if this committee have not given the future printing to Donelson & Armstrong, the language of their report is extremely loose, because it informs us that the committee have provided for the execution of printing which may hereafter be ordered, and made that provision with other

parties than the contractor—parties of their own selection.

Mr. STANTON, of Kentucky. If the gentleman will refer to the report, he will find that it says no such thing.

Mr. FITCH. The gentleman does not understand the force and meaning of the language of his own report, or is very oblivious of facts. The language of the report is, that "the committee entered into contracts with Donelson & Armstrong to execute so much of the public printing as had been or might be ordered by the House, and which the public contractor could not or would not do; and with Gideon & Co. to do that ordered by the Senate." If it was illegal and wrong when the chairman made the remarks I have previously quoted, to bestow future printing upon any other than the contractor, it is equally so now; for, however circumstances may have controlled the action of the committee, no circumstances can change the law. I have more hereafter to say of the report now before us.

The committee have assumed, and so has the editor of the Union, that the reference of the first report back to that committee without instructions, was indorsement of their action, and that, therefore, they were justified in pursuing that action. The committee and the editor of the Union must have known that no such indorsement was intended or understood upon the part of the House. Out of deference to the feelings of the committee, the House delicately forbore giving a vote, which would have been construed into one of censure, and hence referred the matter back to the committee without instructions, but with the full understanding that other and different action should be had. It appears that our consideration for their feelings was thrown away, for they have not appreciated it. The understanding that other and different action should be had was based upon the opinions elicited during the previous debate, upon the votes had during that debate, and upon the promises, positive and implied, of the committee. And how have those promises been redeemed? Have we been deceived—sadly deceived? Or have we deceived ourselves? Which ever it may be, sir, if we are deceived again, the fault will be our own. It will be because of our want of determination to enforce that accountability from the committee which it is our right to expect, and their duty in common with all other committees to yield. It will be because of our want of sufficient self-respect to insist that our instructions shall be respected and obeyed. I do not wish to be understood as charging intentional deception to the committee. It was the result probably of a misunderstanding between the House and committee relative to their respective action and intentions. But however it may have occurred—whosoever was the fault, its repetition should be avoided, and it is the duty of the House to place that avoidance beyond the possibility of doubt.

Complaints are made by gentlemen upon this side of the House, of the non-fulfillment of certain promises, which they allege were made them—promises, that if the first report was referred back to the committee without instructions, all of whatever printing was given to any other than the contractor, should be given to Donelson & Armstrong. How has this promise been redeemed? But, sir, whatever others may do, I am not disposed to make any complaint of this character, because no promise controlled my vote, and no promise should have controlled the vote of any other gentleman; first, because it is wrong to vote with a view to the bestowal of the printing upon any individual by the mere action of the committee, on terms higher than those at which it would be executed by others, and in violation of the spirit of the existing law, the contract system. That system is the correct one, and should be enforced to the full extent of the intention of the law.

Mr. GORMAN, (interrupting.) I made the suggestion to which the gentleman alludes, that if that matter was referred back to the committee without instructions, in all probability the whole of the printing would be given to Donelson & Armstrong, and I suppose the gentleman is aware that I acted accordingly.

Mr. FITCH, (resuming.) I look to the result, and find half of the printing is to be given to Gideon & Co., of the Republic, and half of it to Donelson & Armstrong. And no promise, further—

more, should have controlled the votes of gentlemen, because the previous action of the committee should have had more weight than any promise that could come from them during the pendency of a proposition to indirectly censure them by referring the matter to another committee; and again, because it was manifest, by the votes on the other side of the House, that the majority there, though doubtless fully aware of the alleged promises to Democrats, were nevertheless sustaining the action of the committee. Hence it was fair to infer that counter promises were understood by our political opponents, or that they fancied themselves in possession of a key to the manner of a fulfillment of those made to Democrats.

Mr. GORMAN. I will be obliged to any Whig gentleman upon this floor, if he will rise in his place and say that from me he had the slightest intimation—

Mr. FITCH. I do not say it or believe it. There is a Whig upon the Printing Committee.

Mr. GORMAN. That is all satisfactory.

Mr. FITCH. While upon the subject of promises, it will be as well, perhaps, to allude to two or three others. The one I have mentioned was made to individuals. There were promises made to the House. We were told, that if the entire matter was referred back to the committee without instructions, whatever printing they should give out to any party other than to the public printer, should be given upon the terms of Towers's bid. Has this promise been fulfilled? Let that report upon your desk answer. The committee, in that report, and in the late debate, admit that they have deviated from that promise, but tell us that the terms which they have adopted, in giving out the printing to other parties, are substantially the terms of Towers's bid, and that the variations are not material. Now, Mr. Speaker, I do not know what the committee deem material, but it appears from the figures of the terms published by them, and from the statement of gentlemen who know, practically, something of printing, that the difference between the terms of Towers's bid and those adopted by the committee, is some fifteen to thirty per cent.; that the committee have adopted terms much in advance of the terms of Towers's bid. This is a difference which, I apprehend, the country will esteem somewhat material, the opinion of the committee to the contrary notwithstanding. They justify their action in this respect, by stating that they have adopted the terms of Towers's estimate. Now, sir, is it sought, by associating Towers's bid and Towers's estimate, to convey the impression that the terms are the same? There is the difference I have mentioned—a difference of from fifteen to thirty per cent.

The bid by Towers was made more than a year since, when he was competing with Rives, Hamilton, and others for the public printing. The estimate was made very recently—made at the instigation of a gentleman who is interested in having the action of the committee sustained. It was given to that gentleman, as is understood, without any knowledge upon Towers's part of the use to which it was to be applied, and its terms have been adopted, not to give the printing to Towers, who made the estimate, but to give it to other parties, to whom the committee had predetermined to give it under any circumstances. And they gave it to those other parties upon the terms of the estimates; notwithstanding Towers notified them that he was ready and willing to execute the printing in good faith and give unquestionable security therefor, in accordance with the terms of his bid, the terms which the committee had promised to adopt. Have we no cause to complain of the manner of the fulfillment of this promise?

Again: on Thursday, the 6th instant, the day after the instructions were adopted and sent to the committee, we were distinctly told that these instructions should be followed. But I will read the language used:

"Mr. GORMAN. I ask the gentleman from Massachusetts to allow me to make one remark. The House have given us directions in relation to the public printing, and I now give notice that we intend to execute strictly those directions, and if the House wants any of its printing done promptly, it must give some other directions."

And again:

"Mr. GORMAN. I only wish to repeat what I have said, that the House have directed that we shall let out this printing which the public printer cannot execute after ten days' advertisement. Now, the public printer has not done anything according to the contract; and I give notice that the committee will execute strictly the directions of the House,

whatever may be the delay in procuring the printing necessary to be done from time to time."

I am bound to believe that my colleague [Mr. GORMAN] endeavored to carry out those instructions, but was defeated, out-voted, in his efforts in the committee.

Mr. GORMAN. I did; and I felt bound to do so, or resign my place upon the committee.

Mr. FITCH. It matters little, however, what was the cause of the failure to fulfill the promise; its fulfillment has failed; for so far from obeying the instructions of the House, the committee now report to us deliberately their intention to defy and disobey those instructions. They present to us the alternative either of sacrificing our self-respect by allowing them to defy and disobey the House, or permitting them to retire from any further duties upon the committee. Can we hesitate one moment which of these alternatives to accept? No, sir; self-respect, and a proper regard for the business of the House and the legislation of the country, demand our acceptance of the latter. Let it be accepted! We were told, during the previous debate, that a "small section" of the Democratic party was endeavoring to rule the House, in endeavoring to prevent the bestowal of the printing upon partisan editors for partisan purposes, and that we had "tolerated their recalcancy" too long, and that there was no hope of success if it was only "to be purchased at the expense of our long-established principles." True! Yet, sir, we find a "small section of the party" conjoined with a portion of the Whigs, under the lead of the Committee on Printing, asking the House to "tolerate their recalcancy" in attempting to bestow the printing upon their favorites at prices higher than it would have been taken by others, without competition, and in violation of the spirit of the contract system, although our doing so must be "at the expense of our long-established principles;" for there is no better established principle of the Democratic party than the contract system for the execution of the public printing, and opposition to its bestowal, at unnecessarily high prices, upon partisan politicians in payment of partisan services. It is to be hoped that what this "small section of the party" requests will not be granted, and that the law, in its spirit as well as its letter, will govern our disposition of the printing.

The report now before us objects to the instructions of the House, that they contemplate the exercise of a power which the House does not possess. The committee assume that the House printing and the Senate printing each are joint matters, and that, therefore, the House cannot dispose of its printing without the consent of the Senate. But the arguments they use in support of this, are sophistical. As the House pays for its printing out of its own contingent fund, it is not easy to perceive why we should not control its disposition, especially under the circumstances now presented, and when we propose to dispose of it in accordance with the spirit of the existing law. It is surely our duty to guard our contingent fund; and all other Government funds intrusted to our guardianship, as far as possible, from unnecessary expenditure. If the other branch of the legislative department do not choose to exercise a vigilant watchfulness over their contingent fund, but permit it to be squandered for the benefit of partisan politicians, or in payment of the extravagant wine and cigar bills of an adventurer, who may wish to draw upon our gullibility for his own purposes, their example, to say the least of it, does not recommend itself for our adoption.

If we have not the power to order a reletting of our printing, then neither have the joint committee the power to do, as it is admitted they have done, namely, constitute themselves the House and Senate portion each a separate committee, each to have the entire control over the printing of its respective body. In taking such action, the committee assumed a power, the possession of which they now deny to the House, and of necessity to themselves. They assumed that power when they thought it necessary for the progress of a particular plan which they had in view; but they now deny the same power, when its denial, under changed circumstances, is equally necessary to the completion of their plan. They make the House and Senate printing each a joint or separate matter—separate to-day, joint to-morrow, as their will or their plans may dictate.

Mr. STANTON, of Kentucky, (interrupting.) The gentleman makes a statement, which I am sure he makes under a misapprehension, because the Joint Committee on Printing has never divided itself.

Mr. FITCH. Then the report before us is again at fault.

Mr. STANTON. I will state to the House what the joint committee did, and then the gentleman will see whether the report is at fault. The report states the facts precisely as they were. The Joint Committee on Printing appointed the three members of the House, who were on that committee, a sub-committee, and the three members of the Senate, who were upon that committee, a sub-committee, simply for the purpose of performing a little portion of the labor of that committee; and that labor was, to ascertain in what respect the public printer was in default in regard to the printing for either House. It was to be reported to the joint committee; and no action was to be had by either sub-committee, independent of the action of the joint committee. We do not pretend to be independent of the joint committee at all. Merely as a matter of convenience, we are required to perform a portion of the labors which it would be useless to require the whole committee to perform. What we do report to the joint committee. It would be inconvenient for the whole committee to go to the printing office to ascertain how much the printer is in default.

Mr. FITCH. Now, sir, if they have not made this division, how came the House portion of the committee to say that they had nothing to do with the Senate printing, and were not responsible for its bestowal upon the Republic, and that the Senate portion had nothing to do with the House printing?

We were told a few days since by a member of the Committee on Printing of the last Congress, that it was usual for each portion of the committee respectively to report to their bodies the number of extra copies of any document they deemed it desirable to print. Thus far and no further the independent action of each portion of the committee has hitherto extended. But here we find a case of independent action covering the whole ground; for each portion of the committee not only reports the number of extra copies, but selects the men and fixes the prices at which the printing is to be executed.

Mr. STANTON. The gentleman places me in the position of having stated facts which I now deny. I have submitted to his misunderstanding of the report; but the fact is, that the House committee did not say that the Senate committee have exclusive control over the Senate printing, or that we have exclusive control over the House printing. But I say, that with three votes in the Senate, part of the committee acting against us, our three cannot control a matter any more than the three members of Regents of the Smithsonian Institution, appointed by the House, can control the three members appointed by the Senate for the same purpose; and therefore, by agreement, we divide the business, each taking a certain part. Nor can the House any more instruct the Joint Committee on Printing than it can the Regents of the Smithsonian Institution.

Mr. FITCH. The gentleman's comparison of his joint committee with the Regents of the Smithsonian Institution, does not hold good. The cases are not parallel. There are other gentlemen belonging to the Board of Regents than members of Congress, who could give the casting vote, and control the action of the Board in the event of any disagreement between the House and Senate members. But the statement just made by the gentleman [Mr. STANTON] confirms what I have said relative to the division and separate action of the Committee on Printing. Neither the House nor Senate portion constituted a majority; they were equally divided; they could not agree, and neither could control the other on the joint committee. Instead, however, of reporting, as all other joint committees do, that they could only agree to disagree, and asking instructions, or asking to be discharged, they each undertake separate and independent control of the printing of their respective bodies. They can agree upon this separate action, and so report, but now deny that any such action has been had. So far as concerns the power in the House to instruct the House portion of the Regents of the Smithsonian Institution, no one of



the Board, and especially of the House portion of it, will question that power, and the right to exercise it. The House is, in part, the guardian of the funds of the Institution—responsible for their expenditure, in accordance with the law organizing it; and, if it be thought those funds are being squandered, by being lavished upon favorites, or in any other improper manner, the House has an undoubted right to instruct its portion of the Regents relative to the matter; ay, sir, and those Regents would obey those instructions; and, if they found other members of the Board, upon whom the instructions would not be binding, disposed to pay them so little respect as to refuse to permit them to be carried out, that fact would be reported to the House for further action. The House portion of the Board would not set up some construction of their own of the law, and say to the House that construction was right, and must be accepted, and the instructions repealed, or they would be disregarded and disobeyed. I trust never to be found a party to any such attempt at dictation. Neither would the House portion of the Regents say to the rest of the Board, "As we cannot agree in this matter involving the expenditure of money, you (the Senate portion) may take separate control of the expenditure of half, pay it to whom you please, and on whatsoever terms you please, and we will do the same with our half, and say nothing to the House relative to it, until compelled, and then inform them they have no right, under the law, to instruct or control us?" If the joint committee have the power to thus bisect themselves, and give to each half independent jurisdiction, they must possess it by virtue of their appointment by the two Houses, and not under the law of 1846, by which they profess to be governed; for no such power is conferred by that law; therefore, the same power of independent action must of necessity belong to the two Houses respectively. If the committee have not the power, their action in this, likewise, has been illegal, and presents another argument in favor of superseding it by action of our own.

The report before us assumes a state of facts somewhat at variance with those actually found to exist; it assumes that the House has instructed the joint committee, and then denies our right to do so. Let us examine the real facts in the case. The House portion of the committee report a proposition to print a certain number of extra copies of a document, (Patent Office Report.) This report—this proposition, undeniably comes from the House portion of the committee—the joint committee has nothing to do with it. The House recommit, with instructions, this report—this proposition—not to the joint committee—a committee which knew naught of it, and from which it never came—but to the House committee, the committee which reported it. That committee, being apparently predetermined not to obey the instructions, justify their refusal to obey by assuming the instructions to have been to the joint committee, and denying our right to instruct that committee. We have not claimed the right—we have not attempted to exercise it. Yet the House committee prepare a report purporting to be from the joint committee, assuming that we have instructed that committee, and denying our right to do so, and shield behind that report their refusal to obey instructions to themselves—the House committee.

Aside from having in other respects transcended their powers, the action of the committee has been improper, in bestowing such printing as has been, or may be, neglected or delayed by the contractor upon the men of their selection at prices higher than those at which others stood ready to take it, and give security for its faithful execution. By so doing, they would deprive us in part of our remedy upon the contractors for the difference between the contract price, and the price at which the committee procure the work to be executed. If the contractor obligated himself to do a particular amount and quality of work at \$25,000, and so neglected or delayed its delivery that the committee gave it to another party at \$50,000, while a third party stood ready to do it, and so notified the committee, at \$30,000, no man will pretend to say that the liability of the contractors extends beyond \$5,000, the difference between his contract price and the price at which the committee were notified by another party he was ready to take it. We thus lose \$20,000. That \$20,000 is given as

a bonus to the favorites of this committee. It is a loss to us, and a gain to them.

During the discussion upon the first report, it was urged, among other objections to the action of the committee, that such action would subject them to the suspicion of having been governed by improper motives in the disposition of the printing, and that, perhaps, charges would grow out of such suspicion; and further, that if their action was sustained, then the same suspicions would be entertained, and the same charges arrayed against those sustaining it. Under such circumstances, it was clearly the duty of the committee, not only to the House and the country, but to themselves; to change or abandon the action which the well-understood wishes of the House had condemned; or at least, to make a voluntary, full, and candid report to the House of their proceedings, of the parties to whom they had given the printing, the prices at which they had given it, and the reasons for both. Such a report we were induced, many days since, to expect; but it never came, and so far from altering or abandoning their action, they have but added to it. They have taken a step in advance in the same line, and made a plan, sufficiently objectionable before, still more so. So far from making, voluntarily, a full and candid report of their proceedings, they so made none, except a proposition that we should place at their disposal the printing of some 50,000 extra copies of a profitable document; and even upon that proposition the chairman of the committee moved the previous question, to cut off discussion, by which alone, experience proves, we can elicit any knowledge of their action. And the report which they have now given us under peremptory instructions, is conclusive of but one thing, and that is; their determination to defy the House, and to disobey its instructions.

If the whispers which the committee admit they have heard, which indeed are audible throughout the city, should assume such shape, through the press or otherwise, as to subject them to censure, and to grave charges, they will have but to thank for it their own perverse perseverance in a plan condemned by the House.

"To willful men,  
The injuries they themselves procured,  
Must be their schoolmaster."

As a résumé of my views in relation to this matter, and of the action which the House should take in the premises, I offer for adoption the following resolutions as a substitute for the resolutions offered by the committee:

*Resolved*, That the joint resolution entitled "Joint resolution directing the manner of procuring the printing for the two Houses of Congress," approved August 3d, 1846, empowers the Committee on Printing to provide only for the execution of such printing as has been "ordered by Congress;" and in the execution of which there is "any neglect or delay on the part of the contractor."

*Resolved, therefore*, That, in making a contract or contracts with any other party or parties for the execution of future work—work not yet ordered—the committee exceeded its powers, and such contract or contracts are null and void.

*Resolved*, That the action of the committee was improper in proposing to procure the execution of such printing now, or hereafter to be ordered, as is or may be neglected or delayed, at prices unnecessarily high, inasmuch as by procuring its execution at such prices, they would release, in part, the contractor from liability "for any increased expenditure consequent upon the non-performance of the contract."

*Resolved*, That the committee on the part of the House having exceeded their powers, and having declined obeying the instructions of the House, and expressed a disposition rather than do so to vacate their position on the joint committee, the latter of the alternatives they have presented be accepted, and that they be and hereby are discharged from any further service on said committee; and the Speaker be requested to fill the vacancy thus created in the Joint Committee on Printing.

The first resolution is merely declaratory of the powers of the committee under the joint resolution of 1846. The second declares that they exceeded those powers in making contracts for future printing; and that those contracts are null and void. The third declares their action improper in having, by giving printing out at unnecessarily high prices, taken such action as may release the contractor from liability for all the difference between his contract prices and the prices at which the committee propose to give the printing to others. The fourth resolution accepts the only one of the two alternatives presented by the committee, of which respect for ourselves, and a regard for the business of the House and the legislation of the country, will permit the acceptance.

I have the utmost respect for the members, individually, of that committee. There are none here I respect more; but in the position in which they have placed the House, and themselves as a committee, and under all the resulting circumstances of delay, embarrassment, and difficulty, relative to the printing, it is not easy to see what other action they can expect from us, or what other action the considerations I have mentioned will permit the House to adopt.

Mr. POLK. I do not see that we will be enabled to get through with this question to-day; and as we are so near the close of action upon the homestead bill, I hope the House will indulge me in a motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the special order.

Mr. HOUSTON. We cannot get through the homestead bill to-day.

Mr. STANLY. Has not the printing business priority over the motion submitted by the gentleman from Tennessee?

The SPEAKER. It has not, in the opinion of the Chair.

Mr. STANTON, of Kentucky. I would request of the gentleman a withdrawal of his motion. A few minutes ago I would have consented to its adoption by the House, but as I expect to leave the city to-morrow, and will not be back again for ten or twelve days, I cannot, consistently with my own views of self-respect, allow the extraordinary speech of the gentleman from Indiana [Mr. FITCH] to go unanswered. I hope the gentleman will withdraw his motion.

[Cries of "Withdraw it!" "Withdraw it!"]

Mr. POLK. I have no objection to withdraw my motion, provided it is understood that when the subject again comes up for consideration that I shall be entitled to the floor. I would like very much to accommodate my friend from Kentucky.

Mr. STANTON. I do trust that my friend from Tennessee will waive his motion for the present.

Mr. POLK. I will withdraw my motion if the gentleman will renew it.

The SPEAKER. The Chair desires to state for the information of the gentleman from North Carolina, [Mr. STANLY] and the House generally, that it is the right of the Committee on Printing to report at any time; but when the report is made, and is before the House, it is to be disposed of subject to all the rules which operate upon reports from other committees.

Mr. POLK. I yield the gentleman from Kentucky [Mr. STANTON] the floor with the condition that he will renew my motion.

Mr. STANTON. I do not design, if I can avoid it, to detain the House very long upon this subject, having upon a former occasion spoken in regard to it at length; and I would now abstain from any remarks if they were not called for by the very wanton and extraordinary speech of the gentleman from Indiana, [Mr. FITCH], the great object of which seems to have been to pervert facts and misrepresent the action of the committee of which I am a member, with a view of driving me and my colleagues upon that committee to abandon our places. Now, sir, let me say to the honorable gentleman, that however much I should be disposed to gratify the wishes of the House, if it so desired, and resign my position as a member of that committee, I shall never do so at his arrogant dictation, except upon one condition.

Mr. FITCH. With the permission of the gentleman, I will interrupt him for one moment. He intimates that I have evinced a disposition to drive, by arrogant dictation, him and his House colleagues from the committee. I only proposed to accept one of the alternatives presented to the House by the committee themselves—aye, presented by that gentleman.

During the debate, when the resolution was presented, the gentleman—himself having presented the report—said:

"If required to obey the instructions of the House, against the law, we cannot do it, and our duties are at an end; and so far as I am individually concerned, I shall be compelled to wash my hands of it, and so also will the rest of the committee."

They place such construction upon the law as their will, or plans may dictate—a construction different from that of the House, and arrogantly tell us, unless their construction is adopted, and the instructions of the House repealed, that they (the House committee) will disregard and disobey

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those instructions, or abandon their position on the joint committee. They have presented the alternatives to us, and told us that one we must accept. Is there no arrogant dictation in this? Yet the gentleman now prates of arrogance and dictation from others. For one, I will not submit to the alternative which the committee hoped to force upon us, and which their report and resolution contemplate—namely, their retention on the committee, and permission to them to defy us and our instructions. No, sir; they shall neither dictate to me, nor, I trust, to the House, what construction of the law we shall accept, nor which one of their proposed alternatives adopt. They have informed us they would leave unless they were permitted to rule. They have opened the door, and I am not disposed to close it against their exit. Let them go! That is all I have said—that is the extent of my dictation. I have refused to bow to that of the committee.

Mr. STANTON. The gentleman wholly misunderstands what I said. I made no such declaration as that "unless the House would permit the committee to make the contract they have made, I and the other members of the committee would wash our hands from further duty on the committee." Those who heard my remarks, when I made the report, and who listened with a view of not misrepresenting the committee, will recollect that I said:

"The Joint Committee on Printing desire to know of the House, whether they are to obey the law as it stands upon the statute-book, or to obey the instructions of the House? If required to obey the instructions of the House, against the law, we cannot do it, and our duties are at an end; and so far as I am individually concerned, I shall be compelled to wash my hands of it, and so also will the rest of the committee."

Now, sir, there is a very wide difference between what I really said upon that occasion, and what the gentleman alleges I did say. What I said then, I repeat now, and it is only what any gentleman, having proper regard for his official obligations, would say and do under the same circumstances. I say, that if the House of Representatives, under the impulses of heated excitement, and mad counsels, should determine that it has more power than both Houses of Congress together, and the President of the United States combined, and undertake to instruct us to perform duties against the plain provisions of the law under which we derived our appointment, without the concurrence of the other branches of the Government, our plain and obvious duty would be to obey the law, or wash our hands of the matter. This is the question which the report submits to the House. We only ask, sir, whether we are compelled to violate the law, or act in obedience to its provisions. I was about to say, when interrupted by the gentleman from Indiana, that I would not be driven by his dictation to abandon my place upon the committee, except upon one condition, and that is, that the House will appoint him to fill my place, a position which his accuracy, his regard for the laws of the land, and his excessive zeal against coalitions of all kind, eminently qualify him.

Mr. FITCH. Thank you—I do not wish the place. I have no disposition to manage a matter which you have made offensive to the House and the country.

Mr. STANTON. I should like to know, sir, how the gentleman, with all his accomplishments and qualifications, could perform the paradoxical duty of obeying the law and the instructions of the House at the same time. Perhaps his ingenious mind is equal to the task of devising some plan by which such a thing might be accomplished. It might be well for the House to avail itself of his services.

The Committee on Printing are charged by the gentleman with having usurped the power which belongs to the House, in the selection of public printers, and trampled the law of the land under their feet. This is a grave and serious charge, but serves no other purpose than to show how extremely ignorant is the gentleman of the very law upon which he has commented. I should like

much to know from the honorable gentleman in what particular we have trampled upon the law? He will oblige me and, no doubt, the House by enlightening us on this subject.

Mr. FITCH. If the gentleman desires it, I will state a particular, and a strong one. I think, upon inquiry, it will be found that, about the time the gentleman's committee reported to the House a proposition to order the printing of fifty or sixty thousand copies of the Patent Office Report, and the House declined to order them printed until it was known who was to do it, and at what prices, the committee, in disregard of law, directed that document to be sent to Donelson & Armstrong to be printed. Subsequently, however, seeing the difficulty in which it was likely to involve them, they retraced their steps.

Mr. STANTON. That is a matter about which I know nothing.

Mr. FITCH. It is, however, a fact.

Mr. STANTON. I knew nothing of it; and if it was done it was by others than myself.

Mr. GORMAN. The Committee on Printing, before instructions were passed by the House, supposing that the regular number of the Patent Office Report had been ordered, among certain other documents, sent it down to the printers the gentleman has named to be printed, in the event Mr. Hamilton was not able to execute it. Immediately upon the passage of the resolution by the House, I sent an order, as the Clerk who sits at the desk well knows, for it to be returned.

Mr. STANTON. That was a matter in which I had no participation, but have no doubt that the statement of my colleague in the committee is strictly correct. But, admitting the example presented by the gentleman from Indiana [Mr. Fitch] to be true, just as he has stated it—that the Patent Office Report was sent to Donelson & Armstrong to be printed after the instructions of the House were passed—it was no violation of the law, and the committee had full power to do so. If the public printer had never seen a line of the manuscript—if he had never been called upon even to execute the job—under all the circumstances, the power conferred upon the committee by the joint resolution of 1846 was sufficient to justify them in giving the work to Donelson & Armstrong, or any other printer with whom they thought proper to contract. It was known to the committee, and to every other person who chose to be informed upon the subject, that your public printer had been in default with the public printing from the first day he commenced making an impression upon paper until that very moment. In no single instance since he commenced the performance of his duties has he complied fully with the terms of his contract.

I confess, sir, for myself, as one of the Committee on Printing, that the great error I have committed has been in permitting the contractor to trifle so long with us. The committee would, no doubt, have acted more wisely if they had arrested the work at the earliest moment, and compelled him either to comply strictly with his undertaking, or refused to permit any more to pass into his hands. We relied upon his solemn promises, both written and spoken, until we became convinced that they were entirely worthless. The committee would have been blind to the most incontestable evidence, every day presented to them, if they had remained insensible of the fact that the contractor was incapable, from want of disposition, capital, and skill, to execute the immense amount of work in his hands according to the requirements of the law and the terms of his contract. Why, sir, I am told upon good authority that he says now, that if required to execute these very Patent Office Reports, at the prices named in his contract, and in the manner and with the materials required, it will entail upon him a debt so large that he would not be able to get rid of it should he live ninety-nine years, so immense would be his losses. No wonder, sir, when the whole sum he has contracted to take for all the work to be ordered by Congress would not be more than sufficient to pay him a reasonable price for

this single job! Under such circumstances, and in view of these facts, known to the committee, would it not be worse than folly to place such a job in his hands? Knowing that the public printer was shamefully in default with the work already intrusted to his hands; that he was indisposed or incapable of executing it as rapidly as the necessities of Congress required, and in the manner provided by his contract, would the committee have been excusable in intrusting to him a work of so much magnitude and importance as those reports? Sir, no prudent business man would have hesitated one minute to withhold it. Well, if he could not do it, and this was manifest, did not the law authorize the committee to have it done? It surely did. Has the gentleman from Indiana ever read the law? Were I to judge from the exhibition of intelligence which he has made here to-day upon the subject, I should say that he never read it in his life. What power is given to the committee by the law? A power to adopt such means as they may deem necessary. The law vests the discretion in the committee as to the mode of remedying the neglect or delay of the public printer in executing the work ordered by Congress. What more has the Committee on Printing attempted to do? They employed, under their discretion, competent men to do such of the work as the contractor could not or would not do. And this the gentleman from Indiana, in the bitterness of his spirit towards the committee, calls "trampling upon the law."

The gentleman has talked much and indignantly of coalitions formed by the committee between political editors of different parties. I have, upon another occasion, denied any purpose of that kind, so far as my own action was concerned. The honorable gentleman from Tennessee [Mr. Polk] has exculpated promptly his friends Donelson & Armstrong from any such charge, and I very cheerfully indorse what he has said. I know that from the beginning to the end, these gentlemen resisted any division of the work between themselves and the Republic; and if any political idea had controlled the action of the committee, such as the gentleman from Indiana intimates, I know these gentlemen well enough to say, that neither of them would have received a single dollar of the work upon such terms. But the gentleman's new-born zeal against coalitions is, to my mind, inexplicable. He startles as if thunder-struck, at the mere suggestion of so monstrous an outrage, as a coalition between the Union and the Republic, to obtain such of the public printing as the contractor cannot do. Great God! It was not always so with this zealous guardian of the public integrity. Two years ago, when Mr. McWillie, of Mississippi, then chairman of the Printing Committee, came into this House with a report, asking to release Mr. Ritchie from his ruinous contract, and to give to him and Gales & Seaton the public printing, where then was the indignation of the gentleman? How happens it that he, who is now so sensitive of the political honor of his party, remained silent, and did not rise from his seat and denounce that committee for proposing so unholy a combination or coalition? Was he silent because there existed then no motive, as there is now, for such heroic indignation?

Mr. FITCH. This is the first knowledge I have had of any such proposed coalition as the gentleman mentions.

Mr. STANTON. I have it here, and can read it to the gentleman from the original manuscript.

Mr. FITCH. It may be so; I do not deny it. But I can tell the gentleman how it happened I did not oppose it. There was no definite action probably had upon it, or I should have opposed it. So far from being a party to the origin of any such coalition, as is the case with the gentleman, I should have opposed it, as I do the one now under discussion. Whatever the gentleman may assert, I know that no proposal for such coalition as he mentions—and as he has made himself a party to—was long entertained by the last Congress, or any final action had relative to it. The gentleman will find no vote upon the subject. Hence, its

arrayal here as argument or precedent in this case, is a species of pettyfogging which a township justice's court would rule inapplicable.

Mr. STANTON. The gentleman's zeal against coalition did not happen to be aroused at that time.

Mr. STANLY. Without intending to impeach the motives of my friend from Indiana, I will tell the gentleman from Kentucky, that he will find it about the time Mr. Ritchie complimented the gentleman from Indiana "as able, accomplished, and eloquent." [Laughter.]

Mr. STANTON. I thought there must have been some reason for his silence.

Mr. FITCH. I wish the gentleman from North Carolina would show me the compliment. I am as fond of compliments as himself, though not of the character of some he has received.

Mr. STANLY. I made a speech last session referring to it, and I will show it to the gentleman.

Mr. FITCH. The gentleman's speeches are always complimentary—to himself! if not to others.

Mr. STANTON. Another point in this controversy which disturbs the equanimity of the gentleman from Indiana, and has afforded him a wide field for the exercise of his peculiar characteristics, is the prices the committee have agreed to pay Donelson & Armstrong and Gideon & Co. for the work they may do. Now, Mr. Speaker, the resolutions to which I have referred, as part of the report of Mr. McWillie, and which the gentleman quietly permitted to be acted upon in the House, without any exhibition of rage, such as we have seen to-day, not only proposed to form a coalition between the leading Whig and Democratic organs in this city, but actually proposed to pay them not less than twenty-five per cent. higher than we shall have to pay Donelson & Armstrong and Gideon & Co.! Here, sir, are the resolutions in the handwriting of Mr. McWillie, of whom it may be said, a better Democrat, or a more high-toned gentleman, never occupied a seat upon this floor. I will read from the manuscript:

"Sec. 2. And be it further resolved, That Thomas Ritchie and Gales & Seaton be appointed by the two Houses to execute the printing contracted for by the said William M. Belt, for the remainder of the Thirty-first Congress, at the price of thirty-five per cent. reduction for short numbers, and forty-five per cent. reduction for numbers above five thousand on the prices of printing fixed by the joint resolution of the 3d March, 1819, and that the said Thomas Ritchie and Messrs. Gales & Seaton be required to give bond with good and sufficient securities," &c.

Here was a proposition to release William M. Belt and his securities from their contract—to abrogate it entirely. Not only to do this, but to form a coalition between adverse party organs, and give them very high prices, greatly beyond those provided for in the contract made with the Union and the Republic, which are at least fifty-five or sixty per cent. below the prices of 1819. The gentleman from Indiana saw nothing terrible in all this. He startled neither at the coalition nor the prices, but sat quietly in his seat, and permitted the report to be proposed to the House and acted upon. So little impression did it make upon his calm and placid mind, that the whole matter had, until now, faded from his recollection.

I maintain, sir, that the Joint Committee on Printing has, in no respect, transcended the plain requirements of the law. We have attempted, according to the best dictates of our judgments and consciences, to adhere to them in all respects. The duty imposed upon us by law was, to provide against the delinquency of the contractor, and "remedy his neglect and delay." The gentleman, in his excessive zeal to find fault with the committee, very absurdly denies that we have power to do what the law in such plain language commands. He assumes the ridiculous position, that no matter what may be the future "neglect or delay" of the contractor, if in any arrangement to protect Congress against present and past defaults of this kind, we provide for those to take place hereafter, we "trample upon the law," and transcend our powers. A most sage conclusion, truly, and worthy of the enlightened mind which makes it!

Suppose, at the commencement of the session, or now, the contractor should refuse to execute any of the work ordered by the House, and make no provision for it whatever; suppose it was apparent to all, that he was neither willing nor prepared to execute the various items of work as they were ordered each day by the House: what, under these circumstances, would be the duty of

the committee? According to the learned exposition of the law, made by the astute gentleman from Indiana, we must quietly wait until a reasonable time has elapsed for him to execute the work, and then give out each single job as it arrives, after having afforded him an opportunity to do it, and make a new contract for every job to be done. That is the process, in the view of the honorable gentleman, which the law requires the committee to pursue. Is there another member of this House stupid enough to believe that such is the character of the law? It requires no such absurd procedure. Under the authority "to adopt such measures as may be deemed necessary to remedy the neglect and delay of the public printer," the committee are authorized to provide for prospective as well as past delinquencies, and there would be no wisdom in the law if such power were not given. The committee have not yet given any work to these men. We have only entered into such an engagement with them as the law authorized, to do that work which the contractor could not, or would not do. Such a contract is more economical and wiser than to let out each job as it occurs.

In this very report, to which we refer, we tell the House that it is a temporary expedient, intended to last only until the House shall take some action upon the subject, and relieve the committee from it. That is a matter which the gentleman overlooks. I have no design to put money in the hands of the Republic, for the purpose of enabling that paper the better to fight the Democratic party of the Union. I could have no design of that kind. All that I designed to do, and all that I believe any member of the committee designed to do, was to secure to this House and the Senate, that description of printing which they needed for legislative purposes, and which had been unnecessarily delayed by the public printer. We tried, as the House knows, and as the country knows, if the country pays any attention to this discussion, for two months, to give it to Donelson & Armstrong, but failed to do it; and we were compelled, as a last alternative, to take the Republic or have no printing done. The gentleman, too, complains about the prices, and says that we ought to have taken Towers's bid. We took Rives's bid, which, upon the printing yet to be done, was supposed by the committee to be lower than Towers's bid, but the contractors would not consent to receive those prices. To end the dispute, and to adopt a fair scale of prices which would afford a moderate and reasonable profit, we called upon three of the best printers in the city—practical men, who stood high in their profession as well as in the community as gentlemen—and asked them to submit to us an estimate of what would be reasonable prices. They did so, and their estimates were presented to the committee. That committee, after examining and comparing the three statements, found that John T. Towers's estimate was lower than all the rest, and that it is made upon business principles. There was no trick in it—no putting up one item high and another down low, to entitle him to the contract.

Every gentleman in this House knows how bids are made. Take up Mr. Rives's bid, for instance, when he desired to get the public printing, and you will see, that for some pages of printing he bid only two cents, while on others he charged \$1 25. He put it down low upon some items, expecting to make up his loss upon others; and so it runs all through the bid. Such bids are not fair business estimates from which to make a scale of prices. We took Towers's estimate, because it was the lowest one submitted to us. The gentleman says it differs some fifteen or thirty per cent. from Towers's bid. Mr. Towers, I understand, did not say so. The whole difference, summing up the average of all, would not exceed five or ten per cent. over his bid provided all the work were done. You must recollect that there is only a remnant of the work to be done, and that only in small jobs. A man can afford to do a large quantity of work a great deal cheaper than he can a small one.

The gentleman has arraigned the committee for defying the instructions of the House, and says that we have set ourselves above it, and determined not to obey its orders. The gentleman misunderstands, or misrepresents us, when he makes such a charge. We do not place ourselves in any such position. We say, if such an enlightened gentleman will tell us how we can obey those in-

structions, we are willing to try and do it. I would be glad if he would point out the way in which we can obey them, organized and constituted as the Committee on Public Printing is. We were told to do—what? We were told by this House to advertise and let out the contract to the lowest bidder. The instructions were not to the three members of the House committee, although, I confess, if the House had instructed us, we would have felt bound, to the best of our ability, to obey the instructions, because we deemed ourselves at the time under the control of the House. The instructions went to the whole committee. Now, you tell the whole committee, the members of the Senate as well as of the House, to do a thing which they have no power to do under the circumstances, having already adopted the means required by the law, to remedy the evil provided against. You ask, by your resolutions of instruction, that these means, thus adopted, shall be abandoned, and others substituted. You instruct the joint committee to annul its contracts, and let out the work to the lowest bidder. The members of the Senate upon that committee, maintain that you have no jurisdiction over them, and they are not bound to obey your instructions. How can the three members of the House, acting alone, and without the concurrence of the three from the Senate, carry out your instructions so as to make them effective? The Senate members will not recognize your authority, and annul contracts made in pursuance of law, without the consent of the other parties to them. How are we three to do so?—and I trust the gentleman from Indiana will point out the mode. I hope that if he shall succeed me upon the committee, he will at least make an effort to carry the instructions into effect. Let him unite with the other members of the committee from the House, attach his name to an advertisement calling for bids, and insert it in the public papers. The Senate part of the committee will not act with you, and what would be the effect of your action? If any printer should think proper to send you proposals, what would you do with them? Could you make a contract that would be binding upon the Government, or valuable to the parties contracting with you? Most assuredly not; for it requires a majority of the whole committee to act, and your action would be neutralized by the votes of the members of the Senate.

I contend that the case is an analogous one to that of the Regents of the Smithsonian Institution. Under that law, which I have before me, it is provided that there shall be three Regents appointed by the Speaker of the House of Representatives and three by the Senate, who, with the Vice President and some one else, shall constitute the Board of Regents. That Board of Regents are instructed by this act to do certain things. Discretion is given to them to build houses. The manner in which these houses shall be built is pointed out. Does the gentleman pretend that we have a right to introduce resolutions instructing that Board of Regents to do differently from what the law authorizes them to do? I know the gentleman is not silly enough for that. I know, with all his disposition to distort, misrepresent, and change the character of the facts, that certainly he is not silly enough to stand up and assert such doctrine as this, that this House, without the concurrence of the Senate and President of the United States, could direct and control him in his conduct, and make him do what the law absolutely forbids him to do. He is a member of this House, as I am. I tell the gentleman, in the management of that institution, in the opinion of many, they have not only violated the law, but they have indulged in a ridiculous absurdity in the manner in which they have constructed the building, and that absurdity has been perpetuated in the manner in which they have given documents and publications to the world. Mr. Smithsonian, who bequeathed the funds to endow that institution, never designed that publications such as have been given to the world by its managers should be the only character of works disseminated by that establishment. The object of the institution was to diffuse useful knowledge amongst mankind, and works of more elementary and practical value were contemplated, if that were the mode he designed his intentions should be accomplished. Suppose this House should undertake to instruct that gentleman, and put a stop to such proceedings. Suppose this House were to undertake the ridiculous folly of



instructing the whole of that Board, composed of the Vice President of the United States, the Mayor of the city of Washington, and several Senators, would the gentleman from Indiana think such instructions obligatory upon those gentlemen, and would he say that they were compelled to carry them out in violation of the law?

Mr. FITCH. I answer the gentleman with pleasure. But first, let me inform the gentleman, that notwithstanding his supercilious fluency about the silliness of any member, or even of the whole House, differing with him in opinion, and presuming to instruct him, or question the infallibility of his knowledge or his judgment, I shall venture to enlighten his understanding, or correct his obliquity of moral vision upon a subject upon which he professes to be well informed, and to speak "from the book." The Regents of the Smithsonian Institution have no control, and wish to exercise none, over its publications. They are in the charge of other officers of the Institution, by the side of whose intelligence and qualifications those of the gentleman [Mr. STANTON] would shine like a farthing candle under the glare of a bright noon-day sun. His judgment to be consulted as to the character of these publications!! Well, that is rich! But would we obey instructions if they were sent us by the House? I have already said "Yes." We acknowledge the right to send such instructions, and they would be obeyed. And I will tell the gentleman what we would *not* do. We would not ask the Senate portion and other members of the Board to agree in a declaration that the House could not instruct the entire Board, and cloak under that declaration our refusal—the refusal of the House Regents—to obey instructions, in order to permit us to persist in a plan upon which we had previously determined, in violation of the known wishes of the House, and of the law. We would not place such construction upon a law as to answer our own purposes, and then modestly place that construction in opposition to one entertained by the House, and tell them our construction or none must be acted on. I repeat, the House has the right to instruct its portion of the Regents relative to the care and disposition of the Smithsonian funds, and if they are likely to be squandered and wasted, to direct them to be applied in accordance with the law and its intention. And I do not believe the Regents are so wise in their own estimation as to esteem their opinion of the law and its intention as more valuable or more binding than that of the House.

Mr. STANTON. That is nothing more than we have done, and nothing more than we have reported to the House. We have told the House that we are willing to carry out the instructions, where it does not produce a violation of the law, and where we are not neutralized by a vote upon the other side of the Capitol of an equal number. But the gentleman from Indiana does not maintain that Senators would be bound by instructions from this House, or that they could reach the Vice President, Mayor, and others. I have detained the House long enough, and the only remark I will make in conclusion is this—

Mr. VENABLE. I wish to make only a single remark before the gentleman is through. It is simply to present the true state of facts in regard to the report from Mr. McWillie. I had a recollection of the facts as they occurred, and I find that I am right, for I went into the Library of Congress for the purpose of finding out what was the history of that transaction. I find that Mr. McWillie made the report. Democrats, unfortunately, like Whigs, do wrong sometimes. A proposition was made, the paper which he has before him, and came before the House. The subject was discussed and referred, but upon that proposition there has never been a vote. I wanted the history and records of the House, to show that whoever made that report made a blunder. I never would have voted for it.

A Voice. You ought to have said so at the time.

Mr. VENABLE. I never shoot at anything until the mark is before me, for it would be a waste of ammunition.

Mr. STANTON. I intended to say, Mr. Chairman, in conclusion—

Mr. VENABLE. Will the gentleman from Kentucky permit me to say, that I thought it important to say, in the investigation of this matter—a matter which I think it is important for the

country to understand, and the House to come to a proper conclusion upon—that report was made by the chairman of the Committee on Printing, [Mr. McWILLIE,] which never met the approbation of the House, which was referred to the committee, and which never came back, and upon which this House never voted. I have hunted up the Journal, and I was satisfied that my memory was right upon the subject.

Mr. STANTON. All I designed to say about this report was, that it had been presented to the House by a distinguished Democrat not now a member. Although it contained a proposition similar to the one now proposed by the Committee on Printing, yet it had not attracted the attention of the honorable gentleman from Indiana, [Mr. FITCH,] and had been quietly referred to the committee, and permitted to pass off without exciting his indignation. All I intend to say now, in conclusion, is this: whether the House vote to sustain the law or not, I am conscious of having attempted honestly to perform my duty, and in no respect whatever, in connection with this matter, have I had any other object in view than to get the public printing done as speedily as possible. I am under obligations to the gentleman from Tennessee [Mr. POLK] to renew the motion that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order, and I do so accordingly.

Mr. STANTON, of Tennessee. I rise to a question of order. The question of order that I make is this: That the last resolution of this series is not in order, because it is not germane to the subject. The resolution proposes to dismiss the committee, and I submit that that is not germane to the subject.

The SPEAKER. The Chair will examine the resolution, and reserve its decision on the point of order, until the question shall arise.

Mr. STANTON. What is the motion now pending?

The SPEAKER. To go into the Committee of the Whole on the state of the Union, on the special order.

Mr. STANTON. When will this matter come up again, if we go into committee now?

The SPEAKER. It will be the first business in order in the House, just as a report from any other committee would be.

Mr. STANTON. And we adjourn over from tomorrow till Monday?

The SPEAKER. That is the order of the House, and the Chair presumes it will be executed.

Mr. STANTON. Then this resolution will not come up again for two weeks? I hope the House will not go into committee.

Mr. HOUSTON. You cannot dispose of the resolution to-day; so we may as well go into committee.

#### HOOR OF MEETING TO-MORROW.

Mr. JOHNSON, of Arkansas. Before we go into committee, I will state to the House that it has been usual, when the House adjourns over for the purpose of having the Hall refitted, to adjourn on the day preceding that fixed for the adjournment over, until eight o'clock the following morning, and then to adjourn immediately, so as to enable the hands to go to work at once, and clean the Hall. If there be no objection, I move that, when the House adjourns to-day, it adjourn to meet at eight o'clock to-morrow morning.

There being no objection, the motion was considered and agreed to.

#### ARRANGEMENT OF THE HALL.

Mr. MEACHAM. I rise to a privileged question. It is now agreed that we are to adjourn over from to-morrow till Monday next; and I desire to move, that when the Hall is rearranged, the chairs for members, which have been placed in the front area, and by the sides of the aisles, be removed. I have only to say that, for the last four months, I have had to travel round by the passage, outside the bar, to get to my seat, because the aisle leading to it has been blocked up with these chairs.

Mr. JOHNSON, of Arkansas. Well, it is very good exercise for you to travel round. [Laughter.]

Mr. POLK. I move to increase the gentleman's mileage, so as to allow him for this extra travel. [Renewed laughter.]

The SPEAKER. The gentleman from Tennessee is out of order. The Chair is not inclined

to regard the proposition of the gentleman from Vermont as a privileged question.

Mr. MEACHAM. I move, then, that the chairs be removed.

The SPEAKER. That motion is not in order.

Mr. STANLY. Is not a question in regard to a seat upon this floor a question of privilege? Can I have a chair put for me in the area, in front of the chairs which are already there?

The SPEAKER. The Chair thinks that such a question is not one of privilege.

Mr. MEACHAM. How, then, is the evil to be remedied?

The SPEAKER. The proposition of the gentleman relates to the convenience of members—

Mr. JOHNSON, of Arkansas, (interrupting.) Mr. Speaker—

The SPEAKER. Order! order! Only one gentleman can speak at a time.

Mr. JOHNSON. Well, sir, who has the floor now?

The SPEAKER. The Chair has the floor. [Laughter.] This proposition relates to the convenience of members and the arrangement of the Hall; and, in the opinion of the Chair, it is not a question of privilege.

Mr. STANLY. I do not wish to appeal from the decision of the Chair; but suppose I have no seat here at all—that they are all occupied?

The SPEAKER. The Chair doubts very much whether it is not his duty to order those chairs to be removed. The Chair will think of it, however, as the proposition to remove them has been made.

Mr. MEACHAM. I wish to ask the Chair, how the evil can be corrected, if it is not a matter of privilege?

The SPEAKER. It can be corrected by a motion made in order, as any other proposition can be offered in regard to the building, or to the improvement of the Hall.

Mr. MEACHAM. Can I make the motion now?

The SPEAKER. The Chair decides that the gentleman cannot, and that this conversation is all out of order.

Mr. STANLY. When can the gentleman make the motion?

The SPEAKER. He can suspend the rules on Monday, or introduce it as a report, or as a bill, or in any of the forms known to our rules.

Mr. STANLY. In that way he can never get at it.

The SPEAKER. That is the fault of the rules, and the misfortune of the House.

Mr. HOUSTON. I insist on the vote being taken on the motion to go into committee.

Mr. JOHNSON, of Arkansas. I submit that all this conversation is out of order.

The SPEAKER. The Chair has decided that it is out of order.

Mr. ORR. I desire to express the opinion that it was the duty of the Speaker to have these chairs removed. They got in here without authority, and it is the duty of the Speaker to order the Doorkeeper to remove them.

Mr. JOHNSON, of Arkansas. I desire to say that I do not concur with the gentleman from South Carolina.

The SPEAKER. This conversation is not in order.

Mr. FOWLER. I wish to make an inquiry respecting this matter, and it is this—

The SPEAKER. The Chair decides that any inquiry in regard to these chairs in the area is not in order.

Mr. FOWLER. Then I make another inquiry, and that is—

[Cries of "Order!" "Order!"]

The SPEAKER. If the gentleman from Massachusetts rises to a question of order, he has a right to state it; otherwise, he is not in order.

Mr. FOWLER. I ask if it would not be in order for the gentlemen who occupy these seats in the area, to go and take the seats which they drew at the commencement of the session? [Laughter.]

The SPEAKER. It would be perfectly in order. [Laughter.]

Mr. STANLY. If I were to appeal from the decision of the Chair, would that open the door to debate upon this question?

The SPEAKER. The Chair believes that it would.

Mr. STANLY. I will spare the Speaker and the House, and not take an appeal. [A laugh.]

Mr. STANTON, of Tennessee. I appeal from the decision of the Chair, and I do it for the purpose of saying, that when the motion comes up in order, to remove these chairs from the area—if such a motion shall be made—I shall move, as an amendment, to remove the desks from the Hall, which cause a portion of the members to be banished to a part of the House where they cannot hear, or participate in the proceedings.

[Cries of "Good!" "Good!"]

Mr. STANTON. That is all I have to say, and I now withdraw the appeal.

The appeal was withdrawn.

#### HOMESTEAD BILL.

The question now being upon the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order—

Mr. BROWN, of Mississippi, demanded tellers; which were ordered, and Messrs. BROWN, of Mississippi, and FOWLER were appointed.

The question was then put, and it was decided in the affirmative—ayes 79, noes 56.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the Chair.)

The CHAIRMAN stated as the business before the committee the consideration of the special order, being House bill No. 7, "For the encouragement of agriculture, commerce, manufactures, and for other purposes;" and that the pending question was on the substitute for the bill offered by Mr. BROWN, of Mississippi—[published in the proceedings of yesterday, and to be found in a subsequent part of this day's proceedings.]

Mr. STANLY. Is that amendment open to amendment?

The CHAIRMAN. It is.

Mr. STANLY. Will it be in order after that amendment is disposed of, to offer an amendment to the original bill?

The CHAIRMAN. The Chair thinks it will.

Mr. STANLY. Then I will wait until that time.

Mr. BROWN, of Mississippi, called for tellers on the amendment; which were ordered, and Messrs. APPLETON, of Maine, and MASON appointed.

The question was then put, and it was decided in the affirmative—ayes 67, noes 56.

So the amendment was agreed to as a substitute for the original bill.

Mr. STANLY. Is the amendment just adopted a substitute for the whole bill?

The CHAIRMAN. It is.

Mr. STANLY. Will it be in order to amend the bill as amended?

Mr. HOUSTON. The substitute has been adopted by the committee, and cannot be amended.

Mr. STANLY. That is the question. I want to offer an amendment, as an additional section to the bill as amended.

The CHAIRMAN. An amendment to strike out any part of the substitute is not in order; but it is the opinion of the Chair that an amendment, as an additional section, is in order.

Mr. MASON. I understand that no amendment can be offered. I move that the committee rise and report the bill.

The CHAIRMAN. The Chair decides that an amendment is in order, as an additional section.

Mr. MASON. I appeal from that decision.

The CHAIRMAN. The Chair thinks that as the substitute has been adopted by the committee, that no motion to strike out any portion of it could be entertained, but the Chair is inclined to the opinion that the committee may add to it.

Mr. HOUSTON. Does the chair decide that the substitute just adopted by the committee, is subject to amendment?

The CHAIRMAN. The Chair decides that no part of it can be stricken out, but that an additional section may be added.

Mr. HOUSTON. The Chair will remember that there is a rule of the House, which governs the committee, which authorizes the friends of a bill to perfect a bill, before a motion can be entertained to strike it out. The same rule authorizes the friends of the substitute proposed to be offered, to perfect it before the vote can be taken to strike out and insert. But after that vote has been taken,

the proposition is then beyond the power of the committee, because the friends both of the original proposition and that proposed to be substituted, have had the opportunity to render their respective propositions perfect before the vote was taken.

Mr. STANLY. The Chair will remember that before the vote was taken, by which the substitute was adopted, I proposed to offer an amendment, but was informed by the Chair, that I could offer it after the substitute had been disposed of, and on that account I neglected, at that time, to offer it.

The CHAIRMAN. It was the opinion of the Chair, and he is still of the same opinion, that the original bill, if the substitute were voted down, would be amendable; and that the substitute, if adopted, would be amendable by addition. He recollects of no usage in committee upon a similar question. That is his impression, however; but he would be happy for an appeal to be taken, in order to test the sense of the committee upon the question.

Mr. HOUSTON. For that reason, and not out of any opposition to the amendment of the gentleman from North Carolina, [Mr. STANLY,] for I do not know what his amendment is, I take an appeal from the decision of the Chair. If that decision be adopted, it makes an unending struggle to get through with the business, and the committee would never come to a conclusion upon the subject.

Mr. STANLY. Then, as I understand it, the gentleman from Alabama [Mr. HOUSTON] does not object to my amendment as a question of order.

Mr. HOUSTON. I do not object to the gentleman's amendment at all, for I do not know what it is. I only said that, in my opinion, the bill, in its present form, was not amendable.

Mr. STANLY. But the gentleman raises the objection, not because it is a violation of the rules of the House—

Mr. HOUSTON. Certainly I did object for precisely that reason.

Mr. STANLY. I understood the gentleman to object because it would be an unending business. Now, Mr. Chairman, I object to this mode of choking off amendments unfairly. I ask the Chair if he does not remember that I put the question to him, before this substitute was adopted, to know if it would be in order to offer an amendment after the substitute was adopted, to which he replied in the affirmative? I now want to know how many decisions shall I have before I have an opportunity to offer my amendment?

The CHAIRMAN. The question is not debatable. The Chair, however, has been happy to hear suggestions relative to the point of order. The gentleman from North Carolina moves to amend the amendment by adding a section. To this the objection is made that the amendment is not in order. The Chair decides that the amendment is in order. From that decision the gentleman from Alabama appeals, and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. STANLY. I hope my amendment will be read.

The CHAIRMAN. The gentleman has a right to have his amendment read.

The Clerk then read the amendment, as follows:

*And be it further enacted, That any person who is the head of a family, residing in any State in which there is no land belonging to the United States, who is not worth the sum of \$500, shall, from and after the passage of this act, be entitled to enter, by his or her agent, free of cost, one hundred and sixty acres of land: Provided, said person shall make oath of his or her intention to occupy or reside on said land within — years from the time of entering the same.*

Mr. STEPHENS, of Georgia. I desire to inquire of the Chair if the question has been taken on striking out the entire bill, and inserting in lieu of it the substitute of the gentleman from Mississippi?

The CHAIRMAN. It has.

Mr. STEPHENS. Then the proposition of the gentleman from North Carolina is to amend what has been inserted.

The CHAIRMAN. The proposition of the gentleman from North Carolina is not to strike out any portion of the amendment, but to add to the substitute.

Mr. STEPHENS. That is clearly out of order.

Mr. STANLY. If it is in order, I move to strike out the whole amendment.

The CHAIRMAN. It is not in order to move to strike out anything the committee has inserted.

The question was then put, "Shall the decision of the Chair stand as the judgment of the committee?" and the Chair announced the state of the vote as follows—ayes 64, noes 59.

Mr. BROWN, of Mississippi. I ask for tellers.

Mr. STANLY. It is too late.

The CHAIRMAN. The Chair decides that it is not too late to call for tellers. The Chair had stated the vote, but had not announced the decision when tellers were demanded.

Mr. STANLY. I appeal from that decision.

The CHAIRMAN. The Chair thinks an appeal cannot be taken at this time.

Mr. STANLY. I appeal from that decision.

[Laughter.]

The CHAIRMAN. The gentleman from North Carolina is out of order.

Tellers were then ordered on the appeal.

Mr. STANLY. Is it in order to say that I was misled by the Chair in offering this amendment? I put the question to the Chair, and he answered very distinctly, that after the vote had been taken upon the adoption of the substitute of the gentleman from Mississippi, it would be in order to offer an amendment.

Mr. HOUSTON. As far as I am concerned, if the committee—

Mr. HALL. I call the gentleman from Alabama to order.

Mr. HOUSTON. I only desire to say that I would be perfectly willing to vote upon the amendment of the gentleman from North Carolina, if the rules did not prohibit him from offering it.

Mr. CLINGMAN. I hope it may be offered by general consent.

[Loud cries of "Object!" "Object!"]

Mr. GORMAN. I understand there is no quorum present; I move that the committee rise.

The CHAIRMAN. It has not been shown that there is no quorum present.

Mr. GORMAN. Well, I move that the committee do now rise.

The question was put, and it was decided in the negative.

So the committee refused to rise.

Messrs. OLDS and HALL were appointed tellers; and the question being again put, "Shall the decision of the Chair stand as the judgment of the committee," it was decided in the negative—ayes 63, noes 64.

So the decision of the Chair was overruled, and Mr. STANLY's amendment was decided to be out of order.

Mr. MASON. I move that the committee rise and report the bill.

Mr. STANLY. Does the Chair sustain his own decision?

The CHAIRMAN. The Chair is of opinion that if his own vote is added, it would not change the result.

Mr. JONES. If the Chair adds his vote to the affirmative, it would be a tie—64 to 64, and the decision would not be overruled.

The CHAIRMAN. The burden of getting a majority is with the affirmative, in the opinion of the Chair. The vote is—ayes 63, noes 64, and the decision of the Chair is overruled.

Mr. STANLY. I rise to a question of order. A number of names were included in the count after the tellers had reported, and so great was the confusion that there has been no fair count. I ask for a recount.

Mr. HALL. I will state that after one of the tellers left, certain votes were given in. I think there ought, in justice, to be a recount.

Mr. STANLY. If the amendment is right the House can vote for it; if not, they can vote it down.

Objection was made to a recount.

Mr. STANLY. I object to that. The House is to say whether there shall be a recount or not. It is not the right of one member to overrule the wish of the House in such a matter.

The CHAIRMAN. The Chair is of opinion that after a vote has been taken, and the decision announced, there cannot be a recount except by unanimous consent.

Mr. McMULLIN. I hope that unanimous consent will be given for a recount.

Mr. DAWSON. I object.

Mr. STANLY. I rise to a privileged question.

Gentlemen rise up here and say they were not counted—

Mr. MILLER. I hope there will be a recount. I desire to vote myself. I will state, as my colleague, [Mr. HALL,] who was one of the tellers, stated, that some votes were announced after the tellers had separated, and I asked one of the tellers myself—the gentleman from Ohio, [Mr. OLDS]—to announce my vote in the affirmative. And the gentleman told me it was too late.

The CHAIRMAN. The Chair must remind the gentleman that a recount was requested by the gentleman from North Carolina, [Mr. STANLY.] The Chair announced that if there was an unanimous consent, there could be a recount. Objection was made, and the Chair decided that it required unanimous consent after the vote was announced. Is there an appeal taken from that decision?

Mr. TOOMBS. I appeal from that decision.

The CHAIRMAN. Is an appeal taken from the decision of the Chair?

Mr. STANLY. The gentleman from Georgia [Mr. TOOMBS] appeals.

Mr. BROWN. I trust, after the representation of the gentleman from Missouri, [Mr. MILLER,] that no one will object to a recount. If there was a mistake, there ought to be a recount.

Mr. JOHNSON, of Arkansas, made some remarks, totally inaudible to the reporter.

Mr. STANLY responded in an equally inaudible tone.

The CHAIRMAN. The question is not debatable.

Mr. STANLY. We will see what the courtesy of the House will do.

The CHAIRMAN. This is a question of order, on which an appeal lies from the decision of the Chair. The decision of the Chair is, that after the decision has been announced, it requires unanimous consent for a recount. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Tellers were then demanded and ordered.

Mr. HART. Will the Chair state the question before the vote is taken?

The CHAIRMAN. The Chair will state the question. A recount upon the vote just taken was demanded. The Chair decided that there could be no recount after the vote was taken and announced, except by unanimous consent. From that decision an appeal is taken.

Mr. STANLY. I beg pardon, but the Chair has not stated the whole question. The gentleman from Missouri [Mr. MILLER] stated that he desired to vote, but that his vote was not announced in the confusion. The Chair will remember the statement that some votes were handed in after the tellers were separated.

The CHAIRMAN. The Chair thinks the question before the committee is as he has stated it. The statement of the gentleman from North Carolina may, at the same time, be correct.

Mr. HOUSTON. I wish barely to appeal to the committee, to allow the gentleman from North Carolina [Mr. STANLY] to offer his amendment, without overruling the decision of the Chair. He was misled, as he states, and while a majority of the committee have felt it their duty to vote as they have, I hope they will allow the amendment to come in by unanimous consent.

The CHAIRMAN. The Chair is now in the act of dividing the committee, and the Chair must request gentlemen to suspend remarks until the vote is taken. Upon the appeal tellers have been ordered.

Messrs. HOUSTON and OLDS were appointed tellers; and the question being taken, the tellers reported—ayes 80, noes 63.

So the decision of the Chair was sustained.

Mr. STANLY. I have another amendment to offer. I move the same amendment ruled out of order, inserting in the blank the word "two."

Mr. MASON. I was entitled to the floor, being first recognized by the Chair, and the gentleman has no right to take it from me.

The CHAIRMAN. The gentleman from Kentucky is entitled to the floor.

Mr. MASON. I move that the committee rise, and report the bill to the House. I decide that it is out of order to move now an amendment to the bill. I think it is clearly right and proper that the committee should now rise, and the bill be reported to the House.

The CHAIRMAN. The Chair understands the committee to have decided that it is out of order further to amend the bill, unless by unanimous consent. Therefore no amendment can be received.

Mr. HOUSTON. I trust that unanimous consent will be granted the gentleman to introduce his amendment.

Mr. CLINGMAN. I presume no one will object to the suggestion of the gentleman from Alabama, of having a vote upon my colleague's amendment. It will take but a short time to dispose of it. He was misled by a remark of the Chair, or his amendment would have been previously presented. No one, I presume, will object to its now being introduced, and the vote of the committee being taken upon it.

[Cries of "I object!" "I object!"]

Mr. CLARK. I desire to offer an amendment, and ask that it be reported.

The CHAIRMAN. Amendments are not in order.

Mr. CLARK. After it is reported, I intend taking an appeal from the decision of the Chair. I do not see how I can take an appeal until it is read.

The CHAIRMAN. The Chair is of opinion that, under the ruling of the committee reversing the decision of the Chair, no amendment to the bill is now in order.

Mr. STEPHENS, of Georgia. The gentleman from North Carolina wanted a fair count. He can appeal from the decision of the Chair, and there will then be had a count that will satisfy the committee.

The CHAIRMAN. There was an appeal, and the decision of the Chair was sustained by the committee.

Mr. STEPHENS. But he has now offered his amendment in a modified form. I submit that the gentleman can appeal from the decision of the Chair upon the amendment he has now offered.

Mr. STANLY. I wish to interpose no difficulty to action upon this bill, but will proceed, with the courtesy of the committee, to make my five minutes' speech. I do not wish to take an appeal, I desire only to make a five minutes' explanation upon the amendment.

The CHAIRMAN. Debate at this stage of the proceedings is out of order. The Chair begs leave to state that he understood the gentleman to inquire of the Chair whether, if the amendment of the gentleman from Mississippi [Mr. BROWN] was not adopted, his amendment would be in order. The Chair told him that he thought it would be in order. The gentleman from North Carolina will further remember, that the ruling of the Chair was, that his amendment would be in order after that of the gentleman from Mississippi was adopted, but the committee overruled the decision of the Chair, and virtually ruled that no further amendment would be in order. The Chair thinks, therefore, he cannot receive any other amendment.

Mr. STANLY. I beg the Chair's pardon. The House has not decided that no further amendment is in order, and they have had no such question before them.

The CHAIRMAN. The Chair did not understand the committee to decide in terms that no further amendment was in order; but he understood the ground upon which the committee decided the former amendment out of order, to be that the substitute already adopted was not amendable. That was, in effect, a decision of the question upon the amendment now offered, and he deemed himself bound by the action of the committee so to rule.

Mr. STANLY. I object to the inference of the Chair. I present my amendment with "two" inserted in the blank, and demand a vote of the committee upon it.

Mr. HOUSTON. That is the point I made for the Chair's decision—that no amendment was now in order.

The CHAIRMAN. It is the opinion of the Chair that the amendment cannot be now received. Does the gentleman take an appeal.

Mr. STANLY. Most decidedly. It is a decision I never heard of before.

The Clerk then read Mr. STANLY's amendment, as follows:

*And be it further enacted, That any person who is the head of a family, residing in any State in which there is no land belonging to the United States, who is not worth the*

sum of \$500, shall, from and after the passage of this act, be entitled to enter, by his or her agent, free of cost, one hundred and sixty acres of land: *Provided, said person shall make oath of his or her intention to occupy or reside on said land within two years from the time of entering the same.*

Mr. STANLY. I wish that amendment received, and to submit a few words on it.

The CHAIRMAN. The Chair has decided that the amendment is not in order, and from that decision an appeal has been taken by the gentleman from North Carolina.

Mr. STANLY. What is the Chair's ground for his decision?

The CHAIRMAN. That the committee have virtually decided that amendments are not now in order.

Mr. STANLY. I appeal virtually from that decision. [Laughter.]

Mr. JONES, of Tennessee. I will, with the Chair's permission, ask him a question: Suppose this substitute, instead of being adopted in lieu of the original bill, it had been rejected by the committee, would it not then have been competent for the committee to have attached additional sections by way of amendments to the original bill? Then, if that is so—

Mr. HOUSTON. I object to this debate.

The CHAIRMAN. The question is not debatable.

Mr. STEPHENS, of Georgia. I demand tellers on the appeal.

Tellers were ordered, and Messrs. THOMPSON, of Virginia, and STEPHENS, of Georgia, were appointed.

The question was then put—"Shall the decision of the Chair stand as the judgment of the committee?"—and it was agreed to; the tellers having reported—ayes 81, noes 51.

And the decision of the Chair was sustained.

The question then recurred upon the motion of Mr. MASON, that the committee rise and report the bill, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HIBBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 7, being a bill to encourage agriculture, commerce, &c., and had directed him to report the said bill, with an amendment, to the House.

Mr. JOHNSON, of Tennessee. I have an amendment which I wish to offer in lieu of the amendment adopted by the Committee of the Whole on the state of the Union. I will send it to the Clerk's desk to be read, and upon it I ask for the previous question:

*That any person who is the head of a family, and citizen of the United States, or any person who is the head of a family, and had become a citizen prior to the first day of January, eighteen hundred and fifty-two, as required by the naturalization laws of the United States, shall, from and after the passage of this act, be entitled to enter, free of cost, one quarter section of vacant and unappropriated public lands, or a quantity equal thereto, to be located in a body in conformity with the legal subdivisions of the public lands, and after the same shall have been surveyed.*

*Sec. 2. And be it further enacted, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register, that he or she is the head of a family, and is not the owner of any estate in land, at the time of such application, and has not disposed of any estate in land, to obtain the benefits of this act; and upon making the affidavit as above required, and filing the affidavit with the register, he or she shall thereupon be permitted to enter the quantity of land already specified: *Provided, however, That no certificate shall be given or patent issued therefor until the expiration of five years from the date of such entry; and if, at the expiration of such time, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs or devisee, or in case of a widow making such entry, her heirs or devisee in case of her death, shall prove by two credible witnesses, that he, she, or they have continued to reside upon and cultivate said land, and still reside upon the same, and have not alienated the same, or any part thereof, then in such case, he, she, or they shall be entitled to a patent as in other cases provided for by law: *And provided further, In case of the death of both father and mother, leaving an infant child or children, under fourteen years of age, the right and the fee shall inure to the benefit of said infant child or children, and the executor, administrator, or guardian, may at any time within two years after the death of the surviving parent, sell said land for the benefit of said infants, but for no other purpose, and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States.***

*Sec. 3. And be it further enacted, That the register of the land office shall note all such applications on the tract books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land*



Office, together with the proof upon which they have been founded.

Sec. 4. *And be it further enacted*, That all land acquired under the provisions of this act shall, in no event, become liable to the satisfaction of any debt or debts contracted prior to the issuing the patent therefor.

Sec. 5. *And be it further enacted*, That if, at any time after filing the affidavit as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven by two or more respectable witnesses upon oath to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said entry for more than six months at any one time, then and in that event the land so entered shall revert back to the Government, and be disposed of as other public lands are now by law.

Sec. 6. *And be it further enacted*, That if any individual now a resident of any one of the States or Territories, and not a citizen of the United States, but at the time of making such application for the benefit of this act, shall have filed a declaration of intention, as required by the naturalization laws of the United States, and shall become a citizen of the same before the issuance of the patent, as made and provided for in this act, shall be placed upon an equal footing with the native-born citizens of the United States.

Sec. 7. *And be it further enacted*, That no individual shall be permitted to make more than one entry under the provisions of this act; and that the Commissioner of the General Land Office is hereby required with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands patented under the provisions of this act, that they are now entitled to receive when the same quantity of land is entered with money, to be paid by the party to whom the patent shall be issued: *Provided, however*, That all persons entering land under the provisions of this act, shall, as near as may be practicable, in making such entries, be confined to each alternate quarter section, and to land subject to private entry: *And provided further*, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing preemption rights.

The previous question was seconded, and the main question ordered to be put.

Mr. BROWN, of Mississippi. I wish to ascertain in what way the gentleman from Tennessee [Mr. JOHNSON] offers his amendment. Is it in lieu of the entire amendment adopted by the Committee of the Whole on the state of the Union?

Mr. JOHNSON. I offer it in lieu of the entire amendment.

The SPEAKER. The gentleman from Tennessee, [Mr. JOHNSON,] proposes to strike out all of the amendment adopted by the committee from the word "that" in the first line, and insert what has been read.

Mr. BROWN. I ask the yeas and nays.

Mr. JONES, of Tennessee. I wish, for my own information, and probably that of some others, to inquire of my colleague [Mr. JOHNSON] if his bill, if amended, which he proposes in lieu of that adopted by the Committee of the Whole, is substantially what the original bill would be with the amendments made in Committee of the Whole before it was stricken out?

Mr. JOHNSON. Substantially the same, but decidedly improved. [Laughter.]

The yeas and nays were ordered.

Mr. STANTON, of Ohio. I desire to propound an interrogatory to the gentleman from Tennessee, [Mr. JOHNSON,] in relation to the amendment.

[Cries of "I object!" "I object!" from several members.]

Mr. EVANS. The courtesy was extended to the gentleman from Tennessee, [Mr. JOHNSON.]

The SPEAKER. The Chair would be happy to extend the courtesy to others, but it was objected to upon the right of the Chair.

Mr. McMULLIN. I move that the House adjourn.

[Cries of "No!" "No!" "No!" from all parts of the Hall.]

Mr. CLINGMAN demanded tellers; which were ordered.

The question was then taken, (Messrs. CLINGMAN, and JONES of Tennessee, acting as tellers,) and there were—yeas 52, noes 81.

So the House refused to adjourn.

The question was then put on the amendment to the amendment, and it was decided in the affirmative—yeas 97, nays 77; as follows:

YEAS—Messrs. Abercrombie, Charles Allen, Willis Allen, Babcock, Bartlett, Briggs, Brooks, Buell, Busby, E. Carrington Cabell, Joseph Cable, Thompson Campbell, Carter, Chandler, Churchillwell, Cleveland, Cobb, Cottman, Cullom, Curtis, George T. Davis, John G. Davis, Dawson, Dean, Disney, Doty, Durkee, Eastman, Ewing, Ficklin, Fitch, Florence, Floyd, Fowler, Gaylord, Gentry, Giddings, Gilmore, Gorman, Green, Grey, Grow, Hall, Isham G. Harris, Hart, Hendricks, Henn, Houston, Thos. M. Howe, Ingersoll, Jenkins, Andrew Johnson, John

Johnson, Robert W. Johnson, George W. Jones, Preston King, Lockhart, Mace, Edward C. Marshall, McNair, Miller, Molony, Henry D. Moore, John Moore, Newton, Olds, Samuel W. Parker, Penn, Polk, Porter, Richardson, Riddle, Robbins, Robinson, Sackett, Savage, Schoolcraft, Skelton, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stone, St. Martin, Stratton, George W. Thompson, Thurston, Toombs, Townshend, Walsh, Ward, Watkins, Addison White, Alexander White, Williams, and Yates—97.

NAYS—Messrs. Aiken, Allison, John Appleton, Averett, David J. Bailey, Barrere, Beale, Bell, Bocock, Bragg, Breckinridge, Albert G. Brown, George H. Brown, Burrows, Caskie, Chapman, Chastain, Clark, Clingman, Colcock, Conger, Dockery, Duncan, Edmundson, Evans, Faulkner, Thomas J. D. Fuller, Goodrich, Hamilton, Harper, Sampson W. Harris, Hascall, Hebard, Hibbard, Holladay, Horsford, John W. Howe, Thomas Y. How, Jackson, Daniel T. Jones, J. Glancy Jones, Kurtz, Landry, Letcher, Mann, Humphrey Marshall, Martin, Mason, McCorkle, McLanahan, McMullin, McQueen, Millson, Miner, Morehead, Murphy, Orr, Outlaw, Peaslee, Penningman, Perkins, Phelps, Ross, Scurry, David L. Seymour, Origen S. Seymour, Snow, Abraham P. Stevens, Alexander H. Stephens, Strother, Taylor, Tuck, Wallace, Washburn, Welch, Wildrick, and Woodward—77.

So the amendment to the amendment was agreed to.

Pending the call of the roll, Mr. HOWARD stated that he had paired off upon this bill with Mr. CAMPBELL, of Ohio.

Mr. JOHNSON, of Tennessee, moved to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

Mr. STANLY. I hope the gentleman from Tennessee will allow me to say a word upon the question of reconsideration.

[Cries of "No!" "No!" "No!"

The SPEAKER. It would require the unanimous consent of the House.

[Loud cries of "Object!"

Mr. LETCHER called for the yeas and nays on the motion to reconsider.

The yeas and nays were not ordered.

The question was then put, and it was decided in the affirmative.

So the motion to reconsider was laid upon the table.

Mr. CLINGMAN moved that the House do now adjourn.

Mr. LETCHER called for the yeas and nays on that motion; but they were not ordered.

Mr. LETCHER demanded tellers; and they were not ordered.

The question was then put, and on a division there were—yeas 86, noes 86; the Speaker voted in the negative.

So the House refused to adjourn.

Mr. JENKINS moved to lay the bill upon the table; and on that motion he asked the yeas and nays.

The yeas and nays were ordered.

Mr. St. MARTIN moved that the House adjourn.

Mr. POLK demanded the yeas and nays; but they were not ordered.

Mr. St. MARTIN withdrew the motion to adjourn.

Mr. ORR renewed it.

Mr. CAMPBELL, of Illinois, called for the yeas and nays; and they were ordered.

[A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary.]

The question was then put on Mr. ORR's motion to adjourn, and it was decided in the negative—yeas 74, nays 95; as follows:

YEAS—Messrs. Aiken, John Appleton, Averett, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bell, Bocock, Bragg, Breckinridge, George H. Brown, Buell, Burrows, Chapman, Chastain, Clark, Clingman, Colcock, Conger, George T. Davis, Dockery, Duncan, Edmundson, Evans, Faulkner, Floyd, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gentry, Gilmore, Goodrich, Gray, Hamilton, Harper, Isham G. Harris, Sampson W. Harris, Hebard, Holladay, Horsford, Jackson, Jenkins, Preston King, Landry, Letcher, Mann, Martin, McQueen, Miller, Millson, Miner, Morehead, Murphy, Orr, Outlaw, Ross, David L. Seymour, Origen S. Seymour, Stanly, Frederick P. Stanton, Abraham P. Stevens, St. Martin, Strother, Taylor, Tuck, Wallace, Walsh, Washburn, Welch, Wildrick, Williams, and Woodward—74.

NAYS—Messrs. Abercrombie, Charles Allen, Willis Allen, Allison, Babcock, Bartlett, Bissell, Briggs, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Caskie, Chandler, Churchillwell, Cleveland, Cobb, Cottman, Cullom, Curtis, J. G. Davis, Dawson, Dean, Disney, Doty, Durkee, Eastman, Ewing, Ficklin, Fitch, Florence, Gorman, Green, Grow, Hall, Hascall, Hendricks, Henn, Hibbard, Houston, John W. Howe, Thomas Y. How, Ingersoll, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kurtz, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, Mason, McCorkle, McMullin, McQueen, Millson, Miner, Morehead, Murphy, Orr, Outlaw, Peaslee, Penningman, Perkins, Phelps, Ross, Scurry, David L. Seymour, Origen S. Seymour, Snow, Abraham P. Stevens, Alexander H. Stephens, Strother, Taylor, Tuck, Wallace, Washburn, Welch, Wildrick, Williams, and Woodward—95.

lin, McNair, Molony, Henry D. Moore, John Moore, Newton, Olds, Samuel W. Parker, Peaslee, Penn, Penningman, Perkins, Phelps, Polk, Porter, Richardson, Robbins, Robinson, Savage, Schoolcraft, Scurry, Skelton, Smith, Snow, Benjamin Stanton, Stratton, George W. Thompson, Thurston, Townshend, Walbridge, Ward, Watkins, Addison White, Alexander White, and Yates—95.

So the House refused to adjourn.

The question was then put on Mr. JENKINS's motion, and it was decided in the negative—yeas 57, nays 112; as follows:

YEAS—Messrs. Aiken, John Appleton, Averett, David J. Bailey, Thomas H. Bayly, Beale, Bell, Bocock, Bragg, Breckinridge, George H. Brown, Burrows, Caskie, Chastain, Clark, Clingman, Colcock, Conger, Dockery, Duncan, Edmundson, Evans, Faulkner, Thomas J. D. Fuller, Hamilton, Harper, Isham G. Harris, Hebard, Hibbard, Holladay, Horsford, Thos. Y. How, Jackson, Jenkins, Preston King, Landry, Letcher, Humphrey Marshall, Martin, McQueen, Millson, Morehead, Orr, Outlaw, Peaslee, Ross, Scurry, David L. Seymour, Origen S. Seymour, Snow, Strother, Wallace, Washburn, Welch, Wildrick, and Woodward—57.

NAYS—Messrs. Abercrombie, Charles Allen, Willis Allen, Allison, Babcock, Bartlett, Bissell, Briggs, Brooks, Albert G. Brown, Buell, Busby, Joseph Cable, Thompson Campbell, Carter, Chandler, Chapman, Churchillwell, Cleveland, Cobb, Cottman, Cullom, Curtis, Geo. T. Davis, John G. Davis, Dawson, Disney, Doty, Durkee, Eastman, Ewing, Ficklin, Fitch, Florence, Floyd, Fowler, Gamble, Gaylord, Gentry, Giddings, Goodrich, Gorman, Green, Grey, Grow, Hall, Sampson W. Harris, Hascall, Henn, Houston, John W. Howe, Ingersoll, Ives, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kurtz, Lockhart, Mace, Mann, Edward C. Marshall, Mason, McCorkle, McMullin, McNair, Miller, Miner, Molony, Henry D. Moore, John Moore, Newton, Olds, Sam'l W. Parker, Penn, Penningman, Perkins, Phelps, Polk, Porter, Richardson, Riddle, Robbins, Robinson, Sackett, Savage, Schoolcraft, Skelton, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stevens, Stone, St. Martin, Stratton, Taylor, Geo. W. Thompson, Thurston, Townshend, Tuck, Walbridge, Walsh, Ward, Watkins, Addison White, Alexander White, Williams, and Yates—112.

So the House refused to lay the bill upon the table.

Mr. MOREHEAD moved that the House adjourn, and on that motion he asked for the yeas and nays.

The yeas and nays were ordered.

The question was then put, and it was decided in the negative—yeas 70, nays 86; as follows:

YEAS—Messrs. Aiken, Allison, Averett, Barrere, Beale, Bell, Bocock, Bragg, Breckinridge, Brooks, George H. Brown, Buell, Burrows, Chapman, Chastain, Clark, Colcock, Conger, George T. Davis, Dockery, Duncan, Edmundson, Evans, Floyd, Thomas J. D. Fuller, Gamble, Gentry, Goodrich, Grey, Hamilton, Harper, Isham G. Harris, Sampson W. Harris, Hebard, Holladay, Thomas Y. How, Ives, Jackson, Jenkins, Preston King, Landry, Letcher, Mann, Mason, McQueen, Meacham, Miller, Millson, Miner, Morehead, Murphy, Orr, Outlaw, Riddle, David L. Seymour, Origen S. Seymour, Snow, Stanly, Frederick P. Stanton, Ab'm P. Stevens, Taylor, Tuck, Wallace, Walsh, Washburn, Welch, Alexander White, Wildrick, Williams, and Woodward—70.

NAYS—Messrs. Abercrombie, Charles Allen, Willis Allen, John Appleton, Babcock, Thomas H. Bayly, Bartlett, Bissell, Briggs, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Caskie, Chandler, Churchillwell, Cleveland, Cobb, Cottman, Cullom, Curtis, John G. Davis, Dawson, Disney, Doty, Durkee, Eastman, Ewing, Ficklin, Fitch, Florence, Fowler, Gaylord, Giddings, Gorman, Green, Grow, Hall, Hendricks, Henn, Hibbard, Houston, John W. Howe, Ingersoll, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, Kurtz, Lockhart, Mace, Edward C. Marshall, McCorkle, McMullin, McNair, Molony, Henry D. Moore, Newton, Olds, Samuel W. Parker, Peaslee, Penn, Penningman, Phelps, Polk, Richardson, Robbins, Robinson, Sackett, Savage, Schoolcraft, Skelton, Smith, Benjamin Stanton, Stone, St. Martin, Stratton, George W. Thompson, Thurston, Townshend, Walbridge, Ward, Watkins, Addison White, and Yates—86.

So the House refused to adjourn.

The question now being upon the adoption of the amendment as amended—

Mr. MOREHEAD called for the yeas and nays; and they were ordered.

Mr. STANLY. Is it in order for me to ask to be excused from voting and to assign my reasons?

The SPEAKER. It is not in order, under an express rule of the House. It used to be in order, but it is not now.

Mr. STANLY. What is the rule?

The SPEAKER. The rule was repealed or changed. But even were that not the case, the Chair thinks it would scarcely be in order now, the previous question being in operation.

Mr. STANLY. I merely want to assign my reasons, that my constituents may know them.

The SPEAKER. If the gentleman desires it, the Chair will turn to the rule.

Mr. STANLY. Oh, no; I do not doubt that it is so.

The question was now put, and the result was—yeas 108, nays 57; as follows:

YEAS.—Messrs. Abercrombie, Charles Allen, Willis Allen, Allison, Babcock, David J. Bailey, Bartlett, Bissell, Briggs, Brooks, Albert G. Brown, Buell, Busby, Joseph Cable, Thompson Campbell, Carter, Chandler, Chapman, Churchwell, Cleveland, Cobb, Cottman, Curtis, George T. Davis, John G. Davis, Dawson, Disney, Doty, Durkee, Eastman, Ewing, Ficklin, Fitch, Florence, Floyd, Fowler, Gamble, Gaylord, Gentry, Giddings, Goodrich, Gorman, Green, Greg, Grow, Hall, Sampson W. Harris, Hascall, Hendricks, Henn, Horsford, Houston, Ingersoll, Ives, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, Kurtz, Lockart, Mace, Mann, Edward C. Marshall, McMullin, McNair, Meacham, Miller, Molony, Henry D. Moore, John Moore, Newton, Olds, Samuel W. Parker, Penn, Penniman, Phelps, Polk, Porter, Richardson, Riddle, Robbins, Robinson, Sackett, Savage, Schoolcraft, Skelton, Smith, Snow, Stanly, Benjamin Stanton, Abraham P. Stevens, Stone, St. Martin, Stratton, George W. Thompson, Thurston, Townshend, Tuck, Walbridge, Walsh, Ward, Watkins, Addison White, Alexander White, Williams, and Yates—108.

NAYS.—Messrs. William Aiken, John Appleton, Averett, Thomas H. Bayly, Barrere, Beale, Bell, Bocoek, Bragg, Breckinridge, George H. Brown, Burrows, Caskie, Chastain, Clark, Colcock, Conger, Dockery, Duncan, Edmundson, Evans, Faulkner, Thomas J. D. Fuller, Hamilton, Harper, Isham G. Harris, Hibbard, Holladay, John W. Howe, Thomas Y. How, Jackson, Jenkins, Preston King, Landry, Letcher, Martin, Mason, McQueen, Millson, Morehead, Orr, Outlaw, Peaslee, Perkins, Powell, Ross, Scurry, David L. Seymour, Origen S. Seymour, Strother, Taylor, Wallace, Washburn, Welch, Wildrick, and Woodward—57.

So the amendment as amended was adopted.

Mr. HOUSTON. I move that the vote just taken, by which the amendment as amended was adopted, be reconsidered, and that the motion to reconsider do lie upon the table.

The question was put, and the latter motion was agreed to.

Mr. SEYMOUR, of New York. I move that the House do now adjourn.

[Cries of "No!" "No!" "No!"]

The question was taken, and the House refused to adjourn—ayes 71, noes 90.

Mr. EVANS. I call for the yeas and nays upon the motion to adjourn.

[Cries of "Too late!"]

Mr. EVANS. Very well, then; I will call for the yeas and nays on the final passage of the bill.

The bill was then ordered to be engrossed, and read a third time; and, having been engrossed, it was read the third time.

Mr. JOHNSON, of Tennessee. I move that the vote by which the bill was ordered to be engrossed and read a third time, be reconsidered; and that the motion to reconsider do lie upon the table.

The question was put, and the latter motion was agreed to.

Mr. SEYMOUR, of New York. I ask that the bill may be read through.

The bill was then read through.

The question now being, Shall the bill pass?

Mr. JOHNSON, of Tennessee. I demand the previous question on the passage of the bill.

The previous question received a second, and the main question was ordered to be put.

Mr. EVANS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STANLY. I wish to call the attention of the Chair to the forty-second rule. I apologize to the House for troubling it again, after what occurred in the committee. However, I do not desire to go into that matter. I call the attention of the House to the forty-second rule, and submit if I have not a right to assign a special reason for asking to be excused from voting?

The SPEAKER. Will the gentleman from North Carolina be good enough to read the rule?

Mr. STANLY. Certainly, I will. It is as follows:

"Every member who shall be in the House when the question is put, shall give his vote, unless the House, for special reasons, shall excuse him. All motions to excuse members from voting, shall be made before the House divides, or before the call of the yeas and nays is commenced; the question shall then be taken without further debate."

The SPEAKER. But the question is with regard to special reasons.

Mr. STANLY. The note which is appended to the forty-second rule says:

"That part of rule forty-second which allowed a brief verbal statement of reasons to be given by any member for requesting to be excused from voting, rescinded January 2d, 1845."—*Journal House of Reps.*, page 115.

There is some error here, for there is no such thing upon that Journal, nor at that date. Now I want to know, with all due respect to the Chair, how it is that a member shall be excused from

voting for a special reason without having an opportunity to give that reason?

The SPEAKER. The Chair is of the opinion that the gentleman may state—but it must be a mere statement—his special reason for wishing to be excused from voting. Whatever may have been the action of this body in repealing the original rule upon the subject, the rule, taken as it now stands, in the judgment of the Chair, gives the gentleman from North Carolina a right to state his special reason, but not to debate the subject at all.

Mr. JONES, of Tennessee. That note is certainly wrong. There was a provision in that rule which authorized a member, when he asked to be excused, briefly to state his reasons. That was repealed by the House, but not in 1845. If I mistake not it was during the Thirtieth Congress. I know that part was stricken out, and after that a member could only only ask to be excused, without assigning any reason.

Mr. STANLY. That is no doubt true.

The SPEAKER. The Chair decides that under the existing rule the gentleman from North Carolina has the right to state a special reason, or special reasons, for asking the House to excuse him. That is the construction given by the Chair to the rule. The Chair does not remember what the practice of the last Congress was, but he is inclined to think the facts are as the gentleman from Tennessee has stated them.

Mr. STANLY. I desire to give a special reason for asking to be excused from voting. I will merely say, in order that it may be understood by my constituents, that I offered an amendment this morning to this bill, as I thought in order, in committee, and it was ruled to be in order by the gentleman who occupied the chair at that time. I consulted him previously, and he decided it to be in order. I was led into error by that decision—no doubt unintentionally on the part of the Chair—and was precluded from offering my amendment. My purpose was to show my constituents why it was the bill was in such a form that I could not vote for it. I desire further to say, that it may go upon the Journal, that I shall vote against the bill under the instructions of my own constituents, and of the Whig State convention which recently met in North Carolina. I could not get an opportunity of saying this in committee, or I should not have troubled the House now. I would, if I had had a chance, have said a word to compliment my friend from Tennessee, [Mr. JOHNSON,] but the committee refused me.

The SPEAKER. At the second session of the Twenty-ninth Congress the amendment referred to was made to the forty-second rule. It is, "that 'so much of the phraseology of the forty-second rule as permits any member requesting to be excused from voting to make a brief verbal statement of his reasons for making such request be, and the same is hereby, rescinded.'"

Mr. STANLY. I withdraw my request.

Mr. CLARK. Will it be in order for me to give a reason for the vote I am about to give?

The SPEAKER. Not except by unanimous consent.

Mr. CLINGMAN. I object.

Mr. CLARK. Then I shall be compelled to vote "aye." [Laughter.]

The question was then put, "Shall the bill pass?" and it was decided in the affirmative—yeas 107, nays 56; as follows:

YEAS.—Messrs. Abercrombie, Charles Allen, Willis Allen, Allison, Babcock, Bartlett, Bissell, Briggs, Brooks, Albert G. Brown, Buell, Busby, Joseph Cable, Thompson Campbell, Carter, Chandler, Chapman, Churchwell, Clark, Cleveland, Cobb, Cottman, Cullom, Curtis, George T. Davis, John G. Davis, Dawson, Disney, Doty, Durkee, Eastman, Ewing, Ficklin, Fitch, Florence, Floyd, Fowler, Gamble, Gaylord, Gentry, Giddings, Goodrich, Gorman, Green, Grey, Grow, Hall, Sampson W. Harris, Hascall, Hendricks, Henn, Houston, Ingersoll, Ives, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, Kurtz, Lockhart, Mace, Edward C. Marshall, McMullin, McNair, Meacham, Miller, Molony, Henry D. Moore, John Moore, Newton, Olds, Samuel W. Parker, Penn, Penniman, Perkins, Phelps, Polk, Porter, Richardson, Riddle, Robbins, Robinson, Sackett, Savage, Schoolcraft, David L. Seymour, Skelton, Smith, Snow, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stevens, Stone, St. Martin, Stratton, George W. Thompson, Thurston, Townshend, Tuck, Walbridge, Walsh, Ward, Watkins, Addison White, Alexander White, Williams, and Yates—107.

NAYS.—Messrs. Aiken, John Appleton, Averett, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bell, Bocoek, Bragg, Breckinridge, George H. Brown, Burrows, Caskie, Chastain, Clingman, Colcock, Conger, Dockery, Duncan, Edmundson, Evans, Faulkner, Thomas J. D. Fuller, Ham-

ilton, Harper, Isham G. Harris, Hibbard, Holladay, Horsford, John W. Howe, Thomas Y. How, Jackson, Jenkins, George G. King, Preston King, Letcher, Martin, Mason, McQueen, Millson, Morehead, Orr, Outlaw, Peaslee, Powell, Ross, Scurry, Origen S. Seymour, Stanly, Strother, Taylor, Wallace, Washburn, Welch, and Woodward—56.

So the bill passed, (as published above,) being the amendment of Mr. JOHNSON, of Tennessee, in lieu of the substitute of Mr. BROWN, of Mississippi, adopted in the Committee of the Whole on the state of the Union.

Pending the call of the roll,

Mr. HAMILTON said: I am requested by my colleague [Mr. HAMMOND] to state that he is absent from the House on account of sickness, otherwise he should have voted against the bill.

Mr. DEAN, when his name was called, said: I ask to have it entered on the Journal, that I have paired off with my colleague, [Mr. SUTHERLAND,] or I should have voted "aye."

The SPEAKER. The gentleman cannot make it a matter of record on the Journal.

Mr. DEAN. Then I will not vote.

Mr. McMULLIN. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

The question now being upon the adoption of the title, which is as follows:

"A bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting to every man who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same, for the period herein specified."

Mr. JOHNSON, of Tennessee. I move the previous question.

The previous question received a second, and the main question was ordered to be put.

Mr. STANLY. I desire to offer an amendment to the title.

The SPEAKER. No amendment is in order, the main question having been ordered to be put.

The question was then put, and the title was adopted.

Mr. McMULLIN. I move to reconsider the vote by which the title was agreed to, and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

On motion by Mr. RICHARDSON,

The House then adjourned until to-morrow morning at eight o'clock.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. INGERSOLL: The petition of J. A. Potter and 369 others, citizens of the town of Derby, in the State of Connecticut, praying for the enactment of a law granting lands to actual settlers.

By Mr. STANTON, of Tennessee: The memorial of the Mayor and Aldermen of Memphis, praying the surrender of the Arsenal property in Memphis, for the purpose of sustaining an hospital.

By Mr. KURTZ: The petition of 176 citizens of the county of York, State of Pennsylvania, praying Congress to grant 160 instead of 40 acres of land to the soldiers who served in the war of 1812, the Indian wars, and the other wars of the Republic.

By Mr. ST. MARTIN: The memorial of the clerks in the New Orleans custom-house, praying for relief.

By Mr. JONES, of New York: The petition of Anna McLean, of Niagara county, New York, for compensation for money advanced by her late husband, Lieutenant Charles McLean, of the United States Army, in the recruiting service.

By Mr. SEYMOUR, of New York: The memorial of citizens of Troy, New York, praying for a modification of the bounty land law, so that all persons, including seamen and marines, who served for any period in the war of 1812, may be allowed to receive one hundred and sixty acres of land.

By Mr. EASTMAN: The petition of Angelique King, sole surviving child of Pierre Lavasseur, (called Chamberlain,) claiming certain lots of land in Peoria, Illinois.

By Mr. HENN: The petition of Robert W. Steele, asking additional compensation as assistant marshal in taking the Seventh Census in Jefferson county, Iowa.

#### IN SENATE.

THURSDAY, May 13, 1852.

Prayer by the REV. LITTLETON F. MORGAN.

Mr. WADE. I have in my hands, and desire to present, the petition of Lockwood & Smith, who represent themselves as owners of steamboats on Lake Erie; and they set forth, among other things, that the bill now pending before this body to regulate steamboats, in order to provide for the better

security of life and property on board, will be detrimental to the interests of owners of boats on that Lake. As a bill has been already reported from the committee, I ask that the petition may be laid on the table.

The motion was agreed to.

Mr. GWIN presented the memorial of William Price, a watchman in the Census Office, praying an increase of compensation; which was referred to the Committee on Claims.

Mr. MALLORY presented the memorial of Otway H. Berryman, of the Navy, praying to be allowed an amount equal to the balance found against him on the settlement of his accounts as acting purser, while in command of the United States Schooner "Onkahye," and which account he had been obliged to pay over to the United States; which was referred to the Committee on Naval Affairs.

#### PETITION WITHDRAWN AND REFERRED.

On motion by Mr. HAMLIN, it was

Ordered, That the petition of Thomas Thurston, on the floor of the Senate, be referred to the Committee on Commerce.

#### REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on Printing, to which was referred a motion to print the report of a committee of the Chamber of Commerce of New York, in favor of the establishment of a Light-house Board, reported against the printing thereof; which was agreed to.

He also, from the same committee, to which was referred a motion to print the memorial of Benjamin Crawford, in relation to steam-boiler explosions, reported in favor of printing the same; which was agreed to.

Mr. BRADBURY, from the Committee on the Judiciary, to which was referred the bill to extend the benefit of an act entitled "An act to establish a uniform rule of naturalization," and to repeal the acts heretofore passed on that subject, "to the wives and children of citizens," reported it back with amendments.

#### BILLS INTRODUCED.

Mr. SHIELDS, agreeably to previous notice, asked and obtained leave to introduce a bill granting the right of way and making a grant of public lands to the States of Ohio, Indiana, and Illinois, in aid of the construction of a railroad from Cincinnati to St. Louis; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. BRODHEAD, by unanimous consent, asked and obtained leave to introduce a bill authorizing the Secretary of War to grant to the Pittsburg, Kittanning, and Warren Railroad Company the right of way over the grounds of the United States, at the Alleghany Arsenal; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### THE LATE MINISTER TO BRAZIL.

Mr. WADE submitted the following resolution; which was agreed to:

Resolved, That the Secretary of the Treasury report to the Senate whether the accounting officers have rejected a charge in the account of the Hon. David Tod, late Minister from the United States to Brazil, for money advanced by him to William E. Anderson, who was sent from Rio Janeiro to the United States, to be a witness on a prosecution to be commenced against two persons for carrying on the slave trade; and if so, then to report the facts, and the reasons for rejecting the claim.

#### TAX ON MISSOURI LANDS.

Mr. GEYER. I ask the indulgence of the Senate to postpone the prior orders for the purpose of taking up Senate bill No. 107, declaring the assent of Congress to the State of Missouri to impose a tax upon all lands hereafter sold by the United States therein from and after the day of sale. I do not think the consideration of this bill will occupy more than five minutes.

The motion to postpone the prior orders was agreed to, and the bill was considered by the Senate as in Committee of the Whole.

The bill proposes to give the assent of Congress to the State of Missouri to impose a tax or taxes upon all lands hereafter sold by the United States in that State from and after the day of sale; provided that the assent thus given shall in nowise impair that provision of the compact with that State, which declares that all lands belonging to the citizens of the United States, residing without

the said State, shall never be taxed higher than lands belonging to persons residing therein.

Mr. GEYER. I will merely state that this bill is designed to correct what I consider a mistake in the act of 1847. It is in the very language of that act, which declares the assent of the United States to impose a tax upon all lands sold by the United States to all the States admitted prior to the 24th of April, 1820. It happened that the act authorizing the convention in Missouri was passed on the 6th of April, 1820. That State, however, was not admitted until August, 1821. By inserting the words "prior to the 24th of April, 1820," the State of Missouri was excluded from the provisions of that act. The object of this bill is to put the State of Missouri on the same footing as other States.

The bill was reported to the Senate without amendment, and was ordered to be engrossed for a third reading.

#### HOMESTEAD BILL.

A message from the House of Representatives, by the hands of Mr. FORNEY, its Clerk, was received, stating that the House had passed the following bill, and requested the concurrence of the Senate therein:

"A bill to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting to every man who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, upon condition of occupancy and cultivation of the same for the period herein specified."

The bill was read a first and second time, and referred to the Committee on Public Lands.

#### OHIO AND CHESAPEAKE CANAL BASIN.

Mr. PRATT. Some week or two since a bill was reported from the Committee on the District of Columbia, which I will ask the Senate now to take up. It is a bill making a small appropriation to enable the Corps of Topographical Engineers to make a survey and estimate of the cost of constructing a basin at the terminus of the Ohio and Chesapeake Canal at Rock Creek, in Georgetown.

It is a question in which the State of Maryland is deeply interested, having already expended \$10,000,000 in the completion of that work, which was commenced under the auspices of the General Government. That expenditure is now rendered comparatively useless in consequence of there being no depot at its terminus in Georgetown. The desired object can only be attained by the General Government prosecuting it; and with this object in view, the bill to which I refer was drawn up appropriating a small sum to enable the Corps of Topographical Engineers to make the necessary survey and estimate. I hope the prior orders will be postponed for the purpose of taking up the bill.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole.

It proposes to authorize the Secretary of War to cause a survey to be made, under the direction of the Topographical Bureau, necessary to a correct estimate of the cost of constructing a canal basin at the terminus of the Ohio and Chesapeake canal, at Rock Creek, in Georgetown, in the District of Columbia, of sufficient dimensions to accommodate the business on said canal at that point, and to cause such estimate to be made and laid before Congress at the earliest practicable period; and it appropriates the sum of \$1,200 for that purpose.

Mr. WALKER. I may be in error, but it occurs to me that this is a bill of strange import, as it proposes that Congress should appropriate money for the survey and estimate, by the Bureau of Topographical Engineers, for a basin for a mere State work. That the basin happens to be located in the District of Columbia, it seems to me, constitutes no reason why Congress should assume this expense. If Congress has exclusive jurisdiction in the District of Columbia, it is no reason, in my opinion, why Congress, without incurring any further expense, may not give the State of Maryland, or any other State interested in this work, the right of making this survey and estimate. But there is something further: if I understand the bill, it directs the Secretary of War to detail from the Corps of Topographical Engineers a sufficient number to make this survey, and, in addition, appropriates \$1,200 especially for that

purpose. Now, I suppose that these officers and engineers are in the public service, and if detailed for this particular employment will only be occupying their time. Why we should make this appropriation, I cannot see; why we should so legislate, I cannot imagine. I do not think it would be done for any other State in the Union. Notwithstanding this belief, I am of opinion that there are other works of a character quite as national as this, for which an appropriation might be asked; but I am not well versed in the history of this work, nor thoroughly acquainted with the extent to which Congress may have adopted it, and become its patron. I thought, however, that it was due to myself to throw out these suggestions in regard to the impression which this bill made on my mind.

Mr. PRATT. I am sure that my friend from Wisconsin will be satisfied, with a very brief explanation, that the bill ought to pass. The Chesapeake and Ohio Canal was originally incorporated by the Congress of the United States, and the States of Maryland and Virginia. The Congress of the United States appropriated \$500,000 towards the prosecution of the work. A survey was made by General Barnard, who was at the head of the Topographical Engineers, under a recommendation of Mr. Calhoun, while Secretary of War. The work was commenced, then, under the auspices of these three governments. Private individuals and the cities in the District also subscribed. The United States have paid their \$500,000, and \$1,000,000 was paid which had been subscribed by the cities in the District, towards the completion of the work. Maryland has paid upwards of \$10,000,000 for its completion. Its great object is to bring to the District of Columbia the mineral resources of the western part of Virginia and Maryland. I cannot see but this is entirely right; and I think every one will admit, that inasmuch as the General Government originally patronized this work, and a direct pledge was thus given on the part of the General Government, that it would go with Maryland and Virginia in the prosecution of this greatest work that was ever prosecuted in the world, when Maryland has been involved in an expense of \$10,000,000, and when the whole of this expense will be rendered partially useless unless this appropriation is made, the bill should pass. I do think there cannot be any opposition to a proposition so reasonable as that a survey and estimate shall be made by the officers of the Government for the purpose of ascertaining whether a depot can be made for the reception of the trade from that canal, which has already cost so many millions of dollars to bring it to that point.

Now, the only other objection offered by the Senator from Wisconsin is, that he cannot see why an appropriation should be made to enable the officers of the Topographical Engineers to do what otherwise it would be their duty to do. A resolution passed this body requiring the Secretary of War to report such an estimate. On application made by the Committee on the District of Columbia, they were informed that there were no funds over which the Department had any control enabling the Topographical Engineers to make this survey. Consequently some small appropriation—about \$1,200 was mentioned—was absolutely necessary to enable the Secretary of War to carry out the requisition embraced in the previous resolution of the Senate. I hope, therefore, that my friend from Wisconsin will withdraw all objection to the passage of the bill, that we may have from the proper Department a report and an estimate of the cost of making this depot for the reception of this trade. I think he will see that justice requires that the General Government should do something in aid of the States of Virginia and Maryland, which were induced to enter into this work in consequence of the aid given by the General Government. The Federal Government, however, backed out of the matter, leaving it to these two States alone to finish it; and Maryland has already expended \$10,000,000 in this work, which was commenced under the auspices of the Federal Government. If there ever was a case requiring, in good faith, that the Federal Government should act, it seems to me that this is one; and I hope the Senate will pass the bill.

Mr. WALKER. The secret of this matter I infer from what has been said by the Senator from Maryland. He said the Government was under



a tacit or implied pledge to do this thing. Well, sir, it does seem to me that Congress can never speak about any matter but that there is fastened upon it a pledge to expend an illimitable amount of money, whatever may be deemed necessary for the completion of the work. We can see plainly to what this is to lead. If Congress goes on and takes the step of surveying and estimating for this work, why, of course, the next thing will be that we appropriate money to construct the basin. That, as a matter of course, will follow upon the same reason; for if the reasoning of the Senator from Maryland is good for the purpose now under consideration, it will certainly be good to fasten upon the Government the expense of the construction of this work. I should like to know if the bare survey and estimates of this basin is to cost \$1,200, what, in the name of common sense, is its construction to cost?

Mr. SHIELDS. As chairman of the committee that reported this bill, I would state to the Senator from Wisconsin, and to the Senate, the necessity for it. After making the most ample inquiries, we found that there was some receptacle necessary at Georgetown in order to prevent the boats from passing down to Alexandria. It was necessary for the benefit of Washington and for the benefit of this District. It was necessary in order to give the people here an opportunity of getting coal, and other articles of consumption, more directly. We cannot tell the nature of that receptacle—whether it is to be a basin, or whether it is to be large or small. We want to ascertain the facts in regard to it. If it shall turn out to be a matter of expense, we shall have it in our power to refuse to construct the work; or we may make terms with the authorities of Georgetown. The object of this bill is to ascertain the nature and character of the construction required.

I will state, that the Bureau, with which we conferred on this subject, gave us, in reply, this information: That to make such an examination as was wanted, they must proceed to bore the ground; they must employ laborers; they must go to some expense. They could not make an estimate satisfactory to us, on which we could act, without some little additional expense, and they name \$1,200 as the expense required. It may not cost over \$200. It may not go beyond \$300 or \$400. We cannot tell exactly what amount will be required; but we thought it best to appropriate the sum asked for. Some expense will be necessary to get this information, and then, when it is obtained, all that the honorable Senator from Wisconsin now says may be in very good time. But at present we have not information enough. What we want to get at is a knowledge of the necessity for this work, and the nature of the work required. That we can get, I believe, for a few hundred dollars. I do not think it is necessary to waste the time of the Senate on this subject.

Mr. WALKER. Mr. President, that we have not the information seems evident. That we are under no obligation to procure it is what I am asserting. There are some cities in this world—some in the United States—that have some little ambition to do something for themselves. Here are two cities, in a little flat-iron piece of ground, every citizen, every business man in them, being interested, if possible, more than the residue of the country put together, in the promotion of commerce here. But we find, that, when at a former period these cities made some subscription towards this work, Congress assumed it; and now, when the last thing is wanted, when information is called for in regard to the construction of a basin, they will not even condescend to do that for themselves. I do not believe that there is any obligation on Congress to take this step. But when we shall have had the information, as I before remarked, it is perfectly evident, from the arguments here, that we shall have to take a further step, and incur the expense of constructing this work. The Senator from Illinois says this survey and estimate may not cost more than \$200.

Mr. SHIELDS. I cannot tell exactly what it will cost.

Mr. WALKER. If this survey and estimate will only cost \$200, why is there an appropriation in the bill of \$1,200? I doubt very much whether there can be found an instance in an enterprise of this sort, where an appropriation has ever gone

beyond the amount which it was deemed necessary to expend. If we appropriate this amount, it will be pretty sure to be expended.

I believe that the way to keep down Washington city; the way to keep down Georgetown, in a commercial point of view, is for Congress to be continually making these appropriations, and leaving these cities nothing to do for themselves. Why, when we make appropriations, it is very rarely that they are expended for the purposes for which we make them. The people here really seem to think that if they expend the money we appropriate, for the purposes for which it was designed, this city might be finished, and hence there would be no more expenditure. Why, look at Indiana avenue. We made an appropriation of \$13,000 for grading and opening it. A responsible citizen of Maryland, and one who could give responsible security, came forward and proposed to take the work for the amount appropriated; but the Commissioner of Public Buildings, (not the present one,) answered him, that he could do it for less than the appropriation; that he would let the work out by the day. Well, he went on; and we have made appropriation after appropriation, for that object, from that day to this, until, at last, we have appropriated \$23,500 for Indiana avenue, and it is not yet half done.

I have felt that, when an occasion offered itself, I would make some remarks in regard to the manner in which money is expended in this District. This is, to be sure, a small question upon which to make these remarks, but they are none the less applicable; for the truth is as I have stated. Money is not expended here for the purposes for which it is appropriated. Take the case of this canal for another instance. An offer was made to do the work required on that, for the sum first appropriated; but we have gone on until it has cost three times the amount of the first appropriation. It seems to be the design that Congress shall continually appropriate money in this District, and yet never accomplish the object in view, that is, finishing this city. For one, I hope that Congress will at last begin to close the door of the Treasury against this thing, until the citizens—the responsible people—of the District of Columbia will see their true interests, and come forward as though they were somewhat interested in having money properly expended here. But it is not done. I assert what I can prove in regard to Indiana avenue and the canal. The men who proposed to undertake the work can come forward and testify as to the truth of what I have said.

To whom are these \$1,200 to go? To pay the Topographical Engineers for this survey?

Mr. PRATT. Some of it will be necessary to pay laborers.

Mr. WALKER. Will \$1,200 be necessary to pay laborers for boring the ground?

Mr. SHIELDS. As the honorable Senator seems to be a little ignorant of the nature of the case which he has attempted to talk about, I will say to him that there is a report here which may explain the necessity of this appropriation; and he will certainly see, when he hears that report read, that in the opinion of the head of the Topographical Bureau, there must be something expended for this purpose.

Mr. WALKER. I think I have read that report. I was surprised at it when it came in.

Mr. SHIELDS. I think the honorable Senator never heard this report read.

Mr. WALKER. It came in some time since.

Mr. SHIELDS. It has never been read yet in this Chamber, and I ask now for its reading.

The Secretary accordingly read a letter from Colonel J. J. Abert, of the Topographical Engineers, dated March 30, 1852, addressed to the Hon. Mr. SHIELDS, Chairman of the Committee on the District of Columbia. It states that the object of the proposed appropriation of \$1,200 is to enable the Topographical Bureau to make the surveys and examinations upon which an estimate could be founded for the construction of such a basin as might be necessary at the terminus of the Chesapeake and Ohio Canal. He states that an estimate of the cost of the construction of such a basin cannot now be made, because the items of an estimate, however rough, must have some reference to the plan, and the plan cannot be estimated without a survey and examination. He further states that the plan will probably involve extensive dredging, protecting walls, a dam, a short canal,

condemnation of occupied ground, and its value; and that these items cannot be ascertained without a survey and an examination; and if an estimate were made, only such an amount would be asked for as could be judiciously expended during the present fiscal year. He therefore submits an estimate of \$30,000 as the probable amount required for such a work, during the fiscal year.

As to the necessity and want of such a basin, he says, that it is a means of connecting the tide-water of the Potomac with the Chesapeake and Ohio Canal at Georgetown. In the plan of the canal, there are three terminating points, or points of connection with tide-water—one at Alexandria, by means of the aqueduct at Georgetown, and the short canal between the aqueduct and Alexandria; one at the basin at Georgetown, referred to, which, from its condition, being now of no use, is a theoretical and not a practical connection; and one at James's Creek, adjacent to the Arsenal, but which is not yet completed. The trade to the last point has to pass through the Georgetown basin and the Washington city canal; therefore, without the Georgetown basin, the James's Creek basin is useless. There is also a direct communication with the Navy-yard, by a branch of the city canal; but the canal connection with this branch also passes through the Georgetown basin. There is therefore at present but one practical connection between the canal and tide-water—namely, the Alexandria connection. The United States Arsenal and the Navy-yard at Washington both depend upon the Georgetown basin for water for canal connection with the armory at Harper's Ferry, and the coal and the iron region of the Alleghanies. Hence, it is supposed that the reduced price on the coal consumed at these two points, resulting from the use of the canal, would in a short time equal the probable cost of repairing and improving the Georgetown basin. Mr. Abert sums up the advantages to the United States from the improvement and preservation of the basin at Georgetown, as follows: First, the general inland trade of the country, which this canal is well adapted to develop and promote. Secondly, the extensive interests of the United States, as a stockholder in the canal. Thirdly, the extensive interests of the United States as a lot-holder in the city of Washington. Fourthly, the important national considerations involved in a canal connection between the Arsenal at Washington city and the Armory at Harper's Ferry, and the coal and iron region of the Alleghanies; and fifthly, the important national considerations similarly involved in reference to the Navy-yard at Washington.

Mr. DAWSON. Mr. President, I do not understand that the Senator from Wisconsin presents any constitutional objection to the appropriation for the purpose of making this survey. This District has no power of legislation, save in this body—the Congress of the United States. This is said to be a very important improvement. There are no public lands within this District that can be appropriated to make this basin.

Mr. WALKER. There are plenty of them.

Mr. DAWSON. Besides, I would suggest to the Senator from Wisconsin, that the principle which he so much admires, and has so often sustained here, is, that anything which would improve the value of the public property should be made the foundation for an appropriation—such as the granting of alternate sections of land. Now, look at the various advantageous influences which this basin or this canal has upon the public property. Your engineer suggests, in the communication which has been read, that the large number of lots held by the Government in the city of Washington, will be vastly enhanced in value by this improvement.

Mr. WALKER. Those lots are public land. Mr. PRATT, (to Mr. Dawson.) He admits your argument.

Mr. DAWSON. Does he acknowledge that the Government of the United States should carry out the principle in this bill?

Mr. PRATT. Yes, sir; I believe so.

Mr. DAWSON. Very well, then, I will let him alone.

The bill was reported to the Senate, and the question was stated, Shall it be engrossed and read a third time?

Mr. BRODHEAD. I am entirely opposed to this bill, and upon the question of its engrossment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BRADBURY. I do not object to the appropriation in this bill, provided it shall not be taken as a pledge that this Government will go on and construct the basin contemplated. The Government has already expended a large amount on this canal. I do not deem it of sufficient importance, whether the basin of this canal shall be at Alexandria or at Georgetown, for the Government to be involved in the expense of constructing it. But this appropriation is for a small amount, and I would not object to it, provided there should be no implied pledge that the Government is to prosecute it.

Mr. SHIELDS. This bill merely proposes a survey and an estimate. We wish to get information in regard to the subject.

The question being taken upon the engrossment of the bill, by yeas and nays, resulted—yeas 30, nays 7; as follows:

YEAS—Messrs. Badger, Bell, Berrien, Brooke, Bradbury, Cass, Clarke, Clemens, Dawson, Dodge of Wisconsin, Dodge of Iowa, Felch, Geyer, Gwin, Houston, Jones of Tennessee, King, Mallory, Mangum, Mason, Pratt, Rusk, Seward, Shields, Smith, Sumner, Underwood, Upham, Wade, and Weller—30.

NAYS—Messrs. Adams, Bright, Brodhead, Douglas, Jones of Iowa, Sebastian, and Walker—7.

So the bill was ordered to be engrossed for a third reading.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," the question pending being upon the amendment of the Committee on Finance, as it had been amended, to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500: *Provided*, That it shall be in the power of Congress, at any time after the first day of January, 1854, to terminate the arrangement for any additional allowance herein provided for.

Mr. WALKER. I wish to say to the Senate, and to the chairman of the Finance Committee in particular, that the Senator from Arkansas, [Mr. BORLAND], who made a part of his speech yesterday, is this morning sick abed, and requested me to ask that the deficiency bill might not be taken up, or, if taken up, that it might be postponed until to-morrow, or else taken up and acted upon in its other provisions, leaving this question undecided.

The PRESIDENT. All the amendments have been disposed of except the one pending in regard to the Collins line of steamers.

Mr. HUNTER. There are other amendments to be offered, some from the Committee on Finance, and some from the Committee on Indian Affairs. Two or three additional estimates have come in since the bill was reported. We can go on with the other amendments, and lay the one in regard to the Collins line aside.

Mr. GWIN. I hope not. The Senator from Arkansas can finish his speech on this subject when we get the bill into the Senate. I hope that we shall act now on the pending amendment. After the bill shall be reported to the Senate the Senator from Arkansas can speak on the question.

Mr. HUNTER. I think it would be more courteous to allow the pending amendment to lie over, so that we can offer other amendments.

Mr. GWIN. Suppose we should get through the other amendments to-day, are we then to postpone the bill?

Mr. HUNTER. When we shall get through with the other amendments it will be time enough to raise that question.

The PRESIDENT. The amendment reported by the committee is under consideration. It can only be laid aside by unanimous consent. If there is no objection it will be laid aside, and other amendments will be received.

Mr. GWIN. I am perfectly willing to take up other amendments now, and when we get through with them let us go on with the one in regard to the Collins line.

Mr. SEWARD. I shall insist upon going on with that amendment now. I have been waiting for several days to get a vote on the question.

The PRESIDENT. Then the amendment is under consideration, and the Chair has no alternative but to put the question.

Mr. CASS. It seems to be a matter of comity due to a member of the body, who has commenced a speech, to give him an opportunity to finish it. As there is other business connected with this bill we can go on with that, and finish it so that there will be no time lost. It seems to me that it would be better to go on with other amendments to the bill to-day.

The PRESIDENT. The Chair has no power over the subject. The amendment cannot be passed over except by unanimous consent, and no other amendments can be offered until this is disposed of. By unanimous consent, the Chair stated that it might be passed over, but that was objected to.

Mr. BRODHEAD. I beg to observe to the Senate, and especially to the Senator from California, that the honorable Senator from Arkansas, who is ill, was making his speech yesterday in opposition to the pending amendment. It seems to me, therefore, to be rather discourteous to take a vote on the amendment, and then ask him to finish his speech upon it after it has been passed upon by the Senate.

Mr. GWIN. Suppose the Senator from Arkansas should be sick for six weeks; are we to postpone action for that length of time? If there could be any surety that the honorable Senator would be here in reasonable time to make his speech, I should not object at all. Nor do I object now. I am perfectly willing to take up other amendments, and I withdraw all objection, provided that, when we get through with them, if we shall get through before the end of the day, the amendment now pending shall come up.

Mr. BERRIEN. Is there any question before the Senate?

The PRESIDENT. The question is on the amendment reported by the committee as amended. There was a proposition made that, by unanimous consent, that amendment should be passed over with the view of offering other amendments, but it was objected to.

Mr. BERRIEN. I should myself have no hesitation in acquiescing in that course if the decision on this question would be a decision by the Senate. But the bill is now in Committee of the Whole, and the question must again be presented when the bill shall be reported to the Senate. Then the argument of the honorable Senator from Arkansas can be heard. It is unnecessary, I presume, to make any other remark, as there is an objection to passing over the amendment.

The PRESIDENT. The Chair will state that when the bill is reported to the Senate, the question will come up on the amendments agreed to in Committee of the Whole.

Mr. SEBASTIAN. If the Senator from New York still objects, I hope that the honorable Senator will allow me to appeal to him in behalf of my colleague. I think I can make an appeal with great confidence to that Senator, inasmuch as the Senate has granted him, with others, the indulgence of offering extended remarks upon this question. Surely it would not be considered very unusual to accord to my colleague a courtesy which it has been usual to extend to other Senators. I hope, therefore, that the Senator from New York will withdraw his objection, and allow the discussion to take that form which has been suggested by the friends of the bill. Let us pass over informally the amendment now the subject of discussion, and proceed to the consideration of other amendments. It will be time enough for the Senator from New York to object when we shall have got through the other amendments. If, then, the illness of my colleague shall still prevent him from speaking on the amendment, it will be time enough to make the objection. I hope, therefore, that the Senator from New York will withdraw his objection.

Mr. MALLORY. Mr. President, I appeal to the honorable Senator from New York to withdraw his objection for another reason. The Senator from Arkansas, while delivering his speech yesterday, was unwell, and from a feeling of illness, was unable to continue his remarks. When he gave way he had not arrived at the spe-

cific objections which he entertained against the amendment under consideration. He was forced by illness to give way, and we have not heard from the Senator from Arkansas one single word as to his specific objections against this amendment. Therefore, I hope we shall give him an opportunity of continuing his remarks to-morrow.

Mr. WALKER. In order to make it a test matter, whether this courtesy is to be shown to the Senator from Arkansas, who has been taken sick, I move to postpone the further consideration of the bill until to-morrow.

Mr. PRATT. I think that is certainly unjust, for to-morrow is Friday, and private bill day. Private bills have been postponed for the last three weeks, for the purpose of passing this bill, under the view, I am sure, sincerely entertained by the chairman of the committee who reported it, that it would pass, if private bills were only postponed. The motion now is to postpone the bill until to-morrow.

Mr. BRIGHT. Let us postpone it until Monday at one o'clock.

Mr. PRATT. I have no objection to that. But it is manifestly unjust that the claims of private individuals against the Government, should be postponed from week to week for the purpose of taking up this bill. This bill at last is only to pay the debts of the Government. The private claimants are the creditors of the Government. They only differ from those who will be paid under the deficiency bill, in the fact that they have been creditors for a long period of time, whereas the others are only creditors of the last year. If, then, there should be a precedence, on principle, given to one over the other, the private claimants who have just claims against the Government of the United States, which have been lying over for years and years, have certainly a stronger claim than those in favor of whom appropriations are to be made in this bill. I shall therefore certainly object to appropriating to-morrow for the consideration of the deficiency bill. If Senators should desire to postpone it until Monday, I shall have no objection; but I certainly must object to its being postponed until to-morrow.

Mr. SEWARD. I hope I may be allowed to say a word in reply to the suggestions that have been made to me by respected Senators on the opposite side of the Chamber. If this was to be a final question, I would not insist upon taking the vote now; but it concludes nothing. The question will be before the Senate to-morrow just as it is to-day. Nothing can change that. I think that it is due to the proper conduct of public business here that we should get on with this bill as far and as fast as we can. After we shall have gone through the amendments in committee, rather than that the question should be taken by surprise, if the honorable Senator from Arkansas should be absent, I should myself object to taking any final question, or disposing of the matter finally, until he should be here; but I see no reason why we should not proceed with the bill to-day, as far as we can, inasmuch as the very same question will come up again to-morrow.

Mr. WALKER. I simply wish to remark to the Senator from Maryland, that the effect of this vote will not be to postpone the private business, but will leave it to us to-morrow to say whether or not we will dispense with the order of private business.

Mr. RUSK. I desire to say a word upon the subject of postponement, and I desire mainly to direct it to the Senator from New York. He sees that courtesy towards the Senator from Arkansas would require the postponement of the bill until Monday. I think it would be better to lay aside the present pending amendment, and dispose of the various other amendments which are to be offered. The Senator's objection is the only thing in the way of taking up the other amendments. I think that by laying aside the pending amendments, and going on with the others, in the absence of the Senator from Arkansas, we may considerably facilitate the final passage of the bill.

Mr. SEWARD. I intended to act in accordance with the friends of the pending amendment, and certainly with the honorable Senator from Texas; but after the remark he has made I shall withdraw my objection.

Mr. WALKER. Then I withdraw my proposition to postpone.

Mr. PRATT. I would suggest to Senators

that, if they think proper, they might make this private bill day. We might go on with private bills to-day, and let this bill take the place of private bills to-morrow.

Mr. HUNTER. I think we had better go on with the other amendments to-day.

The PRESIDENT. The pending amendment can be passed over by unanimous consent.

There was no objection, and it was accordingly passed over.

Mr. BADGER. I should be very glad to know, and I think we ought to know it now, whether it is the intention of the Senate to give this bill, to-morrow, the place which would be, under the rule, occupied by private bills? It is a matter of some importance that that should be known, because there are gentlemen here who are desirous to be absent from the city for a day or two, and who would not be here if to-morrow should be devoted to private bills.

Mr. HUNTER. I hope that to-morrow will be given to the deficiency bill. It is very important that we should act on that measure as soon as possible. I have now some amendments to offer, under the instructions of the Committee on Finance. The first is to add at the end of the first section of the bill the following:

For the reconstruction or repair of the steamer Bibb, used in the survey of the Nantucket Shoals, \$18,000.

This is in pursuance of estimate. It is necessary, in order to complete the survey, which is a very important one, and in order to use the work in season, that the appropriation should now be made.

The amendment was agreed to.

Mr. HUNTER. I offer the following, under the instructions of the Committee on Finance, to come in after the amendment which has just been adopted:

To enable the Secretary of the Interior to investigate the conduct of the Indian agents in California, who, without authority of law, or official instructions, have contracted heavy liabilities for beef and other supplies, alleged to have been furnished to various tribes of Indians while negotiating treaties; and to ascertain whether the Government may properly be held liable to claims on account of such contracts, \$10,000.

This is in pursuance of an estimate from the Department. It is designed to enable the Department to investigate the conduct of those Indian agents, of whom we have heard so much, and to ascertain the real state of the facts. I ask that this allowance may be made, in order to have these investigations made.

Mr. RUSK. I shall certainly vote against the amendment. What is the business of the officers who receive regular salaries, but to investigate these accounts, when they are returned? The adoption of this amendment will authorize them to appoint other agents, and when these questions shall come before us again, they will become vastly more complicated than they are at present.

The amendment was rejected.

Mr. DAWSON. I suppose the chairman of the Committee on Finance will propose the amendment again, when the bill shall be reported to the Senate.

Mr. HUNTER. It can be proposed in the Senate.

Mr. DAWSON. I hope the chairman will recollect it.

Mr. HUNTER. I shall try to remember it. Under the instructions of the Finance Committee, I offer the following, to come in after the amendment last adopted:

And he it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized to purchase for the United States, a suitable piece of ground, at a central point in the city of San Francisco, California, as a site for the erection of the custom house heretofore authorized to be built: *Provided*, That said site or ground may be obtained with good and sufficient title to the United States, in exchange for such reasonable portion of the Government reserve in that city, as the said Secretary shall deem just and equitable; or for a sum, in lieu thereof, not exceeding \$40,000. And to enable the Secretary of the Treasury to carry into effect this provision, the sum of \$40,000 is hereby appropriated: *Provided*, That if the said Secretary shall fail to obtain ground on satisfactory terms, then the said sum, or such portion thereof as shall be necessary, may be expended in providing the proper foundations for said custom-house, on the site heretofore selected for that purpose.

This is in pursuance of an estimate; and it arises from the fact, that the lot owned by the United States is a water-lot; and the additional cost of embanking and filling it up, in order to construct a custom-house, will be a great deal more than a lot could be bought for. The site which it is pro-

posed to obtain, is a much more convenient one than that already in the possession of the Government. It is hoped that the Department may be able to make an exchange of some of the lots now belonging to the Government, for the one which is desired. This appropriation is earnestly recommended by the Department, and, I believe, the Government will save money by the adoption of the provision. If we build the custom-house on the present lot belonging to the Government, it will be a very expensive undertaking.

The amendment was agreed to.

Mr. HUNTER. I offer the following amendments in pursuance of estimates from the Post Office Department:

For arrears of contingent expenses occasioned in part by insufficient estimates in preceding years, and by a larger quantity of blank books and stationery, office cases, and other furniture made necessary by the late act reducing the rates of postage, and by the great progressive increase of business in the Post Office Department, \$7,500.

For compensation to temporary clerks employed conditionally to bring up arrears of business in the dead letter office, \$1,000 67.

For fuel for the General Post Office building, from the 20th of February, 1852, to the end of the season, \$7 50.

The amendments were agreed to.

Mr. HUNTER. I have now got through with my amendments from the Committee on Finance. I understand that the Committee on Indian Affairs have some amendments to offer.

Mr. SEBASTIAN. Mr. President, I will offer, under instructions from the Committee on Indian Affairs, several amendments for the purpose of supplying deficiencies in the service of the Indian Department for the current year. They are literally and technically deficiencies, with the exception of one which I will explain at the proper time. These amendments are all based on estimates from the Indian Office, sent regularly to the Senate, copies being furnished both to the Committee on Finance, and to the Committee on Indian Affairs, as is the habit of that office. The first amendment is to insert the following:

For expenses of treating with the Indians and Half-Breeds, for the extinguishment of the title to their lands on the Red river of the North, in the Territory of Minnesota, being in addition to the appropriation for the same object made the 30th of September, 1850, \$901 05.

This is to meet an outstanding debt contracted for holding what is called the "Pembina" treaty. In explanation of that, I will read a letter from Governor Ramsay, Superintendent of Indian Affairs of Minnesota, on this subject:

MINNESOTA SUPERINTENDENCY, }  
ST. PAUL, February 27, 1852. }

I have the honor to inclose herewith my accounts and vouchers for the quarter ending 31st of December, 1851. You will see that of the funds placed in my hands to defray the expenses of the Pembina treaty, there is a balance in favor of the Government of \$6 45, but there are yet unpaid demands against the Government on account of said treaty, of \$907 50, so that it will require \$901 05 in addition to the small balance in hand, to pay off those claims. I request that the above sum may be remitted to me, and hope it will be convenient for the Department to do so out of some fund on hand, so that it may not be subjected to the delay of a congressional appropriation.

The amendment was agreed to.

Mr. SEBASTIAN. The next amendment is the following:

For the sum first advanced to the Chippewa Indians of the Mississippi under the 3d article of the treaty of 2d of August, 1847, to be expended in opening farms for their benefit, and extending their farming facilities, \$5,000.

Mr. President, by the terms of the treaty made with the Chippewa Indians of the Mississippi, the United States have agreed to pay them an annual sum of \$1,000 for agricultural purposes. By experience heretofore in the expenditure of that sum, it has been found that that amount is not sufficient to answer the purpose, and they have asked the Government to advance them five annual payments, amounting to \$5,000, for the purpose of completing the improvements upon the small tract of country they now inhabit, sufficient to enable the Indians to engage in agricultural purposes. The tribe consists of eight hundred or one thousand persons, living on something like a township, or half a township of land. They have in cultivation sixty acres. It is thought by the Indian agent that they ought to have six hundred acres, and this advance is asked for that purpose. It is recommended, as will be seen by the following letter, addressed to the chairman of the Committee on Indian Affairs, by the acting Secretary of the Interior, not only by the local agent appointed for the tribe, but by the Superintendent of Indian Affairs of the Northwest:

DEPARTMENT OF THE INTERIOR, April 6, 1852.

SIR: I have the honor to transmit a communication from the Commissioner of Indian Affairs, with accompanying estimates, which it was impossible to submit at the commencement of the session for want of the necessary data, and respectfully to recommend that the several items thereof be inserted in the deficiency bill now before the Senate.

J. J. CRITTENDEN,  
Acting Secretary.

The amendment was agreed to.

Mr. RUSK. I desire to offer an amendment which should have been attached to the one presented by the Senator from Virginia, under the direction of the Committee on Finance, in relation to special agents of the Post Office Department. I offer it under the direction of the Committee on the Post Office and Post Roads, and on the recommendation and estimates of the Postmaster General. It is as follows:

For the payment of the salaries of the special agents of the Post Office Department, to the end of the fiscal year ending the 30th of June, 1852, \$11,500.

The amendment was agreed to.

Mr. SEBASTIAN. I submit the four following amendments, from the Committee on Indian Affairs, all embracing small sums of the same character, and the question can be taken on them all at the same time:

For fulfilling treaties with the Winnabagoes, to wit: purchase of tobacco, per 2d article of the treaty of the 1st of August, 1829, and 5th article of the treaty of the 15th of September, 1832, \$375.

For fulfilling treaties with the Ottawas and Chippewas, to wit: purchase of tobacco, per 4th article of the treaty of the 28th March, 1836, \$300.

For fulfilling treaties with the Sacs and Foxes of the Mississippi, to wit: purchase of tobacco, per 4th article of the treaty of the 21st September, 1832, \$200.

For fulfilling treaties with the Menomonees, to wit: purchase of tobacco, per second article of the treaty of the 28th March, 1836, \$100.

Those items all arise under treaties with the four different tribes, under articles which appear to have been a mere transcript of each other, by which the Government is under obligations to furnish so many thousand pounds of tobacco to the Indians, regardless of expense. The appropriations made last year were found, in consequence of a rise in the price of tobacco, to be insufficient for the purchase of the stipulated amount. These are estimates from the Indian Office for the purpose of purchasing the whole number of pounds required by the treaties. They are not for debts contracted by the Department, for the quantity of tobacco corresponding with the amounts here were not given to the Indians, although they ought to have been in the beginning of the present year.

The amendments were agreed to.

Mr. SEBASTIAN. The last amendment which I am directed to offer by the Committee on Indian Affairs, is as follows:

For payment to the following-named tribes of Indians, of the under-mentioned sums due them, retained by the late sub-Indian agent, William H. Bruce, the same to be reimbursed to the United States when recovered from said sub-agent or his sureties, to wit: for the Menomonees, \$9,466 27; for the Chippewas, Menomonees, Winnabagoes, and New York Indians, \$321 59; for the Six Nations of New York, \$23 50; for the Stockbridge, \$1,106; making in the whole, \$11,116 36.

In a communication received from the Indian Department, the committee were informed that the bonds of the sub-agent have been placed in suit to recover the amounts specified, and that it is deemed but just that the Government should at once make good the amount withheld from the Indians. In further explanation, I will say, in reference to the amounts asked for in the amendment, that they are moneys due from the Government of the United States to the different Indian tribes, with the disbursement of which the sub-agent was charged. The money was never paid to the Indians. The agents' bonds have been placed in suit for the recovery of the amounts that he ought to have paid over as Government agent; and the only question now is, whether we shall compel the Indians to wait until they are recovered, or do as we are bound by treaty obligations to do—foot up the loss at once, and take the chance of indemnity from the Indian agent ourselves? That is the question presented.

The amendment was agreed to.

Mr. HAMLIN. I am directed by the Committee on Commerce, and in pursuance of a letter from the Secretary of the Treasury, which I hold in my hand, recommending the same, to offer the following amendment:

For the purchase of the site on which to erect the custom-house, Bangor, Maine, \$15,000.



For the purchase of the site on which to erect the custom-house, Bath, Maine, \$11,000.

Mr. BRODHEAD. The honorable Senator from Maine referred to a letter of the Secretary of the Treasury. I should like to hear it read.

Mr. BADGER. We have passed a law authorizing the erection of the custom-houses.

Mr. HAMLIN. I will state, that at the last session of Congress an appropriation was made for the erection of the custom-houses in both places. No appropriation was made in either case to purchase the site. The sites have been purchased, and now the Department wants the money to pay for them.

Mr. CLEMENS. I do not understand that to be a deficiency. It is a provision for a new contract. Is it in order in a deficiency bill?

The PRESIDENT. Any amendment is in order that is in conformity with an estimate furnished by a Department, or reported from a committee, according to the rule, as amended a few days ago.

Mr. HUNTER. I desire to be informed by the Senator from Maine whether the original law limited the amount? And whether this is an attempt to extend the limitation?

Mr. HAMLIN. The letter which I hold in my hand, states that the cost of the buildings was limited to the amount named in the appropriation; but this is for the purpose of the sites. I do not know that it is, strictly speaking, a deficiency. The original law creating the necessity for this contract, was passed last year. It has been made. They have made the purchase of the sites; they have not paid for them, but they ask this appropriation to pay for them. I do not see that it makes much difference whether it comes in here or in the regular bill.

The amendment was agreed to.

Mr. MALLORY. I submit the following amendment, under the direction of the Committee on Naval Affairs:

For establishing a depot of coal for naval purposes at Key West, in the State of Florida, \$20,000.

I hold in my hand an estimate from the Secretary of the Navy, which has been submitted to the Bureau of Yards and Docks, addressed to the committee, recommending this measure.

Mr. BRODHEAD. This is an appropriation of \$20,000. If there is a letter from the Department recommending it, and giving the reasons for it, I should like to hear it read.

The Secretary read a letter from the Secretary of the Navy, addressed to Mr. MALLORY, and dated March 5, 1852, as follows:

"I have the honor to transmit a report of the Chiefs of the Bureau of Ordnance, Construction, and Navy-Yards, &c., to whom your letter of the 1st instant, in relation to a naval depot at Key West, was referred, and to inform you of the concurrence of the Department therein."

A letter was inclosed, signed by Commodore Morris, Commodore Shubrick, and Commodore Smith, dated March 4, 1852, and addressed to the Secretary of the Navy, as follows:

"In compliance with your direction in the indorsement upon the letter from Mr. MALLORY, of the 1st instant, we have the honor to state, that, in our opinion, it would be useful and expedient to have a depot of coal at Key West, for the use of the naval steamers, which may be employed in that quarter; and that the sum of \$20,000 would be sufficient to provide accommodation for the preservation of as much coal as will probably meet the wants of the service."

The amendment was agreed to.

Mr. BELL. I propose the following amendment:

"For payment to the citizens of Alabama, Georgia, and Florida, for depredations committed by Creek Indians upon their property, and for other property, taken by the troops of the United States, and friendly Creeks, in the year 1836, \$355,797."

I offer this by direction of the Committee on Indian Affairs. I would not have presumed to offer it upon my own responsibility. This is a claim which has now been pending against the Government of the United States, I believe, for fourteen years. It has received various examinations in the House of Representatives anterior to this, and in the Senate also. Adverse reports have been made upon it in the House; one elaborate report was made, I think, in 1838; but the parties—the State authorities of Alabama particularly—have never rested satisfied under that decision of the committee. The House itself, I believe, came to no conclusion upon it. The Committee on Indian Affairs of the Senate, either the last session of Con-

gress or the session before, reported a bill, and my recollection now is, that it passed this body—extending the Indian intercourse law over the States of Alabama, Georgia, and Florida, with the view of embracing all claims made for depredations committed by the hostile Indians, who were but a portion of the tribe, in the year 1836 and other years, going perhaps beyond that period. The Committee on Indian Affairs, upon further examination into that question, are of opinion, that under the circumstances of the case, it would be very dangerous to adopt any such law, or extend the intercourse law over those States, not only on account of the lapse of time, but on account of the great difficulty of guarding against very extensive frauds in proving up all such claims at any time, particularly after so great a lapse of time.

A commission was appointed, under an act of Congress, during the administration of General Jackson, either in the year 1836 or 1837, I forget which, though I have the official documents all before me, to inquire into and report to the Executive the number and amount of the depredations, the individuals upon whom they were made, and also at what periods, and by what portion of the Creek tribe of Indians they were committed. That commission resulted in a report. After taking proofs, and discharging the commission with as much assiduity and care as the commissioners alleged they were enabled to do, they reported the entire amount claimed and proved by the sufferers to be \$1,257,407 30; out of which they allowed \$355,797 92. The latter amount they reported was for real and actual losses sustained by the claimants. The Committee on Indian Affairs have taken that report, as the basis of the proposition for the relief of the sufferers by the depredations. The committee of the House of Representatives assumed the principle that these claims for remuneration for depredations committed by parties of hostile Creeks, upon the property of citizens of Georgia, Alabama, and Florida, came within the principle established by the act of Congress in the year 1816, when a question arose with regard to the depredations committed by the British troops upon our northern frontier in the War of 1811, '12, and '13—that principle being that the Government was not responsible for the property destroyed by foreign troops in a state of war against the United States, by an invasion of our territories. That is a principle which is not meant to be contested; but the Committee on Indian Affairs, in recommending this appropriation for the relief of those citizens, proceed upon the principle that the state of things then, did not constitute such a war as comes within it; that, in fact, it is, though not expressly excepted, clearly an implied exception to that principle, so laid down in the act of 1816. The advocates for the claims of these parties—who allege that they suffered to a much larger amount than is provided for in the amendment—allege that they have the same grounds to come before the Government for redress that those who suffered by depredations committed under the general intercourse law upon the frontiers, have. They allege that they were unwarranted depredations committed by robbing parties of Indians; and that if the principle of the general intercourse law had been applied to the Southern States, in which a portion of those tribes still resided, they would have been entitled clearly to the benefit of it.

It is for the purpose of enforcing the principle of the intercourse law, in effect, so far as regards the actual amount of depredations and damages committed by the hostile Creeks, that this amendment is offered. If the principle of that law should be extended, as was proposed to the Senate a session or two ago, and which, I believe, was sanctioned by the Senate, though it did not become a law, the probability is that a much larger amount would be established under it—if I should say a sum double the amount, perhaps I would not be far wrong. Under all the circumstances of the case, considering that it does appear to be a just claim for damages against the Government of the United States, when we look into the facts connected with it, the committee are of the opinion that the smaller sum, reported by the commission to which I have alluded, would be the safest for the Government, while it would do, perhaps, substantial justice to all the *bona fide* claimants; not that we suppose that all the consequences of the damages to the parties named were traced according to any prin-

ciple that their claims would not be justly much larger than that proposed to be appropriated.

Mr. President, the whole question of the large appropriation which is proposed for the satisfaction of these claims, grew out of what I considered, at the time, a most unfortunate policy of the Federal Government. By the treaty of 1826, with the Creek Indians, which was not ratified until 1832, the Indians were allowed to sell out their territory, on condition that they should remove westward; but I believe the terms of the treaty were, that whatever head of a family chose to retain a reservation, should be at liberty to do so. How many reservations there were thus retained, I do not remember, for I have not recently looked into the official documents on the subject; they were very large. But the misfortune was, that it became the policy of the Government at that time to coerce the removal of the Indians by every expedient which, as they supposed at the time, was sustained by a sound policy, but which turned out by and by to be a very unwise and unsound policy. It allowed white settlers to go into the Indian country, purchase reservations, and settle in the midst of the Indians, before the first step was taken for the removal of the latter west of the Mississippi. A large population immediately rushed in; the Indian reservations, according to the regulations pointed out by the treaty, were rapidly bought by the white settlers; but there were the Indian vendors, a great mass of the Indian population, still within the Indian territory, forming a confused and promiscuous settlement all over it. It was very early seen by the citizens of Alabama and Georgia, more particularly by the settlers who had gone in, in pursuance of the recommendation and policy, I may say, of the Government, that the Indians, when they once sold their reservations and got their pay, had, while that pay lasted, something upon which they might subsist, but there was no stimulus to industry; they had no lands remaining to cultivate; and it happened between the year 1834, when the reservations were sold, and 1836, when the outrages complained of commenced, that a large portion of the Indian population were in a state of absolute starvation, and by violence, by plundering, by robbery; for charity, however extensive it might be, was not sufficient to supply their wants, operated upon by no hostile feeling towards the whites or towards the Government of the United States, but for bread, for means of subsistence, they commenced depredations on the cattle and other property of the white settlers amongst them. But that is not all. The whole truth requires that I should state that the Government was repeatedly, again and again, admonished, that the destitute condition of the Indians must inevitably lead to hostility on their part; that it must lead to plundering and robberies, and that unless it stationed a sufficient military force within their boundaries, the very consequences which did follow in 1836 must inevitably follow, and they did follow with a most fearful violence not so largely in murdering the white inhabitants, (though murders were committed,) as in plundering property, taking cattle, burning houses, and driving out the white settlers altogether, who, although they had gone there under the sanction of the Government, purchased reservations, and settled down, were absolutely expelled with their families. Those white settlers have thought that they were entitled to some remuneration, after having gone there under the faith of the Government, for the damages sustained in consequence of being expelled from farms which they had purchased under the authority, countenance, and recommendation of the Government. But all that is excepted. We do not propose to pay them one cent on that ground. The whole amount proposed to be paid is for property actually taken, or consumed, or destroyed, by the Indians, and for another large portion included in the same amount of three hundred and odd thousand dollars for stock and cattle taken by the United States troops and friendly Indians, because they had to rush in under circumstances that did not allow proper means to be used for their sustenance.

I believe I have stated all the substantial facts of the case. The honorable Senators who represent the section of the country from which this proposition comes, can state if I have omitted anything material. Under these circumstances, it does appear to me that the Government is under

an obligation—the obligation of protection—the obligation of the treaty—which they cannot blink or disregard, to pay at least the amount provided for in the amendment. To show that it was not a state of war, I have only to mention that there was no declaration of war by the authorities, or what were considered the authorities, of the tribe of Indians. It first commenced in licentious depredations on property, dictated and impelled by hunger. What other motives, what feelings of vengeance, if you please, may have entered into the hearts of the warriors who joined the predatory hordes before all was over, no one can tell. Neither did the authorities of the tribes, nor the great body of the Indians, unite with them. It was at last, as I understand, only a fraction of the Indians that became thus hostile and predatory. There is, then, in my judgment, no tenable ground for the position taken by the Committee on Claims in the House of Representatives, in saying that this was a state of public war, which would exclude these claims under the principle laid down in the act of 1816. There was no public war declared. There was no war on the part of the entire tribe. It was but a fraction of the tribe; and even their hostilities were impelled by the strong circumstances I have indicated, and which the Government might have prevented by proper diligence and forecast.

I do not choose to go into the question as to the circumstances under which these irregularities, these hostilities, were allowed to spring up in the Creek nation. I believe I might undertake to state, and might refer to public documents, or, at least, to public speeches, for the purpose of fortifying what I say, that warning was given in due time; that the country was attempted to be notified that this state of things must lead to the very disastrous consequences to which it did lead. I believe it cost the Government \$3,000,000 over and above the stipulations of the treaty of 1832, to remove those Indian warriors. I charged it, at the time, to the neglect of the Federal Government. I will not undertake to say, after this lapse of time, after the passions and interests connected with that period have passed away, that I should form the same judgment now. The whole responsibility rested upon the Executive at the time. That expenditure of full \$3,000,000, which grew out of the hostilities, was the consequence of that neglect. But I do not wish to review this. I think, however, this is a claim founded in such obligations as this Government cannot disregard.

Mr. HUNTER. These are matters which I do not profess to understand. They have come from other committees; and have doubtless been investigated by them; but I think I have heard enough to convince me at least that this appropriation should not go into the deficiency bill.

This bill as it came from the House of Representatives, appropriates \$3,127,000 to supply deficiencies; the Finance Committee of the Senate have added \$853,000 more, making in all \$3,980,000 appropriated by that bill previous to the amendments which have been offered to-day. It seems to me that there is some danger of our swelling this deficiency bill far too much. If this is a legitimate claim against the Government of the United States, I should conceive that it will be better to postpone the further consideration of it until the Indian appropriation bill comes up. If that is done we shall then have had time to examine the question thoroughly. I confess it is new to me, and I do not understand it. I suggest, therefore, if it will suit the views of the Committee on Indian Affairs, that claims of this nature should be reserved until we have the general Indian appropriation bill before us.

It is impossible, if we should now go into all the affairs connected with all the branches of the appropriations in the deficiency bill, for the Senate to pass them for want of time; as it will consume so much time in their investigation, and we should be compelled to examine the wants of all the Departments. Whereas, if we should confine ourselves to the actual deficiencies, and postpone these questions of claims to the general appropriation bill, we should get on much faster.

In relation to the general merits of this claim, I do not wish to say anything, unless the Senator [Mr. BELL] persists in urging its introduction here. If so, I should have a word or two to say about it.

Mr. CLEMENS. It appears to me that the

Senator from Virginia [Mr. HUNTER] should have made his objection to admit claims into the deficiency bill long since. It is a little singular that he has permitted all others to pass, and that he should select this particular case for special objection. If he had opposed the admission of other claims, I should now have gone with him; and, however anxious I may be that this one should pass, I would not have complained if others had been rejected. But, when custom-house claims, and light-house claims, and every possible species of appropriation is admitted into the bill, without any objection on the part of the Senator, it is somewhat strange that he should object to this, the most just item of them all.

These depredations were committed in consequence of the faults of the Government. I do not blame the Indians, because, in consequence of the faults of the Government, they were compelled to resort to depredations to procure the means of subsistence. A commissioner, appointed by the Government, reports that it was not the policy of the Administration—although the Indians, in 1834 and 1835, were actually suffering from want of food, and in a starving condition—to supply them with food, because the Government wanted to force them to emigrate. It had failed for years to comply with its obligations to remove them, and finally attempted to starve them into a removal. Under these circumstances, a small portion of the Lower Creeks—for the Upper Creeks did not take any part in the disturbances—a small number of the Lower Creeks, amounting to scarcely a fifth of the tribe, shot down the cattle, and stole the property of the settlers; eventually, these acts led to a state of hostilities, and the settlers were compelled to leave the nation. They come here now, and ask, not for consequential damages arising out of their compulsory removal, but for damages for the actual loss of their property. They ground the claim, not on testimony taken now, but on actual proof taken before the commissioners appointed by Congress at the time, which commissioners report that they were entitled to recover \$1,500,000. The commission was appointed on the recommendation of General Jackson.

The payment of this claim has been again and again urged by Presidents of the United States, and again and again reported on by committees of the Senate. The Senator from Virginia [Mr. HUNTER] says he does not understand it! Why, we had a full discussion of this very question last Congress; a bill, similar to the amendment of the Senator from Tennessee, [Mr. BELL] was introduced by the Committee on Indian Affairs, at my instance; an objection was taken by the Senator from Kentucky, and, after one or two days' debate, we accepted his proposition, to extend the intercourse laws so as to embrace this question. I was willing to accept that proposition then, and I am willing to accept it now, because, as the Senator from Tennessee [Mr. BELL] has said, correctly, it would double the amount which we now propose to pay. The Committee on Indian Affairs have reported a bill this session precisely like that reported at the last session. This amendment gives us less than we have a right to claim.

We have been waiting on the justice of Congress for nearly sixteen years, and it is time that something should be done. If the Senator from Virginia [Mr. HUNTER] had been as anxious to guard the deficiency bill against all other amendments, I should not object to his attempt to exclude this; but when he manifested so much complacency while amendment after amendment was introduced, I think that the objection is made with a very bad grace at this stage of the proceedings.

Mr. HUNTER. I am not aware that I have favored or supported any amendment which did not properly appertain to this deficiency bill. The Senator from Maine [Mr. HAMLIN] reported an amendment which, in my opinion, was for a deficiency. There was a bill passed last year for the erection of a custom-house in the State of Maine, and the sum which it was to cost was limited to a certain amount. By an omission in the bill no appropriation was made for the site. The gentleman from Maine proposed that we should appropriate something for the site. I think that was a deficiency. At any rate, there is a difference of opinion between the Senator from Alabama and myself. I am not aware that any amendment has been offered here to-day to this

bill on which a single question has been raised. It is true that amendments have been offered from other committees under the rule as it now stands; but many of these were in relation to matters about which I knew nothing, and, therefore, about which I could say nothing. This amendment proposes to add to this bill a very large amount; and besides, so far as I can understand it, it seems to me to involve a novel principle. What is it? The friends of this amendment say, that by our general policy we were, at a certain period, involved in an Indian war, and that we ought to pay the damages to citizens of the United States who were injured in their property by that war. That is the amount of the principle. For my part, sir, I do not think that we are under any such obligation. Every portion of the country must take its chance in regard to our general legislation or the consequences that may result from it. If any one party or section is injured, they cannot come here and ask us to pay damages on account of our not acting with proper wisdom and caution. The question is, whether this was what could properly be called a war, or whether it was not. I have always understood this to be a war; and if so, I understand the Senator from Tennessee [Mr. BELL] to say that the General Government would not be liable. I should like to know from that honorable Senator whether I understand him rightly?

Mr. BELL. I cannot answer categorically. I do not regard this as being a public war in the sense in which that term is used.

Mr. HUNTER. Upon that question I do not pretend to decide. This appears to be a difficult case; and on that account, if on no other, I am inclined to think that it does not properly belong to a deficiency bill. The question, therefore, I think, should be laid over until the general appropriation bill is brought up, when we shall have had time to consider it more fully.

Mr. BELL. I beg leave to say that the objection, as taken by the Senator from Virginia, is taken upon very plausible grounds; but those of us who have had experience in regard to the mode of bringing in general appropriation bills in times past, know very well what the result will be. We know very well, that in a matter of this sort, it would be contended that it should be passed over, in order that more time should be had for deliberation—just the very argument, sir, that is used on the present occasion. When I was up a few minutes ago, I stated that this matter had been under consideration for fourteen years; and I think it is now time that we should come to some conclusion and settle the principle; and whenever it is settled, I think it will be time not misspent, for it appears to me that this question is likely again to arise in this country, and that, perhaps, at no very distant day. Such a war may be brewing at this moment in the Northwest. It is a question to be settled, whether this was such a war as should preclude the satisfaction of these claims by the Government of the United States. If that is so, it should be done seriously, not only because it involves this amount, but because it may involve much larger amounts in time to come. I stated that the Committee on Indian Affairs did not consider this a war in the sense contemplated by the act of 1816, which could indemnify citizens from losses incurred by the ravages of a public enemy. It was no more a public war than are those wild and indiscreet ebullitions of young warriors, who break out every year and commit depredations upon the borders of white settlements. It was a war which had something more in it to justify these claimants in presenting themselves at the door of the public Treasury for indemnification. It was a war which was provoked by the policy of the General Government, not only in leading and inducing white settlers to go and settle among the Indians, but even, when time was taken by the forelock by the citizens of Georgia and Alabama, and the Government was admonished, that if this policy was persisted in, it would result in this description of depredations. These settlers feared for their safety for two years before hostilities broke out. And what was the policy of the Government? I repeat again, sir, that it was to starve these Indians out, and thus to compel their removal.

Mr. CASS. Will the Senator allow me to ask him to inform me where he gets the evidence upon which he makes such an assertion as that?

Mr. BELL. I have the matter in my own recollection, and I think the public documents will be found to contain it.

Mr. CASS. At that time I had a considerable share in the responsibility of this measure; and I venture to say, from my recollection of the matter—though my attention has not been recently called to it—that the Senator will find himself mistaken. I venture to say that the treaty will show express provisions to the contrary.

Mr. BELL. What I stated was in accordance with what the Senator from Alabama [Mr. CLEMENS] had stated in his argument. It was because they permitted these large reservations to be taken, and yet permitted them to be sold, and purchasers to go, and occupy them before the Indians had been removed. That was the cause of the difficulties between the Indians and the white settlers, in the first place. And the Government was warned beforehand in regard to the results of that course. I did not remember that the honorable Senator from Michigan was at the head of the War Department at that period, and I will do him the justice to say that I cannot charge that policy upon him. I will not undertake to state that that honorable gentleman advocated that policy in the Cabinet of which he was a member. I only say it was the policy of the Government at that period, and that policy was to starve the Indians into an emigration.

Mr. CASS. Will the Senator allow me to interrupt him? I wish to state that this is a transaction which occurred many years ago, and of course I have an indistinct recollection in regard to it. This I recollect, that I made the treaty, in which I was aided by one of the purest men in the country, the predecessor of the Senator from Tennessee in this House, Judge White, of Tennessee, who from the beginning to the end acted upon it. The Government was disposed to extinguish the Indian title in those States, and they wished the Indians to go; and every man who knows what was the condition of the Indians then, knows that they must have gone. The Indians were unwilling to go. The pressure upon the General Government, however, was immense to have the country opened to the white settlers. We could not sweep them all off at once, we could only remove a portion of them at a time, as we had done in other cases.

Mr. CLEMENS. I wish to state, as the Senator from Tennessee [Mr. BELL] has said it was the policy of the Government to starve out the Indians, and as I had said the same thing, what was my authority for saying so.

“Mr. Balch, a Government commissioner, appointed by the President to investigate the causes that led to the Indian hostilities in 1836, reported that, in the latter part of the year 1834, the Creeks suffered for the want of food; that in 1835 they were reduced to a state little short of starvation; but, he said, ‘it was contrary to the policy of the Government to supply them with food, as this act of benevolence would have retarded emigration.’”—*Ex. Doc., 2d sess. 24th Cong., No. 154, p. 157.*

Mr. CASS. May I inquire when that document was dated?

Mr. CLEMENS. It is a document of the second session of the Twenty-fourth Congress.

Mr. CASS. Allow me to say a single word.

Mr. BELL. Does the Senator wish me to yield the floor?

Mr. CASS. Only for a few moments. I wish to say that Mr. Balch, as a commissioner, says what he had no right to say. It was after my time; but I know that, at no time, had he any authority to say, in giving a reason for these difficulties, that any Government that ever had the authority in the United States, desired to starve the Indians, with a view to compel them to remove.

Mr. BELL. Not to starve them absolutely, but not to give them supplies.

Mr. CASS. Allow me to say that, as I have long lived among the Indians, and have known their habits, there is no portion of this country in which there are Indians where there is not great suffering among them; and, in the northern part of the country, there is no winter passes in which a considerable number of them do not die from starvation. It will never do to think of supplying their wants, by any appropriations we can make. It would actually seem that they do not know or care for what to-morrow may bring forth; and it is no imputation upon the humanity of any Government, that they did not establish depôts throughout the country, with a view to ask our starving Indians

to come to them to be fed. There is not a gentleman on this floor who does not know that. It is deeply to be regretted; but the question is, what is the remedy to be applied? Not that remedy, most assuredly. That will do no good, either to them or to us.

But with respect to Mr. Balch, allow me to say that he never had the slightest authority to make such an announcement as to the action of any American Government. But I repeat that it was after my time, and I am not responsible for it; yet, under whatever Administration this occurred, I disavow the sentiment.

Mr. BELL. I think the Senator is trying to escape from the point which is urged with reference to the validity of this claim.

Mr. CASS. I did not say a word on that subject.

Mr. BELL. Well, sir, whatever may have been the policy of the General Government, (and I am willing to admit that it has often been humane and liberal,) it cannot be denied that the Government was warned, that unless these Indians were supplied with provisions, or an adequate military force was stationed in that section of the country, these evils would result. Now, the honorable Senator from Michigan may draw what conclusion he pleases; but one great point on which we rely, is, that the Government was forewarned. I do not know on what authority Commissioner Balch made this statement, but that was the report, and it was not disavowed by the Government at the time. There may be better authority than that of Mr. Balch. I believe there is, and that it will be found in the document referred to. The Government certainly refused either to supply the means of subsistence to these Indians, or to furnish a competent force to suppress these outrages. And what escape is there from it? The honorable Senator from Michigan says, that such a treaty was made, and that they had not reserved the power to coerce the Indians, after they had made their reservations. The policy of the Government was to get the Indians out of the country. They made a treaty—the best one perhaps which they could make, under the circumstances; and one of the provisions of that treaty allowed the Indians to make reservations which were to be sold under regulations to be prescribed by the General Government, and they retained no power to coerce their removal under the conditions of the sale of these reservations.

From the year 1830 to the year 1834—the time when these settlements were taking place, and while these reservations were being made—the settlers perceived what would be the consequences unless the Indians were removed; and when they found that the condition of the Indians was such as to threaten these depredations, they warned the Government, in such a manner as should have received attention, that, unless the Indians were furnished with provisions, their destitute condition would impel them to commit these depredations, or that, if they did not supply them with the means of subsistence, they ought to station a suitable military force in that section to repel the depredations to which they were exposed. The Government then sanctioned the principle of coercing their removal, not by starving them actually to death, but by causing them to feel that their true resources, and their very subsistence depended upon their removal to the west of the Mississippi. Things continued in that condition from 1834 to 1836, when the depredations commenced; and, as the honorable Senator from Alabama has stated, not one fifth of the Creek Indians were engaged in it. It was a matter to be inquired into by the commissioners appointed by the Executive Government, what proportion of these tribes took part in these depredations upon the property of these petitioners. That was one of the purposes for which the commission was instituted, and one on which they reported.

I say, then, Mr. President, that it was not only no public war, in the sense in which that term is used in regard to the laws of nations and the treaties which treat of the laws of war or the laws of nations, with respect to foreign wars in regard to depredations by a foreign enemy upon the property of citizens—not only is it no such war, but I hold that these depredations were provoked by what was the unfortunate policy of the Government in regard to the Creek Indians who held reservations and who refused to remove. They

held starvation over them as a rod to compel them to emigrate beyond the Mississippi.

I think that if the General Government had provoked a general war, they would have owed an indemnity to citizens who suffered by it, and that they should pay for these depredations. Individuals were encouraged, and recommended to go in and settle among these Indians, by the Government itself; and what we propose now is, only to pay one fourth part of the entire amount of damages which they claimed, and which they seem to have proved before the commissioners—I mean the consequential damages from being coerced from their farms, and being compelled to fly for their lives, leaving not only their farms, but their cattle and household goods.

I commenced stating some reasons to the Senator from Virginia why this is a proper occasion to act upon this appropriation. If we leave it till the general appropriation bill comes up, it will from necessity be passed over to the next Congress. We know from long experience that the general appropriation bills are the last that are taken up. You may remember that at the last session of Congress it was at the last hour at which Congress, under the Constitution, could sit, that those bills were brought here, and some question was likely to arise whether the acts passed at that time were passed constitutionally. I believe they did not pass until the morning of the fourth, instead of the third of March. So it will be again, and so I think it is destined to be so long as this Government stands.

There must be some intermediate period when Congress has more leisure and more disposition and opportunity to examine claims of this kind, if they are to be settled with due deliberation. This deficiency bill offers the most suitable occasion that can arise for that purpose. I consider that this is fully verified from past experience. The only discussion we are likely to have, is upon this deficiency bill, for if it is put over to the close of the session, it will be all we can do to pass the ordinary appropriations for the maintenance of the General Government. It is for that reason, that unless those who are interested in the proposition, request me to withdraw it, I must continue to press it.

Mr. RUSK. I regard these claims—although part of the facts have escaped me, having investigated it some years ago—as being as just as any that could come before Congress. The intercourse laws of the United States do not extend to the States of Georgia and Alabama; if they had, these claims would have been paid long since. A bill was passed by the Senate, after a full investigation of all the facts, so as to extend the full authority of the intercourse laws of the United States to the time when the depredations were committed by these Indians. It was passed by the Senate, but was lost in the House of Representatives. It was passed by the Senate, after a full investigation of all the facts connected with the case.

The depredations were committed by the Indians, not during a state of war, but in a mere outbreak of a portion of the tribe, and were committed on the citizens of Georgia and Alabama. Most of these people were very poor, and they suffered the loss of their cattle and corn by the spoliation of the Indians, whilst some of their property was taken from them by the troops who were sent out to suppress the disturbances. I do not think any argument can be based on the causes which led to these depredations, in opposition to the claims of these people for remuneration from the Treasury of the United States. It is said that the policy of the Administration may have led the Indians to make these depredations, if so, it makes the claim stronger. But whatever that policy might be, if the intercourse law which was applied everywhere else had applied to the States of Georgia and Alabama, these would have been just claims, and would have been settled by that law. They have, besides, been thoroughly investigated, and estimates have been reported by the Commissioners appointed by the Government. The most of them, I believe, have been made by people in indigent circumstances, who lost their property years ago, without any fault on their part, and claim indemnity on a principle applied to every other State where you have Indians. Under these circumstances, it seems to me a just claim; and, so far from rejecting it from this deficiency bill, so far from there



being any reason why it should not be paid, it seems to me eminently worthy of favorable consideration. It has been postponed, and postponed, for fourteen years. It has been investigated by a commission appointed by the Government. It has been several times investigated by the Indian Bureau, and also by the Committee on Indian Affairs, and found to be correct. Under these circumstances, I think, it is the duty of the Government promptly to pay the debt.

Mr. DAWSON. I desire to say a few words for the purpose of presenting the facts as they really exist.

In 1826 and in 1834 treaties were made by the General Government with the Creek Indians, residing within the limits of Alabama. By the terms of those treaties, all the lands of the tribe, save those which they reserved as head-rights, belonged to the Government of the United States. The Government, immediately after the confirmation of the treaties, took possession of the whole of the lands save the reservations. In 1834—and I would be glad if Senators would remark the date—the Government of the United States exposed at public sale, all the lands thus obtained from the Creek Indians within the limits of Alabama; thereby inviting the citizens of the United States, rich and poor, to purchase and settle these lands in the midst of the Indians who occupied the reservations. That was the first attempt on the part of the Government to establish the policy of settling the white man in the neighborhood of the red man. Immediately after this occurred, in accordance with the terms of the same treaty, the Government of the United States authorized the Indians, not the Indians of the nation in their national character, but the Indians who had become head-right reserves, to dispose of their reservations; and appointed an agent, under the treaty, to see that these reservations were sold to the white man, and that no fraud was practiced on the Indians. That was the relation occupied by the Government with respect to these parties at that time.

The Indians accordingly sold the lands under the superintendence of an agent appointed by the Government, and they were left landless. Their plantations being gone, and the game being driven out of the country, in what condition were the Indians left? Without soil to cultivate, or money to purchase the necessities of life. There they were. And whose policy kept them there? That of the Government of the United States. What, then, was the duty of the Government of the United States? It was to encourage emigration, according to the stipulations of the treaty. Lands were provided for the Indians west of the Mississippi river, and the Government was bound to pay for their transportation, and to appoint agents to consummate that transportation. Government failed to do that, and the Lower Creeks were left in Alabama in a state of almost starvation, and they commenced their depredations for the purpose of sustaining life. Upon whom did they commit their depredations? Upon the white emigrants; the poor men who had first settled there; that class of persons who always settle all new countries. These poor people found themselves with their families—not with their negro plantations but—surrounded with Indians; and day after day necessity drove these Lower Creeks to take their stock of every description, and to go into their corn-fields, and destroy their crops; and finally, in 1835, these very Indians attacked the line of stages running from the State of Georgia to Montgomery, and killed the driver and some of the passengers, and took possession of everything they found. Why was this done? Merely to get the means of subsistence. Whose fault kept them there, and rendered this deprivation inevitable on their part? That of the Government of the United States. Well, sir, did the Government of the United States at that day recognize the consequences in which they had thus involved themselves? Have gentlemen looked back to see whether they are about to do justice by voting against this claim, or not?

In the year 1836, President Jackson, in his annual message, recommended to the Congress of the United States the ascertainment of those losses and to make an appropriation for the payment of these claims. Congress, in accordance with this request, passed a bill authorizing the Government of the United States to appoint three commissioners to

ascertain the extent and character of those losses. Who appointed those commissioners? General Jackson appointed them; and they were men of high character. They visited that country. And let me say here, that Georgia has very little interest in these claims, although many citizens of Georgia went to Alabama, and settled there. These claims were investigated, and the losses ascertained. And, to what did they amount? Why, sir, losses to the amount of upwards of \$1,000,000 were proved. But the commissioners decided, that under the act of 1816, and under the principles which should control the action of Congress in relation to spoiliations of this kind, only three hundred and odd thousand dollars should be paid.

Mr. SEWARD. Will the honorable Senator from Georgia allow me to ask him whether, in this stage of the argument, he can give an account of the principle of the law of 1816? I want to know what that principle is.

Mr. DAWSON. I cannot, at this moment, state it precisely; but I will send for the law, and the honorable Senator can see what it is.

These commissioners made their report, and on the next meeting of Congress, the President laid the whole matter before them, through the report of Mr. Joel R. Poinsett, the then Secretary of War, and asked for an appropriation to pay these claims. That appropriation was made by the Senate of the United States, and the bill making it went to the House of Representatives, and there failed.

Now, I ask, in all justice and humanity to these people who first settled the State of Alabama, on what principle you will deny them compensation? Is there a State in this Union that has been injured in this way that has not had an appropriation granted? Why, sir, this has sometimes been done by the State Legislatures. The State of Georgia paid to her citizens \$100,000 for losses sustained by spoiliations of this kind. And yet, sir, you deny to the people of Alabama, and to a small remnant of people once belonging to the State of Georgia, but now located in Alabama and Florida, any remuneration whatever. Shall we deny them compensation according to the principles you have invariably established, and that, too, when the justice and equity of the claim is so strong that the only resort taken, the only objection made is, that it is improper to attach it to this deficiency bill? Sir, you have an application here to pay a large increase of compensation to the Collins line of steamers—an application to increase compensation to those who do not need it; while you would deny it to those who were the first settlers of the State of Alabama. When this application is made, we are restless and uneasy, and not willing to listen to the claims of honest and suffering citizens. In the language of Senators who have spoken on this floor, it is too true that we are ready to vote large amounts for anything of a distinguished character, which will command the attention of the Senate; but when a multitude of small men come and ask you to give them what is justly theirs, you pass them by, and leave them to their poverty and wretchedness.

Mr. President, I have looked into this matter with a great deal of care and attention. I was connected with all these transactions. Talk of its being a war! It did result in a war. A thousand fellow-citizens were there engaged, and many of them lost their lives in consequence of the conduct of this Government. This I saw with my own eyes. I saw crowds of poor families who had to fly to Georgia, leaving all their property in the hands and at the mercy of these Indians, glad enough to escape with their lives; and yet the claims of these people are to be disregarded, when by your own acts you induced them to go and settle in the State of Alabama. Sir, I hope that, before a body like this, with a full feeling to do justice, it is needless to argue if the facts are only known.

In 1838, the State of Alabama, being perhaps a little more involved in internal improvements than the State of Georgia, could not step forward to relieve her distressed citizens; and she made a memorial to Congress, praying Congress to take into consideration the condition of those poor people, who had been brought to that condition, not by any act of the government of Alabama, but in consequence of the inducements held out by the General Government to these people, to go and settle in the midst of the Indians there. Yet it is sug-

gested that this claim is not founded in justice and equity. If it be not, I know of none that is; and it does seem to me, that no Senator who will take time to examine these facts, will deny to these people the sum of a little more than \$300,000, when those very distinguished men, the commissioners, stated that they had actually lost more than a million of dollars; but that according to the principle established by the Government, only something over \$300,000 could be paid.

But I beg the honorable Senator from Michigan to understand that no imputation should be cast upon the Administration then. They were acting for the good of the country; but the Indians were too ignorant to understand their object and wishes. What more? When a war broke out, General Jackson, for the purpose of inquiring into these things, through the then Secretary of War, to whom the South owes a great deal for his liberality and kindness towards the Indians, appointed one of the cleverest men in this country, Mr. Balch, to go to that country and inquire into the causes that led to this very war. And what did he report? I beg the honorable Senator from Michigan to understand that it was not intended to cast the slightest imputation on that Administration, either upon those who have gone from us, or those who remain. He says the causes were these. He says he has investigated the causes which led to these hostilities; and he says:

"In 1835 they were reduced to a state little short of starvation, but he said it was contrary to the policy of the Government to supply them with food, as this act of benevolence would have retarded emigration."

They would not afford to the Indians the means of subsistence, because that would induce them to remain on the soil after the disposition of their own reservations, and make the Government supply them. They adopted the policy, to keep from them the materials necessary to life, in order that they might induce them to emigrate.

Mr. BADGER. To starve them out.

Mr. DAWSON. I do not use such language.

Mr. BELL. I do. It is only a commentary on my words.

Mr. DAWSON. That was the object; and allow me to state to the Senate, that as soon as these facts were discovered, the Administration established emigration offices there, to induce the Indians to come in, and to feed them, and to prepare their minds for emigration. That was all that they could do, and hence, I say, no imputation can be cast on that Administration. But I wish to waive everything of that nature connected with any member of that Administration; and to bring the justice of this case before the Senate for its action.

What is the result of these proceedings? An appropriation of a little more than \$300,000, to be distributed amongst three or four hundred heads of families. Look at the number of applicants on the list, for amounts averaging from \$50 to \$500—there are few for \$1,000. That will show the character of the population, and the necessity thrown on these people, a necessity which was more oppressive than that thrown on the Indians of that day. Why, sir, if this body could have seen those who live on the banks of the Chattahoochee, it would see that it was impossible for those of us who volunteered our services to protect the lives of the women and children from savage fury; to depict the poverty and wretchedness of the people of Georgia, South Carolina, Alabama, and Tennessee, who had settled there, and who looked imploringly to their kindred on the other bank for protection. Is there nothing due to them in consideration of such sufferings? Are we to restrain all our sensibilities when a poor appropriation of \$300,000 is asked for? and shall we seek to get around it, because it is not legitimately appropriated in a deficiency bill? Sir, I will say no more.

Mr. HALE. I have a difficulty in my mind, which I hope some of the friends of the amendment may be able to remove. I notice that the honorable Senator from Texas, who advocated the amendment, said that if the laws in regard to Indian intercourse had been extended to the States of Georgia and Alabama, there would have been no difficulty; and the honorable Senator from Georgia, who has just taken his seat, says that the commissioners who were appointed to investigate the matter, reported that damages were actually sustained to the amount of over \$1,000,000;

but that, in pursuance of the policy which had hitherto governed this Government, they could only pay \$355,000. Now, sir, my difficulty is this; to find any principle of public law, which has ever been recognized by this Government, that will authorize you to pay one cent in this case. I understand that the principle assigned in regard to spoiliations committed by a public enemy, since the last war with Great Britain, has been limited to this: that when private property is destroyed by a public enemy, in consequence of its being occupied by the armed forces of the United States, and by that means hostilities are attracted to it, then the Government is bound to make good the damage. So that, if I understand the action of this Government hitherto, it has limited itself to making compensation to the sufferers from the depredations of a public enemy, by that rule. It must be private property occupied by the troops of the United States, and by that means inviting aggression, to call upon the Government for remuneration. This clearly does not come within the rule. There is another general law, (and, if the Senate will excuse me, I will say a higher law, than that by which we have acknowledged ourselves to be governed in our sublimary matters here, by which every Government is bound to protect every citizen in the enjoyment of all his rights; but that law has not been carried into such practical operation,) that if private property is injured by a mob, or injured by a public enemy in open war, an obligation is imposed upon the Government to remunerate for the loss. Well, then, if there be any principle of public policy upon which the Government has ever acted, which would make it liable in this case, it must arise from the Indian intercourse law referred to by the Senator from Texas, or the act of 1816, referred to by the Senator from Georgia. Now, sir, I do not know but that they may be perfectly familiar to the rest of the Senate, but they are not so to me. I have never heard any system of policy avowed here upon the floor of the Senate, that would justify the payment of this damage in any way. I do not say that there is none. I do not know but there may be; but if there be, it must arise either out of the Indian intercourse law, or the law of 1816, which has been spoken of.

Mr. CLEMENS. I hope the honorable Senator from New Hampshire will allow me to state a few facts which do not seem to be understood.

Mr. HALE. I would be glad if the Senator from Alabama would answer my question. I would then give way to him with great pleasure.

Mr. CLEMENS. I will answer it by a mere statement of facts. There are some facts which it is important to understand in this question, and which do not seem to be understood by the Senate. A portion of the opponents of this appropriation go upon the ground that there was a public war. Why, there was no such thing. Although there was a state of actual hostilities, yet there never was a public war. The portion of the Indians who were engaged in these depredations, consisted of less than one fifth of the Creek nation. The Upper Creeks constitute the largest portion of the nation, and never had anything to do with it. They were removed from beyond it almost entirely; and of the Lower Creeks, fifteen hundred warriors were enrolled under General Jesup, to assist the authorities of the United States in suppressing those depredations. There never was any act of the Indian Council which recognized the existence of war. On the contrary, it was denied by the Indian chiefs. They denied that any war existed. They said this was the act of desperadoes, over whom the council had no control, and whom they aided the troops of the United States in arresting and punishing. That is one fact.

This was no public war. If it had been a public war, I admit the principle which was applied in the House of Representatives would have applied in this case, and would have excluded these settlers from any right of compensation.

Again, in the report submitted by Mr. Balch, he goes on to say:

"Under these calamitous circumstances, many of the Creeks wandered off in small parties, and committed aggressions upon the property of the white settlers."

It will be seen that this was not a public war in which hostilities were waged, but that the Creeks, wandering off in small parties, committed aggressions on the property of the whites.

Mr. Balch proceeds:

"Towards the close of this year, and in the beginning of 1835, the condition of the Creeks became deplorable. Corn and meat were exceedingly scarce. The white people, who had moved in, and who possessed means, purchased, at enormous prices, all the provisions that were to be sold. It is said, and no doubt truly, that the Indians often stripped off the inner bark of trees, and after boiling it in water, drank this decoction as a substitute for food. The women and their children asked permission to glean up the small potatoes which were left after removing the main crop, and regarded this permission as an inestimable favor."

"All these views are confirmed by the letters of their Excellencies Governors Schley and Clay."

All these facts were brought to the notice of the Government at that time. The Government was urged, by the Executive officers of Georgia and Alabama and Florida, to take steps for the removal of the Indians, anticipating the existence of the very state of things which finally occurred.

Now, as I understand it, the principle which is established by the intercourse law is, that for depredations committed by the Indians on the frontier settlers when no public war exists, this Government will pay a reasonable amount. We asked for this; and the Senate, at the last session, agreed to grant it. What we asked then was more than we ask now. It would give us double what is now asked. If the intercourse law was applied to the States of Alabama and Georgia, it would give us double the amount now sought to be obtained.

I have been asked how this amount has been arrived at. I will state it. Upon the recommendation of President Jackson, commissioners were appointed, in the year 1836, to go into the Indian territory and ascertain the amount of losses, which had been sustained by the citizens of Alabama almost entirely—a few of them may have been Georgians, and a few Floridians, but most of them were Alabamians—five sixths of the sufferers, I might say, were from the State of Alabama. These commissioners made a laborious investigation into the causes of hostilities in the first place; and they took the whole proof in relation to the losses which had been sustained by the settlers. They rejected all consequential damages. They allowed for corn, fodder, and cattle actually lost. The actual loss only amounted to \$355,000. They reported that sum to the Government, and recommended that it should be paid. The amount of consequential damages was \$1,500,000. They were rejected. We ask now for payment only for the actual loss, and not for consequential damages. We wish to be paid for the property actually destroyed. The proof was taken at the time, and is now upon the records of the Government.

Mr. RUSK. The Senator from New Hampshire inquired, a little while ago, for the intercourse law. I will read for him the seventeenth section of that law. It was an act passed on the 30th of June, 1834, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontier." The seventeenth section of the act provides:

"Sec. 17. And be it further enacted, That if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub agent, to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and, in the mean time, in respect to the property so taken, stolen, or destroyed, the United States guarantee to the party so injured an eventual indemnification: *Provided*, That if such injured party, his representative, attorney, or agent, shall in any way violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided also*, That, unless such claim shall be presented within three years after the commission of the injury, the same shall be barred. And if the nation or tribe to which such Indian may belong receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom, and paid to the party injured; and if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States: *Provided*, That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended."

This act does not extend to the States of Ala-

bama, Georgia, and Florida, for the first section of that act declares—

"That all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana, or the Territory of Arkansas, and also that part of the United States east of the Mississippi river, and not within any State to which the Indian title has not been extinguished, for the purposes of this act, be taken and deemed to be the Indian country."

Mr. HALE. The Senator from Alabama, if I understand him, and I believe I do, does not put this, then, upon the ground upon which the Senator from Georgia did. The Senator from Georgia said this was eventually a public war.

Mr. DAWSON. I stated that there was never any declaration of war against these tribes. There was some fighting.

Mr. HALE. It resulted in war. You know, sir, as well as I do, that a war can take place between this country and another without any previous declaration, but by a simple resolve that war does exist.

The Senator from Alabama then puts it upon another ground. He does not put it upon the ground that this was the act of a public enemy. Now, I confess I am not conversant with the laws relating to intercourse with the Indian tribes, because I have not had occasion to look into them; but it appears to me, if this case is to be taken out of the general principle, it must be on account of one of these acts—the act regulating Indian intercourse, or the act of 1816, to which the Senator from Georgia referred. It strikes me, from the very cursory reading which the Senator from Texas gave to the act in relation to Indian intercourse, that it does not apply to this case at all, and I will tell him why. It applies evidently to the case of Indians on the frontier with whom we have existing treaties, and to whom we are bound to pay annuities.

Mr. RUSK. These Indians are of that description.

Mr. HALE. This was a measure of precaution, that the Government might hold in its hands the means of coercing them to a faithful performance of treaty obligations. But if they fail to preserve peace—if they commit depredations on the property of citizens within our borders, then the Indian superintendent is to notify the President, and such steps are ultimately to be taken, that those who suffer shall be remunerated out of the annuities to be paid to the Indians.

Mr. RUSK. What does "eventual indemnification" mean?

Mr. HALE. It means that the President, or Congress, will retain out of the annuities to be paid to the Indians the amount of damages requisite to satisfy the depredations which they commit.

Mr. RUSK. That is not the practice.

Mr. HALE. It seems to me that it is not in this case. The advocates of the amendment have failed to show any principle of public law recognized by this Government, or any other, which will justify this amendment. There have been, and always will be, vast sufferings in any civilized or savage community by individuals from the acts of public enemies, and the acts of mobs and lawless individuals. Riots take place in every well-organized community, and in every community that is not well organized, because you cannot organize any community so well but that there will be lawless men, who will not submit to the restraints of law. But no community has acknowledged the obligation to pay damages done by lawless individuals, unless it has been recognized by a pre-existing statute. I might refer to a Commonwealth which considers herself one of the most refined and highly-cultivated within the limits of the whole United States; I might refer to the old Commonwealth of Massachusetts. Within sight of her Capitol stand the black and smoky walls of a Catholic convent which was burnt down by a mob some twenty years ago. Its owners have been petitioning the Legislature of Massachusetts from that day to this for remuneration; but the first cent has not yet been paid, because that Commonwealth does not recognize the obligation to pay it, and does not admit that it is a rule of policy for the government of a State to remunerate for damages thus suffered, unless the obligation has been admitted by a previous statute. In some of the States—in Maryland, in Pennsylvania, and in many others—previous statutes have acknowledged that right.

# THE CONGRESSIONAL GLOBE.

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I once made an attempt to introduce a bill into the Senate assuming that obligation upon the Government of the United States, so far as the District of Columbia was concerned; but I could not get leave to introduce the bill; nor could I get the Senate to come to a vote on the question, whether or not they would give me leave, and it stands among the unfinished business of Congress that a vote was never taken upon giving leave to introduce the bill. The Senate was occupied for months in discussing the question whether leave should be granted to introduce the bill. So this Government has not acknowledged that obligation.

I admit that if you go to the higher law of morals and Christian obligation—of doing unto others as you would they should do unto you, we ought to pay this money. But we have never admitted that principle. I think Mr. Jefferson said, a good many years ago, when he was instructing our commissioners to negotiate with one of the Barbary tribes, in order to induce them to lend a favorable ear to our application—and he never told a greater truth in his life—that this Government was in no sense founded upon Christianity. Until we do admit those obligations, I think this is not one of those cases in which we are bound to pay.

Mr. BELL. It was contended that a bill once passed the Senate of the United States in obedience to the suggestions of honorable Senators, compelling these Indians to come within the provisions of the intercourse law—to pay for these depredations out of their annuities. That bill did not become an act of Congress. The delegation from the Creek nation protested in the strongest terms against the passage of the act, alleging, in conformity with facts already stated in this debate, that the tribe of Creek Indians, as a tribe, were never engaged in this war. Mr. President, perhaps you may know of your own knowledge something in regard to that subject. I understand that the fact is stated in these documents, that the Upper Creeks were never engaged in the war. The census which had been taken about the time of that treaty, or a short time afterwards, showed that the whole number of the Creek Indians amounted to twenty-one thousand, exclusive of negroes. There were twenty-one thousand of Creeks proper. The Creeks of the lower towns numbered, all told, only about eight thousand Indians, or a little over one third of the whole tribe. The warriors of those lower towns of the Creek nation were those who were engaged in these outrages. The body of the Creek Indians continued friendly. This was the ground upon which the Creek nation of Indians, through their delegated authorities, have always protested that they should not be called upon to pay for these depredations. They were not authorized by the public Council of the nation; and they say that but a portion of the tribe—not more than one fifth—were ever involved in them. I know it was considered by some—and perhaps some of the commissioners reported, but it is not true—that the warriors of the nation generally became involved in it. The allegation was afterwards satisfactorily disproved.

Upon this showing the Government did not proceed with the matter. Congress did not proceed to pass the bill by which it was proposed to retain one of the annuities due to the Creek Indians, the amount of these claims for indemnity for property taken. It is true that their protest, fortified by the proofs they adduced, shows that the largest portion of the Indians continued friendly all the time, and that a very large number of them enlisted in the service of the United States for the purpose of suppressing the hostile bands of the lower towns.

Now, upon what principle can it be proposed to take from the annuities of the whole tribe—annuities belonging to a nation which numbers twenty-one thousand souls—to pay for depredations which were committed by but a few of the towns, and in which but little more than one third of the whole body of the Indians belonging to the nation were engaged? There is no principle upon which the annuities can be retained to pay for this. That

has been thought of heretofore; it has been objected to the claim before. Why did not the Government retain the money out of the annuities due these Indians under the treaty, according to the principle of the intercourse law? The allegation on which that claim was founded was disproved—I mean the claim of the right of the Government to exact a payment of these indemnities out of their annuities—because it was satisfactorily shown that the Indians as a tribe, in their tribal character, never concurred in the hostilities, and never engaged in them.

I do not care to go into the argument of the honorable Senator from New Hampshire. He seems to think that there is nothing new in this case. He must remember that there are two or three considerations which could not possibly arise under the act of 1816. These considerations were, that the Government of the United States was called upon by the executive authorities, as the documents show, again and again—and the honorable Senators from Georgia and Alabama can set me right if I am mistaken—to station a sufficient force to repress these threatened hostilities, and they warned the Government of what the consequence would be. Yet it failed to provide for them. The Government was warned by the authorities of Georgia and Alabama, that if supplies were not furnished to the Indians the inevitable consequence would be that these depredations would ensue. What they foretold the Government of the United States, actually came to pass within two years from the time when they were warned that such would be the consequence. Now, does that constitute no new feature in the obligations of the Government? Is it like the case alluded to by the Senator from New Hampshire? This is an Indian tribe; these people are not foreign to us in the proper sense of the word. This tribe has acknowledged its dependence on the Government of the United States since 1790 down to the present time. Although we pretend to make treaties, and do make treaties, with them in all the forms that belong to treaties made with foreign nations, yet we know that they are not made upon the footing that the Indians are an independent and a free people, but that influences are brought to bear upon them. They are treated, in fact and in substance, as a dependent people; and although we choose to be liberal to them, yet we dictate to them terms. We have been liberal in annuities and in payments of money to them in consideration of their lands. The policy of the Government has generally been liberal and bountiful in the highest degree. But when we look at all the circumstances in which these people were placed, we find the general policy was departed from in relation to the Creek Indians—I mean the policy of protection toward the white settlers after they had been admitted to settle in the territories was departed from. It was a consequence which was foreseen by many at the time the treaty was made as likely to follow.

The Government was premonished that unless supplies were furnished to the Indians for subsistence, or unless an adequate military force were stationed in the country, depredations upon the property of the white citizens would be the consequence. The Government stood by, suffering time to elapse, waiting to see the effect of the starvation policy upon the Indians to coerce their removal, until outbreaks actually commenced. Does that make no alteration in the obligations of the Government to protect its own citizens, whom it had induced to go in and settle among Indians? It had sold these public lands to white settlers, and authorized them to enter the Indian reservations before the removal of the Indians.

I think that none of the general principles applicable to the obligations of the Government to indemnify citizens for losses of property incurred in a war, even if it were a general war of the tribe, are strictly applicable to this case. The war, if war it can be called, did not accrue under ordinary circumstances. There are no such wars treated of in any system of international law, or recognized between civilized nations. We have not treated with them as equals. Our policy towards

them has not been, in all respects, similar to that by which we are bound to be governed in treating with independent civilized nations.

Mr. SEWARD. How was the war ended?

Mr. BELL. The war was ended by the flight of the hostile warriors into the Territory of Florida, and by the return of a portion of them afterwards, under the guarantee of protection by the United States Government, and then by a partially coerced removal. They were removed in the presence, and under the threatening of the United States Army.

Mr. DAWSON. They were removed by the Army.

Mr. BELL. It was a coerced removal. The warriors who were guilty of these depredations on property, or the most mischievous of them, fled into Florida. A portion of them were Seminole Indians, in fact, although that is not named in the amendment I have offered. The documents will show that a portion of them were Seminole Indians. But they, by the by, were only a portion of the Creek nation as it was originally constituted.

It seems to me that no general principle known to this Government in regulating our policy in the indemnifying of our citizens for property lost in a war with civilized nations applies to this tribe. Then, if you consider them in their dependent condition—if you come to consider whether we can properly be called upon to pay for depredations committed by an Indian tribe in a state of war, we find that there was no such war by this tribe of Indians as would make the principle operative between the claimants for damages and the Government—I mean the common principle adopted as to property lost in a war with a civilized Power. The other points of view which have been suggested, intervene to take away all pretense for applying the general principle of the act of 1816 to this case. The Government stood with its arms folded, and was warned, again and again, that unless supplies were sent to prevent the Indians from starving, or unless an adequate military force was sent, these depredations would follow.

Mr. UNDERWOOD. I wish to ask the honorable Senator a question. I want to know what stipulations were entered into in the treaty which the Government made with the Creek Indians on the part of the Government for their removal, and whether the Government took all the steps promptly and readily for the execution of that treaty on its part to secure the removal of the Indians? for if the Government failed in that respect, and these depredations were the result of the conduct of Government, it seems to me we ought to pay for them. I should like to hear the honorable Senator from Tennessee, who is so learned upon these matters, because it has been his duty for many years, as I know, to attend to all these Indian treaties, give us the facts in regard to the treaty with the Creek Indians, if he can.

Mr. BELL. I cannot give all the stipulations in the treaty from memory, because I have only lately looked into such stipulations of it as are applicable to this question.

Mr. UNDERWOOD. That is all I want.

Mr. BELL. In that treaty, unfortunately, the Government retained no power to compel the removal of these Indians. A large portion were permitted to take reservations. A condition of the treaty was, that the body of the Indians who did not take reservations to reside on them, should remove to the West. What was the precise terms used as to their removal, I do not remember. I can undertake to say, that at any time the Indians were ready to remove, the Government would have removed them; for the policy of removal was then in active and vigorous operation with regard to all the tribes of Indians within the borders of the States. I imagine that there was no delinquency on the part of the Government in that respect. The great error of the policy of the Government was to sell out the public lands ceded by the treaty of 1832 to white settlers, and permit them to go upon and settle alongside the Indian



reserves, and in the midst of the whole Indian tribe, before they were removed.

Mr. COOPER. In some instances, their reservations were taken possession of.

Mr. BELL. They alleged many causes of grievance. They alleged that one cause of the outbreak was, that the whites took possession of their reservations before they had parted with them; but I saw no satisfactory proof of any such outbreak committed by the whites. You know, Mr. President, that it would be impossible to prevent trespasses of that sort in every individual case. But from the general scope of the evidence adduced in the reports which have been made on the subject, I think there is no reason to believe that the white settlers treated the Indians in any other than an amicable and friendly manner. It was the policy of the Government to remove the Indians in due time, and to sell out their reserves. It was expected that the reservees would remove with the great body of the tribe, but it turned out differently. From the moment that the policy of the Government was known, when it was known that in order to obtain the removal of the Indians, the Government intended to make them dependent on it for subsistence, and to compel them to remove, the Government must hold that that policy would lead to depredations and hostilities. It did lead to those depredations and hostilities. I think that this presents a new aspect of the case; and if there is any case in which the Government is under an obligation to indemnify the citizens on principles of justice, this is one.

On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, May 13, 1852.

The House met at eight o'clock, a. m. Prayer by the Rev. LITTLETON F. MORGAN.

Mr. ALLISON. I move to dispense with the reading of the Journal.

Mr. FOWLER. I suppose the Journal is a short one. I wish to hear it read.

The SPEAKER. It is a very long one, but it will be read if the gentleman desires it.

Mr. FOWLER. Can it be read when we meet again?

The SPEAKER. It can be read, but cannot be amended.

Mr. FOWLER. I am willing to dispense with its reading if it can be read when we meet again. But there are some important votes recorded there, and I desire to hear it read.

The SPEAKER. The Clerk must read the Journal if the gentleman insists upon it.

Mr. JONES, of Pennsylvania. I hope the gentleman from Massachusetts will not insist upon having the Journal read.

The SPEAKER. The gentleman from Massachusetts must be aware that under the circumstances, no amendment could be made to the Journal, there being not a quorum present.

Mr. FOWLER. I am very willing to dispense with its reading if we can hear it upon another day. But I think it is important that it should be read at some time to the House.

Mr. MEACHAM. I desire to ask if the Journal may not be amended by the House at any time?

The SPEAKER. Not unless the motion be made to-day. The gentleman from Massachusetts, however, insists upon the reading of the Journal, and the Clerk will proceed to read it.

The Journal was then read and approved.

Mr. BUELL. I move that the House do now adjourn.

The question was put, and the motion was agreed to, and

The House adjourned till Monday next, at twelve o'clock, m.

## IN SENATE.

FRIDAY, May 14, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. SMITH presented the credentials of the Hon. ISAAC TOWCEY, elected a Senator by the Legislature of the State of Connecticut, for the unexpired term of six years, commencing on the 4th day of March, 1851; which were read; and the oath prescribed by law having been administered, Mr. Towcey took his seat in the Senate.

## PRIVATE BUSINESS.

On motion by Mr. HUNTER, it was  
Ordered, That the execution of the order of the Senate, assigning Friday for the consideration of private bills, be suspended for one hour.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, made in compliance with a resolution of the 24th March last, transmitting copies of the proceedings of a Naval Court of Inquiry in relation to the loss of the United States steamer Edith, in 1849, with the correspondence and other papers in relation thereto; charges against Commodore Jones, while in command of the Pacific squadron; together with charges and specifications against Lieutenant Tunis M. Craven, and the correspondence between the Secretary of the Navy, the commandant of the Boston navy-yard, the commander of the sloop-of-war Falmouth, and Lieutenant R. W. Meade, between the 1st of March and 1st of July, 1849; which was referred to the Committee on Naval Affairs.

A motion to print the above communication was referred to the Committee on Printing.

## PETITIONS, ETC.

Mr. BRODHEAD presented the memorial of William Richardson, praying a reexamination of his claim against Mexico; which was referred to the select committee appointed on the subject.

Mr. WADE presented a petition of citizens of Union county, Ohio, remonstrating against an extension of the time for locating Virginia military land warrants; which was referred to the Committee on Public Lands.

Mr. MALLORY presented the memorial of Richard H. L. Chipley, praying a grant of a section of land, with the public building thereon, on Pease Creek, in Florida, for the purpose of establishing a place of public worship and manual labor school; which was referred to the Committee on Public Lands.

Mr. GEYER presented a petition of citizens of Missouri, praying the establishment of a land office at Salem, in that State; which was referred to the Committee on Public Lands.

## COAL FIELDS IN MARYLAND.

Mr. PRATT. I hold in my hand certain resolutions of the State Legislature of Maryland, on a subject of very deep interest to the people of that State.

The Senate are aware that the State of Maryland, in completing the Chesapeake and Ohio canal, and the Baltimore and Ohio railroad, principally designed to develop the mineral resources of the western part of the State, has expended between twenty and twenty-five millions of dollars. The Senate are also aware that it has been ascertained that the area of the bituminous coal region of Maryland, located in the western part of that State, contains about five hundred and fifty or six hundred square miles. It contains a bed of coal which would suffice for the consumption on the Atlantic sea-board for centuries to come; and it was with a view to develop these great mineral resources that the State commenced and has prosecuted these gigantic works.

Recently, a gentleman named C. B. Stewart, has been appointed Chief Engineer of the Navy—I believe that is his rank—and he has made a report to the Navy Department, predicated on an experiment made during a voyage of some eight hours in a steamer from New York, in which he has alleged that anthracite coal is better adapted to the generation of steam, than bituminous coal. He contradicts, if I understand him aright, in this report all the experiments made under the auspices of this Government, and also under the auspices of the Government of England. Now, the object of presenting these resolutions is, to procure a reference to the appropriate committee, with directions to the committee to have in some way a fair experiment by gentlemen of known integrity, and known experience as to the relative merits of these kinds of coal for the generation of steam. I may say that I understand that the Naval Department have given instructions, predicated on this report, to the Navy agents to use anthracite coal for all naval purposes. It is, therefore, very important to the people of my State that a fair test of the accuracy of the estimate which was made by the chief engineer should be effected. I move, there-

fore, a reference of the resolutions to the Committee on Naval Affairs, with a request that the committee will take them into consideration, and to adopt some plan by which a fair and proper experiment can be made to ascertain the relative merits of these coals.

The reference was agreed to.

Mr. BRODHEAD. This is a question in which my colleague, now absent, feels considerable interest. On his motion, I believe, the report of Mr. Stewart, and which I think is very correct, was sent into the Senate, and has been printed. I have no objection to the reference of the resolutions to the Committee on Naval Affairs, provided no instructions are given by the Senate. I understand that the Senator from Maryland [Mr. PRATT] asks that the committee be instructed to make an experiment.

The PRESIDENT. There are no instructions given. The motion of the Senator was a simple motion of reference.

Mr. BRODHEAD. Then I have no objection, sir.

## REPORTS FROM A STANDING COMMITTEE.

Mr. JONES, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of George Cassidy, reported back the same without amendment.

He also, from the same committee, to which was referred the petition of John Williams, asking an increase of pension, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

## BILL INTRODUCED.

Mr. BADGER, by unanimous consent, asked and obtained leave to introduce a bill for the relief of the sureties of Robert S. Moore, deceased, late a purser in the Navy of the United States; which was read a first and second time by its title, and referred to the Committee on Naval Affairs.

## DISTRIBUTION OF MAPS.

Mr. DOUGLAS submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary cause the maps of the district of Columbia and city of Washington, and the plats of the squares and lots in the city of Washington, heretofore printed under an order of the Senate, to be bound and distributed as follows: To the President of the United States, members of the House of Representatives, State and Territorial governments, and heads of Departments, each one copy; to the Committees on the District of Columbia, and on the Public Buildings of both Houses of Congress, each two copies; to the office of the Secretary of the Senate, the Library of the House of Representatives, the Library of Congress, the office of the Commissioner of Public Buildings, and the Washington City Library, five copies each; to the offices of the Supreme Court, and the District or Orphans' Courts of the District of Columbia, the Marshal of that District, and to the Smithsonian Institution, one copy each; to the corporate authorities of the city of Washington, for the use of the city, one hundred copies; and the remaining copies to the members of the Senate.

## LETTER OF MR. HULSEMAN.

Mr. SEWARD submitted the following resolution for consideration:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if consistent with the public interests, a copy of a communication made by Mr. Hülsemann, now or late Chargé d'Affaires of the Emperor of Austria, on or about the 29th of April, 1852, to the Secretary of State of the United States, on the occasion of the withdrawal of Mr. Hülsemann from his place as such chargé; and also a copy of the reply thereto made by the Secretary of State; and also copies of all other correspondence touching the matters which are the subjects of the said communication of Mr. Hülsemann.

## ALTERATION OF THE THIRTIETH RULE.

Mr. UNDERWOOD submitted the following resolution for consideration:

*Resolved*, That the thirtieth rule of the Senate be amended, by adding thereto the following:

On motion, any amendment offered to a bill or resolution may be laid on the table, without carrying the bill or resolution with it.

## RAILROAD IN INDIANA, ILLINOIS, AND IOWA.

On the motion of Mr. DODGE, of Iowa, the Senate proceeded to consider, as in Committee of the Whole, the bill granting the right of way and making a grant of land to the States of Indiana, Illinois, and Iowa, in aid of the construction of a railroad from the Wabash to the Missouri river; and, having been amended, it was ordered to be engrossed for a third reading.

## MEMOIR OF THE LANDING AT VERA CRUZ.

Mr. HALE. There is a resolution on the table

which was introduced a morning or two since by the Senator from Tennessee, [Mr. BELL.] On my motion that resolution was laid upon the table. I wish, in justice to that Senator, that it may be taken up and disposed of. I was not in my seat yesterday during the time when it should have been called up.

Mr. BELL. It was postponed until yesterday morning, and is the first thing in order.

The PRESIDENT. It is among the resolutions lying on the table, and will come up in its order.

Mr. HALE. I move that the resolution be taken up now.

The resolution was accordingly taken up and read, as follows:

*Resolved*, That the Secretary of the Navy be requested to furnish the Senate with a copy of the memoir of the landing of the United States troops at Vera Cruz in 1847, by Lieutenant William Grenville Temple, with an appendix, containing the written orders of General Scott to Commodore Connor, on file in the Navy Department.

Mr. BRADBURY. I move to lay that resolution on the table.

Mr. HALE. I hope the Senator from Maine will withdraw that motion for a few moments.

Mr. BRADBURY. I withdraw it.

Mr. HALE. I did not want to say a single word upon that subject. I would not occupy the attention of the Senate a moment in regard to it, but I want to say that I think I have uniformly voted against every motion of this sort. I have occasionally—very rarely—made a few suggestions about it; but I have uniformly been voted down. Gentlemen have had spasmodic fits of economy, and have agreed that economy is a wise rule to apply to our legislation; but in particular instances in which it was sought to be applied, it was unwise; and the result has been that we have printed anything and everything which has been offered, and an indefinite number of copies at that—just as many as the party chose to have ordered. Since this matter was under consideration, I have had some light thrown upon my mind in regard to this report, from a source worthy of regard. My friend on the right suggested that we were sometimes liable to receive erroneous impressions; but I have been told by a highly respectable, and intelligent, and not bad-looking lady, [a laugh,] that this is a report drawn up by a young and highly meritorious officer of the Navy; that it is the only report of the details of one of the most splendid military movements which ever occurred in the country, and the only danger is, that it will furnish grist to go into the political hopper at the approaching presidential election; and it was owing to that fact that suggestions were thrown out by my friend, the Senator from North Carolina, [Mr. MANGUM,] and I believe, also, the Senator from Alabama, [Mr. CLEMENS,] that there was some allusion to this as evidently having that bearing. And it is also brought to my mind that some suggestions were made on a former occasion in reference to this same matter of the approaching presidential election; and it was in reference to that view of the case, rather than the particular aspect of the case in regard to printing this memoir—that I was about to address myself. I do not know whether these remarks will be strictly in order; but if they are, they will be out of the general order. [A laugh.] But, sir, I will proceed. In some discussion which occurred between my friend on the left, [Mr. MANGUM,] and the Senator from California, [Mr. GWIN,] some catechising and cross-questioning took place in regard to the position which distinguished gentlemen occupied in reference to a question heretofore agitated, and being agitated, but not yet settled; and the question was, how these gentlemen stood on those issues; and the Senator from California, whose remarks I have not now before me, suggested that the views of the candidate supported by the Senator from North Carolina, were sound and national views on the subject of the compromise; and then the honorable Senator went on to say, as I understood him, that the party with which he was associated would present to the nation a candidate pledged to maintain these issues inviolate, and that nobody else could receive their sanction—

The PRESIDENT. The Chair must arrest the Senator in his remarks. The Senators from California and North Carolina spoke with the unanimous consent of the Senate, without which their remarks would have been out of order.

Mr. HALE. Very well. Perhaps at some

other time I will ask the unanimous consent of the Senate; but I see that the honorable Senator from Virginia [Mr. HUNTER] is impatient to get up the deficiency bill.

Mr. STOCKTON. I move that the Senator have the unanimous consent of the Senate to proceed.

Mr. BADGER. Let him go on.

Mr. HALE. I have got nearly through, for I do not make long speeches, as you know, Mr. President.

The PRESIDENT. The Senator knows that the Chair is bound to preserve order.

Mr. HALE. Yes, sir; but I am going on now in order by the unanimous consent of the Senate.

I was about to say that the remarks of the Senator from California called up some impressions to my mind, which I feel it due to lay before the Senate and the country, that they may have the advantage of them. They were with reference to the policy, the propriety, and the expediency of putting a candidate before the country at the approaching presidential election, bound, and pledged, and sworn to maintain and support inviolate what are called the great measures of compromise and peace to the country.

Now, sir, I wish to say, and to say it with the best wishes for some folks, that if the Democratic party, at the approaching presidential election, should undertake—and you know that the Democratic party now has a good many characteristic features and elements in it that may not be characterized as General Jackson wanted to have his Cabinet characterized, as a unit; and it is impossible it should be so, and perhaps it is not desirable that it should—but should they undertake to put a candidate into the field upon the compromise platform, they will experience a defeat, compared with which they had a victory in 1848, unless the candidate of the honorable Senator from North Carolina [Mr. MANGUM] should suffer himself to be coaxed into the same trap. But if he should, and if the Democratic party, forgetting the forlorn situation of their Free-Soil friends in the Northern States, should undertake to lay down that platform, and make adherence to the fugitive slave law, and commendation and approval of the compromise acts, as a part of their platform—if it should be put on and tacked on to the Baltimore platform, the scattered planks of the Buffalo platform will be reunited, and there will be a scene of "confusion," unless they have the sagacity to coax General Scott on to the same platform.

A great deal of credit has been taken by some gentlemen for having saved the Union. I wish to set history right on that subject. The truth is, that if the Union is safe—and some gentlemen think there is some doubt about that now—it was the Buffalo Convention that saved it, and not the compromise acts. And why, sir? Because the Buffalo Convention, by the manifestation of that rebellious spirit which the Northern Democracy had against submitting to the new platform, demonstrated to you, and demonstrated to those who wielded, and would wield, if they could, the force and energy of this Government to one direction, that it would not be safe to go in that direction any further. That is a fixed fact. They showed that; and they showed by this rebellious demonstration, that if they put themselves in a very small minority, they took their neighbors along with them, and that made two minorities. That being a fact of history, it is well, as the history is written, that we should improve by it. And the only way in which the Democracy, we, can recover our lost power, is to give up the idle pretense that we must bring all our members up to swear to the support of the finality of the compromises as a part of our creed. The only way in which it can be done, is to "let by-gones be by-gones," and if we mean to endeavor successfully to retain or regain power and place, we may as well understand at once that the compromise, as an efficient political measure, is just as dead as the Buffalo Convention. They must both be content to lie together; and their friends, if they have friends, can go and weep together in sympathy over them both, because you cannot elect your candidate—it is a settled fact that you cannot do it—without the support of the Buffalo Democrats. And these Buffalo Convention Democrats have screwed their consciences up to the last extremity, when they consent to stand by the old, Baltimore platform. They do not feel comfortable there; but for the sake of party, and

of regaining power, and place, and plunder, they will go there, although they do not feel very comfortable. They will go there and stand on the Baltimore platform, if you will let it be Baltimore, and nothing else. But the moment you undertake to tie one fugitive slave to one of its uprights; the moment you undertake to make a single indorsement of one of these measures as a necessary certificate of qualification, you will drive the whole of them off. Is it not best, therefore, to take counsel and learn wisdom from experience? We have a resolution lying on the table—if it is not now under the table—proposing the indorsement of the Senate to these measures. Possibly that may be enough. If it lies there, it will do no harm; but the moment you undertake to take it from the table, and resuscitate and reanimate it and make it a party political platform, that very moment the friends of that measure will look to the Presidency through that enchantment which distance gives to the view—a distance four years long. Now, as we consider, and conceive, and admit, that it is highly important that there should be honest, upright, right-thinking men in office—and this is no impeachment of a man's patriotism—as that is one of the first things to be sought after, and looked to, and cared for, it seems to me that the part of wisdom requires that, in laying out our platform and building it up and selecting candidates, the first object should be to obtain votes. You cannot get your candidate elected without them; and it appears to be admitted now as a fact, that you cannot have both votes and platforms. Take your old platform and elect your man.

A SENATOR. Touch lightly on that.

Mr. HALE. My friend says, touch lightly on that!

Now for General Scott. I have nothing to say against General Scott. I think if he is nominated as he stands, he will make a pretty fair race; but General Scott—and every person knows it, who knows anything about that gentleman—is much better at fighting battles, than at writing letters; and I hope his friends will impress that fact very strongly on him, if he is nominated. Besides, the Democratic Convention will meet first, and if they commit fatal errors, you will have the benefit of experience, and can avoid them. But if General Scott, in an authoritative manner, undertakes to put himself on that platform, the defeat that he will experience will be more overwhelming and severe than any he inflicted on any of the Mexican generals with whom he came in contact. I do not believe his chance is very good; at the best not more than middling. To be sure, he has a good deal of military renown which may help him along; but give him everything—give him all his *prestige*—he is tall without his feather; but put that on him, and his chance is not great; and if, with all that, he undertakes to step on this platform, that moment he seals his defeat; it will be hopeless, irremediable.

These views I entertained, and thought there was some instruction contained in them; and think so now; and as the conventions are near at hand, and as I despaired of getting an opportunity of ever making these remarks in order, I thank the Senate for the indulgence with which it has listened to me, and beg pardon of the Senator from Tennessee [Mr. BELL] for having tacked them on to his motion to print this memoir.

Mr. PRATT. Mr. President, I do not rise to enter upon the debate which has been introduced by the Senator from New Hampshire. My object is solely to do justice to one who was associated with us at one time, but who is not here to speak for himself—I mean the President of the United States. It has been circulated that Mr. Fillmore, whilst the Presiding Officer of this body—

The PRESIDENT. It will require the unanimous consent of the Senate for the Senator to proceed.

There was no objection.

Mr. PRATT. This is the only occasion which has occurred on which it seemed to me to be suitable to offer such an explanation as I was about to make. A rumor has been circulated that Mr. Fillmore, while he was the Presiding Officer of this body, under the expectation that the casting vote in reference to the compromise measures might be thrown upon him, had determined to vote against them. Rumor has, further, descended to particulars. It has been asserted that he had prepared a paper, in which he assigned the reasons

for that vote. I thought these rumors very surprising, because I well recollected that, at the time when it was supposed to be possible that the fate of those measures might depend upon the casting vote of the Presiding Officer of this body, I had an interview with Mr. Fillmore; and believing, as I did, that the peace of the country depended upon something being done; believing that it would be entirely proper, connected with the Government as he was; elected upon the same ticket with General Taylor, I advised him to go to General Taylor and make a personal appeal to him to withdraw his opposition to those measures, and suffer them to pass. He then stated to me that his relations with General Taylor were not of that character which would permit him to do so; but that he was himself in favor of those measures. I therefore did not, for a moment, believe in the truth of these rumors; and so soon as I heard them, I went to the President himself, stated their existence, and asked him whether there was any foundation for them. He authorized me to say here, in my place, whenever an opportunity occurred, or to say anywhere, that the rumor was utterly unfounded in fact; that he was in favor of those measures during the whole period that they were being discussed here, and that there was no period of time, if they had been left to his vote, that he would not have voted for them.

Mr. HUNTER. I now move to postpone the prior order of business for the purpose of taking up the deficiency bill.

The PRESIDENT. The resolution of the Senator from Tennessee is under consideration.

Mr. HUNTER. I move to postpone the further consideration of that resolution until Monday.

The motion was agreed to.

#### THE DEFICIENCY BILL.

Mr. HUNTER. I now move to postpone the prior orders of business, for the purpose of taking up the deficiency bill.

Mr. PRATT. I move to lay that motion on the table; and on that, I ask the yeas and nays.

Mr. CLEMENS. Is not the order of the day private bills?

The PRESIDENT. The regular order for to-day is the consideration of private bills.

Mr. BRODHEAD. I desire to know whether this is the Friday on which we consider private bills without debate?

The PRESIDENT. Next Friday will be that day.

Mr. ATCHISON. I wish to say a word, if the motion to lay on the table shall be withdrawn.

Mr. PRATT. I do not care on which motion the question is taken. I am willing to withdraw my motion, and ask for the yeas and nays on the motion to postpone. It is time to get up private bills.

The PRESIDENT. It would not be in order to make a motion to lay on the table a proposition to postpone.

Mr. ATCHISON. I trust that the motion made by the Senator from Virginia will not prevail; and I hope so for the reason that this is the second or third time that this motion has been made at the expense of the Private Calendar. We have gratified the Senator from Virginia on two or three Fridays already. I know that it is his duty to press this bill; and I think he deserves credit for endeavoring to press it to a final vote. But we have considered it time after time, at the expense of almost all other business. We have given the Senator three weeks for the purpose of considering this bill. It is no fault of his, that it is not disposed of. I charge no fault upon him; but it is the fault of those who advocate this steam proposition; it is the fault of the friends of the Administration. They have called upon us to pass the bill; they have urged it, as they urged the House of Representatives to pass this bill, and to do it promptly, in order that funds might be appropriated to carry on the Government. I have been ready, and I believe we on this side of the House have generally been ready, to take the vote on the deficiency bill. I have opposed the offering of any amendments, even from the Committee on Indian Affairs: as I have deemed it inexpedient to embarrass this bill by any proposition outside of it. Although I believe the amendment now pending, offered by the direction of the Committee on Indian Affairs, is just; although I believe the appropriation for that purpose ought to be made, yet I am

unwilling to embarrass this bill by adding it to it. Now, since the friends of the Administration; since the friends of the steam proposition have been urging it, day after day, to the great delay of the bill, and probably its defeat, I am unwilling, for one, to grant another day, or another hour, out of the ordinary course of business.

Mr. GWIN. I hope the motion of the Senator from Virginia will prevail. We have spent, I believe, one Friday in debating a bill for the remission of duties on articles imported for a Catholic nunnery, and the duties, I believe, only amounted to forty-five or fifty dollars. I perceive now that the first business on the Private Calendar is a motion to reconsider the vote rejecting that bill. I suppose, if we take up the Private Calendar, that subject will occupy all day. I think we had better employ the day in getting clear of the deficiency bill.

The question was then taken on the motion to postpone, and the President announced that it was carried—thirty having voted in the affirmative.

Mr. PRATT. I ask for the yeas and nays on the proposition.

The PRESIDENT. It is too late.

Mr. PRATT. I moved to lay the proposition on the table, and asked for the yeas and nays on that.

The PRESIDENT. The Chair stated that that proposition was not in order.

Mr. PRATT. There were thirty votes in favor of the proposition. The affirmative side only was counted. Those in the negative were not asked to rise.

The PRESIDENT. The Chair announced that there were thirty votes in favor of the proposition; and he announced that the motion was agreed to.

Mr. PRATT. Thirty does not constitute a majority of the body.

The PRESIDENT. It is evident, from the condition of the Chamber, that thirty is a majority of those present.

Mr. PRATT. That may be; but those in the negative were not asked to rise, and, until they were asked to rise, I think the question could not be decided.

The PRESIDENT. The Chair stated that there were thirty who voted in favor of the motion to postpone, which constituted, in his opinion, a majority, and he decided the question. There was no division asked for before he decided the question.

Mr. SEWARD. I hope we shall give the Senator from Maryland the yeas and nays.

Mr. MANGUM. The Chair is undoubtedly correct, that, after the announcement of the result of the vote, it is too late to call for the yeas and nays. But, for one, I am perfectly willing to take the question over again.

Mr. HALE. Let us take the question again by yeas and nays.

The PRESIDENT. If such is the pleasure of the Senate the Chair will conform to it, and will take the question again.

Mr. PRATT. I shall not insist on that course being pursued; but I shall get at the subject as soon as we proceed to the consideration of the deficiency bill.

The PRESIDENT. That bill is now up for consideration as in Committee of the Whole, the motion of the Senator from Virginia having been agreed to.

Mr. PRATT. I move to lay the bill on the table, for the purpose of now proceeding to the consideration of the Private Calendar; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 15, nays 33; as follows:

YEAS—Messrs. Adams, Atchison, Badger, Borland, Clarke, Clemens, Felch, Fish, Hamlin, James, Mallory, Pratt, Sebastian, Sumner, and Walker—15.

NAYS—Messrs. Bell, Berrien, Bradbury, Bright, Brodhead, Brooke, Butler, Chase, Cooper, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Geyer, Gwin, Hale, Houston, Hunter, Jones of Iowa, Jones of Tennessee, Mangum, Mason, Norris, Rusk, Seward, Smith, Stockton, Toucey, Underwood, Upham, Wade, and Weller—33.

So the motion was not agreed to.

The PRESIDENT. The question is on the amendment of the Senator from Tennessee, [Mr. BELL.] to insert the following:

“For payment to the citizens of Alabama, Georgia, and Florida, for depredations committed by Creek Indians upon their property, and for other property taken by the troops of the United States and friendly Creeks, in the year 1836, \$365,797.”

Mr. CLEMENS. I wish to amend the amendment in one particular. I believe a portion of these depredations were committed in the month of January, 1837. I therefore move to strike out “the year 1836,” and insert “the years 1836 and 1837.”

The amendment to the amendment was agreed to.

Mr. MALLORY. I move further to amend the amendment, by striking out the word “Florida.”

Mr. BELL. I have no objection to that. Florida was inserted, in conformity with the object for which the commissioners were appointed, in 1837, to inquire into these depredations. The terms of the commission included Florida; though I believe none of the claimants are designated as being from Florida, in the schedule returned by the commissioners.

Mr. BRADBURY. I would like to inquire of the honorable Senator from Florida the object of this amendment. I wish to know if it is designed, by the adoption of this amendment, to open the door to claims on the part of Florida that shall not be covered by the appropriations in this bill?

Mr. MALLORY. I do not recognize the right of the honorable Senator from Maine to question what object the Senator from Florida may have in view hereafter. But the object now is evident. Florida is included in the amendment, when she makes no claim for spoiliations of this character. I do not know of any injury that the citizens of Florida suffered from the Creek Indians at the time mentioned in the amendment. She is accused sufficiently of getting money from the Treasury when she gets none. When an opportunity does arise, perhaps she may present a claim for herself for spoiliations.

The amendment to the amendment was agreed to.

The question then recurred upon the amendment of Mr. BELL, as amended.

Mr. CASS. Mr. President, if nothing had been brought into this debate but the question immediately connected with the proposition, I should not have said a word about it, but should have satisfied myself with a silent vote upon the amendment. But the honorable gentleman from Tennessee, in proposing it, has thought proper to go back into the history of the Creek war, and if he has not assailed, he has at any rate reproached the then existing Administration, with respect to the conduct and the cause of that war. I have come here to-day very much unprepared to recur to, or review a subject which has passed away for nearly twenty years. I have but a very indistinct recollection of the circumstances as they occurred. I have enough knowledge of them, and a sufficiently distinct recollection of them, however, to know that the honorable Senator from Tennessee has made a very great mistake on this whole subject, and I trust that before I sit down I shall convince even him of that.

Mr. President, you, yourself, know—no one better knows—and there are gentlemen here who also know what was the condition of the Southern country in relation to the Creek Indians. You know that after the extinction of the Indian title in Georgia, in consequence of the compact with that State, by which we acquired possession of Alabama and Mississippi, there were about five millions of acres of lands remaining in the State of Alabama. You well recollect that in 1832 the State of Alabama passed a law extending her jurisdiction over the Indian country. That law was communicated to the War Department by Governor Gayle, of Alabama, on the 26th of February, 1834. It destroyed the Indians as a community. It extended the laws of Alabama over them, and it prohibited, under a penalty, the exercise, by themselves, of any jurisdiction whatever. In fact it took from the Indians the protection afforded to them by the intercourse law of the United States. Sir, as you are well aware, the pressure upon the President of the United States was very great, in order to have the Indian title extinguished in Alabama. A delegation from the tribe of Indians came on here, and a treaty was made by them, of which you, yourself, were a witness. A correspondence took place between yourself and the other members of the Alabama delegation, among whom, I recollect, were Governor Clay and Mr. Mardis, calling upon the Government to exert its authority to get the Indians out of the



State of Alabama. A treaty was made, of which you, yourself, were one of the witnesses. That treaty provided that the Indian title in Alabama should be extinguished, but that certain reservations should be made. It allowed to each chief—naming as many as ninety of them, I think—six hundred and forty acres, or a full section of land. It allowed to each head of a family, I believe, half a section, if they were determined on remaining, providing, however, for those who were disposed to emigrate, a number of articles, such as a rifle, gunpowder, and other things, and their transportation, at the expense of the United States, to the Creek country given to them by the Government, west of the Mississippi.

As you are well aware, sir, it was impossible to procure the extinction of the Indian title without making these reservations. The honorable Senator from Tennessee is under a great mistake in that respect. \*He supposes that the system of reservation was then introduced for the first time.

Mr. BELL. I beg pardon of the honorable Senator; I said no such thing.

Mr. CASS. The honorable Senator did not say so; but he intimated that the state of things existing necessarily led to that result.

Mr. BELL. I said that the policy of permitting the whites to go in and settle among the Indians before they had removed had no precedent before that treaty.

Mr. CASS. I have not the slightest disposition to misrepresent the Senator; and if he did not say so, of course I have nothing more to say on that point.

Mr. BELL. Reservations were commonly made, and I could not therefore say that they were unusual.

Mr. CASS. I was going on to remark, that reservations were made to the Indian chiefs and heads of families, and provision was made that they might retain them for five years, if they remained, and at the end of that time they might receive a patent, and become like any other citizens of Alabama. But in the mean time, with the consent of the President of the United States, they were allowed to convey their land to any one, and then remove to the West at the expense of the United States. The reservations of land to the Indians were the consideration given for the cession; and without which no cession, no extinction of the Indian title in Alabama could have been effected. The reservations were made. Those Indians who were disposed to remain did remain. They had the right, under the direction of the President, and with his approbation, to sell their lands. As soon as the treaty was made, there was an immense pressure upon the Indian country. The Government did everything it could to prevent the irruption; but it could not prevent it. People went in there and purchased the titles of the Indians, and the greatest species of fraud was committed. You know it, Mr. President; we all know it.

When Governor Clay was asked the cause of this Indian war, he said expressly that it was on account of the frauds that had been committed upon the Indians. When Governor Lumpkin was asked the same question, he said that he knew nothing about it, but he thought that was the probable cause. It is no credit to us; but it is proper that the Senate and the country should know the facts, even at this day. The Senate will bear with me in patience, I hope, for I have had but a moment to refresh my memory. The facts had passed from my recollection for some years; and I have not been able to look into all the documents that I desired.

Now, allow me to say, that a number of gentlemen were sent by the Government during the pendency of that very difficulty, in order to ascertain the true state of the facts, in order to apply a proper and efficient remedy. Among them was a gentleman of this District, of high character, Mr. Key, since dead. Another was Mr. Crawford, now a judge in this District. Another was Mr. Balch, whose high character is known to every one here. Their reports are in the book which I have before me; but they are almost two voluminous to be referred to. It will be seen that these commissioners reported, among other things, that the Indians were personated. Many were hired to say that they were such and such Indians, and to sell tracts of land. The Indians were cheated out of their money by all possible

means, and the greatest corruptions ever known in any country in the world, were practiced. I shall read a few words from some of these reports to put the Senate in full possession of the facts. Mr. Balch says:

"The practice of 'personation' was not unusual. Indians were bribed to appear before the agents, and declare that they were the owners of reserves belonging to others, and they were permitted to acknowledge contracts for the same."

"Although many frauds were perpetrated throughout the year 1824, of the existence of which the agents were apprised, still it was difficult to detect and defeat them. Those who were engaged in plundering these unlettered savages were emboldened by success, and early in 1835 a plan was concocted to sweep off from them all the reserves that remained uncertified, amounting to more than fifteen hundred. In the letter of the late Eli S. Shorter, a copy whereof is hereto annexed, marked C, this purpose is darkly hinted at."

Here is one of the disclosures to which the commissioner refers. Mr. Shorter, one of the men who had heavy operations among the Indians, says, in a letter to some of his associates:

"Your messenger must reach us on Sunday night. Camp your Indians out of sight of the road. You need give yourself no trouble about the value of the land; I will arrange all that. Stealing is the order of the day; and out of the host of Indians at the agency, I don't think there were ten true holders of land."

These are but specimens of what took place during that time. I suppose there is hardly a gentleman from the South who does not recollect the whole nature of the transaction.

If the honorable gentleman from Tennessee puts this application for an appropriation on the ground of a state of war, there was no necessity of advertising to the causes of that war. It was a gratuitous attack upon another Administration, because it did not alter the nature of the claim in any manner whatever. Whatever may have been the cause of the origin of that war, it has nothing to do with the merits of the claim, if it is sought to be pressed on the ground that war did actually exist. I repeat, that at different times during the progress of this war, commissioners were sent out to investigate and look into the condition of the Indians, and make such reports as would enable the Government to act promptly, efficiently, wisely, and in the best manner for the interests of the country.

One of the principal objections that the honorable gentleman makes upon this subject is, that the Government did not prevent people from going there. How could the Government prevent them? I should like the honorable gentleman to tell me how. Why, Governor Gayle, of Alabama, remonstrated against the right of the United States to send troops there. He said we had no right to bring forces into that country at all. His letter is explicit. He says, under date of February 22d, 1834:

"Alabama having rightfully acquired exclusive jurisdiction previous to the ratification of the treaty over the subjects embraced by the fifth article thereof, cannot be deprived of it without her consent. But, however this may be, whatever the power of the General Government, or the right of the State in this matter, it appears to me that the novelty of the spectacle of keeping upon the borders of a State a standing army to awe its citizens into submission to the laws, and the obvious departure which it indicates from the customary modes provided by the Constitution for conducting the operations of the Government, are considerations of themselves sufficient to induce a resort to milder means."

From the termination of the treaty through the whole of these transactions, there was always force on the frontier—sometimes under the command of General Jesup, sometimes under the command of General Twiggs, sometimes under one man, and sometimes under another. This letter came from Governor Gayle, remonstrating with the Government against the introduction of troops into the Territory. It was met by an answer written by direction of General Jackson, which I suppose many gentlemen here will recollect, in which this Government took the ground that so long as the land belonged to the United States, the Government had a right to prevent intrusion. But allow me to say, in a country like that, how could you keep troops with the State authorities against you—with the State authorities denying that you had any power whatever? Why nothing short of an armed force surrounding the Territory could do it. There was every disposition on the part of the Government to do so; but it did not want an armed contest with the State of Alabama, and therefore turned its attention to the removal of the Indians by all the inducements that could possibly be held out to them.

The honorable gentleman assumes, in the first

place, that an armed force was not there; and in the next place that the Indians were in a state of starvation; and, also, that it was the duty of the Government to apply a remedy for each. One of these propositions brings up the whole question in regard to intercourse with the Indians: how far it is the policy, how far it is the duty of the Government, when the Indians are in a state of starvation, to provide for their support. I do not mean as a matter of passing charity, but as a system upon which they could, and upon which they would rely. This whole business of the emigration of the Indians to the country west of the Mississippi is a very difficult question, and has always proved so under this Government. The great wave of civilization has borne them onwards from the borders of the Atlantic almost to the Pacific. They have melted away before the access and the approach of civilization, as the snow melts before the warm sun of spring. Wherever they have remained in contact with a civilized frontier, they have entirely faded away. I now aver here that I know of no instance in which a permanent reformation has been effected in the moral or political condition of the Indians so long as they have remained in contact with the white settlements. The relative condition of the two races who occupy this continent is a great moral problem. There are physical causes to account for the diminution and deterioration of the Indians. But why were those causes not counteracted? Has civilization shed no light upon them? For two centuries they have been in contact with civilized people, but they have resisted successfully every effort to ameliorate their condition. Their moral as well as their intellectual condition has remained stationary. All the circumstances connected with them present a case unparalleled in the history of the world.

Now, under what circumstances is the Government placed here at Washington, the central point of authority? The Government is pressed from every portion of the Union to remove the Indians. They see that the Indians are fading away—that reservation after reservation goes—that philanthropic men after philanthropic men are devoting themselves to their improvement, and that failure is apparent everywhere. It is owing, among other causes, to the fixed condition of Indian manners and the introduction of whiskey among them. An Indian is as unchangeable in his manners as is an Arab. The Arab maintains a certain species of civilization, and remains now just as he was in the days of Abraham. The Indian has not advanced in intellect, in physical condition, in anything that gives elevation to character since the first white man put his foot upon the shores of this continent. Now, why keep them stationary? The experiment may fail, but we are sure that their condition will be poor without it. The only hope we have is to put them in the western regions of country, where they will have a chance to live in their own way. They are hunters and warriors, and you cannot make them work. It is a disgrace to an Indian to work. There are but two operations in life that they can perform. One is to go to war, and the other to hunt. You have in them not only an unconquerable aversion to labor, which is common with all savages, but there is a feeling of dishonor among them attached to labor, which is as strong with them as it is with any people in the world. Your expectation to elevate them to any higher station in civilization by teaching them to labor, by putting them in contact with your people, by exposing them to the irruption of every man who chooses to go there and sell them whiskey, and deprave them, is utterly impossible. It should have been known before. It is now known by experience.

In this, as in other cases, the Government made the attempt to send these Indians west of the Mississippi, and after some time, in consequence of the difficulties which I have before stated, hostilities ensued. But let me tell the honorable Senator from Tennessee, that until May, 1836, the Governor of Georgia had not the slightest idea of a war. He says himself, in a letter accompanying the reports upon this subject, that it was only in May, 1836, that he became aware of the dangerous state of things existing. He did not believe there was to be a war; and allow me still further to tell the honorable Senator, as he speaks of issuing provisions to the Indians, that provisions

were issued to the full amount of the power of the Executive authority. At one period during that time, the Indians were found to be in such great distress that it was necessary to issue provisions; but the continuance of their issue would have been compelling the Government to adopt that as a system, and they would have thrown themselves upon the Government, so that all attempts to ameliorate their condition, or remove them west of the Mississippi, would have been utter failures. There is a note appended to the report of Judge Crawford, in which he says:

"Not a doubt is entertained, that many of the Indians now in Alabama would die for want of food, in the course of the winter, if the Government supplies issued by United States officers on stated days did not sustain them."

So you will see, that during the utmost extremity, when there was actual danger, provisions were issued to the extent of the power of the Executive Government. But this is nothing new in the course of Indian history. There is not a winter passes by but the Indians are reduced to actual starvation for want of food. Distress does not teach them providence, nor does want teach them industry. Why, they will consume their seed corn. They have little more providence in taking care of themselves than have the animals which are their cotenants of the forest. It is the characteristic of their nature. If you are now about to adopt a system of protecting the Indians upon the frontiers, and feeding them on the ground of humanity, very well; but you have the consequences before you. I never knew it to be done but once, and then it was from a proper and just motive. It was during the time of the war with England, when she adopted the system of throwing the Indians upon our frontier and subsidizing them. Her object was to get them over to her interests, and get them to make war upon us. Then we collected them together in masses, and kept them together, and fed them. We thought it better to feed them than to fight them. This was good policy. The motive in this case was justifiable. But such a motive passes away with the necessities which gave rise to it. I suppose there is no gentleman here who would insist that we should be eternally feeding the Indians.

In the book that I have before me there is an account of an interview between Governor Gayle and Ho-poe-thle-Yoholo, who was then the chief of the Creek nation, and a deputation who waited upon him; but I will not weary the patience of the Senate by reading it. Gentlemen will find it a most interesting account, if they choose to examine it, given by the Indians, of the troubles into which they were led by an incursion of the white people who wanted to purchase their lands into their country, and the frauds that were practiced upon them by land-stealers. It shows most distinctly that they were led into these troubles by the frauds that were practiced in consequence of their power to sell their lands; but without that power to sell and dispose of their lands being reserved to them, no treaty could have been made. Nor was it in the power of the Government entirely to prevent people going there. The Indians had a right to sell their reservations there within the first five years, and they had a right to sell their patents at the end of that time, if they did not choose to go West. The commissioners were appointed to certify to the contracts, to examine into them, and to see that all was fair. Under these very circumstances, I have already said to the Senate, if an Indian, A B, owned land, and there was another man who wanted it, he would obtain another Indian, C D, to represent himself as A B. Thus one individual would perhaps personate twenty Indians at different times; and thus the most fraudulent contracts were made. All this shows, as the honorable Senator from Tennessee said, a frightful condition among the Indians. I do not deny that I appreciate it as fully as he does. My only ground is, that the Government had nothing to do with this—that, in the first place, it could not prevent it; and, in the next place, it was told by the State authorities of Alabama not to send troops there. Governor Gayle said so expressly, and you know it, Mr. President. Such an effort would be a contest of arms between us and the authorities of the State of Alabama.

I wish I could find the answer written to Governor Gayle by direction of General Jackson. You, Mr. President, do not need it for your own

instruction; but it would show the Senate the difficulties which the Government had to encounter. In that letter the proposition which I have stated is laid down, that the Government had a right to interfere. It would place the Government of the United States in a very delicate condition in respect to the matter, if it should attempt to interfere. The Government had no wish to come in contact with the State authorities of Alabama. Public feeling in Alabama was very much excited in reference to the matter. It was with extreme difficulty, and only by the most persevering efforts, that finally the object was accomplished without a contest with the State of Alabama. Why, in this very report there is a warning given by General Jackson to the Indians, that if they did not emigrate they would be in a state of starvation. One of the inducements held out to them to go West was, that there they would become comfortable, that they would be removed at the expense of the United States, that they would have possession of a country where they might recur to their primitive habits of supporting themselves by the chase. But you know, Mr. President, that attachment to the land of their forefathers is stronger, perhaps, among uncivilized than civilized people. There is no man who has more reverence for the spot where the bones of his forefathers rest than the Indian; and there is nothing that grates more harshly upon him than the fact that we have burnt down his council house and plowed up the bones of his forefathers. They will never go willingly. I do not mean to say that they will never go, except when they are compelled to yield to physical force; but that they always prefer to remain in their old habitations, if they could be dealt justly by. They yield to the pressure of external circumstances, to contact with the white settlements, and to all the evils which have involved them in the condition in which they are placed, and which threaten, at no distant day, to blot them out from the face of the earth.

In relation to the specific appropriation before the Senate, I would say a few words. I suppose no man in the Senate will contend that, in a state of war with a civilized or uncivilized foe, any Government is compelled, by any just principle, to pay for injuries that may happen to its citizens. No Government can do it. It would break down any Government in the world. Besides, there are other obvious considerations connected with it which would prevent such a system. If a war breaks out with an Indian tribe, and the Indians make irruptions into our country during the pendency of the war, I take it for granted nobody would vote payment to those who suffered. Why, from the time of the landing of our forefathers on the beach of Jamestown, and on the Rock of Plymouth, there has not been an Indian war but where immense injuries have been inflicted. My own State suffered more, I presume, during the war of 1812, from Indian irruptions, than any other portion of the Union. There were circumstances connected with it which committed almost the faith of this nation, and which has never yet been redeemed. There were circumstances which gave the citizens of my State a better claim than any portion of this Union to compensation for Indian damages; and yet my constituents have never been able to get a dollar on account of the damages they suffered. When Detroit was surrendered, there was a stipulation made by the British Government in which the British solemnly promised to protect the people of that Territory from the Indians. The ink was not dry with which that provision was written; the paper upon which it was written was not put away, before the Indians began to attack the people and seize their property, burn their buildings, and take their children into captivity! From that time to this, not one dollar has been paid for those damages; nor has the British Government ever been called upon to redeem its solemn obligations thus given. These are circumstances which make this case, aside from the general principle, and yet compensation has not been made. But here is the case of a war.

The honorable gentleman, as I before observed, has gone into the causes of that war. Except he did so to vindicate the truth of history, I do not know why it was. Although we have high authority for the position, that to vindicate the truth of history is the province of the Senate, I do not admit it. It will be admitted that if in this case

there was a state of war, unless there were peculiar circumstances, there could be no claim for this appropriation. I understand the honorable Senator from Georgia [Mr. Dawson] to admit that it was a case of public war. It was so. There is no doubt about that. What Indian was ever punished by a court for engaging in it? If it was not a war, the Indians engaged were responsible to the authorities of Alabama for murder. But no such prosecution was ever instituted. No man ever thought of it. The honorable Senator from Tennessee has said that a portion of the tribe only were engaged in the war. Why, sir, we have repeatedly treated with portions of tribes. We have recognized portions of the same tribe as enemies, and others as friends. We have recognized parts of tribes. The authority of the chiefs hangs loosely on the Indians. They have but little more than a moral influence. If a band of Indians choose to locate themselves in another portion of the country, the chiefs cannot prevent them. Bands of tribes go off and separate from the main body. We have repeatedly made treaties with different portions of tribes. We have treated with portions of the Wyandots, portions of the Pottawatomies, of the Ouawas, and of the Chippewas. We have frequently treated with portions of tribes. Although they do not divide property as we do, into individual possessions, except so far as concerns land; although they did not divide their property into severalty, yet the bands divide their property into severalty. The bands occupy particular portions of the country, and have particular hunting grounds very frequently, to trespass upon which would be doing a very great injury to them. You will find on the statute-book treaty after treaty, made with different bands of the same tribe. We have recognized portions of tribes as enemies, and portions as friends. During the last war a portion of the Wyandots sided with England, and a portion were our friends. So of the Pottawatomies, and the other tribes I have enumerated.

With respect to the Creeks, they went on and made war. There was a state of open hostility, and it was so considered by the Government. I repeat, you can find no single instance in which an Indian was ever prosecuted for being engaged in these hostilities; and for the evident reason, that every Indian so engaged was considered as a public enemy, and to be treated as such. Now, that being the state of the case, the honorable Senator from Tennessee has said that the spirit of the intercourse law requires the payment of these claims. What is meant by that? In order to prevent difficulties between the Indians and the white settlements; or rather, in order to prevent those difficulties ending in war, the Government long ago adopted the policy, that, if there were irruptions of Indians into the white settlements, and property was taken, if the white settler would not pursue the Indians, but would wait the operation of the Government, the Government would guarantee the final payment of what was due. The Government did not do it because it was obliged to do so, but as a matter of policy arising out of our peculiar relations with the Indians, and their peculiar character. In the first instance, the guarantee only extended to payment from such annuities as were due the Indians. The United States were to reserve the amount to be paid from the annuities. But subsequently, in 1834, that was changed, and the United States guaranteed the payment without any reference to whether the tribe had an annuity or not, or whether it had annuity enough to meet the payment required. I know this, because I was in daily communication with the committee who prepared the bill of 1834, and was familiar at the time with its provisions and their effect. That was the policy of the Government; and it was a very just and a very proper policy. It was, that, if the settler would remain still, the Government would put him in the position in which he was before his property had been taken.

The line within which this act was confined, was defined by the law. It began at the north-east, and went round all over the country, according to the old law. But the new law which was passed in 1834, excluded the country east of the Mississippi from its provisions. What, then, is meant by the spirit of that law being applied to this case? Congress did not choose to extend its policy to the States east of the Mississippi. That is all that can be said about the matter. There

was no spirit of the law in regard to this case, and for a very obvious reason; there were the Indians in the very midst of the white settlers, and the State authorities were extending their power over them. The State authorities had taken possession of the country. So far as was possible, they had extended their jurisdiction over the Indians, and made them responsible to the courts of Alabama. Then how could you extend the Indian intercourse law there? The State of Alabama took the subject into her own hands. She took it from the United States. She extended her jurisdiction over the whole Indian country there. Then you had not the right—it was no part of your duty—to undertake to extend the principles of your act, where the State authorities said they should not be extended. It must be recollected that this is not a question of right; this is a question of policy as to how far it is politic and necessary for the United States to extend their guarantee; to what cases it shall extend. The intercourse law provided that the guarantee should extend only to such and such cases, in such and such places. Alabama was not within these places. Who, then, has a right to say that the spirit of the law includes this case? It is a question of the plain words of the law. It is a question for the Congress who made it. If they chose to extend the law there, they would have said so. Nothing more would have been necessary. But to say that the spirit of the law includes this case, and that therefore the appropriation should be made, is to put it on ground which Congress have denied. There can be no question as to the spirit of the law. This is simply a question as to the extent of the law.

Again, it is a question the difficulties of which are made by the legislation of the State of Alabama, which says that we have no right to go into that State, and which held out very distinctly the threat, during all these proceedings, that if we did go into the State of Alabama, we would be met by the armed forces of that State. No man knows it better than the honorable President of this body. He was then a Representative of Alabama on this floor, and well recollects the feeling which existed in the State at that time. This was the ground which was taken, when Governor Gayle wrote that extraordinary letter, to which I have alluded, to the War Department.

I have not looked particularly at this claim. Allow me, however, to say to the honorable gentleman from Tennessee, that this claim, so far as respects the certificate and decision of the commissioners, does not rest on any guarantee of the Government at all. The appropriation formerly passed by Congress, expressly provided that the ascertainment of these expenses by the commissioners, should not be considered as any pledge on the part of the United States to pay the amount. There was the express exclusion of such a conclusion. It is very evident that Congress was willing to look into the matter and see what should be done—to investigate the causes of disturbance, and ascertain what was proper to be allowed, if anything; but that in the mean time the faith of the Government should not be in the least degree committed. Therefore, you are not at all to draw the conclusion, that because these damages were estimated under the direction of the Government, the Government is therefore under the slightest obligation of moral faith to carry them into effect.

The second section of the act of March 3, 1837, authorized the appointment of agents to inquire into what depredations were committed. The information was obtained, and was reported to Congress. The amount reported as proper to be allowed, was nearly \$356,000; of which only \$270,000 was for depredations prior to the commencement of hostilities. Three hundred and forty-nine thousand dollars were for damages during the hostilities. The whole amount claimed for the whole period, was \$1,269,000; but the commissioners rejected consequential damages. For my own part, I have not looked very critically into the nature of this claim. Whether there are not equitable circumstances which require it to be paid I cannot say, for I have not seen sufficient proof to judge of that. But certainly the grounds stated by the honorable Senator from Tennessee, and repeated by the honorable Senator from Georgia, whether there was a state of war or no war, do not furnish, in my opinion, any reason for the payment of these claims. I repeat again, sir, that

if there was war, it is a principle that no sane man can adopt; and if peace prevailed, and there was no war, no question connected with the intercourse law can apply, especially in the State of Alabama, which had taken the jurisdiction of the whole subject into her own hands with the intent to prevent the United States from having any control over the subject.

Mr. President, I shall not further fatigue the Senate, yet I owed it to myself to say thus much. But the subject came upon me very hastily. I know there are facts connected with it that might be easily collected, which would give the case a much stronger aspect. I was in hopes at one time that the Senate might postpone the matter until Monday, with the view of giving an opportunity to look more fully into the facts; but as that has not been done, I found it necessary to state the facts that were known as well as I could. Under the circumstances I shall say no more at present; but if the honorable Senator from Tennessee should make any remarks on the subject which may render it necessary for me to reply, I trust that the Senate will give me the privilege of speaking again on the subject.

Mr. CLEMENS. I can have no objection to any explanation which the honorable Senator from Michigan may have thought it necessary to make of the acts of the War Department when he was at its head; although he will allow me to say that he has sometimes given his enemies advantages over him by unnecessary explanations of by-gone things, which had much better be left to take care of themselves. If, however, he had confined himself to an explanation of the motives which had actuated the War Department—if he had attempted simply to justify the action of that Department, and had not left false impressions upon the minds of the Senate, I should not have felt it necessary to say anything more in relation to this matter. He has recapitulated the frauds practiced upon the Indians as one of the causes which led to the hostilities, and he has left the impression that these frauds were practiced by the settlers who come here to ask for compensation.

Mr. CASS. Such was not my intention.

Mr. CLEMENS. I am sure there is not a Senator here who did not receive that impression from the Senator's remarks.

Mr. CASS. I spoke of frauds committed by the Indians, and not by the settlers. I spoke of the condition of the Indians, and the frauds which led to it, not of the subsequent conduct of the Indians. My object was to defend the course of the Administration from what the honorable Senator from Tennessee stated, that the state of things to which he alluded, resulted from the conduct of the Government.

Mr. CLEMENS. I am glad to hear the explanation, because I am sure that the Senate must have understood the Senator as I did. In the very documents which he had before him, there was conclusive evidence, in the certificate from the Government commissioners, that the settlers, the parties now claiming compensation—not merely for the losses sustained, because that is not the whole amount claimed, but for provisions furnished to the United States troops—did not practice the frauds. They were practiced by speculators, whose object was to obtain possession of the land, and then to speculate upon the settlers. They lost nothing by the Indian depredations, for they had nothing in the midst of the Indians. The settlers were the sufferers, and it would be hard indeed if they were to be denied justice here, because others had seen proper to practice frauds upon the Indians.

But, sir, that was not the only thing which led to the hostilities in the Creek territory at that period. One prominent cause—and it was contained in the document I read yesterday—was absolute starvation, and their total inability to procure food without committing depredations on the property of the citizens. The Senator from Michigan has read an abstract, which he says was prepared by one who was with him in the War Department, which shows conclusively that the depredations were not committed after hostilities commenced, but that \$270,000 of the \$350,000 due to the claimants are for depredations committed prior to the commencement of hostilities, and that the portion of the claim arising subsequent to that time, is for meal, and corn, and forage furnished to the United States troops in the territory. He has alluded to

a letter from Mr. Shorter, in relation to these frauds. Mr. Shorter was a settler, and that of itself is conclusive proof that the settlers were wholly unconnected with any of the frauds practiced on the Indians. On the contrary, they furnished them with food to the utmost extent of their means.

But the Senator, in endeavoring to justify himself in one particular, it seems to me has inculpated himself in another. He was Secretary of War at the time General Jackson recommended the appointment of the commissioners, for the purpose of paying the claims, and of course concurred in the act of the Administration, of which he constituted a part.

Mr. CASS. I was absent from the city at the time.

Mr. CLEMENS. He says he was absent. At all events the then existing Government, of which he constituted a part, recommended the appointment of the commission for the purpose of paying these claims; and I take it that every part of that Government is bound by its action. I do not care what Governor Gayle may have said. I do not care whether Governor Gayle denied the right of the Executive to send troops into that territory or not. He was not sustained by the constituted authorities of the State of Alabama. The Legislature repudiated his action, and the consequence has been, that from that time to this, he has been acting with the Whig, instead of the Democratic party to which he belonged anterior to that time. Now, sir, we did extend our laws over that Territory, and for the express purpose of preventing the frauds which were practiced upon the Indians. One of the chief reasons for extending the laws of Alabama over the Indians was to give them protection; and if we had been left alone, we would have protected them. But this Government thought proper to interfere, and take the matter into their own hands. They made a treaty, and by the terms of that treaty, settled the whites among the Indians, rendering it absolutely certain that within a short period, the Indians, being landless, without means of raising crops, must resort to depredations upon the property of the whites for a bare subsistence. This was foreseen by the authorities of Alabama. The Government were warned against it, but notwithstanding the warnings they persisted in this course of conduct.

But the Senator has undertaken to prove that this was a case of public war. The head of the Administration, of which he composed a part, did not think so. The facts do not justify the assertion that there was a public war. The very paper which the Senator has read, as I have before remarked, proves conclusively that much the larger portion of the depredations were committed anterior to the time when any hostilities whatever existed. But the fact is, that the state of hostilities which did subsequently arise, was confined always to scattering parties of the Indians, and was never concurred in by the nation. The chief of the nation, Ho-poe-thle-Yoholo was one of the most active agents in suppressing it, and Jim Boyd, another chief, was also engaged in suppressing it. The Council of the Nation never recognized it. The Senator asks why we did not try the depredators for murder. Why, Mr. President, it would have been just about as easy to have identified them as to go to the moon. We could not identify them. We could not tell who had committed murder. And, moreover, it would not have been politic, under the circumstances, and it was not judged necessary to resort to that process when the Government had commenced to coerce their removal. We were willing to get rid of them. We knew the impossibility of identifying them, if we attempted to try them for murder; and we let them go when the Government troops removed them. The number of warriors of the Creek nation at that period was about 5,000; and there never were 700 of them engaged in these hostile depredations. There never were, at any period, 500 of them assembled in one body, except those who were assembled under the friendly chiefs, for the purpose of suppressing the insurrection. The acts of the depredators were repudiated by the Council of the Nation. There was nothing to justify anything like the assumption that there was a state of public war. By that, I do not mean that there should have been a declaration of war; because we all know that we never



make such a declaration with Indian tribes. But what I mean is, that the tribe, or a majority of the tribe, should have concurred in it; that the Council of the Nation should have acted upon it, and should have sanctioned these hostilities. I deny that a state of war can exist, when the executive authorities of the nation deny that any such war did exist, and when much the larger portion of the tribe were engaged in suppressing the insurrection. The depredators were a few bands of half-starved Indians, some of them driven so far to desperation, that the woods were actually filled with them, hung to grape vines, committing suicide to avoid the pangs of starvation. They were depredators in every sense of the term, and nothing but depredators. We ask now that you shall do to us what has been done to every State in the Union that has made application to you—pay us for the property so destroyed.

I have no wish to prolong this discussion. I regretted yesterday that so much was said about it. I think all of us have understood it; and unless it becomes necessary, I shall say nothing more about it.

Mr. CASS. I have here a letter of Governor Clay on this subject, from which I will read the following extract:

"I must say, in reply, I have no personal knowledge of facts on which to found an opinion on the subject to which you allude. I am not aware that I have had any communication, personally or by letter, with any individual who may have been implicated in the excitement of hostilities. So far as I am able to judge from the communications of individuals, or from indications of public sentiment, as expressed at public meetings and otherwise, it seems to me the opinion prevails extensively, if not almost universally, that the frauds and forgeries practiced upon the Indians to deprive them of their lands, were amongst the principal causes which excited them to hostilities."

Mr. BELL. Who is that letter from?

Mr. CASS. That is from Governor Clay, then Governor of Alabama, who says expressly that the opinion of the whole country was that the frauds practiced upon the Indians, were amongst the principal causes which excited them to hostilities. Mr. President, the period when these things occurred has so long passed away, that it is hardly known to what extent the excitement prevailed. The great body of the State of Alabama were as much excited, and as much opposed to this, as any could be. There was a most healthful public sentiment there; and as Governor Gayle says, there was indignation felt throughout the whole country against the state of things. The War Department was overloaded with remonstrances from Alabama against that monstrous state of things; and I assure the honorable Senator that I had not the most remote idea of saying a word about these claimants as being concerned in the frauds. All that I spoke of, were those persons who had gone into the Territory, not only from Alabama and Georgia, but from other neighboring States, to make a system of defrauding the Indians. I alluded to those persons who made a system of cheating the Indians. A spirit of indignation was excited against them in the State of Alabama, and I do not believe they could have made their appearance there at all. No sentiment could have been more healthful than that of the State of Alabama on the subject. I repeat, it would be exceedingly difficult for any man now to convey to this Senate an adequate idea of the true state of things which existed then. I think the honorable Senator from Georgia [Mr. BARNES] must be aware of the condition in which the Government was placed. I think he must know the tremendous frauds which were attempted to be practiced on this country; that is my impression.

With respect to this specific application, if it is based on peculiar circumstances, I have never looked into it. It is only when it is put on untenable grounds, to wit: that it must be considered as arising from a state of things which did not constitute a war, or that it should come within the spirit of the intercourse law—that I have objections to it. If, in the course of General Jackson's administration, after I left it, the slightest paper can be found showing that, in his opinion, the Government should meet any portion of these expenditures, I will vote for it as cheerfully as any Senator, I have that unlimited confidence in General Jackson's knowledge of the subject. My own knowledge in respect to it would not entitle me to vote for it. But I should like those who are interested in it to show precisely the bearing of this specific portion of the appropriation upon the facts.

Mr. RUSK. We are losing sight of the real questions at issue, and going off to collateral ones. It is true, as the Senator from Michigan says, that great frauds were perpetrated. Under one of the articles of the treaty, the Indians were authorized to sell out their reservations, and speculators went in and perpetrated frauds upon them; and the Indians perpetrated frauds upon one another to a great extent. I suppose there was about as much swindling carried on there as generally happens in such a case. But that has nothing to do with this claim. The parties here were no parties to those transactions—they were no parties to the bargain. By the treaty the Indians were authorized to sell out their lands; and settlers were authorized to go in and settle, and commence the cultivation of the soil, which numbers did. Whatever may have been the difficulties, it is not necessary to inquire into them—whether it was these frauds that were perpetrated—whether it was a state of starvation, makes no kind of difference. When the settlers had gone there by the sanction of the Government, as they had a right to do—they were mostly poor persons, and the land was fine and yielded well to labor—the Indians commenced a system of stealing and depredation upon them, which went on from one step to another until it finally broke out in hostilities with a small portion, and but a small portion, of the tribe. The Government afterwards, to ascertain the damages sustained by the settlers, sent down a commission, who reported the amount that is now asked to be placed upon the deficiency bill for the purpose of paying them for the losses sustained.

I said yesterday, that if the intercourse law had extended to Alabama and Georgia, these claims would have been paid long ago, and the principle—I will not call it the "spirit," as the honorable Senator from Michigan seems to object to that—of that law should extend everywhere, and should be applied, if you are going to administer justice, as well to a person in Georgia or Alabama, as to one who lives in Missouri or Michigan. It is the principle upon which you pay for depredations committed by Indians. If it is good in one section of the Union, it is as good over the whole extent of it.

A SENATOR. What is the principle of that law?

Mr. RUSK. The principle is this: that, if any portions of Indian tribes in amity with the United States shall, in their territory, commit depredations upon any of the people of the United States, or pass beyond their own lands, and commit depredations, upon application made for remuneration for damages sustained, the Government shall guarantee their payment; and it is the principle, and such is the provision of the intercourse law, that, if the Indians are entitled to receive annuities, the claims are to be taken and paid out of those annuities; but if they have not sufficient annuities to pay them, then they are guaranteed out of the Treasury of the United States.

Mr. HUNTER. If the Senator will permit me, I desire to make an inquiry of him. Does not the intercourse law extend only to Indian territories outside the boundaries of the United States, and did it not extend only to that territory over which the United States had exclusive jurisdiction?

Mr. RUSK. I have just said that it did not extend to Alabama and Georgia.

Mr. ATCHISON. I will answer the question of the Senator from Virginia. If an Indian, living within that territory, comes into a State of the Union, and commits depredations upon a citizen, the intercourse law indemnifies that citizen for damages sustained, whether it be within the territory or in the States.

Mr. RUSK. Yes, sir; and if the Senator will look to the fourth volume of the Laws of the United States, he will see the intercourse law, to the 17th article of which, particularly, I refer him. Then, if an Indian within the Territory should pass over his line, and go into the State of Missouri, or any other State of the Union, and commit depredations, steal the property of a white man, and the white man should make application, he would be entitled to receive pay. That is the principle, and, I say, if it is good in Missouri or Michigan, it should be good in Alabama or Georgia.

A SENATOR. Whence is the money to be obtained to pay for the damages?

Mr. RUSK. In the first place, if the Indians have annuities, it is the business of the Government of the United States to deduct them out of

those annuities; but if they have not sufficient annuities, they must be paid out of the Treasury of the United States.

Mr. BADGER. The Government is to see that payment is made to the sufferers.

Mr. RUSK. The Government "guaranties"—that is the expression of the law—the payment. Now, let us apply this principle to this case. Here are these individuals, not responsible for the policy of the Government, whether it be good or bad, not responsible for the speculators—peaceable, quiet citizens, industriously pursuing their avocations for a livelihood, that are for a long time depredated upon by these Indians stealing their cattle and corn to live upon. It is unnecessary to go into a history of it. The Indians were about to leave their property. It is regarded generally among the tribes of Indians as a high qualification, and one that recommends them, if they can steal well. They commenced depredations. There were none in Georgia; they passed over the line, and came among the unprotected settlers on the Alabama line, to steal their corn, and things of that description. Georgia turned out men to defend her citizens, and so did Alabama. From these individuals they received supplies to live upon; and part of the claim now before the Senate arises from that. It may be answered that we should have paid for these claims out of the annuities due to the Creeks. A question would arise there, which might, to some extent, involve the policy of the Government. One thing is certain: the law had not been extended, and the people in Georgia and Alabama did not receive the same protection which they would have received if they had lived in some other States of the Union. Was there equity or justice in that?

There were various classes of these claims. Some of them were for consequential damages. A great many persons were driven off their farms, and they claimed damages for that. Those now reported are for actual property taken away from the citizens, the most of whom were poor; and they have been kept out of the remuneration for their losses for fourteen or fifteen years. The determination of this case does not involve the question whether the policy of the Government was a wise or foolish one, whether it was just or unjust. These people had nothing to do with it. They had no control over Governor Gayle, or over this Government. They suffered the loss of their property; and now they ask that the same principle may be extended over them as the intercourse law extends over other States. They ask you to pay them for what they have lost; and I think you are honestly bound to do it.

Mr. BELL. I believe it seems to be thought both by the honorable Senator from Michigan and the honorable Senator from Alabama that the allusion which I made yesterday to the subject of the policy of the Government was rather unfortunate for the purpose for which this amendment was offered. The honorable Senator from Michigan has stated once, and repeated again, in the course of his argument, that the Senator from Tennessee had made what he considered a gratuitous attack upon the policy of a late Administration. I regret it very much if I have said anything calculated to prejudice this claim in the opinion of any member of the Senate; or if it was an unnecessary allusion I regret it equally. The honorable Senator will bear me out, by his own recollection, when I state now and repeat what I stated yesterday, that I do not mean to charge anything upon the policy of that honorable Senator when he was a member of the Executive Department of the Government, as to his intention of carrying out any policy which might not, under the circumstances, have been justifiable as an experiment. I furthermore alluded to what I considered might be the controlling influence in the Executive Department of the Government at that time—the necessity under which they considered themselves, or considered the country, of removing the Indians at all hazards, by every course of policy which it was in their power to adopt. I did not then, nor do I now, wish to rake up those ancient charges against the policy of the Administration of 1834, '35, '36, and '37, when these transactions occurred; but I now maintain that my allusion was strictly legitimate to a proper exposition to this Senate of the grounds upon which this claim is brought forward; and I now repeat it, without desiring to go into any further charges

than those already alluded to as to the impolicy of the course of the Administration at that period, although I am free to admit that there could have been no sinister or improper motives on the part of the Administration, much less of the honorable Senator who was at the head of the War Department. The fundamental principle upon which these claims are brought forward is the policy which the Government pursued in making the treaty of 1832, and in the carrying of it into execution.

I said that it was a most unfortunate policy, and I repeat it. It not only resulted in these disastrous conflicts between the whites and the Indians, in which blood was shed, but it resulted in the expenditure of \$3,000,000. That was an estimate I made from recollection, having some remembrance of the transactions connected with the Creek Indians in the period of 1836-'37. It led to an additional expenditure of \$3,000,000. That is not material, however. That became necessary by the first-fruits of the false policy of the Government. What was that policy? It is the ground upon which these claims have to be sustained, if they are sustained at all; for I beg leave here, in the outset of my reply, to state what I stated in substance yesterday, that the intercourse law does not embrace such claims, although the spirit of it, as has been argued by the Senator from Texas, [Mr. Rusk,] may well be said to apply to them. But they do not rest on that exclusively. I said there was no principle of obligation resting on the Government to protect the property of its citizens in time of war, as a general principle, against a public enemy. Whether this Indian outbreak be considered as a war, properly speaking, or not, there were still behind that the circumstances in the nature of the policy of the Government adopted in this particular Indian treaty, and in the policy pursued in attempting its execution and the removal of the Indians west, which take it out of all those principles, I mean such principles as would exclude the inhabitants of Alabama from coming to the Government and claiming indemnity upon the new principles growing out of that anomalous policy, a policy unknown in the former history of the country. I said there were these new facts and circumstances, and principles founded upon them, upon which they could come here, and that they had created an obligation on the part of the Government that could not be disregarded when we look into the history and origin of the depredations. What is that extraordinary policy? I stated that this was the first treaty in which the Government had permitted—expressly in the terms of the treaty itself—and sustained, also, because they could not prevent it, perhaps, after the treaty had been executed, so far as the people of Alabama were concerned—the white settlers to enter within the limits of the Indian Territory before they removed them. What is that treaty? The honorable Senator from Michigan did not allude to the clause of it under which these difficulties arose. It is in the fifth article, and is in these words:

"All intruders upon the territory hereby ceded shall be removed therefrom in the same manner as intruders may be removed by law from other public lands, until the country is surveyed and the selection is made."

That is, by the Indian reservations, of which there were about six thousand.

"Excepting, however, from this provision those white persons who have made their own improvements and not expelled the Creeks from theirs. Such persons may remain until their crops are gathered. After the country is surveyed and the selections made, this article shall not operate upon that part of it not included in such selections."

I call the attention of the honorable Senator from Michigan to that fact. He stated yesterday, that the treaty was well considered. "After the country is surveyed and the selections made, this article shall not operate upon that part of it not included in the selections." What is the meaning and purport of that article? A body of the Indian country which had been ceded by the treaty of 1832, as soon as it was surveyed, and before it was even sold, was laid open to the population of the surrounding States, and of the citizens of the United States generally, by the express provisions of the treaty itself. Now, if the honorable Senator from Michigan chooses to interpose an explanation, I shall be happy to hear it. I call upon him to state what the policy of the Government was in introducing this new feature to coerce by that means the removal of the

Indians and drive them out of the territory by letting in the whites, and showing the Indians that, from the necessity of their condition, they were obliged to go.

Mr. CASS. Will the Senator refer me to the section of the treaty to which he alludes?

Mr. BELL. It is the fifth article of the treaty. I will go on, and the Senator can answer at any time. I reaffirm that all these disasters, these depredations, this destruction of the property of the citizens of Alabama, followed naturally, and by a sort of inevitable necessity, from the policy adopted by the Government, which was the ground-work of a new principle for indemnity for losses sustained by the citizens. Either the obligation rests upon Alabama or upon the Government of the United States to indemnify these citizens. If it rests fairly upon the State of Alabama, the application ought to be made to the Legislature of that State. If it rests fairly upon the United States, the application is well made and the question is well here. There is nothing in the preceding policy of this Government—there is no principle established on regular principles recognized by this Government heretofore—that applies to such a case as this.

Mr. CASS. I have been reading the article to which the Senator refers, and will ask him what is precisely the point he makes?

Mr. BELL. I mean to say that a new principle and a new obligation were incurred by the Government by a new feature adopted in this treaty. In the first place, it ought to be premised that it was not provided in the treaty itself that the Indians should remove before the white settlers were admitted to occupy their territory. The article to which I referred is, that as soon as the lands are surveyed, and without reference to the removal of the Indians, of course implying while they remained there, the white population was free to go in and cover their territory.

Mr. CASS. The country was purchased by the United States. There were five millions of acres; and had there been no Indian reservations there, the settlers would have gone there next day. There were reservations allowed. The treaty said to the settlers that they should not go there until the country was surveyed, and the Indians had made their selections. They could go on it, because the rest of the land was the land of the United States. They had the same right to go there as on any of the public lands. That is the provision of the treaty. The same system prevailed in relation to every other portion of the public land. The moment it was opened up, everybody could go there; but to protect the Indians, the treaty said, you shall not go in until the land is surveyed and selected for the Indians.

Mr. BELL. I beg pardon of the honorable Senator, but I think that is an evasion. Has it been the policy of the Government, or was it the intention of the Government, in this treaty, when there were twenty-one thousand Indian souls within the limits of the territory ceded, besides some two or three thousand negroes, to buy out the land, and still let them remain permanent residents of the country? Was there nothing contemplated as to their removal westward? Was there no provision in the treaty which showed that the Government had in view their removal west of the Mississippi? The policy of the Government had been that the Indians shall remove within a given time.

Mr. CASS. You knew, Mr. President, that the treaty could not have been made unless the reservations had been granted to the Indians, and a right to go or remain, as they pleased. The Government provided for the removal of every Indian who would go; but those who would not go had a right to remain and sell the land, or hold it, as they pleased. Not one foot of country could have been obtained without that provision.

Mr. BELL. I was showing, by the provisions of the treaty, that the Government had contracted an obligation which is not usually contracted in such cases, in regard to Indian depredations. I repeat again, that twenty-one thousand Indians are said to have been occupying the territory of only five millions of acres; and that there was no provision made for their removal prior to the filling up of the country by white settlers all round them. What is the answer of the honorable Senator to that? Why, that it was a political necessity; and you, Mr. President, are ap-

pealed to to confirm the truth of what he stated—that the fact was that no treaty could be made unless on these anomalous terms. That does not touch my argument. It is only affirmative of what I laid down yesterday, that the Government has pursued a policy which made it liable for all the consequences.

Mr. CASS. I hope the Senator will pardon me for interrupting him a moment.

Mr. BELL. Certainly, as often as the Senator chooses.

Mr. CASS. I say again, as I have already said, the Senator is perfectly right in stating that the Government wanted to remove the Indians. The terms of the treaty are express upon that point. Government did want to remove them; but they expressly stipulated that they would not force them to go.

Mr. BELL. Of course. I was coming to that, and to prove by the treaty, everything that I had said, if the Senator had waited a moment.

Mr. CASS. I will wait with pleasure.

Mr. BELL. I must be very unfortunate if I cannot be understood by the Senator nor the Senate generally, when I say, I care not what may have been the political necessities of the country of any sort, which appeared to them to be of such a nature as to require that a treaty should be made on some terms or other. That is not the question. But those necessities having existed, they felt themselves under obligations to make a treaty such as was unknown in our Government before; and there has been none like it since. They felt themselves authorized to make it on account of the stress of public sentiment in particular quarters of the country, and their having made it, I say, is the foundation of this claim. Whether they made it with an ill or a good motive is not the question. I have no doubt it was a good motive; and I only stated the facts, that they, in consequence of it, opened a country containing five millions of acres of land, and occupied by twenty-five thousand Indians, and allowed the white population to flow in and occupy the country promiscuously, and contemporaneously with the Indians.

It is scarcely necessary to allude to the clause of the treaty to which the Senator has referred, that they might go or stay as they chose, that the Government would use no coercion and use no means except that they would provide subsistence for one year to those who would go west of the Mississippi, and aid them in removing when they thought proper to go.

This was a most extraordinary treaty, though it was one which the Government might have felt themselves justified in making as an experiment. But I think there was a neglect to apply past experience with reference to the treatment of the Indians, or to bring it to bear in making this treaty; but still perhaps the public necessities of the country were such that they felt themselves justified in making the experiment. It is the result of that experiment which lays the foundation for these claims.

This country was thrown open in the way I have shown as soon as the lands were surveyed and selections made, and the whole country was immediately filled with white people as settlers. The sales of the reservations proceeded as rapidly as possible from the time the surveys were completed, and the country was soon swarming with settlers. The consequence was, it is alleged in argument here, and in some of the reports, that there was another fact or element of mischief intervening; and that it was not starvation or the necessitous condition of the Indians which drove them to commit hostilities, but the enormous frauds which were practiced upon the Indian titles. The Senator from Michigan has charged that I made a gratuitous attack upon a late Administration in my argument upon this question. In his explanation he has attempted to fasten the cause of these Indian disturbances mainly upon these frauds. I would not have thought it important to press this argument on this occasion, because I thought that all which it was necessary to show was, that the policy of that Administration laid the ground-work, in that extraordinary treaty, for the indemnification of the white settlers, if their property was destroyed by the Indians, under circumstances which, according to the usage of Government and the obligations which attach to it, to protect the citizens from losses from

any quarter, would apply to them. Yet, as the Senator has touched upon these frauds, although I have not looked at the documents nor the debates with regard to them, since they occurred in 1837, '38, '39, they are still so fresh in my recollection, that I think I cannot be mistaken in regard to them. The Senator will himself call to mind that there were serious charges imputed to the commissioners appointed to investigate these transactions; and the opponents of the Administration, of whom I was one, urged strongly upon the public that the Government was grossly in default in the appointment of unfaithful and dishonest agents, who, at that time, it was believed and urged—although they may be found to have been honest men, if an investigation shall ever take place—connived at the frauds committed by persons who went in to purchase from the Indians. It was not the speculators alone who produced this bad feeling among the Indians. It will be found stated, in more than one official report made to the Government, that the practices which operated upon the minds of the Indians, greatly to sour their temper and dispositions, were not only the frauds themselves, but that in a great measure the connivance of the agents themselves who were sent to guard the rights of the Indians and certify to the frauds committed, produced the excited and hostile feeling on the part of the Indians.

These were charges made at the time—in 1837, '38, '39—against the Administration, for gross negligence and want of foresight, in not sending out firm, decided, and honest men to see that justice was done to the Indians, and to prevent the frauds which were practiced to a large extent by these men; and they were made on very strong and plausible grounds. You must recollect, Mr. President, that the parties interested in the purchase of these lands, were actually supposed to be active and energetic in diffusing dissatisfaction and discontent, and in seeking to occasion hostility between the white people and the Indians, for the purpose of driving them out of the country, and also to prevent an investigation as to these frauds. These are facts which can never be fully disclosed; but it must be recollected that the country was full of charges of that nature at the time; that the speculators, when they found that their frauds had been detected, and that the Government was disposed to do justice to the Indians, that those very speculators were concerned in exciting that state of feeling which subsequently resulted in these depredations.

There is another fact which should not be forgotten, and that is, that Mr. John B. Hogan, who was selected because he was a man of character, honesty, and firmness, and not likely to be intimidated by the machinations of speculators, or any terrors which they could hold over him, was sent out to investigate the acts of former agents. I will not speak positively as to the results of that investigation, but I believe that Mr. Hogan was withdrawn, on some pretext or other, from the final investigation. It may have been on account of the breaking out of hostilities. I do not recollect whether he was sent there prior to, or subsequent to the commencement of hostilities; but I know, that on making an investigation into some of these frauds, he found, from the nature of the task, that it was one he did not wish to commence or persevere in; and he was withdrawn; but whether antecedent to the breaking out of hostilities, or subsequently, I do not know. All these circumstances were made grounds of charges against the Administration, as the Senator from Michigan [Mr. Cass] must remember.

It would occupy days and days to go fully into the truth of these charges; but I do not wish to go fully into them, and merely refer to them now in reply to the Senator from Michigan, [Mr. Cass,] who has stated that the frauds practiced on the Indians were the cause of hostilities. He will find, by the reports of the commissioners appointed, I believe, by himself, that mention is made of one remarkable fact. I believe he will find it stated in the report of Mr. Crawford, that in those towns where the Indians suffered most by these frauds, they were peaceable; and that, although he was satisfied that the frauds on the reservations tended to augment the discontent among the Indians, and to incite them to hostility against the whites; still there was the remarkable fact, that in those towns where the frauds had been perpetrated to the most enormous extent, they were friendly to the United

States; and the Senator will find in the same report, as was stated yesterday, that the hostilities were confined to the lower towns, where the frauds were less in degree.

I will not say that all that was charged against the Administration for neglect or improper conduct in sending out agents of such a character, or such principles, that they would dare to connive at the frauds, was true; but such charges existed at the time, and I do not wish, now, to enter into an investigation of their truth or falsity. If the Senator will look into the report of Mr. Crawford—I do not know who was associated with him, whether it was Mr. Chambers or Mr. Balch—

Mr. CASS. It was Mr. Balch.

Mr. BELL. But it was a commission appointed for the purpose of putting the best face on this whole transaction, and it may well be presumed in reference to the attitude in which the Administration was placed—because this was not the first time, it was at the very period when these charges occurred, and which were made against the administration—that these gentlemen, who were not considered gentlemen who would whitewash the Administration, particularly Mr. Crawford, were sent with the view, no doubt, of putting the very best face on the policy of the Government in relation to these Creek Indian hostilities, that could be put upon it. And every sentence of their report, if interpreted fairly, must be taken in connection with the presumed desire of the Government, not that they should assume the facts, but that they should state the case as fully and fairly, and as favorably to the Administration as possible, consistently with the transactions which had taken place in the Indian Territory. And even with all that, you will find that these commissioners were obliged to admit, that the other circumstances which were urged yesterday, contributed to the fanning of this flame on the part of the Creeks who took part in these hostilities. From the report of Mr. Crawford himself, you will find that there was but a portion of these Creek Indians engaged in these hostilities, and that not one fifth of their whole number.

Now, what are these claims? The white population of Alabama, and Georgia, and Florida, and Tennessee, and Mississippi, and all other States of the Union who thought proper to go and settle in the Indian country, were at liberty to do so, whether it was agreeable to the Indian or not, or without regard to whether the Indians had been removed or not; and they did so. We have the census of the Indians to show that there were at least twenty thousand Indians there before any removals took place. The whites went in and planted themselves in their territory, and purchased of the reserves and others; for there was a large portion of the country left for sale even after the reservations were selected. Well, a treaty was made with the Indians whereby it was expressly stipulated that the country ceded to the United States, which should remain after the selections of the reserves were made, should be open for settlement, not as soon as the Indians were removed, but as soon as the surveys were made. Then the balance of the country was thrown open, and even the reservations themselves, as rapidly as the whites chose to come in. The treaty by its provisions supposed that the Government should in some measure superintend these purchases. I beg the honorable Senator from Michigan to remember, that in the treaty made in 1832, it was the intention of the Government to provide against fraud upon the Indians in the sale of their reservations; and they did so most unfortunately by sending men into the country who were incompetent, or who did not possess firmness or integrity—I do not care which, for a want of firmness is in such a case equivalent to the want of integrity—who suffered the Indians to be defrauded; for, if they had integrity in their hearts, they had not the moral courage requisite to certify and report the contracts purporting to be made by the Indian reserves. I know that the Government saw these frauds, and attempted to remedy them; but they never did remedy them to any great extent. Now, these people, being invited not only by the invitation of the Government, but by the fifth article of the treaty itself, did rush in and take possession of these lands. These lands were sold in 1834. If the honorable Senator from Michigan thinks that there is any charge meant to be made gratuitously, or without reference to

the true principles connected with the investigation of this question, I should like him to state whether or not there would be any other distinct ground on which to make these claims but that which exists in the policy thus adopted, and of having this country settled before these Indians were removed? Not only was there no provision made that the Indians should be removed, but contrary to what was expressly stipulated they should not remove unless they thought proper to do so—that no coercion should be used on the part of the Government; that the Government would provide the means for their removal, whenever they might choose to go.

Now, I said yesterday that the policy of the Government was to starve them to go west. Of course, when I used that language, no one would suppose that I meant to charge the Administration with the design that the Indians should actually perish; but that the prospect of starvation should be held up to them, unless they chose voluntarily to go. That was the substitute adopted in the place of arms. And not only was this starvation policy a substitute in the place of arms, but it was a substitute for the stipulations in the treaty itself that they should remove. I remark that there is no stipulation in this treaty that they should remove, and I should like the honorable Senator from Michigan to explain it, if I am not right. I should like to ask him if that was not the new principle, the new policy—the policy of starvation which was adopted in that treaty? They omitted to insert the usual provisions in such cases, namely: that the Indians should remove within a given time. That provision was omitted. And why was it omitted? I know that the answer will be: "We could not make any other treaty." There was no stipulation that they should remove. There was, in point of fact, a stipulation that they should not be compelled to remove. And how did the Government expect them to remove? I have said that they intended to let in the white settlers upon them to be substituted for a stipulation for their removal, or for a military force to effect their removal. Now, I would like the Senator to tell me why was not the usual stipulation for their removal made?

Mr. CASS. Does the Senator desire me to answer his question now?

Mr. BELL. Yes, sir; if the Senator pleases to do so.

Mr. CASS. The Senator talks about there being a want of stipulations to remove the Indians, as though it was a very strange omission in the treaty. Does he suppose they were held there?

Mr. BELL. The Senator answers my inquiry by putting another. I want to know why there was no stipulation in the treaty to remove the Indians?

Mr. CASS. The gentleman has answered that question himself. We provided that all who were willing to go should be aided, and should have land to cultivate until they chose to remove. We said to those who were willing to go, You shall have a country of your own, and we will provide for you in getting located upon it. I repeat, that the gentleman has answered his own question. We could not make the treaty on any other terms.

Mr. BELL. I know that is the answer to that question. Then, again, the honorable gentleman stipulated in the fourth article of the treaty, that the whites might go in and settle on the lands before the time for the sale of the reservations had expired, as soon as the surveys were completed.

Mr. CASS. I will merely state in answer to that, that the land became the property of the United States as all other public lands were, and that settlers went in there as they did to any other portion of the lands of the United States. We did not attempt to restrain people from going in as settlers if they chose, and the Indians were secured in their rights while they chose to remain. I do not doubt that bad men went there as well as to other places. I think it probable that the Senator knows himself what were the facts in the case, and if he does I have no doubt that he knows that some bad men went there to make certificates. It is, however, a very complicated business, and it can be easily seen that it is difficult for a white man to know one Indian from another, or to distinguish A B from C D; and even though an agent were a man of probity, it would be quite possible to deceive him.

Mr. BELL. I will now excuse the honorable



Senator. I have not taken any indirect method to ascertain his views, or to obtain an answer to my inquiries. I have tried to have the Senator answer whether these extraordinary provisions introduced into this treaty—such as were never known before, and never will be again I think, if we learn anything by experience—whether that policy was not his own conclusion at the time, that letting in the settlers among the Indians, would speedily drive them west of the Mississippi.

Mr. CASS. I do not suppose that anybody thought of such a thing. I take it that every one supposes, that as soon as the Indians chose to occupy the lands we gave them, the whites would come in, of course. I do not suppose it was the result of policy at all. They were settling there, as on any other public lands.

Mr. BELL. It is most extraordinary. I do not dispute that the Senator states what he considers as a matter of fact, as to his own conclusions; but it is extraordinary that twenty-three thousand Indians with their slaves would be permitted to remain permanent citizens of Alabama.

Mr. CASS. They did not remain. They were going all the time.

Mr. BELL. It is most extraordinary that he should have considered for a moment that such would be the consequence. And on the face of the treaty itself I have as strong proof as I desire, that they had no such thing in contemplation; for, it was expressly provided that the reservations might be sold within five years; and the stipulation was, that Government should appoint agents to certify the sales, and to see that the Indians were not wronged in the transfers. And, in the same treaty a provision was made, that the Government would remove them, if they chose to go, and give them subsistence for twelve months after their removal. Sir, was there a moment of time in which it was contemplated by the people of the State of Alabama that the Indians would remain in that territory? Would Georgia have consented? They expected a fulfillment of the guarantee given to the State of Georgia, that the Indians should be removed, and that they should not be permitted to settle down among the whites, to become a nuisance in society, and commit such scenes of depredation as had occurred in Alabama.

The Senator from Michigan [Mr. Cass] has not given the fact in the terms of the treaty itself. It was a treaty intended to effect their removal, and the whole basis of my argument on this claim stands, and the main ground on which I put it is, that the white settlers were tempted, invited, induced, and recommended by the Government to go and buy lands in the Indian country, and settle down among the Indians before they were removed, and even before they had time to remove, because they could not make their selections till the surveys were made; and I believe they were not made until 1834, two years after the treaty was entered into. At that moment the rush of all the population from the surrounding States was the consequence of the result of the treaty. They were invited to go. It was an experiment on the part of the Government, I repeat again. I impute no bad motives. I think I might impute want of foresight in not calculating the probable consequences of this influx of white settlers previous to the removal of the Indians. The whites got in among them, and purchased the reservations as fast as the surveys could be made. They filled the whole country, and occupied the remaining territory not taken up by the reservations; and where was the foothold—where was the homestead for the Indian? What provision was made for them whilst remaining in the country? I ask the Senator from Michigan [Mr. Cass] whether there was a single acre, not taken up by the reservations, retained for temporary cultivation by the Indians until they removed? I ask him if the whole country was not taken up, sold, and occupied in 1834?

Mr. CASS. Every head of an Indian family had property to settle on if he did not choose to go west.

Mr. BELL. I ask if, excepting the reservations, there was one single acre of territory retained? If the sales of the reservations were not only encouraged, but expected? The agents who were to superintend the sales were immediately sent into the country, and where was a foot of territory reserved for the Indians until they thought proper to remove? What was an Indian

head of a family when he had sold his reservation? That is the question.

Mr. CASS. Will the Senator permit me to answer by saying that he would have to go west. It was the condition to which he was inevitably reduced by the disposal of his property. Is the Government bound to support every poor Indian, or every poor white man?

Mr. BELL. Of course; that is perfectly consistent with my argument. The honorable Senator says the policy of the Government was, that they should go or stay, as they pleased. Reservations were made for the purpose of allowing them to stay. But they were permitted to sell those reservations, without any condition requiring them to go. There was no stipulation that they should go west; and even after they sold their reservations, they were at liberty to go or stay, as they pleased.

Mr. CASS. They had a right to go west, if they chose.

Mr. BELL. They had; but they were encouraged to sell their reservations, and remain. One of the grounds alleged for the destitution of the lower country of the Creeks was, that they sold out their reservations speedily, and consumed the proceeds of their sales, and then had nothing to subsist upon. Not only had they parted with their money; not only had they consumed the proceeds of the sales of their reservations; but when they once sold their reservations, they had not a foot of land which they could cultivate. I ask the honorable Senator again, whether, after such an execution of such a treaty as this, the Government ought not to have foreseen the results, or ought not to have calculated, almost inevitably, that the state of things which did arise would arise? So much for that.

I base this upon the ground of the anomalous policy pursued by the Government. It invited the citizens of Alabama and Georgia, and every other State of the Union, to go into the country and settle promiscuously with the Indians, on a space of no greater extent than five millions of acres of land, and among twenty thousand Indians. These Indians had permission to sell their reservations, and the white settlers had all the balance of the territory. Yet a treaty was made with no stipulation for the removal of the Indians, and the Government did not undertake to remove them. They were left as free to stay or to go, as the white man of this country is free to change his residence or keep his own homestead. Not one foot of the land reserved was intended to be permanently reserved to the Indians. I do not mean by this to be in any manner offensive, and I repeat again that I admit there were necessities which may have presented themselves to the minds of the members of the Administration at the time the treaty was made. The question is not now whether it was bad or good policy—whether it was wise or unwise. I do not raise the question whether it was wise or unwise, for them to act in the way in which they did act. I do not insist upon that. It is no part of my argument. I happened to throw out yesterday a suggestion that it was a most unfortunate policy for the Government. I said it was unfortunate that the Government should have allowed white settlers to go in and settle among the Indians. The consequence of their going in under the circumstances in which they did go, was the loss of the property and the lives of a good many of them. The question is, whether this anomalous policy, this singular policy, this experiment, if you please so to call it, made under the stress of extraordinary political necessity, having produced among the Indians, by a multiplication of the causes of discontent, a gradual blowing up of the flame of hostile feeling on their part, which actually broke out against the property and lives of the citizens—the question is, who are chargeable with these results? Who are responsible for them? The question is, whether these circumstances did not take the case out of that rule of public law which discards any obligation on the part of Government to protect its citizens against the outbreaks of their neighbors—against mobs, against civil disturbances of every description, against burnings, plunderings, and robberies.

This is the ground of this claim. It grew out of a policy of the Government which was peculiar to this case. It was not like any case which had ever arisen before, and there will, probably,

be no case identical with it in all its circumstances again. I stated yesterday, and I called the attention of Senators to it, that we have had some experience from this treaty, and the execution of it, which may hereafter be useful in forming other treaties in California and Oregon, and with Indians on the western frontier this side of the Rocky Mountains.

I urge further, that the Government was advised that, unless supplies were furnished, and continued to be furnished—and it may be fairly implied, too, from these admonitions that they were expected to be of sufficient quantities—the starving condition of the Indians would necessarily lead to depredations upon the property of the white settlers. That is not denied by the honorable Senator from Michigan. The honorable Senator, I believe, stated that some supplies were furnished.

Mr. CASS. Yes, sir.

Mr. BELL. But they were furnished to a very limited extent, and were not sufficient. The honorable Senator is bound to admit that one of the very gentlemen, sent by him to that country to investigate the ground of the hostilities, reported that the admonition was not heeded, and for what reason? Because it was the policy of the Government to coerce the removal of the Indians west of the Mississippi. It was supposed that I was using a very harsh term when I said that the policy was starvation. Now, the trusty commissioner of the Government admitted the very same thing. The honorable Senator said, in a portion of his remarks yesterday, that the then Administration could not be held responsible for any statement made by the commissioners or agents sent by the Government. Why, sir, they were sent with full instructions. They were confidential agents of the Government. They received confidential instructions. It was not expected, of course, that their reports were to be confidential, because it was intended to spread them before the public. One of the commissioners was a devoted partisan. I knew him well. He reports that it was not the policy of the Government to subsist the Indians, but that the policy of the Government required their removal westward. If he does not say that in terms, it is necessarily implied from what he does say. It is the commissioner sent out by the honorable Senator himself who makes this declaration. It was the trusted agent of the Government who avowed what had always been disavowed before.

The honorable Senator said, yesterday, that he could not be made responsible for the vague statements of the commissioners, or agents, or whoever they might be. I stated that the Government had been advised, during this period, either that supplies should be furnished to the Indians, or that an adequate military force should be sent into the country. The honorable Senator to-day, makes two answers to that charge. He says there was a military force on the borders. I do not know that there was. If he means to say that there was a military force on the borders of the Creek country, I think he is mistaken. There may have been a military force in Florida, and there may have been a very small force at some point on the borders of the Indian country. But whence did the complaint come? From Alabama and Georgia. The Government was admonished by the authorities of those States, that unless a military force was sent to the Indian country, hostilities might be apprehended. The Government was informed that the condition of the country was such that an outbreak might be looked for at any moment, unless there was an adequate military force there. I take it, that the honorable Senator is mistaken when he says there was a military force there. True, it was not the policy of the Government to supply provisions; but the policy on which the articles of this treaty were founded was still adhered to. And what was that policy? The persuasion of hunger and destitution to lead the Indians west of the Mississippi. The Government omitted, in this treaty, compelling their removal. The Government agreed that they might remain as long as they chose. The great body of the Indians were reluctant to go. Discontents were allowed to swell up to such a volume that they at last burst forth in a general conflagration in the low towns, constituting one fourth or one fifth of the tribe.

The honorable Senator has answered the charge that the then Administration did not take heed; and he asks me what right the Government had to send a military force there, or to interfere with

the Indians at all? He referred to the act of the State of Alabama, extending the laws of that State over the Indian tribes, thereby destroying their tribal character, destroying their existence as a community. He asks what right the Government had to interfere?

Mr. CASS. Will the honorable gentleman allow me to say that he is speaking of intrusions upon their lands, and of persons going into the Indian country? It ceased to be Indian country under the terms of the treaty, and under the Alabama law of 1832. The Senator is speaking of intrusions upon Indian lands. They would come within the intrusion law, and that was the very subject of dispute between this Government and the government of Alabama. I did not say that we had not the right; I maintain that we had the right to send troops there. What I said was, that we might have been brought into conflict with the government of Alabama, and that that was a consequence to be avoided; but troops were there under General Jesup.

Mr. BELL. The honorable Senator asked me what right, after the community of the Indians was destroyed, the Government had to send troops there? Why, the Government had the right, on the call of the Executive of Alabama or of Georgia, to send troops there at all times; but I suppose that the honorable Senator meant, by the interrogatory which he put to me, to question the power of this Government, under the Constitution, to assume the control of regulating the Indian tribes in the States—a question which was settled as early as the first administration of General Washington.

Mr. CASS. When the title of the Indians was extinguished to the country, the intercourse law could not apply, and the United States had no authority to exercise any power over them within the jurisdiction of the State. The moment the land was sold, the moment the Indian title was extinguished, the moment the land ceased to be Indian country, it came within the jurisdiction of the State of Alabama.

Mr. BELL. Then I would refer the honorable Senator back to the provisions of the treaty. The Senator, I understand, now contends that by selling their lands these Indians had lost their tribal character; that they were not longer a separate community, but under the jurisdiction of the State of Alabama; and that, therefore, the Government of the United States had lost all control over them after the execution of that treaty. I understand it to be his argument that the Government lost all control over these Indians from the moment the treaty was executed and their title to the land was extinguished, except as to those who were permitted or who chose to take reservations. I understand him to maintain that the Creek Indians, as a nation, became extinct, on the east side of the Mississippi at least, and that this Government, therefore, had no longer any controlling power over them—to make treaties with them, to regulate trade and intercourse with them, or to extend the common principles of the intercourse law to them. That is what I now understand to be the argument of the honorable Senator.

Mr. CASS. I wish the honorable Senator to understand me. I will repeat my position, in order that I may not be misunderstood. Suppose, that in the State of Tennessee there are a body of Indians owning land, over whom the Government by law has full control. If they cede their land to the Government of the United States; if the Indian title is extinguished, the Government has no longer the full control over the Indians, but the regulation of their concerns devolves upon the State.

Mr. BELL. Then I understood the Senator aright. The inference to be drawn from his statement is, that from the moment of the execution of that treaty, or from the time its stipulations were fulfilled, and the land was surveyed, and the white population permitted to flow in upon them, there was no Creek nation of Indians of which the Government could take charge under the Constitution of the United States and according to the principles established by Washington. The reason I refer to that is, to call the attention of the honorable Senator again to the fact, that in the very mode in which this treaty was executed, there was no stipulation requiring the removal of the Indians westward, because they were permitted to remain on reservations. At the same time,

provision was made for the appointment of agents to examine and superintend the transfers of their reservations. I refer to it to prove that the fundamental policy of the Government in regard to these Indians was, that they were to be coerced, not by arms, but by starvation and the necessity of their condition, by their destitution. They were encouraged to sell their reservations, although there was no other land provided for them, unless they went westward. The experiment turned out to be unfortunate. The Indians rose in resistance; they refused either to starve, or to go, and commenced plundering the property of the whites.

I wish to place the fact strongly before the Senate, that this claim arises from a state of things which never existed before, and which will never, probably, exist again. The Government, by inviting the white population into this territory, entered into new obligations as to indemnity for the losses which should arise, and which did arise, and which I think might have been foreseen as almost inevitable under the stipulations of the treaty. The Indians refused to starve while they had arms in their hands. They determined to get some means of supporting life. They took cattle first, and, as the population on both sides became exasperated, they took life. The honorable Senator says it was a state of war. If it was war, it was a war produced by the anomalous and singular policy of the Government. The whites may be said to have been entrapped into it. They were made the instruments of removing these Indians by exposing their lives and property by going and settling among them. It was a most natural and a most inevitable thing, considering the Indian character. They were not compelled to remove by the terms of the treaty. They refused either to starve or to go. We know their disposition to remain in their old homesteads, and their native country. There was no stipulation obliging them to remove. The consequence of this might have been foreseen by a wise Government. But still I impute no bad motives to the then Administration. I admit the necessity under which that treaty was executed. But does it therefore follow, that because these political necessities existed—because the Government found itself under the necessity of making a novel experiment as to the mode of removing a tribe of Indians from one of the States of the Union—although these facts existed in full force, that the white population who had a right to suppose that they would be protected against any natural or probable consequence of their going into the territory, should not be indemnified? Admitting these necessities in the strongest point of view; admitting the danger of a collision between one of the States of the Union and the United States, does it follow that this Government is not under obligation to indemnify the instruments it employed to coerce the removal of the Indians? Is the Government not to indemnify the white people who were invited to go in and buy the public lands, and buy the Indian reservations? I ask honorable Senators, does it not follow clearly, as a necessary logical deduction from having made such an experiment on the white people of the United States, from having invited them to go into this country under such circumstances, that when they have lost their property, and many of them their lives, they shall be indemnified at least for their property? Those who have lost their lives can never again be restored to earth; but I think it right to indemnify the living for the property they have lost.

I will only say in conclusion, that a portion of this claim is for property taken by the United States troops, and applied to their own use. Of course, the honorable Senator cannot oppose that.

Mr. BERRIEN. Mr. President, I have a few brief observations to make upon this subject, and I am impelled to do so by the fact that, being one of the Representatives of the State of Georgia in this Chamber, I am not authorized, as I believe, to remain silent when a question is discussed concerning the right of a portion of my constituents; and am the more especially impelled to do so, because the issue which has been made between the Senators from Tennessee and Michigan, and the spirit in which that discussion has been conducted is, in my view, calculated to divert the attention of the Senate from the real question on which the allowance of this claim depends.

The honorable Senator gave way, and the Senate adjourned until Monday.

## IN SENATE.

MONDAY, May 17, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. MANGUM. I desire to make a motion, which I hope will receive the assent of the Senate. I learn that the late Mrs. Adams, relict of the late President John Quincy Adams, departed this life on Saturday, in this city; and, to enable the Senate to attend her funeral, I move that when the Senate adjourns to-day, it be to meet to-morrow at two o'clock. The funeral, I understand, takes place to-morrow. A gentleman suggests that we should adjourn until Wednesday. I am perfectly indifferent as to that; but I think it is a mark of respect which is due from you, Mr. President, from me, and from all the Senators, that we should be enabled to attend the funeral.

Mr. UNDERWOOD. Move to adjourn until Wednesday.

Mr. MANGUM. I modify my motion, that when the Senate adjourns to-day, it adjourn to meet on Wednesday.

The motion was agreed to.

## PETITIONS, ETC

Mr. COOPER presented the petition of the administrator of Michael Everly, praying that a pension may be granted to the children of said Everly, for services during the war of the Revolution; which was referred to the Committee on Pensions.

Mr. GWIN presented the memorial of D. M. Wilson & Co., praying the payment of an interest held by them in a claim against Mexico; which was referred to the select committee appointed on the subject.

Mr. SUMNER presented a petition of citizens of Chicopee, Massachusetts, praying that the bill now pending before the Senate, called the homestead bill, granting to every man who is the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Also, a petition of citizens of Salem, Massachusetts, praying that the law regulating the spirit ration in the Navy may be repealed; which was referred to the Committee on Naval Affairs.

Mr. WALKER presented two petitions of citizens of New York, praying that the homestead bill now pending before the Senate, may become a law; which were referred to the Committee on Public Lands.

Mr. BROOKE presented the memorial of John R. Jefferson and James H. Jenkins, for themselves and others, praying compensation for six months' service in carrying the mail in 1838 and 1839, withheld from them by Mr. Postmaster General Kendall; which was referred to the Committee on the Post Office and Post Roads.

Also, the memorial of John R. Jefferson, of Mississippi, praying compensation for carrying the mails, and damages for the annulment of his contract by the Postmaster General, in route No. 5,616; which was referred to the Committee on the Post Office and Post Roads.

Mr. DODGE, of Iowa, presented the petition of Orson Young, praying a pension on account of an injury received while in the military service; which was referred to the Committee on Pensions.

Mr. SOULE presented a petition of citizens of Louisiana, praying an alteration in the mode of transporting the mails on the route between Donaldsonville and Washington in that State; which was referred to the Committee on the Post Office and Post Roads.

Also, the memorial of Henry M. Hyams, and others, praying that the act of January 27, 1851, granting the right of preemption to certain purchasers and settlers under the Maison Rouge Grant, be so amended as to secure the same right to all purchasers holding *bona fide* under the said grant, irrespectively of any improvement or cultivation; which was referred to the Committee on Private Land Claims.

Also, the memorial of Joseph Mitchell, praying to have refunded certain duties illegally exacted and paid on American casks and barrels; which was referred to the Committee on Commerce.

Also, a memorial of citizens of Louisiana residing on the Mississippi river, opposite New Orleans, praying that the port of New Orleans be extended to their side of the river bank; which was referred to the Committee on Commerce.

Also, resolutions of the Common Council of

New Orleans in relation to the establishment of a navy-yard and naval depôt at New Orleans; which were referred to the Committee on Naval Affairs.

Mr. SEBASTIAN presented documents in relation to the claim of Billy Send Factor, for services and loss of property during the Florida war; which were referred to the Committee on Indian Affairs.

Mr. MALLORY presented a petition of citizens of Alachua county, Florida, praying a grant of land in lieu of the 16th section, which are included within certain Spanish grants; which was referred to the Committee on Public Lands.

Also, additional documents relative to the claim of Kennedy and Darling; which were referred to the Committee on Claims.

Also, additional documents in the case of Otway H. Berryman; which were referred to the Committee on Naval Affairs.

Mr. RUSK presented the petition of Anna Norton and Louis Faskit, heirs of Zephaniah Ross, praying to be allowed a pension for the services of their father during the war of the Revolution; which was referred to the Committee on Pensions.

Mr. SMITH presented a petition of legal voters of Litchfield, Connecticut, praying that the homestead bill now pending before Congress, granting to every man who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. BUTLER. I have in my hand a memorial and resolutions of the American Medical Society, which was recently in session at Richmond, Virginia, which I have been requested to present to the Senate. This memorial addresses itself to a subject of a good deal of importance, I presume, setting forth the deplorable condition of emigrant passengers coming to our shores. The resolutions are to the purport, that a medical officer or surgeon should by law be required to be on board of every emigrant vessel for the purpose of affording relief to passengers. I move that the memorial be referred to the Committee on Commerce.

It was so referred.

Mr. JONES, of Iowa, presented the petition of Thomas Flanagan, praying to be allowed a pension; which was referred to the Committee on Pensions.

#### REPORTS FROM STANDING COMMITTEES.

Mr. JAMES, from the Committee on Revolutionary Claims, to which was referred the petition of the heirs of Henry Miller, praying compensation for services rendered in the revolutionary war, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. HALE, from the Committee on Private Land Claims, to which was referred the bill from the House of Representatives for the relief of the heirs of William C. McFarland, reported it back without amendment.

#### QUESTION AS TO THE RULES.

Mr. ATCHISON. I am instructed by the Committee on Indian Affairs to ask to be discharged from the further consideration of several petitions. Before doing so, I would inquire whether a motion to discharge a committee from the further consideration of a memorial will operate, under our rules, prejudicially to the memorial hereafter?

The PRESIDENT. The Chair will state to the Senator that it is not an adverse report, and the discharge does not prevent the individual from again presenting his case to the Senate.

Mr. ATCHISON, from the Committee on Indian Affairs, to which were referred the following petitions, reported, and then asked to be discharged from the further consideration thereof; which was agreed to:

Petition of residents of Stockbridge, Wisconsin, praying the appointment of a commissioner to examine and settle all questions of controversy relating to lands in the Stockbridge reservation;

Report of the Secretary of the Interior, relative to an amount due the St. Regis Indians;

Memorial of John D. Stell in behalf of the family of Thomas J. Stell, praying remuneration for losses during the Creek war in 1836;

Petition of Samuel Stone and Isaac H. Marks, praying compensation for loss of property under an Indian treaty; and

Petition of residents on the Menomonee pur-

chase, praying the removal of the Indians therefrom.

Mr. CLEMENS. The Committee on Military Affairs, to which was referred the petition of Colonel John C. Hays, praying compensation for services in raising and organizing a regiment of mounted volunteers in Texas, have instructed me to make an adverse report. I move that the report be laid on the table and printed.

The PRESIDENT. Does the Senator wish the report acted on at this time?

Mr. CLEMENS. No, sir; I wish it laid on the table, for the purpose of accommodating the Senator from California.

The PRESIDENT. If merely presented, it will come up in the regular order of adverse reports; but if it is laid on the table, it will have to be called up.

Mr. CLEMENS. I want it in such a condition that it can be called up at any time, if desired.

The motion to lay the report on the table, and print it, was agreed to.

#### RESOLUTION AND BILLS INTRODUCED.

Mr. SEBASTIAN, by unanimous consent, asked and obtained leave to introduce a joint resolution respecting revolutionary pensions; which was read a first and second time by its title, and referred to the Committee on Pensions.

Mr. MALLORY, agreeably to previous notice, asked and obtained leave to introduce a bill to establish a land district in the State of Florida, to be called the district of Tampa; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### COMMITTEE ON ENROLLED BILLS.

On motion of Mr. JONES, of Iowa, it was *Ordered*, That an additional member be added to the Committee on Enrolled Bills, and that the appointment be made by the President *pro tempore*; and

Mr. BROOKE was appointed.

#### BILLS PASSED.

The following engrossed bills were severally read a third time and passed:

An act declaring the assent of Congress to the State of Missouri to impose a tax upon all lands hereafter sold by the United States therein from and after the day of sale;

An act directing a survey and estimate of the cost of constructing a canal and basin at the terminus of the Chesapeake and Ohio canal at Georgetown; and

An act granting the right of way and making a grant of land to the States of Indiana, Illinois, and Iowa, in aid of the construction of a railroad from the Wabash to the Missouri river.

#### TESTS OF COAL.

Mr. COOPER. A resolution was adopted by the Senate some two weeks ago, calling upon the Secretary of the Navy for information in relation to certain tests that had been made as to the quality of coal in use by the Navy. The report of the engineer-in-chief was not communicated along with the information, being in a bureau different from that in which reports of that kind are usually filed. The resolution which I hold in my hand calls for that report. It contains very important information as to the quality of coal. I hope the resolution may be considered at this time.

No objection was made to the consideration of the resolution, and it was read, as follows:

*Resolved*, That the Secretary of the Navy be and he is hereby directed to communicate to the Senate the report of the Engineer-in-Chief of the Navy of the result of an experiment or experiments lately made by him to test the quality of the various kinds of coal now in use in the Navy of the United States, together with any information in possession of the Department on the subject not communicated in answer to the late call of the Senate.

Mr. COOPER. Mr. President, before putting the resolution to vote, I beg leave to communicate, for the benefit of the Administration and the country, certain information which, I am sure, will be useful to both. A few years ago, American coal was one of the articles calling most loudly for the protection of the Government; but, by a concurrence of fortunate circumstances, the coal trade has reached a point that puts it comparatively beyond the reach of destructive competition—that is, if the Government would extend to it such incidental encouragement as it has it in its power to do.

I understand that offers have been made to the

Navy Department to supply the squadron lately ordered to the Chinese seas with American anthracite coal, at the rate of \$15 per ton. These offers propose to deliver it, at this price, at any port in those seas which the Government may designate. The superiority of American coal, especially of anthracite, over English, and every other species, is well known to those who have given attention to the subject. I have before me an extract from the log of the Princeton, during a cruise in the Mediterranean, in the years 1848-'9, which exhibits the result of a test made with Scotch bituminous, Cumberland bituminous, and anthracite coal. It is as follows: Cumberland bituminous superior to Scotch, twenty-four per cent.; anthracite to Cumberland, sixteen and seven-tenths per cent. More recently still, I have been informed that a test has taken place in New York, under the direction of the Engineer-in-Chief of the Navy, an officer of great scientific attainments and intelligence, the result of which he has communicated to the Navy Department, in the shape of a report. This report exhibits a superiority of anthracite over bituminous of sixty-six per cent. The test was several times repeated with the same result. One of the experiments was made on board the Fulton, and was eminently successful; as was another, made on board one of the Government ships.

The superiority of anthracite over bituminous coal in producing steam, independent of these most satisfactory tests, has become abundantly manifest. Every vessel engaged in our internal trade north and east of Philadelphia, have used anthracite coal alone for several years past; and it is well known that the people engaged in that trade are keenly alive to their own interests, and would not be likely to do this were it not that those interests were promoted by doing it. But it is not only in producing a greater quantity of steam that the superiority of the anthracite coal is manifest. It is not, like the bituminous, either English or American, liable to spontaneous combustion. In long voyages, the bituminous coal is always liable to this danger. During the year 1850, the *Noman-tum*, *Fanchou*, and *Waldron*, laden with bituminous coal, cleared from Baltimore, destined for the Pacific, all took fire and were consumed—the two first wholly, and the last was only partially saved by running her aground. During the present year, the English steam-packet *Amazon*, only two days out, took fire from the spontaneous combustion of the coal in her bunkers, or hulks, and was consumed, together with a large portion of her crew. Were there no other superiority than that of security, it would be a great and decisive one.

There are, however, other advantages in its use, to which I have not adverted. On foreign stations, and in distant seas, we are without places to store it. The anthracite may be thrown out anywhere, and is liable to no damage from exposure to the weather. The bituminous must be housed in order to be preserved, and on several occasions the Government has been charged more for demurrage, or storage, than for freight from the port from whence it was shipped to the place of destination and use. It is necessary to retain the ships which transported it, and for such detention the Government must pay.

The cheapness of the anthracite is also an inducement to its use. Lately, anthracite was offered to the Government, to be delivered at any port which it might indicate in the Chinese seas, at \$15 per ton. English coal, at the same ports, is now selling, as I am informed, for \$20 per ton. Taking into account the superiority of the anthracite over the English bituminous, which is, at least, sixty per cent., makes the cost of the English, in comparison with the anthracite, \$32 per ton, or over double the price of the former.

I throw out these suggestions for the benefit of the Government in purchasing its supplies, being assured that it only needs information on the subject, to induce it to use that which will be most economical. There is one other advantage, to which I desire to refer, that the anthracite possesses over the bituminous. Insurance upon the anthracite can be procured at one and three quarters per cent. to ports in the most distant seas—at any rate, to all the ports which our vessels have been in the habit of frequenting in the Chinese seas. Insurance upon the bituminous cannot be effected at all. This is another and decisive testimony in favor of the superior character of anthracite coal;



and to it I invite the attention of the Government and the country.

The resolution was adopted.

#### COMPENSATION OF MEMBERS OF CONGRESS.

Mr. UNDERWOOD. I now ask leave, in pursuance of notice, to introduce a bill to change the mode of compensating members of Congress. In submitting this proposition, I beg leave to make a brief statement to the Senate as to the motives which have influenced me in drawing this bill. I shall soon retire from public office, and probably forever. In going out of public employment, I present this bill to provide that the agents and officers of the Government shall receive a reasonable compensation for their services. I do not think the present rate of compensation is just. It is very unequal. Tested by past experience, some of us have received our pay at the rate of eight dollars a day, while others have received from one hundred to four hundred dollars. That is altogether unjust. I propose to equalize the compensation, and to increase it. The first section of this bill, therefore, proposes to repeal all laws now in force, compensating members of Congress, from and after the 3d of March next. I make it prospective in its operations, because I propose to give an annual salary. When the old compensation bill passed, it was very much objected to by the people; in fact, it was odious to them, because the members of Congress received the money into their own pockets. They voted it to themselves. I believe the people would have had no objection to it, provided it had been prospective. I therefore make this bill entirely prospective. My object in that is, to allow the people, through their representatives, to pass upon it during the next Congress.

The second section of this bill proposes to allow members of Congress \$2,000 per annum. The old compensation bill allowed them only \$1,500 per annum. That was passed in 1816. Since that time there has been a great change in prices and in the currency. I therefore have increased the compensation \$500. I do more. The old compensation bill did away with mileage. I retain the present mileage that is allowed to members of Congress, in consideration of the greater distance which some live from the capital than others. But I have made one change in the rule by which it is to be allowed. Instead of allowing it according to the distance which is usually traveled, which has produced a very different mode of assessing mileage—some charging by roads, some by rivers, some one way and some another, I have made it uniform, by directing that the Secretary of the Treasury shall compute it by a straight line, and thus ascertain it by latitude and longitude. That will pay an ample sum for bringing us here and taking us home, and something besides; and that, added to the salary of \$2,000, will, it seems to me, be a reasonable compensation. I have then provided that the half of the \$2,000 shall be paid when we assemble, and the other half when we go home, thus furnishing an inducement for the speedy transaction of the public business.

The last section provides that there shall be a deduction for absenteeism. We are sometimes left here without a quorum. When I first came to Congress, the practice of pairing off and going home was not known. It has all grown up within my memory, and within my service. The consequence is, that while, with a particular measure you may balance accounts, you often leave the two Houses of Congress without a quorum, to attend to other public business of our constituents. I therefore propose that such member, at the end of the session, shall give an account of his absent days; and that there shall be deducted \$10 for each day, unless he shall have the excuse of sickness, either on his own part or that of a member of his family—which I think is a reasonable excuse.

The PRESIDENT. The Senator is aware that, under the bill of 1816, mileage was paid as usual.

Mr. UNDERWOOD. I know; but that bill was repealed in 1818. I alluded to the law of 1818, which is the law under which we are now compensated.

The PRESIDENT. The Chair merely mentioned it for the Senator, so that, if it should be necessary to change his bill, he could do so.

Leave was given to introduce the bill, and it was read the first time and ordered to a second reading.

Mr. UNDERWOOD. I would refer it to a

committee, but I do not know any to which it belongs. I presume that it may take its chance among the general orders. I will ask, however, for its printing, if it does not take place as a matter of course.

The PRESIDENT. It will not be printed as a matter of course, unless it is read a second time.

Mr. UNDERWOOD. I hope it will now be read a second time.

The PRESIDENT. It will then come up immediately for consideration, as in Committee of the Whole.

Mr. UNDERWOOD. I will, then, move to lay it on the table, after it shall have been read the second time, so that I can get it printed.

The bill was then read the second time. It enacts, that, from and after the third day of March, 1853, all laws now in force for the compensation of members of Congress and Delegates from Territories shall be repealed, and that there shall be paid to each Senator, Representative, and Delegate in Congress, a salary for his services of \$2,000 per annum, one half thereof to be paid upon his attendance at the first session of Congress, in any year, and the other half at the end of the same session; and in addition, each Senator, Representative, and Delegate shall, for traveling, be paid at the beginning and end of each session of Congress, twenty cents for each mile of distance between his residence and the capital, upon a straight line—to be ascertained by the Secretary of the Treasury: *Provided, however*, That no payment shall be made to any Senator for attending a called session of the Senate to act upon Executive business, at a time when the House of Representatives is not in session. The Secretary of the Treasury shall deduct from the compensation to be paid aforesaid at the end of each session, ten dollars for each day a member or Delegate may have been absent from his seat during the sitting of the House of which he is a member, unless such absence may have been occasioned by his sickness, or the sickness of his wife or child. Each Senator, Representative, and Delegate shall state at the end of each session how many days he so absented himself, and verify his statement on oath; and, if any Senator, Representative, or Delegate shall refuse to furnish such statement, no payment shall then be made to him.

The bill was laid on the table, and ordered to be printed.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," the pending question being upon the amendment of Mr. BELL, as amended, to insert the following:

For payment to the citizens of Alabama and Georgia, for depredations committed by Creek Indians upon their property, and for other property taken by the troops of the United States, and friendly Creeks, in the years 1836 and 1837, \$353,797.

Mr. BERRIEN. It is not my purpose to detain the Senate by an elaborate discussion of the claim which this amendment presents to our consideration. If it had been agreeable to the Senate at its last sitting to have heard the brief remarks which I then proposed to submit, it would have been perfectly acceptable to me, as it was to acquiesce in what appeared to be the wish of the majority, to postpone its further consideration at that time, by an adjournment. Indeed, sir, it was not my purpose to have entered into this discussion at all. I felt that the claim of these memorialists was entirely safe in the hands of the Senators from Tennessee, [Mr. BELL,] Alabama, [Mr. CLEMENS,] and Texas, [Mr. Rusk,] aided by the elucidation which has been given to it by my colleague, who was part and parcel of these transactions, and therefore perfectly familiar with the occurrences on which the claim was founded. I have been induced to change that purpose, from an apprehension that the incidental discussion which occurred between the Senators from Tennessee [Mr. BELL] and Michigan, [Mr. Cass,] originating, as I think, in a misapprehension on the part of the Senator from Michigan of the position taken by the Senator from Tennessee—from an apprehension that that incidental discussion involving a subject of much more interest, one much more exciting than the consideration of the claim

of these very humble memorialists, might result in diverting the attention of the Senate from the merits of the claim, and that the individual claimants might be made to suffer under the diversion occasioned by the discussion of the policy of a bygone Administration, under which their claims have arisen, and in which they had comparatively little interest.

Mr. President, my simple purpose is to endeavor to recall the attention of the Senate to the merits of the claim, to the preceding action of Congress on this subject, and to the obligation which they imposed upon us as their successors, to redeem in good faith the pledge which they have given. I desire first to say that I consider totally alien to the present question the inquiry, how far the rule which restrains the liability of a Government to indemnify its citizens for property destroyed by a public enemy, as that rule is understood among civilized nations, can be applied to the predatory and murderous incursions of savages upon the peaceable inhabitants residing in their vicinity? I do not think that the question arises under the consideration of this claim. I think it is a violation of all propriety, and a total inattention to the facts and circumstances of this case, to allege that the aggressions which were made, and which form the foundation of the present claim, were made in a public war. I submit to the Senate that the circumstances of this case do not show the existence of anything like a public war. A public war is defined to be "a state of things which exists between nations or sovereigns when the war is carried on in the name of the public power and by its order." The facts of this case show undeniably that the great majority of the Creek tribe were associated with the troops of the United States, in their efforts to repress these aggressions; that unquestionably, therefore, hostilities were not waged by the tribe, or under its authority, but by a band of free-booters separated from the great body of the tribe, and pressed by considerations, to which I will presently advert, to commit these aggressions upon the peaceable and unoffending inhabitants of Alabama and Georgia. I exclude, therefore, this question from consideration. It is not an inquiry how far you are bound to indemnify those who sustained losses in a public war. Here was no public war.

In the same manner I exclude from consideration the question which has produced the incidental and very animated discussion between the Senators from Tennessee, Alabama, and Michigan, namely, the question how far a Government is bound to indemnify individual losses which are sustained under the operation of an experimental policy adopted by that Government, without a consideration of the question whether that policy be wise or unwise. It seems to me that the Senator from Michigan would have been relieved from the necessity of vindicating the Administration of which he formed a part, if he had attended to the proposition of the Senator from Tennessee, and to the express disclaimer which accompanied that Senator's statement. That proposition, as I understood it, was, that the project of associating the whites with Indians in the close proximity in which they were left under the operation of the treaty of 1832, was an experimental policy; and the Senator from Tennessee pressed upon the consideration of the Senate the suggestion, that if individual losses had resulted from this action of the Government, without entering into the question, whether its policy had been wise or unwise, the Government was justly responsible to the individuals who had sustained the losses resulting from that policy. The Senator from Tennessee expressly disclaimed all idea of making any charge of improper conduct against the Administration by whom that treaty was negotiated, and during whose existence these aggressions took place. He was prepared to admit, as I understood from his repeated declaration, that the course of policy adopted by that Administration was dictated by necessity—was, perhaps, all which in the state of things that then existed, they could accomplish—that it may not have been within their power to attempt what they might have desired, and what they did unquestionably desire—the emigration of the Indians contemporaneously with the cession of their lands, and thus to have averted those aggressions of which the memorialists complain. Whether that were or were not the admission of the Senator from Tennessee, although not, as the

Senator from Michigan supposes, connected with that Administration, I have a sufficient knowledge of the earnest efforts which were made by successive Administrations to obtain the cession of those Indian lands, and especially to fulfill the compact which had been entered into between the United States and Georgia for the removal of that portion of the Indians who were within the limits of that State, and subsequently of those within the limits of Alabama, to know that it was, in all human probability, beyond the power of the Government by any efforts they could make, less than that of physical force, to have accomplished the removal, and, therefore, that nothing in the claim which is now presented involves any charge against the Administration by whom the treaty was negotiated, or who directed the affairs which necessarily resulted from it.

Mr. President, I omit from my consideration of this question, another thing, which might of itself afford a safe foundation on which to rest this claim. I mean the spirit of that constitutional provision which requires the Government of the United States to secure the people of each State from domestic violence. Most emphatically this was a case of domestic violence—neither more nor less. In my judgment, it is an absurdity to speak of it as a public war, when it was not carried on under the authority of the tribe—when the majority of that tribe was associated with the troops of the United States in the effort to repress it. I say, it unquestionably assumed the character of domestic violence—neither more nor less—from the consequences of which the United States were bound to protect the peaceable inhabitants of those States who were injured by it. I know the answer to this, for it has been already given by the Senator from Michigan. He has told us of the opposition of Governor Gayle, of Alabama, to the introduction of the troops of the United States within the limits of that State; but the Senator is aware of the truth of the statement afforded in the answer given by the Senator from Alabama, that in so doing Governor Gayle did not follow the wishes of the great majority of the people of the State, and that repeated representations were made to this Government, as will appear by reference to the Executive documents, of the alarming condition of that country—of the pressing wants of the Indians, commencing in the fall of 1834, and amounting to almost absolute starvation in the year 1835. All these facts were made known to this Government, not merely by the representation of the official personages of Georgia and Alabama, but by the report of their own agent, sent out for the purpose of ascertaining the facts.

Still, sir, this consideration may be dismissed from this discussion, upon the same ground which has excluded all the others, and which I desire now very briefly to present to the consideration of the Senate. Sir, this is no longer an open question. If we redeem the pledge which has been given by our predecessors, if we do not violate the engagements into which they have entered, this question has been decided for us. The claim of these people, unless its amount shall be called in question, is no longer open. The principle which binds us for its payment has been recognized by the Executive and Legislative Departments, both of whom have taken steps to carry into effect the pledge which they gave by the act of 1837, that claims of this description should be paid by the Government of the United States.

Mr. President, I ask the attention of the Senate for a moment, to the consideration of the facts as they existed under the operation of the treaty, of the subsequent legislation of Congress, and the action of the commissioners who were appointed under the authority of that legislation. The treaty of 1832 had divested the Creeks of all their territory. The great body of it had been ceded to the United States, and certain reservations were made which they had permission to sell, under the approval of the President of the United States; and these sales were effected in 1834. I am inviting the attention of the Senate to the consideration of the circumstances of this case, as they existed under the operation of the treaty of 1832, as the foundation of the subsequent legislation of Congress with regard to these claims.

By the treaty of 1832, the Indians were stripped of their tribal character, they were divested of their territory, and were left as unassociated individuals within the limits of the State of Ala-

bama. The great body of their lands were ceded to the United States; and Government proceeded as early as 1834, to survey and expose them to public sale. The occupants of these lands did not, as the honorable Senator from Michigan supposes, rush upon them immediately after the execution of the treaty; but they were the legitimate proprietors of those which they occupied by purchase from the United States.

The Indians, on whose behalf reservations were made, were permitted to sell them with the approbation of the President of the United States, and they were mostly sold in the year 1834; at the termination of that year, then, what was the condition, or state of affairs? Here was a body of peaceable citizens occupying these lands, of which they had become the proprietors by purchase from the United States. The Indians had lost all claims to territory within the State of Alabama; first, by their cession to the Government, and secondly, by the sale of their reservations. There were upwards of twenty thousand savages, unassociated by any bond which could control their individual conduct, who were left within the limits of the State of Alabama, stimulated by the love of rapine which is incident to the savage character, and impelled by the cravings of hunger, resulting from their destitute condition. Having sold their lands in 1834, at the end of that year they had no provisions on which to subsist. This landless, homeless horde of starving savages were in the midst of the peaceable population of Alabama, subjected to the temptations necessarily resulting from their lawless habits and pressing necessities. Now, the proposition is, that in a state of things so unprecedented, under a Government professing to afford protection to its citizens, if no rule of public law had provided for such an exigency, the circumstances of such a case would have established a rule for themselves. It cannot be that, under a Government like this—the peaceable occupants of lands purchased from the United States, quietly pursuing their agricultural occupations under the protection of the laws of the United States—it cannot be that such a body of people can be beyond the pale of the protection of the Government, or that they are liable to the predatory and murderous incursions of a savage tribe, who, by the policy of that Government, whether it was wise or unwise, were left in their midst.

Mr. President, this was the view which was taken of this subject by the Administration in 1836-'7. I believe that the Senator from Michigan had probably left the country on a foreign mission before the event to which I refer occurred—I mean in the years 1836-'7. President Jackson took the view which I have presented. He thought that people in the condition of these claimants were entitled to the protection of the Government; and in the fulfillment of his constitutional duty to give information to Congress of the state of the Union, and to recommend to them such measures as he deemed proper and expedient, he submitted to their consideration the inquiry, whether an indemnity could not be made for these claimants whose case is now presented before you. In the annual message of President Jackson in 1836 he says:

"On the unexpected breaking out of hostilities in Florida, Alabama, and Georgia, it became necessary, in some cases, to take the property of individuals for public use. Provision should be made by law for indemnifying the owners; and I would respectfully suggest whether some provision should not be made, consistently with the principles of our Government, for the relief of the sufferers by Indian depredations, or by the operations of our troops."

This, then, is the recommendation of the President of the United States in 1836, founded upon the state of facts which I have endeavored thus imperfectly to present to the notice of the Senate. Upon this message Congress passed a law appropriating the sum of \$5,000 for the appointment of commissioners, whose duty it should be to ascertain the amount of these losses, and to report them to the President, by whom they were to be laid before Congress. These commissioners, acting under this authority thus conferred upon them, examined into these losses, and made a report of their amount—confining themselves to the allowance of the amount of actual loss, and excluding all consequential damages, they stated to Congress the amount which is sought to be obtained by the present amendment.

And now, Mr. President, I desire to ask from the Senate—and I especially desire respectfully to submit to the Senator from Michigan, [Mr. Cass]

—whether, under these circumstances, the Congress of the United States is not bound to redeem the pledge which that act of 1837 gave to these claimants? The act of 1837 provides for the appointment of commissioners to ascertain the amount of these losses, and requires that they should be reported by the President to Congress. Suppose the act had stopped there; would there not have been a direct and obvious implication that Congress meant to pay the amount of losses which should, by these commissioners, be thus ascertained to have existed? If not, why was the commission instituted? Here was a memorial before Congress; here was a recommendation from the President of the United States, to Congress, to consider whether indemnity to these people for the losses they had sustained should not be provided. Acting upon this memorial, and in consequence of this recommendation, they passed a law requiring the ascertainment of the amount of these losses. And thus the inference is inevitable, that the faith of the Government, by that mere act, was pledged to pay any loss which, upon competent evidence, could be shown to exist. Surely the Congress of the United States did not mean to trifle with these claimants; they did not mean to subject them to the inconvenience of attending before these commissioners, with their witnesses, for the purpose of ascertaining their losses, and then to turn round to them and say, "We have ascertained that you have sustained such an amount of loss, but we do not hold ourselves liable to indemnify you for it." Under such circumstances, how would the Government have met the rebuke of the claimants, when they said so them, "Why did you subject us to the useless trouble of ascertaining the amount of our claims, if, when ascertained to your satisfaction, and beyond the possibility of their accuracy being denied, you did not intend to pay them?"

Mr. President, an examination of the act of 1837 will distinctly prove that this liability of the Government does not rest upon implication alone. Acting upon the recommendation of President Jackson, in March, 1837, Congress passed an appropriation law, the second section of which is in these words:

"That the sum of \$5,000 be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to enable the President of the United States, by suitable agents, to inquire what depredations were committed by the Seminole and Creek Indians on the property of citizens of Florida, Georgia, and Alabama, immediately before the commencement of actual hostilities on the part of said respective tribe of Indians; what portion of the Creek tribe were engaged in such hostilities, and what depredations have been committed by a remnant of said tribe supposed to be friendly, and a part of whom were actually employed against the Seminoles, since the removal of the main body of them west of the Mississippi, and that the President report the information so acquired to Congress at its next session."

Now, sir, I maintain that, upon the state of facts existing at the date of this law, its passage, and the mere act of authorizing the appointment of commissioners to inquire into these claims and to report their amount, was a pledge on the part of the Government of the United States that they would pay such claims as might fairly be ascertained to be due. But the law does not stop there. It proceeds by way of exclusion to specify the cases in which it will pay:

"Provided, Nothing hereinbefore contained shall be so construed as to subject the United States to pay for depredations not provided for by the act of April 8th, 1816, and the acts amendatory thereto, nor by acts regulating the intercourse between the Indian tribes and the United States."

By limiting the obligation of the Government to the payment of these two classes of claims, the Congress of the United States, in this act, expressly stipulates that they would pay all claims which could be brought within the provisions of the act of 1816, or within the principle of the intercourse act.

Now, what we have to do is to ascertain the true character of the pledge given in the act of 1837 on the part of Congress, as it referred to the intercourse act. The 17th section of that act provides—

"That if any Indian or Indians belonging to any tribe in amity with the United States shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States?"

(The first part of this provision applying to the property of citizens of Alabama, and the second to the citizens of Georgia.)—

—“and there take, steal, or destroy, any horse, horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong for satisfaction.”

And it proceeds to provide that, on these facts being ascertained, the amount of such losses shall be withheld from the amount of any annuity to which such tribe of Indians shall be entitled; and that if there be no annuity, they shall be paid out of the Treasury of the United States. Now, the “Indian country” is defined in the act of 1834: The country in which these aggressions were committed was not within those limits, but the act of 1837 has applied to these claims the principle of the act of 1834, by the appointment of commissioners to ascertain the amount of losses, and by the stipulation that they would pay such claims as came within the act of 1816, or within the provisions of the intercourse act.

I submit to the Senator from Michigan whether resistance to these claims is longer consistent with justice; certainly, it can be no longer dictated by feeling, when all imputations against the conduct of the Administration by which this treaty was negotiated, are disavowed, and when the claims are based on the action of the President and Congress composing that Administration, which I have thus briefly exposed to the Senate. If the depredations have been committed within the Indian country, no one doubts that, under the provisions of the intercourse law of 1834, they would have been chargeable on the Treasury of the United States, unless there had been an Indian annuity from which they could have been deducted. But the act of 1837 limited the obligation of the United States to pay for such losses as were provided for in the two cases of the act of 1816, and the act of 1834; and Congress, by limiting their obligation to these two cases, expressly bound themselves to pay such losses as came within the provisions of these cases.

I submit to the candor and sense of justice of the Senator from Michigan [Mr. Cass] whether these claims of these poor sufferers, which have now, for fourteen years, been presented to the Congress of the United States, sustained as they are, by the pledge which was given by Congress in the act of 1838, ought to be further resisted? I ask that they may meet with a favorable consideration from the Senate of the United States. Nay, I should hope that they would no longer meet with opposition from the Senator from Michigan, [Mr. Cass,] or from the Senator from Virginia, [Mr. Hunter;] and that the objection raised on the technical ground that this amendment was not properly placed in the appropriation bill, which has been already overruled by the Senate, will not prevent that honorable Senator from sustaining this amendment. But, sir, I have no intention to occupy the time of the Senate by an elaborate discussion of this claim, or to do anything more than to present a simple statement of the facts on which it is founded; and will, therefore, submit the question without further remark.

Mr. BELL. It may be necessary to modify the amendment I have proposed, in order to give certainty to the effect of its provisions, should it be adopted. I will send to the Chair what I propose to be added to the amendment.

“To be distributed according to the schedule returned by the commissioners, appointed under the act of Congress approved March 3, 1837.”

The amendment to the amendment was agreed to.

Mr. UNDERWOOD. Will the honorable Senator from Tennessee allow me to ask him, whether these Indian reservations had all been sold, or whether they were retained by the Indians, at the time the depredations were committed.

Mr. BERRIEN. It is stated in the memorial that they were all sold.

Mr. HUNTER. As the honorable Senator from Michigan [Mr. Cass] desires to say something in reply to the arguments of other gentlemen, and as it is now nearly two o'clock, I propose that by general consent we pass over the consideration of this amendment, and take up some others which are to be proposed.

A SENATOR. Oh, no; go on with this.

Mr. CASS. I would prefer that the consideration of this amendment should be postponed, if

there are other amendments which can be acted upon as well as to proceed with this. But if the Senate prefer it, I will go on now, though from the state of the Senate, and the rain, which renders speaking so difficult, I would prefer not to speak to-day.

Mr. BERRIEN. The Senator from Michigan will recollect, that I have spoken under the same embarrassments.

Mr. CASS. I am aware of that; I knew at the time that it was embarrassing.

Mr. HALE. I would ask from some Senator who can give me the information, who favors this amendment—and I presume the Senator from Alabama [Mr. CLEMENS] can answer my inquiry—whether the policy of the General Government, in extinguishing the titles to the Indian reservations, was not a policy which was urged by the Governor of Alabama?

Mr. CLEMENS. I do not believe the Governor of Alabama had anything to do with it; but I know some members of Congress had.

Mr. BERRIEN. I can answer the inquiry of the Senator from New Hampshire, so far as regarded the first treaty. That which extinguished the Indian title within the limits of Georgia, was the result of an obligation entered into by the General Government as long ago as 1802, by which they bound themselves to extinguish the Indian title to those lands, in part consideration of the cession made by the State of Georgia to the United States territory lying between the Chatahoochee and Mississippi rivers.

Mr. HUNTER. I would suggest, as the honorable Senator from Arkansas [Mr. BORLAND] has not finished his speech upon the amendment relating to the Collins line of steamers, that he would probably be willing to do so now.

Mr. BORLAND. I am not anxious to go on; but I am willing to do so to accommodate the Senate, as the Senate was kind enough, the other day, to postpone its consideration in courtesy to me. I am, perhaps, as well prepared to go on as I shall be at any time.

The PRESIDING OFFICER, (Mr. Foor in the chair.) The pending question is on the amendment of the Senator from Tennessee.

Mr. HUNTER. I ask the general consent of the Senate to lay it aside for the purpose of allowing the honorable Senator from Arkansas to go on with his remarks.

There being no objection, the pending amendment was laid aside, and the Senate resumed the consideration of the amendment in relation to the Collins line of steamers.

Mr. BORLAND continued, and concluded the speech upon this amendment, which he commenced on Wednesday last against the increased appropriation. He spoke until a late hour, and when he concluded the Senate adjourned.

[Mr. B.'s speech will be found in the Appendix.]

## HOUSE OF REPRESENTATIVES.

Monday, May 17, 1852.

The House met at twelve o'clock, m.

The Journal of Thursday last was read and approved.

### TERRITORIAL BUSINESS.

Mr. CLARK. I ask the unanimous consent of the House to offer a resolution.

The SPEAKER. The gentleman from Iowa asks general consent to offer a resolution, which will be read for the information of the House.

Mr. RICHARDSON. I rise to a question of order. By a resolution of this House, this week was set apart for the transaction of territorial business—the entire week, without regard to what that business was, or what other question might be before the House. The point of order I make is this: that unless the special order is deferred, no other business except that can, under the order previously made, be transacted. I desire also to state, that it is important we should have the opportunity of making reports from the committees first; that we should then have an opportunity to go to the business on the Speaker's table, in order that we may place that business in a shape that it can be reached, and disposed of. If that be done, I hope and believe we shall be enabled to dispose of it all during this day and to-morrow.

The SPEAKER. The order of the House

upon this subject is as follows: “That the third week in April”—afterwards changed to May—“or so much thereof as may be necessary for that purpose, is set apart for the consideration of territorial business; and that during that time such business shall take precedence, and be regarded as the special order.” The Clerk informed me that, within his recollection, it has been the practice of this body to receive reports from standing committees on the Territories. I must confess, I could not decide in favor of the right, under the rule, of that committee to report, believing that the special order, in regard to territorial business, embraces such only as is within the possession of the House.

Mr. RICHARDSON. If the Chair will indulge me a moment, I will say, that this is an important matter for the Territories. The order which has been made by the House does not determine where the business is. The entire week is set apart, if necessary, for the purpose of transacting the business in relation to the Territories, and the first question that comes up is the call of the committees for reports in relation to territorial business.

The SPEAKER. Upon the presumption that such has been the practice of the House, the Chair will not change that practice, and will receive reports in relation to territorial business from the Committee on the Territories and other committees, unless the House order otherwise.

Mr. CLARK. I wish to inquire if it would not be in order, in case there is an objection to the resolution I desire to offer, to move a suspension of the rules, for the purpose of introducing it?

The SPEAKER. Under the practice of the House, the gentleman from Illinois, [Mr. RICHARDSON,] under the operation of the special order, would have the floor, and could take it from the gentleman from Iowa, [Mr. CLARK.]

Mr. CLARK. For the mere purpose of making reports?

The SPEAKER. The Chair considers the right of the gentleman from Illinois [Mr. RICHARDSON] under the practice of the House, very clear, to occupy the floor, in preference to any other gentleman, unless to offer some matter territorial in its character.

Mr. CLARK. Do I understand the Speaker to mean that includes all reports and orders in reference to Territories?

The SPEAKER. The Chair so decides.

Mr. FAULKNER. I rise to inquire if it is in order to make a report from the Committee on Roads and Canals—a report in reference to territories?

The SPEAKER. The Chair thinks that all matters of business clearly relating to the Territories, would be in order from any one of the committees. The gentleman from Illinois, [Mr. RICHARDSON,] however, has the floor.

Mr. RICHARDSON. In relation to that matter, I wish to say—as the matter has come up—that I shall oppose the introduction of anything which does not relate exclusively to Territories. If any matter proposed to be introduced relates to other subjects, I shall oppose it; but if it relates exclusively to Territories, it ought to come in.

Mr. FAULKNER. Mine relates to territorial business.

Mr. RICHARDSON, from the Committee on the Territories, reported a bill to authorize the legislative authorities of the several Territories to control the appropriations to be made by Congress for the support of said Territories; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. R. also, from the same committee, reported a joint resolution to change the name of St. Peter's river, in the Territory of Minnesota, which was read a first and second time by its title.

Mr. RICHARDSON. As this is a matter in which nobody is interested, except the people of the Territory of Minnesota, I move to put the resolution upon its passage.

Mr. STANTON, of Tennessee. Let the resolution be read.

The resolution, which was read through, provides that the St. Peter's river, shall hereafter be known and designated on the records of that Territory as the “Minnesota river.”

The resolution was then ordered to a third reading, and having been read a third time, was passed.



# THE CONGRESSIONAL GLOBE.

PUBLISHED AT WASHINGTON, BY JOHN C. RIVES.—TERMS \$3 FOR THIS SESSION.

32d CONGRESS, 1st Session.

THURSDAY, MAY 20, 1852.

NEW SERIES.....No. 87.

Mr. STUART, from the Committee on the Territories, reported a bill making an appropriation for the completion of the public buildings in the Territory of Minnesota; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. S. also, from the same committee, to which was referred sundry petitions of citizens of Minnesota, praying Congress to disapprove of the act of the Territorial Legislature, approved March 31, 1851, apportioning representatives in that Territory, asked that said committee be discharged from their further consideration, and that the petitions do lie on the table; which was agreed to.

On motion by Mr. STUART, it was

*Ordered*, That the Committee on the Territories be discharged from the further consideration of the memorial of sundry citizens of New Mexico, in relation to the revenue laws of New Mexico, and that the same do lie upon the table.

Mr. GIDDINGS, from the Committee on the Territories, reported back, with an amendment, Senate bill No. 175, being "An act relating to the salaries of officers of the Territories of the United States," and to repeal the proviso in the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government, for the year ending the 30th of June, 1852, and for other purposes," approved March 3d, 1851; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. CLINGMAN, from the Committee on the Territories, reported a bill to run and establish a boundary between the State of Texas and the Territories of the United States; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. C. also, from the same committee, to which was referred the memorial of the House of Representatives of the Territory of New Mexico, praying the enactment of a law for a geological and mineralogical survey of said Territory, reported back the same, with a recommendation that it is inexpedient at this time to order the said survey, and asking that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. FAULKNER, from the Committee on Roads and Canals, reported a bill making further appropriations for the construction of roads in the Territory of Minnesota; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. LOCKHART, from the Committee on the Territories, to which was referred the "bill to amend certain acts for the establishment of territorial governments in Oregon and Minnesota," reported the same back, with a recommendation that it do not pass.

Mr. L. moved that the bill be laid upon the table.

The question was put, and the motion was agreed to.

Mr. LOCKHART, from the Committee on the Territories, reported a bill relinquishing to the Territory of New Mexico all the right, title, and interest which the United States may have to certain real estate within the corporate limits of the city of Santa Fe, New Mexico; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. L. also, from the same Committee, reported a bill to amend an act, entitled "An act to settle and adjust the expenses of the people of Oregon in defending themselves from the attacks and hostilities of the Cayuse Indians, in the years 1847 and 1848," approved February 10th, 1851; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. FAULKNER, from the Committee on Roads and Canals, reported back with a recom-

mendation that it do not pass, the "bill to provide for the survey of the Mississippi river above the Falls of Saint Anthony."

Mr. HALL, from the Committee on Public Lands, reported a bill to reduce and define the boundaries of the military reserve at the Saint Peter's river, in the Territory of Minnesota, and to secure the rights of the actual settlers thereon; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. H. I am directed by the Committee on Public Lands to report back without amendment the bill to amend an act entitled "An act to create the office of Surveyor General of the public lands in Oregon; to provide for the survey, and to make donations to settlers on the said public lands." I will state, that the Committee on Public Lands have requested me to report this bill, with a recommendation that it do not pass. The gentleman from Oregon [Mr. LANE] is exceedingly anxious that the bill should be considered by the Committee of the Whole on the state of the Union, when he thinks he can satisfy the committee that it ought to pass. I therefore move that it be referred to the Committee of the Whole on the state of the Union, and that it be printed.

The bill was referred accordingly, and ordered to be printed.

On motion by Mr. SCUDDER, the Committee on the Territories was discharged from the further consideration of the petition of Hosea D. Horn and John J. Selman, asking a grant of land in Utah Territory for the purpose of forming a settlement; and it was referred to the Committee on Public Lands.

Mr. PEASLEE, from the Committee on the Militia, reported a bill to provide for the protection of the Territories of New Mexico and Oregon; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. RICHARDSON, from the Committee on the Territories, reported a bill to amend the act to establish the Territory of Oregon, and for other purposes; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

RESPECT TO THE MEMORY OF MRS. ADAMS.

Mr. FOWLER. Is the Committee on the Territories through?

The SPEAKER. The Chair does not know certainly.

Mr. FOWLER. I ask leave of the House, if it is in order, to introduce the following resolution.

Mr. RICHARDSON. All the reports are in, and I move to go into Committee of the Whole on the state of the Union on the special orders.

Mr. FOWLER. I hope the gentleman will withdraw his motion for a moment, until I introduce my resolution, which I hope will meet with the concurrence of the House.

The resolution was read for information, as follows:

*Resolved*, That when this House adjourns it will adjourn to meet at one o'clock to-morrow, that members of the House may have an opportunity of attending the funeral of Mrs. Adams, relict of the late John Quincy Adams, ex-President of the United States.

The SPEAKER. The Chair thinks that the gentleman from Massachusetts has a right to submit a motion to fix the time to which the House shall adjourn.

Mr. FOWLER. Allow me to state, sir, that the funeral of Mrs. Adams is to take place at eleven o'clock, at her late residence. I am desired by my colleagues to present this resolution as a mark of respect, which it seems is due to the venerable personage named in the resolution; and I will take the liberty to say, that it is the first occurrence of the kind that has ever taken place since the organization of the Government, and it may be the last. I mean that it is the first time that the widow of an ex-President has deceased in this city during the session of Congress; and it is proposed only to delay the business of the House one

hour. I hope there will be no objection to the resolution.

Mr. STEPHENS, of Georgia. I do not object at all to the gentleman's resolution; but I rise to propose an amendment, which is, that the House adjourn over the whole day. If we give this testimony of respect to the memory of Mrs. Adams, it certainly would be more consonant with that respect for us to spare one day from our legislative duties.

Mr. FOWLER. I most cheerfully accept that amendment, and would have so proposed in my resolution, but I thought that some gentlemen might think that we were asking too much in this case. I will very gladly accept the amendment, if the House will concur.

Mr. JONES, of Tennessee. What is the proposition?

The SPEAKER. The proposition, as modified, is to adjourn over until Wednesday next.

Mr. JONES. I think it is a very bad precedent, and I object to it.

Mr. STEPHENS, of Georgia. If the gentleman objects, and it be necessary, I shall move to suspend the rules.

The SPEAKER. The Chair has already stated that the gentleman from Massachusetts, [Mr. FOWLER], has a very clear right to submit a motion to adjourn to a particular time to-morrow, or until the next day; but he cannot introduce a resolution without a suspension of the rules. If there be no further Territorial business, it will be in order to move a suspension of the rules for the purpose suggested by the gentleman from Massachusetts.

Mr. RICHARDSON. I am perfectly willing that the resolution of the gentleman from Massachusetts shall pass. I shall interpose no objection. I have no inclination to do this. I would like to progress with the business of the House, however, and I will obviate the difficulty by moving that when the House adjourns to-day it be to meet to-morrow at one o'clock.

Mr. FOWLER. That was the original resolution.

Mr. HOUSTON. That will do just as well. The SPEAKER. The gentleman from Massachusetts was entitled to the floor, and if it was his purpose, as he has indicated, to move to adjourn to a particular time, he had a right to do it. He has a right to the floor for that purpose. He had also a right to the floor for the purpose of submitting a proposition to suspend the rules, which is also a privileged question, provided there be no further reports from Committees on Territorial business, which is the special order, and the first one in order.

Mr. OLDS. I should like to know if this privilege of making reports extends to reports concerning individuals living in Territories?

The SPEAKER. No; not at all.

Mr. STEPHENS, of Georgia. Is it not a privileged question to submit a motion, that when the House adjourns to-day it adjourn to meet at a particular hour, or time? Is not a motion to fix the hour of meeting a privileged question, which takes precedence of other motions?

The SPEAKER. It does so in the opinion of the Chair, but not to change permanently the hour of meeting.

Mr. STEPHENS. I move that when this House adjourns to-day, it adjourn to meet on Wednesday next.

Mr. FOWLER. I accept that as part of my proposition.

Mr. JONES. I call for the yeas and nays.

Mr. WILCOX. I rise simply to make this remark, that I was satisfied in my own mind that members of this House did not understand the object of this resolution, that when the House adjourns to-day, it adjourn to meet on Wednesday next. If they had understood it, I feel convinced that there is no Representative here who would vote against the proposition to adjourn; and I simply rise to ask the Chair to explain why it was that the gentleman from Massachusetts desired the House to adjourn to meet on Wednesday next.

The SPEAKER. The Chair will state, that the gentleman from Massachusetts [Mr. FOWLER] stated in his place, that his object in moving the adjournment till Wednesday next, was that members might attend the funeral of the late Mrs. Adams.

Mr. POLK. Is there not a way by which the Journal may be made to show for what cause the House adjourned?

The SPEAKER. It can be done by unanimous consent.

Mr. STANTON, of Tennessee. The vote is about to be taken; and as it is very evident that a majority are in favor of the adjournment, I propose that, by the unanimous consent, the vote be taken upon the resolution, so that it may be entered on the record.

The SPEAKER. The Chair will again inquire whether the resolution proposed by the gentleman from Massachusetts, which sets forth the object for which the adjournment is asked, is objected to or not?

There was no objection.

Mr. FOWLER. I ask that the resolution be again read. The House was in a great confusion when it was first read, and probably there were many who did not hear it.

It was again read by the Clerk, as follows:

*Resolved.* That when this House adjourns, it will adjourn to meet on Wednesday next, that the members of the House may have an opportunity of attending the funeral of Mrs. Adams, relict of the late John Quincy Adams, ex-President of the United States.

Mr. RICHARDSON. If discussion is stopped, and the sense of the House be taken on this resolution, there is no doubt but it will pass.

Mr. STANLY. I move to strike out the word "Wednesday," and to insert in its stead, "tomorrow, at one o'clock." By this adjournment we will not only show becoming respect to the memory of the deceased personage, but also be enabled to proceed with the consideration of the public business.

Mr. STEPHENS, of Georgia. I trust that the amendment will not meet with the approbation of the House. If we intend to pay this marked and unusual respect to the memory of this distinguished personage, let us do it in a manner worthy of the object and the occasion. Let us not count the hours as if grudgingly given. This does not seem to me to comport very well with the feeling which should accompany such a manifestation of our regard for the character and virtues of the eminent lady for whose memory the distinguished honor is intended. What is the loss of one day here for such an object? I hope, sir, if the House intend to pay the respect proposed at all, they will pay such respect as a due regard to themselves, as well as the solemnity and dignity of the occasion, demands, and adjourn over one entire day.

Mr. STANLY. I do not yield to the gentleman from Georgia in respect for the distinguished deceased. I propose to give all the respect the gentleman from Massachusetts deemed to be proper, and at the same time obviate the difficulty which the resolution may encounter, as some gentlemen object to the loss of time proposed in the resolution as it now stands. Strict respect will be extended, and unanimously, if my amendment is agreed to—just as much as if the House should adjourn over an entire day. To give a whole day at this period of the session, with the immense number of private claims and great amount of public business before us, when we can show the same respect to the deceased by the shorter period, is a matter that appears to me to be worthy of consideration. It is the act of adjournment that does honor to the memory of the deceased, and not the duration of the adjournment.

Mr. STANTON. What difference will it make?

Mr. STANLY. We will lose a whole day in one case.

Mr. STANTON. The session will not be one day longer on that account.

Mr. HIBBARD. I demand the previous question.

The call for the previous question was seconded, and the main question ordered to be put.

Mr. JONES, of Tennessee, demanded the yeas and nays; but they were not ordered.

The question was then put on the amendment to strike out "Wednesday" and to insert in its place "to-morrow, at one o'clock," and it was

not agreed to—there being on a division, yeas 44, noes 93.

The question was then taken upon the resolution as amended, and it was adopted—there being on a division, yeas 119, noes 19.

#### COLLECTION DISTRICTS IN OREGON.

Mr. RICHARDSON, from the Committee on the Territories, reported a bill to amend an act entitled "An act to create additional collection districts in the Territory of Oregon, and for other purposes," which was referred to the Committee on Commerce, and ordered to be printed.

Mr. R. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Which motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee,) in the chair.

The CHAIRMAN. The first business for consideration before the committee, is the special order, being a bill to encourage agriculture, and for other purposes.

Mr. RICHARDSON. I rise to a question of order. The bill which the chairman reports as being the one first under consideration is not of that class which comes up as the special order. By a resolution of the House, this entire week was especially set apart for the consideration of the territorial business, unless disposed of in a shorter period of time.

The CHAIRMAN. But by a prior resolution of the House, the chairman will remind the gentleman that the "bill to encourage agriculture and for other purposes," was made the special order until disposed of, and is now the first business in order before the Committee of the Whole. To reach the territorial bills, this will first have to be got rid of.

Mr. KING, of New York. I desire to submit a few remarks, and I know of no more fitting opportunity.

Mr. RICHARDSON. Will the gentleman permit me to get the territorial bills before the Committee?

Mr. KING. I supposed that that business was the special order for this week, and now before the Committee of the Whole on the state of the Union.

The CHAIRMAN. The Chair decides that the first business before the committee, in order, is "the bill to encourage agriculture, and for other purposes." It is easy for the committee to obviate the difficulty presented, by either voting down that bill or reversing the decision of the Chair. By a prior order, which appears upon the Journal, a different bill was made the special order.

Mr. KING. I move to lay aside that special order, and that the committee proceed to consider the territorial bills.

The question was taken upon the motion to lay aside the bill to encourage agriculture and for other purposes, and it was agreed to.

The CHAIRMAN. The first business now in order is the consideration of House bill No. 134, being "A bill to authorize the Governor of New Mexico to call another session of the Legislative Assembly, should the same be deemed 'necessary and expedient.'"

Mr. PRESTON KING said: Mr. Chairman, no more appropriate opportunity will occur for me to submit some remarks I desire to make than the present, when the business relating to the Territories, whose acquisition originated the measures respecting which I shall speak, is before the Committee on the state of the Union. I allude to the measures known as the compromise measures.

Mr. RICHARDSON. I rise to a question of order. I regret it very much, but this week is set apart for the Territorial business, and I feel that I ought to do all I can to press that business forward. I make the question of order, that the discussion of any thing except something in relation to the bill itself is out of order.

Mr. KING. We are in Committee of the Whole on the state of the Union.

The CHAIRMAN. The Chair decides that the gentleman from Illinois [Mr. RICHARDSON] is right in his point of order; but the gentleman from New York [Mr. KING] has not yet shown what is to be the drift of his remarks, and it is impossible for the Chair to decide him out of order.

Mr. KING. My remarks will be general, and in relation to measures which were adopted in consequence of the acquisition of these Territories. I intend to speak upon the measures usually known as the compromise measures; and upon the point of order I will say, it has been invariably decided, whenever a question of order has been raised like that of the gentleman from Illinois, [Mr. RICHARDSON,] when the House were in Committee of the Whole on the state of the Union, that any question relating to the Union, or its affairs, was in order.

The CHAIRMAN. The Chair has not decided the gentleman from New York [Mr. KING] to be out of order. The bill now before the House provides for an extra session of the Legislative Assembly of New Mexico, and refers especially to "An act proposing to the State of Texas the establishment of her northern and western boundaries; the relinquishment, by said State, of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico." I think the Chair would be exceeding its authority, and the practice of the House on former occasions, to decide remarks such as the gentleman from New York proposes to make, to be out of order at this early period.

Mr. RICHARDSON. I request, after the gentleman from New York shall have concluded his remarks, that the House will permit us to pass these bills, that we may get towards the end of them, and then take up some of the other bills, and discuss these questions as they ought to be. I desire to pass this bill.

The CHAIRMAN. That is a question for the House, and not the Chair.

Mr. HOUSTON. Mr. Chairman, I understand—

The CHAIRMAN. Does the gentleman from Alabama [Mr. HOUSTON] rise to a question of order?

Mr. HOUSTON. I understood the gentleman from Illinois [Mr. RICHARDSON] to have raised a question of order—

The CHAIRMAN. The gentleman has made a question of order, which has been overruled. Does the gentleman from Alabama appeal?

Mr. HOUSTON. I do not.

Mr. KING resumed. On the final adjournment of the last Congress, those in and out of Congress who favored or who acquiesced in the passage of the series of measures relating to slavery, which grew out of the late acquisition of territory by the United States, declared that these questions were settled; and they then declared their hostility to any further agitation or discussion of them. They went so far as to denounce agitation as hostile to the peace and safety of the Union. In the passage of these acts, the lines of party division had been disregarded; and, although most of them were adopted by Congress under the guide of the great leader of the Whig party—Mr. CLAY—and were all but one of them indebted for their adoption to the active influence of a Whig Administration, without which they could never have become laws, yet they were voted for and voted against by members of Congress, without regard to the distinction of Whig or Democrat. Whatever may be the opinion of any man, or set of men, for or against any or all of these measures, or whatever may be the opinion of the wisdom and patriotism, or the want of both, in which these measures were conceived and adopted, they stand as laws upon the statute-book; and whatever the present opinion of individuals, or the future opinion of the courts or the country may be of their constitutional validity, enough has transpired to show that the courts, as they are now constituted, are of opinion that all these laws are constitutional.

What are the measures which now stand as enactments upon the statute-book in relation to slavery in the new Territories? First, in the order of time, is the law erecting Oregon into a territorial government. In this law, by the act of Congress, slavery and involuntary servitude are expressly prohibited in that Territory. This law is the only one of the series which was passed by Congress under a Democratic Administration. It was approved by President Polk, who sent to Congress a special message assigning the grounds upon which he approved and signed it. The prohibition of slavery in the Oregon territorial bill is important mainly in the assertion and maintenance

of the constitutional power of Congress to prohibit slavery in the Territories; for the people of Oregon, like the people of the Territories acquired from Mexico, were opposed to the introduction of slavery among them, and desired only, that in some form its introduction should be prevented by law. President Polk was personally opposed to inserting the prohibitory clause against slavery in the Oregon bill; but no constitutional objection existing, he deferred to the known public sentiment of the country and signed it. All the other measures have been passed under the present Whig Administration. One of these is the admission of California into the Union as a State, with a constitution containing an express prohibition of slavery. With the application of California for admission as a State, their constitution, containing the provision against slavery, was submitted to Congress, was approved as consistent with the Constitution of the United States, and California was admitted a free State into the Union by act of Congress. Another measure is the organization of separate territorial governments for the two Territories of New Mexico and Utah.

The people of New Mexico were known to be opposed to the introduction of slavery among them, by their own express declaration, in a constitution which they formed with a view to their admission into the Union as a State.

The people of Utah, who are chiefly, if not entirely, Mormons, whose difficulties with the people of the States in which they attempted to settle induced them to emigrate to the place they now inhabit, have not, that I am aware, ever distinctly expressed their opinion for or against slavery, unless an effort which they made to be included within the State of California, whose constitution prohibits slavery, may be regarded as expressive of their opinions upon this subject. The acts of Congress creating these two territorial governments, declare that they may hereafter be admitted into the Union as States, with or without slavery, as the people of these Territories may determine, when they come to be admitted as States; but these acts do not decide or declare the law in these Territories, for the time during which they remain under territorial governments. When this measure was before Congress, the friends of slavery denied the validity of the Mexican law abolishing slavery; but demanded that this law should be repealed, and that the Territories be opened to the introduction of slavery. Those opposed to the extension of slavery, insisted that the Mexican law should be affirmed, and that slavery should be expressly prohibited by act of Congress.

The friends of the compromise measures, some of them declaring that the law of God, the climate, and the law of nature, as well as the law of Mexico, forbid the introduction of slavery into these Territories; that slavery could not go there, and no act of Congress was necessary, opposed, and were strong enough to prevent any express declaration by Congress, authorizing or prohibiting slavery in New Mexico or Utah, during the period they remain under territorial government. The law relating to slavery, then, in these Territories, is to be found in their own established law, under the Mexican Government, which existed previous to, and at the time of their cession to the United States. This law had abolished slavery. Another of the measures was the act of Congress fixing, with the assent of Texas, the boundaries of that State. By this act, Texas, for a consideration of \$10,000,000, abandoned all claim to any part of New Mexico, outside of the boundary line agreed upon by the United States and Texas. By this act, all that part of New Mexico east of the Rio Grande, and outside of the boundary line of Texas thus settled, was released from all claims of jurisdiction by Texas, her laws, and constitution, and remained a part of New Mexico. Standing, of course, like the rest of the territory ceded by Mexico, it was incorporated with that part of New Mexico west of the Rio Grande, and forms a part of the Territory organized under a territorial government as New Mexico. These are all the late laws relating to slavery in the Territories; and, with the laws abolishing the slave trade in the District of Columbia, and the fugitive slave law, are all the laws which—though not so called at the time they were passed, because the word compromise was then in bad odor—have since come to be known as the compromise measures. These, or

any other laws which should be found to be inconsistent with the Constitution of the United States, are null and void. Any or all of them which are consistent with the Constitution, are valid as the law of the land, until they shall be modified or repealed by the appropriate constitutional authority. Congress possesses the perfect constitutional power to modify or repeal any one or all of them, except that in relation to the boundary line of States; the admission of States into the Union; the stipulations of treaties or compacts, where more than one party is interested, or where political or pecuniary rights have been once defined and vested: Congress, or the law-making power of one party alone, cannot change them.

It is now not quite two years since the last of these laws was passed, and the cry then raised against further agitation has ceased; and some of those who were most forward in raising the cry against agitation are now proposing to submit these compromise measures, and especially the fugitive slave law, to discussion and agitation for a popular verdict in a presidential election, to determine whether they are settled or not. What has produced this change?

In December last, when Congress assembled, and the Representatives had come fresh from, and imbued with the public sentiment in their respective districts, it was found that the panic-makers, who desire to save the Union as often as once in six months, and to get their pay for it as often as once a quarter, had got together and decided that the Congressional caucuses of both political parties must pass resolutions acquiescing in the compromise measures; this must be done, or the Union was in danger. Well, the Democratic caucus met, and the first thing after it was organized, the compromise resolution was proposed. It was not well received by the majority of the caucus, and it was then proposed to refer the resolution to the Baltimore Convention; but the resolution, and the proposition to refer it to the Baltimore Convention, were both laid on the table, and the Democratic caucus nominated its candidates and elected them. In the Whig caucus, the compromise resolution was adopted; but they made no nominations, and came into the House on Monday, as all recollect, with a sad exhibition of their party and their compromise resolution. From what quarter does the advice come to the Democratic party to change its platform, and make these compromise laws a part of the Democratic creed, and a party test? Chiefly from the Whigs of Georgia and Mississippi, and such of the Democrats of these two States as united with the Whigs in the last election, aided by a few Whigs and Democrats all over the Union, who do not seem to be well satisfied with their position, and desire in some way to be indorsed. In my judgment, these gentlemen are not safe advisers for the Democratic party.

In Georgia and Mississippi, these new combinations and new tests have sent two Whig United States Senators into the Senate.

But are the States of Georgia and Mississippi prepared to declare their acquiescence in the Wilmot proviso in the act of Congress organizing the Territory of Oregon, and in the prohibition of slavery in the constitution of California, and to express themselves satisfied with the present condition of the Territories acquired from Mexico, and the abolition of the slave trade in the District of Columbia? If so, let there be no equivocation in the proposition they present to indorse or acquiesce in the compromise measures. If there is to be a finality and end to efforts for the extension of slavery, it will do much to reconcile the country to almost any form of words expressing acquiescence in measures having such a conclusion. But the fugitive slave law seems with these gentlemen to be the beginning and end of the compromise. This law is odious, and for this very reason it would seem the coalition politicians of Georgia and Mississippi, demand that this law shall be the issue in the next presidential election—they have pushed this issue upon the Whig Congressional caucuses and broken that party into fragments. They demand that the Democratic party shall make the same issue. It is openly insisted that the old party divisions are unsatisfactory, and that the country must be divided again upon a slavery issue. The Democratic party can make the issue, and it is for the Democratic National Convention, at Baltimore, to de-

termine, if the proposition shall be presented, whether they will make it, or adhere to the established Democratic platform.

In 1848 the Democratic Convention at Baltimore refused to change its platform; but an outside slavery issue was made by the Nicholson letter, and the Democratic party was divided and defeated. The compromise measures were not passed as a party measure. They are not an issue between the two parties organized as Democrats and Whigs. But few of either party supported them all. If a part of them are particularly presented, controversy will be revived. If the fugitive slave law alone shall be presented, and it is to be decided whether that law shall be continued, modified, or repealed, I shall vote to modify it, or to repeal it. And if the electors of New York are challenged by the issue presented to them to decide at the election whether they are satisfied with or approve that law, in my opinion, they will reject the candidate for President who is presented to them because he makes the fugitive slave law the platform of his party politics, as I have no doubt Georgia and Mississippi would reject the candidate who should be presented to them because he was opposed to that law. An issue upon the subject of slavery is and must be, in the present condition of the different States of the Union, a sectional issue. The effort of political partisans to make it out that either party is more friendly to slavery than the other has a tendency to make parties sectional. The Democratic party, regarding slavery as it exists in the States a subject of State and not National jurisdiction, has always heretofore refused to make a national slavery issue. The Democratic members of the present Congress assembled in caucus at the commencement of the present session, refused to make such an issue, and I believe that the Democratic National Convention, which is soon to assemble, will refuse to change its position in this respect by making a slavery issue for the presidential election. But should such an issue be deliberately made by the national nominating convention, and the electors of the Union be invited and challenged to indicate their opinions of slavery by their votes for President, I have no doubt the verdict at the election would truly express the sentiments of the country upon this, as well as upon any other question presented at an election for a popular verdict to pronounce upon.

Mr. CULLOM. I regret that I feel constrained upon this occasion, from a sense of duty to the Whig party no less than to myself, maintaining the attitude which I do and have done from early life in that party, and maintaining as I do certain relations towards certain movements of that party, I regret, I say, that I feel constrained, in order that my position may be understood here and elsewhere, in relation to the exciting questions to which the public mind is directed, to depart from what has been my settled purpose in relation to these questions. I had not intended, Mr. Chairman—and my silence upon this floor will attest the sincerity of this avowal—on taking my seat here as a member of this House, to consume the public time—the time legitimately belonging to the business of legislation upon the great interests of the American people—in expressing my opinions, or in designating to my constituents and to the country, who, in my opinion, would be the suitable candidate of the Whig party for the exalted office of President of this Republic. But, sir, in the progress of events, proceeding with the legitimate business, for which purpose I have been sent here by a generous constituency, when the Whig Representatives in Congress were called upon, according to custom and their recognized province and duty, to meet in caucus to recommend the time and place for the meeting of the Whig National Convention, it so occurred, and I regret the occurrence, that the part I took in that assemblage has been the subject of misapprehension, and, seemingly, of misrepresentation here; and, for aught I know, with many of my constituents, whose intelligence and opinions I hold in high esteem, and by whom it is right and proper that my position upon all matters of public interest should be correctly and fully understood.

What, Mr. Chairman, was the legitimate object of that caucus? It was called by the Whig chairman for the sole purpose of designating or recommending the time and place for the meeting of the Whig National Convention. This, and this alone,



was its object. Other gentlemen thought, or acted as if they thought, it had another and more extended object and province in connection—to do what the people have assigned to the convention to do—namely, to prescribe certain rules, in part a platform for the party in the coming campaign; and I regret deeply, and I express it here, that I should have had occasion in that meeting to differ with any portion of my Whig brethren—(I will call them brethren, because I have stood side by side with them for years.) With them I have fought for the glorious and cherished conservative principles of our common party—the principles which involve the weal and perpetuity of the institutions of our great, and prosperous, and happy country. I have been with them in victory and in defeat; but, sir, I have never been called upon publicly, from a sense of duty, to differ with any respectable portion of the Whig party until the occasion alluded to.

I come now, sir, to review the circumstances which surrounded me and them upon that occasion. I shall still hold and regard them as brethren. I am not here to censure them or to impugn their motives. I grant them all purity of motive, and all desire for right; but, sir, I am here to justify and defend my own motives, and my own action on that occasion. What was that action? I did not presume, when I took my seat in the caucus of the Whig party, to arrogate to myself, or to that caucus, the prerogative of prescribing the rules that were to govern the representatives selected for the express purpose of nominating a candidate, and laying down such political principles as the party chose to be governed by. No, sir, that is the business of the convention. It was the business of the caucus to select a place, and to suggest a time for the meeting of that convention; this alone was its business, and further than this it had no authority, either delegated or customary, to go. In this spirit I took my seat in the caucus, disposed to discharge the duties imposed upon me. But when it was proposed by the gentleman from Kentucky, [Mr. MARSHALL,] and again by my honorable colleague from Tennessee, [Mr. GENTRY,] to introduce certain resolutions that were ruled out of order by the Chair, they not being germane to the pending resolution, I deemed it to be my duty to sustain the Chair, and I voted conscientiously to that effect upon this strictly parliamentary question, we being governed in our deliberations by the rules of the Senate. But it was announced by the meeting, that the propositions would be entertained as substantive propositions, and as such I pledged them my support. I was not in favor of the resolution at that juncture, not because I am not now to-day, and have ever been, in favor of the compromise measures, and of the finality of those measures, and of declaring at a proper time that finality, but because I believed it would be trenching upon the legitimate duties of the convention. I believed that that was a duty, belonging to a convention called by the great body of the people, for the special purpose of laying down those rules. I thought that, perhaps, the great body of the American people might not choose to be dictated to by a self-constituted caucus of congressional gentlemen, and that, therefore, it was proper for them to do nothing more than to recommend a time and place for holding the national convention.

When that resolution was announced, I stated to the meeting that my sense of duty would compel me to sustain, as a parliamentary question, the position of the Chair, but that I would vote for the resolution of the gentleman from Kentucky, [Mr. MARSHALL,] if it came up, and also that I would vote for the resolution of my colleague, [Mr. GENTRY,] and I called upon my Southern friends to remain and aid me in obtaining the passage of one of those resolutions; for, although I did not approve the introduction of those resolutions, yet after they had been introduced, I felt willing to sustain them in a substantive manner.

Mr. POLK. I understand my colleague to be in favor of the finality of the compromise, and that his only reason for not sustaining the resolution of my colleague, [Mr. GENTRY,] in the caucus, was, that it was not introduced at a proper time and place. Now, I desire to ask the gentleman one question.

Mr. CULLOM. The gentleman misunderstands me; but he may state his question.

Mr. POLK. I desire to ask the gentleman,

whether in case the Whig National Convention should refuse—

Mr. CULLOM. Oh! I will come to that subject directly, sir.

Mr. POLK. I wish to know whether, in case the Whig Convention should refuse to pass any resolution declaring the finality of the compromise, you will support their candidate for the Presidency?

Mr. CULLOM. Not unless your party dodges that subject. I had thought that the compromise measures which had become the settled law of the country, the compromise which had been indorsed by the Whig caucus at the beginning of the session, and which had received the indorsement of a majority of the Representatives of the American people in this House but the other day, might be considered as settled for the present. I had hoped that that would be satisfactory until the meeting of the National Conventions of the two parties of the country. But inasmuch as doubts were entertained; inasmuch as some friends of the South thought it wore a threatening aspect—though I confess I have seen nothing to justify such an impression—I have seen no demonstration to arouse my feelings as a Southern man, though the South is the land of my birth, and though my interests, whatever I have, are Southern interests, and my attachments all Southern, I would guard as carefully as any other man, this great question, yet, I say, I had seen nothing to excite my fears upon this subject, or to prompt me to introduce resolutions into the caucus touching the subject;—but I repeat, that resolutions having been introduced, I should have supported them had they been put to vote. But with all due respect to every member of that caucus—and I am bound to believe that they all discharged their duties according to the best lights before them—I am constrained to say, that I think the course of our receding friends was calculated to arouse sectional feelings. I thought that the withdrawal of Southern members from the caucus, would tend to establish a geographical division—a sectional division in the country—and thus leave the whole great question of nominating a candidate for President of the United States entirely to our Northern friends, and therefore I was willing to remain; and I declared before and after our friends retired from the caucus, that I was ready and willing to discharge the promise I had made to vote for the resolutions.

I have now before me a statement, prepared by a member of that caucus, which shows that if our Southern friends who withdrew had remained, the compromise resolution would have been passed by a majority of four, taking as a basis, those who voted for the compromise, the Jackson resolution in this House, HILLIEN's amendment, and those who declared in the caucus that they were ready to sustain them. I say that, according to this statement, which I am assured is correct, if our friends had remained in the caucus, the compromise resolutions would have been passed by a majority of four.

Mr. CABELL, of Florida. I ask the gentleman to give the names.

Mr. CULLOM. I will send the gentleman the statement, and he can examine it for himself.

Several MEMBERS. Read it! Read it!

Mr. CULLOM. Now, Mr. Chairman, what was the object of the gentleman who led this movement—this stampede in the Whig caucus? I cannot say. I will only allude to my honorable friend from North Carolina, [Mr. CLINGMAN,] who was prominent in the retreating wing of that body, and who spoke, as by authority, for others. I ask that gentleman if he did not evince that he came to that caucus to carry out a certain purpose; Upon the condition of its being carried out, he would cooperate with the caucus; but if the purpose failed, he would secede? I say my honorable friend from North Carolina was prominent in the retreating forces on that occasion. To what extent he aided in bringing about that retreat, or what command he held, I am not prepared to say; but I want to ask my friend if he did not come up there with the determination that the action of that caucus upon the finality of the compromise should determine whether or not he would further cooperate with the Whig party? Now, sir, when did my honorable friend from North Carolina become so warmly attached to the compromise measures?

I find, by reference to the Journal, that he voted against the major part of those measures.

Mr. CLINGMAN. Does the gentleman expect me to answer his question? I will do it with great pleasure.

Mr. CULLOM. Not now.

Mr. CLINGMAN. Then I suppose the gentleman asks questions he does not desire to have answered.

Mr. CULLOM. I will answer from the Journal. If I misrepresent the gentleman when I say that he voted against most of the compromise measures, I wish to be corrected.

Mr. CLINGMAN. I will say, that I should like very much to answer, but if he prefers, let him refer to the Journal, and to my speeches, in connection with it, and answer from them.

Mr. CULLOM. The honorable gentleman from North Carolina voted against the compromise resolutions this session. He gave us notice in the caucus, that unless certain resolutions which he proposed were reported, he would not support the resolution of the gentleman from Kentucky, [Mr. MARSHALL,]

Mr. CLINGMAN. I said that that resolution did not precisely meet my views. I did not say I would not vote for it.

Mr. CULLOM. The gentleman said he would propose something as a substitute—whether free trade or secession resolutions, I did not then know. Now, suppose that the honorable gentleman had remained, and had offered his substitute; if he would not vote for the resolution of the gentleman from Kentucky, could he have expected the gentleman from Kentucky would support his amendment? What splendid confusion it would have made! Why, sir, it would have been "confusion worse confounded." If our friends had remained, would he have produced harmony? The substitute of the gentleman might not have met the approbation of those who retired, or of those who remained. Was he to rule the Whig party, not claiming to be a Whig, and not acting with the Whigs?

Mr. CLINGMAN. I showed it to them, and they said they would vote for it.

Mr. CULLOM. I know nothing about that. But what has been the course of my friend from North Carolina upon this subject? As a friend of the compromise measures, I confess in all kindness—and I allude to the fact because I consider it my duty, as a sentinel upon the watchtower, to warn the country, to "cry aloud and spare not;" and as I live, my duty as a representative, though it may be an humble one, shall be faithfully executed, with zeal, candor, and firmness—that I think it has not been a judicious one. The gentleman says that the Whig party and the Democratic party, having become factions, ought to be merged into a third party. My friend wishes, no doubt, to put himself at the head of this Union party, which he says ought to be created out of the ruins of the Whig and Democratic parties. Now, if he intends to become godfather, or more appropriately, Captain General of this great third party that he vain would have raised in the country, it becomes me, as a citizen and as a representative, to review the course of my honorable friend who assumes the leadership of the movement, and show where he stands, and see if the guardianship of this great Union party should be committed to his hands, and if Southern men, who are loyal to the Union, can plight their destiny in such a cause to such a leader. What has been his peculiar position in relation to the institutions of the country? I find, on referring to the debates upon the compromise measures when they were pending, that the honorable gentleman, in a speech delivered in this House and published to the world, states that he used language which meditated nothing less than a dissolution of this Union. I will publish extracts from that speech, in which he said wherever he went he was met with the senseless cry of "Union!" "Union!"

Congressional Globe, 1st session 31st Congress, page 201, '3, and '4, Mr. CLINGMAN says:

"I gave my reasons at length, founded chiefly on my own recent observation of the state of public sentiment in the North, we believing that a collision was inevitable, and that the sooner it came the better for all parties."—Page 201.

"They [Northern men] knew that the evils already inflicted on us, to which I have referred, greatly exceed in amount any injury that Great Britain attempted when she drove the Colonies into resistance."—Page 203.

"Seeing that there appeared to be a settled purpose in the North to put them to the wall, many of our people regarding a dissolution of the Union as the inevitable result of

this aggression, looked forward to the consequences of such a state of things."—Page 203.

"What would be our condition if separated from the North? \* \* \* Subjecting the goods of the North to a duty with those from other foreign countries, would at once give a powerful stimulus to our own manufactures."—Page 204.

In claiming a fair settlement of the territorial question, he said:

"I mean, sir, that no restriction ought to be imposed by Congress on this territory, but that after it has been left open to all classes for a proper period, the majority may then, when they make a State constitution, determine for themselves whether they will permit slavery or not. The South will acquiesce in any reasonable settlement."

"But when we ask for justice, and to be let alone, we are met by the senseless and insane cry of 'Union! Union!' Sir, I am disgusted with it."—Pages 204, 75.

In the same speech he speaks of stopping the wheels of Government, and says:

"And if it is ascertained that no proper settlement can be gotten of the territorial question, it would be in the power of the Southern members to defeat all the appropriation bills, and bring the Government to a dead halt."

Again, he says:

"I tell gentlemen if we cannot, in advance, get a fair settlement of this question, I should be pleased to see the civil and diplomatic bill, the army and navy bill, and all other appropriations, fail."

Now, after this settlement of the territorial question, as he desired it, without restriction, at the next session, on the 15th February, 1851, (Appendix to Congressional Globe, 31st Congress, 2d session,) he spoke of rejoicing that the people no longer rested on the Union as the solid rock of safety.

That, sir, was the position of my honorable friend then, and yet he is now to be made the leader and head of this great third or Union party which is to merge the two great political parties.

My honorable friend from North Carolina, [Mr. OUTLAW,] and the honorable and talented and patriotic gentlemen who cooperated with him, I know would not push their doctrines to that extreme; but I am faithfully showing the extremes to which they would certainly be carried should they follow the lead of the gentleman, [Mr. CLINGMAN.] Misery loves company, and my friend appears elated at the position he has attained in bringing gentlemen into the meshes of his schemes; but they will not go these lengths—they are, I hope, true and loyal.

Now, Mr. Chairman, yourself and the country may see the reasons upon which I might have acted in remaining in the caucus, and why I should not retreat. My construction of the Whig creed will not permit a man to run away from his duty. I preferred to remain and do my duty; if consequences followed which I could not control, I could not, of course, be made responsible. I am in favor of the finality of the compromise here, and I am for it in the National Whig Convention, and I ardently hope to see it there adopted. I may add, that I have said upon the stump, and in public and private conversation, that I am for the finality of the compromise, and that I will support no man for the Presidency who is not sound upon those measures, the fugitive slave law included.

Mr. CLINGMAN. As my honorable friend from Tennessee has asked me several questions, will he now permit me to ask him one?

Mr. CULLOM. I have no time to spare.

Mr. CLINGMAN. I will not detain the gentleman one moment. I desire to know why the gentleman did not introduce his resolution into the caucus? If he had introduced his resolution, and it had failed, and the vote had shown that those who retired could have carried it, he might then have established his point. The gentleman intimated his intention to introduce it. Why did he not do so?

Mr. CULLOM. I have fully explained my reasons. If the gentleman doubted whether these resolutions could pass before leaving, I might have my doubts after these members had retired; and being ardent in my support of the principles of the resolutions, I did not choose to submit them to a doubtful decision, though I was clear in the belief then, and am confirmed in it now, that the resolutions would have passed had the receding friends remained with me and given them their support, as I was ready to do.

But the Democratic party have no cause for exultation. The Whig party, in congressional caucus, did, at the commencement of the session, indorse the compromise and its finality, which the Democrats refused to do. This places the

Whig party on prominent ground, and I trust that the delegates will assemble in the convention with a manly—a Roman courage—and face this question; for it is cowardice that gives Abolitionism and higher-law-ism a place in the bosom of Americans. The Constitution, in all its provisions, and the laws passed under it, must be executed and carried out if we would maintain inviolate the liberties and sacred privileges vouchsafed to us by that Constitution which is the result of the seven years' war through which our Washington and his compeers stood shoulder to shoulder, regardless of the many and trying scenes and vicissitudes of that most eventful period. What earthly law, Mr. Chairman, can be higher than that derived from the Constitution? From that source we derive peace, prosperity, happiness, and give countenance and protection to men of all nations, to all religions, and all creeds. Destroy that bulwark of American liberty, and chaos would come again. Then, indeed, would we have higher law and higher license, which is, in truth, the proper definition, aim, and import of higher law. That man who is against the execution of the plain provisions of the Constitution, ought not to be dignified with the name of American citizen, and surely cannot be called an American statesman. That is what I say; and I tell our Northern brethren, that instead of catering to this unholy and unjust crusade against the South and its institutions, you should rise above sectional feeling, and Americanize—nationalize your hearts, and meet this issue which demagogues have obtruded upon you, and frown down all attempts to rekindle the fire of discord between the two great sections of this Union. Nothing but courage is wanting to overcome this evil.

But this Union party is to be formed, and my friend from North Carolina [Mr. CLINGMAN] is to be the first President of the Southern Confederacy, if we get up a geographical split; for it will lead to that; and there will be a contest between the gentleman from Florida [Mr. CABELL] and the gentleman from North Carolina, [Mr. CLINGMAN.] [Laughter.] There will be an awful seceding then; there will be a worse scramble for place and power than there was in the Whig caucus. Mark it! But the Union party—I ask, in the name of all that is honest, is not the Whig party a part of the Union party? Have I been fighting the battle of the Whigs? Have I emerged from the smoke and din of so many glorious battles, either at the head or in the ranks, to learn that I have been fighting against my country and her institutions? Forbid it, Heaven! I hope the Whig and Democratic parties both are Union parties; and, notwithstanding the excrescences in both parties, both are friendly to this Union. And that man who says the Whig party is not devoted to this glorious Union, slanders as gallant a band of patriots as the sun ever fell upon, and proclaims in doing so that he is either ignorant of the truth or willfully at fault. I am not ashamed of the name of Whig; it is no reproach. Our fathers bore it, and I have fought many a political battle under it. I seek no new alliances. I will neither add an *alias* to my name nor forsake my companions. In my advocacy of Whig principles, I have only the interests of my country to subserve, and I feel that the advancement of those principles will best accomplish the desired object. I am for the Constitution and its compromises.

How is this third party to be organized? Upon sectional grounds, of course. I cannot fully discuss this subject here. Our gallant candidate in the last gubernatorial campaign in Tennessee labored manfully to keep the party on national ground; and fierce was the war against secessionists and ultras. The doctrines of the opposition had a strong resemblance to those of the gentleman from North Carolina, [Mr. CLINGMAN;] but in the struggle the Whigs were victorious, and the verdict of the people was in favor of the Union and the Constitution, and the faithful execution of the laws, and especially did they repudiate all agitation; and while the North observes strictly the compact, (and candor obliges me to say I believe it will be observed,) I do trust that the South will not unnecessarily agitate the question. Our fire-eating disunion friends came in for their full share of the anathemas meted out to the Free-Soilers. They shared equally my denunciations. No! I never denounce anybody but argumentatively, for I am a mild man, [laughter;] but in my honest

judgment the men at the South who are contending for the right of the States to secede from this glorious Union, and who are urging its exercise upon trivial pretexts, are grossly culpable. Equally culpable are those at the North who agitate this subject, and who, for opposite reasons, would destroy the fabric of our liberties. Thus extremes are often found among those who cooperate in some respects. A proper view, and a conciliatory spirit, would bring about a different state of things; but conciliation should come from the source whence the wrong sprung. The true friends of the Union have ever been right; and based upon conservatism, their acts will seldom be far wrong. My voice is against him who is against the Union, and against the perpetuity of the institutions of his country, come he from the North or from the South. It cannot be doubted that the extremes—the Free-Soilers and the Secessionists—are, to some considerable extent united against the compromise; but in the end they will accomplish nothing beyond their own defeat. "Truth is mighty, and will prevail." America is God's own chosen country, and he will not permit the throne of liberty to crumble beneath the blows of the wicked or the misguided.

Mr. Chairman, I have been called a Scott man; and why? Simply because I have, everywhere, deprecated all denunciation of the leading men of the party. I am not, Mr. Chairman, of that class of gentlemen—politicians—who

"Construe the times to their own necessities!"—

who believe, or act as though they believe, that some men in their own party must be defamed and cast aside, simply because they stand, by virtue of their worth and prominence, in the way of others, who are, perchance, but sectional favorites. I, sir, recognize no such principle. Feelings that dictate such a principle find no lodgment in my breast. I feel it my duty to speak upon this subject openly, and with a view to lessen the discord and other evils, that grow out of it.

I have seen men, in different sections of this Union, conduct their schemes of self-aggrandizement upon this baneful and party-sacrificing principle; and other gentlemen in this House have, I doubt not, witnessed the same thing. I have seen it brought to bear in elections of the most unimportant character, as well as in others of much importance. I have known good and true men, warm and abiding friends of this Union and of our Constitution, slandered and beslimed with the venom of the vindictive spirit of the unholy ambition of rivals. Sir, this unscrupulous ambition, backed by the reckless adherence of such individuals as suffer themselves to be carried away, without reflection, by the dazzle of promises, or by a fair exterior—by a sort of will-o'-the-wisp light—as the moth is dazzled by the burning candle, has caused the Whig party many a defeat; and, if the course be continued in, it will cause us many another overthrow. I feel that I hazard nothing in saying that the exercise of personal or sectional feeling such as this, has been, for years, the bane of the Whig party. It has been a great instrument in the hands of our opponents, and it has done more to destroy our party union, to defeat us in our elections, than any other—perhaps more than all other causes.

It is quite time, sir, that this track were abandoned. It is time that those who have been duped come back to the ranks of their party; and it is time that scheming leaders returned to their duty. It is time that men professing to love and support the principles of Washington—the principles that have made our country what it is, great, mighty, prosperous, free, and happy—unite in solid phalanx, and go forth freed of faction, unshackled, regardless of petty personalities, giving no heed to the calls of Januses, and battle for the maintenance of those principles, and for the party they believe and declare to be in the right. In union there is strength, and in strength and action there is success. The Whig party possesses all the elements of success, and whenever united it is triumphant. Its principles are those of liberty and true republicanism.

I could not tell who would be the nominee of the Convention. I could not say whether it would fall upon Scott, Webster, or Fillmore. With one single reservation, I have declared myself for the candidate of the Whig Convention. That reservation was, that the nominee must be

unequivocally sound upon the compromise measures.

Mr. POLK, (interrupting.) You say you will support no man except he be sound upon the compromise. I ask, if you do not require a distinct pledge from the convention, how will you find it out if there is no pledge?

Mr. CULLOM. I must ascertain the fact in some way, beyond all dispute, and unequivocally.

Now, Mr. Chairman, I have deprecated this fraternal strife, and I do not think it very culpable in me to stay my hand from inflicting injury upon my Whig friends, with whom I expect to cooperate in the struggle which is to come off. When I have remonstrated with some gentlemen, and attempted to keep them from casting fire-brands into our party ranks, I have been actuated alone by a desire to see the Whig party and its glorious principles triumph, and not for the promotion of any particular man. With the Whig party, the motto has been "Measures, not men;" and I, sir, am not disposed to reverse the maxim.

I had, Mr. Chairman, the honor of being upon the electoral ticket of the distinguished President who now fills the Executive office with so much credit to himself, and with so much benefit and glory to this Republic; and, sir, humble as the tribute is, I stand here to award to him in my own right, and in behalf of my constituents, the fullest meed of praise my tongue can lisp, for the manner in which he has discharged the arduous duties of the station to which he has been elevated by the franchise of the American people. I say, too, sir, that the people in Tennessee—I speak particularly of my own constituents, but the remark will apply to the people of the whole State, and I speak it in their voice—are undivided in their devotion to Millard Fillmore. There is no respectable division of sentiment in Tennessee upon that subject. I have always preferred his nomination, and the fact is well known. I have said, too, that if he could not get the nomination, and the Convention should present a man who is sound upon the compromise, I would support him with equal ardor, and devote to him, as I did to Mr. Fillmore in the last campaign, whatever of zeal and ability I can command.

There is Mr. Webster, sir; I could support him for the Presidency, and I could support him with great pleasure. He deserves the thanks, not only of the American people, but of the world; his genius and patriotism are transcendent.

But, sir, although I say this much for those gentlemen, I shall not raise my voice in detraction of General Winfield Scott. I have never done so, and, God being my witness, I never will. His rivals would scorn the action, justice would rebuke it, honor and patriotism would forbid it. He may or may not be nominated. If he receive the nomination, he should receive, as he deserves, the support of the American people. Mr. Chairman, while I have been sleeping upon beds of down he has been defending me—he has been marching and fighting gallantly—not under the black flag alluded to by my honorable colleague, [Mr. WILLIAMS,] but under the flag of our own dear country—the stars and stripes of liberty. Yes, sir, he has been defending us and our liberties; he has been fighting the foes of the country, upon foreign and domestic soil, when the country has been wrapt in sweet, forgetful sleep; and my tongue shall never utter a slander or an imputation against him. His laurels have been dearly earned. A black flag! indeed. My colleague [Mr. WILLIAMS] did not measure the force and weight of that declaration. What is a black flag? Why, a piratical flag. Sir, is it to be said that the gallant soldier, the victorious chieftain of forty-three years, and of so many glorious battles, has marched under a piratical flag? Can it be possible that my honorable friend has a remote conjecture that such could ever be the case? Why, sir, the conjecture is an imputation, and avows a want of patriotism.

But, sir, General Scott, of all living men, perhaps, has shown the strongest evidence that he loves his country. I will not now stop to enumerate his achievements. Gentlemen say that they know he is sound upon the slavery question, and the declaration is supported by gentlemen upon my right, [Mr. CLINGMAN, Mr. OUTLAW, and Mr. STANLY,] and the gentleman from Florida [Mr. CABELL] has himself borne evidence to his soundness upon this question. The gentle-

man from Connecticut [Governor CLEVELAND] comes gallantly to the rescue, and makes General Scott preëminently responsible for the passage of the compromise measures while acting as Secretary of War. He actually lent the influence of his office to carry forward these pacific measures.

Here is an extract from Governor CLEVELAND's speech, delivered in the House of Representatives, 1st April, 1852. Amongst other things he said:

"It proposes to indorse the infamous fugitive slave law, a purely Whig measure, and that it is such I will demonstrate, so that no man upon this floor can deny it."

Again, he says:

"But Mr. Clay, as I have shown, had conceived the plan. Mr. Webster, for reasons best known to himself, had made his 7th of March speech. General Taylor died, and Mr. Fillmore took command of the ship of State, discharged the old, and shipped a new crew, with Mr. Webster as first officer; hoisted the compromise flag, and started on his Southern cruise. What motive governed Mr. Fillmore in his entire change of policy of the Administration, whether it was love of slavery and power, or hatred of his rival, Governor Seward, I am not able to say, and I believe the country is equally unenlightened on this subject. General Scott was by Mr. Fillmore placed temporarily at the head of the War Department, and, in that position, coupled with his great military fame, was able to, and did exert a powerful influence in favor of the compromise measures. Here, then, is every man whose name has been mentioned, or is likely to be mentioned as a candidate for the Presidency on the Whig side, to wit: Clay, Webster, Fillmore, Scott, all exerting themselves to the utmost in pushing through this series of measures, the slave law included. And what was the position of these distinguished Whigs? One was at the head of the Government, another in command of the Army."

Again, in the same speech, he says:

"But I must pass on; these measures were passed mainly through the influence of Clay, Fillmore, Webster, Scott, Cobb, and Foote; these were the men who carried them through, and every man who was in the last Congress knows it."

Thus we see that Governor CLEVELAND makes witnesses of every member of Congress to the fact that General Scott was one of the main supporters of those measures before and at the time they passed. And while the Free-Soilers in the North are holding General Scott responsible for the passage of those measures, with a view to render him odious, others in the South, with the same view, are endeavoring to make it appear that he is, and has been, opposed to them.

After all this, sir, gentlemen say that he must declare that he is sound. They want a guarantee that he will not array himself under the black flag, with Mr. SEWARD at the head. [Laughter.] My stars! how Mr. SEWARD frightens the American people! Why, sir, as much was said of Mr. Fillmore, but I defended him upon an hundred stumps from the charge of abolitionism. It was my lot upon the electoral ticket to defend him—not from his friends, but against the Democratic press, from Maine to Georgia, and against orators as numerous as the locusts of Egypt.

Now, I understand that Mr. SEWARD will support the nominee of the Whig National Convention; and it is said he is a Free-Soiler. I am not his defender. Does his unsoundness taint the candidate who receives his vote? If so, how utterly unworthy of trust will be the Democratic candidate, who receives the votes, as he will, be he whom he may, of GIDDINGS, KING, SUMNER, RANTOUL, and CLEVELAND. While a mote is discovered in the eye of the Whigs, remember there is a beam in the eye of our Democratic neighbor.

It is said, and the gentleman from Connecticut [Mr. CLEVELAND] proves it, that the compromise measures are not only Whig measures, but that General Scott is preëminently responsible for them. Why, sir, he takes all the glory away from the Democrats, and says that there was not a prominent Democrat who supported the measures in their inception. I understand my friend [Mr. CLEVELAND] to be a mighty Cass man, though a little free-soilish. Mr. Cass never voted for the fugitive slave bill. I have the Journal and the Congressional Globe, proving the fact; and I state here, that although General Cass was in the Senate of the United States on the very day that the bill passed, the very moment it was ordered to be engrossed he was missing; nor does the record show where he went; neither does he or his friends explain. Colonel Benton would call this riding both sides the sappling. [Laughter.] But the gentleman from Connecticut [Mr. CLEVELAND] explains the reasons. And, sir, the distinguished Senator from Illinois, [Mr. DOUGLAS,] Young America himself, had to dodge the vote upon the fugitive slave law.

Hear what Governor CLEVELAND says in the speech referred to:

"Did the distinguished Senator from Illinois vote for this slave law? No! Why? Because a Democratic Legislature had instructed him otherwise. Governor Cass, one of the most distinguished men in the nation, and of his party, did not record his vote in favor of this Federal bantling, nor, in fact, did any Democrat whose position is one of mark, except those who have since formed a coalition with Whigs. In view of these facts, who will say that this fugitive slave law was not of Whig or Federal origin?"

Yes, sir, he was ill. My honorable friend [Mr. RICHARDSON] says he had a *bile*. [Laughter.] The Senator himself says he had a *bill* which fell due at New York. I think, sir, that that was an awful bill. It had no right to fall due just at the very moment the distinguished Senator was called upon to vote upon the fugitive slave law. That was a cruel bill. I know not whether it was a *bill* or a *bile*. [Laughter.] I will be corrected in this particular by what my friend from Illinois [Mr. RICHARDSON] may say, but I hope he and the honorable Senator will render the same excuse, for there is very little relevancy between a *bile* and a *bill*. Will the gentleman answer whether or not it was a *bile* that prevented the Senator from voting?

Mr. RICHARDSON. The gentleman, I trust, is a man of too much gallantry to make charges without giving an opportunity for reply.

Mr. CULLOM. Go on, sir.

Mr. RICHARDSON. The gentleman can make what use he pleases of the statement I shall make in this matter, and he is welcome to all the *clat* he can derive from it.

I did say that Judge DOUGLAS was sick and unable to attend when the vote was taken upon the fugitive slave bill. I made the statement upon my own responsibility, relying upon my own memory. I was mistaken; and to me, and me only, belongs the odium, if there is any, for all that I said. The fugitive slave bill passed late in the session, and I remembered the fact, that Judge DOUGLAS was confined for several days before the close of that session to his room by indisposition. Remembering these facts, I did make the statement, and was wrong.

After the statement I made, my attention was not called to the subject till after Judge DOUGLAS made his own defense in the Senate, and since no suitable opportunity has occurred to set myself right. The gentleman can make now the most of it. I will add but another word.

Mr. CULLOM. Certainly, go on.

Mr. RICHARDSON. The imputation against Judge DOUGLAS that he dodged the responsibility of voting upon the fugitive bill, is made with but bad grace by gentlemen situated as the gentleman is. A bare statement of what is known to the whole country is sufficient. Judge DOUGLAS was the first to meet the tide of public sentiment at the North, which set strongly against this measure and to vindicate the bill. And while his Chicago speech was the first that was made for the bill, no argument in the courts, no essays in the papers, and no defense of the measure made anywhere up to this moment, have been as able and as satisfactory. The bill passed Congress in September, I believe. In October following, the Chicago speech was made, assuming all the responsibility of an affirmative vote, and yet the American people are asked to believe that Judge DOUGLAS dodged the vote, was afraid to vote upon the bill. I will not argue such a question here or elsewhere. But I ask the gentleman what Whig aspirant for the Presidency, or what prominent Whig can show that he has done as much? What Northern man has done more?

Mr. CULLOM. There were plenty more besides him.

Mr. RICHARDSON. Who were they?

Mr. CULLOM. Since the matter has become popular, I can find you many who did not vote for the fugitive slave bill, but who now defend it most lustily. There is the gentleman from New York, [Mr. BROOKS,] who said that we were about to destroy him in the South, and that we had erected a gallows upon which he was to be executed. My honorable friend, I understand, did not vote for the fugitive slave bill, although here; yet in the caucus, he made himself the very *Magnus Apollo* of the compromise measures. Not only so, but it is said—and if untruthfully, it should be corrected—that he not only refused to vote for the fugitive slave bill, but advised my friend to the



right [Mr. BRIGGS] to change the vote he had cast in its favor. Notwithstanding that, sir, he has become the great oracle of the institution of slavery. We thank him for what he has done.

Mr. BROOKS. Rumors, like the one the gentleman has stated, should not be thrown out without some foundation—and there is no foundation whatever for this piece of fancy. My honorable colleague from New York, [Mr. BRIGGS,] I take it for granted, votes of his own accord and upon his own free will and principles, and will set me right in this matter. One word in reply to what the gentleman has said in regard to my vote upon the fugitive slave law. The gentleman must not scatter his arrows right and left if he will not give me an opportunity of defending myself. If the gentleman will consult the Congressional Globe and record, he will find that upon the various occasions upon which the fugitive slave bill was brought forward, I voted for it over twenty times upon divisions, and in every way facilitated action upon it. He will also find that my main objection to voting for it on its final passage was, that when it was brought forward by the chairman of the Judiciary Committee, [Mr. THOMPSON, of Pennsylvania,] it was forthwith pressed, violently pressed, under the operation of the previous question, without giving the House an opportunity even to read the bill in print, or to have it printed at all. It is unfair for the gentleman to scatter his arrows right and left without affording me and my colleague [Mr. BRIGGS] an opportunity to defend ourselves from the random arrows he is throwing all about.

Mr. CULLOM. The gentleman called on me for an example of the case.

Mr. RICHARDSON. Will the gentleman permit me for only a moment?

Mr. CULLOM. Be brief, as my time has nearly expired.

Mr. RICHARDSON. I will ask the gentleman but this one question: When, in the gentleman's opinion, will the fugitive slave law become popular enough at the North to permit General Scott to avow himself in its favor? Judge Douglas came out in its vindication before it was popular.

Mr. CULLOM. General Scott is known to be a compromise man. I, sir, know him to be such; and I would not permit myself to be deceived, nor would I be the means of deceiving others upon this point. Gentlemen may find enough in General Scott's Castle Garden speech, in his letters to Honorable Daniel Webster and Henry Clay, and in the evidence which all bear, to satisfy them, if they will be satisfied, that he espoused the compromise measures quite as early and as ardently as any man, perhaps, that can be found in the country, not excepting Mr. Webster or Mr. Fillmore. There are plenty of private citizens who are informed and satisfied upon this point—better informed and better satisfied, I might infer from their remarks, than are many gentlemen who it is presumed know more of such matters than the people. Notwithstanding General Scott is known here and everywhere to be sound upon these measures, he is assailed by the opposition press, and by Democratic orators, as Whig favorites always are. He is assailed, not because he is against those measures, not because he is supposed to be in favor of their repeal or modification, but because he should, in the opinion of wiseacres, come out with a letter. Sir, who has called upon him for his opinion? Where are the letters of the several Democratic aspirants upon the slavery question? Surely there are none before the country. Yet, sir, it does seem that Democracy will go into convulsions if it cannot get to read a letter from General Scott upon the subject. My judgment was that a letter should have been written long ago; but some Whigs, as if to force the nomination of another, have been—I had almost said bullying General Scott to write since the period of his prominence for the nomination would have made it appropriate for him to have written; and I must say, that much as I admire frankness in politics, I do not see how General Scott could for months past have written upon the subject. But, sir, should he be the Whig candidate, he should, and I know that he would, avow himself to the country, as he does on all occasions in conversation, for the prompt maintenance and execution of all the compromise measures.

Mr. Chairman, the gentleman from Indiana [Mr. FITCH] saw proper to assail General Scott, and I believe he called him the "mum Whig can-

didate for the Presidency." I must review a little the public course of the gentleman who thus assails General Scott, who defended me whilst I was a child; and I and my country would be recreant to the promptings of patriotism not to repel the assault, come it from what quarter it may. I have the right of speech here, if General Scott has not, and I will, with my voice, defend him. But listen a moment to the gentleman, [Mr. FITCH:]

"In 1849, Doctor FITCH pledged himself to the Free-Soilers, when a candidate for their suffrages, in the following language:

"1. To vote for the unconditional abolition of slavery in the District of Columbia.

"2. To vote for the abolition of the inter-State slave trade.

"3. To vote for the Wilmot proviso being extended over the Territory of California, and New Mexico, and against the law authorizing slaves to be taken there as property.

"Doctor FITCH concluded his letter, containing the above-named pledges of fidelity to Free-Soil principles, by the following explicit declaration:

"Entertaining the views indicated in my answer above, I shall not only vote yes on all these measures, but if no older or able member, whose influence for them would be greater than mine, can be found to introduce them to Congress, I shall do so myself, if I have the honor of holding a seat there."

GRAHAM N. FITCH."

This is the gentleman who proclaims General Scott a mum candidate, who asperses his name, and seeks to impeach his patriotism.

Mr. Chairman, whether Whig or Democrat assail a prominent Whig, I will test the cause—in this case I shall test it with the plummet. The Democratic press is down upon General Scott, as it always has been down upon Whig favorites. The object, sir, is to draw off the public mind from their own fueds and enormities. The Democratic orators everywhere, and the gentleman from Indiana [Mr. FITCH] himself, have taken the field against General Scott. If it was his desire that the American people should believe, from his wanting General Scott to come out, that he himself supported that measure, he will fail of his purpose; for the Journals, unfortunately for him, stand as evidence to the contrary. His votes will be found recorded on page 1452 of the Journal of the Thirty-first Congress.

Mr. FITCH. I can save the gentleman the trouble of any reference to the Journal. I voted against the fugitive slave law—have so said before, and further said, as I now do, that under similar circumstances, I should give the same vote again. The previous question prevented debate on the bill, or attempt to amend it, and no means were left of expressing dissent from any of its provisions, except a negative vote on its passage. But it is the law—it is one of the series of measures constituting the compromise which I sustain—which I have declared, and I repeat it, should be sustained by all good citizens; should be received as a final settlement of slavery issues and slavery agitation in Congress; should be observed, and their provisions, those of the fugitive slave law included, be faithfully executed. My vote is of little importance to the country—my opinions less; but the same declaration I have made relative to the compromise has been made by the great mass of my party, and by all its prominent candidates for the Presidency. The questions now at issue are, will the party to which the gentleman belongs assume the same position—a position of national importance, and of vital interest to his section of the country? And will his candidate [General Scott] make the same declaration? Will he declare what will be his policy relative to those measures in the event of his election? The gentleman's opinions and assumptions, though doubtless of far more importance than any I may express, are not an answer, and will not be received as such. The answer can only come from the Whig party, and from General Scott. Both are evading it, and with the gentleman's aid. Will they continue to do so?

Mr. CULLOM. That will do, sir; but is General Scott to write letters upon the question when not requested so to do, when the gentleman, under solemn oath, acting with responsibility to God and his country, would not dare to record his vote for the measure? He recorded his vote with GIDDINGS, GOTT, JULIAN, and PRESTON KING. I hope I may be excused for mentioning this matter of history. I do not wish to bring down upon my head the anathemas of the venerable gentleman from Ohio, [Mr. GIDDINGS.] Fine company is that in which my friend from Indiana is found; and, although denouncing upon this floor a ven-

erable patriot, he says he would vote so again. I have no doubt of it. The country shall see who General Scott's assailants are. On the 17th September, 1850, when the bill to repeal the slave trade in the District of Columbia was under discussion, Mr. A. G. BROWN offered the following amendment:

"And be it further enacted, That, if any free person or persons within the District of Columbia, shall entice or induce, by persuasion or other means, any slave or slaves to run away from his, her, or their owners, or lawful possessor, or shaft in any manner aid, abet, or assist any slave or slaves in running away or escaping from the owner or lawful possessor of such slave or slaves, or shall harbor any slave or slaves with the intent to assist him, her, or them, to escape from the service of such owner or possessor, such person or persons shall be liable to indictment in the circuit court of the District of Columbia; and, upon conviction, by verdict, confession, or otherwise, shall be imprisoned in the penitentiary for any time not exceeding five years."

Against this amendment G. N. FITCH voted, with CLEVELAND, GOTT, KING, and THADDEUS STEVENS.

This is the gentleman who has become the guardian of the Whig party, and of Southern rights. This is the author of the dodging resolution, that was intended as a platform for Secessionists, Abolitionists, and higher-law men to stand upon; and it is he who is made the mouth-piece to denounce General Scott as a "mum candidate." Sir, the gentleman will sicken of this business, so sure as fate. The ethics of the gentleman make it quite admissible to steal negroes, but do not allow that it is proper to punish the perpetrator.

I have said that the resolution of the gentleman from Indiana [Mr. FITCH] was a resolution drawn to enable the Free-Soilers and Secessionists to occupy the same platform. Any intelligent person who will read these resolutions carefully, will perceive this.

The resolution offered by the gentleman [Mr. FITCH] is in these words:

"Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves included—and that we deprecate all further agitation of questions growing out of that provision, of the questions embraced in the acts of the last Congress known as the compromise, and of questions generally connected with the institution of slavery, as unnecessary, useless, and dangerous."

Now, almost all the Free-Soilers recognize the compromises of the Constitution—all parts of it, as they understand it. The State-Rights Free-Soiler [Mr. RANFOUT] from Massachusetts, the gentleman from Connecticut [Mr. CLEVELAND] and from New York, [Mr. KING,] all recognize these compromises. But they do not acquiesce in the compromise acts. These acts they denounce, as does the new convert from Indiana. These compromises of the Constitution require jury trials for the runaway slave, as these Free-Soilers contend. This resolution does not approve the fugitive slave law. Well, after a consultation, the resolution was put into the hands of a gentleman from Georgia, [Mr. JACKSON,] claimed to be a Secessionist. If I am not misinformed, he was told this resolution from the Indiana gentleman was worth nothing; so it was patched up for the gentleman from Georgia, who has to stand god-father to it. So it was, after a little Speaker-room caucus, as I believe, but, after some consultation, amended and offered by the gentleman from Georgia, as follows:

"Resolved, That we recognize the binding efficacy of the compromises of the Constitution, and believe it to be the intention of the people generally, as we hereby declare it to be ours individually, to abide such compromises, and to sustain the laws necessary to carry them out—the provision for the delivery of fugitive slaves [and the act of the last Congress for that purpose] included; and that we deprecate all further agitation of questions growing out of that provision, of the questions embraced in the acts of the last Congress known as the compromise, and of questions generally connected with the institution of slavery, as unnecessary, useless, and dangerous."

On examination, Mr. Chairman, it will be seen that these are the Georgia words inserted—forced on the Indiana Free-Soil resolution, "and the acts of the last Congress for that purpose." Now, sir, why was this inserted, if the first resolution was sufficient? The first resolution evaded the fugitive law. That was for the benefit of the Free-Soilers. The second [Mr. JACKSON's] inserted the fugitive act. That was for the benefit of the Secessionists. But nothing was said of the compromise measures—not one word. Only the "compromises of the Constitution," which are recog-

nized by the Calhoun Nullifiers and Secessionists, and by the Free-Soilers, like Hallett, and others in this House, RANTOUL, CLEVELAND, GIDDINGS, KING, &c., &c., &c.

Thus, then, the coalition platform was built up. But it still required bracing; and though the Democratic organ called on its friends to sustain the previous question, moved by the gentleman from Georgia, the Union Democrats would not listen to its call. The previous question being voted down, another resolution was offered by a Union Democrat from Georgia, [Mr. HILLYER.]

First, let me state, as the record will show, that many of the Secessionists voted for the coalition platform. Those who in caucus voted together for Speaker, together voted for the "compromises of the Constitution," some for jury trial, and some against it; some for the fugitive slave law, and some for its repeal; but *all* for the "Compromises of the Constitution," as understood by Hallett and others in Massachusetts, and by the Secessionists in South Carolina.

The previous question was voted down; then the gentleman from Georgia, [Mr. HILLYER,] a Union man, offered the following Whig resolution—Fillmore resolution—for it was the words of his message:

"Resolved, That the series of acts passed during the first session of the Thirty-first Congress, known as the compromise, are regarded as a final adjustment and permanent settlement of the questions therein embraced, and should be maintained and executed as such."

For this compromise (Fillmore) resolution, as far as I can learn from the Journals, every Southern Whig voted. The only one called a Whig who voted against it, was the gentleman from North Carolina, who thinks both parties are factions, and whose opinions agree with the Secessionists. I believe all those known as Secessionists from Virginia, South Carolina, and other States, voted against this resolution; voted with the gentleman from North Carolina, [Mr. CLINGMAN.] With his name are those of FOWLER, PRESTON KING, MANN, RANTOUL, and TUCK; with Mr. VENABLE and others, understood to be opposed to the compromise measures.

Now, sir, why did the gentleman from Georgia [Mr. HILLYER] offer his amendment? Because, like a patriot, he wanted a distinct indorsement of the compromise measures—all of them. He wanted no dodging-place for secession and abolition. Why did the Abolitionists and Secessionists (I believe all of them) vote against the Compromise, the Union resolution? Because it recognizes the "final settlement of the compromise measures!"

Now, Mr. Chairman, no man of sense can examine the course of these gentlemen, and not see that the Democracy are preparing, under the lead of Hallett, and such men, to pass unmeaning resolutions in the Baltimore Convention, and to give the "go-by" to the compromise resolutions—to allow Abolitionists to agitate for jury trial and repeal of the fugitive law, under the compromises of the Constitution; and to allow Secessionists at the South to denounce the territorial bills, the bill abolishing the slave trade in this District, and the act admitting California, as doing injustice to the South.

Sir, the high-minded, intelligent people I represent, will see through this flimsy mask, and despise the hypocrisy of those men who wish to make party capital out of this slavery question, and who will not abide by the compromise measures—all of them; will not support and sustain them as the Whigs of the South do, as General Scott does—as a final settlement of the questions therein embraced.

Now, Mr. Chairman, to return to the subject of letter-writing and bids for the Presidency, let me say, that it is not always that a letter is the best evidence of a man's soundness. The greater guarantee is to be found in his past life and services. It has been truthfully remarked that he who is not to be trusted without pledges, is not to be the more trusted though he should make them. And, sir, if the past life and services of a man afford any guarantee for his future action, then is that guarantee to be found in the life and services of General Scott. Of Southern birth and education, upright and talented, American in heart and in action, devoted from early life to his country and his country's weal, he certainly possesses all the requisites necessary for the station, high as it is, with which his name is connected.

Sir, if you take for example the celebrated Coleman letter of General Jackson, you will find that it was construed to suit each and every latitude; and, descending to later times, if you look at the Kane letter of the late President, (Mr. Polk,) you will find that that also was subjected to similar construction. And again, sir, if we glance at General Cass's Nicholson letter, we find that it also was construed to suit every meridian of the Union. That letter, sir, has passed through many editions, and under numerous supervisions, to meet the exigencies of the times; and it is doubtless now undergoing a revision, and will be presented in such a form as will be most likely to strike the public mind favorably in case he should become a candidate for the Presidency. And, sir, it is probable that the various editions of his life also, will be revised for a like purpose.

Mr. Chairman, it has been said that the attempt to elect General Scott to the Presidency will, at least in the South, be a *splendid* failure. Sir, I do not claim to speak for the South. I do not pretend to be invested with the power to look into the future. It has been proclaimed that Tennessee will not sustain him. I am not here invested with authority to commit my State to the support of any man. I claim no such power; but I am not willing to say, nor am I prepared to admit, or believe, that my State—one of the proudest of the Confederacy, one that has vindicated her devotion to the principles of the Whig party in every presidential contest from 1836 to the present time—will now abandon her long-cherished principles. Who is authorized to say that she will ingloriously retreat in the approaching contest, and permit her proud banner, that has floated in glorious triumph over a thousand hard fought fields, to trail in the dust? Others may distrust her fidelity and devotion to the country and the principles she has so long espoused; but as for myself, I do not distrust her. She has learned her principles in a school not soon to be forgotten. She has at all times attested her devotion to her principles, and my word for it, she will be found faithful among the faithless, and her banner will yet wave in triumph amidst the fiercest strife, and no blot shall stain her escutcheon. Her motto has ever been, and I trust, will ever be, "Fearless and faithful."

Let me say to my Democratic friends, that you have got no time to swap horses; you have your own feuds to adjust, instead of distressing yourselves upon the question whether the Whig party will lay down a sound platform, and whether a national candidate will be placed on it. Look to your own troubles, which are thickening upon you; your State conventions have nearly all given the go-by to the compromise measures; your Free-Soil wing here, who are numerous and influential, in warning tones give notice in their speeches, and in heated conversation, that the attempt to make the finality of the compromise measures a part of the Democratic platform in convention, will prove abortive; whilst the State-Rights Secession wing refuse to acknowledge its binding efficacy.\*

[Here the hammer fell.]

\*NOTE.—Since the delivery of this speech, I find, in the Republic of the 18th of May, 1852, the following letter, which, I understand, comes from a respectable gentleman. I publish this as one of many instances of the coalition between the Democracy and the Abolitionists. These are the allies of those who denounce General Scott!

Extract of a letter from a gentleman in Boston to a friend in this city:

"BOSTON, May 13, 1852.  
"The coalition Senate has passed a bill which, in my judgment, nullifies the fugitive law. It has passed to a third reading in the House, though there is hope it will be killed when it comes up for engrossment. The vote in the Senate I inclose you. The politics of each member is marked. You will notice, among the yeas, the name of Mr. Haswell, who is the editor of the Boston Times, a Locofoco paper in this city, that has the names of Douglas and Hunter for President and Vice President at the head of its columns. He voted for it. You will also notice the name of Mr. Knowlton. He is the editor of the Worcester Palladium, a Locofoco paper. He has been a candidate for Congress several times, and is the delegate from that district to the Democratic National Convention. Knowlton not only voted for it, but he spoke in favor of it.

"I will try and procure a copy of the bill. The vote in both Houses was nearly a party vote. Out of one hundred and ninety-six Whigs in the House, only four voted for it; with these four exceptions, the whole of the yeas are from the Democrats and Free-Soilers.

"In the Senate, only one Whig voted for it."

This bill was supported by Hallett's friends—

Mr. CLINGMAN. I do not intend to detain the committee now by a speech, in reply to my friend from Tennessee, [Mr. CULLOM,] for two reasons. In the first place, I, as a member of the Committee on Territories, am extremely averse to having the time devoted to territorial business taken up by this political debate, and I intend to ask that the committee rise, in order that the House may pass a resolution terminating debate. But, secondly, as I am on the floor for this purpose, I assure the gentleman from Tennessee [Mr. CULLOM] that the reason why I do not reply to him now is not that I have any lack of respect for him individually, or for his effort. The gentleman has obviously passed over all the seceders except myself. He probably thought that he would not be a match for any of these individuals, and selected me as the weakest and humblest of the number. While I readily admit that the gentleman has shown great judgment and prudence in choosing his antagonists, I nevertheless say to him, if the occasion was such as, in my judgment, to require it, that even I, humble as I admit myself to be in comparison with the gentlemen who were associated with me, would not fear to meet him on these issues, and with little fear of the result. But everybody sees that the object of the gentleman is to avoid all collision with the others. They might possibly, in his opinion, prove too formidable for him, or else his object is to place me preëminently conspicuous in this matter, not with the view of benefiting me, but of injuring them. Now, I say to the gentleman, that in assigning me the place of leader, he pays me the greatest compliment in his power, for there is no body of the same number mentioned in all history that I should be prouder to be associated with as a comrade than the gentlemen who seceded from that caucus. The object of the gentleman is, to injure them, through me, by indirectly intimating that they must be a very feeble party, when they have such a poor leader. Now, those gentlemen can take care of themselves, and need no defense from me. Nobody knows better than the gentleman from Tennessee, [Mr. CULLOM,] so far from being the leader, or even a prominent actor, I was, in fact, only a follower.

But the gentleman finding that he is placed in a position where he cannot defend himself before the country—for his whole speech to-day is but a confession of that, as every one must see—finding

Haswell and Knowlton—no doubt warm friends of the "compromises of the Constitution," but willing to nullify a law of Congress, provided that the Democratic Governor of Massachusetts shall appoint commissioners in every county to aid in procuring the discharge of persons arrested as fugitive slaves; and, also, for a *habeas corpus* in favor of the fugitive slave; and, if the slave is not discharged by the judge, he may claim jury trial.

These men would all, no doubt, vote for the resolution recognizing the "compromises of the Constitution," but are for nullifying the "compromise measures."

The following is the vote of the House of Representatives upon Mr. HILLYER's amendment:

YEAS.—Messrs. Willis Allen, Appleton, Thomas H. Bayly, Beale, Bowie, Breckinridge, Briggs, Brooks, George H. Brown, Busby, E. Carrington Cabell, Chandler, Clark, Cobb, Cullom, Curtis, John G. Davis, Dawson, Dockery, Junham, Edmundson, Ewing, Faulkner, Ficklin, Fitch, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gentry, Gorman, Grey, Hall, Hamilton, Hammond, Hart, Haws, Haven, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Ingersoll, Jackson, Andrew Johnson, James Johnson, George W. Jones, Kuhns, Kurtz, Landry, Leitcher, Lockhart, Mace, B. C. Marshall, Humphrey Marshall, Martin, Mason, McCorkle, McDonald, McLanahan, McMullin, Miller, John Moore, Morehead, Murray, Nabers, Outlaw, S. W. Parker, Penning, Penn, Polk, Porter, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Seay, David L. Seymour, Origen S. Seymour, Smith, Stanley, Frederick P. Stanton, Richard H. Stanton, Stowe, St. Martin, Strother, Stuart, Sutherland, G. W. Thompson, Walsh, Ward, Watkins, Audison White, Alexander White, Wilcox, and Williams—103.

NAYS.—Messrs. Aiken, Allison, A. H. Averett, Babcock, D. J. Bailey, Barrere, Bartlett, Beacock, Bragg, Brenton, Albert G. Brown, Buell, J. Cable, L. D. Campbell, T. Campbell, Caskie, Chapman, Clingman, Conger, Daniel, Doty, Durkee, Eastman, Edgerton, Floyd, Fowler, Gaylord, Goodenow, Goodrich, Grow, Harper, Holladay, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, John Johnson, Robert W. Johnson, Daniel T. Jones, Preston King, Mann, McQueen, Mencham, Meade, Millson, Molony, Newton, Olds, Orr, Pennington, Perkins, Powell, Rantoul, Russell, Sackett, Schoolcraft, Seudder, Smart, Benjamin Stanton, Abraham P. Stevens, Statton, Sweetser, Benjamin Thompson, Tuck, Venable, Wallbridge, Wallace, Washburn, Wells, Woodward, and Yates—74.

that he has gotten into a place where he will not be able to carry the burden placed upon him by public opinion, has endeavored to shift it off upon me. I have a great deal of charity, but I have not quite enough to make me willing to carry so heavy a load as he has on him. No; he must carry his own cross to the place of execution. I do not intend to be a cross-bearer for him or any one else. Each gentleman must answer for his own sins, and defend himself before his party. As to what the gentleman has said to-day, I have no apprehension that it will hurt me in any respect. I have often heard much louder thunder; and when he publishes his speech, in which he says he intends to make some references to me, and make quotations from some of my speeches, if I find that his mode of arraying these things should be such as to require defense, I will be ready enough to make it. But I am not soft enough to engage in this fight now. My position is well understood by the country, and even if it were otherwise, I should not now regard it as proper for me to consume the public time in my defense. I intend to wait, and let this contest go on for the present, and if I see a fitting occasion, and shall have reason to believe that a speech from me would be of service to the country, I shall make it. I am always ready to defend myself before my constituents when I think it necessary, and am equally ready to do it before the public in the newspapers, when I think the occasion requires it, and if it should become necessary, which I can scarcely suppose, I shall not fail to do it here. But whenever I can advance the public interests, I will be as prompt as any other gentleman to take part in the discussion. I appeal to the committee to let us go through with this territorial business, as I think we may be able to finish it in two days, and then allow the political discussion to go on.

Mr. FITCH. Will the gentleman from North Carolina give me time to briefly answer such remarks of the gentleman from Tennessee [Mr. CULLOM] as relate personally to myself?

Mr. CLINGMAN. I will give way for a short time, if the committee will consent. My object is to make the motion I have indicated.

Mr. FITCH. If the gentleman wishes it, I can close with making the motion which he desires to make. The gentleman from Tennessee [Mr. CULLOM] appears willing to

"Compound for sins he is inclined to,  
By damning those he has no mind to."

He seeks to blind the country to his inclination to aid the success of General Scott's non-committal policy, by denouncing me for placing my humble opinions upon record.

If the gentleman was really as desirous of telling the whole truth, and thereby doing justice to a political opponent, as he is of apologizing for the *mum* policy of his presidential candidate, he would have informed the House, of what his researches into my political opinions have doubtless informed him, namely—that interrogatories similar to those he has read, and read my answers, were propounded to me two years after the date of those he has paraded before the House, with an additional one, asking if I would vote for repeal or modification of the fugitive slave law, and answered in the negative, with the reasons in full which governed the answer. The answer he has read, was in accordance with the *then* sentiments of a large portion of the citizens of my State. It coincided with the *then* opinions of most of the Democrats of my district, and also with the opinion of most of the Whig party of the State. It is an answer which had been previously given, in substance, by my then Whig competitor. The sentiments and opinions, of which such answer to such interrogatories was the legitimate consequence, were induced by a course of action precisely similar to the one now advocated by the gentleman, namely—the nomination and election of a candidate for the Presidency, without asking any pledge or any opinion from him, upon the sectional question then at issue. The Democrats of my State, myself included, had opposed the proviso, and warmly advocated the election of a candidate openly pledged to opposition to it. The Whigs, and especially you Whigs of the South, asked no such pledge—no opinion from your candidate. You thereby courted Free-Soil votes to his support. You elected him. We were indignant at your

abandonment of those in the North, who were striving to defend your constitutional rights—in indignant at your indifference to your own rights and interests, and your willingness to sacrifice them to party political success. We determined to no longer fight your battles upon our soil, and at our cost. In our anger, we determined to permit the Free-Soilers—ay, aid them—in presenting the bitter chalice to your lips, which you had helped them prepare. You know the result, in the dangerous agitation and excitement of the last Congress. But the compromise passed. We are desirous, for the peace and welfare of the country, that it should remain undisturbed, and its provisions be executed in good faith.

Hence I have sustained it as a settlement—and as I hope, a final settlement of the slavery controversy; and when, two years after the interrogatories the gentleman has read, others of a similar character were presented to me, with the addition I have mentioned—full time having been afforded within the two years to examine, in all their bearings, the principles involved in them—I answered them in the negative, stating that affirmative action upon some of them would be unconstitutional; upon others, impolitic and bad faith towards the South; and upon any of them, useless and dangerous. This negative answer was given when I was told—and had no reason to doubt the correctness of the statement—that my election depended upon an affirmative answer; but I coupled the answer with the declaration to those to whom it was made, that it was in accordance with my honest convictions, and that though it might insure my defeat, I had rather remain a private citizen, sustaining the Constitution and the Union as it is, than be elected to Congress, pledged to a policy which my judgment taught me was dangerous to both. If the gentleman from Tennessee is disposed to array this against me as a change of opinion, he should bear in mind that his candidate for the Presidency is amenable to the same charge of change, relative to his alleged views of naive Americanism, and several other *isms*. The gentleman from Tennessee does not understand me as arraigning General Scott's opinions; no one can arraign them, for no one knows what they are. I make no complaint of his opinions, but of his refusal, if he entertains any, to make them known. He refuses to inform the country whether he is in favor of carrying out, or extending, certain laws, the faithful execution of which, in the opinion of many, is essential to the peace, and consequently to the prosperity, of the country; or whether he will act with those, or permit their action, who are disposed to violate or repeal such laws. It is because of this refusal—this non-committal policy, that General Scott is called the *mum* candidate. If the gentleman from Tennessee, and his friends of the South, again adopt this policy, and are again successful under it, they will again have evinced their little regard for their own rights and interests, and have jeopardized both by placing both in the keeping of the Seward Free-Soil wing of their party. They will again have crushed those of the North who are willing to defend the rights of the South. They will have invited aggression, and at the same time have rendered powerless those of the North who were willing to aid in repelling it. They need, therefore, make no useless complainings if aggression comes.

I have said, and repeat it, that General Scott has made no declaration of his opinions upon all the compromise measures, and will make none unless by the advice and with the consent of the leaders of the Seward wing of his party. And if any is made with their consent, it will be of such equivocal character as to present a Northern and Southern face—permit of one interpretation at the North, and another at the South. The gentleman arrays against me my vote on the fugitive slave bill. He may esteem it what he chooses. It is a vote I shall at all times be ready and willing to justify. The bill, I thought, went beyond any necessity for the enforcement of that provision of the Constitution which requires the delivery of fugitives. But under the operation of the previous question, there was no opportunity for debate or amendment, and no other means of dissenting from any of its provisions than a negative vote against the bill. It is now the law, and opposition to it should cease, and its provisions be fully and faithfully enforced; and more especially since any real or fancied concessions in the law to the South,

have their corresponding concessions to the North in other laws of the same series.

That gentleman, and others of his Southern political friends who are testifying in behalf of General Scott, declare, and probably believe, that he is in favor of sustaining the compromise. But if he is so, why does he pertinaciously refuse to so state to the public? And why does not some one of his Free-Soil supporters corroborate the testimony of these Southern witnesses? The only semblance of a public expression upon his part to which reference is had relative to any of the compromise measures, is of a date prior to the passage of the fugitive slave law, and is therefore no indication of his opinion relative to that law. Does such partial expression satisfy the gentleman from Tennessee? The gentleman says that the compromise resolution which I introduced is to be the non-committal platform upon which Democrats from the North and South may stand. The warmest compromise friend of General Scott would doubtless be satisfied if his peculiar friends—those who are so noisily testifying in his behalf—would persuade him to publish to the country a compromise platform, even one half more non-committal than that! The gentleman's speech, and the speeches of certain other Southern Whigs, are but the advance, the forerunner of a movement, the result of which will be a universal "caving in" upon the part of Southern Whigs to the support of General Scott. The gentleman from North Carolina, [Mr. STANLEY,] who was the first in the House to hoist the Scott flag, will soon be the leader of the Southern Whigs. They may wince now under his discipline, and manifest signs of meeting, but they will ultimately fall into his ranks, and march in his rear to the support of their *mum* candidate—not because they expect him to administer the Government in accordance with the principles they now advocate, but because they may receive assurances that he will make such disposition of the offices as will meet their wishes!

Mr. RICHARDSON was next recognized by the Chair.

Mr. CLINGMAN. I merely gave way to the gentleman from Indiana for explanation.

The CHAIRMAN. Then the gentleman from North Carolina is entitled to the floor.

Mr. CLINGMAN. I am willing to hear the suggestion of the gentleman from Illinois.

Mr. RICHARDSON. My suggestion is, that a gentleman cannot hold the floor, and deal it round to four or five gentlemen, and then claim it back.

Mr. CLINGMAN. I yielded by unanimous consent, and so stated. I will now move that the committee rise.

Mr. GENTRY. Will the gentleman allow me to say a few words before he makes that motion?

Mr. CLINGMAN. Certainly I will if there is no objection.

The CHAIRMAN. The gentleman from Tennessee can proceed if there be no objection.

No objection being made—

Mr. GENTRY. I do not wish to make a speech, and shall not tax the patience of the committee at all to-day. I merely wish to say, that during a congressional career somewhat protracted for as young a man as I am, it has been a uniform rule of action with me, whenever I could do so, and I have generally found that I could do it, to decline political contests upon this floor with my own colleagues, even of the adverse party. If it was needful for me at any time, in the performance of what I esteemed to be my duty, to shiver a lance, I always chose rather to select an antagonist from some other State. I have often felt here that collisions betwixt the members from any State exhibiting the local controversies, criminations, and recriminations which exist in our local politics everywhere, were in bad taste, and as long as I can possibly do so it is my purpose to avoid any such exhibition upon this floor. I say this by way of accounting for the fact that I do not intend to join issue with my colleague, [Mr. CULLOM,] who has addressed the House to-day. But, at the same time, it is due to myself to say that I dissent from many of the conclusions which he has arrived at in his speech, and that I intend, in due time, to discuss the questions which have been debated by him on this occasion. I desire to say further, as I am upon the floor, that in nothing that I have said or written, or to which I have appended my



name, have I intended to arraign my colleague for the non-performance of his duty upon the occasion to which he has referred.

Mr. CULLOM. And I certainly have not arraigned my colleague's action or motives.

Mr. GENTRY. I wish to disclaim the idea that I have arraigned my colleague. He spoke of having been arraigned.

Mr. CULLOM. The publication of those who seceded from the caucus, seems to suppose it was necessary they should make it. And if it was necessary for them to publish, it was necessary for me, not having been heard, to make my response.

Mr. GENTRY. Undoubtedly.

Mr. CULLOM. But I did not mean to cast any reflections on my colleague's motives or action.

Mr. GENTRY. I want to say, in justice to myself, that in the preparation of that address I was to some extent consulted, and that my advice was given at every stage of that proceeding to exclude from it every phrase that could in the remotest degree be construed to impute any improper motives to any of those gentlemen, from the South especially, who took a different view of their duty from that taken by the gentlemen who seceded on that occasion and signed that address. He who will look through that address, will see that there is a remark in it intended expressly to cover such cases, and allow every gentleman to explain himself. We say that we know that some of the gentlemen who remained were as thoroughly committed to the views which we entertained as we were, but differed with us as to the propriety of time and place. It was the wish of those who signed the address to give to it the fullest possible effect, as being an expression of the fixed principles and purpose of the Southern Whig party, and as proclaiming to the Northern Whig party the condition, and the only condition, upon which the unity of the Whig party, as a party extending North and South, could be maintained. Perhaps we were wrong in our judgment; perhaps it was a needless movement; perhaps an ineffective movement; perhaps a mischievous one; but I do not so believe. If the party is saved at all, that movement saves it. I wish to God I could feel an assurance that it can be saved at all. I do not want a false issue to be presented to the country in regard to the occurrences at that caucus. I am sure that my colleague has fallen into a very common mistake, that seems to prevail elsewhere, that we, in introducing the resolution that we did, undertook to lay down a platform for the Whig party in convention in Baltimore. At the caucus, and in our address to the country, we expressly disclaimed any such object. We aimed at nothing more and proposed nothing more than to invite the Northern Whig members of Congress, assembled together with us upon that occasion, "to consult on matters and things of importance to the Whig party;" for that was the character of the call under which we assembled. We aimed, I say, at nothing more, proposed nothing more, did nothing more than to invite them to agree with us, as far as we ourselves were concerned, and as far as our action would have any influence on the country, upon a basis of party action which we deemed to be essential to the maintenance of the unity of the Whig party. That was the whole height and depth, and length and breadth of our proposition—nothing more. We did not assume to dictate to the Baltimore Convention. We intended to announce to the country what was the principle of action upon which we agreed, and to let that enunciation have such influence as it could upon the Whigs that we represented throughout the country. That, and nothing more, was the whole of what we proposed.

I have not, indeed, and do not intend to make the slightest effort to criminate my colleague, or any other gentleman from the South, who took the same view of duty which he did. It would be as painful to me as any fact I can conceive of, to believe that my colleague was not as resolute and determined as I possibly can be, in reference to the great object aimed at by myself and those who seceded with me from that caucus.

But my colleague uses a term to-day which I should say was unkind if it came from anybody else, about those who seceded on that occasion. He says we ran away from a fight in which the finality of the compromise was involved; and he distinctly announces that if we had remained, upon

his invitation, and stood by him, he has conclusive evidence, in his pocket, or somewhere else, that we could have passed those resolutions. Well, now, it is due to my colleague to say, that before I retired from the caucus he did appeal to me, and to those who were acting with me, not to retire, announcing that it was his purpose again to offer the resolutions that had been ruled out of order when offered by the gentleman from Kentucky and myself, and asking us to stay and help him in the endeavor to carry those resolutions. That is very conspicuously reported in the official report of the proceedings of that caucus, which has been sent over the country as a reply to the address of the seceders. But it is not reported that, in reply to that appeal from my colleague, I urged him to offer those resolutions—announcing to him the fact, which every man of sense in the country will recognize as correct, that for Southern Whigs to vote the finality of the compromise was a matter of no consequence at all. *We were inviting our northern Whig brethren to meet us upon this platform.* The whole country knew the position of the Southern Whigs in reference to those measures.

Mr. CULLOM. In justice to my colleague I will state, in that spirit of kindness which always has existed and I trust always will exist between us, both personally and politically, that my colleague did solicit me to offer those resolutions.

Mr. GENTRY. I did.

Mr. CULLOM. But he said that he had no hope I could get them passed, but should be glad if I met with success.

Mr. GENTRY. I did.

Mr. CULLOM. The reason why I did not offer those resolutions was, that so many Southern gentlemen having retired, I did not choose, as a friend of the compromise measures, to subject them to defeat.

Mr. GENTRY. I confess it is painful to me to be under the necessity of debating a matter like this.

Mr. CABELL. Will the gentleman from Tennessee allow me to make a statement in this connection?

Mr. MEACHAM. I wish to inquire if this debate is in order?

Mr. GENTRY. Oh, yes; strictly in order. [Laughter.]

The CHAIRMAN. The Chair will state that when the gentleman from North Carolina [Mr. CLINGMAN] proposed to yield the floor to the gentleman from Tennessee, [Mr. GENTRY,] he distinctly asked if there was any objection. None was made; and the Chair therefore decides the gentleman from Tennessee to be in order.

Mr. CABELL. I have but a word to say in addition to what has been said by the gentleman from Tennessee, [Mr. GENTRY,] in relation to those who seceded from the Whig caucus.

It has been stated, that if the gentlemen who retired from the caucus had remained, the compromise resolutions would have passed. That statement has been replied to, in part, by the gentleman from Tennessee, [Mr. GENTRY.] But, in this connection, I wish to state, that at the first caucus which assembled, the chairman, in reply to an interrogatory from me, said he would rule out of order any proposition, whatever it might be, saving that of fixing the time and place for holding the Convention. During the interval which transpired between the first and second caucuses, it was intimated that the chairman had changed his purpose in that respect. When the second one assembled, I rose and asked the chairman, or, rather, intimated to him, that it had been stated he would change his purpose in this respect. In reply to that suggestion, the chairman stated to me, and the caucus, that his opinions were unchanged, and that he would rule every proposition out of order except that for fixing the time and place for holding the National Convention.

I deem this statement one of some importance, for the reason that, in the official publication of the proceedings of that caucus, it is stated that the chairman decided that he would receive the proposition of the gentleman from Tennessee [Mr. GENTRY] as a substantive proposition, though he would not receive it as an amendment. I know not from whom the statement comes; but it is not altogether truthful. It does not state the whole truth. It omits to state the declaration of the chairman in reply to me, and others. I distinctly made that point, and the chairman told me, as

other members of the caucus will bear me witness, that his opinions had undergone no change, and that I was mistaken in that respect.

Mr. CHANDLER. I will not reflect upon what the gentleman has said, but I say, upon my responsibility as a gentleman, and as the secretary of that meeting, that the very words of the chairman were reported in that statement.

Mr. STANLY. I concur in that statement, distinctly.

Mr. CABELL. I do not mean to say that the chairman did not use the language. I do not know what he might have said to others. I only state what he said to me. He used no such language in my presence, but just the contrary.

Mr. CHANDLER. I did not understand the gentleman to make that distinction.

Mr. CABELL. I left the caucus, and I do not pretend to say what transpired after I left. I only speak of what the chairman said in reply to myself. He distinctly stated that he would rule everything out of order, save the proposition to fix a time and place for the Whig National Convention, and then I retired from the caucus. I do not pretend to say what might have taken place after that.

Mr. GENTRY. I can explain that matter satisfactorily.

Mr. CABELL. Before this matter goes further, I desire to say that I do not mean to impute any false statement to the secretary or officers of that caucus. I only stated what was the declaration of the chairman in reply to the suggestion made by me, and that this important declaration, or announcement of the chairman, has been withheld in the official report of the proceedings of the caucus.

Mr. DOCKERY. I ask the gentleman to yield me the floor for one moment. I regard it as devolving upon me to corroborate the statement made by the gentleman from Pennsylvania, [Mr. CHANDLER.] I recollect very distinctly, that the chairman of that meeting announced unequivocally and repeatedly—over and over again—until I thought he was lowering his dignity by such repetition, that the resolutions of the gentleman from Tennessee [Mr. GENTRY] and the gentleman from Kentucky, [Mr. MARSHALL,] could not be entertained as amendments, but that they might be entertained as substantive propositions.

Mr. GENTRY. A small mistake there.

Mr. DOCKERY. I recollect distinctly that the chairman stated it about the time the gentlemen were leaving the caucus, for, let me remark, my position was a peculiar one; I voted with those who left the caucus, against sustaining the decision of the chair. But as the decision of the chair was sustained, I declined to retire from the caucus, believing that I could best serve my constituents, and the South, by remaining there and voting and battling to the end.

As some of these gentlemen rose to go, I insisted that they should remain, and adopt the plan of the chairman by offering the resolutions as substantive propositions, believing that they would be stronger, when untrammelled by the rules of order by which the caucus was governed. The rules of the Senate had been adopted for the government of the caucus, and I believed that if the resolutions were submitted as independent propositions, when they could be supported upon their own merits, and not as amendments subject to the rules of order, they would be much stronger. This was at the time those gentlemen were leaving—I mean some of them, for they did not all go out at the same time. I think, however, gentlemen who were there, will sustain me in saying that they were invited to remain and vote upon the resolutions as substantive propositions, but they refused to do so.

Mr. OUTLAW. I ask the gentleman to allow me to say a single word.

Mr. GENTRY. I have but a few words to say, and then I will yield the floor. I desire to state the facts in this case myself; and fearing that my friends may fall into an unnecessary collision, I insist upon my right to the floor. I am anxious that the facts should be made to appear as they really occurred. I feel quite confident that when I state the facts in relation to the matter, no one present on that occasion will attempt to controvert them.

I have not the slightest suspicion that any gentleman has intended to make untrue statements in relation to this matter; but, you know, Mr.

Chairman, that there is a great deal in the manner of stating a truth, as to the impression to be produced by the statement.

Now, here is the fact: The Chairman never did in any way revoke his first decision, which was, that anything beyond the mere matter of fixing the time and place for holding the National Convention would be beyond the legitimate powers and duties of that Congressional caucus; and that it would be a usurpation of power which had not been delegated to them by the people. But it is also true, that when I pressed my resolution upon him with some degree of vehemence, he, responding, I dare say, somewhat prompted by the kind feelings he entertained towards me personally—although he would not be inconsistent with himself, and reverse his decision, he nevertheless said that it would be competent for the meeting, if it should so choose, after it had disposed of its legitimate business, to entertain that proposition, and that his own personal wishes were in favor of such a result.

I said that I saw gentlemen upon the other side were beginning to be sleepy, and that by the time we had resolved ourselves into a kind of debating society upon the resolutions offered by my friend from Kentucky [Mr. MARSHALL] and myself, gentlemen would begin to have an appetite for their beds. [Laughter.] I dare say we might have passed the resolution. But it would have been passed by Southern votes with the help of those few Northern gentlemen who were willing to cooperate with us. The Senate Chamber would have presented but a "beggarly account of empty boxes," and another fraud would have been played upon the country like that played at the beginning of this session of Congress, and which has been made conspicuous by the votes of members who acted in that caucus, upon the resolutions recently offered to the consideration of this House by my friend from Georgia, [Mr. HILLIER.] Oh, that caucus resolution! I beg gentlemen to excuse me from speaking upon that subject. [Great laughter.]

Gentlemen say, that if those of us who retired from the caucus, upon the proceedings of which my colleague has animadverted, the resolution offered in that caucus by my friend from Kentucky, [Mr. MARSHALL] or that offered by myself, would have passed. I affirm, in reply, that if passed at all, it would have passed by Southern votes—Northern members being absent, or present with a mental reservation, as seems to have been the case in the Congressional caucus at the beginning of this session of Congress.

Now, there is the whole of it. These resolutions were ruled out of order by the chairman, and that ruling was sustained by the meeting, both upon my resolution and that offered by the gentleman from Kentucky, [Mr. MARSHALL.] It is also true that the chairman did say, that after we had got through with the legitimate business of the evening, if we chose we could resolve ourselves into a debating society, and discuss the subject. [Laughter.] But it is still further true, as I said, that as soon as we had resolved ourselves into such debating society, gentlemen would begin to get very sleepy, and there would have been no one left but ourselves. That would have been the practical effect of the whole matter. The great object in introducing that resolution was to get Northern Whigs to meet Southern Whigs upon a principle of action which we deemed to be important to the peace and harmony of the country and the preservation of the Union, and an indispensable means of maintaining the unity of the Whig party as a political organization extending over the whole country, North and South.

Mr. DOCKERY. Will the gentleman allow me to make one more remark?

Mr. MEACHAM. I rise to a question of order. [Cries of "No!" "No!" "Go on!"]

Mr. MEACHAM. I desire to know whether the gentleman from Tennessee [Mr. GENTRY] has a right to let out the floor to whom he pleases?

Mr. GENTRY. It all comes within my hour, and I imagine I am entitled to that.

Mr. DOCKERY. Since this Whig caucus is assuming some importance in the country—

The CHAIRMAN. The gentleman will allow the Chair to state, that the gentleman from North Carolina [Mr. CLINGMAN] has no right, under the rules, to take the floor, yield it for another gentleman to make a speech, and still retain it for himself. When, however, the gentleman asked the

floor for that purpose, the Chair announced that it could only be done by unanimous consent, and there was no objection, and the gentleman from Tennessee was therefore recognized by the Chair. Upon this ground the Chair must overrule the point of order raised by the gentleman from Vermont, [Mr. MEACHAM.]

Mr. GENTRY. If I am trespassing upon the indulgence of the gentleman from North Carolina, I will yield now.

Mr. CLINGMAN. Not at all. I only wish to retain the floor.

Mr. DOCKERY. If the gentleman will allow me, in connection with this subject, I wish it to be distinctly understood by the House and the country, that my friend from Florida, [Mr. CABELL,] upon the meeting of the first caucus, moved that the rules of the Senate be adopted for the government of that body; which motion was agreed to.

Now, sir, some of us, who are not very well versed in parliamentary law and the rules of the Senate—who never have been, and probably never will be, members of that distinguished body—yielded to the opinions of those who explained that, according to the rules of the Senate, this amendment was out of order, not being germane to the original proposition fixing merely the time and place for the meeting of the convention. Well, I again repeat what I said before—however it may differ from the opinion of the gentleman from Tennessee, [Mr. GENTRY]—that it was distinctly announced that this question might come up, not in a debating society, as the gentleman from Tennessee would have the House believe, [laughter,] but in the then organized caucus, as a substantive proposition—

Mr. GENTRY, (interrupting.) And entertained by the meeting if they chose—

Mr. DOCKERY, (resuming,) and entertained by the meeting if they thought proper. [Laughter.] He ruled it out of order as an amendment to the original proposition, intended to carry out the purpose for which the caucus assembled, but not as an independent substantive proposition. As such he, in effect, decided that it might be entertained. Several members of the meeting insisted upon the seceders remaining there, and submitting as substantive propositions those which had been ruled out as amendments, when they would vote for them with those who subsequently professed to be their only true friends.

Now, sir, let me submit one question, and I will yield the floor. In matters where we disagree to some extent, who is likely to best understand the question at issue—those who remained there all through until the adjournment, or those who left before the meeting had progressed half through, and occasionally, after being absent a while, returning to the door and peeping in and listening, to ascertain what was going on—perhaps some of them walking in a step or two and retreating? and indeed, there is a rumor out of doors, that one of those distinguished gentlemen who left, was part of his time with BILLY SEWARD, taking a drink of grog. [Laughter.] Now, how could he know what was going on, as well as those who remained in the meeting?

Mr. GENTRY. I suppose that it is true, that one of my friends, waiting for me to come out, did in his peripatations around and about the Senate Chamber, meet with the distinguished Senator referred to by the gentleman from North Carolina, [Mr. DOCKERY,] who was ensconced in an ante-chamber, receiving reports from his adjutants and directing the course of the war. [Laughter.] I thank my friend from North Carolina [Mr. DOCKERY] for the allusion. It is an important one, and suggestive of grave reflections to the people of this country.

Mr. MARSHALL, of Kentucky. I wish to inquire of the gentleman from North Carolina, as I am the person to whom he alludes, as having taken a glass with the Senator from New York, what is his purpose in dragging such an incident of private intercourse into this discussion?

Mr. DOCKERY. I will answer that it was from no disrespect to the honorable gentleman from Kentucky; but as we are gathering all the incidents of the evening, I thought to mention this also.

Mr. MARSHALL. *Degustibus, non, &c.* I have only to say that greatly as I disagree from the Senator from New York upon questions which I deem essential to the peace of society and the

harmony of the States, I have never ceased to accept from him the amenities of social life. I meet him in the social circle and in the social walks of life, without permitting political opinions to interfere. Every gentleman possesses the right, I believe, without arraignment, to regulate his social walks and conversation, and I exercise that right to suit my own taste. I suppose this passage was produced to show to the country that while I differ *toto caelo* from the Senator from New York, the breach had not become fatal, as I still was willing to indulge in his company, in one of the commonest occurrences at Washington. [Laughter.] In a word, I found the Senator from New York unexpectedly, at an unseasonable hour of the night, so fixed as to keep apart from the caucus, and yet to direct and command its operations unseen, so far as he could do so through the instrumentality of his friends; and, after I was separated from it, we took a drink. Should he invite me, under equally embarrassing circumstances to himself and his friends, I should drink with him again. [Laughter.] The member from North Carolina is entitled to the benefit of all he can make out of this new point in parliamentary debate.

Mr. CLINGMAN claimed the floor.

Mr. GENTRY. I hope my friend from North Carolina [Mr. CLINGMAN] will indulge me yet a moment longer. I understood the Chair to decide that my friend from North Carolina [Mr. CLINGMAN] had, by his courtesy to me, lost his right to the floor.

The CHAIRMAN. The Chair has not so decided.

Mr. GENTRY. Then I fear that my misunderstanding of the decision of the Chair has caused me to abuse the courtesy of my friend.

Mr. CLINGMAN. Not at all—not at all.

Mr. GENTRY. I must ask him to permit me to make one additional remark. My colleague [Mr. CULLOM] made a remark in relation to those who retired from the Congressional caucus, which grates harshly upon the ear of a Tennessean. He spoke of those who ran away from that caucus. Tennesseans are not in the habit of running away, and nothing could be more unpalatable to them than such an imputation.

Mr. CULLOM. I desire to disclaim any personally offensive imputation against my colleague, or any gentleman who acted with him.

Mr. GENTRY. I feel well assured that my colleague is candid in his declaration. I am equally candid in declaring that it is not, and has not been, my purpose to impute unpatriotic or disloyal purposes or motives to him. But I must say that, according to my comprehension, paradoxical as it may seem to be, those who ran away were they who stood most firmly to their duty, and those who did not "run away" were most wanting in true soldiery.

Mr. Chairman, I repeat what I said at the outset of my remarks—it is not my intention to make a speech to-day. In due time I will discuss fully and freely the important questions embraced in the speech of my colleague. Before I conclude, however, permit me to remark, that I do not read the political signs of the times as sanguinely as my colleague, [Mr. CULLOM.] He seems to see nothing but bright skies and tranquil prospects. To my view dark clouds are gathering in the political horizon. The compromise measures, which passed with so much difficulty, and designed to restore harmony to a distracted country, will be bereft of healing power, unless both of the two great parties into which the country is divided shall so place their candidates and shape their organizations for the approaching presidential election as to exclude from the canvass agitation having for its object the repeal or modification of any of those measures.

It is not enough that a presidential candidate may be believed to have been favorable to the enactment of those measures, and himself individually in favor of maintaining them. A far greater question is, by what influences he is surrounded? What counsels, what influences will control the political organization upon which he relies for his election? And what influences will decide the policy of his administration in the event of his success? The public interests demand—the peace of the country, the safety of the Union require not only that he shall be publicly and unequivocally pledged "to regard the compromise

measures as a final settlement of the dangerous questions they embraced," but that the political organization upon which he relies for election shall be of such a character as to wield all the influences of a presidential canvass directly in favor of reconciling the minds of the people, North and South, to the acceptance of those measures as a final adjustment of the sectional controversies which made their enactment a public necessity. These are the conditions upon which alone my humble support will be accorded to any presidential aspirant at the next election.

Mr. HASCALL next obtained the floor, and addressed the committee for one hour on the subject of the compromise measures and in opposition to them, and in favor of the establishment of an agricultural bureau. His speech will be found in the Appendix.

Mr. CLINGMAN resumed the floor.

Mr. WHITE. Will the gentleman from North Carolina yield me the floor for a moment.

Mr. CLINGMAN. My friend from Kentucky [Mr. WHITE] asks the favor of a moment, and I yield to him the floor.

Mr. SEYMOUR, of New York. I rise to a question of order. It is whether it is competent for any one member of the committee to hold the floor for an hour, and single out gentlemen from the committee whom he will permit to occupy that hour?

The CHAIRMAN. The Chair decides that it is not in order.

Mr. RICHARDSON. I desire to raise another point of order.

Mr. CLINGMAN. Does the time consumed on the points of order come out of my hour?

The CHAIRMAN. It does not. The gentleman from Illinois [Mr. RICHARDSON] will state his point of order.

Mr. RICHARDSON. The gentleman from North Carolina, [Mr. CLINGMAN,] by yielding the floor to other gentlemen to occupy it, the Chair deciding it to be out of order, has lost his right to the floor.

The CHAIRMAN. The Chair would have decided in the first instance, had the question been made, that the gentleman could not yield the floor to any gentleman to make a speech; but the question was distinctly put to the committee whether there was any objection to the gentleman from North Carolina [Mr. CLINGMAN] yielding to the gentleman from Tennessee, [Mr. GENTRY.] No objection was made, and the arrangement was consented to by the committee, and the gentleman from North Carolina [Mr. CLINGMAN] now claims the floor, and is entitled to it.

Mr. CLINGMAN. Under that I will answer briefly the question put to me by my friend from Florida, [Mr. CABELL.] It is in relation to this point of order. But three or four minutes are left me before the expiration of my hour, and in half that time I can answer that question, and then make my motion. I understood Mr. Mangum, both in the caucus and since—and I have had several conversations with him—to say this, in substance: He regarded everything which did not relate to the time and place of holding of the National Convention, as out of order, both as an amendment and as a substantive proposition; but he also declared that, after that matter was disposed of, if this motion was made, and if a majority of the caucus saw fit to entertain it, they might, and he hoped they would do so; but he should be obliged to hold that it was not in order if the point were made. He would, however, appeal to them, and, individually, would be gratified, if the majority would consent to act upon it, and decide it. I understand this to have been his position all the while.

Now, Mr. Chairman, in relation to those who, it is said, ran away from the caucus, I beg leave to say, that we left there very few from the South; only one representative from the State of Delaware, one representative from Missouri, and several from Tennessee, Kentucky, and North Carolina. There were five of the slaveholding States which had representatives there. But there were ten States which, after we left, had not a single representative; and it appears, therefore, that this proceeding of fixing the time and place of holding the convention, was consummated by representatives from only one third of the slaveholding States, as well as by only one fourth of the Whig members from those States. And I say, further—having

still a minute left—to the gentleman from Tennessee, that, unless the convention shall come up to the position of the seceders, its nominee will not be able to carry the electoral vote of one State from the Potomac to the Rio Grande. Whether we are few or many, I say, boldly, that those who concur with us, and sustain us among the people, will cause him to lose every single electoral vote in the Southern States.

I took the floor, originally, to make a motion that the committee rise, and I now appeal to gentlemen to let us rise, stop this debate, and get through the territorial business. We can do so in one day's sitting, and then we may go on to the consideration of the general business.

Mr. HOUSTON. And take up the appropriation bills, which are urgently pressing for action.

Mr. STANLY. I hope the committee will not rise until four o'clock, by which time this discussion may be finished.

Mr. CLINGMAN. My object is to stop the debate, and then move that the House again resolve itself into committee, in order to dispose of this territorial business.

Mr. RICHARDSON. I give notice to gentlemen who intend to indulge in irrelevant debate on these territorial bills, that I shall endeavor to get the floor upon every bill, move that the committee rise, and offer a resolution that debate be instantly closed.

The question was then put upon the motion that the committee rise, and it was disagreed to.

Mr. GREY obtained the floor.

Mr. PARKER. It is growing late, and, with the gentleman's permission, I move that the committee rise.

Mr. GREY. I will yield for that purpose.

Mr. GIDDINGS. I raise the point of order that the committee having just refused to rise, and no business having been transacted since, it is not now in order to submit the same motion.

The CHAIRMAN. The Chair overrules the point of order raised by the gentleman from Ohio, and decides that the motion that the committee do now rise, is in order.

The question was then put upon the motion that the committee rise; and there were, upon a division—ayes 65—

Mr. STUART. I appeal from the decision of the Chair, that it is in order to make two successive motions to rise.

[Cries of "Too late!" "Too late!"]

The CHAIRMAN. It is not in order for the gentleman to appeal while the House is dividing.

The negative being counted, there were—noes 35.

So the committee agreed to rise.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman [Mr. STANTON, of Tennessee] reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 134, being a bill to authorize the Governor of New Mexico to call an extra session of the Legislative Assembly, should the same be deemed necessary and expedient; and had come to no conclusion thereon.

Mr. RICHARDSON. I move the usual resolution for the termination of debate upon the bill No. 134, five minutes after the House shall again resolve itself into Committee of the Whole on the state of the Union.

Mr. ORR. Put it one hour after the House goes again into committee.

Mr. RICHARDSON. I will make but a single observation. We have but four days after to-day to dispose of the whole territorial business. Tomorrow there will be no session; and unless I adopt the course which I propose, but few of the bills will be passed during this week, and Congress for the consideration of the territorial business will not set apart another week. I make the motion which I do very much against my inclination, knowing that I am trenching upon the time of the gentleman from Kentucky, [Mr. GREY.] If an hour is given upon each bill for discussion—as there are some thirty of them—we will not be able to pass more than five or six at the utmost; and I give notice now of my intention to move to terminate debate upon every one except the last one, upon which I trust the gentleman from Kentucky will obtain the floor, to submit his remarks.

Mr. ORR. Is it in order to amend the resolu-

tion by moving to strike out five minutes and insert one hour in its stead? The gentleman from Kentucky [Mr. GREY] is entitled to the floor, and the original resolution, in my opinion, operates as a fraud upon him.

Mr. RICHARDSON. I will modify my motion, and embrace all the other bills.

The CHAIRMAN. The Chair will remind the gentleman from Illinois that he cannot apply his resolution to any bill which has not been under consideration in Committee of the Whole on the state of the Union.

Mr. RICHARDSON. I will, then, move my resolution be modified as the gentleman from South Carolina suggests. This need not be taken as a precedent, as I mean to move to close the debate upon the balance of the bills as soon as may be.

The question was then taken, and the resolution was adopted.

Mr. HAMILTON asked and obtained leave to withdraw from the files, for the purpose of laying before one of the Executive Departments the papers in the case of Thomas F. Harkness.

Mr. HOUSTON. I understood this morning that when the House went into Committee of the Whole on the state of the Union, that there yet remained a special order before it. I presume the special order was made at the instance of the gentleman from Tennessee. Action having been had upon that subject, however, there will be no objection, I suppose, to that special order being rescinded, so that it will not be in the way of the action of the committee hereafter. It will now require a motion every time we go into Committee of the Whole to pass over that special order to reach other business. I therefore, if it is in order, move that that special order be rescinded. It is in relation to the homestead bill, which has been already acted upon.

Mr. COBB. I hope my friend will not do that, as I intend attaching an important measure to it.

Mr. HOUSTON. With great respect to the gentleman, I must insist upon my motion, unless some proper objection is urged. It is impossible to get along with the public business until we clear these things out of the way.

The SPEAKER. The Chair understands, that when the bill, commonly known as the homestead bill, was made the special order, there were two bills before the House, and both were included in the special order. One has been disposed of, and the other is bill 84, to encourage agriculture, and for other purposes. The gentleman from Alabama [Mr. HOUSTON] now proposes that the order of the House, making this the special order, shall be rescinded, and the bill be laid upon the table.

Mr. JOHNSON. Let the motion be to reconsider the special order.

Mr. HOUSTON. It is too late. I move to rescind and lay on the table.

The question was then taken, and it was decided in the affirmative.

So the order was rescinded, and the bill laid upon the table.

Mr. RICHARDSON. I move to reconsider the vote by which the resolution, terminating debate upon House bill No. 134, was passed, and to lay that motion upon the table.

The question was then taken, and it was agreed to.

Mr. MARSHALL, of Kentucky. I ask the unanimous consent of the House for leave to withdraw the papers of Captain Levy from the files of the House, in order that they may be referred to a committee who have the same subject in charge in the Senate.

There being no objection, it was so ordered.

Mr. CLARK. I wish to introduce the following resolution:

Resolved, That the Committee of the Whole House on the state of the Union be discharged from the further consideration of Senate bill No. 55.

If gentlemen will hear me for one moment upon the subject—

A MEMBER. What is the bill?

Mr. CLARK. It is a bill providing for the sale of certain salt springs in Iowa.

Mr. CLEVELAND. I object to the bill until I know something about it.

Mr. CLARK. I wish to inform gentlemen as to the contents of the bill, and if they will listen to the reading of the bill—

Mr. LETCHER. I object.



Mr. McMULLIN. I move that the House adjourn.

Mr. CLARK. I believe I have the floor.

The SPEAKER. The gentleman from Iowa is not entitled to the floor. He had the resolution read for information, and the Chair then stated that the gentleman could make his statement as to the purport of the bill by unanimous consent. There was objection to his making that statement—

Mr. CLARK. I wish to proceed further. I move a suspension of the rules to enable me to introduce the resolution.

Mr. McMULLIN. I now move that the House adjourn.

Mr. ASHE. I rise to a privileged question. I wish to know whether the Committee on Elections cannot report now, and whether it would not take precedence of any other motion?

The SPEAKER. The Chair cannot conceive that it is a question taking precedence of the motion to adjourn.

Mr. McMULLIN. I withdraw my motion for that purpose.

The SPEAKER. The Chair thinks it cannot be made at this time, because there is a privileged motion to suspend the rules.

Mr. McMULLIN. Then I insist upon my motion.

Mr. STEPHENS, of Georgia. The one is a question of privilege, and the other a privileged question. The question of privilege overrides the privileged question.

The SPEAKER. The Chair stands corrected.

Mr. DAVIS. I offer the report of the minority of the Committee on Elections in the matter of the contested election from the eleventh district of Pennsylvania.

The SPEAKER. That is not a privileged question. It is a question of privilege to permit a minority to report, and if there is no objection the report will be received.

There being no objection, the report was read by the Clerk, and ordered to be printed.

On motion, the House adjourned till Wednesday next at twelve o'clock m.

#### NOTICE OF A BILL.

Mr. BROWN, of Mississippi, gave notice that he would ask leave to introduce a joint resolution authorizing the Secretary of the Treasury to ratify and confirm an exchange of lands between the United States and Charles Reynolds, of the city of Natchez and State of Mississippi.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PARKER, of Indiana: The petition of John Yaryan, S. W. Hill, and seventy odd others, citizens of Union, Wayne, and Randolph counties, Indiana, praying for a tri-weekly mail route from Liberty, via Centerville, to Winchester.

By Mr. FITCH: The petition of A. Van Voorst and others, citizens of White county, Indiana, asking for a mail route therein named.

By Mr. BRAGG: The petition of citizens of Mississippi, Louisiana, and Alabama, praying an appropriation to open the bar at the mouth of Pascagoula river, on the Gulf of Mexico.

By Mr. ROBIE: The petition of citizens of Bath, Thurston, Addison, and Cameron, New York, praying the establishment of a post route from Bath, by way of John S. Dupue's and Noble H. Rising's, in the town of Thurston, to the post office at West Addison, Steuben county, New York.

By Mr. BISSELL: A memorial adopted at a public meeting of the citizens of Upper Alton, Illinois, praying the enactment of a law providing for the settlement of the Territory of Nebraska.

By Mr. IVES: The petition of A. Ford and 150 others, citizens of New York, praying aid in the construction of a railroad from Sackett's Harbor, in said State.

SENATE CHAMBER, May 19, 1852.

#### To the Editors of the Globe:

In casting my eye cursorily over a part of the debate in the House, in the Daily Globe of this date, in relation to the congressional caucus, I find many discrepancies and some errors. The Journal of the proceedings, republished in the National Intelligencer, is correct and exact upon every material point that was raised. The Chair ruled both Mr. MARSHALL's and Mr. GENTRY's resolutions out of order, as amendments to the resolution offered by Mr. STANLY. The Chair, however, decided to receive Mr. GENTRY's resolution as a substantive proposition, if it should be so offered—not Mr. Marshall's, which could be received only by the assent of the majority of the meeting.

The reason of the discrimination in the mind of the chairman was, that Mr. GENTRY's purported to construct no platform for others, but simply to define the position of those supporting it. Mr. MARSHALL's went further, and, in the opinion of the Chair, was inadmissible, on the ground of assuming to construct, in part, a political platform, which the Chair deemed as in no extent warrantable by the usages of the Whig party, but a naked usurpation of power prop-

erly exercisable only by the people, or their representatives in National Convention.

Mr. CHANDLER's statement, as sustained by Mr. STANLY and others, is entirely accurate.

Your obedient servant,

WILLIE P. MANGUM.

#### IN SENATE.

WEDNESDAY, May 19, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate, inquiring what further provision for the settlement of accounts connected with the Mexican contribution fund is necessary to authorize proper and just compensation to be made for services in relation thereto; which was read and referred to the Committee on Military Affairs.

#### PETITIONS, ETC.

Mr. FISH presented a memorial of citizens of New York city, praying that the public lands may be granted in limited quantities to actual settlers; which was referred to the Committee on Public Lands.

Mr. RUSK presented documents in relation to the claim of James Myer, late of the Mexican Boundary Commission, for balance of salary and expenses of transportation from New Mexico to the United States; which were referred to the Committee on Claims.

Mr. BRIGHT presented the following joint resolutions of the Legislature of the State of Indiana; and it was ordered that they be laid on the table and printed:

In favor of a modification of the bounty land law.

In favor of the adoption of measures for the suppression of the African slave trade, and the promotion of the colonization of free people of color.

In favor of the construction of a ship canal around the rapids of the St. Mary's river.

In favor of the establishment of an Agricultural Bureau.

In favor of an appropriation for the erection of public buildings in the city of Indianapolis.

Mr. SEWARD presented the petition of the heirs of Nathan Weeks, a lieutenant of the Revolution, who was killed in action, praying for the pay due him and the seven years' half pay due his widow and children; which was referred to the Committee on Revolutionary Claims.

Also, seven petitions of citizens of the State of New York, praying that the bill now pending before Congress, granting to every man who is the head of a family and a citizen of the United States, one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Mr. SUMNER presented the petition of last-makers in Massachusetts, praying a modification of the patent laws; which was ordered to be laid on the table.

Also, a petition of workmen of Boston, praying that the bill now pending before Congress, granting to every citizen of the United States, who is the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. WALKER presented a petition of citizens of the United States, praying that the bill now pending before Congress granting to every citizen of the United States, who is the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. WELLER presented the joint resolutions of the Legislature of California, in relation to volunteers who served in California during the late war with Mexico, and the payment of claims for private property taken for the public use; which were ordered to be laid on the table and printed.

Also, a joint resolution of the Legislature of California, relative to the levying and collecting a tonnage duty for hospital purposes; which was referred to the Committee on Commerce, and ordered to be printed.

Also, a joint resolution of the Legislature of California, in favor of the establishment of a branch Mint in that State; which was ordered to be laid on the table and printed.

Mr. GWIN presented a joint resolution of the

Legislature of the State of California, in favor of a change in the time of meeting of the electors of President and Vice President in that State; which was referred to the Committee on the Judiciary, and ordered to be printed. The great extent of that State was the reason given for desiring a postponement to give time to collect the vote.

Also, joint resolutions of the Legislature of California, in relation to contracts for the transportation of the mails between Panama and San Francisco; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. DODGE, of Iowa, presented the memorial of John Cripps, praying to be allowed a pension for services in the war of the Revolution; which was referred to the Committee on Pensions.

Also, the petition of Joseph Robinson, praying a grant of land for his services in the war of 1812; which was referred to the Committee on Private Land Claims.

Also, documents in relation to the claim of Noah Smith to a pension, for services during the war of the Revolution; which were referred to the Committee on Revolutionary Claims.

Mr. MALLORY presented an additional document in relation to the claim of Kennedy and Darling; which was referred to the Committee on Claims.

Mr. SMITH presented the memorial of A. Miles & Son, alleging that they are creditors of Texas, and praying the payment of their debt by the General Government; which was referred to the Committee on Finance.

#### PETITIONS WITHDRAWN AND REFERRED.

On motion by Mr. BROOKE, it was

Ordered, That the petition of John Crawford, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion by Mr. GWIN, it was

Ordered, That the petition of Jonas P. Levy, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

Mr. FOOT presented additional documents relating to the claim of Dr. Avery Downer; which were referred to the Committee on Pensions.

On motion by Mr. FOOT, it was

Ordered, That the report of the Committee on Pensions on the same subject, be recommitted to the same committee.

#### REPORTS FROM STANDING COMMITTEES.

Mr. JONES, from the Committee on Pensions, to which was referred the petition of Christopher Knowlton, praying a pension for wounds received during the last war with Great Britain, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the petition of Thomas Thurston, owner of the schooner Wanderer, praying to be allowed the fishing bounty, submitted a report, accompanied by a bill for his relief, which was read and passed to the second reading. The report was ordered to be printed.

Mr. HAMLIN, from the Committee on Printing, to which was referred a motion to print ten thousand copies of the report of the Committee on Military Affairs, accompanying the bill to repeal the several acts organizing the staff departments of the Army therein mentioned, and to provide for the discharge of the duties thereof by a detail of officers of the line, in octavo form, in connection with the bill, reported in favor of printing two thousand five hundred copies of the same; which was agreed to.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the petition of Thomas Copeland, praying remuneration for improvements in machinery in the Gosport navy-yard, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to which was referred the memorial of Richard M. Johnson, of Kentucky, praying compensation for losses incurred by him by reason of his impressment into the service of the United States, in the late war against Mexico, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to which were referred resolutions of the Common Council of New Orleans in relation to the establishment

of a navy-yard and naval dépôt at New Orleans, asked to be discharged from the further consideration thereof, and that the resolutions be printed; which was agreed to.

He also, from the same committee, to which was referred a report of the Secretary of the Navy, containing the proceedings of the court of inquiry in relation to the loss of the United States steamer "Edith," charges of Lieutenant Craven against Commodore Jones, and of Commodore Jones against Lieutenant Craven; and correspondence in relation to the erection of a saw-mill at San Francisco, and in relation to the appointment and transportation of Lieutenant Meade and other officers for the steamer "Edith," from Boston to the Pacific, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to which was referred the bill for the relief of Richard W. Meade, reported it back without amendment, accompanied by a report; which was ordered to be printed.

On motion by Mr. MALLORY, it was

Ordered, That the report of the Committee on Naval Affairs, on the petition of J. T. Page, be printed.

Mr. FOOT, from the Committee on Pensions, to which were referred the following petitions, submitted adverse reports thereon; which were ordered to be printed:

Petition of Elliot F. Penny, a soldier in the last war with Great Britain, praying a pension.

Petition of Sarah F. Gowell, widow of a soldier in the last war with Great Britain, praying a pension.

Petition of citizens of Waldoboro', Maine, praying that the pension now received by Conrad Hyer may, at his death, be granted to his grandson.

Petition of Sarah Smith, widow of a soldier in the Army, praying a pension.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of John Hazen, submitted an adverse report thereon; which was ordered to be printed.

Mr. BERRIEN, from the Committee on the Judiciary, to which was referred the petition of James Chapman, administrator of Thomas Chapman, praying one fourth part of the proceeds of the cargo of the brig "Diana," condemned for violating the non-intercourse laws, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the memorial of Benjamin S. Roberts, of the Army, praying to be allowed the pay and emoluments of a lieutenant of dragoons from the time he was discharged from the Army to the time when he was appointed a lieutenant of mounted riflemen, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. GEYER, from the Committee on the Judiciary, to which was referred a petition of citizens of Pennsylvania, praying that the introduction of convicts, felons, and paupers into the United States may be prohibited, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. ADAMS, from the Committee on Claims, to which was referred the memorial of J. Smith, praying indemnity for a steam-vessel lost in the employ of the United States, submitted an adverse report thereon.

Mr. FELCH, from the Committee on Public Lands, to which was referred the bill granting a right of way and a portion of the public lands to the State of California, to aid in the construction of a railroad from the city of San Francisco to the city of San José, in that State, reported it back with an amendment.

On motion by Mr. GWIN, the bill was considered as in Committee of the Whole; and the reported amendment having been agreed to, it was ordered to be engrossed for a third reading.

#### BILL INTRODUCED.

Mr. CLEMENS, by unanimous consent, asked and obtained leave to introduce a bill to extend the provisions of an act approved the 3d of March, 1847, and the act approved the 26th of February, 1849, for carrying into effect the existing compacts

with the States of Alabama and Mississippi in relation to the five per cent. fund and the school reservations; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, announcing that it had passed a resolution changing the name of St. Peter's river, in the Minnesota Territory.

#### PORTS OF ENTRY AND DELIVERY.

Mr. HAMLIN. There is a bill reported by the Committee on Commerce regulating the collection districts for the Territory of Oregon; and as this is the week in which territorial business comes up in the House of Representatives, I ask the indulgence of the Senate to pass over the prior orders and take up that bill this morning, so that it may be considered by the Senate and sent to the House to be considered by the House along with other territorial business. I apprehend that it will take but a very few minutes to dispose of it.

Mr. HUNTER. What is the character of the bill?

Mr. HAMLIN. It is a bill to authorize the President of the United States to designate the places for the ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, instead of the places where they now are.

The motion to postpone the prior orders was agreed to; and the bill having been read a second time, it was considered by the Senate as in Committee of the Whole.

It provides that the President of the United States be authorized to designate the places for the ports of entry for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, upon receiving satisfactory information as to the best location for said ports, instead of the places now established by law in said districts, respectively.

Mr. HAMLIN. It was found, on establishing ports of entry in that Territory, that it was impossible to fix them in places which would not be affected by the influx of population. It was therefore deemed advisable by the Committee on Commerce, to place discretionary power in the hands of the Secretary of the Treasury, so as to designate the ports as the wants of the country should require. I am also directed by the Committee on Commerce, to offer a second section to the bill, regulating the salaries of the collectors in these districts. I offer this section as an amendment to the bill.

The additional section was read, as follows:

Sec. 2. *Be it further enacted*, That the salary of the collector of customs for the district of Oregon, in the Territory of Oregon, shall be and hereby is fixed and established at \$3,000 per annum, with fees and salary in the aggregate not exceeding \$5,000. And the salary of the collector of customs for the district of Puget's Sound and Umpqua, respectively, shall be fixed and established at \$2,000 per annum, with fees and salary not exceeding \$3,500, which salaries shall continue in force for the term of six years.

Mr. HAMLIN. These sums correspond with the sums paid to the collectors in the smaller ports in California. The matter was submitted to the Secretary of the Treasury, and these sums were fixed upon on his recommendation. The sums thus proposed seem satisfactory to the committee. The amounts the collectors have heretofore received, have not been sufficient to pay their expenses; and they have had to live upon their own means in discharging the duties of the Government. The time during which these sums are to be paid is limited to six years, at which time it is hoped there may be such a change of things in that country as to permit a reduction of these salaries. The bill limits the power to that time; and, when it has expired, if it be found necessary to revive the provision regulating these salaries, it can be revived; and if not, then it will die by its own limitation.

The additional section was adopted.

The bill was then reported to the Senate, and the amendment made by the Senate as in Committee of the Whole was concurred in, after which the bill was ordered to be engrossed for a third reading.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the

House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852," the question pending being upon the amendment of the Committee on Finance, as it has been amended, as follows:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the 1st of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500: *Provided*, That it shall be in the power of Congress, at any time after the 31st day of December, 1854, to terminate the arrangement for any additional allowance herein provided for.

Mr. HUNTER. The honorable Senator from Michigan, I believe, desires to submit some remarks in relation to the proposed appropriation for payment of the citizens of Alabama and Georgia for depredations committed by the Creek Indians. I would therefore ask the Senate, by general consent, to lay aside the amendment in relation to the Collins line of steamers, and take up the other; and I hope that when it is taken up, we may come to a vote upon it.

Mr. SEWARD. I hope it will not be taken up.

Mr. BORLAND. I would say to the Senate, that day before yesterday, when the amendment in relation to the Collins line of steamers was taken up, it was done by laying aside informally the amendment which the Senator from Virginia now proposes to take up. The Senator from Michigan had the floor at that time upon the amendment mentioned by the Senator from Virginia. It was, however, laid aside informally, and the amendment relating to the Collins line of steamers was taken up out of place, and I made my remarks upon it. I then supposed that the amendment on which the Senator from Michigan is now prepared to speak would come up as a matter of course.

The PRESIDENT. It cannot come up except by unanimous consent. Does the Senator from New York adhere to his objection?

Mr. SEWARD. Yes, sir; I do.

The PRESIDENT. The pending question then is upon the amendment relating to the Collins line of steamers.

Mr. BORLAND. I should be very sorry to inflict another speech upon the Senate on this question so soon after having consumed so much of the time of the Senate during two other days; but, if the friends of this proposition are determined to force it on the Senate, and on the country, to the postponement, and, perhaps, the exclusion, of the necessary and proper features of the deficiency bill, they ought not to feel aggrieved if those who believe that it is not only wrong in itself, but that it is out of place in this bill, should occupy some of the time of the Senate in offering their objections to it, especially since it has been advocated at such length, and so elaborately, by them.

I think I can say, with entire confidence in the truth of the statement, that, if the friends of this proposition had not discussed it at such length themselves—had not advanced such views in support of it—and had not made it so prominent a subject of discussion by the Senate, and before the country, those who are opposed to it would not have consumed so much time, perhaps would hardly have spoken at all, in replying to their arguments. They have forced this subject, and its elaborate discussion, on the Senate. They have done so, to the interruption of the general business of the country. We had before us the items of a deficiency bill, asked of us by the Administration, who are charged with the execution of the laws of the country; and we are told it is indispensable that it should be speedily passed, in order that the regular business of the Government should go on. And yet the friends of the Administration—those who tell us the same thing with regard to the business of the country, and the operations of the Administration, and the necessity of speedy action—have brought forward a subject in connection with the bill, have tacked on to it a matter that has not one feature of a deficiency in it. Instead of making it a mere amendment to the bill, it has swallowed up the bill itself, and has taken its place. Instead of a little more than \$2,000,000, or,

perhaps, \$3,000,000 to be provided for by the bill, as it came from the House of Representatives, this amendment itself proposes to appropriate little less than \$7,000,000; and thus makes, altogether, an appropriation of some \$10,000,000 that we are called upon to pass! They will not permit even those features which properly belong to the bill, and which constitute a deficiency, to be acted upon. However reluctant, therefore, I may be, to occupy the time of the Senate upon any subject, I feel it due to myself, and to my constituents, when it is proposed to take \$7,000,000 out of the Treasury of the United States, for what I believe to be an improper purpose, to state, as fully as they may occur to me, the objections which I think lie to the proposition, and which I think should defeat it.

Sir, I am quite unwilling to occupy the time of the Senate this morning, because I supposed it was the general understanding, that the Senate would hear the Senator from Michigan, [Mr. Cass;] and I know that he has come with his notes and papers, for the purpose of presenting his views upon the proposed Indian appropriations.

Besides, I think there has never been an instance before, when a Senator, in the position in which the Senator from Michigan stands, who declined the other day to present his views then, in order to allow the friends of a particular proposition to bring it up, as the friends of the Collins line do with that measure, and who was then refused the courtesy of the Senate to proceed with his remarks when he desired to do so. I would greatly prefer that the honorable Senator from Michigan would go on, and that the Senate would hear him now, since he is prepared to address us to-day. I think it is due not only in courtesy, but in strict justice. If, therefore, the Senator from New York, or those who, with him, urge this measure upon us, will withdraw their objections, and agree that the Senator from Michigan shall go on, I will not inflict a speech upon the Senate at this time. I hope the Senator from New York will consent to the laying aside of the pending amendment, with a view to give the Senator from Michigan an opportunity to go on.

The PRESIDENT. This is not a question between the two Senators.

Mr. SEWARD. I understand that the honorable Senator from California, [Mr. Gwin,] the chairman of the Committee on Naval Affairs, who is an able and earnest advocate of the amendment relating to the Collins line, and whose vote is deemed necessary for it, is obliged to leave town this evening. The amendment will, therefore, lose his vote, if the question is not taken to-day. Having made this explanation, I cannot now—without discourtesy not only to the honorable Senator from Arkansas, for whom I entertain a high respect and very sincere regard, but also to the distinguished and venerable Senator from Michigan, [Mr. Cass]—insist on my objection to the motion to lay the subject of the steamers aside for the present. I will, however, express the hope, that when the honorable Senator shall have concluded his speech on the Indian question, the honorable Senator from Arkansas will not insist on further debating the amendment concerning the Collins steamers in committee, but will allow the question to be taken to-day; and that the honorable Senator from Arkansas will be kind enough, in consideration of the peculiar circumstances, to reserve his further expression of his views upon the Collins line, until the time when the amendment shall have been reported from the committee to the Senate, as the same question exactly will then come before the Senate. I will withdraw my objection.

Mr. BORLAND. Does the Senator withdraw his objection? I am not sure that I heard the remarks of the Senator from New York very distinctly.

Mr. HALE. His remarks were very complimentary to you.

Mr. BORLAND. Did the Senator make it a condition, that I should not present my views until after the vote is taken?

Mr. SEWARD. I proposed no conditions. I withdrew the objection without conditions.

Mr. BORLAND. I move, then, that this amendment be passed over informally, and that the amendment relative to Indian depredations be taken up, with a view to allow the Senator from Michigan [Mr. Cass] to address the Senate.

No objection being made, the motion of the

Senator from Arkansas was concurred in, and the question was stated to be upon the amendment of Mr. BELL, as amended, to insert the following:

For payment to the citizens of Alabama and Georgia, for depredations committed by Creek Indians upon their property, and for other property taken by the troops of the United States, and friendly Creeks, in the years 1833 and 1837, \$355,797; to be distributed according to the schedule returned by the commissioners appointed under the act of Congress approved March 3, 1837.

Mr. CASS addressed the Senate at some length. His speech will be found in the Appendix.

Mr. BELL replied at considerable length. His speech will be found in the Appendix.

Mr. GWIN. Mr. President—

Mr. CASS. Will the Senator from California allow me to say a few words?

Mr. GWIN. I have to say that I am in some degree responsible for the amendment in regard to the Collins line. It has been under discussion for several weeks, and as I must leave town to-morrow morning at six o'clock, I should like very much to have the vote taken upon it to-day.

Mr. CASS. I only want to ask that these documents which I have may be printed with my remarks. I want to dispose of them, and I never want to touch the subject again.

Mr. MANGUM. Will the honorable Senator from Michigan suffer me a moment to occupy the floor?

Mr. CASS. Certainly.

Mr. MANGUM. These contested points affect a past Administration which is now in its grave; and nobody feels any interest in the points which have been made. The acts of this Administration have been disinterred by the eloquent gentlemen during the last week; but I think it would be better to defer this discussion until some future Gibbon shall write the history of the decline and fall of the Republic. Such a matter may be interesting to posterity, but it seems to excite very little interest in the minds of gentlemen who are present. Let us postpone this discussion for the present, and vote upon the other question. These gentlemen may conduct this contest as long as the siege of Troy. Until either the one party or the other is annihilated, the contest will still go on; and looking to the vigor of both gentlemen, intellectually and otherwise, there is not much prospect of their bringing this discussion to a speedy termination. I trust the Senate will vote on the amendment in relation to the Collins line of steamers.

Mr. CASS. If the Senate will give me ten minutes, I will dismiss the subject. All I want is, to get my documents introduced, so that they can be published together.

The honorable gentleman then proceeded and concluded his argument.

Mr. CLEMENS. Mr. President—

Mr. BELL. I wish to say a single word in reply, if the Senator from Alabama will permit me.

Mr. CLEMENS. I would willingly do so, but that I am under a promise to the Senator from California, to make a suggestion which I think is due to him. I think he is entitled to the courtesy which has been denied to him to-day. I hope, therefore, that this amendment will be passed over until to-morrow, for the purpose of enabling him to vote upon it. He is compelled to leave here, as he has told the Senate, at six o'clock to-morrow morning, and I promised him—feeling myself, perhaps, more interested in the amendment than anybody else—that I would make this suggestion. I hope, therefore, that the Senator from California will be gratified in his request. I hope the amendment will be laid over until to-morrow.

The PRESIDENT. No motion can be made to lay the amendment over until to-morrow; but it can be passed over by unanimous consent.

Mr. DAWSON. I dislike to interpose any objection; but I consider the vote of the Senator from California as important to be passed upon this measure, knowing him to be friendly to it, as upon any other proposition connected with the deficiency bill. If the votes are to be taken upon the two amendments, I would prefer that they should be taken upon them in the order in which they now stand; first, upon the proposition to pay these claims; and I consider them to be as justly due as any deficiency which may exist in relation to the Collins line. I think that the vote of the Senator from California is as important to do justice to the claimants under this amendment, as it

will be to increase the compensation of the Collins line.

Mr. BELL. I beg leave to waive all privilege of reply to the honorable Senator from Michigan. I only intended to read one or two sentences in addition to the evidence I have already adduced, to show that the warnings to the Government to which I have alluded, were commenced in March, 1836. But I waive all privilege of reply for the purpose of allowing the vote to be taken now.

The PRESIDENT. Does the Chair understand the Senator from Georgia to object to passing over this amendment?

Mr. DAWSON. Yes, sir.

Mr. GWIN. I hope the Senator will permit me to say a word in explanation of the reason for the request which I have made of the Senate.

Mr. DAWSON. I have understood the reason why the Senator asks us to take up the other proposition, and I am perfectly satisfied with it, only that I desire to have the aid of the Senator from California in doing an act of justice to those people who have been oppressed in this way; and I am unwilling to let him go until he votes upon both propositions.

Mr. GWIN. The Senator from Georgia entirely mistakes the position which I occupy in regard to this amendment. He has no right to presume that I am going to vote for it, for I have not so stated to the Senate. I was chairman of the Committee on Naval Affairs, to which the subject of increasing the compensation of the Collins line was referred; and under the instructions of that committee, I introduced into the Committee on Finance the amendment in regard to that subject. I therefore feel that degree of responsibility which every member of this body should feel in bringing a proposition of such importance before the Senate, and wish to be present when the discussion is closed and the vote taken upon it. It has been under discussion for weeks, and I have not spoken more than ten minutes on the subject. I am generally here very punctually; but inasmuch as it is a matter of necessity for me to leave here to-morrow, I merely wish to have an opportunity of seeing that a question which is in some degree under my charge is disposed of. For that reason I desire to have a vote on it. I am very willing to vote on the amendment of the Senator from Tennessee; but the Collins amendment was first in order, and was put aside for the purpose of bringing up that proposition. I hope it will be restored to its proper place.

The PRESIDENT. The Chair cannot entertain any motion unless by unanimous consent. The pending amendment cannot be passed over but by unanimous consent.

Mr. DAWSON. I desire to have the question on the pending amendment.

Mr. RUSK. I have a proposition which I wish to make, and it is this: Both these subjects have been largely discussed, and if we can get a vote upon the proposition before us now, we can also get a vote on the other. It is not yet four o'clock, and I understand Senators are ready to vote upon the amendment with regard to the Collins line. I hope we shall take the vote on the pending amendment, and then on that question. I hope the Senate will sit until we do get a vote.

Mr. BELL. I wish to make a remark, somewhat in the nature of a personal explanation. A gentleman has sent me a note, stating that I possibly did injustice to General Jesup in my remarks, by saying that he had authorized the friendly Indians to take the property of the whites. I did not say so. I wish to disavow any such remark. I said that it was impossible for the officer in command—and the officer himself said so—to discriminate between property which belonged to the whites and property which belonged to the Indians. Although General Jesup did not authorize the troops and friendly Indians to take the property of the whites, yet the consequence was, that all the property in the neighborhood—all the wild cattle and stock that could be had, was taken, and the white settlers suffered. This was so, although General Jesup did not authorize the troops and friendly Indians to take the property of the white settlers.

Mr. CHASE. Mr. President, I wish to state very briefly the reasons which will govern my vote upon this amendment. I should have been very glad if the Senate had thought fit to postpone the question, in order to accommodate the



Senator from California. But, as so large a portion of the discussion has been confined to matters which seem to me to be totally irrelevant to the real merits of the question before the Senate, I think it right that a few moments, at least, should be devoted to the questions which are actually involved.

Mr. RUSK. I wish to make another appeal to the Senator from Georgia to withdraw his opposition to the proposition to postpone this amendment. I do not believe that we now can take the vote with strict justice to these claimants.

Mr. DAWSON. I understand this matter, I think, perfectly well. This amendment is a question which is now before the Senate, and if it is desired to be discussed, let it be discussed; but let it keep its precedence as it now has it. Let us not take the question upon another proposition, and then fall back and take the vote upon this afterwards. I prefer that we should take the vote upon the two propositions as they now stand. If we keep both before us we shall have a full house to decide them, and get a full vote, and have the views of the Senate expressed more fully on both propositions.

Mr. CHASE. I have not the slightest disposition to consume the time of the Senate, as every Senator knows, and I should be extremely glad if the honorable Senator from Georgia would withdraw his objection. It seems to me to be due to the Senator from California, that it should be done. The amendment in regard to the Collins line of steamers stood first in order, and was set aside by general consent, for the accommodation of the Senator from Arkansas, [Mr. BORLAND,] who was not prepared to proceed with his remarks, in consequence of sickness. It was an indulgence to that Senator—an indulgence which is always granted by the courtesy of the Senate—which gave the amendment which has been proposed by the Senator from Tennessee its present position. I repeat to the Senator from Georgia, that I shall be extremely glad if he will withdraw his objection, and permit the proposition in regard to the Collins line of steamers to be taken up and acted upon.

Mr. DAWSON. When the bill shall be reported to the Senate, the whole matter will be entirely within the control of this body, and the speech of the Senator from Ohio can be as well delivered then as now; whether it be for or against this appropriation. I am not stubborn, nor do I generally interpose; but when I see two propositions before this body at once, and understand the relation which one bears to the other, I am disposed to occupy a position which, I think, will subserve justice on both sides.

The PRESIDENT. The Chair will have to interfere with the consumption of time upon a subject which is not before the body.

Mr. CHASE. I am not aware of any relation which exists between these two questions; I trust there is none. I trust the Senator from Georgia is altogether mistaken in the intimation which he has thrown out, that there is any connection between these questions. What connection can there be between them?

Mr. DAWSON. I referred to the number of Senators that we should have in the body. I thought that if both questions occupied the attention of the Senate, we should have a pretty full attendance, and that a fair vote could be taken.

The PRESIDENT. The Chair will have to interfere again, and say to Senators that the subject matter properly under discussion, is the amendment offered by the Senator from Tennessee. It cannot be set aside but by unanimous consent, to take up any other proposition.

Mr. CHASE. I shall, then, state, very briefly, the reasons which govern my vote, and I shall not speak at any length. I do not see that the discussion which has occupied so much of the time of the Senate as to the policy of the administration of General Jackson in relation to the Creek hostilities, has anything whatever to do with the question which is presented by this amendment. Whether the policy of that Administration was wise or otherwise, it cannot affect, as it seems to me, in the slightest degree, or ought not to affect in the slightest degree, the decision of this body on the question which is now presented to us. What is the naked, simple question before the Senate? It is, shall the Government of the United States pay the sum of \$355,000 for alleged depredations committed by the Creek

Indians upon the property of persons in Alabama and Georgia? That is the naked question. That is the whole question presented. It is simply, shall the Government of the United States pay that sum as indemnity for depredations committed by the Creek Indians upon the property of the citizens of those two States?

Now, what principle is invoked as the ground upon which this payment is to be made? It is said that these depredations were not committed during the existence of a state of war. That is a matter which is controverted. It is a matter, as it seems to me, of no moment whichever way it may be settled. The agents who were instructed, under the act of 1837, to inquire into the amount and character of these depredations were instructed to report them in three classes. In the first class, they were instructed to enumerate those claims which came within the provisions of the act of 1816, claims which might arise in a state of war. In the second class, they were instructed to report the claims which arose under the Indian intercourse act. And in the third class, they were instructed to report generally depredations committed by the Indians upon the property of the citizens. They reported certain claims within the first class. I think the aggregate of them was something like \$25,000. They were claims for which, in the opinion of the commissioners, the Government of the United States was responsible under the act of 1816. Under the second class they reported no claims at all. And, under the general head of Indian depredations, they reported a number of claims amounting to about a million and a quarter of dollars. The amount which they thought it would be proper to allow is the precise amount which is fixed in this amendment. This report was made in 1837. In 1838 it was brought to the notice of Congress, and, in the other House the present Comptroller of the Treasury, Mr. Whittlesey, then at the head of the Committee on Claims, made an elaborate report, examining the evidence, examining the principles, and disallowing the claim. That report, I believe, was concurred in by the House. From that time to this the question has remained in that state.

Mr. President, it seems to me somewhat extraordinary that a claim of this character—an old claim—pressed upon the attention of Congress—reported against, and perhaps also reported favorably upon, should be pressed here as an addition to a deficiency bill, already large in its amount, and, in fact, enormous and unprecedented in its amount. I am a little surprised that the friends of the Administration should desire to press into this deficiency bill an amount of this magnitude, when it is already swelled beyond all former precedent. At the same time, if the claim is well founded—if it is supported by principle, I should not, for that reason alone, withhold my vote from it. But, as I have already said, it is not within the principle of the act of 1816. It is not claimed to be within it. It is not within the principle of the intercourse act, although it is claimed to be so. I will, in a very few words, show the grounds of the opinion which I now express, that it is not within the principles of the intercourse act.

The intercourse act is not a recent one. The act of 1834, it is true, has been chiefly referred to in this discussion, but the principles of the intercourse act are almost as old as the Government. The act of 1796 contains the same identical principle which is contained in the act of 1834. What is that principle? Why, the Government of the United States draws a line, by which it separates from the Territories of the States the Indian country. Within that Indian country the tribes, and the General Government, exercise exclusive jurisdiction. The tribes are all under the tutelage of the Government, and it becomes the duty of the Government to exercise over those tribes within its own Territories constant supervision and superintendence. The object of the Government is to prevent depredation by those tribes; and in order to effect that, it has legislated, from the beginning of our Indian policy, so as to make the tribes responsible for those depredations. If an Indian, passing out of the Indian country, or within the limits of the Indian country, where he is under the jurisdiction of the United States, commits a depredation upon the property of a citizen, the mode of redress is pointed out by the statute. Proof of the individual claim is to be made. Then

a demand for the amount is to be made upon the Indian tribe. If payment is refused, the amount is to be withheld from the annuities due the tribe. In the ultimate event the Government guarantees the payment, but it does not guarantee the payment in any case where the individual so injured seeks private revenge. The object of all these enactments is to prevent the exercise of private revenge, and to maintain a rigid and constant supervision over the Indian tribes within the Territories of the United States. But never in any case, from the commencement of the Government up to this time, has the Government made itself responsible for depredations committed within the limits of any State. The reason for this is obvious. Within the limits of a State, the State authority is supreme and sovereign. In the Territories the only sovereignty to which an appeal can be made is the sovereignty of the United States. Within the limits of the States the duty of protecting the citizen devolves upon the State. Within the limits of the Territories the duty of protecting the citizen devolves upon the Government of the United States. But even there the United States does not seek to protect the citizen, except by its general legislation, and as a part of its general Indian policy. There is, therefore, as it seems to me, no ground whatever for saying that this claim comes within the principles of the intercourse act. If it does not fall within the provisions of the intercourse act, where does it fall? I desire that Senators shall consider for a moment what they are about to do when they vote for an amendment of this character.

I know of but two principles upon which this amendment can be successfully vindicated; and if they are wise principles of legislation, and of governmental policy, this amendment can be sustained; but if they are not wise principles, this amendment cannot be sustained. Is this Government responsible for bad legislation? If it is, then the amendment can be sustained. Is this Government responsible for bad administration? If it is, then this amendment can be sustained. If you show that there has been bad legislation, and bad administration, then you must prove that these are cases in which the Government ought to be responsible. These are the principles upon which this claim must be sustained, if it is sustained at all. Where would this principle lead us? It would lead us to the doctrine of assuming all the consequences of all the acts of legislation which may be adopted by Congress. If you repeal a tariff act, or reduce the tariff upon particular articles, injuries flow from that legislation. Great losses arise from such causes. Is the Government responsible for them? It is responsible, in my judgment, if it is responsible for these depredations.

Again: is the Government responsible for injuries which result from the general policy of the Government? It seems to me that the honorable Senator from Tennessee has argued this case as if it were. He has said that this treaty was unwise—that it necessarily led to the results which have been witnessed; and having led to these results, that the Government is responsible for the consequences. Then, if we are responsible for the consequences of this Indian treaty, we are responsible for the consequences of every treaty that we negotiate. We negotiate treaties with foreign Powers by which the interests of our citizens are largely affected. I will not individualize instances, because they will occur at once to the mind of every Senator. We can hardly negotiate any treaty where the results will not be injurious to somebody. Every treaty that we make—all legislation that we enact, turns the accustomed course of policy, and you cannot change the policy of a great Government and mighty people, without inflicting individual injury in some instances; but it has never been heard of till now that for these injuries the Government was responsible.

Mr. President, this question has been presented here again and again. It was presented by the constituents of my friend from Iowa, and my friend from Wisconsin, when they suffered so largely from the depredations of the Indians in the Black Hawk war; but this Government did not indemnify them. It was presented in the case of claims for Indian depredations in Michigan, but the Government refused to indemnify in that case. Uniformly, at all times, has the Government refused to sanction claims of this sort. It seems to me, therefore, that as these depredations do not fall

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within the principle of the act of 1816, as they do not fall within the principle of the intercourse law—as they must be vindicated, if they are vindicated at all, upon a principle which will open the doors of the Treasury so wide to claims of every description, that you may well cease to pass all deficiency and all appropriation acts—(for you will have no money left to appropriate)—we ought to pause before we adopt the proposition of the honorable Senator from Tennessee.

Mr. BRADBURY called for the yeas and nays, which were ordered, and being taken, resulted—yeas 20, nays 24; as follows:

YEAS—Messrs. Bell, Berrien, Borland, Brooke, Clemens, Dawson, Downs, Foot, Geyer, Gwin, Houston, Jones of Tennessee, King, Mallory, Mangum, Morton, Rusk, Sebastian, Seward, and Upham—20.

NAYS—Messrs. Adams, Bradbury, Bright, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Hamlin, Hunter, James, Jones of Iowa, Mason, Norris, Pearce, Shields, Smith, Spruance, Stockton, Sumner, Wade, Walker, and Weller—24.

The PRESIDENT. The question recurs on the amendment of the Committee on Finance, as amended, to insert the following:

For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the first of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$236,500: *Provided*, That it shall be in the power of Congress, at any time after the thirty-first day of December, 1854, to terminate the arrangement for any additional allowance herein provided for.

Mr. WADE. The two Senators from Pennsylvania wished me to announce to the Senate that they have paired off on this subject. Mr. COOPER, if he were here, would vote for the amendment, and Mr. BRODHEAD would vote against it. They wished me to state this fact to the Senate.

Mr. ADAMS called for the yeas and nays on the amendment, and they were ordered.

Mr. CHASE. I desire to offer an amendment to the amendment. It is to add to it the following:

*And provided further*, That the proprietors of said line of steamers shall consent to such a modification of the existing contract that the Postmaster General may advertise for and accept, under any future legislation of Congress, proposals for carrying the mails in steamships between the United States and Great Britain from and after the said 31st day of December, 1854, when the said contract shall cease to be obligatory.

Mr. GWIN. I appeal to the Senator from Ohio to withdraw his amendment. He can bring it forward after the bill shall have been reported to the Senate. I do not see any particular objection to his proposition, but it can be as well offered then as now.

Mr. CHASE. My only object in offering the proposition was to put the amendment into such a shape that I could vote for it. I hoped that it would meet with the acceptance of the friends of the amendment. But after the suggestion of the Senator from California, I shall withdraw it for the present, though I shall be obliged to vote against the amendment of the committee in its present form.

The PRESIDENT. The amendment to the amendment is withdrawn.

Mr. BORLAND. It was my purpose to have made a few remarks upon this amendment before it should be adopted; but I see a disposition in the Senate to vote on it now, and I am unwilling to defeat that wish, or postpone the gratification of it, especially as I have unfortunately been the cause of some delay already. I have, however, an amendment to offer to it, and some further remarks to submit, which I shall take occasion to offer and to submit when the bill shall be reported to the Senate.

Mr. MALLORY. Before the vote is taken I desire to say that, to oblige the honorable Senator from Delaware, [Mr. BAYARD,] who is now absent, I have paired off with him.

Mr. CASS. I mentioned before that I wished to have the amendment so modified as to terminate the contract on the 1st of January, 1854, in-

stead of the 31st of December of that year. Did I understand the Chair to intimate at the time that such a proposition would not be in order?

The PRESIDENT. Such a proposition would not now be in order; but it will be in order when the bill shall be reported to the Senate.

Mr. BELL. I desire to sustain this line; but I am inclined to think that I shall not vote for the amendment, in its present shape, when it comes into the Senate. I understand that an attempt will be made to modify it in the Senate. I wish to sustain the line by some reasonable and proper appropriation. I wish merely to say to the Senate, that although I shall vote for the amendment now, I do not commit myself to vote for it in the Senate, unless a modification shall take place in its terms.

Mr. DAWSON. I wish to take this occasion to state, that any vote that I may give now under the implied understanding, for the gratification of one of our fellow-members, that we should vote to-day, is no pledge in relation to the manner in which I shall vote when the proposition comes into the Senate, where it can be altered or modified. I am not in favor of the amendment as it now stands, but I vote for it now in order to keep the proposition before the body, so that we can have more time to deliberate upon it, when we come to act in the Senate.

The question being taken by yeas and nays upon the amendment, resulted—yeas 23, nays 21; as follows:

YEAS—Messrs. Bell, Berrien, Bright, Cass, Dawson, Downs, Fish, Foot, Gwin, Houston, James, Jones of Iowa, Mangum, Miller, Norris, Pearce, Rusk, Seward, Shields, Smith, Spruance, Stockton, and Upham—23.

NAYS—Messrs. Adams, Borland, Bradbury, Brooke, Chase, Clemens, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Geyer, Hamlin, Hunter, Jones of Tennessee, King, Mason, Morton, Sebastian, Wade, Walker, and Weller—21.

So the amendment was agreed to; and, on motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 19, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

Mr. SIBLEY. I believe there are no reports from committees this morning on territorial business. I move, therefore, that the House resolve itself into the Committee of the Whole on the state of the Union. I beg to make this single remark in addition. The House have set apart one week for the transaction of territorial business. Two days of that week have passed by, and nothing has been effected. I do not propose to interfere with the gentleman from Kentucky, [Mr. GREY,] who has the floor in committee; but I wish that there should be a general understanding in the House, that so soon as that gentleman shall have got through with his speech, the debate upon the territorial business shall be confined to matters which are relevant.

Mr. FAULKNER. I ask the gentleman to withdraw his motion for a moment, until I make a report.

Mr. SIBLEY. I withdraw it.

Mr. FAULKNER, from the Committee on Roads and Canals, to which was referred the memorial of the Legislative Assembly of the Territory of New Mexico, asking for said Territory the grant of \$50,000 to enable it to open a wagon road from Santa Fé to the valley of Taos, made an adverse report thereon; which was laid on the table and ordered to be printed.

On motion by Mr. FAULKNER, it was

*Ordered*, That the Committee on Military Affairs be discharged from the further consideration of the petition of Thomas Jefferson, relative to a military and agricultural school in the Territory of Nebraska, &c.; and that the same be referred to the Committee on Public Lands.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported, as correctly enrolled, the following bills:

H. R. 205. "An act to regulate the mileage of the Delegate from the Territory of Oregon."

H. R. 219. "An act to authorize the Legislature of the State of Mississippi to sell the lands heretofore appropriated for the use of schools of that State, and to ratify the sales already made." The bills severally received the signature of the SPEAKER.

A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that they had passed House bill No. 217, entitled "An act to legalize certain entries of public lands made in the State of Florida."

Mr. SIBLEY. I now renew the motion to go into Committee of the Whole on the state of the Union on the special order.

Mr. HALL. If the motion to go into Committee of the Whole on the state of the Union be voted down, I would inquire what would be the regular business in order?

The SPEAKER. The unfinished business, which is the report of the Committee on Printing.

The question was then taken, upon Mr. SIBLEY's motion, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee, in the chair.)

## LEGISLATURE OF NEW MEXICO.

The CHAIRMAN. The business first in order is Senate bill No. 134, authorizing the Governor of the Territory of New Mexico to call an extra session of the Legislative Assembly of said Territory, should the same be deemed necessary and expedient.

Mr. GREY, who was entitled to the floor, addressed the committee an hour in regard to the action of the Whig Congressional caucus upon the subject of the compromise measures. [His speech will be found in the Appendix.]

Mr. RICHARDSON. The time has now arrived for action upon this bill, and I propose to amend it by striking out "ninety days," and inserting "sixty days". I desire to say, in relation to that amendment, that the Territorial Committee deem sixty days to be long enough for the Territory to hold a called session of the Legislature; in fact enough for their regular session. There is this difficulty in that Territory, which does not exist in any of our other Territories, and occasions the necessity for the passage of this bill, now under consideration, amended as I propose to have it—

Mr. WEIGHTMAN. With the permission of the gentleman from Illinois, I want to correct an error into which he has fallen. The amendment which the committee itself proposes, is ninety days. The original proposition was six months, as appears by the bill itself. The gentleman has forgotten that this bill was reported by the committee several months ago; and, latterly, they have had under consideration the question to extend the time of the regular session, which, as the gentleman has said, is sixty days.

The CHAIRMAN. I understand the gentleman from Illinois proposes an amendment to the amendment of the committee.

Mr. WEIGHTMAN. I wished to correct the error into which the gentleman from Illinois has fallen. He said that the committee were in favor of sixty days. He is mistaken; ninety days is what the committee have recommended. The object of the bill was to give us one long session, to enable us to draw something like order out of the great confusion that prevails there growing out of the frequent changes which have been made, the military government superseding the Mexican government, and the territorial government superseding that, to say nothing of the side-blow that Texas gave us.

Mr. RICHARDSON. I will correct the misapprehension into which I suppose I have fallen. I believe I was not present when this bill passed the committee. I recollect that when this subject was up in relation to the time of their regular session, they agreed then that sixty days was long enough. I will state to the gentleman, and to the House, that they can have this called session sixty days preceding their regular session, and run it to

one hundred and twenty days, and if they cannot make laws sufficient with what we give them to govern the Territory, no time that we can give the Legislature will be sufficient. I doubt very much whether they will better, during the time they continue in the territorial state, the laws under which they live. Some of them need amendment, no doubt. I was proceeding to state, when I was up, that there was a necessity why this Territory should have more time to transact its legislative business than our other Territories, and it arises from this fact: The proceedings of the Legislature are carried on, necessarily, in two languages, the Spanish and the English. Interpreters have to be had, when a motion is made by those who speak the Spanish language alone, to interpret it into English, so that both may understand what the proposition is. When a proposition is put for the action of the legislative body, it has to be stated in both languages. It takes more time, consequently, to transact their business than our other Territories.

The CHAIRMAN. The Chair must remind the gentleman that the Committee on the Territories have reported an amendment to strike out six months and insert ninety days.

Mr. RICHARDSON. To that I propose an amendment to insert sixty days.

Mr. WEIGHTMAN. Ninety days is the recommendation of the committee, and sixty days the individual recommendation of the gentleman from Illinois, who is the chairman of the Territorial Committee. I hope that his amendment will not prevail.

Mr. STUART. The Committee on Territories considered this subject with a great deal of care, and were very clearly of the opinion that ninety days were necessary. The bill as introduced and referred to the committee, asked for six months. The Delegate representing that Territory furnished some very strong arguments to show that six months were necessary; but the committee decided—and I think with considerable unanimity—that is, of the members present, as the honorable chairman [Mr. RICHARDSON] was not present—from an investigation of the facts which the Delegate brought to their attention, that three months were necessary in order to enable that Territory to consummate their duties. The main difficulty consists in the fact that their territorial assembly is composed partly of members speaking the Spanish and partly of those speaking the English language. So that an interpretation of the speeches is necessary before they can be understood or replied to by gentlemen in that Legislature. I trust that the committee will not adopt the amendment of the gentleman from Illinois, [Mr. RICHARDSON], but permit the bill to stand as it is.

The question was then put upon the amendment of Mr. RICHARDSON to the amendment of the committee; and it was not agreed to.

The question then recurred upon the amendment of the committee, to strike out "six months," and, in its stead, to insert "ninety days;" and it was agreed to.

Mr. WEIGHTMAN. I move that the bill be laid aside, to be reported to the House.

The motion was agreed to.

#### MILITARY ROADS IN OREGON.

The committee next proceeded to the consideration of House bill No. 187, being "A bill for the construction of military roads in Oregon Territory."

Mr. FLOYD was recognized by the Chairman as being entitled to the floor.

Mr. RICHARDSON. With the gentleman's permission, I will give the notice—

Mr. FLOYD. I yield for a moment to the gentleman, but not my right to the floor.

Mr. RICHARDSON. I am satisfied, in my own mind, that discussion with regard to the politics of the country will continue; but I now give notice to the gentleman from New York, who has obtained the floor, of my intention, as soon as he departs from the discussion of the question immediately before the committee for consideration, to raise and insist upon the point of order that such debate is irrelevant and improper. I will press the point, and have a vote of the committee upon it.

Mr. CARTTER. I call the gentleman to order.

Mr. FLOYD then commenced giving his views

on the subject of slavery, and presenting the northern view of the subject; when

Mr. CLINGMAN said: I rise to the question of order that this discussion is irrelevant. Ordinarily I would not have raised this point, but at the present time I deem it to be my duty to appeal to the Chair to decide, whether or not this discussion is in order.

The CHAIRMAN. The Chair decides that the discussion is not in order; and, if the point is insisted upon, the Chair will be compelled to enforce order.

Mr. FLOYD. It is no more out of order than that which was indulged in by others, on these territorial bills.

Mr. CLINGMAN. I do insist upon it.

Mr. CARTTER. From the decision of the Chair I appeal.

Mr. POLK. Why not allow the gentleman from New York to enjoy the same privileges that others have in debate?

Mr. CLINGMAN. I objected, during our last session, to this kind of discussion.

The CHAIRMAN. The gentleman from North Carolina makes the point of order, that the remarks of the gentleman from New York [Mr. FLOYD] are not germane to the subject-matter of the bill now under consideration, and therefore out of order. The bill provides for an appropriation to construct certain roads in the Territory of Oregon. The gentleman from New York has been discussing questions of slavery and the general policy of the country. The Chair decides, and would have decided at any time, had the point been raised properly, that, under the rules of the House, this debate is not in order. From this decision of the Chair, the gentleman from Ohio [Mr. CARTTER] appeals. The question then is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. CARTTER. I will make the simple inquiry of the Chair, whether he did not decide that this description of debate was in order, on the occasion of the point of order being raised on the gentleman from New York, [Mr. KING] by the gentleman from Illinois? [Mr. RICHARDSON.] Did not the Chair then announce that it was in order, in the Committee of the Whole on the state of the Union to discuss matters pertaining to the Union? And, I will further inquire, has not that been the uniform practice?

The CHAIRMAN. The gentleman from Illinois called the gentleman from New York to order before he had advanced to the substance of his speech. He had stated at the commencement that he intended to discuss the compromise, so far as it related to the Territories. It was impossible for the Chair, at that time, to see what relation the gentleman's remarks would have to that particular bill, and he pointed to a clause in the bill which made reference to one of the particular measures embraced in the compromise, to which the gentleman from New York said his remarks would be addressed. The Chair then decided that he was in order, stating distinctly that it was because the gentleman had not advanced far enough in his argument to enable him to decide what its nature would be. If the question had been presented in the shape it is now, the decision of the Chair would then have been the same as it is now. It is very easy for the committee, if they are disposed to indulge this latitude of debate, to overrule the decision of the Chair.

Mr. DEAN. I would like to make an inquiry. Has not such latitude always been permitted, and would it not be in order to move to allow the gentleman to proceed?

The CHAIRMAN. The Chair will reply that sometimes these things have been permitted, and at other times they have been refused by the committee. I have known many instances in which the decision of the Chair has been sustained, and others in which it has been overruled.

Mr. HOUSTON. My recollection, however, is—and I have no more disposition to cut off the gentleman from New York [Mr. FLOYD] than any other gentleman—that the days which have been appropriated by special order of the House to territorial business, have never been consumed in this rambling, general debate. I do not understand that they have ever been; and while I regret—

Mr. CARTTER. I call the gentleman to order.

Mr. HOUSTON. I am in order. I do not propose to—

The CHAIRMAN. The gentleman is not in order.

Mr. HOUSTON. I do not propose to debate it further, except with this addition. If the gentleman from New York, [Mr. FLOYD] and if members of the committee will adhere to the rules as decided by the Chair, we will soon get through this territorial business, pass these bills through the House, and then the appropriation bills will be before us, on which this debate would be in order. It is evident to all of us, that if we persist in a course of this sort—or if we resort to the process suggested by the chairman of the Committee on Territories, of having the committee rise with the view of adopting a resolution to close debate, and then again going into committee when, as each bill is taken up, some one will get up and make an hour's speech; the result will be that the Territories will be excluded from the benefit intended by the special order. If gentlemen will wait but a few days, the appropriation bills, upon which latitude of debate is always allowed, will come up, and can be discussed in a general way. I therefore appeal to gentlemen to let the decision of the Chair stand, and let us go on with the business before us.

Mr. RICHARDSON. I desire to say that I made the point of order upon the gentleman from New York [Mr. KING] the other day, and I was anxious then that this irrelevant debate should be stopped. As he was permitted to proceed, I have not felt that I could with propriety make the point, or press it now. This much I deemed necessary to say, in my own justification.

The CHAIRMAN. The Chair feels it incumbent upon him to arrest this debate upon the question of order, as by rule thirty-five he finds that these questions are required to be decided without debate. The question will be upon the appeal.

Mr. DEAN. I ask for tellers.

The question was then taken upon the appeal, (Messrs. WILLIAMS and ROBINSON acting as tellers) and there were—ayes 58, noes 46; no quorum voting.

[Cries of "Call the roll!" "Call the roll!"]

The roll was then called, and the absentees noted. The committee then rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order; and having found themselves without a quorum, had caused the roll to be called, and the names of the absentees to be reported to the House.

Mr. STEPHENS, of Georgia. Report the absentees.

The list of absentees was then read as follows: Messrs. Charles Allen, William Appleton, Ashe, Avrett, D. J. Bailey, Thomas H. Bayly, Beale, Bibbighaus, Bissell, Bocoock, Bowne, John H. Boyd, George H. Brown, Burt, Busby, Lewis D. Campbell, Colcock, Cottman, Daniel, Darby, Dawson, Dinmick, Doty, Dunlap, Edgerton, Edmundson, Freeman, Goodnow, Goodrich, Green, Hammond, Hays, Hascall, Haven, Hebard, Horsford, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, Andrew Johnson, James Johnson, Kuhus, Landry, Mann, McCormick, McDonald, McMullin, McQueen, Mencham, Meade, Miner, Henry D. Moore, Nabers, Orr, Andrew Parker, Price, Rantoul, Ross, Russell, Schermerhorn, David L. Seymour, Smart, Smith, Benjamin Stanton, Richard H. Stanton, Sutherland, Sweetser, Benjamin Thompson, Toombs, Walbridge, Watkins, Wells, and Alexander White.

The SPEAKER. There being a quorum now present, the committee will again resume its session.

The Chairman of the committee resumed the chair.

Mr. RICHARDSON. I am willing that the gentleman shall proceed in his remarks, and if I can obtain the floor upon these bills I will make a motion to limit debate upon all of them to five minutes.

Mr. CARTTER. That is right. We will go for that.

The CHAIRMAN. That can be done by unanimous consent, if there is no objection.

Mr. STANLY. I object.

Mr. CLINGMAN. As it seems to be the general desire, I withdraw the point of order I made, with the understanding that irrelevant debate is stopped after the gentleman from New York [Mr. FLOYD] concludes.

Mr. CARTTER. I withdraw the appeal made.



Mr. FLOYD resumed, and concluded his remarks without further interruption. He said that the number of persons in the North who had any other than extreme dislike to slavery was exceedingly small, and their influence inconsiderable; nor would the citizens of that portion of the country willingly consent to the extension of slavery. They had but one voice on that subject, and that was for the personal and individual freedom of man. He then reviewed the compromise measures, expressed his objections to the fugitive slave law; and in conclusion said, that if the Democratic party should incorporate the compromise measures in their creed as a test, they would meet with disaster and defeat.

[The speech of Mr. F. will be found in the Appendix.]

Mr. F. having concluded—

The CHAIRMAN. If there is no amendment to be offered to this bill, it will be laid aside to be reported to the House.

Mr. RICHARDSON. I intend, before I take my seat, to move that the committee rise. My object is to terminate debate on this bill; and it is my desire to do so on each succeeding territorial bill upon the calendar, as it may come up, so that the matters contained in the bill may be discussed upon their merits under the five minutes rule. I move that the committee rise and report the bill already laid aside to be reported.

The question was then put and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the State of the Union had had the state of the Union generally under consideration, and particularly the special order, and had directed him to report to the House Senate bill No. 134, with an amendment, and House bill No. 187, without amendment, with a recommendation that they do pass.

Mr. RICHARDSON. My motion included only one of the bills. The latter bill for the construction of military roads in Oregon Territory has not been discussed.

Mr. STANTON, of Tennessee, (the chairman of the committee.) I suppose the gentleman from Illinois [Mr. RICHARDSON] must be mistaken, as the chairman of the Committee of the Whole expressly asked whether there were any amendments to be offered to that bill, and if there were none, that it would be laid aside to be reported to the House.

Mr. RICHARDSON. I believe the bill is right, and I think it does not need any amendment. I intended, however, to include only one bill in my motion.

Mr. HOUSTON. It was certainly not understood that the bill, which was last under debate, was to be reported to the House. I expressly asked the question.

The SPEAKER. The Chair only knows the report made by the chairman of the committee.

Mr. STANTON. There is certainly no mistake about it.

Mr. RICHARDSON. If there be no objection, I will move to recommit the last bill to the committee again.

The SPEAKER. The first bill will be reported to the House. It is Senate bill No. 134, authorizing the Governor of the Territory of New Mexico to call an extra session of the Legislative Assembly of that Territory, should the same be deemed necessary and expedient. The Committee of the Whole have reported this bill to the House, with an amendment, striking out the words "six months" in the seventh line, and inserting "ninety days." The first question is upon the adoption of the amendment.

The question was then put, and the amendment was agreed to.

The bill, as amended, was then ordered to be engrossed for a third reading; and having been engrossed, it was read the third time and passed.

#### MILITARY ROADS IN OREGON.

The bill for the construction of military roads in Oregon was next in order.

Mr. RICHARDSON. There is, I believe, no objection to the bill for the construction of military roads in Oregon Territory, although it was not discussed upon its merits in the Committee of the Whole on the state of the Union. Almost every

other question but that was debated. There proceeds from the Committee on Territories, or any member, no proposition to amend it, so far as I know, and I will, therefore, call for the previous question upon it.

Mr. BROOKS. With the gentleman's consent I will ask him a question. I desire to know whether these roads come here with the recommendation of the War Department, or that of any officers of the War Department; and whether there is any estimate, or anything of that kind? I desire to add, before the answer is made, that hitherto such appropriations for military roads have been included in the army bill. I do not rise to throw any obstacle in the way to the passage of the bill.

Mr. RICHARDSON. I will reply that the gentleman from Indiana, [Mr. ROBINSON,] not now in his seat, reported this bill from another committee than that of which I am a member. The delegate from Oregon understands fully this subject, and with a view to allow him to submit an explanation, I withdraw my call for the previous question.

Mr. BROOKS. The gentleman will perceive that the bill, as it stands, is a bill for internal improvements, though ostensibly said to be for military roads. Hitherto, as I have remarked before, such appropriations have been in the army bill. A military road in an army bill is one thing, but a bill beginning a system of internal improvements is altogether another. If these roads come from the War Department, intended to be included in the army bill, I do not see why they should be made an original bill. I wish to be informed on what authority they have been proposed.

Mr. LANE. I think I shall be able to satisfy the gentleman from New York with regard to the provisions of this bill. It was introduced by myself, and referred to the Committee on Roads and Canals. That committee reported it back, with the recommendation that it do pass.

It is true the bill is not predicated upon any recommendation of the Secretary of War, nor have the committee reported the same upon any other evidence than the representations made by myself, showing the absolute necessity which exists for the appropriation provided for in the bill under consideration. The bill provides for the location and establishment of a military road, commencing at Fort Silacom, on Puget's Sound, north of Columbia river, and terminating at Fort Wallawalla, a distance of not more than one hundred and seventy miles. This road is important as a military thoroughfare, and quite indispensable to the convenience of the citizens of the northern portion of the Territory, as well as emigrants traveling in that portion of the country. Another road, or rather a continuation of that to which I have just alluded, is proposed to be established from Fort Silacom to a point on the Columbia river, some forty miles from its mouth; and this too is necessary for the transportation of supplies for the troops at the fort I have just mentioned. The bill now before the House further provides for opening a road from the mouth of Myrtle creek, on the Umpqua river, to Camp Stewart, in Rogue River Valley. At or near this point troops designed for the protection of the emigrants on the frontiers of the Territory will, in all probability, be stationed. If a garrison is established there, (and I have no doubt there will be,) the construction of this road will be found indispensable for military purposes. The country through which these roads pass is exceedingly difficult of access, and the appropriations proposed to be made by this bill are, in my opinion, demanded not only for the military uses I have specified, but are essential to the convenience of a large portion of the people I have the honor to represent here.

Mr. HOUSTON. That bill came into the House from the Committee of the Whole on the state of the Union more by a misunderstanding than anything else. I was aware that it was a bill making appropriations for the construction of roads in the Territory of Oregon, and I inquired of the chairman at the time the vote was about to be put upon the motion that the committee rise, whether this bill was to be reported or not. He told me that this bill was not to be included in his report. I stated that if this bill was included in the report, I should interpose objection. Now it turns out to be—

Mr. RICHARDSON. There was a misapprehension between the chairman of the Committee of the Whole, [Mr. STANTON, of Tennessee,] and myself. I did not express myself as I had designed to. My object was to report the bill in relation to New Mexico, and when we got into the House to move the termination of debate upon this one in committee, in order, as soon as might be, to bring the committee to a vote upon it, and afford opportunity for the consideration of other territorial bills.

Mr. HOUSTON. I do not wish to throw any obstacles in the way of the progress of the territorial business. I have shown throughout that my desire is to proceed with that business as rapidly as we can with safety; but it must be evident that this bill is not before the House in a condition that will justify it in voting its adoption. I trust the Delegate from Oregon will give me his attention for a moment. I understand that the roads to be constructed under the appropriations proposed in this bill have never been surveyed under the orders of the War Department. Am I correct in that assertion?

Mr. LANE. That is so.

Mr. HOUSTON. The Delegate acknowledges the correctness of that declaration. It is true we have in days gone by—but it is a policy to which I have never subscribed, but, on the contrary, have always condemned as an individual member of this House by my vote—prosecuted these roads under the direction of the War Department, after that Department had made the survey of lines and reported to us the estimates and the necessity for them. In this case, as I understand the Delegate from Oregon, it is a bill introduced by himself and carrying out his own views of the wants and necessities of his constituents; but with a view to have the bill meet with the general acquiescence of the House, the Delegate very wisely and very shrewdly placed the expenditure under the direction of the War Department, when in truth and in fact there has never been a survey of the roads, and no order for a survey to be made. There has been no examination of their locality; and we know nothing of the views of the War Department relative to this bill, or the necessity for the construction of the roads proposed in it. If we propose to build military roads under the direction of the War Department, it seems to me but proper respect we owe to the Secretary of War and to ourselves, that we should first authorize an examination and survey to be made, and allow him to report to us the estimates and the necessity for the construction of the roads, and for what purpose they are intended to be used. Upon his estimates and report, the House can then base its action.

Mr. SIBLEY. I wish to correct a statement the gentleman has made, with regard to the general policy pursued in the construction of these roads. I pursued the very same course that the Delegate from Oregon is now pursuing, at the first session of the last Congress. I introduced a bill, granting to Minnesota a sum of money to construct certain roads in that Territory, which never had been surveyed by the War Department, which was referred to a committee, and reported back favorably; but, in accordance with precedent, that money was placed under the charge of the War Department, and the Secretary of War was made responsible for its proper disbursement. I make this statement, to correct the misapprehension of the chairman of the Committee on Ways and Means.

Mr. HOUSTON. That does not alter at all the principle I have set out with. The gentleman states that he introduced bills in the manner that the Delegate from Oregon has now done, at the first session of the last Congress. That may be so; but the earlier practice and precedents of the Government, I presume, up to the very session when the Delegate from Minnesota introduced the bill to which he alludes, has universally been, that the War Department make its surveys and estimates before the House is called upon to act. What are we now doing? Who, in this House, except the honorable Delegate from Oregon himself, knows the necessity of these roads, either in a local or a military point of view. I ask my friend from Illinois [Mr. RICHARDSON] whether he has not already stated that he did not report this bill, and therefore does not stand responsible for its provisions. I will ask the gentleman who did

report the bill, what evidence has he other than the recommendation of the Delegate—whose opinion would go a great length with me—that the construction of this road is necessary in a military point of view? I presume none. We are without information. We are giving to the Secretary of War, for his superintendence, the construction of roads for which he has not asked, and which he does not state are at all necessary. We have no report from him as evidence of a necessity for the construction of these roads. The Delegate here, in the discharge of his duties as a representative of the interests of the people of Oregon Territory proposed the construction of these roads in a bill which was introduced by himself, referred to a committee, by whom it was formally reported back.

Mr. ROBINSON. I regret that I was not present when the gentleman from Alabama alluded to me, and I would beg that he repeat his allusion, that I may, if necessary, make a reply.

Mr. HOUSTON. I do not know that I made allusion to the gentleman. The only allusion which could possibly be construed as bearing upon him, if he reported the bill, was my statement, that I presumed the gentleman reporting this bill had no survey, no estimate, no evidence that these roads were needed for military purposes, excepting the recommendation of the Delegate from Oregon, [Mr. LANE.]

Mr. ROBINSON. It is very true that the Committee on Roads and Canals had no estimates from the War Department in reference to these roads. They had no information upon the subject further than their own general knowledge of the wants of that Territory with regard to roads, and the representation of the Delegate from that Territory—a representation, allow me to say, in which the committee placed the most implicit confidence, and upon which they would act with as much judgment and satisfaction as if they had had a dozen estimates from the Secretary of War.

This, if I understand it, is the first appropriation ever asked for that immense Territory—an appropriation of but \$50,000, and comprehending three or four different roads. They thought it was not an extravagant demand upon Congress. They thought it, in fact, but a very moderate one, looking to the precedents which they have had before them in reference to appropriations for other Territories—Minnesota, for instance, the last year, and other Territories, from the commencement of the Government down to the present time. I am astonished that the gentleman from Alabama [Mr. HOUSTON] should raise the objections he has, and that he should desire that Territory to wait the action of the War Department in sending out a corps of engineers to explore that country, who, I undertake to say, and believe, would know far less about the wants of the Territory, and where these roads should be located, than the Delegate from that Territory, who has traveled over it so much, and who represents that people. This is all I have to say upon the subject. I believe the committee were unanimous upon the subject, and not a solitary objection was made.

Mr. BROOKS. My object in calling the attention of the House to this appropriation was not so much to throw any obstacle in the way as to have an understanding of what we are about. I have no doubt that the Delegate from Oregon [Mr. LANE] is as well qualified to speak upon this subject as anybody could be, and perhaps better; but it is necessary, and desirable, if the House are to vote the appropriation, to understand that we vote it upon the authority of the Delegate from Oregon—on his authority alone—and that we ourselves, or the committee who report it, know nothing of the matter, except what comes from the Delegate from Oregon. If the House has that sort of confidence, and I am not indisposed to share it with them, let the responsibility go to the proper quarter, and let the appropriation be considered as coming from that quarter, and no other. I wish, however, to invoke the attention of the House to this deviation from the ordinary mode of procedure; that is, following out the estimates from the Departments before we launch forth in appropriations for roads, especially in distant Territories. There is no certainty that the Delegate from Oregon can tell the House that the \$50,000 in this bill will begin to make the roads for which he asks appropriations, because he has had no survey of the routes—no reconnaissance, even. Indeed, he

knows nothing of them but from general observation. He has had no calculation submitted to him, no estimates from engineers or other topographical officers; and I venture to say, that the \$50,000 appropriated in this bill, and intended for these roads, are but the beginning of a quarter of a million which must follow hereafter to complete them. The roads being established by a law in this bill, further appropriations can be inserted in another appropriation bill hereafter, all in proper order. It is well enough, then, for the country to understand that this is a new mode of doing business here, which the Delegate has introduced. For myself, I have never been able to see the difference between internal improvements for a Territory and internal improvements for a State. I know that there is an attempted metaphysical difference which some persons assume, but in point of fact, the money goes from a common Treasury for both Territories and States to make like roads in both, and they amount to the same thing in substance and in principle, I think. If these be mere military roads, the War Department ought to ask for them, if they ought to be made; and if they be appropriations for internal improvements in Oregon, the Committee on Commerce ought to investigate them, and if a proper object, insert them in their general bill.

Mr. HOUSTON. I supposed that the gentleman from New York, when he interrupted me, desired to make a mere explanation. I do not exactly approve of the plan of this making a speech in the way of explanation.

Mr. BROOKS. I have concluded the remarks which I intended to make. My object was to have an understanding upon the subject, so that we may know how much money is to be paid, from what authority it comes, and who is to be held responsible. These facts the debate has elicited.

Mr. HOUSTON. We have seen already one of the evil consequences of this mode of procedure. There is the gentleman from New York [Mr. BROOKS] who, upon a former occasion, as I thought then and I believe now, very improperly endeavored to shift the responsibility from his friends in power, gives us notice in time now, that these appropriations are not to be charged in that quarter. In this instance I agree with him. The gentleman from Indiana [Mr. ROBINSON] has fallen into a very great error, when he undertakes to say that the judgment of the Delegate from that Territory is to be relied upon as accurately, or more so, than a survey from the War Department. I am not asking specially for an estimate to close the necessary survey. All I desire is, that we shall have a survey; that there shall be a survey, before we are called upon to make an appropriation of this sort. Does the gentleman who reported these, tell us that the appropriations will complete these roads? Have we any evidence how much they will cost?

Mr. LANE. If the gentleman will allow me, I will explain. The gentleman from Alabama [Mr. HOUSTON] seems to be anxious to defeat the appropriations for these roads, for reasons which no doubt are very satisfactory to himself. But if he could be placed in Oregon upon some peak of the Cascade range of mountains, and look over the country, he would see the absolute necessity which exists for small appropriations, for the purpose of making it possible for the people of that country to pass over these mountains, and for the convenience of our military posts. It is necessary that these roads should be made in both points of view, for military purposes, and for the convenience of our people. If that gentleman could see the emigration passing over these mountains, and see thousands of families with their teams broken down, and mountains before them which they cannot cross, without the sacrifice of a large portion of their property, he might comprehend the necessity of this small appropriation for the purpose of making it possible for these emigrants to pass over that district of country, without this unnecessary sacrifice of their property. It is practicable to make a good road from Fort Walla-Walla to Fort Stilacon, and for this purpose we ask the appropriation of \$20,000.

Mr. BISSELL. How many miles is it from Fort Walla-Walla to Fort Stilacon?

Mr. LANE. One hundred and fifty miles that should be opened, so as to make it possible for emigrants who desire to settle around Puget's Sound to pass over that district of country and

terminate their journey at Puget's Sound. As the roads are now, emigrants are compelled to travel to Oregon City or Portland, and then two hundred miles from these places to Puget's Sound. I am well acquainted with the topography of Oregon, and I hazard nothing in saying that even with all that we may hope to obtain from the action of the General Government in the establishment of military roads necessary for military purposes during the hours of our territorial infancy, the construction of roads within our country will impose upon our people an amount of taxes no State in the Union has expended for similar purposes; and I understand the feasibility of that which I proposed by this bill fully as well as I could hope to do with the reports of any gentleman who might be sent to survey these roads by the War Department.

Mr. SEYMOUR. I wish merely to address an inquiry to the Delegate from Oregon, [Mr. LANE,] to see if I correctly understand him. He says that he is as well acquainted with this matter, and understands as well the feasibility of the road to be made as any gentleman sent out by the War Department. I wish to ask him whether the sum proposed to be appropriated will be sufficient to finish the road.

Mr. LANE. The appropriations are altogether insufficient to complete the roads, but I believe the sum asked for here, is sufficient to make it possible for people to pass from Walla-Walla to Fort Stilacon, and save a distance of near two hundred miles. In a military point of view, it is absolutely necessary that this road should be made. The other appropriation which I ask for, is for a road from near a point selected as a military post in the Rogue River Valley, Camp Stuart, to the mouth of Myrtle creek, or Umpqua river. That is a section of country over which some of our troops passed, last season, and at a heavy cost of transportation. We have no permanent peace with the Indians there, and a garrison must be established in the Rogue River Valley. We must use the road for military purposes, and for the convenience of military defense in Oregon Territory. I can say to the gentleman from Alabama, [Mr. HOUSTON,] further, that I have no reason to believe that the Secretary of War will take prompt measures, if an appropriation for the survey of these roads should be made, towards sending out an agent to that country. I recollect that gentleman, the Secretary of War, told me in this House, three months ago, that troops would be sent out this season for the protection of emigrants en route to Oregon; and since that, he has written me a letter, in which he states that he cannot do it; and in my speech, I then stated that I felt confident the Secretary of War would comply with his promise, and send out troops, and my remarks have gone to the country, and upon my assurances, based upon this promise of the Secretary of War, emigrants have started for Oregon, expecting protection on the way. It was the duty of the Government to afford them protection. But no such protection, it seems, is to be afforded them, and the consequences of this neglect upon his part, remains yet to be known. If I had as much confidence that the War Department would, in any event, seek, or even favorably regard, the promotion of the interests of the people of Oregon, as the gentleman from Alabama [Mr. HOUSTON] seems to entertain, I would, perhaps, consent to delay this appropriation until the Secretary of War would cause those roads to be surveyed.

I do not think I have ever seen the moment when I would give my consent to appropriate improperly a single dollar of Government money, or to waste unnecessarily, in any way, one cent of the public Treasury. And in this instance, I ask for this appropriation for the reasons I have already stated, and because many petitions have been presented here, asking appropriations for the construction of these roads.

Mr. DEAN. How long will it take to send a Government agent out there to make these surveys, and what will it cost?

Mr. LANE. To send out an agent to survey those roads, and make a report, and then to get the appropriation bills passed through Congress, would require a period of not less than three years.

Mr. HOUSTON. I will say in reply to the question of the gentleman from New York, [Mr. DEAN,] which seems to me, I confess, to be rather

a queer question, and to be answered in rather a queer way,—that I have no doubt the gentleman from Oregon knows just as much about the time that would be consumed in sending out and having surveys made, as he does about the cost of making the roads without surveys. I have no hesitation in saying, in reply to the very emphatic remark of the gentleman from Indiana, [Mr. ROBINSON,] that I have as much confidence in the representations of the Delegate from Oregon as anybody; but then I have not confidence enough in any member of this House, either from a State or a Territory, to agree to support appropriations, commencing a system of internal improvements when no man can tell whether it will cost ten thousand or one hundred and fifty thousand dollars.

Mr. ROBINSON. Yet, you would have confidence in a cadet from West Point.

Mr. HOUSTON. I would have confidence in the Department that has control over the subject of surveys. If the House has not confidence in it, it would be as well, and much better to disband that branch of our military service.

It will not do for us to attempt to justify what I regard as a loose practice of legislation by saying that I have no confidence in the War Department, or its officers. If we have no confidence in them, let us suspend them and be done with it. Why keep up an engineer corps if we have no confidence in what they do? We send them out to survey our rivers. The gentleman from Indiana, I presume, has voted for appropriations to survey rivers preparatory to their being made navigable.

Mr. ROBINSON. I never have done it in my life.

Mr. HOUSTON. Well, if the gentleman has not, other gentlemen have who are quite as reliable as either he or I.

But, sir, I am not opposing this bill upon the ground of want of confidence in the Delegate from Oregon—not at all. That does not come up. But I put it to the House, are you prepared now, even with all the sympathy for the Territories which we all have, and which I have—are you prepared to commence a system of internal improvements at the mere request of the Representative from a Territory?

I understand it to be the practice of the Committee on Commerce—and if I am mistaken, the chairman of that committee can correct me—not to make appropriations for harbors and rivers, and all that class of internal improvements, unless there has been a survey, and estimates accompany that survey.

Mr. SEYMOUR, of New York. With the permission of the gentleman from Alabama, I will say, that so far as my knowledge is concerned on the subject of appropriations for what are termed "internal improvements"—embracing in that term appropriations for rivers and for harbors, and, I will also add, for roads—I believe the general practice has been almost universally to require a survey and an estimate from the Topographical Bureau before the Government has been called upon to enter upon the work. I deem it a judicious and safe practice, and one which ought not, without good reason, to be departed from.

I will, with the permission of the gentleman from Alabama, add that I believe there have been cases of appropriations made for rivers and harbors, where the amount has been very definite, and could be definitely ascertained from the representations that were made to the committee, so that they believed not a very large expenditure would be required, in which, without going through the formality of a survey and estimate, the appropriations have been made. But the general rule is as the gentleman from Alabama has stated.

Mr. HOUSTON. The gentleman from Oregon himself places this bill upon a ground on which I do not think this House can venture to sustain it, even with what I regard, as I before remarked, the rather loose rule of construction on the subject of internal improvements which exists in the minds of many of my friends on both sides of the House. The gentleman says that these roads are important for emigrants to pass over; and that unless the appropriation is made, the emigrants going to that country cannot get there.

Mr. LANE. The gentleman did not understand me.

Mr. HOUSTON. I will yield to the gentleman for explanation.

Mr. LANE. Every gentleman in the House will recollect that I stated that the road from Fort Stillacoom to Fort Walla-Walla was necessary for military purposes, and for the convenience of emigrants going into that country. I furthermore stated that a road from Columbia river to Fort Stillacoom was also necessary, for the purpose of transporting supplies from the Columbia river to that post, for the subsistence of the troops garrisoned there. I then undertook to show, and perhaps I did it very imperfectly, that a road from the settlements in Oregon to Rogue River Valley was necessary for military purposes. I have recently received a number of letters stating that the Rogue River Indians have already threatened depredations, and that with the opening of summer a bloody Indian war may be expected. Now, if the Government does not send out a force for the protection of the people of Oregon Territory, and of those *en route* to and from California, the people of Oregon will have to organize a volunteer force of their own, sufficient to chastise these Indians. A point has been selected in Rogue River Valley, near where Captain Stuart was killed last summer by these Indians, and a road leading south from Myrtle creek, on the Umpqua river, to the Rogue River Valley, is necessary for military purposes, and would also be very convenient for the people of the Territory.

I desire now to call the attention of the House to the fact, that Oregon Territory is costing the Government of the United States very little. There are but few troops there, and this is the first appropriation that has been asked for the purpose of assisting the people of the Territory in making roads. The formation of the country is such, as to require some aid from the Government—something more than the people themselves can do, to enable them to open ways to travel to and from the important points, and the military posts of the country. If the gentleman from Alabama could see at this moment, that in case of Indian hostilities, it would cost more than the amount of the appropriation asked, to remove the troops from one point to another in the Territory, he certainly would not oppose this appropriation. It is a small one, and I know it to be necessary. I am not sure that some military commander has not recommended it, but as I have no official information of that fact, I will not say that it has been so recommended.

In conclusion, I will add, at the risk of a little repetition, that while it is true that the roads I have mentioned, and for the establishment of which this appropriation is asked, would prove of great utility and convenience to a large portion of the people of Oregon, they are seriously demanded by the military interests of the country, and I hope for that reason, if for no other, will not be denied.

Mr. HOUSTON. I shall now conclude, in a very few words, what I have to say upon this subject. And I wish to reply to the view presented by the gentleman from Indiana, [Mr. ROBINSON] and repeated by the gentleman from Oregon, that this is a small appropriation, that it is not extravagant, and that it is the first the Territory has asked for. Now, I feel the force of all that, but I ask if it touches the principle involved? I do not care if it is only a hundred dollars; still, if in truth it is not necessary, why, then, it is an improper appropriation. I do not charge the Territory with being extravagant. On the contrary, it is one of your cheapest Territories. But I think I dispose of the argument of the gentleman by saying, that although it is not a large appropriation—some fifty or sixty thousand dollars being embraced in the bill—yet, if the fifty thousand dollars are not necessary, if they are to be thrown away, if they are to be expended upon roads that may turn out to be useless, why, then, as a matter of course, it is an appropriation that ought not to be made.

The Delegate from Oregon says these roads are necessary for military purposes. Now, if he is correct in that statement—and I have no doubt he is honest in his opinion—why did he not refer this matter to some of the military authorities for the purpose of obtaining information which could be relied upon? Why, he says "the military bureaus are not to be relied upon." Mr. Speaker, they are relied upon to furnish the estimates

necessary for the War Department, and it is reasonable to suppose that the head of the War Department knows where troops are necessary, and what facilities are required for those troops, better than the Delegate from the Territory of Oregon, or any member of this body. They know better whether roads are necessary, from one point to another, and where they shall be located.

But it is a singular fact, and one to which I wish to call the attention of the House, that although these roads purport to be military roads, the bill was reported from the internal improvement committee. Now, if they are military roads, why did the bill go to the Committee on Roads and Canals? Its proper destination, if they are military roads, would have been the Committee on Military Affairs. That committee properly has charge of all objects and matters relating to the defense of the country, and of roads necessary to the transportation of troops and supplies.

But some gentlemen seem to question whether it has been the practice for the War Department to estimate for these roads. Now, here I find in the estimates for the present session of Congress one for a road from Point Douglass, across the Territory of Minnesota, to the Missouri river; and there are other estimates here for roads in the same Territory. Now, these are estimates submitted to the House, the present session of Congress, by the proper authorities. If, then, it was proper for them to do that for Minnesota, why is it not proper for them to go a little further, and do the same thing for Oregon? So it seems to me, notwithstanding the argument of the gentleman, the practice of the House has been the other way.

Mr. SIBLEY. If the gentleman will allow me, I merely want to state, that all these roads have been surveyed by the War Department.

Mr. HOUSTON. I am glad the gentleman has told me that. All these roads have been surveyed under the direction of the War Department, and I think a like survey is necessary for the roads provided for in this bill.

Mr. LANE. I ask the gentleman from Alabama to recollect, that the surveys he proposes to make would cost this Government more than the appropriation this bill proposes to make to construct the roads.

Mr. HOUSTON. That may be. It may be that the roads would never be surveyed at all; that the Department which has charge of the military operations of the country would decide that they were not necessary in that region in the country.

Mr. HENN. My recollection in regard to these appropriations is, that they were first made without estimates from the War Department, and that estimates were afterwards made, and the recollection of several gentlemen to whom I referred was the same, for their continuation or completion. I have, however, referred to the law upon the subject, and I find it bears me out in my recollection, inasmuch as appropriations have been made precisely similar to that proposed in this bill.

Mr. HOUSTON. I thank the gentleman for his recollection; but when it comes in direct conflict with the record I have before me, I am compelled to rely upon the record, and not his memory.

Mr. HENN. Those estimates are for roads already surveyed.

Mr. HOUSTON. I will show the gentleman that he is mistaken upon this subject, and that he has not examined it, as he could not, because he has not had the time. Why, is it a supposition that is reasonable, that after an appropriation for the construction of a road has been made and expended that the War Department should then survey the road and estimate for it? No, sir. Before you proceed with the work, it must be surveyed and the estimate made out. All these things must precede the making of the appropriation. That is my recollection; and, if you will go back to the practice of the Government, I am quite sure you will find that I am correct. I do not pretend to deny that there may be cases differing from it, but you will find that it has been the general practice of the Government.

Mr. BISSELL. There is scarcely anything which enlists my sympathy more deeply than the interests of the Territories. My feelings are so strongly drawn out towards that class of our citizens who go to inhabit the distant Territories, that I can hardly ever bring my mind to the conviction



that I ought to vote against anything they ask for. I want to vote for this bill; but, with the lights before me, I greatly fear I shall be compelled to concur in the views of the gentleman from Alabama, [Mr. Houston,] and vote against it. The bill proposes to make an appropriation of \$50,000 for the construction of three roads in Oregon. Now, I do not know but the necessity of the case requires that these roads shall be made. I do not know but it is the duty of the General Government to make them, and our duty to appropriate twice that amount. But I confess that I have nothing in the evidence before me to justify me in voting for it.

Now, I will not ask the committee who reported this bill, and who now call upon us to support it, so much as some other gentlemen have done. I will not ask that agents shall be sent out there to examine into the matter, to survey the roads, to ascertain their utility, and the cost of their construction. I will not ask that, for it would consume too much time, and possibly be unnecessary. I will not even ask that the committee shall call upon the Secretary of War and ascertain his views with regard to the necessity or propriety of constructing these roads; as to the necessity of the appropriation, and for his information as to the disposition to be made of the troops in that Territory for the future. I only ask this, and let gentlemen say if it is not reasonable: I ask that some member of that committee will rise and state to the House that the committee have examined the subject for themselves; that they have, with maps before them, traced out the direction and distance of these roads, their practicability, their utility, and the cost of their construction. If any member of the committee will say that committee did this, and, after having done it, agreed unanimously to report the bill, I will vote for it.

Mr. MASON. The Committee on Roads and Canals had this subject before them, with maps, and the statement of the Delegate from Oregon, [Mr. Lane,] and my recollection is that they agreed unanimously to report it to the House.

Mr. BISSELL. Then the gentleman will beat no loss to answer a question or two with regard to it. Will he tell me what is the distance of the first road proposed to be constructed?

Mr. MASON. It has been some time since the action of the committee upon it, and I have forgotten what is the distance. I recollect, however, that the committee examined the subject thoroughly, and were satisfied in relation to the merits of the bill.

Mr. BISSELL. Then it is so long a time since that examination was made that the committee are not now prepared to give the House the information it may desire; but I think that the bill merits an examination.

Mr. MASON. I hope you will examine it.

Mr. BISSELL. For that purpose, before I take my seat, I shall move to recommit it to the Committee on Military Affairs.

Mr. HENN. I now wish, with the consent of the gentleman from Illinois, to ratify my statement in regard to this matter, by reading a law which made an appropriation for a road in Iowa, which I recollect when I interrupted the gentleman from Alabama. It was passed March 3d, 1839. It provides—

"That the sum of \$20,000 be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated to, to the opening and construction of a road in the Territory of Iowa, from Dubuque, on the river Mississippi, to such point in the northern boundary of the State of Missouri as may be best suited for its future extension by that State to the cities of Jefferson and St. Louis, within the same; that the Secretary of War be empowered and directed to cause such road to be constructed by contract or otherwise."

There is evidently an appropriation without any previous survey or location of the road. A subsequent section of the same act reads as follows:

Sec. 3. And he it further enacted, That the following sums are hereby appropriated to several objects, respectively, which are hereinafter described:

For the opening and construction of a road from Burlington, through the counties of Des Moines, Henry and Van Buren, towards the seat of Indian agency on the river Des Moines, \$1,000.

For the improvement of the road from Burlington, in the Territory of Iowa, to De Haques, in Illinois, the sum of \$2,500, in aid of a like sum contributed towards the same act by the town of Burlington."

Ob. In this section there is an appropriation of \$5,000 for a road which had not been previously surveyed.

Mr. HOUSTON. As the gentleman seems determined to press his point upon me, I will ask him a question. I would like to know whether the gentleman has examined the matter, and can say to the House that this appropriation was not made for a survey?

Mr. HENN. The face of the law shows that it was not.

Mr. HOUSTON. The face of the law shows no such thing. There may have been another appropriation further back for a survey. This law does not show that there was not.

Mr. HENN. There was no appropriation made for these roads prior to that time, and there was no survey made prior to that time.

Mr. STEPHENS, of Georgia. I ask the gentleman from Illinois to give way for a motion to to adjourn.

Mr. BISSELL. With the understanding that I still retain it, I will give way for that purpose.

Mr. STEPHENS. I then move that the House do now adjourn.

Mr. McLANAHAN. I ask the gentleman from Georgia to allow me to request the unanimous consent of the House to take up from the Speaker's table a bill from the Senate in regard to the census, in relation to which there is a dispute between the States of South Carolina and California, to which of those States shall be entitled to a Representative upon a fraction. It is necessary that the bill should be speedily acted upon, and I ask the unanimous consent of the House to take it up and refer it to the Committee on the Judiciary.

[Cries of "Agreed!"]  
There was no objection, and the bill was accordingly taken up and referred to the Committee on the Judiciary.

Mr. STEPHENS. I now renew the motion to adjourn.

The motion was agreed to, and  
The House adjourned till to-morrow at twelve o'clock.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ROBE: The petition of citizens of Greenwood and Troupsburgh, Steuben county, New York, and from the town of Deerfield, Tioga county, Pennsylvania, for the establishment of a post route from Rough and Ready post-office, in the town of Greenwood, through West Union, at the head of Bennett's Creek, via Joshua Slyers, in the town of Troupsburgh, Steuben county, New York, to the village of Knoxville, in Tioga county, Pennsylvania, by the Brookfield post office, in said State.

By Mr. BROWN, of Mississippi: The petition of Nathaniel Lee, of Smith county, Mississippi, praying for the privilege of changing a land location, made by mistake, in the Augusta land district, in Mississippi.

By Mr. SCIDDER: The petition of Daniel Bassett and others, for a buoy to be placed on the "Lone Rock," near Hyannis harbor, Massachusetts.

By Mr. CLARK: The memorial of James Blake and 55 others, citizens of the county of Clayton, in the State of Iowa, asking that the General Government shall no longer traffic, nor permit traffic, in the public lands; and that they be laid out into farms and lots, for the free use of such citizens as will occupy them.

By Mr. FLORENCE: Three memorials from citizens of Pennsylvania, asking a modification of the revenue laws, so as to increase the duties upon iron.

Also, the memorial of William Scott, praying for an invalid pension from the date of receiving his wounds.

By Mr. ROBBINS: The petition of Miles N. Carpenter and 48 others, citizens of the county of Philadelphia, asking that the act passed September 28, 1850, be so modified as to give to each of the persons intended to be benefited thereby at least one hundred and sixty acres of land.

Also, the petition of William K. Jones and 44 other citizens of Schuylkill county, Pennsylvania, asking a modification of the tariff of 1846, so that the duties now levied on iron shall not, in any valuation that may be put upon it, be less than its admitted proper standard of forty per cent. *ad valorem*.

Also, the petition of Charles Frailey and 92 other citizens of Schuylkill county, Pennsylvania, on the same subject.

Also, the petition of Milton Cake and 32 other citizens of Pennsylvania, on the same subject.

Also, the petition of Thomas Williams and 40 other citizens of Schuylkill county, Pennsylvania, of similar import to the above.

#### IN SENATE.

THURSDAY, May 20, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. SEWARD presented a petition of O. B. Pearson and others, praying that the bill now pending before Congress, granting to every man who is the head of a family and a citizen of the

United States, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. BORLAND presented a petition of citizens of Clark county, Arkansas, praying the establishment of a mail-route from Achadelphia to Hot Springs in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. FISH presented a petition of citizens of New York, praying that the bill now pending before Congress, granting to every citizen of the United States, who is the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. SUMNER presented a petition of laborers in Boston, praying that the bill now pending before Congress, granting to every citizen of the United States, who is the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. SOULE presented the petition of Puig, Muir, & Co., praying that duties paid by them upon American casks and barrels may be refunded; which was referred to the Committee on Finance.

Also, the petition of Charles Belcher & Co., praying that duties paid by them upon American casks and barrels may be refunded; which was referred to the Committee on Finance.

Mr. DAVIS presented a petition of citizens of Sunderland, Massachusetts, praying that the bill now pending before Congress, granting to every citizen of the United States one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. CASS presented a petition of citizens of New York, and a petition of Frederick county, Maryland, praying that the bill now pending before Congress, granting to every citizen of the United States, who is at the head of a family, one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

#### BILLS PASSED.

The following bills were read a third time, and passed:

An act granting the right of way and a portion of the public lands to the State of California to aid in the construction of a railroad from the city of San Francisco to the city of San José, in that State; and

An act to authorize the President of the United States to designate the places for the ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon.

The title of the last-named act was amended, by adding after the word "Oregon" the words, "and for other purposes."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed a bill, authorizing the Governor of the Territory of New Mexico to call an extra session of the Legislative Assembly of said Territory, should the same be deemed necessary and expedient. It was read a first and second time by its title, and referred to the Committee on Territories.

The resolution from the House of Representatives, changing the name of the St. Peter's river, in the Minnesota Territory, was read a first and second time by its title, and referred to the Committee on Territories.

#### RAILROAD IN WISCONSIN.

On the motion of Mr. DODGE, of Wisconsin, the Senate proceeded to consider, as in Committee of the Whole, the bill granting to the State of Wisconsin a donation of public lands, to aid in the construction of a railroad from the city of Milwaukee to the Mississippi river.

The amendment reported by the Committee on Public Lands, to make it conform to bills passed of a like character, was amended and agreed to.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

The question was then stated to be: "Shall the bill be engrossed, and read a time?"

Mr. FELCH. I do not wish to interpose any objection to this bill, but to state the facts, upon

which the Senate may act as their judgment may direct. This bill was one of the earliest reported by the Committee on Public Lands. Two bills were referred to that committee, both for roads commencing with Milwaukee, and both running to the Mississippi river. The committee reported this bill which left the point open upon the Mississippi river to be fixed by the Legislature of the State. The other bill proposed to commence at Milwaukee, and run to Prairie la Croix, thus fixing the point on the Mississippi river. Both bills provided for roads running from the same point to the Mississippi river—one fixing the point on the river, the other not. Subsequently the Senator from Wisconsin, [Mr. WALKER,] by an amendment incorporated in another bill, fixed the point on the river at Prairie la Croix. That was adopted by the Senate and passed. That was not, however, reported by the committee. My impression was, that when that was adopted, it would be a substitute for this bill running from the same point. I wish to ask the Senators whether their design is to obtain the passage of two bills for roads, both commencing at the same point on Lake Michigan—Milwaukee—and both running to the Mississippi river; one fixing the point there at Prairie la Croix, and this one leaving the point open to be fixed by the Legislature? The action of the committee was never had upon the other bill fixing the point at Prairie la Croix; that is, it was never reported upon. We thought it better to leave the point upon the Mississippi to be fixed by the Legislature. This seems to be the same route, and I ask the attention of the Senators from Wisconsin to it.

Mr. DODGE, of Wisconsin. I would state, in answer to the Senator from Michigan, that this bill does not designate the point on the Mississippi river. The Legislature of the State have given instruction to their Representatives upon that subject. I will furthermore state, that the road has been commenced, and twenty-eight or thirty miles of it completed. It is, perhaps, one of the best railroads in the United States. It has been graded for a distance of forty or fifty miles. The whole distance is not to exceed one hundred and sixty-three miles. The great proportion of our population is south of the Wisconsin river. A large amount has already been expended upon the road, and they are now running cars upon part of it, and the belief is that it will reach Madison, the seat of government, in the course of twelve months. In my course, I have been governed by the opinion of the Legislature of the State, and by my own views of the propriety of the subject; and I trust the Senate will not, under the circumstances of the case—the road having been commenced, and the grading having been completed for, perhaps, fifty miles—throw it aside, and give the preference to other roads, where the population is sparse.

Mr. WALKER. I should regret exceedingly if this bill should fail. The Senator from Michigan is clearly under a misapprehension about one fact. His opinion is, that the two roads upon which we have proposed legislation conflict with one another. That is a mistake. This bill, as I understand my colleague, and as I always have understood the bill, contemplates a road now in process of construction, from Milwaukee, by way of Madison, in the State of Wisconsin, to the Mississippi river. That road is now partly completed, and much the greater part of it is now under contract. There are trains of cars running upon it regularly some distance further than my colleague supposes. I think the cars are running on it for a distance of about forty-five miles. They are running to the edge of Jefferson county. That road runs in a southwesterly direction from Milwaukee, while the road to Prairie la Croix runs in a northwesterly direction. The northwestern road connects with a stretch of the Mississippi river, which lies in the direction of Milwaukee, for some one hundred and seventy miles, and connects with the St. Peter's river, with the new Menominee purchase, and the new territory which we are about to acquire in the northwest—the Mississippi river connecting with this road, to run in the direction of Milwaukee. It is almost a straight line from Milwaukee, in connection with the route to Chicago, and thence by the Central Railroad to Mobile, in Alabama. It consequently forms an entire connection south, by way of Chicago, Milwaukee, and through this stretch of the Mississippi river in the Northwest, and, as I remarked before,

forming a connection with the new country called St. Peter's country. It is an entire mistake to suppose that the grant for the road leading southwest from Milwaukee at all conflicts with it. The points diverge from each other at Milwaukee, the one running southwest, and the other northwest, to the Mississippi river, at Prairie la Croix, connecting there with the river, and also with St. Peter's river.

The Senate need not be a great deal alarmed about this grant, for I think I can assure them that the route through which this road is surveyed is almost entirely sold. If this road would take the alternate sections in any portion of the State, it would be in rather a poor region of country, and would have a tendency, as the bill increases the price of the alternate sections, to bring into notice, and into the market, lands which have been heretofore refuse lands, and which, I have no doubt, will continue so for all time, unless this road should be constructed. I do not think that Congress, even if this was granting an out and out donation, would be granting a great deal; but, as the alternate sections are refuse lands, and will probably only be sold by this means, I think the Government will lose nothing by making the grant. I hope it will be made, and that the bill will pass.

Mr. DAWSON. I think, Mr. President, it is very desirable on the part of the Senate to investigate this question a little more thoroughly. The chairman of the Committee on Public Lands has stated that one of the bills for the State of Wisconsin which has already passed this body, never received the sanction of that committee. It was an amendment, as I understand, presented to the body, and providing for a railroad from Milwaukee to the Mississippi river. This bill proposes another road, to start from Milwaukee again, and to go to the Mississippi river in another direction. It is said that this bill was introduced by the Senator under legislative instruction. Now, sir, is it saying too much on the part of one who feels a deep interest in these public lands, that it seems as if the Senators from the new States are only to introduce bills asking for appropriations of public lands to build railroads, and no investigation whatever takes place? This bill has one thing to recommend it which others have not, making donations of public lands for the purpose of building railroads—it is a railroad already incorporated, I suppose, for the benefit of a private company. Am I right?

Mr. WALKER. Yes, sir.

Mr. DAWSON. I am correct. This railroad has then been incorporated, and a private company has undertaken its construction. It has not yet completed it, but has in operation about fifty miles of it.

Mr. WALKER. Forty-five.

Mr. DAWSON. And we are now called upon to give to the company the alternate sections for a certain distance on each side of the road, beginning at Milwaukee, until it runs to the Mississippi river, although forty-five miles have already been constructed. The road for which a bill has already been passed, runs, of course, if not parallel, diverging from Milwaukee to the Mississippi. The two roads may start a mile from each other, possibly a hundred yards, or may be from the same depot, and lead to the same stream; and the only suggestion made on the part of the Senator from Wisconsin here, is, that he wants to tap the Mississippi below at one point, and above at another point, in order to avoid the communication between these two points on the Mississippi, which I suppose to be navigable from point to point. I presume there can be no doubt of that.

Then, can we be acting with justice towards the Government and the finances of the country, and with any degree of justice towards the older States, when we thus liberally, and without any necessity whatever, give these public lands, as they are thus asked for? The Senator from Wisconsin, who last addressed us, [Mr. WALKER,] for the purpose of lulling us, and satisfying us that this thing is to amount to nothing, states that the lands along this road are so poor that nobody has settled upon them, and that they never will be settled upon. If that be true, there is no necessity for a railroad there. If the soil be so poor, and the population so sparse, then there is no earthly necessity for it.

Mr. WALKER. I said no such thing. The Senator misunderstood me. I said that the lands remaining unsold were the refuse lands of the

country. It is a densely-settled country; but the lands remaining unsold are refuse, such as river bluffs and creek bluffs. I sell the alternate sections for \$2 50 an acre, if for anything, more readily by the construction of this road, and consequently the Government will lose nothing.

Mr. DAWSON. All the good lands are sold. Where, then, are you to get the alternate sections to make the complement? You must go off to other portions of Wisconsin to get them.

Mr. WALKER. You cannot get them on this road.

Mr. DAWSON. You cannot get them on this road, but you can get them somewhere in the State of Wisconsin. For the purpose of looking into this matter, and feeling an unwillingness at any time to go against my friend from Wisconsin, [Mr. DODGE;] and because of the suggestion of the chairman of the Committee on Public Lands, representing a new State, suggesting that even he thought this ought not to be allowed; and thinking it due to the Representatives of the old States that they should have an opportunity to look into it, I move to postpone the further consideration of the bill until to-morrow.

Mr. FELCH. Mr. President, my desire was not so much to throw any difficulties in the way of this bill, as to state the facts as they occurred. The committee were disposed to grant to the State of Wisconsin a report in favor of one of the roads across the country, from Milwaukee to the Mississippi river. That was our design; and we said to the Senators from that State that we had no choice, of course, in regard to the route. My impression was, when the amendment was made to the other bill, which passed some few days since, which made the terminus of the route on the Mississippi river, at Prairie la Croix, that it was intended by the Senator to be a substitute for this bill. With that we were content; and I did not think it my duty, when it was presented, to make an explanation, supposing that when this came up it would be satisfactory to all parties not to act upon it.

I wish further to state, that there is an application before the committee for another railroad across the State, from the waters of Lake Michigan to the waters of the Mississippi river, taking a route still further north; and the committee, in acting upon that, if they are to recommend the allowance of two roads, very probably might prefer the route further north, connecting the same waters—the river on the one side, and the lake on the other—rather than have two commencing at the same point. The road proposed in this bill may be laid, consistently with the description of this bill, from Milwaukee to Prairie la Croix—the same route as the other; or it may be laid to some other point. So the Senator is mistaken in supposing that I did not understand the subject when I referred to the point on the Mississippi. Both roads might run to the same point, or they might run to different points. I think it would be well to postpone the further consideration of the bill for some time, so as to permit the matter to be considered.

Mr. HUNTER. I move to postpone the further consideration of the bill until Monday, so that we may take up the deficiency bill.

Mr. DODGE, of Wisconsin. I am perfectly willing.

The motion was agreed to.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1852."

Mr. HALE. I offer the following as an amendment to the bill:

SEC. — And he it further enacted, That all acts and parts of acts authorizing or supposed to authorize any greater compensation to officers of the United States Navy than is provided by the "act to regulate the pay of the Navy of the United States," passed March 3, 1835, be and the same are hereby repealed.

I have some facts which I want to submit to the Senate, in support of the amendment; but there is so much "noise and confusion" that I do not know whether I shall be able to be heard.

The PRESIDENT. The Chair will endeavor

to put an end to the "noise and confusion" which prevails in the Senate Chamber.

Mr. HALE. If I can gain the attention of Senators, I will endeavor to give them the knowledge of the state of the facts.

The PRESIDENT. The Chair will call the attention of the Senator to the fact, that the amendment does not seem properly to come into the bill.

Mr. HALE. I think it does. I suppose the Chair does not rule that as a point of order. The amendment relates to the very subject of the bill now before us; and I think if I can gain the attention of Senators, they will see that a part of the deficiency, which the bill is intended to supply, grows out of what is proposed to be remedied by the amendment. The bill is to supply deficiencies; and I propose to show that some of those deficiencies arise from what I conceive to be the illegal action of the Navy Department, which I want to stop in future, so that there may be no further deficiencies arising from it.

The PRESIDENT. The Chair has no disposition to prevent the Senator from offering any amendment that does not conflict with the rule which has been adopted.

Mr. HALE. This does not make any appropriation.

The PRESIDENT. It does not need an appropriation to make it conflict with the rule.

Mr. HALE. Let the rule be read.

The Secretary read the rule, as follows:

"Rule 30. No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate."

The PRESIDENT. The Chair is satisfied. The Senator can offer his amendment.

Mr. HALE. Then I desire to call the attention of the Senate to it.

Mr. HUNTER. I do not rise to make a question of order; but will the Senator from New Hampshire, before he goes into that, permit me to appeal to him to withdraw the amendment, and wait until the general bill comes up? How shall we ever get along with this deficiency bill, if we proceed in this manner?

Mr. HALE. I will make a statement, and then, I think, the Senate will bear me out in the opinion that I ought not to comply with the request of my friend from Virginia. The reason why I offer this amendment now, and do not wait for the general appropriation bill, arises from this fact: It appears, by reference to the Journal of the Senate of last session, that when the general naval appropriation bill was before the Senate, an amendment was proposed to it, by which the pay of two lieutenants in the Navy was to be raised from \$1,500 to \$3,000 a year. We took a vote upon one of them, and it was rejected. The other, I believe, was put in by the House; and, when we came to vote upon that, there was no time to discuss it, as it had been reported to the Senate but two or three days before the end of the session. There was, therefore, this injustice done: the pay of two naval lieutenants, both put upon special duty, was recommended to be increased to \$3,000 a year: to the one, the Senate refused, by a vote of 24 to 16, to give that increase, while the other received it, because we had not time to vote upon it. It will be seen, by the Senate Journal of March 3, 1851, that an amendment was proposed by the committee to the appropriation bill to raise the pay of the lieutenant who had charge of preparing the Nautical Almanac, from \$1,500 to \$3,000 a year; and that, on the question of agreeing to that, the yeas were 16, the nays 24. By that decisive vote, the Senate refused to sanction this expenditure of the public money. To my astonishment, I learned, since 1852 commenced, that the very lieutenant, whose salary the Senate had so decisively refused to raise to \$3,000 a year, had been to the Department and had received, since we have been in session this year, his pay raised to that amount; and not only that, but had it carried back, beginning with the 11th of July, 1849. Although the Senate, by its vote at the last session, refused to raise the salary, the Department has raised it, and carried it back to 1849. Learning that such is the fact, I introduced a resolution into the Senate on the 19th of April last, which passed, requiring the Secretary of the Navy to give to the Senate the names of the officers who were receiving greater compensation than was provided by the act of

March 3, 1835, the times they received it, and the law under which it was received. The Secretary answered that, and his report was printed and laid on the table. I find he puts down in it the individual engaged in preparing the Nautical Almanac as receiving \$3,000 a year since July 11, 1849; and the authority under which he pays it, he says is the naval appropriation bill of March 3, 1849, and estimates. The act and estimates together form the authority. I looked to see if it could be found in the act of March 3, 1849, and I found this provision:

"That a competent officer of the Navy, not below the grade of lieutenant, be charged with the duty of preparing the Nautical Almanac for publication, and that the Secretary of the Navy may, when, in his opinion, the interests of navigation would be promoted thereby, cause any nautical works that may, from time to time, be published by the hydrographical office, to be sold at cost, and the proceeds arising therefrom to be placed in the Treasury of the United States."

That is the law; and looking to the estimates, I find "for calculating, printing, and publishing the 'Nautical Almanac, including the pay of the Superintendent, the sum of \$6,000." The whole of the estimates for the bureau amounted to \$64,200, and the appropriation was that sum less \$6,000. Failing, then, to find in the law or estimates, any authority for this payment, I addressed a letter to the Fourth Auditor, stating to him, that I perceived by a paper laid on our table by the Secretary of the Navy, that he was paying this officer \$3,000 a year, and I said, "You will greatly oblige me by informing me under what provision, section, or clause of the naval appropriation act of March 3, 1849, you find authority for such an allowance; when such a construction was first put on said act, and when application was first made for such allowance, and when an actual payment was first made to Mr. Davis, receiving his salary at \$3,000 a year."

The Auditor answered that on May 4, 1852, inclosing various papers. Amongst the rest he gives as authority, in the first place, the following letter from Mr. Maury, in regard to the authority upon which the allowance was made:

NATIONAL OBSERVATORY,  
WASHINGTON, January 30, 1852.

I know that it was the object of the framer of so much of the act of March 3, 1849, as relates to the Nautical Almanac, to make the pay of the superintendent of that work \$3,000 per annum. I say I know it, because, in my estimate for the support of this office for that year, I asked for \$3,000 for commencing the preparation of the Nautical Almanac, and for \$3,000 for the pay of the superintendent thereof. The whole amount called for by the various items of the estimate for that year was passed, except an item of \$6,000 for the payment of duties on nautical instruments, books, maps, charts, &c. That item was stricken out, and the law of January 26, 1849, passed in its stead, which provides for the admission of all such articles duty free.

M. F. MAURY.

That is one of the papers which the Comptroller of the Treasury sends as aiding him in his decision. But that is not all. There happened to be present in this city at that time a member of the last Congress, and he comes in to certify. Mr. Samuel F. Vinton says, in a letter, as follows:

WASHINGTON CITY, January 31, 1852.

In the estimates of the Navy Department for the fiscal year ending June 30, 1850, for the support of the hydrographical office for that year, there was an item of \$6,000 for preparing a Nautical Almanac for publication; of which \$3,000 was for the compensation of the officer having charge of the work, and the remaining \$3,000 for other expenses of the Almanac. The whole item was included in the appropriation for the hydrographical office. I was then chairman of the Committee on Ways and Means, and in making the appropriation of this item as asked for, it was my expectation, and I have no doubt it was the intention of the committee, that the money should be expended in accordance with the objects specified and recommended in the estimate, and that the sum of \$3,000 would be paid to the officer having charge of the preparation of the almanac, as recommended.

SAMUEL F. VINTON.  
To Captain CHARLES C. DAVIS, United States Navy.

There is, then, the declaration of Mr. Maury, that he knows what was in the mind of the man who framed the bill; and there is that of Mr. Vinton, who says it was his expectation, and no doubt that of the committee, that the officer should be paid \$3,000 a year. But that is not all. Here is a letter from the Secretary of the Navy, addressed to the First Comptroller:

NAVY DEPARTMENT, February 9, 1852.

Sir: It appears from the files of this Department that the estimate submitted for the support of the hydrographical office for the year ending June 30, 1850, embraced an item of \$3,000, for the pay of the Superintendent of the Nautical Almanac; that the whole amount called for was \$64,200, including \$6,000 for the payment of duties on nautical books, charts, and instruments imported by that office for the use of the Navy; that by the act of January 26, 1849,

\$4,000 were appropriated for refunding the duties that had already been paid by the office, while a clause was added remitting those duties in future; and that this amount required for the payment of duties being deducted, the whole amount of appropriation asked for was given and passed in the bill making appropriations for the support of the Navy for the year ending 30th June, 1850;—thus showing, in the opinion of this Department, that it was the intention to conform in legislation to the estimates of the Department, and consequently to make the remuneration of the Superintendent of the Nautical Almanac \$3,000, in compliance with the estimate.

It is the opinion of this Department that the law of March 3, 1849, entitles this officer to the above salary; and it is the wish of this Department that the office of Superintendent of the Nautical Almanac should occupy the position, and be placed on the footing originally contemplated both here and in Congress.

I am, very respectfully, your obedient servant,  
WILL. A. GRAHAM.

Upon that letter of the Secretary of the Navy, that certificate of Mr. Maury, and that certificate of Mr. Vinton, the First Comptroller of the Treasury bases an opinion that this officer is entitled, not only during the year 1849, but ever since, to the payment of \$3,000 a year; and notwithstanding the Senate voted last year they would not pay it, since we have been in session—last February—that officer, with these papers, has been to the Department and drawn \$3,000 a year, commencing in 1849. Now, I have said in the amendment, that I want to repeal the laws that authorize, or seem to authorize, such a payment as this. By the act of March 3, 1835—I think the honorable Senator from North Carolina [Mr. BADGER] will bear me witness to it—Congress have provided as specifically as they can, that the salaries there provided shall be in full of all compensation to the officers of the Navy. The estimates that were submitted to Congress say nothing about it; but the Secretary of the Navy says, "it appears from the files of this Department." There is stowed away in the Department of the Secretary of the Navy, an estimate from Mr. Maury, Superintendent of the National Observatory, putting this sum at \$3,000 a year. That estimate was never submitted to Congress. Congress passed the act giving to that Department the sums they required, and thereupon it is solemnly decided that it authorized the Secretary, in the face of the act of March 3, 1835, to raise the salary of a lieutenant from \$1,500 to \$3,000 a year. To show that I am not mistaken in the facts, I will read from a letter of Mr. Dayton, dated May 4, 1852, in answer to an inquiry. He says:

"Agreeably to the circular of the Secretary of the Treasury of March 19, 1852, I addressed my reply to you, and have the honor to state, that the allowance in question was made by the Second Comptroller of the Treasury upon a reference of the case from this office, and that a copy of the letter containing his decision, and of your communication to this office therein referred to, and of two certificates, (one from Lieutenant M. F. Maury, and the other from the Hon. Samuel F. Vinton,) which were presented by Lieutenant Davis in support of his claim, is herewith inclosed. I believe that the first application of Lieutenant Davis, for pay at the rate of \$3,000 per annum, was made in the year 1849 or 1850; but as it was not in writing, I cannot speak with certainty as to the date. He was referred to the then Second Comptroller of the Treasury, who, I think, expressed an opinion adverse to his claim. The construction of the law and estimates relating to the case under which the allowance was made, was first communicated to this office by the Navy Department in the letter of February 9, 1852, of which I inclose a copy, and by the Second Comptroller in the letter of the 17th of the same month, of which a copy is also inclosed.

"The first payment to Lieutenant Davis, at the rate of \$3,000 per annum, was made in March last, but it included the difference between the pay he had received and that to which it was determined that he was entitled from the 11th of March, 1849."

"He was referred to the Second Comptroller of the Treasury, who, I think, expressed an opinion adverse to his claim. The construction of the law and estimates was first communicated to this office by the Navy Department, in a letter of February 9, 1852."

Since we have been in session this year, upon an application, and this certificate of Mr. Maury, who says he knows what was in the heart of the man who drafted the bill, and of Mr. Vinton, who says it was his expectation, and the expectation of other members of the committee, that the salary of \$3,000 would be paid, they have, since last February, paid that officer, from the year 1849 to the present, at that rate, in the face of the very decisive vote of the Senate, when this thing was directly presented to us. These are facts which appear by documents that have been printed, and are upon every Senator's table.

But to make this a little more plain, I state that which I do not know, but of which I have been



advised by a member of the Committee on Ways and Means of the House, who says the application has been made again this session to that committee, and they have expressly refused to sanction it. Here, then, in the face of the fact that the application is made to Congress year after year, and Congress has refused, explicitly and directly, to sanction any such allowance, this claimant goes round, and, by getting a certificate here, and a certificate there, as to what was in the mind of the members of the committee which reported the bill, and in the mind of the draftsman who drafted it, gets the Secretary of the Navy to pay him \$3,000 a year. But this is not the worst part of the case, for the Comptroller of the Treasury, in the report which he makes justifying the allowance, does not pretend that there is any express provision of law justifying it; but he thinks that the legislation which has been had heretofore leaves it discretionary with the Secretary of the Navy. I will read it. He says:

"The acts of 1850 and 1851, though they make appropriations for the continued preparation of the almanac, do not, *in terms*, include in this appropriation the pay of the superintendent; but the provision for the appointment of the officer, contained in the act of 1849, of course remained in force, and the amount appropriated is the full sum called for by the estimates, which did include this item at the same rate as before. If any distinction is, therefore, to be drawn between the act of 1849, and those of '50 and '51, I think the most that can be said is, that the latter leave the payment of the superintendent, as well as the amount to be paid him, to the discretion of the Secretary of the Navy."

Then, what is your act of 1835 worth? What is your provision, that no compensation except what is provided by a certain act, shall be paid to an officer of the Navy, or any other officer, worth, if, upon estimates filed away in his Department, the Comptroller of the Treasury certifies that the officers of the Navy are not entitled to the compensation provided by law, but that it rests in the discretion of the Secretary of the Navy whether to pay them or not, an extra compensation? I have no hope to remedy this. Abuse after abuse of this sort may be exposed, and the answer, as the chairman of the Committee on Finance [Mr. HUNTER] well said to me, is, that this is a great country, and it is a small business to be looking after these things. But here is one case which I have brought to the attention of the Senate. I have not brought it upon any doubtful rumors. I have brought it upon official records of the Department, which are printed by order of the Senate, and laid on our tables, by which it seems to me, in contempt of the legislation of Congress—not only in violation, but in contempt of it—money is taken from the Treasury and paid out; and the officer who is set there to guard the Treasury, instead of enforcing the provisions of the act limiting the salaries, comes to the conclusion that it rests within the discretion of the Secretary to pay such a salary or not.

Mr. HUNTER. Did the Senator state that I said this was a small matter?

Mr. HALE. No, sir, I did not say any such thing. If the Senator had listened to what I said, he would have found that it was complimentary. I said the Senator from Virginia told me, in a private conversation that I had with him, that the common answer to such things as this would be, that this is a great country; and they could not be corrected. That is what I said.

But if the construction which the officers put on the act be true, the salary of this officer is \$4,500 a year, for the estimate justifies it, because it says, \$3,000 a year for paying the superintendent. Well, sir, the superintendent is lieutenant in the Navy; his salary is \$1,500 a year. An estimate is put in for his payment as lieutenant, and \$3,000 for the superintendent. Then his salary is \$4,500 a year, instead of \$3,000. But compromise is the order of the day; and he being entitled by law to \$1,500, and an attempt made to complain of it, they take a middle course, and give him \$3,000, which is neither justified by law nor by the estimates.

But I want to call the attention of the Senate to this matter, because it seems to me to involve a most dangerous and alarming principle; for estimates may be placed upon the files of a Department, and when they come and ask for a greater compensation than is provided by law—ask Congress to put the appropriation for an increase of salary in the law, and Congress refuse to do so, the head of the Department may pay it by virtue of the estimates! What, then, becomes of the

provision of the Constitution, that no money shall be paid out of the Treasury except by a provision of law? This payment has not gone through the forms of law. It has the sanction of the Comptroller of the Treasury; but let it have the sanction of as many officers as it may, I ask every Senator to look at it, and see if it is not as flagrant a violation of the Constitution as could be perpetrated.

My amendment goes further. I want to cut off all extra compensations. If you look at the document, which has been laid on our table, you will find that every gentleman receiving extra compensation has it by a provision tucked into a general appropriation bill. One had his salary raised from \$1,500 to \$3,000, by the naval appropriation act of August 3, 1848; another had it raised from \$1,500 to \$3,000 by the naval appropriation act of March 3, 1849, and estimates; another had it raised from \$1,500 to \$2,500 by the naval appropriation act of March 3, 1851; another had it raised from \$1,500 to \$3,000 by the naval appropriation act of March 3, 1851; and so on. All were tucked into these bills. Nobody knows anything about it; and thus these subordinate bureaus are multiplying on your hands. The whole thing is *unjust and wrong*. It is wrong to the other officers of the Navy. Those officers who go abroad, leave their families, and leave their country, to do foreign duty and sea service, ought to be the ones, if any, who should receive extra compensation. But these provisions are made in the first place as a matter of favoritism. An individual does not want to go to sea; he may be infirm, and for that or for some other reason, gets shore duty; and the next thing is, he is stuck into an appropriation bill, and his salary raised, by a general law, to an equality with some of the bureaus, until it turns out that we have three officers on shore receiving \$3,000 a year, one \$2,500 a year, and three receiving \$1,500 a year, which is more than the pay allowed them by the act of March 3, 1835. It is to remedy this that I have submitted the amendment.

Mr. BADGER. I have a very decided objection to the amendment which the honorable Senator from New Hampshire has proposed to this bill; but the objection which I have to the amendment is very feeble and small compared to the objection which I have to the style of argumentative denunciation with which he has supported it. That Senator seems on every occasion, on any subject before the Senate, whether it relates to the Navy or not, to seize on every occasion, in season and out of season, to cast imputations on the administration of that Department, under the charge of every gentleman who has had the superintendence of it. It is not long since he entertained the Senate with an account of the wonderful, gross, abominable, and outrageous increase affixed to the pay of officers in violation of the act of 1835, and he asserted over and over again, that the particular thing to which he referred was the increase of the compensation of officers, in direct defiance of and contrary to the law, without any sanction or support whatever. I believe it was pretty evident, at the time of the discussion on that occasion, that the Senator was entirely mistaken. The Senator seems to think, or at least he argues as if he thought, that the act of 1835 had become, by the subsequent legislation of Congress, a constitutional provision, and that because that law declares that the compensation then given to the officers of the Navy should be in full for all their services, and no extra allowance should be made to them, it was therefore incompetent, forbidden, wrong, an abuse, that any subsequent act of Congress should authorize anything to be done which could not be lawfully done under the act of 1835.

Now, I think I shall be able to show that the Senator's assault to-day, upon the administration of the Navy Department, is but very little better founded, if at all, than the assault which he made with regard to the furniture of the Government houses. What is the state of the case? If the Senator had read, as I asked him to do, the very clear, though very brief and satisfactory opinion of the Comptroller, if he had read the whole of it, the statement of that officer would have refuted, completely refuted, the argument he has urged, and the objection he has made.

Now, allow me to read it:

"I have examined the question involved in the claim of Lieutenant Davis, superintendent of the Nautical Almanac, and am of opinion that his salary should be allowed at the rate of \$3,000 per annum."

"In the naval appropriation act of March 3d, 1849, it is provided 'that a competent officer of the Navy, not below the grade of lieutenant, be charged with the duty of preparing the Nautical Almanac for publication.'"

"The bill also contains an appropriation of \$6,000 for the purposes of the Almanac, 'including pay of superintendent of the same.' The estimates for this item called for the exact amount appropriated, specifying \$3,000 as the proposed salary of the superintendent."

"It is very clear that this bill provides for the appointment of an officer of the Navy as superintendent, and also contemplates that he should be paid as superintendent, and not as an officer. And though the amount of his salary is not specified in the act, yet, as the appropriation followed the estimate in amount and particulars, and the estimates included this salary at \$3,000, it is proper to infer that the 'pay' mentioned in the act was intended to be the amount called for in the estimates; or, at all events, that it was intended to leave the amount to be paid the superintendent to the discretion of the Secretary of the Navy, within the limits of the sum appropriated. And, as appears from the letter of the Secretary herewith, the allowance of \$3,000 for this salary has been approved by him."

Now, sir, a little attention to, and amplification of this condensed and brief argument of the Comptroller, will be sufficient to show that in the allowance of the salary he acted rightly, and that there is no ground for the objection taken by the Senator from New Hampshire. In the first place, an estimate was made by the Department, calling for an appropriation for the preparation of a Nautical Almanac, and proposing the sum of \$3,000 as the amount of compensation to be paid to the officer who should have charge of it. In the naval appropriation bill, following out this estimate of the Department, it is provided that a competent officer of the Navy, not below the grade of lieutenant, shall be charged with the duty of preparing such almanac, and an appropriation of \$6,000 is made to meet the expenditure thus incurred, including the pay of the superintendent of this work. It is demonstrable by this provision, that Congress intended that this officer should be paid as a superintendent of this work, and not merely as a lieutenant. That is clear; because the appropriation for the pay of the officers, included in the same bill, embraced the pay of every officer in the Navy—every one of them; and the act which has been referred to, expressly directed that an "officer of the Navy," and no other, should be selected to superintend the preparation of the almanac, and then makes an appropriation to pay him as a superintendent. I say it is therefore demonstrable that Congress intended that he should be paid in his character of superintendent. Why? Because if he received nothing but his pay as an officer, then the appropriation to pay him as a superintendent was entirely useless. There was already, in the general appropriation bill, an appropriation for paying him as an officer, as well as for paying every other officer in the Navy. If, therefore, that provision was not intended to authorize his payment as a superintendent, no appropriation at all should have been made. It should have been simply provided that the Secretary of the Navy should assign to some competent officer the discharge of this duty, and that for the incidental expenses so much money should be appropriated. But what is the language of the act? It is that "the Secretary of the Navy shall appoint an officer of the Navy," for whose services the amount of pay is mentioned in this very bill; and the sum of \$6,000 is appropriated for the purpose of having this almanac made, including the pay of the officer who was to superintend it.

Now, I undertake to say, that by any other interpretation, so far as I am able to see, this provision is absurd, and would impute to Congress the gross ignorance of not knowing that, when an officer was assigned to a particular duty, it is not necessary to make an appropriation to pay him, because there is already in the general appropriation bill, an appropriation for the express purpose of paying every officer of the Navy. Again: the Secretary was not limited to the corps of lieutenants for the selection of this officer; he had the right to select a commander; he had the right to select a captain; therefore, when this act provides that he shall select an officer, not below the grade of lieutenants, to take charge of the preparation of the Nautical Almanac, and makes a specific appropriation of a certain sum to cover the expenses, and to cover the pay of the superintendent himself, as superintendent, it is demonstrable that it was intended that—all these officers, commanders, captains, and lieutenants being already provided for in the specific appropriation for this purpose—the person selected for this duty was to be paid as superintendent, and not as an officer of the Navy

There was an extreme propriety in this. The duty with which this officer was to be charged, is not a duty of an officer of the Navy. A man may be a most admirable officer of the Navy, and yet be totally disqualified to discharge this duty. I question whether any of the captains who signalized themselves, and covered the country with glory in the late war with England—I question whether any English Admiral, Vincent or Nelson themselves—would have been competent to discharge the duty of superintending the preparation of this Nautical Almanac; it is a matter of science; it is a matter of skill; it is a matter requiring large attainments, in a department not necessarily connected with the ordinary duties of a naval officer. The intention of Congress, when it passed this act, therefore, was, that the Secretary of the Navy should look through all the various grades, from a lieutenant up, and find the man that had the necessary scientific attainments, which would enable him to discharge this high and important duty; and then it made an appropriation to pay him as superintendent only, in order that he might be respectably and sufficiently remunerated.

Now, the Senator from New Hampshire [Mr. HALE] says that, acting on the process of interpretation here, this lieutenant ought to have been paid \$4,500. How does he make that out? Why, as this very respectable and intelligent gentleman has stated—and this is the first paper of his I ever saw—it was the clear intention of Congress that he should be paid as superintendent, not as an officer of the Navy. Although he retained his commission, he was, for the time, detached from the performance of the functions of an officer of the Navy, and placed in the discharge of the scientific function of superintending the preparation of this almanac; and in this capacity he was to be paid, and not otherwise. The whole argument, then, comes to this: Congress did not think it was right or generous to require a highly-scientific and accomplished officer of the Navy, when placed in the discharge of this duty, to throw up his commission in the Navy. It would have been an affront on his honor to propose it. Now, in a time of peace he might, without any imputation of being derelict to the duty which he owes to his country, devote himself to the discharge of this great scientific duty; but if a war were to occur, he would, no doubt, as every gallant officer would, prefer his claim to be employed in his proper and appropriate vocation: to sustain the honor, and to vindicate the rights of his country. And Congress intended to leave him in that position; not only to be employed as a scientific man, as the superintendent of this nautical work, but still liable to be called on to do duty on the ocean, in the maintenance of his national rights, and to discharge what he would consider, as every high-minded officer does, not merely a duty, but a privilege.

The Senator from New Hampshire [Mr. HALE] speaks of these estimates as being stuffed away, or some such expression, in the Navy Department; as being concealed, unknown, uncommunicated. What is his authority for that statement? None, sir, none. The Comptroller, therefore, as I think, was not only fully justified, but required, to put this interpretation on the law. He was compelled to say that this appropriation was intended to cover the pay of this gentleman as superintendent; that he could not be confined to his pay as an officer, because that was provided for in the bill, and in this view, this provision would have been superfluous. Being withdrawn from the performance of his duties as an officer, it was in the contemplation of the law that he should be paid as superintendent of this work, just as if he had been a private citizen. This involves no violation of the policy of the act of 1835. Not at all. In passing that law, we did not surrender our right to judge whether, in any particular instance or case, it might be proper to assign any other duties to an officer. It was intended to cut off those extra allowances which were ordinarily made in the Departments; some in the exercise of the departmental authority, and others under general laws, and to fix a scale of compensation that should stand in lieu of these allowances. That was all. Congress, therefore, from time to time, have permitted officers to receive such additional compensation as they deemed to be right. The evil to be remedied in the Departments, was the receipt of these allowances without authority. That was the evil.

Mr. HALE. Exactly.

Mr. BADGER. The Senator on one side, and the Comptroller and myself on the other, are at issue as to what was the intention and meaning of this act. The Senator has failed, I think, to make it appear that it was merely intended to pay Mr. Davis as an officer; and until he has succeeded in showing that, it is in vain for him to allege that it is an abuse that this sum should have been paid.

So much in regard to this subject of discussion. This amendment, I think, is highly objectionable. It seeks at once to strike off this additional compensation from certain officers of the Navy, to whom, I believe, everybody, with the exception, perhaps, of the Senator from New Hampshire, [Mr. HALE,] thought that the additional compensation was just and proper. Here is a distinguished gentleman now at the head of the Observatory. I believe there was no difference of opinion in the Senate on the proposition to give him a compensation suitable to the post that he occupies, and the high and important duties which he discharges—duties to which very few men in this world are competent, and which he has discharged with so much honor as to give a just consciousness of pride to every American, while he has placed himself, and with himself, his country, in a higher position, scientifically, than it ever occupied previous to his discoveries. So, also, with regard to Mr. Dahlgren, a gentleman who received his allowance by the express vote of the Senate; that is, by a refusal of the Senate to strike out the allowance which had been inserted by the House of Representatives. Why should this compensation now be taken from him? Why should it be taken from the gentleman charged with the superintendence of the Nautical Almanac? He is one of the most gifted and scientific men in this country. Why should we, under the general idea of breaking a lance against abuses, strike off allowances of this kind, which are not abuses? allowances made with the sanction of Congress; allowances which are highly useful and serviceable to the country, and which furnish the only means by which we can accomplish two objects of great importance in a country where naval promotion is so exceedingly slow—to furnish to those gifted men in the Navy, who have high and distinguished powers, the means of exerting them with credit to the country, and to furnish them a reasonable compensation while doing so?

I hope the Senate will not concur in the amendment.

Mr. HALE. If the honorable Senator from North Carolina supposes that I entertained the remotest idea that I could make any impression upon his mind, to induce him to go with me to reform what I believe to be a most palpable abuse, he is exceedingly mistaken; I had no such vain hope. The Senator undertakes to illustrate the absurdity of my position by alluding to a former effort which I made to correct another abuse, and he says that he believes when that discussion ended, it ended in my discomfiture, because everybody was satisfied that I was entirely wrong. Now, I do not know how anybody felt after that discussion, except the Senator from North Carolina and myself. I was satisfied that I had exposed to the Senate a most glaring abuse. I know I did not satisfy the Secretary of the Navy of it; I know that the Senate did nothing but to ratify that abuse, knowing that it had existed for years. I was not, therefore, astonished to find that the Secretary of the Navy was raising the salaries by his own mere motion, from \$1,500 to \$3,000 per annum, and that the Comptroller of the Treasury has sanctioned the proceeding. But when the Secretary of the Navy, in a communication addressed to the Senate in answer to a resolution of inquiry, gravely tells the Senate that the authority on which he is paying the \$3,000 a year, is not founded in any law—for he does not point you to any law—notwithstanding the provision of the Constitution, that no money shall be drawn from the Treasury except by law, and notwithstanding the act of March, 1835; but instead of pointing you to any law to show his authority, he points you to estimates.

Mr. BADGER. Does the Senator say that that money was not appropriated? Does he understand, when he speaks of an appropriation, what is meant by that, and that the money is placed under the control of the Navy Department, by the

act which makes the appropriation? It is put in the charge of the officer at the head of that Department, not in payment, but as the Senator from Michigan [Mr. Cass] expresses it, in application of the money to the object designed.

Mr. HALE. Very well. Suppose the Secretary of the Navy should send in to Congress an estimate for the pay of the officers of the Navy. He does not stop to go into very minute calculations as to the amount required, as some deaths may occur, and there may be some resignations; and suppose Congress should appropriate \$100,000 more than was necessary by the provisions of the act of 1835. Then, according to the doctrine of the Senator from North Carolina, Congress having appropriated the money for the compensation of the officers, the Secretary of the Navy must sit down and make a distribution of it *pro rata*, because it has been appropriated. That is the conclusion to which he would come.

But I disclaim all idea of making any attack upon the Navy Department, or anybody else. But I will go further, and I will say that the poor excuse of this being in the estimates has no foundation in fact—not at all. I hold the estimates in my hand. The estimate is: "For calculating, printing, and publishing a Nautical Almanac, including pay of the superintendent of the same, \$6,000." Whether the pay was to be one hundred or one thousand dollars or three thousand dollars did not appear by the estimate. But the estimate goes further than that, and expressly negatives the idea that is claimed, that any lieutenant is to receive more than \$1,500, except Lieutenant Maury, who is at the head of the Bureau. Here, with this estimate of \$64,000, is a list of the officers to be paid, and among them is one lieutenant, at \$3,000. That lieutenant is the distinguished officer whom the Senator from North Carolina has complimented so highly, and so justly, Lieutenant Maury, and he was to receive it by the existing law. These estimates, instead of expressly stating that Lieutenant Davis was to have \$3,000 a year, do expressly exclude him in such a manner as to leave but one to receive that sum, viz: Lieutenant Maury.

The honorable Senator from North Carolina asked me on what authority I said these estimates are filed away in the office of the Navy Department, and kept secret? Why, sir, I go into these, [holding up documents,] the documents of Congress. They are my authority; and here you will perceive, that in a letter of the Secretary of the Navy to the Comptroller, in which he tells him it is his opinion, that this salary ought to be paid, and that it is the wish of this Department that the Superintendent of the Almanac should be placed in this position, he says: "It appears from the files of this Department, that it was estimated," &c., &c. And well he might say so; because the estimates submitted to Congress, and printed, do not contain any such specification of the money that was appropriated. This estimate specifically asks, in the gross, for the sum of \$6,000, for preparing a Nautical Almanac; and it also gives a list of the officers to be employed; and in the list given, one single lieutenant—Lieutenant Maury—is to receive \$3,000 a year; so that instead of justifying the conclusion that anybody else was to receive \$3,000 a year, it excludes that conclusion.

This high talk, Mr. President, about the value of these officers, and about the great good they are doing to the country, may all be well enough when an appeal is made to Congress to induce them to alter the law in favor of increased salaries; but in the very document which the Secretary of the Navy has submitted to Congress, he tells you that when this appropriation was passed, Lieutenant Davis applied to the Navy Department, and then to the Comptroller of the Treasury, (who, I venture to say, was one of the most faithful, and intelligent, and incorruptible officers who ever presided at the head of that department—I mean Governor Parris,) and he decided that to pay this \$3,000 was not according to law. And what did Lieutenant Davis then do? Why, sir, he came to Congress. And what did Congress do? They refused to grant his appropriation. How idle, then, is it to get up here and say that Congress intended this payment, when both the Executive Department and Congress decided that it was not authorized, and especially after the party subsequently came to Congress, and Congress said "No." Even after that, an

appropriation was again made, and the committee refused to insert it in the appropriation bill; and then after all that, sir, a new appropriation is made to the Department, and they go back and pay this \$3,000 a year from the year 1849 up to this time.

Then, sir, it is denied that this is an abuse, and I am put under censure for bringing such matters before the Senate, as though I had committed an impropriety against the head of a Department in undertaking to call the attention of the Senate to these things. If I understand the Senator from North Carolina to-day, he does contend that it was within the discretion of the Secretary of the Navy; and if this construction is true, the design clearly was to pay these men at the rate of \$4,500 a year. Sir, when we want to know how our money goes, and for what, what are we to look to? Are we to look to the law? No, sir; it seems that we are to go to the Departments, and to the documents constituting part of the archives, and to the estimates submitted to Congress, and they say nothing about it; but, in the language of the Secretary of the Navy, it appears from the files of this Department; not from the printed documents—not from the estimates submitted to Congress, but from some pigeon-hole in the Navy Department, that there were estimates in 1849, putting this salary at \$3,000. It is true, sir, that the officer then in the Department refused to pay it; application was made to Congress year after year, and Congress refused to pay it; and still, in the face of these refusals, application is made again to a more pliant officer, who not only puts the salary now at \$3,000, but goes back and reverses the decisions made for years before. This is the case as it stands—this is the fact which here presents itself.

But, sir, was it ever heard of before, that the head of a Department, in deciding what was the true construction of an act of Congress in regard to the salary of an officer, should not only go beyond the law, but should call upon the draftsman of the bill to know if it was the object of the framer of the law to give a salary of \$3,000, but also to Mr. Dayton, who submits his own opinion as a matter confirmatory of the right of the officer to receive that salary? And besides all that, sir—that not being enough—you have the opinion of an ex-member of Congress, and an ex-member of a committee, (Mr. Vinton,) and he tells you that it was his expectation, and he had no doubt it was the expectation of the rest of the committee, that this amount of salary was to be paid. Thus, by the expectation of what were the intentions of a past committee of another Congress, a salary is raised by the head of one of the Departments from \$1,500 to \$3,000, when year after year the party had been asking Congress to do it, and Congress had refused to do it.

Now I ask, if Congress is not willing to sink and submerge themselves in entire subserviency to these officers, that they will vindicate the law from such—I will not call them abuses—but from such constructions of the law as this. I call upon Congress when they appropriate money, to see that the purse-strings are not held so loosely as to allow by a loose construction of the law, upon estimates and specifications filed away in the dark pigeon-holes of the Departments, the payment of money which they know nothing about. Now, if this construction of the law was good for anything, it could not go back beyond the year 1849. This is simply a requisition in the law that the Secretary shall appoint some person to discharge a certain duty, and \$6,000 are appropriated in the whole for a particular object. I do not want to dwell upon this subject any further. No adjectives which the Senator from North Carolina can apply to so humble an individual as myself can strip this thing of the prominent features which it presents, or cover up the facts as they exist. Here is an appropriation, not saying a word about this officer; not specifying him at all. He thinks it applies to himself, and authorizes him to receive a greater salary. He applies to the head of a Department, and his application is negatived. He then comes to Congress, and Congress says "No;" and he then comes again to Congress, and Congress still says "No." But while this Congress is in session, and after these repeated refusals of Congress and the Department, payment is made, going back to 1849 and coming up to this time.

Every word is here printed. There is no idle rumor, no doubt, no mistake, no misapprehension

about it. But I say to Congress, if you will sanction this you do not know the salary of a single officer. Congress cannot look into the minutiae of every salary included in the provisions of a general appropriation bill.

I know when the bill in which the appropriation was made, which I have been commenting upon, was brought up for consideration, it was not more than forty-eight hours previous to the adjournment of Congress. I asked to have the bill read through once; and half a dozen members came around me, and although it was a bill appropriating an enormous sum of money, they asked me not to insist on having the bill read, because the hour of adjournment was so near that there was great danger that the bill would be lost, if time was taken to read it once. This amendment then came up, to increase the salary from \$1,500 to \$3,000 a year. The Senate refused to agree to that amendment. Then the other case of Mr. Dahlgren came up, and I moved to strike it out, so as to put him on the same footing, and the universal cry was, "there is no time, there is no time!"

One word as to the general features of this bill. I have no objection to paying Lieutenant Maury every cent that his services are worth. I think no man can complain of me since I have had a seat on the floor of either House of Congress, that I have raised my voice against paying any public officer liberally. I am willing to pay them liberally; but what I object to, is this system of putting amendments to general appropriation bills, for the purpose of compensating them; and passing them when nobody can see them. In this way they creep in, and you soon have a number of subordinate bureaus, without examination or knowledge on the part of Congress of what you are doing. That is the evil which I wish to wipe out, so that we may have a general system of compensation; and that an officer who has too low a compensation may have it raised; but do not leave it to the discretion of Secretaries—do not leave it to the doubtful construction which is to be given to certificates of ex-members of Congress—do not leave it to the doubtful construction of affidavits of gentlemen who happen to know what was in the brain of others—do not leave it to estimates, not printed and before Congress, but filed away in the Departments. Go back to the Constitution, to its plain, explicit, and express provisions, so that no money shall be obtained from the Treasury except by virtue of an appropriation made by law.

The Senator from North Carolina says that I regard the law of 1835 as possessing the virtue of a constitutional provision. That is not what I complained of. What I complain of is, that while the law is so plain and specific in its provisions, its administration and execution is such as to suffer the payment of more than is provided. I have no personal interest in this matter. I do not know Mr. Davis. He may be more learned than all the sages of Greece—he may be a walking compendium of all the knowledge to be obtained by gazing at the stars from now till the end of time—and his Nautical Almanac may embrace all that Newton ever dreamed of. I do not know anything about that. If his salary is not sufficient, raise it; but do not suffer such a plain and clear provision of a law to be violated. Wipe out what authorizes, or seems to authorize such a construction of this law; and, when an officer is deserving of a higher compensation, let him go before the proper Department, and then bring his claim to Congress, properly recommended; and while I have the honor of a seat on this floor, I will be one of the last to object to his increased compensation.

Mr. BADGER. I am not in the habit of using adjectives, particularly those of a denunciatory character. It is, therefore, hardly necessary for the Senator from New Hampshire [Mr. Hale] to say that no adjectives I could apply to him would strip this matter of the features it presents. I should consider myself, if I were to use any epithets of denunciation on the present occasion, to be encroaching on the honorable Senator's manor; for he seems, whenever anything respecting the Navy comes up for consideration, to be in possession of a large stock of epithetical expressions which are anything but complimentary. Nor can I hope, by anything that I can urge, to reason or to persuade the Senator into taking a fair and candid view of anything pertaining to that Department. I believe

the only class of officers in the naval service which, in his opinion, does not receive adequate compensation, and which ought to be additionally remunerated, is that corps of reverend gentlemen called chaplains. In this view, I confess, I am ready to concur; but I regret that the charitable feelings of the Senator are so stinted as to embrace but one class of persons connected with that service.

I do not mean to enter into an elaboration of this matter, but I wish to submit two observations to the Senate. As the Senator from New Hampshire set out by stating that he could not hope to convince me, so I will observe, with equal truth, and with much greater foundation for the assertion, that neither I, nor anybody else, ever need hope to convince that honorable Senator. I submit what few observations I have to offer to the Senate. In the first place, the Senator seems to think it a matter of extreme impropriety, and entirely without precedent, that any inquiry for the purpose of elucidating a particular provision contained in a law, as to the views and notions of those who were concerned in its passage, should be referred to. Permit me to say, that I do not concur in the opinion which the honorable Senator has so expressed. I deceive myself greatly if, in courts of justice, it is not allowed in regard to provisions of doubtful statutes to recur to the opinions entertained or expressed by those concerned in passing them, or those who were contemporaneous with them. There can, therefore, be no reasonable objection to an attempt to ascertain what was the true intention of this provision of the law.

Now, the honorable Senator may think that these references were not entitled to a certain amount of weight, but that is a question for the Senate to decide. Whatever else they were, they were regular and legitimate sources to which to refer, in endeavoring to fix what was the meaning of Congress in passing that law.

One other remark, and I have done. Upon the Senator's own system of interpretation, it is clear and evident that this gentleman is entitled to receive \$3,000 per year. He rejects the interpretation put upon this clause of the law by the Comptroller, and which I think is a just and reasonable one—that this, \$6,000 being appropriated, among other objects, was to pay this amount to the superintendent, and the superintendent being directed to be selected from the officers of the Navy, it was the intention of Congress that he should be paid as a superintendent, and not as an officer of the Navy. The Senator rejects that interpretation. Very well, sir. Now, how do we stand? In the appropriations contained in that same bill for the payment of all the officers of the Navy, is included the payment of this gentleman (Mr. Davis) as a lieutenant. Then Congress puts an additional appropriation into the bill. A lieutenant might be selected for the performance of this duty, or some other officer. It was to be performed by an officer not below the grade of a lieutenant; and, for the purpose of making this arrangement more clear, we may suppose that the name of Mr. Davis had been put in, and then there is an appropriation of \$6,000 for the expenses of the almanac, including the pay of the superintendent, Mr. Davis.

Well, then, here are undeniably two appropriations to pay Mr. Davis—one under the general appropriations, he being an officer of the Navy, and one under this special appropriation; and the Senator says that under this second appropriation, he was to receive nothing but his pay as an officer of the Navy. Then, Mr. President, by the Senator's own showing, there was a double appropriation in each case to be regulated by his pay as an officer of the Navy. Independently of his pay as an officer, he was entitled to \$1,500. As a superintendent, he was entitled to receive an additional sum as an officer of the Navy superintending. Then you only have \$1,500 more, making \$3,000; so that stripped of all technicalities, and with a fair and reasonable interpretation of this law, the same result follows; and unless Congress had made a general appropriation, and then made a special appropriation for his benefit, the intended special appropriation would amount to nothing.

Mr. HUNTER. I would suggest to the Senator from New Hampshire, that perhaps this amendment is broader than he designs to have it? Does he mean to say—



Mr. HALE. With the leave of the Senator I will withdraw it, and offer a substitute.

There being no objection, the following amendment was proposed as a substitute:

And no estimate or appropriation of money, in any bill making appropriations, shall authorize the payment of any increased pay, allowance, or compensation in any form whatever, beyond the amount prescribed in said act of March 3d, 1835, in any case, unless there shall first be a specific direction for such extra payment, designating the names of such officers to whom such extra payment shall be made.

Mr. HUNTER. It strikes me that is right, but I would like to hear it read again.

Mr. HALE. I will modify it by striking out the words "act of March 3d, 1835," and inserting the words "prescribed by law."

Mr. BADGER. Is it in order to offer an amendment to that amendment?

The PRESIDENT. Is that which the Senator from New Hampshire has presented to be added as another section?

Mr. HALE. It is.

The PRESIDENT. Then it will be in order to offer an amendment to it.

Mr. BADGER. I move to amend the amendment by adding at the end of it the words, "except the Superintendent of the Nautical Almanac, who shall be allowed the sum of \$3,000."

Mr. HUNTER. I believe that the gentleman who has the superintendence of this almanac ought to receive \$3,000 a year; but I also believe that heretofore he has not received it according to law. I am in favor of the amendment of the Senator from New Hampshire, and I should be willing to add to it something which expressly appropriates \$3,000 a year to this officer; but I cannot agree to an amendment inferring that he has heretofore received it according to law. I think he ought to have that sum, and I shall vote for his receiving it.

The PRESIDENT. The Chair would inquire whether this is a substitute for a section, or an additional section?

Mr. HALE. I offered an amendment some time ago, which I now withdraw, and offer this as a substitute.

The PRESIDENT. Then it is to come in as a section by itself.

Mr. HALE. It comes in as a section by itself.

Mr. BADGER. I propose to put my amendment in the form of a proviso, so as to add to the amendment of the Senator from New Hampshire the following:

*Provided*, That nothing in this section contained shall apply to the Superintendent of the Nautical Almanac, who is hereby allowed a compensation of \$3,000 per annum.

Mr. BORLAND. Why say that it may not apply to him? Why not leave it a simple appropriation?

Mr. BADGER. I wish to except him from the amendment.

Mr. HUNTER. I would suggest to the Senator from North Carolina an alteration of his amendment. It is to make it say simply:

*Provided*, That the Superintendent of the Nautical Almanac is hereby allowed a compensation of \$3,000 per annum.

If it were put in this form, he would get rid of the difficulty suggested by the Senator from Arkansas.

Mr. HALE. I would suggest to the honorable Senator from Virginia that, as he thinks the Superintendent of the Nautical Almanac has been receiving \$3,000 a year contrary to law for two years, it will be time enough to put in this proviso two years hence, when his account will be square. Let us not make an exception in the case of the only one of those officers who has been receiving an illegal compensation.

Mr. BADGER. I will modify my amendment so as to meet the suggestions of the Senator from Arkansas and the Senator from Virginia. I will modify it so as to read:

*Provided*, That the Superintendent of the Nautical Almanac is hereby allowed a salary of \$3,000 per annum.

Mr. HALE. As this is a question which was tried two years ago by the yeas and nays, I ask now for the yeas and nays upon the amendment of the Senator from North Carolina to the amendment which I have offered.

The yeas and nays were ordered.

Mr. BADGER. I hope the Senate will indulge me in a few remarks. As the honorable Senator from New Hampshire has so often referred to the vote of the Senate at a former session on this subject, and as his remark is calculated,

I think, to give a mistaken idea of the motives which influenced the Senate in refusing to ingraft into the naval appropriation bill of last year a provision giving this superintendent \$3,000 per annum, I wish to say that that vote furnishes no evidence at all of the view of the Senate as to the propriety of allowing that compensation. We were then warned of the danger of making amendments on account of the short time that we had, and the fear of losing the bill altogether. I recollect very well that the honorable Senator from Kentucky—who has been so long, and is now so unhappily confined by disease—voted, with the Senator from New Hampshire, against the proposed amendment, and voted also against the proposition to strike out the allowance of \$3,000 to Mr. Dahlgren, and on the ground that he was unwilling to make any amendments to the bill which could possibly have the effect of sending it back to the House of Representatives.

The question being taken on the amendment to the amendment by yeas and nays, resulted—yeas 35, nays 12; as follows:

YEAS—Messrs. Atchison, Badger, Bell, Berrien, Borland, Brooke, Butler, Cass, Clarke, Davis, Dawson, Downs, Fish, Geyer, Houston, Hunter, James, Jones of Tennessee, King, Mangum, Mason, Miller, Morton, Pearce, Rusk, Sebastian, Seward, Shields, Smith, Soule, Spruance, Sumner, Toucey, Underwood, and Wade—35.

NAYS—Messrs. Adams, Bradbury, Chase, Clemens, Dodge of Wisconsin, Dodge of Iowa, Hale, Hamlin, Jones of Iowa, Norris, Walker, and Weller—12.

So the amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. RUSK. There is in the bill this provision:

"For running and marking the boundary line between the United States and Mexico, according to the treaty of Guadalupe Hidalgo, \$80,000."

I move to amend it by adding to it this proviso:

*Provided*, That nothing herein contained shall be so construed as to sanction a departure from the point on the Rio Grande north of the town called "Paso," designated in the said treaty.

I will explain very briefly the reason why I offer this amendment. The treaty is very distinct and clear, that the boundary line shall leave the Rio Grande where that river intersects the southernmost boundary of New Mexico, north of the town called Paso, which was to be computed according to a map attached to the treaty—Disturnell's map. That map shows the southern boundary of New Mexico to begin immediately north of the town of El Paso. There has been some misunderstanding between the commissioners on that subject. Our commissioner agreed to go about half a degree above that point, and established the initial line in the absence of the surveyor, who was a part of the commission. When the surveyor arrived, he protested against the act of the commissioner; in consequence of which that line was suspended, and remains now suspended. The commission then proceeded from the Rio Grande to survey the Rio Gila, and are now going on with the latter; but the line between the Rio Grande and the Gila remains suspended. What I desire is, that there shall be nothing inferred from the making of this appropriation which shall sanction the line proposed by the commissioner on the part of Mexico, and agreed to by our commissioner, but to which our surveyor refused to agree.

Mr. DAVIS. Mr. President, I would suggest for the consideration of the mover of this proposition, that the amendment, as it seems to me, involves the construction of the treaty. This question of boundary must be settled under the treaty. It cannot be settled except by the treaty. It cannot be settled by any construction which Congress may give to it.

Mr. RUSK. I do not propose that we shall give any construction to it.

Mr. DAVIS. If, by this proviso being attached to the bill, it should be an attempt on the part of Congress to locate the line contrary to the true construction of the treaty, it would be a violation of the treaty.

Mr. RUSK. If the Senator will read the amendment, he will see that I require that the initial point shall not be any other than that provided by the treaty of Guadalupe Hidalgo. I ask that the amendment may be read, so that the Senator from Massachusetts may see what it really is.

The amendment was read accordingly.

Mr. DAVIS. Then the provision seems to me to be wholly unnecessary, because, after all, it comes

to that point. The treaty must settle the question, and no interpretation or construction given to it here can decide or settle where that line shall be. If the proviso means nothing more than that we will adhere to the treaty; why should we adopt an amendment in regard to the matter? It strengthens nothing; it weakens nothing; but it is an unnecessary act of legislation.

Mr. RUSK. I do not want to raise any discussion upon this subject, but I will say that the commissioner upon the part of the United States has acted in violation of the plain provisions of the treaty, and has agreed to establish the initial point thirty miles above the place where, according to the treaty, the line should leave the Rio Grande. I am prepared to go into a full investigation of the subject whenever it may become necessary. All that I want now is, to prevent Congress, by making the appropriation for this survey, to sanction this departure from the principles of the treaty—from the plain words of the treaty itself. That is all that I ask.

Mr. UNDERWOOD. I do not see any impropriety in adopting the amendment. I apprehend that the object of my friend from Texas is a very legitimate and proper one. We are about to pay for services performed in doing this labor, and his object is only to say that, whilst we pay for the service, this payment shall not be construed as sanctioning the manner in which the work has been done, or as sanctioning any departure from the principles of the treaty. I do not see that there can be any impropriety at all in that. If you pay this money without saying anything in regard to the matter, perhaps hereafter, when the dispute as to the proper position of the line on the Rio Grande comes to be agitated between the commissioners appointed by Mexico and by our country, the Mexican commissioner may say, "You ought not to object to this line—it has already been partially run, thirty miles above the true point; you have paid for the work, and the service, without objection; your Congress allowed it to pass without any comment at all; and therefore you cannot object to this line." I do not see anything but a precautionary movement in this proposition of the Senator from Texas; and it seems to me to be not at all improper. It does not give any construction, as I conceive, to the treaty. If I understand it, it merely provides that nothing herein contained shall be construed as authorizing a departure from the treaty. We do not undertake to say by the amendment, as I understand it, that the place where, it is said, the commissioner proposes to locate the point upon the Rio Grande, conforms to the treaty, or departs from the treaty. It merely says that the payment shall not be construed as sanctioning a departure from the treaty. I see no impropriety in that, and therefore I hope the amendment will be adopted.

Mr. CLARKE. Mr. President, I have no objection to any provision or proviso that the honorable Senator from Texas may deem proper to make, so far as it regards the treaty with Mexico, if it is proper for the Senate to adopt an amendment which can strengthen or take from the effect of that treaty. But, sir, in the course of the explanation which my honorable friend from Texas has made, he has chosen, in my humble opinion, to reflect upon the conduct of the United States Commissioner, appointed to run the boundary line between this country and Mexico. I am not prepared, at this time, to go into that subject fully. I had supposed that, at a proper time, the official conduct of that officer would be brought up for consideration, and that, at that time, I should be prepared to go into an investigation of the manner in which he had proceeded with his duties.

Mr. WELLER. That time will come.

Mr. CLARKE. If, in the examination of that matter, it shall appear that his duties have been correctly and properly performed, I, at least, shall be ready to advocate and to defend his course. The question that has arisen, in regard to the treaty with Mexico, is simply on account of the provision of the treaty, that the line should be run according to Disturnell's map, which was, at that time, almost the only map known of that country, or at any rate the only one known to me as applying to that country particularly. The treaty designated that the line should be run according to Disturnell's map. The map was adopted, as is alleged, as a part of the treaty. The line upon the Rio Grande, and the initial point from which they

ware to start, to arrive at the head-waters of the river Gila, were, according to the construction of the treaty, to be regulated and governed by Disturnell's map. Now, I understand that, when this Commissioner arrived at the Rio Grande, he found, in the course of his topographical and astronomical surveys, that the Rio Grande, by Disturnell's map, was placed three degrees east of where it really was.

Mr. RUSK. Is there a word said in the treaty about degrees?

Mr. CLARKE. Nothing is said about them in the treaty. But here comes the difficulty. The treaty refers to Disturnell's map. That map is shown to have been a mere matter of compilation, without any investigation of the territory itself; probably manufactured, or made, perhaps, in the city of New York—at any rate, in this country. It was a compilation from other maps. When the commissioner, with his scientific corps, went there, in order to ascertain where was the initial point upon the Rio Grande from which the line should commence, he found that by Disturnell's map the Rio Grande was in such a longitude; and, on taking the longitude of the Rio Grande, he found that it was three degrees west of where it was placed upon Disturnell's map. There is the difficulty in this case. The commissioner supposed that he was bound to go by the true latitude and longitude. If he was bound to take the degrees of latitude and longitude according to Disturnell's map, he must have gone three degrees east from the Rio Grande; and, then, of course he would have departed from the treaty, because by it he was obliged to start from the Rio Grande. He has been governed, if I understand the matter aright, by his own observations and the observations of the scientific corps with him—by the actual longitude, where the Rio Grande was found. On ascertaining the longitude and the latitude, he agreed with the Mexican commissioner to establish a certain point as the initial point of the line. The question is, whether Disturnell's map, erroneous as it is, shall be considered as governing, ruling, and controlling the treaty, or whether the treaty shall be executed according to the intention of the parties; and that is, that they were to start from a certain degree of latitude and longitude. At this moment I am not prepared to go into all the points of the question as I shall be prepared to do at a future day. I say now most emphatically, not only to my honorable friend from Texas, for whom I have a very high estimation, but to other honorable gentlemen who have given indications of a desire to discuss this question, that at a proper moment I shall be ready to defend the position that has been taken by this commissioner. From the moment of his embarkation upon this expedition, he has not only met with more difficulties than any individual before employed upon such a service by any Government in the world, but he has been pursued with more malice, even to the latest extremity, than was ever known to follow an individual of no more consequence than himself. But upon this question I only ask that whatever may be the amendments proposed by my honorable friend from Texas, it shall be so worded as not to involve the Senate in the declaration of a principle that shall commit it to standing by the latitude and longitude that is marked upon Disturnell's map, in contradiction, violation, and opposition to the actual astronomical surveys which have determined that latitude and longitude. Now, let the right be established. If the intention of the United States, when they made that treaty with Mexico, was that they were to start from the Rio Grande as it was marked on the map no matter whether it was right or wrong, and from thence go to the head waters of the Gila, and thence follow the Gila to the junction of the Colorado, and thence to the Pacific three degrees below San Diego, let that be done. But if Disturnell, who made that map—the correctness of which was unknown to the commissioner who negotiated the treaty with Mexico, as well as to the Mexicans themselves—committed a mistake, and placed El Paso some thirty or forty miles below where it actually was, and placed the Rio Grande three degrees east of where it actually was, let not that error, into which all the parties fell at the time of making that treaty, be insisted upon by the Senate as operating against that justice and fairness which has hitherto governed the United States in all their relations with other nations.

I simply ask that nothing shall be done in this proviso to commit the Senate and the House of Representatives to the declaration or maintenance of a principle which, in justice and fairness, should never be maintained by a Congress governed by the principles of propriety and liberality towards a neighboring nation. If the commissioner has erred, let him be condemned. If he has exhibited a want of knowledge, let that fact be shown, and let him be recalled from his duty. But, if he has acted properly; if he has made the proper use of the scientific corps that was given him by the Government, in establishing the initial point, let not any proviso we are to adopt be made to condemn him in advance, before he, or his friends, have had an opportunity to put before the country his defense. As to this proviso, I care nothing about it beyond this, that I wish it so worded as not to condemn the commissioner in advance.

Mr. HUNTER. I rise to make an effort to prevent, if possible, a long and unnecessary debate upon this subject. I want (if I may be allowed to use the term) to "keep the peace" of this deficiency bill, if it be possible to do so. I am afraid that we are about to embark in a discussion, not only in relation to the propriety of the initial point of the boundary line, as fixed, but also in relation to the propriety of the conduct of the present boundary commissioner. I hope that may be avoided. I hope that we may get rid of all such debate. It is not necessary now. If I understand the amendment of the Senator from Texas, it is designed merely to exclude a conclusion. It does not commit the Senate, either to the propriety or impropriety of the initial point, as fixed. I confess it does not seem to me to be very useful. I do not see much necessity for such an amendment. But, inasmuch as it does no harm, and would gratify the Senator from Texas, I am disposed to vote for it. I think, however, that it concludes no question. It merely excludes a conclusion; and, out of abundant caution, the Senator from Texas, representing, as he does, the State of Texas, desires that we should not be concluded as to the proper point for fixing the initial line. I see no reason why we should not gratify the Senator; and I hope we shall be saved from a debate in relation to the propriety of the conduct of the boundary commissioner, or of the accuracy of the survey.

Mr. UNDERWOOD. My object in trying to get the floor was precisely that which has animated the gentleman who has just taken his seat. I do hope that the honorable Senator from Texas will not go into this matter, either one way or the other. I hope we shall get clear of all unnecessary debate.

Mr. RUSK. Mr. President, I drew up the amendment expressly for the purpose of not raising any question on the treaty, or as to the conduct of the commissioner. It was my object to reflect on nobody; not that I am not prepared to maintain certain points when the proper time arrives. I know that this is a deficiency bill, and that if we pass this appropriation as it is, without such a proviso, it might be afterwards said, and the opportunity would be seized by Mexico, to say to us, that "You, by this appropriation bill, agreed to the initial point sanctioned by your commissioner—an initial point different from the one named in the treaty." It is simply to avoid that conclusion that I offered this amendment. I am prepared with documents to go into the question of the conduct of the commissioner; but unless I am provoked, I will not now do so. I am prepared to do justice to everybody, but first of all, I wish to do justice to my own country, in a matter of this kind. All that I ask—all that I want, is the exact line agreed to by the treaty, and that I mean to insist upon as long as I can.

Mr. UNDERWOOD. I am very happy to hear the declaration of the Senator from Texas. I think the amendment, as it has been prepared by him, contains no reflection on the commissioner. I think his conduct is not involved in it; and I hope his friends will not be disposed to make points for the purpose of drawing from the gentleman from Texas an argumentative speech, which perhaps might lead to days of discussion. I hope, therefore, that the question may be taken immediately on the amendment.

Mr. SEWARD. I would like to know how much better off we shall be when we adopt the amendment. If we do not pass the amendment, will there be any different conclusion left? I do

not see any necessity for adopting the amendment.

Mr. BADGER. I confess that I am in the same happy state of ignorance.

Mr. UNDERWOOD. It can do no harm.

The amendment was agreed to.

Mr. BELL. Mr. President, I am directed by the Committee on Indian Affairs to offer an amendment to the bill. It is to insert the following:

For payment to the assignees of the contractors for the removal of the Choctaw Indians from the States of Alabama and Mississippi, a balance of a claim on account of said removal, included in the estimate of the Indian Bureau, and an appropriation for the payment of which passed the Senate at the last session of Congress—\$37,422.

The PRESIDENT. The impression of the Chair is, that this amendment provides for a private claim.

Mr. BELL. The amendment is founded upon an estimate sent from a Department.

The PRESIDENT. Private claims are expressly excluded, whether they are estimated for or not.

Mr. BELL. I offer this amendment under the direction of Committee on Indian Affairs.

The PRESIDENT. That does not alter the case. Private claims are expressly excluded, whether estimated for or not, or whether reported by a committee or not.

Mr. BELL. I ask for the reading of the rule.

The 30th rule was accordingly read, as follows:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

Mr. BELL. I think the President is mistaken in the construction which he gives to the rule. I hardly think this is, strictly speaking, a private claim. This is a claim for an Indian removal. It is founded upon an act of Congress. The removal of these Indians was expressly provided for by an act of Congress; a contract was made for their removal in pursuance of that act; and now, an estimate has been sent by the proper Department, for the payment of the expenditures incurred in consequence of it. I do not wish to take an appeal from the decision of the Chair, but I submit to the consideration of the President, whether it is not going too far to exclude such a claim as this on the ground that it is a private claim.

Mr. HUNTER. Mr. President, it seems to me that this is a private claim, strictly speaking. The fact that it is estimated for by a Department does not prove that it is a public claim. I understand that the Indian department has received instructions that, whenever the officers think there are just claims arising out of Indian transactions, to estimate for them. That is the instruction, I believe, under which the Indian department now acts. It is their belief, that if, in the opinion of the officers, there are any of these claims which should be paid, it is their duty to estimate for them. The fact, therefore, that this claim has been estimated for, does not prove that it is not a private claim. What is it? It is to compensate a contractor, or two contractors, for consequential damages which they claim to have incurred on account of the mode in which the Government paid these Indians. I believe that is the nature of the claim, and it seems to me that it is a private one.

The PRESIDENT. The Chair will again read that portion of the rule relating to this subject. The Chair has certainly no desire to exclude this amendment from every consideration—from his local position, as well as from the interests of those concerned. On the contrary, if he were to consult his own wishes, he would receive the amendment; but, as long as he presides, he will endeavor to enforce the rules. The 30th rule provides, that—

"No amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

Mr. BELL. I think the decision of the Chair in relation to this is a new one. I believe that this question was submitted to the Senate at the last session, and that an appropriation for this purpose was then included in the Indian appropriation bill.

Mr. HUNTER. It may have been put in by

the Senate. I do not remember it; but I think no such appropriation was reported by the Committee on Finance.

Mr. BELL. My recollection is, that the provision was inserted on a motion made under the direction of the Committee on Indian Affairs. The Senator from Missouri can set me right, if I am mistaken. I think he will bear me out, that the claim of William B. Hart, assignee of the contractors to remove the Choctaw Indians, was included in the Indian appropriation of last year.

Mr. ATCHISON. I think it was.

Mr. CLARKE. It was included in that bill.

Mr. BELL. That is my understanding of the matter. I think the decision of the Chair on this question is certainly a new one. This claim has been presented, and has been pending for some years before Congress.

Mr. RUSK. This amendment has been recommended by a committee, and hence comes within the provisions of the rule.

Mr. BADGER. The rule expressly excludes private claims, although they may be reported by a committee.

Mr. SEBASTIAN. I rise merely for the purpose of stating to the Senator from Tennessee, that I can supply him with the information about which a moment ago he appeared to be at some loss. The claim of Mr. Hart was recommended by the Committee on Indian Affairs at the last session of Congress, and was ingrafted upon the general Indian appropriation bill as an amendment by the Senate, but was lost by a disagreement between the two Houses. This is the position in which it received the sanction of the Senate at the last session of Congress. It was an amendment adopted on the report of the Committee on Indian Affairs.

Mr. BELL. I dislike to press any question of this description, but certainly I am correct, according to the statement of the honorable Senators who have spoken, in saying that this is a new position in reference to this claim; for the Senate has heretofore considered it, not as a private claim which was excluded, but such a one as could come in under the standing rules of the Senate, as an amendment to an appropriation bill.

Mr. HUNTER. Perhaps the question was not raised at the last session.

Mr. BADGER. I rise to assist my friend from Virginia in endeavoring to "keep the peace" of this bill. Do not let us take up the whole day in discussing the question whether the amendment be or be not in order.

The PRESIDENT. The Chair has no recollection of what took place with regard to an amendment of this character at the last session, or whether the question was then raised. The simple question now to be decided is, whether this is a private claim or not.

Mr. SEWARD. I am at a loss to conceive how this amendment differs in principle at all from the amendment we have just adopted, directing the sum of \$3,000 per annum to be paid to a lieutenant of the Navy for superintending the Nautical Almanac. To be sure, in one point of view, this seems to be a private claim, but in another view it is an appropriation of money to pay for services actually performed, and is precisely in the same category with the case to which I have referred. I do not think that the rule was intended to embrace a case of this kind, where a service was contracted for by law, and where a Department seeks to obtain the money for the purpose of paying it. The rule was never intended, in my opinion, to apply to such a case.

Mr. ADAMS. It occurs to my mind that this amendment is precisely in the same condition, and in the same class, with the Collins line appropriations. We yesterday agreed to make an additional appropriation to that line for transporting the mail. Here it is proposed to appropriate for expenses incurred in the removal of Indians. That was an appropriation made to individuals for complying with a contract made with the Government. This is an appropriation to pay a contractor. If this amendment is out of order, then a large portion of the appropriations which are usually offered as amendments to such bills are out of order, and I shall insist in future upon the point of order.

The PRESIDENT. The amendment in regard to the Collins line of steamers stood in a very different position from this. According to the rule,

estimates are required to be furnished. In that case the Senate decided that the estimate presented with regard to that line was sufficient to justify the amendment under the rule. The rule extends further, and provides that when a committee directs the offering of an amendment, it is to be received, although there is no estimate. But there is an express exclusion by the rule of all private claims, whether there is an estimate sent for them from the head of a Department or not, or whether they have been reported by a committee or not. The rule expressly and positively excludes all private claims. The simple question now is, is this a private claim? The Chair was under the impression that it was a private claim, and that it would, therefore, be excluded under the rule. Now, if the Senate, from hearing the nature of the claim, and understanding what it is, are prepared to say that it is not a private claim, and that this is a proper amendment to be offered, inasmuch as it comes from a standing committee, the Chair, in order that his opinion in regard to its being a private claim may not prejudice it, will submit the question to the Senate, whether they consider that this is a private claim. If they do so consider it, then it will be excluded under the rule as an amendment.

Mr. BORLAND. Mr. President, I thought the other day, when I raised the question with regard to the amendment for the Collins line, and insisted that it was not in order under the rule, that the action of the Senate had settled the question; at least it did to my mind, that this bill was an omnibus, to which anything might be offered as an amendment; especially did I think so when I saw that we entertained an amendment making an appropriation for sufferers by Creek depredations. This amendment, it seems to me, is to provide for a similar class of cases. It is true, this money is to be paid to a single individual, but he is the assignee of a number of individuals. But whether the money is to be paid to one individual, or to many individuals, the character of the claim is precisely the same. It is to pay for certain expenses incurred by the Government in connection with the removal of these Indians. If we could put into this bill an appropriation paying forty or a hundred individuals \$350,000, it seems to me that when an amendment is offered for paying an assignee of a number of individuals nearly \$40,000, it must come precisely within the same rule, and be admitted upon the same ground.

Mr. BELL. I will not argue this question, but I wish to say that this appropriation stands precisely, in regard to its admission under the rule, on the footing of the amendment which I offered the other day under the instructions of the Committee on Indian Affairs, to provide payment for depredations committed by the Creek Indians. I cannot discriminate between the nature of the two claims as to whether one be a public, and the other a private one. For myself, I cannot see any difference in the nature of them. I will not debate this matter. I simply rise to say that I act under the directions of the Committee on Indian Affairs. In all these cases in which I have presented amendments under the orders of the committee, I have not the slightest feeling connected with them. There is no person whom I wish to benefit by this amendment. It is not particularly in my charge in any form or manner, except as I am directed by the Committee on Indian Affairs to offer it. When that committee come to a conclusion in which I concur, I generally earnestly attempt to carry out their directions. That is all the interest that I have in this matter.

I think we cannot well discriminate between the nature of this claim and the one which was received the other day in regard to the Creek Indians; but if it be the pleasure of the Senate to lay down a rule in this particular case which shall be the governing principle for their conduct hereafter in reference to all analogous cases—if we here see clearly that there is a necessity for laying down such a rule, although I should regret that it was thought proper to apply it just at the moment when this claim was presented, after having been pending here so long, and having received favorable consideration so often, yet, if there be any great object to be answered by excluding this, and fixing the rule at this point of time, I shall have no objection, but shall submit with great cheerfulness to whatever the Senate shall decide.

Mr. BADGER. I do not mean to say any-

thing upon the question before the Senate. I merely rise to give notice that to-morrow I shall lay on the table of the Senate a resolution to rescind so much of the rule as excludes the offering of amendments providing for private claims to appropriation bills. I shall do it, not from any particular objection to that provision as it stands, but because it will be tolerably manifest, before we have been long acting under the rule, that we shall take up as much time in discussing what is to be a private claim as would be necessary to investigate its merits, and either adopt or reject it. To obviate that, I give notice that I shall to-morrow submit a resolution rescinding that portion of the rule.

The PRESIDENT. The Chair will submit to the Senate the question, whether this is a private claim. The Senator from Tennessee offers an amendment, to make provision for paying an assignee under a contract for removing the Choctaw Indians from Mississippi and Alabama. Under the rule, no private claim can be offered to an appropriation bill, as an amendment; and it is simply for the Senate to decide whether this is a private claim which is excluded from being offered as an amendment under the rule. As it is a very difficult and delicate matter to distinguish in all cases whether a claim is a public or a private one, the Chair, wishing the Senate to decide the matter for themselves, will leave it to them to say whether it is a private claim which is excluded by the rule.

Mr. CHASE. I would ask whether this amendment may not be considered by unanimous consent, notwithstanding the rule?

Mr. BADGER. It certainly cannot.

Mr. CHASE. I believe this is a very meritorious claim, but still my conviction is very clear, with the Chair, that it is a private claim. At the same time, it seems to me, we might, by unanimous consent, consider it, notwithstanding the rule.

Mr. PEARCE. I cannot conceive how this claim can be viewed in any other light than as a private claim. I believe it is set up by certain contractors who engaged to remove the Choctaw Indians. They stipulated with the Government to convey those Indians to their new homes in the West, at a certain price per head. It seems that there were difficulties in the way of their emigration. The Indians refused to go, because they were not furnished with a certain amount of scrip which they wanted, before they started, to pay their debts. They did not, therefore, go when they were expected to go, and the contractors lost money in consequence of their refusing to go at that time. I think that is the foundation of one part of the claim. The Government did not contract to pay these persons the money which they now ask. We appropriated for them the money which the Government contracted to pay. But they say that the Government failed to do something else, which was necessary to enable them to carry out their contract without loss, and therefore they ask to be indemnified. Then again the contractors were called upon by the Indians to furnish them with certain articles necessary for their comfortable removal, which were not included in the contract, but were beyond it. We were informed that the Indians would not have gone, if they had not been furnished with those articles. The contractors furnished them, relying on the justice and liberality of the Government to reimburse them. All this constitutes an equitable claim (if it is anything at all) to reimbursement from the Government; but, if it does not constitute a private claim, it seems that to me there are no such things as private claims. Hence I would have felt bound to sustain the decision of the Chair against the reception of the amendment; but as the Chair has submitted the question to the Senate, I feel bound to declare by my vote that this is a private claim.

Mr. MASON. I do not entertain a doubt but that this is a private claim; and yet I feel myself constrained to vote to admit it as an amendment to this bill. I do so because I understand that the Senate, by a formal vote a few days ago, declared that claims of this character, although they were private claims, do not come within the rule which has been read. When another amendment was offered by the Senator from Tennessee, to pay to certain individuals claims which they had against the Government for alleged Indian depredations, the same objection was made, but it was overruled.



by the Senate, and the amendment was received, although it was afterwards rejected. I feel myself bound to acquiesce in that construction which the Senate has placed upon its rule; though I do not entertain a doubt that this is a private claim, yet I am reluctant to mete one measure to one set of claimants, and another measure to another. I feel bound to say, therefore, that although it is a private claim, I do not think it comes within the rule as the Senate has construed it.

The PRESIDENT. The Chair will put the question to the Senate to decide, whether it is or is not to be construed as a private claim, which is excluded under the rule. Those who consider that it is a private claim, which is therefore excluded by the rule, will say "Aye."

Mr. BELL. If the Chair will pardon me, I would suggest that it would be better to submit to the Senate, the question whether they will entertain this amendment?

The PRESIDENT. The Chair has to conform to the rule.

Mr. BELL. There has been some discussion with regard to the nature of the claim. Gentlemen have undertaken to define what is a public and what is a private claim. It is a very difficult undertaking to draw the line between them. I think the chairman of the Judiciary Committee would find some difficulty in laying it down correctly. But I trust that, under all the circumstances of the case, this claim will be considered. It has been before the Senate so often, that it can be acted upon immediately and without debate. If it is not, in the opinion of the Senate, well-founded, it can be rejected. I do not care now to go into the nature of the claim, but I wish to say a word as to the remarks of the honorable Senator from Maryland. He has stated some points of the case, but not all of them.

Mr. PEARCE. It was not necessary to state all.

Mr. BELL. I understand that the honorable Senator thinks this is a private claim, and that he also supposes that a large portion of the amendments which the Committee on Indian Affairs are in the habit of offering to these appropriation bills are for private claims. Others entertain a different opinion. Many Senators think that they are public claims, and as well entitled to be received and acted upon as any other case where an appropriation is made. This claim arises under a law of the United States providing for the removal of these Indians. What the honorable Senator from Maryland said, was well enough so far as it went. Whilst these gentlemen were in the midst of the performance of their contract, the Government of the United States thought proper to change the law in regard to the right of these Indians to certain compensation to which those gentlemen looked at the time for their remuneration.

The Indians relied upon scrip for one half the reservations which they sold on the Mississippi, which were to be paid to them on their arrival at their new homes. While these gentlemen were performing the contract, after they had removed perhaps some ten or twelve hundred of the Indians, and were in the process of removing some six or seven hundred more, Congress provided that no such payment should be made to the Indians. I simply state this in order that the Senate may see the ground upon which the claim stands. I hope that we shall admit the amendment, and allow the claim.

Mr. CASS. In addition to what was said by the honorable Senator from Virginia, I merely wish to remark, that I understood the proposition precisely as he did. It seems to me, that the Senate the other day, by a solemn vote, put a construction on its own rule, which necessarily includes this claim. I was among those who voted with the minority on that occasion. I think the yeas and nays were taken on the point, whether an amendment to appropriate \$350,000 for Creek depredations was not a private claim? The Senate decided that it came within the rule. And now I should like to know what distinction can be drawn by which a claimant for \$10,000 for Creek depredations comes within the rule, and a claimant for relief under the Choctaw treaty does not come within the rule. The Senate has put a construction on its own rule. It admitted that proposition as being in order. I then voted in the minority; but I have no disposition to set myself up in opposition to the decision of the Senate. I

am not willing to make one measure for one man and another for another.

The PRESIDENT. Whatever may have taken place heretofore is another question. The rule is positive, as the Chair has stated. If this is considered to be a private claim, it cannot be received under the rule; but if it is not considered as a private claim, it is a proper amendment to be offered. It is for the Senate to say, after hearing the discussion with regard to the nature of the claim, whether they so consider it. The Chair is unwilling to exclude anything that may be properly offered, no matter what his individual opinion may be. He submits the matter to the Senate to say whether they consider this such a private claim as is excluded under the rule, or whether it is such a claim as is justified in being provided for by an amendment.

Mr. CASS. I had not the slightest idea of impugning the decision of the President. I think he is perfectly right. I voted so the other day. I think this is a private claim; but I think the Senate has put a construction on its own rule by which it is bound to admit this. A majority of the Senate have determined that cases like this are not to be considered as private claims; and having so decided, I am unwilling to make a difference between those cases and this.

Mr. BUTLER. My friend from Tennessee has made allusion to me as chairman of the Committee on the Judiciary. He thinks that the distinction between a private and a public claim is not very definite. I think that in some respects this is so; but I think that this clearly falls within the class of what would be called private claims. I concur fully with the Chair in that respect. If you are to make this bill a vehicle for all the claims that may be attached to it, of course, as my friend from Virginia says, it is an impediment thrown in the way of business that may prevent the bill passing within the time that it is called for. As regards the opinion which has been supposed to exist heretofore in the Senate, it cannot control me in the vote that I shall give. I think the Chair, on all these questions, ought to have his independent opinion.

Mr. MASON. The honorable Senator from South Carolina stands in the relation of law adviser to the Senate, being chairman of the Committee on the Judiciary. I should be very much disposed to be governed in my vote by his opinion on such matters. I have taken the same view of this question with the Senator from Michigan. I do not entertain a doubt that this is a private claim. That is my individual opinion. But I put this question to the honorable Senator from South Carolina, whether the construction placed upon a law by a tribunal competent to place such a construction, does not become a part of the law itself? Now, if the Senate have determined that claims of the class to which this belongs are not private claims, then it is a part of the law that they are not private claims, and of course they do not come within the rule. That is the consideration which governs my vote.

Mr. BUTLER. If the judgment of the Senate has been given upon a similar question, of course we ought to be controlled by that judgment. I do not know how far this is distinguished from the question which has been heretofore decided by the Senate, and therefore I cannot answer my friend. I have not had the benefit of the discussion on that subject. So far as regards this question, I have no difficulty as to my judgment. How far it should be controlled by the decision of the Senate on another question, I am not prepared to decide, for I have been absent from the city, and have not heard the discussion and decision.

Mr. CHASE. I have only a single suggestion to make to my honorable friend from Michigan, and that is, whether the devotion which he now avows to a single precedent of the Senate is quite consistent with the great law of progress. [Laughter.]

Mr. CASS. I take it, that this is not a precedent at all. It is the established rule of the Senate, affirmed by a solemn vote. If a year or two had intervened, so as to allow a little progress, the point of the Senator might be well taken; but in the progress of a day I have not much faith.

Mr. BELL. I wish to call the attention of the honorable Senator from South Carolina to exercise his acumen in seeing whether I am right or

wrong, in what appears to me to be the fair construction of this rule. The rule provides:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

An amendment proposing additional appropriations is in no case admissible unless in one of these excepted cases. Then the rule proceeds—and this is the point to which I wish to call the attention of the honorable Senator:

"And no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

I think this restriction clearly shows that if such an amendment be moved by direction of a standing committee, it is not excluded. I leave it to the honorable Senator from South Carolina to say whether there is any such limitation. There are in the first clause of the rule three or four cases of exception. The second part provides that no private claim shall be received as an amendment, although it may have been previously sanctioned by the Senate. That is one of the exceptions in the first clause of the rule. It seems to me, then, that a private claim can be moved as an amendment by direction of a standing committee, or in pursuance of an estimate. I think the restriction only applies to where such a claim has been previously sanctioned by the Senate. The rule does not preclude private claims moved by direction of a standing committee, or in pursuance of an estimate by the head of one of the Departments.

The PRESIDENT. The rule excludes private claims altogether.

Mr. BUTLER. I cannot agree with my friend from Tennessee in the construction which he has given to the rule. I have my own opinion in regard to the matter. I understand him to go so far as to say that an amendment may be offered even for a private claim, provided it has received the sanction of a standing committee, and that any private claim can be incorporated into this bill, provided it has the sanction of a previous estimate, or was moved under the instruction of a standing committee. I cannot go that far. I think the Chair in this respect is certainly right. The latter clause is a perfect exclusion of all private claims from bills of this kind. It excludes them in all cases. In that view, I think the Chair is correct.

Mr. BADGER. Mr. President, if a word were necessary to show that my friend from Tennessee has fallen into an entire mistake in his interpretation, I think it will be evident from this fact. According to his interpretation, if a gentleman introduces a bill for paying a private claim, and the Senate unanimously pass that bill, and it goes down to the other House, the Senator admits that if an appropriation bill comes up, you could not move that provision as an amendment to it; but if an amendment is reported by a standing committee, or if a member of a standing committee is directed to move an amendment, for the purpose of paying it, then he says the subject is in order to be considered by the Senate. Now, that cannot be a just rule of interpretation which makes the direction of a standing committee superior to the decision of the Senate.

The meaning of that exclusion to which the Senator has referred, was to show that a private claim should not be moved as an amendment under any circumstances; and for the purpose of showing that it could not be moved under any circumstances, the highest and most consequential and influential circumstance was specified, to wit: when the private claim had received the sanction of the Senate.

I would not have ventured to make these suggestions but for the fact that the Chair has submitted this question for the opinion of the Senate, and hence it seems to be proper that we should, all of us, *seriatim*, say what we think of it.

I am clearly of opinion that if the Senate has ever passed a private claim since I have been a member of the body, this is a private claim. If the Senate has never passed a bill providing for a private claim, then I admit this is not a private claim.

I do not exactly agree in the reasoning of my friend from Virginia, [Mr. MASON,] that because the Senate, as he supposes, in a certain instance, voted a claim to be a public claim which was really

a private one, we are therefore to repeal that rule; for that is his argument—that is the position to which his argument leads. According to it we can never correct a misapplication of a rule. But I do not hold, with the Senator, that the Senate has decided that any claim parallel with this is a public claim. The distinction between the case which has been referred to by my honorable friend, and the case now under consideration, is obvious. This claim is private in all its parts; and, as I have said, if it is not a private claim, then we have never passed one.

I am for repealing that part of the rule relating to private claims; and I have given notice that I shall offer a resolution for that purpose. But I do not wish it to be understood that I am going to repeal it by a vote that is not in force. I wish to have it repealed by the regular action of the Senate.

The PRESIDENT. The Chair will put the question in this form: Senators who consider that the amendment can properly be offered under the rule will say "Aye;" those who think that, being a private claim, it cannot be offered under the rule will say "No."

The question being taken, there were—ayes 18, noes 19.

So it was decided that it was not in order to offer the amendment.

Mr. BADGER. I wish to submit an amendment to this bill, and I will offer one word of explanation. I think that the Senate will immediately see the propriety and necessity of it. It is to come in at the end of the appropriation paying for the floating sectional dock contracted for in California. The dock will shortly be delivered there. The question is still pending before Congress, whether Congress will have the appendage of a pier or of a basin and railway. That question is undecided. Whichever may be adopted, two or three years must elapse before they will have either. In the mean time, it is necessary that some measure should be adopted for preserving and taking care of the dock. In the act of 1850, which made an appropriation for a dock, basin, and railway, the Secretary of the Navy was directed to authorize the proprietors to use the dock, when it was not needed for the public service, for private purposes. In a communication, addressed to the Committee on Naval Affairs, he desires that Congress would direct him to take what measures might be necessary. It is for Congress to decide how the matter shall be disposed of. It is necessary to make some provisions for the security of the dock until the Government shall have its own establishment there. To accomplish that purpose, I move to insert the following amendment:

And the Secretary of the Navy is hereby directed to permit the contractors for the erection of the said dock, for such term of years as he may deem expedient, to use the same on their own account for repairing merchant vessels, when not required for the use of the public vessels of the United States. The said contractors agreeing, in consideration thereof, safely to keep the said dock, and to indemnify the United States against any injury to the same, except the natural decay of the materials, while used by them; and to surrender the same at the expiration of the term in good order and condition, and also giving such security and in such form, for the faithful performance of the agreement, as may, by the said Secretary, be deemed proper.

Mr. DAWSON. This is an important amendment, involving a principle upon which I would like to have an opportunity to reflect. I may be in favor of it; but I wish to look into it. It seems to me to involve the principle of farming out the public property by contract for a length of time. In order to have an opportunity of examining it, I move that the Senate do now adjourn.

Mr. BADGER. If my friend will withdraw the motion for a moment, I wish to say a word.

Mr. DAWSON. I will withdraw it.

Mr. BADGER. I have not the least desire in the world to press the amendment upon the Senate. I brought it forward because the Secretary of the Navy had thought proper to submit to the Committee on Naval Affairs the fact, that when the sectional dock gets to California, there will be no place to take care of it; and unless some place is provided, or some provision of this sort made, it will be ruined. Having offered the amendment, I care not one copper what is done with it. If it is lost, it will be through no agency of mine. I think that when the Government has paid three quarters of a million of dollars for a structure, it is worth while to make some temporary arrange-

ment for its reception. But I do not want to delay this bill; and as gentlemen seem disposed to talk on this proposition, I withdraw the amendment.

Mr. SHIELDS. I wish to offer an amendment, which I think will give rise to no discussion.

Mr. BADGER. You are mistaken about that. I thought my amendment would not be discarded.

Mr. SHIELDS. I wish to get rid of it at any rate. I have had it in my hands for some time ready to offer. The Committee on the District of Columbia have directed me to offer an amendment to appropriate a sum of money to repair the Long Bridge, which has been swept away by the late flood, in a temporary manner. The object is to place it in such a condition that it may be passable until action can be taken in regard to a permanent bridge, or some other structure. An estimate has been made, at the request of the committee, stating that it can be done for \$12,000. I hold the estimate in my hand. It is somewhat lengthy, pointing out all the particulars. If there is any objection to the amendment, I shall not press it to-night. But I hope there will be no objection to it.

Mr. BADGER. I have a very decided objection to it.

Mr. SHIELDS. The amendment which I am instructed to offer is the following clause:

For the repairs of the Long Bridge, across the Potomac, a sum not exceeding \$12,000; to be expended under the direction of the Commissioner on Public Buildings.

On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, May 20, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the unfinished business of yesterday, being the bill for the construction of military roads in Oregon Territory.

Mr. McLANAHAN here obtained the floor.

Mr. RICHARDSON. I wish to make an inquiry of the Chair—

The SPEAKER. The gentleman from Pennsylvania [Mr. McLANAHAN] rises to address the Chair. The Chair does not know what he proposes, and will hear him.

Mr. McLANAHAN. I wish to make a statement to the House. The first Monday in June is the day fixed by law for holding the district court in the District of Columbia. The chief justice of the circuit court is the judge of the district court, and of course possesses original jurisdiction. It is well known in this House that the chief justice of the circuit court, from protracted illness, and from the infirmities of old age, is not able to discharge his official duties.

Mr. ROBINSON. I rise to a question of order.

Mr. McLANAHAN. I will occupy but a moment, and I hope the gentleman will not raise a question of order. On the first of this month a bill passed the Senate, to provide for the holding of the district court of the District of Columbia, in cases of sickness or other disability of the district judge.

Mr. JONES, of Tennessee. I would ask if the permission of the House has been given for this speech.

The SPEAKER. The gentleman from Pennsylvania [Mr. McLANAHAN] is called to order.

Mr. RICHARDSON. It will take the entire week to dispose of the territorial bills. No other time, I am satisfied, will be set apart for the disposition of these bills; and I want to make an inquiry of the Chair. Is it now in order to move to go into the Committee of the Whole on the state of the Union, to take up that business? and if so, and the House resolve itself into the Committee of the Whole, what will become of the territorial bill now before the House? When will it come up again?

Mr. McLANAHAN. I have the floor, I believe, and I have not yet indicated to the House what is my desire.

Mr. RICHARDSON. That is the question I make upon the gentleman.

Mr. McLANAHAN. I am sure if the gentleman will listen to the suggestion I was about to make, he will not raise the point of order, but al-

low this bill to be taken up and passed. It is a matter of pressing public necessity.

The SPEAKER. The gentleman from Pennsylvania [Mr. McLANAHAN] asks the unanimous consent of the House to take up the bill indicated by him, providing for the holding of the district courts in the case of the sickness or other disability of the judges.

Mr. RICHARDSON. I object.

Mr. ROBINSON. I call for the regular order of business.

Mr. SEYMOUR, of New York. I ask the unanimous consent of the House to report a bill relating to the territorial business, now under consideration before the committee. It is in relation to the ports in the Territory of Oregon, and is a report from the Committee on Commerce, who have had that subject under consideration. The bill is to designate the ports in the district of Oregon, and to fix the compensation of the collector at Astoria.

No objection being made,

Mr. SEYMOUR, from the Committee on Commerce, reported "A bill to authorize the President of the United States to designate the places for the ports of entry and delivery for the collection of the district of Puget's Sound and Umpqua, in the Territory of Oregon, and to fix the compensation of the collector at Astoria, in said Territory," which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SCUDDER. I ask the consent of the House to make a report, if the gentleman from Illinois will yield me the floor for that purpose.

Mr. RICHARDSON. I yield to the gentleman from Massachusetts for that purpose.

Mr. SCUDDER, by unanimous consent, reported from the Committee on Territories a bill to provide for additional clerks, and to extend the sessions of the Territorial Assembly of New Mexico; which was read a first and second time by its title, and referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The SPEAKER. The gentleman from Illinois [Mr. RICHARDSON] submits a motion that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order. The Chair must say to the gentleman that the business first in order is, the bill which was under discussion yesterday for the construction of military roads in Oregon; and that the gentleman from Illinois, his colleague, [Mr. BISSELL] was upon the floor, and is now entitled to the floor on that bill.

Mr. RICHARDSON. The question I wish to get at is this: If we go into the committee this morning, does not the bill now before the House, as unfinished business, come up to-morrow, or any subsequent morning, as the first business in order?

The SPEAKER. It is the first business in order, and the gentleman's colleague [Mr. BISSELL] is entitled to the floor, and cannot be deprived of it by a motion to go into Committee of the Whole.

Mr. ROBINSON. I desire to ask whether the gentleman from Illinois [Mr. RICHARDSON] can make the motion to go into the committee if there is any objection?

The SPEAKER. It would be perfectly in order if the gentleman can get the floor to make the motion, but he cannot do it while his colleague [Mr. BISSELL] is upon the floor upon the unfinished business of yesterday.

Mr. BISSELL. I yield the floor to my colleague to make the motion.

Mr. STUART. I wish the attention of the gentleman from Illinois [Mr. RICHARDSON] for a moment. It is perfectly obvious, in the present condition of things, that we can do nothing in the Committee of the Whole upon the territorial business, until we come to some understanding with gentlemen in the House; and, unless we can get such understanding, we had better discuss all these measures in the House. I ask the gentleman from Illinois [Mr. RICHARDSON] to allow the discussion to go on in the House until such a state of things can be arrived at.

Mr. RICHARDSON. It is my intention, upon getting into the House, to endeavor to obtain the floor, and move to terminate debate upon each of

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the bills as they come up, and thus restrict the debate to the merits of the bill, under the five minutes rule.

The question was then taken on the motion of Mr. RICHARDSON, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union upon the special order, (Mr. STANTON, of Tennessee, in the chair.)

The CHAIRMAN. The first business in order before the committee is House bill No. 41, "granting the right of way and making a donation of the public land to the Territory of Minnesota, to aid in the construction of a railroad from the Falls of the St. Louis river to St. Paul, on the Mississippi river."

Mr. RICHARDSON. That is a bill that ought to be discussed, and I have no doubt that gentlemen desire to discuss it upon its merits. I ask that it may be read.

The CHAIRMAN. The Clerk will read the bill.

The Clerk was proceeding to read the bill when—

Mr. JONES, of Tennessee, (interrupting,) said: I understand that it is not the intention of the friends of this bill to press its consideration now. It does not, strictly, come within the range of territorial business; and I propose that it be passed over informally.

Mr. RICHARDSON. I move to lay that bill aside, and that we take up the next bill on the Calendar.

The CHAIRMAN. It can be passed over informally, by unanimous consent.

No objection was made, and the bill was informally passed by.

## APPROPRIATIONS FOR THE TERRITORIES.

The CHAIRMAN. The next bill in order before the committee is House bill No. 252, "to authorize the legislative authority of the several Territories to control the appropriations to be made by Congress for the support of the government of said Territories."

The bill was read by the Clerk.

Mr. RICHARDSON. I move that the committee rise, with the view of closing debate.

The question was taken on the motion, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported, that the Committee of the Whole on the state of the Union, had had the state of the Union generally under consideration, and particularly the special order, being House bill No. 252, and had come to no conclusion thereon.

Mr. RICHARDSON. I move that debate upon House bill No. 252 be terminated within ten minutes after the committee shall have again resumed its consideration.

The question was then put, and the motion was agreed to.

Mr. STUART. I move that the rules of the House be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The question was then put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee, in the chair,) and resumed the consideration of House bill No. 252.

Mr. RICHARDSON. The bill under consideration explains itself, I think, pretty much by its reading. The best explanation I can give of it, is to let the Clerk read it, and let the committee give their attention to that reading.

The only object of this bill is this: The Department find some difficulty, when appropriations are made for the purpose of defraying the expenses of their Legislature, in settling their accounts. Under the practice now, I believe the Secretary of the Territory goes on and makes his purchases of stationery and such things as that. We propose

to change that by giving to the Territorial Legislature the power to direct the mode and manner in which such purchases shall be made. They have not the power to divert the appropriation from the object intended by the Government in making it, and they cannot exceed the appropriation. This is the whole object of the bill.

The CHAIRMAN. If there be no amendments to this bill it will be laid aside to be reported to the House.

Mr. CARTTER. Let the bill be read.

The bill was accordingly read by the Clerk.

Mr. FOWLER. I wish to inquire of the chairman of the Committee on Territories, who has control of these funds, as the law now stands?

Mr. RICHARDSON. Will the gentleman repeat his inquiry? I did not hear it.

Mr. FOWLER. I understand that the object of this bill is to give the Territorial Legislature the control of the funds appropriated by Congress. My inquiry is, who has that control as the law now stands?

Mr. RICHARDSON. Under the construction of the law, a question has arisen in some of the Territories, as to who has the control.

Mr. FOWLER. That is my inquiry. Who has the control as the law now stands?

Mr. SIBLEY. If the gentleman from Illinois [Mr. RICHARDSON] will allow me to answer, I will state the matter in a few words. There is now a question between the Secretaries of the different Territories and the legislative authorities of those Territories, as to who has the right to control the disbursement of those moneys, and the mere object of this bill is to set that question at rest.

Mr. RICHARDSON. I stated in the outset that the object of this bill is to place these appropriations for the necessary expenditures of the Territories under the control of the Legislatures of the Territories.

No amendment being offered to the bill, it was laid aside to be reported to the House.

## PUBLIC BUILDINGS IN MINNESOTA.

The next bill in order before the committee was House bill No. 253, making an appropriation for the completion of the public buildings in the Territory of Minnesota; which was read by the Clerk.

The bill appropriates \$25,000 for the completion of the public buildings in this Territory.

Mr. RICHARDSON. I move that the committee rise, with a view to terminate debate upon this bill.

The question was put on the motion; and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported, that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the special order, being House bill No. 253, and had come to no conclusion thereon.

Mr. RICHARDSON. I move that all debate in Committee of the Whole on the state of the Union upon House bill No. 253 be terminated within ten minutes after the committee shall have again resumed its consideration.

The question was then put, and the motion was agreed to.

Mr. RICHARDSON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The question was then put, and the motion was agreed to.

The House accordingly again resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee, in the chair,) and resumed the consideration of House bill No. 253.

Mr. STUART. It is not necessary to detain the committee in explaining the objects of this bill. I will simply state, that from the report of the Governor, it is understood the sum of \$25,000 will be sufficient to complete these buildings. The bill is very specifically drawn, and explains its own objects, which are, the completion of the State

buildings and the penitentiary in the Territory of Minnesota.

Mr. HOUSTON. How much has been already expended on these edifices?

Mr. STUART. The original appropriation, I understand, was \$20,000.

Mr. HOUSTON. Twenty thousand dollars have been expended for these two edifices.

Mr. SIBLEY. The original appropriation was \$20,000 for each object. There is still an unexpended balance.

Mr. STUART. It has been expended, or will be expended.

Mr. HOUSTON. What is the unexpended balance now on hand?

Mr. CARTTER. The honorable gentleman [Mr. STUART] derives his authority from the representations of the Governor of the Territory, who has reported the deficiency required to be made up. I wish he would communicate that document to the committee, so that we may understand it.

Mr. STUART. I have not the document here, but it can be sent for.

Mr. SIBLEY. I have to state that the whole of the accounts for this expenditure were presented in the report of the Governor, which was sent to the committee, and they acted upon that report. All the items of expenditure required by law to be made, are under the direction of the Governor and Legislative Assembly. They are required to make all the appropriations to carry out the objects of Congress in making the grant.

Mr. CARTTER. Was the original appropriation supposed to be sufficient to complete the building?

Mr. SIBLEY. No, sir.

Mr. FOWLER. I wish to make an inquiry of the honorable gentleman, their Delegate from the Territory. I perceive that this bill proposes a sum of \$25,000, part to be laid out in the completion of the capitol at St. Paul, and the remainder to the completion of the prison buildings at Stillwater.

Mr. STUART. You are right.

Mr. FOWLER. I wish to ask whether this sum is supposed to be sufficient to complete both sets of buildings?

Mr. SIBLEY. If the gentleman will allow me, I will state to him that I have a letter from the Governor, in which he gives it as his opinion that the sum of \$25,000 will be sufficient to cover all expenses in the completion of these buildings.

Mr. FOWLER. At both places?

Mr. SIBLEY. Yes, at both places.

The CHAIRMAN. If there be no amendments to be offered to this bill, it will be laid aside to be reported to the House.

No amendment being offered, it was laid aside.

## SALARIES OF TERRITORIAL OFFICERS.

The next bill in order before the committee, was Senate bill No. 175, entitled "An act relating to the salaries of officers of the Territories of the United States," and to repeal the proviso in the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1852, and for other purposes," approved March 3, 1851.

The bill was read by the Clerk, as follows:

Be it enacted, Sec. 1. That if any officer of any Territory of the United States shall hereafter absent himself from such Territory, and his official duties, for a period exceeding sixty days, in any one year, without leave of the President of the United States, he shall not be paid any salary for the period of such absence, unless good cause for such absence shall be shown to the satisfaction of the President.

Sec. 2. And be it further enacted, That the proviso contained in an act entitled "An act making appropriations for the payment of the civil and diplomatic expenses of the Government for the year ending the thirtieth day of June, eighteen hundred and fifty-two," approved March third, eighteen hundred and fifty-one, relating to the payment of the salaries of the officers of the Territories of the United States, be and the same is hereby repealed; and the salaries of said officers which have heretofore accrued, shall be paid, anything in said proviso to the contrary notwithstanding.

The CHAIRMAN. The Committee on the Territories have proposed to amend the bill by



striking out all after the enacting clause, to the end of the bill, and insert the following, viz:

That whenever any officer of either of the Territories of the United States shall be absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence shall occur, unless good cause therefor shall be shown to the President of the United States, who shall officially certify his opinion of such leave to the proper accounting officer of the Treasury, to be filed in his office.

SEC. 2. And be it further enacted, That the proviso contained in an act entitled "An act making appropriations for the payment of the civil and diplomatic expenses of the Government, for the year ending the thirtieth day of June, eighteen hundred and fifty-one, relating to the officers of the Territories of the United States," be and the same is hereby so modified, as to authorize the payment of the salary of any officer therein named, notwithstanding such officer may have been absent from such Territory, and his official duties, for more than sixty days: *Provided*, The President of the United States shall certify officially his opinion that the absence of such officer has been for good and sufficient cause.

Mr. RICHARDSON. I move that the committee rise, with a view to terminate debate upon this bill. I will state, Mr. Chairman, that I shall not propose to limit the debate upon it so soon as I have upon the others; but I wish the debate limited so that we may not be again engaged in the discussion of national politics.

Mr. GORMAN. I have an amendment to propose before the gentleman makes that motion. The CHAIRMAN. It is not in order at this time.

The question was then put on the motion, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the special order, being Senate bill No. 175, and had come to no conclusion thereon.

Mr. RICHARDSON. I move that all debate in Committee of the Whole on the state of the Union upon Senate bill No. 175 be terminated in one hour after the committee shall have resumed its consideration.

Mr. JONES, of Tennessee. I move to strike out "one hour," and insert "three hours." This is a bill of considerable importance. It is one involving the question, whether you will pay the territorial judges and officers when they absent themselves from their posts.

Mr. RICHARDSON. I will accept that amendment, for I think the matter should be debated.

The question was then put on the adoption of the resolution as modified, and there were, on a division—ayes 73; noes not counted.

So the resolution was adopted.

Mr. RICHARDSON. I move that the rules be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

The House accordingly again resolved itself into committee, and resumed the consideration of Senate bill No. 175, in regard to the salaries of the territorial officers.

Mr. SIBLEY. It is not my intention, sir, to make any long explanation of the bill now before the committee. I wish to remark, however, that during the last Congress it was found necessary, in consequence of the continued absence of the officers from Minnesota and Oregon Territories, that some measure of a stringent character should be adopted by Congress, with a view of keeping those gentlemen at their posts. The honorable member from Tennessee, [Mr. GENTRY,] who is not now in his seat, moved that clause in the appropriation bill, which provides that if any officer shall absent himself from his post, for a longer period than sixty days at one time, he shall lose his whole salary for the year. I consider that a very proper provision, although it doubtless might operate unequally and perhaps unjustly in particular cases. Most legislation of a general character, is necessarily attended with injustice to individuals, but when such a case arises, Congress should promptly redress any such injury.

The bill which passed the Senate at this session, and is now before the House, contains provisions which do not meet with my approbation. That bill effectually annuls all the previous legislation on the subject. It provides that every officer who absents himself for a period of sixty days, or

more, from his post during the year, shall not lose his salary for the whole year, but merely the *pro rata* compensation for the period he may be absent. That I contended against as not sufficiently precautionary in its character. I stated to the Committee on Territories that I did not believe it would have the effect to keep territorial officers at their posts. The Committee on Territories, at the urgent solicitation of the Delegates of the Territories, have replaced that clause in its original form. They now provide if an officer is absent any time—there is nothing about the restriction of sixty days—from the field of his official duties, he shall lose his salary for the entire year, unless he can procure a certificate from the President that he had good cause for his absence. I regard this as absolutely necessary for the protection of the public interests of the people of the Territories. Gentlemen may differ, and do differ, in regard to this particular power proposed to be placed in the hands of the President, to grant officers of the Territory certificates for their absence for causes satisfactory to him. I, myself, have no opinion to express on that subject.

The honorable Delegate from Oregon [Mr. LANE] asked that his Territory should be made an exception, and the President, by the amendment which, probably, will be offered to this bill, will have no such discretion given him in regard to the Territory of Oregon that he has with reference to the other Territories. The Delegate stated it was a matter of great importance to the people of Oregon that that clause should be made imperative in its character—that no power should be left to the President, and the committee, at his earnest request, made it a special exception. I did not ask that to be done. I was perfectly willing to leave it to this House and the other branch of Congress to say whether they were willing or not to place this discretionary power in the hands of the President. My own view of the matter is, that if officers accept office in the Territories, for which they are well paid by the Government, they ought to be willing to remain there, and discharge the legitimate duties of the office. There are a great many gentlemen who are perfectly willing to accept those offices, who are capable of discharging properly their duties, and who will consent to remain there. But the Delegate from New Mexico [Mr. WRIGHTMAN] stated that if this clause was made imperative in its character, it would operate with great hardship upon some of the officers of his Territory, who were anxious to come to the States for the purpose of taking out their families. I was not willing to make Minnesota a special exception, as the Delegate from Oregon has done. I wish any law that may be passed by Congress to be general in its operation. I hope that the features of the bill sent us from the Senate will be modified so as to conform to the original clause. I am in favor of making the provision as stringent as is consistent with justice to all, and if the officer does absent himself without at least showing good cause therefor, he should not be paid one dollar of his yearly salary.

I do not know exactly what will be the effect of bestowing upon the President the right to make exceptions for cause. I think the bill, as now submitted to the committee, in other respects, and perhaps in that also, is proper and just—just to the people of the Territories, and just to the Government and its officers. If I could suppose that the discretion contemplated to be given to the President, in the substitute offered by the Committee on the Territories, would be abused by favoring those officers only who can bring political influence to bear upon him, I would certainly be very averse to granting even to the President any such power. But, as I before stated, I am willing to leave that question to be settled by the two Houses of Congress, who can decide it better than I can. I am only anxious that the provisions of the bill may be made sufficiently stringent to secure the people I have the honor to represent here against the evils of a continued absence of the judicial and other officers of the Territory. I have now stated all I desire to in regard to the character of this bill, and I will not now consume the time of the committee by a further discussion.

Mr. STUART. Mr. Chairman, I think that the amendment of the Committee on the Territories, as printed and laid on our desks, requires to be amended so that, after the word "opinion," there be inserted these words: "That the absence

of such officer has been for good and sufficient cause."

Mr. GIDDINGS. The amendment reported by the committee was written in a very bad hand, and the word "cause," in consequence, has been printed "leave." If the word cause be substituted, it will render the proposed amendment to the amendment unnecessary.

Mr. STUART. That will answer my purpose. I move to strike out the word "leave," and in its place to insert the word "cause."

Mr. JONES, of Tennessee. I will suggest that that will not entirely secure the object desired to be accomplished. It seems to me that with the word "cause," substituted for "leave," all that will be required to enable the absenting officer to receive his salary is to get the President to officially certify, in his opinion, there was cause, without at all stating whether the absence was for good or bad cause.

Mr. STUART. I think I can satisfy the gentleman by reading the section. It is as follows:

"That whenever any officer of either of the Territories of the United States shall be absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence shall occur, unless good cause therefor shall be shown to the President of the United States, who shall officially certify his opinion of such cause to the proper accounting officer of the Treasury, to be filed in his office."

It expressly provides that the absence shall be for good cause shown to the President, and he is to certify his opinion that it is for good cause.

Mr. PHELPS here made a remark which was inaudible at the Reporter's desk.

Mr. STUART. Now, the proviso which is sought to be modified by this bill contains the provision that for an absence of more than sixty days by any territorial officer, from the Territory, and the duties of his office, he shall forfeit his salary for the entire year. That is the provision of law as it now stands; but the committee propose in this bill to modify that only so far as to allow any such officer to satisfy the President of the United States that he has good cause for such absence, and upon the official certificate in writing of that cause, and not otherwise, is the pay to be obtained.

Mr. PHELPS. I wish to inquire of the gentleman from Michigan, whether the officers are not paid quarterly, and if so, whether, after serving three quarters the officer should absent himself the remaining one, we could recover the three quarters' salary which had been paid?

Mr. STUART. If the gentleman wishes to provide against any such contingency as that, there is no objection to the insertion of such an amendment in the bill. There is no such provision of law now. The proviso which the bill from the Senate seeks to repeal forfeits the salary for the year. The Committee on Territories thinks that that forfeiture is correct, unless good and sufficient cause can be shown therefor. Now, I apprehend there is no difficulty on the part of the officers who pay these salaries to see this law well executed. I know some of the territorial officers complain that they cannot get their pay under it, and, therefore, I think the law is being executed.

Mr. PHELPS. The gentleman certainly does not recollect the proviso to the civil and diplomatic appropriation bill, which it is proposed to repeal by the bill now pending.

Mr. STUART. The Senate bill proposes to repeal it, and for that the Committee on Territories propose a substitute, merely modifying the proviso of the law as it now exists.

Mr. PHELPS. They propose a modification for it prospective, and not retrospective.

Mr. STUART. Both.

Mr. PHELPS. I will now state that the officers, during the time of their absence, cannot receive their pay; and if they do not remain there for the period of three months they are entitled to no pay, for their salaries are paid quarterly. I will refer to a provision in the civil and diplomatic bill:

"Provided, That the salaries specified above for any of the officers of any of the Territories of the United States shall not be paid in any case where any of said officers shall absent themselves from said Territories and their official duties for a period of time greater than sixty days."

I am, therefore, opposed to any further legislation upon the subject. I think the provision in the civil and diplomatic bill is amply sufficient to prevent them from receiving any portion of their

salaries during the time of their absence, provided that absence shall be for a period longer than sixty days.

Mr. HOUSTON. I will state in regard to that provision, with the permission of the gentleman from Michigan, [Mr. STUART,] that the subject came up before the Committee on Ways and Means, and my impression is, that that committee were unanimous in its construction of the law as provided in the civil and diplomatic bill. I believe our construction was as the gentleman from Missouri [Mr. PHELPS] has stated it. I never for a moment believed that that law was intended to take from the officers of the Territories a year's salary; and when I heard it stated a few days ago, when that bill was up in the Senate, that such was the construction, I confess I was astonished. The Committee on Ways and Means had inserted in the civil and diplomatic bill of this session, what they considered was intended to be provided in the law, which is now in the hands of the gentleman from Oregon, [Mr. LANE.] That is, they have inserted that proviso, but in a more definite form. They have made it precise in its language, so as to provide that they shall not receive compensation for the time they may be so absent. The committee were unanimously of the belief that that was intended to be the law. That, in my opinion, is the true construction of the law, and for one reason at least as presented by the gentleman from Missouri, [Mr. PHELPS.] This is the objection to the law as it is proposed—to the provisions reported by the Committee on Territories as an amendment to the Senate bill. The officers of the Territory enter upon the discharge of their duties, for instance, on the first day of the fiscal year. They remain there one, two, and three quarters of the year, and receive their salaries at the end of each quarter. That is the way our officers are all paid. They receive at the end of each quarter their respective salaries for the quarter; but if they absent themselves from the Territories at the end of the third quarter, unless they get from the President of the United States a certificate of good character, or of absence for good cause, then they forfeit the whole year's salary, and your bill does not provide any mode, any means, or any process, by which they are required to pay back to the Government the three quarters' salary which they respectively may have received. When they have it in their pocket, how are you to get it back?

Mr. STUART. I do not want the gentleman from Alabama [Mr. HOUSTON] to be making a speech in my speech. I think it is a bad practice. I have very great respect for the legal opinion of the gentlemen constituting the committee of which the gentleman from Alabama [Mr. HOUSTON] is the chairman, but I have been unable, from an inspection of the proviso, or from the speech that the gentleman has just made with my leave—which I understood was to be a speech explanatory of that opinion—to come to the same conclusion as that committee, and the gentleman, that the true construction of the law is, to withhold the salary for the time of absence merely. Here is the law:

"Territory of Oregon—For salaries of governor, three judges, and secretary, \$10,500.

"Territory of Minnesota—For salaries of governor, three judges, and secretary, \$8,700.

"Territory of New Mexico—For salaries of governor, three judges, and secretary, \$8,700.

"Territory of Utah—For salaries of governor, three judges, and secretary, \$8,700.

"Provided, That the salaries specified above for any of the officers of any of the Territories of the United States, shall not be paid in any case where any of said officers shall absent themselves from said Territories, and their official duties for a period of time greater than sixty days."

The construction which has been given to this proviso by the Departments is, that you cannot pay a man any of his salary for the year, if he is absent more than sixty days from the Territory, and the duties of his office. That is the literal meaning of the proviso, and it is as plain as anything is susceptible of being made by the use of English language. It does not say for the time he is absent, but it says, "provided the salary specified above shall be paid," &c. What is that? It is the whole salary of each one of these officers. I say that the proviso forfeits the entire salary.

Mr. JONES, of Tennessee. Will the gentleman permit me to ask him a simple question? He says under that proviso, if these officers absent themselves longer than sixty days they forfeit the entire year's salary. But suppose they remain at their

posts, discharge their duties for the first three quarters of the year and get their pay, and then, as soon as they have pocketed it, they should leave and be absent the fourth quarter?

Mr. STUART. The only difficulty with the gentleman from Tennessee [Mr. JONES] is, that he is talking about one subject and I another. I am answering the argument of the gentleman from Alabama, [Mr. HOUSTON,] that, by the construction which this proviso has received from the Committee on Ways and Means, it does not apply to any time, except the time during which the officer is absent. I say it is not susceptible of any such construction, and nowhere else has it received such construction.

Mr. CARTTER. Does the law provide for the payment of these salaries quarterly?

Mr. STUART. I understand it does; and gentlemen all around me seem to think so. I wish to say a word upon that point. I said to gentlemen some time ago, if there was supposed to be a practical difficulty in carrying out the provisions of this law, it was very easy to obviate it by proposing a further amendment to the bill. There is no difficulty in doing that. These objections, which have been urged by gentlemen around me, do not affect at all the construction of the law of which I speak. If the salaries are payable quarterly, so that a man may draw three quarters of a year's salary and be absent sixty days, and only loses the remaining quarter of the year, why let the law be amended; and if no other gentleman will do it, I will propose an amendment myself, which will carry out that object. The amendment which I have offered to the first section of the committee's amendment, to insert the word "cause" for the word "leave," is amply sufficient to carry out the objects intended by the committee, unless there be a difficulty, such as is suggested to me, about the time at which the salaries are respectively paid. I do not wish to consume the time of the committee. I will simply state, that among the delegates who represent these Territories, there is no difference of opinion as to the propriety of this law. So far as the law extends there is no difference of opinion among them. The gentleman representing the Territory of Oregon wished an exception to be made as to that Territory, in reference to any officer leaving at all. He objects to any officer leaving that Territory, even with the consent of the President of the United States, and the committee have acquiesced in his request, and they have made that Territory an exception.

Mr. LANE. It is not in the bill.

Mr. STUART. The Territory of Oregon is to be made an exception by the agreement of the committee. I confess that, so far as my own judgment goes, I think the Delegate from Oregon is right. I think the officers should stay there, or not go there. The committee, finding that the Senate of the United States have passed a bill containing provisions which they think are not proper, have reported this bill, throwing upon the President of the United States the responsibility of the execution of these laws. If any discretion is to be given at all, it should be given to that officer. It is his duty to see that these laws, among others, should be faithfully executed. Cases may arise—cases perhaps have already arisen—where the absence of the territorial officer was necessary and proper. The President can be satisfied of that necessity. Being so satisfied, the amendment proposed by the committee requires him to certify it officially to the proper accounting officer, so that his opinion shall be so clearly stated as to rest entirely in the first place upon his responsibility. In the next place, it is to be filed with the proper accounting officer, so that at any time, and at all times, the propriety of that opinion can be ascertained by the legislative authority of the country. And if this discretion is to rest anywhere, I doubt not it is properly vested by the provisions of the amendment which the Committee on Territories propose to this Senate bill. That under the circumstances such a provision should exist, a majority of that committee were satisfied. A further amendment being necessary to this bill, in order to accommodate the views of the Delegate from Oregon, I propose to do what the committee did, but the amendment seems not to have been printed. The committee, in regard to these provisions, introduced an exception—"except as to the Territory of Oregon."

The CHAIRMAN. The gentleman having

offered an amendment to the amendment, he cannot offer this.

Mr. STUART. I shall propose it, then, at the proper time.

Mr. JONES, of Tennessee. With the permission of the gentleman, I will state, that this question is brought here in consequence of certain judicial officers leaving the Territory of Utah. It is to relieve those officers, and give them the salary which the accounting officers of the Treasury, in their construction of that proviso, will not pay to them. It seems that the original proviso under consideration, involves the condition that these officers shall not be paid where they are absent from the Territories for more than sixty days. I wish to inquire of the gentleman, who is a member of the Territorial Committee, if he is aware of the fact, whether those judicial officers ever did go to the districts to which they were assigned in the Territories, and actually entered upon the discharge of the duties of their office, or did they merely go into the Territory of Utah, to the city of Salt Lake, and there, for certain reasons satisfactory to themselves, determine to leave the country, without ever going to their districts, or entering upon the duties of their offices?

Mr. STUART. I will answer the inquiry made by the gentleman from Tennessee, as far as I understand that subject. Perhaps I ought to say, that I am not aware that the Committee on Territories are possessed of any information that has not been open to everybody, connected, at least, with the Congress of the United States.

As I understand this subject, the territorial judges of the Territory of Utah never did enter upon the discharge of their duties, and never did go to their respective districts; and, so far as I know, at the time they were there the Territory had not been divided into districts.

This subject of the territorial judges of Utah is one which the Committee on Territories thought ought not to be decided by Congress. My own opinion upon this question it is not necessary to state. But I take this view: that it is a question to be decided peculiarly by the Executive. The duty of the Executive of the United States is very plain. If these officers discharged their duty properly, or if they used every effort incumbent upon them to discharge those duties, and were prevented by any local cause, from doing so, they ought to be paid. If, however, they did not discharge their duty, or did not make a sufficient effort to do so, then it is equally clear that they ought not to be paid. They have made their report to the President of the United States, and the Governor of Utah has made his. It is the peculiar province, as I have before remarked, of the President to see the laws faithfully executed. He nominates these officers, and appoints them, by the consent of the Senate. They are held to be subject to his control, as far as removal is concerned. He has exercised that control; and, as I understand, has notified these officers that they must return to their duties.

Now, if there be any cause sufficient to justify the payment of these officers, what tribunal under our institutions so well understands the extent of that cause—who so competent to decide it as the President of the United States? Certainly, he should decide it. It is a responsibility that belongs to his office. It is one that, in my judgment, can be better exercised by him than by Congress itself. Therefore, sir, I very much prefer the amendment proposed by the Committee on Territories of the House, to the repeal of the proviso. I think the proviso should not be repealed. The effect of adopting the Senate bill and repealing the proviso would be to pay these officers without any inquiry as to whether they have properly absented themselves or not. The effect of the amendment proposed by the Committee on Territories would be to refer it to the President of the United States to decide whether they have absented themselves for good and sufficient cause. If they have done so, then they ought to be paid.

Now, sir, I am opposed to the Senate bill. I was opposed to it the other day. When it was brought into the House, I objected to it and moved its reference to the Committee on Territories for the purpose of considering it. I am as clear now as I was then that this proviso ought not to be repealed. Such an unqualified repeal would produce the effect to which I have just alluded; it would pay these officers without any further

inquiry, which in my judgment should not be done.

The Committee on Territories, as will be seen, has carefully refrained from expressing any opinion which might prejudice this question one way or the other. If, however, the House differs with us; if the Committee of the Whole sees fit to retain the proviso as it stands, without any qualification whatever, or if they see fit to adopt the Senate bill repealing it, the whole subject is open before us and we can act upon it as we please.

I have thus stated, as briefly as I could, the grounds upon which the Committee on Territories have acted, and the reasons which have governed us in reporting this amendment to the House. I have also stated another amendment which ought to have been printed with this bill, in regard to the Territory of Oregon, and I will not trespass longer upon the attention of the committee.

Mr. WASHBURN. Mr. Chairman, I am of opinion that there will be time enough for gentlemen to discuss the question particularly under consideration, as much as they desire, and I will therefore occupy a few minutes of the time of the committee upon other subjects.

[Loud cries of "Oh! no."]

Mr. WASHBURN. I understand that it has been the universal usage of the House, when in Committee of the Whole on the state of the Union, to permit great latitude of debate.

Several MEMBERS. Let the discussion of the bill go on.

Mr. RICHARDSON. I make the point of order, and I intend to insist upon it, that the gentleman is not in order in discussing other questions, not now before the committee.

Mr. PHELPS. I appeal to the gentleman from Maine to allow the discussion of the bill to proceed. The debate can only last two hours longer, and there are several gentlemen anxious to discuss the bill. I hope he will not occupy the time in discussing other matters.

Mr. WASHBURN. If I supposed that I could obtain the floor again, and that the two hours would be occupied without going into the discussion of political matters, I would very willingly waive my right to the floor for the present. But if I should yield the floor, it is quite likely that some other gentleman would take it, and make a political speech.

The CHAIRMAN. The Chair must arrest this debate. No debate is in order on a question of order. If the gentleman from Illinois insists on his question of order—

Mr. RICHARDSON. I do insist on it. I gave notice yesterday that I should do so.

The CHAIRMAN. Then the Chair is obliged to decide that remarks, such as the gentleman from Maine proposes to make, are not in order.

Mr. WASHBURN. From that decision I appeal, because I understand that it has been the universal practice to allow great latitude of debate in the Committee of the Whole on the state of the Union.

The CHAIRMAN. The gentleman from Illinois makes the question of order, that the remarks proposed to be made by the gentleman from Maine—the nature of which he has stated—not being at all applicable to the bill, are out of order. The Chair decides that such debate is out of order, and from that decision the gentleman from Maine appeals.

Mr. ORR. I believe that it has been the uniform practice of the House to allow general debate upon these—

Mr. STUART. I call the gentleman from South Carolina to order. The appeal is not debatable.

The CHAIRMAN. No debate is in order on a question of order.

Mr. JONES, of Tennessee. One of our rules expressly declares that when a gentleman is called to order in making a speech, the question shall be decided without debate.

The CHAIRMAN. The Chair is aware of that rule, but if the gentleman from South Carolina has a suggestion to make the Chair will hear it.

Mr. ORR. I desire to make a single suggestion to the gentleman from Maine. Whilst I do not concur in the opinion of the Chair, I hope the gentleman from Maine will not take up the time

of the Territories, which is very limited. He can make his speech at the beginning of next week or at the conclusion of this. But by going on now, he may do great injustice to the Territories.

Mr. WASHBURN. I should be happy to yield the floor now, if I could have any assurance that I should get it again the last of this week, or the first of next.

Mr. STUART. The gentleman can easily do it, for the territorial business closes this week.

Mr. ORR. These Territories are dependent on us for their entire legislation.

Mr. RICHARDSON. If I was not compelled to do it, I would not make the point of order on the gentleman from Maine, and would permit the general discussion to go on. But these bills ought to be considered; they ought to be passed or defeated, and there is only this week to do it. I am afraid that even if there is no political discussion—if we discuss the questions legitimately—we cannot get through all the territorial business that ought to be done.

Mr. ORR. There are only two days left for it. Mr. WASHBURN. Since it seems to be the general opinion of the committee that I ought to postpone the remarks which I propose to make, I will do so, with the hope that I may be able to obtain the floor again before long. I withdraw the appeal.

The appeal was withdrawn.

Mr. CARTER. A proposition is now pending before the committee—if I understand the bill under consideration—to repeal a provision which I will presently read, and substitute in its place a forfeiture of current salary for sixty days. The reason assigned for doing that is, that the provision proposed to be repealed forfeits the salary for the entire year.

As I understand it, a difference of opinion has arisen respecting the construction of the section. It is agreed by all, I believe, that the provision is a salutary one, provided it does not operate as a forfeiture of the year's salary. What is the provision? After enumerating the salaries of the officers, the proviso proceeds to recite, "that the salaries specified above for any of the officers of any of the Territories of the United States shall not be paid in any case where any of said officers shall absent themselves from said Territories and their official duties for a time greater than sixty days." Now, I assume to say that the language of that provision is limited to the time of the absenteeism more than sixty days, and that there is nothing in the language of the law that conflicts with this construction of it, and that the reason of the rule is with that construction. What is the provision of the law? That the officer shall receive a certain salary, say one thousand or fifteen hundred dollars a year, and that that salary shall be paid to him quarterly. The proviso does not relate to money that has been paid to the officer, or the repayment of money that has been advanced to him for his salary, but to money to be paid to him. He shall forfeit the money that would be due to him on the quarter of his absence, in the order of its payment—an absence preceding the order of its payment. You can put no other construction on the provision.

Mr. STUART, (interrupting.) I submit to the gentleman from Ohio whether this is or not the plain reading of the law, although not perhaps the precise language—"Be it enacted, that each of the judges of the Territory of Utah shall receive for the current year a salary of \$1,500: Provided, that such salary shall not be paid to either of said judges if he shall absent himself from said Territory, and from his official duties, for the space of sixty days."

Mr. CARTER. No such thing. I am endeavoring to show that that is not the right construction. If that had been the construction of the law, their salaries would have been made payable at the expiration of the year, and not quarterly. But the gentleman's conclusion involves an absurdity. It says you shall not pay the money which is paid under the law, without any provision for the reimbursement to the Government of the moneys advanced by the Government, or paid in virtue of the law.

But another reason given for the introduction of the provision to remodel this law, is the absence of the officers of the Territory of Utah, as I understand it. It is said that the Department has refused to pay their salary. Now, this construc-

tion of duty on the part of the Department may be right. If so, it is very easy to rectify the difficulty by making an especial provision for the payment of their salary, or by providing an amendment to this proviso, such as shall meet the case, by adding "voluntary absence from the Territory for ninety days;" that would remove the difficulty, and, at the same time, retain the salutary provision of the law, which ought not to be blotted from the face of the statute-book. I will read this proviso again, with a view to show what real necessity there is for carrying out the recommendations contained in the report of the Committee on Territories:

"Provided, That the salaries specified above for any of the officers of any of the Territories of the United States, shall not be paid in any case where any of said officers shall absent themselves from said Territories, and their official duties, for a period of time greater than sixty days."

"Shall absent themselves," is the language of this proviso. Now, I hold that the rational, reasonable, and authorized interpretation of the phrase is, that they shall not absent themselves without cause. The obvious intention of Congress, in making the proviso, was to avoid the voluntary abandonment of duty. That was the intention. It did not contemplate any application to those whom necessity shall compel to leave their posts for a time. The language is, "shall absent themselves," which means, under a reasonable, rational construction, when they shall leave the Territory of their own voluntary choice, upon their own free will. And I hold that the Executive branch of the Government would have been acting within the pale of their duty, if, when these officers had been driven from the Territory, it had paid their salary; and I further hold, that it was an act of pusillanimity and cowardice upon their part, in not paying it. Here is the report, and it is the only evidence I have seen, touching the conduct of the officers in the Territory of Utah. That report was made to the Executive, and by him communicated to this House. That report sets forth that the government of Utah, created by the Administration, in the first place, employed itself in desecrating all the names honorable and noble, in the United States, and all of the officers of the United States, residing in their polluted society. After that, these men were subjected to threats and violence, and obstructed in the discharge of their public duty. In fact, they never entered upon their duties at all, because they could not. But this territorial government, constituted by the Administration, for Utah, set at open defiance the organic laws of the Territory. They paid no respect to the provisions of that law, in the election of their representative in this Hall, or in reference to any of the functions enjoined upon them by the organic law. These officers—United States officers—set forth that personal peril compelled them to leave the Territory. According to that report, which, in its historic account of the conduct of that people, is unfit to be read even in this House, because it is too obscene a record—this Governor Young, this inspired prophet of hell, [laughter]—this appointee of this pusillanimous Administration [laughter] not only condemned the Government of the United States to hell, but everybody in the Government. He abuses them—I will not read from the reports—but he abuses them in language of excessive profanity and obscenity—not respecting even the forms of decency—the official functionaries whom we sent there; and not acknowledging their responsibility to the Federal Government.

Under the influence of this exhibition, these men were compelled to come back. And who doubts that they were compelled to do it out of respect to the Government? Would you wish your public officers, then, on the fourth of July, to be compelled silently to sit by and see the flag of the United States danced into the dirt under the feet of ruffians? For this is what they report. Would you wish to have them sit silently by and hear the institutions of the country derided and blasphemed, in language of the most vulgar profanity, by this appointee of this Administration? This is what the Administration calls absenteeism upon the part of these officers! Is it such? Why, if there was a citizen of the United States appointed to an office of authority in that Territory who would not leave the filthy, polluted ground under circumstances like these, he ought to go unrewarded for absenteeism of manhood. [Laugh-



ter.] He could not do otherwise. But still I understand the gentleman from Michigan [Mr. STUART] to complain because they did not stand abuse enough.

Mr. STUART. I have no disposition to interfere with the episode the gentleman from Ohio is making upon this bill. But I rise for the purpose of correcting the gentleman. I stated distinctly that the Committee on the Territories had refrained, carefully, from expressing any opinion at all on the subject of which he speaks. I would not give my own opinion, and I did not give it.

Mr. CARTTER. Then all I have to say is, that this Committee on the Territories is following the illustrious example of this Administration. They bring in a report here from the Territory, and the Committee on Territories refrained from giving their opinion upon the subject, though all the world are advertised of the facts.

Mr. RICHARDSON. Will the gentleman allow me to make a single remark? The committee which drafted this bill did not think it came legitimately before it. For myself, I wish to state most distinctly that I have no opinions to conceal in relation to this matter. I do not think these officers could have remained there and maintained their own self-respect or a respect for the Government.

Mr. CARTTER. I was aware of the opinion of the honorable and manly Representative from Illinois [Mr. RICHARDSON] upon this subject; and I presume my honorable friend from Michigan [Mr. STUART] entertains the same opinion. But there is a strange delicacy of sentiment upon the subject. What is the condition of that country? Here is the appointee of this Government, with fifteen harlots around him, polluting the very atmosphere in which he lives, in broad daylight, and in open defiance of all the outward ceremonies of common decency; and yet that man is retained as Governor of that Territory. The men whom we have sent out there to administer the laws of the country are driven home by this ruffian, and yet gentlemen feel a great delicacy in reference to expressing an opinion before this body upon the subject, and of the Administration. I do not know what strange influence it is that produces it. I do not think it would have occurred in any other quarter of the Republic—never where law and a respect for common decency obtains. My own judgment is, that if the same exhibition of profligacy on the part of a public functionary, accredited by this Administration, and under its appointment, had manifested itself in any other latitude of the country, he would have been officially beheaded as soon as the lightning tracks could carry the intelligence of his infamy.

But here three young men, of good character and deportment, who entered upon their duties with the honest purpose of discharging them, under the authority of the United States, and not under the "Latter-day Saints"—with a responsibility to the United States, and not a responsibility to a degraded fanaticism—because they would not enter into the common prostitution of others, because they would not stand by, defenseless as they were, and see the Republic and its Government abused and condemned, and returned to testify to the Government the scenes of violence and outrage that transpired, amounting, in all the theory on the subject, to treason, were dismissed by this Administration. And this Governor, who set the whole authority of the Federal power at defiance, is retained there to fester and rot down the fabric of a new State in its infancy, and to make a burlesque of the power that made him. I want just to enter my protest against this business. I think the Government ought to respect its authority in the Territories. I believe the Government ought to respect the common sensibilities of civilized life in the functionaries it places over that government. I believe the Government, instead of attempting, by its own act, to disgrace these very men, ought to have sent them back with a force sufficient to protect them and the majesty of the Federal power there. And I think the Committee on Territories would not have been in advance of their well-known modesty, if they had reported to this House the suggestion that it would be well enough to protect the Federal Government in these Territories.

Mr. RICHARDSON. It is truly unimportant for any purpose, except, perhaps, to place myself right, that I should make the short statement

which I propose to make. I did propose in the Committee on Territories to change the existing things in Utah. I proposed to place power sufficient in the hands of the Administration to execute the laws there. That proposition failed in the committee in consequence of a tie vote. My proposition was this: I did not feel called upon to propose to send an armed force there. It was to make the marshal summon juries, and thus place in the power of the appointing power here the means by which the law could be executed, we having the appointment of the Governor, marshal, judges, and all the officers there, and whenever that officer, in the discharge of his duties, was arrested, the power of the Government could be brought to bear to execute its laws.

Mr. GIDDINGS. If my colleague [Mr. CARTTER] will permit me, I wish to say a word or two. I feel very much deterred, Mr. Chairman, in making any particular remarks concerning the morality of Utah. I had some very strange sensations come over me while my colleague has been alluding to certain usages in Utah in regard to that government. If I understand him, he objects to the morality of the Utah Governor, and alludes to a plurality of women.

A VOICE. Wives.

Mr. GIDDINGS. No, not wives. Within the last few days, Mr. Chairman, we have seen here in this city, in a leading print, notice given of an accomplished and handsome ladies' maid to be sold for money. To that my colleague takes no exception.

Mr. CARTTER. I beg the gentleman's pardon, I must—

Mr. GIDDINGS. I want to go through upon this question very much.

Mr. CARTTER. I cannot see the application of the gentleman's remarks.

Mr. GIDDINGS. My colleague will see the application when I get through. I know my colleague [Mr. CARTTER] agrees with me in sentiment.

Mr. CARTTER. I cannot consent to yield the floor, after the committee has treated the gentleman from Maine [Mr. WASHBURN] as it has, in excluding irrelevant matter from the debate upon this bill. I submit that I would be doing injustice to the committee to yield the floor for detailed remarks upon any other subject.

Mr. GIDDINGS. I am not going into details. It is only to great principles that I intend to allude.

Mr. CARTTER. Very well, I have but a few remarks to make, and the result of all this is—

Mr. GIDDINGS. Then I understand my colleague not to permit me to make the explanation which I desire?

Mr. CARTTER. I will permit my colleague to make any explanation pertinent to the subject under consideration, with great pleasure, as he well knows.

Mr. GIDDINGS. Of that pertinency I suppose I am the judge.

Mr. CARTTER. Rather than to be put in a false position, or rather the committee, in reference to an arbitrary objection, I will yield for his explanation.

Mr. GIDDINGS. It does appear to me that this question of the morality of that western people does not come legitimately before us. I protest against it. It is no part of our purpose here to investigate the morality of this distant people. I am acquainted with that people. I know what they were formerly. I was acquainted with many of their leaders, and I am, perhaps, in my capacity as a citizen, united with my colleague in the view which he takes of the morality of their habits and customs. But, sir, it is well known that here, things far transcending anything ever witnessed in Utah, are permitted by our own organization and by our own laws and authority—that here women are reared for market—

Mr. CARTTER. I cannot submit to this general discussion.

Mr. GIDDINGS. And I protest that while we are beholding such practices here—

Mr. CARTTER. I take the responsibility of resuming the floor. I was going to remark, in reference to this question between the Administration and the Governor of Utah, that we are reduced to this precise result, that the Governor there has set the Republic and its functionaries at defiance, and the Administration here has yielded to it, and Brigham Young is now in sovereign

power in Utah, and to all this exhibition of insult and open defiance we are in submission. Now, that is the present attitude of the Government in its connection with Utah, and it is a humiliating result.

The only member of the court sent out to Utah that remained, was a Mormon, and he pronounced the legal decision—if the papers published it correctly—that a murder committed within the Territory of Utah, was a murder committed beyond the jurisdiction of the United States.

I do not understand that he has been removed. I mean Mr. Snow, and I believe another Mormon judge has been added to the list. A government in open outrage upon your Government, a Council or Legislature elected in defiance of the territorial organization, and a court pronouncing them beyond the jurisdiction of the United States! Now, sir, I blush to acknowledge the humiliation forced upon the Government under these circumstances. I look upon the plurality of their wives as the least of the evils, and that is enough to make a Sodom of Salt Lake City. It is the disrespect and defiance in this Territory of the power of this Government, that we are appointed here to protect, that constitute the chief evil in the manifestation of their conduct; and instead of making it necessary for these judges to have appealed to this House to be paid their salaries, the Executive ought firmly to have met it, and sent with them a guard to meet the treason, openly avowed, in the Territory from which they were driven. That is what should have been done—that would have been the Andrew Jackson way of doing it—and you would have heard no more about this contempt of authority. We would have had a report from the Committee on the Territories—they would have been disposed to make one.

Mr. STUART. I did not hear what the gentleman said some time ago, which called out the chairman of the Committee on Territories, as I was engaged at the time.

Mr. CARTTER. My remark was that a due respect for the well-known modesty of the committee—

Mr. STUART. The gentleman from Ohio just stated that, under other circumstances, the Committee on Territories would have made a report to this House. Now, sir, if the gentleman will allow me, I would like to state, in a very few words, what I think is the truth in regard to this matter, and not in reference to the domestic affairs there at all, because I have listened to the gentleman with considerable patience, to see what his argument had to do with the business now under consideration—

Mr. CARTTER. I have listened to the gentleman long enough, with patience.

Mr. STUART. I will state what the Committee on Territories have done. They have proposed by this—

Mr. CARTTER. I know what the committee have done. They have reported that bill proposing to repeal the payment, or the forfeiture, as they call it, by which they avoid the responsibility of speaking loud and plain upon the subject. That may not be the purpose, but it is whispered that as the Administration would take no responsibility about this matter, there had better be no responsibility taken in this House over the matter. That is what is whispered about, but I understand from the chairman—

Mr. RICHARDSON. Not upon the question of pay, but on another question.

Mr. STUART. When the gentleman gets through, we will be permitted to state what is the condition of things. I can state it plainly, if I have an opportunity.

Mr. CARTTER. The gentleman will be much more intelligible if he succeeds in doing it than he would be in the construction of the law; for the construction of the law provides no forfeiture. What is our duty as a House? My judgment is that it is to refer this subject back to the Committee on Territories, and to instruct them, under their discretion and wisdom, to report a measure to protect the sovereignty of this Republic in that Territory, and to set violence, defiance, and treason at rest there; or not to close this Congress without an acknowledgment that Brigham Young is more potent within the jurisdiction of the United States than the Constitution and its functionaries. I hope this may be done, or at least we may draw out some of the apologists for the conduct of this

officer in that Territory, that they may let us know where the excuse for that conduct is to be found; and, if anybody is a liar in relation to it, to report what has transpired there, that we may know who the liars are. Let us have daylight upon the subject, and not blink the whole question by leaving an accused Governor in power there, and anarchy in triumph, and the Republic debased and degraded.

Mr GIDDINGS. Every member of the committee is aware of the proviso in the civil and diplomatic appropriation bill of last Congress. I will only say here that in the Senate, and among a portion, I think, of this House, the construction of that proviso did go to cut off the entire salary of the officer for the year, when he was absent from his duties. In accordance with this construction, the Senate enacted a bill providing that if he should be absent more than sixty days, he should incur certain forfeitures, unless the President should judge that he had good cause. In looking over the subject, the Committee on Territories, so far as my knowledge extends, came to the conclusion that the construction of this proviso was, at least, a matter of doubt. Some gentlemen would give it the construction that my colleague has, while others would give it the construction that the Senate has put upon it. It was thought best that this should be made clear and fixed, so that every territorial officer of the Government shall know what we mean by our laws. And here let me say, in reply to my colleague, [Mr. CARTTER,] that I will not take issue with him and say that he is entirely incorrect, nor with the Senate, that they are entirely incorrect. My own opinion is, that it is a doubtful question. If the officer be absent the first quarter of the year—and the accounting officers know that fact according as I understand the practice, they regard the salary as forfeited for the year. In other words, they regard the salary as an entirety for the whole year. This I believe to be the construction given by the accounting officers of the Government.

Now, sir, it is also true that if he be at his post, and draw the three fourths of his salary, and then absents himself during the balance of the year, the remaining quarter, you cannot get back the salary that has been paid. That may be the case; and so far as one member of the Committee on Territories is concerned, I, myself, and I think some other gentlemen agree with me, thought that it was better to have this thing distinctly understood, and to frame our law so plainly that both the officers of the Territory and the accounting officers should give the same construction. This was the object in reporting this amendment to the bill.

Now, one word, and only one word, in reply to my colleague concerning the people to which he has alluded in such terms of harshness. I do not believe that it is the best policy of this Government, or of Congress, to treat that distant people in the manner my colleague has suggested. Who is ignorant that that people have received abuse at our hands? that the people of our country have treated them badly, with cruelty, and that they have driven them from our borders? I do not wish to cast any imputation upon gentlemen from those Western States in which these Mormons resided; but we know that some of their people were murdered by lawless mobs, for which our State governments are responsible. In this way they were driven from our borders. They were compelled to leave, and they have gone into that far-distant wilderness. In my opinion, they did carry with them some of the feelings to which Brigham Young, in a very improper manner, gave expression, as alluded to in the report of these judges. I do not justify him, nor do I justify those feelings; but if we are to reconcile that people to our Government—if we ever intend to make them good and respectable citizens; we must treat them with kindness, with forbearance, with gentleness, and with justice.

With this view I dissent from the expression of feeling on the subject. I do—and I say it unhesitatingly to my colleague here—I dissent entirely from the proposition which he made of sending a military force there. No, sir! I believe an appeal to their feelings—an appeal to their patriotism, to their judgments, and to their conscience, would be more potent in bringing them to the condition of good and respectable citizens of this Union, and to qualify them to come into it as a

State. It is in this manner we are to improve their morals, to which my colleague made such a feeling allusion; but I here take no issue with him on that point. All I object to is the extent of the philanthropy, and not to its principles. I want him to look nearer home. I wish to raise no question of ill-feeling or ill blood, but I want him to see and understand distinctly, that while we authorize the sale of women here in this city, I am not to be told that we shall punish the Mormons for deeds of less enormity. This thing is not well. I will not bring it up here, but we have as much right to bring them up in this connection as my colleague has in connection with the Mormons; and if we are going into the cruelty of the thing, let us look through the whole Republic, and not make examples of that far-distant people, of whom I have some knowledge, as many of them went originally from my own district.

Now, sir, let me say that the President of the United States is placed in office to wield the Executive power of the Government. I stand not here to justify that gentleman. He was not elected with my voice—with my support—with my influence; but, nevertheless, he is the President of the United States, and being in the discharge of these duties, I will hold him responsible for it. I will treat him as I would any other President, and having appointed Brigham Young to office, I will hold him responsible before the people. He has appointed those judges, and let him be responsible for their conduct; and in order to carry out that responsibility, and to permit him to discharge the duties of his office, I will give him the power to determine whether those judges were improperly absent from their duties—whether they can show good cause for leaving the Territories—and I believe they can do it to him, far better than they can to this body. He will be a far better judge than this House, or the two Houses, composed as we are of such numbers as to disable us from a full investigation. With this view, as one member of the Committee on Territories, I gave my voice for the bill which has been reported from the committee, to have our laws fixed—to place this responsibility upon the President. I have no fear that he cannot discharge it. These judges are the creatures of his appointment, and let him pass judgment upon them.

Mr. PHELPS. Mr. Chairman, I see no necessity for further legislation than there has been upon this subject. From the discussion this morning, it appeared that the members of the Committee on Territories were in doubt whether the salaries of the territorial officers were paid by the year, or quarterly. Had they examined the acts establishing the territorial governments of Utah, New Mexico, and Minnesota, they would have found a positive enactment, that the salaries should be paid quarterly. I say, then, under the proper construction given to the existing law, if the officers are absent from these Territories for a period longer than sixty days, they would not be paid for the time they were absent. How are these officers paid? The Secretary of the Territory is the disbursing officer, who is furnished with the money to defray the expenses in the Territories; and if I am not mistaken, he pays the salaries of the civil officers.

Mr. SIBLEY. The Secretary of the Territory has nothing to do with the salaries of the other officers. They are paid upon the certificate of the comptrolling officers of the Treasury, and the drafts for their salaries remitted them from this city.

Mr. PHELPS. Perhaps I may have fallen into a mistake, in confounding these expenses with the legislative expenses of the Territory. The salaries are payable quarterly; therefore, so soon as the officer has remained in the Territory one quarter of the fiscal year, he may prepare his vouchers, upon which his salary may be paid to him, and he may thereafter absent himself from the Territory, and continue his absence from the Territory for more than one year, and the law provides no way for the recovery of the money thus paid. Hence, I say that the only proper construction which can be given to the existing law is, that the salaries of these officers shall not be paid, where their absence continues for a length of time from the Territory, or the discharge of their official duties, if more than sixty days. I am satisfied, in my own mind, we would have saved the trouble of considering this bill, if it had not been for the

purpose of obtaining the payment of the salaries of these officers who have fled from the Territories.

The gentleman from Ohio [Mr. CARTTER] seemed to think that no officers had left the Territories, but the officers of Utah. Was he not aware that the chief justice of New Mexico, Grafton Baker, had been in this city this winter, and absent from that Territory ever since some time in the month of September last? He is still absent, and not at his post to which his duty calls him, and yet he is to be paid, under the provisions of this bill, as well as the judges of Utah. It seems to be peculiarly unfortunate that any officer of the Territory of New Mexico should have absented himself, for the last advices from that Territory show that the people of Santa Fé at that time believed that an insurrection was about to take place, and they had received the information, that upon a particular day, an attack was to be made upon the "Exchange," in the city of Santa Fé. I happen to have received this morning the St. Louis Republican, containing information brought in by express from Santa Fé. It appears, that previous to this time, Governor Calhoun, of New Mexico, had issued an order releasing every prisoner in the jail in Santa Fé. He suggests to the authorities of Santa Fé, that it is better for them to prepare to guard and protect their property.

But I will read a short extract from that paper.

"The Santa Fé Gazette publishes a letter from Governor Calhoun, addressed to Thomas Ortiz, Prefect of Santa Fé county, which certainly exhibits a curious state of affairs in New Mexico. It is in these words:

"EXECUTIVE DEPARTMENT,  
March 31, 1852.

"SIR: Moved by a regard for the protection of property, I would respectfully recommend that you establish a temporary police. For the want of funds to maintain them, and upon the representation of the proper officers, that the prisoners now in jail are in a starving condition, through a humane feeling towards said prisoners and community, I have granted them a conditional pardon. This release may render precautionary steps advisable for a few nights. Respectfully,  
J. S. CALHOUN."

"The people of Santa Fé were much excited by apprehensions of insurrectionary movements, and it was even said that the night of the 11th was assigned for an attack upon the 'Exchange,' as the commencement of these proceedings. The military officer, in command of some thirty men, was, however, acquainted with their plans, and was prepared for them."

Here you have one of the judicial officers of that Territory, absenting himself from that Territory since some time in the month of September last—if I am not mistaken as to the date—up to the present time, and it is now rumored that perhaps he will return to that Territory; and yet, by the provisions of this bill, it is left discretionary with the Executive, whether the salary of that officer shall be paid during the time he has thus absented himself from the discharge of his official duties. I am unwilling to place the Executive in that position, that he shall have persons beseech him to give a certificate that the officers have been absent for good cause, and that he would recommend the payment of their salaries, because gentlemen may come here without leave of absence, and may obtain a powerful political influence to be exerted upon the Executive, which he can hardly withstand. Upon this bill, I am not intending to discuss the propriety of the payment of the salaries of judges in Utah, nor the propriety of the payment of the salary to Judge Baker. I say there is no necessity for further legislation upon the subject.

The second section of the amendment, as recommended by the Committee on the Territories, I remark, has entirely a retrospective action. That second section is the only portion of the bill which may be considered as worth anything to those territorial officers. It provides, that the payment of the salary of any officer therein named, that is, named in the civil and diplomatic bill, notwithstanding such officer may have been absent from said Territory and his official duties for more than sixty days, may be paid, provided that the President of the United States shall certify officially his opinion that the absence of such officer had been for "good and sufficient cause." Now, if it be right to pay these officers, why go forward and attempt to change an existing law, merely to suit the case of these officers? Why not introduce a bill appropriating to these men a certain amount of money for the time they have absented themselves from the Territories?

Mr. RICHARDSON. I desire to say, by way of reply to the interrogatory which he has put,

that the committee did conceive that a change was necessary. I may as well state here, that in a portion of the Territories the law as it now exists can be evaded. A judge from Minnesota can be absent fifty-nine days, then go back, and it does not affect him. He can thus absent himself nearly the entire year by getting back within the limited period of sixty days. The officers of the other Territories cannot do so. As to the objection raised by the gentleman, that if you leave this matter with the President of the United States, a political influence can be brought to bear, causing him to make an improper official statement, I think it is sufficiently met when we say that we commit to his hands great interests belonging to the Government with which we are willing to trust him. Yet gentlemen are not willing to trust him with the duty of making an official certificate in relation to the performance of duty by the judges.

Mr. PHELPS. As to the last answer of the gentleman, I have this to say, that the President shall officially certify his opinion, according to the provisions of this amendment, that the absence of such officer has been for good and sufficient cause. We know in regard to these certificates, and for the purpose of obtaining them, that legal evidence will not be presented. It will be based on letters of gentlemen who desire to benefit their friends. Perhaps the gentleman making the statements may not believe it would be beneficial to the interests of the Territory that the judge should absent himself, but that the private business of the officer would call him from the Territory for some time; perhaps the plea of ill health may be used in order to justify an absence. The writers of such letters will care nothing for the interests of the people of the Territories, and the letters will express more than they would be willing to verify by their oaths. The President will perhaps give too great credence to it. Aye, both may overstrain the mark, the gentleman in making the statement, and the President in basing his certificate upon it. In reply to the remark of the gentleman from Illinois, [Mr. RICHARDSON,] that officers might evade this law by being absent fifty-nine days, I know that this may occur; and I presume that the person who drafted this provision in the civil and diplomatic bill had reference to laws already existing upon your statute-books, which provided that the salaries of Indian agents shall not be paid during the time they absent themselves from the discharge of their official duties, provided that absence shall be for more than sixty days. Many of these agents live directly upon the borders of the State, where they may absent themselves fifty-nine days, as the gentleman himself has supposed, and still, if they are not absent sixty days at any one time from their posts, they are entitled to their salaries during the whole period of time. We have that provision upon our statute-book. If it be right to modify the law applicable to the officers of the Territories, I ask, if it is not right to change the law relating to Indian agents? I know it is not a matter under the jurisdiction of the committee.

Mr. RICHARDSON. That question of Indian affairs has not engaged our attention. I will state to the gentleman, I believe it is necessary that this provision of the law should be made applicable to all the officers of the Government of the United States; that you should keep them at their posts, and at their duty. I do not know how an Indian agent can transact the business connected with his agency by spending the winter in Washington. I understand that this is done in many instances.

Mr. STUART. I wish to make a suggestion, which the gentlemen of our committee will recollect. This very subject of the Indian agents was brought to our attention, and we decided that it was a subject with which the Committee on the Territories had nothing to do.

Mr. PHELPS. I only referred to it by way of illustration, not as a matter over which you had control or jurisdiction. If it be the object of the gentleman to change the law, and make it better, why not then do, as is the wish of the delegation from some of the Territories upon this floor, and forfeit the salary of the officers during the whole year, if they shall absent themselves? The Territory of Oregon has suffered materially in consequence of the absence of their judges. I recollect, not long since, seeing the statement of the length of judicial service performed by the three judges. I believe that, in some eighteen

months, or two years, there should have been from four to six years of judicial service, counting the three judges as one, and that Territory had only about one year's service of her entire judiciary.

Mr. RICHARDSON. The difficulty that has been suggested by the gentleman from Missouri, [Mr. PHELPS,] has been suggested by several gentlemen. I wish to reply to it; and if I am able to do so, I will endeavor to satisfy those gentlemen. They think the difficulty arises in this way. The judges receive their salaries quarterly.

Mr. PHELPS. Such is the law.

Mr. RICHARDSON. Suppose an officer draws three quarters of his salary, and then leaves the Territory. There is a method by which we can reach this matter by amending the bill; and that is, when an officer leaves the Territory, let it work a forfeiture of his office. That is one way in which you can frame a law to meet the case supposed by the gentleman from Missouri, [Mr. PHELPS,] where a judge receives three quarters of his salary, and, at the end of nine, ten, or eleven months, absents himself and retains his salary. Adopt an amendment providing that in such a case it shall work a forfeiture of his office, and no evasion will be attempted.

Mr. PHELPS. I think myself, there is no necessity for any amendment. I think there is no necessity of any legislation upon the subject. I am endeavoring to show that we should be in as much perplexity after the passage of the bill as amended by the Committee on the Territories, as we are now. We are to make this measure carry through a bill to pay these judicial officers. In my humble opinion, we should never have heard of this bill if it had not been that one of the provisions of the bill sent down to us from the Senate, expressly provides that the salaries of officers which have been heretofore withheld by virtue of that provision in the civil and diplomatic appropriation bill, shall be paid to them, any law to the contrary notwithstanding. That was the legislation in the other branch of the Capitol, and that is why we are asked to pass this bill.

Mr. RICHARDSON. My own opinion is, that by lodging the power in the hands of the Executive, you would have more uniformity in the decisions than you would have if you left it to Congress to pass bills for the relief of each particular officer who has to leave the Territory, and I apprehend that in some instances, it is necessary for them to leave. Now, we all know that it is not always the most meritorious claims that pass Congress first, or at all. Kissing goes a good deal by favor here, in the passage of claims.

Mr. PHELPS. The officer absenting himself from the Territory, should forfeit his office. I believe the President of the United States has exercised the power of removing the judge of a Territory. If I am not mistaken, he exercised it not long since in the Territory of Minnesota. When, therefore, you find a judicial officer pursuing the course suggested by the gentleman from Illinois, and absenting himself repeatedly—remaining in the Territory barely a sufficient length of time to prevent his salary being stopped—there is a method by which that evil can be reached. Let the Executive do his duty—remove the officer, and appoint in his place some man who is willing to reside at the post assigned to him, and perform the duties of his office. I do not believe that in selecting officers for these Territories, it is right to send out broken-down politicians from the States, and pension them upon the Treasury of the United States—men who have no sympathies with the people of the Territories, and who do not stay there except for the purpose of drawing their salaries. I was speaking just now of the fact that the Executive has removed a judicial officer of the Territory of Minnesota; and, if I mistake not, the nomination of his successor is now pending at the other end of the Capitol. I do not expect, if you provide for the forfeiture of office, it will entirely cure the evil. If it be the construction that these officers are judges of the United States, and must hold their offices for a period of four years, or during good behavior, the insertion of this provision in the bill that they shall be removed from office on this account, does not remove the constitutional objection, and therefore the amendment suggested by the gentleman from Illinois is nugatory, and cannot be adopted.

Mr. RICHARDSON. I will state to the gentleman from Missouri, that when this question of

the power of the Executive to remove was mooted in the Territorial Committee, there was no difficulty about it. He has the power, and he has exercised the power, but you cannot compel him to exercise it. You may, however, provide by law that the officer, by doing a particular act, shall forfeit his office. The power to remove can still be exercised by the Executive. We did not deem it necessary, however, to provide for a forfeiture of office.

Mr. PHELPS. Then I understand that the gentleman from Illinois concedes that the Executive has the power to remove these territorial judges.

Mr. RICHARDSON. Undoubtedly.

Mr. PHELPS. But yet, the gentleman is willing to let these judges absent themselves, and to leave it to the President to decide whether they shall receive their salaries during the time of their absence. He says that the existing law, the civil and diplomatic appropriation bill, is objectionable, because the officer may leave the Territory, and be absent fifty-nine days, returning in time to prevent his salary being stopped, and that the President will not discharge his duty by removing the officer who thus seeks to evade the law of the land. Now, I am for the existing law. I want no new law passed upon this subject. At any rate, I want none in the form of the provisions now presented.

I know nothing of the difficulties which have arisen in regard to the payment of these Utah officers. My impression is, that they were only in the Territory some two or three weeks, and that their salaries did not commence until they reached Utah. I doubt, myself, whether any of these judges have made application to the accounting officers of the Treasury for the payment of their salary for those few weeks. If the accounting officers of the Treasury have made the decision in this case, which the gentleman from Michigan [Mr. STUART] has stated, I should like very much to see that decision. Did the gentleman make the statement merely upon rumor, or has he seen the decision?

Mr. STUART. I will state to the gentleman that all I know about the decision of the Department is what I have been informed of. I have no certificate from them.

Mr. PHELPS. Does the gentleman say he has no information from them?

Mr. STUART. The gentleman's question, as I understand it, is whether I know that the accounting officers have decided that this proviso forfeits the salary for the year.

Mr. PHELPS. I understood the gentleman to have received some information on the subject.

Mr. STUART. I said that I understood it from conversation.

Mr. PHELPS. From rumor?

Mr. STUART. No; from the officers themselves.

Mr. GORMAN. I can say to the gentleman from Missouri, that I am the attorney for one of the judges in New Mexico in drawing his salary, and know all about what the Department have decided. They require the gentleman from New Mexico [Mr. WRIGHTMAN] and myself, to certify, from information and correspondence, that the judge to whom I allude—Judge Watts—has not been out of the Territory for the length of time specified in that appropriation bill—sixty days. They require that proof, and they have decided that absence exceeding that time forfeits the year's salary.

Mr. PHELPS. That decision I do not approve of. I do not concur in the opinion of the accounting officers. But I do not think it necessary to legislate in every instance where the decision of the accounting officers may be wrong.

Mr. HENN. With the permission of the gentleman from Missouri, I would inquire of the gentleman from Indiana, whether the salaries are paid quarterly?

Mr. GORMAN. The accounting officers pay me quarterly, upon the drafts of Judge Watts.

Mr. PHELPS. The laws establishing the territorial governments of Utah and New Mexico, provide that the salaries of the governor, the judges, and the secretary, shall be paid quarterly.

Mr. STUART. I propose to state, in a few words, in reply to the gentleman from Missouri, why the Committee on Territories think that legislation is necessary.

Mr. STEVENS, of Pennsylvania. I dislike to



interrupt the gentleman from Michigan, but he has occupied the floor once already, and I desire to say a few words upon this bill.

The CHAIRMAN. The gentleman from Michigan having spoken once upon this bill, the gentleman from Pennsylvania is entitled to the floor. The Chair gave the floor to the gentleman from Michigan, because no other gentleman claimed it at the time.

Mr. STUART. If any other gentleman desires to speak, of course I yield the floor.

Mr. STEVENS. Mr. Chairman, I have listened with some attention to the whole of this debate, and I confess that I cannot concur in voting for either the Senate bill or the amendments. In my judgment, the true course is to repeal the proviso at once, which I look upon as somewhat degrading to our statute-book. What are the facts? The facts are these: the President of the United States appoints the territorial judges; he is responsible for their appointment, and he is responsible for their continuance in office. If they neglect their duty or abuse their trust, he has full power to remove them without assigning a cause, and to appoint their successors. Now, the other officers of this nation, appointed by the President of the United States—for instance, the judges of the districts of the States—are required to occupy in the discharge of their official duties but a certain portion of the year—many of them, perhaps, not half of it. It is not expected that they will stay in their districts for the balance of the year. If, when they have discharged their duties, they choose, for profit or for pleasure, to travel over these United States, they have a right to do so, and it would be degrading to them and to the country to pass a law to imprison them. But you apply a different rule to the Territories. The number of judges in Minnesota and Utah is three; and I understand that all the duties there can be performed in six weeks. At all events, considering the number of inhabitants there, surely the judicial duties can be discharged by those judges in three or four months. They have their regular terms. If they attend those regular terms, and discharge the duties of their offices, are not they to be permitted during the balance of the time to travel, as other citizens of this country do? Are they not to be permitted to go to the watering-places if they please, or to visit their friends for a portion of the time? Are these judges supposed to be made of that stuff, and to be selected of that material by the President, that they are to be absolutely imprisoned within certain boundaries, and, if they exceed those boundaries, are to have a forfeiture inflicted upon them, as was the case when prison bounds were in force? In Vermont they had prison bounds at one time, and they have now. They allow a prisoner to go within those bounds—sometimes a mile, sometimes a township—if he gives bonds; but if he goes beyond those boundaries—if his family live beyond them, and he goes at night to see them, he forfeits his bonds. So it is with the judges of these Territories.

Mr. RICHARDSON, (interrupting.) There is a necessity for the judges remaining in the Territories during the entire year. The gentleman from Pennsylvania is aware that there are many duties that a judge has to perform, besides those that he discharges while holding the terms of the courts.

Mr. STEVENS. Is not it so with every judge and every judicial district in the States, and yet who ever heard of passing a law impounding your judges, and keeping them in prison? You have three judges in each Territory. But one is needed except in court time; and the others may be absent without prejudicing materially the interests of the Territory. But if your judges are unfaithful, you have a remedy. Turn them out, and appoint others in their places. It has long been a settled law in this country that the territorial judges, the Congressional judges—I do not speak of the constitutional judges—are removable at the pleasure of the President, without giving his reasons therefor. But if the President will not remove them when they abuse their power, or when they neglect to discharge their duties, he is responsible.

A MEMBER. Upon what authority can he remove them?

Mr. STEVENS. A gentleman inquires upon what authority he can remove them? I have stated

that precedents and practice justify it. It has been so decided, and that decision has never been reversed; and silence must give it sanction. It has been decided in the only place where it can be decided. These officers are appointed by the President, by and with the advice and consent of the Senate.

A MEMBER. The Attorney General has given the same opinion.

Mr. STEVENS. I know the Attorney General has given his opinion, but I do not consider that of any higher authority than that of the President and the Senate. If the case were a new question, I might doubt. But I have so high a respect for the authorities when a question is once officially decided, I bow to it whether I consider the position right or wrong. Well, then, I say that, the President having the power, it is his duty to remove an unworthy or negligent judge. And if a President failed to remove such a judge because he was a favorite, I believe he would certify a good cause for his absence, when that absence was a fact, whether a necessary fact or not.

Now, I believe the best method is to repeal the proviso altogether. Until 1851, I believe we never had any such law upon our statute-books. I could repeat the cause which gave rise to this law. But I will not, because its recital might bring the gentleman into some discredit at home perhaps. I believe, however, it was occasioned by the misconduct of a judge, which was sufficient to have caused his removal; and that would have been the proper remedy. Then you would have got out of the evil. Now you will have, perhaps, an unworthy judge, traveling backwards and forwards, and obtaining, whether with truth or not, a certificate of good cause for absence. Now, let us put these judges upon the same ground with the judges for the States. If one of the three judges in Minnesota, for instance, desires to travel during the summer months to the old States, to visit his friends during vacation, I do not think he ought to be prohibited. I do not know how many sessions there are held in that Territory in the year.

Mr. SIBLEY. There are two in the year, besides the supreme court.

Mr. STEVENS. The gentleman says there are two; well, suppose a man goes to visit his friends in the old States during the three summer months, when he can be spared as well as not, what objection is there to it? Why shall he not be treated like other citizens? Can you find a man in any of the States, of a high legal character, who will take the judgeship when thus degraded? I know you can find men to fill the places. I believe you can find men who would take any office, upon any terms. But I do not think you can find men of the character and attainments requisite to fill the office who would accept the judgeship under this law, when there is such a restriction in it.

A MEMBER. The same restriction also applies to other territorial officers.

Mr. STEVENS. Well, I am now speaking particularly of the judges, and what I say is intended for them.

I propose, and I do not know whether it is now in order or not, to strike out the whole, and insert a simple repeal of the proviso of 1851. If that is in order, I now send it to the Chair.

The CHAIRMAN. There is already an amendment to an amendment pending, and the amendment of the gentleman is not therefore in order.

Mr. STEVENS. I then send it to the Chair, and ask that it may be read for information. If the amendments pending should not be adopted, I will then offer it. I intend it as a substitute for the whole.

It was then read by the Clerk, as follows:

Be it enacted, That the proviso contained in an act entitled "An act making appropriations for the payment of civil and diplomatic expenses of the Government for the year ending the 30th day of June, 1852," approved March 3, 1851, relating to the payment of the salaries of the officers of the Territories, be and the same is hereby repealed, and the salaries of said officers which have heretofore accrued shall be paid, anything in said proviso to the contrary notwithstanding.

Mr. STUART. If the gentleman will turn to the Senate bill, he will find that the second section repeals the proviso.

Mr. STEVENS. But the first section is different.

Mr. STUART. We can reject the first section and adopt the second.

Mr. STEVENS. Well, I do not care how you get at it, if it is done. I ask the Chair if I cannot offer it now as a substitute for the whole bill?

The CHAIRMAN. Not now, for the reason that there is already an amendment to the amendment pending.

Mr. STUART. But I thought it was in order to offer a substitute, nevertheless.

Mr. JONES, of Tennessee. The gentleman can move to strike out the first section and insert his in lieu thereof, and then we can strike out the second.

The CHAIRMAN. The Chair thinks an amendment to the original bill, by way of perfecting it, would be in order.

Mr. STEVENS. Then I move to strike out the first section of the original bill, and to insert my proposition.

The CHAIRMAN. The Chair thinks the gentleman's amendment is not in order in the form in which he offers it. It is word for word the same as the second section of the original bill. The same object would be obtained if the gentleman would move to strike out the first section of the bill.

Mr. STEVENS. I move, then, to strike out the first section.

Mr. STUART. I rise to a question of order. The amendment proposed by the Committee on the Territories proposes to strike out the first section of the Senate bill, and to substitute two others in their place. I submit, therefore, that it is not in order to offer the gentleman's amendment to that original bill.

The CHAIRMAN. The Chair thinks it has been the uniform practice in committee and in the House, when a substitute has been offered for a whole bill, as is the case in the present instance, as the proposition is to strike out all after the enacting clause, and insert a substitute, to allow amendments to be made to the original bill, by way of perfecting it before the vote is taken upon striking it out.

Mr. STUART. There is no doubt of that. But I understand the proposition of the gentleman from Pennsylvania [Mr. STEVENS] is to strike out the first section.

The CHAIRMAN. That is an amendment to the original bill, and is therefore in order. The Chair overrules the point of order raised by the gentleman from Michigan, [Mr. STUART.]

Mr. CAMPBELL, of Illinois. I only desire to say a few words in regard to this matter. I confess there is something uttered in the general sentiment of the remarks of the gentleman from Pennsylvania, [Mr. STEVENS,] which meets my approbation. I feel that there is something repugnant in having a legislative wall erected around our judiciary, either in the States or in the Territories, placing limits to their liberty and freedom of action. But I still think there should be something to impel these functionaries to discharge the duties which the law requires they shall discharge, and which the public have a right to expect of them.

Now, I conceive that there is a very wide difference between that class of officers in the Territories and the same class of officers in the States. It is this: In the States public officers are appointed in the neighborhoods, in the counties, or in the districts where they are in the habit of residing. It is their home, and they desire to remain there. When they are called away, it is only for a very short period of time. But in the Territories it is very different; appointments are made in the States to govern the Territories. Some of them—indeed, I might say all of them—are very distant from their places of residence, when the appointment is made, and from which the appointee is taken. They are in the habit of taking the appointments merely to discharge the duties of office without discharging any of those of the citizen. They go there without their families, which they leave in the States. They come to the Territories to hold their courts, and as soon as the term expires they return to the States and make them their place of residence, till, perhaps, the next term; and if it is a little inconvenient, they let that term pass, and perhaps do not return till that time the next year. This is a grievance, and a great one, to the citizens of the Territory. The same difficulty does not occur in the States, because the judges have their place of

residence there. They have their homes where they are required to discharge their public duties, and for that reason they are rarely ever absent when the regular terms of their courts are required to be held.

I do not see that analogy which the gentleman from Pennsylvania has drawn, in his speech, between the judge in the States, and the judge in the Territories. If there can be a law made—and I think it would be a just one—providing that no man shall be appointed to a judicial office in one of the Territories, who was not a resident of that Territory, there would be no necessity for the restrictions which the bill under consideration provides. We always find men in these Territories competent to the discharge of the duties of this office. Nay more, any man who will go to these Territories for the purpose of residing there, for the purpose of making a home there, and for the purpose of building up his own fame and fortune, is always more competent than the individual who goes there with a commission in his pocket. I think that if the rule should be confined to making the appointments from the Territories, the necessity for the enactment, in this law, of the clause now under consideration, would be wholly and entirely obviated. I know, sir, in the Territory contiguous to my own district—the Territory of Minnesota—there has been great complaint made, because the officers were not, in fact, residents of that Territory. They could not be called citizens of that Territory. True they might hold a court there, and leave it, when their terms had been held, for their homes, or spend their winters in Washington city, engaged perhaps in some political purpose, or in perfecting some political scheme to carry out the wishes of the appointing power, and he might, probably, very consistently with his own views, consider that a very good cause for their absence over sixty days. Besides, sir, I hold it necessary for a man to reside in the Territory, to become acquainted with the people, if you desire to administer the laws of the country as they should be administered. You must know something about the people, amongst whom you are administering and executing the laws. You ought to understand their courts and institutions. And the judiciary should be able to give tone to the institutions of a new Territory, in order that when it becomes a State, it may have all the benefits derived from this kind of early education. Take men foreign to their feelings, who know nothing of their institutions, who go there merely for the purpose of discharging the duties within the limits of the law, and then go home to their families; and perhaps in vacation when they are most needed, application is made in chancery, or for a writ of *habeas corpus*, and you find they have appointed a commission, a kind of substitute, who knows nothing about the law, for the purpose of supplying their places, and discharging duties which the law requires them to discharge.

I trust, then, sir, that the proposition proposed by the gentleman from Pennsylvania [Mr. STREVEN] will not prevail. As long as the Executive will continue to appoint his friends residing in the States to go to these Territories to discharge duties which the citizens of the Territories are far more capable of discharging, let us have some law that will compel them to remain there.

Why, sir, in the Territory of Oregon, I have known judges to leave that Territory and not return for a whole year. What becomes of their courts? what becomes of their districts? What confidence have the people in a judge who will thus neglect to discharge the sacred duties which the functions of his office require him to discharge? From cases of this kind the people acquire a disrespect for even the forms of law which their courts are called upon to administer. I trust, then, sir, there will be something of a compulsory character adopted at this session of Congress which will compel these judges to do their duty. That is all the law seeks in this case. It is all that this bill proposes.

Mr. GORMAN. I want to propose an amendment to this bill; but as this is not the proper time—a gentleman preceding me having offered one—I will make an additional remark upon the subject of the repeal of this proviso. Those who were in the last Congress remember that this proviso was put in there because of a rumor current in the city of Washington that some of the judges in Oregon had left their posts and gone to dig gold in Califor-

nia. I apprehend it was not contemplated that it would affect any other persons than the persons then in the eye of the members of Congress. That was the rumor, and I presume that was the cause of the provision. Whether it was true or not, I cannot tell; but that was the rumor, and that was the cause, for I heard that given as the reason at the time.

I have an additional remark to make in relation to one of the judges of New Mexico, for of one only do I speak. One of the judges of New Mexico went out when he was appointed by the President. That judge resided in the town where I do. He has written to me to get leave of the President to return; but his convictions of duty, and his fidelity to the public trust is of such a character, and he is so conscientious upon the subject, that he would not leave that Territory for a day, because he regards his duty before he would take into consideration for an hour, or a day, the amount of money he would lose or gain. He intends to remain there, sir. He wants to come home to take out his family. He writes to me to know if this bill was passed. He writes to me for leave from the President—if the law is passed, or if the officers of Government had decided the law in such a manner that leave of absence can be granted. The President and the Secretary would cheerfully grant him leave of absence, knowing his character. But he cannot come. He cannot come here to take his family out to that Territory without the forfeiture of his whole year's salary. The law is so manifestly unjust that I cannot conceive any reason in the world why this bill proposed shall not pass. It may operate upon those officers desiring to leave the Territories for pleasure, or for the accommodation of somebody else, or for the purpose of coming to Washington city to see the political movements of the country; but, sir, the law should not operate so as to exclude good men and faithful officers, who are attentive to their public trusts. The law should not be made to include them within its purview, when it was intended to operate as a penalty upon those who, in disregard of their public duty, do otherwise. I contend that the construction put upon the law by the Department was not right. I think, now, that the proper and legitimate construction of that law is, *when these officers absent themselves from the Territory without cause, &c.* Why do I put that construction upon it? I venture the assertion, that there is no court in the United States, when that question is presented to it, but would decide that that clause means, *when they shall absent themselves without cause.* Why do I come to that conclusion? Because there is a penalty, and wherever there is a penalty attached, the non-performance of a particular duty, that penalty implies a wrong, and there can be no wrong without an intention. The Government certainly never intended to say, that if you absent yourself for cause over which you have no control, &c. Suppose the Indian depredations should drive the people and officers out of the Territory of New Mexico: they would absent themselves within the legal technical meaning of that law. Suppose they should take refuge upon the frontier of the United States: it would be a technical absenting themselves from the Territory. My friend says it is not a penalty—that it simply says, if you do not perform the duty, you shall not have pay. It says you shall not have pay if you absent yourself from the Territory.

Mr. RICHARDSON, (interposing.) My friend from Indiana will permit me to call his attention to one fact. The gentleman will perceive, from reading the bill, that the penalty attaches when he has absented himself from the district, and from his duties. Now, in the case of the Indians running them out of the country, it would not be a case of absenteeism from duty, such as contemplated by the proviso.

Mr. GORMAN. That is only a technical way of getting out of the difficulty. I am only presenting that as a reason why this law should be repealed. I agree with the gentleman from Pennsylvania, [Mr. STREVEN,] that it is an odious law. I agree with him that it is disreputable. If it has come to this, that we cannot get officers to discharge a high and responsible trust, without putting penalties upon them for the non-performance of such duties, it seems to me that is a mistrust of the integrity of the public men, or men sent to perform any other public trusts.

I am opposed to it upon that ground; but I have

a specific ground of objection, which I have stated. Here is a man, I say, who is one of the best qualified men in that country; a man who would honor almost any judicial office; a man of as exemplary character, and of as strict integrity as any in this country; a man competent to discharge any judicial station in the State of Indiana, from which he went; and he refuses to come home for his family, because it would be regarded as a dereliction of duty, and a violation of the trust reposed in him by the Government. Sir, when such officers are crippled and cramped by a law of this kind, it ought to be repealed for that cause, though at the same time it lets others run at large. I allude to Judge Watts. When I pay him this compliment, I do no more than that which he richly and meritoriously deserves. I know him well. For energy, integrity, and high honor, he has but few equals. I say I cannot conceive any single legitimate reason why this provision should not be repealed.

Mr. TUCK. In the discussion, thus far, nothing has been said, except upon one section of the bill under consideration. I propose some remarks in reference to the salaries of the judges of the United States in Oregon and New Mexico.

The judges now receive, the chief justice \$2,500 and the associate justices \$2,000 each per annum. I maintain that these salaries are wholly inadequate, and so utterly and grossly such, that we should permit no delay in fixing them at a fair and honorable amount. I understand from an authentic source, that ordinary board in Oregon is from \$40 to \$50 per month, and that a single meal at any public house is never less than one dollar. I further am told, that a judge cannot pay his current expenses in Oregon with a sum less than \$2,000; consequently, the chief justice may possibly save \$500, while the other judges cannot save a single dollar. The common wages of laborers is \$4 per day and board, while a boot-black gets \$100 per month and board. On this state of facts, it appears that the chief justice cannot earn so much, by devoting himself to the duties you have imposed upon him, by \$700, as the boot-black at the hotel where he takes his board.

It is possible, some one will say, that a judge must make a large set-off from his pay, in consideration of the privilege he enjoys of seeing the country, and of engaging in profitable speculation. In reply to such a remark, I would say, that if it ought to be our policy to make any officers of the Government independent, it surely will be the judges of our courts. They ought to feel under no necessity to look beyond their salaries for adequate and honorable support. I happen to know one of the judges in Oregon, Chief Justice Nelson, lately of the State of New York, and am somewhat acquainted with his high standing as a lawyer, in the part of the State where he practiced. He would confer honor upon any judicial position which he should accept. I judge that his practice at the bar, before he went to Oregon, must have been worth \$4,000 per year, and perhaps more; and I think it discreditable, both to the Government and to the courts, to pay a man of Judge Nelson's abilities and high character, the inadequate pay of \$2,500 per year.

Now, it may not happen, that the Government will lose the services of competent judges in Oregon or New Mexico, (I believe the two Territories are similarly situated,) by refusing to raise the salaries of the judges to a fair and honorable sum; yet it cannot be doubted, that the pursuit of such a policy of inadequate pay would end in having for judges men entirely unfit for their duties.

Oregon and New Mexico are very much in the condition of California, in respect to expense of living. The justices of the supreme court in California receive, each, a salary of \$10,000, while the salaries of the judges of the next subordinate court, are \$7,500 each, and the judge performing the duties of judge of probate for the county of San Francisco, receives \$4,000. There is no petition here in regard to these salaries, but members of Congress have received letters, and particularly the Delegate from Oregon, and the facts of the expense of living, and utter unreasonableness of the present pay of the distant territorial judges, is known to us all. If we are worthy to legislate for those distant lands, we should consider their peculiar circumstances, and make our laws accordingly. If we govern ourselves by such false notions of economy, as to put our judges below a

boot-black or wood-sawyer, in the way of pay, we demonstrate to the people of the Territories that we do not understand their condition, and that they could do better on their own hook.

I trust the views I have presented will meet the approbation of the committee; and I shall, at a proper time, if no other gentleman does it before me, offer an amendment to the bill under consideration, giving more reasonable compensation to the judicial officers to whom I have referred.

Mr. LANE. In the remarks which the chairman of the Committee on Territories addressed to the committee, he stated that at my request it had been agreed by that committee to exempt from the operation of the provisions of the bill the Territory of Oregon; and I am much inclined to think that all the other Territories of this country should have the like exemption. The law, as it now stands upon the statute-books, is as good as we desire for Oregon Territory, and I am very much of the belief that it is well suited to the other Territories. We have had experience in regard to this matter; and I can inform the gentleman from Pennsylvania, [Mr. STEVENS,] and the gentleman from Indiana, [Mr. GORMAN,] that their views relative to the judiciary and other officers of the Territories, and the allowing of an absence of sixty days, are not at all consonant with the wants and interests of the people I represent. I have seen the system tested from the time of the organization of that Territory until the time of my starting for this city. I am fully satisfied in my own mind, from experience, that the proviso in the appropriation law, which is now proposed to be repealed, is the very provision which ought not to be repealed. I can assure the gentlemen to whom I have just alluded, that whenever there are vacancies in the territorial offices, applicants will be found numerous enough to fill them. Such, I am quite sure, was the fact at the time of the organization of our territorial government, and I have yet to learn that the interests of Oregon or any other Territory has seriously suffered from a diminution of the number of applicants for these offices. This is not the evil from which the interests of the Territories have suffered; on the contrary, we complain—and complain justly, too—of the absence of officers, and the consequent neglect of their official duties—neglect which the provisions of this bill indirectly rewards by shielding from a just and proper suspension of pay and salary. Had I a vote to cast, Mr. Chairman, it would most certainly be given against the alteration of the law as it now is. I would vote to pay every officer, judicial and other, for the honest and faithful discharge of his duty.

The proposition of the gentleman from New Hampshire, [Mr. TUCK,] to increase the salary of the territorial judicial officers, is very reasonable and just, provided the increase is not extended too far. As the law now stands, the salaries of the officers of the Territory of Oregon I cannot but regard as insufficient, being scarcely sufficient for the defrayment of their necessary expenses. The necessities of life in Oregon being much more expensive than in the Atlantic States, the salaries of officers there, as in California, should bear a just proportion to the exorbitant prices of subsistence. I have arisen, however, for the purpose of suggesting to gentlemen, that if the passage of this bill is insisted upon, I shall feel it my duty to ask its amendment, so as to exempt officers of the Territory of Oregon from the force of its provisions, and so far as they are concerned leave the law in reference to their absence from the Territory as it now is. Beside this, I am not sure that even as the law now stands upon your statute-books, the governor and secretary are included within the restriction of sixty days.

Mr. PHELPS. The Governor of Oregon cannot by the laws established in the Department, absent himself for more than sixty days from the place where he is to discharge his duties. If he does absent himself for a longer period, he forfeits his salary for that time.

Mr. LANE. If that is the case, they are under the same restrictions; and it is right they should be so. This bill is, however, objectionable to me for other reasons. I am very unwilling to see the President required to give a judicial officer a certificate before he can be entitled to leave of absence. Such a duty should not in my opinion be imposed upon him. It matters not who the President may be, influence can be brought more or less to bear

upon him. The same influence that procured the appointment, will hardly fail to procure favors incidental to that appointment; and if a judge, absenting himself for a period of time sufficient to work a forfeiture of a portion of his salary, desires a certificate such as required by this bill, he has only to appeal to his friends, through whose influence the certificate cannot fail to be obtained, and he at once secures his salary.

Mr. CAMPBELL, of Illinois. The gentleman, when he stated that the law was good as it is, referred to the proviso in the appropriation bill?

Mr. LANE. I referred to that proviso.

Mr. CAMPBELL. Well, I ask, that being a proviso to an appropriation bill made for a single year, whether its operation does not cease with the termination of the year for which the appropriation was made?

Mr. PHELPS. No; it is general. In the civil and diplomatic bill which has been reported this session, the gentleman will find a similar provision.

Mr. CAMPBELL. I was going to say, if I am correct, that you have this proviso to reenact every year; to put it into every appropriation bill to accomplish the object desired. I then ask if it would not be better to have a general law, which would not require reenactment?

Mr. LANE. I would not oppose the passage of this bill, were I confident that it could pass with just such restrictions as are necessary for the interests of the Territories. If it is to pass in anything like its present shape, I want to have inserted the amendment I have indicated.

I have seen great public inconvenience and public suffering on account of officers leaving their posts, and leaving the Territory. As to the gentlemen whom it was intended this law should benefit, I have nothing to say. I have no feeling whatever in relation to it. If they could be paid, perhaps it would be well enough; but my opinion of discharging a duty is this: I would rather vote to give a family a pension if the husband was killed at his post of duty, than to vote a single cent to a man who abandons his post, or fails to do his duty under any circumstances. If the Government officers of this country are not sufficiently sustained by their commission, and the laws of their country, to enable them to perform their duties, let them refuse to accept such offices. I only desire to say, that so far as Oregon is concerned, I am anxious to have the officers of that Territory remain there, in the faithful performance of their duty. But it is said that these officers wish to visit their families. Let them take their families with them, or send for them, and, if they cannot do that, they should not have accepted the office, or, having accepted, should resign.

Mr. CLARK. I believe the question is upon striking out the first section. I trust that section will not be stricken out, as I think it is a wise provision. It might, perhaps, seem to be a violent presumption, that high judicial officers should be otherwise than disposed to discharge their duties faithfully and strictly. But we know that there are instances in which it has been otherwise—and I think it right that there should be some extraneous influences moving upon them to induce a strict discharge of their duty. It has been said that such a provision is a reproach to judicial character. But it can be no slur upon those who are disposed to discharge their duties faithfully and honestly, that there should be a provision of law of this kind, even though it may be regarded as penal in its character. There can be no application of the law of a personal character in advance of dereliction in duty; but after such fault it is right that the application should be made. Laws of this kind are made for the "evil, the injurious, and the unthankful," and not for those who are disposed to do their duty. I can, therefore, discover nothing reproachful in the law. The reproach is in the neglect of duty. How does the law stand as it is? By this law a judge in the Territories is liable to forfeit his entire salary for the year, if he absents himself from the Territory for a period beyond sixty days. I think that is too severe; but the provision which is contained in this section of the bill is more moderate, more reasonable, and, I think, ought to be retained. By this provision the functionary can, in no event, be deprived of his salary for a period beyond that during which he absents himself. We know very well, by observation and experience, that there

have been judges, that there are judges, whose thoughts and interests are everywhere but within the sphere of their duties. We know that there are judges who are speculating judges, and whose attention to their duties is merely nominal; that so soon as they have discharged those duties, with the least appearance of decency, they are somewhere beyond the sphere of them, where they cannot be reached by those who have occasion for their services. We also know that there have been those appointed to office who merely sought to obtain places, and emoluments of places, in order that they might have wherewithal to revel in pleasure and luxury. I should hope that these cases were few. I believe they are exceptions; but is there, therefore, no good reason why these cases should not be provided for? At the same time that I would guard well against dereliction in the discharge of duties upon the part of judges and other territorial officers, I would not place them too exclusively in the power of any other public functionary.

Now, as the law stands, if they are beyond the sphere of their duties for more than sixty days, it is in the power of the President to withhold their salaries entirely. How are judges appointed? They are appointed by the President of the United States; and what are the elements which effect their appointment? Why, political influences often more than any other. These judges might sometimes fall into the hands of the Chief Executive of a different political character and condition from their own, and he might perchance be disposed to do them injustice. At the same time that I would guard against injustice upon the one hand, I would not leave this gap ungarded upon the other. I trust this section will not be stricken out. I believe it is a good and wholesome provision. I believe it is better than any which has heretofore existed—better than the one which is proposed as an amendment. In the one which is proposed as a substitute, there is great uncertainty and difficulty. I understand from the gentleman from Missouri, [Mr. PHELPS,] as he interprets the law, that the salary of the judges is to be paid quarterly. Suppose that three quarters of the salary has been paid, and that the forfeiture arises by reason of absence during the last quarter, what power of protection is there here? What power is there in the Government to retain the forfeit money? It seems to me that there is none whatever—that there is an obscurity and difficulty arising here, which it is impossible to reconcile upon the face of the law, and in connection with the practice of the Government. But when you retain in proportion to the time of absenteeism, there is no difficulty. It is all plain, and what is more, it is right, and will, in my opinion, work the desired security.

Mr. SIBLEY. I beg leave to state to the committee before this debate is brought to a close, that the gentleman from Pennsylvania [Mr. STEVENS] is entirely mistaken in regard to the inconveniences to which the people of the Territory are subjected by the absence of their judicial officers. There is no analogy between the situation of a judge in a thickly-inhabited district, and that of a judge in a sparsely-settled Territory. The judges in the Territories are the only high judiciary we have. They are vested with the powers of Federal judges, as well as of territorial judges. They are the only officers who can issue *habeas corpus* and other writs, act at chambers, and perform the other duties of the superior courts. The districts of these officials are separated sometimes hundreds of miles from each other, and if an individual wishes to avail himself of their services for any specific purpose, and cannot find the judge of his district, he will be put to the inconvenience of going to the next district. I wish to provide in this bill a remedy, so that the injury which must be inflicted on the people of the Territories by the absence of these judges may be obviated. I trust that the gentleman from Pennsylvania [Mr. STEVENS] will be satisfied with the explanation I have given of the necessity of such restrictions as are imposed by this bill. A repeal of these restrictions would have a most evil and injurious effect upon the Territories. I know all about the reasons which induced Congress to pass this prohibitory clause. I know that some of our judges and other officers were absent for months, and that the same was the case in Oregon. I believe at one time they had not a single judge within the limits of that Territory. These facts were brought



to the knowledge of members of this House; and when that restrictive clause was introduced here, it passed with scarcely a dissenting voice. There is not a single reason which was urged then that does not exist now with even greater force, in consequence of the increase of population; and no one of these three judges can absent himself from his district for any length of time without serious detriment to the interests of the people.

But the gentleman says, that if these officers do not perform their duties properly, they should be removed. This power of removal of a territorial judge by the President is far from being conceded. It is a mooted question at this moment before the Senate of the United States, and many eminent jurists deny that any such power exists. Be that as it may, and even admitting that it does exist, there are grave reasons why it should be exercised only in extreme cases; for if the territorial judiciary is subject to be displaced arbitrarily, and without good and sufficient cause, it ceases to be independent of Executive control, and will speedily be converted into a mere political engine, and will no longer be depended on or respected by the people.

[Here the hammer fell, the hour for closing the debate having arrived.]

Mr. RICHARDSON. I suppose some of the votes on this bill will have to be taken by tellers, and as there is evidently not a quorum present, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. STANTON, of Tennessee,) reported, that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order, and had instructed him to report to the House two bills, with the recommendation that they do pass; the committee had also had under consideration House bill No. 175, and had come to no resolution thereon.

Mr. RICHARDSON. I move that the House do now adjourn.

Mr. CLINGMAN. I ask my friend to withdraw that motion for a single moment, to allow me to make a correction in relation to a publication in the Globe of yesterday.

Mr. RICHARDSON. Certainly. I withdraw the motion.

#### CORRECTION OF THE REPORTS.

Mr. CLINGMAN. I desire, if there be no objection, to make a correction in relation to a publication which appears in the Globe of yesterday. I do it at the instance of several gentlemen, who desire it quite as much as I do. It appears from the Globe of yesterday, that while I held the floor the other day, I gave way to a gentleman from New York, who made a speech, occupying several columns, and that I then went on with my own remarks, and made no reference at all to his speech. Now, my constituents, and the constituents of other gentlemen, will think it very singular that I should hold the floor, give another gentleman an opportunity of making a speech, and then go on with my remarks and make no reference to that speech. My constituents may say, "If you did not choose to answer the speech, at any rate you ought to have made some reference to it."

Now, the fact is just this, that a gentleman from New York said he wished I would give him the floor for a single moment, and that his object was to notify the House that he intended to publish a speech. I told him, of course, that I had no objection—it is a pure matter of taste. I then informed the House that I had given him the floor for that purpose. I made that statement, and he made the statement to the committee, that he intended to publish a speech. I took it for granted that all that would go into the Globe. If that had been done, everybody would then have seen that the speech which followed had not been actually delivered in the House, and I and other gentlemen should have been relieved of all responsibility of answering it. Several gentlemen have come to me, and said they considered such a thing a fraud on the House. I will not use such a strong expression myself. I have no objection to the publication of speeches in the Congressional Globe that have not been delivered here; but the fact that they were not delivered here ought to be known and understood. I wish, therefore, the report of these remarks to go into the Globe, so that it may be

understood by the country that this speech was not delivered here. I have no objection to the gentleman publishing his speech. The only error was in publishing it without the preliminary remarks, which would have shown that the speech was not delivered.

A VOICE. Whose speech was it?

Mr. CLINGMAN. The speech of Mr. HASCALL, of New York.

Another VOICE. Move to expunge it! [A laugh.]

Mr. CLINGMAN. Oh, no; let it go now.

On motion by Mr. RICHARDSON,

The House then adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees: By Mr. FITCH: The remonstrance of James E. Winegar and other citizens of Elkhart county, Indiana, against the renewal of a patent to A. & Z. Parker, for alleged improvements upon reaction water-wheels.

By Mr. McNAIR: The petition of Washington Richards and 25 others, citizens of Montgomery county, Pennsylvania, praying a grant of 160 acres of land to the soldiers of the war of 1812.

By Mr. PARKER, of Indiana: The petition of Samuel Johnson, Charles A. Jeffrey, and 148 others, citizens of Wayne, Randolph, and Union counties, Indiana, praying for a tri weekly mail route from Liberty, via Centreville, to Winchester.

By Mr. WASHBURN: The petition of Isaac F. Stevens and others, for a post route from North Lincoln, Penobscot county, Maine, to Nickerson, in said county.

By Mr. FLORENCE: The memorial of John Howard, Edward Ford, and David Ford, praying Congress to afford them speedy relief, by the passage of Senate bill No. 51, prohibiting the importation of articles manufactured in the Canadian provinces from American patented machines, under penalties.

#### HOUSE OF REPRESENTATIVES, May 20, 1852.

To the Editor of the Globe:

On Monday last, the Hon. Mr. CULLOM, of Tennessee, stated in the House, that "it was said my colleague, Hon. JAMES BROOKS, advised me to change the vote I had given on the fugitive slave law;" and in a way and manner as degrading to me as the fact would be injurious to him, if the statement, as made, were correct.

My colleague and myself are political and personal friends; and on this occasion I went to Mr. Brooks's seat, and consulted with him upon the course I was taking; but that he induced me to change my vote, or attempted to do it, in the conversation I had with him, is not the fact.

I do not approve of the practice of introducing upon the floor of the House, the private conversations of gentlemen; but I attempted, at the moment, to obtain the floor, and to relieve both my colleague and myself from the imputation; but it was not yielded to me, and I had no opportunity to reply upon the spot. Hence I take the liberty of asking you to set my colleague and myself right before the public, through your columns.

Yours respectfully,

GEORGE BRIGGS.

#### IN SENATE.

FRIDAY, May 21, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Postmaster General, made in compliance with a resolution of the Senate calling for information in relation to the postal operations of the United States; which was ordered to be laid on the table and printed.

A motion, by Mr. SUMNER, that five thousand extra copies of the above report be printed for the use of the Senate, was referred to the Committee on Printing.

#### ORDER OF BUSINESS.

Mr. HUNTER. Mr. President, I move to suspend until one o'clock the order requiring to-day to be devoted to private bills, for the purpose of proceeding with the morning business until that time; and at that hour I shall move to take up the deficiency bill.

Mr. ATCHISON. I am willing that the order shall be suspended until one o'clock, but not for the purpose of taking up the morning business. I know that it is highly important that one Indian treaty now before the Senate should be disposed of in a short time. In my opinion, if we go into Executive session, it will not take more than an hour to dispose of it. It is said that there are now some five or six thousand Indians collected upon the Arkansas, waiting some action upon this treaty.

The PRESIDENT. The Senator must be aware that it is not in order to refer to matters pending in Executive session.

Mr. ATCHISON. I am fully aware of the rules, but I did not know that, being an Indian treaty, the rule strictly applied to it.

The PRESIDENT. It does apply.

Mr. ATCHISON. I wished to give the Senate some hint of the necessity of going into Executive session.

The PRESIDENT. The question is on the motion to suspend the order requiring this day to be devoted to private bills, until one o'clock.

Mr. CASS. Is it with a view of dispensing with private business for the entire day?

The PRESIDENT. The motion is to dispense with it until one o'clock. What may be done afterwards, it is not for the Chair to say. That will be a matter for the decision of the Senate.

Mr. CASS. I trust that private business will not be dispensed with. We have talked away Friday after Friday, and utterly neglected private business.

The motion was agreed to.

#### EXECUTIVE BUSINESS.

Mr. ATCHISON. I move that the Senate now proceed to the consideration of Executive business.

Mr. HUNTER. I hope not. I trust that the Senate will proceed with the morning business; and at one o'clock either take up the deficiency bill, or proceed with private business.

The motion was not agreed to.

#### PETITIONS, ETC.

Mr. HALE. Mr. President, I hold in my hand a petition numerous signed by citizens of Dover, New Hampshire, the town in which I reside, respectfully entreating that the Senate will concur in the bill which has passed the House of Representatives, commonly called the homestead bill. This petition has been gotten up without any correspondence or knowledge of my own. It is signed by men whom I know desire to take advantage of the bill. I move to refer the petition to the Committee on Public Lands; and I hope that the committee will give the subject its attention at an early day, so that we may have the bill before the Senate, and be able either to pass it or reject it.

The motion was agreed to.

Mr. WADE presented a petition of citizens of Logan county, Ohio, praying that the bill of the House extending the time for locating Virginia military land warrants may not be passed; which was referred to the Committee on Public Lands.

Mr. WALKER presented a petition of citizens of Owego, New York, praying that the bill now pending before Congress, granting to every man who is the head of a family and a citizen of the United States, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a petition of citizens of Rochester, New York, praying that Senate bill No. 51, affording protection to American inventors against the importation of their own patented articles from foreign countries, may become a law; which was ordered to be laid on the table.

Also, a petition of members of the Journeymen Tailors' Coöperative Union of the city of New York, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. BORLAND presented a petition of citizens of Batesville, Arkansas, praying the establishment of daily lines of mail steamers between Louisville and New Orleans; which was referred to the Committee on the Post Office and Post Roads.

Mr. CASS presented a petition of citizens of New York, praying that the bill now pending before Congress, granting to every citizen of the United States, who is at the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Also, a memorial of Henry Ball and others, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. CHASE presented a petition of citizens of Shelby, Richland county, Ohio, praying that the bill now pending before Congress, granting to every citizen of the United States, who is at the head of a family, one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. BROADHEAD presented ten memorials of citizens of Schuylkill county, Pennsylvania, praying a modification of the tariff; which were referred to the Committee on Finance.

Mr. STOCKTON. Mr. President, I have a petition from James W. Marshall, praying for a donation of land in California. I have not much to say about his petition at this time; but I give notice to the Senate, that when it comes up for consideration, I shall have something to say about it. This petition has been sent to me from California, because Mr. Marshall belonged to the "sailor army" there. He was a man of great enterprise, great talent, and great courage, and was very useful. He deserves great commendation from the public, and great gratitude from me for his services. He was the discoverer of gold mines in California. Senators will thus see that this is a matter of some importance, and I hope they will help me to get the subject up some of these days. I move to refer the petition to the Committee on Public Lands.

It was so referred.

Mr. STOCKTON also presented a petition of Robert Heuguenin; a petition of seamen of the United States Navy, who served in the late war with Mexico; and a memorial of citizens of Pennsylvania, praying a modification of the bounty land law; which were referred to the Committee on Public Lands.

#### REPORTS FROM A STANDING COMMITTEE.

Mr. FELCH, from the Committee on Public Lands, to which was referred the bill to authorize the Secretary of the Treasury to convey the right of way to the Cleveland and Pittsburg and to the Cleveland and Painesville and Ashtabula Railroad Companies through certain lands therein mentioned, reported it back with an amendment.

He also, from the same committee, to which was referred the bill granting lands to the States of Louisiana and Mississippi, in aid of the construction of certain railroads therein, reported it back with an amendment.

He also, from the same committee, to which was referred the memorial of the clerks of the Land Office, praying an increase of their salaries, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Finance; which was agreed to.

#### OBSTRUCTIONS IN THE SAVANNAH RIVER.

Mr. BERRIEN. Mr. President, I have a personal favor to ask of the Senate. Circumstances require that I should leave the city in the course of a few days, for the purpose of returning to Georgia. I have an anxious desire that two bills, introduced by me at an early stage of the session, may be considered before I leave the city; and, with a view to test the disposition of the Senate to indulge me in this wish, I move to suspend the prior orders, for the purpose of taking up "the bill to provide for the removal of the obstructions in the Savannah river, in the State of Georgia, and for the improvement of the same." I beg to state, that this bill has several times passed this body, but has not been arrived at in the House. The obstructions in that river are increasing from day to day, so as to threaten to render valueless the wharf property of the city. The bill can occupy but little time, and I hope the Senate will agree to take it up.

Mr. HUNTER. I have no objection to taking up the bill, provided the Senator will agree that, if it leads to debate, it shall be laid aside at one o'clock.

Mr. BERRIEN. I presume there will be no debate on the subject.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole. It provides that the sum of \$50,000 be appropriated, to be applied under the direction of the chief of the corps of Topographical Engineers, to the removal of obstructions in the Savannah river, below the city of Savannah, and to the improvement of said river by the construction of such works as, in his judgment, may be best adapted to accomplish that object.

No amendment being offered, the bill was reported to the Senate without amendment.

The question was stated to be: Shall this bill be engrossed and read a third time?

Mr. DODGE, of Iowa. I would like very much that the gentleman from Georgia, who sits furthest

from me, would give the Senate some explanation with respect to this bill; and especially, as I understand that it relates to a sort of improvement to which he demurs very much when applied in the western country. I do not object to the bill. I merely wish to know if the improvement which it contemplates is one of that class to which he has such strong objections proposed for the Ohio and Mississippi rivers?

Mr. BERRIEN. I presume the Senator from Iowa does not address the remark which he made upon the subject of opposition to internal improvements to me?

Mr. DODGE. Not to you, sir. I made no allusion to you.

Mr. BERRIEN. I beg to say to the Senator, in explanation, that this is a bill which, by repeated decisions of this body, does not involve the question of internal improvements. It is for the removal of obstructions which were created by the Government. During the revolutionary war, wrecks were sunk in the Savannah river below the city of Savannah, for the purpose of preventing the approach of the enemy. These formed a nucleus around which banks have been formed, and they have obstructed the flow of the water from the river above, which is divided opposite to the city of Savannah, by the intervention of an island. The effect of these continued obstructions, is to cause the flow of the water from the southern to the northern portion of the river—from the river above to the river below—so as to leave the water very shallow along the wharves of the city; and it is feared, that, in process of time, the obstructions there will so increase as to interfere with the use of the wharves for purposes of commerce. My object is not to delay the Senate, and therefore I will not further trespass upon their time. This question has been duly considered before, and I trust the bill will meet with no objection from the Senator from Iowa.

Mr. DODGE, of Iowa. My object was precisely the same. I did not wish to delay the decision of the Senate for a moment; but I was anxious to hear from the Senator from Georgia, who sits furthest from me, and whose clarion voice has been so often heard in this Chamber, upon occasions where bills of like character were pending; if he could vote for this bill, and could sit in his seat and allow it to pass, without giving us one of his eloquent speeches which we have so often heard in opposition to grants of land and money for internal improvements.

Mr. DAWSON. I cannot go into the discussion of this question; for I well know that the Senator perfectly understands the distinction between this bill and internal improvement bills generally. Even his Democratic friends, who have been all along opposed to internal improvements of rivers and harbors, from the highest to the lowest, clearly perceive that difference.

The bill was ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### JUDICIAL SALARY.

Mr. BERRIEN. There was another bill which I introduced at an early stage of the session, upon which I stated that I desired the action of the Senate, as I supposed it would not involve debate. It is a bill to regulate the compensation of the district judge of the United States for the district of Massachusetts. It is sustained by evidence here, leaving no doubt as to its propriety. I move, therefore, to postpone the previous orders, for the purpose of taking up the bill.

Mr. HUNTER. I will agree to that motion with the same understanding with regard to this, as with regard to the other bill.

Mr. BERRIEN. Certainly.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole.

It provides that there shall be allowed to the judge of the district court of the United States for the district of Massachusetts, a yearly compensation of \$3,500, to be paid at the Treasury of the United States in quarterly payments.

Mr. BERRIEN. I beg to say, simply, on this subject, that when the present incumbent was appointed to that office, the salary was \$2,500, which it is still; but at that time, the jurisdiction of the court was very much less than it now is. The business of the court was then very much less than,

by the increase of its jurisdiction, it has now become. The increase has occurred in two ways; first, by an alteration of the crimes act cases, which before were under the jurisdiction of the circuit court, are now committed to the jurisdiction of the district court. The business of this judge has been further increased by the fact, that the attendance of the circuit court judge for one term in each year is dispensed with; and, consequently, the district judge is obliged to hold, not only a protracted district court in consequence of the increase of business in that court, but he is also obliged to sit alone and transact the business of the circuit court.

These facts are disclosed in the statement of the members of the bar of that district, and the statement of respectable gentlemen, which were laid before the Committee on the Judiciary, and also by reference to our statutes. The object of the bill is to place the district judge for Massachusetts, living in Boston, upon the same footing as the district judge of the southern district of New York, living in the city of New York. I hope there will be no objection to it.

Mr. HALE. I want to ask a single question of the Senator from Massachusetts. I do not mean to oppose this bill. I know the facts which the Senator from Georgia has stated; but I want to inquire what is the salary of the State judges in Massachusetts?

Mr. SUMNER. The salary of the chief justice of Massachusetts is \$3,500; and the salary of the associate justices of the supreme court is \$3,000.

Mr. BORLAND. I would inquire what amount of salary this judge now receives?

Mr. BERRIEN. Two thousand five hundred dollars.

Mr. BORLAND. I am opposed, as I have said upon a former occasion, to any extravagant allowance—certainly to any increase of allowance—to Federal officers, either here, at the seat of Government, or in any of the States. I am not acquainted with the character or the extent of the service which this judge has to render, which should put him upon a different footing, and entitle him to a higher rate of compensation than the district judges in other States receive.

Mr. BERRIEN. I would say to the Senator, that it is believed that the duties of the district judge in the district of Massachusetts, and in the southern district of New York, are greater than they are in the other districts in the United States. The object of this bill is to place the district judge of Massachusetts upon the same footing as the district judge of New York. He has had an increase of business, from the causes which I have stated, which would abundantly appear to the honorable Senator from Arkansas, if he had an opportunity of examining the papers to which I have referred; but I trust that he will take my assurance of their contents. From them, it appears that the business of the district court of Massachusetts has so increased as to engage the attention of the very worthy gentleman who presides over that court during his whole time, and that the sum of \$3,500, which he now receives, is inadequate to his support in the city of Boston, where his duties require him to reside. I hope the bill will not encounter further objection.

Mr. BORLAND. Mr. President, I do not know that the proposed compensation to this judge will be too great, under the circumstances stated by the Senator from Georgia. But I do know, that in other States, and in my own State, where the duties of the district judge of the United States have been very greatly increased, no increase of compensation has been made. I do not wish it to be understood that I shall make any application for an increase of compensation for the district judges of my State, for I am opposed to it. His duties occupy him a great deal more of his time than they did before the increase of business, but yet they do not occupy so much of his time, in my opinion, as to make any increase of compensation necessary.

The rule upon which I have heretofore governed myself in relation to propositions of this kind, is, to place the United States judges upon the same footing, as to salary, with the State officers of the same class. I understand this to be placing the district judge of the United States in Massachusetts on the same footing with the associate justices of the supreme court of that State.

Mr. HALE. It is to place him on a footing with the chief justice, and give him \$3,500.

Mr. BORLAND. I cannot understand why we should increase this amount to \$3,500, when \$3,000 would place this judge upon a footing with the associate justices of the supreme court of the State of Massachusetts. Certainly, he is not a judge of higher dignity, or requiring a higher order of qualification than the associate justices of the supreme court of that State, and I can see no reason why he should be given that higher position which we must accord to him by giving him a higher salary. I venture to say that the order of talent, or of attainment, is not required to be higher in the performance of his duty, than those talents and attainments which are required by the associate justices of the supreme court of the State of Massachusetts. I appeal to the Senator from Massachusetts if that can be so.

Mr. BERRIEN. I am very anxious not to bring myself under the condition stipulated by the chairman of the Committee on Finance. I understand that this question was discussed, with regard to the compensation of the district judge of New Hampshire, and the Senate determined to fix the compensation upon the same footing with that of the chief justice of the State. I would say, further, to the honorable Senator from Arkansas, that he is entirely mistaken in one point. The duties of this judge, sitting in the circuit court of the United States, alone, are much more onerous than the duties of any associate judge of any State; because such associate judge has the assistance of his associates, and of the chief justice, while the district judge of the United States, sitting alone in the circuit court, as he is compelled to do, necessarily has a responsibility which is far greater than can be imposed upon any associate justice in any State.

Mr. HALE. I want to make a suggestion to the Senate. I know this judge, and I know something about his business, and concur in everything which the Senator from Georgia has said; but I want to make an additional suggestion, which, I think, will strike the honorable Senator from Arkansas with great force. He should remember that this judge is situated right in the vicinity of Bunker Hill, and Lexington, and Concord; the people there have got some old-fashioned notions; and hence it is very burdensome to enforce the fugitive slave law there, which this judge has to do. In view of these increased difficulties, growing out of his vicinity to these localities, which take up so much of his time, and call for so much exertion, this increased compensation ought to be paid to him for that. I think he earned this additional compensation last summer, in trials in that class of cases alone. I hope this consideration will be sufficient to induce the honorable Senator from Arkansas to forbear further opposition to the bill.

Mr. BORLAND. I have nothing to say on that subject, except that I think it constitutes a very poor claim upon the favorable consideration of Congress, that this judge is charged, as the Senator from New Hampshire says, with the execution of the fugitive slave law, in view of the manner in which that law has been executed. But, sir, I will not pursue that subject.

I am willing, in view of all the circumstances, to vote to put this judge upon the same footing with the associate justices of the supreme court of Massachusetts, as I voted to put the district judge for the State of New Hampshire upon the same footing with the associate justices of the supreme court of that State. I know very well that that bill passed, giving to that judge the same compensation as the chief justice of the State received; but I voted for giving him the same salary which was received by the associate justices of the State. I shall act on the same principle in this case, and, therefore, I move to amend the bill, by striking out "\$3,500," and inserting "\$3,000."

Mr. BERRIEN. I hope that amendment will not be adopted. The object of the bill is, as I have said before, to place this judge on the same footing with the district judge of Southern New York, the business of the two being considered equal.

The amendment was rejected.

Mr. ADAMS. Before the vote is taken upon the bill, I wish to make a single remark. It was suggested by the Senator from Georgia, that upon a question which was submitted to the Senate a few

days ago, it was determined by the Senate to allow the same compensation to judges of the district courts of the United States which is allowed for judges of the same grade in the States. It is true that some Senators voted upon that principle, but there were others who did not do so. There were some Senators, myself among them, who voted upon the principle of allowing a reasonable compensation to the officers of the General Government, regardless of what the States might pay for similar services. I believe that to be the correct principle. I believe that there should not be rivalry between this Government and the State government in paying money to their officers. This Government should look higher than such considerations. It should pay a fair and reasonable compensation for the services rendered by its officers; and no more. So far as the compensation allowed to officers by the States for particular services is an index to a reasonable compensation—to a correct conclusion—that far I am willing to take it, but no further. I think that \$2,500 a year in such a State as Massachusetts, where living is cheap, is a reasonable compensation for the discharge of all the duties that a Federal judge is capable of performing. The number of cases that may come before him is not a matter which should enter into the consideration of the compensation. A judge is presumed to occupy his whole time either in the discharge of his duties, or in qualifying himself to discharge them; and his compensation should be fixed with reference to his occupying his time in the discharge of his duties. I think that the amount which this judge now receives (\$2,500) is a fair compensation for a district judge in Massachusetts or anywhere else, and upon that ground I shall vote against the bill.

Mr. BUTLER. I do not wish to say anything to commit myself on this subject. This general subject is before the Committee on the Judiciary at this time, and the Senator from Maine, [Mr. BRADBURY,] one of the members of the committee, has especial charge of it. We are endeavoring—though I do not know that we shall attain the object entirely—to have the salaries of the different judges fixed according to the business in their courts. I am not one of those who would be willing, by any compensation or salary which may be given to a Federal judge, to indicate that his judicial dignity should in anywise be regarded as superior to that of a State judge. Nor can we regulate or indicate the dignity of such an officer by the salary he receives.

For instance, the judge of the United States for the district of Florida, who has to hold his court at Key West, has more business, I will answer for it, than all the State judges in Florida; and he has a kind of duty to perform that requires his continual attention. From Boston, from New York, from Baltimore, from Philadelphia, and nearly all the cities on the Atlantic coast, petitions have been received for an increase of that judge's salary; and if it is not increased he will have to resign. Considering the duties he has to perform, his salary should be above that of the State judges there. Then again, the rule would not operate well so far as regards Louisiana. In Louisiana, and particularly in one of the districts in that State, it would be wrong to make the salary of the district judge of the United States equal to the salary of the State judges.

The State judges there I believe receive \$6,000, a year. There are two Federal district judges in the State of Louisiana; and I would not consent that their salaries should be made equal to the salaries of the State judges of Louisiana. We cannot lay down any uniform rule in regard to this subject. Then, look up at New Hampshire, Vermont, and other States of the kind, where there is very little business for a Federal judge; and yet, if you give a man the office, you must give him at least enough to enable him to live. I do not know that I would be willing to give the Federal judges of these States the same salary which the State judges there receive.

There are circumstances which should regulate the salaries of the Federal judges in each case. We cannot lay down an arbitrary rule upon the subject. I think, however, that perhaps the correct rule would be that the Federal judges should receive no more than the State judges. But still, in all cases the compensation could not be regulated by that rule. I would say to my friend from Arkansas, that the business of the United States

courts in Boston, New York, and Florida, and particularly in New York and Boston, takes up more of the time of the Federal judge than all the business put together in Arkansas. I mean that the maritime cases alone occurring before these courts amount to more than all the business of the Federal judge in Arkansas. I do not suppose that the judge there has anything to do with that class of cases which continually require the attention, and the responsible attention, too, of the Federal judges situated in Boston and New York.

As regards what was said by the gentleman from New Hampshire about Bunker Hill, &c., I do not understand what he was talking about. [Laughter.]

Mr. BORLAND. Mr. President, I desire to state, in two or three words, my objection to putting the salary of the Federal judges above that of the State judges of the same class. The objection is twofold. In the first place, I think the provision would be economical. For the purpose of ascertaining the proper compensation under the circumstances in which a United States judge is to live, I must confess I cannot conceive of any other standard which is so proper and so reliable as the amount of salary which the State governments pay. They regulate their salaries according to the circumstances immediately before them and around them; and I think that what they establish as a proper compensation for their judicial officers, ought to be adhered to by the United States in fixing the salary of their judicial officers who are to live in the same States.

Mr. BERRIEN. Will the Senator allow me to suggest to him, that this district judge, from the nature of his occupation, is obliged to reside in Boston, while the State judges in Massachusetts may reside elsewhere; and that the expense of living in the city of Boston is much greater than the expense of living in the country.

Mr. BORLAND. Upon that ground, I think that really the judges of the State courts are at a great disadvantage. This judge, as the Senator says, has to reside in the city of Boston. That is his home, and he there holds the court. The judges of the State courts, as the Senator well knows, have to ride over extensive circuits, at very great expense, involving very great labor, and often very great exposure, to the neglect of their private business and their homes. So that, upon that ground alone, I think the disadvantage suggested, is greatly against the State judges.

As I remarked before, I assume the amount paid by the State governments to their judges should be a proper and sufficient standard to which we should determine the salaries of the Federal judges.

The second objection which I have to this, is a political one, and which I have stated here on a former occasion. I think it is sufficiently evident that the Federal offices have already more than enough attractions to individuals to seek and desire them. They present sufficient attractions to deter individuals from taking office in most of the States of the Union. As I said before—and I shall not undertake to elaborate it now—this is an influence which is working great mischief to the character of our Government. Its tendency is to point to this center; and it is strengthening what I consider to be the most unfortunate and most dangerous tendency in our whole system of government. I am unwilling, therefore, to minister to that tendency—to give it one particle more strength than it already has, by holding out to persons, whether of the learned professions or not, inducements to turn their backs, in disregard, from the offices and honors of their own States, and look to this Government as the great disburser of office and of patronage.

Upon these two grounds, I am opposed to this increase of salary for this district judge, beyond what the associate judges of the supreme court of Massachusetts get. In the first place, I think that amount is all-sufficient to pay for these services; and in the second place, I think the district judge cannot be considered a judge of higher grade, or that that office requires a higher order of qualification, than that of the associate justices of the supreme court of that State.

Mr. BERRIEN. I hope the question will be taken without further debate.

Mr. HUNTER. I hope that the question will either be taken now, or that the bill will be laid aside.



Mr. MALLORY. Mr. President, I will not extend the discussion, as I see that the hour of one is approaching. But I find that I voted under a misapprehension in regard to the amendment of the Senator from Arkansas. I intended to support this bill as it came from the Judiciary Committee. I hope my friend from Arkansas will withdraw his opposition, and for this reason: No parallel that he has produced, it appears to me, is sufficient to sustain his opposition to it. He seems to think that, because the judges of a State get a certain amount of compensation, that should necessarily be a criterion by which the salaries of the Federal judges should be determined.

Mr. BORLAND. I say that is the best standard.

Mr. MALLORY. In my opinion, it offers no standard whatever. Is it a standard to estimate what a judge can live upon, or for what a judge is willing to take the office and discharge its duties? The judges are taken from the bar, and the only true standard of their compensation is to ascertain the amount which will induce the members of the bar of a particular district, competent to fulfill the duties of the office, to give up their practice and go upon the bench. Take the instance cited by the Senator from South Carolina. The State judges of Louisiana receive \$6,000 a year. Now, a judge may live there in proper style, and support the dignity of his office, for \$2,000 a year. In that case, clearly, the \$6,000 paid to the State judges would form no standard whatever. The true standard is the amount which the services of a man competent to fill the office are worth.

The bill was reported to the Senate without amendment.

Mr. ADAMS called for the yeas and nays on the engrossment of the bill; and they were ordered, and being taken, resulted—yeas 35, nays 13—as follows:

YEAS—Messrs. Badger, Bell, Berrien, Bright, Brooke, Butler, Cass, Clarke, Dawson, Dodge of Wisconsin, Downs, Fish, Foot, Geyer, Hale, James, Jones of Iowa, Mallory, Mangum, Miller, Morton, Pearce, Rusk, Sebastian, Seward, Shields, Smith, Soule, Spruance, Stockton, Sumner, Tancay, Underwood, Upham, and Weller—35.

NAYS—Messrs. Adams, Atchison, Borland, Brodhead, Chase, Clemens, Dodge of Iowa, Douglas, Hamlin, Hunter, King, Wade, and Walker—13.

So the bill was ordered to be engrossed for a third reading.

It was subsequently read a third time and passed.

#### DEFICIENCY BILL.

Mr. HUNTER. I now move to postpone the prior orders of business for the purpose of taking up the deficiencies bill.

Mr. BORLAND. I hope that motion will not prevail. I do think that, in justice to those whose interests are involved in the private claims now before Congress, and for whose benefit we adopted the rule setting aside Fridays for the consideration of these claims, we cannot any longer postpone their consideration. We have now for a month or more put aside all private claims, to the great injustice, in my opinion, and certainly to the great injury, of those whose claims upon us are not only just, but beyond dispute; and have been engaged in discussions which, so far, have resulted in little good to the country, or to individuals. I trust, therefore, that we will this day undertake to do justice to long-deferred claims.

The question was taken on the motion to postpone the prior orders, and a division being called for there were—yeas 17, nays 22.

So the motion to postpone was not agreed to.

#### THE PRIVATE CALENDAR.

The PRESIDENT. In conformity with the rule, the Senate will proceed to the consideration of the Private Calendar.

The rule by which the business this day is governed, is the following resolution, which was adopted on Friday, April 23d, on the motion of Mr. NORRIS:

*Resolved, That on day, and every fourth Friday hereafter, shall be devoted to the consideration of such private bills upon the Calendar as shall not give rise to debate; and whenever debate shall arise upon a bill, or any Senator shall express a desire to debate the same, it shall go over to the following Friday.*

#### WILLIAM BEDIENT.

Mr. ATCHISON. Under a mistake on the last Friday on which the Senate considered private bills, I made a motion to indefinitely postpone

the consideration of a bill for the relief of William Bedient. If it is in order—and I believe it is, as this is the first Friday since then that we have transacted private business—I will move to reconsider the motion by which that bill was indefinitely postponed.

The PRESIDENT. It will not be in order now, to move to reconsider that vote. It is too late. But, inasmuch as there was a mistake made, and as the report was favorable, the bill can be reinstated on the Calendar, by the unanimous consent of the Senate.

Mr. ATCHISON. Then I trust the unanimous consent of the Senate will be given.

The PRESIDENT. The Chair hears no objection; the bill will therefore take its place upon the Calendar, and will be the first that comes up for consideration.

The Senate accordingly proceeded to the consideration of the bill for the relief of William Bedient, late a sergeant in the fourth regiment of artillery.

Mr. CLEMENS. Is there a report in that case? The PRESIDENT. There is.

Mr. HALE. Is this the day on which private bills which generate debate are passed over?

The PRESIDENT. This is the day on which all private bills leading to discussion must be laid aside.

Mr. HALE. Exactly.

The bill was read a second time, and considered by the Senate as in Committee of the Whole. It provides that the Secretary of the Interior be authorized and directed to place the name of William Bedient, at present of Newark, in the State of New Jersey, late a sergeant in the fourth regiment of artillery, on the roll of invalid pensioners, and that he be allowed a pension at the rate of eight dollars per month, from the 16th day of June, 1849, to continue during his natural life.

Mr. CLEMENS. Is there a report in that case? The PRESIDENT. There is.

Mr. CLEMENS. I would like to hear it read.

The report was accordingly read, from which it appeared that the said William Bedient enlisted the 20th of January, 1840, and was then sound in body and of a firm and vigorous constitution. That he reenlisted in November, 1844, and was still sound in body and constitution. He was appointed a sergeant while stationed at Puebla, in Mexico, in 1848. While stationed at Pensacola, in Florida, he was discharged, on the examination of Doctor Randall, post surgeon, by reason of hernia. That from 1840, when first enlisted, to the time of his discharge, in June, 1849, he was constantly, and without furlough or other interruption, in the line of his duty, and in the actual service of the United States. That his health was perfectly good, and his body entirely sound, until he was sent to Point Isabel, in Texas, in 1846, where, in August, in consequence of exposure and fatigue, he contracted fever and ague; and that after the reduction of the disease by medical treatment, he first perceived the hernia, which resulted in his discharge.

From statements made by Colonel Gardiner, Major W. W. Morris, Lieutenant Colonel Brown, and Brigadier General Childs, all of the United States Army, it appeared that the claimant was a soldier of good character; and from a letter of assistant surgeon Joseph Eaton, it further appeared that he was three fourths disabled from earning a living by manual labor.

The Commissioner of Pensions, also, in a letter to the chairman of the committee, dated February 2, 1852, says: "Had the evidence of a commissioned officer been produced, to show, in positive terms, that the rupture was incurred in the line of his duty, the claim to a pension would have been allowed at the Pension Office."

Mr. CLEMENS. I am not perfectly satisfied as to the propriety of allowing this pension. I should like to inquire further into the merits of the case.

The PRESIDENT. Does the Senator propose that the bill should be passed over?

Mr. CLEMENS. Yes, sir.

The bill was accordingly passed over; but at a subsequent period of the day, its consideration was resumed, on motion by Mr. Fish, Mr. CLEMENS having withdrawn his opposition.

The bill was then reported to the Senate without amendment, and was ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### THOMAS H. LEGGETT.

The PRESIDENT announced the next bill in order to be that for the relief of Thomas H. Leggett.

Mr. HUNTER. I object to that.

The PRESIDENT. Does the Senator desire to discuss it?

Mr. HUNTER. I believe the bill has been discussed pretty fully. I am willing, if the yeas and nays are taken, to have it voted upon now. I think, however, it is a bill which was passed over to accommodate the Senator from Pennsylvania, [Mr. COOPER,] and that on the whole it will be well to pass it over again.

So the bill was passed over.

#### IRA DAY.

The bill for the relief of Ira Day, of Vermont, was announced as next in order.

Mr. HUNTER. The Senator from Delaware [Mr. BAYARD] requested me to say that he would like to have that bill laid over.

Mr. BADGER. I would suggest that it would be better not to lay the bill over. I believe it has been discussed during six or seven hours already, and I think it should be disposed of. If the consequence of having it laid over will be to renew the discussion, that is an additional reason for not doing it.

The PRESIDENT. This is a day on which no discussion can be had upon any bill.

Mr. BADGER. I am aware of that; but if the bill is to be discussed further, hereafter, it should not be passed over.

Mr. HUNTER. Upon reflection, I think it will be as well to take the vote on the bill. I think that the Senator from Delaware did discuss it.

Mr. ADAMS. That is no reason why he may not wish to do it again.

The bill was then read, and considered as in Committee of the Whole.

The bill originally authorized the Postmaster General to pay to Ira Day, of Vermont, \$1,008 90, together with interest thereon, from the first day of July, 1837, out of the funds of the Post Office Department, in full for the balance due to him for transporting the mail from Royalton to Burlington, in the State of Vermont, from January, 1833, to July, 1837, and had been amended by striking out the words, "together with interest thereon, from the first day of July, 1837."

The bill was then reported to the Senate as amended.

Mr. HUNTER. Is that the bill in which the allowance of interest was stricken out?

The PRESIDENT. The allowance of interest was stricken out when the bill was under consideration in Committee of the Whole.

The question was then taken on concurring in the amendment, and it was not concurred in.

Mr. HUNTER. I now desire to have the bill passed over; because if interest is to be allowed, it becomes a debatable matter again.

So the bill was laid over.

#### HARRIET F. FISHER.

A bill for the relief of the widow of Marvin W. Fisher came up next in order, and was read a second time. It authorizes the Secretary of the Treasury to pay to Harriet F. Fisher, the widow and executrix of Marvin W. Fisher, the sum of \$20,000, as a full compensation for the past use of the machine invented by him for charging percussion caps in the arsenals of the United States, and also for the future free and undisturbed use by the Government of the patent-right to said machine, with its improvements, as patented on the 21st day of November, 1848, during the entire term of fourteen years for which said patent is to run.

Mr. HALE. What committee reported that bill?

The PRESIDENT. It was reported by the Committee on Naval Affairs.

Mr. HALE. There is another bill relating to this very matter, reported from the Committee on Military Affairs by the Senator from Illinois, [Mr. SHIELDS,] who is not now in his seat, and the Senator from California, who reported the bill from the Committee on Naval Affairs, is not in his seat.

Mr. BADGER. Let the bill be passed over. So the bill was passed over.

#### SYLVANUS BLODGET.

The consideration, as in Committee of the

Whole, of House bill for the relief of Sylvanus Blodget, was resumed. It enacts that the name of Sylvanus Blodget shall be placed by the Secretary of the Interior on the pension-roll, at eight dollars per month, commencing on 7th January, 1846.

Mr. HUNTER. I should wish to hear the report read.

The report was read accordingly.

The memorialist served as a private in a volunteer company in the war of 1812-'14 against England, and was present at the battle of Plattsburg, in September, 1814. Owing to fatigue and exposure while in the performance of military service, the memorialist contracted a serious illness, and in consequence of the enfeebled state of his health he has been incapable of manual labor since. He has lost the sight of one eye, and can see but imperfectly with the other, in addition to other bodily infirmities. He is also poor, and about sixty-five years of age. The facts stated by the memorialist are confirmed by the affidavits of his captain and colonel, and also by the certificates of two physicians.

Mr. ADAMS. I move to amend the bill by striking out "1846," and inserting "1852."

Mr. HALE. I made that motion the last time the bill was before the Senate; and I ought in justice to say that the chairman of the Committee on Pensions has informed me that the proof in this case was completed in 1846. The bill is drawn up in accordance with the rule applied by the Departments.

Mr. FOOT. I hope the Senator from Mississippi [Mr. ADAMS] will withdraw his motion. The facts are in effect what the Senator from New Hampshire [Mr. HALE] has stated. The proof was completed on the 7th January, 1846; the report was made first in favor of the bill, two years ago or more—

Mr. ADAMS. I withdraw the motion.

The bill was then reported to the Senate without amendment, and read a third time and passed.

#### ROBERT ARMSTRONG.

The consideration, as in Committee of the Whole, of the bill for the relief of Robert Armstrong was resumed. The bill provides that the name of Robert Armstrong, of Tennessee, be placed on the pension roll by the Secretary of the Interior, and that he be paid a pension at the rate of thirty dollars per month during his life, commencing on the 14th May, 1845.

Mr. ATCHISON. That bill involves the principle of arrearages of pensions; and that is a question worthy of discussion, for the Commissioner of Pensions has informed me that the amount involved by this principle is nearly three or four millions of dollars.

Mr. HALE. That bill did involve the principle of arrearages when before the Senate on a previous occasion; but it has been so altered as to bring it down to the basis of the bill for the relief of Sylvanus Blodget, just passed. The arrearages have been abandoned, and the pension is only made payable from the time when the proof was completed.

Mr. ATCHISON. I withdraw my objection.

The bill was then reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time, and passed.

#### THOMAS PEMBER.

The Senate next proceeded to the consideration of the bill for the relief of Thomas Pember, as in Committee of the Whole.

The bill provides that the proper accounting officers of the Treasury be authorized and directed to audit and adjust the account of Thomas Pember, and to pay to him the difference between the compensation of a captain's clerk and a purser on board the United States steamer Vixen, from the 23d of October, 1848, to the 20th day of June, 1850, and the difference between the compensation of a captain's clerk and a purser on board the ship Electra, from the 1st day of July, 1847, to the 28th day of February, 1848, out of any money in the Treasury not otherwise appropriated.

The Committee on Naval Affairs, to which this case was referred, reported that the certificates of Lieutenants James H. Ward and Timothy A. Hunt, respectively commanding the United States ship Electra and the United States steamer Vixen, show that the memorialist was captain's clerk on

board the steamer Vixen from the 23d day of October, 1848, to the 20th day of June, 1850, and that during the same period he performed all the duties of a purser on board the vessel; that the labor thereof was "excessively arduous frequently, and for a portion of the time beyond all precedent," and that he was called upon to perform these duties because Lieutenant Commanding Ward's own duties, as commander of the vessel, rendered it impossible for him to give them his attention; and that the memorialist was captain's clerk on board the ship Electra from the 1st of July, 1847, to the 28th of February, 1848; and that he performed, also, during the same period, the duties of purser, which were arduous, and which were devolved upon him by Lieutenant Hunt, because the command of the ship, in active service in the Gulf of Mexico, required his undivided attention.

Mr. DAVIS. I shall be very glad to know whether this bill introduces a precedent of putting every captain's clerk, on board a small vessel, on the footing of a purser. Is this vessel—the Electra—one which had a purser assigned to it, or were the duties performed in some other way? Was it a vessel that usually carried a purser?

Mr. MALLORY. I will explain the matter to the Senator from Massachusetts. The certificates given by the masters of the vessels state that they could not perform the duties of pursers. These services, on the part of the person for whom the bill makes a compensation, were performed during the Mexican war. A purser was necessary on board those vessels at that time, but none was appointed for them. Mr. Pember was familiar with the duties of a purser, having discharged them before. They, therefore, called upon him to do it, and held out to him the idea that Government would compensate him. He accordingly did it, and discharged the duty faithfully, disbursing a large amount of pay and clothing. The proposition is to give him the difference between the pay of a captain's clerk and that of a purser. It involves no precedent.

Mr. DAVIS. I think the consideration of the bill should be postponed, simply for this reason: If, according to the usages of the Navy, this man is entitled to have his pay, as this bill proposes, I shall interpose no objection; but if it is introducing a new principle, that every officer who performs the duties of purser on every little craft shall have pay as a purser, I object to it.

So the bill was passed over.

#### GUION AND McLAUGHLIN.

The Senate next proceeded to the consideration of a bill for the relief of Guion and McLaughlin; which was read a second time, and considered as in Committee of the Whole.

The bill was reported from the Committee on the Post Office and Post Roads, and provides that the Postmaster General be directed to pay to E. P. Guion and Benjamin McLaughlin the sum of \$1,640 from the appropriation for mail transportation, being the amount due them, under the equitable terms of their contract with the Postmaster General, for two months' extra pay, upon the discontinuance of the transportation of the Southern mail, on route 2,802, from Raleigh to Fayetteville; on route 2,811, from Fayetteville to Cheraw; and on route 3,101, from Cheraw to Columbia, South Carolina; on the 6th of February, 1845, the Postmaster General having only paid the allowance for two months' extra service upon the amount dispensed with, when it should have been upon the whole amount of the contract.

Mr. HUNTER. Is there any report in that case?

The PRESIDENT. There is.

Mr. HUNTER. Let it be read.

The report was accordingly read; from which it appeared that the petitioners entered into contracts with the Post Office Department to carry the mail of the United States from Raleigh, North Carolina, by Middle Creek and Aversborough, to Fayetteville, six times a week and back, in two-horse coaches, the Postmaster General reserving the right to order the great Northern and Southern mail on this route at \$10,800 per annum. Also, from Fayetteville, North Carolina, by Dane's Springs, Randallsville, Montpelier, Laurel Hill, and Brightsville to Cheraw, daily and back, in two-horse coaches, the Postmaster General reserving the right to order the great Northern and Southern mail on this route as advertised. That on the

3d of December, 1844, it was ordered that the great mail should be put upon each of the above routes as follows: 1844, December 3, the great mail on this route at \$10,800 per annum, to go into effect January 1, 1845; and on the 20th of December, 1845, it was ordered that the allowance be entered into the contract, to be made in case the new service is discontinued before the expiration of the contract, shall be two months extra pay on account of the peculiar nature of the service, and the large outlay and expense to be incurred in stocking the route. That on the 6th of February, 1845, the great mail was discontinued on each route; and it was ordered in the case of Guion, that the two months' extra pay contracted for should be estimated on the amount saved, and not on the entire sum paid for the greater service. In the case of McLaughlin's contract to carry the great mail from Fayetteville, North Carolina, to Cheraw, for \$13,320 per annum, the order indorsed thereon is as follows: "1845, February, '6. Annul the great mail service on this route, ordered 3d December, 1844, and allow two months' extra pay, according to contract, on the amount saved, \$9,000 per annum, and restore the ordinary mail service, in two-horse coaches, at \$4,320 per annum."

The report further stated that the petitioners appealed to Congress to be paid the difference between the two months' pay on such contract saved by Government, and like pay on the larger sums for the larger service; that the contract was made for the less service only, with the right reserved to the Department at its option to increase it, as before stated; that the stipulation to allow the contractors in this case two months' extra pay instead of one, had reference only to a subsequent order for the greater service, and its subsequent discontinuance; that it appeared that this stipulation by which the contractors were bound (if so ordered) to carry the great mail, had reference to an anticipated difficulty with the "Wilmington and Raleigh Railroad Company," then carrying the great Southern mail; and it was well understood, that should this mail be thrown on the contractors, it would involve a heavy outlay in coaches and horses, which would involve them in a proportionate loss, should the same be discontinued at an early day. That it so resulted in consequence of this new service being ordered on the third of December, 1845, and discontinued on the sixth of February, 1846, a period of only two months.

The report further states that upon the face of the contract, and the terms of the orders referring to it, the committee were disposed to consider that the contractors would, in strictness, be limited to the extra pay on the "amount dispensed with." But from the evidence of William H. Dundas, esq., who at the time of these contracts was principal clerk in the Contract Office, and who was summoned before the committee at the request of the petitioners, they were satisfied that such was not the construction placed upon them by either of the contracting parties, when the contracts were made, but that the Department, as well as the contractors, intended that the extra pay should be on the larger sums, which were stipulated for the new and larger service.

No amendment being offered, the bill was reported to the Senate, and was ordered to be engrossed for a third reading.

It was subsequently read a third time and passed.

#### ELIZABETH V. LOMAX.

The Senate resumed, as in Committee of the Whole, the bill for the relief of Elizabeth V. Lomax. It enacts that the name of Elizabeth V. Lomax, widow of Mann Page Lomax, late a major of the Ordnance Corps in the United States Army, be placed on the pension roll at the rate of thirty dollars per month for her life, commencing on 27th March, 1842.

Mr. UNDERWOOD. I would like to know from the Committee on Pensions, whether, in every case, they have fixed the time when completion of proof was made, as the time for the commencement of the pension? That point has already been mooted, and that was the point on which we stopped the allowance of some pensions the other day. If it is understood that all the bills conform to the regulations made in the Pension Office in that respect, I have no objection to this measure;

but as its operation extends as far back as 1842, I should like to know whether the proof was completed at that time?

Mr. FOOT. I will state to the Senator from Kentucky, [Mr. UNDERWOOD,] that it is the intention of the Committee on Pensions to act on that rule, to limit the time when the pensions shall commence to the period when the proof shall be completed. I cannot say whether this bill was drawn up in accordance with that rule, as it was reported by the Senator from Arkansas, [Mr. BORLAND,] but I presume that the rule applies in this case also.

Mr. BORLAND. What is the date at which the pension commences?

Mr. UNDERWOOD. Eighteen hundred and forty-two.

Mr. BORLAND. The principle on which that bill was reported was the recognition of the claim from the death of the individual of whom this lady is the widow; and as I stated on a previous occasion, the action of the committee was based on the propriety of regarding that as a disability on the part of his widow. Believing that an invalid soldier should be entitled to a pension from the time when the disability should commence, if the pension be due at all, the object of the law is, clearly, that it should commence as a compensation, or supply of means when the disability commenced.

The PRESIDENT. The Chair will be under the necessity of directing the bill to pass over, if it is likely to lead to discussion.

Mr. BORLAND. One word more. The operation of this bill extends back only to the time when the disability began.

Mr. HALE. Let it lie over.

The bill was passed over accordingly.

#### THEODORE E. ELLIOT.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Theodore E. Elliot. The bill provides that the sum of \$300 be paid to Theodore E. Elliot, in satisfaction of his claim for a keel-boat furnished to P. M. Butler, late agent of the Cherokees, and used in transporting supplies, under treaty, to the Indian territory.

At the request of Mr. HUNTER, the report in the case was read, the substance of which has been previously published.

Mr. HUNTER. I would like to hear a statement of the proof of this claim. I find here on the table of the Senator from Delaware, [Mr. BAYARD,] who is now absent, and who has examined this matter, this memorandum made upon the bill: "This claim is not proved."

Mr. SEBASTIAN. When that bill was up before, the Senator from Delaware, [Mr. BAYARD,] a member of the Committee on Claims, requested that it might lie over in order to give him an opportunity to examine it. He inquired whether there was any evidence of the recognition of the contract by the Department? He was told that there was no evidence on the books of the Department that the debt had been paid; but he did not know that no evidence could appear there until the agent appeared to claim the payment of the money. The committee resorted to the books of the Department to ascertain whether the debt had been discharged, and it appeared that the agent had given no credit for the amount, and that the money had not been paid.

Mr. HUNTER. Was there any proof of the contract?

Mr. SEBASTIAN. That is proved by several witnesses, besides the pilot engaged in steering the boat, reputable persons, some of whom were known to myself.

The bill was then reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### ADJOURNMENT OVER.

Mr. BADGER. I desire to avail myself of this favorable moment to submit a motion, which is, that when the Senate adjourns to-day, it adjourn to meet on Monday next.

Mr. ADAMS. I hope, Mr. President, that that motion will not prevail. I think we ought to meet to-morrow and dispose of the deficiency bill; and with that view I ask for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered, and being taken, resulted—yeas 27, nays 13; as follows:

YEAS—Messrs. Atchison, Badger, Bell, Berrien, Borland, Brooke, Cass, Clarke, Davis, Dawson, Downs, Felch, Fish, Foot, Hale, Hamlin, James, Mallory, Mangum, Miller, Morton, Rusk, Sebastian, Seward, Sumner, Upham, and Wade—27.

NAYS—Messrs. Adams, Brodhead, Chase, Dodge of Wisconsin, Dodge of Iowa, Geyer, Hunter, King, Norris, Smith, Spruance, Underwood, and Weller—13.

#### EXECUTIVE SESSION.

Mr. ATCHISON. I deem it my duty to make one more effort to induce the Senate to proceed to the consideration of Executive business; and I therefore move to suspend the rules which set apart Friday for the consideration of private bills for the purpose of proceeding to the consideration of Executive business.

Mr. JAMES. I hope the Senator will withdraw that motion for one moment.

Mr. ATCHISON. Certainly.

Mr. JAMES. I ask, as a special favor, that Senate bill No. 421 may be taken up. It relates to the case of a poor wounded soldier standing at our door, destitute of the necessities of life, or even what he requires to provide him medicine.

Mr. HAMLIN. If we continue with the Private Calendar, we shall reach that bill to-day without taking it out of its order.

Mr. JAMES. I think not. I hope gentlemen will consent to have the bill taken up. If the gentleman from Maine had seen this individual as I have, he would not oppose taking up the bill, I am sure. I have put my hand into my own pocket, to furnish him means of procuring medicine.

Mr. HAMLIN. I give way.

Mr. BADGER. That is right.

The motion to take up the bill was agreed to; which was a bill for the relief of John Williams.

The PRESIDENT. The Chair is informed by the Secretary, that the bill has not been printed. It was ordered to be printed, but has not been returned from the printer, and, therefore, cannot now be considered.

So the bill was passed over.

#### BARBARA REILY.

The Senate next proceeded to the consideration of Senate bill No. 208, being a bill for the relief of Barbara Reily.

The bill was read a second time, and considered as in Committee of the Whole. It provides that the Secretary of the Interior be required to pay to Barbara Reily, widow of Captain William Reily, an officer of the Army of the Revolution, the amount of pension due him from the time he was last paid, to the 4th day of March, 1820.

Mr. ATCHISON. There is a report in that case, which I desire to have read.

The report was accordingly read; from which it appeared, that the petitioner was the widow of Captain William Reily, an officer who served in the revolutionary war, and was placed on the pension roll under the act of 18th March, 1818, at the rate of twenty dollars per month, commencing March 23d, 1818, and who was paid his pension to the 4th of September, 1819. By a letter of the Commissioner of Pensions to the chairman of the committee, it appeared, that in April, 1820, his name was stricken from the roll by the Secretary of War, in consequence of his not being in indigent circumstances. In July, 1824, he died.

The report further shows that the petitioner now claims that her deceased husband had, under the act of 1818, a vested right to the pension at the rate of twenty dollars per month during his life, and prays that payment be made to her at that rate, from the time when her late husband was last paid to the day of his death; that the act of 18th March, 1818, granted a pension to each officer, non-commissioned officer, musician, and private soldier, who served in the revolutionary war, for a period and in a manner specified in the act, and who "by reason of his reduced circumstances in life shall be in need of the assistance of his country for support;" that by the terms of this act the right of an applicant to a pension depends upon the existence of the necessitous circumstances mentioned; and unless the act of the Secretary of War, in placing the name of an applicant on the pension roll, is conclusive of that fact, it cannot be claimed that the right to the pension vested so as to exclude all inquiry into the facts.

In the opinion of the committee, the placing the name on the pension roll had no such effect under

the act of 1818; but that it was entirely competent for Congress to cause the facts upon which the pension depended to be inquired into and determined upon evidence; and this was the object of the act of the 1st of May, 1820, which provides that no person who then was, or who might be thereafter placed on the pension list by virtue of the act of the 18th of March, 1818, should, after the payment of that part of the pension which became due on the 4th of March, 1820, continue to receive the pension granted by said act until he should have exhibited to some court of record a schedule of his property, verified by oath, which schedule and oath, duly authenticated, were required to be exhibited to the Secretary of War; and it was made the duty of the Secretary, upon receipt of the schedule, to cause to be struck from the pension list the name of every person who, in his opinion, was not in such indigent circumstances as to be unable to support himself without the assistance of his country.

This act, in the opinion of the committee, divested no vested right, and was not unreasonable in its requirements. It merely required the production of evidence of the fact upon which the right to the pension depended, and that evidence of a kind which every pensioner might readily furnish. It only suspended the payment of the pension until the evidence was exhibited, and then submitted it to the judgment of the Secretary of War to decide on each case, whether the necessitous circumstances existed which entitled the party, under the act of 1818, to a pension.

It did not appear that the late husband of the petitioner was at any time in such necessitous circumstances as to need the assistance of his country for support, nor was it alleged that he in his lifetime complied with the act of 1820, or furnished any of the evidence required by that act. Upon the facts, therefore, as presented, it did not appear that the deceased husband of the petitioner was entitled to a pension after the 4th of March, 1820; but as the act of May, 1820, contemplated the payment up to that date, the committee concluded that it ought to be paid to the petitioner, and reported a bill accordingly.

The bill was reported without amendment, ordered to be engrossed, and was read a third time and passed.

#### ROBERT MILLIGAN.

The Senate resumed, as in Committee of the Whole, the consideration of House bill for the relief of Robert Milligan, which enacts that the Secretary of the Interior be directed to place the name of Robert Milligan upon the invalid pension roll, at the rate of four dollars per month, in addition to the sum of four dollars to which he was entitled under the law of Congress, approved June 25, 1834, to commence on the first of January, 1852.

The bill was reported to the Senate without amendment, and ordered to be read a third time; and having been read a third time, was passed.

#### NOAH MILLER.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the legal representatives of Noah Miller, of Lincolnville, in the State of Maine, and for the relief of other persons. It enacts that there shall be paid out of the Treasury, from any money not otherwise appropriated, the sum of \$10,000 to the legal representatives of Noah Miller, and such other persons, or their legal representatives, who aided either as boat's crew or pilot, in making prize of the British schooner Mary, and taking her into port in the year 1814, in Penobscot Bay, in such proportions to each as the Secretary of the Treasury shall determine—which vessel and cargo, after having been taken in port, was libeled, condemned, and sold, and one half of the proceeds, amounting to more than \$32,000, paid into the Treasury of the United States, said vessel and cargo having been surrendered to the collector of the customs for that district.

Mr. HUNTER asked for the reading of the report of the Committee on Commerce; but after a few lines had been read, withdrew his request.

Mr. HAMLIN. I desire to make a single statement in regard to that report. There have been four or five reports made in this matter; but the one which was adopted by the Committee on Commerce at the present session, is one which was formerly made by the Senator from Massachusetts, [Mr. DAVIS,] from the same committee.



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In the written report, there was a slip prepared by myself, stating that the committee readopted that report. It does not appear so in the printed report, but does in that which I drew up. I feel bound to say that in justice to the Senator from Massachusetts.

Mr. HALE. I move to amend the bill by striking out all after the word "determine." The words which follow that are simply recitative.

Mr. WELLER. It is to strike out the argument.

Mr. HALE. Yes, sir.

Mr. HAMLIN. I have no objection to that. The amendment was agreed to. The bill was reported to the Senate as amended; the amendment was concurred in; and the bill was ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

MARTHA L. DOWNES.

The Senate resumed, as in Committee of the Whole, the bill for the relief of Martha L. Downes. It provides that the widows, if any such there be, and in case there is no widow, the child or children, and if there be no child, then the parent or parents, or if no parents, then the brothers and sisters of the officers, seamen, and marines who were in the service of the United States, and lost in the United States schooners Grampus and Seagull, shall receive out of the Treasury a sum equal to six months' pay of their relatives, in addition to the pay due to said relatives when the vessels were lost.

Mr. HALE. Can that be the right bill? Is that the bill for the relief of Martha L. Downes? The PRESIDENT. That is the bill.

Mr. UNDERWOOD. I suppose Martha L. Downes is a widow, entitled to some of the benefits which this bill confers upon the whole class of representatives of the officers and sailors who were lost on board the ships mentioned in the bill. I imagine they may as well be all passed in a bulk, as each one separately.

Mr. BADGER. As regards the title of the bill, I have only to say that the subject came before the Committee on Naval Affairs, on the petition of Martha L. Downes, widow of the commander of the schooner Grampus, at the time that schooner was lost. The bill was entitled a bill for her relief. Of course, the title will have to be amended.

On the request of Mr. HUNTER, the report of the Committee on Naval Affairs was read, from which it appears, that in several cases, laws have been passed granting to the widows and orphans of the officers, seamen, and marines of various vessels which were lost, an extra allowance. The act of June 15, 1844, directed that the widows and orphans of those on board the Grampus and Seagull, should receive the compensation which was due them at the time of their loss, but made no provision for extra pay, as in the other cases. No reason is known to exist for the discrimination against the widows and children of the officers, seamen, and marines, lost in the Grampus and Seagull, and without such reason the discrimination must be unjust; and the committee, therefore, report a bill to supply the omission in the act of June 15, 1844, and place those persons on a footing of equality with others provided for in similar cases.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time and passed, and the title was amended on the motion of Mr. BADGER, so as to read, "An act to amend and extend the provisions of an act entitled 'An act for the relief of the widows and orphans of the officers, seamen, and marines of the United States schooner Grampus, and for other purposes,' approved June 15th, 1844."

ROBERT T. NORRIS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Robert T. Norris.

It directs that there shall be paid to Robert T. Norris, in consideration of injuries received by

him while acting as pilot under the direction of the collector of customs at New York, the sum of —, to be paid out of any money in the Treasury not otherwise appropriated.

Mr. SEWARD. I move to fill the blank with the sum of \$500.

Mr. UNDERWOOD. Let the bill go over.

Mr. SEWARD. I hope the Senator will allow me to fill the blank.

Mr. UNDERWOOD. That involves an inquiry into the nature of the services.

The bill was accordingly passed over.

LEWIS H. BATES AND WILLIAM LACON.

The bill for the relief of Lewis H. Bates and William Lacon was next considered as in Committee of the Whole. It authorizes and directs the proper accounting officers of the Treasury to audit and allow the claim of Lewis H. Bates and William Lacon, or either of them, for losses and damages sustained by them, in consequence of the proceedings of custom-house officers at New York, in exacting from them for certain importations of iron into that port, made between June 15th, 1829, and January 1st, 1832, higher duties than were required by law; and in seizing and libeling some of said goods, upon the refusal of Bates & Lacon to enter the same, as subject to the said higher duty; and for certain costs of court paid by them, and not reimbursed. There is a proviso in the bill, that no greater sum shall be allowed than will reimburse the parties for the costs and expenses actually paid by them, and not repaid to them, in the various suits touching said importations; and certain sums paid by them for the storage of said goods, while kept out of their possession; and such sum also as will pay them for the damage they sustained by the detention of the money exacted from them by the collector, and allow for said detention a damage not exceeding the rate of six per centum per annum, from the time the moneys were paid to the time they were refunded.

Mr. HUNTER. I shall debate that bill. It ought to have gone to the Committee on Finance.

The PRESIDENT. Certainly it ought.

Mr. HUNTER. Cases of that sort are always considered by that committee. I move that it be referred to the Committee on Finance.

Mr. SEWARD. I hope not. There is no necessity for it.

Mr. DAVIS. I hope the chairman of the Committee on Finance will not make objection to the bill on account of its not having been referred to his committee. This is only asking for indemnity for expenses incurred in carrying on certain lawsuits.

Mr. HUNTER. Does it not provide for the refunding of duties?

Mr. DAVIS. It only provides for indemnity for expenses incurred in certain lawsuits. That may be a very proper question to be discussed.

Mr. HUNTER. Then I ask that it may be laid over.

The bill was accordingly passed over.

Mr. HUNTER subsequently said:

I objected a short time ago to a bill for the relief of Lewis H. Bates and William Lacon. I was not aware of what it was at the time. I shall not vote for it; but I am not willing to interpose my single objection to delay it. I therefore will withdraw my objection, if the Senate desire to take it up.

The bill was then taken up for consideration.

Mr. DAVIS. I do not think I can vote for the bill in its present form. I think the Senator who has care of it had better consider whether he will not propose some amendment to it.

The PRESIDENT. Does the Senator propose to debate the bill?

Mr. DAVIS. I think it had better lie over for consideration.

The PRESIDENT. It will lie over.

RICHARD MACKALL.

The bill for the relief of Richard Mackall was read, and the Senate proceeded to consider it as in

Committee of the Whole. It directs the proper accounting officer of the Treasury to audit the claim of Richard Mackall, for the destruction of his tobacco warehouse, wheat, and tobacco, by the British, in June, 1814; and to ascertain the losses sustained by him by reason of the destruction of that property. It also provides, that if the amount of damage, as ascertained, shall not exceed \$5,000, it shall be paid to the claimant.

Mr. HUNTER. That is one of the cases which the Senator from Delaware [Mr. BAYARD] requested me to have passed over.

The PRESIDENT. It will be passed over.

ROBERT SEWALL.

The PRESIDENT. The next bill on the Calendar is that for the relief of the heirs and representatives of the late Robert Sewall. It is of a similar character to the one which has just been passed over.

Mr. HUNTER. I ask that it may lie over.

The PRESIDENT. It will be passed over.

JOHN W. ROBINSON.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives, for the relief of John W. Robinson. It directs the Secretary of the Interior to place the name of John W. Robinson, of the State of Maryland, a soldier in the late war with Great Britain, on the invalid pension roll, at the rate of eight dollars per month—to commence June 1st, 1850, and to continue during his natural life.

The report of the Committee on Invalid Pensions of the House of Representatives was read. It appears from the affidavit of John W. Robinson, and that of Peter McCartney, that Robinson served as a volunteer under General Hull. About the first of March, 1814, he enlisted, in the State of Ohio, in the first regiment of United States infantry, and served on the Canada frontier, and was in all the engagements, from the taking of Fort Erie to the cessation of hostilities, including the battle of Lundy's Lane and Chippewa. At Bridge-water he was wounded above the knee; but paid no attention to the wound. It has since broken out several times, and is a source of great pain.

In the performance of his duty in 1814, he was obliged to stand at his post in water to various depths, until the water froze round him and he became paralyzed, and was ready to sink under his sufferings. He was relieved by the cessation of hostilities, when he was taken across the river to Markee hospital. In consequence of his sufferings he became afflicted with paralysis, and so continued. In 1839, he applied to the Commissioner of Pensions for a pension; but it not appearing from the roll that he was wounded or disabled, and not having a certificate of his officer, he was refused. He did not apply for a pension before, because he could still work some, and did not want it; but the older he gets, the more he is affected by the rheumatism and paralysis which he contracted in the war.

The committee thought the case a meritorious one, and reported a bill accordingly.

The bill was reported to the Senate without amendment, and ordered to be read a third time. It was subsequently read a third time and passed.

HENRY KING.

The PRESIDENT announced, as next upon the Calendar, the bill for the relief of the representatives of Henry King.

Mr. HUNTER. That is one of the bills which the Senator from Delaware [Mr. BAYARD] asked me to have laid over.

The PRESIDENT. It will be passed over.

PAYMENT OF WITNESSES.

The bill for the relief of John Jackson, Joseph Pineau, and Louis A. S. Smith, was read and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to John Jackson, Joseph Pineau, and Louis A. S. Smith, the mileage allowed by law to witnesses attending the courts of the United States, for their attendance from Port-au-Prince, in the Island of

St. Domingo, to the city of Boston, in the State of Massachusetts.

Mr. HUNTER. That is another bill which the Senator from Delaware asked me to have laid over. He says too much mileage is allowed. He thinks it introduces a new principle, and desires to discuss it.

Mr. ADAMS. I rise to a question of order. I understand, according to the resolution which we have adopted, that on every fourth Friday, if a Senator wishes to discuss one of these private bills, it must be passed over.

The PRESIDENT. The Senator from Virginia states that the Senator from Delaware, who is not now present, wishes to discuss this bill.

Mr. ADAMS. He cannot intimate his wish by proxy. If he can, he had better make his speech by proxy. If these bills ought to pass, and a Senator who objects to them is not here, it is his misfortune; it is not his fault. I do object to a Senator leaving here, and leaving it with another Senator to intimate when a bill comes up that he desires to discuss it.

Mr. HUNTER. These are matters to which the Senator from Delaware—who is a member of the Committee on Claims—has given his attention. He is better able to discuss them than most others are. I believe it is usual, at the mere request of a Senator, out of courtesy to him, to let a subject lie over.

Mr. BADGER. I suppose no gentleman here proposes to discuss the bill.

The PRESIDENT. The rule adopted is, that when a bill leads to discussion, it must be passed over.

Mr. BADGER. As soon as any discussion arises, I suppose it goes over. None has arisen on this bill yet.

Mr. ADAMS. The point of order I made was, that the suggestion that a Senator would discuss a bill, if he were here, does not come within the rule.

The PRESIDENT. Strictly speaking, it does not; but it is customary, in the Senate, when a Senator who is going to discuss a bill is absent, to pass it over. If, however, the Senate is disposed to take up the bills as they come, and enforce the rule, without reference to the absence of a Senator, it can be done.

Mr. UNDERWOOD. I believe we have practiced upon such a suggestion as the Senator from Virginia makes; but I am perfectly willing to unite with the Senator from Mississippi to let it be known that it is the last time we will do it. I think, however, a little notice ought to be given before we change what has been our practice. I think it a very bad rule to say that because a gentleman who wishes to discuss a bill is absent, we will accommodate him, and suspend the business of the country on that account. But I think, as we have been practicing somewhat upon it, instead of changing it immediately, upon this bill, we had better let it be understood that it shall not be the rule hereafter.

Mr. ADAMS. I believe this is the second day that the Senate have acted under the resolution setting apart certain days for the consideration of private bills, which shall not lead to debate, and consequently no established rule has grown up, nor do I recollect that this mode of objecting to the consideration of a bill has occurred before.

The PRESIDENT. The Chair will act under the direction of the Senate. If it is the pleasure of the Senate to proceed with the bill, after the suggestion made by the Senator from Virginia, it will be considered as in Committee of the Whole.

Mr. CHASE. For the purpose of testing the sense of the Senate, I move that the further consideration of the bill be postponed until next Friday. I think it would be wrong, in the absence of the Senator from Delaware, when he requested that it should be postponed, to go on with it. I am perfectly willing that the Senator from Mississippi, or any other Senator, should give notice that he will, on the next occasion of the kind, insist on going on with the bill.

Mr. ADAMS. My object is not to deprive the Senator from Delaware, who is absent, of the opportunity of discussing the bill; but to let this action be understood as an intimation that in future I shall insist on avoiding this.

The PRESIDENT. The proposition is to postpone the further consideration of the bill until Friday next.

Mr. BUTLER. This bill comes from the Judiciary Committee, and has my individual sanction; but I think it a very favorable thing to legislation that we should have one gentleman like the Senator from Delaware, [Mr. BAYARD,] who has given his attention to these private claims. Every veto in the way of disbursing the public money is an advantage; and I would vote with greater confidence upon a question which had received the examination of such a gentleman, than upon any general view which I might have of it. I think the principle is a good one to extend this kind of courtesy, and let as many delays take place as may on account of them.

Mr. CHASE. I made the motion out of courtesy to the Senator from Delaware, who is absent. I am very certain that the Senator from Mississippi would not press his objection, unless he considered the claim a very meritorious one; but after the suggestion made by the Senator from Virginia, that the Senator from Delaware has examined the claim—and we all know that he has turned his attention to private claims—and that he wishes to discuss it, it seems to me that it is nothing more than is really due to courtesy that he should have the opportunity to do so.

The motion to postpone the further consideration of the bill was agreed to.

JOHN McVEY.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John McVey. It directs the Secretary of the Interior to place the name of John McVey, of the State of Arkansas, a soldier in the late war with Great Britain, on the invalid pension roll, at the rate of eight dollars per month, to commence on the 1st of April, 1850, and continue during his natural life.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

It was subsequently read a third time and passed.

JOHN JACKSON.

The Senate resumed, as in Committee of the Whole, the consideration of the House bill for the relief of the heirs of John Jackson. It directs the Secretary of the Treasury to pay to the heirs and legal representatives of John Jackson, the pilot on board the "*Bon Homme Richard*" during her brilliant engagement with the British frigate "*Serapis*," in which action Jackson lost an arm, such a sum as would be equal to a pension at the rate of six dollars a month from November 15th, 1779, to the day of his death, agreeably to the pledge given by the captain of the "*Bon Homme Richard*," and the report of the committee of the Continental Congress made September 23th, 1785.

Mr. BRIGHT. Let it lie over. I propose to discuss it.

The PRESIDENT. The bill will be passed over.

GAD HUMPHREYS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Gad Humphreys, reported from the Committee on Military Affairs. It directs the proper accounting officers of the Treasury to ascertain the value of the property of Gad Humphreys, which was burned and destroyed by order of Colonel Pearce, of the United States Army, at Port Defiance, in the State of Florida, in the year 1834; and that there be paid to him the amount thus ascertained out of any money in the Treasury not otherwise appropriated.

Mr. BORLAND. I think I can save time by a word of explanation of this bill. This claim is presented to the Senate under circumstances which commend it to their favorable consideration. This bill was reported for the payment of Mr. Humphreys several years ago, and passed the Senate without a dissenting voice, and went to the House of Representatives. After it passed here, another bill was passed for the relief of George Centre, based upon the bill for the relief of Mr. Humphreys as a precedent. It went also to the House of Representatives, and by some extraordinary efforts of its friends there passed. Mr. Humphreys's bill did not pass that session. That is the ground of this bill. It was deemed to be so good a claim when it passed here before, that George Centre's bill was passed because it was of the

same character. That is all I have to say. The payment of the claim has been delayed for years.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time, and passed.

ROSANNA SOWARDS.

Mr. RUSK. I have before me a report of about a dozen lines, in a case that appeals strongly to my feelings, and I feel a disposition to appeal to the Senate. With their permission, I will read the report, preparatory to moving to take up a bill out of its order.

The Committee on Pensions, to which was referred the petition of Rosanna Sowards, report:

"That the petitioner is the mother of Griffin Sowards, deceased, who enlisted to serve twelve months in the first regiment of Ohio volunteers, company D, who was wounded in the battle of Monterey, and was, in consequence of said wound, discharged for disability; and who died at Brazos Island on the 5th of December, 1846, while endeavoring to reach his home in Ohio. From testimony quite satisfactory to the committee, it appears that the said Griffin Sowards was but seventeen years old at the time he enlisted; at which time his mother, who was a widow, and in destitute circumstances, depended much on his labor to aid her in supporting several young children, left to her sole care on the death of her husband. He was her eldest child; and when she found he had marched with the volunteers she followed them for some distance, for the purpose of getting him to return home; but in this she was frustrated by sickness, which prevented her from overtaking the company in which her son was mustered.

"In view of the facts presented, the committee have deemed it expedient to grant relief to the petitioner, believing that she was legally and justly entitled to the services of her son, being a minor at the time she was deprived of them by the recruiting officer; and they therefore report a bill, and recommend its passage."

I move, therefore, to take up the bill which accompanies that report.

The motion was agreed to.

The bill was accordingly read a second time, and considered as in Committee of the Whole.

It requires the Secretary of the Interior to place the name of Rosanna Sowards, of Lawrence county, Ohio, upon the pension roll, at the rate of four dollars per month for five years; commencing on the 4th of March, 1852.

Mr. ATCHISON. I move to amend the bill by striking out "four dollars" and inserting "eight dollars." Eight dollars per month would be little enough. That would pay her for the services of her son at the rate of about \$100 a year, from the time he enlisted until he would be twenty-one years of age, when she would be no longer entitled to his services.

Mr. WELLER. I hope that amendment will be agreed to. I can speak of my own personal knowledge, that the young man, whose mother is provided for in this bill, was one of the most gallant young men we had in our regiment. I was lieutenant-colonel of the regiment at the battle of Monterey, and I know personally that this young man suffered very much from the wounds that he received in that engagement.

The amendment was agreed to, and the bill was reported to the Senate as amended. The amendment was concurred in, and the bill was ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

SARAH D. MACKAY.

The bill for the relief of Sarah D. Mackay was read a second time, and considered as in Committee of the Whole. It requires the Secretary of the Interior to place the name of Sarah D. Mackay, widow of Alexander D. Mackay, late a lieutenant in the Army of the United States, on the pension roll, at the rate of fifteen dollars per month, to commence January 1, 1850, and to continue during her natural life.

The bill was reported to the Senate, without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

HIRAM MOORE AND JOHN HASCALL.

The PRESIDENT announced the next bill in order to be a bill from the House of Representatives for the relief of Hiram Moore and John Hascall.

Mr. JAMES intimating a desire to debate the bill, it was laid over.

NANCY BOWEN.

The bill for the relief of Nancy Bowen was read a second time, and considered as in Committee of the Whole. By it the Secretary of the In-

terior is required to place the name of Nancy Bowen upon the pension roll, at the rate of six dollars per month; said pension commencing January 1, 1850.

The bill was reported to the Senate, without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### LAFAYETTE McLAWS.

The bill for the relief of Captain Lafayette McLaws, of the Army of the United States, was read a second time, and considered as in Committee of the Whole.

It requires the Secretary of War to cause Captain McLaws, of the United States Army, to be paid the difference between the pay allowed by law to a first lieutenant of infantry and a captain in the staff, from October 23, 1849, to July 19, 1851, any law to the contrary notwithstanding.

Mr. FELCH called for the reading of the report, and it was accordingly read.

From it it appears that Captain McLaws, in the month of August, 1849, was detailed, by order, from the headquarters of the sixth military department, for duty with Brevet Colonel John Munroe, major of the 2d Artillery, who was at the time under orders to proceed and assume the command of the ninth military department, which embraced New Mexico and a portion of Texas. Captain McLaws, as ordered, moved with Colonel Munroe for Santa Fé, on the 1st of September, 1849, and arrived there on the 22d of October. On the 23d of the same month, Colonel Munroe assumed the command of the department, relieving Brevet Lieutenant Colonel Washington, Major 3d Artillery, of that duty, and also of his duties as civil and military Governor of New Mexico. Colonel Munroe appointed Captain McLaws his assistant adjutant-general, which duty was performed by him until Colonel Munroe was relieved by Lieutenant-Colonel Sumner, in July last. Captain McLaws was assistant adjutant-general for about twenty-two months. His duties were very arduous, owing to the peculiar state of affairs in New Mexico, and during that time he was only in the receipt of the pay of a first lieutenant of the line, which was inadequate to his support. The committee therefore propose to give him pay equal to that of a captain in the staff, the duties of which office he performed. There is, accompanying the report, a certificate from Colonel Munroe, setting forth these facts.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### W. D. PORTER.

The bill for the relief of Lieutenant W. D. Porter was read a second time and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Lieutenant William D. Porter, of the Navy of the United States, the sum of \$1,848 61, to reimburse him for the amount of money expended by him for expenses incurred in bringing Amin Bey, of the Turkish Navy, and his attendants, to the United States, in the year 1850, at the request of the Minister Resident of the United States at Constantinople.

Mr. BORLAND. I do not understand this matter very well. I would like to have some explanation of the bill. If there is a report in the case, I should like to hear it read. I wish to have some knowledge of the reason for the bill.

Mr. UNDERWOOD. I will state the object of the bill in a few words. Amin Bey was a Turkish gentleman, who was entertained in this country. He went through the United States, and for his expenses in this country an appropriation was made by Congress. Having done that, I think we ought not to tax the officer who brought him here, with the expense of bringing him. That is the state of the case.

Mr. BORLAND. I am not disposed to discuss this bill, but it seems to me that this stands precisely on the footing of some other claims which I have known to be presented by naval officers, and paid at the Navy Department. I know of one that strikes me as being of a similar character. Captain Carpenter, of the Navy, at one time was subject to extraordinary expenses, in consequence of entertaining some guests of the nation on board the ship he commanded; but I well know that I

myself went to the Navy Department and presented his claim, and that it was paid. That was in 1848. It was recognized then as a proper claim to be paid out of some fund in the Navy Department. And I do not see why this claim cannot be paid in the same way, without bringing it before the Senate.

The PRESIDENT. If the bill gives rise to discussion, it must lie over.

Mr. HALE. I think that is the best way.

The PRESIDENT. It will lie over.

#### RICHARD KING.

The bill for the relief of Richard King was read a second time, and considered as in Committee of the Whole. It provides that Richard King be confirmed in his title to two hundred and forty arpents of land on the eastern bank of the Ouachita river, in the parish of Caldwell, in the State of Louisiana, which was conveyed by the claimant of the Maison Rouge grant, to Bagwell Bailey, in 1818, for cutting a road through said grant, and which has remained in possession of and cultivation by said Bailey and his successors to the present time, and is now a part of the plantation of the said King, on which he has resided for many years, and that a patent issue for it after a legal survey is made and returned under the direction of the Surveyor General: Provided, that this act shall amount only to a relinquishment of title on the part of the United States.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### REPRESENTATIVES OF JOSHUA KENNEDY.

The bill for the relief of the legal representatives of Joshua Kennedy, deceased, was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to the legal representatives of Joshua Kennedy, deceased, the sum of \$6,590, in full compensation for the destruction of property by the Creek Indians, in the year 1813.

Mr. HALE called for the reading of the report.

It was accordingly read. The committee state, that they entered upon the examination of the claim with a feeling of distrust as to its justice, occasioned by the length of time during which it had been permitted to remain unsettled, and the fact that a commission had been appointed for the purpose of deciding on these and similar claims, but that the prejudice which had thus arisen soon passed away, on a careful examination of the facts. The property of Joshua Kennedy was occupied by the troops of the United States as a fort, during the last war with Great Britain, and there can be no doubt, say the committee, that such occupation was the cause of its destruction; and hence the case comes clearly within the spirit, if not within the letter, of the act of 1816, and the supplement thereto; for the exciting cause of the destruction being the military occupation of the property, it is difficult to imagine what difference the precise moment at which the destruction took place, can make. There was a feeling of hostility created on the part of the enemy, by the act of the Government, in erecting a source of annoyance in the neighborhood, which, in the opinion of the committee, should make the Government liable for the consequences of its own act, and not the particular time chosen by the enemy to satisfy its vengeance. The petitioner in this case had originally erected his buildings and other improvements, under the assurance given in the President's proclamation, that the person and property of the settlers should be protected. Subsequently, the buildings were converted into a temporary fort, and as such, became a point of assault for the Indians. After a successful attack on Fort Mims, and the massacre of its garrison, the enemy destroyed this property. Although it was not then in the possession of the troops of the United States, yet as it was undoubtedly destroyed in consequence of its occupation by the troops, the committee think the claim ought to be allowed.

Mr. HALE. As this case comes within the same rule as a class of claims which the Senate rejected the other day by a vote, upon the yeas and nays, saving the expression of an opinion by the committee, that this destruction may possibly have been occasioned by the former occupancy of the property in question by the troops of the United States, I desire to say something about it.

The PRESIDENT. The bill giving rise to debate, will be laid over.

#### WILLIAM GREER.

The Senate proceeded to consider, as in Committee of the Whole, the bill from the House of Representatives, for the relief of William Greer. It directs the Secretary of the Treasury to pay to William Greer the sum of \$60 25, with legal interest thereon, from July, 1843, it being in full payment of moneys by him at that time advanced to the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

#### SURETIES OF DANIEL WINSLOW.

The bill for the relief of the sureties of Daniel Winslow was read a second time, and considered as in Committee of the Whole. It enacts that Daniel Winslow and James N. Winslow, and their legal representatives, and the real and personal property of each, be released and relieved from all judgments and from all liens and incumbrances of said judgments in favor of the United States, obtained against them in any district court of the United States, as security for Daniel Winslow: Provided, that the costs of said suits be first paid by the said Winslows.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### BANCROFT WOODCOCK.

The bill for the relief of Bancroft Woodcock, was read a second time, and considered as in Committee of the Whole. It provides that the several patents granted to Bancroft Woodcock, on the 26th of January, 1832, on the 23d of November, 1836, on the 14th of June, 1837, and on the 31st of January, 1845, for his improvement in the self-sharpening plow, a description of which is given in the schedules annexed to the letters patent granted as aforesaid, be renewed and extended for the term of ten years, from and after the passage of the act: Provided, that Bancroft Woodcock shall, in three months after the passage of the act, make and file in the Patent Office amended specifications of his inventions, for the purpose of correcting defects therein, and shall pay the legal fees and charges thereon; and the Commissioner of Patents is directed to receive the surrender of the said patent on payment of the fees and charges provided by law, and shall issue to Bancroft Woodcock new patents on such amended specifications, reciting said patents, and referring to this act.

Mr. HALE. I do not like to object to this bill; but there is a principle in it to which I am opposed, and that is, allowing parties to file new specifications under these extension acts. I think the principle is wrong; but if nobody objects to the bill, I shall not.

Mr. DAVIS. I move to amend the bill by inserting "seven years," instead of "ten years." My reasons are these: the law authorizes the Commissioner of Patents to renew patents for seven years; the policy of Congress hitherto has been to limit them to that period of time, for, by granting a longer time, you only induce everybody to come here for renewals, instead of going to the Patent Office. I believe we have adhered to that principle. I hope the amendment will be adopted.

Mr. BORLAND. I would inquire of some Senator who understands the bill, when the patents, which it is now proposed to renew, expired? If no one can give me the information, I would prefer that the bill should be laid over.

Mr. DAVIS. I think that is the best course.

The PRESIDENT. The bill will be laid over.

#### CYRUS H. MCCORMICK.

The PRESIDENT announced that the bill for the relief of Cyrus H. McCormick was the next on the Private Calendar.

Mr. NORRIS intimating a wish to discuss the bill, it was laid over.

#### CAPTORS OF THE FRIGATE PHILADELPHIA.

The PRESIDENT announced that the next bill in order was the bill for the relief of the captors of the frigate Philadelphia.

Mr. HALE. I shall discuss that bill a great deal before it is passed.

The bill was accordingly laid over.



## FREDERICK VINCENT.

The PRESIDENT announced that the next bill on the Calendar was the bill for the relief of Frederick Vincent, administrator of James Le Gaze, surviving partner of Le Caze & Mallett.

Mr. WALKER. That is a revolutionary claim which was reported from the Committee on Revolutionary Claims by myself. From information which has reached me since that report was made, I am led to suspect that the claim has been paid by the State of Virginia. Nothing appeared here to indicate that fact; but there is a clue to it in some Virginia documents which have come to my knowledge. I may be in error about its having been paid. I do not say it has been paid, but I am led to suspect that it has been; and therefore I ask that it be laid over, in order that I may have an opportunity of examining it further.

The PRESIDENT. It will be laid over.

## ADVANCES FOR PUBLIC BUILDINGS.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of the Orange and Alexandria Railroad Company. It directs the Secretary of the Treasury to pay to the Orange and Alexandria Railroad Company, assignee of the Commonwealth of Virginia, \$120,000, in full for money advanced by said Commonwealth to the use of the United States in erecting public buildings in the District of Columbia, in pursuance of an act of the General Assembly of said Commonwealth, approved December 27, 1790.

Mr. BRODHEAD. Mr. President, I made a report upon this subject from the Committee on Claims, and I now beg leave to offer, as an amendment, the following two additional sections:

Sec. 2. *And he it further enacted*, That the said Secretary be further directed to pay to the State of Maryland, out of any money in the Treasury not otherwise appropriated, \$72,000, in full for money advanced by said State to the United States for the same purpose mentioned in the foregoing section, in pursuance of an act of said State entitled "An act concerning the District of Columbia and the city of Washington," approved December 19, 1791, and of the resolutions of their Assembly of the previous session.

Sec. 3. *And he it further enacted*, That the Secretary of the Treasury be directed to pay, out of any money not otherwise appropriated, to the use of said Commonwealth, the sum of \$100,000, in full compensation for fitting up, and for the use and occupation by Congress and the public officers of the United States, of the public buildings in the city of Philadelphia, then belonging to the said Commonwealth, from the 6th of December, 1790, until the removal of the Government to the city of Washington, in the year 1800; and that the said Secretary of the Treasury be also directed to pay to the city of New York the sum of \$20,000, in full compensation for fitting up, and for the use and occupation by Congress and the public officers, of the public buildings belonging to said city prior to the removal of the seat of Government to the city of Philadelphia.

Mr. HALE. Would it be in order to move an amendment to the amendment?

The PRESIDENT. Certainly.

Mr. HALE. I move, then, that the Secretary of the Treasury be also directed to pay to the State of New Hampshire the sum of \$200,000, which she would have paid, if the Government had thought fit to erect public buildings there. [Laughter.]

The PRESIDENT. The Senator's amendment will not be entertained, unless it is put in writing.

Mr. DAWSON. I hope the Senator from Pennsylvania will withdraw his amendment, and bring it up as a separate bill. Let us act upon this bill while we are upon it, and not encumber it with other propositions.

Mr. BRODHEAD. I made a report upon the subject at this session, and the Committee on Claims are unanimously of the opinion that if the State of Virginia is paid \$120,000, advanced by her for the purpose of erecting the public buildings at this particular place, then Maryland ought also to be paid the \$72,000 advanced by her at the same time for the same purpose; and that if the States of Maryland and Virginia are paid, then the State of Pennsylvania ought also to be paid for the use and occupation of her public buildings for ten years, and that the city of New York should also be paid for the use of her public buildings by the United States. The amendment can be adopted, and then the bill can lie over.

The PRESIDENT. If debate arises, the bill must be laid over.

Mr. BRODHEAD. I do not object. Let the amendment be adopted, and then it can be laid over.

Mr. HUNTER. I ask that the bill may be

laid over. The amendment requires to be debated.

The PRESIDENT. The bill will be laid over.

## ANN ROBINSON.

The bill for the relief of Ann Robinson was read a second time, and considered as in Committee of the Whole. It directs the Secretary of State to pay to Ann Robinson, of Virginia, the sum of \$380, it being the assessed value of a slave named "Hampton," the right to whom was in the said Ann Robinson, who was carried off from Virginia by the British forces in June, 1813, during the war declared by the United States against Great Britain, if there be so much remaining of the fund of \$1,204,960 provided by the first article of the treaty of Ghent, and paid by Great Britain, and accepted by the United States in full satisfaction for slaves and other property carried off as afore-said.

Mr. MANGUM. I suppose there will be no objection to this bill. The proof is complete that this negro was carried off by the British. Such claims are provided for by the treaty of Ghent. I find that there is a balance of \$2,000 remaining in the Treasury of money paid by Great Britain under that treaty for property of this description. These slaves are valued according to the valuation originally established by the commission which was had upon that subject. I hope the bill will pass.

Mr. HALE. I hope not, sir. I want time to look into it.

The PRESIDENT. Does the Senator wish to discuss the bill?

Mr. HALE. Yes, sir.

The PRESIDENT. It will be passed over.

On motion, the Senate adjourned until Monday.

## HOUSE OF REPRESENTATIVES.

FRIDAY, May 21, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER stated, as the first business in order, the unfinished business of the day before yesterday, being the consideration of the bill making appropriations for the construction of roads in the Territory of Oregon.

Mr. SIBLEY. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The SPEAKER. There is a bill from the Senate in relation to collection districts in Oregon, which the Chair suggests it would be well to take up, and have referred to the Committee of the Whole on the state of the Union.

Mr. SIBLEY. I withdraw my motion for that purpose.

The following bill from the Senate was then taken up from the Speaker's table, viz:

An act to authorize the President of the United States to designate the places for ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, and for other purposes.

The bill, having been read a first and second time by its title, was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. FAULKNER. I am instructed by the Committee on Military Affairs to ask to be discharged from the further consideration of the petition of James L. Collins, a citizen of the Territory of New Mexico, asking relief. I am further instructed to ask that the papers in the case may be withdrawn from the files of the House, in order that the petitioner may make his application to the War Department.

It was so ordered.

Mr. SIBLEY. I now renew the motion to go into the Committee of the Whole on the state of the Union.

Mr. CHANDLER. I ask the gentleman from Minnesota to withdraw that motion for a moment, to allow me to present a petition. I have no remarks to make on it.

Mr. SIBLEY. I should be happy to extend that courtesy to the gentleman from Pennsylvania, but I have refused similar requests from gentlemen on this side of the House, and I must therefore decline to withdraw the motion.

The question was then taken on Mr. SIBLEY's motion, and it was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee, in the Chair.)

The CHAIRMAN stated as the business before the committee, Senate bill No. 175, being an act relating to the salaries of officers of the Territories of the United States, and to repeal the proviso in the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1852, and for other purposes," approved March 3, 1851.

Mr. SIBLEY. I move to pass by that bill, in order that we may proceed with the other business on the Calendar, which can be speedily disposed of.

Mr. FOWLER. What is the object of that motion? Why cannot we go on and perfect this bill, and lay it aside to be reported to the House, without further delay?

Mr. SIBLEY. I will state to the gentleman that the bill now under discussion is of far less importance than a good deal of the territorial business on the Calendar, which could be disposed of in a very short time. We could then return to the discussion of this bill. But if we continue the discussion now, many bills will probably be neglected, which are of great importance to the Territories.

The question was then taken on Mr. SIBLEY's motion, and it was not agreed to.

So the committee refused to lay the bill aside.

The CHAIRMAN. The question now before the committee is on the amendment of the gentleman from Pennsylvania [Mr. STEVENS] to strike out the first section of the original bill.

Mr. STUART. I hope the opposition to the postponement of this bill will be withdrawn. I move that the bill be laid aside, and on that motion I ask for tellers.

Tellers were ordered; and Messrs. FOWLER and SIBLEY were appointed.

The question was then put, and it was decided in the negative; ayes 48, noes not counted.

So the committee refused to lay the bill aside.

The question recurred on Mr. STEVENS's amendment.

Mr. STEVENS, of Pennsylvania. It is, perhaps, better that we should vote upon the other amendments first, and we can accomplish my purpose by voting against the first section of the bill. If there be no objection, I will withdraw my amendment.

There being no objection, the amendment was withdrawn.

The question recurred on the amendment proposed by Mr. STUART to the substitute, to strike out the word "leave" and insert in lieu thereof "cause."

The amendment was agreed to.

Mr. JOHNSON, of Arkansas, moved to amend the substitute by adding thereto as an additional section, the following:

"*And he it further enacted*, That nothing in said proviso or in this act, shall be so construed as to prevent the payment of the salaries of the chief justice, the associate justices, and the Secretary of State of the Territory of Utah, who have withdrawn from said Territory for the reasons set forth in their report to the President of the United States."

Mr. J. said: Mr. Chairman, I offer that amendment upon the grounds which I will state. I know, and I presume the whole House knows, that these gentlemen, under their appointment, made a trip to the Utah Territory, and that, after they arrived there, the country was distracted into three districts—although the House might have been left under a different impression yesterday by the remarks of the gentleman from Michigan, [Mr. STUART.] The supreme court of that Territory actually did sit, and they actually transacted business of the most serious character, in their official capacity, and that was to save the funds of the Government during the time they were there, from the unauthorized and illegal action of the Legislature and Executive of the Mormons, in attempting to seize on the funds of the Government, and to expend them, in violation of law.

Now, sir, they discharged their duties while they were there, and as far as they were able, until they were compelled to leave on account of dan-

ger, of which I presume no one can doubt. Some blame has been cast upon these judges, perhaps, but most certainly we have not investigated the matter at all, to see if they are censurable. They are entitled to pay; yet you condemn without hearing. The proviso, as it stands, in the original bill, I suppose will prevent these judges from receiving their pay for the time they were there. Now, when this proviso was affixed to that appropriation bill, I do not suppose the gentleman who offered it, or the House, contemplated, for one moment, its application to a class of cases such as would embrace this now under consideration. They could never, for a moment, have contemplated that *such a case*, would ever arise. This case will stand, it is to be hoped, forever upon the record as an anomaly. Then, sir, these gentlemen did discharge their duty faithfully, until they felt compelled to leave the Territory; and having thus left the Territory and having secured and brought away the funds of the Government to a considerable amount, which must have otherwise been lost, it would seem a hard judgment that they should be placed under a proviso to an appropriation bill never contemplating such a case, which would prevent them from receiving their salary. Why, sir, this proviso never contemplated the existence, or the possible future existence, of such a case as this. I believe the counsel, advice, and wishes of the Delegates from the Territories ought to be regarded in our enactments relative to those Territories. It is the wish of the Delegates from the Territories that the officers appointed for those Territories shall be forced to reside there; and it is my opinion that legislation to that effect is just and proper. But I do not believe that a case like this, which has never occurred before, and which will probably never occur again, ought to come under a law which was never intended to embrace such a case. No one will pretend that a case of this nature could possibly have been contemplated when the law was enacted, and it does not seem right that these men should be subjected to it. On the contrary, having incurred the dangers and expense of traveling there, and having passed through the hardships incident to the performance of their duties for the time they were there, and the labor, danger, and hardships of return, I cannot possibly believe this House of Representatives will decide that these gentlemen shall be punished, by being excluded from the reception of their just salaries.

The condition of the matter is this: *These officers are not in office now.* They have been removed, and other officers have been appointed in their places; and the question is not what provision we shall make for them in future, but simply whether we shall pay them for services they have actually rendered, and rendered ably and in good faith, taking upon themselves the responsibility to act for the best interests of the Government in bringing away its funds. It has been a habit of great men and small, to take responsibility for the good of their country in all cases, and a habit to take that responsibility in a thousand of extraordinary instances which their official position as judges or otherwise compelled them to assume; and it has been the habit to reward and applaud such actions. That is the case in regard to their action. They are now out of office; they have been superseded by others, and it seems to me that it is right to authorize the payment of their just salaries, and not to make them an exception to this natural rule of action. If not, while you are striking a blow at these gentlemen, you will relieve the judges in the Territories of all responsibility in the performance of their duty, and leave them to the indulgence of their own pleasure, and the pursuit of their own interests. I repeat, that this is not one of the class of cases designed to be embraced under the existing law. I offer, therefore, this amendment, which merely provides for making these men an exception to the law you propose, and for allowing the House to do justice to these officers now no longer officers. They have unquestionably, as every one will acknowledge, discharged their duties in going there, in encountering the dangers incident to their going to, and returning from that country, and in living amongst a hostile people; and it seems to me they do not merit this penalty. It is a penalty, and without trial, without hearing, it is adjudged and inflicted under mistaken notions.

[Here the hammer fell.]

Mr. STUART. Mr. Chairman, I cannot conceive, as far as I am concerned, any advantage in the adoption of the amendment of the gentleman from Arkansas, [Mr. JOHNSON.] In the first place, the amendment offered by the Committee on the Territories as a substitute for the Senate bill, authorizes the President, if sufficient cause exists for the absence of these officers, to certify that fact to the proper accounting officers of the Treasury, and thereupon they are to be paid. Now, I consider the provision or amendment offered by the Committee on the Territories, as preferable, vastly preferable, to a declaration by Congress, that these gentlemen shall be paid, without any inquiry into the justice of their claim at all. If good and sufficient cause exists for the absence of these gentlemen, they will be paid; if it does not exist, they ought not to be paid. Now, who is better competent to inquire into the sufficiency of the reasons for their absence than the President of the United States?

Again: I deny, so far as I am concerned individually—and it is only for myself, individually, that I speak—that there was any such good and sufficient reason for these gentlemen to leave that Territory. And I ask the members of this House if they are prepared to sanction the doctrine, that when an officer is called upon to execute the laws of the United States in the Territories, and when he finds there is difficulty in executing those laws, he shall abandon his place? A gentleman remarked here yesterday, that it was not the Jackson mode of doing business. I should like to see a judge or any other officer of a Territory abandon his duty because there was difficulty in executing it, and be retained in office for one instant, if General Jackson were President.

Now, sir, these gentlemen have set forth no such difficulties as might not have been overcome if they had remained in the Territory. If such facts existed as are whispered about, they could have furnished the President of the United States or Congress evidence of it, without leaving us to guess at the truth; and we should not be here to-day with anonymous communications in the public papers, published for the purpose of awing Congress into legislation of some sort, and legislation specially for individuals, without furnishing any information upon which to ground such legislation. Now, sir, there is not a Government officer there, except one of the judges, to furnish any information in relation to this matter, except these judges themselves.

But what has the President done in the case? After these gentlemen have staid here during the whole session, and belabored all the committees of the House to do something for their special benefit; the President has notified them that they must either return to their duties or resign; and they did resign.

Mr. JOHNSON, of Arkansas. I desire to ask the gentleman from Michigan [Mr. STUART] one question; for I am sure he would not willingly do injustice to these gentlemen. I desire to inquire if there was any source from which this information could have been officially obtained, except from Brigham Young and from these officers who have made the report which is before the committee?

Mr. STUART. That is the very thing I am complaining of. I say if these officers had remained there, they could have furnished us reports of the facts as they occur; but they have abandoned their posts, and left no one there.

Mr. JOHNSON. But will you not take their information as sufficient?

Mr. STUART. I say they have left nobody there, and they have shown no sufficient reason for supposing that their lives were in danger. What was the difficulty? It was, that interference was made in executing the laws. Now, it was their business, if they intended to execute the laws, to have remained there, and endeavored to overcome the difficulty.

[Here the hammer fell.]

Mr. JOHNSON. I desire to ask the gentleman from Michigan if there is not sufficient information in the possession of the House to act upon?

[Cries of "Order!" "Order!"]

The CHAIRMAN. No further debate is in order.

Mr. CLEVELAND. Will it be in order to move to strike out the first section?

The CHAIRMAN. That motion has already been made.

Mr. CLEVELAND. Will it not be in order

to move to strike out the first section of the original bill?

The CHAIRMAN. The Chair thinks the original bill may be amended in that form.

Mr. CLEVELAND. I wish to say that I disapprove as much as any member of this committee can of the conduct of these judges. But, with the knowledge we have of the reasons which induced them to leave their positions, permit me to say, that I think the ground taken by the gentleman from Arkansas [Mr. JOHNSON] is the true one for this House. They have come back here because they said they could not discharge their duties where they were stationed. Now, when they come here and make a report to the Government of the United States, of which this House is a part, we institute no investigation in relation to the matter—we make not the least inquiry as to the justice or injustice of their complaints, but proceed forthwith to punish them, for that is the course which we propose to take. We propose to punish these judges by refusing to pay them the salaries to which they are entitled. We ourselves go home, as occasion may require, and take our pay, and gentlemen in other kinds of business do the same. But, when these officers say they could not discharge the duties required of them by the Government, and had to leave the Territory where they were stationed; when they resign because of the improper conduct of Governor Young, I can readily believe there was some ground for their abandonment of the Territory.

Mr. STUART. The gentleman is mistaken if he supposes that we propose any such thing as he speaks of.

Mr. CLEVELAND. It virtually proposes precisely that thing. That is the practical effect of it.

Mr. STUART. The gentleman will permit me to say that the proviso in the existing law was in full force at the time they were appointed to their offices.

Mr. CLEVELAND. I am now endeavoring to convince the House of the propriety and justice of voting for the amendment upon which we are now to vote, and not with reference to the original bill. The gentleman from Michigan will therefore understand that my remarks are not only in order, but pertinent to the amendment under consideration.

Mr. STUART. I did not pretend the gentleman was not in order; I only mentioned a fact.

Mr. CLEVELAND. My remarks were not only in order, but pertinent. I desire to show the House that they cannot, in justice, refuse to give these judges their salaries, unless they institute an investigation into the facts connected with the case—unless they ascertain, by evidence, that they left their posts improperly, or without good and sufficient reason. It would seem to me that it is—and every member of this body cannot fail to see the manifest injustice we do these men in saying they shall not have their salaries, although we have no evidence that they do not deserve them, for that is the effect of voting against this amendment. We know not but they have done just as we would have done under the same circumstances. We must recollect who were the men opposed to them. Governor Young, the head of the Mormon church. And with the feelings I have towards that church, I am not prepared to say I would punish those judges. The President of the United States has placed that Territory in the hands of a man who holds the power of the Mormon church, and he cannot now, with propriety, remove him; for the removal of Brigham Young, and the appointment of another man in his place, could not be effected without bloodshed. Being placed in this peculiar position, he says to these gentlemen, "You must either go back there or resign." They did resign. He appoints two Mormons in their places. Such is the position of the case, and we refuse to give these men, who refused to become Mormons, their salaries, for that is really the effect of rejecting this amendment. I hope, for one, that the House will adopt the amendment of the gentleman from Arkansas, [Mr. JOHNSON,] for it is eminently just and proper, and it is the only proper course the House can take if they refuse to investigate the matter.

Mr. SIBLEY. I am opposed to the adoption of the amendment offered by the gentleman from Connecticut, [Mr. CLEVELAND,] not that I have anything to say in reference to the payment or non-

payment of the salaries of these Utah officers. That is a matter entirely foreign to the object which I have in view. But I am opposed to making any proviso which will annul the law as it now stands. If there is any exception to be made, I hope it will be made in the form in which the gentleman from Arkansas [Mr. JOHNSON] has presented it. That proposition brings up the question of the payment of the Utah officers in a tangible shape before the House. But I must contend that it is incumbent upon Congress to provide that the people of the Territories shall be guaranteed against the evils which must necessarily follow the continued absence of their officers. I care not in what shape it is placed, or what peculiar phraseology may be used, I only wish one object secured—the devotion of the territorial officers to their duties.

Mr. JOHNSON, of Arkansas, (interrupting.) I hope the gentleman will allow me to make one statement. It is merely to say to the House again upon this matter, that if these officers shall be excluded from their pay under this law, it is wrong. The operation of the exception for the officers of Utah, is well guarded and limited, because they are *out of office now*, whilst we cannot well expect that they will be paid by the order of the President, when it is a fact that he has removed them; and to say further that we have no right to conclude that he has condemned them; because it is a fact we know, that he has offered office to two of them unsolicited, and none of them have asked any continuance in office, or will accept it under their anomalous condition.

Mr. SIBLEY. I repeat that I obtained the floor more particularly to enter my protest against the adoption of any general, sweeping clause for the annulment of the previous action of Congress as it now appears upon the statute book; and I trust that this House will not, under any circumstances, consent, either expressly or by implication, that the officers of the Territories shall be allowed to absent themselves from their posts without good and sufficient cause. In conclusion, I wish to state to the committee, that this matter which is now before them is of less consequence than other business yet to be transacted in relation to the Territories, and that as soon as I can get the floor to make the motion in order, I will move that this business be passed by informally, to enable us to take up bills of more importance. The debate upon this question is consuming too much of the limited time yet remaining for the perfection of all the territorial business, and should be arrested.

Mr. MEACHAM. I wish to make one correction in regard to a statement which has been made here.

The CHAIRMAN. The Chair must inform the gentleman that remarks are not in order.

Mr. SIBLEY. My time is not out. I yield to the gentleman.

Mr. MEACHAM. I wish to occupy but a moment. It has been stated by the gentleman from Michigan, [Mr. STUART], that these judges and secretary were in no personal danger. If you will read the record they made, you will find it stated, and, as yet, uncontradicted, that a member of the Legislature of Utah threatened the secretary that if he did not give up that money he would have his head taken from his body, and have it tossed into the public street; and he threatened that his heart's blood would be taken if he attempted to go out of that Territory with the money. In the face of that threat, the secretary did come out of that Territory with twenty-four thousand dollars, and deposited it in the bank of St. Louis.

Mr. CLEVELAND. I withdraw my amendment if there be no objection.

No objection was made, and the amendment was withdrawn.

Mr. HOUSTON. I propose to offer an amendment to the amendment, by adding to it—

The CHAIRMAN. The Chair must inform the gentleman that that would be an amendment in the third degree, and is not in order. The amendment proposed by the gentleman from Arkansas [Mr. JOHNSON] is an amendment to the substitute—which is itself an amendment—and no other amendment is, therefore, in order at this time. The question is now upon the amendment offered by the gentleman from Arkansas, [Mr. JOHNSON].

The question was then put upon the amendment, and it was agreed to.

Mr. JONES, of Tennessee. I move to strike out all of the proposed substitute, and to insert in its place the following:

"That nothing in the proviso contained in the act entitled 'An act making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1852,' approved March 3, 1851, relating to the payment of the salaries of the officers of the Territories of the United States, shall be so construed as to prevent the payment to the two judges, and the secretary of Utah, and the judge of New Mexico, who have returned home, the amount of salary which shall be ascertained to be due them from the time they left home until they returned."

I propose to adopt this in lieu of the proposed substitute, and then to adopt that in lieu of the whole bill of the Senate. This, then, will authorize, if it should be passed in this form, the payment to the secretary and those officers their salaries from the time they left home until the time of their return. It will leave upon the statute-book the proviso under which they are now prevented from having their accounts audited and their salaries paid. It seems to be the wish and desire of every Delegate from the Territories that the original provision of law shall remain unaltered upon the statute-books of the country. This substitute provides for paying them for the time they were actually going to and returning from the scene of their duty; and whatever may be the cause of their return, those causes were good and sufficient to themselves. For the time they were actually absent from their residence in the States, I am willing to pay them; but whatever may be the causes of their return, they certainly are not entitled to any pay from the time they reached home up to this time. If they left Utah under circumstances which justify their conduct, they certainly should, in my opinion, have resigned their office as soon as they reached home. All I wish to do, is to pay them for the time they were absent, and to leave the proviso of law as it is.

Mr. HOUSTON. I am opposed to the amendment of the gentleman from Tennessee, [Mr. JONES.] If I can get his attention for a moment, I think I can satisfy him that it is not a proper amendment. The object of the proviso originally, in the civil and diplomatic bill of the last Congress, was to keep the territorial officers at their posts, for the discharge of their appropriate duties; and the law, in its terms, requiring that they shall forfeit a portion of their salaries, if absent from their posts, is a penalty upon them for leaving the Territories. Now, if that is true—and I think it is a position which no one can deny—that it is a penalty intended to be brought to bear upon them for leaving their posts, then is it proper that we should bring that penalty to bear upon them when we have the evidence before us, that they could not remain there and discharge their duty? Is it proper, is it a fair construction of the law to say, that, if a man is driven from his post, or is expelled by a strong arm, from the discharge of his duties, when he has no means in his power to prevent it, that he shall forfeit his compensation?

Mr. STEPHENS, of Georgia. Will the gentleman allow me to ask him where is the evidence of that fact?

Mr. HOUSTON. It is to be found in the report of the gentlemen themselves, and in fact, in the statement of the gentleman from Arkansas, [Mr. JOHNSON], made a few minutes since, that these men, or some of them, had been offered a reappointment by the President.

Mr. STEPHENS. I wish the gentleman to state the evidence. I have seen no evidence, except the statement of the officers who ran away.

Mr. HOUSTON. I cannot give up my time to the gentleman from Georgia. If he will read the document, he will find the testimony. He cannot expect me, in a five minutes' speech, to state it. If he has not seen the evidence, it is not my fault.

Mr. STEPHENS. Where is the evidence? I have seen no evidence, nor has the House, except the statement of the gentlemen themselves.

Mr. HOUSTON. I pretend to say that a large number of the members of this House have seen and read the evidence in the report of these officers to the President of the United States. If I do not misunderstand the gentleman from Arkansas, [Mr. JOHNSON], he seems to think their cause of withdrawal good; for if he did not so deem it, it was not proper in the President to offer to reappoint any one of them. If they had abandoned their posts without good cause, the President of

the United States should not have offered to give them any other appointment or responsible position. But I take it for granted that there can be no dispute about the fact, so far as we have any evidence before us—and we have it abundantly—that they left for good cause; and having left for good cause, I say that the amendment of the gentleman from Tennessee [Mr. JONES] is wrong, for it proposes to pay them up to the time only when they reached the States. But if there is any law—if there is any reason or justice for paying them from the time they left Utah up to the time when they arrived in this city, there is the same reason and justice in paying them from that time to this.

Mr. JONES, of Tennessee, (interrupting.) I ask what in the name of common sense is the use of territorial officers in this city?

Mr. HOUSTON. It is true we have no use for them here; but if they had cause for withdrawing from that Territory, why did not the President of the United States remove that cause, and let them go back to their duty? And, if they were derelict in the discharge of their duty, why did he not remove the officers themselves, and send others there? Now, the gentleman's position cannot be sustained upon any ground at all; for either the judges themselves ought to have been removed, or the cause of the obstruction to the discharge of their duties in the Territory should have been removed.

Mr. JONES, (interrupting.) I wish to ask the gentleman if he thinks that the President should have sent a military escort, a body-guard, for those men, to that Territory?

Mr. HOUSTON. I do not pretend to answer for the President of the United States. He is the Executive of the United States, and it is his duty to execute the laws of the land, and he should have taken such a course as was necessary and proper to remove the obstructions to the exercise of their duties.

Mr. JOHNSON, of Arkansas. Will it be in order to strike out the last words of the amendment proposed by the gentleman from Tennessee?

The CHAIRMAN. No further amendment is now in order.

Mr. JONES, of Tennessee. I wish to change my amendment.

The CHAIRMAN. The gentleman from Tennessee can modify his amendment.

Mr. JONES. Instead of offering it as a substitute for the whole bill, I propose it as a substitute to the second section of the substitute offered by the Committee on Territories. The original proviso in the civil and diplomatic bill will expire with the present fiscal year, and will leave no restriction upon the territorial officers, unless the first section of the bill is adopted. My object is to preserve the first section, and to have the amendment I proposed adopted as a substitute for the second section.

The CHAIRMAN. The question will be upon the adoption of the amendment proposed by the gentleman from Tennessee, as a substitute for the second section of the substitute.

Mr. JOHNSON, of Arkansas. I rise to a point of order, which I will state. I may, or may not, be right, but the Chair will decide. This amendment is now offered, not, I believe, in lieu of the whole substitute, but in lieu of the second section. The committee have already adopted, as an amendment to the section of that substitute, the amendment that I offered; and the amendment that the gentleman from Tennessee has offered conflicts directly with it, by striking it all out—thus making the whole action of the House insensible.

The CHAIRMAN. The Chair is obliged to overrule the point of order made by the gentleman from Arkansas. It is true, that the amendment has been adopted to the second section; but it does not prevent an additional amendment, in the nature of a substitute.

Mr. JOHNSON. Was a vote taken upon my amendment?

The CHAIRMAN. Yes, a vote was taken, and the amendment of the gentleman from Arkansas was adopted. The Chair decides that the amendment proposed by the gentleman from Tennessee is in order. Does the gentleman from Arkansas appeal?

Mr. JOHNSON. I will ask, then, if the effect of that is not to strike out, at once, the amendment which I offered, and which was adopted by the House?



The CHAIRMAN. That will be the effect of it.

Mr. CARTTER. Is it in order to move an amendment to the amendment of the gentleman from Tennessee? [Mr. JONES.]

The CHAIRMAN. That is an amendment to an amendment, and no further amendment is now in order.

Mr. CARTTER. I understand it to be an amendment to the second section of the original bill; or is it an amendment to the second section of the substitute?

The CHAIRMAN. It is an amendment to the substitute.

Mr. CARTTER. I wish to ask a question, with the consent of the House.

The CHAIRMAN. It can be done only by the unanimous consent of the House. Does the gentleman from Arkansas appeal from the decision of the Chair?

Mr. JOHNSON. I do not.

Mr. JONES. I ask for the reading of the substitute as it will be, if my amendment is adopted.

The proposition, comprehending the first section of the substitute of Mr. JONES for the second section thereof, was read.

The CHAIRMAN. The question is upon the adoption of this amendment.

Mr. CHASTAIN. I wish to ask the gentleman from Tennessee a question.

The CHAIRMAN. Debate is not in order.

Mr. CHASTAIN. I do not propose to debate the question. All I wish to ask the gentleman from Tennessee [Mr. JONES] is, to modify his amendment so as to make it read that nothing in that act contained shall be so construed as to prevent the payment of these officers up to the time of their resignation.

Mr. JONES. I cannot do so, and would not vote for any bill containing such a proposition.

The CHAIRMAN. The question must be taken upon the amendment, and no debate is in order.

Mr. BEALE. May I ask a question?

Mr. PIELPS. I propose to strike so much—

The CHAIRMAN. No amendment is in order at this time.

Mr. BEALE. Is it in order to ask that the reasons assigned by the officers for leaving the Territory may be read?

The CHAIRMAN. It is not in order, because it would be in the nature of debate.

The question is upon the amendment proposed by the gentleman from Tennessee, [Mr. JONES,] to strike out all after the first section of the substitute, and insert what has been read.

Mr. MEACHAM. I wish to make this inquiry, in regard to the effect of this vote: if we vote for the amendment of the gentleman from Tennessee, will it carry with it the amendment of the gentleman from Arkansas?

The CHAIRMAN. The Chair will state that the amendment, if adopted, will strike out the whole of the second section as it has been amended, and substitute the proposition offered by the gentleman from Tennessee, [Mr. JONES.]

Mr. JONES demanded tellers; which were ordered; and Mr. JOHNSON, of Tennessee, and Mr. FREEMAN were appointed.

The question was then taken; and the tellers reported—ayes 30, noes 94.

So the amendment of Mr. JONES to the substitute was rejected.

Mr. POLK. I understand that the question before the committee is—

The CHAIRMAN. The Chair informs the gentleman from Tennessee, that no debate is in order, unless he has an amendment to offer.

Mr. POLK. I move the amendment of the gentleman from Arkansas, [Mr. JOHNSON,] as a substitute for the original bill.

The CHAIRMAN. That proposition is not in order.

Mr. POLK. I move to strike out the word "officers," in the first section of the bill. The Territory of Utah was established under the act of 1851, and the present President of the United States appointed the Governor of that Territory. Who did he appoint? Was he a man who would recommend himself to the moral community, North or South? Was he a man who any member of this House would be willing to recognize in the social circles of his own community? or, was he appointed by the indorsement of the President, and recom-

mended by him to the country, notwithstanding all his sins, and all the outrages which he had committed, and is still committing, or not? I say, Mr. Chairman, that the President of the United States committed the initiative wrong by appointing Brigham Young, the Mormon, to rule over that Territory. I say, that he committed, by his appointment, a wrong against morals, against pure religion, and against the laws under which we live; and if any difficulty has grown out of it there, you must trace it to that source. The President sends out his judges—he has and exercised the power of appointing them also—they arrive there, and are unable to perform their duties. They return to the United States. Why? Because they are honorable and high-toned men, and were not permitted to perform the duties which the Government required of them. What, then, is the action of the President? They return, and make a report of the immorality of the people there, and of the resistance to the Federal laws by Governor Young, whom the President appointed, and his associates. If they were worthy of appointment; if they were worthy of the position, and came sufficiently and properly recommended by the President, surely they are worthy of credence. Surely their report is worthy of belief. And how does our amiable President act upon this report of the facts, as stated by the honorable men who assumed authority and power by his authority? Does he remove Brigham Young, who had obstructed the execution of the Federal laws? No. How does he act in the premises? Why he removes those gentlemen who made a statement of the facts to him, and retains the creature who is defiling the country which he inhabits and controls, and who sets at defiance the power of this Republic. Now, if President Fillmore thought these men, whom he appointed judges, were worthy men, of unimpeachable character, and entitled to credence in stating the facts, why should he have removed them and retained Brigham Young? A proper regard for the dignity of our Government, for the just and faithful administration of its laws, and for the purity of morals, imperiously demanded the removal of Brigham Young from the gubernatorial chair, and the retention of those judges in their offices, backed by the power of the Government to sustain them.

[Here the hammer fell.]

Mr. BISSELL. Mr. Chairman, I am unwilling that we, by any action here, should indorse, in any degree, the doings of the local authorities of Utah; on the contrary, I deem it important that Congress, in every proper way, should manifest its disapprobation of those doings. But, independent of any considerations of that kind, I am in favor of paying these officers—paying them up to the period of their resignation. In my judgment, they have done their duty, and nothing else. They have done no more nor less than what the interest and credit of the Government required. It has been said, by the gentleman from Michigan, [Mr. STUART,] that even after they had found it impossible to discharge their duties in Utah, they should still have remained there. For what?

Mr. STUART. I do not wish to interrupt the gentleman, but I cannot consent to be misinterpreted. I said I had seen no sufficient evidence that they could not discharge the duties of their office. If there were difficulties in the way of discharging them, there was greater reason for them to have remained and reported what those difficulties were.

Mr. BISSELL. That is as I understood the gentleman before. Whatever the extent of the difficulties thrown in their way by the local authority of Utah may have been—whether to the extent of preventing them wholly from the discharge of their duties, or not, they, in the opinion of the gentleman from Michigan, should have still remained there for the purpose of becoming reporters of the doings of Mormonism! They should have quietly submitted to have their judicial robes torn from them, and been content to become resident reporters at Salt Lake City. Was that the business on which we sent them? Was that the purpose for which this Government invested these, its agents, with judicial powers? No, sir; they were sent to Utah to administer the laws; to perform the high duties of judges of the United States. Had they been sent there as reporters of the proceedings of Brigham Young's government, then, unquestionably, they should

have remained there, and reported, under all circumstances. But theirs were very different duties; and when there were difficulties, insurmountable, thrown in the way of their discharge of the legitimate and sole duties pertaining to their office, by the local authorities there, it was their duty to return, especially under the peculiar circumstances in which they were placed. They did so, and they did right; and I will not consent to punish them for it. I feel as little disposed to punish them, as I do to encourage, thereby, the authorities of that Territory in their treasonable course. It has been insisted that these officers should be paid only up to the time they reached Washington on their return. I think that such a view of the case is altogether wrong. On arriving here, they very properly reported to the Executive the causes which rendered it impossible to perform their duties. That was right. They did not resign then; and for a very obvious and sufficient reason. They waited the pleasure and the action of the Executive, supposing, with good reason, that he whose duty it is to see that the laws are faithfully executed, would take measures to remove the obstacles in the way of their official action; to clear away the obstructions to the laws, and enable them to return to Utah under circumstances that would enable them to enter upon and discharge their duties. This, I repeat, was a reasonable expectation on their part. And, not till they were disappointed in that expectation, were they justified in resigning their commissions. They ought not to have resigned till they had learned the President's purpose in regard to the course he should pursue in reference to the troubles and troublemakers at Utah. Now, I cannot understand why it is that they are not entitled their pay up to the time of their resignation. I should like to know what there is in all their conduct which should subject them to penalty, reproach, or censure in Congress, or anywhere else.

Judges have been necessary all along, in Utah, as elsewhere; and the fact that these officers held themselves in readiness up to a recent period to discharge their duties, the means to enable them being provided, furnishes no just grounds of complaint against them as loyal and faithful officers of this, the Government of the United States. I think their conduct is deserving of far higher commendation than if they had made a burnt offering of their commissions to the Prophet-Governor of Utah, or thrown them up here before being apprised of the views of the Executive. At all events, I consider them fairly entitled to the compensation which the law provides for that class of officers.

Mr. RICHARDSON. I desire to move an amendment.

The CHAIRMAN. There is already pending an amendment to an amendment, and no other one can be received. The question is on the amendment of the gentleman from Tennessee, to strike out the word "officer."

The question was put, and the amendment was disagreed to.

Mr. RICHARDSON. I move *pro forma* to strike out the word "and." In this debate is brought up the question of the propriety of paying the Utah judges, and I desire to submit a remark or two upon it.

The CHAIRMAN. The Chair must say, in reference to this motion, that it is altogether too trivial to be regarded as an amendment which can be debated.

Mr. RICHARDSON. Let, then, four or five other words be connected with it.

The CHAIRMAN. Will the gentleman specify his amendment?

Mr. RICHARDSON. I will not detain the committee by further continuing the discussion.

Mr. JONES, of Tennessee. I move to strike out the whole of the substitute, as it has been amended, except the first section, and to insert what the Clerk will read.

The Clerk then read, as follows:

That nothing in the proviso contained in an act entitled "An act making appropriations for the payment of the civil and diplomatic expenses of the Government for the year ending the thirtieth day of June, eighteen hundred and fifty-two," approved March third, eighteen hundred and fifty-one, relating to the payment of the salaries of the officers of the Territories of the United States shall be so construed as to prevent the payment to the two judges and the secretary of Utah, who have returned home, the amount of salary which shall be ascertained to be due them, from the time they left home until their return.

Mr. JONES. This is the same amendment which I offered before, except that when first submitted it included the judge who returned to New Mexico, whereas the present amendment does not. It only provides for the payment of salaries which shall be found due to the two judges and secretary of Utah from the period they left home until the time they returned. That is all I can consent to pay those officers, whatever may have been their reasons for returning. They may be satisfactory to themselves, but into the investigation of those reasons I am not disposed to go. I do think, at least, when they left there under the circumstances which they did, on returning to their homes, or to this city, they should have tendered their resignations, and afforded the President of the United States opportunity to appoint those who would have proceeded there to fulfill the duties of their office. I can see no possible reason why we should pay them salary for the time they have been in this city, or other parts of the States, since their return from the Territory of Utah. The bill if adopted as I propose to amend it, will retain on the statute-book the provision precluding the payment of territorial officers in future who shall absent themselves for more than sixty days at a time. And this section will also, if adopted, pay these officers who have returned for the time they were absent, and nothing more.

Mr. GIDDINGS obtained the floor.

Mr. SIBLEY. Will the gentleman yield me the floor for a moment?

Mr. GIDDINGS. I cannot yield it to any gentleman. I do not intend to occupy it long myself; but in behalf of the Territories and their business, I desire to make an appeal to gentlemen upon this floor to proceed to vote upon these questions, that we are here discussing.

The CHAIRMAN. The gentleman is entitled only to speak in opposition to the amendment.

Mr. GIDDINGS. I am opposing the amendment.

Mr. RICHARDSON. With the gentleman's permission, I will occupy the floor a moment for explanation. The gentleman from Tennessee [Mr. JONES] desires to know why these judges did not return to the Territory. I will state to the gentleman and the committee the reasons on account of which they did not return—expressed repeatedly, I believe, to the President of the United States. So I have understood. Unless Congress did do something by which the laws could be executed in the Territories, they did not desire to go back to Utah. When there, they could not execute the laws. To remain, would only have been to subject themselves to abuse and to hear their Government traduced. The discharge of their duties was out of the question. When the matter was settled in the committee—when it was no longer an open question whether Congress should do anything to enable them or any other authority there to execute the laws, they did resign. I think, under all of the circumstances, it would be a very great error for us to refuse to pay them up to the moment they resigned.

Mr. GIDDINGS. I appeal to the members of this committee to vote down the amendment of the gentleman from Tennessee, and proceed to dispose of this bill. There is important business with respect to these Territories, which is yet behind, and we have only to-day and to-morrow to complete it. I do believe that this subject has been sufficiently argued and illustrated by the arguments of gentlemen here to enable every member to cast his vote understandingly. I therefore refuse to occupy the time of the committee, and invoke of gentlemen action upon the business now before us.

The CHAIRMAN. The question is upon the amendment of the gentleman from Tennessee, and no further debate is in order; nor can any further amendments be submitted.

The question was taken upon the substitute of Mr. JONES, and it was disagreed to.

Mr. RICHARDSON. Is it in order to move to lay the bill aside to be reported to the House with the recommendation that it be adopted? If it is, I make that motion.

The CHAIRMAN. The question must be first taken on the adoption of the substitute as amended.

Mr. POLK. Is it in order to move an amendment?

The CHAIRMAN. It is not in order. A sub-

stitute has been offered for the substitute, and it has been rejected.

Mr. POLK. Can the Chair suggest any mode by which I may be enabled to submit a few remarks?

The CHAIRMAN. No; unless by unanimous consent.

Mr. JONES, of Tennessee, made some remarks in regard to the right to amend, which were totally inaudible to the Reporter.

The CHAIRMAN. The opinion of the Chair as stated was, that after having passed through the substitute, and the various amendments offered to it, it was not again in order to recur to and offer amendments to that substitute. That was the opinion of the Chair, but he is not certain that he is correct.

Mr. JOHNSON, of Arkansas. Gentlemen can take an appeal, if they desire to do so. The decision of the Chair must stop this question somewhere.

Mr. SIBLEY. I wish to appeal to the committee—

The CHAIRMAN. No debate is in order.

Mr. SIBLEY. I wish to make a motion by unanimous consent of the committee to lay this bill aside informally.

[Cries of "I object!" "I object!"]

The CHAIRMAN. The question is on the adoption of the substitute for the original bill.

Mr. CLEVELAND. Is this the substitute reported by the committee?

The CHAIRMAN. It is the substitute reported by the committee, as amended on the motion of the gentleman from Arkansas, [Mr. JOHNSON.]

Mr. CLEVELAND. I made that inquiry, that the House might understand it.

Mr. TUCK. I wish to offer the following amendment:

SEC. 3. And be it further enacted, That the salaries of the judges of the United States courts for the Territories of Oregon and New Mexico, be fixed as follows, namely: The chief justice of the said Territories shall each have a salary of \$3,500, and the associate justices each a salary of \$3,000 per annum.

The CHAIRMAN. The Chair has decided that no amendment is in order, after the various propositions which have been made.

The question was then taken upon the adoption of the substitute as amended, and it was agreed to.

Mr. RICHARDSON. I move to lay the bill aside, to be reported to the House.

Mr. TUCK. I have an amendment to offer.

The CHAIRMAN. The Chair has decided that no amendment is in order.

Mr. TUCK. Does the Chair decide that no amendment is in order upon the substitute to the original bill?

The CHAIRMAN. The committee have passed through the substitute, have acted upon every portion of that substitute, and have also acted upon a proposition to strike out the whole and insert another. That has been voted down. According to the recollection of the Chair, it has been the uniform practice after such a vote, to rule amendments out of order. The Chair may be mistaken.

Mr. TUCK. I wish to offer this amendment.

Mr. JONES, of Tennessee. I ask the Clerk to read the latter part of the 53d rule.

Mr. JOHNSON, of Arkansas. Is there any point of order before the House?

The CHAIRMAN. The gentleman from New Hampshire [Mr. Tuck] offers an amendment which the Chair thinks out of order.

Mr. JOHNSON. Has any appeal been taken?

The CHAIRMAN. No appeal has been taken.

Mr. JOHNSON. I object to the reading of any rules.

Mr. JONES, of Tennessee. I take an appeal, and I ask the reading of the rule. Let the committee vote down the rule, if they wish.

The 53d rule was then read, as follows:

"Any member may call for the division of a question; which shall be divided if it comprehend propositions in substance so distinct that one being taken away, a substantive proposition shall remain for the decision of the House. A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost, shall preclude neither amendment, nor a motion to strike out and insert."

The CHAIRMAN. The question is upon a motion to amend. After a motion to strike out the whole bill and insert another proposition, the Chair decides that a motion to amend is out of order. From this decision the gentleman from Tennessee [Mr. JONES] appeals; and the question

now is, Shall the decision of the Chair be sustained as the judgment of the committee?

Mr. POLK. Do I understand the Chair as deciding that no additional section is in order to this bill?

The CHAIRMAN. The Chair has so decided, and an appeal upon that question is now pending.

Mr. TUCK. I wish to ask—

Mr. JOHNSON, of Arkansas. I object to any debate.

The CHAIRMAN. Debate is not in order.

The question was then taken on the appeal; and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. TUCK. I wish to ask the unanimous consent of the committee to have the amendment read which I propose to offer.

Mr. RICHARDSON. I object. I ask that the question be taken upon the motion I made.

Mr. GORMAN. I propose to add another section.

The CHAIRMAN. The Chair has decided that no amendment is in order, and that decision of the Chair has been sustained by the committee. The Chair must again rule the amendment proposed out of order.

Mr. GORMAN. I make the point, that we can add another section.

The CHAIRMAN. The Chair has already decided that it would not be in order, and that decision has been sustained by the committee.

The question was then taken upon Mr. RICHARDSON's motion; and it was decided in the affirmative.

So the bill was laid aside, to be reported to the House.

#### TEXAS BOUNDARY.

The committee then proceeded to consider House bill No. 254, to run and establish the boundary between the State of Texas and the Territories of the United States.

Mr. RICHARDSON. I move to fill the blank with the sum of \$25,000. It is my intention, before I take my seat, to move that the committee rise, with a view of terminating debate upon this question.

Mr. HOUSTON. I do not think it is necessary.

Mr. RICHARDSON. I move that the committee rise, with a view of terminating the debate.

The question was then taken, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly House bill No. 175, which they have ordered to be reported to the House with an amendment, and also bill No. 254, upon which they have come to no conclusion.

Mr. RICHARDSON. I move to terminate debate in the Committee of the Whole on the state of the Union on bill No. 254 in five minutes after the committee shall have resumed its consideration. I think this bill can be debated in a very short time. If one gentleman gets the floor, and makes an hour's speech, there ought to be an opportunity to reply. I propose myself that so far as the members of the committee are concerned, they shall be confined to five minutes. I intend to confine myself to that time, and I think we can dispose of the bill upon its merits just as well, and perhaps better, in this time than in these hour speeches.

Mr. CLINGMAN. I move the previous question.

The previous question was seconded, and the main question ordered.

The question was then taken upon Mr. RICHARDSON's resolution, and it was agreed to.

Mr. RICHARDSON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was then taken, and it was agreed to.

So the committee then resumed its session.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Illinois, [Mr. RICHARDSON], to insert in the blank the sum of \$25,000.

Mr. RICHARDSON. The amount with which I propose to fill the blank, is estimated by the proper Department as sufficient to cover the preliminary expenses of this survey. I desire to take no gentleman in the House by surprise upon this subject, and will state the utmost that is estimated for fixing this boundary, so that it may be known, is \$211,000—\$25,000 this year, and the balance at a subsequent period. The extent of boundary to be fixed is something over nine hundred miles. It should be fixed and established in such a manner as can be easily known to persons moving to that country for the purpose of settlement. It is important that this matter should be attended to now. In this question of boundary between the State of Texas and the United States, it becomes important to fix it before the settlements are made. The estimate of the Department is, that \$25,000 will be enough for the present. I now send to the desk papers in relation to this bill, and ask that they may be read.

The Clerk then read communications from the War Department, the Department of the Interior, and the General Land Office, accompanied by a profile of the boundary line, and the necessary estimates for the cost.

The question was then put upon Mr. RICHARDSON's amendment, to fill the blank in the bill with the sum of \$25,000, and it was agreed to.

On motion by Mr. RICHARDSON, the bill was laid aside, to be reported to the House with a recommendation that it do pass.

#### ROADS IN MINNESOTA.

The next bill on the Calendar was House bill No. 255, "making further appropriations for the construction of roads in the Territory of Minnesota."

Mr. FAULKNER. There are some amendments which the Committee on Roads and Canals have instructed me to offer to this bill. I move to amend the bill in the tenth line, by adding after the words "Lake Superior" the words "by the most direct and convenient route between those points," so as to make it read "for the construction of a road from Point Douglass, on the Mississippi river, to the falls or rapids of the St. Louis river, of Lake Superior, by the most direct and convenient route between those points, \$20,000."

The amendment was agreed to.

Mr. FAULKNER. I move further to amend the bill by striking out the word "Mississippi," in the nineteenth line, and inserting in lieu thereof "Missouri," so as to make it read "a military road from Mendota to the mouth of Big Sioux river, on the Missouri." I presume it is a typographical error.

The amendment was agreed to.

Mr. FAULKNER. I now move to strike out the words "Governor and Legislative Assembly of said Territory" from the end of the bill, and to insert in lieu thereof "Secretary of War, pursuant to contracts to be made by him," so as to make it read, "the said roads to be constructed under the direction of the Secretary of War, pursuant to contracts to be made by him."

Mr. SIBLEY. I wish to make a brief explanation of this bill. The items embraced in it are in accordance with estimates submitted by the War Department. The only change contemplated has been made by myself. I have taken the responsibility of reducing the amount specified in the estimate more than one half, because I think that is quite as much as we ought to ask from Congress at this session, under existing circumstances. I trust that with this short statement, the committee will consent to lay the bill aside, to be reported to the House with a recommendation that it do pass.

Mr. FOWLER. I wish to inquire of the gentleman from Minnesota whether any of these routes have been surveyed?

Mr. SIBLEY. They have all been surveyed except the last, and the bill provides for the survey of that.

Mr. FOWLER. Have there been estimates from the Department of the probable expense of executing the work?

Mr. SIBLEY. Estimates have been laid before the Department by the engineer. He has estimated for the construction of what are called good country roads, and he has based his calculations upon those that have been made in Wisconsin, in which there is probably more timbered country

than in ours, and consequently the cost of the construction of roads is proportionably greater.

Mr. FOWLER. Are those mere comparative estimates, or are they based upon some other data?

Mr. SIBLEY. They are based upon actual surveys.

Mr. FOWLER. Have we those estimates where we can get at them? Have they been printed?

Mr. FAULKNER. They have.

Mr. SIBLEY. They are regular estimates from the War Department, and are accessible to every member of the House. They are to be found in the document room. I have a copy before me now.

Mr. HOUSTON. I want to ask the gentleman who reported this bill, or the Delegate from Minnesota, if they have any information how much has been appropriated to these roads heretofore?

Mr. SIBLEY. I will state to the gentleman, that \$40,000 is the whole amount that has heretofore been appropriated to these roads.

Mr. HOUSTON. I then ask the gentleman how much is the balance that will be required for these roads, according to the estimates? I conceive that it will do no good to reduce the appropriations this year, if we shall have to make another appropriation next year. Let us know the estimate of the entire amount that will be required.

Mr. SIBLEY. In reply to the chairman of the Committee on Ways and Means, I beg leave to state that the reason why I have deemed it expedient to reduce these estimates is, that I do not think the amount originally asked for can be expended beneficially during the current year, for the construction of these roads. I do not pretend to say there will be a sufficiency to complete the roads, but the amount which I have asked for will, in my opinion, and in the opinion of practical men in the Territory, complete the roads so far as to make them passable, at least between the points where they are now most needed. I will state further to the gentleman, that some of these roads lead directly to military posts and to Indian agencies, and that the Government would be saved a great deal of expense in the transportation of supplies, if they were constructed so as to be rendered passable with loaded teams.

Mr. FOWLER. I wish to make a further inquiry of the gentleman. Are these roads designed for general, public use, or are they for military purposes?

Mr. SIBLEY. They are for both.

Mr. FOWLER. If they are exclusively for general use, it is a system of internal improvements. If they are for war purposes, then let us understand that they are for those purposes.

Mr. SIBLEY. I reply that they are for general use and to accommodate the Government, while, incidentally, they will be vastly beneficial, and indeed indispensable, to the people of the Territory.

Mr. FAULKNER. In reply to the interrogatory propounded by the gentleman from Alabama, [Mr. Houston], I will say, that if this had been an original appropriation altogether, I am not aware that I could have sanctioned it, even at the time that I did do so, to the extent that it has gone. But I found that the policy of constructing these four roads had been sanctioned by Congress in 1850. There was an appropriation made at that time of \$35,000 for the construction of these four roads, and \$5,000 for the survey of a military road from Mendota to the mouth of the Big Sioux river, on the Missouri. I find that of that amount not one dollar has yet been applied towards the construction of any of these roads. There has been expended of that appropriation \$12,890 in preliminary surveys, and there remains unexpended of the original appropriation of 1850, \$22,110.

Mr. SIBLEY. The gentleman from Virginia will permit me to say, that since that statement was submitted there has been some expenditure in the construction of the roads, and that the balance has been, therefore, much reduced. What is the date of the communication you hold in your hand?

Mr. FAULKNER. The date of this communication, from which I derive the information, is the 23d December, 1851, and it is from the Colonel of the Topographical Engineers. That is the latest information we have upon the subject. I believe I have now answered the question put by the gentleman from Alabama.

Mr. HOUSTON. I desire to state that the information furnished by the gentleman is just what

I predicted. These roads were commenced, as the gentleman from Minnesota [Mr. Sibley] states, without any previous consultation with the Department under whose control they had been placed by law. An appropriation was made by Congress, and that appropriation has, as was stated by the gentleman from Virginia, been in part, absorbed by a preliminary reconnaissance or survey, and as was set forth by the head of the Topographical Bureau, and as the committee will see, fully illustrates and sustains the prediction I endeavored to enforce upon the House a day or two since: that is, when we make an appropriation in advance of a survey, we save nothing by it. The survey has still to be made, and at the same expense. Indeed, in the language of the head of the Topographical Bureau, it is attended with more expense. The gentleman who reported this bill says, that of the \$40,000 appropriated for this work, there had been some \$12,000 expended up to the date of his communication. Now, it would have been just as easy for my friend from Virginia, [Mr. Faulkner], and it would have been as easy for the gentleman from Minnesota, [Mr. Sibley], to have gone to the Department and ascertained, so as to be able to inform the committee, the exact amount that still remains in the Treasury, as a balance, or that did remain there, as a balance, on the first day of the present quarter, which was the first day of April.

Mr. SIBLEY. The gentleman is under a misapprehension in relation to the time necessary for communicating with Minnesota; during the winter season we cannot receive a communication from there in less than three or four weeks.

Mr. HOUSTON. The gentleman from Minnesota does not comprehend the point I make.

Mr. FAULKNER. I believe I have already furnished the gentleman the information he asks for, that there was a balance of \$22,500. I have stated what was the balance in the Treasury at the date of this report, and no surveys have been made since the date of that report. I presume that is the balance now unexpended.

Mr. HOUSTON. I suppose the gentleman is correct. I was going to present that view of the case. The gentleman from Minnesota, however, is mistaken in supposing that he could not obtain the information without sending to Minnesota for it. The money is drawn from the Treasury as it is wanted, and charged to that appropriation; and within ten days of the end of every quarter the gentleman can go and get the precise balance which remains to the credit of any particular appropriation in any of the Departments. You can tell precisely what has been expended, and what remains undrawn. But, I take it, there are some \$25,000 or \$28,000 yet unexpended, and remaining, as a balance in the Treasury, to the credit of this appropriation. The fiscal year now lacks but about a month of being out; and it seems to me that it is premature in this Congress to make an appropriation for this object, admitting that the principle is right, which I do not, by any means. But admitting it to be right, it seems to me not only premature, but unnecessary to make an appropriation now for these roads, when there are some \$25,000 or \$28,000 in the Treasury liable to be drawn in the next fiscal year.

Mr. SIBLEY. If the gentleman will allow me, here is a copy of a letter from the United States engineer in that Territory, who is charged with the superintendence of these roads. It is dated the 3d day of April last. He makes the inquiry of me, when the bill making appropriations for these roads is likely to become a law. He says it would be a pity if they should be made available too late to be of service this year.

Mr. HOUSTON. That shows that the gentleman who wrote the letter knows nothing about the matter.

Mr. SIBLEY. He is the Government engineer, and well understands his duty.

Mr. HOUSTON. It is very singular that an engineer should write a letter, saying that unless an appropriation be made soon, it would be unavailable for the year. The appropriation proposed is not to be expended this year. If the bill were to pass immediately in the precise phraseology in which it was presented to the committee, not one item could be touched until after the 30th day of next June.

Mr. CAMPBELL, of Illinois. He means the next year, when he says "this year."



Mr. HOUSTON. If he means the next year, he is in just as great an error. Whoever heard of an appropriation being passed too late to be made available for the year? Why, the latest we ever sit is the last of September.

Mr. CAMPBELL. It is to be used in the summer. They cannot work in the winter.

Mr. HOUSTON. But the present appropriation, according to the showing of the gentleman from Virginia, [Mr. FAULKNER,] will carry the work beyond the present summer, and the beginning of the fiscal year. There are, as I said, twenty-odd thousand dollars yet on hand ready to be drawn from the Treasury.

Mr. SIBLEY. I must be allowed to interrupt the gentleman for a moment. I will say that the contracts have been made probably to the amount of the balance of appropriation yet on hand, and the engineer is now only waiting to hear the result of this attempt to procure a further appropriation to continue the contracts on all these roads.

Mr. HOUSTON. Then I am willing to take it upon that view of the case. Contracts are made, according to the gentleman's statement, to the amount of the appropriation. They certainly are not made beyond that. But if made within the appropriation, the appropriation still remains unexpended. Now, how can it be that you want an additional appropriation, unless the amount of the appropriation shall be expended before the work of the season is out? If the contract is made, the work will not be done—as I understand the state of the case, the work will not probably be done—before the beginning of the next fiscal year. But if you admit that it be done, they have at least \$25,000 or \$28,000 to go upon from now until the season when it is said they cannot carry on the work.

But, Mr. Chairman, I have another objection to this system of legislation. I object to it in principle, in the first place. I believe it is internal improvement by the Federal Government, in its most odious form. I believe it brings up that system in all its length, breadth, and bearings, and for that reason I have always opposed these appropriations. But I do not intend to make an argument upon that. Here is the principle: We have appropriated \$40,000 already, and now we are asked to make another appropriation for the same work. It will probably require \$100,000 to complete it. Now, if that is the fact, you might as well appropriate the whole \$100,000 at once. According to the report of the engineers, that amount will be necessary to complete the roads. If, then, we are to embark in this system of internal improvement, let us make the whole appropriation at once, and let the work be carried on under the direction of the Secretary of War. Why should we appropriate \$15,000 now to one road, and \$10,000 to another, when we have got \$25,000 on hand appropriated to these roads already? In the next place, the gentleman says they can work only during the summer months.

Mr. SIBLEY. I beg to interrupt the gentleman once more. I am not a little astonished at the course of argument the gentleman from Alabama has pursued to-day; for he has changed his position entirely from that assumed by him when the Delegate from Oregon, [Mr. LANE,] the other day, asked for an appropriation to construct roads in his Territory.

Mr. HOUSTON. The gentleman from Minnesota does me injustice. I have not changed my position. In this case the surveys have been made, as the gentleman himself states, and as the report shows; and, of course, my argument in relation to the case of my friend, would not apply to this. I have not changed my ground, however. I do not take back anything I said yesterday. I think what I said then was substantially correct.

Mr. SIBLEY. I had no intention of doing injustice to the gentleman from Alabama; but it does seem to me somewhat strange that he should attack this bill upon the very opposite grounds taken by him in his argument upon the other bill. He assailed the Oregon bill because no previous surveys of the roads had taken place. The bill now before the committee is based upon surveys and estimates actually made. The Department has recommended that the money shall be appropriated. And so far as regards his present position, it does seem to me that the gentleman is a little inconsistent.

Mr. HOUSTON. I want to say to the gentle-

man from Minnesota that he has entirely misapprehended me. I do not attack this bill because the roads have been surveyed. The fact that they have been is so much to their credit. But the gentleman says, furthermore, that the Department recommends the payment of the money. Now, let me say to the gentleman that the Department merely recommends the payment of the money in case we intend to continue to carry on the work. But he cannot show me where these roads are set down as military roads. As I understand it, they are not estimated for as such in any of the reports made upon them, or in any of the surveys made upon them.

Mr. CAMPBELL, of Illinois. Do I understand the gentleman from Alabama to attack this bill upon the ground of the impolicy of the General Government making internal improvements in these Territories?

Mr. HOUSTON. I stated that I was opposed to the system, and should vote against the bill upon that ground, if upon no other. But I expressly stated that I did not intend to make an argument upon that point. There were other objections to the bill.

Mr. CAMPBELL. Then that is not the ground upon which the gentleman opposes it.

Mr. HOUSTON. That is one ground.

Mr. SIBLEY. I do not desire to consume the time of the committee unnecessarily in this debate; but I must not allow the House to act under a misapprehension of the facts in this case.

Mr. Chairman, under no circumstances would I urge any argument or any claim upon this committee, that was not, in my judgment, in perfect accordance with the facts, as presented by me. I wish the committee to act understandingly with reference to this question. The documents show that the engineer, who has charge of these roads, has indorsed them as being the very roads which it is most important should be now made in that Territory; that they are regarded as such, not only with reference to the public convenience, but to the wants of the Government itself. The gentleman (Lieutenant Simpson, of the topographical corps of engineers) who has been placed in charge of these roads, is eminently qualified, by scientific attainments, practical knowledge, and sound judgment, to discharge his duties properly. His opinions, with regard to this subject of roads, are entitled to great weight. He states, in his report, that it is of the utmost importance that these great thoroughfares should be properly opened as soon as practicable. I know, that when this is done, the Government will be saved a large sum annually in the transportation of supplies to its military posts and Indian agencies. If the gentleman from Alabama [Mr. HOUSTON] does not base his argument against this bill on constitutional grounds entirely, I humbly submit that he can urge no other reasonable objection. The Government, being the sole great land proprietor in the Territories, is bound, by every consideration of equity and justice, to make its domain accessible to the settler, by means of roads. To do otherwise, would be to abandon the policy hitherto pursued towards all your Territories. How, sir, can your lands be sold if the immigrant cannot reach them? The gentleman will certainly not take the ground that the people of the Territories shall make their own roads, not only, but those of the Federal Government likewise. The Territories, North and South, have invariably received liberal grants from Congress for such purposes; and, hitherto, no attempt has been made to connect them with any system of internal improvements in the States. The distinction is too broad and too palpable to require anything to be said on the subject. The Democratic party, to which we belong, has never held the doctrine just advanced by the gentleman from Alabama, [Mr. HOUSTON.] It has always been liberal in grants to the Territories.

I respectfully submit, Mr. Chairman, that, as we make no demands upon you for light-houses and harbor appropriations, we may reasonably expect Congress to be generous with us in regard to the construction of roads and the improvement of our rivers. Minnesota never has, and never will, take undue advantage of your liberality. As an illustration of our modesty in that respect, I can point to the fact I have before adverted to—that this bill provides for only one half of the amount estimated for by the Department; and I will be frank enough to say, that I do not believe

we should have received anything if I had pressed for the whole sum mentioned in those estimates. I have learned something, at least, from my experience here during the last Congress, when we lost all the appropriations for our roads because the Department asked for too much.

I conclude by assuring the committee that the money is wanted now, and I am satisfied it will be economically and properly disbursed. The sum remaining unexpended from the original appropriation is very small, and that asked for in this bill can be applied at once, so far as it will go, to the completion of the roads already commenced under authority of law. Notwithstanding the opinion expressed by the honorable chairman of the Ways and Means, I take it for granted, that if the bill now before the committee shall pass both Houses of Congress, the money appropriated can be drawn from the Treasury at any time after the 30th of June next, which will be the close of the fiscal year, and be made immediately available for the purposes for which it was designed.

Mr. BROOKS. I am very reluctant to throw obstacles in the way of this bill. I dislike, even, to seem to be in the way of proper appropriations for the Territories, and I rise, mainly, with a view of calling the attention of the House to what we are voting upon. If there is a majority of the House disposed to go into this sort of appropriations, I will not continue any longer to throw obstructions in their way. The objection which I made to making appropriations for the roads in Oregon, the other day, is certainly obviated in this bill, by the action of the Delegate from Minnesota [Mr. SIBLEY] the last Congress, who withdrew the Minnesota road appropriations from the usual committees having custody of such appropriation bill, and himself introduced them into the House, either upon his own sole responsibility, or through the Committee on Roads and Canals. A survey has been obtained for a part of these roads, by having appropriations made for the roads themselves, just without any survey, and hence the argument which was directed against the gentleman from Oregon, [Mr. LANE,] the other day, cannot now be used in this case. A survey has been made, out of appropriations to make roads; and the Topographical Bureau can now guess, therefore, what the gentleman from Minnesota is about, and Congress can have some idea—though a very faint one—what it is going to do, when it votes the \$45,000 asked for here. Before I go further, I wish to repeat a remark I made the other day on the Oregon roads—that if these roads are not for military purposes, it is not in my power to perceive the difference in making four or five roads in Minnesota, reported on the authority of the Committee on Roads and Canals, or four or five roads in Kentucky, Indiana, Illinois, Missouri, Louisiana, or in any other part of this Union.

Mr. CAMPBELL, of Illinois. Does the gentleman draw any distinction between making a road in the Territories, or one of the States, and the making a road in the District of Columbia—for instance, Pennsylvania avenue?

Mr. BROOKS. We are constantly making streets or roads in the District of Columbia.

Mr. CAMPBELL. Is there any distinction in the power?

Mr. BROOKS. I do not wish to discuss the question of power, or to be drawn into a long controversy on a territorial bill day, and at this stage of the case. I only express my own opinion that, practically, I do not see any difference between making roads in Minnesota, or in the Territory of Oregon, not necessary for military purposes, and the making like appropriations out of the same Federal Treasury, for roads, or harbors, or rivers in other parts of the United States. It is easy to christen one of these roads in Oregon or Minnesota a military road—and military roads are doubtless necessary in Oregon, because there may be an enemy there to be met with, say a foreign enemy; but it requires a great deal of courage to rise upon the floor of this House, and say that a military road is necessary in Minnesota, in order to keep off or to put down an enemy there.

Mr. SIBLEY, (interrupting.) The gentleman will allow me to correct him in this matter. Is he not aware that the Territory of Minnesota is inhabited by the largest and most warlike tribes of Indians on the North American continent?

Mr. BROOKS. I know that very well, and the gentleman from Minnesota will not rise and

say that the people of that Territory cannot take care of themselves?

Mr. SIBLEY. I will say, in regard to that matter, that if the Government will grant us one half of what it costs to support the Army on the northwestern frontier, small as it is, we will take care of ourselves against any and all enemies, without other cost to the Government.

Mr. BROOKS. That may be—and the like may be said of many other parts of the United States. But this Government has ceased to be a landholder, by giving away all its lands to actual settlers in the Territory of Minnesota. Besides, Minnesota will have nothing to complain of us, if, as she is asking at this moment, and rightfully, I think, we expend very large sums of money to extinguish the Indian titles to the lands within her borders, and in the ratification of numerous Indian treaties. Indeed, a Federal Government is acting with amazing liberality, if she extinguishes in Minnesota, and at great cost, titles to millions of acres of public lands, and then votes them all away to actual settlers. We have ceased, therefore, or are ceasing, perhaps I should say, to be a great landholder in Minnesota, or in any other part of the Union; and if we are more cautious than usual, therefore, in making roads, or in otherwise voting money from the Treasury to raise the value of these lands in the Territories, we must be pardoned now for this excess of caution. It is time to begin to look upon all these roads as a system of internal improvements, and to decide whether we shall go into it in Oregon or Minnesota, without extending it to other parts of the Union. Minnesota is a rapidly rising Territory, soon to be a State of the Union, and I am reluctant to see her have all she wants now as a Territory—five or six pretty long roads, as here intended, and when this Territory comes in as a State, have her turn around, snap her fingers at the old States and oppose the whole system of internal improvements as unconstitutional or wasteful. If the system is right in Minnesota, it is right elsewhere and everywhere, and if it is wrong elsewhere, it is wrong there; and hence, here at this starting point, we should settle whether or not internal improvement is a live or a dead system. I have nothing to say now on either side, *pro* or *con*, but what I do want is for the House to see what it is doing, and establish, or refuse to establish a precedent.

Now, as regards this road from Mendota, on the Mississippi, to the mouth of the Big Sioux, on the Missouri, I beg the attention of the House to the fact that it is an appropriation for a survey (\$5,000)—an appropriation additional to \$5,000 voted for a survey in the last Congress, and that, therefore, it is a new road that Congress is now called upon to establish, the very survey of which costs \$10,000. The colonel of the topographical corps, as if to open our eyes to the fact that it was no military road, remarks "the (surveying) party will be itself its own escort, as the Indians are not troublesome in that region." Hence the remark of the Delegate from Minnesota about warlike tribes of Indians in Minnesota, is here of no account. If that be so, a military road can only be necessary for the transportation of supplies; and if we once begin to establish roads merely for transportation of supplies, where shall we stop. A like military road is needed in Missouri, in Texas, or Arkansas, for the like transportation of supplies for the troops stationed in those quarters. And hence we should begin at once the making of roads generally for the transportation of supplies.

In the eighteenth and nineteenth lines of the bill, Mr. Chairman, is this item of \$5,000 for the survey of a military road from Mendota to the mouth of the Big Sioux river. The item is a very innocent and a very small appropriation upon the face of it; but let the House look at it, and ponder upon it. Last Congress, upon the motion of the gentleman from Minnesota, [Mr. SIBLEY,] \$5,000 was given for the survey of this road, and given without any estimate from a responsible quarter. The War Department comes to you now and says that \$5,000 will not begin to make the survey, and that you must give at least \$5,000 more; and that sum is inserted in this bill upon the estimate of the War Department—an estimate forced now by an appropriation made in the last Congress without any estimate whatsoever. How long do you think this road is, Mr. Chairman? Forty or fifty miles? Perhaps a hundred, or a hundred and

fifty? No; it is a road two hundred and sixty miles long, and \$10,000 is asked for its survey; but the amount it will cost, the War Department cannot even guess, much less know. The gentleman from Minnesota himself does not know, and it is impossible for this House to guess at it with any certainty. We vote altogether in the dark.

Mr. SIBLEY. The gentleman will allow me to present one fact. I have been over much of the Indian country through which this road will pass. It is for the most part a prairie country, and the cost of a road through it will be much less than through woodland. In a military point of view this proposed road is of great importance, because in case of trouble with the powerful tribe of Dakotas or Sioux, which may or may not arise hereafter, the troops would be enabled to march with their munitions of war directly into the fastnesses occupied by these Indians, and bring them to terms without running the hazard of inflicting upon the frontier the horrors of savage warfare. The gentleman from New York [Mr. Brooks] is greatly mistaken in his estimate of the character of the wild tribes of the prairie, and of their means of offense.

Mr. BROOKS. I do not wish to be misunderstood upon this subject by the Delegate from Minnesota, [Mr. SIBLEY,] or the Delegate from Oregon, [Mr. LANE.] I did not rise to make war upon any necessary appropriations for these Territories, nor do I mean to be so understood. I am not hostile to the new States or the Territories, but I wish equal and exact justice to be done to all portions of this country, and it is time now to settle what that equality and justice are. It will not be right or wise for us to rear up new Territories into States by supplying all their wants and all their demands, upon one set of principles, and then when they are made States by our generous appropriations, to have their Senators in the other branch of Congress, and their members upon the floor of this House, rise here and oppose the whole set of principles upon which they have been reared as unconstitutional, wild, or extravagant. Now, there are five roads included in this Minnesota bill, the cost of which no man knows, and the length of one of which is two hundred and sixty miles; and to make the roads rightfully and properly, I have no doubt that over a quarter of a million of dollars would be indispensably necessary. Well, if the House choose to begin to appropriate such sums with a view to some general system, and these appropriations are to be considered as a part and parcel of that general system, why let us say so—but if not, it is time to stop where we are—to rescue territorial road bills from the Committee on Roads and Canals, and to consign them to the Army bill, or to the Military Committee, who can certify to us whether they are necessary for war purposes or not.

Mr. TUCK. I have too much regard to the dispatch of business in this House, to detain the committee long with any remarks of my own upon this bill. I will take occasion, however, to say, that I think the gentleman from New York [Mr. Brooks] places unfair obstacles in the way of the passage of this bill, by attempting to hold every man who shall vote for it, committed to the policy of a general system of internal improvements. Now, the two great parties in the country have been, to a great extent, divided on the question of internal improvements. But the two parties have not been divided upon the policy or constitutionality of territorial appropriations, like the one now under consideration. Such appropriations have been made in past years for all the Territories, equally under Whig and Democratic administrations, and been supported by the masses of both parties, without its ever having been alleged, that those who voted for them, thereby abandoned their party positions. It is extraordinary, and I think wrong, now to impede and endanger this bill, by attempting to array a political party against it.

I understood the gentleman from Alabama [Mr. Houston] to say that he adopted the views suggested by the gentleman from New York, [Mr. Brooks.] Now, I will say to the gentleman from Alabama, that if he sits himself up as such a Simon Pure Democrat, and so committed against internal improvements, that he will not even vote anything for roads in the Territories, he adopts a standard never set up by his Democratic prede-

cessors, and not likely to be set up by his party friends at the present time. To discard the making of appropriations for military and other necessary roads in the Territories, will be turning over a new leaf in the history of the Democratic party, and will be writing a page of their history quite novel, and certainly in contradiction of their past conduct. But wishing to hasten action, I will say no more.

Mr. VENABLE. It is with much reluctance that I vote against any allowance asked from this Government for the benefit of a Territory. But the question now presented involves the great principle of the system of internal improvement. It points to opening the doors of the Treasury for the purpose of supplying every demand which may be made upon us by any Territory placed under our care. If the principle be fixed; if, by our legislation, it be settled that there is a general power in this Government to make roads, to make internal improvements of any kind, you may construct railroads and canals. Why, sir, I do not see any limit to the amount of money which is to be taken from the public Treasury for such purposes.

But the gentleman from New Hampshire [Mr. Tuck] says, should we deny the propriety of such appropriations, we shall have to turn over a new leaf in the history of the Democratic party. But I do not regard it as a party question. I regard it as a question springing from the Constitution, and I never, at any time, take my view of the Constitution from the construction which any party may place upon it. I regret very much to see that there are gentlemen belonging to the Democratic party who have voted for log-rolling river and harbor bills, who have gone to any extent that gentlemen upon the other side of this House have gone upon the subject of internal improvements, and I charge it as a departure from the old doctrine of that party; and if the gentleman from New Hampshire [Mr. Tuck] will put himself to the trouble to review those doctrines, as illustrated by Mr. Madison and others of the Republican party, he will find that I am not alone; and that he, instead of turning over a new leaf, has only failed to turn over a very old leaf; and that he has only failed to go back to the opinions of the fathers of the republican doctrines of this country. I have never felt myself bound by party lines upon this subject; but I here say again, that I deeply regret that the Democratic, or Republican party, (which was a much better name than the Democratic party, and I regret that the name was ever changed,) that the doctrines of the Republican party, since the days of Mr. Madison, seem to have changed.

If the gentleman will take the pains to go back to the discussions, immediately after the adoption of the Constitution, he will find that Mr. Madison, who was a member of the convention which adopted the Constitution of the United States, went into the first Congress, and there declared, when the question was brought before that body, as to the location of the district in which the seat of Government was to be placed, that the General Government would not have the right to clear out the Susquehanna river, or to make a harbor at Havre de Grace, without the consent of the States of Pennsylvania and Maryland, and that this consent ought to be obtained before any steps were taken for the location of the seat of Government. The selection of this District put an end to the question; but the construction of the Constitution in relation to this power was distinctly declared. The district selected was to be a Territory, under territorial government, recognized by the Constitution, and placed under the exclusive legislation of Congress.

These were the doctrines of Mr. Madison when he had just come from the convention which adopted the Constitution of the United States, and became a member of the First Congress. He did not feel it was so clear that this Government had a right to make internal improvements—the right to make appropriations from the Treasury for the purpose of carrying out any scheme of internal improvement. I take no distinction between a Territory and a State. I take no distinction between the right of this Government to make railroads, canals, or other internal improvements in a Territory or in a State. One difficulty which has been presented has been its interference with State sovereignty. If that was all, it could be obviated by the consent of the State being obtained; but it

goes beyond, and lies behind it. It is not one of the powers ceded to this Government by the charter under which we act; and I would not oppose any measure for the benefit of the Territories which may be properly granted—and, whilst I have been liberal in every way, and on every opportunity, for the interests of that far distant people, I cannot consent that this measure shall pass without entering my protest against it, and against every act of legislation for the purpose of expending the money of the United States to make these improvements in the Territories, or elsewhere. We have fallen upon evil times. When a proposition is made here for the donation of the public lands you find a formidable body rising up and banding themselves together for the purpose of affecting those appropriations. I find before this House now, sir, schemes to build railroads in the States. They ask for the construction of those railroads alternate sections of the public land on each side of the proposed road—the selection to be made within twenty miles of the road; and if they cannot get the alternate sections there, to go thirty miles off to obtain them. It is said if you grant these alternate sections for the purpose of constructing roads, the reserved alternates will be increased in value. That is very well; but you give an opportunity to fish for the alternate sections many miles on each side. And roads passing in the same region find it convenient to make the appropriation of all the land, as well as to secure all the benefit of the enhanced value. One railroad corporation goes on to take alternate sections under the grant, and a neighboring corporation, with similar powers, take the alternate sections left, and all is absorbed. It is but another name for an absolute cession of the public domain to the States for purposes of internal improvement—differing only from the present bill, which asks for the direct application of money from the Treasury for the same purpose.

The Indian and white man, hunting together, had killed a buzzard and a turkey. The white man said, "You take the buzzard and I will take the turkey, or I will take the turkey and you take the buzzard." The reply of the Indian, that, in the division of the game, he had never had turkey said to him, has become proverbial as an illustration of unfair distribution of common property. This, sir, is a much stronger case; you say neither turkey nor buzzard to the old States. You speak of alternate sections and increased value, and end in a system of grants which take all the alternates—absorb all the land—take all. You give the word of promise to the ear and break it to the hope. You say that if this bill passes the price of the public lands will be increased, and that the old States ought not to be opposed to it—that it will add that much to the wealth of the country.

Mr. STUART. I rise to a question of order. I submit that it is not in order upon this bill to discuss the question of appropriating lands for railroad purposes.

The CHAIRMAN. The Chair thinks that the remarks of the gentleman are not out of order. They have an evident bearing upon the question of giving roads to the Territories.

Mr. VENABLE. It is not the first time that I have seen those who are galled wince under the operation of outside pressure; but I think it is of importance to the public that we should ourselves come up and take an honest and faithful view of this subject. We have looked at it as one in the distance. It has now come near to us. There is upon the Speaker's table, or referred to the Committee of the Whole on the state of the Union, bills which, if passed, will appropriate some thirty millions acres of the public land on this principle. A question of such importance should be fully discussed, and deliberately decided. It is no economy to suppress debate, or shun calculations. The proper doctrine—that which springs from the true reading of the Constitution—is this: Whilst the Federal Government has the power to make roads and other modes of transportation, under certain circumstances, such as are accessory to the power of making war, the transportation of troops and munitions—yet the power must be determined by the case and the necessity that exists to render effective a clearly-granted and well-defined power in the Constitution. The right to make such improvements is an incident originating in a necessity for the exercise of a higher and more important power, and is allowable only under

such a state of things. The acknowledged power is the principal—the implied power the incident. Nothing can be a more unsafe rule of construction than that which converts the incident into the principal. To make military roads in advance of any necessity for them, with the real motive for the use of citizens in the peaceful avocations of life, is surely an obvious perversion of every proper rule of constitutional construction. The military road, when built, is properly used for all other purposes. But it originated in a necessity arising under the power granted, to make and to prosecute war.

I was unwilling, sir, to pass over this subject *sub silentio*, and permit this measure to be brought up as a precedent to override the Constitution. I have been taught by sad experience that the letter and meaning of the Constitution has been perfectly overslaughed by unconstitutional legislation. When it is written with a sunbeam upon the page of that instrument that a power is not given to this Government, if a gentleman should rise upon this floor, and, after looking back into the old statute-books, inform us that a former Congress disregarded those provisions, a precedent is discovered and the Constitution is disregarded again because of a previous violation—I am for returning to the instrument itself, whether Whigs or Democrats have done wrong. I trust that I shall never so far forget myself, as a Representative of the people, as to regulate my opinions of the Constitution by the dictation of any party. I acknowledge my party allegiance, but I never mean, by that allegiance, a sacrifice of my self-respect. If those with whom I act go wrong, I have the less respect for them than for others; for I believe that they, being wrong in their political principles, have fallen into the errors to which they necessarily lead. But I can make no such allowance for those whose fundamental doctrines disallow such conclusions. I am sure they ought to know better. The Whig party has been misled by its principles; and for them I have charity, and believe that they are following out honestly their opinions. They have been led into error because the principle which they have adopted is an incorrect one; but when those with whom I act and associate, whose glory is declared to consist in a strict construction of the Constitution, go wrong, it is a sin for which I have no such charity. It is in vain, therefore, for gentlemen to tell me that the Democratic party have done wrong. When they have done so they deserve double censure, and I never mean to be held by party lines when they point my course in direct violation of the clear construction of the Constitution. If it be right to make this appropriation for the Territory of Minnesota—if the principle upon which it is based be correct—it will be right also with respect to the States. Gentlemen may ask when they please for appropriations, and expect them to be granted. When a case is made out for internal improvements, the lands and the wealth of the Treasury of the Government will be squandered upon these roads. I repeat, that it is with reluctance I throw myself upon the attention of the committee. I have avoided discussion upon the subject, that I might not consume an improper and unnecessary portion of their time. But I know of nothing more fraught with evil, and nothing which is more certain to produce the festering of discontent and ill-feeling in the hearts of the people of the old States—those States who were tried in the Revolution, and who passed through its crucible. When they look upon the broad domain which belongs to them and their children, which has been purchased by their struggles and their contributions, and find that it is passing away day after day—melting like the snow beneath the influence of the sunbeam—when they feel every claim which they may urge upon this Government is regarded as idle—when they remonstrate and say that this extensive territory belongs to us all in general, and it is unheeded, they will lose confidence in the justice of those who control the destinies of the Government. I feel assured that in this policy we adopt a system of legislation which is to destroy the confidence of the old States in the justice of the Congress—that we will estrange the hearts of those who in the day of trial stood true, who have conquered this domain and left it an inheritance to their children. They are to be cast out and the stranger, sojourner, and foreigner is to be welcomed, and put in possession of the territory of our common country. The claims of our own citizens

are to be utterly disregarded. The whole Atlantic slope is to be looked upon as a foreign land. And whilst I am willing to legislate liberally, willing to foster, to protect them, and to vote money and men for the defense of their homes and their rights, I claim that equal justice be done to the older members of the family of States. I am ready to make a just, a generous distribution; to give the younger members of our Confederacy a full and liberal portion, even that of Benjamin, in the inheritance. Still I claim that we of the old States shall not be declared illegitimate. I claim that the old States should be entitled to their rights. I ask no extra privileges. I only ask justice. There is no gentleman in this committee for whom I have kinder feelings than the Delegate from Minnesota. There is no gentleman for whom I would do more; and I would vote for this bill were it not a concession of the principle upon which I have always acted, and with my views of the Constitution, and of duty and propriety upon which I shall always act. I conceive that such a course is more necessary now, because there seems to be an unsettled state of opinion upon this once cardinal doctrine of the party to which I belong. The veto message of Mr. Polk was a clear and distinct avowal of that portion of our creed. I am aware that many gentlemen of the Democratic party dissented from his views. But the doctrine is not wholly repudiated even by them, if the platform of the Baltimore Convention contains the true creed. They distinctly disavow the right of the Government to prosecute any general system of internal improvements. Mr. Polk acted upon that principle. He discovered in the legislation of Congress what he believed to be the prosecution of such a general system. But other distinguished Democrats, candidates or aspirants, with their feet apparently upon that platform, have not found any bill so general as to come within the purview of that resolution. Bills including some ninety items, and spreading over some twenty-eight States, have not been considered *general*, but *peculiarly particular*, and essentially democratic in their character. Indeed, I know of no bill or scheme of internal improvement by this Government which is founded upon a system general enough to be forbidden by the resolution of the Baltimore Convention, affirmed and reaffirmed in the judgment of many of those whose distinguished position entitle them to be regarded as leaders of the party. I desire especially that it should be ascertained what is so general as to be forbidden, and so particular as to be allowed. In the absence of such lights, I must content myself with the opinions and construction of the fathers of the Republican party, and those who, revering their wisdom, have used the power of their office to restrain unconstitutional legislation.

Mr. SEYMOUR, of New York. Mr. Chairman, I am certain nothing further is needed in the support of a bill like the one now before the committee; and I should not have detained the committee a moment, were it not that some remarks have been made, tending to show that the voting of this appropriation for the construction and survey of these roads in the Territory of Minnesota, is the adopting of a general system of internal improvements by the Federal Government. I do not wish to stand wrong upon the record, for as I have said before, I say now, that I am not the advocate of such a system. Nor do I propose, at this time, to go into a general discussion on the subject, for the time will not permit it. It would be better devoted to the disposition of this bill, it strikes me. It seems to me, that the proposition before the committee is one which is in perfect conformity with all the previous legislation of this Government upon similar subjects. What is it, sir? It is for the purpose of appropriating the sum of \$5,000 for the survey of a road some two or three thousand miles in length, through one of the Territories, and for the appropriation, also, of some \$40,000 to aid in constructing certain roads already surveyed, and the construction of which has already been commenced under the superintendence of the War Department. Now, I think that there is a perfect distinction between improvements of this character, and what are usually termed internal improvements in a State. We know that the Territories are peculiarly placed, by the Constitution of the United States, under the legislation of Congress. This is the point to which they look for all legislative assistance of this character, and



to which alone they can look. And when we consider every Territory which has grown up through the whole progress of the growth of our country, from small beginnings, from the modest State, to become an important, rich, and powerful State in this Union, has met with the same difficulties with which the Territory of Minnesota now meets, in reference to this subject, I presume we shall not be disposed to make an exception in this case. I say, if we will go back through the period of thirty, forty, or fifty years, in reference to the legislation upon our Territories, we will find that Congress has uniformly appropriated for works of this kind. What are they? The construction of railroads—the construction of a national road—or anything of that character? Not at all; but the construction of the rudest of all possible roads, upon which a settler in a primeval country can find his way to his log cabin.

If you look at the report of the War Department, which I have before me, upon the subject of these very roads, it will show that the very small sum of three hundred and odd dollars, proposed to be appropriated to each mile in the construction of these roads, would construct but the poorest roads which could be imagined for traveling in a new Territory. It is, then, merely the opening of these communications which may be deemed necessary for the purpose of affording the denizens of the West an opportunity of settling upon their new lands, and affording them an opportunity of becoming citizens of a State that will by-and-by contribute money to the treasury of their State through its cultivation and accumulated wealth, which we have aided them in obtaining, and which can be subsequently appropriated in the construction of far better roads and other improvements.

Mr. VENABLE. Will my friend allow me to ask him a question? I should like to know if we consider it our duty, after giving land to the landless, to take money out of the Treasury and then make a road to the land.

Mr. SEYMOUR. I am coming to that identical point. I say, then, that so far as there has been any legislation upon the subject, it has been uniform. These roads, if they have been military roads, have been constructed by the Government. If they have been roads to aid the pioneer in reaching these settlements, they have been constructed by means of the legislation of Congress. It is said—and my colleague made the remark in the speech which he addressed to the committee some time since—and the question is now repeated by the gentleman from North Carolina, [Mr. VENABLE],—that we have arrived at a point in the legislation of this country when the policy of the Government upon this subject ought to be changed; and that having voted for a law which allows to any individual who is the head of a family to go and take one hundred and sixty acres of the public land, and make a homestead of it, without paying a dollar to the Government for it, we should now no longer exercise this care and supervision, and appropriate these moneys for the purpose of aiding the settlement of the West, which we have heretofore done. In my humble opinion, there are still stronger reasons why we should do it. If the policy is a good one—and I think it is—which I advocated, and voted for upon this floor, to give to these settlers a homestead in that country, then it is surely a good one also to provide them with the means of attaining that point, where they can occupy the land; where they can become good citizens, and where they can increase by their industry the accumulation of wealth, which we hope will flow from such a stream of independent agriculturists who will so greatly increase the wealth of the whole country. That is a part of the great system which we have adopted in the preemption laws, and in all of those various facilities which we have afforded for the rapid settlement of the West. The construction of these roads, it seems to me, forms one important part of that system, and should not, and will not, be abandoned by the Government. With regard to the amount of appropriations asked for here, I think, that inasmuch as there are appropriations still unexpended, as I understand from the honorable chairman of the Committee on Ways and Means, to the amount of some \$20,000, the amount which was originally contemplated to be granted, should not be granted in full. I understand from the honorable delegate from Minnesota

[Mr. SIBLEY] that he does not ask it—that he has himself desired that these appropriations should be reduced which were originally contemplated, for the very reason that this balance, the sum of \$20,000, already stands to the credit of these works. If this is so, then it seems to me the measure is put into the most acceptable shape possible; and I cannot conceive of any reason whatever, unless we mean to proclaim to the country now a change of the entire policy of the country in reference to the settlement of Western territories as a reason why we will not give to the Territory of Minnesota the sum that we have given to other Territories.

Mr. STUART. I move that the committee rise, with a view of passing a resolution to terminate this debate.

The question was then taken, and it was agreed to.

The committee then rose, and the Speaker having resumed the chair, the chairman of the committee reported that the committee had had under consideration the Union generally, and particularly House bill No. 254, which they have ordered to be reported to the House with an amendment; and also House bill No. 255, but have come to no conclusion thereon.

Mr. STUART. I move that all debate in Committee of the Whole on the state of the Union be closed on bill No. 255 in five minutes after the House shall have again resolved itself into committee.

The question was then taken, and the resolution was agreed to.

Mr. STUART. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was then taken, and it was agreed to.

So the committee resumed its session and the consideration of bill No. 255.

Mr. STUART. No amendment, I believe, is pending in regard to this bill. I move that it be laid aside to be reported to the House.

The question was then taken, and it was agreed to.

#### UNITED STATES PROPERTY IN SANTA FE.

House bill No. 256, relinquishing to the Territory of New Mexico all the right, title and interest which the United States may have to certain real estate within the corporate limits of the city of Santa Fe, New Mexico, was then read by the Clerk.

Mr. BISSELL. What is the character of the bill? What character of land is proposed to be ceded?

Mr. LOCKHART. I will send to the Clerk the memorial from the Legislative Assembly of the Territory, which explains the matter.

The memorial was then read, from which it appears that in the city of Santa Fe there are several small tracts of cultivated lands, and certain public buildings, such as the palace, barracks, granary, and others, the titles to which were uncertain, as there was no record of them in the archives of the Territory to prove any legal title to them. It also appears that the title to said property was vested either in the Government of the United States or in the Territory of New Mexico, and that questions have arisen between the civil and military authorities, and although the civil governors have used the palace from time immemorial without dispute, it is also true that it was used by the military authorities when they were united with the civil. The land, which is inclosed within the barracks, was formerly cultivated by the Mexican soldiers, but was in the same condition with the public buildings, without any title to the property. In view of these facts, the memorialists pray the Congress of the United States to relinquish to the Territory all the right the United States may have to said property.

Mr. BISSELL. I should like to inquire of the gentleman whether the committee have made any report upon this case?

Mr. LOCKHART. There is no report.

Mr. BISSELL. I presume it is all right, though I think the bill is one of some importance.

Mr. CLEVELAND. We had better get some little information in addition to what we have upon the subject. It seems to me, that we ought to have some report from the committee here, to know

what the effect of this action of ours is to be. We know not the amount of these lands. Here is a general statement made by the party in interest, petitioning and asking for this grant. We have a very general statement, and we know not what interest we may affect by the passage of the act. There may be individuals there who will suffer by the claim set up by the territorial government, and which we are called upon to pass in the dark. Is there any man who knows what we are called upon to do? We pass it, because such a bill has passed the Senate, or because it has been presented by somebody who represents that Territory, and is interested to have that grant. It seems to me, that would be an objection, which would make men hesitate long before they would vote this grant. In addition to that, I can see no distinction, in point of principle, between the grant we are now called upon to make, and the grant of land we shall ere long be called to make in the State of Ohio. I am opposed to all these grants of lands. I can see no difference, in point of principle, between making the grant asked for here, and a grant of 200,000 acres of land in the State of Ohio, or that of the entire body of unsold lands in the State of Illinois.

Now, it does seem to me that we ought not to begin this system. The way these grants are obtained is in this still, silent, quiet way. They seem to be matters of small moment, and without explanation, without a written report, without any exposure whatever, a gentleman gets through the grant, and then that grant is used as a precedent for another and more dangerous one, and that for another, and so it goes on. There is no reason assigned for making the grant in this case, by the gentleman who appears in behalf of it.

Mr. LOCKHART here interposing, made a remark, but in so low a voice as to be wholly inaudible to the Reporter, in the confusion that prevailed in the Hall.

Mr. CLEVELAND. The gentleman has not intimated that this grant is designed for any such purpose. It is not put upon that ground at all. If the gentleman puts it on that ground, why not put it in the bill itself, so that it can never form a dangerous precedent for other applications of a different character? That is my objection to it. If the gentleman will state what the grant is for, and if it is for a fair and legitimate purpose, we are all ready to go for it. But till it does appear on the record in such a form that it cannot be used as a dangerous precedent, I cannot vote for it. At present it is much too uncertain and indefinite. I suggest to the friends of the bill that they should put it in such a shape that we may understand it, and that those who come after us may understand what we have done, and why we have done it.

Mr. HOWARD. I can relieve the gentleman from Connecticut of the difficulty he is in in relation to this matter. Under the Spanish law, all the towns to which no larger grants had been made, were entitled, under a general law, to four leagues, commencing at the center, and running each way. The same law has been enacted in nearly all the States of the Republic of Mexico, and they give to all the new towns four leagues.

There were some of the old towns under the Spanish regime to which larger grants were made, and in some cases the original titles to the property from the Crown of Spain to the inhabitants of the towns have been lost. I know that such is the case in the town in which I reside, and which was the old capital of Texas. Now, if I understand this bill, its object is to settle all controversy by a direct release on the part of the United States. I will say further, from my knowledge of the law in relation to these matters—and I have been concerned in litigation on the subject—that I have no doubt the people of Santa Fe could maintain an action of ejectment on the ground of their former title. But this bill is intended to settle all controversy of that kind, and quiet the title of the town.

Mr. CLEVELAND. With the consent of the committee, I will now withdraw my amendment. There being no objection, the amendment was withdrawn.

Mr. BISSELL. I propose to strike out the word "houses," in the ninth line. I do not know, and I am hardly disposed to doubt, but that this is right, yet I think that it is requiring a little too much of the House, to expect us to pass the bill in this form, without more light. I think it is a

bill which would well have justified a report—a report made from the desks of members, or read before us. Without that, or something like it, I cannot see that I can vote for the bill.

Take the case, as presented in the bill, and as made out by the statement which the gentleman from Indiana, [Mr. LOCKHART,] has given us, and I see nothing in it but a grant of land. It is all very right, probably, but then it is a grant of an indefinite quantity of land, and a grant of land without an object. Now, I am in favor of granting land to settlers, that they may cultivate it, and for the purpose of constructing railroads and similar objects, but I am not in favor of granting to any State or Territory—unless under peculiar circumstances, which are not shown to exist here—an indefinite quantity of land, without specifying the object for which the grant is made.

Now, what member of this House, besides those who are upon the Committee on Territories, and the very intelligent gentleman from Texas, [Mr. HOWARD,] has any information in regard to this matter—how much it gives—how many houses—what description of houses—and for what purpose? Why, says the gentleman, the thing is all made right, since you invest the President with discretion in this matter, and authorize him to cede as much of the land as he chooses, to the Territory, and retain the balance. Sir, I will not consent to rest any such discretion in the President. We ought to have the information before the House, and to determine here, for ourselves, what the quantity shall be, and for what purpose they shall have it. If we want information from the War Department, or from the President, as to the amount necessary to be reserved for military and other purposes, we can call upon them for that information, and act when we receive it. I cannot vote for the bill, with the light now before me.

Mr. WEIGHTMAN. In regard to the views in reference to this bill, which have been presented by the gentleman from Texas, [Mr. HOWARD,] I will say that I was not before aware of the existence of such a law as he has alluded to, granting four leagues to each city and town. But I am also informed by the gentleman's colleague [Mr. SCURRY] that such a law does exist. The people of Santa Fé probably, do not know their rights in this respect. Under the circumstances, I move that the bill be recommitted to the Committee on the Territories.

The CHAIRMAN. That motion cannot be made in the Committee of the Whole on the state of the Union.

Mr. STUART. It is in order to move that the bill be laid aside, to be reported to the House with a recommendation that it be recommitted to the Committee on the Territories, and I make that motion.

The motion was agreed to.

#### EXPENSES OF THE CAYUSE WAR.

The next bill on the Calendar was House bill, No. 257, to amend an act entitled "An act to settle and adjust the expense of the people of Oregon in defending themselves from attacks and hostilities of Cayuse Indians in the years 1847 and 1848," approved February 10, 1851.

Mr. LOCKHART. That bill was reported in conformity with a request from the Treasury Department—indeed the bill was drafted at the Department. For the purpose of enabling them to pay the expenses of the Cayuse war which occurred in Oregon, \$100,000 was appropriated in February, 1851, and they now ask for the passage of this bill to enable them to pay the claims so far as they have been adjusted.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

#### BOUNDARIES OF MILITARY RESERVE AT ST. PETER'S RIVER, MINNESOTA.

The next bill on the Calendar was House bill No. 158, to reduce and define the boundaries of the military reserve at the St. Peter's river, in the Territory of Minnesota, and to secure the rights of actual settlers thereon.

The bill was read through.

Mr. SIBLEY. I will merely say that I have here a report from the War Department concurring in the report of the commanding officer, upon which the bill is based.

On motion by Mr. HALL, the bill was then laid aside to be reported to the House, with a recommendation that it do pass.

Mr. STEPHENS, of Georgia, moved that the committee do now rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. STANTON, of Tennessee) reported that the Committee of the Whole on the state of the Union, had had under consideration the state of the Union generally, and particularly the special order, and had instructed him to report the following bills:

House bill No. 255 "making further appropriations for the construction of certain roads in the Territory of Minnesota," with sundry amendments, and with a recommendation that it do pass;

House bill No. 256, "relinquishing to the Territory of New Mexico, all the right, title, and interest which the United States may have to certain real estate within the corporate limits of the city of Santa Fé, in New Mexico," with a recommendation that it be recommitted to the Committee on the Territories;

House bill No. 257, "to amend an act entitled 'An act to settle and adjust the expense of the people of Oregon in defending themselves from attacks and hostilities of Cayuse Indians in the years 1845 and 1848,'" approved February 10, 1851; and

House bill No. 158, "to reduce and define the boundaries of the military reserve at the St. Peter's river, in the Territory of Minnesota, and to secure the rights of actual settlers thereon," without amendment, and with the recommendation that the bills do pass.

Mr. STUART. I would suggest that such of the bills which have been reported from the committee, that there is no objection to, be put upon their passage now.

[Cries of "Agreed!" "Agreed!"]

The SPEAKER. The first bill reported from the Committee of the Whole on the state of the Union is House bill No. 187, "for the construction of military roads in Oregon Territory."

Mr. STUART. That bill is under discussion, and the gentleman from Illinois [Mr. BISSELL] has the floor upon it.

The SPEAKER. That was the first bill reported to the House.

Mr. STUART. My suggestion is, that we shall pass such bills as there is no objection to.

Mr. KING, of New York. There is objection to this bill, and a gentleman is upon the floor speaking against it.

The SPEAKER. The bill will be laid aside, then, and the Clerk will report the next bill.

Mr. WARD. I move that the House do now adjourn.

The motion was agreed to, on a division—ayes 68, noes 37.

And the House adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BRENTON: The petitions of A. Crawford and George W. Wood, assistant marshals in the State of Indiana, asking additional compensation for taking the census.

By Mr. ROBINSON: Two petitions of citizens of Lawrenceburg, in the State of Indiana, praying for the construction of a canal around the Falls of the Ohio river, on the Indiana side.

By Mr. COTTMAN: Resolutions of the General Assembly of Maryland, in relation to the establishment of a light on Fort Soliers, in Patuxent river.

By Mr. SCURRY: The petition of J. M. Beeton, assistant marshal of Beaver, Texas, praying for extra compensation for taking the Seventh Census.

By Mr. CABLE, of Ohio: A memorial for the sale of lands and city property, not connected with the public buildings nor public service, at public auction, and the proceeds therefrom to be invested so that the interest thereof should be applied to a system of common schools in the District of Columbia.

By Mr. CHANDLER: The memorial of L. S. Chapman, of Philadelphia, asking aid in prosecuting a discovery of importance to the nation.

Also, the memorial of the Art Union of Philadelphia, asking Congress to employ Mr. P. R. Rothermel to paint an historical picture for the nation.

Also, the memorial of Elizabeth McDougall, asking for a pension for the services of her father in the revolutionary war.

By Mr. FLORENCE: The memorial of Joseph Eneue, Oliver P. Cornman, Edward W. Power, A. De Kalb Tarr, Egbert Somerville, and 38 others, citizens of Philadelphia, petitioning Congress to pass a law giving to the soldiers of the war of 1812, and of the Indian wars, &c., one hundred and sixty acres of land.

By Mr. BARCOCK: The petition of citizens of Oswego county, New York, praying Congress to make an appropriation for the improvement of the harbor of Port Ontario.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, May 22, 1852.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the consideration of a bill to appropriate money to build roads in Oregon.

Mr. RICHARDSON. It is my purpose to move to go into the Committee of the Whole on the state of the Union, in order that we may get all the territorial business into a shape where it may be acted upon. There are three bills yet left, upon which there has been no action in committee. Some of them need amendment, and there are some gentlemen who desire to discuss them. I think that we may dispose of them to-day; and for that purpose I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HALL. I ask the gentleman to withdraw his motion for the purpose of enabling me to introduce a bill from the Committee on Public Lands in relation to school lands in the Territory of Minnesota.

Mr. RICHARDSON. I will withdraw the motion for that purpose.

Mr. HALL, by unanimous consent, then introduced, from the Committee on Public Lands, a bill to appropriate lands for the support of schools in certain townships and fractional townships, not heretofore provided for; which was read a first and second time by its title, and referred to the Committee of the Whole on the state of the Union.

Mr. RICHARDSON. I now renew the motion to go into the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union upon the special order, (Mr. STANTON, of Tennessee, in the chair.)

The CHAIRMAN stated, as the first business in order, the consideration of House bill No. 224, being a bill to amend an act entitled "An act 'to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of said public lands.'"

The bill was read through by the Clerk.

Mr. RICHARDSON. That is a bill reported from the Committee on Public Lands, and of which I know nothing. There are some measures behind this coming from the Committee on the Territories, which it is important should be passed. With a view therefore of terminating debate upon this bill, I move that the committee do now rise.

The CHAIRMAN. The Chair will suggest to the gentleman that perhaps it might be better to lay that bill aside informally for the present, and pass to the others.

Mr. LANE obtained the floor.

Mr. HALL. With the consent of the gentleman from Oregon, [Mr. LANE,] I desire to explain that bill. It is a bill which ought to be explained to the committee; and, I think, with certain amendments ought to pass. The Committee on Public Lands, however, thought differently. There are certain provisions of the bill which are just, and certainly ought to be adopted. I hope the bill will not be laid aside, but that it may be explained, and discussed by the committee.

Mr. RICHARDSON. Will the gentleman from Oregon allow me to make a suggestion? I hope he will allow this bill to be passed over for the present. There are other bills behind this, which I ask may be taken up with the understanding that as soon as they are disposed of, this bill may again be brought up.

Mr. VENABLE. I have no objection to this bill. I desire simply to say a single word in relation to the course it is proposed to pursue in relation to these bills now left upon the Calendar. I think it is a mistaken policy to attempt to crowd bills containing important principles and involving matters of very high import, as those left upon the Calendar now do, in the space of a few hours. I do not think it is a wise policy to stop all discussion, to suppress all debate upon these bills when we have spent three or four months in discussing nothing of very high importance to the country to say the least of it.

The CHAIRMAN. The Chair must inform

the gentleman from North Carolina, that this motion is not debatable.

Mr. VENABLE. I know that the truth is very often not debatable. I merely throw out those remarks for the consideration of the committee.

The question was then put, and the bill was passed over informally.

#### PROTECTION OF THE TERRITORIES.

The CHAIRMAN stated as the next business in order, House bill No. 259, being a bill to provide for the protection of the Territories of New Mexico and Oregon.

The bill was read, as follows:

*Be it enacted by the Senate, &c., That the President be, and he is hereby, authorized to cause arms to be distributed among such portions of the inhabitants of New Mexico and Oregon as he may deem advisable, and under such regulations and precautions as may be considered necessary to insure the preservation of said arms, and the application thereof to the defense of the said Territories.*

*Sec. 2. And be it further enacted, That the President be, and he is hereby, authorized, whenever he may deem it necessary for the protection of said Territories, or either of them, to call out all or any portion of the militia thereof, or to accept the services of one or more volunteer companies which may be raised therein; and the volunteers and militia so called into service shall be entitled to the same ordinary monthly pay and allowances as were provided by law for volunteers while in the service of the United States, under the act entitled "An act providing for the prosecution of the existing war between the United States and the Republic of Mexico," approved May 13, 1845.*

The bill was read through by the Clerk.

Mr. PEASLEE. I desire to call the attention of the committee to the provisions of the bill now under consideration, as I conceive it to be an important one, and entitled to their favorable action.

The first section of the bill authorizes the President to distribute arms amongst such portions of the people of New Mexico and Oregon as he may deem advisable and necessary for the protection of the inhabitants of those Territories. It also requires him to take such precautions, and adopt such regulations as to their delivery, as shall insure their preservation, and their application to the defense and protection of the people of the Territories.

We have a plenty of arms now lying idle in our arsenals—over six hundred thousand stands, including muskets, rifles, pistols, musketoons, and carbines, and under such guards and restrictions as the bill imposes to insure those distributed being placed in trustworthy and responsible hands, and to prevent their being sold or improperly used, no loss of any consequence would accrue to the Government from this course, unless the power given to the President should be abused, of which there is as little apprehension in this case as in any whatever.

The arms will never be more needed than they are at present, if as much so; and it should be remembered that such are the changes and improvements made, and continually making, in the manufacture of fire-arms, that those on hand may become comparatively valueless for use against an enlightened enemy.

The second section authorizes the President, whenever he may deem it necessary for the protection of these Territories, or either of them, to call out the militia that may be organized, or accept the services of such volunteer companies as may be raised. This part of the bill only authorizes to be done in the Territories what has always been understood to be authorized by the law of 1795 in the States, as to their militia.

It would seem that the right or authority to exercise this power, if it should exist anywhere, ought to exist and be exercised for the benefit of a people who are surrounded by hostile tribes of Indians, who, separated into small predatory bands, oftentimes overrun the country, destroying crops, driving off whole herds of cattle, frequently murdering the inhabitants, or carrying them into captivity, and who are a source of constant terror and annoyance. Of these occurrences we have frequent and almost daily accounts. We have heard of depredations committed last fall by the Apaches and Navajos at the Copper mines, which resulted in their carrying off a hundred and seventy head of stock, belonging to the Army, and to the Boundary Commission—or, which is all the same, to the Treasury of the United States; and we have had more recent accounts of their stealing, under the eye of the garrison of Fort Conrad, forty mules from the troops; and, although hotly pursued by our dragoons, escaping with their booty; of their

running off with about the same number of animals from near Fort Fillmore; of their robbing and killing Mr. Brent, the lamented and distinguished member of the Legislature from Santa Fe, and his servant; of their entering La Joya, a Mexican town in the valley of the Rio Grande, and, after a regular battle, succeeding in carrying off all the stock they wanted, besides killing a number of New Mexicans; of their behaving in like manner with the inhabitants of Polvadera; also, of a small band of Apaches surprising three citizens from the village of Leimiter, and murdering them; of their entering the suburbs of El Paso, and killing four men; of their destruction of the mail party near San Antonio; of their attacking ten dragoons, who had in charge a United States wagon, returning to Fort Conrad, killing four of them, and wounding several, and taking off the wagon, with the mules; of their carrying off a hundred head of stock, and killing two non-commissioned officers near Fort Webster; all these outrages, and doubtless many others, were committed within the space of two months. The very last accounts that I have seen from New Mexico, show that the Indians are continuing their depredations to an alarming extent; that meetings are being held to memorialize Congress on the subject; and that the people are in a state of the greatest distress and misery.

I saw in a paper this morning, that on the 16th of March last, the Indians killed one man below Socorro; on the 18th, that one man was killed at Socorro and eight oxen stolen; that about the same time they took three Government mule teams and wagons, on their way from Albuquerque to the mountains, and that six men only could be mounted at headquarters for their pursuit; that of an express, sent by Major Emory to Mr. Bartlett, of the Boundary Commission, with dispatches, the whole party, numbering some fifteen men, had been killed; that a party of seven men, hunting up some pack-mules, were surprised and inhumanly murdered, near the mouth of the Colorado, by a very large party of Indians armed with clubs; that there were six soldiers and one citizen teamster, who were herding the animals of Major Fitzgerald, cut off from the camp by a body of more than two hundred Indians, and killed; after which the Indians made an open attack upon the camp, and were repulsed with the loss of four killed, and many wounded. A people so situated ought, at least, to have on hand, and be as liberally supplied with the means of defense and protection as the inhabitants of the older States, who are not subjected to such outrages, threatening the safety of all. It will be recollected, too, that the nature of the country affords but little for the support of an army, and that the transportation of the stores, provisions, and munitions of war (many of them perishable in their nature) for our troops, in wagons over so great a distance as to New Mexico, is exceedingly expensive; and also that the country, covered with thickets as bad as any in Florida, interlaced with an intermediate network of sloughs, abounding, as it does, in places of refuge and concealment, renders it easy for the Indians to avoid the troops, and is remarkably favorable for this predatory warfare.

The New Mexicans, too, could probably be far more effectually employed than any regular troops in expeditions against the hostile Indians, whose mode of fighting is familiar to them, and does not strike them with that degree of terror with which it inspires those men who enlist on the regular establishment.

We cannot, without impeachment both to our justice and our humanity, abandon the people of New Mexico to the plunder and rage of their savage enemies. And when we consider the warlike disposition of the Indians in general, and the alacrity with which the victors are ever sure to be joined by numerous allies; and when we know, too, that the savages place all their glory in deeds of war; and that among them a young man cannot make his appearance in company until he has signalized his valor by some martial achievement, it behooves us to encourage, instruct, and assist in every possible way our fellow-citizens, thus situated, that they may be able and prepared to defend themselves.

The theory of our Government is, that (instead of relying upon a large standing army) arms should be placed in the hands of all the people, and that they should unite for the protection of life, property, and freedom, and be themselves ever

prepared to meet the shock of battle. The few American-born citizens residing in New Mexico, are doubtless well supplied with arms; but the New Mexicans are *destitute*, may be said to be *entirely destitute*, of any fit for service. What can be expected of a people thus deprived of the means of defending themselves or others, if acting under the consciousness of universal contempt and individual distrust? Would it not be better, far better, to endeavor to elevate them to the character of agents, upon whom devolves the duty of assisting in propelling this Government towards the end sought in its institutions? And will not the distribution of arms and books of tactics—the organization, discipline, and instruction of militia companies—the habit of exercising the privileges of freemen at the polls, of investigating the affairs of Government, and the conduct of public officers, have a tendency to give greater intelligence, industry, and exaltation of character, and to fasten immovably the affections of this people upon the political institutions of their country, and to excite every just feeling of national and individual pride?

There is another point it would be well for us to think of at an early date. By our treaty with Mexico, we are in fact made a party to their border Indian wars. If we were to be involved in general Indian hostilities in New Mexico, where the fastnesses of the country would enable them to hold out perhaps for many years, who could estimate the expense which would result from it, especially if we receive no aid from the inhabitants? It is said the Florida war cost \$40,000,000; if so, the cost of a similar war in New Mexico might exceed \$200,000,000. Shall we, then, afford to our well-disposed citizens no means, no encouragement, no power to defend themselves, and keep down those border difficulties, which have for years desolated the Mexican States; and thereby save millions of dollars to the Treasury, and thousands of lives of our fellow-citizens?

The bill further provides, that the militia and volunteers, when called into service, shall receive the same rates of pay allowed under the act of 1846 to the volunteers in Mexico and Texas, which is a trifle larger than the allowance of the United States troops. This will not be objected to when we consider the sacrifices to which they would be subjected when called off for a temporary purpose from their regular pursuits on a sudden emergency; and when we consider, also, that labor and every species of supplies are dearer in New Mexico and Oregon than they were in Texas and Mexico, where the same pay was allowed.

Mr. RICHARDSON, (interrupting.) I desire to call the gentleman's attention to one fact. I do not think there is any difficulty in relation to the provisions of the second section. The question, however, might arise, in relation to the allowance to be given these militia and volunteers, whether they would not also be entitled to the bounty land to which the volunteers in Mexico were entitled?

Mr. PEASLEE. In answer to the gentleman's inquiry, I would inform him that the same point had occurred to me, and thank him for alluding to it. I have made inquiry at the Pension Office Department, and was informed that bounty land would not be allowed under this provision.

Mr. RICHARDSON. I ask the gentleman from New Hampshire to permit me to make one other inquiry. I am in favor of the bill. I think the best means we can adopt for the purpose of defending our frontiers are those proposed in this bill. But I desire to inquire of the gentleman whether a like provision is made to distribute arms in the State of California and Texas, where depredations are likewise committed? If not, I would suggest that the bill be so modified as to include those States.

Mr. PEASLEE. In answer to the gentleman's inquiry, there is no provision for the distribution of arms to the States of Texas and California, as proposed by the bill, to the Territories. Those States and the Territories, however, are entitled to receive their annual quota of arms, according to the number of their militia, if they comply with the requisitions of the law. But the latest returns show our whole militia force to be 2,211,174 men. This will give only 5.18-100 muskets, with the requisite equipments, per 1000 militia men. A 6-pounder cannon, mounted and equipped, is rated as equivalent to 47.57-100 muskets and equipments. One cannon so furnished will, therefore, absorb the quota due to 9183 men.



It will be a long time, as the committee perceive, before the people of the Territories, or the new States alluded to by the gentleman from Illinois, could be armed under the general law. I have no objection to the amendment proposed by him, and will vote for it; but as the subject was not brought before the committee for whom I reported this bill, by any petition or application, it was not acted on by them.

It will be recollected, Mr. Chairman, that the President, in his annual message, and the Secretary of War, in his last report, recommend substantially the same measure now before the committee.

They recommend that every facility and encouragement should be afforded in these Territories to the formation of a local militia, in which they are now almost entirely deficient. As the first step towards the accomplishment of this object, it is important that the Executive be authorized to distribute arms among such portions of the inhabitants as the bill proposes, and the committee who have had this bill under consideration are fully persuaded that the advantages which would result from the adoption of this measure, in familiarizing the people with the use of arms, in inspiring them with confidence, and in encouraging the formation of militia companies, would far more than compensate for the trifling expense that would attend it. The very fact that the inhabitants were known to be armed would tend to intimidate the Indians, and save to some extent the necessity of their use.

Colonel Sumner, the intelligent commanding officer of our troops in New Mexico, in a letter from Fort Union, addressed to the Secretary of War, in October last, says: "Our system of shielding this people entirely must have a tendency to debase them. They never can become respectable American citizens, until they are able and willing to assist in defending their own firesides;" and he suggests that it would be well to organize several companies of Mexican volunteers, to receive army pay and rations when called out by the proper authorities, and only then. He advises that they be furnished with arms, and would have them instructed and encouraged in every possible way. This, he says, would make them respected and feared by the Indians there. The same remarks apply with equal force, and perhaps greater, to the people of Oregon, (so far as relates to the distribution of arms and the encouragement of a local militia,) for they are further removed from assistance, and have within their borders sixty tribes of Indians, although some of them are small.

As an additional reason for adopting this course, I am informed by the Secretary of War, that partly on account of the scarcity of forage in New Mexico, and partly with a view to afford protection to emigrants on the route to Oregon, several companies of dragoons now stationed in New Mexico, will probably be withdrawn, whereby the regular force assigned to the defense of this Territory will be considerably reduced.

The Constitution guarantees, not by implication, but in express terms, "protection of person and property" to the inhabitants of these Territories, as well as to all other citizens of this Republic. By the eleventh article of the treaty of Guadalupe Hidalgo, too, we are bound to protect the Mexican frontier against our Indians; and this frontier is equally exposed with our own Territories to their hostile incursions. Congress failed to raise the additional regiment of mounted men, recommended by the Executive at the last session, for the protection of our southwestern frontier and the adjacent Mexican States against the Indian tribes within our borders. The military force now stationed within the Territories, although forming a large portion of the army, is represented as entirely inadequate for the fulfillment of our treaty stipulations with Mexico, and to afford that "protection" which we are bound by our constitutional obligations to afford to all of our citizens. This measure is urged as all-important by the Delegates from the Territories of New Mexico and Oregon. It may be the means of saving the lives of many of our citizens and much of their property, and of saving the Government, too, a large amount of money by aiding in preventing those border difficulties and depredations of our Indians upon the Mexican frontier, which we are bound by our treaty stipulations to prevent, and in the transport-

ation of the stores, subsistence and munitions of war, about nine hundred miles in wagons. It is a measure asked for by the President, to enable him to discharge his duty; the bill, too, in the form in which it has been reported and unanimously agreed upon by the committee, I am authorized to say, meets with the entire approbation of the Secretary of War in all its provisions, and I believe also of the Commander-in-Chief of the Army. It will be attended with but little comparative expense, and I hope the committee will not hesitate to adopt it at once, as an act of justice to the people of the Territories, and economy to the Government, and demanded alike by interest and duty.

Mr. PHELPS obtained the floor.

Mr. RICHARDSON. I ask the gentleman to yield for a moment, in order to enable me to offer an amendment. I propose, as an amendment to the bill, to insert after the word "Oregon," in the second section, the words "and the States of Texas and California."

Mr. PHELPS. I do not concur in opinion with the gentleman from New Hampshire [Mr. PEASLEE] as to the propriety or expediency of the first section of this bill. I desire as much as he can, and I desire as much as the Delegate from New Mexico can, that protection shall be extended to the people of New Mexico. I am as well aware as he is, or as the gentleman from New Hampshire [Mr. PEASLEE] can be, that there are depredations and murders committed by the Indians almost daily upon the inhabitants of New Mexico. But the inhabitants of that Territory are more peculiarly situated than the inhabitants of any other Territory. A large class of those citizens have recently been obliged to change their allegiance by no act, wish, or will, of their own. They have been transferred from Mexico to the United States, and it cannot be expected, among the ignorant Mexican population of that Territory, that any very great good-will or kind feeling should be manifested or entertained towards the American citizens who may be residing among them. You may divide the population of New Mexico into four classes: There is, first, the native-born Mexicans, who became citizens of the United States by the treaty of Guadalupe Hidalgo—

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that that body had passed House bills of the following titles:

An act for the relief of John W. Robinson;  
An act for the further relief of Robert Milligan;  
An act for the relief of Sylvanus Blodgett; and  
An act for the relief of Sylvanus Greer.

The Senate have also passed bills of the following titles:

An act to regulate the compensation of the district judge of the United States for the district of Massachusetts;

An act to provide for the removal of obstructions in the river Savannah, in the State of Georgia, and for the improvement of the same;

An act for the relief of Sarah D. Mackay;

An act for the relief of William Bédient, late a

sergeant of the fourth regiment of artillery;

An act for the relief of Robert Armstrong;

An act for the relief of Guion & McLaughlin;

An act for the relief of Theodore E. Elliott;

An act for the relief of Barbary Reily;

An act for the relief of the legal representatives of Noah Miller, of Lincolnville, in the State of Maine, and the relief of other persons;

An act to amend and extend the provisions of an act entitled "An act for the relief of the widows and orphans of the officers, seamen, and marines of the United States schooner Grampus, and for other purposes," approved June 15, 1844;

An act for the relief of John McVey;

An act for the relief of Gad Humphreys;

An act for the relief of Nancy Bowen;

An act for the relief of Lafayette McLaws, of the United States Army;

An act for the relief of Richard King;

An act for the relief of the sureties of Daniel Winslow; and

An act for the relief of Rosanna Sowards;—

In which he was directed to ask the concurrence of the House.]

Mr. PHELPS (resuming.) I was remarking that the population of New Mexico might be divided into four classes. The native born Mexicans, who became citizens of the United States by the treaty of Guadalupe Hidalgo. The native

Americans, who have emigrated from the States to New Mexico, and have resided there for some length of time. The Pueblo Indians, or the civilized Indians, inhabiting the towns and villages, who by the laws of Mexico were recognized as citizens, and entitled to the rights of citizenship, and it is contended that these Indians are citizens of the United States by virtue of the provisions of the treaty of Guadalupe Hidalgo. And then there is a fourth class, consisting of the wild Indians who, inhabiting the mountains, make incursions into the cultivated regions of the country, and commit these murders and robberies. Those murders and robberies are committed, as well upon the Pueblo Indians as upon the white citizens residing in that Territory. I do not profess—for such has been no part of the duty assigned to me as a member of this House—to know how far the military laws of the United States extend to the Territories, but my impression is, that there is no law of the United States authorizing the organization of the militia in the Territories of the United States. The act of 1792, the main provisions of which are now in force, only extends to the States. By the provisions of this bill, you authorize the President of the United States to cause arms to be distributed among such portions of the inhabitants of New Mexico and Oregon—but I have nothing to say in relation to Oregon, and confine my remarks entirely to New Mexico—as he may deem advisable. If these arms are to be distributed to the inhabitants of New Mexico, there is as much necessity for their distribution to the Pueblo Indians, as there is to the Mexicans who have become citizens of this country. The American-born citizens who are there need no arms to be distributed to them. There is no American-born citizen in the Territory of New Mexico who is not, at this time, as well armed as he would be if you pass the first section of this bill, and distribute arms to them. Nor is there a single citizen in Oregon Territory who is not armed, and they have gone out there—have crossed the Plains—as well armed, as a soldier is armed for the field of battle.

I tell you that the people who are inhabiting the Territories and living on the frontiers, do not need arms to be placed in their hands—I mean our native-born citizens—for the purpose of protecting themselves. I ask the Delegate from the Territory of New Mexico, [Mr. WEIGHTMAN,] if the American citizens in New Mexico, when traveling there, do not go armed, as much as if they were engaged in the military service of our country?

Mr. WEIGHTMAN. I have to reply to the honorable gentleman from Missouri, that the American portion of the population of New Mexico have arms, but they comprise but a mere handful of the people of New Mexico. They do not exceed eight hundred; and those eight hundred will be very insufficient to carry out the objects intended by this bill—the protection of the people of that Territory. And further, I stand here and say that they, as a general thing, do not desire the protection of the people of that Territory. The whole population of New Mexico, as shown by the census, is 61,547, and this includes the Pueblo Indians, a very respectable class of the community.

Mr. PHELPS. Certainly; a very respectable and industrious class they are.

Mr. WEIGHTMAN. Out of that number, there are of persons born in the States, five hundred and thirty-eight, and no more; and of persons born in other foreign countries, two hundred and sixty-two, making in all only eight hundred people, other than New Mexicans, in the whole Territory.

Mr. PHELPS. I do not at this time want the others armed, except when called into the military service of the country. The gentleman from New Mexico has answered me, and has answered as I knew he must answer, that the American-born citizens are all of them armed. He has furthermore stated to this House, that there are about eight hundred of them, and that they do not desire the Mexican inhabitants to receive arms.

Mr. WEIGHTMAN. I did not say that; and perhaps it may be as well now to remind the House, what I told them before, that I have accompanying me from New Mexico, an escort of seven or eight persons, (though I cannot call it an escort of honor,) who come here for the purpose of defeating everything like beneficial legislation for that country. One of them stands behind the gentleman now.

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Mr. PHELPS. The gentleman will excuse me, if I desire him to confine himself to the subject-matter under consideration. I understand him to remark, that those New Mexicans who are here desire not to see the Mexican citizens armed. Well may they desire it. Well may they express such a request. I had occasion, a day or two since, to refer to the last information received from New Mexico. And what is that information? It is that the Governor of this Territory had released the prisoners confined in jail in New Mexico, because there was no money with which to purchase provisions for feeding them. The Governor, in his notification to the prefect of Santa Fé, advised him to call out an additional police, for the purpose of protecting the property and the lives of the citizens of New Mexico. In addition to that, the same express brings the intelligence that Governor Calhoun is in fear of an insurrection, and that rumors of an insurrection are hourly reaching Santa Fé, and I have seen dispatches brought by this express from New Mexico, which confirm these statements.

Now, when fears are entertained by the Governor of New Mexico, when the latest intelligence you have states that there are rumors of an insurrection, when the very day upon which an attack is to be made upon the "Exchange," in the city of Santa Fé, has been designated, will you place arms in the hands of those men who will perhaps use them to subvert the authority of the Government in that Territory?

I believe, myself, that the second section of this bill is a just one. I am in favor of calling upon the militia. I am in favor of calling volunteers, in this distant Territory, into service, instead of depending so much upon the regular force there. I believe they are far more active and more efficient men, more accustomed to traversing the plains, and with the habits of these Indians, than the regulars. In short, they are better Indian fighters than regulars. They are much better fitted for the defense of that country than all the regulars you can send there. Hence it is that I oppose the first section of the bill, and am in favor of the second section.

I go as far as the gentleman from New Mexico [Mr. WEIGHTMAN] can ask for the protection of those people; but are you going to distribute arms, and place them in the hands of a people, whom the Governor of that Territory believes to be now meditating an insurrection? I know not from what cause it has arisen; I know nothing about it, except from this letter of the Governor, addressed to the prefect of Santa Fé, to which I have referred, that he must advise the civil authorities of Santa Fé to call out additional police, to protect them from the consequences of the act which the Governor himself has perpetrated upon them.

I am aware, Mr. Chairman, that there is some hostility existing between the American citizens and the people of New Mexico. I do not come here prepared to enter into the discussion of the origin, or of the cause of that hostility, nor will I; for I desire to speak directly to the bill. I am aware that there was a difficulty, which occurred at some of the elections which have taken place in that Territory; that a gentleman by the name of Burdett, from the State of New York, was killed at that election. I am aware that a very respectable citizen of the Territory of New Mexico, and formerly of the State of Missouri, (Mr. Skinner,) a man who has been honored with the confidence of the people of the county in which he formerly resided, and who afterwards became a citizen of New Mexico, was slaughtered when visiting the house of Armijo, one of the most wealthy and influential native Mexicans; that he was basely murdered, or, to take the other version of it, that a manslaughter was perpetrated, in a quarter where few American citizens resided.

It is confidently stated that, upon the grand jury which was impaneled at the time, it was expected that an indictment was to be found against him. There were some members who were present when Skinner was murdered, and who were relatives of Armijo, and who were themselves implicated in the commission of this crime.

Mr. WEIGHTMAN. Will the honorable gentleman be good enough to say who were the officers of that court?

Mr. PHELPS. I do not know.

Mr. WEIGHTMAN. Were they not United States officers?

Mr. PHELPS. Most assuredly they were the United States judges. I thought you inquired their names.

Mr. WEIGHTMAN. Who was the prosecutor?

Mr. PHELPS. They were United States officers; but the question may arise, under what laws that court was held—what laws were in force in that Territory providing for the impaneling of a grand jury, and whether the Legislature of New Mexico had made any provision in relation to the impaneling of a grand jury, and for challenging the persons summoned upon that jury.

These are some of the causes which, I presume, have produced feelings of hostility between the citizens of that Territory of different origin. But this is foreign to the subject under discussion. I am aware of the recommendation of the Secretary of War, to which the gentleman from New Hampshire [Mr. PEASLEE] has referred. I will read it. It is in his annual report:

"I would suggest that every facility and encouragement should be afforded to the formation of a local militia, in which our new possessions, like all the Mexican States, are very deficient. As the first step towards the accomplishment of this object, I would recommend that the Executive be authorized to distribute arms among the inhabitants. I am fully persuaded that the advantages that would result from the adoption of this measure, in familiarizing the people with the use of arms, in inspiring them with confidence, and in encouraging the formation of militia companies would more than compensate for the trifling expense that would attend it. The very fact that the inhabitants were known to be armed would tend to intimidate the Indians. The distribution should, of course, be made with such precaution as would prevent their being sold or converted to an improper use."

These are the remarks of the Secretary of War. I cannot concur with him in this recommendation; but I do believe that if you desire to keep down the incursions of these Indians—if you call for two or three, or as many volunteer companies as may be needed, which would be composed partly of American-born citizens, and a portion of the Mexican-born citizens, and will place them in service together, where they will be compelled to defend themselves, they will be found more efficient than all the dragoons and infantry that you can send to that Territory, and it would, in my opinion, be a cheaper mode of defense than the present system. I do not wish to dispense with regulars altogether; but desire a force composed of regulars and volunteers for the defense of the Territory.

Mr. Chairman, there was a little matter to which the gentleman from New Mexico [Mr. WEIGHTMAN] had occasion to refer. He spoke of my sources of information of affairs in New Mexico, and seemed to think I acquired all my information from gentlemen residents of that Territory, and now in this city. I freely admit, however, that nearly all the information which I have obtained of the affairs of New Mexico has also been confirmed or corroborated by the letters of the correspondents of the St. Louis Republican and of the St. Louis Intelligencer; and I understand that one of the correspondents of the St. Louis Republican is the present Secretary of that Territory.

Mr. WEIGHTMAN. No; he is not now the Secretary of that Territory.

Mr. PHELPS. Well, perhaps he may have just resigned. I mean Mr. Allen. I have also been informed by one of the editors of that paper, that their correspondents in New Mexico had every means and opportunity of procuring reliable information, and that they were gentlemen of intelligence and veracity. I have proceeded upon that information. That is the source from which I have derived the greatest part of my information. The gentleman from New Hampshire, [Mr. PEASLEE], has alluded to the necessity of defending the frontiers between New Mexico and Mexico from the incursions of the Indians, and has referred to our treaty obligations with Mexico upon that point, and urges that the inhabitants of New Mexico

shall be furnished with arms in order to prevent these Indians from marauding within the limits of the Republic of Mexico.

How much do you expect to be able to defend from any incursions of the Indians in the Territory or Republic of Mexico by furnishing the inhabitants of New Mexico with arms? You will not prevent these incursions from being carried on, but, on the contrary, you will only tend to increase them by driving these Indians off from their accustomed haunts of thieving and robbing, and send them to prowl upon their neighbors, and upon other portions of our territory.

The wild Indians who inhabit this Territory are not in a destitute condition. They possess stock, and raise a sufficient amount of grain for their subsistence; but they come down from their mountains into the plains and valleys of the Rio Grande for the purpose of stealing and driving off the stock of the inhabitants. If they cannot do this stealthily, some person is generally killed on one side or the other in their forays. It is not want that impels these Indians to make these incursions. It is not a starving tribe that commits these murders and robberies. Many people in the old States imagine the reason these robberies and murders are committed by the Indians is, that they are impelled by necessity to preserve themselves from starvation, or by some outrage perpetrated by the white man. No doubt such has been the case sometimes, but I do not believe it to be so in New Mexico. Ever since we have known anything of that Territory we find that the Indians have considered the white inhabitants of Mexico, residing within that Territory, as persons placed there to raise stock for the Indians to plunder and drive off. It is a system of rapine and destruction which has been pursued by the Indians for the last twenty or thirty years. They have driven off so much stock that, on the same portion of the Territory of New Mexico from whence annually many flocks of several thousand of sheep were driven, thirty or forty years ago, to the city of Chihuahua, and from thence to Sonora and other portions of Mexico, you can hardly find a flock of sheep. They have plenty of subsistence in their own mountains. They raise their corn and stock there. But they come down from a mere love of plunder, and from a hope to expel the white man, who has taken their country and encroached on them, by waging war against him. They seek to drive him off.

I am aware the Mexicans are not well supplied with arms; in fact they have but few, and those have been mainly obtained since we conquered that country. It was not the policy of the Mexican Government, perhaps for the want of means, to arm its citizens in New Mexico. The greater part of those people have become citizens. They are of themselves without the means of defense. They look entirely to the Government for protection. If arms were distributed to them, they would pass by sale or barter from one to another until they might pass into the hands of some of the Indians. The tribes of wild Indians inhabiting that country are divided into bands. Some of them receive presents from the Government; some have made treaties with us. But I believe it has occurred whilst one band of a tribe has come in to have a talk with their Father in the Territory, and receive presents, another band of the same tribe is in another part of the Territory robbing the citizens of their stock, and perhaps committing murders. These robberies and murders are as often committed against the Pueblo Indians as against the white man. And that class of people are the most quiet, peaceable, industrious, and unoffending of the citizens of New Mexico, and by some who have visited that Territory, are termed its best citizens. I mean of those which we have acquired by the treaty with Mexico.

I hope the second section of the bill, which provides for calling out volunteers should additional force be needed in the Territories, will pass; and for the defense of New Mexico, I hope those volunteers will be raised in that Territory. If called into the service, they will be armed by the Government. I have made inquiry if there is a

supply of arms for that purpose, and am informed at the War Department, that there is now in the depot at Fort Union a large supply of muskets, musketoons, and rifles. These volunteer companies would be composed of citizens Mexican and American by birth. Being brought into immediate contact with each other, and engaged in a common cause—their own protection and defense—much, very much, would be done to remove their mutual prejudices. I cannot consent to furnish the inhabitants of New Mexico with arms, until they are called into the military service of the country. I cannot consent, when we have the rumor of an insurrection in that Territory, to vote that arms may be placed in the hands of the inhabitants of that Territory, to be, perhaps, hereafter used in a more formidable insurrection—to arm those whom perhaps we may be compelled to chastise—to place weapons in their hands to be used against the legal and constituted authorities of the Territory.

These are the reasons why I have felt it incumbent upon myself to oppose the first section of this bill; at least, so much of it as applies to the Territory of New Mexico.

Mr. RICHARDSON. It is very apparent that we cannot get through with the territorial business unless we terminate debate. I move that the committee rise.

The question was then put on the motion, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported, that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the special order, being House bill No. 259, and had come to no conclusion thereon.

Mr. RICHARDSON. I move that all debate in the Committee of the Whole on the state of the Union upon bill No. 259, be closed in fifteen minutes after the committee shall have again resumed its consideration.

The question was then put, and the motion was agreed to.

Mr. LOCKHART. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, upon the special order.

The question was then put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee, in the chair,) and resumed the consideration of House bill No. 259.

Mr. WEIGHTMAN. The object of this bill has been well explained by the chairman of the Committee on the Militia. It has for its object the distribution of arms, ammunition, &c., to the people of New Mexico and Oregon, to enable them to protect themselves against the incursions of the savage Indian foes who surround them.

The measure proposed by this bill has been recommended by the Secretary of War, by the General-in-Chief, by the Quartermaster-General, and I believe, by the Interior Department. It is recommended as a measure of defense, and as a measure of economy.

Besides being recommended, it has to a certain extent been carried out by the present commander of the troops in New Mexico, Colonel Sumner, without express authority of law, because of the urgent existing necessity of such a step in New Mexico. And yet the honorable gentleman from Missouri [Mr. PHELPS] objects to placing arms in the hands of the people of New Mexico.

That Colonel Sumner has issued arms to the people to a certain extent in order to their self-protection against Indians, I know from a communication of a Mr. Merritt to the Santa Fé Gazette, who mentions the fact as a reproach on Colonel Sumner, who is charged by this person with, by this act, degrading the Army.

The acts and doings of Colonel Sumner, whose fame is of record in the military history of the country, have met little of the approbation of a certain class in New Mexico, whom the honorable gentleman from Missouri [Mr. PHELPS] represents on this floor. The Governor of New Mexico is not approved by this class, nor the people of the country. Yet the previous character of the officers I have named would justify the belief that they desire to perform the duties which their Government has confided to them, and reason and common sense would induce us to believe that

the people desire to promote their own welfare and happiness. Yet those whom the honorable gentleman represents, object to people, governor, and commander of troops.

The difficulty is, that the persons whom the honorable gentleman represents, are in nowise interested either in promoting the general prosperity of the people I represent, or in the protection of the country against Indian invasion. They do not like the late movement of the troops from the towns to the frontiers. Though most persons would suppose that this was a good movement, as against Indians who are not residents of the towns, the friends of the honorable gentleman do not approve.

Few or no contracts are now given out. The corn and grass trade is ruined, and the price of calicoes has come down.

How is the giving out of contracts to be stimulated—the corn and grass trade revived, and the price of calico to be advanced?

Much could be done if the troops could be recalled from the frontier again to garrison the towns.

Rumor upon rumor has been put afloat in New Mexico of "war between the races," of "danger to American lives," and insurrectionary movements. To some of these the honorable gentleman has alluded, and, indeed, what was rumor in the beginning and rumor at last, he has assumed as fact. He has alluded to the death of Mr. Skinner, which he has characterized as a "brutal murder," committed by a Mexican. This matter was examined into by the chief justice of New Mexico, a countryman of the deceased, and not a Mexican, who, after a careful examination of witnesses, a number of whom were friends of the deceased, gave the opinion I now read:

#### OPINION OF THE COURT.

"The testimony in this case establishes, with reasonable certainty, these facts: 1st. That the deceased, before and at the time of his death, cherished feelings of a hostile character towards the accused. 2d. That, in accordance with these feelings, he had threatened him with personal chastisement, of a nature the most degrading to an honorable mind. These facts are proved by the witness, Thomas. He states that he had no reason to suppose that the threats were pointed at Ambrosio Armijo; and the deceased having made the assault upon the accused immediately after an interview with Ambrosio, the reasonable presumption is, that they were aimed at the accused. 3d. That at the time the attack was made, the accused was in his store, engaged in his ordinary pursuits; and that the assault upon him by the deceased was a matter of surprise, and wholly unexpected. 4th. That the deceased entered the store with a hostile intention, and armed for deadly conflict. 5th. That prior to the giving of the fatal blow, several other persons became engaged in the conflict.

"In view of these facts, suppose the deceased had killed the accused, what would have been the character of his crime? Bearing malice against the accused, as it appears he did, he would have incurred the guilt of murder of the darkest dye. A man's house has been styled his 'castle,' and the law holds it sacred from all unlawful intrusion. But this was a store, and it may be said that all persons might lawfully enter there. True, all persons might, during proper hours, lawfully enter, provided it be for a lawful purpose; but against the intrusion of all persons actuated by unjustifiable motives, the law holds it as sacred as it does his dwelling, the earthly sanctuary of his family.

"When the deceased entered the store in the manner shown by the evidence, and presented his cocked pistol at the breast of the accused, had he cause to apprehend that great bodily harm was about to be inflicted upon him? That he had, the court is satisfied, and had he then taken the life of the deceased it would have been a clear case of justifiable homicide, and the court would not have hesitated a moment to discharge him.

"So, too, if he had killed him after they got from behind the counter, or after they got out of the store, or at any time before the interference of third persons, provided the deceased still retained the means and the power, and manifested the intention, to do the deceased some great bodily harm.

"It is the necessity of taking the life of an assailant, in order to prevent him doing some great bodily harm, that constitutes the justification in the eye of the law. When that necessity ceases, the justification also ceases. Whether the necessity, which did at one time exist in this case, ceased before the fatal blow was given, is a matter involved in much obscurity, and one about which the court has serious doubts. It would seem that the timely interference of two or three bystanders, properly directed, might have rendered it unnecessary, for the safety of the accused, to take the life of the deceased.

"Considering all the facts and circumstances of the case, in the entire absence of any proof of malice or ill-feeling on the part of the accused towards the deceased, it seems to the court that the highest offense they could constitute would be one of the lower grades of manslaughter.

"The court will require the accused to enter into bond, with one or more good and sufficient sureties, in the sum of \$1,500, conditioned according to law for his appearance at the next term of the district court of the United States, for the third judicial district of the Territory of New Mexico, to be held at the court-house of the county of Bernalillo, on the 25th day of October, 1851, and in default of such bail that he stand committed to the jail of the said county until discharged by due course of law."

In no court in the United States would this be considered a "murder," and in my opinion nothing was established to show manslaughter, or anything else than justifiable homicide.

A man engaged in lawful business, under his own roof-tree, with his pen, an implement of peace, in his hand, who, startled and surprised by the presentation of a pistol at his head in the hands of an enemy, kills his assailant—justifiably kills him, and commits neither murder nor manslaughter.

At the succeeding court, presided over, not by the chief justice before whom the examination was had, but by another countryman of the deceased, Hon. Judge Mower, well known to the delegation from Michigan, the grand jury found no bill against Mr. Juan Cristobal Armijo, whom the honorable gentleman from Missouri [Mr. PHELPS] has said, and said truly, is one of the most respectable men in New Mexico, and I say he will suffer by no comparison with the honorable gentleman himself.

Yet after all this the honorable gentleman says a "brutal murder" has been committed. Who believes it?

This is the horrible case—the "brutal murder" to which the honorable gentleman has alluded, and is one of many rumors which have been circulated and sent to the United States, the tendency, if not the object, of which has been to effect the recall of the troops from the frontier to the towns—from the frontier where they have been ordered to chastise the barbarian enemies of New Mexico, to the towns—for the avowed purpose of protecting American lives, and for the real purpose of insuring a good sale of corn and hay, plenty of Government contracts for the honorable gentleman's constituents, and of advancing the price of calico.

If ever there has been a people who, under our Government, have been harassed and oppressed, it is the people of New Mexico.

After all that has taken place, the neglect of the Government of the United States cannot be excused. I will not here, in my place, under these circumstances, when it is proposed to deny to the people of New Mexico the poor boon of defending themselves against the attacks of the savage foes by whom they are surrounded—I will not extenuate the neglect of the Government, or the conduct which many of my countrymen in New Mexico have pursued towards the New Mexicans. I am here to execute my duty, and I intend to do it without fear, favor, or affection.

The New Mexicans have been neglected by the Government, and maltreated and oppressed by that portion of my countrymen in New Mexico who are represented by the honorable gentleman from Missouri,—persons who have not a single eye to the public good in New Mexico, but another one, also, which squints somewhat towards their own personal profit or loss, and looks beyond to the time when, with the money they may be able to make out of the New Mexicans, they will return to the section in which they do feel an interest. The Governor of New Mexico is opposed by these people, and his offense in their eyes is, that he has stood between them and the people at whose expense they desired to secure selfish and personal ends. Among the apprehensions of the honorable gentleman, is one that the arms proposed to be distributed by this bill will be sold or given by the New Mexicans to the murdering and plundering Indians who are now laying waste their country. I have not the time, in the few minutes allowed me, to take up and consider all the points presented by the honorable gentleman, else I should be happy to do so.

I have before me a table prepared at the Census Bureau, showing the loss of stock in the different counties in New Mexico by Indian depredations, from August 1st, 1846, to January 1st, 1851, from which I will read to the committee:

#### NEW MEXICO.

Counties.	Population.	Stock run off by Indians from August 1, 1846, to January 1, 1851.			
		Sheep.	Mules.	Horses.	Cattle.
Santa Fé....	7,713	16,260	570	267	894
Taos.....	9,507	17,089	1,032	1,764	5,600
Rio Arriba....	10,668	43,489	1,960	658	2,382
San Miguel....	7,074	50,000	7,000	3,000	20,000
Santa Anna....	4,645	154,915	749	989	1,302
Bernalillo....	7,751	171,558	576	372	1,403
Valencia....	14,147				
Total.....	61,505	453,293	11,887	7,050	31,581



These, Mr. Chairman, are startling figures; but the table from which I am reading, prepared at the Census Bureau, goes on and gives the *value* of the protection which the Government of the United States has given to my constituents.

The Census Bureau goes on, in the table from which I am reading, to give the—

VALUE OF STOCK.

453,293 Sheep, at \$1 25 per head.....	\$566,616 25
11,887 Mules, at 50 00 “ .....	594,350 00
7,050 Horses, at 30 00 “ .....	211,500 00
31,581 Cattle, at 12 00 “ .....	378,972 00
	\$1,751,438 25

One million and three quarters is, in itself, a respectable number of dollars, but gives no proper idea of the actual loss in New Mexico. The estimates are all too low; sheep are, at this time, in New Mexico, worth from two dollars and a half to three dollars per head, and cattle, twenty dollars or more per head, to say nothing of mules and horses.

The loss *per annum*, then, in New Mexico, since that country has been under the protection of this Government from Indian depredations, may safely be calculated to exceed \$500,000.

If you, Mr. Chairman, or any member of this committee, who is fond of calculation, please, you can amuse yourself by finding out how many of the children of my constituents, whom the honorable gentleman from Missouri has stated to be so ignorant, might, with this annual sum, be sent to school and educated.

The table from which I am reading shows the number of farms in New Mexico. The number is 3,750. With this additional item the calculation may be varied, and it may be discovered what is the value of the protection afforded to each farmer in New Mexico.

This will give some idea of how far short the Government of the United States has fallen in carrying out the provisions of the treaty of Guadalupe Hidalgo, which was entered into in the NAME OF ALMIGHTY GOD, and by which it was stipulated that the Mexicans in the original country should be protected in *life, liberty, property, and religion*.

As I had occasion to show, in reply to a previous attack made by the honorable gentleman upon my constituents, as well as upon the Governor of New Mexico, the military government, which, for a long time, this Government neglected to abate, as administered by Munroe, not only failed to protect, but actually assailed the *liberty, property, and religion* of my constituents, and up to this hour, savage Indians are permitted to deprive them of *life and property*.

The honorable gentleman from Missouri has, in the course of his remarks, shown that he is aware of the great depredations, and the frequent murders the Indians are committing upon my constituents, and yet he is apprehensive, that if arms are distributed to the New Mexicans, that they will put them in the hands of the Indians, who are now perpetrating all these wrongs upon them.

The statement of the gentleman's proposition is its own refutation.

By the bill under consideration, it is not made imperative on the President to distribute arms, but he is merely “authorized to cause arms to be distributed among such portions of the inhabitants as he may deem advisable, and under such regulations and precautions as may be considered necessary,” &c. The bill is well enough guarded, as has been shown by the chairman of the Committee on the Militia.

Though I, myself, am utterly incredulous in regard to the last rumor to which the honorable gentleman has alluded, of recent apprehended disturbances in Santa Fé, I do not desire to conceal from Congress the fact, that the Governor of New Mexico has paid so much attention to the rumors circulated there, that, like a prudent man, he has taken steps of preparation for unexpected emergencies. I have seen the telegraphic dispatch to which the gentleman has alluded, and the Governor expressly states his disbelief in the story of the “war of races,” the belief of which those whom the honorable gentleman represents have taken so much pains to bring about.

I know something about New Mexican rumors, or I should rather call them *stampedes*, and distrust them all; and particularly do I distrust all those which, by raising a clamor in the towns, tend to-

wards the recall of the troops from the frontier. They smell too strongly of hay and corn contracts, and calico.

The honorable chairman of the Committee on Ways and Means, pending the discussion of the deficiency bill, stated to the House that the expenditure for the army in New Mexico were enormous. The item of house-rents in Santa Fé particularly struck his attention. The honorable chairman read from a table of house-rents, extracted from the accounts of the gentleman who contested my seat, whose memorial the honorable gentleman from Missouri presented to the House when he made his first onslaught on the character of the people I represent.

The chairman of the Committee on Finance, in the Senate, has also spoken of the extraordinary expenditures in New Mexico. He stated that the expenditures of the quartermaster in New Mexico, for the fiscal year ending June, 1851, was about \$300,000, and that of that amount nearly \$600,000 was for forage. This was under the old plan, when Munroe kept the troops in the large towns, by way of whipping the Indians who were on the frontiers, and when the gentleman whom the Committee on Elections so summarily disposed of, and in whom the honorable gentleman from Missouri took so much interest, was the disburser of the funds which came so easy and went so easy.

Colonel Sumner, the successor of Munroe, has changed matters somewhat. He thinks that the enemies he was sent to New Mexico to subdue are the Indians, and not the citizens, and he has removed the troops to the frontier for more convenient fighting. It is true, that this idea of his has rendered him very unpopular with the persons in whom the honorable gentleman from Missouri takes so much interest, because when the troops are moving on the frontier they can get little or no corn and grass for nothing.

The mode of proceeding adopted by Sumner has decreased the Quartermaster General's estimate, for the item of forage alone, \$300,000 per annum. In town, prairie-grass hay is worth from forty dollars to sixty dollars a ton. On the frontier, you can get twice as much for nothing.

Such little differences, amounting in all to (say) only \$1,000 a day, is comfortable picking for the constituents of the honorable gentleman from Missouri. By constituents, I mean those whom the honorable gentleman represents *quoad hoc*, such as the late dispenser of patronage in New Mexico, his clerk, the sutlers, contractors, recipients of quartermaster's jobs, and the gamblers for such beardless lieutenants and disbursing officers' clerks as desire to bet against his bank, who are now, or heretofore have been, in this city attempting to thwart all beneficial legislation for New Mexico.

The gentleman from Missouri acknowledges that he gets his items from these persons, whom I may speak of as my escort, though not escort of honor.

A VOICE. A dishonorable escort.

Mr. WEIGHTMAN. To show the recklessness of the persons in whose behalf the honorable gentleman seems so much interested, how little they care to promote the interest of the Government towards whom they represent all others to be unfaithful, I read from a letter of Governor Calhoun, to the Indian Department:

EXECUTIVE DEPARTMENT,  
SANTA FE, NEW MEXICO, June 30, 1851. }

SIR: For more than a month past insurrection and treason have been rife. You are aware, if I mistake not, that I visited Anton Chico on the 16th of last month, in company with Colonel Munroe and others, for the purpose of having a further talk with the Apaches residing east of the Rio del Norte, and of distributing among them some corn, as they complained of being in a starving condition. Several days before we reached Anton Chico a Comanche delegation arrived, and resolved to await my arrival. On the 14th, two days anterior to our arrival, the Indians departed in great haste. Subsequent inquiries brought to light the fact that they were frightened off by infamous individuals, who stated to them the Americans were gathering for the purpose of murdering all the Indians we could find. Not an Indian was seen, nor could I ascertain who put in circulation the report. Messengers (runners) were sent in the direction of the Bosque Redondo, who fell in with the Comanches who came to this superintendency on the 28th of May. During the ensuing day we had a long talk, in the presence of Colonel Munroe and a number of other persons. During the afternoon the chief, Eagle Feathers, visited me in my quarters, sold to me a captive, manifested perfect satisfaction at all that had passed, and repeated that nothing but death would prevent his visiting me again, with chiefs and others, before two moons should terminate their rounds. Between twelve and one o'clock on the morning of the 30th, these Indians fled from the city, leaving behind

them their animals, arms, robes, and provisions. So soon as I ascertained the fact, I sent out agents in search of them; one only was overtaken, and he returned and stated that, about twelve o'clock at night the chief was called out, by whom he could not tell, and when he returned he stated they must run without a moment's delay, as we were preparing to have them all killed the next day. I sent out persons to have their property returned, a schedule of which you will find inclosed; this was done at a heavy cost, but I could not do otherwise. The Indians in their flight carried off a number of animals belonging to individuals residing between this and Anton Chico; and a widow, who had lost nine, informed me on yesterday all had been returned but one, and nine other articles of no great value, for which she claims indemnification. This return of property was caused by the receipt of their own, which I had sent to them; since then I have received two messages from them, desiring me to visit them, or to authorize them to come in. The latter proposition is altogether inadmissible, and will be so regarded until insurrectionary and treasonable intents are subdued. Ignorant as I am of the purposes of the Government, and entirely destitute of means, the first proposition cannot be entertained; but the end is not yet.

During the present month almost every conceivable effort has been made to induce the Pueblo Indians to take up arms, saying the party in the ascendancy in the Territory intended to take from them their lands and property, and to drive them out of the country or exterminate them.

The Pueblo Indians have besieged, almost, the superintendency during the present month. They held a council here, which lasted the greater part of three days. This council was composed of the Pueblos of Sandia, Santa Ana, San Felipe, Cia, Santa Domingo, Cochiti; and subsequently San Idefonso, Santa Clara, Tesuque Nambé, San Juan, and Taos, sent in delegations, all highly excited. Not one of the Pueblos at this time desire to abandon their old customs and usages; and you may rely upon it these people must be treated with the utmost delicacy, or bloody scenes will be witnessed in this Territory. A delicate induction will bring these people to any point you may desire; but it must be delicate, and protection must be afforded to them.

I have not time to say more, and have the honor to be your obedient servant,

JOHN S. CALHOUN.

HON. LUKE LEA,  
Commissioner of Indian Affairs, Washington, D. C.

The Indians were by false representations frightened out of Santa Fé where they had come to see the agent of the Government, by false information conveyed to them for none other than mischievous purposes. The Indians, as the Governor in his letter states, fled on the morning of the 30th of May.

In the Santa Fé Gazette of that identical date appears the paragraph I now read:

“Query.—Some inquisitive fellow has sent us the following quiz:

“‘Who ran the Comanches out of town?’  
“The same meddlesome fellow that does nearly all the mischief perpetrated hereabouts—Quien Sabe.”

Most persons here would consider such conduct as this very reprehensible; but by the editor of the Santa Fé Gazette, the organ of the friends of the honorable gentleman from Missouri, it is considered an excellent joke—a quiz.

I will mention another piece of recklessness. On one occasion rumors gathered in Santa Fé in the most authentic way that the Mexican inhabitants of Taos county were in a state of insurrection—that American lives were in great danger there—and that the mills of Mr. St. Vrain, a contractor, had been attacked, and burnt to the ground. These rumors came to Santa Fé, supported by apparently the clearest testimony. The distance from Santa Fé to Taos is only seventy miles, and most respectable persons said it was all as true as preaching. Under these alarming circumstances troops were ordered post haste from Santa Fé to Taos to quell the insurrection, and protect endangered American lives. One company of artillery marched from Santa Fé to Taos, (perhaps the force was greater,) and, on its arrival there, found the inhabitants industriously laboring in their fields, and the St. Vrain mills—the burnt down St. Vrain mills—in active operation, grinding flour for the Government. Although this mistake brought some expense to the Government, and gave unnecessary trouble to officers and soldiers, it may be that some corresponding advantage was gained. But this is merely suggestion. It is barely possible that somebody in the county into which the troops marched may have disposed of some corn or forage which otherwise would have been unused.

Other illustrations of New Mexican rumors might be given did time permit. But this, at all events, may be stated: that in the midst of all the clamor of “danger to American lives,” no two of the Americans have ever thought it necessary to come together for mutual protection; but, as has always been the case, are living where business or freak may call them—in frequent instances sin-

gle Americans living in Mexican towns where for a month at a time they cannot have an opportunity to speak their own language, because they meet no one who understands it—doing, in fact, precisely what they did before these rumors began.

That the removal of the troops from the towns to the frontiers, is esteemed, by certain persons, as a very important and injurious affair, and that it has a decided effect on the price of calico and corn—that this is the all-absorbing question with the malcontents of New Mexico, is now beyond question; it is admitted in their organ, the *Santa Fé Gazette*. I read from the number of March 20th, from the Albuquerque correspondent, who, after showing an inamiable temper towards Governor Calhoun, says "it would be a good idea for some person to give to the public a political biography of his Excellency," and then goes on with firstly, secondly, and so on to seventhly, which is as follows:

"Seventhly, recount the means by which the Governor and his friend procured the removal of the troops from the towns to the frontiers, thereby ruining the mercantile and agricultural interests of the Territory. Show the wisdom of the movement by manifesting the falling off in the sale of goods, the difference in the price of corn and wheat, and the ruin that has been occasioned to every interest in the Territory. Show the fatherly and beneficial care the Governor took of us in that movement, by taking thousands upon thousands from the people of the Territory, in order to enable the Government of the United States to economize a little."

An Albuquerque correspondent of the *St. Louis Republican* of September 20th, says as follows:

"I much fear a civil war, as, when this news reaches Santa Fé, no doubt, from the excited state of the public mind, a large body of Americans will be disposed to take the law into their own hands, punish those concerned in this affair, and in that of those who killed Burnett. All this has grown out of the ill feeling of the Mexicans towards the Americans, and if Congress does not do something for us, a general war of the races will be the result."

"Troops will have to be stationed in the towns to prevent bloodshed. Most of the army are now on a campaign against the Navajoes."

So, there we have disease and remedy; the remedy is, "troops will have to be stationed in the towns to prevent bloodshed."

The Albuquerque correspondent seems to be a candid man, and in a future letter he may make a clean breast of it, and say, "troops will have to be stationed in the towns to give us a chance at the contracts, and to make a market for corn and calico."

It may not be amiss to say, that it appears, by the *Santa Fé Gazette* of March 13th, that the merchants keep up their spirits in spite of all the alarm for their lives. This will doubtless be gratifying to the gentleman from Missouri. I read for his benefit:

"The spirits of our merchants are peculiarly high, and in excellent tune, in spite of the hard and pressing times which all complain of in Santa Fé. In the morning you may see them talking in knots of two or three, about politics, the state of the weather, and business prospects, &c., &c.; but without that gloomy and cast-down look always perceptible on the countenance of a city merchant in the States, when business is dull, and a prospect of a speedy failure is before him. In the afternoon, if the weather is favorable, you may see these same merchants, with their respective clerks, exercising their limbs by a game of ball in the plaza, glad at being able to escape from the harassing and absorbing duties of the desk and counter, to gain a little recreation in this manner. They employ their evenings, generally, in letting off fireworks, to the no small entertainment of the natives and strangers in Santa Fé, and to the terror of the canine race; and who be to one if he should happen to get caught, as nothing on earth would save him from having a squib or cracker tied to his tail, fired, and himself started off down the street, yelling and howling as though his satanic majesty, with all his followers, were after him. These innocent amusements, however, have a tendency to keep up the good feeling and fellowship of each other, and is, perhaps, a better mode of passing the time than resorting to the drinking and gambling houses."

To convince the honorable gentleman from Missouri that the danger of being killed by Mexicans in New Mexico is baseless, and the fears of those Americans who wish for the troops in town are feigned, I read from an Albuquerque correspondent of the hanging of a Mexican by several Americans in that neighborhood—an act altogether inconsistent with real fear, and a wanton outrage, in my opinion, without justification, and well calculated to create a belief in the minds of the Mexicans that Americans entertain deadly hostility to them:

"ALBUQUERQUE, February 21, 1853.

"MR. EDITOR: On the 14th instant, we had, in the county of Valencia, an application of the law of the famous Judge Lynch. It appears that, about ten days previous to that time, a German, by the name of Max Wetzer, was barbarously murdered in Belen for his money, some five or six hundred dollars. No clue was had, until about the 11th of

this month, as to who were his murderers. No investigation was had by the authorities as to the cause of his death, no excitement prevailed whatever, and, consequently, no attempt was made to ascertain who the murderers were; but the old adage, of 'murder will out,' was proven in this case, for it appears that a peon who belonged to the Alcalde, called Patricio, had been absent some days from the service of his master, and on the 11th of this month, his master, who lives in the place called Jarrales, heard of his being in the town, and sent for him and put him to work in the field with other peons. Patricio, after working about half the day, threw down his hoe and swore he would not work any longer for his master. The peons who were with him asked him, why? He responded, because he had plenty of money to pay his master; that he and others had killed that d—d gringo in Belen, and they had a whole bag of money. 'What?' exclaimed one, 'do you confess that you helped kill that man?' 'Yes,' says he, 'and what if I did, what harm is it to kill a gringo, they are not Christians, they are heretics?'—and other expressions, going to prove that he regarded it no more of a sin to kill a gringo than to kill a dog.

"One of the peons immediately informed the Alcalde of it, who had the man Patricio seized, and proceeded to examine him as to his accomplices. After many contradictory statements, he told this story: That what he said previously was not true; that he had endeavored by so doing to save his brother-in-law's life; that the truth was, that he and his brother-in-law had gone to the store of Max Wetzer about nine o'clock in the evening; that his brother-in-law knocked at the door; that Max Wetzer had retired, and called out from his bed, who was there? that his brother-in-law responded something in English—he knew how to speak it, having learned in California; that Max Wetzer came to the door and opened it, and was tying his *fiza* or sash at the time; Max and his brother-in-law entered, and were talking and laughing for a few minutes; that he did not understand anything except he heard the word California several times; that he thinks that his brother-in-law asked to buy some articles, and that, as Max jumped on top of the counter, his brother-in-law struck him with the thigh-bone of an ox that he had concealed under his blanket; Max fell over the counter on to the floor, between the counter and the shelves; his brother-in-law jumped over and continued striking him; and that in a few minutes he called out to him at the door, where he had stood watching, that he (Max) was dead, to come in and look for the money; he went in; they broke open a trunk but found no money in it, but at last found the bag of money under the head of Max Wetzer's bed; they took the bag of money and started for the river; they threw away the bone that Max had been killed with, into the river, and his brother-in-law washed some blood off that was on his shirt sleeve; they went into the hills and staid all night; that his brother-in-law agreed to hide the money, and only gave him a dollar out of the bag.

"The brother-in-law was arrested, but denied the whole; but on his shirt-sleeves were marks or stains of the blood that he had washed off at the river."

"The Alcalde committed them both, and on the 14th of the month two men came to the prefect, professing to have an order from the Hon. H. Mower for the prisoners, in order to convey them to Socorro for safe keeping; the Alcalde refused to deliver them, but the prefect, on application, did deliver them up, and the prisoners started in charge of the two men. On the next morning, about three or four miles from where they started, (Jarrales,) the prisoners were discovered hanging to a tree, one of them shot through the body, both of them dead. General satisfaction is expressed by the Americans of the Rio Abajo, and many are of the opinion that it is the *only law* by which the lives of Americans can be secure in this Territory. Among the Mexicans I have not heard of one, as yet, that condemned the act."

I say for this act there was no justification. The murderer was arrested by Mexicans, and was committed by a Mexican Alcalde, and would, without doubt, have suffered by due course of law. But I mention this matter as furnishing conclusive proof that the Americans in and about Albuquerque, which the honorable gentleman has told us is the dangerous neighborhood, have no fears but feigned ones. Such an act as this is utterly inconsistent with fears.

I trust the committee will not, by its action, show a want of confidence in the people of New Mexico. Distrust begets distrust, and confidence begets confidence.

Show, by your legislation, that the Government entertains kindly feelings for them, and those feelings will be reciprocated.

On this subject my constituents feel a lively interest; indeed, it is with them almost a matter of life and death. They are entitled to the protection of the Government, and I doubt not that they will receive it.

The question was then taken upon the amendment, and it was agreed to.

Mr. JONES, of Tennessee. I now offer the following amendment, to come in at the end of the first section:

And that so much of the \$300,000 annually appropriated by the act of 23d April, 1808, for arming and equipping the militia of the United States as may be necessary, shall be used for this purpose, anything in said act to the contrary notwithstanding.

I approve of the general objects of the bill now before the committee; but if it is to pass without the amendment I propose, or something similar, it will be an additional charge upon the Treasury

of the United States, to what is already imposed upon it. By the act of the 23d of April, 1808, which I have before me, there is the permanent annual appropriation of \$200,000, made for the arming and equipping of the whole body of the militia of the United States, including the Territories. Under that act there has been already expended the sum of \$8,800,000, the greater part of which, perhaps, has never resulted in any good to the country, or to the individuals among whom the arms were distributed. My amendment to this section, provides that the expense of arming this militia in the Territories of Oregon and New Mexico, and the States of Texas and California, which have just been added, shall be defrayed out of this annual appropriation of \$200,000, for the purpose of arming the militia. I think that the balance of the country will not suffer in the least by taking so much of that \$200,000 as may be found necessary. Under the second section of this bill, the President would have authority, however, to arm all the troops which he might find it necessary to call into the country, either as militia or volunteers. I hope the amendment will be adopted.

Mr. VENABLE. I have no opposition to carrying out the law, to which my friend from Tennessee [Mr. Jones] has referred; but the amendment which he proposes I think will defeat the object of the bill, which is now before the House. It is a perfect phantom of the imagination that the people of Oregon or New Mexico will furnish the Indians, who are daily plundering them of their property, rendering their lives unsafe, and driving them from their homes, with the arms with which they are furnished, for their own protection, by the United States. It would be to presume that men would war against the instincts of self-protection, and self-preservation. The cheapest and the most efficient mode of protecting our frontiers, is to place arms in the hands of those who have the deepest interest in that protection. But, a friend says to me, let them buy them. The country is worth protecting, and those who have settled our frontier territory, and who are entitled to our protection by the treaty of Guadalupe Hidalgo, have a right to ask for the protection of the Government. I am for the cheapest and most efficient mode of protection, which the interest of the individual settler, his wife and children, demands at our hands.

But I have before me an authority which ought to satisfy the mind of every one. We have the arms on hand, according to the report of the Secretary of War. We have them already in our arsenals, and it will not require the expenditure of a single dime to give us possession of the arms. All that is asked by the people of the frontier, by the residents of New Mexico and Oregon, exposed to the assaults of the Camanches upon the one hand, and savage tribes upon the other, is, that Government should place in their hands arms already manufactured, which are accumulating in our arsenals, which are not in use, and for which we have paid, in order that they may protect themselves and their firesides from the assaults of the savage foe. I do not understand that policy which says that the country is not worth protecting, and that it ought to be abandoned. We have induced men to go to frontier Territories belonging to us, and we are under obligations to protect them. All that they ask at our hands is the use of weapons which have been manufactured at the expense of the Government, which are already paid for, which are now lying useless in our armories, and which every instinct that operates upon the human heart would induce those men residing in New Mexico and Oregon to use for the protection of themselves, their families, and their property. If we wish a cheap protection, this is the one. If we wish to reduce the standing army, this is the way to reduce it. Recur to the history of our country; recur to that history in which, without arms, without ammunition, men resorted to their own rifles and shot-guns to relieve their country from the invasion of a foreign foe. Place in the hands of these individuals who have exposed themselves in settling the frontier, and for whom it is our duty to provide protection, the means of protecting themselves, their firesides, and homes—

[Here the hammer fell.]

The question was then taken upon Mr. Jones's amendment, and there were—ayes 48, noes 47; no quorum voting.

Mr. JONES, of Tennessee, demanded tellers; which were ordered; and Messrs. JONES, of Tennessee, and BAYLY, of Virginia, were appointed.

Mr. JONES, of Tennessee. I ask that the roll be called, as there is no quorum present.

The CHAIRMAN. The Chair thinks that if gentlemen will vote upon one side or the other there would be found a quorum present. That can be ascertained by tellers.

Mr. BROOKS. Will the Chair state the question?

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Tennessee, [Mr. JONES.]

The question was then taken, and the tellers reported—ayes 66, noes 51.

So the amendment was agreed to.

On motion by Mr. CLEVELAND, the bill was then laid aside, to be reported to the House with a recommendation that it do pass.

#### SCHOOL LANDS IN OREGON.

The next bill on the Calendar was House bill No. 260, "to amend the act to establish the Territory of Oregon."

Mr. RICHARDSON. That bill only proposes to give to the Territory of Oregon a privilege which has been given, I believe, to all the States to which land has been granted for school purposes. It proposes that where the land has been taken for any other purpose, or where the section happens to be a fractional one, the people of the Territory shall have the opportunity of selecting other land to the amount which is thus lost in lieu of it. I suppose there can be no objection to the bill—I can see none—and I therefore move that it be laid aside, to be reported to the House with a recommendation that it do pass.

Mr. HOUSTON. I wish to ask the gentleman from Illinois a question. The bill says that "the Legislative Assembly of the Territory of Oregon be, and hereby are authorized, in all cases where the sixteenth or thirty-sixth sections, or any part thereof, shall be taken and occupied under the law making donations of land to actual settlers, or otherwise, to cause the county commissioners of the several counties in said Territory, or such other officer or officers as they shall direct, to select, in lieu thereof, an equal quantity of any unoccupied land, in sections, or fractional sections, as the case may be." I wish to know what force is intended to be given to the word "occupied?"—if it is connected with legal titles?

Mr. RICHARDSON. Certainly. It can mean nothing else. When you talk of "occupied under the law," of course you refer to legal titles.

Mr. HOUSTON. But may not the language there used be susceptible of other constructions?

Mr. RICHARDSON. I will state to the gentleman that the words "or otherwise," are meant to cover a different class of cases. It happens every where that some of these sixteenth and thirty-sixth sections fall in fractional ones, and thus they do not get the land that Congress intended to give. It is certainly right they should have it. That is the view in which the words "or otherwise" are used here.

The bill was then laid aside, to be reported to the House with a recommendation that it do pass.

#### COLLECTION DISTRICTS IN OREGON.

The next bill on the Calendar was House bill No. 262, "to authorize the President of the United States to designate the places for ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, and to fix the compensation of the collector at Astoria in said Territory."

Mr. STUART. I think it would be advisable to stop the debate upon this bill if we mean to get through with the territorial business to-day. I move that the committee rise for that purpose.

Mr. HALL. There is no disposition to debate the bill.

Mr. STUART. Then I withdraw my motion.

Mr. SEYMOUR, of New York. I presume there is no disposition to debate this bill. We have already a bill upon the table from the Senate, embracing substantially the same provisions as the one now before us, which emanates from the Committee on Commerce of this House. It varies little from the Senate bill, except in reference to the salaries. I believe there will be no objection to the bill. I move that it be laid aside, to

be reported to the House with the recommendation that it do pass.

The motion was agreed to.

#### EXTRA CLERKS FOR THE LEGISLATURE OF NEW MEXICO.

The next bill on the Calendar was House bill No. 263, "to provide for additional clerks, and extend the sessions of the Legislative Assembly of the Territory of New Mexico."

Mr. SCUDDER. I had the honor of reporting this bill. It is a bill for the purpose of increasing the number of clerks in the Legislative Assembly of New Mexico. In order to understand the bill, and to understand the necessity of this increase in the number of clerks, we should consider first of what the population of New Mexico consists.

It was made to appear to the committee that the population of New Mexico consists of sixty-one thousand five hundred and forty-seven people. Of those, about eight hundred speak the English language, and about sixty thousand speak the Mexican or Spanish language. Of course, the Legislative Assembly, which is elected by this population, consists of individuals who speak the Spanish language alone, and of individuals who speak the English language alone. Hence it becomes necessary in their Legislative Assembly that they shall have clerks who can write not only Spanish but English. It was made to appear to the committee that the business of the Legislature of the Territory could not be carried on unless they had another set of clerks—two for the House, and two for the Council. It also appeared to the committee that the Mexicans and Americans, both making motions, in the House, it is necessary to have an interpreter, so that when motions are made they can be readily interpreted, and thus communicated to those who do not understand the language in which they are made. Consequently the committee were of the opinion that it was necessary, in order to carry on the business of the Legislative Assembly, that they should have two sets of clerks—one to record and engross in the Spanish language, and the other to record and engross in the English language; and also that they should have an interpreter. That is the substance of the first section of the bill.

The second section provides for the payment of extra clerks and an interpreter that were employed by the Legislative Assembly at its last session. Feeling the necessity of it, but without the authority of law, the Assembly did, at its last session, employ two extra clerks and an interpreter. Now, by a general law passed in 1846, the Legislative Assemblies of all the Territories are confined to two clerks. The Delegate from the Territory informs us that bills have been made out and sent to the Treasury Department for the payment of those extra clerks and of the interpreters employed by the Assembly at its last session, and the Comptroller of the Treasury doubts his authority to allow the payment. We have, therefore, reported the second section of the bill, which provides that the Secretary of the Treasury shall pay the extra clerks and the interpreter, who were employed during the last session of the Assembly, in the same way as he pays the two clerks that they are authorized by law to employ.

The third section of the bill provides for the extension of the time for holding the sessions of the Legislative Assembly of the Territory of New Mexico. The law as it now stands, and as it was fixed at the organization of the Territory, provides that the Legislative Assembly shall not extend beyond forty days. It is probable that when this organic law was passed, it was not taken into consideration, the delays and inconveniences that would accrue in consequence of the necessity which exists of transacting all their business in both the Spanish and English languages. And now, notwithstanding, two extra clerks have been provided for, and notwithstanding interpreters have been provided, still, it appears to the committee, that for the purpose of enabling them to perform their business as it should be performed, to have it understood by the Spaniards and the Americans, both of which constitute the Assembly, it is necessary that they should have the liberty of continuing the sessions sixty days, instead of forty, as is provided for by the organic law of the Territory.

Mr. HEBARD. I wish to make an inquiry in relation to these clerks. I see the bill provides

for additional clerks. I wish to inquire how many are allowed now?

Mr. SCUDDER. The number already employed according to the law, is two in each house of Assembly. That is the general law applicable to all the Territories.

Mr. HEBARD. I understand the bill to recommend the appointment of two more for each House, two to write English and two to write Spanish. Now, I wish to inquire why one to write each language would not answer?

Mr. SCUDDER. It is necessary to have two in each House, a recording and an engrossing clerk, when the business is transacted in English only; of course it would be necessary to have duplicates if the business was to be carried on in both languages.

Mr. Chairman, it may perhaps be well, although it is very doubtful, in my mind, whether it is good policy, for the legislative business of the country to be carried on in the English language exclusively now. The time is probably not very far distant when it may be carried on in that language; but at the present time it would be a denial of justice, a denial of understanding, to a portion of those who constitute the Assembly. It is as necessary that it should be carried on in two languages, as it is that it should be carried on at all. I will merely suggest, in regard to the time for limiting the sessions of the Assembly, that I believe the Territories of Oregon and Minnesota both had their time extended. In their organic laws, the time for holding these Legislative Assemblies was confined to forty days; but since that, it has been extended to sixty days, in each of these Territories. Now, it would seem that sixty days should surely be allowed to transact the business of a Territory in two languages, when it is allowed to transact it in one language in these Territories. I have thus explained the reasons which induced the committee to offer this bill. If there be no objection, I move to lay it aside to be reported to the House.

Mr. HEBARD. Has this bill been printed?

Mr. SCUDDER. It has.

Mr. HEBARD. I have not been able to see it. If it has been printed, there have been no extra copies furnished for distribution, for I have not been able to find one. On this account I cannot say very much with regard to the details of the bill; but I believe it is one which, at least, in some of its features, is not unimportant. If you leave the question of economy entirely out of sight, the suggestion of the gentleman from Massachusetts, [Mr. SCUDDER,] in reference to the policy and purpose for which this recommendation is made, seems to me to merit some further consideration than has yet been given to it. I ask the gentleman from Massachusetts, or any other gentleman on this floor, when it is that this government of New Mexico would become Anglicized so that the translating clerks, and the clerks required to write in the Spanish language, could be dispensed with, if in the inception, we begin by making provisions by which the laws and the proceedings of the Territory shall be carried on in both the English and the Spanish languages? It seems to me that we should discourage any such attempts. I ask the gentleman from Massachusetts by what means he proposes to remedy the evil if he would grant this facility from the commencement? I do not believe it is good policy. I do not believe it is for the welfare of the people of that Territory, to enact the laws of the Territory in the Spanish language. It is the policy of the Government to give whatever encouragement may be given to bring the language into uniformity. I am aware that there may be some inconvenience and some difficulty, but I believe that difficulty is not commensurate with the injury that will result and be entailed upon the people of that Territory by giving the encouragement which this bill intends.

But it seems to me, even admitting the policy of keeping the records in both languages, that the recommendation contained in this bill, relative to the number of clerks is a little extraordinary, and I am not prepared, as a matter of economy, to carry it out. I cannot see why there should be that number of clerks employed for that Assembly. That Territory has a small and limited population, and its business is limited, and it seems to me that the precedent is a dangerous one. But my chief objection is not that of economy. I understood the gentleman from Massachusetts, who



reported the bill, to recommend the encouragement of a policy which I consider detrimental to the interests of that Territory and inconsistent with the policy of our Government. I therefore hope that without further consideration, without further reasons shown, this bill will not be passed; at least not passed until some of the amendments or modifications I have suggested shall have been made.

Mr. STUART. As this bill seems likely to elicit discussion, I move that the committee do now rise, with a view of closing debate upon it.

The CHAIRMAN. There is a motion pending that the bill be reported to the House.

Mr. STUART. Very well; if that motion can be carried, if no other gentleman proposes to discuss it, of course I do not insist upon my motion.

Mr. GORMAN. I have an amendment which I wish to offer.

Mr. STUART. Then I insist upon my motion, that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. STANTON, of Tennessee) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the following bills, which they had instructed him to report to the House and to recommend their passage:

Bill (259) to provide for the protection of the Territories of New Mexico and Oregon, with an amendment;

Bill (260) to amend the act to establish the Territory of Oregon, without amendment; and

Bill (262) to authorize the President to designate the places for the ports of entry and delivery for the collection districts of Puget's Sound, and Umpqua, in the Territory of Oregon; and to fix the compensation of the collector at Astoria in the said Territory.

The committee had also had under consideration bill No. 263, for additional clerks, and to extend the sessions of the Legislative Assembly of the Territory of New Mexico, and had come to no resolution thereon.

Mr. STUART. I move the usual resolution to close debate in Committee of the Whole on the state of the Union upon bill No. 263, in five minutes after the committee shall have resumed its consideration.

The question was then put, and the motion agreed to.

Mr. STUART. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was then put, and the motion agreed to.

So the rules were suspended.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee, in the Chair,) and resumed the consideration of bill No. 263.

Mr. GORMAN. I have an amendment which I desire to offer, to come in at the end of the bill:

That the said Legislature of New Mexico shall cause to be allowed the commissioners heretofore appointed to draft a code of laws, such compensation as may be just and reasonable, and which, when so allowed, shall be paid out of the funds appropriated to defray the expenses of said Territory.

Mr. Chairman, at the first session of the Legislature of New Mexico they appointed two of your judges whom you had sent out there, together with some Spanish gentlemen, to draft a code of laws, and to look up the various laws then in force in New Mexico, and to put them in such a shape that they could conveniently be referred to, and understood. These commissioners and judges, in obedience to the act of the first Legislature that convened in New Mexico, proceeded to perform that duty. But there is no general law authorizing them to be paid. The commissioners have transmitted to me a claim to be presented to the Auditors of the Treasury of the United States. After the proper vouchers had been procured from the proper authorities in New Mexico, they also sent the same claim to the Delegate from that Territory. I presented the claim to the proper Department of the Treasury. But as there was no authority by law to pay it, although its propriety was admitted, although the right of that Legislature to create the commissioners was not doubted,

yet, there being no law by which it could be paid, or any fund set apart for its payment, it has heretofore not been allowed.

Mr. DUNHAM. I should like to ask if those commissioners were appointed by authority of law?

Mr. GORMAN. They were appointed by the first Legislature that were convened in the Territory of New Mexico.

Mr. DUNHAM. But not by authority of law.

Mr. GORMAN. No, sir; the first Legislature that met in New Mexico appointed one or two Spanish gentlemen, residents of the Territory, who collected together the various laws that were in force in the Territory, and with two of the judges, appointed by Congress for that Territory, they proceeded to perform the duty imposed upon them by the Legislature. The Legislature would have made an appropriation for their payment, but there are no funds at their disposal out of which they can be paid. The Committee of Ways and Means of this House have the matter before them, and will, in due time, make the necessary appropriation. But it is necessary that some direction should be given, in order that the Legislature shall have the authority to act upon an account which is just and proper to be paid.

Mr. HALL. Why could not the members of the Legislature do it themselves?

Mr. GORMAN. Three of these commissioners were members of the Legislature. The judicial opinion of the judges was highly important and necessary to form a proper code of laws, and make them conform to the institutions of the country. They were selected as being, perhaps, more familiar with the Constitution and the laws of the United States, so as to make the institutions and laws of New Mexico conform more completely with the institutions of this country. They completed the laws, and the next Legislature adopted nearly all of them. This bill only proposes to give the next Legislature which may convene in that Territory, authority to make such an allowance as, in their judgment, may seem proper—such as they may deem reasonable and right. An appropriation by law, furnishing all the means, which will be made, I apprehend, by the Committee on Ways and Means.

[Here the hammer fell—the time fixed by the House for closing debate having arrived.]

Mr. DUNHAM made some remarks here which were totally inaudible to the Reporter.

Mr. GORMAN. One word more.

The CHAIRMAN. The Chair must inform the gentleman that the time for debate has expired, and this amendment has been spoken against, and no further debate is in order.

Mr. GORMAN. By making an amendment to my own amendment can I be heard for a moment?

The CHAIRMAN. The gentleman can modify his own amendment, but cannot offer an amendment to his own amendment, upon which to speak.

Mr. WEIGHTMAN. I wish to make an informal amendment, for the purpose of saying half a dozen words.

The CHAIRMAN. The Chair cannot hear the gentleman's suggestion.

Mr. WEIGHTMAN. I propose to make some informal amendment, for the purpose of making a remark to the House. I move to strike out the last word in the bill. It is certainly in the power of the committee and the House to make this allowance to the Legislature in this way or not, as the gentleman from Indiana [Mr. DUNHAM] has suggested, and they have also to take into consideration the exigencies and circumstances under which this act was done. I want to remind the House of one single fact: that this is the first Territory we have ever had of so large a population, in which so great a confusion existed, in consequence of the operation of the war. The Mexican Government was thrust aside, and all its means of enforcing its laws cut up by the roots by the military government. The military government has been put aside, and the territorial government had but just gone into operation. And that Territory, with a large population of 61,000, merely wishes this Government to authorize this commission for codifying the laws, and drawing some order out of the great confusion which there prevails. The Territory of New Mexico, I wish to say in conclusion, contains a larger population than the Territories of Utah, Oregon, and Minne-

sota, all added together and multiplied by two, as appears by the last census. It is double the amount of all those other Territories put together. Under all the circumstances I trust Congress will authorize it.

Mr. STUART. I am opposed to the amendment offered by the gentlemen from New Mexico, [Mr. WEIGHTMAN,] and in favor of the original amendment, and hope that it will pass without modification. I know one of the gentlemen engaged upon that code of laws. He is competent and able, and would do that duty well anywhere, and I doubt not he did it well there, and certainly they ought to be paid. That Territory was without any laws, except what was known as the "Kearny Code." This arrangement, modification, or whatever you choose to call it, was indispensable. It has been done, and well done, and there is no earthly reason why those commissioners should not be paid, I trust, therefore, that the amendment offered by the gentleman from New Mexico [Mr. WEIGHTMAN] informally, will not prevail, and that the one offered by the gentleman from Indiana, [Mr. GORMAN,] will prevail. It is right, eminently right and proper.

Mr. WEIGHTMAN. I will withdraw my amendment, if there be no objection.

No objection was made, and the amendment was withdrawn.

The question now recurring upon the amendment offered by Mr. GORMAN, it was put and the amendment was agreed to.

Mr. STUART. If there is no other amendment, I move that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

The question was put, and the motion was agreed to.

#### COLLECTION DISTRICTS IN OREGON.

The next bill that came up in order, for the consideration of the committee, was Senate bill No. 263, to authorize the President of the United States to designate the places for the ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon.

Mr. SEYMOUR, of New Mexico. That bill has not been referred to any committee of this House. The Committee on Commerce has reported a bill which answers all the purposes of this one.

The CHAIRMAN. The Chair would suggest that this is a Senate bill.

Mr. SEYMOUR. I can give several reasons why the bill reported by the Committee on Commerce should be retained in preference to this one.

The CHAIRMAN. This is the business in order. The gentleman can move to lay it aside.

Mr. SEYMOUR. I move to lay it aside, with the recommendation that it do not pass.

Mr. PHELPS. I would suggest to my friend that perhaps it would be better to make a motion that the committee rise. If it is right to pass a bill of this kind, go into the House, have this bill referred to the committee, and then get into committee, and adopt the House bill as an amendment to this, and send it back to the Senate.

The CHAIRMAN. The Chair would inform the gentleman that this bill has been referred to the committee; otherwise it could not be taken up.

Mr. JONES, of Tennessee. I wish to inquire if that bill has not been reported back to the House, with a recommendation that it be rejected? Is not that the fact?

The CHAIRMAN. Such is not the fact.

Mr. JONES. I am told that it is a fact.

Mr. SEYMOUR. The bill which has just been read by the Clerk has not, to my knowledge, been referred to any committee of this House for consideration, nor reported to the House by any committee. It has merely been reported to the House by the Senate.

The CHAIRMAN. The Chair would inform the gentleman that this bill was referred to the Committee of the Whole on the state of the Union, by the House. The question is, shall it be acted upon, or passed over?

Mr. SEYMOUR. I move, then, that the bill of the House, which has been passed by the committee for the same purpose, be substituted for this one. It was a bill maturely considered by the Committee on Commerce of this House; and, after consultation with the chairman of the Committee on Commerce of the Senate, it was understood

that the House bill should be preferred to the Senate bill. The difference is this: Both of these bills contain the same section authorizing the President of the United States to designate the ports of entry in two of the collection districts in Oregon; and the reason why this bill is recommended, rather than that the House itself should establish those ports, is the uncertain state of the commercial business of that country. At the present time, there are several applications before the Committees on Commerce of this House and the Senate, in reference to the establishment of particular points as ports; but, upon referring this question to the Treasury Department, it was recommended that a general power should be conferred upon the President, when he shall have ascertained the necessities of that Territory, and the two points at which it is desirable to establish the ports in these two districts—one in the district of Oregon, and the other in the district of Puget's Sound—to designate and establish those ports. The bill of the House, and the bill of the Senate, conform precisely in reference to these particulars.

There is another section in both bills, which increases the salaries of the collectors. The Senate bill increases the salaries of several collectors, but the House bill increases the salary of only one, and that is the collector located at Astoria, in the collection district of Oregon. It was not deemed necessary, by the Committee on Commerce of this House, to increase, at present, the salaries of the other collectors; and I believe that conclusion is satisfactory to the honorable Delegate from that Territory, [Mr. LANE,] who is well acquainted with the circumstances under which it has been deemed advisable to recommend this increase of salary.

I will add that the present salary of the collector at Astoria was found to be entirely inadequate to pay the expenses incurred by him in removing from this part of the country with his family to establish himself there. It was only the sum of \$1,000, with the fees of office. Those fees, in the present state of the commerce of that district, are very small; and the sum of \$3,000 was deemed a suitable sum for his salary, considering the expense of living in that Territory. That is the bill of the House; and it differs in this respect from the bill of the Senate, inasmuch as it raises the salary of only the collector of the district of Oregon; whereas the bill of the Senate raises the salaries of two other collectors, which is not deemed to be necessary by the Committee on Commerce of this House.

Now, sir, for the purpose of setting this matter all right, I move to amend the Senate bill before the committee by striking out all after the enacting clause, and inserting those two sections of the House bill which we have just passed, and that will conform to the present understanding of the committees of both Houses.

The CHAIRMAN. The Chair must state to the gentleman that, according to the rules of the House, a proposition to amend this bill by the adoption of another bill, which has already been passed and reported to the House, will not be in order.

Mr. SEYMOUR. I would suggest, then, that this bill be passed by informally.

Mr. STUART. I move to report this bill to the House, with the recommendation that it do not pass.

Mr. HOUSTON. I wish to ask a question of the gentleman from New York, [Mr. SEYMOUR,] who is at the head of the Committee on Commerce of this House. I desire to know whether there are not some ports in Oregon or California, or both, to which the Government has to send money from other points to pay the salaries of the collectors at those places? Are there not some ports there where they do not collect a solitary dime, in their capacity as collectors? and does not their pay have to be sent from some other part of the country?

Mr. SEYMOUR, of New York. I would say, in reply to the gentleman from Alabama, [Mr. HOUSTON,] that in regard to ports in the State of California, the Committee on Commerce have not been led into an inquiry, inasmuch as nothing upon that subject has been before them; but in reference to the ports of the Territory of Oregon, we have been informed by the Delegate of that Territory—although I am not aware of information from any other source which has come

before the House, yet that is reliable enough, as we all know—that in the district of Oregon there is a considerable commercial business, yet the fees do not amount to as much, perhaps, as the salary the collector receives, and yet that salary is entirely inadequate to his support. At other places in that Territory where there are ports, there is some trade, yet the fees are very small, and, I presume, the result is the same there. The salaries of the other collectors are only \$1,600, which is a very small compensation, and will scarcely support any of those collectors—together with fees not to exceed \$2,000. The limit of the salary is \$2,000. It is the maximum. The trade there is small at present, but it is increasing, as we all know, and it is desirable to have persons stationed where we have ports established, and where trade is concentrated, for the purpose of discharging these duties. And I do not know that it has been ever considered a reason for dismissing these officers, that there was small trade at a port. The country is new, and we have a pretty certain prospect that this trade will increase, and ultimately arrive at a very great amount, so that the salary would be paid out of the fees of the office in a short time. I do not suppose that there is any idea now to discontinue these offices.

Mr. HOUSTON. I think the gentleman will find before he gets through with the examination of those ports, and their condition, that my statement is correct. I am satisfied that at some ports, although I am not prepared to say what ports, the facts exist as I have stated them to the gentleman, and I hope he will give them his attention, if not at this, at some other time.

Mr. LANE. With the gentleman's permission I will reply to his inquiries. Astoria, the principal port of that Territory, is at or near the mouth of the Columbia river. This bill provides only for the increase of the salary of its collector, which is now \$1,000, a sum entirely inadequate.

The question was taken and the bill was ordered to be laid aside, to be reported to the House with the recommendation that it do pass.

#### SCHOOL LANDS.

The next bill coming up in order was House bill No. 264, to appropriate lands for the support of schools in certain townships and fractional townships in the Territory of Minnesota, not heretofore provided for.

Mr. HALL. Mr. Chairman, the bill just read provides for two classes of cases. The first relates to fractional, sixteenth and thirty-sixth sections, which contain less than six hundred and forty acres. The bill proposes to authorize the Territory of Minnesota to select other lands to make up that deficiency.

The other class of cases is where certain townships are fractional, and do not contain the sixteenth and thirty-sixth sections. Where townships of that kind are found, the bill authorizes the Territory of Minnesota to select lands in lieu of the sixteenth and thirty-sixth sections, according to the provisions of the act of 1826, which provides that when a fractional township is more than three fourths of a full township, three fourths of an entire section may be selected for school purposes; and when a fractional township is more than one half but less than three fourths of a full township, the one half of a section may be selected for school purposes; and when a fractional township is more than one fourth and less than one half of a full township, the one fourth section may be selected for school purposes. Such are the provisions of the act of 1826, which is incorporated into the bill before the committee. I presume no further explanation of the bill is necessary, and I therefore move that it be laid aside to be reported to the House.

The question was then taken, and the bill was laid aside, to be reported to the House with the recommendation that it do pass.

#### SURVEYOR GENERAL IN OREGON.

Mr. HALL. I move to take up House bill No. 224, being "A bill to amend an act entitled 'An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of the said public lands,'" approved September 27, 1850.

The bill was taken up, and read through.

Mr. STUART. I move that the committee rise, with the view of moving in the House a res-

olution for the termination of debate upon this bill.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman, (Mr. STANTON, of Tennessee,) reported, that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order, and had instructed him to report House bills Nos. 263 and 264, without amendment, with the recommendation that they do pass; and also Senate bill No. 283, with the recommendation that it do not pass; and that the committee also had had under consideration House bill No. 224, and had come to no resolution thereon.

Mr. STUART. I move the usual resolution that debate be terminated upon House bill No. 224 within fifteen minutes after the Committee of the Whole on the state of the Union shall again have resumed its consideration.

Which motion was agreed to.

Mr. STUART. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STANTON, of Tennessee, in the chair.)

Mr. HALL. I regret that the Committee on Public Lands made an adverse report on this bill; for I think that it ought to pass. I will explain it in as few words as possible. On the 27th of September, 1850, an act was passed granting lands to all persons enumerated in it, who had settled in Oregon, or who should settle there, prior to the first of September, 1853, on consideration of their living upon it for four consecutive years. There are some persons in Oregon whose occupation is such as to render it almost impossible for them to comply with the act of 27th September, 1850. They are mechanics and merchants who reside in town. They went there with the earliest tide of emigration, and rendered as important service as any other class in settling that country, and perfecting the claim of the United States to it.

These persons are excluded from the benefits of the act of the 27th of September, 1850. They now ask Congress not to give them the benefits of that act, not to give them this land for nothing, but they ask that they may be permitted to enter the same quantity of land which the act of 1850 gave to the settler at \$1 25 per acre. It appears to me that there is nothing unreasonable, unjust, or unfair about this. The bill, however, extends to another class of persons, whose merit is, perhaps, not so great. I mean those who may settle in Oregon Territory prior to the 1st of September, 1853, the benefits of the act of September, 1850. It appears to me, as they render important service by going to that distant Territory, inasmuch as they form as important part of the army of occupation as any other portion, that they should be permitted, also, to receive their land by paying the sum of \$1 25 per acre for it. The issue presented is just this: whether these men shall be compelled, by the act of September, 1850, to settle upon the land and get it for nothing, or be permitted to get the land by paying \$1 25 an acre into the Treasury of the United States for it. That is the whole principle involved in the bill. There are two sections in this bill which I think ought to be modified. The fourth section proposes to appropriate the proceeds of these lands to the improvement of some of the rivers in the Territory of Oregon. I have not sufficient information with regard to these rivers to justify me in voting for that proposition. I propose, therefore, to strike out the fourth section of the bill, which directs the manner in which the proceeds of these lands shall be applied, and let the money go into the Treasury, to be appropriated as other public money. The fifth section should be modified if the fourth section is stricken out. I propose to strike out the words "sum not to exceed — thousand dollars," and to insert "two per cent. upon all such sums," and insert a proviso at the end of the section providing that the salary of the surveyor general shall not exceed the sum of \$4,000 a year. The effect of my amendment will be this: If the bill passes, as I propose, it will allow these people in

Oregon, who are unable to comply with the provisions of the act of September, 1850, to purchase land according to the terms of that act at \$1 25 per acre, and it will also provide that the surveyor general shall receive two per cent. of the proceeds arising from these sales, provided, however, the salary shall not, in any event, exceed \$4,000 a year. His present salary is \$2,500.

Mr. FOWLER. I wish to inquire of the chairman of the Committee on Public Lands, [Mr. HALL,] why this money is made payable to the surveyor general?

Mr. HALL. Because there is no other land officer in Oregon to receive it. We have, as yet, no receiver at the land office.

Mr. FOWLER. Why not establish an office there?

Mr. HALL. Because we do not think that the business of the country will at present justify it. There is no land to be brought into market. We do not think that, for the purpose of attending to so little land as may be sold under this act, it will justify the expense of establishing registers and receivers there.

Mr. FOWLER. Do I understand that the salary of the surveyor general is to be extended from \$2,500 to \$4,000, for the extra service?

Mr. HALL. If the gentleman looks at the bill, he will find, that in order to compensate the surveyor general for the additional labor imposed upon him by the present bill, and in order to pay the clerk hire and all incidental expenses, he is permitted to receive two per cent. upon all sales of land, provided he shall not receive more than \$4,000 a year.

Mr. VENABLE. It will be observed, by attending to this bill, that the committee have reported that amendment with a recommendation that it do not pass. It does not come here indorsed by the approbation of the committee to whom it was referred. It has been truly said, that we have but little land to dispose of in the Territory of Oregon, according to the law which gives away the land to actual settlers; but here is a proposition to take away the little that does remain, and with the proceeds to improve the Willamette river.

Mr. HALL. I will move to strike that out.

Mr. VENABLE. Then, I have nothing more to say.

Mr. HALL. I move to strike out the fourth section, viz:

Sec. 4. *And be it further enacted*, That the funds arising from the sale of said lands, as aforesaid, be and they are hereby appropriated to the improvement of the Willamette river, one half thereof to be applied to the improvement of said river above the falls, and the remaining half to be applied to the improvement of said river below the falls aforesaid.

The question was then taken, and it was agreed to.

The fifth section was then read, as follows:

Sec. 5. *And be it further enacted*, That it shall be the duty of said surveyor general, immediately upon the taking effect of this act, to enter into security in the sum of — thousand dollars, conditioned for the safe-keeping and legal disbursement of all moneys received by him as surveyor general by virtue of the provisions of this act. And it shall further be the duty of said surveyor general to transmit, as aforesaid, to such person or persons as shall be authorized by the Legislative Assembly of said Territory to receive the same, a duplicate copy of his quarterly reports, provided for in the third section of this act; and it shall also be the duty of said surveyor general to pay over to such person or persons as shall be authorized by the Legislative Assembly of said Territory to receive and receipt for the same, all moneys so received by him, as aforesaid, and appropriated to said Territory of Oregon, under the provisions of the — section of this act, for the uses and purposes therein specified: *Provided, however*, That in order to compensate the surveyor general of said Territory for the additional labors and responsibility imposed upon him by this act in receiving, safe-keeping, paying over, and accounting for the money aforesaid he shall be allowed to retain of the proceeds aforesaid a sum not exceeding — thousand dollars, which shall include the payment for clerk hire, together with all costs and expenses incidental to such special services in any one year.

Mr. HALL. I move to strike out of the fifth section all after the word "act" and before the word "provided," from the seventh to the eighteenth line. I will merely explain that the words I propose to strike out provide for paying over the money in accordance with the terms of the fourth section. The committee have already stricken out that section, consequently these words which I now propose to strike out are unnecessary and improper.

The question was then taken upon Mr. HALL's motion, and it was agreed to.

Mr. HALL. I propose to amend this section

by striking out the words "he shall be allowed to retain of the proceeds aforesaid a sum not exceeding — thousand dollars," and inserting the words "two per cent. upon all such sums."

Mr. SEYMOUR. I should like to inquire if this is in addition—if this two per cent. will be in addition to the fixed salary which the officer has?

Mr. HALL. It will.

Mr. SEYMOUR. And what, in your estimation, being at the head of the Land Committee, do you suppose the salary of that officer will be with the addition of the two per cent. upon all sales which will be made?

Mr. HALL. My proposition is, to limit the sum to \$4,000, so that this officer shall not, under any circumstances, receive more than \$4,000 for his services.

Mr. HOUSTON. I wish to ask the gentleman a question. I understand that the gentleman, by his present amendment, proposes to allow the surveyor to retain in his hands his compensation. I understand that to have been the case at an early day. The existing law now requires all collections of revenue from all sources, to go into the Treasury, and to be paid out by an appropriation.

Mr. HALL. I propose to modify my amendment, in accordance with the suggestion of the gentleman from Alabama, [Mr. HOUSTON.]

The question was then taken on the amendment, and it was agreed to.

Mr. HALL. I now move to add to the fifth section the following proviso: "*Provided further*, That the salary of said surveyor general shall in no event exceed the sum of \$4,000 for any year."

Mr. HOUSTON. I would suggest to the gentleman that his allowance under this bill must be expressly confined to \$4,000.

Mr. HALL. I will modify my amendment as follows:

*Provided*, That the salary and percentage of said surveyor general shall not exceed the sum of \$4,000 for any one year.

Mr. PENNIMAN. I propose to amend by adding the words "clerk hire" after the words "surveyor general."

Mr. HALL. If the gentleman will only look at the section, he will see that that is already provided for. The surveyor general is to receive two per cent. to cover the expenses of clerk hire.

Mr. PENNIMAN. I believe that portion of the section has been stricken out.

Mr. HALL. Oh, no; you are mistaken.

Mr. HOUSTON. At any rate, the amendment is not objectionable.

Mr. HALL. Very well; I have no objection to its adoption.

The question was then put on the amendment to the amendment, and it was agreed to.

The question recurred on the amendment as amended, and being put, was agreed to.

Mr. HEBARD. I now move to strike out from the fifth section the words "by virtue of the provisions of this act," and to insert in lieu thereof "according to law," so as to make it read:

"That it shall be the duty of said surveyor general, immediately upon the taking effect of this act, to enter into security in the sum of — thousand dollars, conditioned for the safe-keeping and legal disbursement of all moneys received by him as surveyor general, according to law."

As the section now stands, he is required to pay over the moneys "by virtue of the provisions of this act." Now, all the provisions of this act, for paying over these moneys, have been stricken out; and if, therefore, those words were retained, they would be unmeaning, and there would seem to be no obligation upon him to pay it over, from any provision that would be in this law.

Mr. HALL. The section, as it now stands, provides not for the payment of the money according to the provisions of this act, but for the disbursement of the money received under the provisions of this act.

Mr. BISSELL. What disbursements has the surveyor general to make?

Mr. HALL. I suppose such as the Secretary of the Treasury may impose upon him.

Mr. BISSELL. The bill does not require any. It only requires the safe-keeping of the moneys he receives under this act.

Mr. HEBARD. I believe it has reference not only to the safe-keeping, but to the disbursement also.

Mr. HALL. You can strike out the words "and legal disbursement."

Mr. HEBARD. I think the amendment I propose is certainly unobjectionable.

Mr. HALL. Well, I do not care. Let it be adopted.

The question was then taken on Mr. HEBARD's amendment, and it was agreed to.

Mr. HALL. There is a blank in the fifth section, which ought to be filled, providing for the amount of security the surveyor general shall give. I do not know what amount is proper; but I will move to fill the blank with "fifty," so as to make fifty thousand dollars, the amount of security to be given.

A MEMBER. That is too much. Make it twenty thousand.

Mr. HALL. Very well; I move to insert "twenty" in the blank.

The amendment was agreed to.

Mr. BISSELL. I do not exactly like those words, "and legal disbursement," in the fifth line, because the surveyor general has no disbursing to do. I move to strike them out.

The amendment was agreed to.

Mr. CLARK. I wish to inquire, whether \$20,000 would probably cover any defalcation this officer might make?

Mr. HALL. I am really unable to answer the inquiry of the gentleman. I supposed the amount ought to be \$50,000, but gentlemen around me said that was too much, and that \$20,000 was sufficient.

Mr. CLARK. I am not satisfied with \$20,000, and I therefore move to strike out "twenty" and insert "fifty."

The amendment was agreed to.

Mr. HOUSTON. I will now suggest to the gentlemen who have this bill in charge, that in contravention of the custom, and, indeed, of the law, they have made the surveyor general a receiver of money for public lands. He is emphatically one of the receivers of public money—just as much so as any other receiver of money for customs or anything else, in any part of the United States. That being true, it occurs to me that there ought to be added to the bill a provision subjecting him to the restrictions that are contained in the act of 1846, known as the Independent Treasury act, so that he shall stand upon the same footing with all the other receivers of public money.

Mr. HALL. In accordance with the suggestion of the gentleman from Alabama, I offer the following, as an amendment to the sixth section of the bill, to come in at the end thereof, viz:

And that the said surveyor general shall be subject to all the provisions of the act entitled "An act for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August 6th, 1848.

The amendment was agreed to.

Mr. FOWLER. Is it in order to move to strike out "\$50,000" in the fifth section, and insert some other sum?

The CHAIRMAN. The Chair thinks it is not in order to do so after the committee has inserted "\$20,000." The Chair, on reflection, thinks that the motion of the gentleman from Iowa, [Mr. CLARK,] to strike out "twenty" and insert "fifty," and which was adopted by the committee, was not in order.

Mr. FOWLER. Does the sum then stand at \$20,000?

The CHAIRMAN. No; it stands at \$50,000.

Mr. FOWLER. If it was in order to strike out "twenty" and insert "fifty," why is it not in order now to strike out "fifty" and insert some other number?

The CHAIRMAN. If the question had been made at the time, or if the attention of the Chair had been called to it, the amendment would have been ruled out of order.

Mr. FOWLER. It seems to me that \$50,000 is an enormous sum, and that if the committee would consider, they would be willing to reduce it at least to \$20,000.

Mr. STUART. The Delegate from Oregon is satisfied with the amount at \$50,000.

The CHAIRMAN. The alteration can only be made by general consent.

Mr. FOWLER. If the Delegate from Oregon is satisfied, I will not insist; but it strikes me that \$50,000 is an enormous sum, and that it would be very difficult to get it.

On motion by Mr. HALL, the bill was then



ordered to be laid aside, to be reported to the House, with the amendments, and with a recommendation that it do pass.

Mr. SIBLEY moved that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. STANTON, of Tennessee) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 224, "to amend an act entitled 'An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of the said public lands,'" approved September 27, 1850, and had directed him to report the same to the House, with sundry amendments, and with a recommendation that the bill do pass.

Mr. RICHARDSON. There are various bills which have been reported from the Committee of the Whole on the state of the Union, to some of which there are amendments to be made, and on which gentlemen may desire to vote by yeas and nays. There are many of them, however, to which there is no objection. I ask the unanimous consent of the House to take up the bills in their order, and that such as there is no objection to may be put upon their passage.

The SPEAKER. If there is no objection, the proposition of the gentleman will be followed by the House.

Mr. STANLY. Will the Chair state what is the exact proposition of the gentleman from Illinois?

The SPEAKER. The gentleman from Illinois asks the unanimous consent of the House to take up and pass such bills as have been reported from the Committee of the Whole on the state of the Union to which there shall be no objection.

Mr. JONES, of Tennessee. I prefer that they should be called up one at a time.

Mr. RICHARDSON. Gentlemen can object to any one they do not desire to see pass, in this way, and it will be passed by.

Mr. MEACHAM. I desire to ask what will become of those that are objected to, if this course is taken?—what will their position be?

The SPEAKER. They will come up in their regular order, as unfinished business.

Mr. MEACHAM. As the first business?

The SPEAKER. Not as the first business, because there is other unfinished business before them.

Mr. RICHARDSON. These bills may be called up in their regular order and disposed of one at a time, if gentlemen prefer it. I call for bill No. 252.

Mr. JONES. I want to know if these bills are passed by now, they will not go to the Speaker's table?

The SPEAKER. According to the former practice of the House they would go upon the table. But according to the decision of the present occupant of the chair, they remain as unfinished business.

Mr. JONES. Do all the bills remain as unfinished business?

The SPEAKER. All that have been reported from the Committee of the Whole on the state of the Union.

Mr. CAMPBELL, of Illinois. If I understand it, all that have been reported this week remain as unfinished business.

The SPEAKER. If the gentleman will allow the Chair, he decides that all the bills reported from the Committee of the Whole on the state of the Union yesterday and to-day, or during the week, and not disposed of, will take their places and will come up in their regular order as the unfinished business of the House.

Mr. HENN. The Committee of the Whole on the state of the Union have had under consideration all the bills upon the Calendar except the one reported by myself. There has been no action upon that, and I ask, what will become of it if the House adjourn to-day without going into the Committee of the Whole on the state of the Union and disposing of it?

The SPEAKER. Is that bill in Committee of the Whole on the state of the Union?

Mr. HENN. It is, and is a part of the special order.

The SPEAKER. The special order will be exhausted after the adjournment to-day.

Mr. RICHARDSON. I will state to the gentleman, that his object can be attained in this way: He can move to discharge the Committee of the Whole on the state of the Union from its further consideration, and bring it into the House for action.

Mr. HOUSTON. How can you do that?

The SPEAKER. It can be done by unanimous consent, or by a suspension of the rules, upon Monday alone.

Mr. RICHARDSON. I will make that motion myself on Monday, as I desire to have that bill disposed of along with the other territorial business.

The SPEAKER. The Chair will take the course suggested by the gentleman from Illinois, in relation to the disposition of such bills as have been reported from the Committee of the Whole on the state of the Union, if there be no objection.

Mr. JONES, of Tennessee. I object. I prefer that the bills shall come up in their regular order, and be disposed of one at a time.

Mr. HENN. I am satisfied that two thirds cannot be obtained for suspending the rules for the purpose of discharging the Committee of the Whole on the state of the Union from the further consideration of the bill to which I just alluded. I think, in justice, it ought to be placed upon the same footing with the other territorial business. I move that the House resolve itself into the Committee of the Whole on the state of the Union, upon the special order.

Mr. LETCHER. This is Saturday, and the usual time for adjournment has arrived. I move that the House do now adjourn.

The question was put, and the motion agreed to—ayes 72, noes 39; and

The House adjourned till Monday next at twelve o'clock.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ROBE: A petition to establish a post route from Addison, Steuben county, New York, to Elkland, Tioga county, Pennsylvania.

By Mr. GROW: The remonstrance of citizens of Luzerne county, Pennsylvania, against the renewal of Woodworth's patent.

By Mr. HILLYER: Resolutions of the Legislature of the State of Georgia, praying the establishment of a weekly mail route, to be carried upon a two-horse stage or coach, from Asheville, Buncomb Court-House, North Carolina, to Clarksville, Habersham county, Georgia, via the post-offices now established with horse mail from Asheville, Buncomb Court-House, North Carolina, to Clarksville, Habersham county, Georgia.

Also, for a weekly horse mail from Whitestone post office, in Pickens district, South Carolina, to Clayton, in Rabun county, Georgia.

Also, for a weekly horse-mail from Swayne's Store, in Telfair county, Georgia, to Wanesboro', in Ware county, Georgia.

#### IN SENATE.

MONDAY, May 24, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. BUTLER. Mr. President, I ask leave to present the credentials of the Hon. WILLIAM F. DE SAUSSURE, who has been appointed to fill the vacancy in the Senate occasioned by the resignation of the Hon. R. BARNWELL RHETT, and ask that they may be read.

The credentials were read.

Mr. DE SAUSSURE came forward, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Navy Department, transmitting, in compliance with a resolution of the Senate, a report from the Engineer-in-Chief of the Navy, on the comparative value of anthracite and bituminous coal.

Mr. BRODHEAD. Is that report in answer to the resolution of my colleague?

The PRESIDENT. It is.

Mr. BRODHEAD. I ask that it be laid on the table until my colleague returns, without any order for printing.

The report was laid upon the table.

#### PETITIONS, ETC.

Mr. BERRIEN presented the memorial of James J. Morrison and others, officers of the United States revenue cutter Jackson, praying

to be allowed a proportion of the proceeds of the steamship Pampero, seized and sold for a violation of the neutrality laws of the United States; which was referred to the Committee on the Judiciary.

Mr. HALE presented a petition of citizens of Newton, New Hampshire, praying that the bill now pending before Congress granting to every citizen of the United States one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

#### EXECUTIVE BUSINESS.

Mr. ATCHISON. I move to pass by the morning business and proceed to the consideration of Executive business, for the reason which I suggested on Friday last. I deem it a matter of great importance, as I think I could satisfy the Senate if, under our rules, I were permitted to do so.

Mr. HUNTER. I would ask the Senator from Missouri how long he expects that we shall be engaged in Executive session, if we agree to the motion?

Mr. ATCHISON. About an hour, or perhaps less time.

Mr. HALE. I would ask if the object is to take up any Indian treaties?

Mr. ATCHISON. It is.

Mr. HALE. That will take up all day; no doubt of it.

The motion was agreed to.

The Senate accordingly proceeded to the consideration of Executive business; and after two hours and a half spent therein, the doors were reopened.

#### THE COMPROMISE MEASURES.

Mr. BROOKE. Mr. President, I wish to give notice, that I shall to-morrow ask the Senate to take up the resolution introduced by my predecessor, [Mr. Foote,] commonly known as the compromise finality resolution.

#### NOTICE OF A BILL.

Mr. DOWNS gave notice of his intention to introduce a bill granting to the State of Louisiana the right of way and making a grant of land for the construction of a railroad from New Orleans to Opelousas, and thence to the Sabine.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1852," the pending question being upon the amendment of Mr. SHIELDS to insert the following:

For the repairs of the Long Bridge, across the Potomac, a sum not exceeding \$12,000; to be expended under the direction of the Commissioner on Public Buildings.

Mr. BADGER. I hope that the amendment will not be adopted. I told my friend from Illinois the other day, when he announced it, that I was decidedly opposed to it. I would much rather vote an appropriation of \$25,000 to remove that wretched and unsightly obstruction to the Potomac river, than vote \$12,000 for the purpose of patching it up, and keeping it in a condition in which it will continue to be an obstruction to the flow of that river. I think it will be a great deal better to remove the bridge altogether, and either establish a steam ferry-boat there, such as maintains the communication between Brooklyn and New York, which can carry over passengers from either side every fifteen minutes during the day, and will leave the river open and unobstructed, and give an opportunity to the flow of the water to wash away the shoals which have now been formed against that portion of the bridge, and much the larger portion of it which is not hollow, but which is built on the principle of a causeway. I hope, at all events, that we shall not expend \$12,000 now for the purpose of patching up that miserable structure.

Mr. CLARKE. As one of the committee of which the Senator from Illinois is chairman, and as one who agreed to the amendment which he has proposed to the bill, I beg leave to say a few words. I agree in part with my friend from North Carolina, that this miserable structure should be removed. But, yet, I believe that it is necessary that there should be some communication between the District of Columbia and the Virginia shore;

and there is no way in which that communication can be kept up or continued at less expense than by the temporary repair of this bridge. I believe that the bridge as it stands, with its piers and abutments, is a nuisance, and will eventually do essential injury to the city of Washington, and the health of its inhabitants. I believe that it is necessary for us to open a direct communication with the Virginia shore. There should be a bridge constructed across the Potomac river, that should not allow the deposits of the Potomac as they come down to be lodged on the flats as they are now, and become prejudicial to the health of the city, as I have no doubt they will be, and fill up the channel. But we have to make an appropriation for this purpose. Preparation will be necessary; and it will be at least one year, if not two years, before a suitable and proper bridge can be built across that river. Now, if this small appropriation of \$12,000, as I consider it, be made, the present bridge can be repaired so as to have a communication until a new bridge can be built, and then, undoubtedly, the whole of this structure ought to be removed, as a common nuisance.

It was for this reason that I assented to the proposition of my friend from Illinois, in recommending this appropriation. I think, now, if the honorable Senator from North Carolina will reflect that it is utterly impossible to keep up a communication with the Virginia shore unless through the repair of this bridge, he will be satisfied that this appropriation ought to be made in order to have that repair. Then the Senator from Illinois and myself will go with him for constructing a new bridge upon a different principle, to be rid of those abutments and piers which absolutely obstruct, not only the free passage of the water, but continue the accumulation of deposits upon the bed of the river, which will eventually, if not removed, be destructive to the health of the city.

Now, if you undertake to get a ferry across, and remove the bridge, it will cost double the amount required to repair the bridge. To maintain a ferry across the river until a new bridge can be erected will cost double the amount now asked for. The better course is, I think, to repair the bridge at present, temporarily, in as cheap a manner as it can possibly be done with safety. Then, in the general appropriation bill, we can provide for the construction of such a bridge as will answer the purpose in view completely, and at the same time guard against the filling up of the river. I am, therefore, in favor of the present appropriation of \$12,000 for the repair of the bridge. But still, I agree with the Senator from North Carolina, that this miserable structure should be removed from the river. It, however, cannot be done at present. If we were to go to work immediately and make an appropriation now for removing it, it would be another year before it could be removed. In the mean time there would be no means of communication between the Virginia shore and the District of Columbia. These are my views upon the subject, and these are the reasons why I agreed with my friend from Illinois, that the appropriation should be recommended to the Senate.

Mr. HAMLIN. I should be very much obliged to the Senator who moved this amendment, or any member of the committee who has investigated the matter, to inform me where the division is between the State of Virginia and the District of Columbia. I would like to know where is the line, and whether any portion of this bridge is in the State of Virginia; and if so, whether that portion carried away was in the District or in the State of Virginia.

Mr. SHIELDS. There is a report on the table which I declined asking to have read the other day, in order to avoid taking up the time of the Senate. Perhaps the best thing I could do would be to have that report read. I would state, however, in addition to what my friend from Rhode Island has said, that on inquiry, as far as we could obtain information, we ascertained that if there was a new bridge about to be constructed, at this moment it would be necessary to make these repairs to aid in constructing a new bridge, and that the \$12,000 proposed to be expended in the repair of this bridge would be wisely expended even to aid in the construction of a new bridge.

I agree with my honorable friend from North Carolina that there ought to be a new structure, and I hope before long to have such a one—one that will enable railroad cars to pass over it. I

wish to have a bridge passable for railroad cars, so as to let the North and South unite here in Washington; but to do that, this bridge, or some such bridge, is necessary, and some repair is necessary to enable us to make that new structure. The locality for such a structure has not been selected, and the plan has not been provided; therefore we must repair this bridge in some way, or, as my friend from Rhode Island has stated, there will be no communication between this city and the Virginia shore, except that which is now maintained by a sort of temporary little boat which is running.

I hope there will be no further objection to the amendment. I take no other interest in this matter than that which every man in this District must feel. There ought to be some communication between the District and Virginia shore. This is the cheapest that can be possibly provided at this moment. It is only proposed now to repair the bridge temporarily. The amendment provides that the money shall be expended under the direction of the Commissioner of Public Buildings, in order to avoid the appointment of an officer for the purpose. The object is to patch up the bridge temporarily, and make it do for the present, until we obtain a plan for a new structure.

I will answer the question of the Senator from Maine. The recent high water carried off that portion of the bridge next to Virginia, but notwithstanding that, it is within the District of Columbia; and it is the duty of Congress to make this appropriation.

Mr. HALE. I should like to know what is the boundary line between the District and Virginia?

Mr. BORLAND. I rise to make an inquiry of the chairman of the Committee on the District of Columbia. Does this proposed expenditure of \$12,000 look to a structure of a different kind than the one which has heretofore existed? Is it to be expended in connection with a plan for another and a better bridge than we have heretofore had? Or is the expenditure altogether independent of another bridge? I would much prefer that the plan for this should contemplate another structure; for if we expend this as a single appropriation, without looking to a change in the character of the structure, it will, in my opinion, be the loss of so much money; whereas, if a plan should be adopted for a permanent structure, and we should appropriate this amount now, and it should be expended for the repair of the present bridge as a part of a new structure, it would be so much money saved. I would be very glad if we could have some such an arrangement as that, before the appropriation is made.

Mr. SHIELDS. That, in my humble opinion, cannot be done. As far as we have been able to make any inquiries in relation to this matter, from many competent engineers, we have ascertained that if there is a new structure, it must be placed in a new position. It must be placed in a different locality—nearer Georgetown; perhaps at Georgetown; perhaps near the aqueduct at Georgetown. But there has been no plan, no investigation, and no survey yet made. Indeed, it will be a work of time to make a proper plan. The only question here is whether we shall patch up this bridge, and make it answer the ends designed for the present? I will state again, that these gentlemen have informed the committee, that if the locality was now selected, and the plan also in our hands, and the appropriation made for a new bridge, it would be advantageous to repair the old bridge, to aid in the construction of a new one—that it would save money even to repair it for that purpose, and that purpose alone.

Mr. UNDERWOOD. Mr. President, I am rather opposed to inserting this provision in this bill, because I think we ought to have more information upon several subjects to which I wish to call the attention of the Senate very briefly. I know that for the last fifteen or twenty years the city of Georgetown has been complaining bitterly of the destruction of the harbor of that place, in consequence of the erection of this bridge, and that its citizens have preferred very heavy claims against Congress, and asked for remuneration for the injury done to their commerce by putting up this bridge, which has destroyed their harbor. Now, if you intend to renew this bridge by rebuilding it, or building another, you do the people of that city the injury of which they already

complain. I think that before you repair the old bridge, or build another, something ought to be done in reference to the feelings of that people. The interests of that people ought to be consulted before you put an obstruction in the river which will destroy their harbor. I therefore wish that the committee who have charge of this subject would inquire into the present condition of our relations with respect to Georgetown, the injury of which its citizens complained, and what further injury they may receive by the repair of the old bridge, or the building of a new one.

There is another thing that I wish to suggest to the committee, and to the Senate. It seems, from what has been said by the chairman of the Committee on the District of Columbia, that the appropriation of these \$12,000 is only contemplated for temporary repairs of the present bridge, to be used until some new structure can be built at some place, which is to supersede the old bridge altogether. Now, I would like very much to know what will be the probable cost of this new structure? If it is to be built according to the plan suggested some years ago, during General Jackson's administration, I think it will amount to some two, or three, or four millions of dollars. That was to be a bridge constituted of arches of stone, with suitable passes for water and vessels below the arches. I do not recollect precisely the amount of the estimate for that bridge, but it was several millions of dollars. If the appropriation is to be made, to keep up the communication between the District and the Virginia shore, allow me to say, that the interest upon half the money invested, would enable steamboats to be built which would carry passengers, and carriages, and produce of every description, from shore to shore with greater facility, in half the time, and at much less expense. If cost is to regulate in matters of this sort, I wish that consideration to be taken into view by the committee in their deliberations upon the subject, before we expend any more money upon the present structure.

If the present structure is to be abandoned at all, either for the purpose of securing the harbor at Georgetown, or in favor of another project, it seems to me that it would be rather premature to begin now to repair the bridge. I would prefer carrying on the communication by steam, as at present, to entering into the expenditure of such an amount. I hope, therefore, that we will postpone the addition of \$12,000 to this bill; let the matter be considered, let the committee give us information upon these points, and offer the proposition at some period which may come up during the progress of the session.

Mr. SHIELDS. Mr. President, the committee confines itself to the particular question which it brings before the Senate. When the matter to which the honorable Senator from Kentucky refers is under consideration, it will then be time enough for the committee to come forward and give the information which he requires. But, in order to get that information, we must employ competent persons to make surveys, and to bring forward plans and estimates. This we have not done; we have not been authorized to do it; we have not been authorized to employ any engineers to accomplish it. At present, the only thing that the committee has thought of was to place the bridge in a passable condition, until we could agree upon some new plan, so that the intercommunication between the District and Virginia should not be permanently broken up. Now, it is doubtful whether we will ever agree upon that plan, or not; and, if the plan should be agreed upon, if we are as successful about the matter as about other things, it is very likely that it may be abandoned. All that the committee now want is, that something should be done to give us time to consider what that plan should be; what that structure should be; where it should be located; what its expense is to be; and, in the mean time, to have some kind of communication between the District and Virginia. The gentleman from North Carolina says that we might as well have steamboats to carry on this communication. Now, the communication across this bridge is the cheapest, as far as I understand, that can possibly exist between this District and Virginia, until you get up the plan for, and construct the new bridge, if it is ever gotten up.

I will say, in addition, that a committee from Georgetown have seen me this morning, and they

are perfectly willing that the bridge should be placed in a passable condition temporarily, until some new and better plan is devised for communication between the District and Virginia. My opinion is, that a proper structure will be very expensive. As far as I have been able to inquire and ascertain, it will be so—that is, if it be such a one as ought to exist in this capital; such a one as would be worthy of the capital and the nation. It should be one that would be passable for railroad cars, as well as for carriages of every other description. Such a structure will be very expensive. In the mean time, \$12,000 only is asked, in order to provide a communication until this plan is determined upon.

I would say, further, that these repairs will not increase the impediments in the river; on the contrary, they will leave the river just as it is, until this whole structure is torn away, and the river is dredged. That cannot be done until you have a new structure completed and made passable.

Mr. HALE. It seems to be admitted that this structure is a nuisance, and the only question is, whether we shall continue it for any length of time? I hope we shall not do so. A word as to the idea that we are without communication with Virginia. Now, I think steamboats run every fifteen minutes during the day, from here to the city of Alexandria. It is suggested that, even when we build a bridge, it will have to be built near Georgetown. Well, there is a good foot-bridge there now, across the aqueduct. There being these two modes of communication between the District and Virginia, it seems to me that there is no necessity for patching up this bridge until a new one is built. Every one who advocates the patching up of this, admits that it is to be only temporary. Now, the probability is, that if you make this temporary improvement, it will make the bridge pretty permanent, and it will be a nuisance.

I think that a great deal is due to the suggestions of the honorable Senator from Kentucky. I think that, while we are the sole Legislature for the District of Columbia, we ought to have some regard for the only city within the District, except the one in which we are now—we ought to have some regard for the city of Georgetown. It must be manifest to everybody, who will look at the river from the bridge up, that it has done great injury to the navigable capacity of the river, to Georgetown, and to its harbor. The consent which the citizens of Georgetown have given to this matter, upon a communication with the Senator from Illinois, is to patch up this bridge as a temporary thing, preparatory to building a permanent structure.

This permanent structure cannot be anything like so expensive as the honorable Senator from Kentucky supposes. I believe that the most splendid bridge in the world—and I refer to the Wheeling bridge, which the Supreme Court have decided to be a nuisance—and I hope Congress will act as a court of errors, and set aside that decision—cost only \$200,000. I believe that the bridge over the Ohio river at Wheeling cost only \$200,000. That is the amount stated in the memorial of the bridge company, which has been presented to us. If that be so—if such a bridge as that can be built for \$200,000, we can have one from Georgetown across the Potomac—a wire suspension bridge, with a span of from three to six hundred feet, for a mere fraction of the sum which the honorable Senator from Kentucky says was suggested years ago. That being the case, I hope we will not continue this nuisance any longer.

Mr. SHIELDS. Then we ought to make an appropriation to take away the present bridge altogether. We ought either to repair the present bridge, and make it passable, or we should make an appropriation to clear the river at once.

Mr. HALE. I will go for that.

Mr. SHIELDS. That will take much more than the appropriation we now propose. I put it to honorable Senators, if they are disposed to tear away the old bridge until we determine on building a new one, and whether it is not the wisest part, not to act, as we sometimes do, precipitately in this matter; but to make this bridge passable, and then take time to consider and agree upon some plan for a new structure, if we are to make such a new structure.

Mr. BADGER. Mr. President, I think it well for the Senate to consider what is going to be ac-

complished by this appropriation, before we decide to adopt it. In order to ascertain this, I beg to call the attention of the Senate to the report made by the Commissioner of Public Buildings, on the 22d of April last, so that the Senate may see what is the nature of this structure, what is left of it, and what is the ultimate and total effect expected to be produced by this appropriation of \$12,000. The Commissioner says:

"This bridge has been in a decayed condition for some time past, and lately I have feared that accidents would occur, involving the loss of human life. It should be rebuilt throughout; but what course it may be the pleasure of Congress to pursue, it is for that body to decide."

Well, then, as the whole bridge requires repair throughout, what is to be done with these \$12,000? The Commissioner proceeds:

"I have made an estimate of the cost of making such repairs as will restore the bridge to use, and find that \$12,000 will accomplish that object in such a manner as to make it useful for a year or two, unless again broken by a freshet."

Then here is a structure ruinous and dangerous throughout. Happily, a portion of it has been carried away by an extraordinary freshet, so that the lives of the people are endangered by attempting to cross what cannot be crossed without danger. Now, we propose to apply \$12,000, not to restore the structure so as to make it throughout safe, but to patch up this broken place, and put such other repairs upon the bridge as will just enable people to use it. I, for one, am totally opposed to it. I do not agree with my friend from Illinois, that we ought to allow this bridge to stand until we determine whether we are to have another. I think that it is far better to have none, than the present one—I think that it is far better to have the river open. Why should we inflict upon Georgetown the inconvenience and loss of having the navigation obstructed, and daily becoming more and more obstructed? Why should we have this structure—a large portion of it a solid causeway, a total obstruction to the flow of water, filling up the river with shoals that, at low water, are exposed to the sun, and must ultimately become a source of disease to the whole of that part of the city? Why should we do that? I can conceive no reason for it. I would far rather that the whole bridge were taken away, and a steam-ferry established, than retain such a structure as we now have. Being of that opinion, I am opposed to this amendment for patching up this bridge; for, let me assure the Senator that just so long as you will patch up that bridge and enable people to get across, just so long you will have no other or better structure. I am only sorry that the freshet which took away part of the bridge, did not carry the whole of it away, and leave the river open and free. I believe it would have been a matter of great importance had that been done, and Congress had lent its assistance, if necessary, to establish a convenient ferry or build a new bridge. I think we ought not to continue the present structure an hour longer. I should, as I said before, be far more willing to vote \$25,000 to remove it, than \$12,000 to patch it up. It is an unsightly, injurious, disgraceful nuisance, and I do not want to mend it at all.

Mr. SHIELDS called for the yeas and nays; and they were ordered.

Mr. RUSK. As the yeas and nays are ordered, I desire simply to say, that I am in favor of making a good bridge; but as the Senator from North Carolina [Mr. BADGER] remarked, if we patch up this bridge we will not build another. I am not, therefore, in favor of the amendment.

Mr. SHIELDS. The only reason why I offer the amendment is, that, as chairman of the committee, numerous complaints have been addressed to me by parties who complain of the want of communication, and that they have, consequently, no market; that at Georgetown there is no bridge, and the bridge in front of this city is destroyed. I therefore conceived it to be my duty to bring in the amendment and urge its adoption, for the purpose of giving these people some means of communication.

The yeas and nays were then taken, with the following result—yeas 20, nays 23:

YEAS—Messrs. Berrien, Bradbury, Bright, Clarke, Davis, Dodge of Wisconsin, Downs, Eliot, Hamlin, Hunter, James, Jones of Tennessee, Mangum, Miller, Pearce, Sebastian, Seward, Shields, Wade, and Waller—20.

NAYS—Messrs. Adams, Atchison, Badger, Bell, Brodhead, Brooke, Butler, Cass, Chase, DeSaussure, Dodge of Iowa, Felch, Fish, Geyer, Hale, Mallory, Rusk, Smith, Soule, Spruance, Sumner, Underwood, and Upham—23.

So the amendment was rejected.

Mr. HUNTER. I am instructed by the Committee on Finance to offer the following amendment:

For defraying the expenses of the supreme, circuit, and district courts of the United States, including the District of Columbia; also for juries and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, incurred in the fiscal year ending June 30, 1852, and previous years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the apprehension and safe-keeping of prisoners, in addition to former appropriations, \$90,000.

Mr. HALE. I desire to ask the chairman of the Committee on Finance to give some explanation of that amendment.

Mr. HUNTER. The amendment is in pursuance of an estimate from the Treasury Department. I have a letter from Mr. Whittlesey, the Comptroller, which can be read. That explains what the Senator from New Hampshire desires to have explained.

THE TREASURY DEPARTMENT,  
COMPTROLLER'S OFFICE, May 13, 1852.

SIR: In pursuance of your reference to me of House bill No. 146, reported by Mr. McLanahan from the Committee on the Judiciary, January 29, 1852, to regulate the fees and costs to be allowed officers of the Federal courts, with a note indorsed thereon by Mr. Houston, chairman of the Committee on Ways and Means, requesting you to examine the bill and make estimates based upon it, stating, as nearly as may be, how much should be appropriated in case that bill should become a law, I have to report that I have examined the subject, and submit the result of my examination and opinion, as follows:

The amount drawn for expenses of courts during the year ending June 30, 1851, over and above repayments, was over \$516,000; drawn from July 1, 1851, to this date, over \$548,000—balance now to the credit of that fund about \$9,000; and to the credit of fines, forfeitures, and penalties, about \$13,000.

During the present fiscal year the expenses have been very much increased, probably \$30,000 or \$40,000, by prosecutions growing out of the fugitive slave law in Massachusetts, New York, and Pennsylvania, and prosecutions in New York and Louisiana for violations of the neutrality law. Many of the bills for these extraordinary expenses have not yet come in. There will probably be needed from this time until the 30th of June, including those extraordinary expenses, about \$110,000; and if so, there will be a deficit of about \$90,000.

This large deficit will occur, notwithstanding the amounts have been closely examined in this office, and my action as an accounting officer has been complained of by some of the marshals, clerks, and district attorneys as extremely rigid.

The items for services during the present fiscal year, certified by the judges, including what will be certified, which have been and will be rejected as illegal, will probably amount to \$50,000. Many of the officers insist that the certificates of the judges are final and conclusive; that the accounting officers have no legal power or right to look behind the certificates; and that all the action of the accounting officers, in rejecting numerous items in the accounts certified, and reducing the amounts of others, is illegal. If that view of the law should be finally sustained, all those rejected items must be provided for, which would probably swell the deficit during the present year to nearly \$150,000. How large an appropriation would be required to settle such items, certified by the judges and disallowed by the accounting officers during previous years, it is not possible to estimate or even conjecture. The sums disallowed by my predecessors and myself in the accounts of one officer, (those of Mr. Durant, late district attorney for the eastern district of Louisiana,) amount to nearly \$42,000.

The judicial expenses of the Government have been greatly increased by an extension of territory, and the creation of the new districts of California, Oregon, Minnesota, New Mexico, and Utah. I will estimate them for the year beginning July 1st, 1852, and ending June 30, 1853, over and above the amounts that may be received from fines and penalties, as follows:

In case the present laws remain in force, and the certificates of the judges are to be regarded as conclusive as to the legality and amount of each item certified, I estimate the amount at \$680,000.

In case the amounts are acted upon and passed, as they have been during the past year, under the present laws, I estimate the amount needed at \$630,000. What the expenses would be under the present laws, can be estimated from past experience, with a reasonable approximation to accuracy; what they would be under the bill submitted by the committee, it is much more difficult to estimate. The bill does not propose a general reduction of fees, and though it would reduce some of the items of fees in a few of the districts and equalize them, it would increase them in ten instances where it would reduce them in one. For instance, it proposes to raise jurors' fees from \$1 25 to \$2 per day, and witnesses' fees from \$1 25 to \$1 50 per day. It would raise the fees and increase the compensation of district attorneys in about three fourths of the districts. It takes the fees allowed to marshals by the fee bill of February 25th, 1799 as the basis, and in every instance where any change is made in the compensation for any item of service, the bill proposes to increase it. The bill proposes to equalize clerks' fees. It allows a very liberal compensation for issuing writs, filing papers, making dockets, and indexes, taxing costs, and all general services, and a moderate compensation for making entries, records, and copies. I think it would increase the fees for any given amount of services rendered in a majority of the districts, but its precise operation cannot be determined in advance. The object of the bill is to equalize fees, and to lessen expenses by regulating



the practice in many particulars in order to prevent abuses, to provide for a joinder of actions, and prevent an unnecessary multiplication of suits—to avoid all useless forms, and prevent an unnecessary multiplication of papers, orders, and proceedings—lessen the amount of labor and services performed, and to pay the officers generally better for services which are really necessary. If the same man has been guilty of half a dozen distinct offenses of the same character, which might be joined in an indictment, by virtue of the bill proposed, under the present practice, a distinct suit is prosecuted for each offense, making the same costs in each suit. And if the same person is a proper witness for the Government in half a dozen suits pending at the same time, a subpoena is issued and served on him in each suit at each term of the court requiring his attendance. The bill provides that one subpoena shall be sufficient to command the attendance of a witness on the court, to testify in all the causes in which his testimony may be needed for the United States, and the needless labor and expense of issuing and serving several subpoenas will be saved.

The greatest abuses now existing which swell largely the aggregate expenses of Federal courts, are in less than one fourth part of the districts; in which the bill in question would, in my opinion, reduce the aggregate expenses below what the accounting officers would allow under the present laws perhaps \$80,000; and in the other districts, the expenses would be increased on the one hand about as much as they would be diminished on the other.

If these estimates are correct, in case the bill should become a law, there will be needed for the fiscal year commencing July 1st, 1852, and ending June 30th, 1853, an appropriation of.....\$550,000  
And for deficiencies for the present year ending..... 90,000  
June 30th, 1852..... 90,000

\$640,000

All of which is respectfully submitted.

ELISHA WHITTLESEY.

Hon. THOMAS CORWIN, Secretary of the Treasury.

Mr. HALE. When I asked the Senator from Virginia [Mr. HUNTER] for information, I wanted to find out, if I could, (but it seems that the letter of the Comptroller does not give the information I required, and I understand that the chairman of the Committee on Finance [Mr. HUNTER] is not able to give it,) what proportion of these \$90,000 was wanted for the darling object of the compromise—for the purpose of carrying out the fugitive slave law. I understand that this deficiency arises from the fact that the appropriations of last year were not sufficient by so much to enforce the fugitive slave law in Massachusetts, and the neutrality law in Louisiana and New York. How much of this charge has been caused by the turbulence in Louisiana, or the fanaticism in Massachusetts does not appear; but being two extremes they are lumped together, and the total amount of what is required to enforce the neutrality law in Louisiana and New York, and the fugitive slave law in Massachusetts and Pennsylvania, is put down without attempting to distinguish the items. I shall vote against them both; and before any Senator votes I wish that he could read the very satisfactory report on the judicial expenses which has been made by the Committee on the Judiciary in the House of Representatives during the present session; embodying, as it does, this very report of the Comptroller of the Treasury, who is, I believe, one of the most faithful and vigilant officers we have ever had in any Department of this Government. Senators will there see the mode in which the judicial expenses have increased beyond all precedent.

I understand, as well as it is possible for me to understand anything amid this noise and confusion—and I do not make that remark in any offensive sense—that the Comptroller suggests that if these bills could be properly audited, and if a liberal allowance of illegal items were stricken out, \$50,000 might be saved, and the amount chargeable on the administration of the neutrality and fugitive slave law might be reduced to \$90,000. Am I not right?

Mr. HUNTER. The Senator is in error in supposing that the Comptroller says these are the only two causes of the deficiency. It arises from all the causes to which he has referred in his letter. He says, however, that the actual amount of the deficit caused by the administration of these laws, would amount to \$150,000, as shown by the certificates of the judges, but that by a rigid supervision of the bills, and by the rejection of illegal items, it might be cut down to \$90,000.

Mr. HALE. I have but little information on this subject; but I will tell the Senate in what way this deficit has accrued in part from the administration of the fugitive slave law. When the marshal has had to enforce it at Boston, he has been compelled to employ an extra number of officers—a very considerable number—to carry it into execu-

tion; then these officers must have compensation; but not satisfied with that, they have been employed in the double capacity of officers and witnesses. These returns show that a considerable portion of this deficiency has accrued in this way—by going out into the highways and byways and picking up such fellows as are willing to become officers to enforce such a law; and then, over and above the *per diem* paid to them as officers, they are employed and paid as witnesses. The returns in the Comptroller's office will show that to be the fact. In addition to that, a report I have just received shows something else; it shows how these expenses have grown up. I find in this report that—take, for instance, the district of Massachusetts—the expenses, exclusive of the salaries of judges, marshals, and district attorneys, fees and moneys advanced to the marshals, amounted in 1831, about twenty years ago, to \$11,000; in 1832, to \$9,000; take it in 1840, and they have got up to \$18,000; in 1845, they are \$30,000; and in 1851, they are \$92,000 a year. That shows the manner in which these expenses have increased; and the Comptroller tells you that they have increased beyond all proper proportion, whether compared with the population or the business of the country.

Mr. HUNTER. I cannot inform the Senator with precise accuracy as to the amount of deficiency arising out of the prosecution of the fugitive slave law, and the enforcement of the neutrality law. The Comptroller says that during the present fiscal year the expenses have been very much increased; and probably they have increased to the amount of thirty or forty thousand dollars by prosecutions arising out of the fugitive slave law in Massachusetts, New York, and Pennsylvania, and prosecutions growing out of the neutrality law in New York and Louisiana.

Mr. HALE. That does not account for the whole deficiency. But I made up my mind when the vote was taken on the amendment relating to the Nautical Almanac, not to attempt again to correct any abuse upon the Treasury of the United States, and perhaps it would have been a wiser course to have adhered to that determination. But if Senators had read the report of the Committee on the Judiciary in the House of Representatives at this session, and the very able and searching letter of Mr. Whittlesey as to the manner in which this money has been spent, and the expenses have increased until they have run up in one department to \$92,000, they would be slow to vote any further sum to that fund until they had made a searching investigation, and attempted to correct some of the abuses which your officers have pointed out.

The question was then taken, and the amendment was agreed to.

Mr. MILLER. I am authorized by the Committee on Finance to offer the following amendment:

To enable the Secretary of the Interior to pay to the clerks employed in the Census Office upon extra duty, at the rate of one hundred dollars for full services, according to the office roll, the sum of \$10,500.

I would state that the Secretary of the Interior recommends this appropriation, and has also transmitted a letter to the committee from the Superintendent of the Census. These clerks have been employed on extra writing, at night, for which they have received no compensation.

The amendment was agreed to.

Mr. SEBASTIAN. I have been instructed by the Committee on Indian Affairs to offer the following amendment:

For expenses of treating with the Mississippi and St. Peter's Sioux, and for the extinguishment of their title to lands in the Minnesota Territory, being an addition to the appropriation, for the same object, made 30th of September, 1850, \$4,723 38.

That is one of a class of amendments which I ought to have offered the other day, and is intended to supply a deficiency of the Indian service for the present year. It is the amount of outstanding liabilities for furnishing provisions to these Indians, and for the extinguishment of their title to lands in the Minnesota Territory, and, as the amendment states, is an addition to the appropriation for the same object made in September, 1850. That appropriation has been exhausted; and in consequence of the Indians being on the council grounds longer than was anticipated, this amount of expense has been necessarily incurred in holding these treaties. The treaty was held under the immediate supervision of the Commissioner of Indian

Affairs, and the estimate comes from the Indian Department. I have been instructed to offer it, by the Committee on Indian Affairs.

The amendment was agreed to.

Mr. SEBASTIAN. I am also instructed by the Committee on Indian Affairs, to offer the following amendment, to be inserted at the end of line two hundred and fifty-six, page eleven of the bill:

Provided, That after the thirtieth day of June, 1852, all payments of interest on said award shall cease; and that the Secretary of the Interior be, and he is hereby, directed to pay the said claimants the amount of principal awarded in each case respectively, and that the amount necessary for this purpose be, and the same is hereby, appropriated: Provided further, That the annual payment and satisfaction of said awards, shall be first ratified and approved as a final release of all claims of such parties, under the fourteenth article of said treaty, by the proper national authority of the Choctaws in such form as may be prescribed by the Secretary of the Interior.

I should like to have the section of the deficiency bill, to which the proviso is offered, read, in order that its object and effect may be understood.

It was read, as follows:

For interests on the amounts awarded Choctaw claimants, under the fourteenth article of the treaty of Dancing Rabbit Creek, of 9th of September, 1830, for lands on which they resided, but which it is impossible to give them, and in lieu of the scrip that has been awarded under the act of 23d of August, 1842, not deliverable, east, by the third section of said law, per act of third March, 1845, for the half year ending the 30th of June, 1852, \$21,800.

Mr. SEBASTIAN. I will offer a word of explanation, presenting a short history of this claim, which will, perhaps, constitute the best argument in favor of the adoption of this provision. By the treaty of September, 1830, the Choctaw Indians ceded all their territory east of the Mississippi river. By the fourteenth article of that treaty, provision was made that the heads of families, who might desire to remain east of the Mississippi, and become citizens of the States of Alabama and Mississippi, should be permitted to remain.

At a certain time these reservations were to be made out and established; but in consequence of circumstances, to which it is now unnecessary to refer, the time elapsed, and owing to the neglect of the officers of the Government, and the obstructions which were thrown in the way by the white population, these heads of families were prevented from availing themselves of the benefits to which they were entitled under this treaty. The rights which they held arose out of the treaty, and this state of things continued until by the act of 1842 Congress authorized in the place of the reservations under that treaty that scrip to the amount of these reservations should be issued to them. It was further provided by the law of 1842 that one half of the scrip should be deliverable east of the Mississippi river, and that the other half should be withheld till the Choctaws finally emigrated west. This was evidently intended as a means of compelling their emigration, and was, of course, a departure from the original treaty. They accepted this offer of composition for their claims, which Congress made to them; and after they had emigrated they called for the other half of the scrip. Congress again interfered upon the petition of the Choctaw council, of the nation west of the Mississippi, who asked that the amount might be funded at the rate of five per cent. interest, instead of being deliverable in mass to them. Now, the experience of the administration of this particular annuity, payable to a particular part of the Choctaw nation, making a large class of private claimants, has been found to be attended with such mischiefs, and to be so ruinous to the interests of these persons, that the Choctaw council has reversed its former determination; and whereas they have once petitioned that this amount should be funded, they now ask that the amount should be unfunded again, and that the amount which was awarded by the act of 1842 should be paid over in mass to the respective claimants. Of the policy of this final distribution, the redemption of the annuity by the payment of the principal instead of the interest, I suppose there is no Senator who will entertain a doubt. These annuities are already accumulating upon us with fearful rapidity. In the administration of annuities of this class in this way we escape entirely those considerations which apply in favor of a general annuity system to a nation at large.

The amount payable to each of these claimants becomes a vested right; and on the death of the

head of a family, it is subdivided, *ad infinitum*, until the amounts which are payable to the different heirs have dwindled down to sums almost too insignificant to pay the expense of traveling to the agency for the purpose of receiving them. The only question which has been suggested by any Senator has been as to the competency of Congress to provide in this mode for the satisfaction of these annuities. It will be seen that this indemnity for the infractions of the fourteenth article of the treaty of 1830, is entirely the creature of the legislation of Congress. It does not arise under the treaty itself. It is a mode of redress, giving satisfaction for the violation of the treaty; and these annuities were not created by the treaty. If they were perpetual annuities, created by the terms of the treaty, then it is admitted that we must have the sanction of a treaty to enable us to make a good and valid payment of them. The fourteenth article of the treaty provided that reservations in land should be extended to the Indians. That they did not get; and the act of 1842 provided that scrip should be tendered to them; and the Indians accepted the proposition voluntarily tendered to them by Congress. When it came to the delivery of the half which was payable west of the Mississippi, Congress again interfered, and by a mere act of legislation funded the amount of the land scrip at the rate of \$1 25 an acre, and made it a perpetual annuity of five per cent., requiring the interest to be paid to them perpetually. They now ask that the amount shall be paid in full, the principal discharged, and the annuities stopped; so that the last two acts of Congress which have been passed upon this subject prescribed terms which have been accepted by the Indians. They are repealable in their character, and it is just as competent for Congress to repeal the act of 1845, which made it a perpetual annuity, as it was to change the terms of 1842, which provided satisfaction in place of the fourteenth article of the treaty of 1830. The whole of this annuity is nothing but a form of satisfaction which the Indians have accepted, and it is entirely the creature of legislative sanction. It is as competent for the Thirty-second Congress to repeal the act funding this scrip, as it was for the Congress of 1842 originally to enact it.

The amendment which I have offered guaranties every kind of security that no further reclamation shall be made upon us for the application of this fund, or rather for the erroneous payment of it to improper parties. It requires the receipts and release of the individual claimants themselves, in addition to which, as a matter of precaution, it requires affirmation by an act of national authority on the part of the Choctaws. With this double security, I think, it is entirely safe for the Senate to act in this matter; and, as to the policy of adopting this proposition, I suppose that no one here for a moment entertains a doubt.

The amendment was agreed to.

Mr. SEBASTIAN. I have one more amendment to offer from the Committee on Indian Affairs; but, as I am advised that it will create discussion, I will merely lay it on the table, so that it may be printed and laid on the desks of Senators by to-morrow morning. It is to insert the following:

For the unliquidated balance found due the Creek Indians, for losses sustained during the last war with Great Britain, by that portion of the tribe that was friendly and cooperated with the United States, in accordance with the promise of the Government, and pursuant to a report of the Commissioner of Indian Affairs, made to the Committee on Indian Affairs of the Senate, May, 1850, §110, §117 &c.

Mr. BORLAND. I ask that the amendment may be printed, so that Senators may have it before them.

The PRESIDING OFFICER, (Mr. MANGUM in the Chair.) It will be printed, unless objection is made to it.

No objection was made.

Mr. HALE. I move further to amend the bill by inserting, after the amendment which was offered by the chairman of the Committee on Finance, and agreed to by the Senate, for supplying the deficiency in the judiciary fund, the following:

*Provided*, That no officer in the United States who is in attendance upon any court of the United States shall receive any pay or compensation for his attendance as a witness on behalf of the Government at the same time that he receives compensation as such officer.

Mr. HUNTER. I am not sure that I under-

stand that amendment. Does the Senator from New Hampshire mean that an officer residing in one State shall not receive compensation as a witness, although he is summoned to give testimony in another?

Mr. HALE. No, sir; I mean—and I meant to write the amendment to mean—that an officer shall not go out and summon in a batch of officers and pay them a legal per diem during the whole term of the court, and then let them qualify themselves as witnesses, and receive pay also as witnesses during the whole term—that they shall not be receiving double compensation from the Government, as officers and witnesses at the same time, at the same court. That is all I mean, and I believe that is what the amendment means as it is written.

Mr. DAWSON. I understand the Senator to say officers appointed; appointed by whom?

Mr. HALE. By the marshals.

Mr. DAWSON. What officers are appointed by the marshals?

Mr. ADAMS. Criers are appointed by the marshals.

Mr. BADGER. It is very obvious that, to avoid the difficulty suggested by the Senator from Virginia, it is necessary that the amendment should be amended so as to make it read that no officer of the United States, while he is in attendance upon any court in the discharge of his said office, shall receive compensation as a witness. I therefore move to insert the words "in the discharge of the duties of his said office," after the words "any court of the United States," so as to make the amendment read:

*Provided*, That no officer of the United States, who is in attendance upon any court of the United States in the discharge of the duties of his said office, shall receive any compensation for his attendance as a witness on behalf of the Government, at the same time that he receives compensation as such officer.

Mr. HALE. I accept that.

Mr. DAWSON. I should like to know if any officer of the Government has ever charged pay as a witness?

Mr. HALE. The Senator from Georgia asks if such things have ever occurred? I will tell him. I have a letter—though I have not got it by me—from the Comptroller of the Treasury, in which he says such things have occurred, and occurred very lately, and to a pretty considerable extent.

Mr. DAWSON. Were they paid?

Mr. HALE. Yes, sir; they were paid.

The amendment was agreed to.

Mr. BRODHEAD. I have an amendment to offer, upon the subject of paying the laborers upon the two wings of the Capitol, which is founded upon an estimate furnished by the Architect, to the honorable Senator from New Hampshire, [Mr. HALE.]

Mr. HUNTER. Does an estimate from the Architect come within the rule? As I understand it, the rule refers only to estimates from the head of a Department.

Mr. BRODHEAD. The honorable Senator from New Hampshire can state whence the estimate came.

Mr. HALE. I have to state, the Senator from Pennsylvania having appealed to me before—as I thought the vote of the Senate was so decisive, that they had no money to pay workmen—that I tore the papers up, and gave up the thing in despair. I cannot say whether it was an estimate or not. It was something which the Architect drew up and put into my hands—a resolution, and then a statement of names, and figures to sustain it. The precise character of that, I do not know; but I thought the thing was dead.

Mr. BRODHEAD. I ask that the amendment may be read; I suppose it can be introduced by unanimous consent. It only provides for the poor men who were waiting here all winter for work. It is an act of justice and charity.

The amendment was read. It is to insert an additional section, as follows:

*And be it further enacted*, That the Architect appointed by the President of the United States to superintend the work on the construction of the additions to the Capitol be, and he is hereby authorized to examine the claims of the workmen to indemnity for the loss of their time during the suspension of the work upon said additions, for the want of an appropriation; and that the said Architect allow to such of said workmen, respectively, as were suspended from labor, during the pendency of the joint resolution making such appropriation, with the encouragement that upon such appropriation being made their labor would again be required by the Government, and who immediately had no

opportunity of obtaining employment in the city of Washington, such reasonable indemnity for loss of wages for labor during the suspension of the work, as, under the circumstances of their respective cases, justice and equity may require, not exceeding, however, in any case, the average rate of the earnings of said workmen in the employment of the Government for a like preceding period of time.

The PRESIDING OFFICER, (Mr. MANGUM temporarily occupying the chair.) In reply to the Senator from Virginia, the Chair would remark, that the amendment proposes no appropriation in the bill under consideration; therefore, in the opinion of the Chair, it is not excluded by the rule.

Mr. BRODHEAD. It is entirely in order. I hope the amendment will be agreed to.

Mr. BADGER. The only effect of adopting the amendment, without making an appropriation now, will be that the appropriation itself will be put in some small deficiency bill hereafter, and of course, will be got through without any difficulty or delay.

Mr. HALE. This is pursuing the same course that was adopted in the example set to us by the Senator from North Carolina the other day, in voting \$3,000 a year to an almanac maker. That had the vote of the honorable Senator from North Carolina; so that we are but following his example when we support this amendment.

Mr. UNDERWOOD. Mr. President, I am entirely opposed to this movement. We have individual claimants all over this wide country of ours, who are knocking at our doors year after year, but nobody pays much attention to them; but when you get a parcel of workmen here who are close by you—who can visit you every day, and talk to you and operate upon you, they become especial favorites, and, without going through the ordinary course of petitioning, as other persons have to do when they have claims against the Government, it is proposed to provide for them in an appropriation bill. This is justice to all the citizens of the country!

Mr. BORLAND. Will my friend from Kentucky permit me to say that these men have memorialized Congress. I presented a memorial some time ago from them, stating very strongly and clearly the justice of the claim which is now made by them.

Mr. UNDERWOOD. Then, Mr. President, instead of allowing the committee to act upon the memorial, and to report a bill, if they think it necessary, we are forestalling it by making an appropriation before the committees have acted. These, I believe, are the very same gentlemen whom my friend from Arkansas told us, some time ago, in one of his speeches, were such a lazy set of fellows that they did not half do the work on which they were engaged.

While I am up I wish to put this matter right. I want to state the facts as they are. When this subject was up before, I wrote a note to the superintendent of the work, asking him if he would be kind enough to tell me how these persons were engaged; how they were brought here; and how they were employed. We were told, when this matter was under discussion before, that these persons were brought here by an advertisement, which promised them certain employment, and held out certain inducements to them. I wanted to see the advertisement, and therefore I wrote to the superintendent. He sent me the following letter in reply:

"In compliance with your request, I inclose a paper containing the advertisement you speak of. No other advertisement—no invitation of any kind whatever has been issued; and the terms of this have been fully complied with on the part of the Government, as all the men who came here in pursuance of it were employed until the last of December. Respectfully,

THOMAS U. WALTER."

Here is the advertisement:

WANTED—At the extension of the United States Capitol, fifty good stone masons, to whom work will be given to the last of December. Wages \$2 25 per day. Application to be made to Samuel Strong, Superintendent. WASHINGTON, September 11, 1851.

Now, here is an advertisement, stating to all the world, that work was to be given to a certain number of individuals—stone masons; that they would be paid \$2 25 per day—more than double the price for which we get men of that character in my quarter of the country; but I do not object to that. The advertisement sets forth, also, that they were to be employed until the last of December. The agent charged with the execution of all this, tells us that every person who made appli-

cation in pursuance of this advertisement, was employed up to the time specified in the advertisement, and paid according to contract. These are all the facts, and yet we hardly have a session upon an appropriation bill, but some gentleman gets up and makes a motion to provide for these laborers.

Mr. DAWSON. It is just on the eve of a presidential election.

Mr. UNDERWOOD. It is said that it is just preceding a presidential election, and that that is the reason it is urged.

Mr. HALE. Order! Order!

Mr. UNDERWOOD. But I do not conceive that that has anything to do with it. I felt it my duty to state these facts to the Senate. Here they are. Here is the advertisement, and here is the agent's statement. I say that every person who engages to work for Government, stands on the same footing, and if you make an exception in favor of laborers in Washington city, you ought to extend it all over the country. I am against the whole of it from beginning to end.

The PRESIDING OFFICER. (Mr. MANGUM in the chair.) The Chair would remark that the amendment is most ingeniously drawn, and seems to have been drawn with a view to evade the rule. But another portion of the rule will comprehend it, to wit:

"And no amendment shall be received, whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

This must be regarded in the light of a private claim. Here no appropriation is made, and yet the amendment will create the necessity of an appropriation by the Government.

Mr. HALE. Will the Chair allow me to suggest that this is exactly similar to the case of Lieutenant Davis. The amendment there was admitted and adopted. It was a private claim to the amount of \$1,500 a year. The amendment made no appropriation; but when we adopted it, it created, in the words of the Chair, a necessity for an appropriation. If the decision of the Chair be correct, that this is a private claim, that was a private claim also; but the President of the Senate was then in his place, and received it. There can be no difference between the two, except that one refers to stone-masons, and the other to an almanac maker. It seems to me the rule ought to be applied to both. I should be glad individually and sentimentally that the opinion of the Chair should be sustained, because it would cut the almanac maker off; but still, I think the rule ought to be applied to both.

Mr. BADGER. There is no sort of similarity between the cases at all; and none can be made out, except by casting some reflection conveyed by an expression used in a contemptuous manner toward a highly meritorious officer, whom the Senator from New Hampshire has thought proper to characterize as an "almanac maker." The two cases have no resemblance at all. The amendment to which the Senator alludes was a proviso which I offered, and which was adopted by the Senate upon an amendment proposed by the Senator from New Hampshire. That proviso was to continue, under this law, to an officer of the Government a compensation which he had heretofore received. That was all it was.

A proposition to increase the salary of an officer of the Government, or to diminish the salary of an officer of the Government, is not a proposition at all like a private claim. It relates to the payment of the salary or compensation of a public officer. This is an amendment, the object of which is to provide for a certain claim. Undoubtedly it is a private claim. These persons are not officers of the Government. This is a claim on the equity of the Government, for which, as I have more than once stated, I am ready at any proper time to vote. But I do not choose to embarrass this deficiency bill with it; and I submit therefore that the decision of the Chair is correct, that this proposition cannot be offered as an amendment to this bill.

On motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, May 24, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.  
The Journal of Saturday was read and approved.

## SALT SPRINGS IN IOWA.

The SPEAKER. The first business in order is a motion to suspend the rules, holding over from last Monday, for the purpose of introducing the following resolution:

*Resolved*, That the Committee of the Whole House on the state of the Union, be discharged from the further consideration of Senate bill No. 55.

Mr. CLARK. In connection with this resolution, I wish to make a short statement of the purpose I have in view in offering it. After I have done that, I apprehend there will be no objection whatever to its introduction. I ask for the reading of the bill.

The bill was then read by the Clerk, as follows: A bill to relinquish to the State of Iowa lands reserved for Salt Springs therein.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the twelve salt springs, and six sections of land adjoining, or contiguous thereto, the use of which was granted to the State of Iowa, by the act entitled "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union," approved March 3d, 1845, shall be, and the same are hereby granted in fee simple to the State of Iowa, to be disposed of, and the proceeds to be applied as the Legislature of that State shall direct.

Mr. CLARK. I now call for the reading of the fourth section of the act of Congress upon this subject.

It was read, as follows:

"Fourth. That all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the said State for its use; the same to be selected by the Legislature thereof, within one year after the admission of said State, and the same, when so selected, to be used on such terms, conditions, and regulations as the Legislature of the State shall direct: *Provided*, That no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: *And provided*, also, That the General Assembly shall never lease or sell the same, at any one time, for a longer period than ten years, without the consent of Congress."

Mr. CLARK. I desire further, that the fifth section of the act of the General Assembly of the State of Iowa, upon this subject, shall be read.

It was read as follows:

"Sec. 5. The proceeds of the sales of said lands constitute a fund for founding and supporting a lunatic asylum and the other object herein specified. The amount realized therefrom must be invested, and the interest only can be used: *Provided*, That the commissioners of the lunatic asylum may, if they deem the interests of the institution and the wants of the State demand it, in the first instance use \$5,000 of the principal of the fund to assist in the building and furnishing of said asylum: *And provided*, also, That \$5,000 of the principal is hereby placed at the disposal of the superintendent of public instruction, for the use of the college of physicians and surgeons at Keokuck, to be paid over as he may from time to time deem advisable."

Mr. CLARK. The reading of this section of the act of Congress—

Mr. BROWN, of Mississippi. I will ask the gentleman from Iowa, how long his explanation is likely to last? If he designs to make a regular speech, I must object to it.

Mr. CLARK. I shall not occupy more than three or four minutes.

The SPEAKER. The gentleman from Iowa must be aware that discussion is not in order until the resolution is regularly before the House.

Mr. CLARK. I supposed that there would be no objection to giving me the opportunity to make a simple explanation of the object of the bill.

The SPEAKER. The gentleman can proceed if no one objects.

Mr. STEPHENS, of Georgia. I do object to any departure from the rule.

Mr. BROWN, of Mississippi. Put your resolution upon its passage. No body objects to it.

Mr. CLARK. I ask, then, that the resolution be put upon its passage.

The SPEAKER. The question is upon the motion to suspend the rules, for the purpose of introducing the resolution.

The question was then put, and the motion was agreed to.

So the rules were suspended, and the resolution was introduced.

Mr. CLARK. I have no purpose to detain the House beyond a very few minutes. I consider that my object is already sufficiently explained to the House by the reading of the section of the act of Congress relating to this subject, and the section of the act passed by the General Assembly of the State of Iowa. It will be perceived by the act supplemental to the act for the admission of the States of Iowa and Florida into the Union,

that Congress gave the State of Iowa twelve salt springs, with six sections of land adjoining. The language of the act is, that six sections shall be granted to the State of Iowa for its use. Now, the object of Congress was, without doubt, to make a donation of these springs with the land. But there is a proviso in the section which prohibits the State from selling the lands. By the language of that proviso, they can only lease them for a term not exceeding ten years. But it is found extremely inconvenient and unprofitable to use these lands in that way. They do not subserve the purpose for which the donation was intended.

Mr. CLEVELAND. Will the gentleman from Iowa permit me to ask him one question? I wish to know if there is any object sought in this bill except that of giving the State of Iowa the power of disposing of these salt springs and the land accompanying them?

Mr. CLARK. None whatever, except for the appropriation of the fund.

Mr. CLEVELAND. That is a matter for the State of Iowa to determine. If that is the only object of the bill, I do not see why the House is not ready to vote upon it without further explanation.

Mr. CLARK. All we want is that Congress shall give to the State of Iowa complete power to dispose of these lands.

The question was then put, and the resolution was adopted; and the bill was brought before the House for consideration.

Mr. CLARK. I now move to put the bill upon its passage.

The SPEAKER. Is there an amendment pending?

Mr. CLARK. There is.

The amendment was read as follows:

*Provided*, That nothing in this act contained shall be so construed as to interfere with the rights of third parties: *And provided*, further, That if any of the lands which have been selected by the authorities of the State of Iowa, under the act aforesaid, shall have been legally claimed by pre-emption or otherwise, the State shall be authorized to select other lands in lieu thereof.

Passed the Senate, February 9, 1852.

Attest: ASBURY DICKINS, Secretary.

Mr. JONES, of Tennessee. Is the question upon ordering the bill to a third reading?

The SPEAKER. It is.

Mr. JONES. I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The question being first upon the adoption of the amendment, it was taken, and carried in the affirmative.

So the amendment was adopted.

The bill as amended was then ordered to be engrossed and read a third time, and having been engrossed, it was read the third time and passed.

## REPORTS OF COMMITTEES.

Mr. JONES, of Tennessee. Mr. Speaker, it is necessary that we should do something to facilitate the transaction of the business of this House—

Mr. BROWN, of Mississippi. I call the gentleman from Tennessee to order. I object to his speaking when there is no question before the House.

Mr. JONES. I have a proposition to offer. It is that the rules be suspended, and that a resolution be adopted, providing that it shall be the standing order of the House, this day and each succeeding day, until all the committees shall have been called, to call committees for reports; and that no other business shall intervene until that call shall have been gone through with. Give the committees an opportunity to relieve themselves of the reports and bills which have been accumulating for the last two or three months.

Mr. HOUSTON. Is it in order for me to ask a question of the Chair?

The SPEAKER. The question will be put on the motion to suspend the rules.

[Cries of "Order!" "Order!"]

Mr. HART. I object. The House is dividing upon the question, and remarks are not in order.

Mr. HOUSTON. I ask the Chair if it is in order for me to ask a question? If the Chair says it is not, that ends it, and gentlemen may take their own course. I shall be controlled by the decision of the Chair.

The SPEAKER. The gentleman from Alabama addressed the Chair, I believe before the Chair announced the call for a division. He was called



to order, however. The gentleman from Alabama will state his question. If it is a question of order such as is proper to be offered, the Chair will consider it.

Mr. HOUSTON. I do not propose a question of order, but one relating to the business proposed to be transacted.

The SPEAKER. Then the gentleman is out of order.

Mr. FOWLER. I wish to make an inquiry relating to the matter now before the House.

The SPEAKER. Is it a question of order or a question relating to the business now before the House?

Mr. FOWLER. I think it is. I wish to inquire if the proposition of the gentleman from Tennessee [Mr. JONES] is to spend one hour each day upon the subject?

The SPEAKER. The proposition is to suspend the rules for the purpose stated—to introduce a resolution making it the order of the day for to-day, and each succeeding day until all the committees shall have been called for reports.

Mr. CABELL, of Florida. I ask for the reading of the resolution.

The SPEAKER. There is no resolution before the House. The only proposition is to suspend the rules for the introduction of a resolution.

Mr. CABELL, of Florida. I ask that that resolution may be read.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] will reduce his resolution to writing.

Mr. JONES. It is not necessary. The Clerk will take it down. I move that the rules be suspended in order to enable me to introduce a resolution that it shall be the standing order of this House for this day, and from day to day, to call committees for reports for one hour, to the exclusion of all other business, until all the committees shall have been called.

Mr. HOUSTON. I have no objection to that, for that is the rule of the House now. That is exactly what I want. One hour each day of course. I thought the gentleman's proposition was intended to cover the whole day instead of one hour of each day.

The question was then taken on the suspension of the rules, and there were, on a division—ayes 132, noes not counted.

So the rules were suspended, and the resolution was admitted.

Mr. JONES. I call for the previous question on the adoption of the resolution.

The SPEAKER. What is the precise form of the gentleman's resolution?

Mr. JONES. It is that it shall be the order of this House for this day, and each succeeding day, to call for reports from the committees for at least one hour, until all the committees shall have been called.

Mr. MASON. I move to amend the resolution by inserting "two hours," in the place of "one hour."

Mr. JONES. I withdraw my call for the previous question, if the gentleman wishes to submit that amendment, so that the House may have an opportunity to vote upon it.

Mr. STEPHENS, of Georgia. I have not yet heard the resolution read.

The Clerk then read the resolution, as follows:

*Resolved*, That it shall be the order of the House for this day, and each succeeding day, to call the committees for reports for one hour, daily, to the exclusion of all other business, until the committees are called through.

Mr. STEPHENS. I would inquire if the gentleman from Tennessee [Mr. JONES] proposes this as a standing rule of the House?

Mr. JONES. Only until the committees shall have been called through?

Mr. STEPHENS. I submit, then, a question of order. The rules of this House prescribe the manner in which business shall be discharged. To change this standing rule of the House requires one day's notice.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Georgia, upon the ground that the proposition is not to make a permanent change of the rules, but to suspend the existing rules.

Mr. STEPHENS. I submit, if the rules can be suspended for the purpose of changing the general order of business without changing the rules? If this is to suspend the rules for a week or a

month, it is a permanent change of the rules. The suspension of the rules can only apply to particular measures, and not the general order of business.

The SPEAKER. The Chair would say that the House very often makes a particular bill the special order, from day to day, until disposed of. This proposition is very like that, for it is to make reports from committees the special order until they are called through.

Mr. STEPHENS. There is an express rule of the House which makes it competent for the House to make any particular bill the special order.

The SPEAKER. It is competent, in the opinion of the Chair, for the House to suspend all the rules, and to make the special order proposed by the gentleman from Tennessee, [Mr. JONES.]

The question was then taken on the amendment submitted by Mr. MASON, and, on a division, there were—ayes 64, noes 76.

So the amendment was not agreed to.

The question was then put upon the original resolution of Mr. JONES, and it was agreed to.

Mr. JONES. I move to reconsider the vote just taken, by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was taken, and the motion was agreed to.

Mr. BROWN, of Mississippi. Will a motion be now in order?

Mr. JONES. The resolution just adopted takes effect from its adoption.

Mr. BROWN. I understand that it does not take effect until to-morrow.

The SPEAKER. It is for this and each succeeding day.

Mr. BROWN. I thought it was from this day.

Mr. COBB. I rise to a privileged question, and will detain the House but a few moments. Some days since, when we were referring bills from the Speaker's table, a bill proposing to grant the right of way and a donation of public lands to aid in the construction of the Selma and Gunter's Landing railroad, was, at my suggestion, referred to the Committee of the Whole on the state of the Union. I moved the next morning to reconsider the vote by which the bill was referred to the Committee of the Whole. I did it because some of my colleagues, at the time I made the motion, thought that it was improper. They believed that the bill should have been referred to the Committee on Public Lands. And inasmuch as I desired time to consult my colleagues, as I did not wish to do anything in violation of their feelings, I moved the next morning to reconsider the vote. I have had a consultation with them, and am satisfied, and think they are perfectly satisfied, that it should go back upon the Calendar, and go to the Committee of the Whole on the state of the Union. We certainly are not very sanguine in our expectations that this bill will be reached this session.

The SPEAKER. What is the gentleman's motion? We are acting now under the order of the House.

Mr. COBB. It is to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union. My object is to have it go back where it originally was.

The SPEAKER. The gentleman can call it up after we have executed the order of the House. Reports are now in order from the Committee on Public Lands.

#### INDIGENT INSANE.

Mr. HALL, from the Committee on Public Lands, to which was referred "A bill making grants of public lands to the several States of the Union, for the benefit of indigent insane persons," reported the same back with various amendments, and with a recommendation that it do pass. The Clerk read the bill and amendments.

Mr. HALL. Mr. Speaker, with regard to the bill which has just been read, and which was printed at the last Congress, I propose only to submit a few remarks. I do not wish to consume the hour devoted to the reception of reports from committees in discussion. I will state merely the provisions of the bill. The first section of the bill provides for the granting of ten millions of acres of the public land to all the States of the Union to be apportioned on the compound ratio of geographical area and representation, according to the

late census, to be applied to the support of the indigent insane.

Mr. STANLY. It is very difficult to hear the gentleman's remarks, so great is the confusion outside of the bar.

The SPEAKER. The officers of the House will preserve order outside of the bar.

Mr. HALL. The Committee on Public Lands have reported an amendment to that first section, providing that there shall be granted to each State public land at the rate of 50,000 acres for each Representative in the House of Representatives, according to the census of 1850. This will increase the grant about 1,500,000 over the donation proposed in the original section. My own impression is, from all the information I can derive upon the subject, that 10,000,000 acres are sufficient for the purpose of the bill; and I, therefore, prefer in that respect the original bill to the amendment. The second section of the bill provides that the States within which public lands of a suitable quality are situated, shall select the lands granted by this bill within their own limits, and that the States which have no lands shall be required to select within the Territories from the land now subject to private entry. It further provides that the land thus selected shall be subject to the right of pre-emption, and shall not be sold for more than \$1 25 per acre. The Committee on Public Lands propose to amend that section in two respects. In the first place, that in the event of lands situated within any State not being worth \$1 25 per acre, in the opinion of the Governor of that State, it may select its lands within the Territories of the United States. In the second place, the committee move to amend that second section by providing that if the lands selected by any of the States are not sold within twenty years after the passage of this law, the grant shall cease and the lands revert to the United States. It appears to me that both of these proposed amendments are right and proper.

The committee propose to strike out the whole of the third section, which provides, on the completion of the apportionment of these lands, patents shall be issued to the several States for the portions allotted to them respectively, and that thereupon the States shall assume the management and sale of the lands thus apportioned. It is entirely unnecessary. The act itself vests the title in the States to their respective portions. It will be only the imposing of an additional amount of labor on the clerks of the land office, and the increasing of the expenses of the land department. The remaining sections of the bill provide, that these lands, when selected, shall be applied faithfully to the support of the indigent insane; that the proceeds of the sales shall be invested in State or United States stocks by the States, and that the dividend arising shall be inviolably appropriated to the support of the indigent insane. The Committee on Public Lands propose to amend the fifth section by inserting the words "or some other safe stocks yielding not less than five per centum per annum upon the par value of said stocks." It was thought by the members of the committee that, perhaps, it would be inconvenient to some of the States to invest the proceeds of the sale of these lands in the United States or State stocks, and, therefore, gave permission to them to invest the money in other safe stocks at not less than five per centum. This is a matter of no great importance, but may be of great convenience to the States, and for that reason the means of investment were extended. It is proposed also to amend the bill so as to permit the States, besides its insane, to provide for the deaf and dumb, or blind. I understand that the lady who has been chiefly instrumental in effecting this grant thinks that amendment improper. I am therefore willing that it shall be rejected. I will not consume the time of the House in the discussion of this bill. I trust, however, that it will not go to the Speaker's table.

Mr. FOWLER. I rise to a question of order. We are now acting under an order of the House passed this morning, which is to receive reports from committees. My point of order is, that we are not allowed to discuss the merits of the bill reported, and that as the gentleman from Missouri is going on to discuss the merits of this bill, and to give the reasons for its passage, he is not in order.

The SPEAKER. The Chair decides that the

right to report, carries with it the right to dispose of the matter reported. What would the gentleman propose to do with the matter reported? The matter reported must be disposed of, under the existing rules, as in ordinary cases. About this, the Chair has no doubt, and he, therefore, overrules the point of order.

Mr. CLARK. With the permission of the gentleman from Missouri, I will ask him a question. Do I understand the gentleman to say, that the apportionment is to be according to representation in the House of Representatives?

Mr. HALL. I will reply that the original bill proposes to apportion these lands among the States in the compound ratio of geographical area, and the representation in this House according to the last census. It provides further that no State shall be rated at more than 50,000 square miles.

Mr. CLARK. Will that do justice to the new States?

Mr. HALL. I think it would; but the Committee on Public Lands propose an amendment to the effect, that these lands shall be apportioned among the different States, at the rate of 50,000 acres for each Representative. That is more favorable to the old, and not so favorable to the new States.

Mr. CLARK. It seems to me there is no more justice in it, than to confine Wisconsin to three Representatives in all time to come, and Iowa to two.

Mr. HALL. I think that the original bill does justice to the new States, that the amendment of the Committee on Public Lands does not; and hope, therefore, that the amendment will not be adopted.

Mr. CAMPBELL, of Illinois. This appears to be a very important bill, and one not very easily understood. I, for one, desire to have that bill printed that I may see and read it myself; and I would suggest to the gentleman to make the motion that the bill may be printed, so that we all may have an opportunity of examining it, for, sir, very important principles are involved in it.

Mr. JONES, of Tennessee. I rise to a question of order, and that is, that one member has no right to hold the floor and farm it out to whomsoever he pleases, and to permit them to make speeches within his hour.

The SPEAKER. The right of the gentleman from Missouri [Mr. HALL] to receive explanations and suggestions from members around him, the Chair once before decided is in order.

Mr. HALL. If there are no more inquiries to be made—

Mr. MOREHEAD. I wish to know of the gentleman if this bill has ever been printed?

Mr. HALL. I will state to the gentleman, that the bill was printed at the last session of Congress, but has not been printed at this session.

Mr. MOREHEAD. I wish further to make an inquiry. It is not my purpose to embarrass the bill, or impede the wishes of its friends. It may be that I shall vote for it. I would ask its friends to have it laid on the table and printed.

Mr. HALL. If this bill be postponed to a day certain, and be made the special order, it will not embarrass it; but to postpone without making it a special order, it would kill it.

Mr. MOREHEAD. I hope the gentleman will make the motion to postpone to a day certain.

Mr. HOUSTON. I wish to ask the gentleman from Missouri [Mr. HALL] a question. This bill proposes a distribution of the public lands within the States. I desire the gentleman to inform me whether there are any provisions which regulate the selection of land? For instance, where will Maryland select her lands?

Mr. HALL. In the Territories of the United States.

Mr. HOUSTON. Where will Ohio select?

Mr. HALL. There is a provision of this kind: that if any of the States in which public lands are situated, do not have lands which, in the opinion of the Governor, are worth \$1 25 an acre, then that State may also select her lands in the Territories. It depends entirely upon the Governor, where she may select them.

Mr. HOUSTON. That is the point I wish to get at. The lands are better in some States than in others. In Alabama, there are no Government lands worth selecting under this bill.

Mr. BISSELL. With the view of affording every gentleman a fair opportunity to give this bill

as full attention as can be desired—as I am satisfied that is the way to secure friends for it—I move that it be made the special order for this day two weeks, and from day to day until disposed of.

The SPEAKER. The gentleman cannot make that motion unless the gentleman from Missouri [Mr. HALL] yield the floor for that purpose.

Mr. BISSELL. I understood the gentleman to have yielded me the floor to make the motion I desired, that this bill be made the special order for this day two weeks, and from day to day until disposed of, and that in the mean time it be printed with its amendments.

Mr. HALL. I hope the gentleman will give me his attention. I will have no objection to the gentleman making such motion, provided we can keep the bill from the Speaker's table. If his motion be made, and the bill be not disposed of to-day, it will go upon the Speaker's table. I move, with a view of keeping this bill alive, so that the gentleman may make his motion, that the bill be committed to the Committee of the Whole on the state of the Union.

Mr. BISSELL. I make the motion I suggested before.

Mr. KING, of New York. I rise to a question of order, that it is not in order to move to make this bill a special order.

The SPEAKER. It is not in order, if objection is made.

Mr. KING. I am opposed to making it a special order. I will have no objection to any other disposition which gentlemen may propose to make of it.

The SPEAKER. The Chair sustains the objection, that it is not in order to submit the motion to make this bill a special order.

Mr. BISSELL. I wish to inquire of the Speaker, whether it will be in order to make a motion to postpone the further consideration of this bill two weeks?

The SPEAKER. It is in order.

Mr. BISSELL. I would inquire, whether it will require more than a majority to take up the bill at that time?

The SPEAKER. The Chair is inclined to the opinion that it will be competent for a majority of the House to proceed to its consideration when that day arrives, unless by some privileged motion it be set aside.

Mr. BISSELL. Then I make the motion, and hope it will be put.

Mr. CAMPBELL, of Illinois. I ask if it be in order to make a motion to commit this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order. The Chair understood the gentleman from Missouri [Mr. HALL] to make a motion to commit.

Mr. HALL. I did.

The SPEAKER. The motion to commit to the Committee of the Whole House on the state of the Union and print is pending. Another motion is submitted, that it be postponed to a day certain, (this day two weeks,) and that it be printed. The question is first upon committing it to the Committee of the Whole.

Mr. CLINGMAN. I would suggest to the Chair that a motion to postpone to a day certain will take precedence and carry with it the motion to commit.

The SPEAKER. The recollection of the Chair is, that, according to the practice of the House, the motion to commit takes precedence of a motion to postpone to a day certain.

Mr. CLINGMAN. My impression is different.

Mr. JONES, of Tennessee. The Chair will see by referring to the 46th rule, that "when a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged." The question to postpone has precedence. I hope it will be voted down.

The SPEAKER. The question will be taken first upon the motion of the gentleman from Illinois, [Mr. BISSELL,] to postpone the bill to this day two weeks.

Mr. BISSELL. I trust that this motion will not be voted down, unless gentlemen are going to defeat the bill.

Mr. STANLY. I hope the motion will prevail.

The question was then taken upon Mr. BISSELL's motion, and there were—ayes 89, noes not counted.

Mr. ORR demanded the yeas and nays; which were ordered.

The question was then taken, and there were—yeas 115, nays 49; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, Ashe, Barrere, Bell, Bennett, Bibbhaugh, Bissell, Bowne, John H. Boyd, Bragg, Breckinridge, Brenton, Briggs, Brooks, Albert G. Brown, George H. Brown, Buell, Burrows, Busby, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Carter, Chandler, Churchwell, Clark, Cleveland, Clingman, Cobb, Curtis, John G. Davis, Dean, Disney, Dockery, Duncan, Ewing, Faulkner, Ficklin, Fitch, Florence, Floyd, Fowler, Henry M. Fuller, Gaylord, Gentry, Giddings, Gorman, Grey, Hall, Hauser, Hart, Hascall, Hebard, John W. Howe, Thomas M. Howe, Ingersoll, John Johnson, George G. King, Preston King, Kurtz, Landry, Letcher, Edward C. Marshall, Humphrey Marshall, McCorkle, McNair, Meacham, Miller, Miner, Molony, John Moore, Morehead, Murray, Newton, Olds, Outlaw, Samuel W. Parker, Peaslee, Penn, Penniman, Perkins, Phelps, Rantoul, Richardson, Robie, Robinson, Sackett, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smith, Snow, Stanley, Frederick P. Stanton, St. Martin, Stratton, Strother, Stuart, Taylor, Thurston, Toombs, Tuck, Walsh, Ward, Washburn, Watkins, Welch, Addison White, Alexander White, and Williams—115.

NAYS—Messrs. Averett, Joseph Cable, Thompson Campbell, Caskie, Chastain, Colecock, Conger, Daniel, Durkee, Eastman, Freeman, Thomas J. D. Fuller, Grow, Hamilton, Isham G. Harris, Hendricks, Hibbard, Billyer, Holladay, Houston, Howard, Ives, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Mason, McDonald, McMullin, McQueen, Milson, Orr, Polk, Powell, Price, Robbins, Ross, Russell, Scurry, Alex<sup>r</sup>. H. Stephens, Stone, George W. Thompson, Wilcox, Wildrick, and Woodward—49.

So the bill was postponed, and ordered to be printed.

Mr. HALL was still entitled to the floor.

Mr. SIBLEY. I wish the gentleman from Missouri [Mr. HALL] to allow me to propose the following amendment as an additional section, and that it be printed with the other amendments:

"And be it further enacted, That in lieu of the land hereinbefore granted to those States, in which there is no public domain, there shall be issued to said States, under the direction of the Secretary of the Interior, land scrips for an amount equal to the distributive share granted to such States respectively, under the provisions of this act, to be disposed of for the uses and purposes prescribed in the foregoing sections of this act."

Mr. STANLY moved to reconsider the vote just taken, by which the bill was postponed, and to lay the motion to reconsider on the table, which latter motion was agreed to.

On motion by Mr. HALL it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following petitions, and that they do lie on the table, viz:

The petitions of citizens of New York city, and of Dayton, Ohio, in favor of a grant of land to the members of the Western Farm and Village Association;

The petition of 460 citizens of Wisconsin, praying for a grant of land to aid in the construction of a railroad from Chicago to Jonesville, and branches thereof;

The petition of Elisha Camp for aid in completing a railroad from Sackett's Harbor to Ellensburg, New York; and

The petition of citizens of New York, praying for aid in the construction of a railroad from Saratoga to Sackett's Harbor in said State.

Mr. HALL, from the Committee on Public Lands, to which was referred the petition of Joseph M. Wilcox, of the State of Missouri, made a report thereon, accompanied by a bill (No. 265) for his relief, which bill was read a first and second time by its title, committed to a Committee of the Whole, made the order of the day for to-morrow, and the bill and report ordered to be printed.

Mr. HALL, from the same committee, to which was referred the bill of the House (No. 123) "to relinquish to the State of Missouri, on certain conditions, the two per cent. of the net proceeds of the sales of public lands sold in said State since the 1st day of January, A. D. 1821, and reserved by the act of Congress of the 6th day of March, A. D. 1820;" reported the same with an amendment in the nature of a substitute therefor.

Ordered, That the said bill be committed to the Committee of the Whole House on the state of the Union and be printed.

On motion by Mr. HALL, it was

Ordered, That the Committee on Public Lands be discharged from the consideration of the petition of the settlers on the Menomonee purchase, in the State of Arkansas, praying for an extension of the preemption laws, and the time of payment under them, and that the same be laid on the table.

Mr. HALL, from the Committee on Public

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Lands, reported the bill authorizing certain soldiers in the late war with Great Britain, to surrender the bounty lands drawn by them, and to locate others in lieu thereof, and moved that the bill be referred to the Committee of the Whole on the state of the Union, and that it be printed.

The CHAIRMAN. Is it with or without amendment?

Mr. HALL. It is without an amendment.

Mr. HENDRICKS. I will ask the gentleman from Missouri [Mr. HALL] to withdraw his motion, and let this bill be put upon its passage. I think there will be no objection to that, for it will not occupy any length of time.

The SPEAKER. Does the gentleman from Missouri withdraw his motion to commit?

Mr. HALL. I supposed the House was tired of the Committee on Public Lands occupying its time, and I therefore moved to commit the bill; but, if the House is disposed to indulge the committee further, I will withdraw that motion. I ask that the bill be put upon its passage now.

The bill was then read through by the Clerk.

Mr. HALL. Mr. Speaker, I only wish to say a word or two in explanation of that bill. Some three or four years ago, a bill, similar to that in all respects, was passed with regard to the land situated in the State of Arkansas, and I believe that it was the intention of Congress, at that time, to extend the provisions of that bill to all the States of the Union. My recollection is, that the Committee on Public Lands, of which I was a member, so ordered the bill to be amended; but, be that as it may, the present bill only proposes to extend the provisions of the law, which is in force with regard to lands in Arkansas, to all the States of the Union. It merely authorizes the soldiers who received bounty lands for services in the war of 1812, which are of no value, to surrender those lands to the United States, and to select other lands, subject to private entry, in lieu of the lands thus surrendered.

Mr. FICKLIN. With the permission of my friend from Missouri, I wish to ask him this question: Does this bill, as it is now reads, provide for those lands which have been sold by the States for taxes?

Mr. HALL. I will only say this in reply to the remark of the gentleman from Illinois, that the committee supposed if the land was worthless, it was not probable it would have been sold for taxes, and in addition to that, the gentleman knows very well that the purchaser holds an indifferent title when based upon a tax sale. But, it is true, as the gentleman states. The same laws prevail in Arkansas, and I have never heard any difficulty arising in consequence of the lands being sold for taxes in that State.

Mr. POLK. I rise to a point of order. I would ask if the hour appropriated for the consideration of reports, is not expired?

The SPEAKER. It is just out.

Mr. POLK. I rise to a question of order.

The SPEAKER. What does the gentleman from Tennessee propose instead of the business now before the House?

Mr. POLK. I call for the regular order of business upon the Speaker's table.

The SPEAKER. The hour allotted to reports from committees has expired.

Mr. HENN. I would ask if the unfinished business of Saturday does not now come up?

Mr. POLK. If I understand it this is resolution day; and by a resolution of the House we appropriated one hour to the reception of reports.

The SPEAKER. It is petition day. The regular business under the rules will be to call the States for petitions, beginning with the State of Maine.

Mr. HALL. I will ask the gentleman from Tennessee [Mr. POLK] to withdraw his proposition, in order that I may make a motion that this bill be referred to the Committee of the Whole on the state of the Union, otherwise it will go on the Speaker's table.

Mr. POLK. I will do so.

Mr. HALL. I now move that the bill be re-

ferred to the Committee of the Whole on the state of the Union, and that it be printed.

The question was put, and the motion was agreed to.

Mr. HENN. I now repeat the question which I propounded to the Chair just now.

The SPEAKER. Petitions are in order from the State of Maine.

## SELMA AND TENNESSEE RAILROAD.

Mr. COBB. I now call up the motion which I made to reconsider the vote by which the bill No. 14, granting the right of way and making a donation of public lands to the Selma and Tennessee railway was referred to the Committee of the Whole on the state of the Union. I am not going to put it upon its passage. I moved that this bill be referred to the Committee of the Whole on the state of the Union. I thought then it would be as well there as anywhere else. Some of my colleagues differed with me, and thought it was better to refer it to the Committee on Public Lands, and let it take its change to be reported again. I see no better chance of putting it in that way than by referring it to the Committee of the Whole on the state of the Union; and my intention upon this occasion simply is to get rid of the motion to reconsider, and let the bill go back to the Calendar, where it belongs, to be considered if it is ever reached; but I doubt very much if it will ever be reached. Those who have meritorious railway schemes must rely upon the charity, or, at least, the liberality of the House towards the conclusion of this Congress, when we ask that those bills may be taken up, and they are satisfied that they are proper measures to be passed, that they will take them up. Without that, I have no expectation of ever seeing another railway bill acted upon that is referred to the Committee of the Whole on the state of the Union. I may probably find a speech upon my remarks now, that will take a very wide and extended range. I may probably talk about the degradation of the prices of the public lands; the donations of public lands to the States for railroads and various other purposes, as well as various matters connected with the State of Alabama. I move that the motion I made to reconsider be laid upon the table.

The question was put, and the motion was agreed to.

So the motion to reconsider was laid upon the table.

Mr. FULLER. I ask the unanimous consent of the House to allow me to report a bill authorizing the issuing of a new register to a vessel.

The SPEAKER. Is it a bill of which previous notice has been given, or one from a committee?

Mr. FULLER. It is a report from a committee.

Mr. HENN. I call for the regular order of business.

The SPEAKER. The regular order of business is to call States for petitions, beginning with Maine.

Mr. FULLER. Will it be in order to move to suspend the rules?

The SPEAKER. It will be in order.

Mr. FULLER. I make that motion, then.

Mr. JONES, of Tennessee. Are we not acting under a suspension of the rules already?

Mr. FULLER. No, we are not; the hour has been expended.

The question was then taken upon Mr. FULLER's motion, and, on a division, there were—ayes 39, noes not counted; so (two thirds not voting in the affirmative) the rules were not suspended.

## APPROPRIATION BILLS.

Mr. HOUSTON. There are two or three appropriation bills, that require but little time in which to dispose of them. The pension bills, for instance, have been before us for some time. We have passed no appropriation bills yet, and I would like the House to go into the Committee of the Whole on the state of the Union this evening, and pass these appropriation bills. They are

mere matters of form, more than anything else. It is necessary that it should be done, because at the beginning of the next fiscal year, it is proper that the funds should be at all points where pensions have to be paid out; and to accomplish that, the bills should be passed now. I therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I wish to ask the gentleman from Alabama to allow me to submit a resolution, instead of the one he proposes, and that is, that we shall go on to-day, and dispose of the territorial business in the House, which we can do to-day. I think such a course will facilitate the business of the House, more than anything else we can do.

The SPEAKER. Does the gentleman from Alabama withdraw his motion?

Mr. HOUSTON. I waited to see if any gentleman would propose the business for us to-day, after we stopped the call of committees for reports. No proposition was made, and now I make this motion. I would like the House to indulge me by going into committee.

The question was then put upon Mr. HOUSTON's motion; and, upon a division, there were—ayes 72, noes 49.

Mr. TUCK demanded tellers, which were ordered, and Messrs. HAMILTON and HOUSTON were appointed.

The question being again put, it was decided in the affirmative—ayes 75, noes 48.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR, of Connecticut, in the chair.)

The CHAIRMAN stated, as the first business before the committee, the consideration of the annual message of the President of the United States, and the resolutions in relation thereto.

## PENSION APPROPRIATION BILL.

Mr. HOUSTON. I move to pass by the other business on the Calendar, and take up House bill No. 44, "making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1853."

The motion was agreed to, and bill No. 44 was taken up and read through by the Clerk.

Mr. HOUSTON. I do not desire, in taking up this bill, to occupy any of the time of the committee. I merely wish to say, that the bill which has just been read is strictly in pursuance of the estimates of the Department. It is known to every one who has reflected at all upon this subject, that pension bills are controlled and restrained by the amount of pensions that are admitted at the Department which, according to law, passes upon them. By referring to the estimates, these items will all be found set forth. They are not set forth in this bill precisely as they are in the estimates. They have been separated, as they are here, at the request of the Department, but the amount is the same, and the destination of all the appropriations is the same. There are two of these bills, and unless some gentleman desires to discuss the merits of the bills, I would be glad that the general discussion should not be commenced upon them. All the other appropriation bills are ready for action, and as soon as the House will indulge me, I intend to commence calling up the regular bills for the supply of the various departments of the public service. If, however, there is to be a general discussion now, I would prefer that this bill should be laid aside to be reported to the House, and that the discussion should be had upon bill No. 45, which I will immediately call up. But I think the discussion ought to take place on neither of these bills.

Mr. STUART. I wish to submit a few remarks to the committee—and they shall be very few—and I respectfully request that gentlemen will hear me that I may have their judgment upon the subject. Here are two bills represented by the chairman of the Committee on Ways and Means to be somewhat formal in their character, but



necessary to the business of the country. Let us act upon them, and act promptly. And, sir, I desire to submit a motion that the committee rise, in order that we may limit debate, unless, indeed, the committee, by unanimous consent, will adopt the suggestion which I make. I do this not for the purpose of dictating to any gentleman, or to the committee, but for the purpose of ascertaining the sense of the House. If the House will agree to this, I then propose to go to the business that has been reported from the Committee of the Whole on the state of the Union in regard to the Territories. We can take up that business in the House, and probably dispose of it all to-day; at any rate we can do it to-day and to-morrow.

Mr. HOUSTON. With the permission of the gentleman I will say this in reply to his suggestion, that if the committee will allow the Chair to report both these bills—Nos. 44 and 45—to the House, I am perfectly willing, as far as I am concerned, to take up the territorial bills. The same explanation applies to both of these bills; and the estimates are here, with the written explanations of the Department.

Mr. STUART. I should be very glad to adopt any plan that would bring about the object I have in view. As I said before, I merely wish the attention of the committee, that they may decide this question; and I will abide as cheerfully as any gentleman by whatever seems to be the sense of the committee. I wish gentlemen to determine now whether they will take this course in reference to these two small and comparatively unimportant bills, and let us take up the territorial business that has been reported to the House, in the House, and dispose of it, so that it may go early to the Senate, and meet with final action there. For the purpose of effecting that object, I move that the committee do now rise.

Mr. BAYLY, of Virginia. The gentleman from Michigan says that these are very small bills. One of them appropriates in the neighborhood of \$2,000,000, and I wish to make a speech upon it. I hope, therefore, that the gentleman will allow me to make the motion to rise.

Mr. HOUSTON. If the gentleman from Virginia wants to make a speech—if he is going to discuss the bill—it is better that the discussion should go on this evening. I hope the gentleman from Virginia is not to be the first gentleman to lead off in promiscuous debate on these appropriation bills. I do not think it usual. I appeal to the gentleman to let the general debate be postponed; and the first day I can do so—to-morrow, if the House will allow me—I will bring up the general appropriation bills. They are ready, and have been for months, to be discussed; and if the gentleman wants general discussion, I do not intend to endeavor to restrict it on those bills; but do let us report these small bills.

Mr. BAYLY. I will deal with the gentleman, and with the committee, with perfect frankness. I do wish to make a speech on other subjects than this bill, and I prefer to make it on this bill rather than upon others, to which I may feel it my duty to speak. The House knows that a member can speak but once to a bill. Now, I may have to speak to the other appropriation bills themselves; and as I fancy that, on these pension bills there will be but little debate, and as I have not troubled the House with a speech on politics generally this session, or even at the last Congress, I should be glad to have an opportunity of being heard.

[Loud cries of "Agreed!" "Agreed!"]

Mr. HOUSTON. The motion of the gentleman from Michigan is that the committee do now rise, with a view to limit the debate. If the gentleman from Virginia forces me to it, I must insist upon the question being taken.

Mr. BAYLY. I will state to the gentleman that I took the floor, supposing that we were going to the business on the Speaker's table. I have not got the papers and documents that I wish to use, and I move that the committee do now rise, that we may go to the business on the Speaker's table, so that I may have a chance to be heard to-morrow.

The CHAIRMAN. That motion has already been made by the gentleman from Michigan. Has the gentleman from Michigan withdrawn that motion?

Mr. STUART. I have not withdrawn the motion. I made it from a desire to take the sense of the House upon this question, whether they will occupy this week in talking about something that

is of no earthly consequence, or proceed with the territorial business.

The CHAIRMAN. Debate is not in order.

The question was then taken on Mr. STUART's motion, and on a division there were—ayes 44, noes 37.

The CHAIRMAN. There is no quorum voting.

Mr. ROBBINS. I ask for tellers.

Tellers were ordered.

Mr. ORR. It does not require a quorum to rise.

The CHAIRMAN. The gentleman from South Carolina is correct. It does not require a quorum to rise.

Mr. ROBBINS. Then I withdraw the demand for tellers.

The CHAIRMAN. The motion that the committee do now rise is decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. SEYMOUR, of Connecticut) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 44, and had come to no resolution thereon.

Mr. STUART. I offer the usual resolution to close the debate upon bill No. 44, now pending before the Committee of the Whole on the state of the Union, in five minutes after the committee shall resume the consideration of the same.

Mr. BAYLY, of Virginia. I move to amend that resolution by striking out "five minutes," and inserting "two hours" in lieu thereof.

Mr. HOUSTON. Why, the gentleman from Michigan still has the floor, and may intend to move the previous question on his resolution. The gentleman from Virginia cannot get the floor.

Mr. POLK. I call the gentleman from Alabama to order. He has no right to the floor then. [Laughter.]

Mr. STUART. I ask for the previous question.

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] moves to amend the resolution by striking out "five minutes," and inserting "two hours."

Mr. STUART. The gentleman from Virginia has not had the floor.

Mr. BAYLY. Yes, I have had the floor.

The SPEAKER. (Mr. JONES of Tennessee occupying the chair temporarily.) The gentleman from Michigan offered his resolution. The gentleman from Virginia rose and was recognized by the Chair, and the gentleman from Michigan did not then contest the right of the gentleman from Virginia to the floor. The gentleman from Michigan could not have said anything upon the motion which he made, except to have moved the previous question, and that he did not do.

Mr. STUART. It is no unusual thing for some one else to get the floor whilst I am upon it.

Mr. CLINGMAN. I move to lay the resolution upon the table.

Mr. HOUSTON. Upon that motion I call for the yeas and nays.

The question was put upon ordering the yeas and nays, and there were 17 voting in the affirmative.

Mr. CLINGMAN. I insist that there are not enough.

Mr. OLDS. That is not one fifth of a quorum. The negative side being then counted, there were 52 noes.

The SPEAKER. The yeas and nays are not ordered.

Mr. CLINGMAN. I ask the gentleman to modify his resolution, so as to allow a few hours' debate.

Mr. BAYLY. There is such a motion now pending.

Mr. STUART. The gentleman from Virginia has moved an amendment to allow two hours.

Mr. CLINGMAN. That is not long enough.

The SPEAKER. On a division there were not one fifth of those present voting in favor of the yeas and nays; and, consequently, they were not ordered.

Mr. ORR. Oh, yes, they were ordered. The vote was—ayes 17, noes 52.

Several Voices. "No, no," and "They were not ordered."

The SPEAKER. The gentleman from South Carolina is right. One fifth of those present did vote for the yeas and nays, and the roll will, therefore, be called.

Mr. CLINGMAN. I rise to a point of order. It has been decided again and again that on a motion to adjourn you may have the yeas and nays with less than a quorum, but that you cannot take the question on doing business of a legislative character with less than a quorum. Every one knows that there is a quorum in the House, and that if the question had been taken by tellers that fact would have been shown. But I insist that you cannot proceed to take this vote by yeas and nays upon the showing of the count just now.

The SPEAKER. The present occupant of the chair is of opinion that this is a constitutional right, and that when one fifth of those present order the yeas and nays, they have a right to have them entered on the Journal.

Mr. STANLY. Does not this same Constitution provide how many members shall be necessary to transact business?

The SPEAKER. The Chair thinks that if, upon the call of the roll, there should not be a quorum voting, it would be no decision of the question. The Chair thinks further, that taking the question by a division—calling the yeas first, and then the noes, or by tellers, is as much the doing of business as is the taking of yeas and nays.

Mr. CLINGMAN. I dislike to have the rules and practice of the House changed by these new lights, and I therefore appeal from the decision of the Chair.

Mr. DEAN. I move to lay the appeal upon the table.

The SPEAKER. A motion was made to lay the resolution to close debate upon the table. Upon that question the yeas and nays were called, and on a division there were 17 in favor of taking the yeas and nays, and 52 against it. Seventeen being one fifth of those present, or voting, the Chair decides that it was a sufficient number, under the Constitution, to order the yeas and nays. From that decision the gentleman from North Carolina [Mr. CLINGMAN] takes an appeal, and the gentleman from New York [Mr. DEAN] moves to lay the appeal upon the table. The question now is on the motion to lay the appeal upon the table.

Mr. STEPHENS, of Georgia. This is an important question of parliamentary law. I believe the decision of the Chair is perfectly right, and I ask for the yeas and nays on laying the appeal upon the table.

Mr. DEAN. I ask that the provision of the Constitution which regulates this matter, may be read.

The SPEAKER. It will be read, if there be no objection.

Mr. STUART. I object.

Mr. MARSHALL, of Kentucky. I move that the House do now adjourn, and upon that motion I demand the yeas and nays.

The House refused the yeas and nays.

The question was then taken upon the motion to adjourn, and upon a division there were—ayes 25, noes not counted.

So the House refused to adjourn.

Mr. STUART. I demand tellers upon ordering the yeas and nays, upon the motion to lay the appeal upon the table.

Tellers were ordered, and Messrs. FULLER, of Maine, and GOONRICH were appointed.

The House was then again counted, upon ordering the yeas and nays, and the tellers reported—ayes 33, noes 56.

So, more than one fifth having voted in the affirmative, the yeas and nays were ordered.

Mr. BAYLY, of Virginia. I rise to a question of order.

The SPEAKER. One question of order is still pending.

Mr. BAYLY. Well, my point is in reference to that question.

The SPEAKER. The gentleman from Virginia, nevertheless, cannot make one question upon another.

Mr. BAYLY. I want to call the attention of the Chair to his own decision, which, in my judgment, is a correct one. The House certainly have the power to order the yeas and nays, with less than a quorum. But I submit that less than a quorum cannot decide the question of order.

The SPEAKER. There has been no voting upon the question to show that there was not a quorum present. The Chair, therefore, overrules

the point of order made by the gentleman from Virginia.

Mr. STUART. Will the Chair state the question to the House?

The SPEAKER. The gentleman from Michigan [Mr. STUART] moved that all debate in Committee of the Whole on the state of the Union upon House bill No. 64, shall be terminated in five minutes after the committee shall next have resumed its consideration. The gentleman from Virginia [Mr. BAYLY] moved to amend by striking out "five minutes" and inserting "two hours." Upon that the gentleman from Michigan demanded the previous question. The gentleman from North Carolina [Mr. CLINGMAN] then moved to lay the resolution upon the table. Upon that motion the yeas and nays were demanded, and, upon a division, there were 17 in the affirmative and 52 in the negative. The Chair decided that, according to the Constitution, which says that "the yeas and nays of the members of either House, on any question, at the desire of one fifth of those present, be entered on the Journal," they were ordered. From that decision, the gentleman from North Carolina [Mr. CLINGMAN] takes an appeal; and the gentleman from New York [Mr. DEAN] moves to lay the appeal upon the table. The question, therefore, now is, Shall the appeal lie upon the table?

Mr. CLINGMAN. I desire to ask the Chair if the yeas were called for when, upon the demand for the yeas and nays upon the motion to lay the resolution upon the table, the Chair announced that there were 17 in the affirmative?

The SPEAKER. They were counted, and the Chair announced the number as 52.

Mr. CLINGMAN. The point I make is, that when the Chair announced that there were 17 voting for the yeas and nays, and the other side was not called for, it was irregular for the Chair to count the other side.

The SPEAKER. The Chair overrules the question of order.

Mr. CLINGMAN. I move a call of the House.

The SPEAKER. The Chair decides that the motion that there be a call of the House cannot be made at this time.

Mr. CLINGMAN. I submit that it is a motion which takes precedence of the one then pending.

The SPEAKER. The Chair will indulge the gentleman in his motion.

Mr. CLINGMAN. Upon that motion I demand the yeas and nays.

Mr. HART. Is it in order to move that the House do now adjourn?

The SPEAKER. It is.

Mr. HART. I make the motion.

The question was taken, and the result was—yeas 67, yeas 52.

Mr. HIBBARD. I demand the yeas and nays.

The yeas and nays were ordered—yeas 26, yeas 85.

The question was then again taken, and the result was—yeas 64, yeas 90.

So the House refused to adjourn.

Mr. CLINGMAN. I now withdraw my motion for a call of the House. I also, with an understanding with the gentleman from Michigan over the way, [Mr. STUART] withdraw the motion to lay the resolution upon the table, and the appeal from the decision of the Chair.

The SPEAKER. Then the question will recur upon the adoption of the amendment offered by the gentleman from Virginia to the resolution of the gentleman from Michigan, to strike out "five minutes" and insert "two hours."

Mr. STUART. If it is admissible, I will withdraw the demand for the previous question, and modify my motion to suit the wishes of the gentleman from Virginia, [Mr. BAYLY].

The resolution was then reported, as follows:

*Resolved*, That all debate in Committee of the Whole on the state of the Union, upon House bill No. 44, making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1853, shall cease in two hours after the committee shall again have resumed the consideration of the same. And if the committee shall not sooner come to a conclusion, it shall then proceed to vote upon such amendments as may be pending, or shall be offered, and shall report it to the House with such amendments as may have been agreed to by the committee.

Mr. HOUSTON. I desire to appeal to the gentleman from Virginia, and the gentleman from Michigan, if they desire to hang speeches upon

political subjects upon this bill, to allow this bill to pass, and I will then call up one of the general appropriation bills, upon which they can make as many speeches as they like.

Mr. STUART. I demand the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered.

The question was then put, and the resolution adopted.

Mr. STUART. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was then put, and there were, on a division—yeas 90, yeas not counted; so the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR, of Connecticut, in the chair.)

The CHAIRMAN stated that the first business before the committee was, the consideration of House bill No. 44, making appropriations for the payment of pensions.

Mr. WASHBURN addressed the committee an hour, in regard to the compromise measures, and the futility of attempting, by declaratory resolutions, to give those measures greater force, or more durability, than the laws themselves are calculated to give. [His speech will be found in the Appendix.]

Mr. BAYLY. I move that the Committee do now rise.

The question was put and the motion agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman, (Mr. SEYMOUR, of Connecticut,) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 44, to make appropriation for the payment of invalid and other pensions for the United States, for the fiscal year ending the 30th June, 1853, and had come to no conclusion thereon.

Mr. HARRIS, of Tennessee. I ask the unanimous consent of the House to offer the following resolution. I ask that it may be read for information.

Mr. FOWLER. I move that the House do now adjourn.

The SPEAKER. The Chair is of the opinion that in the present condition of the proposition of the gentleman from Tennessee, the motion cannot be entertained.

#### RESOLUTION FOR ADJOURNMENT.

The resolution was then read as follows:

*Resolved*, (if the Senate concur.) That this House adjourn sine die on the first Monday in August, at 12 o'clock, m.

[Cries of "Object!"]

Mr. HARRIS. I move to suspend the rules to enable me to introduce the resolution.

Mr. FOWLER. I move that the House do now adjourn.

The question was put, and the motion agreed to, and

The House adjourned till to-morrow at twelve o'clock, m.

#### IN SENATE.

TUESDAY, May 25, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. WADE presented eight petitions of citizens of Ohio, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Mr. CLARKE presented a petition of officers of the Navy and the Marine Corps, praying that the bill now pending before Congress providing additional compensation to officers and men of the Navy who have served, or are serving, on the coast of California and Mexico, may become a law; which was ordered to be laid on the table.

Mr. RUSK presented the memorials of Adolph Seuzneau, of Henry Grismer, and of Simeon Remer, praying the appointment of a tribunal to review the decisions of the late Board of Commissioners for the settlement of claims of American citizens against Mexico; which were referred to the select committee appointed on the subject.

Mr. HUNTER presented a memorial of citizens

of Virginia, bordering on the Potomac, opposite and above Georgetown, District of Columbia, praying that the compact between the Government and the corporation of Georgetown, by which the latter is required to keep a bridge across the Potomac at the foot of the Little Falls, be adhered to, and that no other modification be made except to so extend the said bridge over the flat as to prevent future interruption by freshet or other casualties; which was referred to the Committee on the District of Columbia.

Mr. CASS presented a petition of the theological students at Meadville, Pennsylvania, praying that the bill now pending before Congress granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. BRODHEAD presented a petition of residents of Northampton county, Pennsylvania, praying the formation of a new mail route from Nazareth, Upper Nazareth township, to Moorsburg, in Moore township; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of Scranton, Pennsylvania, praying that the bill now pending before Congress granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. BRIGHT presented two petitions of citizens of Franklin county, Indiana, praying that the bill now pending before Congress granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, presented the petition of Tillinghast Mowry and Phoebe Vaughn, heirs of John Mowry, praying to be allowed land and other compensation for the services of said Mowry in the revolutionary war; and in the last war with Great Britain; which was referred to the Committee on Private Land Claims.

Also, the petition of John P. Smith, administrator of John Smith, praying to be allowed bounty land for the services of said John Smith during the war of the Revolution; which was referred to the Committee on Private Land Claims.

Also, documents in relation to the claim of John Walker to a pension and bounty land for services during the last war with Great Britain; which were referred to the Committee on Claims.

Mr. MILLER presented the memorial of L. L. Chapman, praying an appropriation to aid in the further investigation of his discovery of physical laws, by which premonitions of atmospheric changes and their effects can be obtained in advance; which was referred to the Committee on Naval Affairs.

Also, a petition of citizens of New Jersey, praying the adoption of measures for the amicable adjustment of international controversies; which was referred to the Committee on Foreign Relations.

Mr. DAWSON presented a petition of citizens of Clarke and Jackson counties, Georgia, praying the adoption of measures for the amicable adjustment of international controversies; which was referred to the Committee on Foreign Relations.

Mr. SUMNER presented a petition of citizens of Roxbury, Massachusetts, and a petition of citizens of Newton, New Hampshire, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Also, the memorial of A. L. Ackley, praying the repayment of duties on machinery imported by him in the year 1846; which was referred to the Committee on Finance.

Mr. DAVIS presented a petition of citizens of Sunderland, Massachusetts, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Also, a petition of travelers on the Ohio and Mississippi rivers, praying that a law may be passed requiring the owners of steam-vessels, and engines used on land, to use Evans's safety guard, to prevent explosions; which was ordered to be laid on the table.

Mr. SHIELDS presented a memorial of the Lieutenants of the Corps of Engineers, Topographical Engineers and Ordnance, asking promotion more nearly approximating to that of the line of the Army; which was referred to the Committee on Military Affairs.

#### PETITIONS WITHDRAWN AND REFERRED.

On motion by Mr. PEARCE, it was

*Ordered*, That the petition of Richard B. Carmichael, administrator of Alphonso J. A. Blake, deceased, on the files of the Senate, be referred to the Committee on Foreign Relations.

#### REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the documents relating to the claim of Richard Fitzpatrick, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred the petition of John Boyd, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of Aaron Livingston and Randall D. Livingston, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the bill for the relief of Leonard Dyson, as assignee of Edward McLaughlin or his legal representatives, reported back the same without amendment, accompanied by a report, which was ordered to be printed.

He also, from the same committee, to which was referred the bill to provide for the issuing of patents for a certain class of confirmed private land claims in Louisiana, reported back the same without amendment.

On motion by Mr. DOWNS, the bill was considered as in Committee of the Whole; and no amendment being offered, it was ordered to be engrossed for a third reading. It was subsequently read a third time, and passed.

Mr. DAWSON, from the Committee on Military Affairs, to which was referred a joint resolution authorizing the closing of the accounts of certain officers of the Army, reported the same without amendment.

On motion by Mr. DAWSON, it was considered as in Committee of the Whole; and no amendment being offered, it was ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

Mr. HAMLIN, from the Committee on Printing, to which was referred the motion to print five thousand additional copies of the report of the Postmaster General, in relation to the postal operations of the United States, reported in favor of printing 3,500 copies of the same, together with the annual report of the Postmaster General, and the documents accompanying it—five hundred to be for the use of the Postmaster General; which was agreed to.

Mr. SOULE, from the Committee on Commerce, to which was referred the memorial of Joseph Mitchell, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Finance.

Mr. FOOT, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of Isaac Cobb, reported back the same without amendment.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of William Dwelley, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which was referred the petition of Azel Spaulding, praying compensation for services as pension agent, asked to be discharged from the further consideration thereof, on the ground that the committee have under consideration a general act with a view to make provision for all pension agents; which was agreed to.

Mr. ADAMS, from the Committee on Claims, to which was referred the petition of Richard B. Lee, submitted a report, accompanied by a bill for

his relief; which was read and passed to the second reading. The report was ordered to be printed.

#### RAILROAD IN LOUISIANA.

Mr. DOWNS, agreeably to previous notice, asked and obtained leave to introduce a bill granting the right of way and making a grant of land to the State of Louisiana, for the construction of a railroad from opposite New Orleans to Opelousas, thence to the Sabine river; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### THE NAUTICAL ALMANAC.

Mr. HALE submitted the following resolution for consideration:

*Resolved*, That the Secretary of the Navy be instructed to inform the Senate, where and at what Observatory the observations and calculations for the "Nautical Almanac" are made?

Why the same are not made at the National Observatory at Washington?

What expenses are necessary therefor, except the pay of the Superintendent?

What progress has been made towards making a Nautical Almanac?

For how long a period of time the calculations of the first almanac are expected to extend?

Whether it is necessary to the perfection of the "Nautical Almanac" to make observations at more than one Observatory, and if so, are they made at two Observatories, and if so, at what two?

Whether any persons except the Superintendent, have been paid for services in preparing the "Nautical Almanac," and if so, how many, and what compensation have they received?

When it is expected that a Nautical Almanac will be prepared for publication?

What improvement, if any, is it expected the American "Nautical Almanac," when published, will have over the English?

Is it expected that any errors of former astronomers or observers are to be corrected, or any new means suggested by which more precision is to be given to astronomical science?

After the first American "Nautical Almanac" is published, will the succeeding numbers probably cost as much, or more than the first?

Will the same time be necessary for the second and subsequent numbers respectively, as for the first?

#### ST. CLAIR FLATS.

Mr. WALKER submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of War report to the Senate the best plan, in his opinion, for the improvement of the St. Clair Flats, in Lake St. Clair, and State of Michigan; together with an estimate for the execution of such plan.

#### OBSTRUCTIONS IN THE TENNESSEE RIVER.

Mr. BELL submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of War communicate to the Senate the estimate of the cost of improving the navigation of the Tennessee river, heretofore made by Colonel Long, of the Corps of Topographical Engineers, and any further, or additional estimates, which may be suggested by recent examinations of the obstructions to the navigation of that river.

#### DEPARTMENTAL PRINTING, BINDING, ETC.

The Senate proceeded to consider the resolution submitted by Mr. BORLAND, April 26th, in relation to printing, binding, and advertising executed by order of the several Departments, which was agreed to, as follows:

*Resolved*, That the Secretaries of the Departments, respectively, of State, Treasury, War, Navy, and Interior, and the Postmaster General, be directed to communicate to the Senate statements of the quantity of printing, binding, and public advertising, which has been done for, or by order of the Department over which he presides, and on what account, and the amount of money paid for the same, and to whom paid, for each year since the 4th day of March, 1849, up to this time; and what remains to be done, and how much is to be paid for it under any existing contracts, arrangements, or agreements, written or verbal. Also, copies of the several contracts under which said printing, binding, and advertising, has been or is to be done; and, also, statements whether said contracts, arrangements, or agreements, have been made in pursuance of public advertisement or otherwise.

#### SALT SPRINGS IN IOWA.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the Senate bill to relinquish to the State of Iowa the lands reserved for salt springs therein, with an amendment, in which it requested the concurrence of the Senate.

On motion by Mr. DODGE, of Iowa, the Senate proceeded to consider the amendment of the House of Representatives to the above-mentioned bill, and it was concurred in, as follows:

*Provided*, That nothing in this act contained shall be so construed as to interfere with the rights of third parties: *And provided, further*, that if any of the lands which have been selected by the authorities of the State of Iowa, un-

der the act aforesaid, shall have been legally claimed by preemption or otherwise, the State shall be authorized to select other lands in lieu thereof.

#### RIGHT OF WAY FOR RAILROADS.

Mr. FELCH. I desire to ask the Senate to take up, this morning, a bill which will occupy but a few moments. It is a general bill, granting the right of way through the public lands to railroad companies. I ask that it may be taken up and passed, because individual companies are making applications, and this bill will supersede the necessity of legislating upon each case separately.

Mr. DAWSON. Do I understand the Senator from Michigan to say that he wants this bill passed in order to prevent companies of individuals constructing the same roads?

Mr. FELCH. I will state that the bill authorizes the proper Department to grant the right of way, upon certain specified conditions, through any of the public lands, to railroad companies organized under the State authorities. We have been in the habit of granting the right of way upon the application of individual companies whenever it has been asked. We have passed one or two such bills at the present session. We have now before us applications from a great number of companies for that purpose. This is a general bill, which will supersede the necessity of special legislation in each case. It gives no land—nothing but the right of way.

Mr. DAWSON. Does it give the right of way for one hundred feet on each side of the road?

Mr. FELCH. Only for seventy-five feet.

The motion was agreed to.

The bill to authorize the construction of railroads through the public lands in certain cases was read a second time, and considered as in Committee of the Whole. No amendment being made, it was ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### THE DEFICIENCY BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1852."

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) The Senator from Pennsylvania [Mr. BRODHEAD] yesterday offered an amendment in relation to the payment of workmen employed on the Capitol. The Chair then intimated that, under the rule, he regarded it as out of order. The Chair reaffirms that opinion, and decides that, under the rule, the amendment is not in order.

Mr. BRODHEAD. I am sorry that it is so decided, but I do not feel disposed to argue the question with the Chair; nor do I know that it would be in order for me so to do.

The PRESIDING OFFICER. It would be in order to debate the question upon an appeal taken from the decision of the Chair.

Mr. HUNTER. I wish to offer an amendment which merely allows the transfer of an existing appropriation. When the fire which destroyed the library occurred, a certain sum was appropriated to repair the damages occasioned by that fire. It was more than enough for the purpose. Since that time, there has been a fire in one of the apartments used by the Supreme Court. A transfer of the balance of the former appropriation is asked, in order to repair the damage done to that apartment. The amendment is, to insert the following:

*Svc. — Be it further enacted*, That the Commissioner of Public Buildings be, and he is hereby authorized to apply any unexpended portion of the money appropriated by the act of Congress entitled "An act making appropriation to meet the expenses incurred in consequence of the late fire at the Capitol," approved January 13, 1852, to the payment of the expenses necessarily incurred in repairing the damage lately done, by fire, in the office of the clerk of the Supreme Court, and in making other repairs about the Capitol.

The amendment was agreed to.

Mr. SEBASTIAN. I will now offer the amendment which I sent to the Chair yesterday evening, and which the Senate ordered to be printed. I see that the amendment has not been laid on the tables of Senators; and, therefore, I ask that it may be read for the information of the Senate.

The amendment was read, as follows:

For the liquidated balance found due the Creek Indians, for losses sustained during the last war with Great Britain, by that portion of the tribe that was friendly and



coöperated with the United States, in accordance with the promise of the Government, and pursuant to a report of the Commissioner of Indian Affairs, made to the Committee on Indian Affairs of the Senate, May, 1850, \$110,417 90.

Mr. SEBASTIAN. Mr. President, the proposition which I have just offered forms a part of the ordinary estimates of the Indian Department for the current service of that department for the present year. It is asked to be placed upon the deficiency bill, because it is an acknowledged obligation of the Government for the object mentioned in the amendment, which is now due and unpaid. The proper place, therefore, for it is in the deficiency bill, and nowhere else.

Mr. HUNTER. If the Senator will allow me, I will suggest to him that I wish to raise a question of order on that amendment.

Mr. SEBASTIAN. If the chairman of the Committee on Finance intends to raise the preliminary question of order, I would prefer that it should be raised now and disposed of, before the discussion of the merits of the amendment shall be entered upon.

Mr. HUNTER. I raise the question of order, that this amendment is not in order. It seems to me that it provides for a private claim.

The PRESIDING OFFICER. (Mr. MANGUM in the chair.) The facts of this case are not known sufficiently to enable the Chair to decide.

Mr. SEBASTIAN. Then I will state the nature of the case as briefly as possible, so as to give the Chair information in order to enable it to decide. In the first place, this is a part of the regular estimates of the Indian Department, coming through the Secretary of the Interior. It is estimated for by the Department, as a part of the regular expenditures of the Government for this year. It is reported by the Committee on Indian Affairs under the belief, by the committee, that it is not a private claim. It is a rule of that committee not to offer as an amendment to a bill of this kind, any claim which they recognize as private. The claim arises under the treaty of 1814, or rather under the capitulation of 1814, made between the United States and the hostile and friendly Creeks. It is based on the promise of indemnity for the losses of the friendly Creeks, which they sustained during the war, at the hands of the hostile Creeks. The number of claimants amounts to between seven hundred and one thousand, including a large portion of the tribe. The losses of the friendly Indians during the war, were ascertained by an agent of the United States, and forty cents on the dollar of the ascertained amount was paid to them. They now ask for the balance. That is the nature of the claim.

I submit to the Chair, therefore, that it can hardly be considered as a private claim. I think the very point in controversy must have been decided upon a question raised upon an amendment introduced by the Senator from Tennessee to this bill, the other day, which, I believe, was ruled to be in order, though it was lost on its merits.

The PRESIDING OFFICER. The Chair is inclined to the opinion, that this is not one of the sort of private claims indicated by the rule; for it has been the practice heretofore upon many occasions, when a bill has been passed by one branch of Congress and not passed by the other, to attach it to the appropriation bill. I imagine that the true interpretation of the rule, does not include claims of this character.

Mr. SEBASTIAN. I will now state very briefly, and in the smallest compass possible, the prominent points and facts in this case; and I shall not go into a more enlarged discussion of the merits of it, unless I find that my remarks shall have provoked a discussion which may render that necessary. It is, as is stated in the amendment, a liquidated balance already found due, by an accredited and authorized agent of the Government, to the friendly Creek Indians, for losses sustained by reason of hostilities with the other portion of the tribe, during the war of 1814. It is based upon a letter issued in pursuance of instructions from the War Department to General Pinckney, who was then at the head of our forces, and represented the civil and military authority of the United States in the Creek nation. It was at the close of the war, at a time when several disastrous battles had broken down the power of the Creek Indians, and caused them to sue for peace. At that time, General Pinckney sent to the Indians a letter, stating the terms of capitulation on which peace would be granted. He was the agent of the

War Department; and acting for that Department, he stated:

"They will retain so much of the conquered territory as will appear to the Government of the United States to be a just indemnity for the expenses of the war, and as restitution for injury sustained by its citizens and the friendly Creek Indians."

It was upon this clause of the letter of General Pinckney to the Creek Indians, that the whole of this claim for indemnity is based. In pursuance of the terms laid down in this letter, the capitulation was made at Fort Jackson, on August 1st, 1814. The promise of General Pinckney was declined to be recognized in the treaty made by General Jackson, on the sole ground that his powers, as limited by the instructions of the Government, did not embrace the subject of indemnity for the losses of the friendly Creeks. It occasioned some difficulty, some delay, in the completion of the treaty; but it resulted in an arrangement with the friendly Creek chiefs, by which they agreed to sign the capitulation on condition that General Jackson would attach to it the letter of the 23d of April, containing the promise of indemnity for losses, and attach to it also a solemn protest entered into by which they imbodyed their complaints against the Government for what they termed a spoliation of a portion of the friendly Creek territory. These documents were attached to the terms of capitulation which was entered into by the hostile Creeks.

The agent of the Government of the United States, then residing in the country—a man who appeared to possess the confidence of the Government, who had grown gray in the service of the Federal Government in that country—was called upon by the War Department to state the nature and the character of the claims which the friendly Creeks set up for indemnities for losses during the war. In pursuance, and in strict execution of that order, he proceeded to discharge the functions thus committed to him; and in 1815 he made out a schedule of the losses, which were transmitted to the War Department, upon which he based an estimate that the amount of \$100,000 would cover the losses. This estimate of his was pronounced to be notoriously imperfect at the time. It formed, however, the basis of the appropriation of \$85,000, which Congress made in 1817, the distribution of which was afterwards directed by the War Department to be made rateably between the claimants according to the schedule which had been furnished. The successor of Colonel Hawkins, who was intrusted with this mission and the distribution of this money, completed the schedule, and distributed the \$85,000 which had been appropriated, rateably, according to his instructions from the War Department, among the claimants. He found that the aggregate amount of the claims was \$195,000. Eighty-five thousand dollars was paid; thus leaving the precise balance for which an appropriation of \$110,000 is now asked.

This forms a brief outline of the claim. It is, therefore, as I have stated, for a liquidated balance of sixty cents on the dollar, on claims adjudicated to be good by an officer of the United States, in express pursuance of instructions from the proper authorities of this Government, upon which claims there has been a *pro rata* distribution of forty cents to the dollar. It would seem, therefore, that the real question now presented is one of the very simplest character. It is, whether this Government, in extending a simple act of justice to a dependent people—its friends and allies in a war more disastrous to them than to the hostile Creeks—can honorably and justly compound its debts of gratitude at the rate of forty cents to the dollar?

Mr. President, it may be asked, why has so simple a debt as this, one of such acknowledged validity, been prosecuted so unsuccessfully against the Government of the United States heretofore? I will present a brief array of facts to show that, in this injustice, the Indians themselves have never acquiesced, but that the balance of this indemnity has been a constant traditional cause of complaint, which they have presented against this Government from that day to this. I will endeavor to show that they exercised a sleepless vigilance in prosecuting it; that they have been delayed under one pretext or another from that time to this; and that there has been no obstacle, no impediment, in the way beyond the mere difficulty of presenting the matter before Congress in such a manner as to demand its attention, which has ever

occurred to prevent this simple act of justice being done to them, except a most extraordinary report of the Committee on Claims, made in 1824, in the House of Representatives. I shall not now speak of that report, further than to say that it is the most perfect array of unpardonable blunders from beginning to end, based upon the wildest misconception of the facts, and misconception even of the very character of the claim which was submitted to its consideration, that I have ever had the necessity of investigating. If the report of the Committee on Claims, of 1824, is at all relied upon by the honorable chairman of the Finance Committee, who, I understand, intends to discuss this claim, I shall then feel it necessary to take up that report, dissect it, and show its palpable mistakes so plainly that not a doubt can be entertained but that there was a total misconception by that committee, of the very question submitted to it; that it did not have more than half of the papers before it; and that the most material of the documents—the original report of the Indian agent, the first who took any schedule of the claims—was not before that committee at the time it came to the conclusions imbodyed in the report. The whole of the facts which constitute this claim form a part of the documentary history of the Government. They are imbodyed in a very elaborate and detailed report communicated by the Indian Department to the Committee on Indian Affairs, under date of August 20, 1850, which forms the basis of the report of the Committee on Indian Affairs in favor of the claim.

The original act of appropriation was made in 1817 for the sum of \$85,000, which was distributed among the claimants according to the schedule, the aggregate of whose demands amounted to \$195,000. This leaves the precise balance now proposed to be appropriated, which I therefore term a "liquidated balance." A detailed statement of this distribution of the appropriation of 1817, is contained in a report from D. B. Mitchell, agent of Indian affairs, dated Creek Agency, March 18, 1818. In this report, he goes on to state the particular amount of the claims in favor of each one of the towns or districts of the Creek nation, and the amount of the appropriation distributed in satisfaction of each claim, amounting precisely to the sum of forty cents upon the dollar.

I have also a printed document here, which exhibits not only the aggregate of the claims in favor of each one of the Creek towns, but it also contains the names of each particular claimant, the amount of money which was awarded to him, and the precise amount in dollars and cents which was paid in part satisfaction of the claim. I shall not read it, as it is a lengthy document, but I merely wish to apprise Senators of the fact, that it shows not only the gross amount of the claim, not only the entire history, nature, and character of the claim, but even the name of the claimants, and the amount due to each of them. Everything may be found in the documentary history of the Government, where the facts can be consulted by any one who entertains any doubt as to the genuineness of the claim.

I have stated that this balance has been made the subject of continual complaint on the part of the Creek Indians. In 1817 they appeared here, and obtained the original appropriation. In 1821, in 1824, in 1827, at various periods from 1830 to 1838, and continually, I believe, from 1842 to the present time, they have been pressing this matter before Congress. In 1841 the Administration thought proper to send out an accredited agent of the United States, to ascertain among the Creek Indians what were the causes of complaint for which they claimed redress or indemnity at the hands of the Government. It is remarkable that an old chief, venerable for his age, one of the Creek warriors, whose fidelity had been tested in the disastrous war of 1814, named this unsatisfied claim as a portion of their grievances. He spoke of the amount they had received from the Government as being but an insignificant trifle in comparison with the aggregate amount of their claims against the United States. He details a very interesting colloquy which he had with General Jackson while he was President of the United States, in which the justice of the claim was fully recognized by the President, but he put off the Indian under the promise that the Government would pay the money after the Creeks moved west. It appears that the President of the United States at

that time recognized the justice of the claim, but very artfully suggested this impediment—a mere political question which he was anxious to accomplish—the removal of the Indians—as the only thing which was at that time in the way of the payment of the claim.

Thus, there has been a constant recognition of this claim—a constant pressing of it by the Creek Indians. But it appears that there have been no auspices under which they have ever presented it so favorable as those which now surround it; and that is in consequence of a new policy which has been adopted by the Indian Department of ordering all the proper agents of the United States for each tribe to prosecute the legitimate business and claims of the Indians before Congress.

I have presented now the outlines of the claim. I shall not speak further upon it, unless I find that the report of the Committee on Claims of 1824 shall be seriously insisted upon as a reason why this appropriation ought not to be made. If that should be the case, I shall have something to say in reference to that report.

Mr. BORLAND. I have a few words to say in addition to the very clear and satisfactory statement which I think my colleague [Mr. SEBASTIAN] has made in presenting these claims.

I have looked with some care into this so-called deficiency bill, and I have found it exceedingly difficult to fix my mind on a single item in the whole bill, except this one of \$110,000, that really does come up to the full meaning and intention of a deficiency. It conforms in every particular to the requirements of the rule respecting additions to an appropriation bill; and then it possesses every feature, especially the most favorable features, of a deficiency, appealing to the justice, gratitude, generosity, and common fairness of Congress. We find that a portion of the Creek nation of Indians, appealed to by the Government of the United States when it was at war with other tribes of Indians—and with a portion of that very tribe—appealed to to stand by us, and render us important services at that very difficult and troublesome period of our existence as a Government; and we find that these Indians came up to our help and assistance, and stood faithfully by us through all these difficulties, when they were pressed by hostile encounters with their own people, subjected to great hardships and loss of property, and in constant danger of a sacrifice of the lives of their men, women, and children, under the assurances, repeatedly made by authorized officers of the Government, that if they would stand by us, they would obtain compensation for all their losses and all their hardships. And yet, from the year 1817 up to the present time, they have received but two fifths of the claim which they have clearly established, and which the Government has recognized as being established—which they recognized as far back as 1817. The claim was recognized to the fullest extent for which it was then presented. It was not pretended that the whole amount of these claims was ascertained.

It was a conjectural amount, and was stated to be conjectural because the Indians could not be got together to make a statement of their losses, many of them being absent in consequence of its being the hunting season. But this conjectural statement was made, and \$85,000 were appropriated as part of the indemnity, and an agent was appointed to go out and pay the claimants *pro rata*. When he undertook to perform this duty, and the Indians were assembled, the claims exceeding the \$85,000 that had been appropriated, amounting to \$110,000, were established and recognized. There they stand, as my colleague has shown, upon the record; and the \$85,000 being only sufficient to pay them forty cents on the dollar. Sir, the action of this Government is incapable of recognizing a claim more fully than this is recognized, not only as a just claim against the Government, but one which has been partly paid. A surprising thing to my mind in this whole matter is the long delay of justice in this case. It was not only recognized at the time, but it has been recognized by the Executive Department of the Government ever since, and year after year we have had this matter urged upon the attention of Congress, without success. I cannot conceive what more evidence can be required by any Senator to establish the justice and equity of this claim, or to show that it is a subsisting debt, which every

consideration of justice and gratitude makes binding upon this Government. It may fairly be considered an appropriation for carrying out the plighted faith of the Government, the precise amount of which has been specified and settled years and years ago.

Mr. President, I do not think that anything more can be necessary to satisfy the minds of Senators in regard to the justice of this claim. The facts to which I have alluded have been exhibited to the Senate by my colleague as they are recorded in the official records of the Government. Everything has been in print, and laid upon the tables of Senators for years back. It is not therefore a matter which is new or not understood.

Mr. HUNTER. I shall not have a great deal to say in relation to this claim, for I do not believe that a great deal is known about it. I do not believe we can ascertain with certainty upon what it was originally grounded, for it is a very ancient transaction; and even if we were to discover this, I very much doubt whether we have any means of knowing the persons to whom the money should be paid, or who is legitimately entitled to it.

The transaction, as has been stated by the Senator from Arkansas, [Mr. SEBASTIAN], arose out of the Creek war. When a treaty was made, in 1814, with a friendly portion of this tribe of Indians, who had suffered by depredations, and who also lost a portion of their lands, they were not satisfied with that treaty; however, they signed it, and added the following paper by way of explanation. In it they say:

"We call ourselves, as we are, masters of the land. We have adhered faithfully, in peace and war, to our treaty stipulations with the United States. Finding that General Jackson, in drawing the lines around our country to retain so much of that conquered from the hostile Indians, as he deemed just, found it necessary, for political motives and purposes, to run a line within which there is a great quantity of lands actually our property, for which he, as an equivalent, leaves to us the conquered Indians' lands between Coosa and Tallapoosa. We do not deem the exchange as an equivalent. It shall not, however, interfere with running the line, as we rely on the justice of the United States to cause justice to be done us. And, on these conditions, we request that General Pinckney's letter, of the 23d of April, to Colonel Hawkins, and the answer thereto, of the 25th, be sent on with the treaty, which we will sign after delivering this instrument."

This was referred to a committee of the House of Representatives, in January, 1817. At the head of that committee was Mr. Lowndes, of South Carolina. He made a report on the subject, and his report concludes thus:

"At the time of the treaty, the friendly Creeks would have been satisfied, in the opinion of Colonel Hawkins, to have received as an indemnity for their losses the sum of \$60,000. As it is to be considered in some measure a claim under a treaty, as they seem to have expected that some fixed sum would be distributed among them as an equivalent for their losses, and as to do so will be to make it the interest of each sufferer that the losses of another shall not be exaggerated beyond their real amount, the committee believe it will be best to appropriate a definite sum, to be applied, under the direction of the Secretary of War, to indemnify the friendly Creek Indians for property destroyed by the hostile Creeks, in fair proportion to their losses."

In consequence of this report being made, a sum of something more than \$80,000—a sum exceeding that designated by Colonel Hawkins—was appropriated. That sum was distributed among the Indians; but the question came up again in 1824—it is to be observed that it was submitted to the examination of the Committee on Ways and Means of the House of Representatives, and that Mr. Lowndes was chairman of that committee—at a time when they had every means of deciding on the actual amount which was due, when they had the evidence of living witnesses to guide them, and were, therefore, in a better position than we can be. In 1824 this subject was again referred to the Committee on Ways and Means, at the head of which was Mr. McLane, of Delaware, who made that report which the Senator from Arkansas [Mr. SEBASTIAN] thinks so ridiculous and unsubstantial. Mr. McLane says in that report:

"It is the opinion of the committee, that the sum of \$85,000, appropriated by the law of 1817, was intended to be a full indemnity for all the losses of the friendly Indians, and was equal to any reasonable expectation. This appears to be manifest from the estimate by Colonel Hawkins, that the chiefs would have been satisfied, at the date of the treaty, with the sum of \$60,000; and, in the letter of the acting Secretary of War to D. B. Mitchell, the Indian agent, directing the application of the money, he is informed that, as the law is general in its terms, and predicated on Colonel Hawkins's estimate, 'it will be proper to pay the claimants mentioned in the estimate only a portion of their claim at present, as it is probable that there may be other

claimants entitled to the benefit of the law, who are not mentioned in the list of claims furnished by Colonel Hawkins; therefore, a final distribution of the money should not take place until the whole amount of the claims is ascertained."

Appended to that report is an extract of a letter from Colonel Hawkins to Mr. George Graham, Chief Clerk of the War Department, dated "Creek Agency, August 1st, 1815," in the following terms:

"As to the extent of the claims, I have no data to calculate from. Part of the vouchers were taken on by Mr. Cassidy, the general's secretary, and the remainder given in since, to the assistant agent at Coweta, which I have ordered on here. Whatever they may be, I will forward them as soon as received. I believe, at the time of drawing the lines for the treaty, \$60,000 would have been received as an equivalent. The Indians of the Lookabaatche were the most faithful, and the greatest sufferers. Their town was besieged for eight days, and when they had to retreat, it was destroyed, with all their property but what they could carry off when they retreated to Coweta. Some of Coosaude, Tuskegee, Coweta, and Tallahassee, had their houses burnt, their stock and provisions destroyed; some few to a considerable amount, but mostly to a trivial one. The losses sustained were by no means general, as many of the friendly towns did not lose anything but what was taken by disorderly individuals of Floyd's army."

This statement, it should be observed, is contained in a letter from Colonel Hawkins, who was much better acquainted with all the circumstances than any other individual then living, or who has lived since.

Now, Mr. President, here is the testimony on which the committees of that day—committees which were nearly contemporary with the transaction to which this claim relates—acted, and this is the result of their investigations. I do not believe that the testimony of Mr. Mitchell, who was afterwards Creek agent, and who undertook to say that a larger sum was due, was any better or higher authority, or, indeed, so good authority, as was the authority of Colonel Hawkins. At any rate, this was a committee, at the head of which were those distinguished men, Mr. Lowndes and Mr. McLane; and both concluded that the sum of \$60,000 would have been enough to satisfy any just demand against the Government, and for that purpose they appropriated the sum of \$85,000.

How, then, are we to go behind this testimony and look into this old transaction? And, with what certainty can we pretend to estimate what is due, and to do justice now? How do we know, even if more were due, to whom it ought to be paid? This claim is alleged to be for losses sustained by individuals. And how can we ascertain who are the heirs of those individuals, or who is now entitled to receive this pay? Is there any authentic record by which this can be ascertained? Was it designed to pay these parties individually, or was it a general estimate upon a sum total, relying upon the capacity of the Indian agent to ascertain who was entitled to receive it? I think that that was probably the case. I do not know how the fact is in relation to that, but it does seem to me impossible that we can go back now and ascertain what was the truth in relation to this old demand, and the persons who would be now entitled to receive it, if in truth more was due at the time than Colonel Hawkins stated to be probably due, or was thought to be due by those two committees, who had much better means of ascertaining the truth than we have, and in whose judgment I am disposed to rely. How, sir, can we have a final judgment in relation to these private claims, if such reports as these, and if such men as these, cannot be considered as adjudicating the matter finally? Sir, if this state of things is to go on, it is manifest that every claim, no matter what may be its character, may succeed. If claims are to be renewed here year after year, and century after century, it will hardly happen that some committee will not be found to report favorably, and that, at some time an unguarded moment will be found, at which such claims will be passed.

Sir, in my opinion, if justice was not done by this committee at that time, in whom I must say that I have confidence, it is impossible for us now to do justice, and I am unwilling to reopen the case for the purpose of adjudicating it again.

Mr. SEBASTIAN. I will undertake, very briefly, to answer the objections which the Senator from Virginia has urged against the justice of this claim. The first objection which seemed to strike him most strongly, is the fact, that admitting that there are unsatisfied claims, money should not be appropriated to satisfy them, on account of the difficulty of ascertaining to whom the money is due. That will be the fault of the Indians, and not ours.

If it should turn out that whole families have died out, and that there is no living person to represent them, or to receive the sums due, as a matter of course, the money appropriated will remain in the Treasury of the United States. But he asks whether there is any schedule of the claims, whether there is a list of the persons to whom this money is to go? As I before stated, by a reference to a printed document, it can be ascertained not only what is the amount originally due, but the name of the Indians to whom it was due, and the amounts which have been paid to each.

I have a list styled—

"Claims of the friendly Creek Indians for losses sustained by them in their civil war, agreeably to the terms of peace offered by Major General Pinckney, the 23d of April, 1814, and the preliminary to the treaty of Fort Jackson in that year; presented and liquidated at Fort Hawkins, in July, 1817."

I find by this list that there was due to James Lovell, \$250, of which \$100 has been paid; to Andrew Lovell, \$103, of which \$41 has been paid; to George Lovell, \$1,652, of which \$661 has been paid, &c.

This schedule of these claims and other claims, showing the amounts due and the sums which have been paid, runs through some twenty or thirty pages of this printed document, presenting, probably, the most accurate estimate upon which this money can be disbursed, more accurate than is afforded for any other appropriation in this whole bill.

Mr. UNDERWOOD. What is the date of that document?

Mr. SEBASTIAN. It was dated in July, 1817. It is a detailed account of the losses, and was made out by Colonel Mitchell, the successor of Colonel Hawkins, reporting the amount he had paid to each Indian, and the amount remaining unpaid at the date of this report. I have not read the whole document through, because it is very voluminous; and I submit it to the Senate because it answers the interrogatory which has disturbed the Senator from Virginia so much; and I have further to say, in answer to his difficulties, that I am informed by the present agent of the Creek Indians, that he has seen that document among the Indians, and that there are many living yet who were among the Creeks who followed the fortunes of the United States in the war with England, and that the neglect to satisfy the claim is a constant and ceaseless cause of complaint among them. One of those old chiefs is yet living, and when the Government of the United States sent a special mission there to ascertain the causes of their complaint in 1842, this old chief referred to these unpaid balances on this very class of claims, and reproached the United States for their want of justice in not attending to their payment sooner.

The next ground is, that the Committee on Ways and Means, in 1817, had all the documents before them. They had not as many documents as we have now, and there is nothing in the facts which were before them which we have not. It will be seen that the Committee on Ways and Means, of 1817, called upon the War Department to furnish them all the information on file in that office. They are furnished with Colonel Hawkins's report, which Mr. Calhoun says was imperfect; and this report of the committee was the basis of the appropriation in 1817, and not the report of Colonel Hawkins.

I intend to show that that \$60,000 to which Colonel Hawkins alludes, as being a sum which would cover all the just expectations of the Indians, at that time, growing out of the drawing of the line according to the treaty, referred to claims for lands taken from them by the terms of that treaty, and did not include claims for losses in consequence of depredations of the hostile Creeks among them. That being the fact, the allegation that they were satisfied with that amount for all their losses must fall to the ground.

But I will read from a document which was the basis of the report of the Committee on Ways and Means, in the year 1817. It is the report of Colonel Hawkins, who was resident in the country during the war, who was mainly instrumental, and on whom the Government relied, in bringing about a peace.

It is dated, "Coweta, April 1st, 1816." He says:

"I herewith transmit, in obedience to the orders of your department, a report on the claims of the friendly Indians for losses sustained by them in their civil war, agreeably to

the terms of peace offered by Major General Pinckney, 23d April, 1814, and the preliminaries to the treaty of Fort Jackson, of August following. It is imperfect, from the peculiar situation of affairs here, and cannot be otherwise till all the hunters are in, which is not expected till the last of next month."

Here is the claim, admitted on the basis to be imperfect, from the peculiar state of affairs then existing; and that was the only document which reached here prior to the appropriation of 1817.

He further says:

"I believe, from the best information I have obtained, the whole amount of just claims will not exceed \$100,000; and it is probable, upon a revision in presence of the claimants, there may be a deduction in some of those reported on. If it should be deemed advisable to take order on this report, and appropriate money for the purpose, a sum not exceeding \$100,000 will be sufficient."

Then, sir, if \$60,000 was all that was necessary to meet this claim, the committee reported an appropriation of \$25,000 more than the Indians claimed—a species of generosity on the part of our Government of which it is not commonly guilty. If they had the estimate of Colonel Hawkins then before them, that estimate was \$15,000 less than these reports make it. This must be based on the coming in of the hunters in the fall season.

Now, sir, so well satisfied was the War Department that this report was imperfect, that it did not embrace the whole of the claims to be covered by this general appropriation, that in the instructions transmitted to the successor of Colonel Hawkins they direct a *pro rata* distribution of this amount among all the different claimants. In answer to the instructions of the War Department, General Mitchell, in a letter dated March 18, 1818, says:

"I have now the honor to inclose a concise statement of the accounts presented by the friendly Indians for losses during the late war, and of the application of the sum appropriated by Congress for their payment, by which it appears that a little upwards of \$100,000 is still due.

"The gross amount of the claims presented, including the abstract made by Colonel Hawkins, is very little over or under \$300,000; but they were reduced by the chiefs to \$195,417 90."

I have thus shown that the committee in 1817, when they made this general appropriation, based it on an estimate which was admitted on its face to be imperfect; that the War Department, in making this estimate, recognized the fact, that the appropriation was not expected to amount to a full satisfaction of the claim, and directed it to be distributed *pro rata* among the claimants; and that Mr. Mitchell, who responded to the orders of the War Department, stating the manner in which he had distributed the money appropriated for this claim, stated also what amount was still due, and says that there is the same evidence to prove a claim for \$195,000, as there was to prove that \$85,000 were due. There is no kind of rule by which this can be scaled down; there is no kind of evidence by which we can tell that these claims were excessive, because Mr. Mitchell was governed in the distribution by the amount to be appropriated, and not by the extent to which they were liquidated.

I apprehend that ample allowance was made for all such losses when he prepared the schedule of the claims. The gross aggregate amount of these claims he estimated at \$300,000; but he says that, in view of all the circumstances, he had prevailed on the chiefs to reduce the sum to \$195,000; and then that amount was scaled down by another process, and \$85,000 were appropriated; but it was not expected that that appropriation would prove sufficient; it was known by the War Department that it was not sufficient, and, therefore, they ordered a distribution to be made, not as a final satisfaction of the claim, but *pro rata* at the rate of forty cents to the dollar.

The chairman of the Committee on Finance has relied upon the fact, that, in a communication of the 29th of August, 1815, from Colonel Hawkins, he stated as his opinion that the Indians would have been satisfied with \$60,000 at the date of drawing the lines of the treaty. I will now refer to the capitulation of 1814, and the subsequent history of this transaction of Colonel Hawkins, to show that this had reference wholly to the claim for lands, and not for spoiliations. I will call attention to a part of the letter of August 15th, 1815:

"1st. As to the nature and extent of the indemnity which the friendly chiefs claim, in consequence of the letter addressed by General Pinckney, of the 23d of April, 1814:

"As soon as the terms of peace were offered, as expressed in the letter referred to, I took measures to explain them literally to the friendly Indians, and, through them,

and the prisoners in our possession, to the hostiles who had fled, or were flying, to Pensacola.

"When General Jackson arrived as sole commissioner, he addressed a speech to the chiefs, among whom there was but a single hostile one; marked his line, which, he said, should not be altered; he altered it, notwithstanding, to accommodate Tookaubatche. The chiefs replied to him, which the General's secretary and the agent took in writing for him. They, in conference, repeatedly urged the justice of their claims to losses, as promised in the terms of peace offered; and the General as often denied having powers to act upon it. Upon being asked, among other things, as his powers extended only to retaining as much land conquered from the hostiles as would indemnify the United States for the expenses of the war, upon what principles he took the lands eastwardly to Georgia, belonging obviously to the friendly Indians? The General answered, he did it from political motives—to prevent an intercourse between the Indians and the Spaniards and English in the Florida; to have a border, to know and separate his enemies from his friends, which was as beneficial to friendly Indians as to the United States; and also gave the friendly Indians the lands in the fork of Tallapoosa and Coosa. The speaker asked where the hostiles were to be placed, if he took all their lands? His answer was, you have room enough to take them among you. The speaker said the war was not yet settled, and they were called on for lands to pay the expense of it; and before it was settled, he supposed there would be another call. The General replied, he would take it upon himself to settle it, if it lasted twenty years, without calling on them for any more land.

"It struck me forcibly, at the time, that the General, who was authorized only to retain lands conquered from the hostiles, to indemnify the United States for the expenses of the war, should take nearly eight millions of acres from the friendly Indians, over and above all the hunting grounds of the friendly Upper Creeks, giving, without consulting them, what he called an equivalent, which they did not deem such, and did not feel themselves authorized to adjust this equitable claim of theirs. I suggested to the General, upon extending the line eastwardly, for the motives assigned by him, if he could, for a reasonable equivalent, where that line touched Flint river, go up the same, it would be a great accommodation to Georgia. Upon which, after some reflection on the subject, and making inquiries as to how far up the line should go, and at what creek it should leave the river, he said his powers would not justify it, and he would adhere to his first line.

"The speaker, after conferring with the chiefs about him, stated to the General that there were no hostile chiefs there; but the heads of the nation—masters of the land—were; they were friends, met to settle matters, and not to quarrel; they were talking for information; he would be ready in a day or two to do what was demanded of them; but, before he signed any papers with him—as he would not admit their claims in the treaty—he should make and sign a treaty expressive of them, and who were masters of the land.

"On the 8th of August, they sent for the agent and General Jackson, and expressed a determination, before they yielded up and signed away their lands, to grant, as a mark of national gratitude, a donation, for his distinguished services, to the General; and to Colonel Hawkins and his family, to whom they owed much, and whose children were natives of their land; to the two interpreters, one of whom had all his property destroyed, [Mr. Cornells]; and, in the instrument which they would sign, to express their claims under the terms of peace offered."

The letter from which I have caused an extract to be read, was a letter written by the agent of the United States on the 1st of August, 1815, in answer to an inquiry made by the War Department for the purpose of ascertaining the character and nature of this very claim. He there gives the history of the negotiation, the prominent point of which is the construction given to the treaty by General Jackson extending his powers to taking lands, not only from the hostile Indians, to bear the expenses of the war, but for political purposes, taking eight millions of acres from our allies, the friendly Creeks. This was meeting out to the Indians a strange kind of justice; it was a strange method of complying with what was agreed upon with General Pinckney, that their rights should be respected. It was the kind of respect paid by the stronger to the weaker party, where it is the misfortune of the weaker party to have its rights and fortunes determined by considerations of the interest or policy of the stronger party. Here was a case in which lands were taken from the Creeks notoriously for the purpose of indemnifying us for the expenses of the war, and in running the line, we usurp and take by force, for a political purpose, the lands of our allies. General Jackson said he would give lands between the forks of the Coosa and Tallapoosa as an equivalent. But Colonel Mitchell says they expressed themselves dissatisfied with this. That was the cause of complaint, and it was this equivalent for the \$60,000 to which the drawing of the lines has reference. There is another thing shown by the letter of General Pinckney of April 23d, 1814. There was then no question about the object of the treaty of 1814, and that the Government was under obligations to indemnify the Indians for lands. But as the powers of General Jackson did not extend to making them an equivalent for the eight millions of land taken from them, they stated that they wanted a document signed which



would express their dissatisfaction with that arrangement; and the agent said it struck him as strange that he should take eight millions of acres from the friendly Creeks. They said they regarded the lands in the forks of the Coosa and Tallapoosa as not an equivalent for the lands taken from them. I will refer to the document of 1814 as illustrating the same idea.

Now, Mr. President, it must be remembered that during the whole time of the negotiation which finally did not assume the form of a treaty, but of an ordinary military capitulation, it was stated on its face, in the arrangement made between the United States and the hostile Creeks, when, in point of fact, it was known that but one hostile chief was present at the negotiation. They say:

"Finding that General Jackson, in drawing the lines around our country, to retain so much of that conquered from the hostile Indians as he deemed just, found it necessary, for political motives and purposes, to run a line within which there is a great quantity of lands, actually our property, for which he, as an equivalent, leaves to us the conquered Indians' lands between Coosa and Tallapoosa. We do not deem the exchange as an equivalent. It shall not, however, interfere with running the line, as we rely on the justice of the United States to cause justice to be done us. And, on these conditions, we request that General Pinckney's letter of the 23d of April, to Colonel Hawkins, and the answer thereto, of the 25th, be sent on with the treaty, which we will sign after delivering this instrument."

With regard to these reports of the committees, the first was that based on the letter of the 23d of April, referring to the different classes of claims. It stated the two conditions on which they sustained the treaty of August, 1814. It is plain, therefore, that the \$60,000 which it was supposed the chiefs would have taken at the date of the treaty, had reference to the land claim, and not to any claim for spoiliations; and this is the claim which the Committee on Claims, in 1824, thought had been submitted to them instead of the claim for spoiliations. The Committee on Claims in 1824, say:

"That the claim, on the part of the friendly Creek Indians, is to an indemnity for certain losses which they sustained from hostile Indians of their own tribe during the Creek war, and is founded upon an instrument delivered by them to General Jackson, on the 9th of August, 1814; by which they complain that in running the line to retain lands conquered from the hostile Indians, he run it in such a manner as to take a quantity of the lands of the friendly Indians, for which no equivalent was afforded; and express their reliance on the justice of the United States to do them justice."

I stated that the committee, in 1824, did not understand the character of the claim submitted to them. The claim submitted to that committee was one which asked indemnity for spoiliations. Their houses were burned, their cattle were driven away and destroyed, and here, as I have shown, the committee of 1824 state that the land claim was the claim which was considered before them, and it was for this land claim that the Indians themselves were satisfied with \$60,000. But it is exceedingly strange, that if the committee of 1824 relied upon the letter of Mr. Hawkins, they could not also have taken a statement which went far over the \$60,000, especially considering that the report was admitted to be imperfect from the nature of the case, and requiring his successor to complete it. By the letter of Colonel Hawkins, it was shown that, instead of this claim amounting to only \$60,000, the amount was \$195,000, on which was paid the sum of \$85,000. From the report of the committee, in 1824, it appears that that committee totally misconceived the character of the claim which was submitted to them. The Creeks had two claims—one for indemnity for their lands which were taken, and for which they accepted \$60,000 as an equivalent; and the other arising out of spoiliations to their other property; and they ask that they should be indemnified for the loss sustained in the destruction of that property during the war. It was by the committee of 1824 confounding these two claims together, that the chairman of the Committee on Finance has fallen into the misconception of the case which he has.

Sir, there are many other documents which would fortify this view of the case, but these claims are proverbially of so little general interest, and it is so difficult to command the attention of honorable Senators upon claims which possess so little general interest, that I will forbear further to press upon the attention of the Senate other matters. Having adverted to the known facts of the case, to show that it was originally founded upon the promise of the Government that the stipulation of 1814 was made on the faith of this promise;

that an agent was sent, for that purpose, to ascertain the amount of the claim due, and that Congress had paid forty cents upon the dollar on the claim, leaving an unliquidated balance of \$110,000.

I have shown that the report of the committee, in 1824, was founded on a gross misconception of the character of the claims referred to them; that the Indians had two claims; that the claim for land was submitted to Congress, in 1824, but that the claim for spoliation was not; that the Government recognized the appropriation, made in 1817, as an imperfect satisfaction, and ordered a *pro rata* distribution of that sum. These constitute the leading and prominent facts of the case, and, in my opinion, are unanswerable.

Without detaining the Senate further with the consideration of the case, I shall now submit the amendment.

Mr. HUNTER. I desire to say one word as to the fact upon which the Senator from Arkansas rests his argument. He says the allowance was made, and the estimate of Colonel Hawkins was made, on the supposition that it was to compensate the Creeks for their lands only. On the contrary, it appears by the letter of Colonel Hawkins, referred to in the report of the Committee on Ways and Means, in the House, in 1824, that he referred to their claims of every description. He says:

"I believe, at the time of drawing the lines of the treaty, \$60,000 would have been received as an equivalent. The Indians of Tookaubatchee were the most faithful, and the greatest sufferers; their town was besieged for eight days, and, when they had to retreat, it was destroyed with all their property but what they could carry off when they retreated to Coweta. Some of Coosaude, Tuskegee, Coweta, and Tallahassee had their houses burned, and their stock and provisions destroyed; some few to a considerable amount, but mostly to a trivial one."

I refer to this, to prove that the estimate was designed to cover claims of every description; because it is not a very certain and clear matter that they were entitled to indemnity for the land. If it was, who would say that \$60,000, or even \$85,000, was a sufficient indemnity for eight millions of acres? Here was a war in which the tribe engaged, and when the United States made peace with them, they ordered the commissioners to exact an indemnity in the shape of lands, and in exacting it some losses fell on the friendly Indians; and for the purpose of satisfying them, not perhaps because the Government thought the tribe, in its tribal character, was not responsible for the injuries inflicted, but for the purpose of satisfying and compensating that portion of the tribe which was friendly to this Government, it was disposed to give them such amounts as it thought would be enough to settle all their claims of every description. That was estimated at \$85,000, and that sum was appropriated. Colonel Hawkins thought a less amount would have satisfied them. I think some further evidence as to some larger claims came in, after the report of Colonel Hawkins was made, and the committee determined to be liberal in the matter, and thought they were making a liberal settlement when they appropriated \$85,000 to be paid to those Indians.

Mr. SEBASTIAN. The very language in which Colonel Hawkins alluded to that claim, shows that it had reference to the land, and not to the claim for losses. He says, "I believe, at the time of drawing the lines of the treaty, \$60,000 would have been received as an equivalent." Now, this expression, "as an equivalent," occurs in two other documents. It occurs in a previous part of this letter, and shows to what it applies. He says that they complained that the exchange of land for the 8,000,000 of acres which were taken from them, was not an equivalent; and this was an obstruction which they urged against the signing of the treaty; and it will appear from the letter of Colonel Mitchell, that months before the signing of the treaty, they had been taking an inventory of these very claims, so that they constituted no cause of complaint at the time of the treaty. But the fact that 8,000,000 of acres of land had been taken from allies and friends of the United States, for which they did not think they had received an equivalent in the lands given in exchange, was the cause of the murmurs which delayed the treaty from the 8th to the 9th of August, before they finally signed it. It is further shown in the instrument which they signed on the 9th of August, and which I have read to the Senate, and in which they say it is for the purpose of expressing their

dissatisfaction at that point of the treaty, that they did not regard the exchange as an equivalent. Here is the very phraseology used in the letter of Colonel Hawkins, in which he says that \$60,000 would have been taken as an equivalent at the time of drawing the lines of the treaty, showing distinctly that it was the spoiliations upon their lands, taking 8,000,000 at one fell swoop, for which they supposed they received no equivalent at all, in the forks of Coosa and Tallapoosa, to which they had reference when they speak of \$60,000 as an equivalent. These other claims were based upon a letter of April 23d, and that was not the subject of contest at the time; so far from that, for months preceding, under instructions of Mr. Pinckney, the agent of the United States, they had been making an inventory of their claims, preparatory to the capitulation of Fort Jackson, in 1814.

Mr. UNDERWOOD. I desire to make an inquiry of the Senator from Arkansas. I wish to ascertain what commission, or what individual, made the assessment of damages for each individual, according to the document to which he has referred, of 1817; and, further, to ascertain, if I can, whether the assessment of damage for these various Indians had been made before or subsequent to the appropriation of the \$85,000 that was made to satisfy their claims. If the gentleman can give me information on these points, I will thankfully receive it.

Mr. SEBASTIAN. I can answer the Senator on these points. The schedule by which the amount of loss sustained by each individual was ascertained, was, in part, accomplished by an agent residing in the country during the war, who was Colonel Hawkins. He made a report, which was on the files of the Department at the time of the appropriation, by which he estimated that \$100,000 would probably be sufficient. He states that his report was very imperfect, from the nature of the case, because many of the Indians had not come in from their fall hunt, and the estimate could not be completed until they had come in. In 1817, by the law of March 3d, the appropriation was made. On the 20th of March of that year, the Department transmitted the amount of money to the successor of Colonel Hawkins—Colonel Hawkins had died, and Colonel Mitchell was appointed his successor—and instructed him to withhold the money until he should take an inventory of all the claims, and then to distribute it *pro rata* among them, because, say the Department, it is possible that there are other persons entitled to the benefits of the law whose losses may not have been ascertained at the time of the appropriation. I have the reports of the agents, and the instructions issued to them, establishing these facts. The report of the successor of Colonel Hawkins was made in April, 1818. I can now answer the Senator from Kentucky precisely. For the purpose of making this abstract of claims, it appears that the Indians had been assembled together at three different councils; one was before the date of this report, the second was upon the first of July, 1847, and the other was upon the first of January, 1818. The different agents, it appears, had to resort to three different councils before they could get all the warriors and braves of the nation to come before them and make out a schedule of the claims. From the list furnished, it appears that it was made out at three different times; and the entire aggregate of the claims thus ascertained was the basis upon which was distributed, rateably, the general appropriation of 1817. It was confined neither to the class of those who first, second, or third in order assembled, and gave in their claims, but was distributed among the whole batch of them at different times, so that each one of the claimants received upon his claim forty cents to the dollar.

Mr. DAWSON. Will the Senator, at this particular point, explain what influence the treaty which was made with this friendly tribe of Indians in 1821 or 1822 had upon the claims of the Indians against the Government of the United States?

Mr. SEBASTIAN. I can answer the question. The treaty of Indian Springs was made in 1825. It was the first made by the Government with the Creeks, in which they ceded all their territory east of the Mississippi. It was made by that portion of the party that had generally adhered to the fortunes of the United States in the war of 1814. It caused such dissatisfaction to the hostile Creeks

that they rose and murdered a great many of the friends of General William McIntosh. A treaty was then made, in 1826, in which the United States set aside the treaty of Indian Springs, as having been made without the authority of the nation, but still stipulated for a cession of the territory, and in the fourth article \$100,000 was stipulated to be paid to General McIntosh and his followers. That appropriation was paid—a portion of it at the time, and a portion about two years since—and has been distributed among them.

Mr. DAWSON. The question which I asked was, whether this claim was not then presented and adjusted under that treaty?

Mr. SEBASTIAN. I have examined all the treaties made between the Government and the Creeks since then, to see if this claim was alluded to in any shape at all.

Mr. DAWSON. Was it ever presented?

Mr. SEBASTIAN. I find that it does not appear on the face of any treaty made since that time. I will further state to the Senator from Georgia, that the treaties made between the United States and the Creek Indians since 1817, when this appropriation was made, have always been made—except the solitary treaty of 1825—with a large majority of the nation who have never been friendly to, or taken any active influence in, prosecuting the claims of the friendly Creek Indians. These claimants have presented themselves before Congress, but could not awaken any interest among the majority of their nation, for the purpose of insisting on their claims at the time of the formation of the different treaties.

Mr. DAWSON. What I desire to know is, whether, in the treaty made at Indian Springs with McIntosh and his portion—the friendly portion—of the tribe, this claim was then presented by McIntosh, the chief of the friendly Indians, to the commissioners, and asked to be considered?

Mr. SEBASTIAN. I have no evidence that it was then presented. It is not alluded to on the face of the treaty.

Mr. DAWSON. No evidence that it was ever asked for by them?

Mr. SEBASTIAN. No evidence at all. On the contrary, since 1825, when the treaty of Indian Springs was made, I find, by reference to a report from the Indian Bureau, that the Indians have been pressing this matter before Congress at several times since that period, showing that they have never received satisfaction for, and have never abandoned the claim.

Now, Mr. President, a solitary fact to which I wish to call the attention of the Senate, and upon which the Senator from Virginia relies so strongly, is this, that in the statement of Colonel Hawkins we are told that \$60,000, paid on the drawing of the lines of the treaty, would have been taken as an equivalent. That it had no reference at all to the claim now before the Senate, is evident from the fact, that whatever credit may have been given to this agent of the United States—and I admit he had most ample means of information, for he had, as the Indians say in the solemn declaration which they signed previous to the signing of the capitulation, grown gray in their service, and they wishing to give him some testimonial of their gratitude had a reservation made for him of three square miles, which was stipulated in the treaty—this statement of his was made on the 29th of August, 1815; and in April, 1816, but a few months afterwards, he made the estimate by which he said \$100,000, he presumed, would be enough, and advised that amount, at least, to be appropriated, but stated that the schedule of claims was necessarily imperfect on account of the hunters and warriors not being in from the fall hunt. So that whatever credit may have been accorded to the statements of this agent, on account of his great experience and thorough knowledge of all the facts, we have a right to resort to his subsequent declarations, in which he estimates the amount as still larger, and the statement of the subsequent agent of the United States, who completed and finally made out a complete return and schedule of these claims. The latter estimates the amount at \$195,000, and this is the amount upon which the *pro rata* distribution was made. I can, therefore, admit all that is contended for by the Senator from Virginia, and the utmost that could be made out of the state of the facts which is presented to the Senate would amount to this: that one estimate amounted to \$60,000; that five months afterwards the same agent esti-

mated the amount at \$100,000; and that, in a few months after that, by the successor of that agent, upon an actual statement of their claims in the presence of their chiefs, in which they were required to state the articles destroyed and their value, the whole amount of the claims was found to be \$195,000; and this is the only, the first and the last, statement of the claims which was ever introduced here as full and complete in its character. I believe I have answered all the questions to which the Senator from Virginia has alluded, and shall not trouble the Senate any further.

Mr. BROADHEAD. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HALE. I propose the following as an amendment to the amendment:

*Provided*, That no part of this appropriation shall be paid to any one except to the Indian in person who may be entitled to the same in case he or she be now living, or in case of death to his or her children.

Mr. BORLAND. I approve of the object of that proviso. I am in favor of having such a proviso attached to all appropriations for the payment of Indians. I do not think, however, the Senator has made it sufficiently comprehensive. It provides only for the payment to the Indians themselves, or in case of death to their children. Now, this is a debt due to the Indian, and is part of his estate; if he should be dead, of course it goes to any of his heirs, no matter who they may be, whether his children or any one else. If we undertake to pay it at all as a debt, of course we must pay it to any of the heirs who may be living. If the Senator will say, instead of to the child, "to the legal heirs," I think it will meet the case.

Mr. HALE. I have no objection to saying "his widow or child." My object is to prevent this constituting a fund to be bought up by speculators and agents. That is all I have in view. I would modify it by saying "to his widow or child."

Mr. BORLAND. Say "to his heirs."

Mr. BROADHEAD. Say "heirs-at-law."

Mr. HALE. I object to "heirs-at-law." That would bring in a set of persons whom I want to keep out. I suppose assignees are heirs at law.

Several SENATORS. No! no!

Mr. HALE. They would be legal representatives; I do not want to put them in.

Several SENATORS. Put in "to his widow, children, or heirs-at-law."

Mr. HALE. Well, I have no objection to that.

Mr. SEBASTIAN. I have not the slightest objection to the proviso which the Senator proposes. I hope it may be adopted. It can have no practical application, however, in this case; and I merely avail myself of the occasion which the Senator has offered to say that this claim is presented here by the intervention of no agent or attorney whatever, except the agent of the United States; and I shall regard the vote upon this amendment as at least solving one problem, and that is, whether it is possible for a claim of this character to get through without the intervention of paid attorneys or agents; for this has been presented under other auspices altogether.

Mr. BADGER. I am exceedingly glad that the Senator from New Hampshire has offered this amendment to the amendment. I am decidedly in favor of the original amendment; and the proposed modification of it which he offers will remove the only objection I can have to it. It will then be put in a shape that the money will be insured to the parties who are entitled to it, whose fidelity the Government intended to reward; an engagement which I think we ought to carry into effect; but we should adopt measures to prevent any portion of it—and certainly to prevent the larger portion of it, which happens to be the case nowadays—from stopping, in its transit, in the hands of agents.

The amendment to the amendment, as modified, is as follows:

*Provided*, That no part of this appropriation shall be paid to any one except to the Indian in person who may be entitled to the same, in case he or she be now living, or, in case of death, to his widow, children, or heirs-at-law.

The amendment to the amendment was agreed to.

Mr. PEARCE. I do not mean to occupy the attention of the Senate long; but I am unwilling that the vote shall be taken on this amendment without stating briefly the reasons which induce me to oppose it. These claims are not founded

upon any treaty. They rest on a demand made by the claimants at the time of the execution of the treaty; which demand Congress seemed to consider as constituting an equitable claim upon us, and that equitable claim they seem to have fully satisfied by the appropriation which they made in 1817, to an amount exceeding that which the then Indian agent thought the Indians would be well satisfied with at the time they made the demand. Now, these claims are spoken of as liquidated claims.

Mr. BORLAND. Will the Senator from Maryland permit me to make one remark? I desire to call his attention to one fact. The amount of \$60,000 which Colonel Hawkins states to have been the amount with which the Indians would have been satisfied when the lines of the treaty were drawing, refers altogether, as my colleague, I think, has clearly shown, to any claims they might have had with regard to the amount of lands given them in exchange for those which they had given up. If the Senator will refer to the treaty—he will perceive Colonel Hawkins's letter refers to it—he will find nothing said about any claims except with regard to the lands. It does not refer to any other claims whatever. These claims for losses of property are not mentioned in it. It provides only for the disposition of the lands.

Mr. PEARCE. I think it appears from the documents which the Senate have before them, that the \$60,000 does refer to the claims for indemnity.

Mr. SEBASTIAN. Will the Senator allow me to correct him in one mistake. This claim was made at the date of the treaty. It was not founded upon the treaty, but was urged as an equitable claim against the Government afterwards. I wish to remind the Senator that the treaty was made August 1, 1814. This claim is founded on the letter of April 23d of that same year. It has the sanction of the treaty, for it was a letter of General Pinckney to Colonel Hawkins, who was in the confidence of the friendly Creeks, stating the terms on which peace would be made, and asking the intervention of the friendly Creeks as messengers to the hostiles to get them to come up and capitulate, telling them for that purpose, and as an inducement to these new exertions of theirs in favor of peace, that in the arrangement of the ceded territory their claims for land would be received, in addition to which their warriors would be pensioned, and all their property lost or destroyed during the war, would be paid to them. That was some five or six months before the capitulation. As soon as they received these terms, they set about to bringing in the hostile Creeks, and they resulted in the capitulation of 1814. They relied on the letter of Colonel Hawkins so exclusively, that they never mentioned it, except to have it attached to the treaty. The claim they urged was a claim for an equivalent for the difference between the eight millions of acres of land taken from them and that which they received, which they repudiated as such. The claim for which this appropriation is asked, arises from the letter, previous to the treaty of General Pinckney of April 23d, and did not form the subject of controversy at the time of the treaty.

Mr. PEARCE. That makes no difference in the view which I take of the matter. I only want to show that these claims are not founded upon a treaty stipulation. In relation to the claims to which the \$60,000 are applicable, I find in the letter of Colonel Hawkins this language:

"Part of the vouchers were taken by Mr. Casseday, the General's secretary, and the remainder, given in since to the assistant agent at Coweja, which I have ordered on here. Whatever they may be, I will forward them as soon as received. I believe, at the time of drawing the lines of the treaty, \$60,000 would have been received as an equivalent."

As an equivalent for what? For these claims for which vouchers had been given, not as an equivalent for the eight millions of acres of land, which had been taken from them. Certainly, it is not to be considered as an equivalent for that land. I understand that the lands situated in the fork of the rivers mentioned by the Senator from Arkansas, were granted to the friendly Creeks as an equivalent for the lands belonging to them, which were included in the cession of the whole tribe. I think it is very clear from this letter of the Indian agent, who speaks of the destruction of the property in their towns, that it was not land for which

they asked the \$60,000 as an indemnity, or for which they would have been willing to receive \$60,000. It was for the destruction of their other property, or else the letter has no significance at all. Else, why should he speak as he does, in this connection, of the destruction of their towns, and movable property? The vouchers could not relate to the eight millions of acres taken from the friendly Indians. No vouchers were necessary for that. But this \$60,000 is mentioned, as what the Indians would have been willing to take for the losses described in the same paragraph, and to which alone there is any reference—that is, “their houses burnt, their stock and provisions destroyed.”

The claims are spoken of as liquidated claims. How liquidated? by whom, and by what authority? This Government never gave any authority to any officer of theirs to ascertain and determine these claims, so as to bind the United States. They passed the act of 1817 appropriating \$85,000 for the satisfaction of the claims; and, as the committee say, in full indemnity. It was so considered by Congress then, and certainly was so considered by them in 1824, as we must suppose from the report of the committee of that date. The Indian agent of that day was required to distribute the \$85,000 among the Indians; and, in order to enable him to ascertain how the distribution should be made, he received from the Indians themselves their schedule of the claims. It does not appear that he made any inquiry into the amount of the property destroyed, and the claims they could properly urge upon the Government; but he took from the Indians this statement of losses, as they chose to assess them. It does not appear that any testimony was taken to verify the statement; but if it had been, it was an unauthorized act, or authorized only for the single purpose of enabling them to make a distribution *pro rata* of the money appropriated as a reasonable indemnity. In no sense, therefore, can they be said to be liquidated claims, because liquidated claims must be determined and ascertained by some competent authority, and there was no competent authority here. Therefore, I think it is altogether an error to speak of them as liquidated claims. They were indefinite claims, not ascertained, nor attempted to be ascertained, with any precision, which were settled by the appropriation of \$85,000.

Mr. SEBASTIAN. I dislike to interrupt the Senator, but I wish to correct him in one remark. He says there was no authority from the Government to the agents to make the schedule of the claims. There is an express authority given in a letter, in which they are told, in so many words, to do so; and the report to the Government, and the two letters from Mitchell and Hawkins are in response to those instructions, and contain the estimates upon which reliance is placed here.

Mr. PEARCE. I have seen the letter, and have it before me; but it does not justify, I think, the inference of the Senator. It is from the Secretary of War to Mr. Mitchell:

“I inclose you a copy of the law making an appropriation of \$85,000 to indemnify individuals of the Creek nation for losses sustained during the late war, together with a copy of the correspondence with Colonel Hawkins, and his estimate of damages sustained by them, respectively. These papers were laid before the Committee on Claims, and the law was predicated on them; but as it is general in its terms, it will be proper to pay the claimants.” &c.

Mr. SEBASTIAN. The Senator has got the wrong letter. I will read a letter which seems to have escaped his attention, of August 29, 1815, from the War Department, informing Colonel Mitchell, “that it is the wish of the President that you shall proceed to the liquidation of the claims of the friendly Indians on the principles of General Pinckney’s letter to Colonel Hawkins. The result you will transmit to the Department, to be laid before the President, for his ultimate decision and approbation.”

Mr. PEARCE. The President had no authority to bind the Government by any such order. No agent of the Government could be authorized, except by act of Congress, to liquidate claims so as to bind the Government; and if the President undertook, with that view, to make such an order, he transcended his authority. It belongs to Congress alone to authorize the liquidation of any claim against them, in such a form as to bind the Government. It appears, so far as I can gather

from the papers, that these statements were received from the Indians. It further appears that the estimate which they made was reduced by their chiefs from \$300,000 to \$195,000; but it does not appear, so far as I can ascertain, that any proper sifting of the evidence was ever resorted to to ascertain what amount of these claims was really due. There we find that the Indians, at a subsequent period, seemed to have passed over this matter. The treaty of Indian Springs was made in 1825, and I have not found that anything was said at that time of these claims. When these friendly Indians were negotiating with the Government of the United States, there was the opportunity, the proper time for reviving these claims, if they had not been fully satisfied—if the Creeks had not supposed themselves to be satisfied, so far as the Government of the United States intended to satisfy them; but we do not find at that time that they set up any fresh demand for the balance of these alleged liquidated claims. Yet, neither in this treaty, so general in its scope, which provided for the removal of all the Creeks to the west of the Mississippi, (those of Tookaubatchee excepted,) nor in the treaty of 1826, which annulled that of the Indian Springs, and provided for their removal from the limits of Georgia, is any stipulation to be found touching these claims.

I have very great suspicion and distrust, I confess, of Indian claims, unless they be proved most satisfactorily. I know that Indian claims are often passed by the accounting officers here which, I think, ought not to be passed. I know that, under the law allowing bounty lands, a large number of claims have been proved up for these Indians. I know that, in a single batch of one hundred and eight cases, no less than forty-six have been proved up in the case of minor heirs of Indians, and each of these Indians had only one heir—left but one child—and in each case, I understand, a cross-mark is made—that cross-mark evidently that of an expert, not the crooked scrawl which an illiterate Indian would make. That is the character of Indian claims. They are stimulated and kept alive by agents, who derive vastly more profit from them than the Indians do, and who, I have no doubt, will get, out of this claim, two thirds, or half of the whole amount, if passed. I am not disposed to vote for claims which were not liquidated by proper authority—not vouched for by proper evidence, which have been standing so long, and have been repudiated by the committees of Congress so many years ago.

Mr. BOBLAND. Mr. President, I am sorry to continue this discussion; but I think the Senator from Maryland, as well as the Senator from Virginia, has clearly fallen into a misapprehension of the reference of Colonel Hawkins to the two classes of claims of the Indians upon the Government. I think so, from what I consider a very clear and satisfactory report made upon this subject by Mr. Brown, formerly the Commissioner of Indian Affairs, in which he shows, I think beyond question, that the Committee on Claims, in 1824, to which the Senator from Virginia referred, clearly misapprehended, or failed to discriminate between the two classes of claims, for want of information before them at the time. The former Commissioner of Indian Affairs—Mr. Brown—states, in his report, that the Committee on Claims did not have the information before them at the time they made their report, and therefore they considered that the reference of Colonel Hawkins was to the property destroyed; whereas he made two estimates—two references: one to the indemnity which they required for the land—the difference between the land taken from them and that ceded to them; and the other to the property lost or destroyed during the war.

As to the authority of Colonel Hawkins to enter into that examination of the losses of the Indians, for the purpose of liquidating their claims, I think there can be no question—acting as he did under the authority of the War Department. My colleague has read the instructions of the War Department to him at that time. It is true, as the Senator from Maryland says, that the War Department had no authority to undertake to pay these claims; but the Senator must recollect that that act of the Department was recognized afterwards by the Congress of the United States, in making the appropriation of \$85,000—they recognized the authority with which he had entered into that liquidation of these Indian claims, else they never

would have made the appropriation of money to pay what he reported had been due. But Colonel Hawkins states, in substance, that his estimate was a conjectural one; that it did not embrace all the claims, for the reason that some of the Indians were not in from the fall hunt. On the death of Colonel Hawkins, Mr. Mitchell was appointed in his place, and succeeded him to all the duties formerly imposed upon him; and he was directed to go on with the liquidation, and ascertain with precision what amount was due.

The Senator objects to the mode in which the claims of the Indians have been liquidated by this agent. He says it was probably done in a careless way. But it appears that so far from being careless in admitting claims, it is clearly proved, that, although there were \$300,000 of claims presented to Colonel Mitchell by the Indians, yet, together with the chiefs of the Indians, and at the suggestion of the chiefs, he reduced the whole amount to \$195,000—bringing them down almost one half—not admitting one claim that was not clearly and fully proved.

There was no disposition on the part of the Indian chiefs, on that occasion, to permit individual Indians, either by agents or themselves, to fix on the Government any claim not justly due. The whole amount—\$300,000—presented by the Indians, was so closely examined, and so strictly pruned down to what was actually proved, that the whole amount was reduced to \$195,000. So far, then, from there being any foundation for the belief that the claims were presented, and loosely allowed by the agent, there is the best evidence for the belief that the Indian chiefs acted in good faith, and that the agent was faithful and strict in the investigation; and the amount ascertained and liquidated by him, ought to be assumed as the true amount, or at any rate, the smallest amount the Government could be supposed to owe the Indians.

I wish to refer again to the fact that the statement of Colonel Hawkins, that \$60,000 would have been sufficient to satisfy the Indians originally, must have referred to the difference in the value of the land taken from them, and that assigned to them, from the fact that not one word is said in the treaty about the losses of their property. It is true, these losses of property were part of the consideration which induced them to make the treaty, and they are referred to in the letter of Colonel Hawkins, and by the Secretary of War, in his instructions to him, as a part of the consideration preliminary to the formation of the treaty. My colleague has already said it was one of the considerations on which they were brought forward and induced to treat at all; yet there was no provision made in the treaty for these claims, and they rested upon that, which has satisfied them more than the treaty itself—the assurances which they had received from General Pinckney, the authorized agent of the Government, at that time, to induce them to come in and make the treaty. They recognized it as constituting a claim upon the good faith of the Government; because it was the very foundation of the treaty itself. We are told, in another communication from Colonel Hawkins, not that \$60,000 would be enough, but he conjectured, from his general acquaintance with the subject, that \$100,000 would be required.

Now, if the Senator takes the estimate of Colonel Hawkins, that \$60,000 would be sufficient to cover up the claims, he will find it difficult to get clear of his other estimate of \$100,000. He cannot have referred to the same losses, but to different amounts. If \$60,000 would have been sufficient in the first instance, there is no ground upon which he could have said that \$100,000 would be probably the amount required.

The truth is, the Commissioner of Indian Affairs has stated that Colonel Hawkins must have referred to two distinct classes of claims—one provided for in the treaty, the other, referred to by the letter of General Pinckney, in reference to which Colonel Hawkins was directed by the Secretary of War, to make a liquidation—one, in the estimation of Colonel Hawkins, being \$60,000, and the other \$100,000. But, even the \$100,000 he states is conjectural altogether.

He died before a proper examination and estimate could be made. Colonel Mitchell succeeded him, and very thoroughly and carefully investigated the whole subject, and ascertained that, instead of \$100,000, \$195,000 was due. That was not as much as the Indians claimed, but what they



proved—being little more than half what they claimed. So that, if there is any obligation at all on the Government, as was clearly recognized by the appropriation of \$85,000 in 1817, to pay anything then, it must be for the whole amount proved by the Indians when called upon by the agents of the Government to prove their claims, and which those agents testify was clearly proved and substantially established before them.

Mr. SEBASTIAN. It has been suggested to me that some doubts are entertained in consequence of the action taken at the treaty of Indian Springs. I have a document which possesses enough interest to command the attention of the Senate, which I shall read, to show that one of the chiefs, in 1842, still spoke of these as liquidated but unpaid claims, and spoke of the talk he had with General Jackson, when President. I submit it for what it is worth. It shows that the Indians did not regard the treaty of Indian Springs as forming any bar to the claim:

"MAIN CANADION, CREEK NATION,  
February 3, 1842."

"At a council of Creek chiefs and head men of the Creek nation, the following remarks were made to the undersigned by Opothe-yo-lolo, at the place and date above:

"Opothe-yo-lolo. You have been sent here by the President to see the Indians, and we have some business about which we are constantly talking. We have claims, and have made out and sent the papers in relation to them, and I will now just mention the heads of them. When you look over the papers you will see all about it.

"A number of years ago, (1813,) the Creeks went to war among each other, and the whites were called in, and General Jackson came in and settled the war, and gave the Indians a talk at the close of it.

"Afterwards we heard that General Jackson was made President, and a delegation of Creeks went to Washington to see him. When General Jackson talked to the friendly Creeks, at the close of the war, (1814,) he told them they had lost everything they had, and that they must have a list of everything they had lost made out, and they should be paid for it. And they understood that Congress had appropriated money to pay them, and that was the reason they went to Washington to see the President. The losses were all taken down, and the Indians received a little money for them; but they were not paid half what was due.

"When the Creek delegation went to Washington to see General Jackson, they said to him:

"You were once a general in command of the Army, and are now at the head of the Government. When you were a general of the Army, and in the Creek nation, at the close of the war, you told us at Fort Jackson that we had a fine scope of country at the West, and towards the big sea; and that we had a great many bad neighbors at the west and south; and that we should be paid for all our losses and claims.

"When we told the President what we just said, he told us that he had given us a talk a long time before; and that since then things were taking another turn, and that he would then give us another talk; and if we would agree to what he said, he would do what we asked him to do.

"When the President talked to us, he said:

"I gave you a talk a long time ago; but I did not think you were going to be so badly off as you are. You are very poor, and cannot live as you have lived heretofore, and you had better sell your country and go to the West. But if you don't choose to do that, you must have your lands surveyed, and each man have his own land; and those that choose to sell may do so, and move to the West.

"General Jackson told us that, if we would agree to this, and have our lands surveyed, and let those go West who chose, and if we would all go to the West, that after we should all get to the West, the door should be wide open for us to communicate with the Government, and we should have all our claims paid.

"General Jackson told us that he had the money then for us; but that he did not wish to pay it to us in the old nation, for there were a great many bad people of the whites there, who would get all our money away from us; and he did not wish to give our money to the white people.

The question being taken by yeas and nays, upon the amendment as amended, resulted—yeas 12, nays 30; as follows:

YEAS—Messrs. Atchison, Badger, Borland, Brooke, Chase, Jones of Iowa, Mallory, Rusk, Sebastian, Smith, Soule, and Walker—12.

NAYS—Messrs. Adams, Berrien, Bradbury, Brodhead, Butler, Clarke, Cooper, Davis, Dawson, De Saussure, Dodge of Wisconsin, Feich, Fish, Fox, Gever, Hale, Hunter, James, Jones of Tennessee, Mangum, Miller, Norris, Pearce, Shields, Spruance, Toucey, Underwood, Upham, Wade, and Weller—30.

So the amendment was rejected.

Mr. WALKER. I move to amend the bill, by adding at the end of the last item of appropriation for the Indians, the following:

Provided, That no money, appropriated by this act for the benefit of any Indian or Indians, shall be paid to any agent or attorney, but such money shall be paid directly to the Indian or Indians respectively entitled to the same.

Mr. BADGER. I merely wish to inquire whether there is any appropriation in the bill for Indians?

Mr. ATCHISON. I do not think the amendment, as it stands, should be adopted. There is an appropriation in the bill to pay the St. Regis

Indians, which was reported by the Committee on Finance. I do not know whether that money belongs to them individually or not. I cannot say as to that matter at this time; but I know it has been the custom of these Northern Indians to receive their money through their chiefs. These are a civilized people. They are an agricultural people. They are as capable of transacting their own business as are the people of Wisconsin or Missouri. I believe that is the only appropriation in the bill for Indians, and hence I can see no necessity for the amendment. But, Mr. President, I have an amendment to offer. I believe, however, that I cannot do it now with propriety. It is to carry out the treaty ratified yesterday by the Senate. Therefore, if there is no further amendment now to be offered, I would move that the Senate adjourn. But, in order to have an opportunity to offer the amendment to-morrow, I move that the further consideration of this bill be postponed till to-morrow. If that is done, I shall ask the Senate to proceed to the consideration of Executive business.

Mr. HUNTER. I would suggest to the Senator from Missouri that it would be better to allow the bill to be reported to the Senate. He can offer his amendment in the Senate.

Mr. ATCHISON. Then I withdraw my motion.

Mr. BORLAND. I have an amendment to offer.

The PRESIDENT. No amendment can be received until the amendment offered by the Senator from Wisconsin is disposed of.

Mr. WALKER. In my opinion, the amendment which I have offered cannot affect the case stated by the Senator from Missouri, for the amendment simply declares, in the first instance, that no money shall be paid to an agent or attorney, but shall be paid to the Indian or Indians respectively entitled to it. If these Indians be entitled to the money, as a tribe, it will be paid to them as a tribe; if they are entitled to it *per capita*, it will be paid to them *per capita*. It is disjunctive—"Indian or Indians—and I am very confident that it cannot affect the case suggested. It simply excludes the intervention, between the Indians and the Government, of agents who generally get the larger amount.

Mr. COOPER. I think, Mr. President, that the adoption of this amendment may lead to mischievous consequences. Last year in the appropriation bill a similar provision was inserted, and in consequence of it the United States have been, or I presume will be, obliged to pay a claim of \$48,000. The claim of Kendall & Co. has been before the Senate. It was referred to the Committee on Indian Affairs, and has been reported upon. It arises under a provision introduced by way of an amendment to the appropriation bill of last year. I state this in order that the Senate may know what they are about to do. The Kendalls were the attorneys and assignees of a portion of a claim, in consideration for their services rendered to the Western Cherokees, or Old Settlers. A provision was inserted last year that the department should not pay to the agents the proportion of the claim—five per cent.—to which they were entitled, but that they should look to the Indians for it. The whole amount was paid to the Indians, and they refused to pay anything to the attorneys and assignees. As a consequence of this, the United States are now obliged to pay to Kendall & Co. what was due to them, and upon the best and most thoroughly-understood principles of law. The United States intervened and prevented them from acquiring what was due to them, and hence became in equity liable for the amount. Now, I am afraid that this will have precisely the same effect. I think, at any rate, the honorable Senator had better withdraw it for the present. I have no objection at all to the introduction of a provision of this kind, if it be properly guarded, and which shall have operation in future upon such services. But if men, on the faith of assignments of a fund to be paid by the Government, have been laboring in order that justice may be done to these people, I say that to introduce an amendment into this bill, to prevent them from realizing what they have bargained for, may involve the United States or work injustice to these persons. I hope, therefore, that the amendment will not be adopted until, at any rate, we have some understanding of it. I believe

there is a provision in the bill, somewhat different in form, but, in substance, intended to have the effect which I presume is designed here.

Mr. BROOKE. I was going to suggest that the last section of the bill contains the substance of the amendment offered by the Senator from Wisconsin, and is almost identical with it in words.

Mr. WALKER. Will the Senator from Mississippi be kind enough to read it.

Mr. BROOKE. The bill provides:

"That no part of the appropriations herein made for the benefit of any tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such tribe or part of a tribe; but shall, in every case, be paid directly to the Indians themselves, to whom it shall be due, or to the tribe or part of a tribe, *per capita*, unless the imperious interest of the Indians shall require the payment to be made collectively. Nor shall the Executive branch of the Government recognize any contract hereafter made between any tribe or part of a tribe, and any attorney or agent, for the prosecution of any claim against the Government, or under this act."

Mr. WALKER. That being the case, I withdraw my amendment.

Mr. JONES, of Iowa. I desire to submit an amendment, to come in after the appropriations in the bill for the surveys of the public land, appropriating \$15,000 for the survey of the northern boundary of Iowa.

The PRESIDENT. On what authority does the Senator offer it?

Mr. JONES, of Iowa. On the authority of an estimate of the Secretary of the Interior, made in pursuance of an estimate sent by the surveyor general to the Commissioner of the General Land Office, and from the Commissioner of the General Land Office to the Secretary of the Interior. I have a long letter in my hand on the subject, recommending that the appropriation should be made. The commissioner is now upon the ground, surveying the northern boundary of Iowa; and, unless this appropriation is made now in this deficiency bill, the surveyors will have to come from the field, and wait until an appropriation is made in the general appropriation bill. An estimate in this case was made out, and sent to the Committee on Ways and Means of the House of Representatives; but it did not reach that committee until it was too late to be acted upon by the House, and then it was transmitted to this body through my agency. I found that it was not included in the bill, and I went to the Department in relation to the matter. This letter to the chairman of the Committee on Finance, I believe explains it:

DEPARTMENT OF THE INTERIOR.

WASHINGTON, April 23, 1852.

SIR: Understanding from the Hon. George W. Jones, of the Senate, that the Committee on Finance had received no estimate from the Department for an appropriation to continue the survey of the northern boundary of Iowa, I beg leave to submit herewith a copy of a communication addressed to the chairman of the Committee on Ways and Means of the House of Representatives on the 10th of February last, and to request that a further appropriation of \$15,000 may be made, to meet the deficiency in the appropriation of 30th of September, 1850.

When this estimate was submitted to the House, it was not deemed necessary to send it to the Senate, as the bill had not then reached there; and it was supposed that the Committee on Ways and Means would, as a matter of course, forward to the Committee on Finance any special estimate or explanations sent to them during the pendency of the bill in the House.

I am, sir, with much respect, your obedient servant,  
WILLIAM A. GRAHAM,  
Acting Secretary.

Hon. R. M. T. HUNTER,  
Chairman of the Committee on Finance,  
Senate of the United States.

Mr. HUNTER. No such estimate came to the Committee on Finance; but one of the members of the Committee on Ways and Means told me that it was ascertained that such an estimate had been sent to that committee, but that it had been lost.

The PRESIDENT. The Chair is under the impression that the letter which has been read shows that an estimate has been furnished, which brings this within the rule as an amendment proper to be offered.

Mr. HUNTER. I have no doubt that there was an estimate.

Mr. JONES, of Iowa. My amendment is to insert the following:

For determining, running, and marking the northern boundary of the State of Iowa, on the parallel of 43 degrees 30 minutes north latitude, in addition to the appropriation heretofore made for the same object, \$15,000.

The amendment was agreed to.

Mr. BORLAND. I have an amendment which

I wish to offer. It is to add at the conclusion of the appropriation for the Collins line of steamers the following:

*Provided, That the proprietors of said line of steamers shall receive on board of each ship of said line an officer of the United States Navy, whose duty it shall be to have entire charge of the United States and Royal mails carried on board of said ship to and from the United States and England; that said proprietors shall support, free of all charge to the United States, the above-named officer during the time he shall be attached to said ship; that the officer so acting as mail officer shall be selected from the list of passed midshipmen by the Secretary of the Navy; that said proprietors shall provide accommodations in every respect equal to those provided for first-class passengers, for the above-named officer; and he shall have, further, for his exclusive use, a mail room, with secure lock and key, and a mail boat, both of which shall be subject to his orders; and that the said officer shall receive no pay in addition to his regular pay for sea service, but while acting as mail officer as aforesaid, said officer shall be allowed the pay of sea service.*

I have a few remarks to make upon this subject, but I suppose the Senate is somewhat fatigued, and I therefore move an adjournment.

Mr. BADGER. I hope the Senator will move to postpone the subject, so as to allow me to have the opportunity of laying a resolution on the table.

Mr. BORLAND. Then I withdraw my motion, and move to postpone the further consideration of the bill until to-morrow.

Mr. HALE. I hope that motion will not be agreed to. I think the Senator from Arkansas does himself great injustice if he thinks the Senate can be frightened into adjourning by being threatened with the infliction of a speech from him. I know that we shall listen to him with a great deal of pleasure; and I can assure the Senator that I would rather hear a speech from him to-night than to-morrow morning. I hope we shall have the speech now.

I think we ought to get through this deficiency bill. I think we ought to get rid of it before the Baltimore Convention sits. [Laughter.] I beg to assure Senators that I am in earnest about this. [Renewed laughter.] I say it for this reason: If we do not get rid of this bill before the meeting of the Baltimore Convention, we shall not get rid of it before some time in July, because there are a good many of us—some of us who are not candidates, as well as some who are—who will go down to Baltimore during the sitting of the Convention. There will be nothing done that week.

Mr. BADGER. Then there will be the Whig Convention afterwards.

Mr. HALE. Yes, sir; then the Whig Convention will soon come on. I did not know that my friend from North Carolina felt so anxious about that, but it seems that he does. Some of us will go down there too; so that, if this bill is not disposed of before the Baltimore Convention sits, there is no knowing what will become of it.

Aside from these general considerations, I see that the Democratic Review, which is the organ, *par excellence*, of the Young Democracy, has issued, in advance, some sheets upon this subject, in which there is an admonition given to the Senate and to Congress, how they should dispose of this matter.

Mr. BUTLER. What is the question before the Senate?

The PRESIDENT. The proposition pending is to postpone the further consideration of the bill until to-morrow.

Mr. BUTLER. Is that proposition debatable?

The PRESIDENT. It is.

Mr. HALE. I knew very well that South Carolina does not take much interest in these Conventions. [Laughter.]

Mr. BUTLER. That is true.

Mr. HALE. Hence, I can understand why the honorable Senator wishes to cut me short. But I appeal to the Senate if these suggestions are not pertinent to the question of postponing this bill further. I do hope that we shall have a vote upon it at an early day. I care as little as any Senator how it is disposed of. But I think it is due to the Government, and due to the country, that we should vote upon it at some time or other.

Some of us middle-aged men do not know exactly where we belong—whether to the "Old Fogy," or to "Young America." But I was about to say to the Senate, that this matter of the Collins line of steamers had entered so much into the politics of the country, that the Democratic Review, which is the organ *par excellence* of "Young America," has issued, in advance of its regular day of publication, some sheets, which have been sent

on here in relation to it. We had no premonitory symptom that that was about to come. Unlike the Senator from Arkansas, who has given us notice that he proposes to enlighten us upon the subject, they come right down upon us, and intimate that this matter enters very largely into the politics of the country. If it be so, I ask if it is not necessary to a fair settlement of these matters that they be disposed of before the Conventions sit? because if the bill is not disposed of by that time, there is no knowing when it will be disposed of. There is no knowing how some of us will feel after these conventions adjourn. There is no knowing whether we shall all feel as disposed to go to work in earnest, and accomplish the business of the country as we do now. Some of us, who are full of buoyant hopes, may come back with the weeds of disappointment hanging about us. I think, that while we are in this city, we had better settle this bill, and we can do it more easily at this time than at any other. For this reason, I hope the chairman of the Committee on Finance, who has charge of this bill, will urge a late sitting to-day, and to-morrow, and the next day, so that, to say the least of it, we may dispose of this matter this week. For myself, I am willing to sit as late as anybody, and I shall vote against adjournments just as long as the chairman of the committee who has the bill in charge, will stick to it.

The motion to postpone was not agreed to.

The PRESIDENT. The question is upon the amendment of the Senator from Arkansas.

Mr. BORLAND. Mr. President, I have but very little to say on this amendment. I stated, in the course of my remarks the other day, that this company had failed to comply with its contract in several particulars, and thereby had saved a considerable amount in their expenses. Among the items mentioned by me at that time was that of failing to receive and carry upon each of their ships four passed midshipmen, as the contract required, and one mail agent; and that they had failed also to furnish an apartment on board the ships for the proper conveyance and care of the mails. Now, I have been unable to learn why they failed to comply with their contract in these particulars; and I propose this amendment for the purpose of remedying, to some extent at any rate, what I consider a wrong done by them in failing to comply with these conditions of their contract. In the commencement of the service of these ships, some officers of the Navy were received on board—how many I do not know. But very soon that was discontinued. I learn, from an officer of the Navy who was on board one of these ships, that the company failed to provide a room for the mails, and that the mails were thrown carelessly, without much attention, into a common room with the baggage, where the passengers and every one else had free and common access; and that there was no one on board the ship to take special care of the mail, and see that it was properly and faithfully carried across the Atlantic. I consider this wrong, and I have offered this amendment to remedy to a certain extent that wrong.

The amendment requires that the company shall receive on board of each of these ships, a mail agent, who shall be an officer of the Navy of the United States, to superintend and take charge of carrying the mail in these ships; and it requires the company also to provide a suitable and convenient apartment for the keeping of the mail. It was urged at the time when the first appropriation was made—when the contract was made for these vessels, that a certain number of officers of the Navy should go on board them, that they should be trained to the management of steamships such as they would have to manage in the event of war. It was deemed a very important provision, that each ship should take four officers of the rank of passed midshipmen on board of them; and at the discretion of the Secretary of the Navy, these officers might be changed from time to time, so as to allow all the officers of that grade to have a proper and efficient training in the management of these ships, preparatory to their use and management by our officers, if they should have to be taken for war purposes. The failure to comply with that part of the contract—the failure to place these officers on board of these ships, has been an important element in the estimate which has been made of the character and value and purposes of these ships. I consider it next in significance to the proposition of the Senator from North Caro-

lina, to show that these ships are not now regarded as ships-of-war, or capable of being made such, and are not looked to for any such purposes. I consider the failure to comply with this part of the contract, as next in significance after the proposition of the Senator from North Carolina, to show that the object is to cut off even the seeming connection between these ships to the Navy. They do not now provide for the training and disciplining of our officers, to take charge of them in case of their being used for the purposes of war.

This amendment does not go to the extent of supplying that defect, or remedying that wrong; but it goes to the extent of doing all with regard to them that I think now is seriously intended to be done, and that is, to make use of them as mail steamers only, and to provide for the proper and safe conveyance of the mail, under the direction of an officer of the United States. The failure to comply with the contract in this particular, I have been utterly unable to understand. There stands the contract, in itself equal to an act of Congress, because it was made under the authority of an act of Congress, and not subject to be changed, except by the same authority that brought it into existence. No such authority has been given by an act of Congress, that I know of. I can see, therefore, no objection that can or ought to be urged to this amendment by the friends of this line—those who desire to sustain it; because even with this provision, it exempts the proprietors from the expense of carrying on board of each ship, four officers of the Navy of the United States. It goes to the extent of recognizing them as mail steamers, and provides for the safe carrying of the mail upon them as such, and so far as an act of Congress can negatively do so, it recognizes their exemption from that part of the contract which requires them to carry four officers, and will give them at least some color of lawful authority for disregarding their contract to the extent to which they have already disregarded it.

Mr. RUSK. The original contract provided, that the officers of the Navy should be received on board these ships. It was found very soon that the provision answered no good purpose. Disagreements grew up naturally, as every man could see they would grow up, between the managers of these ships and these officers. Hence, the Secretary of the Navy was authorized by law to dispense with that provision of the contract, if he chose to do so; and he did dispense with it.

Mr. BORLAND. Will the Senator refer me to the act of Congress authorizing the Secretary to dispense with it?

Mr. RUSK. I would do so if I had the act by me. I am certain, however, that authority was given, and this requirement was dispensed with. Now, it is sought by this amendment to make it obligatory upon the company to carry a midshipman in every one of these ships—to do what? To take charge of the mail.

Mr. BADGER. A traveling postmaster.

Mr. RUSK. What will this traveling postmaster have to do? The mails are put on board the ships; they are locked up there; they remain in safe custody of the officers of the ships. Now, what object, in the name of God, can be accomplished by putting these midshipmen on board the ships? They will have nothing on earth to do; but they will remain there in perfect idleness. A room is to be fitted up for each of them. They are to be made a sort of aristocrats in the ship. What will be the consequence? Is it necessary to raise up your midshipmen in idleness, requiring them to perform no service at all, and giving them aristocratic notions, by putting them in separate rooms on the first footing? If that is the case, why then there would be some propriety in the amendment. If it is adopted, it will create great embarrassments, but it will be no benefit to the steamships, no benefit to the midshipmen, and certainly no benefit to the officers.

Mr. BORLAND. Mr. President, I have no reply to make to that portion of the Senator's remarks with regard to the aristocratic feature of this proposition. If I believed there was any such feature in it, I should be very willing to strike it out, and let the aristocracy of the concern rest alone with this company, whose claim seems to be regarded as paramount to the interests of the Government and the Post Office Department. An officer of the Navy of the United States, it seems to me, cannot be considered as being placed in a

very aristocratic position, when he is placed on the same footing with the first-class passengers who go on these steamships. Certainly, if he goes there as an officer of the Government at all, he is entitled to be treated as a gentleman—treated as other passengers of respectability on the ship are treated. I cannot see how it would make him an aristocrat.

The Senator says there is no use for these officers on board these ships. I beg leave to differ with him in regard to that; and I wish to state the reason why I think there is use for them. I have stated that there is no secure room fitted up on board these ships, with lock and key, for the purpose of carrying the mails safely. I have stated this on the authority of a respectable officer of the United States Navy, who knows it personally. A room of this kind is not prepared; the mails are thrown in loosely with the baggage; and free access is had to these rooms, backward and forward across the Atlantic, by any one on board the ship who has any baggage or anything in the room. And the same officer states another fact, that so far from all the mail matter being carried as mail matter in these ships, the pursers of these ships receive and carry mail matter as individuals; packages of various kinds are placed in their charge, and carried backward and forward, and delivered.

The object of the amendment is to correct these evils; to provide for the safe-keeping and carrying of the mails; and to see, also, that all the mail matter is put into the hands of the proper officers, and carried in the mail; and that other people do not violate the Post Office arrangements, and thereby deprive the Department of the full amount of revenue to which it is entitled.

The Senator from Texas says that the law authorizes the Secretary of the Navy to dispense with the services of these midshipmen on board these ships. I stated that, if there was such authority, I had never seen or heard of it. If the Senator can refer me to it, I shall be very glad to hear it.

Mr. BADGER. The Senator from Texas states the fact.

Mr. BORLAND. It may be so; but I am not aware of it; I looked at the contract, and saw its provisions, and I have seen no legislation in regard to that point since. Was there any special act of Congress passed for this purpose?

Mr. HUNTER. That provision was inserted in one of the appropriation bills last year.

Mr. BORLAND. Then, sir, I am wrong upon that point, but I am not wrong in this, that it adds to the value and force and significance of the proposition of the honorable Senator from North Carolina to separate these ships from the Navy. It cuts the last link, and fully establishes, as far as an act of Congress can establish, the fact, that they are not a part of the Navy, and that they are not intended to train our naval officers to the duties of managing and commanding steamships of war, but that they were to be put into the hands of civilians altogether, having no connection with the Navy or any duties performed by the Navy. It shows that they are to have no influence in training the officers of our Navy, and, as I think I did show, at least to my own satisfaction, the other day, they are not capable of being converted into ships of war. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered, and being taken, resulted—yeas 11, nays 31; as follows:

YEAS.—Messrs. Atchison, Borland, Brodhead, Brooke, De Saussure, Hunter, Jones of Iowa, Mallory, Sebastian, Soule, and Underwood—11.

NAYS.—Messrs. Badger, Bell, Bradbury, Bright, Chase, Clarke, Cooper, Davis, Dodge of Wisconsin, Downs, Fish, Foot, Geyer, Hale, Hamlin, Houston, Jones of Tennessee, King, Mangum, Miller, Norris, Pearce, Rusk, Seward, Shields, Smith, Spruance, Sumner, Toucey, Upham, and Wade—31.

So the amendment was rejected.

Mr. JONES, of Iowa. I have an amendment which I wish to offer now. It is a very small matter, and I should be very much pleased if the Senate would now adopt it. I offer it with the consent of the Committee on Indian Affairs, before whom the matter has been investigated, who have unanimously reported in favor of it, both at the last and at the present session.

The amendment is to insert—

For payment to James M. Marsh, to cover the loss of his property, destroyed by a band of Sioux Indians in the

month of July, 1849, while extending the second connection line of the public surveys in the State of Iowa to the Missouri river, under contract with C. H. Booth, Surveyor General of the United States, \$1,200.

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) The Chair is under the impression that, under the rule, this amendment is excluded, as it provides for a private claim.

Mr. JONES. This gentleman was a Government surveyor. He was executing a contract under the Government of the United States. His property was taken from him by the Indians while in the discharge of his duties as Government surveyor, and this payment is guaranteed to him under the intercourse law of 1834. Under these circumstances, I think this ought not to be considered as a private claim. If it is ruled out upon that ground, I shall not press the matter now, but I shall offer the amendment when the rule is changed, which I hope will be done to-morrow, as I understand that my friend from North Carolina [Mr. BADGER] intends to offer an amendment to the rule.

The PRESIDING OFFICER. If the case came within the principles of the intercourse law it might come within the provisions of the rule which says that—

“No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law.”

But the impression of the Chair is, that this is strictly a private claim, and that it is therefore excluded by the rule.

No further amendment being offered, the bill was reported to the Senate as amended.

The PRESIDENT. The question is on concurring with the amendments made in Committee of the Whole.

Mr. BADGER. I move to postpone the further consideration of the bill until to-morrow.

Mr. CHASE. If the Senator will allow me, I desire to lay on the table informally, and have printed, an amendment which I intend to offer, in regard to the Collins line of steamers. It is the same amendment which I offered in Committee of the Whole.

The amendment was ordered to be printed informally.

The motion to postpone was agreed to.

On the motion of Mr. BADGER, the amendments made as in Committee of the Whole were ordered to be printed.

#### AMENDMENT TO THE RULES.

Mr. BADGER submitted the following resolution for consideration:

*Resolved*, That the thirtieth rule be amended, by striking out therefrom the following words: “and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate.”

#### RAILROADS IN MISSISSIPPI AND LOUISIANA.

On motion by Mr. BROOKE, the Senate proceeded to consider, as in Committee of the Whole, the bill granting lands to the States of Louisiana and Mississippi, in aid of the construction of certain railroads therein; and having been amended so as to conform to similar bills heretofore passed, it was reported to the Senate, the amendments were concurred in, and the bill was ordered to be engrossed for a third reading.

#### EXECUTIVE SESSION.

On the motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, May 25, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the call of the committees for reports.

Mr. OLDS. I ask the unanimous consent of the House to submit a motion to discharge the Committee of the Whole on the state of the Union from the further consideration of House bill No. 144, for the purpose of having it referred back to the Committee on the Post Office and Post Roads.

Mr. STEPHENS, of Georgia. To what does the bill relate?

Mr. OLDS. It is to regulate the postage on newspapers.

There being no objection, it was accordingly

*Ordered*, That the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 144, to amend an act entitled “An act to reduce and modify the rates of postage in the United States, and for other purposes,” passed March 3d, 1851, and that the same be referred to the Committee on the Post Office and Post Roads.

Mr. DISNEY. I ask the unanimous consent of the House to introduce a resolution, which I ask may be read for information.

It was read, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That if, at the time of the liberation of the Irish exiles, a national ship happen to be in the neighborhood of Australia, the President is requested to proffer it to them as a benefice to them.

Mr. JONES, of Tennessee. I object, and ask for the execution of the regular order of business.

The SPEAKER. The first business in order is the call of committees for reports, beginning with the Committee on Public Lands.

Mr. HALL. I wish, before proceeding to present reports from the Committee on Public Lands, to enter a motion to reconsider the vote by which the House bill No. 120, authorizing certain soldiers in the late war with Great Britain to surrender the bounty land drawn by them, and to locate others in lieu thereof, was yesterday referred to the Committee of the Whole on the state of the Union. I do not wish to consider the motion now, but only to enter it for future consideration.

On motion by Mr. HALL, it was

*Ordered*, That the Committee on Public Lands be discharged from the further consideration of the following petitions, and that the same be laid on the table, viz: Of Rebecca Davis; of John Edgcomb and William Davis; of Joseph Dacre, on behalf of the heirs of Y. J. Thoron; of Samuel Lake and other citizens of New York, praying that land warrants may be made assignable; of Nathan Averill, for a grant of land; of citizens of Montgomery, Philadelphia, and Cumberland counties, Pennsylvania, praying for a modification of the bounty land act; of citizens of Wyoming county, New York, of citizens of Michigan, of citizens of Wyandotte county, Ohio, of citizens of Germantown, Pennsylvania, of citizens of Delaware county, Pennsylvania, of citizens of Philadelphia county, Pennsylvania, of citizens of Onondaga county, New York, in favor of a modification of the bounty land act; of officers and soldiers of the war of 1812, of citizens of Maryland, praying that the benefits of the bounty land act be extended to the men of Barney's flotilla; of sundry other petitions relative to a modification of the bounty land act; viz: of officers, soldiers, seamen, marines, &c., of the war of 1812, from Philadelphia, of citizens of Morgan county, Virginia, of the Pennsylvania Volunteers in the war of 1812, of citizens of Union county, Pennsylvania, of citizens of Berks county, Pennsylvania, of citizens of Oswego county, New York, and of Northampton county, Pennsylvania.

On motion by Mr. HALL, it was

*Ordered*, That the Committee on Public Lands be discharged from the further consideration of the petition of Matthew Peppy, and that the same be referred to the Committee on Private Land Claims.

On motion by Mr. HALL, it was

*Ordered*, That the Committee on Public Lands be discharged from the further consideration of sundry petitions of citizens of the States of Pennsylvania, Maine, Connecticut, New York, Wisconsin, Massachusetts, Delaware, and Ohio, in favor of a grant of public lands to actual settlers; and the petitions of sundry citizens of the States of Massachusetts, Wisconsin, New York, Illinois, and New Hampshire, in behalf of the Western Farm and Village Association; and that the said petitions be laid upon the table.

On motion by Mr. HALL, it was

*Ordered*, That the Committee on Public Lands be discharged from the further consideration of the petitions of citizens of Oregon, praying the purchase and survey of a portion of the country east of the Cascade Range; of citizens of Illinois, praying for a grant of land in aid of a railroad from Chicago to Lake Superior; of citizens of Indiana and Illinois, praying for a grant of land in aid of a railroad from Lafayette, Indiana, to intersect the eastern branch of the Illinois Central Railroad; of citizens of St. Louis, Missouri, relative to the public domain south of the River des Peres, and adjacent to the Jefferson Barracks; of citizens of Ohio, in favor of a grant of land in aid of the construction of a certain plank or macadamized road in Morgan county in said State; of Edward Moran, the resolutions of the Mayor and Aldermen of Savannah, Georgia, in favor of a grant of land for the benefit of the insane; the petition of citizens of Hamilton county, Ohio, relative to the organization of companies of military colonists; and the petition of William Williams, of Johnson county, Indiana; and that the said petitions and resolutions be laid upon the table.

On motion by Mr. HALL, it was

*Ordered*, That the Committee on Public Lands be discharged from the further consideration of the petition of citizens of Washington county, Ohio, in favor of a grant of land to the Independent School Association of the Commonwealth of Wesley; the petition of citizens of Wisconsin, relative to an extension of the right of preemption on the Menomonee tract; and the petition of citizens of Pennsylvania, in favor of a grant of land in aid of the Pittsburgh and Erie Railroad Company; and that the said petitions be laid on the table.



On motion by Mr. HALL, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the petition of the citizens of the city and county of Philadelphia, of James Elliot, of Indiana, of citizens of Vermont, of the New York city Industrial Congress, and of citizens of North Carolina, in favor of a grant of land to actual settlers, and that the same be laid on the table.

Mr. HALL, from the Committee on Public Lands, reported the following resolution, viz:

Resolved, That the usual number of the report of the Commissioners of the General Land Office be printed for the use of the said office, and that a like number of the report of the Surveyor General of Oregon be also printed for the use of the General Land Office.

Mr. H. said: That resolution is reported at the indication of the Commissioner of the General Land Office to the chairman of the Committee on Public Lands. The Commissioner states that it is important that we should pass the resolution ordering these reports. The usual number, I believe, is one thousand copies for the Commissioner, and one thousand for the use of the General Land Office.

Mr. JONES, of Tennessee. The rules require that extra numbers of any document shall go to the Committee on Printing.

Mr. HALL. The resolution does not call for an extra number, but for the usual number.

Mr. JONES. It is for an extra number. The usual number is one copy for each member of the House and Senate, and for the use of the two Houses. All beyond that are extra numbers, and a motion to print them must go the Committee on Printing.

The SPEAKER. That being the state of the case, the resolution will be referred, under the rule, to the Committee on Printing.

#### TAX ON LANDS IN MISSOURI.

Mr. HALL, from the Committee on Public Lands, reported a bill, No. 266, giving the assent of Congress to the State of Missouri to impose a tax or taxes upon all lands hereafter sold by the United States from and after the date of such sale; which was read a first and second time by its title.

Mr. HALL. I ask that the bill be read through.

It was read through by the Clerk.

Mr. JONES, of Tennessee. I have no objection to the provisions of that bill. I think they are right. But, if I mistake not, there is a bill on the Speaker's table, from the Senate, for the same purpose, and not differing materially from this. I would suggest to the gentleman from Missouri the propriety of asking the consent of the House to take up the Senate bill, and pass that instead of the one now introduced from the Committee on Public Lands.

Mr. HALL. It is, I believe, precisely the same. And I would prefer to pass the Senate bill, if I can get the consent of the House to take it up.

Mr. JONES. It will be economizing time if the House will allow it to be taken up.

Mr. CARTER. I wish to inquire if economy is justice? I want to know whether this bill proposes to allow the lands already sold by the United States to be taxed? If it does, I am opposed to it.

Mr. HALL. I will tell the gentleman what I understand to be the effect of the bill. The language is, that "the consent of Congress is hereby given to tax lands hereafter sold." I therefore suppose that it does not affect those already sold. I will state further, that this bill only places Missouri upon precisely the same footing with all the other new States of the Union. Every new State except Missouri has the right to tax lands sold by the United States from and after the day of sale, and this bill only provides that she shall occupy the same position as the other new States.

The SPEAKER. The bill of the Senate can be taken up only by unanimous consent.

Mr. DUNCAN. I object.

Mr. HALL. I will then ask that this bill may be put upon its engrossment.

The bill was then read through, and ordered to be engrossed for a third reading, and having been engrossed, was read the third time and passed.

#### PRE-EMPTION ON UNSURVEYED LANDS.

Mr. HALL, from the Committee on Public Lands, reported back with an amendment in the nature of a substitute, Senate bill No. 331, entitled "An act to grant to certain settlers on the Menomonee purchase north of Fox river, in the State of Wisconsin, the right of preemption."

The SPEAKER. Does the gentleman desire to have the bill and the proposed substitute read?

Mr. HALL. I desire to have it read through, as the passage of the bill is a matter of importance to the State of Wisconsin.

The bill and substitute were accordingly read by the Clerk.

Mr. HALL. The Senate bill provides that a certain class of settlers upon the public lands in the State of Wisconsin, on that particular tract of land known as the Menomonee purchase, before it was surveyed, shall have the right of preemption upon one quarter section of land, upon the terms specified in the bill. The Committee on Public Lands thought it was right that the settlers upon this portion of the lands in Wisconsin should have a preemption right, as provided for in the Senate bill; but the committee thought further, that it was also right that all settlers upon unsurveyed public lands, whether in Wisconsin, or in any other portion of the country, should have the right of preemption. They therefore have proposed, as a substitute to the Senate bill, a bill providing for preemption rights upon all the unsurveyed public lands in the United States. The Committee on Public Lands propose nothing novel in their substitute. All of the preemption laws, I believe, which ever have been adopted by this Government, save and except only the act of 1841, give rights of preemption to settlers upon unsurveyed public lands. This substitute of the Committee on Public Lands only proposes to return to the old wholesome practice of the Government in reference to settlers upon the public domain. The committee, sir, can perceive no reason why the individual who settles upon the unsurveyed public lands, and there expends his time, his labor, and money, and makes valuable improvements, should not be protected from the speculator, as well as the man who settles a few months later, after the lines shall have been run.

These people on the Menomonee purchase say, and I suppose say truly, that they have spent their all in making improvements, of a very valuable character, upon these lands. All the privilege they ask is, that they may be entitled to enter these lands at the price of \$1.25 per acre. It seems to me that this principle is so manifestly just, so manifestly right, that it cannot require any further explanation from me. The gentleman from Wisconsin, [Mr. EASTMAN,] however, is more familiar with the facts, and can impress the justness of the bill more strongly upon the House than anything I can say.

Mr. EASTMAN. I do not wish to make a speech upon the bill, but to state briefly the facts in relation to it, which I think will be sufficient to convince every gentleman upon this floor, of the justness of its provisions.

By the treaty between the Government of the United States and the Menomonee tribe of Indians, by which the lands known as the Menomonee purchase were ceded to the United States, these Indians were to remove and vacate these lands at a certain day. The President of the United States, at the solicitation of the Indians, extended that time of removal until the first day of June, 1852. Between the time that they were to have removed, by the terms of the treaty, and the time they are to remove now, under the permission of the President of the United States, settlers have gone upon that land in good faith, improved it, made their farms, erected their dwellings, and, in fact, small towns have grown up on the rivers, until a portion of that tract is almost as densely populated as any part of the State.

The Commissioner of the General Land Office has decided in the case of these settlers, that because the President of the United States extended the time of the removal of these Indians, that these lands were not subject to preemption, and therefore the settlers upon these lands acquired no right of preemption by virtue of their settlement. This decision renders legislation upon the subject necessary to secure the rights of these settlers, and this bill has been introduced into the Senate, and passed for their relief. The Committee on Public Lands, to whom it was referred in this House, have thought proper to make this bill general in its operation. The time for the removal of these Indians expires on the first day of June, 1852, and hence the immediate necessity for the passage of this bill. I will not make a speech, as I said before, but I simply state these facts, and hope the

bill will meet the favorable consideration of the members of this House.

Mr. BELL. I wish to inquire of the gentleman who reported this bill, whether, if the bill as reported should pass into a law, it would interfere with the existing rights of preemption to lands which have been surveyed?

Mr. HALL. In answer to the gentleman from Ohio, I will state that the existing laws protect settlers upon surveyed public lands. This bill does not propose to interfere with the existing laws, further than to extend the right of preemption to persons who have settled upon unsurveyed public lands. And, of course, if this bill passes, the rights of settlers upon surveyed public lands would be still amply protected.

Mr. BELL. The present law, as I understand it, would not authorize a man to go upon a school section, for instance, and, by virtue of that settlement, claim the right of taking up some other tract. I wish to know whether this bill, now reported, would give him that right?

Mr. HALL. The provision of this bill in regard to that is this: that if a person who settles upon unsurveyed public lands should be found to have settled upon sections sixteen or thirty-six, reserved for school purposes, he will have a float securing him the right to select a quarter section of unoccupied land, out of any other section in the land district, by paying \$1.25 per acre for it.

Mr. BELL. That is all the change proposed, is it?

Mr. HALL. That is all.

Mr. STUART. This subject of preemption rights is well understood by the House; and, in order that we may get along with the business of the House, I move the previous question.

Mr. SUTHERLAND. Will the gentleman withdraw his motion for a moment? I wish to make a few remarks.

Mr. STUART. I will withdraw the motion.

Mr. SUTHERLAND. I wish only to say a single word. It appears to me that this is an important bill which this committee have reported, if I understand the chairman of that committee in his explanation of it. It is no less than a bill to throw into market all the territory of the United States. The whole of it.

Mr. HALL. No, sir.

Mr. SUTHERLAND. Let me state what I understand it to be, and then you can make your corrections. It gives preemption rights to settlers, not only upon surveyed lands, but upon all the unsurveyed lands in the United States.

Mr. HALL, (interrupting.) To which the Indian title has been extinguished.

Mr. SUTHERLAND. To which the Indian title has been extinguished! And that is immense. The chairman says that the Committee on Public Lands can see no reason why this preemption right should not extend as well to the settlers on unsurveyed lands, as to those who have settled on surveyed lands. Now, I do not know the extent of the lands to which the Indian title has been extinguished, but I presume it is not less than a hundred million of acres. This bill would, therefore, throw into market, in addition to the lands now in market, one hundred millions of acres. I do not expect to show that to this House now; but I say this, that the most unfortunate policy ever pursued by this Government, in relation to the public lands, has been the bringing of them into market faster than the demand for settlement required. What is the consequence?—and the consequence is the reason why this proposition should not become a law. The consequence is, that you settle your country in spots and streaks all over. You spread your population to an immense extent, hundreds and hundreds of miles; and, in order to get your produce to market, you have to build roads and avenues of internal improvement—in other words, you have to add to the actual expense that of getting your produce to market, and to submit to all the inconveniences and injuries which result from a sparse and scattered population.

But another reason. In the name of common sense, how can gentlemen come forward here, with these propositions for grants to railroads—which lands they are compelled, by their charters, to sell within twenty years, and which if they do not sell them within that period, they forfeit—and then ask for the passage of such a bill as this? Who are you to sell these railroad lands to if you pass

this bill? Do you not by your homestead bill give away to actual settlers the lands in the States already surveyed? And now you actually give away the whole domain, yet unsurveyed, by the operation of this preemption bill. And I ask how are you to fulfill the conditions of your grants to railroads—to sell the land within twenty years? You cannot do it. You must have settlers before you can sell them. In other words, you are taking away by this bill, and by your homestead bill, the very market which you must look to for the sale of your lands, in order to fulfill the conditions of your railroad grants.

I should be glad to vote for some of these railroad bills, but the friends of these bills, by this very measure, are destroying any prospect of passing them. I ask this House if there is a single railroad bill which has been reported here, which does not make the grant, upon the condition that the lands shall be sold within twenty years? I ask gentlemen again, to whom will they sell the railroad lands to? You have a certain limited market for your lands. You have a certain amount of population to supply. But if you throw open the whole public domain to actual settlers, upon the sole condition of occupancy, where are you to find a market for the lands granted by your railroad bills?

Mr. HALL. Allow me to correct the gentleman with regard to these railroad bills. Those bills require the roads to be completed within twenty years, but they do not fix the time within which the land shall be sold.

Mr. SUTHERLAND. In the course of a five minutes' speech—for I will detain the House no longer—it cannot be expected that I will consider the whole bearings of this question. I will say, however, to the chairman and members of the Committee on Public Lands, that never before was there brought forward, in any legislative body of the earth, measures so entirely inconsistent with each other as these land measures. It has been proposed at this session by the railroad bills to grant 40,000,000 acres of land for the construction of railroads, to be sold within ten years after the passage of the grants, and at the same time the market for these lands is destroyed by other bills, so as to render it impossible for the companies to fulfill the conditions of the grants, by the donations to actual settlers—the giving away of the whole of the public domain to induce people to emigrate West, not to settle upon the railroad land but upon other land. Now, by this measure you propose to throw into market some 100,000,000 acres more than there are at present. You propose to open the whole public domain to which the Indian title has been extinguished, and to give it away. Is it not a gift? A preemption right! When is the settler to be compelled to pay for it? He must settle upon it, but he may remain there a hundred years before it is surveyed. He can remain on it until it is brought into market before paying \$1 25 per acre for it. Who can tell when the Government will bring it into market? Is it not known that there is more land in market now than can be sold for a great many years to come. This is inconsistent with the other land bills of this House, and their inconsistency is what I condemn them for. Gentlemen, in their anxiety in every sort of way to give away the public land, have destroyed their own measures, so as to render it impossible for any man to vote for them without stultifying himself.

Mr. CAMPBELL, of Illinois. I hope, sir, the vote will be taken to-day upon this bill. I will detain the House but for a single moment. In relation to the immediate object of this bill, so far as it is intended to protect the settlers in the State of Wisconsin, I beg leave to say, that if it is not passed before the 1st day of June, it will be of no benefit to the very class for which it is intended. Under the direction of the Government, the time for removing the Menomonees was extended until the 1st day of June, 1852. The settlers, not knowing that the President had extended the time, went on those lands and made improvements; and if this law is not passed before the first day of June, 1852, it need not be passed at all, so far as any benefit it is intended to confer on this class of settlers is concerned. One word of reply to the gentleman who has just taken his seat. Now, I would say that, if there were any class of the settlers on the public domain more meritorious than another, it is that class who go in advance of the settle-

ments of the country—who are the early pioneers of the country, and who claim these public lands before they are surveyed, or before the United States has extended over them its territorial jurisdiction. What is the effect of this, sir? Why, that when they go and settle upon these public lands; when they have made valuable improvements; after they have induced others to follow them, and after the cultivation and the improvement of the public lands have been the result of their enterprise, the Government is called upon to have these lands surveyed, and to bring them into market. The result of that is, that the lands are sold, and the money goes into the Treasury of the United States, for the purpose of making improvements, and being expended in the very region of country which the gentleman from New York [Mr. SUTHERLAND] has the honor to represent. When they go upon these public lands, they receive no protection from the Government; but after the lands are surveyed and brought into the market, the improvements and the labor they have bestowed upon these lands are protected to them by law; and I can say to that gentleman, that I have never known of any preemption law, except one, which has been referred to by the gentleman who reported this bill—the law of 1841—which does not extend the right of preemption to unsurveyed lands; that settlers upon unsurveyed lands are the very class we should protect, and the very class of persons we should induce to go in advance of the settlements of the country, for the purpose of enabling the Government to sell and dispose of the public domain—not as a gift, sir, but for a valuable consideration in dollars and cents. As I do not think anything will be gained by extending this discussion, I call for the previous question.

Mr. FOWLER. Will the gentleman withdraw his call for the previous question for one moment?

Mr. CAMPBELL. I will, on condition that the gentleman will renew it.

Mr. FOWLER. I suppose it would be in order to move that the bill and amendment be referred to the Committee of the Whole on the state of the Union, and ordered to be printed, so that we may all be enabled to perfectly understand the matter?

The SPEAKER. It will.

Mr. FOWLER. It is very evident, Mr. Speaker, that this is an important bill. I am not sure but that, when I come to understand its provisions, I may vote for it. If it is right I will do so, but I am unwilling to act until I know more about the character of the bill, and its probable effect. Now, I will move to refer it to the Committee of the Whole on the state of the Union, and to order it to be printed, if the gentleman from Illinois, to whom I feel myself bound, will allow that motion to be submitted, for the purpose of having it brought fairly before the body.

Mr. CAMPBELL, of Illinois. I yielded the gentleman the floor for the purpose of explanation, and on the condition that afterwards he would renew the call for the previous question, and not for the purpose of submitting another independent motion.

Mr. FOWLER. I will not violate the implied pledge. I will not make the motion I have suggested. If the gentleman insists, he has the right of renewing the call. If the bill is right, the friends of it need not fear that it will not pass, after being properly considered. If it is wrong, they should not desire its passage. Will they not allow us to examine it? Will they not allow it to be printed, and laid upon our tables?

Mr. CAMPBELL. If the gentleman will permit me to interrupt him a moment. I stated before, the necessity for immediate action upon this bill—that if it was not passed before the first day of June, 1852, it would confer no benefit upon the very class of settlers it was intended to benefit—the settlers in Wisconsin. For that reason I desire that it shall be acted on at the present time.

Mr. CARTER. I wish simply to ask the gentleman from Illinois one question. I wish to inquire if it is so important these settlers shall be protected, why is the bill not confined to them, instead of undertaking to revolutionize the whole land system by a general bill, such as is proposed by the Committee on Public Lands?

Mr. EASTMAN. I will answer the gentleman.

Mr. FOWLER. I cannot give way for these discussions. If the necessity of which the gentleman from Illinois speaks exists, I would inquire of him whether it be greater than the neces-

sity that right action should be taken upon this subject? If the previous question is to be called upon this bill before we can have an opportunity to have it printed and to read it, I hope it will not be sustained. I am not disposed further to occupy the time of the House.

Mr. SUTHERLAND. I move that the bill and amendment be referred to the Committee of the Whole on the state of the Union.

Mr. FOWLER. I renew the call for the previous question, in accordance with the agreement I made with the gentleman from Illinois, [Mr. CAMPBELL].

The SPEAKER. The gentleman from New York [Mr. SUTHERLAND] is entitled to the floor. The gentleman from Massachusetts had resumed his seat when the gentleman from New York was recognized.

Mr. CAMPBELL, of Illinois. I yielded the floor on the condition that my call for the previous question would be renewed.

Mr. FOWLER. I felt bound to make that motion. It was merely an oversight that I did not.

The SPEAKER. The Chair is aware of that, but the gentleman did not make the motion. He had resumed his seat when the gentleman from New York was recognized. The Chair must say that the gentleman from Massachusetts cannot take the floor from the gentleman of New York without his consent.

Mr. SUTHERLAND. I move that the bill and amendment be referred to the Committee of the Whole on the state of the Union and that they be printed, and upon that motion I call for the previous question.

Mr. CAMPBELL. This is a way of depriving me of the call for the previous question which I do not understand. I will know to whom I yield the floor again.

Mr. HALL. I will ask the gentleman from New York to withdraw his call for the previous question. I will renew it. I desire to submit a few words in reply to the gentleman's remarks.

Mr. SUTHERLAND. I withdraw it on the condition that the gentleman will renew it.

Mr. HALL. Mr. Speaker, I wish, in the first place, to inform the gentleman from New York [Mr. SUTHERLAND] that my own State has no interest whatever in the passage of this bill into a law. The State of Missouri has been settled under the operation of a law almost precisely similar in its terms to the substitute now under consideration. Its citizens were permitted to settle on the unsurveyed lands, and to hold preemption rights thereon. And all the object I have in view in the passage of the present measure is, that those who may hereafter emigrate to the West shall be entitled to the same right and privilege as my own constituents. The gentleman from New York [Mr. SUTHERLAND] seems to think that this bill, were it passed, would throw open an immense tract of land to settlers, which otherwise would not be subject to settlement for a great many years to come. I will state, in reply to the gentleman, that if this bill passes it will then open to settlement no land but that to which the Indian title has been extinguished; and that the practice of the Government has always been, and I presume it will continue to be, to survey the public lands almost as soon as the Indian title has been extinguished; so that if this bill be not passed in a very few months, as much land will come under the operation of the preemption laws as will be subject to preemption if the bill were now passed. The only possible effect that it will have, as I stated in my first remarks, will be to protect the pioneers—those who first plunged into the forests, settled, and improved the land. That is all, sir.

It will not increase the amount of land subject to preemption one single acre.

Mr. SUTHERLAND. How do these settlers go there, unless they go where they get the preemption right? Do they not go as trespassers and occupy lands upon which they have no right to settle?

Mr. HALL. I will inform the gentleman. They go as our people went to Oregon, before you passed the Oregon land law. They go as people went to California, and just exactly as people went to every new State in this Union. They go for the purpose of improving their condition without the authority of law. They go to render important services to the country as well as to ben-

ent themselves, and they render services which this Government has always been bound and happy to recognize. That is the way they go.

Mr. SUTHERLAND. What is the use of surveying lands?

Mr. HALL. I will tell the gentleman what is the use of surveying the lands? It is in order to fix exactly what amount each man will have without controversy and without litigation.

Mr. SUTHERLAND. Do they have it by settlement?

Mr. HALL. Yes, by settlement and purchase.

Mr. MOREHEAD. I wish the gentleman from Missouri [Mr. HALL] to give me some information, as he is well informed upon this subject of public lands. I wish to ask the gentleman if a settler should have a dwelling upon one quarter section of land, and his plantation upon another, and some one should go and settle between them, whether he would be entitled to both quarter sections?

Mr. HALL. I will answer the gentleman. In the first place, it confers upon the settler, upon unsurveyed public lands, precisely the same rights, and no other, which the act of 1841 confers upon the settler upon surveyed public lands. The provision of the act of 1841 is, that no man shall have more than one quarter section of land. As to the case put by the gentleman, if a settler shall have his dwelling upon one quarter section, and his fields upon another, he will be compelled to take the quarter section upon which his dwelling is.

[A message was here received from the Senate by the hands of their Secretary, ASBURY DICKINS, Esq.]

Mr. HALL resumed. The gentleman from New York [Mr. SUTHERLAND] says that the true policy of this Government is to settle lands in a solid column, and not to have the sparse settlements which have heretofore prevailed in the settlement of the West. I do not know what sort of law, and what sort of arrangements may be necessary in order to accomplish the object which the gentleman from New York [Mr. SUTHERLAND] has in view. I do know, however, that under the arrangements we have heretofore had—notwithstanding the argument of the gentleman from New York has been always urged against a liberal system towards the West—for his argument is nothing less, and it was urged when the first preemption law was pressed upon the consideration of the House—the settlement of the West has gone forward; and we know that, notwithstanding the evils which he says are incident to this state of things, the West has prospered more than any other country on the face of the earth. I am not, therefore, willing to abandon this system, and adopt another, in order to accommodate the views of the gentleman from New York, [Mr. SUTHERLAND.] It is too late to adopt his doctrine now.

Mr. ALLISON. I wish to ask the gentleman a question, and it is this. There are now pending before the Senate three or four propositions by which, if they are confirmed, we will acquire a very large territory from the Indians in Minnesota. I wish to ask the gentleman if these treaties are confirmed, if this bill does not open the whole of these lands to settlement before they are surveyed?

Mr. HALL. It does. I will state, however, to the gentleman from Pennsylvania, that I presume the object of acquiring those lands and extinguishing the Indian title, is to open them to settlement; and as soon as the Indian title is extinguished, we will have them surveyed; and as soon as they are surveyed they are subject to the right of preemption. The only effect of this bill will be to protect those who settle upon the lands before they are surveyed—who are just as meritorious as those who settle upon them subsequent to their survey. Gentlemen inquire if lands in California will be subject to the operation of this bill? I answer, that the lands in California, which are not mineral lands, will be subject to the preemption under this bill, and this bill confers the right of preemption upon the terms conferred by the act of 1841. That expressly excludes from its operation mineral lands; and all lands in California, therefore, in which the gold mines are situated, and containing any other mineral, are not embraced in the provisions of the substitute proposed by the Committee on Public Lands. One word in reply to the inquiry made by the gentleman from Ohio, [Mr. BELL,] why it is, if our ob-

ject be to protect settlers in Wisconsin, that other persons are included. I will tell the gentleman why. The Senate bill proposed to include nobody but the settlers upon lands in Wisconsin. The Committee on Public Lands thought that if it was right to protect settlers upon the unsurveyed public lands in Wisconsin, it was right to protect settlers upon the unsurveyed lands in Minnesota, Oregon, California, and Iowa. If the gentleman from Ohio [Mr. BELL] does not like our amendment, let him vote it down, and vote for the bill of the Senate, and he will greatly protect the settlers in Wisconsin.

Mr. STUART. As the gentleman intends to move the previous question, I wish him to give me an opportunity of offering an amendment to this bill, that its provisions shall not extend to the State of California. Our whole system in regard to this State is undetermined. I have been looking to the act with regard to the effect of the preemption laws upon the mineral lands. The language is that the right shall not apply to any lands where mines are known to exist. I doubt not, there are many places in California where mines in fact exist, but where that fact is unknown. It is not a fair distribution of the property of that State, to allow it to be taken by preemptive right, until the whole policy in regard to it is settled. What I wish to propose in regard to this bill, is simply to add a short section, declaring that the provisions of this act shall not apply to any land in the State of California.

Mr. HALL. I have no objection to that amendment being offered, but I think it is entirely wrong. If I can yield the floor for the purpose of having it offered, I will give the gentleman an opportunity of doing so.

Mr. JOHNSON, of Arkansas. I wish to suggest to the gentleman from Missouri, [Mr. HALL,] that the morning hour has expired, and I hope he will insist upon the previous question, for the business of the past week, which was territorial business, ought to be now taken up and disposed of.

Mr. EVANS. Has the morning hour expired? The SPEAKER. It has not by nearly three minutes.

Mr. HALL. Before the morning hour shall expire, I move the previous question.

Mr. EVANS. I hope the gentleman from Missouri [Mr. HALL] will withdraw it.

Mr. HALL. I will withdraw it.

Mr. EVANS. I do not desire to occupy the time of this House. There have been already surveyed in the United States, and now subject to entry, countless millions of acres of land, as fertile land as can be found on the face of the globe—lands which are not settled, and will not probably be settled for a great many years. This being the case, why is it that this bill, and bills of a similar character, are pressed here? It is intended to disorganize the whole landed system of the country. The object of this measure is to overturn from the foundation all those settled principles in regard to public lands which have always governed us. The design is to grant to certain States of the Union, without regard to the rights of the remainder of these States, everything that lies in their borders. That design is fast approaching to its consummation, and its execution.

Mr. HALL. I will only state to the gentleman that I should be most happy to see the public lands ceded to the States in which they are situated, not upon terms unjust, but upon terms which are just to the old States.

Mr. EVANS. The terms of justice proposed by the gentleman from Missouri [Mr. HALL] strike no mind but his own. They are not such as will impress themselves upon any court of equity in this country. They are those which presume, and have always presumed, that everything has been denied to the land lying west of the Alleghany ridge.

Mr. ASHE. Has not the morning hour expired?

The SPEAKER. It has expired.

#### CONTESTED ELECTION.

Mr. ASHE. I desire to call up the report of the Committee on Elections, made some weeks since. It is a privileged question, and therefore I ask that it be disposed of now.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills, which received the signature of the Speaker, viz:

An act to legalize certain entries of public lands made in the State of Florida;

An act for the relief of Sylvanus Blodgett;

An act for the relief of Robert Milligan;

An act for the relief of William Greer; and

An act for the relief of John W. Robinson.

Mr. EVANS resumed the floor.

Mr. BAYLY, of Virginia. I believe it is in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order to move that the House go to the business upon the Speaker's table. That is a motion for which a gentleman can be arrested in his remarks.

Mr. EVANS. He cannot arrest me for any other purpose.

The SPEAKER. Whilst the proposition of the gentleman from North Carolina is one of privilege, still, under an express rule of the House, the gentleman from Maryland [Mr. EVANS] cannot be driven from the floor by any such proposition. He can, under the rule, however, be arrested at the expiration of the morning hour for the purpose of submitting a motion that the House proceed to the business upon the Speaker's table.

Mr. ASHE. That is the motion which I make.

Mr. STANTON, of Tennessee. I submit a question, whether, under the order made yesterday by which reports were to be called for one hour, a continuance longer than that time is not, necessarily, excluded by the very terms of the resolution itself, and whether that business is not arrested at the expiration of the morning hour?

The SPEAKER. The Chair thinks it would be competent for the House to continue to receive reports from committees the whole day.

Mr. WILLIAMS. I was not aware of that. I wish to ask the gentleman from North Carolina, [Mr. ASHE,] and to suggest to him the propriety of taking this election case up to-morrow or next day, and go to something else to-day.

Mr. ASHE. In answer to my friend from Tennessee I will remark, that I feel a very great indisposition to press this matter on the House when the House is not willing to take it up; but it has been now pending four or five months, and a report has been made in the House some three weeks. I consider it but an act of justice to the House that it should be considered. I must insist upon it as a privileged motion.

Mr. STUART. I believe it is now in order to move to go into the Committee of the Whole on the state of the Union; and I make that motion.

The SPEAKER. There is a motion pending to go to the business upon the Speaker's table.

Mr. STUART. I am aware of that; but is it not in order at the same time to submit this motion? I submit that while the floor cannot be taken from the gentleman from Maryland for any purpose except to proceed to the business upon the Speaker's table, yet that when that motion is submitted, and before the question is taken upon it, it is in order to move to suspend the rules, and go into the Committee of the Whole on the state of the Union.

The SPEAKER. That has been the practice of the House by general consent, but the Chair doubts whether, strictly speaking, it would be in order until the motion to go to the business upon the Speaker's table has been disposed of.

Mr. EVANS. If the floor is left to me to-morrow, I am perfectly willing to go to the business upon the Speaker's table, or anything else.

The SPEAKER. The sense of the House as to the business it will prefer, can be as easily ascertained upon the motion of the gentleman from North Carolina, [Mr. ASHE.]

The question was then put upon the motion to proceed to the business upon the Speaker's table, and it was decided in the affirmative—ayes 126, noes not counted.

Mr. STUART. I now submit the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. ASHE. I rise to a question of privilege. I have been informed, and I believe that a question touching the qualification and return of a member of this House is a question of privilege. I have made a report touching the qualifications of a member of this House, and as it is, therefore, a question of privilege, I hold that that question has a preference.

The SPEAKER. As a question of privilege,



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the gentleman from North Carolina [Mr. ASHE] has a right to submit a motion to proceed to the consideration of that subject. It is clear, however, that the House has a right to proceed to other business, or to postpone it under the rules of the House.

Mr. STEPHENS, of Georgia. I move to postpone the consideration of that question until to-morrow.

The SPEAKER. The House has not yet agreed to take it up.

Mr. STEPHENS. I move to postpone the consideration of the motion to take up until to-morrow.

The SPEAKER. That is rather a novel proposition.

Mr. STEPHENS. You can postpone any proposition that can be entertained.

Mr. RICHARDSON. I apprehend, sir, if it is a question of privilege, no motion is necessary to proceed to its consideration. The question comes up as a question of privilege, and is not necessary to be taken up by motion. I make that point of order.

The SPEAKER. The Chair agrees with the gentleman from Illinois, that it is certainly a question of privilege, affecting the right of one of the members of this body; but it is also competent for the House to postpone its consideration or commit it.

Mr. RICHARDSON. Is there a motion pending to postpone it?

The SPEAKER. There is a motion pending to postpone the motion to take it up.

Mr. BAYLY, of Virginia. The Speaker has decided, I believe, that it is in order to postpone this question of the contested election.

The SPEAKER. The Chair has so decided.

Mr. BAYLY. I move that it be postponed until to-morrow.

Mr. STEPHENS. That is my motion.

The SPEAKER. The gentleman from Georgia [Mr. STEPHENS] has submitted a motion to postpone the consideration of the election case until to-morrow.

Mr. ASHE. I rise to a point of order. I have the floor upon a question of privilege, and while I am in possession of it it is not in order to submit a motion to postpone the case until to-morrow.

The SPEAKER. The Chair does not recollect the practice of the House upon the point of order raised by the gentleman from Illinois; but as it is very clear that the House has a right to postpone the consideration of this question of privilege, the Chair is of opinion that the right extends only to the motion to take up that subject; it is competent for the House to determine to do it or not. That is the opinion of the Chair, and the Chair therefore overrules the point of order raised by the gentleman from Illinois.

Mr. RICHARDSON. I do not make the point of order that it is not in order to move to postpone it. That is in order. I do not raise that question at all, but the question that I raise is—

The SPEAKER. That it comes up without a motion—the Chair overrules that point. That is the view which the Chair addressed itself to, that although a question of privilege, nevertheless it is proper that the House should determine, by vote, when they will consider it. The gentleman from North Carolina moved to proceed to the consideration of the contested election case from Pennsylvania.

Mr. RICHARDSON. I only want to understand the decision of the Chair, with a view to control my own action. Do I understand the Chair to decide that this is not a question of privilege?

The SPEAKER. The Chair makes no such decision.

Mr. RICHARDSON. The effect of the Chair's decision, if I understand it correctly, is this: that while it is a question of privilege it does not come up, unless the House brings it up. Cannot the House bring up anything else? Is it then a question of privilege?

The SPEAKER. The Chair thinks it is a question of privilege in this: that a motion to pro-

ceed to the consideration of this subject may be made at any other time, while all other business must come in under the rules, as prescribed in the book. That is the opinion of the Chair, and he thinks it is correct.

Mr. STEPHENS. I wish to suggest to the Chair, and to the gentleman from North Carolina, that this question of privilege has once been presented to this House, and a report has been made, and it is now before the House, and on the Speaker's table. It is not now a question of privilege, but it is a privileged question to move to bring it up. The gentleman from North Carolina is not entitled, therefore, to the floor to make an hour's speech, until the House agree to entertain the subject.

The SPEAKER. That is precisely the decision of the Chair.

Mr. ASHE. Do I understand the Chair to decide that it is in order to entertain the motion of the gentleman from Georgia?

The SPEAKER. The Chair decides that it is in order to entertain the motion made by the gentleman from North Carolina, which is to proceed to the consideration of the contested election case from Pennsylvania.

Mr. ROBBINS demanded tellers upon the motion; which were ordered, and Messrs. ASHE and CHANDLER were appointed.

The question was then put, and it was decided in the negative—ayes 53, noes 91.

Mr. RICHARDSON. I desire the unanimous consent of the House, to withdraw from the files of this House the papers of George Wright for the purpose of sending them to the Senate, where a bill has been reported upon his petition. The papers are connected with that bill.

It was so ordered.

Mr. STUART. I renew my motion to suspend the rules, and go into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR, of Connecticut, in the chair.)

The CHAIRMAN. The first business in order before the committee is the consideration of House bill No. 44, making appropriation for the payment of invalid and other pensions, on which the gentleman from Virginia [Mr. BAYLY] is entitled to the floor.

Mr. BAYLY, of Virginia, addressed the House an hour, in an argument against the position assumed in debate this session by Northern gentlemen, that the fugitive slave law, like any other law of Congress, was open to repeal; and also in controversy of the ground assumed by others that the compromise measures, being the law of the land, resolutions to reaffirm them were idle, if not mischievous. He utterly denied the right of repeal in one case, and maintained the propriety of reaffirming by resolution the finality of all these measures. [His speech will be found in the Appendix.]

Mr. CARTTER obtained the floor, and made some remarks in reply to the gentleman from Virginia, [Mr. BAYLY], in which he argued to show the futility of reaffirming by resolution the law of the land, with the view of giving to it any more force and permanency than the law itself can have.

The CHAIRMAN. The time has arrived when, by the limitation of the House, debate closes upon this bill. The bill is now open to amendment.

Mr. HOUSTON. I move that the bill be laid aside, to be reported to the House with the recommendation that it do pass, and the committee proceed to the consideration of House bill No. 45, making appropriations for naval pensions for the year ending 30th June, 1853.

Mr. CLEVELAND. I ask the gentlemen from Alabama to allow the gentleman from Ohio [Mr. CARTTER] to conclude his speech.

Mr. HOUSTON. I cannot. The order of the House requires that the chairman should pursue the course he has.

Mr. CLEVELAND. By unanimous consent he can finish his remarks.

Mr. POLK. Unanimous consent is granted unless the gentleman from Alabama objects.

Mr. HOUSTON. I do object. The gentleman can conclude his remarks on another bill.

The question was then taken, and House bill No. 44 was ordered to be laid aside to be reported to the House, with the recommendation that it do pass.

The committee then proceeded to consider House bill No. 45, making appropriation for the naval pensions for the year ending the 30th June, 1853.

Mr. CARTTER concluded his remarks in regard to the compromise measures. [Mr. C.'s speech is published in the Appendix.]

Mr. WHITE, of Kentucky, here obtained the floor, but yielded it to—

Mr. CABELL, of Florida, who moved that the committee rise.

Mr. HOUSTON. If the committee will indulge me, I will say that the bill under discussion is a bill making appropriations for the payment of pensions, and contains only an appropriation of \$4,000, which I think no member of this committee will controvert.

Mr. CABELL. I rise to a question of order. I moved that this committee rise.

Mr. HOUSTON. I want to make an appeal to the committee. I was simply going to ask the committee to lay aside the pension bill to be reported to the House, and let the gentleman from Kentucky [Mr. WHITE] have the floor upon the Military Academy bill, or the Indian appropriation bill.

The CHAIRMAN. By unanimous consent it can be done.

Mr. CLINGMAN. It is not a debatable question, whether the committee rise or not.

Mr. HOUSTON. I am not debating it. I ask that this bill be laid aside, to be reported to the House with a recommendation that it do pass, and that the gentleman from Kentucky [Mr. WHITE] be entitled to the floor upon the next appropriation bill.

No objection was made, and the bill was laid aside.

The question was then taken on the motion of Mr. CABELL, of Florida; and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported, that the Committee of the Whole on the state of the Union, according to order, had had the state of the Union generally under consideration, and particularly House bill No. 44, being a bill making appropriations for the payment of invalid and other pensions for the year ending the 30th day of June 1853; and House bill No. 45, being a bill making appropriation for naval pensions for the year ending the 30th day of June, 1853, and had directed him to report the same to the House with a recommendation that they do pass. Also, that the committee had had under consideration the Indian appropriation bill, and had come to no conclusion thereon.

The SPEAKER. The question will be upon the engrossment of bills No. 44 and 45, just reported from the committee.

There being no objection, the bills were severally ordered to be engrossed for a third reading, and being engrossed, they were severally read a third time and passed.

Mr. WALSH, by unanimous consent of the House, introduced resolutions of the General Assembly of Maryland, in regard to the fortifications on the Patapsco river; which were referred to the Committee on Commerce.

Mr. PRICE. I move that this House take a recess until seven o'clock this evening.

Mr. JONES, of Tennessee. I object to that motion.

The SPEAKER. It requires unanimous consent to take a recess. It is objected to.

Mr. PRICE. I move that when this House adjourns, it adjourn to meet to-morrow morning at ten o'clock.

Mr. JONES. I object. The gentleman cannot change the regular time of meeting.

The SPEAKER. The Chair doubts whether it is competent to submit such a motion, if objection is made. The Chair understands that the practice has been that such a motion is not in order, without the general consent of the House. The language of this rule is as follows:

"A motion to adjourn, and a motion to fix the day to which the House shall adjourn, shall always be in order."

A proposition to fix the hour of adjournment is not in order, without unanimous consent.

Mr. PRICE. Will it be in order to suspend the rules, to enable me to submit the motion?

The SPEAKER. Motions to suspend the rules are not in order except on Mondays.

On motion by Mr. Seymour, of New York, the House adjourned.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. FAULKNER: The petition of Thomas B. Harvie, a soldier of the war of 1812, praying for a pension.

By Mr. CONGER: The petition of John L. Smith and 230 others, citizens of Michigan, (along the proposed route,) praying for the establishment of a post route from Corunna, in Shiawassee county, Michigan, by way of Owosso, Rusk, Northampton, and St. Charles, to Saginaw City, in said State.

By Mr. CABLE, of Ohio: The memorial of S. W. Clarke and 162 other citizens of Columbiana county, Ohio, on the subject of post offices being opened on the Lord's day, or Sabbath day, and of carrying the mail thereon.

By Mr. SEYMOUR, of New York: The petition of Samuel S. Bingham, of New York, praying for a pension.

By Mr. McQUEEN: The memorial of B. A. Coachman and others, Town Council of Georgetown, South Carolina, for appropriation for the survey of the Georgetown harbor, and additional buoys.

Also, the memorial of J. D. Singletary and others, for the establishment of a post road from Graham's Cross Roads, in Williamsburg district, South Carolina, to Indiantown, in said district.

By Mr. CHANDLER: The memorial of nearly 11,000 citizens of Washington, District of Columbia, asking Congress to make an appropriation to sustain the public schools of this city.

By Mr. MOREHEAD: The memorial of Solomon Spain Roun, of Stokes county, North Carolina, asking that the Government pay to him the amount of a debt incurred in aid of transporting the United States mail.

By Mr. ROBLE: The memorial to establish a mail route from Bath, Steuben county, New York, by Mitchellville, to Prattsburg, in said county.

#### IN SENATE.

WEDNESDAY, May 26, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, made in compliance with a resolution of the Senate, relative to a charge rejected in the account of the Hon. David Tod, late Minister to Brazil, for money advanced to William E. Anderson, who was sent to the United States as a witness.

Mr. WADE. I do not know whether it be in order, but that communication, as I understand it, ought to go to the Committee on Foreign Relations, to give light upon a breach of the law regulating the slave trade, in one aspect of it; in another it relates to the settlement of the accounts of Mr. Tod, our late Minister to Brazil. A prosecution had been instituted against two men for a violation of that law; and he was requested by the Executive to procure a witness and send him home, and advance the money to pay for his expenses. He did so, but when he came to adjust his accounts it was ascertained that there was no law providing for the payment of the money advanced to the witness under these circumstances. So, in that aspect of it, it should be referred to the Committee on Claims.

Mr. DAVIS. The Committee on Foreign Relations can take both subjects into consideration.

Mr. WADE. On that information, not doubting that the Committee on Foreign Relations will provide for the payment of the money thus advanced by our late Minister to Brazil, I move that the communication be referred to that Committee, and printed for the use of the Senate.

The motion was agreed to.

#### PETITIONS, ETC.

Mr. SEWARD presented the petition of John Bullock, praying that a clerk may be employed in the post office in the city of New York, and in the post offices in other large cities, to write letters for persons who cannot write, at a moderate rate of

compensation; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of Steuben county, New York, praying that the bill giving further remedies to patentees, may become a law; which was ordered to be laid upon the table.

Also, the petition of John Wickham, praying that his pension may be made to commence from the date of his disability; which was referred to the Committee on Pensions.

Also, sixteen petitions of citizens of New York, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family, one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Mr. MILLER presented several petitions of citizens of New Jersey, praying that the introduction of foreign convicts, felons, and paupers into the United States, may be prohibited by law; which were referred to the Committee on Foreign Relations.

Mr. DAVIS presented a petition of W. W. Cleveland and others, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. FISH presented a petition of citizens of Angelica, Allegany county, New York, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. CHASE presented a petition of C. Shuler, Jr., P. Soule, and others, citizens of Dover, Cuyahoga county, Ohio; a petition of Lucius Wood and others, citizens of Salem, Columbiana county, Ohio; a petition of Lawson Wiles and others, citizens of Putnam, Muskingum county, Ohio; and a petition of Aaron Hinchman and others, citizens of Salem, Columbiana county, Ohio, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Mr. PRATT submitted a resolution of the Legislature of Maryland, in relation to the placing of a light on Fort Sollers, in the Patapsco river; which was read and referred to the Committee on Commerce, and ordered to be printed.

Mr. RUSK presented the petition of Juan Fernandez, praying indemnification for cattle destroyed by the Indians in Texas; which was referred to the Committee on Indian Affairs.

#### FUGITIVE SLAVE LAW.

Mr. SUMNER. I hold in my hand, and desire to present, a memorial from the representatives of the Society of Friends in New England, formally adopted at a public meeting, and authenticated by their clerk, in which they ask for the repeal of the fugitive slave law. After setting forth their sentiments on the general subject of slavery, the memorialists proceed as follows:

"We, therefore, respectfully, but earnestly and sincerely, entreat you to repeal the law of the last Congress respecting fugitive slaves; first and principally, because of its injustice towards a long sorely-oppressed and deeply-injured people; and, secondly, in order that we, together with other conscientious sufferers, may be exempted from the penalties which it imposes on all, who in faithfulness to their Divine Master, and in discharge of their obligations to their distressed fellow-men, feel bound to regulate their conduct, even under the heaviest penalties which man can inflict for so doing, by the Divine injunction, 'All things whatsoever ye would that men should do to you, do you even so to them'; and by the other commandment, 'Thou shalt love the Lord thy God with all thy heart, and thy neighbor as thyself.'"

Mr. President, this memorial is commended by the character of the religious association from which it proceeds—men who mingle rarely in public affairs, but with austere virtue seek to carry the Christian rule into life.

The PRESIDENT. The Chair will have to interpose. The Senator is not privileged to enter into a discussion of the subject now. The contents of the memorial, simply, are to be stated, and then it becomes a question whether it is to be received, if any objection is made to its reception. Silence gives consent. After it is received he can make a motion with regard to its reference, and then make any remarks he thinks proper.

Mr. SUMNER. I have but a very few words to add, and then I propose to move the reference of the memorial to the Committee on the Judiciary.

The PRESIDENT. The memorial has first to be received before any motion as to its reference can be entertained. The Senator presenting a memorial states distinctly its objects and contents; then it is sent to the Chair, if a reference of it is desired. But it is not in order to enter into a discussion of the merits of the memorial until it has been received.

Mr. SUMNER. I do not propose to enter into any such discussion. I have already read one part of the memorial, and it was my design merely to refer to the character of the memorialists—a usage which I have observed on this floor constantly—to state the course I should pursue, and then conclude with a motion for a reference.

The PRESIDENT. The Chair will hear the Senator, if such is the pleasure of the Senate, if he does not go into an elaborate discussion.

Mr. SUMNER. I have no such purpose.

Mr. DAWSON. Let him be heard.

Several SENATORS. Certainly.

Mr. SUMNER. I observed that this memorial was commended by the character of the religious association from which it proceeds. It is commended also, by its earnest and persuasive tone, and by the prayer which it presents. Offering it now, sir, I desire simply to say, that I shall deem it my duty, on some proper occasion hereafter, to express myself at length on the matter to which it relates. Thus far, during this session, I have forbore. With the exception of an able speech from my colleague, [Mr. DAVIS,] the discussion of this all-absorbing question has been mainly left with Senators from another quarter of the country, by whose mutual differences it has been complicated, and between whom I have not cared to interfere. But, there is a time for all things. Justice, also, requires that both sides should be heard; and I trust not to expect too much, when at some fit moment, I bespeak the clear and candid attention of the Senate, while I undertake to set forth, frankly and fully, and with entire respect for this body, convictions, deeply cherished in my own State, though disregarded here—to which I am bound by every sentiment of the heart, by every fiber of my being, by all my devotion to country, by my love of God and man. But, upon these I do not now enter. Suffice it, for the present, to say, that when I shall undertake that service, I believe I shall utter nothing which, in any just sense, can be called *sectional*, unless the Constitution is *sectional*, and unless the sentiments of the fathers were *sectional*. It is my happiness to believe, and my hope to be able to show, that, according to the true spirit of the Constitution, and according to the sentiments of the fathers, FREEDOM, and not slavery, is NATIONAL; while SLAVERY, and not freedom, is SECTIONAL. In duty to the petitioners, and with the hope of promoting their prayer, I move the reference of their petition to the Committee on the Judiciary.

Mr. MANGUM. I do not rise with a view to make a question of the reception of the memorial. I know it is the settled practice of this body to make that question on petitions upon this subject, and lay the motion to receive it on the table; but that has been departed from; and, I think, in all instances, as far as regards this very Christian society—the people usually called Quakers—who are a most exemplary and most excellent people, when petitions have been received from them. So I think Congress should do; and I am under the impression that there has been no exception to that rule. They are a law-abiding people; they are conscientious upon these questions, and ought to be treated with the fullest degree of respect. I hope there will be no objection to the reception. After it is received, I shall follow it with a motion to lay the memorial upon the table.

Mr. BADGER. It is received.

The PRESIDENT. It is already received, if there be no objection.

Mr. MANGUM. I move, then, to lay the memorial on the table.

Mr. HALE. If the Senator will allow me, I want to correct him in the statement of a fact.

Mr. MANGUM. I withdraw the motion for the present.

Mr. HALE. The Senator says that no excep-

tion has been taken to the reception of petitions upon this subject.

Mr. MANGUM. From the Society of Friends.

Mr. HALE. Oh, I did not understand that. Then, the rule of the Senate will be, that Friends are entitled to petition, and nobody else.

Mr. CLEMENS. That is it.

Mr. DAWSON. The motion to lay the petition on the table is withdrawn, and I desire to say a few words. If it be the desire of gentlemen to reopen this discussion, especially with a solemn manner, and a heart filled with Christian feeling, which seems to be overflowing the Senator from Massachusetts; if he desires to make a discussion of this subject, now is the time. Let there be no evasion, no escape from the present crisis, no motion to avoid what you intend to do, prior to the nominations which are to take place. Come out manfully, boldly, and present the question to us. I dislike this manner of proceeding—this throwing dust and clouds over what you intend to do. Let there be none of this deception, either religious or political. Let there be manliness; let there be earnestness. I, for one, am prepared to meet this question: and I am one of those who never intend to seek any mode whatever, by which it can be evaded. If gentlemen desire to throw firebrands into this country, let them do it; and, if they are more Christian in their feelings, and their hearts more pure than mine, I want them to pour them out. I trust, if the Senator from Massachusetts desires an occasion to discuss this question, that we will give him the opportunity. Let the petition be presented; let him set down the day for the discussion, and not seek to avoid it by saying, now I do not desire to discuss it. Now, sir, "is the accepted time." Let it be met, and let it be made a test question here, and see how the different sections of this country stand upon this question. Let there be no double-dealing in politics or religion; no hypocrisy of the heart, or hypocrisy in political action.

I trust my friend from North Carolina [Mr. MANGUM] will let the friends of the repeal of the fugitive slave law give it their own direction; for I am one of those who desire that the North shall have the exclusive right to declare their sentiments upon this question, and not that a lean majority of the Northern portion of this country, with the entire South, should give public opinion upon this question of political action. Let those who intend to take the responsibility in what are called the non-slaveholding States, declare the position upon which they intend to stand. If they intend to rock this country to its foundation—if they intend to agitate, let it be now, sir; let it be now, and let no four years which are to come under any Administration, be the course of agitation. Let the country know the men, the measures, and the man, who is to represent this influence, and around which they intend to rally. I repeat, sir, that in this indirect mode, on the eve of a presidential election, these feelings ought not to be thrown before the country with a sanctimonious air, that is to say to the whole country, We are so generous in our feelings, we do not want to violate the Constitution; but yet, you are going contrary to the Constitution. I desire to know what these gentlemen are going to do, and for one, if I can pursue the course which will bring them up to the test question, I will do it; and if any Senator is prepared to make a motion, by which the question shall be met, I say, now is the accepted time. This is the day; this is the hour.

Mr. ADAMS. If the Senator will allow me, I would suggest to him to move, by way of testing this question, to lay the memorial on the table.

Mr. DAWSON. No, sir; I do not desire that any test on this floor should be precluded by a motion for the expression of his opinions. I want gentlemen to come out boldly and manfully. I want this question handled, not merely with soft political gloves for party purposes. I want manliness; I want firmness; and if gentlemen desire sectional questions and sectional agitations, I am now prepared for them. I have done all that man can do to reconcile and to harmonize; but it seems that there is a determination secretly and covertly to pass over the present hour, but yet keep these questions before the country by insinuation, with a view to raise them up after a certain period. I am against it.

Mr. BADGER. Mr. President, I am not exactly in the same bellicose humor with my friend

from Georgia this morning; and, believing that as we have some matters of dollars and cents to attend to upon the deficiency bill, and that a furious onslaught on the subject of the fugitive slave law will not put us into a very good and excellent disposition to discharge that practical business with credit to ourselves and the country, I renew the motion to lay the memorial on the table.

Mr. BUTLER. As I find that reference has been made to the Judiciary Committee, I wish to say a word or two.

Mr. BADGER. The motion is, to lay the memorial on the table.

Mr. BUTLER. I understood that it was a part of the motion of the Senator from Massachusetts, to refer this memorial to the Committee on the Judiciary. I do not wish to lay it on the table. I agree with the Senator from Georgia.

The PRESIDENT. The Senator from North Carolina moves to lay the memorial on the table. That motion is not debatable.

Mr. ADAMS called for the yeas and nays, and they were ordered.

Mr. DAWSON. I know the rule, and I do not desire to violate it; but I wish to say, that if this is considered as a test question, my vote will be one way; but, if the Senate desire that this subject shall be closed merely for the present, my vote shall be another way.

Mr. CHASE. I rise to a point of order. Is debate in order on this motion?

The PRESIDENT. Debate is not in order.

Mr. BADGER. I rise to make an inquiry of the Chair. I believe that, if this petition be laid on the table, it can be taken up at any time?

The PRESIDENT. Certainly, if a majority of the Senate so decide.

The question being now taken by yeas and nays, resulted—yeas 40, nays 10; as follows:

YEAS—Messrs. Adams, Atchison, Badger, Bell, Bradbury, Bright, Brodhead, Brooke, Cass, Clemens, Cooper, Dawson, De Saussure, Dodge of Iowa, Douglas, Downs, Felch, Fish, Foot, Geyer, Hunter, James, Jones of Iowa, Jones of Tennessee, King, Mallory, Mangum, Miller, Norris, Pearce, Pratt, Rusk, Sebastian, Smith, Soule, Spruance, Toney, Underwood, Upham, and Weller—40.

NAYS—Messrs. Borland, Chase, Davis, Dodge of Wisconsin, Hale, Hamlin, Seward, Sumner, Wade, and Walker—10.

So the memorial was laid upon the table.

#### BILL PASSED.

The engrossed bill granting lands to the States of Louisiana and Mississippi, in aid of the construction of certain railroads therein, was read a third time, and passed.

#### THE DEFICIENCY BILL.

The Senate resumed the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in appropriations for the service of the fiscal year ending 30th of June, 1852."

The PRESIDENT. The amendments made to the bill were ordered to be printed. They have been printed, and I understand have been laid upon the tables of Senators.

Mr. HUNTER. I would suggest that we take the question on the amendments in the gross, with such exceptions as Senators desire to have a separate vote upon. There are some of these amendments on which I desire that the vote be taken separately. I wish a separate vote on the amendment making an appropriation for the Collins line of steamers. Also, the amendment in relation to the custom-house at Bangor, Maine, and that in relation to the establishment of a coal depot at Key West, Florida.

Mr. HALE. I desire to except the proviso providing that the Superintendent of the Nautical Almanac be allowed a compensation of \$3,000 per annum.

Mr. DAVIS, on behalf of Mr. CLARKE, excepted to the following amendment:

"For deficiency in the appropriation for defraying the expenses of preparing the Opinions of the Attorneys General, \$1,220."

Mr. CLEMENS. It is impossible to tell what portion of the amendments are excepted, and what are adopted. I desire to vote upon every amendment separately. I want to offer amendments to some of them on certain conditions. If several of them are retained I cannot tell which it is proposed to vote on separately, and which is not proposed to vote on separately.

The PRESIDENT. If objection is taken to

the course we are pursuing, each amendment must be taken up separately.

Mr. MANGUM. All the amendments are printed and lie on our tables. If the Clerk will read them, we can tell which we wish to have excepted.

Mr. CLEMENS. I think we should vote on them as they come up in their order.

The PRESIDENT. The Chair will state the amendments made in committee. The first is: Section 1, page 2, after line 21, insert the following:

"For completing the floating dry-dock at San Francisco, California, authorized by act of 3d March, 1851, \$360,000."

Mr. BRODHEAD. The Senator from Rhode Island [Mr. CLARKE] left with me an amendment to be offered to this clause. I am not certain whether he intended that I should offer it as an amendment to the amendment, now under consideration, or whether he intended that I should offer it as a substitute to the amendment recently offered by the Senator from North Carolina, [Mr. BADGER.]

Mr. HUNTER. No amendment was offered by the Senator from North Carolina, [Mr. BADGER.]

Mr. BADGER. I withdrew my amendment.

Mr. BRODHEAD. I think I will offer it at any rate. It is a very good proposition in itself. I will read it for the information of the Senate.

Mr. BADGER. Will the Senator allow me to suggest that we had better go through the amendments adopted in committee first? Then, it will be in order to move new matter.

The PRESIDENT. That depends upon circumstances. If it is proposed to amend, by altering the amendment in the slightest degree, and by inserting new matter, it must be done now.

Mr. BADGER. There is no question, sir, about that; but I know the meaning of the amendment. It is to add a proviso to the existing amendment, and will be in order after we go through the amendments adopted in committee.

The PRESIDENT. Such an amendment will then be in order.

Mr. BRODHEAD. In that case I will not offer it now.

The question was then taken on the first amendment reported by the committee, quoted above, and it was concurred in.

The item granting "compensation to temporary clerks in the office of the Third Auditor of the Treasury, employed in making out certificates of service from the muster-rolls of 1812, and the several Indian wars, \$11,800: [Provided, that no clerk shall receive more than at the rate of \$1,000 per annum under this act,]" had been still further amended in committee, by striking out all the words within brackets, and substituting the following:

"Which sum shall be distributed among the clerks, according to the discretion of the Secretary of the Treasury: Provided, That no salary from this fund shall exceed \$1,200."

This amendment was concurred in.

In the appropriation for compensation to extra clerks employed in the office of the Auditor of the Post Office, \$4,000, the word *temporarily* had been inserted after the word *employed*.

The amendment was agreed to.

The Senate concurred in the next amendment to the same item, by inserting after the words \$4,000, the following:

"For pasting in books prepared for the purpose, canceled certificates of the registry and enrollment of vessels returned by the several collectors of the customs, \$500."

The next amendment was to add to the appropriation of \$80,000 for running and marking the boundary line between the United States and Mexico, according to the treaty of Guadalupe Hidalgo, the following:

"Provided, That nothing herein contained shall be so construed as to sanction a departure from the point on the Rio Grande, north of the town called Paso, designated in the said treaty."

The amendment was agreed to.

The next amendment was concurred in; to strike out the word "fifteen" and insert the word "twelve" in the appropriation for subdividing townships in California into sections, so as to read as follows:

"For subdividing townships in California into sections, at a rate not exceeding \$12 per mile, \$36,000."

The next amendment, which was concurred in, added the following items:



"For compensation of the surveyor general of Arkansas, per act of August 8, 1848, \$2,000.  
 "For clerks in the office of the surveyor general of Arkansas, per act of August 8, 1848, \$6,300."

The next amendment, which was concurred in, was to strike out the words, "for surveys in the mineral region of Michigan, at a rate not exceeding \$6 per mile, \$20,650," and insert in lieu thereof the following:

"For surveys in the mineral region of Michigan, at a rate not exceeding \$6 per mile, \$24,750."

The PRESIDENT. The next amendment is to insert the following:

"For completing the improvements of New Jersey avenue, north of the Capitol, \$9,000.

"For planning and finishing the roads and walks through that portion of the public land surrounding the Smithsonian Institution, \$7,000.

"For deficiency in the appropriation for defraying the expenses of preparing the Opinions of the Attorneys General, \$1,220.

"For payment to Augustus Humbert, of balance of his salary as United States assayer of gold in California, under the act of 30th September, 1850, \$1,250."

Mr. HUNTER. There is one part of that amendment which has been excepted. It is the clause giving \$1,200 additional compensation for preparing the Opinions of the Attorneys General.

The PRESIDENT. We are going over them separately.

Mr. DAVIS. If what has been read is considered as one amendment, I shall move a division of the question. I am willing that the question should be taken on all the other clauses of the amendment, except that clause referring to the appropriation for defraying the expenses of preparing the Opinions of the Attorneys General. That portion of the amendment I wish to have excepted.

The PRESIDENT. Then the question will be on amending the amendment by striking that out.

Mr. DAVIS. I regret that I am not as well prepared to state this question to the Senate as I ought to be, being unexpectedly called on to do so in the absence of the Senator from Rhode Island; but, knowing that it was his intention and his purpose to object to that provision, I thought it to be my duty to bring it to the attention of the Senate. This gentleman, Mr. Hall, of whom I know nothing, was employed to collect the Opinions of the Attorneys General; that service he has performed, and has received, as compensation, a sum—which can be named by the chairman of the Committee on Finance—amounting to something like \$2,000. It is now proposed to give him \$1,220 in addition to that sum. I hold in my hands the two volumes compiled by that gentleman. They are in the possession of every gentleman in the Senate. They contain nothing except the naked Opinions of the Attorneys General, commencing with the earliest period of the history of this Government, and coming down to the present time. There is not, as every one knows, an index in this book; it is a book substantially useless in its character, because, like a lock without a key, there are no means of getting at the information contained in it. If Mr. Hall has, as I understand, already received \$2,000, I would be glad if the chairman of the Committee on Finance would show the Senate some good reason why this additional sum should be given.

Mr. HUNTER. I believe that this was an improvident amendment, reported by the committee in consequence of the receipt of a letter from the Attorney General's Office, and without examining the book. As it contains no index, and as the sum proposed to be appropriated is too large, I shall vote with the Senator from Massachusetts for the rejection of the amendment.

Mr. SEWARD. I hope that I may be indulged with the attention of the Senate, while giving a word of explanation on this subject.

Mr. BADGER. Will the Senator permit me to ask one question? I would like to know from the Senator from Virginia [Mr. HUNTER] whether the letter, on account of which this appropriation was reported, stated that a contract for a specific sum had been made with this person?

Mr. HUNTER. There was no contract for a specified sum. Here are the letters; if the Senator from North Carolina [Mr. BADGER] desires it, they can be read, but one of the letters is rather long.

Mr. BADGER. No. I do not wish to hear them read. I merely wished to ascertain that fact.

Mr. SEWARD. Will the Senator from Vir-

ginia have the goodness to send me those letters?

Mr. HALE. I rise to a question of order; that is, whether this appropriation is in order in this bill?

The PRESIDENT. The Senator from New York is entitled to the floor.

Mr. HALE. But I wish to know whether this, being a private claim, is in order in the deficiency bill?

Mr. DAVIS. It was reported by the committee.

The PRESIDENT. It is too late to raise that question now. The amendment was adopted in committee.

Mr. HALE. Its adoption by the committee does not authorize its insertion here.

The PRESIDENT. Having been adopted by the committee, it must be acted on now.

Mr. SEWARD. A law passed Congress, directing the President of the United States to collect the Opinions of the Attorneys General, which were lying loose, and in all imaginable confusion, in the Attorney General's Office. The President appointed Benjamin F. Hall, esquire, a counsellor at law, who was a friend of his own, and who was competent to perform that service. He was an author, and a lawyer of standing, and of high respectability in both capacities, especially as a legal writer, in the State of New York. There was no sum designated for his compensation. He came here and entered upon the discharge of his duties, and last year, when the appropriation bill passed, he presented his account for settlement. The work being then unfinished, the Attorney General recommended the sum of \$2,000, not for his compensation, but as a sum which would certainly be less than the amount, and the residue was reserved until the work should be completed. Mr. Hall went on upon the receipt of that \$2,000, having hired a clerk, as it became necessary to copy many, if not all of these Opinions. The result has been, that these volumes of Opinions are presented to us. At this session of Congress he presented his claim to the Attorney General in a letter, in order that it might be brought into this deficiency bill. He presented the following account of professional services:

THE UNITED STATES OF AMERICA,	
To Benjamin F. Hall, Dr.	
1851. September 7. To professional services rendered to the United States since September 6, 1850, by direction of the President, in compiling the Opinions of the Attorneys General, three hundred and sixty-five days, at the rate of eight dollars per day.....	\$2,920
To expenditures necessarily incurred for clerk during that period.....	300
Total.....	\$3,220
Cr. By amount of appropriation towards that object of March 3d, 1851.....	2,000
Balance due.....	\$1,220

This account, as Senators will see, includes \$300 for clerk hire. The Committee on Finance very properly required some evidence on the subject, from the Department to which it belonged, and they were furnished with the following letter from the Solicitor of the Treasury:

SOLICITOR'S OFFICE,  
 WASHINGTON, April 5, 1852.  
 Sir: I am requested by a friend of Mr. Hall, whose bill for services in the compilation of the Opinions of the Attorneys General is before your committee, to write to you in regard to it.

The manner in which Mr. Hall performed his duties came under my observation, and it gives me pleasure to say that he devoted himself with great assiduity to the task before him. It requires no little skill and labor to place the "Opinions" in a shape suited to their importance. Mr. Hall has performed the work well, and merits not only a fair pecuniary reward, but the thanks of the law officers of the Government, and of all who have occasion to refer to the work.

Mr. Hall is a lawyer, and I have no doubt could have earned, in the year which he devoted to the compilation, more than he has charged. It seems to me that his bill is quite reasonable.

Very respectfully, your obedient servant,  
 J. A. CLARK.

Hon. R. M. T. HUNTER,  
 Chairman Finance Committee, Senate United States.

Mr. Hall is well known to me, and I know that his profession as a lawyer would bring him in an amount much larger than that which he has charged. The Attorney General referred the matter to his clerk, Mr. Reid, who was familiar with the subject; and here is the opinion of Mr. Reid, the deputy in the office of the Attorney General:

WASHINGTON, March 19, 1852.  
 Sir: I have examined the account of Mr. Hall, which you handed to me yesterday, and certify that he was en-

gaged for the time mentioned in it in compiling the Opinions of the Attorneys General, and superintending their publication; and that, from the great care and labor bestowed on the work, the remuneration claimed is, in my opinion, very reasonable and proper.

The work must be regarded as a very valuable aid to all the officers of the Executive Department of the Government in the discharge of their duties. I would particularly call your attention to the synopsis he has prefixed to each Opinion. It first indicates the general principle decided; secondly, the mode of carrying it into execution; and lastly, the application of the principle to the particular case. Take, for example, the opinion as to what was necessary to be done to carry into effect the stipulation in the treaty of 1842 with Great Britain, relating to the extradition of fugitives from justice, at page 1603. The synopsis first states the testimony necessary to be produced to authorize a surrender; next, the mode of procedure; and lastly, the decision in the case presented. To prepare such a synopsis required not only care and attention, but also thought, and a thorough understanding of the points decided in the Opinion. I have looked through the book, and can say with truth, that these synopses have been well done. Of course, no one but a professional man, accustomed to digest in his mind the details of cases, could have executed this portion of the work, or was competent to see it through the press. I therefore consider Mr. Hall's charge as just and moderate.

I have the honor to be, respectfully, sir, your obedient servant,  
 JOHN T. REID.

Hon. J. J. CRITTENDEN,  
 Attorney General, United States.

These papers, Mr. President, were submitted to the Committee on Finance; and that committee adopted the amendment allowing \$300 for clerk hire, and a balance of \$920 to Mr. Hall in full for his services. It was seen, then, that the services of Mr. Hall were not merely those of a scribe or secretary, but the services of a lawyer; and those services have been performed with the skill, the ability, and the learning of a lawyer. They have been well performed. The law officers interested, in the subject certify to that.

There remains, then, only the single point raised by the honorable Senator from Massachusetts, [Mr. Davis,] which was made perhaps under a mistake; and when I explain that mistake, I think he will withdraw his objection. At any rate, I hope so. It appears that to these volumes no index has been prepared. Those who know Benjamin F. Hall as well as I do, would know, without being told, that there must be some good reason for such an apparent neglect. After this amendment had been adopted by the committee and reported to the Senate, and adopted by the Senate as in Committee of the Whole, the Senator from Rhode Island, [Mr. CLARKE,] who is now absent, called my attention to this subject, and asked me how it happened that I could support this claim; and indicated a disposition to oppose it, when it came before the Senate, on account of this want of an index. I thereupon wrote to Mr. Hall, who was in attendance here for a considerable time, but who is now engaged in professional and public duties elsewhere—he is the Mayor of the city of Auburn—for an explanation, giving him notice that some objections were likely to be made to his account. Mr. Hall wrote to me a full and elaborate letter, and, without having any indications from me, as I was unable to give him any, as to the nature of these objections, he answered all the possible objections which he could conceive. He showed that, as to the length of time which was charged, those services were rendered. He then proceeds to show that, in regard to the want of an index, the law or resolution under which the service was performed devolved it upon the Clerk of the House of Representatives to publish this book; that he, Mr. Hall, last year, as I well knew, applied for leave to print this book himself, or that he might superintend the printing of it; but no arrangement of that kind being made, this part of the service was performed by the Clerk of the House of Representatives, and these Opinions were printed by him without the knowledge of Mr. Hall, and before he had time to arrive here and prepare an index. Every one knows that no index can be made until the text is printed. When he came here, he found that the work was presented to the public in that crude shape, for which there was no manner of fault resting with Mr. Hall—the responsibility resting with the Clerk of the House of Representatives.

This letter was full and satisfactory upon that point. I waited upon the Senator from Rhode Island myself with that letter, and placed it in his hands, and he read the letter and returned it to me, if I remember rightly, the next day; and though it is hazardous to speak of private conversation with a Senator upon a point upon which a controversy might arise, I am free to say that I

understood from that Senator that he was satisfied, and would not raise any objection in the Senate. On that ground I wrote to Mr. Hall—as I heard no objections, and knew of none from any other source, that the matter was at rest, so that it was not necessary for him to come here. I anticipated no objection, and consequently his letter was left at home. I shall be obliged to ask that the Senate will allow this matter to be laid over in order that I may present that letter, which will state the facts more explicitly than I can give them from memory; for I may have done injustice to the Clerk of the House of Representatives, which, of course, is undesigned. I think, if the Senator from Massachusetts has had some recent conversation with the Senator from Rhode Island, he would be satisfied with the understanding I had with him upon this subject. That is the impression which I had, and I submit that it is not the fault of Mr. Hall that the index was not made, and that he ought not therefore to lose his compensation. The work was printed from his manuscripts.

Mr. DAVIS. I have no objection to the postponement of this subject, so that the Senator can send for his papers.

The PRESIDENT. It cannot be postponed.

Mr. DAVIS. I supposed it could be postponed by unanimous consent.

Mr. HALE. I object.

Mr. HUNTER. Is the question on the amendment?

The PRESIDENT. It is on an amendment to the amendment. There is a motion made to strike out that part of the amendment which makes an appropriation for compiling the Opinions of the Attorneys General.

Mr. DAVIS. I merely wish to say, in justification of myself, that I made the objection under what I believe to be, and as I thought I knew to be, the wishes of the Senator from Rhode Island. But in that I might be mistaken, because, after speaking to him, he may have changed his opinion. But such I understood to be his views, having entered into this subject and made an investigation of it. It will be, after all, for the Senate to decide—this gentleman having received \$3,000—whether the mere compilation of these books would employ an astute lawyer, a gentleman of character and reputation, for the term of one year and more. These volumes are nothing but a transcript of the original Opinions of the Attorneys General, found, I suppose, either in print, or on the files in the office of the Attorney General. The whole labor of this gentleman consists in merely making the condensed tables at the head of each of the Opinions, stating very briefly the contents of the Opinions. Thus the books are made up, and there is all the work, all the labor, all the intelligence, and all the learning which is required to make up such a compilation.

Mr. COOPER. I desire to ask a question, and perhaps the Senator from Massachusetts can answer me. Was there not a compilation previously made, in 1840 or 1842; and does not this compilation comprise a part of that? It is my impression that it does.

Mr. DAVIS. I am unable to say, but I have seen many of these Opinions in print.

Mr. FELCH. If the Senator will allow me, I will answer that question. There have been two or three compilations on different subjects. In connection with the pension laws there was an abstract of the Opinions of the Attorneys General relating to the pension laws. There were also published two volumes upon the land laws; and one, the last of the two, embraces the Opinions of the Attorneys General relating to the public lands, up to the date of this publication. Upon some one or two other subjects, there have been compilations, and they are arranged under a proper head and together, and have an index added, so that it is much more convenient to make a reference to them than to the books now published, which have no index, and which are without order.

Mr. DAVIS. I have no intelligence which authorizes me to say that there was a distinct publication of the Opinions of the Attorneys General up to a certain period of time, as intimated by the Senator from Pennsylvania, [Mr. COOPER:] but the question to which I wish to call the attention of the Senate is this: This book is nothing but a mere collection of these Opinions; there is no mental labor, no learning required; all the ability that is required is merely sufficient to state, as in the

manner here stated, the substance of each Opinion. And then the book is left without an index.

If I can understand the circumstances connected with this proceeding, the Attorney General has paid this gentleman \$2,000, but he was unwilling to accept that in full satisfaction of his claim; and the Attorney General, under any authority that he possessed, declined to pay more, and the matter remained for the consideration of Congress. I do not understand that the Attorney General feels desirous that this sum should be paid. Nor am I authorized to say that he expresses any opinion directly to the contrary; but, from all the circumstances, I should judge that he considered that an ample equivalent has been paid for the service. I desire, also, that an ample equivalent should be paid; but I cannot understand how it is that the compilation of these two volumes, being partly made up from extant printed Opinions, and partly from manuscript, should be worth more than \$2,000.

I do not wish to detain the Senate any longer by the consideration of this topic. They may dispose of it as they please.

Mr. COOPER. I hold in my hand a volume containing the Opinions of the Attorneys General, published under a resolution of the House of Representatives, in 1841. I see, on looking at the book, for which payment is now claimed, that it begins with the Opinion of Mr. Randolph—it begins with the same Opinion which stands first in the old compilation. The latter comes down to 1837, and embraces the opinions of Mr. Butler, who was Attorney General during the administration of Martin Van Buren. So that it would appear that there has been nothing to do in the compilation of this new book, beyond preparing the syllabuses which appear in it.

Mr. HALE. I hope that a vote will be taken. This man will get his money. If he does not get it here, an estimate will be filed away in some Department, and the money will be paid. Let us have a vote.

The question was taken on the amendment to the amendment, and it was agreed to.

Mr. SEWARD. Mr. President, I ask for a division.

The PRESIDENT. The question is decided.

Mr. SEWARD. I was on the floor before the vote was announced. I had no opportunity to state my request, and I think that the question was not understood.

The PRESIDENT. As the Senator says he was on the floor, the question will be taken again.

Mr. SEWARD. I ask for a division.

The question was again taken, and there were—ayes 30, noes not counted.

So the amendment to the amendment was agreed to.

Mr. HALE. I move to strike out the next clause. It is nothing in the world but a private claim. It is: "For payment to Augustus Humbert, of balance of his salary, as United States assayer of gold in California, under the act of September, 1850, \$1,250."

Mr. HUNTER. This amendment was put in upon estimates from the Treasury Department. It was said to be important, in order to keep the assay office in operation. I do not know that it can come under the denomination of a private claim.

Mr. HALE. Very well; I withdraw my motion. I always yield to the Senator from Virginia.

The amendment was agreed to.

The PRESIDENT. The next amendment was to strike out the words "one thousand," and insert "twelve hundred," in the item providing compensation of extra clerks, employed in the office of the Commissioner of Pensions. The object of the amendment is to provide that no clerk shall receive more than at the rate of \$1,200 per annum, under this act.

The amendment was agreed to.

The PRESIDENT. The next amendment is to insert the following:

For expenses of establishing the superintendency of Indian Affairs in California, authorized by the act of 3d March, 1852, viz:

For salary of superintendent, \$1,318 65.

For salary of clerk, \$324 17.

For rent of office for superintendent, \$1,000.

For stationery, fuel, lights, &c., for office of superintendent, \$275.

For messenger, expenses, &c., \$400.

For labor, miscellaneous items, and contingent expenses of the superintendency, \$275.

For presents and provisions for Indians visiting superintendent on official business, \$1,000.

For traveling expenses of the superintendent and the necessary attendants, \$2,500.

The amendment was agreed to.

The PRESIDENT. The next amendment is to insert the following:

For furniture for superintendent's office, \$1,000.

For iron safe for superintendent's office, \$1,000.

For United States flags, for distribution among the tribes, \$50.

Mr. HALE. I move to amend the amendment by striking out the first clause which relates to the furniture for the superintendent's office. I hope the Senate will not agree to that amendment, as it now stands.

The question was taken on the motion to strike out the clause, and it was decided in the negative.

Mr. HALE. Before the vote is taken on the adoption of that amendment, I wish to ask if it is common to furnish Indian superintendents with furniture, and for what other classes of officers we should provide furniture, because I think if this system is to go on, we ought to have our own rooms furnished. I think, sir, it is contrary to all propriety. There is a principle growing up in regard to this matter which I think ought to be checked. I have shown that it has been growing as exemplified in the case of superintendents of navy-yards. I believe I have shown that to the satisfaction of everybody, except the Senator from North Carolina.

Mr. BADGER. And the rest of the Senate. [Laughter.]

Mr. HALE. No, sir, everybody but the Senator from North Carolina. The practice has grown up of furnishing the officers of navy-yards with furniture; and here is a new class of officers coming and asking to be furnished with furniture. I think we ought to stop where we are.

Mr. ATCHISON. I believe that in the office of the Commissioner of Indian Affairs, the furniture consists of a desk, chairs, and other articles necessary for the use of the office. It is not to furnish a house or a bed-room of the superintendent of Indian Affairs; it is not to supply him with utensils necessary for cooking, but it is to supply the furniture which is necessary for his office. Now the question is, whether the United States will furnish desks, chairs and other furniture necessary for the office, or whether the superintendent shall furnish it out of his own pocket? If the latter, then I insist that every head of a bureau, every Secretary, and every clerk in any Department shall furnish his room out of his own salary. I believe that it has been the uniform custom to furnish the offices there with furniture, and I am informed by my friend from Iowa, [Mr. JONES:] that the surveyors general have their offices furnished for them also.

Mr. JONES. And the land offices are furnished.

Mr. ATCHISON. Now, whether \$1,000 would be sufficient for this purpose, I am not able to say; but if the superintendent of Indian Affairs has a single particle of honesty in his composition, he will only use enough of this appropriation to furnish his office. The Senator is mistaken, if he supposes it is to be applied for the individual purposes of the officer. It is the furniture of the Government, and not that of the officer.

Mr. HALE. The next clause to this one which I move to strike out is to furnish to the superintendent an iron safe, which is to cost \$1,000; and this amendment, according to the statement of the Senator from Missouri, [Mr. ARCAISON:] is to furnish a desk and a few chairs, and such like utensils. This would make it a pretty expensive desk and chairs. I suppose, sir, that this is to furnish his whole house with sofas, and chairs, and tables, and carpets, and everything of that sort. And \$1,000, sir, will furnish it pretty well. If that is all that is wanted—mere office furniture, as the Senator from Missouri suggests—I think \$75 would be amply sufficient. He could get just as good a desk as he could possibly need for \$50; and he can buy as good a chair as is necessary for him for \$50 a dozen, and he certainly would not want more than half a dozen of them. That number would be amply sufficient.

But this is to furnish his whole establishment from cellar to attic. No matter whether he is honest or not, he will spend the whole of the \$1,000; and in the next deficiency bill, ten to one but there will be a demand of \$1,500 or \$1,600 for a

new supply of furniture. Now, sir, it seems to me that the reasons assigned why we should pass this appropriation are the very reasons why we should stop; because every additional office you furnish will be added as a reason for furnishing more. But I have no idea of stopping this. It will go on, and next year it will be \$2,000; and the next year more; and then we shall have another class of offices to furnish, and this bill be brought up as a precedent, and there will be no end to it.

Mr. HUNTER. I understand from the Senator from Arkansas, [Mr. SEBASTIAN,] who is familiar with this subject, that it is not usual to make an appropriation for furnishing these offices, but it is usual to pay for the furniture out of the contingent fund. I also gather that \$300 will furnish that office in California. I therefore move to strike out "\$1,000," and insert "\$300."

The PRESIDENT. That question will be first taken.

Mr. ATCHISON. The Senator from Virginia admits the necessity of some appropriation to furnish the office of superintendent of Indian Affairs in California. I am also of opinion that something less than \$1,000 will be sufficient, and that perhaps \$300 will be enough. In that view of the subject I concur; but to striking out the whole, and obliging the superintendent to furnish his office out of his own pocket, I am entirely opposed.

The question was then taken on the amendment to the amendment, and it was agreed to.

Mr. HALE. Is it now in order to move to strike out the whole?

The PRESIDENT. It is in order.

Mr. HALE. As the Senate have shown a disposition to take the right course by striking out a part, I move to strike out the whole.

Mr. BADGER. I wish to assign one reason for not striking it all out, which is the reason that I did not vote for reducing it. The Senator from New Hampshire [Mr. HALE] has intimated that he will shortly bring forward a proposition to furnish the apartments of Senators in this city; and as the rejection of this amendment would form a precedent against the proposition of that Senator, and as I should be very sorry to see any obstacle thrown in his way, I hope the amendment will be retained.

The question was taken on the motion to strike out the amendment as amended, and it was decided in the negative.

The question then recurred on the amendment as amended, and it was agreed to.

The next amendment made in Committee of the Whole was to add the following proviso:

"Provided, That after the thirtieth day of June, 1852, all payments of interest on said awards shall cease; and that the Secretary of the Interior be, and he is hereby, directed to pay said claimants the amount of principal awarded in each case respectively, and that the amount necessary for this purpose be, and the same is hereby, appropriated: *Provided further*, That the final payment and satisfaction of said awards shall be first ratified and approved as a final release of all claims of such parties, under the fourteenth article of said treaty, by the proper national authority of the Choctaws, in such form as may be prescribed by the Secretary of the Interior?"

to this clause:

"For interest on the amounts awarded Choctaw claimants, under the fourteenth article of the treaty of Dancing Rabbit Creek, of 27th of September, 1830, for lands on which they resided, but which it is impossible to give them, and in lieu of the scrip that has been awarded under the act of August, 1842, not deliverable, east, by the third section of said law, per act of third March, 1845, for the half year ending the 30th of June, 1852, \$21,800."

The amendment was concurred in.

The next amendment made in Committee of the Whole was to strike out the following clause:

"For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, and to negotiate with said Indians, under instructions from the Commissioner of Indian Affairs, for their removal from that State to some designated unoccupied territory of the United States, \$25,000;"

And to insert in lieu thereof—

For the purchase of presents, and to negotiate under instructions from the Secretary of the Interior with the Indians in Texas who have intruded themselves into that State from the Territories of the United States, for their removal from that State, \$25,000.

The amendment was concurred in.

The next amendment made, as in Committee of the Whole, was to amend this clause:

"For continuing the collection and for publishing the statistics and other information authorized by the act of third of March, 1847, and subsequent acts, \$17,000," by adding to it this proviso:

"Provided, That the work shall be completed in five volumes, and that at least one volume shall be published in each year until the whole series of five volumes shall be finished."

The amendment was concurred in.

The next amendment agreed to, as in Committee of the Whole, was to correct a clerical error by substituting "Indiana" for "Indians" in the following clause:

"For expenses of removal and subsistence of Pottawatomies of Indians, \$22,500."

The amendment was concurred in.

The next amendment adopted, as in Committee of the Whole, was to insert the following clause:

"For the reappropriation of \$10,000 for the redemption of outstanding loan-office and final-settlement certificates, this being a portion of the sum of \$37,589 59 heretofore appropriated for that purpose, and carried to the surplus fund on the 31st day of December, 1843: *Provided*, That hereafter all claims on account of such loan-office and final-settlement certificates, unless presented at the Treasury of the United States within two years from the passage of this act, shall be considered as barred, and not thereafter payable."

The PRESIDENT. The question is on concurring in this amendment.

Mr. HALE. I want to ask the chairman of the Committee on Finance who reported this amendment, what is the reason for the proviso contained in the latter part of it? I suppose there are very few of these certificates outstanding. I understand that the amount of them to come in will not be more than \$5,000 or \$6,000. What is the use, then, on the face of this bill, of repudiating those which may come in after two years? If they come in afterwards, they will undoubtedly be paid, notwithstanding the proviso. Then what is the use of it?

Mr. HUNTER. It seemed to the committee to be proper that there should be some restriction in point of time as to these old claims. They are very old; and for the purpose of forcing them to be presented in a reasonable time, it was thought best to insert a restriction of two years. The committee thought that to be a reasonable time.

The amendment was concurred in.

The next amendment made, as in Committee of the Whole, was to amend the clause providing for payment for revising the laws of Minnesota Territory by adding this proviso:

"Provided, That hereafter no expenses incurred by a Territorial Legislature shall be paid out of the Treasury of the United States, unless previously sanctioned by law."

The amendment was concurred in.

The next amendment agreed to, as in Committee of the Whole, was to insert—

"For contingent expenses of the Senate, \$137,775."

The amendment was concurred in.

The next amendment adopted, as in Committee of the Whole, was to insert—

"To enable the Secretary of the Senate to pay for the copies of the report of Doctor David Dale Owen, United States geologist, on the geology of Iowa and Wisconsin, and Minnesota Territory, heretofore ordered to be executed for the use of the Senate, under the special direction of the Commissioner of the General Land Office, \$31,218 75: *Provided*, That no more than fifty cents a copy shall be paid for the binding of the book."

"To enable the Clerk of the House of Representatives to pay for three thousand five hundred copies of the report of Doctor David Dale Owen, on the geology of Iowa and Wisconsin, and Minnesota Territory, ordered by a resolution of the House of Representatives, to be executed under the special direction of the Commissioner of the General Land Office, \$16,187 50: *Provided*, That no more than fifty cents a copy shall be paid for the binding of the book."

"For contingent expenses of the library of Congress, \$800."

The PRESIDENT. Will the Senate concur in this amendment?

Mr. BRADBURY. I move to strike out \$31,218 75, and insert \$20,000. This amendment to the amendment I believe is rendered proper in consequence of the diminution of expense which was made, when the bill was in Committee of the Whole, in regard to binding the volumes. Twenty thousand dollars will be about a sufficient sum to purchase the number of volumes required, since the original bill contemplated the payment of two dollars a volume for binding, and the amendment which was adopted limited the price to fifty cents. The amount appropriated is to pay for printing and binding. Inasmuch as one dollar and fifty cents is taken from the cost of binding each volume by the amendment already adopted, it is necessary to diminish the appropriation by that amount.

Mr. HUNTER. It is true, that the reduction in the price of binding will reduce the estimate

made by the Department, but I do not know the precise sum to which it will reduce it; and, therefore, I thought it was safer to leave the original amount. The Secretary will only expend what his estimate would require, reduced, as it has been, by the Senate. I do not know the exact amount. Does the Senator from Maine know?

Mr. BRADBURY. I made an estimate when the bill was under consideration a few days ago, and I think it was about \$20,000. I am not certain of the precise amount. If it should exceed the amount, or fall a little short, provision can be made hereafter. It requires the taking off of \$1 50 from each volume. We have a statement of the number of volumes. Certainly, \$21,000 or \$22,000 will cover the whole amount. I know \$22,000 will; and, therefore, I vary the amendment to make it that amount.

Mr. BADGER. I want to remind the Senator from Maine that he seems to think it a very easy thing to pass through both Houses of Congress a bill to supply a deficiency. How long have we been in trying to pass this bill? As was said by the Senator from Virginia, if we leave the amount at \$31,000, no more will be expended than the contract calls for.

Mr. HAMLIN. When this matter was up, in Committee of the Whole, I made a statement that it had been communicated to me that the binding was to cost \$2 a volume. Such was the information communicated to me; but I am bound to state that another communication has been since made to me, from which I suppose the binding was to cost only sixty-two and a half cents. That would leave only twelve and a half cents to be taken off on each volume—a very small sum, and one which, I think, will render the amendment of my colleague unnecessary. If the facts were as I supposed the other day, I would concur most cheerfully in that amendment; but as it is, I think it is unnecessary.

Mr. BRADBURY. I took the statement of my colleague as the basis on which I made my estimate. If that statement was incorrect, I certainly do not wish to press the amendment, and, therefore, I withdraw it.

The PRESIDENT. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. BADGER. I desire to submit an amendment to the amendment. When this subject was under consideration in Committee of the Whole, I suggested that I thought fifty cents a copy for binding such a book as this would not procure binding of the description and quality appropriate to the nature of the work. I move now, in order to test the sense of the Senate, to strike out "fifty cents," in the proviso, and insert "seventy-five cents."

Mr. HAMLIN. I hope that the amendment to the amendment will not be adopted; because I believe that if the book is bound in accordance with the present contract, at sixty-two and a half cents, it will be a good, thorough, sufficient, and substantial binding.

Mr. BADGER. Then I will vary the amendment to the amendment, and make it "sixty-two and a half cents."

Mr. HAMLIN. I beg also to state that I have on my desk an amendment which I propose to offer to the Senate, if it shall become necessary. I do not propose to offer it now. This book was ordered to be printed under the direction of the Commissioner of the General Land Office. Under that direction, I am told, he has made a contract for the printing and binding. The latter part, I contend, was not within his power. The Senate having made a contract with another person to do all the binding of the Senate, the Commissioner, by virtue of the instructions to print the work, had no authority on earth to bind it; therefore the Senate, in good faith, are bound to maintain the contract which they have made with their binder. The person who is to bind the work under the Commissioner is in Philadelphia. I learn that he will be here this day; and it is hoped, and I believe I may say it is expected, that an amicable arrangement will be made between the two parties, so that there will be no conflict of the contracts. If such a state of facts shall exist, I have no doubt that the book will be well bound for the sum stated. If it is not brought about, I shall offer an amendment directing the binding to be done by the binder of the Senate, who is anxious to do it, and



it will be done most faithfully by him for half a dollar a volume

Mr. BADGER. Upon that explanation, I withdraw my proposed amendment.

The amendment was concurred in.

The next amendment agreed to, as in Committee of the Whole, was to insert:

"For the payment of James W. Hale, of the city of New York, in full for discharging the duties of dispatch agent from September, 1849, to June, 1850, inclusive, the sum of \$600."

The amendment was concurred in.

The next amendment made, as in Committee of the Whole, was to insert after the provision for the payment of geological surveys, the following:

"Provided, That there shall be no further geological survey prosecuted in Oregon, unless authorized by law."

The amendment was concurred in.

The next amendment agreed to, as in Committee of the Whole, was to insert:

"To enable the Secretary of State to pay William E. Anderson, for the loss of time and expense incurred by him in coming from Rio Janeiro to New York, under the direction of the American Minister at the Brazilian court, to testify against certain persons alleged to have been engaged in the slave trade, \$250."

The amendment was concurred in.

The next amendment made, as in Committee of the Whole, was to amend the clause appropriating \$1,800 for compiling, printing, and binding the Biennial Register for 1851, by striking out \$1,800 and inserting \$2,253.

The amendment was concurred in.

The next amendment made, as in Committee of the Whole, was to insert the following:

"And also a sum not exceeding \$10,734 65, is hereby appropriated to pay Adam Boyd Hamilton, according to contract, for printing 20,000 and binding 18,610 copies, of 396 pages each, of the Register's report of the commerce and navigation of the United States, for 1851."

"The sum of \$10,000 is hereby appropriated, to be paid to and expended under the direction of the Attorney General of the United States, in procuring such copies or other evidences of the laws, decrees, or ordinances of the Spanish or Mexican Governments relating to or affecting land claims in California or New Mexico, and also such copies or memorials of said claims as may be obtained from the records of the Mexican Government, with all such other documentary and official evidence as the said Attorney General may deem necessary and proper, and may direct to be procured. And for the purpose of procuring the information aforesaid, the said Attorney General is hereby authorized to employ or appoint an agent, who is to act under the direction of, and to receive such compensation as the said Attorney General may allow and order: *Provided, however, That the whole expense of agency, of procuring books and documents, of transportation, and of translation, and of everything connected with the work, except the printing, shall not exceed the sum herein appropriated.*"

Mr. WELLER. I move to strike out the words "Attorney General," wherever they occur in the amendment, and substitute for it "President."

Mr. BADGER. I hope that motion will not prevail. This subject, I believe, was pretty well considered and discussed on a similar motion made by my friend from Georgia, [Mr. Dawson,] when the Senate resolved to retain the provision in its present shape. I see no reason now why we should change that determination.

Mr. DAWSON. The vote, it will be recollected, was only a difference of one; altogether, as I thought at the time, for want of a thorough understanding of the subject. The object is to place this appointment in the hands of the President instead of the Attorney General. That is the only object. I trust that the proposition as made by the Senator from California will be adopted. In accordance with my views, I attempted the same thing when we were in Committee of the Whole. I am not now desirous of discussing the question.

Mr. BORLAND. I agree with the Senator from North Carolina fully, and hope the amendment to the amendment will not prevail. That Senator remarked that it was fully considered and discussed some time ago in Committee of the Whole, and the Senate determined to retain the amendment as it now stands in the bill. I do not think it at all necessary to go over the grounds in support of the amendment in its present form. When urged, I thought they were conclusive and satisfactory, and I hope they will be considered so now.

The amendment to the amendment was agreed to, there being on a division—yeas 22, nays 11.

The question recurred on concurring in the amendment as amended.

Mr. RUSK. I move to strike out of the amendment all in relation to the appointment of the agent to be sent to Mexico. I do not see that there is

any use for him. He could not be used as legal authority in a court of justice; and these things had much better be left to the investigation of the parties themselves who are interested in the subject of the land titles. We appointed a commissioner some time ago for a similar purpose, and nothing has been done; and I apprehend that, under this provision, nothing will be done, or if anything should be done, it will be the collection of a mass of information which will be of no authority.

Mr. BADGER. Mr. President, my friend from Texas I think entirely misunderstands the purpose, and underrates the importance of this amendment. The Supreme Court have found themselves in such difficulty that they cannot get on with the consideration and adjudication of claims depending upon the Mexican and Spanish laws in force in those countries, because those laws are not to be obtained. The object is not to collect private documents; it is to collect the public laws from the public archives, Spanish and Mexican, which are necessary, in order that the courts in the Territories and States, and afterwards the Supreme Court, may be enabled to understand the law by which the cases are to be adjusted. When this collection is made, it will have just as much authority as any other collection of that kind. I happen to know that this is a subject in which the judges of the court feel a deep interest, as absolutely indispensable to enable them to discharge their duties properly. That is the state of the case.

Mr. RUSK. Then this appropriation is altogether wrong, because we need no agent. All that we need is a translator of these laws; for they are here in the State Department. All the Mexican laws upon the subject of land titles in California—in fact, all the Mexican laws—are here in the State Department. All that we need on the subject is a translator, authorized to translate and publish them. I know it is very difficult to get information—especially reliable information—by any agent sent to Mexico. It is a matter almost impossible to do so; and I apprehend this would be a needless expenditure of money. The amount is not great, and if I thought any good would come of it, I would not care about it; but my opinion is, that persons will depend upon the report we may receive for information, and when it comes, no information will be obtained; or, if any is obtained, it will be of such a character that, rather than throw any light on the subject, it will mislead.

Mr. PRATT. If I apprehend precisely the amendment on which we are about to vote, it is of more importance than it is supposed generally to be by the Senate. It directs the appointment of an officer to collect any documentary evidence which may exist in Mexico relating to land claims in California. Now, if we give authority to an officer of this Government to make that collection, it is an important inquiry whether we do not make what is collected by him, *per se*, evidence in all cases of land claims existing in California. I would inquire of my friend from California whether, where there are conflicting claims under Mexican grants, or any conflicting claims in which Mexican grants or Mexican documentary evidence may be introduced, he is willing, by adopting this amendment, to put it in the power of an officer of this Government to make a book, which he is to publish, under this authority, evidence in all such cases? I think, in that point of view, it is a question of deep importance, whether we shall be willing to intrust to any officer appointed by this Government, the power to select from existing Mexican documents, such as shall be evidence in reference to all land claims in California.

Mr. WELLER. Mr. President, I do not see that the mere fact of the appointment of an agent to go to the city of Mexico for the purpose of obtaining copies of decrees and laws which may exist there, would of itself necessarily make the report of the agent legal testimony in the adjudication of the cases. But, sir, there may be some objection to it. I do not desire that the evidence which is procured in the city of Mexico, shall be considered as evidence before the land commissioners any further than it purports on its face to be. I do not believe that there is any vast amount of information to be acquired by this agent who may be dispatched to the city of Mexico, but I think it is worth while for this Govern-

ment, if you can get an intelligent and honest officer, to report that there is nothing there; because I am sure that there will be a large amount of law manufactured in Mexico to suit the cases that may be pending before the commissioners. It is worth \$10,000 to find out that fact alone—that there is nothing there. Then you will have precluded these men from subsequently manufacturing testimony, and manufacturing law, in the city of Mexico, in order to suit the particular cases which they may present before the land commissioners. For that reason I think it is highly politic that this officer should be appointed; that some person should go there and ascertain the fact whether there be any testimony there which is calculated to affect the land titles that are pending before the commissioners.

Mr. BERRIEN. Mr. President, the motion of the Senator from Texas, as I understand it, is to strike out the whole amendment.

Mr. RUSK. That portion only relating to the appointment of an agent to collect Mexican laws and evidence in relation to Mexican titles.

Mr. BERRIEN. I mean to say it is to strike out the whole of that portion of the amendment which relates to the collection of Mexican laws and documents. Mr. President, that portion of the amendment has two objects, one of which I should be disposed to support, and the other to oppose. So far as it proposes to collect the Mexican laws which may be applicable to the condition of California, it appears to me to be very proper that this Government should collect these laws, and put them into a volume accessible to all, and in such a form as to be easy of reference. For that we have a precedent in the case of Florida. When Florida was acquired, it became necessary, in settling the land titles in that Territory, to obtain easy access to the Spanish laws; and, under a resolution of the House of Representatives, Colonel White, of Florida, was appointed to make that compilation. It was received and approved by Congress, and has been in common use in the courts of the United States, when questions arise in relation to the land titles in Florida. So far, then, as this provision relates to the Mexican laws which may be applicable to land titles in California, it is, I think, very appropriate. And the book which would be published from such collection would be received as authority in the courts of the United States.

But the portion of the amendment on which I am speaking goes further. It provides for the collection of memorials relating to land claims in California, and for any documentary evidence that may be found upon that subject. In that extent, I am opposed to the appointment of any such agent. These are private documents, relating, I believe, to private interests, and I would not put upon any agent of the Government the responsibility of collecting together any documents which he might think of sufficient importance to be embodied in such a collection, and to exclude others which he might think not sufficiently important. Very serious injury might be produced to the rights of private individuals, by either the want of correct judgment, or the want of the correct exercise of that judgment by the agent who should be selected for this purpose. I would suggest, therefore, to the Senator from Texas, so to modify his motion as to strike out the latter portion of the amendment—that relating to memorials and documents—leaving the first part, which relates to the laws and ordinances of Mexico to be collected by the agent.

Mr. RUSK. There was so much noise in the Chamber, that I am satisfied the Senator from Georgia did not hear me when I was up before. The compilation of the Spanish laws, of which he speaks, comes up to about the time that the revolution took place in Mexico. So far, then, as the obtaining of the Spanish law is concerned, no good can result from the appointment of this agent: So far as I understand him, then, he objects only to the collection of private memorials which shall operate as testimony. So far as the collection of Mexican laws or titles in California is concerned, they are already in the State Department. All that is necessary on the subject is, to appoint some Spanish scholar to collect the laws, and translate and publish them for the use of the Supreme Court. They are all in the State Department; and therefore no good can be accomplished by the appointment of this agent; but I

can see much injury, much mischief, that might result from it.

There are large and valuable tracts of land in controversy in California. So soon as this agent is appointed here, an effort will be made, as a matter of course, by adverse claimants, to throw into his way matter which might bear on one side or the other. Every effort will be made by agents for or against particular claims, to throw into his way such information, and such only as might answer their purposes. So that when the laws and information arrive here, the collection will be of an unsatisfactory character; and so far from being of any benefit, may mislead and do serious injustice to private claimants. Under such circumstances, there is no necessity for the modification of my amendment. It is an important matter. If the amendment itself be adopted, I believe that serious consequences to individuals will grow out of it, and I ask the yeas and nays upon it.

The yeas and nays were ordered.

**Mr. UNDERWOOD.** Mr. President, the Committee on Public Lands have reported a bill providing for surveying the lands in California; and in that bill provision has been made for surveying the private claims—trying to distinguish them from the land which the Government owns. Other provisions are contemplated, by which the lands owned by individuals shall be discriminated and distinguished from the lands which are vacant and unappropriated. Every gentleman will, therefore, perceive at once that it becomes a matter of considerable consequence to ascertain what claims in California really belong to private individuals, and what claims do not; what claims are good, and what claims are bad.

**Mr. RUSK.** Will the Senator allow me to explain to him, that that information cannot be obtained at Mexico at all. The manner in which the titles in Mexican countries are issued, is, that the party goes forward and petitions the authority of the place where he wishes the land. They take and send a copy of that petition to the Government. If it is granted, it is returned, sanctioned by the Government, and becomes a part of the archives of the place where the individual petitions, and remains there as a part of his title. The title is afterwards made out. He obtains it, containing a copy of the first petition, a copy of the order of the Ayuntamiento upon it, a copy of the order of the Government, and a copy of the law. He obtains a copy; but the original is filed in the office where the land is granted; and all of that information is in California. None of it is to be found in Mexico at all.

**Mr. WELLER.** My friend from Texas is laboring under a misapprehension. California was one of the Mexican departments, and these grants were made directly by the Governor of the Department of California, with the concurrence of the Departmental Assembly. In order to make such a grant valid, it was only necessary that the petitioner should file an application with the Governor; and the Governor could thereupon issue the grant; but it was necessary that the Departmental Assembly should confirm that grant, in order to give a party a good title. Now, with that the Supreme Government had nothing to do at all, and yet there were grants made by the Supreme Government of Mexico in the department of California. The evidence of these grants is to be found, of course, at the seat of the Supreme Government at the city of Mexico, so that it is unlike the grants of which the Senator from Texas has spoken. There are many grants in California—most extensive ones, which are held directly from the Governor of the department with the concurrence of the Departmental Assembly. There are mineral lands in that State—quicksilver lands for instance—and they are grants that are derived directly from the Supreme Government, and the only evidence of the existence of these grants is to be found in the city of Mexico.

**Mr. UNDERWOOD.** I have no doubt that the Senator from Texas is much more familiar with this subject than I am, because his residence, and his connection with the Mexican Government have made him familiar with all these matters. But I recollect perfectly well, that about the time we were ratifying the Mexican treaty, the grants to missions, and the grants made by the Supreme Government at Mexico to persons in California, who were to settle colonies in Califor-

nia, were questions which were very much mooted here; and I apprehend, from the remarks made by the Senator from California, that the evidence in reference to all these things is to be found at Mexico.

Now, to advert to the difficulties in which we shall be placed, I call the attention of the Senate to the initiative legislation—to the reports of the committees upon the subject. You will perceive at once that when our officers in California begin to act upon the subject of distinguishing public lands from private claims, all the individual interests which can be brought to operate upon them, will exhibit the claims which are claimed to be individual property. You have private interests, private motives, to operate upon any one who has an individual claim, to exhibit that claim for the purpose of having it approved and sanctioned by the surveyors, and receivers, and registers, and those who may be designated to act upon the claims—to allow or to reject them. Who is to represent the Government in all this? That is the question that I want to bring to the consideration of the Senate. You will have individual interests, as I have already remarked, stimulating every individual claimant to bring forward all the documents in support of his claim. Now, sir, who is to represent the Government in the large interests which will be involved in California? It therefore seems to me that if there be any evidence to be found at the seat of Government of Mexico which will throw light upon this subject, it is well worth while to make an effort to obtain it. If we can get none, of course no harm can be done—no injury will be done to anybody; but you may possibly obtain evidence which will enable a commissioner sent out there to place information in the hands of the officers of the Government that will subserve valuable interests in behalf of the Government. It is with that view that I think it will not be amiss to look into private memorials of claims which may be found in Mexico. It may be suggested that it may not constitute evidence. If it should not—if it requires additional proof to make it evidence upon the ground that foreign laws are facts to be proved in judicial proceedings like any other facts—still you obtain a knowledge that certain facts can be ascertained, and you know where you can look for evidence to substantiate those facts. There will be something gained in that point of view. I think there is a good deal in the idea suggested by the Senator from California, that if you get nothing more than to find that there are no facts, it may have a tendency to preclude the fabrication of facts upon which feeble claims may be predicated hereafter. It therefore seems to me, that connecting together all these suggestions, this expenditure of \$10,000 may result in something valuable; and, if it does not, very little harm will be done.

**Mr. HUNTER.** This amendment was reported from the Committee on Finance upon the recommendation of Judge Catron of the Supreme Court, and Mr. Attorney General Crittenden. I ask that the letters of Judge Catron and the Acting Secretary of the Interior may be read.

They were read, as follows:

WASHINGTON, April 7, 1852.

SIR: On yesterday I was shown a document signed by the two Senators and one of the Representatives from the State of California, asking your opinion as to what amount of money would be necessary to send an agent to Mexico, for the purpose of collecting the laws applicable to land claims, now in course of investigation by the Board of Commissioners in California, and likely to be presented (in part) to the Supreme Court of the United States.

I agree with Attorney General Crittenden's statement, indorsed on the paper referred to, that the compilation of the laws proposed is not only necessary, but indispensable, in my opinion, to a proper understanding of the laws, according to which the claims originated. The eleventh section of the act of March 3d, 1851, imposes the duty, in terms, on the district and supreme courts to adjudge the claims according to the "laws, usages, and customs" of the Government from which each respective claim is derived. This duty Congress demands, and it must be performed. But it is impossible to do so unless the laws are known to the judges, according to which they are commanded to decide. These laws were foreign to our country previous to the treaty of Guadalupe Hidalgo. Since that treaty, they are as much municipal laws as those of Louisiana; and the courts of justice are equally bound to administer them, without proof of their existence and import. I therefore hope the courts will, at the soonest day, be furnished with a collection of those laws, and a true translation of them. As to the amount of expense, it is a mere trifle compared with the enormous amount in dispute.

I have the honor to be your obedient servant,

JOHN CATRON.

To the Hon. A. H. STUART,  
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR, April 7, 1852.

SIR: I have the honor to request that an appropriation of \$10,000 may be made, by the deficiency bill, now pending before the Senate, to enable the Department to send an agent to the city of Mexico, to collect, translate, and compile the various laws of the Mexican Congress, and the ordinances of the Supreme Executive of that Republic, having reference to donations and grants of public lands, &c. The Board of Commissioners, appointed under the act of 3d of March, 1851, to ascertain and settle land titles in California, is now in session at San Francisco, and it will probably soon become necessary in the discharge of their functions, under that act, for the courts of the United States to adjudge and determine the validity of those titles according to the laws, usages, and customs of the Government from which they were derived. Prior to the treaty of Guadalupe Hidalgo, these laws and customs were foreign to the country, and are now but little known or understood; and the necessity, therefore, of placing in the hands of the officers of the Government and of the Judiciary, the laws, usages, and customs by which their action is to be governed, is alike obvious and indispensable.

I am, sir, with much respect, your obedient servant,  
J. J. CRITTENDEN, Acting Secretary.  
Hon. R. M. T. HUNTER,  
Chairman Committee on Finance,  
Senate of the United States.

**Mr. RUSK.** I dislike to be troublesome, but I see that by the adoption of this amendment we are going to make matter which I believe will be of serious injury to claimants in California. As far as the laws, which seem to be principally asked for by the Secretary of the Interior, are concerned, they are all in the State Department. All that is necessary on that subject is, to procure a Spanish scholar to collect the laws relating to the grants of land, and translate and publish them; and then you will have all the information. You can then make them evidence in your courts, and before the commissioners. Then you will have all the information, so far as the laws are concerned. But the letter, I see, goes to the "usages" and "customs," and contemplates the obtaining of matter which is to be used as evidence in relation to grants, &c. Now, I have some experience in this matter. After the revolution in Texas took place, and after the battle of San Jacinto, the former Governor and Secretary of State of Coahuila and Texas manufactured titles—ante-dated and manufactured them—to the amount of thousands of leagues. Suppose you appoint this commissioner and send him to Mexico. It is known that he is going there. They will allow him or not, as they choose, (and, by the way, they will be very jealous as to allowing him,) to ransack their archives. They will manufacture to order grants and petitions, and all these sorts of orders, and you will have no guarantee upon earth that they are correct, and thousands and thousands of acres, and perhaps the rights of individuals to land to the value of thousands of dollars will be jeopardized by this *ex parte* testimony, taken when they are not there. I know there are difficulties about it. If an individual claims a grant of land in California, there may be some difficulty in obtaining evidence of it in the archives of Mexico; if there is an adverse claim there will be great difficulty about it. But you send this agent, who knows nothing of this matter, and he collects what perhaps is manufactured upon the occasion in Mexico; and that is taken to determine the rights of the individuals in relation to their claims. And, when you get them, are they evidence? Not at all. The law requires the best evidence of which the nature of the case will admit; and this matter, taken *ex parte*, in this way, without either party having a right to examine into and determine its validity, will become no evidence at all, unless you pass an act of Congress to make it so. Under such circumstances, I see mischief in it; no good can result from it, and therefore I oppose it.

**Mr. BADGER.** I am really unaware of the difficulty which my friend from Texas sees in this matter. I think his reasoning is remarkably inconsecutive. He says that these people will forge papers by thousands. Now, the sooner we stop the door upon that practice, the better. If we send out an agent, the Senator says that these people will manufacture false claims. Well, they will have until the agent goes there, and the returns are made, to manufacture false claims. Now, if we appoint no agent, does my friend suppose there will not be the same room to manufacture false claims from this time forward? What good is done by it? As the honorable Senator from California says, it will be worth \$10,000 to have an agent to go there, and report that no memorials or claims respecting lands in California can be found in the public archives there. This fact, so

ascertained, will furnish strong presumptive evidence of the fraud of subsequent papers which might be introduced.

Then again, the Senator from Texas attributes, I think, entirely undue force to this proceeding. You are to get memorials of claims existing in the public archives there. Now, when you get them, what are they? They are but the memorials of claims. They ascertain the fact that there were such memorials there. They give to the claims no more effect or validity than if produced by private individuals. If the memorial is necessary, under the Spanish and Mexican laws, to determine the nature and extent of the grant founded upon it, why then, as a part of the grant, it ought to be evidence for the purpose of determining that. The only effect of the amendment is to procure the papers if they are there. It gives them no different or other effect than they would have if produced by private individuals; and, as the Senator from California says, it will have an influence in checking, at all events speedily, that process, which the Senator from Texas fears, of manufacturing false memorials and false claims.

Mr. SOULE. Mr. President, I am decidedly in favor of striking out the clause now under debate. It would confer upon an individual, whoever he may be, a power I am not ready to surrender to any individual. It would constitute him *a priori* a judge of what constitutes the laws of Mexico. Nor would he be limited to search for laws denominated by that name explicitly; but he would be the judge of other evidences of the law prevailing in Mexico. I hardly know of any individual in this country who, being at all conscious of the importance of the duties which such a provision would impose upon him, would dare to assume it. If he did, I would hardly be brought to place the least confidence in the judgment which he might pass upon a subject of so vast importance.

The laws of Mexico are written laws, to be found in books where they have been carefully printed, and are accessible to the Government, and accessible to every individual. Let these laws be printed by us, and let our tribunals, through a translation of these laws, be enabled to see what they mean, and what their bearing is, and not suffer any individual to be constituted the judge of what is the law in Mexico. I place the most absolute confidence in the judgment and discretion of the Attorney General; but, however far that confidence may go, it does not go far enough to incline me to let him be the judge of these great, complex, and intricate questions. The tribunals of the country will have to do, in the present case, what they have had to do in respect to Louisiana—what they have had to do with respect to Florida. They then had the books—they had translations from those books—but nothing through which the authority of a private individual could, under any circumstances, supersede the majesty of the law itself. I shall vote for striking out, decidedly.

Mr. GEYER. Before the question is taken, I would propose an amendment to strike out the following words:

"And also such copies, or memorials of said claims, as may be obtained from the records of the Mexican Government, and all such other documentary official evidence as the said Attorney General may deem necessary and proper, and may direct to be procured."

My object is to strike out all that part of the amendment which relates to copies of memorials of claims.

Mr. WELLER. Mr. President, I should like to have the unanimous consent of the Senate to pass over this amendment for the present. I am not satisfied myself with the phraseology of the clause. I do not know that I shall be prepared, upon an examination of it, to vote for it as it now stands. I never have had an opportunity of examining the provisions of this clause till to-day; and I ask that it may be passed over by the unanimous consent of the Senate.

Mr. RUSK. I will consent to that, if the honorable Senator desires it; but whatever may be necessary to be done upon this subject can be put into some of the other appropriation bills. It will be better to place it in some other bill, and then I shall go with the Senator in procuring any information that may be necessary.

Mr. WELLER. We shall consume one day

more, at least, in passing upon the other amendments; and if, after we get through the other amendments, I am satisfied I can procure such a section as will be satisfactory, I will offer it.

Agreeably to the request of Mr. WELLER, the latter portion of the amendment, relating to the appointment of an agent to collect Mexican and Spanish laws with regard to land titles, was passed over informally.

The first portion of the amendment providing for payment for printing and binding the report on commerce and navigation, was concurred in.

The next amendment, made as in Committee of the Whole, was to insert:

"For additional compensation for increasing the transportation of the United States mail between New York and Liverpool, in the Collins line of steamers, to twenty-six trips per annum, at such times as shall be directed by the Postmaster General, and in conformity to his last annual report to Congress, and his letter of the 15th of November last to the Secretary of the Navy, commencing said increased service on the 1st of January, 1852, at the rate of \$33,000 per trip, in lieu of the present allowance, the sum of \$235,500: *Provided*, That it shall be in the power of Congress, at any time after the 31st day of December, 1851, to terminate the arrangement for any additional allowance herein provided for, upon giving six months' notice."

The PRESIDENT. The question is on concurring in that amendment.

Mr. CHASE. Mr. President, I offer the following amendment to the amendment:

*And provided, further*, That the proprietors of said line of steamers shall consent to such a modification of the existing contract that the Postmaster General may advertise for, and accept proposals, for carrying the mails in suitable steamships, of not less than two thousand tons burden, between the United States and Great Britain, from and after the said 31st day of December, 1851, when said contract shall cease to be obligatory; and the Postmaster General, in case said modification shall be agreed to, shall advertise for such proposals, which shall be submitted to Congress at the next session.

My object in offering the amendment is, as I stated to the Senate the other day, to place this contract upon the same footing with the ordinary contracts for the transportation of the mails. The Senate have already, at this session, passed a bill authorizing the Postmaster General to advertise for conveying the mails between Vera Cruz and New Orleans, in a suitable steamship of a burden fixed by the terms of the law.

We are advised by the advocates of the original amendment that this contract is onerous upon the contractor—so onerous, indeed, that they will be obliged to abandon it from sheer inability unless their compensation be increased. They come to Congress for an increase of compensation. It is proposed, on the other hand, that the quantity of the service shall be increased also. In addition to that, I propose that the contract itself shall terminate at the period when Congress, by the terms of the amendment as it now stands, may withdraw the additional compensation.

My object is not to put an end to the transportation of the mails in steamships between this country and foreign countries. Far from it, sir. I recognize fully the duty of this Government to provide for the transportation of the mails between our own and other countries. I go further: I believe that it is the true policy of this country to confine this service to American hands. I would, therefore, be very far from favoring any scheme which would lead to the abandonment of ocean steam mail transportation by the Government.

On the other hand, it seems to me, that this system of contracts with particular individuals for long periods, has nothing in it to recommend it to legislative favor. It might be justified as an experiment; at the outset of ocean mail transportation, when no contract could be made except upon these terms. But since the experiment has been tried and has proved successful, surely we ought to avail ourselves of the earliest possible opportunity of bringing these contracts into our general mail system. This amendment simply effects that object. As the matter now stands, according to the friends of the Collins line, its proprietors are about to abandon their existing contract. They say, however, that they can go on, and that they will go on, if we grant them this additional compensation. We are urged to grant it, by appeals to national pride and public policy; appeals, I am free to confess, which have great influence upon me. But while I am thus disposed, I am unwilling to depart, any further than is absolutely necessary, from our general system, which is applicable not merely to our foreign transportation, but to our domestic postal system.

I would have the system uniform in its application to all transportation.

If this amendment be adopted, I am prepared to grant additional compensation for the limited period contemplated, and allow these gentlemen, with their steamships already constructed and benefited by this appropriation, to come into competition with future bidders for the foreign mail contract. On the other hand, let the Government be left at liberty to avail itself of any new route that may be proposed—the Northeastern and Galway route for example—which shortens the distance several hundred miles, and effects a great saving of time. Let the Government avail itself of all the routes, and all the competition between them. Leave the contracts open, precisely as all other contracts are left open—bring your ocean mail steam system within your general postal arrangements—place it upon a footing which cannot be complained of by the country as one of favoritism and jobbing, and then I think it will be sustained, and sustained liberally and cordially.

Mr. SEWARD. Mr. President, after having addressed the Senate with so much latitude, in favor of the original amendment at an early day, I had intended to forbear altogether from further participation in the debate. I rise now, not for the purpose of arguing at length the merits of the proposition submitted by my honorable friend from Ohio, but barely to present the objections which I entertain to the amendment which he has offered. The proprietors of these steamers want aid. They have shown that the sum which the original amendment provides, is the least which will answer their purposes. The honorable Senator from Ohio says we shall have his vote for that aid, upon a condition to which he requires us to accede; and that is, that the contract may be terminated at the expiration of two years. What, then, would be the condition of the enterprise, and of the persons engaged in it, at that time? The contract is broken up! The vast outlay and expense in procuring and furnishing these steamers has been borne by the proprietors! The property falls into the hands of the proprietors. They have these steamers upon their hands, and the Government is at liberty to make contracts with others who may underbid them. The effect of that would be to throw upon their hands property for which they have no legitimate use. The steamers were built under a contract with the United States, for the purposes, not of the proprietors, but of the United States, and of an entirely different class and character from what the merchants would have built for their own use. The ships were required to be built so as to carry the mails; they were required practically to be built so that they would carry the mails with greater expedition than any other steamers; and, moreover, they were required to be built best adapted to warlike purposes.

Now, these merchants do not want, for their own purposes, steamers adapted to warlike purposes, and, if they are thrown upon their hands they will not want them for the purpose of carrying the mails. The proposition of the Senator from Ohio, therefore, amounts to this: That the United States, after having engaged these citizens to build steamers chiefly for the use of the Government, by way of experiment, and, after having made the experiment, and demonstrated its practicability, shall terminate the contract at the end of two years, and, for the sake of a better bargain, throw the burden of the loss upon the proprietors.

I should have no objection to the amendment of the honorable Senator from Ohio at all, if the Senate would add to it a provision that the Government should take the steamers on the terms of the contract, at the expiration of that time. But, I feel sure that the moment we should offer that further amendment, the honorable Senator would retreat from his proposition. That being the case, we are obliged to decline to accede to it. The boon which the honorable Senator offers is too costly altogether. It is like the gratitude of Rome—the recipients would sink beneath its weight.

Mr. CHASE. Mr. President, I shall detain the Senate but a single moment. This amendment was offered by me in good faith, for the purpose of putting the proposition in a shape in which some of those who are opposed generally to this steamship contract system, could vote for it; and it was framed in precise accordance with a bill which has already passed the Senate at this session,



providing for a steam mail ship communication between New Orleans and Vera Cruz. I could not have anticipated an objection, such as has been made by the honorable Senator from New York, because we have been informed repeatedly in the course of the debate upon this subject, that if this increased compensation is not allowed, the proprietors of these steamships will abandon, and must necessarily abandon their contract. What then follows? They cannot ask the Government to take these steamships off their hands, because they have broken their contract with the Government, under the pressure, it is said, of an urgent necessity which they could not control. I do not dispute the existence of that necessity, but if that necessity does exist—if they are prepared now to abandon their contract—if they have thereby released the Government from its obligation to take these steamships at their original cost, then the absence of such a provision in this amendment cannot be a legitimate ground of complaint, because they come to us in the very same predicament in which the amendment would place them. I do not propose, however, to prolong the debate; but as I conceive the amendment to be one of some importance, I will ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. RUSK. Mr. President, I should regard the passage of the amendment of the Senator from Ohio as a defeat of the whole measure. Its adoption would render it excessively doubtful whether I would vote for the proposition myself. The amendment of the Senator from Ohio provides—

“That the proprietors of said line of steamers shall consent to such a modification of the existing contract, that the Postmaster General may advertise for and accept proposals for carrying the mails in suitable steamships, of not less than two thousand tons burden, between the United States and Great Britain, from and after the said 31st day of December, 1854, when said contract shall cease to be obligatory.”

This takes away the quality of these ships, which constitutes one of the main grounds on which I have voted for them. According to this proposition, you have no security for the strength of the ships, and therefore they will be suitable only for the purpose of carrying the mails. They would not be suitable for war purposes, and could not be used by the Government in case of emergency. One of the strongest arguments in favor of this system, which induced me to support it at all, is, that if we have a sufficient number of these ships employed in carrying the mail, we shall save much more in other ways; by that means, than we lay out upon these ships.

They will save us great expense by preventing the necessity of adding to the Navy proper; because we must necessarily keep pace with other countries who are improving their naval forces, either by adding to the Navy proper, or having ships under such arrangements that, in case of an emergency, we can use them for purposes of national defense. Then if we abandon the war qualities of these ships, a necessity exists at once, if we are to keep pace with other countries, to add to our steam navy proper. That will bring along with it a great train of expenditures. It must necessarily add to the number of officers, and to the number of seamen, who will have but little if any employment, so long as peace remains, and I trust that will be a great while; and the better we are prepared for war, the less will be its probable occurrence.

There will be another difficulty in regard to the amendment to the amendment. It provides also, “that the Postmaster General, in case said modification shall be agreed to, shall advertise for ‘such proposals, which shall be submitted to Congress at the next session.’” Now, according to this, the contract is to terminate in a little over two years. What is to be the effect of that? It will, in my judgment, be simply to strengthen and encourage the rival Cunard line. The Cunarders will at once see that you will get into another squabble about making another contract, and they will be ready then to take the monopoly of carrying your mails. What follows from that? The right to charge what postage they please—the right to charge what freight they may choose, and the right to charge just what they may please for passengers. The adoption of the amendment of the Senator from Ohio, therefore, will lead to an abandonment of this contract. It will be a temporary continuance of it, and a temporary contin-

uance alone. My support of the original amendment goes upon the ground that we are to carry our own mails, and that we are to have the control of the ships.

I see already—and it is brought about by the present arrangement—that propositions are being made in England to the American Minister to consult in regard to the reduction of ocean postage. I am just reminded by the honorable Senator from Louisiana, [Mr. SOULE,] that the British charge now \$1 25 for a letter going to Porto Rico, because every letter going in that way has to go by their steamers. The whole history of that Government shows that as soon as we abandon the carrying of the mail between this country and England, we will throw the monopoly into their hands; and they will then put on a tariff of postage that will bring in a large revenue to that Government. Now, I am not willing to give England that advantage, and so great an expense as will follow to the citizens of my own country.

Correspondence is important to commerce. The prompt dispatch of letters has an important bearing upon the price of the articles you have to sell, and the price of the articles you have to consume. The additional compensation which is asked by the original amendment, will amount to less than two cents a head upon the people of the United States. Now, are you going to abandon this line for the purpose of saving this amount of money, when you will lose twenty times as much by giving the monopoly of carrying information between the raisers of your produce and the purchasers of it in England, and in Europe, into the hands of a foreign Government with all the advantages which will follow to other nations and other disadvantages which must necessarily result to us?

In my investigations upon this subject, a circumstance has fallen under my observation, and I beg leave to mention it to the Senate. I will premise it by saying that you have invited foreigners here by your liberal laws in relation to naturalization, and by your liberal provision in regard to the public lands. You have made them citizens. They have correspondence with their relations whom they have left behind them. I have ascertained from two or three individuals, that the laborers, and especially the Irish females who labor hard for very small wages, save about one half their earnings, purchase small bills of exchange, transmit them to the country from which they came to relieve poverty and want in aged parents, who have not the means of coming to this country. When you abandon this line, you surrender into the hands of the British Government the power to tax at high rates, this correspondence of your own citizens—these messengers of affection between the daughter and the mother. I for one am not willing, under any pretense whatever, to surrender such a power into the hands of a foreign Government for the purpose of taxing these individuals, whose conduct in this particular is so highly creditable to human nature.

Sir, we have money in the Treasury. The Treasury is overflowing. That money you cannot keep there. It will be expended. Your revenues are rapidly increasing; every year the money will be expended either upon useful objects—and this I regard as one of the most useful—or it will be squandered to favorites who may do the most work in a presidential election. The money will go out of the Treasury of the United States in one of these two ways. Here I say, that by the expenditure of a small amount you will benefit commerce—benefit the planting and purchasing part of the community—benefit your citizens generally, and do yourselves the credit of rivaling a Power which has hitherto claimed the mastery of the seas, by this line which has already succeeded in distancing your opponents. Under such circumstances, I shall vote against any proposition whatever, calculated to embarrass the original amendment; and I hope and trust that we shall take the question on it soon, without much further discussion. I would like to say more, but I believe every Senator's mind must be fully made up, and I do not think any changes will be made by talking, of which there has been too much already.

Mr. PRATT. I desire to say, in reference to the amendment for the Collins line of steamers, that I consider myself governed by what I have ascertained to be the wish and desire of the mercantile interest of the State which I have the honor in part to represent here, rather than what my

judgment demanded; but having ascertained what is the wish of the interest in my State which is to be benefited, or otherwise by it, I desire to carry out in good faith what is their desire.

Now, sir, I think I can show in a few words that there is hardly a Senator upon this floor—not even the Senator from Ohio, I think—who can vote for the amendment to the amendment, if it is properly understood. The Senate is aware that the Government of Great Britain is paying to its line of steamers a large amount of money. This amendment proposes that after the end of the year 1854, the Postmaster General shall advertise for proposals to carry the American mail, not confining it to American steamers, but leaving the competition open to the British line of steamers. Every Senator knows that if this were so, the British Government, paying some \$600,000 or \$700,000 to their line of steamers for carrying their mail, could carry the American mail without additional cost. The inevitable result, therefore, is, if you adopt the amendment of the Senator from Ohio, to throw the carriage of the American mail to the British line of steamers; for it can underbid the American steamers which are confined to carrying the American mail, provided that the British Government continue to pay their line the amount they now pay. That is beyond a doubt. It must be evident to the mind of every one who will look to it. I therefore, in attempting to carry out what I believe to be the wish of the great mercantile interest of Maryland, shall vote against this amendment to the amendment, because I am sure it will have for its direct tendency and inevitable result, that the British steamers, and those alone, will be employed in carrying the mail between New York and Liverpool.

Mr. CHASE. Mr. President, it was not my desire to admit in competition for carrying this mail any other than American steamers, and I presume, if it was not found out by the Senator from Maryland, no person would suppose that any other but an American steamer could enter into this competition. I will say, further, that no such idea was ever suggested with reference to the steamships which are to ply between Vera Cruz and New Orleans. The provision there was simply for steamships; and, if the objection applies in this case, it applies quite as forcibly to that. For the purpose, however, of obviating the objection, I will insert, with the consent of the Senate, between the word “suitable” and the word “steamships,” the word “American.”

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) That alteration can only be made by unanimous consent.

Mr. PRATT. I object to it. The yeas and nays have been ordered upon the amendment of the Senator from Ohio, and I want to vote upon that amendment upon which the yeas and nays have been ordered.

Mr. CHASE. I am not disposed to quarrel with the decision of the Chair, but I would simply suggest that a few days since, the President of the Senate, then occupying the chair, held that under the rule, an amendment of this sort could be made by a majority of the Senate, without unanimous consent. That decision was made upon a suggestion of my friend from North Carolina, who may recollect it.

Mr. BADGER. That is the case; but I was about suggesting to my friend from Maryland to withdraw his objection. It does not advance the matter at all; because the Senator from Ohio, if this proposition should be voted down, could immediately offer an amendment with the word objected to in it.

Mr. PRATT. My only objection is, that the Senator asserts in the commencement of his speech, that I was the only one in the Senate who had discovered this, and therefore intimated that his amendment does not correctly bear the construction which I have put upon it. If the Senator believes what he has argued to the Senate, then he is prepared to vote for the amendment as it stands. I want to see if he is willing to record his vote in favor of the amendment as it stands. He says it does not bear the construction which I have placed upon it. Now, I want to see if, upon the yeas and nays, he will vote for his own amendment.

Mr. BADGER. I admit now that the Senator from Maryland is right.

Mr. CHASE. I submit always to the correction of gentlemen who are distinguished by their

legal knowledge, and uniform courtesy, as is the Senator from Maryland. I will therefore avail myself of his suggestion, and move to insert the word "American" before the word "steamships."

Mr. RUSK. Is not that out of order? Is not the proposition pending, an amendment to an amendment?

The PRESIDING OFFICER. That amendment cannot now be made. There is already an amendment to the amendment pending.

Mr. CHASE. I think that I can modify it without unanimous consent, if the Senator from Maryland should persist in his objection. And now I will go on with the few remarks which I have to make, in reply to the honorable Senator from Texas.

So far as his objection relates to the adaptability of these steamers to war purposes, I will say that that was discussed in reference to the Vera Cruz and New Orleans line; and the Senate then determined, by a very considerable majority, that this adaptation was not necessary to a steamer employed in the transportation of the mails. I recollect very well that, upon that occasion, it was argued with much ability and eloquence, that it was a matter of extreme necessity that that peculiar feature should be retained in the bill, for the purpose of protecting our commerce against depredations. But the Senate were of a different opinion. They thought that the business of transporting the mails ought to be disconnected from our naval service. In that opinion I certainly concur, and I do not now propose to reargue the grounds of it.

The second objection of the honorable Senator from Texas is, that this amendment proposes the abandonment of the contract. It does propose to abandon the contract, or, rather, to terminate the contract, with the consent of the contractors, after two years. It proposes to do nothing without their consent. If they do consent, they consent voluntarily, and of their free will, and in view of the additional compensation to be granted. Now, suppose they consent; what, then, follows, according to the argument of the Senator? Why, that we abandon all ocean postal arrangements. I see no such consequence. If that were to follow, I have already said that I would be one of the very last to propose anything which would interfere with our communication between the Old World and the New; anything which would interfere with that communication under American control; for I believe that that communication should be maintained; and I believe, also, that it should be maintained under American direction and control.

But the Senator from Texas, it seems to me, a little overshoots the mark when he appeals to us to continue this system of contracts, in order that we may convey cheaply letters from the Irish employees of the hotels and private families. Sir, I desire to convey these letters cheaply. I would convey them, if I could, at far cheaper rates than they now pay. I would lay no tax, which was not absolutely necessary, upon the interchanges of affection. But what does the Senator propose to do? He proposes to make affection tributary to war; he proposes to make benevolence minister to conflict; he proposes to lay a tax upon this very communication for the purpose of cheapening the expense to the Government in regard to its naval marine. His argument, therefore, makes against himself. Let this ocean postage communication be open to contract; do not burden it with a portion of the war expenses of the Government; and, my word for it, we will have transportation at cheaper rates than we can possibly have under the system of contracts, for long periods of time, with special individuals.

Again: the Senator complains that by terminating this contract we introduce a system of favoritism. Why, Mr. President, the very object of this amendment is to get rid of that. What favoritism can be worse than employing particular individuals for long periods of years, giving them a greater rate of compensation than is paid for the same service to the British steamers, and then increase that compensation as largely as the original amount proposes to increase it? That may be endured, if it is for a limited time. The amendment, as it now stands, proposed to limit this additional compensation to two years, or rather not to limit it to two years, but to retain to Congress the power of discontinuing it after the term of two years.

What is that power? Why, we know very well that it is one which cannot and will not be exercised, if you put a pressure outside of the walls of Congress which will be potent enough with this increased compensation, and the prospect of its continuance during a period of seven years to come, to defeat all efforts to discontinue it. I am, therefore, in favor of a plain, open course upon this subject. Terminate the contract at the end of two years, instead of retaining to Congress the right simply to discontinue the increase of compensation. Leave the contract with the Government open to free competition, only provided that your transportation shall be in suitable vessels and of suitable tonnage. Leave it open to free competition, and not only shall we not be visited with any of the disastrous consequences which the Senator predicts, but I am quite confident that we will promote the cause of cheap ocean postage, and therefore minister to those communications for which he has been so eloquent an advocate. I thank him, Mr. President, for every word which he utters in favor of persons so circumstanced; and if I believed it was necessary to abandon this amendment of mine to achieve that object, I should most certainly do so. But I do not believe it; I believe the object will be defeated by the very plan which he recommends.

Mr. HALE. Mr. President, I want the ear of the Senator from Ohio for a moment; for I should be exceedingly sorry to find myself in the predicament in which he puts the supporters of the original amendment. I think that I will show him, in about three minutes—and I do not want to occupy more time—that it is exactly the reverse of the case as he puts it. He says that, by supporting this amendment, we tax civilization and domestic affection, and make them subsidiary to war, because, by this payment to these vessels, we get more expensive ships than we otherwise might have. Now, sir, just look at it. We must have—we are bound to have—a steam marine. According to the report of the Secretary of the Navy, a steam frigate costs \$196,000 a year to lie still, making visits of state about the harbors of the Mediterranean, entertaining savage princes, and so forth. It costs us \$196,000 a year to keep a steam frigate thus employed; while, with the additional ship that is to be put upon this line, the average expense for keeping up each of these ships will only amount to a little more than \$170,000 a year; and they will be more efficient for the purposes of war—better ships than were ever built for the Navy. We will then have these ships at \$170,000 a year, each doing this service. You will make these vessels-of-war subsidiary to the purposes of civilization, and the interchange of all those communications, which civilized and refined society must keep up on both sides of the Atlantic. We make these vessels subsidiary to that, instead of making them subsidiary to war, and we do it at a cheaper rate than we could keep up vessels-of-war doing nothing. There are to be five of these vessels. The original amendment proposes to pay them \$558,000 a year, which makes about \$170,000 a piece. To keep up a steam frigate costs \$196,000 a year. One of these vessels carries the mails semi-monthly across the ocean, and discharges this high demand of civilization, and of affection, and everything which belongs to an advanced state of society and civilized life; and instead of costing more for doing that, it actually costs less.

In addition to that, as has already been suggested by the Senator from North Carolina, there is a constant return of postages coming in. Now, I say that this is making grim-visaged and iron-visaged war harness himself and work for the use and ministry of peace. This, sir, is one single step toward that age that has been so long foretold in prophecy, when the sword shall do the work of the pruning-hook, and the instruments of war shall be turned into the instruments of husbandry. Adopt this amendment and pass this bill, and then these great leviathans of the deep will do something else than minister to national vanity and national pride. They will become auxiliaries in the great work of civilizing, christianizing, refining, and advancing society. It is for this reason that I go for it. I confess I felt exceedingly mortified when I heard the sagacious and kind-hearted Senator from Ohio take such a perverse and perverted view of this matter as to say that this scheme, so full of beneficence, so full of the advancement of the great interests of society, was, on the other

hand, taxing affection to make it minister to war. Sir, he has looked at it through a wrong medium, unless I totally misunderstand the purposes and objects we have in view.

Mr. BORLAND. Mr. President, it is rather late to undertake to make a speech upon this subject, but if the Senate are disposed to sit the question out, I shall be compelled now to make the few remarks which I propose to offer upon this amendment.

Mr. WELLER. If the Senator from Arkansas will give way, I will move that the Senate do now adjourn. I understand that the Senator will necessarily consume some two or three hours at least in giving his views upon this subject, and the Senate certainly do not desire to sit that long to-day. For that reason, I move that the Senate do now adjourn.

The motion was not agreed to; there being, on a division—ayes 18, noes 19.

Mr. BORLAND. Mr. President, I would greatly have preferred, on my own account, and on that of the Senate, not to have fatigued the Senate by asking them to listen this afternoon to what I have to say. It is now nearly four o'clock; but to gratify a majority, I will have to render myself, perhaps, and a very large minority of the Senate, very uncomfortable for the residue of the day.

Mr. CASS. I wish the honorable Senator would give way. It is a matter of comity due to a Senator under these circumstances, to adjourn.

Mr. BADGER. I should have no sort of objection, but I think that the honorable Senator from Arkansas has already had a reasonable opportunity of being heard upon the subject.

Mr. CASS. The Senator from Arkansas does not desire to be heard to-day, and it is a matter of comity, under such circumstances, that the Senate should adjourn. I therefore move that the Senate adjourn.

The motion was agreed to, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 26, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved. The SPEAKER. The first business in order is a motion to refer to the Committee of the Whole on the state of the Union, Senate bill No. 331, entitled "An act to grant to certain settlers on the Menomonee purchase, north of Fox river, in the State of Wisconsin, the right of preemption."

## DISABILITY OF JUDGES.

Mr. McLANAHAN. Before proceeding to the execution of the special order, I ask the unanimous consent of the House to take up a bill of much pressing public necessity, and which ought to be passed speedily—a bill to provide for the holding of the district court in the District of Columbia, in case of the sickness or disability of the chief justice of the circuit court. If the House will allow me to make a moment's explanation, I can satisfy them of the public necessity and utility for pressing this bill.

[Cries of "Agreed!" "Agreed!"]

Mr. McLANAHAN. Mr. Speaker, the first Monday in June is the day fixed by law for holding the district court of the District of Columbia. The chief justice of the circuit court is the judge of the district court, and, of course, possesses original admiralty jurisdiction. It is well known that Chief Justice Cranch has, for a long time past, from protracted sickness and the infirmities of old age, been unable to discharge his official duties. About the first of this month, "A bill to provide for the holding of the district court of the District of Columbia, in cases of the sickness or other disability of the district judge," passed the Senate, and it is my object now, for reasons which I will presently state, to ask the unanimous consent of the House to take up this bill, and put it upon its passage.

There is now, and has been for some time past, a very considerable number of important cases in this court, delayed on account of the feeble health of Judge Cranch. Among some of these cases, there are several of importance in which the Government of the United States is largely interested. During the war with Mexico, captures were made

on the Pacific coast by our public vessels. We had not, at that time, any regularly-organized courts to take cognizance of these cases, and the distance was too great to send the prizes home for adjudication. To meet the necessity of the case, courts of admiralty were temporarily organized there, under the direction and authority of the military and naval commanders on that station, with the assent and approval of the Secretary of the Navy. The captors of prizes, under the orders of their superiors, appealed to the jurisdiction of the courts thus constituted; and they, in the exercise of the admiralty powers, with which they conceived they were invested, in some of the cases, condemned the vessels, and decreed sales. The proverbial energy and zeal of Captain John B. Montgomery in protecting the interests of his Government, was exemplified in his capture of the ship *Admittance*, and her cargo. There appears to have been ample testimony to show that this vessel was a lawful prize. But on an appeal to the Supreme Court of the United States, it was ruled in this case, that the informally-organized admiralty court at Monterey, had no authority in the premises. At the same time, it was intimated that the district court of this District had original admiralty jurisdiction in such cases, and that the captors might libel the vessel and cargo, and justify by showing good cause of capture; if the justification was made out, and the vessel and cargo condemned as a prize, it would afford a good defense in an action against the officer who made the capture. The owners of the *Admittance* and her cargo have instituted a suit against Captain Montgomery for damages, and that action is now pending in court. It is therefore evident, that the means of making a successful defense on the part of a public officer of the Government, who was in the faithful discharge of his duty at the time he seized this ship and her cargo, depend upon the prompt action of Congress upon the bill to which I have alluded.

Now, sir, one word in regard to the provisions of the bill itself. It proposes no additional expense to the Government, but simply confers upon one of the associate justices of the circuit court, the authority to hold a district court, and exercise admiralty jurisdiction. The case is one of such pressing public necessity, that it will, I trust, commend itself to the good sense of this House, and meet with no opposition or delay. I move to put the bill upon its passage.

There was no objection.

The Clerk then read the bill through.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, notifying the House of the passage by that body of an act to authorize the construction of railroads through the public lands, in certain cases;

An act to provide for the issuing of patents, for a certain class of confirmed private land claims in Louisiana; and

A resolution authorizing the closing of the accounts of certain officers of the Army; and requesting the concurrence of the House therein.]

The SPEAKER. The question recurs upon ordering the bill to be read a third time.

Mr. CLEVELAND. I wish to inquire of the gentleman who reported this bill, whether there is any provision made for payment for the services of the judge thus called upon to act in case of the sickness or disability of the chief justice?

Mr. McLANAHAN. There is no provision made in the bill for additional payment.

Mr. CLEVELAND. In no form?

Mr. McLANAHAN. Yes, sir; in no form. I will offer the following amendment as a new section to the bill, upon which I call the previous question:

SEC. 2. And be it further enacted, That the associate judge holding the district court as aforesaid, shall, and is hereby empowered, to sit in the said circuit court in any case of appeal or of error from his own decision in said district court, in the same manner as if said district court had not been held by him.

Mr. SEYMOUR, of New York. I ask the gentleman to withdraw his call for the previous question, that I may propound an inquiry to him.

Mr. McLANAHAN. I withdraw it for that purpose.

Mr. SEYMOUR. From the reading of the bill I understand it to provide that the judge should sit in appeals from his own court. I wish to in-

quire of the chairman of the Committee on the Judiciary whether that is so; and, if it is, whether it is not a new provision of law?

Mr. McLANAHAN. That is so. It is a new provision of law; but under the exigencies of this case, it is deemed proper that such a provision should exist. The appeal from the district court to the circuit court, although it is an appeal from one of the judges who sits in the district court, would only be a matter of form; because, in the cases now up for trial, in which the Government is interested, there is no doubt about the fact of the ability of the Government to show that the vessels, which were captured during the Mexican war, were prizes. The disability of the chief justice of the circuit court to hold the district court prevents those who were the captors of these vessels from setting up that defense in the suits brought against them, as representatives of the Government, for damages. And it is a mere matter of form, in which the proof will be submitted to ascertain on a question of prize or not, whether these vessels so captured belong to the enemy, and were carrying a cargo for the purpose of supplying the enemy or not. The main object of this bill is for the trial of these causes; and, although the district judge will sit and hear the cause in admiralty, the appeal which may be taken from his decision will come before him, with his other associate judges, in the circuit court of the United States. Chief Justice Cranch may be on the bench, for aught I know; but, under the exigencies of the case, and the circumstances I have just detailed, I think there can be no hesitation about the propriety of passing this bill at this time.

Mr. SEYMOUR, of New York. The answer to my inquiry is entirely satisfactory, as it shows that the course proposed to be adopted by this bill is not an extraordinary one.

Mr. McLANAHAN. I call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

The question was then put upon the amendment, and it was adopted.

The bill was then ordered to a third reading, and was read the third time.

The question now being, Shall the bill pass?—

Mr. McLANAHAN demanded the previous question; which was seconded, and the main question ordered to be put.

The question was then taken, and the bill was passed.

#### FEES OF DISTRICT ATTORNEYS.

Mr. HARRIS, of Tennessee. Before the House proceeds to the execution of the order of the day, I would beg leave to say that I am instructed by the Committee on the Judiciary to ask the unanimous consent of this House to move a resolution discharging the Committee of the Whole on the state of the Union from the further consideration of House bill No. 146. My object for having the Committee of the Whole discharged from the further consideration of this bill is, that it may be recommitted to the Committee on the Judiciary, as there are important alterations that it is desirable should be made in it. It is a bill regulating the fees of district attorneys, marshals, &c., in the district and circuit courts of the United States.

There being no objection it was so ordered.

#### CHARLES REYNOLDS.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to introduce a joint resolution, of which previous notice has been given. I will state briefly that it is a matter in which not only the interest but the honor of the Government is involved. It is a joint resolution authorizing the Secretary of the Treasury to ratify and confirm an exchange of lands between the United States and Charles Reynolds, of the city of Natchez, of the State of Mississippi. If I may be allowed to make one word of explanation—

Mr. HALL. Does this come out of the morning hour?

The SPEAKER. It does not.

Mr. BROWN. The facts of this case I will state in one word. The Government owned a lot in Natchez, upon which they proposed to erect a marine hospital. Mr. Reynolds owned one which was deemed more eligible, and by an arrangement between him and the Government officers, there was an exchange of lots. The Government has erected a building worth some

\$60,000 upon the lot which they have obtained from Mr. Reynolds, and to which he has given them a deed; but when he asks a deed for the Government lot, the Secretary of the Treasury discovers that he has no power to make the deed. If it be true that a contract unexecuted upon one side is not executed upon the other, then Mr. Reynolds is still entitled to his lot, and the \$60,000 house which the Government has put upon it. Then I say it is a matter of interest to this Government to allow the exchange, which is all that Mr. Reynolds asks. If they refuse that, then, in an action of ejectment, he can recover this lot, with the \$60,000 house upon it. I ask, under these circumstances, that the House will allow me to introduce that joint resolution. I ask that the resolution be read.

The joint resolution was then read a first and second time by its title, and having been engrossed according to order, was read the third time and passed.

Mr. BROWN. I move to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table.

The question was then taken upon the latter motion, and it was agreed to.

#### COLLISION OF VESSELS.

Mr. FLORENCE. I ask the unanimous consent of the House to introduce a bill.

Mr. HAMILTON. I call for the regular order of business.

Mr. FLORENCE. I merely wish to introduce and refer it to the Committee on Commerce. I hope the gentleman will allow me to do so.

Mr. HAMILTON. Will it be taken out of the morning hour?

Mr. FLORENCE. It will not, as I understood the Speaker when the question was asked on the other side.

Mr. HAMILTON. What is the nature of the bill?

Mr. FLORENCE. It is a bill to provide the better for guarding against the collision of steamers and sail-vessels in the night-time. Humanity prompts the passage of the bill.

There being no objection, the bill was then introduced and read a first and second time by its title, and referred to the Committee on Commerce.

#### RIGHTS OF PRE-EMPTION.

The SPEAKER. The question is upon referring House bill No. 331, entitled "An act to grant to certain settlers on the Menomonee purchase, north of Fox river, in the State of Wisconsin, the right of preëmption," to the Committee of the Whole on the state of the Union.

Mr. HALL. If the gentleman from Maryland, [Mr. EVANS], who is entitled to the floor, will permit me, I will make an explanation in regard to this bill. I beg leave to make this suggestion to my friend from Maryland, that the Senate bill proposes merely to protect the rights of the settlers of a small tract of country in the State of Wisconsin. There is a pressing need for the passage of the Senate bill, for if it be not passed before the first day of June next, it will fail to have any effect whatever upon the settlers whom it is intended to benefit. The amendment of the Committee on Public Lands is a general bill, and there is no pressing necessity for its passage. I am, therefore, willing that it shall be rejected, and that the Senate bill be passed.

Mr. EVANS. Under these circumstances I will defer the remarks which I intended to make, in order that the general business of the country may be proceeded with. I understand the gentleman from Missouri [Mr. HALL] to agree that the amendments which were reported by the Committee on Public Lands shall be rejected.

Mr. HALL. I am willing that they shall be rejected.

Mr. EVANS. And that the Senate bill itself shall be passed?

Mr. HALL. Yes, sir.

Mr. EVANS. I desire to say that there are a number of reports which the gentleman desires to present here, and my sole object is to do what I can towards forwarding the public business. Under those circumstances, I will withhold any further remarks upon the subject, and I move the previous question.

Mr. HALL. Will the gentleman waive the call for the previous question for one moment? I cannot withdraw the amendment. I would do so



if I had the right. I wish, however, that it may be rejected.

Mr. EVANS. I now move the previous question.

The previous question was seconded, and the main question ordered.

The SPEAKER. The motion pending is to commit the bill to the Committee of the Whole on the state of the Union.

Mr. DEAN. If this motion prevails, can we pass upon these amendments?

The SPEAKER. No amendment will be in order under the operation of the previous question.

Mr. DEAN. Then it is impossible to pass the original bill at present, if it goes to the Committee of the Whole.

The SPEAKER. The Chair does not think that it follows at all. Under the operation of the previous question, the question will be taken first upon the motion to commit, then upon the amendments of the Committee on Public Lands, and then upon the bill itself.

The question was then taken on the motion to commit, and it was decided in the negative.

Mr. HALL. My purpose now is, that the amendment of the Committee on Public Lands be rejected.

The question was then taken on the amendment, and it was rejected.

The bill was then ordered to be read a third time, and was subsequently read the third time.

Mr. EVANS. I ask the previous question upon the passage of this bill.

The previous question received a second, and the main question was ordered to be now put, and being put, the bill was passed.

The SPEAKER. Reports are in order from the Committee on Public Lands.

Mr. FOWLER. I rise to a privileged question. I move to reconsider the vote by which the bill was just passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### GRANT FOR RAILROADS IN MISSOURI.

Mr. HALL, from the Committee on Public Lands, reported back, with an amendment, Senate bill No. 3, to grant the right of way to the State of Missouri, and a portion of the public lands to aid in the construction of certain railroads in said State.

Mr. H. I ask that the bill be read.

The bill, which grants the right of way and a portion of the public lands to aid in the construction of a railroad from the town of Hannibal to the town of St. Joseph, in said State, and from the city of St. Louis to such point on the western borders of said State as may be designated by the authority of said State, was then read through, and the following is the fifth section thereof, viz:

"Sec. 5. And be it further enacted, That if either of the said railroads shall not be completed within ten years, the said State of Missouri shall be bound to pay to the United States the amount which may be received by said State upon the sale of any part of said lands granted to the use of such road, the title to the purchasers under said State remaining valid; and the title to the residue of said lands, granted to the use of said roads, shall reinvest in the United States, to have and to hold the same in the same manner as if this act had not been passed."

The Committee on Public Lands propose to strike out the above section, and to insert, in lieu thereof, the following, viz:

"Sec. 5. And be it further enacted, That the lands hereby granted to said State, shall be disposed of by said State only in manner following, that is to say: that a quantity of land, not exceeding one hundred and twenty sections, on each road, and included within a continuous length of twenty miles of said road, may be sold; and, when the Governor of said State shall certify to the Secretary of the Interior that said twenty miles of said road is completed, then another like quantity hereby granted, may be sold, and so, from time to time, until said road is completed; and if said road be not completed within ten years, no further sales shall be made, and the lands unsold shall revert to the United States."

Mr. HALL. I only wish to state to the House that that bill is precisely the same bill which was under discussion in this House in the early part of the session for several weeks. The Senate have passed it. It has been referred to the Committee on Public Lands in this House, and they have reported it back with a single amendment. The amendment proposes to strike out the fifth section of the Senate bill, and insert a different provision. The fifth section of the Senate bill is, that the lands granted by the bill shall be disposed of only

as the work progresses, and that, if the work be not finished within ten years, then the sales of the land shall stop, and the money taken and received for the lands shall go into the Treasury of the United States. The Committee on Public Lands provide that these lands shall only be disposed of in this way: that lands along twenty miles of the road may be disposed of first, and no more; and that, when the road is finished through that twenty miles, and the Governor of the State shall certify that fact to the Secretary of the Interior, then the State of Missouri may sell the lands twenty miles further along the road, and so on, until the road is finished; but, if the road is not finished within ten years, then the sale shall stop, and the land remaining unsold shall revert to the United States.

At the commencement of this session I urged as a reason why the House should act upon the bill, either to pass or reject it, the fact, that a reference of it to the Committee of the Whole on the state of the Union would place it beyond our reach. That bill, however, was referred, and four months experience must certainly have taught gentlemen here, that the committal of the bill was the defeat of the bill. All that I ask the House, therefore, is, to vote either for or against the bill now; either kill it, or pass it. With a view to bring the House to a direct vote, I move the previous question.

Mr. RICHARDSON. Will the gentleman from Missouri withdraw his demand for the previous question for a single moment? and I will renew it. If, when the gentleman hears my proposition, and does not accede to it, I will not insist on offering it, and will go for the bill.

Mr. HALL. I cannot yield the floor, but I will withdraw for the purpose of allowing the gentleman from Illinois to make a remark.

The SPEAKER. The gentleman from Missouri will recollect that there is some difficulty in retaining the floor if it is objected to.

Mr. RICHARDSON. I will renew the demand for the previous question.

The SPEAKER. The Chair only mentions it that there may be no mistake between the gentlemen. Does the gentleman from Missouri withdraw the demand for the previous question?

Mr. HALL. Upon one condition; and it is, that I do not lose the floor.

Mr. DEAN. I ask if the gentleman from Missouri has not left the floor?

Mr. HALL. Will the gentleman from Illinois have the floor if I withdraw the demand for the previous question?

Mr. DEAN. I rise to a point of order. Did not the gentleman from Missouri [Mr. HALL] move the previous question, and leave the floor and take his seat?

The SPEAKER. He did so; but he had a right to withdraw the demand.

Mr. DEAN. I now move to lay this bill upon the table.

The SPEAKER. That motion is a privileged motion, but the gentleman from New York [Mr. DEAN] cannot take the floor from the gentleman from Illinois [Mr. RICHARDSON] for the purpose of making it. The gentleman's right, however, is clear to make that motion, even if the previous question is pending.

Mr. HALL. I withdraw the demand for the previous question.

The SPEAKER. The motion is withdrawn, and the gentleman from Illinois [Mr. RICHARDSON] has the floor.

Mr. RICHARDSON. I am for this bill. I believe it is the best means by which to dispose of the public lands; that it brings them into the market, and enables you to sell the alternate sections by constructing roads, which otherwise would not be settled at all. You can sell them at \$2 50 an acre, whereas you cannot now sell them for \$1 25. But the point to which I desire to call the attention of the gentleman from Missouri [Mr. HALL] and the House is this: One of the roads to be constructed is from St. Joseph, in the State of Missouri, to Hannibal, on the Mississippi river. There is now constructing, and looking towards the connection in the East, and under contract, a road leading through the States of Illinois, Indiana, and a corner of Ohio, which, with a few links added to it, will be constructed to the Atlantic cities. There is now under contract from the city of Quincy towards the Illinois river, a distance of thirty miles—thirty miles there is no road. There

is already constructed and in operation a road from the Illinois river to Springfield, and arrangements have been made, I believe, to place under contract, pretty soon, a road connecting with the Indiana road. There are about fifteen miles between the city of Quincy and some point upon this other road, or the terminus of the road, a long line on which there is no public lands. What we desire is, that we of the State of Illinois may have an opportunity to connect our road with this road being constructed by the Government, and make it advantageous to us by the privilege of the right of way through any of the land on the road in that district.

Mr. HALL. I do not object to the amendment if you will offer it at once, and move the previous question.

Mr. RICHARDSON. Then I offer the following as an amendment to the amendment, and when it is read I shall move the previous question.

The SPEAKER. As an amendment to the pending amendment?

Mr. RICHARDSON. Yes, an amendment to the pending amendment.

Mr. SUTHERLAND. I wish to ask the gentleman from Illinois two questions in the hearing of this House.

Mr. RICHARDSON. I have not yielded the floor.

Mr. SUTHERLAND. I only want to ask two questions.

The SPEAKER. The Chair understands the gentleman from Illinois to yield the floor to the gentleman from New York temporarily for explanation?

Mr. RICHARDSON. No, sir; but I have no objection to the gentleman asking me a question while I am upon the floor.

Mr. SUTHERLAND. I wish to ask these two questions, and I wish them answered either by the gentleman from Illinois, or by the chairman of the Committee on Public Lands. This bill is a Senate bill, reported with an amendment, by the Committee on Public Lands. That amendment is that these lands are to be sold. These lands are granted upon the condition that only the alternate sections of twenty miles are to be sold within a certain period—within one or two years—and then the next twenty miles within a certain period, and so on, until the whole of the lands granted are sold; and if those conditions are not performed, then the lands revert to the Government of the United States.

Mr. LETCHER. No, it is not so. That is not the provision at all.

Mr. SUTHERLAND. I ask gentlemen if they will tell me whether they expect—whether the Committee on Public Lands expect—or will say that if the lands are not sold according to these contracts they ever will revert to the Government of the United States? I ask them to point out a single instance in the history of the legislation of this country, one single act, where lands have been granted by the Government on condition, and that condition not being performed, that they have ever come back to the Government.

Mr. HALL. I yielded the floor to the gentleman from Illinois with the distinct understanding that he should not yield it to other persons for the purpose of making explanation.

Mr. SUTHERLAND. Now the other question is this—

The SPEAKER. There is too much confusion in the Hall. Gentlemen will be pleased to come to order. Strictly speaking, in the opinion of the Chair, he has a right to require every gentleman upon the floor to retain his seat, except the member entitled to the floor addressing the Chair. If the Chair could for a moment hope that gentlemen upon the floor would sustain him in such a decision, he is very much disposed to enforce that right this morning. [Disorder still continuing.] Gentlemen to the right of the chair are out of order. By an express rule of the House it is out of order to pass between the Chair and the gentleman who is addressing the Chair. The Chair again states that he believes the right is clear in him to require that each and every gentleman shall retain their seats, except the member addressing the Chair. If he could have any assurance that this body would sustain him in that decision, he would be disposed to make it this morning.

[Cries of "Agreed!" "Agreed!" and "Make it!"]

The SPEAKER. Then, when a gentleman is addressing the Chair, the Chair will feel authorized to ask him to suspend until any other gentleman, who may be on his feet, shall have resumed his seat.

[Cries of "That is right!" "That is right!"]

The SPEAKER. The Chair will endeavor to enforce that rule, and certainly will do it if the House will sustain him.

Several MEMBERS. You shall be sustained.

Order was fully restored.

Mr. SUTHERLAND. The other question which I desire to ask is one of very great importance, and which every man in this House has to answer, before this bill is passed upon. The only ground upon which anybody urges the constitutionality of these railroad measures is that by them this Government is benefited, inasmuch as the construction of the roads enhances the value of the alternate sections reserved to the Government of the United States. Now, you have just passed the homestead bill, and I desire to ask whether, if you pass this bill, the settler under the homestead bill would not have a right to settle on the alternate sections reserved to the Government? What then becomes of the argument that these bills will benefit the Government? What becomes of the argument—the only argument which has been urged here in support of this bill?

[Here a message was received from the Senate of the United States, by the hands of ASBURY DICKINS, Esq., its Secretary, announcing that the Senate had passed a bill "granting lands to the States of Louisiana and Mississippi, to aid in the construction of certain railroads therein," in which they desired the concurrence of the House. [Laughter.]

Mr. RICHARDSON. In reply to the gentleman, I have only to say that in no instance, as far as I know, have the lands donated to the States of this Union failed to be applied to the purposes for which they were intended by the Government.

Mr. SUTHERLAND. What has become of the lands granted to the Illinois Central Railroad?

Mr. RICHARDSON. I will tell the gentleman where they are. When the State of Illinois proves faithless to its trust, it will be time enough to make the inquiry. The gentleman will find that she has applied that land to the purposes for which it was intended that it should be applied. No such imputation, therefore, can rest upon her escutcheon. There was a donation to that State of canal lands, by which she was to construct a canal, and she has faithfully and honestly applied them to that purpose. So far as the inquiry of the gentleman is concerned, about the effect of this bill upon the homestead bill, that question is not now under consideration; but I will say to the gentleman, that if he will wait until the sale takes place of those reserved quarter sections in Illinois, which had been offered for \$1 25 per acre for thirty years, he will find that this policy will vindicate itself. Not an acre of the land will be left unsold.

Mr. SUTHERLAND. Cannot the settler, under the homestead bill settle on those reserved lands?

Mr. RICHARDSON. Not at all; not at all.

Mr. SUTHERLAND. Why not?

Mr. CAMPBELL, of Illinois. Because they are not open to settlement.

Mr. SUTHERLAND. But they will be when they are brought into market; and will they not then be taken by the settlers under the homestead bill?

Mr. RICHARDSON. When that time arrives, if the gentleman puts the inquiry to me, I will answer it. [Laughter.] I move the previous question.

Mr. DEAN. I move to lay the bill and amendments upon the table.

Mr. SEYMOUR, of New York. I believe that the amendment proposed by the gentleman from Illinois [Mr. RICHARDSON] has not been read yet.

The SPEAKER. It has not been read.

Mr. SEYMOUR. Then I ask that it may be read now.

Mr. BISSELL. Under the impression that the amendment of my colleague, desirable as it may be, can only embarrass this bill, I appeal to him to withdraw it.

Mr. RICHARDSON. I will withdraw it. I will not embarrass the bill.

The amendment was withdrawn.

Mr. STUART. Upon the motion of the gentleman from New York, [Mr. DEAN,] I ask for the yeas and nays.

The yeas and nays were ordered.

The question was then put upon Mr. DEAN's motion, and it was decided in the negative—yeas 70; nays 110; as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, Babcock, David J. Bailey, Beale, Bennett, John H. Boyd, George H. Brown, Buell, Caldwell, Caskie, Chastain, Churchwell, Cleveland, Clingman, Colcock, Daniel, Dean, Dockery, Ewing, Faulkner, Floyd, Thomas J. D. Fuller, Grew, Hamilton, Isham G. Harris, Hibbard, Holladay, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George W. Jones, George G. King, Letcher, Martin, Mason, McQueen, Meacham, Milson, Morehead, Murphy, Murray, Newton, Peaslee, Perkins, Polk, Robie, Ross, Savage, Schoolcraft, Schoonmaker, Origen S. Seymour, Skelton, Snow, Alexander H. Stephens, Sutherland, George W. Thompson, Toombs, Tuck, Venable, Wallace, Washburn, Wells, Wildrick, and Woodward—71.

NAYS—Messrs. Abercrombie, Willis Allen, Bell, Bibighans, Bissell, Bowie, Bragg, Brenton, Brooks, Albert G. Brown, Burrows, Busby, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Thomas Campbell, Chandler, Chapman, Clark, Cobb, Conger, Cottman, Curtis, Geo. T. Davis, John G. Davis, Disney, Doty, Duncan, Dunham, Durkee, Eastman, Edgerton, Ficklin, Fitch, Florence, Fowler, Freeman, Henry M. Fuller, Gamble, Gaylord, Gentry, Giddings, Goodrich, Gorman, Grey, Hall, Harper, Sampson W. Harris, Hart, Haws, Hebard, Hendricks, Henn, Houston, Thomas M. Howe, Hunter, Andrew Johnson, John Johnson, Robert W. Johnson, J. Glancy Jones, Landry, Lockhart, Mace, Humphrey Marshall, McDonald, McNair, Miller, Miner, Molony, Henry D. Moore, John Moore, Morrison, Olds, Orr, Samuel W. Parker, Penn, Penniman, Phelps, Rantoul, Richardson, Riddle, Robbins, Robinson, Russell, Sackett, Scudder, Scurry, David L. Seymour, Stanly, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stevens, St. Martin, Stratton, Stuart, Taylor, Thurston, Townshend, Walbridge, Walsh, Ward, Watkins, Welch, Addison White, Alexander White, Wilcox, and Williams—109.

So the House refused to lay the bill upon the table.

Pending the call of the roll,

Mr. OUTLAW said: I wish to state, that upon this particular vote, I have paired off with the honorable gentleman from Missouri, [Mr. PORTER,] who has been called from the city by the sickness of one of his children.

Mr. CLINGMAN. I would inquire of the Chair, if the morning hour has expired?

The SPEAKER. It has not.

Mr. AVERETT. Is it in order to move to refer the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not, until the demand for the previous question is disposed of.

Mr. JONES, of Tennessee. I ask for tellers on seconding the demand for the previous question.

Tellers were ordered, and Messrs. JONES, of Tennessee, and HALL were appointed.

The question was then put, and it was decided in the affirmative—ayes 69, noes 66.

So the previous question received a second.

The question then being, "Shall the main question be now put?"

Mr. POLK asked for the yeas and nays; and they were ordered.

Mr. ASHE. I would now inquire if the morning hour has expired?

Mr. POLK. If it has I will withdraw the call for the yeas and nays.

The SPEAKER. It has not expired, but it will expire in a moment.

[Cries of "Call the roll!"]

Mr. POLK. Has not the morning hour expired now?

The SPEAKER. It has this moment expired.

Mr. POLK. I move to proceed to the business on the Speaker's table.

#### CONTESTED ELECTION.

Mr. ASHE. I move to proceed to the consideration of the report of the Committee on Elections, on the contested-election case from Pennsylvania.

Mr. HOUSTON. If the motion of the gentleman from North Carolina does not prevail, I shall move to go into Committee of the Whole on the state of the Union, which I suppose will be in order, so as to allow the gentleman from Kentucky [Mr. WHITE] to proceed with his speech.

Mr. JONES, of Tennessee. I wish to inquire if the gentleman from North Carolina, [Mr. ASHE,] who made the report in this contested-

election case from the State of Pennsylvania, has not the right—it being a question of privilege—to call it up at any time he pleases? That, I think, has been the practice of the House heretofore. It is then for the House to dispose of it by postponement, or in some other way. I am confident that has been the uniform practice of the House since I have been here. It can be called up at any time as a question of privilege; and when called up it is regularly before the House, without a motion being put to that effect.

The SPEAKER. The gentleman from Tennessee would wish to force the consideration of this case upon the House, whether it desires to consider it or not.

Mr. JONES. I wish no such thing.

The SPEAKER. The Chair so understood the gentleman.

Mr. JONES. I only inquired if that had not been the uniform practice of the House.

The SPEAKER. The Chair does not recollect distinctly what has been the practice of the House in contested-election cases. He, however, decided yesterday that it was a privileged motion that the gentleman from North Carolina had a right to submit whenever he pleased, and that it would then be for the House to say whether it would proceed to the consideration of that or other business. That was the decision of the Chair, and he is inclined to adhere to that decision as a correct one.

Mr. RICHARDSON. Will the Chair permit me to make one suggestion? This, as it seems to me, is a privileged question, and not a privileged motion. I am inclined to concur in the opinion expressed by the gentleman from Tennessee.

The SPEAKER. Then, as the Chair understands the gentleman, when the question is called up the House must proceed to its consideration, whether it chooses or not.

Mr. RICHARDSON. Yes, sir. It is regularly before the House.

The SPEAKER. Then the House can go on to consider it, or postpone it, as it chooses.

Mr. RICHARDSON. Undoubtedly.

The SPEAKER. Then, is there any impropriety in the decision the Chair has already made? He decides that the gentleman from North Carolina has the right to make the motion, as a privileged one—that the motion being before the House, the House has the right of judgment in regard to its proper disposition. That is the decision of the Chair. Does the gentleman appeal?

Mr. RICHARDSON. I do not.

Mr. HOUSTON. I understand the Chair to decide, that the motion is a privileged one, which must take precedence of any other motion and must be first put to the House, even if another motion has been made before it.

The SPEAKER. That was the decision of the Chair, and he still thinks it is correct.

Mr. HOUSTON. The Chair is clearly right.

The question now being upon the motion that the House proceed to the consideration of the Pennsylvania contested-election case—

Mr. ASHE demanded the yeas and nays; which were ordered.

The question was then taken, and the result was announced—yeas 92, nays 91.

The SPEAKER. The report of the Committee on Elections is now under consideration.

Mr. HOUSTON. I rise to a question of order. The state of the vote, as announced by the Chair, makes it in the power of the Chair to defeat the motion, by making it a tie. I presume the Chair would not hesitate to vote under these circumstances, and I call upon him to vote one way or the other.

The SPEAKER. The Chair, in his opinion, is not compelled to vote to make a tie, although he has the right to do so if he chooses.

Mr. HOUSTON. But the vote of the Chair would make it a tie, and defeat the motion.

The SPEAKER. The vote of the Chair would not change the result, because he would vote in the affirmative.

Mr. HOUSTON. Very well. I only desire that he shall vote one way or the other.

The SPEAKER. The report of the Committee on Elections is before the House, upon which the gentleman from North Carolina [Mr. ASHE] is entitled to the floor.

Mr. POLK. I move that the rules be suspended and that the House resolve itself into the Com-

mittee of the Whole House on the state of the Union.

The SPEAKER. The Chair is informed that a mistake was made by the Clerk in counting the votes upon the question just taken. The Clerk states that a mistake was made, and that the vote is a tie vote. It therefore becomes the duty of the Chair to vote. He votes in the negative, and this defeats the motion.

Mr. ASHE. I do not understand that decision of the Chair; I wish he would explain it.

The SPEAKER. The Chair will repeat, that upon a recount, he is informed by the Clerk that the vote upon the motion of the gentleman from North Carolina [Mr. ASHE] is a tie. In consideration of the lateness of the hour the Chair votes "No," and therefore defeats the motion.

Mr. ASHE. If that is the decision of the Chair, I submit to it.

Mr. FOWLER. I believe the Chair has not announced the vote since the mistake has been corrected. I most respectfully ask the Chair to announce it as it now stands.

The SPEAKER. The Chair having voted No, the vote now stands—yeas 91, nays 92. It is as follows:

YEAS—Messrs. Aiken, Charles Allen, John Appleton, Ashe, Averett, David J. Bailey, Beale, Bissell, Bragg, Albert G. Brown, Buell, Busby, Joseph Cable, Thompson Campbell, Caskie, Chastain, Churchwell, Clark, Cleveland, Curtis, Daniel, John G. Davis, Dawson, Disney, Doty, Durkee, Eastman, Edgerton, Faulkner, Fitch, Florence, Freeman, Thomas J. D. Fuller, Gamble, Gilmore, Green, Hamilton, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Henn, Hibbard, Hillyer, Holladay, Howard, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, John Johnson, Robert W. Johnson, Daniel T. Jones, Geo. W. Jones, J. Glaucey Jones, Kurtz, Lockhart, Mace, Mason, McCorkle, McDonald, McAnahan, McNair, McQueen, Milson, Molony, Morrison, Murphy, Murray, Olds, Orr, Pensacoe, Penn, Perkins, Rantoul, Richardson, Riddle, Robbins, Robie, Ross, Russell, Skelton, Frederick P. Stanton, Abraham P. Stevens, Stratton, Stuart, Townshend, Venable, Wallace, and Wildrick—91.

NAYS—Messrs. Abernethy, Willis Allen, Allison, Barere, Bell, Bennet, Bigbush, Bowie, Bowne, Jno. H. Boyd, Breckinridge, Brenton, Briggs, Brooks, George H. Brown, Burrows, E. C. Cabell, Caldwell, L. D. Campbell, Chandler, Chapman, Clingman, Cobb, Colecock, Conger, Cottman, Geo. T. Davis, Dean, Dockery, Duncan, Dunham, Evans, Ewing, Ficklin, Floyd, Fowler, Gaylord, Gentry, Giddings, Goodrich, Grey, Grow, Hall, Harper, Hawley, Hebard, Houston, John W. Howe, Thomas M. Howe, Hunter, George C. King, Landry, Letcher, Humphrey Marshall, Meacham, Miller, Miner, Henry D. Moore, John Moore, Morehead, Newton, Sam'l W. Parker, Penniman, Phelps, Polk, Sackett, Savage, Schoonmaker, Scudder, Scurry, David L. Seymour, Smith, Benjamin Stanton, Alex. H. Stephens, Strother, Sutherland, Taylor, Thurston, Toombs, Chuck, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, Williams, and Woodward—91.

So the House refused to go into the consideration of the report of the Committee on Elections.

Mr. POLK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole House on the state of the Union.

The question was put, and the motion agreed to. So the rules were suspended.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Seymour, of Connecticut, in the chair.)

The CHAIRMAN stated as the first business in order House bill No. 43, making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1853, upon which the gentleman from Kentucky [Mr. WHITE] was entitled to the floor.

Mr. WHITE, of Kentucky, then addressed the committee his allotted hour, in regard to the compromise measures, the necessity of adhering to them, and in regard to the Presidency.

Mr. MARSHALL, of Kentucky, followed, in reply to the remarks of his colleague, [Mr. GREY,] made a few days ago, relative to his action in the recent Whig Congressional caucus.

[These speeches will be published in the Appendix.]

Mr. GROW obtained the floor.

Mr. ALLISON moved that the committee rise.

The question was then taken, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union, according to order, had had the state of the Union generally under consideration, and particularly House bill No. 43, and had come to no conclusion thereon.

On motion of Mr. JONES, of Tennessee, the

House then adjourned till to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. WILCOX: The petition of citizens of the State of Mississippi, asking a grant of public land, to aid in the construction of a railroad therein mentioned.

By Mr. MOORE, of Louisiana: The petition of H. M. Hyams, B. Chew, and E. King, asking preemption right to land purchased under the Maison Rouge grant.

By Mr. CHASTAIN: A resolution of the General Assembly of the State of Georgia, asking Congress to establish a weekly mail route, to be carried by a two-horse stage coach, from Blairsville to Cassville, via the post offices now accommodated with the horse mail on said route.

By Mr. WASHBURN: The memorial of Jewett & March, and others, praying for the passage of a law permitting lumber, of the growth of the forests of the United States, and owned by the citizens of the United States, cut upon the river St. John and its tributaries, and manufactured in the Province of New Brunswick, to be brought into any port of the United States free of duty.

#### IN SENATE.

THURSDAY, May 27, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. MALLORY presented a petition of citizens of the southern portion of Florida, praying the establishment of a land office at Tampa; which was referred to the Committee on Public Lands.

Also, a petition of citizen of Florida, praying that the compensation allowed for the transportation of the mails between New Orleans and certain ports in Florida may be increased; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of Florida, praying that the mail steamer from New Orleans to Key West may touch at Atseena-Otee, or Cedar Keys; which was referred to the Committee on the Post Office and Post Roads.

Also, the memorial of James Montgomery, praying that an invention of his for preventing the explosion of steam-boilers may be tested, under his superintendence, on board one of the Government steamers; which was referred to the Committee on Naval Affairs.

Also, the memorial of James Montgomery, praying Congress to aid him in the construction of a steamer which will be competent to carry the mails between New York and Liverpool in six days, and between Newfoundland and Liverpool in four days, and which shall be also suitable for war purposes; which was referred to the Committee on Naval Affairs.

Also, additional documents in relation to the claim of Ann Dudley; which were referred to the Committee on Claims.

Mr. BERRIEN presented the petition of John James Flournoy, praying compensation for certain land of which he has been illegally deprived; which was referred to the Committee on Public Lands.

Mr. SEWARD presented nine petitions of citizens of New York, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Mr. SHIELDS presented a petition of citizens of Illinois, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. WADE presented two petitions of citizens of Ohio, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which were referred to the Committee on Public Lands.

Mr. SMITH presented a petition of citizens of Bridgeport, Connecticut, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Mr. MILLER presented a petition of citizens of Newark, New Jersey, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become

a law; which was referred to the Committee on Public Lands.

The PRESIDENT *pro tempore* laid before the Senate a petition of William D. Stone, praying to be allowed to locate other land in lieu of certain land of which he has been unjustly deprived by the unauthorized action of the deputy surveyor; which was referred to the Committee on Public Lands.

Also, the proceedings of a meeting of the American Medical Association, held at Richmond, Virginia, on the subject of conferring assimilated rank upon the medical officers of the Navy; which were referred to the Committee on Naval Affairs.

Mr. FISH presented a petition of citizens of Busti, New York, praying that the bill now pending before Congress, granting to every citizen of the United States who is the head of a family one hundred and sixty acres of land, may become a law; which was referred to the Committee on Public Lands.

Also, a remonstrance of citizens of New York against the renewal of Cyrus H. McCormick's patent for improvements in reaping machines; which was ordered to be laid on the table.

Mr. DODGE, of Wisconsin, presented a memorial of the Legislature of Wisconsin, praying a grant of land to aid in the education of deaf, dumb, blind, and insane persons in that State; which was ordered to be laid on the table and printed.

Mr. MASON presented a petition of clerks, messengers, and others, in the office of the Commissioner of Customs, praying additional compensation; which was referred to the Committee on Finance.

Also, a petition of clerks, messengers, and others, in the office of the First Auditor, praying additional compensation; which was referred to the Committee on Finance.

Mr. MASON. I have received three memorials from citizens of the town of Wheeling, and that part of Virginia, asking for the passage, by the Senate, of the bill which is popularly called, I believe, the homestead bill, the purpose of which, I understand, is to give away the public lands among a certain class of people. I present the petition, as I conceive it my duty to do, but at the same time declaring, that if the people of the towns in the vicinity of Wheeling entertain the opinions expressed in these petitions, they are held, I am satisfied, by very few citizens in the State; and in presenting them, I wish to declare, that the presentation is not to be considered as adopting in any degree the views of the petitioners.

The memorials were referred to the Committee on Public Lands.

Mr. UNDERWOOD. I have received a petition, of a peculiar character, from two of my female constituents, and now beg to present it to the Senate. These ladies reside in the town of Newport, in the State of Kentucky, opposite the city of Cincinnati. One signs herself Sarah Tanner, and the other Lucinda Tanner. They represent that a gentleman named Edward D. Tippet, has applied to them, and stated that he is the inventor of a steam-engine, and that there would be perfect safety in the navigation of vessels propelled by it, because he proposes to generate steam, not in boilers, as at present, but by throwing water on red-hot plates of iron, so as to generate the steam in just sufficient quantities to fill the cylinder at each stroke of the engine.

Some years ago, I had the pleasure of examining this invention at Georgetown. There were several experiments made on it, under the authority of Government; but, as the petitioners state, it was never carried into practical operation. Mr. Tippet has found these ladies, and satisfied them of the entire practicability of putting it successfully into operation; and they have given him \$1,500, through the humane feelings which characterize them, for the purpose of enabling the inventor to make the necessary experiments; but they state that \$1,500 will not be sufficient, and they think that Congress might give as much more as they have given from their own private purse. That will make \$3,000, and that sum, they think, will be sufficient to accomplish the experiments, which will prove to the world that this invention will supersede all other steam-engines. I think that the Committee on Commerce, who have had the bill relative to steam-engines



under consideration, is the proper committee to refer it to, and shall, therefore, move that it be so referred. I hope that this Columbus in steam invention, who has found an Isabella in these two ladies, will also succeed in obtaining the patronage of the Government, for the purpose of fully testing the practicability of his theory.

Mr. HAMLIN. I think that reference would more properly be made to the Committee on Naval Affairs; for whatever the Government has to do with steamers is connected with that branch of the service. I suggest to the Senator from Kentucky that he should move a reference to the Committee on Naval Affairs.

Mr. UNDERWOOD. I have no objection. I desire merely that the petition should be sent to the proper committee.

Mr. BADGER. I hope it will not be sent to the Committee on Naval Affairs. We have already plenty to do; and unless these engines are intended for war steamers, we do not wish to have anything to do with them.

The motion to refer to the Committee on Commerce was then agreed to.

#### CORRECTION.

Mr. CLEMENS. I rise, Mr. President, for the purpose of making a correction. It is not very material, but may, perhaps, as well be made. In the report of the speech of the Senator from Tennessee, [Mr. BELL.] in regard to an appropriation to indemnify sufferers in consequence of depredations by the Creek Indians, this passage occurs:

"These friendly Indians who enlisted in the service of the United States, as stated upon the authority of Colonel Hogan, amounted to about fifteen hundred. The Senator from Alabama says that number was increased to two thousand."

Mr. CLEMENS. There were five hundred under General Howard."

The error is in the name of the general. There was no General Howard there. It was General Woodward.

#### REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the memorial of the Lieutenants of the Engineer, Topographical Engineer, and Ordnance Corps, asking that promotions may be made more nearly approximating to that of the line of the army, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, reported a bill allowing the principal assistant in the Engineer Bureau, the same compensation which the principal assistant in the Ordnance Bureau of the War Department now receives; which was read and passed to the same reading.

Mr. SHIELDS also submitted a report on the subject; which was ordered to be printed.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Charles Cooper & Co., of Bangor, Maine, asking payment of interest, submitted a report, accompanied by bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. NORRIS, from the Committee on Patents and the Patent Office, to which was referred the petition of Anthony Sherman, for the renewal of a patent for an improvement in the axles of railroad cars, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. FELCH, from the Committee on Public Lands, to which was referred the bill from the House of Representatives, to release from reservation and restore to the mass of public lands, certain lands in the State of Arkansas, reported back the same with amendments.

He also, from the same committee, to which was referred the bill to grant the right of way through the public lands of the United States, for the construction of certain railroads in the State of California, reported back the same without amendment, and moved that it be laid on the table; which was agreed to.

He also, from the same committee, to which were referred the following memorials, asked to be discharged from the further consideration thereof; which was agreed to:

The memorial of Charles Fletcher, for a grant of land for a railroad from Fort Leavenworth to Fort Kearny;

The memorial of Duncan W. Murphy and others, for a grant of land for a railroad from Benicia to Shasta City in California; and

The memorial of the Legislature of the State of Alabama, asking a grant of land to complete a geological survey of the State.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to which was referred the bill to establish sub-divisional lines and corners of certain fractional sections in the southern surveying district of the State of Alabama, reported back the same without amendment.

Mr. UNDERWOOD, from the Committee on Foreign Relations, to which was referred the memorials of William Money, asking payment for certain horses seized in California by order of General Kearny, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. PEARCE, from the Committee on Finance, reported a bill supplementary to an act approved August 10, 1846, entitled "An act to establish the Smithsonian Institution for the increase and diffusion of knowledge among men;" which was read and passed to the second reading.

Mr. FOOT, from the Committee on Pensions, to which was referred a resolution of the Senate directing an inquiry into the expediency of amending the second section of an act making appropriations for the payment of Revolutionary and other pensions, submitted a report, accompanied by a bill to amend an act passed the 20th February, 1847, entitled "An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending 30th June, 1848;" which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of the heirs of Joseph Bradley, submitted an adverse report thereon; which was ordered to be printed.

#### PITTSBURG AND WARREN RAILROAD.

Mr. FELCH. I have been instructed by the Committee on Public Lands, to which was referred a bill authorizing the Secretary of War to grant to the Pittsburg, Kittanning, and Warren Railroad Company the right of way over the grounds of the United States, at the Alleghany arsenal, to report it back without amendment, and recommend its passage.

Mr. BRODHEAD. I ask that that bill may now be put upon its passage. It is merely to grant the right of way to this railroad company over a small portion of land held by the United States in Pennsylvania, at Laurenceville, near Pittsburg. I believe there is not the least objection to it. It grants to the Secretary of War the power of granting this right of way. There will be no injury in any way resulting from it to the public interest, and I trust the bill will be taken up and disposed of now.

The bill was considered by the Senate as in Committee of the Whole, was reported without amendment to the Senate, and ordered to be engrossed for a third reading.

#### THE PASSES OF THE MISSISSIPPI.

Mr. SOULE. I have the authority and the unanimous consent of the Committee on Commerce, on whose consideration I pressed the subject at its last meeting, to report to the Senate, and to recommend to its favorable consideration, a bill to enable the Government to deepen the passes of the Mississippi river.

The bill was read a first time.

Mr. SOULE. I now ask the unanimous consent of the Senate to take up this bill. It is not likely to meet with any opposition, as far as I can judge from the kind and very liberal dispositions I have met with, at the hands of those members with whom I have had occasion to converse on its merits, and on the importance of its immediate passage. The measure which it purports to enact is one, indeed, that appeals strongly to the special favor of this body. It is a measure in which every individual who owns an acre of land, or cultivates a bushel of wheat, in the great valley of the Mississippi, has a direct and most vital interest. The outlets through which the main produce of the Southwest finds its way to foreign markets is now actually shut up by the accumu-

lated deposits which the waters of the mighty river have piled up at its mouth; and the object of this bill is to place at the disposition of the Secretary of War an amount sufficient to enable him to remove the obstruction, and to proceed without delay to the opening of a channel that will afford free and easy ingress into and egress out of the Mississippi, to vessels of the usual size and tonnage, of those which are best suited to the immense trade carried on upon its main waters and its tributaries. I am informed that there are at present no less than eight or ten ships loaded with rich cargoes, and whose freight consists of no less than twenty thousand bales of cotton, stranded on the bar and stuck fast in the mud, there awaiting, almost hopelessly, that some favorable wind modifying, as is sometimes the case, the condition of the water on the bar, and giving the channel a greater depth, may enable them to get out of the truly desperate and ruinous situation in which they find themselves. They have already been there, some of them at least, for weeks; and the injury which such a state of things is calculated to inflict on the commerce and on the agricultural interest of that section of our country, as well as on ship-masters and owners, is such that it demands the immediate interposition of this Government, and the appliance of all the means at its disposition, in order that some relief may be afforded and a scheme devised through which the same disasters may be avoided, and the people of the Southwest saved from the ruin which their recurrence would entail upon them. I need not say more, for I do hope and trust that I have not overtaxed the disposition of the Senate to see that every section of this Republic be righted and done justice to, when I have presumed thus abruptly to throw myself upon their indulgence, and to ask them to suspend and delay for a moment the discussion of the matters before them, in order that the bill may at once be acted upon and disposed of.

The bill was read a second time and considered as in Committee of the Whole.

It provides that the Secretary of War be directed to take the necessary steps for causing a ship channel, of sufficient depth to accommodate the wants of commerce, and allow vessels of twenty feet draught to pass through it, to be opened across the most convenient pass leading into the Mississippi river out of the Gulf of Mexico, and that the sum of \$75,000 be appropriated for the purpose: *Provided*, it shall be the duty of the Secretary of War to report at an early day at the next session of Congress the expenses incurred, together with an estimate of the annual cost of keeping said channel open.

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

#### BILLS REPORTED FROM THE HOUSE.

The following bills and joint resolution from the House of Representatives, were severally read a first and second time. The bills were referred to the Committee on Finance, and the joint resolution to the Committee on Public Lands:

An act making an appropriation for the payment of Navy pensions for the year ending 30th June, 1853;

An act making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th June, 1853; and

A joint resolution authorizing the Secretary of the Treasury to ratify and confirm an exchange of lands between the United States and Charles Reynolds, of the city of Natchez, in the State of Mississippi.

#### TAXATION OF LANDS IN MISSOURI.

Mr. GEYER. I ask the unanimous consent of the Senate to take up a bill from the House of Representatives, giving the assent of Congress to the State of Missouri to impose a tax or taxes upon all lands hereafter sold by the United States therein, from and after the day of such sale. This bill is in precisely the same terms as one which passed the Senate a few days ago, with the exception of the word "giving" instead of "declaring," in the title. The necessity for this, I had occasion to state the other day, grew out of the phraseology of an act passed in January, 1847.

The motion to take up the bill was agreed to, and it was considered by the Senate as in Committee of the Whole. No amendment being

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made, the bill was reported to the Senate, and was read a third-time and passed.

## DISTRICT COURTS IN THE DISTRICT OF COLUMBIA.

Mr. BRADBURY. I move to take up the bill which has been returned from the House of Representatives with an amendment. It is a bill to provide for the holding of the district court for the District of Columbia, in case of the sickness or other disability of the district judge.

The motion was agreed to.

The amendment is the following additional section:

Sec. 2. And be it further enacted, That the associate judge holding the district court as aforesaid, shall, and is hereby empowered, to sit in the said circuit court in any case of appeal or of error from his own decision in said district court, in the same manner as if said district court had not been held by him.

Mr. BRADBURY. This amendment is supposed to be necessary in consequence of a clause in the judiciary act of 1789, which provides that no district judge shall give a vote in any case of appeal or error from his own decision. This is merely a temporary arrangement, and I hope the Senate will concur in the amendment.

The amendment was concurred in.

## AMENDMENT OF THE RULES.

Mr. MANGUM. I beg leave to offer a resolution, which I desire the Senate to act upon now. I think it will not occupy more than a few minutes. The resolution is to grant a seat on the floor of the Senate to the associates of the Smithsonian Institution, elected by the regents, thereby extending the privilege granted by the forty-eighth rule to some of our distinguished scientific men, such as Dr. Hare, Washington Irving, Professor Silliman, and others. I hope it may be adopted.

The resolution was read as follows:

Resolved, That the following be added to the forty-eighth rule, which provides for the admission of persons on the floor of the Senate:

And the associates of the Smithsonian Institution, elected by the regents.

The PRESIDENT. It requires the unanimous consent of the Senate to consider it now.

Mr. HALE. I object.

The resolution was accordingly laid over.

## ANTHRACITE AND BITUMINOUS COAL.

On motion by Mr. COOPER, it was

Ordered, That the report of the Secretary of the Navy, communicating the report of the Engineer-in-Chief of the Navy, on the comparative value of anthracite and bituminous coal; together with a letter of the Engineer-in-Chief of the Navy, addressed to the chairman of the Committee on Naval Affairs, dated May, 1852, be referred to the Committee on Naval Affairs and printed.

## THE DEFICIENCY BILL.

The Senate resumed the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in appropriations for the service of the fiscal year ending 30th of June, 1852," the question pending being upon the motion of Mr. CHASE to amend the amendment, adopted as in Committee of the Whole, providing for additional compensation to the Collins line of steamers, by adding to it the following proviso:

And provided further, That the proprietors of said line of steamers shall consent to such a modification of the existing contract that the Postmaster General may advertise for, and accept proposals, for carrying the mails in suitable steamships, of not less than two thousand tons burden, between the United States and Great Britain, from and after the said 31st day of December, 1854, when said contract shall cease to be obligatory; and the Postmaster General, in case said modification shall be agreed to, shall advertise for such proposals, which shall be submitted to Congress at the next session.

Mr. BORLAND, who had the floor, rose to address the Senate, but gave way at the request of Mr. SEWARD.

Mr. SEWARD. When I addressed the Senate in favor of the amendment to grant aid to the Collins line of steamers on a former occasion, I spoke of Mr. Hobbs, who exhibited a lock at the World's Fair, in London, in terms of praise which were justly deserved by that invention. I was understood, I learn, to have attributed to that

gentleman the invention of the lock. If I said so, it was an error into which I fell in the haste of speaking. I was aware that Mr. Hobbs visited London, and exhibited that lock as the agent of the inventor, and the praise of that invention—the parantopic lock—which excels all others of its class, I take occasion to say belongs to Mr. Newall, who is a native and citizen of New York.

I thank the honorable Senator from Arkansas for his courtesy in allowing me to do this act of justice now, and here where the error is supposed to have occurred.

Mr. BORLAND then addressed the Senate for about three hours, on the subject of the pending amendment. [His speech will be found in the Appendix.]

Mr. BUTLER. I move that the further consideration of the subject be postponed until tomorrow, so that we may go into Executive session.

The motion was not agreed to, there being on a division—ayes 15, noes 23.

Mr. PRATT. I hope we shall have the question on the amendment.

Mr. HUNTER. I would suggest that it would be better to take the vote on the amendment of the Senator from Ohio, and then let the other question lie over until to-morrow, when there will be a full Senate. ["No!" "No!"]

The question was then taken by yeas and nays upon the amendment to the amendment, and resulted—yeas 18, nays 26, as follows:

YEAS—Messrs. Adams, Borland, Brodhead, Brooke, Butler, Chase, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Hunter, King, Mallory, Mason, Sebastian, Sumner, Underwood, Wade, and Weller—18.

NAYS—Messrs. Bell, Bright, Cooper, Davis, Dawson, Downs, Fish, Foot, Geyer, Hale, Hamlin, Houston, James, Mangum, Miller, Norris, Pearce, Pratt, Rusk, Seward, Shields, Smith, Souté, Spruance, Toucey, and Upham—26.

So the amendment to the amendment was rejected.

Mr. BELL. I have an amendment which I wish to offer to the amendment. It is to strike out the proviso, which is in these words:

"Provided, That it shall be in the power of Congress, at any time after the 31st day of December, 1854, to terminate the arrangement for any additional allowance herein provided for, upon giving six months' notice."

And insert in lieu of it the following:

Provided, That after the 30th day of June, 1854, the rate of compensation to said line of steamers shall not exceed \$19,250 per trip, unless Congress in the mean time shall otherwise provide.

Mr. ATCHISON. I move that the Senate do now adjourn.

The motion was not agreed to, there being on a division—ayes 21, noes 23.

Mr. SEWARD asked for the yeas and nays on the amendment to the amendment; and they were ordered.

Mr. DAWSON. I trust the amendment presented by the Senator from Tennessee will be adopted.

Mr. WELLER. We all understand it.

Mr. PRATT. If the Senator from Georgia understands it, I am sure we do.

Mr. DAWSON. I desire to place myself correctly before the country.

Mr. PRATT. Let us have the vote.

Mr. BELL. Allow me to state the object of this amendment. I did not intend to trespass upon the time of the Senate; but I did intend, if I had had time, to give a short explanation of the design I have in view in offering it.

One great change which it proposes is, that it shall not require the interference of Congress in stopping this appropriation or allowance after the 30th of June, 1854; but that it shall cease by this provision of law. Congress will have power to interpose at that time, and continue the allowance if necessary. In that respect my amendment differs from the former proviso.

In the second place, it reduces the time six months for which this bill makes the allowance; which time, I and several other gentlemen think, is long enough to give this line this increased allowance of \$33,000 per trip. We think that in that time they will have received sufficient to cover the loss

which they have sustained in being the pioneers in establishing an American trans-Atlantic line of steamers, having to run it at first, no doubt, at great loss—perhaps, as they say, of as much as \$16,000 or \$17,000 per trip.

Another advantage of this amendment is, that it will furnish the Government with further data at the end of this period, so that they will be able to determine whether or not any further allowance is required. We shall then be able also to see and determine how far this experiment does interfere with private enterprise, as has been seriously urged here by several Senators. We are now in the midst of this experiment, and we do not see precisely how much it may interfere with the enterprises of our citizens engaged as private proprietors of lines of this description, or of trans-Atlantic navigation generally. I confess that that is a point on which I distrust myself. We have not seen it yet; but in two or three years more of this experiment we may see it more fully, and we can then decide more satisfactorily. For these reasons, which have operated upon my own mind, and also in conformity with the wishes of other gentlemen, I have offered this proviso.

Mr. PRATT. If the Senator from Tennessee will shape his amendment so as to make the continuance of the allowance to the end of 1854, I will go with him. But as he proposes to amend it, if I understand it, it will only have to run eighteen months.

Mr. DAWSON. It will be two years.

Mr. PRATT. Well, I hope it will be so modified as to extend to the end of the year 1854.

Mr. RUSK. I should have no difficulty in agreeing to the amendment, because I believe that at the expiration of the proposed limitation, the proceeds of running this line of steamers will be sufficiently remunerative; and that the proprietors will not desire to have the increase of compensation extended to them beyond that time; but here is the difficulty; the contract extends now only six months beyond the time specified in the proposed amendment; and the whole matter will then be subject to the control of Congress, and we can certainly trust to the Congress which may sit at that time to take the proper and necessary action; but if the amendment should pass, it will induce the proprietors of the Cunard steamers to think that we do not intend to keep this line up on an equality with them, and they will take measures to continue their opposition for the purpose of driving the Collins steamers off. I can assure the Senate, and history will confirm the assertion, that the expenditure of a few hundred dollars to secure this object, and thus monopolize the whole carrying trade would amount to nothing in the estimation of the British Admiralty. The consequence will be that you will strengthen the Cunard line, and they will continue to run in opposition. But, if we sustain the Collins line, then we shall see that the English will pursue just the same course as they did in the Gulf of Mexico. There, they had thirteen or fourteen steamers previous to the establishment of the American line of steamers; and when they found that they could not compete with these last, they withdrew their steamers and put them on other routes. I believe the same result will follow in this case, and that the whole of the mails will be carried by American steamers. I think they will withdraw them, for another reason; and that is, that the English have hitherto had the reputation of being the best ship-builders in the world; the consequence has been that a large amount of profit has accrued to their mechanics, because every Government desirous of purchasing steam-vessels went to them for that purpose; and they are not likely to continue running a line along side of another, which is an open advertisement to the world that the Americans surpass them in ship-building. Therefore, if Senators are willing to trust the Congress of 1854, and I for one do not feel any hesitation in doing so, this provision is altogether unnecessary. I conceive that no benefits will result from the adoption of the amendment, but, on the contrary, that it may produce serious injury.

Mr. DAWSON. I am as anxious as any Senator on this floor to maintain the controversy as to speed upon the ocean; but I confess that I have not been able to ascertain to my satisfaction the present condition of this steamboat company. I am not able to communicate the facts on this subject to others, for I do not sufficiently understand them myself. But being unwilling to do any act which might involve the character of the country in disgrace, or which might injure the company, I am willing to go as far as any man ought to go. Hence I and others who are in favor of sustaining this line have met on common ground. And what is it? It is to do precisely what the decided friends of this measure desire, with a limitation, merely placing it in the power of Congress to sustain the honor of the country in the controversy at a subsequent period. We have agreed in placing the limit at the end of the fiscal year 1854, which is the 30th of June, 1854. Why? Because the appropriations are made annually, and the long session of Congress, 1854, will have this matter in precisely the same control which we have now, and if it is necessary, they can make all the legislation suited to the condition of the country.

As the Senator from Texas [Mr. Rusk] has stated, it is presumable that the Collins line will be able to sustain itself by that time. If it be not able to sustain itself then, the question will come up, Will this Government sustain it through all time? If it cannot sustain itself at the end of eight years, must we, as a matter of course, sustain it eight years longer? Not so. We shall have done our duty, both to the country and in extending protection to the company, by granting such aid as will continue it from this date to the end of the fiscal year in 1854. When that is provided for, I am willing to submit the question, Has there ever been more liberality shown to any company than we have extended to this? Let Congress remember that the original contract was not of the seeking of the Congress of the United States. The propositions were presented to us, and the terms of the contract, and we accepted them. Now, when it appears that the contract is likely to be ruinous to the company, we, in our magnanimity and liberality, afford them a shield and sufficient protection, when we make this increased compensation, and give them a notice, two years in advance, of the extent of our liberality. Is it not liberal, and fair, and honorable, and just, and will anybody who is in favor of this measure of limitation, say that the proposition is not liberal and honorable? I am as liberal as any Senator ought to be in this matter; I am anxious to sustain this line; and to do it on a principle by which I can vindicate my course in my own judgment, and whenever the question is presented to me. Why, then, do you desire to force those who are already with you on this subject, into a greater extension of the time than the circumstances of the case require? I do not desire to detain the Senate. I am anxious for the adoption of this amendment, and I want to do it on a principle which will be satisfactory to me. I believe the adoption of this amendment will enable me to vote for the amendment adopted in committee, as well as other friends of this measure. I think it should be adopted, unless the friends of this measure desire to force us into the adoption of their own views.

Mr. HALE. I want simply to say, that if Senators will look into the proviso at the end of the section on the tenth page, they will see that this thing is entirely in the power of Congress now. It is:

"Provided, That it shall be in the power of Congress, at any time after the 31st day of December 1854, to terminate the arrangement for any additional allowance herein provided for, after giving six months' notice."

This amendment of the Senator from Tennessee seems to be based upon the assumption that the next Congress will not be as wise as this one. Sir, it is probable that some of the judicious members of the present Congress will not be here. [Laughter.] But we ought to have generous confidence sufficient to believe that the people know enough to send men who know as much as we do; and if we leave the next Congress entirely untrammelled, we shall have done all that we can be reasonably expected to do, and will have done much better than we should do by tying up the hands of our successors. It is with this generous confidence I have already expressed that the people will do their best to send as good

men to Congress as those who are to go out, that I am willing to leave it in their hands—that it should be entirely in their power to do as they see fit.

Mr. BUTLER. I rise for the purpose of renewing the motion to adjourn, and I do so with a fair appeal to gentlemen who have offered this amendment. I see clearly that the full import of that amendment is not understood by all. The Senator from Tennessee may understand it, and so may other gentleman; but how far it may affect this bill I do not know. I see already that it has induced debate, and is likely to induce still further debate.

I will make another remark before I sit down, and that is, that the Senator from Tennessee cannot by this amendment control the future action of Congress on this subject. I understood the Senator to say that he voted for this amendment with the view of indemnifying this company for the losses they had sustained; but that he does not now legislate with a view to afford them any future guarantees. If we undertake to legislate upon this subject with the view of indemnifying them for the past, at the time that the Senator proposes to terminate this contract, an appeal will be made to the liberality and magnanimity of Congress; and if we have any money to dispose of, and if this matter is magnified into a matter of sufficient importance to demand a share of the public money beyond all other objects, there is no doubt that it will obtain it. I think that gentlemen seem to be rather impatient to get through with this subject. I move that the Senate adjourn.

The question was taken by a division, and there were—ayes 19, noes 19.

So the Senate refused to adjourn.

Several SENATORS. The question on the amendment.

Mr. DAWSON. I ask for the yeas and nays on the amendment.

Mr. RUSK. I am sure the Senator from Georgia does not want to embarrass this question, and thereby give the Cunard line an advantage, which will keep them constantly running against this Collins line. Two years is a very short time to test this matter. Suppose the Senator from Tennessee should make his amendment the same, in point of time, which is contained in the proviso which he proposes to strike out, and let it run to the end of the year 1854.

Mr. DAWSON. I do not see how it is to embarrass the company, or how it is to give any advantage to the Cunard line, when we extend protection to the Collins line to the last of June, 1854, during the long session of Congress. Certainly it is within the power of Congress to legislate then, as circumstances may require.

Mr. RUSK. I will say nothing more.

Mr. DAWSON. The limit to the contract, imposed by the first amendment, is from and after the first day of January, 1855, or the last day of December, 1854, on giving six months' notice. Congress has to give that notice. Notice must be given after that period, and that would extend the contract into another year, nearly to 1856.

Several SENATORS. That is incorrect.

Mr. DAWSON. Certainly I am right.

Mr. BADGER. No, you are not.

Mr. DAWSON. Certainly, I am right. According to the amendment adopted in committee, notice is to be given after the last day of December, 1854. The notice is not to be given prior to that time.

Mr. BADGER. Certainly, it may.

Mr. DAWSON. Not at all. We have adopted the amendment with the understanding that Congress shall have the power to reduce it down, and legislate in such manner as the position of affairs at that day may require.

Mr. PRATT. I would suggest that the amendment be modified by inserting 31st of December, 1854, instead of 30th of June.

Mr. DAWSON. I have no objection, if the mover of the amendment, the Senator from Tennessee, [Mr. BELL,] will consent to the modification.

Mr. PRATT. Insert 31st December instead of 30th June, and I for one will vote for it.

Mr. BELL. I supposed, that by a proper construction of the amendment adopted in Committee of the Whole, six months' notice was to be given after the end of the year 1854.

Mr. BADGER. Oh, no; oh, no.

Mr. BELL. I certainly had that impression; and the great objection that I had was the difference between Congress now enacting that the increased compensation shall cease, and leaving it open for a future Congress to say whether they will interfere and put a stop to it. The occasion might be different; there might be appeals made which would not be likely to be made, to suffer this increased compensation to go on, if there was no express authority by which they were authorized to continue it. For myself—and I believe the Senator from Georgia concurs with me—I have no objection to putting the time at the end of December, 1854, and letting the increased compensation cease then by law; for I have made estimates, and it will be in effect, allowing about \$700,000 or \$800,000 more than this line would have received under the old contract. And according to the examination I have made of this subject, I think that line has sustained losses in consequence of want of experience, and of having to introduce original machinery into this country, for which I should be glad to make them some compensation, of having to run their boats at an immense expense—perhaps an unnecessary expense—I do not know; of having been subject to breakages of engines and shafts, the vessels being of a new class; of having to purchase dock-yards for their own use, and having to incur various other expenditures. I have no doubt that this increased allowance, until the end of the year 1854, would not more than indemnify them for the losses sustained, or what they might have saved, with their present experience. As the Senator from Georgia says he is willing to agree to the modification of my amendment, I will change it so as to extend the time to the 31st of December, 1854, instead of the 30th of June, 1854.

The PRESIDENT. The yeas and nays having been ordered, it is not under the control of the Senator from Tennessee without the consent of the Senate.

Mr. BUTLER. I object.

Mr. UNDERWOOD. I wish the question taken on the amendment as it now stands. I do not know that I ought to interfere at all in a debate like this; but I wish to say, that these allowances for repairs—repairs to be made in all time to come, as they have been in all time past—I understand, embrace the allowances for repairs made upon the Atlantic, and they are based upon the idea that we are to have another catastrophe, like that which occurred to the Atlantic, within the two years to come.

Mr. BELL. I do not contemplate any such thing.

Mr. UNDERWOOD. I know gentlemen do not contemplate they will happen; but if they should happen, the allowance is large enough to compensate them; and if they do not happen, the difference is so much clear gain, and I want the country to see it. And yet, in the face of facts of that kind, we are proposing to enlarge the allowance for six months longer. There is a great difference between the amendment as it stands and the proposition of the Senator from Tennessee, and a vast difference in favor of his proposition in regard to the interests of the country. If his proposition is adopted, then it will require the positive action of Congress to extend the time: whereas if you let the bill stand as it is, the allowance will terminate at the end of the specified time.

Mr. BELL. I do not propose to change it in that respect.

Mr. UNDERWOOD. I am commending my friend's amendment, and I am showing the difference between it and the bill as it now stands, and that it is all-important that the principle contained in the present amendment should be adopted. I am making these remarks to show the impropriety of extending the time, and to insist upon taking the vote upon the proposition as it now stands.

Mr. MILLER. The Senator from Kentucky stated, that in the estimate of the losses, the accident which happened to the steamer Atlantic was included. He is entirely mistaken in that. That amount was covered by insurance, and does not appear in the calculation at all.

Mr. TOUCEY. I move that the Senate do now adjourn.

Mr. UNDERWOOD. I hope the gentleman



will withdraw that motion for a moment. I will renew it.

Mr. TOUCEY. I withdraw the motion.

Mr. UNDERWOOD. My complaint, from the beginning to the end of this whole matter, has been that we can never get any estimate that we can rely upon. I have stated that these estimates and these presentations of facts do not give us such specific information that we can understand the exact amount of the losses. I had supposed that the loss occasioned by the accident which happened to the Atlantic, was embraced in these general estimates for repairs. I understand that the Atlantic belongs to this line of steamers.

Mr. BADGER. So she does.

Mr. UNDERWOOD. The Senator says "so she does." Then that part of my information was correct. But I see here is a general estimate for so much for repairs; of course, my conclusion was that it embraced all the repairs for all the ships of this line; and when the Atlantic broke her shaft, I supposed that shaft was repaired out of the money expended in this manner, just as the repairs on any other vessel would have been effected. Now, I am told that the charge was covered by insurance! The estimates do not state that fact. Mr. President, you will have to lay this matter, from the beginning to the end, before the country.

Mr. BUTLER. If my friend from Kentucky will give way, I will move that the Senate adjourn.

Mr. UNDERWOOD. No, sir; I am in a minority upon this question, and I wish the majority to be held to the responsibility of the action of the Senate on this subject.

Mr. BUTLER. I supposed that the Senator from Kentucky was desirous of discussing the subject at length, and my object in desiring to move an adjournment was that the Senate might evince the usual courtesy in such cases, so that the Senator could proceed with his remarks tomorrow.

Mr. UNDERWOOD. I am obliged to the Senator from South Carolina; but I did not want to make a speech. I merely wished to reply to the Senator from New Jersey, that my complaint has been, from the beginning, that these generalities leave us entirely in the dark; that they do not explain things so that the country and members of Congress can understand them. That is what I complain of. It has not been stated, till now, that the loss, in this case, has been covered by insurance.

Mr. TOUCEY. If the Senator from Kentucky will allow me, I would remark, that I did not give way, when I moved to adjourn, for the purpose of enabling the Senator to make a speech, but to make a mere remark to the Senator from New Jersey.

Mr. UNDERWOOD. When the gentleman gave me the floor, surely I did not understand him that it was with the mere view of allowing me to move an adjournment. The Senator had already made that motion, and I asked him to withdraw it to allow me an opportunity of answering the remark of the Senator from New Jersey. But, sir, as I have already said, I see that I am in the minority, and I will not trouble the Senate with remarks that do not seem to be desired, or agreeable. I will merely state that we have not had the facts all before us as they are coming out now. I now fulfill my promise to the Senator from Connecticut, and renew the motion to adjourn.

A division being called for on the motion, there were—ayes 19, noes 17.

So the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, May 27, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the consideration of Senate bill No. 3, granting the right of way to the State of Missouri and a portion of the public lands to aid in the construction of certain railroads in said State.

Mr. FULLER, of Maine. Before proceeding to the special order, I earnestly beg the indulgence of the House to allow me to report from the Committee on Commerce a bill authorizing the issuing of a register to a British vessel which was sold, bought in and repaired by the owner. She is

now lying at her wharf, and cannot repair to sea for the want of a register.

There being no objection, the bill was introduced and read by its title a first and second time, viz: "A bill to authorize the issuing of a register to the schooner Caroline, of Barnstable."

The bill was then ordered to be engrossed for a third reading, and being engrossed, was read the third time and passed.

Mr. HENN, from the Committee on Engrossed Bills, reported as correctly enrolled, Senate bill No. 55, entitled "An act to relinquish to the State of Iowa the lands reserved for salt springs therein;" Senate bill No. 333, entitled "An act to grant to certain settlers on the Menomonee purchase, north of Fox river, in the State of Wisconsin, the right of preëmption;" and they severally received the signature of the Speaker.

On motion by Mr. LANDRY, by unanimous consent,

Ordered, That the petition of citizens of Texas and New Orleans, ship-masters and ship-owners, asking for the establishment of a light-house on Ship Island shoal, in Louisiana, be withdrawn from the files of the House, and referred to the Committee on Commerce.

On motion by Mr. SEYMOUR, by unanimous consent,

Ordered, That the Committee on Commerce be discharged from the further consideration of the memorial of the Chamber of Commerce of the city of New York, relative to the tonnage of the vessels of France, and that the same be referred to the Committee on Foreign Affairs.

## GRANTS FOR RAILROADS IN MISSOURI.

The SPEAKER. The unfinished business of yesterday is the bill granting the right of way to the State of Missouri, and a portion of the public lands to aid in the construction of certain railroads therein. Upon ordering this bill to be engrossed and read a third time, the previous question was demanded and seconded; and the question is, Shall the main question be now put?

Mr. DEAN. Upon that question I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 83, nays 70; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, William Appleton, Bell, Bibbhausa, Bissell, Bowie, Bowne, Brenton, Briggs, Brooks, George H. Brown, Burrows, Bushy, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clark, Cobb, Cottman, Curtis, George T. Davis, John G. Davis, Doty, Duncan, Durkee, Eastman, Ficklin, Fitch, Florence, Fowler, Gamble, Gaylord, Goodrich, Gorman, Hall, Harper, Hart, Hebard, Hendricks, Henn, Thomas M. Howe, Hunter, John Johnson, J. Glancy Jones, Kurtz, Landry, Lockhart, Mace, McDonald, McNair, Miller, Henry D. Moore, John Moore, Morrison, Olds, Samuel W. Parker, Penniman, Phelps, Rantoul, Riddle, Robbins, Robinson, Sacket, Scudder, Scurry, Stanly, Frederick P. Stanton, Abraham P. Stevens, St. Martin, Stratton, Stuart, Taylor, Thurston, Townsend, Walsli, Ward, Watkins, Addison White, Alexander White, and Williams—83.

NAYS—Messrs. Allison, Averett, Babcock, David J. Bailey, Beale, Bennett, Bocoek, John H. Boyd, Bragg, Buell, Caldwell, Currier, Caskie, Chastain, Cleveland, Clingman, Daniel, Dawson, Dean, Disney, Edmundson, Faulkner, Floyd, Thomas J. D. Fuller, Giddings, Grow, Hamilton, Hascall, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jenkins, George G. King, Preston King, Letcher, Martin, Mason, McLanahan, McQueen, Meacham, Millson, Miner, Morehead, Murphy, Murray, Newton, Peaslee, Perkins, Powell, Robie, Ross, Russell, Schoonmaker, David L. Seymour, Origen S. Seymour, Skelton, Benjamin Stanton, Sutherland, Toombs, Walbridge, Wallace, Washburn, Welch, Wells, and Woodward—70.

Mr. VENABLE, when his name was called, said: Mr. Speaker, Mr. JOHNSON, of Arkansas, who is absent, has requested me to pair off with him. He would have voted for the bill, and I should have voted against it; but I have paired off with him at his request. Is it in order to move a call of the House?

The SPEAKER. It is not in order after the main question has been ordered. It is not in order even after the previous question shall have been seconded.

Mr. BOCOCK. Has a motion been made to lay the bill upon the table? If it has, and it be in order to make that motion again, after ordering the main question, I make that motion.

The SPEAKER. That motion was made yesterday, and the House refused to lay the bill upon the table. The Chair is aware that it has been the practice of the House to indulge the repetition of that motion. The present occupant of the Chair, however, has decided that unless the bill has undergone some change, or some action has been had upon it between those motions, that it is not in order.

Mr. HIBBARD. Has an amendment been offered?

The SPEAKER. No action upon the part of the House having taken place, except to order the main question to be put, it is not, regularly, in order to move again to lay the bill upon the table.

Mr. HOUSTON. May I make a suggestion to the Chair, in connection with this point? When the motion was made before to lay upon the table, and I think the record will sustain my recollection—it was upon the call for the previous question. Since that time the previous question has been seconded. Before that time, it was competent for a member to vote against laying it upon the table, with a hope that the previous question would not be seconded, but that the bill would be committed. Now the previous question has been ordered, and the whole face of the case has been changed.

Mr. STUART. What is the difference? Mr. HOUSTON. There is every difference in the world.

Mr. STUART. I do not see it.

The SPEAKER. Under the circumstances the Chair entertains the motion to lay upon the table, submitted by the gentleman from Virginia.

Mr. BOCOCK. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then put upon Mr. Bocoek's motion; and it was decided in the negative—yeas 74, nays 94; as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, Babcock, David J. Bailey, Beale, Bennett, Bocoek, Boyd, Bragg, Breckinridge, Buell, Caldwell, Caskie, Chastain, Cleveland, Clingman, Daniel, Dawson, Dean, Edmundson, Faulkner, Floyd, Thomas J. D. Fuller, Grow, Hamilton, Harper, Isham G. Harris, Hascall, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George G. King, Preston King, Letcher, Martin, Mason, McQueen, Meacham, Millson, Morehead, Murphy, Murray, Newton, Peaslee, Perkins, Powell, Price, Robie, Ross, Russell, Schoonmaker, Origen S. Seymour, Skelton, Smart, Benjamin Stanton, Alexander H. Stephens, Sutherland, Toombs, Wallace, Washburn, Welch, Wells, Wildrick, and Woodward—74.

NAYS—Messrs. Abercrombie, Willis Allen, William Appleton, Barrere, Bell, Bibbhausa, Bissell, Bowie, Bowne, Brenton, Briggs, Brooks, George H. Brown, Burrows, Busby, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clark, Cobb, Cottman, Curtis, George T. Davis, John G. Davis, Disney, Doty, Duncan, Durkee, Eastman, Edgerton, Ficklin, Fitch, Florence, Fowler, Henry M. Fuller, Gamble, Gaylord, Giddings, Gilmore, Goodrich, Gorman, Green, Grey, Hall, Hart, Hebard, Hendricks, Henn, Thomas M. Howe, Hunter, John Johnson, J. Glancy Jones, Kurtz, Landry, Lockhart, Mace, McDonald, McNair, Miller, Molony, Henry D. Moore, John Moore, Morrison, Olds, Orr, S. W. Parker, Penniman, Phelps, Rantoul, Richardson, Riddle, Robbins, Robinson, Sackett, Scudder, Scurry, Smith, Stanly, Frederick P. Stanton, Abraham P. Stevens, St. Martin, Stratton, Stuart, Taylor, Thurston, Townsend, Walbridge, Walsh, Ward, Watkins, Addison White, Alexander White, and Williams—94.

So the House refused to lay the bill upon the table.

The question recurred upon the amendment proposed by the committee, to strike out the fifth section in the bill, and insert in lieu thereof the following:

SEC. 5. And be it further enacted, That the lands hereby granted to said State, shall be disposed of by said State only in manner following, that is to say: that a quantity of land, not exceeding one hundred and twenty sections, on each road, and including within a continuous length of twenty miles of said road, may be sold; and, when the Governor of said State shall certify to the Secretary of the Interior that said twenty miles of said road is completed, then another like quantity hereby granted, may be sold, and so, from time to time, until said road is completed; and if said road be not completed within ten years, no further sales shall be made, and the lands unsold shall revert to the United States.

Mr. HARRIS, of Tennessee. Has the morning hour expired?

The SPEAKER. It has not expired.

Mr. BOCOCK. I ask the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. BRENTON. The section which was read I understand is the amendment proposed by the Committee on Public Lands. I should like to have the section read which it is proposed to strike out.

The Clerk then read the fifth section of the bill proposed to be stricken out, as follows:

"SEC. 5. And be it further enacted, That if either of the said railroads shall not be completed within ten years, the said State of Missouri shall be bound to pay to the United States the amount which may be received by said State upon the sale of any part of said lands granted to the use of such road, the title to the purchasers under said State remaining valid; and the title to the residue of said lands, granted to the use of said roads, shall reinvest in the United

States, to have and to hold the same in the same manner as if this act had not been passed."

Mr. FOWLER. If the Speaker will allow me, I desire to hear the amendment read which is proposed to be substituted for the section proposed to be stricken out.

The SPEAKER. The matter proposed to be inserted in lieu of the section just read, was read three minutes since, but if there be no objection made, it will be read again.

Mr. JOHN W. HOWE objected.

Mr. WHITE, of Alabama. Is it in order to make a suggestion in reference to the section which has just been read?

The SPEAKER. All discussion is excluded by the operation of the previous question.

Mr. WHITE. I was not aware that the previous question had been ordered.

Mr. DEAN. Has the morning hour expired?

The SPEAKER. The morning hour has not expired.

A message was received from the Senate, at the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had agreed to the amendment of the House to the bill providing for the holding of the district courts in the District of Columbia, in case of the sickness or other disability of the district judge; and also that they had passed House bill No. 266, giving the assent of Congress to the State of Missouri to impose taxes on all lands which may hereafter be sold by the United States therein, from and after the day of such sale.

The question was then taken upon the amendment, and it was decided in the affirmative—yeas 102, nays 70, as follows:

YEAS—Messrs. Abercrombie, Willis Allen, John Appleton, William Appleton, David J. Bailey, Barrere, Bell, Bennett, Bibbhaus, Bissell, Bowne, Breckinridge, Brenton, Briggs, Brooks, Burrows, Busby, Thompson Campbell, Chandler, Chapman, Clark, Cobb, Conger, Curtis, Dockery, Duncan, Durkee, Eastman, Edgerston, Evans, Ficklin, Florence, Floyd, Fowler, Henry M. Fuller, Gamble, Gaylord, Giddings, Gilmore, Goodrich, Gorman, Green, Grey, Grow, Hall, Hamilton, Hart, Haws, Hascall, Hendricks, Henn, Hunter, John Johnson, J. Glancy Jones, Geo. G. King, Kurtz, Martin, Mason, McLanahan, McMullin, McNair, Minor, Molony, Henry D. Moore, John Moore, Morehead, Murray, Olds, Orr, Pennington, Phelps, Price, Richardson, Robbins, Robinson, Schoonmaker, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Stanley, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stevens, St. Martin, Stratton, Strother, Stuart, Taylor, George W. Thompson, Thurston, Townshend, Walbridge, Walsh, Ward, Watkins, Welch, Wells, Alexander White, Wildrick, and Williams—102.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, Babcock, Beale, Bocoock, Bowie, Bragg, Buell, Caldwell, Lewis D. Campbell, Carter, Caskie, Chastain, Cleveland, Clinganau, Colcock, Cottman, Daniel, Geo. T. Davis, John G. Davis, Dawson, Dean, Doty, Edmondson, Faulkner, Thomas J. D. Fuller, Harper, Isham G. Harris, Hibbard, Hillyer, Holladay, Houston, Howard, John W. Howe, Thomas M. Howe, Thomas Y. How, Ingersoll, Jackson, Jenkins, Daniel T. Jones, Landry, Letcher, Lockhart, Mace, McDonald, McQueen, Meacham, Miller, Millson, Murphy, Newton, Samuel W. Parker, Peaslee, Powell, Rantoul, Robie, Ross, Russell, Sackett, Alexander H. Stephens, Sutherland, Toombs, Wallace, and Woodward—70.

So the amendment was agreed to.

The question recurred upon ordering the amendment to be engrossed, and the bill to a third reading.

Mr. DEAN. Has the morning hour expired?

The SPEAKER. The morning hour has expired, but we are acting under the previous question—the order of the House that the main question shall be now put. There is still one remaining question under the operation of the previous question, which the gentleman will see must be executed, and a vote be taken before the House proceed to other business.

Mr. HIBBARD demanded the yeas and nays; which were ordered.

Mr. DEAN. Is it not now in order to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is not, the previous question not having exhausted itself. The House has ordered that the main question be now put, and the Chair informs the gentleman and the House that the previous question will not be exhausted until the next vote is taken, which is upon ordering the bill to a third reading.

The question was then taken upon ordering the amendment to be engrossed and the bill to be read a third time, and it was decided in the affirmative—yeas 93, nays 76; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Barrere, Bell, Bibbhaus, Bissell, Bowie, Bowne, Brenton, Briggs,

Brooks, Burrows, Busby, Thompson Campbell, Chandler, Chapman, Clark, Cobb, Conger, Cottman, Curtis, George T. Davis, John G. Davis, Doty, Duncan, Durkee, Eastman, Edgerston, Ficklin, Fitch, Florence, Fowler, Henry M. Fuller, Gamble, Gaylord, Gilmore, Goodrich, Gorman, Green, Grey, Hall, Harper, Hart, Haws, Hascall, Hendricks, Henn, Thomas M. Howe, Hunter, John Johnson, J. Glancy Jones, Kurtz, Landry, Lockhart, Mace, Humphrey Marshall, McDonald, McNair, Miller, Molony, Henry D. Moore, John Moore, Morrison, Olds, Orr, Samuel W. Parker, Penn, Pennington, Phelps, Rantoul, Richardson, Robinson, Sackett, Seudder, Scurry, David L. Seymour, Stanley, Frederick P. Stanton, Abraham P. Stevens, St. Martin, Stratton, Strother, Stuart, Taylor, Thurston, Townshend, Walbridge, Walsh, Ward, Watkins, Welch, Alexander White, and Williams—93.

NAYS—Messrs. Aiken, Allison, Ashe, Averett, Babcock, David J. Bailey, Beale, Bennett, Bocoock, John H. Boyd, Bragg, Breckinridge, Buell, Caldwell, Carter, Caskie, Chastain, Cleveland, Clinganau, Colcock, Dawson, Dean, Dockery, Edmondson, Evans, Faulkner, Floyd, Thomas J. D. Fuller, Grow, Hamilton, Isham G. Harris, Hascall, Hibbard, Hillyer, Holladay, Houston, Howard, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George G. King, Preston King, Letcher, Martin, Mason, McLanahan, McMullin, McQueen, Meacham, Millson, Morehead, Murray, Newton, Peaslee, Perkins, Powell, Price, Robbins, Robie, Ross, Russell, Schoonmaker, Origen S. Seymour, Skelton, Benjamin Stanton, Alexander H. Stephens, Sutherland, George W. Thompson, Toombs, Wallace, Wildrick, and Woodward—76.

So the bill was ordered to be read a third time.

Mr. HALL. I move to recommit this bill to the Committee on Public Lands, and I call for the previous question.

Mr. HIBBARD. I rise to a question of order, which is, that the morning hour having expired, and the previous question having exhausted itself, it is in order to proceed to other business.

The SPEAKER. It is in order.

Mr. HIBBARD. Then I move that the House proceed to the business upon the Speaker's table.

Mr. HENN, from the Committee on Enrolled Bills, reported back as correctly enrolled, the following bill, which received the signature of the Speaker, to wit: "An act to provide for the holding of the district courts in the District of Columbia in cases of sickness or other disability of the district judge."

The question was then taken upon Mr. HIBBARD's motion, and it was agreed to.

Mr. HIBBARD. I rise to another point of order. I wish to know if the Chair entertains the motion of the gentleman from Missouri [Mr. HALL] to recommit the bill? I conceive that it is out of order to recommit the bill after it has been ordered to a third reading.

The SPEAKER. The Chair did entertain the motion to recommit the bill.

Mr. HIBBARD. Is it in order to recommit a bill after ordered to a third reading?

The SPEAKER. The Chair thinks it is in order to recommit a bill after ordering it to a third reading under Rule 120, to which he invites the attention of the gentleman: "After the commitment and report thereof to the House, or at any time before its passage a bill may be recommitment."

Mr. GROW. Is it in order to move to suspend the rules and go into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

Mr. GROW. Then I make that motion.

The question was put, and the motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR, of Connecticut, in the chair.)

The CHAIRMAN stated, as the business before the committee, the consideration of House bill No. 43, making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1853, on which the gentleman from Pennsylvania [Mr. GROW] was entitled to the floor.

Mr. GROW took the floor, and reviewed the course which has been pursued since the commencement of the session with reference to the fugitive slave law as the only one capable of producing agitation. The people of the North, he said, would observe the guarantees of their forefathers, and the law would be maintained by the majority of its inhabitants, as being consistent with the Constitution, although there might be diversity of sentiment as to its details. There was no reason, however, for maintaining its finality; nor could an act of Congress be antagonistic to the

Constitution itself. He contended that that body ought not to be engaged in reneacting the acts of a previous Congress; but should be occupied in passing laws, and permitting members to return to their homes, and if the law referred to had not vitality enough to enforce its enactments, its re-enactment would not have that effect.

[His speech will be found in the Appendix.]

Mr. GOODRICH then addressed the committee an hour, upon the subject of the fugitive slave law, maintaining that it might be modified with advantage; that it might be made more in harmony with the spirit and the letter of the Constitution. He then adverted to the action of the Whig Congressional caucus, and commented on the course of the gentleman from New York [Mr. Brooks] in connection therewith, and also upon his legislative conduct in regard to the passage of the compromise measures, to show his inconsistency.

[Mr. G.'s speech will be found in the Appendix.]

Mr. CAMPBELL, of Illinois, next obtained the floor.

Mr. GORMAN. Will the gentleman give way to a motion that the committee rise?

Mr. CAMPBELL. I will yield the floor for that purpose.

Mr. GORMAN. I move that the committee rise.

Mr. CLEVELAND. If the gentleman from Illinois does not wish to speak, there is another gentleman who would be glad to speak.

The CHAIRMAN. The Chair will be obliged to put the question unless the motion is withdrawn.

Mr. GORMAN. I cannot withdraw it, for it is half-past three o'clock.

The question was then put upon Mr. GORMAN's motion, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. SEYMOUR, of Connecticut,) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 43, making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1853, and had come to no conclusion thereon.

Mr. HARRIS, of Tennessee. I move that the House do now adjourn.

COMPENSATION OF MEMBERS OF CONGRESS.

Mr. McMULLIN. I ask the gentleman to withdraw that motion for one moment.

Mr. HARRIS. For what purpose?

Mr. McMULLIN. To enable me to introduce a bill of which previous notice has been given.

Mr. HARRIS. I withdraw the motion.

Mr. McMULLIN. I ask the unanimous consent of the House to permit me to introduce a bill, of which previous notice has been given, to fix the compensation of members of Congress at a rate not exceeding \$1,500 per annum, and mileage not exceeding ten cents per mile.

[Loud cries of "Object!"]

Mr. McMULLIN. Let the gentleman who objects stand up and show himself.

Mr. CAMPBELL, of Illinois. I object for one.

Mr. STEPHENS, of Georgia. I object, and move that the House do now adjourn.

Mr. FLORENCE. I ask the gentleman from Georgia to withdraw that motion for a moment, to allow me to withdraw some papers from the files of the House.

[Cries of "No!" "No!"]

Mr. STEPHENS. I cannot withdraw it.

The question was then taken on Mr. STEPHENS's motion, and it was agreed to.

And the House adjourned until to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ST. MARTIN: The memorial of sundry citizens of New Orleans, praying for the construction of a harbor at Mineburg, Louisiana.

By Mr. GORMAN: The resolutions of the Legislature of the State of Indiana, on the subject of donating the Government lands, in the State of Indiana, to said State.

By Mr. ASHE: The memorial of John Smith, John M. Oeko, Abraham M. How, and others, asking for the establishment of a mail route in Bladen county, North Carolina.

By Mr. PARKER, of Indiana: The petition of E. F. Donegan, Francis Sell, and 94 others, citizens of Union, Wayne, and Randolph counties, Indiana, praying for a tri-weekly mail route from Liberty, via Abington and Centerville, to Winchester.

By Mr. EASTMAN: The petition of John B. Sweat, for a mail route in Iowa county, Wisconsin.

By Mr. ROBBINS: The petition of Eve Mills, of Philadelphia, asking Congress to grant her a pension and back pay, for services rendered by her husband, Frederick Mills, of Pennsylvania, during the revolutionary war.

## IN SENATE.

FRIDAY, May 28, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. HUNTER. I move to dispense with the execution of the special order, requiring private bills to be taken up to the exclusion of all other business, with a view to take up the deficiency bill. I hope that bill will be taken up, and that we shall get through with all the amendments to-day.

Mr. BADGER. I shall not object to suspending the order for taking up the Private Calendar; but if the Senate please to suspend it, I shall then submit an application to be allowed, upon this very propitious occasion, to complete a speech on the finality of the compromise, which I commenced in the beginning of February last. [Laughter.] I shall ask the Senate to proceed to the consideration of the resolutions upon that subject.

Mr. HUNTER. When we shall have established the finality of the deficiency bill, I shall have no objection to hearing my friend from North Carolina upon the finality of the compromise.

Mr. WALKER. Being opposed to the motion, and desirous that the Senate should proceed to the consideration of private bills, I ask for the yeas and nays on the question of postponing the execution of the order.

The yeas and nays were ordered, and being taken, resulted—yeas 31, nays 13; as follows:

YEAS—Messrs. Adams, Atchison, Badger, Bell, Bright, Brodhead, Brooke, Chase, Cooper, De Saussure, Dodge of Iowa, Douglas, Fish, Geyer, Hale, Hunter, James, Jones of Iowa, King, Mangum, Mason, Miller, Rusk, Seward, Smith, Soule, Spruance, Toucey, Underwood, Wade, and Weller—31.

NAYS—Messrs. Borland, Butler, Cass, Dodge of Wisconsin, Felch, Hamlin, Mallory, Mason, Norris, Pratt, Sebastian, Sumner, Upham, and Walker—13.

So the motion was agreed to.

## MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, announcing that they had passed an act to authorize the issuing of a register to the schooner Caroline, of Barnstable; which was read a first and second time, and referred to the Committee on Commerce.

Also, "An act to change the name of the American-built vessel named the Amelia, and to grant a register to it."

## PASSES OF THE MISSISSIPPI.

The bill entitled "An act to enable the Government to deepen the passes of the Mississippi," was read a third time and passed.

## RESIGNATION OF MR. BERRIEN.

The PRESIDENT. The Chair has received from an honorable Senator from Georgia, JOHN MCPHERSON BERRIEN, a statement that he has resigned his seat in the Senate of the United States. The Chair will take occasion to say, that, having long served with that honorable Senator, it is with deep regret that he finds himself under the necessity of presenting this communication. That Senator had always shown himself upon this floor to be a gentleman of uniform courtesy. His ability all can appreciate for his services here. His usefulness to the country, the country will appreciate; and his resignation will be deeply regretted.

The letter of resignation was read, as follows:

WASHINGTON, May 28, 1852.

Sir: Be pleased to accept this as the resignation of my seat in the Senate of the United States. Having already notified the Governor of Georgia of my intention to retire from the Senate, it only remains, in closing my connection with a body with which I have been so long associated, to express to its members my respectful good wishes for their individual prosperity and happiness; and to subscribe myself, very respectfully,

Your obedient servant,

JOHN MCPHERSON BERRIEN.

To the Hon. WILLIAM R. KING,

President pro tem. Senate of the United States.

Mr. BUTLER. As the subject is up, perhaps I should announce that a vacancy on the Judiciary Committee is caused by the resignation of the Sen-

ator from Georgia. I desire to ask that a member may be appointed to fill the place of that gentleman. In doing so, I take occasion to say, that he has been a most valuable member upon that committee. He was my counsellor; and upon all important questions, particularly those of a constitutional character, I resorted to Judge BERRIEN with more confidence, perhaps, than to any other member associated with me on that committee—meaning no disparagement to the others—but because he had been longer on the committee, and was more familiar with the subjects before it. And I can only announce, while asking that his place may be filled with another, that I very much regret his departure. I move that the vacancy be filled by the President of the Senate.

The PRESIDENT. It requires unanimous consent, as the rule prescribes that all committees shall be elected by ballot.

Mr. BADGER. I imagine there can be no objection to that.

Mr. SEWARD. Let it be so.

No objection was made.

## THE DEFICIENCY BILL.

The Senate resumed the consideration of the bill from the House of Representatives, entitled "An act to supply deficiencies in appropriations for the service of the fiscal year ending 30th of June, 1852," the question pending being upon the motion of Mr. BELL to amend the amendment, adopted as in Committee of the Whole, providing for additional compensation to the Collins line of steamers, by striking out of it the proviso:—

"Provided, That it shall be in the power of Congress, at any time after the 31st day of December, 1854, to terminate the arrangement for any additional allowance herein provided for, upon giving six months' notice;"

And inserting in lieu of it the following:

"Provided, That after the 30th day of June, 1854, the rate of compensation to said line of steamers shall not exceed \$19,250, per trip, unless Congress in the mean time shall otherwise provide."

Mr. DAWSON. Was there any objection to inserting the "31st December," in place of the "30th June," in the amendment of the Senator from Tennessee, to the amendment?

The PRESIDENT. The Senator from Kentucky [Mr. UNDERWOOD] objected. He wants the question taken on the amendment as it is.

Mr. RUSK. I do not desire to consume the time of the Senate, but if this amendment be adopted, I shall regard it a defeat of the measure altogether. Everybody who has paid any attention to this matter knows that from the day the Collins line of steamers commenced operations, every effort which capital and ingenuity could make, has been made for the purpose of driving them off the line, and appropriating to the British Government the monopoly of the line from Liverpool to New York. This has extended throughout the whole length of time. The Cunard line refused even in the second year, to alternate with the Collins line. They refused every amicable proposition which would give each party a fair opportunity for the passage and the freight to be divided between them. Well, sir, what will be the result of the adoption of this amendment? It will be simply to say, in language as plain as can be used to the Cunard line, "Redouble your exertions; these men have but a year or two to live: Congress will be delayed—if any aid is given afterwards to put them on an equality with you—by a six months' investigation of the subject." It would be inviting them to make every effort to render this an unprofitable business to the Collins line, and, at the end of the year, drive it off, and assume the monopoly for their own line. That would be the effect of the adoption of this amendment to the amendment.

Several SENATORS. Question!

Mr. DAWSON. Senators are very desirous to take the question immediately. So am I. If I were under the same conviction that my friend from Texas is, I should be controlled by the same course; but I cannot see how this would jeopard in the least the interests of this company. I consider the proposition which is now before us as an extremely different one—one well calculated to sustain the pride and honor of the nation, otherwise I would not sustain it. I think the passage of the amendment to the bill very much depends upon the adoption of this particular amendment to it. The amendment to the amendment is one which extends the time until the 30th of June,

1854—two years—and then places it within the power of Congress to legislate upon the subject. Are we distrustful of the future Congress, which may meet, and have this subject under consideration? Do we believe that they would change the action of this Congress? If we do, it is a right that belongs to them, and we ought not, by a compact, to bind them in such a way as to prevent the exercise of that right. I have gone to that extent, believing that there will be developments in relation to this line of steamers by that time which will inform us much better upon the state and condition of the company than we are informed now. I go for a limitation, because I have not ascertained the facts satisfactorily to induce me to aid in making this permanent arrangement. I am willing to extend it for a time. There is no man, I repeat, more anxious to sustain this line than I am; but I am unwilling to tie my hands for years to come. I am willing to be tied for two years, and that is the extent to which I am willing to go.

Mr. CASS. I shall vote for the amendment to the amendment, though I should have preferred to terminate the contract on the 1st of January, 1854, and have left the whole matter then to Congress, which I yet think would be the better course.

Mr. DAWSON. This is still more liberal to the company.

Mr. CASS. I shall vote for this, although I should have preferred the other.

The question being taken on the amendment to the amendment, resulted—yeas 20, nays 22; as follows:

YEAS—Messrs. Adams, Bell, Borland, Brodhead, Butler, Cass, Chase, Dawson, De Saussure, Dodge of Wisconsin, Hunter, King, Mallory, Mason, Norris, Sebastian, Underwood, Wade, Walker, and Weller—20.

NAYS—Messrs. Badger, Bright, Cooper, Davis, Fish, Hale, Houston, James, Jones of Iowa, Mangum, Miller, Pearce, Pratt, Rusk, Seward, Shields, Smith, Soule, Spruance, Stockton, Toucey, and Upham—22.

So the amendment to the amendment was rejected.

Mr. DAWSON. I now renew the amendment of the Senator from Tennessee, substituting the 31st day of December in place of the 30th day of June, so as to make the limitation of time run to the end of the year.

Mr. RUSK. The only difference that that will make will be, that if Congress choose to continue the extra allowance after the 30th of December, 1854, it must be at the end of an interminable debate. If they choose to discontinue it, as the amendment now stands, they have the power to do it immediately afterwards, by giving six months' notice. You make no mail contract anywhere, in which you do not give six months' notice of a discontinuance. It is nothing but a matter of strict justice; and so far as the power of Congress over the subject is concerned, they have the power, as the amendment now stands, to discontinue the additional allowance by giving six months' notice.

Mr. DAWSON. My amendment is to strike out the proviso as it stands in the amendment made in Committee of the Whole, and insert the following:

"Provided, That after the 31st day of December, 1854, the rate of compensation to said line of steamers shall not exceed \$19,250 per trip, unless Congress in the mean time shall otherwise provide."

It is the amendment offered by the Senator from Tennessee that has just been voted down, with the exception that the time is extended six months.

Mr. RUSK. I submit whether that is in order? The Senate has just refused to strike out the proviso which it is proposed in the amendment to the amendment to strike out.

The PRESIDENT. Certainly, it is in order. It makes a change in the character of the proviso offered by the Senator from Tennessee, extending the limitation of time from June 30 to December 31, 1854.

Mr. DAWSON. I ask the yeas and nays on that amendment.

The yeas and nays were ordered, and being taken, resulted—yeas 18, nays 23; as follows:

YEAS—Messrs. Adams, Bell, Borland, Brodhead, Cass, Chase, Dawson, De Saussure, Dodge of Wisconsin, Hunter, King, Mason, Pratt, Sebastian, Underwood, Wade, Walker, and Weller—18.

NAYS—Messrs. Badger, Bright, Cooper, Davis, Fish, Hale, Hamlin, Houston, James, Jones of Iowa, Mangum, Miller, Norris, Pearce, Rusk, Seward, Shields, Smith, Soule, Spruance, Stockton, Toucey, and Upham—23.



So the amendment to the amendment was rejected.

Mr. BORLAND. I have an amendment to offer, in the form of a proviso, to the amendment. It is as follows:

*Provided, That the contract for the transportation of the said mail be and is hereby transferred from the Navy to the Post Office Department, and that the appropriations to be made to defray the expenses of said contract be paid directly out of the Treasury, and shall not be charged over to appropriations for the Navy.*

I desire simply to say that this is the substance of the same amendment which was offered in Committee of the Whole by the Senator from Florida, [Mr. MALLORY.] It is intended to give what I consider the true character to this line of steamships, of their connection with the Government, and to put them upon their proper footing. It is to put the character of the service which they render upon its true footing, and to pay for it, as I am prepared to pay for all other mail service directly out of the Treasury, not requiring the Post Office Department to be self-sustaining any more than requiring the War Department or the Naval Department to be self-sustaining. I think it has been very clearly shown by the arguments on both sides of the question, since it has been before the Senate, that this is a mail line, and nothing more; and when it is called a false of the naval establishment, it goes under false colors; and the public are led to believe, from the form in which we make appropriations and the manner in which we have heretofore paid them, that it is a part of the Navy; whereas it is nothing more nor less than a mail line, and should be put upon a footing in that respect with all other mail lines.

Mr. HALE. I believe it is understood by the Senate, and I cannot help thinking, that the Senator from Arkansas is trying the same game on the friends of this measure that Ezekiel Powers tried on the Virginia crows. He is constantly trying to put one rail on the top, and, by repeated encroachments, to make escape impossible; but as the Senate is now forewarned, I hope they will not be caught in the trap.

Mr. BORLAND. The proposition is clear and plain. It was discussed in committee; and I would take occasion to remind the Senator from New Hampshire that, so far from this being anything like part of a game to deceive the Senate, or the country, the committee, in voting on the proposition, was within one of a tie; and the committee was not full, by any means. The vote stood eighteen to nineteen; and now that the Senate is full, I desire to take its sense on the question, in order that it may be tested. It is no new proposition; it has been already fully discussed, and its merits are fully understood; and I think that the discussion has brought out the fact, that this proposition affords the only secure basis on which we can put the amendment. I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 15, nays 25; as follows:

YEAS—Messrs. Borland, Brodhead, Butler, Chase, Cooper, De Saussure, Dodge of Wisconsin, Fish, Hunter, Mason, Stockton, Underwood, Wade, Walker, and Weller—15.

NAYS—Messrs. Atchison, Badger, Bell, Bradbury, Bright, Cass, Davis, Dawson, Hale, Hamlin, Houston, James, Jones of Iowa, Mangum, Miller, Norris, Pearce, Pratt, Rusk, Seward, Shields, Smith, Soule, Spruance, and Upham—25.

So the amendment was rejected.

Mr. CHASE. It will be remembered that when the amendment offered by myself was under consideration on a previous occasion, it was objected to by the Senator from Maryland, because it did not provide for the transportation of the mails in American steamships; and when, in order to obviate that objection, I proposed to insert the word "American," in the amendment, he objected to it, inasmuch as the yeas and nays had been ordered. I then said that if that amendment was rejected, I would again offer it, modified as proposed, to avoid the objection, which it was said would induce some Senators to vote against it. I therefore offer this amendment now:

*And provided further, That the proprietors of said line of steamers shall consent to such a modification of the existing contract that the Postmaster General may advertise for and accept proposals for carrying the mails in suitable American steamships, of not less than two thousand tons burden, between the United States and Great Britain, from and after the said 31st day of December, 1854, when said contract shall cease to be obligatory; and the Postmaster General, in case said modification shall be agreed to, shall*

advertise for such proposals, which shall be submitted to Congress at the next session.

This amendment avoids the objections made by the Senator from Michigan [Mr. Cass] to the proposition of the Senator from Tennessee, [Mr. Bell.] It proposes absolutely to terminate the contract at the time specified, and then to leave the ocean transportation of the mails open to competition. I ask for the yeas and nays.

The yeas and nays were ordered, and, being taken, resulted—yeas 16, nays 28; as follows:

YEAS—Messrs. Adams, Borland, Brodhead, Butler, Chase, De Saussure, Dodge of Wisconsin, Hunter, Mason, Sebastian, Sumner, Underwood, Wade, Walker, Weller, and Whitcomb—16.

NAYS—Messrs. Atchison, Badger, Bell, Bright, Cass, Cooper, Davis, Dawson, Fish, Hale, Hamlin, Houston, James, Jones of Iowa, Mangum, Miller, Norris, Pearce, Pratt, Rusk, Seward, Shields, Smith, Soule, Spruance, Stockton, Toucey, and Upham—28.

So the amendment was not agreed to.

The PRESIDING OFFICER, (Mr. MANGUM.)

The question now is on concurring in the amendment adopted by the Senate as in Committee of the Whole.

Mr. BORLAND. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FELCH. I wish to say that I agreed with the Senator from California, [Mr. GWIN], who is now absent, to pair off with him in case the question should be taken upon this amendment prior to his return, he being in favor of the amendment and I entirely opposed to it.

The question was then taken by yeas and nays, and resulted—yeas 27, nays 19; as follows:

YEAS—Messrs. Badger, Bright, Cass, Cooper, Davis, Dawson, Fish, Hale, Hamlin, Houston, James, Jones of Iowa, Mangum, Miller, Norris, Pearce, Pratt, Rusk, Seward, Shields, Smith, Soule, Spruance, Stockton, Sumner, Toucey, and Upham—27.

NAYS—Messrs. Adams, Bell, Borland, Brodhead, Butler, Chase, Clemens, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Hunter, Mason, Sebastian, Underwood, Wade, Walker, Weller, and Whitcomb—19.

So the amendment was concurred in.

The next amendment, made as in Committee of the Whole, was to insert the following clause:

*"For defraying the expenses of the supreme, circuit, and district courts of the United States, including the District of Columbia; also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures incurred in the fiscal year ending June thirtieth, eighteen hundred and fifty-two, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the apprehension and safe-keeping of prisoners, in addition to former appropriations, \$90,000: Provided, That no officer of the United States, who is in attendance upon any court of the United States in the discharge of the duties of said office, shall receive any pay or compensation for his attendance as a witness on behalf of the Government at the same time that he receives compensation as such officer."*

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was to insert the following clause:

*"To enable the Secretary of the Interior to pay to the clerks employed in the Census Office on extra duty, at the rate of \$100 for full service, according to the office roll, the sum of \$10,500."*

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was to insert the following clause:

*"For determining, running, and marking the northern boundary of the State of Iowa, on the parallel of 43° 30' north latitude, in addition to the appropriation heretofore made for the same object, \$15,000."*

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was to insert the following clause:

*"For the reconstruction or repairs of the steamer Bibb, used in the survey of the Nantucket Shoals, \$18,000."*

The amendment was concurred in.

The PRESIDING OFFICER. The next amendment is:

*"For establishing a depot of coal for naval purposes at Key West, in the State of Florida, \$20,000."*

Mr. HUNTER. There are three amendments there which do not seem to me properly to belong to a deficiency bill; and the other day I moved to except them, so that the question might be taken on each separately. The amendment which has just been read is one of the three, and the other two immediately follow it, and relate, the first of them, to a site for a custom-house at Bangor, in Maine, and the second to the site of a custom-house at Bath, in the same State. The amendment on which the question is now to be taken, I believe, was offered by the Senator from Florida, [Mr. MALLORY,] and the only objection which I have

to it is, that it does not seem properly to belong to a deficiency bill. It seems to me, that it is an appropriation of that character which should be included in the regular appropriation bill.

Mr. MALLORY. I will state that, for six or eight years, the United States has maintained a coal depot at this island. This has been done at a considerable expense, by hiring, from time to time, lands upon the island upon which to deposit coal. This proposition has the sanction of the Navy Department. It is to establish a permanent site, instead of a temporary one. In this light, I regard it as a deficiency, because for eight years past the expense incurred has been large, in order to procure a place for depositing the coal. The proposition is now to purchase the site, for the purpose of erecting sheds by the Government itself.

The question was taken, and the amendment was concurred in.

The next amendment was:

*"For the purchase of a site on which to erect a custom-house in Bangor Maine, \$15,000."*

Mr. HUNTER. I would say, in relation to this amendment, that it comes from the Committee on Commerce, as well as the following, for the custom-house at Bath, and I did not oppose them, because I supposed at the time that they were deficiencies. I find, however, that one of them was not a deficiency, because the original appropriation was for a site and building. There is some doubt about the other. The Senator from Maine will explain the matter. I was anxious that nothing should be placed in this bill except to supply deficiencies, because I know that others will be offered if these are permitted to remain.

Mr. HAMLIN. I am very clear that both of these matters are appropriate to this bill. The Senator from Virginia, as I understand, admits that the first is clearly a deficiency. But it is of little consequence whether he admits it or not, for I think that the statement which I will make, will satisfy him, as I have examined the matter, I believe, a little more closely than he has. An appropriation was made for the erection of a custom-house at Bangor, and the cost was limited to a specified sum. Out of that sum the Department has taken \$15,000 to purchase a site. We have now sent to the Committee on Commerce a recommendation to supply the \$15,000, which was taken for the purchase of the site.

In relation to the other case, there is a slight difference. An appropriation was made for the erection of a custom-house at Bath, in Maine, or to repair the old one; and for that purpose \$25,000 was appropriated. Upon a careful examination of the matter, it has been thought best to tear down the old custom-house and build a new one, and they ask \$11,000 to be appropriated for that purpose. I think it is as much a deficiency as the appropriation which was made for the Collins line, or any other matter. I hope the Senate will allow it to remain in the bill.

Mr. HUNTER. I hope the Senator from Maine will read the law which applies to this case.

Mr. HAMLIN. I have stated how the matter stands precisely. In one case the appropriation was limited to the building, and the sum included the \$15,000 which has been applied for the purchase of the site. In the other case, the sum was limited to \$25,000, including the purchase of the site; but still the Department, after sending an agent there to make the necessary inquiries, has come to the conclusion that the interest of the Government will be promoted by putting that sum into a new custom-house rather than into the repairs of an old one. They therefore recommend this appropriation of \$11,000 to supply what will be needed to complete the building.

Mr. HUNTER. If this is put into the deficiency bill, other applications will be made for custom-houses. I think they should come up in the general appropriation bill. It is certainly not a deficiency. The former appropriation was designed to include the purchase of the site as well as the building.

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) The question will be taken on the amendments separately. The first is in relation to the custom-house at Bangor.

Mr. HAMLIN. I will state one other fact. If the appropriation is now made the money can be usefully expended this summer; if not the work will have to go over to another year.

Mr. DAVIS. I rise to express a hope that

that amendment will prevail. If the Senate will examine the question, I think they will see the necessity of the appropriation. It seems to me better that the work should be done now.

Mr. BRADBURY. I have a word to say with regard to the custom-house at Bath.

The PRESIDING OFFICER. That amendment is not now under consideration.

Mr. BRADBURY. I merely wish to say that it is the smallest appropriation, I believe, that has ever been asked for a custom-house anywhere, and I believe this addition will be all that will be required.

The amendment was concurred in.

The PRESIDING OFFICER. The next amendment is:

"For the purchase of a site on which to erect a custom-house at Bath, Maine, \$11,000."

Mr. CLEMENS. I wish to say in relation to that amendment, that I think it is out of place. If, however, the Senate choose to keep it there, I can have no objection; but I give notice that I will offer another amendment of the same sort, providing for a custom-house at Mobile. I do not wish to offer it to this bill, because I do not think that either of them have any business there. I hope the amendment will not be concurred in.

The amendment was concurred in.

The PRESIDING OFFICER. The next amendment is:

"For arrears of contingent expenses (occasioned in part by insufficient estimates in preceding years, and by a larger quantity of blank books and stationery, office cases, and other furniture made necessary by the late act reducing the rates of postage, and by the great progressive increase of business) in the Post Office Department, \$7,500."

Mr. HALE. I hope, that before the question is taken on that amendment, the Senate will strike out what is in parentheses. I hate this thing of putting arguments into laws.

The words proposed to be stricken out are as follows:

"Occasioned in part by insufficient estimates in preceding years, and by a larger quantity of blank books and stationery, office cases, and other furniture made necessary by the late act reducing the rates of postage, and by the great progressive increase of business."

The amendment as proposed to be amended would then read as follows:

"For arrears of contingent expenses in the Post Office Department, \$7,500."

Mr. HALE. I do not object to the appropriation itself. My proposition to amend leaves the appropriation just as it is. It does not affect it at all, but I think there is no necessity for putting arguments into laws.

The motion to strike out was agreed to.

The amendment as amended was then concurred in.

The next amendment was:

"For compensation to temporary clerks employed conditionally to bring up arrears of business in the dead letter office, \$1,002 67."

The amendment was concurred in.

The next amendment, made as in Committee of the Whole, was to insert the following clause:

"For fuel for the General Post Office building, from the 20th of February, 1852, to the end of the season, \$750."

The amendment was concurred in.

The following amendments, agreed to by the Senate as in Committee of the Whole, were severally concurred in—the question being taken upon each separately:

"For the payment of the salaries of the special agents of the Post Office Department, to the end of the fiscal year ending the 30th of June, 1852, \$11,500."

"For payment to the following tribes of Indians of the undermentioned sums due them, retained by the late sub-Indian agent, William H. Bruce, the same to be reimbursed to the United States when recovered from said sub-agent or his sureties, viz:

"To Menomonees, \$9,460 27.  
"To Chippewas, Menomonees, Winnebagoes, and New York Indians, \$531 58.  
"To Six Nations of New York, (Stockbridge), \$22 50.  
"To Stockbridge, \$1,800."

"For expenses of treaty with the Mississippi and St. Peter's Sioux, for the extinguishment of their title to lands in Minnesota Territory, being in addition to the appropriation for the same object, made 30th September, 1850, \$4,272 38."

"For expenses of treating with the Indians and Half-breeds, for the extinguishment of the title to their lands on the Red river of the north, in the Territory of Minnesota, being in addition to the appropriation for the same object, made 30th September, 1850, \$901 05."

"For this sum as an advance to the Chippewa Indians of the Mississippi, under the third article of the treaty of 2d August, 1847, to be expended in opening furries for their benefit, and extending their farming facilities, \$5,000."

"For fulfilling treaties with the Winnebagoes, viz: purchase of tobacco, per second article of treaty of 1st August,

1829, and fifth article of treaty of 15th of September, 1832, \$375."

"For fulfilling treaties with Ottawas and Chippewas, viz: purchase of tobacco, per fourth article of treaty of 28th March, 1836, \$300."

"For fulfilling treaties with the Sacs and Foxes of the Mississippi, viz: purchase of tobacco, per fourth article of treaty of the 21st September, 1832, \$200."

"For fulfilling treaties with the Menomonees, viz: purchase of tobacco, per second article of treaty of 3d September, 1836, \$100."

The next amendment agreed to, as in Committee of the Whole, was to strike out the word "hereafter," and to insert the words "hereafter made," in the following clause of the third section of the bill:

"Nor shall the Executive branch of the Government [hereafter] recognize any contract hereafter made between any tribe, or part of a tribe, and any attorney or agent, for the prosecution of any claim against the Government, or under this act."

The amendment was concurred in.

The PRESIDING OFFICER. The amendments which follow, consist of several new sections to the bill. The first one is:

"SEC. 4. And be it further enacted, That no estimate or appropriation of money, in any bill making appropriations, shall authorize the payment of any increased pay, allowance, or compensation in any form whatever, beyond the amount prescribed by law, in any case, unless there shall first be a specific direction for such extra payment, designating the officers to whom such extra payment shall be made: *Provided*, That the Superintendent of the Nautical Almanac be and hereby is allowed a compensation of \$3,000 per annum."

Mr. HALE. I would like to have a division of the question on that amendment, first on the section, and then on the proviso.

The question was accordingly taken on the amendment, (excluding the proviso,) and it was concurred in.

The PRESIDING OFFICER. The question now is on striking out the proviso.

Mr. HALE. I have a word or two to say on that proviso, and I hope I may have the attention of the Senate for a moment. The proviso is this:

"*Provided*, That the Superintendent of the Nautical Almanac be and hereby is allowed a compensation of \$3,000 per annum."

I will be very brief in what I have to say about that. In 1849, in the appropriation bill, there was this clause:

"For nautical books, maps, charts, instruments, and all other expenses of the Hydrographical Office, \$58,260: *Provided*, That a competent officer of the Navy, not below the grade of a lieutenant, be charged with the duty of preparing the Nautical Almanac for publication, and that the Secretary of the Navy, when in his opinion the interest of navigation would be promoted thereby, cause any nautical works that may from time to time be published by the hydrographical office, to be sold at cost, and the proceeds arising therefrom to be placed in the Treasury of the United States."

There was an appropriation made, as follows, for the year ending June 30, 1850:

"For calculating, printing, and publishing the Nautical Almanac, including pay of the Superintendent of the same, \$6,000."

In the next appropriation bill of 1850 there was an appropriation for the same purpose of \$12,850. And in the next year there was appropriated \$19,400. So that we have already appropriated for the preparation of the Nautical Almanac \$38,250. And, by the bill which is laid on our table from the House of Representatives, it seems there is asked the further sum of \$19,400, making in all \$57,650 for preparing the Nautical Almanac.

The resolution which I laid on the table the other day has not yet been answered, but I think I am not incorrect when I say that all this expense has been incurred, not at the National Observatory, but at the observatory of Cambridge College, in Massachusetts. Now, we have a corps of officers at the National Observatory for the very purpose of doing this and similar work. The following is a list of the officers, with their several salaries:

One lieutenant, at.....	\$3,000
Eight lieutenants, at \$1,500.....	12,000
Seven professors of mathematics, at \$1,500.....	10,500
Eight passed midshipmen, at \$750.....	6,000

Making the salaries which we pay at the National Observatory.....\$31,500

In addition to that, we have appropriated for the purchase and repair of instruments annually for the last three years, \$10,000; and for maps and charts, \$8,000, making more than \$50,000 in all, which we have paid in three years for the support of a scientific corps in the National Observatory. And notwithstanding this, the very moment you want anything practical done by them, a Nautical

Almanac, or anything of the sort, instead of sending up to your seven professors of mathematics, and eight lieutenants, you detail another officer; and instead of using your National Observatory, where you have spent \$10,000 a year for books, maps, &c., you send to Massachusetts, and get it done. Now, what is your National Observatory for? What are your seven professors of mathematics for? Cannot they calculate an eclipse, and show the position of the heavenly bodies, and make every calculation which is necessary for a Nautical Almanac? For Heaven's sake, tell me what this expense is for—what is all this vast outlay in the purchase of books, maps, and charts for, if the very first moment you have some practical use for them, you pass them all by, and your eight lieutenants, your seven professors, and your eight passed midshipmen, and send off to Cambridge to get an eclipse calculated, or a Nautical Almanac made? I believe it is all wrong, totally wrong; and when the appropriation for \$19,400 comes in the general appropriation bill, I shall move to strike it out—for I cannot see the propriety of incurring all this expense when you have a National Observatory furnished at such an expense, and provided with so many lieutenants, and professors of mathematics, and have already incurred an expense of \$10,000 a year, for three years, for books, maps, &c.

Mr. BADGER. I do not mean to enter into this discussion. I find that the Senator from New Hampshire has an absolute and unappealable hostility to any connection of science with the Naval Department in any form; and, as I have had occasion to observe once before, he never fails, in season and out of season, properly or improperly, to assail that Department in all its branches, save one.

Now, as the only question before the Senate is to strike out that provision which places the Superintendent of the Nautical Almanac on the same footing, as to compensation, with the Superintendent of the National Observatory, we had better wait until we get the large amount of information which the Senate, at the instance of the Senator from New Hampshire, has called for, and which will take some little time to prepare in the Departments, before we proceed to determine that this appropriation shall be struck out of the bill. When the general appropriation bill comes up, if the gentleman intends to make war on the whole system, he can then do so; and if he can convince the Senate that it is extravagant and useless, of course the Senate will vote it down; but, in the mean time, I hope the Senate will not determine to put this highly-meritorious and highly-deserving officer on a worse footing than the Superintendent of the National Observatory.

Mr. DAVIS. I had supposed this whole matter to be, by law, entirely under the control of the Secretary of the Navy. I suppose that, if the observations are made in the Observatory at Cambridge, there is a good reason why it is done. The Observatory there is supplied with a great number of instruments, many of which are of a very superior character; and although I am not sufficiently acquainted with this subject to state positively that such is the case, I will assume that there exists a necessity for going there, provided that the operations are carried on at that place.

What is the object of making a Nautical Almanac? It is to be a work put in competition with other works of this description which are published by other Governments. It is to be a work purely scientific in its character, and is to recommend itself, if of any use at all, by its great accuracy with matters of very delicate and careful inquiry. In the first place, if the gentleman who has the superintendence of it is competent to discharge the service, the salary of \$3,000 a year is not by any means excessive for the performance of that service—not by any means. It requires no ordinary degree of talent and learning to perform that duty. I assume, in the vote I give here, that he is competent for the task, or he would not be employed on it. I believe that most of the gentlemen who have spoken on this subject are of that opinion; and I, at least, am not willing to consider him otherwise until some evidence is shown to prove it.

I confess that the work has cost more than I anticipated when we entered on it, but its usefulness renders it a subject of high importance; no one knows better than the Senator from New Jer-

sey, [Mr. STOCKTON,] on the other side of the Chamber, that a book of this description is highly useful in navigation; that it is employed extensively by foreign seamen, and is highly useful to navigators of our own country. From considerations of this kind, I have sustained the work hitherto, and shall continue to do so till I see plainly the evidence of abuses. It is the duty of the Senate to go on with what has been begun, and see that it is brought to completion; for it will be hardly worth while, after having spent so much money to drop the matter now; and to drop it, solely, on the ground that it will be too expensive.

With all due deference to the Senator from New Hampshire, [Mr. HALE,] I think that all the reasons he has urged against the appropriation are insufficient, and that it will be expedient to let the work take its course.

Mr. MALLORY. With some little knowledge of the Navy, I yield to no man on the floor of the Senate, in a desire that it should be placed on a footing commensurate with its importance, and the increasing wants of the country. I find myself, however, obliged to vote against this measure. I find myself unexpectedly concurring in my views with the Senator from New Hampshire, and I congratulate myself that I can concur with him on some points. I call on all Senators who are friends of the Navy to put themselves against allowing any officer any extra compensation in face of the fact, that we have these existing statutes against granting any extra pay.

Whether this gentleman is competent or not, is not the question. We all concede that he is competent; he is one of the most meritorious in the Navy, and perfectly competent for this or any other service. But this is not the question. In his present position he enjoys a preferred situation while he is employed upon a work which every officer in the Navy is presumed to be competent to perform. He gets a yearly stipend for his labor, and then we are here called upon to pay him \$3,000 extra. Whether that is too little or too much is not the question. We have an Observatory, and we supply it with all needed facilities in the shape of instruments, books, &c. Congress never denies for a moment any appropriation which is suitable to enable it to carry out its objects. We place officers there for the purpose of carrying out its designs, and as the Senator from New Hampshire [Mr. HALE] has stated, the very instant we require something practical, and that something in the line of their duty, which we suppose them eminently qualified to perform, they come here and ask for extra compensation. It is the system of granting extra compensation, and giving preferred situations to officers in the Navy, which more than anything else deteriorates the character of the Navy, and makes it a great eleemosynary institution.

There are officers of the Navy who are as ignorant practically of the command of a ship as any of us upon this floor. They are theoretically acquainted with what is required; but they cannot carry their knowledge into practice. This arises from the fact that we keep them in situations where they are precluded from acquiring the practice of their profession for years at a time. These are preferred situations; and the instant we require something of them which is of a practical character, they come here and ask for increased compensation.

I agree with the Senator from Massachusetts, [Mr. DAVIS,] that if we were to call upon a scientific gentleman to perform this duty, \$3,000 per annum would not be too great a compensation. But I ask, Have we not this Observatory? Do we not detail officers and keep them there for years, and do they not become experienced in their duty by devoting themselves to these particular duties, to the neglect of the ordinary duties of a naval officer? We have officers abroad, at increased salaries, to acquire this kind of practical knowledge, and instead of taking the officers of the Navy in rotation, and giving each of them an opportunity to acquire this kind of practical knowledge, we keep the identical officers in the same situations for years, and these situations give them advantages which other sea-going officers do not enjoy, and when we call upon them to do what is simply their duty, we are asked to give them an extra compensation.

Mr. CLEMENS. There are some facts con-

nected with this matter which I think ought to be known to the Senate and to the country; and whether they have any influence here or not, they will, perhaps, have some influence upon those who are more directly responsible to the people than we are here.

Under the act of the 3d of March, 1849, Lieutenant Davis applied to the Fourth Auditor of the Treasury for the sum of \$3,000 as pay for superintending the Nautical Almanac. The Fourth Auditor rejected this claim, or at least denied that he had any power to pay it. He then came to Congress, and asked for an appropriation of \$3,000 for his benefit. Upon my motion, that sum was stricken out of the general appropriation bill by this body. Then, under this act, by which the Fourth Auditor had denied his right to pay this amount, and after the rejection of the appropriation by the Senate, he authorizes the payment of this amount for two years back, to Lieutenant Davis; and in answer to the letter of the Senator from New Hampshire, [Mr. HALE,] he tells us very gravely, that while under the preceding law, although the appropriation was not in terms included, yet a subsequent act which did not, in terms, exclude its payment, he was justified in making this payment. Sir, the Journal of our proceedings here showed that it was excluded, and that by a vote of two to one of the members of this body. He came here and asked for this appropriation, and we rejected it; and yet, in the face of that rejection, the Fourth Auditor takes upon himself the responsibility of making this payment, and in defiance, too, of the action of the Senate in regard to the application. I am opposed to any further appropriation for this purpose. I was opposed to it then; and it would be a direct condemnation of our own act to insert it now, especially considering that it has been paid in defiance of our authority.

We have heard much, Mr. President, about the propriety of paying this sum, because it is to go to an accomplished officer, and an estimable gentleman. Sir, there are many accomplished officers and estimable gentlemen in the service of the United States; but their accomplishments and amiability do not justify them in putting their hands into the public Treasury. These officers, it should be remembered, owe all that they are to the Government. The Government educates them and supports them; and their services are, therefore, due to the Government.

Mr. BORLAND. There is a great deal of force and pertinence in the observations made by the Senator from Alabama; not because the amount of the salary paid to Lieutenant Davis, or to any other officer of the Navy, is too great, but on the principle that I laid down yesterday, in discussing the general character of the deficiency bill, that it is wrong in itself, and deserves, and should receive at the hands of both Houses of Congress, marked reprobation. Some measure should be adopted to enforce the discontinuance of a practice which has grown up in this Government, which, during the last two or three years, appears to be accumulating in its enormity, and which permits the Executive to thrust his hand into the public Treasury, not only without authority of law, but in direct contravention and contempt of the law. Three thousand dollars constitute but a small sum, and the disposal of them does not affect, by its amount, the character of the Government, or the interests of the Government; but if it is paid away, not merely without authority of law, but as the Senator from Alabama [Mr. CLEMENS] has shown, in spite of the law, and after the refusal by a two-thirds vote of this body to sanction it, it becomes the establishment of a principle, and the recognition of a practice which would justify the Executive in taking every dollar out of the Treasury, and paying it to whomsoever he pleases.

We see what has resulted from permitting such a policy, and we can see what it will lead to. We see that the expenses of the Government are going on, increasing in a ratio which must, in a few years, be ruinous to the Government itself. It has gone on increasing from the beginning of this Government, up to the present date, at the rate of twenty-two hundred per cent., from an expenditure of one million nine hundred thousand dollars per annum to forty-three millions last year; and, as we have good reason to believe, it will this year reach fifty-two millions. It has increased at the

rate of one hundred per cent. for twelve years past; and calculating, on this data, our expenditure in 1864, twelve years hence, it will amount to a hundred and four millions a year; and carrying the calculation up to 1876, just a hundred years from the birth of this Government, we shall find that it reaches two hundred and eight millions. How can this Government exist under such an expenditure as that? We find that millions on millions of dollars are expended to swell this amount without authority; not only without authority of law, but when the Executive comes here, and asks for an appropriation of money for a certain purpose, and we tell him by a decided vote that he shall not have it, he expends it contrary to law; he violates the law, and treats the action of Congress—the only legitimate and constitutional keeper of the public purse—with contempt. It remains to be seen whether Congress, this Democratic Congress—always preaching economy in the Administration, and the propriety and necessity of compelling the Administration to pursue a constitutional and legitimate course, will sanction such proceedings on the part of the Executive, and then go to the country and tell the people, to turn this extravagant Whig Administration out of office.

Sir, whether Lieutenant Davis is entitled, from his accomplishments, to receive one, two, or ten thousand dollars a year, has nothing to do with the merits of this question. The real question is, whether the Executive shall be permitted, not only without the authority of law, but in violation of the law, to thrust his hand into the Treasury, and carry out measures in any of the Departments, at his own will?

Mr. BADGER. The Senator from Arkansas reminds me of a story which I once heard related in a legislative body somewhat different from this. A certain preacher delivered a discourse one Sunday, from the text "The conies are a feeble folk;" and on the next Sunday he delivered precisely the same sermon from the text "There were giants in the earth in those days." [Laughter.] And the honorable Senator, upon this little appropriation, this question of striking out this proviso allowing to an accomplished officer a compensation of \$3,000 for very peculiar services, rises and repeats, in substance, the denunciations which he uttered on the enormous extravagance of this Government, and this Administration, to which the Senate listened with so much pleasure yesterday. Now, I have no objection, at the proper time and in the proper place, to enter upon the consideration of the question of that extravagance—

Mr. DAWSON. Now; now.

Mr. BADGER. And I think it would be no difficult matter to show again, as has been shown conclusively by my friend, the Senator from Maryland, [Mr. PRANCE,] that the charge wants one essential and proper qualification of a good charge—namely, a sound foundation. But I will not enter into that. I hope we shall be allowed to pass upon this little appropriation without entering into a general discussion about the extravagance of the Administration, although there may be gentlemen here who are delegates to the Convention about to assemble at Baltimore, listening to this discussion, and perhaps being edified in view of the platform which they are about to make in regard to the candidates for the Presidency.

With regard to this particular appropriation, the Senator from Alabama was mistaken if he supposed that he brought forward anything new in relation to the facts. They were all brought forward the other day by the Senator from New Hampshire, [Mr. HALE,] who stated them with clearness, and urged them with force; and if they were not well and distinctly heard by the Senate, I will venture to say that it was not because he spoke in so low a tone that he could not be heard. [Laughter.] Indeed, so far as that is concerned, I question whether a tolerably attentive auditory outside of these walls would not have been able to collect the general tenor of his remarks. I took occasion then to say what I will not now repeat. This matter was considered in committee. I took occasion then to state, and I repeat the substance of it now, that there was no payment made to Mr. Davis, either in violation of law or without the sanction of law; but that the payments were justified by the interpretation put upon the act. And the interpretation was a just and sensible interpretation; and I would hazard what little of legal reputation I have attained in, (I am sorry to



say,) something considerable beyond thirty years' practice of my profession; if I could have that question submitted, not to a Senate of politicians on the eve of a presidential election, but to a judicial tribunal, to make it manifest beyond the fear of successful contradiction or denial. But I will not go into that.

The question is not, as the Senator from Arkansas seems to suppose, whether we shall give our sanction to what has been done in the Executive Department. Not at all, sir; not at all. This proviso is to authorize by act of Congress the payment of this officer that sum of money. It is, that it shall be legitimately paid according to the interpretation of every gentleman; that if there be doubts in the minds of Senators in regard to the Constitution put upon the old law, these doubts may be removed; and I trust that this worthy and excellent officer will not be made to suffer on account of the supposed extravagance of the Administration. Visit their delinquencies, if delinquencies they are, upon themselves and not upon a gentleman who is in every way entitled to compensation, and on whom this compensation would be well and properly bestowed.

Mr. President, the honorable gentleman from Arkansas talks about the Executive taking money out of the Treasury and expending it at his own will. Sir, I think the Senator from Arkansas will find himself utterly unable to verify the proposition that in one single instance the Administration has expended one dollar which has not been appropriated by act of Congress; not one dollar. In this case there was an undoubted appropriation; and it is not pretended that the appropriation was exceeded. Six thousand dollars were appropriated for the expenses of a Nautical Almanac, including the pay of a superintendent. The only question is, whether a correct interpretation was put upon that law, as to the right to allow a certain amount of compensation to the superintendent; whether, because he was an officer of the Navy the Secretary was precluded from paying him anything more than his ordinary compensation as an officer, or whether the law authorizes this payment. That was the question.

The money was no doubt appropriated, not only to defray the general expenses of the Nautical Almanac, but appropriated for the payment of the Superintendent. That is clear; and the only question is, whether that interpretation is right, by which it was supposed that he was to be paid as a superintendent distinct from, and beyond the ordinary compensation which he was to receive as an officer, when in the discharge of the usual duties assigned to him. That is the whole question. Now, whether the interpretation was right or wrong, it is not a case of seizing the money from the Treasury. It was an interpretation put upon the law by intelligent men; an interpretation sanctioned by the head of the Navy Department, of whom I will take occasion to say that there is not a gentleman on this floor who is a better lawyer than he is, nor is there anywhere a gentleman of higher honor, or more unimpeachable integrity, or who, in his private and public transactions, stands with hands more clean and untouched, either by the charge or the suspicion of delinquency. Like all other men, however, he may have erred in judgment. But if error in judgment constituted crime, God help us all here! for we should all be criminals of the worst die if our past transactions should be looked into, and errors of the head should be charged, not as errors of the head, but as errors of the heart.

The Senator from Alabama [Mr. CLEMENS] said this money was paid, not only without the authority of law, but in direct contradiction to a vote of the Senate, refusing to allow the payment. Well, how does the fact of the refusal to allow the payment, show that the money was paid contrary to law? That brings us back to the question as to what was the meaning of the first law. If the first law authorized the payment, there was no necessity for another for that purpose. There was no declaration of the Senate, or the House of Representatives as to the interpretation of the law. That was left to the Executive Departments. There it was; and if that law warranted the payment, it did not cease to warrant it because the Senate refused to put it in or strike out a particular sum in the general appropriation bill of 1850.

But again, Mr. President, I had occasion to remark, the other day, that the vote upon striking

out that amendment, or rather of not concurring in it, furnishes no criterion at all of the opinion of the Senate, by which we may judge of the abstract justice, or the propriety of this measure itself.

I had occasion to remark, the other day, that we were at the close, and in the last hours of the session; that we were warned over and over again by the Senator from Virginia, [Mr. HUNTER,] who was at the head of the Committee on Finance, that we would endanger the passage of the bill by incumbering it with amendments. And, as I stated the other day, I recollect very well that the honorable Senator from Kentucky, [Mr. CLAY,] whose severe and protracted illness we all so deeply regret, voted on that occasion with the Senator from New Hampshire to prevent the bill from being incumbered with another amendment; and voted against striking out an amendment therein, for the reason that he would vote for no other amendment which would be likely to embarrass the bill as it came from the House of Representatives. If, therefore, the Secretary of the Navy looked into the Journal of the Senate to ascertain what took place during the last hours of the session, he could have found out nothing, either because members of the Senate were opposed to allowances, or afraid to endanger the bill, or because they might think that it was unnecessary, being provided for in the original law. However these matters may be, I submit to the Senator from Arkansas not to concur in inflicting what would be a real punishment and wrong upon this highly-talented and meritorious officer. Let us keep this proviso in, and let us settle our political disputes on some other occasion, at the expense of the parties directly, and not at the expense of this individual.

Mr. HALE. I have listened with a great deal of pleasure, as I always do, and with instruction, to the honorable Senator from North Carolina. He has given double instruction; for he got up and cautioned the Senator from Arkansas against repeating his sermon, as he called it, under another text. All the difference between the Senator himself and the Senator from Arkansas is, that he has repeated his speech of the other day upon the same text. He has not even given us a variety in the text.

But I do pray that the merits of this amendment may not be lost sight of in this war of the roses, because it has nothing to do with it. I do hope the Senate will not lose sight of the main facts. The Senator from North Carolina has failed to tell us what our seven mathematical professors at the Observatory are about. The honorable Senator from Massachusetts has failed to tell us of the superiority of the mathematical and nautical instruments at Cambridge, over those which we have been buying here, and paying \$10,500 a year for, with \$8,000 for books.

Mr. BADGER. I did not state to the Senator what the mathematical professors at the Observatory were about, for the very obvious reason, that I did not know. I am not in charge of the Observatory, and have no communication with it; but I take it for granted, that they are in the discharge of their proper duties.

Mr. HALE. So I take it. I suppose they are in the discharge of their proper duties, or they would be ready to discharge this, if we would let them. But here we have this fact: \$31,000 are expended annually for the purposes of science, and we do not use enough of it to calculate an eclipse. We appropriate and expend—I do not know how—\$31,000 in salaries, and \$10,000 in nautical instruments, and \$8,000 in books, and yet, when we want to get an almanac calculated, we have to send to Cambridge to get it done. I want to know if this is not disgraceful to the country, and derogatory to the gentlemen in charge of the Observatory? The very suggestion of John Quincy Adams, that it would be profitable to build one of these light-houses of the sky, upset his Administration. But, sir, I do not think the Observatory can be said to be much of a light-house of the sky, if, when we want to look at an eclipse, we have to go to Cambridge to look through their telescope. That is the question which labors in my mind. Where is the necessity of twenty-three or twenty-four scientific men here, when we have to go to Cambridge to get an eclipse calculated? That, sir, I say, is the difficulty that labors in my mind.

I hope the Senate attended to the remarks which fell from the Senator from Florida, [Mr. MALLOY.] I know something about how these things are done. I know something about the feelings of other officers of the Navy. The honorable Senator from North Carolina has more than once intimated that I have some hostility to the Navy, or to its officers. When did I ever make a motion to lower the salary of an officer of the Navy? When did he ever hear me vote to take the first mill from any legal emolument which any officer had a right to enjoy? I have always been in favor of paying them liberally, and of compensating them as far as the law compensated them. We do pay now by law, without any extra allowance—and I want the Senate and the country to know it, and I hope the Delegates, if there are any here, will listen to it also, notwithstanding the caution of the Senator from North Carolina—we pay, I say, to the officers of the American Navy higher salaries than are paid to officers of the same grade in any Navy on earth. The honorable Senator from North Carolina shakes his head; but I have looked into the matter; and I call upon Senators, if they doubt it, to go and look at the pay of the officers of the Royal Navy of Great Britain, and of the Navies of France and Russia. They will find that, to officers of the same grade, a higher compensation is paid to officers in the American Navy than to the officers of either the Russian, French, or English Navy, or of any navy upon earth. Therefore there is no necessity for this extra allowance of compensation.

Then, if we have this Naval Observatory; if we have a corps there of twenty-four or twenty-five scientific men; if we are paying them a liberal compensation, where, in the name of Heaven, is the necessity, when we want an almanac, of detailing another officer and sending him to Cambridge to make that almanac? That is the question which the Senator from North Carolina says he has not answered and cannot answer, because, if there is any necessity for it, it is an impeachment of those officers. It is saying that our Observatory is useless; that our professors are dunces; and that our officers of the Navy are not competent to perform the duty which they ought to perform. We are paying twenty-four scientific men a salary, and, when we want a work done, we must detail another man, and send him to Cambridge to get it done.

I will not go into the questions which have been brought into this discussion, except those which relate to this claim; but let me correct a single fact, in regard to an officer, because I want to be accurate. The officer to whom the Senator from Alabama referred, was not the Fourth Auditor of the Treasury, but the second Comptroller, Governor Parris, who, I venture to say, was one of the most worthy, faithful, honest, and intelligent officers we ever had. He was too honest, and too intelligent and faithful to stay in his place. He had to go off, because such claims as this could not be got through while he was there. That is the reason he is not there now. When he was there, you could not get through a thing of this sort. When this claim was presented, he said, "No." Both the House and the Senate said "No." The Senator from North Carolina is altogether mistaken in his recollection of what took place on the amendment to the deficiency bill of last year. If he will look to that bill as reported by the Committee on Finance, he will find that the amendment raising Lieutenant Davis's salary to \$3,000 a year, was one of the amendments reported by that committee, and was in the bill as it came from them.

Mr. BADGER. Certainly; but every amendment made to the bill, whether reported by the Committee on Finance or not, had to go to the House of Representatives and be acted upon there.

Mr. HALE. Then I am right in that. It was one of the amendments reported by the committee, and if it had been adopted it could not have embarrassed the bill more than the other amendments which were adopted. The facts in the case are, that the Second Comptroller would not pay the claim. It went to the House, and they would not pay it. It came here, and the Senate would not pay it. Then Lieutenant Davis got affidavits from various persons, and submitted them to the man who was put in Governor Parris's place, and it was al-

lowed. And now, when you find out that that claim has been allowed, you want to pass a proviso that nobody else shall ever do the same thing; but, inasmuch as this man has done it, he will be permitted to receive \$3,000 a year! It is a sort of premium on the adroitness with which money can be taken out of the Treasury. You have adopted the amendment that nobody else shall ever do it—that no other estimate shall ever warrant such a payment—and then you go on and provide that the only man in whose behalf it ever was done shall continue to receive the advance. It is a mockery on legislation—it is a mockery on the amendment which you have adopted—to say that the only case in which the abuse has been perpetrated shall enjoy the fruits of it, and nobody else shall. For this reason I hope the proviso will not be concurred in.

Mr. CLEMENS. The Senator from North Carolina told us, with a good deal of confidence, that he would hazard whatever reputation as a lawyer he had obtained, that any lawyer would place the same construction upon this law, as was put upon it by the Comptroller. I beg to say to the Senator, that he has put a very valuable article in jeopardy very lightly. The error into which he has fallen is a very common one. It is the error of not having read the law itself, but of having taken the Comptroller's say-so of what it is. If you admit that the Comptroller tells you precisely what the law is—gives you the truth, and the whole truth—then by possibility it may bear the construction which he has put upon it; but, sir, I have the law on which this payment is made before me. I propose to read it to the Senate:

"For nautical books, maps, charts, instruments, and all other expenses of the hydrographical office, \$58,360: *Provided*, That a competent officer of the Navy, not below the grade of a lieutenant, be charged with the duty of preparing a Nautical Almanac for publication; and that the Secretary of the Navy may, when in his opinion the interests of navigation would be promoted thereby, cause any nautical works that may from time to time be published by the hydrographical office to be sold at cost, and the proceeds received therefrom to be placed in the Treasury of the United States."

Mr. BADGER. What law is that?

Mr. CLEMENS. That is a section of the act of March 3, 1849, under which the officer of the Treasury claims to have made this payment; and that is the section under which he claims to have made it.

Now, Mr. President, there is not in that act one solitary word about the payment of the officer for superintending the publication of this Nautical Almanac. The only thing in it is, that the proceeds arising from the sales of certain works shall go into the Treasury of the United States. By no honest construction can it be contended that that officer is authorized to receive one dollar over the compensation allowed by law. Why, sir, he is a salaried officer of the Government already. He owed his service to the Government. The Government educated him. Whatever he is, the Government made him. The Government supports him, and has supported him from his boyhood up. His services were due to the Government, and it was never the intention of Congress that he should be paid double for performing a work which he would much rather perform than go to sea.

The Senator might have saved himself the trouble of defending the Secretary of the Navy. I have made no assault upon that gentleman. I insisted that this Comptroller of the Treasury has acted not only not in conformity with law, but in direct violation of law. I say he did it with his eyes open.

Mr. BADGER. I did not understand the Senator as casting any imputation on the Secretary of the Navy; but I mentioned that Secretary as concurring in the opinion of the Comptroller, and that that opinion has whatever weight he could give to it, as to its propriety.

Mr. CLEMENS. The Senator is mistaken in another particular; and very widely mistaken. He supposes that the vote in the Senate upon striking out this appropriation during the last Congress was no test, and assigns as a reason, that certain gentlemen were anxious to avoid any amendments being made to the appropriation bill; and he mentions particularly the distinguished Senator from Kentucky, [Mr. CLAY,] whose illness keeps him from among us. If the Senator

had examined the Journals, he would have found that he was mistaken in that particular. On my motion, the proviso, "that the officer in charge of said work shall receive the same compensation as the officer in charge of the National Observatory," was stricken out. Amongst those who voted in favor of striking it out was the Senator from Kentucky, to whom he has alluded. He says that that Senator was opposed to inserting the amendment, because he did not want to incur the bill with amendments. Why, in fifteen minutes afterwards he voted to incur it with the Collins line of steamers.

Mr. BADGER. That was a special case.

Mr. CLEMENS. That is not all. Here are two pages of votes on the Journal, one right after the other, and, four times out of five, the Senator from Kentucky voted to put in amendments. Here are the votes. I have the Journal before me. It could not have been, therefore, for that reason that the Senator from Kentucky voted to strike this appropriation out. He voted to strike out as I did, I have no doubt, because he thought the officer was not entitled to receive it.

And now, Mr. President, I ask leave to read the conclusion of this admirable letter of the Second Comptroller. With this Journal before him, with the knowledge of this fact, and the knowledge, too, that the same proceedings had taken place in the other end of the Capitol, he says:

"When the appointment of a superintendent is provided for by law, and his payment expressly authorized by the appropriation act of one year,"

Assuming that it had been expressly authorized, which it never was, as the law I have read shows. It never was authorized; but he assumes that it was expressly authorized by a preceding appropriation act—

"And when the act of the following year contains an appropriation for purposes that would properly include the salary, and without, in terms, excluding it?"

Who ever heard of its being excluded in an act? The Journal is the place which shows whether it was excluded. Who ever heard of saying in an act, a law, passed by Congress, that this officer shall not receive so much? There was no necessity for it. Without an express law authorizing him to receive it, he could not get it.

"And if the whole amount of estimates in which it is specially contained is appropriated, it would certainly be going very far to say that the Secretary has no power to alter it."

It would "be going very far to say that the Secretary has no power to alter it!" The facts, as stated by me when I was up before, and, as the Senator from North Carolina says, by the Senator from New Hampshire the other day—whose speech I did not happen to hear, although I was in the Chamber at the time—are these, and they are not in controversy: The act of March 3, 1849, makes no appropriation for the payment of this superintendent. The Second Comptroller of the Treasury at that time, when the superintendent applied to him for payment, told him the law did not justify him in making it. He then comes to Congress. Congress says, "No, we will not pay it." Then a new Second Comptroller, who had got into office in the mean time, reverses the decision of his predecessor, and in defiance of the votes of both Houses of Congress, pays the superintendent for two years back. These are the facts. They are not controverted. The Senator from North Carolina cannot deny them. Here are the documents. There is no getting round them; and the question now is, Shall we approve of the act of the Second Comptroller?

Mr. BRADBURY. Mr. President, I understand that the same question which the present Second Comptroller of the Treasury has undertaken to determine, was previously submitted to Governor Parris, while he filled that office, and that he decided against the claim. He was the proper person to adjudicate upon the question. It came appropriately before him, and he, having made the decision, it was *res adjudicata*—a thing adjudicated—a question settled; and I would like to know how it happens, after a question of this kind has been decided by the proper officer, that his successor undertakes a revision of it? An important lesson may be learned from this proceeding. We find that the former Second Comptroller stood in the way of claims of this character. A more competent and faithful officer could not be found in the public service in any of the Departments of

the Government. He was removed. Why was it? Was it, as has been intimated by the Senator from New Hampshire, that the check imposed upon the expenditure of the public money by his watchfulness might be removed? Can any other cause be assigned? Certain it is, that, since his removal, the expenditure of the public money has been made more easy. I am opposed to granting this allowance, because I regard it as indorsing and sanctioning a disbursement from the public Treasury in violation of law.

Mr. BORLAND. In regard to the facts of this particular case, I have nothing to add to what has been stated by the Senators from Alabama and New Hampshire. With regard to the personal character of Mr. Davis, or of the Secretary of the Navy—upon whom the honorable Senator from North Carolina has passed so high a eulogy, and I have no doubt he deserves it—I have nothing to say. But the Senator from North Carolina characterized my remarks to-day, as a repetition of a sermon which I had been preaching here for some time. Well, Mr. President, I admit that I did express the same idea, and I alluded to the same facts before. I apprehend it was not the repetition of the idea, or the reënciation of the facts that struck the ear of the Senator from North Carolina so unpleasantly—but the fact itself, the broad and glaring fact, of which he cannot get clear. The act of the Administration, of which he is a friend, which stands in bold relief in contrast with the action of Congress—that is what is so objectionable to him, I have no doubt, and those on the same side with him. He has to get clear of that fact before he will ever be done hearing of it, while I have a seat on this floor, and while this Administration is in power. When occasion offers, I shall repeat it every day.

Mr. BUTLER. "Line upon line; precept upon precept."

Mr. BORLAND. Sir, we have high authority, when wrong-doers will persist in their course of wrong-doing, for giving them "line upon line," and "precept upon precept;" but I very much fear that this Administration and its friends will go in the same course sinners have always gone, in disregard of "line upon line" and "precept upon precept." It remains to be seen whether the people of the United States, especially in the approaching crisis of the vote of the political parties, will sit quietly down and permit this sin to be perpetrated day after day, month after month, and year after year; whether they will permit that or will rise up in their power and rebuke it, and that, too, in the most effectual way, by putting the perpetrators of the act out of the positions which enable them to commit such acts.

Mr. BADGER. If anything which I said jokingly about the repetition of a sermon by the Senator from Arkansas upon a different text to-day has had any influence in inducing him to form the resolution he now announces to give it day by day, as long as this Administration is in power—

Mr. BORLAND. I formed it before.

Mr. BADGER. I admit I have committed a great mistake, and I sincerely regret it, not out of regard for the executive branch of the Government, but out of commiseration for the Senate.

Mr. BORLAND. I have but to say that the Senator's commiseration for me—

Mr. BADGER. No, for the Senate.

Mr. BORLAND. Well, whether for me or for the Senate must rest alone upon his conviction that this Administration not only has done wrong, but means to do wrong from this time until the end of its existence. There can be no commiseration, because there will be no infiction, unless the wrong is done; so the very fact that he feels this commiseration, and is so painfully apprehensive that this thing will be done, must rest upon his conviction that the Administration has done wrong in the past; it has got so deeply committed to a wrong policy that it has necessarily, from the force of habit, to go on in the same downward career until it ruins itself.

Mr. BADGER. My feeling of commiseration was inevitable, because, although I do not think the Administration has done wrong, or will do wrong, yet I have no doubt they will always do wrong in the judgment of the Senator from Arkansas; so we are obliged to hear his remarks over again.

The PRESIDING OFFICER, (Mr. MANGUM

in the chair.) The question is on concurring in the proviso as reported from the Committee of the Whole.

Mr. CLEMENS. I ask for the yeas and nays on the question.

The yeas and nays were ordered.

Mr. BADGER. I desire to say one word in explanation of a remark which fell from my friend from Alabama, [Mr. CLEMENS.] What he says is correct, that the expression contained in the letter of the Second Comptroller, that there is any express allowance of this item in the bill, is a mistake. But there is an express allowance of that sum in the estimate which accompanied the bill, which was printed by Congress, and upon which the appropriation was based: "For calculating, printing, and publishing the Nautical Almanac, including the pay of the Superintendent, the sum of \$6,000," making part of the gross sum.

The question being taken by yeas and nays, resulted—yeas 22, nays 22; as follows:

YEAS—Messrs. Badger, Bell, Brooke, Davis, Dawson, Fish, Foot, Geyer, Houston, Hunter, Mangum, Miller, Pearce, Rusk, Seward, Smith, Soule, Spruance, Stockton, Sumner, Upham, and Wade—22.

NAYS—Messrs. Adams, Atchison, Borland, Bradbury, Brodhead, Butler, Chase, Clemens, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Felch, Hale, Hamlin, Jones of Iowa, Mallory, Mason, Norris, Sebastian, Underwood, Walker, and Weller—22.

So the proviso was not concurred in.

The next amendment made in Committee of the Whole is as follows:

"Sec. 5. And be it further enacted, That the Commissioner of Public Buildings be, and he is hereby, authorized to apply any unexpended portion of the money appropriated by an act of Congress, entitled 'An act making appropriation to meet the expenses incurred in consequence of the late fire at the Capitol,' approved January 13, 1852, to the payment of expenses necessarily incurred in repairing the damage lately done by fire in the office of the Clerk of the Supreme Court, and in making other repairs about the Capitol."

The amendment was concurred in.

The next amendment made in Committee of the Whole is as follows:

"Sec. 6. And be it further enacted, That the Secretary of the Treasury be and he is hereby authorized to purchase for the United States a suitable piece of ground, at a central point in the city of San Francisco, California, as a site for the erection of the custom-house heretofore authorized to be built: *Provided*, That said site of ground may be obtained with good and sufficient title to the United States in exchange for such reasonable portion of the Government reserve in that city as the said Secretary shall deem just and equitable, or for a sum in lieu thereof not exceeding \$40,000; and to enable the Secretary of the Treasury to carry into effect this provision, the sum of \$40,000 is hereby appropriated: *Provided*, That if the said Secretary shall fail to obtain such ground on satisfactory terms, then the said sum, or such portion thereof as may be necessary, may be expended in providing the proper foundations for said custom-house on the site heretofore selected for the purpose."

The amendment was concurred in.

The PRESIDING OFFICER. (Mr. MANGUM in the chair.) All the amendments made in Committee of the Whole have been acted upon, except the one in regard to the appointment of an agent to procure copies of the laws, decrees, or ordinances of the Spanish Government, relating to land claims in California or New Mexico, &c.; which was passed over by unanimous consent.

Mr. WELLER. That amendment was passed over the other day on my application, in order that an opportunity might be given to make it satisfactory. My desire was that it should be so modified as to protect the rights, not only of the United States, but of all the claimants to land titles in California under the Mexican and Spanish Governments. I have not been able to get it into such a shape as to be satisfactory to myself. It will require more time and attention than I am now able to give to it. I shall therefore ask that that amendment may not be concurred in. I have no doubt some advantages will result from sending an agent to Mexico with a view to ascertain what the amendment proposes to ascertain; but that can be provided for quite as well under the general appropriation bill.

The amendment was not concurred in.

Mr. CLEMENS. I wish to offer an amendment. It is to insert after the other appropriations for custom-houses the following:

For the completion of the custom-house at Mobile, Alabama, \$100,000.

That is in pursuance of an estimate; and the appropriation is the exact amount estimated.

The amendment was agreed to.

Mr. ATCHISON. I am instructed by the

Committee on Indian Affairs to propose an amendment to the bill. It is to insert the following:

For the payment of annuities, and the transportation of the same, to certain tribes of Indians, in accordance with the 7th article of the treaty made at Fort Laramie on the 17th of December, A. D. 1851, \$60,000.

I will barely state that I have offered this amendment with the approbation of the Committee on Indian Affairs. I also submitted it to the chairman of the Committee on Finance, and one other member; and they think it proper. I have a communication from the Commissioner of Indian Affairs and a letter from Mr. Fitzpatrick, an agent of these Indians—which can be read, if desired—showing the necessity, the absolute necessity, of this appropriation.

Mr. GEYER. I propose to amend the amendment by adding:

And the Secretary of the Interior is hereby authorized to purchase the provisions, merchandise, domestic animals, and agricultural implements, to be delivered in payment of the annuity first payable under the 7th article of said treaty, without previous advertisement, if such purchases can be so made on reasonable terms.

Mr. ATCHISON. I consent to that, because I believe it to be necessary to expedite the business.

Mr. GEYER. I was going to remark that the Indians are now collected, and are becoming somewhat impatient at delay. It is important that this annuity should be paid at an early day; and if we have to pursue the forms adopted in the Department—advertise for the articles to be purchased—greater delay and uneasiness will be produced.

The amendment to the amendment was agreed to; and the amendment as amended was adopted.

Mr. BRODHEAD. Mr. President, I desire now to offer an amendment, which I brought to the notice of the Senate the other day. It is an amendment which was placed in my hands by the honorable Senator from Rhode Island, [Mr. CLARKE,] who is now necessarily absent. The Senate has already adopted an amendment incorporating into this bill this provision:

"For completing the floating dry-dock at San Francisco, California, authorized by act of 3d March, 1851, \$360,000."

This dock is now nearly completed, and will shortly, as I understand, be transported to California. It will be some time before a pier, or a basin and railway, can be constructed in connection with it. If a pier is constructed, it will take but a short time, and I presume it will be ordered at the present session. The object of the amendment which I now propose, is, to authorize the Secretary of the Navy to lease this dock upon certain terms. The amendment is:

"And the Secretary of the Navy is hereby authorized to contract for the lease of the said dock to any individual or company, who will receive the same, in the port of San Francisco, upon terms most advantageous to the United States, taking due and sufficient bonds for the safe-keeping of the same, and for its delivery to the United States in good order and condition, whenever a site for a navy yard is selected, and shall be prepared for its reception; first giving due notice for proposals for the use of the said sectional dock, and reserving to the United States the right at all times to use the same free of charge, whenever required for any vessel of the Navy or any vessel in the employment of the Government."

Mr. President, this dock has cost \$610,000. Now, there are men who will give at least \$50,000 a year for the use of this dock when the Government does not desire to use it. I am so informed by the honorable Senator from Rhode Island, who placed this amendment in my hands. In view of the large cost of this dock; in view of the large amount of money which the Government has already paid, or contracted to pay, for this structure, and in view of the necessities of the commercial marine of the bay of San Francisco, I think it nothing more than right that the Secretary of the Navy should have power to lease this dock to gentlemen who would give sufficient security for the return of the same whenever it should be needed by the Navy Department, and whenever a site for the navy-yard should be selected. It seems to me, therefore, that there can be no reasonable objection to the amendment. It has been well considered by the honorable Senator from Rhode Island, who placed it in my hands. If the Government can, without any detriment whatever to the public service, receive \$50,000 a year for the use of this structure, when it does not require it for its own purposes, I think it ought to do it; and I think we ought so to amend this bill as to authorize the Secretary of the Navy to permit the commercial marine to use this structure when it is not needed

for Government purposes—the United States receiving a proper compensation therefor. I hope that there will be no objection to the amendment.

Mr. BADGER. Mr. President, I offered an amendment when this bill was under consideration in Committee of the Whole, for the purpose of making some disposition for the proper security of this dock, which I subsequently withdrew, upon objections being taken by some Senators; and I think it had better not be now renewed. I think there is no necessity for making this provision in this bill. There is some difficulty, I think, about adjusting the measure in such a manner as to be proper and right, and I think that when the general naval appropriation bill comes up, the Senator from Pennsylvania and myself will be able to arrange an amendment, with the aid of the Senators from California, which will meet the exigencies of the case. The dock will not be delivered until the fall, and we will have ample time to make this provision in the naval appropriation bill.

I think, however, that the provision suggested by the Senator from Pennsylvania is in some respects liable to objection, and I will state to the Senate the reason why I think so—at any rate it so strikes me at present. This floating dry-dock in California originated in a provision made upon the naval appropriation bill of September, 1850, in these words:

"For commencing the construction of a floating dry-dock on the coast of California, \$100,000; and the Secretary of the Navy is authorized to enter into a contract for the construction, with all reasonable dispatch, of a sectional or balance floating dry dock, basin, and railway, at such harbor on the coast of the Pacific ocean, as he may select, of a capacity and dimensions in no respect inferior to those of the dry-dock in progress of construction at Pensacola: *Provided*, That by granting the said contractors permission, if required, to prepare the materials chiefly at some harbor on the Atlantic sea-board, and advancing moneys thereon as the works progress, the said works can be completed at a sum not exceeding by more than twelve per cent. the total amount contracted to be paid for the floating dry-dock, basin, and railway at the Pensacola navy-yard, with the addition thereto of what would be the cost of transportation to said coast of the said materials thus prepared, and with the reservation till the works are done of ten per cent., and the usual surety for the faithful performance of the contract; and the Secretary of the Navy shall also be authorized to enter into an agreement with the contractors, if they will keep the said works in repair, and take proper care of the same for any given period of years, free of charge to the Government, to permit them to use the said works, during such period, on their own account, for repairing merchant vessels, when not occupied by vessels of the Navy, to which precedence shall at all times be given, on such terms as he shall deem reasonable."

Congress, at a subsequent session, after a verbal agreement had been entered into between the Secretary of the Navy and the contractors for the whole work required by this law, the floating dry-dock, basin, and railway, repealed so much of that law as authorized a contract for the erection of a basin and railway, leaving the residue of the law in force. And my impression is, that all the arrangements made in the Navy Department, and the contract made by the Navy Department, were all founded upon, and related to, the whole of the provisions in the law of 1850, to wit: that the contractors should have the use of the dock for the purpose of repairing private vessels, when the Government of the United States did not require it. I think, therefore, that to put it up now at auction until we have ascertained what is the state of the facts as to that agreement, would be taking a step in the dark, that might be unjust to the contractors, and not warranted by a fair construction of the arrangements between the Government and them. The Senate will recollect that the whole authority given by the law of 1850 was not repealed, but only so much as related to the basin and railway. I would suggest, therefore, to the Senator from Pennsylvania, that I think every object will be accomplished by leaving this matter to rest until the naval appropriation bill comes up. In the mean time we can look into the matter in regard to the contract, and see what disposition should be made with regard to the dock. It would then be in ample time.

Mr. BRODHEAD. Mr. President, I cannot yield to the suggestion of the honorable Senator from North Carolina. He says that this dock will not be finished until the fall, and hence that this provision, or a similar one, had better be incorporated in the general naval appropriation bill. Well, now, the fact that this dock is so soon to be completed, renders it quite necessary that the amendment should be adopted; because notice must be given, and a contract entered into. If we



defer it until the naval appropriation bill, which will not pass until August, there will not be sufficient time to give public notice, and have a contract entered into. What objection, therefore, can be urged to the adoption of this amendment at this time? The dock is about being completed. The Secretary of the Navy must necessarily have some time to enter into the contract for the use of this dock. If \$50,000 can be obtained without any detriment to the public service—because the amendment provides that the use by the commercial marine is not to interfere with the Government vessels that may be brought there for repair—why shall we not take it? If this dock is so soon to be completed, we ought to adopt the amendment now.

The honorable Senator also seems to think that the contractors for this dock should have the use and occupation of it. I do not think so. By reference to the contract, it will be observed that their work is to be examined, and it is then, if done properly, to be taken off their hands. I think, therefore, that those who have constructed this dock should not be the lessees, and should not have the use of it. Besides that, under the provision which the Senator has read, and which was in part repealed during the last session, these contractors, if I understand it aright, would make some \$50,000 a year by having the use of it, if they are to have it gratuitously from the Government. So I am informed, at any rate, by the honorable Senator from Rhode Island, who placed this amendment in my hands; he tells me that the use of the dock by the commercial marine is worth some \$50,000 a year.

I hope that the amendment will be adopted at this time. It is a simple proposition to lease the use of this structure upon good security for a term of years. The dock has cost the Government a large sum of money; and if we can receive a large sum in return for the structure, without any detriment to the public service, it seems to me that we ought not to hesitate a moment in doing so.

Mr. BADGER. Mr. President, it is entirely unnecessary for the gentleman from Pennsylvania to assume any oratorical display on this subject—

Mr. BRODHEAD. I did not.

Mr. BADGER. I have very great indifference about whether the proposition be adopted or not. I simply made the suggestion to him, of what I supposed to be some difficulty embraced in the adoption of the amendment. That is all. I suggested that I was under the impression that the arrangements which have been made between the Secretary of the Navy and the contractor of the dry-dock, under the act of 1850, modified by the subsequent repeal of a portion of it, referred to or included this very subject. And all I wanted was, if that was so, that we should not now adopt a different arrangement.

I confess that I am not myself exactly pleased with the idea of the Government hiring out this structure to the highest bidder. I would have it put out to competent persons who understand its management, and who would take care of it, on the best terms. I merely suggested, when I was up before, whether it was not proper that the subject-matter of this amendment should rest until the naval appropriation bill comes up. I did not wish any argument or discussion. I did not really wish to be considered as opposing the proposition; for it was a matter of very great indifference to me. As I said before, when I offered an amendment in relation to this matter the other day, I withdrew it when objection was made. I care nothing about it.

Mr. HUNTER. Mr. President, I feel under some difficulty in relation to this amendment, because I have not been able to inform myself fully in relation to it. Commodore Smith told me that it would be necessary to provide some appropriation for the purpose of receiving the dock; but he sent me no estimate. It is now being shipped around, or is about to be shipped around. And it is said that something will be necessary for the purpose of painting it. I think, when it shall get there, and that an appropriation for that object ought to be put into this bill; but no estimate for that object has come to me. I have understood that a letter on the subject has been sent to the Navy Department. I had supposed that this proposition was a substitute for that. I understand that this dock is far larger than is necessary for the use of

the Government, and that the Government could dispense with at least four sections of it. Various arrangements have been suggested as profitable and as advantageous. One would be to sell four of these sections, upon the condition that the parties buying them would put up a pier, which could be easily done. Another course would be, to let out the dock by contract, on condition that it should be returned in good order. I believe that the practice of taking ships on these docks, and charging something for that service, is not unusual. I think it has been done of late on the stone docks. I was informed that there have been instances in Massachusetts in which it has been done.

Mr. DAVIS. There may have been some instances.

Mr. HUNTER. At any rate, I see no impropriety in it. It would be one means of saving the Government some of the heavy expenditures which have been made for this object, and in that way would be useful. It would be useful to the Government, and it would be useful to the merchant marine. It would be much better than building Government docks for the purpose of docking merchant vessels for nothing. Therefore I feel disposed, on the whole, to go for the amendment of the Senator from Pennsylvania. But I have no doubt that the Department might lease the dock out in such a way that it would be preserved, and from which the parties might derive profit enough to paint it, and do what is necessary. I suppose, in fact, that this is a substitute for that proposition; because I know that the Senator from Rhode Island has devoted a great deal of time and attention to the matter; and I presume that the reason why the estimate for the amount necessary to paint the dock, and to provide means for receiving it was not sent down, was, that it was supposed that this amendment would be found sufficient, and that the Secretary could thus put the dock out upon such terms as would provide for these objects without further expenditure to the Government. I shall, therefore, vote for the amendment.

Mr. WELLER. Mr. President, I confess I was inclined to oppose this amendment when it was first submitted, simply for the reason that I am inclined to suspect anything which comes from the Senator from Pennsylvania in regard to this dry-dock, in consequence of the position which he assumed here some time since. But if the Government can derive \$50,000 a year from the use of this dry-dock, and if the commercial marine floating on the Pacific can, at the same time, be accommodated, the proposition ought to be adopted. Therefore, notwithstanding the suspicion which I have of everything coming from that quarter in relation to this matter, I am inclined to vote for this amendment, and I think it ought to be adopted.

Mr. HUNTER. I will state an additional reason, which escaped me when I was up before. Unless money is appropriated, or unless the Secretary is authorized to make some arrangement for the reception of the dock when it gets there, it is likely that we shall be charged demurrage—that we shall be subjected to great cost in that way. So that I apprehend it will be essential either to appropriate money, or to pass some such amendment as this. We have no estimate as to the amount of money which will be required, and therefore we can offer no amendment proposing such appropriation; hence nothing is left to us but to adopt some such amendment as this.

Mr. RUSK. Mr. President, it seems to me that we are acting prematurely, and without the necessary information upon this subject. Gentlemen say that the Government may make \$50,000 by this operation; but that is a mere expectation on their part. They cannot say so positively. We do not know but that the Government may lose \$100,000 by this. There is no telling what the result may be. There ought to be some arrangements made for this dock.

Mr. WELLER. How can the Government lose?

Mr. RUSK. By damage that may be done to the dock. So far as I am concerned, I have no hostility to the amendment. On the contrary, it strikes me very favorably; but still I would rather consult those who know something about the matter. I confess, however, that the idea of letting out Government property does not strike me very favorably. I am willing to allow the use of this

dock to merchant ships, if the proper arrangements can be made; but, by letting it out by contract, it may be subjected to damage. At any rate, we have ample time to look into the matter. The Secretary of the Navy, and the officers of the Navy, who understand the business much better than we do, will have ample time to look into the matter, and tell us what may be done; and then we can put some provision for the purpose into the general naval appropriation bill. This is overloading this deficiency bill, as I understand it. It will not be necessary to incur any expense in the reception of this dock until the fall, and certainly we shall pass the naval appropriation bill before that time. For myself, I would much prefer that the Secretary of the Navy, or some officer of the Navy, should be consulted on the subject, and that we should have a report from the Naval Committee, in order that we may have a distinct understanding as to the best mode of securing the safety of the property of the United States.

Mr. HAMLIN. Mr. President, when the appropriation for the construction of this dock was originally made, the provision which was in the law, and which has been read by the Senator from North Carolina, was either offered by myself, as an amendment, or was incorporated into it at my particular suggestion, by the committee which had the matter in charge. It was the expenditure of a large sum of money, and on a work which would not be all the time in use by the Government. There was a very large commercial marine in that country. That I desired to see taken care of. There were occasions, when with slight repairs, our merchant vessels could be sent home, and without which it was impossible for them to go round the Cape. I do not understand the amendment, thus incorporated into the original bill, as making a perpetual lease of the dock to these contractors, or anything of the kind.

Mr. BADGER. Not at all.

Mr. HAMLIN. I do not think that is the true construction of the law, as it now stands. I suppose that it did not go to this extent. It seems to me that the law may stand just as it is until some future period, when it shall be found that additional legislation is necessary. When that work shall have been constructed, and after it shall have been accepted, and after it shall have been put in its place, there may be a commercial marine which may need it. It has not yet been delivered to the Government. The contractors who have it in charge, if they shall be responsible to the Government, may thus use it until it is delivered; but after it shall be actually delivered to the Government, then that clause will terminate. I think, then, that there will be ample time for the Government to make such permanent provision for the use of the dock by the merchant marine as shall be necessary. On that view of the case, while I was at first disposed to favor the amendment of the Senator from Pennsylvania, I think we had better let the matter stand as it now is.

Mr. BADGER. I am sorry to trouble the Senate again on this question; but I wish to state that I have in my possession a communication made by the Secretary of the Navy to the Naval Committee, setting forth this whole subject at length. It was a communication of some half dozen pages. The Secretary considers that the authority given him under the appropriation bill of 1850 is still in force, and that he is authorized to make the arrangements contemplated by the bill; but Congress being in session, he prefers that Congress should do so. He prefers that Congress should direct him upon what terms he shall enter into this arrangement, but he considers that he is authorized to enter into it if he chooses, by the authority of the act of 1850, upon such terms as he may think proper.

I wish now to suggest a serious difficulty about this matter. If, in the existing state of things in California, this dock shall be put up and hired out to the highest bidder, he will then be at liberty, of course, to use it for the commercial marine upon just what terms he pleases; and he would have it in his power, as a necessary consequence—there being only one dock on the whole of that coast, when this shall have got there, (for there is none now)—to exact just what price he pleases for the use of the dock; and while he makes enormous profits for himself, and obliges the commercial marine, and the owners of private ships there, to pay him what he pleases, the Gov-

ernment will receive but a very small amount; but if the arrangement is made under the bill of 1850, by the Secretary of the Navy, he can then, with propriety, and as a part of the terms of that agreement, reserve to his Department the power of controlling the charges which shall be made for the use of the dock by commercial vessels.

Mr. HUNTER. Why can he not do so under this amendment?

Mr. BADGER. Because he is required to put it up to the highest bidder.

Mr. HUNTER. The amendment requires the contract to be made on the most advantageous terms.

Mr. BADGER. On the most advantageous terms for the Government. If this amendment should be adopted, and the Secretary of the Navy should, in accordance with it, lease this dock to some individuals, he could not, with propriety, interfere with them, after they had paid the money stipulated. At all events, it seems to me that there is no pressing necessity for acting on this matter now. I am sorry that I have mislaid the letter of the Secretary of the Navy, to which I have referred; but when I withdrew the amendment the other day, I did not suppose that the matter would again come up, and I did not think it necessary to preserve the letter.

Mr. BRODHEAD. It seems to me that there can be no difficulty with regard to this matter. The amendment proposes to confer upon the Secretary of the Navy the power to make such a contract as he may think most advantageous to the Government, and beneficial to the commercial marine—it does not restrict him. The amendment is very carefully drawn. In order that the contract may be made at the proper time, I think it should be now adopted.

Mr. MALLORY. I would suggest to the honorable Senator from Pennsylvania, that the dock may reach California, and there may be no pier, no basin there to make the dock effective. Under this proposed contract, which the Secretary of the Navy is authorized to make with individuals, the individuals may erect such a pier as will answer their purpose—which is the repair of the commercial marine, the vessels of which average about six hundred tons, and trade on the Pacific coast. Now, a pier which would be sufficient for the repair of the merchant marine would be wholly inadequate for the repair of the naval marine. I suppose I may say that, in proportion as the bids for this contract would increase, just in that proportion would the bidders be disinclined to expend money upon the pier. Just in proportion as they give for the use of the dock, would they be disinclined to erect a large pier. It is quite possible that, in addition to all the objections which are upon the face of a copartnership between the Government and private individuals, this objection may pertain: that, while the commercial marine may reap the advantages of the pier, it may be perfectly inappropriate to the repair of naval vessels. The Secretary of the Navy, under the proposed amendment, truly has a right to contract upon such terms as he may deem best; but he is restricted, notwithstanding, to contract with the highest bidder.

Mr. BRODHEAD. Who will give proper security.

Mr. MALLORY. It is said that the contract is to be made with the highest bidder, who will give proper security. I understand, too, that if a contract is made with the highest bidder, it will be without reference at all to the form of the pier which is necessary to make the dock effectual.

Mr. WELLER. Mr. President, it is extremely desirable that some arrangement should be made by which the merchant marine upon the Pacific coast should have the use of this dry-dock; but as to the best mode of accomplishing that object, there may well be a difference of opinion. I can readily perceive, that if the amendment be adopted, without any additional restriction or guards thrown around it, the person who obtains the contract may use the dock given to him in such a manner as to oppress one class of ship-owners at the expense of another. He may refuse the use of the dock to some ship-owners upon the Pacific for the purpose of repairing their vessels. He may be bribed to pursue that course by other extensive ship-owners. I mean that that course can be adopted if there be no restrictions placed upon the contractor—if there be no limits fixed upon the

charges to be levied upon the vessels using that dry-dock. I think that in the adoption of any regulation upon this subject, there ought to be some limitation fixed upon the power of the contractor.

The same objection that would arise to letting the contract out to the highest bidder, would apply with equal force to the form prescribed in the old law; for that law provided that a contract should be made, with the original contractors of the dry-dock, for keeping it in this way. Now, the Senate will readily perceive that that power might be abused by the contractors—that those who have obtained this contract from the General Government for the use of the dry-dock might use that power in such a way as to oppress one portion of the merchant service, and favor another portion. I should therefore have preferred, myself, that a question of this importance should have been maturely considered before it was brought before the Senate. I was not aware, until the amendment was offered to-day, that it was the intention of the Senator from Pennsylvania to submit it. I would rely much upon the superior judgment of those who are more familiar with these subjects than I am. Doing so, I shall vote for this amendment; but, at the same time, I must confess that there are not those restrictions thrown around it, which, in my judgment, would be necessary, in order to prevent an abuse of power on the part of the contractors.

Mr. DAVIS. Mr. President, this dock, it is said, is larger than is necessary for the use of the Government. I dare say it will turn out to be true. This is what is called a "sectional dock." I have never seen one of those structures called a sectional dock; but if I have a right understanding of them, they are built in sections which are separate; and consequently sections that are capable of being used separately. I think that it will turn out, in the end, that here is dock enough to be divided in such a way that one portion of it can be appropriated to the civil marine, and the other portion be appropriated to the use of the Government, and that both branches of the service can be accommodated by it—the Government prescribing the terms upon which the portion devoted to the civil marine shall be employed. I do not think there is any very great difficulty in prescribing terms that shall save the public from imposition—for there are other modes of repairing vessels which can be resorted to, which are well known and understood, and which generally are resorted to, if very extravagant terms are demanded for the use of docks. If extravagant terms are demanded, of course vessels, unless there is need of great haste, will go to the old mode of repairing. But, I see no difficulty, if I understand and comprehend this structure, in making something like the arrangement which I suggest—an arrangement which shall both accommodate the Government and the civil marine.

Now, I suppose it is very desirable for the civil marine that this dock should be brought into operation. It is very convenient for repairs, because it hastens that operation very much. A Senator suggests that it cannot be used without a pier. That there is a great deal of inconvenience in using it without a pier I take to be true; but I take it not to be true that it cannot be used without a pier. I take it that these sections may be taken into deep water, where they can be carried under a ship, and, if proper care and proper skill is exercised, a vessel may be raised and carried into dock without a pier. A pier, I admit, is very convenient; but the very operation I have described is now going on, I understand, at Portsmouth.

Mr. HALE. The dock at Portsmouth is a floating, and not a sectional dock.

Mr. DAVIS. The gentleman says that dock is a floating dock. I had supposed it was a sectional one. But whether it is a sectional dock or not, a ship of the line can be taken into it without a pier; and that operation, I understand, is now going on, or has been performed, at Portsmouth. I believe it has been done.

I take it, then, that there is no insuperable obstacle to the use of this dock in the way which I have suggested. But if the Senator from California does not think that this is necessary for the port of San Francisco, I should be disinclined to thrust it upon them. It seems to me, however, that if you clothe the Secretary of the Navy with

power to enter into the contract or not, as he sees fit, and to enter into one which shall cover and protect properly all interests, there can be no particular objection whether it is done now or on some other occasion; but the sooner it is done it seems to me the better.

There are, undoubtedly, many vessels visiting California that would be benefited by this dock. There are many vessels belonging there that would be greatly benefited by it. There is a large steam marine plying between California and Panama, and other ports. It is not very convenient to lay down one of these steamers for repairs. It is a difficult job, and the vessel is apt to be injured by the process. Now, if they could have the accommodation of a dock, I have no doubt it would be very useful to them; and very convenient to the public, as it would give great dispatch to the making of repairs.

I have no great anxiety in regard to this measure; but it seems to me reasonable enough to suppose, that the Government may, by a contract, indemnify itself to some extent for the expense of this work. But if, as I said before, the Senator from California does not think it expedient, I should not press the amendment.

Mr. CASS. Mr. President, it seems to me that there is a very easy mode of obviating this difficulty. It is clear that this dock might be put to the uses which the honorable Senator from Massachusetts has suggested. In the hands of the contractors, unless guarded, they might put very extravagant terms upon the vessels of the commercial marine, and might forbid their going in. Now, it seems to me, that, if it is provided, that this contract shall be made on terms that shall be advantageous to the interests of the commercial marine, as well as to the interests of the United States, for which the amendment already provides, it would be very well. With this simple addition, the Secretary of the Navy would have the whole power; and then we could hold him responsible.

Mr. HUNTER. I understand that the Senator from Maine has such an amendment as that to offer.

Mr. CASS. I am glad of it. It is idle for us to sit here and regulate all the details with reference to this matter. We cannot understand all the details with regard to the dry-dock in California. Let us refer them to the proper Department to examine all the questions connected with the matter. Let us put the amendment in such a shape that it shall protect, not only the interests of the United States, but also the interests of the commercial marine; and not have the commercial marine imposed upon by extravagant demands.

Mr. HAMLIN. I move to amend the amendment of the Senator from Pennsylvania, by substituting for it the following:

That said dock may be used for the purpose of repairing merchant ships, when not in use by the Government, in such manner, for such compensation, and upon such terms and conditions as shall be prescribed by the Secretary of the Navy.

Mr. MASON. Mr. President, the amendment offered by the Senator from Maine is one which has pressed itself upon my mind, in considering this question, as the true mode of disposing of the subject. I take it for granted that it cannot be the design of any Senator that a lease of Government property should be placed in the hands of private individuals for purposes of private speculation. I will not agree, as one of the members of this body, to part with this property at all; I will not agree to place it in the hands of private individuals to be used for any purpose whatever. Yet I am free to admit, from all I have heard, that it may be very desirable that merchant vessels shall have as free a use of this dock as the exigencies of the merchant service may require. I would, therefore, suggest to the Senator from Pennsylvania that it would be better to accept the proposition of the Senator from Maine as a substitute for his own.

The PRESIDENT. The Chair, on looking at the amendment proposed by the Senator from Pennsylvania, finds that it is an amendment to an amendment. It is an amendment to the amendment already adopted with regard to the sectional dock in California. The Senator from Maine cannot, therefore, offer an amendment to the amendment of the Senator from Pennsylvania, for that is already an amendment to an amendment. But if the proposition of the Senator from Pennsylvania

nia should be rejected, it would then be in order for the Senator from Maine to offer his amendment.

**Mr. BRODHEAD.** At the suggestion of various friends, I withdraw my amendment and accept that of the Senator from Maine as a substitute for it.

**The PRESIDENT.** The question will then be on the amendment of the Senator from Maine.

**Mr. RUSK.** I dislike to oppose this proposition, but I am one of those unfortunate individuals who do not know everything by instinct. I have to study and reflect before I can come to a conclusion on which I can trust myself. I see no use of precipitancy about this matter; but if this amendment be adopted, it seems to me that it will place a vast deal of power in the hands of the Secretary of the Navy. It will give him the power to prescribe the rules by which this property may be used. My own opinion is, that we had better take time to reflect upon the subject, and adopt some measure by which this power may be taken out of the hands of the Secretary of the Navy, and put upon some principles that may give the merchant marine a fair chance to use this dock. I would give a fair, open opportunity to each; but I do not want to trust too much, in a matter of this sort, to the Secretary of the Navy.

**Mr. STOCKTON.** Mr. President, it is with great diffidence that I undertake to give an opinion on this subject, but it seems to me that I can no longer allow this debate to go on without expressing my opinion with regard to this matter, and some principles connected with it. I am entirely opposed to these partnerships and speculations between the Government of the United States and private individuals. I do not see where we get the authority to build docks for the purpose of loaning them out, or hiring them out.

In the first place, I do not think it becomes the dignity and character of this Government to do so; and, in the second place, I think this practice is increasing upon us. The dangers into which we are likely to run on account of it are, in my judgment, very great. I have been using my poor influence, since I have been in the Senate, to embarrass the Government of the United States from these private speculations—from all these connections of any kind.

But again: there is no necessity for legislation upon this subject. If we have a dry-dock, or a pier, or any other convenience, for the purpose of repairing the vessels of the United States on the Pacific coast, and if there is no other convenience there by which merchant vessels can be repaired, and a merchant vessel should go into the port where that convenience is, the commanding officer of that port would feel himself under an obligation to permit that vessel to go on the dock and be repaired. This is the universal practice of the Navy; and the officers are commanded to do so. If an American man-of-war meets a merchant vessel in distress, and they can relieve her, they are bound to do so; and all that they ask is, that the actual expenses to which the Government has been put, shall be repaid by the persons so accommodated. Now, why cannot that practice continue without this amendment? There is no reason in the world why there should be such an amendment. If there is any amendment made, I hope we shall make none that will carry with it the authority of the Secretary of the Navy to hire out or lease any part of the public works.

I repeat, sir, that this dock, if constructed in California, will be entirely at the service of the merchant marine; because that will be in accordance with the universal practice of the Navy, and their established rules and regulations, namely, to afford every facility to every citizen of the United States that it is within their power to afford. I therefore hold that legislation is not necessary for the purpose of affording the merchant marine in California the advantages of any dock the Government may see fit to build there.

**Mr. BRODHEAD** called for the yeas and nays on the amendment, and they were ordered.

**Mr. WELLER.** Mr. President, if it has been the practice of the Government to suffer the merchant marine to use these dry-docks whenever application is made, and whenever they are not necessarily used by the Navy, there would, as the honorable Senator from New Jersey says, be no necessity for this provision. But I do not believe that has been the practice to such an extent as

would enable the merchant marine, floating on the Pacific ocean, to use this dry-dock, unless there was some legislation on the subject. As a general principle, I am opposed, as a matter of course, to all copartnership between the Government and individuals. It was because I was opposed to interfering with the business of private individuals, that I was constrained to vote against the appropriation for the Collins line. There was a copartnership. There was an established concern, with a capital stock of some \$800,000 paid in by the Government of the United States. That copartnership met with favor from the Senator from New Jersey. It seems, then, that he has become latterly a convert to this doctrine of abstaining from intermeddling with the affairs of private individuals, and forming copartnerships between the Government and private citizens.

I think that legislation upon this subject is necessary, and that the amendment, as it now stands, is in a shape where the power cannot be abused. We have the standing and reputation of the Secretary of the Navy to assure us that this dry-dock, when not necessary for the use of the Government, will be used for the accommodation of the merchant marine floating upon the Pacific ocean. That is all that we desire. We intrust this power to the Secretary of the Navy. He may abuse it, it is true, as all human power is oftentimes abused. It would, however, be an argument against all Governments. You are compelled to trust those who have been selected by the people for the discharge of these executive duties. It is for that reason I prefer that the amendment in its present shape should be adopted, in order that we may have the security which the reputation and the standing of the Secretary of the Navy can give, that that power shall be exercised, not only to protect the interests of the Government of the United States, but also to accommodate all the vessels that may be found floating upon that ocean.

**Mr. MALLORY.** Mr. President, the suggestions thrown out by the honorable Senator from New Jersey, are strictly correct. I doubt whether any instance can be found of the controller of a naval dry-dock, sectional floating dock, or other contrivance for the repair of vessels, refusing the use of the dock to a private vessel when not incompatible with the public service. The fact is, however, that on the Atlantic coast such a request will rarely ever be made, because nearly every considerable port of the United States has its dock. We have some five public docks on the coast of the Atlantic; and, if I am not misinformed, there are in the Atlantic cities an infinite number of private docks always open to the merchant marine. Undoubtedly on the Pacific coast, where no private docks exist, if the officer controlling the Government dry-dock should refuse it, when not needed for the public service, to the merchant marine, he would meet with the reprobation of the Secretary of the Navy. I do not, therefore, deem legislation at this moment essential.

While I am up, I would ask the Senator from Maine whether, if this amendment be insisted upon, he had not better insert a provision controlling the Secretary of the Navy as to the time for which he shall lease this dock? It would be better, I think, to control the Secretary of the Navy as to the duration of the lease; or is he to have, in addition to the controlling power which the amendment confers upon him, a right to lease the dock throughout its entire existence?

**Mr. HAMLIN.** Mr. President, I think the Senator will be very much troubled to find any power given in the amendment which I have offered which will authorize the Secretary of the Navy to lease this dock to anybody for any length of time. It was offered for the sole purpose of obviating the objection which has been alluded to. I want the Government to go into copartnership with nobody. This amendment proposes simply to do by law what the Senator from New Jersey and the Senator from Florida say is now done without law. Besides that, I do not agree with the assertion of those gentlemen with regard to the use of these docks for private vessels when they are not needed for public purposes. There may be cases—extraordinary ones—in which they have been allowed to be used for private purposes; but if there have been such cases they are exceptions. The real rule is, as I understand it, that the public docks are to be used for mercantile purposes on

no occasion. But the amendment, admitting the assertion to be true, only provides that, what the Senators say is now done without law, shall be done by virtue of law and not in violation of law.

The Senator from New Jersey is mistaken, if he supposes that these docks are to be constructed for the purpose of leasing them to merchants; or that they are to be constructed for the purposes of the merchant service. It is not so. They are built for the Government, but while not in the use of the Government, in an extraordinary state of circumstances, with the great amount of commerce on that coast, and with no facilities for repairing vessels, it is proposed to do there, by law, what both the Senators from New Jersey and Florida assert is done without law, although I do not understand that it is so.

**Mr. DAWSON.** Mr. President, when this, or a similar amendment was proposed before, I gave it as my opinion, that it was the commencement of a new principle. I am one of those who desire, in my legislative action, to avoid making contracts on the part of the General Government; for I know that, whenever the Government of the United States goes in as a contractor, all the losses invariably fall upon it. What are we proposing to do now? To give ourselves the character of a lessor, with a view to lease the public property to individuals, and thereby, to the extent of the contract which we make with the lessee, transferring the public property to the control of that lessee, subject to the contract. And if the contract turns out to be disadvantageous or injurious to the lessee, any losses that will be sustained, I venture to say, will be saddled upon the Government; and for this purpose, our public property is to be controlled by individuals. Now, this is said to be for the benefit of the mercantile interest—for the benefit of the merchant marine. Who are to be the owners, the controllers, and the lessees of this property? Individuals?

**Mr. WELLER.** Will the Senator from Georgia allow me to read the amendment? He certainly misapprehends its whole character. It does not propose to lease the dry-dock at all.

**Mr. DAWSON.** What does it propose?

**Mr. WELLER.** Its provisions are:

“That said dock may be used for the purpose of repairing merchant ships, when not in use by the Government, in such manner, for such compensation, and upon such terms and conditions as shall be prescribed by the Secretary of the Navy.”

**Mr. DAWSON.** Is not that equivalent to leasing it?

**Mr. WELLER.** Do you call that leasing it?

**Mr. DAWSON.** Certainly; because if this is to be used for private purposes, under such terms and stipulations as the Secretary of the Navy may choose, the individual who enters into the contract will have rights given to him by it, and will have the possession and control of the property. I do not desire to oppose this finally. All that I desire is, that we should take time. The dock is not yet there; it has yet to be completed. Let the Secretary of the Navy inquire into the state and condition of things there, and present to Congress a scheme accompanied by facts, so that we may comprehend the condition of things there, and then we can pass a law to meet whatever emergency may arise. But now, before the dock is erected, are we to authorize the Secretary of the Navy to put it at the command of individuals who may desire to use it for their vessels? The great injury which is to result from it is this: The use of this public dock for private purposes will prevent the erection of private docks, and the lessee or the contractor, who will have possession of the public docks, will demand of those who desire improvements and repairs upon their vessels just what he pleases. It destroys all competition, and it will grow into this result: that the Government will be the builder of all the docks for public and private purposes hereafter. And so soon as this dock shall be placed without the control of the Government in this way, the dock at Kittery, the one at Philadelphia, and the one at Pensacola will all follow in the same train, and individuals will go there—ship-builders, ship-repairers—and get possession of the Government property. I prefer that this proposition should be withdrawn, for I concur most thoroughly with the honorable Senator from New Jersey, whose experience and observation should have great influence on this subject. Let it be passed over, at least for the present,



and let it be brought up when the general naval appropriation bill shall be before us, when we shall have time to consider, and so hear something more upon the subject. This is what I desire. Upon one great principle, which controls me, that this Government should enter into no such contract, I want to see the time when the Government shall pay down the dollars whenever it purchases anything. I want the Government to make none of your running contracts—none of those arrangements in relation to the public property.

Mr. HALE. Mr. President, it seems to me, that the whole argument amounts to this: whether this Government will act the part of the dog in the manger in this dock business. The whole amount of the amendment is, that while we do not want to use this dock, we will allow our merchants to use it. And the only question is, whether that use shall be at the discretion of the officer in control of the station, subject to his whim and caprice, or whether it shall be under a set of regulations prescribed by the Secretary of the Navy in pursuance of law. That is the whole dispute. It seems to me that so plain a question cannot need much elaboration before the Senate.

Mr. STOCKTON. Mr. President, this, to my mind, is not quite so small a matter as some Senators suppose. I think there is a great principle which Senators must remember may grow out of this, and be established by it. Senators say that they want to do now, by law, what they have been doing without law. They must admit, then, that the public officers in the public service of the United States, who have command of the public ships and public dock-yards, will hereafter be prohibited from rendering aid to the mercantile marine or to a vessel in distress; because, they say here, we must have a law to do it. If you must have a law to permit a merchant vessel in San Francisco to go into the public dock, you must have a law authorizing a man-of-war to give a barrel of flour, or a barrel of pork, to a vessel in distress. I say the principle is established, and has been practiced since the foundation of the Government, that whenever a public officer meets a private citizen in distress, he is authorized to give to that private individual all the aid he can, simply requiring from that citizen a remuneration for the actual expense he has been put to; and if he were to call upon that individual to pay more, he would be scouted by every public man. This Government was not intended for any such purpose. In my judgment, if, through the agency of the public officers, or the public works, you can benefit a citizen, you should benefit him, only requiring him to pay the actual expenditures incurred by the benefit. You should not degrade this Government by asking or requiring your officers to call upon the citizen to pay for any service you happen to render to an unfortunate man.

Then, again, it does appear to me, that if anything is done upon the subject, it should be with more caution. We should take, as my honorable friend from Georgia says, more time. You are undertaking to throw your legislation over a very wide field, and you must take time to do it. If, therefore, you do anything, I hope that this matter will be postponed until the Senate can have an opportunity to look into it. But, I repeat that, in my judgment, no legislation is necessary.

I have one word to say to my friend from California, who, with an air of triumph, that does not seem to me to be at all justified by the argument he made out, seemed to think that he not only accused, but convicted me of great inconsistency; because, said he, "you went for the Collins line, and now you will not go for this." Well, sir, I abstained from participating in the debate on that amendment before the Senate, not that I had not views which I wanted to express, but because I hoped every speech which I heard would have been the last. I could not conceive how a simple proposition to pay a mail carrier an additional compensation, could have given rise to such an exciting and extended debate. If the gentleman from California, and those who made the onslaught upon that proposition, submitted by the Naval Committee, chose to go into great questions of Government, which had nothing to do with it, it is their fault, not mine. That recommendation of the Naval Committee was not, in my judgment, treated by those gentlemen with the respect and confidence it deserved. That committee were not asked, the duties imposed upon

them did not require that they should undertake to examine into the authority under which that contract was made. They were not required to go and ask how much money the steamers of the Cunard line cost. They were not called upon to go and inquire whether the Government made money or lost by the postage. The matter referred to that committee was simply this: "Will you give a few thousand dollars more to a mail carrier, or will you allow the mails to be stopped?" That was the question, and the proper question before the Senate, and the only question, Senators will permit me to say, with due deference to them, that ought to have been debated in the Senate. And now, I should like to know, taking that view of the subject, how the Senator from California can come here and hold me responsible to principles which were entirely irrelevant to the question before the committee and for which I voted? How can he undertake to tell me, that I went for a partnership? I say, I went for no such thing. That partnership had been formed and consummated by a previous Congress. The deed had been done. The Naval Committee did all they could to disembarass themselves. They turned them all out of the committee as soon as they could, and I believe at my instance. I want my friend from California, therefore, to understand, that I voted simply to give a mail contractor an additional price—not to establish a principle. The principle was established by a previous Congress. The contracts were made by the authority of the Government, and this Senate, permit me to say, had no authority whatever to look beyond those contracts. It could neither annul, modify, nor alter them. We must take them as they were; and the only question, therefore, that was before the Senate, and the only question I voted upon, was whether we would give the contractors \$5,000 or \$6,000 more a trip, or run the risk of losing the benefit of the transportation of the mail by these means.

Mr. BORLAND. Mr. President, I do not intend to enter into the discussion of the merits of the Collins line appropriation.

The PRESIDENT. It will not be in order to do so.

Mr. BORLAND. I wish, however, to reply in a single word to the Senator from New Jersey. He lays it down as a principle to govern the action of this body, that we had no right, and have no right, to look behind contracts even to extend or modify them in any particular whatever.

Mr. STOCKTON. Not without the consent of the parties.

Mr. BORLAND. Why, here are the proprietors of the Collins line, and they came forward and declared to the Senate of the United States that they had modified the contract; that they had violated it in almost every particular, and yet they called upon Congress to modify and change, or materially alter it in another. That is all that I have to say.

The PRESIDENT. The appropriation for the Collins line is not now under discussion.

Mr. WELLER. Certainly, I am not disposed to discuss that question; but I am rejoiced that I made allusion to it, and therefore provoked a most eloquent speech from my friend from New Jersey; and I only regret that there was not a more numerous audience present to have listened to his display. I did not say that the Senator was inconsistent in supporting an appropriation for the Collins line, and in not supporting this proposition; but I said that there was an inconsistency in his argument. The proposition now under consideration is simply one to authorize the Secretary of the Navy to permit the merchant marine to use this dock whenever it shall not be necessary for the use of the Government—whenever it shall not be necessary for our vessels of war. That is all. There is no partnership there. Whether there be or be not a partnership between this Government and Collins in the running of his line of steamers, I shall not undertake to discuss, because that would not now be in order.

The Senator said a short time ago, before he sat down, that the reason he voted for that was, because the partnership had been formed long ago. There was an admission that there was a partnership, and that he had voted to continue the partnership, and yet he was all the time affirming that it was a fixed principle in his mind never to have

the Government go into partnership with private individuals.

Mr. STOCKTON. How could you get rid of that contract?

Mr. WELLER. I will tell the Senator how he could have got rid of it. They told us that unless we gave them more than \$850,000 a year, they would take their steamers off, or in other words, they would abandon their contract. If the Senator was opposed to partnerships between the Government and private individuals, why did he not take these men at their word, and suffer them to discontinue their line of steamers? The remarks of the honorable gentleman from New Jersey, in regard to the discussion of that subject, did not apply to me. I did not open my mouth about that matter. I was perfectly satisfied with recording my vote against that which I considered wrong in principle, and calculated in practice to lead to most disastrous results.

I ask the Senator from New Jersey, if it be true, as he says, that all these dry docks are now, under the orders of the officers, permitted to be used for the purpose of repairing vessels, what can be the objection to the amendment? It is simply declaring that that hereafter shall be legal which heretofore may have been considered, by some, illegal. That is all we ask for. It is simply that that dry-dock shall be permitted to be used by your merchant vessels whenever it is not necessary for your naval purposes. And what is the objection to that? He says we have always done that heretofore. Then adopt the amendment, and it will be done hereafter, and it will be done upon such terms and conditions as the head of the Department having charge of the naval affairs of your Government may choose to prescribe. Sir, I did not intend to have said a word; but this is a question which concerns a part of the State which I represent. I therefore was anxious that there should be some arrangement by which merchant vessels should be repaired on that coast. It has been my practice never to open my mouth in the Senate, and I intend to adhere to that for some time, unless upon a question in which my constituents are directly interested.

Mr. DAVIS. Mr. President, the Senator from New Jersey says the deed is done in relation to the Collins line. Well, then, I submit to his judgment, whether it is not done here? If he had listened to the remarks of the honorable Senator from North Carolina, he would have learned that the Secretary of the Navy, by the law as it stands, claims to have the power to exercise this very authority. Now, sir, it will be within your recollection, and within that of many other gentlemen here, that one of the principal arguments when this law was passed, which was pressed upon the Senate, was, that it was to be for the benefit of the mercantile marine.

Mr. MANGUM. I rise to a point of order. I do it the more freely, because I raise it upon a friend on my own side of the Chamber, who sits near me. It is said somewhere, that there should be an end to all earthly things. I hope there is a period approaching when there will be an end of the discussion of this deficiency bill—and the point of order which I raise is, that this discussion is wholly irrelevant to the amendment under consideration, for we have passed upon the amendment proposing an appropriation for the Collins line.

The PRESIDENT. The Senator from Massachusetts is not discussing that question at all. He is confining himself to the amendment.

Mr. MANGUM. I understood him to be repelling an argument brought forward by the Senator from New Jersey, in relation to the Collins line.

The PRESIDENT. That is passed by. The Senator from Massachusetts is entitled to the floor.

Mr. MANGUM. I understood that the Senator from Massachusetts was repelling an argument offered by the Senator from New Jersey, having relation to the Collins line; but as it seems I am mistaken, I hope the Senator from Massachusetts will proceed.

Mr. DAVIS. My friend from North Carolina labors under some misapprehension, in regard to the drift of my argument. I am sorry that I am not able to make it a little more intelligible. But I was saying, that when this law, authorizing the construction of this dry-dock was passed, the argument was pressed very earnestly upon the Senate, that one of its principal uses would be for the

civil marine, and perhaps that argument was more influential in carrying the bill than any other; for the Government had very few ships in the Pacific ocean that required repairs there. The clause to which allusion has been made by my friend from Maine, was ingrafted upon that bill, and the power now exists, at this moment, by virtue of that law, to do just precisely what this amendment proposes to carry out a little more in detail. That power, that authority, is now claimed by the Secretary of the Navy.

Mr. STOCKTON. I was not aware of that fact. I therefore withdraw my opposition to the amendment, because this will be the best thing that can be done to remedy the matter. I was not aware of the existing law.

Mr. DAVIS. I was about to add, that I felt some objection to it at the time it was passed. I think now that we are committed to this policy, and being committed to it, we are bound in good faith to carry it out; and that is the reason I shall vote for the amendment.

The question being taken by yeas and nays on the amendment offered by Mr. HAMLIN, resulted—yeas 35, nays 5, as follows:

YEAS—Messrs. Adams, Borland, Bradbury, Bright, Brodhead, Brooke, Cass, Chase, Cooper, Davis, De Sausure, Dodge of Wisconsin, Downs, Felch, Fish, Foot, Geyer, Hale, Hamlin, Houston, Hunter, King, Miller, Norris, Sebastian, Seward, Shields, Smith, Soule, Spruance, Stockton, Sumner, Upham, Wade, and Weller—35.

NAYS—Messrs. Badger, Bell, Dawson, Mangum, and Rusk—5.

So the amendment was agreed to.

Mr. BORLAND. I have an amendment which I wish to offer. It is one which I offered in Committee of the Whole, early in the discussion of this bill, and at the suggestion of Senators I then withdrew it temporarily. I now renew the amendment. It is to insert:

That the selection of newspapers for the publication of the laws of the United States shall, after the passage of this act, be made by the Secretary of State, as follows: The number selected shall be one in each Congressional district in each State, one in each Territory, and four in the District of Columbia. And the preference shall be given, in all cases, to the papers which, at the time of selection, shall have in the States or Territories respectively in which they are printed, the largest number of weekly subscribers; and to those in the District of Columbia which shall have at the time of selection, the largest number of weekly subscribers in the United States; the amount of such number of subscribers to be ascertained by the affidavit of the publishers respectively, and by such additional evidence as may be requisite to establish the facts in each case to the satisfaction of the postmaster at whose office such papers respectively commence their circulation.

And be it further enacted, That when it shall be necessary to publish any public advertisements, except advertisements of letters in any State, they shall be published in the two papers in said State having the largest number of subscribers, as provided in the preceding section of this act, for the publication of the laws, the amount of circulation to be ascertained in the same manner as provided in the preceding section aforesaid.

And be it further enacted, That said public advertisements shall be published in the newspapers having the publication of the laws as aforesaid in the District of Columbia, and in the papers having the publication of said laws in the Territories, when and as often as may be deemed necessary.

And be it further enacted, That as soon as may be after the passage of this act, and at the beginning of the first session of every succeeding Congress, a copy of the list of newspapers selected, according to the terms of this act, for the publication of the laws of the United States, shall be communicated by the Secretary of State to the heads of the several Executive Departments, and to the Senate and House of Representatives respectively.

And be it further enacted, That the President shall cause to be communicated to the Senate and House of Representatives annually a list of all newspapers that shall have published by authority, during the next preceding year, any advertisement as aforesaid, with the names of the publishers, the place of publication, the nature of the work performed, and the amount paid to each publisher.

And be it further enacted, That all acts and parts of acts inconsistent with this act be, and they are hereby, repealed.

The Senate will recollect that at a very early period of the debate I withdrew it at the suggestion of Senators, that it would be better to offer it at a later period.

Mr. BADGER. It can be offered on someone of the general appropriation bills.

Mr. HUNTER. I ask my friend from Arkansas if it would not satisfy him better to have this inserted in one of the general appropriation bills? I hope he will withdraw the amendment. We are anxious to order the bill to its third reading to-day.

Mr. BORLAND. This cannot be called a deficiency, but it regulates the use of an appropriation, which is made in the bill to supply a deficiency.

Mr. HALE. It is a sufficiency, and we will go for it by-and-by.

Mr. HUNTER. I do not raise any question of order; but I would suggest to my friend from Arkansas that it would be better to bring this in in one of the general appropriation bills.

The PRESIDENT. The Senator can offer it to any of these bills.

Mr. HUNTER. That being the case, I hope he will now withdraw the amendment.

Mr. BORLAND. I am not particularly desirous to press the amendment now, but there are other Senators who desire particularly that I should do so. I offer it not only in accordance with what I believe to be right, but because I know it is desired and expected by others, at whose suggestion I withdrew it originally. I renew it in accordance with the promise I then made; and it is simply for the Senate to say whether they will adopt it or not.

Mr. MANGUM. I believe this amendment was withdrawn on a former occasion principally at my suggestion. I have turned my attention somewhat to it, and I think that with some modifications, it is a measure that ought to be adopted. If it would not weary the Senate with sitting too long, I would prefer that it should be done now. But, there being plenty of time, I am willing, as far as I am concerned, not to stand in the way of the withdrawal of the amendment, if other gentlemen desire its withdrawal. I think, however, its object is desirable, and, with a few modifications, the amendment will meet with my approbation.

Mr. BORLAND. The Senator from North Carolina is right in saying that it was mainly at his suggestion that I withdrew the proposition before; and, with his consent now, I will withdraw it again.

No further amendment being offered, the amendments which were adopted were ordered to be engrossed, and the bill to be read a third time.

#### RAILROADS IN MISSOURI.

A message was received from the House of Representatives by Mr. HAYS, its Chief Clerk, announcing that it had passed the bill from the Senate, "granting the right of way to the State of Missouri, and a portion of the public land, to aid in the construction of certain railroads in said State," with an amendment, in which it requested the concurrence of the Senate.

#### NAUTICAL ALMANAC.

Mr. HALE. I ask the consent of the Senate to take up a resolution of inquiry, which I laid on the table some time since, in regard to the Nautical Almanac, and which the honorable Senator from North Carolina, in his remarks to-day, supposed had been passed. It is a simple resolution, calling for information which we want in order to guide our action. I move to postpone the prior orders, for the purpose of taking up that resolution.

The motion was not agreed to; there being on a division—ayes 13, nays 23.

On motion, the Senate adjourned until Monday.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, May 28, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the consideration of the unfinished business of yesterday, being Senate bill No. 3, granting the right of way to the State of Missouri, and a portion of the public lands, to aid in the construction of a railroad from Hannibal to St. Joseph, in said State. A motion is pending to recommit the bill to the Committee on Public Lands, upon which the previous question has been demanded.

Mr. WALSH. I ask the unanimous consent of the House to make a report from the Committee on Commerce. It is simply to admit a vessel to registry which is lying in the harbor at Baltimore, almost to the destruction of the interest of a poor man.

Mr. HALL. I ask the gentleman from Maryland to modify his motion, so that it shall be disposed of before the commencement of the morning hour.

Mr. WALSH. I will so modify it.

Mr. McMULLIN. Before the House proceed to any business, I rise to inquire whether the

Journal of the proceedings of yesterday is as full as it should be. I desire to inquire of the Speaker whether it is usual, when a motion is submitted to the House asking leave to introduce a bill of which previous notice had been given, and objection is made, as was the case yesterday, in regard to the mileage bill, for such motion to appear on the Journal?

The SPEAKER. It is not. Such motions never appear upon the Journal, for the reason—and the gentleman will see the point—that it was not in order for the gentleman to make the motion. It was simply an appeal to the House.

Mr. McMULLIN. Very well. I only asked for my own information.

There being no objection,

Mr. WALSH then, by unanimous consent, reported from the Committee on Commerce, a bill to change the name of an American-built vessel, named Amelia, and to grant a register in her new name, which was read a first and second time by its title.

Mr. WALSH. I move that the bill be put upon its passage.

The bill was read through by the Clerk, and ordered to be engrossed and read a third time, and having been engrossed, it was read the third time and passed.

On motion by Mr. FLORENCE, it was

Ordered, That the petition and papers in the case of Sarah Peacock, praying for remuneration from the United States for losses sustained in the Seminole war of 1836, be withdrawn from the files of the House and referred to the Committee on Claims.

Mr. GORMAN. Some weeks ago a bill was introduced from the Committee on Public Lands in regard to a deficiency in the public lands heretofore granted to the State of Indiana, which was referred to the Committee of the Whole House. A motion was made to reconsider that vote on the reference. I now desire to know whether that motion will take precedence, as the first business in order, if it be called up?

The SPEAKER. Not until the morning hour has expired, it being excluded by the special order until that time.

#### MISSOURI RAILROAD BILL.

The SPEAKER. The question now before the House is upon seconding the demand for the previous question upon the motion to recommit Senate bill No. 43—the Missouri railroad bill—to the Committee on Public Lands.

Mr. HALL. I desire to withdraw the motion to recommit the bill.

Mr. HIBBARD. I move to refer it to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair doubts whether it is competent for the gentleman from Missouri to withdraw the motion to recommit during the pendency of the demand for the previous question.

Mr. HIBBARD. The previous question was called by the gentleman from Missouri upon his motion to recommit, and the fact of the gentleman having withdrawn the motion to recommit, carries with it the demand for the previous question.

The SPEAKER. The Chair doubts whether the gentleman from Missouri could withdraw the motion to recommit, unless he first withdrew the demand for the previous question.

Mr. JONES, of Tennessee. I wish to inquire if, when the gentleman from Missouri withdrew the motion to recommit, the Chair did not state that the motion was withdrawn, and recognize the gentleman from New Hampshire, [Mr. HIBBARD?] I submit that he could not withdraw it regularly while the demand for the previous question was pending; but that when it was withdrawn, it carried with it the demand for the previous question.

The SPEAKER. The statement of the gentleman from Tennessee is correct, except in this: The Chair did not state that the gentleman from Missouri had the right to withdraw the motion to recommit; but, on the contrary, he was stating to the gentleman from New Hampshire [Mr. HIBBARD] that the gentleman had no such right until he had withdrawn the demand for the previous question, when he was interrupted by the gentleman from Tennessee, [Mr. JONES.]

Mr. STEPHENS, of Georgia. Suppose the gentleman from Missouri had moved to recommit, and suppose I had demanded the previous question, my demand is not upon his motion to recommit simply, but upon the whole bill. Now, if the

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gentleman withdraws the motion to recommit, that does not affect my demand for the previous question, but it will still cover all that is left.

The SPEAKER. The gentleman from Missouri moved to recommit the bill, and upon that motion demanded the previous question. The Chair doubts whether he can withdraw the motion to recommit while the previous question is pending.

Mr. STEPHENS. He had a perfect right to withdraw his motion, and the previous question would still remain upon the passage of the bill. The previous question might have been called by any other person, in which case it would not have been affected by the gentleman withdrawing his motion to recommit. Now, the fact that he made the demand for the previous question himself makes no difference. The operation of the previous question is the same, and it will still remain if the motion to recommit be withdrawn.

Mr. HALL. If the demand for the previous question had been seconded, of course I could not withdraw the motion to recommit; but it had not been seconded, and I think I had the right to withdraw the motion.

Mr. HIBBARD. I submit that the gentleman from Missouri having made both the motion to recommit, and the demand for the previous question, that it is not competent for him to withdraw the motion to commit unless he first withdrew the demand for the previous question.

Mr. STEPHENS. If the Chair will indulge me for one moment, I will give the views I presented in another light.

The SPEAKER. Does the gentleman from Georgia contend that the gentleman from New Hampshire has the right to make a motion to recommit after the previous question has been demanded?

Mr. STEPHENS. No, sir.

The SPEAKER. Yet he would contend that he has the right to withdraw that motion, though it was covered by the previous question?

Mr. STEPHENS. Certainly.

The SPEAKER. The Chair differs with the gentleman upon that point.

Mr. STEPHENS. This is the view I was about to present: Suppose a proposition is pending, and a motion to amend that proposition be made, and the previous question is then demanded, the gentleman moving the amendment has certainly the right to withdraw it.

The SPEAKER. Does the gentleman from Missouri insist upon withdrawing the motion to recommit?

Mr. HALL. I do.

The SPEAKER. The Chair decides that the gentleman has not the right to withdraw it so long as the demand for the previous question is pending.

Mr. HALL. Have I the right to withdraw the demand for the previous question?

The SPEAKER. The gentleman has that right.

Mr. HALL. Would I then have the right to withdraw the motion to recommit?

The SPEAKER. Without doubt.

Mr. HALL. Can I then renew the demand for the previous question?

The SPEAKER. If the gentleman can get the floor for that purpose.

Mr. HIBBARD. I believe I am entitled to the floor, having been recognized by the Chair.

The SPEAKER. The gentleman from Missouri [Mr. HALL] was recognized by the Chair.

Mr. HIBBARD. I rise to a question of order. I understood the gentleman from Missouri to withdraw the motion to recommit. I thereupon rose and was recognized by the Chair. I made a motion to commit the bill to the Committee of the Whole on the state of the Union. The gentleman still insists upon his right to withdraw the motion, and does withdraw it, and with it the demand for the previous question; for if the Chair please, the withdrawal of the motion to recommit carries with it the demand for the previous question. I therefore insist that I am now entitled to the floor.

The SPEAKER. The gentleman from New Hampshire will recollect that the Chair has decided that during the pendency of the demand for the previous question, the gentleman has no right to withdraw the motion to commit.

Mr. HIBBARD. Yes, sir. But I submit that when the gentleman withdrew his motion to recommit, he withdrew the demand for the previous question.

The SPEAKER. The Chair overrules the point of order made by the gentleman from New Hampshire, for the gentleman from Missouri certainly did not withdraw his demand for the previous question.

Mr. HIBBARD. I submit again, that after the gentleman had withdrawn his demand for the previous question, I rose and the floor was awarded to me, and now that he has withdrawn that demand, with his motion to recommit, that I am entitled to the floor.

The SPEAKER. The gentleman did not withdraw the demand for the previous question at all.

Mr. HIBBARD. I so understood him.

The SPEAKER. The Chair did not so understand him. The gentleman propounded the question to the Chair, whether he could withdraw it, but did not withdraw it, and it is now pending. The Chair, therefore, decides that no debate is in order.

Mr. HIBBARD. If the gentleman withdraws the demand for the previous question, can I claim the floor for the purpose of referring the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair must decide the right of each gentleman to the floor as the exigency arises. He will make no promise to any one.

[Cries of "Question!"]

Mr. HALL. I understand the Chair to recognize me as having the floor.

The SPEAKER. The gentleman is entitled to the floor.

Mr. HALL. I withdraw the demand for the previous question.

Mr. HIBBARD. I now claim the floor.

The SPEAKER. The gentleman from Missouri has not yet yielded.

Mr. HALL. I also withdraw the motion to recommit.

Mr. HIBBARD. I now claim the floor.

The SPEAKER. There can be no question that the gentleman from Missouri is entitled to the floor to make a speech if he desires. Having withdrawn the demand for the previous question, and the motion to recommit, he still retains the floor to debate the proposition. If gentlemen will reflect for one moment, there can be no other opinion in relation to it. The gentleman from Missouri has the floor to make a speech if he desires it.

Mr. HALL. I only wish to say that I regret exceedingly that the gentleman from New Hampshire was not willing that we should have a direct vote upon the passage of this bill. I move the previous question, and call for tellers on the second.

Tellers were ordered; and Messrs. HALL, and HARRIS of Tennessee, were appointed; and the question being taken, the tellers reported—ayes 84, noes 66.

So the previous question received a second.

Mr. JONES, of Tennessee. I move to lay this bill upon the table. I hope it will be done, and that it will be kept there until the convention shall have acted.

Mr. HARRIS, of Tennessee, demanded the yeas and nays; which were ordered.

The question was then taken; and there were—yeas 72, nays 104; as follows:

YEAS.—Messrs. Aiken, Allison, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Beale, Bennett, Briggs, Breckinridge, Buell, Caldwell, Caskie, Chastain, Churchill, Clingman, Daniel, Dawson, Dean, Dockery, Edmundson, Faulkner, Floyd, Thomas J. F. Fuller, Giddings, Hamilton, Isham G. Harris, Hascall, Hibbard, Hilyer, Holladay, Houston, Howard, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George W. Jones, George G. King, Preston King, Letcher, Martin, Mason, McCorkle, McLanahan, McMullin, McQueen, Millson, Miner, Morehead, Murphy, Peaslee, Polk, Powell, Ross, Savage, Schoonmaker, Origen S. Seymour, Skelton, Benj. Stanton, Sutherland, Wallace, Welch, Wildrick, and Woodward—74.

Morehead, Murphy, Newton, Peaslee, Polk, Powell, Ross, Russell, Schoonmaker, Origen S. Seymour, Skelton, Smart, Benjamin Stanton, Alexander H. Stephens, Sutherland, Venable, Wallace, Washburn, Welch, Wildrick, and Woodward—72.

NAYS.—Messrs. Abercrombie, Willis Allen, William Appleton, Barrere, Bell, Bibbhaas, Bowne, Brenton, Briggs, Albert G. Brown, Burrows, Busby, E. Carrington Cabell, Lewis D. Campbell, Thompson on Campbell, Chandler, Chapman, Clark, Cobb, Conger, Cottman, Cullom, Curtis, George T. Davis, John G. Davis, Disney, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ficklin, Fitch, Florence, Fowler, Freeman, Henry M. Fuller, Gaylord, Gilmore, Goodrich, Green, Grey, Hall, Harper, S. W. Harris, Hart, Hays, Hebard, Hendricks, Henn, Thomas M. Howe, Hunter, John Johnson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, McDonald, McNair, Miller, Miner, Molony, Henry D. Moore, John Moore, Morrison, Olds, Orr, S. W. Parker, Penn, Penniman, Phelps, Rantoul, Richardson, Riddle, Robbins, Robinson, Sackett, Scudder, Scurry, David L. Seymour, Smith, Stanly, Frederick P. Stanton, Abraham P. Stevens, Stone, St. Martin, Stratton, Strother, Stuart, Taylor, Thurston, Townshend, Walbridge, Walsh, Ward, Watkins, Addison White, Alexander White, and Williams—104.

So the bill was not laid upon the table.

[Ifere a message was received from the Senate by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed "An act to enable the Government to deepen the passes of the Mississippi."]

The SPEAKER. The question now is, Shall the main question be put?

Mr. JONES, of Tennessee. I demand the yeas and nays upon that question.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 103, nays 74; as follows:

YEAS.—Messrs. Abercrombie, Charles Allen, Willis Allen, William Appleton, Barrere, Bell, Bennett, Bibbhaas, Bowne, Brenton, Briggs, Albert G. Brown, Burrows, Busby, E. Carrington Cabell, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clark, Cobb, Conger, Cottman, Curtis, George T. Davis, John G. Davis, Disney, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ficklin, Fitch, Florence, Fowler, Freeman, Henry M. Fuller, Gamble, Giddings, Gilmore, Goodrich, Gorman, Green, Grey, Hall, Harper, Hart, Hays, Hebard, Hendricks, Henn, Thomas M. Howe, Hunter, John Johnson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, McDonald, McNair, Miller, Molony, Henry D. Moore, John Moore, Morrison, Olds, Orr, S. W. Parker, Penn, Penniman, Phelps, Rantoul, Richardson, Robbins, Robinson, Sackett, Scudder, Scurry, David L. Seymour, Smith, Stanly, Frederick P. Stanton, Abraham P. Stevens, Stone, St. Martin, Stratton, Strother, Stuart, Taylor, Thurston, Townshend, Walbridge, Walsh, Ward, Watkins, Addison White, Alexander White, and Williams—103.

NAYS.—Messrs. Aiken, Allison, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Beale, John H. Boyd, Bragg, Breckinridge, Buell, Caldwell, Caskie, Chastain, Churchill, Clingman, Clingman, Colcock, Daniel, Dawson, Dean, Dockery, Edmundson, Ewing, Faulkner, Floyd, Thomas J. F. Fuller, Gentry, Grow, Hamilton, Isham G. Harris, Hascall, Hibbard, Hilyer, Holladay, Houston, Howard, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George W. Jones, Preston King, Letcher, Martin, Mason, McCorkle, McLanahan, McMullin, McQueen, Meade, Millson, Miner, Morehead, Murphy, Peaslee, Polk, Powell, Ross, Savage, Schoonmaker, Origen S. Seymour, Skelton, Benj. Stanton, Sutherland, Wallace, Welch, Wildrick, and Woodward—74.

So the main question was ordered to be put.

Mr. OUTLAW, when his name was called, said: I have paired off upon this question with Mr. PORTER; otherwise I should vote against the bill.

The SPEAKER. The question now is upon the passage of the bill.

Mr. BOCOCK. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POLK. I would inquire, if the morning hour has expired?

The SPEAKER. It has not.

Mr. BOCOCK. I move to lay the bill upon the table.

The SPEAKER. The Chair thinks that the repetition of that proposition without any change in the action of the House upon the bill, is scarcely in order.

Mr. BOCOCK. Has the previous question been moved and sustained upon the passage of the bill?

The SPEAKER. It has.

Mr. BOCOCK. Is a call of the House in order now?

The SPEAKER. It is not.





ingly rose. He then called for the negative, and none rose.

Mr. STANLY. I did not hear the Chair call; but I was up.

Mr. FLORENCE. I was up, also, in the negative. [A laugh.]

The CHAIRMAN. Is there any objection to having a recount?

Mr. FULLER. I object; it was a fair vote.

The CHAIRMAN. The Chair then decides that the committee have agreed to rise.

Mr. STANLY. Several of us stood up and demanded a count on the negative side.

The CHAIRMAN. The committee have clearly decided to rise.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. SEYMOUR, of Connecticut) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 43, making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1853, and had come to no conclusion thereon.

Mr. STANLY. Is it in order to amend the report of the chairman of the Committee of the Whole on the state of the Union?

The SPEAKER. It is not in order.

Mr. STANLY. Suppose the report of the chairman is disputed?

The SPEAKER. According to practice, the House can only know the report made by the chairman.

Mr. STANLY. I state the fact that there were only fourteen who rose in the affirmative. A count in the negative was demanded, the chairman said he did not hear it, and he did not put it. I say there was a majority against rising.

Mr. SEYMOUR, of Connecticut. If the gentleman will be good enough to yield. The gentleman did not understand the precise statement of the chairman of the committee. The affirmative were called to rise, and they did rise, and were counted. After that the chairman called on the negative to rise, and he was under the impression no one rose. The gentleman from Pennsylvania [Mr. FLORENCE] said that he did rise.

Mr. FLORENCE. I did rise, and voted in the negative.

Mr. SEYMOUR. I did not notice the gentleman, but I think there were no others that rose. The Chair distinctly announced that the ayes had it.

Mr. STANLY. I called for the division myself.

Mr. JONES, of Tennessee. I was close at the Clerk's desk—

The SPEAKER. Any question arising as to the report of the chairman must be confined strictly to the committee.

Mr. FOWLER. I move that the House adjourn.

Mr. STANLY. A division now, Mr. Speaker, if you please. [Laughter.]

The question was then put on the motion to adjourn, and it was decided in the affirmative—ayes 20, noes 10.

Mr. STANLY. It is seen that a Democratic Congress can do nothing at the end of a session. [Laughter.]

The House was adjourned accordingly till tomorrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COTTMAN: The petition of John Cullen, Edward Long, John Dennis, and 80 others, citizens of the United States, praying Congress to pass an act to provide for placing buoys in Pocumuck Sound, and in Chessonessex Harbor, in the State of Virginia.

By Mr. BRENTON: The petition of citizens of Indiana and Ohio, asking the right of way and grant of public lands for the construction of a railroad from Toledo, Ohio, via Fort Wayne, Logansport, Delphi, and Lafayette, in Indiana, to Springfield, in Illinois.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, May 29, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. Reports are in order from the Committee on Public Lands.

Mr. STUART. I wish to ask the unanimous consent of the House, before proceeding to the business of the morning hour, to take up and dispose of the territorial business now on the Speaker's table. It is highly important it should be disposed of at an early day in order that it may be passed in the other House.

Mr. JOHNSON. I think unanimous consent should be granted for that purpose, and hope that it will.

Objection was made.

Mr. MOORE, of Pennsylvania, from the Committee on Public Lands, made adverse reports in the following cases; which were ordered to lie on the table, viz:

The petition of James W. Marshall, of California, praying Congress for a grant of land in consideration of his services to the country for having made the first discovery of gold in California in 1847;

The memorial of the defenders of Baltimore, praying for a further grant of land in consideration of their services;

The petition of Peter Lane, praying for a grant of land for services rendered during the war with Great Britain;

The petition of Hannah Obar, praying for bounty land on account of the services of her father, Solomon Nichols, a soldier during the war of 1812;

The resolution of instruction relating to the allowing of bounty land to certain companies of volunteers of South Carolina, and also to other volunteers engaged in the public service.

Also, a bill granting to the State of Michigan the right of way and a portion of the public lands, to aid in the construction of a railroad from Milwaukee, on Saginaw river, to Grand Traverse bay, thence to the Straits of Mackinaw; and

Also, bill No. 64, to amend an act entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved September 28, 1851."

Mr. FLORENCE. Will it be in order to move the recommittal of the report just made, relating to the granting of bounty lands to soldiers of the war of 1812, to the Committee on Public Lands?

The SPEAKER. It will not be in order. It would have been in order before it was disposed of.

#### SALINE LANDS IN INDIANA.

Mr. HALL. I am instructed by the Committee on Public Lands, to which was referred the joint resolution of the Legislature of the State of Indiana in relation to the saline lands in that State, to report "A bill to enable the Legislature of the State of Indiana to dispose of the unsold saline lands in the said State."

The bill was read a first and second time by its title.

Mr. HALL. The gentleman from Indiana [Mr. GORMAN] desires that the bill shall be put on its passage; and that he may make the motion, I yield him the floor.

Mr. GORMAN. These saline lands are lying idle, of no profit to the State of Indiana, or any one else. It is only asked that power be granted by Congress to dispose of them. I hope the House will permit the bill to be now put on its passage. I make that motion.

The bill was read through by the Clerk.

The SPEAKER. The question is on ordering the bill to be engrossed and read a third time.

Mr. CLEVELAND. I think that bill is one of too much importance to be passed by us in this hasty manner. It really changes our land system, and is the commencement of a new era in the mode of disposing of the public lands, so far as the price is concerned. If the gentleman shall be gratified in this, the next move will be to have the price of the public lands graduated in such a way as to destroy or impair their value. It being a bill of much importance, I desire it shall be referred to the Committee of the Whole on the state of the Union, there to be thoroughly discussed. I do not like this mode of legislating; that is, of having a bill reported from a committee, and, without discussion, and without any examination whatever, passed through the House, become a law, and thereby become a precedent, and oftentimes a very dangerous one. I therefore move that this bill be referred to the Committee of the Whole on the state of the Union.

Mr. GORMAN. The gentleman from Connecticut, I am confident, would not submit the motion he has, were he fully advised of the facts of this case. These lands are now subject to sale at \$1 25 per acre. They have been in market for the last twenty years, and yet remain unsold—never can nor never will be disposed of for anybody's benefit at the present price. The State of Indiana owns the land, but there is a clause in the original grant providing that the State shall not sell it at a price less than \$1 25 per acre. They never will be sold for that price. It is merely asked that Congress will repeal that clause of the original law.

Mr. PHELPS. The act only proposes a modification of the existing law, which is that the State of Indiana may be permitted to sell her lands at less than \$1 25 an acre. They have been offered for twenty-five years in the market, but have not found a purchaser.

Mr. CLEVELAND. It is perfectly apparent, and must be, I think, to the whole House, that this bill is interfering with the well-settled policy of the Government. When this grant was made, it was a gift from the General Government to the State, and it was made with this proviso, that she should not reduce the price of her lands, and thereby obtain an advantage over the Government in their sale. This must be apparent to every member of the House.

Mr. PHELPS. Will the gentleman yield the floor to me for a moment? As I understand this matter, the greater part of the lands owned by the Government in the vicinity of these lands have been sold.

Mr. GORMAN. That is a fact.

Mr. PHELPS. The object of providing, in the original grant, that the lands should not be sold for a less price than the Government lands, was to have the sales go on *pari passu*. That was the object of the existing law. The reason, therefore, for the adoption of the proviso, has passed away.

Mr. CLEVELAND. Even this explanation shows the importance of the House knowing something of what we are to vote upon. I submit to the House that this is not a very correct mode of legislation in regard to a very great interest, like the interest we have in our public lands. This is, I believe, the first effort of this kind which has ever been made in Congress. I am not aware that any State has ever come forward and asked a provision of law to graduate the price of her public lands, which are a gift to her from the Government, until the effort was made this morning.

Mr. SACKETT. If gentlemen will refer to the law making the original grant, we may see exactly what we are doing with these lands.

Mr. CLEVELAND. Every step we take in this matter, shows the importance of the House sustaining the motion I made. I do not rise for the purpose of opposing the passage of this bill; and if, upon a fair examination of the matter, it proves to be just and proper, I may vote for it. We have a proposition of this kind, certainly a very important proposition, offered without a report from a committee. We know nothing of it, except from the gentleman, who simply says that it is all right. I repeat again, it is the commencement of a new system of legislation, and one that may be prejudicial to the interests of the Government. Upon finding that it will not be prejudicial, I should have no sort of objection in the world to giving to the State of Indiana the power of disposing of her lands upon her own terms, provided it can be done without injury to any other interest, and especially without injury to the interests of the Government. The House will see that it is one of those questions which ought to be considered before it is acted upon, and if the gentleman will come out with an explanation, which shows that this is a matter interesting the State of Indiana alone, and that no danger whatever will result from the passage of this bill, I will have no objection to it.

Mr. DUNHAM. This matter is easily understood. It is a matter of small importance, and certainly of no importance at all to the General Government. These saline tracts in the State of Indiana are very small in extent, and were granted to that State some years ago. They were reserved by the Government when the lands were first offered at sale, because they were supposed to contain salt springs, and afterwards the General Government released them to the State for an univer-

sity. They are the poorest lands in the State of Indiana, and cannot be sold for \$1 25 an acre. Nobody can be interested in the matter except the State of Indiana, and she is not interested in them in her corporate capacity, because she has granted these lands for educational purposes. The object of the present bill is to enable the State to authorize the sale of these lands, that the proceeds thereof may be applied to educational purposes, for which they were intended. They have been lying idle, some of them, for twenty years.

Some gentlemen seem to suppose that they comprise the reserved section for school purposes. It is not so. They are lands which were first reserved, because they were supposed to contain saline springs.

Mr. FOWLER. Was there a full section reserved where a spring was found?

Mr. DUNHAM. Sometimes only a quarter section; just as the sections were supposed to contain salt springs.

Mr. HALL. I desire to call the attention of the House to the provisions of the original law, by which these saline lands were granted to the State of Indiana. I will ask the Clerk to read the third paragraph of the second section.

The section was then read, as follows:

"That all salt springs within the said territory, and the lands reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to said State, for the use of the people of said State; the same to be used under such terms, conditions, and restrictions, as the Legislature of said State shall direct, provided the said Legislature shall never sell or lease the same for a longer period than ten years at any one time."

Mr. HALL. I will state, now, that all this bill proposes is this: that the State of Indiana shall have the liberty to sell those lands in fee. It is precisely the same thing we did for the State of Iowa two or three weeks ago.

Mr. DUNHAM. It does not seem to be understood by some gentlemen that the General Government has no interest whatever in the lands. It is a matter which concerns the State of Indiana alone, as the General Government has long since released the lands. These lands we may lease from time to time, and we can sell them; but many of them are the poorest lands in the State of Indiana, and cannot be sold for anything like \$1 25 per acre.

Mr. CLEVELAND. The gentleman from Missouri [Mr. HALL] does not seem to understand the bill reported this morning, or I do not understand it. It is unlike the bill from Iowa. It provides that the State may sell them at her own price. That is the object of this bill. Certainly no one will object to the other part of it; but what is it?

Mr. DUNHAM. I wish to make another suggestion. The gentleman's remark calls to my mind what I wish to suggest. The General Government can have no interest in keeping up the price of these lands, because they have no lands in their vicinity. The only object of putting in that restriction, in the first place, was to prevent us from underselling the lands of the General Government, and they have no lands which can be undersold now.

Mr. WALSH. Will the gentleman allow me to ask him a question? The Government appears to have reserved these lands on account of some salt springs. What has become of those springs?

Mr. DUNHAM. I can explain the reason. It was ascertained that there were no salt springs upon these lands, and then the General Government released them to the State of Indiana. When the surveys were first made, the surveyors found that they were saline lands, which might possibly, as the settlements developed them, prove to be valuable; but as the settlements gathered around them it was found that there was not salt enough to be of any use whatever; and the lands being worthless, the General Government released them to the State. There is no salt manufactured upon any of them, or in the State of Indiana. But, suppose there were, the United States Government could have no interest in these lands, because the title has been released to the State, and it is a matter which concerns the State alone.

Mr. CLEVELAND. If these facts, which are now stated by the gentleman, had been reported by the committee, and that report read to the House, it would have satisfied me. If the lands are in such a condition that they cannot be sold for the prices at which Government lands are

sold, and there are no Government lands in the vicinity of these lands which will be injuriously affected by the passage of this bill, then I have no objection to its passage. This very discussion will satisfy the House of the importance of this committee, and other committees, when they submit to the consideration of the House an important act, presenting along with it a report giving the reasons for the conclusion to which they ask the House to come. If these facts are stated correctly—and I doubt not that they are—I shall have no objection to the bill, and will withdraw my motion; but I am opposed to this mode of getting these bills through the House. It is wrong, and the committees ought to furnish us reports.

Mr. LOCKHART. The lands which the provisions of this bill affect are principally, if not all, in the district which I represent. I am, therefore, well acquainted with their situation, and can concur fully in the statement made by my colleague, [Mr. DUNHAM.] I hope, therefore, that the honorable member from Connecticut [Mr. CLEVELAND] will withdraw his opposition to the bill, and let it pass.

Mr. CLEVELAND. I am satisfied with that explanation, and I will withdraw my motion.

The bill was then ordered to be engrossed and read a third time; and being engrossed, was read the third time and passed.

#### IOWA RAILROAD BILL.

Mr. HALL. The Committee on Public Lands have instructed me to report back, with sundry amendments, Senate bill No. 1, entitled "An act 'granting the right of way and making a grant of lands to the State of Iowa, to aid in the construction of certain railroads in said State.'"

The original bill was read through. The following are the first and fifth sections thereof, viz:

Sec. 1. *And be it enacted, &c.,* That the right of way through the public lands be, and the same is hereby, granted to the State of Iowa for the construction of railroads from the city of Dubuque to Keokuck, and from Davenport, on the Mississippi river, in said State, to such point on the Missouri river as may be designated on the authority of said State, which authority shall also fix and determine the rights of each of said railroads; and shall have the right, also, to take necessary materials of earth, stones, timber, &c., for the construction thereof from the public lands of the United States adjacent to said railroads; *Provided,* That locating the railroads aforesaid, and assigning the limits to the easement, no more land shall be taken from the United States than is necessary for a convenient construction.

Sec. 5. *And be it further enacted,* That if the said railroads shall not be completed within ten years, the said State of Iowa shall be bound to pay to the United States the amount which may be received upon the sale of any part of said lands by said State, the title to the residue of said State remaining valid; and the title to the residue of said lands shall reinvest in the United States, to have and hold the same in the same manner as if this act had not been passed.

The following amendments are proposed by the Committee on Public Lands to Senate bill No. 1.

In the 7th and 8th lines of the first section, strike out the words "on the Mississippi river, in said State, to such point on," and insert the words "and Burlington to."

Strike out the fifth section of said bill, and insert the following:

Sec. 5. *And be it further enacted,* That the lands hereby granted to said State shall be disposed of by said State only in manner following, that is to say: that a quantity of land not exceeding one hundred and twenty sections for each of said roads, and included within a continuous length of twenty miles of said roads, may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that said twenty continuous miles of either of said roads are completed, then another like quantity of land hereby granted may be sold; and so from time to time, until said roads are completed; and if said roads are not completed within ten years, no further sales shall be made, and the land unsold shall revert to the United States.

Add the following section:

Sec. 7. *And be it further enacted,* That in order to aid in the continuation of said road from Burlington to Lafayette, Indiana, via Peoria, in the State of Illinois, on the most direct and practicable route, all the rights, privileges, and liabilities hereinbefore conferred on the State of Iowa, shall be granted to the States of Illinois and Indiana, for the purpose of aiding in the construction of a railroad from Burlington to Lafayette, on the Wabash river; and that public land to the same extent, in proportion to the length of the road, on the same terms, limitations, and restrictions in every respect, shall be and is hereby granted to said States of Illinois and Indiana respectively.

Mr. HALL. That bill is similar in its terms and provisions to the bill which passed this House yesterday granting lands to Missouri. The Senate bill provides for the construction of two roads in the State of Iowa, one from Davenport, on the Mississippi river, west of the Mississippi river, in the State of Iowa, and the other from Dubuque, upon the Mississippi river, to Keokuck. Both of these roads are roads in which the people of Iowa have manifested deep interest. They have peti-

tioned Congress for many years for a grant of land to aid in the construction of both of these roads, and the Senate of the United States has three several times passed a bill proposing grants of land to aid in the construction of these roads.

Mr. CLEVELAND. Does this amendment provide for an additional road beyond what the bill of the Senate provides?

Mr. HALL. It does.

Mr. CLEVELAND. I want to know whether you have added on another road, and if so, the extent of that road?

Mr. HALL. I am going to speak about that. The Committee on Public Lands have, however, proposed to amend the Senate bill so as to provide for the construction of a railroad from the town of Burlington, in the State of Iowa, and also to the Missouri river, and to continue the road from Burlington to the Missouri river, east to the town of Lafayette, in the State of Indiana. The amount of lands granted by the amendment of the Committee is about 900,000 acres, to wit: about 800,000 for the purpose of constructing the road from Burlington to the Missouri river, and somewhere between 50,000 or 100,000 acres to aid in the construction of the road from Burlington eastward to the city of Lafayette, in Indiana.

Mr. CLEVELAND. I will ask the gentleman if we have not referred a bill for this last road, provided for in your amendment, to the Committee of the Whole on the state of the Union?

Mr. HALL. I do not know that we have referred a bill for the same road to the committee.

Mr. CLEVELAND. Substantially the same.

Mr. HALL. I know one thing, however, that we have referred a bill similar to the Senate bill to the Committee of the Whole on the state of the Union, and I do not want this bill to go there too. I know that, and I cannot yield any more. Mr. Speaker, yesterday this House, by its vote, indorsed a principle granting these alternate sections of land. This House granted lands to the State of Missouri, so far as its action is concerned, to aid in the construction of two roads in that State. Now, sir, a sister State similarly situated, asks you to make a similar grant of two roads of equal importance to her and to the nation at large. The question submitted for the consideration of this House is, whether, having yesterday declared that they would give land to one of the Southern States of this Union, they will to-day refuse to give land to a Northern State of the Union? I trust we shall manifest none of that partiality, but show the willingness of this Congress to treat all sections alike, and to do equal and exact justice to all. One road in this bill it is said runs parallel to the Mississippi river. Now, sir, I have not time to discuss that matter much, but I will merely state that I was surprised at the objection made by a Representative of the State of Illinois. Last Congress we made a grant of land for a road running from that State to the Gulf of Mexico, some twelve or fifteen hundred miles long, parallel to the Mississippi river, from one end to the other. That road I believe branches off and runs into the gentleman's own district. The Illinois road terminates at Galena.

Mr. CAMPBELL. I beg the gentleman's pardon. The road terminates opposite Dubuque, and not at Galena.

Mr. HALL. Now, sir, as I understand it, the Mississippi river is navigable at almost all times from Dubuque to its mouth, whereas at Dubuque above it is interrupted many months of the year by ice, and at all times more or less by the rapids. Is it right that you should make a grant of land to aid in the construction of roads parallel to the Mississippi where the river is navigable, and refuse to make a road along the Mississippi river where the navigation is difficult?

Mr. FULLER. I want to inquire how many acres of land the Senate bill disposes of, aside from the amendment reported by the committee?

Mr. HALL. According to the best information I have, the Senate bill disposes of 1,800,000 acres.

Mr. FULLER. And this bill, if I understand the gentleman correctly, disposes of about 3,000,000 acres.

Mr. HALL. About 2,600,000.

Mr. FULLER. One more question. The gentleman has spoken of the House establishing a principle by its vote yesterday in reference to a Southern State, and that a similar question is to



come up to-day upon a road in a Northern State. With the permission of the gentleman, I want to ask him how far these two roads, one in a Northern State, and the other in a Southern State, are apart?

Mr. HALL. The road proposed in the Senate bill is distant from the north Missouri road about one hundred and thirty or one hundred and fifty miles; somewhere about that. The southern road proposed by the Committee on Public Lands is, I believe, about sixty miles from the Missouri river; but I can say this to the gentleman from Maine, if he does not like the amendments proposed by the Committee on Public Lands, he can vote them down. Now, I demand the previous question upon the bill.

Mr. JONES, of Tennessee. I desire to make one or two inquiries of the gentleman who reported this bill. This is a very important bill—

The SPEAKER. Does the gentleman from Missouri withdraw his demand for the previous question?

Mr. HALL. What do the friends of the bill say? [Cries of "No!" "No!" "Do not withdraw it."]

Mr. HALL. Very well, I will not withdraw it.

Mr. JONES. Then I say that it is unkind and unjust to force this bill through the House without any discussion.

[Cries of "Order!" "Order!"]

Mr. CAMPBELL, of Illinois. I desire to make an appeal to the gentleman to withdraw the previous question, for the purpose of enabling me to offer an amendment, which is to strike out the Keokuck and Dubuque road, and insert what I hold in my hand.

Mr. HALL. I cannot do it, sir.

Mr. CLEVELAND. I ask, when the question is taken, that it be taken by yeas and nays.

The SPEAKER. Upon a second we cannot have the yeas and nays, but upon ordering the main question to be put we can.

Mr. CAMPBELL. I desire to have my amendment read for the information of the House.

Mr. HALL. I must object to that.

Mr. DEAN. I move to lay the bill and amendments upon the table, and upon that I ask the yeas and nays.

The yeas and nays were ordered.

The question was then put upon Mr. DEAN's motion, and it was decided in the affirmative—yeas 102, nays 68; as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, Babcock, David J. Bailey, Barrere, Bell, Bennett, Bocoek, Bragg, Buell, Burrows, Busby, Caldwell, Thompson Campbell, Carter, Caskie, Chapman, Chastain, Churchwell, Cleveland, Clingman, Colcock, Curtis, Daniel, George T. Davis, Dawson, Dean, Dockery, Duncan, Edgerton, Edmundson, Faulkner, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Giddings, Grow, Hall, Hamilton, Harper, Isham G. Harris, Hart, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Thomas Y. How, Hunter, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Martin, Mason, McLanahan, McMullin, McNair, McQueen, Meacham, Millson, Minor, Morehead, Murphy, Murray, Newton, Outlaw, Peaslee, Polk, Powell, Robbins, Robie, Ross, Russell, Savage, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smart, Stanley, Benjamin Stanton, Taylor, Thurston, Walbridge, Wallace, Watkins, Welch, Wells, Wildrick, and Woodward—102.

NAYS—Messrs. Abernombie, Willis Allen, William Appleton, Bissell, Brenton, Briggs, Albert G. Brown, Lewis D. Campbell, Chandler, Clark, Cobb, Conger, Cullom, John G. Davis, Disney, Durkee, Eastman, Ficklin, Florence, Gaylord, Gentry, Gilmore, Goodrich, Gorman, Grey, Sampson W. Harris, Hascall, Hendricks, Henn, Thomas M. Howe, James Johnson, John Johnson, Robert W. Johnson, Kuhns, Landry, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, Miller, Molony, Henry D. Moore, John Moore, Olds, Orr, Samuel W. Parker, Penn, Penniman, Phelps, Richardson, Sackett, Scurry, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stuart, George W. Thompson, Stone, St. Martin, Strother, Stuart, George W. Thompson, Towns, Townsend, Walsh, Ward, Addison White, Alexander White, and Williams—68.

So the bill and amendments were laid on the table.

Mr. COBB obtained the floor.

Mr. HALL. Will the gentleman from Alabama yield me the floor for a moment? I rise to make a privileged question.

Mr. CLEVELAND. I rise to a privileged question.

The SPEAKER. The gentleman from Missouri is already upon the floor to a privileged question.

Mr. HALL. I move to reconsider the vote just taken, and upon that I call the previous question.

Mr. JONES. I move to lay the motion to re-

consider upon the table; and upon that motion I ask the yeas and nays.

Mr. COBB. I move that the House proceed to the business upon the Speaker's table, the morning hour having expired.

Mr. JONES. I submit a question whether the gentleman can do that while a privileged motion is pending. The question to reconsider is a privileged question, and I think supersedes the other.

The SPEAKER. The business of the morning hour, the gentleman will recollect, may be at any time suspended for the purpose of submitting the motion made by the gentleman from Alabama.

Mr. ORR. Take it by tellers.

Mr. COBB. Well, we will try it first by tellers, and I ask for tellers.

Tellers were ordered, and Messrs. FULLER and COBB were appointed; and the question being taken upon Mr. COBB's motion, the tellers reported—ayes 72, noes 79.

Mr. BISSELL. I demand the yeas and nays upon the motion to go to the business upon the Speaker's table.

Mr. STUART. I ask for tellers upon the yeas and nays.

Tellers were ordered, and Messrs. St. MARTIN, and FULLER of Maine, were appointed; and the House being counted, tellers reported 40 in the affirmative—deemed to be sufficient.

So the yeas and nays were ordered.

Mr. MACE. I move that this House do now adjourn.

Mr. JOHN W. HOWE. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MACE. I withdraw the motion to adjourn.

Mr. SACKETT. Is it in order to move that the House resolve itself into the Committee of the Whole upon the Private Calendar?

The SPEAKER. The Chair doubts whether it is in order until the motion to go to the business upon the Speaker's table has been disposed of. There being private business upon the Speaker's table, the Chair thinks that the proposition to go to the business upon the Speaker's table should be first put.

Mr. JOHN W. HOWE. I want to know, if we make a final end of this bill to-day, what will become of the speech of the gentleman from Iowa [Mr. CLARK] which is unfinished? [Laughter.]

The question was then taken upon Mr. COBB's motion to proceed to the business upon the Speaker's table, and it was decided in the negative—ayes 72, noes 103; as follows:

YEAS—Messrs. Abernombie, Willis Allen, William Appleton, Bell, Bibbhauss, Bissell, Bowne, Brenton, Briggs, Albert G. Brown, E. Carrington Cabell, Carter, Chaudler, Clark, Cobb, Daniel, John G. Davis, Duncan, Duhan, Durkee, Edgerton, Ficklin, Florence, Gaylord, Giddings, Gilmore, Gorman, Green, Hall, Haws, Hebard, Hendricks, Henn, Howard, John Johnson, Robert W. Johnson, Kuhns, Landry, Lockhart, Mason, McNair, Miller, Miner, Molony, Henry D. Moore, John Moore, Olds, Orr, Samuel W. Parker, Penn, Penniman, Phelps, Richardson, Sackett, Schoolcraft, Scurry, Smith, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, St. Martin, Straton, Strother, Stuart, George W. Thompson, Wallace, Walsh, Ward, Welch, Addison White, Alex. White, and Williams—72.

NAYS—Messrs. Aiken, Charles Allen, Allison, John Appleton, Ashe, Averett, Babcock, Barrere, Beale, Bennett, Bragg, Buell, Burrows, Busby, Caldwell, Lewis D. Campbell, Thompson Campbell, Caskie, Chapman, Chastain, Cleveland, Clingman, Colcock, Conger, Cottman, Cullom, Curtis, George T. Davis, Dean, Dockery, Doty, Edmundson, Faulkner, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Grey, Grow, Hamilton, Isham G. Harris, Hart, Hascall, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Mace, Edward C. Marshall, Martin, McDonald, Millson, Morehead, Murphy, Murray, Newton, Meade, Millson, Morehead, Murphy, Murray, Newton, Outlaw, Peaslee, Polk, Powell, Rantoul, Riddle, Robbins, Robie, Ross, Russell, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Stanley, Benjamin Stanton, Alexander H. Stephens, Taylor, Thurston, Townsend, Walbridge, Watkins, Wells, Wildrick, and Woodward—103.

So the House refused to proceed to the business upon the Speaker's table.

Mr. CLARK. I move that the House do now adjourn.

Mr. BISSELL. I ask the gentleman from Iowa [Mr. CLARK] to withdraw that motion, so as to allow me to submit another, which, perhaps, will be better.

Mr. CLARK. I withdraw the motion.

Mr. BISSELL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. DEAN. Is that motion in order?

The SPEAKER. The gentleman from Illinois [Mr. BISSELL] moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. DEAN. I thought the motion was to go into Committee of the Whole on the Private Calendar.

Mr. DANIEL. I wish to say, if that motion does not prevail, I shall move to go into Committee of the Whole on the Private Calendar.

The SPEAKER. The gentleman from North Carolina [Mr. DANIEL] has the right to make that motion now, and it would take precedence of the motion of the gentleman from Illinois, [Mr. BISSELL].

Mr. DANIEL. Then I make that motion.

Mr. DEAN. Is that motion in order, while a motion to reconsider and lay upon the table is pending?

The SPEAKER. It is in order.

Mr. DEAN. I understood the Speaker to decide, when the motion was made before, that it was not in order.

The SPEAKER. The motion to reconsider will be entered upon the Journal, and can be called up at any time the gentleman elects to do it, except when some other privileged question overrides its consideration.

Mr. RICHARDSON. I hope there will be no objection to taking up some of the territorial bills.

Mr. STANLY. I object, decidedly.

Mr. BISSELL. It is manifest that if we go on in this way—one side trying to kill the bill, and the other trying to save it—we shall do nothing. I move that we go into the Committee of the Whole on the state of the Union.

[Cries of "Order!" "Order!" "Order!"]

Mr. JONES, of Tennessee. I ask the gentleman if the bill is not dead already?

Mr. DEAN. Is this a debatable question?

The SPEAKER. It is not.

Mr. DEAN. Then I call the gentleman to order.

The SPEAKER. The motion of the gentleman from North Carolina [Mr. DANIEL] must be first put, under the rules.

Mr. ORR. I rise to a privileged question. I move that the House do now adjourn. This is Saturday, and we have worked hard all the week.

Mr. JOHN W. HOWE. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. ORR. I withdraw the motion.

Mr. JONES, of Tennessee. I ask for the yeas and nays upon the motion of the gentleman from North Carolina, [Mr. DANIEL.]

The yeas and nays were ordered.

Mr. WILLIAMS. I rise to a privileged motion. I move that the House do now adjourn.

Mr. McMULLIN. I call for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was then taken, and it was decided in the negative—yeas 70, nays 113; as follows:

YEAS—Messrs. Willis Allen, Bissell, Bowne, Briggs, Lewis D. Campbell, Carter, Clark, Clingman, Cullom, Curtis, John G. Davis, Dawson, Disney, Duncan, Duhan, Durkee, Edgerton, Ficklin, Florence, Gentry, Gilmore, Gorman, Green, Hall, Haws, Hendricks, Henn, Howard, Thomas Y. How, Hunter, James Johnson, John Johnson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Lockhart, Mace, Edward C. Marshall, Miller, Miner, John Moore, Olds, Orr, Samuel W. Parker, Penn, Penniman, Phelps, Polk, Richardson, Russell, Schoolcraft, Scurry, Smith, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, St. Martin, Stuart, George W. Thompson, Thurston, Towns, Townsend, Walsh, Ward, Washburn, Alex. White, Williams, and Woodward—70.

NAYS—Messrs. Abernombie, Aiken, Charles Allen, Allison, John Appleton, William Appleton, Averett, Babcock, Thomas H. Bayly, Barrere, Beale, Bell, Bennett, Bibbhauss, Bocoek, Breckinridge, Brenton, Albert G. Brown, Buell, Burrows, Busby, E. Carrington Cabell, Caldwell, Thompson Campbell, Caskie, Chandler, Chapman, Chastain, Churchwell, Cleveland, Cobb, Colcock, Conger, Daniel, George T. Davis, Dean, Dockery, Doty, Edmundson, Ewing, Faulkner, Fitch, Floyd, Fowler, Thomas J. D. Fuller, Gamble, Giddings, Goodrich, Grey, Grow, Hamilton, Harper, Isham G. Harris, Sampson W. Harris, Hascall, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Thomas M. Howe, Ingersoll, Ives, Jackson, Jenkins, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kurtz, Letcher, Humphrey Marshall, King, Martin, Mason, McDonald, McLanahan, McMullin, McNair, McQueen, Meacham, Meade, Millson, Henry D. Moore, Morehead, Morrison, Murphy, Murray, Newton, Moore, Morehead, Morrison, Murphy, Murray, Newton, Peaslee, Powell, Price, Rantoul, Robbins, Robie, Ross, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smart, Stanley, Benjamin Stanton, Abraham

P. Stevens, Stratton, Taylor, Venable, Walbridge, Wallace, Watkins, Welch, Wells, A. White, and Wildrick—103.

So the House refused to adjourn.

Mr. JOHNSON, of Arkansas, when his name was called, said: "It is Saturday evening, and two o'clock. I therefore vote aye."

Mr. CLARK. I move that the House go into Committee of the Whole upon the Private Calendar.

The SPEAKER. That motion is now pending, and upon it the yeas and nays have been ordered.

The question was then taken on the motion to go into Committee of the Whole upon the Private Calendar, and it was decided in the negative—ayes 36, nays 109; as follows:

YEAS—Messrs. Abercrombie, William Appleton, Bell, Bissell, Brenton, Briggs, Clark, Cobb, Daniel, George T. Davis, John G. Davis, Dockery, Dunham, Durkee, Eastman, Edgerton, Ficklin, Florence, Henry M. Fuller, Gaylord, Gorman, Green, Hall, Hendricks, Henn, Howard, Thomas M. Howe, Thomas Y. How, Ives, James Johnson, John Johnson, Robert W. Johnson, Kuhns, Kurtz, Landry, Lockhart, Mace, McNair, Miller, Miner, Molony, Henry D. Moore, John Moore, Morehead, Olds, Phelps, Price, Richardson, Robbins, Scurry, St. Martin, Stratton, Stuart, Walsh, Welch, and Wells—36.

NAYS—Messrs. Aiken, Allison, John Appleton, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bennett, Bibbhaus, Albert G. Brown, Buell, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Caskie, Chapman, Chastain, Churchwell, Cleveland, Clingman, Colcock, Conger, Culom, Curtis, Dawson, Dean, Duncan, Faulkner, Floyd, Fowler, Gamble, Gilmore, Goodrich, Grey, Grow, Hamilton, Harper, Islam G. Harris, Sampson W. Harris, Hart, Haws, Hascall, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Ingersoll, Jackson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Letcher, Martin, Mason, McDonald, McLanahan, McMullin, McQueen, Meade, Milson, Morrison, Murphy, Murray, Newton, Samuel W. Parker, Peaselee, Pennington, Polk, Powell, Riddle, Robie, Ross, Russell, Sackett, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Alexander H. Stephens, Taylor, Thurston, Townsend, Venable, Walbridge, Wallace, Ward, Washburn, Watkins, Addison White, Alexander White, Wilcox, Williams, and Woodward—109.

So the motion was not agreed to.

Mr. MACE. I move that the House do now adjourn.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair, before that motion is put, as to the condition of business. If the House should adjourn now, will the motion to reconsider the vote rejecting the railroad bill come up on Monday as the unfinished business of this day; or is there any motion that will exclude it?

The SPEAKER. The Chair will decide that motion when it is regularly up.

Mr. JONES. Is there any motion now pending?

The SPEAKER. There is a motion that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BUELL. I ask for the yeas and nays upon the motion to adjourn.

Mr. CABELL, of Florida. I ask for tellers upon the yeas and nays.

Tellers were ordered.

Mr. STANLY. Is it in order to ask the gentlemen to withdraw the motion, and let us have two or three speeches? We have had no chance here.

Messrs. STANLY and HALL were appointed tellers on the yeas and nays, and the House being counted, the tellers reported—ayes 35, nays 84; there being one fifth, the yeas and nays were ordered.

Mr. MACE. I withdraw the motion to adjourn.

Mr. HENDRICKS. I renew the motion.

Mr. LETCHER. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. HENDRICKS. I withdraw the motion.

Mr. HARRIS, of Tennessee. I move that the House do now adjourn.

Mr. HEBARD. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and it was decided in the affirmative—yeas 88, nays 79.

So the House, at half-past three o'clock, adjourned until Monday, at twelve o'clock.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. GAMBLE: A petition, signed by Kimber Cleaver and Daniel Miller, Esqs., and 46 others, citizens of Shamokin, Northumberland county, Pennsylvania, asking the imposition of a specific duty upon all imports, sufficiently high to protect domestic manufactures and the protection of the raw material, and a capitation tax of \$250 each on all foreigners immigrating to this country, for the protection of American labor.

By Mr. MACE: The petition of William P. Davis and 163 others, citizens of Boone county, Indiana, asking for a grant of land to aid in making a railroad from Springfield, Illinois, to Andersonstown, Indiana, via Danville, Covington, Crawfordville, Lebanon, and Noblesville.

By Mr. JONES, of New York: The petition of Ebenezer Conch, a soldier of the Revolution, and sundry others, for an increase of pension to said Conch.

#### IN SENATE.

MONDAY, May 31, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the War Department, in compliance with a resolution of the Senate of the 25th instant, transmitting a report of the Chief of the Topographical Engineers, in relation to the cost of improving the navigation of the Tennessee river; which, on motion of Mr. BELL, was referred to the Committee on Commerce, and ordered to be printed.

#### RECESS.

Mr. MANGUM. Mr. President, it has been usual for several years past, upon the approach of a National Convention to nominate candidates for President and Vice President, for the Senate to adjourn over, to avoid the necessity of having to pass upon important matters of legislation with a bare quorum present. With a view to avoid that difficulty, I now move that, when the Senate adjourns to-day, it adjourn to meet on Thursday next. I had supposed that, with reasonable harmony in the party about to assemble, they might get through with the business about Wednesday; but I will say Thursday.

Mr. GWIN. I hope the Senator from North Carolina [Mr. MANGUM] will modify his motion, so that the adjournment, for the purpose of taking up the carpets, may take place on Wednesday next to 8 o'clock on Thursday morning, when we can adjourn to Monday next, to give the workmen all the time they may need to put the Chamber in its summer costume. We can thus have until the adjournment on Wednesday to transact business.

Mr. BUTLER. If a good reason can be given for the motion, I shall vote for it. I shall vote for an adjournment for the purpose of cleaning the Senate Chamber. I think there is more occasion for that than for adjourning in reference to the Baltimore Convention. If I should express myself fairly on that subject, I would say that I should dislike to see the Senate yield to any consideration of that kind—to adjourn for any such Convention; but I am perfectly willing to adjourn over for the purpose of cleaning the Hall.

Mr. MANGUM. It has been the practice heretofore to adjourn over on such an occasion.

Mr. GWIN. I hope the Senator will not move the adjournment to take place now.

Mr. MANGUM. My motion is, that when the Senate adjourns to-day, it adjourn to meet on Thursday.

Mr. GWIN. Would it not be as well to adjourn from Wednesday next?—and, in the meantime, the Senate can proceed with the consideration of the deficiency bill, upon which the Senator from Virginia [Mr. HUNTER] desires to address the Senate.

Mr. CASS. I would ask whether it is necessary to take any order respecting the cleaning of the Chamber? for it is certainly indispensable that that should be done, and I think we can have no better opportunity to do it?

The PRESIDENT. There will be no necessity for any such order if there is an understanding of the kind. If it be the understanding of the Senate that the carpets are to be taken up in the mean time, no order will be necessary for that purpose.

Mr. CASS. I hope it will be so understood; or, if that is not the understanding, a formal motion for that purpose can be made.

Mr. HALE. If that is the reason for adjourning now, we shall want some plausible reason for adjourning when the Whig Convention sits, and I do not know what it will be. [Laughter.]

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. GWIN. I hope that the morning business will be dispensed with, in order to take up the deficiency bill, that the Senator from Virginia may have an opportunity of addressing the Senate on that subject this morning. I move that the morning business be dispensed with for the purpose of taking up the deficiency bill.

The PRESIDENT. There are several bills on the table.

Mr. BRODHEAD. I beg to suggest that the Senator from Virginia will have an opportunity of addressing the Senate after the morning business is gone through with. It will not take more than half an hour to dispose of it.

Mr. GWIN. It is important that the deficiency bill should be taken up to-day. It is very doubtful whether we can get through with it to-day; therefore, I think it is better to take it up early.

Mr. BRODHEAD. The morning business will not take half an hour.

Mr. HUNTER. I do not ask the Senate to postpone the morning business on my account.

Mr. MASON. I am sure that the Senate, in the present peculiar condition of its members, will not insist upon the morning business. The effect of it will be to throw my colleague, in his reply to a very extended debate, to so late an hour as to give him but a very small opportunity. My colleague does not ask the Senate to postpone the morning business on his account, but I would ask it for him. I think it is due to him. I hope the Senate will agree to the motion of the Senator from California to dispense with the morning business, and take up the deficiency bill.

Mr. HALE. I hope the bills upon the table of the President will be taken up, as they can go to the House to-day. If the House votes to adjourn to Thursday, these bills will be thrown into next week, unless we send them over to-day.

Mr. BORLAND. I would suggest that the deficiency bill be not considered at all to-day. It is a very important question; and the Senator from Virginia, as chairman of the Committee on Finance, feels it to be his duty to present his views, no doubt, at considerable length, particularly in reply to the speeches on the other side. We see the Senate is thin, and it is very obvious that it is not particularly disposed to give attention to public business to-day, and will not be for several days to come. I think, therefore, that it would be better that we should postpone the consideration of the deficiency bill until the next meeting of the Senate.

Mr. HUNTER. I should be very unwilling to delay the deficiency bill; but it is far more disagreeable to me to speak on this question than it can be to any one to hear me. I should like to escape it if I could; but it has been suggested to me by my friends that perhaps I owe it to those whose interests I in part represent to answer some of the positions taken by the Senator from Maryland, [Mr. PEARCE.] I would certainly much rather not speak at all than delay action on the deficiency bill. I hope that bill will be acted on to-day. All that I ask is, that it shall not be postponed. I would rather not speak at all, if by so doing I should delay action beyond to-day.

Mr. BORLAND. I certainly do not insist upon the postponement of this question, with a view to avoid hearing the Senator from Virginia, for no one deems it of more importance than I do that he should speak on this subject, and no one would listen to him with greater satisfaction than myself; but for the purpose of letting him have an opportunity of speaking under circumstances where he would have a better chance to do justice to himself, I suggested that it would be better not to take up the subject to-day; but if the Senator is prepared and willing to proceed to-day, I shall withdraw all opposition to the motion, and listen to him with great satisfaction.

The motion to postpone the prior orders of business was agreed to.

#### DEFICIENCY BILL.

The bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1852, came up on its third reading.

Mr. HUNTER addressed the Senate at some length, in reply, mainly, to the speech delivered by Mr. PEARCE on the 29th and 30th ultimo, on the governmental administration in California, &c. [His speech will be found in the Appendix.]

Mr. PEARCE again spoke in response to Mr. HUNTER, and a long debate ensued, in which Messrs. DAWSON, WELLER, HOUSTON, GWIN, and BORLAND took part. [A report of the debate is published in the Appendix.] At the close of the debate, the bill was passed.

#### THE COMMITTEE ON THE JUDICIARY.

The PRESIDENT of the Senate supplied the vacancy on the Committee on the Judiciary, occasioned by the resignation of Mr. BERRIEN, by the appointment of Mr. BADGER.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read a first and second time and referred—the first to the Committee on Public Lands, and the second to the Committee on Commerce:

An act to enable the Legislature of the State of Indiana to dispose of unsold saline lands in said State; and

An act to change the name of the American-built vessel named "Amelia," and to grant a register in her name.

#### RAILROADS IN MISSOURI.

The PRESIDENT. There is a bill returned from the House of Representatives with an amendment.

Mr. ATCHISON. I move that the Senate concur in the amendment.

Mr. COOPER. Is that the Missouri land bill?

The PRESIDENT. It is a bill granting the right of way to the State of Missouri, and a portion of the public lands, to aid in the construction of certain railroads therein.

Mr. COOPER. I hope that bill will not be taken up now.

The PRESIDENT. The bill comes up now as a matter of course.

Mr. COOPER. I move that its further consideration be postponed until Thursday next.

Mr. ATCHISON. I trust not. The amendment which has been made by the House of Representatives is one restricting the grant, and we are willing to accept it. I hope the vote will be taken now.

Mr. DODGE, of Iowa. I hope the postponement will not be agreed to. I have examined the amendment, and I think it is a proper one. The House of Representatives has improved on the action of the Senate. I trust that, as these lands are being rapidly swept away by land-warrant entries, if the grant is to be to Missouri, it will be made now. As the bill has struggled for a long while, and been for years before Congress, I hope the Senate will now consent to the amendment.

Mr. COOPER. I withdraw the motion which I made to postpone the subject, and move to refer the amendment to the Committee on Public Lands. I can see no reason why there should be such haste in regard to it.

Mr. FELCH. I think that, if the Senator will allow the amendment to be read, he will find that, in order to meet his views, it will be hardly necessary to refer it to that committee. It limits the grant, and I suppose that those who are opposed to granting lands for railroads would certainly not object to an amendment of that description. I see no necessity for referring it to the Committee on Public Lands, and I hope it will not be referred.

Mr. GEYER. I apprehend that the committee will answer no purpose but to produce delay. The bill, as it went from the Senate, contained a fifth section, which permitted the land to be sold at the discretion of the State, with no other limitation than that if the road was not completed within ten years the State was to pay to the General Government all the money received from the lands sold.

The amendment of the House of Representatives provides that only one hundred and twenty sections shall be sold until twenty miles of the road are completed, and so on, taking security all the time that the road, for every twenty miles, shall be made before any more lands shall be sold. Its effect on the Missouri railroads will be, that forty miles, twenty on each, must be constructed before the State can receive a solitary cent from the land.

One reason why I am indisposed to commit this bill is this: I am satisfied that the Committee on Public Lands will report in favor of the amendment, and delay at this stage is almost ruinous.

The lands are being entered by military land warrants almost every hour, and we have now before us a bill which will probably pass Congress at this session, called the homestead bill. It is important that these railroad bills should be passed at once, if it is designed that there ever shall another dollar come into the Treasury from the public lands. A dollar and twenty-five cents will be saved to the Treasury for every acre that is dedicated to these railroads.

The motion to refer was not agreed to.

Mr. COOPER. I move that the Senate do now adjourn.

The motion was not agreed to.

The amendment was read. It is to strike out the fifth section of the Senate bill, which is in these words:

SEC. 5. And be it further enacted, That if either of the said railroads shall not be completed within ten years, the said State of Missouri shall be bound to pay to the United States the amount which may be received by said State upon the sale of any part of said lands granted for the use of such roads; the title to the purchasers under said State remaining valid, and the title to the residue of said lands granted to the use of said roads shall re-invest in the United States, to have and to hold the same in the same manner as if this act had not been passed.

And to insert in lieu of it the following:

SEC. 5. And be it further enacted, That the lands hereby granted to said State shall be disposed of by said State only in manner following, that is to say: that a quantity of land, not exceeding one hundred and twenty sections, on each road, and included within a continuous length of twenty miles of said road, may be sold; and when the Governor of said State shall certify to the Secretary of the Interior that said twenty miles of said road is completed, then another like quantity hereby granted, may be sold, and so, from time to time, until said road is completed; and if said road be not completed within ten years, no further sales shall be made, and the lands unsold shall revert to the United States.

Mr. COOPER called for the yeas and nays on concurring in the amendment; and they were ordered; and, being taken, resulted—yeas 28, nays 1; as follows:

YEAS—Messrs. Atchison, Borland, Bradbury, Brooke, Chase, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Geyer, Gwin, Hale, Houston, Hunter, Jones of Iowa, King, Mallory, Morton, Norris, Rusk, Sebastian, Spruance, Sumner, Underwood, Wade, and Weller—28.

NAY—Mr. Cooper.

No quorum voting.

Mr. COOPER moved that the Senate do now adjourn; which was not agreed to.

Mr. ATCHISON. Although I am very anxious that the bill shall pass, I am unwilling, for my own gratification, to send for gentlemen who are now absent. I trust that the bill will be taken up, as a matter of course, next Thursday, when the Senate meets again, when no call for the yeas and nays will have the effect of defeating it. Hoping that course will be pursued, I move that the Senate do now adjourn.

Mr. COOPER. If the Senator's remark is intended for me, I will only say that I will do here, at all times, what my duty enjoins upon me.

Mr. ATCHISON. I say that the call for the yeas and nays was intended to defeat the bill.

The PRESIDENT. The motion was to adjourn. Senators will take their seats. They have no right to make any remarks when a motion to adjourn is pending.

The motion was agreed to; and the Senate adjourned until Thursday.

#### HOUSE OF REPRESENTATIVES.

MONDAY, May 31, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Saturday was read and approved.

Mr. SIBLEY. I desire to make a motion that the business allotted to the morning hour be postponed, with a view to take up, and have disposed of, the unfinished territorial business which has been reported from the Committee of the Whole on the state of the Union.

Mr. OLDS. I suppose the motion is merely that the territorial business be taken up before we commence with the morning hour.

The SPEAKER. That can only be done by unanimous consent.

Mr. SIBLEY. Then, if there is objection, I move to suspend the rules, to enable me to introduce the motion.

The SPEAKER. That motion is not in order. The special order was made by the concurrence of

two thirds, under a suspension of the rules. The first business in order is the execution of that special order, and it is not in order to suspend the rules until that special order be in some way disposed of. The gentleman from Minnesota [Mr. SIBLEY] moves that the special order be postponed until the House shall have disposed of the territorial business upon the Speaker's table.

Mr. HOUSTON. If it be the pleasure of the House to take up the territorial business, as a matter of course, I do not intend to throw any obstructions in the way. Some of these bills are contested, and in the present condition of the House I take it for granted that there will be a disinclination and indisposition upon the part of everybody to press any contested legislation to final action. There is this that we can do, if we would agree to do it—that is, to receive such reports from committees as require a mere reference. For instance, the Committee on Claims have a great many reports which they would present and have referred to the Committee of the Whole House. Other committees are in the same condition. That class of business we could do just as well as if the House were full.

The SPEAKER. Is objection made to the proposition of the gentleman from Minnesota? [Mr. SIBLEY.]

Mr. JONES, of Tennessee. Is the proposition to take up the territorial bills upon the table and dispose of them?

The SPEAKER. That is the proposition.

Mr. JONES. Then that might postpone the special order a whole week. A great many of these bills—I do not know the nature of them all—were objected to in the Committee of the Whole, and—

Mr. SIBLEY. I rise to a question of order. I do not think it is competent for the gentleman to get up and make an argument against my proposition.

The SPEAKER. Remarks are out of order on all sides.

Mr. AVERETT. I object to the proposition.

The SPEAKER. The question is on the motion of the gentleman from Minnesota, [Mr. SIBLEY.]

Mr. HOUSTON. Allow me to ask the Chair a question. I would be willing to vote for a postponement of the special order, but I desire the Chair to inform me, if doing that, I at the same time vote for taking up the territorial business?

The SPEAKER. You do. It is a compound motion.

Mr. HARRIS, of Tennessee. Can this be done without a suspension of the rules?

The SPEAKER. The Chair doubts. You cannot suspend the rules, and the question is, can you postpone the special order by less than a two thirds vote. The Chair is of opinion that you can postpone, by a majority, to a particular day. The effect of the gentleman's motion would hardly change that principle.

Mr. HARRIS. There is a motion pending to suspend the rules already.

The SPEAKER. No motion would be in order to suspend the rules, while the House is in the execution of an order made under a suspension of the rules, and by a vote of two thirds; and the proposition now is, to suspend that special order thus made.

The question was then taken on Mr. SIBLEY's motion, and it was not agreed to.

Mr. McMULLIN. I ask leave to introduce a bill, of which previous notice has been given.

Mr. HARRIS. I call for the regular order of business.

The SPEAKER. Then the motion of the gentleman from Virginia [Mr. McMULLIN] is objected to.

Mr. McMULLIN. Is it in order to move to suspend the rules?

The SPEAKER. It is not in order, for the reason that the House is now executing a special order made under a suspension of the rules; and we cannot pile one special order upon another.

#### THE IOWA LAND BILL.

Mr. JONES, of Tennessee. I would inquire if the question under consideration, when the House adjourned on Saturday last, does not come up for consideration? It was a report from the Committee on Public Lands.

The SPEAKER. The Chair will respond to



the gentleman, that in his opinion, it does not come up as unfinished business belonging to the morning hour. The bill was reported from the committee, and defeated. A motion is pending to reconsider the vote by which the bill was defeated, which is a privileged motion, taking its place among other privileged motions, outside of the special order.

Mr. JONES. Was not that privileged motion the subject under consideration when the House adjourned on Saturday?

The SPEAKER. That is true.

Mr. JONES. I wish to inquire, if the House had not adjourned, would not that subject have continued before the House? And then I inquire, if it does not come up as the unfinished business when the House was last in session?

The SPEAKER. The Chair, the other day, decided that, when a bill of a similar description was before the House; but it was upon a different principle, upon the principle that the previous question had been moved and seconded. The Chair doubts whether the gentleman from Tennessee [Mr. JONES] is not right in his construction of the rule, but is inclined to the opinion that the bill having been reported from the committee, voted upon and defeated by the House, the motion to reconsider takes its place among other privileged motions, and does not connect itself with the morning hour. The Chair doubts, however, in regard to the correctness of the decision.

Upon reflection, the Chair is disposed to decide, if any gentleman calls up the privileged question connected with the bill which was reported during the morning hour, that it is the unfinished business; and he so decides.

Mr. DEAN. I call for the regular order of business.

The SPEAKER. The regular order of business is the motion to lay upon the table the motion to reconsider the vote by which the Iowa land bill was defeated.

Mr. HALL. Will it be in order to move to postpone that question until Thursday next.

The SPEAKER. The Chair thinks it would be in order.

Mr. HALL. It is a very important question, and there is a very thin House; I therefore move that the consideration of this subject be postponed until Thursday next.

Mr. DEAN. I move to amend the motion by inserting "Monday next," in the place of "Thursday next."

Mr. HALL. I will modify my motion so as to make it this day week.

Mr. JONES. A motion to postpone is not in order while a motion to lay upon the table is pending. But if it is the wish of those present to postpone it until this day week, I will withdraw the motion to lay upon the table, and then the motion of the gentleman from Missouri [Mr. HALL] will be in order; but if the House say they will not postpone it, I will renew the motion to lay upon the table.

The SPEAKER. Does the gentleman withdraw his motion?

Mr. JONES. I do withdraw it.

Mr. HALL. I now move to postpone the consideration of this subject to this day week.

Mr. STANLY. I object to that. I object to the day. There was another bill postponed to that day for consideration.

Mr. HALL. Then I move that it be postponed until to-morrow week.

Mr. STANLY. Very well. I withdraw my objection.

Mr. HOUSTON. I want to suggest to the gentleman from Missouri, who has charge of this bill, that I understand the deficiency bill will reach the House from the Senate probably to-day, and if he could postpone the consideration of the bill, which he has now in charge, to some other day, so as to give the deficiency bill a few days, I would prefer it.

Mr. MARTIN. I object.

Mr. HALL. I understand the gentleman from Tennessee [Mr. JONES] to withdraw his motion to lay upon the table. Is it not in order to make the motion I have, to postpone the further consideration of the proposition to reconsider the vote by which the bill was defeated?

The SPEAKER. It is in order, in the opinion of the Chair.

Mr. ORR. I demand the yeas and nays.

Mr. KING, of New York. I ask for tellers upon the yeas and nays.

Tellers were ordered, and Messrs. KING, of New York, and CLINGMAN were appointed; and the House being counted, the tellers reported—ayes 27, noes 90. Being one fifth, the yeas and nays were ordered.

Mr. JONES, of Tennessee. I suppose that all will now agree that this matter should be postponed until Tuesday next. I hope it will be allowed to pass over by unanimous consent.

Mr. KING, of New York. I object.

The question was again taken on the motion to postpone the consideration of the special order, and it was agreed to—yeas 110, nays 51; as follows:

YEAS—Messrs. Abernethy, C. Allen, W. Allen, William Appleton, Bell, Bissell, Bowie, Bowne, Bragg, Brewster, Briggs, Albert G. Brown, Burrows, Bushy, E. Carrington Cabell, Lewis D. Campbell, Carter, Chandler, Chastain, Clark, Clingman, Cobb, Conger, Cottman, Cullom, Curtis, George T. Davis, John G. Davis, Duncan, Darkee, Eastman, Edgerton, Fitch, Florence, Fowler, Gaylord, Gentry, Goodenow, Gorman, Green, Grey, Hall, Harper, Isham, Harris, Sampson W. Harris, Hart, Hascall, Haven, Richard, Hendricks, Henn, Hibbard, Horsford, Houston, Thomas M. Howe, Thomas Y. How, Ingersoll, Jackson, Andrew Johnson, James Johnson, John Johnson, Robert W. Johnson, George G. King, Kuhns, Kurtz, Landry, Mace, Humphrey Marshall, McCorkie, McNair, Miller, Miner, Molony, Henry D. Moore, John Moore, Murphy, Olds, Orr, Oulaw, Samuel W. Parker, Peaslee, Penn, Pennington, Peik, Richardson, Ross, Sackett, Schoonmaker, Scurry, David L. Seymour, Origen S. Seymour, Smith, Snow, Stanley, Stone, Stratton, Taylor, Thurston, Townshend, Townshend, Venable, Walsh, Ward, Washburn, Watkins, Welch, Wells, Wilcock, Williams, and Yates—110.

NAYS—Messrs. Aiken, Allison, Averett, Babcock, Barrere, Bennett, Boccock, Buell, Caldwell, Caskie, Colcock, Dean, Dockery, Edmundson, Floyd, Thomas J. D. Fuller, Gamble, Giddings, Hamilton, Hammond, Holladay, John W. Howe, Hunter, Ives, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Letcher, Martin, McDonald, McLanahan, McMullin, McQueen, Meade, Milson, Morehead, Newton, Price, Riddle, Robbins, Robie, Russell, Skelton, Benjamin Stanton, Richard H. Stanton, Abraham P. Stevens, Alexander H. Stephens, Wallace, Addison White, and Woodward—51.

So the motion to postpone was agreed to.

#### FLORIDA AND ALABAMA RAILROADS.

Mr. ORR. I am instructed by the Committee on Public Lands to report to the House, "An act granting the right of way and a portion of the public lands to the States of Florida and Alabama, for the construction of certain railroads in said States."

Mr. JONES, of Tennessee. If the gentleman from South Carolina will yield me the floor for a few moments, I will suggest to the House that there are a great many members absent, and that there are not a sufficient number present to take up for action these contested cases; and that it would therefore be just to all sides, and the interests of those concerned in these contested questions, that action should be postponed until after the sittings of the Baltimore Convention, and the House shall be full. One other suggestion, and I am done. Let us proceed with the call for reports from committees, with the unanimous understanding that such only will be received as those making them will be willing to have referred to the Committee of the Whole House, or the Committee of the Whole on the state of the Union. Let the bills and reports be printed, that they may be prepared for the action of the House when it shall be again in a condition to do business.

The SPEAKER. Is the proposition of the gentleman from Tennessee acceptable to the House?

Mr. SACKETT. Will the gentleman from South Carolina yield the floor to me for a moment to submit a resolution to be read for information?

Mr. ORR. I yield only for the purpose of having the resolution read. I do not know that I shall give the resolution my assent.

The Clerk read the resolution as follows: Resolved, That all special orders, the reports of committees, and final action upon the bills upon the Speaker's table, be and the same are hereby postponed until Friday next.

Mr. CLEVELAND. I object to the introduction of that resolution.

Mr. JONES, of Tennessee. I object to the first part of it. I hope the gentleman will modify it so that it will read, "That the House will receive only such reports as those making them may desire to have referred to a Committee of the Whole House or the Committee of the Whole on the state of the Union and to have them printed."

Mr. SACKETT. If the Clerk will insert the

words "only such reports as may be referred to the Committee of the Whole House or the Committee of the Whole on the state of the Union," I presume there will be no further objection to the resolution.

Mr. CLEVELAND. I object to it.

Mr. ORR. I am instructed by the Committee on Public Lands to move to put the "Act granting the right of way and a portion of the public lands to the States of Florida and Alabama for the construction of certain railroads in said States upon its passage."

[Cries of "No!" "No!"]

The bill was read a first and second time by its title, and then read through.

Mr. HUNTER. I inquire of the Chair whether it is in order to move that that bill be referred to the Committee of the Whole on the state of the Union?

Mr. SPEAKER. It is; but the gentleman from South Carolina, [Mr. ORR,] who reported the bill, is entitled to the floor.

[A message was here received from the President of the United States, notifying the House that he had approved and signed certain bills.]

Mr. ORR. The bill reported from the Committee on Public Lands this morning, and which has just been read through, provides for the granting of the right of way, and the donation of alternate sections of the public land, to aid in the construction of two railroads—of more importance, in my judgment, than any which have been referred to that committee. The first road embraced within the provisions of the bill will connect the Atlantic coast with the Gulf of Mexico, across the Peninsula of Florida. By its construction, in a national point of view, very useful and valuable purposes will be subserved to the Government in time of war, and important commercial advantages to the citizens of the United States in time of peace. Two or three war steamers of a foreign enemy, stationed off the southern coast, and between that and the West India Islands, would effectually cut off all naval communication between the Gulf of Mexico and the Atlantic. The pass there is a very narrow one. This communication every one knows to be of vast importance, in time of war, to the Government. The road projected by this bill will place the Government in a condition to keep open the communication certainly and speedily.

The distance across the peninsula along this road will be, perhaps, one hundred and fifty miles. Upon this road the Government may have a safe and speedy transportation of provisions or troops, according to the emergency, and whenever it may be desirable, the necessary munitions of war within half a day. It often happens that time is an important consideration in assailing a foreign enemy on our shores, or in defending a given point against a premeditated attack of the enemy, and this road will really shorten the communication between the Mississippi river and the Atlantic coast several days, when compared with the time now required to round the cape, even if there were no obstructions on the coast. It is not at all improbable, in my judgment, if this road is built, that much of the produce going out from the ports of New Orleans and Mobile will, if a safe and convenient harbor is found—and it is believed there will be found such a harbor—go to the Florida coast in steamboats, be transported across the peninsula, and be reshipped in sail vessels to the Atlantic cities and Europe. The voyage will be shortened by the construction of this road and the necessity of sailing vessels passing Key West and Cape Florida—the most dangerous part of the coast of America—will be entirely obviated. There have been more wrecks of merchant vessels on the coast of Florida than upon any other part of the coast of the United States, not excepting that of North Carolina. I have seen a statement, in which it is estimated that the annual value of property destroyed in making the passage around the southern coast is between \$3,000,000 and \$5,000,000.

Mr. MEADE. If the gentleman will allow me, I will suggest that cargoes from New York to New Orleans, and from New Orleans to New York, would scarcely bear the expense of transshipment. I would also suggest, therefore, to him so to modify his resolution to recommend as to embrace instructions to the committee to inquire into the expediency of constructing a ship canal across the peninsula instead of a railroad.

Mr. ORR. I suppose the suggestion was made

by my friend from Virginia in good faith; but the Committee on the Judiciary, I judge, would be about as proper a committee to which to refer the proposition as the Committee on Public Lands. If my friend feels a great interest in the proposition, I hope he will move a resolution of instructions to the Committee on the Judiciary to inquire into it, and no doubt it will have their special attention.

Mr. MEADE. It is not within the province of the Committee on the Judiciary.

Mr. ORR. Nor that of the Committee on Public Lands. My reasons for venturing the speculation that produce will be carried over this road from New Orleans, Mobile, and Galveston, are founded in the fact that the transportation between these cities and the western terminus of the railroad could be successfully carried on in steamboats, not of the first class and highest cost, but of smaller value; and that insurance upon every cargo would be considerably reduced in consequence of the diminished time and perils of the voyage, whilst, at the present time, the transportation is carried on in sailing vessels around the cape, exposed to the caprice of the winds and waves driving them upon the reefs and bars. Sailing vessels would find a safe and convenient harbor at or near the mouth of the St. Mary's river, the eastern terminus of the railroad, and that point would be the great depot where sailing vessels would load for every part of the commercial world, having unladen their freights for the Gulf States and the Great West, watered by the Mississippi and its tributaries. The saving of time and the reduction of insurance would, perhaps, pay the expenses of shipment.

But, Mr. Speaker, whether the produce transported from the ports of New Orleans, Mobile, and Galveston, and the goods shipped from New York, Philadelphia, Boston, Baltimore, and Charleston, would pass across the railroad, is a matter of conjecture; but in time of war, with the passage between the Gulf and the Atlantic entirely cut off, I ask whether our Army and its supplies might not be constrained to pass over that route by slow marches, ten days through sand and hammocks without a railroad, or with steam in half a day with a railroad? They would be transmitted certainly and speedily, and without heavy expense to the Government. Besides, if it were necessary, a large force could be concentrated at the mouth of the Mississippi river from the East; or, *vice versa*, a large force could be thrown on the Atlantic coast from the West. Is the bill, then, not worthy of your favorable consideration and action?

So much for the first road embraced within the provisions of this bill. It is proposed to start the road somewhere about the mouth of the St. Mary's river, and from thence to strike the Gulf at the most eligible point, which, I presume, will be on Tampa Bay. The State of Florida has provided for taking stock in the road; and a survey is being made under the supervision of a board of engineers of that State. This road passes over some ninety or one hundred miles of pine country, a barren wilderness. I examined, a few days ago, a map of Florida, prepared at the Land Office, showing all the unentered lands in that State, and found a tier of seven townships of public lands, over which this road would run, where there has not been a solitary acre entered, although it has been in market for the last twenty years. It will not be entered for the next fifty years, unless you afford to the products of the forest facilities for transportation to market. The products of its forests will be turpentine, pitch, tar, and lumber. The lands will become valuable by the passage through them of this road, and may be sold. The persons purchasing will be enabled to transport their products to the Gulf, or to the Atlantic coast, and these facilities will be the sole consideration of their enhanced value. That is the description of country through which the road passes. One hundred miles which this road traverses is as poor a pine, barren desert as can be imagined. The probability is, that if you construct this road, this land will be enhanced in value so as to bring to the Government \$250 an acre, when now it would not bring ten cents.

I shall not repeat the argument which I had the honor to make the early part of the session in favor of the general policy of donating public lands to railroads. That question has been pretty fully discussed, and I do not know that I have any-

thing new to add to what was then said. The second road provided for in this bill, for there are two, was from Pensacola Bay up to Montgomery in the State of Alabama, with a branch thrown out in the direction of the Chattahoochee river, to intersect with one of the Georgia roads, somewhere in the direction of Albany, in that State. That road will be perhaps seventy, eighty, or one hundred miles in length. There is but little public land through which it passes, but that is of the same poor quality of which I have spoken. It is important that you should have a certain and speedy communication from the interior with Pensacola. You have expended at Pensacola already some two or three millions of dollars in building up there a dry-dock and the establishment of a naval station.

For the distance of fifty miles around Pensacola, there is not productive land in sufficient quantity to furnish provisions enough for the workmen and persons connected with the Navy, who are located at that point. It would be the easiest matter in the world, in time of war, for an enemy to throw a few hundred men in the rear of your works there, and besiege the city of Pensacola, and take possession of your naval station; because provisions must be transported either along the Gulf to this point, or they must come from the interior of Georgia and Alabama. Give them this railroad, penetrating up to Montgomery, where it connects with other railroads in the State of Alabama, with a branch thrown out to the Georgia railroads, and you furnish facilities for supplying that station expeditiously and cheaply with provisions, and, if necessary, with men in abundance, to defend that station, who will pour down from Georgia, Alabama, and Tennessee. The two roads, with the branch upon the road connecting the Atlantic and the Gulf of Mexico added together, will make about one million six or seven hundred thousand acres of public lands. I venture the assertion—and I will call the attention of the gentleman from Florida [Mr. CABELL] to the remark, for he feels a deeper local interest in this bill than I do—that the one million and six hundred thousand acres of public lands, if they were put in market, would not bring upon an average to the public Treasury, ten cents per acre. If the gentleman from Florida [Mr. CABELL] gets the floor after I shall have concluded, I desire him to state whether the conjecture I have ventured is not true.

Mr. BRIGGS. Has not the morning hour expired?

The SPEAKER. It has, and the first business in order is the motion submitted by the gentleman from Tennessee [Mr. HARRIS] to suspend the rules to introduce a resolution fixing the day for a final adjournment.

Mr. ORR. When this matter is resumed again, will I be entitled to the floor?

The SPEAKER. The gentleman will be entitled to the floor.

Mr. BRIGGS. Will it be in order for me to ask for the unanimous consent of the House to offer a resolution?

Mr. JONES, of Tennessee. I rise to a question of order. Was there not a motion made to proceed to the business on the Speaker's table?

The SPEAKER. There was not.

Mr. JONES. Then the floor could not be taken from the gentleman from South Carolina [Mr. ORR] for any other purpose.

The SPEAKER. The Chair thinks that the floor could be taken from the gentleman from South Carolina at the expiration of the morning hour to consider a privileged question. This being Monday there is a privileged question pending, which is the motion made by the gentleman from Tennessee [Mr. HARRIS] to suspend the rules that he may introduce a resolution fixing a day for the final adjournment of Congress. The gentleman from New York [Mr. BRIGGS] addressed the Chair, and asked the unanimous consent of the House to enable him to submit a proposition.

Mr. HARRIS, of Tennessee. Is the motion I submitted on last Monday, the regular order of business?

The SPEAKER. It is.

Mr. HARRIS. Then I call for the regular order of business.

Mr. CABELL, of Florida. I ask the attention of the gentleman from Tennessee, [Mr. HARRIS:] I desire to submit a motion, that by unanimous

consent the bill which has been under consideration this morning may be printed.

Mr. JONES. I move that it be referred to the Committee of the Whole on the state of the Union, and be printed.

The SPEAKER. There is already a proposition pending to commit.

Mr. ORR. I suspect the gentleman cannot make that motion. I am entitled to the floor.

The SPEAKER. That is true.

Mr. JONES. The gentleman from South Carolina [Mr. ORR] did not yield to the gentleman from Florida, [Mr. CABELL,] to make any motion about it.

Mr. CABELL. I ask the unanimous consent—

Mr. JONES. I will make this remark: If the gentleman will make a motion to postpone this bill to Tuesday next, as the other one was, and to print it, I will not object to it.

Mr. CABELL. I am willing to acquiesce in anything which may be the sense of the House.

The SPEAKER. The gentleman from Florida [Mr. CABELL] asks that the bill be printed. The gentleman from Tennessee [Mr. JONES] moves that it be postponed until Tuesday. By unanimous consent either or both of these motions can be entertained.

Mr. CABELL. I will state to the gentleman, that it is not the purpose of the friends of this bill to demand the previous question. They are satisfied that the bill has merits, and that it will pass the House upon a full discussion. We may as well go on with the discussion of this matter in a thin House. We do not propose to call the previous question.

Mr. HARRIS, of Tennessee. I call for the regular order of business.

Mr. ORR. As there seems to be an indisposition to act upon this bill in a thin House, I will consent, with the unanimous approbation of the House, that this bill which we have been discussing shall be postponed until Tuesday week, and be printed.

The SPEAKER. The Chair hears no objection, and the order will be so entered upon the Journal.

Mr. WALSH. I rise to a privileged motion. On Saturday there was a report from the Committee on Public Lands unfavorable to the memorial of the defenders of Baltimore, asking for bounty land. I wish to make a motion to recommit it, with instructions. I make the motion to reconsider the vote by which that unfavorable report was laid upon the table.

The SPEAKER. That motion will be entered upon the Journal, but the vote cannot now be reconsidered.

#### ADJOURNMENT SINE DIE.

The SPEAKER. The question pending is the motion of the gentleman from Tennessee, [Mr. HARRIS,] to suspend the rules, for the purpose of introducing a resolution for the final adjournment of this body.

The resolution was then read, as follows:

*Resolved*, (the Senate concurring.) That this House adjourn *sine die* on the first Monday of August, at twelve o'clock, m.

Mr. HOUSTON. I propose to amend the resolution, so as to make it the 19th of July. I propose to strike out the words "first Monday of August," and insert "19th of July."

Mr. SACKETT. I move to postpone this question until Monday next.

Mr. STANTON, of Ohio. Is it in order for the gentleman to make that motion while the House is dividing?

Mr. SACKETT. I wish to inquire of the Chair if it is in order to move to postpone the consideration of this resolution until Monday next?

The SPEAKER. It is in order.

Mr. SACKETT. I make that motion, then, considering the thin state of the House.

Mr. CLINGMAN. Would not a motion for the previous question take precedence of this motion of the gentleman from New York? [Mr. SACKETT.]

The SPEAKER. It would; and would cut off the motion to postpone.

Mr. CLINGMAN. I move the previous question.

Mr. ORR. I would like to ask the gentleman from Alabama [Mr. HOUSTON] a question, that I

may vote understandingly upon this subject. I desire to inquire of the chairman of the Committee on Ways and Means whether it is probable we can pass the appropriation bills, and pass them understandingly, if we adjourn at so early a period as that indicated by him?

Mr. HOUSTON. The only reply I will make to the gentleman from South Carolina [Mr. ORR] is: I think it almost improbable that we will pass the appropriation bills understandingly at any period within the next twelve months. If we will go to work, as gentlemen ought to do, we can pass the appropriation bills, and everything else, in one month from to-day, and give them proper investigation. That is my opinion.

Mr. ORR made a suggestion not heard by the Reporter.

Mr. CLINGMAN. If the House will allow me, I can answer the inquiry of the gentleman from South Carolina, [Mr. ORR,] by reminding him that when we passed the appropriation bills the first session of the last Congress, we took them up in the middle of September, and adjourned on the last day of the month. We passed the appropriation bills at the last session within the last three weeks, and surely we can pass them now in two months. I move the previous question.

Mr. SACKETT. If the previous question is to be moved, considering the thin state of the House, I move to lay the whole subject on the table.

Mr. HARRIS, of Tennessee. I demand the yeas and nays, and tellers on the yeas and nays.

Mr. HARRIS. I will, for a moment, withdraw my call for the yeas and nays, and let the question be taken upon the motion of the gentleman from New York, [Mr. SACKETT.]

The question was then put upon the motion to lay the resolution upon the table; and there were—ayes 51, noes 58.

Mr. HART. I demand tellers upon the motion to lay the resolution upon the table.

Tellers were ordered, and Messrs. HARRIS, of Tennessee, and MOORE, of Louisiana, were appointed.

The question was then put, and upon a division, there were—ayes 68, noes 50.

Mr. HIBBARD. I demand the yeas and nays. The yeas and nays were ordered.

Mr. HOUSTON. Gentlemen think that the amendment I propose is standing in the way of this resolution, and I will therefore, by the consent of the House, withdraw it.

The question was again taken, and resulted—ayes 56, nays 98; as follows:

YEAS—Messrs. Bennett, Bissell, Bowne, Bragg, Busby, B. Carrington Cabell, Chandler, Clark, Conger, Evans, Florence, Floyd, Gaylord, Goodenow, Grey, Sampson W. Harris, Haws, Horsford, Thomas Y. How, Jenkins, John Johnson, J. Glancy Jones, George G. King, Preston King, Kuhns, Letcher, Mace, McDonald, McMillin, Orr, Samuel, Molony, Henry D. Moore, John Moore, Orr, Samuel W. Parker, Penn, Pennington, Rantoul, Ross, Russell, Sackett, Schoonmaker, Seely, Smart, Snow, Stanley, A. P. Stevens, Strother, Taylor, Thurston, Walsh, Ward, Welch, Alexander White, and Williams—56.

NAYS—Messrs. Abernethy, Aiken, Charles Allen, Willis Allen, Allison, Averett, Bahecock, Thomas H. Bayly, Barrere, Bell, Bowie, Brenton, Briggs, Albert G. Brown, Burrows, Caldwell, Lewis D. Campbell, Carter, Chapman, Churchwell, Cleveland, Clingman, Cobb, Colcock, Costman, Curtis, John G. Davis, Dean, Doty, Duncan, Eastman, Edgerton, Edmundson, Fowler, Gamble, Gentry, Giddings, Green, Grow, Hall, Hamilton, Hammond, Istait G. Harris, Hart, Hascall, Haven, Hebard, Hendricks, Hibbard, Holladay, Houston, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, Ives, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, George W. Jones, Kurtz, Landry, Humphrey Marshall, Mason, McLanahan, McQueen, Meade, Miller, Morehead, Murphy, Newton, Olds, Outlaw, Penster, Powell, Price, Riddle, Robbins, Robie, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smith, Benjamin Stanton, Alexander H. Stephens, Stratton, Toombs, Townshend, Venable, Walbridge, Wallace, Washburn, Watkins, Wildrick, Woodward, and Yates—98.

So the resolution was not laid upon the table.

Mr. HARRIS. I propose to modify the resolution that I offered. I propose to add the word "next," immediately after the word "August," so that the resolution will read "the first Monday in August next."

Mr. CLINGMAN. I ask that the resolution be read as modified.

The resolution was read by the Clerk, as follows:

*Resolved*, (with the concurrence of the Senate,) That the President of the Senate and Speaker of the House of Representatives close the present session of Congress, by an

adjournment of their respective Houses, on Monday, the second day of August next, at the hour of twelve o'clock, m.

Mr. HUNTER. I move a call of the House; and upon that motion I demand the yeas and nays.

Mr. STEPHENS, of Georgia. The House is dividing upon a call for the previous question.

The SPEAKER. It is not in order to address the Chair while the House is dividing. If the gentleman from Georgia insists upon it, the Chair will enforce the rule.

Mr. STEPHENS. I insist upon it.

The SPEAKER. The gentleman from Georgia insists upon the execution of the rule, which declares that it is not in order to address the Chair while the House is being divided. Being insisted on, the Chair must enforce the rule.

Mr. HUNTER. Will the Chair have the 190th rule read? If I understand it, it is this: "Any time before the second is ordered," &c.

The SPEAKER. The Chair understands that is not the question of order made by the gentleman from Georgia. The question of order is, that the gentleman had no right under the rule to address the Chair while he was in the act of dividing the House.

Mr. HUNTER. Clearly under that decision, I have the right now.

The SPEAKER. The gentleman has not the right now, for the Chair is supposed to be in the act of dividing the House until a division is made.

Mr. SACKETT. Is it in order to move the postponement of the consideration of the resolution?

The SPEAKER. It is not in order to address the Chair until the House has divided.

The question was then put upon seconding the call for the previous question, and there were—ayes 57, noes 56.

Mr. CLINGMAN. I demand tellers.

Tellers were ordered, and Messrs. CLINGMAN, and HARRIS of Tennessee, were appointed.

A count was again taken upon seconding the call for the previous question, and the tellers reported—ayes 63, noes 50; no quorum voting.

Mr. ROBBINS. I demand the yeas and nays. [Cries of "Let us adjourn!"]

Mr. MARSHALL, of Kentucky. I wish to inquire of the Chair if this resolution, should the House now adjourn, would not come up in order on next Monday?

The SPEAKER. The Chair doubts if it will not come up in order before that time. The Chair is inclined to the opinion that it will go upon the table, but he will decide that question when it arises.

Mr. SACKETT. I desire to introduce a resolution.

Mr. ROBBINS objected.

Mr. SACKETT. I ask the unanimous consent of the House that it may be read.

It was objected to.

The SPEAKER. There is no quorum to do business.

Mr. HARRIS, of Tennessee. The resolution offered by myself, I believe, is not debatable.

The SPEAKER. It is not debatable.

Mr. HARRIS. Then I hope the gentleman from North Carolina [Mr. CLINGMAN] will withdraw his demand for the previous question.

Mr. CLINGMAN. I withdraw my demand for the previous question. The resolution will be open to amendment, and I ask the yeas and nays upon its passage.

Mr. SACKETT. I move to postpone the consideration of the resolution until Monday next.

Mr. SMART. There is no quorum to do business.

The SPEAKER. If the Chair is called upon to enforce the rule strictly, he must decide that there is no House here to do business, and that a motion to adjourn, or to compel the attendance of absent members, are the only motions in order.

Mr. MOREHEAD. I move a call of the House.

Mr. EVANS. I do not think it is right, when our Democratic friends are at Baltimore, to enforce their attendance here. [Laughter.] I move that the House adjourn.

Mr. SACKETT. I offer the following resolution, and ask that it be read for information.

The resolution was read by the Clerk, as follows:

*Resolved*, That when this House adjourns to-morrow, it adjourn to meet on Friday next.

Mr. CLINGMAN. I object.

Mr. SACKETT. I move to suspend the rules.

The SPEAKER. It is moved that the House do now adjourn. That question must be first put.

Mr. SACKETT. We ought to adjourn over merely as a matter of courtesy.

The SPEAKER. The gentleman's resolution will alter the standing order of the House. It will be competent for this House to adjourn, and a motion would be perfectly in order to adjourn from to-day until Thursday next, or until Wednesday next; but it is not competent for this House to make the change proposed by the resolution, which is, that when this House adjourn to-morrow it will be to meet on Friday next.

The question was taken upon the motion to adjourn, and it was disagreed to, there being, upon a division—ayes 66, noes 77.

The SPEAKER. There is no quorum to do business.

Mr. MOREHEAD. I withdraw my motion for a call of the House.

Mr. SACKETT. I ask the unanimous consent of the House to introduce my resolution.

It was objected to.

Mr. SACKETT. I move to suspend the rules.

Mr. CLINGMAN. We are now acting under the suspension of the rules, on a resolution, and, therefore, I insist that another motion to suspend the rules would not be in order.

The SPEAKER. The Chair understands that. The proposition of the gentleman from North Carolina [Mr. CLINGMAN] is correct, that the business to be considered is the resolution offered by the gentleman from Tennessee, [Mr. HARRIS,] which was admitted under a suspension of the rules.

Mr. CLINGMAN. I ask the yeas and nays upon that resolution.

Mr. HIBBARD. Is not a motion to adjourn a privileged one, and in order?

The SPEAKER. It is a privileged motion.

Mr. HIBBARD. I propose to make a motion that when this House adjourns to-day it adjourn to meet on Thursday next.

Mr. HOUSTON. That is the very day on which we do not want to meet. If anybody goes to Baltimore no one wishes to come back on Thursday.

The question was then put on the motion to adjourn until Thursday next, and, on a division; there were—ayes 65, noes 60.

Mr. DUNCAN. I demand the yeas and nays.

The SPEAKER. The Chair thinks it is not competent for the House, unless it changes one of its rules, which requires, as every one knows, a suspension of the rules to pass the resolution proposed by the gentleman from New York, which is, to provide for the adjournment to-morrow. It is in order, under a special rule of the House, to move to fix the time of the adjournment when the House adjourns to-day.

Mr. SACKETT. Will it be in order to move that when the House meets to-morrow it adjourn to meet on Friday next? I know that we have passed such resolutions frequently.

The SPEAKER. If two thirds of this body will suspend the rules. The rule to which the gentleman has reference reads as follows:

"A motion to adjourn, and a motion to fix the day at which the House shall adjourn, shall be always in order."

Mr. HIBBARD. If I rightly understand it, the proposition of the gentleman from New York is to ask the unanimous consent of the House to introduce that resolution.

Mr. CARTER. I rise to a question of order. I wish to know what question is pending before the House?

Mr. HIBBARD. I wish to inquire of the Chair if the gentleman from New York [Mr. SACKETT] has made a proposition, and, if so, what it is?

The SPEAKER. The gentleman from New York rose in his place to ask the unanimous consent of the House to allow him to offer a resolution which proposes that when this House adjourns on to-morrow it adjourn to meet again on Friday next. The Chair decides that it is not a privileged motion, and cannot be entertained without a suspension of the rules. It is not now in order to move a suspension of the rules, because the House is now acting under a suspension of the rules. The gentleman from New Hampshire [Mr. HIBBARD] moves that when the House adjourns to-day—which is a privileged motion under the rule I have just read—it adjourn to meet on Thursday next;



and that is the motion the House was in the act of taking the yeas and nays upon.

Mr. HIBBARD. I believe the proposition of the gentleman from New York [Mr. SACKETT] is the better one, and hoping that the House will adopt that, I withdraw mine.

Mr. CARTTER. I wish to inquire what the motion before the House is?

The SPEAKER. The question is upon the adoption of the resolution fixing the day for the final adjournment of Congress, and upon that we are acting under a suspension of the rules, made this day, and it is not in order to move to suspend the rules until the matter upon which we are now acting is in some way disposed of, it having been introduced under a suspension of the rules.

Mr. SEYMOUR, of New York. Is it in order to move to postpone the proposition of the gentleman from Tennessee [Mr. HARRIS] until Monday week?

The SPEAKER. It is in order.

Mr. SEYMOUR. Then I make that motion.

Mr. HARRIS, of Tennessee. I demand the yeas and nays upon that motion.

Mr. CLINGMAN. Believing there is a quorum in the House, I renew my motion for the previous question. I hope that will dispose of it.

Mr. EVANS. I wish to ask a question of the Chair. If the previous question is sustained, will it not cut off the motion to postpone?

The SPEAKER. It will, and bring the House to vote directly upon the resolution.

Mr. CLINGMAN. That is my object.

Mr. STEPHENS, of Georgia. The motion to postpone must be first put, as it was first moved.

A count was taken on seconding the previous question, and there were—ayes 31, noes not counted.

So the previous question was not seconded.

Mr. HARRIS, of Tennessee. Will the gentleman from New York [Mr. SEYMOUR] modify his resolution so as to postpone the matter until Monday next?

The SPEAKER. That is the proposition of the gentleman's colleague over the way.

Mr. HARRIS. Will the resolution be the first business in order on Monday next, if it is postponed until that day?

The SPEAKER. The Chair thinks it would.

Mr. HARRIS. Then I have no objection to postpone it until that day.

The SPEAKER. There being no second to the demand for the previous question, the motion to postpone until Monday next is in order.

Mr. STANLY. I ask for a division upon that question, as we have a special order for that day.

The question was then taken, and there were, on a division—ayes 114, noes not counted.

So the resolution was postponed to Monday next.

Mr. SACKETT. I ask the unanimous consent of the House to introduce my resolution.

Mr. JOHN W. HOWE. I object.

Mr. SACKETT. Then I move to suspend the rules.

The SPEAKER. A privileged motion is already pending before the House.

Mr. COBB. Would it be in order to move to proceed to the business upon the Speaker's table?

The SPEAKER. A privileged motion is already pending, which is to suspend the rules. The gentleman from New York [Mr. SACKETT] moves that the rules be suspended so as to enable him to introduce a resolution, which will be read for information.

The resolution was then read by the Clerk as follows:

*Resolved*, That when this House adjourns to-morrow, it adjourn to meet on Friday next.

Mr. CLINGMAN. I demand the yeas and nays upon the suspension of the rules.

The yeas and nays were not ordered.

Mr. DUNCAN. I wish to raise the question, whether this motion to vote to-day to fix the time of adjourning to-morrow, is in order?

The SPEAKER. It will be in order if the rules are suspended, and that is the proposition now before the House.

The question was then taken on the motion to suspend the rules, and it was agreed to.

Mr. CARTTER. Let the resolution be again read.

The resolution was again read by the Clerk.

Mr. SACKETT. I move the previous question on the adoption of the resolution.

Mr. BRIGGS. I wish to offer an amendment to the resolution.

Mr. SPEAKER. No amendment is in order, as the previous question is demanded.

Mr. BRIGGS. I supposed I was recognized by the Speaker before the call for the previous question.

The previous question received a second, and the main question was ordered to be put.

Mr. CARTTER. I demand the yeas and nays upon the adoption of the resolution.

Mr. CLEVELAND. I ask for tellers upon the yeas and nays.

Tellers were ordered, and Messrs. KING, of New York, and BRIGGS, were appointed, and a count being taken, the tellers reported—ayes 39, noes not counted.

So the yeas and nays were ordered.

Mr. BELL. I wish to make an inquiry. What is the desire of our brethren on the other side? If they desire an adjournment, I, for one, am willing to grant it.

Mr. POLK. We do not desire it.

Mr. JOHNSON, of Arkansas. A part do.

Mr. SMART. I answer for one, that I desire it, and I think a majority of the Democrats desire it.

The question was then taken, and it was decided in the negative—ayes 58, nays 102; as follows:

YEAS—Messrs. Averett, Thomas H. Bayly, Bowne, Breckinridge, Burrows, Busby, E. Carrington Cabell, Lewis D. Campbell, Clark, Conger, Cottman, Cullom, Eastman, Edmundson, Evans, Fitch, Florence, Gorman, Hammond, Harper, Isham G. Harris, Haws, Haven, Hibbard, Holladay, James Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, George G. King, Kuhns, Landry, Leitcher, McDonald, Olds, Orr, Outlaw, Samuel W. Parker, Peaselee, Powell, Robbins, Ross, Russell, Sackett, Seurry, Smart, Snow, Stanley, Stone, Taylor, Thurston, Toombs, Venable, Walsh, A. White, and Williams—58.

NAYS—Messrs. Abernethy, Aiken, Allison, William Appleton, David J. Bailey, Barrere, Bell, Bennett, Bowie, Briggs, Brenton, Briggs, Albert G. Brown, Buell, Caldwell, Carter, Caskey, Chandler, Chapman, Chastain, Churchwell, Cleveland, Clingman, Cobb, Colcock, Curtis, John G. Davis, Dockery, Doty, Duncan, Durkee, Edgerton, Floyd, Fowler, Gamble, Gaylord, Goodenow, Green, Grey, Grow, Hall, Hamilton, Sampson W. Harris, Hart, Hascall, Hebard, Hendricks, Henn, Horsford, Houston, John W. Howe, Thomas H. Howe, Thomas Y. How, Hunter, Ingersoll, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, Preston King, Kurtz, Mace, Humphrey Marshall, McCorkle, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Miner, Molony, Henry D. Moore, John Moore, Morehead, Murphy, Newton, Pennington, Polk, Rantoul, Robie, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smith, Benjamin Stanton, Abraham P. Stevens, Alexander H. Stephens, Stratton, Strother, Townsend, Walbridge, Wallace, Ward, Washburn, Watkins, Welch, Wells, Wildrick, Woodward, and Yates—102.

Mr. BRIGGS. I am aware that many members desire to be absent from the House a greater part of this week, and I feel desirous to accommodate them. I have a resolution in my hand which, it seems to me, will accomplish the whole object, the same as though the House were to adjourn. I ask the unanimous consent of the House to offer it. If it be objected to, I will move a suspension of the rules.

The resolution was read for information, as follows:

*Resolved*, That the special order of this House, requiring reports from the standing committees for one hour each morning of this session, and also all privileged questions now pending, be postponed for one week from this day.

Mr. JOHN W. HOWE. I object.

Mr. BRIGGS. I move to suspend the rules for the purpose of allowing me to introduce that resolution.

The question was then taken on the motion to suspend the rules, and it was not agreed to.

Mr. JONES, of Tennessee. The resolution offered by the gentleman from New York, [Mr. SACKETT], and just voted down, proposed that when the House adjourns to-morrow it adjourn to meet on Friday next. It is very evident that we are going to do nothing for the next two days. The Senate have adopted a resolution that when they adjourn, they adjourn to meet on Thursday next. That is as far as they could go. I move that when this House adjourns it adjourn to meet on Thursday next.

Mr. LETCHER. I move to lay that motion upon the table. We have had one chance at it, and refused to adjourn, and that is enough.

Mr. McNAIR. I move that the House adjourn.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] submits the motion that when the House adjourns it adjourn to meet on Thursday next. The gentleman from Pennsylvania [Mr. McNAIR] moves that the House do now adjourn. The motion of the gentleman from Tennessee is first in order.

Mr. LETCHER. I moved to lay that motion upon the table.

The SPEAKER. The Chair thinks that motion is not in order. It is one of those privileged motions, however, about which there can be no talk. It is precisely such a motion as a motion to adjourn.

Mr. LETCHER. What sort of a motion would be in order now, in connection with that proposition, for I would make any sort of motion that would get rid of it? [Laughter.]

The SPEAKER. The Chair, in reply, must say, that the only way to oppose it, is to vote against it, [laughter,] just as he would against a motion to adjourn.

Mr. LETCHER. I demand the yeas and nays upon the motion.

Mr. McMULLIN. Allow me to request the gentleman from Tennessee [Mr. JONES] to withdraw his motion. Let it come from the other side of the House and I will vote for it, and I will also state, that when the Whig Convention comes off, I will extend the same courtesy to them.

A Voice. We do not want any bargains.

The question was then taken on the resolution to adjourn till Thursday next, and it was not agreed to—ayes 65, nays 77; as follows:

YEAS—Messrs. William Appleton, Averett, Thomas H. Bayly, Bowie, Briggs, Burrows, E. Carrington Cabell, L. D. Campbell, Carter, Clark, Conger, Cottman, Eastman, Edmundson, Evans, Fitch, Florence, Floyd, Gentry, Giddings, Goodenow, Gorman, Grow, Hammond, Isham G. Harris, Haven, Henn, Hibbard, Holladay, Thomas Y. How, James Johnson, John Johnson, George W. Jones, J. Glancy Jones, George G. King, Kuhns, Landry, Humphrey Marshall, McDonald, Meade, Miner, Olds, Orr, Outlaw, Samuel W. Parker, Peaselee, Pennington, Powell, Robbins, Ross, Sackett, Smart, Snow, Stanley, Strother, Taylor, Thurston, Toombs, Venable, Walsh, Ward, Washburn, Addison White, Wildrick, and Williams—65.

NAYS—Messrs. Abernethy, Aiken, Charles Allen, Babcock, David J. Bailey, Barrere, Bell, Bennett, Bibb, Bowne, Bragg, Brenton, Albert G. Brown, Buell, Caldwell, Chandler, Chapman, Cleveland, Clingman, Colcock, Curtis, George T. Davis, John G. Davis, Dockery, Durkee, Edgerton, Fowler, Gamble, Gaylord, Grey, Harper, Sampson W. Harris, Haws, Hascall, Hebard, Hendricks, Horsford, John W. Howe, Thomas H. Howe, Hunter, Ingersoll, Ives, Jackson, Andrew Johnson, Robert W. Johnson, Daniel T. Jones, Preston King, Kurtz, Lockhart, Martin, McLanahan, McNair, McQueen, Millson, Molony, Morehead, Murphy, Newton, Pennington, Polk, Robie, Russell, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smith, Benjamin Stanton, Abraham P. Stevens, Alexander H. Stephens, Stratton, Walbridge, Wallace, Watkins, Welch, Wells, Woodward, and Yates—77.

Before the announcement of the above vote, Mr. McCORKLE asked leave of the House to vote, as he was not within the bar when his name was called; but it was objected to.

Mr. CAMPBELL, of Ohio. It is evident that a great many gentlemen desire to be absent from the House during the next three days, some of whom are not inclined, I apprehend, to vote their wishes. [Laughter.] There are also a number of gentlemen, as I learn, who are desirous of making speeches, which they have prepared, upon various subjects, and with a view to accommodate all, I ask the unanimous consent of the House to introduce the following resolution.

Mr. OLDS. Before my colleague's resolution is read, I wish to give notice of my intention to move that the French spoliation bill be made the special order for to-morrow. [Laughter.]

The Clerk then read the resolution of Mr. CAMPBELL, as follows:

*Resolved*, That from Tuesday, June 1st, until Thursday, June 3d, 1852, inclusive, no motions except to go into Committee of the Whole on the state of the Union, and to adjourn, shall be entertained by the House.

Objected to.

Mr. CAMPBELL. I move a suspension of the rules, to enable me to introduce it.

Mr. GENTRY. I rise to a question of order. If I understood that resolution correctly, it will, in effect, change the standing rules of the House, and should lay over one day. It changes the whole order of business prescribed by the standing rules.

The SPEAKER. That is so; and the gentleman can only introduce his resolution by the operation of a two-thirds vote.

Mr. ORR. I move that the House do now adjourn.

[Cries of "No!" "No!"]  
Mr. SEYMOUR, of New York. I hope the House will permit the resolution I send to the Chair to be read for information.

Mr. ORR. I understand that the gentleman from Ohio [Mr. CAMPBELL] moves to suspend the rules; and if the motion to adjourn is not carried, the proposition of my friend from New York cannot be entertained.

The SPEAKER. Except by unanimous consent.

[Cries of "Read the resolution!" "Read the resolution!"]

Mr. ORR. I withdraw my motion for a moment.

The Clerk then read the resolution, as follows:

*Resolved*, That until Friday next the business of this House shall be limited to the receiving such reports from the standing committees of the House as shall, by the person reporting, be moved to be referred to either the Committee of the Whole, or the Committee of the Whole on the state of the Union, and that prior orders until that day be suspended.

Mr. SEYMOUR, of New York. I wish merely to say to the House, if we proceed to call the committees as they are now called, that it will take two months to go through with them; but there are vast numbers of reports which will only occupy two or three days which can be passed over, in this way, and no one's rights will be compromised.

Mr. HOUSTON. You cannot get a quorum to-morrow.

Mr. ORR. I renew my motion to adjourn.  
The question was taken on the motion to adjourn, and it was not agreed to; there being, on a division—yeas 46, noes 64.

The SPEAKER. The question recurs upon the motion of the gentleman from Ohio, [Mr. CAMPBELL], to suspend the rules.

Mr. CABELL, of Florida. I move that when the House adjourns to-day, it be to meet on Thursday next.

Mr. MEADE. I suggest that the resolution first proposed, for the adjournment of the House from to-morrow till Friday next, be taken up and adopted by unanimous consent.

[Cries of "Agreed!" "Agreed!"]  
Mr. STEPHENS, of Georgia. I object.

Mr. BRIGGS. I rise to a privileged question. I move to reconsider the vote by which the resolution proposing an adjournment from to-morrow till Friday next was defeated.

Mr. SACKETT. Is it in order to amend the motion of the gentleman from Florida by moving that when this House adjourn to-morrow, it be to meet on Friday next?

The SPEAKER. It is not.  
Mr. CABELL. I withdraw my motion, if the gentleman meets with general consent.

Mr. STEPHENS, of Georgia. I move to lay the motion of the gentleman from New York [Mr. BRIGGS] on the table.

The SPEAKER. The question must be first taken on the motion of the gentleman from Ohio to suspend the rules.

The question was put, and the House refused to suspend the rules.

The question was then put on the motion of Mr. STEPHENS, of Georgia, to lay the motion of Mr. BRIGGS to reconsider the vote by which the resolution that the House adjourn from to-morrow till Friday next on the table, and it was not agreed to.

The question was then taken on the motion of Mr. BRIGGS to reconsider, and it was agreed to.

The SPEAKER. The question now recurs on the adoption of the resolution, that when the House adjourns to-morrow, it be till Friday next.

Mr. MARSHALL, of Kentucky. I demand the yeas and nays.

Mr. SACKETT. I wish to make an inquiry of the Chair. Is not the resolution under the operation of the previous question? The previous question was moved and seconded before on its passage.

The SPEAKER. It stands in the same position it occupied before it was rejected.

Mr. STEPHENS, of Georgia. I demand tellers on the demand for the yeas and nays.

Tellers were ordered, and Messrs. STEPHENS, of Georgia, and HINBARD, were appointed; and a

count being had, the tellers reported—38 yeas—a sufficient number, and the yeas and nays were ordered.

Mr. CLINGMAN. I move that the House adjourn.

Mr. JONES, of Tennessee. I move that when the House adjourns to-day, it be to meet on Thursday next.

Mr. STEPHENS. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. JONES. I withdraw my motion. [Laughter.]

The question was then taken on the motion to adjourn, and it was not agreed to.

The question was then put on the resolution to adjourn from to-morrow till Friday next, and it was agreed to—yeas 60, nays 57; as follows:

YEAS—Messrs. William Appleton, Averett, Thomas H. Bayly, Bowie, Briggs, Burrows, B. Carrington Cabell, Lewis D. Campbell, Carter, Clark, Conger, Curtis, Edmundson, Evans, Florence, Gaylord, Gentry, Giddings, Gorman, Hays, Haven, Henn, Hubbard, Holladay, Houston, Thomas V. How, Ingersoll, Ives, James Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, George G. King, Landry, Lockhart, Humphrey Marshall, Martin, McCorkle, Henry D. Moore, Olds, Orr, Outlaw, Samuel W. Parker, Pease, Penniman, Polk, Robbins, Robie, Russell, Sackett, David L. Seymour, Stanly, Taylor, Thurston, Walsh, Ward, Washburn, Welch, Addison White, and Wildrick—60.

NAYS—Messrs. Abercrombie, Alken, Allison, Babcock, David J. Bailey, Barrere, Bell, Bennett, Bowne, Bragg, Breunton, Albert G. Brown, Buell, Caldwell, Chandler, Chapman, Cleveland, Clingman, Cobb, Colcock, George T. Davis, Duncan, Durkee, Edgerton, Ewing, Fowler, Goodenow, Grey, Harper, Sampson W. Harris, Hascall, Hendricks, Horsford, John W. Howe, Thomas M. Howe, Jackson, Andrew Johnson, John Johnson, Daniel T. Jones, Preston King, Kuhns, Kurtz, McLanahan, McQueen, Millson, Morehead, Newton, Origen S. Seymour, Benjamin Stanton, Abraham P. Stevens, Alexander H. Stephens, Toombs, Wallace, Watkins, Woodward, and Yates—57.

So the House agreed to adjourn from to-morrow till Friday next.

On motion by Mr. STANLY, the House then adjourned.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees—

By Mr. CURTIS: A petition for the establishment of a mail route from Brookville, Pennsylvania, to intersect the route leading from Shattontville, Clarion county, Pennsylvania, to Warren, Warren county, Pennsylvania.

By Mr. SCUDDER: The petition of Isaiah Hatch, of Wellfleet, Massachusetts, asking compensation for valuable services rendered in the case of the "Barnegat wreckers," and for aid and services in the case of the United States ss. Owners of ship Franklin.

By Mr. KUHN: The petition of Elizabeth Drum, widow of Captain Drum, late of the fourth artillery, United States Army, for continuance of pension.

By Mr. MILLER: The memorial of the heirs of Mr. Corby, deceased, of Missouri, praying Congress for relief for French spoliation.

Also, the petition of E. Bynum, C. B. Fallenstein, and sundry other citizens of Missouri, praying for a post route in said State from Keyesville to Bee Branch.

By Mr. FLORENCE: The petition of James H. Carr, of Philadelphia, memorializing Congress to pass a law granting an invalid pension to George Noble, who lost his eyesight in the service of the United States.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 1, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

#### DEFICIENCY BILL.

[A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, notifying the House of the passage by that body of House bill No. 207, entitled "An act to supply deficiencies in appropriations for the service of the fiscal year ending 30th June, 1852," with amendments, and asking its concurrence therein.]

Mr. HOUSTON. I ask the unanimous consent of the House to take up and refer the deficiency bill to the Committee on Ways and Means. It is necessary that the amendments proposed by the Senate should be examined into.

Mr. JONES, of Tennessee. Let the amendments be printed.

Mr. HOUSTON. I have no objection to that. I move that the bill be referred to the Committee on Ways and Means, and that the bill and amendments be printed; which motion was agreed to.

Mr. HALL, from the Committee on Public Lands, reported a bill for the relief of John Ozias; which was read a first and second time by its

title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Also, from the same committee, to which was referred House bill No. 122, entitled "A bill granting to the State of Missouri the right of way and a portion of the public lands for the purpose of aiding in the construction of a railroad from St. Charles, on the Missouri river, to the northern limits of said State," reported the same back with an adverse report; which was ordered to lie on the table.

On motion by Mr. HALL, it was

*Ordered*, That the Committee on Public Lands be discharged from the further consideration of the following cases, and that they do lie on the table:

Resolutions of the General Assembly of the State of Delaware, in reference to the public lands; and  
A memorial of the General Assembly of Missouri to Congress, asking a grant of lands for the Northern Missouri Railroad, viz: a railroad to begin at St. Charles, on the Missouri river, and to terminate at the northern boundary of Missouri.

Mr. HALL. I am instructed by the Committee on Public Lands to report back a bill making further provision for the satisfaction of Virginia military land warrants, which I move be referred to the Committee of the Whole on the state of the Union.

Mr. MILLSON. I do not rise for the purpose of objecting to the proposed reference of that bill, although, considering our recent legislation respecting the public lands, it would certainly be a reasonable request that this bill, which proposes to do tardy, but, I hope, not reluctant, justice to the claims of Virginia, should be passed at once. I would not say anything at all, at this time, but for the fact that, some weeks ago, when another bill was under consideration, the two gentlemen from Ohio [Messrs. TAYLOR and STANTON] obtained the unanimous consent of the House to address it for ten minutes each, and one of the gentlemen, whom I now see in his place, [Mr. STANTON,] having availed himself of the privilege given, but, not having the opportunity to say all that he desired within the brief space allotted, published in the Globe an extended argument, in which, as I thought, he somewhat unnecessarily went into a discussion of questions involved in the bill which has just been reported from the Committee on Public Lands. The gentleman fell into many errors, which may possibly have created a prejudicial influence upon the bill. I beg merely to say that, when the time for the discussion of this question shall arrive, I will be prepared to show that many of the statements of the gentleman, and most of his calculations and deductions, are erroneous. I am well satisfied that the gentleman intended no misrepresentation; but I now say, simply for the purpose of correcting the mistakes into which he fell, that the gentleman was in error when he said that, in the Twenty-sixth Congress, Mr. Highland Hall's report against these claims was sustained by the House, and the bill for the issue of scrip defeated; that another report of Mr. Hall, made at the succeeding Congress, was again sustained by the House, and that the House, at the Twenty-eighth Congress, refused to sustain the elaborate report of Mr. Hubard in favor of these claims, and again defeated the bill reported from the Committee on Public Lands. The gentleman is in error. There was no vote upon the bills or reports at either of the Congresses indicated by him. To correct another error into which the gentleman has fallen, I would say that, adopting the very calculation made by him of the number of officers and soldiers of the Virginia Continental line, who were engaged in the revolutionary war, I can disprove the conclusion to which he came.

The gentleman himself, while endeavoring to show that claims of a larger number of these revolutionary officers and soldiers had been allowed than ever had served during the revolutionary war in the Continental line, conceded, or at least assumed, a number that far exceeds the number of those who have already received compensation. The error into which the gentleman fell was in understating the average amount to which those officers and soldiers, or the heirs of those officers and soldiers, were entitled. I do not mean now to detain the House by any discussion of the merits of the bill; but I deem it proper, inasmuch as that portion of the remarks of the gentleman to which I have alluded, though published in the Globe, was not made in the House, and as this is

the first opportunity I have had to advert to them, that I should avail myself of the occasion to call the attention of the House to the statements of the gentleman, which I am very well assured he will, upon more mature examination, be willing to withdraw. I make no objection now to the proposed reference of the bill.

Mr. STANTON, of Ohio. There is a possibility I may have been mistaken with regard to there having been any formal action upon the reports of committees of this House in the Twenty-sixth or Twenty-eighth Congress. What I said in my speech was, that that subject was very thoroughly investigated—very thoroughly discussed on minority and majority reports of standing and select committees of this House; and that the bill, after having been so discussed and examined, failed to receive the sanction of this House.

Mr. MILLSON. It was not acted upon at all. Mr. STANTON. It may be that it was not drawn to a vote. I have not examined the Journals to ascertain whether there had been a vote or not. It failed to receive the sanction of the House, either through want of time, or indisposition of the House to act upon it,—which I do not know. At a subsequent Congress, a report was made by Mr. Hubbard, of Virginia—a solitary majority report—which was discussed in the House; and, if my understanding of the matter is correct, was then voted upon.

Mr. MILLSON. It is true, Mr. Speaker, when that very able and learned report was made by the Committee on Public Lands, to which the gentleman refers, there was a discussion in the House; but the only vote was to order the publication of 10,000 extra copies of the report; thus far seeming to indicate approval of the principles involved in it.

Mr. STANTON, of Ohio. I have not, myself, regarded as of great consequence the action of former Congresses. A word or two—and but a word or two—in regard to the statistics to which the gentleman from Virginia alludes. When the time comes for the gentleman and myself to compare notes, and to investigate these supposed errors, we will be enabled to engage in a discussion more understandingly. If I have fallen into any mistakes, they are mistakes derived from official records, which I have no means of correcting. I shall be a little gratified, and a good deal disappointed, if the gentleman from Virginia will be successful in showing, from my own data, that these warrants have not been fully satisfied. I shall be a good deal disappointed if he can find out any errors in the figures which I have submitted, and which are derived from official data, and show that the troops of the Virginia line on the Continental establishment have not already received a larger amount of lands than they can by any possibility be entitled to. There may have been improper claims allowed, and proper ones still outstanding; but it is not proper for me to go into this matter fully at the present time. I have no especial interest in resisting the passage of this law. I do not propose, unless it becomes necessary for the purpose of defending the positions I have already taken, to engage in resisting the passage of this bill, but I did deem it necessary, upon the bill which was reported by my colleague, [Mr. TAYLOR,] to attempt to satisfy the House that the claims which he asked to be satisfied were not meritorious, because that was a matter pecuniarily affecting my own constituents. So far as the bill now under consideration is concerned, proposing to subject these warrants to location upon any of the public lands, I acknowledge that my constituents have no peculiar interest, except what is common to the whole country. If no other gentleman sees proper, therefore, to engage in resisting the passage of this bill, I shall not do so.

I tell the gentleman, unless it becomes necessary for the purpose of protecting my own position and statement, that I have heretofore made upon what I regard improper legislation—

Mr. MILLSON. With the gentleman's permission, I will say that I have very little desire to assail his positions, not merely because I do not believe they were assumed with any intention to do injustice to these claims, but because I am willing to occupy many of those positions myself; for I will call the attention of the gentleman to the fact, that in his own calculation, he estimates the number of privates in the Virginia Continental line to have been some eight thousand four hun-

dred and fifty-nine. Now, I do not say that he has not fallen short of the correct number, but I do say that the whole number of claims which have been heretofore allowed, both for officers and privates of the Continental and State line and State navy is only a little over six thousand. That is a fact to which I call the gentleman's attention. He is surprised, however, that these six thousand and upwards should have received more than he estimates to have been due to the whole number. I will indicate to him the source of his error. It was in understating the amounts to which these officers and soldiers were entitled. He assumes, for instance, that the privates were entitled on an average to only one hundred acres of land. Mr. H. Hall, of Vermont, the most virulent opponent these claims have ever encountered in this House, some ten years since assumed the average due to privates to be one hundred and fifty acres; and for assuming so small an average, he was successfully assailed in the report of Mr. Hubbard. I merely indicate to the gentleman the occasion of his mistake, being perfectly satisfied that he will, when he comes to examine the question, admit the error and retract it.

Mr. STANTON. One word in reply to the gentleman. If warrants have issued only to the number which the gentleman states, it appears very clear to me that warrants have been issued for more land than their owners were entitled to. I will state the difference in the estimates of Mr. Highland Hall, to which the gentleman alludes, and myself. Mr. H. Hall attempts to ascertain the number engaged in the Virginia line who were entitled to bounty land warrants, and makes a variety of estimates, predicated them upon a variety of data. Those entitled were those who served for three years, and during the war. Now, all his investigations are to ascertain what number have served three years, or during the war. That is the point with regard to which all the difficulty has arisen. There exists no data to show the term of service of the Virginia troops. There is the difficulty. Hence, Mr. H. Hall could not ascertain with demonstrable certainty the number of Virginia troops who were entitled to land warrants. He makes an estimate from the best data he could get of the number who had served long enough to entitle them to bounty lands; and allows, as an average, one hundred and fifty acres to each. Those who served three years were entitled to one hundred acres; those who served during the war were entitled to two hundred acres, and he therefore assumed the average of one hundred and fifty. I start upon a different basis, conceding, in the outset, that there is no official data upon which you can ascertain the number that served long enough to entitle them to bounty land warrants. I take the aggregate of rank and file, and officers, without regard to the term of service. I take every man who is entered on the pay-roll—whether he served a week or day, who received advance pay. I take it for granted that in that aggregate there was a large number who did not serve three years, and, therefore, never became entitled to bounty land warrants. I assume that the whole of them—those who were not entitled to bounty land and those who were—served three years; supposing those who served during the war to be equal in number to those who served less than three years. It would, then, leave the average of soldiers, without regard to the term of service, at one hundred acres. That I believe to be a liberal estimate. The gentleman will, I think, now perceive the difference between Mr. Hall's estimate and mine. There is no inconsistency in the two propositions.

Mr. STANLY. I wish to say a word upon this bill. One argument the gentleman from Virginia [Mr. MILLSON] referred to ought not to be allowed to pass without a protest. He said that, of one of the reports made upon these Virginia land claims, some ten thousand extra copies were ordered to be printed, and cited that as an illustration that the House favored the views taken in that report. These claims have other merits to stand upon besides that. If that be the only argument in their favor they are weak indeed.

Mr. MILLSON. The House will recollect that I did not refer to the order of the House for the publication of extra copies of that report until the gentleman from Ohio [Mr. STANTON] stated there was a vote taken at that session of Congress. I then, in reply to that observation, said it was

true a vote had been taken, but that the only vote taken was upon ordering the publication of a large number of extra copies of that report; and, inasmuch as that report was a favorable one, it was fair to infer, if the House meant to intimate anything at all by that vote, that, so far as it went, it was favorable rather than unfavorable.

Mr. STANLY. So far as it went! I say that it does not go anywhere. It does not go at all. How does it argue when extra copies of minority reports are ordered to be printed? If I recollect aright, when Mr. Van Buren's plan for reorganizing the militia was introduced, there was a large number of extra copies ordered to be printed, for the purpose of showing the bad policy of the Administration. It does not argue anything that an extra number of copies has been ordered to be printed. I do not wish this bill to be prejudiced by any remarks made now before we are ready for action upon it, nor do I want it to be supported by arguments that will not hold water. I do not think that the ordering of an extra number of copies of a report to be printed, sanctions at all the principles involved in it. At that rate, it might be said that a Democratic Congress has recently sanctioned high-tariff opinions contained in the Patent Office Report; for, a year or two ago, 100,000 extra copies of that document were ordered to be printed. It contained some strong statistics, some strong arguments, in favor of a protective tariff. No man voted for the printing of that extra number of copies of that report because it contained tariff arguments. I have remarked thus much by way of preventing prejudice to this bill, which, I hope, will have a fair hearing on its own merits.

The bill was then referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

On motion by Mr. COBB, it was

*Ordered*, That the Committee on Public Lands be discharged from the consideration of the following cases, and that they do lie upon the table, viz:

Three petitions of one hundred and twenty-two citizens of Morgan county, Ohio, asking a grant of 100,000 acres of unsold lands within said State, to aid in the construction of a certain plank or macadamized road;

Petition of Philip Adams and fifty others, citizens of the counties of Morgan and Perry, asking the grant of 100,000 acres of public land to aid in the construction of a certain plank or macadamized road;

The petition of citizens of the State of Wisconsin, praying for a grant of land to aid in the construction of a plank road;

Petition of E. Douglass and thirty others, citizens of Mississippi, praying a grant of land for the benefit of Franklin Institute, a literary and scientific school in the county of Copiah, Mississippi; and

Memorial praying for a grant of land to the settlers on the lands ceded by the treaty of Pembina.

Mr. COBB, from the Committee on Public Lands, to which was referred the petition of William J. Price, praying for the relinquishment of the reversionary interest of the United States to a section of land in Jackson county, Alabama, granted by treaty to William Jones, on conditions that have been fully complied with, reported a bill for his relief, which was read a first and second time by its title, referred to the Committee of the Whole House, made the order of the day for tomorrow, and ordered to be printed.

He also, from the same committee, to which was referred the petition, &c., of Jasper A. Maltby, praying for bounty land, reported a bill for his relief: which was referred to the Committee of the Whole House, made the order of the day for tomorrow, and ordered to be printed.

Mr. HOUSTON. My colleague has in his hands a bill, which was ordered to be reported by the Committee on Public Lands, with a recommendation that it do pass, for the purpose of extending the time in which the State of Alabama was to select her sixteenth section of school lands which were taken from her by the Chickasaw treaty, in 1832 and 1835. I do not desire it to be reported now, unless the House agree unanimously to pass it. It is a matter involving no principle, but owing to the passage of previous bills, provides for the selection of other lands, in lieu of the sixteenth sections. It is an extension only of the time for selection.

Mr. COBB. The State of Alabama selected lands in Louisiana, but when the returns were made to the General Land Office, it was found the lands they had located were within some Spanish grants. An extension of time, for the selection of



lands in lieu of the sixteenth school sections, is all that is asked. If it is objected to, I will not now submit the report I have been instructed to make.

Mr. AVERETT. I do not think the House is now in a condition to act upon anything. I have the utmost confidence in the statements of the gentleman from Alabama, but from the thin state of the House, there not being a quorum present, I am compelled to object.

On motion by Mr. HENN, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following cases, and that they do lie upon the table:

Petition of James A. Cunningham and fifty-two others; Petition of A. R. Sparks and sixteen others; Petition of John Linder and twenty-seven others; Petition of William J. Cooper and nine others; Petition of C. C. Tinsly and seven others, asking for a donation of public lands to aid in the construction of a railroad from Burlington to the Missouri river; Petition of citizens of Iowa, asking for a donation of lands to aid in the construction of a railroad from Burlington to the Missouri river; Petition of J. A. Painter and twenty-three others, citizens of Mills county, Iowa, asking a grant of land to aid in the construction of a railroad from Burlington, via Fairfield and Ottumwa, to the Missouri river, opposite to the mouth of Platte river; Petition of Israel Miller and seventy-five others, citizens of Clark county, Iowa, asking for a grant of land to aid in the construction of a railroad from Burlington to the Missouri river; Communication from the city of Burlington to the city of Wheeling, in relation to the construction of a railroad from Peoria, Illinois, through Burlington, to the Missouri river; Memorial of A. C. Harding and others, for grant of lands to the Burlington and Missouri railroad; Memorial of Samuel Halland and twenty-three others, citizens of the State of Illinois, asking for a grant of land to aid in the construction of a railroad from Burlington, in the State of Iowa, to the Missouri river; Petition of C. J. Gardner and forty-five others, citizens of Iowa, asking a grant of land to aid in the construction of a railroad from Burlington to the Missouri river; Memorial of John D. Elbert, asking a grant of land to aid in the construction of a railroad from Lafayette, via Peoria and Burlington, to the Missouri river; Petition of Joseph Brobst and sixty-six others, asking for a grant of land to aid in the construction of a railroad from Burlington to the Missouri river; Petition of five hundred citizens of Illinois, for land to aid in building a railroad from Burlington, Iowa, west, to some point on the Missouri river; Petition of George W. Crawford and thirty others, citizens of Henry county, Iowa, asking a grant of land to aid in the construction of a railroad from Burlington, via Mount Pleasant, Fairfield, and Ottumwa, to the Missouri river; Petition of O. Peters and other citizens of Illinois, for a grant of land to aid in the construction of a railroad from Burlington, Iowa, to some eligible point on the Missouri river; Petition of Evan Jay and fifty-five others, asking for a grant of land to aid in the construction of a railroad from Burlington to the Missouri river; Petition of citizens of Iowa, praying for a grant of land to aid in the construction of a railroad from Burlington to the Missouri river; Memorial from Illinois for aid to a railroad from Burlington, on the Mississippi river, to the Missouri river; Petition of James Shepherd and one hundred and fifteen others, praying for an appropriation of land for a railroad from Lafayette, Indiana, via Peoria, Burlington, Keosauqua, and Bloomfield, to the Missouri river; Proceedings of a mass railroad convention held at Ottumwa, Iowa, on the 13th day of February, 1852; Proceedings of a railroad meeting of the citizens of Davis and Appanoose counties, held at Bloomfield, Iowa, on the 29th day of January, 1852; Memorial of P. C. Tiffany and sixty-seven others, citizens of Iowa, asking a grant of land to aid in the construction of a railroad from Burlington to the Missouri river; Proceedings of a railroad meeting of the citizens of Lucas county, Iowa, at Chariton on the 5th day of February, 1852; Memorial of David C. Riggs and twenty-one other citizens of the State of Illinois, for a portion of land to aid in the construction of a railroad from Burlington to the Missouri river; Petition of Jacob B. Sprague and eighty others, citizens of Wapello county, Iowa, asking a grant of land to aid in the construction of a railroad from Burlington to the Missouri river; Petition of Joseph Shaw, praying for a donation of public land to aid in the construction of a railroad from Lake Michigan to the Pacific, and further proposing a plan for the extinguishment of the Illinois State debt; Petition of citizens of Iowa, asking for the creation of a new land district in the western portion of the State of Iowa, and for the establishment of a land office therefor at Kanesville; Petition of George W. Armstrong and sixty others, citizens of Iowa, asking for the creation of a new land district in the western portion of Iowa, and for the location of the land office therefor at Kanesville; Petition of S. T. Cary and twenty-eight others, citizens of Iowa, asking for the creation of a new land district in the western portion of the State of Iowa, and for the establishment of the land office therefor at Kanesville; Petition of W. B. Ferguson and twenty-five others, citizens of Iowa, asking for the creation of a new land district in the western part of said State, and for the location of the land office therefor at Kanesville; Petition of John K. Cook and fifty-four others, citizens of Iowa, asking for the creation of a new land district in the western part of said State, and for the location of the land office therefor at Kanesville; Memorial of a convention of delegates assembled at Os-

kaloosa, Iowa, on the 25th day of November, 1851, asking a grant of land to aid in the construction of a railroad from Davenport, via Muscatine and Oskaloosa, to Trader's Point, on the Missouri river;

Petition of the Board of Education of the State of Michigan, praying for a grant of lands to them, equal in value to certain salt spring lands heretofore granted to said State, and erroneously confirmed by the Secretary of the Treasury;

Petition of Aaron S. Johns, asking for the correction of an error in the location of a land warrant;

Proceedings of a meeting of the stockholders of the Dubuque and Keokuk Railroad north, held at Anamosa, January 19th, 1852;

Proceedings of a meeting of the stockholders of the Keokuk and Dubuque railroad, held at Marion, on the 17th of January, 1852;

Proceedings of the State Railroad Convention, held at Fairfield, Iowa, on the 11th day of February, 1852;

Proceedings of a railroad meeting, held at Iowa City, Iowa, on the 6th day of February, 1852; and

Proceedings of a railroad meeting, held at Dubuque, Iowa, on the 25th day of February, 1852.

Mr. HENN, from the Committee on Public Lands, reported back Senate bill No. 50, entitled "An act for the relief of Sidney S. Allcott;" which was referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

Also, from the same committee, "An act for the benefit of the citizens and occupants of the town of Kanesville, in the State of Iowa;" which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STANTON, of Ohio. I hope the House will grant its unanimous consent to be reported and passed, a bill of a good deal of importance to my constituents, and to which certainly no one can object.

Mr. JONES, of Tennessee. There is no quorum here, and we cannot pass any bills to-day.

A Voice. What is the title of the bill?

Mr. STANTON. It is a bill ceding to the State of Ohio the unfinished portion of the Cumberland road in that State. No one can object to it.

Mr. JONES. I object.

On motion by Mr. BRIGGS, it was

Ordered, That leave be granted to withdraw the petition and papers of Mary Martin, for the purpose of having them referred to a committee of the Senate.

Mr. COBB. The morning hour has expired; and, if there is no objection, we can proceed to the consideration of the business on the Speaker's table, and take up only such bills as will not give rise to debate. The House may, however, go on receiving such reports from committees as are not to be pressed to a vote at present.

Mr. HOUSTON. That would be the proper way. Let the call on committees for reports continue, and let contested matters be kept back, to be reported some other time.

Mr. COBB. I would inquire of the Chair, if the Committee on Public Lands is passed, with the understanding that only such matters as are not to be pressed to a vote, shall be reported, will it be first called for reports on Friday next?

The SPEAKER. It will, if that is the understanding. The Chair will state the proposition. It is proposed, by unanimous consent, that the House pass not permanently from the Committee on Public Lands, there being a good many bills in the possession of that committee, the members interested in which are absent, that it proceed to receive and to refer such matters as shall give rise to no debate, and upon which action is not asked at present; and that when the call for committees shall be resumed at the next meeting of the House, it shall commence with the Committee on Public Lands.

Mr. JONES, of Tennessee. I object to it.

On motion by Mr. BENNETT, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following petitions and memorials, and that they do lie upon the table:

Petition of inhabitants of the State of New York, for grant of land to aid in the construction of a railroad from Saratoga Springs to Sackett's Harbor, on Lake Ontario;

Memorial of A. Dawes, and one hundred and forty-five others, citizens of Morgan county, Ohio, asking a grant of 100,000 acres of unsold public lands within the State of Ohio, to aid in the construction of a certain plank or macadamized road;

Memorial of the directors of the Hempfield Railroad Company, for an appropriation of public lands to aid in the promotion of their work;

Petition of Adelson J. Goodwin, Seth Williams, and one hundred and twenty-six other citizens of Wesley Township, Washington county, Ohio, asking Congress to grant the "Independent School Association of the Commonwealth of Wesley" thirty-six sections of the public domain, for the benefit of education in said Association;

Also, a letter from Susan Crow and eight other females of the same county, on the same subject;

Petition of the Board of the Lawrence University, in the State of Wisconsin, asking Congress to appropriate a certain portion of the public lands upon conditions therein expressed; and

Joint resolution of the Legislature of Wisconsin, in favor of the granting the military reserve at Fort Winnebago in aid of the Fox and Wisconsin rivers improvement.

Mr. BENNETT. I have a bill to report, upon which I desire the action of the House. I would ask the Chair whether it would not be pending, if now reported, as the unfinished business, and be the first business in order when the House again meets? If that is not the case I will not make the report.

The SPEAKER. That direction can be given to the bill only by unanimous consent.

Mr. BENNETT. If I report it, move to recommit it, and then the morning hour expires, will I not have the floor when the House again resumes its session?

The SPEAKER. The gentleman would be entitled to the floor in that case.

Mr. BENNETT. I will then report the following bill.

Mr. JONES, of Tennessee. I object to the passing of any bill. There is not a quorum present.

Mr. BENNETT. I desire a vote of the House upon it. I do not, however, wish to press it to a vote now, but only to report it, so that it may lay over and come up next Friday, as the first business in order.

Mr. HOUSTON. I do not think that is the proper course to pursue. It would clog up everything else. Let the gentleman make his report next Friday.

Mr. BENNETT. I will not make the report now; but wait for some more favorable opportunity.

Mr. HALL. I will state, in reply to a remark of the gentleman from Alabama, [Mr. COBB,] that the Committee on Public Lands are not anxious—indeed they do not wish to make any important reports this morning—but they are unwilling, in the present thin state of the House, that that Committee should be passed by, and important matters left in their hands unreported until all the other committees have been called. If the gentleman will consent that we now go on to receive reports from other committees on unimportant matters, and when the House is full, that the Committee on Public Lands be again called, I will not object; otherwise I will.

Mr. CLINGMAN. I object to that.

Mr. JONES, of Tennessee. The only way to settle all this difficulty is for the House, in its present condition, to adjourn, and I therefore make that motion.

[Cries of "No!" "No!"]

Mr. JONES. There is no quorum present, and I intend to have one before you do any business.

The question was then taken on the motion to adjourn, and it was disagreed to—yeas 28, noes 41.

Mr. HOUSTON. I wish to ask the gentleman from Missouri, [Mr. HALL,] how many reports he proposes to hold back under the suggestion he makes, concerning bills which he intends to put upon their passage?

Mr. HALL. There are two in my hands.

Mr. JONES, of Tennessee. I rise to a question of order. There is no quorum present; and it is incompetent to transact any business until we have a quorum.

The SPEAKER. No motion, but one to adjourn, or for a call of the House, is now in order, there being no quorum present.

Mr. SACKETT. I move a call of the House, and upon that motion I demand tellers.

Mr. HOUSTON. I demand the yeas and nays. We can then ascertain whether there is a quorum present to proceed to the transaction of business, or not. A great many who voted against the adjournment on yesterday, went off to Baltimore last evening and this morning.

The yeas and nays were ordered.

Mr. HENDRICKS. I move the House adjourn.

Mr. JOHN W. HOWE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken on the motion to adjourn, and it was agreed to—yeas 54, nays 38; as follows:

YEAS—Messrs. Averett, Babcock, Bell, Bennett, Bibig-

haus, John H. Boyd, Brenton, Briggs, Burrows, Busby, Caldwell, Lewis B. Campbell, Curtis, George T. Davis, Dockery, Evans, Ewing, Florence, Gamble, Goodenow, Hall, Harper, Haws, Haven, Hendricks, Holladay, Houston, Andrew Johnson, George W. Jones, Kuhus, Landry, Mace, Martin, McDonald, Millson, Newton, Olds, Samuel W. Parker, Robie, Ross, Russell, Sackett, Schoonmaker, David L. Seymour, Skelton, Benjamin Stanton, Sutherland, Taylor, Benjamin Thompson, Walsh, Ward, Addison White, Wildrick, and Williams—54.

NAYS—Messrs. Aiken, William Appleton, David J. Bailey, Barrere, Caskey, Chandler, Cleveland, Clingman, Cobb, Fowler, Gaylord, Giddings, Hascall, Hebard, Henn, Horstford, John W. Hoive, Thomas M. Howe, Thomas Y. How, Jackson, George C. King, Meacham, Miner, Morehead, Murphy, Penniman, Perkins, Robbins, Scudder, Stanly, Abraham P. Stevens, Thaddeus Stevens, Townsend, Walbridge, Watkins, Welch, and Wells—38.

So the motion was agreed to, and the House adjourned until Friday next, at twelve o'clock, m.

## IN SENATE.

THURSDAY, June 3, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tem.* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate, papers in relation to the claim of Samuel A. Belden & Co. against the Government of Mexico; which was ordered to be laid on the table.

Also, a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 25th May calling for the best plan for the improvement of the Lake St. Clair Flats, in Michigan, a report from the Chief of the Topographical Engineers on that subject; which was ordered to be laid on the table, and printed.

Also, a report of the Secretary of the Navy, in relation to the removal of the wreck of the United States steamer Missouri from the bay of Gibraltar, stating that \$80,000 had been appropriated for the purpose by the last Congress, and that the work had been completed in the most satisfactory manner for the sum of \$59,000, to the entire approbation of the English authorities at that port. The report also contains certificates from the United States consul at Gibraltar, testifying as to the facts. The report was ordered to be laid on the table, and printed.

## PETITIONS, ETC.

Mr. HALE. Mr. President, I have in my hand a petition from Jonathan Dennis, junior, representing that he is an agent for inventors here, and that there is no provision made by which appeals from the Commissioner of Patents may be tried, in case of the sickness or disability of the Chief Justice of the District of Columbia. He informs me that the act which has recently been passed by both Houses of Congress and become a law, conferring the judicial power exercised by the Chief Justice upon some of the other judges in case of his sickness, has been construed by those judges not to relate to the special jurisdiction of the Chief Justice under the patent laws, and that there is now literally no tribunal for that purpose. I move that the petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. HALE. I have also received a petition, numerously signed, from citizens of Chemung county, in the State of New York, who represent to Congress that they are opposed to the fugitive slave law, and wish that it may be repealed. They state that they regard it as inhuman, tyrannical, cruel, a disgrace to the age, and offensive in the sight of God. They further say that they will never cease their constitutional opposition to it until it is annihilated. I suppose, sir, that it is not unbecoming the dignity of the Senate to take notice of manifestations of public opinion which we see elsewhere, and as a distinguished body has lately laid on the table a proposition to adopt and reaffirm the principles of that bill, I hope the Senate will confirm that, and refer this petition to the Committee on the Judiciary.

Mr. MANGUM. I move to lay the memorial on the table.

The motion was agreed to.

Mr. DAWSON presented a petition of the Mayor and Aldermen of the city of Savannah, Georgia, praying that the site of the old Oglethorpe barracks may be granted to the city as a parade ground for the volunteer corps; which was referred to the Committee on Military Affairs.

Mr. DAVIS. Mr. President, I ask leave to present a petition of some fourteen presidents of agricultural societies of the Commonwealth of Massachusetts, many of them gentlemen distinguished for their knowledge in the science of agriculture. They represent that they believe that the public interests would be greatly promoted by the establishment of a Bureau of Agriculture, and by the establishment of other institutions, where it, as a science, might be studied. I move that the petition be referred to the Committee on Agriculture.

It was so referred.

Mr. DODGE, of Iowa, presented a memorial of the citizens of the city and county of St. Louis, praying that a certain tract of land appropriated by the treaty with the Sauk and Fox Indians, of August 4, 1824, for the use of the half-breeds of those tribes, may be disposed of by the United States agreeably to the original intentions of that treaty; which was referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore* presented two petitions of citizens of South Wheeling, Virginia, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. BRODHEAD presented a petition of citizens of Armstrong county, Pennsylvania, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. SEWARD presented twenty-four petitions of citizens of New York, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. CHASE presented nine petitions of citizens of Ohio, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. WADE presented seventeen petitions of citizens of Ohio, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. CASS presented three petitions of citizens of Michigan, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. SUMNER presented seven petitions of citizens of Massachusetts, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. UPHAM presented a petition of citizens of Vermont, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. COOPER presented the memorial of Stephen Colwell, administrator of Joseph Ball, deceased, praying for special powers of sale and settlement in behalf of the heirs of Joseph Ball, within the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. FISH. I present a petition from merchants in New York, asking for the establishment of a mint in that city. Appended to it is a statement showing the amount of gold imported from California to New York since gold was first discovered in the former place. It is an interesting document, and I ask that it may be printed, and that the memorial may lie on the table, as a bill has been reported on the subject.

The memorial was laid on the table; and the motion to print went to the Committee on Printing.

Mr. FISH also presented two petitions of citizens of New York, praying that the public lands may be granted, in limited quantities, to actual settlers not possessed of other lands; which were referred to the Committee on Public Lands.

## REPORTS FROM STANDING COMMITTEES.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the bill for the relief of Thomas Flannagan, reported it without amendment. He also submitted a report on the subject, which was ordered to be printed.

Mr. UNDERWOOD, from the Committee on Public Lands, to which was referred the bill appropriating land scrip in full and final satisfaction of Virginia military bounty land warrants, reported it with an amendment. He also submitted a report on the bill; which, together with the amendment, was ordered to be printed.

He also, from the same committee, to which was referred the bill from the House of Representatives further to extend the time for locating Virginia military land warrants and returning surveys to the General Land Office, reported it without amendment.

Mr. DAWSON, from the Committee on Military Affairs, to which was referred the petition of the Mayor and City Council of the city of Savannah, submitted a report, accompanied by a joint resolution, for surrendering the site of the old Oglethorpe Barracks to the city of Savannah.

The resolution was read a first time and ordered to a second reading.

Mr. DAWSON. I ask for the immediate passage of this resolution. I will state that the old Oglethorpe Barracks, adjoining the city of Savannah, contain a few acres of land, and were abandoned in consequence of the great sickness of that place. The barracks were removed within the city. The city of Savannah gave the Government nine thousand feet square in the center of the city, and it now asks, that after an abandonment of twenty-five years, these lands, lying waste, may be conveyed to the city.

The joint resolution was read the second time by its title, and considered as in Committee of the Whole. No amendment being offered, it was ordered to be engrossed for a third reading.

## FUGITIVE SLAVE LAW.

Mr. CHASE submitted the following resolution for consideration:

*Resolved*, That the Secretary of the Interior be directed to communicate to the Senate a statement, showing in detail the expenses incurred and the claims made under the act to amend, and supplementary to the act respecting fugitives from justice, and persons escaping from the service of their masters, distinguishing the expenses incurred and claimed by reason of prosecutions for treason, alleged to have been committed in resistance of said act, from expenses incurred and claimed by reason of other prosecutions for offenses against said act, and for proceedings before and under orders made by commissioners.

## BILL PASSED.

The engrossed bill authorizing the Secretary of War to grant to the Pittsburg, Kittanning, and Warren Railroad Company, the right of way over the grounds of the United States at the Alleghany Arsenal, was read a third time, and passed.

## EXTENSION OF THE CAPITOL.

Mr. BRODHEAD gave notice of his intention to ask leave to introduce a bill to provide for the payment of the workmen upon the wings of the Capitol, during the suspension of the work.

## PENNSYLVANIA AND OHIO RAILROAD.

On the motion of Mr. WADE, the Senate proceeded to consider, as in Committee of the Whole, the bill to authorize the Secretary of the Treasury to convey the right of way to the Cleveland and Pittsburg, and to the Cleveland, Painesville, and Ashtabula Railroad Companies, through certain lands therein mentioned; and the reported amendments being amended, the bill was ordered to be engrossed for a third reading. The bill gives to these companies the right of way over the hospital grounds belonging to the United States in the city of Cleveland, in the State of Ohio.

## LETTER OF MR. HULSEMANN.

The Senate proceeded to consider the following resolution, submitted by Mr. SEWARD on the 14th May, and it was agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if consistent with the public interests, a copy of a communication made by Mr. Hülsemann, now or late Chargé d'Affaires of the Emperor of Austria, on or about the 29th of April, 1852, to the Secretary of State of the United States, on the occasion of the withdrawal of Mr. Hülsemann from his place as such charge; and also a copy of the reply thereto made by the Secretary of State; and also copies of all other correspondence touching the matters which are the subjects of the said communication of Mr. Hülsemann.

## RAILROADS IN MISSOURI.

On motion of Mr. COOPER, the Senate resumed the consideration of the amendment of the House of Representatives to the bill granting the right of way to the State of Missouri, and a portion of the

public lands to aid in the construction of certain railroads in said State.

Mr. COOPER. As this bill was laid over on Monday at my suggestion, and as I had called for the yeas and nays thereon, I now ask the unanimous consent of the Senate to withdraw the call for the yeas and nays.

The call for the yeas and nays was withdrawn, and the amendment of the House of Representatives was concurred in.

#### ROADS IN MICHIGAN.

On the motion of Mr. FELCH, the Senate proceeded to consider, as in Committee of the Whole, the bill granting to the State of Michigan the right of way and a donation of public land, for the purpose of constructing a road from Saginaw to Montreal river, with a branch from the Grand river, into the same. The Committee on Public Lands reported a substitute for the bill.

Mr. FELCH. I will state that the amendment reported by the committee is in the usual form of these bills, except that it only grants one section instead of six for the purpose of making a road—not a railroad. It goes through a portion of the country where, at the present time, there are no settlements. There is no population along the line of the proposed road, but only at the extremes.

Mr. CHASE. Where is the road?

Mr. FELCH. It is a road from Grand river, in the lower peninsula of Michigan, going thence, by way of the Sault Ste. Marie, to the upper peninsula, through a mineral country just beginning to be opened. There is not a foot of road in the whole northern peninsula of Michigan. This is the first attempt to get a road there. When this bill was originally reported, it was for a road with a branch. Since that time a bill has been passed making a grant for a railroad covering that branch. I wish now to amend the amendment of the committee by striking out that portion which was provided for in the railroad bill which was passed the other day. For that purpose I move to strike out of the amendment the word "Saginaw," and insert "Grand river;" and also to strike out "and of a branch leading to the same from Grand river;" and again, to strike out "one hundred feet," and insert "fifty feet."

The amendments to the amendment were agreed to.

The first section of the amendment of the committee, as thus amended, provides:

"That the right of way through the public lands be and the same is hereby granted to the State of Michigan, for the construction of a road from Grand river to the Montreal river, by the way of the Sault Ste. Marie, in said State, with the right also to take the necessary materials of earth, stone, and timber, for the construction thereof, from the public lands of the United States adjacent to said road: *Provided*, That the right of way shall not exceed fifty feet on each side of the line of said road; and a copy of the survey of said road, made under the direction of the Legislature, shall be forwarded to the proper local land offices, respectively, and to the General Land Office at Washington city, within ninety days after the completion of the same."

The amendment of the committee was further amended, on the motion of Mr. FELCH, by inserting a provision that the lands reserved to the United States shall from time to time be offered at public sale, and shall not be subject to entry until so offered.

The amendment as amended was agreed to. The bill was reported to the Senate, and the amendments were concurred in.

The question was stated to be, Shall this bill be engrossed and read a third time?

Mr. CHASE. I should like to inquire of my friend from Michigan, if this road is proposed to be constructed on the same principle which governed the construction of the Maumee road in Ohio? Is the grant a mile wide throughout its extent?

Mr. FELCH. The bill grants alternate sections for a mile in width on each side of the road.

Mr. CHASE. That road, I believe, extends through a considerable tract of country composed almost entirely of public land, and is laid off throughout its entire extent for a mile wide. It was intended, I believe, for a turnpike road. I ask if the same principle prevails in this bill?

Mr. FELCH. It is the same. I think that was a grant of a mile wide for the purpose of making a road.

Mr. DAWSON. I have not even heard the bill read. Do I understand, however, that it is for the purpose of creating and establishing a turnpike road?

Mr. CHASE. I believe it is.

Mr. FELCH. A part of the route will probably very soon require the construction of a plank road. This bill, however, does not define the kind of road which is to be built. It will be a turnpike road, or a plank road, as circumstances require. As it stands now, of course it is competent to make either. The bill makes the same grant as those which were made for the earlier roads in Ohio. The one to which the Senator from Ohio has referred was, I believe, a common turnpike road.

I will state further, that this road is to commence on the Grand river, which is a river flowing in the lower peninsula into Lake Michigan, about midway, perhaps, of the lake. It extends through a portion of country very little of which is sold, and which a few years ago was regarded as very poor land, but which, however, on further investigation, proves to be a good farming country. It is very desirable now that some communication should be had with the settlements upon Grand river. There is none at the present time. The only access now is from the lake. This road is to pass through a region where much of the land is good for cultivation. Other portions of it are pinelands. It extends to the northern peninsula, which is very well known, (and of which I need say nothing,) as a region offering very great inducements on account of its mineral resources. There is within that peninsula not a single mile of road of any description, except roads running back from the river to the mines for half a mile or a mile, made by the individuals engaged in the mining business. There is no access to that country at all, except by water along the lake. The design is at this time to make some provision by which we may be secured in roads such as have been given ordinarily to new Territories on their settlement.

Mr. DAWSON. What is the extent of the road?

Mr. FELCH. I suppose its whole length will be about three hundred miles.

Mr. DAWSON. Mr. President, I think it wrong to undertake to decide this question now, with such a thin Senate. It seems to me that we have descended from railroads to turnpike and plank roads. It is proposed now to build a road three hundred miles in length, through an unsettled country, and to appropriate public lands for that purpose. How many miles on each side of the road is it proposed to take land?

Mr. FELCH. A strip of land a mile wide is granted.

Mr. DAWSON. I dislike to interpose, for I know how unavailing opposition to these bills has been heretofore. But this certainly involves a very important principle. It involves, it seems to me, the same principle which the Cumberland road involved. It is an internal improvement, upon the same principle and to a greater extent. I trust that the Senator from Michigan will permit the bill to lie over until the Senate shall be full. I desire to look into it. We ought not to pass a measure of this kind hastily. I would suggest, therefore, that the bill be passed over, particularly as we might run foul of some of our old principles, Whig or Democratic, and might get up a discussion of the question of internal improvements to-day; and we all know that this is a very bad time to discuss any political question, especially before a thin Senate. I hope the Senator will consent to let the bill lie over for the present.

Mr. CASS. Mr. President, I think the honorable Senator from Georgia, on reflection, will not require that this bill shall be postponed. He supposes we are coming down from railroads to turnpikes and other roads. Why, as early as 1796, the same thing was done, by a grant for the construction of a road from Wheeling to Limestone—now the town of Maysville—through the State of Ohio. The same thing has been done in almost every one of the Western States. Lands have been granted to them for the purpose of making turnpike and other roads throughout the whole public domain, before railroads were invented. Here is a tract of country, extending along Lake Superior, which, as my colleague truly says, has not a single road throughout its whole extent. The country belongs to the United States, from one end of it to the other. All that is asked is a strip of a mile in width to construct a road, which will be of vast importance to the public property,

as well as to the people there. I repeat, I do not think there is one State in the West in which roads of this description have not been made. There is no new principle involved in this bill. The rise in value of the property of the United States which will result from the making of this road, will be certainly, in proportion to the amount of lands granted, as great as the benefit resulting from the making of railroads.

Mr. DAWSON. I understand that thoroughly. I recollect, however, that the Cumberland road was carried on by appropriations from the General Government. It became a great political question; it was one of the test questions down to the year 1836; and certainly it cannot be distinguished from the question now presented to us, because the Cumberland road was built by money appropriated from the Treasury. I am sure the Senator from Michigan will not say that it should be a precedent now for us to appropriate money to build another road like it. This is the first time since I have been on the floor of the Senate, where appropriations so extensive as this, through a country unoccupied and unsettled, were proposed to be made by the Government for the purpose of making a road. This bill proposes to give a strip of land a mile in width, throughout the whole extent, for the purpose of making a road, three hundred miles in length. Towns may be built up within that strip of land, and the State of Michigan may thus derive an immense amount from the sale of town lots in the course of time.

I know that gentlemen from the new States think that this opposition to such bills is possibly unkind; but they ought to recollect that all these lands were paid for out of the common fund. We see now, that according to the legislation proposed to be passed by both branches of Congress, all the public lands are to go, not for the general purposes of the country, but to individuals and States, and in opposition to the rights of all who are settled permanently as citizens, and who have been sustaining the Government for years. According to some propositions before Congress, unless a man shall be driven from his home and the place of his birth into the new States and settle there, he is not permitted to enjoy any portion of his right in the public lands. If we would reflect upon it for a moment, we should not hurry it through so soon. Gentlemen ought to give us an opportunity at least to endeavor to do something to secure the rights of the old States to the public domain—to march up in defense of our rights in opposition to these vast appropriations. I am as unwilling as any gentleman on this floor to embarrass any of the new States in their growth and prosperity; but I do not like to contribute out of the common funds of the country, too much to them. At a time like this, when the Senate is in the condition it is, I think the Senator ought not hastily to press this proposition.

Mr. CASS. Mr. President, the Senator from Georgia will allow me to say that he is under a total misapprehension upon this subject. This has no relation to the Cumberland road. In that case appropriations of vast sums of money were made by Congress for a road in Maryland, Virginia, Pennsylvania, and Ohio—in the old States of the Union. This is no such appropriation. It does not bring up the question of internal improvement. This is a road through the land of the United States. The bill proposes to give land and the management of it to the State of Michigan, for the purpose of making a road, and avoids the question of internal improvement. This bill presents precisely the same question which is involved in every railroad bill that you have before you. It has no relation at all to the question of internal improvement. It brings up the old proprietary question, which we have so often discussed. I thought the position had been abandoned, that the granting of public lands in this way involved the question of internal improvement. If this involves that question, every railroad bill involves it. The gentleman says this road is to be three hundred miles in length. He must recollect that the railroad from Chicago to Cairo is to be nearly four hundred miles.

Mr. DAWSON. I know that.

Mr. CASS. In that case, six sections were granted on each side of the road; in this case only one is asked. Allow me to say to the honorable Senator, that the State of Michigan has had less land granted to her than any State of the Union.



# THE CONGRESSIONAL GLOBE.

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WEDNESDAY, JUNE 9, 1852.

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She has not had one acre except the 500,000 acres granted on her admission into the Union as a State. If this bill should pass, it would give her, in addition to what she has already had, not more than fifty per cent. of what Ohio, Indiana, and Illinois have each received. With the addition of the amount granted by this bill, she will have nothing like what Missouri and Iowa have received. I trust, then, that the honorable Senator will withdraw his objection.

Mr. DAWSON. Mr. President, I know that Michigan is a very modest State. She claims very little from the legislative or executive departments. She has, however, now, a prospect of heading the Government, and if she will only let her roads remain as they are a little while longer, she may have possibly the benefit of the Executive influence to promote them.

Mr. CASS. If the honorable Senator will only guaranty that, we might abandon the bill. [Laughter.]

Mr. DAWSON. If the ballot already had in another assembly [alluding to the ballot taken this morning in the Democratic National Convention for a candidate for the Presidency] is any evidence of a guarantee, the honorable Senator has it. I trust now, that while Michigan is in so prosperous a condition, and everything seems to be going on so smoothly, she will not press the matter too far for fear of a reaction; for the telegraphic dispatches go between here and Baltimore very rapidly, and, if it should be known that this great question of internal improvement were raised here, and that my friend from Michigan is in the front upon that subject, perhaps some of those gentlemen who have a little feeling on that question, might rebel.

It is true, the public property has been appropriated to build a road through Maryland, Virginia, and Pennsylvania, but it was upon the principle that it was to advance the value of the public land; and yet the constitutionality of that has been doubted from the beginning to the present day, and it was a party question down to 1836. I recollect that in the presidential controversy of 1836, it was one of the leading points of discussion. I trust that question will not be raised now; but if it be raised it shall not be my fault. I want to keep this question out of discussion. I want no confusion created by it. I do not wish to create any difficulty. I do not wish to throw any obstacle in the way of the race now going on over the Baltimore course.

Mr. SEWARD. I will leave the consideration of affairs at the Baltimore Convention to that distinguished and respectable body, and say a word upon the question before the Senate. It is a simple question. It is a proposition to enrich the United States by making a road through their own lands in a region where there is no road, and never has been any road, and where those who are acquainted with the country know that no road can be made in any other way than in that proposed by this bill. It is in that part of Michigan which adjoins Lake Superior. It is a new country, and if I correctly understand the location of the road, there is no way of passage in the winter season from that region to the interior and settled parts of Michigan, except over the untracked snow. There, I understand, the mail, in the winter season, is carried by trains of dogs over the snow drifts, and the members of the Legislature of the State of Michigan, from that northern region, reach the capital of the State without any roads, and by a very precarious route. It is in that portion of the State of Michigan in which the United States have the largest interest in the national domain. But beyond all that, and what is of vastly more importance, it is in that portion of the State which is adjacent to the copper mines, and the mineral wealth of the Government.

It strikes me that it would be a want of common prudence, and of common sagacity, to let any day pass by when a chance was presented of passing a bill so meritorious as this. My own recollection of the inconveniences that have been suffered in my own State from the want of some such policy

as this, inclines me very strongly in favor of this bill. We have a large tract of land in the State of New York, embracing, I should think, one eighth, or one tenth of the whole territory of the State, which lies between the St. Lawrence river on the north, and the Erie canal on the South—large portions of it belonging to the State, and the rest to private proprietors, which has lain unimproved and uncultivated up to this time, being a great drawback upon the resources and prosperity of the State; and all because we have never been able to adopt a system of carrying roads through it by which to promote emigration. The emigration passes north and south of it, leaving those forests in their virgin state, although the land is rich in timber, and adapted to cultivation. I hope we will signalize this day by the passage of an act so wise and so meritorious as this.

Mr. HALE. I suppose when this bill was taken up, it was taken up under the impression that it would not lead to debate, and occupy the time of the Senate. I see that it is causing debate, and though I am in favor of the bill, and in relation to the public lands shall go for giving them all away to everybody, I hope the Senator from Michigan will consent to let it lie over for the present.

Mr. CASS. Take the vote.

Mr. HALE. Well, I have no objection, only if there is a division called for I fear the Chair will announce that there is no quorum.

Mr. CASS. Let the vote be taken.

Mr. HALE. I move to postpone the further consideration of the bill till to-morrow.

Mr. DODGE, of Iowa. I hope that motion will not be agreed to. I have some acquaintance with this bill, and I am sure it is one of the most meritorious that has come before the Senate, or that shall command our attention. The facts have been stated so clearly and succinctly by the Senator from New York, [Mr. SEWARD,] that it is unnecessary for me to undertake to travel over the same ground.

But there is one thing I will say. The Senator from Georgia [Mr. Dawson] says that Michigan is an exceedingly modest State both as relates to legislative and executive patronage. Michigan can speak for herself, and defend herself on all points; but I must say that I cannot reciprocate the compliment which has been given, when speaking of Georgia. It will be borne in mind that Georgia has been more ably represented on this floor than many other States, and has had a Senator whom we all admired and esteemed—in fact, a sort of model Senator. That State has been able recently to get through this body a large appropriation for the removal of obstructions in the Savannah river, and without the least possible objection on the part of Senators. I confess I have felt ashamed that I was considered as having spoken against the interest of Georgia. I happened to enter this Chamber when the Senator from Georgia, who has since resigned, [Mr. BERRIEN,] was making the motion for the consideration of the bill to which I have referred, and I was desirous to hear what the Senator from Georgia, now present, [Mr. Dawson,] would say in its favor. I have never known a bill to come up, making an appropriation for the West, since he has had a seat in this body, that he did not attack it most violently. It is most manifest that whenever a small appropriation, embracing a trifling quantity of land produced by an accretion from a river has been asked for by us, that Senator has invariably taken occasion to attack it right and left, and in the center. And what more has he done? This very morning he has succeeded in getting a bill through this body to surrender to his State a military site belonging to the United States.

The PRESIDENT. That is not the question. The question is on the motion to postpone the further consideration of this bill.

Mr. DODGE, of Iowa. I trust it will not be postponed.

Mr. HALE. I hope Senators will understand my motion as not being made because I am op-

posed to the passage of the bill, for I am in favor of it, and will vote for it. But when we come to vote, if there is a division I fear we shall find ourselves without a quorum.

Mr. JONES, of Iowa. There is a quorum present. Let us have the vote.

Mr. CHASE. I do not propose to go into a discussion on the merits of this bill; but inasmuch as the question I proposed to the Senator from Michigan [Mr. FELCH] may have been the unfortunate cause of the debate, and, possibly, may jeopardize the immediate passage of his bill, I feel it due to him to say that, on examining the law granting lands to the State of Ohio for the Maumee road, I find that it gives double the quantity which this bill proposes to grant to Michigan; for that law grants two entire miles in width, one on each side of a tract one hundred and twenty feet in width; whereas, the bill now before the Senate proposes to give only one mile, in alternate sections on either side of the road, thus making a grant of only one mile in width altogether.

The bill was ordered to be engrossed for a third reading.

## THE HOMESTEAD BILL.

Mr. CLEMENS gave notice that he should, on the bill commonly known as the homestead bill coming before the Senate for consideration, offer an amendment enacting that all public lands of the United States, which shall have been in the market for ten, fifteen, twenty-five, and thirty years and upwards, prior to the time of application to enter the same under the provisions of this act, and still remaining unsold, shall be subject to sale, at the respective prices of one dollar, seventy-five cents, fifty cents, twenty-five cents, and twelve and a half cents per acre. He submitted his amendment informally for the purpose of having it printed.

## NAUTICAL ALMANAC.

Mr. HALE. I move to postpone the prior orders, for the purpose of taking up from the table a resolution of inquiry relative to the Nautical Almanac. It is important that it should be passed, and I hope there will be no objection to the motion. It will not give rise to a minute's debate.

The motion was agreed to, and the Senate proceeded to the consideration of the resolution, which is as follows:

Resolved, That the Secretary of the Navy be instructed to inform the Senate where and at what Observatory the observations and calculations for the "Nautical Almanac" are made?

Why the same are not made at the National Observatory at Washington?

What expenses are necessary therefor, except the pay of the Superintendent?

What progress has been made towards making a Nautical Almanac?

For how long a period of time the calculations of the first almanac are expected to extend?

Whether it is necessary to the perfection of the "Nautical Almanac" to make observations at more than one Observatory, and if so, are they made at two Observatories, and if so, at what two?

Whether any persons except the Superintendent have been paid for services in preparing the "Nautical Almanac," and if so, how many, and what compensation have they received?

When it is expected that a "Nautical Almanac" will be prepared for publication?

What improvement, if any, is it expected the American "Nautical Almanac," when published, will have over the English?

Is it expected that any errors of former astronomers or observers are to be corrected, or any new means suggested by which more precision is to be given to astronomical science?

After the first American "Nautical Almanac" is published, will the succeeding numbers probably cost as much, or more than the first?

Will the same time be necessary for the second and subsequent numbers respectively, as for the first?

Mr. MANGUM. This matter has already engaged, to a considerable extent, the attention of the Senator from New Hampshire, [Mr. HALE,] as also of my colleague, [Mr. BADGER.] They have information peculiar to themselves on the subject.

I regret to hear this morning, for the first time, that my colleague is confined to his room by a severe attack of illness, which I hope, however, is only temporary. Under these circumstances, I think it would be only courteous, as this matter

has been already discussed, and has excited considerable attention, to allow it to lie over for the present.

Mr. GWIN. I hope the Senator from New Hampshire will allow it to lie over.

Mr. HALE. Will Senators allow me for a single moment? This is a simple resolution of inquiry. We have already expended upwards of \$38,000 on this Nautical Almanac; we are now asked to spend \$19,000 more this year on it; and I moved this resolution some days since, simply for the purpose of obtaining information. The Senator from North Carolina [Mr. BADGER] then said "let it lie over;" but I have had some conversation with him since, and I do not suppose that he would now have the slightest objection to it. I desire to have the information, because if we are to spend \$19,000 more, I wish to know what it is to be spent for.

Mr. MANGUM. I have no objection to the resolution; but there are interrogatories contained in it which may be susceptible of an interpretation which may seem to convey a degree of censure, and perhaps my colleague would desire some modification of some part of the resolution; and I think that as he has taken apparently a very decided interest in this matter, it should lie over till he has an opportunity to be present. I move to postpone the further consideration of the resolution till to-morrow.

Mr. GWIN. I hope the resolution may lie over. It is a mere act of courtesy which I think is due to the Senator from North Carolina, [Mr. BADGER.] I have not the least possible objection to its passage, but I think it will be better that it should lie over till to-morrow.

Mr. HALE. I surely could not be guilty of any want of courtesy to any one in this body, and especially to the Senator from North Carolina. Let it lie over.

The motion to postpone the further consideration of the resolution was agreed to.

#### WILLIAM MONEY.

Mr. GWIN. I ask the unanimous consent of the Senate to take up Senate bill No. 440, for the relief of William Money. It is to enable him to refer his accounts to the Secretary of the Treasury for settlement. The case has been examined with great care by the Senator from Kentucky, [Mr. UNDERWOOD,] and he has reported a bill for the settlement of his accounts. That gentleman is in the city, and is in great want of a settlement of his accounts. I hope the bill will be taken up and passed.

The motion was agreed to.

The bill was then read a second time, and considered as in Committee of the Whole. It provides that the Secretary of the Treasury shall inquire into the alleged seizure of forty-five horses in California, by orders of General Kearny, said to be the property of William Money, and the value of the horses thus seized, and which were appropriated to the use of the army of the United States under the command of General Kearny, and pay to the said Money, out of any money in the Treasury, the value of each horse owned by him, and so seized and used.

Mr. HALE. I move to amend the bill in the same manner that similar bills have sometimes been amended, by inserting in the proper place the words "without interest."

The amendment was agreed to.

The bill was then reported to the Senate as amended, and the amendment was concurred in; and the bill was ordered to be engrossed for a third reading.

#### THOMAS FLANNAGAN.

Mr. JONES, of Iowa. I now move to postpone all prior orders for the purpose of proceeding to the consideration of the bill for the relief of Thomas Flannagan, which was reported from the Committee on Pensions this morning. The person to whom the bill grants relief is eighty-eight or eighty-nine years of age. He is very poor, and receives a pension of only forty dollars from the State of Pennsylvania. He has been three or four years urging the passage of this bill, which has passed the House of Representatives on two or three occasions, and has been reported favorably upon by committees in the Senate. I hope the Senate will not hesitate to pass this bill if they are satisfied that it ought to pass.

There being no objection, the motion to take up

the bill was agreed to, and it was considered as in Committee of the Whole. The bill provides that the Secretary of the Interior be directed to place the name of Thomas Flannagan upon the list of invalid pensioners at the rate of eight dollars per month during his life, to commence on the fifth day of July, 1847. It was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### ADJOURNMENT OVER.

Mr. HALE. I want to perform another act of courtesy toward the Senator from North Carolina, [Mr. BADGER,] who is sick, and in his absence to move that when the Senate adjourns, it adjourn to meet on Monday next.

Mr. GWIN. I hope the Senate will not pass over private bill day. It is very important that we should not lose that day, and I hope the motion will be postponed until to-morrow. The Private Calendar has got behind in consequence of the deficiency bill having taken the time that belonged to private bills for several weeks past. I hope we may have to-morrow for the consideration of private bills.

The question was taken, and, on a division, there were—ayes 20, noes not counted.

So the motion was agreed to.

#### LEVEE ACROSS THE RIVER SAN DIEGO.

Mr. CLEMENS. I move to postpone the prior orders, for the purpose of taking up Senate bill No. 282. It is a bill to provide for building a levee across the mouth of the river San Diego, to divert it into False Bay. When this bill was up, some time since, it was postponed on my motion; I have since examined it, and I withdraw any objection that I may have had to it. With the consent of the Senator from California, [Mr. GWIN,] I therefore move that it be now taken up.

The motion was agreed to, and the bill was read a second time. It enacts that the sum of \$30,000 be appropriated, to be expended under the direction of the Secretary of the Navy, to build a levee across the mouth of the river San Diego, to turn it from the bay of San Diego into its former channel, in False Bay; provided, that no portion of the appropriation shall be expended for the object indicated, unless a contract can be made with responsible parties, giving ample security, to complete the entire work for the sum named.

The bill having been considered as in Committee of the Whole, was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### AMENDMENT OF THE RULES.

Mr. UNDERWOOD. I submitted a resolution a short time since, for the amendment of the rules of the Senate. If the Senate will act upon that now, I think they will find for the residue of term it will aid very much in the dispatch of business. I will merely state the object of amendment, which is to allow a motion to be made to lay an amendment to a bill or a resolution upon the table, without carrying the bill or resolution itself with it. If such an amendment is made to our rules, then the amendment which is proposed to a bill, and which might otherwise cause a discussion for weeks, and to which the Senate may be wholly averse, can be disposed of, and the Senate can go on with the consideration of the bill. It will be found, if we do not adopt some such amendment as this, that when the general appropriation bill comes up, we shall be engaged weeks in discussing amendments which, by such a rule as this, could be immediately disposed of.

Mr. CLEMENS. I would like to have the resolution read.

It was read accordingly, as follows:

"Resolved, That the thirtieth rule be amended by adding thereto the following:

"On motion, any amendment offered to a bill or resolution may be laid on the table without carrying the bill or resolution with it."

Mr. SEWARD. I hope that it will lie over.

The PRESIDENT. The question is on taking it up.

Mr. CLEMENS. I hope it will not be taken up. It seems to me it is not a good time to discuss our rules when there is barely a quorum present. I think we should not undertake to make or alter our rules until we have a quorum.

Mr. UNDERWOOD. Very well; an objection is enough for me. I withdraw the motion.

#### DUPLICATE LAND WARRANTS.

Mr. DAVIS. I move to postpone the prior orders, for the purpose of taking up Senate bill No. 301, reported by the Senator from Alabama, [Mr. CLEMENS,] from the Committee on Private Land Claims. It is very brief; the title is, "A bill to authorize the Secretary of the Interior to issue duplicate land warrants in certain cases." It arose in this way: I presented to the Senate the petition of an individual who had the misfortune to lose his warrant. On examination, in committee, it was thought that the law under which that warrant was issued was an exception to the general rule, the Secretary of the Interior not having power to issue a duplicate warrant under it. The Senator from Alabama [Mr. CLEMENS] reported, from the committee, this bill, authorizing the Secretary of the Interior to issue duplicate warrants in certain cases. These are all the facts of the case; and as this bill will afford relief to the petitioner, I hope it will be taken up.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It enacts that the Secretary of the Interior be authorized to issue duplicate land warrants in all cases in which the original land warrant shall have been lost or destroyed, upon due proof of such loss or destruction.

Mr. FELCH. I should like to know something about this bill. I do not understand that the Secretary of the Interior has the right, in ordinary cases, to issue duplicate land warrants in case of loss. I do not understand that to be the fact under the general law; but I am well aware that applications are frequently made to Congress in cases of loss, proof is adduced, and special laws are passed.

Mr. DAVIS. I have only to say, that the individual who has lost his warrant in this case applied to the Department, and they said they were satisfied they had no authority to issue a duplicate. He then came here by petition, and that petition was referred to the Committee on Private Land Claims, and was taken up in that committee in my absence; and, as I understand, the committee have thought that it was better to pass a general law, in consequence of the omission in the old law granting the warrants, to provide for the case of the loss of any of them, so as to place these warrants on the same footing as others, than to pass a law upon each individual case. For that reason the Senator from Alabama was directed to report the bill which is before us.

Mr. FELCH. I would be glad to know if that bill was recommended by the Department?

Mr. DAVIS. I do not know. The Senator from Alabama can say how that is. The business was done in the committee when I was not present.

Mr. CLEMENS. I move to amend the bill by striking out, in the clause "upon due proof of such loss or destruction," the word "due," and inserting in lieu thereof the word "satisfactory."

The amendment was agreed to.

Mr. CLEMENS. I do not know that it is necessary to add anything to what has been said by the Senator from Massachusetts [Mr. Davis] in relation to this matter. This bill was reported upon the petition of Lucretia Barton, who made proof to the Commissioner of the General Land Office that her land warrant had been lost. He decided that, under the law, in this particular case, he had no right to issue a duplicate. This bill was reported by the Committee on Private Land Claims for the purpose of saving Congress the necessity of passing a separate bill upon every similar case. It authorizes the Commissioner, upon satisfactory proof, to issue a duplicate land warrant, in cases where they have been lost. It is intended simply to save us from the necessity of passing a bill for every case of the kind which may arise. It leaves the issuing of the duplicates, as all other cases are left, to the discretion of the Commissioner of the General Land Office, upon satisfactory proof being made.

Mr. FELCH. I think it would be better to allow this bill to lie over until we can look a little further into the matter. The bill applies to all bounty land warrants which have been issued under all the laws which have ever been passed.

Mr. CLEMENS. There is but one class to which the principle does not already apply.

Mr. FELCH. I think the Senator is under a

misapprehension in regard to that. There is no class of cases in which the Department has the power which the bill proposes to confer; and the bill, in its terms, applies to all classes, and not merely to an isolated class of cases. The question here is, whether we will give to the Department, in the general language of the bill, the power to give duplicates in the cases of all land warrants which have been lost. It sometimes becomes a very nice question to decide whether a party who has had a land warrant is entitled to land; because, under the recent law, and under the law now, all land warrants become assignable, and it becomes frequently an important question, when a party cannot produce a warrant, to determine whether it has been lost or assigned, and is in the hands of another *bona fide* holder. I desire to look further into the matter before I shall be willing to adopt the principle in the full length to which this goes; and therefore I would prefer that the subject should be postponed.

Mr. UNDERWOOD. I think my friend from Alabama had better permit the bill to be referred to the Committee on Public Lands for their examination.

Mr. CLEMENS. It has been reported from the Committee on Private Land Claims.

Mr. UNDERWOOD. But it affects, as the Senator from Michigan has intimated, our general land system; and therefore I think it had better receive the examination of the Committee on Public Lands also.

Mr. CLEMENS. I will offer an amendment to obviate that objection. The bill arises from an application for a revolutionary land warrant. I have a letter from the Commissioner, in which he states that there is no law existing authorizing the issuing of duplicates in cases of revolutionary land warrants. Now I propose to amend the bill so as to confine it to those cases. I presume there can be no objection to that. I move to amend by inserting after the word "cases," the words "of revolutionary land warrants," so as to make it read that "the Secretary of the Interior be, and he is hereby authorized to issue duplicate land warrants in all cases of revolutionary land warrants in which the original warrants have been lost or destroyed."

Mr. DAVIS. Is this a revolutionary case?

Mr. CLEMENS. Yes, sir.

Mr. FELCH. The same rule applies to all others.

Mr. CLEMENS. I do not see any necessity for restricting the bill, except for the objection made to it. I think it ought to apply to all such cases, and it would save us a great deal of trouble.

Mr. FELCH. Let it lie over.

Mr. CLEMENS. Very well.

Mr. UNDERWOOD. I think my friend from Alabama had better modify the bill so as to make it relate only to the particular case.

Mr. CLEMENS. I have no authority to do it. I have reported it as instructed by the committee.

Mr. UNDERWOOD. Had it not better be recommittees, to see if it cannot be converted into a bill for the particular case? The bill as it stands would open inquiries into transactions fifty or sixty years ago, and how many could be, and how many might be, brought before the Department without looking through the revolutionary satisfactions for bounty land claims, nobody can tell; and how many frauds might be practiced, nobody can tell. I think, therefore, that it would have been much better to have made it for the individual case, than to open the investigations which might go from the beginning of the Government into those inquiries in regard to alleged losses so many years past. I should prefer that we should have a little more time to look into the matter.

Mr. CLEMENS. I have no objection to letting the bill lie over, but the objection made by the Senator from Kentucky amounts to none at all. This opens no case. It simply transfers the power of issuing the duplicates from Congress to the Commissioner of the General Land Office. Petitioners come here, and upon less proof than the law requires, get their warrants passed every session. This is throwing a guard around the issuing of the warrants.

The proof that would be required at the Department is never required here. The claimants bring such proof here as satisfies the committee; the committee report on the case, and not one in twen-

ty-five Senators, or members of the other House, know what the proof is. The object of this bill is to require strict proof in every case, and that proof under it will be stronger than that required when the individual cases come before Congress. I have no objection however to the bill's going over.

Mr. UNDERWOOD. Here is the difficulty. It ought to be investigated and ascertained whether the warrants were originally assignable, and to ascertain also how the records of their assignability have been kept; showing the manner in which entries and grants have been made—whether in the name of the assignee, or of the original holder of the warrant. If we are to ascertain these things before we act—if there have not been proper records kept of these things—the idea which I wished to suggest to the Senator from Alabama, was, that at this late day, a claim might be brought forward upon allegation that the warrant was lost, and if the records have not been kept accurately, you may not, particularly after the burnings which we have had, be able to go back fifty or sixty years to ascertain whether the original warrant was satisfied, unless you go page by page over the patent-book to find the patent.

Mr. CLEMENS. I would inquire of the Senator, who is most competent to find out that information from the records, the Commissioner, who has them, or Congress, who never look at them and know nothing about them?

Mr. UNDERWOOD. I suppose it is the duty of Congress in every individual case, to satisfy itself that the warrant was lost. I should suppose that would be the duty of every committee that made the examination upon an individual application for the renewal of a warrant; and I should therefore say, that the particular examination of each individual case—if gentlemen do their duty, and the presumption is that they do—would be a great deal better than passing a general law where the records may be so defective from burnings, as I remarked, that you cannot read them through. All I want is, to ascertain how the matter stands before you legislate. I am not against giving this man a duplicate for his warrant, if he lost it, or passing a general law, if it can be properly guarded, to give it to everybody who has a just claim against the Government.

I will take this occasion to remark that I am told that there is among the Executive Departments a practice of keeping everything a secret that would give a good claim against the Government. I am against that, from the beginning to the end. I would make all the public records as open as the noon-day sun, and every just claim against the Government should be paid. I would not care in whose hands a claim might be found, it should be paid if the records of the Government would show that it was just. I would have no governmental secrets to cheat anybody out of his rights; but while I am for doing that, I am for guarding the Treasury, and the public lands also, against all improper claims. I hope, therefore, as the Senator has said he is willing to have this thing investigated, that the bill may lie over until we can have an opportunity to do so.

Mr. CLEMENS. I move to postpone the farther consideration of the bill until to-morrow.

Mr. DAVIS. Before the vote is taken on that, I wish simply to say, that I believe the case which I have in my mind, which was presented to the consideration of the Senate, is free from the objections raised here. Perhaps what I am about to say, may not apply to the passage of a general law; but I wish to satisfy my friend from Kentucky that this is a just case. The land warrant was issued within the last three years—perhaps within a shorter time than that. It was addressed by the land office, or by whoever had charge of the matter, to a certain gentleman, who undertook to do this business for the lady in whose behalf, as an heiress, the warrant was granted. The warrant never came to her. She never has had it—never saw it. But somehow, in passing through the hands of this gentleman, it was lost, and has never been found. We have his deposition to that effect. He is as respectable a man as is in the United States, and there is not one of a higher moral character in the Union. He says that it has somehow got lost, and that he, after great search, has been wholly unable to find it. The consequence is, that the lady to whom I have referred cannot get the land. I wish to see a law made providing for the case; but I have no

objection to the postponement of this bill for the present.

The motion to postpone was agreed to.

On motion, the Senate adjourned until Monday next.

## HOUSE OF REPRESENTATIVES.

FRIDAY, June 4, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Tuesday was read and approved.

The SPEAKER. The business first in order is the call upon committees for reports.

Mr. SCUDDER, by unanimous consent, presented the petition of Thomas Macy and fifty others, citizens of Nantucket, Massachusetts, asking satisfaction for French spoliation committed upon their whaling-ships by France prior to the year 1800; which was laid on the table.

Mr. STEPHENS, of Georgia. I believe there is not a quorum present. I move a call of the House to see whether there is.

Mr. MILLSON. I move to reconsider the vote by which the House, on Tuesday, referred to the Committee of the Whole the bill reported from the Committee on Public Lands, making further provision for the satisfaction of the Virginia military land warrants. I do not propose to ask that any action be had upon it at this time, nor perhaps at a very early day. My object is simply to keep the bill within the control of a majority of the House. I propose to call it up at some remote day—at some time when it will not interfere with any important business which may be before the House.

The SPEAKER. The motion, unless there be objection, will be entered upon the Journal. The question now before the House is upon the motion of the gentleman from Georgia, [Mr. STEPHENS,] that there be a call of the House.

Mr. STEPHENS. I withdraw my motion.

Mr. HOUSTON. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JOHNSON, of Arkansas. I ask the gentleman to allow me to submit a privileged motion. We see our thin condition, and therefore I move, that when the House adjourns it adjourn to meet on Monday next.

Mr. JOHN W. HOWE demanded the yeas and nays; which were not ordered.

The question was then taken upon Mr. JOHNSON's motion, and it was agreed to.

## DEPOSITS WITH THE STATES.

Mr. STANLY, by unanimous consent, and in pursuance of previous notice, introduced bill No. 277, to authorize the Secretary of the Treasury to deposit with the several States the fourth installment of the public money directed to be made with said States by the act approved June 23d, 1836; which was read the first and second time, and referred to the Committee on Ways and Means.

On motion by Mr. HASCALL, by unanimous consent, it was

Ordered, That leave be granted for the withdrawal from the files of the House the papers in the case of Alanson Pool, for the purpose of reference to the Committee on Pensions.

Mr. MILLSON, by unanimous consent, from the Committee on Revolutionary Pensions, reported a bill for the relief of Mary Bawry, and a bill for the relief of Mary Pearson; which were severally read a first and second time by their titles, committed to a Committee of the Whole House, made the order of the day for to-morrow, and, with the reports accompanying, ordered to be printed.

Mr. JONES, of Tennessee. It is improper to attempt to do any business in this thin condition of the House. There are gentlemen who wish to make speeches in Committee of the Whole on the state of the Union; and this is about as harmless business as any in which we can engage, [laughter,] except to adjourn and walk about the streets. I therefore hope that the House will resolve itself into Committee of the Whole on the state of the Union, and proceed with these speeches.

Mr. BELL. I wish to refer some bills—

[Cries of "No! no!" "Question! question!"]

Mr. OUTLAW. I move that the House adjourn.



Mr. JOHN W. HOWE. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. ABERCROMBIE. It seems to me that we have not a quorum here. Are gentlemen here desirous of making speeches instead of going into committee for the purpose of hearing those speeches, they can pursue the course which has been followed before, and write them out and publish them. That privilege has been generally granted.

Mr. STANLEY. It requires a quorum to do business. It does not require a quorum to do nothing. [Laughter.] Speech-making is tantamount to doing nothing.

The question was then taken upon Mr. OUTLAW's motion to adjourn, and there were—yeas 26, noes 63.

So the House refused to adjourn.

Mr. CHANDLER. I move that the House resolve itself into the Committee of the Whole.

The SPEAKER. That is the pending question.

[A message was here received from the Senate, by the hands of Mr. DICKINS, its Secretary, informing the House that the Senate had agreed to the amendment of the House to Senate bill No. 3, entitled "An act granting the right of way to the State of Missouri, and a portion of public lands to aid in the construction of certain railroads in said State."]

The question then being upon the suspension of the rules,

Mr. HARRIS, of Tennessee, demanded tellers; which were not ordered, only 23 gentlemen rising in the affirmative.

Mr. JONES, of Tennessee. It is perfectly evident, from the experiments we have made in counting, that there is not a quorum present. I am not willing, knowing that fact, that the House shall resolve itself into the Committee of the Whole.

Mr. CHANDLER. If there is no quorum, we have no right to adjourn until Monday.

Mr. JONES. I ask for a division upon the question of the House resolving itself into the Committee of the Whole.

The question was then taken, and there were—yeas 60, noes 27.

No quorum voting.

Mr. OUTLAW. I move that the House adjourn.

Mr. HOUSTON. Let us have the yeas and nays upon the motion to go into the Committee of the Whole, and that will tell the House whether we have a quorum or not.

Mr. JOHN W. HOWE demanded the yeas and nays on the motion to adjourn; which were ordered.

The question was then taken, and there were—yeas 24, nays 86.

So the House refused to adjourn.

Mr. STEPHENS, of Georgia, moved a call of the House, which was not agreed to.

Upon the motion of Mr. ORR, the House then adjourned till Monday next at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HENDRICKS: The petition of numerous citizens of the counties of Bartholomew, Johnson, and Shelby, in the State of Indiana, praying the construction of an additional canal at the Falls of the Ohio river.

By Mr. STRATTON: The petition of Joseph Franklin and 291 others, citizens of Gloucester county, New Jersey, asking Congress to pass a law to prohibit, absolutely, the deportation, banishment, or immigration from foreign countries to the United States, of any and all convicts, felons, and paupers, publicly recognized as such at home in their own countries.

By Mr. BRIGGS: The memorial of William B. Astor and others, for the immediate establishment of a Mint in the city of New York, to which is appended a statement of the amount of gold bullion received at the port of New York from California since its annexation to the United States, which sum is \$94,463,553 17.

#### IN SENATE.

MONDAY, June 7, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. GWIN presented two petitions of citizens of California, praying the establishment of a mail route from Benicia to Knight's Landing, or to Fremont; which were referred to the Committee on the Post Office and Post Roads.

Also, resolutions of the Legislature of California, in favor of an appropriation to remunerate

Elias Waldo for services and expenses in relieving the overland emigrants to that State; which were referred to the Committee on Finance, and ordered to be printed.

Also, the memorial of Van Rensselaer Morgan, a lieutenant in the Navy, praying to be allowed traveling expenses while returning from the Sandwich Islands, under orders from the Navy Department; which was referred to the Committee on Naval Affairs.

Mr. BRIGHT presented two petitions of citizens of Indiana, praying that the bill now pending before Congress, commonly known as "the homestead bill," may become a law; which were referred to the Committee on Public Lands.

Also, a joint resolution of the Legislature of Indiana, in favor of a donation of the public lands in that State to Indiana; which was ordered to be laid on the table and printed.

Also, a joint resolution of the Legislature of Indiana, in favor of a grant of land for the Indiana Normal University for the education of females; which was ordered to be laid on the table and printed.

Mr. WADE presented three petitions of citizens of Ohio, praying that the bill now pending before Congress, commonly known as "the homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. SHIELDS presented the memorial of Duff Green and Benjamin E. Green, praying the payment of their claim against the Cherokee Indians; which was referred to the Committee on Indian Affairs.

Mr. COOPER presented a petition of citizens of Pennsylvania, remonstrating against the extension of Parker's patent for improvements on reaction water-wheels; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of Pennsylvania, remonstrating against a further extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, a memorial of citizens of Philadelphia, praying a modification of the late bounty land law; which was referred to the Committee on Public Lands.

Also, a petition of the officers of the Art Union of Philadelphia, praying that P. F. Rothermel may be employed to paint a picture for one of the panels of the rotunda of the Capitol; which was referred to the Committee on the Library.

Also, a petition of citizens of Harrisburg, Pennsylvania, praying that the bill now pending before Congress, commonly known as "the homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a petition of citizens of the city of New York; a petition of the citizens of Williamsburg, New York; a petition of citizens of Massena, St. Lawrence county, New York; a petition of inhabitants of the State of New York; and a petition of members of the Working Men's League, praying that the bill now pending before Congress, commonly known as "the homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. DAVIS presented a memorial of William H. Gregerson and others, owners of the brig Kate Boyd, praying indemnity for the unjust seizure and detention of their vessel; which was referred to the Committee on Commerce.

Also, a large number of petitions, signed by about five hundred engineers of steamboats, and other persons residing on the northern lakes, asking for further protection to the lives and property of passengers on board steamboats; which were ordered to be laid on the table.

Mr. BUTLER presented a memorial of merchants and others, of Charleston, South Carolina, praying that certain acts of Congress affecting the commerce of the United States with the Spanish West India islands, may be modified or repealed; which was referred to the Committee on Commerce.

Also, a petition of the Rev. Richard Fuller, praying that a pension may be allowed the mother of the late Captain James Stuart, of the United States Army; which was referred to the Committee on Pensions.

Mr. DODGE, of Wisconsin, presented three petitions of citizens of Wisconsin, praying that the bill now pending before Congress, commonly

called "the homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. BRADBURY presented a petition of Rachel Abbot, praying to be allowed a pension for the services of her husband, John Abbot, in the revolutionary war; which was referred to the Committee on Pensions.

Mr. HUNTER presented a memorial of the Amazonian Mail Steamship Company, praying that the Postmaster General may be authorized to contract with it for the transportation of the mails between Norfolk, Virginia, Porto Rico, in the West Indies, and Para, Brazil; which was referred to the Committee on the Post Office and Post Roads.

Mr. WELLER presented the memorial of Lafayette Maynard and John Parrott, praying that a contract may be entered into with them for carrying the mails by steamships from San Francisco to Panama.

Also, a memorial of members of the Legislature of the State of California, and a series of joint resolutions of the Legislature of the State of California, in favor of entering into a contract with Lafayette Maynard and John Parrott for the semi-monthly transportation of the mails between Panama and San Francisco, or between New York and San Francisco; which were referred to the Committee on the Post Office and Post Roads.

Mr. CASS presented a petition of citizens of Lansing, Michigan, praying that the bill now pending before Congress, commonly called "the homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. CHASE presented twelve petitions of citizens of Ohio, praying that the bill now pending before Congress, commonly called "the homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. JONES, of Iowa, presented a petition of citizens of Iowa, praying that a mail route may be established between Delhi and West Union, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. GEYER presented the memorial of R. H. Miller & Co., praying the remission of duties payable on earthenware imported by them into New Orleans, but lost on the way to St. Louis, its port of destination; which was referred to the Committee on Finance.

Mr. BROOKE presented a memorial of H. S. Foote and others, citizens of Mississippi, praying that John J. Guion may be released from a judgment obtained against him by the United States, as one of the sureties of Anderson Miller; which was referred to the Committee on Finance.

Mr. CHASE presented two petitions of citizens of Cincinnati, Ohio, praying the erection of a custom-house, and other public buildings, in that city; which were referred to the Committee on Commerce.

Also, the petition of James J. Johnson, representing that a patent has been granted for an invention for which he had been previously refused a patent, and praying such action in the premises as a due regard to justice demands; which was referred to the Committee on Patents and the Patent Office.

Mr. DODGE, of Iowa, presented additional documents relative to the pension claim of Orson Young; which were referred to the Committee on Pensions.

#### REPORTS FROM STANDING COMMITTEES.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the memorial of Harriet Ward, asking that her pension may be made to extend back to the death of her husband, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the following memorials, submitted adverse reports thereon; which were ordered to be printed:

The petition of Simon P. Kase, to purchase the right of a patent force-pump for the use of the Navy;

The petition of Hans Nelson, praying pay as a seaman in the United States Navy;

The petition of E. D. Reynolds, asking the difference of pay as purser of the Southampton;

The petition of George R. Goldsborough, pray-

ing the difference of pay between captain's clerk and chaplain, for the time he performed the latter service;

The petition of Sarah Sowers Carson, heir of Richard Somers, who fell at Tripoli, in 1804; and The petition of Z. W. Potter, praying compensation for services rendered as naval storekeeper at Valparaiso.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which was referred the petition of certain Choctaw Indians, submitted a report, accompanied by a joint resolution authorizing the examination of the claims of the Biloxi Bay Indians; which was read and passed to the second reading. The report was ordered to be printed.

Mr. BORLAND, from the Committee on Public Lands, to which was referred a bill to authorize the correction of erroneous locations of military bounty land warrants, by actual settlers, in certain cases, reported the same with an amendment, and asked for its immediate consideration.

The Senate proceeded to consider the bill as in Committee of the Whole, and the reported amendment having been agreed to, the bill was ordered to be engrossed for a third reading.

Mr. HAMLIN, from the Committee on Printing, to which was referred a motion to print the memorial of John J. Palmer and others, citizens of New York, reported in favor of printing so much of the memorial as exhibits the amount of the importation of bullion from California; which was agreed to.

He also, from the Committee on Commerce, who were instructed to inquire into the expediency of abolishing by law the exaction of twenty cents per month from the wages of seamen and others, and of continuing the present privileges of the marine hospitals, submitted a report; which was ordered to be printed.

He also, from the same committee, to which was referred the bill from the House of Representatives to authorize the issuing a register to the schooner *Caroline*, of Barnstable, reported it without amendment.

The Senate proceeded to consider the bill as in Committee of the Whole, and, no amendment being made, it was read a third time and passed.

#### REPORT RECOMMENDED.

On motion of Mr. HAMLIN, it was

Ordered, That the report of the Committee on the Post Office and Post Roads on the petition of Joseph Noek, be recommended to the Committee on the Post Office and Post Roads.

#### NAVAL DRY-DOCKS.

Mr. GWIN, by unanimous consent, asked and obtained leave to bring in a joint resolution for the purchase of certain copies of a work on Naval Dry-Docks; which was read a first and second time by its title, and referred to the Committee on the Library.

#### REGISTERS TO FOREIGN VESSELS.

Mr. HAMLIN submitted the following resolution for consideration; which was agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of so altering the law as to authorize the Secretary of the Treasury to issue registers to vessels built in a foreign country, when the same have been wrecked and repaired in the United States, and where the amount of repairs shall be three fourths of the value of said vessel when so repaired.

#### STEAMBOAT EXPLOSIONS.

Mr. DAVIS gave notice that he should to-morrow submit a motion to take up the bill to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam."

Mr. GEYER also gave notice that he should at the same time propose certain amendments to the above-named bill; which were ordered to be printed.

#### BILLS PASSED.

The following joint resolution and bills were severally read a third time, and passed:

Joint resolution for granting the site of the old Oglethorpe barracks to the City Council of Savannah, Georgia, for a park ground;

Bill to provide for building a levee across the mouth of the river San Diego, to divert it into False Bay;

Bill to authorize the Secretary of the Treasury to convey the right of way to the Cleveland and Painesburg, and to the Cleveland, Painesville, and

Ashtabula railroad companies, through certain lands therein mentioned;

Bill for the relief of Thomas Flanagan; and Bill for the relief of William Money.

#### PLANK ROAD IN MICHIGAN.

The Senate resumed the consideration of the bill granting to the State of Michigan the right of way and a donation of land to aid in the construction of a plank road from Grand river to Montreal river, in said State.

The title of the bill having been amended to read as above, it was read a third time and passed.

#### NAVIGATION OF THE UPPER MISSISSIPPI.

On the motion of Mr. DODGE, of Iowa, the Senate resumed, as in Committee of the Whole, the consideration of the bill to improve the navigation of the Upper Mississippi.

Mr. DODGE, of Iowa. Mr. President, I move to refer the bill to the Committee on Commerce. I make this motion because the Senate, the other day, decided in the case of the bill to repair the Cumberland dam, on the Ohio, introduced by the Senator from Kentucky, [Mr. UNDERWOOD,] that it would not act upon bills of this character unless they were reported upon by a committee. I feel a deep interest in the passage of this bill, and hope it will receive the early and favorable action of the Committee and Senate.

It was so referred.

#### DAM IN THE OHIO RIVER.

Mr. UNDERWOOD. I move to suspend the prior orders, for the purpose of acting upon the bill to provide for the repair and improvement of the dam at the head of Cumberland Island, in the Ohio river.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole.

Mr. CHASE. I move to amend the bill by striking out the words "repair and improve," and inserting the word "remove." This bill contemplates an appropriation of \$50,000 for the repair of the Cumberland dam, in the Ohio river, which is pretty well known to the navigators of that stream. I recollect very well, when this matter was under consideration a year or two ago, that the Senator from Mississippi, not now here, (Colonel Jefferson Davis,) stated, as the result of a personal examination of the position and construction of this dam, that its repair would prove a greater hindrance and obstruction of the navigation of that river than the entire removal of it would be. At the time this bill, or rather a similar proposition connected with the river and harbor bill, was first introduced, I was in favor of it; but since that period I have conversed a good deal with persons engaged in the navigation of that river, and am perfectly satisfied that the objections urged by the Senator from Mississippi were well founded, and that the existence of this dam in the river is a more serious obstruction than its removal would be. The dam was constructed under the authority of the General Government, and, having created an obstruction to the navigation, the Government ought to remove it. It should not be repaired. We ought not to attempt a work which is subject, in consequence of the peculiar circumstances of the river, to frequent and serious injury, and thus subject the Treasury to great expense for repairs, especially when, whenever any portion of it is swept away, an obstruction will be created altogether greater than the natural difficulties in the way of the navigation. It is for this reason that I have moved the amendment I have proposed, which I trust will meet with the concurrence of the Senate.

Mr. DAVIS. I doubt whether the honorable member from Ohio [Mr. CHASE] has made himself fully acquainted with all the facts in this case. It is true that this dam has been constructed by the Government, but it was not placed in the Ohio river without application from those who are engaged in navigating that river; it was not placed there without a supposition on the part of Congress that the work would be beneficial and useful to the navigation of the river. Well, this, of itself, proves that there was an obstruction at that spot to the navigation of the river; there was a want of water; the river spread itself out there to an unusual width, and there was an island near the spot where the Cumberland river unites with the Ohio. The dam was built from that island to

the north shore, in order to turn the waters into the south channel of the river, and thus sweep away this bar which constituted the obstruction, and which had been formed by the accumulation of deposit from the Cumberland river. I believe that it answered this purpose very well until it gave way. Will the Senator observe that while I have not the particulars of an elaborate report precisely in my mind, yet I think I recollect sufficient of it to enable me to say, that, since the construction of that work, the obstacles originally complained of on that side of the river have increased; the water is shallower, and there is really more necessity for keeping the south channel open at this moment than there was originally, previous to the construction of the work.

If I recollect the substance of the report made on this subject by the Engineer Department, it is substantially this: that the only mode of restoring a convenient navigation, is to repair the dam. The gentleman seems to suppose that the Government is under some obligation to take this dam out of the river. It was placed there by the wish and request of those who navigated that river; but still, if it is an obstacle to the navigation, I have no particular objection to its removal at the expense of the Government. I apprehend that the member from Ohio is mistaken in his view of the subject, however, and that the people will come here as soon as that dam is removed and ask to have it replaced, because the depth of water is not sufficient for purposes of navigation. Now, by compressing the water of the Ohio into the south channel, which is the narrower one, that, uniting with the waters of the Cumberland river, which sweep through, carries the bar out of the way.

There is some formation below; but that must be dealt with as well as you can. Similar formations occur in almost all cases where there are obstructions of this sort. But I apprehend that if the Senator will read the report of the engineer, he will find that his mind was very clear on this subject, and that he stated that the best mode of removing the obstruction was to repair the old dam.

Mr. DOWNS. I entirely concur in the suggestion made by the honorable Senator from Ohio, that the proper mode of acting in this case is to remove the dam entirely. I think the honorable Senator from Massachusetts, had he seen the spot, had he passed over it, and viewed the channel; as many others have who have passed there, would come to the same conclusion. The truth is, that the purpose for which the dam was made has failed entirely; and the best way to get clear of the obstruction is to remove it. It has failed for this reason: The object was to throw sufficient water into the other channel to make it navigable for the boats. That has failed entirely, because it is so far stopped up as to become an infinitely worse channel than it formerly was. It is so much stopped up, both above and below the mouth of the Cumberland river, that I believe it has never been used at all. Above the mouth, the one at which the boats used to pass, even at low water, I believe now they never think of using it at low water at all; and it seems to me that, both above and below the mouth of the river, the channel is so much filled up that, even if you make the dam anew, the original object never can be obtained of making the channel around the other side. Nobody pretends at low water to pass through that channel. It is not used at all. The only remedy is, to remove the dam, so that the channel where the dam now is can be restored to what it was. Since that dam was made material changes have taken place in the channel on the other side of the river, which have lessened it materially, and it seems to be entirely filling up. Probably, if this obstruction were removed the main channel would be on the same side of the island where the dam now is. At any rate, I feel satisfied, so much has the channel filled up, that if the dam were repaired to make the channel on the other side, you would have to dig it up. I therefore think the proper course is to remove the dam entirely.

Mr. UNDERWOOD. I regret very much to differ from my friend from Louisiana. I am, to be sure, not a professional engineer; but I am inclined to think that, if I had been brought up to the business, I would have made a pretty good one.

Mr. CASS. Arithmetically?

Mr. UNDERWOOD. Any little mathematical

attainment which any gentleman has, would enable him to get along in that business tolerably well. But it has so happened that I have passed frequently, at low stages of water, by this dam, and my information differs entirely from that of my friend from Louisiana. I passed up on the Kentucky chute, as it is called, or the one on the south side of the river, and my information was, that that chute, at a time when the river was low, was better than the other. But, it so happens that we have professional information. I hold in my hand the report of Lieutenant Colonel Long, an engineer, who examined into the matter in February last; and I think that we ought, when gentlemen differ here, to allow experts to speak, and rely upon what they say upon the subject. But, sir, allow me, before I read some passages from this report, to state, that I know, from personal observation, that, at the lower end of the island, where the river is, perhaps, a mile and a half or two miles wide, it spreads out to a very great extent. The deposit from the Cumberland river has formed that island, and by the river spreading out as it does, you have at the lower end of the island, unless you concentrate the water, as shown by Lieutenant Colonel Long's report, a shallow. If you do not concentrate it, you will not be able to get up at any time when the water is low. He further states, what is the fact, that, unless you keep up this improvement, the best way to get into the Cumberland river will be to go up on the Illinois chute, pass round the head of Cumberland Island, and then go down two miles to get into the mouth of the Cumberland. The consequence would be, without this repair, to break up the direct navigation of the Cumberland river, and throw it over this circuitous route.

But I will not detain the Senate by giving the facts which have been proved to me satisfactorily by my own personal examination and knowledge. I rely upon what Colonel Long reports. The Senate will be kind enough to listen to it. He classifies his report under various heads. What I am about to read he classifies under the head of "Removal of the old dam, and its probable consequences." Here is what he says will result from that:

"From the facts adduced as above, it may be readily inferred that the removal of the dam will be attended by results of the following import, viz:

"1. Low-water navigation can only be had for boats bound either to Smithland or the Cumberland river, except by passing upward from the lower end of Cumberland, and between the same and the Kentucky shore, about two miles, to Smithland."

That will be one result. You will have to go round this island. The second result, which he states, is:

"The depth of the pool above the dam will be reduced to such an extent that the shoals, &c., at Stewart's Island, the Sisters Island, &c., (four to twelve miles above the dam,) which were formerly ranked among the most difficult shoals of the Ohio, will require extensive works, in order to render them navigable in low water."

You have, according to previous parts of this report, by this improvement obtained a head-water of about four feet. That is the statement. If you draw off these four feet of head-water, every gentleman will at once see the effect that will be produced upon the river by thus drawing it off, and forming shoals, as is stated, from four to twelve miles above the dam, which constituted, prior to this improvement, some of the greatest obstructions to the navigation of the river. That is the second effect which he says the removal of the dam will have. The third is:

"The shoals between Cumberland Island and the Illinois shore, which were exceedingly formidable prior to the erection of the dam, and still remain unimproved, will require works on a large and expensive scale, in order to render them passable for steamers in low stages of the river."

There is the very fact which I have already stated, that the shoals between the Illinois shore and the island unimproved, if you take this dam out, will reduce to low water, and you will not be able to pass over them. But you obviate that difficulty by concentrating the water in the Kentucky chute, which is narrow, as the gentleman from Massachusetts has said, and by concentrating it in that narrow chute you deepen it so as to avoid the shoal between the island and the Illinois shore. All that is so perfectly plain upon physical principles, that nobody can deny it. And here the effect is stated by the engineer. That is the third consequence of the removal of this dam. The fourth is:

"A low-water channel from the foot of Cumberland island, upward to the mouth of Cumberland river, must be provided for and kept open, in order to insure a navigable communication with this river in very low stages."

That is one of the other facts which I also stated; that, if you scatter the water over a mile and a half or two miles, you so diminish the depth that, as Lieutenant Long tells you, to get into the Cumberland river from below, you will have to expend a large sum of money for the purpose of opening the shoal. I hope that this report will be considered satisfactory in all its bearings, and if gentlemen desire the whole of it to be read, I hope it may be done. It is a very satisfactory report, and shows all the facts, and I think we ought to depend upon it. I am satisfied from local information—from letters which I have received—that it is a very important matter to improve the dam. I will further remark, that my information is, that it will take double, triple, perhaps quadruple more to remove it than it will to improve it. The reason why that will cost so much more is, that you do not have to

"dive into the bottom of the deep  
Where fathom-line could never touch the ground,  
And pluck up drowned honor by the locks,"

but you have to dive after the stones at the bottom of the river; and everybody knows that the process of grappling with the rocks for the purpose of their removal will cost more than to bring rocks from the shore and put them into the gap formed by the breakage of the dam. If economy, therefore, is to be consulted on the subject, it will be vastly cheaper to fill up the gap than to attempt to take out the rocks which have been deposited and carry them to the shore.

Mr. CASS. It is very obvious to me that this whole discussion confirms yet more and more what has often been said here of the error of trying to administer, instead of legislating. Here are different statements made by gentlemen equally conversant with the state of things there; one affirming that the dam should be repaired, another, that it should be taken away. I appeal to the whole Senate, if we are competent to determine that question? I ask again, if it is not the office of the proper Department to do this? We ought to hold the Department responsible, and let it ascertain the facts. Our appropriation, in such a case as this, should be made general, holding the Secretary of War responsible, and he holding the officers of his Department responsible to take the correct course; to remove the dam, or repair the dam, as circumstances may require. We are not in a condition to administer; and this is a mere question of administration. Let us make the proper appropriation, and hold the proper Department responsible for the plan adopted, and the money expended. That is the course Congress ought to take, and that is the course I hope it will take.

Mr. UNDERWOOD. I have not a particle of objection to that course; but we have the report of the engineer, which I have just read. The bill was referred to the Committee on Commerce, the other day, because of the want of that report. The committee have reported the bill back, with the engineer's report. But, if it will relieve the subject, and prevent a tedious discussion, I am perfectly willing to accede to a proposition to leave the question of removal or repair to the Department.

Mr. SHIELDS. The remarks of my honorable friend from Michigan are very forcible. The communications which I receive from my constituents, tell me that if this dam is removed, it will injure the channel in other parts of the river above, as well as below the island, and that, so far from being a benefit to the Ohio river, except in one particular point—the point to which one of the gentlemen who have spoken, alluded—it is destined to have a permanently injurious effect upon the navigation of the river both above and below. I am not prepared to make this statement of my own knowledge, but my constituents have given me this information.

I will ask the honorable Senator from Kentucky this question: What special reason is there for a special appropriation for this particular purpose? Why is not a general appropriation for the improvement of the river better? Why not wait for the general appropriation, and have it so applied as to accomplish all that the gentleman wants? I am not prepared to oppose this appropriation, but I am not prepared to vote for it now, because the

information I have is of such a character as to satisfy me that the removal of this dam is destined to be injurious to the navigation of the Ohio river, and that the only object of it is to divert the channel from one side of the river to the other, or to attempt such diversion. Such an attempt was once made. This dam was erected for that purpose. It has failed to accomplish the purpose in view, but it has formed a new channel, as it were; and the whole object, I am told, is now to remove the dam, in order to change the channel to where it originally was. I must say that such legislation is very singular.

But I rose to ask that this measure should be postponed until we legislate generally on the question of western rivers. I see no special reason for urging this measure now. It ought to be included in the general bill, and not in this special and particular bill for this single purpose. Besides, if we legislate in this way, we anticipate the legislation of the other House on the bill which has been prepared there for the improvement of the Ohio river. I am a little afraid, that gentlemen who vote for this may, perchance, not aid us in carrying the other bill through this body, when it comes here. I intend to move to lay this bill on the table for the present, until we inquire more particularly into the subject; but, if the gentleman wishes to reply, I will not make the motion.

Mr. UNDERWOOD. Mr. President, the Senator from Illinois wants to know, why this dam shall not be allowed to remain as it is, until its repair can be included in the general operation of the bill, which he anticipates, to provide for the improvement of the navigation of the whole river. Now I will tell him the reason why a special and particular bill has been introduced upon this subject.

It is very well known, Mr. President, that some of us believe that there is not power in the General Government to make appropriations for the improvement of streams generally—even such a stream as the Ohio river. All persons of that description, and who entertain opinions of that kind, will not vote for a general bill. But individuals entertaining opinions of that sort, according to the manifestations of sentiments heretofore given in this Chamber, have said that, as the Government put the dam in the river, the Government was chargeable for the obstruction, if it amounted to an obstruction; and the Government, therefore, should remedy its own act. They say, that if by the action of the Government, wrongful in its nature, (if it is so regarded,) an injury has been inflicted upon the navigation interests of the States interested in that river, the Government ought to repair that injury. It was to meet opinions of that class that this bill, separate and apart from the general appropriation bill, was introduced. It seems to me that this was a sufficient reason for a movement separate and apart from the general subject of appropriating money to improve rivers, and justifies the introduction of this bill just as it stands. It was in that view that a bill was passed some two or three years ago, when introduced by the Senator from Tennessee, [Mr. BELL.] It was at that time that the sentiments, to which I have called the attention of the Senate, were promulgated. It was then said that this dam, or this improvement, constituted an exception which should stand upon its own merits, in consequence of the prior action of the Government. That, I hope, sufficiently answers the objection made by the Senator from Illinois.

Now, if we delay this bill until the general appropriation bill goes through, when is it expected that that will happen? Nobody can tell. Why, if it should take as long to pass the general appropriation bill as it has taken to pass the deficiency bill, we perhaps will see the end of the session before it gets through. If you postpone this appropriation until that time, I ask Senators what portion of the season will be left in which any work which will be beneficial to the river can be done? I am informed, and all of us may be informed if we look into our papers, that the river is now getting down. It will soon attain low-water mark. It will soon be in that position where this money can be most judiciously expended, if Congress intends to make the appropriation. The reason why I have urged it from time to time has been to set the Executive Departments of the Government at work making provisions to avail themselves of the low water which



must soon take place. The river usually reduces itself by the last of this month, so that this money can then be most judiciously expended, if it is to be expended at all. This reason is conclusive upon the subject of immediate action, if you intend to do anything. If you do not pass this bill now, if you let it remain and wait for the general appropriation bill, the whole season will have gone by before the bill is passed. And then, when the appropriation is made, you will have cold weather and high water to encounter, and you can do nothing until next summer. These are conclusive reasons why, if you intend to do anything, now is the time. You ought not to postpone it, but act upon it, for these reasons, separate and apart from the general appropriation bill.

Mr. HALE obtained the floor.

Mr. BUTLER suggested that an Executive session would be desirable to him.

Mr. HALE said he had no desire to trespass now on the time of the Senate, and would therefore give way for an Executive session.

Mr. SHIELDS moved the indefinite postponement of the bill.

Mr. RUSK suggested that it would be better to recommit the bill to the Committee on Commerce.

Mr. UNDERWOOD hoped the bill would not be postponed indefinitely. If it were postponed until to-morrow, or laid on the table temporarily, it could be taken up at any time; whereas an indefinite postponement would kill the bill.

Mr. SHIELDS said his only object was to ascertain what provision might be made by the House for this purpose. He therefore withdrew the motion to postpone indefinitely, and moved to lay the bill on the table, so that it could be taken up at any time.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. BUTLER. I move that the Senate proceed to the consideration of Executive business. I have received a communication from the State Department, which, perhaps, makes it absolutely necessary that I should submit that motion.

The motion was agreed to.

After some time spent in the consideration of Executive business, the doors were reopened—And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 7, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

#### INDIGENT INSANE.

The SPEAKER. The business first in order is the consideration of House bill No. 76, making a grant of land to the several States of the Union for the benefit of indigent insane persons.

Mr. RICHARDSON. There are various bills upon the Speaker's table reported from the Committee of the Whole on the state of the Union, in relation to the Territories. I propose to take them up and pass them, if there be no objection. If there be any objection, I intend to move a suspension of the rules upon each one of them.

The SPEAKER. The gentleman will recollect that we are now acting, for one hour at least, under a special order.

Mr. RICHARDSON. Is it not in order to move a suspension of the rules at any time on Monday?

The SPEAKER. It is not, in the opinion of the Chair, so long as the House is acting upon a special order, growing out of a suspension of the rules. We must dispose of one suspension, before we can make another.

Mr. RICHARDSON. The Chair or myself does not understand the question before the House. Is this a proposition which was introduced under a suspension of the rules, in its present stage?

The SPEAKER. It was admitted under a suspension of the rules, and was made a special order under that suspension.

Mr. RICHARDSON. What is the proposition under which it was introduced?

The SPEAKER. It is that one hour shall be devoted to the reception of reports from committees—one each morning until all the committees shall have been called through; and this was

adopted on a resolution introduced and passed under a suspension of the rules.

Mr. JONES, of Tennessee. What becomes of the resolution of my colleague, [Mr. HARRIS,] proposing to fix the day for our final adjournment? Does that come in at the end of the hour?

The SPEAKER. That will be the first business in order at the end of the morning hour, and it will be the unfinished business.

Mr. JONES. When that is disposed of, will it be competent for the gentleman from Illinois [Mr. RICHARDSON] to call up his territorial business?

The SPEAKER. It will.

Mr. JONES. I wish to inquire if the bill which has been postponed until to-day, comes necessarily in the morning hour?

The SPEAKER. It belongs to the business of the morning hour. It was a report from the Committee on Public Lands, admitted under the special order assigning one hour for the reception of reports. Its consideration was, by unanimous consent, postponed until this morning, and a motion to recommit is now pending.

Mr. JONES. But suppose we had got through with the call of committees, it would not come in then. It was postponed to this day, and the postponement took it out of the morning hour.

The SPEAKER. The Chair thinks that the consideration of the bill should be confined to the morning hour. It would be a new proposition if the morning hour had been disposed of.

Mr. JONES. I think the postponement would certainly take it out of the morning hour, if we had passed on to other business.

The SPEAKER. The Chair replies again to the gentleman from Tennessee, [Mr. JONES,] that even if the special order in relation to the morning hour was exhausted, this bill being a report from a committee, and postponed until to-day, would be confined to the regular morning hour; and, under any view, the Chair states, as his opinion, that it belongs to the morning hour for this day.

Mr. ORR. Will it be in order to move to recommit this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. The motion pending is to recommit it to the Committee on Public Lands. The motion, therefore, will be in order.

Mr. ORR. I move that the bill be recommitted to the Committee of the Whole on the state of the Union.

Mr. STANLY. I desire, at this stage of the proceedings, that some definite action upon the part of the House shall be taken in regard to this bill. It was so often discussed at the last Congress, and its character is so well known, that I do not purpose to consume the time of the House now in its discussion. The bill explains itself. It has been already sanctioned by a large majority of the American people, and I only desire now that the yeas and nays shall be taken as a test question. If it should go to the Committee of the Whole on the state of the Union, there will it rest for the remainder of the session. I will be satisfied with any action the House may take upon it; and I demand the yeas and nays.

The SPEAKER. The Clerk, upon looking to the pending motion, corrects his first belief, that it was to recommit this bill to the Committee on Public Lands. The pending motion, when this question was last under consideration, was to recommit it to the Committee of the Whole on the state of the Union. That is the first proposition to be voted upon by the House.

The yeas and nays were ordered.

Mr. HOUSTON. In reply to what has been said by the gentleman from North Carolina, [Mr. STANLY,] and which has been very often said by others during this session, that the committal of a bill to the Committee of the Whole on the state of the Union, is the death of the bill, I wish to present a remark, and that is, if gentlemen pursue the course that is now being urged by my friend from North Carolina, the course which has been pursued by the Committee on Public Lands—to put all of their bills, as a matter of course, upon their passage, and thereby consume all of the time of the House—as a matter of course, then, all bills that are in the Committee of the Whole on the state of the Union, will either have to remain there, or they will run a great hazard of not being reached. Why is it that the committal of a bill to that committee endangers its passage?

It is because we have so many speeches made upon the presidential election, and upon questions wholly irrelevant to the matter before us. It is because we do not come up to the work the country expects us to do, and do it in the manner in which it should be done. If we shall perform the labor we should perform—(and I do not say that the gentleman from North Carolina has failed to do it to a greater extent than others—my remarks are applicable to all of us as a body,)—if we attend to the public business as we ought to do, we shall reach all the bills on the various calendars, and accomplish all the necessary business before us, and we can easily do it in less than six weeks. It will no more endanger the passage of a bill, or interfere with its progress in the various stages through which it has to pass to become law, than if we should pass it on the report of the committee that brings it into the House. It is proper that we should understand this, and that the country should understand it. These measures should all take their proper course, and be examined and amended in committee, otherwise we had best abolish the Committee of the Whole on the state of the Union. I do not wish to single out this or any other measure, and give it time which the rules say shall be given to the consideration of other bills or propositions.

Mr. POLK. I call the gentleman from Alabama to order for irrelevancy.

The SPEAKER. The gentleman will put into writing his question of order. [Laughter.] The question before the House, the Chair repeats, is to commit this bill to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I intend to vote to refer this bill according to the rules of this House. I think we ought to do it, and then I intend voting, as I have endeavored to do during the whole of the session, to take up the Calendar until we transact the business of the country, and vote to bring these endless, irrelevant, and unprofitable debates to a conclusion at the earliest day; to confine the debates within proper, legitimate bounds; and if the House will sustain me, we will act upon all these bills, and then get away from here in less than six weeks. I hope the House will aid me in pressing forward the public business and go home. I do not believe, therefore, that we hazard the passage of this bill if we refer it to the Committee of the Whole on the state of the Union. It does not hazard the passage of any bill to put it on that Calendar; and if it does, it is because we do not do our duty to the country.

Mr. BISSELL. Two weeks ago this bill was before the House. It had been before the House at two different times within the last two years in substantially the same form. It was the desire of the friends of the bill, at that time, to put it at once upon its passage, as it was considered, in the estimation of nearly all the friends of the bill, that to refer it to the Committee of the Whole on the state of the Union was equivalent to its defeat. But as there were gentlemen who had not time to examine the bill since it had been reported by the Committee on Public Lands, it was suggested by them that it should be postponed for two weeks, in order that they might give it such examination. The two weeks have passed by, and the bill is again before us; and I trust now that it will be the pleasure of all those gentlemen who do not desire to defeat this most excellent measure, to vote to put it upon its passage; and in order that that may be done, I appeal to the gentleman from Missouri, [Mr. HALL,] the chairman of the Committee on Public Lands, to withdraw the motion he made to refer it to the Committee of the Whole on the state of the Union, in order that it may at once be put upon its passage.

Mr. HALL. I withdraw the motion I made to recommit this bill.

Mr. JONES, of Tennessee. The gentleman from Missouri did not make the motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. BISSELL. Yes, he did.

Mr. JONES. I understood the gentleman from North Carolina [Mr. STANLY] to have made that motion.

Mr. STANLY. No, sir; the gentleman from Missouri [Mr. HALL] made it.

Mr. BISSELL. Before I sit down, Mr. Speaker, I think I shall discharge my duty to the country, and do what is right towards this bill.

and towards its friends and enemies, too, by moving the previous question, which I design to do before I sit down. But, previous to that, I wish to have the bill read again from the Clerk's desk; and I ask all those gentlemen who have not given it the attention they desired, to listen to the reading of it; and when it has been read, I will ask for two minutes more, and then call for the previous question.

The bill was then read, as follows:

A Bill making a grant of public lands to the several States of the Union for the benefit of indigent insane persons.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be granted to the several States for the purposes hereinafter mentioned, ten millions of acres of land, to be apportioned under the direction of the President of the United States, in the compound ratio of the geographical area and representation of said States in the House of Representatives according to the census of eighteen hundred and fifty: *Provided,* That the area of no State shall be computed at more than fifty thousand square miles.

*Sec. 2. And be it further enacted,* That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections; and whenever there are public lands (of suitable quality) in a State, the quantity to which said State shall be entitled shall be selected from such lands, and the quantity apportioned to any State in which there are no such lands, shall be located in the territory belonging to the United States to which the Indian title shall be extinguished, and it shall be the duty of the States to offer the said lands for sale immediately, and to complete the same at the earliest practicable day: *Provided,* That the said lands shall not be sold at a higher rate per acre than the present minimum price of the public lands, and that they be subject to the right of pre-emption, like the said public lands: *Provided also,* That the lands hereby granted shall be taken from such portion of the public lands as shall be subject to entry at private sale at the time of the passage of this act.

*Sec. 3. And be it further enacted,* That whenever the apportionment of said lands shall be completed, patents shall be issued to the several States for the portions which shall be allotted to them respectively; and thereupon the said States shall assume the management and sale of the lands thus apportioned to them.

*Sec. 4. And be it further enacted,* That all the expenses of management and superintendence of said lands previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes hereinafter mentioned.

*Sec. 5. And be it further enacted,* That all moneys derived from the sale of the lands aforesaid, by the States to which the lands are apportioned, shall be invested in stocks of the United States, or of the State, and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, and the interest of which shall be inviolably appropriated to the comfortable maintenance and support of the curable and incurable indigent insane.

*Sec. 6. And be it further enacted,* That the grant of land hereby authorized shall be made on the conditions following, to which, as well as to the provisions hereinafter contained, the previous assent of the several States shall be signified by legislative acts:

*First.* If any portion of the fund invested as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs; so that the capital of the fund shall remain forever undiminished, and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fifth section of this act.

*Second.* The interest of said fund shall be faithfully applied to the maintenance and support of the curable and incurable indigent insane, who shall be placed in regularly organized State institutions, or in public incorporated institutions or hospitals for the exclusive care of the insane, or in public city hospitals for the sole care and treatment of the same, having full corps of officers charged with the management of said institutions, and resident physicians attached thereto; and in no case shall any part of the said fund, or the interest thereon, be applied permanently or temporarily to the maintenance or support of insane persons who may be kept or confined in jails, or in buildings connected with or attached to them, or in any work houses or poor-houses, or in any department of the same whatsoever, or in any private hospital, or in any general hospital not exclusively devoted to, and occupied for the remedial care of the insane.

*Third.* No portion of the said fund, or the interest thereon, shall be applied directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building for the reception or security of insane persons, or to the purchase of any site for such buildings, on any lands or grounds connected therewith; but the whole of said fund shall be kept inviolable, and the interest thereon shall be faithfully expended for the purposes mentioned in the fifth section of this act.

*Sec. 7. And be it further enacted,* That if any State shall establish a public State institution for the maintenance and education of idiots, the deaf and dumb or blind, they may, at the discretion of each State, be permitted to participate in the benefits of this act, under the restrictions hereinafter specified, and in the ratio of their numbers relatively to the insane, for whose maintenance and support the interest of the fund belonging to such State shall be applied, anything in this act to the contrary notwithstanding.

The amendments proposed by the Committee on Public Lands were then read, as follows:

In the first section, strike out all after the word "men-

tioned," and insert in lieu thereof the following, "public lands at the rate of 50,000 acres to each Representative in the House of Representatives, according to the census of 1850."

Strike out in the second section, fourth line, the words, "of suitable quality," and insert after the word "State," where it first occurs thereafter, the words, "worth \$1 25 per acre, the value of said lands to be determined by the Governor of said State." Also insert at the end of the second section the following proviso:

*Provided further,* That if said lands be not sold within twenty years from and after the passage of this act, the lands remaining unsold at the end of that time shall revert to the United States.

Strike out the third section of the bill.

In section five, after the word "States," where it occurs the second time, insert the words, "or some other safe stocks, yielding not less than five per centum upon the par value of said stocks."

Mr. JONES, of Tennessee. I wish to inquire if there can be more than one amendment pending to the bill at a time?

The SPEAKER. The amendments being read are those reported from the Committee on Public Lands.

Mr. JONES. I should suppose, if the previous question is demanded, that it will cut off all but the first amendment, unless there should be an amendment to that amendment.

The SPEAKER. The Chair regards all the amendments proposed by the committee as a report from the committee, which must be acted upon by the House.

Mr. SIBLEY. I desire to offer an amendment to this bill, and I hope the gentleman from Illinois will not demand the previous question. I propose to offer the following:

*Sec. 1. And be it further enacted,* That in lieu of the land hereinafter granted to those States, in which there is no public domain, there shall be issued to said States, under the direction of the Secretary of the Interior, land scrip for an amount equal to the distributive share granted to such States respectively, under the provisions of this act, to be disposed of for the uses and purposes prescribed in the foregoing sections of this act.

Mr. BISSELL. The gentleman has already offered several amendments, which have been reported upon by the committee.

Mr. JONES, of Tennessee. With the permission of the gentleman from Illinois, I think that he perhaps, is laboring under a mistake. When this bill was taken up this morning, there was a motion pending to recommit it to the Committee on Public Lands, made by the gentleman from Missouri, [Mr. HALL,] and the gentleman from South Carolina, [Mr. ORR,] also a member of that committee, obtained the floor, and moved to commit this bill to the Committee of the Whole on the state of the Union. The gentleman from Missouri withdrew his motion, and the motion of the gentleman from South Carolina, to refer the bill to the Committee of the Whole on the state of the Union, is now pending.

The SPEAKER. The Clerk first informed the Chair that the pending motion was to recommit to the Committee on Public Lands. The fact, however, was, that the motion was made at our last sitting by the gentleman from Missouri, [Mr. HALL,] to commit to the Committee of the Whole on the state of the Union, and that is the only proposition to commit which could be made.

Mr. JONES, of Tennessee. The report from the Chair was, that the pending motion was to recommit the bill to the Committee on Public Lands. The gentleman from South Carolina, under that state of facts, moved its reference to the Committee of the Whole on the state of the Union; which motion was then entertained, and the other motion to commit being withdrawn, it should be still entertained.

The SPEAKER. The Clerk being under the impression that a motion to recommit was made when this bill was last up, so informed the Chair, and the Chair so stated to the House, upon which the gentleman from South Carolina moved to commit to the Committee of the Whole on the state of the Union. Upon examination, however, the fact turns out to be that the motion was originally made by the gentleman from Missouri, [Mr. HALL,] to commit the bill to the Committee of the Whole on the state of the Union; hence the other motion of the gentleman from South Carolina, to commit to the Committee of the Whole on the state of the Union, was, at the time, inadmissible.

Mr. JONES, of Tennessee. I submit, then, to the gentleman, whether it is right, under the circumstances, to cut the House off from a motion to commit?

Mr. BISSELL. As I do not desire to consume

three minutes of the time of the House this morning myself, and being desirous of getting a vote upon this bill, I am not inclined to let others consume time in motions, relative to points of order especially, when it has been decided by the Chair that there is nothing in those points. This bill, Mr. Speaker, has been before this House, under discussion here, and under discussion before the country, in various forms, for nearly three years, and I cannot suppose that there is any member in this House who takes the slightest interest in it, who is not tolerably well informed upon its merits. The bill, as reported back from the Committee on Public Lands, is not precisely as it was originally introduced; but it is substantially the same, and I call upon those gentlemen now who do not desire to see it defeated to stand up to-day and put it upon its passage, and either let it be defeated at once, or let there be an end of it by passing it.

Mr. CLEVELAND. Will the gentleman allow me a single moment? I wish to say to the members of this House, that unless we stand by this bill and pass it, the old States will not get a dollar from the public lands, certainly at this session of Congress. I do not myself like the amendments offered by the Committee on Public Lands, but this bill is the only one that looks to doing anything like justice to the old States; and, in addition to that, I wish to say that this is for a meritorious purpose. While we are going, and while it is the policy of the Government to give lands for the purposes of education and benevolent purposes, yet we have never received anything; the old States have never received the first acre for any purpose, and by the passage of this bill we shall get a part of what is our just due.

Mr. BISSELL. I put it upon higher grounds altogether. Justice to all the States, to the East and to the West, and justice to the people, who have long demanded the passage of this bill, and justice and humanity to the most unfortunate class of our fellow-citizens. While everybody else almost has been provided for—railroads to the extent of two and a quarter millions of acres; States to untold amounts; settlers, able and competent to gain a living by the labor of their own hands have one hundred and sixty acres each—this unfortunate class, provided for in this bill, has been alone forgotten by us. I place it upon higher grounds even than justice to the old States. Mr. Speaker, the friends of this bill, as I understand it, are against the adoption of all amendments reported by the Committee on Public Lands, except the second, third, and fourth amendments. The first amendment of the Committee on Public Lands should be rejected, in the opinion of the chairman of that committee, and in our opinion. The second amendment should be adopted, the third amendment should be concurred in, and the fourth; the balance of the amendments should be rejected if we would make the bill efficient for the purposes contemplated. Now, Mr. Speaker, begging pardon of all those gentlemen who may desire to make speeches on it, or who may desire to offer amendments, and asking them not to appeal to me for any such purpose, because when the door is once open there is no shutting it again, I move the previous question.

Mr. MARSHALL, of Kentucky. I move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. During the pendency of the demand for the previous question that motion is not in order.

Mr. ORR. Do I understand the Speaker to have decided that the motion which I made this morning to commit the bill was out of order?

The SPEAKER. The Chair decided it was out of order, there being a motion then pending to refer the bill to the Committee of the Whole on the state of the Union, made by the gentleman from Missouri, [Mr. HALL,] which motion was subsequently withdrawn by him.

Mr. ORR. Then I make a motion, which is in order. If we are cut off from a reference of the bill, I move to lay the bill upon the table.

Mr. CLEVELAND demanded the yeas and nays; which were ordered.

The question was then put, and it was decided in the negative—yeas 56, nays 115; as follows:

YEAS—Messrs. Ashe, Averett, David J. Bailey, Boock, Buell, Busby, Caskey, Colecock, Curtis, Disney, Dunham, Durkee, Edgerton, Edmundson, Faulkner, Freeman, Giddings, Hamilton, Hammond, Isham G. Harris, Hendricks, Hillyer, Holladay, Howard, Thomas Y. How,

Jackson, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Martin, McCorkle, McLanahan, McNair, Meade, Morriss, Murphy, Nabers, Newton, Orr, Powell, Riddle, Robbins, Ross, Seurry, Alexander H. Stephens, Thaddeus Stevens, George W. Thompson, Townshend, Wallace, Wilcox, and Wildrick—56.

**YAYS**—Messrs. Abernethy, Chas. Allen, Willis Allen, Allison, J. Appleton, W. Appleton, Barrero, Bell, Bennett, Bilghaus, Bissell, Bowne, Jno. H. Boyd, Brazz, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Chapman, Churchwell, Clark, Cleveland, Cobb, Conger, George T. Davis, John G. Davis, Dean, Dinamick, Dockery, Doty, Dumeau, Fieldin, Florence, Fowler, Henry M. Fuller, Gamble, Gaylord, Gentry, Gilmore, Goodenow, Goodrich, Gorman, Hall, Harper, Sampson W. Harris, Hascall, Haven, Henn, Horsford, Houston, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, John Johnson, George G. King, Rufus, Laundry, Lockhart, Mace, Humphrey Marshall, Meacham, Miller, Molony, Henry D. Moore, John Moore, Morehead, Murray, Olds, Outlaw, Andrew Parker, Samuel W. Parker, Pea-lee, Penn, Penniman, Polk, Price, Rantoul, Richardson, Robie, Robinson, Sackett, Selmerborn, Scudder, David L. Seymour, Origen S. Seymour, Smart, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, Stuart, Sweetser, Taylor, Thurston, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, Williams, and Yates—115.

So the House refused to lay the bill upon the table.

Mr. HARRIS, of Tennessee. Has the morning hour expired?

The SPEAKER. It has not.

The question then recurred on seconding the demand for the previous question.

Mr. BISSELL demanded tellers; which were ordered; and Messrs. BISSELL, and STEPHENS of Georgia, were appointed.

The question was then put, and tellers reported—ayes 60, noes 75.

So the previous question was not seconded.

Mr. SIBLEY. I desire to offer an amendment to the bill:

Mr. DEAN. I would inquire of the Chair if the morning hour has expired?

The SPEAKER. It has.

Mr. DEAN. Then I call for the regular order of business.

#### ADJOURNMENT SINE DIE.

The SPEAKER. The business first in order is the resolution offered by the gentleman from Tennessee, [Mr. HARRIS,] which was pending when the House adjourned last Monday.

Mr. SIBLEY. With the permission of the gentleman from New York, I will make a motion to refer this bill, just under consideration, to the Committee of the Whole on the state of the Union.

The SPEAKER. Unless objected to, the motion will be entertained.

Mr. BISSELL. I object.

The SPEAKER. The question is upon the adoption of the following resolution:

*Resolved*, (with the concurrence of the Senate,) That the President of the Senate, and Speaker of the House of Representatives, close the present session of Congress by an adjournment of their respective houses on Monday, the 2d day of August next, at the hour of twelve, m.

Mr. RICHARDSON. I am as desirous as anybody can be that Congress should adjourn at the earliest practicable moment, but I doubt if you can transact the public business in the time prescribed by the resolution. If, however, the chairman of the Committee on Ways and Means thinks he can pass all his bills in that time, I have no proposition to make. I think I can get through with all the business in which I have any interest. I move to amend the resolution by striking out the "second day," and inserting the "third Monday."

Mr. HARRIS, of Tennessee. What day of the month is that?

Mr. RICHARDSON. I believe it is the 16th.

Mr. HARRIS demanded the previous question.

Mr. RICHARDSON demanded tellers on the second; which were ordered, and Messrs. HARRIS of Tennessee and CLINGMAN were appointed.

The House was then divided, and the tellers reported—ayes 84, noes 42.

So the previous question received a second; and the main question was ordered to be put.

[A message was here received from the Senate of the United States, by the hands of ASHUR DICKINS, Esq., its Secretary, informing the House of the passage of several bills.]

The SPEAKER. The question is upon the amendment to strike out the 2d and insert the 16th of August.

Mr. SEYMOUR, of New York. I would inquire if there was not another amendment offered, fixing the time for the 19th of July.

Mr. HOUSTON. It was suggested that the amendment I had proposed—the 19th July—would hazard the passage of the resolution. My great anxiety to fix the time for adjournment induced me, by the appeals of my friends, to withdraw it.

Mr. AVERETT demanded the yeas and nays upon the adoption of the amendment; but they were not ordered.

Mr. ALLISON demanded tellers; which were ordered; and Messrs. STEVENS, of Pennsylvania, and STANTON, of Tennessee, were appointed.

The question was then taken, and the tellers reported—ayes 82, noes 62.

So the amendment was adopted.

The question then recurred on the adoption of the resolution as amended, and being taken it was decided in the affirmative.

So the resolution was adopted.

Mr. HARRIS, of Tennessee. I move to reconsider the vote just taken, by which the resolution was adopted, and to lay the motion to reconsider on the table.

The question was put, and the latter motion was agreed to.

Mr. COBB. I propose to introduce a resolution, and I hope no one will object to it. If objection be made, I shall move to suspend the rules. But I am sure every member will yield it his sanction. I ask the unanimous consent of the House to introduce the following resolution:

Whereas this House has designated for itself a time for closing the present session of Congress, and whereas much business of importance to the nation and to the people requires definite action; therefore be it

*Resolved*, That when this House adjourns to-day it adjourn to meet at eleven o'clock, a. m., until otherwise ordered.

Mr. JONES, of Tennessee. I object.

Mr. COBB. I move to suspend the rules for the purpose of introducing the resolution.

Mr. STANTON, of Ohio, demanded the yeas and nays upon the motion to suspend the rules; but they were not ordered.

The question was then taken, and the House refused to suspend the rules.

Mr. JONES, of New York. I ask the unanimous consent of the House to introduce the following resolution, adopted at a primary meeting in New York, for the purpose of having it referred to the appropriate committee:

*Resolved*, That the Representative in Congress from the twenty-fourth district of the State of New York—Hon. DANIEL T. JONES—be, and he is hereby, requested to urge upon Congress the passage of a law granting James F. Meagher the rights of citizenship under this Government without the formality of the present laws of naturalization.

Mr. JONES, of Tennessee. I object.

Mr. JONES, of New York. Mr. Speaker, the resolution which I have had the honor to present was passed at a large public meeting of the citizens of Syracuse, in the State of New York, called for the purpose of inviting the patriot Meagher, to visit that city. They ask that Congress would confer upon him the rights of citizenship without the delay of five years, made necessary by the naturalization laws of the country. They ask it as an expression of the high estimation with which his conduct is held by the people of the United States, during the late laudable but unfortunate effort of himself and his associates, to obtain greater freedom for his oppressed country, and thereby lessen the amount of misery under which that people are now groaning.

He is one of those creations of the times whom the universal struggle for a larger liberty now going on among the oppressed subjects of European despotism raises up, to lead in the great battle for freedom. With education, ability, an ardent temperament, and honesty of purpose, it is impossible for any such among them to be a passive spectator of the struggle. Many will fall, and many more will be driven from their country to seek refuge among us. Let them be received with open arms and a hearty welcome. The late Thomas Addis Emmet, for a like cause, was forced to flee to this country; where, by a special dispensation, he was admitted to the privileges of the courts of the State of New York, and of which he became one of its greatest ornaments.

It will cost us nothing, but confers on him that which is above all price. It will restore him to the world a freeman, and make him the peer of

kings and emperors—a citizen of the United States. I move to suspend the rules to enable me to introduce it, and have it referred to the Committee on the Judiciary; and upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. STEPHENS, of Georgia. We have no constitutional power to pass any such law. Congress can only pass uniform laws upon the subject of naturalization. It is useless to suspend the rules.

Mr. JONES. I merely wish to suspend the rules for the purpose of having it referred to the Committee on the Judiciary.

Mr. STEPHENS. But it is useless to suspend the rules to entertain what we cannot grant.

Mr. McLANAHAN. With all respect to my friend from New York, I will say that this question has already been decided by the Judiciary Committee. I think I am authorized to say that, in the opinion of that committee, the passage of such a law would be unconstitutional.

Mr. JONES. But still I see no objection to its reception and reference. That is all I ask.

The question was then taken, and the House refused to suspend the rules.

Mr. RICHARDSON. I ask the unanimous consent of the House to take up the territorial bills now lying upon the Speaker's table.

[Cries of "Object!"]

Mr. RICHARDSON. I move to suspend the rules for that purpose.

The question was taken, and upon a division 70 rose in the affirmative.

Mr. RICHARDSON demanded tellers; which were ordered; and Messrs. RICHARDSON and CHANDLER were appointed.

The question was then taken, and the tellers reported—ayes 92, noes not counted.

So the rules were suspended.

#### TERRITORIAL BILLS.

The question was then put on Mr. RICHARDSON's motion to proceed to the consideration of the territorial bills on the Speaker's table; and it was agreed to.

The SPEAKER. The question before the House is upon the engrossment of House bill No. 187, for the construction of military roads in Oregon Territory, which was reported from the Committee of the Whole on the state of the Union without amendment.

The bill was then read through by the Clerk.

Mr. BISSELL. I think I had the floor upon that bill, when it was last up, and I shall detain the House now only for the purpose of moving a single amendment. I move to strike out the words, "for the construction of a road from Catamount, or Oak Point, on the Columbia river, to 'Siliacomb, on Puget's Sound, \$10,000.'"

The question was then taken on the amendment, and it was agreed to.

The SPEAKER. The question now recurs on ordering the bill to be engrossed for a third reading.

Mr. BROOKS. This is the same bill we had under consideration a few days since, and upon which there was a good deal of debate. The objection to it was, that there was no recommendation of any Department of the Government, for the making of these roads—that the bill was introduced solely upon the recommendation of the Delegate from Oregon, and upon no other; that it was the beginning of a system of internal improvements in Oregon, without any proper advisement, upon the part of the proper authorities of the Government, without any previous surveys, without any knowledge of the territory through which the roads are to pass, and without any idea of what the roads will cost. I voted for the motion of the gentleman from Illinois, [Mr. BISSELL,] to strike out the appropriation of \$10,000, without hearing from him any particular reason why that item should be stricken out, any more than the others. I said the other day, what I repeat here, that this is but the beginning of a general system of appropriations in the Territory of Oregon. For the life of me, I am not able to see the difference between such like appropriations there, and appropriations in the other parts of the United States, unless they be for military roads; and in order to ascertain whether they are necessary for military roads or not, it is necessary to have some advisement from the proper authorities of the Government—some previous survey—some knowledge of the reasons



why military roads should be constructed in that quarter. I say now, that if, with these facts before the House, the majority of the House choose to take the responsibility of this vote, appropriating public money for this like system of internal improvement, it is not for me, in the minority, to throw any extraordinary obstructions in the way; but it is for the majority, who have the charge of the business of this House, to take the responsibility upon them, with the understanding that the advisement, the recommendation, come from no proper Department of this Government, but is assumed by the House itself, without that advisement or recommendation.

Mr. RICHARDSON. There is, a portion of those roads over which our troops pass, and also emigrants going to Oregon. The particular road I do not now recollect, but it is one of those included in the bill; and the gentleman from New York [Mr. Brooks] is mistaken in that respect. Wherever the Government has undertaken to make improvements inside of a State, it has been upon estimates and surveys. There has not been an instance in the legislation of the country, for several years, where estimates have been required to be made for such improvements in a Territory. The reason is a very obvious one. It will cost more to make your estimates and surveys in the Territories, than to make the improvements which are required for the passage of your munitions of war, your troops, and provisions for them. It was not required in regard to Iowa, it was not required in regard to Minnesota, and it was not required in regard to Wisconsin, that there should be any previous surveys, when similar appropriations were made for those Territories. The gentleman quotes an authority applicable only to the States, and Congress, in the discussion of these subjects, have always made a distinction between the States and Territories. I do not know that there is an absolute necessity to make but one appropriation. To make that, I admit there is a necessity; and if you mean that this improvement shall be of any advantage to your troops there, and to emigrants going to Oregon, it ought to be made now. It will take two or three years to make a survey, and that will cost more than it would cost to make the improvements, as they have to be made upon one or two places only along the route.

Mr. STUART. I do not propose to detain the House but a moment in the discussion of this question; but I undertake to say that there cannot be found in the history of this Government, any authority, that is entitled to any high degree of respect, against the power to pass such laws as this for the Territories. And, sir, if the gentleman from New York [Mr. Brooks] cannot see any difference between the exercise of this power in the Territories, and in the States, then he cannot tell the difference between light and darkness. It is as clearly defined as any other proposition in the world.

I should like to, elaborate this question, but I will not consent to consume the time of the House in discussing that question now, but upon some future occasion I intend to do so.

Something was said the other day in regard to there being a previous survey, and that doctrine is resumed to-day. For what reason should there be a previous survey? Why, simply for ascertaining the cost. That is everything for which the survey can be valuable, for I take it for granted that nobody will, as to the propriety of the road, doubt that the information of the Delegate from Oregon is as reliable as that of any other man, or any other set of men, as to where the road ought to be made. All, then, that would be obtained by making a previous survey, would be to ascertain the expense of making the road. What would be the consequence of ordering a survey? Why, sir, you would lose a year, at least. You would consume a year of time by getting a previous survey; and what is worse than all that, you run the hazard of sacrificing a number of human lives. Now, sir, I know not what other gentlemen may think, but it seems to me that, for the mere purpose of ascertaining what it will cost to make this road, it is not best to proceed so slowly as to sacrifice the lives of men, women, and children, emigrating to the Territory of Oregon.

But, sir, reserving to myself the propriety of discussing this question in the main, upon some future day, which I intend to do upon a proper

occasion, for the purpose of bringing the House to a vote upon this bill, and disposing of this question, and other territorial bills, I move the previous question upon the passage of the bill.

Mr. BELL. I wish to ask the gentleman a question.

The SPEAKER. No debate is in order while the previous question is pending.

Mr. MEADE. I hope the gentleman from Oregon [Mr. LANE] will be permitted to give us some explanation of this bill. I do not wish to vote for it unless I am satisfied that such a bill is absolutely necessary. I ask the gentleman from Michigan [Mr. STUART] to withdraw his demand for the previous question.

Mr. STUART. I will withdraw the demand for the previous question, holding the floor myself, to give the gentleman from Oregon [Mr. LANE] an opportunity to furnish the information which he gave the House the other day when, I presume, the gentleman from Virginia [Mr. MEADE] was not present.

Mr. MEADE. Before the gentleman from Oregon begins, I ask him to furnish to the House some information as to the length of the road, its probable cost—I do not suppose the gentleman can be very accurate in that respect—the time it will take to finish it, the necessity of having it as a military road, and in what way that necessity exists, and how it is to be used as such.

Mr. LANE. It will afford me pleasure to explain the reasons why I have asked an appropriation for roads in Oregon Territory, and to give the information desired by the gentleman from Virginia [Mr. MEADE] as nearly as I can do it.

I should have been glad to have removed the objection of the gentleman from Illinois, [Mr. Bissell,] when he made the motion to strike out the appropriation of \$10,000 for the construction of the road from Catalamett to Stilacomb, but the motion has been made, and that appropriation has been stricken out.

I ask for twenty thousand dollars for making a road from Stilacomb, on Puget's Sound, to Fort Walla-Walla, on the Columbia river. The main emigrant road from St. Joseph to Oregon touches the Columbia river near Fort Walla-Walla. A direct road from that point to Fort Stilacomb, on Puget Sound, can be conveniently made, and the distance will be about two hundred and fifty miles. Troops of the United States are now garrisoned at Fort Stilacomb, and all the country north of Walla-Walla, and east of Cascade mountains, is occupied only by Indians, who have given us a great deal of trouble, and seriously annoyed the emigrants traveling through their country.

There is now no route by which our troops may move from Fort Stilacomb to Walla-Walla, except by way of Portland or Oregon City, a distance of about four hundred miles greater than the direct route proposed in the establishment of this road. Now, in the event of our troops being required at Fort Walla-Walla whilst stationed at Stilacomb, without this direct line of communication we propose to establish, our troops would be compelled to perform a tedious march of near seven hundred miles. The road is, therefore, essentially and absolutely necessary for military purposes, and for this reason I feel myself compelled to insist upon the appropriation asked for by the bill before the House.

In addition, Mr. Speaker, to the great advantage it would afford the country in time of Indian troubles, or Indian hostilities, it would afford a safe and speedy transit to emigrants bound from the States to Puget's Sound; and would be, as I before remarked, a saving of four hundred miles, contrasted with the present route. Emigrants are now compelled to go from Walla-Walla by Oregon City. No emigrant can make the trips there in one season; two seasons will be required; so that it is placed beyond the power of emigrants to raise a crop within two years' time. For the accommodation, then, of the emigrants, aside from the consideration of its necessity for military purposes, the road ought to be built. Twenty thousand dollars will open the road so as to make it passable for wagons. I also ask, through the bill, the appropriation of \$20,000 for the construction of a road from Myrtle creek to Rogue River valley. This road is as absolutely necessary as the first, to which I have made allusion; it is necessary for military purposes, and necessary for the safety and security of the people of Oregon Territory. I

desire to say to the gentleman from New York, [Mr. Brooks,] that I am surprised at his opposition to everything I have asked for the benefit of the Territory I have the honor to represent here. We are compelled to look to Congress for our legislation as a Territory, and that Oregon should be met upon every occasion with non-action upon the part of this House, when we ask even less than has been bestowed upon other Territories, is strangely incomprehensible to me. But if this House is not inclined to do justice to Oregon, or is disposed to look with indifference upon her wants, let the responsibility rest upon the heads of those who oppose these appropriations.

Mr. BROOKS. I wish, with the gentleman's permission, to state to him that I have no hostility to Oregon. I voted, at the last session, to give donations of the public land to actual settlers in Oregon, under a bill proposed by his predecessor. I wish further to say, that the objection I have is not to his Territory—is upon his sole responsibility to the introduction of bills here, and the appropriating for them here \$40,000 only, which will not make a survey of the road which must involve a much larger expenditure, I know nothing about them. If the proper authorities recommend them in the proper way—that they are military roads—I will vote for them.

Mr. LANE. That has not been the custom in similar cases of appropriation made for other Territories. Last Congress an appropriation was made for constructing a road in Minnesota, of which no survey had been made, and I expect it received the vote of the gentleman from New York, [Mr. Brooks,] If he did not, a majority of this House passed it into a law. I say to the gentleman, that I am not afraid of responsibility. These appropriations I ask upon my own responsibility, upon my own honor, and my knowledge of the country, the wants of its citizens, and the difficulties in the way of emigration thither. I ask only for what is right and just for Oregon Territory. I recollect when I requested—when I begged this House, some three or four months ago, to take such steps as were necessary to be taken to send out troops for the protection of emigrants to Oregon, that the gentleman from New York opposed the proposition. The measure was defeated, and the emigrants to Oregon this year get no protection. Before the first of October next you may hear of many of them falling victims to the scalping-knife and tomahawk of the merciless Indians. This, I fear, will be the case. Then I told you such would be the result of this indifference to the wants of our emigrants. With the tribes of Indians, and the country they inhabit, I am well acquainted. The emigrants have started out there, with the promise of the Secretary of War that troops should be sent there to afford them protection. This has not been done. I have no more to say; and will, therefore, yield the floor to the gentleman from Michigan.

Mr. STUART. The Delegate from Oregon, I apprehend, has now furnished all the reliable information which could be obtained in a year on this question. The necessity for the passage of this bill must be obvious to every gentleman; and, sir, governed by the idea I advanced before, a disinclination to consume the time of the House in discussing this subject, I renew the call for the previous question.

Mr. MEADE. I ask the gentleman to withdraw his call, that I may submit a word of explanation to the House in reply to the gentleman from Oregon.

Mr. STUART. I withdraw it for that purpose.

Mr. MEADE. I desire to make only a few words of explanation in this matter, as I called upon the Delegate from Oregon [Mr. LANE] for information. Having reliance in the integrity of the man, I will state that, after all the responsibility he has assumed to himself, if I vote wrong, I will charge it to the gentleman from Oregon.

Mr. STUART. I renew my call for the previous question.

The question was then put upon seconding the call for the previous question, and there were—ayes 49.

Mr. RICHARDSON. I demand tellers on the seconding of the call for the previous question.

Tellers were ordered, and Messrs. ROBINSON and CHANDLER were appointed.

The House was again divided, and the call for

the previous question was seconded, the tellers having reported—ayes 72, noes not counted.

And the main question was then ordered to be put.

The SPEAKER. The question now recurs upon the engrossment of the bill.

Mr. MOREHEAD. I demand the yeas and nays.

The yeas and nays were ordered.

The question was then put on the engrossment of the bill, and it was agreed to—ayes 94, nays 52; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Babcock, David J. Bailey, Bell, Bissell, Bocoock, Bragg, Breckinridge, Briggs, Busby, Lewis D. Campbell, Thompson Campbell, Chapman, Churchill, Clark, Cleveland, Clingman, Colcock, Conger, John G. Davis, Dawson, Dean, Disney, Doty, Duncan, Dunham, Durkee, Edgerton, Edmundson, Florence, Gamble, Gaylord, Gilmore, Green, Hammond, Sampson W. Harris, Haven, Hebard, Hendricks, Henna, Holladay, John W. Howe, Thos. M. Howe, Hunter, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Lockhart, Mace, Edward C. Marshall, Mason, McCorkle, McNair, Meade, Molony, Morrison, Nabers, Newton, Olds, Andrew Parker, Samuel W. Parker, Penniman, Polk, Powell, Price, Rantoul, Richardson, Robie, Robinson, Ross, Scudder, Scurry, David L. Seymour, Origen S. Seymour, Frederick P. Stanton, Richard R. Stanton, Stone, St. Martin, Stuart, Sweetser, George W. Thompson, Townshend, Walbridge, Ward, Watkins, Wilcox, Williams, and Yates—94.

NAYS—Messrs. Allison, Barrere, Bennett, Bibbhausa, Bowne, Brenton, Brooks, Albert G. Brown, Buell, Burrows, E. Carrington Cabell, Caldwell, Cobb, George T. Davis, Dimmick, Fowler, Goodenow, Harper, Isham G. Hendricks, Hillyer, Horsford, Houston, Thomas Y. How, James Johnson, Daniel T. Jones, George G. King, Preston King, Kuhns, Martin, Meacham, Henry D. Moore, Morehead, Murphy, Murray, Orr, Outlaw, Sackett, Savage, Schermerhorn, Schoolcraft, Schoonmaker, Stanly, Thaddeus Stevens, Strother, Taylor, Toombs, Venable, Wallace, Welch, Wells, Alexander White, and Wildrick—52.

So the bill was ordered to be engrossed, and read a third time.

Previous to the announcement of the result of the above vote, Mr. INGERSOLL asked leave to vote, not having been within the bar when his name was called; but objection was made.

The bill having been engrossed, was read the third time and passed.

Mr. CLINGMAN. I move that the vote by which the bill was passed be reconsidered, and that the motion to reconsider do lie upon the table.

The latter motion was agreed to.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled "An act to grant the right of way to the State of Missouri, and a portion of the public lands to aid in the construction of certain railroads in said State;" which received the signature of the Speaker.

The House proceeded next to consider House bill No. 252, to authorize the legislative authority of the several Territories to control the appropriations to be made by Congress for the support of the government of said Territories.

The bill was read through.

Mr. SIBLEY. As this subject has been thoroughly discussed in the Committee of the Whole House on the state of the Union, I move the previous question.

Mr. STUART. I ask the gentleman to withdraw his call until I can submit an amendment.

The call for the previous question was withdrawn.

Mr. STUART. As the object of that bill is to give the control of the funds appropriated for the Territories to the legislative authorities of the Territories, I think that, under the present circumstances, there ought to be an amendment excepting from its provisions the Territory of Utah. For that purpose I propose the following proviso, and call for the previous question upon its adoption:

*Provided further, That the provision of this bill shall not apply to the Territory of Utah.*

Mr. CLEVELAND. I will state to the gentleman, that the Delegate from Utah is not present.

Mr. STUART. I am aware of that. The proviso will leave, with regard to that Territory, the provisions of law as they now stand.

Mr. CLEVELAND. After all, it makes a distinction which may do more harm than good; and I therefore suggest the propriety of passing the bill by for the present.

The call for the previous question was seconded.

The SPEAKER. Shall the main question be now put?

Mr. STEVENS, of Pennsylvania. Why the distinction between Utah and the other Territories? I ask for a division on that question.

The question was then put on ordering the main question to be put; and on a division there were—ayes 55.

Mr. RICHARDSON. I demand tellers.

Tellers were ordered; and Messrs. RICHARDSON and CHANDLER were appointed.

The question was again put and carried in the affirmative; the tellers having reported—ayes 71, noes 46.

The question was then taken, and there were—ayes 81, nays 65; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Allison, William Appleton, Averett, Bibbhausa, Bragg, Briggs, Caldwell, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Churchill, Clark, Clingman, Colcock, Conger, Cullom, George T. Davis, John G. Davis, Dawson, Dimmick, Durkee, Florence, Fowler, Gamble, Green, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hascall, Holladay, Howard, John W. Howe, Hunter, Ingersoll, John Johnson, Robert W. Johnson, Kurtz, Lockhart, Mace, Mason, McCorkle, McDonald, McNair, Meade, Molony, Morrison, Murray, Olds, Orr, Andrew Parker, Polk, Powell, Price, Rantoul, Richardson, Robbins, Robie, Savage, Scurry, David L. Seymour, Origen S. Seymour, Smart, Smith, Frederick P. Stanton, Strother, Stuart, Sutherland, Sweetser, Walbridge, Wallace, Welch, Alexander White, Wilcox, Wildrick, Williams, and Yates—81.

NAYS—Messrs. Ashe, Babcock, David J. Bailey, Barrere, Bell, Bennett, Bowne, Brenton, Brooks, Buell, Burrows, Busby, Cleveland, Cobb, Curtis, Dockery, Duncan, Edmundson, Goodenow, Harper, Haven, Hebard, Hendricks, Hillyer, Horsford, Houston, Thomas M. Howe, Thomas Y. How, Ives, Jackson, Andrew Johnson, James Johnson, Daniel T. Jones, George G. King, Kuhns, Martin, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Murphy, Nabers, Newton, Samuel W. Parker, Penniman, Phelps, Ross, Sackett, Schoonmaker, Scudder, Stanly, Thaddeus Stevens, St. Martin, Taylor, George W. Thompson, Thurston, Toombs, Townshend, Venable, Walsh, Ward, Washburn, Watkins, and Wells—65.

So the bill was passed.

Mr. CLINGMAN moved that the vote by which the bill was passed be reconsidered, and that the motion to reconsider do lie upon the table; which latter motion was agreed to.

House bill No. 253, making appropriations for the completion of the public buildings in the Territory of Minnesota, being next in order, was then taken up and read.

The bill was ordered to be engrossed and read a third time; and having been engrossed, it was read the third time and passed.

Senate bill No. 175, relating to the salaries of the officers of the Territories of the United States, and to repeal the proviso in the act entitled "An act making an appropriation for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1852, and for other purposes," being next in order, was then taken up and read.

The SPEAKER. The committee have reported an amendment, in the nature of a substitute for this bill, which will be read by the Clerk.

The amendment having been read,

Mr. RICHARDSON moved the previous question; which was seconded, and the main question ordered to be put.

The question being first upon the amendment, it was taken, and decided in the affirmative.

So the amendment was passed.

The bill as amended was then ordered to be engrossed and read a third time; and having been engrossed was read the third time and passed.

Mr. RICHARDSON moved to reconsider the motion by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

House bill No. 254, to run and establish the boundary between the State of Texas and the Territories of the United States, was next taken up and read.

The SPEAKER. The bill was reported from the Committee of the Whole on the state of the Union with an amendment. The question will be first upon the amendment, to insert in the 2d section, after the word "of," "\$25,000."

The question was then taken upon the amendment, and it was agreed to.

The bill as amended was then ordered to be engrossed and read a third time, and, being engrossed, was read the third time and passed.

House bill No. 255, making further appropriations for the construction of roads in the Territory of Minnesota, was next taken up and read.

The SPEAKER. This bill was reported from the Committee of the Whole on the state of the Union with amendments. The question will be first upon the amendment, to add in the tenth line, after the words "Lake Superior" the words "by the most direct and convenient route between those points," so as to make it read, "for the construction of a road from Point Douglass, on the Mississippi river, to the falls or rapids of the St. Louis river, and Lake Superior, by the most direct and convenient route between those points, \$20,000."

The question was then taken upon the amendment, and it was agreed to.

The SPEAKER. The second amendment proposed by the committee is, to strike out of the twenty-first and twenty-second lines the words "Governor and Legislative Assembly of said Territory," and insert in lieu thereof the words "Secretary of War, pursuant to contracts to be made by him," so as to make it read, "the said roads to be constructed under the direction of the Secretary of War, pursuant to contracts to be made by him."

The question was then taken upon the amendment, and it was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and, being engrossed, was read the third time.

Mr. STANLY. Will the chairman of the Committee on Territories inform me of the amount appropriated by that bill for internal improvements?

Mr. RICHARDSON. I stated the other day that these were bills which did not come from the Committee on Territories. They came from other committees of the House, and belong to territorial business. I have not the information asked for by the gentleman from North Carolina, [Mr. STANLY.]

Mr. SIBLEY. If the gentleman from North Carolina [Mr. STANLY] will permit me, I will answer him. This bill provides \$45,000 for a continuation of roads which have been commenced after a survey by the Department of War. The amount is less than one half that estimated for.

Mr. HOUSTON. If the gentleman from North Carolina will refer to the report of the proper bureau he will find the estimates for the completion of these roads, with the exception of one, which it is proposed to have surveyed, to be something about \$100,000. I think that is about the amount, though it may be a little over.

Mr. STANLY. This internal-improvement bill should wait the general bill for that object. I do not think it is exactly fair, either for the Territories or for any one of the States, to force their bills through without adopting some general system which shall benefit the whole.

The SPEAKER. The gentleman will suspend until better order is restored.

Mr. STANLY. I will not trouble the House further. They will not have order until after the nominations are over. [Laughter.] I ask for the yeas and nays upon the passage of this bill.

Mr. RICHARDSON. I desire the ear of the gentleman from North Carolina [Mr. STANLY] for a moment. There are two or three bills behind this to which there will be no objection. If this can be passed over informally until I can get them passed, I shall be much obliged to the House.

Mr. STANLY. Certainly; I have no objection to that. There are two hundred and sixty miles of this road provided for, and five hundred to complete it, and no one can tell what it will cost in the end. I hope the bill will be passed over informally.

Mr. SIBLEY. I hope the bill will not be passed over informally.

Mr. RICHARDSON. I hope the gentleman from Minnesota will allow the bill to be passed over for the present; and as soon as the others are passed, it will come directly up. I only made the suggestion in order to facilitate the passage of the other bills.

Mr. MOREHEAD. Will it be in order to move to lay the bill on the table?

The SPEAKER. The Chair understands that the House agrees to pass it over informally.

Mr. SIBLEY. The bill is precisely like the one passed for the Territory of Oregon, with the exception that it comes more strongly indorsed, for it comes under the requisition of the Secretary of War.

Mr. RICHARDSON. I will withdraw my proposition to pass over.

The SPEAKER. Then the motion of the gentleman from North Carolina [Mr. MOREHEAD] is in order.

Mr. MOREHEAD. I move to lay the bill on the table.

The question was put, and the House refused to lay the bill upon the table.

Mr. SIBLEY. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question was ordered.

The question now being upon the passage of the bill,

Mr. STANLY demanded the yeas and nays.

Mr. ALLISON moved that the House adjourn.

Mr. CLINGMAN demanded tellers; which were ordered; and Messrs. Goodenow and Briggs were appointed.

The question was then taken, and the tellers reported—ayes 72, noes 27.

So the motion was agreed to; and

The House adjourned till twelve o'clock tomorrow.

#### NOTICES OF BILLS.

Mr. BELL gave notice that he would on to-morrow, or some subsequent day of the session, ask leave to introduce a bill for the relief of the legal representatives of George Hobbs, deceased.

Also, a bill to grant preemption rights to certain islands in the Great Miami river.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. STANLY: The petition of Oliver O'Neale and others, citizens, mariners, and owners of vessels in Hyde and Beaufort counties, North Carolina, praying an appropriation for a floating light on the eastern point of Gull Island Rock.

By Mr. CHANDLER: The petition of Samuel C. Mes-ton and other presidents of ten insurance companies of Philadelphia, asking for a restoration of duties paid on merchandise destroyed by fire in Philadelphia.

By Mr. STEVENS, of New York: The petition of Sylvester Gesener, of Nyack, New York, for payment for building schooner Sun Beum.

By Mr. HUNTER: The memorial of Flodardo Howard, Wm. B. Woodward, and J. C. McKelden, for the incorporation of an institution of learning in the District of Columbia.

Also, the petition of Richard Fowler and 91 other citizens of Monroe county, Ohio, in favor of the Wheeling bridge.

By Mr. DIMMICK: The memorial of D. A. Moon and 63 others, citizens of Pennsylvania, praying for an increased allowance of bounty land to the soldiers of the war of 1812.

Also, the memorial of Russell Spencer and 53 others, citizens of Pennsylvania, praying for an increased allowance of bounty land to the soldiers of the war of 1812.

By Mr. JOHNSON, of Tennessee: The petition of P. D. Gentry and 35 other citizens, praying the establishment of a post route, commencing at Baker's Gap post office and terminating at Duggan's Ferry, in Carter county, a distance of 25 miles.

By Mr. DAVIS, of Indiana: The petition of Demas Denning and 175 other citizens of Terre Haute, in the State of Indiana, praying an appropriation for the improvement of the navigation of the river Ohio, at the Falls, by the construction of another and free canal, or some other similar improvement, as recommended by Colonel Long, superintendent of western improvements, in his last report.

By Mr. ALLEN, of Illinois: The petition of Pleasant Eaton and 31 other citizens of Saline and Hardin counties, asking that mail route No. 4,188, from McLeansboro', in Hamilton county, Illinois, to Raleigh, in Saline county, be extended to Elizabethtown, in Hardin county, in the State of Illinois.

#### IN SENATE.

TUESDAY, June 8, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. WADE presented a petition of citizens of Mount Vernon, Ohio, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. BRIGHT presented a petition of citizens of Indiana, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. SOULE presented resolutions adopted at a meeting of citizens of New Orleans, in relation to the establishment of a navy-yard at that place; which were ordered to be laid on the table, a report having already been made on that subject by the Committee on Naval Affairs.

Also, a petition of the New Orleans, Opelousas, and Great Western Railroad Company, praying

the right of way through, and a donation of, public land; which was referred to the Committee on Public Lands. This being a memorial referring to a matter of considerable moment, in which the Government itself may have a considerable interest, he asked leave to recommend it to the serious consideration of the Committee to which it was referred.

Mr. WALKER presented fifteen petitions of citizens of Wisconsin, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Also, a petition of citizens of Indiana county, Pennsylvania, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Also, a memorial of the members of the National Reform Association of Monmouth county, New Jersey, in favor of the passage of the bill now pending before Congress, commonly known as the "homestead bill," with certain amendments; which were referred to the Committee on Public Lands.

Mr. SHIELDS presented a petition of citizens residing on the northern lakes, and the rivers, bays, and gulfs of the Atlantic coast, praying some immediate action by Congress to prevent the terrible loss of life and property, in consequence of explosions of steam-boilers, and other accidents to steam-vessels upon the western waters; which was ordered to be laid on the table.

Also, a petition of citizens of Wilmington, Illinois; a petition of citizens of Bloomington, Illinois; a petition of citizens of Plainfield, Illinois; two petitions of citizens of Chicago, Illinois; and a petition of citizens of Cook county, Illinois; praying that the bill now pending before Congress, commonly called the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. STOCKTON presented a petition of citizens of Atlantic, New Jersey, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Also, a petition of citizens of Pennsylvania, praying an increase of the duty on iron; which was referred to the Committee on Finance.

Also, a memorial of inventors, praying that the Patent Office building may be completed according to the original plan, and appropriated exclusively to the business of that office; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of William Emmons, sr., for the extension of the patent of Uri Emmons, of 25th April, 1829, for a cylindrical planing machine; which was referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of the United States, praying a modification of the tariff; which was referred to the Committee on Finance.

Mr. HUNTER presented a resolution of the Legislature of Virginia, respecting the wire suspension bridge at Wheeling; which was read and referred to the Committee on the Judiciary, and ordered to be printed.

Also, a resolution of the Legislature of Virginia, respecting the pay and emoluments due the Petersburg volunteers, for services during the last war with Great Britain; which was read and referred to the Committee on Military Affairs, and ordered to be printed.

Mr. MALLORY presented two petitions of citizens of Marion and Nassau counties, Florida, praying that the State may be authorized to select other lands for the support of common schools, in lieu of sixteenth sections covered by Spanish grants, and other sixteenth sections of little or no value; which were referred to the Committee on Public Lands.

Mr. CLEMENS presented an additional document in the case of Edward Stiff; which was referred to the Committee on Public Lands.

Mr. CHASE presented nine petitions of citizens of Ohio, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. BUTLER presented the memorial of B. A. Choachman and others, citizens of George-

town, South Carolina, praying an appropriation for the survey of the harbor at that place, and for placing additional buoys therein; which was referred to the Committee on Commerce.

Mr. CASS presented two petitions praying for grants of land for certain purposes; which were referred to the Committee on Public Lands.

#### INDUSTRIAL CONGRESS.

Mr. JAMES. Mr. President, I hold in my hand a memorial from the Industrial Congress, which recently held a session in this city. Without pledging myself to all the views of that body, I may be permitted to say, that it represents, probably, a hundred thousand persons, most of whom are mechanics and working men of industrious habits and respectable standing. The object of the memorial is, to lay the views of the Industrial Congress, and of those associations which that body represents, before the Congress of the United States, and to respectfully urge the passage of the homestead bill. I ask that it may be read.

The petition was read, and referred to the Committee on Public Lands, as follows:

To the honorable the Senate and House of Representatives, in Congress assembled:

WASHINGTON, D. C., June 4, 1852.

The undersigned, Committee of the "National Industrial Congress," now in session in this city, with due respect to your honorable bodies, represent, that they were sent hither by a large constituency of the industrial interests of society, to press upon your attention and that of the world at large, the great features of reform and good government, which have animated their deliberations and those of six anterior annual sessions.

The measures most prominent among their deliberations have ever been propositions for the creation of laws that shall foster and perpetuate the love of home, and a desire for independence of position in the heart of every inhabitant upon the American soil—to secure which, they propose, first: The exemption of the homestead from alienation for debt. Second, The freedom of the public land to actual settlers, under limitations preventive of monopoly of the soil and the establishment of a commercial landocracy, so destructive of republican institutions, and the democratic instincts of the people. We claim these measures as just and practicable, and aside from man's abstract, natural and individual right to the soil of his country, bold, that he, politically and socially, is as much entitled to a home upon the earth as to the exercise of suffrage, freedom of speech, and of opinion, to life itself, or to any other of the recognized rights of civilized man.

In view of these truths, we crave of your honorable bodies the passage of the "homestead bill," now before you.

WILLIAM J. YOUNG, N. Y.,  
A. H. ROSENHEIM, Penn., } Committee.  
E. W. CAPRON, R. I.,

W. J. MULLEN, of Penn., President.  
E. W. CAPRON, of R. I., Secretary.

#### REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Hiram McCarty, asking remuneration for losses sustained by adhering to the American cause during the last war with Great Britain, submitted an adverse report thereon; which was ordered to be printed.

Mr. WADE, from the Committee on Claims, to which was referred the petition of D. A. Melhorn, praying indemnification for losses sustained in a contract for building a culvert in the city of Washington, submitted an adverse report thereon; which was ordered to be printed.

Mr. PRATT, from the Committee on Claims, to which was referred the memorial of Benedict J. Heard, praying indemnity for property destroyed during the late war with Great Britain, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. STOCKTON, from the Committee on Naval Affairs, to which was referred the memorial of John Duff, asking that a suit brought against him for an alleged violation of contract in the delivery of stone, may be discontinued, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the bill from the House of Representatives to change the name of the American-built vessel Amelia, and to grant a register in her name, reported it back without amendment; and, on his motion, it was considered as in Committee of the Whole; and no amendment being offered, it was read a third time and passed.

Mr. FELCH, from the Committee on Public Lands, to which was referred the joint resolution from the House of Representatives authorizing



the Secretary of the Treasury to ratify and confirm an exchange of lands between the United States and Charles Reynolds, of the city of Natchez, in the State of Mississippi, reported it back without amendment; and, on his motion, it was considered as in Committee of the Whole; and no amendment being offered, it was read a third time and passed.

#### BILLS INTRODUCED.

Mr. MALLORY, by unanimous consent, asked and obtained leave to introduce a bill to authorize the school authorities in the State of Florida to make certain selections for school purposes; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. BUTLER, by unanimous consent, asked and obtained leave to introduce a bill for the relief of the Wilmington and Manchester Railroad Company; which was read a first and second time by its title, and referred to the Committee on Finance.

#### BILL PASSED.

The engrossed bill to authorize the correction of erroneous locations of military bounty land warrants, by actual settlers, in certain cases, was read a third time and passed.

#### HISTORICAL PAINTINGS FOR CONGRESS.

The Senate proceeded to consider the resolution submitted by Mr. COOPER, on the 8th of April, respecting the employment of Leutze and Healy to execute certain paintings for Congress; and, having been amended, it was agreed to, as follows:

*Resolved*, That the Committee on the Library be and it is hereby instructed to inquire into the expediency of employing Mr. Leutze to repaint for Congress his painting representing Washington crossing the Delaware, together with a fellow to it representing Washington rallying the American troops at the battle of Monmouth; also, of employing Mr. Healy to paint two pictures, one representing the throwing overboard of the tea in Boston harbor, the other, the battle of Bunker Hill; also, Mr. Rothermel to execute two paintings, the subjects likewise to be drawn from American revolutionary history.

#### CHEAP OCEAN POSTAGE.

Mr. SUMNER submitted the following resolution for consideration:

Whereas, the inland postage on a letter for a distance within three thousand miles is three cents when paid, and five cents when unpaid, while the ocean postage on a similar letter is twenty-four cents, being a burdensome tax, amounting often to a prohibition of foreign correspondence; and yet letters can be carried at less cost on sea than on land:

And whereas, by increasing correspondence, and also by bringing into the mails mailable matter, now often clandestinely conveyed, cheap ocean postage would become self-supporting:

And whereas, cheap ocean postage would tend to quicken commerce; to promote the intercourse of families and friends separated by the ocean; to multiply the bonds of peace and good-will among men and nations; and thus, while important to every citizen, it would become an active ally, especially of the merchant, the emigrant, and the philanthropist: therefore,

*Be it resolved*, That the President of the United States be requested to open negotiations with the European Powers, particularly with the Governments of Great Britain and France, for the establishment of cheap ocean postage.

On motion by Mr. SUMNER, it was

*Ordered*, That it be laid on the table.

A motion to print the resolution was referred to the Committee on Printing.

#### CATLIN'S COLLECTION OF INDIAN SCENES.

Mr. SEWARD submitted the following resolution for consideration:

*Resolved*, That the Library Committee be requested to inquire into the expediency of reporting a bill for the purchase of Mr. George Catlin's collection of Indian Scenes and Portraits, which are in danger of being sold and lost to this country.

#### SAFETY OF PASSENGERS ON STEAMBOATS.

Mr. DAVIS. Yesterday I gave notice of my intention to ask the Senate to consider the bill to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam." I now move that the prior orders be postponed for the purpose of proceeding to the consideration of that bill.

Mr. UNDERWOOD. I regret very much to oppose any motion coming from my friend from Massachusetts, but I think it is a bad plan to go partially through a subject, and then pass it over. Such is the condition of the bill to provide for the repair and improvement of the dam at the head of Cumberland Island, in the Ohio river. That bill

was partially considered yesterday, and would it not be better to take it up again and finally dispose of it? I presume it will give rise to no more debate, for I am willing to acquiesce in an amendment which was yesterday suggested, to leave the execution of the work to the Executive Department. If, however, we proceed to the consideration of the bill mentioned by the Senator from Massachusetts, we may enter upon a discussion that may occupy a week. I trust that the Cumberland dam bill may have precedence, and if it shall give rise to discussion, I promise to abandon it.

Mr. BORLAND. I will suggest to the Senator from Kentucky, that the proper disposition of the bill which he asks the Senate to consider, is to lay it upon the table, where it should continue to lie until it comes up in a general bill. All such subjects should be acted upon, and live or die together.

Mr. ATCHISON. I beg to remind the Senate that the Minnesota treaties have been acted upon in Executive session, and it is very important that the Senate should again proceed to their consideration.

Mr. DAVIS. I yesterday gave notice of the motion which I have now made to take up the bill which I have designated, and I hoped the Senate would indulge me with its consideration. If, however, the Senate is not disposed to do so, I will withdraw my motion.

The motion was withdrawn.

#### DAM IN THE OHIO RIVER.

Mr. UNDERWOOD. I now move the postponement of all prior orders for the purpose of proceeding to the consideration of the Cumberland dam bill.

The motion was not agreed to.

#### EXECUTIVE SESSION.

Mr. ATCHISON. I now move that the Senate proceed to the consideration of Executive business.

Mr. BRADBURY. Before that motion is agreed to, I desire to say that I hope the Senate will first devote a short time to the transaction of other ordinary business. I wish to call up a small bill that can soon be disposed of; but if it should occupy half an hour, I promise to move that it be passed over for the purpose of proceeding to Executive business.

Mr. ATCHISON. I have pressed the motion which I have now made frequently for several weeks. The Senate is aware of the necessity of proceeding to the consideration of Executive business, which I think the Senate can dispose of to-day, if we proceed to it at once, and to-morrow may be devoted to the business which Senators now urge upon the attention of the Senate.

The motion was agreed to, and the residue of the day was devoted to Executive business.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 8, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

Mr. McCORKLE, by unanimous consent, presented the following resolutions from the Legislature of California; which were disposed of as indicated below:

1. A resolution in favor of the immediate enactment, by Congress, of a law providing compensation for services rendered by volunteers in California during the Mexican war, and for property lost, although said volunteers may not have been enlisted in strict conformity to law; and also for the extension to said volunteers of the full benefits of all the existing laws of Congress relative to persons engaged in the United States military service.

Referred to the Committee on Military Affairs.

2. Resolution in favor of the rigid enforcement of the existing laws in reference to emigrant vessels, and, if necessary, of the passage of such laws as shall guard against the grievous abuses now existing, and secure to those traveling in said vessels, protection to their health and lives.

Referred to the Committee on Commerce.

3. Resolution in favor of the passage of a law by Congress authorizing the proper Department to enter into contract with Lafayette Maynard and John Parrot, for the semi-monthly transportation

of mails between Panama and San Francisco, or between New York and San Francisco, as they may prefer, upon terms equally liberal with the contracts now existing upon this route; this additional contract to provide for the transmission of the mails in the weeks intervening between those fixed for the arrival of the mails, and against the further extension of the contracts heretofore made with the Pacific Mail Steamship Company.

Referred to the Committee on the Post Office and Post Roads.

4. Resolution in favor of an appropriation by Congress for the relief of Elias Waldo, of California, for money expended by him and for his diligence in relieving the destitute, suffering, starving, and sick, among the overland emigrants to California in the year 1850.

Referred to the Committee on Territories.

5. Resolution in favor of a change of the election laws so as to authorize the meeting of the electors in the State of California on the third Wednesday of December.

Referred to the Committee on Elections.

6. Resolution in favor of the establishment of a branch Mint of the United States in the State of California at the earliest possible moment.

Referred to the Committee on Ways and Means, and ordered to be printed.

Mr. McCORKLE. I desire to say something upon the question of printing the last resolution. I believe that question is debatable.

The SPEAKER. The resolution has already been referred and ordered to be printed.

Mr. McCORKLE. I wished to address the House upon the subject of this resolution, but I am not very desirous to do so now, and I will trouble the House no further.

Mr. BISSELL. I rise to a question of privilege—

Mr. MARSHALL, of California. I ask the gentleman from Illinois to yield the floor to enable me to ask a question.

Mr. BISSELL. I will do so for that purpose.

Mr. MARSHALL. I ask the Chair if the question was put upon the motion to refer and print this resolution?

The SPEAKER. It was. The order was made by the unanimous consent of the House.

Mr. MARSHALL. I ask the unanimous consent of the House for the Committee on Ways and Means to report a Senate bill which has lain before that committee since the third day of the meeting of the present Congress—a bill for the establishment of a branch Mint in California. It is a bill to which I believe not a single man in this House has an objection to urge, and one of immense and vital importance to that class which my colleague [Mr. McCORKLE] and myself peculiarly represent. I beg the ear of the House while I say half a dozen words that ought to be heard and ought to be understood. It is believed in this House, and in the country, that gold is worth \$17 per ounce in California. But that is not the fact. From the hand of the laborer, it is turned into the market at \$16 per ounce. Now, this gold is worth about \$17 50 abroad. I believe the average is near \$18. The produce being half an ounce a day, each mining laborer in California pays upon his day's labor a tax greater than the entire wages of the same class of laborers in any other part of the United States. This is an outrage which we have long and patiently suffered—against which we have expostulated often temperately, and which has resulted in the loss of \$20,000,000, to this peculiar class of laborers in California since the discovery of the mines. I ask the consent of the House for that committee to report this bill, and I hope no one will object.

Mr. STANLY. I rise to a question of order.

Mr. MARSHALL. I do not know of any rule which admits of a parenthesis within a parenthesis. I come in a parenthesis myself, and I do not yield the floor to anybody.

The SPEAKER. The Chair understood the unanimous consent of the House to be given to the gentleman from California to make a few remarks in reference to the California Mint bill.

[Cries of "Go on!" "Go on!"]

Mr. MARSHALL. I want to speak for some time, as it will require more than an hour to explain fully this matter to the House.

The SPEAKER. The Chair thinks that, under the consent given by the House to the gentleman

from California, he must necessarily confine himself to a very few remarks.

Mr. BISSELL. But the gentleman from California [Mr. MARSHALL] now announces to me that he desires to speak a long time. If that announcement had been made at first, I would not have yielded him the floor.

Mr. MARSHALL. I will not speak for a long time. I understand that I have the consent of the gentleman from Illinois [Mr. BISSELL] to ask the unanimous consent of the House—if it requires unanimous consent—that the Committee on Ways and Means may report the California Mint bill.

The SPEAKER. The gentleman from California asks the unanimous consent of the House to submit a few remarks in regard to the California Mint bill. Is there any objection?

Mr. OLDS. I should like to know if this interferes with the morning hour?

The SPEAKER. It does not.

Mr. MEACHAM. I object.

Mr. MARSHALL. The gentleman from Illinois [Mr. BISSELL] has never withdrawn from me the assent which he granted me of occupying the floor.

[Cries of "Order!" "Order!" "Order!"]

Mr. CARTER. Is it not too late at this time to rescind the common consent given to the gentleman from California?

The SPEAKER. The Chair decides that the unanimous consent of the House was given to the gentleman to make a few remarks in regard to the bill referred to by him. Some remarks were submitted by the gentleman, and the question now is whether he may continue them. The Chair thinks not, without the unanimous consent of the House.

Mr. MARSHALL. I have no desire to consume one moment of the time of this House.

The SPEAKER. The Chair is well aware of that.

Mr. MARSHALL. All I desire in the world is simply that the House should have a sufficiently active sense of justice now, when there is at last an opportunity, after six or seven months' delay, to do a thing which all the country and all the world knows is right, and ought to be done. There is a chance now to bring up the bill. The Committee on Ways and Means, after seven months, are active at last; and this bill can be now presented, and I do want it done. The House consented to hear me; but now, instead of hearing me for an hour—which I should think they would be polite enough to do, for they hear everybody on a point of order finer than the seven hundredth point of a needle—they waste an hour of time upon a point of order which will be enough to pass this bill, because there is no difficulty about its passage. It came down from the Senate, I believe, unanimously, or nearly so. It is what every one knows ought to be done, and to which no one objects. The Committee of Ways and Means itself is ready to report it, and that certainly removes all doubt about the character of the bill; and I do now beg, as a personal—a political favor—that the House will take up the bill, when they have a chance to escape from under the pressure of their own rules, as an act of common justice.

The SPEAKER. The gentleman from California asks the unanimous consent of the House to take up the bill indicated by him, before proceeding to the execution of the special order.

Mr. BISSELL. I object.

Mr. McCORKLE. I then move to suspend the rules.

The SPEAKER. That motion is not in order, except on Mondays, under the express rules of the House. What proposition does the gentleman from Illinois [Mr. BISSELL] make to the House?

Mr. BISSELL. I give up the floor.

Mr. KING, of New York. I ask that the regular order be proceeded with.

The SPEAKER. The objection to the proposition of the gentleman from California is withdrawn.

Mr. MARTIN. I renew it.

Mr. MARSHALL. It is necessary to rise in one's place before objection can be made here.

Mr. BISSELL. I did not object. Objection was made on the other side of the House. But it is of no avail that I give way to the gentleman, for the moment I yield, objection is made.

Mr. MARSHALL. I rise to a question of order.

Mr. BISSELL. I rise to a privileged question.

The SPEAKER. The gentleman from California rises to a question of order, which has precedence.

Mr. MARSHALL. In a very close and careful examination of the rules of this House, Mr. Speaker, I went as far as the 2d rule, [laughter,] but in attending closely to the debates of the House, I found that at about the 133d rule, all business absolutely stopped *in transitu*, I was discouraged, and did not go any further. I do not pretend to any very high authority upon a question of order, but this much I think I do know, that when a gentleman objects, he is obliged, at least, to rise in his seat to make that objection, with that ordinary respect and formality observed in Congress, as well as everywhere else.

The SPEAKER. The gentleman from New York [Mr. MARTIN] rose in his place, addressed the Chair, and objected, while others were crying in their seats "I object!" "I object!"

Mr. MARSHALL. That question of fact being settled, the difficulty as to the point of order raised by me is removed. I did not hear or see him. I expected that much from New York, and New York will profit by it. I advise New York to proceed in that way, and I promise her she will make something by it.

Mr. BISSELL. I call the gentleman from California to order.

Mr. MARSHALL. You will have to call him out of the House.

Mr. BISSELL. That is what a man gets for being clever. I have almost a mind to say I will never attempt to be clever again at the expense of what I conceive to be justice to the House.

I move, Mr. Speaker, that the vote, by which the House on yesterday refused to lay the bill making an appropriation of land for the benefit of the insane, upon the table, be reconsidered. My object is, of course, to bring the bill before the House for action this morning in that way.

Mr. DEAN. I move to lay that motion upon the table.

Mr. BISSELL. I trust that the motion will not be laid upon the table, if gentlemen desire the bill to be acted upon.

Mr. JONES, of Tennessee. I wish to inquire, as this is not a debatable question, what effect the vote will have, if it is reconsidered? I ask the Speaker another question. There was subsequent action upon this bill—for instance, the proposition to sustain the previous question, and it was voted down. The gentleman from Minnesota [Mr. SIBLEY] obtained the floor, and while he was upon the floor, the orders of the day were called for. Now, sir, if a reconsideration of this vote brings the bill back before the House, of course it brings back the motion to lay upon the table. What becomes, then, of the subsequently-acquired right of the gentleman from Minnesota to the floor? Will it cut him off? And if it does cut him off, can it bring the bill before the House?

The SPEAKER. The Chair will decide those questions when they arise.

Mr. DEAN. I move to lay the motion of the gentleman from Illinois [Mr. BISSELL] upon the table.

Mr. STANLY. Upon that motion I ask the yeas and nays.

Mr. JONES, of Tennessee. I submit, as a question of order to the Chair, that the motion to lay upon the table having failed—thus leaving the bill before the House, it is not in order to reconsider it. It is like a motion to adjourn, sir, and it can be renewed at any moment, and is not one that can be reconsidered. If it had been laid on the table, then the motion to reconsider would be in order; but having failed, it is like a motion to adjourn, which can be renewed at any moment, and which cannot, therefore, be reconsidered.

The SPEAKER. The Chair has looked with some little care to this question. The motion to reconsider is a privileged motion, as the gentleman from Tennessee [Mr. JONES] understands very well. A vote was taken to lay the bill upon the table, and the House rejected the motion. A motion is now made to reconsider that vote. Under the rule, the Chair does not see how he could decide that the motion to reconsider is out of order, it being one of those privileged questions laid down so plainly by our rules. Although the Chair admits there is force in the position taken

by the gentleman from Tennessee, [Mr. JONES,] yet he is inclined to decide that the motion is in order, and that it brings the bill before the House.

Mr. JONES. Suppose the House should refuse to adjourn, would it be in order to move to reconsider that vote?

The SPEAKER. Not at all.

Mr. JONES. This is like a motion to adjourn.

The SPEAKER. The gentleman from North Carolina [Mr. STANLY] demands the yeas and nays.

Mr. CLINGMAN. Before the question is put I want to understand the precise point we are voting on. Now, if we shall reconsider the vote, then the question will be again, "Shall the bill be laid upon the table?"

The SPEAKER. That will be the question.

Mr. CLINGMAN. Then I take it we shall be in the same condition that we are now in. The bill is now before the House, and any one may move to lay it upon the table; and why should we be obliged to go back, and reconsider the motion to lay upon the table when we make no progress by it?

The SPEAKER. The Chair would state, that there is some doubt in his mind in regard to this question of order; that he is inclined to the opinion that it is proper for the motion to be submitted to the House; and that the motion to reconsider brings the bill before the House, which would otherwise take its place upon the table of the Speaker.

Mr. CLINGMAN. I wish to inquire of the Chair whether this was not the pending matter when the morning hour expired on yesterday, and whether it will not come up to-morrow as such?

The SPEAKER. It was the pending matter; but, under the rules, the House having left it in that condition—there being no pending motion to commit—according to the practice of my predecessor, it would have gone upon the Speaker's table with the orders of the day.

Mr. ORR. I have great respect for the opinion of the Chair upon the question of order, but I am thoroughly satisfied in my own mind that the motion to reconsider cannot, at the present stage of the matter, be entertained by the House. The gentleman from Minnesota, [Mr. SIBLEY,] as was stated by the gentleman from Tennessee, [Mr. JONES,] obtained the floor. He has a right, therefore, to be heard on the bill when it next comes up. Well, the reconsideration by the House simply restores the bill to the point it was at when the House refused to lay it on the table. You make no progress at all, but you interfere with rights subsequently acquired. I therefore respectfully appeal from the decision of the Chair entertaining the motion to reconsider.

Mr. BISSELL. I will make a suggestion which I trust will obviate the whole difficulty in the way. If it is the pleasure of the House to make this bill the special order for Friday or Saturday next week, I will withdraw the motion I have submitted.

Mr. JONES, of Tennessee. I object to that.

Mr. STUART. I desire to submit a statement on this point, but I understand that it is not debatable.

The SPEAKER. It is not debatable; but the Chair trusts that the House will allow the gentleman to submit his statement, confessing that he has some doubts in regard to the point of order.

Mr. STUART. One statement is incorrect in its effect. If the motion to reconsider shall prevail, the effect of it will be to bring the bill before the House. Now, when the bill is brought before the House, it must stand where it stood when the motion to lay on the table was put; and it no more follows that the gentleman from Minnesota [Mr. SIBLEY] has lost the floor by its effect than if it were not submitted.

The SPEAKER. The Chair discovers at a glance the difficulty to which the gentleman refers. When the bill was up, a motion was made to lay it on the table. That motion failed. The bill was further considered, until the expiration of the morning hour, when the House passed from its consideration—the gentleman from Minnesota occupying the floor. A motion is now made to reconsider the vote by which the House refused to lay the bill on the table. If that vote were reconsidered, and the vote taken upon the motion to lay on the table and carried, the gentleman from Minnesota would be deprived of the right which be-

longs to him under the rules. The Chair reconsiders his decision, and now decides that the motion to reconsider is not in order.

Mr. STUART. I desire to present a point of order, and it is this: That the gentleman from Minnesota being upon the floor, and having expressed his desire to make a motion in reference to that bill, and the special order had expired, the floor could be taken from him for the purpose of proceeding to other business in the House.

Mr. RICHARDSON. I rise to make an inquiry of the Chair.

Mr. STUART. I trust that I may be allowed to proceed first in the statement of my point of order.

Mr. RICHARDSON. For a moment. I want to know before we get away from the point of order the condition in which the matter stands. The consequences of a matter is one thing, and the right another thing. Do I understand the Chair to decide, as a question of order, that the gentleman from Illinois [Mr. BISSELL] can move to reconsider the vote upon any proposition, except on a motion to adjourn?

The SPEAKER. When this question shall again come before the body, the gentleman from Minnesota will be entitled to the floor upon it.

Mr. RICHARDSON. That is true.

The SPEAKER. If the motion to reconsider the vote by which the House refused to lay the bill upon the table were entertained, it would bring up the proposition—"Shall the bill be laid on the table?" The House might vote, to lay it on the table, and thereby destroy the right of the gentleman from Minnesota.

Mr. RICHARDSON. The Chair looks to consequences, and not to the right for the decision. If it is right in a decision to take into consideration its probable effect against some member, every proposition to reconsider would be decided to be out of order. That is the question I wish to get at.

The SPEAKER. Gentlemen looking to the practice under the rules must look to the consequences which may result; so that both may harmonize.

Mr. RICHARDSON. Certainly; but we cannot look to the consequences after the rules have been determined. I appeal from the decision of the Chair.

Mr. STUART. An appeal cannot be taken while I am upon the floor stating a question of order.

Mr. RICHARDSON. Then I will take an appeal when opportunity is afforded me.

Mr. STUART. I will beg the ear of the Chair while I state my point of order. The point I make is this: That the gentleman from Minnesota [Mr. SIBLEY] was upon the floor on this bill proceeding to make a speech. He announced his determination before he set down to make a motion to commit the bill to the Committee of the Whole on the state of the Union. Now, sir, under the rules which we established, governing the special order, it was within the power of any gentleman to take the floor and move to proceed to the orders of the day, because the morning hour had expired. Supposing the gentleman from Minnesota had spoken twenty minutes, having the right to speak an hour, this right of another member to interfere with him would still obtain, and the floor could be taken from him. For what purpose? Why, to proceed to the orders of the day. Now, when, on the next day, the special order again comes before the House, would not the gentleman from Minnesota be entitled to the floor to continue to the close of his speech?

The SPEAKER. The Chair decides that the bill is not before the House, and that, therefore, the gentleman from Minnesota [Mr. SIBLEY] is not entitled to the floor. The gentleman from Michigan [Mr. STUART] may be laboring under some mistake with regard to the facts of the case, and the Chair will briefly state them. The gentleman from Minnesota was upon the floor. The gentleman from New York [Mr. DEAN] arose and inquired whether the morning hour had not expired. The Chair responded that it had. The gentleman from New York then demanded that the House should proceed to other business. The gentleman from Minnesota then, and not until then, and after a considerable pause, proposed to submit a motion to commit. The Chair said that it could only be done by unanimous consent.

There was objection, and the Chair decided the gentleman's motion was cut off.

Mr. STUART. The point I make is this: The gentleman had announced his intention to submit his motion to commit at the close of his speech. He was upon the floor making a speech, which he had the right to do for an hour, but at the same time, any other member could take the floor from him. If they did take it from him under that right, my point is, that he still retains the right, when the subject again comes up, to go on and finish his speech.

The SPEAKER. There is nothing in the rules and practice of this body which carries to the Speaker's table business which was left unfinished by passing from the morning hour that sustains the gentleman's point. The Chair decides that there is no such proposition pending; that the gentleman from Minnesota is not entitled to the floor; and that this bill is upon the Speaker's table.

#### ROADS IN MINNESOTA.

The SPEAKER. The first business in order, is the consideration of House bill No. 255, making appropriations for the construction of certain roads in the Territory of Minnesota. When the bill was last under consideration, the demand for the previous question on the engrossment of the bill had been seconded, and the main question was ordered to be put. The question now is: "Shall the bill be ordered to be engrossed and read a third time?"

The question was put, and there were, on a division—ayes 59, noes 35.

Mr. CLEVELAND. I demand tellers.

Tellers were ordered; and Messrs. MOORE, of Louisiana, and STANTON, of Tennessee, were appointed.

Mr. JONES, of Tennessee. This matter is being proceeded with to the exclusion of the business of the morning hour, which is the special order.

The SPEAKER. The Chair was misled at the moment, supposing this to be a bill reported from one of the committees during the morning hour.

Mr. RICHARDSON. It is now too late to object to its consideration. We have had action upon it.

The SPEAKER. It will certainly make no great material difference in the business of the House. The Chair would suggest, that as a matter of accommodation, the House take the vote upon this bill—the main question having been put—before proceeding to the execution of the business of the morning hour.

[Cries of "Agreed!" "Agreed!"]

The question was then taken upon the engrossment of the bill, and the tellers reported that there were—ayes 78, noes 40.

The bill was ordered to be engrossed and read a third time, and having been engrossed, was read the third time.

The question being, "Shall the bill pass?"—

Mr. JOHNSON, of Georgia, demanded the yeas and nays; which were ordered.

Mr. STANLEY. Is it in order to say a word upon this bill?

The SPEAKER. It is in order.

Mr. STANLEY. I wish to call the attention of the House to one of these roads, for which there is an appropriation of \$5,000 made, for surveying and laying out a road from Mendota to the mouth of Big Sioux river, on the Mississippi. It will take some \$200,000 instead of \$5,000 to complete that road. We have had no survey of the road by any officer of the Government, and no one knows what the cost of the road will be. The appropriation for the survey and laying out this road was reported from the Committee on Roads and Canals to the House. Whether it was sanctioned by that committee or not, I do not know. It was reported, I presume, as an act of courtesy and kindness to the Delegate from that district.

Mr. SIBLEY. Will the gentleman allow me to make an explanation?

Mr. STANLEY. I shall be glad to hear some explanation about it.

Mr. SIBLEY. I wish to state to the House, that at the first session of the last Congress, \$5,000 was appropriated for the survey of the road to which the gentleman alludes. Since that time there has been a report made by the engineer who

is in charge of that road under the War Department, stating that the sum of \$5,000 additional will be required to enable him to complete the survey. The report of that gentleman has been made to the Department of the Engineer Bureau; and upon my request, and upon the resolution which I introduced, and which was adopted by the House, the whole document relating thereto was laid before the House at the beginning of the session; and if the gentleman from North Carolina [Mr. STANLEY] had had his attention drawn to that subject, he would have found it exactly as I stated to him, that this \$5,000 is asked for by the War Department.

Mr. STANLEY. What is the length of that road?

Mr. SIBLEY. It is between two hundred and fifty and two hundred and sixty miles long. I beg leave to state further to the gentleman, that the greater part of this road is through a prairie country, and very little is required to make it. It is not like a road running through a timbered country.

Mr. STANLEY. In regard to these roads, we should not spend a great deal in attempting to do what the Territory itself can do. I object to this one-sided, partial way of making appropriations for internal improvements. We have had pending before the Committee on Commerce, since the early part of the session, a bill making appropriations for improvements in canals and navigable rivers, and upon lake coasts, in the interior, which are much more wanted than these roads; and we are not to set an example, and take up one bill from one Territory, appropriating there, nobody knows how much—I think in this bill alone, some \$45,000—and discarding all the other and necessary improvements throughout the United States. It is not fair. Let there be a general bill reported for all these Territories, and for such States as require internal improvements within their borders. A general system is what I desire—a system which will give fair play to all parts of this territory of ours. Let the Territories stand on the same footing with the States; and when they do that we will have justice done to all the States and Territories, and not before. I hope, then, that we shall not set the bad example of partial legislation, by taking up one or two bills like the present, and appropriating unlimited sums of money, and that, too, through an act of courtesy. The gentleman from Minnesota [Mr. SIBLEY] is entitled to all we can give him as a Delegate—he deserves it—but the Territories should not receive such appropriations before the adoption of a general system which would do justice to all of the States. Unless the old States put a stop to this system of voting to the Western country all the money they want, we shall have no harbors improved, no tariff, and no fortifications upon our sea-coast. If we take up these things by piecemeal, this new State and that new State will get their railroads, (as some of them have already got them,) and the interests of the old States will be entirely overlooked and neglected. Such is the operation of the present system, if it can be called a system. The present mode of legislating upon this subject is partial and unjust in its character. I hope it will be abandoned, and that we will wait until we get some fair and general plan, which will do justice to all the States. Then I will cheerfully vote to give the Delegates of Territories all they want. I am willing to give them everything reasonable, and everything in the way of internal improvements, and in other matters, which they ought to have; but until we have justice done to the old States, I trust that the House will pause in their career; that it will not pursue a policy that gives to one portion of the country lavish appropriations for internal improvements, and denies it to the others.

Mr. SIBLEY. I am not about to detain the House with any remarks at this stage of the proceedings, as to the abstract right of Congress to make appropriations of money for constructing roads in Territories. I take it for granted that every gentleman here is well aware that such has been the practice which obtained at the beginning of the Government, and has been continued from that time down to the present. I beg leave to state to the gentleman from North Carolina, [Mr. STANLEY] that the Territory of Minnesota has never received one acre of land, and never asked for one acre of land, except what was given her



for educational purposes. She has never asked for anything which is unreasonable; and the amount of money expended there has been limited indeed. We have no light-houses. We have never asked for the improvement of rivers; but all that we have asked of this Congress is, that you will give us a small amount of money to enable us to build a road, by which we may be enabled to pass from one part of the Territory to another. With this statement, and knowing that the House will not, under any circumstances, confound the system of internal improvements in the States with these small territorial appropriations, I move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The question was then taken upon the passage of the bill, and there were—yeas 85; nays 83; as follows:

**YEAS**—Messrs. Charles Allen, Allison, John Appleton, Bell, Ribbhaus, Bowie, Branton, Lewis D. Campbell, Thompson Campbell, Carter, Chandler, Chastain, Clark, Cleveland, Conger, John G. Davis, Dean, Dimmick, Disney, Joty, Duncan, Durkee, Eastman, Edgerton, Ficklin, Florence, Freeman, Henry M. Fuller, Gentry, Giddings, Gilmore, Goodenow, Green, Haven, Hendricks, Henn, John W. Howe, Hunter, Ingersoll, Andrew Johnson, John Johnson, Robert W. Johnson, Landry, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, Mason, McDonald, McLanahan, McNair, Miller, Molony, Henry D. Moore, Murray, Newton, Olds, Andrew Parker, Samuel W. Parker, Pennington, Porter, Rapioul, Richardson, Robie, Schermerhorn, Scudder, Scurry, David L. Seymour, Origen S. Seymour, Smith, Snow, Benjamin Stanton, Fredrick P. Stanton, Richard H. Stanton, Abm P. Stevens, Strice, Stuart, Sweetser, Thurston, Townsend, Walsh, Ward, Washburn, Williams, and Yates—85.

**NAYS**—Messrs. Abercrombie, Ashe, Averett, Babcock, David J. Bailey, Barrere, Beale, Bennett, Bocoek, John H. Boyd, Bragg, Briggs, Brooks, Albert G. Brown, Buell, Burrows, E. Carrington Cabell, Caldwell, Caskie, Churchwell, Cilgman, Cobb, Colcock, Cullom, Curtis, Daniel, George T. Davis, Dawson, Dockery, Edmundson, Ewing, Fowling, Gamble, Grey, Hammond, Isham G. Harris, Sampson W. Harris, Hascall, Hebard, Hibbard, Hillyer, Holladay, Horford, Houston, Howard, Thomas M. Howe, Thomas Y. How, Jackson, James Johnson, George W. Jones, J. Glancy Jones, George G. King, Kuhns, Kurtz, Martin, Meacham, Meade, Millson, Morehead, Nabers, Orr, Outlaw, Phelps, Polk, Robbins, Ross, Schoonmaker, Smart, Stanley, Alexander H. Stephens, Thauden Stevens, Taylor, George W. Thompson, Toombs, Venable, Walbridge, Wallace, Watkins, Welch, Wells, Wilcox, and Wildrick—83.

So the bill was passed.

Mr. RICHARDSON moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

#### CALIFORNIA MINT BILL.

Mr. HOUSTON. As there was objection to the Committee on Ways and Means reporting the California Mint bill, and at the time it seemed to be based upon the fact that it would interfere with the business of the morning hour, I desire now to ask the permission of the House that the committee be allowed to report that bill. I will state a fact or two in regard to this matter—and I think it due to the committee that I should state it—that this bill has been acted upon by the Committee on Ways and Means, and they have been ready to report it, I believe, some three or four months at least. If the bill is to be passed at all, it seems now to be proper that it should be reported to the House.

Mr. SEYMOUR, of New York. I wish to ask a question of the gentleman from Alabama, [Mr. HOCSTON,] which I hope he will answer before he takes his seat. I wish to inquire of him whether the committee of which he is chairman had under consideration also the question of a Mint at the city of New York, and whether they are not ready to report a bill favorable to that application? And if so, I ask of him that he would make the report at the same time he makes this in regard to California.

Mr. HOUSTON. In reply to the question of the gentleman from New York, [Mr. SEYMOUR,] I will state, that the Committee on Ways and Means have also ordered a bill to be reported, establishing a Mint in the city of New York. That bill, I believe, is in the hands of another member of the committee, and not in mine. This bill was acted upon first, and I am willing, under the restrictions of the two bills, to vote for both of them. But this is a bill intended more directly and immediately to reach and relieve the distresses which exist in California than any other bill, and should be disposed of at once. The New York bill, it is true, is one demanded by the commercial interests of that city and the country, and I expect

to support it. This bill, however, goes to sustain and protect against loss the gold diggers—the workers—the men who do not traffic in their own labor, except when forced to do so under circumstances such as exist now in California. They are now forced into a state of traffic by which they lose largely. This bill is intended for the relief of gold diggers and laborers, and hence it is that I make the appeal directly to the House to allow it to be reported. I do not propose, and I think the gentlemen who are in favor of both of these bills should not desire to fasten them together with the view that the one may carry the other. We should allow the two bills to come before the House upon their merits; and if they have merits such as will recommend them to the consideration of Congress, we should let them pass; but do not blend them together. Let them stand untrammelled one by the other. I do not desire that one shall be carried through by the influence of the other.

Mr. SEYMOUR, of New York. I wish to ask the gentleman from Alabama to allow me to say a word or two in this connection. It is not the desire of any gentleman—

Mr. TOOMBS. I rise to a point of order. Has the gentleman from Alabama a right to the floor himself?

Mr. HOUSTON. I ask permission to report this bill to the House.

Mr. TOOMBS. Then I object to it, and that will settle it.

Mr. HOUSTON. The morning hour, I understand, has expired.

The SPEAKER. The morning hour has not yet been consumed.

Mr. HOUSTON. Then I ask for the regular order of business.

Mr. GORMAN. There is a motion pending which I think has precedence at this time, which I ask to have considered. Some three weeks since this House ordered a bill—No. 239, to supply a deficiency to the State of Indiana of lands granted to a university in said State—to be referred to the Committee of the Whole on the state of the Union. The gentleman from North Carolina [Mr. STANLY] moved to reconsider the vote making the reference. I desire that that motion may be considered now. I submit to the Chair whether it has not preference?

The SPEAKER. In reply to the gentleman from Indiana, the Chair states that it is not in order to call up that proposition until the morning hour has expired.

Mr. GORMAN. I thought the morning hour had expired.

The SPEAKER. The morning hour has not commenced yet.

#### FLORIDA RAILROAD.

The SPEAKER. The bill reported by the gentleman from South Carolina, [Mr. ORR,] from the Committee on Public Lands, in relation to the Florida railroad, is the first bill in order. The gentleman from Florida has possession of the bill, so the Clerk informs the Speaker.

Mr. HALL. Is not the Iowa bill the first bill in order this morning? What has become of it?

The SPEAKER. There is a proposition to reconsider the motion to lay that bill upon the table. If that motion is called up, the Chair will rule that it is in order.

Mr. HALL. I do not wish to call it up now.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, stating that that body had passed a joint resolution, and bill of the House, authorizing the Secretary of the Treasury to ratify and confirm an exchange of lands between the United States and Charles Reynolds, of the city Natchez, in the State of Mississippi; also, an act to change the name of an American-built vessel named Amelia, and to grant a register in her name; and an act to authorize the correction of erroneous location of military bounty land warrants by actual settlers on the public lands.]

Mr. DEAN. I ask if any one has a right to call up that motion to reconsider except the gentleman from Missouri, who made it?

The SPEAKER. Not while the gentleman from South Carolina has the floor.

Mr. ORR. I understand the Florida railroad bill is the first business in order.

The SPEAKER. The Florida bill is the first business in order.

Mr. ORR. The bill was ordered to be printed a week ago, when it was postponed until this day. I understand that it is in the hands of the printer, and not yet returned. I therefore move that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

Mr. MARSHALL, of California. I move, sir, if it be in order, as I think it is, that the Committee on Ways and Means be allowed to report back the bill for the establishment of a branch Mint in California.

The SPEAKER. It can only be done by unanimous consent.

Mr. MARSHALL. I ask the unanimous consent of the House.

Mr. STEVENS, of Pennsylvania. I object.

The SPEAKER. Reports are in order from the Committee on Public Lands.

#### GRANTS OF LAND FOR RAILROADS.

Mr. BENNETT, from the Committee on Public Lands, reported a bill making grants of land to aid in the construction of railroads and for other purposes; which was read a first and second time by its title.

Mr. B. I desire to put that bill upon its passage. I do not want to debate it, but I wish to have the vote of the House upon it.

Mr. COBB. I desire to ask the gentleman from New York what bill it is?

The SPEAKER. It is the bill this moment reported.

Mr. BENNETT. I should like to have the bill read.

The Clerk then read the first and second sections of the bill, as follows:

*Be it enacted, &c.,* That there is hereby severally granted to the States named herein, the following amounts of public land, respectively, for the purposes hereinafter mentioned, viz:

To Missouri, three million acres; to Alabama, two million five hundred thousand acres; to Iowa, three million acres; to Michigan, two million five hundred thousand acres; to Wisconsin, two million five hundred thousand acres; to Louisiana, two million five hundred thousand acres; to Mississippi, two million acres; to Florida, two million acres; to Arkansas, three million acres; to California, three million acres; to Illinois, one million acres; to Indiana, all the public lands not sold, located, or reserved, lying within her limits, and one million acres in addition thereto; to Ohio, all the public land not sold, located, or reserved, lying within her limits, and two million acres in addition thereto; and to each of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, Maryland, Virginia, Kentucky, and Tennessee, at the rate of one hundred and fifty thousand acres, for each Senator and Representative in the Thirty-second Congress, from said States, respectively. And to each of the organized Territories, and the District of Columbia, one hundred and fifty thousand acres.

*Sec. 2. And be it further enacted,* That the eleven States, in the preceding section first named, are authorized to apply the proceeds of the lands, hereby severally granted to them, to aid in the construction of railroads in the States respectively. And a right of way through the public lands is hereby severally granted to the said States, and they are severally authorized to take necessary materials of earth, stone, and timber, for the construction of the said railroads, respectively, from the public lands adjacent thereto. And in locating each of the said railroads, and assigning the limits thereto, no more land shall be taken from the United States than is necessary for the convenient construction and use of each of said railroads, respectively, including stations, and the public buildings of all kinds, connected with said roads, turnouts, and such other appurtenances as are necessary or usually enjoyed by railroad companies. And a copy of the location of said several roads, respectively, made under the direction of the Legislature of each State, in which said roads are made, shall be forwarded to the proper local land offices, and the General Land Office at Washington city, within ninety days after the same are completed, respectively, and shall be duly recorded. And there is hereby severally granted to each of the eleven States, in the preceding section first named, respectively, the amount of land therein specified, for the purpose of making railroads therein respectively, as aforesaid, to be taken along the entire length of the line or route of said several railroads, so far as the United States own lands on the line of said several roads, in manner following, viz: every alternate section of land designated by even numbers for six miles in width on each side of said several railroads. But in case it shall appear that the United States have, when the lines or routes of any of said roads are definitely fixed in the manner and by the authority aforesaid, sold any section, or any part thereof, granted aforesaid, or that the right of preemption has attached to the same, then it shall be lawful for any agent or agents to be appointed by the Governor of each of said States, respectively, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States most contiguous to the tiers or sections above specified, so much land in alternate sections or parts of sections as shall be equal to such lands as the United States have sold, or to which the right of preemption has attached as aforesaid, which lands (thus selected in lieu of those sold or to which preemption rights have attached as aforesaid, together with the sections and parts of sections

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designated by even numbers, as aforesaid, and appropriated (as aforesaid,) shall be held by each of the said eleven States first named, respectively, to the amount in the preceding section named for each of said several States, for the uses and purposes aforesaid. But the lands to be so located and selected for, and on account of, each of said roads, shall in no case be more than six sections of land for each mile of said road: *Provided*, That the lands hereby granted to the said eleven first-named States, shall be exclusively applied to construct, or aid in the construction of, railroads in said States, respectively, and shall be sold and disposed of only as the work progresses, and in proportion to the length of railroad completed upon each of said roads, and the same shall be applied to no other purpose: *And provided, also*, That any and all lands heretofore reserved to the United States by an act of Congress, or in any other manner by competent authority for the purpose of aiding in any object of internal improvement, or for any other purpose whatever, shall be, and the same are hereby, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of said railroads through such reserved lands, in which case the right of way only shall be and is hereby granted.

Mr. JONES, of Tennessee, (interrupting.) I wish to inquire how this bill is before the House. The SPEAKER. It was reported a few moments since from the Committee on Public Lands. Mr. JONES. That is the very point I desire to ascertain.

Mr. HALL. I will answer the question of the gentleman from Tennessee. A petition was filed under a rule of this House, which was referred to the Committee on Public Lands, praying Congress to pass this bill.

Mr. BENNETT. I desire to know how the gentleman gets the floor.

The SPEAKER. He is raising a question of order.

Mr. HALL, (resuming.) The petition came up before the Committee on Public Lands, and they directed that bill to be reported back to the House with a recommendation that it do not pass.

Mr. JONES. Then, Mr. Speaker, I make the question of order that it is not a report from the committee. That committee having a petition referred to them, and the majority thereof having voted adverse to the prayer of the petition, the bill reported to the House with a recommendation that it be rejected is a minority report, and does not come properly before the House.

Mr. HALL. I will state that this bill, as I understand, was made a part of the petition, and in that way the Committee on Public Lands took cognizance of it. Being made part of the petition we supposed that it was properly before us, and therefore recommended that it do not pass.

Mr. JONES. The prayer of the petition, if I understood the gentleman, was to pass a bill similar to the bill being now read.

The SPEAKER. The gentleman from Missouri states that the bill itself was a part of the memorial, which memorial the committee ordered to be reported with a recommendation that the bill do not pass.

Mr. JONES. It never came into this House as a bill. It never was introduced under the rule of the House as a bill and referred to that committee. It went to that committee, if I understand the gentleman, under the rule, as a petition, and not as a bill. It cannot, therefore, be got before the House for action in this manner. It is a report of a minority of the committee, and consequently not a report at all.

Mr. HALL. It is a report of the majority of the committee, because the committee decided that a report should be made recommending that the bill should not pass.

The SPEAKER. The decision of the Chair is, that if the bill were embodied and formed part of a memorial, and the committee directed that memorial to be reported back, or made an adverse report upon it, it cannot come in in the shape of a bill to be acted upon and passed by the House.

Mr. JONES. We have a rule here that notice shall be given of intention to introduce a bill.

The SPEAKER. The Chair sustains the view taken by the gentleman from Tennessee, according to the facts stated by him. The Chair, however, wishes to be corrected if he is misled in regard to the statement of facts.

Mr. BENNETT. I wish to make this state-

ment. A memorial was presented to the Committee on Public Lands, asking the passage of a bill similar to the one now presented. The bill did not accompany that memorial. I presented the bill, and upon its presentation a majority of the committee were unwilling to vote for the bill; but the committee, I believe with one exception, directed me to report the bill accompanied by the recommendation that it do not pass, which I intend to take the sense of the House upon as soon as I can get the bill read, by moving the previous question.

The SPEAKER. That being the state of facts, the Chair decides that the bill is before the House.

Mr. BENNETT. That is the fact; but I do not desire to spend any time on the bill.

The SPEAKER. The gentleman from New York states that the bill was ordered to be reported by the committee.

Mr. JONES, of Tennessee. With a recommendation that it be rejected.

The SPEAKER. Then it is a majority report against the prayer of the petition. It is the report by the committee that a bill be reported to the House.

Mr. JONES. But it never was referred to the committee; and if this practice is to prevail, when a member cannot get the consent of the House to introduce a bill, all he will have to do will be just to give a caption to it by way of petition, put the bill at the end, file it, and have it referred to a committee, and the committee can report it back to the House.

The SPEAKER. As the Chair understands the facts they are, that a petition was sent to the Committee on Public Lands; that the Committee on Public Lands, basing their action upon that petition, directed this bill to be reported to the House.

Mr. JONES. Is it in the history of legislative proceedings that a committee have originated a bill, reported it to the House, and recommended that it did not pass? Where a bill is referred to a committee then it is the duty of the committee to report it back.

The SPEAKER. The gentleman from Tennessee, the Chair supposes, will not controvert the proposition, that a committee have the right to originate a bill and report it to the House for its action.

Mr. JONES. I deny the right of any committee to originate a bill and report it here with a recommendation that it do not pass, because it is not a report of the committee, but the minority.

The SPEAKER. The Chair cannot go beyond the report of the committee, which is that this bill be reported to the House. The Chair had heard nothing of the recommendation that it do not pass. That report was not made to the Chair at all.

Mr. JONES. The chairman of the committee states that it was ordered to be reported to the House with a recommendation that it do not pass.

Mr. HALL. The gentleman from New York does not pretend that he was directed to report this bill, with a recommendation that it do pass.

The SPEAKER. The chair is informed that there is a written report of the committee, embracing a recommendation that the bill do not pass.

Mr. BENNETT. I ask that that report may be read.

The report was then read by the Clerk, as follows:

"The Committee on Public Lands, to whom was referred the memorial of George W. Sumner and others, asking that grants of land, for railroad and school purposes, may be made equally to all the States, on some fair and just principle of apportionment, accompanied by a bill for that purpose, have, according to order, had the same under consideration, and report the said bill, without amendment, to the House; a majority of said committee direct that said report be made, accompanied by a recommendation that said bill do not pass."

The SPEAKER. The Chair is of opinion that the bill is regularly before the body.

Mr. SWEETSER. Is it in order to move to lay that bill and report upon the table?

The SPEAKER. Not while the gentleman from New York has the floor.

Mr. JONES, of Tennessee. I must appeal from the decision of the Chair. If that is to be the practice of the House, that bills can be got in in this way, let the House say so.

Mr. TOOMBS. The bill is before the House, as well with one recommendation as another.

The SPEAKER. The gentleman from New York reports a bill from the Committee on Public Lands, accompanied with a recommendation that the bill do not pass. The Chair thinks the report is properly before this body. From this decision of the Chair the gentleman from Tennessee takes an appeal. "Shall the decision of the Chair stand as the judgment of this body?"

Mr. STUART. I understand the report to state the fact which the Speaker decided but a short time ago would make it an adverse report. That report states that this is the very bill which was referred with the memorial. Now, I understood the Chair to say, that if that was the fact, the bill was not properly before the House.

The SPEAKER. The Chair stated, that if a bill was embodied in a memorial, and that memorial was reported with an adverse report from the committee, that then it could not be considered in the form of a bill. But the Chair understands the report of the committee in this case to be precisely this: that the bill now being read by the Clerk should be reported to the House with a recommendation that it do not pass. It is for the House to determine whether it will follow that recommendation or not.

Mr. STUART. I call the attention of the Chair to the report of the committee. The Chair will see that it states that the memorial, together with the bill, was referred to the Committee on Public Lands.

The SPEAKER. The Chair thinks that would not alter the proposition at all, and that the bill is properly before the House.

Mr. STEPHENS, of Georgia. Our rules declare how bills can be brought before this House. This bill has not come in in pursuance of those rules. The fact that the committee reported back this bill does not make any exception, because they were bound to report it back.

The SPEAKER. The Chair thinks it does not.

Mr. STEPHENS. Then how can this bill get into the House?

The SPEAKER. It was reported by the Committee on Public Lands.

Mr. STEPHENS. They were obliged to report back what was sent to them. They could not destroy the paper. They were obliged to report it back because it was a part of the memorial.

The SPEAKER. The Chair understands it was not a part of the memorial. It is a bill which the committee have ordered to be reported, basing their action upon the memorial.

Mr. STEPHENS. I did not understand it so. I understood the gentleman from Missouri [Mr. HALL] to say that the bill was a part of the memorial.

The SPEAKER. That statement has been corrected. The Chair will again state the facts, and begs the committee to correct him if he is in error.

Mr. JOHNSON, of Georgia. I move to lay the appeal upon the table.

The SPEAKER. As the Chair understands it, a petition or memorial was referred to the Committee on Public Lands. Basing their action upon that memorial, the committee have reported a bill, with a recommendation, to be sure, that the bill do not pass. But the committee having directed the bill to be reported, the Chair is of the opinion that it is properly before the House, and it is for the House to determine whether they will follow the recommendation of the committee or not. That being the decision of the Chair, the gentleman from Tennessee [Mr. JONES] takes an appeal. The gentleman from Georgia [Mr. JOHNSON] moves to lay the appeal upon the table.

Mr. JONES, of Tennessee. I merely wish to say this: that the committee has no right to originate a bill, report it to the House, and recommend its rejection.

[Cries of "Order!" "Order!"]

The question was then taken on Mr. JOHNSON'S motion, and it was decided in the affirmative—ayes 90, noes 41.

So the appeal was laid upon the table, and the decision of the Chair was sustained as the judgment of the House.

Mr. OLDS. Has the bill received its second reading?

The SPEAKER. It has, and is being read for the information of the House. After the bill was, in the ordinary way, read a second time by its title, the gentleman from New York [Mr. BENNETT] said it was his wish to put it upon its passage, and asked that the bill might be read for information. The Clerk was in the act of reading it, when he was interrupted by the gentleman from Tennessee.

Mr. MEADE. Is it too late to make a motion to reject the bill?

The SPEAKER. The Chair thinks it is.

Mr. RICHARDSON. I certainly did not understand that the bill was passing its readings. It was on the point of being reported from the committee, and it was upon that point the gentleman was making his speech.

The SPEAKER. The Chair again states that the bill was read by its title a first and second time, without objection. The gentleman from New York then specified his desire to have the bill put upon its passage, and asked that it might be read. The Clerk was in the act of reading the bill, when he was arrested by the gentleman from Tennessee, [Mr. JONES.]

Mr. HARRIS, of Tennessee. There is a mistake, if I am correct, in regard to a matter of fact. I understand the fact to be, that this is not a bill originated by the committee upon a petition, but a bill that accompanied the petition to the committee.

The SPEAKER. The Chair does not so understand it.

Mr. STUART. That is the very point I made, and I ask the Chair to turn his attention to the report. It is expressly stated there—

The SPEAKER. Will the gentleman state his question of order.

Mr. HARRIS, of Tennessee. I understood the gentleman from New York [Mr. BENNETT] to say that this was not a bill originated by the committee upon a petition, but a bill that accompanied a petition to the committee.

Mr. BENNETT. The gentleman is mistaken as to the facts. The memorial was sent up to the Clerk's desk, and referred to the Committee on Public Lands. There was no bill with it. I presented the bill to the committee, and they directed me to report it to the House with a recommendation that it do not pass. But the bill was not filed at the desk.

Mr. HARRIS. Was this bill originated by the Committee on Public Lands?

Mr. BENNETT. Yes, sir; I am a member of that committee.

Mr. STUART. I ask to have the report read again, and I make the point of order that this bill, as stated by the committee, was sent to the committee with a memorial, and is not a bill which they originated.

The SPEAKER. And for that reason, the gentleman takes an appeal from the decision of the Chair?

Mr. STUART. I take an appeal for the reason that the question now is whether the report of the committee shall be adopted, and not whether the bill shall be put upon its passage.

The SPEAKER. For the information of the Chair and of the House, the report accompanying the bill will again be read. The Chair desires to act understandingly in regard to this matter.

The Clerk again read the report.

Mr. STUART. My point of order is this, that the question on that report is, Shall the report of the committee be concurred in?—that this bill is a part of the memorial, and that the report is adverse to the prayer of the petitioners.

The SPEAKER. The Chair understands that it was the direction of the committee that the bill be reported to the House. It is true that there is a recommendation that the bill do not pass.

Mr. STUART. What is the question, then, before the House?

The SPEAKER. It is, first, upon the reading of the bill, and then upon its engrossment.

Mr. STUART. What becomes of the recommendation of the committee?

The SPEAKER. It is to be followed, or not, as the House thinks proper. The gentleman, the Chair supposes, would hardly take up a report and consider it instead of the bill accompanying the report.

Mr. STUART. Is not the very recommendation of the committee that the bill be rejected?

The SPEAKER. The Chair again states to the House, that, as he understands it, the Committee on Public Lands have directed—and have done so distinctly—the gentleman from New York, a member of that committee, to report this bill for the consideration of the House. It is true they have submitted a short report, in which they recommend to the House that the bill do not pass. The Chair again decides that the bill is before this body, and that it is for the House to follow, or not, as it may see fit, the recommendation of the committee, aside from the bill.

Mr. STUART. Will the Speaker allow me to ask this question: Is there any distinction between—[Loud cries of "Order!"]—I take it that I have a right to state my point of order.

The SPEAKER. The gentleman has a right to state his point of order, and take an appeal.

Mr. STUART. Is there any distinction between a report from the Committee on Public Lands and a report from the Committee of the Whole on the state of the Union? A report being made to the House, with a recommendation that the bill be rejected, is not the question, in either instance, on concurring in the report of the committee?

The SPEAKER. Does the gentleman take an appeal from the decision of the Chair?

Mr. STUART. I do.

The SPEAKER. The gentleman again proposes to appeal from the decision of the Chair on a point which has already been determined by the House. The Chair thinks it is hardly competent for him to do so.

Mr. STUART. I do not think it is the same point. I make the point that the first question, and the only question that can be first put, is upon concurring upon the report.

The SPEAKER. What would the gentleman do if the committee only recommended the passage of the bill? Would he take up the report and act upon it, or would he act upon the bill?

Mr. STUART. If the committee recommended the passage of the bill, then the question is on the ordinary stages for that purpose. But, suppose the House adopts the report of the committee in this case, that settles the question; if they reject the report of the committee, then the bill is before the House for consideration.

Mr. FOWLER. I rise to a point of order, which lies back of all this. The gentleman from New York [Mr. BENNETT] reported this bill and proposed to put it upon its passage. He then requested that it might be read for information. The Speaker asked if there was objection, no objection was made, and the reading proceeded. Now I hold that it is out of order to interrupt the reading until it is through.

The SPEAKER. For that reason, as well as for the reasons given by the Chair, the Chair overrules the question of order.

Mr. STUART. Under the circumstances, I take an appeal from the decision.

Mr. FOWLER. And I move to lay the appeal upon the table.

Mr. STUART. I ask for the yeas and nays on that motion.

The yeas and nays were not ordered.

The question was then taken on Mr. FOWLER'S motion, and it was agreed to. So the appeal was laid upon the table, and the decision of the Chair was sustained, as the judgment of the committee.

Mr. HARRIS, of Tennessee. I submit this question of order, that this bill was not originated by the Committee on Public Lands; that it never was introduced into this House and referred to that committee. It seems to have been reported back by the committee upon the supposition that it was introduced and properly referred to them, and they felt it to be their duty to report it back to the House, with a recommendation that it do not

pass. If the Clerk will refer to the Journal, we can ascertain whether it was introduced and so referred. I hold in my hand the written report of the committee, which is in these words: "The Committee on Public Lands, to whom was referred the memorial of George W. Sumner and others, asking that grants of land, for railroad and school purposes, may be made equally to all the States upon some fair and just principle of apportionment, accompanied by a bill for that purpose, [the memorial accompanied by a bill!] have had the same under consideration," and so forth.

Mr. BENNETT. I think the great difficulty results from a misapprehension of the facts of the case. The bill was drawn by myself, and the committee agreed, with but one dissenting voice, to report it to the House for consideration. But a majority of that committee were not willing to vote for the bill, and therefore they voted to report it to the House with a recommendation that it do not pass.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Tennessee, [Mr. HARRIS.] The reason stated by the gentleman from Massachusetts [Mr. FOWLER] would be conclusive if there were no other reason. But this bill was reported by the Committee on Public Lands, was received without objection, and was read a first and second time. It is therefore too late now for the gentleman to raise his point of order.

Mr. HARRIS. I have no disposition to appeal. I desire, however, to say to the gentleman from New York, [Mr. BENNETT,] that if I have misconceived the facts, I was misled by the written report of the Committee on Public Lands.

Mr. POLK. I desire to inquire if the morning hour has expired?

The SPEAKER. It has not.

Mr. FOWLER. I insist the reading of the bill shall be concluded.

The remainder of the bill was then read.

Sec. 3. *And be it further enacted*, That of the lands granted by this act to the said first-named eleven States, a portion thereof shall be applied in conformity with the foregoing provisions, to aid in the construction of the railroads already commenced by said States respectively, or for which said States have made appropriations, or pledged the credit of said States respectively, and the remainder of the land hereby granted to each of said several States, to be applied in the manner aforesaid, to aid in the construction of such other railroads as the Legislatures of said several States may respectively designate.

Sec. 4. *And be it further enacted*, That the nineteen States in said first section of this act last named, and said Territories and District, are severally authorized to apply the proceeds of the lands hereby severally granted to each of said States, Territories, and District to the support of schools. And the Commissioner of Public Lands, under the direction of the Secretary of the Interior, shall issue to each of said nineteen States, said Territories, and District, respectively, land warrants to the amount in all to which each of said nineteen States, and said Territories and District, are respectively entitled under this act, (except so far as the lands granted to Ohio and Indiana are situated within the limits of said States.)

And said nineteen States, and said Territories and District, are severally authorized to sell and dispose of said land warrants, and the same are to be valid and effectual in the hands of any owner or holder thereof, and may be located by such owner or holder, upon any public lands subject to private entry, in the same manner as land warrants for military services are authorized by law to be located. And the title of the land so located by any owner or holder of said land warrants, shall be secured and perfected to such owner or holder, in the same manner as other land warrants issued by the United States.

Said land warrants shall be so engraved and printed as to prevent deception and counterfeiting; shall be signed by the Secretary of the Interior or the Commissioner of the Public Lands, or for them by such other persons as the Secretary may direct, and countersigned by the Governor of each State receiving the same, or by such other officers as the said nineteen States, Territories, and District, may respectively designate for that purpose; and said land warrants shall be for not less than eighty, nor over one hundred and sixty acres each: *Provided*, That no State, Territory, or District, shall be authorized to locate any warrants in its own name or for its own benefit; and that no warrant issued under the provisions of this act, shall be located upon any lands to which there shall be a preemption right, or on which there shall be an actual settlement and cultivation, except by the person holding such preemption right, or by such settler and cultivator.

Sec. 5. *And be it further enacted*, That each and all of the railroads in any State in the Union, made either wholly, or in part, from the proceeds of the lands granted by this act, are hereby made and declared post-roads, and shall forever hereafter, at all times, transport the mails, military stores, forces, and property of the United States, under the direction of the proper officers thereof, and Congress may by law fix the rate of compensation to be allowed for such services.

Sec. 6. *And be it further enacted*, That all mineral lands are hereby reserved to the United States from the operation of this act, except such as are by law subject to private entry by individuals.



SEC. 7. And be it further enacted, That all the land granted (by any other act) during the present session of Congress, to any State to aid in the construction of any railroad therein, shall be deducted from the amount granted by this act to said State.

Mr. BENNETT. Mr. Speaker, I do not desire to debate this bill, but to explain its provisions. It is intended as a general bill, in lieu of the various railroad bills urged upon the consideration of Congress; and to grant to each of the land States an amount of public lands sufficient for railroad purposes, placing them all under the provisions of a general law, and upon as nearly an equal footing as possible, taking into the account the situation and extent of each State, their condition as to navigable rivers, &c., and the amount of grants already made to each State—some having had more and some less. It has been carefully examined by members from the different States, and we have endeavored to get it as near what will be equally just to the several land States, all things considered, as it is possible to do.

It is one recommendation to this bill that it prevents partial and special legislation, and grants to all the land States land for railroads by a single act, and upon the same terms, and upon principles of fairness and equality. But it bears a still stronger claim to support, from its granting to the other States also a share of the public lands for the support of schools. Thus giving to all the States some benefit of the public lands, and not bestowing these grants exclusively upon only a part.

The second section provides the manner in which the land shall be taken, which is the same as those contained in the Iowa railroad bill, which was prepared with great care in the Senate. This is applied to all the lands granted for railroads.

I wish to call the attention of Western gentlemen to two important advantages to them which this bill has over their special bills even, if they could pass them. The first is, all these separate bills double the price of the alternate sections, to make up to the Government the loss of the land given to these roads. And this bill grants for roads to the land States over thirty millions of acres in all, which at the Government price would amount to some \$40,000,000. This bill does not double the price, and will save that amount to the land States;—enough to pay for all the land granted by this bill to the old States, and about \$7,000,000 more! The other is, that their bills all limit the land to be taken within fifteen miles of the road. This only limits it to six sections for each mile of the road. In both these respects this bill is decidedly more favorable to the land States than their own bills, which they urge so strenuously.

Mr. RICHARDSON. I desire to inquire if the morning hour has not expired?

The SPEAKER. It has not.

Mr. BENNETT. Now, in order to show with how much liberality I mean to treat the land States, I will say that there has been already granted to those States every sixteenth section for schools. This bill proposes to grant to the old States, land to the amount of 150,000 acres to each Senator and Representative, for school purposes; yet it will not give to them so much in proportion to population as has been already granted to the land States; and it proposes to give to the land States, for roads, about five million acres more than is granted to the old States for schools, although the latter are double in population, and should have—according to population—double the amount of land, yet by this bill, they will receive less than the land States do. Upon the score of liberality, the land States stand in this position: They have lands granted them both for schools and roads, while the old States have lands granted them for schools only. And gentlemen ought not to be so illiberal as to refuse to vote an appropriation, under these circumstances, for schools to the old States, when they get both, for schools and for roads also.

Mr. COBB. I wish to make one inquiry. The gentleman from New York knows my feeling in relation to the objects of this bill. He is aware that I voted against it in committee. I am the exception he alludes to, who voted against reporting this bill to the House. I never agree to report what I cannot vote for afterwards. But supposing there was a probability the bill might pass, I had a conference with the gentleman from New

York, and he agreed that the bill should be so amended, as to allow the various land States to locate their lands in a solid body, and not requiring them to locate them in alternate sections. Inasmuch as I contended that the old States, in locating their lands, would take them in a solid body, I asked, if the bill passed, that the new ones should be allowed to take theirs in a solid body, contiguous to the line of the railroad, and not be required to take alternate sections. The gentleman from New York acceded to the proposition, and I suppose he is willing still to have the bill so amended.

Mr. BENNETT. I could not do so without the consent of the committee that authorized it to be reported. And beside, I think such an amendment would render the bill much less acceptable on all hands. This bill gives them a larger grant of land than is given to the old States, for this very reason. By the present system, they were limited to take the land within fifteen miles of the road. In this they are not. They are required to take it, as near as they can conveniently, to the line of the road; but they are allowed to take six sections to each mile of the road. So this bill is better than gentlemen's individual propositions.

Mr. COBB. In Alabama, if you take alternate sections, you cannot get land enough within forty miles of the road to make the six sections to the mile.

Mr. BENNETT. I ask the Clerk to read what I send to his desk. But, in the first place, I will move to recommit this bill to the Committee on Public Lands. I ask the Clerk to read this statement, showing how much land by this bill would be granted to the land States, and how much to the other States.

The following is the amount of lands granted by this bill to the land States for railroad purposes, to wit:

	Acres.		Acres.
Iowa.....	3,000,000	Alabama.....	2,500,000
Michigan.....	2,500,000	Louisiana.....	2,500,000
Wisconsin.....	2,500,000	Florida.....	2,000,000
Missouri.....	3,000,000	Mississippi.....	2,000,000
Arkansas.....	3,000,000	California.....	3,000,000
Illinois.....	1,000,000	and has before had.....	2,700,000
Ohio.....	2,000,000	and all her lands.....	216,000
Indiana.....	1,000,000	and all her lands.....	1,013,000

Alabama has before been granted for the Central Railroad.....	230,400
Mississippi has before been granted.....	549,100

Total granted to the land States for railroads.....34,698,500

This, at Government price, would amount to \$43,373,125

But in addition to these grants for roads, the land States have already had granted to them for internal improvements the following:

Ohio.....	1,243,001 acres.
Indiana.....	1,609,861 "
Illinois.....	500,000 "
Missouri.....	500,000 "
Alabama.....	500,000 "
Mississippi.....	500,000 "
Louisiana.....	500,000 "
Michigan.....	500,000 "
Arkansas.....	500,000 "
Florida.....	500,000 "
Iowa.....	825,078 "
Wisconsin.....	858,400 "
California.....	500,000 "

Amount.....9,038,340 acres.

At Government price.....\$11,296,725  
Add value of land for roads.....43,373,125

Total.....\$54,669,850

The following is the amount of lands granted by this bill for schools to the old States:

States.	Senators and Representatives.	No. of Acres.
Maine.....	9.....	1,350,000
Vermont.....	6.....	900,000
New Hampshire.....	6.....	900,000
Massachusetts.....	12.....	1,800,000
Rhode Island.....	4.....	600,000
Connecticut.....	6.....	900,000
New Jersey.....	7.....	1,050,000
New York.....	36.....	5,400,000
Pennsylvania.....	28.....	3,900,000
Delaware.....	3.....	450,000
Virginia.....	17.....	2,550,000
Maryland.....	8.....	1,200,000
North Carolina.....	11.....	1,650,000
South Carolina.....	9.....	1,350,000
Kentucky.....	12.....	1,800,000
Tennessee.....	13.....	1,950,000
Georgia.....	10.....	1,500,000

Amount.....29,250,000

Mr. BENNETT. I have had these tables read for the purpose of showing the amount of lands granted by this bill. By these tables every one can see how much is granted by it to each State precisely.

This bill will grant some five millions of acres more to the land States than to the other States, including the Central Railroad, and there had been before granted to them for railroads and canals about twelve millions of acres. The land States, if they do not double the price of the alternate sections, will be the gainer by several millions of dollars by this bill. It is better for the country if these railroad bills are to pass one or two at a session, and it is right and just that this public property should be used for school purposes in the old States, as well as for road purposes in the new. There is no other purpose in the world which benefits the entire community as much as these grants for schools. The increasing population of the old States, and the increasing number of children, require an increased school fund, and I do not know where we can ask for it better than to have it taken out of the public lands, when they are being so liberally disposed of for every other purpose. The following resolutions on this subject, from the Legislature of New York, were presented and read on a previous day:

IN SENATE, April 10, 1852.

Resolved, (if the Assembly concur,) That the public land of the Federal Government, having been obtained by grants from individual States, or by conquests, or by purchase, are, by the terms of said grants, and the nature of said purchases and conquests, the joint and common property of the States, and held in trust by the General Government as a common fund for the use and benefit of all the States, and should be faithfully and fairly disposed of for that purpose.

Resolved, (if the Assembly concur,) That while we approve of the policy that has been adopted of liberal grants to the new States, for the purposes of education and internal improvements, we deem it just for the old States to share also in these grants of land, for the same public purposes. And we claim for New York her just and rightful share of the domain, acquired by the blood and treasure of all the States.

Resolved, (if the Assembly concur,) That in consideration of the grants made to the new States, at the time of, and since their admission into the Union, and of the many applications now made for still further appropriations for railroads and internal improvements, our Senators and Representatives be requested to urge upon that body the propriety of making grants of land upon some equal and just principle of apportionment to all the States for the purpose of education, and for other useful public purposes, having due regard to the grants already made, and the population of the respective States.

Resolved, (if the Assembly concur,) That the Governor of this State be requested to forward a copy of these resolutions to each of the Senators and members of Congress from New York, with a request that they be submitted to the consideration of Congress, and that our Senators and Representatives use their influence for the passage of such an act. By order, IRA P. BARNES, Clerk.

IN ASSEMBLY, April 17, 1852.

Resolved, That the Assembly do concur in the foregoing resolutions.

By order, RICHARD U. SHERMAN, Clerk.

Mr. POLK. I believe the morning hour has expired.

Mr. BENNETT. Is my motion entered to recommit this bill to the Committee on Public Lands?

The SPEAKER. The motion is entered.

Mr. COBB. I now move that the House proceed to the consideration of business upon the Speaker's table; and I will say to the friends of the bill granting land for the benefit of the insane, that we can get at that bill in that way.

Mr. GORMAN. Has the morning hour expired?

The SPEAKER. It has; and a motion is made to proceed with the business upon the Speaker's table.

Mr. CLARK. I wish to make an inquiry.

The SPEAKER. The gentleman from Indiana [Mr. GORMAN] has the floor; he rose and was recognized by the Speaker.

Mr. BENNETT. I wish to inquire if I have the floor to-morrow upon the bill upon which I have been speaking?

The SPEAKER. The gentleman will be entitled to the floor.

LANDS FOR THE UNIVERSITY IN INDIANA.

Mr. GORMAN. I this day submitted a suggestion to the Chair, whether the motion to reconsider a vote by which a bill was referred to the Committee of the Whole on the state of the Union two or three weeks since, would not now be properly in order first. I ask the opinion of the Chair.

The SPEAKER. The gentleman has a right,

under the rules, to call up the consideration of the motion to reconsider.

Mr. CLARK. Will it not be in order to move that the House resolve itself into the Committee of the Whole upon the state of the Union?

The SPEAKER. It will not, while the gentleman from Indiana has the floor.

Mr. GORMAN. The bill was reported from the Committee on Public Lands some four weeks ago, and upon some gentleman's motion.

The SPEAKER. Will the gentleman state the character of the bill to which he alludes?

Mr. GORMAN. Upon some gentleman's motion, it was referred to the Committee of the Whole on the state of the Union without the character of the bill being known, and without the delegation from Indiana being advised of the motion pending at the time. The bill provided for refunding to the State of Indiana, for the use of the State University, a deficiency of land found to be due the State under the original grant in 1816. There was granted to the Western States two entire townships of land for the benefit of the State Seminary of learning. When the State of Indiana received hers, it fell short of the amount designed in the law by about four thousand six hundred and twenty-six acres. The State of Indiana has never received that deficiency; and this bill, reported unanimously by the Committee on Public Lands, is intended to supply that deficiency. I desire the House to reconsider the vote by which the bill was referred to the Committee of the Whole upon the state of the Union, because it is the only bill in which the State is directly interested, and one against which there is no possible objection, and about which there can be no possible debate.

The SPEAKER. Will the gentleman from Indiana give the House the title of the bill?

Mr. GORMAN. It is House bill No. 239, entitled "An act to supply a deficiency to the State of Indiana in a township of land granted to said State for the use of a State University, by an act of Congress, approved 19th of April, 1816." The bill was committed to the Committee of the Whole on the state of the Union, and the gentleman from North Carolina [Mr. STANLY] moved that the vote by which the bill was so committed be reconsidered, pending which motion the House adjourned. I ask the House to reconsider the vote referring the bill, for every gentleman here must know that if it goes there, at this advanced stage of the session, it cannot possibly be reached. As the bill meets with no objection from any quarter, and as it is a matter of right that the deficiency thus found to be due to the State by the original grant made in 1816, should be supplied, I hope it will be done. If the bill is not now taken up it will not, probably, pass during this session of Congress. I have been trying ever since I have been in Congress to get this bill through. It was stopped and delayed by other business during the last Congress. It was delayed during the first session of the last Congress, by a protracted discussion upon other important matters. It has been delayed this session by reference to the Committee of the Whole on the state of the Union, and it comes up now upon this motion to reconsider. If there were any objection to it, I would not now urge it. I will briefly say, that the State of Indiana proceeded to sell the land for the benefit of the University, as provided for in the law, when she found that the General Government had sold out of one of the townships four thousand six hundred and twenty-six acres, the proceeds of which has gone into the National Treasury. The State of Indiana only asks you to make up the deficiency of four thousand six hundred and twenty-six acres you sold and put into your own coffers. When she came to receive that donation, she expected to receive two entire townships. That you should supply this deficiency, is the only thing the State asks directly, and the only thing that we have asked directly, or that I expect to ask, for the immediate benefit of my constituents. I therefore ask the unanimous consent of the House, that the vote by which the bill was committed may be reconsidered, and that the bill may be passed.

The question was then put upon the motion to reconsider, and it was agreed to.

The question then recurred upon the motion to commit the bill to the Committee of the Whole on the state of the Union.

Mr. GORMAN. Upon that motion I move the previous question.

[Cries of "No!" "No!" "No!"]

Mr. GORMAN. If that motion is not necessary, I withdraw it.

Mr. HARRIS, of Tennessee. I withdraw the motion to commit the bill.

Mr. GORMAN. Then I ask that the bill be put upon its passage.

Mr. DUNCAN. I ask that the bill may be read.

The bill was accordingly read by the Clerk.

The question then being upon ordering the bill to be engrossed for a third reading, it was put and agreed to.

The bill having been engrossed, it was then read the third time and passed.

Mr. CLARK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. I would inquire of the Chair what becomes of my motion to proceed to the consideration of the business on the Speaker's table?

The SPEAKER. The motion to go into committee is a privileged one, as well as that to go to the business on the Speaker's table. If it fails, the question then will be upon the gentleman's motion.

Mr. STUART. I rise to a question of order. The Chair decided but the other day that the question to go to the business on the Speaker's table must be first put and decided.

The SPEAKER. The Chair still adheres to that decision.

Mr. HOUSTON. That is the first business in order, in passing from the morning hour. The motion of the gentleman from Iowa is a privileged motion, and was first made. The House has already passed from the morning hour.

The SPEAKER. The motions are equally privileged, in the opinion of the Chair. According to our rules, the motion first in order is the motion made by the gentleman from Alabama, [Mr. COBB.]

Mr. POLK. I move to lay that motion upon the table.

Mr. HOUSTON. I do not desire to interfere improperly with anybody's business; but my understanding of the rule has been that it is the proper and only motion when you are passing from the morning hour. If the point is not made, and you pass from the morning hour, it is not then a privileged motion. Its privilege comes immediately after the morning hour. When you pass from the morning hour, without that motion being made, to go to other business, the motion of the gentleman from Iowa is a privileged one, and is to be first put.

The SPEAKER. At the expiration of the morning hour, as the gentleman from Alabama has stated, the motion is in order to go to the business upon the Speaker's table. That is the motion pending.

Mr. POLK. I withdraw my motion to lay upon the table.

The question was then put upon the motion to go to the business on the Speaker's table, and it was agreed to.

Mr. CLARK. I now renew my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, if it is in order.

The SPEAKER. It is in order.

Mr. MARSHALL, of California. Will the gentleman withdraw that motion for a single moment, for it is important at this particular juncture that the California branch Mint bill should be reported.

Mr. CLARK. I do not withdraw my motion.

The question was then taken to go into the Committee of the Whole on the state of the Union, and it was disagreed to.

#### BRANCH MINTS AGAIN.

Mr. MARSHALL, of California. I ask the unanimous consent of the House for the Committee on Ways and Means to report the bill for the establishment of a branch Mint in the State of California; and if it were possible, sir, to make a single remark in connection with the motion, I would simply say, we have just about time enough to pass this bill—a bill which will pass without any discussion, upon which everybody's mind has

been long ago made up. And I hope the House will appropriate to one single point of real business and real importance one of the thousand half hours which have been and which probably will be continued to be sacrificed.

Mr. BRIGGS. While I am not opposed to the proposition of the gentleman to establish a branch Mint in California, I would still feel myself rather recreant to the interests of my constituency were I to permit that measure to take precedence of a bill, now in the hands of the Committee on Ways and Means, for the establishment of a branch Mint in the city of New York. It does not, I think, require any new professions on my part to the members of this, who were members of the last Congress, of my faithful and earnest support of the proposition for the establishment of a branch Mint in California.

Mr. RICHARDSON. I rise to a question of order. If the gentleman objects, that is sufficient; if he does not, debate is not in order.

Mr. BRIGGS. I was merely going to make a suggestion to the House.

The SPEAKER. Discussion is not in order. Is objection made to the proposition of the gentleman from California?

Mr. MARTIN. I object.

Mr. POLK. I ask the unanimous consent of the House, that the Committee on Ways and Means be permitted to report both the New York and California bills for the establishment of branch Mints.

Mr. CHANDLER. I object to that.

Mr. POLK. I will only say to the gentleman from New York that we will never pass his bill in the world.

Mr. HOUSTON. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. The gentleman from Iowa [Mr. CLARK] is entitled to the floor, has a part of his speech made, and he is anxious to get the last half out after the first.

The SPEAKER. No business has intervened between the voting down of the same motion a few moments ago and its renewal now.

Mr. HOUSTON. There were two propositions made.

The SPEAKER. No regular business has intervened.

Mr. HOUSTON. The gentleman from Iowa is exceedingly anxious to conclude the speech he has commenced.

[Cries of "Order!" "Order!"]

The SPEAKER laid before the House a communication from the Treasury Department, inclosing a letter from the Director of the Mint at Philadelphia, suggesting that so much of the act of 18th January, 1837, which obliges the Mint to purchase copper planchets prepared for the copper coinage, be so far modified as to authorize the preparation in the Mint of said planchets from copper bullion; which was referred to the Committee on Ways and Means, and ordered to be printed.

#### INDIAN APPROPRIATION BILL.

Mr. CLARK moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; which motion was agreed to—ayes 96, noes not counted.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair.)

The CHAIRMAN. The first business in order is the bill making appropriations for the support of the Indian Department, and the gentleman from Iowa [Mr. CLARK] is entitled to the floor.

Mr. CLARK concluded the remarks commenced when the House was last in committee, in favor of the Iowa railroad bill. [Mr. C.'s speech is published in the Appendix.]

Mr. MOREHEAD next obtained the floor, but yielded it to

Mr. CAMPELL, of Ohio, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman [Mr. RICHARDSON] reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 43, and had come to no resolution thereon.

On motion by Mr. CLINGMAN,  
The House then adjourned until to-morrow at  
twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PARKER, of Pennsylvania: The petition of D. H. Moore and 204 others, citizens of Pennsylvania, praying Congress to place the soldiers of the war of 1812 and 1814, and their heirs at law, on the same footing with the soldiers of the late war with Mexico, in reference to bounty land.

By Mr. LETCHER: The memorial of the citizens of Santa Fé county, in the Territory of New Mexico, praying, &c.

By Mr. EASTMAN: The memorial of the Legislature of Wisconsin for the establishment of a new land office in said State.

By Mr. MOORE, of Louisiana: The petition of H. Duval and 23 other citizens of the parish of Morehouse, Louisiana, praying that a postroad be established from Bastrop, in said parish, to Winniborough.

#### IN SENATE.

WEDNESDAY, June 9, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. MALLORY presented a petition of the heirs of John H. McIntosh, deceased, praying the confirmation of their title to certain lands granted to said McIntosh by the Spanish Government in 1803; which was referred to the Committee on Private Land Claims.

Mr. BRODHEAD presented a petition of citizens of Pittsburg, Pennsylvania, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. RUSK presented the memorial of Ovid F. Johnson, and his associates, proposing to construct a railroad and line of telegraph from New Orleans to San Francisco, and to carry the mails, in four-horse coaches, from the head of steamboat navigation, on the Red river, via El Paso and the Rio Gila, to San Francisco, upon certain conditions; which was referred to the Committee on the Post Office and Post Roads.

Also, the memorial of Sanforth Kidder, praying the appointment of a tribunal to review the decisions of the late Board of Commissioners appointed for the settlement of claims of American citizens against Mexico; which was referred to the select committee appointed on the subject.

Mr. SOULE presented the memorial of Auguste Métaïf, asking Congress to allow him compensation for services rendered in the customhouse at New Orleans; which was referred to the Committee on Commerce.

Also, the memorial of Thayer & Co., of New Orleans, praying for the grant of certain lands, to effect a communication, by railroad and steamboat, from the Mississippi river to Grand Terre, on the Gulf of Mexico; which was referred to the Committee on the Post Office and Post Roads.

Mr. CLEMENS presented a petition of citizens of New Mexico, praying an appropriation of money in lieu of the land reserved for schools in that Territory; which was referred to the Committee on Territories.

Mr. DOUGLAS presented two petitions of citizens of Illinois, praying that the bill now pending before Congress, commonly known as the homestead bill, may become a law; which were referred to the Committee on Public Lands.

Also, a memorial of John Shaw and others, proposing a railroad, commencing at the most southern shore of Lake Michigan; thence, if practicable, due west to the Pacific; and remonstrating against the proposed Whitney's railroad to the Pacific; which was ordered to be laid on the table.

Also, a petition of Charles Burris and others, praying that land may be granted to certain residents of the United States, and to those who employed substitutes to perform military service for them; which was referred to the Committee on Public Lands.

Mr. DOUGLAS. I have received a memorial, not stating the particular place from which it comes, signed by a large number of persons, in regard to the assumption by the Federal Government of State debts, and referring particularly to the State debt of Illinois, and suggesting a mode by which that debt might be discharged.

I will present the memorial, simply repeating my unyielding opposition to the object for which it prays. I move that the memorial be laid upon the table.

The motion was agreed to.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. MASON, it was

Ordered, That the petition and papers of the heir of Captain Richard Shubrick, deceased, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

#### REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Rufus Van Brunt, praying relief for losses incurred by him in consequence of the occupation of his property, in 1814, by troops raised for the defense of the city of New York, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. HAMLIN, from the Committee on Printing, to which was referred the motion to print the resolution yesterday submitted by Mr. SUMNER, relative to cheap ocean postage, reported in favor of printing the same; which was agreed to.

Mr. GWIN, from the Committee on Naval Affairs, to which were referred the memorial of Benjamin Chapman, and resolutions of the Legislature of California, for the relief of Nathaniel McManafee, Captain William Waldo, Charles N. Hall, and J. J. Petrie, asked to be discharged from the further consideration thereof, and that they be referred to the Committee on Claims; which was agreed to.

Mr. PEARCE, from the Committee on Finance, to which was referred the memorial of William A. Seely, praying the interposition of the United States to enable him to obtain from Holland the reward offered by that Government for the recovery of certain jewels, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Foreign Relations; which was agreed to.

Mr. HUNTER, from the Committee on Finance, asked to be discharged from the further consideration of the following petitions, and that the last-named be referred to the Committee on the Judiciary; which was agreed to:

The petition of newspaper agents in New York and Boston; and

The petition of Henry S. Foote and other citizens of Mississippi.

Mr. DOUGLAS. Mr. President, the Committee on Territories, to which was referred the joint resolution from the House of Representatives changing the name of the St. Peter's river, in Minnesota Territory, have directed me to report it back without amendment and recommend its immediate passage. The fact of the case is simply this: This river is sometimes known as the St. Peter's, and sometimes as the Minnesota river; some acts of Congress designate it by the one name, and some by the other; this produces confusion; the Legislature of the Territory of Minnesota have asked us to fix the name of the river by law. I ask that the joint resolution be acted on now. There can be no possible objection to it.

There being no objection, the joint resolution was considered as in Committee of the Whole. It provides, that the river heretofore known as the St. Peter's river shall hereafter be known and designated on the public records as the Minnesota river. No amendment being offered, it was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

Mr. FELCH. I am instructed by the Committee on Public Lands to report back the bill to extend the provisions of an act approved March 3d, 1847, and an act approved February 26th, 1849, carrying into effect the existing compacts with the States of Alabama and Mississippi, in relation to the five per cent. fund and the school reservation. A bill was reported by the committee some time since, and is now upon the Calendar, which is of precisely the same import as this bill. I therefore move that this bill be laid upon the table.

The motion was agreed to.

Mr. FELCH also, from the same committee, to which was referred the petition of John James Flournoy, asked to be discharged from the further consideration thereof; which was agreed to.

#### REGISTERS OF VESSELS.

Mr. HAMLIN. The Committee on Commerce, to which was referred the resolution of the Senate directing an inquiry into the expediency of authorizing the Secretary of the Treasury to issue registers to vessels in certain cases, have instructed me to report a bill.

The bill was read and passed to the second reading.

Mr. HAMLIN. That bill embodies principles which have met the approbation of the Government from its foundation. It authorizes the Secretary of the Treasury to issue a register to a vessel built in a foreign country, and which has been wrecked in the United States, and purchased by an American citizen, or citizens, in all cases where the cost of repairs equals three fourths of the value of the vessel repaired. We have had numerous applications for the granting of registers of that character, and they have uniformly been granted. The Committee on Commerce have, therefore, deemed it proper to pass a general bill; and inasmuch as the bill is passed on a principle which has been uniformly recognized, and will prevent frequent and vexatious special legislation on the subject, I hope it may be considered now and passed. I move, therefore, that we proceed to its consideration.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole.

There being no amendment proposed, it was reported to the Senate without amendment, and ordered to be engrossed for a third reading. Subsequently it was read a third time and passed.

#### PATENT LAWS.

Mr. DAWSON, from the Committee on Patents and the Patent Office, reported a bill to amend an act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4th, 1836; and also "An act to provide additional examiners in the Patent Office, and for other purposes," approved May 27th, 1848.

The bill was read a first time, and ordered to a second reading.

Mr. DAWSON. I desire, and such is the unanimous desire of the committee, that this bill should be put upon its passage immediately. It is merely to supply what is considered by some an omission in former acts. By the act of 1836, it was enacted that the chief clerk of the Patent Office "in all cases during the necessary absence of the Commissioner, or when the said principal office shall become vacant, shall have the charge and custody of the seal, and of the records, books, papers, machines, models, and all other things belonging to the said office, and shall perform the duties of Commissioner during such vacancy." It has been construed that the latter clause, with regard to performing the duties of the Commissioner, does not apply to the temporary absence of the Commissioner, although by the law, I think that the chief clerk is authorized during such temporary absence, and also in cases of vacancy created by death or resignation, to act in his place. It has been suggested to the committee to remove this difficulty, to add the other words in that bill, "during the temporary absence of the Commissioner." That is the sole object of the bill, and it is absolutely necessary to avoid the difficulty in which patentees may be involved in consequence of the existing laws being construed in two ways. For my own part, I thought the word "vacancy" applied to absence temporarily, as well as to a vacancy created by resignation or death; but, for the purpose of making the thing plain, the committee are of the opinion that we should make this verbal alteration in the law.

The bill was read a second time, and considered by the Senate as in Committee of the Whole. It declares, that whereas, under the second section of the act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4th, 1836, the chief clerk of the Patent Office has, during the necessary absence of the Commissioner of Patents, performed the duties of that office; and whereas, under the first section of the act entitled "An act to provide additional examiners in the Patent Office, and for other purposes," approved May 27th, 1848, the Commissioner of Patents did assume jurisdiction



of, and decided cases pending before the board in the place of which he was substituted by the act; and whereas doubts have arisen whether, by a strict construction of such section, the chief clerk of the Patent Office had authority to act as Commissioner, except in cases of an actual vacancy, and whether the Commissioner of Patents, under the act of May 27th, 1848, took any jurisdiction over cases pending before the board abolished by said act, therefore, in order to remove such doubts, it is enacted that all such acts of the chief clerk of the Patent Office, and of the Commissioner of Patents, shall be held and deemed valid and effectual in law: *Provided, however,* That this act shall not be construed to deprive any person of any other defense under such acts which by law may be made. It also enacts that hereafter the chief clerk of the Patent Office shall in all cases during the necessary absence of the Commissioner of Patents, perform the duties of the Commissioner.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

WILLIAM S. PAYNE.

Mr. HUNTER. I am instructed by the Committee on Finance to report back House bill for the relief of William S. Payne, with the recommendation that it pass, and to ask that it may be taken up and acted on now. It is a small bill, involving the sum of \$50, which was a fine paid by mistake.

No objection was made, and the bill was considered by the Senate as in Committee of the Whole. It enacts that the Secretary of the Treasury be authorized and directed to pay to William S. Payne, of the State of Virginia, out of any money in the Treasury not otherwise appropriated the sum of \$50, being the amount of a fine imposed on him, and by him paid to the collector at Tappahannock, for neglecting to renew the license of the vessel William Page, in 1849.

This was a sum paid by mistake. The Secretary of the Treasury had ordered it to be refunded, but it had been paid into the Treasury, and therefore requires a law to provide for refunding it.

The bill was reported to the Senate without amendment, and ordered to be read a third time; and, being read a third time, was passed.

#### REPORT ON MARINE CONDENSERS.

Mr. PRATT submitted the following resolution; which was agreed to:

*Resolved,* That the Secretary of the Navy be requested to communicate to the Senate the report on marine condensers, of a board constituted under the act making appropriations for the naval service for the year ending 30th June, 1851, approved 28th September, 1850, together with any conclusions and recommendations of the Navy Department on the same.

#### MESSAGES FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the following bills:

An act to run and establish the boundary between the State of Texas and the Territories of the United States;

An act making an appropriation for the completion of the public buildings in the Territory of Minnesota;

An act making further appropriations for the construction of roads in the Territory of Minnesota;

An act to authorize the legislative authorities of the several Territories to control the appropriations to be made by Congress for the support of the Government of said Territories;

An act to supply a deficiency to the State of Indiana in a township of land granted to said State for the use of a State university, by an act of Congress, approved April 19, 1816; and

An act for the construction of military roads in Oregon Territory.

The above-named bills were severally read a first and second time by their titles and referred—the four first to the Committee on Territories, the fifth to the Committee on Public Lands, and the sixth to the Committee on Military Affairs.

#### ADJOURNMENT OF CONGRESS.

A message was received from the House of Representatives, by the hands of Mr. FORNEY, its Clerk, communicating the fact that the House had passed the following resolution:

*Resolved,* (with the concurrence of the Senate,) That the President of the Senate, and Speaker of the House of

Representatives, close the present session of Congress by an adjournment of their respective Houses on Monday, the 16th day of August next, at the hour of twelve, m.

Mr. HUNTER. I think it would be better to lay the resolution on the table for the present. It is impossible for us to say how far the public business will have progressed at the period fixed by it. I should be as well pleased as any other Senator, if it were possible for us to adjourn at that time, but there is yet much to do. We have only passed two appropriation bills as yet, and all the general appropriation bills—I mean the appropriation bills for the next fiscal year—are yet to come up. It seems to me, that it would be premature to pass this resolution to-day; for, although as anxious as other Senators to get away as soon as possible, I cannot forget that the public duty must be discharged. I move, therefore, that the resolution be laid on the table.

The motion was agreed to.

#### SALARIES OF TERRITORIAL OFFICERS.

The PRESIDENT. Senate bill No. 175 has been returned with amendments from the House of Representatives, which will be read and taken up, if such is the pleasure of the Senate. It is a bill relating to the salaries of officers of the Territories of the United States, and to repeal the proviso in the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1852, and for other purposes," approved March 3d, 1851.

The amendments proposed are, to strike out all after the enacting clause, and insert in lieu thereof the following sections:

Sec. 1. That whenever any officer of either of the Territories of the United States shall be absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence shall occur, unless good cause therefor shall be shown to the President of the United States, who shall officially certify his opinion of such leave to the proper accounting officer of the Treasury, to be filed in his office.

Sec. 2. And be it further enacted, That the proviso contained in an act entitled "An act making appropriations for the payment of the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1851, relating to the officers of the Territories of the United States," be and the same is hereby so modified, as to authorize the payment of the salary of any officer therein named, notwithstanding such officer may have been absent from such Territory and his official duties for more than sixty days: *Provided,* The President of the United States shall certify officially his opinion that the absence of such officer has been for good and sufficient cause.

Sec. 3. And be it further enacted, That nothing in the said proviso, or in this act shall be so construed as to prevent the payment of the salaries of the chief justice, associate justices, and the Secretary of State of the Territory of Utah, who have withdrawn from the said Territory for reasons set forth in their report to the President of the United States.

Strike out all after the words "United States" in the title, so that it shall read: "An act relating to the salaries of officers of the Territories of the United States."

Mr. UNDERWOOD. Would it not be better to refer that bill with the amendments to the Committee on the Judiciary? I move that it be so referred in order that the committee may have an opportunity of considering and reporting upon these amendments.

Mr. CLEMENS. I hope that reference will not be made. These amendments were made in the House of Representatives by the concurrence, I believe, of almost every member. They are satisfactory everywhere. The bill, as it is amended, seems to me to be right. It requires no further investigation, and I hope the amendments will be concurred in.

Mr. GEYER. I apprehend there is no material alteration in substance of the bill. The alterations are merely in the phraseology. There are some minor details that are somewhat different from those in the bill as it went from the Senate; but generally, the features of the bill are the same.

Several SENATORS. Let the bill pass.

The PRESIDENT. Does the Senator from Kentucky withdraw his motion to refer?

Mr. UNDERWOOD. I have no objection to the withdrawal of the motion to refer. No gentleman makes any objection, and if Senators are satisfied I am. I withdraw the motion.

Mr. CLEMENS. I move now that the amendments of the House of Representatives be concurred in.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. ATCHISON. I move that the Senate now proceed to the consideration of Executive business.

Mr. GWIN. I hope the Senator from Missouri will withdraw that motion, in order that we may take up the general Calendar. The first business upon the Calendar is a joint resolution authorizing the completion of a war steamer for harbor defense. It has already been under consideration. The Senator from New Jersey [Mr. STOCKTON] has addressed the Senate upon the subject, and I am sure that we can get through with the resolution in a short time, and then I shall be willing to go into Executive session.

Mr. ATCHISON. I have no objection to that course, if there shall be no debate on the resolution.

Mr. GWIN. I have nothing to say upon it. It has been debated by the Senator from New Jersey, and I presume it can be acted upon without debate.

Mr. ATCHISON. Then I withdraw my motion.

#### WAR STEAMER FOR HARBOR DEFENSE.

Mr. GWIN. I move to take up the first general order, being a joint resolution authorizing the completion of a war steamer for harbor defense.

The motion was agreed to, and the Senate resumed, as in Committee of the Whole, the consideration of the resolution. It requires the Secretary of the Navy to have completed, without unnecessary delay, the war steamer contracted for with Mr. Robert L. Stevens, in pursuance of an act of Congress passed April 14, 1842.

Mr. UNDERWOOD. I would like to hear that act of Congress read.

The Secretary read the act, as follows:

"Be it enacted, &c., That the Secretary of the Navy be, and he is hereby authorized to enter into contract with Robert L. Stevens, for the construction of a war steamer, shot and shell-proof, to be built principally of iron, upon the plan of the said Stevens: *Provided,* The whole cost, including the hull, armament, engines, boilers, and equipment in all respects complete for service, shall not exceed the average cost of the steamers Missouri and Mississippi.

"Sec. 2. And be it further enacted, That the sum of \$200,000 be and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, towards carrying this law into effect."

Mr. UNDERWOOD. I would like to ask whether a contract has been made under the act? I presume the Senator from New Jersey can state the facts.

Mr. STOCKTON. Mr. President, I can hardly expect the Senate to listen to another speech from me on the subject of a floating steam battery; but at the request of my friend from Kentucky, I will state the facts of this case. Under the act of Congress, which has been read, a contract was entered into by the Navy Department with Mr. Stevens, for the construction of a steam vessel, shot and shell-proof. He proceeded in good faith to fulfill his part of the contract, and a considerable sum of money has been expended under that contract, part of which Mr. Stevens received from the Treasury. But in his anxiety to fulfill his contract, and to hasten its completion, he has been in advance to the Government from thirty to forty thousand dollars, which, I believe, has not yet been reimbursed to him. A former Secretary of the Navy, (Mr. Preston,) however, became somewhat dissatisfied with Mr. Stevens, under the pretense, as I understand it, that Mr. Stevens would not submit his plans to him, and because of the delay attending the completion of the vessel. Now, sir, the delay was caused by views and motives which he ought to have approved instead of disapproved. It was occasioned by the great anxiety of Mr. Stevens to see that all was right before he proceeded to the accomplishment of his purpose. During the period of this delay, of which complaint has been made, Mr. Stevens was employed in making extensive and expensive experiments, (for which he paid himself,) to ascertain whether the principles upon which he intended to proceed were, beyond all kind of doubt, practical as well as new and irresistible. Sir, I believe that Mr. Stevens has fulfilled his part of that contract with great fidelity; and that he has not been treated with that degree of respect with which a man of his character and standing, and services ought to have been treated, and therefore I have been prompted to take some interest in this matter, and to give my poor aid to do him justice, and preserve the honor of fair dealing.

Mr. President, I believe that this is the most important proposition that has been presented to

Congress for many years. This matter of defense was understood by the immortal Jefferson better perhaps than by almost any other man; and it is high time that the people of the United States were brought to the consideration of the subject of the proper defenses of the country. Everybody who knows anything of our people must feel perfectly satisfied that they never will incur the expense necessary to send fleets abroad for the purpose of contending with the large fleets of other nations; and therefore it is very important (whilst it is not possible for us to get a Navy equal to the navies of foreign nations) that we should take care of our defenses at home. This was the view which Mr. Jefferson took of it; and that much-derided policy of his—the gun-boat system—was, and is, in my opinion, the very system best calculated for the defense of our harbors and sea-coast. If he had had such a man as Mr. Stevens to carry out his policy, our harbors would have been before this time impregnable. Mr. Jefferson's principles were no doubt correct; but he had neither the science nor practical means of carrying them out.

My desire now is to have one such vessel built, and my judgment is, that when this vessel is constructed, there will soon be a similar one built for every one of our important harbors on the coast. As I said the other day, I do not expect these vessels to supersede entirely permanent fortifications; but they will be important auxiliaries—indispensable auxiliaries; because, whilst they have all the impregnability of stone and mortar fortifications, they have also the advantages of the locomotion of a ship. If we should have one of these vessels in each of our principal sea-ports, we might undertake to express our sentiments in regard to, and enforce the laws of nations, and care but little about what other Powers might think of it. But the country, at this time, is not in a proper state of defense; and if an unexpected war should happen, my opinion is, that in thirty days every city on our coast would be a heap of smoking ruins. My conviction is, that one such vessel will defend the harbor of New York from any force that can be sent against it which could probably be able to pass the forts; and if it succeeds, it will be the cheapest and most efficient plan for the defense of our coast, and then we may indeed defy the nations of the earth.

Mr. President, I ask the passage of this resolution now; first, because I consider it indispensable to the proper defense of the country; secondly, because an act of Congress has been passed, and by a unanimous vote of the Senate, for that purpose—including the vote of the lamented Calhoun; and thirdly, because the contractor has performed his duty with fidelity and ability, and because he has not received, in my judgment, from a former Administration of this Government, fair play, or even the respectful consideration which his eminent ability and patriotism deserved.

Mr. HAMLIN. Mr. President, I regret that the Senator from New Jersey has called up the joint resolution at this time. It is a matter to which my attention was called some days since. I had examined the subject somewhat, and I had lying upon my desk a report made by the Secretary of the Navy in relation to it; but it has been mislaid. I have it not now before me. But it occurred to me at the time of investigating it that there was one very serious objection to this measure.

I will concur with the honorable Senator from New Jersey in adopting any system of national defense that shall be effective and economical. If I am not mistaken in my recollection—and if I am, I presume the Senator from New Jersey will correct me—Mr. Stevens originally made the proposition to the Government to construct this vessel for harbor defense; but, after having been called upon by the Department, up to this hour he has never furnished to it, although requested, any plan, or any description of the vessel which he proposed to construct. It would seem, then, that this is an amount of money which is to be placed at his disposal, to be used as he shall see fit, without knowing in what way and for what kind of ship it is to be expended. Now, if I am right in my recollection of the facts as they are presented by the report of the Secretary of the Navy, it does seem to me that before we expend money on any system of harbor or national defense, the work should be examined by some competent authority. If

this money is to be expended, it certainly ought to be expended under the direction of the Secretary of the Navy, and be expended in such way and in such manner as he shall direct. There are undoubtedly various modes of defense, and if each individual who may deem his own plan the better one shall be allowed an appropriation for that purpose, without the mode and manner being prescribed by any authority, we may have as many modes of defense as there are individuals who may seek to enter into them.

If I am right in my conjecture, I think most assuredly the joint resolution is objectionable. I think that the Secretary of the Navy, in the same report to which I have referred, if he does not state directly that it is inexpedient to pursue this course, certainly does not recommend it. I hope the Senator from New Jersey will allow this joint resolution to lie over, at least until to-morrow morning, that I may examine the report, so that I may be able to state clearly and distinctly what are the views presented by the Secretary in relation to this matter.

Mr. UNDERWOOD. Mr. President, the act of 1842 declares that "The Secretary of the Navy be, and he is hereby authorized to enter into contract with Robert L. Stevens for the construction of a war steamer, shot and shell-proof, to be built principally of iron, upon the plan of the said Stevens." Now, I presume that before the contract could have been entered into, according to this act of Congress, Mr. Stevens must necessarily have exhibited his plan. The Secretary, then, has acted, it seems to me, very improperly. The act of Congress authorized a contract to be made for the construction of a steamer according to the plan of Mr. Stevens. It was the duty of the Secretary to see what that plan was before the contract was entered into. He had no authority to make a contract except upon the exhibition of the plan. That plan constituted a necessary ingredient in the execution of the act of Congress, and must have been embraced by the contract.

This act was passed in 1842. It is the act, the reading of which I called for; and I then asked of the gentleman from New Jersey the question whether the contract had been made? He replied in the affirmative. Now, here is the act. If the contract has been made in pursuance of the act, it seems to me that good faith requires the execution of the contract, and Mr. Stevens must necessarily have exhibited the plan before the contract was entered into. I am, however, always in favor of investigation. I have no objection to accommodate the gentleman from Maine, and I think it would be very proper to let him look into the subject, and let us have all the facts. I hope the gentleman from New Jersey will not object to this course.

Mr. HALE. There is one question, in regard to which I want to make an inquiry of some of the gentlemen composing the Naval Committee. If I recollect aright, in the speech that was made on this subject a few days since by the honorable Senator from New Jersey, he pronounced our large vessels-of-war, our ships-of-the-line, entirely useless for purposes of naval warfare. I do not know that I have stated his words exactly, but certainly the idea was, that our large ships-of-the-line and our frigates were useless in naval warfare. Now, by an amendment which we have already adopted to the deficiency bill, we have made provision for five war steamers, or steamers that may be converted into vessels-of-war at any moment. This is practically an addition to our steam marine. We now propose to erect a gun-bow on a large scale for the defense of harbors. My inquiry is this: If, while the Naval Committee are recommending (for it was on their recommendation that the amendment to the deficiency bill was adopted) great additions to the steam marine, which is really useful and beneficial in various aspects of the case, they propose to withdraw any of those large hulks, which the honorable Senator from New Jersey says are entirely useless for naval warfare? In other words, are these to be additions to the useful part of the Navy? Or are they to be substitutes, and are the useless vessels to be withdrawn? I would like to hear from the Committee on Naval Affairs upon that subject before I vote upon this question.

Mr. ATCHISON. I trust this resolution will be postponed until to-morrow, or some other day. I gave way with the understanding that there

would be no debate upon this subject, or, if there was, that the resolution might, by consent, go over.

Mr. STOCKTON. I wish to say but a few words, and then I will give way. I shall not willingly yield to the request of my friend from Maine, [Mr. HAMLIN,] because this bill has been for some time before the Senate. A report from the Naval Committee, in this case, and a memorial has been for some time before the Senate, and it is very evident that the gentleman has not yet read them. I made a speech which I supposed would have made some impression in regard to this subject—but it seems it has not. I do not think that Senators ought to postpone the examination of any subject pending in the Senate, until it is brought up for final action, or to depend for the necessary information which they may glean from the speeches which may be made in reference to it. It seems to me, sir, that it is the proper duty of Senators to acquaint themselves in regard to matters before the Senate, by at least reading the reports of the committees. I shall therefore object, not only in this case, but in all others, to such a course. I am aware that it is sometimes the practice of lawyers to wait till they get into court, to ascertain the merits of their cause without the trouble of any previous investigation. That is not the manner which I desire should prevail in regard to any question before this body coming from the Naval Committee. If the gentleman will look at the report from that committee—of the truth of which there can be no doubt—he will find the following:

"Yet, at this very time, the Department was in possession of the plans of Mr. Stevens, furnished when the original contract was first made, and a further statement of his plan furnished in November, 1844."

Now, surely we cannot postpone the resolution for that. The plans have been presented to the Department. The plans have been considered. If the gentleman would look further, he would find that, year after year, the contracts have been renewed and reaffirmed, and no question made with regard to Mr. Stevens's plans not having been presented to the Department. I hope, therefore, that my friend will be satisfied. I will not, however, go further into the subject, as my friend from Missouri desires an Executive session.

Mr. ATCHISON. I move to postpone the further consideration of the resolution until to-morrow.

The motion was agreed to.

#### EXECUTIVE SESSION.

On the motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and

The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 3, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved. The SPEAKER stated as the first business in order, the consideration of the bill granting lands to the State of Florida, for the construction of railroads therein.

Mr. RICHARDSON. There is a bill lying on your table to secure preemption to the settlers on the Illinois central roads. It ought to be passed or defeated. The Committee on Public Lands have recommended its passage. Unless it is passed in a few days, it will do no good. I apprehend there is no objection to the bill, and it will take but a moment to pass it. I ask that it may be read for information, and then I shall ask the unanimous consent of the House that it may be taken up and put upon its passage.

The SPEAKER. Is the bill in the Committee of the Whole on the state of the Union?

Mr. RICHARDSON. No, sir, it is upon the Speaker's table.

Mr. COBB. It is in precisely the same condition as the bill granting the right of way and alternate sections of the public lands to the Selma and Gunter's Landing Railroad. If we go to the business on the Speaker's table, we shall reach all these bills; but if we take them up in this way, one by one, we shall never act upon them all. I intend to vote for the gentleman's bill when it comes up in its order, but I must object to its being taken up now.

Mr. RICHARDSON. I hope the gentleman from Alabama will not object. The bill must be passed now or it will be of no use at all.

Mr. COBB. I am in favor of the bill.

Mr. RICHARDSON. Then let it pass now.

Mr. COBB. Well, I will withdraw my objection.

The objection was renewed by several gentlemen.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. HALL. Is not the Iowa railroad bill first in order this morning?

The SPEAKER. If the motion to reconsider be called up, it is.

Mr. HALL. I ask that that motion may be taken up.

Mr. JONES. Does that bill come up in the morning hour?

The SPEAKER. The Chair thinks it may come up in the morning hour.

Mr. JONES. Has it not passed out of the morning hour?

The SPEAKER. It was at the suggestion of the gentleman from Tennessee that the Chair decided the other day that that bill came up in the morning hour.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills and joint resolutions, which thereupon received the signature of the Speaker: An act to change the name of the American-built vessel named the *Amelia*, and to grant a register in her name;

An act to authorize the issuing of a register to the schooner *Caroline*, of Barnstable;

An act giving the assent of Congress to the State of Missouri to impose a tax or taxes upon all lands hereafter sold by the United States therein, on and after the day of such sale; and

A joint resolution authorizing the Secretary of the Treasury to ratify and confirm an exchange of lands between the United States and Charles Reynolds, of the city of Natchez, and State of Mississippi.

#### IOWA RAILROAD BILL.

The SPEAKER stated the question to be upon reconsidering the vote by which the following bill was laid upon the table, viz:

Senate bill No. 1. An act granting the right of way and making a grant of lands to the State of Iowa, in aid of the construction of certain railroads in said State.

Mr. CAMPBELL, of Illinois. I ask the unanimous consent of the House to occupy about two minutes in making an explanation before this vote is taken.

[Cries of "Leave!" "Leave!"]

Mr. JONES, of Tennessee. I object. We do not want any speeches.

Mr. CAMPBELL. I am not going to make a speech. I ask but two minutes for explanation.

Mr. JONES. I withdraw the objection.

Mr. CAMPBELL. When the vote was taken upon this bill which laid it upon the table, I was compelled to give what, at that time, and at all times, was a very painful vote to me. This bill includes three roads in the State of Iowa. Two of those roads cross the State of Iowa in an east and west direction. Those two roads, as I stated in a speech which I made here some days since, should receive my cordial and enthusiastic support. But I was opposed to the road called the Keokuck and Dubuque road, running north and south, because it is opposed to the interests of the district which I represent. If I could have had an opportunity of voting for the other two roads without, at the same time, voting for the Keokuck and Dubuque road, I would most cheerfully have done so. I regret the necessity which compels me to vote against measures which I believe, in my conscience, to be right, because they are inseparably linked with other measures which I believe, in my conscience, to be wrong, and which no association can ever compel me to support. When this bill was introduced by the chairman of the Committee on Public Lands, he moved the previous question upon its passage. I appended to him to withdraw the previous question for the purpose of enabling me to offer an amendment to strike out the Keokuck and Dubuque road. He refused to do so, and under those circumstances I was compelled to vote in favor of the motion to lay the whole bill upon the table. I shall vote now for the motion

to reconsider, with the understanding that when the bill is relieved from the pressure of the previous question, I will have an opportunity of offering the amendment which I have indicated.

Mr. HAMILTON. I desire to know what is the question now before the House?

The SPEAKER. The question is upon the motion to reconsider the vote by which the Iowa railroad bill was laid upon the table.

Mr. HAMILTON. I move to lay the motion to reconsider upon the table.

Mr. HALL. Upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was then taken on Mr. HAMILTON's motion, and it was decided in the negative—yeas 77, nays 81: as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, David J. Bailey, Barrere, Bennett, Bocoock, John H. Boyd, George H. Brown, Buell, Burrows, Busby, Caldwell, Carter, Caskey, Chapman, Churchwell, Cleveland, Colcock, Curtis, Daniel, Dawson, Dean, Dimmick, Dockery, Duncan, Fowler, Giddings, Grey, Hamilton, Hammond, Isham G. Harris, Hibbard, Holladay, Horsford, John W. Howe, Ives, Andrew Johnson, Daniel T. Jones, Geo. W. Jones, J. Glancy Jones, George G. King, Preston King, Letcher, Martin, McNair, Meacham, Millson, Morehead, Murphy, Murray, Newton, Outlaw, Andrew Parker, Peaslee, Powell, Price, Riddle, Robbins, Robie, Ross, Savage, Schoonmaker, Smart, Stanly, Richard H. Stanton, Alexander H. Stephens, Thaddeus Stevens, Sutherland, Sweetser, Benjamin Thompson, Thurston, Venable, Walbridge, Watkins, and Wildrick—77.

NAYS—Messrs. Abercrombie, Willis Allen, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, E. Carrington Cabell, Lewis D. Campbell, Thompson Campbell, Chandler, Clark, Clingman, Cobb, Conger, Cottman, Culom, John G. Davis, Disney, Doty, Durkee, Evans, Ficklin, Florence, Henry M. Fuller, Gaylord, Goodenow, Goodrich, Gorman, Green, Hall, Harper, Sampson W. Harris, Hascall, Haven, Hebard, Hendricks, Henn, Houston, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, Jackson, James Johnson, John Johnson, Robert W. Johnson, Landry, Lockhart, Mace, McCorkle, Miller, Molony, Henry D. Moore, John Moore, Morrison, Nabers, Olds, Orr, Samuel W. Parker, Penniman, Rantoul, Richardson, Robinson, Scurry, David L. Seymour, Benjamin Stanton, Smith, Abraham P. Stevens, St. Martin, Stuart, Taylor, Tombs, Townsend, Walsh, Ward, Welch, Addison White, Alexander White, Wilcox, Williams, and Yates—81.

So the House refused to lay the motion to reconsider upon the table.

Messrs. EASTMAN and BISSELL, who were without the bar when their names were called, asked leave to record their votes in the negative; but objection was made.

The question recurred upon the motion submitted by Mr. HALL, to reconsider the vote by which the Iowa railroad bill was laid upon the table.

Mr. HALL demanded the yeas and nays; and they were ordered.

Mr. AVERETT. Is a motion that there be a call of the House in order?

The SPEAKER. It is.

Mr. AVERETT. Then I make that motion.

The question was taken on Mr. AVERETT's motion, and it was decided in the affirmative—yeas 70, nays 67.

So it was ordered that there be a call of the House.

The roll was accordingly called, and 181 gentlemen answered to their names.

Mr. STUART moved that all further proceedings in the call be dispensed with.

The question was put, and the motion was agreed to.

The question was then taken on Mr. HALL's motion, and it was decided in the negative—yeas 82, nays 95; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Bissell, Branton, Briggs, Brooks, Albert G. Brown, George H. Brown, E. Carrington Cabell, Lewis D. Campbell, Thompson Campbell, Chandler, Clark, Clingman, Cobb, Conger, Cottman, George T. Davis, John G. Davis, Disney, Doty, Durkee, Edgerton, Evans, Ficklin, Florence, Freeman, Gable, Gilmore, Green, Hamilton, Hammond, Sampson W. Harris, Hendricks, Henn, Hibbard, Holladay, Houston, Thomas Y. How, Ingersoll, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kurtz, Lockhart, Mace, Mason, McDonald, McAnahan, McNair, Meade, Millson, Molony, Morrison, Murray, Nabers, Olds, Andrew Parker, Peaslee, Penn, Phelps, Powell, Rantoul, Riddle, Robbins, Robie, Ross, Savage, Scurry, David L. Seymour, Smart, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, St. Martin, Stuart, G. W. Thompson, Townsend, Venable, Wallace, and Wilcox—82.

NAYS—Messrs. Aiken, Charles Allen, Allison, William Appleton, Ashe, Averett, David J. Bailey, Barrere, Beale, Bell, Bennett, Bocoock, John H. Boyd, Bragg, Buell, Burrows, Busby, Caldwell, Carter, Caskey, Churchwell, Cleveland, Colcock, Curtis, Daniel, Dawson, Dean, Dimmick, Dockery, Duncan, Edmundson, Faulkner, Fowler, Gamble, Giddings, Goodenow, Grey, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hibbard, Holladay, Horsford, Houston, Howard, John W. Howe, Ives, Andrew Johnson, Daniel T. Jones, George W. Jones, J.

Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Martin, McDonald, McAnahan, McNair, Meacham, Millson, Morehead, Murphy, Murray, Newton, Outlaw, Andrew Parker, Peaslee, Powell, Price, Robbins, Robie, Ross, Savage, Schermerhorn, Schoonmaker, David L. Seymour, Smart, Stanly, Richard H. Stanton, Abraham P. Stevens, Alexander H. Stephens, Thaddeus Stevens, Sutherland, Sweetser, Benjamin Thompson, Thurston, Venable, Wallace, Watkins, Welch, and Wildrick—93.

So the House refused to reconsider the vote by which the bill was laid upon the table.

Mr. ROBBINS. I would inquire of the Chair if the morning hour has expired?

The SPEAKER. It has.

#### CONTENDED ELECTION.

Mr. ROBBINS. I rise, then, to a question of privilege. I ask the chairman of the Committee on Elections if he is ready to proceed with the Pennsylvania contested election case?

[A message was received from the Senate, by the hands of ASBURY DICKINS, esq., its Secretary, announcing that the Senate had passed sundry bills.]

Mr. ORR. I desire to ask if it is necessary to move to postpone the consideration of the Florida railroad bill until to-morrow?

The SPEAKER. It is not. That bill will come up to-morrow as the first business in order.

Mr. ASHE. The House seems very anxious to dispose of the Pennsylvania contested-election case, and as the morning hour has expired, I move to take up the report of the Committee on Elections on that case.

The question was put; and, on a division, there were—yeas 82, nays 76.

Mr. CABELL demanded tellers; but they were not ordered.

Mr. HAMILTON demanded the yeas and nays; and they were ordered.

Mr. RICHARDSON. It is very apparent that it is the disposition of the House to go into Committee of the Whole on the state of the Union; and I would suggest that it would be better to postpone this contested-election case until after next week. There is a minority report, and if we were to take up the case now, it is probable that we should not get through with it this week. It would be better to take it up ten days hence, and proceed with the business before the Committee of the Whole on the state of the Union now.

Mr. ORR. Is it in order to move to go into Committee of the Whole on the state of the Union?

The SPEAKER. The pending motion has precedence.

The question was then taken on Mr. ASHE's motion, and it was decided in the negative—yeas 93, nays 95, as follows:

YEAS—Messrs. Aiken, Charles Allen, Willis Allen, Ashe, Averett, Bacoock, David J. Bailey, Bissell, Bocoock, Bragg, Breckinridge, Albert G. Brown, Buell, Bu-by, Caskey, Churchwell, Clark, Cleveland, Cobb, Colcock, Curtis, Daniel, John G. Davis, Dawson, Dean, Dimmick, Doty, Durkee, Eastman, Edgerton, Faulkner, Ficklin, Florence, Freeman, Gamble, Gilmore, Green, Hamilton, Hammond, Sampson W. Harris, Hendricks, Henn, Hibbard, Holladay, Houston, Thomas Y. How, Ingersoll, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Kurtz, Lockhart, Mace, Mason, McDonald, McAnahan, McNair, Meade, Millson, Molony, Morrison, Murray, Nabers, Olds, Andrew Parker, Peaslee, Penn, Phelps, Powell, Rantoul, Riddle, Robbins, Robie, Ross, Savage, Scurry, David L. Seymour, Smart, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stevens, St. Martin, Stuart, G. W. Thompson, Townsend, Venable, Wallace, and Wilcox—93.

NAYS—Messrs. Abercrombie, Allison, Barrere, Bell, Bennett, Bibbians, Bowne, John H. Boyd, Brenton, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Clingman, Conger, Culom, John G. Davis, Disney, Dockery, Duncan, Edmundson, Evans, Ewing, Fowler, Gaylord, Gentry, Giddings, Goodenow, Goodrich, Gray, Hall, Harper, Isham G. Harris, Hascall, Haven, Hebard, Horsford, John W. Howe, Thomas M. Howe, Hunter, James Johnson, George W. Jones, George G. King, Kuhns, Landry, Letcher, Edward C. Marshall, Humphrey Marshall, Maria, McCorkle, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Newton, Orr, Outlaw, Samuel W. Parker, Penniman, Porter, Price, Sackett, Schermerhorn, Schoonmaker, Seudder, Smith, Stanly, Benjamin Stanton, Alexander H. Stephens, Thaddeus Stevens, Stone, Stroder, Sutherland, Sweetser, Taylor, Benjamin Thompson, Thurston, Tombs, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Alexander White, Williams, and Yates—95.

So the motion was not agreed to.

Mr. COBB. Is it in order to move to proceed to the business on the Speaker's table?

The SPEAKER. It is in order.

Mr. COBB. Then I make that motion.

Mr. ORR. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.



The SPEAKER. The question will first be taken on the motion of the gentleman from Alabama, [Mr. COBB.] If that fails, the question will then be upon the motion submitted by the gentleman from South Carolina, [Mr. ORR.]

Mr. STUART demanded tellers; but they were not ordered.

And the question being put upon Mr. COBB's motion, it was disagreed to.

The question recurring upon Mr. ORR's motion, it was put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair.)

The CHAIRMAN. The first business in order is the bill making appropriations for the support of the Indian Department, and the gentleman from North Carolina [Mr. MOREHEAD] is entitled to the floor.

Mr. LETCHER. I ask the gentleman from North Carolina to yield the floor for a moment.

Mr. MOREHEAD. I will yield for a moment.

Mr. LETCHER said: I have desired to address the committee upon a matter of local interest to my constituents in Western Virginia; and not knowing whether I should have an opportunity to do so, I have prepared my remarks, and will print them, in order that they may go in with the debates of this House.

Mr. Chairman, the people of the western district of Virginia have long been satisfied that the salary of their judge is grossly inadequate, considering the amount of his labors and the extent of travel which has been devolved upon him. Hence they have petitioned Congress year after year for the past twelve years, asking that his salary should be increased; and those petitions have in every instance received the favorable consideration of the Judiciary Committee of this House and the Senate. On two occasions bills have passed the Senate increasing the salary to \$2,500, and each of them increasing the length of the terms of the several courts. On one occasion one of those bills was taken up in this House; and after a very brief discussion, was defeated upon the express ground that it was designed to revise the laws on this subject, and to equalize the salaries of this class of officers throughout the United States.

I am not aware that any member in this or the other House has, at any time, maintained that this salary furnished an adequate compensation for the important and onerous labors imposed upon the judge of this district. On the contrary, I believe it has been uniformly admitted that the labors of this judge, including his annual travel and court duties, are far greater than those devolved upon most other judges, while his compensation is less than in many other cases. Under these circumstances it is that the petitioners from many portions of the district prefer their appeal to this Congress for an increase of the salary.

During the present session, the Senate have passed a bill lengthening the terms of all the courts in the district, and increasing the salary from \$1,600 to \$2,500. That the action of the Senate is fully justified by sound and weighty reasons, sufficient, in my view, to induce corresponding action here, I shall endeavor to demonstrate, by reference to facts existing at the time of the creation of the western district of Virginia, and others of subsequent occurrence.

The western district of Virginia was created in the year 1819, and embraced the territory lying on the west side of the Alleghany mountains. The entire population embraced within the limits of this district, was (by the census of 1820) ascertained to be 147,540. The act creating the district directed that courts should be held twice a year at Clarksburg, Lewisburg, and Wytheville, and fixed the salary at \$1,600 per annum, being about the salary which Virginia, at that time, paid to her circuit judges. The annual travel of the judge was one thousand miles.

The territory lying between the Alleghany and Blue Ridge of mountains, and known as the Valley division in our State, was then connected with and formed a part of the eastern judicial district. This connection continued until 1824, when, by act of Congress, the Valley was transferred from the eastern to the western judicial district, and the judge of the western district was directed to hold two terms of his court annually at the town of Staunton. The Valley counties, according to the

census of 1820, contained a population of 154,162, being a population greater than was contained in the trans-Alleghany region by 6,622 persons. By this addition to the western judicial district, the population of the district was more than doubled, its territorial extent greatly enlarged, and the amount of court business and his annual travel more than doubled, while his annual compensation remained the same. Can it be, or will it be contended, that \$1,600 was more than a fair compensation in 1819, when the district was created; when the judge's travel was only one thousand miles, and when six courts only were to be held in each year? If this will not be contended for, then I apprehend the conclusion is irresistible, that the salary is grossly inadequate now, when the district has been nearly doubled in territorial extent; when the population has been more than doubled; when the travel has been increased from 1,040 miles to 2,280 miles annually, and when the court business has been more than quadrupled.

Such are the facts, as they existed in 1824, and prior to that time; and I think I have demonstrated that, even upon those facts, this House ought not to hesitate a moment in yielding its sanction to the bill sent to us from the Senate, and now before the Judiciary Committee of this body. But if any doubt still, let me solicit his attention to the other important facts which I am now about to present, and which, if impartially and carefully considered, must be regarded as conclusive of the justice and propriety of the passage of the measure.

I have thus shown, that by the acts of 1819 and 1824, eight terms of this court were to be held every year. But, by acts passed in the years 1842 and 1843, in addition to those heretofore mentioned, the judge of this district was directed to hold courts twice a year at the city of Wheeling, and in the town of Charleston, still retaining the circuit court to be held once a year at the town of Lewisburg. It is thus shown that the labors of the judge have been augmented to a most extraordinary extent, by Congressional legislation. In 1819, this officer was required to hold six courts a year, and traveled only one thousand and forty miles. In 1852 his courts have been increased to eleven per year, and his annual travel increased to two thousand two hundred and eighty miles. In 1819 the expenses of the judge, in making his circuit, were about \$200—leaving him a salary equal to \$1,400 per annum. In 1852, by an account accurately kept by the judge, his traveling and court expenses amount to \$400—leaving his salary equal only to \$1,200 per annum. We have, therefore, the result, that the judge performing double duty, at double the expense, now actually receives a salary of only \$1,200 clear of expenses, while his predecessor in 1819, who performed not one half of the present judge's labor, and at only half the expense, received \$1,400. There is neither justice nor equity in this. A system that operates such injustice ought to be reformed.

When this judicial district was created, Congress, in fixing the salary, designed to place the judge on a footing of equality with the circuit judges in Virginia. Those judges received a fixed salary of \$1,500 per annum, and \$3 for every twenty miles of travel. At that time, we had fifteen circuit judges, whose salary and mileage averaged about \$1,600 to each. The chancery court system was at that time in existence in our State, and each chancellor received an annual salary of \$1,666. These facts are presented in order to show that Congress must have had these facts in view in fixing the salary of the judge for the western district, and designed to place him in as favorable a position as that occupied by our chancellors and circuit judges.

If this was a just rule by which to regulate the salary in 1819, is it not just as sound a rule in 1852, by which to test the merits of the proposition now pending in this House? I maintain that it is a perfectly fair rule, and I insist upon its application in the present case. Under the new constitution in our State, we pay to our circuit judges (twenty in number) an annual salary of \$2,000, and twenty cents a mile for travel; which will make their compensation equal to \$2,300 per year on an average. The judges of our supreme court receive a salary of \$3,000 each, and mileage at the same rate with the circuit judges; which will make their annual compensation about \$3,300.

The bill passed by the Senate, and which we will soon be called to act upon, fixes the salary at \$2,500, without mileage. The Judiciary Committee of this House will report the bill back, with an amendment reducing the salary to \$2,000. To this amendment I am opposed, unless you allow mileage at the same rate that is paid to our State judges. The salary at \$2,000, and 2,280 miles travel, at twenty cents per mile, would make his compensation equal to \$2,460—within a small fraction of \$40 of the sum fixed in the Senate bill. Why not, then, take the Senate bill without amendment, and thus do justice to a judge in one of the heaviest and most laborious districts in the Union?

The judges of Massachusetts, of the southern district of New York, of the eastern district of Pennsylvania, of Maryland, and of Georgia, who have no travel to perform, receive salaries ranging from \$2,000 to \$3,500, and not one of them holds as many courts (except the New York judge) as the judge of the western district of Virginia. No one of the others holds more than four courts during the year, while Judge Brockenbrough holds eleven, and travels two thousand two hundred and eighty miles besides, on horseback, over an exceedingly mountainous country. Eleven other judges, viz: the judges of Maine, the northern district of New York, the western district of Pennsylvania, the eastern district of Virginia, North Carolina, South Carolina, Alabama, Mississippi, Louisiana, Arkansas, and Florida, who have far less travel, and who do not hold half as many courts in the year, receive much higher salaries, ranging from \$1,800 to \$2,500 per year. These judges, with two exceptions, (Boston and New York,) perform far less labor than the judge of the western district of Virginia, and yet all of them receive higher salaries. I frankly confess my inability to understand upon what principle this can be justified. It cannot be that it rests upon any principle of justice, and I am therefore forced to the conclusion, that the facts have never been brought to the attention of Congress or the country, or this outrageous inequality would have been corrected years ago.

But some gentlemen may object to the proposed bill, upon the ground that the salaries of other judges are not equalized, and that legislation, such as is now proposed, is special in its character and object. Such an objection is, in my view, without force, and is intemperate to the slightest weight in the consideration and decision of this question. If I have succeeded in showing the inadequacy of the salary, it follows necessarily that it ought to be increased. If I have shown that the compensation now paid to the judge for his services, is not a just equivalent for the time and labor which he devotes to the judicial business of the district, then it follows that the compensation should be augmented. If I have made out such a case as appeals to Congress, and will justify relief, the next question that arises is as to the mode in which that relief shall be granted to this judicial officer. We have waited year after year for the action of Congress in the equalization of judicial salaries, but no such measure has as yet been brought to the attention of either House, in a practical shape. I have no reason now to suppose that any such measure will be proposed at the present session, at least. I have no alternative, therefore, but to press upon the attention of the House the bill that has passed the Senate, and urge its favorable consideration here. The mode proposed is by no means unusual. It has been adopted on many occasions in the history of our legislation. Indeed, special acts have uniformly been resorted to, as the only means of remedying such evils as are now complained of. It is sufficient for my purpose on this point, to refer to our legislation in 1845, when the salaries of the judges of Ohio, Missouri, Illinois, Indiana, and Florida were increased, without even an allegation (so far as I am advised) that their districts had been territorially enlarged, or that their travel had been increased, or that the number of their courts multiplied, or that additional duties or labors were imposed upon the judges by the acts increasing their compensation. I am, therefore, furnished with a precedent that covers the whole ground I now occupy, in presenting the application of the judge of the western district of Virginia for increased compensation.

At the time the western judicial district was

created, it contained a white population of 133,112, while the eastern district of Virginia contained a white population of 470,269. By the act of 1824, the western judicial district was so enlarged, that it contained a white population of 254,208, leaving in the eastern district a white population of 349,173. Eight terms of court were held annually in the western district, and four terms held annually in the eastern district. The judge of the western district then traveled annually about 1,400 miles, while the annual travel of the judge of the eastern district was only 640 miles. How stands the white population in the two districts now? By the census of 1850, the western district contains a white population of 494,763, while the eastern district contains a white population of 402,771. Eleven terms of the court are now annually held in the western district, and only four terms are annually held in the eastern district. The judge of the western district now travels annually 2,280 miles on horseback, and the judge of the eastern district annually travels 640 miles in steamboats. The former receives an annual salary of \$1,600, the latter an annual salary of \$1,800. The North Carolina judge, who holds six courts a year, receives a salary of \$2,000; the South Carolina judge, who holds five courts a year, receives a salary of \$2,500. The Alabama judge, who holds six courts a year, receives a salary of \$2,500. The Arkansas judge, who holds two courts a year, receives an annual salary of \$2,000; and the Florida judge, who holds three courts a year, receives a like sum.

Now, sir, I do not mean to intimate that either of these judges receives a higher salary than his services are worth; but I refer to them for the purpose of showing the salary which each receives. The judge in the western district of Virginia performs equally as much, if not more, service than either of them, and should, therefore, receive as high a salary as any of them. The salaries paid in each of these cases is, in my view, only a fair compensation for the services performed, while the salary paid to the judges of the western judicial district of Virginia is below, far below, the standard of a just compensation.

Sound policy requires that judicial officers should receive such salaries as will furnish the means of a decent and comfortable, but by no means extravagant support, for themselves and families. The salary of the judge of this district, after the payment of traveling expenses, is inadequate to this end. Every man who has had experience is aware of the fact, that \$1,200 is a very small sum upon which to rely for the maintenance and education of a family. The object of man's struggles and exertions in this world is not merely for the bread that sustains him, and the clothes that cover him. He looks forward with hope and anxiety and confidence to the acquisition of the means upon which he is to rely when the winter of old age shall come, when his energies are paralyzed, and when the power of physical and intellectual exertion is gone.

The judicial position, in this country one of the most important. Every man is deeply interested in having these positions filled by men of high character, undoubted integrity, and the best professional ability. The rights of personal security, the protection of the rights of property, the life and liberty and reputation of the citizen, are all dependent upon the purity and integrity and ability of our judiciary, and it becomes us, therefore, to see that such compensation is allowed, as will secure the proper incumbents in these distinguished positions of public trust and usefulness.

Such being the character and importance of the office, it should receive the undivided attention of the man who is called upon to fill it. The compensation should be sufficient to withdraw his attention from all other pursuits, and concentrate his mind and his energies upon his appropriate judicial duties. The salary in this instance is too small to secure this desirable result, and the consequence is, that the judge has been compelled to open a law school, in order to make out a comfortable support. His law school, which has now been in operation for three years, has succeeded well, and when the proceeds arising from this source are added to his salary, he realizes an annual income of about \$2,400. With this school, he can get along comfortably, but experience has shown, that the terms are too short, under the present arrangement, to enable him to dispose of all the business,

and if the terms are lengthened, he must give up his school. The public interest, therefore, requires that the terms should be extended, so as to give him an additional month in the spring, and the like time in the fall. Hence the measure proposed—a measure imperatively demanded by a due regard for the public interest, as well as the private interest of the suitors in his court. If things remain as at present, the judge will, in the mode indicated, receive a compensation equal in amount to the sum proposed in the Senate bill. In the event of the change now recommended, he has, therefore, no pecuniary interest; and so far as his personal interest and comfort are concerned, they would be best advanced by leaving the present arrangement undisturbed.

The bill now pending is twofold in its character and objects. First, the extension of the terms of all the courts, (and by consequence the increase of the expenses of the judge;) and second, an addition of \$900 to his salary.

Without an extension of the terms of the court, it is utterly impossible to cut down the docket, and dispose of the causes as rapidly as they accumulate. The jurisdiction of the district courts of this district is peculiar. There is no appellate circuit court within the district court, and appeals from the decisions of the court, lie directly to the Supreme Court of the United States. The want of an intermediate circuit court, to revise the decisions of the district court, adds very greatly to the responsibility of the judicial office, in this particular district. The law expressly invests the court with full circuit court jurisdiction—civil and criminal. The civil jurisdiction extends to all suits by citizens of other States and aliens, in which the amount in controversy exceeds \$500, to all land suits brought by such plaintiffs to recover the possession of lands lying within the district, and to all suits brought by patentees, their assigns or grantees, for an infringement of their patent-rights. Many suits of each description are now depending in most of the courts of the district, especially those held at Clarksburg and Staunton. In those two courts alone, there are now depending and undecided, (as I am informed,) not less than one hundred land controversies. The land titles in Western Virginia, (as any one at all familiar with the subject well knows,) are in a very unsettled state; the great complexity of our land laws, and the pertinacity with which such suits are always contested, is equally well known to all my colleagues from that portion of the State. These causes produce a mass of litigation of the most important and expensive character, which can only be satisfactorily disposed of by the most patient and assiduous labor. It never can be disposed of under the existing arrangement of the courts. What, then, is the consequence? Counsel are deterred from making preparation for the trial of their causes, because of the shortness of the terms, and costs (much heavier than in similar causes in the State courts) are constantly accumulating, to the great grievance and oppression of the parties, large numbers of whom are residents of other States.

A large number of suits are brought in these courts for an infringement of patents; very recently twenty-odd suits of this kind have been brought in one of these courts, and many are now depending and undecided. These suits, as every lawyer well knows, involve the important inquiry as to the originality of the invention, and the consequent validity or invalidity of the patents, and they are always most zealously contested.

Now, sir, a word or two as to the criminal jurisdiction of these courts. This extends to all offenses, created by acts of Congress, and they are of various descriptions. A most important branch of this jurisdiction arises under the laws passed for the suppression of the offense of counterfeiting and passing counterfeit coin. Unhappily, these offenses are of constant occurrence in the western portion of this district, and prosecutions for them have been very numerous within the last eight or ten years. Within the same period offenses against the Post Office laws and regulations have been frequent subjects of prosecution and punishment. The criminal courts of this district exercise a final jurisdiction. No appeal lies from their decisions, and the jurisdiction is therefore absolutely final. In all other districts a circuit court is also established, which exercises appellate criminal jurisdiction. If the two judges composing

the circuit court differ as to any legal question, arising in a criminal case, they may refer it to the Supreme Court for its decision; and this is the only mode in which such questions can reach the Supreme Court. There being but one judge in this district, whatever difficulties may beset him, he must decide every question, as it arises, without the benefit of a conference with a justice of the Supreme Court; and his judgment, when rendered, is (as I before said) absolutely final. How greatly does this consideration increase the responsibility attached to the judicial office in this district! How painfully must that responsibility be felt in the many important criminal cases constantly arising!

Making the proper allowance for the time necessarily consumed in traveling over this immense district—a district of "magnificent distances," as it has been called—the term of the court at Clarksburg must be limited to six days; at Wheeling, to four days; at Charleston, to three days; and at Wytheville, to four days. The term at Staunton being the last in the series, is therefore unlimited. The bill now before the House, if it shall become a law, will double the length of the terms at Clarksburg, Wheeling, Charleston, and Wytheville, and this extension, it is believed, will be entirely sufficient to enable the judge to reduce the dockets, and to keep them down.

These facts appeal loudly to us for a remedy, and that remedy will be found in the simple measure of extending the time allowed for each of the courts at the four places mentioned.

One word more as to the compensation of the judge. The judge is the worst-paid officer connected with the court. The compensation of the marshal is, perhaps, three or four times as large as that received by the judge. The compensation of the district attorney, within late years, exceeds the compensation of the judge, by perhaps fifty per cent., while it cannot be pretended that his responsibility and labors are at all comparable with those of the judge. And, besides, the attorney has the privilege of engaging in general practice, not only in the district, but, also, in the State courts; whilst the judge is expressly prohibited by law from practicing in any court. Why, sir, the receipts of the clerk, arising from fees and salary, average something like \$2,000 per annum. Is it necessary to say more, with the view of showing the propriety of passing the bill sent to us by the Senate?

Such are the facts by which this application is sustained, and the attention of the House is invited to them, in the confident hope and belief, that if considered as they deserve, this bill cannot fail of success.

Mr. MOREHEAD then addressed the committee an hour, principally in reviewing the proceedings of the Whig Congressional caucus, and the conduct of the Southern Whigs who withdrew from and protested against the action of that caucus. He maintained that it was the duty of the seceders to have remained in that caucus, and with him endeavored to sustain the Northern Whigs there who were true to the Constitution and the South. As for himself, he was in favor of the compromise measures—he was elected as a compromise Whig—but was opposed to that caucus doing anything but that for which they legitimately met—the fixing of the time and place for the meeting of the convention. [His speech is published in the Appendix.]

Mr. ORR spoke at length on political subjects, and in favor of the nominees of the Democratic National Convention. [His speech is published in the Appendix.]

Mr. MEACHAM next obtained the floor, and addressed the committee in regard to the present tariff and its depressing effects upon the general interests of the country; without concluding he yielded the floor to

Mr. SCHOONMAKER, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 43, and had come to no resolution thereon.

On motion of Mr. DUNCAN, the House then adjourned.

## PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. ROBE: The petition of Andrew S. Hart, deputy postmaster at Belvidere, Allegheny county, New York, for increase of compensation.

## IN SENATE.

THURSDAY, June 10, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

The PRESIDENT *pro tem.* laid before the Senate a memorial of the officers of the volunteer companies in the District of Columbia, praying the aid of Congress in the erection of an armory in a central location in the city of Washington, for the safe-keeping of the arms furnished them by Government, to be used in common by all the volunteer corps in that city; also, in the appointment of an armorer, the memorialists proposing to establish an efficient volunteer regiment, complete in all its appointments, of eight hundred men; which was referred to the Committee on Military Affairs.

Mr. GWIN presented the petition of Mary Woodward, widow of an officer of the United States revenue service, who was drowned while in the discharge of his duty, praying a pension; which was referred to the Committee on Pensions.

Mr. BRODHEAD presented a petition of citizens of Beaver county, Pennsylvania, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a resolution adopted at a regular meeting of the Chamber of Commerce of New York, in favor of an appropriation for the removal of the bars at the mouth of the Mississippi; which was ordered to be laid on the table.

A motion by Mr. SEWARD to print the resolution was referred to the Committee on Printing.

Also, resolutions of the Chamber of Commerce of the city of New York approving of the memorial addressed to Congress for the purpose of providing a cemetery for seamen. From the memorial, it appears that a large number of that useful class die in the city of New York every year; that up to the present time, although provision has been made by the United States Treasury Department for the expense of conveying their bodies to the grave, yet there has been no place provided for the interment of those seamen who die at the New York hospital; and that they have been heretofore buried in Potter's Field, in the city of New York, with paupers and criminals, and in such a manner as is revolting to the feelings. That a number of the friends of seamen in that city, in order to remedy this evil, have concluded arrangements for the purchase of a proper plot of ground, in some one of the large cemeteries near to that city, for the perpetual use of seamen, and they therefore pray Congress to grant them \$5,000 for that purpose. The memorial is signed by the collector of the port of New York, the president of the American Seamen's Friend Society, the President of the Board of Underwriters, the president of the Marine Society, the president of the Chamber of Commerce, and the president of the Board of Governors of the New York hospital. It was referred to the Committee on Commerce.

Also, a petition of S. L. Cole and others, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Also, a petition of citizens of Ontario county, New York, remonstrating against the renewal of C. H. McCormick's patent for a reaping machine; which was ordered to be laid on the table.

Mr. CHASE presented a petition of citizens of Ohio, praying that pensions and extra pay may be allowed to private physicians employed for the volunteers during the late war with Mexico. The petitioners state that the force of the United States employed against Mexico, was composed principally of volunteers from the different States of the Union, the colonels of which force were instructed to employ private physicians, agreeably to army regulations, which was accordingly done. The physicians so employed were subjected to great labor in a sickly country, many were wounded in action, and many more contracted lingering dis-

cases, returning to their homes with scant pay and broken-down constitutions for their reward. They cannot, under the existing laws, avail themselves of the benefit of pensions or extra pay, not having rank in the Army. The petitioners therefore pray that a remedy be provided by Congress, and that worthy cases may receive the benefits of the invalid pension laws, and the laws regulating extra pay now in force. The petition was referred to the Committee on Military Affairs.

Also, a petition of citizens of West Carlisle, Ohio, praying the adoption of measures for the amicable adjustment of international controversies; which was referred to the Committee on Foreign Relations.

Mr. CASS presented three petitions of citizens of Michigan, praying that the bill now pending before Congress, commonly called the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Also, a petition of the present and late officers of the land office at Ionia, Iowa, praying to be allowed compensation for locating military bounty land warrants; which was referred to the Committee on Public Lands.

Mr. ATCHISON presented a memorial of the Legislature of Missouri, praying that William Waldo may be remunerated for his services and expenses in affording relief to overland emigrants to California; which was referred to the Committee on Claims.

Mr. SUMNER presented the petition of Frederick Parsons, praying to be allowed bounty land for services during the last war with Great Britain; which was referred to the Committee on Pensions.

Mr. MASON presented the memorial of Sarah A. Hunt and Ann M. Bonnycastle, praying the payment of Texas bonds, of which they are the holders; which was referred to the Committee on Finance.

Mr. PRATT presented the memorial of Francis Meyer, praying a revision of the decision of the Board of Commissioners appointed for the settlement of claims of American citizens against Mexico, in his case; which was referred to the select committee appointed on the subject.

Mr. UNDERWOOD. I present the memorial of the widow of Captain A. Drane, deceased, formerly of the Fifth Regiment of Infantry, asking for a pension. The circumstances of the case are peculiar. Her husband was tried by a court-martial on a charge of drunkenness while on duty, and cashiered. In consequence of that sentence she has been deprived of a pension. It is proved very clearly, by testimony contained in the memorial, that her husband died of paralysis, produced by hardship and exposure in the destructive climate of the Rio Grande, and the widow hopes that justice will be done to his memory by some suitable provision for his widow and children, which shall recognize his proper rank in the Army. I ask that it be referred to the Committee on Pensions.

It was so referred.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, correcting a clerical error in his communication of May 3d, in answer to a resolution passed April 21st, containing a statement received from the Governor of New Mexico, of salaries due to civil officers of that Territory while it was under a military government. In that communication it was stated that, of the whole amount, \$36,603 67, claimed from the United States, the sum of \$12,098 64 was due to the treasury of the Territory, for so much paid to those officers; whereas the whole amount of \$36,603 67, according to the statement, is due to the officers themselves.

The communication was ordered to be printed in connection with the report of the Secretary of War communicated to the Senate the 5th instant.

## BILLS PASSED.

The engrossed bill to amend an act entitled "An act to promote the progress of useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4, 1836; and also "An act to provide additional examiners in the Patent Office, and for other purposes," approved May 27, 1848, were read a third time and passed.

## CATLIN'S INDIAN SCENES.

Mr. SEWARD. If there be no objection, I hope the Senate will take up a resolution which I

offered the other day. It is merely a resolution of inquiry, relative to the propriety of purchasing Mr. George Catlin's collection of pictures and Indian curiosities.

The resolution was accordingly taken up and read, as follows:

"Resolved, That the Committee on the Library be requested to inquire into the expediency of reporting a bill for the purchase of Mr. George Catlin's Indian Scenes and Portraits, which are in danger of being sold and lost to this country."

Mr. SEWARD. I will not say one word in favor of the object of the resolution, but barely state that I have consulted with some members of the Senate on the subject, and have ascertained that it would be more acceptable to refer this inquiry to the Committee on Indian Affairs. I think it would be more appropriate that the resolution should have that reference, and therefore I move to amend it, by striking out the reference to the "Committee on the Library," and inserting the "Committee on Indian Affairs."

The PRESIDENT. The resolution will be so modified, if such is the pleasure of the Senate. The Chair hears no objection, and the resolution will be so modified.

Mr. BRADBURY. It occurs to me that this resolution ought to go to the Committee on the Library. If there is no choice in the matter, it seems to me that a resolution of this kind ought to go to that committee. They have various subjects of a similar kind before them, and there would seem to be no particular reason why they should not be called upon to consider this one also.

Mr. SEWARD. I will only say, in reply to the honorable Senator from Maine, that the suggestion to make this alteration came from the Committee on the Library, who are taxed with other inquiries; and I believe, also, that the Committee on Indian Affairs are prepared to take it up and examine it, and decide upon the value of the collection.

Mr. BRADBURY. It occurs to me that the Committee on the Library, having other objects of the same character before them, will be better prepared to report upon this matter. They will know much better what are the wants of the Library, and what other works of the same kind they propose to purchase. If we were to refer to the Committee on the Judiciary all propositions to purchase law books, and to the Committee on Public Lands propositions to purchase all books on that subject, our Library would be probably filled with a greater collection than we need. It seems to me, therefore, that this question should with great propriety be referred to the Committee on the Library.

Mr. PEARCE. I hope the resolution will be adopted as it is. The subject is one that, I think, does not properly belong to the Committee on the Library. That committee is charged with the purchase and collection of books, but not of curiosities, which, if purchased, would not be placed in the Library. I know that the Committee on the Library are desirous that this reference should be made to the Indian Committee. We are already overburdened with work. It is but too frequently the case, that subjects which do not properly belong to them, as in the present instance, are saddled on the Library Committee.

Mr. SEBASTIAN. As I understand that resolution, it does not relate to a matter which should go to the Committee on Indian Affairs. I think the proposition does not admit of question, that the Committee on the Library is the proper committee to which it should be referred. It is true that it does not relate to the purchase of books, or to a subject which technically is exactly appropriate to the business of the Committee on the Library; but it is evidently entirely foreign to those subjects which usually come before the Committee on Indian Affairs. They merely have to deal with matters relating to Indian appropriations, and to legislation for the purpose of carrying out the administration of the Indian Department. The mere fact that a gallery of portraits of Indian chiefs has been collected, with which it is perhaps desired to enrich the gallery of the Smithsonian Institution, or that of the Patent Office, constitutes no reason for referring the resolution to the Committee on Indian Affairs. Although the resolution does not relate to a collection of books, yet by analogy, the purchase of a collection of portraits, connects itself



with matters belonging to the appropriate business of the Committee on the Library.

I will mention that when the subject of the purchase of an Indian book, the production of several years' labor on the part of an eminently scientific man, Mr. Schoolcraft, was referred to the Committee on Indian Affairs, they were so sensible of the propriety of having the matter investigated by the Committee on the Library, that they simply passed a resolution by which it was referred to that committee, and they took the initiative, and have followed up the publication of the book ever since. The Committee on Indian Affairs, in that case, which appealed to them even more strongly than this does, wiped their hands of the whole matter. We all know the eminent qualifications of the chairman of the Committee on the Library [Mr. PEARCE] to act upon this question. The Committee on Indian Affairs make no pretension to deal with literature or the fine arts, and, therefore, I hope that the resolution will be referred to the Committee on the Library; and for the purpose of attaining that object, I move to strike out the words "Committee on Indian Affairs," and insert the words "Committee on the Library."

Mr. PEARCE. I wish merely to say that it is usual on questions of this sort, to have the matter referred to a committee which is presumed to be favorable to the thing proposed to be done. But I rather think the Committee on the Library would be somewhat opposed to it. I therefore think the resolution would be better as it is.

Mr. BORLAND. I think that none of the suggestions which have been made for the reference of this question, meet the merits of the case. I think the introduction of this resolution suggests to the Senate, very forcibly, the fact, that in the establishment and arrangement of the committees for the transaction of business, a very important interest, or, what seems likely to become an important interest, in the estimation of many gentlemen, is omitted. If the Senate is to become, theoretically and practically, by its legislation here, the patron of the professors of the fine arts, I think that, as this resolution would seem to suggest, it is time we should have a committee of the fine arts. We have a Committee on the Library, to which all questions involving the purchase of books are referred. We have a Committee on Printing, which decides when it is necessary to have any printing done; and why not have a Committee on Painting, or on the fine arts in general? If the Senate should not choose to go to work and supply this omission now, and establish this committee on the fine arts, and on painting especially, I think that the Committee on Indian Affairs is, of all others, that one to which the consideration of the subject should be referred. The honorable chairman of that committee, [Mr. ARTHURSON], as is well known, and, as he stated here on a former occasion, is familiar with Indian character. He lives on the frontier, and has lived there for many years, where he has had many opportunities of becoming acquainted with the Indians, and is better calculated than any other gentleman among us to judge of the merits of these paintings, and whether they truly represent Indian character or not.

We know very well that, because we have not had the benefit of the judgment of gentlemen so thoroughly acquainted as the Senator from Missouri [Mr. ARTHURSON] with Indian characteristics, we have now in the Rotunda a painting in which Indians are delineated, and in which there are figures representing anything in the world but Indians. Any one who knows what an Indian looks like could not select from that painting a single figure representing an Indian at all. That could only have happened because the subject was not referred to the Committee on Indian Affairs, or to a committee composed of gentlemen acquainted with the appearance and characteristics of Indians.

I believe that the Library Committee is not at present composed of gentlemen who have lived on the frontier, and who could thus become familiar with the Indians, and with their appearance and characteristics; I wish, therefore, to have this resolution submitted to a practical test. I know that my colleague, [Mr. SEBASTIAN], though he wishes to avoid the proposed reference, is well acquainted with the subject. His modesty may have caused him to wish that it should not be referred to the Committee on Indian Affairs, and to yield the decision on this point to the distinguished gentlemen composing the Library Committee; but with the

knowledge which I know my colleague to possess on this subject, from his practical acquaintance with it; with the eminent qualifications of the Senator from Missouri, [Mr. ARTHURSON]; with the large experience of the Senator from Texas, [Mr. RUSK], who, as we all know, has had the most extensive observations of Indian character, I feel that we could obtain from this committee an enlightened and practical judgment, such as we could not expect, with equal confidence, from any other source. I shall be perfectly satisfied with that judgment, not only in regard to the policy of purchasing these paintings, but, also, in regard to the special merits of these portraits themselves.

I hope that the resolution will take the direction which the Senator from New York, [Mr. SEWARD], who introduced it, proposed to give it.

Mr. BUTLER. My objection is not whether this resolution should be referred to this committee, or to that committee; but I have observed that legislative patronage of the fine arts comes up too often from individual members of the Senate. I understand that the Committee on the Library is at liberty to purchase such books, manuscripts, paintings, and other matters, as they may deem necessary and suitable for a Congressional Library; and when a recommendation for any purchase comes from that committee, it meets with my consideration. But I must confess, that when an obligation is sought to be imposed upon the committee to purchase this book, or that painting, and the proposition, coming too, not from a committee, but from an individual of this body, it has not the same force with me. I object to matters of this sort coming up before the Senate, and would oppose its reference to any committee. If, however, it is to go to any committee at all, I should say that it ought to go to the Committee on the Library, because it is a committee composed of gentlemen of taste, not only with regard to literature, but also with regard to the fine arts. I must say, however, that I totally object to this mode of introducing subjects of this kind to the Senate.

Mr. HALE. I did not hear the resolution read, but if I understand it, it is one of instructions; and if that is the case, I would propose that the committee be instructed to inquire into the expediency of removing that thing in the east yard, called "Greenough's Washington;" and also those other matters which so disfigure the eastern portico, where strangers from all parts of the country assemble on inauguration day. I hope that before the next inauguration day shall come, let which party may succeed, those dreadful-looking images which deface what would otherwise be a beautiful building, and mar the prospect, may be removed. I hope, therefore, that if this resolution is referred to any committee, the instructions may be so extended as to cause these things to be removed.

The PRESIDENT. The question is on the reference to the Committee on Indian Affairs. The Senator from New York moved to amend the resolution so as to change the reference from the Committee on the Library to that committee; and the Chair, hearing no objection, declared such to be the will of the Senate. If, however, there be any objection to that reference, a motion can be made to reconsider.

Mr. SEWARD. I would barely say that this matter was recommended to me by the consideration that there is some considerable merit acknowledged in the artist who has produced these works; and there is a large class of the community who attach considerable importance to the preservation of the memorials of the Indian races, who are fast passing away from before us. But that which more particularly commends this matter to me, is the fact that the artist is in London, in a situation of great embarrassment; that his numerous friends and patrons in this country have seconded an appeal which he himself has made to Congress, to entertain once more the question whether they will not purchase them. As an act of kindness to one of our countrymen abroad, in a very destitute condition, I have thought it was not unbecoming to ask that the proper committee, if it could be ascertained which committee that is, would allow me to submit the question whether they would give any response to the proposition to purchase these paintings.

Mr. SEBASTIAN. I move to amend the resolution by striking out the words "Committee on Indian Affairs," and inserting "Committee on the Library."

The PRESIDENT. That motion will not be in order, inasmuch as the words "Committee on the Library" were stricken out, and the words "Committee on Indian Affairs" inserted. The object of the Senator from Arkansas can only be attained now by a motion to reconsider the vote by which the change was made.

Mr. SEBASTIAN. Then I move to reconsider that vote.

The motion to reconsider was rejected.

The PRESIDENT. The question now is on the motion to refer the resolution to the Committee on Indian Affairs.

Mr. ATCHISON. I trust, then, that the resolution will be rejected. The Committee on Indian Affairs have now a rather unenviable reputation for extravagance. There are constant complaints in relation to propositions for appropriations asked for by that committee. If this subject is referred to the Committee on Indian Affairs, it will be the first time in the history of that committee, that they were ever called upon to exercise their judgment or their taste in relation to paintings, or any thing having any connection with the fine arts. We have our hands full of matters of substance.

Mr. SEWARD. If the Senator from Missouri will indulge me with one word, I will say that, as both committees seem to be unwilling to take charge of the subject, and inasmuch as compromise is the order of the day, I hope I may be allowed to strike out the reference proposed, and that the resolution may be referred to a select committee.

Mr. ATCHISON. I have no objection to that.

Mr. SEWARD. Then I make that motion.

The PRESIDENT. That motion can only be made by unanimous consent.

Mr. BORLAND. I object.

The PRESIDENT. It is in the power of the Senator from New York to move to strike out a portion of the resolution, and insert new matter.

Mr. SEWARD. Then I move to amend it by striking out the words "to report a bill," and to alter the resolution so as to make it read "the expediency of purchasing."

The PRESIDENT. The Chair will have the resolution drawn so as to meet the views of the Senator, and have but one motion.

The resolution, as proposed to be amended, was then read as follows:

"Resolved, That a select committee, to consist of — members, be requested to inquire into the expediency of purchasing George Catlin's collection of Indian Scenes and Portraits."

Mr. BORLAND. As the question has assumed a somewhat different aspect from that which it presented a short time since, I must remark that, in substance, it is an old acquaintance here. I know that for the last four years, there has scarcely been a session in which it has not been brought before us. The Senate has passed its judgment upon it more than once, and I have always opposed it on its merits. I stated to the Senate, on a former occasion, what I now repeat, and what is known to me to be certainly correct, that we have in the Army of the United States an officer who has given proof of his eminent qualifications, in the judgment of those better qualified to decide that point than myself, which would enable him to produce a series of paintings of this kind, far superior to those of Mr. Catlin. I believe he has given proof of his superior qualification, by works which have already come from his hands; and he is, as I understand, willing, for no greater compensation than he now receives as an officer of the Army, to produce such a gallery of paintings upon these very subjects, far superior to those of Mr. Catlin. The gentleman to whom I refer, is Captain Eastman, of the Army of the United States. In justice to him, however, I must say, that I have never seen him, though I have seen his works; and we have on the desks of Senators evidence of his eminent qualifications, in the illustrations which he furnished for Mr. Schoolcraft's book. For a compensation no greater than he now receives as an officer of the Army, I am informed that he is ready to furnish to the Government a gallery of paintings superior in every respect to those which we are now asked to purchase at a much higher price. On no account could I be induced to vote for a proposition of this kind; and unless Senators desire to make further remarks upon the subject, I will move to lay the subject on the table, as a test question.

The question was taken, and on a division, there were—ayes 21, noes 16.

So the resolution was laid on the table.

#### NAUTICAL ALMANAC.

Mr. GWIN. I moved, the other day, to lay on the table a resolution offered by the Senator from New Hampshire, [Mr. HALE,] in relation to the Nautical Almanac. I am satisfied, now, that it ought to pass; and therefore move to take it up for consideration.

The motion was agreed to.

The resolution is as follows:

*Resolved*, That the Secretary of the Navy be instructed to inform the Senate where, and at what Observatory, the observations and calculations for the "Nautical Almanac" are made?

Why the same are not made at the National Observatory at Washington?

What expenses are necessary therefor, except the pay of the Superintendent?

What progress has been made towards making a Nautical Almanac?

For how long a period of time the calculations of the first almanac are expected to extend?

Whether it is necessary to the perfection of the "Nautical Almanac" to make observations at more than one Observatory, and if so, where they are made at two Observatories, and if so, at what two?

Whether any persons except the Superintendent, have been paid for services in preparing the "Nautical Almanac," and if so, how many, and what compensation have they received?

When it is expected that a "Nautical Almanac" will be prepared for publication?

What improvement, if any, is it expected the American "Nautical Almanac," when published, will have over the English?

Is it expected that any errors of former astronomers or observers are to be corrected, or any new means suggested by which more precision is to be given to astronomical science?

After the first American "Nautical Almanac" is published, will the succeeding numbers probably cost as much, or more than the first?

Will the same time be necessary for the second and subsequent numbers respectively, as for the first?

Mr. PEARCE. Mr. President, I think a good deal of the information asked for in that resolution, is already at the command of the Senate. For example: as to the names of the persons employed in making the computations for the Almanac. We have the whole of that, with their compensation and residence, given in the Blue Book. And so we have reports—I think we have had two or three of them—from the Superintendent, exhibiting the progress of the work. Nevertheless, I very much desire to see such a report as the resolution contemplates, called for; because I think it will forever silence all cavil upon the subject, and demonstrate not only the utility, but the absolute necessity of publishing an Almanac of our own.

I suppose that Senators are aware that no vessel, either of the navy or merchant service, can go to sea without a Nautical Almanac; and that heretofore we have been dependent on the British Nautical Almanac, which is put out about three years in advance, that for 1855-'56 being now published. If we have a war of more than three years' duration, which would intercept our communication with England, it is manifest that our vessels could not put to sea, unless we had established such a work as this resolution inquires into. I think it will appear from this report, that we have not only good reason, but a perfect right, to expect great improvements in astronomical science, and great improvements in the accuracy of this work. Indeed, one of the reports of the Superintendent, which was laid on our table some time ago, already shows that the American calculations will make impossible certain errors in the moon's place, as given in the European tables, which may make a difference of fifteen or twenty miles in longitude. The accuracy of the computations is evinced by a test which was applied during the solar eclipse of last year. In the predictions of that eclipse, according to the British Almanac, there was an error of eighty-five seconds, while the American Almanac was in error only twenty seconds. I think, also, it will be seen that the observatories of the whole world, and in all time, are laid under contribution for the purpose of supplying the materials for the calculations. Those calculations and computations are not confined to observations made to-day, or in the course of this year, at Washington, or anywhere else; but observations made at all the observatories in all the world, which are reliable, for hundreds of years past, are relied upon for these computations. Observations at Washington

will no doubt assist in the correction of errors—in a nearer approach to the utmost attainable accuracy. The services of persons competent to perform these computations, cannot be had at anything less than is now paid them. I believe that compensation is as low as it can be obtained for. But I will not go any further into the subject. I only desired to say thus much, as a reason for passing the resolution. I am satisfied that the report in answer to it will be most satisfactory and gratifying. And I am very sure that the continuance of the work will be as valuable to the country, as it is and will be honorable to the admirable officer who superintends it.

I will add, sir, for the information of the economists, that the sale of these Almanacs will restore to the Treasury a part of the expenditure upon the work, while it will cheapen to all our mariners the cost of the book. Already the anticipation of this publication has brought down to one half the price of the British Nautical Almanac.

The resolution was adopted.

#### CANAL ACROSS FLORIDA.

Mr. BROOKE. I offer the following resolution, and ask that it may be considered at this time:

*Resolved*, That the Secretary of the Treasury be requested to report to the Senate upon the practicability, utility, and probable cost of a ship canal across the peninsula of Florida; and also to communicate such information as the Department may be in possession of, in relation to the navigation of the Straits of Florida, the losses occurring therein, and the dangers and difficulties incident thereto.

No objection was made to the consideration of the resolution.

Mr. BROOKE. I hope the resolution will be adopted. It is one of a great deal of importance, not only to Southern commerce, but to the commerce of the whole Union. My attention has been called to it by a highly intelligent gentleman of the State of Mississippi—Mr. A. B. Alvord—who has bestowed a great deal of time and labor in the investigation of the subject. I am informed by the Senator from Florida, [Mr. MALLORY,] that the annual loss of vessels doubling that cape or peninsula, is about twenty-two per annum, involving a loss of about \$1,000,000 per annum. The dangers and difficulties incident to that navigation are the cause why so many vessels go in ballast to the city of New Orleans, the rates of insurance being so high; and that, of course, imposes a great burden upon the commerce and products of the South and West, because, in order to make up the losses incident to their empty vessels going to New Orleans, they have to impose very large freights upon outward-bound cargoes. I do not intend by this resolution to commit the Government to the construction of the canal, but what I want, is simply the information, in order that private capitalists, if they should be so disposed, may embark in the undertaking; though I do think it is one of such national importance that it might well be considered by the Government as a national work.

The resolution was adopted.

#### REMEDIES TO PATENTEES.

Mr. BRADBURY. I move to postpone all prior orders for the purpose of taking up the bill giving further remedies to patentees. The consideration of it will occupy a very few moments.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole. It enacts, that if any person or corporation shall import, or have in possession, for the purpose of traffic or sale, any articles imported into the United States from any foreign territory adjoining or near thereto, and manufactured in whole or in part in any such territory by any process or machine, for which there may be at the time a subsistent patent owned by any citizen of the United States, such person or corporation shall, upon due proof thereof, before any court of competent jurisdiction, be deemed to have infringed said patent, and be liable for all damages, in the same manner, and to the same extent, as in other cases; and the articles so manufactured and imported, shall be forfeited to the use of the owner of said patent. It enacts further, that whenever a patentee, or any person holding under him, shall file a bill in equity, verified by oath or affirmation, in the circuit or district court of the United States, complaining that any person or corporation has imported, or has in possession for sale or traffic, any of the articles described in the preceding section, and shall make it appear to the satisfaction

of the judge, that the facts alleged are probably true, the said judge shall issue an order to the marshal, directing him to take said articles into his custody, and hold the same subject to the final order of court; and may further, by injunction, restrain the sale of, and traffic in said articles; and after due notice to all the parties, may, upon a final hearing of the cause, decree said articles to be forfeited to the use of the complainant: *Provided, however*, That from all judgments and decrees of said courts, a writ of error or appeal shall lie in the same manner as now provided by law in relation to other judgments or decrees.

Mr. BRADBURY. I have one or two verbal amendments to offer to the bill, and one of some importance. I desire to say, first, that the necessity of this bill arises from a defect found in the existing patent laws. By a valuable invention, a great saving of expense has been made in the manufacture of irregular forms. The inventor was protected by a patent. After the invention was found to be valuable, as in the manufacture of gun-stocks, lasts, &c., violators of the patent stepped over the line into Canada and manufactured the articles, establishing machines on the other side of the line, and bringing the articles into this country for use—thus depriving the patentee of the benefit of his patent. I do not suppose any further explanation is necessary to the bill.

There are one or two verbal amendments to be made, where I regard the bill as rather too stringent in its character. I will move, first, that the word "hereafter" be inserted in the beginning of the bill after the word "shall," so as to make it read, "that if any person or corporation shall hereafter import," &c.

The amendment was agreed to.

Mr. BRADBURY. I move to strike out the word "sale," in the clause—"that if any person or corporation shall import or have in possession, for the purposes of traffic or sale, any articles," &c., and insert the word "use" in lieu thereof.

Mr. HALE. I hope that will not be done. I think the Senator does not understand the force of that amendment. It will make a very important alteration; and its effect will be to subject any man to the penalties of the bill who buys a patented article, although he may know nothing of the existence of the patent. For instance, I have on my desk two specimens of patented cloth; if an individual buys a piece of that made by the infringer of the patent—if this amendment is made—he subjects himself to the penalties of the bill. I think it is broad enough to include any one who has the articles for the purposes of traffic or sale; and it should not subject an innocent purchaser, who may buy an article without knowing whether it comes from the genuine patentee or not. I hope that the amendment will not be agreed to.

Mr. BRADBURY. I perceive that the Senator from New Hampshire, who supposes that others misunderstand, does not himself understand the necessity of the amendment. Perhaps I may premise that I propose to submit such other amendments as will obviate some of the difficulties which the Senator has in his mind. But the necessity of the amendment is this: If the bill is adopted without the amendment, a violator of a patent has only to establish his manufactory on the other side of the line, and then enter into contracts with every one who desires to use the article, and under those contracts he will bring the articles in, and they will be used; so that the bill will be utterly useless unless an amendment of this kind be adopted. I only propose that those who shall knowingly hereafter use the article shall be required to pay something for the use of it, for I shall move presently to strike out that portion which declares that the article shall be forfeited. I hope the amendment will be adopted.

Mr. HALE. The honorable Senator says it is owing to my ignorance that I do not understand the amendment; and I confess it. I do not see how, if you adopt it, you can protect any single citizen of the United States that goes into a dry-goods, or any other store, and buys a patented article. He subjects himself to the penalties of the bill. I am in favor of the bill, and think it is broad enough as it stands. If you subject to its penalties every man who uses an article made by the violator of a patent, it will be extending the principle further than it has ever been extended before. There never was such a principle as that a man who used a patented article, manufactured

by somebody in violation of the rights of the patentee, should be subjected to a penalty. It is a new principle, and a dangerous one. A man may buy an article—take this cloth for instance—may go into a store, and buy a suit of clothes, or a coat, or what not, and the first thing he knows he is subjected to the penalty. It will be broad enough if you subject the traffickers and those who have the patented articles for sale, without subjecting an innocent person to it.

Mr. BRADBURY. I would ask how the honorable Senator proposes to protect the patentee against frauds of this kind: where a manufacturer of articles, in violation of the law or of the spirit of the law, should be established on the other side of the line in Canada, and where the manufacturer, intending and designing to violate the law, should then propose to supply every establishment in the country with lasts? They would then, if this amendment is not put in the bill, be able to use them when purchased in violation of the spirit of the law on the other side of the line under that contract, as effectually as if there was no protection whatever. Certainly the Senator from New Hampshire cannot design anything of this kind. It will be easy to reach the difficulty to which he alludes, by a subsequent amendment requiring the purchasers to pay when they use the articles in known violation of law.

The amendment was agreed to.

Mr. BRADBURY. The bill provides that the importing of articles manufactured from American patented machines in contiguous foreign territory, shall be deemed to be an infringement of the patent. It provides that the party so infringing "shall be liable for all damages in the same manner, and to the same extent as in other cases." The bill provides immediately afterwards: "And the articles so manufactured and imported shall be forfeited to the use of the owner of said patent." I move to strike out this clause, and insert in place of it the words "of infringement." The effect of the amendment will be to subject the parties to the same penalties "as in other cases of infringement."

The amendment was agreed to.

Mr. BRADBURY. In consequence of that amendment, another amendment becomes necessary in the second section. I therefore move to strike out in that section, in the clause relating to the powers of the United States courts under this bill, the following words: "And after due notice to all parties may, upon a final hearing of the cause, decree said articles to be forfeited to the use of the complainant."

The amendment was agreed to.

Mr. DAVIS. Mr. President, I want to suggest to the gentleman who has charge of this bill, whether it would not be better to limit the penalties of this act to the case of articles manufactured from wood.

Mr. BRADBURY. The object of the bill is to reach cases of that kind. I am not aware that there is any necessity to extend it further; and therefore, no objection to the amendment of the Senator from Massachusetts occurs to me at present. If he will suggest the proper place for such an amendment, I shall perhaps be willing to have it inserted.

Mr. DAVIS. I do not know where such an amendment would properly come in, for I have not the bill before me; but I suppose there is some place in the bill, which the Senator can very readily point out, where a provision may be inserted, limiting it to the case of articles manufactured from wood.

Mr. BRADBURY. I would like to hear the Senator explain why that amendment is necessary. He will perceive that this bill has relation only to articles brought in the United States from contiguous territory, having reference to Canada, and that it cannot apply to articles imported from distant countries, for the language of the bill is very explicit with regard to that.

Mr. DAVIS. I do not feel inclined to enter into this discussion at all. I have entertained doubts as to the policy which this bill proposes, but the evil complained of being limited, I believe, to two articles—the manufacture of shoe-lasts, and of axe-handles—I thought it would be perhaps wiser to limit the measures proposed by this bill, to articles manufactured of wood. The Senate will very readily see that this may lead to retaliatory legislation, and that the better course of policy is

to have a party take out a patent in a foreign country rather than protect himself by legislation. But, seeing an evil existing in this particular case, and knowing that this is the third renewal of the patent, for which protection is asked, and supposing that a patent could not be obtained in a foreign country, I was disposed to let the bill pass, if limited to the particular class of cases which I have mentioned, and for which it was, I believe, intended to provide.

Mr. ATCHISON. I concur in the remarks made by the Senator from Massachusetts, and for that purpose, I move that the bill be postponed until Monday next.

Mr. BRADBURY. I think I can prepare an amendment, in a moment, which will obviate the objection of the Senator from Massachusetts.

Mr. ATCHISON. The Senator from Massachusetts expresses doubts as to the policy of the bill at all, but if there is to be no further discussion, I withdraw my motion.

Mr. UNDERWOOD. I hope the Senator from Maine will consent to let the bill lie over. If the gentleman from New Hampshire [Mr. HALE] is correct, the bill, as it now stands, subjects to punishment innocent individuals who may purchase articles without the knowledge that they have been made abroad by a machine patented in this country. I would not be willing to agree to that principle. I think, therefore, it would be better to let us have an opportunity of examining that question.

Mr. HALE. I wish to make a suggestion to the Senator from Maine, who has this bill in charge. I am friendly to the bill, and wish to have it passed; but I think that if it passes now, in its present form, it will be the most monstrous trap that was ever set. It involves an entirely new principle, and one which we have never adopted in regard to any patented machine throughout the whole United States; and that is this: the bill, as it now stands, subjects to its penalties a man who uses an article manufactured in a foreign country from a machine patented here. You may be liable to the penalties for wearing a piece of cotton or linen cloth, if it turns out that it has been spun or woven by a machine patented in this country. Every article that enters into domestic consumption may come under this bill. Every man will be subjected to its penalties who uses an article that has been manufactured by a machine on the other side of the line, provided a patent for the same machine has been issued on this side. I say this is an entirely new principle, and an alarming and dangerous one. It is one which you have never adopted with regard to articles made from machines in this country. If a man has a machine for weaving cloth, and somebody else manufactures the same kind of cloth, in violation of his rights as a patentee, that subjects him, under this bill, to a penalty. According to our present laws, it does not subject me to the penalties of the law if I buy a piece of that cloth. But this bill goes further: If an article is manufactured on the other side of the line by a machine, which is a violation of the patent here, then, according to this bill, the products manufactured, be they cloths, hats, boots, shoes, or anything else, are not allowed to be used without subjecting the user or wearer to its penalties. I hope the bill will be laid over, and that if it is thus obnoxious the Senate will amend it.

Mr. BUTLER. In justice to myself, as chairman of the Committee on the Judiciary, I hope I may be allowed to say a word. It was with some reluctance that I gave my consent to this bill. It was very carefully worded by Mr. Dayton, one of my former colleagues upon the committee. We were very careful in guarding the bill, as we supposed at that time. The new principle that has been introduced by my colleague on the committee, the Senator from Maine, is altogether without my knowledge. I agree, to some extent, with the remarks of the Senator from New Hampshire. As long as this bill is founded upon the principle that persons are to be reached who openly sell, *scientia*—with knowledge or implied knowledge that they are using articles manufactured from machines beyond the line, in violation of the rights of persons who have them upon this side, I have no objection to it. The great principle, however, should be to reach none but those who openly and knowingly sell in violation of the patent in the United States. I therefore would say to the Senator from Maine, that I doubt very much the propriety of the amend-

ment which has been adopted on his motion, and cannot give my sanction to it without further consideration.

Mr. MILLER. I am very anxious that this bill shall be disposed of at this time. I would say to the Senator from Maine who has had charge of it, that I prefer the bill as introduced by myself, and reported by the Committee on the Judiciary. I think we had better return to the word "sale," and not insert the word "use," so as to avoid the difficulty suggested by the Senator from New Hampshire. I think if we leave the bill in its original form, it will embrace all that is necessary, and secure all the rights necessary to be secured. Then I have no objection to the amendment suggested by the Senator from Massachusetts to confine this bill to the manufacture of articles of wood. That will reach the case, and get rid of all the difficulties which have been suggested. It is highly important that our own citizens, who have these rights secured by acts of Congress, should be protected, and immediately protected against this piracy upon their rights. The case it is intended to remedy exists, confined to articles manufactured of wood. If the bill is retained in its original form, it can injure no one except those who are knowingly and willfully engaged in evading the laws of the United States. I hope, therefore, the Senator from Maine will consent to the amendment suggested by the Senator from New Hampshire.

Mr. BRADBURY. I feel bound, after the suggestion of the Senator from New Jersey, who introduced this bill, to assent to the amendment. The chairman of the Committee on the Judiciary is correct in his recollection; the amendment which I offered, was one moved by myself upon explanation by a gentleman conversant with the matter, who said the law would be comparatively useless without it, because it could be easily evaded. But, as the honorable Senator who introduced the bill thinks the amendment which has been made would be objectionable, I move to reconsider the vote striking out the word "sale," and inserting the word "use." After that, I shall be ready to accede to the amendment suggested by the Senator from Massachusetts.

The motion to reconsider was agreed to.

The question recurred on the amendment striking out the word "sale," and inserting the word "use," and it was rejected.

Mr. BRADBURY. I now move, in accordance with the suggestion of the Senator from Massachusetts, to insert after the word "articles," the words "manufactured in whole or in part of wood."

Several SENATORS. What is the necessity of the limitation?

Mr. BRADBURY. I do not see any necessity for it, and if the Senator from Massachusetts will withdraw his objection to the bill as it now stands, I shall withdraw the amendment.

Mr. BORLAND. I cannot see the propriety of making this amendment. I cannot see why we should give specific protection to one class more than to another.

Mr. BRADBURY. As Senators do not seem to be in favor of the amendment, I withdraw it.

Mr. MALLORY. I do not wish to interfere with the passage of the bill, but it strikes me that it is a bill of very great importance, and I, for one, wish to ask the honorable Senator from Maine to defer its consideration until to-morrow morning. If this bill be for specific relief, I ask if the patent of this person (Mr. Blanchard, if I recollect his name) has not been renewed at least twice, or thrice; and if it be so, whether it is not in fact protection enough? If the bill is to have general operation, then it must be seen at once that endless litigation will grow out of its passage; and it will be seen that the remedy, to be of service, must extend to the manufacture of articles as well across the Atlantic as across the Canada line. It strikes me that the bill is introducing an entirely new principle—one for which a struggle has been made for years, but which has hitherto been withheld. I believe the Committee on Patents have had this subject under consideration for some years, and have studiously avoided giving their assent to the principle involved in this bill. I may be mistaken in this; but it really appears to me that this is a subject which merits more grave consideration. As such I should like to look into it a little more. I confess I have not had time to



examine it sufficiently. I would like to have another day for its consideration, and therefore I move to postpone the further consideration of the bill until to-morrow.

Mr. UNDERWOOD. Might I suggest an amendment now, before the question is taken upon the motion to postpone?

The PRESIDENT. The Senator cannot offer an amendment unless the motion to postpone is withdrawn.

Mr. UNDERWOOD. If the Senator from Florida will withdraw the motion for a moment, I will renew it.

Mr. MALLORY. Certainly; I will withdraw it.

Mr. UNDERWOOD. Mr. President, I cannot vote for this bill as it stands. I wish to read it, and to call the attention of Senators to it for a moment. It has been somewhat restored to its original form, and it reads thus:

"That if any person or corporation shall hereafter import, or have in possession for purposes of traffic or sale, any articles imported into the United States from any foreign territory adjoining or near thereto, and manufactured in whole or in part in any such territory by any process or machine, or by any substantial modification of any process or machine for which there may be at the time a subsisting patent owned by any citizen of the United States, such person or corporation shall, upon due proof thereof, before any court of competent jurisdiction, be deemed to have infringed said patent, and be liable," &c.

Now, suppose a Western merchant goes to New York or Boston and buys a great many articles thus imported from Canada, and should take them to the West for the purpose of merchandising, is not that merchant, under the provisions of this bill, subjected to its penalties? I think he is, because the idea suggested by the Senator from South Carolina has not been met. If you will say that the person shall not do this knowingly, or having knowledge that the articles were manufactured in the adjoining province of Canada, then I will agree to the bill; but if you do not insert into the bill any clause which exempts a person from penalty, if he acts innocently—without the knowledge that these articles which he thus buys in Boston or New York have been manufactured across the line by some machine patented in the United States, and brought here in violation of our patent laws—I cannot agree to it. I therefore think that we ought to insert after the word "and," in the sixth line, the words "knowing them to have been manufactured." If he has any knowledge that they have been manufactured in Canada by a machine patented in our country, then he would be guilty, in substance, of a violation of the patent laws. As I promised my friend from Florida to renew the motion to postpone, I merely suggest the amendment, hoping that those who take an interest in the bill will examine it, and see whether the amendment which I have suggested is not necessary. I do not offer the amendment now, but I would suggest it so that the friends of the bill may examine it, and make the guilty act dependent upon knowledge, as suggested by the Senator from South Carolina. I now renew the motion to postpone the further consideration of the bill until to-morrow.

Mr. BRADBURY. I supposed such would be the construction of the bill without the insertion of the clause suggested by the Senator from Kentucky. I wish to get a vote on the bill to-day, and if the Senator from Florida will withdraw the motion to postpone, I shall offer an amendment, to insert after the word "possession," the words "knowing the same to have been imported."

The PRESIDENT. The proposition is to postpone the further consideration of the bill. No amendment can be offered unless that motion is withdrawn or voted down.

Mr. BRADBURY. I hope my friend from Kentucky will withdraw the motion.

Mr. UNDERWOOD. I cannot withdraw it. It was originally made by my friend from Florida, and I renewed it in consequence of my pledge to him.

Mr. MILLER. The clause of which the Senator from Kentucky complains is not a new clause at all. It is copied from our own patent laws protecting the rights of our own citizens against invasion within the United States. Let us take the case cited by my friend from Kentucky, of a merchant going to New York and purchasing a counterfeit patented article; it is not now necessary to prove that he had knowledge that it was not in truth manufactured by the owner of the patent or

his assignee. If you find the article in his possession, under our patent laws now, regulating our own citizens, he may be made liable for an infringement of the patent, although he knew not at the time he bought the article whether it was made by a patented machine or not.

Mr. UNDERWOOD. I can never consent to that principle. If that is so, there is greater necessity for postponing the further consideration of the bill.

Mr. MILLER. As this bill was originally drawn, and as it came from the Committee on the Judiciary, I think the gentleman will find that it embraces the same clause which is contained in our other patent laws, and certainly we ought not to extend to persons who infringe these patents in the Canadian Provinces, and all persons purchasing under them, any greater rights or privileges than we extend to our own citizens.

The motion to postpone was agreed to.

#### NOTICE OF A BILL.

Mr. UNDERWOOD gave notice of his intention to ask leave to introduce a bill to change the name of the steamer Brilliant.

#### EXECUTIVE SESSION.

On the motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business, and after two hours spent therein, the doors were reopened, and

The Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, June 10, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the consideration of House bill No. 271, granting the right of way and a portion of the public land to the States of Florida and Alabama, for the construction of certain railroads in said States.

Mr. BUSBY. I ask the consent of the House to withdraw from the files of the House the papers and petition of Joseph Sloan.

The SPEAKER. For what purpose does the gentleman desire to withdraw them?

Mr. BUSBY. That they may be returned to the memorialist.

Mr. ORR. That is unusual, I think; is it not?

The SPEAKER. It is unusual, unless copies be left on the files, which the Chair supposes the gentleman will see is done. The order will be entered upon the Journal, with that understanding.

Mr. RICHARDSON. I want to make a bargain with the House. Let me take up one little bill upon the table, and pass it this morning, and I will not trouble them any more. It is the bill to grant preemption rights to settlers along the Central Railroad in Illinois.

The SPEAKER. Upon the measure immediately before the House, the gentleman from South Carolina [Mr. ORR] is entitled to the floor. Does the gentleman yield the floor to the gentleman from Illinois, [Mr. RICHARDSON?]

Mr. ORR. I cannot yield the floor.

The SPEAKER. The bill under consideration will be reported by the Clerk.

The Clerk accordingly reported to the House "A bill granting the right of way and a portion of the public lands to the States of Alabama and Florida, for the construction of certain railroads in said State."

The SPEAKER. The pending motion is to recommit the bill to the Committee on Public Lands.

Mr. STANLY. The gentleman from South Carolina [Mr. ORR] will pardon me a moment. I want to inquire how this bill gets before the House at this time? I was under the impression that another bill would take precedence of this in the order of business.

The SPEAKER. It was reported by the Committee on Public Lands, which fact confines the bill to the morning hour, and is kept within the morning hour by the pending motion to recommit.

Mr. STANLY. What becomes of the bill reported by the gentleman from New York, [Mr. BENNETT,] yesterday, granting lands to the States generally for railroad and educational purposes?

The SPEAKER. That will be the next business in order, according to the opinion of the

Chair. This bill being first reported, and being in precisely the same condition as the one reported by the gentleman from New York, should be first disposed of.

Mr. ORR. I propose to offer a substitute for the bill which was reported by the committee. The variation between it and the original bill is a very slight one. In the first section of the substitute, the branch of the road provided to be run upon that road from Pensacola Bay to Montgomery, out in the direction of the Chattahoochee river, has been stricken out, and another branch from the road, in the direction of Mobile Bay, to connect with the terminus of the Gerard road, substituted.

There is another provision in the substitute, allowing the privilege to the Gerard road to cross this road, and an equal share of the public lands within six miles of the road.

The entire bill is a precise copy of the Missouri bill in all of its features. The same guards are thrown around this bill which are contained in that bill; and although it has not been returned from the printer, yet the House can be informed as to its contents as well without the printed bill before them as with it.

Mr. MARTIN, (interrupting.) I should like to make a few observations on the subject of these bills.

Mr. ORR. I do not like to be unaccommodating; but still—

Mr. MARTIN. I will trouble the House but a few moments.

Mr. ORR. If the gentleman will be brief, I will yield the floor, if it will be in order.

The SPEAKER. The Chair decides that if the gentleman yields the floor for explanation, it is in accordance with the practice here, and is in order; but if the gentleman yields the floor for any other purpose, he yields it altogether.

Mr. ORR. I do not know what course to pursue. I know that the Committee on Public Lands have got into rather a bad odor in the House, in consequence of keeping their bills before the House, and thereby preventing other committees reporting. We submit a report, and the friends of the particular measure desire to be heard. It is right and proper that they should be heard. Their constituents are interested, and they want to put themselves right before them. Other gentleman desire to be heard, and only one hour being devoted to the call of committees, we find that the Committee on Public Lands has consumed very much of that hour for the last three or four months.

Mr. MARTIN. I will only occupy about ten minutes' time for an explanation.

Mr. ORR. I yield for an explanation.

Mr. JONES, of Tennessee. I understood the Chair to decide that if the gentleman yields the floor for any other purpose than for explanation, he will lose it altogether.

The SPEAKER. The Chair did so decide.

Mr. JONES. Then I ask the gentleman from New York [Mr. MARTIN] if he has any personal explanation in relation to these bills?

Mr. MARTIN. My explanation relates to these bills generally. I can get through with what I have to say before you can settle this question.

Mr. JONES. I wish to inquire if the gentleman from South Carolina [Mr. ORR] is upon the floor, or the gentleman from New York, [Mr. MARTIN?]

The SPEAKER. The gentleman from South Carolina is entitled to the floor, but has yielded it for explanation, to the gentleman from New York.

Mr. JONES. Then I hope the gentleman will confine his remarks to matters of explanation.

Mr. MARTIN commenced some remarks, in which he was arrested on the ground of irrelevancy.

Mr. ORR. The opponents of bills granting alternate sections of the public land for the purpose of aiding in the construction of railroads, have never yet, in my opinion, stated the question with any fairness. It is charged upon those who have favored the policy, that they were propositions for the giving away—the squandering—of thirty-five million acres of the public land, which is worth, at the Government price, \$50,000,000. That is true as far as it goes, but it is not the statement of the whole case. These grants do not amount to a gift which impoverishes the Government one farthing. The means in the Treasury are not reduced. It is just as rich after the donation has been made, as it was previously. You

will find money flowing into your coffers after these grants have been made, and the construction of the railroads for which they were made, that you never could have received without some step such as this had been taken, to enhance it to a value which it now has not. I desire, therefore, gentlemen—when they rise in their places, either in the House or the Committee of the Whole on the state of the Union, to assail this policy—to meet the argument, and not make the charge that we are throwing away the public lands. That is not true in point of fact. The grants are made by this Government upon certain conditions. What are those conditions? That the railroads shall be constructed through your public domain. The other condition is, that the lands for six miles on each side of the road, reserved to the Government, shall not be sold at less than \$2 50 per acre. They are now sold at \$1 25 per acre; and if you sell half the present quantity, then, for double that price, I should like to inquire whether there is not realized as large an amount to the Treasury, after these donations are made, as though the whole had been disposed of at the present price? The people are not impoverished at all. They are not required to pay, in consequence, an additional farthing into the public Treasury. It is a gift, upon the other hand, of great consequence, by giving value, in extending facilities for markets, and thereby bringing unsalable lands into market.

Mr. JONES, of Tennessee. Will the gentleman allow me to ask him a question?

Mr. ORR. I hope my friend will spare me the interruption.

Mr. JONES. The opponents of these bills cannot get an opportunity to say a word upon them.

Mr. ORR. The Missouri bill was debated here for four or five weeks, and then the opponents of these schemes had the opportunity of being heard, but not one of them as yet has met the arguments advanced in favor of the system. They cannot be successfully met; and this mad-dog cry that those who support the donation for the construction of railroads of alternate sections of the public land, are in favor of a system of internal improvements, is idle and vain. It has no foundation. It is the cry of those who would defeat a measure, who are not able to bear it down by the weight of argument.

Mr. AVERETT. I will merely put an inquiry to the gentleman.

Mr. ORR. I cannot yield the floor.

Mr. AVERETT. The previous question is moved on all of these bills, and opportunity is not afforded for reply to their opponents.

Mr. ORR. I will state, as I have done before in advocating this bill, there are seven townships of the public land through which this road passes, which have been in market for twenty years, and of which, during that whole time, not one single quarter of a section has been entered. Would it be a loss to grant this to a railroad company? So far from it, by encouraging the construction of a road through it, you bring it into market, and cause that which is now valueless to be sold for \$2 50 per acre. But more; these roads guarantee to transport your troops and munitions of war without any charge, and your mails at such prices as Congress may see proper to pay. These are the advantages to be derived from the policy by the Government. See what vast importance and consequence in time of war the road proposed in this bill would be to the Government for the transportation of troops across the Isthmus of Florida. In their voyage around the southern coast of Florida they would easily be obstructed by a foreign foe. It would be of immense importance not only in a pecuniary point of view, but in the saving of time. That saving of time may be of great consequence in the defense of the country. The bill ought to pass. Its merits commend it to the support and confidence of this House. Its importance should commend it to the favorable consideration of members of this House—North, South, East, and West—and I trust it will be passed. I now withdraw my motion to recommit the bill to the Committee on Public Lands, and offer the substitute of which I have given notice. I then renew the motion to recommit, and upon that demand the previous question.

Mr. JONES, of Tennessee. I move to lay the bill and substitute upon the table, and upon that motion I demand the yeas and nays.

Mr. CABELL, of Florida. I will ask the gen-

tleman from South Carolina to withdraw his call for the previous question for a single moment. The gentleman had not taken his seat, and therefore the motion of the gentleman from Tennessee cannot be entertained.

The SPEAKER. The gentleman from South Carolina could not retain the floor after having demanded the previous question.

Mr. ORR. I would be glad to accommodate the gentleman could I do so. If the motion of the gentleman from Tennessee is voted down, I will withdraw my call for the previous question, to afford the gentleman, who is particularly interested in this matter, to submit a statement.

Mr. CABELL. I will, with the permission of the gentleman from Tennessee, make a short statement in regard to this road, without touching upon general matters.

Mr. JONES. I cannot withdraw, for if I do, the whole question will be opened again.

Mr. ORR. I withdraw my demand for the previous question.

The yeas and nays were ordered upon the motion to lay upon the table.

Mr. MILLSON. I move a call of the House, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was then put, Shall there be a call of the House? and it was disagreed to—yeas 62, nays 117.

The question then recurring upon the motion to lay the bill on the table, it was taken, and there were—yeas 99, nays 83; as follows:

YEAS—Messrs. Aiken, Chas. Allen, Allison, John Appleton, Wm. Appleton, Ashe, Averett, Babcock, David J. Bailey, Barrere, Beale, Bennett, Bibbhausa, Bocoek, Bowyer, John H. Boyd, Breckinridge, George H. Brown, Buell, Bu by, Caldwell, Caskie, Chapman, Churchwell, Cleveland, Colecock, Culom, Daniel, Geo. F. Davis, Dawson, Dean, Dimmick, Dockery, Duncan, Edmundson, Ewing, Fowler, Gamble, Giddings, Gilmore, Goodenow, Goodrich, Grey, Hamilton, Hammond, Isham G. Harris, Haws, Hebard, Hubbard, Hillyer, Holladay, Horford, T. M. Howe, T. Y. How, Ingersoll, Ives, Jackson, A. Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kurtz, Letcher, Martin, Mason, McCorkle, McDonald, McLanahan, Meacham, Millson, Morehead, Murphy, Newton, Orr, Andrew Parker, Peaslee, Powell, Riddle, Robbins, Robt. Ross, Savage, Schoonmaker, D. L. Seymour, Skelton, Smart, Snow, R. H. Stanton, Thaddeus Stevens, Sweetser, B. Thompson, Thurston, Venable, Walbridge, Wallace, Washburn, and Wells—59.

NAYS—Messrs. Abernethy, Willis Allen, Bell, Bissell, Bragg, Bremon, Briggs, Brooks, Albert G. Brown, E. Carrington Cabell, Lewis D. Campbell, Thompson Campbell, Carter, Chandler, Clark, Cobb, Conger, Cotnam, John G. Davis, Durkee, Eastman, Edgerton, Evans, Ficklin, Florence, Henry M. Fuller, Gentry, Hall, Harper, Haven, Hendricks, Hens, Houston, Howard, John W. Howe, James Johnson, John Johnson, Robert W. Johnson, Kansas, Landry, Lockhart, Mace, Edward C. Marshall, Humphrey Marshall, McNair, Miller, Molony, Henry D. Moore, John Moore, Nabers, Olds, Outlaw, S. W. Parker, Penn, Pennington, Phelps, Porter, Rantoul, Richardson, Robinson, Schermerhorn, Scurry, Smith, Stanley, Benj. Stanton, Frederick P. Stanton, Abraham P. Stevens, Alexander H. Stephens, Stone, St. Martin, Strother, Stuart, Taylor, Towns, Townsend, Walsh, Ward, Watkins, Welsh, Addison White, Alexander White, and Williams—82.

So the bill was laid upon the table.

Mr. ORR. I rise to a privileged motion. I move to reconsider the vote by which the bill was laid upon the table.

Mr. JONES, of Tennessee. I move to lay that motion upon the table.

Mr. COBB. I rise to a privileged question. Has the morning hour expired?

The SPEAKER. It has.

Mr. COBB. I move, then, to proceed to the business upon the Speaker's table.

Mr. KING, of New York. Is not the motion to reconsider a privileged question?

The SPEAKER. It is a privileged question which, under the circumstances, confines itself to the morning hour, under the special order.

Mr. JONES, of Tennessee. If the House refuse to proceed to the business on the Speaker's table, can they proceed with this other business?

Mr. COBB. I would inquire of the Speaker, if the House refuse to proceed to the business on the Speaker's table, what is the next thing in order?

The SPEAKER. The House would proceed to vote upon the motion of the gentleman from Tennessee, to lay on the table the motion to reconsider.

Mr. COBB. I demand the yeas and nays.

Mr. CLINGMAN. Is it not in order to move to go into Committee of the Whole on the state of the Union?

The SPEAKER. It will be when the pending motion is disposed of.

Mr. CLINGMAN. I trust the gentleman from Alabama [Mr. COBB] will withdraw his motion, and let us go into Committee of the Whole.

CONTESTED ELECTION.

Mr. HAMILTON. I rise to a privileged question. I would inquire of the Chair, if it is not in order now to take up the contested-election case from Pennsylvania?

The SPEAKER. It is in order.

Mr. JONES, of Tennessee. Is there not a privileged question pending?

The SPEAKER. This one is of a higher grade, in the opinion of the Chair.

Mr. HAMILTON. I move, then, that we proceed to the consideration of the contested-election case from Pennsylvania?

Mr. WALSH. Is that in order when another motion is pending?

The SPEAKER. It is, as involving a question of privilege.

Mr. WALSH. The gentleman from Alabama [Mr. COBB] moved to proceed to the business on the Speaker's table, and the House was dividing upon that. And then there is a call for the yeas and nays.

The SPEAKER. The yeas and nays were demanded, but that does not alter the case.

Mr. HAMILTON. I will withdraw my motion for the purpose of deciding this other business.

Mr. CLINGMAN. I hope the gentleman from Alabama, [Mr. COBB], seeing that a majority of the House is disinclined to adopt his motion, will withdraw it for the present, and let us go into the Committee of the Whole on the state of the Union.

Mr. COBB. If I was satisfied that would be the action of the House, out of due respect to the gentleman from Vermont, [Mr. MEACHAM], who has an unfinished speech, I should certainly withdraw my motion. Shall we go into Committee of the Whole if we reject that motion? I am satisfied that we will not.

Mr. CLINGMAN. Let us take the vote, and we can then determine.

The question was then taken upon Mr. COBB's motion to proceed to the business on the Speaker's table, and there were, yeas 54—noes not counted.

Mr. EVANS. I call for tellers upon that motion. There is a good deal of business on the Speaker's table, which ought to be disposed of. We will have speeches enough in the Committee of the Whole on the state of the Union.

Tellers were then ordered, and Messrs. STEVENS, of Pennsylvania, and RICHARDSON, were appointed; and the question being taken, the tellers reported—yeas 78, noes 74.

So the House agreed to proceed to the consideration of the business on the Speaker's table.

Mr. HAMILTON. I move to proceed to the consideration of the contested-election case from Pennsylvania.

Mr. EWING. Is it in order to move now a postponement of that question for two weeks?

The SPEAKER. It is in order.

Mr. EWING. I move, then, the postponement of that question for two weeks, on account of the necessary absence of the sitting member.

The SPEAKER. That motion will be in order, after the House has determined to take up and consider the case, and not till then.

Mr. HAMILTON. I demand the yeas and nays upon my motion.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 83, nays 90; as follows:

YEAS—Messrs. Aiken, Charles Allen, Willis Allen, John Appleton, Ashe, Averett, Babcock, David J. Bailey, Beale, Bissell, Bocoek, Bragg, Breckinridge, Buell, Busby, Thompson Campbell, Carter, Caskie, Cleveland, Colecock, Curtis, Daniel, John G. Davis, Doty, Duham, Durkee, Eastman, Edgerton, Ficklin, Florence, Freeman, Gamble, Gaylord, Hamilton, Hammond, Isham G. Harris, Hendicks, Hibbard, Hillyer, Holladay, Houston, Howard, Ingersoll, Jackson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Lockhart, Mace, Mason, McDonald, McLanahan, McNair, Millson, Molony, Morrison, Murphy, Nabers, Olds, Andrew Parker, Penn, Powell, Rantoul, Riddle, Robbins, Robt. Robinson, Ross, Savage, David L. Seymour, Skelton, Smart, Smith, Richard H. Stanton, Abram P. Stevens, Stuart, Sweetser, Townsend, Wallace, and Wildrick—83.

NAYS—Messrs. Abernethy, Allison, William Appleton, Barrere, Beil, Bennett, Bibbhausa, Bowne, John H. Boyd, Brenton, Briggs, Brooks, Albert G. Brown, Geo. H. Brown, Burrows, E. Carrington Cabell, Caldwell, Chandler, Chapman, Churchwell, Clark, Clingman, Cobb, Conger,

# THE CONGRESSIONAL GLOBE.

PUBLISHED AT WASHINGTON, BY JOHN C. RIVES.—TERMS \$3 FOR THIS SESSION.

32D CONGRESS, 1ST SESSION.

TUESDAY, JUNE 15, 1852.

NEW SERIES....No. 98.

Cottman, Cullom, George T. Davis, Dockery, Duncan, Edmundson, Evans, Ewing, Fowler, Gentry, Giddings, Goodnow, Goodrich, Grey, Harper, Haws, Haven, Hebard, Henn, Horsford, John W. Howe, Thos. M. Howe, Thos. Y. How, Hunter, Andrew Johnson, James Johnson, Geo. G. King, Kuhns, Landry, Humphrey Marshall, Martin, McCorkle, Meacham, Miller, H. D. Moore, John Moore, Morehead, Newton, Outlaw, Samuel W. Parker, Peaslee, Pennington, Porter, Price, Schermerhorn, Schoonmaker, Seudder, Stanly, Benjamin Stanton, Alex. H. Stephens, Stone, Taylor, Benjamin Thompson, Thurston, Toombs, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, Williams, and Yates—99.

So the House refused to consider the contested-election case.

Mr. HOUSTON. Is there any question before the House?

The SPEAKER. There is no question. The House had determined to go to the business on the Speaker's table.

Mr. HOUSTON. I was about to move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. The first question will be to proceed to the business upon the Speaker's table.

The SPEAKER. That is decided in the affirmative. The motion pending now is to go into the Committee of the Whole on the state of the Union.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled an act relating to the salaries of the officers of the Territories of the United States; which received the signature of the Speaker.

Mr. HAMILTON. With the permission of the gentleman from Alabama, [Mr. COBB,] I will suggest to the House, and I will make the motion if it is in order, to take up this contested-election case on Tuesday week. It is the legitimate business of the House, and should certainly be disposed of; and this is due to the gentleman who is contesting the seat, and to the dignity of this House. I would suggest, then, that we take it up on Tuesday week.

Mr. FULLER, of Pennsylvania. If it would suit the convenience of the House, I would prefer to have it set apart for Thursday two weeks from to-day.

Mr. HAMILTON. I will agree to that.

The SPEAKER. By unanimous consent it will be entered and regarded as the special order for that day.

Mr. STANLY. I object.

The SPEAKER. The gentleman from Maryland [Mr. HAMILTON] can reach his object by making his motion at the time proposed by him, as it is a privileged motion of a higher grade than any other, involving, as it does, a question of privilege.

Mr. HAMILTON. I will not give any notice. I shall make the regular motion, and the House can vote it down, if it thinks proper.

Mr. HOUSTON. At the suggestion of members around me, I will propose to close debate upon the Indian appropriation bill at four o'clock this evening. I will say to the House that the general debate will not be interrupted. On tomorrow I shall propose to take up the deficiency bill, and this debate may go on.

The SPEAKER. Does the gentleman withdraw his motion to go into the Committee of the Whole on the state of the Union?

Mr. HOUSTON. I do.

Mr. JOHNSON, of Arkansas. I renew the motion—which is a privileged motion—to go into the Committee of the Whole on the state of the Union. I do object to the gentleman from Alabama [Mr. Houston] closing the debate upon the Indian appropriation bill just at this time, when there can be no necessity for it, as the deficiency appropriation bill has to be debated upon its merits before we can get to the general appropriation bill at all; and we may want to talk upon the general appropriation bill after the deficiency bill is disposed of.

Mr. HOUSTON. I desire to reply to the remarks of the gentleman from Arkansas in one word, and it is this: The Senate, on yesterday, as will be seen by referring to the debates, took

up the joint resolution proposing the adjournment of the two Houses on the 16th of August, and laid it over, declining to act upon it, on the ground that this House had sent them no appropriation bills. They are throwing the responsibility upon us. All that I ask is, that the debate upon the Indian bill shall come up under the five minutes rule, and to-morrow gentlemen can go on with the debate upon the deficiency bill.

Mr. JOHNSON. I have no objection to a snap judgment when necessary, but an unnecessary snap judgment ought never to be taken.

Mr. HOUSTON. I feel it my duty to move the resolution.

Mr. HENN. I rise to a question of order. I would ask the Speaker if the House did not decide to go to the business upon the Speaker's table?

The SPEAKER. The House did so decide. It is nevertheless in order to submit a motion to go into the Committee of the Whole on the state of the Union.

Mr. MARSHALL, of Kentucky. I would suggest after to-day we cannot go to the business on the Speaker's table so as to distribute it for ten days to come. It is well known to the House that a great many of us will be absent next week, and there are a large number of bills there that ought to be referred to committees. I hope therefore that the House will not go into the Committee of the Whole on the state of the Union, but will proceed with the business upon the Speaker's table.

Mr. HOUSTON. I submit a resolution which I have always understood to be a privileged proposition, terminating debate upon this bill at four o'clock this day. I do not see how it is that I am cut off from a vote upon it. I feel it my duty to offer that resolution, that you may send some appropriation bills to the Senate.

Mr. JOHNSON, of Arkansas. Then, sir, I move to lay it upon the table, for the reasons I have given the House, as chairman of the Committee on Indian Affairs.

The question was then taken on Mr. JOHNSON's motion, and it was agreed to.

So the resolution was laid upon the table.

The question recurred upon the motion to go into the Committee of the Whole on the state of the Union.

Mr. STUART demanded the yeas and nays.

Mr. JOHNSON. I thought that the gentlemen on the other side of the House wanted to fight out their fight, but I find that they are anxious to go to the business upon the Speaker's table, and I therefore withdraw the motion to go into the Committee of the Whole on the state of the Union.

Mr. STEVENS, of Pennsylvania. I renew that motion.

Mr. STUART. I demand the yeas and days. The yeas and nays were not ordered.

Mr. MARSHALL, of Kentucky, demanded tellers; but they were not ordered.

The question was then put upon Mr. STEVENS's motion, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair.)

## INDIAN APPROPRIATION BILL.

The CHAIRMAN stated that the first question under consideration was House bill No. 43, making appropriations for the Indian department, upon which the gentleman from Vermont [Mr. MEACHAM] was entitled to the floor.

Mr. MEACHAM concluded his remarks upon the subject of the tariff. [Mr. M.'s speech is published in the Appendix.]

Mr. OUTLAW then addressed the House in regard to the proceedings of the Whig Congressional caucus, and in justification of the Southern gentlemen who had seceded from the caucus. He expressed himself in favor of the maintenance of the fugitive slave law as it is, and of MILLARD FILLMORE for the Presidency. [His speech is published in the Appendix.]

Mr. STEVENS, of Pennsylvania, next obtained the floor, but yielded to—

Mr. GENTRY, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. RICHARDSON) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 43, "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1853," and had come to no resolution thereon.

Mr. STANTON, of Ohio. I ask the unanimous consent of the House to permit me to report House bill No. 243, "to surrender to the State of Ohio the unfinished portion of the Cumberland road, in said State."

The SPEAKER. Is it a bill of which previous notice has been given?

Mr. STANTON. No, sir; it is a report from a committee.

Mr. TOOMBS. Does the gentleman propose to refer the bill?

Mr. STANTON. I will move to refer it, if there is any objection to its being put upon its passage.

Mr. TOOMBS. If the gentleman proposes to refer it, I do not object to its being reported, but if it is proposed to put it upon its passage, I shall object.

Mr. STANTON. I will move to refer it.

There being no objection, the bill was then received, and read a first and second time by its title.

Mr. STANTON. I move that the bill be referred to a Committee of the Whole House, be made the special order for to-morrow, and from day to day until disposed of, and that it be printed.

The motion was agreed to.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

Mr. MEADE. I hope the gentleman will withdraw that motion. I have been waiting for two or three days to present certain resolutions from the State of Virginia. They are very short; and I desire that the House shall hear them read.

Mr. STEPHENS. There are several other gentlemen asking me to withdraw the motion; but I cannot do it.

The question was then taken, and it was decided in the affirmative; and the House adjourned until to-morrow, at twelve o'clock, m.

## NOTICE OF A BILL.

Mr. HUNTER gave notice that he would, on to-morrow, or some subsequent day, ask leave to introduce a bill of the following title: "A bill to incorporate the Wesleyan College Institute, of Washington."

## PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. EASTMAN: Petition of 105 citizens of Wisconsin, for grant of land to aid in the construction of a railroad from Chicago, in Illinois, to Janesville, in Wisconsin, and, branching at Janesville, to construct one branch by way of Lake Winnebago to Lake Superior, and one other branch by way of Madison to Falls of St. Croix, and that Allen's Grove, in Walworth county, may be named as a point in said line between Chicago and Janesville.

By Mr. BRECKINRIDGE: The petition of William P. Vaughan, administrator of Edward Vaughan, deceased, asking compensation for a horse lost in the Mexican war.

By Mr. ST. MARTIN: The petition of Andrew Bodge, Jr., a citizen of Louisiana, praying for relief.

By Mr. DAWSON: The memorial of the Lieutenants of the Corps of Engineers, Topographical Engineers, and Ordnance, asking promotions more nearly approximating to that of the line of the Army.

## IN SENATE.

FRIDAY, June 11, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

NEW SENATOR FROM GEORGIA.

Mr. DAWSON presented the credentials of the Hon. ROBERT M. CHARLTON, appointed a Senator by the Executive of the State of Georgia, to fill the vacancy occasioned by the resignation of the Hon. John McPherson Berrien. The credentials



were read, and the oath prescribed by law having been administered to Mr. CHARLTON, he took his seat in the Senate.

#### POSTPONEMENT OF PRIVATE BILLS.

Mr. HUNTER. As this is Friday, the day on which private bills are considered, I move that the rule setting apart this day for their consideration be suspended for an hour.

Mr. PRATT. I hope the Senate will not consent to the motion. It will be borne in mind that it is now six weeks since the Private Calendar has been taken up by the Senate; at all events, since any bill to which objection could be made has been taken up. If, even for an hour, we dispense with the order setting apart to-day for the consideration of private bills, it will have the same effect as similar motions have had heretofore—we shall not be able to reach a single case.

I think it is due to this class of our fellow-citizens having claims against the Government, that they should have some consideration under the rule adopted by the Senate; and that, in accordance with that rule, the Senate should at once take up their claims. There is no reason why the demands of private claimants against the Government should be postponed week after week, and be made to give way to every other business. There are claims here which have been urged since 1812; which have been pressed again and again, from that time to the present, and are delayed from day to day for the purpose of taking up matters of less importance.

I hope not a single moment will be given to the consideration of any other business than that which should come up under the rule, which directs that every Friday shall be set apart for the consideration of private claims. Whenever that rule has been dispensed with for an hour, hitherto, the whole day has been generally spent in the transaction of general business.

Mr. ATCHISON. If it be in order, I propose to amend the motion of the Senator from Virginia, [Mr. HUNTER,] by moving that the rule be suspended for the entire day. I desire very much that the Senate should go into Executive session. The PRESIDENT. The first motion must be put.

Mr. ATCHISON. I have this to say in response to what has fallen from the Senator from Maryland, [Mr. PRATT:] if we examine the Journals of the Senate, it will be found that we have passed more private bills during the present session, than during any previous session at a similar period. There is another proposition which I will lay down, and which the honorable Senator from Maryland [Mr. PRATT] will, I think, assent to: that private business ought, and must, yield at all times to public considerations and to business; and I hold that the public business which will be considered in Executive session to-day, is of more importance than any private bill on the Calendar.

A SENATOR. It is of more importance than all of them.

Mr. ATCHISON. Yes, sir; it is of more importance than all of them together. If it be in order, I now move that the Senate proceed to the consideration of Executive business.

The PRESIDENT. That motion will not be in order; there is already a motion pending.

Mr. HUNTER. I will modify my motion so as to suspend the rule only till one o'clock. That will allow half an hour for the consideration of morning business. We shall get through in that time.

Mr. MANGUM. I rise for the purpose of inquiring what motion is pending; and will avail myself of the occasion, if permitted, to say that the question pending in Executive session is of vast importance; and that certain matters may be done to-day which cannot be done at a future period. I think, therefore, it is indispensably necessary to a proper action on the subjects there pending that we should go into Executive session now.

The PRESIDENT. That is not the question before the Senate.

Mr. GEYER. I wish to inquire, before giving my vote, whether this is what is called "objection day?"

The PRESIDENT. This is the day on which any bill that is objected to, or which gives rise to debate, must lie over.

Mr. BAYARD. I was under a different impression.

The PRESIDENT. This is the day.

Mr. HUNTER. The half hour will expire while we are considering this matter.

The question was then taken on the motion to suspend; and a division being called for, there were—ayes 19, noes 15.

So the motion was agreed to.

#### PETITIONS, ETC.

Mr. STOCKTON presented the petition of Isaac Bigelow, a seaman on board the United States steamer Missouri at the time of her destruction by fire, praying remuneration for the loss of his clothing; which was referred to the Committee on Claims.

Also, a petition of Isaac Bigelow, praying a pension on account of loss of health, incurred in the naval service during the late war with Mexico; which was referred to the Committee on Pensions.

Mr. WALKER presented a petition of citizens of New York, praying that the public lands may be granted, in limited quantities, to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Also, a petition of F. W. A. Cram and others, and two petitions of citizens of Wisconsin, praying that the bill now pending before Congress, commonly known as the homestead bill, may become a law; which were referred to the Committee on Public Lands.

Mr. CHASE presented a petition of J. L. Fuller and others, and five petitions of citizens of Ohio, praying that the bill now pending before Congress, commonly known as the homestead bill, may become a law; which were referred to the Committee on Public Lands.

Mr. GEYER presented the petition of L. C. Easton, assistant quartermaster in the Army, praying that he may be credited with an amount of public money of which he was defrauded by his clerk; which was referred to the Committee on Military Affairs.

Mr. RUSK presented a memorial of Samuel A. Belden and others, citizens of Texas, praying an increase of the military force on the frontiers of that State, for the protection of its citizens against Mexican and Indian incursions; which was referred to the Committee on Military Affairs.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, in answer to a resolution of the Senate calling for the report of the Board on marine condensers; which was ordered to be laid on the table, and printed.

#### REPORTS FROM STANDING COMMITTEES.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to which was referred the bill granting the right of way and making a grant of land to the State of Louisiana, for the construction of a railroad from opposite New Orleans, thence to the Sabine river, reported back the same with amendments.

He also, from the same committee, to which was referred the bill granting to the State of Louisiana the right of way and a donation of the public land, for the purpose of locating and constructing a railroad from Shreveport to the Mississippi river, in that State, reported the same with amendments.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred resolutions of the Common Council of the city of New Orleans, relating to a navy-yard and naval depot, presented the 17th of May, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the petition of Frederick Parsons, praying bounty land, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Public Lands; which was agreed to.

#### NAVY PENSIONS.

Mr. HUNTER. I am instructed by the Committee on Finance to report back two appropriation bills, which were sent up from the House of Representatives and submitted to that committee. The first is "A bill making appropriations for the payment of navy pensions for the fiscal year ending the 30th of June, 1853." It is a bill which is strictly according to the estimate of the

Department, and I ask that it may be acted upon now.

The motion was agreed to, and the bill was considered as in Committee of the Whole.

The bill provides for the appropriation of the sum of \$45,000 for the payment of navy pensions for the year ending the 30th of June, 1853.

There being no amendment proposed, the bill was reported to the Senate, and read a third time and passed.

#### INVALID AND OTHER PENSIONS.

Mr. HUNTER. The Committee on Finance have also instructed me to report back "A bill making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending the 30th of June, 1853," with a slight verbal amendment. I ask that the bill may be considered at the present time.

The motion was agreed to, and the Senate proceeded to its consideration as in Committee of the Whole.

It provides for the appropriation of the followingsums for the year ending the 30th of June, 1853: For invalid pensions, the sum of \$400,000; for widows and orphans, under various acts of Congress, \$966,240.

Mr. HUNTER. The amendment proposed is merely a verbal one, to rectify a mistake in reference to the date of one of the acts named in the bill.

The amendment was concurred in, and ordered to be engrossed, and the bill was read a third time and passed.

#### BRAZILIAN CONVENTION.

Mr. MASON, from the Committee on Foreign Relations, reported a bill to amend an act entitled "An act to carry into effect the convention between the United States and the Emperor of Brazil," of the 27th of January, in the year 1847, approved March 29th, 1850.

The bill was read a first and second time, and considered as in Committee of the Whole. It provides that the Secretary of the Treasury, in discharging the awards made by the commissioners under the act entitled "An act to carry into effect the convention between the United States and the Emperor of Brazil," of the 27th of January, 1847, shall, in all cases to which the same shall apply, be governed by the provisions of the eighth section of the act entitled "An act to carry into effect certain stipulations of the treaty between the United States of America and the Republic of Mexico," of the 2d of February, 1848, approved March 3, 1849, in the same manner and to the same extent as if the said eighth section had been originally a part of said act.

Mr. MASON. The term of the convention will soon expire within which the bill referred to has to operate; and the object of the bill reported by the committee is merely to enact a law providing for the distribution of the money awarded under the eighth section of the act which is found in a similar provision in relation to the treaty with Mexico. It requires the Secretary of the Treasury to be governed by the eighth section of the act which regulates the distribution of the awards. Unless this bill is passed within two weeks by both Houses, it will be inoperative. As it is important, therefore, that this bill should become a law, I ask that it may be read a third time to-day.

The bill was reported to the Senate without amendment, and was read a third time and passed.

#### CHANGING NAME OF STEAMBOAT.

Mr. UNDERWOOD. I ask leave to introduce a bill, in pursuance of notice which I gave yesterday. It is to change the name of the steamboat Brilliant.

Leave being given, the bill was introduced, and was read the first time, and ordered to a second reading.

Mr. UNDERWOOD. I would ask the Senate, as a favor, that they would permit this bill to pass to-day. This was an unfortunate boat, and the gentlemen who owned her have expended several thousands of dollars in repairing her. We all know how sailors feel in regard to a boat that has been unfortunate, especially while she remains under the old name. The object of this bill is merely to allow the owners to change the name.

The bill was read a second time, and considered by the Senate as in Committee of the Whole. It

provides that the owners of the steamboat *Brilliant* shall be authorized to change the name of said boat to that of *Mary Hunt*, and that they may make a new register at the port of Louisville, Kentucky.

The bill was reported to the Senate without amendment, and was ordered to be engrossed for a third reading.

#### NOTICE OF A BILL.

Mr. BRIGHT gave notice of his intention to ask leave to introduce a bill for increasing the compensation of the Assistant Postmaster Generals, and to provide for their appointment hereafter by and with the advice and consent of the Senate.

#### ISLAND OF SANTA CRUZ.

Mr. GWIN submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of the Interior be directed to report to the Senate whether any portion of the public domain on the Island of Santa Cruz, in the State of California, has been leased by him to any person or persons, and if so, that he furnish, for the use of the Senate, a copy of the lease, together with any legal opinion that may have been given regarding the power to lease the public domain, and to state under what law of the United States such lease may have been made.

#### DUTIES ILLEGALLY EXACTED.

Mr. GWIN submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of the Treasury be directed to report to the Senate the sums of money paid by him, or by his authority, to persons claiming the same under the act of August 8, 1846, as duties which had been illegally exacted, and whether such payments into the Treasury were made under protest.

#### THE GARDNER CLAIM.

Mr. SOULE submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of State do communicate to the Senate whatever information he may have obtained in Mexico, and elsewhere, in relation to the Gardner claim, adjudicated upon by the Board of Commissioners organized under the treaty of Guadalupe Hidalgo.

#### REMEDIES TO PATENTEES.

Mr. UNDERWOOD. Since yesterday I have had a conference with some of the gentlemen from the North, who are much interested in the bill giving further remedies to patentees; and I have also conferred with other friends who took an active part in the debate upon this bill when it was under consideration yesterday. We have agreed on all hands to certain amendments, which I am inclined to think will readily be assented to by the Senate. I think the bill will not give rise to debate, and I trust it may be taken up and passed, as there are yet a few minutes to one o'clock. I move to postpone all prior orders, for the purpose of taking up that bill.

The motion was agreed to, and the bill was considered by the Senate as in Committee of the Whole.

Mr. UNDERWOOD. There are several slight amendments I now wish to offer. I move to strike out the word "and," in the sixth line of the first section, and insert in lieu thereof the words "knowing them to have been," so that it will read, "knowing them to have been manufactured," &c.

The amendment was agreed to.

Mr. UNDERWOOD. That amendment having been adopted, there is now no objection to insert the word "use" between the words "traffic" and "or" in the fourth line of the same section; so that it will read, "for the purpose of traffic, use, or sale."

The amendment was agreed to.

Mr. UNDERWOOD. In the tenth line of the same section the word "subsistence" ought to be "subsisting." This is a mere verbal inaccuracy.

The amendment was agreed to, and the first section, as thus amended, was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person or corporation shall hereafter import or have in possession for the purpose of traffic, use, or sale, any articles imported into the United States from any foreign territory adjoining or near thereto, knowing them to have been manufactured, in whole or in part, in any such territory, by any process or machine, or by any substantial modification of any process or machine for which there may be at the time a subsisting patent, owned by any citizen of the United States, such person or corporation shall, upon due proof thereof, before any court of competent jurisdiction, be deemed to have infringed said patent, and be liable for all damages, in the same manner and to the same extent as in other cases of infringement.

Mr. UNDERWOOD. In the second section,

at the sixth line, I move to strike out the words "of the," between the words "any" and "articles."

The motion to strike out was agreed to.

Mr. UNDERWOOD. I further move to strike out of the same line the words "described in," and insert "imported, or purchased, in violation of."

The amendment was agreed to.

Mr. UNDERWOOD. I further move to amend by striking out the word "or," between "sale" and "traffic," in the same line, and insert, after the word "traffic," the words "or use."

The amendment was agreed to, and the section, as thus amended, was read, as follows:

Sec. 2. *And be it further enacted*, That whenever a patentee, or any person holding under him, shall file a bill in equity, verified by oath or affirmation, in the circuit or district court of the United States, complaining that any person or corporation has imported, or has in possession, for sale, traffic, or use, any articles imported, or purchased, in violation of the preceding section, and shall make it appear, to the satisfaction of the judge, that the facts alleged are probably true, the said judge shall issue an order to the marshal, directing him to take said articles into his custody, and hold the same, subject to the final order of court; and may further, by injunction, restrain the sale of, and traffic in, said articles: *Provided, however*, That from all judgments and decrees of said courts, a writ of error or appeal shall lie in the same manner as is now provided by law in relation to other judgments or decrees.

Mr. UNDERWOOD. These are all the amendments which we wish to offer.

Mr. HUNTER. It seems to me that this is the first step towards the establishment of a very dangerous precedent. If we provide for this particular invention, to prevent the introduction of articles manufactured abroad from being introduced into the United States, why shall we not make the same provision for the protection of the invention of every other patent machine? And if we make this provision in relation to Canada, that being a foreign country, why not make it in relation to all others? Where is the distinction in point of principle? Shall we not, in justice to other inventors, be forced to extend the principle when they make an application for it? And if we do, can we imagine a more fruitful source of litigation than it will open? I believe there is great danger that it will lead to retaliation on the part of other Governments; and I submit whether we shall not commit a greater injury by thus attempting to remedy this particular evil, than if we let the matter alone altogether? I understand there is a remedy for these inventors, that they might take out a patent in Canada itself; and it seems to me it would be far better to leave them to that remedy, than to begin to establish such a principle as this bill involves. I think the Senate should weigh this matter well before they establish this precedent; for they may rely upon it that, if it is established, others will come here and claim—and claim justly, too—that we shall legislate in their favor also; and I do not see how we can resist their application.

Mr. MILLER. As the morning hour is nearly passed, I wish to appeal to the Senator from Virginia to allow this bill to be engrossed, and then, if any gentleman wishes to discuss the matter further, he can do so when it comes up in the Senate.

Mr. SEWARD. If the Senator from Virginia will consent to that, there will be no objection, I presume.

Mr. HUNTER. If the consideration of the bill can be postponed, I have no objection. I do not want to delay the bill, but I would like to look into it a little further.

Mr. MILLER. I suppose there will be no objection. It will have to be engrossed; and I do not suppose there is any probability that it can be passed to-day.

Mr. SEWARD. I will say one word in reply to the suggestion of the Senator from Virginia, [Mr. HUNTER,] and shall postpone any further remarks until after the engrossing of the bill.

It seems to me necessary now to say, in reply to so much of the argument of the Senator as supposes that there is a remedy for this difficulty by going into Canada, and taking out a patent there, that the cases of injury which have brought this bill before the Senate, arise in respect of patents which have been already renewed and extended—very meritorious patents, about which there has been no contention. I speak particularly of a patent for turning irregular forms of wood, for which it is impossible to get a patent in England, and to which, therefore, the argument of the Senator from Virginia will not apply.

In regard to the question raised by that honorable Senator, that we are establishing a new principle, I submit, for his consideration, that there is really no such embarrassment in this case. In regard to the violation of patents, we have laws which enable us to protect the rights of inventors by arresting the fraudulent manufacturer of the patented articles. That is the remedy under our present system. We must reach the person of the infringer, and we must be able to reach his machine, and for that purpose he must be a resident of the United States. Therefore, without seizing on the production of the patented article, we can, in such cases, punish infringement, prevent piracy, and protect the rights of inventors. But, where a person resident in this country is in the possession of a patent, and another person, wishing to evade that patent, goes into the adjacent province of Canada, and there erects his machine, he is beyond our reach, and is subject to no law that we can enact. We cannot visit him with the punishments authorized by our laws; we cannot reach him, and seize his machine, and break it up, as we could do if he were a resident of the United States. There is no remedy, then, but to prevent the importation of articles manufactured abroad for the purpose of defeating the constitutional policy of the United States, which is the protection of manufacturers in their property.

I throw out these suggestions, without desiring to go into the debate now; and I will yield the floor for the purpose of allowing the motion of the Senator from Virginia to be put.

Mr. HUNTER. I would rather that the bill should not be engrossed now. I should prefer to examine the question more attentively.

Mr. BRADBURY. Unless a bill of this character shall be adopted, the Senate will perceive that the effect of the want of such protection will be to transfer the manufacture of all patented articles to the other side of the line—to Canada; because it is easy for individuals to carry their machines into the adjacent foreign territory, there manufacture the articles, and bring them into the United States, and thus evade the law.

I think that if the Senator from Virginia had been present yesterday, he would have perceived, from the discussion which then took place, the necessity for such a law as this. He will also perceive, that as it is limited in its operation to articles brought from an adjacent territory, it is not liable to any of the objections which he has urged.

Mr. BAYARD. As this bill stands amended, I have two objections to it. The first one may be remedied, being, perhaps, only verbal; but the second is an objection of principle. I think the words "adjacent or near to," are altogether too indefinite, and might, by construction, be made to include Europe, and certainly the West India Islands. If the object is, as I suppose it to be, to prevent the article being constructed or made in Canada, or the British possessions on the continent, and then brought into the United States, I would rather that different language were used. I think, as it stands, it is altogether too indefinite.

The other objection which I have, goes to the whole bill. If I understand rightly the principle of the patent laws of this country, or of England, they have confined themselves to this principle—that, though it may be right to protect the inventor in the enjoyment of the exclusive privilege which you give him, in consequence of his discovery, that protection has never proceeded upon any other principle than that of allowing him the right to call to account the person who was the vendor of the article infringing the patent. It has never gone to the extent of subjecting the consumer to the will of the patentee because the article infringing the patent may be found in his possession. I conceive that great evils must necessarily grow out of the adoption of such a principle. The liability to suit of any individual in the United States, who may have in his possession an article, as to the right to make which there is a controversy, is of itself a very great evil. No man will stand a suit in such case for the purpose of vindicating the right of another, and thus the patentee, by threatening those who may have these articles in their possession, is enabled, in case of a disputed patent, to enforce an unjust right against the community at large. I submit that the principle is a doubtful one as to its merits. No nation has ever acted upon the principle of giving to the patentee the right to enforce against the consumer, by

legal remedies, at his option, his alleged claim under a patent; in other words, to give him the right to call upon a party who has no direct interest in the manufacture, or who does not trade in the article. Such a principle, I say, is dangerous. And although the words "knowing them to have been manufactured," may be inserted in the bill, the liability to suit would still attach to every individual who might have the article in his possession; and in that mode a patentee who ought not to be entitled to preference, might enforce his claim.

Mr. ATCHISON. I wish to call the attention of the Chair to the fact that the motion was to suspend the rules for half an hour. I presume that now carries the bill back precisely to the point where it was taken up, and that no motion to dispose of it, now that the time has expired, is necessary.

The PRESIDENT. The Chair is under the impression that the hour of one o'clock having arrived, the bill must lie over.

Mr. ATCHISON. Then I move that the rule be suspended, for the purpose of proceeding to the consideration of Executive business.

The PRESIDENT. The Chair will state, that though the bill under consideration goes over, strictly speaking, when the hour of one o'clock arrives, yet he would prefer, for the sake of convenience in keeping the record upon the Journal, that some proposition to dispose of it should be made.

Mr. ATCHISON. Very well, then. I make the motion that it be postponed till to-morrow.

The motion was agreed to.

#### PRIVATE BILLS—EXECUTIVE BUSINESS.

Mr. ATCHISON. I now renew my motion that the rule which sets apart Friday for the consideration of private bills, be suspended, for the purpose of proceeding to the consideration of Executive business.

Mr. SEWARD. Will the Senator from Missouri allow me to call up a private bill, to which, I am sure, there can be no objection, and which will lead to no debate? If it produces any debate, I will withdraw my motion.

Mr. ATCHISON. That bill cannot be considered now, even by unanimous consent, until the rules are suspended.

Mr. SEWARD. Oh, yes, it can. This is private bill day.

Mr. PRATT. The Senator from New York is aware that, under the rule, no private bill can be acted upon to-day to which anybody objects.

The PRESIDENT. The Chair is informed that that is not the case, and that private bills generally can be acted upon, whether they lead to objection or not.

Mr. PRATT. I certainly do hope that if the Senate refuse to suspend the rules, they will not go back to take up some particular bill out of its order, but that they will go on with the whole or none. I really think we should go on with the Private Calendar. It is due to those who have claims against the United States; and it is a crying evil that their claims have been so long neglected, and one of which our constituency have a right to complain. The Senator from Missouri [Mr. Archison] says that private claims are to give place to the public business. Now, I apprehend that the business for which the Senator desires the postponement is very pressing, and of a public character exclusively, in his estimation; but I presume that if it were not for the private interests involved in it, we should not have it urged to the exclusion of the claims of the citizens. I do hope the Senate will abide by the rule which they have adopted, and will occupy this day in the consideration of private business. I ask for the yeas and nays on the question.

Mr. SEWARD. I believe I have the floor, and under the circumstances of the case I will withdraw my request, and I am prepared to vote for the proposition of the Senator from Missouri.

The yeas and nays were ordered.

The PRESIDENT. The proposition is to suspend the rule which requires the consideration of private business on this day, to the exclusion of all other business, and on that question the yeas and nays have been ordered.

Mr. MANGUM. I would reiterate the remark which I made some time since, that if we pass over this day without considering those mat-

ters in Executive session to which I have referred, a very great loss will be sustained, because we cannot consider them hereafter. I hope we shall go into Executive session, if it be but for only five minutes; and that if the Senate are prepared to open the doors they can do so, and proceed to the consideration of private bills. But my impression is that the matter now pending in the Executive session is one that involves great public interests and necessarily includes private ones. I think it is indispensable that we should go into Executive session at least for a few minutes.

Mr. ADAMS. I wish only to say that I have no objection to the motion made by the Senator from Missouri, if we can have an understanding that we will meet to-morrow and take up the business assigned for to-day.

Mr. WALKER. You cannot do it.

Mr. CASS. It seems to me to be a crying evil and an injustice, to neglect these private claims; and, before we agree to suspend the rule which requires us to consider them to-day, there should be a strong reason for it. I do not understand the Senator from Missouri that he expects to terminate this treaty to-day, or in the course of two weeks; or, at least, I suppose he does not expect to get a ratification in less than two weeks. I do think that, on every principle of justice, we should go into the consideration of private bills. There are claims which the Government owes to private individuals, as honestly as any in the world, and which are passed by from week to week. If we could get through with the treaty to-day, I would consent to the motion; but it is agreed on all hands that we cannot get through it in two weeks.

Mr. MANGUM. I will mention to the Senator from Michigan that it is desirable that a motion should be made in Executive session which cannot be made after to-day.

Mr. PRATT. If the Senator from North Carolina will permit me to suggest, I will propose to him that we go on with private bills until near the usual hour of adjournment, and then go into Executive session long enough to allow that all-important motion to be made.

Mr. BELL. I will state, in relation to the matter mentioned by the Senator from North Carolina, [Mr. MANGUM] that, though I am as much opposed to his object as any member of the Senate can be, what he wishes to propose in Executive session to-day is, in itself, a motion so fair and just in regard to any gentleman who thought that the public service was likely to suffer, that I do not think there would be the slightest difficulty in obtaining the unanimous consent of the Senate to pass such a motion. I am, however, opposed to entering upon any important Executive business to-day, and should prefer going on with the Private Calendar. For this reason, I inform the Senator from North Carolina, [Mr. MANGUM], and the Senator from Missouri, [Mr. Archison], that, standing in opposition to their objects, as I expect to do, I do not consider an objection to that motion justifiable in any Senator, at any time, or whenever it is offered.

Mr. MANGUM. I was about to remark, when I yielded the floor, that I am well aware of the usual courtesy of the Senate, but I do not wish to rely on its unanimity; and gentlemen must remember that a single objection would prevent the motion from being entertained.

I know that it will be impossible to obtain the ratification of this treaty. It is not proposed to effect it. But I hope that the Senate will, nevertheless, pass the motion to postpone the private business, and that we will then go into Executive session.

Mr. HALE. I hope the Senate will adopt the course suggested by the Senator from Missouri, [Mr. Archison], because we shall not only make no progress, but lose the advantage of everything we have done, if we chop in with private bills before finishing the business before us in Executive session. I owe it as a matter of courtesy to gentlemen who have made speeches on this subject in Executive session, to say—and I suppose, Mr. President, there is no harm in saying that Senators do make speeches in Executive session, although we may not tell what they are about—that those speeches are already growing very faint upon my mind; and they will grow fainter; and if we postpone the matter longer, I fear that I and other gentlemen will forget all that has been said, and it will all have to be gone over again. I hope

that we will go into Executive session, that the Senate will pursue the course we usually have pursued, especially when a chairman of a committee has suggested that it is desirable he should have a matter acted upon. It is so in this instance, and I trust the Senate will have confidence enough in his judgment to sustain him.

Mr. ATCHISON. I made this motion because I believed it to be my duty. The Senate are in possession of all the facts, and can form their own opinion as to the necessity of action, and speedy action, as well as I can. I deemed it my duty to make the motion; and whatever shall be the decision of the Senate, of course I shall cheerfully acquiesce in it, whether it be to proceed to Executive or other business. But I do not know what proposition the Senator from North Carolina may make. There is a proposition now pending in Executive session, which I expect to urge; and I trust, if we go into Executive session now, we shall make some progress, whether we act definitely on these treaties or not.

Mr. BAYARD. I shall vote for the motion to suspend the rule in this case, because I understand there is public business to be transacted in Executive session of great importance. As to the Private Calendar, what will be the result if we take it up? The first question which will come up, is a motion to reconsider a vote by which a bill for the relief of the Carmelite Nunnery was rejected; a bill involving a question of some \$45, and in regard to which the Senate has already expended a considerable portion of one day. Thus it is proposed to postpone business of a high order, for the purpose of taking up a case which, if we may judge of it by a former debate, will extend through the whole day.

The yeas and nays were then taken, and resulted—yeas 27, nays 23; as follows:

YEAS—Messrs. Atchison, Bayard, Brooke, Clemens, Davis, Desaussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Foot, Geyer, Hale, Hamlin, Houston, Hunter, Jones of Iowa, Mangum, Sebastian, Seward, Smith, Soule, Spruance, Stockton, Toucey, Underwood, and Wade—27.

NAYS—Messrs. Adams, Bell, Bradbury, Bright, Brodhead, Butler, Cass, Charlton, Chase, Dawson, James, King, Mallory, Mason, Miller, Pearce, Pratt, Rusk, Shields, Sumner, Upham, Walker, and Weller—23.

So the motion to suspend the rule was agreed to.

On motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened; and

The Senate adjourned to Monday next.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, June 11, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the motion of the gentleman from Tennessee, [Mr. JONES], to lay on the table the motion made to reconsider the vote by which House bill No. 271, granting the right of way and a portion of the public lands to the States of Alabama and Florida, for the construction of certain railroads in said States, was laid upon the table.

Mr. CARTER. There is a bill now lying upon the Speaker's table which came from the Senate yesterday. It is Senate bill No. 470, to amend an act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4th, 1836; and also, "An act to provide additional examiners in the Patent Office, and for other purposes," approved May 27th, 1848. If the House are willing, I should like to take it up and put it upon its passage.

The SPEAKER. It can only be done by unanimous consent.

Mr. DIMMICK. I object.

#### FLORIDA AND ALABAMA RAILROADS.

Mr. VENABLE. I move a call of the House, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered; and, the question being taken, resulted—yeas 67, nays 89.

So a call of the House was not ordered.

The question then recurred upon the motion to lay the motion to reconsider on the table.

Mr. STEPHENS, of Georgia, demanded the yeas and nays; which were ordered.



Mr. VENABLE. Will the Chair state to the House the precise condition of the question?

The SPEAKER. On yesterday the House laid upon the table the bill proposing to grant lands to the States of Alabama and Florida, for the construction of certain railroads. The gentleman from South Carolina [Mr. ORR] moved to reconsider that vote, and the gentleman from Tennessee [Mr. JONES] moves to lay that motion on the table. The question, therefore, now is, "Shall the motion to reconsider lie upon the table?" and upon that the yeas and nays have been ordered.

Mr. CABELL, of Florida. I respectfully ask the unanimous consent of the House for only five minutes, to make an explanation with regard to this bill.

Mr. CLEVELAND. I object to that, unless some other gentleman be also allowed five minutes to reply.

Mr. WALSH. Then I move that the gentleman from Connecticut be also allowed five minutes.

The CHAIRMAN. That motion is not in order. The gentleman can proceed only by unanimous consent.

Mr. BEALE. I object.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House to allow the gentleman from Florida [Mr. CABELL] five minutes, and the gentleman from Connecticut [Mr. CLEVELAND] five minutes also. It will only take ten minutes.

Mr. McNAIR. There are other gentlemen who wish to speak upon this bill too. I object.

The question was then taken; and the result was—yeas 88, nays 89; as follows:

YEAS—Messrs. Aiken, Charles Allen, Allison, John Appleton, Ashe, Averett, Babcock, David J. Bailey, Barre, Beale, Bennett, Bibbhaues, Bocoek, Bowne, John H. Boyd, Breckinridge, George H. Brown, Busby, Caskie, Chandler, Chastain, Churchwell, Cleveland, Colcock, Culom, Curtis, Daniel, Dawson, Dean, Dinmick, Dunham, Edmundson, Faulkner, Fowler, Gamble, Giddings, Goodenow, Grey, Hamilton, Hammond, Isham G. Harris, Hascall, Hibbard, Hillyer, Holladay, Horsford, T. M. Howe, T. Y. How, Ingersoll, Ives, Andrew Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Martin, Mason, McDonald, McLanahan, Millson, Morrison, Murphy, Newton, Andrew Parker, Samuel W. Parker, Peaslee, Powell, Riddle, Robbins, Robie, Ross, Schoonmaker, David L. Seymour, Skelton, Smart, Snow, Richard H. Stanton, Thaddeus Stevens, Sutherland, Sweetser, Venable, Walbridge, Wallace, Washburn, Wells, and Wildrick—88.

NAYS—Messrs. Abercrombie, Willis Allen, William Appleton, Bell, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Carter, Chapman, Clark, Clingman, Cobb, Conger, Cottman, George T. Davis, John G. Davis, Disney, Duncan, Durkee, Eastman, Edgerton, Ewing, Ficklin, Freeman, Gentry, Gorman, Hall, Harper, Haven, Hendricks, Henn, Houston, Howard, J. W. Howe, Hunter, Jackson, James Johnson, John Johnson, Robert W. Johnson, Kuhns, Landry, Lockhart, Humphrey Marshall, McNair, Miller, Molony, Henry D. Moore, John Moore, Morehead, Nabers, Olds, Orr, Samuel W. Parker, Pennington, Phelps, Porter, Price, Rantoul, Richardson, Robinson, Schermerhorn, Scurry, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Ab'm P. Stephens, Alexander H. Stephens, Stuart, Taylor, Benjamin Thompson, Thurston, Toombs, Townsend, Walsh, Ward, Watkins, Welch, Addison White, Alexander White, Wilcox, Williams, and Yates—89.

So the motion to reconsider was not laid upon the table.

The question recurred on the motion to reconsider.

Mr. JONES, of Tennessee. Will not the Speaker's vote change the result?

The SPEAKER. The vote of the Speaker would not change the result. His vote might make a tie; and the motion would then fail, as it now does.

Mr. ORR. I desire to inquire of the Speaker, if a motion to postpone the further consideration of this matter for two weeks is in order?

The SPEAKER. It could only be done by unanimous consent.

Mr. JONES, of Tennessee. I object.

Mr. ORR. Would it be in order to make that motion, if the motion to reconsider should prevail, and so bring the bill again before the House?

The SPEAKER. It will then be in order to move to postpone its further consideration to a day certain.

Mr. ORR. Then, if the motion to reconsider prevails, I propose to make that motion.

Mr. CABELL. As a friend of this bill, I shall, if the motion to reconsider prevail, vote for and desire its postponement for two weeks.

Mr. VENABLE. Is the question to reconsider debatable?

The SPEAKER. It is not. The question is to reconsider a vote by which the bill was laid upon the table; and that motion is not debatable.

Mr. JONES, of Tennessee. I demand the yeas and nays upon the motion to reconsider.

Mr. CABELL. Do I understand that if the House decide to reconsider the vote by which the bill was laid upon the table, it will then be in order to move to postpone to a day certain?

The SPEAKER. There is no doubt that the motion will then be in order. When the bill is before the House, it will then be competent for the House to postpone its consideration.

The yeas and nays were then ordered; and, being taken, the result was—yeas 101, nays 86; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, William Appleton, Bell, Bowne, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Carter, Chandler, Chapman, Clark, Clingman, Cobb, Conger, Cottman, George T. Davis, John G. Davis, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ewing, Ficklin, Florence, Freeman, Gentry, Goodenow, Gorman, Hall, Harper, Sampson W. Harris, Haws, Haven, Hendricks, Heun, Howard, Jno. W. Howe, Jackson, James Johnson, John Johnson, Robert W. Johnson, Kuhns, Landry, Lockhart, Mace, Humphrey Marshall, McNair, Miller, Molony, Henry D. Moore, John Moore, Morehead, Nabers, Olds, Orr, Samuel W. Parker, Pennington, Phelps, Porter, Price, Rantoul, Richardson, Robinson, Schermerhorn, Schoolcraft, Scudder, Scurry, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Strother, Stuart, Taylor, Thurston, Toombs, Townsend, Walbridge, Walsh, Ward, Watkins, Welch, Addison White, Alexander White, Wilcox, Williams, and Yates—101.

NAYS—Messrs. Aiken, Charles Allen, Allison, John Appleton, Ashe, Averett, Babcock, David J. Bailey, Barre, Beale, Bennett, Bibbhaues, Bocoek, John H. Boyd, Breckinridge, Busby, Caskie, Chastain, Churchwell, Cleveland, Colcock, Culom, Curtis, Daniel, Dawson, Dean, Dinmick, Dunham, Edmundson, Faulkner, Fowler, Gamble, Giddings, Gilmore, Goodrich, Grey, Hamilton, Hammond, Isham G. Harris, Hibbard, Hillyer, Holladay, Horsford, Houston, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, Andrew Johnson, Daniel T. Jones, Geo. W. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Martin, Mason, McDonald, McLanahan, Meacham, Meade, Millson, Newton, Andrew Parker, Peaslee, Powell, Riddle, Robbins, Robie, Ross, Schoonmaker, David L. Seymour, Skelton, Smart, Snow, Richard H. Stanton, Thaddeus Stevens, Sutherland, Sweetser, George W. Thompson, Venable, Wallace, Washburn, Wells, and Wildrick—86.

So the House agreed to reconsider the vote by which the bill was laid upon the table.

The question then recurred upon the motion to lay the bill upon the table.

Mr. CABELL. I move that the further consideration of the bill be postponed till this day two weeks.

The SPEAKER. It will not be competent for the gentleman to make that motion until the motion to lay on the table is disposed of, except by unanimous consent.

Mr. KING, of New York. I object.

Mr. STEPHENS, of Georgia. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. STEPHENS. Then I move to proceed to the consideration of the business on the Speaker's table.

Mr. MEADE. I ask the consent of the House for only five minutes, to present the resolution which I hold in my hand from the Legislature of the State of Virginia.

Mr. ORR. It will not be in order to proceed to any other business until the House decide by a vote to go to the business on the Speaker's table.

The SPEAKER. But the gentleman from Virginia [Mr. MEADE] asks the unanimous consent of the House to lay before it certain resolutions from the Legislature of the State of Virginia.

Mr. JONES, of Tennessee. I object.

Mr. HOUSTON. I ask the gentleman from Georgia [Mr. STEPHENS] to allow me to report back from the Committee on Ways and Means the deficiency bill, with the amendments of the Senate, in order that it may go to the Committee of the Whole on the state of the Union.

Mr. DEAN. I object.

Mr. STEPHENS, of Georgia. I would inquire of the Chair if the pending motion upon the Florida railroad bill, provided the motion to lay on the table be voted down, is not to recommit?

The SPEAKER. It is.

Mr. JONES. There is no motion to recommit the bill pending. The gentleman from South Carolina [Mr. ORR] made that motion, but afterwards withdrew it.

The SPEAKER. That gentleman has since renewed the motion.

Mr. DEAN. When?

The SPEAKER. Yesterday.

Mr. JONES. How could he do it after I had moved to lay the bill on the table?

The SPEAKER. He did it before he had resumed his seat. He first withdrew the motion to recommit, and offered a substitute; and then moved again to recommit.

Mr. JONES. Was the previous question withdrawn?

The SPEAKER. It was demanded, but the demand was afterwards withdrawn.

The question was then taken upon the motion to go to the business upon the Speaker's table, and carried in the affirmative.

Mr. MEACHAM moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair.)

#### INDIAN APPROPRIATION BILL.

The CHAIRMAN stated that the first question under consideration was House bill No. 43, making appropriations for the Indian Department, upon which the gentleman from Pennsylvania [Mr. STEVENS] was entitled to the floor.

Mr. STEVENS, of Pennsylvania, remarked that he had nothing to say which would be particularly interesting to the committee, after the exciting debate of the last two weeks; for he had no remarks to make in relation to the Presidency. Indeed, with them there was no occasion for it; for among all true Whigs there was perfect harmony and entire unanimity. Although he felt solely distressed at the unhappy difficulties and dissensions which had destroyed the Democratic party, [laughter,] yet it would be impertinent for him to interfere. Nor need he say anything in reference to that very select and highly respectable body of gentlemen who denominated themselves the "Union party;" for, although they started with elevated pretensions and considerable eclat, they met an early grave. Engendered in a whirlwind of their own creation, the Union party vanished with the elements which gave it birth; and although they had lately seen its ghost limping across this Hall, in the honored and agreeable shade of the gentleman from Tennessee, [Mr. WILLIAMS,] with certain uneasy attendants, yet its corpus was in the tomb; and, admonished by the charitable injunction, *Ni mortuis nisi bonum*, he desired to pass by this party with the profoundest silence.

He then touched upon questions relative to the various land bills which had been reported by, and the legions which were yet in, the hands of the Committee on the Public Lands, and incidentally discussed the protective tariff. He said that the bills from the Committee on Public Lands necessarily raised the question both of the right and policy of the General Government to dispose of the public lands. The right was expressly given by the Constitution, and therefore ought to be unquestioned; but the object to which they should be appropriated seemed to him necessarily to depend upon the nature of the title. The Government did not hold these lands by any unconditional fee simple, but simply as a trustee, to execute the terms of the grant for the benefit of all the States. When they distributed grants of land to one State, they were bound by the terms of the grant to grant an equal proportion to the other States, according to their representation in this body; and he would thank any gentleman who was claiming to give away these lands by the million to show him any authority in the Constitution of the United States for so doing. Mr. S. then argued this point at length, and in conclusion gave his views on the tariff, advocating protection to American industry. [His speech is published in the Appendix.]

Mr. RANTOUL, after briefly alluding to the arguments of Messrs. MEACHAM, and STEVENS of Pennsylvania, in relation to the tariff, remarked that a great deal had been said denunciatory of agitators by gentlemen from the South. The cry was, Cease this agitation and quiet the Union. Now, if gentlemen desired to arrest agitation, why

did they not cease it themselves? He and his friends had made no agitation. He had not opened his mouth in the House in any allusion to the subject of slavery, except in reply to a direct attack upon him, and again and again had he suffered such attacks, but he had allowed them to pass without notice. Still the cry of agitation came from another quarter, and was directed at him and those who entertained the same opinions as himself. After sitting quietly so long, he had at last been singled out in such manner that he could not, as a man of honor, remain silent any longer, without an imputation of cowardice, and he would deserve it if he should attempt to avoid the issue presented to him.

Having been sent to the Baltimore Convention by the largest district Democratic convention held for many years, regularly called according to the usages of the last twenty-five or thirty years, to represent five thousand Democrats, the Convention thought proper to disfranchise his district—the only Democratic one in Massachusetts—thereby insulting not merely his district, but the sovereign State of Massachusetts, which, by this proceeding, was shorn of its proportionate share of representation in the Convention. He would ask whether any one Democrat in the State of Massachusetts was under any obligation growing out of any proceeding of the Convention, in which the State was not represented, being shorn of the proportionate number of delegates elected by her own voice? This was a question for the Democratic party to consider, and for the Democrats of Massachusetts to consider. As for the district which had thus been disfranchised, he would like to compare its history with that of any other represented upon this floor; and he proceeded to mention the distinguished men who were natives of his district, and of their eminent deeds in the war of the Revolution. But why was he and his district insulted by the Baltimore Convention? Simply for saying, on being asked by the committee on credentials whether he would agree to the platform, that he would do his own thinking. If gentlemen supposed that there were not millions of white men in the North, who would do their own thinking, they were egregiously mistaken. He repeated, he was excluded as a delegate, because he desired to think for himself upon a grave question of constitutional law.

He then denied that the Constitution of the United States contained a grant of power to Congress to legislate for the rendition of fugitives from slavery, and thought that there was not a man in the Union, who could sustain his character as a Democrat upon the position that there was such a grant. He contended that this was a subject of State legislation, and entered into an argument to sustain his position.

[Mr. R.'s speech is published in the Appendix.]

Mr. MARTIN concluded the speech, heretofore commenced, in opposition to the bills reported (twenty-one in number) giving lands to certain States in aid of the construction of railroads. In the course of his remarks he denied the right of Congress to grant those lands for local purposes, and the measures proposed as unjust to the older States.

[Mr. M.'s speech is published in the Appendix.]

Mr. CABELL, of Florida, next obtained the floor, but yielded it to

Mr. STEPHENS, of Georgia, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. RICHARDSON) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 43, "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1853," and had come to no resolution thereon.

#### THE DEFICIENCY BILL.

Mr. HOUSTON. I ask the unanimous consent of the House to report back the deficiency bill, with the amendments from the Senate, for the purpose of having it referred to the Committee of the Whole on the state of the Union.

No objection was made.

Mr. STUART. Does the gentleman from Alabama propose to have the amendments printed?

Mr. HOUSTON. They are all printed. If gentlemen will send up to the document room, they will find every amendment printed with great accuracy, and so that they can be understood in connection with the bill.

Mr. JONES, of Tennessee. It shows everything except the action of the Committee on Ways and Means upon the amendment.

Mr. STUART moved that the House do now adjourn.

The motion was agreed to, and

The House adjourned until to-morrow at twelve o'clock, m.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, June 12, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the motion to lay upon the table House bill No. 271, granting lands to Florida and Alabama for the construction of certain railroads in the State of Florida.

Mr. HUNTER, by unanimous consent, introduced a bill to incorporate the Wesleyan Collegiate Institution, in Washington; which was read a first and second time by its title, and referred to the Committee on the District of Columbia.

Mr. McCORKLE. I ask the unanimous consent of the House to introduce the following resolution:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of authorizing the Clerk of the House to purchase, for the use of the members, ——— copies of the memoir and charts of the waters of the bay of San Francisco, and rivers Sacramento and San Joaquin, by Commander C. Ringgold, of the United States Navy.

Mr. McCORKLE said: In respect to the importance of the maps, it may be remarked, that they are based upon and carefully prepared from actual surveys, executed on the system of triangulation and hydrographical principles. Everything essential and necessary to the navigator, with a useful delineation of every shoal, rock, and obstruction to channels, clearly laid down and distinctly shown, in a manner conclusive to any seaman or man of science, or judgment, and presenting strong proof of the merit of the entire enterprise. The illustrations throughout the memoir are well executed, and add to the many facilities introduced for practical purposes. If, then, these are the only maps extant of so interesting a portion of the Union, covering an expanse of water, forming the resort of thousands of our finest ships, dispatched thither through the enterprise of our commercial citizens of the Atlantic coast, is it not just and proper to distribute, liberally, the information embraced in them?

Congress annually scatters thousands of copies of the report of the coast survey along the eastern coast; and it is only right that all information touching so valuable a part of our Confederacy as California, should be widely disseminated, in order to facilitate the development of her great resources. Independent of the value and importance of these maps to the Pacific coast, they are interesting to every Congressional district. Emigration to California, from all parts of the Union, is constantly increasing and going on; and, when the useful knowledge contained in the memoir and maps is considered, a wide distribution must prove highly beneficial and judicious.

The enterprise being a private one, is viewed by men versed in science or practical skill connected with hydrography, engraving, and lithography, extensive and creditable to the officer who executed the surveys, and comparable with, if not superior to, any ever prepared previously in our country.

From the elaborate and minute manner in which the Coast Survey has to proceed with its operations and charts, it must necessarily and unavoidably be a long time before any connected survey can be made and prepared of our extended coast on the Pacific. These maps, therefore, must, for all useful and practical purposes, be used and relied upon, until supplanted by others, prepared under the auspices of the Government.

The commerce of the Pacific imperatively demands that some facilities should be afforded by the General Government for its protection and safety. Without a light-house or buoy, we have over \$20,000,000 in merchandise afloat in the Bay

of San Francisco every month; and as little as this House can do for its protection at this time is to furnish navigators with these charts.

I hope, therefore, no gentleman will object to this resolution.

Mr. KING, of New York. I object.

Mr. STANTON, of Kentucky. I ask the unanimous consent of the House to introduce a report from the Committee on Public Buildings. It is an appropriation bill.

Mr. ORR. Will it come out of the morning hour?

The SPEAKER. That depends upon the order of the House.

Mr. STANTON. I do not desire that it shall be taken out of the morning hour. It will not take more than a minute. I merely wish to introduce the bill, and have it referred to the Committee of the Whole on the state of the Union. It is a bill making appropriations for the public buildings and grounds, and for other purposes.

Mr. FICKLIN. I object to the introduction of that bill. I have one which I have been waiting for an opportunity to introduce for the last two months.

Mr. MARSHALL, of Kentucky. I ask for the regular order of business.

#### FLORIDA RAILROAD BILL.

The SPEAKER. The regular order of business, as stated by the Chair before, is the motion to lay upon the table House bill No. 271, granting lands to Florida and Alabama for the construction of certain railroads.

Mr. JONES, of Tennessee. That motion was made by myself, I believe.

The SPEAKER. It was made by the gentleman from Tennessee.

Mr. JONES. Have I the right to withdraw the motion?

The SPEAKER. The gentleman can withdraw it.

Mr. JONES. I will then withdraw the motion, and move to refer the bill to the Committee of the Whole on the state of the Union, and that it be printed.

Mr. CABELL, of Florida. If the gentleman will allow me, I will ask whether the previous question has been ordered?

The SPEAKER. The previous question could not be ordered upon a motion to lay upon the table.

Mr. CABELL. But was it ordered upon the motion to commit?

The SPEAKER. The gentleman from South Carolina [Mr. Orr] called the previous question, but afterwards withdrew the call.

Mr. JONES. Mr. Speaker, I now desire to say a very few words upon the pending motion.

We have been here in session now six months and a half, and I may say that we have as yet done literally nothing. One of the great causes for this has been the course taken upon the bills which have been reported here for the benefit of railroads in the different new States. No committee, I believe, in this House has made a report under a call for reports, except that on Public Lands, for the last four months; and if we continue to go on as we have done, acting alone upon the bills reported by that committee, I ask, when we shall get through?

Mr. ORR. I call the gentleman to order for irrelevancy.

Mr. JONES. Is it not in order to show why this bill should be referred?

The SPEAKER. The Chair thinks the gentleman was proceeding in order.

Mr. JONES. About two months ago the gentleman from South Carolina reported a bill nearly identical in its provisions with the one now before the House, designed to accomplish precisely the same objects. It was to grant the right of way and alternate sections of land to certain railroads in Alabama and Florida. That bill was referred to the Committee of the Whole on the state of the Union. But since that bill has been there, here is another one reported from the same committee, by the same gentleman, for the same purpose; and it is brought here and attempted to be forced upon us, and through this House, without giving it the usual, and, heretofore, almost universal direction of bills of the magnitude of alternate sections bills.

Now, sir, if we go on in that way we cannot get through the call of that committee for reports

until the first Monday in December next, unless the House come to the conclusion to pass all the bills as they are reported from that committee.

Mr. HALL. Will the gentleman permit me to say one word? I am as anxious as the gentleman from Tennessee, or any one else, to get through with the call of that committee for reports, and if the House will devote the entire day to the call of that committee for reports we shall be able to get through; but if the House only devote the time they have been doing for two or three weeks past to that object, the business of that committee accumulates as fast as we can report it.

Mr. JONES. If you continue to report the same or duplicate bills as fast as the House refers them, it will continue to accumulate. If the House will refer these bills when they are reported, as is the usual course, and then call the other committees, we may get through with the call. But suppose when the committee is through the Committee on Claims takes the same course, and insist upon their bills being put upon their passage as fast as they report them, when shall we get through with it? An impression generally prevails among the friends of these bills, that if they are referred to the Committee of the Whole on the state of the Union they will there sleep the sleep of death. Why, sir, in the Committee of the Whole on the state of the Union a bare majority may take any one of these bills up whenever they may think proper. Your rules require that in the committee the Calendar shall be called through, and the committee shall then determine by a vote whether they will proceed to the subject called. If they determine not to proceed to the consideration of that subject another is called, and so on until they come to some bill which the majority of the committee desire to act upon and dispose of. The only exception to this rule is in relation to the general appropriation bills, which may be taken up on motion without calling the Calendar regularly to get to them. But I will not discuss the merits of this bill, because I do not consider myself at this time prepared to do so.

Mr. COBB. I hope the gentleman will discuss it.

Mr. JONES. I will say this much: I consider every one of these railroad bills, as bounties given by the Government to corporations; whether directly or indirectly, it is that in effect, in my opinion. And, in the last four months, the greatest portion of the time of this Congress has been appropriated to them. Their interests and their demands must be attended to and must be acted upon, by the people's Representatives, to the exclusion of all the other public interests, or individual interests, which were before the Congress of the United States. Sir, when was it ever known that a measure, whether in the shape of banks or internal improvements by the General Government, or a protective tariff, or any other measure or system of legislation was not defended and advocated by its friends as for the sole and exclusive benefit of the people?

Mr. COBB. Will the gentleman allow me for one moment? It has been repeated in this House that ever since these railroad bills have been under discussion, no person but the friends of the measure have had the opportunity of speaking, that the question has not been fairly contested. The gentleman from Tennessee now has possession of the floor, and is opposed to these railroad measures. Now, I ask him, since he has the floor, to let us have his objections to these bills, and let the world know that the opposition has at least one champion to defend them, for I regard him as the champion of the opposition of these railroad bills.

Mr. JONES. I shall take my own course about that. My friend from Alabama [Mr. COBB] has a bill here somewhere, and perhaps he wants to get that in through this same Land Committee. It is to grant the right of way from Winchester, in the State of Tennessee, through a portion of the State of Alabama, to Gunter's Landing, on the Tennessee river. Now, the United States has not owned any land in that part of the State of Tennessee since the year 1806. The Government has no title whatever to a foot of land there. And that part of the gentleman's own district, through which the road runs, has been settled for the last forty years, and all the land that will produce two hundred pounds of cotton, or two barrels of corn to the acre, has been taken up, and is owned by individuals. I think the gentleman will concur with

me in the opinion, that all the public lands north of the Tennessee river, in the State of Alabama, is not worth \$10,000. Yet you must have an act of Congress to grant the right of way and alternate sections of public land in and through a county in which the United States has not owned one acre of land worth ten cents for the last quarter of a century. I question whether the Winchester and Alabama Railroad will run through a solitary sixteenth part of a section of land belonging to the United States, from its beginning to its termination.

Mr. COBB. It will run through very little.

Mr. ORR. I call the gentleman to order. That road is not under consideration.

The SPEAKER. The gentleman will confine himself to the bill under consideration.

Mr. JONES. There is another principle which I particularly object to in this bill; and one upon which the gentleman from South Carolina [Mr. ORR] dwelt at some length yesterday. It is a principle which the chairman of the Committee on Public Lands, [Mr. HALL] and every other gentleman from the new States, has all along adhered to, and which will be sacrificed by the success of those railroad bills. It is one which I have desired to see carried out, and I am prepared to vote as far as they will go, to graduate and reduce the price of the public lands. But now, these gentlemen come here and ask us to give to States, and to corporations through these States, every other section of land within certain distances from the road. If there is not enough within six miles, they travel out fifteen miles, and then come before the country and say the Government has lost nothing by giving away the land, for the price of the alternate sections remaining is to be raised to \$2 50 per acre.

Mr. HALL. As the gentleman addresses his remarks to me, I will remark that, according to my understanding of the matter, the principle involved in these railroad bills is the same as that involved in the graduation bills. The latter propose to reduce the price of the public lands to what they are worth. We propose in these alternate section bills to increase the value of the lands and then increase their price. The great object of both is to settle the lands, and these alternate section bills will accomplish that object better than the graduation bill.

Mr. JONES. I will ask the gentleman, if the value of the alternate sections remaining will be increased to \$2 50 per acre, why you do not put your railroad sections at that price? No, sir; it drives the Government out of the market until you can sell your land, and then you will come back here and ask for the reduction of the price of the Government land. Now, sir, I want those gentlemen who desire to pass these bills—and I will vote with them for that purpose—to strike out "\$2 50," and let the lands be sold at \$1 25 to settlers who may enter them, and thus pay the Government price for them.

Mr. PIHELPS, (interrupting.) I would ask the gentleman why, if he is in favor of selling these lands at \$1 25 per acre, he should complain if we should hereafter come back and ask to have them reduced to that price?

Mr. JONES. I say, I am opposed to this price of \$2 50 per acre being set upon these lands; because it is a deceptive—a fraudulent principle, whether it is designed to be so or not. In order to justify the measure before the country, that we are to lose nothing by giving away one half of the lands, we put the balance up to just double the price. I ask the gentleman from South Carolina, [Mr. ORR], if that specious reasoning of his is good, that if we give away half, we are to lose nothing, because we double the price of the remaining half? Suppose we should give to those railroads three quarters of every section, and require the Government to sell the remaining one quarter at \$5 an acre, we would derive as much money from these lands as we now do, or as we would, if we should give away one half of them, and put the other half up to \$2 50 an acre.

But, as I stated before, I am not prepared or disposed, at this time, to investigate and debate this bill in all its principles.

A gentleman behind me asks me how I am upon the bill reported from the committee by the gentleman from New York, [Mr. BENNETT]? That is another of these land bills; and it proposes to give to the old States and to the new States, a portion of the public lands.

A gentleman says that that bill was not reported from the committee. If the Committee on Public Lands did not report that bill, then, as I contended the other day, it is not before this House, and is not entitled to be heard here. That bill proposes to divide the public lands among the several States. I am opposed to it. The States want no lands except to make money out of them. But, sir, however much I have denounced, and do now oppose the system of the distribution of the proceeds of the public lands, advocated by Mr. CLAY, and the Whig party, I infinitely prefer that the Government should go on with the sale and management of the public lands, and after defraying the expenses of the system, distribute the proceeds amongst the States, to the policy proposed in the bills reported from the Committee on Public Lands.

Mr. FREEMAN, (interrupting.) I desire to say that I am a member of the Committee on Public Lands, and that the bill to which the gentleman refers, proposing to divide the lands among the States, was reported by the gentleman from New York, [Mr. BENNETT], and that as a matter of courtesy to him, as he himself states, he was permitted by that committee simply to report the bill with a recommendation that it do not pass, for the purpose of enabling him to bring his views before the committee. I believe the committee were unanimous that the bill should be reported, with the exception of the gentleman from Alabama, on the committee.

Mr. JONES. Who is the gentleman?

Mr. COBB. I am the one who opposed the reporting of the bill, and who is referred to by the gentleman from Mississippi, [Mr. FREEMAN.]

Mr. JONES. If that bill came here by the courtesy of the Committee on Public Lands, every other member of this House has the same right to have his sense of courtesy and propriety consulted, whether he will let it in or not. I say again, that under the statement of the gentleman upon that committee, [Mr. FREEMAN], that bill is not before this House.

That bill proposes to give away some sixty millions of acres of public land. Another bill upon your table from the same committee proposes to give away some ten millions of acres for the benefit of the insane asylums of the different States. If these bills are to come up here, and be considered in the House, without going to the Committee of the Whole on the state of the Union, we shall not get through the reports of that Committee on Public Lands during the remainder of this session. In one of these bills, (I believe the one for the benefit of the insane asylums of the country,) it is provided, that if the States have no lands within their borders, they shall take their portion of them in the Territories. There is but one Territory at this time in which there is any land of any account open to selection. If you pass the bill of the gentleman from New York, [Mr. BENNETT], and the one for the benefit of the insane, you will cover that Territory—the Territory of Minnesota—and perhaps leave not one foot of public land within her borders by the time she is admitted into the Union with which to aid the construction of railroads in that State.

The whole system, sir, of giving away these lands to railroads in this way is, in my opinion, wrong. If you will reduce the price of these lands, subject them to entry by actual settlers at the reduced price, and then make it for their interest to make these roads, the construction of which will enhance the value of their lands, as it is now stated it would, it will be for them to determine whether they will thus increase the value of the lands by the construction of the roads.

Mr. Speaker, another reason why I think this whole system is wrong, is, that it brings members into this House, upon this floor, who, to benefit their own sections and districts, get up their schemes here, and by favoritism and partiality—I will not say log-rolling—pass them through. Now, if the policy is to be tolerated and adopted of giving away these alternate sections, it should be done by one general bill.

Mr. FREEMAN, (interrupting.) Did I understand the gentleman to accuse the Committee on Public Lands of log-rolling?

Mr. JONES. I said I would not say it. I say, if this policy of giving away alternate sections of land is to be adopted; if the Committee on Public Lands had prepared a general bill, providing that when a State shall authorize the construction of a



road within its limits, they should have the right of way and the use of the materials, upon the public lands, for the purpose of constructing that road, and that they should have these alternate sections,—I say if they had prepared and reported such a bill to this House, and referred it to the Committee of the Whole on the state of the Union, they would have got it up long before this; would have had it discussed upon its merits, its fate determined by this House; and, if passed here, would have long ago passed to the Senate. Thus the object of the whole system which is proposed by the passage of separate and individual bills, would have been accomplished by the passage of the one bill. I will conclude by calling the previous question, and moving to lay the whole subject upon the table.

Mr. SWEETSER. I hope the gentleman will not call the previous question.

Mr. SUTHERLAND. I wish the gentleman would withdraw the motion for one moment.

Mr. TOOMBS. I call for the yeas and nays upon the motion to lay on the table. I think it is a great outrage.

Mr. HOUSTON. If this is an outrage, the outrage is upon the other side of the House. Upon every bill reported by the Committee on Public Lands, they have universally made speeches in favor of them, and then called the previous question.

Mr. CABELL, of Florida. I would inquire of the Chair whether it is in order to move to postpone the consideration of this bill to a day certain?

The SPEAKER. It will not be in order so long as a motion to lay the bill upon the table is pending. The gentleman from Tennessee [Mr. JONES] has demanded the previous question, and then submitted a motion that the bill, with the proposed amendments, do lie upon the table, neither of which propositions are debatable, and until both are disposed of no motion to amend or postpone to a day certain can be entertained.

Mr. CABELL. Did not I understand the gentleman to withdraw his motion to lay the bill upon the table?

The SPEAKER. He renewed it before he took his seat.

Mr. CABELL. I have only to say I hope the House will vote down the motion to lay on the table.

Mr. STANTON, of Tennessee. I rise to a question of order. These two motions cannot be made at the same time—that is, the call for the previous question and the motion to lay the whole subject upon the table.

The SPEAKER. The Chair overrules the question of order raised by the gentleman. The practice has been universal in this House to allow double motions of that kind, or rather, a gentleman can make two motions before he takes his seat.

Mr. CLINGMAN. I did not hear the question. It may be the same one I am about to propound. I ask the Chair, if it is in order for a gentleman to move to commit a bill to the Committee of the Whole on the State of the Union and also a motion to lay the bill upon the table, at the same time?

The SPEAKER. The Chair decided that the gentleman from Tennessee [Mr. JONES] had a right to make both his motions. When he first took the floor he withdrew his motion to lay upon the table, and submitted the motion that the bill be committed to the Committee of the Whole on the state of the Union. At the close of his remarks, he demanded the previous question, and afterwards moved to lay the whole subject upon the table.

Mr. CLINGMAN. Then I have never known of anything of the sort practiced in the House. I will not appeal myself, but it is a new practice.

The SPEAKER. The Chair must think the gentleman is totally mistaken as to what the practice of the House has been. Nothing is more common than for a gentleman to introduce a resolution, and demand the previous question upon it.

Mr. CLINGMAN. I do not think the Chair understood my question. I did not object to the gentleman's motion for the previous question. But he cannot move to commit a bill, and move to lay it upon the table at the same time. My point is, that he cannot make two distinct motions which are not connected together in any way.

The SPEAKER. The Chair will remind the gentleman of the fact, that it is the everyday's practice here to move to reconsider a vote, and to move to lay the motion to reconsider upon the table. They are two distinct motions. The gentleman from Tennessee [Mr. JONES] demanded the previous question, and afterwards moved to lay the bill, with the proposed amendments, upon the table. The Chair thinks it in order.

Mr. CLINGMAN. The case referred to by the Chair—the motion to recommit, and the motion to lay that motion upon the table—is the only one where two motions can be made, and it grew up into a practice in the last Congress, and in the Congress before the last. But I will ask the Chair, if he remembers any one case where a gentleman has moved to commit a bill, and at the same time moved to lay it upon the table?

The SPEAKER. The Chair does not recollect of a case at this moment, but he does not doubt, that under the practice of the House, it is in order.

Mr. STANTON, of Tennessee. I desire to make a single suggestion in relation to this bill.

Mr. KING, of New York. I rise to a point of order. If there is no appeal, debate is not in order.

Mr. STANTON. I simply desire to make one suggestion, and that is this; that when the gentleman calls for the previous question, it is to call for a vote upon the main question, and calling for the previous question, and immediately making a motion to lay the whole subject upon the table, are two motions utterly inconsistent and repugnant. It is not like the motion to reconsider, and the motion to lay that motion to reconsider upon the table.

The SPEAKER. The Chair thinks it has been the constant practice of this House to allow gentlemen to make double motions, embracing the same principle as the one now under consideration. The Chair has no doubt of the correctness of his decision, under the practice of this body.

Mr. CABELL. I desire to ask a question of the Chair. The gentleman from Tennessee has made a motion and called for the previous question. I wish the Chair would state to the House whether the previous question is called upon the motion to commit, or upon the motion to lay upon the table. Will the Chair state the question to the House, for I confess I do not understand it?

The SPEAKER. The Chair will again state that, upon taking the floor, the gentleman from Tennessee withdrew his motion to lay the bill upon the table, and moved to commit the bill to the Committee of the Whole on the state of the Union. Before he took his seat, he demanded the previous question upon that motion, and again submitted the motion that the bill and the proposed amendments do lie upon the table.

The question recurred upon the motion to lay the bill and amendments on the table.

Mr. SEYMOUR, of New York, demanded the yeas and nays; which were ordered.

Mr. HENN. Has the call for the previous question been yet sustained?

The SPEAKER. It has not. That question does not come up until the privileged motion to lay upon the table is disposed of.

The question was then put upon the motion to lay upon the table the bill and amendments; and it was not agreed to—yeas 79, nays 100; as follows:

YEAS—Messrs. Aiken, Charles Allen, Allison, John Appleton, Averett, David J. Bailey, Beale, Bigbaw, Breckinridge, Busby, Carter, Caskie, Chastain, Churchwell, Cleveland, Colcock, Cullom, Curtis, Daniel, Dawson, Dean, Dimmick, Fowler, Gamble, Giddings, Gilmore, Grey, Hamilton, Isham G. Harris, Hart, Hascall, Hibbard, Hillyer, Holladay, Horsford, Thomas M. Howe, Ingersoll, Ives, Daniel T. Jones, George W. Jones, J. Glancy Jones, George C. King, Preston King, Kuhns, Kurtz, Lotcher, Martin, Mason, McCorkle, McDonald, McLanahan, McNair, Meacham, Meade, Millson, Morrison, Murphy, Newton, Andrew Parker, Peaslee, Powell, Robbins, Robie, Ross, Schoonmaker, David L. Seymour, Skelton, Smart, Snow, Richard H. Stanton, Thaddeus Stevens, Sutherland, Sweetser, Venable, Walbridge, Wallace, Washburn, Wells, and Willard—79.

NAYS—Messrs. Abercrombie, Willis Allen, William Appleton, Bell, Bennett, Bissell, Bowne, John H. Boyd, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Chandler, Clark, Clingman, Cobb, Conger, Cottman, George T. Davis, John G. Davis, Disney, Doty, Duncan, Dunham, Durkee, Eastman, Edgerton, Evans, Ewing, Ficklin, Fitch, Freeman, Gaylord, Gentry, Goodenow, Goodrich, Gorman, Hall, Sampson W. Harris, Haws, Haven, Hebard, Hendricks, Henn, Houston, Howard, John W. Howe, Hunter,

Jackson, James Johnson, John Johnson, Robert W. Johnson, Landry, Lockhart, Mace, Humphrey Marshall, Miller, Molony, Henry D. Moore, John Moore, Morehead, Nabers, Olds, Orr, Outlaw, Samuel W. Parker, Penniman, Phelps, Sackett, Schermerhorn, Schoolcraft, Scudder, Scurry, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Strother, Stuart, Taylor, Benjamin Thompson, Thurston, Toombs, Townsend, Walsh, Ward, Watkins, Welch, Addison White, Alexander White, Wilcox, Williams, and Yates—100.

So the bill was not laid upon the table.

Mr. CABELL, of Florida. Is it not in order for me now to submit a motion for the postponement of the further consideration of the bill?

The SPEAKER. The demand for the previous question is still pending, and during its pendency the gentleman's motion is not in order.

Mr. ORR. I appeal to the gentleman to withdraw his call for the previous question. If it is withdrawn, I will then submit the motion intimated by the gentleman from Florida, which is not debatable.

The SPEAKER. The motion to postpone is not debatable.

Mr. JONES, of Tennessee. They say around me they can pass it. Let us take the question upon seconding the call for the previous question. If that is voted down, the gentleman can then submit his motion.

The question was then put, and the call for the previous question was not sustained.

Mr. CABELL, of Florida. I move that the further consideration of this bill be postponed until Friday week—that is, two weeks from yesterday.

Mr. JONES, of Tennessee. Is it in order to amend that motion by postponing the subject two or three weeks longer?

The SPEAKER. It is.

Mr. JONES. Let us try and get through with some of the other bills. I move that the postponement of the subject be until the second Friday in July.

The question was then taken, and the amendment was agreed to.

The question then recurred upon the motion as amended, and, being put, it was agreed to.

#### GRANTS FOR EDUCATION AND RAILROADS.

The SPEAKER. The next business in order is the consideration of the bill, reported from the Committee on Public Lands by the gentleman from New York, [Mr. BENNETT,] making grants of land to the several States for the construction of railroads and for other purposes.

Mr. WELCH. Will the gentleman from New York grant me a short time to submit a few remarks?

Mr. BENNETT. I will yield for that purpose.

Mr. WELCH then addressed the House at length relative to the disposition of the public lands. [His speech is published in the Appendix.]

Mr. BENNETT. I desired, Mr. Speaker, to delay action upon this bill, long enough to allow every member to read it and judge for himself of its merits, and of the various provisions it contains. And, when I reported it three or four days ago, I spoke until the morning hour had expired, more for that purpose than any other, that gentlemen might have an opportunity of examining the bill, which was printed and laid upon the desks of members, in order to enable them to vote upon it understandingly, and to determine whether they would or would not support it. I did not then wish, nor do I now, to occupy any of the time of the House, but as there are only a few moments left, before the expiration of the morning hour, and, as it is perfectly clear, a vote cannot be had upon the measure this morning, the House must pardon me for again addressing it and speaking against time, as my hour has not yet expired.

A motion is still pending to recommit the bill, and on Monday, I hope we may be enabled to get a vote upon it. I will say a word or two by way of answer, to what has been stated this morning, with regard to the granting of lands, to aid in the construction of railroads, by the gentleman from Tennessee, [Mr. JONES:] I am one of those from the old States, who believe that the granting of a small portion of the public domain, for the construction of railroads, if properly made, and with the proper restrictions, is one of the best purposes to which they can be applied; what I have con-

tended for here is, that grants for schools and roads should be made with some degree of fairness to all the States—the old as well as the new. The public domain is the common property, and so far as the West are concerned, they have been liberally dealt by. They have already received some fifty-five millions of acres of the public land, of which eleven or twelve millions of acres have been devoted to internal improvements and railroads. All that is proposed in the bill I have alluded to, is to give to the old States, not the same amount in proportion to representation, but only one half of the amount in proportion to population, which is granted by this bill to the land States, irrespective of the fifty-five millions of acres heretofore granted to them. I think that is liberal, and that this bill is just and fair, and ought to pass.

To gentlemen from the West desiring the construction of these roads, we come up to their aid, and say, if you will adopt a principle by which a small portion of the proceeds of the public lands may be applied to school purposes in the old States, we will give you land for the construction of your roads in the Western States. I think this is a fair compromise, and one which the friends of grants to railroads, and the friends of the old States could unite upon. If they unite, the bill could be carried, and if they do not, the bill will fail. I have no doubt, also, when separate grants are asked for aid in the construction of particular roads, they will also fail. The gentleman from Tennessee [Mr. JONES] seems to insist that the whole of this system is wrong. If that were an open question, I would say, let it be considered; but I hold it to be a question that has been settled. You have already been granting lands to certain States for these particular purposes. You have granted to every one of the land States the sixteenth section for schools. Who objects? Who says that is unconstitutional? Not a man. You have granted to Illinois, Missouri, and other Western States, land for roads, and who says it is unconstitutional? If there were such objectors when those bills were up and considered, Congress settled the question that grants could be made, and they were made. Now, the States of Illinois and Missouri have received these very grants. We can now see how liberal the members from Illinois and Missouri will be in making several grants to the other States—West as well as East—the old as well as the new States. We will see whether they are willing to grant for educational purposes—not a greater amount in proportion to population, but only half that amount, or less than half that amount, to the old States.

In regard to this appropriation to the older States, one reason for it is, many of them are largely indebted, and resort to direct taxation to support their schools. If a small portion of the proceeds of these lands were to be applied for the benefit of free schools in all the States—which every one admits to be constitutional—it would be the best disposition that could be made of it. What objection could the Western States have to such a measure? What odds does it make, whether the old States sell a portion of the lands or the General Government? By this bill we do not propose that the older States shall own a rod of land in the new States. It is prohibited; the States have no right to locate any of the land—the warrants are to be sold, and will be located by actual settlers—

[Here the gentleman was reminded that the morning hour had expired, and he accordingly gave way.]

Mr. DANIEL. There are upon the Speaker's table some private bills, which were reported from the Committee of the Whole House, with a recommendation that they do pass, two or three weeks ago, which, I trust, will be taken up for consideration this morning.

Mr. HALL. The gentleman from North Carolina, Mr. Speaker, is one of those who have been complaining a great deal on account of the time consumed by the Committee on Public Lands. I would now appeal to him to let this day be devoted to the reception of reports from that committee. They then will be enabled to get through with their business, and next Monday we will be enabled to go on with the other committees.

Mr. DANIEL. The kind of business, to the consideration of which I ask the attention of the House, cannot be considered on any other day than Saturday or Friday.

Mr. HALL. I hope that the Committee on Public Lands will not be complained of any more.

Mr. DANIEL. The private bills I have alluded to are upon the Speaker's table, and have been there ever since they were reported from a Committee of the Whole House, undisposed of. With a view of getting at them, I move that the House now proceed to the consideration of the business upon the Speaker's table.

The question was put upon the motion, and it was agreed to.

Mr. STEPHENS, of Georgia. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole House on the state of the Union.

Mr. DANIEL. I demand the yeas and nays upon that motion. I wish to know whether we are ever to dispose of these private bills now on the Speaker's table, or not?

Mr. STUART. I submit the motion that the rules be suspended, and that the House resolve itself into a Committee of the Whole House upon the Private Calendar. If that motion fails, it being the first business in order, and the House shall determine to make this a day of public business, I shall then submit a privileged question, upon which I shall desire to address the House.

Mr. DANIEL. I prefer we should transact the private business upon the Speaker's table, before going into a Committee of the Whole House on the Private Calendar.

The SPEAKER. The motion that the House resolve itself into a Committee of the Whole House upon the Private Calendar—this being private bill day—will be first put.

Mr. MARSHALL, of Kentucky. There is a bill on the Speaker's table, which came from the Senate on yesterday, involving an individual matter in which a constituent of mine is alone interested. I should like very much that the House would indulge me in passing it. It is merely to change the name of a steamboat. I trust no one will object.

Unanimous consent was accorded, and the bill was taken up for consideration.

The SPEAKER. The bill under consideration is Senate bill No. 452, entitled "A bill to change the name of the steamboat Brilliant, to that of Mary Hunt."

The bill was read a first and second time by its title, ordered to a third reading, and, having been read a third time, was passed.

The question was then put upon Mr. STUART's motion, that the House resolve itself into a Committee of the Whole House on the Private Calendar; and it was not agreed to.

The SPEAKER. The business first in order is the consideration of private bills upon the Speaker's table. A motion is made by the gentleman from Georgia, [Mr. STEPHENS,] that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I submit a privileged question. I move to call up the question which I moved some six months ago—to reconsider the vote by which House bill No. 121 was referred to the Committee on Roads and Canals.

Mr. CLINGMAN. I insist that the motion to go into the Committee of the Whole on the state of the Union is a privileged question, and takes precedence of this other one.

The SPEAKER. The Chair is of the opinion that, as both motions are of a privileged character, the motion to go into the Committee of the Whole on the state of the Union being first made, should be first put.

Mr. DANIEL. I demand the yeas and nays upon that motion.

The yeas and nays were not ordered.

The question was then put upon the motion of Mr. STEPHENS, of Georgia, and it was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair.)

The CHAIRMAN. The question before the committee is House bill No. 43, making appropriations for the Indian Department. Upon that question the gentleman from Florida [Mr. CABELL] is entitled to the floor.

Mr. HOUSTON. With the consent of the gentleman, I will suggest—

Mr. CABELL. Not if it comes out of my time.

Mr. HOUSTON. With the consent of the gentleman from Florida, and the committee, I would like to have the deficiency bill No. 207 taken up this morning. The gentleman can occupy the floor just as well upon this bill, and no one will object to it.

Mr. CABELL. I do not know as I can get the floor on that bill.

Mr. HOUSTON. Nobody will object.

Mr. STANLY. I object.

Mr. HOUSTON. I have no doubt that general debate will take place on anything that may come up, and a certain portion of time will have to be given up to such debate. I desire to take up the deficiency bill, and get through with it, but if the gentleman from North Carolina [Mr. STANLY] does not want it to pass, I have no more to say.

The CHAIRMAN. The Chair will inform the gentleman from Alabama [Mr. HOUSTON] that there is objection made to it, and the only means by which it can be disposed of, is by a vote of the committee.

Mr. STANTON, of Tennessee. I rise to a question of order. I ask if the gentleman from Alabama can take the floor from the gentleman from Florida [Mr. CABELL] to make this motion?

The CHAIRMAN. By his consent.

Mr. CABELL. I did not give my consent. I prefer to proceed, and the motion can be made afterwards.

Mr. HOUSTON. I am perfectly willing to yield, as the gentleman from North Carolina [Mr. STANLY] has objected to taking up the deficiency bill.

Mr. CABELL, of Florida, addressed the committee an hour in regard to the silent position of General Scott upon the compromise measures, and declared his determination not to support any man for the Presidency who did not explicitly avow his opinions in favor of those measures. He did not believe that General Scott, if he adhered to his present position, could carry a solitary Southern State in the coming contest for the Presidency. [His speech is published in the Appendix.]

Mr. STUART here obtained the floor, and said:

Mr. Chairman, before I proceed, I wish to say to the gentlemen of the committee, and to the gentleman from North Carolina, [Mr. STANLY,] that I wished this morning to call up a motion to reconsider, and upon that motion I desired to address the House upon the subject of harbor improvements. The committee, I think, will do me the justice to say that I have not designed, or manifested a disposition to talk for talk's sake. This is a great subject which concerns a portion of the country I represent, and if I can at a future period, say on Monday, have the privilege of calling up the motion, by the general consent of the House, and of making the remarks I designed to make, I will now cheerfully yield the floor to the gentleman from North Carolina, [Mr. STANLY.]

[Cries of "Agreed!" "Agreed!" from all parts of the Hall.]

Mr. STEPHENS, of Georgia. I rise to state to the gentleman from Michigan, [Mr. STUART,] and to the committee, that this committee cannot give any such agreement.

Mr. STUART. I am aware of that. It is only by a conventional understanding that it can be done.

Mr. STEPHENS. I give the gentleman notice, that I do not enter into that conventional understanding.

The CHAIRMAN. The gentleman from Michigan [Mr. STUART] is entitled to the floor, and if he yields it, the Chair will assign the floor to the gentleman who attained it first after him.

Mr. STUART. I suppose I have the right to yield the floor to the gentleman from North Carolina, [Mr. STANLY.]

The CHAIRMAN. The gentleman has the right to yield the floor for explanation.

Mr. STUART. I yield the floor to the gentleman from North Carolina [Mr. STANLY] for explanation.

Mr. HOUSTON. I rise not to a question of order, but to make the motion that this bill be laid aside, and that bill No. 270 be taken up.

The CHAIRMAN. The gentleman from North Carolina has the floor, the gentleman from Michigan having yielded it to him for personal explanation.

Mr. STANLY followed in reply to the gentleman from Tennessee, [Mr. GENTRY,] and in de-

fense of General Scott. He repudiated all platforms in regard to the compromise, or any other measures, but at the same time coincided in determination with the gentleman from Florida not to support any man who should refuse to give to the American people his opinions in regard to the vital questions embraced in the measures of compromise. He had more confidence in the word and character of General Scott than all the platforms that could be constructed to suit the occasion. [His speech will be published in the Appendix.]

#### THE COMPROMISE MEASURES—RAILROAD GRANTS.

Mr. SCHOONMAKER obtained the floor, and addressed the committee at length on the compromise measures, railroad grants, &c. [His speech is published in the Appendix.]

Mr. BOWNE then addressed the committee on the Presidency, &c. [His speech is published in the Appendix.]

Mr. GENTRY obtained the floor, but yielded it to

Mr. FOWLER, who moved that the committee rise.

The question was put, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. RICHARDSON) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No 43, "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1853," and had come to no resolution thereon.

Mr. HOUSTON. I desire to have an order made to print the report of the Committee on Ways and Means on the amendments of the Senate to the deficiency bill. I hoped that we should have taken it up to-day, and that is the reason I did not ask for the printing of what we had done.

The SPEAKER. If not objected to, that order will be entered.

On motion by Mr. FOWLER, the House then adjourned.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. SMART: The petition of Nathaniel Patterson and others, citizens of Waldo county, Maine, asking for bounty land for soldiers, who served at the siege of Bigwade, in the Penobscot bay in said State, during the revolutionary war, and also asking bounty land for the heirs of said soldiers.

By Mr. CHASTAIN: The petition of the inferior court and sundry citizens of Cobb county, praying Congress to appropriate a sum of money to assist in the erection of a new court-house at Marietta, in said county.

By Mr. SCUDDER: The petition of Francis Bacon and 28 other presidents and officers of insurance companies in Massachusetts, asking for huys to be placed on the "Lone Rock," near Hyannis harbor, and on a sunken wreck in the channel, near Seconnesset Shoals.

Also, the petition of Obed Baxter and 73 other ship-masters, for the same.

Also, the petition of Joseph Eldridge and 26 other ship-masters, for the same.

By Mr. PORTER: The petition of William J. McElhenny, Lawrence Kribben, and E. P. Matthews, of St. Charles county, Missouri, for permission to enter two certain small pieces of land in their possession, fractionized by the commons of the town of St. Charles, and which have been reserved from sale up to this time.

By Mr. CASKIE: The petition of Francis B. Crump, sole heir and legal representative of Benjamin Crump, deceased, praying for relief on account of the services of the said Benjamin Crump, during the revolutionary war.

By Mr. RANTOUL: Resolutions of the State of Massachusetts, concerning claim of said State against the United States.

By Mr. CHANDLER: The memorial of the Rev. F. M. Bogen, asking Congress to assist him with means to circulate among German immigrants in this country, two books which he has prepared for their benefit.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 14, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of Saturday was read and approved.

The SPEAKER. The business first in order is the motion to recommit House bill No. 208, making grants of land to all the States in the Union for railroad and educational purposes, upon which the gentleman from New York [Mr. BENNETT] is entitled to the floor.

Mr. MOORE, of Louisiana. I would ask the gentleman from New York [Mr. BENNETT] to suspend one moment to enable me to make a personal explanation.

Mr. BENNETT did not respond.

Mr. HUNTER. I ask the unanimous consent of the House to take from the Speaker's table House bill granting the right of preemption to actual settlers along the line of the Illinois Central Railroad. Having delayed action upon this measure in some respect myself, I will say to the House that I have examined this bill thoroughly, and I am satisfied that, in justice to those building it, it ought to be passed immediately. The sale of these lands takes place next month, and if the House wish to do an act of justice to the settlers along the line of that road, a general law should be passed, and passed immediately. I ask, therefore, the unanimous consent of the House to take the bill from the Speaker's table and pass it.

Mr. JONES, of Tennessee. I ask for the regular order of business.

The SPEAKER. That is the motion to recommit House bill No. 208, already stated by the Chair to be the first business in order.

Mr. FOWLER. I ask the unanimous consent of the House merely to offer certain resolutions of the Legislature of Massachusetts, with a view of having them referred.

Mr. STEPHENS, of Georgia. I object, and call for the regular order of business.

Mr. MOORE, of Louisiana. Is it not a privileged question for a member to make a personal explanation?

The SPEAKER. It depends upon the nature of the explanation.

Mr. MOORE. I ask the unanimous consent, then, of the House to do so. I do not often trouble the House.

Mr. HUNTER. I would ask the Chair, if it would not be in order to suspend the rules upon the motion I made?

The SPEAKER. It will not be until the special order of the morning hour is executed.

Mr. JONES, of Tennessee. I withdraw the call for the order of the day.

#### PERSONAL EXPLANATION.

The SPEAKER. The gentleman from Louisiana [Mr. MOORE] asks the unanimous consent of the House to allow him to make a personal explanation.

Mr. BENNETT. Will this be taken out of the morning hour?

The SPEAKER. It will unless it is the special understanding of the House that it shall not be.

Mr. MOORE, of Louisiana. On Saturday, in the course of a speech made by the gentleman from North Carolina, [Mr. STANLY], he adverted to certain meetings held in this city by those who retired from that celebrated caucus of the Whig members of Congress lately held. At the same time he alluded to an attempt made to get up a third party; and these allusions were so connected together as to convey the impression to the minds of some that they were one and the same. It is my duty, as an honorable man, and as a Whig, to state, as I do, here most emphatically, that a few of the friends of Mr. Fillmore, from the North and from the South, and some from the West, a short time previous to that caucus had occasionally assembled in this city. I had the honor of being the chairman of these meetings, and I ought to know everything that transpired there. The object of those meetings, as I understood it, was to consult about the best fair and honorable means of promoting the nomination of Mr. Fillmore as the Whig candidate for President of the United States. Another object of those meetings was, as I understood it, to harmonize the Whig party, and establish such principles, or a platform, as the modern term has it, as we could all unite upon, North and South, East and West, and one which we could all support. If the gentleman from North Carolina [Mr. STANLY] intended to mean that those meetings were got up for the purpose of creating a third party, I think it my duty to put upon it the seal of my contradiction, as I do most unhesitatingly. There was no such purpose, as I understood it. Again, in connection with his speech, he mentioned another subject, which I will barely notice. He stated that the honorable gentleman from Pennsylvania, my namesake, [Mr. MOORE], made a proposition in that caucus, if we

would remain there until the time and place of the National Convention was fixed, he would then either bring forward or support these compromise resolutions. I will not say anything disrespectful of the gentleman from Pennsylvania, [Mr. MOORE], or the gentleman from North Carolina, [Mr. STANLY], but I wish merely to state, in connection with that fact, that I have not the least doubt in the world that such a proposition was made, as both the gentlemen assert it, and I am bound to believe them.

Mr. MOORE, of Pennsylvania. I do not see the gentleman from North Carolina [Mr. STANLY] in his seat, and, therefore, with the gentleman's consent, I will make a brief explanation. I think the gentleman from Louisiana is mistaken as to the position assumed by the gentleman from North Carolina, [Mr. STANLY]. He stated, if my recollection is right, that the gentleman to whom he alluded, one of whom was myself, had said they were ready and willing to vote upon the proposition of the gentleman from Kentucky, [Mr. MARSHALL], as a separate proposition. I responded to what the gentleman from North Carolina said on Saturday, by stating to the House, that as soon as the vote on the decision of the Chair, declaring Mr. MARSHALL's resolution to be out of order, was announced, I did say to the meeting, that I was then ready to vote upon the resolution of the gentleman from Kentucky, [Mr. MARSHALL], as a separate proposition.

Mr. MOORE, of Louisiana. I wish merely to say, if any such proposition was made, it was not made while I was present, or at least I did not hear it. I heard of it for the first time on Saturday. If I had been present and heard the proposal of the honorable gentleman from Pennsylvania, [Mr. MOORE], I should have acceded to it most cheerfully. I will admit, that I retired early from that caucus. I was disgusted with the arbitrary, partial, and, as I thought, improper manner in which the chairman decided those questions to be out of order. This is all I have to say.

Mr. MEADE. I will ask the gentleman from New York, [Mr. BENNETT], to allow me to offer some resolutions of the Virginia Legislature, in connection with the service of some of the soldiers of the war of 1812. I ask the gentleman's permission to let the short resolution be read, that it may be referred to the Military Committee.

Mr. BENNETT. If it will not come out of the morning hour, I will not object.

The SPEAKER. It will come out of the morning hour.

Mr. BENNETT. Then I object.

The SPEAKER. The gentleman from New York [Mr. BENNETT] declines to yield the floor.

#### GRANTS FOR EDUCATION AND RAILROADS.

Mr. BENNETT. My object is not to make a speech upon this bill. I do not desire to say a word more upon it. When this bill happened to be called, it was too late to think of getting a vote upon it. I ask gentlemen upon all sides to allow a vote to be taken upon it, and for that purpose I withdraw the motion I made to recommit. Let the bill be engrossed, and ordered to a third reading. I however renew the motion to recommit, and upon that I call the previous question.

Mr. DOTY. I ask the gentleman from New York to withdraw the demand for the previous question to enable me to offer an amendment.

Mr. BENNETT. I withdraw it.

Mr. DOTY. I now offer the following amendment to the bill:

Sec. 3. And be it further enacted, That of the lands hereby granted to the eleven first-named States, a portion of the proceeds thereof shall be applied by the said States, respectively, in the manner directed in the preceding section, to aid in the construction of the following lines or routes of railroads, namely:

From Toledo, Ohio, via Logansport, Lafayette, and Peoria, to Burlington; from Cincinnati, Ohio, via Vincennes, to St. Louis, with a branch from a point in Illinois, via Mount Carmel, to New Albany; from such point on the Mississippi river, within the limits of Arkansas, as that State shall appoint, via Little Rock, to Fort Smith, Arkansas, with a branch from Little Rock to Fulton, on the Red river, and a branch from Little Rock to Cairo, at the mouth of the Ohio river; from Terre Haute, in Indiana, via Springfield, to Bloomington, in Illinois; from New Orleans, by the way of Jackson and Canton, in Mississippi, thence to connect, by the nearest and best route, with the proposed Nashville and New Orleans railroad, and from Canton, by the way of Holly Springs, to the line of the State of Tennessee; from Girard, in Alabama, to the waters of the Mobile Bay; from Brandon, in Mississippi, to Montgomery, in Alabama; from the river or Lake St. Clair, or the waters flowing into the same, to Lake Michigan; from the south-



ern boundary of Wisconsin, through Janesville and Fond du Lac, to Lake Superior; from Selma, in Alabama, to Gunter's Landing, on the Tennessee river; from the Atlantic ocean, in Florida, to the Gulf of Mexico, in said State; from Davenport and Burlington, in Iowa, to the Missouri river; and from Dubuque, in Iowa, to the Missouri river; from Manitowoc, in Wisconsin, to the Mississippi river; from San Francisco, to San José; from the Saginaw river to Mackinaw, in the State of Michigan; from Mobile Bay, in Florida, and to the Chatahochee river and Flint river, in Georgia; from a point opposite New Orleans, to the Sabine river, in Louisiana, from Shreveport to the Mississippi river.

Said railroads to be constructed on the most direct and feasible routes, between the points before-mentioned. And the proceeds of the residue of the land herein granted to the said eleven first-named States, respectively, to be applied by them to aid in the construction of such other railroads as the Legislatures of said States may respectively designate: *Provided*, No more land shall be taken by any State under this act in the whole, than is granted to said State by the first section thereof.

Mr. OLDS. I rise to a question of order. I make two points of order on that amendment: first, that it is not germane to the bill, which grants lands to the States, whereas the amendment proposes to grant lands to railroads; and second, that the provisions of the amendment are embraced in separate bills, which are pending before the House.

The SPEAKER. If the Chair recollects aright, the original bill proposes to distribute land among the States for internal improvement purposes. If that be the case, the Chair does not see that the amendment is not germane. With regard to the second point raised by the gentleman, that the provisions of the amendment are embraced in separate bills before the House, the Chair would state that, unless an amendment is in the identical shape of a bill before the House, it has always been the practice to receive it. The Chair therefore overrules the points of order raised by the gentleman.

Mr. BENNETT. I renew the demand for the previous question.

Mr. COBB. I trust the gentleman from New York will allow me to propound a question to him. I desire to know of him what member from Alabama has been consulted in regard to the disposition of the land that he proposes to give to that State?

Mr. JONES, of Tennessee. Debate is not in order.

The SPEAKER. During a demand for the previous question, discussion is not in order. Does the gentleman from New York withdraw the demand for the previous question?

Mr. BENNETT. I do not.

The SPEAKER. Then discussion is not in order.

Mr. MEADE. I wish to know whether it is in order to move to refer this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not. The previous question is demanded. Debate is therefore out of order; amendments are out of order; and it is not in order to move to commit the bill.

Mr. MEADE. I move, then, that the bill and amendment be laid upon the table.

Mr. FICKLIN. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MEADE. I withdraw the motion.

Mr. JONES, of Tennessee. I renew it.

Mr. GORMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and it was decided in the negative—yeas 85, nays 93; as follows:

YEAS—Messrs. Abercrombie, Aiken, John Appleton, Ashe, Averett, David J. Bailey, Boeock, Bragg, Breckinridge, Albert G. Brown, Brut, Busby, Caskey, Chastain, Churchwell, Clark, Cobb, Colcock, Daniel, John G. Davis, Dawson, Disney, Dunham, Eastman, Edmundson, Faulkner, Ficklin, Fitch, Freeman, Gaylord, Giddings, Gorman, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Henn, Hubbard, Hillyer, Holladay, Houston, Howard, Ingersoll, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, Preston King, Letcher, Lockhart, Edward C. Marshall, McCorkle, McDonald, McLanahan, McNair, Meade, Murphy, Nabers, Olds, Orr, Peaslee, Penn, Powell, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Scurry, Skelton, Stuart, Sutherland, Sweetser, George W. Thompson, Townsend, Venable, Wallace, Alexander White, Wilcox, and Wildrick—85.

NAYS—Messrs. Charles Allen, Allison, William Appleton, Barrere, Beale, Bell, Bennett, Bibbhauss, John H. Boyd, Brenton, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Cartier, Chandler, Chapman, Cleveland, Clingman, Cullom, Curtis, Dean, Dimmick, Dockery, Doty, Duncan, Edgerton, Evans, Ewing, Fowler, Gilmore, Goodenow, Goodrich, Grey, Harper, Haws, Hascall, Haven, Horsford, John W. Howe, Hunter, James Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Mace, Martin, Meachan, Miller, Henry D. Moore, John Moore,

Morehead, Morrison, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Porter, Robie, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Smart, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Taylor, Benjamin Thompson, Thurston, Toombs, Walbridge, Ward, Washburn, Watkins, Welch, Wells, Addison White, and Williams—93.

So the House refused to lay the bill upon the table.

The previous question was then seconded. The question then being, "Shall the main question be now put?"

Mr. MEADE demanded tellers; which were ordered; and Messrs. MEADE and WATKINS were appointed.

The question was then put, and it was decided in the affirmative—yeas 90, nays 72.

So the main question was ordered to be put.

Mr. COBB. Will the Chair state what is before the House?

The SPEAKER. The question is first upon recommitting the bill to the Committee on Public Lands. If that should fail, the question will then be upon the adoption of the amendment proposed, and then be upon the engrossment of the bill.

Mr. MARSHALL, of California. I demand the yeas and nays upon the motion to recommit.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. Did not the gentleman from New York [Mr. BENNETT] withdraw the motion to recommit?

The SPEAKER. He did, but he renewed it again.

Mr. JONES. I thought he withdrew it this morning.

The SPEAKER. He did withdraw it this morning, but he immediately renewed it.

Mr. DOTY. I understood the amendment to have been accepted by the gentleman from New York, [Mr. BENNETT].

The SPEAKER. The Chair did not so understand it. Besides the bill before the House was a report from a committee, and the gentleman had no right to accept any amendment to it.

Mr. BENNETT. Have I now the right to withdraw the motion to recommit?

[Loud cries of "No!" "No!"]

The SPEAKER. The Chair thinks the gentleman cannot withdraw the motion after the main question has been ordered.

Mr. BENNETT. I intended to withdraw the motion to commit.

The question was then taken, and the result was—yeas 78, nays 109; as follows:

YEAS—Messrs. Abercrombie, Aiken, John Appleton, Ashe, Bragg, Breckinridge, Albert G. Brown, Busby, Chastain, Churchwell, Clark, Cobb, Colcock, Conger, Daniel, John G. Davis, Dawson, Dean, Disney, Dunham, Durkee, Eastman, Faulkner, Fitch, Freeman, Gaylord, Gorman, Hall, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Henn, Hubbard, Hillyer, Holladay, Houston, Howard, Ingersoll, Ives, Jackson, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, Preston King, Letcher, Lockhart, Edward C. Marshall, McCorkle, McDonald, McLanahan, McNair, Meade, Murphy, Nabers, Olds, Orr, Peaslee, Penn, Penniman, Richardson, Robbins, Robinson, Ross, Savage, Scurry, Skelton, St. Martin, Stuart, Sutherland, Sweetser, George W. Thompson, Wallace, Alexander White, Wilcox, and Yates—78.

NAYS—Messrs. Charles Allen, Allison, William Appleton, Averett, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bell, Bennett, Bibbhauss, Boeock, John H. Boyd, Brenton, Briggs, Brooks, George H. Brown, Burrows, Burt, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Cartier, Caskey, Chandler, Chapman, Cleveland, Clingman, Cullom, Curtis, George T. Davis, Dimmick, Dockery, Doty, Duncan, Edgerton, Edmundson, Evans, Ewing, Ficklin, Fowler, Gamble, Gentry, Giddings, Gilmore, Goodenow, Goodrich, Grey, Harper, Haws, Hascall, Haven, Hebard, Horsford, John W. Howe, Thomas M. Howe, Hunter, James Johnson, Robert W. Johnson, George G. King, Kuhns, Kurtz, Landry, Mace, Martin, Meachan, Meade, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Porter, Powell, Robie, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Smart, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Taylor, Benjamin Thompson, Thurston, Toombs, Townsend, Venable, Walbridge, Ward, Washburn, Watkins, Welch, Wells, Addison White, and Williams—109.

So the House refused to recommit the bill.

Mr. THOMPSON, of Virginia. Has the morning hour expired?

The SPEAKER. It has expired.

WHEELING BRIDGE.

Mr. THOMPSON. Mr. Speaker, I desire to submit a matter of courtesy to the House. The relations which I at present hold to the House are soon to close. I have been called by my people

to another sphere, and the close of this month will dissolve the connection between this House and myself.

During the short time I have had the honor of being a member of this House, I have not trespassed upon your patience, nor asked any indulgence in respect to time.

So far as I am aware, Mr. Speaker, I have violated no courtesy, nor have I asked any of the courtesies of this House to be extended to me. Now, as there is a question of vast importance in which my immediate constituents are very deeply involved, matured in one of your committees, I ask as a matter of courtesy to myself, of justice to the people which I represent upon this floor, as well as to settle a great national question, involving national principles, that the Committee on the Post Office and Post Roads be permitted to make a report in relation to the Wheeling bridge, and when that report is made, that it be the special order for next Monday.

[Cries of "Agreed!"]

Mr. McLANAHAN. I object.

Mr. THOMPSON. I move to suspend the rules to enable me to make that motion.

Mr. JONES, of Tennessee. I rise to a question of order. The gentleman cannot make that motion. We are now acting under a suspension of the rules.

The SPEAKER. The morning hour has expired.

Mr. JONES. The rules of the House require a motion to go into the business on the Speaker's table at the expiration of the morning hour, in order to arrest the business then before the House.

The SPEAKER. The Chair thinks that this being Monday, it is in order to move to suspend the rules under an express rule of the House.

Mr. JONES. How do you get clear of the question now before the House, the main question having been ordered to be now put?

The SPEAKER. It falls. The Chair thinks this is one form by which the House may get clear of it. There are several modes, and this is one of them, in the opinion of the Chair.

Mr. McLANAHAN. I wish to state to the House my reason for objecting to the request of the gentleman from Virginia, [Mr. THOMPSON.] Pennsylvania, sir, has also some interest in this great national question to which he has alluded. It is a question of vast importance to the judicial as well as the legislative departments of this Government. But that question, under the resolution from the State of Pennsylvania, has been referred to the Committee on the Judiciary.

Mr. STUART. I call the gentleman to order.

Mr. McLANAHAN. I think it is due to the House that I should make that report from the Committee on the Judiciary.

[Cries of "Order!" "Order!"]

Mr. MARSHALL, of California. I desire to know if the motion to suspend is debatable?

The SPEAKER. It is not debatable.

Mr. MARSHALL. Then I object to the gentleman making a speech.

Mr. STEVENS, of Pennsylvania. I rise to a question of order. I submit that the main question having been ordered to be put upon the bill just now before the House, nothing could intervene until that question was disposed of. I ask the Chair to decide.

The SPEAKER. The Chair is of the opinion, as he before stated, that the morning hour having expired, it is competent to submit a motion to suspend the rules—this being Monday—without regard to the immediate business before the House.

Mr. STEVENS. When will it come up again?

The SPEAKER. It will come up as the first business, and as the special order, to-morrow morning. The Chair decides that the motion made by the gentleman from Virginia [Mr. THOMPSON] is in order, and is not debatable.

Mr. FOWLER. I rise to a question of courtesy to reply to the gentleman from Virginia, [Mr. THOMPSON].

The SPEAKER. The gentleman cannot proceed without unanimous consent.

[Cries of "Object!" and "Order!"]

Mr. FOWLER. I only want to say one word.

[Loud cries of "Order!"]

The SPEAKER. The gentleman is out of order.

[A message in writing was here received from

the President of the United States by the hands of MILLARD P. FILLMORE, his Private Secretary.]

#### GRANTS FOR RAILROADS AND EDUCATION.

Mr. MEADE. I rise to a privileged question, but not to interfere with the motion of my colleague, [Mr. THOMPSON.] I simply rise to make a motion to reconsider the vote by which the main question was ordered upon the bill which was before the House a few minutes ago.

The SPEAKER. The motion will be entered upon the Journal.

Mr. MEADE. I will state, that my object in making the motion is to enable me to make the motion to refer it back to the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. Will it be in order now to move to go into the Committee of the Whole on the state of the Union, so as to give my friend from Tennessee [Mr. GENTRY] an opportunity to speak?

The SPEAKER. The privileged motion made by the gentleman from Virginia [Mr. THOMPSON] to suspend the rules must be put first.

Mr. CLINGMAN. I hope the gentleman from Virginia will allow his motion to be passed by for the present, and let us go into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair will remark, that the motion to suspend the rules must be put now, if put at all.

Mr. JONES, of Tennessee. Upon that motion I demand the yeas and nays. I want to see who it is that will make these special orders at this late day of the session.

The yeas and nays were not ordered.

Mr. CARTTER demanded tellers; but they were refused.

The question was then taken, and the result was—yeas 63, noes not counted.

So, two thirds not voting in the affirmative, the rules were not suspended.

#### CALIFORNIA MINT BILL.

Mr. MARSHALL, of California. I ask the unanimous consent of the House that I may make a motion that the Committee on Ways and Means be allowed to report back the Senate bill for the establishment of a branch Mint at San Francisco, in California.

Mr. BRIGGS. I would ask if it is in order to move an amendment?

Mr. MARSHALL. Oh, Briggs, keep quiet! [Laughter.]

The SPEAKER. The motion is not susceptible of amendment.

No objection was made to the motion; and

Mr. HOUSTON, from the Committee on Ways and Means, reported back to the House, with several amendments, Senate bill No. 6, entitled "An act to establish a branch of the Mint of the United States in California." I have no instructions in regard to the disposition of this bill, further than the ordinary course, which would carry it to the Committee of the Whole on the state of the Union. The gentlemen here who represent that State, however, may desire some other course. If they desire to make a motion to put it upon its passage, I will make a statement in regard to the amendments proposed to the bill by the Committee on Ways and Means.

Mr. CLINGMAN. I ask the gentleman to allow the House to resolve itself into the Committee of the Whole on the state of the Union, and they may put this bill into any shape they desire, so that it may come up hereafter as business first in order.

Mr. MARSHALL. This bill has been here for seven months; and for seven months speeches have been constantly made.

Mr. CLINGMAN. Let it go over a day or two.

Mr. MARSHALL. If it goes over a day or two, it will go over until next month. There are special orders for every day, and it will not be reached this session, unless it be taken up now. It will take but half an hour to pass it now.

Mr. McCORKLE. I move that the bill be put upon its passage.

Mr. HOUSTON. When the bill shall have been read, I will submit a few remarks upon the amendments which have been proposed by the Committee on Ways and Means.

The bill was then read through by sections, as

also the amendments proposed by the committee, which are as follows:

Page 1. Strike out word "temporary," in 8th line, and insert, in lieu thereof, the word "suitable."

Page 1. Strike out word "immediately," on 9th line.

Page 1. After the word "and," on 19th line, insert the words "until the thirteenth of June, one thousand eight hundred and fifty-five."

Page 1. After the word "of," on 22d line, strike out "five," and insert "four."

Page 1. After the word "thousand," on 22d line, insert the words "five hundred."

Page 1. After the word "of," on 25th line, strike out "four," and insert, in lieu thereof, the word "three."

Page 1. After the word "of," in 25th line, strike out "three," and insert, in lieu thereof, the word "two."

Page 1. Strike out, after the word "men," on 27th line, the words "not exceeding twenty."

Page 3. Strike out after the word "laws," on the 2d line, the word "made," and insert, in lieu thereof, the words "now in force."

Add at the end of the bill the following:

Sec. 10. *And be it further enacted*, That there shall be charged a seigniorage on the coinage of gold in the Mint of the United States, and each of its branches, at a rate or rates to be established from time to time by the Secretary of the Treasury, not to exceed, in his judgment, the actual expense of the coinage at said Mint, or branch Mint, respectively: *Provided*, The same shall not be more than one per centum on the amount coined.

Sec. 11. *And be it further enacted*, That before the Secretary of the Treasury shall procure or erect the buildings provided for in the second section of this act, or commence operations under any of the provisions of the same, at San Francisco, State of California, it shall first be his duty to make a contract, or contracts, for the erection of said buildings, and procuring the machinery necessary for the operations of said Mint, at a sum or sums which shall not in the whole exceed the sum of \$300,000, which said contract, or contracts, shall be secured by good and sufficient sureties, to the satisfaction of the said Secretary of the Treasury and the President of the United States.

Mr. HOUSTON. Will it be in order to move to strike out the ninth section of the bill, and insert a section, which the Representatives from California desire submitted to the House?

The SPEAKER. The Chair supposes it would be in order. Whether it would be in order or not until the amendments of the committee are disposed of is another thing.

Mr. HOUSTON. Then I send up the amendment, that it may be voted upon. The amendment is to strike out the ninth section and insert the amendment which I send to the Speaker's table.

The amendment sent to the table was as follows:

"Strike out section 9, and insert:

*And be it further enacted*, That so much of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1851, and for other expenses," approved 30th of September, 1851, as provides for the appointment of a United States assayer, and for contracting for the assaying and fixing the value of gold in grains and lumps, and in forming into bars, be, and the whole of the said clause is hereby repealed."

Mr. HOUSTON. I wish to say, upon the bill which has been just reported to the House, that so far as the amendments proposed by the Committee on Ways and Means are concerned, they are restrictive in their character. The salaries of the officers in almost every instance are reduced; and the seigniorage is subjected to the regulation, from time to time, of the Secretary of the Treasury, and is not in any contingency to exceed one per cent., and in no contingency to exceed the expenditure of the Government incurred at the Mint where the seigniorage is charged. The bill has no appropriation in it.

The necessity for the amendment which the Representative from California has placed in my hands arises, I understand, from this fact: There is an assay office in San Francisco now, and that office, contrary to the intent of its original establishment, is now coining, instead of bars, fives and tens, as I am informed, and from the irregularity of their proceedings, and from the impropriety of the course pursued there, the coinage which comes from that assay office is now at a discount in California itself, of from three to five per cent., and in other parts of the country at still greater discount. The proposition contained in the amendment which I have just sent up, is, that the provisions of law by which that assay office was established, shall be repealed from the time of the passage of this law, so as not to curse that country, and especially those who dig the gold, and have to pay the large per cent. which is charged upon them for coining it. I say it is to stop that fraud upon the country, and especially upon the gold diggers, that the amendment is desired by the Representative from California.

Mr. Chairman, I move the previous question.

Mr. STUART. I desire to direct a question to the chairman of the Committee on Ways and Means.

Mr. HOUSTON. I will hear the question of the gentleman, keeping the floor, in the mean time, for my motion.

Mr. STUART. I ask whether the Committee on Ways and Means are in possession of this information from reliable sources, or whether they have it from hearsay?

Mr. HOUSTON. I had it from the gentleman from California who stands before me, [Mr. McCORKLE] who represents that State in part, and I believe I had it from the other gentleman from California, over the way, [Mr. MARSHALL] and I certainly had it from one of the Senators from that State, that these things are true. I have heard it very frequently, and it has been repeated to me to-day. I have no doubt of the existence of the fact. I move the previous question.

Mr. STUART. It strikes me that it would be better to limit the powers of the assay office than to repeal the law.

Mr. STEPHENS, of Georgia. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. It is well known that the gentleman from Tennessee [Mr. GENTRY] wishes to address the House to-day. We can then come back into the House, and pass this bill.

Mr. HOUSTON. I want to accomplish precisely what my friend from Georgia [Mr. STEPHENS] does; but what will then be the condition of this bill?

Mr. JONES, of Tennessee. I will ask the chairman of the Committee on Ways and Means to withdraw his call for the previous question, and move to refer this bill to some committee, and then it will come up to-morrow.

Mr. SPEAKER. Otherwise it will go to the Speaker's table.

Mr. HOUSTON. It will take but a few moments to pass this bill, if the House is in favor of it. Therefore I adhere to my call for the previous question.

Mr. JONES, of Tennessee. I hope the House will not sustain it.

[Cries of "Question!" "Question!" from all parts of the Hall.]

Mr. BROOKS. I rise to ask the chairman of the Committee on Ways and Means a question—

Mr. RICHARDSON. I rise to a question of order. The previous question has been demanded, and it is not in order to propound any interrogatories, or answer any after that is done.

The SPEAKER. The Chair sustains the point of order raised, and the proposition of the gentleman from New York [Mr. Brooks] is not in order.

Mr. BROOKS. I move a call of the House, because this question should not be passed through in this way. This bill ought not to go through the House without being printed.

The SPEAKER. The gentleman from New York [Mr. Brooks] cannot submit any proposition to the House during the pendency of the call for the previous question.

Mr. HALL. I rise to a question of order, which is to inquire whether it would be in order to move to make this bill the special order for to-morrow?

The SPEAKER. Such a motion is not in order.

Mr. HALL. I then ask the unanimous consent of the House that this bill may be made the special order for to-morrow.

Mr. BROOKS. Give us a little more time. I will make no objection if you will give a little further time.

Mr. HALL. To-morrow, then, and from day to day until disposed of.

Mr. STEPHENS. I object. I call for my motion, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CARTTER. I demand tellers upon that motion.

Tellers were appointed, and Messrs. STEPHENS, of Georgia, and MARSHALL, of California, were appointed.

The question was then taken, and the tellers reported—yeas 87, noes 45.

Before the result was announced by the Chair—Mr. MARSHALL, of California, demanded the yeas and nays upon the motion.

Mr. STEPHENS. In order that this Mint bill may be in a position that it can come up to-morrow properly, I am willing to withdraw my motion to go into Committee of the Whole, if the gentleman from Alabama [Mr. Houstox] will then move to recommit it so that it will come up to-morrow.

The SPEAKER. The motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole, is withdrawn.

Mr. HOUSTON. I withdraw the demand for the previous question, and move to recommit this bill to the Committee on Ways and Means.

Mr. STEPHENS. Now I renew my motion, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. ROBBINS. Will the gentleman from Georgia [Mr. STEPHENS] withdraw his motion a moment to allow me to introduce a resolution?

[Cries "No!" "No!" "No!"]

Mr. STEPHENS. I cannot withdraw the motion.

The question was then taken on the motion of Mr. STEPHENS, and it was agreed to.

Mr. WILDRICK, from the Committee on Enrolled Bills, here reported, as correctly enrolled, a bill entitled "An act to change the name of the steamboat Brilliant;" which thereupon received the signature of the Speaker.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair.)

#### INDIAN APPROPRIATION BILL.

The CHAIRMAN stated that the first question under consideration was House bill No. 43, "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the current year ending June 30, 1853," upon which the gentleman from Tennessee [Mr. GENTRY] was entitled to the floor.

Mr. GENTRY then addressed the committee at length, in favor of the Whig National Convention indorsing the finality of the compromise measures, and in opposition to the nomination of General Scott, &c. [Mr. G.'s speech is published in the Appendix.]

Mr. CAMPBELL, of Ohio, here obtained the floor.

Mr. STANLY. Will the gentleman yield me the floor for a few moments?

Mr. CAMPBELL. Before I yield the floor to the honorable gentleman from North Carolina, [Mr. STANLY,] I desire to propound, for my own information, and for the information of the Northern Whig party, which has just now been so eloquently assailed by the honorable gentleman from Tennessee, [Mr. GENTRY,] certain interrogatories, as well as to certain other gentlemen of the Whig party (as they claim) of the South.

This question of the finality of the compromise has been dragged into every debate of this House for the last six months, and I desire to understand in what way they understand this question of finality. And I first desire, with all due respect, to put the question to the honorable gentleman from North Carolina, [Mr. OUTLAW,] who, but a few days ago, laid down a platform of action for himself, similar to that which we have just heard from the honorable gentleman from Tennessee, [Mr. GENTRY.]

The admission of California, with a constitution prescribing her territorial limits, and excluding slavery therefrom, was one of the measures reported by the compromise committee of thirteen, and which was passed by that Congress. I desire to inquire of that gentleman whether he, as a North Carolina Whig, stands prepared to pledge himself for the present, and for the future, to resist every attempt which may be made by the people of California to divide that State, so as to create a slave State?

Mr. OUTLAW. Does the gentleman desire me to respond?

Mr. CAMPBELL. Yes; and every other gentleman I shall name.

Mr. OUTLAW. In response to the inquiry of the honorable gentleman from Ohio, [Mr. CAMPBELL,] I have to say that California, by the act to which he has alluded, is admitted a sover-

ign State into this Union, and that she has the same right and the same powers as any other State in this Union—that, in my opinion, whenever her people shall call upon the Congress of the United States to divide her territory, and they shall deem it for the interest of the country that it shall be divided, it may be done without any infringement of the compromise measures.

Mr. CAMPBELL. That answers the question. I now desire to propound the same question to the honorable gentleman from Tennessee, [Mr. GENTRY,] who has just taken his seat—whether he stands prepared, as a Tennessee Whig, to resist, in Congress or out of Congress, every effort which may be made by any portion of the people of California to divide that State to create a slave State?

Mr. GENTRY. I will remark to the gentleman in reply, that I stand with respect to California precisely as I do with respect to Virginia. The principles upon which a State may be divided are prescribed in the Constitution, and every State that wants slavery has a right to have it. Ohio has a right to have it now, if she wants it, and can establish it to-morrow, if she chooses.

Mr. CAMPBELL. I understand the gentleman from North Carolina [Mr. OUTLAW] to take the same position, viz: that they will not oppose the erection of a slave State out of a part of the territory now included by the constitution of California; and I will assert, in general terms, in relation to every one of those Southern Whigs who abandoned the Whig caucus, that that is precisely their position upon this question of finality. If I am incorrect, they may now so state.

Mr. TOOMBS. No doubt of it. It ought to be.

Mr. CAMPBELL. They assert that it is a part of the compromise.

Mr. GENTRY. The compromise cannot repeal the Constitution.

Mr. CAMPBELL. Here is the condition of things, and I want it to go forth to the people of this country—ay, to this great national party which is about to assemble at Baltimore—that while these gentlemen invoke to their aid the veto power of the Executive of this land, to prevent the people from exercising their constitutional right to legislate upon the law with regard to the reclamation of fugitive slaves, they claim the right to divide that free State, which was admitted as such, as a part of this compromise. It is to be a finality so far as the claims of the Southern gentlemen are concerned, but not a finality in regard to the admission of California as a free State. That is the position; and, Mr. Chairman, because, forsooth, the Whigs of the North come here for the purpose of discharging the duties they owe to their constituents, and entering into the ordinary legislation of the country, because they do not desire to assert the finality of the fugitive slave law, gentlemen denounce them as recreant to their constitutional obligations.

Sir, the honorable gentleman from Tennessee [Mr. GENTRY] knows full well that Northern Whigs, as well as Southern Whigs, are sworn before their Maker before they take their seats here, to support that instrument. He knows as well as any man in all the land, that there is not a single Northern Whig in this Hall, or who is summoned to attend this National Convention, who is not ready and willing to carry out every constitutional obligation. Yet gentlemen tell us that they will not oppose a breach of the compromise when they can create a slave State out of a part of it. They are not prepared to say that the people may not do it by their consent. But I promised to yield to the gentleman from North Carolina, [Mr. STANLY,] and I do so now for the purpose of explanation, giving to him, under the circumstances connected with the attack of the honorable gentleman from Tennessee [Mr. GENTRY] upon him, as much of my time as he may desire, notifying the House, that should I see proper to do so, I will write out and print the speech upon this very subject, which I designed to make.

Mr. OUTLAW. If the gentleman will allow me, I wish to say, in addition to what I before said, that I would vote for the division of California without any regard to the question of slavery or no slavery. I would be governed in my vote upon that subject by what I believed to be the interest and the convenience of the people of California,

precisely as I would in the case of any other State in this Union.

Mr. CAMPBELL. Suppose a portion of the people of California should present a constitution of a State, carved out of California, with the institution of slavery recognized in it, would you vote for its admission?

Mr. OUTLAW. I say that the compromise itself would require this House to admit her, with or without slavery, as the people might determine for themselves. That is one of the principles of the compromise.

Mr. STANLY then replied to the remarks of Mr. GENTRY. He expressed himself against platforms, and declared that he had no fear of the slavery agitation continuing; for he believed it was growing less every day. He referred to the course of Mr. GENTRY at the Whig Convention of 1848, when that gentleman opposed the adoption of a platform as out of order, contending that the convention had merely assembled for the purpose of nominating candidates for the Presidency and Vice Presidency. [Mr. S.'s speech is published in the Appendix.]

Mr. TOWNSHEND next obtained the floor, but yielded it to

Mr. SEYMOUR, of New York, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. RICHARDSON) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 43, "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1853," and had come to no resolution thereon.

Mr. ROBBINS. I have a resolution which I desire to offer.

Mr. JONES, of Tennessee. I wish to inquire of the Chair, if, when the House went into the Committee of the Whole on the state of the Union, the California Mint bill, reported by the chairman of the Committee on Ways and Means was not before the House; and if when we come back into the House, the question does not recur upon that bill?

The SPEAKER. The Chair is under the impression that that business is before the House.

Mr. ROBBINS. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That when this House adjourns on Wednesday next, it adjourn to meet again on Saturday.

[Cries of "Object!"]

Mr. CLEVELAND. I move to amend that resolution so as to provide that when the House adjourns to-morrow, it adjourn to meet on Thursday next.

Mr. JONES. I ask how that resolution can be offered, when there is a bill pending before the House?

The SPEAKER. The gentleman asks the unanimous consent to submit it.

Mr. JONES. I object.

The SPEAKER. It is competent for the gentleman to move to suspend the rules, it being Monday.

Mr. JONES. But there is a bill before the House, which the Chair has decided is before the House, and no motion can be entertained to suspend the rules until that is disposed of.

The SPEAKER. The Chair is of the opinion that the motion is in order.

[A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., its Secretary, asking for the return to that body of Senate bill No. 450, to amend an act entitled "An act to promote the progress of useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4, 1836; and also "An act to provide additional examiners in the Patent Office, and for other purposes," approved May 27, 1848.]

Mr. HOUSTON. I ask, before we proceed further, that the House will give leave to return the Senate bill which has been requested by that body.

The order was accordingly made.

The question was then taken, and the rules were not suspended, only 56 voting in the affirmative.



Mr. JONES. I move that the House do now adjourn.

Mr. ROBBINS. I appeal to the gentleman to withdraw the motion, and to withdraw his objection to the resolution which I have offered. It cannot be offered unless it be done to-day.

Mr. FOWLER. I request the gentleman from Tennessee to withdraw the motion to adjourn, to enable me to submit resolutions from the Legislature of Massachusetts, merely for the purpose of having them referred and ordered to be printed.

Mr. JONES. I am willing the House should vote to-morrow to adjourn over as long as they wish, but I cannot withdraw the motion now.

The question was then put, and the House refused to adjourn.

Mr. FOWLER. I now ask the unanimous consent of the House to present resolutions from the Legislature of Massachusetts.

Mr. THOMPSON, of Virginia. I object.

A MEMBER. Let us have the motion to adjourn over.

Mr. JONES. I am willing to move to-morrow, that when the House adjourns, it adjourn to meet on Friday next.

A MEMBER. But some one will object, as you do now.

Mr. JONES. They cannot object.

Several Voices. Yes they can.

Mr. JONES. I wish to know if a motion that when the House adjourns, it adjourn to meet on a given time, is not in order at any time, and whether it does not take precedence of a motion to adjourn?

The SPEAKER. The gentleman is correct. The motion will be in order to-morrow, though without a quorum it will not be competent for the House to adjourn, except from day to day.

Mr. JONES. But we shall surely have a quorum here to-morrow. I am willing to make that motion then, but I object to its being made now.

#### HARBOR BILL.

Mr. SEYMOUR, of New York, then, by unanimous consent, introduced, from the Committee on Commerce, a bill making appropriation for the improvement of certain rivers and harbors; which was read a first and second time by its title, and referred to the Committee of the Whole on the state of the Union.

Mr. FOWLER. I appeal to the House now to allow me to introduce the resolutions which I hold in my hand from the Massachusetts Legislature, for the purpose of reference.

Mr. HARRIS, of Tennessee. I object, and move that the House do now adjourn.

The question was put, and the motion agreed to; and

The House adjourned till to-morrow at twelve o'clock, m.

#### IN SENATE.

Monday, June 14, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Treasury Department, made in compliance with a resolution of the Senate of the 10th instant, calling upon that Department to report "upon the practicability, utility, and probable cost of a ship-canal across the Peninsula of Florida; and also, to communicate such information as it may be in possession of in relation to the navigation of the Straits of Florida, the losses accruing thereon, and the dangers and difficulties incident thereto." It states, that from general and unofficial information it believes the plan would be practicable and capable of being executed at a reasonable expense in comparison with the great advantages which would result from such a work. It states, also, that it is probable the ocean commerce of the American ports, and the Gulf of Mexico, inward and outward, foreign and domestic, exceeds \$250,000,000 per annum, besides that of the Mexican and other foreign ports on the Gulf. That all the above commerce has to encounter the dangerous navigation of the Florida coasts and reefs, and all the inward portion of it, the equally dangerous navigation of the Bahama banks; and that a difference of insurance on the above amount of only one half of one per cent. by a ship-canal through Florida, would be an annual saving of a million and a quarter of dollars, while a still larger amount

would be saved in the expenses of the vessels, and a consequent reduction in the rate of freight by shortening the voyage, as would be the case by a route through such a canal. Such is the danger in the present navigation, that the rate of insurance from New York to New Orleans is equal to that from New York to China. The communication was referred to the Committee on Commerce, and ordered to be printed.

#### PETITIONS, ETC.

Mr. SEWARD presented a resolution of the Chamber of Commerce of the city of New York, in favor of a reciprocity arrangement with the British North American Provinces for the free interchange of the natural productions of these countries, embracing also a full and joint participation in the fisheries and the free navigation of the river St. Lawrence; which was referred to the Committee on Commerce.

Mr. CLARKE presented the petition of William L. Martin, praying an increase of pension; which was referred to the Committee on Pensions.

Also, a petition of Daniel Warner and others, citizens of Rhode Island, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. WADE presented three petitions of citizens of Ashland county, Ohio, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. DODGE, of Iowa, presented two petitions of citizens of Iowa, praying the establishment of a mail route from Salem to Columbus City, in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. BRIGHT presented the memorial of the Indiana Central Railroad Company, praying that the payment of the duties on railroad iron imported by them may be postponed; which was referred to the Committee on Finance.

#### REPORTS FROM STANDING COMMITTEES.

Mr. ATCHISON, from the Committee on Indian Affairs, to which was referred the petition of Henry R. Schoolcraft, praying compensation for certain moneys disbursed by him in the Indian country, submitted an adverse report thereon.

He also, from the same committee, to which was referred the petition of Henry R. Schoolcraft, praying to be allowed the pay and emoluments of a captain during two expeditions, in 1831 and 1832, to discover the true source of the Mississippi river, submitted an adverse report thereon.

Mr. FOOT, from the Committee on Pensions, to which was referred the petition of Dr. Avery Downer, asking to be allowed compensation for services as surgeon's mate during the revolutionary war, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which were referred the following petitions, submitted adverse reports thereon:

Petition of Rachel Abbot, praying a pension for the services of her husband in the revolutionary war;

Petition of Dinah Mount, widow of a soldier in the revolutionary war, praying a pension;

Petition of Lydia Lord, widow of John Lord, praying a pension;

Petition of Hannah Thompson, praying that the pension she now receives may be continued for life; and

Petition of Mary Colcord, praying a pension in consideration of the services of her father, Bradstreet Wiggin, during the revolutionary war.

Mr. STOCKTON, from the Committee on Pensions, to which was referred the memorial of Isaac Bigelow, praying to be allowed compensation for loss of clothing on board the steamer Missouri, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Naval Affairs; which was agreed to.

He also, from the same committee, to which were referred the following petitions and bills from the House of Representatives, submitted adverse reports thereon, which were ordered to be printed:

Petition of James T. Eells, praying a pension

for the services of his father, Lieutenant Jeremiah B. Eells, during the revolutionary war;

Petition of Edward Milton, a sergeant in the United States Army, praying an increase of pension;

Petition of legal representatives of Joseph Ford, an officer in the war of the Revolution, praying a pension; and

Bill from the House of Representatives for the relief of Jonas D. Platt.

He also, from the same committee, to which was referred the petition of Emily H. Plummer, praying a pension for the services of her husband, Captain Samuel M. Plummer, who died from disease contracted during the Mexican war, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading. The report was ordered to be printed.

#### BILL INTRODUCED.

Mr. BRIGHT, agreeably to previous notice, asked and obtained leave, to introduce a bill for increasing the compensation of the Assistant Postmasters General, and providing for their future appointment by the President, by and with the advice and consent of the Senate; which was read a first and second time by its title, and referred to the Committee on the Post Office and Post Roads.

#### CUSTOM-HOUSE REGULATIONS.

Mr. SUMNER submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Commerce be directed to inquire whether any legislation is necessary or expedient to exempt vessels, driven by stress of weather, and anchoring in any of our ports, from the ordinary detentions and requisitions of the custom-house.

#### CATLIN'S COLLECTION OF INDIAN SCENES.

The Senate resumed the consideration of the resolution, submitted by Mr. SEWARD on the 8th instant, in relation to the purchase of a collection of Indian Scenes and Portraits, by George Catlin, which, having been amended, was agreed to, as follows:

*Resolved*, That a select committee, to consist of three members, be appointed by the President of the Senate, to inquire into the expediency of purchasing Mr. George Catlin's collection of Indian Scenes and Portraits, which are in danger of being sold and lost to this country.

The PRESIDENT *pro tem.* appointed Mr. SEWARD, Mr. GWIN, and Mr. UNDERWOOD, as the select committee for the above purpose.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the bill from the Senate to change the name of the steamer Brilliant.

#### REMEDIES TO PATENTEES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill giving further remedies to patentees; and no further amendments being offered, it was reported to the Senate.

The question was stated to be on the amendment made as in Committee of the Whole.

Mr. BORLAND. Before the vote is taken, I desire to say that it seems to me the bill is still objectionable. I cannot understand fully the propriety of restricting the operation of this law to territories contiguous to the United States. I cannot see why we should not extend the remedy so as to guard against violations of patents in territories that are not contiguous. The communication between the United States and England especially has been rendered so convenient and speedy, that a patent may be violated in England and introduced across the Atlantic almost as readily as from Canada. I rise not to offer any amendment to this bill, but to suggest to those who have it in charge the propriety of extending its remedies so as to embrace those violations of patent rights that may be committed in England, or in other territories, whether contiguous or not.

Mr. UNDERWOOD. I was induced to take some little hand in this bill in consequence of the belief that it might possibly affect my constituents. I have secured such amendments to it as that they cannot be touched, unless they violate the law knowingly and willfully. I am therefore content with having secured those privileges to them, and am not anxious to extend the amendment to the patent laws beyond what our Northern brethren seem to ask for. If the manufacturers of those articles which we of the South consume, and do not manufacture, are content to take it in reference

to Canada, I do not wish to force upon them the extension of the privilege to Europe, or any other place. I do not think it good policy to do it. I am willing to take this bill as it stands, and those at the North who have applied to me on the subject are willing to take it as it stands. One argument in response to my friend from Delaware, [Mr. BAYARD,] and I believe I shall take my seat, and leave the bill to those who are more interested in it than I am to defend it.

That Senator has asked, Why pass the bill? and he says there would be objections to it, even where those are secured from the penalty who unknowingly violate it. It is necessary, it seems to me, for this reason: suppose an insolvent man comes over from Canada with a great many of these wares, and sells them to people living upon the line, and then departs, how do you reach him? Suppose an insolvent man, living even in our own country, brings all these articles from Canada, how do you reach him? He does not care about a legal process. If you protect his person, he does not care for the amount of judgment that you render against him. We have found that out in those countries where imprisonment for debt has been very properly, as I think, abolished. The only way, in cases of that sort, that you can do any good to our own patentees will be to reach those who may be solvent, and who knowingly violate the law. These things will be carried on by agents, and you must provide penalties beyond this bill if you wish to produce any effect in behalf of the patentee. You must provide a penalty by which you will operate upon the body of the fraudulent agent, who is carrying on this business between Canada and the United States, in violation of the rights of our patentees. If you take the bill back, and provide an entire new system for the purpose of reaching the agent in his person, perhaps you may do some good in that way. But, so far you have only gone upon the pecuniary penalty, and you accomplish nothing to break up the business to which I refer.

Mr. President, I have great respect for those men that employ year after year in the discovery of some useful invention, by which the "progress"—I would say to my friend from Michigan, [Mr. CASS]—of society and man is advanced. I am a thorough believer in that kind of progress; and I am for sustaining and protecting those individuals who devote their lives to studies of that kind, and who have benefited mankind by their exertions. The Arkwrights, the Stevensons, and the Whitneys—the men who have given us the cotton-picking machine, and the cotton-spinning machine, and other inventions—those who have given us the railroad and the steamboat—the Fultons and the Fitches, have done more for the progress of society than all our politicians, at least I am inclined to think so. I am for protecting such progressives as these in the enjoyment of their useful inventions; and I think that, when the inventions are depredated upon by persons just across the line, there is no great harm in reaching those who knowingly and willfully violate these rights. I am willing to go that far for them. This bill goes no further; and I do not think we ought to delay it according to the suggestion of my friend from Arkansas, [Mr. BORLAND,] to extend it to England, and the rest of the world. If the Northern people are willing to take it as it stands, let them have it so, and wait until some evil grows out of our intercourse with Europe.

Mr. BAYARD. I certainly have as little disposition as the honorable Senator from Kentucky to prevent a proper extension to the patentees of protection against fraudulent invasions of their rights. I have not looked at this bill, I concede, in reference to the interests of my particular constituents, but generally, as affecting the whole Union. There are no particular rights that they would have invaded, or no particular advantages to be derived from an invasion or evasion of the rights of the patentees. My objection to the bill is, that by introducing the word "use," you alter the entire principle of the patent laws, as they have heretofore existed in this country, and as they have existed in England. You put it into the power of the patentee to raise the question of the validity of his patent, by a litigation between him and the mere consumer of the individual article. The particular advantage to be gained here, in reference to this case, relates to a single patent; or, if you please, to a variety of patents, for

wooden articles. I am not willing to pass a general law altering the general principles of the patent laws, for the purpose of protecting an individual case, if I think the principle wrong.

The Government undertakes, by a patent, to secure to the party receiving it, as far as it can, without trenching upon the rights of the community, protection, as a reward for the discovery or invention which he has made. Put the case—for there are cases of that kind—in which you cannot give protection, beyond a limited extent; in other words, where every species of protection which you can give must still be liable to evasion, unless you trample upon principles which you are unwilling to trample upon, even for the benefit of the patentee. Take the case of the author. Suppose his production to be pirated. If he came forward and told you, as you are here told, "Your patent laws do not enable me to reach the infringers in consequence of the insolvency of an agent of a publication in the hands of a pirating party; and I want you to give me authority to go into the house of every man in the community, and if he have in his possession my book, knowing that it is copyrighted, that I may have a right to file a bill in chancery, and force him to contest my copyright," would you be willing to pass such a law? Such a bill would not be entertained for a moment; and that is my objection to this bill.

As regards the evil to be remedied, I hold that if you strike out the word "use," there is a perfect remedy under the law, as it would then stand, against the fraudulent and irresponsible agents, as they are called. Is not the remedy of an injunction sufficient? Let the agent be irresponsible, if you will; still the process of injunction does not go upon the ground of the person's having property to answer with. He is liable to imprisonment, if he violates the injunction; because he is guilty of contempt of court; and therefore, if the word "use" is stricken out, we shall have the contest between the dealers in the article and the patentee. The patentee has a perfect protection; because, by the remedy in equity he could compel the party who had his establishment in Canada, and his agents here, if they were irresponsible, to change those agents eternally, and at a loss which he could not stand. I hold, myself, that the protection given by the bill, striking out the word "use," would be sufficient for the purposes of this or any other patent. If it is not, all I can say is, it will not do for you to trench upon the rights of the community, and compel the individual consumer of an article to contest the validity of a patent, to protect that patent. The difficulty does not apply to an avowedly good patent; it applies to the case of an article the patent-right of which in this country is disputed, or claimed by different persons; or where it is claimed that the patent has expired, or never legally existed. Those who deal in the article may well afford to test the validity of the patent with the holder of it; but the mere consumer of an individual article—the mere purchaser—would not be willing to do it. You have but to suppose the case of a man claiming a patent of the kind, which is unjust in itself, or doubtful, or which may be claimed by another person; he publishes a notice in the newspapers, and it can be brought home to the party using the article that he was a reader of the paper; then the question arises whether he saw the notice. Then the holder of the patent files a bill in equity, and saddles the party with the costs of suit. Whether he fails or succeeds is immaterial, for the terror will have been spread abroad in the community; and, the moment the party publishes the notice of the article in the newspapers the consumption of that article for individual use would be destroyed. My objection to the bill is, that if patentees cannot be protected without making the consumer of the individual article liable to contest the right with the patentees, they must go without that protection.

Mr. MILLER. This bill was introduced for the purpose of meeting a known existing evil—to prevent what the Committee on the Judiciary thought a gross violation of the spirit of our patent laws. It is not the design of the bill to reach any case which the Senator from Delaware has suggested; that is, of going and seizing an article merely because a man may be found in the use of it. But the object of the bill is to prevent persons who could not evade our patent laws within the United States from taking the machine

across the line, and into a foreign country, and there manufacturing the article, and sending it here for sale and for use. If the machines which are now in operation in Canada were in the United States, they could be seized, under our present laws, and taken possession of at once, and the parties who had used them in violation of the law, would be punished. But, inasmuch as the parties, knowing the state of the law in the United States, carry their machines across the line, and there use them, there is no remedy, unless Congress give the remedy which is asked for by this bill, to wit: that if a man goes across the line to a foreign country contiguous to the United States, and there obtains the patented articles, and then brings them to the United States knowing them to have been manufactured fraudulently, or if he sells them in the United States, or uses them, knowing them to have been thus manufactured, he would then be subject to the penalty. What is there wrong in that? If the manufacturer were in the United States, this law would not be necessary. But this evasion of the law makes it necessary that our patentees should be protected in this way.

One word with regard to the objections raised by the Senator from Delaware, [Mr. BAYARD.] He objects to the bill because it makes the penalty apply to the person who may use the patented article. I agree that, when the bill was first reported, it struck me that the word "use" ought not to be in the bill; that it might be carrying the principle too far, so that it might become oppressive. But the remedy proposed is sufficient; because it must be proved by affidavit of the party whose rights are infringed, that the party using the article knew, at the time he did so, that it was thus surreptitiously brought into the United States in fraud of the patentee. I think, then, that, with regard to the *scientia*, there can be no difficulty. It must be brought home, it must be proved. If a man were to go into a market anywhere, and purchase an article to which the bill applies, it would be a hard case to seize that article, unless you bring home the *scientia*, the knowledge of the fact that the article was thus fraudulently introduced. But if a man goes and buys an article, knowing, at the time, that it is a fraudulent one, this bill will apply.

Mr. BAYARD. Suppose a case of a patentee having made a publication in a paper, claiming a certain patent in order to bring home to the knowledge of all parties that the article is a patented article, and he finds that, notwithstanding this, his article is in use, and files a bill against the party using it, would the notice in a paper be deemed a sufficient warning against the use of the article?

Mr. MILLER. That will be a question for the court to decide—a question whether the party had knowledge. I have no objection to the word "use" being stricken out, were it not for the fact that the law would then be evaded in another way. Because parties would then say, We do not transport these articles here for sale, but for use, and thus they would evade the law. If the word "use" is not put in, you will find men all along the line who will buy these articles, and put them into their shops and say they are for their own use. It is to avoid that and meet the whole case, that the word "use" should be retained; and I think that with the word "knowingly" inserted, the bill is unobjectionable as it is.

Mr. SEWARD. The Constitution of the United States provides that Congress shall have power to promote the progress of science, and of the useful arts, by securing to inventors and authors the production of their genius for a limited term of years. It is a provision that became necessary to insert in the Constitution of the United States, for the reason that the object in which property was concerned was a matter of commerce, and commerce was necessarily put under the care of the Federal Government, instead of under the government of the States. It is an anomaly in the Constitution, because the rights to private property are secured to the owners by the several States with this exception; and I have stated the reason why this exception was made. It was a policy long before adopted by the Government of that country from which we have derived some of the most valuable of our institutions—the Government of Great Britain. It was adopted in that country in the time of James I., when all monop-

olies which had been before granted by the Crown, were revised and abolished, and the power of the Crown to grant monopolies was thenceforth restricted to the case of patents recurring for a limited term of years, to real inventors and authors, the production of their own intellectual labor.

The measures adopted by the Congress of the United States, to carry out this provision of the Constitution, were the same measures which had been earlier adopted by the Parliament of Great Britain. They went to the same extent, and they went no further; and being amended and improved nearly simultaneously in both countries, they have, with some degree of success, answered the purpose for which they were intended. But a time has come when a case has arisen in which the existing remedies are inadequate to fulfill the constitutional purposes. The manufacturer of a useful machine finds the production of his own patented machine on sale by others, in his own country, his own State, his own town. He seeks his remedy under existing laws. It is ineffectual, because the existing remedies can only be enforced by reaching the person of the infringer who makes the article, and the machine with which the article is manufactured. But the infringer is in Canada, beyond the reach of a legal process; his machine is in Canada or Nova Scotia, beyond the jurisdiction of the United States; and the products are, nevertheless, here on sale. Then the American inventor pays a great tax to the Government for the privilege of manufacturing his own article, and is supplanted in the market by the foreign manufacturer, who uses the inventor's own machine for the purpose without responsibility to him.

Thus, sir, the remedy which is provided by the Constitution, and secured by the law, is inadequate. The right of property, is, nevertheless, to be protected, or else the constitutional provision fails. What, then, is to be done? Either you must abandon the duty of protecting the property, or you must furnish a new and better remedy. That is the object of this bill; and it is proposed to be accomplished by providing that the manufactured article produced abroad and brought into the United States, should be forfeited to the use of the inventor in certain cases. What objection is there to this? It is stated by the honorable Senator from Delaware, [Mr. BAYARD,] that this bill proposes the introduction of a new principle; but I humbly submit that there is no principle involved in the matter—nothing that has the dignity, nothing that is worthy of the name of a principle. The principle which we seek to establish is, that the inventor shall be protected in his property, and the duty of Congress is to see that he is protected. The remedy proposed involves no new principle whatever. It is merely carrying out the principle already recognized and established.

But the honorable Senator from Delaware observes, that heretofore we have never seized and subjected to confiscation the manufactured product, but have left it free and open to commerce, and that we therefore shall establish a new principle by seizing the product in this case. Sir, I repeat that this proceeding involves no new principle, for certainly the man who uses the property of the inventor can claim no protection on principle in using it to the injury of his neighbor, who is its lawful owner. It is, therefore, only making the existing remedy more stringent. It is not departing from a principle at all; for the only principle in question is "protection of property by law." When this new remedy is proposed, two questions arise; first, whether it is necessary; and it is conceded on all hands that property of this kind cannot be protected, unless some new remedy is given, nor can the wit of man devise any other provision which will give additional stringency to the old remedy.

What other question remains about this additional remedy? Simply this: whether it is a remedy which is capable of being perverted to do greater injustice to the innocent than it will afford protection to the patentee. That, however, is guarded against by requiring that the person who is to suffer this penalty shall be proved to have committed a fraud—shall be proved to have had a guilty knowledge that the article he was purchasing was the property of another—the property of an American citizen. Is there anything new in that? No principle is better established

than that property stolen shall not be made the property of another by purchase. There is no new principle in saying, that though the thief shall be obliged to surrender the property stolen, while it remains in his hands, that when he has sold it in the market, the purchaser shall not have a title to it, even though he purchased it innocently. But in this case we have adopted a precaution in declaring that no man shall be subject to damages in consequence of being in possession of these products unless it is proved that he knew that it was the production of a machine of an American citizen secured to him by a patent. Now, when you bring this knowledge home to an individual, he is convicted of fraud, and you only apply in this case the old principle that title shall not be diverted from its lawful owner by fraud.

The Senator from Delaware [Mr. BAYARD] seems to suppose that the remedy is capable of being abused. He cannot deny that it is unquestionable in its nature and character, but capable of being abused. It is not capable of being abused, because it will be necessary for the person who seeks to prevent another from purchasing these products to give him notice that they are the production of a patented machine or invention. Neither can a case of dispute arise between patentees, because the owner of a patent must give notice to the intending purchaser, before he buys, that certain goods manufactured by his machine, are on their way from a foreign country; and he must prohibit the purchase; if any one buys after that, he buys with his eyes open, and he must submit to the consequences. It is not a question of conflict of patents, but of violation of a recognized patent. The honorable Senator from Delaware says that an injunction would reach the case, and afford a sufficient protection. This remedy would be defensible only on the ground that the use prohibited was unlawful and injurious. But the provision to which he objects rests on the same ground—to wit: that after notice is given, the use is unlawful and injurious. If it be right to enjoin a merchant not to offer these articles for sale, or to enjoin a purchaser from using them, then it is right to provide that, without a resort to the expensive litigation of an equity suit, the person fraudulently purchasing these articles shall not enjoy the benefit of his fraud. An injunction is never defensible, except on the ground that all other remedies are inadequate. There is, then, no need to resort to an injunction, because previous notice and confiscation in defiance of it would be not only more simple, but more adequate remedy also. To require the inventor to sue out an injunction is to require that he shall be subjected to a great expense, which could be saved by giving a simple notice.

I had so much to say on the question generally.

The Senator from Arkansas [Mr. BORLAND] objects, that if the principle is a sound one, it ought to be extended so as to apply the law to pirated articles manufactured in other countries as well as in the North American British Provinces. My reply will be brief. The principle is the same, and it would be easy, and I doubt not it would be right, to extend it; but it is not now necessary to extend it. In those foreign countries which are not contiguous to the United States there is no such evil as that of infringement upon the rights of American inventors by manufacturing articles with their own patented machines, and sending them here for sale. The only cases which have come to our knowledge are those in which these articles are manufactured in British North America contiguous to the United States. This bill, then, is sufficient for present purposes, sufficient for the present administration of justice, without extending it further. Senators representing other portions of the United States than that where the evil is suffered object to its being extended further. The case, then, is just this. It is necessary to give the bill this extent, and it is unnecessary to extend it further. We who feel the need of it are to take it, without extending it further, for no other object than to carry out an abstract principle.

The fact that the infringement of American patents is confined to the contiguous British Provinces seems to present an anomaly. But that anomaly may be easily explained. All those manufactures which find a provision of this kind necessary, are manufactures of wood or lumber, and timber. Wood, lumber, and timber, are not produced in

any foreign country so abundantly as to tempt such infringements, except the British Provinces contiguous to the United States. They are not produced so plentifully that their production in foreign countries can be made so as to undersell the patentee in our own markets. Take, for instance, the article of lasts, a large quantity of which are manufactured by patented machines. The lumber can be obtained even more cheaply in Canada and Nova Scotia than here, directly across rivers, which are traversed by ferries at all hours of the day and night; and it will be seen at once, that trade in the article if allowed would become indiscriminate, unless there is such a remedy as this bill contemplates. But there are no last-makers in England, or France, or Russia, sending their lasts here manufactured by our machines, or otherwise.

On the contrary, so cheap are the products of our machines for working in wood, compared with those in Europe, that without any patent whatever, we do sell a vast amount of articles of this kind, especially of clocks, all over the continent of Europe, although we have no bounty there, and must pay a duty upon them when introduced there. It is seen, then, I hope, that this bill is right in itself; that it is necessary; that nothing less will be adequate; and that more than this bill proposes is unnecessary, and that a constitutional obligation upon Congress requires that it should be passed.

Mr. BUTLER. I wish to acquit myself of my duty to this bill, and to make a few explanations in regard to it. The amendments which have been made, have been framed without my knowledge, and of course I do not feel responsible for them. I do, however, in some measure, feel responsible for the bill as it originally came from the hands of the Committee on the Judiciary. The great object of that bill was to punish fraudulent fabricators, and illicit traders in articles manufactured in a foreign country from a machine patented here. I recollect the circumstances under which the bill was framed in the committee room: A gentleman came forward and said that he had a machine for making irregular bodies, such as lasts, gun-stocks, axe-helves, and some other articles of the kind. It was one of those inventions which showed that he had been studying upon the subject a great while. He had a patent; it was a clear vested right—a right which the Government was bound to protect, as a vested right, as much as it was bound to protect any other vested right. This right, he said, had been invaded in this way: Persons after looking at the machine in the United States, would go over into Canada, make such a machine, there manufacture lasts and other irregular bodies, and they would be brought in quantities to the United States, and openly offered for sale in violation of his rights. The great object of the original bill was, therefore, to put down this combination between the fraudulent fabricators of a machine, beyond the United States, and the fraudulent vendors in the United States. It was to put down a species of smuggling in derogation of the rights of this inventor.

Now to the extent to which that went, I am perfectly willing to assent to the bill. I am perfectly willing that it should contain this provision: that all persons who shall openly and knowingly sell, in violation of the rights of a patentee, articles made from an American patented machine in an adjacent country, shall have these goods forfeited; and it is nothing but right that it should be so. To that extent I am willing to go; but I doubt very much, when we introduce the principle which has been alluded to by the honorable Senator from Delaware, whether we do not invade a very delicate subject, and thus introduce a painful subject of litigation by reaching an individual who may, or may not have the use of it *bona fide* or fraudulently. Why, sir, it will give rise to a species of litigation—it will be a broad field for litigation to say that every individual who shall have such an article for his use shall be subject to a lawsuit of this kind. I am perfectly willing to legislate on this subject with somewhat more caution, perhaps, than the extent to which this bill seems to look. I am willing to limit it to fraudulent vendors, who, in combination with a foreign fabricator, introduce articles within the limits of the United States in violation of the rights of patentees here. I am willing to let the bill go that far and no further. Therefore, if gentlemen



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who have had this subject under consideration will so far modify it as to strike out the word "use," I shall vote for it very willingly.

Mr. BRADBURY. Mr. President, the honorable Senator from South Carolina, the chairman of the Judiciary Committee, has stated very accurately, as he always does, the circumstance under which this bill was first framed. He has stated that it was made apparent to the Judiciary Committee that the existing patent laws were inadequate to prevent a gross violation of valuable patents; that they did not afford protection to individuals holding patents against those manufacturing the articles on the other side of the line within the Canadian territory. The bill was framed to meet that evil and to correct it. The object of the bill was to check that evil, and the question was not one of phraseology, but to reach a particular specified object. Now, it was seen that the bill as originally drawn would not reach that object; and it will not be contended that when it is discovered that a bill here is palpably inadequate to meet the object we shall adhere to it, and that it shall not be regarded as capable of amendment.

It has already been shown, (and shown so plainly that it would seem that there was no necessity for repetition,) that unless a provision shall be incorporated to reach the use of the article, the bill is inadequate, because, without it, it is only necessary to purchase through an agent; and every establishment in the United States can be thus supplied with articles from the other side of the line. And I submit whether there is not a measure of policy to be considered in a case of this kind—whether we will, by the defect of our laws, induce the establishment of manufactories all along the line of the adjacent foreign territory, and induce our citizens to go on that side of the line and there establish their manufactories, in order to evade our laws; for such assuredly will be the result. We shall find that individuals, instead of taking out their patents, or purchasing a right to use a machine for manufacturing, will find it cheaper to pass into the contiguous foreign territory, and there put up their machines and set the law at defiance.

Now, sir, the object being to protect the patentee, and to prevent the violation of the patent, we have only to inquire whether there is any danger that innocent persons will suffer from its provisions? If there is anything in this bill that shall bring suffering or danger upon innocent parties, then some correction should be made. Let us examine the provisions of the bill, instead of looking at the apprehensions which gentlemen seem to entertain, without, perhaps, due examination of the phraseology of the bill, to see whether there is any danger from that quarter. In the first place, the bill only reaches the case of those who undertake to use the article, knowing it to have been imported in violation of the law. The fact of the guilty knowledge must be established. And I would submit whether, when an individual undertakes, knowingly, to use an article in violation of law, it can be said that he puts himself in the attitude of an innocent person?

Then, again, is the phraseology of the bill sufficiently guarded, so that innocent persons shall not be annoyed? The honorable Senator from Delaware seemed to apprehend that there might be some danger of that kind. This bill authorizes a patentee, or persons holding under him, to "file a bill in equity, verified by oath or affirmation," in the district or circuit courts of the United States, complaining that any person or corporation has imported, or has in his possession for sale or use, articles imported in violation of the law. He must file his application, "verified by oath." But that is not all. As a measure of greater caution, the act proceeds further, and prescribes that if he "shall make it appear, to the satisfaction of the judge, that the facts alleged are probably true, the said judge may issue an order to the marshal" to take possession of the property. The application, then, must first be "verified by oath," and the judge must be satisfied "that the

facts alleged are probably true," before the order issues; and then there is an opportunity for a hearing before the judge.

I submit, then, that the bill is so carefully framed, that there is no possibility, or at least no probability, that any innocent persons can be put to inconvenience, that there is no danger from the source apprehended. And unless we retain the right to seek and follow the individual who has the guilty knowledge, who knows that he has the article in his possession, imported after this time in violation of law, the bill is inadequate to check the abuse which it was designed to check. Really, I apprehend that, upon examination, there will be no serious objection to the bill. Without it, the patentee is without any protection whatever.

This is a case of peculiar merit, and commends itself, I think, to the favorable consideration of Congress. I will refer to a letter from the late Commissioner of Patents, the Hon. Edmund Burke, in reference to the merits of the invention which we here seek particularly to protect:

"PATENT OFFICE, January 8, 1847.  
"SIR: In reply to your letter of the 6th instant, I have the honor to state that I have been acquainted with the general character of the machine invented by Thomas Blanchard for turning irregular forms, a further extension of the patent of which he now asks of Congress; and I am happy to state that the invention of Mr. Blanchard is one of great and singular merit, displaying remarkable versatility of application, and therefore of great utility. It has long been in use in the armories of the United States, where its merits have been fully and profitably tested. As to the originality, ingenuity, and value of Mr. Blanchard's invention, there can be no doubt. Mr. Blanchard is one of those many meritorious inventors whose lot is to derive but little benefit from inventions, the ingenuity and utility of which mark eras in the arts."

There would seem to be no reason why others similarly situated might not be embraced in the same law. There is no necessity, however, for extending it so far as was suggested by the Senator from Arkansas, as no complaints have come from that quarter. This bill, if it shall become a law, will not be of very general application. It is designed only to prevent violators of patents from passing from the United States into contiguous foreign territory for the purpose of violating existing patent laws; and I think that the bill as it stands is necessary to meet the case contemplated.

Mr. HUNTER. Mr. President, I do not rise to make a speech upon this question; but it seems to me that this bill covers more cases than perhaps its framers contemplated. Suppose a patent were taken out for the same machine here and in Canada, would not this bill prohibit the importation of any articles manufactured by that machine, although patented in Canada as well as here? It seems to me that it would; and yet I hardly suppose it was designed to prohibit goods manufactured from a machine actually patented in Canada. The protection afforded by the tariff laws would be a sufficient advantage in favor of the domestic manufacture, and to prohibit would not promote the interests of the inventor, but rather the reverse. Again, sir, suppose the assignee of a machine patented in this country by a citizen of the United States, were to establish one in Canada; would it not operate as a prohibition of his manufacture from that machine? And if it be, it seems to me that is not contemplated by the framers of the bill.

Mr. BRADBURY. Mr. President, the suggestion of the honorable Senator from Virginia is, I think, entitled to some consideration. It was certainly not designed to provide for cases where patents existed abroad. A proviso to the bill would set that objection at rest.

The PRESIDING OFFICER. (Mr. Foor in the Chair.) No amendment will be in order until the amendments made in Committee of the Whole are acted upon.

Mr. TOUCEY. Mr. President, I hope that this bill will be adopted, as it has been amended in Committee of the Whole. It is meant to apply to a class of cases principally, not exclusively, where an individual crosses into the British possessions, and there sets up an establishment for the viola-

tion of a patent granted by this Government. It applies to no other case, unless it be in regard to some other adjacent foreign territory.

Now, there does not seem to be any opposition, as far as I have been able to discover, to the general object of this bill. No one would vindicate, or countenance, in the least degree, a fraudulent transaction of this kind. Indeed, it would be an abandonment of the duty of Congress, under the Constitution of the United States, not to protect the immense amount of property which exists in the form of patent-rights; and if there is any species of property which I would protect above all others, it is that which is the product of mind. It is becoming too notorious that this species of property is not well protected. It is a matter of universal regret that it is not well protected. The public benefactor, who has given a benefit to the community beyond appreciation, derives to himself but little or no benefit from the result of his labors, of his ingenuity, of his genius. Now, sir, within the limits of this bill, it is obvious that these men are not protected, because, at present, along the whole line of the frontier, the fraudulent fabricator has only to cross over the line, and there set up his establishment; and, without regard to your laws, he can inundate the country and annihilate this species of property.

As I said before, there does not seem to be any opposition to the general object of this bill. It is admitted that the remedy ought to apply to the fraudulent manufacturer, or fabricator, in violation of the present right. Well, with regard to that class of persons, they are beyond the jurisdiction of your laws. You have no remedy against them. You can neither commence a suit at law, nor can you enjoin, nor can you reach their establishment. It is admitted that it should apply, also, to the fraudulent vender—to the person who has in his possession, for sale, the article fabricated or manufactured; and, to that extent, I do not understand that there is any difference of opinion, but all agree that the fraudulent vender of the article ought to be reached by the provisions of this bill.

The objection that is now interposed—that the fraudulent purchaser ought not to be reached, and the reason assigned for it, if I comprehend it, is, that it becomes a question to be investigated in a court of justice whether he is a fraudulent purchaser or not. Now, I do not believe that those who oppose the amendments made in Committee of the Whole, mean to say that there is any material difference between a fraudulent vender and a fraudulent purchaser. They are both participants in the fraud. They are both alike in fault. Their conduct is alike injurious to the real owner of the property, the right to which is violated. But it is said that, when you come into courts of justice, a question arises which it is somewhat difficult to determine: whether the purchaser is a fraudulent purchaser or not. Why, that is a very ordinary question in courts of justice. It is one about which there is no difficulty. It is a question which may be left to courts and juries with perfect safety; for no man can be subjected to the provisions of this bill, until it is fully shown that, at the time when he purchased the article which is meant to be protected, or which is sold in opposition to the patent-right, he purchased it with knowledge, in the first place, that it had been imported; and, in the second place, that it had been fabricated abroad at this establishment, thus set up in fraud of the patent granted by this Government. I think, sir, that it is all-important that this provision in the bill should be retained, because, without it, it will be inefficient.

Unless such a provision is made, what has an establishment on the other side of the line of Vermont, New Hampshire, New York, Ohio, or Michigan, to do except to send its traveling agent to vend the article through the country and to return home, and before the party defrauded can discover that he is within the jurisdiction. Then those who purchase with knowledge, not being held responsible, there is connivance,—the fraud is multiplied, and the greatest facilities are afforded

for its commission. You thus, by your legislation, permit it to go untouched, unchecked, merely because it is too much for a court of chancery or a court of law to determine whether the parties purchased with knowledge! Now, I think it is a very clear proposition, that if the fact can be ascertained in a court of justice, the law ought to apply to that case, and it is essential that it should apply. I hope, sir, that the amendments which have been made in Committee of the Whole will be adopted, that the bill will be passed in the shape in which it has been amended, and that this remedy will be given to a suffering and a very meritorious class of citizens.

Mr. BAYARD. I move to amend the bill by striking out the word "use."

The PRESIDING OFFICER. The bill having been reported to the Senate from the Committee of the Whole, with amendments, the question is first on concurring with those amendments. No further amendment can be offered until they are disposed of.

Mr. FELCH. Mr. President, whatever may be thought or said of the details of this bill, or the propriety of passing it, its general object cannot be misunderstood. The effect of it must necessarily be to increase, in this country, the value of all patented articles, by giving a more complete and exclusive privilege to the patentee, by prohibiting from the market and from use all articles which are manufactured on the other side of the line, in the British Provinces. It is now perfectly manifest, that if the patent extend only to this country, any person residing in any of the British Provinces has a right to manufacture that article for sale; and, under the present laws in regard to imports, there is no prohibition against bringing that article for sale into this country. Now, the provisions of this bill are such as to prohibit the just right of persons residing out of the country, to manufacture articles which may be patented here. If this bill proposed to pursue only the American citizen who should take the invention of an American citizen, patented in this country, and manufacture articles from it on the other side of the line, then, of course, it would apply to, and operate only upon our own citizens; but it does not apply exclusively to such a case. It applies to all cases. In other words, it is a bill which applies to the importation of articles, generally from foreign countries on our own borders. If we look at the extent of articles manufactured under patent rights acquired in this country, we shall see at once that it is a bill which is very extensive in its operations. A very large proportion of the articles which are sold in the markets in this country are articles which are manufactured under patents; some of which are of a very complicated kind. This bill does not apply merely to articles manufactured of wood, but it applies to all other articles, and some of them are very complicated.

The question now is, whether we are willing to pass a bill which shall virtually give to the patentee a right broader than that which is given him by any patent law which we have ever passed in this country; whether we shall pass a law broader in its operation upon prohibition of importation than has ever yet been applied—whether we shall give larger profits, and more exclusive rights to patentees by excluding this description of articles manufactured in foreign countries, and enhance thereby the price of those articles which are purchased by individuals throughout the country for use and for sale. This is the scope of the bill. I think we should hesitate before passing a bill of this description. It seems to me that we have already gone far enough upon this subject. It seems to me that there is no claim on the part of the patentee which requires us to pursue the matter further, and give him exclusive and further rights, not given by previous laws, and not covered by his patent.

But it will be said, and has been said, and argued with a good deal of force, that here may be what are called "frauds," although in point of fact, it is a lawful pursuit of a lawful undertaking on the part of the citizens on the other side of the line. It is said that a remedy should be afforded for these "frauds." Well, what is the remedy which would strike a man as being most appropriate in such a case? What would the obvious remedy be? My idea of it is simply this: Persons not having a patent cannot, within the limits of our country, manufacture articles by a machine

which is patented. That is all very proper, and right, and just, in every sense. Now, has not the patentee the same means of acquiring protection beyond the limits of our jurisdiction, which he has within its limits? Certainly he has. If I understand the laws of foreign countries in relation to that subject, an American citizen who obtains a patent here, may obtain his exclusive right also beyond the limits of this country. By an application to the British authorities—either to the Home Government or the local authorities of the British Provinces by which we are surrounded—I believe there is no difficulty in obtaining a patent. If I am incorrect in that respect, Senators will correct me.

Mr. BRADBURY. I understand that a patent cannot be obtained in the British Provinces in cases of extension. In all these cases, where a great deal of time is consumed in perfecting the patent, we find it necessary in this country, in order to reward the inventor, to give him an extension of his patent; but I understand, though I have not the British law at hand, that no patent can be obtained in England for an extension. I have this statement from an authority which I regard as good. The issuing of a patent there is rather a ministerial act, and the patent is much more easily obtained there than here; but when the power of granting the patent has once been exerted, they are not in the habit of extending patents.

Mr. MALLORY. If the Senator from Michigan wishes it, I will hand him the English law on the subject.

Mr. FELCH. By the fourth section of the statute of fifth and sixth William IV., which the Senator from Florida has kindly put in my hands, it is, in effect, provided, that if any person shall obtain any letters-patent, and shall, by such advertisements as are therein mentioned, apply, by petition, to the Queen and Councils for a prolongation of his term; and if the consideration of the petition shall be referred to the Judicial Committee of the Privy Council, the petitioner, as also persons entering caveats against the prolongation, are to be heard by their counsel, whereupon the Judicial Committee of the Privy Council may report to the Queen in favor of a further extension of the term granted, not exceeding seven years, and her Majesty is thereby authorized and empowered to extend letters-patent for seven years, if she so please. That is in substance the British statute upon that subject. There is no further extension of patents under their laws; but I do not apprehend that to be necessary, in order to enable parties obtaining patents here to avail themselves of the benefits of patents in the British Provinces. I am not familiar enough with it to speak with perfect confidence on this subject; but so far as I have information, I understand that at any time during the existence of a patent under our laws, whether it be under the original letters patent, or by a renewal of a patent, a similar patent may be obtained under the authority of the British Government. If I am correct about that matter—if this is the case, then all the party has to do is to avail himself of the means which are within his own hands to afford protection.

My friend from Connecticut [Mr. TOUCER] has very well said that the impropriety of the conduct is on the part of the person who fraudulently shall go across the line and manufacture these articles—that it is the manufacturer whom we ought to touch. Then I reply, the party himself has within his power the very instrument by which he may touch the manufacturer. He has within his power the very instrument by which, upon application and obtaining a patent from the foreign Government, he may control the entire matter within the jurisdiction of the British Queen, as well as within the limitations of our own jurisdiction. This, it seems to me, would be the proper remedy.

I have heard it suggested elsewhere that the amount to be paid for obtaining patents within the British Provinces is so enormous, that parties ought not to be turned over to that remedy, but should receive a more easy and convenient one under the authority of our own laws; but I have been informed by a gentleman very familiar with that matter, this morning, that the expense of renewing patents within any of the British Provinces is only \$125, and that this renewal may be obtained from the legal authorities representing

the British Government, and application may be made to the Home Government for a patent to be granted to embrace any portion of that great kingdom, whether England, for which the price is \$750, or Scotland, for which the price is \$500, or Ireland, for which the price is \$125, or any of the Provinces for the same amount.

Mr. MILLER. I would ask the Senator whether it is not the fact that no one can get a patent renewed in Canada unless he be a British subject? That is what I understand.

Mr. FELCH. Mr. President, I am sorry that I have but little information upon this subject. I believe we are all without as much information as we ought to have. I cannot therefore answer the question directly. But I understand that is not so, from a gentleman who is familiar with this matter. But it is certainly true, that whether the rule is so or not, by an application to the Home Government, a patent may be obtained embracing all the Provinces, so that there can be no difficulty that I see in the way of a patentee availing himself of all the privileges of a British patent.

Mr. HUNTER. I went to the Patent Office on Saturday, for the purpose of ascertaining these facts. I could not find any book there containing the English laws on the subject; but the Commissioner of Patents told me that he was under the impression that a patent might be obtained for the Provinces alone, and might be obtained by others than subjects of Great Britain.

Mr. FELCH. So I am informed by a gentleman who has recently had occasion to examine into the patent laws, and make application for patents, as well in Great Britain as from other Governments on the Continent, and I think there can be no doubt of it.

If this is the case, I go back to my original proposition: Why should a party here not resort to the remedy which is already in his power? The amount which he has to pay for it is comparatively small. And, in relation to this very patent now spoken of here, for a machine for making irregular forms, it is well known that, not only is an immense fortune within the grasp of the patentees, but it has already been reached by them, and large amounts are still within their grasp, by pursuing their legal rights, without asking anything further from Congress.

Sir, when so simple a process will secure all the rights which these parties desire, I ask if it is prudent for us to legislate in the manner here proposed? With these numerous articles thrown abroad upon the community, in use every day, everywhere, in every art, in every science, and in every practical operation of everyday business, I ask if it is proper for us to open the door here to suits against every person who shall deal in those articles, who may use those articles, or who may have anything to do with them? In my opinion, the remedy which can now be obtained is a sufficient one for the patentees in this case; at least, it seems so to me, from the information which I now possess, and from all the information which has been given to us by Senators who have discussed this subject this morning. It seems to me that the passage of such a bill as this will lead to litigation and to great collisions, as well as throw an embarrassment upon the whole business transactions connected with this matter. The simple process, it seems to me, in this case, as in most others, is the best one; and the remedy which is now afforded is the remedy to which the parties ought to resort, if they desire to obtain an exclusive right to the use and manufacture of the articles for which they have especial benefit under their patents.

Mr. HALE. Mr. President, it seems to have been admitted by the Senator from Maine, in answer to some remark made by the Senator from Virginia, that there is a difficulty in this bill in that point to which the Senator from Virginia objected. There seems to be a good deal of doubt in the minds of some Senators as to what the patent laws are in some of the British Provinces. Originally I was very much opposed to the introduction of the word "use" into this bill. I thought it was liable to the objections which have been urged against it. But, as I have always great diffidence in my own opinions, I suggested to some of my friends that if they could satisfy my friend from Kentucky [Mr. UNDERWOOD] on that point, I would vote for the bill with that word in it.

I think that all these things being considered,

we had better let this bill lie over until to-morrow; and I am the more anxious to let it lie over for this reason: We are pressed with regard to these patent rights, and patentees, and patent laws. By looking into a bill which passed this body last Thursday, I find that we passed an act which I think no member of the Senate, or certainly not more than one or two, would have been willing to pass, if they had read it; and I desire to submit to-day a motion to reconsider the vote passing that bill, for this is the last day on which I can make that motion. I think it is evident that we are not in a state to pass this bill to-day. I therefore move that it be laid on the table.

Mr. MILLER. I hope the Senator from New Hampshire will withdraw that motion for a moment.

Mr. HALE. I withdraw it.

Mr. MILLER. I merely wish to say, that I hope the question will be taken on this bill to-day. This bill has passed through the ordeal of the Senate once before. It passed this body at the last session. We have spent now two or three days upon it, and it is important that it should be passed soon.

Mr. BAYARD. Does the Senator say that the bill, as it now is, passed the Senate at the last session, or that it then contained the word "use?"

Mr. MILLER. It did not then contain that word; but I am ready to take the question on striking that out, and I hope we shall have the question on the bill. While I am up, I wish to ask the Senator from Virginia one question about the right or privilege of obtaining patents in Canada. Does he understand that a patent may be renewed in Canada by anybody but a subject of Great Britain?

Mr. HUNTER. I understood distinctly that a patent could not be renewed either in Canada or in the mother country.

Mr. MILLER. That is precisely the case, as I understand. A patent for this machine was originally taken out in England, but it has expired and cannot be renewed.

Mr. HUNTER. A patent can be renewed for anything new, either in England or in the Provinces.

Mr. MILLER. A patent for the machine for cutting irregular figures was originally taken out in England. That patent expired, and of course cannot be renewed. I hope we shall have no more debate on the subject, but shall take the vote.

Mr. UNDERWOOD. One word in reply to the new argument started by the Senators from Virginia [Mr. HUNTER] and Michigan, [Mr. FELCH.] They seem to think that if you can obtain a patent for an American invention in a foreign country, it ought to be resorted to before giving adequate protection here. I am against that doctrine *in toto*. I never will consent to send an American author or inventor into England, or Canada, or France, or Africa, or Asia, and all over the world, to get a patent before giving him the constitutional right of protection to his writings and inventions in our own country. In regard to many inventions, if you put this duty, and impose this obligation upon the inventor, you absolutely deprive him of that right which the Constitution of the United States intended to secure to him, and you put upon him more trouble, in running over the world to hunt patents to secure his invention and to prevent the manufacturing of the articles abroad than his invention is really worth in a pecuniary point of view. I look upon it as degrading to the legislation of the country to impose any such duty as this upon an American inventor before properly securing him at home. It is unquestionably the law, that if an invention is made here and not patented in England, France, or any other foreign country, the people of the foreign country may use it as they please. What we ask is, that when they use it, and our citizens do not choose to take out a patent there, you will prevent them from bringing their productions, identical with those patented here, in competition with the patentee here. Under the Constitution of the United States it is your duty to give protection at home. I therefore object, totally, to the ground started now, upon which this bill is opposed.

I have a few words to add in regard to the "use." If you strike out that word, all along upon the line, your bill will not be worth a picayune. It will be worth nothing at all, because every man

on our side of the line, may go from within thirty or forty miles with his carryall, and pack it with productions manufactured on the other side of the line, bring them here, and use them as much as he pleases. He could do it in open defiance, in daylight, intending at the time to go into the foreign territory, and bring the articles here and use them, in violation of the rights of the patentee. If he does it knowingly and designedly, and you can bring the *scientia* home to him, he is a fraudulent user of the article, in violation of the rights of the patentee, and I am willing to punish him; but if he has no such knowledge, if you cannot bring the *scientia* home to him, you cannot touch him under the bill; he is an innocent user of the thing, and he is protected, and the only possible injury he can sustain, the only conceivable injury you can bring upon a citizen who innocently uses the article is, that some individual may charge him with doing it knowingly, and bring a suit against him. Why, we are all liable to be sued without cause for anything on earth. A man may bring a suit for debt, for trespass, for anything without the shadow of right; and that is the only thing that can be said here—that you may charge an individual with having knowledge when he had not, and sue him upon that charge. But that is not likely, because the costs and expenses will ultimately fall upon the patentee who brings the suit, and it is not likely that he will institute a groundless action against any one. I think if you strike out the word "use," the bill is worth nothing, in fact. I do not think I would vote for it, because it would be doing injustice to the people who live along the line, and who claim the right of property in these inventions.

Mr. BORLAND. Mr. President, practically I have very little knowledge of patents, and really I have very little knowledge of the patent laws in detail; but I think I do understand enough both of patents and the patent laws to see that there is one, and perhaps more than one, very important principle involved in this bill. My opposition to it is based altogether upon what I consider the principles involved, without any regard to the details of its practical operation.

A few words, in the first place, as to what is complained of here—as to the hardship which the owners of this patent now have to suffer. Why, sir, I learn, upon inquiry, that this patent was originally obtained as far back as 1819, both in England and the United States; that it has been renewed in the United States, at the Patent Office; and then, when our general laws refused it a still further extension, the owners of the patent came to the Congress of the United States and obtained a special act in 1848 for fourteen years' further extension, which grants them the right for ten years to come. Then it seems to me, if any people upon earth claiming the benefit of exclusive use of their invention, have ever had cause to be satisfied with the legislation of Congress, these very persons are the men. They have got the benefit of a patent in England, and have got the full benefit of two terms of the patent by our general laws in the United States, and they are now enjoying the third term in the United States, to the exclusion of everybody else. And sir, it is no answer to this to say, that they have made no money out of their patent. I hope it is not to be contended here, as an argument in their favor, that we are bound to guaranty them not only the exclusive use of their invention, but also profits from it. If so, we had better make a special appropriation out of the Treasury, at once, of so many thousands of dollars as they estimate the patent should be worth to them. But this is not to the merits of the case.

The main principle upon which I object to this bill is, that it is special legislation, and very limited and exclusive legislation. It does not propose to put these persons upon the same footing with everybody else. It makes a special exception in their favor. The friends of the bill even refuse to extend it further. The original proposition here, as I understand it, is to limit this bill to a particular kind of manufacture—to give no other person protection. It was proposed to be limited to articles made out of wood, as if articles made out of leather, or cloth, or metal, or anything else, were not entitled to equal protection with those made out of wood. The object, as I understand it to be avowed by the advocates of this bill, is to make it for the special and particular benefit of this particular patent. When I sug-

gested that we should make it general, and extend it to all kinds of manufactures and manufacturers in countries beyond the seas, as well as in adjacent territories, I was answered that there was no necessity; that this is the only case in which there has been an abuse. Why, sir, because this has been so in the past, there is no reason why we should assume that it is to be so in all time to come. I object to any legislation which looks to a particular case, unless it be impossible that another case of that kind shall ever occur.

Sir, by special legislation in regard to patents, and these temporary and temporizing modifications of our patent laws, we have now got a system which I venture to say no Senator will rise on this floor, and assert that he understands. Ever since I have had the honor of a seat in this body the patent laws have been the subject of dispute, and I have rarely found any one instance where any two Senators agreed in the construction of the laws. The patent laws have been so modified to suit particular cases year after year, from the very first patent law to the present time, that no one can understand them. This, too, will add to the compilation of our system of patent laws. Now, so far as I have been able to look into them, and inquire into their operation, they are mere traps. They have actually created systems of attorneyships and agencies, which stand like so many hawks, ready to pounce upon and confuse any man's mind when he has made an invention. The Patent Office here is so fenced in now by this horde of agents and attorneys that a simple individual living in the country, making an invention, cannot find approach to the Patent Office, except through one of these, and by paying him a large fee. To my mind, if we pass this bill, we start a horde of patent missionaries through this country, to hunt up and follow every article of manufacture through the country, and institute suits to fill our courts of justice with litigation; and whether they protect the rights of the original patentee or not, they take care to fill their own pockets in the course of the operation. I deem it proper to say, and I will say it on all occasions when I see our lobbies here filled, as they are now filled, or if not wholly full, occupied by attorneys and agents who are to be paid for this operation, that they are boring and annoying the Senate. Why, I have been called from my seat half a dozen times by those who are to make profit out of this thing. The original inventor, in my opinion, has no interest in it. He may be broken down, and his rights, if he ever had any, may have passed into the hands of that very horde—that lobby gang, who come here to bore and annoy the Senate, and occupy their time with legislation, not for the support of any great principle, not for any great public benefit, but to fill their own pockets—mere harpies, who watch and are constantly on the look-out for "the feast of reason," (if I may so call it,) which flows out from the minds of the great inventors of our country, trying to defile it with putting their sordid claws upon it. That, sir, is my opinion of the effect of this legislation, and the source from which it sprang.

Now, as to the bill itself, and its provisions: it seems to me if the object be to conform to the proper principle in this case, and to give the right sort of protection in the right direction, it would simply place all inventors, whether they work in wood or metals, leather or cloth, upon the same footing by extending the protection which patentees now have against the use and operation of these machines, or all machines, within our territory, to all the productions of such machines which come in upon us from foreign countries. As the Senator from Michigan has said, these persons have now the same right to go to foreign countries, that they have in our own, and obtain patents. The individual from whose case this bill has arisen has not, because he has exhausted all principle, all patience, all propriety in his applications. Not content with getting the exclusive use of his invention for a limited term as the Constitution provides, he is for extending it into all time. The Senator from New York read from the Constitution that Congress had power, and therefore it became our duty to give protection. I admit it to be a duty—and one which I am always ready to perform—to secure to inventors the exclusive use of these inventions for a limited term of years. Our general laws gave these parties a



patent for two terms. By a special law we have gone further in this case. We have complied with the requisition of the Constitution; we have given the "exclusive right" to this individual, and secured to him all the benefits which a reasonable man of conscience could ask. I am willing, and if I were familiar enough with our patent laws to draw up an amendment to that effect, I would propose to substitute for the first section of the bill one simply giving to all inventors in the United States the same protection against the use of their inventions in foreign countries, and the importation of their products into the country that we now give against citizens operating within our own limits. For such a bill as that I would be willing to vote, but never could think of voting for the bill in its present form.

Mr. GEYER. Mr. President, the object of this bill is doubtless a good one; but according to my reading of it there are defects in it, which it will be necessary to correct, or it will introduce more mischiefs than will be remedied by it. The first objection I have is to the word "use," introduced on motion of the Senator from Kentucky. As the bill now stands, any person who uses an article manufactured by a machine patented in the United States, if so manufactured in one of the Provinces adjoining the United States, is to be liable to an action. The honorable Senator from Kentucky informs us that no person is likely to sue unless he has a cause of action; and that therefore the community is perfectly secure against improvident actions being brought. I would inform that honorable Senator, that as the patent laws now stand they do not afford a guarantee to persons against suits brought in courts of justice that sit at but one point. Ordinarily a man is sued in his own immediate neighborhood, and is subjected to no great inconvenience in attending court. But the patent laws, as they now stand, have been made the means of levying black mail upon a very considerable number of our citizens residing remote from the seats of government of our States, where the United States courts are generally held, or in my own State from the city of St. Louis, where the circuit court is held. The patentee will commence his action—he does it upon calculation—against a person residing a great distance from the place of holding the court. Ordinarily these individuals do not understand our patent laws, and they are obliged to consult some professional man, and they are put to an expense for which they are not indemnified. Rather than do that they will pay a small penalty. They prefer doing that to litigation. I know that to have been the case. Where men have been sued for the use of patented articles, when they were told of the expense to which they would be put, and the time they would necessarily lose in attending court, they said it would be better to compromise with the man and pay him something. Now, if persons who use manufactured articles are to be proceeded against in our courts, a guarantee should be afforded, so that when an action is to be brought the patentee should be made responsible for all the expenses to which the party who may be sued shall be subjected, if a groundless action be brought.

But, sir, there is another objection. It seems to me that the bill has been framed with a view rather of providing remedies for patentees than guarding the rights of other parties now entitled to protection. A machine that may be patented in the United States, and a similar machine, or a substantial modification of it may also be patented in one of the Provinces, as Canada, for instance, by the Crown of Great Britain; its owners may manufacture an article and send it into the United States; and if there is a patent here, whether of earlier or later date, whether it is held by the real inventor or not, the patentee here is to have, according to this bill, a cause of action against all persons who vend that article, and all who use it.

Again: the patentee of a machine may sell the machine itself; he may sell it to a man who lives on the opposite side of the line—immediately adjoining the line, and the articles which are manufactured from that machine, if introduced into the United States, according to this bill, subject the vender, and the vendee, and the user to penalties.

The bill is broad enough to cover all these; for it is not confined to the particular case mentioned by the honorable Senator from New Jersey. It goes further; in all cases of patents, the patentee

may have a patent from the Crown of Great Britain, for the same machine; he may have a patent in the United States, which he does not choose to use at all; or he may use both. His right to recover, according to this bill, will not depend upon the existence of a patent in a foreign country, but upon the fact of an article being manufactured by the machine, or some substantial modification of the machine, of which he is the patentee here. It will be no defense, as this bill stands, to answer the patentee: "You either sold the machine by which it was manufactured, or you have a patent for it from a foreign Government—from the Government within whose jurisdiction it was manufactured;" or that "the same machine is patented to a subject of the Crown of Great Britain, and there lawfully manufactured."

Now, sir, it seems to me, that the bill ought to be guarded in these respects. We ought to have some guarantee that a man will come into court, when he does come at all, with clean hands, and not merely aver that he is the inventor of the machine. In order that the remedy, in which some of the Senators seem to be much interested, should be so guarded as to protect the rights of others, I move that this bill be committed to the Committee on Patents and the Patent Office.

Mr. HALE. I made a motion to lay this bill on the table, but withdrew it at the request of the Senator from New Jersey, [Mr. MILLER.] I supposed he had some particular object in view. I did not know, when I withdrew that motion, that it would give rise to a wide debate, which I see no prospect of ending. I rise now to make an appeal to the Senate. On Wednesday last, we passed a bill on the subject of patents. It has gone to the House of Representatives. I find, on inquiring of the President of the Senate, that it is necessary, before a motion can be submitted to reconsider the vote by which it was passed, to send a message to the House requesting them to return the bill; and I want to submit that motion. If we do not do it to-day, the remedy is gone, and we cannot make it again. I think there is not a Senator who will oppose it, when he understands the case. The facts are briefly these: There was a law authorizing the chief clerk of the Patent Office to act in the absence, or vacancy of the office of the Commissioner, and it became doubtful whether it was broad enough to cover patents issued by him; and they came here, I suppose, with the intent that Congress should pass an act, that patents issued by the chief clerk, in the absence of the Commissioner, should be as valid as if signed by the Commissioner. That was the end intended to be accomplished. But, instead of that, the Senate passed a bill, that all patents signed by the chief clerk should be valid in law, without any qualification. It does not say, as valid as if signed by the Commissioner; but that they shall be valid, no matter whether obtained by fraud or not.

Mr. SEWARD. What are the words of the bill?

Mr. HALE. It enacts "that all such acts of the chief clerk of the Patent Office and of the Commissioner of Patents, shall be held and deemed valid and effectual in law." That is the whole sentence; not as valid and effectual as if signed by the Commissioner, but they shall be valid and effectual in law. I want to get that bill back from the House, for the purpose of reconsidering the vote on its passage; and I move, for that purpose, to lay the bill now under consideration on the table.

Mr. MILLER. That motion can be submitted when this bill is disposed of.

Mr. HALE. Then the House may have adjourned, and the opportunity may be lost.

Mr. BORLAND. The motion can be submitted by unanimous consent, without laying the bill on the table.

The PRESIDING OFFICER, (Mr. Foor in the chair.) If no objection is made, the bill can be passed over informally until the motion is received, and then be resumed.

No objection was made.

Mr. HALE. Then I submit the following resolution:

*Resolved*, That a message be sent to the House of Representatives, requesting the return to the Senate of the bill entitled "An act to amend an act entitled an act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4, 1836; and, also, "An act to provide for additional

examiners in the Patent Office, and for other purposes," approved May 27, 1848.

The resolution was agreed to.

Mr. HALE. I now move to reconsider the vote by which that bill was passed.

The PRESIDENT. The bill will have to be returned first to the Senate, before the vote can be reconsidered.

The consideration of the bill giving further remedies to patentees, was resumed—the question being on the motion to commit it to the Committee on Patents.

Mr. BRADBURY. The bill was reported from the Committee on the Judiciary. The chairman of the Committee on Patents and the Patent Office is not now in his seat, and he may be some days absent. That would seem to be a sufficient reason, if the bill is to be recommitted at all, that it should be to the Committee on the Judiciary. But I think that the Senator who made the motion will not, upon reflection, think it necessary to insist upon it. He will find that the objections which have passed across his mind can be obviated by a very brief explanation. He anticipates that inconvenience may result, to an individual who has a right to use a machine for the manufacture of irregular forms upon the other side of the line, having a patent there, because he could not import his articles here. Now, if the honorable Senator will recollect, when the right to use a machine is sold, it is sold to be used in a particular territory, and the right to use it for manufacturing articles to supply the Canadas, for instance, would not, fairly considered, justify the abuse of undertaking to supply the whole United States in consideration of the purchase of the right to use it in a limited territory.

Again: the honorable Senator says that a patent might be obtained from abroad; and that we would prohibit the introduction of articles where a patent existed. If the patent were granted, not to the original American patentee or assignee, but to a third party, for the purpose of defrauding that patentee, there would be an additional necessity for such a law as we propose: for surely we would not consent that a foreign Government should appropriate to itself a machine of ours, and confer the right to use it upon a citizen who had no claim to it, and then allow the individual, without the claim, to be protected in this country.

One other objection was adverted to by the honorable Senator from Missouri, for whose opinions I entertain great respect. He seemed to think that there was not sufficient protection against innocent persons being annoyed by suits. Now, there is more than the ordinary protection in this case. For, in the first place, the application in equity must be verified by oath, setting forth the facts. In the second place, the judge of the court must be satisfied of the truth of all the facts alleged in the application is issued before any process. Ordinarily we know that there is no such protection as this. Again, there is the further protection that, upon a hearing, the patentee or assignee has to make it appear satisfactorily that the individual complained of purchased the article and used it in known violation of the law.

The honorable Senator from Arkansas [Mr. BORLAND] felt great horror lest harpies should fill their pockets through the legislation of Congress. I agree with the Senator in the feeling that they should not; and, as I know, upon reflection, he would not desire that those harpies should undertake to appropriate the inventions of others to their own use by passing over the line of our territory into a contiguous foreign territory, with the sentiments he avowed he should be the last man who would withhold any legislation necessary to prevent such a fraud.

Mr. BORLAND. The honorable Senator does not misunderstand my views on this subject. I made the suggestion—which if those who will be the beneficiaries of the bill were really in earnest and desired no more than sufficient protection against frauds, they would concur in—and I now make the suggestion to the Senator, and I hope he will adopt it, and then we will agree, as it seems now we agree in the object to be accomplished, to put these persons and all other patentees on the same footing as regards persons operating across the line in a foreign territory, as to protection against invasion of their patents by our own citizens.

Mr. BRADBURY. Then it is only a question

of form, and the manner of accomplishing the same object. I would suggest to the Senator that experience has found that there is a necessity of reaching an article used by a person knowingly in violation of law, as already explained; but we cannot protect the parties in cases of this kind by leaving them to depend upon the action of foreign Governments. The law of Great Britain relative to the subject has been adverted to. It appears that after a patent has been granted, no extension can be permitted, except upon petition to the Queen. If the Queen sees fit, she may refer the petition to the Judiciary Committee of the Privy Council; and if that Committee see fit, and the Council adopt their report, the matter may then be referred back to the Queen, and she, if she pleases, may grant a renewal of the patent. There are so many contingencies, that the remedy would be worthless; and I submit whether our citizens should be left to the caprice of a foreign Government. But, again, the extension in England could not reach beyond seven years.

In the case which gave rise to this bill—and I would remark that numerous petitions came in at the last session of Congress, from every portion of the country, setting forth the most glaring violation of the rights of patentees—I would beg leave to say, that there were reasons which operated in granting the extension of the patent to Mr. Blanchard, for the manufacture of irregular forms. It is said he is now enjoying the benefit of a second extension. That is true; but Congress was satisfied that it was a case of great merit, and that he had derived no benefit from the patent. He had devoted his days and nights for a long period of years to perfect his machinery; and so perfect has he made it, and so important is it, that he has reduced the manufacture of lasts from a dollar to something less than a shilling. It has taken years for him to accomplish this purpose. Having satisfied Congress, as he did, and as I have already shown by the reading of the letter of the late Commissioner of Patents, that he had derived little benefit from the Patent, and had devoted his time to the perfection of his machinery, the renewal was granted. The benefit of that extension is now wrested from him by the violators of the patent, who have passed over to the Canadian territory; and they are the last who ought to excite sympathy, or have any claim for protection. I hope we will not allow the harpies who are attempting to wrest from the original proprietors the enjoyment of their just rights, to succeed, and I think we should pass the bill without recommitting it. But if the honorable Senator who made the motion persists in it, I think he should modify it so as to send it to the committee from which it originally came.

The PRESIDENT. It is moved to recommit the bill to the Committee on Patents and the Patent Office.

Mr. SEWARD. I hope the Senator from Missouri will withdraw that motion, and allow it to be referred to the Committee on the Judiciary.

Mr. GEYER. I will withdraw the motion cheerfully if the honorable Senator from New York will agree to its reference to a special committee.

Mr. SEWARD. Very well.

Mr. GEYER. That course will sufficiently guard the bill. I think the Committee on the Judiciary have already proved that they are not familiar with the patent laws.

Mr. SEWARD. Very well. Let it be referred to a special committee.

Several SENATORS. "Oh, no; no! There is no necessity to refer it to a special committee."

Mr. MILLER. It is altogether unusual to commit a bill of this kind to a special committee. Gentlemen may talk about the Committee on the Judiciary not having investigated this matter; but I can tell them that it has already been investigated by a committee of the House of Representatives; that a long report has been made upon the subject, and that it has been three times investigated by the Judiciary Committee of the Senate. Gentlemen have moved various amendments, all of which are understood, and have been acted upon by the Senate, and I think that, generally, the Senate is prepared to act upon the bill. I do not see any necessity for delaying the matter further by recommitting the bill. The Committee on the Judiciary are well acquainted with the patent laws. They have had them before them, and with

a full knowledge of their import have prepared this bill.

Mr. GEYER. I shall not insist on the motion to recommit the bill to a special committee, as it is not usual to raise select committees to which to refer bills of this kind. I will, therefore, renew the motion to refer it to the Committee on Patents and the Patent Office.

Mr. STOCKTON. Mr. President, I do not wish to prolong this discussion. I do not rise to debate the merits of this bill, now before the Senate. I am perfectly satisfied with what I have heard on the subject, and design to vote for it. But, sir, I rise to say a single word to my friend, the Senator from Arkansas, [Mr. BORLAND,] in relation to the denunciations which he has seen fit to pass on those whom he terms "lobby members," or borers. How just his denunciations may be, or how applicable to those who have disturbed that Senator by calling him from his seat, I, of course, do not know, and shall say nothing in relation thereto; but I must say to him that those persons from the State of New Jersey, who have been explaining this measure, outside of the Senate, to me and to those who, like me, were willing to be informed by them, are among my most respected and valued constituents, and among the most useful and respectable citizens of the State of New Jersey. He may rely upon this, that any representation made by them to him or to any one, will be made in all honesty and truth; and that they have no designs other than those manifested on the face of the bill; namely, the protection of the patentee, who has been but poorly remunerated for his great and beneficial services to society. I hope that the Senator will be satisfied that he is in no danger from those gentlemen—my constituents—and that he will give them his kind consideration, either in or out of the Senate, because they are in every way entitled to the most respectful confidence.

Mr. BORLAND. The remarks I made in reference to those whom I designated as "borers," and whom I regard as a great nuisance to the Senate, had no application to individuals. Whether they are citizens of the State of New Jersey, I am unable to say. I did not know their names, and I do not know them now; therefore, the testimony that the Senator from New Jersey [Mr. STOCKTON] bears to their high and respectable character, I assume to be well deserved, and have no disposition to controvert. I was speaking of a practice which has grown up, and of which I am not the only one to complain. With the agents, or attorneys of patentees, or persons who are to be the beneficiaries of special legislation, I have nothing further to do, than to remark that the evil has grown up from the practice of their coming here, as I have already shown; and I have spoken of that practice in terms of condemnation to-day, as I have always done. I did it, if I may be permitted to say so, more with a view to my own protection in future, than from a hope that any benefit would be conferred on the country. I am free to admit that I have been greatly interrupted and interfered with, and that my time, which belongs to my constituents, and which I am anxious to devote to their welfare, has been greatly interfered with by this class of persons. Who they are, I know not; I only know that the practice is a source of great annoyance, which I desire to get rid of, and of which I hope that the Senate will get rid. I think it constitutes a very great objection to special legislation for companies and patentees; I mean the very serious evils brought on us by this consumption of time. Whether the influence which they seek to bring to bear on us have any effect or not, I think it is a great evil, and has a bad appearance before the country. I hope we shall be freed from it. It is almost sufficient to defeat any bill specially legislating for the benefit of individuals. It not only, in my opinion, violates a great principle, but it renders necessary a large consumption of time, and places the Senate in a position before the country, which is anything but pleasant.

Mr. MALLORY. I trust the motion to refer this bill to the Committee on Patents and the Patent Office, will not prevail. I am in favor of recommitting the bill, but not to a new committee, unless some substantial reason can be given for withdrawing it from the consideration of the Committee on the Judiciary. Such a recommitment is unusual, and an inference unfavorable to the

Committee on the Judiciary might be drawn from its recommitment to any other committee. The Committee on the Judiciary have enjoyed the advantage of hearing the objections which have been urged against this bill; and, if it is recommitted to that committee, they will confine their attention to these objections, and endeavor so to modify the bill as to obviate them if they should be of opinion that they have weight. Unless, therefore, I can have some good reason assigned for withdrawing it from that committee, it strikes me that that course would not be treating that committee with the courtesy which it ought to receive at the hands of this body.

The PRESIDENT. The motion is to refer the bill to the Committee on Patents and the Patent Office.

Mr. MALLORY. I move to amend the motion by striking out the words "Committee on Patents and the Patent Office," and inserting the Committee on the Judiciary.

The PRESIDENT. That amendment cannot be made. The Committee on the Judiciary is one of the Standing Committees of the Senate, and the proposition cannot be amended by a motion to refer to another committee. The question must be taken on the motion as proposed, which is to refer the bill to the Committee on Patents and the Patent Office.

Mr. HAMLIN. Vote it down.

The question was taken, and the motion to refer the bill to the Committee on Patents and the Patent Office was not agreed to.

Mr. MALLORY. I now move to recommit the bill to the Committee on the Judiciary.

Mr. SEWARD. I suggested that motion, but I shall vote against it, because I think the bill is as perfect as it can be made now. The Senator from Arkansas thinks that the public time is misspent in the discussion of this, which is a private matter. I have only to say on that subject, that the Constitution of the United States devolves upon Congress the passage of such laws as will protect private citizens in the enjoyment of the fruits of their own genius and intellectual labor; and if the laws we have are—as we know they are—defective, we only perform a constitutional duty in making them adequate to that purpose. And there is no interest of society so important, no constitutional duty so obligatory upon Congress as that of protecting the rights of every individual citizen. All other interests will take care of themselves if the rights of property, which Government undertakes to protect and secure, are held sacred and inviolable.

Mr. BORLAND. I did not intend to say another word, but the remarks of the Senator from New York [Mr. SEWARD] have gratified me so much that I cannot refrain from adding a word or two in relation to them. I feel rejoiced, Mr. President, and the country, too, ought to rejoice, that the Senator from New York has announced to the Senate and the country that he regards the obligation of Congress, under the Constitution, to pass laws to secure the rights of property to the citizen. Sir, that announcement from that Senator is, in my opinion, most important to the Senate of the United States and the country at large. I do hope that we shall have good fruits from it in time to come. I am rejoiced to hear that the Constitution is upheld by that Senator upon the floor of the Senate, as the highest law, above which there can be no higher, and that we owe an obligation, by the oath which we have taken at that desk to sustain it as the supreme law of the land above all others.

Sir, I have no more to say upon that subject, but I will repeat what I suppose the Senator did not hear me say a little while ago in support of the position which I took in reference to this bill, that we had complied with the requirements of the Constitution in this case by the patentee first obtaining his patent for his regular time, and then by giving him an extension of it; and then an extension of it again which has yet ten years to run. I say, therefore, that in this instance our constitutional duty has been already performed.

The question was then taken on the motion to recommit the bill to the Committee on the Judiciary, and it was found that there was no quorum voting.

Mr. BORLAND. I move that the Senate adjourn.

Mr. WALKER. I move a call of the Senate.

The PRESIDENT. No such motion can be made under the rules.

Mr. WALKER. Do the rules exclude such a motion?

The PRESIDENT. The rules do not exclude it in so many words, but the Constitution provides the mode by which a quorum may be obtained.

The question was then taken on the motion to adjourn; and it was agreed to, and  
The Senate adjourned.

#### IN SENATE.

TUESDAY, June 15, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, on the subject of the disorders on the Rio Grande frontier, and recommending the further legislation which the report suggests, in order that the duties and obligations of the Government occasioned thereby may be more effectually discharged, and the peace and security of the inhabitants of the United States in that quarter more efficiently maintained; which was referred to the Committee on Foreign Relations.

#### OUTRAGES ON SPANISH SUBJECTS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, accompanied by a communication from His Excellency Senor Don A. Calderon de la Barca, Minister Plenipotentiary of her Catholic Majesty, claiming indemnity for those Spanish subjects in New Orleans who sustained injury from the violence of the mob in that city, consequent upon hearing the news of the execution of those persons who invaded Cuba in August, 1851. The President of the United States suggests that there may be one ground upon which this indemnity, which cannot be large in amount, may be granted without establishing a dangerous precedent, which is, to grant an indemnity to the Spanish subjects who have suffered from the violence of the mob in return for the act of magnanimity by which the Queen of Spain, in a case where the United States had no legal right to solicit the favor, restored many misguided youth of this country to their parents and friends, and submits it to the favorable consideration of Congress. The message was referred to the Committee on Foreign Relations, and ordered to be printed.

#### PETITIONS, ETC.

Mr. SEWARD presented a petition of citizens of New York, praying that the bill now pending before Congress, commonly called the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. ADAMS presented the petition of Daniel Comfort, praying to be released from further liability as one of the sureties of Lewis Bond, formerly postmaster at Clinton, Mississippi; which was referred to the Committee on the Judiciary.

Mr. SHIELDS presented two petitions of citizens of Illinois, praying that the bill now pending before Congress, commonly called the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. CHARLTON presented a memorial of the Mayor and Aldermen of Savannah, Georgia, praying an appropriation for the improvement of the Savannah river; which was ordered to be laid on the table.

Mr. RUSK presented the petition of Samuel A. Belden, in relation to his claim against Mexico.

Ordered, That it be referred to the Committee on Foreign Relations, and printed in connection with the message of the President of the United States on the subject.

On motion by Mr. RUSK, it was

Ordered, That the message of the President of the United States in relation to the claim of Samuel A. Belden against Mexico, communicated the 3d instant, be referred to the Committee on Foreign Relations and printed.

#### RECESS.

On motion by Mr. RUSK, it was

Ordered, That when the Senate adjourns it be to Saturday next.

#### REPORTS FROM STANDING COMMITTEES.

Mr. WADE, from the Committee on Claims, to which was referred the petition of Thomas Mullett, praying compensation as a surveyor of

public lands, submitted an adverse report thereon; which was ordered to be printed.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to which was referred a petition of citizens of Baton Rouge, Louisiana, for the establishment of a daily line of mail-steamers between Louisville and New Orleans, reported a bill for the establishment of mail routes on the Mississippi river; which was read and passed to the second reading.

He also, from the same committee, to which were referred various memorials in relation to the establishment of steam lines between certain ports, submitted a report, accompanied by a bill to authorize the Postmaster General and the Secretary of the Navy to contract for the transportation of the United States mail in steam-vessels between the ports therein mentioned; which was read and passed to the second reading.

The report was ordered to be printed.

He also, from the same committee, to which were referred the memorial of Henry Mankin, and the memorial of the Amazonian Steamship Company, submitted a report, accompanied by a bill providing for a contract to carry the mail between some southern port of the United States and the port of Para, on the river Amazon, and other ports; which was read and passed to the second reading. The report was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the bill from the House of Representatives for the construction of military roads in Oregon Territory, reported the same without amendment.

#### PATENT LAWS.

A message from the House of Representatives was received by Mr. HAYES, its chief clerk, announcing that, in compliance with a resolution of the Senate, it had returned a bill to amend an act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4, 1836; and also "An act to provide additional examiners in the Patent Office, and for other purposes," approved May 27, 1848.

Mr. HALE. That is a bill which the Senate yesterday requested the House of Representatives to return. It is now too late to move a reconsideration of the vote passing that bill, without unanimous consent. I made the motion to request the return of the bill yesterday, supposing that it would then be returned, and that I could move a reconsideration of the vote passing the bill. I rise now to ask the unanimous consent of the Senate for the purpose of making the motion.

The PRESIDENT. The motion cannot be strictly made at this time; but by unanimous consent the Chair will receive it.

Mr. HALE. I suppose there can be no objection to it.

The PRESIDENT. The motion cannot be strictly made at this time; but inasmuch as a message was sent to the House of Representatives yesterday, and inasmuch as the motion to reconsider would have been made yesterday, if the House had returned the bill then, the Chair presumes that there will not be any objection to the reconsideration of the vote passing the bill. The Chair, therefore, if there is no objection, will receive the motion to reconsider.

There being no objection, the motion was agreed to.

The question then recurred on the passage of the bill.

Mr. HALE. I wish now to move a reconsideration of the vote by which the bill was ordered to be engrossed for a third reading, so that I may be able to offer an amendment to it. I am willing to let the motion lie over.

The motion was received and laid over.

#### WAR STEAMER FOR HARBOR DEFENSE.

On the motion of Mr. SEWARD, the Senate resumed, as in Committee of the Whole, the consideration of the joint resolution authorizing the completion of a war steamer for harbor defense; which requires the Secretary of the Navy to have completed, without unnecessary delay, the war steamer contracted for with Robert L. Stevens, in pursuance of the act of Congress of April 14th, 1842.

Mr. HUNTER. Mr. President, this resolution relates to an important subject. I am not prepared to vote for it as it now stands. This is

an old contract with Mr. Stevens, in relation to which the Senator from New Jersey [Mr. Stockton] addressed us some time ago—a contract which has been suspended twice, I believe, and renewed. I have taken some pains to look into the papers connected with it; and although, I confess, I have not all the information which I should desire upon the subject, yet I have come to this conclusion, that I should be very willing to pay Mr. Stevens all that the experiment has cost him so far, but I am inclined to the opinion that we ought not to prosecute it further.

This contract, sir, arose out of a law passed in 1842, by which the Secretary of the Navy was required to contract with Robert L. Stevens for a ship to be built, mainly of iron, "according to the plan of said Stevens," and to be "shot and shell proof." The contract was made. Before the time expired, Mr. Stevens desired an extension of the time, and I believe the extension was granted by the Secretary of the Navy; but it was subsequently stopped, because he had not furnished the Navy Department with his plan. He insisted that he was not bound to furnish the Navy Department with his plan. They, on the other hand, took the ground that he was bound, and, I think, with propriety; because the law required the vessel to be built, "shot and shell proof." The Navy Department, therefore, had a right to know what the plan was, in order to ascertain whether it was or was not likely to be shot and shell proof.

Mr. STOCKTON. Facts are very important in this matter, and it is quite as important to understand them as we proceed. This must be my apology for interrupting the gentleman from Virginia. I know he does not design or wish to state anything which is not the fact. I insist that there is no official evidence that Mr. Stevens refused to show his plan. I have the contracts here in my hands, in which his plan is fully set forth. In my judgment that was a mere pretense on the part of the Department. I repeat, he has submitted his plans, and if the gentleman will read the contracts, he will there find them specified in detail, from beginning to end.

Mr. HUNTER. Well, sir, there is difference of opinion about the subject. I inquired of Commodore Morris and Commodore Shubrick, and I think they are of opinion that he failed to furnish a plan, or at least such a plan as was contemplated by the law. At any rate, that was the ground of objection raised by the Navy Department. In the original contract, I believe Mr. Stevens bound himself to build a vessel which should resist shot weighing not more than sixty-four pounds. I am told that the British Navy are already using guns which send balls of greatly more than that weight, and that a vessel which would only resist shot of that size would not be sufficient for the purposes of harbor defense, with the means of war that are now known. Under these circumstances it seems to me that it would perhaps be best for the United States, and as well for Mr. Stevens, not to prosecute the enterprise further. But, as it is a matter into which he has been led in part by the action of the Government, which made a contract with him, I am very willing to vote what may be necessary to compensate him for any outlay to which he may have been put, for the prosecution of the contract—not to give him any profit, of course, but to save him from all loss. I think, if we were to enter into the history of all these transactions, it would be found that that is as much as he ought to ask; and I think he ought not to desire to prosecute the enterprise further, if, owing to the discoveries in modern warfare, the discoveries in projectiles since that period, such a ship as he proposes to build would not answer the purposes contemplated.

I understand, Mr. President, that the gun invented by the Senator from New Jersey himself, sent a ball through the plates which were designed by Mr. Stevens for the construction of this steamer. That was a twelve-inch gun.

We have in use, I am told, ten inch guns, and the British Government are using eleven inch guns. At least I am so informed by persons better acquainted with this subject than I am. This makes it probable that this experiment cannot succeed for purposes of harbor defense. It is not probable that Mr. Stevens could make a ship which would resist the projectiles now known.

Mr. BAYARD. Are the eleven or ten-inch



shot of which the Senator speaks, solid shot, or not?

Mr. HUNTER. I do not know; but I know that Commodore Morris told me they were shot of greater weight than sixty-four pounds; and I think, though I will not speak with certainty on this point, that he told me some of these shot would weigh one hundred and twenty pounds.

Mr. STOCKTON. If the Senator from Virginia will permit me, I can relieve him from all difficulty in regard to that objection.

The first objection made by the honorable Senator is, that Mr. Stevens refused to submit the plan of his steamer to the Department. Sir, I say again, the plan was submitted, and is now here before me. In regard to this other objection, as to the improvement of shot, I have to say that I am quite willing that the resolution should be so amended as to require Mr. Stevens to construct a vessel that will be proof against any shell or shot now in use in the Navy of the United States.

Mr. HUNTER. That would relieve the resolution in part. But it is to be remembered that this contract requires the Government of the United States to advance for materials as he goes along; and what security are we to have, in the event that he should fail in resisting any projectiles known at the time of the completion of the ship, that the money will be returned? Now, if it is designed to save the United States, there ought to be some provision in relation to that matter; for, by the time the vessel is completed, the Government will have advanced very nearly its cost, as I understand the contract. Therefore it seems to me that if the resolution is to take that shape, there ought to be some provision for refunding this money which will have to be advanced. In relation to the plan, I think there are certain things specified in the contract, but I do not think it specifies the thickness of the plates, or the mould or form of the vessel.

Mr. STOCKTON. The plates are to be four and a half inches thick.

Mr. HUNTER. Is that the thickness of the plate through which the Senator from New Jersey sent a ball with his gun?

Mr. STOCKTON. Yes, sir.

Mr. SEWARD. Mr. President, I hope this resolution may pass. The contract with Mr. Stevens was made, not upon an assurance and a certainty that such a steamer as this could be built, but by way of experiment to ascertain whether it was possible; and to secure such a result, if it was possible. It was wisely made, if the character of Mr. Stevens for intelligence, sagacity, and science, gave a guarantee that he would ascertain this important result. No one can question that the character of Mr. Stevens afforded that guarantee. A more accomplished, scientific, mechanical engineer, does not exist in this, or any other country. The country is filled already with trophies of the success of his experiments.

It was wise, then, to obtain this measure of defense through this agency. And now I ask, whether anything has occurred to shake the confidence of the public in the success of the experiment? I submit that nothing has occurred; that the character of Mr. Stevens remains as unquestioned as before; and that he has prosecuted the experiment with diligence, with the most lavish expenditure of his own private means; and yet, at the same time, with caution marking every step—going across to England more than once for the purpose of obtaining materials there, which could not be obtained here.

This would seem, then, to be a question foreclosed, if the action of Congress ever forecloses debate. Congress went into this for the purpose of experiment. They went into it wisely. Having no substantial cause to recede, they are bound in good faith to him, and bound by considerations of the wisdom of the original proceeding, to prosecute it to an end. The question whether he submitted his plans to the Department, is a question that has passed. No material inconvenience or injury has resulted from it. If he did not at that time submit his plans, they are now before the Department. But we are told that Mr. Stevens cannot succeed in producing such a vessel as was contemplated. Sir, I remember that all the scientific men in England—and there are as scientific men there as anywhere—maintained that it was

impossible to navigate the ocean between the two continents with steam. That was settled as a principle of science; established, it was supposed, by the *savans* of Europe, the very day when the Sirius and Great Britain arrived simultaneously from England in the harbor of New York. There is no way of knowing what cannot be done in science, but by trying.

Sir, I remember to have met a gentleman who told me that, in the year 1804, 1805, or 1806, when he was visiting Paris, at a dinner party at the American minister's, there was a young man exceedingly loquacious and offensive, because he engrossed too much of the conversation; and he confined his remarks to a single topic, and that was the subject of navigation by steam power alone. And he said to incredulous ears all around him, that if he could only get the sum of \$10,000, he would, in two years from that date, have a steam-boat upon the Hudson river, which would navigate from the commercial to the political capital of the State of New York, at the rate of four miles an hour. He was voted an enthusiast. That young man was Robert Fulton. The Government did not furnish the means, but he obtained them from liberal patrons, and completed his experiments, and we have the vast result.

I remember also, sir, that when there was a project to establish communication by the use of the electric fluid, but a few years ago, it was maintained that that was impossible. Congress appropriated the money to be applied, in the hands of a scientific man, in whom the nation had confidence, that, if a desirable result could be obtained, he would produce it—and they gave it not grudgingly—to make the experiment between this city and Baltimore. In spite of incredulity here and elsewhere, the experiment was successfully carried through.

It would have been just as wise to have arrested Fulton in his first experiments, or to have given over the steam navigation on the Atlantic without an experiment, or to have arrested the progress of Morse in producing his invention, as it would be for you, in regard to Mr. Stevens's invention, to stop at the point where you are.

Mr. President, on the general question, it seems to me there can be no doubt. I remember, a few years ago, when the British Government demanded of the American Government the surrender of a subject of the Crown of Great Britain, who was arrested on a charge of crime in the State of New York, and intimations were made by the public newspapers and elsewhere, that, unless the demand was complied with within a given time, the port of New York would be bombarded by a British fleet; and British vessels were said to be on their way and hovering on our coast for that purpose. I remember the consternation and panic which was produced, not only in that great commercial capital, but throughout the United States, and that men were willing, without inquiring into the justice and merits of the question, or waiting to deliberate or debate upon it, to save the commercial capital of the country by surrendering to the demand of the foreign Power at once—to humble the nation at the feet of the mistress of the seas. That is precisely the condition in which we are to-day, and in which we shall be until we adopt some policy of defense for our great commercial towns; and I know no policy that can be adopted so wisely as to furnish to judicious, qualified, and scientific engineers the funds necessary to produce, if possible, a floating defense, to be used in aid and in coöperation with the stationary defenses of American ports. I hope, then, that the resolution may pass.

Mr. HUNTER. This case presents two questions. The first is, whether we have entered into a contract which binds us to proceed any further. If we have entered into such a contract, we are bound to go on. But so far as I have been able to determine, from the examination I have made with regard to that question, it seems to me that such is not the case. The law requires the Secretary of the Navy to enter into a contract to build a ship according to the plan of Mr. Stevens, which shall be shot and shell proof. I do not profess to have looked into all the papers relating to the proposition of Mr. Stevens, or to have examined them with great accuracy; but I have understood that the statement of the Navy Department is, that they suspended the contract because such a plan as they supposed the law to contemplate, was not presented to them. That

is their ground, as I understand. If such a plan was not presented to them, I think they were justified by law in suspending the contract; because the law required Mr. Stevens to build a ship, composed of iron, which should be shot and shell proof. They had a right to look into the plan, in order that they might guard the Government against the loss which would be incurred by a visionary project.

Mr. STOCKTON. If the Senator from Virginia [Mr. HUNTER] will excuse me, I must again and most positively insist that there is no evidence whatever to show that the Navy Department has ever even made that an excuse for not complying with the contract. If the gentleman has any official record to that effect in his possession let him show it. There is no such evidence. On the contrary, I believe that that never was the reason assigned for refusing to continue the payments to Mr. Stevens. If I understand the matter aright, that refusal arose simply from the fact that the Secretary of the Navy, Mr. Preston, undertook to say that his predecessor had no right to continue the contract; and therefore he was bound to refrain from paying anything more, and to refer the matter to Congress. If the Senator from Virginia [Mr. HUNTER] has any official information which can alter that state of the case, I should be glad to see it. I insist that the Secretary of the Navy was wholly wrong in his opinion, that his predecessor, Mr. Mason, had no authority to continue the contract; no doubt he thought so, and did not feel authorized to continue the payments, and therefore referred the matter to Congress; and that is the very reason why this resolution is now before the Senate.

Mr. HUNTER. The statement which I made was drawn from Commodore Morris. The documents and papers which relate to the subject are very voluminous, and I have not had time to examine them fully, but I presume that the Navy Department would not discontinue the contract without some lawful ground. The reason which I have stated was regarded as sufficient, I believe. If my memory serves me correctly, the Senator from New Jersey [Mr. STOCKTON] showed me the argument of the counsel of Mr. Stevens, in which he undertook to show that Mr. Stevens was not under the necessity of presenting his plan. At any rate, I think the Navy Department, consisting of a board of skillful, scientific, and experienced officers—gentlemen who thoroughly understood the business of their profession—had some ground upon which to act before they suspended this contract. And I say that if, under the circumstances, they were justified in doing it by the law, then the only other question which arises is, whether, admitting it was proper to suspend the contract, it would now be politic to enlarge or renew it. Here again we have only to rely upon the opinion of persons better skilled in such matters than I am. The Navy Department did not think it was politic to go on with this contract. I should suppose it would be satisfactory to all parties to compensate Mr. Stevens for what he has already laid out or lost, rather than to go on with it, especially as the contract calls for the construction of a battery or ship which would be able to resist a sixty-four pound shot. I believe a much larger projectile is now used than was in use at the time the contract was originally made. If this be so, then why should we build a ship, which, though it would have been efficient then, would not be so in the present state of naval science?

But the Senator from New York tells us that, because Fulton made great discoveries, and there were some very incredulous persons at that time, and because he succeeded, and because other men who have made discoveries have been met with incredulity, therefore it is improper to resist this application. That sort of argument would prevent us from opposing any scheme, no matter how visionary it might be. There was a better argument at hand, founded upon the reputation of this gentleman, who is a skillful engineer, and who has done a great deal for the cause of art, and something for that of science. But, sir, it seems to me that instead of adopting his opinion in relation to it, it would be a more prudent and cautious course to rely upon that which governed the Department; and therefore I was disposed to suspend the work till we have more information in relation to it.

I acknowledge that the opinion of the Senator

from New Jersey [Mr. Stockton] has great weight with me, because he, too, is an expert; and if there were not so decided an opinion upon the other side, and if I did not think there was substantial evidence as to the probability that this experiment could not succeed in the present state of naval science, I should go with him. But, as things now stand, I cannot vote for the resolution. If, however, it is so amended as to provide that Mr. Stevens shall be paid for the amount he has expended, or which he has lost in consequence of his experiments, I will go for that most cheerfully, because I think he was led into a contract by the Government. I do not think, however, that the contract, or the law, binds the Government to go any further, if the Department conceives that the experiment has failed.

Mr. MALLORY. Mr. President, I trust that this resolution will pass without the amendment suggested by the Senator from Virginia. I know of no greater act of injustice that could be done to Mr. Stevens than that which is embraced in the proposition of the Senator from Virginia. A contract has been made with Mr. Stevens, by authority of an act of Congress. That contract has not been fulfilled; but the failure has not been on the part of Mr. Stevens, or in consequence of any negligence of his; but it has failed in its fulfillment because it was discontinued by the Department, and no reason for the discontinuance of that contract has yet been shown. No reason exists now why this law should not be passed which did not exist in equal force in April, 1842. I regard the construction of this vessel not altogether as an experiment; but if I did, I would still think the money to this extent would be well laid out, in order to test the principle. It is important that the United States should demonstrate that a proposition which has been maintained by scientific men of all nations—a proposition having an important bearing upon the defenses of this Republic—is either tenable or untenable. It has engaged the attention of Commodore Barron, General Gaines, and many other distinguished military men on both sides of the Atlantic; and it now comes from a man who stands at the head of his profession in this and in every other country—a man who has given the most valuable practical proofs of his knowledge. And shall we, when he offers to come forward, not with the view of making a job of it, not with any expectation of realizing pecuniary advantage to himself; when he lays before us the experience gleaned by a lifetime of observation, practice, and study, shall we cast his proposal aside because one or two naval officers who have, perhaps, never built a ship in their lives—shall we cast aside this suggestion because they may think it impracticable? I hope not, sir. No one entertains a higher respect for our naval officers than I do, especially when they confine themselves to their legitimate duties; and no one is more ready to listen to and appreciate their suggestions, when they speak of that which comes within the line of their proper avocation; but when they speak of things with which they are less conversant, and venture their opinions in opposition to those of Mr. Stevens, upon a question which he has so well examined, I must say, however highly I may estimate their talents in other respects, that their opinions are not entitled to any peculiar consideration.

Sir, the opinions of Mr. Stevens on this subject are more valuable than those of any person in the United States. When he first made this proposition, he found the coasts of the country, as they are to this day, comparatively defenseless. A careful examination has shown that every point upon our coast is vulnerable. The harbor of New York may be entered at any time, and the Empire city reduced to ashes, by the existing means of European naval warfare, notwithstanding the fortifications which you there have; and Mr. Stevens has brought forward his plan for the construction of a floating battery, designed to remedy this defect to some extent, and invited public attention to it. He made experiments, which were attended by a joint commission of military and naval officers; and that commission was fully satisfied that his proposed battery would resist any shot or shell used in naval warfare. The members of the Chamber of Commerce of the city of New York examined it, and have approved of it in terms equally strong. The navy commissioners examined it in the samelight, and recommended

it for the same purpose. When, therefore, the proposition of Mr. Stevens was brought forward, it had been as carefully tested as it was in the power of man to test it. We had more information on this subject than is usually entertained in relation to matters that have not been practically developed in all their details.

Now, sir, permit me here to remark, that while every port we have is open to an enemy, the coast of France is so perfectly fortified and protected that no hostile fleet, from the year 1798 to the year 1815, notwithstanding all the efforts of the British, was able to enter any of their ports.

The design of Mr. Stevens will be understood from the following proposition laid before Congress in 1842:

WASHINGTON, January 25, 1842.

The steam battery or vessel above referred to is to be constructed on a plan entirely new, invented by the writer, and is to be shot and shell proof. She is to have greater speed than any vessel of war now afloat. The engine and propelling parts are to be so placed as that the latter shall be submerged, and the whole engine out of the way of shot from the vessel of an enemy. Her guns are to be large, and adapted both to shot and shells. Her burden not to be less than 1,500 tons.

The practicability of rendering such a vessel proof against shot and shells is not a theoretical assumption, but has been proved by the tests of positive experiments. These experiments were recently made at Sandy Hook, under the superintendence of Messrs. John C. and Edwin A. Stevens, and in the presence of a joint board of Army and Navy officers appointed by the Government. From the result, no doubt whatever remains of the fact that a series of wrought iron boiler plates, riveted together, and placed upon each other until the strata amount to four and a half inches in thickness, will effectually resist the force of sixty-four pound shot when fired with battering charges at the distance of thirty yards. Fifteen or twenty shot were also fired at this distance, and from guns of different calibers, against a target thus constructed, and were made to strike it in a fit state to protect anything in its rear against a similar force. Shells fired from the same distance scarcely indented the iron; and both shot and shells were invariably broken into small fragments.

The above-named experiments were tried under the supervision of the officers of the Army and Navy. At the last of these the writer, who had just returned from Europe, was present, and trials were then made upon the effect of shells of a peculiar construction, which were prepared by him. These shells are hermetically sealed, and are effectually secured from accidental explosion, either from fire or from violent concussion. They are perfectly safe also from injury by submersion in water. They are so constructed as to explode after having penetrated the object against which they are discharged; and, being elongated, contain three times as much powder as the common shell of the same caliber. They do not require the use of mortars, but may be fired from the guns in ordinary use. Out of twenty of these shells which were discharged into timber, or into banks of sand, nineteen exploded in the manner anticipated—rendering the action sufficiently certain, and evincing the possession of properties not possessed by any other shell, and producing effects which were actually tremendous.

It will be manifest that a steam-vessel, or battery, fortified in the manner above described, and furnished with the means of rapid propulsion, would be able to approach an adversary's vessel so securely and so closely as to render it practically impossible to miss her with shells fired horizontally; and it does appear that a vessel possessing the properties above enumerated, would be able to attack and destroy any fleet of steamers, or of sailing ships, as now constructed, which might be sent to attack a city, or to blockade a port. The ports of such a vessel through which the guns are fired, having a thickness of four or five inches only, might have port-holes but little larger than the muzzle of a gun; and yet allow it to be fired at any desired angle. These port-holes may be readily protected from canister, grape, or other shot, by means of movable screens, so constructed as to be removed and replaced with facility.

A single shell of large dimensions, and of the kind prepared by the writer, will suffice to sink the stoutest wooden vessel, if exploded within her sides, anywhere near the water-line. The effect of such a shell upon a structure of wood, was fully tested under his superintendence, upon Governor's Island, in the harbor of New York, upwards of twenty years ago. The experiments were made by order of the Government, in the presence of the late Colonel House, and of several other officers, with the following result: A target of white oak was constructed in the strongest manner, by one of the best ship-builders; it measured five feet in thickness, and the timbers were secured together by iron screw-bolts, passing entirely through the whole. This target was perforated by the explosion of a single shell, a hole being made in it through which a horse might have passed. Seven timbers of white oak, each measuring twelve by sixteen inches, were torn into shreds, and scattered to a great distance.

The foregoing plan of constructing and arming a vessel, with most of its details, has been matured for many years, and the delay in bringing it forward has resulted from a conviction that a period more favorable to its adoption than any that has heretofore occurred would arrive, and it is believed that it has now actually arrived. The advantage of being the first to construct a vessel of this description would be very great, as it must render us secure for a long time against the vessels of war of other nations, as these would require to be built anew. As a means of defense, it would be cheaper than any other; and, in time of peace, such a vessel would suffer but little from the ravages of time, and but few hands would be required to keep her in a proper con-

dition for use. Her ventilation would be artificial, and constantly and thoroughly applied. In actual service, her crew, of all grades, would not probably exceed one hundred and fifty. She would need no rigging. With anthracite as fuel, she would not be rendered visible, either by smoke or by sparks, and would therefore attract the notice of an enemy less, either by night or by day, than any other vessel.

Although a vessel or battery of the kind described is equally adapted to the protection of all our ports, the harbor of New York will probably be considered as one of those the best fitted to an experiment with it, if experiment it may be called. Its spaciousness, its great depth, and its vicinity to fresh water, which will render it easy at any time to free the bottom of the vessel from barnacles, concur in pointing it out as a suitable place for the purpose.

The knowledge of the existence of such a vessel would suffice to deter most commanders from risking an attack with a vessel of wood, where the chances were so decidedly against them.

ROBERT L. STEVENS.

The construction of floating batteries for the protection of harbors is no original idea with Mr. Stevens. It has been entertained by the first military and naval men for the last two hundred years, but the United States is the first nation which ever entered upon the direct road to attain this important object.

It will not be contended that a general system of floating batteries is applicable to harbor defenses in this country. It is only applicable to the bay of New York or other large bays, where permanent works, within proper ranges of channels, cannot be constructed. In such places only these batteries would be wanted.

To show that a gun upon a battery of this kind is superior to guns afloat on shipboard, I have only to refer to the history of naval warfare within our own knowledge. It is proposed to construct a floating battery of iron boiler plates, capable of resisting a sixty-four pound shot, at a range of thirty yards. It is to be scarcely elevated above the water-line, and will have so much steadiness as to give the guns scarcely any motion. It is to be nearly equivalent to guns on actual battery on shore; and what guns in actual battery on shore will do in comparison with guns afloat, is well known.

Let us recur again to the experience of the present generation:

"The name of Martello tower was adopted in consequence of the good defense made by a small round tower in the bay of Martello, in Corsica, in the year 1794, which, although armed with one heavy gun only, beat off one or two British ships-of-war, without sustaining any material injury from their fire.

"Sir Sidney Smith, in the Pompey, an eighty-gun ship, the Hydra, of thirty-eight guns, and another frigate, anchored about eight hundred yards from a battery of two guns, situated on the extremity of Cape Lecia, and protected by a tower in which were five-and-twenty French soldiers and a lieutenant. The line-of-battle ship, and the frigates fired successive broadsides till their ammunition was nearly expended, the battery continually replying, with a slow but destructive effect. The Pompey, at which alone it directed its fire, had forty shot in her hull, her mizzen top-mast carried away, a lieutenant, midshipman, and five men killed, and thirty men wounded; at length, force proving ineffectual, negotiation was resorted to, and after some hours' parley, the officer, a Corsican, and relation of Napoleon, capitulated. It then appeared that the carriage of one of the two guns had failed on the second shot, and the gun had been subsequently fired, lying on the side of the embrasure; so that, in fact, the attack of an eighty-gun ship and two frigates had been resisted by a single piece of ordnance."

Within our own knowledge, upon our own coast, both in our revolutionary struggle, and during the last war, particularly at Mobile Point and at Sullivan's Island, it was shown that one single gun on shore is worth twenty-five guns of the same caliber afloat.

But I will refer to an occasion which must be within the memory of all of us. At the taking of Vera Cruz—

"The Mexicans brought nineteen guns only into action, and many of these were of small caliber, there being only one twenty-four pounder, and the remainder consisting of twelve, sixteen, and eighteen pounders, with one eight pounder. These reduced into twenty-four pounders, the smallest size of guns generally used on ship-board, make the nineteen equivalent to twelve guns.

"The French ships mounted one hundred and eighty-eight guns, or computing only one broadside, ninety-four guns, and four sea mortars.

"The Mexicans permitted the French to be towed by armed steamers into position, without molesting them, and the firing commenced on the part of the assailants."

I refer to this action because even among military men great misconception prevails in regard to the affair at Vera Cruz:

"Early in the action, a shell from the fleet caused the explosion of a magazine in the castle, which dismounted three of the nineteen guns. The French fired eight thousand two hundred and fifty shot and shells, and, but for the explosion caused by the negligence of the besieged, there is nothing to account for the surrender of the fort. The exaggerated statements of injury inflicted on the walls by

horizontal shells, are not sustained by the official report of the engineer of the expedition, although the works were built of a stone much softer than any used in such works in the United States.

"Of one hundred and eighty-seven guns found in the fort, one hundred and two were not serviceable—twenty-nine only having been dismounted by the French fire. The heaviest injury was sustained in the batteries where the explosion took place—an accident that cannot occur from like causes in our forts. The works were out of order, the guns old and neglected, and the garrison inexperienced and ignorant of military defenses. No idea of taking the place was entertained by the admiral in this attack; he designed to weaken the defenses somewhat—to dispirit and annoy the garrison, preparatory to a general assault at night. But the culpable, inconceivable neglect of the Mexicans, rendered further efforts, on his part, unnecessary. Only sixteen guns were engaged in the fight, and such was the inefficiency of their fire, that, although three French frigates were struck in their hulls about three hundred times, they lost but thirty-three men in killed and wounded. The *Ipigénie* was hulled one hundred and sixty times, and yet but thirteen men were hurt! Very few, therefore, of these one hundred and sixty balls could have passed through her sides; and yet, in proportion to the guns engaged, the loss of the French here was upwards of four times as many as that of the English at Trafalgar. Few, if any, of the guns exposed to the direct action of the French broadside, were dismounted or silenced, 'which continued to fire till the end of the action. Of the twenty-nine guns dismounted, 'five were blown up, and the remainder were on the opposite side of the work, and struck by shot or shells, which 'had passed over the walls facing the ships.' From the position taken by the French, only sixteen guns were actually brought to bear against them from the fort.

"Had the Mexicans thrown their powder into the sea, or carried it to their barracks, and every man, making a pillow of the keg, slept through the whole cannonade, (as might have been done safely,) in their quarters in the curtain casements, the castle St. Juan d'Ulloa would have, we doubt not, been as competent to resist the projected assault as it was when the French first arrived before it."

I will not read the whole of that account, but I refer to it to show the importance of guns on batteries over guns which are afloat. The importance of building a battery of this kind may be judged of by the forces that may be brought against our harbor defenses; for, unless a force can be brought against our harbor defenses which we cannot now resist, no satisfactory argument can be given why floating batteries should be built; but I must also inform the Senate that within the last six months the British Admiralty have given orders to build no more sailing ships. No more sailing ships are to be built, and they are now altering their line-of-battle ships and their larger frigates into screw propellers, of which they have twenty-nine, giving to them an auxiliary power of from five to seven knots. These twenty-nine ships average each thirty-four guns, and a burden of one thousand six hundred and four tons. Three of these ships are larger than the United States ship *Pennsylvania*; and one of them carrying one hundred guns, and being three thousand three hundred tons burden, could blow our whole steam navy out of the water. All the machinery of these screw propellers is below the water-line, and therefore invulnerable to any but a plunging shot. Such are the vessels, armed with ten-inch shell guns, which will be brought against our harbors in the event of a naval war with either of the great Powers of Europe.

It is proposed by Mr. Stevens to build a battery which shall be shot, ball, and bomb-proof against sixty-four-pound shot; and there will be no objection to the adoption of the amendment of the Senator from Virginia, so as to conform its resistance to any kind of shot which may now be used by the Navy of the United States. There can be no difficulty in regard to that, because Mr. Stevens tells us how the ship is to be built. To resist sixty-four-pound shot, it is to be built of boiler plates, riveted together to a certain thickness, and all that is necessary is to increase the thickness of the mass in order to increase the power of resistance.

I will remark, that this opposition seems to come from the Navy Department. I do not mean by this that it comes from the Secretary of the Navy. As that Department is now administered, the Secretary of the Navy is its responsible chief; but the business of the Department is parceled out to naval officers at the heads of its several bureaus. When the honorable Senator from Virginia, therefore, quotes the adverse opinions of the Department upon this measure, it must not be understood to come from the chief of the Naval Department, but from the naval officers themselves; and in this resolution, which we propose, we are willing to let the opinions of Mr. Stevens stand side by side with the opinions of any naval officer in our service.

As I said before, this proposition comes recommended to us not only by some of the first naval and military officers of the age, but it comes from a man who has made the greatest improvements in ship-building and in the application of steam to vessels; and in view of the immense importance of the matter if we should fail, the \$240,000 will be well expended. If we demonstrate by actual trial that it cannot be done, we shall have proved that to be impracticable which some of the first military men of the age have declared to be important and practicable.

Mr. TOUCEY. I will detain the Senate a very few moments only. I acknowledge I am somewhat surprised at the apparent opposition, which exists in this body, to the introduction of steam power into our system of naval defense. I cannot bring my mind to believe that there actually is any such opposition. In this age of the world, at this late day, after this mighty element has revolutionized almost every department of business, has revolutionized the face of the world, can there be any opposition in any quarter to the introduction of it into the Navy of the United States? I do not believe that any such opposition really exists. If it does not, in what way is this element to be introduced? The Government, in the first place, entered into a contract with Robert L. Stevens, to construct a war-steamer of the character described. It was recommended by a board of officers of the Army and of the Navy; by the late Board of Naval Commissioners; by the Board of Commerce of the city of New York; and it was then authorized by Congress, and a contract was entered into, under which a very skillful and distinguished gentleman, who made the contract with the Government—not a speculator nor a jobber, but a man of undoubted skill, of the highest skill, and of the highest reputation of any man in this particular department—entered upon the undertaking. Shortly after he had entered upon it, it was arrested by the Secretary of the Navy. I think Mr. Secretary Henshaw suspended the payments. Again a new contract was entered into by the late distinguished Secretary of the Navy, Mr. Mason, of Virginia; and within a short year after he had entered into that contract, it was suspended again, and it continued suspended until application for renewal was made in 1847. And then, in the month of June or July, 1848, the contract was again renewed by the same Secretary, after full and deliberate consideration. That contract is in force now. Why shall it not be carried into execution? It has been suggested here that it was supposed that Mr. Mason had not authority to enter into it. I should like to know upon what ground? None is stated—none is intimated. I cannot take it upon presumption. That Secretary was among the most eminent and distinguished lawyers of this country, and was long upon the judicial bench. I venture to say that he did not, during the recent Administration, enter into a contract of this importance, in behalf of the Government, without full authority to do it.

This contract, then, was renewed by the Government in 1848, giving Mr. Stevens the period of five years to construct this steamer. Unless some Senator can point out a defect in the authority which was exercised, what course must the Senate pursue? Why, sir, the faith of the Government is already pledged. The question is a past question. We have gone into the measure; Congress has adopted the policy, and it has been executed by a contract. The good faith of the Government, I repeat, is pledged for the execution of it, and yet it has been suspended, and it has been referred to Congress to say whether the Executive shall go on with the payments. The time has not yet arrived when this war steamer was to be delivered. The contract is in force; and as to any delay that has occurred, it was occasioned by the experiments which he made, by the investigations entered into by the contractor for the purpose of accomplishing the undertaking in a manner most conducive to his own fame and to the object which Congress had in view. If there were any delay, the Government has waived it. The late Administration acted upon it, and extended the period to five years from the summer of 1848. That was done upon consideration and deliberation; and it was done because the Executive Department believed it to be their duty to carry out the contract that had been previously made under an act of Congress. What are we to do? Where is the rem-

edy? This Government cannot be brought before a judicial tribunal. The party with whom we have contracted has no remedy except to appeal to the sovereign will of Congress; and it is clearly a question now of good faith on the part of this Government in carrying out a contract which was deliberately made upon a most important subject. Shall that good faith be kept inviolate, or shall we simply neglect it altogether? There is, I think, no subject here for debate, unless it be whether this Government will observe good faith in its contracts. Unless that be a question, there would seem to be no question before the Senate.

But suppose it were an open question in this particular instance, still the inquiry arises, what line of policy is it expedient to adopt? The Government has entered into an arrangement with Messrs. Collins & Co. by which, with comparatively little cost, we are entitled to the steamers of that line whenever the exigencies of the country shall require them. We called to our aid the energy, activity, and power of commercial enterprise. By the arrangement we incur no expense beyond a remuneration for transporting the mails until we take the vessels and pay the appraised value.

It is my conviction, in regard to that line of steamers, that when the termination of the contract shall have been reached, the Government will have incurred little or no expense; and yet it will have those steamers, at command, constructed after a model directed by the Government. But when the question of sustaining this line came up, it was resisted in the Senate. Some here were not willing to concur in that mode. There was an opposition in the Senate to that mode of introducing the element of steam into the Navy. It may be well founded. I gave my vote to continue the contracts, and carry them out, because the Government had pledged its faith to do so; and, having embarked in the enterprise, I would go through with it in the face of the British competition, over which it had signally triumphed.

But here is an arrangement of a different description, where the Government has entered into a contract to construct a vessel that shall be shot and bomb-proof, with a responsible individual, the most skillful and accomplished man in that department in this country; and that is resisted and opposed here. There is only one other mode of accomplishing the same object, and that is, for the Government to construct its own war steamers, to sustain them in commission from year to year, to rebuild them when necessary, and then at last, when war comes, to reckon up the cost. Of all modes of constructing a steam marine for war purposes, this doubtless is the least economical, and would bring the heaviest charge upon the Treasury. The cost of them will be immense. Be it so, however, if it be necessary for the defense of the country; because that is an indispensable consideration, and one that outweighs every consideration of a pecuniary character. But the Government has not adopted that policy. The Governments of other nations are introducing this element into naval warfare, and we are told by the Senator from New Jersey [Mr. Stockton] that our coast is now perfectly defenseless against war steamers. What, then, shall we do? I speak to those who oppose this measure. You will not call the skill and power of commercial enterprise to aid you in the construction of war steamers; you will not enter into a contract with the most accomplished, experienced, and reliable men to construct them according to their own judgment, and of a description specified in this contract, or perhaps any other contract, and you will not propose that the Government embark in the construction of them by its own officers or agents—a course undoubtedly the most costly, and perhaps most extravagant, to which, however, if it be found necessary, I have no objection.

One point is settled in my mind. This element of steam must be brought into the Navy of this country. It is indispensably necessary. There is not a city upon the coast; there is not a State in the Union, upon the Atlantic board or upon the Bay of Mexico, that is not directly interested in the measure; and we should be behind the age in which we live, were we not cheerfully and readily to go forward and avail ourselves of it. I say, there is no choice. It must be done; it will be none. There is only a question as to the manner in which it shall be done. I would refer to the South. There is an excited feeling in the public



mind, not only in this country, but abroad; and in case of a war with a European Power, can the coast be left defenseless? Is it not important to them—is it not important to every portion of the country bordering upon the ocean, and upon the Mexican gulf—is it not important to the whole country that you should have this description of naval marine, that in a few days could be sent to any point upon the coast for its security? Sir, I dislike to see the vessels of an enemy, riding safely in our waters, month after month and year after year, in the event of war. We have seen it once. I hope we shall never see it again. And how are you to avoid it? You must adopt this system which has been adopted by all other countries having occasion to introduce it. You are now by the element of steam able to throw upon any one point one hundred thousand men where but yesterday you could throw scarcely ten thousand. On land we have power enough through this instrumentality. What you want, and what you must have, is the same power upon the water.

For my part, I propose to go on with the contract which the Government has made, until it is accomplished. If one mode does not meet the object, I would adopt another. The object is too important to be permitted to languish, or not to be accomplished, by differing about the mode. I would resort to every mode. It is a matter of experiment; and, when you are certain what is the best mode of doing it, follow out that mode. The end must be obtained. So that, were this an open question, I should myself entertain no doubt that, as the object is one that must be accomplished, we should carry out the mode adopted in this particular instance, unless an insurmountable objection can be shown to it. But, having adopted this, and one other mode, without any proposition to adopt still a third one, I shall support this resolution. I go for it, because I approve the object of it; because I have the highest confidence in the distinguished gentleman who has undertaken the task, and whose honor and fame are pledged to the accomplishment of it; because the object is indispensable, and the time has come when something ought to be done, and these delays should cease; and because the faith of the Government is pledged for it, if the Executive, in pursuance of the clear provisions of an act of Congress, is capable of pledging the faith of the Government. I hope, therefore, that the Senate will pass this joint resolution. I have confidence in the distinguished Senator from New Jersey, who reported it, and is perfectly familiar with the subject; and I take leave to say that I think Senators will do well to confide in his judgment. And when this measure comes here thus supported and recommended, I think we should commit a fatal error—not fatal; I speak too strongly, perhaps—but a very great error, if, in violation of the pledged faith of the Government, we should defeat an enterprise of this high character. I hope, therefore, that the Senate will not adjourn without adopting this resolution.

Mr. DAVIS. Without entering into the obligations of the contract, or the considerations of that description, there are but two ways in which the Senate can very well deal with the subject—it being an experimental contract. If such progress had been made in the matter as to satisfy the Government that the experiment will be a failure, then I should be for putting an end to it; but not without a suitable compensation to Mr. Stevens. If the experiment has not been tried so as to reach a result which justifies that conclusion; if there is no good reason why the experiment should be abandoned, then I think it ought to go on to its completion. I concur with the honorable gentleman who has just taken his seat, that the time has not only come, but that it has long since been here, when it is the duty of the Government to take up and consider the matter of the defense of the country by the agency of steam. I think, for a period of at least thirty years, and I do not know but longer, a shot and shell-proof floating battery has been esteemed an object of great importance to this country. There have been many devices and many schemes to attain this object, and there have been many inventions in regard to it. Without entering particularly into that, it is manifest to every man of observation that steam enters necessarily into the defense of this country, as an important and essential element. The agency of steam, coupled with that of the telegraphic wires, will almost necessarily work out an entire

revolution in the defenses of almost every country. The means of transmitting information, with the facility of locomotion, must bring about a result of that description.

My motive for sustaining, in the first place, the Bremen line of steamers, as offered here for our consideration, was not that I wished to put that line in competition with the trading merchant; not that I wished to put it upon the ocean as a company of trading steamers; but the great and leading sentiment in my mind was to adopt some scheme by which the Government and the people of this country should become more thoroughly acquainted with the uses of steam and the means of employing it. I thought then, and I think now, that we were behind many important commercial countries in this particular; and being ourselves one of the largest commercial people upon earth, and promising soon to be second to none, it seemed to me that if this principle was important to any country, it was to the United States. So it was when the Collins line came up. I would very gladly have expressed my sentiments upon that subject when it was under consideration, but I thought it had been debated enough, and therefore I forbore to do it. When we voted for that line, and when I voted for the additional grant to it, I proceeded upon the principle, that we were acquiring knowledge which was indispensable to the defense and security of this country, both in the use of machinery and in the construction of vessels; and I will hazard the opinion, that in the simple point of naval structure, we obtained enough by that grant, when by one step we surpassed all countries in the construction of ships, to compensate us for all we have paid. Would I drop down a thing like that, as a thing that was worthless and unworthy the consideration of the country? No, sir. I would go on until the experiment were fairly tried.

In this matter the same principle governs me. I see that there may be progress made. I see that there may be useful results by experimenting; and I see that the only way in which we can attain that object is by an experiment. That experiment may fail. The money may be lost. It is a contingency by no means improbable. But still, the end may be attained; and I know of no other mode of reaching it. I wish attention turned to it. I wish the active minds of enterprising men to be brought to it, to consider it, and meditate upon it; for that is the way to obtain the result which we are after. As I have seen nothing disclosed in this matter which leads me to suppose that the contract has been suspended because of the probable failure of the scheme of the contractor, I am disposed to go on, although it will cost some money to do so. I deem it important to this great and extensive country that we should have the best and most efficient means of defending and protecting both the sea-coast and the lake-coast. Our security depends upon it. The extent and magnitude of our fortifications depend upon it. It is so closely connected with the defenses of the country, that we can hardly measure the necessity of fortifications, until we discover the extent and practical use of steam. Under these circumstances, I am quite willing to vote for the measure which is now before us. I regret that the main object should have been frustrated from time to time; still I am not disposed to cast reproach upon anybody. I dare say, the gentlemen who suspended the contract, suspended it for reasons which they believed to be justifiable and imperative upon them at the time; but surely their opinions, founded upon ideas of that sort, need not influence us here; and we are at liberty to proceed and act upon the subject according to our best judgment and understanding. I hope the joint resolution will pass.

Mr. UNDERWOOD. If any gentleman can give me the information, I should like to know how much money has already been expended in the prosecution of this contract, and how much will be required to fulfill it?

The joint resolution was reported to the Senate without amendment, and the question was stated to be on ordering it to be engrossed for a third reading.

Mr. CHASE. I should be glad to have the joint resolution lie over. It is a matter of some importance, and I should like to look a little further into it. I move that its further consideration be postponed until to-morrow.

Mr. STOCKTON. I hope the Senator will

reconsider that wish. I expect to leave this place for a short time, and desire to have the question taken. It has been hanging in the Senate I think for two months.

Mr. CHASE. The joint resolution must necessarily go over upon its third reading; and as the Senator from New Jersey desires it to be ordered to a third reading now, I have no objection to taking the question upon it. I therefore withdraw my motion to postpone.

The joint resolution was then ordered to be engrossed for a third reading. It was subsequently read a third time and passed.

#### CRIMES IN THE DISTRICT OF COLUMBIA.

Mr. BUTLER. I move to postpone all prior orders for the purpose of taking up House bill entitled "An act to amend an act entitled 'An act for the punishment of crimes in the District of Columbia,'" which aims mainly at reckless and criminal incendiaries.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole. It declares that whereas it has been represented that so much of the act of which it is an amendment as provides a punishment for the malicious, willful, or fraudulent burning of stores, barns, or outhouses, not adjoining a dwelling house, has been construed to apply to the cases of burning such houses only when they contain merchandise, tobacco, grain, or hay, whereby offenders have escaped punishment for burning buildings in which neither of said articles were kept; therefore it enacts, that from and after the passage of the act, if any person or persons shall maliciously, willfully, or fraudulently set on fire with intent to burn, or burn any house or outhouse in the District of Columbia, whereby any other person or persons, or body politic or corporate shall suffer loss or injury, although the said house or outhouse shall not, at the time of such setting on fire, be occupied as a dwelling, store, warehouse, or for any other purpose, he, she, or they, on conviction thereof, shall be sentenced to suffer the same punishment of labor as provided in the said third section of the act to which this is an amendment for the offenses therein committed.

Mr. BUTLER. I move, as an amendment to the bill, to strike out the words "set on fire with intent to burn, or burn any house, or outhouse in the District of Columbia, whereby any other person or persons, or body politic or corporate, shall suffer loss or injury, although the said house or outhouse shall not, at the time of such setting on fire, be occupied as a dwelling, store, warehouse, or for any other purpose," and insert in place thereof the following:

"And with intent to injure or defraud any other person or persons, or body politic or corporate, burn, or set on fire with intent to burn, or attempt to set on fire or burn, any house or outhouse in the District of Columbia, though the said house or outhouse shall not, at the time of such burning or setting on fire, or attempting to set on fire or burn, have any goods, tobacco, hay, or grain therein, nor be adjoining to any dwelling-house, nor be occupied or used for any purpose whatever."

Perhaps I had better read the clause in the act which it is proposed to amend, so that it may be done intelligently. It is that for the punishment of arson, and is as follows:

"And be it further enacted, That every person duly convicted of the crime of maliciously, willfully, or fraudulently burning any dwelling-house, or any other house, barn, or stable adjoining thereto, or any store, barn, or outhouse having goods, tobacco, hay, or grain therein—although the same shall not be adjoining to any dwelling-house—or of maliciously and willfully burning any of the public buildings in the cities, towns, or counties of the District of Columbia belonging to the United States, or the said cities, towns, or counties; or any church, meeting-house, or other building for public worship belonging to any voluntary society, or body corporate; or any college, academy, school-house, or library; or any ship or vessel, float or building; or as being accessory thereto, shall be sentenced to suffer imprisonment and labor for a period of not less than one, nor more than ten years for the first offense, and not less than five nor more than twenty years for the second offense."

I propose to amend this clause by the provision which I have read. It has been very carefully prepared, I believe, by the district attorney for this District, and I have no doubt that it is necessary.

The amendment was agreed to.

A verbal amendment was made, on the motion of Mr. BUTLER, by striking out the word "neither" and inserting "none."

The bill was reported to the Senate as amended, the amendments were concurred in and ordered to

be engrossed, and the bill was ordered to a third reading.

#### IMPROVEMENT IN LIGHT-HOUSES.

On the motion of Mr. SEWARD, the Senate proceeded to the consideration of the following resolution, which was submitted by him on the 12th ultimo:

*Resolved*, That the Secretary of the Treasury be requested to transmit to the Senate a communication from J. W. P. Lewis, under date of the 7th of May, or thereabout, with the accompanying documents, relating to the subject of the improvement of light-houses.

Mr. SEWARD, in answer to inquiries from Mr. DAWSON and Mr. WELLER, said: We have the whole subject of light-houses before the Committee on Commerce, and these papers are wanted by that committee.

Mr. HAMLIN. The whole matter relating to light-houses is before the Committee on Commerce. It is advisable and necessary that the subjects contained in the communication referred to in the resolution, should be obtained by the Senate, and be referred to that committee. I hope the resolution will be adopted.

Mr. WELLER. I believe there has been a report made by the light-house board on this subject. It has been presented to Congress, and printed. I should like to know something about the character of this communication before I vote to send for it. I should presume that the Committee on Commerce have all the information necessary to enable them to act in regard to our light-house system in the report to which I have alluded.

Mr. HAMLIN. I wish to say a word in reply to the objection of my friend from California.

Mr. WELLER. I was not objecting to the resolution; but before I vote for it, I wish to know something of the information which is to be brought out by its adoption.

Mr. HAMLIN. It is very true that under the provisions of a law passed a year ago, a light-house board was instituted, and that board has made a very full and voluminous report. As one member of the Committee on Commerce, I am prepared to say that there are many of its suggestions which meet my approbation. But because the light-house board have reported upon this subject, I do not think we are bound to follow them blindly, without listening to any suggestions that may come from other quarters. This Mr. Lewis is a man who has long been engaged in the construction of light-houses, and in connection with them one way or another. I hardly think it is either just or proper to adopt the principle, that because we have had a report from the light-house board, we are not to listen to suggestions from others. I would have all the information upon the subject laid before the committee, that they may form their opinions with the aid of all the lights that may be shed from all quarters.

Mr. WELLER. I should like to know upon what particular point the report bears?

Mr. SEWARD. All I can say upon that subject is, that various communications were presented to the light-house board, containing the views of different parties—the views of persons who entertain different opinions on the subject of organizing our light-house system. This communication was presented among the rest. The report which the light-house board have sent to us, embraces what that board thought proper to adopt with the materials to support their own report and other views which they resolved to accept. The views of Mr. Lewis were not submitted to us by the light-house board. We want to see what they are, for the purpose of judging fully of their merits. This was the whole object of the Committee on Commerce, and this was my object in offering the resolution.

Mr. WELLER. Is the Senator able to inform me upon what point in regard to the construction of light-houses, the report of Mr. Lewis, which it is desired to obtain, differs from the views adopted by the board?

Mr. SEWARD. We do not know, and therefore we want to see what it is.

On motion, the Senate adjourned to Saturday.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 15, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the motion of the gentleman from Virginia [Mr. MEADE] to reconsider the vote by which the main question was ordered on the bill reported by the gentleman from New York, [Mr. BENNETT], granting land to the several States for educational and railroad purposes.

#### RECESS.

Mr. JONES, of Tennessee. I rise to a privileged question. I move that, when the House adjourns, it adjourn to meet on Friday next.

Mr. ROBBINS. Is it in order to move to amend that motion?

The SPEAKER. The Chair thinks it is not amendable.

Mr. ROBBINS. I desired to amend it so as to provide that, when we adjourn to-day, we adjourn to meet to-morrow, and then adjourn over until Saturday.

The SPEAKER. That would be in order if this should fail, as an independent motion.

Mr. JOHNSON, of Arkansas. That motion is not in order, for the simple reason that it provides that, when this House adjourns, it adjourn to meet to-morrow, and that is the standing order of the House. The resolution cannot be amended in that way.

The SPEAKER. The Chair has already decided that the amendment was not in order.

Mr. FAULKNER. I would not willingly throw anything in the way, if it is the desire of the House to adjourn. But I would suggest that we might, in the next three days, by a special order, devote the time of the House to receiving reports from committees, without interfering with the object of any gentleman who desires to go to Baltimore. Our desks are crowded to overflowing with these reports, and if the House would make this order, it would afford us an opportunity to present them, and have them referred and printed.

Mr. VENABLE. I will remark, that if we were to make this order, the moment we are to divide the House—as no doubt some gentleman would call for a division—and there was found to be no quorum present, we should have great confusion, and be compelled to adjourn. I think, therefore, we had better adjourn till Friday.

Mr. RICHARDSON. We had a very fair show of opposition when the House voted to adjourn for the other convention. Now, let us have a fair vote on the other side.

The question was then taken upon the adoption of the resolution, and it was carried in the affirmative.

So it was ordered that when the House adjourns to-day it adjourn to meet on Friday next.

#### PRE-EMPTION TO ACTUAL SETTLERS.

Mr. RICHARDSON. There is a bill lying upon the Speaker's table, a bill granting preemption rights to actual settlers upon lands on the line of the Central Railroad and its branches in the State of Illinois. I am sure no gentleman can have any objection to it. If it is not passed within a few days it will be of no use to the settlers. I ask the unanimous consent of the House to take it up and pass it, if we can pass it, and if not, to let it be defeated.

Mr. STEPHENS, of Georgia. I have no objection to the request of the gentleman from Illinois. But I ask him first to let me make an appeal to the House to give unanimous consent to a motion to allow the bill which is now the special order to be postponed until next Tuesday. I ask it because the House is thin this morning, and many more expect to leave this morning for Baltimore. I ask that by unanimous consent it be permitted to lie over until Tuesday next.

Mr. RICHARDSON. I have no objection to that.

Mr. COBB. I object.

Mr. RICHARDSON. I now ask the unanimous consent of the House to take up the bill to which I have alluded, granting preemption rights to actual settlers upon the Illinois Central Railroad.

There was no objection, and the bill was accordingly taken up and read through by the Clerk.

Mr. MEADE. I move that that bill be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. That motion is not in order, because the previous question has been demanded.

Mr. MEADE. I have not heard a word of that bill, and I protest against its being put upon its passage in this manner.

Mr. RICHARDSON. I did not call for the previous question upon it.

The SPEAKER. The gentleman from North Carolina [Mr. STANLY] demanded the previous question upon it.

Mr. HALL. I hope the gentleman from North Carolina will withdraw that demand in order to enable me to say a very few words upon it, and I will then renew it.

Mr. STANLY. I will withdraw it. I was not aware that I had demanded it.

The SPEAKER. The record so shows.

Mr. HALL. I only wish to offer a few words upon the subject of this bill. When the bill was passed granting lands to the State of Mississippi, Alabama, and Illinois, for the purpose of aiding those States in the construction of certain railroads—

The SPEAKER. The gentleman will suspend for a moment until the matter of the demand for the previous question can be settled. The gentleman from North Carolina, [Mr. STANLY], as will be seen by the Journal, demanded the previous question, but withdrew the demand. The gentleman from Mississippi [Mr. FREEMAN] then renewed it, and no quorum voting, the House then adjourned. That gentleman, however, is not now in his seat, and perhaps the House will indulge the gentleman from Missouri [Mr. HALL] in his explanation.

[Cries of "Agreed!"]

Mr. HALL. I will state, that when the bill was passed, as I have before mentioned, persons were living upon certain sections of the land affected by that bill; that is, the part of the lands granted to the States of Alabama, Mississippi, and Illinois. The part reserved to the United States also had settlers upon it. The State of Illinois, in order to secure the right of those settlers upon the lands granted to her, and who were not entitled to a pre-emption right under the act of 1841, but who, nevertheless, had made settlements upon the land, passed an act precisely similar to the one now before the House for its consideration, by which it was provided that those settlers might have a pre-emption right to the lands upon which they had settled and made improvements, at \$2 50 per acre, provided they made their payments within twelve months; and provided further, that if they did not make their payments within that time, that the land would be subject to entry by any other individual.

The Committee on Public Lands proposes precisely the same regulations with regard to the United States lands, reserved by the act I have mentioned, which the State of Illinois has adopted in regard to her lands. Those provisions are, that these men, who were living upon this land at the time the Illinois land bill passed, but who were not entitled to pre-emption under the act of 1841, might still have a pre-emption right to the land to the extent of a quarter section, upon paying the Government \$2 50 per acre, and if not paid within twelve months, then the land to be subject to entry by any other person.

Mr. SEYMOUR, of New York. I wish to inquire of the chairman of the Committee on Public Lands, whether this bill applies to any other persons than those who were settlers upon the land adjacent to the road, at the time when the bill passed?

Mr. HALL. It does not. The bill expressly confines its provisions to those persons who were living upon, or had made improvements upon these lands, at the time of the passage of the Illinois land bill.

Mr. SEYMOUR. I can see no objection to the bill if that is the case.

The previous question then received a second, and the main question was ordered to be put.

The question then being on ordering the bill to a third reading, it was put, and agreed to; and the bill was read the third time and passed.

#### TERRITORIAL BILLS.

Mr. RICHARDSON. Mr. Speaker, there are several bills now lying upon your table, which have been reported from the Committee of the Whole on the state of the Union. There are none of them, I believe, that will lead to any discussion whatever. I ask the unanimous consent of the

House to take them up. Should there be any bill among them, when taken up for consideration, to which there is objection, I shall not press its passage. I only ask, that those to which there shall be no objection, be taken up and disposed of.

Mr. JONES, of Tennessee. I ask for the execution of the special order. I have great anxiety to get through with the reports of the Committee on Public Lands, which I hope we will be able to do to-day.

Mr. FOWLER. I ask the gentleman from Tennessee [Mr. JONES] to give way a moment, until I can offer certain resolutions of the Legislature of Massachusetts.

Mr. MEADE. I object to that, unless I am allowed the same privilege.

Mr. JONES. I call for the regular order of business.

Mr. RICHARDSON. I ask the gentleman from Tennessee [Mr. JONES] to withdraw his objection to my proposition, for the morning hour will be devoted to reports from committees, and it is important that these bills should be considered.

Mr. JONES. I shall have no objection to take up these bills, when we get through with the reports of the Committee on Public Lands.

Mr. HUNTER. I move to reconsider the vote by which the bill in relation to preemption rights upon lands along the line of the Illinois Central Railroad was just passed, and that the motion to reconsider do lie upon the table.

The SPEAKER. The gentleman from Virginia [Mr. MEADE] has already submitted a motion to reconsider the vote by which the main question was ordered to be put, upon the bill submitted by the gentleman from New York, [Mr. BENNETT,] making a grant of lands to aid in the construction of railroads, and for other purposes.

Mr. BENNETT. I move to lay that motion upon the table, and upon that motion I demand the yeas and nays.

Mr. STEPHENS, of Georgia. I wish to make an inquiry of the Chair before that motion is put. If the vote is reconsidered by which the main question was ordered to be put, will it not be competent to submit a motion to the House, that the further consideration of the bill be postponed to this day week?

The SPEAKER. That motion certainly will be in order after the reconsideration of the vote by which the previous question was seconded.

Mr. STEPHENS. I hope the House will not lay the motion upon the table, but will reconsider the vote by which the main question was ordered, reconsider the second to the previous question, and then postpone the further consideration of the bill until next Tuesday.

Mr. MEADE. I beg leave to state to the gentleman from Georgia [Mr. STEPHENS] that my object in moving this reconsideration, is to have the bill referred to the Committee of the Whole on the state of the Union, where we can take such action upon it for the future as we may think necessary. I think that would be the better order to make in reference to it.

Mr. STEPHENS. I am opposed to the reference, and in favor of passing the bill. But the House is thin, and I think there can be no objection to allowing the matter to go over, by common consent, to Tuesday next.

Mr. MEADE. I have no objection to that.

Mr. STEPHENS. Then I appeal to the gentleman from New York [Mr. BENNETT] to withdraw his motion, and to the House to let this bill go over to next Tuesday.

Mr. BENNETT. I will not object to this subject going over to next Tuesday.

The SPEAKER. The motion to lay upon the table the motion to reconsider is withdrawn.

Mr. COBB. What is the question before the House?

The SPEAKER. It is to reconsider the vote by which the main question was ordered.

Mr. STEPHENS. I made an appeal to the House, that by unanimous consent, this bill shall be postponed until next Tuesday.

Mr. KING, of New York. I object.

Mr. BENNETT. I renew my motion.

Mr. SEYMOUR, of New York. I would inquire if a motion to postpone is in order?

The SPEAKER. It would not be in order in the present condition of the bill. The gentleman from New York [Mr. BENNETT] moves to

lay upon the table the motion to reconsider the vote ordering the main question to be put.

Mr. JONES, of Tennessee. Would it be in order to move to lay this whole subject upon the table?

The SPEAKER. The Chair thinks it would be in order.

Mr. JONES. Then I make that motion.

Mr. MEADE. I rise to a question of order. It seems to me that the motion I made is a privileged motion, and takes precedence of the one submitted by the gentleman from Tennessee [Mr. JONES.]

The SPEAKER. All three of the motions pending are privileged questions. The motion to reconsider is privileged, the motion to lay the motion to reconsider upon the table is privileged, and the motion to lay the whole subject upon the table is privileged, and of a higher grade than either of the others, and takes precedence.

Mr. MEADE. It seems to me that the question now before the House, is the motion to reconsider the vote ordering the main question.

The SPEAKER. The gentleman from New York [Mr. BENNETT] moves to lay that motion upon the table.

Mr. MEADE. Does it not take precedence of the motion made by the gentleman from Tennessee to lay the whole subject upon the table?

The SPEAKER. The Chair again states that all three motions pending are privileged ones, and in the opinion of the Chair, the one made by the gentleman from Tennessee [Mr. JONES] is of a higher grade, affecting the entire bill.

Mr. MEADE. I would simply suggest to the Chair, that the question to which his motion refers is not now up for consideration.

The SPEAKER. The bill is before this body, and is the first thing in order this morning. The gentleman's motion to reconsider would make it so, if nothing else, and, in the opinion of the Chair, the motion of the gentleman from Tennessee should be first put.

Mr. STANTON, of Tennessee. I was about to suggest to the gentleman from Virginia, [Mr. MEADE] that the Speaker is clearly right, because such motion disposes of the whole subject.

The SPEAKER. The Chair is very clear on that subject.

Mr. JOHNSON, of Arkansas. Stale and unprofitable as this whole debate is, I move that the House do now adjourn.

Mr. STEPHENS. I demand the yeas and nays upon the motion. I wish we might adjourn if they intend to pass a vote upon this bill in the present thin condition of this House.

The yeas and nays were ordered.

Mr. STEPHENS. I withdraw the demand for the yeas and nays.

The SPEAKER. The yeas and nays have been ordered, and it is too late for the gentleman to withdraw his call.

Mr. STEPHENS. Then I hope the gentleman from Arkansas [Mr. JOHNSON] will withdraw his motion to adjourn.

Mr. JOHNSON. I withdraw the motion to adjourn.

Mr. STEPHENS. Now, I renew the motion to adjourn.

Mr. RICHARDSON. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was then taken, and it was decided in the negative—yeas 73, nays 87.

So the House refused to adjourn.

Mr. STEPHENS, of Georgia. Is it in order to move a call of the House?

The SPEAKER. It is not in order. The motion pending, and first to be put, is the motion to lay upon the table.

Mr. RICHARDSON. I will present a proposition to the House which I trust will meet with general acceptance. I ask the unanimous consent of the House this morning to permit to be taken up and passed the territorial bills which were reported from the Committee of the Whole on the state of the Union, now lying upon the Speaker's table.

Objection was made.

Mr. STANLY. I shall have no objection to the proposition of the gentleman from Illinois after the expiration of the morning hour. I hope by unanimous consent the consideration of the bill reported by the gentleman from New York,

[Mr. BENNETT,] may be postponed until Tuesday next.

Mr. STUART. I object to that.

Mr. STANTON, of Tennessee. I move that the House do now adjourn.

Mr. JOHN W. HOWE. I demand the yeas and nays upon that motion.

The SPEAKER. The motion to adjourn is not now in order, for the reason that no regular business has intervened between the submitting of the present, and the rejecting of the same motion a few moments ago.

Mr. BENNETT. I move a call of the House.

The SPEAKER. That motion is not in order.

Mr. BENNETT. I take an appeal from that decision of the Chair.

Mr. HOWE. I demand the yeas and nays upon the appeal.

The SPEAKER. A motion was submitted for a call of the House, which the Chair decided to be out of order. From that decision an appeal has been taken by the gentleman from New York, [Mr. BENNETT,] and upon that appeal, the yeas and nays have been demanded by the gentleman from Pennsylvania, [Mr. HOWE.]

Mr. MARSHALL, of Kentucky. I move that the House do now adjourn.

Mr. HOWE. I demand the yeas and nays upon that motion.

Mr. JONES, of Tennessee. Is it in order to move to reconsider the vote by which the House resolved to adjourn until Friday?

Mr. CLINGMAN. Not pending this question to adjourn, I take it.

The SPEAKER. The Chair thinks it would be in order.

Mr. CLINGMAN. I move, then, to lay that motion upon the table, and demand the yeas and nays thereon.

Mr. JONES. I have not submitted the motion yet.

The yeas and nays were ordered on the motion to adjourn.

Mr. MARSHALL, of Kentucky. I withdraw the motion to adjourn.

Mr. STANTON, of Tennessee. I renew it.

Mr. MARSHALL, of California. I demand tellers.

Tellers were ordered; and Messrs. MARSHALL of California, and STANTON of Tennessee, were appointed.

The question was then put, and the tellers reported—yeas 80, nays 47.

Mr. STANTON, of Ohio, demanded the yeas and nays; which were ordered.

The question was then taken upon the motion to adjourn, and it was disagreed to—yeas 72, nays 87.

So the House refused to adjourn.

Mr. FOWLER. Has the morning hour expired?

The SPEAKER. The morning hour has not expired.

The question then recurred upon the motion to lay upon the table the appeal taken from the decision of the Chair.

Mr. CLINGMAN demanded the yeas and nays, which were ordered.

Mr. JONES, of Tennessee. It lacks only a minute or a minute and a half of the expiration of the morning hour, if I am correct, and I therefore, with the unanimous consent, move that the House proceed to the consideration of the business upon the Speaker's table. There are upon the table Executive communications which should be referred.

There was no objection, and the House proceeded to the consideration of the business upon the Speaker's table.

The SPEAKER laid before the House the following communication from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress a report from the Secretary of State on the subject of the disorders on the Rio Grande frontier, and recommend the legislation which it suggests, in order that the duties and obligations of this Government occasioned thereby may be more effectually discharged, and the peace and security of the inhabitants of the United States in that quarter more efficiently maintained.

MILLARD FILLMORE.

WASHINGTON, June 11, 1852.

Mr. JONES, of Tennessee, moved that it be referred to the Committee on Military Affairs, and printed; which motion was agreed to.



## CALIFORNIA MINT BILL.

Mr. HOUSTON. I desire to know of the Chair whether the California Mint bill does not come up this morning as the unfinished business of yesterday?

The SPEAKER. It is the unfinished business of yesterday, but, by unanimous consent, the House proceeded to the consideration of the business upon the Speaker's table.

Mr. HOUSTON. I think it was the unanimous consent only to pass from the morning hour. I do not think there was any intention to interfere with the unfinished business of yesterday. I ask that that bill be taken up.

Mr. JOHNSON, of Arkansas. I trust that will be done, and we then will have no more difficulty.

The SPEAKER. Unless objection be made, the California Mint bill will be considered.

Mr. BROOKS. What is the question?

The SPEAKER. The unfinished business of yesterday is the California Mint bill, but by unanimous consent the House proceeded to the business upon the Speaker's table. It is now moved to take up for consideration the Mint bill; to do that unanimous consent is required.

Mr. BROOKS. I wish to make a bargain with the chairman of the Committee on Ways and Means. I am not opposed to the Mint bill, but there is an item in it which it is necessary should be understood and discussed by the House. If he will withdraw his call for the previous question, after submitting a few remarks upon the item I have alluded to, I will renew it.

Mr. MARSHALL, of California. Any remarks addressed to that section of the bill, would not be objected to, so far as my colleague and myself are concerned.

Mr. BROOKS. I only want a fair vote, that is all.

The SPEAKER. Is objection made to the taking up of the California Mint bill?

Mr. BROOKS. I will not object, if it is the understanding that the previous question is to be withdrawn.

Mr. ALLISON. I object to bargains.

Mr. BROOKS. If I cannot have that understanding I object.

Mr. JOHN W. HOWE. I object, unless they give us a tariff also.

The SPEAKER. The Chair is of the opinion that it is competent to submit a motion to proceed to the unfinished business of yesterday.

Mr. HOUSTON. I then submit that motion.

The question was put, and while the House was dividing,

Mr. BROOKS said: Is it in order to move to suspend the rules and that the House resolve itself into the Committee of the Whole on the state of the Union? If it is I submit that motion.

Mr. HOUSTON. Not while the House is dividing, I think.

Mr. BROOKS. The shortest way to settle this difficulty will be for the gentleman to withdraw his call for the previous question and allow me an opportunity to submit a few remarks upon this bill. I am not opposed to it. I demand the yeas and nays upon the motion to go into the Committee of the Whole on the state of the Union.

Mr. STANTON, of Tennessee. I move that the House adjourn.

Mr. HOUSTON. I rise to a point of order, which I did not intend to make had not the gentleman from New York called for the yeas and nays. I cannot see by what process he gets between me and the motion I have made while the House was dividing and the Chair had received the affirmative vote.

Mr. BROOKS. Now, I appeal to the chairman on Ways and Means—

The SPEAKER. Discussion is not in order.

Mr. HOUSTON. I present the point and ask for the Chair's decision.

The SPEAKER. The Chair, if called upon to enforce the rules strictly, decides that the motion of the gentleman from New York [Mr. Brooks] is out of order, for the reason that the House was dividing upon a different proposition.

Mr. BROOKS. I made the motion previously, but it was my misfortune the Chair did not hear me.

The SPEAKER. The Chair did not hear the motion at all.

Mr. BROOKS. I will not occupy twenty minutes. I do not want to oppose the bill.

Mr. HOUSTON. I call the gentleman to order. There is no debatable question before us.

The question then recurred upon the motion to proceed to the consideration of the unfinished business.

Mr. BROOKS demanded the yeas and nays; which were ordered.

Mr. GOODENOW. I move that the House do now adjourn.

The question was then put upon the motion to adjourn, and upon a division, there were yeas 62.

Mr. GOODENOW. I withdraw my motion.

Mr. BROOKS. I renew it.

Mr. MARSHALL, of California. I ask if it is possible to withdraw the previous question so as to allow any gentleman to discuss the single section of the bill, and to move to put the remainder upon its passage?

The SPEAKER. The bill is not now before the body. Motion is made to proceed to its consideration.

Mr. MARSHALL. I wish simply to know if it is possible to withdraw the demand for the previous question?

The SPEAKER. A simple demand for the previous question may be withdrawn when the bill is taken up.

Mr. BROOKS. That is all that is asked.

The question was then taken on the motion of Mr. Brooks to adjourn; and there were on a division—yeas 65, noes 64.

Mr. MARSHALL, of California. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. BROOKS. I believe the gentleman from Illinois [Mr. RICHARDSON] withdrew the demand for the previous question. If so, we are willing to withdraw the motion to adjourn.

Mr. HOUSTON. If gentlemen are willing to take up this matter, and the call for the yeas and nays be withdrawn, we can then go on with it.

The SPEAKER. The call for the yeas and nays cannot be withdrawn except by unanimous consent.

Mr. STEPHENS, of Georgia. The gentleman from Alabama [Mr. HOUSTON] can withdraw his motion, and then make it again, which will get clear of the yeas and nays.

Mr. HOUSTON. I withdraw the motion, and now make the same motion that the unfinished business of yesterday be taken up.

The question was then taken, and it was agreed to.

Mr. BROOKS. I understand this question is open for discussion. I promise to renew the demand for the previous question.

I am sorry to have been the means of delaying the business of the House for a few minutes; and, before I proceed to a discussion of this bill, I wish to say to the gentleman from California, [Mr. MARSHALL], in good faith, that I do not rise to oppose his California Mint bill, or to propose any amendment to it; but I rise to discuss a single question, not brought to us from the Senate, but introduced into this bill by a majority of the Committee on Ways and Means. I ask the attention of the House to one single subject, because I think it is a subject of great importance; and, although I have not the vanity to presume that I can instruct the House upon any subject whatsoever, yet, as a condenser of facts, and a reflector of what I have read, I may say something which will be of service to gentlemen who have not the time to give so important a matter the proper consideration.

The first proposition before this House is for the establishment of a Mint in California. The second proposition is an amendment from the Committee on Ways and Means, establishing *seigniorage* upon the coinage of the country. Perhaps no more important subject can ever come before this House for discussion. Sure I am, that I know of no subject so important which is now before this House, save the public lands, as this of *seigniorage*. It involves a discussion of the whole matter of currency, coinage, bullion, and of gold and silver production; and whatever affects the currency of a country, whatever touches its gold and silver, has a direct and powerful influence upon all the commerce, manufactures, and agriculture of the country. No wise legislator ever proposed to touch the coinage or currency of his country, but upon a full, deliberate, and keen

examination, either by himself, in his study, or after long debate before a public body.

This word "*seigniorage*," Mr. Speaker, is a word almost unknown in our country, and it strikes the American ear as a novelty. It is not even of English birth, but it comes to us from the French, and is a relic of the reign of feudalism. The *droit du seigneur* is well known in feudal law, in the history of the Middle Ages, but it never before appeared in these United States, and never before was attempted the transplantation.

This right of *seigniorage* was imposed by the old feudal barons as sovereigns in Europe, called *seigneurs*, upon the coinage of their realms in two ways: sometimes by adulteration of the coin, and sometimes by charging upon the depositor a certain per cent. of the gold and silver he was compelled to deposit to be coined. This relic of feudalism exploded, however, long ago, and it is unknown now, and it has been unknown since the reign of Charles II., in the maternal, or paternal Government whence we come—Great Britain. This *seigniorage*—this relic of feudalism, it is proposed now for the first time to introduce to the American people—why and wherefore I have been unable to comprehend. Englishmen have exploded it, I repeat, since the days of Charles II., when all feudalism was exploding with it. Since his reign this right of *seigniorage* has not existed in our father-land, and nobody dreams of reestablishing it there at this day. It does not exist to any extent at this moment—to the extent now proposed—in any commercial and civilized country whatsoever; and where known at all, it is best known among barbarians. *Seigniorage*, then, is fit only for the dominions of the "Grand Seigneur." But the question before us is, Shall it be established here? When I say it is the reversal of the whole policy of this country, I but recite a fact known to everybody. The great and wise effort of all parties in this country has been, as much as possible, to lure the precious metals here, in order to check the making and circulation of paper money, and thereby to establish a sound and solid basis of circulation with our gold and silver. It was the policy of the gold bill in 1834 to keep the gold in the country by overvaluing it in comparison with silver nearly three per cent. This was the policy of the great party which then had the government of the country, and this has been the Whig policy, and is the policy of all right-thinking and wise men, to keep as the basis of circulation as wide, broad-spread a foundation as possible for the superstructure of paper money.

Now, the tenth section of the bill before the House reverses all the old policy of all parties in this country, and of the gold bill in 1834. For it charges upon the gold productions of the country a *seigniorage* at the Mints of the cost of its coinage not exceeding one per centum, at the discretion of the Secretary of the Treasury. Another bill, not now before the House, which has come down to us from the Senate without one word of discussion there, proposes a *seigniorage* of one half of one per cent. upon all gold or silver deposited in the Mints, whether coined, or cast into bars or ingots. This bill will soon be before us for action, and the principles involved in both of the bills now deserve our grave and calmest consideration.

Before I go further, Mr. Speaker, as this is a point upon which there is some dispute, I wish to establish the fact—that in Great Britain no *seigniorage* whatever is levied upon coin. There is some controversy on this important point, or some misunderstanding; and it is necessary at the start to ascertain whether or not we shall take a step which holds out to dealers in gold and silver a premium for the exportation of gold and silver from this country to Great Britain. Innumerable authorities might be cited, to show that there is no *seigniorage* on gold at the British Mint; but to save the House from the recital of them, I propose only to call attention to the last act of the British Parliament on this subject—the fourth clause of the 4th and 8th Victoria, chap. 32, which runs thus:

"And be it enacted, That from and after the 31st day of August, 1844, all persons shall be entitled to demand, from the issue of the department of the Bank of England, Bank of England notes in exchange for gold bullion, at the rate of three pounds seventeen shillings and nine pence per ounce of standard gold: *Provided always*, That the said Governor and Company shall in all cases be entitled to require such

gold bullion to be melted and assayed by persons approved by the said Governor and Company, at the expense of the parties tendering such gold bullion."

Now, by this act, the Bank of England is compelled to pay £3 17s. 9d. per ounce for standard gold—about its full value; and so any holder of bullion can go to the Bank, and demand its value in bank notes or sovereigns for all the bullion he has. Hence I am authorized, without citing any other authority than this act, to say, that under the laws of England, there is no cost in exchanging bullion for coin there. I trust that this act will be held conclusive; if not, I am prepared to go beyond the law, and to cite such authorities as McCulloch and Henry James. (*Essay on Money, Exchanges, and Political Economy.*)

The idea that the British Government imposes a seigniorage arises, I suppose, from such a clause as that which closes the extract from the act (4th and 8th Victoria) which I have quoted above. The Bank of England requires, on receiving its bullion in exchange for notes, that it be prepared for the Mint by the depositors at their expense. The act of Congress (1800) requires of our depositors at our Mints a like preparation, at the expense of the depositor, and the cost of the preparation is deducted from the amount deposited. We stand in the United States and in England upon the same ground. The Mints of both countries require the "dust" or "bullion" to be prepared for coinage at the depositor's expense. But the bill now before us—the bill for seigniorage—clothes the Secretary of the Treasury with the power to add on to that expense another tax of one per cent.

Another fact has impressed some gentlemen with the idea that a seigniorage is exacted at the British Mint, and that is, the fact that the British Government buys the pound of silver at its market value, a standard bullion value of sixty shillings, and issues it, with the impress of the realm, to applicants at the rate of sixty-six shillings; and silver is made a legal tender only to the amount of forty shillings. There is no seigniorage here—no tax on the depositor. The Government gives the full market value (sixty shillings) for the pound of silver, and issues it in half-crowns, shillings, and sixpences, at the rate of sixty-six shillings the pound—that is, increases its value ten per cent.; but at no expense, remember, to the depositor. The coinage then becomes a token of local value, and it enters into general circulation throughout the kingdom. No foreign or other silver coin passes current there. The community enjoy the convenience of an ample supply of small change; but no man is obliged to receive these tokens to offset a debt beyond the amount of forty shillings. Such are the facts as to the British silver coinage; but these facts are misunderstood by some to be a seigniorage exacted from the depositor. The relative value of coin in Great Britain is as 1 to 14.288, but that is not the relative value of gold and silver, which is about 1 to 15.716.

I think it may therefore be taken for granted now, with these facts before us, that there is no seigniorage upon coinage in Great Britain. When these facts are understood, and misconceptions corrected, I think no man will say, that in Great Britain there exists any such thing, any such tax, as this lurking in the tenth section of this California Mint bill.

Now, Mr. Speaker, I might go further, and show that such a seigniorage as is here proposed, exists in no other commercial country; but it is enough for me to maintain, that the British Government exchanges British coin for bullion, without cost to the depositors, because in maintaining that, it follows, what I propose to illustrate, that a seigniorage in the United States of one per cent. or one half per cent., is a premium of one per cent. or one half per cent., to export gold and silver bullion from the United States to Great Britain. Before I go further, however, I wish to say, that in the French Mint, where did exist in 1837, perhaps now exists, what is called a "remedy" on gold, there was something like a seigniorage, but the "remedy" came not out of the depositor, as I understand it, but it was an advantage taken of about one thousandth in fineness, which operated as a charge of about eleven hundredths per cent. The coinage of France, however, was principally in silver, until the last year; and now, that gold has become so plenty there, it is stated to me, on authority I credit, but no statute or ordinance is within my reach to demonstrate it, that no seigniorage, whatsoever, now exists at the French Mint on gold bullion.

The point I now arrive at, Mr. Speaker, is to demonstrate, that if we affix a tax of one per cent. or one half per cent. on our gold coinage, we give to a premium of one per cent. or one half per cent. our British rivals to take from us our gold. Nothing is clearer than that bullion will avoid and evade taxes, even the slightest, and seek that manufactory, that mint, where it can be worked up into coin for nothing. It is so clear a proposition that I scarcely need stop to dwell upon it. It is evident, then, that if we establish the seigniorage, we turn the gold current of California, when it reaches Chagres, or Aspinwall, on the Atlantic coast, to the British Mint, and the silver of Acapulco, and of Chili, Peru, and Bolivia, in the same direction. No holder of bullion standing side by side of an American steamer and British steamer there, will hesitate to send that bullion to England, to be coined for nothing, when the cost of coinage will be one per cent. or one half per cent. in Philadelphia, with the addition of the cost of transportation to and from Philadelphia and New York, in many cases one half per cent. more. This important fact cannot be got over, or got under, unless it can be shown that it is cheaper to transport gold and silver to New York than to London—as much cheaper, as is the seigniorage and extra transportation. To show that this is not so, nay, to show that it is now cheaper to carry gold from San Francisco to London, than from San Francisco to New York, I lay before the House the following table, from one of the largest express companies, (Adams & Co.,) carriers of gold dust or bullion, in the United States:

*Estimate of the cost of transporting \$100,000 bullion from San Francisco to New York, and the same to London.*

SAN FRANCISCO TO NEW YORK.	
\$100,000—San Francisco to New York, steamer freight, 2½ per cent.....	\$2,250 00
Primage, 5 per cent. on \$2,250.....	112 50
Transportation from Panama to Chagres, ¼ per cent.....	250 00
Insurance (N. Y.) San Francisco to New York, 2 per cent.....	2,000 00
	\$4,612 50
SAN FRANCISCO TO LONDON.	
\$100,000—San Francisco to Panama, freight, 1½ per cent.....	\$1,250 00
Panama to London, freight, 1½ per cent.....	1,375 00
Primage, 5 per cent.....	131 25
Insurance, (English,) San Francisco to London, 1½ per cent.....	1,250 00
	4,006 25
Difference.....	\$606 25

Difference in favor of London, \$606 in the \$100,000, or \$6,000 in \$1,000,000. To which add the proposed tax of ½ per cent., or \$5,000, and we have a difference of \$11,000 per million in favor of the London shipment.

Now, to get over and to put down such startling facts as these, it is argued that an American eagle is coined but to go into the British Mint; and that it may as well go in bullion from Chagres (or Aspinwall) as from New York. It is to be hoped, Mr. Speaker, that some day or other we may not be diggers of gold always for the British Mint, only to have impressed upon the golden product of the California miner the impress of British sovereignty; but if this fact be so now, there is no reason why we should give a premium of one per cent., or one half per cent., to prolong such a state of things. Besides, sir, no nation can ever reach the summit of trade and commerce if it digs gold but for another nation to coin it. Where goes the bullion, and whence comes the coin, there go also—such is the law of trade—the trade and commerce of a people; for coinage is the representative of trade and commerce, and where the representative is, the substance is also. I should hold, then, the premium which sent gold to England to be coined, to be the premium also for sending, and concentrating there the commerce and trade of the Atlantic, as well as of the Pacific States. All nations, more or less, have always acted upon this principle. The British Government spares no pains to concentrate in London the bullion trade of all the world, and no effort to spread the British sovereign throughout that world. She frowns upon an American eagle when it appears at the British Mint, and insists upon taking off the eagle and putting the British emblem on. She discourages the circulation in England by all the artifices of coinage. She reasons, and she reasons well, that wherever the pre-

cious metals are coined, there, a larger portion will remain for purposes of circulation or hoarding, than would remain in the crude condition; for, says she, where there is no coinage there will not be apt to be retained any material amount of precious metals. They seek to find their way to countries where the coinage exists. To show that this is the policy of England one fact need only to be stated. The price of standard gold is fixed by law at £3 17s. 9d. sterling per ounce, and this rate the Bank of England is bound to pay, or allow for standard gold, as I have shown before. The Bank knows exactly how much standard gold there is in one of our eagles, or ten-dollar pieces; and yet, if a box of newly-coined eagles is carried to the Bank of England, the price per ounce they may weigh is £3 16s. 2½d. sterling, which they say is equivalent to the quantity of standard gold in our gold coin; and yet that same box or parcel of gold, melted down by a private assayer, and reduced to "standard gold," will be taken at the bank at the legal price, of £3 17s. 9d. per ounce, and the result is a small profit after paying the expense of melting—enough, however, to induce the melting. The following is a statement illustrating this:

*Copy of a London statement of sale of American gold, September, 1850.*

	lbs.	oz.	dwt.	grs.
2,500 eagles, or \$250,000, melted down into seven bars, weighed.....	111	11	10	00
"Standard".....	109	9	7	12
Or 1,317oz. 7dwt. 12grs., at £3 17s. 9d. per oz., is.....	5,121	5	10	
Allowed by melting for gold adhering to crucibles.....	5	8	3	
	5,126	14	1	

Charges.	£	s.	d.			
Cost of melting .....	1	8	0			
Assays .....	0	18	0			
Brokerage.....	6	8	2			
Cartage.....	0	5	0			
	—	—	—	8	19	2

Thus 2,500 eagles yielded by melting... 5,117 14 11

If taken by Bank, at their weight in American coin, the price per oz., at £3 16s. 2½d. for 1,343 oz. 10dwt., would be....	5,119	5	10
Less brokerage £6 8s. 2d., and bags 2s. 6d.....	6	10	8
Bank gives.....	5,112	15	2

The whole tendency of these movements is to compel the melting of our coins for the purpose of converting them into British sovereigns, which the British Government in a wise policy does for nothing. In Great Britain no coins but British coins are a legal tender. Discredit is thrown upon all others. In the United States all foreign coins are a legal tender at fixed rates. Beside such facts as these, charges are made, and with no inconsiderable success, to discredit the accuracy of the assay of the gold coins issued from the Mints of the United States. (See correspondence of the Hon. Abbott Lawrence, our Minister to England, with Mr. Webster, Secretary of State.) "I was told 'at the British Mint,' says Mr. Lawrence, 'that considerable quantities of American gold had been assayed and recoined, from time to time, and had not always been found to come up to our own standard.' This, Mr. Eckert, the Director of the Philadelphia Mint, it is proper to add, seems most thoroughly to disprove. (See letter to Secretary of Treasury, April 2, 1852.)

It is unnecessary, however, for me, Mr. Speaker, I suspect, to go into any further exposition of the effort of the British Government, or the British people, to concentrate in London the bullion trade of the world, for I may take it for granted, such a remark will be admitted as fact. The pride as well as the avarice of that great nation is concerned in this concentration. Both are directed toward it, with unwavering energy; and one of the struggles which we are yet to have with our father-land, is for dominion over gold and silver, and coinage, the representative of commerce and trade, as well as for dominion over the seas, by steamships, and clipper ships, those new winged monsters of the deep. New York and London are yet to have a mighty contest for the gold of California, and the silver of Mexico, and of South America, and the palm will not be yielded on the part of Britons without a struggle earnest and prolonged. To keep up her monopoly over the South American

silver mines, she has extended her steam-packet service in the South Pacific, from Panama to Valparaiso, and to hold on to the mines of Mexico, she intrigues against us, and obstructs our movements, from the capital of Mexico to Vera Cruz, on one side, and to Acapulco on the other. The day is coming, if no new-fangled notions of seigniorage beset the two Houses of Congress, and our system of mintage have a free, fair, and full play, (which it has not now,) when New York will take the place in the New World over bullion and coins, that London has in the Old, and then our Republic will begin to obtain the dignity and grandeur of its destiny.

To levy a seigniorage, then, on gold and silver now, when we are in the beginning of this contest, nay, when, as we are scarce of silver, we should rather give a premium to tempt silver here, is the very error of the moon. A proposition, under existing circumstances, more preposterous, as it seems to me, never came from erring man. My resistance to it springs, not only from the tax it imposes upon the California miner—for in such a case the miner is the man who pays the seigniorage if his gold is coined at home—but because the mischievous act would reach our commerce, our freighting trade at the Isthmus of Panama, our insurance offices, our bullion dealers at home, and send the gold and silver in one continuous, overwhelming stream to the British Mint. If, even for the sake of a Mint, the Representatives from California could submit to such a tax, it is not less my duty to cry out against it in behalf of every interest I represent, and in behalf of all the returned Californians, who, in their own persons, bring back their little heaps to be sold in New York bullion offices, before they get home to their wives or families. The whole weight of authority I have, or can have, from practical businessmen, is against the imposition. I have in my hands remonstrances from the most faithful express companies. The presidents of the leading banks in New York, among them the Hon. C. W. Lawrence, once a member of this House, write me, that under such a bill "as far as he can judge, a large portion of the California gold will be driven to the European Mints, while the conversion of foreign gold into American coin will be entirely prohibited."

Mr. Speaker, before Congress thinks of taking any steps in the way of a seigniorage, it should think of what vast power it is exercising now, under the Constitution of the United States, over the gold and silver property, the miner or the trader in the precious metals happens to hold. Government seizes no man's cotton, no man's tobacco, hogs, or horses, and insists upon imprinting upon them its stamp of sovereignty before they can be efficiently used in general commerce and trade. But the Constitution does seize the product of the gold miner's labor, and declares, "Congress (alone) shall have power to coin money, and regulate the value thereof." "No State shall coin money." "No State shall make anything but gold and silver coin a tender in payment of debts." Bullion cannot pay a debt. Gold dust is no legal tender. The miner himself cannot coin it or make it money. All this is against the Constitution and the law. Government monopolizes the raw material, so to speak, of money, in its own Government-created Mints, and the miner may be as rich as Croesus in silver or gold, but he can discharge no man's debt till his gold or silver has put upon it, in that Mint, the Government stamp. To levy a tax, then, upon a species of property thus monopolized by the Government, and to levy it, because of the monopoly, or because of the cost to the Government of the monopoly, is crying injustice, such as should not be thought of for a moment. Tell me not it is like the toll taken from a grist sent to a mill. The corn grist voluntarily goes to any mill; but the Government monopolizes the only mint-mills there are, and your money grist is not to be sent to some neighboring village to be ground, but you must send it hundreds of miles, perhaps, to New Orleans or Philadelphia, and pay all the cost of freight, insurance, and commission to have your money grist ground in the mint monopoly there. Your bullion is discredited till it has the Government stamp, and if you imprint that stamp upon it, fine or imprisonment is your fate. No, sir, it is the first duty of all Governments holding this mint monopoly, to use it without cost, for the public good only, and in the most convenient places,

to enable the owner of dust or bullion to reach them at the least possible expense.

Mr. JONES, of Tennessee, (interrupting.) I do not expect to say a word upon this subject, but I ask that, as a justification of the Committee on Ways and Means, a very short paragraph from the last report of the Secretary of the Treasury may be read to the House. It is in direct conflict with the statements made by the gentleman from New York.

The paragraph was read, as follows:

"The expenses of the Mint and branches have, of course, greatly increased since the accession of California, and will be still further augmented in case Congress should determine to establish two additional branches at San Francisco and New York. I would, therefore, suggest, for the consideration of Congress, the propriety of authorizing a small seigniorage on the bullion deposited by corporations or individuals, for the purpose of covering the actual expenses of coinage, instead of allowing the latter to remain as an exclusive charge upon the Treasury. This, it is believed, is the universal usage at all other national Mints, and the charge would be but a mere fractional percentage, amounting only to a very few cents per ounce."

Mr. BROOKS. I was aware of this article in the report of the Secretary of the Treasury; but it will be remarked that the Secretary uses the very cautious words, "it is believed" that this seigniorage "is the universal usage," &c. If the Secretary means to say there is a seigniorage in the British Mint on gold, he is mistaken, as I have already shown; and all he can mean is what I have stated, that the British Government buys silver at sixty shillings the pound, and sells it in coin at sixty-six shillings, which is no tax on the depositor, no such seigniorage as the Ways and Means propose. I was not mistaken in my facts. Indeed, there is no dispute among practical men about them. The Secretary's recommendation of a small seigniorage, not a large one, as the bill proposes, undoubtedly comes from his impression that the over-valuation of British silver coin was a seigniorage, or from supposing that the preparing the precious metals for the Mint was not at the cost of the depositor in the United States as well as in England. The Director of the Mint (Mr. Eckert) states positively, in a letter to the Secretary of the Treasury, as well as to the Committee on Ways and Means:

"In England, the gold is coined at one half per cent., the silver at two and one eighth—these charges, however, being paid by Government, and not by depositors."

I think I may repose now, Mr. Speaker, on my facts, and proceed to another branch of this subject, and that is the silver part of it. The themes are precious ones, and there is nothing more attractive than money; but I fear the House is just now so confused in presidential topics that even gold and silver, as topics of discussion, lose their charm.

Mr. ORR. The gentleman from New York appears to be well posted upon this subject. I desire to know of him what proportion of the expenses of coinage is paid by the alloy?

Mr. BROOKS. None, that I know of. Both our gold and silver coins are nine tenths fine. An ounce of gold, nine hundred one thousandths fine, is equal in value to \$18 60.46-100. I do not know that I quite comprehend the interrogatory of the gentleman from South Carolina. Alloy must be mixed with gold to harden it for circulation.

Gold, in the plethora of it just now in California and Australasia, might possibly stand some small, very small, seigniorage; but it is clear, that in the present premium for silver, we ought not to tax the coinage of that here. The silver currency of our country has been for some time past going to Europe, in consequence of the fact that a higher value was set upon it there than here. The relative value of gold and silver as established by law is,—

1 to 15.988.....in this country.

1 to 15.716.....in England.

1 to 15.479.....in France.

By which we rate silver one seventy-two one hundredths per cent. lower than England, and three per cent. lower than France. Hence, as the balance of our commercial debt can only be paid in bullion, it follows that neither to France nor to England will gold be sent until silver is exhausted. This exhaustion of our silver has raised what is left to a premium at one time of three and four per cent., but at the last dates American silver was at only one to one and a quarter per cent. premium. The premium on silver has now for

some time been on the decline, and it is believed by many that if things are left to themselves, the premium will soon cease to exist. A seigniorage upon silver, however, would aggravate all the difficulties in change, for it would be a premium for its exportation from South America and Mexico to England, and for its avoidance of the United States.

This is not an improper place, Mr. Speaker, to invite the attention of the House to the state of the silver trade in America. The discovery of quicksilver in California, so indispensably necessary in the working of silver ore, has broken down the monopoly which the Rothschilds had for so many years of the quicksilver mines of Spain, the most valuable quicksilver mines, till of late, known in the world, and the price per quintal has fallen full one half. The fact has given new stimulus to the working of the silver mines of all America, but especially in Peru. Once worthless ore can be washed at a profit now. Steam machinery, too, is coming into use, particularly in the extensive and valuable mines of Paseo, by which they are effectually kept clear of water, hitherto rendering them unproductive. A railroad has also been established from the coast through the mineral districts of Peru, which is having considerable influence in opening up new and abundant sources of supply. The silver of the world comes mainly and annually as follows:

	1st estimate.	2d estimate.
From Chili....	\$3,000,000, in bars	\$4,500,000
From Peru....	1,500,000, do	2,500,000
From Bolivia..	1,000,000, in coin	1,500,000
From Mexico..	12,000,000, do	33,000,000

This discrepancy in the Mexico estimate comes from the fact, that as there is an export duty, the smuggling is large, and the estimate is, therefore, but a guess. The greatest portion of this silver (three fourths of it) goes to England in the British Chagres steamers, or in the British steamers from Vera Cruz; the rest to China, France, or Germany—very little to the United States. One reason why it does not come here is the expense of transportation for so heavy and bulky an article from New York to the Mint in Philadelphia and back; but the chief reason is, that the British, by their steam packets, have fixed the habits of trade towards England. To levy, then, a seigniorage of any kind in the Philadelphia Mint, or the New Orleans Mint, upon silver, would be but adding to the expense of transportation already existing, the premium of whatever was the per centum of the seigniorage to drive off all the little silver there is left us. An American steamer up and down the southern ports of the Pacific, and a steamer from Vera Cruz to New Orleans, would bring here large masses of this silver, if we impose no tax upon its coinage. For I look upon the whole silver trade, Mr. Speaker, as of right ours, from its proximity, if we but struggle for it, and gentlemen will but aid our commerce in the struggle. Chili, Peru, Bolivia, and the Pacific coast of Mexico are here but at our doors—nearer than Texas is practically, considerably nearer than Oregon or California. I hope the discovery of the quicksilver mines of California is going to enable us to develop the silver mines of our continent, *pari passu*, with the gold mines of California. I hope to see the day when the rich argosy of silver now freighted to England under the British flag, will be freighted to New York under the stars and stripes, increased in quantity ten times over. Oh, that I could inspire my countrymen with a proper sense of the priceless treasures just before them, in all parts of South America, on both the Atlantic and Pacific coasts, and arouse them to a worthy effort to snatch from the proud mistress of the seas the wealth that passes through our hands to her coffers!

And now, Mr. Speaker, I am done with this subject, but sketched, briefly sketched, rather than discussed. I feel how inadequate are my studies, or is my knowledge, to begin even to do justice to so abstruse and so intricate a topic as is involved in this whole discussion. Sure I am, it is beyond my power to do justice to it here, in this Hall, amid the excitement at this period of the session. It needed the closet, and the quiet study of the scientific or practical man. All I have expected to do is to awaken the House to the dangerous item lurking quietly in a section of this bill. All I have hoped to do is to create a pause in the velocity of action threatened under the previous ques-



tion, and to start some new thought in the mind of somebody. The very novelty of a business discussion here should have some interest for your ears. But before you act further to-day, before you vote on this bill, I invoke you to remember the miner toiling in California, and impose no such strange tax as seigniorage upon him. I invoke you to remember your duty to guard and protect the commerce and trade of your country; but above all, for the sake of national honor, or of national pride, I beg you to guard your own eagle, your own emblem of sovereignty, from the British lion, and to feel, at least, as the Englishman feels, when he puts the British emblem upon your gold production, at no cost to the depositor, that he is paid, richly paid, for the slight tax on himself, by the universal circulation and dominion he thus gives that British emblem the wide world over, wherever British gold goes, or Briton travels; for the day is coming when the American eagle—I mean no eagle emblazoned on any warlike standard—will thus traverse the world with this British sovereign, and, if I mistake not, in triumph over him, if you throw no obstructions in the path of his victory!

Mr. SEYMOUR, of New York. I wish to inquire of the Chair whether the question can be separated, so that a distinct question may be taken on the proposition which my colleague has just discussed with so much ability? If it be possible I hope that will be done, for I think the House must now be convinced that that section ought to be stricken out.

Mr. HOUSTON. I call the gentleman to order.

The SPEAKER. A demand has been made for the previous question, and therefore no discussion is in order except by unanimous consent.

Mr. MARSHALL, of California. I wish to ask for information, if it is not possible, under the rules, to have a separate vote—

The SPEAKER. Upon every amendment.

Mr. MARSHALL. Is there a motion pending to strike out the amendment which has been discussed by the gentleman from New York?

Mr. HOUSTON. That is the amendment reported by the Committee on Ways and Means.

The SPEAKER. The House will first be brought to vote upon the amendments reported by that committee.

Mr. MARSHALL. Then is it a motion to insert that amendment or to strike it out?

The SPEAKER. There are various amendments reported by the committee, which must all be acted upon.

Mr. SEYMOUR. I would inquire of the Chair whether, if the previous question is now sustained, it will prevent us from having a separate vote upon that particular amendment?

The SPEAKER. Each amendment proposed by the committee will be voted upon separately.

Mr. HOUSTON. I do not intend to delay this bill by making any remarks upon it.

A MEMBER. It is not in order for you to do so. Mr. HOUSTON. I am aware that the previous question is called. I wish, however, to say to the House—

Mr. BRECKINRIDGE. I call the gentleman from Alabama to order.

The SPEAKER. Debate is not in order pending the demand for the previous question, as the gentleman from Alabama must be aware.

Mr. HOUSTON. I have a right, I presume, to make an hour's speech, even after the previous question is sustained, but I do not intend to make a speech at all.

The SPEAKER. The gentleman from Alabama will come to order. A demand is made for the previous question, and the Chair is bound to decide that during the pendency of that proposition all debate is out of order.

Mr. HOUSTON. I did not want to make a speech; I merely wanted to state a fact.

The SPEAKER. When the main question is ordered—if it shall be—the gentleman from Alabama, having reported the bill, will have a right to make an hour's speech, as everybody knows.

The previous question was then seconded, and the main question ordered to be now put.

Mr. HOUSTON. I do not intend to make a speech, although I have a right to do so. I do not intend to delay or endanger the passage of this bill.

Mr. JOHNSON, of Tennessee. I wish to ask

the gentleman from Alabama [Mr. HOUSTON] a simple question, merely for the sake of information. It is simply whether this bill proposes any specific amount for the erection of this Mint in California, or does it go on to provide for the erection of the Mint without specifying the appropriation at all?

Mr. MARSHALL, of California. It specifies a limited sum.

Mr. HOUSTON. The eleventh section of the bill, as proposed by the Committee on Ways and Means, restricts the amount which may be expended under the bill, if it should become a law. It provides that "it shall not, in any contingency, for buildings, machinery, and everything that is necessary to put the Mint in perfect operation, exceed \$300,000." That section also requires that the Secretary of the Treasury shall not proceed, or take any steps under any of the provisions of the bill, for the establishment of that Mint, until he shall have made contracts for the entire expenditure which may be necessary for the buildings, machinery, and everything else, to enable him to put the Mint in full operation; which contracts are to be approved by the President of the United States; and which expenditures or contracts shall not exceed the sum of \$300,000.

Mr. JOHNSON. In this connection I want to ask another question. Does this bill appropriate that amount, or any other amount?

Mr. HOUSTON. It appropriates no amount at all.

Mr. JOHNSON. How do they get the money then?

Mr. HOUSTON. That depends upon future legislation by Congress.

As I said before, I do not intend to argue the point presented by the gentleman from New York, [Mr. Brooks.] I intend, however, to say to the gentleman, and to the House, that according to my examination and understanding of the facts, his statement is wholly incorrect, and can, to no essential extent, be sustained. His statement of facts is entirely incorrect and unreliable, according to the statement of the Secretary of the Treasury, which the gentleman from Tennessee [Mr. JONES] read to the House a few moments since—wholly incorrect, according to the report of the chairman of the Committee on Finance in the Senate, [Mr. HUSTON,] who has given to this subject a very thorough and elaborate investigation. Both of those gentlemen say that seigniorage is charged upon the coinage of other civilized Governments. And I undertake to say that such is the fact, which any member of this House will see by an examination of the subject. The law which the gentleman read, shows the same fact; and if he had read the whole of it, he would have established my proposition. Now, sir, the only doubt I have ever heard expressed about this matter is, whether there is any seigniorage charged by the British Government. The gentleman says no civilized Government in the world charges it. France may not be a civilized country, in the gentleman's estimation, but there is no gentleman who has examined this subject, except the member from New York, [Mr. Brooks,] who will say that France does not charge seigniorage. There is in the minds of some a question about the practice of Great Britain.

But the law produced by the gentleman from New York [Mr. Brooks] shows, that while a bullion holder may go to the Mint and receive coin for his bullion, yet it is only when the gold dust has been assayed and brought to the standard fineness required by the British statute. When it is in that condition he can get a certain amount of coin for it; and to get it to that standard fineness much the largest expense is incurred which would be charged for under this bill, all of which is paid by the bullion holders to some assay office approved by those who control the Mint. Our Mints assay gold and carry it through all the necessary stages for coinage, and then coin it. We propose, for that service, a small charge to be paid to our Government, towards defraying the expenses of the Mints. The British Mint refuses to perform that service, and requires the bullion holder, at his own expense, to have it done by some assay office, which its officers may designate, before they will receive it. The additional expense necessary to stamp it is very trifling, and that, I believe, they are to some extent compensated for, by the amount of coin they pay out;

but that is immaterial. So the same expense which this section requires the bullion holder to pay, is paid by him in England, and that it may not go directly into the coffers of the British Government, is not the question at issue here? The proposition which I am endeavoring to establish is, that the bullion holder pays that expense. The honorable member from New York [Mr. Brooks] maintains the contrary, if we understand him; and that being the issue, I am willing that his law shall decide between us. It matters not whether the bullion holder pays the expense to the Government or a subject of Great Britain. He pays for that service, and pays it to whoever renders the service substantially, as we propose by the tenth section of the bill before us.

Mr. BROOKS, (interrupting.) The gentleman mistakes the facts.

Mr. HOUSTON. I know what the facts are, and I am stating what the books show. I felt it due to say thus much, in justification of the action of the Committee on Ways and Means, who reported the section controverted. But allow me to read the law, so that there may be no cavil about it hereafter:

"And be it enacted, That from and after the 31st day of August, 1844, all persons shall be entitled to demand, from the issue department of the Bank of England, Bank of England notes, in exchange for gold bullion, at the rate of three pounds seventeen shillings and nine pence per pound of standard gold: *Provided always*, That the said Governor and Company shall in all cases be entitled to require such gold bullion to be melted and assayed by persons approved by the said Governor and Company, at the expense of the parties tendering such gold bullion."

Now, sir, what is that but a part of the expense of coining, and which will be included in this seigniorage charge if the section shall be agreed to—

Mr. SEYMOUR, of New York. I wish to propound a single question to the gentleman from Alabama, [Mr. HOUSTON.] I will ask the gentleman whether we have not a statute, passed in 1800, which provides that a charge shall be made upon all bullion brought to the Mint, which needs refining before it is in that state which is proper for coinage; and whether the provisions of this act are intended to be superadded as an additional charge to that provided for by the act of 1800? That act, I think, charges one half of one per cent. for putting this bullion in a condition fit for coinage.

Mr. HOUSTON. I will reply that the bill now before the House is intended to supersede, and it will supersede, if agreed to, all other charges for coinage at the Mints of the United States. The gentleman says the charge now made at our Mints is one half of one per cent. I guess he has not examined the subject, and is therefore in error. But admit that he is correct, and that the present charge is as high as he states it, you will at once see that most of the expense proposed to be charged under the provisions of this bill is already charged under existing laws; and the service for which that expense is incurred, and which the gentleman says is one half of one per cent., is now charged upon all gold before it is received at the British Mint. It is true that the British Government does not make the charge, for the reason that it does not perform the labor. In England, it is done and paid for in an assay office, distinct from the Mint. Here our Mints perform the service, and should charge for it. The principle is the same—

Mr. SEYMOUR. The act of 1800, of which I have an extract before me, expressly charges it for the expense of refining the gold, and not as seigniorage.

Mr. HOUSTON. The gentleman's special pleading will not avail him. Seigniorage, as we use and understand it, is a charge upon any or all of the various stages of coinage, and is intended to make the owner of bullion pay the expense of putting it into coin, that he may use it. You have to assay the bullion, and separate the impurities from the purities. Bullion is merchandise, and may be and is used as merchandise; but you cannot use it as coin until the refining process is applied to it, and it receives the stamp of the Mint; and for the expense incurred in turning it into coin, it is proposed not to charge one half of one per cent., as the gentleman argues, but it is proposed by the committee to make one per cent. the maximum of the charge. They propose to charge a seigniorage in the discretion of the Secretary of

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the Treasury, which shall not in any event exceed one per cent., and not in any event exceed the expense of coinage at the Mint. The Secretary is not bound to charge the maximum; the discretion was given, that he might, from time to time, regulate the charge with proper judgment and discretion, so as to inflict no improper injury upon the country. The question now is, shall this Government be required to expend millions of dollars annually in establishing and keeping up these Mints for the benefit of bullion dealers? The expense of the various Mints we have now is not much less than three quarters of a million of dollars; and if you establish the California Mint, and the New York Mint, you will have upwards of a million of dollars to pay annually to keep up your system of Mints. And is it right that the people should be taxed to that extent for the purpose of protecting any one interest over any other?

Mr. STANTON, of Tennessee, (interrupting.) I believe there is no doubt about the fact that this business of coinage is one which belongs exclusively to the Government. Why, I ask, is it that the Government should be paid for performing this duty of stamping the currency of the people, any more than for performing any other constitutional duty?

Mr. HOUSTON. In answering the gentleman from Tennessee, [Mr. STANTON,] I will say what I was going to say at first. It is said the Government has this monopoly under the Constitution. Why is that? It is not because the Government profits from it. But it is that the Government may protect the people against plunder by a hundred different kinds of coins—coins of various devices and values.

But I have not answered the gentleman's question. I say the Government of the United States is as much bound to protect the manufacture of one thing as of another, and if we are bound to put gold in a condition to be used, the Government has the same obligation resting upon it, to put the cotton of the cotton-grower, the tobacco of the tobacco-grower, the rice of the rice-grower, in a condition to be used in market. Gentlemen say the Government does not require you to bale your cotton. True enough. Nor does it require the bullion holder to coin his bullion. I am willing to give Mints, as far as my vote goes, to any point where the interest of the people demands a Mint, upon the principle that, after the Government builds them, they shall sustain themselves by a tax on coinage; upon no other principle will I vote for additional Mints. If you require the Government to sustain them, then I say the one at Philadelphia, and the one at New Orleans will coin promptly double the quantity of bullion ever brought to this country; and it is as little as the owner of it should expect, that he should carry it to the Mints already in operation. The Government is not profited by them; and certainly, as they can do double the coinage required, it should be called on to establish no more, unless upon the principle that they will sustain themselves, as proposed in this bill. The charge for coinage, contained in this bill, is not one per cent., but, as I have said, is discretionary with the Secretary of the Treasury. A bill passed the Senate unanimously, after weeks' discussion, containing this same principle. They must be much less intelligent than gentlemen of this House, very remiss in the discharge of their duties, or the gentlemen here from New York must be mistaken; this House must determine which.

Mr. DEAN. Will the gentleman answer me one question? I want to know whether this seigniorage is applied to all the Mints in the country?

Mr. HOUSTON. Yes, sir; every one of them. The provision is applicable to the Mint of the United States and all its branches. The Government is to receive what is charged, and to receive it for the purpose of defraying the expense of coinage.

Mr. DEAN. Then I understand that the Government, for assuming this monopoly of coinage, and preventing anybody else from going into it, is going to tax the gold producer?

Mr. HOUSTON. I do not care how the gen-

tleman understands it. I should regret exceedingly if I were responsible in any degree for his understanding. [Laughter.]

Mr. SEYMOUR, of New York. The honorable chairman of the Committee on Ways and Means stated that it was the intention that this bill should supersede the charges already made for refining gold brought to the Mint in bullion under the act of 1800. I should like to hear that part of this bill read.

[Cries of "Order!" "Order!" "Order!"]

Mr. HOUSTON. That is the intention. I would like to discuss this question fully, but I will not further interfere with the bill. My aim on this occasion was to controvert what I regard as improper statements. I withdraw the motion to recommit the bill.

The SPEAKER. The motion can only be withdrawn by unanimous consent.

Mr. JONES, of Tennessee. Has the main question been ordered?

The SPEAKER. It has.

Mr. TOOMBS. The bill ought to be voted down. It affects the currency of the country. I object to the gentleman's withdrawing his motion.

The question was then taken on the motion of Mr. HOUSTON, to recommit the bill to the Committee on Ways and Means, and it was not agreed to.

Mr. TOOMBS. We had better look at that bill; and I therefore move that the House adjourn.

The question was put upon the motion to adjourn, and, upon a division, there were—ayes 39, noes 51.

[Cries of "No quorum!" "No quorum!"]

The SPEAKER, (Mr. STUART temporarily occupying the chair.) The House refuses to adjourn.

The amendment then recurred upon the first amendment proposed by the Committee on Ways and Means, which was read by the Clerk as follows:

"Page 1. Strike out the word 'temporary,' in 8th line, and insert, in lieu thereof, the word 'suitable.'"

The question being taken, the amendment was agreed to.

Mr. EVANS. There is no objection to the California Mint bill, but we do not want to trouble the gold of the country. I move the House adjourn.

The question was put upon the motion to adjourn, and there were, upon a division—ayes 45, noes 67.

[Cries of "No quorum!" "No quorum!"]

Mr. EVANS. I rise to a point of order. The business of the House cannot be proceeded with, inasmuch as a quorum is not present.

The SPEAKER, (Mr. STUART in the chair.) The gentleman raises the question of order, that inasmuch as no quorum votes, the House cannot proceed with business. The Chair thinks the gentleman is correct in his point of order; but also thinks that, in point of fact, there is a quorum in the House, and hopes measures will be taken to ascertain that fact.

Mr. FOWLER demanded tellers; which were ordered; and Messrs. STANTON, of Tennessee, and APPLETON, of Maine, were appointed.

The question was again taken upon the motion to adjourn, and the tellers reported—ayes 33, noes 72. No quorum voting.

Mr. CLEVELAND. I move a call of the House.

Mr. CLINGMAN. It is not in order to move a call of the House after the call for the previous question has been sustained.

The SPEAKER. The motion is not in order. The main question has been ordered to be put.

The SPEAKER. No quorum has voted, but the Chair thinks there is in fact one in the hall.

Mr. HOUSTON. It is competent for the Speaker, by any means he may resolve upon, to ascertain whether a quorum is present, though one has not voted, and it may not be in order to move a call of the House.

The SPEAKER. Taking the vote upon this

question, by yeas and nays, would test the fact whether there is a quorum in the House or not.

Mr. CLEVELAND demanded the yeas and nays; which were ordered.

The question was then taken upon the motion to adjourn, and it was disagreed to—yeas 42, nays 80. So the House refused to adjourn.

Mr. MARSHALL, of California. I merely wish to state, on behalf of myself and colleague, [Mr. McCORKLE,] who are more, perhaps, than any other members, interested in this question, that we want the question taken upon the amendment so as to secure the action of the House upon the bill at its next meeting. We are, of course, as everybody upon a moment's reflection would see, opposed to this amendment. We are willing it should be voted out—in fact, anxious it should be. We hope the House will take that much action upon it, so as to secure the bill before the House the next time it meets.

[Cries of "Question!" "Question!"]

The question was then taken upon the following amendments proposed by the Committee on Ways and Means, to the bill, and they were severally adopted:

Page 1. Strike out the word "immediately," on 9th line. Page 1. After the word "and," on 19th line, insert the words "until the thirteenth of June, one thousand eight hundred and fifty-five."

Page 1. After the word "of," on the 22d line, strike out "five," and insert "four."

Page 1. After the word "thousand," on 22d line, insert the words "five hundred."

Page 1. After the word "of," on 25th line, strike out "four," and insert, in lieu thereof, the word "three."

Page 1. After the word "of," on 25th line, strike out "three," and insert, in lieu thereof, the word "two."

Page 1. Strike out, after the word "men," on 27th line, the words "not exceeding twenty."

Page 3. Strike out, after the word "laws," on the 2d line, the word "made," and insert, in lieu thereof, the words "now in force."

[A message was here received from the Senate, at the hands of ASBURY DICKINS, Esq., its Secretary, notifying the House of the passage, by that body, of certain bills.]

The Clerk then read the following amendment, proposed by the committee to be added at the end of the bill:

"Sec. 10. And be it further enacted, That there shall be charged a seigniorage on the coinage of gold in the Mint of the United States, and each of its branches, at a rate, or rates, to be established from time to time by the Secretary of the Treasury, not to exceed, in his judgment, the actual expense of the coinage at said Mint, or branch Mint, respectively: *Provided*, The same shall not be more than one per centum on the amount coined."

"Sec. 11. And be it further enacted, That before the Secretary of the Treasury shall procure or erect the buildings provided for in the second section of this act, or commence operations under any of the provisions of the same, at San Francisco, State of California, it shall first be his duty to make a contract, or contracts, for the erection of said buildings, and procuring the machinery necessary for the operations of said Mint, at a sum or sums which shall not in the whole exceed the sum of \$300,000, which said contract, or contracts, shall be secured by good and sufficient sureties, to the satisfaction of the said Secretary of the Treasury and the President of the United States."

Mr. SEYMOUR, of New York. I demand the yeas and nays upon that amendment.

[Cries of "No!" "No!"]

Mr. SEYMOUR. Very well. I am convinced that amendment will not be adopted, that the law will be left as it now stands, and therefore withdraw my call for the yeas and nays.

Mr. CLEVELAND. The friends of the Mint think that amendment ought to prevail. I hope it will. I renew the call for the yeas and nays.

The House was divided on the demand for the yeas and nays, and there were—ayes 22, noes 75—no quorum voting.

Mr. JONES, of Tennessee. That is one fifth.

The SPEAKER. The Chair will consent to adopt that principle, and decide that the yeas and nays are ordered.

Mr. CLINGMAN. This is an important question. The House is thin. I inquire if this bill is not under the operation of the previous question, and whether it will not come up when we meet again?

The SPEAKER. The main question has been ordered to be put.

Mr. CLINGMAN. Of course that will bring it up after the morning hour.

The SPEAKER. The Chair is of the impression that it will be the first business in order after the morning hour.

Mr. JONES, of Tennessee. The first hour is devoted to the calling of committees for reports. Then you may go to the business upon the Speaker's table. You go from there to the business specified in the 26th and 27th rules, and then, when you have got through with all of the business thus provided for, you can proceed to the orders of the day—to the unfinished business of the preceding day.

Mr. CLINGMAN. I am surprised that the gentleman is now in the wrong, for he is generally right. That applies to a case where the previous question is not moved. If the previous question was not pending, we could not get to the unfinished business; but where the previous question has been sustained, it brings it up in advance of everything else in the House. I move, therefore, that the House adjourn.

Mr. JONES. The gentleman is only befogging himself.

Mr. SEYMOUR. Have not the yeas and nays been ordered?

The SPEAKER. They have been ordered.

Mr. OLDS. I rise to a privileged question. I move to reconsider the vote by which the previous question was ordered. That will keep the bill before the House. I now move that the House adjourn.

The question was then taken, and it was agreed to.

So the House adjourned, according to special order, to meet on Friday next.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PORTER: The petition of David W. Newton and 120 others, citizens of Warren and Montgomery counties, Missouri, asking the establishment of a post road from Warrenton, in Warren county, to Middletown, in Montgomery county.

By Mr. EASTMAN: The memorial of the Legislature of the State of Wisconsin, asking the establishment of an additional land district in said State.

By Mr. MACE: The memorial of David Brier, Joseph Ristim, Joseph H. Nelson, R. Hethfield, and Charles Tyler, committee in behalf of the citizens of Fountain county, Indiana, asking for a grant of land to aid in constructing a railroad from Springfield, Illinois, to Andersonstown, Indiana, via Danville, Covington, Crawfordsville, Lebanon, and Noblesville.

By Mr. BROWN, of Mississippi: The petition of John H. Horne, of Mississippi, praying relief from certain demands of the Government, on account of Indian reservations.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, June 18, 1852.

The House met pursuant to adjournment. Prayer by the Rev. C. M. BUTLER.

The SPEAKER. The business first in order is the motion to lay upon the table the appeal taken from the decision of the Chair by the gentleman from New York, [Mr. BENNETT.] On Tuesday last a motion was submitted by the gentleman from New York, for a call of the House, which the Chair decided to be out of order. From that decision an appeal was taken by the gentleman from New York, and the question now is upon the motion to lay that appeal upon the table.

Mr. HENN, from the Committee on Enrolled Bills, reported as correctly enrolled, an act for the relief of William S. Payne; an act making appropriations for the payment of Navy pensions for the year ending the 30th of June, 1853; and a joint resolution to change the name of St. Peter's river in Minnesota Territory; which were severally presented to the Speaker, and received his signature.

Mr. STUART. Before proceeding to the business embraced in the morning hour, I ask the unanimous consent of the House to take from the Speaker's table and pass two or three bills from the Committee on Territories. They are such as will give rise to no discussion, and it is important that they should be sent to the Senate.

Mr. JONES, of Tennessee. If there is a quorum I will consent, and not otherwise.

Mr. CARTTER. I object.

A Voice. Let us adjourn—there is no quorum here.

Mr. STANTON, of Tennessee. I do not and will not object to that proposition, or any other proposition of the kind, but it is very clear that the question of quorum or no quorum will be made, and I propose that the House do now adjourn until Monday next.

Mr. JONES. I have no objection to the motion being made, but upon that question I shall ask for a division, and if there is a quorum here I shall have no objection to proceed to the consideration of these bills.

Mr. STANTON. If it should appear that there is no quorum here, we cannot adjourn until Monday, and we will be put to the necessity of coming back here to-morrow without purpose and object.

Mr. JONES. Upon the motion made by the gentleman, [Mr. STANTON,] I shall ask for a division, to test whether there is a quorum or not.

Mr. STEPHENS, of Georgia. I ask for tellers. Tellers were ordered, and Messrs. STANTON, of Tennessee, and STEPHENS, of Georgia, appointed.

The question was then taken, and there were—ayes 98, noes 19.

So the House agreed to adjourn till Monday next.

Mr. STUART. I ask for the unanimous consent of the House to proceed to the consideration of certain territorial bills.

Mr. DANIEL. I object.

Mr. CHANDLER. I ask the unanimous consent of the House to allow me to report a resolution from the Library Committee. It is a resolution merely authorizing them to accept a portrait of HENRY CLAY, presented by an artist of New York.

Mr. JONES, of Tennessee. I object at present, and move that the House adjourn.

Mr. DANIEL. I demand the yeas and nays upon that motion.

The yeas and nays were not ordered.

The House then adjourned, to meet on Monday next.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HENN: The petition of Dr. William Trippett and 47 others, asking for the establishment of a mail route from Charlton, Iowa, via Glenview, White Breast, and Hopeville, to Pisgah.

Also, the petition of E. W. Steele and 102 others, asking for the establishment of a mail route from Apple Grove, Iowa, via Freels, Hartford, and Palmyra, to Indianola.

By Mr. PARKER, of Indiana: The petition of J. P. Boyd, Jonathan Ogburn, and 42 others, citizens of Union, Wayne, and Randolph counties, Indiana, asking for a tri-weekly mail route from Liberty, via Centreville, and to Winchester.

By Mr. HIBBARD: The petition of S. W. Thompson and others, praying for the establishment of a new mail route from Lower Bartlett to Gorham, in the State of New Hampshire, to intersect with the Atlantic and St. Lawrence railroad.

#### IN SENATE.

SATURDAY, June 19, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of State, in answer to a resolution of the Senate of the 11th June, directing him to communicate to that body whatever information he may have obtained in Mexico and elsewhere in relation to the Gardiner claim. The Secretary states that he has laid the same before the President, who is of the opinion that the information desired would not comport with the public interest; and further, that he concurs entirely in that opinion. The communication was ordered to be laid upon the table and be printed.

Also, a report from the Secretary of the Interior, in relation to the liquidated balance due the Creek Indians for losses sustained by them during the late war with Great Britain; which was ordered to be laid on the table and printed.

Also, a report from the Secretary of the Treasury, communicating, in answer to a resolution of the Senate, a report of the Register of the Treasury, and other papers in relation to the claim of Nahum Ward; which was ordered to be laid on the table and printed.

Also, a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a reconnoissance of the Gulf of California and the Colorado river, made in 1850 and 1851, by Lieutenant Derby, of the Topographical

Engineers; which was ordered to be laid on the table and printed.

#### PETITIONS, ETC.

The PRESIDENT *pro tempore* laid before the Senate the proceedings of a meeting of citizens of Laurel, Indiana, and of a meeting of citizens of Napoleon, in the same State, recommending that provision be made by law for the organization of the Territory of Nebraska; which were referred to the Committee on Territories.

Mr. SEWARD presented the petition of L. Bradish, William C. Bryant, and other citizens of New York, praying that the collection of Indian Scenes and Portraits of Mr. George Catlin may be purchased by the United States; which was referred to the select committee on the subject.

Mr. SEWARD presented a petition of citizens of New York, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. BRIGHT presented two petitions of citizens of Goshen, Indiana, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. MASON presented a memorial of citizens of the Seventh Ward of the city of Washington, praying that the Potomac bridge may be rebuilt on its present site; which was referred to the Committee on the District of Columbia.

#### REPORT FROM A STANDING COMMITTEE.

Mr. FOOT, from the Committee on Pensions, to which was referred the petition of the administrator of Michael Everly, submitted a report, accompanied by a bill for the relief of the children of the late Lieutenant Michael Everly, a revolutionary officer; which was read and passed to the second reading. The report was ordered to be printed.

#### NOTICE OF A BILL.

Mr. BRODHEAD, agreeably to previous notice, asked and obtained leave to introduce a bill to provide for the payment of workmen on the extension of the Capitol, during the suspension of the work; which was read and passed to the second reading.

On motion of Mr. BRODHEAD, the bill was ordered to be printed.

#### MILITARY POSTS IN CALIFORNIA.

Mr. WELLER submitted the following resolution:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting a bill for the organization of an additional regiment of mounted men for the establishment of military posts in California, and for other purposes of defense.

Mr. WELLER. In submitting this resolution, I desire to call the attention of the Senate to the necessity of providing an additional military force for the protection of the people of California. The last advices from that country give us the intelligence that murders and robberies, in that section of the State where the Indians are found, are becoming alarmingly frequent, and are constantly increasing. In an address, signed by the two Senators and four Representatives in the State Legislature from the counties of Shasta, Trinity, and Klamath, I find that, in a very few months past, one hundred and thirty white men have been murdered, and property worth \$240,000 destroyed. They say:

"The evil is increasing every day, as a more intimate knowledge of the whites makes the Indians more bold and reckless in their attacks. Already they enter our towns and villages at night, and steal or set fire to property; the habitations of the industrious miners, while they are at their labors, are entered with impunity, and robbed of their contents; the pack animals, on which the miners must depend for their provisions, are either killed on the spot where found, or driven away, to be roasted and eaten by the depredators. The people are compelled to travel from one portion of the country to another in companies, well armed, to repel attacks.

"It has been charged that the hostility of the Indians was superinduced by acts of injustice committed by the whites. As a general thing, we can state that, from our own knowledge, this has not been the case, and have no hesitation in saying that it emanates from the known character of the Indians—a mischievous disposition, and desire for plunder. In but few instances have the first offenses been committed by the whites.

"This state of affairs cannot continue much longer. If that protection which every State should extend to her citizens is not soon granted to our people, they must either unite and exterminate the Indians in their neighborhood, or withdraw from it altogether."



This communication is addressed to the Executive of the State, and earnestly implores him to adopt the necessary measures to arrest the progress of these Indians. The Governor promptly addressed a communication to the general commanding your Federal troops in that State, calling his attention to this important subject. In this communication he says:

"In contingencies like these, a simple but imperative duty is imposed upon the Executive, to place the State in the hands of the General Government, and to demand that aid and protection which the guarantees of the Federal Constitution assure us we are entitled to receive. If the General Government is then neglectful of the demand which we make upon it; if it is unmindful of the duty which it owes to us, we have one other alternative—to fight our own battles, to maintain our independence as a sovereign but isolated State, and to protect ourselves from intestine troubles as well as from the incursions of merciless and savage enemies."

"I deem it my duty to assure you, that unless prompt protection is afforded to the citizens of this State by the General Government, I shall feel bound to resort to the only means left me to defend the frontiers, and to conquer a lasting peace. A resort to these means will increase the debt of the State, and add to the burden of taxation imposed upon our citizens. To dispense with such a necessity, I indulge the earnest hope that you, as a military representative of the General Government in California, will exercise your authority to arrest hostilities, and to secure to us the blessings of a permanent peace."

Now, Mr. President, there never has been a sufficient number of troops in California to protect her extensive frontier from Indian depredations. This is known and seriously felt by all who have any knowledge of that country. General Hitchcock, I do not doubt, has every disposition to do all in his power to extend the necessary protection to our people, but with the force at his command, this is utterly impossible. If, as should be the case, authority was given him to accept volunteers, when called into service by the Executive of the State, the difficulty, to some extent, might be obviated. But in my judgment the public necessity demands that some five or six strong military posts should be established at once. There should be a strong post at the mouth of the Gila river, which will have to be kept up for a series of years;—there is a very large number of warriors within a few miles of this point, and as it is on the emigrant route from the East, depredations are constantly being committed. This important post was garrisoned last summer by a lieutenant and eight men! I am glad to learn from a letter received yesterday from the Adjutant General, that a sufficient force has been stationed at this point.

There should be a smaller force stationed at "Cajon Pass"—a military post at or near Tulare lake, in Mariposa; one near Reading's Ranch, and two in the North, adjacent to the Oregon line. By the establishment of these posts, with a sufficient force to send out detachments whenever public necessity demanded, and power to accept volunteers called out by the Governor, ample protection could, I think, be given to our people.

The people of California are, it is true, located in a country far distant from the Federal Government; but they stand upon American soil, and are as much entitled to the protection of the Government as if they occupied the center of the Republic. That they have a right to complain of the neglect of the General Government, hitherto, is undeniable. They have scarcely known you in any other way than through your tax collectors. You place your officers at all her ports and exact a high duty upon the very bread they eat. They paid, in the shape of duties, during the past fiscal year, more than \$3,000,000, and yet our harbors remain undefended, our coast unlighted, our immense commerce unprotected, and our people left to the tender mercies of the untamed savages. Now, I tell you, Mr. President, that if you desire to preserve the peace and tranquility of the Union, if you wish to bind more closely these States together in the bonds of affection and fellowship, you must take care to extend your protecting wings over every part of it. You must do justice to all. He who stands upon your frontier settlements and looks upon your glorious flag, must feel and know that the protecting arm of the Federal Government is extended over him; that however poor and humble he may be, his person and property shall be defended.

It is not to be expected that a Government too weak to defend, or so unmindful of its duty as to refuse adequate protection, can command the respect or affection of its people. Sir, I know the

people of California are devotedly attached to the Union—they have been taught from their infancy to regard it as the richest legacy ever bequeathed to any people. They feel that they are under the highest obligations to transmit unimpaired, unsullied, that magnificent inheritance to their children. Although far from their native States, and many of them far from those who are bound to them by the ties of kindred and affection, still they feel that they are a part of that glorious Republic which has stood, for three quarters of a century, the wonder and admiration of the world. But when they find themselves neglected by the Federal Government, left to defend themselves against the merciless Indians; when they see their commerce unprotected, their friends murdered, and their property destroyed, because of that neglect, they must be allowed to utter their complaints.

If you intend they shall protect themselves—if you intend to throw them upon their own resources, suffer them to avail themselves of all their means, and my word for it, the work will soon be accomplished. Recall your tax collectors, your horde of Federal officers, and California would soon take care of herself. But if you tax us; if you claim our allegiance to the Federal Government; if we are to contribute towards its support, you must protect us. There must be a reciprocity in this matter. That some disaffection exists amongst the people, growing out of these causes, is certain; that unless the cause is removed this will increase is equally certain.

There are at least 75,000 Indians within the limits of that State, and they need but a master spirit to confederate the tribes and involve the whole frontier in a bloody and desolating war. I am not prepared to say that the commissioners, who have been so assiduously engaged during the past two years in feeding these Indians a million of dollars' worth of beef, have done no good; but this I will say, that the policy of making reservations in that State must be entirely abandoned. The whole military strength of the United States would be necessary to enforce your Indian laws upon these reservations. I have as much sympathy for the Indian as most men, but all experience has demonstrated that the two races cannot live peaceably together. The extermination of the Indian is inevitable. It is a melancholy reflection, but it is nevertheless unavoidable. The Indians of northern California are as wild as the country which they inhabit; nothing short of omnipotent power can so change their habits as to convert them into useful members of society. Extermination is a mere question of time. In the meanwhile I am willing to do all that can be done, to alleviate their sufferings or better their condition. As to inducing these untamable savages to engage in agriculture, as the Indian Commissioner seems to anticipate, is to my mind absurd. It never can be accomplished. It is a loss of time and money to make the effort to place them upon reservations in the heart of the settlements; and to expect them to remain quiet, and respect the rights of their white neighbors, is the worst species of folly. Their condition is in many respects materially different from that of the Indians on this side of the Rocky Mountains. A policy which might succeed here, but must fail there. But the Executive session is the proper place to discuss this subject.

Mr. President, I ask permission to read a letter which I received by the last steamer. It is from a gentleman of high character, and well acquainted with this subject. He says:

SAN FRANCISCO, CALIFORNIA, May 14, 1852.

DEAR SIR: The complicated state of our Indian affairs in this country, and the unprotected condition of our citizens, have induced me to communicate with you for the purpose of drawing more attention to the subject. A week ago I called on General Hitchcock, and urged on him the necessity of immediately sending troops up to the north so as to protect the people in that region. He spoke very fairly, and promised to do all that he could, and is now doing everything in his power, but the truth is, his forces are very inadequate to the services required. The country is much more extensive than generally supposed, and the localities very imperfectly known. Of this you are well aware yourself, and it is very difficult to make people understand it. There is now little or no danger to be apprehended from the Indians, except those living in the extreme northern and southern portions of the State, while those portions are almost entirely destitute of any protection from the General Government. The southern, it is true, have recently fared tolerably well, but now that there is a temporary cessation of hostilities, the troops are mostly to be withdrawn, and the people again left to the tender mercies of the savages. The north has never seen a single soldier, except a small

party that came through from Oregon, and the rough treatment they received on the way from the Indians ought to have been sufficient demonstration of the necessity of establishing a military post somewhere in that region. Such, however, has not been the case until now, when about a hundred men are to be sent to protect the people of a region five hundred miles in length by three hundred in breadth, embracing the most mountainous country in the United States, and filled with hostile Indians, fattened into good fighting order by the liberality of the commissioners.

The commanding officer is not to blame for these things, but the Government at home is, and the utter neglect with which we have been treated, is fast engendering a feeling that no good Government should ever afford a cause for. If we are to be held only to furnish the people of the Eastern States with gold to save them from bankruptcy, and obtain no protection from the Government, why, we must endeavor to find some way to prevent that gold from leaving the State. These sentiments I would dislike very much to be compelled to make public, and combated them warmly in the Legislature, but necessity may force me to it.

You have doubtless seen the correspondence had with the Governor on these affairs, and understand something of the matter; but the extent of it can only be fully known by those living in the exposed districts. Without protection of any kind, our people have been exposed to the most vexatious depredations; our friends and neighbors most inhumanly butchered; their property stolen or destroyed to an amount unprecedented, and no effort made on the part of the Government to chastise the perpetrators. In addition to this, when the people, driven to madness by these repeated injuries, turn out to redress their own grievances, they are told by the Government officials, that they have brought "lasting disgrace upon the American name," and these very officials purchase large amounts of property from our people under color of their office, and then the Government refuses to pay the account.

These complaints are not for imaginary wrongs; they are stern realities. If the Indian Commissioners have done wrong, why not recall them, and punish them for transcending their authority; but do not let the Government commit such a heinous wrong as to swindle our people out of their property, under color of official misconduct. Pay the people for the property they have furnished the Government in good faith, and punish the offending officers.

Now, we have no earthly use for any Indian department in this country, and the whole thing has arisen out of a want of knowledge of the Indian character here, and its effects have been, and will continue to be, most pernicious. Withdraw the whole thing, and send us a few more troops, and it is all that is required. The treaties are more farces, without any binding force or effect, and are worse than useless. The Indians know nothing about a treaty, and the only way to manage them is—to flog them and tell them to behave themselves. If this course is pursued, my word for it, we will soon be free from their depredations. It is all tomfoolery to be feeding them, for it only enables them to be the more mischievous. Besides, they do not require it. None of their means of subsistence is taken from them. The fish, game, acorns, and grass seed, are just as much within their reach now, as ever they were, and they desire nothing more.

Why is it that the Government should deem it necessary to send an expedition to Japan, to punish injuries inflicted on a few sailors, while our citizens are murdered by hundreds at home, and little or no notice taken of it? Is it because *clat* will follow the one, while nothing but duty requires the other? This seems to be the natural conclusion, for if the imprisonment of some dozen American citizens made it necessary to send a fleet to the other side of the globe to punish the offenders, it would seem to be still more necessary to chastise those who have murdered hundreds of our people.

I must again repeat that we want no Indian bureau—no Indian commission in this country, but we do want troops, and troops adapted to mountain service; and while on the subject, I will say that we want a full and complete investigation of the conduct of the commissioners that have been sent out here, for I am very sure that some of them at least, have been engaged in business that no Government officer should ever be concerned in; not directly but indirectly, under the cloak of other persons.

I will now leave the matter with you for the present, hoping that something will speedily be done for our benefit. Write to me at Sacramento City.

I remain, yours truly,

Hon. J. B. Weller.

In answer to some questions propounded, the Adjutant General addressed me the following letter:

ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, June 16, 1852.

SIR: In reply to your inquiry of the 14th instant, I respectfully inform you that the force now stationed in California, consists of two companies of *Dragoons*, three of *Artillery*, and the *Second Regiment* (ten companies) of *Infantry*, making in all fifteen companies, and distributed as follows:

Stations.	Description of companies.	Officers.	Men.	Aggregate.
Post on Cow Creek....	1 company, 2d Inf....	5	43	48
Benicia.....	1 company, 1st Drag 3 companies, 2d Inf....	19	215	234
Presidio San Francisco	1 company, 3d Art....	4	38	42
Monterey Redoubt....	1 company, 3d Art....	4	45	49
Camp Miller.....	2 companies, 2d Inf....	8	73	81
Rancho Del Chino....	1 company, 2d Inf....	3	66	69
San Luis Rey.....	Detachment 1st Art.	1	6	7
San Diego and vicinity.	1 company, 1st Drag 1 company, 1st Art....	8	163	171
Post at Mouth of Gila.	3 companies, 2d Inf....	11	195	206
Total.....	15	63	844	907

In addition to the foregoing, the 4th Regiment of Infantry, (ten companies), and ninety Dragon recruits, making probably nine hundred men, are now assembling at Fort Columbus, in the harbor of New York, preparatory to embarkation for the Pacific—a portion to proceed by the Panama route, and the remainder around Cape Horn. I am, sir, very respectfully, your obedient servant,  
R. JONES, Adjutant General.

Hon. J. B. WALLER, United States Senate,  
Washington, D. C.

I regret that a portion of these troops have been sent around Cape Horn, as four or five months must necessarily elapse before they can reach the field of labor. After they shall have arrived, with the troops reported to be already there, a sufficient force, I trust, will be found to give the necessary protection; provided authority is given, as I have already said, to accept the services of the militia when the public exigency requires. In my opinion, a larger proportion of dragoons should have been sent out, as they would have been found much more effective than infantry. I must also be permitted to express a doubt whether the force reported is correct. In my opinion, there cannot now be more than six hundred effective troops in the State. The State of California has already expended more than a million of dollars in protecting the inhabitants against the depredations of the Indians, in giving that protection which you should have given. Whether the fault has been with the legislative or executive department, or both, I will not now undertake to determine. Be this as it may, I sincerely hope there may be no cause of complaint in the future. We have only asked that the protection which you extend to your people elsewhere should be extended to us. We ask no more—it cannot be expected that we would be satisfied with less.

Now, although I would not withdraw the Indian agents from that State, because, under a different system, they may accomplish some good; yet for the protection of our people, and the preservation of peace, I prefer seeing additional troops sent out. For the safety of the frontier, I would depend much more upon cartridges, than upon beef.

The resolution, after a verbal correction, was agreed to.

#### NEW POST ROUTE.

Mr. HAMLIN submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of establishing a post route from Aurora, in the county of Hancock, State of Maine, to township No. Thirty-Three, in said county.

#### CANAL ACROSS FLORIDA.

Mr. MALLORY submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of War be requested to communicate to the Senate such information as he may possess relative to the practicability of constructing a canal across the peninsula of Florida, including the results of any surveys that may have been made by officers of the United States upon the peninsula, having a bearing upon this subject.

#### RESERVED LANDS IN ARKANSAS.

Mr. SEBASTIAN. I move to postpone all prior orders, for the purpose of taking up House bill entitled "An act to release from reservation and restore to the mass of public lands certain lands in the State of Arkansas."

Mr. UNDERWOOD. I think we are hardly prepared to legislate upon that question under existing circumstances.

Mr. SEBASTIAN. I beg that the Senator from Kentucky will not make any objection to taking up that bill. It is one that has heretofore been under consideration, and was postponed in consequence of a difference of opinion between myself and the chairman of the Committee on Public Lands, [Mr. FELCH], as to the effect of the amendments proposed by the committee. The bill has reference to a small remnant of military reserves in the State of Arkansas, and embraces but a small class of settlers upon them. I have the opinion of the Commissioner of the General Land Office in its favor; and as it is not a matter of general interest, I think it can as well be decided now by the few Senators who are here, as at any other time. It was only postponed for the purpose of obtaining the information which I have received from the Commissioner, and I have the authority of the chairman of the Committee on Public Lands for saying that this information being obtained from the Commissioner of the Land Office, he would withdraw his objection, and not

insist upon the amendments. As I have obtained the opinion of the Commissioner, which is favorable to the view which I took, I hope the Senator from Kentucky will not urge his objection to the consideration of the bill at the present time in consequence of the small number of Senators present. Mr. UNDERWOOD. I will make no objection.

Mr. SEBASTIAN. Then I ask that the bill may be now taken up.

The motion to postpone the special orders for the purpose of taking up the bill was agreed to, and the Senate proceeded to its consideration as in Committee of the Whole.

The bill provides that the several tracts of land in the State of Arkansas, heretofore reserved for the satisfaction of military bounties under the war of 1812, and which now remain undisposed of, be released from such reservation and restored to the mass of public lands, to be disposed of in the same manner as any other unoffered public land: *Provided*, That the person who may, at the date of the act, be an actual settler on any one of said tracts, and who but for the reservation thereof might have claimed the right of preemption thereto under the act of 4th September, 1841, be authorized to enter the same, or any subdivision thereof, upon making proof of said right, and paying the minimum price per acre, within a year after the passage of this act, or prior to the day fixed for the public sale of the tract; and that all sales of said land, or locations thereof by military warrants (other than those of the war of 1812) which have been inadvertently permitted to be made, and which are in all other respects fair and regular, except as embracing reserved land not offered at public sale, be confirmed, and patents thereon which have issued, shall be as legal and valid as if said land had been released from reservation and offered at public sale prior to such sales or locations; and also, that all of said warrants which have not been satisfied, may be located on any of the public lands not subject to private entry at the time of the location of the same.

The amendments proposed by the Committee on Public Lands were as follows:

Insert after the word "thereof," in the fifteenth line, the words "not exceeding one hundred and sixty acres," so as to limit the amount which a person might be authorized to enter to that number of acres.

Strike out the words, "within a year after the passage of this act, or," and strike out the third section of the bill, as follows:

"SEC. 3. And be it further enacted, That all of said warrants which have not been satisfied, may be located on any of the public lands subject to private entry at the time of the location of the same."

Mr. SEBASTIAN. That brings up the point of difference between myself and the chairman of the Committee on Public Lands, [Mr. FELCH], who, I regret to see, is not now in his seat.

When the subject was under consideration by the Senate on a previous occasion, it was postponed because that Senator apprehended—as did the Senator from Virginia [Mr. HUNTER] also—I believe, that the bill was defective in several particulars; and I insisted then that the amendments proposed by the Senator from Michigan would not alter the legal effect or force of the bill. On account of that difference of opinion, the bill was referred to the Committee on Public Lands; and I have since obtained from the Land Office the views of the Acting Commissioner, in a communication, in which he shows that the amendments were entirely unnecessary, and that they do not alter the legal force or effect of the bill, and do not impair its adaptation to answer the purposes contemplated. On the contrary, that they would probably cause an embarrassment in the Land Office in relation to the known rules of construction which obtain there.

I ask that that communication may be read.

It was accordingly read, as follows:

GENERAL LAND OFFICE, June 17, 1852.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, inclosing House bill No. 238, with three amendments thereto, as proposed by the Committee on Public Lands of the Senate.

You advert to a communication recently addressed to you in reference to the second of the three amendments referred to, and you now desire the opinion of this office as to the other two.

In reply to your query as to the first one, I have to state, the words proposed to be inserted are not deemed necessary to limit the preemption to one hundred and sixty acres, or

to a regular quarter section containing as near that quantity as practicable. The tract authorized to be entered, is that which the party might have acquired under the preemption law of 4th September, 1841, or any subdivision thereof, and that law allowed a quarter section, or by legal subdivisions a quantity not to exceed one hundred and sixty acres. The insertion of the words might indeed embarrass the privilege, where the particular quarter section claimed should contain, as is sometimes the case, on the north or west of townships, a small number of acres beyond one hundred and sixty.

The third amendment, the striking out of the third section of the bill is not deemed essentially necessary, nor would it change the effect of the bill. This third section, it is presumed, was inserted in the House, prior to the passage of the act of 22d March last, it being prior to that time absolutely necessary to the accomplishment of the object manifestly intended by it, because, prior to the 22d March last, the location of any military warrant was prohibited on any land which had not been offered at public sale prior to 3d March, 1851. The retention of this third section would be a mere reenactment of existing provisions of law, and therefore unnecessary, but it could not "dispense with, repeal, or modify," any of those provisions.

With much respect, your obedient servant,  
JOHN WILSON, Acting Commissioner.  
To Hon. W. K. SEBASTIAN, United States Senate.

Mr. SEBASTIAN. That removes all doubt as to the necessity for the adoption of the amendments, and establishes the propositions for which I have contended, that the amendments but correct the phraseology without affecting the substance of the bill.

Now, in reference to the question which comes up, upon the proposition to concur in the amendments of the Committee on Public Lands, I have simply to say, that the letter which has been read shows that the amendments reported by the committee are entirely unnecessary, and as such, scarcely constitute a sufficient reason for sending the bill back to the House of Representatives, where, it is probable, in consequence of many contingencies that may arise, it will not pass this session.

I have now to ask that the Senate will not concur in the amendments as proposed; and that I may have the bill put on its passage. We shall thus be enabled to avoid a delay which can bring no useful results, but may be followed by consequences which I am anxious to avoid.

Mr. UNDERWOOD. I am compelled to differ with my friend from Arkansas. The Acting Commissioner of Public Lands has not referred in his communication to that one of the amendments which proposes to strike out of the bill the words "within a year from the passage of this act."

Mr. SEBASTIAN. If the Senator from Kentucky [Mr. UNDERWOOD] will allow me, I will say that when the bill was formerly under consideration, this very subject was mooted between myself and the chairman of the Committee on Public Lands. I obtained a letter, which has not been read here, but which is adverted to in the letter from the Acting Commissioner of the Public Land Office, and in which the Commissioner states that he will construe this bill in accordance with the views presented by the chairman of the committee [Mr. FELCH] on that occasion. That letter I handed to that gentleman, and it is now on the files of the Committee on Public Lands. I cannot, therefore, produce it, but it states that the construction which the bill must receive will be precisely the same as would be obtained by the adoption of the amendment to which the Senator from Kentucky [Mr. UNDERWOOD] has alluded. As I have said, I submitted the letter to the chairman of the Committee on Public Lands, [Mr. FELCH;] he professed himself to be satisfied, and said that if I would get a letter embracing all the other amendments he would agree to it. That accounts for the letter not being here.

Mr. UNDERWOOD. That accounts for the letter not being here, but does not constitute a reason why the amendments proposed by the committee should not be adopted. All these amendments were considered in the committee, and this about which there is nothing said in the letter from the Acting Commissioner, which has just been read, was considered a very important one, unless you determine to enter upon a system of not requiring payments to be made immediately you perceive that this proposes to give twelve months before proceeding to the sale of the lands. We proposed to strike out that because it is the introduction of an entirely new feature, and no promise of a department to construe the bill in a particular way, can get over the plain meaning of the English language. I am surprised, therefore, that the Acting

Commissioner of the Public Lands should have given a letter promising a construction upon a bill directly contrary to the language expressly contained in the bill. If, then, you make this amendment, in order to avoid the introduction of a new feature for allowing credit upon land sales, your bill will have to go back to the House of Representatives; and if it goes back at all, you may as well make the other amendments also. The only recommendation which the Commissioner gives for allowing the bill to remain as it is, is, that in his opinion, the amendments are unnecessary, and that the bill will be construed in the same manner either with or without them. But the committee, through abundance of caution, thought it proper to make the amendments, so as to leave no doubt about the matter. I am a member of that committee, and I do not feel willing, in the absence of the chairman of that committee, who concurred with me with regard to the propriety of making these amendments, to dispense with them upon the recommendation contained in the letter which has been read, particularly when it is silent with regard to this second amendment. I hope, therefore, that my friend from Arkansas will allow the bill to lie over, or the amendments to be adopted as they are. If we concur in the amendments, I have no doubt it will facilitate the passage of the bill, and that, therefore, we had better adopt them.

Mr. SEBASTIAN. I have but a very few words to say in answer to the objections of the Senator from Kentucky, [Mr. UNDERWOOD.]

I find that he has seen the very letter from the Land Office to which I have referred, and, nevertheless, he has insisted on the adoption of the amendment to which he has alluded. He insists that this is a new feature in the preemption system. It conforms precisely to the terms of the act of 1841, which authorizes the preemptor to enter within twelve months, or sooner if the sales come on, before the expiration of that time. I have obtained the authority of the Commissioner of the Land Office, for stating that the legal effect in both cases is precisely the same. Such is the purport of the first letter, and yet the Senator is not satisfied that the bill will not produce the evils he fears, although we have the guarantee of the head of that office, an official declaration, that the bill will be so construed as to preserve the same features as in the old preemption system of 1841—the sole difference is, that it will be made applicable to a new class of lands not heretofore subjected to the preemption system. It has probably escaped the notice of the Senator, that by this bill the entry and payment of money must occur at the same time, and that the delay of twelve months does not extend a credit on the entrance money, no more than a similar indulgence which was extended to the settler by the law of 1841. If this attempt to obtain perfect legal and verbal accuracy with regard to mere technical points were to be constantly insisted on, we should be kept here until the whole of the Calendar would fall through at the end of the session for want of time to act upon it.

I have endeavored to present the bill in such a shape as to embrace all the views of the Senator from Kentucky, [Mr. UNDERWOOD,] and yet he stands out on a difference between the Commissioner of the Land Office and the chairman of the Committee on Public Lands. What are likely to be the consequences? If we pass the bill as it is, it will effect the objects the Senator has in view; but if we tack on to it these amendments, which do not alter its legal effect, it must go back to the House of Representatives, and be exposed to the chances of loss from want of time. I must, therefore, urge that, in a matter of such slight importance as this, save to those to whom it secures a home, the time of the Senate shall not be any longer consumed; and I hope that the amendments will be disagreed to, and that the bill will be passed in its original shape.

Mr. UNDERWOOD. I really think it a strange thing, on the part of my friend from Arkansas, when he says he has not the letter to which the one which has been read to-day refers, and when he tells the Senate that the Commissioner will be governed by a construction put upon the bill by the chairman of the Committee on Public Lands—

Mr. SEBASTIAN. If the Senator will allow me, I will state, that the letter was satisfactory to the chairman of the Committee on Public Lands,

and I supposed it was so to the other members of the committee.

Mr. UNDERWOOD. I have no recollection that the bill has come up before the committee for consideration since we agreed upon these amendments. If it has been considered in that committee, in connection with that letter, it has escaped my recollection; and, really, I am not willing to be governed by my friend's recollection of a letter which has not been submitted to me, and which has not been submitted to the Senate, and of the contents of which we cannot well decide, when, as I think, a new principle is to be introduced, as the bill now stands, and one that has not been sanctioned heretofore; for the expression is, if the payment is made "within a year after the passage of this act, or prior to the day fixed for the public sale." If the payments are made prior to the day of sales, it is sufficient, and not to extend to a payment within a year. It is a principle which the committee could not sanction. I hope the amendments will be adopted. All that the Commissioner says is, that it will not alter the construction of the law. Then it will not do any harm to adopt the amendments. But that which I object to mainly is the thing about which the Commissioner is entirely silent. I consider it my duty to make this opposition to the passage of the bill without the amendments proposed, being a member of the committee which proposed them. I think the amendments should be made, and I have no doubt that the House of Representatives will concur in them.

Mr. BORLAND. I wish to say one word. I was not present at the meeting of the Committee on Public Lands when this subject was last before the committee; but the bill as it has been read, and the proposed amendments seem to me to present the subject before the Senate in a light so clear and plain, that there can be no misunderstanding of the merits of the question. The proposition is a single and a simple one. It is merely to place the remaining military reservations in the State of Arkansas which are not now claimed by those to whom the military warrants were issued, back in the same condition as the other public lands are, and to subject them to precisely the same conditions as regards the preemption laws which now exist with regard to other lands. That is the sum and substance of it, and there is no new arrangement whatever proposed. Can anybody hesitate as to the propriety of doing this? In order to satisfy the land warrants in the war of 1812, certain lands in the State of Arkansas were set aside to be located by these warrants. All these warrants, so far as can be ascertained, have been satisfied, and now there is a parcel of public lands in that State withheld from settlement and sale, for no public purpose whatever; and this bill is simply to restore these lands, which are not now necessary for the purpose for which they were originally reserved, to the same condition as other public lands. The question is no more nor less than that. The Senator from Kentucky is certainly wrong, in my opinion, in saying that this is the introduction of a new principle, and the establishment of a credit system in the sale of public lands. I am sure he has failed to look at the bill, or he would see that the credit extends no further than the credit to all preemptioners now extends. Any man can go upon the public lands and settle down under the last preemption law, and is not required to make his payment until the lands are to be sold.

It also requires that those who have preemption claims, shall come forward, make proof, and pay up before sale. It effects nothing more. It completes the conditions on which the preemptors shall obtain possession, and places the land precisely on the same footing as all other public lands. No advantage is given to parties who may have settled on them, greater than they would have acquired by settling on other lands. They have lain so long in the market that many persons have settled on them inadvertently, and in some cases the Land Office has been at a loss to ascertain whether they were reserved or not, and have issued patents erroneously; the bill is to allow the Land Office in such cases to confirm the sale just as in other cases. The only real difference, therefore, between this bill and others of a similar character, is, that it affects a class of lands quite distinct from those usually offered at public sale.

It is important that the bill should pass without these amendments; for, as my colleague has ob-

served, at this late period of the session, when both the Calendars are very heavily loaded, and when it is almost impossible to get up any bill for consideration, if we adopt the amendments the chances are that the bill will be lost for want of time in the House of Representatives. It is almost certain that such will be the case; and thus a measure of some public importance, both as regards the interests of the United States and the interests of citizens, not intended for the special benefit of individuals, nor for the purpose of taking a single dollar from the Treasury, but, in reality, giving the means of obtaining a revenue from lands which would otherwise lie a dead weight, will be delayed and thrown over until next session. The passage of the bill as it came up from the other House will obviate all these evils. Before this bill came up to the Senate, a bill of similar character was reported from the Committee on Public Lands, but its friends thought it would be better to abandon it, and accept this bill, which had already received the sanction of the other branch of the National Legislature. So far as its substantial provisions are concerned, it seems to me that they can scarcely become the subject of discussion now, the bill having been referred to the Committee on Public Lands, and reported back favorably by them.

Mr. SEBASTIAN. I have come to an understanding with the Senator from Kentucky, and I will not ask that the bill be acted upon now. I will therefore move that the further consideration of the bill be postponed until Monday.

The motion was agreed to.

#### CASE OF HANNAH THOMPSON.

Mr. HAMLIN. I desire that certain papers relating to the case of Hannah Thompson, who prays for a pension, shall be recommended to the Committee on Pensions. I have had a conference with the Senator from Vermont, [Mr. FOOT,] who made an adverse report a few days since in this case, and at his request I ask that the papers may be recommended to that committee, as some new facts and additional papers are to be presented.

The motion was agreed to.

#### MEXICAN BOUNDARY COMMISSION.

Mr. WELLER. I desire to submit the following resolution, and ask the unanimous consent of the Senate that it may be considered at the present time:

*Resolved,* That the Secretary of the Interior be directed to inform the Senate whether any steps have been taken by his Department to investigate the charges preferred by Colonel McClennan against the commissioner appointed to run and mark the boundary line between the United States and Mexico; and if so, to make a report thereof to the Senate.

It will be recollected that some time since, a resolution was introduced by me, calling for a copy of the charges against the boundary commissioner made by Colonel McClennan. The Secretary of the Interior has sent in a communication, from which we cannot tell whether these charges have been investigated or not. I merely wish to know whether these charges have been investigated; and if so, what was the information obtained by the investigation.

Unanimous consent being given, the resolution was considered and agreed to.

#### PUNISHMENT OF CRIME.

On motion, it was

*Ordered,* That a message be sent to the House of Representatives, requesting the return of the bill to amend an act entitled "An act for the punishment of crimes in the District of Columbia."

#### ORDER OF BUSINESS.

Mr. MALLORY. I desire to take up a bill which I am sure will not give rise to any debate: if it does I will consent that it shall lie over. It is a bill of the justice of which I am perfectly satisfied from a personal knowledge of the facts in the case, and one in regard to which the committee has made a decidedly favorable report. It is a bill reported from the Committee on Claims, for the relief of Richard Fitzpatrick.

Mr. DAVIS. It seems to me there is scarcely a sufficient number of Senators present to legislate upon topics of that character; I therefore move that the Senate do now adjourn.

Mr. BRADBURY. I hope the Senator from Massachusetts will withdraw that motion, to allow me to move to proceed to the consideration of Ex-



executive business. I will state that there is some business of an urgent character to be attended to, which will occupy but a few moments.

Mr. DAVIS. I withdraw my motion.

The PRESIDENT. The motion of the Senator from Florida, then, comes under consideration.

Mr. MALLORY. I withdraw it.

Mr. BRADBURY. I now move to proceed to the consideration of Executive business.

The motion was agreed to, and the Senate proceeded to the consideration of Executive business, and, after some time spent therein, the doors were reopened, and the Senate adjourned.

## IN SENATE.

MONDAY, June 21, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting, in answer to a resolution of the Senate, a report of Lieutenant Charles H. Davis, the officer charged with the superintendence of the American Nautical Almanac; which was ordered to be laid on the table and printed.

### LEASING OF ISLANDS ON THE PACIFIC.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, a copy of an agreement entered into by him on behalf of the United States with Alexander G. Abell, by which Mr. Abell is to take possession of the Island of Santa Cruz, on the coast of California, in the name of the United States, and to hold and enjoy it for a year.

Mr. GWIN. I wish to make some remarks on this subject before submitting the motion to refer the report and accompanying documents to the Committee on Public Lands.

This system of leasing the property of the United States, so far as my knowledge extends, originated in California. I have no knowledge of any exercise of that power by the Executive Department of the Government except in that State. About five years ago the limits of the city of San Francisco were largely increased by General Kearny, who issued an order or edict giving to the corporate authorities all the lands, or water lots, in front of what was then the town of San Francisco. General Kearny had no authority to make such a disposition of that property; but, under this order, very important interests grew up, and the principal business portion of the city is now situated on this grant.

At the same time he reserved for Government purposes several squares of the ground—twelve in number, I believe. Near three years ago, a military officer having the control of the Government there, leased out these reserves—which had in the mean time become very valuable—at a merely nominal sum, for the period of ten years. As soon as I ascertained that such disposition of this property was in contemplation, I denounced it publicly there, being in the country at the time; and I stated, that if elected to the Senate, being a candidate for that office, I would do all in my power to have these leases, if made, annulled.

To show that this is not the first time I have acted in this matter, I will bring to the notice of the Senate what I said near eighteen months ago, on the subject of these leases. On the 8th of January, 1851, the subject under discussion being a bill to establish a board of commissioners to settle claims in California, the Senator from Missouri—not now a member of this body, [Mr. Benton]—proposed a substitute to my bill, and which contained an unconditional grant to the city, of the land given to San Francisco by General Kearny, and also these reservations, except so much of them as was needed for public purposes. Here is what I then said, as quoted from the National Intelligencer:

"In the same section, all the Government reserves, except such as shall be needed for military purposes, or necessary public buildings, are granted to the city of San Francisco. I am in favor of this, also, with the reservation that private rights shall not be infringed upon by this grant. A portion of these reserves has been leased for the period of ten years, by officers of the United States Government, during the *de facto* government of General Riley. I was opposed to these leases; and was, and am, of the opinion that they never should have been made. I denounced them when I heard they were in contemplation, and notified the parties interested that, if elected to the Senate, I should exert myself to have them annulled. On my arrival in this city, nearly a year ago, I applied to the Secretary

of War to annul these leases. I urged him to act promptly, that the parties interested might not have time to dispose of their interest in the same for a valuable consideration, to persons ignorant of the transaction, who would have an equitable claim upon the Government for protection. My representations were unheeded, and I am now informed that many hundreds of persons have made improvements on these reserves, and have expended vast sums of money in making these improvements."

I delivered this speech on the 8th of January, 1851. At that time, I was entirely ignorant that the leases which had been made, by a military officer, for a mere nominal sum of \$3,000, when, if put up at auction, they might have been leased for \$300,000, had been confirmed by the Secretary of the Interior. I have not the document now before me; but the Secretary of the Interior, in the recess, I believe, between the long and the short session of the last Congress, did ratify these leases; without giving notice of the fact at the next session of Congress, through his report to the President, to be laid before Congress. The leasing of these lands for a long number of years, or of confirming leases made by a military officer, was an important act, and I knew nothing of it until it was brought to my attention on my return to California, a year ago last spring. I was at first incredulous upon the subject, until the act of the Secretary was shown to me. One session of Congress has passed since the leases were confirmed, and we are now in the midst of another, and this official act of the Secretary of the Interior has not been laid before us.

As I said, very important interests have grown up in consequence of the act of General Kearny, in the making of these leases, and some of the most important legislation of the State of California has resulted from them. Charges of the most injurious character have been brought against individuals, on account of the disposition which has thus been made of the property of the United States. I now come to the lease of the Island of Santa Cruz. There are two members of this body, and two members of the House of Representatives, who are presumed, from the position which they occupy, to have some knowledge of what will promote the interests of the State of California, and protect the public property there; but so far as my knowledge extends, not one of the delegation from that State were consulted in regard to this matter. Incidentally it came to the knowledge of my colleague, and, if I am not mistaken, he disapproves of the act of the Secretary. None of the rest of the delegation knew anything of it.

Mr. WELLER. I will state, that the Secretary of the Interior did ask my advice on this subject, and I advised against leasing that island, either to an individual or any set of individuals; but that if the island was wholly unoccupied, I said that the best course would be to send some of the officers of the Army of the United States, then on the Pacific coast, along with a revenue cutter, that they might make a reconnaissance of the island and report to the Department, and then the Department would be able to act understandingly on the subject. But I was utterly opposed to leasing that island to any person for any purpose. I thought the Department should have the facts in its possession. I never knew anything of the lease until after it was made.

Mr. GWIN. When I ascertained that the island had been leased, I collected all the information I could in regard to it, from the Coast Survey, which I shall publish, having learned that some of its officers had been taking some observations there. It contains some forty-seven thousand acres of land, and has a very good harbor, as good as that of Santa Barbara, and fine water. It is situated not a great distance from the coast—about fourteen miles from Santa Barbara:

OFFICE COAST SURVEY, }  
WASHINGTON, June 19, 1852. }

DEAR SIR: Our information is somewhat meager in regard to Santa Cruz Island. It averages twenty-one miles in length, three and a half miles in breadth, is sixteen miles from the main land, and contains seventy-three and one half square miles, or about forty-seven thousand acres.

Prisoners' Harbor is a good anchorage in the summer months, and is referred to by Lieutenant Commanding Alden in his sailing directions, as per paper marked A.

It is probable that some additional information will be received from Lieutenant Alden, on his return from his second trip down the coast.

Yours, &c., ISAAC J. STEVENS,  
Assistant in charge of Office.  
Hon. WILLIAM M. GWIN, United States Senator.

N. B.—I inclose two sketches—"B" showing Santa Cruz Island and Santa Barbara Channel, and "C" Prisoners' Harbor.

P. S. The sailing directions for the anchorages at Santa Cruz, San Simeon, and San Luis Obispo, as they are only open roadsteads, are comprised in a few words. During the summer months, say from April to November, anchor at any convenient distance from the shore; but in the winter, anchor far enough out so as to be able to clear the land to the westward, should a southeaster come up and render it necessary to slip and go to sea.

In regard to the title, there is no human being in the world who disputes that of the United States. It is included within the boundaries of one of the counties of California. In regard to the fear expressed in the communication of the Secretary, that the subjects of some foreign Government, or some adventurers from our own country, may get possession of the island, and give some trouble, I look upon as simply ridiculous. What foreign Government would come within fifteen or twenty miles of our coast to take possession of an undisputed portion of our possessions? What benefit is it to the United States, that any individual should gain the exclusive privilege of taking possession of near fifty thousand acres of the public domain, when the right of property of the United States there is as safe as in this city—in this building? It is said that the island is not occupied. Neither are the heights of Sierra Nevada, or the Rocky Mountains; and are we in danger of losing possession of that portion of the public domain because it is not occupied? I will not discuss this subject further at this time. I believe, from what we have seen in the city of San Francisco, that this initiatory step will lead to difficulty, and therefore I conceived it to be my duty to bring the subject immediately before the Senate; and I intend to make the motion to refer the communication to the Committee on Public Lands, with a view to have the lease declared null and void, and thus put a stop to this mode of disposing of the public domain of the United States by the Executive Department of the Government without authority of law.

As to speculators being thwarted, as the Secretary says, by this act of his, I beg leave to differ with him. I look upon the speculation as all on the other side. I look upon this thing of giving one individual a lease for near fifty thousand acres of the public domain on an island in one of the most delightful latitudes in the world, with a perpetual spring, a good harbor, and a very plentiful supply of water, as one of the most mammoth speculations of the day. Any one conversant with the public sentiment in California at this time, must know that there are thousands and tens of thousands of Chinese in that State, and going there, who are or may be prohibited from working in the mines, and an individual having such an island as this leased from the Government could, under the authority of that lease, induce them to go and settle there with him, and might thus collect thousands of these persons; and build up a community and interests which we may be bound to respect. The anxiety of the Secretary to put a stop to speculation by thus leasing the public domain to an individual, and thereby keeping citizens of the United States from going there, it seems to me, is founded in error, and may prove highly mischievous. I do not impugn the motives of any one connected with this transaction. I say there is no authority of law for the exercise of such a power, and it is a dangerous exercise of power to lease the public domain without authority of law.

Mr. SEWARD. Will the Senator allow me to ask a question for information? When was the lease first made?

Mr. GWIN. Within a week or ten days. The moment I heard of it, I introduced the resolution. I want, before anything is done under this law, that Congress may act to show the individual that he has no power under it to take possession of this island. I therefore move that the communication be referred to the Committee on Public Lands, and be printed for the use of the Senate.

The motion was agreed to.

### PETITIONS, ETC.

Mr. SHIELDS presented five petitions of citizens of Illinois, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. SEWARD presented a petition of citizens of New York; a petition of citizens of Milwaukee, Wisconsin; and a petition of citizens of Cosh-

octon county, Ohio, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Mr. BRADBURY presented a memorial of assistant marshals for taking the Seventh Census in Cumberland county, Maine, praying to be allowed additional compensation; which was referred to the Committee on Claims.

Mr. GWIN presented a memorial of officers of a committee, appointed by the citizens of Sacramento, to procure and disburse funds for the relief of emigrants by land to California, praying that William Waldo may be remunerated for his services and expenses in behalf of those emigrants; which was referred to the Committee on Claims.

Mr. CASS presented five petitions of citizens of Wheeling, Virginia, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Also, a petition of citizens of Groveland, Michigan, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Also, seven petitions of citizens of the city and county of Philadelphia, protesting against any disposition of the public lands except in limited quantities to actual settlers; which were referred to the Committee on Public Lands.

#### SEAMEN'S PROTECTIONS AND SHIP'S APPRENTICES.

Mr. SEWARD submitted the following resolution for consideration:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of abolishing the law which requires seamen to obtain protections; and, also, into the expediency of requiring vessels employed in the foreign and coasting trade, to provide themselves with one or more apprentices.

#### THE ALANTHUS TREE.

Mr. WALKER, by unanimous consent, asked and obtained leave to introduce a joint resolution for the removal of the alanthus trees from the public grounds and streets of the city of Washington; which was read a first and second time by its title and referred to the Committee on Public Buildings.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed a bill to protect actual settlers upon the land on the line of the Central Railroad and branches, by granting preemption rights thereto; which was read a first and second time by its title, and referred to the Committee on Public Lands.

#### PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. BROOKE, it was

*Ordered*, That the representatives of William Scott, deceased, have leave to withdraw their petition and papers.

#### LINES OF MAIL STEAMERS.

On motion by Mr. RUSK, that fifteen hundred additional copies of the report of the Committee on the Post Office and Post Roads, in relation to the establishment of lines of mail steamers between certain ports in the United States, and between the United States and foreign countries, be printed for the use of the Senate, it was

*Ordered*, That the motion be referred to the Committee on Printing.

#### REPORT FROM A STANDING COMMITTEE.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred the memorial of Theodore Whitney, praying to be allowed to change the location of a tract of land, asked to be discharged from the further consideration thereof, and that he have leave to withdraw his memorial; which was agreed to.

#### APPOINTMENT OF A TRUSTEE.

Mr. SHIELDS. The Committee on the District of Columbia, to which was referred the memorial of Stephen Caldwell, praying for special powers of sale and settlement, on behalf of the heirs of Joseph Ball, within the District of Columbia, have directed me to report a joint resolution appointing a trustee for the estate of Joseph Ball, deceased.

The resolution was read a first time, and ordered to a second reading.

Mr. SHIELDS. I ask the unanimous consent of the Senate to consider the resolution at this time. I presume there will be no objection to it. The resolution is of such a character that I do not suppose there will be any objection to it.

The joint resolution was read a second time, and considered as in Committee of the Whole. It declares: That whereas Joseph Ball departed this life in the city of Philadelphia, in the year 1821, intestate, and without issue, and seized of certain real estate in the District of Columbia; and whereas the heirs-at-law of said deceased are exceedingly numerous, and reside in different and widely-separated parts of the country, in consequence of which it is almost impossible to obtain their names or their cooperation in any proceeding for the division or sale of such real estate; and whereas much of the estate has already been sold for the payment of taxes, and lost, in consequence, by adverse possession, and the residue is in danger of loss, unless some one shall be appointed trustee for said heirs, and be authorized to represent them in any legal proceedings: it is, therefore, *Resolved*, That it shall and may be lawful for Stephen Caldwell, administrator of the estate of Joseph Ball, deceased, or for his successors in said administration, to sell, either at public or private sale, for the best price that can be obtained, any real estate in the District of Columbia which descended from Joseph Ball to his heirs-at-law at the time of his death; and, as trustee for said heirs, to make all such contracts and deeds as may be proper or necessary for the recovery and sale of the property; and also to represent the heirs in any proceedings in law or equity which it may be necessary to institute, prosecute, or defend, in order to maintain the lawful rights of the heirs of the property: *Provided*, That Stephen Caldwell, and his successors in the administration, shall first give a bond, with sufficient security, to be approved by the orphans' court of the District of Columbia, conditioned for the faithful performance of the trust.

Mr. SHIELDS. I move to amend the bill so as to confine the power to sell at public sales. I therefore move to strike out the word "either," and the words "or private," so that the resolution will convey power "to sell at public sales." I will merely state that this property lies in the District, and is going to waste. There is no guardian for it, and none can be appointed under the law as it now stands. This resolution proposes to appoint Mr. Caldwell a trustee to take charge of the property, under the direction of the orphans' court, and to dispose of it for the benefit of the heirs. He is the administrator and the confidential friend of the deceased. I understand from the Senator from Pennsylvania, that he is one of the most honest of men—a man of wealth residing in the city of Philadelphia; and his sole object is, to take charge of this property, and dispose of it for the benefit of the heirs, they being scattered all over the country, and the property going to waste. Some of it has been sold for taxes, and in a few years, I understand, it will be worth nothing, unless something of this kind is done.

Mr. BADGER. I should like to inquire of the Senator from Illinois, from what committee this joint resolution comes?

Mr. SHIELDS. From the Committee on the District of Columbia.

Mr. BADGER. It seems to me that it involves much much more serious and important principles than my friend seems to suppose. I apprehend that we are now proposing to enter into an entire new scene of legislation, to undertake by law to appoint guardians or trustees for particular estates, or under particular circumstances. I dare say this gentleman is everything my friend from Pennsylvania represents him to be—a very worthy, honorable and correct man—a man of fortune, who will do everything that is right and proper in the premises. And no doubt a great many such men could be found. But the difficulty is, in Congress undertaking by law to appoint a particular man the guardian or trustee of a particular estate of a particular individual. It is in its nature a judicial power. It is one which I believe we have not been in the habit of exercising. I know no instance in which we have done it. I think it is not exercised by the State Legislatures, and their authority over this subject is quite as large as ours. I would suggest that this would be setting an evil example. If the powers of the

courts of this District are not sufficient to provide for cases of this kind, let a law be passed enlarging those powers. Something, I dare say, would be proper. But I hope, at all events, that this resolution will be allowed to lie over. I think it too serious an innovation upon the practice of the Government to be hastily acted on.

Mr. SHIELDS. After I state the facts, perhaps my honorable friend from North Carolina will be able to present some mode of accomplishing the object. I have consulted with some of the lawyers of this District in relation to the matter, and they can furnish no other mode. Mr. Ball departed this life in Philadelphia, intestate. Mr. Caldwell was his friend, and I believe his partner, engaged in the same business, and administered upon his estate. Real estate was found to belong to the deceased in the District of Columbia, but all the heirs could not be found. Some of them are in one State, some in another, and some are unknown. They are very numerous. The court here could not appoint a guardian, and had no power to appoint a trustee; so that the property is without any protection or guardianship whatever. Now the question is, how the property is to be taken care of under these circumstances. The courts in this District, I understand, have no power whatsoever to appoint a guardian in the absence of heirs who are unknown. I have consulted with some lawyers of the District in relation to the subject, and they tell me that this course was pursued before, and that there is no other way of preserving this property from waste, dilapidation, and destruction.

Mr. WELLER. Why can we not pass a single law authorizing the orphans' court to take the necessary steps to preserve this estate? It seems to me that is all that is necessary.

Mr. BADGER. Make a law in reference to all cases similarly situated.

Mr. WELLER. Or let us make a general law, investing the orphans' court of this District with authority to take all necessary steps in order to preserve the estates of distant or absent heirs.

Mr. SHIELDS. I would state that the only objection to that course is, that this gentleman, who has taken upon himself the management of this estate, is a man of character and standing, and has the interest of the orphans more at heart than the court can have; and at the same time, he can do nothing without the consent of the court.

Mr. WELLER. That is an excellent reason why the orphans' court should appoint him to take charge of it.

Mr. COOPER. I am not advised of all the facts in reference to this case; but I understand that Mr. Caldwell consulted counsel both in Philadelphia and here, and that he was advised to this course; and a bill substantially the same, if not the very same, as that which is now proposed, was advised. He is a man of the very highest character. I understand that this property is not only deteriorating, but that a great portion of it has already been disposed of for taxes, and that more of it will speedily be disposed of, unless some such provision is made. I hope that if there be no constitutional objection in the way, this joint resolution may be passed, investing the administrator with the necessary power to preserve this property for the heirs, who, as my friend from Illinois has said, are scattered all over the Union, and some of them are unknown to the administrator, and to those in charge of the personal estate.

Mr. DAVIS. Mr. President, I do not think there is any objection to the general principle of this resolution. On the contrary, it seems to me that the honorable gentleman from Illinois shows a strong case for legislative interference, but I do think that the objection raised by my friend from North Carolina, is very substantial in its character, that we should not legislate a particular individual into a trusteeship. That is a matter for inquiry and consideration on the hearing of evidence by a court, and should be settled in court. It would, therefore, seem to me to be much better to leave that matter open to the judgment and discretion of the court. In the next place, I thought there was another defect in the joint resolution as proposed by the Senator from Illinois. He proposes to give the power to sell. The power to convey is perhaps implied, but usually in such laws as I have seen, there is an express power given to sell, and the power also granted to convey by deed, or to execute deeds throughout, by signing, sealing,

and acknowledging. Now, sir, I am inclined to think that if such a law does not exist in the District of Columbia, it is quite time that one should exist; and it would be much better to refer this bill to the Committee on the Judiciary, and let that committee bring in a suitable bill covering this case exactly.

Mr. BADGER. Certainly, that would be the proper course.

Mr. SHIELDS. Then I will make that motion; and, in the mean time, I will suggest an objection made to me by a very able lawyer of this city on that very point; and that is, the impropriety of giving to the orphans' court of this District, power of appointing a guardian or trustee in the absence of heirs—

Mr. WELLER. Without notice?

Mr. SHIELDS. Without notice, or with (what is tantamount to no notice) notice through the public newspapers, to heirs, some of whom may live in California, some in Oregon, and some in Illinois, &c.

Mr. DAVIS. Will the gentleman permit me to make another suggestion to him? I think no such authority should ever be assumed, unless on the application of some of the heirs. They might get the authority from the court by applying to the court for it. That should be the provision. And then the mode of giving notice should be prescribed by the law, and the parties should be held to a conformance with it. I think that if the Senator from Illinois will consent to refer his bill to the Committee on the Judiciary, he will get one of that description.

Mr. SHIELDS. Then I move to refer the bill to the Committee on the Judiciary. And I shall depend on my friend from North Carolina to guard the law in such a way that there may be no fraud committed in this District under it.

Mr. BADGER. I beg to say to my friend from Illinois, that I cannot accept any such devolution of authority. I cannot stand as a supporter of any such expectation—to pass a law so as to prevent the commission of any and all frauds under it. Such a law was never passed from the beginning of the world to this day.

The motion to refer was agreed to.

#### LANDS IN ARKANSAS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to release from reservation and restore to the mass of public lands certain lands in the State of Arkansas; and,

On motion by Mr. SEBASTIAN, it was Ordered, That it be recommended to the Committee on Public Lands.

#### MICHIGAN SALINE LANDS.

On the motion of Mr. FELCH, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill to extend the time for selecting lands granted to the State of Michigan for saline purposes. It provides that the time for selecting lands for saline purposes, granted to the State of Michigan by virtue of the fourth subdivision of the first section of the act of June 23d, 1836, be extended to January 1st, 1854; and the lands so selected previous to the day last mentioned shall be granted to that State for the same purposes, and on the same conditions, and with the like effect as if the same had been selected and confirmed within the time limited by the act of 1836.

Mr. FELCH. I desire to offer an amendment as a substitute for this bill. It is made necessary to propose an amendment on account of information received from the Department on the subject, varying the previous statements concerning the facts with regard to the selection of the land. The selection of the salt spring lands, granted to the State of Michigan, in common with the other new States, was made by the Governor of the State according to law, and returned to the General Land Office in 1836. It was the intention of the Department, and such I believe was its act, to confirm these selections. Subsequently, however, it appeared that a portion of them had been taken up by individuals, and therefore a title could not be made; and so it was reported to the Senate, upon the call of a committee, that there was a deficiency of twelve sections. The act of the Department confirming these selections was afterwards rescinded. It now appears, however, that a mistake was made at the Department in copying the lists, and that the lands which were originally selected and

confirmed, were really open to selection and confirmation, and the State would have had the title to them, but for the subsequent action of the Department. In making a copy of the list, one of the clerks, in the first instance, placed upon his list the sections upon which the salt springs were located; then the lands which were selected for salt springs, and in carrying down the columns, an error was made. The lands were in another township, but in carrying down the columns they were put in the same township with the salt springs. There was thus an error in the township. This fact being ascertained, the Department has prepared a substitute for this bill, which simply confirms to the State of Michigan the lands which were originally selected for salt springs under the act, and to which it is entitled, no person having as yet entered those lands. All we now ask is, a confirmation of those lands. The same thing could have been obtained by a reselection or relocation of the lands, but the time having expired within which those selections could be made, the Department now recommends, as the easiest way of securing the rights of all parties, simply to confirm the locations originally made. I therefore offer a substitute for the bill, which is to strike out all after the enacting clause, and insert the following:

That the selection and location by the State of Michigan of the lands lying in said State, described as sections numbers 2, 3, 4, 5, 8, 9, 10, 11, 14, 15, 21 and 22, in township seven north, of range fourteen east, heretofore made under and by virtue of the fourth proposition contained in the first section of an act entitled "An act supplementary to the act entitled 'An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union on certain conditions,' approved June 23d, 1836," be and the same are hereby recognized as valid and confirmed to said State in lieu of twelve other sections, which were incorrectly noted as confirmations under said act, by reason of an erroneous interpretation given at the General Land Office to the original list of selections.

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading.

On motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 21, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. L. F. MORGAN.

The SPEAKER. The business first in order, is the motion to lay upon the table House bill No. 280, making grants of land to aid in the construction of railroads and for other purposes.

Mr. ALLISON. As there are many absent from this side of the House, and as it is improper for us to proceed with business in the present thin state of the House, I move that we adjourn.

Mr. HOUSTON. I rise to make a suggestion to the gentleman from Pennsylvania, who made the motion to adjourn.

Mr. ALLISON. I will withdraw for a moment.

Mr. HOUSTON. I agree with the gentleman that it is improper for us to vote upon anything relating to the business of the House, when so many members are absent; and should any such motion be pressed, I would vote to adjourn—

Mr. RICHARDSON. Will the gentleman from Alabama [Mr. HOUSTON] permit me to make a suggestion?

Mr. HOUSTON. I am perfectly willing the gentleman shall make it.

Mr. RICHARDSON. There lie upon the Speaker's table some territorial bills, which should be taken up and acted upon.

Mr. HOUSTON. The House will not take them up. I was about to ask the gentleman from Pennsylvania, [Mr. ALLISON,] who made the motion to adjourn, to withdraw it, and let us go into the Committee of the Whole on the state of the Union, and make speeches, but take no vote. I will vote to adjourn at any moment, should any gentleman propose to take a vote upon any bill. I am willing to go into the Committee of the Whole, for I think this course would be a harmless one, and would be useful in the economy of time. Speeches are to be made, and will be made, and there are sufficient members present to hear them.

The SPEAKER. The gentleman from Pennsylvania withdrew his motion to hear a single suggestion.

Mr. HOUSTON. The gentleman can make his motion again.

Mr. ALLISON. I renew my motion.

Mr. CLEVELAND. I hope the House will vote it down, and allow gentlemen to make speeches in the Committee of the Whole on the state of the Union.

Mr. ABERCROMBIE. Upon the motion to adjourn I demand tellers.

Tellers were ordered, and Messrs. STEPHENS, of Georgia, and STANTON, of Tennessee were appointed.

The question being taken, the tellers reported that there were—ayes 69, noes 26.

Mr. COBB. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ALLISON. I withdraw my motion.

Mr. CLEVELAND. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FLORENCE. I ask the unanimous consent of the House to withdraw from the files of the House the petition and accompanying papers of H. P. Babcock.

Mr. JONES, of Tennessee. I object to any business being done until we ascertain whether there is a quorum present.

The SPEAKER. The Chair decides that there is no quorum present.

Mr. MEADE. I rise to a question of order. It seems to me that the House, by the vote just taken, decided to adjourn.

The tellers reported—ayes 69, noes 26; and then the yeas and nays were demanded.

The SPEAKER. Before the decision was announced, the motion to adjourn was withdrawn.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

Mr. OLDS demanded the yeas and nays.

Mr. BAYLY, of Virginia. I rise to a question of order. It has been proposed to go into the Committee of the Whole on the state of the Union, to make speeches. I wish to know if less than a quorum can go into committee?

The SPEAKER. The Chair has already decided that the only motion in order, under the rule, is a motion to adjourn, or for a call of the House.

Mr. OLDS. I withdraw the call for the yeas and nays.

The question was then taken on the motion to adjourn, and it was decided in the affirmative.

So the House adjourned until to-morrow morning at twelve o'clock.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CABLE, of Ohio: A petition from George Webster, and other citizens of Steubenville, for a canal around the Falls of the Ohio, on the Indiana side of the Ohio river.

By Mr. ROBBIE: A petition for a mail route from Savona, Steuben county, New York, by Bradford, to Tyrore, in said county.

By Mr. CHANDLER: The memorial of Stephen Baldwin & Co. and many other mercantile firms in Philadelphia, asking Congress to provide for deepening the ship channel at the mouth of the Mississippi.

By Mr. FLORINCE: The memorial of Caleb F. Clarke, Peter Hinkles, John Levering, and 22 other citizens of Philadelphia, praying Congress to pass a law to give one hundred and sixty acres of land to soldiers of the war of 1812, the Indian wars, &c.

By Mr. FITCH: Six petitions from sundry citizens of Cass and adjoining counties, Indiana, asking a grant of land in aid of the construction of the New Castle and Richmond and the Lake Michigan, Logansport and Ohio river railroads.

By Mr. SIBLEY: The memorial of David Cooper, P. P. Furber, and Martin Leavitt, committee appointed by the board of trustees of Cottage Grove Academy, Minnesota, praying a grant of land for the establishment and maintenance of that institution.

#### IN SENATE.

TUESDAY, June 22, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. WADE presented a petition of citizens of Ross county, Ohio, praying an extension of the time for locating Virginia military bounty land warrants; which was ordered to be laid on the table.

Mr. BROOKE presented the petition of Harris Hill, on behalf of himself and the heirs and legal representatives of William S. Scott, deceased, praying remuneration for a tract of land granted to the deceased by the Spanish Government, and sold by the United States as public land; which was referred to the Committee on Private Land Claims.



Mr. RUSK. I have been charged with a memorial of the Board of Visitors, appointed to attend the examination of the Military Academy at West Point, to which I desire to call the attention of the Committee on Military Affairs. The memorialists say, that it is not in view of that institution, simply as a college of learning belonging to a State, or to a section of the United States, that they invoke the attention and extended patronage of Congress, but rather as a national institution, composed of cadets selected by the General Government itself from each of the States in a justly-regulated proportion of number; and though representing, as they do, all the geographical sections of the Union, they cordially unite in this petition. The memorialists conclude by recommending that the number of cadets be increased by an addition of sixty-two—that is, one for each Senator in Congress; that the whole term of education be extended to five years; that to the present course of studies be added ancient and modern history, physiology, elocution, and *belles-lettres*, book-keeping, so far as may be necessary for fiscal accounts and army papers; the concordance of natural and revealed religion, and the evidences of Christianity. I move that the memorial be referred to the Committee on Military Affairs.

It was so referred.

Mr. FISH presented the petition of Ann Van Wart and Samuel B. Van Wart, children and heirs-at-law of William Van Wart, praying to be allowed arrears of pension and bounty land which they allege their father was entitled to for services as a soldier during the revolutionary war; which was referred to the Committee on Pensions.

Also, the petition of Mary Martin, formerly widow of Robert Lindsay, praying remuneration for a slave captured by the enemy during the last war with Great Britain; which was referred to the Committee on Foreign Relations.

Also, two petitions of citizens of the city of New York, protesting against any disposition of the public lands except in limited quantities to actual settlers; which were referred to the Committee on Public Lands.

#### REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on Printing, to which was referred the motion to print one thousand five hundred additional copies of the report of the Committee on the Post Office and Post Roads, in relation to the establishment of lines of mail steamers between certain ports in the United States and between the United States and foreign countries, submitted a report in favor thereof; which was agreed to.

He also, from the same committee, to which was referred the motion to print the resolution of the Chamber of Commerce of the city of New York, relating to the removal of the sand bars at the mouth of the Mississippi, submitted an adverse report thereon; which was agreed to.

He also, from the Committee on the Post Office and Post Roads, to which was recommitted the adverse report on the petition of Joseph Nock, praying remuneration for losses sustained in consequence of the violation of a contract for supplying the Post Office Department with locks, submitted a resolution referring the papers in the above case to the Solicitor of the Treasury, and requesting that he will examine the case thoroughly, and report the reason for which said contract was abrogated by the Post Office Department, and whether it was or was not in consequence of the failure of the said Nock to comply with the said contract on his part; what sum the said Nock is legally or equitably entitled to in case the said contract was abrogated, without any failure on the part of said Nock to comply with the same; and that the Solicitor of the Treasury be authorized to take such legal evidence as the said Nock may offer on his own behalf, and also to notify the Postmaster General to furnish any evidence which may be in his power touching the same, and to report the result of his proceedings, together with his recommendation, to the Senate at its session in December next.

On motion by Mr. HAMLIN, the Senate proceeded to consider the resolution, and it was agreed to.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which was referred the memorial of Holata Emathla, and other Seminole chiefs, asking compensation for services rendered during

the Florida war, submitted a report, accompanied by a bill, for the payment of certain Seminole warriors in the military service of the United States; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the Committee on Manufactures, to which was referred the petition of John Pope and others, citizens of Tennessee, praying that certain expenses attending the exhibition of American goods at the Industrial Fair, held in London, may be defrayed by the United States, reported adversely thereon.

Mr. MASON, from the Committee on Foreign Relations, to which was referred so much of the message of the President of the United States, of the 11th June, 1852, as recommends the use of the military to repel hostile incursions made within the United States, on the frontiers of New Mexico, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Military Affairs; which was agreed to.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial and documents in relation to the claim of John Walker to a pension and bounty land for services during the late war with Great Britain, asked to be discharged from the further consideration thereof, and that they be referred to the Committee on Pensions; which was agreed to.

#### DISTURBANCES ON THE RIO GRANDE.

Mr. RUSK submitted the following resolution; which was agreed to:

*Resolved*, That the President be requested to communicate to the Senate, copies of all orders and instructions issued to the officers of the United States upon the Rio Grande during the recent disturbances in that quarter, together with copies of any opinions of the Attorney General, which may have accompanied the same.

#### BILL PASSED.

The engrossed bill to extend the time for selecting lands granted to the State of Michigan for saline purposes, was read a third time, and, the title having been amended, on motion of Mr. FELCH, it was passed as follows:

"An act to confirm to the State of Michigan certain lands selected for saline purposes."

#### CORRECTION OF A REPORT.

Mr. UNDERWOOD. I rise to correct a slight mistake of the stenographers. In the remarks which I made the other day on the subject of inventors, in referring to steamboats, I used the name of James Rumsey, in connection with the names of Fitch and Fulton. In the report, the name of James Rumsey was omitted. There are, among my constituents, some of his descendants, and I should not like to have it appear in print, that in connection with that subject I had omitted to mention the name of their ancestor, who was, I believe, the first man on earth that ever propelled a boat by the power of steam, which he did, in 1784, on the Potomac river, at Shepherdstown, in the State of Virginia.

#### RE-EXPORTATION OF GOODS TO MEXICO.

The bill authorizing imported goods, wares, and merchandise, entered and bonded for warehousing in pursuance of law, to be exported by routes to ports or places in Mexico, was read a second time and considered as in Committee of the Whole. It provides that any imported goods in the original packages which shall have been duly entered and bonded in pursuance of the warehousing act of August 6th, 1846, may be withdrawn from warehouse at any time within two years from the original importation for immediate exportation, without payment of duties, under the provisions of the act aforesaid, to Chihuahua, in Mexico, by the routes designated by the first section of the act of March 3d, 1845, or by such other routes as may be designated by the Secretary of the Treasury; and that any imported merchandise, duly entered and bonded at Point Isabel, in the collection district of Brazos de Santiago, or imported and bonded at any other port of the United States and transported thence in bond, and duly rewarehoused at Point Isabel, in pursuance of the provisions of the warehousing law of August 6th, 1846, may be withdrawn from warehouse at any time within two years from the date of original importation, for immediate exportation, without payment of duties under the provisions of the warehousing act aforesaid, to ports and places in Mexico by land and water, or partly by land and partly by

water, on such routes as may be designated by the Secretary of the Treasury. It further provides that any imported merchandise duly entered and bonded in the United States, may be withdrawn from warehouse at any time within two years from the date of importation, without payment of duties, in pursuance of the provisions of the act of August 6th, 1846, for immediate exportation for San Fernando, Paso del Norte, and Chihuahua, in Mexico, through the port of La Vaca, in the collection district of Saluria, in the State of Texas, and be transhipped inland thence to San Antonio, and from the latter place to the aforesaid destinations in Mexico, either by way of Eagle Pass, the Presidio del Norte, and San Elizario, all on the Rio Grande; and the Secretary is authorized to prescribe such regulations, not inconsistent with law, as he may deem proper and necessary respecting the packing, marking, inspection, and proof of due delivery at foreign destinations, of the exports so authorized. It further provides that the Secretary of the Treasury shall appoint inspectors of the customs, to reside at San Antonio, Eagle Pass, the Presidio del Norte, and San Elizario, or such other points on the routes as he may designate, not exceeding four in number, who shall each receive an annual salary of \$250, and who shall make a report semi-annually to the Secretary of the Treasury, of all the trade that passes under their inspection; and also, that no goods, wares, or merchandise exported out of the limits of the United States, according to the provisions of this act, shall be again voluntarily landed or brought into the United States, or on being so landed or brought, they shall be forfeited; and every person concerned in their voluntary landing or bringing, shall be liable to the penalty of \$400.

Mr. HAMLIN. Mr. President, the Senate have already passed a bill embracing substantially the principles contained in this bill, with one single modification. Prior to the tariff law of 1846, all goods were permitted to be reexported on giving bond. When the bill making the system applicable to Texas was passed, it contained a provision that the duty should absolutely be paid, and not a bond given, as was the case prior to the tariff act of 1846. It was the impression, I believe, of the Committee on Commerce, at that time, that the tariff law abrogated so much of those special laws as allowed goods to be reexported to Canada and the adjacent provinces. But, on investigation, it was found that at all other places where goods are reexported, they are reexported on filing a bond; and consequently the law which we have passed, allowing persons to reexport goods from Texas to Mexico, differs from the general system. On conference with the Treasury Department, the committee have come to the conclusion that the system should be uniform. At present it leads to unnecessary perplexity, in demanding the payment of duties which are again to be refunded. It will be noticed that the bill itself provides that if the goods are again brought back, they are to be forfeited; and this will, I think, be a sufficient guarantee to the Government against any frauds which might be committed. With this explanation of the case, I apprehend there can be no objection to the passage of the bill.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### EXECUTIVE SESSION.

On the motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened,

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 22, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the motion to lay upon the table House bill No. 280, making grants of land to aid in the construction of railroads, and for other purposes.

Mr. APPLETON, of Maine. I ask the unanimous consent of the House to offer the following resolution:

*Resolved*, That the President is hereby requested to com-

municate to this House, if the same can be done without injury to the public service, such correspondence on file in the State Department between the American Consul and the Sultan at Zanzibar as relates to the cessation and resumption of our consular intercourse there in 1850-51.

Mr. ALLISON objected, and the resolution was not received.

#### TERRITORIAL BUSINESS.

Mr. RICHARDSON. I do not like to trouble the House, sir, but there are some bills upon the table that will elicit no discussion, and to which I apprehend there is no objection, that I desire to have disposed of. I ask the unanimous consent of the House to take up the territorial bills upon the Speaker's table and put them upon their passage.

Mr. COBB. Will that come out of the morning hour?

The SPEAKER. The gentleman proposes to take up these bills before we proceed to the execution of the morning hour.

Mr. RICHARDSON. I am entirely indifferent whether these bills come up during the morning hour or not. I only desire to get at them.

Mr. OLDS. I shall object if the time devoted to them shall be taken from the morning hour.

Mr. RICHARDSON. Then let them be taken up before the morning hour commences.

Mr. OLDS. I desire to know if the morning hour has commenced or not?

The SPEAKER. The morning hour has not commenced. By unanimous consent the House has agreed before proceeding to the morning hour, to dispose of the bills reported from the Committee of the Whole on the state of the Union in regard to territorial matters.

House bill No. 256, relinquishing to the Territory of New Mexico all the right, title, and interest which the United States may have to certain real estate within the corporate limits of the city of Santa Fe, New Mexico, reported from the Committee of the Whole on the state of the Union without amendment, came up as the first in order.

Mr. STUART. That bill was recommitted to the Committee on the Territories.

The SPEAKER. The question was pending upon the motion to recommit, so the Clerk informs the Chair, when the House last passed from its consideration.

Mr. STUART. I thought it was recommitted, but if there is any doubt about it, it ought to be recommitted.

Mr. WEIGHTMAN. I made a motion in the Committee of the Whole on the state of the Union, to lay this bill aside with a recommendation to the House that it be recommitted to the Committee on the Territories.

The question was then put upon the motion to recommit, and it was decided in the affirmative.

So the bill was recommitted to the Committee on the Territories.

House bill No. 257, to amend an act entitled "An act to settle and adjust the expense of the people of Oregon in defending themselves from attacks and hostilities of Cayuse Indians, in the years 1847 and 1848," approved February 10, 1851, reported from the Committee of the Whole on the state of the Union without amendment, came up next in order.

The question being upon ordering the bill to be engrossed and read a third time, it was put, and decided in the affirmative.

Mr. MEADE. I desire to make a verbal amendment to that bill.

The SPEAKER. It can only be done by the unanimous consent of the House.

Mr. RICHARDSON. What is the amendment?

Mr. MEADE. It is to strike out the word "deceased," and insert the word "died" in lieu thereof.

There being no objection, the amendment was agreed to.

The bill was then read the third time and passed.

House bill No. 258, to reduce and define the boundaries of the military reserve at the St. Peter's river, in the Territory of Minnesota, and to secure the rights of actual settlers thereon, reported from the Committee of the Whole on the state of the Union without amendment, came up next in order.

The bill was ordered to be engrossed and read a third time; and being engrossed, was subsequently read the third time and passed.

Mr. SIBLEY. I move to strike out that por-

tion of the title of the bill which refers to securing the rights of the settlers thereon. The section relating to that matter was stricken out by the Committee of the Whole on the state of the Union.

The amendment was agreed to.

House bill No. 259, to provide for the protection of the Territories of New Mexico and Oregon, reported from the Committee of the Whole on the state of the Union, with an amendment, came up the next in order.

The amendment reported from the committee, making the provisions of the bill applicable to the States of Texas and California, was concurred in.

The bill, as amended, was then ordered to be engrossed and read a third time, and subsequently being engrossed, it was read the third time and passed.

Mr. RICHARDSON. I move to amend the title of the bill by inserting the words "to the States of California and Texas;" which was agreed to.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed a resolution that a message be sent to the House of Representatives, requesting the return of House bill No. 21, entitled "An act to amend an act entitled 'An act for the punishment of crimes in the District of Columbia.'"]

The following House bills, reported from the Committee of the Whole on the state of the Union, without amendment, coming up in order, were severally ordered to be engrossed and read a third time; and subsequently, being engrossed, were read the third time and passed, viz:

House bill No. 260, to amend an act entitled "An act to establish the territorial government of Oregon," approved August 14, 1841; and

House bill No. 262, to authorize the President of the United States to designate the places for the ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, and to fix the compensation of the collector of Astoria, in said Territory.

House bill No. 263, to provide for additional clerks, and extend the session of the Legislative Assembly of the Territory of New Mexico, reported from the Committee of the Whole on the state of the Union with an amendment, came up next in order.

The bill was read by the Clerk.

Mr. CLEVELAND. I should like very well to learn what necessity there is for four clerks in that Territorial Legislature. I wish the chairman of the committee who reported the bill, to inform the House what necessity there is of doubling the number of clerks in that Territorial Legislature. The Legislatures of different States, where there is more business and more members, get along with just half the number proposed here. Another objection I have to the bill is, that it extends the time of the session—the short session as well as the long one. Perhaps the chairman of the committee will give me this information.

Mr. RICHARDSON. The reason for authorizing this additional number of clerks is this: The Legislature of New Mexico is different from all other legislative bodies in this Government. The members are made up of those who speak the Spanish language, and those who speak the English language. The proceedings have to be interpreted from one language to the other. They are compelled to have one set of clerks who speak the Spanish language and another who speak the English; and the necessity thus arises, absolutely, for this increase of the officers there. I will state to the gentleman, in relation to the other matter, as to the time required for the session of the Legislature—laboring under the disadvantages which they have heretofore, for they have been able to do but little—they only ask for one extended session. They are to have no more. The bill provides for no more. It is necessary that they should have a good deal of legislation, if they had any at all, for the people of New Mexico are now living, I believe, under a code prescribed during the time that our army was there.

Mr. CLEVELAND. It seems to me that the explanation of the gentleman from Illinois does not obviate the difficulty at all in relation to these clerks. Everybody knows that there are never two men speaking at the same time in different languages, and if not, it does seem to me that two clerks who can understand both languages per-

fectly, can discharge the duties just as well as two hundred. The only trouble is, that they wish to employ clerks who understand the Spanish language, and do not understand the English, and clerks who understand the English language, and do not understand the Spanish. Now, there would be no necessity for so many clerks if they could all understand both languages. Then, whether a man was speaking in Spanish or in English, they would understand him, and be able to record what he said.

There is really no necessity for an additional number of clerks, in my judgment. At any rate, I do not see the force of the reasoning employed by the gentleman from Illinois. Certainly there would be no two men speaking or communicating in different languages in the presence of these clerks at the same time. And unless such is the case, why should you increase the number of clerks?

Mr. RICHARDSON. With the permission of the gentleman from Connecticut, I will state, when a motion is made in the Legislature of New Mexico, it is necessary that it should be repeated both in the English and Spanish languages. It very often happens that an American who has learned to speak the Spanish language very well, cannot write it at all, and you must have clerks who can do it.

Mr. CLEVELAND. I would ask the gentleman whether, in his judgment, two clerks who understand both languages perfectly cannot perform all the duties required of the clerks in the Territorial Legislature of New Mexico?

Mr. RICHARDSON. I am told that they cannot do it.

Mr. CLEVELAND. Has any one satisfied you of the reasonableness of the proposition to have four clerks instead of two?

Mr. RICHARDSON. The application for these extra clerks was made by the Legislature of New Mexico. I ask the gentleman from New Mexico if I am not right in that?

Mr. WEIGHTMAN. Yes, sir.

Mr. RICHARDSON. The application comes from them, and that is enough to satisfy me. The Legislature of New Mexico would not have made the application unless there was some reason for it.

Mr. MOORE, of Louisiana. I have had some little experience in the matter, and I therefore think it my duty to say something. We were so situated in Louisiana for many years that we had to have a double set of clerks and translators. I suppose that in this country you would not require that six thousand inhabitants who do not understand a word of English shall obey laws which they cannot read, and which they cannot understand when read to them. It requires, therefore, extra clerks to translate the proceedings into the Spanish language.

Mr. CLEVELAND. Does it require more than two, in your judgment?

Mr. MOORE. It requires a double set of clerks. I can assure you that we had a great deal of experience in this matter in Louisiana. For twenty or twenty-five years the proceedings in the Legislature of that State were carried on in both languages. Every speech which was made was translated from English into French, and very often the French had to be put into English. If you wish these people to understand your language, and the genius of your Government, you must give them some means of learning it, and not keep them in the dark—saying that they must obey laws which they cannot read or understand when read to them. I hope this bill will pass just as it is, and that there will be no objection to it.

Mr. CLEVELAND. I wish to ask the gentleman from Louisiana one question. How many clerks are employed in the popular branch of your Legislature?

Mr. MOORE. There are some eight or ten.

Mr. CLEVELAND. Well, if it is necessary that they should have these clerks, I have no objection to it.

Mr. MOORE. I recollect now that there are eight clerks in our House—four in English and four in French.

Mr. STUART. I rise for the purpose of moving the previous question on this bill.

A MEMBER. It is not necessary; there is no disposition to debate it.

Mr. STUART. We want to pass all these territorial bills; but if the House is ready for the question, I will not move the previous question.

The question was then taken on concurring in the amendment reported from the Committee of the Whole on the state of the Union, and it was decided in the affirmative.

So the amendment was concurred in.

The bill was then ordered to be engrossed and read a third time; and being engrossed was read the third time and passed.

#### CRIMES IN THE DISTRICT OF COLUMBIA.

Mr. McLANAHAN. A mistake has been made by the Senate in sending back to this House bill No. 21, which provides for the punishment of the crime of arson in the District of Columbia. The Senate have passed a resolution, asking the House to send back that bill, in order that the amendments may be passed upon there. It was sent here by mistake, supposing the amendments of the Senate had been passed upon, and that the bill had been got through the Senate. I ask the unanimous consent of the House, that the bill may be returned to the Senate, according to their request.

There being no objection, it was so ordered.

#### COLLECTION DISTRICTS IN OREGON.

The following bill, reported from the Committee of the Whole on the state of the Union, with a recommendation that it do not pass, then came up, viz:

An act (S. No. 283) to authorize the President of the United States to designate the places for the ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, and for other purposes.

Mr. JONES, of Tennessee, moved to lay the bill upon the table.

Mr. HOWARD. Let the bill be read.

Mr. STUART. I will state to the gentleman and to the House, that another bill has been passed precisely like that.

The question was then taken on Mr. Jones's motion, and it was decided in the affirmative.

So the bill was laid upon the table.

#### SCHOOL LANDS IN MINNESOTA.

The following bill, reported from the Committee of the Whole on the state of the Union, without amendment, next came up in order, viz:

A bill (No. 264) to appropriate lands for the support of schools in certain townships and fractional townships in the Territory of Minnesota, not before provided for.

The bill was ordered to be engrossed and read a third time; and, being engrossed, was read the third time and passed.

#### SURVEYOR GENERAL IN OREGON.

The following bill, reported from the Committee of the Whole on the state of the Union, with amendments, next came up in order, viz:

A bill (No. 224) to amend an act entitled "An act to create the office of surveyor general of the public lands in Oregon; and to provide for the survey, and to make donations to the settlers of the said public lands."

The amendments were concurred in. The bill was then ordered to be engrossed and read a third time; and, being engrossed, was read the third time and passed.

Mr. FLORENCE. I ask the unanimous consent of the House to withdraw from the files the petition and accompanying papers of H. B. Babcock, which were referred at the last session of Congress to the Committee on Naval Affairs.

Mr. HAMILTON. For what purpose?

Mr. FLORENCE. To be used in another way.

Mr. HAMILTON. I object.

The SPEAKER. It is usual to leave copies upon the record. If that is done the Chair supposes that there will be no objection.

Mr. FLORENCE. Copies shall be left.

Mr. HAMILTON. I withdraw my objection. Leave was then granted for the withdrawal of the papers.

#### PORTRAIT OF HENRY CLAY.

Mr. CHANDLER. I ask the unanimous consent of the House to offer a resolution, authorizing the Library Committee to receive and place in the Library a likeness of Henry Clay, presented by an artist in New York.

The resolution was read, as follows:

Resolved, That the portrait of Henry Clay, presented to the nation by Giuseppe Fagnani, a resident in New York, be placed in the Library of Congress.

There being no objection to the resolution it was considered and agreed to.

Mr. HAMILTON. I call for the regular order of business.

Mr. FOWLER. Will the gentleman from Maryland give way for one moment, to allow me to ask the unanimous consent of the House to present resolutions of the Legislature of my State?

Mr. HAMILTON. I must insist upon the call for the regular order of business.

#### GRANTS FOR EDUCATION AND RAILROADS.

The SPEAKER stated as the first business before the House, the question upon laying on the table House bill No. 280, "making grants of lands to aid in the construction of railroads and for other purposes," upon which question the yeas and nays had been ordered.

Mr. BENNETT. Is it in order to move to lay that motion upon the table?

The SPEAKER. It is not in order.

Mr. BENNETT. I move, then, that there be a call of the House. A great many members are absent who wish to vote upon this bill.

The SPEAKER. If the Chair recollects aright, we are now acting under the operation of the previous question. If so, it is not in order to submit a motion for a call of the House.

Mr. RICHARDSON. This is a very important bill, and as the House is not very full, I hope it will be passed by for the present.

Mr. JONES. I agree with the gentleman that this is an exceedingly important bill. But there is now a motion pending to refer it to the Committee of the Whole on the state of the Union, where it can be fully discussed and perhaps better understood than it is now. There are certainly enough present to refer it.

Mr. BENNETT. I hope gentlemen will allow this bill to be passed by for the present.

Mr. JONES, of Tennessee. I object.

The question was then taken upon the motion to lay the bill upon the table; and there were—yeas 73, nays 99, as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Averett, Bissell, Bocock, Bragg, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Caskie, Chastain, Churchwell, Cobb, Colecock, Daniel, John G. Davis, Dawson, Disney, Dunham, Durkee, Faulkner, Ficklin, Fitch, Floyd, Freeman, Giddings, Gorman, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Hibbard, Hillyer, Holladay, Houston, Howard, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston King, Lockhart, Mason, McCorckle, McQueen, Molony, Nabors, Olds, Orr, Peaslee, Penn, Phelps, Powell, Richardson, Robbins, Robinson, Ross, Scurry, E. Martin, Stuart, Sweetser, George W. Thompson, Townshend, Wallace, Alexander White, Wilcox, and Yates—73.

NAYS—Messrs. Charles Allen, Allison, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bennett, Bowie, Bowne, Brenton, Briggs, Brooks, George H. Brown, Burrows, Burt, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Cartter, Chandler, Chapman, Clark, Cleveland, Clingman, Curtis, George T. Davis, Dimmick, Dockery, Doty, Duncan, Eastman, Edgerton, Florence, Fowler, H. M. Fuller, Gentry, Gilmore, Goodenow, Green, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, James Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Letcher, Mann, Humphrey Marshall, Martin, McMullin, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Perkins, Porter, Riddle, Robie, Sackett, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Sutherland, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Walbridge, Washburn, Watkins, Welch, and Wells—99.

So the bill was laid on the table.

Mr. APPLETON, of Maine, when his name was called, stated that he had paired off with his colleague, [Mr. SMART,] or he should have voted in the affirmative.

Mr. POLK said he was out of the bar when his name was called, and asked leave to have his vote recorded.

Objection was made.

Mr. POLK. I then wish to say that I should have voted to lay the bill upon the table.

[A message was received from the President of the United States, by the hands of MILLARD P. FILLMORE, his Private Secretary, announcing that he had signed sundry bills.]

The question then recurred upon the motion to lay on the table the motion made by Mr. MEADE, to reconsider the vote by which the House ordered the main question to be put.

Mr. ALLISON demanded the yeas and nays; which were ordered; and being taken, the result was—yeas 94, nays 80; as follows:

YEAS—Messrs. Charles Allen, Allison, Ashe, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bell, Bennett, Bocock, Bowie, Bowne, Bragg, Brenton, Briggs, Brooks, George H. Brown, Caldwell, Cartter, Caskie, Chandler, Chapman, Clark, Cleveland, Clingman, Daniel, George T. Davis, Dimmick, Dockery, Doty, Duncan, Eastman, Edgerton, Edmundson, Floyd, Fowler, Henry M. Fuller, Gentry, Gilmore, Goodenow, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, James Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Martin, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Murphy, Newton, Outlaw, Andrew Parker, Penniman, Perkins, Porter, Riddle, Robie, Robinson, Sackett, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Taylor, Benjamin Thompson, Thurston, Toombs, Walbridge, Washburn, Watkins, Welch, and Wells—94.

NAYS—Messrs. Abercrombie, Aiken, Willis Allen, Averett, Bissell, Albert G. Brown, Burrows, Burt, Busby, Thompson Campbell, Chastain, Churchwell, Cobb, Colecock, Conger, John G. Davis, Dawson, Disney, Dunham, Durkee, Faulkner, Ficklin, Fitch, Florence, Freeman, Giddings, Gorman, Green, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Hibbard, Hillyer, Holladay, Houston, Howard, Ives, Jackson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston King, Letcher, Lockhart, Edward C. Marshall, Mason, McCorckle, McLanahan, McMullin, McNair, McQueen, Meade, Molony, Nabors, Olds, Orr, Peaslee, Phelps, Polk, Powell, Richardson, Robbins, Ross, Savage, Scurry, Smith, Stuart, Sweetser, George W. Thompson, Townshend, Venable, Wallace, Alexander White, Wilcox, Woodward, and Yates—80.

So the motion to reconsider was laid upon the table.

Mr. McCORKLE. I desire to inquire, if the morning hour has not expired?

The SPEAKER. It has not yet expired.

The question then recurred upon the adoption of the following amendment, as a substitute for the third section of the bill:

Sec. 3. And be it further enacted, That of the lands hereby granted to the eleven first-named States, a portion of the proceeds thereof shall be applied to the said States respectively, in the manner directed in the preceding section, to aid in the construction of the following lines or routes of railroads, namely: From Toledo, Ohio, via Logansport, Lafayette, and Peoria, to Burlington; from Cincinnati, Ohio, via Vincennes, to St. Louis, with a branch from a point in Illinois, via Mount Carmel, to New Albany; from such point on the Mississippi river, within the limits of Arkansas, as that State shall appoint, via Little Rock, to Fort Smith, Arkansas, with a branch from Little Rock to Fulton, on the Red river, and a branch from Little Rock to Cairo, at the mouth of the Ohio river; from Terre Haute, in Indiana, via Springfield, to Bloomington, in Illinois; from New Orleans, by the way of Jackson and Canton, in Mississippi, thence to connect by the nearest and best route with the proposed Nashville and New Orleans railroad, and from Canton, by the way of Holly's Springs, to the line of the State of Tennessee; from Girard, in Alabama, to the waters of the Mobile bay; from Brandon, in Mississippi, to Montgomery, in Alabama; from Pensacola bay, in Florida, to Montgomery, in Alabama; from the river or Lake Saint Clair, or the waters flowing into the same, to Lake Michigan; from the southern boundary of Wisconsin, through Jaunesville and Fond du Lac, to Lake Superior; from Selma, in Alabama, to Gunter's Landing, on the Tennessee river; from the Atlantic Ocean, in Florida, to the Gulf of Mexico, in said State; from Davenport and Burlington, in Iowa, to the Missouri river, and from Dubuque to the Sioux river, and to Keokuck, in said State; from Manitowac, in Wisconsin, to the Mississippi river; from San Francisco to San José; from the Saginaw river to Mackinaw, in the State of Michigan; from Mobile bay, in Florida, and to the Chattahoochee river and Flint river, in Georgia; from a point opposite New Orleans to the Sabine river, in Louisiana; from Shreveport to the Mississippi river. Said railroads to be constructed on the most direct and feasible routes between the points before mentioned, and the proceeds of the residue of the land herein granted to the said eleven first named States respectively, to be applied by them to aid in the construction of such other railroads as the Legislatures of said States may respectively designate: *Provided*, No more land shall be taken by any State under this act in the whole, than is granted to said State by the first section thereof.

Mr. ABERCROMBIE. I rise to make an inquiry. I understand that the railroad from Girard, in Alabama, to the waters of the Mobile Bay, is not included in the bill. I inquire of the Chair whether such is the fact? If not, I desire to submit that amendment.

The SPEAKER. The Chair is informed that the provision to which the gentleman from Alabama refers, is in the bill.

Mr. ABERCROMBIE. Then I am satisfied.

Mr. COBB. I desire to make an appeal to the gentleman who introduced this bill, [Mr. BENNETT.] That gentleman says it was his intention to have included the Memphis and Charleston Railroad in the bill, but it was omitted by some error. I ask the consent of that gentleman and ask the consent of the House to have it put in.



[Cries of "Order!" and "Object!"]

Mr. CLEVELAND. I ask for the yeas and nays upon the adoption of the amendment.

The yeas and nays were ordered.

Mr. STUART. I ask for a division of the question.

The SPEAKER. The amendment will be divided if the gentleman will indicate the point where it is susceptible of division.

Mr. STUART. I ask for a division upon each road specified in the amendment.

Mr. BEALE. If it is in order, I ask that the part of the bill to which this is a substitute, be read.

The third section of the original bill was accordingly read, as follows:

SEC. 3. *And be it further enacted*, That of the lands granted by this act to the said first-named eleven States, a portion thereof shall be applied in conformity with the foregoing provisions, to aid in the construction of the railroads already commenced by said States respectively, or for which said States have made appropriations, or pledged the credit of said States respectively, and the remainder of the land hereby granted to each of said several States to be applied, in the manner aforesaid, to aid in the construction of such other railroads as the Legislatures of said several States may respectively designate.

The SPEAKER. The proposition is to strike out the entire section, and insert the amendment in its place. The Chair, after a moment's reflection, thinks the amendment is not divisible.

Several MEMBERS. That's right.

Mr. STUART. Would not each portion of the amendment be perfect if you were to strike out any of these roads, or all of them? As I understand it, the question is certainly susceptible of division.

The SPEAKER. The gentleman cannot submit a motion to strike out any portion of an amendment after the previous question has been ordered.

[Cries of "Question!"]

Mr. STUART. I do not make a motion to strike out any portion. But here is an amendment containing a dozen or fifteen different and distinct propositions, so that the House may vote down any one of them, or all of them, and still the amendment will remain perfect, and therefore it is that I say I have a right to call for a division of the question.

The SPEAKER. The Chair is of the opinion that were it not for the fact that the House is acting under the previous question, it would be in order to amend the section. But the question is now upon striking out one whole proposition and inserting another; and the Chair decides that it is not in order to call for a division of the matter proposed to be inserted.

Mr. ASHE. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. ASHE. I move that the House proceed to the consideration of the business on the Speaker's table.

I now move to take up the Pennsylvania contested-election case.

Mr. HOUSTON. I wish to submit a point in regard to the order of business. The gentleman from California [Mr. McCORKLE] is anxious to take up and pass upon the unfinished business in relation to the establishment of a Mint in California.

The SPEAKER. That bill will be the first business in order, if the House refuse to go to the business on the Speaker's table, or to the contested-election case. That is the first business in order before the House; but it is competent for the House to proceed to the business on the Speaker's table, or to the contested-election case, by vote.

Mr. FLORENCE. I desire to ask a simple question. Is not the French spoliation bill which passed the Senate on the Speaker's table?

The SPEAKER. It is on the Speaker's table.

Mr. FLORENCE. Will not that bill come before the House if the House proceed to the business on the Speaker's table, as the first business in order?

The SPEAKER. The Chair thinks not.

Mr. FLORENCE. Is there not a motion before the House for the reference of that bill?

The SPEAKER. The Chair does not know what position it has upon the Speaker's table, without referring to the record; but many other propositions are before it, in the opinion of the Chair.

Mr. FLORENCE. I was under the impression that it was on the Speaker's table, and if we

should go to the business on the table, that it would come up as the first business in order.

The SPEAKER. The Chair is not positive about it, but will decide the question when it comes properly before the House.

#### CONTESTED-ELECTION CASE.

The question was then taken on the motion of Mr. ASHE, to proceed to the consideration of the contested-election case from Pennsylvania; and it was agreed to.

The SPEAKER. The question is upon agreeing to the resolution proposed by the Committee on Elections.

Mr. MARSHALL, of California. Is it in order to move to postpone the consideration of this election case until Thursday next?

The SPEAKER. Such a motion is in order.

Mr. MARSHALL. I make that motion. I am sure that such was the understanding, and I am surprised that it should be urged now.

Mr. CLARK. Was not the consideration of this business set down for to-day?

The SPEAKER. There was no order to that effect.

Mr. MARSHALL. It was certainly suggested, and certainly understood, that Thursday should be the day upon which this election case should be considered.

The SPEAKER. There was no order of the House upon the subject.

Mr. ROBBINS. The gentleman from California [Mr. MARSHALL] is mistaken as to the day to which the consideration of this subject was postponed. It was agreed that it should be postponed until to-day, not by the order of the House, but by general understanding.

Mr. MARSHALL. The understanding of the House was, that it should be taken up on Thursday, and not before.

Mr. HAMILTON. If I understand the proposition of the gentleman from California, [Mr. MARSHALL,] it is to postpone the consideration of this matter until Thursday next. It was the understanding of the parties in this case that it should be taken up to-day, and I hope the House will now proceed to consider and dispose of the matter.

Mr. DAVIS, of Massachusetts. I wish to say—

The SPEAKER. The proposition is not debatable. The question is on the motion to postpone the consideration of this subject until Thursday next.

The question was then taken, and there were on a division, yeas 76, noes 64; when—

Mr. VENABLE demanded the yeas and nays, which were ordered; and, the question being taken by yeas and nays, it was decided in the affirmative—yeas 84, nays 77, as follows:

YEAS—Messrs. Abernethy, Allison, David J. Bailey, Bell, Bennett, Bowie, Bowne, Brenton, Briggs, Brook, George H. Brown, Burrows, Busby, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Carter, Chandler, Chapman, Chastain, Chinguan, Conger, Cottman, George T. Davis, Dockery, Duncan, Edmundson, Fowler, Freeman, Gaylord, Giddings, Goodnow, Grey, Harper, Hart, Haws, Haven, John W. Howe, Thomas M. Howe, Hunter, Robert W. Johnson, George G. King, Kuhns, Landry, Mann, Edward C. Marshall, Martin, McCorkle, Meade, Miller, Henry D. Moore, John Moore, Morehead, Nabers, Newton, Samuel W. Parker, Perkins, Polk, Porter, Schoolcraft, Schoonmaker, Scudder, Scurry, David L. Seymour, Stanley, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stone, Sutherland, Taylor, Benjamin Thompson, Toombs, Venable, Walbridge, Washburn, Watkins, Welch, Wells, Wilcox, and Yates—84.

NAYS—Messrs. Aiken, Charles Allen, Willis Allen, John Appleton, Ashe, Averett, Bente, Bissell, Birge, Albert G. Brown, Burt, Joseph Cable, Thompson Campbell, Caskey, Churchill, Clark, Cobb, Colecock, Curtis, Daniel, John G. Davis, Dawson, Dimmick, Durham, Durkee, Eastman, Edgerton, Faulkner, Ficklin, Fitch, Florence, Floyd, Gilmore, Gorman, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hibbard, Hiltner, Holladay, Ives, Jackson, Andrew Johnson, James Johnson, John Johnson, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Lockhart, Mason, McLanahan, McMullin, McNair, McQueen, Morrison, Olds, Orr, Andrew Parker, Phelps, Riddle, Robbins, Robie, Robinson, Ross, Savage, Smith, Stratton, Stuart, Sweetser, George W. Thompson, Thurston, Townsend, Wallace, and Woodward—77.

So the consideration of the contested-election case was postponed until Thursday next.

#### CALIFORNIA MINT BILL.

Mr. MARSHALL, of California. I move now to take up the unfinished business.

The SPEAKER. The California Mint bill is the unfinished business, and the pending motion

is to reconsider the vote by which the main question was ordered to be put.

Mr. OLDS. I withdraw the motion to reconsider.

The SPEAKER. The motion to reconsider is withdrawn, and the question first before the House is upon agreeing to section tenth, proposed as an amendment by the Committee on Ways and Means.

The amendment was read as follows:

"SEC. 10. *And be it further enacted*, That there shall be charged a seigniorage on the coinage of gold in the Mint of the United States, and each of its branches, at a rate or rates to be established from time to time by the Secretary of the Treasury, not to exceed, in his judgment, the actual expense of the coinage at said Mint, or branch Mint, respectively: *Provided*, The same shall not be more than one per centum on the amount coined."

Mr. HOUSTON. As I did not occupy the time allowed to me under the rule the other day, I hope the House will allow a letter to be read, from the Secretary of the Treasury, which gives important information upon this subject, which should be known.

Mr. BROOKS. I object to any argument.

Mr. HOUSTON. Very well. The gentleman objects to the reading of the communication. It is well that he does, for it shows that his objections to the amendment are baseless.

The following is the letter alluded to by Mr. HOUSTON:

TREASURY DEPARTMENT, June 17, 1852.

SIR: In reply to your letter of the 15th, calling upon the Department for further information on the subject of the proposed charge at the Mint for seigniorage on gold bullion deposited by individuals for separation, assay, and coinage, I have the honor to state, that there is no seigniorage charged by the Mint in England, as the separation and assay of gold bullion there, is done by private individuals designated by the Bank or the Mint, and the latter receive no bullion except in a state fully prepared for immediate coinage. The expense of separating and assaying gold bullion, is a matter between the owners of it and the above parties, but the Department has no accurate information as to the amount of the charge made therefor; but from the best unofficial information it has been able to obtain on the subject, it is believed the cost is nearly or quite one half of one per cent. The gold thus prepared for coinage is purchased by the Bank, which, by law, is obliged to receive and pay for it in coin at the standard price of £3 17s. 9d. per ounce, but the value of an ounce of gold in coin is fixed by law at £3 17s. 10½d. sterling, so that the Bank has an advantage of a penny half penny, or three cents per ounce, equal to about one fifth of one per cent. on its value.

Under these circumstances, individuals never present their bullion to the Mint for coinage, preferring this small charge which may be considered as a seigniorage on the part of the Bank, rather than to incur the trouble and delay of taking their bullion for coinage to the Mint, all of which is averted by presenting it directly at the counter of the Bank, between which institution and the Mint, the needful arrangements are made as regards the coinage. The Department, without being able to obtain official authority for the fact, understands that the Bank pays the Mint the expense upon such portion of bullion received by it in the above mode, which the institution requires to be put into coin, for much the larger portion of the gold in the vaults of the Bank, is always in the form of bars or ingots. As the bullion that is coined at the Mint belongs to the Bank, it would be but just and reasonable the latter should pay this expense, particularly in view of the large and advantageous privileges she obtains and enjoys from the Government, with the further additional advantage already alluded to of about three cents per ounce in the purchase of the bullion below its coined value, and which on the amount coined in the United States during the last year, would amount to nearly \$100,000. These advantages would be a full justification for making the institution bear this comparatively small outlay.

As regards the British Mint, therefore, it appears there is no charge of seigniorage for parting, assaying, and alloying, from the simple fact that it obliges individuals to have those operations performed at their own proper expense, by private assayers, before she will receive the gold; and if any gratuitous service is performed by the Mint, it is merely the coinage, and that, as already stated, it is believed is paid by the Bank.

On silver coinage, the British Government has a seigniorage equal to about ten per cent., or what is the same thing, from pure silver of the value in gold of ninety shillings, it makes and issues one hundred shillings of coin, and will not receive silver for coinage from individuals except on the basis of giving for one hundred shillings of pure silver one hundred shillings in coin by tale, the latter containing only ninety shillings of pure silver.

The Government Mints in British India, which issue a very heavy coinage, charge a seigniorage of two per cent. on both gold and silver.

In France there is and always has been a charge of seigniorage on gold and silver. This charge at present in the French Mint is about three eighths of one per cent. on gold, and one per cent. on silver.

The Continental European Mints, it is believed, are generally modeled on that of France; but the information on this point possessed by the Department does not warrant it in making any positive assertion respecting them, except that a seigniorage exists in Prussia and Denmark, but to what extent the Department is unable to state.

As regards your inquiries as to the probable bearing and the result of the charge of seigniorage upon gold bullion, the Department is decidedly of opinion that it would be

both just and proper that such a charge should be made, and that no possible injurious consequence could flow from it, either as regards the currency of the country or the future supply of bullion, the receipts of which the Department believes would in no way be unfavorably affected by such a measure.

The Department has from an authentic source account sales of a shipment of California gold dust from New York to London, which produced, when melted in London, an assayed value including the silver parted from it of £1,098 5s. 8d. The charges attending it in England were.... 4 15 0

Net amount sterling ..... 1,003 10 8

The same gold at the Mint in Philadelphia, would have produced the sum of.....\$4,917 95  
Loss, one half per cent. seigniorage..... 24 56

Leaving.....\$4,893 39

Which at the exchange of ten per cent. would amount to.....£1,001 18s. 4d.

Proceeds in London, as exhibited above, are £1,003 10s. 8d.  
Deduct freight and insurance from New York to Liverpool, together three quarter per cent..... 7 11 3  
£995 19 5

which leaves an advantage of 60-100 per cent. in favor of retaining the bullion in the United States, even after paying the seigniorage of one half per cent.

The parting, alloying, assaying, and coining of gold dust, is an actual manufacture of a raw material from the crude state in which the metal is found at the mines, and by which its value to the owners, when made into coin, is increased greatly beyond the amount of the proposed charge by the Mint. The Department can see no just reason why this species of manufacturing of gold should be conducted for the benefit of individuals at the expense of the Treasury, which would not equally apply to a claim from the agriculturist to have in like manner his wheat ground into flour.

As a general rule, neither governments nor individuals incur a particular expense for the benefit of others without making a charge therefor, nor is the justness of this rule lessened by the arguments, that though the benefit primarily inures to the individual it is ultimately for the general good of the community, and that in the acts of Government such as it reserves exclusively to itself, individual competition is prohibited.

In our own country the judiciary and the post office establishments are of the utmost importance and benefit to individuals as well as of great general advantage. The organization and general management of these two important institutions are reserved exclusively to the Government, yet the parties litigant are obliged to pay the cost of suits, and those who use the mails are taxed to an extent that fully reimburses the Treasury for its outlay. In like manner the progress of invention and knowledge is of vast importance to a nation, yet every inventor is taxed by the Government before he can secure his patent right, and where parties in the above cases, and in others, which might be named, refuse to submit to the charge made by the Government, they are debarred from the benefits which such payment would otherwise confer on them.

When bullion is coined gratuitously, it is manifest that a certain weight in gold is precisely of the same value as an equal weight in coin. There will, therefore, be no reason for retaining it at home, and when the course of trade requires an export of specie, such coin will at once be shipped, and though it has been manufactured at great expense, it is immediately melted and treated as so much bullion. It is a pretty well-ascertained fact that of the coinage executed in the United States within late years, about two thirds of it has been exported, and by far the greater portion of it without ever having been at all in circulation. It is, therefore, evident from facts, as well as from common sense, that coinage gratis has no tendency to increase the home circulation. If a charge is made, say of one half of one per cent. for coinage, it is evident that coin would be worth one half per cent. more than an equal weight in bullion, and it would, therefore, be directly against the interest of the shipper to send coins as a remittance instead of bullion for to melt up this coin abroad, and reduce it to its unmanufactured state the owner would lose one half per cent. The charge for seigniorage will, therefore, rather have the tendency to keep our coin at home for the circulation of the country, or if from concurring causes it went abroad, it would be an inducement to return it in order to save the loss of the half per cent.

It is of course not pretended that a seigniorage will prevent the exportation of the precious metals, but merely that it will retard the shipment of coin. Unmanufactured gold in the form of bars and ingots should therefore be issued by the Mint for the use of those who may have occasion to remit precious metals, and for the reasons already stated it will always be sent in preference to coin, which latter will remain the last, and form the circulation of the country until the supply of bars or ingots is first exhausted for any foreign demand.

The best authorities on the subject are decidedly in favor of a seigniorage, in proof of which reference is made to "Smith's Wealth of Nations," book IV., chap. 6; "Mills's Political Economy," vol. I., chap. 9; "McCulloch's Essays on Exchange, Interest, Money," &c. Chapter 3 of the Essay on Money, gives a full view of the subject. Alexander Hamilton's celebrated report on the establishment of a Mint is also very conclusive as regards it, and he recommends the imposition of a half per cent. seigniorage. (See American State Papers, vol. VI., Finance, vol. I., pp. 95, beginning "A third point.") He concludes as follows: "Under an impression that a small difference between the value of the coin and the Mint price for bullion is the least exceptional expedient for restraining the melting down or exportation of the former, and not perceiving if it be a very moderate one it can be hurtful in other respects, the Secretary is inclined to an experiment

of half per cent. The fact which has been mentioned with regard to the price of gold bullion in the English market seems to demonstrate that such a difference may be made. In this case there must be an immediate payment made for the bullion offered to the Mint."

It was unquestionably the intention of Congress who passed the first Mint law to comply with the recommendation of Secretary Hamilton, but instead of charging one half per cent. for coinage and providing funds for the prompt payment of the bullion on ascertaining its value the charge of half per cent. was made the condition not of coinage, but of prompt payment. It seems to have been taken for granted that the delay of coinage would always be so great that depositors would prefer the payment of the half per cent. rather than await the course of manufacture, and both the first and second bank of the United States were, therefore, in the practice of cashing Mint certificates, with the deduction of the half per cent.

Under the present system, Government provides funds for the prompt payment of bullion so soon as it is assayed and its value ascertained, which is from one to five days after the crude gold is deposited, so that not only is the coinage gratuitous, but the Government advances its funds to the amount of many millions to the owners of bullion submitting itself to the loss of interest and delay of manufacture. If the amount now set apart in the Treasury for the use of the bullion fund was applied to the redemption of the public debt, it would save in interest, an amount nearly or quite \$400,000 per annum, a loss which is now incurred exclusively for the benefit of the owners of bullion.

This loss, however, will be avoided for the future, and without creating any inconvenience to depositors, should Congress pass the bill authorizing Mint certificates to be received in payment of all dues to the United States, and directing the present bullion fund to the extinguishment of so much of the public debt.

The present and proposed arrangements at the Mint, it may be confidently asserted, afford greater facilities for the prompt realization of bullion deposited for coinage, and at a less aggregate expense than at any other national Mint in the world.

A seigniorage or charge for coinage may exist in fact, though the coinage be nominally gratuitous. Thus, if the owner of bullion be delayed two months at the Mint before he can receive coin in return, this delay, estimating interest at the rate of six per cent., is equal to one per cent. for loss of interest on his money, for it would be the same to him, whether he obtained prompt pay for his bullion with a deduction, either as a charge for seigniorage or for the advance of the money, of one per cent., or waited two months to get the full value. A charge of this kind exists in every other country but our own; nowhere else is prompt payment made for the value of bullion without any discount, for even in England, as has been stated above, the bank retains three cents per ounce, equal, at the average rate of interest there, to the interest of twenty-five days.

It is proposed to limit the charge of seigniorage to the actual expense, but in no event to allow it to be more than one per cent.; but from the best information the Department possesses, the charge will probably not exceed five eighths of one per cent., which is also intended to include the present charge authorized by law for the parting of the silver.

If the act respecting the new silver coinage now before Congress should become a law, by which the Mint and its branches are authorized, at the option of the depositors, to coin bars or ingots, and the charge for so doing is limited to the actual expense, it will, for ingots of \$50 or \$100, be much less than the above estimate, and still more so if they are made of the denomination of \$500 or \$1,000, or even of larger amounts. Under a provision of that kind, the probability is, that all the depositors would require their bullion to be returned in ingots of large denominations; for, with the Mint stamp, they would be equally valuable and available as coin, either for banking purposes or for exportation, and being subject to a greatly less charge at the Mint, would of course be more universally prepared.

These large ingots would also have a preference over coin, by the public and private banking institutions of the country, to be retained in their vaults as specie capital, and in all cases of foreign demand would possess the advantages for exportation of being more convenient, and, also, would not be subject to loss in weight by abrasion, as is always the case, to a greater or less extent, with coin which has been in general circulation; for the value of our coin abroad, as already stated, is exclusively governed by its weight as bullion.

Under the system of assaying large ingots, the coinage of the Mint would probably be limited to the comparative small amount of ten or fifteen millions annually, as the supply of coin would only be required for the actual wants of the country, and the above yearly additional amount would soon saturate the circulation, particularly as the substitution of ingots would let loose a vast amount of coin now resting in the vaults of the banks, and would likewise, to a considerable extent, no doubt, be used as general circulation between banking institutions and in settling large transactions.

It may also be observed, that there is nothing either in the existing or proposed law which prevents owners of gold dust from having it parted, alloyed, and cast into any sized ingots or bars by private individuals, if they prefer to do so, or can have it done more economically than at the Mint; and when thus properly prepared, as is now done in England, they could bring it to the Mint either for its stamp as ingots, or to be changed into coin at the option of the parties, and paying only the actual expense which may attend the one or the other process.

It is difficult to understand how the proposed charge for seigniorage can in any way affect either the supply of gold to the country or its circulation here. If the course of trade requires an export of gold from the United States, no possible advantage can accrue by first bringing the bullion here and saddling the Treasury or individuals with the expense of coinage, for the mere purpose of immediately transferring the coin thus made to foreign crucibles; and if, on the contrary, an export demand does not exist, our citizens who are the owners of this crude gold bullion will hardly send

it to Europe in order to bring it back from thence in foreign coin, particularly when the expense for seigniorage or other charges, nearly or quite equivalent to that it is proposed to demand in the United States, will be exacted there, with the still heavier additional expense of double freight and double insurance, going and coming. It is an important fact bearing on this subject, that in France, where the permanent specie circulation is by far the greatest of any other nation, and where the coinage during the last year has been unprecedentedly large, they have a seigniorage, which shows that a charge on coinage has no effect in restricting its issue or encouraging its export.

So far as a foreign demand may exist upon the United States for gold, it is an object rather to be desired that such demand should be supplied by the article in its crude state rather than to subject us to all the tedious and expensive processes through which it must pass before it assumes the shape of coin; for the whole operation would result in loss of labor to the country, as well as a loss of the materials used in the process, without the least benefit to any one; for the owners of the bullion would of course receive as full a value for it in Europe as they could in the United States.

It, therefore, does not appear to be either good policy or justice to put the public Treasury to the expense of coining gold for exportation merely to have it remelted on its arrival in Europe. It may be as well to state that the cost in Philadelphia for acids employed in the parting process amounts, for this single item of expense, to \$150,000 annually. Two thirds of which, besides the labor, is an actual loss to the country, if, as there is little doubt of the fact, that proportion of our entire coinage has been exported to Europe and there melted up and recoined.

The expenses connected with the preparation and coinage of gold bullion is greater at the present branches than at the Mint in Philadelphia, and will be still more so at San Francisco, when Congress establishes a Mint there; but the Department would respectfully suggest that the law on the subject should be so worded as to make the charge uniform at the Mint and its present, as well as any new branches which may be established, with, of course, the proposed maximum limit of one per cent.

For the reasons already assigned, the Department is convinced, that under the proposed new coinage law the depositors of gold dust will universally require bars or ingots, in which case, the expense of furnishing the needful additional coin that may be required for the circulation of the country will, so far as the cost of coinage is concerned, have to be at the expense of the National Treasury, and the only charge to the owners of the bullion will be the very small one of forming it into large ingots.

I am, very respectfully, your obedient servant,  
WM. L. HODGE,  
Acting Secretary of the Treasury.  
Hon. GEORGE S. HUSTON,  
Chairman Committee Ways and Means,  
United States House of Representatives.

The SPEAKER. The question is upon the adoption of the amendment.

Mr. HOUSTON. Upon that question the yeas and nays have been ordered.

The SPEAKER. The Clerk informs the Chair that the yeas and nays were not ordered.

Mr. HOUSTON. They were ordered the other day, and upon that the House adjourned.

The SPEAKER. The record does not show it.

Mr. HART. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CLEVELAND. I would inquire, for information, if this tenth section is an amendment reported by the committee?

The SPEAKER. It is.

Mr. CLEVELAND. Then I hope it will pass.

The question was then taken, and it was decided in the negative—yeas 50, nays 108; as follows:

YEAS—Messrs. William Appleton, Boccock, Briggs, L. D. Campbell, Cleveland, Cobb, Colcock, Conger, Daniel, John G. Davis, Dimmick, Disney, Duncan, Dunham, Durkee, Eastman, Faulkner, Ficklin, Floyd, Goodenow, Isham G. Harris, Sampson W. Harris, Hibbard, Holladay, Houston, Ives, Jackson, George W. Jones, Letcher, Mann, McLaughan, Henry D. Moore, Morehead, Samuel W. Parker, Peaslee, Perkins, Phelps, Robbins, Savage, Scudder, Smart, Smith, Stanly, Benjamin Stanton, Stone, Walbridge, Washburn, Welch, Wells, and Addison White—50.

NAYS—Messrs. Abercrombie, Aiken, W. Allen, Ashe, Averett, David J. Bailey, Thomas H. Bayly, Beale, Bell, Bissell, Brenton, Briggs, Brooks, George H. Brown, Burrows, Burt, Busby, Joseph Cable, Caldwell, Thompson Campbell, Carter, Chapman, Chastain, Churchill, Geo. T. Davis, Dawson, Doty, Edgerton, Edmundson, Fitch, Florence, Fowler, Freeman, Gaylord, Gilmore, Gorman, Green, Grey, Hamilton, Hammond, Harper, Hart, Haws, Haven, Hillyer, Horsford, Howard, John W. Howe, Thos. M. Howe, Hunter, Ingersoll, Andrew Johnson, Jas. Johnson, John Johnson, Robert W. Johnson, J. Glancy Jones, George G. King, Preston King, Kubus, Kurtz, Lockhart, Edward C. Marshall, Martin, Mason, McMillin, McNair, McQueen, Meade, Miller, Molony, John Moore, Morrison, Murphy, Nahers, Newton, Olds, Orr, Outlaw, Andrew Parker, Penn, Polk, Porter, Richardson, Riddle, Robie, Robinson, Ross, Schoonmaker, Seury, D. L. Seymour, Snow, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stratton, Stuart, Sutherland, Sweetser, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Wallace, Watkins, Wilcox, Woodward, and Yates—108.

So the amendment was rejected.

The SPEAKER. Another amendment is proposed to the bill by the Committee on Ways and Means, which will be reported to the House.

It was read, as follows:

"Sec. 11. *And be it further enacted*, That before the Secretary of the Treasury shall procure or erect the buildings provided for in the second section of this act, or commence operations under any of the provisions of the same, at San Francisco, State of California, it shall first be his duty to make a contract, or contracts, for the erection of said buildings, and procuring the machinery necessary for the operations of said Mint, at a sum or sums which shall not in the whole exceed the sum of \$300,000, which said contract, or contracts, shall be secured by good and sufficient sureties, to the satisfaction of the said Secretary of the Treasury and the President of the United States."

The question was then taken on this proposed amendment, and it was agreed to.

Mr. McCORKLE. There is another amendment which was offered by the chairman of the committee.

The SPEAKER. The amendment referred to by the gentleman from California [Mr. McCORKLE] is not in order, except by the unanimous consent of the House.

Mr. McCORKLE. I ask unanimous consent to introduce the amendment.

The SPEAKER. The gentleman from California asks the unanimous consent of the House to propose an amendment, which will be read for information.

The Clerk accordingly read the proposed amendment, which is as follows:

Strike out section nine, and insert:

*And be it further enacted*, That so much of the act entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year ending 30th of June, 1851, and for other purposes," approved 30th of September, 1851, as provides for the appointment of a United States assayer, and for contracting for the assaying and fixing the value of gold in grain and lumps, and in forming the same into bars, be, and the whole of the said clause is hereby repealed.

[Cries "Agreed! "Agreed!"]

Mr. JONES. What is the ninth section which is proposed to be stricken out?

The SPEAKER. The Clerk will read the ninth section.

The Clerk accordingly read the section, which is as follows:

Sec. 9. *And be it further enacted*, That so soon as the said branch Mint is established in the State of California, and public notice shall be given thereof, and of the mode to be designed by the Secretary of the Treasury, then so much of the act making appropriation for the civil and diplomatic expenses of the Government for the year ending June 30th 1851, and for other purposes, as provides for the appointment of a United States assayer, and the contracting for the assaying, and fixing the valuation of gold in grains and lumps, and for forming the same into bars, be, and the whole of the clause containing said provisions, shall be hereby repealed.

Mr. JONES. I think the ninth section is better than the amendment. The object of the amendment, if I understand it, is to repeal the assaying office as soon as this bill passes.

Mr. McCORKLE. That is the object of my amendment.

Mr. JONES. I object to the introduction of the amendment.

Mr. McCORKLE. If the gentleman will allow me to explain, I think there will be no further trouble about the amendment.

Mr. HUNTER. I object.

The SPEAKER. It is objected to on the left of the Chair.

Mr. McCORKLE. I hope the gentleman [Mr. HUNTER] will withdraw his objection. I will raise a question of order in relation to this matter. This amendment was offered at my request, by the chairman of the Committee on Ways and Means, before the previous question was demanded. It is therefore in order.

Mr. HUNTER. If the gentleman wishes to occupy a few moments in explanation, I will withdraw my objection.

The SPEAKER. Does the gentleman from Tennessee [Mr. JONES] withdraw his objection?

Mr. JONES. I cannot withdraw my objection to the introduction of the amendment, but I have no objection to allowing the gentleman to explain.

Mr. McCORKLE. In offering the proposed amendment, I only consult the interest of the miners, the laboring men of California. They are immediately interested in the repeal of the law creating the "assay office" in California, while the bankers, brokers, and those interested in the assaying business, desire to prolong its existence.

The only change in the Senate bill which my amendment will effect is this, and I hold it to be a most important one, for the simple reason that unless it is made, there will be as great a delay in putting the Mint in full operation by the present Administration, as there has been in all other mat-

ters in California, in which interests of great magnitude are involved, and for which appropriations have been made, and not, as yet, expended.

The delay in the passage of this bill by the House, which was sent to us from the Senate on the 15th of December last, has been occasioned by those interested in the perpetuation of the assay office in San Francisco, out of which they are and have been realizing fortunes at the expense of the Union.

The only effect of my amendment will be, to stop at once the operations of the assay office, which is flooding California with a currency which is spurious, and which must and will depreciate in the hands of the miner. The banker and broker never lose by these operations. They are keen of scent, and are always on the look-out, and are seldom caught napping; while the laborer, and in this case the miner, is sure to be caught, and must suffer the loss.

By the clause creating the assay office, the miners of California are taxed two and three quarters per cent. for the assaying of their gold, whilst to them no processable advance is made in the marketable value of their gold dust.

Mr. JONES, (interrupting.) I will ask the gentleman from California, how they will get their gold assayed from the time this bill passes, until the Mint goes into operation, if his amendment is adopted?

Mr. McCORKLE. In reply to the gentleman from Tennessee, I will say, that the miners of California do not, and never have had, as a general thing, their gold assayed at this institution. Those interested in the assay office, which is owned by capitalists on this side of the continent, have the money, and send their "runners" into the mines, to purchase "the dust" at sixteen dollars per ounce, and under the unwarranted and unconstitutional order of the Secretary of the Treasury, coin it into fives, tens, and twenties, put it into circulation, and realize out of the transaction an amount which would surprise men of moderate fortunes in this country.

Mr. JONES. Then the miners can wait for the Mint.

Mr. McCORKLE. The miners can well afford to wait for the Mint, if the Administration favor the continuance of the assay office, and defer the establishment of the branch Mint. All that a Democratic Congress can do, is to make the appropriation necessary to establish and put in operation a branch Mint in California; but a Whig Administration may delay in this case, as they have in the erection of light-houses, the execution of the law for twenty months. The miners may not be able to wait, and if they do, may lose money by the operation.

The miners themselves do not generally have their gold assayed, but it is bought up by the agents of the assay office, and being coined as directed by the Secretary of the Treasury, is put into circulation, and when the coin as authorized by this law is put into circulation, this spurious coinage must fall to a still lower discount than it is as present quoted in the money articles of the New York Herald, an authority that no one conversant with such affairs will dispute.

The New York Herald quotes the gold assayed by this assay office in the banks in New York at one half per cent. discount, and I am informed by citizens of California, that in Central America and South America, it is at ten per cent. discount. This loss, which must inevitably fall back upon the miners of California, is what I want to prevent. It is true that by the unconstitutional "circular" of the Secretary of the Treasury, this coin is received in payment of Government dues; and customs at San Francisco may keep this coin issued by this assay machine "at par" in that State for a short time. Yet it is inevitable that when this "order" is reversed, as it must be, and as it ought to be, in justice to the other States, this same coin must depreciate to the expense of the miner.

I would, Mr. Speaker, continue an explanation of this amendment, only that I fear that my remarks may delay the passage of this bill, which is of the last importance to my constituents in any shape. But in justice to the people of California, whom I have the honor to represent, I must say to the gentlemen who desire the continuance of the assay office, that the tax of one per cent. as seigniorage is a small item as compared with the

cost to the miner for the delivery of his gold dust in the Mint in Philadelphia or New Orleans. We have paid heretofore at the rate of fifteen per cent. Under the law of the United States one half of one per cent. is all that is charged; but owing to the failure of Congress to establish a branch Mint in California, the miner of California has suffered a loss of fifteen per cent.; which, on the aggregate amount of gold produced per annum in that State, amounts to millions each year.

I would, Mr. Speaker, continue these remarks, but I fear it may open a debate which will delay the passage of this bill. The delay of Congress to pass this bill has cost the people, the miners, of California five hundred thousand dollars per month.

As evidence of this fact, I now read the report of the committee of the Legislature of California on this subject:

"During a portion of the period of the above shipments, the value of gold dust, in this State, averaged sixteen dollars per ounce; and the balance of the time sixteen dollars and fifty-five cents per ounce. During all this time, the average value of the same metal, at the United States Mint, was eighteen dollars and thirty-two cents per ounce.

"Thus, it will be seen, that a loss has been sustained by the producers and laborers of California, by the difference in the amount actually received for gold dust, taking the highest estimate (\$16 55) and its true value, (\$18 32), which is the amount they should have received, during the year 1850, of at least five millions three hundred thousand dollars (\$5,300,000); during the year 1851, about seven millions, (\$7,000,000); and that during the year 1852, it will not fall short of nine millions (\$9,000,000) of dollars. It needs no argument to prove that these immense losses have actually been sustained, and that the present system operates as a tax, to the amount named, upon the labor and industry of the State.

"The astounding fact that in a period of three years, the laborers of California have been taxed to an amount exceeding twenty-one millions of dollars, (\$21,000,000), and that that tax or loss has arisen from the want of a Mint within this State, your committee judge should of itself be sufficient to induce immediate and liberal action upon this all-important measure."

The immense loss thus sustained by the miner is, on this side of the continent, almost incredible. The following letter from the Superintendent of the Mint in Philadelphia, will show that what I have said is correct, in that the coin issued by the assay office, under the circular of the Treasury, is not received in bank at New York at par. Read the following letter from the Superintendent of the Mint in Philadelphia:

MINT OF THE UNITED STATES,  
PHILADELPHIA, June 7, 1852.

J. THOMPSON, Esq., Bullion Broker, No. 2 Wall street, New York—Dear Sir: A heavy pressure of business, consequent upon a large arrival of California gold, prevented me from answering on Saturday your note of the fourth instant, which, with the deposits therein named, were received on that day. The directions we are unable to comply with; nor would your object have been attained even if they had been. One hundred dollars is the minimum fixed by law for a separate deposit and assay; and as only two of your parcels of coin reached that amount, the rest had to be thrown together, or returned. Now, as every lot of coin made in California (and it would scarcely be going too far to say every coin) varies in "intrinsic value" with the gold of which it happens to be made, and the proportion of silver contained therein, an assay, such as you desire, would not, and could not, give the requisite information. Under these circumstances, it was deemed most for your interest to make one assay of the coins and another of the grains.

Very respectfully, your obedient servant,

E. C. DALE, Treasurer.

This shows that the coin, as assayed in California, is not equal to the coin as recognized at the Mint. The bankers of New York, on Wall street, of whose operations the New York Herald gives the best and truest account, I rely upon. This comes as the true account, as I place more reliance, and have more confidence in the money articles of the Herald, than any other paper in the country.

The people of California have lost, in consequence of the delay to pass the Mint bill, one million of dollars, and if this Mint is put in operation by the Administration as soon as it ought to be, the people of California will be saved millions of dollars. But as I know that an objection will prevent its passage, I have no hope among men who do not understand the condition of things in my State.

I hope the gentleman from Tennessee will recall his amendment.

Mr. HOUSTON. I wish to state to the House and the gentleman from Tennessee, that before calling for the previous question, at the request of the gentleman who has just addressed us, I did submit this motion. At the time I, of course, doubted whether it was in order. I offered it pre-



vious to my calling for the previous question, and no objection was made. I am disposed to admit the amendment, although I shall vote against the bill under existing circumstances.

The SPEAKER. The gentleman's amendment did not form a part of the committee's report, and was not, therefore, in order, except by unanimous consent; and the gentleman from Tennessee objects to its introduction.

Mr. CARTTER. Is it in order to move a reconsideration to the second to the call for the previous question, with a view to the introduction of the amendment?

The SPEAKER. After the gentleman has reconsidered all the intermediate votes of the House it will be in order.

Mr. CARTTER. Do I understand the Chair to state this amendment was offered before the call for the previous question?

The SPEAKER. It was not in order to submit the amendment; for the reason that there were a number of amendments already pending, which were reported from the Ways and Means Committee; and, until they were disposed of, this amendment could not be in order.

Mr. CARTTER. Was objection interposed to its introduction at that time?

The SPEAKER. It was not received in order at that time. The Chair so stated. There can be no question in regard to the point of order.

The bill as amended was then ordered to a third reading; and, being read a third time, and the amendments engrossed, was passed.

Mr. MARSHALL, of California. I move to reconsider the vote by which the bill was passed; and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JOHNSON, of Arkansas. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

#### CONTESTED-ELECTION CASE AGAIN.

Mr. MARSHALL, of California. I rise to a privileged motion. I move to reconsider the vote by which the House postponed the consideration of the Pennsylvania contested-election case to a day certain.

Mr. JONES, of Tennessee. I trust that will not be done. I do not see the chairman or the members of his committee in their seats.

Mr. HOUSTON. Were I aware of the desire of gentlemen to consider this contested-election case, I would not have submitted the motion to go into the Committee of the Whole. I withdraw my motion.

The question was then put on the motion to reconsider the vote by which the Pennsylvania contested-election case was postponed; and upon a division, there were—ayes 82, noes 59.

Mr. JOHNSON, of Georgia, demanded the yeas and nays; which were ordered.

Mr. ALLISON, moved that the House do now adjourn; which motion was agreed to.

And the House therefore adjourned till to-morrow, at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ALLEN, of Illinois: The petition of Thomas S. Mitchell and 91 others, citizens of Saline county, Illinois, asking that mail route No. 4,188, from McLauesboro', in Hamilton county, Illinois, to Raleigh, in Saline county, in said State, be extended by way of Bankston and Somerset post offices to Elizabethtown, Hardin county, Illinois.

Also, the petition of James McFarland and 92 others, citizens of Hardin county, Illinois, on the same subject.

By Mr. APPLETON, of Maine: The memorial of Hon. Albion K. Parris and others, of Portland, Maine, asking a grant of land to the State of Maine, in trust, to aid in the construction of the European and North American Railway.

By Mr. CHANDLER: The memorial of Jane Hearsy, asking Congress to provide for paying to her the amount due on Treasury bonds.

By Mr. FLOYD: The petition of citizens of Greenport and Sag Harbor, New York, for a spindle on Plum Island reef.

#### IN SENATE.

WEDNESDAY, June 23, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior,

made in compliance with a resolution of the Senate for information whether any steps were taken to investigate the charges preferred by Colonel McClellan against the Commissioner to run and mark the boundary between the United States and Mexico; stating that there had been no regular arraignment and trial of the Commissioner to run and mark the boundary line between the United States and Mexico on the charges preferred against him by Colonel McClellan, but that the Secretary of the Interior did, however, make such an investigation of them as to satisfy himself that they were preferred under such circumstances, and sustained by such testimony as not to demand a more formal examination.

The report was ordered to be laid on the table and printed.

Also, a communication from the Secretary of War, made in compliance with a resolution of the Senate of the 19th instant for information in relation to the construction of a canal across the peninsula of Florida, transmitting a report of Colonel J. J. Abert, of the Bureau of Topographical Engineers, in answer to the above resolution, and referring to public documents containing the information called for; which was ordered to be laid on the table and printed.

#### PETITIONS, ETC.

Mr. FISH presented the memorial of Isaac D. Boyce, praying the payment of his claim against the Government of Mexico for spoiliations; which was referred to the select committee appointed on the subject.

Mr. BELL presented the petition of Charles D. Maxwell, praying to be allowed the difference between the pay of an assistant surgeon and that of a surgeon on board the United States ship Cyane, from December 22, 1845, to the 24th of May, 1848, during which time he performed the duties of surgeon; which was referred to the Committee on Naval Affairs.

Mr. SOULE presented the petition of Joseph Troskolawski, praying to be allowed additional compensation for surveying certain public lands; which was referred to the Committee on Public Lands.

Also, a memorial of Daniel Collins, praying the payment of his claim against the Government of Mexico for the seizure and condemnation of the brig Splendid; which was referred to the select committee appointed on the subject of claims against Mexico.

Also, a memorial of George Foster & Co., C. B. Broadwell & Co., A. F. Cochran & Co., and Cotchett & Chapman, praying that the duties paid by them on American casks, or barrels, may be refunded; which was referred to the Committee on Finance.

Mr. MORTON presented the petition of Colonel Dempsey Pittman, praying compensation for military services rendered in the service of the United States, by order of the Governor of Florida, in the year 1838; which was referred to the Committee on Military Affairs.

Mr. FELCH presented a memorial of citizens of Monroe county, Michigan, representing that great hardship and injustice would result from selling the public lands in that county, according to the present system, and praying special provision by law for their sale; which was referred to the Committee on Public Lands.

Mr. BRODHEAD presented the memorial of Robert Bell and others, praying a modification of the late bounty land law; which was referred to the Committee on Public Lands.

Also, the memorial of A. W. H. Paine, praying indemnity for spoiliations by the French prior to 1800; which was ordered to be laid on the table.

Mr. SEWARD presented a petition of citizens of Rochester, New York, praying that land may be granted to actual settlers in limited quantities; which was referred to the Committee on Public Lands.

Mr. DOUGLAS presented a memorial of inhabitants of the Territory of New Mexico, praying protection against hostile Indians; which was referred to the Committee on Military Affairs.

Mr. BORLAND presented the memorial of Mary Ann H. Ridgely, praying that the pension she now receives may be continued for life; which was referred to the Committee on Pensions.

#### REPORTS FROM COMMITTEES.

Mr. CLEMENS, from the Committee on Pri-

vate Land Claims, to which was referred the petition of Jefferson Wilson, administrator of Hannah A. Wray, deceased, reported a bill for his relief; which was read and passed to the second reading.

Mr. SOULE, from the Committee on Commerce, to which was referred the bill to improve the navigation of the Upper Mississippi, reported back the same with an amendment.

Mr. FELCH, from the Committee on Public Lands, to which was referred sundry memorials praying for a modification of the bounty land law, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the memorial of the Board of Education of the State of Michigan, a petition of the present and late officers of the land office at Iowa, Iowa; the memorial of D. M. Smith; the memorial of the Board of Trustees of the Protestant University of the United States, at Cincinnati, Ohio; and the memorial of the Trustees of the Miami University, praying grants of land for educational purposes; together with a resolution of the Legislature of Massachusetts, in favor of an appropriation of public land to establish and endow a National Normal Agricultural College, asked to be discharged from the further consideration thereof.

On the subject of these grants of land to separate institutions, the honorable gentleman said, a report was made last year, showing that the whole matter had been thoroughly investigated; and the view of the committee is, that the grants for this purpose having always heretofore been made to States, and not to different institutions, they recommend that the same course be adopted now.

The motion was agreed to.

Mr. FELCH also, from the same committee, to which was referred the bill to authorize payment by the surveyor general of California for the surveys which may be executed, of any claims which have been or may be presented to the Board of Land Commissioners for adjudication, under the act of Congress, approved the 2d March, 1851, to ascertain and settle the private land claims in the State of California, reported back the same with amendments.

Mr. MASON, from the Committee on Foreign Relations, to which was referred a message from the President of the United States, with a report of the Secretary of State, accompanied by a communication from the Spanish Minister, claiming indemnity for Spanish subjects who sustained injury in the popular tumult at New Orleans, in August last, submitted a report, accompanied by a joint resolution for the relief of the Spanish Consul, and other subjects of Spain, residing at New Orleans, and of subjects of Spain residing at Key West, by indemnity for losses occasioned by the violence of the mob in the year 1851; which was read and passed to the second reading. The report was ordered to be printed.

#### CASE OF MARY WOODWARD.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the petition of Mary Woodward, widow of a lieutenant in the revenue service, praying a pension, submitted a report, accompanied by a bill for her relief; which was read, and passed to the second reading. The report was ordered to be printed.

Mr. GWIN. I hope the Senate will permit me to ask the consideration of that bill now. It grants but a small pension, and was drawn up in strict conformity with the recommendation of the Auditor. The pension is asked for in consequence of the loss of the husband of the petitioner, by drowning, while engaged in the public service, in California. I am exceedingly anxious that it should be acted upon now, and I hope the unanimous consent of the Senate will be given. The chairman of the committee knows that the bill is drawn up in strict conformity with the recommendation of the Auditor.

There being no objection made, the bill was read a second time, and considered as in Committee of the Whole.

It proposes to give authority to the Secretary of the Interior to place on the pension roll the name of Mary Woodward, widow of Lieutenant Woodward, (who was drowned in California on the 5th of November, 1850,) at the rate of \$30 per month, to continue to be paid to her during her widow-

hood; and after her death or intermarriage, to be paid to her children, until they arrive at the age of sixteen years, according to the provisions of the act of 11th August, 1848.

Mr. SHIELDS. I do not want to object to that bill, but I would like to have something like uniformity in matters of this kind. This, however, is a bill which I think goes a little further than anything which has ever come before the Senate.

Mr. GWIN. Will the Senator from Illinois be good enough to state in what respect this bill is different from anything that has ever come before the Senate?

Mr. SHIELDS. It gives a pension of \$30 per month to the widow of a revenue officer, during her widowhood; and then gives it to her children, after her marriage, until they are sixteen years of age. I am quite willing that we should have a general law embracing similar cases. I see great difficulty in legislating upon these particular cases. This goes further than anything that has yet come before the Senate, so far as my experience goes. It is well known that I never make any objection to subjects of this kind, unless I have reason to fear that other equally meritorious cases may be injured thereby. If we go too far I fear there may be a reaction. That is what I dread.

Mr. JONES, of Iowa. The Committee on Pensions have already, I think, reported a bill, or, at all events, have instructed the Senator from Missouri [Mr. Geyer] to report a general bill giving pensions for life to the widows, as long as they remain such, and to their children, if they marry again, of those who lost their lives in the service of their country. That bill, I believe, will not authorize the payment of a pension to the widow of an officer in the revenue service, and hence it is, that we report a special bill in this case. There is no objection, in the mind of the committee, as to the propriety of giving the pension, and I hope the bill will be passed now.

Mr. GWIN. This bill is for a particular claim which has been recommended by the Auditor, and it is drawn up in exact accordance with his recommendation. It was framed in his office. He says it is a meritorious claim, and ought to be paid. I have here his letter; and the bill, as I have said, has been drawn up in exact accordance with it, and has reference to the law of 1848. The Senator from Illinois is altogether mistaken in saying that there is anything new in the matter, because the Auditor refers to the law, and the bill has been drawn up so as to make it come within the purviews of it.

Mr. SHIELDS. My only objection to the bill is on the ground which I have stated. It provides for giving a pension to the widow of an officer for life. Am I correct in that?

Mr. GWIN. No, sir, it provides for giving it to her until her marriage. It is in exact accordance with the act of 1848, giving pensions to the widows of other officers of the Navy of the United States.

Mr. SHIELDS. I hold that whether in the Army or Navy, the widows should be put on the same footing. If we pass a special bill, to give a widow a pension for life in this particular case, why not in every other case? I have thought of this thing for some time, and have expected that the Committee on Pensions would take into consideration the whole subject, and let us pass some general bill embracing all these cases. I have already stated that I think minors, in certain cases, should receive pensions, and so should the widows; but here is a case where the widow is to be pensioned for life; and, as I understand, the children, after her death, are to be pensioned until they arrive at the age of sixteen. If we establish this as a precedent, why not apply it to all cases? If it be just in one case, it is just in another; and all I ask is, that we should have some general principle, by which we might understand what we are doing. I would therefore suggest to the friends of the bill, either to let it lie over for the present, or, as the chairman of the Committee on Pensions states, that there is a general bill before the Senate, embracing the same principle.

Mr. JONES, of Iowa. But not applying to this case.

Mr. SHIELDS. Why is it not made to apply to all such cases? I shall take occasion, then, to endeavor to amend the bill, and make it apply to all such cases; because, if we go into the general

system, it should embrace the officers of the Army and of the Navy, and of the revenue service, and all. I move to lay the bill on the table.

Mr. GWIN. I hope the Senator will withdraw that motion, for he evidently does not understand the bill; and I want the Senate to understand it before acting on the motion.

Mr. SHIELDS. I withdraw it.

Mr. GWIN. The Senator mistakes the tenor of the bill. I have here the letter of the Commissioner of Pensions, in regard to the case on which this bill is founded, which I will read to the Senate:

PENSION OFFICE, June 21, 1852.

Sir: The petition of Mary Woodward, widow of the late Lieutenant Kirby J. Woodward, of the United States revenue service, referred by you to this office, for "any information or suggestions" which I may deem proper to communicate, and the papers accompanying the same, came daily to hand; in answer to which I have to state, that although her claim is not of a character, or supported by evidence such as to justify the Commissioner of Pensions in the allowance of a pension, yet it appears to be a meritorious case, and, as such, should, in my opinion, be allowed by Congress.

The only alteration that I would suggest, as proper to be made in the bill, (a copy of which I have before me,) is, that the compensation be at the rate of \$30 per month, which is the pension now allowed by law to the widow of a lieutenant commanding in the United States Navy, and to be continued to her during her widowhood, and after her death, or intermarriage, to be paid to her children until they respectively arrive at sixteen years of age, agreeably to the provisions of the act of 11th of August, 1848.

The petition and papers forwarded by you to this office are herewith returned.

I have the honor to be, very respectfully, your obedient servant,  
J. E. HEATH, Commissioner of Pensions.  
Hon. Geo. W. Jones,  
Chairman Committee on Pensions, U. S. Senate.

Mr. DAVIS. This bill was reported from the Committee on Pensions. Is that committee aware that the revenue service does not belong to the military department?

Mr. JONES, of Iowa. Certainly.

Mr. DAVIS. It belongs to the civil department of the Government. It will be the introduction very clearly of a new principle to undertake to pension the civil department of the Government. I think that should be pretty well considered before we adopt the principle.

Mr. HALE. There has been—either last Congress or this, I am not certain which—a departure, and but a single departure from the exception suggested by the Senator from Massachusetts; and if this case comes up to that, I am willing to go for it. That was this: where an officer of the revenue service, during the late war with Mexico, was ordered into the naval service, and lost his life while doing duty under the orders of naval officers, and constituting a part of the war arm of the service. In that case, we gave a pension; and I think it was to the widow of a Massachusetts officer, a Mrs. Wright. But further than that, Congress has never gone. There was a case presented a Congress or two since by a Senator from Maine, when I had the honor of being upon the Committee on Pensions, and it was a very severe case, of a man who was very badly mangled while in the civil service of the United States blasting rocks, I think, for a fortification. Congress there refused a pension. And they refused to pension the widow Wright, until new proof was adduced by which it appeared that that portion of the revenue service in which he was engaged, was actually ordered into the naval service of the United States. When they learned that, and not till then, they gave a pension, the part of the revenue service to which he was attached being actually, and in fact, at the time, a part of the naval service. If this case comes within that exception, I will be willing to go for the bill. If it does not, I think it will be establishing a dangerous precedent.

Mr. GWIN. In answer to that statement—the report of the committee not having been printed—I will state the circumstances under which this gentleman lost his life. He was on a surveying expedition—the coast survey had not then extended to that portion of California; he was engaged in surveying the Trinidad Bay, in order to prevent smuggling. He was performing a service which should have been performed by the officers of the Navy, if provision had been made for their performing it. The collector of the port of San Francisco ordered a revenue cutter to Trinidad Bay, to ascertain if smuggling vessels could enter, or were entering there; and while engaged in that service Lieutenant Woodward was drowned.

Mr. JONES, of Iowa. They knew there was smuggling going on there.

Mr. GWIN. Yes, they knew it, and the cutter was sent for the purpose of preventing it, and while in the performance of the service the officer was drowned. A more meritorious case was never presented to Congress.

Mr. DAVIS. I do not think the statement of the Senator from California varies the question. This is strictly the civil service, and the question arises whether you should pension men who meet with misfortune in the civil service of the country. There is now pending here, I believe, in the form of a bill, the question whether you shall pension a pilot who piloted one of the ships-of-war, and received some injury when doing it. How does it differ from the injury received in the erection of the extension of this Capitol? The officer for the pension of whose widow this bill provides was in the revenue service, clearly; nothing else. They were surveying for revenue purposes, and do you mean to adopt the principle that if any man receives an injury in the coast survey he is to be pensioned? I am disposed to be as liberal as any man in granting pensions, but I like to see the limits to it. It seems to me the passage of the bill will be adopting a principle that ought to be well considered before we agree to it.

Mr. GWIN. We have already adopted the principle of pensioning the widows of persons lost in the coast survey. For instance, the case of the loss of the Washington, a bill for which has already passed the Senate.

Mr. DAVIS. They were naval officers.

Mr. GWIN. They were naval officers in the coast survey. Suppose that the coast survey had been engaged in exploring the Trinidad Bay, and one of its officers had been lost, as Lieutenant Woodward was, would he not have been pensioned? That is the question. This service not having been performed by the coast survey, and it being indispensable to preserve the revenue that it should be performed, and this officer having been ordered to perform it, and while performing it having lost his life, it seems to me there can be no doubt about the merit of the claim.

Mr. UNDERWOOD. I am opposed to this bill, because it does introduce, as I conceive, a new principle, and it will be made the precedent for a general bill or a great deal of special individual legislation in other cases like this. We have had the question in various shapes before us in reference to granting pensions and making provisions for those injured in the civil service and employment of the Government of the United States, and have always refused to do it. I rise for the purpose of illustrating, by giving one or two cases which have come under my observation during my service in Congress. We had a case from North Carolina of an individual employed in manufacturing cartridges, or something like that, for the Government of the United States, in reference to the military arm of the service. He was blown all to pieces; but not belonging to the Army, not being attached to it as a soldier, no compensation could be allowed, and he was put upon the footing of other laborers. We have had several cases where individuals have fallen in the erection of public buildings in this city. They were mechanics in the service and employment of the Government. They had their limbs broken; some, perhaps, were disabled for life. They wanted to get on the pension list; but Congress heretofore has always refused to make any provision for them. They were put upon the footing of employees of individuals in building and erecting houses. We have a building north and south of us upon which hundreds of laborers are now employed, and, in all probability, before it is finished there may be a number of accidents, some of which may deprive persons of life, and maim others for life. In this particular case, an officer of the revenue service lost his life. Is he more meritorious than those who may, in the progress of this building, lose their lives or have their limbs fractured? I am one of those who think that the pension system in all conscience has been carried far enough already. I have looked at it, and opposed the extension of it, but have met with so little support that I became almost too discouraged to open my mouth against any proposition made to pension any individual; but we have gone so far already that it seems to me to indicate the spirit of putting one half of the community

# THE CONGRESSIONAL GLOBE.

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upon the shoulders of the other half to be supported. I hope it will not be extended.

Mr. SMITH. The lady, for whom the bill provides, who had the misfortune to lose her husband, is a constituent of mine. I take some interest in the subject, and am desirous of looking into it. It has been in the hands of the committee which has made a favorable report, and I did not suppose that it would encounter any serious opposition here. I wish, however, to suggest whether we had not better lay it aside for the present. I move to lay it on the table for the present, and will aid to call it up again whenever it is desired.

The motion was agreed to.

## CATLIN'S GALLERY.

Mr. SEWARD, from the select committee, to which was referred a resolution of the Senate, directing them to inquire into the expediency of purchasing Mr. Catlin's collection of Indian Scenes, submitted a report, in which the committee represent that Mr. Catlin is an American citizen, who was born and educated in the State of Pennsylvania. Gifted with genius for the arts, and imbued with a spirit of enthusiastic devotion to the fame of his country, in early life, without either public or private patronage, he repaired to the haunts of the savages in the recesses of the continent, and winning their kindness and confidence, while as yet the white man was almost unknown to them, he visited, in the period of eight years, forty-eight tribes, and in the end, brought away this very large collection of paintings, which exhibits with great felicity, complete views of the most interesting forest and prairie scenes of the continent, with portraits of the various characters found there, and ample illustrations of the political, social, and religious customs, ceremonies, and costumes of the race; a collection which gratifies an enlightened curiosity now, and will, with the progress of time, acquire inestimable value as an aid to the philosopher and the historian in the study of human nature in a peculiar stage of development, never before sufficiently marked. Having completed his collection, Mr. Catlin, in 1837, exhibited it in this city, and in pursuance of his original purpose, offered it to the Government, and it reported favorably on that proposition; but delays occurred, and Mr. Catlin, without abandoning his wish for such an eventual disposition, took them to Europe, as well to support himself by exhibiting it, as to use it in preparing a great work, since completed, on the history, customs, and manners of the North American Indians. The collection excited much interest and admiration in Europe, and obtained for Mr. Catlin many marks of respect and consideration from the friends of science and the arts in foreign courts. While at Paris the American artists, then residing there, and among whom were several whose fame has become a part of our national glory, addressed a memorial to Congress, praying them to adopt measures to restore the collection to our country, and to place it among her records. In support of this proposition, they remarked that the collection was not only interesting to our countrymen, generally, but absolutely necessary to American artists; that the Italian who wished to portray the history of Rome, found reminiscences of her sons in the Vatican; that the French artist could study the Gauls in the Museum of the Louvre; and that the Tower of London was rich in the armor and weapons of the Saxon race; and that, without such a collection, few of the glories of the pages of our early history could be illustrated. The same view of the subject was taken by the Joint Committee on the Library of Congress, to whom that interesting memorial was referred. More recently a communication has been submitted to Congress, by several eminent members of the Historical Society of New York, recommending the purchase of the collection on substantially the same grounds. The select committee concur in these opinions, and they add that, admitting the merit of the collection, which is conclusively established by documents now before the Senate, and admitting also the ability of the

Government to secure it, which cannot reasonably be denied, no argument can be brought against the purchase of it on just and reasonable terms, which would not equally weigh against every appropriation by Congress for the acquisition and preservation of the materials of science and of history; against the deposit of contemporaneous works in the Library of Congress; the illustration of grand and interesting events in the national progress on canvas and in marble, which grace the chambers, walls, and gardens of the Capitol; and, indeed, against all the treasures of science and art already gathered into the archives of the country. Copiousness is essential to the value of the instructions of history, and if we should attempt a discrimination between the various materials gathered for such a use, surely the last this great and generous people should exclude would be those that supply us scanty information concerning the great and heroic yet simple race whom, with a strong arm and little tenderness, we are expelling, and perhaps unavoidably exterminating, throughout the broad domain of which they once were undisturbed and unquestioned occupants.

To reject the cultivation and perfection of the arts altogether, would be to concede that in all that makes us differ from the savage tribes, we are neither better nor wiser than they. In all countries, and especially in a Republic, the great responsibilities of those who are charged with the conduct of the affairs of society, as the education of the people in valor, wisdom, and virtue, there is no point at which such education can be wisely arrested; since the more complete and universal education becomes, the more fully the Democratic principle is developed, and the more safely and easily is free government sustained. While the responsibilities of education, in a strict sense, rest upon the several States, the right and duty of the United States to promote that great object incidentally, in the administration of the national domain, and in its exclusive legislation in the District of Columbia, have been fully acknowledged and practically exercised and performed since the foundation of the Government. The committee invoke the performance of a similar duty now. Why should not the capital of the United States take on the classic dignity and the refinement worthy of the seat of Government of a great people? How shall we better strengthen the bonds of our Union than by rendering the capital an object of pride and interest to the people of every State? How shall we impress mankind with the excellence of the republican system more easily and more effectually than by exhibiting to them the archives of art and science in the classic seat of republican authority?

The committee submit with this report a letter recently received from Mr. Catlin, which brings the painful intelligence that he is sunk under the pressure of debts, and is now imprisoned, while his collection is advertised to be sold on execution in London. Under these circumstances he reduces his price to the Government from \$65,000, its former estimated worth, to \$25,000. While these unhappy circumstances furnish no sufficient ground for interposition by the Government for his relief, they may, nevertheless, be allowed to stimulate us to the action recommended, if, as has been argued, it is wise and proper in itself. It is obvious that without a careful inspection of the collection, so as to ascertain its present condition and value, it would be unwise to name a definite price; the committee therefore recommend that the subject be intrusted to an agent, to be appointed by the President, with a limited discretion. The committee submit a joint resolution in conformity with this report.

It proposes to authorize the President of the United States to purchase the collection of Indian Scenes and Portraits of George Catlin, for the use of the United States, on such terms, not exceeding \$30,000 for the cost, as he shall think proper; to cause them to be deposited in such of the public edifices of the Government, in the city of Washington, as he shall think proper; and to appoint for this purpose an agent, to act under his

instructions, who shall receive a compensation not exceeding his traveling expenses and eight dollars a day for sixty days, to be paid out of any money in the Treasury not otherwise appropriated.

The resolution was read and passed to the second reading. The report was ordered to be printed.

## RECOMMITTAL OF A BILL.

Mr. HALE. I submitted, a few days since, a motion to reconsider a vote on a bill that had been passed by the Senate, and sent to the House of Representatives. That motion was agreed to, and the bill was returned from the House of Representatives. It is a bill to amend an act entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," approved July 4th, 1836; and also "An act to provide additional examiners in the Patent Office, and for other purposes," approved May 27, 1848. Since that time I have understood that very great interests are involved in the passage of that bill, vastly more, in fact, than the Senate was aware of when it was passed. I now desire, and such I understand is the wish of those interested, that it should be again referred to the Committee on Patents. It is, in fact, a bill which affects interests, now in litigation, to the amount of \$1,000,000. I move that the bill be recommitted to the Committee on Patents.

The motion was agreed to.

## CLERKS OF COURTS.

Mr. HALE submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of excluding, by law, clerks of the courts of the United States from practicing as attorneys or counsellors in any court of the United States.

## BILL PASSED.

The engrossed bill authorizing imported goods, wares, and merchandise, entered and bonded for warehousing, in pursuance of law, to be exported by certain routes to ports and places in Mexico, was read a third time and passed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had returned to the Senate, in accordance with its request, the bill for the punishment of crimes in the District of Columbia; and that it had passed the following bills:

An act to amend an act entitled "An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers, of the said 'public lands,'" approved September 27, 1850;

An act to appropriate lands for the support of schools in certain townships and fractional townships in the Territory of Minnesota, not before provided for;

An act to amend an act entitled "An act to settle and adjust the expenses of the people of Oregon, in defending themselves from attacks and hostilities of the Cayuse Indians, in the years 1847 and 1848," approved February 14, 1851;

An act to reduce and define the boundaries of the military reserve at the St. Peter's river, in the Territory of Minnesota;

An act to amend an act entitled "An act to establish the territorial government of Oregon," approved August 14, 1848;

An act to provide for additional clerks, and extend the sessions of the Legislative Assembly of the Territory of New Mexico;

An act to provide for the protection of the Territories of New Mexico, Oregon, and the States of Texas and California; and

An act to authorize the President of the United States to designate the places for the ports of entry and delivery for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, and to fix the compensation of the collector at Astoria, in said Territory.

The above-named bills were severally read a first



and second time by their titles, and referred—the first two to the Committee on Public Lands; the four following to the Committee on Territories; the seventh to the Committee on Military Affairs; and the last named to the Committee on Commerce.

#### PORTRAIT OF MR. CLAY.

The message from the House of Representatives also announced that it had passed the following joint resolution:

*Resolved by the Senate and House of Representatives in Congress assembled,* That the portrait of Henry Clay, presented to the nation by Guiseppe Fagnazi, a resident of New York, be placed in the Library of Congress.

The resolution was read a first and second time by its title, and considered as in Committee of the Whole. No amendment being offered, it was read a third time and passed.

#### CRIME IN THE DISTRICT OF COLUMBIA.

The PRESIDENT. The bill to amend an act entitled "An act for the punishment of crime in the District of Columbia," which was sent to the House of Representatives by mistake, has been returned in consequence of a message sent to the House asking its return to the Senate. Amendments were made to the bill by the Senate, and they were ordered to be engrossed. They have been engrossed; and the bill will now have its third reading, if such is the pleasure of the Senate.

Mr. BRADBURY. I am instructed by the Committee on the Judiciary to offer a further amendment, for the purpose of removing all doubt as to the meaning of the amendment already adopted. It is to insert the words "whether the same shall be completed, or in process of erection."

The PRESIDENT. That amendment can only be made by unanimous consent.

Mr. BRADBURY. I ask the unanimous consent of the Senate to have the amendment made. It is to supply an accidental omission.

There being no objection, the amendment was agreed to. The bill was then read the third time and passed.

The effect of the amendment is to impose the penalties of the bill for the burning of buildings, "whether the same shall be completed, or in process of erection."

#### MINT IN CALIFORNIA.

The PRESIDENT. The bill of the Senate to establish a branch Mint of the United States at San Francisco, in California, has been returned from the House of Representatives with various amendments, which will now be considered, if such is the pleasure of the Senate.

Mr. GWIN. Mr. President, I hope the Senate will concur in all of these amendments. They are all restrictions upon the bill as they originally passed the Senate without opposition. Most of the amendments are reductions of salaries; and one of them is a restriction upon the Secretary of the Treasury, that he shall expend only a certain sum of money in the purchase of machinery to put the Mint in operation. I am not in favor of the restriction, because it may be necessary to expend more; but in order to have the bill become a law immediately, I hope the Senate will concur in all the amendments. I move that the Senate concur in them.

Mr. BADGER. I hope that course will be pursued. I suppose every gentleman understands the force of these amendments. Any one who was in favor of the bill as it originally passed the Senate, certainly cannot be opposed to the amendments.

Mr. HALE. I shall not interpose any objection to these amendments, but I am exceedingly opposed to the principle of passing bills in this way, without an examination by a committee. It is impossible that the Senate can understand these amendments. I do not understand them. I am not opposed to the bill; but I wish to state that we passed one bill the other day, which we have had to recall; and I think it is a dangerous precedent to pass bills in this way, and I do not desire to see it established. There are a great number of amendments to this bill. I do not understand them—I do not know what they are. I am not opposed to the bill; but I am opposed to this way of passing bills. I hope it will be referred.

Mr. GWIN. If the Senator will listen to me for a moment, I think he will withdraw his ob-

jection. Most of the amendments of the House simply reduce the salaries of officers. We passed the bill originally, without objection, providing certain salaries; the amendments of the House reduce those salaries and impose a limitation on the Secretary of the Treasury as to the amount he shall spend in putting the Mint into operation. Every amendment of the House is a limitation on what has already been passed by the Senate; and I do not think there should be any delay in acting upon these amendments. The chairman of the Committee on Finance is not here; and if we refer the bill to his committee, it may create a delay of perhaps a week. It is important that the bill should be passed now, and I hope the amendments will be concurred in at once.

The question being taken, the amendments were concurred in.

#### SISTERS OF VISITATION.

On the motion of Mr. SHIELDS, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill to incorporate the Sisters of Visitation, of Washington, in the District of Columbia.

The bill, as originally introduced by Mr. SEWARD, provided that the present Sisters of Visitation and their female associates and successors, who now are or hereafter may become Sisters or Lay Sisters of the Visitation according to the regulations and by-laws that have been or may be adopted and established by their association, be made, declared, and constituted a corporation or body-politic in law and in fact, to have continuance forever, by the name, style, and title of the "Sisters of the Visitation of Washington;" and that the corporation may receive, hold, purchase, take, and apply to the uses and purposes of the association, any lands, tenements, rents, legacies, rights, property, and privileges, and all goods, chattels, and effects, of any kind or nature, which may be given, granted, sold, bequeathed, or devised unto them. It goes on to make other provisions for managing the affairs of the corporation.

The Committee on the District of Columbia reported an amendment to the bill, which is to strike out all of the bill after the names of the present Sisters of Visitation, and to insert the following:

"With such female associates as now are or may hereafter become Sisters or Lay Sisters of the Visitation, according to the rules and by-laws thereof, which have been or may be hereafter established, and their successors, be and they are hereby made a body-politic and corporate forever, by the name of 'The Sisters of the Visitation of Washington,' for purposes of charity and education; and by that name may sue and be sued, prosecute and defend; may have and use a common seal, and the same alter and renew at pleasure; may adopt and establish rules, regulations, and by-laws, not repugnant to the laws of the United States, for properly conducting the affairs of the corporation; may take, receive, purchase, and hold estates, real, personal, and mixed, not exceeding in value \$200,000 at any one time, and manage and dispose of the same at pleasure, and apply the same, or the proceeds of the sales thereof, to the uses and purposes of the association, according to the rules and regulations which now are or which may hereafter be established."

"Sec. 2. And be it further enacted, That Congress may at any time amend or repeal this act."

Mr. BAYARD. I move to strike out, in the amendment of the committee, the word "two," and insert "one," so as to reduce the amount of property to be held by the corporation to \$100,000. It seems to me, that property to the amount of \$100,000, is enough for any charitable corporation to hold in the District of Columbia.

Mr. SHIELDS. I would have no objection to that; but I understand that the property at present amounts to a little more than \$100,000. That is the reason why \$200,000 was inserted in the amendment, in order to cover the buildings and property at present held. I hope the gentleman will not insist on the amendment.

Mr. BAYARD. I have no objection to the bill, but I am very much opposed to the erection of corporations, for charitable or any other purposes, with such a large amount of capital.

Mr. SHIELDS. I would suggest \$150,000. That would embrace the property now held.

Mr. WELLER. The terms of the proposed charter are so general that I should not be surprised if they should go to banking under it.

Mr. SHIELDS. I would not have the slightest objection to the amendment, but for the fact that \$100,000, as I am informed, will not cover the proposed value of the property.

Mr. BAYARD. Then I move to strike out

"\$200,000," and insert "\$150,000," so as to limit the amount of property to be held to \$150,000.

Mr. SHIELDS. I am willing to agree to that. Mr. WELLER. That will be enough, unless they intend to go to banking.

The amendment to the amendment was agreed to, and the amendment as amended was agreed to. The bill was reported to the Senate as amended; the amendment was concurred in, and the bill was ordered to be engrossed and read a third time.

#### EXECUTIVE SESSION.

On the motion of Mr. ATCHISON, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened,

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 23, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the pending amendment to House bill No. 280—a bill making grants of land to aid in the construction of railroads, and for other purposes.

#### POST ROUTE BILL.

Mr. OLDS. I desire to give notice to the House, that the Committee on the Post Office and Post Roads are engaged in the preparation of their post route bill. It is desirable that members having memorials and petitions upon that subject should see they are attended to before the bill is reported, so that no amendments may be offered afterwards.

#### GRANTS OF LANDS TO THE STATES FOR RAILROADS.

The SPEAKER. The pending amendment to House bill No. 280, offered as a substitute for the third section, will be read.

It was read by the Clerk, as follows:

Sec. 3. And be it further enacted, That of the lands hereby granted to the eleven first-named States, a portion of the proceeds thereof shall be applied to the said States respectively, in the manner directed in the preceding section to aid in the construction of the following lines or routes of railroads, namely: From Toledo, Ohio, via Logansport, Lafayette, and Peoria, to Burlington; from Cincinnati, Ohio, via Vincennes, to St. Louis, with a branch from a point in Illinois, via Mount Carmel, to New Albany; from such point on the Mississippi river, within the limits of Arkansas, as that State shall appoint, via Little Rock, to Fort Smith, Arkansas, with a branch from Little Rock to Fulton, on the Red river, and a branch from Little Rock to Cairo, at the mouth of the Ohio river; from Terre Haute, in Indiana, via Springfield, to Bloomington, in Illinois; from New Orleans, by the way of Jackson and Canton, in Mississippi, thence to connect by the nearest and best route with the proposed Nashville and New Orleans railroad, and from Canton, by the way of Holly Springs, to the line of the State of Tennessee; from Girard, in Alabama, to the waters of the Mobile bay; from Brandon, in Mississippi, to Montgomery, in Alabama; from Pensacola bay, in Florida, to Montgomery, in Alabama; from the river or Lake Saint Clair, or the waters flowing into the same, to Lake Michigan; from the southern boundary of Wisconsin, through Janesville and Fond du Lac, to Lake Superior; from Selma, in Alabama, to Gunter's Landing, on the Tennessee river; from the Atlantic Ocean, in Florida, to the Gulf of Mexico, in said State; from Davenport and Burlington, in Iowa, to the Missouri river, and from Dubuque to the Sioux river, and to Keokuck, in said State; from Manitowoc, in Wisconsin, to the Mississippi river; from San Francisco to San José; from the Saginaw river to Mackinaw, in the State of Michigan; from Mobile bay, in Florida, and to the Chattahoochee river and Flint river, in Georgia; from a point opposite New Orleans to the Sabine river, in Louisiana; from Shreveport to the Mississippi river. Said railroads to be constructed on the most direct and feasible routes between the points before mentioned, and the proceeds of the residue of the land herein granted to the said eleven first-named States respectively, to be applied by them to aid in the construction of such other railroads as the Legislatures of said States may respectively designate: *Provided*, No more land shall be taken by any State under this act in the whole, than is granted to said State by the first section thereof.

The question was then taken upon the amendment, and it was rejected—yeas 73, nays 95; as follows:

YEAS—Messrs. Abernethy, Allison, William Appleton, Beale, Bennett, Bowie, Bowne, Brenton, Briggs, George H. Brown, Caldwell, Chandler, Chapman, Clark, Cobb, Cottman, George T. Davis, John C. Davis, Dockery, Duncan, Durkee, Eastman, Edgerton, Ficklin, Fitch, Fowler, Henry M. Fuller, Gilmore, Goodenow, Harper, Horsfield, James Johnson, Kuins, Kurtz, Lockhart, Maco, Martin, Meacham, Molony, Henry D. Moore, John Moore, Morehead, Morrison, Outlaw, Andrew Parker, Samuel W. Par-

ker, Perkins, Phelps, Porter, Richardson, Riddle, Robie, Robinson, Sackett, Schoolcraft, Schoonmaker, Scudder, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stratton, Stuart, Benjamin Thompson, George W. Thompson, Venable, Walbridge, Walsh, Wells, Alexander White, Williams, and Yates—73.

**YAES**—Messrs. Aiken, Charles Allen, John Appleton, Ashe, Averett, David J. Bailey, Barrere, Bell, Bocock, Bragg, Breckinridge, Brooks, Burrows, Burt, Busby, Joseph Cable, Lewis D. Campbell, Carter, Caskey, Chastain, Churchwell, Cleveland, Clingman, Colcock, Curtis, Daniel, Dawson, Dimmick, Disney, Dunham, Edmundson, Faulkner, Floyd, Gaylord, Gentry, Giddings, Gorman, Green, Grey, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Haven, Hendricks, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Hunter, Ingersoll, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Letcher, Mann, Humphrey Marshall, Mason, McLanahan, McMullin, McNair, McQueen, Murphy, Murray, Nabers, Olds, Orr, Penn, Powell, Robbins, Ross, Savage, Scurry, David L. Seymour, Benjamin Stanton, Alexander H. Stephens, Sutherland, Sweetser, Taylor, Thurston, Toombs, Townshend, Wallace, Ward, Watkins, Addison White, Wilcox, and Woodward—95.

Previous to the announcement of the preceding vote,

Mr. GROW said: I have paired off with my colleague, [Mr. BIBIGHAUS.] He would have voted for the bill.

Mr. STEPHENS, of Georgia. I move to reconsider the vote by which the amendment was rejected, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The question recurred on ordering the bill to be engrossed, and read a third time.

Mr. STUART demanded the yeas and nays; which were ordered.

Mr. RICHARDSON. Is a motion for a call of the House now in order?

The SPEAKER. The previous question still operating, it is not in order.

Mr. RICHARDSON. I move that the bill be laid upon the table.

Mr. BEALE. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken on the motion to lay the bill upon the table, and it was disagreed to—yeas 87, nays 96; as follows:

**YEA**—Messrs. Abercrombie, Aiken, Willis Allen, Ashe, Averett, Thomas H. Bayly, Bissell, Bocock, Bragg, Breckinridge, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Caskey, Chastain, Churchwell, Cobb, Colcock, Daniel, John G. Davis, Dawson, Disney, Dunham, Durkee, Eastman, Edgerton, Edmundson, Faulkner, Ficklin, Fitch, Floyd, Gorman, Green, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Hibbard, Hillyer, Holladay, Houston, Howard, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston King, Lockhart, Mace, Mason, McLanahan, McMullin, McNair, McQueen, Meade, Milson, Molony, Murphy, Nabers, Olds, Orr, Penn, Phelps, Powell, Richardson, Robbins, Robinson, Ross, Savage, Scurry, Smith, Stone, Stuart, Sweetser, George W. Thompson, Townshend, Wallace, Wilcox, Woodward, and Yates—87.

**NAYS**—Messrs. Charles Allen, Allison, William Appleton, Barrere, Beale, Bell, Bennett, Bowie, Bowne, Brenton, Briggs, Brooks, George H. Brown, Burrows, Burt, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Cleveland, Clingman, Cottman, Geo. T. Davis, Dimmick, Dockery, Doty, Duncan, Evans, Ewing, Fowler, Henry M. Fuller, Gentry, Gilmore, Goodenow, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Hunter, Ingersoll, James Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Martin, Meacham, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Perkins, Porter, Riddle, Robie, Sackett, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Smart, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Sutherland, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, and Williams—96.

The question recurring, Shall the bill be engrossed and read a third time?—it was put and agreed to—yeas 95, nays 92; as follows:

**YEA**—Messrs. Charles Allen, Allison, William Appleton, David J. Bailey, Barrere, Beale, Bell, Bennett, Bowie, Bowne, Brenton, Briggs, Brooks, George H. Brown, Burrows, Clark, Cleveland, Clingman, Cottman, George T. Davis, Dimmick, Dockery, Doty, Duncan, Evans, Fowler, Henry M. Fuller, Gentry, Gilmore, Goodenow, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Thos. M. Howe, Hunter, Ingersoll, James Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Martin, Meacham, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Perkins, Porter, Riddle, Robie, Sackett, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Smart, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Taylor, Benjamin Thompson, Thurston, Toombs, Venable,

Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, and Williams—95.

**NAYS**—Messrs. Abercrombie, Aiken, Willis Allen, John Appleton, Ashe, Averett, Thos. H. Bayly, Bissell, Bocock, Bragg, Breckinridge, Albert G. Brown, Burt, Busby, Joseph Cable, Thompson Campbell, Carter, Caskey, Chastain, Churchwell, Cobb, Colcock, Curtis, Daniel, John G. Davis, Dawson, Disney, Dunham, Durkee, Eastman, Edgerton, Edmundson, Faulkner, Ficklin, Fitch, Florence, Floyd, Gorman, Green, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Hibbard, Hillyer, Holladay, Houston, Howard, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston King, Letcher, Lockhart, Mace, Mason, McLanahan, McNair, McQueen, Meade, Milson, Molony, Murphy, Nabers, Olds, Orr, Penn, Phelps, Powell, Richardson, Robbins, Robinson, Ross, Savage, Scurry, Smith, Stone, Stuart, Sutherland, Sweetser, George W. Thompson, Townshend, Wallace, Wilcox, Woodward, and Yates—92.

Previous to the announcement of the preceding vote,

Mr. FITCH rose and said: I rise to a question of order. If the vote be what I understand it will—that the order for the engrossment and third reading will be carried by one vote—I now give notice that I shall desire the Speaker to vote.

Mr. HOUSTON. That point should be raised after, and not previous, to the announcement of the vote by the Speaker.

Mr. BENNETT obtained the floor.

Mr. STEPHENS, of Georgia. I suggest to the gentleman from New York, the morning hour having expired, to move to recommit this bill; so that it may be before the House for consideration to-morrow morning.

Mr. BENNETT. That is the intent with which I obtained the floor. I move to recommit the bill to the Committee on Public Lands.

Mr. STUART. I rise to a question of order. I object to that motion as out of order. The morning hour has expired. I move that the House proceed to the consideration of the business upon the Speaker's table.

The SPEAKER. The gentleman from New York moves a recommitment of the bill; will the gentleman from Michigan state his point of order?

Mr. STUART. It is this: I rose, stated the morning hour had expired, and of course have the precedence to make the motion to go to the business upon the Speaker's table.

The SPEAKER. The decision of the Chair, with regard to that point, is this: The gentleman from New York [Mr. BENNETT] rose and was recognized by the Chair; and until he stated what his purpose was, the gentleman from Michigan could not obtain the floor for any purpose. Both may have risen precisely with the same design. The Chair will state now, however, that the morning hour has expired.

Mr. STUART. I made that inquiry before the gentleman from New York was recognized.

[Cries all over the Hall of "No!" "No!"]

The SPEAKER. The fact that the morning hour has expired does not necessarily carry the House from the consideration of this business. A motion for that purpose must be submitted and agreed to first.

Mr. JONES, of Tennessee. I rise to a question of order. It is, that the gentleman from New York [Mr. BENNETT] had no right to make the motion to recommit, for the reason that the previous question was not then exhausted. The question was upon the engrossment of the bill, and ordering it to be read a third time. That order has not yet been executed—the bill not having been read a third time—and, consequently, the previous question not having been exhausted, the motion to recommit could not be submitted.

The SPEAKER. The Clerk will read the bill a third time. The Chair will state, in advance, that the gentleman from New York will be entitled to the floor by the practice and courtesy of the House, should he claim it.

Mr. JONES. Have I not the right, at this time, to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union before that bill is read a third time?

The SPEAKER. The morning hour having expired, the gentleman might move to go to the business upon the Speaker's table.

Mr. JONES. I wish that point understood—that I can take the floor from the gentleman occupying it after the morning hour has expired.

The SPEAKER. The rule reads: "After commitment and report thereof to the House, or

at any time before its passage, a bill may be re-committed."

Mr. JONES. But then the previous question is still operating. The bill has not yet been read a third time.

The SPEAKER. The Chair has directed the Clerk to read it.

Mr. JONES. And have I not the right to the floor between the vote being taken upon the engrossment?

The SPEAKER. The gentleman from New York claims it.

Mr. JONES. I inquire whether I can move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union? I conceive that that motion is clearly in order; because the morning hour has expired. After the expiration of the morning hour, I can take the floor from the gentleman occupying it and addressing the House, and if I can get the floor at any time after it has expired, or even during the morning hour—

The SPEAKER. If the gentleman will suspend, the Chair decides the House having ordered the bill to be read a third time, it must, in obedience to that order, be read a third time.

Mr. JONES. One solitary word. On yesterday the motion was made, and has been repeatedly submitted here after the main question had been ordered to be put, that the House go to the business upon the Speaker's table, or into the Committee of the Whole on the state of the Union.

Mr. CARTTER. I object to this consumption of time.

Mr. ORR. I will make a suggestion. The Speaker decides, as I understand, that in pursuance to the order of the House, the bill must now be read before anything else can be done. I submit this question: Suppose that bill had not been engrossed, how would it be possible that the order could be executed? It is not to be presumed that the bill is engrossed.

The SPEAKER. Does the gentleman take an appeal?

Mr. JONES. I inquire whether the Chair decides—

[Cries of "Order!" "Order!"]

Mr. JONES. I wish to inquire whether my point has been overruled?

The SPEAKER. The Chair has ordered the bill to be read a third time.

Mr. JONES. I appeal from the decision of the Chair.

Mr. STEPHENS, of Georgia. I move to lay that appeal upon the table.

Mr. ORR. I demand the yeas and nays on the motion to lay the appeal upon the table.

The yeas and nays were ordered.

Mr. MEADE. The question is now upon an appeal taken from the decision of the Chair?

The SPEAKER. It is; and the Chair will state the nature of the decision from which the appeal has been taken. The House, by vote, a few minutes since, ordered the bill to be engrossed and read a third time. The Chair decided, in obedience to that order, that the bill must be read a third time. The gentleman from Tennessee [Mr. JONES] raised the question of order, that he had the right, at that particular stage of the proceedings, to submit a motion that the House resolve itself into the Committee of the Whole on the state of the Union. The Chair overruled the question of order. The gentleman took an appeal. The gentleman from Georgia [Mr. STEPHENS] moved to lay that appeal upon the table, which motion is now pending.

Mr. HOUSTON. I ask whether it be now in order to move that the House adjourn?

The SPEAKER. The Chair will decide that question when it arises.

Mr. HOUSTON. I move that the House do now adjourn.

The SPEAKER. The Chair understands the object of the gentleman. It is to embarrass the Chair.

Mr. HOUSTON. I am glad the Speaker does. It is legitimate.

The question was then taken on the motion to adjourn, and it was disagreed to.

Mr. MEADE. As the fate of this bill will probably depend on the vote upon the motion to lay the appeal from the decision of the Chair upon the table, I move a call of the House.

MR. STANTON, of Tennessee. I rise to a question of order. I believe the previous question is not yet exhausted.

The SPEAKER. It was exhausted upon ordering the bill to be engrossed and read a third time.

MR. STANTON. It will not be exhausted until that order is executed; and if so, the motion for a call of the House is not in order.

The SPEAKER. The Chair sustains the point of order raised by the gentleman. The motion is not in order, for the reason that the previous question will not be exhausted until the bill shall have been read a third time.

The question recurred on the motion to lay the appeal on the table.

MR. ORR demanded the yeas and nays; and they were ordered.

MR. ORR. Is it in order to move to proceed to the consideration of the business on the Speaker's table?

The SPEAKER. Not until after this question is taken.

MR. BENNETT. Before the question is taken, I wish, as a matter of justice, that one fact should be set right. I rose, was recognized by the Chair, and submitted my motion to recommit before the gentleman made the motion to go to the business upon the Speaker's table.

The SPEAKER. That is so, and it is a point which ought to be considered in regard to this bill. The House should know that so soon as the vote was announced ordering the bill to be engrossed and read a third time, the gentleman from New York rose, was recognized by the Chair, and moved to recommit the bill.

MR. BURT. I desire to ask a question of the Chair as to a matter of fact, whether the bill was actually engrossed?

The SPEAKER. It is engrossed.

The question was then taken on laying the appeal upon the table; and there were—yeas 129, nays 50.

So the appeal was laid upon the table.

The bill was then read the third time.

MR. BENNETT. I move to recommit the bill to the Committee on Public Lands; and upon that motion I call for the previous question.

MR. STUART. I move to proceed to the business on the Speaker's table.

MR. MOREHEAD. I hope the gentleman will suspend one moment for a privileged question.

MR. STUART. For a personal explanation?

MR. MOREHEAD. I wish to make a personal explanation, and I will detain the House but a moment. It is this: That when the motion was made to lay this bill upon the table, and the yeas and nays were called, I was under the impression that the question was upon reading the bill a third time, and I voted ay. I beg of the House the privilege of having the Journal corrected.

The SPEAKER. The Clerk informs the Chair that the gentleman voted in the negative.

MR. MOREHEAD. Some of my friends told me differently.

The question being upon Mr. STUART's motion to proceed to the business on the Speaker's table—

MR. BENNETT demanded a division.

The question was then taken, and there were—ayes 55, noes not counted.

MR. STUART demanded tellers; and they were ordered.

The question was then taken, Messrs. STUART and FOWLER acting as tellers, and there were—ayes 94, noes not counted.

So the House agreed to proceed to the business upon the Speaker's table.

MR. MEADE. If the motion has not been made—and I am not able to say whether it has, there has been so much confusion in the Hall—I ask if it is in order to move a reconsideration of the vote by which this bill was ordered to be engrossed and read a third time?

The SPEAKER. It is in order.

MR. MEADE. Then I make that motion.

The SPEAKER. Does the gentleman from Virginia propose action at this moment?

MR. MEADE. I only ask that the motion be entered upon the Journal.

MR. STANTON, of Tennessee. How did the gentleman from Virginia vote?

The SPEAKER. If the gentleman voted in the affirmative he has a right clearly to submit the

motion to reconsider the motion. It can be entered upon the Journal, and considered during the morning hour to-morrow.

MR. STANTON. I rise to inquire if the gentleman voted in the affirmative?

MR. MEADE. I wish the Clerk would inform the House whether I voted in the affirmative or negative.

The SPEAKER. The Clerk informs me that the gentleman voted in the negative; and the motion of the gentleman from Virginia cannot, therefore, be entertained.

#### INDEMNITY TO SPANISH SUBJECTS.

The SPEAKER laid before the House a message from the President of the United States, which was read, as follows:

To the Senate and House of Representatives:

I transmit herewith, for your consideration, a report from the Secretary of State, accompanied by a communication from his Excellency Señor Don A. Calderon de la Barca, Envoy Extraordinary and Minister Plenipotentiary of her Catholic Majesty, claiming indemnity for those Spanish subjects in New Orleans who sustained injury from the unlawful violence of the mob in that city, consequent upon hearing the news of the execution of those persons who unlawfully invaded Cuba in August, 1851. My own views of the national liability upon this subject were expressed in the note of the Secretary of State to Mr. Calderon of the 13th November, 1851; and I do not understand that her Catholic Majesty's Minister controverts the correctness of the position there taken. He, however, insists that the 13th article of the treaty of 1795 promises indemnity for such injuries sustained within one year after the commencement of war between the two nations; and, although he admits this is not within the letter of the treaty, yet he conceives that, as between two friendly nations, it is within the spirit of it.

This view of the case is, at his request, submitted for your consideration. But whether you may deem it correct or not, there is, perhaps, one ground upon which this indemnity, which cannot be large in amount, may be granted without establishing a dangerous precedent, and the granting of which would commend itself to the generous feeling of the entire country, and that is this: The Queen of Spain, with a magnanimity worthy of all commendation, in a case where we had no legal right to solicit the favor, granted a free pardon to the persons who had so unjustifiably invaded her dominions and murdered her subjects in Cuba, in violation of her own laws, as well as those of the United States, and the public law of nations. Such an act of mercy, which restored many misguided and unfortunate youth of this country to their parents and friends, seems to me to merit some corresponding act of magnanimity and generosity on the part of the Government of this country; and I think that there can be none more appropriate than to grant an indemnity to those Spanish subjects who were resident among us, and who suffered by the violence of the mob, not on account of any fault which they themselves had committed, but because they were the subjects of the Queen of Spain. Such an act would tend to confirm that friendship which has so long existed between the two nations, and to perpetuate it as a blessing to both; and I therefore commend it to your favorable consideration.

MILARD FILLMORE.

WASHINGTON, June 14th, 1852.

On motion by Mr. STEPHENS, of Georgia, the communication was referred to the Committee on Foreign Affairs, and ordered to be printed.

MR. HOUSTON. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the bill to supply deficiencies. Several gentlemen desire to make speeches.

MR. FLORENCE. Is it in order to move to refer the French spoliation bill to the Committee on Foreign Affairs?

The SPEAKER. Such a motion is not in order, as the bill is not before the House.

The question was then taken upon Mr. Houston's motion, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR, of Connecticut, in the chair.)

MR. HOUSTON. I move to take up House bill No. 207—the deficiency bill—with the Senate amendments.

The CHAIRMAN. The question before the committee is House bill No. 43, and without a motion to postpone it by unanimous consent, the gentleman's motion cannot be entertained.

MR. HOUSTON. I can move to take up either. The gentleman from Ohio [Mr. TOWNSEND] is entitled to the floor upon the other bill, and if he desires to change and speak upon this bill, there will be no objection.

MR. CLEVELAND. I object to any change. Let the gentleman from Ohio [Mr. TOWNSEND] make his speech upon the bill before the committee when he obtained the floor.

MR. HOUSTON. It makes no difference upon

which bill the gentleman from Ohio makes his speech. It is with his assent that I make this motion.

MR. CLEVELAND. I withdraw my objection.

The deficiency bill was then taken up for consideration.

MR. TOWNSHEND, after replying to a portion of Mr. STANTON's remarks, made some days since, relating to himself, proceeded to submit some remarks on the present condition of the Democratic party. He considered this party as a party of progress, as a party of the present and future rather than of the past. For this reason he had cooperated with it, and had labored for it with all the energy he possessed. But the Democratic party did not own him, and he was not bound to follow its dictates, right or wrong. When, however, he could employ this agent to promote the great ends of humanity and justice, then and then only would he act with it. The Democratic Convention of Baltimore, composed of chosen delegates from the whole country, was doubtless only authorized to select men to be their standard-bearers in the approaching contest. It was also authorized to proclaim to the world the sentiments of the Democratic party. But he did not understand it to be the right of that convention to publish, as the sentiments of the Democratic party, doctrines which were held only by a portion of that party. The convention indorsed the compromise measures of the last Congress—a series of measures concocted by Clay, sustained by Webster, and put through by the force of Fillmore's administration. Now, he protested against this stealing of Whig thunder—this stealing of Whig timber, with which to build a Democratic platform. He protested against the interpolation into the Democratic creed of any thing which could make the party the ally of slavery and oppression. The Whig party, if either, was the natural ally of slavery; the Democratic party had a much higher and nobler mission to perform. The resolution affirming the compromise measures was a fraud, and intended to humbug those who chose to be humbugged by it. [Mr. T.'s speech will be found in the Appendix.]

MR. GIDDINGS obtained the floor, and addressed the House an hour in opposition to the platforms adopted by the Baltimore nominating conventions, in regard to the slave question. He repudiated them, and declared his intention, on his return to his constituency, to advocate the same doctrines of human liberty which had occupied his mind for the last fifteen years. [His speech will be published hereafter.]

MR. HORSFORD next obtained the floor, but yielded to

MR. BELL, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. SEYMOUR, of Connecticut,) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the deficiency appropriation bill, and had come to no conclusion thereon.

MR. ROBBINS. I move that the House do now adjourn.

The motion was agreed to, and

The House adjourned till to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions were presented under the rule, and referred to appropriate committees:

By Mr. ROBBINS: The petition of Robert Bell, George W. Ashe, and 34 other residents of the county of Philadelphia, Pennsylvania, asking Congress to so modify the act passed September 28, 1850, as to give to each person intended to be benefited thereby, one hundred and sixty acres of land.

By Mr. STANTON, of Ohio: The petition of John Hamilton, of Champaign county, Ohio, praying compensation for his time, whilst he was a prisoner with Indians, in the war of 1812.

By Mr. ROBIE: The petition of Holman Marsh and Moses Bennett, for a post route from Bath, Steuben county, New York, to Towlesville, in said county.

By Mr. SCUDDER: The petition of Zenas D. Bassett and others, of Massachusetts, for the removal of a sunken wreck from the north channel of the Vineyard Sound.

On motion by Mr. BOWNE, it was Ordered, That the papers of Hannah W. Beek be withdrawn from the files of the House and referred to the Committee on Revolutionary Claims.



## IN SENATE.

THURSDAY, June 24, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it concurred in the amendments of the Senate to the bill to amend an act for the punishment of crime in the District of Columbia.

## PETITIONS, ETC.

Mr. BADGER presented the petition of R. D. Battle, administrator of the estate of Isaac L. Battle, praying that the estate may be released from further liability under a judgment; which was referred to the Committee on the Post Office and Post Roads.

Mr. PRATT presented the petition of James H. Stimpson, son and executor of James Stimpson, praying extension of patents for improvement in forming and using iron plates or rails on railroad tracks in cities and elsewhere, and for a new mode of turning short curves upon railroads; which was referred to the Committee on Patents and the Patent Office.

## REPORT FROM A STANDING COMMITTEE.

Mr. MALLORY, from the Committee on Naval Affairs, to which was referred the petition of J. R. St. John, praying compensation for certain improvements made by him in marine steam machinery, submitted an adverse report.

## BILL PASSED.

The engrossed bill to incorporate the Sisters of the Visitation of Washington, in the District of Columbia, was read a third time and passed.

## AMENDMENT OF THE RULES.

On motion by Mr. UNDERWOOD, the Senate proceeded to consider the following resolution, submitted by him some time since:

*Resolved*, That the thirtieth rule of the Senate be amended, by adding thereto the following:

"On motion, any amendment offered to a bill or resolution may be laid on the table, without carrying the bill or resolution with it."

Mr. UNDERWOOD. I beg leave to offer a very few remarks in explanation of this amendment which I propose to our rules. I have discovered, from many years' experience, that towards the close of a session, when the general appropriation bills come up for consideration, gentlemen will propose amendments. Those amendments will be discussed day after day, and week after week sometimes, and we cannot get clear of them, because, in attempting to get rid of the amendments, you have to get clear of the whole appropriation bill by laying it upon the table. In that way we consume time, which makes our appropriation bills interminable by discussion. We have no previous question. We cannot stop debate by the previous question. Gentlemen introduce almost everything in the way of legislation, into the appropriation bills, and under the existing rules, towards the close of a session, our debates become interminable upon amendments to appropriation bills, with which the Senate is entirely satisfied, and of which it wishes to get rid. My object, therefore, is, in such a case as that, to allow a motion to be made to lay the amendment upon the table, without taking the bill or original proposition with it. The Senate will perceive that it will always be within its discretion to refuse to lay upon the table the proposition submitted as an amendment, if it meets the favorable consideration of the body. This proposition is only to place these amendments within the power of a majority of the body, and allow us to get rid of a useless discussion, and to progress with the business.

I hope, sir, that this amendment will be adopted, and let us see how it will operate. I have seen this evil for years. I have thought that some remedy might be prescribed for it, and I think this will be a very efficient remedy. All that I ask is, that we may have an opportunity to try it, and if it does not work well, after experience, I shall be among the first to move its repeal. I think, however, that it will have a very beneficial operation.

Mr. BADGER. I would suggest to my friend from Kentucky that he should vary the phrase "may be laid on the table," to "may be ordered to lie on the table." I believe, "to lay on the table" is not a proper parliamentary motion, under our rules.

Mr. UNDERWOOD. I am willing to accept that modification.

Mr. BADGER. I would make another suggestion to my friend from Kentucky. If his rule is to have the effect of putting aside from the consideration of the body such propositions as the Senate may think improper to be considered in connection with others, it ought to extend to an amendment to an amendment; and I would suggest that he vary the phraseology in this way: "That 'an amendment to a bill or resolution, or to an amendment, may be ordered to lie on the table without carrying the main subject with it.'"

Mr. ADAMS. It seems to me that the suggestion of the Senator from North Carolina is unnecessary. An amendment to an amendment is but an amendment; and the original proposition of the Senator from Kentucky embraces all the purposes contemplated by the Senator from North Carolina. An amendment to an amendment is still but an amendment.

Mr. BADGER. My friend is mistaken. The resolution of the Senator from Kentucky is, that an amendment to a bill or resolution may be ordered to lie on the table. Now, an amendment to an amendment is not an amendment to a bill or resolution.

Mr. UNDERWOOD. I am altogether indifferent in regard to the phraseology of the resolution. The Senate perceive very clearly the idea which I have, and the object which I wish to attain. If my friend from North Carolina will be kind enough to draw up a resolution, modified as he wishes it, I will be glad to receive it.

Mr. BADGER. If the resolution will answer the purpose as it is, it is all I desire. I merely wish to have it effectual.

Mr. UNDERWOOD. I will accept any verbal modifications.

Mr. HALE. Mr. President, I do not feel any great interest in this matter. Personally I am rather disposed to favor the amendment; but I would suggest to the Senate, before adopting it, that it is a pretty wide departure from the system that has heretofore prevailed in the Senate. The debates in the Senate have heretofore been conducted upon the assumption that the Senate had discretion and judgment and wisdom enough to conduct its deliberations without so many restrictive rules as have been found necessary in the more popular branch of the National Legislature. This move of the Senator from Kentucky seems to be an indication that the Senate has found out that it has not quite so much of the self-governing principle—so much wisdom and so much discretion as theoretically it has been holding out to the country that it has. It seems to be an admission that we are approximating in our debates to that state of things which has characterized the other branch of Congress, and which has rendered necessary the many restrictive measures upon debate which they have adopted—such as the one-hour rule in a certain stage of debate, and the five-minutes rule in a certain other stage of debate, and an order for stopping debate altogether and coming to a vote upon the questions that are pending.

Now, sir, if the honorable Senator means this as the first indication to the country that we have discovered at last (what I think the country have begun to suspect long ago) that we are approximating to that state of things, I think the amendment is wise and timely. But it should be followed out. It should be followed next by the previous question, next by an order to stop debate, then by the one-hour rule, and the whole system of measures which the House of Representatives has found necessary for the purpose of restraining the "desire of much speaking," which has afflicted that body. I speak of this matter without much reference to myself; for I rarely speak in the Senate, and make very short speeches when I do, and do not expect to stay here a great while. But I think if we adopt this amendment of the honorable Senator from Kentucky, we ought not to stop there, but we ought to go further, and adopt the whole series of measures which I have pointed out. I make these suggestions, because I think that if we take this step, we ought to go further; and we shall go further, and we shall not retain either the character, or the pretense of the character, which it has been the pride of the Senate hitherto to sustain before the country.

Mr. UNDERWOOD. Mr. President, I beg leave to quote a text for the edification of my friend from New Hampshire. I would say to

him, "Sufficient unto the day is the evil thereof." It is not worth while for us to go beyond the evil which I have pointed out, into other remedies for other evils which he has contemplated, until there is some necessity more manifest than any which I have heretofore seen, showing the propriety of their adoption. I would simply remark, that all deliberative bodies with which I am acquainted, except the Senate of the United States, have had the "previous question" as a part of their rules. We have never yet had the "previous question" as a part of the rules governing the Senate; and I think it probable that if this amendment to our rules be adopted, we may never have it introduced here as it has been in the other branch of Congress. Sir, this proposition is so simple and plain that I will not detain the Senate by making further remarks in regard to it. I hope the amendment to the rules which I have proposed may be adopted, and that we may see its practical results; and if it shall not work well, we can get clear of it.

Mr. ADAMS. It seems to me that the proposition of the Senator from Kentucky is palpably necessary and right, and that there can be no objection to it. The Senator from New Hampshire, [Mr. HALE,] while he throws out an objection to the amendment, through fear that this body will be assimilated to the other branch of Congress, himself says that the country has long since discovered the necessity for such a change of our rules. If the country has discovered it, I presume that the Senator himself, and every Senator on this floor, has discovered it; and who does not know that such a rule is necessary for the completion of the business of this body, both now and in future time? The proposition is, that when an amendment is offered to a bill, if a majority should order that amendment to lie on the table, that order shall not carry the bill along with it, and I do not see how such a proposition can be objected to. The effect of such a rule is simply to cut off irrelevant matter by allowing a majority to order it to lie on the table, that the Senate may be enabled to dispose of its business properly. To that I think there can be no objection, as it will only cut off debate to which a majority do not choose to listen. Sir, if it assimilates this body to the other branch of Congress in every sense of the word, if it is necessary that it should be done, I trust we shall not hesitate to do it. For myself, I should be perfectly willing to adopt all the measures of restriction which they have found necessary. But if this amendment should be adopted, it can only lead to the adoption of the rules which the House of Representatives have adopted, by a vote of a majority of the Senate. It seems to me that the amendment should be adopted without a dissenting voice; and I trust that the Senator from New Hampshire will vote for it, let the consequences be what they may, as on the merits of it he agrees that it is necessary.

Mr. BELL. I do not favor propositions for altering the rules adopted for the government of the Senate. I am reluctant that any alteration should be made now; but as it appears to be the sense of the Senate that some alteration should be made of the nature proposed by the Senator from Kentucky, and if that alteration is to be applied to the particular mischiefs pointed out by that Senator, I do not know that I would have much objection to it, if it can be limited to appropriation bills, to be settled and acted upon at the close of the session. I have felt, at the close of a session, the inconvenience of the existing rules, and I should be happy to concur with him if he would limit his proposition to the appropriation bills, because in such cases there seems to be a necessity that the Senate should come to a speedy decision on the main features of such bills. We all know that in regard to such bills we are frequently engaged during the very last hours of the session, and are sometimes even obliged to invade neutral or questionable ground as to time. Now, I have no objection to any amendment which shall have such limited application. As to the argument of honorable Senators in regard to the necessity of cutting off debate upon amendments offered to bills in the progress of the session, if the object is to cut off debate, let us at once establish the previous question in regard to amendments, and then you will simply reserve the right of taking the vote on the amendments themselves.

Any gentleman who has looked into the history of the British Parliament, and of American legis-

lative bodies, whether in our State Assemblies or in Congress, and has noticed the rules adopted for their government, and the grounds on which those rules have been established and in use almost time out of mind, will find that this right of presenting amendments—or as I have sometimes heard it vulgarly expressed, this right of “poking” amendments at a bill—is the privilege and right of the minority. It is done for the purpose and with the view of checking an overwhelming majority in hurrying through measures which may be popular for a moment or a day, when the minority may see great danger or inconvenience, as likely to result from the adoption of the measures of the majority. The privilege of offering amendments in various forms and shapes, will be found to be for the protection of a minority against the will of an arbitrary majority. Sir, I can foresee ahead of us at this moment some bills on which the majority may be willing to evade a vote in regard to material amendments; and yet, sir, the privilege of presenting amendments to bills for the purpose of preventing great immediate or future mischiefs is the only safety which the minority may have. I do not say that there are any measures which I have in my mind’s eye to which such a course would be fatal; but there are measures in regard to which the adoption of such a rule might be highly mischievous. This privilege of introducing amendments, and bringing them to a vote with the view of checking up what might prove a great evil, even although proposed and supported by a majority, is one of the arms provided by ancient custom for the defense of a minority against the will of an arbitrary majority.

It is urged that our debates are likely to become interminable. If the object of the proposition is to limit debate, let us adopt a limited previous question, applicable to such amendments. That will not only exclude diffusiveness in discussion, but will leave the privilege open to a minority, of compelling a majority to regard what they consider salutary amendments to the main measure.

I need not say that the experience of all parliamentary bodies shows that, as majorities become large and self-confident, and presumptuous, the dangers to the rights of minorities are increased. If the main-spring of their actions shall be the public good, and all measures shall be brought forward with due consideration, there would seem to be no danger of mischief; but though gentlemen speak of our having arrived at a period of time when it is necessary to have these restrictive rules upon the privileges of majorities or individuals, either on offering amendments, or indulging in debate, I think the time has come when we require the fullest privilege, and that the danger is not that there will be too little legislation, but that we shall over-legislate, and become less and less cautious. We have had ideas put forth of late, proposing sweeping changes in the policy of the country, extending over the whole past economy of the Government and its legislation. I concur with the Senator from Mississippi, [Mr. ADAMS,] and the Senator from Kentucky, [Mr. UNDERWOOD,] that there is some necessity for a limitation with regard to the appropriation bills; but even the appropriation bills will have to be acted upon within the last month of the session, and at no other time. But I consider the proposition of the Senator from Kentucky to be an infringement upon ancient parliamentary rules which have been conceived to be laid down in practical wisdom, and have been seen to work well, both in the British Parliament and in this country. If the proposition is limited, I have no objection; but as it is, it seems to be, as the Senator from New Hampshire [Mr. HALE] has suggested, the first step towards gagging the members of this Senate, and limiting the freedom of debate, so that minorities may be prevented from checking the arbitrary action of majorities. With the limitations I have suggested, I can vote for it, and not otherwise.

Mr. MANGUM. That something is necessary to be done to expedite the business of this body, I think must be sufficiently obvious to every gentleman who occupies a seat upon this floor. I have been very reluctant to join in making any fundamental change in the rules which we have laid down for our governance, for as they now are, I think in this respect we are perfectly safe. I am opposed to this proposition in its present form; and yet I would not be unwilling to make a temporary trial of the proposed change, if somewhat

modified, although, in the main, I think it is yet too early in the session to propose to adopt it.

Sir, at the close of the last session, I was a witness to a scene which was enacted here, which was calculated to draw upon us the censure of almost the entire country. I refer to the speaking against time, with the view of defeating a vastly important measure—the river and harbor bill—and which succeeded in accomplishing that defeat. I then felt, for the first time in my life, the necessity of applying those restraints in this body which have been found to work well in practical legislation. I think that something like this proposition, as a temporary alteration—for I am unwilling to adopt it as a fundamental rule—might be safely applied to the appropriation bills, and to other matters towards the end of the session. Sir, this “*cacothès loquendi*,” as my friend from New Hampshire calls it—

Mr. HALE. I did not call it so; no, no. [Laughter.]

Mr. MANGUM. Well, then, this “desire for much speaking” has become almost a complete nuisance in this body. Mr. President, from the time when you first took your seat in this body to the present day, there is as much difference in the course of procedure in regard to such matters as there is between the mid-day sun and the moon shining through a hazy atmosphere—all the difference in the world. We must, therefore, resort to some mode of arresting this eternal talking. I know of one way which might possibly be applicable, although not very parliamentary. If we were to devolve upon the Chair the duty of sending for a surgeon to have our tongues slit, it might answer some good purpose in this respect; but, sir, I am afraid, that even in that case, decimation would not be sufficient, but am inclined to think the operation would have to be performed in cases—nine out of ten. [Laughter.]

If, however, we are to have any change in the rules in regard to this matter, I prefer that that change should be temporary; because, however unimportant it may seem at the first glance to make any essential and radical change in the rules which have been recognized for many years, and which have been found to work well, perhaps there is nothing with which we can tamper with less safety. I am unwilling to make an essential permanent inroad upon them, or upon other things which have worked well, not only in this country, but in other countries—rules which have worked well for centuries, which have been esteemed as being consonant with wisdom;—I say I am unwilling that these should be made to give place to that which is new and untried. If this proposition for a modification of the rules can be laid upon the table until business becomes more pressing, or till the appropriation bills come up, I shall be happy to unite in its temporary adoption near the close of the session. If it is found to work inconveniently, we can any day, upon giving a day’s notice, rescind it, for I suppose we shall be as much at liberty to rescind it as to pass it.

Sir, it has been observed by every gentleman here, that when we begin a debate upon any subject, too much time is spent upon the elementary portion of it, just as children are apt to do when learning to spell, going over everything twice over, as in a-p a-p, p-l e ple, apple, p-i-e pie, apple-pie. [Laughter.] That, sir, might as well be cut off. In the older and better times of the Senate, it was supposed that the representatives of sovereign States, from a proper sense of what was due to themselves, as well as what was due to this body, which was an august body, would restrain themselves from the excessive use of irrelevant talking. Modern experience, however, has shown that this feeling, as a restraint, is utterly insufficient for the purpose of correcting this abuse.

Mr. BADGER. I hope the proposition of my friend, the Senator from Kentucky, [Mr. UNDERWOOD,] will receive the favorable consideration of the Senate. I have listened attentively to the gentlemen who have taken objection to it, and I am at a loss to say what principle of parliamentary proceeding will be violated by the rule that is proposed to be added to the rules of the Senate. The Senator from Tennessee [Mr. BELL] says it is an advance, so far, towards the adoption of the “previous question.” Not at all. It is the exact opposite of that principle; and exactly contrary, in its application, to the “previous question.” The “previous question” authorizes a decision

on a matter, while it cuts off debate on that matter.

The resolution of my friend from Kentucky [Mr. UNDERWOOD] does not propose to invade the principle adopted by the Senate. That is: whatever has been considered and decided by the Senate, shall be considered open to debate. Not at all; but it simply authorizes the Senate, when it shall deem proper to do so, to say that a proposition which an individual Senator may think proper for consideration and discussion, shall be put aside as unfit for consideration. Now, that being the state of the case, I would ask if that is not a power which has ever been exercised by this body, and by every other legislative body on the face of the earth? Suppose that the Senator from Kentucky [Mr. UNDERWOOD] has a bill here which he looks upon as highly important, and which he is desirous of discussing; and suppose that a majority of the Senate think it should not occupy the time of the Senate; suppose that a majority of the Senate are of opinion that it should not be discussed and decided, is it not in the power of any gentleman to move that the bill do lie on the table, and does not that motion cut off all debate? And if the majority of the Senate concur in the motion, is not the bill put aside, even under our existing rules, because the majority think that the bill is not proper to be considered and discussed? The only object of this amendment is to give to the Senate the same control over collateral questions, in respect to which they may entertain an opinion of the inexpediency of occupying time in their consideration, that, under the known and established rules of the Senate, it has always exercised over the main question. That is the real question.

Now, let us ascertain what is the enormity which some gentlemen seem to suppose will attend the adoption of this rule. I have supposed the case that the Senator from Kentucky [Mr. UNDERWOOD] has a bill before the Senate, which he conceives to be important, and which he is desirous of having discussed, and I have supposed that a majority of the Senate are of opinion that it should not be discussed, and order it to lie on the table; well, on the next day there is another bill under consideration, and the Senator from Kentucky [Mr. UNDERWOOD] can now bring up, and offer as an amendment to it the very bill which was laid on the table by the order of the Senate! Will any Senator give me a reason why my friend should, on the second occasion, compel the Senate to hear the discussion of a measure which, according to the established usages of this body, lawfully exercised, the Senate has already ordered should neither be decided nor discussed? That is the whole question.

Mr. BELL. Will the Senator from North Carolina [Mr. BADGER] allow me to interpose an observation? I am not desirous of speaking again on this subject.

Mr. BADGER. Certainly.

Mr. BELL. I beg leave to suggest to my friend that there is nothing at all in that argument, because the bill which he supposes to be laid on the table is a distinct measure, or one that is not fit to be discussed in the Senate, and it would not be in order to offer it to any other bill, unless it might come up in the shape of an appropriate amendment. There are other rules of the Senate, which you know would cure the mischiefs which the honorable Senator supposes would arise from that state of the case.

Mr. BADGER. Will the Senator mention what rule?

Mr. BELL. The amendment must be congruous—it must be appropriate to the bill.

Mr. BADGER. Not at all.

Mr. BELL. We cannot take a vote upon that; but I think I am right in what I say.

Mr. BADGER. No doubt my friend thinks he is right; but the difficulty is that he comes from the House of Representatives, of which he was once the distinguished and able Speaker; and I have never known a gentleman come from that House who did not bring more or less with him, the rules of it. There is no rule in the Senate which requires that an amendment moved shall be congruous or cognate to the main subject before the Senate. It is so in the House of Representatives, but it is because they have a special rule to that effect. If my friend will look at the statement in Jefferson’s Manual on that subject as to the relevancy of it, he will find, as to parliamentary

law, that the Presiding Officer cannot rule an amendment out of order, because it is irrelevant. It is for the body to decide upon it. We have had the question raised and decided again and again, and I believe nothing is clearer; so that my friend is entirely mistaken in supposing that my case is not a case precisely in point. But it would not vary the argument, if it were not so. I have only to suppose that the bill which my friend intended to offer, (and which, if he offered alone, would be laid on the table,) he proposes as an amendment to another bill; and I say, that no man can point out any reason why the Senate shall in one case have the power of saying that the proposition before them is mischievous or unnecessary for the public business, and shall not be considered and discussed, and not have that power in the other case. Besides, Mr. President, my friend from Tennessee (I dare say, if I was as old as he is, I would have the same sort of feeling) looks back over the water, and cries out against putting on a gag, and stopping debate. Sir, I have been a member of this body six years, and have been in a minority all the time. I have heard gentlemen in charge of measures from the majority, over and over again, announce that they were going to have a vote upon them, and pass them—pass them in three days, or a week, or ten days; but I have never known a measure pass in this Senate while any gentleman wished to discuss it. With a decided party majority—with a decided party measure before the body, I have always found that a majority of the Senate could never be found to refuse to vote for an adjournment, for the purpose of allowing a gentleman to discuss the question. So far as my observation extends, the action of the Senate is decidedly the other way.

Mr. UNDERWOOD. Their courtesy allows the debate to go on.

Mr. BADGER. Yes, their courtesy allows too large a debate, rather than cuts off what is unnecessary; but at all events, as my friend from Kentucky says, we have all felt the necessity for this amendment to our rules. Let us agree to it. It is not like a law of the Medes and Persians—unchangeable. If it operates injuriously, it is easy to strike it out again. The present system needs some amendment. This seems to be necessary and proper. It holds out a prospect of good, and I see no evil to result from it.

Mr. BELL. I would inquire of some other gentleman whether it be true that the parliamentary rules for the regulation of the Chair, not expressly incorporated in our rules, are to no extent binding upon the Presiding Officer of the Senate, except they be incorporated in the number of printed rules regularly established?

Mr. BADGER. If my friend will allow me, no one has said that. There is no general parliamentary law which makes the question of relevancy a point of order.

Mr. BELL. I would inquire again, is it possible that upon a bill, for example, regulating duties upon imports, it would be competent here to entertain a proposition to make an appropriation for the improvement of rivers and harbors?

Mr. BADGER. Yes, sir.

Mr. BELL. Would there be no inconsistency—no impropriety in that? Is there no parliamentary law forbidding a gentleman rising up and offering to hook a speech upon a proposition for the improvement of rivers and harbors, to a bill regulating duties upon imports? There is no rule in the special rules of this body to prohibit it, and it may be that the Presiding Officer would have to refer it to the Senate to decide that question; but would it not be the duty of every Senator on this floor, according to the usual parliamentary law, to vote down such an idea—to rule it out as inconsistent, improper, incongruous, unparliamentary, and one which would render all attempts to legislate in this body utterly abortive? Certainly it would. If a Senator is at liberty to bring up his subject; such, for instance, as the honorable Senator from Kentucky, to bring up his bill for the improvement of the Cumberland dam, as an amendment to an entirely different bill, and raise a discussion upon it, it would be the duty of the body to object to it, or no legislation could be carried on.

The honorable Senator supposes that I have come here imbued with the rules applicable to the House of Representatives, and has been pleased to say that he never saw a gentleman from that

House who did not come here so infected with the rules impressed upon him as a member of that body, and that he misapplies his advice to this body, when he comes from the House with his experience derived there, to apply those rules here. I beg leave to say upon this subject, that I have been very cautious and modest. I was not long the Presiding Officer of the House of Representatives, but I was long a member of it, and it became my business to look into and examine the wisdom of the old established parliamentary rules and proceedings, to see how important it was to preserve them, in order to preserve the privileges of debate. The Senator said I look too much over the water to get examples in a monarchy, in the British House of Parliament. Why, sir, a majority in this country may come—and such is the tendency of popular institutions and of popular assemblies—to possess a greater degree of tyranny, or as great a degree of tyranny, limited only by the Constitution, as can be in any parliament under a constitutional monarchical form of government, and more so, because they are presumed to be backed by what is called the sovereignty of the country. They represent the people; and I have heard the argument often alleged, that the will of the majority for the time being ought not to be checked; and have also heard the argument used, that all restrictions imposed are opposed to every popular idea of government and ought to be abrogated; and we see in many States the restrictions are being broken down.

I look to the British Parliament for the reason, not so much for the practice, as for the reason given by what they call the sages of the great Commons, as vindicating the rights and privileges of the minority, not only against the arbitrary will of the majority in Parliament, but against the Crown. These rules are valuable to us here for the purpose of checking the ebullition of feeling, if you please, of the people—of our masters—call them sovereigns, or by as high a denomination as you choose to give them. We owe loyalty to the people; I am one of them, and owe loyalty to them to a certain degree; but I would with as much resoluteness oppose what I consider to be their arbitrary will, the result of certain circumstances or of an ebullition of passion, as I would that of a kingly tyrant upon his throne. Then I would rely upon going back to them to satisfy them of their true rights and interests.

The honorable Senator was pleased to say that I had likened this to the previous question. I only said that I concurred with the honorable Senator from New Hampshire—and he is right—that this would be one step forward to the introduction of that gag into the Senate by the restriction of debate. But the honorable Senator misunderstood me. I expressly said that I had no objection to cutting off debate on amendments, establishing a limited previous question with regard to amendments. But I would not cut off the privilege of the minority—their right to call upon the majority to give their vote upon the amendments.

One word more with regard to the illustration he gave, that whenever a bill comes up here, if it is not pleasant to the majority of the Senate, and they do not see proper to discuss it, but think that it is out of season and inappropriate to claim their attention, what exists now? He says the very thing which the honorable Senator proposes with regard to any amendment. You can move to lay it on the table, and it will be done if the majority think proper to do so, and there it goes and stops all discussion. But the distinction is, that there is no mischief done, except a negative one. The very reason upon which the privileges of the majority are founded does not relate in any degree to what is stated by the honorable Senator. The reason given is, because it is obnoxious to the majority. If you vote to lay it aside in that case, you do no harm to the country. There is no inroad made upon the ancient policy. But the privilege of the minority is to defeat a measure which is hurried forward with an indiscreet and arbitrary zeal by the arbitrary members of an overruling majority. The privilege of a minority is to have a vote upon the amendments, to check the majority, and bring them to vote upon certain features of policy brought to bear upon the main measure which they are compelled to vote upon.

I do not mean to enter more earnestly into this.

I merely throw out these suggestions; and I will state again, if you would apply the proposed amendment to the rule at the close of the session, to the appropriation bills, or to any bill of general importance that comes up at the close of the session, I should not have the least objection to it; but as a general alteration of the old and fundamental modes of proceeding, I object to it if it is to be permanent, and applicable at all times and to all measures; not that we should have privilege of debate, but that we should have the privilege of bringing the Senate to vote upon an amendment appropriate to the subject; for I take it, although the Chair has no right to rule out improper amendments, the body can say, under the general parliamentary law, although not required in our rules, that they are improper.

Mr. BADGER. I do not exactly understand the ground which my friend from Tennessee occupies on this subject. He says that the right to have the amendments presented, considered, and voted upon belongs to the minority, because it is the right of the minority to defeat a bill or measure which the majority desire to pass.

Mr. BELL. I did not say that. I beg leave to explain, that the honorable Senator may not misunderstand me. I say these rules are grounded upon long-considered usages in the parliamentary history of Great Britain and of this country, to a great extent, for the protection of the minority. Not that they have a right to defeat the majority, but for the protection of the minority against the arbitrary legislation of an overwhelming majority.

Mr. BADGER. I understood the honorable Senator to say that it was the right of the minority to defeat a measure which was pressed forward with an arbitrary and unconsidered haste by the majority.

Mr. BELL. The honorable Senator, I hope, does not wish to put me in an absurd and ridiculous attitude in regard to this. I said that the minority have a right to offer a pertinent amendment, to compel the majority to look at the principles of the amendment. That is the mode in which the minority operate. Not that they have any right to defeat the will of the majority, except by reasoning, by justice, and by sound policy; showing them and the country generally, that they will go too far if they adopt the general measure they propose without incorporating the amendment offered by the minority. 'This is one of the means instituted by the parliamentary law of giving the minority the right to call upon the majority to test their sense on other provisions which the minority think proper to bring forward connected with the main subject not disconnected with it.

Mr. BADGER. It seems, then, this right of the minority is not the right to defeat the majority against the will of the majority, but it is the right of argument and sound reason. That is nothing more than the right which was claimed by a celebrated officer, of stopping every man he met in the streets of Messina—but not against his will. There is no doubt if the minority convince the majority that they are wrong, they will prevent the passage of the obnoxious measure, not by overruling the majority, but by getting the majority on their own side until, at least, it would be the will of the majority not to pass the measure. But where is all the difficulty which arises here? Here is a proposition offered: my friend says if it is germane to the matter in hand it ought to be considered. Who are to decide whether it is germane?—the mover? The question has been raised here since I have been in the Senate, three or four times, and it has been expressly decided according to the general parliamentary law of England, that a question of relevancy is not a question of a point of order; and that the Presiding Officer cannot rule out an amendment because he deems it impertinent to the subject before the body. It must be voted down by the body, if it is irrelevant, and they do not choose to adopt it. Manifestly this must be so without a rule. What hinders us putting forty bills together, unless we have some rule of our own to prevent it? Where was the provision ingrafted for abolishing corporal punishment in the Navy? Upon an appropriation bill. Was it germane to it? Had it anything to do with the appropriation of money? Certainly not. The question, then, is, whether it shall not be for the majority to decide whether the measure proposed as an



amendment is pertinent to the main subject or not; and if they think it is not, to put it out of the way as unnecessary to be then considered, or, perhaps, unnecessary to be considered at all. That is the whole measure. It interferes with no privilege of the minority, and it leaves to the majority what I have always been taught to believe was their right; that is, to decide upon and direct the measures of the body. I want to maintain no privilege which puts it in my power to overrule the majority. But a reasonable latitude of debate in the present case we have. There will be no difficulty upon that point. The courtesy of the Senate has allowed it to go too far, rather than manifesting a disposition to improperly control debate.

Mr. UNDERWOOD. I wish to express one idea for the consideration of the Senate, to show that there can be nothing in the objection made by my friend from Tennessee.

Mr. BELL. I should be glad to have you do so.

Mr. UNDERWOOD. I think I will convince the Senator himself, if he will listen to the expression of the idea. His objection is, that if my proposition be adopted, it will restrict the rights of the minority in reference to discussion, and thereby deprive them of the privilege of exposing the errors of the majority.

Mr. BELL. I did not say that.

Mr. UNDERWOOD. I understand the tenor of the objection is, that a dominant majority may trample upon the rights of the minority. I wish to show that it is impossible that that can be. A bill, I do not care what its character may be, is pending before the Senate. I rise to move to amend it. The amendment which I offer is either pertinent and relevant to the matter of the bill, or it is a substantive and distinctive proposition, having no relation to the matter of the bill. It must be one or the other; it can be nothing else. It either qualifies the matter of the bill in some of its relations, or it is a distinct, independent question, having no connection with the matter of the bill. Suppose it be one of these distinct, independent questions, having nothing to do with the matter of the bill; the amendment which I propose to the rule only authorizes the Senate to say, we will not consider that; we will lay it upon the table. How does that affect the rights of the minority? How does it prevent the minority from exposing, by discussion, the errors of a dominant and tyrannical majority? It is utterly impossible that it can have any effect of that sort. The only effect is, that it will allow the majority to say: This independent proposition of yours, having no relation or connection with the merits of the bill itself, shall be laid aside. That disposes of every amendment of that sort. How, then, is it with reference to an amendment which will qualify the main proposition of the bill, to enlarge it, to restrict it in point of time, or in reference to its operation upon society? I can rise, and move my amendment, restricting the main proposition, enlarging it, or qualifying it in any way. A Senator moves to lay that amendment on the table. There is no discussion until that vote is taken; and the amendment which would qualify the main matter of the bill is laid upon the table. What is left to me? And this is the idea which induced me to rise. I can get up and oppose the bill upon the very ground that the dominant tyrannical majority refused, by the amendment which I offered, to allow me to qualify the bill in its operations, and make it acceptable to the country; and I can show in debate, that for the want of that very amendment, which the majority have laid on the table, the bill will be injurious to my constituents, and to the whole country. In that way, by discussion and debate, I can place the responsibility of the majority upon such a footing that the whole country will see it. Can anything be plainer than all that? Nothing, sir; nothing.

In reference to the point between my friend from Tennessee and my friend from North Carolina, [Mr. BADGER,] I recollect an instance which probably my friend from Tennessee will recollect. When we had a general appropriation bill some years ago up for consideration, a Senator from Wisconsin offered an amendment, proposing a government for the Territories of New Mexico and California. The question came up whether that was in order; and I believe my friend from Tennessee made a speech, showing that that proposition for a territorial government was in

order, by way of amendment to the appropriation bill.

I am sorry to have detained the Senate thus long upon a proposition which everybody seems to admit in principle ought to be adopted; and I thank my friends from Mississippi [Mr. ADAMS] and North Carolina, [Mr. BADGER,] for the support which they have given to it. I am only afraid, now, that it will really be killed by that disease called *cacoethes loquendi*—that we will speak it to death, and, perhaps, never get it up again.

Mr. HALE. Mr. President, I appreciate, certainly as highly as the honorable Senator from North Carolina does, the courtesy of the Senate; and I think we have had, perhaps, an excess of it. The honorable Senator says he has always been in the minority here, and has had no reason to complain. Well, there have been two minorities, and one is a little smaller than the other, and I have been in the smaller minority. [Laughter.] I wish to refresh the recollection of those who are disposed to glorify themselves upon the uniform courtesy of the Senate, with one decision which stands upon your records, and is now part of the law which you, sir, I suppose, are bound to administer until it is revoked or reconsidered by the Senate. It was solemnly decided by a Vice President of the United States, whom the Constitution made the presiding officer of this body, that it was in order, parliamentary, and rightful, for one member of this body to charge another with introducing propositions into the body, not for the purpose of business, not for the purpose of debate, but simply for amusement; that it was in order to charge a member with introducing matters into this body to make mere amusement for himself and others. A Vice President decided that that was parliamentary and in order, and, upon an appeal taken from the decision of the Vice President, this courteous body—courteous I grant to excess, *cacoethes* of courtesy—decided that that was right, and that is the parliamentary, senatorial rule here to-day. According to that, I may, if I please, charge the honorable Senator from Kentucky, not with any desire of having these rules amended, but of introducing this proposition here merely to gratify a love of fun and amusement—to set a mass of speeches going. That is the law of the Senate now, solemnly settled upon an appeal taken from a decision of the Vice President. I doubt whether we can find in the parliamentary history of the Commons, or the Lords spiritual or temporal, of Great Britain, a decision which may be characterized with worse adjectives than that. I will not make the attempt; I will let that go, and let it stand. So much, sir, for the experience which some minorities have had, different from other minorities. And when the honorable Senator from North Carolina speaks of the courtesy extended to minorities, he should remember, that as there are different degrees of comparison in grammar, so there are different degrees of minorities in politics,—at least so I find it.

Now, sir, I want to call the attention of the Senate to the fact, which cannot be denied, that this is a step in the measure of restriction and in the matter of restriction. But with all the restrictions with which the process of business has been hampered in the other branch of the National Legislature, we do business here forty times as fast, and with forty times the facility that they do, with all their previous questions, and with all the ingenious devices with which they have cumbered their rules to embarrass debate. It is a fact, of which I have been informed to-day while I have been here, that, with all the facilities which the House have for doing business, they have not called through their committees since about the first two weeks of the session; and they have been waiting for nearly six months, and have not done what we do here every morning on which we have a session; that is, call through the committees. With all their devices, it would seem as if ingenuity was a task, instead of facilitating, to embarrass, hinder, and obstruct business.

I say—and I concur with the suggestions made by the honorable Senator from Tennessee—that this privilege of proposing amendments, and of bringing the Senate to a vote upon amendments, is one of the great privileges of a minority.

Mr. President, I appreciate the privileges of a minority much more than you do. They are dearer to me. I know but little of what are the

privileges of a majority; very little. But if there are any privileges which a minority have, let us keep them. I suspect that if the honorable Senator from North Carolina will search the bottom of his heart, he will find that now he begins to lose his tender regard for the rights of minorities from a lurking scepticism in his mind as to whether what is now the majority will continue to be so, and whether things are not to be turned upside down, and those who have heretofore found themselves in the minority are to be translated into the majority. I confess, sir, that the honorable Senator from North Carolina was one of the last men on this floor whom I expected to find advocating an amendment of this character.

Take a single naked proposition; you cannot defeat it. What is one of the most obvious rights of a minority in such a case? It is to present amendments in every way and shape and form in which ingenuity can devise them, and bring the body to a vote upon those amendments; so that by possibility the measure, if it cannot be defeated, may be shorn of some of its most objectionable features, or may have something added to it by virtue of which it will be made more acceptable to the minority and to the country. But this resolution proposes at one fell swoop to cut that all off, and by the iron and inexorable rule of laying upon the table—which precludes all debate—to prevent gentlemen from presenting their measures and elucidating the views which they may entertain upon the proposition which they may make, and to cut this off at once and bring the body to a direct vote upon the simple and naked proposition, and nothing else. I say, sir, that a more alarming blow, one more eminently calculated to cut off the rights of minorities, cannot well be conceived.

It is idle for gentlemen to flatter themselves that we are in no danger here—that we are the wisest and most virtuous, and liberal-minded people that ever lived, and that there is no danger of the approach of tyranny or despotism in this or in the other branch of Congress. Sir, I do not believe it. Human nature is human nature. Power is power; and it is always stealing away from the hands of the many into the hands of the few, and they will exercise it. We ought not to surrender any safeguard which the experience and wisdom of the past have found and preserved, and handed down to us for guarding these rights.

I feel for myself—and I will not speak for anybody else, for I do not know that there is anybody else in my situation—a delicacy about this matter. After having enjoyed this power for five years, just as I am about to leave this body, vacate this seat of power, and go out amongst the people, I am unwilling that he who sits in my seat after me, shall sit here hampered and restricted by a rule that I have imposed upon him just about the time I am leaving, and which I have not thought necessary to govern and restrain myself during the term I sat here. For this reason I desire that the proposed alteration of the rules shall not be adopted at this time. At all events I hope that if it is to be adopted, its adoption will be postponed until the new order of things. I hope it will be postponed till that problem which is lurking in the mind of the Senator from North Carolina, is settled, whether minorities are to be minorities, and majorities to be majorities; and when that day dawns, and that problem is demonstrated, let those who have the power change the rules; but let us not do it at this time.

Mr. MASON. Mr. President, I confess that the questions raised by the Senator from Tennessee, addressed themselves to me with very great force. I recollect a discussion which took place in the Senate some year ago, upon a proposition then introduced, to adopt the "previous question." Although this is not the same proposition, yet it is but a modification of it. The rules of Parliament, as I understand them, and the rules which are framed for the government of this body, are not only intended to facilitate, as suggested by the honorable Senator from North Carolina, the dispatch of business, and to direct it according to the will of the majority, but they are intended to impose limitations upon an absolute and arbitrary majority; and all those limitations are founded in the philosophy and the propriety, to some extent, of protecting the rights of the minority.

What is the proposition before us? The proposition offered by the Senator from Kentucky is,

that it should be in order to propose to lay upon the table any amendment, or any amendment to an amendment, and that the vote laying such amendment upon the table shall not carry with it the original proposition. Sir, these rules for the government of deliberative bodies, are rules founded in wisdom. The rule is, that a motion to lay a proposition upon the table, precludes debate, because, if it is the pleasure of the majority no longer to consider the subject, it would be useless to debate it; and if they declare that it shall be laid upon the table, it dispenses with the whole subject, and takes it from before the body for the time being. But, if you are at liberty to preclude a minority, or any member of a deliberative body from proposing to modify in any form, and to assign his reasons for the modification, without taking the whole subject from the deliberation of the body, then you not only deprive the minority of the right of expressing its opinion why the subject should be modified, as proposed by the amendment; but, as has been strongly and ably said by the Senator from Tennessee, you prevent the minority from bringing the majority to a vote upon that proposition.

The amendment to the rules offered by the Senator from Kentucky is intended to apply to all measures which may be brought before this body, of every kind and description whatsoever; and, if it prevails, you will deprive the minority of the body from so modifying a measure proposed by the majority as to make it acceptable to them. It may be that upon some great measure that is to affect the interests of the country, the minority would have it in their power to make the measure acceptable to them by modifying it; and yet, if a majority can lay upon the table the proposition to modify or amend, and preclude debate upon it, they are enabled to present themselves in the attitude of insisting upon a naked vote on the proposition as they presented it, without the opportunity, on the part of others, to modify or explain it in any degree whatsoever.

Mr. ADAMS. If the Senator will allow me, I beg leave to make a suggestion here. When a proposition is before the Senate and an amendment is offered, the individual offering the amendment has the floor, and can submit his views upon it at large. The Senate can have the benefit of the views of the individual who proposes the amendment, and then can say whether or not they will lay it upon the table. The individual would have the floor, and, of course, as the motion to lay on the table must come from some other person, the mover of the proposition would have the benefit of a speech upon the subject; and if, after the mover should have made a speech, the majority should think it proper to lay the amendment upon the table, I cannot see that it would produce any difficulty.

Mr. MASON. Then the debate is to be confined to the mover, and the mover only. Now, it may be that it is not the mover only who desires that the amendment shall prevail; it is not the mover only who desires that the enormity of the original proposition should be explained and exposed by the amendment which has been offered, and you take from them not only the right to debate, but the still greater and the inestimable right of bringing the majority to a vote upon it.

Sir, it has been said, and wisely said, that the minority in all bodies have one right, at least, of which they ought not to be deprived—the right to complain, and to let their complaint be heard. The honorable Senator from North Carolina says that he has been for a long time in a minority upon this floor, and it may be that he will so continue, and yet he is willing to give to the majority this absolute and unrestrained right of stifling the voice of a minority upon propositions to amend.

I may feel more sensitive upon this subject than some, because I come from a quarter of the Union that is in a minority elsewhere, and I am here in a deliberative body formed of the representatives of confederated States; not a body where a majority has a right, by the mere power of the majority, to control the rest of a body composed of the representatives of confederated States. There are great questions which have heretofore arisen, and may hereafter arise, in regard to which it may become a matter of the last importance to the minority in this Confederation to be able to explain and expose, in every possible form in the shape of amendments, the objections that they

hold to the measure proposed by the majority. God forbid that it should ever recur again. But when measures of great national interest were before us, some few years ago, your table, sir, was covered with amendments—amendments coming from the minority of this Union, the objects of which were, in the main, either to expose the measure proposed by the majority, or to mitigate its force. Could it have been tolerated then, that debate should have been cut off on those amendments?

Now, if there be any inconvenience arising from this *cacothesis* spoken of by other Senators, I apprehend it is very small, compared with the injury which will be sustained by the Republic, if the minority in this respect of modifying and improving measures be taken from them. I agree with those Senators who have said, that if the time of the Republic is wasted in unnecessary debate, it is far better than that the Treasury of the Republic should be wasted by inordinate expenditures. We suffer vastly more by too much than by too little legislation. I think Senators will say that I take up as little time in debate as any gentleman on this floor; but I will remark that, although it is said in common parlance that your time is wasted in debate, I am not one of those who believe time is wasted. Ours is a government of public opinion. It is not a government of force. It is not a government of absolute will. It is a government controlled and directed by the opinions and judgments of the people. It is right that the people should have information to the fullest extent of every shade and view of opinion that pervades the Senators upon this floor. I feel some interest that this amendment should not prevail. I do not mean to ask that it be laid on the table; but I ask that when the vote be taken upon it, it be taken by yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS. I hope the resolution will be read as modified.

It was accordingly read, as follows:

*Resolved*, That the thirtieth rule of the Senate be amended by adding thereto the following:

"On motion any amendment offered to a bill or resolution, or an amendment to an amendment, may be ordered to lie on the table, without carrying the bill or resolution with it."

Mr. CASS. Mr. President, it is a singular commentary upon the charge of the predisposition of a majority in this body to exercise tyranny over a minority, that this measure has been introduced and principally advocated by gentlemen in the minority—gentlemen who have sat here for years and seen the operation and conduct of the Senate. I repeat, it is a very singular commentary upon that charge.

I have no respect myself—or very little, at any rate, and that little is growing less—for the metaphysics of parliamentary law. Sometimes I am inclined to believe we should get along better if we had no parliamentary law and scarcely any rules; but, at any rate, I have no belief in the obligations of any English parliamentary law here, any more than I have of the obligation of those whose official station there requires it, to wear wigs or robes, and that the masters who bring in a bill shall make three bows before they get to the Speaker's chair. I believe these matters are regulated here by both bodies of Congress, and regulated in their own way. Nor do I believe in another thing—that there is the slightest danger in this country of a majority, in either of these bodies, tyrannizing over a minority. I think that two gentlemen in the minority, who have spoken, have done but simple justice to the majority. There is no such predisposition. The public would put an end to it at once, if there were. We talk of public opinion. Why, it is not made here. There is no greater mistake that can be made of the American people, than to suppose that public opinion originates from discussions in these bodies, and is sent from here to the people. Why, how many thousands and tens of thousands, yea, hundreds of thousands, are there in our country, just as competent to sit here and administer the affairs of this Government as any member who occupies a seat in this body, or in the other House.

No, sir; public opinion comes to us, and, thank God, we have felt it a number of times since I have been here. It is not made by us, but it comes to us, and often influences great measures of public policy. I have not that belief in the miraculous power of discussion which many men have—I

speak now of Congressional discussion. I believe the power of this country depends on the intelligence of the people, and not on the discussions in these bodies. But I am aware not only of the right but of the importance of discussion.

Now, this proposition is what? Why, that when a bill has been before you, and has been discussed time after time, or, if you please, week after week, or, as we have sometimes seen, almost month after month, and a gentleman gets up and offers an amendment, which amendment is or is not appropriate, I do not care which, and it is debated, you may dispose of the amendment at once, and thus get rid of weeks of discussion upon it. Now, in the name of common sense, putting all metaphysics out of the way, why should not a majority have just as much power to put an end to the amendment as to put an end to the principal subject? That is what I cannot make out, for the soul of me. You give a majority a right to put their hands on the original proposition, and lay it on the table, and yet you cannot touch an accessory part of it that is introduced and may be equally discussed, without touching the whole. I say it is perfectly unreasonable. The power may be abused undoubtedly. All parliamentary power, all other power, may be abused. All you can do is to check it in a proper way. The right of putting your hands upon a bill may be abused. The right of discussion may be abused, and we have seen it abused by that clock. It is absolutely essential—it has been so found in this and in the other body, and in all legislative bodies—that a power should exist with the majority by which at times they shall force to a determination important public measures.

Now, I repeat, you may abuse the power to put a bill upon the table; you may abuse the power to put an amendment to a bill upon the table. Gentlemen seem to suppose that the moment an amendment is started it is to be put upon the table. You may do so, but there is not the slightest probability in the world of that abuse of power. The amendment will be discussed as the original bill is discussed, until a majority get tired of it—until they see that it is only a cloak for continuing discussion unnecessarily, and then they put their hands upon it precisely as they would put their hands upon the original bill, and lay it upon the table. Under this view of it, I can see no possible objection to the measure, unless there is objection to all power of this description; and if there is, why then there is an end to all legislative proceedings. I shall support the resolution.

Mr. PEARCE. Mr. President, I cannot agree with the Senator from Michigan. I know that the practice of this body has been exceedingly liberal and courteous. I do not know that I recollect any instance of oppression by a majority here, but I do recollect, and have felt, the oppressions of a majority elsewhere. I have seen freedom of debate trampled on. I have seen that deliberation which was absolutely necessary to an understanding of the question, put an end to by the power which the rules of the House of Representatives have conferred upon a majority. And though I do not think it very likely that, in the course of a short space of time, we shall witness in this House any violation of the rights of the minority, I do think that the time may come—I know that it may come, and I believe that it will come—when, if you furnish the majority with the instrument of oppression, which I think the proposed alteration of the rule will afford, they will use it. It is only by allowing the free offering of amendments, and their free and full discussion, that the rights of the minority can be sustained. This right of offering and discussing amendments may be abused, I know, but this abuse is, at all events, a very trifling inconvenience compared with the much more serious inconvenience that may arise from denying that freedom. You cannot deny that privilege without impairing the freedom of discussion, and limiting the opportunities of deliberation. We know very well, sir, that oftentimes a majority would be unwilling to give a direct negative vote upon a question, but would be perfectly ready to put it aside indirectly, by supporting a motion to lay it upon the table.

Besides this, the responsibility of public men cannot be so well enforced, if you pass such a rule as this which is now recommended. But I will

not consume the time of the Senate. It has already been occupied long enough upon this subject. I wish, however, before I vote on this proposition—which I shall certainly vote against—to put on record, in a more positive form, my decided objection to it; for I do believe, that if it be not now an instrument of tyranny, the time will inevitably come when it will be so. It may be so used—and it will be, if you depart from that general parliamentary law which seems to have been most wisely and systematically devised, and is far more convenient in practice than any set of rules which temporary exigencies may suggest.

The question being taken by yeas and nays, on the resolution proposing to amend the rules, resulted—yeas 21, nays 21; as follows:

YEAS—Messrs. Adams, Badger, Bradbury, Brodhead, Cass, Clarke, Dawson, De Saussure, Dodge of Wisconsin, Felch, Fish, Houston, James, Jones of Iowa, Mallory, Miller, Smith, Toucey, Underwood, Upham, and Wade—21.

NAYS—Messrs. Atchison, Bell, Borland, Brooke, Charlton, Clemens, Cooper, Davis, Dodge of Iowa, Downs, Foot, Hale, King, Mason, Morton, Norris, Pearce, Pratt, Sebastian, Sumner, and Walker—21.

So it was rejected.

#### COMPENDIUM OF THE PUBLIC DOCUMENTS.

On the motion of Mr. BRADBURY, the Senate proceeded, as in Committee of the Whole, to the consideration of the joint resolution providing for a compendium of the annual public documents. It requests the President, at the commencement of each future session of Congress, or as soon thereafter as may be practicable, to cause to be prepared a compendium of the public documents accompanying the President's message, and the reports of the Secretary of the Treasury on the finances, and on commerce and navigation, and of such other reports of any of the Secretaries as may be of general interest, embracing only the more important portions, for the purpose of being printed in a single volume, as a substitute for the extra numbers of these documents heretofore published.

Mr. BRADBURY. Mr. President, it will be necessary that I occupy but a very few moments in giving a brief explanation of the objects of this resolution. It is designed to obtain, in a compact form, the valuable portions of the annual public documents submitted with the President's message, omitting the unimportant matter. It is not designed to supersede the printing of the documents *in extenso*, so far as they may be necessary for the use of members of Congress, or of public libraries; but that this compendium shall take the place of the *extra numbers* which we ordinarily publish of these documents. I have examined the President's message and accompanying documents, laid before Congress at the present session, and I will refer to them to show the necessity of such a compendium as I propose.

The message and documents comprise three volumes, embracing, generally, reports from the heads of Departments and from the chiefs of bureaus. Two volumes have been already received. These two volumes comprise 1,019 pages, and I am informed that the remaining volume will contain 750 pages. The report of the Secretary of the Treasury on Commerce and Navigation occupies 395 pages, and his report on the Finances 88 pages more. Thus we have five volumes spreading over a space of 2,252 pages coming into Congress at the commencement of the session. This does not include the report of the Commissioner of Patents, which occupies two volumes, and covers 1,150 pages more, as the resolution does not touch that report; but I take this occasion to say that it ought to be compressed into a much smaller space, and could be done at very great advantage. The various reports that are made from time to time during the session are also excluded, and make no part of the volumes I have named. Of all the volumes over which the message and accompanying documents are spread out, we are in the habit of publishing a large edition of *extra numbers*. I will refer to some of these volumes for a single moment, and ask the Senate to examine their contents. I look into the two volumes already published, and I find that accompanying the President's message are numerous papers from the Department of State, many of which are of no interest to the general reader, and also voluminous documents accompanying the report of the Secretary of War, respecting military and Indian affairs in Texas, New Mexico, Cali-

fornia, Oregon, and Florida, and extended details in the reports of chiefs of the military bureaus, to some of which I beg leave to refer, as specimens by way of illustration. There are tables respecting

"The organization of the Army;"

"The general returns of the Army;"

"The position and distribution of troops," in various departments;

"Statements of supplies forwarded;"

"Detailed statements of the number of hired teamsters furnished to detachments of troops, and the means of transportation," &c.

"Abstract of building materials used" at various military posts; and

"Tables of observations, showing changes in the bottom at the site of the screw-pile light-house on Brandywine Shoals, in the Delaware bay."

In volume II. there is a long

"List of contracts under the cognizance of the Bureau of Construction, Equipment, and Repairs," occupying forty pages.

There is a

"List of offers to furnish naval supplies," occupying some twenty pages.

"Offers for supplies to the dry-dock, New York;"

"Offers for the annual supplies for the Norfolk navy-yard;" and a

"List of contracts under the cognizance of the Bureau of Yards and Docks," occupying one hundred and thirty pages.

Let us look at the character of some of these. In this schedule of contracts, comprising one hundred and thirty pages, we have the names of contractors, and particular articles contracted for in detail, like the following:

William A. Bickford:

14	pieces of white pine,	18 feet long.
14	" "	18 " "
2	" "	15 " "
2	" "	15 " "
130	" "	8 " "

And so on for page after page in minute detail.

We publish ten thousand copies of these documents, and send them abroad over the country, for the use of the general reader, containing details thus minute and unimportant, and of no conceivable utility to any but a small number of persons.

Every one is aware that the matter ordinarily wanted for general use might be comprised in a single volume of moderate size, and such a volume would be worth more to almost every person than the whole five now are. Another inconvenience would be obviated by the compendium. The number of volumes now accumulate so fast that it is inconvenient to preserve them, for in the course of a few years, they make of themselves a large library. I would like to inquire of honorable Senators if they have not already experienced great inconvenience arising from this source, as well as from the fact that the important information contained in these documents, is spread over so wide a surface, and is only to be found, after wading through so many pages of unimportant detail.

On the score of value and convenience, the abstract would be worth more to members of Congress even than the documents *in extenso*, though it is proposed that they shall have both. Another purpose would be effected by the preparation of this compendium. It would secure a great saving of expense, and is therefore recommended by every principle of economy as well as convenience. We publish a large issue of *extra numbers*—the present year ten thousand copies, after providing those necessary for our own use. Now ten thousand copies of the five volumes are equivalent to fifty thousand volumes of the single compendium. Ten thousand volumes of the compendium would save nearly four fifths of the expense; and if we doubled that number, we should double the amount of valuable information now furnished by the distribution of the documents, and save at least one half the expense. Again, and it is matter of very frequent complaint amongst our constituents, that few obtain, or are able to obtain, a perfect set of the public documents. The compendium would furnish to individuals generally a document of service to them, answering all the purposes of the full set. It would ordinarily furnish them every fact important for them to know. It is believed that it will not be found difficult for the President to cause the Secretaries, when they prepare their annual reports, to prepare also an abstract

or compendium of the valuable portions of them, so that it may be submitted with the documents at large. It may be said that we have no guarantee that the compendium will contain such matter as may be needed, or such as we shall desire to publish. I apprehend no practical difficulty will be found on that score, for when the documents are sent on, if anything should be omitted which we should desire to have inserted, it will be easy to cause the deficiency to be supplied. When the compendium is submitted, it will be in the power of either House of Congress to regulate the whole matter by publishing such number of it as they shall see fit, and such number also of the documents *in extenso*. My conviction is, that if we will try the experiment a great saving will be made, and a great convenience effected. I think that there can be no objection to it, and I hope that the resolution will receive favorable consideration.

Mr. HALE. Mr. President, the Senate have, I think with very great wisdom, refused one innovation upon our rules; and though my vote has uniformly been given in favor of cutting off the great expenditures for the printing of books, yet I must say that I feel constrained to go against this particular proposition; and I think that the reasons suggested by the honorable Senator from Maine, will convince every gentleman who will listen to the matter, that this is entirely wrong. He proposes to make a compendium of public documents. How large that compendium is to be he has not told us.

Mr. BRADBURY. It is to be a single volume.

Mr. HALE. A single volume. But the Senator may learn that volumes are of different sizes. There is "Jack the Giant Killer," a very small volume, which you can hold on one finger; and then there is "Fox's Book of Martyrs," which is still one volume, but it would require one stout boy to carry it. So that "a single volume" does not convey a very distinct idea to the mind. Suppose you appoint a committee, or trust it to one of the Secretaries, to make a compendium of the important and useful matters which are comprised in these public documents. There is a very large class of the community who think that the most important and most useful information which can be given to the country, is that very part which the honorable Senator has read to the Senate to show its uselessness, and that is the lists of contracts, and names of the contractors. He says these tables take up one hundred and thirty pages. Why, there are a great many of the most astute, eagle-eyed, and acute men in the country who do not read anything else in these documents. If there is a single subject which should be fully exposed to the country, it is that. If there is a subject where there has been abuse, fraud, cheating, favoritism, plundering of the Treasury, illegally putting the proceeds of the public Treasury into the pockets of favorites, it is in regard to this very matter of contracts and furnishing of supplies. If there is a single thing that ought to be exposed, and watched with scrutiny, and guarded with care, it is that very list of contracts and offers to furnish supplies, with the names of the contractors. Sir, the names tell more than whole volumes. Sometimes the names of contractors may be covered up. That should not be so; and if the politics of the contractors could also be given, I would be willing to have the documents made a little larger, to include that. That is one matter which the Senator wants abridged; and I venture to say, that whenever you get a committee to undertake to make an abridgment of these documents, they will abridge them in that very particular in which the great mass of the country will want information.

The honorable Senator objects to some of these observations that have been made about something—I do not know what—possibly the tides, possibly the heavens. Well, sir, there is a large class of men to whom these observations are the most interesting. Just according to the temper and disposition of the committee that is to make the compendium, the compendium will be made to suit their peculiar views and their peculiar tastes, and nobody else. The probability is, that our public documents, in this compendious form, will not be worth a straw.

Now, I think that if there is to be an amendment in regard to this matter, that amendment should go deeper than this, and that we should not print so many numbers of documents which are



not really interesting. But, of all the forms in which reform has suggested itself, I may be permitted to say—with all deference to the honorable Senator from Maine, who has given this subject a good deal of attention, and who is, I know, desirous of retrenching and reforming expenditures—that I do think—it may be my weakness, it is certainly not my obstinacy—that he has hit upon the worst form. This idea of a compendium, unless you can tell beforehand what it is to consist of, and how large a *per centum* of the documents it is to contain, is one that is liable to the greatest abuse, and will do the least to remedy the evil complained of; because it is impossible to satisfy the public mind in this way; it is various. The old saying has it, that there are “many men of many minds,” and what may be highly interesting to one will be looked upon with calm indifference by another; and it will be impossible to make a compendium which will meet the public expectation. For these reasons I am opposed to it.

Mr. BRADBURY. Mr. President, the honorable Senator from New Hampshire finds an objection to this resolution which I think arises from not understanding precisely what the resolution contemplates. The Senator argues as if it were proposed to do away with the printing of the documents *in extenso*. The object of the resolution is, that the compendium may take the place, so far as may be necessary, of the *extra numbers* which are ordinarily published, and not to do away the printing of the documents at length for the use of Congress. I expected the opposition of the Senator, for I believe I have seldom moved a proposition here which has not met with his opposition in some form. But I think that a little reflection will show the honorable Senator that there is no just foundation for the apprehensions he has expressed. The honorable Senator says that some individuals will be very anxious to know the names of contractors, &c., and therefore he thinks it is very important that we shall publish ten thousand copies of a book of which one hundred and thirty pages in one body are made up to a great extent of the most minute details—the little items and particulars, such as the length of a piece of board, or the number of joists that may have been furnished. I will read one or two specimens:

- “A dozen pieces of India rubber;”
- “Twelve dozen lead pencils;”
- “Two counting-house parallel rules;”
- “Four dozen linen tape,” &c.

Does the honorable Senator suppose that great information is to be furnished by sending abroad these minute details, and that there the public will look with very great interest to learn that a particular individual furnished “four pieces of red tape?” It is this abuse, perpetrated in printing volumes of this useless detail for distribution, that I wish to correct. It is a waste of the public money that we should avoid. All this minuteness is proper in a report to Congress; but out of place when it is sent to the general reader.

A sufficient number of the documents at large can be published for all the purposes to which the Senator alludes. If there is any such thing as correcting abuses by publishing these reports, the ordinary number will answer that purpose. But these documents are multiplying upon us every year. I have already alluded to the five volumes which have been submitted to Congress at this session, in addition to which we are to have two more in the report of the Commissioner of Patents, and there will be several others in the course of the session. We are all sensible of the great inconvenience arising from the fact that the valuable information in the public documents is scattered through so many volumes, and it is to furnish a book remedying this inconvenience that I urge the compendium to be made. I hope the honorable Senator from New Hampshire will withdraw his opposition.

Mr. HALE. In the various debates which take place in the Senate, it is the part of those who address us, if they see any difficulty which can be removed, to suggest the mode by which it can be done; but I think it is captious and unkind to suggest a difficulty which cannot be removed by anything short of infinite power. The Senator from Maine [Mr. BRADBURY] says, that my difficulty is, that I do not understand. Now, that cannot be helped; understanding is a matter that is given to us by other powers, and if we have not

got understanding enough to enable us to comprehend a subject, it is rather hard to twit us of it here.

But the Senator is mistaken on another point. He says that I have always opposed his propositions. I thought I had always agreed with him. I was with him on the subject of the French spoils. \*—I was with him in the call that he made on General Taylor's administration to know why so many removals from office were made; and I have stuck by that from that day to this; and I hope it will be taken up again at this session. It is very rare indeed that I have differed with the Senator from Maine, and when I have, I have done it with great pain and great diffidence. But I had the misfortune to differ with him the other day, and he told me then that the same difficulty existed—that I did not understand the matter; but afterwards he deserted his understanding and came over to my misunderstanding. I think such an act as that should make him a little cautious, and teach him that understanding is not always to the wise, but that it is sometimes found with the simple.

With regard to this compendium, I think it is liable to another objection, and a very alarming one, and that is this: it is throwing a tremendous power into the hands of the President. The President is the administrator of patronage to the amount of \$50,000,000, as the Senator from North Carolina [Mr. BADGER] said the other day; and besides that, I think it will be conceded that the two platforms which have been adopted, make him head constable to catch runaway niggers, and that is about the whole of it. [Laughter.] His doings within the year are to be put in the public documents, and the Senator from Maine [Mr. BRADBURY] has argued that it makes a very large book. The President, in looking it over, may find some descriptions which he thinks ought not to go out to the country—possibly something connected with the administration of the fugitive slave law—and he tells the maker of the compendium it is useless to put that in, and to leave it out. Or there may be some matters which it is not convenient to let the country understand, and he will say to the committee, “I think it is entirely useless,” like the fox when he smelt the lion's breath, he will have a bad cold, and wont smell anything there, and omit it altogether. This compendium is one that would omit the most important matter, and that which would be most read. Then the power of saying what shall be put in it will be a very great power, which shall tell the people what they shall know about what has been going on. I think the Senator is mistaken when he attributes a want of importance to the views which I suggest. The observations which I made I think are true, that contracts with regard to supplies, and offers for furnishing them, are important, as they are the great means by which corrupt appliances are brought to bear, and by which favoritism rewards its favorites. I think the Senator from Maryland [Mr. PEARCE] could not illustrate the policy of the past Administration without bringing into the discussion, and prominently before the country, the doings of the Administration in regard to the supplies furnished in the matter of cheese. The quantity of cheese furnished formed no inconsiderable part of the discussion, and constituted no small portion of the supplemental speech of the Senator from Maryland afterwards.

Now, it is in no captious spirit, and with no desire to differ with the Senator from Maine, that I have opposed this resolution; and I do not know by what unfortunate accident I may have given rise to any such suspicion in his mind. I can assure him, with the most entire sincerity, there is nothing in it. It is from no desire of putting myself against that Senator, or of setting myself up against him, that I have taken the course which I have. I know my own powers too well. If I am not deeply versed in self-knowledge, if I had merely read its primer, I should know what an act of temerity and danger it would be to put myself in such a position in relation to him as the Senator has assumed. Sir, I might say, if it would be proper to indulge in a classical allusion, in such a case, *non nostrum*—it does not belong to me; I will not finish the quotation. I think this proposition to amend, if it can be called an amendment, is a dangerous one—that it is unsafe. If it have any practical effect, it will be a bad

effect; it will throw power into the hands of the Administration, by which their acts may be covered up and concealed. For that reason I am opposed to it. If the documents are worth publishing at all, let us have that portion which is most valuable published; and do not let us give this dangerous power of making a compendium to any Administration. Let us take the whole or none, and let the people read whatever they please, and see what is its object.

Mr. BRADBURY. The objection which the Senator from New Hampshire [Mr. HALE] now urges, that the preparation of the compendium will throw power into the hands of the President, is, I think, sufficiently answered by the fact that the President is only called upon to prepare the compendium, and submit it, with the documents at large. Congress will then have the power of examining that compendium through its committees, and of publishing, or of omitting to publish, as it may see fit. If the compendium shall be what we have reason to expect it will be, then it will be published. If it should contain a one-sided statement; if facts are omitted which should be incorporated, Congress can then make such corrections as may seem to be necessary. The power of correction will be at hand; and I apprehend that the only mode by which we can obtain a selection of the important portions of the documents, is that which I have suggested. There would be a difficulty in preparing a compendium through a committee of Congress; there would be a want of time; while a committee could, very readily, by examining that which had been prepared, ascertain its character, and remedy defects, if any were found to exist.

The honorable Senator seems to fear that the preparation of this compendium might lead to a concealment of the acts of an Administration, and we should be unprovided with the means of ascertaining what contracts had been made, and what frauds, if any, had been perpetrated. Allow me to remind him that we should have the means of judging, as we should have the documents *in extenso*, and all we propose is to provide a substitute for the extra numbers, and a convenient book of reference, for the purpose of obtaining information constantly wanted.

I was very far from intending to say anything unkind of the honorable Senator from New Hampshire, [Mr. HALE,] in the remarks which I made. I know that he comprehends a subject very readily, and hence, enters into the discussion without any great deliberation; and I supposed that he had not noticed the fact that it was proposed to publish the documents at large as well as the compendium. I think that, on reflection, there will be but one opinion on this subject, and that the proposition will be looked on as designed to effect a desirable and important improvement.

Mr. BORLAND. I have thought a good deal of the inconvenience which the honorable Senator from Maine has suggested in offering this measure, and I think he is right in the desire which he manifests for the correction of these evils. I think they ought to be corrected; but with great respect for his opinion upon the subject, and the attention which I know he has given to it, I think he has not presented just such a measure as is necessary and proper to correct this evil. Though not now a member of the Committee on Printing, I served long enough on that committee to know something of the difficulties which that Senator suggests. I have found, upon a service of three years as chairman of that committee, that it is nearly impossible, if not absolutely so, to have the public printing, especially the printing of the public documents which come from the Executive, executed within a time when they will be of any use to either House of Congress, under the present system. Sir, there is not a Senator upon this floor that I know of, who has yet received the President's message, or any of the documents from the Departments, and yet the session of Congress is drawing to a close, and we have had nothing from the Departments on which to base our legislation. Seven months of the session are gone, and yet, if any member has received a copy of any of these documents, he has been more fortunate than I have. This is an evil that ought to be corrected—that is, if it is desirable to have these documents as the basis of our legislation. We cannot know what has been the action of the Government; we cannot have the facts which have been developed in the

annual administration of the Government before us in such a way as to legislate understandingly upon all these measures. Who can tell now what is the condition of the Government, or what legislation is necessary to carry on the Government? We do not know what amount of money has been collected as revenue, or the source from which it has been collected, or the proportion in which the different sources have paid it in; nor do we know how much it has cost to administer the Government. I have sought to ascertain this with a good deal of care, and the documents are not to be had. They have been furnished to us, it is true, but they are in the hands of the printer in manuscript, and three fourths of the session have now passed, and it is impossible to derive anything like accurate knowledge of it. The course which has been adopted by some of the States to remedy evils of this sort has been, to some extent, similar to the one suggested by the Senator from Maine, namely, to require the Executive to have these documents printed and laid upon our tables at the beginning of the session. I do not see any other way in which the evils I have been speaking of can be remedied. It will not do to wait till the beginning of the session to have this large mass of documents brought here, and then to have to wait till the end of the session before they can be brought before us in a printed form, so that we can all become acquainted with their contents. If we desire to have these documents at all, we must have them in a tangible shape at the beginning of the session, which can only be done by the Executive having them printed and brought to us. The Senator from Maine proposes that this should be done, yet not fully; for he proposes that the President, instead of sending these whole documents to us, should make an abstract—

Mr. BRADBURY. The abstract is not proposed with the view of taking the place of the whole. The President will send the whole document; but in the mean time he will make an abstract—

Mr. BORLAND. I understand.

Mr. BRADBURY. I shall make it a distinct proposition that all these documents be printed and laid upon our tables when Congress comes together.

Mr. BORLAND. I did not understand the Senator from Maine [Mr. BRADBURY] to mean that the President should not send in all the documents; but I understood his proposition to be, that he should make this abstract, and have it printed, but that the documents, *in extenso*, should be sent to us in manuscript, as they are sent now, and that we should wait until they can be printed by the public printer before we can have them in that form. Now, simply, if we are required to take an abstract which the President and the Departments may send us as the basis of our legislation there is no necessity for having anything more. The mere abstract, the mere figures, will not be sufficient for that purpose; we require an explanation, and that explanation can only be given by the reports of the heads of Departments, together with such explanations as the President himself may make. If the information furnished by the heads of Departments is to be of any service at all, as the basis of legislation, it must come *in extenso*, in the manner in which heads of Departments feel it their duty to present to Congress a fair understanding of the subject. If, afterwards, they should see fit to go to the expense of printing those five large volumes of which the Senator from Maine has spoken, or, if we should deem it proper and expedient to reduce the size of that work to one small volume, certainly the proper manner to do it will be to refer each particular subject to the appropriate committee, and let that committee decide on what is important and valuable for preservation, or distribution among the people. To act understandingly on the subjects communicated to us we must have the figures before us, the explanation of the figures, together with the views of the Government, and the reasons which have controlled it in pursuing a certain course, and what they consider sufficient, or otherwise. We require this to enable us to arrive at a proper understanding of the subject, and control our own action in regard to it.

I do not propose to offer any amendment to the proposition now before the Senate; but I would suggest to the Senator from Maine to allow it to lie over, or to go to some committee, or to take

some other step by which it can be modified, so that Senators may have an opportunity to express their views in regard to it, and thus remedy the evil complained of. I know no committee to which it can be more appropriately referred than the Committee on Printing, and therefore move that it be so referred.

Mr. MANGUM. I hope that this resolution will not pass the Senate. It would be an innovation which has never taken place at all, or anything approaching to it, in the history of the Government. Sir, you might as well call upon the President to give a compendium of his Executive message, as to give a compendious account of the accompanying documents. Whether for the truth of history, or the enlightening of members called upon to legislate, it is indispensable that we should have the whole amount of information thus conveyed. If you confer upon the President the power of giving us a mere compendious account of the proceedings of the year, it may be a one-sided affair; it may be drawn up to suit any purpose, anything, or anything else than to convey the truth, the whole truth, and nothing but the truth. I hope this innovation will not be adopted. It is true, sir, that I have seen annual messages that have come here, that might have been referred to a committee, and abbreviated without much loss of matter; yet, it is to be presumed that the Executive officers send nothing accompanying the President's message but what, in their opinion, is necessary to give such information as will enable us to legislate. And, sir, with the view of testing the opinion of the Senate on this question, I move to lay the resolution on the table, and on that motion I ask for the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 14, nays 21; as follows:

YEAS—Messrs. Badger, Bell, Brooke, Clarke, Davis, Dawson, Felch, Foot, Hale, Mangum, Miller, Morton, Norris, and Wade—14.

NAYS—Messrs. Adams, Atchison, Borland, Bradbury, Brodhead, Cass, Charlton, Clemens, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Houston, Jones of Iowa, Mallory, Pratt, Sebastian, Smith, Sumner, Toucey, Upham, and Walker—21.

Mr. BORLAND. I now renew my motion to refer the resolution to the Committee on Printing.

Mr. BRADBURY. I hope that motion may prevail.

The motion was agreed to.

#### DONATIONS OF LANDS IN ARKANSAS.

Mr. SEBASTIAN. I move that the Senate take up for consideration the bill to revive for a limited time an act in relation to donations of land to certain persons in the State of Arkansas.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole.

It provides that all claims to donations of land in the State of Arkansas, which have been adjudicated and allowed by the register and receiver of the proper land district, in virtue of the provisions of the eighth section of the act of Congress approved on the 24th of May, 1823, entitled "An act to aid the State of Ohio in extending the Miami canal from Dayton to Lake Erie, and to grant a quantity of land to said State, to aid in the construction of canals authorized by law, and for making donations of land to certain persons in 'Arkansas Territory,' and which have not been located and patent certificates issued therefor, or which, having been so located, were compelled to yield to other and prior rights, either in whole or in part, and not subsequently relocated within the period fixed by law, may be entered with the register of any one of the land offices in the State of Arkansas at any time within two years from the passage of this act, in the same manner and under the same restrictions and conditions as existed prior to the 24th day of May, 1838, and as continued in the act revived hereby: provided, that no such claim shall be so located against which fraud has been or may be alleged, until all objection thereto shall have been removed to the satisfaction of the Commissioner of the General Land Office.

There being no amendment offered, the bill was reported to the Senate, and ordered to be engrossed for a third reading.

And then, on motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, June 24, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The SPEAKER. The first business in order is the consideration of House bill No. 280, making grants of land to the several States for educational and railroad purposes.

ALEXANDER P. FIELD.

Mr. HARRIS, of Tennessee. Before proceeding to the execution of the business of the morning hour, I ask the unanimous consent of the House to allow the Committee on the Judiciary to report a joint resolution from the Senate. I will state to the House that the passage of this resolution is a matter of great importance to a very worthy man, and unless passed now, it will be of no avail to him.

Mr. CLINGMAN. I object, if it is to come out of the morning hour.

The SPEAKER. The gentleman proposes to consider it before the House proceeds to the execution of the morning hour.

Mr. CLINGMAN. Let it be read for information.

It was read, as follows:

Resolved, &c., That the proper accounting officers of the Treasury Department be authorized and directed to settle the accounts of Alexander P. Field, late Secretary of Wisconsin Territory, upon principles of justice and equity.

Mr. HARRIS. There is an amendment from the Judiciary Committee which I now ask to have read.

Mr. CLINGMAN. I am fearful it will consume too much time. I object to its reception.

Mr. HARRIS. I appeal to the gentleman to allow the amendment to be read. It will not take two minutes to pass the resolution, and it is very important that it should be passed now, if at all.

Mr. CLINGMAN. I will withdraw my objection.

The amendment, which specified the items to be allowed, was then read.

Mr. DANIEL. I object.

Mr. HARRIS. If the gentleman, and the House, will allow me, I will state the fact, that a suit is pending against the sureties of this secretary. The court comes on early in the next month. It is very clear that the party is entitled to the credits provided for in this resolution. I hope gentlemen will withdraw all objection, and allow the resolution to pass.

Mr. DANIEL. I do not withdraw my objection.

Mr. CLINGMAN. I call for the regular order of business.

Mr. LOCKHART, by unanimous consent, presented resolutions of the Legislature of the State of Indiana, in relation to declaring the bridge over the Ohio river at Wheeling, Virginia, a post route; which were laid on the table and ordered to be printed.

Mr. FOWLER, by unanimous consent, presented resolutions of the Legislature of the State of Massachusetts, concerning the Massachusetts militia claim; which were referred to the Committee on Military Affairs, and ordered to be printed.

Also, resolutions of the Legislature of the State of Massachusetts, in relation to National Intervention; which were laid on the table and ordered to be printed.

#### ARSON IN THE DISTRICT OF COLUMBIA.

Mr. McLANAHAN. I am certain the House will give its unanimous consent to receive and pass the bill which I now ask leave to report from the Committee on the Judiciary. It is to prevent the crime of arson and for its punishment in the District of Columbia. It came from the Senate, with an amendment, and the amendment is a very proper one. It has been examined by the District Attorney of this District, and by the Committee on the Judiciary in the Senate, as well as that of the House. I ask the House, in view of the devastations which nightly occur in this city, in consequence of incendiaries, to take this bill up and pass it.

[Cries of "Agreed!"]

A MEMBER. Do not take it out of the morning hour.

Mr. McLANAHAN. I move to take up and dispose of this bill before we proceed to the execution of the special order for the morning hour. There was no objection.

The bill was accordingly received, read through as proposed to be amended, and the amendments were concurred in by the House.

#### GRANTS FOR RAILROADS.

The House then proceeded to the execution of the special order.

The SPEAKER. On yesterday the gentleman from New York [Mr. BENNETT] moved to recommit House bill No. 280, making grants to the several States for railroads, &c., to the Committee on Public Lands, and upon that motion demanded the previous question.

Mr. GORMAN. I move a call of the House, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BENNETT. If it is in order, I propose to withdraw the call for the previous question and the motion to recommit, and ask the previous question on the passage of the bill.

The SPEAKER. There is a privileged motion pending, that there be a call of the House; and until that is disposed of, the gentleman's proposition will not be in order.

The question was then taken upon ordering a call of the House, and the result was—yeas 55, nays 124.

So the House refused a call.

Mr. GORMAN. I understand the gentleman from New York [Mr. BENNETT] proposed to withdraw his demand for the previous question.

The SPEAKER. The gentleman did propose to do so, but it was not then in order, and neither the call for the previous question nor the motion to recommit were withdrawn.

Mr. GORMAN. Well, I ask the gentleman from New York to withdraw the demand for the previous question upon the motion to refer this bill to the committee from whence it came.

Mr. BENNETT. I decline to withdraw the demand.

Mr. GORMAN. I insist that the gentleman withdraw the demand for the previous question, and permit some one from the West to be heard upon so important a bill as this—proposing, as it does, to give away sixty million acres of the public lands.

[Cries of "Order!" "Order!"]

Mr. STEPHENS, of Georgia. Others will desire to be heard from other sections of the Union, too.

Mr. GORMAN. I should be happy to hear the gentleman from Georgia.

The SPEAKER. Discussion is out of order.

Mr. GORMAN. Again, I ask that some one from the Western States shall be heard upon this bill, before it is put upon its passage.

[Loud cries of "Order!"]

The previous question then received a second. The question recurring, Shall the main question be now put?

Mr. GORMAN demanded the yeas and nays; which were ordered.

Mr. STUART. I wish to inquire of the Chair whether, if the House refuse to order the main question, it will not then be in order to move to recommit this bill?

The SPEAKER. That will be the pending question when the main question shall have been ordered.

Mr. STUART. But if the gentleman from New York withdraws the motion, will it not then be in order for any gentleman to move to recommit it?

The SPEAKER. It will be in order for any gentleman to do so, if he can get the floor for that purpose. That motion, however, as the Chair remarked, is already pending.

Mr. BOCKOCK. I wish to inquire whether, if the main question is ordered to be put, it will bring the House to a direct vote upon the passage of the bill?

The SPEAKER. It will bring the House to a vote first upon the motion to recommit the bill, and if that fail, then upon its passage.

The question was then taken upon ordering the main question to be put, and the result was—yeas 103, nays 79; as follows:

YEAS—Messrs. Charles Allen, Allison, William Appleton, Babcock, David J. Bailey, Barrere, Beale, Bell, Bennett, Bowie, Bowne, Brenton, Briggs, Brooks, George H. Brown, Burrows, Burt, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Cleveland, Clingman, Cobb, Cottman, Curtis, George T. Davis, Dim-

ick, Dockery, Doty, Duncan, Evans, Ewing, Fowler, Henry M. Fuller, Gilmore, Goodnow, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, James Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Martin, Meacham, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Perkins, Porter, Riddle, Robie, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Smart, Snow, Stanley, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, and Williams—103.

NAYS—Messrs. Aiken, Willis Allen, Averett, Bissell, Boccock, Bragg, Breckinridge, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Caskie, Chastain, Churchill, Colcock, Daniel, John G. Davis, Dawson, Disney, Durkee, Eastman, Edgerton, Edmundson, Faulkner, Ficklin, Fitch, Florence, Floyd, Freeman, Gorman, Green, Hamilton, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Hibbard, Hillyer, Holladay, Houston, Howard, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, Preston King, Letcher, Lockhart, Edward C. Marshall, Mason, McCorkle, McLanahan, McNair, McQueen, Millson, Molony, Murphy, Nabers, Olds, Orr, Phelps, Richardson, Robbins, Robinson, Ross, Scurry, Smith, St. Martin, Stuart, Sutherland, Sweetser, George W. Thompson, Townshend, Wallace, Wilcox, Woodward, and Yates—79.

So the main question was ordered to be put.

The SPEAKER. The first question now is upon the motion made by the gentleman from New York [Mr. BENNETT] to recommit the bill to the Committee on Public Lands.

Mr. STUART. On that motion I ask the yeas and nays.

The yeas and nays were ordered.

Mr. STEPHENS, of Georgia. As it seems to be the desire of the opponents of this bill to consume the time of the morning hour without coming to a vote upon this bill, I move that the House do now adjourn, and upon that question I call for the yeas and nays.

Mr. JONES, of Tennessee. Does the gentleman want the House to adjourn?

Mr. STEPHENS. I do not; but I want the bill to be kept in a condition for action thereon.

The yeas and nays were ordered.

The question was then taken on the motion to adjourn, and it was decided in the negative—yeas 8, nays 170.

So the House refused to adjourn.

Mr. COBB. Has the morning hour expired?

The SPEAKER. It has.

Mr. COBB. Then I move to proceed to the consideration of business upon the Speaker's table.

Mr. ASHE. Did the Chair state that the morning hour had expired?

The SPEAKER. It has expired, and the gentleman from Alabama [Mr. COBB] moves to proceed to the consideration of the business upon the Speaker's table.

#### CONTESTED ELECTION FROM PENNSYLVANIA—WRIGHT VS. FULLER.

Mr. ASHE. I move that the House proceed to the consideration of the contested-election case from Pennsylvania.

The SPEAKER. The regular order of the day, in the opinion of the Chair, is the consideration of that election case.

Mr. COBB. I give way.

Mr. STEPHENS, of Georgia. I move to postpone the regular order of the day until tomorrow.

The SPEAKER. Does the Chair understand that the gentleman from North Carolina [Mr. ASHE] took the floor upon his proposition?

Mr. ASHE. I did.

The SPEAKER. Then the gentleman from Georgia [Mr. STEPHENS] could not take the floor from him to make a motion.

Mr. STEPHENS. I did not know that the gentleman [Mr. ASHE] claimed the floor, as he barely moved to take up the order of the day.

The SPEAKER. The gentleman states that he did.

Mr. STEPHENS. If so, then of course I could not take the floor from him.

The SPEAKER. The gentleman from North Carolina [Mr. ASHE] will suspend his remarks for a moment, until the resolution offered by the Committee on Elections can be read.

The resolution was then read, as follows:

Resolved, That the election at the Danville precinct, county of Montour, eleventh Congressional district, in the State of Pennsylvania, was illegally and irregularly conducted, and the seat of the member from that district is

vacant; and that the Speaker inform the Governor of that State of the decision of this House, that a new election may be ordered.

Mr. ASHE. Mr. Speaker, after several ineffectual attempts to obtain the attention of the House, for the consideration of this case, as I have succeeded now in doing so, I will promise the House to be as brief as possible in my statement of it.

I believe I may say, with perfect confidence, that I never undertook the examination of a case more determined in my own mind to be free from prejudice or improper bias, one way or the other, than I did in this case. And if, unfortunately, instead of being a unanimous report, there should have been two reports to the House, it does not indicate that these feelings did not govern, not only the chairman, but the other members of the committee, but it only shows the great facility with which men can view things in several different aspects.

The official returns made by the proper returning officer of the State of Pennsylvania, in accordance with their law upon the subject of elections, show six thousand two hundred and sixteen for Henry M. Fuller, and six thousand one hundred and fifty-seven votes for Hendrick B. Wright, thus giving the sitting member a majority of fifty-nine votes. The contestant, considering himself aggrieved by the mode and manner in which the election was conducted, did, according to the provisions of a law passed September, 1851, serve a notice on the sitting member [Mr. FULLER] of his intention to contest his seat.

In accordance with the notice served upon him, both parties proceeded to the examination of witnesses, and to the examination of evidence brought forward upon each side, touching the merits of the case.

The sitting member [Mr. FULLER] raised a preliminary objection before the committee, that the notice of the contestant was not sufficient to put him upon a defense of his rights, inasmuch as it was not in compliance with the letter of the law, passed by the previous Congress, regulating the manner of taking testimony in election cases. The majority of the committee overruled this objection. Their reasons I will state in a very few words.

The object of the law was, to give the sitting member a knowledge of the grounds upon which the contestant relied in the contest. The letter of the law, indeed, requires the contestant to give such notice, and the only point is, to determine whether the notice is sufficient to give that information. Now, my friend from the minority side of the committee says, very justly, that it is the duty of the party contestant to set forth the facts so plainly and particularly, as would, if proved, render it the duty of Congress either to vacate the election, or declare another person duly elected to office.

For the House to determine upon the merits of this preliminary objection, raised by the contestant, they should—adopting the information contained in the minority report, and sanctioned by the majority report—find out whether, in this notice, there is such a specification of facts as to justify this House in either setting aside the election and ordering a new one, or in awarding the seat to the contestant, to the exclusion of the sitting member. The majority of the committee, in order to put the House in full possession of this case, had the notice transcribed in full, and I will read certain specifications, and leave it to the House to determine whether they be not sufficient, if substantiated by proof, to require that the House adopt one or the other of the alternatives presented—either to vacate the seat, or to admit the contestant.

The notice was served in proper time. That is not disputed.

The first allegation is:

"That the election at the Danville borough poll, and the Mahoning poll, within the present county of Montour, and both within the said Congressional district, were irregularly and illegally conducted.

"First. In the reception of votes, by the officers of both election boards, from persons who were not, at the time, qualified electors within the meaning of the statutes of Pennsylvania—the said persons being, at the time, either under the age of twenty-one years, non-residents, foreigners not naturalized, or persons not regularly assessed or returned; neither of which classes of persons are, by the laws of Pennsylvania, entitled to the elective franchise, so as to be legally qualified to vote for a candidate for the office of



member of the House of Representatives of the United States.

"Second. That the officers of the said Danville borough election board allowed and permitted persons to introduce and deposit ballots in the box for Representative aforesaid, who were not members nor officers of the said board."

Again:

"Fifth. That the ballots deposited in the box for Representative, as aforesaid, at the said Danville borough poll, do not correspond in number with the list of the names of voters, nor with the tally lists kept by the proper officers in conducting said election."

"Sixth. That at the said Danville borough poll, persons were permitted to vote for Representative aforesaid, whose names were not on the list of taxables furnished by the county commissioners, and that the reasons of such votes were not inserted by the inspectors of said election opposite the names of said voters in the said list, nor by the clerks of said election in the list of voters kept by them at such election."

"Seventh. That two of the officers of the said Danville borough poll were ineligible and not competent, according to law, to hold and conduct the said election."

And, finally, the contestant alleges and avers—

"That at the several polls above named and particularly specified, there were illegal votes enough polled and counted to have changed the result of the said election; and that if the said illegal votes had not been received and enumerated, the undersigned would have had a majority of all the votes cast in the said eleventh Congressional district for Representative as aforesaid; and that the several illegal acts committed by the said several election boards, together with the informalities of law thereto pertaining, are sufficient in law and fact to entitle the undersigned, contestant, to a seat in the thirty-second Congress, from the said eleventh Congressional district of Pennsylvania."

Now, Mr. Chairman, we have in this notice the direct charge made that the election was conducted in an illegal and irregular manner. We have another charge, that, in consequence of this illegal and irregular manner of conducting the elections, there were votes received not authorized by the laws of Pennsylvania regulating elections; and we have the general averment, that, in consequence of this illegal and irregular manner of receiving votes, a sufficient number of illegal votes were polled to change the result of the election.

If the proof should confirm and establish these specifications, it appears to me—though I may take a mistaken view of the case—that the House cannot, in justice to itself, and in support of the Pennsylvania election law, refuse to adopt the report of the committee.

Again, sir, as I intimated before, this law was intended to prevent any surprise being practiced upon the sitting member. In the minority report my friends do not complain of any surprise, or that the sitting member was taken unawares. On the contrary, he did appear at the different places, and through counsel, or in person, examine and cross-examine the different witnesses produced.

Then, if there was no surprise, and if he had a full opportunity to examine all the witnesses to destroy the force of these facts, of course it is with bad grace that he comes to this House and claims that the notice was not sufficient.

The objection is urged by the sitting member [Mr. FULLER] before the committee—and it is sanctioned by the minority report—that the notice did not contain the names of the illegal voters, and that it should have been particular in giving their names.

Now, if any gentleman will examine for a moment the system of elections by ballot, he will find that to be almost impossible; and if under some circumstances possible, I hesitate not to say that in this case it was impossible. From the evidence taken before the committee, and in fact from the argument of the contestant before the committee, which was confined entirely to the "Danville borough," a majority of the committee felt satisfied that a more specific compliance with the request of the sitting member was impossible. The law makes it the duty of the commissioner whom the contestant selects to take these depositions, to issue subpoenas. One hundred and eighty-six votes were polled at that borough, which the contestant alleges were illegal. He had subpoenas regularly served upon them. Almost to a man they refuse to appear. As elections are made by ballot in Pennsylvania, how could he find how they voted, if at all, unless by some examination before a United States commissioner? They refused to appear before the commissioner, in consequence of the great excitement pervading the community. Of the character of that community, on the present occasion, I will not speak. It would be useless.

Mr. BOCOCK. I desire to know how the con-

testant could come to the conclusion that a particular vote was illegal, unless he knew by whom that vote was given?

Mr. ASHE. He found there were so many votes on the poll list not on the assessors' list. By the laws of Pennsylvania, when a vote is polled, the name of the voter not appearing upon the assessors' list, the particular reason on account of which it is received is made a matter of record. The clerk of the election is required to enter the reason given, and there were recorded so many names as having voted, which did not appear upon the assessors' list.

Mr. BOCOCK. He might have stated those names which were not on the assessors' list.

Mr. ASHE. But there were reasons why a man should be entitled to vote whose names were not upon the assessors' list. The minority of the committee quote several precedents which they maintain show conclusively that it was necessary and proper the contestant should give the names of these voters. Now, sir, I do not look upon precedents of this House with regard to election cases as of great importance, yet I have examined the various precedents, cited by the minority, which, if I am not mistaken, I can demonstrate that so far from sustaining their allegation, they have directly an opposite tendency—that they show conclusively this House has seldom required the names of illegal voters to be given. The first they have cited is a Pennsylvania contested-election case—the case of Leland. That case never came to a final decision; but the decision, as obtained by me from Philadelphia, was merely an interlocutory one. The opinion of the court was, that the names of the illegal voters were not required to be given, but merely a statement of the fact, that they were illegal voters—why they were so, and their number. So, in that case it was decided the names could not and were not required to be given under the laws of Pennsylvania.

My friends, certainly, could not have examined the next case they cite as confirming their conclusion. In kindness, I must think they read only its caption. It is the case of Easton vs. John Scott, which identical case I had myself selected as showing the correctness of the position assumed by the majority—not merely overruling the preliminary objection of the sitting member, but also as authority in declaring the seat vacant. Since they have referred to the case, it should have binding effect upon the House. There is a striking and remarkable similarity between that and the present case, so far as the attending circumstances are concerned. My friends could not have perused the report accompanying that case, or they would have ascertained to their satisfaction that the House overruled the report of the committee which recommended a resolution that the contestant should give the sitting member particular notice, with the names of the illegal voters. They overruled the additional application on the part of the sitting member to retain his seat, and finally adopted a resolution declaring the seat vacant. As far as precedents showed, and bare influence in the House, the case referred to is directly against the minority, and support and maintain the position of the majority of the committee.

The case of Varnum is also cited. In that case the House did pass a resolution that the sitting member should be furnished with the names of the illegal voters; but that was not a case between a contesting and sitting member. A few electors made complaint of the illegality of the return of Mr. Varnum. The House required the particular specification quoted by my friends of the minority, but they also immediately afterwards dismissed the case finally, and exclusively upon the ground that it was a malicious prosecution.

The next case referred to is Little vs. Robbins, which was up for consideration two years ago. In this, I am inclined to think, my friends also are at a loss for proof of the correctness of their position. When I saw in their report that notice was given there by the Committee on Elections requiring the contestant in this case to give the names of the illegal voters, it struck me with surprise; for, though I served upon that committee, and about as attentively as I do to any other of my general duties, I had no recollection of any such notice having been given. I searched the records of the committee, kept by Judge Strong—a very particular man—but found no evidence of the resolution having been passed. I examined

the reports of the two committees as made to this House, but found none there. To strengthen my impression, I inquired of several gentlemen who had served upon that committee with me, and they replied that they had no recollection of such a resolution having passed. The returned member, [Mr. ROBBINS,] now in my eye, also informed me that the notice did not require such particularity as the statement of names. I went further, to do the fullest justice to the case. I consulted Judge Strong, of Pennsylvania, the chairman of that committee, and he stated that the committee passed no such resolution. Gentlemen have not examined carefully the authorities they have cited. I have now only done it because of their being referred to in the minority report, and because I consider them to have received but little attention at their hands. They did not give them sufficient examination. I will remark here that, under all of the circumstances of the case, it was impossible for the contestant to have given this notice in the particular manner contended for. As I have said before, the witnesses summoned by the United States officer did not attend. A vast majority put the process at contemptuous defiance, and he never could avail himself of the advantage of their testimony bearing upon this case.

Mr. FULLER. I find by reference to the report of the Committee on Elections of the Thirty-first Congress, on the case of Little vs. Robbins—I will state in reply to the suggestion of the gentleman, the following answer of Mr. Littell, the contestant, to a resolution passed by that committee: "In compliance with the requisition of the resolution of the Committee on Elections, adopted the 11th of January, 1850, I have the honor to submit the following statement and specifications," &c. And that statement and those specifications contained the list of voters to which objection was made. This was required of Mr. Littell upon that occasion, and this is the evidence of the fact.

Mr. ASHE. I am glad the gentleman has made reference to it. Owing to my careless manner of speaking, I forgot to allude to it. I had intended to do so. The only evidence before me was this memorandum of Mr. Littell, the contestant, in which he states that, "in compliance with the requisitions of the resolution of the Committee on Elections, adopted the 11th of January, 1850, I have the honor to submit the following statement and specifications." He makes his statement and submits the names of the illegal voters of one precinct. Now I do not consider that—

Mr. FULLER. It was contended, as I understood, by the gentleman from Pennsylvania, [Mr. ROBBINS,] who I do not now see in his seat, before that committee, when the case of Littell and Robbins first came before them, that the notice was not sufficiently full, that it did not put the party sufficiently upon his inquiry, and that, therefore, the committee by resolution required of Mr. Littell full and particular specifications. And in that full and particular specification required by the committee, he furnishes the list of voters to whom particular objections were made. Here is the list contained in the report, and I understood further from Mr. ROBBINS, who was the sitting member, that such was the object of that resolution. I understood so from him. Such at all events was the effect of the resolution and notice given by Mr. Littell. In answer to that resolution of the committee were given a list of the names.

Mr. ASHE. God knows that I do not wish to do the sitting member any injustice.

Mr. FULLER. I know that.

Mr. ASHE. In that case the contestant, in reply to the notice served upon him, makes a statement in compliance with the requisition of the resolution adopted on a certain day. It was the statement made by Mr. Littell, and contained in this report that put me upon inquiry, for it struck me with surprise, that the committee should have passed such a resolution without my recollecting it. From my examination of it and my knowledge of the individuals who composed the committee, and from a conversation I had with Mr. ROBBINS, I felt satisfied that Mr. Littell labored under a very great mistake, if he endeavored to produce the impression that such was the argument of the committee.

My friends of the minority on the committee were again unfortunate in attempting to justify, or

rather to exculpate, these individuals who thus attempt to put at defiance the laws of the United States regulating the mode and manner of taking testimony in election cases. They tell us that the commissioner himself acted very improperly, and that justice would be better consulted, for such is the impression made, by disregarding his process than obeying it. I think my friends of the minority did not examine the evidence they are quoting. They refer to the case where the judge or commissioner took the evidence of a man who was beastly drunk, and after taking it, refused to record it as given in.

Now, without being an advocate of the character of either of these commissioners—without saying that either of them acted as judges should have done, in expelling from their hearts all partisan feelings in this case—my friends of the minority have done great injustice to that individual commissioner who, I am informed by his neighbors, is a man of high character. In justice to them, I wish only to say, that the witness called upon by the sitting member to prove the above facts, is a Mr. Montgomery, whose character is unimpeached, and he states, that the commissioner did refuse to record the evidence of a drunken man, and why? Because his testimony was incoherent irrelevant, and nonsensical. But again, if my friends had read the authority from which they are quoting, they would have found that the contestant objected to his examination. The judge determined to rule out his examination and not put it upon record. One of the counsel for the sitting member insisted that the witness should be examined, and that his testimony should be taken.

Mr. FULLER. I know the gentleman takes great pleasure in being corrected, and, therefore, I avail myself of his courtesy. He will remember that this witness of whom this complaint is made, was drunk when he was called upon the stand; that the commissioner permitted him to be sworn while in this state of beastly intoxication; and that after his examination had progressed some time, and he was disgracing the whole proceeding, it was objected to, and not till then, on the part of the contestant, and a desire expressed that it might be suspended until the witness became sober. In addition to the evidence of Mr. Montgomery upon this point, is the evidence of Mr. Charles Cook, who swears that the commissioner did not take down the testimony as it was delivered, it being manifestly his intention to put a sober witness on the notes, when there was a drunken witness on the stand.

Mr. ASHE. Although this is an irrelevant point, but in order to put myself right, and show the character of the testimony introduced, I will read the whole of it, and the gentleman from Pennsylvania [Mr. FULLER] will find that I have done the case full justice:

Mr. Montgomery called again:

Question. Were you present when John Ammerman was examined before Judge Jayne?

Answer. I was.

Q. Was he drunk or sober at the time of his examination?

A. He was evidently very much intoxicated.

Cross-examined.—Q. You would not call him beastly drunk, would you?

A. I would prefer using the expression which I have used with regard to him.

Q. Did he not appear to understand what he was about, or what he said?

A. He did not so appear to me.

Q. Was his evidence intelligible?

A. I thought his answers were incoherent; he made exclamations to the crowd during his examination; spoke of a jury being present; his testimony was not taken down by Judge Jayne, and read off here, as he delivered it.

Q. Did not Judge Jayne take down and read off all the testimony he gave, connected with the questions that were put to him?

A. Several of his incoherent and strange answers were not taken down by Judge Jayne, according to evidence, as read to him by Mr. Brisbane afterwards. Mr. Fuller's counsel insisted that the judge should put down a certain strange answer, and the judge refused to put it down, on the ground that it was silly.

Q. Did the judge use the word silly, or anything like it?

A. I am not certain that he used that word, but he certainly used one of the same import, silly or foolish, or something of that sort. I allude to some express answer to some question where the witness intimated that Mr. Fuller's counsel was intoxicated, and Mr. Casey insisted on its being put down, and Judge Jayne refused to do so.

Q. Was not the following what you allude to: Did not Mr. Casey ask the witness how many drinks he had had that day, and the witness replied, one since supper; Mr. Casey then said it must have been good liquor, to which the witness replied it was, and I guess by the looks of your face you have had some of the same kind?

A. The answer to which I allude was made in reply to

an inquiry of Mr. Fuller's counsel as to the witness having taken liquor; I presume the question was properly taken down by Judge Jayne, but the answer I know was not.

Q. Was his testimony read by any one in the presence and hearing of Mr. Fuller and his counsel?

A. His testimony, as taken down by Judge Jayne, was read by Mr. Brisbane in presence of Mr. Fuller and his counsel, but it was not taken down by Judge Jayne in the way it was delivered. I would say further, that Colonel Wright asked the judge to suspend the examination of the witness in consequence of his intoxication, he was not fit to be examined; and that Mr. Casey objected, saying that if they would call a drunken witness, they must go on with him.

Q. Were you present most of the time that Judge Jayne was taking testimony here?

A. I was not; I was most of the time at the Bloomsburg court.

Q. When I read over the testimony, was any objection made to it as taken down?

A. I cannot say whether Mr. Casey entered his objection to the accuracy of it until after it was read by Mr. Brisbane.

J. G. MONTGOMERY.

May 13, 1851; Sworn to and subscribed before me,

JOHN COOPER, Commissioner.

Some of my friends in this House have occupied the judicial position, and they must know that a judge who would place any reliance upon the silly and incoherent testimony of a drunken witness, would do neither himself or the bench credit. On the contrary, the judge who respects himself will always reject it.

I think my friends of the minority certainly overlooked this testimony of Mr. Montgomery, the witness called by the sitting member, and whose character is above reproach, or they would not have made this wholesale charge against a man, who, I understand, at home occupies a high position. At the suggestion of the sitting member, I will read the testimony of Mr. Charles Cook:

Cross-examined.—Q. You mean, do you not, that Judge Jayne did not take down all he (Ammerman) said, while giving in his testimony?

A. I think he did not put down his full answers.

Q. Did he not take down all the witness said, having any relevancy to the question propounded?

A. I think not. In answer to a question where he got his tickets, he commenced answering, and the following words are omitted in the judge's notes, "now do not stop me, or I will forget my story;" afterwards the witness gave his answer, but not in the same words that the judge took down. I do not recollect the difference, but I noted it at the time.

This testimony does not vary the case in the least, and it shows that the witness was undoubtedly drunk, and illy fitted to give the committee or this House any reliable evidence.

Overruling this preliminary objection, the committee commenced their examination into the merits of the case, and in order to be understood properly, I will restate the positions which have been already stated. It strikes me, as it did a majority of the committee, if the House should be satisfied that there was such irregularity and illegality of conduct of the elective board in the reception of votes at that precinct, as stated and specified by the contestant, and if the consequences of that irregularity and illegality were, that a sufficient number of illegal votes were received to change the result of the election, this House, in justice to its own character, can come to but one decision, and that is, to send the case back to the people of the district, giving them to understand, that though we do not deprive them of representation, yet we insist upon their sending a man here who is returned in both a proper and legal manner.

Now, Mr. Speaker, it is necessary for this House to be particularly informed of the election laws of Pennsylvania, in order to determine correctly this case, because, although this House is properly and constitutionally judges of the return of its own members, members of this House are returned under the laws, and by force of the election regulation of the different States. The laws of Pennsylvania are very stringent in prescribing the qualification of voters, and also very particular and stringent in surrounding the ballot-box with as many preventives against fraud as possible. The laws of Pennsylvania require that before any general election shall take place, that there shall be a preliminary election in each district of a judge and two inspectors. These two inspectors have the right each to appoint a clerk, and these two clerks, the two inspectors, and the judge constitute the election board. Now, what is the duty assigned to the judge? The judge is particularly required to be present on the day of the election, and to act strictly as umpire to decide when the inspectors may disagree respecting a vote. If the inspectors disagree respecting the propriety of receiving a vote, they are to appeal

to the judge, whose duty is pointed out. He is to decide between them; and what else does the law say? In order to have this judge as free from prejudice, and as uncontaminated by the excitement of the day as possible, it particularly says he shall in no other manner interfere in the election.

The sixth section of the Pennsylvania consolidated election law, provides that the judge shall act as UMPIRE in the event of the disagreement of the inspectors—as to the right of an elector to vote—"but not otherwise." His whole duty consisting in the power to decide on the disagreement of the inspectors.

Now, sir, it is alleged and complained of by the contestant, that on this day the judge, Mr. Kitchen, not only neglected his own duties, but usurped the duties of an inspector, and that the inspector, whose duty it was to stand at the window, and to receive, was ousted from his position, and made merely distributor of votes. This may appear, at the first glance, as an immaterial matter; but the House will gather from this fact, fully established by the evidence, that it becomes a very serious and important matter. The duties of inspectors, are particularly described and set forth; and in order to make myself understood, I will read to the House what the Pennsylvania law requires of them, which is in substance as follows: "The inspectors shall receive and distribute the tickets." It is expressly made their duty to stand at the place where the tickets are handed up.

Now, the majority of the committee finding out that a large number of illegal votes had been received, or discovering, on comparing the result of this election with that of others held previously and subsequently to this, that there was a vast disparity in the number of electors, and as foreigners, whose papers had not been taken out, to the number of forty, or upwards, had been received—as non-residents had been received—the majority felt authorized to say, and to state in their report, that this change of position at the window by Judge Kitchen, and the driving from the window the inspector Mettler, was intended to cover and cloak a fraud. I generally, Mr. Speaker, judge a man from his actions. I know there are some other rules, but that old-fashioned rule is the best, in my estimation. I very seldom or ever found it fail. At any rate, if the judgment is adverse, it throws the *onus probandi* of good intent upon the party complained of.

In 1849, at the Danville poll, there were received 463 votes, and in 1851, 731—thus making a difference of 268 votes.

Mr. FULLER. I desire to ask the chairman of the committee, in this connection, if there was not evidence before the committee that in 1845, five years previous to this election, 750 votes were polled at the Danville district, and that during the interval of the five years more than five hundred dwelling-houses were erected in that district?

Mr. ASHE. With a great deal of pleasure I will answer the gentleman's question. I assure the gentleman I intended to mention this fact. Subsequently, though, the House must be informed, there was a division of the township—instead of being one precinct, there were two created. Hence there should have been a reduction of the number of votes in this precinct.

Mr. FULLER. In 1845, there were 750 votes polled in Danville district, and between 1845 and 1850 over 500 dwelling-houses were erected in that district. In 1850 the district was divided, and at the election of 1850, 858 votes were polled, so that the increase in the two districts was 127 in the one and 731 in the other. Therefore, the increase during the five years was but 108, with this immense increase of population.

Mr. ASHE. The gentleman states the fact, but, unfortunately, after 1845 there was a division of the township, and hence the reduction of the votes.

Mr. FULLER. The gentleman misunderstands me. The district was divided, but the two districts combined, polled but 858 votes in 1850. There is where the gentleman is mistaken. While five years before, the same district, then being one district, polled 750 votes; in 1850 polled 858 votes; and during the interval 500 dwelling-houses were erected.

Mr. ASHE. I do not misunderstand the gentleman at all. There was a division of the township, but it was not an equal but an unequal division in point of votes, and a vast majority re-

remained in Danville proper. But I will leave that point, because the division of the township would naturally bring about a great subtraction of the votes since, whereas it is increased largely. How was it subsequent to that time? How many votes were polled in 1851, the year after the election contested? Why, 555 only at Danville precinct, being 176 less than the year before the contested election took place. So, whether my friend goes back before, or whether he comes down after, the evidence is fully against him.

Now, Mr. Speaker, I have stated the fact, that this change of the position by the judge, when the law expressly said that he should not act but in one capacity, was intended to cover fraud. Let me see if the evidence does not substantiate and support me in that assertion. Now, what does Judge Kitchen himself say, when called by the sitting member, and put upon the stand, in answer to this question—

"Was or was not the election fairly and honestly conducted, and were or were not all the tickets for Congress that were received, fairly counted and fairly returned?" What is his answer? It is as follows:

"I could not swear whether all that came into the window were legal or not; they satisfied us that they were legal, or we would not have received the votes."

Now, sir, the House must bear in mind that he had changed his position. Instead of being a judge and umpire to decide upon contested votes, he stood at the window and received the votes, and thus disqualified himself for discharging the duties of a judge. He says:

"I will not swear that they were all legal votes that came into the window or not. I will only say, after they were received, as far as I know, they were legal."

Now, Mr. Speaker, you will recollect that Judge Kitchen himself is the person who has acted criminally in this matter, for it gives me much pleasure to say that I exonerate the sitting member from all participation in this fraud. It is the officer in charge of the election who is charged with fraud. He is charged with cheating the people of Pennsylvania of a legal and proper Representative in this House; he is placed on trial, and he is now called upon to acquit himself of the charge which would subject him to a criminal prosecution under the laws of Pennsylvania. How does he do it? By denying it? No, but by a tacit admission of the fact, with the simple assurance, that after the votes came into the window, they satisfied him that they were legal, and were not improperly disposed of. Let me read the next question:

"Was or was not the election fairly and honestly conducted?"

He answers:

"After the tickets came in it was all fairly and honestly conducted, as far as I know."

But again, sir, let us see what Mettler's declarations are? When Mettler, who appears to have some spark of honesty in his heart, is put upon the stand, and is asked this question—

"Did you not, as a member of that board, act fairly and honestly, and receive votes only from those persons entitled to vote?"

He answers:

"I received but a few votes from persons; I received them from the judge."

This is what Mettler himself says. A witness is called by the name of Thomas Lloyd, to prove the declarations of Mettler. He was asked—

"What was said by the officers of the special election, held at the same place, and by Mettler, there on that day, about their producing their papers?"

And he answers:

"I heard Mr. Mettler state that he had been an officer at the fall election, and now he was at the window himself; and that he was determined he would not let any person vote unless they had a right to vote, or something to that effect, as he said there had been men voting at the fall election who had no right to vote; and I heard him say that he had been tax collector for several years, and that he knew that they could not poll over five hundred legal votes in the borough no how; that I heard him say at different places on the day of election and afterwards."

But again, sir; here is the evidence of Mr. Reuben Schock, a witness for the contestant:

"What did you hear Thomas Mettler say, as to the frauds that were committed at the election in October last in this borough?"

Now, Mr. Speaker, recollect that these are the declarations made by a man who had a few sparks of honesty in his bosom—a few scruples about the manner in which his duty had been discharged. He answers to the preceding question thus:

"I heard him say he was an officer of the election, and

that he was taking tickets in at the window; and that he had taken in three or half a dozen men's that voted, and then they put him away, and would not let him take in any more; then some one put the question to him, how they came to put him away? 'Well,' says he, 'because they wanted everybody to vote that came up to the window, and, by God, I would not let them.' Some one said something, I cannot remember exactly what, and Mettler said they wanted Fuller elected so damned bad that they let everybody vote that came up to the window. I have heard him say this over several times, but it was always the same thing."

I do not wish to be too severe in my expression of opinion against any man. I believe I have as much charity in my heart as most people; but when we find evidence produced before the committee, and before the House, that fixes so directly upon an election officer an acknowledged fraud, I ask, will this House sanction it, or will they say as I have before stated they should say to the people of Pennsylvania, "Take this case, and purge your own filthy stable?"

[Here the hammer fell.]

Mr. FULLER. As I have interrupted the gentleman several times, I move that he be permitted to proceed with his argument. I hope he will have the general consent of the House to do so.

Mr. ASHE. I do not ask any such courtesy of the House.

Mr. FULLER. I ask it because I have interrupted the gentleman.

[Cries of "Let him go on!"]

The SPEAKER. Is there any objection to the proposition of the gentleman from Pennsylvania?

Mr. LETCHER. I object.

Mr. ASHE. I am much obliged to the gentleman, for it relieves me from a great deal of trouble, I assure you.

Mr. FULLER. Well, Mr. Speaker, I desire to be heard upon this question, and I would prefer, if it is agreeable to the House, to speak to-morrow. I move that the further consideration of the report be postponed until to-morrow.

Mr. ASHE. Will the House hear a suggestion from me upon this matter?

The SPEAKER. The Chair will be pleased to do so, if the House will indulge the gentleman in making his suggestion.

[Cries of "Go on!" "Go on!"]

Mr. ASHE. I have received a communication which requires me to go home to-morrow, on urgent business, if I do not receive a different message; and therefore feel very anxious to get through with this case as soon as possible.

Mr. FULLER. No man is more anxious than I am.

The SPEAKER. Does the gentleman insist upon his motion?

Mr. FULLER. Perhaps some other gentleman would like to speak to-day; if so, I will withdraw the motion.

[Cries of "Go on yourself!"]

Mr. FOWLER. Will the gentleman give way for a motion to adjourn?

Mr. FULLER. I will, sir.

Mr. FOWLER. Then I move that the House do now adjourn.

Mr. CLEVELAND demanded the yeas and nays.

Mr. JONES, of Tennessee. I would suggest to the gentleman from Pennsylvania that he is not obliged to speak to-day. We can go into the Committee of the Whole on the state of the Union.

Mr. FOWLER. I withdraw the motion to adjourn, and move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. Does the gentleman from Pennsylvania yield the floor for that purpose?

Mr. FULLER. I do.

The question was put upon Mr. FOWLER's motion, and, on a division, there were—ayes 55.

Mr. MARSHALL, of California, demanded tellers; which were ordered; and Messrs. Hous-ton and CHANDLER were appointed.

The question was again put, and the tellers reported—ayes 71, noes 39—no quorum voting.

Mr. HAMILTON. I ask for the yeas and nays.

Mr. ALLISON. As there is no quorum present, I move that the House do now adjourn.

The SPEAKER. That is the only motion that can be made, except a motion for a call of the House.

Mr. STUART. Is it not in order to ask for

the yeas and nays on the motion to go into the Committee of the Whole on the state of the Union, for the purpose of ascertaining if there is a quorum present?

The SPEAKER. The House having divided by tellers, and it being shown to the whole House that there is not a quorum present, the Chair decides that a motion to adjourn and a motion for a call of the House are the only motions in order.

Mr. STUART. I make this point: that until the Chair announces the result of the vote, the fact that there is a quorum, or that there is no quorum, is not ascertained; and that if there be a call for the yeas and nays in the mean time, it is in order.

The SPEAKER. The Chair announced the fact that there was no quorum.

Mr. MARSHALL, of California. I move that there be a call of the House.

The SPEAKER. A motion has been made to adjourn, which takes precedence.

Mr. ABERCROMBIE. I call for the yeas and nays on the motion to adjourn.

[Cries of "Oh, no!" and "Take tellers!"]

Mr. ABERCROMBIE. Very well, I withdraw the call for the yeas and nays.

Mr. VENABLE. I ask for tellers on the motion to adjourn.

Tellers were ordered; and Messrs. MARSHALL, of California, and SAVAGE were appointed.

The question was then taken, and it was decided in the negative—ayes 42, noes 75.

So the House refused to adjourn.

The question recurred on the motion submitted by Mr. FOWLER, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and being put, the motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN stated as the business before the committee, the consideration of House bill No. 207, "to supply deficiencies of appropriations for the services of the fiscal year ending 30th June, 1852," and that the gentleman from New York [Mr. HORSFORD] was entitled to the floor.

#### DEPARTMENT OF AGRICULTURE.

Mr. HORSFORD delivered a speech in support of the bill heretofore reported, proposing the establishment of an Agricultural Bureau. He earnestly spoke in behalf of the farmers; pressed the importance of the subject, and showed the advantages which would result from the measure proposed. [His speech will be found in the Appendix.]

Mr. ASHE stated that he would take the liberty, which had been accorded to others, of publishing some remarks which he had prepared. [Mr. A.'s speech will be found in the Appendix.]

Mr. SNOW then submitted some remarks upon Mr. BENNETT's bill, "making grants of lands to aid in the construction of railroads, and for other purposes," which will be found in the Appendix.

Mr. WELLS next obtained the floor, but yielded to

Mr. SCHOONMAKER, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. STUART) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the deficiency appropriation bill, and had come to no conclusion thereon.

On motion by Mr. CARTER, the House then adjourned till to-morrow at twelve o'clock, m.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. APPLETON, of Maine: The petition of James Merrill and others, for an increase of pay to assistant marshals.

By Mr. COBB: The petition of N. W. Perry in relation to his claim against the United States.

Also, the petition of H. Hargis, praying for a pension.

By Mr. BERNHISEL: The petition of a number of citizens of Tooele county, in the Territory of Utah, asking Congress to establish a post route from Great Salt Lake city to Tooele city, in said Territory.

By Mr. PARKER, of Indiana: The memorial and resolutions adopted by the inhabitants of the town of Milton, in the county of Wayne, and State of Indiana, recommending



# THE CONGRESSIONAL GLOBE.

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NEW SERIES.....No. 102.

the passage of a law by Congress providing for a division of the Indian territory lying southwesterly of the Missouri river, and for defining the boundaries of the Territory of Nebraska; also, making provision for the removal of certain tribes of Indians from said Territory of Nebraska, and for the settlement of the public lands lying therein from which the Indian title has been extinguished.

By Mr. HENDRICKS: A joint resolution of the Legislature of the State of Indiana, in relation to declaring the bridge over the Ohio river, at Wheeling, a post route.

Also, a joint resolution, memorializing Congress to pass an act placing certain surgeons on the same footing as surgeons regularly commissioned.

By Mr. St. MARTIN: The memorial of the Chamber of Commerce of New Orleans, signed by 881 citizens and commercial firms residing and doing business in said city, praying Congress to appropriate a sum of money and grant the means to remove the obstructions and clear out the mouths of the Mississippi river.

## IN SENATE.

FRIDAY, June 25, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of the Navy, made in compliance with a resolution of the Senate of the 25th May, respecting the printing, binding, and advertising executed for or by order of that Department; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Also, a message from the President of the United States, communicating, in compliance with a resolution of the Senate, the correspondence of the American chargé d'affaires at Vienna with the Department of State, on the subject of the apprehension and imprisonment, by the Austrian authorities, of the Rev. Charles L. Brace, an American citizen; which was referred to the Committee on Foreign Relations, and ordered to be printed.

## EXECUTIVE SESSION.

Mr. MASON. With a view to an Executive session, I move to suspend the order requiring today to be devoted to the consideration of private claims.

The motion was agreed to.

On the motion of Mr. MASON, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened.

## ADVERSE REPORTS.

The Senate proceeded to the consideration of the following adverse reports; which were concurred in:

Report of the Committee on Military Affairs on the memorial of Lewis Morris;

Report of the Committee on Revolutionary Claims in the case of the heirs of Cornelius Oakley;

Report of the Committee on Pensions in the case of the widow of Lieutenant Colonel Æneas Mackay;

Report of the Committee on Pensions in the case of Mary S. Wetmore;

Report of the Committee on Revolutionary Claims on the memorial of the heirs of William Beatty;

Report of the Committee on the Judiciary on the memorial of William Hollinshead;

Report of the Committee on Claims on the petition of Tobias Purrington;

Report of the Committee on Commerce on sundry memorials praying further provision for the relief of American seamen in foreign ports;

Report of the Committee on Pensions on the petition of the administrators of Olive Folsom;

Report of the Committee on Pensions on the petition of Abraham L. Knickerbocker;

Report of the Committee on Pensions on the petition of Stephen P. Yeomans and others;

Report of the Committee on Pensions on the petition of William Roberts;

Report of the Committee on Claims on the petition of Joseph Hill and sons;

Report of the Committee on Private Land Claims on the memorial of the heirs of James Perrie and Lucy Perrie;

Report of the Committee on the Judiciary on the petition of Jehiel Brooks;

Report of the Committee on Public Lands on the petition of George W. Dent;

Report of the Committee on Public Lands on the petition of William Woodbridge;

Report of the Committee on Naval Affairs on the petition of James D. Johnston;

Report of the Committee on the Post Office and Post Roads on the petition of H. N. Dennison;

Report of the Committee on Public Lands on the claim of John Newton;

Report of the Committee on Public Lands on the petition of citizens of Guthrie county, in the State of Iowa;

Report of the Committee on Pensions on the petition of Chester Griswold;

Report of the Committee on Pensions on the petition of William Dusenbury;

Report of the Committee on Pensions on the petition of Joseph W. Edwards;

Report of the Committee on Pensions on the petition of Elisha Merriman;

Report of the Committee on Pensions on the petition of William Blodget;

Report of the Committee on Naval Affairs on the petition of William Davis;

Report of the Committee on Naval Affairs on the petition of Lydia Ann Mill;

Report of the Committee on Pensions on the petition of Orris Crosby;

Report of the Committee on Pensions on the petition of the legal representatives of Lemuel P. Montgomery;

Report of the Committee on Pensions on the petition of Eliza Ann Ellison;

Report of the Committee on Pensions on the memorial of Harriet de la Polm Baker;

Report of the Committee on Pensions on the claim of Charles H. Buzenstein;

Report of the Committee on Revolutionary Claims on the petition of Benjamin Ellis;

Report of the Committee on Revolutionary Claims on the memorial of Caleb Dustin;

Report of the Committee on Pensions on the memorial of William Butler;

Report of the Committee on Pensions on the petition of Joseph H. Marsh;

Report of the Committee on Private Land Claims on the petition of Catharine Strubing;

Report of the Committee on Pensions on the petition of William Huemann;

Report of the Committee on Pensions on the petition of Lucie Ann Garner;

Report of the Committee on Public Lands on the petition of James G. Bell;

Report of the Committee on Public Lands on the petition of Charles P. Colston;

Report of the Committee on Claims on the memorial of Hezekiah Miller;

Report of the Committee on Public Lands on the petition of Jane Kearney;

Report of the Committee on Naval Affairs on the petition of Hugh Wallace Wormley;

Report of the Committee on Naval Affairs on the petition of John S. Vandyke;

Report of the Committee on Claims on the claim of Captain McClelland's company of Florida volunteers;

Report of the Committee on Claims on the claim of John A. Rogers;

Report of the Committee on Claims on the petition of John W. W. Jackson;

Report of the Committee on Naval Affairs on the petition of Thomas Copeland;

Report of the Committee on Pensions on the petition of Sarah F. Gowell;

Report of the Committee on Claims on the memorial of J. Smith;

Report of the Committee on Pensions on the petition of Elliot F. Penny;

Report of the Committee on Pensions on the claim of the heir of Conrad Hyer;

Report of the Committee on Pensions on the memorial of the children of Joseph Bradley;

Report of the Committee on Naval Affairs on the petition of Hans Nelson;

Report of the Committee on Naval Affairs on the memorial of E. D. Reynolds;

Report of the Committee on Naval Affairs on the petition of George R. Goldsborough;

Report of the Committee on Naval Affairs on the memorial of Z. W. Potter;

Report of the Committee on Naval Affairs on the petition of Sarah Somers Corson;

Report of the Committee on Claims on the petition of Hiram McCarty;

Report of the Committee on Claims on the petition of D. A. Melhorn;

Report of the Committee on Pensions on the petition of Rachel Abbot;

Report of the Committee on Pensions on the petition of Lydia Lord;

Report of the Committee on Pensions on the petition of Dinah Mount;

Report of the Committee on Pensions on the petition of Mary Colcord;

Report of the Committee on Pensions on the petition of the legal representatives of Joseph Ford;

Report of the Committee on Pensions on the petition of Edward Miller;

Report of the Committee on Pensions on the petition of James T. Eells;

Report of the Committee on Indian Affairs on the petition of Henry R. Schoolcraft;

Report of the Committee on Claims on the petition of Thomas Mullett;

Report of the Committee on Naval Affairs on the petition of J. R. St. John;

Report of the Committee on Pensions on the case of Abigail Brown;

Report of the Committee on Claims on the memorials of assistant marshals, praying extra compensation for taking the census;

Report of the Committee on Pensions on the case of Esther Scollay;

Report of the Committee on Claims on the memorial of S. H. Duff;

Report of the Committee on Claims on the petition of the Orange and Alexandria Railroad Company;

Report of the Committee on Pensions on the memorial of H. H. Cooley and others, citizens of Orange county, New York;

Report of the Committee on Pensions on the case of Nathaniel Mathershead;

Report of the Committee on Indian Affairs on the memorial of Henry R. Schoolcraft;

Report of the Committee on Claims on the memorial of William S. Wallace; and the

Report of the Committee on Claims on the memorial of McAdams & Co.

## JOHN B. AMOS.

The PRESIDENT announced that there was an adverse report made by the Committee on the Post Office and Post Roads on the memorial of John B. Amos.

Mr. UNDERWOOD. I ask the Senate to let that lie until I can look into it. I am inclined to think that the report is right; but the individual is a constituent of mine, and I should like to have an opportunity of examining it. I move to postpone its further consideration until Friday next.

The motion was agreed to.

## JOHN C. HAYS.

The adverse report of the Committee on Military Affairs, on the memorial of John C. Hays, was concurred in.

Mr. GWIN subsequently moved to reconsider the vote concurring in the report.

Mr. RUSK. I hope that vote will be reconsidered. The application of Colonel Hays was for services of a very laborious character, performed in mustering troops into service. Certain allowances are made at the Department to those who perform that duty, but they were too small in amount to remunerate him. His petition was for the pay of a colonel of cavalry. That much has been rejected by the committee; and if the reconsideration takes place, I am requested to ask that the papers be withdrawn, in order that Colonel Hays may carry them to the Department, and receive that allowance to which he is entitled under the rules of the Department.

The PRESIDENT. If such is the pleasure of the Senate, the Chair will consider the report as not agreed to. The proposition will then be to give the individual leave to withdraw his petition and papers.

Leave was granted.

THOMAS H. LEGGETT:

The PRESIDENT. The first bill on the Calendar is the bill for the relief of Thomas H. Leggett.

Mr. BORLAND. The Senator from Virginia, [Mr. Hunter,] as chairman of the Committee on Finance, has taken an interest in this bill, and discussed it at length. In consequence of his absence, I move that its further consideration be postponed until Friday next.

The motion was agreed to.

MARK AND RICHARD H. BEAN.

Mr. BORLAND. Mr. President, I would present to the Senate a case that has been lying upon the table, upon a motion to reconsider, for some weeks. It is a bill for the relief of Mark Bean and Richard H. Bean, of Arkansas. The bill was ordered to be engrossed for a third reading, a motion to reconsider that vote was made, and that motion was laid upon the table. I should have called it up before, but for the fact, that this is the first Friday when private bills, which give rise to discussion, could be taken up. I move that the Senate now take up that bill.

The motion was agreed to.

The PRESIDENT. The bill was ordered to be engrossed for a third reading; a motion was made to reconsider that vote, and the question now pending is upon the motion to reconsider.

Mr. UNDERWOOD. That brings up, I suppose, the merits of the bill. I will state to the Senate, if they will be kind enough to give me their attention, as briefly as I can, the reasons why I think the reconsideration ought to take place. I was present at the time the bill was ordered to be engrossed for a third reading, but my mind was not directed to the subject, and although I opposed the bill in committee, I allowed it to pass to its engrossment without making my objections known, and did not know at the time that it was ordered to be engrossed. Hence I made the motion to reconsider.

The facts of the case, according to the papers, are these: These Messrs. Bean, as far back, I think, as the year 1817, discovered a saline on the Arkansas river, then in the Indian country. The highest fort upon the Arkansas river at that time was Fort Smith, which was some twenty, thirty, forty, or fifty miles below this salt well or saline. Major Bradford was commander at this fort. After the discovery of this saline by the Messrs. Bean, they wanted to make salt there, and they did make salt at this lick or saline, and carried about a hundred salt kettles in boats up the Arkansas river to the place where the salt was made. Afterwards the Government set apart the country which included the salt well, for the Indians who are now settled on the western boundary of Arkansas, and on setting apart the country west of the Arkansas for the Indian tribes, all the white settlers were directed to leave the country, so that the Indians might occupy it. The Messrs. Bean, of course, like the other white settlers in that region, had to leave the country. I think they were required to leave it in 1828. If I am wrong in that, my friend from Arkansas can correct me.

Mr. BORLAND. Eighteen hundred and twenty-eight was the year.

Mr. UNDERWOOD. The Messrs. Bean commenced their salt works after the discovery of the well in 1822 or perhaps 1821; I believe it was in 1821; so that they had possession of the salt works, and used and occupied the country, from 1821 up to 1828, when they were directed to leave. Congress, by an act for the purpose of compensating those persons who were directed thus to leave that country, gave each of them three hundred and twenty acres of land. They had made some little improvements in the country. They were permitted to go in under some treaties made with the Indians, I think in 1826. Prior to 1826 settlers were not permitted to go to the country; but in 1826, if I mistake not the date, after the treaties had been made, the country was thrown open for white settlers to emigrate and settle upon. These settlers were directed to leave the country

in 1828. Subsequently, Congress passed an act giving each of them three hundred and twenty acres of land in order to pay them for their improvements which they had made. The Messrs. Bean had been there from 1821. They had entered the country long before it was open to white settlers. They had made their establishment and were manufacturing salt years before the country was open to white settlement, and before whites were permitted to go there.

It then becomes a question, how did the Messrs. Bean go into this Indian country? How did they commence their operations in salt? And here there is some little difference between the report made by the committee and myself in regard to the evidence. The report states that the Messrs. Bean were invited, as it were, to go to the country, by Major Bradford, who then had command of Fort Smith, the nearest post to the place where this salt well or saline was situated. I think the evidence does not authorize the statement in the report, that the Messrs. Bean were invited to go to the country by Major Bradford, or that Major Bradford held out any promise to them that if they would go he would protect them. I will read to the Senate what the only witness in the case, who ever had a conversation with Major Bradford, says. I refer to the deposition or statement of General Arbuckle. General Arbuckle states that he understood from Major Bradford, the commanding officer, that the Messrs. Bean had been permitted to establish salt works, as there was a great scarcity of salt upon the frontier. The construction of the statement of General Arbuckle will settle the point between the report and myself. I would like to have that portion of the report read. I will read the exact words of Major Arbuckle's statement: "I understood from Major Bradford, the commanding officer, that you [meaning the Beans] had been permitted to establish your salt works, as there was then a 'great scarcity of salt on the frontier.' I think the report, when it is read, will be found to contain a statement that the Beans established their salt works after being urged by the solicitation of Major Bradford to engage in the manufacture of salt for the supply of the troops of the fort, and after his making a promise to them that in case they should do so their rights should be fully protected and secured by the Government, of all of which there is no sufficient proof."

Mr. BORLAND. If the Senator will permit me to say a word, perhaps I can save him and the Senate some time. The Senator makes his point, as I understand, on the difference between an invitation to the Messrs. Bean to go on this land, and establish salt works, and a permission to them to do so. I understand that to be the point which he makes. I will say to the Senator that I am willing to concede the difference which he claims, and admit that this was merely a permission. I do not think, however, that it materially varies the question. We know that at that time no white person could go into that country without permission. General Arbuckle himself states that they were permitted to go. Now, it makes very little difference—no difference practically and substantially—whether they got that permission by their own solicitation, or whether they followed the solicitation of the United States officers, that they would go there. The object was the same: the Beans desired to make money for themselves; the officers of the Government desired that the salt works should be established for the benefit of the army and the country adjacent thereto. Believing that it would be a public benefit, the officers of the army granted the permission. Believing that they themselves would derive pecuniary benefit from it, the Messrs. Bean got the permission. Whether it was by their own solicitation, or on the solicitation of the officers of the army, I submit, makes no difference. If that is the only point which the Senator makes in opposition to the claim, I concede it to him; and that I think will save an argument.

Mr. UNDERWOOD. I am very glad of the concession, because it will supersede the necessity of my attempting to show that the testimony does not exactly warrant the statement of the report. Now, my friend thinks that the grant of a mere permission amounts to the same thing as an invitation and a guarantee that the Government would furnish protection. I think there is a great difference between them. In the way that the fact

is conceded now it is this: The Messrs. Bean, exploring a wilderness country, found a saline upon Indian territory. They say to themselves, "We can manufacture salt here to our advantage;" and they then go to the commander of the post, whose duty it is to keep intruders off the Indian lands, and they say to the commander, "If you will not drive us away; if you will allow us freedom to remain here, we will establish our salt works." And the commandant says, "Very well; if you can get permission from the Indians you have my assent." That is a very different thing from telling them, "Go there; put up your salt works; go to work, and I will pledge to you the protection of the Government for your property, and the guarantee on the part of the Government for all the improvements you may erect there." Then, sir, take it that Major Bradford assented, after these people had discovered the saline, that they might go there and go to work, and make whatever they could, and he would not drive them away, because his men wanted salt. They then go on and make salt from 1821 to 1828—for seven years—when the country is set apart for the use of the Indians, and then they give up their works.

The compensation which these parties claim, is for the loss of the works, and the improvements which they made in reference to the manufacture of salt; and the committee have proposed an allowance to them of \$15,000 for the loss of kettles and for their improvements. I say that the Messrs. Bean risked all this. It was Indian country at the time they went there. It was, I admit, subsequently purchased by treaty; and after it was purchased, it was thrown open to the immigration of the whites. But when it was set apart for the benefit of the Indians, the Government paid, as I have said, such compensation as it thought the settlers were entitled to. But before all this, it will be perceived, the Messrs. Bean intruded, and commenced making their salt upon the Indian country—the officers of the Government merely saying to them: "We will not drive you away." Now, I say that the Messrs. Bean risked the consequences. The Government came under no guarantee to them; the Government made no contract with them. The officers of the Government pledged the Government for nothing; and therefore we are not responsible to pay them. But if the Government is responsible, for how much is it responsible? That is the question.

In the first place, upon the facts which I have stated, the Government is not responsible for anything. But, suppose the Government to be responsible, then another question arises as to how much the Government is responsible for. If you will look at the testimony in this case, I think it will be made perfectly manifest that the witnesses make a valuation of what this whole property would have been worth if the Messrs. Bean could have been permitted to retain it—the lands, improvements, salt works, and all, including the value which the salt well would impart to the property. If you will look at the testimony, I think you will find that the witnesses estimate the whole value of the property to the Messrs. Bean, provided they could have retained the whole of it, and it could have been secured to them. Therefore they speak in this way: "We estimate the loss of Messrs. Bean at \$15,000 or \$20,000." They thus speak of the whole property, and some of them go so far as to say that while the Beans were manufacturing salt, the Indians, in passing to and fro through the country, were in the habit of seizing their stock, committing depredations upon their farms, and a great many trespasses, by which they sustained loss. Some witnesses say they estimate all that and the value, and make out the whole loss to be \$15,000 or \$20,000. Now, I want to show what the manager of this salt well swears to. If he tells the truth, it is perfectly evident that these people have been compensated double and treble for any expenditure which they may have made in the erection of these salt works. The manager, who says that he superintended the salt works from their commencement down to their termination when the Beans had to give up the property, swears that they made about thirty-five bushels of salt per day; that the expense of making the salt was about twenty-five cents per bushel; and that the salt was sold for a dollar a bushel—and of course the profit was seventy-five cents per bushel.

They were manufacturing salt there for seven

years. If the statement which the manager makes be true, they made ten thousand nine hundred and twenty bushels per year. In seven years, then, they must have made seventy-six thousand four hundred and forty bushels. At twenty-five cents per bushel, which, he says, was the cost of manufacturing, the expense would have been \$19,110, which would leave a clear profit of \$57,330 for the seven years. Now, if that is not enough profit for the one hundred kettles carried out and put up in that Indian territory, I do not know what would be. This is the statement which the manager makes. The testimony of the manager was relied upon to prove the value of the property, no doubt under the idea that the value of the property was to be assessed, and that this productiveness of it would show its high value, and under the idea that the Government was to pay the full value, and that \$15,000 or \$20,000 would be allowed. But in proving the property to be so valuable, it is perfectly manifest that the profit was very great.

These kettles were only carried up once, though they were used for seven years. What would be the value of a salt kettle, after being used for seven years, my information does not allow me to state certainly; but I think I have knowledge enough to say that it would be but small. They speak, to be sure, of some expense and some difficulty in getting the kettles up, because, they say, they had to be carried in barges, they then having no steam power to help them up the river. I have not gone into a minute calculation to show what would be the expense of carrying these one hundred kettles, some in barges, and some in wagons across the plains; nor do I know precisely what they would be worth after they had been in use for seven years. But I do say, that if the manager, who swears that he was there from the commencement to the end, was correct in his statement; if they sold the salt, as he says they did, at a dollar a bushel, while the cost of manufacture was only twenty-five cents a bushel, and if they made the quantity which he says they did make, it is manifest that in these seven years they made more than \$50,000 by it. These are the facts, according to my examination of the testimony; and I have gone through the whole of it, and taken extracts from every deposition and from every statement.

It is said that these people had two farms which they cleared and fenced while they were operating there. It did not cost them much to clear the ground, because all the wood which they took from the ground was necessary in boiling the salt. The laps of trees cut down for rails could be beneficially used for purposes of that kind. The expense of clearing was a necessary operation to supply the salt works with wood. The making of rails and fencing the ground was perhaps all the labor, the balance of the wood being used in the salt works. They have received already, under the act of Congress, three hundred and twenty acres of land for that. If they were entitled, because they were two partners, to have three hundred and twenty acres each, why, the committee ought to have reported in favor of giving three hundred and twenty acres more, and then they would have fared like everybody else; but instead of giving them the three hundred and twenty acres each for the two farms which they had, the committee propose to give them nothing for the additional farm, but to pay them \$15,000 in money, under the idea that they have lost that amount, so as to make the Government liable. In that aspect of it, as a money claim, it ought to have been referred to the Committee on Claims, and they should have acted upon it; but regarding it as a land claim, the Committee on Public Lands ought to have given Messrs. Bean, as partners, for their two farms, three hundred and twenty acres, they having already received three hundred and twenty acres for one farm.

This, to my mind, is the whole of this case. If the Government on this state of the facts can pay the \$15,000, very well. It seems to me to be unjust. It seems to me, that the parties have been fully compensated; and that they ran the risk of this compensation by the use of the saline for the seven years, for which they had the use of it. They asked permission thus to use it. The officers of the Government did not interpose to say "no," and they were compelled to surrender the possession of the country when it was wanted in 1828.

But I think they have already been sufficiently compensated.

Mr. BURLAND. Mr. President, if, as the Senator from Kentucky says, what he has presented, are the facts, and all the facts in the case, probably the Senate will come to the same conclusion to which he has come, that this claim ought not to be allowed; but while I know that he has stated only what he believes to be the facts—and to the extent to which he has gone, he has stated some of the facts—there are other facts to be stated, and another view to be presented in regard to the connection of the facts which are to be considered, and which will present the matter in a different light. I trust I am as little in the habit, as that Senator, or any one else, of advocating or favoring claims against the Government which are not well founded. I am generally considered, I believe, a little too stringent, and to go too far on the other side. But this case has seemed to me, from the first, to be so plain a claim, and so well founded, that it has really astonished me, when I have seen a gentleman so noted as the Senator from Kentucky is, for his exact habits of investigation, and knowledge of the facts, going so far in opposition to what I consider to be the facts in this case.

The Senator from Kentucky drew a distinction between an invitation from the officers of the army to the Messrs. Bean to go upon this land, and the permission to do so. As I stated a little while ago, I think substantially and practically they amount to the same thing. Why, if the officers of the army had sent a thousand miles by express to these gentlemen to come and perform this service, the very terms under which they would have gone on the land would have been merely a permission; and because General Arbuckle, in his affidavit, states, what is the fact, that they went on "by permission of Major Bradford," amounts to no more, as a fact, than that they went there by authority, and not as trespassers on the land of the Indians, or as trespassers on the land of the Government, not that they were there wrongfully, but were entitled, as American citizens, to exercise fully and freely the right to acquire property by their labor, as also protection in the enjoyment of that property.

I admit that if they had gone there without permission, they would not only have been subject to removal by the officers of the army, but would have had no right to claim compensation for the loss of their property. Going there, however, by permission of lawful authority, they stood on the same footing as any other American citizens, whether in that country or in any other country under the jurisdiction of the United States, having a right to acquire property and claiming protection in the enjoyment of that property, and holding the United States and all other persons at defiance when the property which they had lawfully acquired was to be taken from them. If the Senator from Kentucky had read the memorial of these gentlemen, and the affidavit of the officers of the army, and other persons, he would have seen that they not only went to this saline by the permission of the officers of the army, but that their going there was to render a benefit not only to the army in that section of the country, but to all the white people occupying that region.

The report of the committee has been before the Senate so long, having been here two years ago, that I do not deem it necessary to read it, or to recapitulate all the facts which it contains and sets forth, supposing it has been upon the tables of Senators, and that they have made themselves to some extent acquainted with it. But, briefly, these are the facts as the report of the committee sets forth, and as the statements of the officers of the United States Army, and other respectable persons, made under oath, sustain.

In 1817 these gentlemen, as the Senator from Kentucky has said, did discover this salt spring, and they did desire to make salt there; and from a conference with an officer of the army, Major Bradford, then commanding on that frontier, it was agreed between them that it would be for their mutual benefit, and the benefit of the country; otherwise the officer would not have dared to allow them to go there. The gentlemen did themselves believe that they would make money, and they did commence at very great expense, and perhaps under difficulties of more extraordinary hardships than any men, who have ever pushed forward into

the wilderness and become pioneers of civilization, have ever encountered. It is said by those who know the facts, that it is doubtful whether any other men in the western country could have accomplished what they did accomplish. They are known to be of that old stock known to many in Tennessee to have pushed far in advance of civilization into the wilderness, and established that well-known point, so useful to the white settlements afterwards, known as "Bean's Station."

Inheriting the spirit of their father, they pushed still further on. They went into the western woods of Arkansas, and entered the country, then a wilderness, on the Illinois river. After discovering this saline spring, and completing their arrangements with the commanding officer at the nearest fort, they returned to the State of Tennessee, and procured their salt kettles, and all the apparatus necessary for the manufacture of salt, and carried them down the Cumberland, the Ohio, and the Mississippi, and up the Arkansas rivers, and then from sixty to a hundred miles—not in wagons, as the Senator from Kentucky stated—across the wilderness.

The Senator from Kentucky speaks of the value of a single salt kettle after it has been in use for seven years. The Senator knows that there was a large number of these kettles, together with the fixtures necessary to use them, which cost large sums of money, to say nothing of the losses sustained, the hardships encountered, and the exposure of life and property arising from the fact of their being on the borders of two hostile tribes of Indians then at war with each other.

But, sir, all this applies to their being in this country, as the Senator from Kentucky says, with the permission of the officers of the Government, up to 1826. As the advocate of this bill, and the claim of those gentlemen, I might throw all that aside. I might not ask for the least attention to be bestowed on all the hardships they endured, and all the expense which they incurred up to 1826, because, at that time, the country was open to white settlers, and every one who went there prior to the treaty with the Cherokees, that is, between the years 1826 and 1828, acquired all the rights of citizenship, the right to acquire property, and they cannot be deprived of that property without the Government becoming responsible to them for it. Now, the Senator from Kentucky will not say that they were not there from the year 1826 to the year 1828. He knows that they were there by lawful authority, and without the necessity of any permission, either from Major Bradford or anybody else. The simple question is, "Did they acquire a right of property after the year 1826?" It is in proof here, that they were in possession of this property, and that it was valuable. It is proved by officers of the Army of the United States, and by others, that they were in possession of property worth \$30,000, and all concur in agreeing that it could not be worth less than \$15,000. That, then, was their situation between 1826 and 1828. Up to 1826, as they state in their affidavit, and as may be inferred from all the statements of all the officers and witnesses, they had made no money on their investment. The hardships and difficulties they had encountered, and the losses they had sustained, had been sufficient to counterbalance all the money they had received from the sale of their salt.

But after 1826, as these persons had anticipated, (and that was the consideration which had induced them to go there and make the improvements and establish the salt works,) they did begin to make money, because the white people poured into the country, and a very large demand was made for the salt; so that they made up, in part, for the losses they had previously sustained from the depredations of the Indians. They were then free from their former difficulties, and made their salt in peace, and realized a profit for their expenditures. But just as they began to do so, and to receive some compensation for all their hardships (and all their expenses, the United States Government made a treaty with the Cherokee Indians in 1828, by which every white person was required to remove from the country forthwith, and, consequently, the whole country came into the possession of the Indians. There were no persons in that whole country who had any property, except Mark and Richard H. Bean. The others were mere squatters on a few acres, and there is



no evidence to show that any other persons had any considerable property. They were all required, however, forthwith to abandon their property and the country, and remove back into the State of Arkansas. They did so, and the Indians entered upon the possession of their valuable property, and they have it now. And there, too, are the salt Kettles—whether they were worth much or little after seven years' use—still used by the Indians. These Indians now enjoy all the property and all the improvements made by Mark and Richard H. Bean, and the possession of that property constituted no small part of the consideration on account of which the Indians abandoned their country in Arkansas, and accepted of the territory granted to them on the west of the State, because they acquired a most valuable property, while that which they abandoned was worth little to them in Arkansas, as they were then situated.

Now, as to their legal claim for indemnity for their losses, the very act of Congress which passed subsequent to the treaty of 1828, recognizes and establishes the claim of all persons occupying lands in that country to remuneration for their property. That act gave to each of the settlers three hundred and twenty acres of land in exchange for the land that he abandoned. It was accepted, and considered a fair compensation to all the other settlers. Not so, however, with the Messrs. Bean. The other settlers were persons who had settled, perhaps, on a forty acre, or eighty acre lot, or, perhaps, on a quarter section, with a little cabin erected on it, and all the improvements which they had made respectively would not, probably, exceed \$200 or \$300 in value. On the contrary, these gentlemen had a large establishment, which, in the estimation of some of the witnesses, was worth \$30,000. All concurred in representing it to be worth \$15,000, at least. If, then, the Government undertook to compensate settlers there by granting them land for the other property which was taken away from them, it recognized the right of all the settlers to claim compensation from the Government; and when it is proved that these gentlemen, by their labor, and the investment, had accumulated property worth \$15,000, I ask what obstruction is there in the way of granting them compensation? We have recognized the right by paying, in part; and they come forward and prove that their losses were much larger than they had been paid for, and request payment of the difference. If they had no right to any compensation, why pay any portion of the losses? You cannot drive them from their property without remunerating them for it, and you have exhibited a disposition to do so; but you made an error in estimating the value of the property, and made a grant of three hundred and twenty acres of land as remuneration for what they prove, beyond dispute, to have been worth \$15,000, and what some have estimated as being worth \$30,000.

The value of the property may well be inferred, as the Senator from Kentucky supposes, from the statement of the overseer of the works; but that statement does not warrant the inference which the Senator seemed disposed to draw from it, that it proved the amount of profits derivable from the work from its commencement up to the time when it was abandoned, but solely what the profits were after all obstructions were removed out of the way, and when they had a fair field for their labor. They would then have made money, and had, at that time, commenced to make money, as they manufactured thirty-five bushels of salt per day, and sold it at a dollar a bushel, while the manual labor employed cost only twenty-five cents per bushel. But in all the time previous to 1826, they not only had to pay the twenty-five cents per bushel, but also to protect themselves from the depredations of the Indians; from that cause they frequently lost all their stock, rendering it necessary to suspend all operations for weeks, while engaged in recovering it. The statement of the overseer proves the value of the property after that time; it proves that thirty-five bushels per day were then manufactured, that it was valued at a dollar a bushel, and cost the Messrs. Bean only twenty-five cents in the preparation.

I might say a great deal more on this subject, but I have stated the facts, substantially, and am unwilling to occupy the time of the Senate any longer. Unless the Senator from Kentucky de-

sires to prolong the discussion, I am willing to allow the decision to be taken now.

Mr. UNDERWOOD. I will make one or two remarks in reply to my friend from Arkansas; but I will be very brief. The point between the Senator from Arkansas and myself, and the argument which both of us have made, reduces this whole matter to a nut-shell. I agree with him, that if we are bound to pay the full value of the three hundred and twenty acres of land containing this salt well, that \$15,000 is not too much according to the testimony we have on the subject. But I take issue with him just at that point. If we are bound to pay the full value of the land, and the improvements upon it, with this salt well included, I think it is worth \$15,000; but I deny that we are bound to do any such thing, according to his own argument. Here are the facts about which we do not differ: These gentlemen discover a saline, and they obtain permission from the Indians, as well as from Major Bradford, to improve it. But that improvement is the improvement of the property of other people; it is improving the property of the Indians; it is improving the property of the United States. Well, when the Indians and the United States ultimately determine that they will not sell this property, or let these improvers have it; and when they say, that for the little improvements we will give you a tract of three hundred and twenty acres of land, I ask, are we to pay for the value of the saline which has been discovered upon that land, and upon which land some small clearings and some improvements have been made in the way of erecting sheds, &c.? The error of my friend from Arkansas is just this: That after these gentlemen discovered this saline, and built their sheds to put up their kettles, he thinks that gives them a right to the property, and makes it individual property; and then when you take it away, he thinks you ought to pay the whole value for the fee simple. Now, I say, if you have to pay the value of the fee simple, \$15,000 is little enough; but the error is in regarding these persons as the owners of the fee simple. They never had it. They settled on the land, the usufruct of which was in the Indians, and the ultimate domain of which was in the United States; and when the Indian title was extinguished, the United States never did let them have the fee simple. Now, my friend from Arkansas calls upon us to pay for what they never had, the fee simple. If that is the true ground, and we are bound to pay for the fee simple, \$15,000 is little enough. But I deny that we are bound to pay for property that never belonged to these people, and the use of which was conceded to them by the Indians and the United States. That is all. If we are bound to make any compensation for improvements—and the Government seems to have recognized the principle of making compensation for improvements after 1826—it would be simply for those improvements which were put there between 1826 and 1838. The Government has acted as though there was some obligation to compensate for improvements which the Government had invited them to make, and afterwards told them to abandon. It was done in the case of the other settlers there, and of the Messrs. Bean also. They accepted the land which the Government gave them for the improvements they had made under the invitation of the Government, and which they were required to surrender.

But how should that make the Government liable for improvements made before 1826, which were commenced in 1821, and which were used by these people by the mere permission of the Indians and of the United States, and for the sole benefit of the persons who made the improvements? If you have to pay at all, you must pay for all the improvements, the sheds, the kettles, the clearing of the land, and the value of the log cabins, for I think the testimony in the case speaks of two cabins. But my friend's claim does not go to that extent and stop there; he goes beyond that, and claims pay for the fee-simple in all this land. I will yield, if that is the sense of the Senate. I think the \$15,000 is little enough, if that is the proper claim.

Mr. BADGER. Let us try the sense of the Senate.

Mr. UNDERWOOD. Yes, one word, and I will be glad to try the sense of the Senate. Why has this claim been postponed for twenty years? Government has settled all matters relating to all

other claims for land in that territory. Major Bradford is in his grave, and cannot tell us anything about it. Then why is this claim brought forward now, when the officer who is said to have given these persons permission to occupy the land has been gone to his long home more than twenty years, and we cannot get at the evidence on that point? It does seem to me as if this claim ought not to be granted.

Mr. HALE. It does not seem that we are likely to get rid of these kettles, or of the Beans either, to-day, and I therefore move that the Senate adjourn.

Mr. BADGER. I hope the Senator will withdraw that motion, for this reason: if we adjourn, we shall have the same thing over again next Friday, and so on, *die ad diem*, until the end of the session.

Mr. HALE. If we could get rid of it before the *die ad diem*, I would withdraw it, but I see that we cannot. I see that my friend from Arkansas wishes to say another word, and I know that my friend from Kentucky will not permit it to go without a reply. I therefore think we had better adjourn.

Mr. BORLAND. I hope the Senator will withdraw the motion.

Mr. HALE. I withdraw it.

Mr. BORLAND. I have no speech to make, but I merely wish to read a short letter, which I think will answer the last speech of the Senator from Kentucky, upon the question of the right of these persons to occupy the land which they did, and will show the circumstances under which they were there at the time the treaty was made. It is as follows:

GENERAL LAND OFFICE, April 27, 1852.

SIR: I have the honor to acknowledge the receipt of your communication of the 27th ultimo, enclosing a report of the Committee on Public Lands, of the Senate, on the petition of Mark and Richard H. Bean, claiming indemnity for the loss of their improvement and salt works, near the junction of the Illinois and Arkansas rivers, which were embraced within the country ceded to the Cherokees by the treaty of 23d May, 1828; and requesting to be advised how and when the tract of country including their settlements was acquired by the United States, under what laws its occupancy was regulated until 1826, and how it was then thrown open to settlement by the white people?

In answer, I have the honor to state: That this land was first purchased by the treaty concluded September 25, 1818, with the Great and Little Osages; and subsequently by the treaty concluded with the same Indians, on the 2d of June, 1825, by which the Indian title to the lands between the Arkansas and Kansas rivers, west of the present boundaries of Missouri and Arkansas, was extinguished. Prior to those treaties its occupancy was regulated by the laws regulating the trade and intercourse with Indian tribes. Long prior to this last mentioned session, the Government had adopted the system of encouraging the settlement of the public lands by granting preemption rights to those who should settle on and improve them.

The fifth section of the act of April 12, 1814, (Laws and Instructions, part I., p. 244,) was considered applicable to the whole of the lands in the then Territories of Arkansas and Missouri; but afterwards was held to apply only to lands therein to which the Indian title had been extinguished.

The former construction will appear by reference to the act of 26th May, 1824, (same volume, p. 339,) by which a preemption right to a quarter section of land was granted to every person who was entitled, under the act of 1814, to a right of preemption to any land in that part of Arkansas, and ceded to the Cherokees by the treaty of 1817, and which is a part of the country now under consideration. It was held, however, by the Attorney General, that a preemption could not attach to any land occupied by Indians at the passage of the law granting preemptions.

[It does not apply to this. This was land that had been obtained from the Indians before that time.]

The whole of this country, however, was thrown open to settlement under the general policy of the Government by the promulgation of the treaty of 1825 aforesaid; and although not subject to the operations of the act of 1814 in view of the opinion of the Attorney General aforesaid, because at the passage of that law the lands were in possession of the Osages, yet those lands would have been subject to the operations of the act of 29th May, 1830, if they had not previously been granted to the Cherokees.

I have not been able, after the most diligent search and inquiry, to learn how this region obtained the name of the "Lovely Purchase."

With great respect, your obedient servant,

J. BUTTERFIELD, Commissioner.

HON. SOLON BORLAND,  
United States Senate, Washington, D. C.

Mr. BAYARD. I desire to ask a question of the Senator from Arkansas in reference to this matter. It appears, from the statement of the petitioners, that other persons were excluded from the tract known as the "Lovely Purchase" up to 1826. If that were so, they must have gone there in violation of the laws of the United States; and I do not know of any authority which Major

Bradford possessed to authorize them to make a settlement on the land of the United States which other persons were not authorized to settle upon. I believe their own petition states that that was the state of the case?

Mr. BORLAND. In answer to the Senator from Delaware, I would state, that up to 1826, under the laws regulating trade and intercourse with the Indian tribes, persons were excluded from that country; but therein consists, as I have undertaken to show, and as I think the papers show, the merits of this claim. The settlement made by the Beans was not merely by permission, but the public interests which were intrusted to the commanding officer there seemed to him to have required that they should have permission and encouragement to go there to make a settlement for the public interest. He had authority either to exclude them or permit them to go. He did not consider others fit persons to go, but permitted these men and encouraged them to go, because they were going to make an establishment of great public utility. In 1826 the country was, as the Commissioner of the General Land Office shows, thrown open to white settlers generally, and a vast number of other persons then went in.

Mr. BAYARD. I understand the state of the facts to be this: These parties allege that Major Bradford, an officer in the service of the United States, encouraged them to make a settlement on this salt spring land, which they discovered in 1817, and assured them of the protection of the Government; and that it was at his solicitation the works were established. They were illegally established regarding the laws of the United States. I am not aware that the commanding officer had authority to grant permission to establish the works there, though it might be that he did not choose to exercise the power of removing them. I am not aware of any legal authority which he had to grant the right. But my difficulty on this branch of the case is, that Congress, after the land was thrown open in 1826, when settlers came upon it, on public considerations, in May, 1828, having ceded the land to the Cherokees, compelled the white settlers to remove, and passed an act making compensation to those who were removed in consequence of this cession. At that time, as far as the statements appear, though they are somewhat indefinite, Major Bradford was alive. From 1828 to 1850 these parties sleep upon their claim. They make no demand upon the United States. Their allegation, and the sole foundation upon which the claim, in my judgment, can rest in equity, is, that they went there by invitation of Major Bradford, with assurances of protection, and with the view to supply salt to the troops that were located there. There is a defect of proof here, because there is no testimony whatever. The statement of General Arbuckle is, that Major Bradford permitted them to remain. The parties might, if they had had this claim founded upon the assurances of protection from Major Bradford, certainly not only might, but would, rationally speaking, have presented their claim in 1828, at the time when Congress passed the law allowing compensation to settlers on the land there. They did not do so. They have not accounted in any way why, from 1828 to 1850, they slept upon their rights; and now when those who were cognizant of facts material to the claim for their relief are in their graves, they come forward, and upon their own naked assertion as to that which forms the foundation of their claim in equity, ask for relief. I cannot vote for the bill without further testimony on that point.

Mr. SEBASTIAN. I am unwilling that the Senate should decide upon the question of reconsidering the vote by which the bill was ordered to be engrossed for a third reading, without adding my testimony in favor of the general principle involved in the bill. As to the amount of the compensation which the Beans claim, I am unable, for the want of that particular information of which my colleague is possessed, to state what is the amount of indemnity which they ought, in justice, to receive from the Government of the United States. But the shortest recapitulation of the facts will show that they are entitled to indemnity beyond question. How much that should be depends on the proof of which, as I said before, I am not sufficiently advised to state with particularity to the Senate. In 1818, the Beans undertook what was one of the most extraordinary enter-

prises of that day—one which required an unusual amount of energy, of labor, and of expense. From the place where the kettles for their manufactory were constructed, on the Cumberland river in Tennessee, to the place where their establishment was located, was almost an unbroken and unsettled wilderness of fifteen hundred miles. They were drawn by the Cumberland, and down the Mississippi, and then seven hundred miles up the Arkansas river. It was almost an unbroken, and, with the exception of a few scattered settlements on the Arkansas river, almost an unsettled wilderness, from the mouth of the river to the place where their establishment was finally fixed. By the law, as it then existed, they must, of necessity, have permission, either from the United States officer or from the Indian agent of the country, to go there, before they could make their establishment without violation of law. I believe it was not adverted to in the report, but I learn from unofficial sources, that the assent of Major Bradford was obtained; and he gave his sanction to the enterprise on account of the great want of a salt manufactory within a convenient distance. These men had to toil along the banks of the Arkansas. There are men here who know what it is to hug the rugged banks and sand bars of the Arkansas river, and toil up it with boats for a distance of two hundred miles, for weeks in succession. It must be remembered, that the country was then in the possession of the Osage and Cherokee Indians for almost the entire distance; and when the Beans arrived within one hundred or two hundred miles of the place where the establishment was located, they had absolutely to take the kettles and transport them with such a conveyance as the country afforded to the place of their enterprise.

The Senator from Kentucky adverted to a kind of calculation by which, according to his arithmetic, these men realized a fortune; and then, by the strangest deduction which I ever heard ciphered out, he argues that the amount of indemnity is to be refused, in regard to the value of the establishment lost by the act of the United States. They were perpetually depredated upon by the Osage Indians. There were weeks and months together when they could do nothing at their establishment. And as for the sale of their salt at one dollar a bushel, it was frequently taken in furs, which it cost a great deal to transport. I know something of the peculiar circumstances of the Beans; and their joint property, I understand, although they are prudent men, would not amount to half the profits which the Senator from Kentucky supposes they realized from their establishment.

According to the existing law in 1826, the settlers upon the Osage country could have acquired the right of preemption. In 1828 it was ceded to the Cherokees. We acknowledged the obligation of the Government to indemnify the settlers for their losses, by granting to them three hundred and twenty acres of land each, and that was given to several hundreds of them. But the Beans did not acknowledge that as at all satisfactory for the large amount which they invested in their enterprise, and they have now come here to ask, at the hands of a liberal Congress, indemnity such as may be commensurate with their losses. I have no hesitation in saying, according to the best conclusion I could form upon the evidence, that \$15,000 is not too much, if you consider that they had the right of preemption, when Congress, by the sweeping effects of the treaty, ceded it away from them, and never gave them a compensation for it. It brings it then up to the case which the Senator from Kentucky supposes, that if they were entitled to the preemption, \$15,000 is not too much. The Government, as I said before, have acknowledged the obligation to pay and indemnify the settlers on the ceded territory; but they made no provision, by the law of 1828, to indemnify persons who invested such amount as the Beans did in their salt works.

Mr. HOUSTON. I imagine that this case is not understood very well. I fancy that the Beans were not deprived of all the property that they took there; but when the works fell into other hands, the materials which they had were necessarily disposed of, and that they would receive the full value of them. Moreover, they were not entitled to any preemption for this tract of land. They could not be. It was reserved to the Chipewa Indians when it was purchased by the Government of the United States. A special reserva-

tion was made of the tract, as will be found by reference to the treaty, and the Beans thereby lost all their claim to it. I must confess, for I am personally friendly to the individuals, that it is strange I have never heard of this claim up to the present time. More than twenty years have elapsed since they made their establishment there, and I have never heard anything of it. I shall vote for the reconsideration.

Mr. UNDERWOOD asked for the yeas and nays on the question of reconsidering the vote by which the bill was ordered to be engrossed for a third reading, and they were ordered; and being taken, resulted—yeas 21, nays 17; as follows:

YEAS—Messrs. Bayard, Bradbury, Clemens, Dawson, De Saussure, Fish, Hale, Houston, King, Mason, Miller, Pearce, Pratt, Smith, Soule, Stockton, Toucey, Underwood, Upham, Wade, and Weller—21.

NAYS—Messrs. Atchison, Badger, Borland, Brodhead, Charlton, Clarke, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Foot, James, Jones of Iowa, Norris, Rusk, Sebastian, and Walker—17.

So the motion was agreed to.

Mr. RUSK. I have a bill upon which I wish the Senate to act, and I therefore move that the further consideration of this bill be postponed until Friday next.

Mr. HALE. I hope that will not be done. If it is, we shall have all this debate over again.

Mr. RUSK. I have no objection to acting finally upon this bill to-day, but my impression is that it will be discussed. I hold in my hand a bill which has already passed this body two or three times, and it will not take the Senate five minutes to pass it now. It is for the relief of a man who was wretchedly disabled in the Mexican war, while engaged as an express rider. He cannot procure a pension, because he was an express rider, and not in the Army. He carried, as is successfully shown, an express at an important time to save a good many difficulties, and while in the discharge of that duty was wretchedly mutilated. The bill has passed the Senate two or three times, and failed in the House for want of time. I hope it will be passed now. The man is here in poverty and want, and unable to get a living in consequence of his disability.

The PRESIDENT. The bill to which the Senator alludes is not now under consideration.

Mr. RUSK. I state this to endeavor to have it taken up.

Mr. UNDERWOOD. I rise to offer a compromise to my friend from Arkansas, and that is, to let his bill go to the Committee on Claims, and I promise that I will agree to abide by whatever they say, without opening my mouth. We differ with regard to the facts, and I think it will be the proper course to send it to that committee for consideration.

Mr. BORLAND. I do not wish to press this bill on the consideration of the Senate now. I will ask the Senator from Kentucky to let its further consideration be postponed without opposition. I do not think I will trouble the Senate much with it hereafter, at any rate.

Mr. UNDERWOOD. I have no objection, but I think the course which I propose will be the better one.

Mr. HALE. I hope it will not be postponed. I have listened to these speeches once with a great deal of pleasure, but not with so much as to want to hear them over again; yet I think, if the further consideration of the bill be postponed until another day, notwithstanding the present disposition of Senators not to speak, they will do so. No man has much of an appetite immediately after dinner.

Mr. RUSK. I withdraw my motion.

Mr. HOUSTON. I hope the bill will be postponed. I wish, if it is proper that I should vote for it, to do so. If it is not proper, I wish longer time to investigate it. There are various documents connected with the case which I should like to see before I act upon it. If I can vote for the bill, I shall do so with great pleasure, on account of the claim; but I cannot vote for it under the present circumstances. It will be asking very little to ask to let it lie over until next Friday. I hope there will be no discussion on it. I only wish to look at the documents. I renew the motion to postpone its further consideration until next Friday.

The motion was agreed to.

JOHN LE ROY.

Mr. RUSK. I move to postpone all prior or-

ders, for the purpose of taking up the bill granting a pension to John Le Roy.

The motion was agreed to. The bill was read a second time, and the Senate proceeded to consider it as in Committee of the Whole. It enacts that there shall be allowed and paid to John Le Roy, who was an express rider in the late war with Mexico, a pension of \$20 per month, to commence on the 22d of February, 1847, and continue during life.

Mr. PEARCE. I would inquire why a pension of \$20 per month is proposed to be granted in this case?

Mr. RUSK. In consequence of the severe disablement of the person to whom it is proposed to be granted. He had one of his arms shot off.

Mr. PEARCE. Such an allowance has not generally heretofore been granted to common soldiers, even when totally disabled. This seems to me to be departing from the general usage, and I move to strike out \$20 and insert \$8 a month, the amount of pension allowed to soldiers.

Mr. RUSK. If the report of the Committee on Pensions is read, it will show the facts of the case.

The report was read, from which it appeared that the petition of John Le Roy was first presented to the Senate on the 31st of December, 1849, and that on the 12th of January, 1850, a report was made in the case, accompanied by a bill for his relief. From that report it appears that the petitioner was employed by the Quartermaster's Department of the Army as an express rider in the military service during the war with Mexico; and that on a highly-important emergency, when Colonel Irwin, of the Ohio volunteers, with a small force, was on the march to join General Taylor, previous to the Battle of Buena Vista, and became shut up in a town, and surrounded by a large body of the enemy, it became important to convey intelligence to that officer of his determination to send relief to him next morning. The petitioner promptly volunteered to convey this determination, and after gallantly running the gauntlet was fired upon by our own sentinel, and wounded in such a manner as to render the amputation of his arm necessary. When it is considered that Le Roy so nobly assumed such a responsible duty, and so gallantly performed it, penetrating the enemy's encampment, and being hotly pursued into the American camp, where, instead of receiving relief, he was fired upon by an American sentinel, and taken for one of the enemy, who were then close upon him, the committee thought it a highly meritorious case, and being recommended to the favorable consideration of the Government by the highest military authority, then in command of the Quartermaster's Department and the army in that part of the enemy's country, they had no hesitation in reporting a bill for his relief, and recommending its passage.

Mr. PEARCE. I do not see that this makes any difference at all. The case seems to me to be a meritorious one, but it is still that of a common soldier. We have had cases of soldiers who were mutilated just as much as this person is, who received but eight dollars a month. I do not see any reason for such a large increase to this individual. We have given but \$8 a month to those who have braved death in all its forms in numerous battles. I think it would be well to put this case on the same footing as a common soldier.

Mr. BORLAND. I desire to say that this case is one of great merit, and it is not without precedent, so far as precedent may have weight with the Senator from Maryland. We had a case precisely similar two years ago, or rather in 1848, which provided for a pension of the same amount. I allude to the case of Jonathan Fitzwallier, formerly a citizen of Pennsylvania, who was in Mexico when the war broke out, and who was afterwards employed in the Quartermaster's Department. He was wounded on the 18th of August, not while riding an express, but while serving as a guide to a party sent out by our army—a sort of party of reconnaissance. He was not deprived of either of his limbs, but of one of his eyes. A bill was introduced for his relief, which granted a pension of \$20 per month. It was a very meritorious case. I advocated it here, and it passed; and I do think this man, from the circumstances of the case, is entitled to an equal consideration. So far as precedent is concerned, then, I think the claim is fully sustained as well as upon its merits.

The amendment was not agreed to. The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

It was subsequently read a third time and passed.

#### ELIZABETH V. LOMAX.

On motion by Mr. MASON, the Senate proceeded, as in Committee of the Whole, to consider the bill for the relief of Elizabeth V. Lomax. It directs the Secretary of the Interior to place the name of Elizabeth V. Lomax, widow of Mann Page Lomax, deceased, late a major in the Ordnance Corps of the United States Army, on the pension roll, at the rate of \$30 per month, from the 27th of March, 1842, for and during her natural life.

Mr. UNDERWOOD. This is one of the bills to which I objected some time ago. I rise to state to the Senate that I have found, from an examination of the report and accompanying papers, that the proof in the case was not complete until 1850, and yet the bill goes back some eight years, to 1842—thus allowing the sum of \$3,000 or \$4,000 by the retroaction.

The bill proposes to allow a pension from 1842. The proof, according to the report, was not complete until 1850. The difference would amount to some \$3,000 or \$4,000; and I think it altogether improper to allow it. Indeed, I think it is a very questionable case.

Mr. MASON. I desire to ask the Senator a question. What does he mean by saying that the proof was not complete? No application was made for a pension, as I understand the report, until 1850.

Mr. UNDERWOOD. So I understand, and of course the proof was taken in 1850, and the right to a pension was not established until that time. I understand, according to the doctrine of the Department, that they only allow the pension from the time the right is established by proof.

Mr. DAWSON. That is the law.

Mr. UNDERWOOD. Yes, that is the law; that is what we have been acting upon here; and this bill will be acting in disregard of that law. It retroacts, as I stated, to allow a pension for some eight years before the proof was complete. I therefore objected to the bill when it was up before. I have already stated that the whole matter is one which I think of a very doubtful character; but if the Senator will amend the bill so as to make it take effect from the time that the proof of the right was complete—which was on the 23d of May, 1850, I suppose, for that is the last date of the proof which I see—I will not go into an investigation of the right.

Mr. MASON. The lady for whose benefit this bill provides is an acquaintance of mine. She resides at Norfolk, in Virginia, where she has lived since the death of her husband. She is one of that class of our citizens who refuse to appeal to the bounty of the Government as long as they are able by their own hands to maintain themselves. Her husband died in 1842, and she opened a school, and gave lessons in music, and occupied her whole time in maintaining her children, that she might not be compelled to appeal to the bounty of the Government. She states at the close of her petition, what her friends know to be true, that "the measure of relief to which she may be entitled she submits to your sense of 'even-handed justice, deploring the necessity she is under for making this appeal to the bounty of the Government.'" If she had applied for the pension in 1842, she would then have been entitled to it; and I submit, when we have an example of one keeping aloof from the Government as long as she was able to provide for the children which were left upon her hands by the death of her husband, whether we should not give to her the arrears of pension? I presume it was for that reason the committee reported a bill to operate retroactively; and I submit to the Senate that she ought to have it.

A SENATOR. What are the grounds on which the bill is based?

Mr. MASON. A Senator inquires for the foundation of this claim. I will state the grounds on which it rests. Major Lomax was an officer of the Army, who, as is stated in the petition, and confirmed by proof, passed through his entire career, from 1807 to 1842, without ever having asked a furlough, or having been brought before

a court-martial. He went into the Florida campaign after the death of Major Dade, and as is proved, went into it a man of robust health and capable of any endurance, but came out of it with his constitution shattered. These facts are in proof here.

Mr. BORLAND. I reported this bill from the Committee on Pensions. The Senator has correctly stated the ground on which the committee acted. We considered it a very meritorious case. Major Lomax is proved by the testimony, which is complete, to have been disabled by his service, and to have died of disease contracted by exposures and hardships in the service of his country.

I desire to take this occasion to call the attention of the Senate to one fact. I think it is time that it should be made known to the Senate and to the country, to meet what seems to be an apprehension in the minds of a great many Senators, that we shall bankrupt the Government if we go on granting pensions—that we are going to inflict great injury on the Government, and break it down with a big pension list. Now, although the expenditures of the Government are going on at a railroad pace, we find that the pension list, instead of increasing is diminishing. It is not so great as it was at the commencement of the Mexican war. It has been diminishing from the administration of General Jackson; and it is now less than it was before the commencement of the Mexican war, and is diminishing every year. I mention this to relieve the minds of Senators who have had serious apprehensions that our pensioning is growing to be a great burden upon the Government. We can yet take care of widows and orphans and disabled soldiers, who become so by the gallant deeds of themselves or of their fathers and husbands, without any danger of adding to the burdens of the Government. We are doing it with some degree of liberality; but we may do it with a great deal more without adding any great burden to the taxation which seems to be so alarming.

Mr. UNDERWOOD. I said, if the gentleman would accept the amendment which I suggested, that I had nothing to say about the bill. I said, though, that I thought it was a doubtful case; and my friend from Arkansas reads me a lecture on the subject of my former opposition to pension bills, because I suggested the other day that we were in a fair way of putting one half of the community on the shoulders of the other half for support. I do not want to discuss this subject now. I have discussed this and all other questions almost so uselessly that I am tired of them; but I want everybody to stand upon the same footing, Mr. President. We have by our action, time and again said that pensions should not be allowed until the claim against the Government was fairly established by proof. When this bill came up I objected to it on that ground. It has been the rule upon all other pension bills since that time, and now are we to make Mrs. Lomax an exception? With what grace can we appear before the country in so doing? How can Senators stand when they apply a rule, and apply it in all cases since the objection has been raised, and yet make this an exception? The people of this country stand upon the same footing before the law, and I insist that you treat the widows of officers just as you treat the widows of soldiers—that you treat the humble and low just as you treat the famous and exalted. Have I done more than that, in asking the Senate to make the amendment that the pension in this case should commence on the 23d of May, 1850, when the proof was completed? No, sir; and is not that reasonable? If you intend to legislate for everybody alike, it is; if you intend to legislate on the ground of making favorites and exceptions, perhaps it is not. I have not the pleasure of knowing Mrs. Lomax, like my friend from Virginia, and of course I cannot be supposed to act on any spirit of sympathy growing out of that acquaintanceship, which no doubt has been highly pleasing to the Senator. All I ask is that we shall legislate for everybody alike.

There is another feature in this bill. It proposes to grant this lady a pension for life. Here is a law before me which provides that the widows of soldiers and officers dying in the service shall get a five years' pension; and if the widow happens to marry in that five years, the children shall get a pension if under sixteen years of age; but here, independent of marriage—independent of



any limitation of five years, Mrs. Lomax is to go upon the pension list at the rate of \$30 per month. Is not that difference enough, without adopting the retroactive principle to pay some three or four thousand dollars in addition? I should not have made these remarks if I had not considered that they were forced upon me in vindication of the amendment which I now offer. I move to strike from the bill the words "27th of March, 1842," and insert "23d of May, 1850."

Mr. BADGER. I rise, as I see my friend from Georgia [Mr. Dawson] endeavoring to obtain the floor, for the purpose of saying that I think every gentleman understands precisely the question before us, and to beg that we may now be allowed to vote upon it.

Mr. DAWSON. I was anticipating my friend from North Carolina. I saw that he was prepared to rise, and I know that he is exceedingly liberal in questions of appropriations. This is a question of some importance. What will be the consequences growing out of the adoption of the bill as it now stands? There are thousands and thousands of cases now in the Pension Office, which, as soon as you establish this principle, will present their claims for back pay; and upon what ground can the Congress of the United States oppose placing them upon the same footing? What I regret about it is, that the Senator from Virginia and myself have uniformly voted alike on this subject. I have no doubt that Mrs. Lomax is all he says she is, and that she has had a wonderful influence upon him. I have no doubt, if we establish this principle, that there will be other ladies claiming in the same way, who will be equally represented by other Senators, and not only thousands of claims will be presented, but hundreds of thousands of dollars will be taken out of the Treasury, in violation of the law which has been enforced for many years.

I have had a case of a lady, in which it took six years to consummate the proof, before the pension could be received; and the pension was only allowed from the consummation of the proof, according to the law. If this bill passes, I shall be in duty and honor bound to apply instantly to have her pension retroact, and commence at the period from which she was properly entitled to it, had the proof been presented. If we are to adopt the principle proposed in the bill, a better plan would be to pass a general law in the words that all persons shall be entitled to all arrearages of pension from the time they were entitled by law, and the proof considered as established, and that the money be appropriated and paid; otherwise we shall be overwhelmed here by numerous applications for special bills. It would be better, I say, to pass a general law to cover the whole of them. I am like the Senator from Kentucky. Let us not act specially—let us act generally upon our pension laws. As he says, every individual stands upon the same platform, and equal justice should be extended to all.

But these arguments have been often presented already, and adopted by the Senate, and, but for the great influence of my friend from Virginia, I do not think the proposition suggested would receive the support of the Senate. If his name now be placed as authority for this principle, it will command the respect of this body and of the other House, and a new principle will be ingrafted, or, in other words, the present law will be repealed, and all pensions will go back to the period from which they were entitled to receive them. I know of some in which twenty years passed before application was made for a pension. I will state one. A gentleman in Georgia was entitled to a pension in 1812. He never claimed it till 1850. Thousands of dollars, upon this principle, are now due to him; and, but for the law, I would apply for it. The Pension Office said it must take place from the consummation of proof, and that the law so required it. I had the papers before me for the purpose of having a bill drafted to cover the intermediate time, but I saw that it was contrary to the established principle, and I was unwilling to interfere and make a claim in opposition to it. But should this pass, I shall certainly make that application. I believe the principle would be wrong. I think it would be better to stand upon the established principle, without opening the question again. That is my view about the matter.

Mr. MASON. I do not wish to change any principle which has been established. The bill

was reported by a member of the Committee on Pensions, the Senator from Arkansas, [Mr. Borland,] and the reason why they propose to go back to the time of the death of the husband, was because of the fact that this good lady had set to all her countrymen and countrywomen a beautiful example, trusting to the labor of her own hands, and the exertions of her own intellect, to maintain her family since the death of her husband, rather than apply to the Government for relief; and that she did not apply until, through ill health, she became unable to maintain them. The bill, therefore, does not change any principle.

I would say in addition, that this fact was made known to me not by herself, but by those who were in intimate association with her. The case appealed to my sympathies, and I felt it my duty, as one of the legislators of the land, to present it here. I shall not press the matter, however, but am willing that the vote should be taken on the amendment of the Senator from Kentucky.

Mr. UNDERWOOD. I ask for the yeas and nays.

The yeas and nays were ordered, and taken with the following result:

YEAS—Messrs. Atchison, Bayard, Charlton, Dawson, Dodge of Wisconsin, Felch, Foot, Hale, King, Pearce, Smith, Toucey, Underwood, Upham, Wade, Walker, and Weller—17.

NAYS—Messrs. Badger, Borland, Brodhead, De Saussure, Dodge of Iowa, Douglas, Downs, Fish, Gwin, Houston, Jones of Iowa, Mason, Norris, Rusk, Sebastian, Soule, and Stockton—17.

So the amendment was rejected.

The bill was then reported to the Senate, and the question was on its engrossment for a third reading.

Mr. UNDERWOOD. I hope that the vote will be taken in the same manner as on the amendment. I ask for the yeas and nays.

Mr. DAWSON. The better way would be to let the bill be laid upon the table for the present.

Mr. RUSK. Better let it be engrossed, and then ask for the yeas and nays on its passage.

The yeas and nays were ordered and taken on the question of engrossment, and resulted—yeas 20, nays 13, as follows:

YEAS—Messrs. Badger, Borland, Brodhead, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fish, Foot, Gwin, Houston, Jones of Iowa, Mason, Norris, Rusk, Sebastian, Smith, Soule, and Stockton—20.

NAYS—Messrs. Bayard, Charlton, Dawson, Felch, Hale, King, Pearce, Toucey, Underwood, Upham, Wade, Walker, and Weller—13.

So the bill was ordered to be engrossed for a third reading, and was subsequently read a third time and passed.

#### HEIRS OF JOHN JACKSON.

Mr. GWIN. I hope there will be no objection to take up House bill No. 95, which is a bill for the relief of the heirs of John Jackson. It has been unanimously reported by the Committee on Naval Affairs, and I am anxious it should be acted upon. I trust it may now be taken up and disposed of. With that view I move that the previous orders be postponed, and this bill taken up.

Mr. HALE. I should like to ask if that is the bill to which the Senator from Indiana had an objection?

Mr. GWIN. For the information of the Senator from New Hampshire, I will state that the Senator from Indiana withdrew his objection, as also did the Senator from Michigan.

The motion to postpone the prior orders was agreed to, and the bill was considered by the Senate as in Committee of the Whole.

It provides that the Secretary of the Treasury be authorized and required to pay to the legal representatives of John Jackson, deceased, the pilot on board the Bon Homme Richard, during her brilliant action with the British frigate Serapis, in which action the said Jackson lost an arm, such a sum as will equal a pension at the rate of \$6 per month, from the 15th day of November, 1779, to the day of said Jackson's death, agreeably to the pledge given by the captain of the said Bon Homme Richard, and the report of the committee of the Continental Congress, made on the 28th day of September, 1785.

No amendment being made, the bill was reported to the Senate, ordered to a third reading, and read a third time and passed.

#### BENJAMIN S. ROBERTS.

Mr. FOOT. I move to postpone the previous

orders, with a view to take up Senate bill entitled "A bill for the relief of Benjamin S. Roberts." I think it will lead to no discussion, and if it does, I will consent to its postponement. It is a very meritorious bill, proposing a partial repatriation for a great injustice done to a meritorious and gallant officer of the Army. It is reported from the Committee on the Judiciary, having passed that committee unanimously, by the late Senator from Georgia, (Mr. Berrien.) The reading of the report, which contains a full and minute statement of the facts upon which this claim is based, will be a sufficient argument in the case.

The motion to postpone the prior orders, and to take up the bill was agreed to, and it was read a second time, and the Senate proceeded to its consideration as in Committee of the Whole.

It proposes to authorize the Secretary of the Treasury to pay to Benjamin S. Roberts, the full amount of his pay and subsistence as a second lieutenant in the first regiment of dragoons, from the 28th day of January, 1839, when he was coerced to resign his commission of second lieutenant in the first regiment of dragoons, without authority of law, until the 27th day of May, 1846, when he was restored to the Army, by being appointed senior first lieutenant in the regiment of mounted riflemen.

The reading of the report was called for, from which it appeared: that the memorialist, Benjamin S. Roberts, was, in the year 1836, a second lieutenant in the regiment of dragoons—was in the performance of staff duties as assistant commissary of subsistence, and acting assistant quartermaster at the dragoon station at Fort Des Moines, on the upper Mississippi river, and was in the receipt and disbursement of public moneys. That on the 28th of May, 1837, he had in his hands between three and four thousand dollars of such moneys in notes of the Commercial Bank of Cincinnati, one of the Government deposit banks, which had been placed in his hands for disbursement. That on that day intelligence was communicated to the memorialist, that the above-named bank had ceased to redeem its notes in specie, and in consequence the notes he held became utterly useless to him as a disbursing officer, the provisions of the specie circular of 1836 having forbade all disbursing officers of the Army to disburse or use for any public debt, any bank notes not redeemable in specie. That the memorialist exchanged the notes of the Commercial Bank, which had thus become unavailable in his hands, for an accepted draft on the Des Moines Land Company, which was then of undoubted credit, and indorsed the same to Colonel Mason, with a request that the proceeds should be deposited to the credit of the memorialist at St. Louis, the place where he had to pay over the balance which his accounts should exhibit to be due to the Treasury. That in consequence of some disagreement between the members of the Des Moines Land Company, at New York and their agents in the West, the acceptance of this draft was disavowed—its disavowal was followed by a protest, and thus the memorialist was deprived of the means of refunding to the Treasury the amount of the notes which had become unavailable in his hands, and for which the acceptance had been taken in exchange, in the hope of saving the amount to the United States. That, after much labor and expense had been incurred by the memorialist, these transactions were closed, by the interposition of Congress, to the satisfaction of the Treasury, and the memorialist stands acquitted, and wholly discharged from all claim against him by the United States.

The report further states that the memorialist never was a defaulter in the injurious sense of that term. He held an amount of public money which, under the regulations prescribed by Government to disbursing officers, became unavailable in his hands. He succeeded after much labor and expense in transferring the proceeds, to an extent considered satisfactory, to the Government; and was discharged from accountability. But while his accounts remained unsettled—while on the books of the Treasury he appeared as a defaulter, although he was not in fact—proceedings were had by the Commanding General of the Army which coerced him to surrender his commission, and drove him from the Army; which proceedings were contrary to equity and justice, unauthorized by law, and taken without conformity to

the provisions of the acts of Congress on which they were professedly founded.

The act of the 31st January, 1823, required the officer at the head of a Department promptly to report to the President of the United States any disbursing officer or agent of the United States who failed to make quarterly returns, and such officer was to be dismissed from the service; but it also provided that such defaulting agent or officer should be continued in office, if he could satisfactorily explain his default to the President.

The subsequent act of 25th January, 1828, authorized the proper officer to withhold the compensation due to any defaulting officer until he should have accounted for and paid into the Treasury all sums for which he was liable, but provided that this should not extend to balances arising from the depreciation of Treasury notes received by him for disbursement; and made it the duty of the accounting officer, on the demand of such defaulting agent, to report the balance due to the Treasury Department, and to order a suit to be commenced within sixty days thereafter against the delinquent and his sureties.

Under this latter act, proceedings were had against the memorialist. The balance which appeared to be due by him was reported to the Treasury, and his pay, emoluments, and allowances were withheld.

In this state of facts, Major General A. Macomb, Commander-in-Chief of the Army, under the alleged authority of the Secretary of War, and, for aught that appears, without the intervention of the President of the United States, addressed to the memorialist a communication, stating that he had been reported by the accounting officer as a defaulter, and that his name had been submitted to the Secretary of War as such. That, in consequence, General Macomb was authorized to say that he would be permitted to resign his commission in the Army; but that if he did not resign, he would be dropped from the rolls.

The General stated that he was not personally acquainted with the state of the memorialist's accounts; and that the permission to resign was offered him rather as a matter of regard for his future prosperity, than from any other consideration. Under the pressure of the menace contained in this letter, to avoid the disgrace of dismissal, a young, inexperienced, and as recent subsequent events have shown, a gallant officer was driven to surrender his commission. It seemed to the committee that these proceedings were, in every respect, exceptionable; that the memorialist was in no just sense a defaulter; that the apparent default did not authorize the double proceeding which was taken against him; and that if a proceeding under the act of 1823 could have been allowed under the circumstances, it did not authorize a menace from the Commanding General, to coerce the resignation of the memorialist.

To restore to the Army, after a lapse of time, an officer thus unlawfully driven from the service would be embarrassing, because it would conflict with the rights of others. On the occurrence of the late war with Mexico, he was restored to the service by an appointment to a different regiment, and did gallant service; but the grant of his pay, emoluments, and allowances, from the time of his compulsory resignation to that of his reappointment, while it will, to that extent, repair the injustice which has been done to him, will conflict with no existing rights of other persons, and the committee accordingly report a bill for that purpose.

The bill was reported without amendment, and was ordered to be engrossed and read a third time.

#### WEST FELICIANA RAILROAD.

On the motion of Mr. BROOKE, the Senate proceeded to the consideration of the bill for the relief of the West Feliciana Railroad Company as in Committee of the Whole.

The bill proposes to authorize the Secretary of the Treasury to refund to the West Feliciana Railroad Company the amount paid by them in judgments obtained against said company by suits instituted on duty bonds given by said company, for the importation of certain bars of railroad iron, imported at New Orleans in the month of July, 1836, and at New York in the same month of the same year: *Provided*, That it shall appear to the satisfaction of the Secretary of the

Treasury that the said railroad bars have been and are now permanently laid down upon the railroad of the aforesaid company, except such part thereof as may be proved to the satisfaction of said Secretary to have been lost by the sinking of the steamboat Chocataw, in an attempt to transport the same from New Orleans to Bayou Sara.

Mr. DAWSON. I desire to amend that bill. I hope the Senator from Mississippi will agree that it shall be laid upon the table, as I have a case precisely in point, which I have kept back for the purpose of moving it as an amendment to this bill. Not thinking the bill would be taken up to-day, I am not prepared to move the amendment now. I therefore move to lay the bill on the table.

With the assent of Mr. BROOKE, the motion was agreed to.

#### DONATIONS OF LANDS IN ARKANSAS.

The engrossed bill, entitled "An act to revive, for a limited time, an act in relation to donations of land to certain persons in the State of Arkansas," was read a third time, and passed.

#### EXECUTIVE BUSINESS.

Mr. HALE. I move that the Senate now proceed to the consideration of Executive business.

Mr. DODGE, of Iowa. I hope the Senate will consent to go into Executive session for a few moments, as there is a matter which it is desirable should be acted upon.

A division was called for on the motion, and there were—ayes 18, noes 5; no quorum voting. On motion, the Senate adjourned to Monday.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, June 25, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

Hon. ISAAC REED, member elect from the fourth Congressional district of Maine, to fill the vacancy occasioned by the death of the Hon. CHARLES ANDREWS, deceased, appeared, was qualified, and took his seat.

#### GRANTS TO THE STATES FOR RAILROADS.

The SPEAKER. The question first in order is the consideration of House bill No. 280, "making grants of land to aid in the construction of railroads, and for other purposes."

Mr. MOORE, of Pennsylvania. We have a very thin House this morning, and I trust that the various communications lying upon the Speaker's table from the several Departments, containing information which ought to be known to the House, may be laid before us and referred, before proceeding to the consideration of the unfinished business.

Mr. ORR. I call for the regular order of business.

The SPEAKER. The proposition of the gentleman from Pennsylvania cannot, then, be entertained. The pending question is the motion to recommit the bill.

Mr. GORMAN. I move a call of the House.

The SPEAKER. The motion for a call of the House is not in order, for the reason that the House is acting under the operation of the previous question.

Mr. STUART. On my demand the yeas and nays were ordered upon that motion.

The SPEAKER. The Clerk informs the Chair the yeas and nays were demanded, but not ordered.

Mr. STUART. They were ordered, and the report of the proceedings in the Globe shows that fact.

The SPEAKER. The Journal must then be corrected.

Mr. STUART. It ought to be amended. My recollection is very distinct upon the subject.

Mr. CARTER. I call for the yeas and nays on the motion, with a view of preventing a long debate on a point of order.

The yeas and nays were ordered.

The question was then taken upon the motion to recommit the bill to the Committee on Public Lands, and it was disagreed to—yeas 64, nays 103; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, John Appleton, Ashe, Bragg, Brenton, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Chastain, Churchwell, Cobb, Colcock, Daniel, John G. Davis, Dawson, Dis-

ney, Fiekin, Florence, Floyd, Giddings, Gorman, Hamilton, Hammond, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Hubbard, Hillyer, Holladay, Houston, Howard, Jackson, Andrew Johnson, John Johnson, George W. Jones, Preston King, Lockhart, Mace, McNair, McQueen, Meade, Millson, Molony, Murphy, Olds, Orr, S. W. Parker, Phelps, Powell, Richardson, Robbins, Ross, Scurry, Smith, Stuart, Sweetser, Townshend, Wallace, Wilcox, and Yates—64.

NAYS—Messrs. Charles Allen, Allison, William Appleton, Babcock, David J. Bailey, Barrere, Beale, Bell, Bennett, Bowie, Bowne, Breckinridge, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, L. D. Campbell, Caskie, Chapman, Clark, Cleveland, Clingman, Cottman, Curtis, George T. Davis, Dimmick, Dockery, Doty, Duncan, Edmundson, Faulkner, Fowler, Henry M. Fuller, Gilmore, Goodenow, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, James Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Kuhns, Kurtz, Landry, Letcher, Mann, Martin, Mason, McMullin, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Outlaw, Andrew Parker, Perkins, Porter, Reed, Riddle, Robie, Sackett, Savage, Schermerhorn, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Smart, Snow, Stanley, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Williams, and Woodward—103.

So the House refused to recommit the bill.

Mr. GORMAN. I believe the previous question has now exhausted itself.

The SPEAKER. It has not. The operation of the previous question is to bring the House to a vote first upon the motion to recommit, if there be one pending, then upon the amendments to the bill, and next upon the bill itself.

[Cries of "Question!" "Question!"]

Mr. GORMAN. Will it be in order, Mr. Speaker, to submit a motion that the bill be printed?

The SPEAKER. It will not.

Mr. CLINGMAN. The bill has been already printed.

Mr. BISSELL. I will make a motion which I believe to be in order, under the full conviction this bill has not received that consideration its importance demands—

[Cries of "Order!" "Order!"]

Mr. BISSELL. I move that the bill be laid upon the table, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was put upon the motion to lay upon the table, and it was disagreed to—yeas 79, nays 103; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Ashe, Bissell, Bocock, Bragg, Brenton, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Caskie, Chastain, Churchwell, Cobb, Daniel, John G. Davis, Dawson, Disney, Durkee, Eastman, Edgerton, Edmundson, Faulkner, Fiekin, Fitch, Florence, Floyd, Freeman, Giddings, Gorman, Hamilton, Hammond, Isham G. Harris, S. W. Harris, Hart, Hendricks, Hubbard, Hillyer, Holladay, Houston, Howard, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston King, Letcher, Lockhart, Mace, McLanahan, McNair, McQueen, Meade, Millson, Molony, Murphy, Nabers, Olds, Orr, Penn, Phelps, Powell, Robbins, Ross, Savage, Scurry, Smith, Stuart, Sweetser, George W. Thompson, Townshend, Wallace, Wilcox, and Yates—79.

NAYS—Messrs. Charles Allen, Allison, William Appleton, David J. Bailey, Barrere, Beale, Bell, Bennett, Bowie, Bowne, Breckinridge, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chapman, Clark, Cleveland, Clingman, Conger, Cottman, Curtis, George T. Davis, Dimmick, Dockery, Doty, Duncan, Evans, Fowler, Henry M. Fuller, Gentry, Gilmore, Goodenow, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, James Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Martin, Mason, McMullin, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Outlaw, Andrew Parker, Samuel W. Parker, Perkins, Porter, Reed, Riddle, Robie, Sackett, Schermerhorn, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Smart, Snow, Stanley, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Williams, and Woodward—103.

The SPEAKER. The question recurs upon the passage of the bill.

Mr. SAVAGE. I rise to a privileged question. I move to reconsider the vote by which the House refused to recommit the bill to the Committee on Public Lands; and if it is in order I will take this occasion to say—

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair must remind the gentleman from Tennessee, [Mr. SAVAGE,] that debate is not in order upon his motion. The House is now acting under the operation of the

previous question, which is not exhausted until the vote upon the passage of the bill shall have been taken.

Mr. SAVAGE. It was merely in explanation of my vote—

[Cries of "Order!" "Order!"]

The SPEAKER. If the House be disposed to indulge remarks, the gentleman can proceed.

Several MEMBERS. I object, I object.

The SPEAKER. The Chair must enforce the rule.

Mr. FOWLER. I move to lay the motion of the gentleman from Tennessee upon the table.

The SPEAKER. The gentleman from Tennessee has not relinquished the floor, and therefore the gentleman from Massachusetts cannot make his motion.

Mr. SAVAGE. I would be happy to avail myself of the opportunity afforded me by moving to reconsider a vote given contrary to my wishes, to express my sentiments in regard to the bill; but not being in order, I must withhold them.

Mr. GORMAN. I call for the yeas and nays on the motion to reconsider.

Mr. SEYMOUR, of New York. The motion now before the House, I believe, is to reconsider the vote by which the House refused to recommit the bill.

The SPEAKER. It is.

Mr. SEYMOUR. I move to lay that motion upon the table.

Mr. HART. Upon that motion I call for the yeas and nays.

Mr. SEYMOUR. I withdraw the motion to lay the motion to reconsider upon the table.

Mr. STEPHENS, of Georgia. I renew the motion.

Mr. RICHARDSON. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BELL. I rise to a question of order. Did the gentleman who makes this motion to reconsider vote in the affirmative?

The SPEAKER. According to the record, the gentleman from Tennessee voted in the negative, and that placed him in the majority.

The question was then taken upon Mr. STEPHENS's motion, and there were—yeas 106, nays 72; as follows:

YEAS—Messrs. Charles Allen, Allison, Ashe, Babcock, David J. Bailey, Barrere, Beale, Bell, Bennett, Boeck, Bowie, Bowne, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Caskie, Chapman, Clark, Cleveland, Clingman, Cottoman, George T. Davis, Dimmick, Dockery, Doty, Duncan, Edmundson, Evans, Fowler, Henry M. Fuller, Gentry, Gilmore, Goodenow, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, James Johnson, Daniel T. Jones, George G. King, Preston King, Kuhns, Kurtz, Landry, Mann, Humphrey Marshall, Martin, Mason, McLanahan, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Outlaw, Andrew Parker, Samuel W. Parker, Perkins, Reed, Riddle, Robie, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Smart, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, Williams, and Woodward—107.

NAYS—Messrs. Abercrombie, Aiken, Willis Allen, Averett, Thomas H. Bayly, Bissell, Bragg, Brenton, Albert G. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Chastain, Churchill, Cobb, Colcock, Daniel, John G. Davis, Dawson, Disney, Durkee, Eastman, Edgerton, Faulkner, Ficklin, Fitch, Florence, Floyd, Freckerton, Gorman, Green, Hamilton, Hammond, Isham G. Man, Sampson W. Harris, Hart, Hendricks, Hibbard, Harris, Holladay, Houston, Jackson, Andrew Johnson, Hillyer, Holladay, Robert W. Johnson, George W. Jones, J. John Johnson, Lotcher, Lockhart, McQueen, Meade, Mill-Glancy Jones, Murphy, Nabers, Olds, Orr, Penn, Phelps, Powell, Richardson, Robbins, Ross, Savage, Scurry, Smith, Smart, Sweetser, George W. Thompson, Townshend, Wallace, Wilcox, and Yates—92.

Mr. COBB. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. COBB. I move, then, to proceed to the business on the Speaker's table.

Mr. STEPHENS, of Georgia. I wish to inquire of the Chair if the House refuse to proceed to the business on the Speaker's table, whether it is not competent for a majority to go on and pass this bill? Let us pass this bill now.

The SPEAKER. Unless the contested-election case should intervene, it would be competent for a majority of the House to take such a course.

Mr. HAMILTON. I call for the consideration of the contested-election case.

Mr. STEPHENS, of Georgia. I believe the

gentleman from Pennsylvania [Mr. FULLER] has the floor, and with his assent I move to postpone that subject for one hour.

Mr. RICHARDSON. I demand the regular order of business.

The SPEAKER. The regular order of business, in the opinion of the Chair, would be the contested-election case from Pennsylvania, and will supersede the motion made by the gentleman from Alabama, [Mr. COBB], or even the motion—this being private bill day—to go into Committee of the Whole on the Private Calendar.

Mr. FULLER. I should regret that any business of mine should delay the public business; and if it be the desire of a majority of the House to proceed with this bill, I certainly will waive my right to address the House.

Mr. RICHARDSON. If the gentleman from Pennsylvania [Mr. FULLER] yields the floor, I have the floor.

The SPEAKER. The gentleman from Pennsylvania has not yet indicated his purpose.

Mr. FULLER. Unless the majority prefer proceeding with this bill, I do not yield the floor.

The SPEAKER. There are various motions which may be made and which will lead the House to the consideration of business other than the consideration of this bill. This being private bill day, the motion to go into Committee of the Whole House on the Private Calendar may be made.

Mr. STEPHENS, of Georgia. I wish to make an inquiry of the House, and it is this: Would not this unfinished business be the first thing in order to-morrow morning? I trust the friends of the measure will agree to dispose of it to-morrow morning.

Mr. RICHARDSON. Mr. Speaker, I desire to say—

The SPEAKER. The gentleman from Pennsylvania [Mr. FULLER] is entitled to the floor.

Mr. RICHARDSON. I was about to reply to the gentleman from Georgia, [Mr. STEPHENS], as to what would be the order of business in the morning.

Mr. FULLER. I wish my position understood. I waive the floor, if it is desired by a majority of the House.

[Cries of "Go on!" "Go on!"]

Mr. SEYMOUR. Before the gentleman from Pennsylvania proceeds, I wish to ask a question of the Chair. If the contested-election case should be taken up now, I wish to know whether the present bill can be reached to-morrow morning by a majority vote?

Mr. RICHARDSON. I desire when that question is made, to be heard upon it. I wish to raise that question.

Mr. HOUSTON. I call for the regular order of business, and insist upon it.

Mr. FULLER. This delay I hope does not come out of my time.

The SPEAKER. The Chair would have no objection to respond to the question of the gentleman from New York, but the regular order is called for, and the gentleman from Pennsylvania is entitled to the floor.

Mr. CLINGMAN. I will submit for the consideration of the Chair this point of order: The House having sustained the previous question, and ordered the main question to be put, I hold that the bill we are now considering overrides every other question.

Mr. HOUSTON. Has not the House passed from that question, and taken up another question? I understand the gentleman from Pennsylvania has the floor. While I am willing to come to a vote upon that bill, I desire this election case disposed of in some way; for next week I intend to ask the House to act upon the appropriation bills. It is time they were passed; and if this question is not before the House, I call the gentleman from North Carolina [Mr. CLINGMAN] to order.

The SPEAKER. The decision of the Chair was that this question, was the first business in order in the House.

Mr. HOUSTON. To-morrow morning?

The SPEAKER. It is the first business in order to-day.

Mr. HOUSTON. That is what I supposed. I ask the enforcement of that decision.

The SPEAKER. The gentleman from North Carolina, [Mr. CLINGMAN], however, rises to a

question of order connected with that decision, and the Chair must hear him.

Mr. CLINGMAN. The practice of the House has been uniform, that when they order the main question to be now put, it must be put.

Mr. HOUSTON. The gentleman from Pennsylvania [Mr. FULLER] took the floor and was understood by gentlemen upon this side of the House as occupying the floor in the progress of his remarks, the House having clearly passed from this measure.

Mr. FULLER. My time has not yet commenced.

The SPEAKER. The Chair will hear the question of order raised by the gentleman from North Carolina, [Mr. CLINGMAN.]

Mr. CLINGMAN. You will remember it has been invariably the settled practice, that when the previous question has been sustained during the morning, and the main question ordered to be put, that that matter must go on until the previous question has been exhausted, even though we went beyond the morning hour.

The SPEAKER. In reply to the gentleman, the Chair decides that reports from committees are confined to the morning hour under the special order of the House, and that this bill will be the first business in order to-morrow during the morning hour.

Mr. FULLER. Before I proceed with my argument, I wish to inquire of the Chair what is the usual course pursued in proceedings of this character? I know the contestant is here present, and I understand he desires to be heard by the House upon this question in his own behalf. If that be the case, I wish to move that he be furnished with a seat upon the floor for that purpose.

The SPEAKER. The Chair decides that in very many cases contestants have been admitted to seats upon the floor, and been allowed to be heard in their own cases.

Mr. FULLER. I move, if the gentleman desires it, that he be permitted to do so in this case. [Cries of "Agreed!" "Agreed!"]

The question was then taken upon Mr. FULLER's motion, and it was agreed to.

Mr. WRIGHT then took a seat within the bar.

Mr. FULLER then replied to the remarks of Mr. ASHE, (which were delivered yesterday in support of the Report of the Committee of Elections,) and reviewed the various points connected with the case, and spoke in vindication of his right to the seat. Having occupied the hour allotted in debate, and not having finished his argument,

Mr. DUNCAN. It is, I believe, the unanimous wish of this House to allow the gentleman [Mr. FULLER] to proceed in his argument in this case.

Mr. LETCHER. I objected yesterday, to the chairman of the committee going on beyond his hour, and I gave notice that I should object to a departure from the rules of the House. I therefore feel bound to object to the gentleman's proceeding.

Mr. STANLY. The chairman [Mr. ASHE] has another hour to close in.

Mr. ASHE. I understand the House has allowed the contestant [Mr. Wright] the privilege of speaking.

The SPEAKER. The House has voted that the contestant may be heard in his own behalf.

Mr. H. B. WRIGHT, (the contestant,) having been privileged to address the House, briefly noticed certain charges made against him by Mr. FULLER, and then entered into the merits of the case in his own behalf. [Messrs. FULLER and WRIGHT's speeches are published in the Appendix.]

Mr. DAVIS obtained the floor, but yielded to Mr. FOWLER, who moved that the House adjourn.

The question was put, and the motion agreed to; and

The House adjourned till to-morrow, at twelve o'clock, m.

#### NOTICE OF A BILL.

Mr. FOWLER gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce a bill to amend the existing laws imposing duties on imports and regulating the appraisement of imported merchandise; and more effectually to prevent frauds against the revenue.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:



By Mr. LETCHER: The petition of P. W. Cooper and others, citizens of Hardy and Shenandoah counties, Virginia, praying for the establishment of a mail route from Moorefield, in the county of Hardy, to Mount Jackson, in the county of Shenandoah.

By Mr. DOTY: The petition of Abel Hawley, Leonard J. Farwell, and others, relative to the improvement of the navigation of "St. Clair Flats," in the State of Michigan.

Also, the petition of J. B. Mitchell, Davis H. Waite, and others, praying for a mail route from Fond du Lac, by Rosendale, Ripon, Ceresco, and Dartford, to Princeton.

Also, the petition of John C. Sherwood, A. B. Hamilton, and others, citizens of Dartford, in favor of the same route.

By Mr. ABERCROMBIE: The petition of Junius Gordon and others, praying an appropriation for the establishment of a regular mail communication, at frequent intervals of time, on the Gulf coast, between such points as are now provided.

By Mr. ST. MARTIN: The memorial of the Chamber of Commerce of New Orleans, signed by 881 citizens and commercial firms in said city, praying Congress to grant them the means, and appropriate a sufficient sum of money, to remove the obstructions and clear out the mouths of the Mississippi river.

By Mr. MOORE, of Louisiana: The memorial of a disinterested citizen of New Orleans, asking that the salary of the judge of the United States district court at New Orleans be ascertained.

## HOUSE OF REPRESENTATIVES.

SATURDAY, June 26, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order, is House bill No. 280, making grants of land to the several States and Territories for the construction of railroads, and for other purposes.

On the motion of Mr. DISNEY, by unanimous consent, it was

Ordered, That the papers in the case of Lieutenant Thomas Lyon be withdrawn from the files of the House, and referred to the Committee on Claims.

Mr. LANE. I ask the unanimous consent of the House to introduce a resolution.

Mr. CLINGMAN. I call for the regular order of business.

Mr. LANE. I appeal to the gentleman from North Carolina, to allow me to introduce the resolution. It will cause no debate.

Mr. CLINGMAN. I am very anxious to dispose of the bill now before the House. I must insist upon the regular order of business.

Mr. LANE. I ask the gentleman at least to allow me to say a word with reference to the object of the resolution.

Mr. CLINGMAN. I must object.

### GRANTS OF LANDS FOR RAILROADS.

The SPEAKER. The question pending is upon the passage of the bill.

Mr. MILLSON. I demand the yeas and nays.

Mr. COBB. It is very obvious that but a small portion of the members are present. I move a call of the House.

The SPEAKER. That can only be ordered by unanimous consent.

Objection was made.

Mr. SWEETSER. In order that we may have a quorum present, I move that the House do now adjourn, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered, and the question being taken the result was—yeas 8, nays 158. So the House refused to adjourn.

[A message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, announcing that the following bills had been passed by that body, viz:

An act for the relief of John Jackson;  
An act for the relief of John Le Roy; and  
An act to revive, for a limited time, an act in relation to donations of land to certain persons in the State of Arkansas.]

Mr. McMULLIN. I move that when this House adjourns to-day, it adjourn to meet on Monday at eleven o'clock, and that it continue to meet at that hour till the end of the session.

Mr. FICKLIN. I hope the hour will be fixed at ten o'clock.

The SPEAKER. That motion is not in order at this time. It is in order to make the motion that when the House adjourns to-day, it adjourn to meet at that hour, but the gentleman cannot change the regular hour of meeting upon a simple motion.

Mr. McMULLIN. Then I wish to give notice that I will offer such a resolution upon Monday.

Mr. CLINGMAN. Is it in order to give that notice at this time?

The SPEAKER. It is not in order, if objection be made.

Mr. CLINGMAN. I object.

The SPEAKER. Then the notice cannot be entered upon the Journal.

The yeas and nays were then ordered upon the passage of the bill.

The question was taken, and the result was—yeas 96, nays 86; as follows:

YEAS—Messrs. Charles Allen, Allison, William Appleton, Babcock, Barrere, Beale, Bell, Bennett, Bowne, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Cleveland, Clingman, Cottman, Curtis, Dimmick, Dockery, Doty, Duncan, Evans, Ewing, Fowler, Henry M. Fuller, Gilmore, Goodenow, Grey, Harper, Haws, Haven, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, James Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Mann, Martin, Meachum, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penn, Perkins, Porter, Rantoul, Robie, Russell, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scudder, David L. Seymour, Origen S. Seymour, Smart, Snow, Staley, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stratton, Taylor, Benjamin Thompson, Thurston, Toombs, Venable, Walbridge, Ward, Washburn, Watkins, Welch, Wells, Addison White, and Williams—96.

NAYS—Messrs. Aiken, Willis Allen, John Appleton, Ashe, Averett, David J. Bailey, Bissell, Boeck, Bragg, Breechle, Brenton, Albert G. Brown, Burt, Busby, Joseph Cable, Thompson Campbell, Carter, Caskie, Chastain, Churchill, Cobb, Colcock, Daniel, John G. Davis, Dawson, Disney, Dunham, Durkee, Eastman, Edgerton, Edmundson, Faulkner, Ficklin, Fitch, Florence, Floyd, Gorman, Green, Hamilton, I. G. Harris, S. W. Harris, Hart, Henricks, Hibbard, Hillyer, Holladay, Houston, Howard, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston, King, Letcher, Lockhart, Mason, McLanahan, McMullin, McNair, McQueen, Milson, Molony, Murphy, Nabers, Olds, Orr, Phelps, Powell, Reed, Richardson, Robbins, Robinson, Ross, Savage, Scurry, Smith, Stuart, Sweetser, George W. Thompson, Townsend, Wallace, Alexander White, Wilcox, Woodward, and Yates—87.

So the bill passed.

Mr. SUTHERLAND, when his name was called, stated that he had paired off with Mr. BOWIE, or he should have voted in the affirmative.

Mr. STEPHENS, of Georgia. I move that the vote just taken; by which the bill passed, be reconsidered, and that the motion to reconsider be laid upon the table.

The question was taken, and the latter motion was agreed to.

The title of the bill was then read, as follows:

An act making grants of lands to aid in the construction of railroads, and for other purposes.

The question was taken, and the above was adopted as the title.

Mr. STEPHENS. I move that the vote just taken, by which the title of the bill was adopted, be reconsidered, and that the motion to reconsider be laid on the table.

The question was taken, and the latter motion was agreed to.

Mr. INGERSOLL. I was absent at the time the vote was taken upon the land bill this morning, being detained by an unavoidable accident. I rise, therefore, for the purpose of asking the unanimous consent of the House that I may record my vote in favor of the bill.

Mr. STUART. I object.

Mr. COBB. I would inquire of the gentleman from New York [Mr. BENNETT] if he has any other bills to report from the Committee on Public Lands?

Mr. BENNETT. I have not.

Mr. COBB, from the Committee on Public Lands, then reported back, with adverse reports, sundry petitions in relation to the removal of the land office in the State of Alabama; which were laid on the table.

Mr. COBB. The Committee on Public Lands have also instructed me to report back, with a recommendation that it do not pass, House bill No. 115, introduced by my colleague, [Mr. SMITH,] asking that the swamp lands granted or proposed to be granted by the General Government per act passed during the last session of Congress, may be diverted to purposes other than those contemplated in the bill.

[On motion by Mr. COBB, it was ordered to be laid upon the table.

### LANDS GRANTED TO ALABAMA.

Mr. COBB. I would call the attention of my colleague [Mr. HOUSTON] to a bill which I am about to report, founded upon a memorial of the Legislature of the State of Alabama, accompanied by a letter from the Governor of that State, ask-

ing the Congress of the United States to authorize the State of Alabama to complete her location of lands under the acts of 1847 and 1849. In accordance with the provisions of those acts, she located the lands to which she was entitled, but owing to a location upon some lands in the State of Louisiana, which, when the returns were made to the General Land Office, were found to have been previously located, or constituted a portion of old Spanish grants, there was a deficiency to the extent of the lands so located. The Legislature of Alabama has accordingly sent in a memorial asking Congress to extend the time for the location of those lands. My colleague [Mr. HOUSTON] desires that the bill should be passed. He is present and can make his own suggestions, inasmuch as he understands the subject much better than I do. It is simply a question as to extending the time in which the State of Alabama may locate the lands to which she is entitled under previous acts of Congress.

The bill was then read a first and second time by its title, which was as follows:

"A bill to extend the provisions of the act approved March 3d, 1847, and the act approved February 25th, 1849, for carrying into effect the existing compacts with the States of Alabama and Mississippi, in relation to the five per cent. fund and school reservation."

Mr. COBB. If it be the pleasure of the House to pass this bill now, it will be an accommodation to the State of Alabama, as she can then proceed to locate those lands.

Mr. STUART. I wish to inquire if the Committee on Public Lands have made any report on this subject?

Mr. COBB. The committee have made no report. I will say, however, that a letter from the Governor, as well as a memorial from the Legislature of Alabama, accompanies this bill, which will explain the subject much better than I can do it.

Mr. STUART. All I wanted was, that if the Committee on Public Lands had made a report, that report should be made known.

Mr. HOUSTON. If it is the wish of my colleague, [Mr. COBB,] I will occupy the time of the House a few moments. This bill is intended to supply the sixteenth sections, or which amounted to the sixteenth sections, which were lost to a certain portion of the State of Alabama by the treaty between the United States and the Chickasaw Indians, which treaty, as everybody knows who has looked into it, bound the United States to put up for sale, at certain specified periods, and at certain graduated prices, all the Chickasaw lands, irrespective and regardless of the sixteenth sections. Hence, certain portions of the State, lying in my district, lost the sixteenth sections. At a previous session of Congress, a law was passed authorizing the State of Alabama, within a certain time, to make selection of such an amount of lands as would supply the deficiency. The agent of the State did select the lands, but the selection occupied all the time that was allowed by the law of Congress. When the selection, however, came up to the Land Office, it turned out that a portion of the lands he had selected had been previously entered by individuals, and was then private property. This bill proposes, as the time has elapsed in which the State is authorized to make the selection, simply to extend the time, and allow the State again to select other lands in lieu of those selected erroneously.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time and passed.

### RIGHT OF WAY.

Mr. COBB. The Committee on Public Lands have also had under consideration Senate bill No. 362, to grant the right of way, &c., to the St. Genevieve Iron Mountain and Pilot Knob Plank-Road Company. The committee have matured a general bill for railroads and plank roads, &c., in such cases, which we think is better than the Senate bill; and I am instructed accordingly to make an adverse report upon the same, and I move it be laid upon the table.

The report was received, and the bill was ordered to lie upon the table.

Mr. COBB. I now present a bill from the same committee, founded on the memorial from the Legislature of the State of Alabama, asking the right of way and alternate sections of the public lands to aid in the construction of certain

railroads and plank-roads. We have concluded to report a general bill granting the right of way to rail and plank roads in the United States. It is a matter in which the whole country is interested more or less, and I shall be very glad, if it shall be the pleasure of the House to pass the bill, after having heard it read. But if there shall be objection to it, it can be referred according to the will of the House. I think, however, there can be no objection to it.

The bill was then read a first and second time by its title, as follows:

"A bill to grant the right of way to all railroads and plank-roads passing through public lands belonging to the United States."

Mr. BOCOCK. Let us have the bill read entire.

The bill was accordingly read by its sections.

Mr. COBB. I think it will, perhaps, facilitate the business of Congress, if there is no objection to the bill, to have it passed now.

Mr. SWEETSER. I desire to submit a motion to refer that bill to the Committee of the Whole on the state of the Union.

Mr. BISSELL. I would suggest to the gentleman from Ohio that in all probability such a disposition of it would be equivalent to its defeat. It is a harmless bill, and one that will save a great deal of special legislation. It simply provides that regularly-incorporated railroad and plank-road companies may run their roads over public lands in any State where the Legislature of that State shall authorize them to be constructed. It is something which is never now refused in special cases; and the only effect of the passage of this bill will be to save Congress the time and trouble of legislating upon scores of individual bills, asking the right of way for rail and plank roads over the public lands. This general bill gives to regularly-incorporated railroad and plank-road companies the right and privileges of running over public lands in any State where the Legislature of that State shall authorize them to run.

Mr. SWEETSER. I hope the gentleman from Alabama [Mr. COBB] will allow me to reply.

Mr. COBB. Certainly; I yield the gentleman that privilege.

Mr. SWEETSER. I would yield with great pleasure to the suggestion of the gentleman from Illinois, [Mr. BISSELL], did I not know that the rights which would be conferred by this bill would, to a great extent, be abused. It is well known to members of this House that I make a question in relation to the right proposed to be granted by this bill; and that objection I wish to discuss in the Committee of the Whole on the state of the Union. I do not believe it is necessary to have the action of Congress in relation to this matter. I should be glad to accommodate the gentleman could I agree with him in his conclusions; but should the House determine against me, I shall be satisfied. I deem it a matter of duty to ask the House to refer this bill to the Committee of the Whole, where we may discuss it.

Mr. BISSELL. I will ask the gentleman from Ohio [Mr. SWEETSER] to give way to me, that I may make a motion which will obviate the difficulty. Though I regard it as a harmless bill, yet I well know that members have not examined it; and to avoid the difficulty of sending it to the Committee of the Whole, and to give every gentleman an opportunity to investigate it, I will move, if the gentleman will allow me the floor for that purpose, that the consideration of this subject be postponed to a day certain, say until Wednesday next.

Mr. SWEETSER. I yield to the suggestion of the gentleman, and withdraw my motion to refer.

Mr. STEPHENS, of Georgia. I suppose Monday will be long enough to postpone it.

Mr. BISSELL. Say Monday, then.

Mr. STEPHENS. Will not this be the first business in order on Monday?

The SPEAKER. The Chair thinks it will.

Mr. STEPHENS. Has the morning hour expired?

The SPEAKER. It has not.

Mr. COBB. I move to recommit this bill to the Committee on Public Lands, and that it be printed.

Mr. CABLE, of Ohio. Is it in order to make a motion to refer this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. Such a motion is in order.

Mr. CABLE. Then I make that motion.

Mr. COBB. How can the gentleman get the floor to make that motion?

The SPEAKER. If the gentleman from Alabama [Mr. COBB] has not yielded the floor, the gentleman from Ohio [Mr. CABLE] cannot make the motion.

Mr. COBB. I have not yielded the floor. I move that the bill be recommitted to the Committee on Public Lands, and that it be printed.

The SPEAKER. That motion has already been made.

Mr. COBB. Then I move that the House proceed to the consideration of business upon the Speaker's table.

The SPEAKER. The morning hour has not expired, and the motion is not in order.

Mr. COBB. Then I call for the previous question on my motion to commit.

Mr. STANTON, of Ohio. Will the motion made by the gentleman from Alabama, [Mr. COBB], supposing it to be adopted, procure the printing of the bill, to which the motion refers?

The SPEAKER. The Chair understood the gentleman to withdraw the motion to postpone and print, and to move that the bill be recommitted to the Committee on Public Lands, and that it be printed.

Mr. STANTON. If the motion to print be not put, will the bill be printed?

The SPEAKER. It will not.

Mr. STANTON. Then I do not see the necessity of postponing it.

Mr. CARTER. Has the morning hour now expired?

The SPEAKER. It has.

Mr. CARTER. I move that the House proceed to the consideration of business upon the Speaker's table.

Mr. DANIEL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the Private Calendar.

Mr. HAMILTON. I make the inquiry of the Chair whether the Pennsylvania contested-election case is not the first business now in order?

The SPEAKER. It is, if called up.

Mr. HAMILTON. I then move we proceed to its consideration.

Mr. DANIEL. I submit whether my motion is not in order? This contested-election case can be considered next week. We have not transacted private business for several weeks. I trust we will go into Committee of the Whole on the Private Calendar.

The SPEAKER. The Pennsylvania contested-election case is now under consideration, upon which the gentleman from Massachusetts [Mr. DAVIS] is entitled to the floor, and unless he yields, it is not in order for the gentleman from North Carolina to submit the motion.

Mr. DAVIS, of Massachusetts. I am willing to yield the floor, to allow the gentleman an opportunity to submit his motion.

[Cries of "Oh, no!" "Oh, no!"]

Mr. HOUSTON. I am of the opinion that we can complete the consideration both of the contested-election case and the business to which the gentleman from North Carolina refers.

Mr. DANIEL. I submit now the motion that the rules be suspended, and that the House resolve itself into Committee of the Whole on the Private Calendar.

The question was then taken, and it was agreed to.

#### PENNSYLVANIA CONTESTED ELECTION.

The SPEAKER. The business now in order is the consideration of the Pennsylvania contested-election case, upon which the gentleman from Massachusetts is entitled to the floor.

Mr. DAVIS, of Massachusetts, then addressed the House in opposition to the report of the Committee, and in favor of the right of the sitting member, Mr. FULLER. [Mr. D.'s speech is published in the Appendix.]

Mr. HAMILTON addressed the House an hour, in support of the conclusions of the committee that the election had been irregular, and that the seat of the sitting member should be vacated, and the election returned to the people. [His speech is published in the Appendix.]

Mr. TOOMBS addressed the House an hour, in favor of the right of the sitting member to the

seat, maintaining that it was not shown that the election was irregular or illegal.

Mr. ROSS next obtained the floor, but yielded it to

Mr. STUART, who moved that the House adjourn.

The motion was agreed to, and the House adjourned till Monday next.

#### IN SENATE.

MONDAY, June 28, 1852.

Prayer by the Chaplain, Rev. C. M. BETLER.  
The Secretary being about to read the journal,

Mr. BRODHEAD arose and said: I move that the reading of the Journal be dispensed with. It contains mainly the action of the Senate on a large number of adverse reports. The Journal is very long, containing some twenty or thirty pages, which will occupy some time in the reading. This I think cannot be necessary, and I hope the reading will be dispensed with, at least so far as relates to the adverse reports.

Mr. MANGUM. I think it is a very bad precedent indeed, to dispense with the reading of the Journal ever. I know that it has sometimes been done, at or near the close of a session, when the Senate is pressed for time; but I think it is a very bad precedent.

The PRESIDENT. Does the Senator from North Carolina object?

Mr. MANGUM. I do.

The reading of the Journal was proceeded with. Mr. MANGUM subsequently rose and said: At the instance of other gentlemen, I move to dispense with the reading of the Journal, so far as relates to the action of the Senate upon the long list of adverse reports only.

The motion was agreed to, and the residue of the Journal was read and approved.

#### CHEVALIER HULSEMAN.

A message from the President of the United States was received by Mr. MILLARD P. FILLMORE, his Secretary, transmitting a report of the Secretary of State, made in compliance with a resolution of the Senate of the 3d instant, requesting the President to communicate to the Senate, if consistent with the public interests, a copy of a communication made by M. Hülsemann, now or late Chargé d'Affaires of the Emperor of Austria, on or about April 29, 1852, to the Secretary of State of the United States, on the occasion of the withdrawal of M. Hülsemann from his place as Chargé; also, a copy of the reply thereto, made by the Secretary of State; and also copies of all correspondence touching the matters which are the subjects of the said communication of M. Hülsemann, containing the above correspondence; which was ordered to lie on the table and be printed.

#### PETITIONS, ETC.

Mr. FISH presented a memorial of merchants and shipmasters of New York, praying an appropriation for the purchase of a suitable plot of ground in one of the large cemeteries near that city, for the use of seamen; which was referred to the Committee on Commerce.

Mr. MASON presented a memorial of the president and directors of the Alexandria and Washington Turnpike Company, praying an appropriation for the repair or reconstruction of the Potomac Bridge connecting Washington city with the Virginia shore; and also praying that the attention of Congress may be directed to the subject during the present session; which was referred to the Committee on the District of Columbia.

Mr. WADE presented a petition of citizens of Braceville, Ohio, praying that the bill now pending before Congress, commonly called the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. SOULE presented the memorial of John L. Collins, praying remuneration for losses and damages sustained in consequence of his expulsion from Mexico; which was referred to the select committee appointed on the subject of claims against Mexico.

Also, a memorial of importers of wines, brandies, &c., at New Orleans, praying an increase of the number of gaugers, at that port; which was referred to the Committee on Commerce.

Mr. DOWNS presented the memorial of An-

drew Hodge, jun., praying the enactment of a law authorizing such an arrangement with him as one of the sureties of William H. Kerr, late postmaster at New Orleans, as will, while it protects the Government from total loss, save him from ruin; which was referred to the Committee on the Judiciary.

Mr. DODGE, of Iowa, presented three petitions from citizens of Iowa, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. GWIN presented the petition of William D. Porter, a lieutenant in the United States Navy, praying an appropriation for an exploration of the interior of Africa, by the way of the White Nile; which was referred to the Committee on Commerce.

Mr. BRIGHT presented a petition of citizens of Milford, Indiana, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

Mr. WALKER. I wish to present the memorial of clerks and others connected with the Capitol, setting forth the deleterious effects of the Alanthus tree growing on the Capitol grounds, and praying the adoption of measures for its extermination, which I move to refer to the Committee on Public Buildings. In connection with this, I wish to call the attention of the committee to the following notice, which I see in one of the morning papers:

*"Declared a Nuisance.—We learn that the Board of Health have declared the numerous shade trees planted in various parts of the city, called the Alanthus, (or tree of Heaven,) which emits, when in bloom, so oppressive an odor, a nuisance, and, as a consequence, will ultimately be supplanted by others less objectionable."*

I merely wish to call to this the attention of the Committee on Public Buildings, that they may give us their determination on the subject at as early a day as possible.

The memorial was referred to the Committee on Public Buildings.

#### PETITION WITHDRAWN AND REFERRED.

On motion by Mr. STOCKTON, it was

Ordered, That the memorial of Evelina Porter, widow of Commodore David Porter, on the files of the Senate, be referred to the Committee on Naval Affairs.

#### REPORTS FROM COMMITTEES.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of Joseph Traskolawski, praying to be allowed additional compensation for surveying certain public lands, asked to be discharged from the further consideration thereof, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

Mr. FELCH. I ask, on behalf of the Committee on Public Lands, that it be discharged from the consideration of numerous petitions, asking for grants of land to several States for the purpose of constructing railroads. Most of these petitions have been acted upon directly or indirectly in the reports heretofore made. I move that the committee be discharged from their further consideration.

The motion was agreed to.

Mr. FELCH. I am also instructed by the same committee to report back the bill granting to the State of Wisconsin the right of way and a donation of the public land for the purpose of locating and constructing a railroad from Milwaukee to Prairie la Crosse. A bill has already passed embracing this route, and I move, with the consent of the Senator from Wisconsin, that the consideration of the bill be indefinitely postponed.

Mr. WALKER. I have no objection to that course.

The motion was agreed to.

Mr. FELCH also, from the same committee, to which was referred the bill making a grant of public lands to the States of Ohio, Indiana, and Illinois, in aid of the construction of a railroad from Cincinnati to St. Louis, submitted an adverse report thereon.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the report of the Secretary of War in relation to the settlement of accounts of officers connected with military contributions, reported a bill to amend an act entitled "An act to provide for the settlement of the

accounts of public officers, and others, who may have received moneys arising from military contributions, or otherwise, in Mexico," approved March 3, 1849; which was read and passed to the second reading.

Mr. ATCHISON, from the Committee on Indian Affairs, to which was referred the report of the Second Auditor, communicated the 21st of April, with copies of certain accounts, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Printing; which was agreed to.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred the petition of John Crawford, praying to be allowed to locate a certificate for forfeited land stock on public land lying beyond the territory for which the certificate was granted, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. BROADHEAD, from the Committee on Claims, to which was referred the memorial of Captain Joseph Whipple, praying the settlement of his account on principles of equity and justice, submitted a report, accompanied by a bill for the relief of the legal representatives of Captain Joseph Whipple, deceased; which was read and passed to the second reading. The report was ordered to be printed.

Mr. BAYARD, from the select committee, who were instructed by a resolution of the Senate to examine and report what alteration should be made in the plan for the publication of the returns of the Seventh Census, as exemplified in relation to the State of Maryland, submitted a report; which was ordered to be laid on the table and printed.

Mr. CLEMENS. I have here a memorial, which I suppose reached the Committee on Private Land Claims by mistake. It is the memorial of the heirs of Pascal Detchemdy, praying the confirmation of their title to a tract of land in Missouri. An adverse report was made in the case on the 28th of March, 1850, which was agreed to by the Senate on the 24th of June, 1850. There have been no new papers presented since that time. It therefore reached the committee at this session in violation of the rule, and I suppose by mistake. I move that the Committee on Private Land Claims be discharged from the further consideration of it.

The motion was agreed to.

#### MILITARY SITES.

Mr. SHIELDS. The Committee on Military Affairs have instructed me to report a bill to amend an act entitled "An act authorizing the sale of certain military sites," approved March 3d, 1819, and to ask that it be considered now. This bill has been prepared at the request of the War Department, to meet a necessity that has arisen in that Department. As it is merely to supply what may be called an omission in the former law, I ask that it may be taken up now for consideration.

The bill was read a first time and ordered to a second reading. There being no objection, it was read a second time and considered as in Committee of the Whole. It provides that the act "authorizing the sale of certain military sites," approved 3d March, 1819, be so construed as to apply to all military sites and arsenal sites belonging to the United States which may be found at any time to be useless for military purposes.

Mr. CASS. There cannot be any objection to this bill. I have had some occasion to look into the matter, and I find that the case is simply this: The Attorney General has decided that the law of 1819 does not extend to sites acquired subsequently to its passage. Therefore, where the United States have acquired such sites subsequently to the passage of the original law, and they have become useless, the Department has no power to dispose of them, and there they remain. The only object of the Department is to extend the law to the present time; so that sites acquired subsequently, as well as previously, may come within the original law, as was evidently the intention.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### BILL PASSED.

The engrossed bill for the relief of Benjamin S. Roberts was read a third time and passed.

#### MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. FORNEY, its Clerk, announcing that it had passed the following bills:

An act to extend the provisions of an act approved March 3, 1847, and an act approved February 26, 1849, for carrying into effect the existing compacts with the States of Alabama and Mississippi, in relation to the five per cent. fund and school reservations; and

An act making grants of lands to aid in the construction of railroads, and for other purposes.

The above-named bills were read a first and second time by their titles, and referred to the Committee on Public Lands.

A further message from the House of Representatives also announced that it had passed the bill from the Senate to amend an act entitled "An act to carry into effect the convention between the United States and the Emperor of Brazil of the 27th of January, 1849," approved March 29, 1850, with an amendment.

#### CHARGES AGAINST THE BOUNDARY COMMISSIONER.

Mr. WELLER. I desire to offer the following resolution:

*Resolved*, That the charges preferred by Colonel J. McClellan, of the Topographical Corps, and others, against J. R. Bartlett, appointed commissioner to run and mark the boundary line between the United States and the Republic of Mexico, be referred to a select committee of five for investigation, with power, if necessary, to send for persons and papers.

I desire that this resolution may be received now by the Senate, and I will call it up to-morrow for action. There were some charges made against me a few years ago to the Senate, when I was acting as commissioner on that boundary line, to which I desire to reply. I now give notice, that I shall on to-morrow call up the resolution.

The resolution was laid over under the rule.

#### SHIP CANAL AT THE SAULT STE. MARIE.

Mr. FELCH. There is a bill on the table providing for a donation of lands for the construction of a ship-canal around the Falls of the Sault Ste. Marie. When that bill comes up, I desire to offer an amendment, which will be, in fact, a substitute for the bill. I would ask, either that the bill be taken up to permit me to offer the amendment, or by unanimous consent, I will offer the amendment now, and have it ordered to be printed.

The PRESIDENT. If such is the pleasure of the Senate, it will now be received informally, and ordered to be printed, so as to be in the possession of Senators when the bill comes up for consideration.

There being no objection, that course was pursued.

#### EXECUTIVE SESSION.

On the motion of Mr. GWIN, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened,

And the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 28, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Saturday was read and approved.

#### RIGHT OF WAY TO RAILROAD COMPANIES.

The SPEAKER. The business first in order is the consideration of the motion made by the gentleman from Alabama [Mr. COBB] to recommend to the Committee on Public Lands House bill No. 284, entitled "A bill to grant the right of way to all rail and plank roads passing through lands belonging to the United States."

#### THE GARDINER CLAIM.

Mr. OLDS. I ask the unanimous consent of the House to introduce the resolution I send to the Clerk's desk to be read.

Mr. COBB. Will the time occupied in the consideration of the resolution be taken from the morning hour?

Mr. OLDS. I ask its introduction and consideration before the House proceeds to the special order.

The Clerk then read the resolution, as follows: Whereas, it is believed that spurious and fraudulent



claims have been passed upon, and allowed by the Mexican Claims Commission: And whereas, among the claims said to be fraudulent, was one belonging to Dr. John A. Gardiner, amounting to a large sum, said to be nearly half a million of dollars: And whereas, a grand jury, for the District of Columbia, upon their oaths, have presented the said Dr. Gardiner for the crime of perjury, committed in his testimony, substantiating his said claim before the said Mexican Claims Commission: And whereas, public rumor charges that the Secretary of the Treasury was the agent or counsel of the said Dr. Gardiner, in the prosecution of the said alleged fraudulent claim, and that the said Secretary of the Treasury had a fee interest in said claim, amounting to a large sum, said to be one hundred thousand dollars: And whereas, common rumor still further charges, that the said Secretary of the Treasury, for a sum said not to exceed fifteen thousand dollars, purchased and held the one fourth interest of said alleged fraudulent claim: And whereas, the said claim, amounting to four hundred and twenty-eight thousand seven hundred and fifty dollars, has, upon the warrant of said Secretary of the Treasury, been paid: And whereas, Mr. Corwin, disregarding the pledge of his immediate representative, has failed to call for an investigation of said allegations: Therefore,

*Resolved*, That a committee, to be appointed by the Speaker, consisting of five members of this House, be required to investigate all the facts touching the connection of the said Thomas Corwin, the present Secretary of the Treasury, with the said Gardiner claim; what fee, if any, he was to receive for his services as agent or counsel for said Gardiner; what interest, if any, other than his fee-interest, he purchased and held, either directly or indirectly, in said claim, and the amount paid or stipulated to be paid, therefor, and conditions of such purchase; at what time he ceased to act as agent or counsel of said Gardiner; to whom and for what consideration he disposed of his fee-interest; to whom and for what consideration he disposed of his one fourth interest in said claim.

*Resolved further*, That said committee have power to send for persons and papers.

Mr. TOOMBS. I object to the resolution. I desire the responsible charge from a responsible source. If any gentleman makes the charge upon his own responsibility, I will not object. Public rumor should not be brought in here against anybody without caution.

Mr. OLDS. Has the gentleman reference to the resolution I have introduced?

Mr. TOOMBS. I have. Public rumor should not be brought in here as the sole basis of inquiry into anybody's conduct. I will never act upon public rumor to put anybody upon their trial. It is against the principles of jurisprudence of this country.

Mr. OLDS. The rumor is of a character sufficient to cause a committee of inquiry to be appointed.

Mr. TOOMBS. I am opposed to acting upon mere public rumor.

Mr. OLDS. There is more than public rumor to justify the investigation.

Mr. POLK. How can you find out the truth of facts unless a committee is appointed to make inquiry?

Mr. TOOMBS. Let some one father the charges. That is the way to get at the matter.

Mr. OLDS. I am disposed to father them.

Mr. TOOMBS. Then do it.

Mr. OLDS. I do.

#### BRAZILIAN INDEMNITY.

Mr. BAYLY, of Virginia. There is a bill upon the Speaker's table which I have been instructed by a unanimous vote of the Committee on Foreign Affairs to ask to be taken up and passed. It passed the Senate without opposition, and was indorsed by the unanimous vote of our committee. If it is not passed in two days, the time will have elapsed in which it can be done with the view to any good.

Mr. STANTON, of Tennessee. I object to the passage of that bill. I think it ought not to pass.

Mr. BAYLY. I beg the gentleman from Tennessee to withdraw his objection. I can satisfy the House in a few minutes, that unless the bill is passed within two days—to-day or to-morrow—the greatest inconvenience and wrong will ensue. The bill is with respect to the payment of the Brazilian indemnity.

Mr. HOUSTON. I call for the regular order of business.

Mr. BAYLY. A motion to suspend the rules, I believe, is not now in order?

The SPEAKER. It is not, and will not be in order till after the expiration of the morning hour. The first business in order is the consideration of House bill No. 234, "A bill to grant the right of way to all rail and plank roads passing through the public lands belonging to the United States." The pending question is upon the motion to recommit.

Mr. COBB. My object in moving the recommitment of the bill to the Committee on Public Lands, and calling the previous question upon that motion, was to keep the bill before the House. I withdraw the call for the previous question, as my object has been accomplished, and also the motion to recommit the bill. Were I aware of the sense of the House upon this subject, I would not trespass upon their time for one moment. This is a public measure—one in which every State of the Union feels more or less interest. Every man here desirous of transacting the public business, must feel the importance of passing a general bill providing for the granting to rail and plank road companies the right of way through the public land of the United States. There are, at this time, in the Union, fifty of these companies organized, and progressing with the completion of such works. Shall we, I ask, provide for special cases as they come up, or now pass a general bill providing for the whole of them? That is the question to be submitted to everybody throughout the country, especially this body. I am a friend of this measure, along with every other member of the House; but not in any particular manner. It has been suggested to me that I move that the bill be postponed till next Monday, and be ordered to be printed. Every member by that time may examine it thoroughly, and be in a condition to vote understandingly upon it. If any one in the House desires its consideration postponed, I will make the motion I have indicated.

[Cries of "Postpone it!" "Let us pass it now!"]

Mr. COBB. Some say let us pass it now, and others move to postpone its consideration. The best course for me to pursue, I think, is to submit the motion that the bill be postponed till Monday next, and that it be ordered to be printed. It will be before each member, who then may vote according to the dictates of his own judgment.

A VOICE. The House will not be in session next Monday.

Mr. COBB. Well, I will then move that the consideration of the bill be postponed till Tuesday week, and that it be printed.

Mr. HOUSTON. Will that bill then come up in the morning hour?

The SPEAKER. It will.

Mr. HOUSTON. I have no objection to it.

So the further consideration of the bill was postponed till Tuesday week.

#### BRITAIN FRANKS.

Mr. COBB. I have a measure which I desire to present for the consideration of the House, which is founded upon principles of justice. It is an act for the relief of Britain Franks. I have not reported a solitary measure, except one, in which my constituents have been interested. The bill which I now submit is one in which my constituents are interested, and it is one which I am directed to report back to the House. I will state the substance of it. I hold in my hands a land warrant issued to a soldier in the Mexican war, which he thought advisable to sell before it was issued. He constituted the Hon. JEREMIAH CLEMENS, of the Senate of the United States, his attorney to transfer the warrant, whenever it was issued, of the individual from whom he had received a valuable consideration. Every man here is aware that the law makes such transfers void. After the warrant was issued, the Hon. Mr. CLEMENS went on to make the transfer according to the provisions of his power of attorney.

I received a letter, a few days ago, from a very respectable house—the firm of Bradley, Wilson, & Co.—in the town of Huntsville, Alabama, enclosing this warrant, and stating that the gentleman to whom it was issued had committed a capital offense, and ran away. Unless this House, by an act of liberality, authorize the gentleman who sold the warrant to receive its benefits, it will be lost to everybody. The contract was executed in good faith, the power of attorney was executed in good faith, and the transfer was made in good faith. I ask the House to pass the bill which has been drawn up by the Commissioner of the General Land Office, and to which there can be no objection. They stated to me, at the Land Office, that there are many precedents for the present bill. I ask the House, then, to listen to the reading of the bill submitted from the General Land Office, and if they choose to pass it, I will consider it as

a great favor rendered to the individual who is entitled to receive its benefits.

The bill was then read through by the Clerk.

Mr. JONES, of Tennessee. I understand this to be a private bill, and I ask the House that it shall go to a Committee of the Whole House, and take its chances with all others.

Mr. COBB. I state the facts, and if the House desire it, let them send this bill to a Committee of the Whole House.

Mr. JONES. I do not know as we shall ever get clear of calling on the Committee on Public Lands for reports. The Committee on Claims have not reported for four or five months, and if we set the example of now passing this private claim, the Committee on Claims will come up and ask us to pass everything which they may report to the House, and we shall not get through with that committee during the remainder of this session, even if we sit till the first day of September. I hope the House will let these bills all take the same chance.

Mr. COBB. I make the motion I have, and I am willing to take the sense of the House. I am determined to submit to their will.

Mr. NABERS. I will suggest to the gentleman that it would be better to frame a general bill for these cases. I have one of the same character, and precisely in the same condition. A general law for these cases will meet the approbation of the House.

Mr. RICHARDSON. I do not know that I am right, as I am not very learned in the law; but it strikes me that where parties have not made contracts, it is not within the power of the legislative department to make one for them. I do not know what are the facts in this case. I think the object of legislation is to give a remedy where contracts have been made by the parties themselves. I do not think that Legislatures can make contracts for the parties. Without a further examination of this subject I do not think that I can vote for it, although there may be other gentlemen in a condition to vote for it.

Mr. SWEETSER. I wish to suggest to the gentleman that this contract was entered into in direct violation of the law of Congress, which declares such contracts to be void. Shall we sit here and attempt now to ratify and confirm this class of contracts, which are made in direct violation of the law? I shall move to lay that bill upon the table.

Mr. RICHARDSON. I am not for disposing of this matter thus summarily. If we can accomplish the object which the gentleman has in view, I am willing to do it. I do not see how we are to accomplish that object now. I move, then, to refer the bill to a Committee of the Whole House.

The question was then taken upon the motion, and it was agreed to.

So the bill was referred to a Committee of the Whole House.

#### RIGHT OF WAY AND GRANTS OF LAND TO RAILROADS.

Mr. COBB, from the Committee on Public Lands, reported a bill granting the right of way and a donation of land to the State of Alabama, to aid in the construction of the Memphis and Charleston, and Selma and Gunter's Landing, and Winchester and Tennessee River railroads; which was read a first and second time by its title.

Mr. COBB. From the progress the hands of yonder clock are making, I am satisfied that we will not have concluded action upon this bill before the morning hour has expired, and it will go upon the Speaker's table, from whence it will never come. If I make a motion to commit this bill to the Committee of the Whole on the state of the Union, and to print, and that shall be the motion pending when the morning hour expires, will that bring it up the first thing to-morrow morning?

The SPEAKER. It will.

Mr. COBB. I then make that motion.

Mr. JONES. I suppose the gentleman expects to pass this bill without its going to the Committee of the Whole.

Mr. COBB. I expect to pass or kill it.

Mr. JONES. I wish to ask the gentleman a question or two about the bill. A portion of the road runs through a part of my State—the Winchester and Tennessee railroad. I wish to ask the gentleman if that road will run through one foot of the public lands belonging to the United

States from the town of Winchester, in Tennessee, to the town of Guntersville, in Alabama?

Mr. COBB. So much the better for the road. I am glad the gentleman called my attention to that particular fact. That road runs through a very little of the public lands.

Mr. JONES. Does it run through one foot of them?

Mr. COBB. Yes, sir.

Mr. JONES. Whereabouts?

Mr. COBB. I do not know exactly. [Laughter.]

Mr. JONES. I undertake to say that it does not run through one foot of the public lands from Winchester to the Tennessee river.

Mr. COBB. I will answer that it does on Flint river.

Mr. JONES. I ask the gentleman how much all the land he expects to get for that road will be worth, if this bill passes?

Mr. COBB. To set the gentleman right before his constituents, as he expects to vote against the bill, I will tell his constituents that I expect to get very little.

Mr. JONES. All the public land which the gentleman expects to get within twenty miles of the road, I undertake to say, is not worth \$1,000.

Mr. COBB. The people ask that the bill shall pass.

Mr. JONES. The gentleman from Alabama comes and asks the Government to pass a law giving the right of way and alternate sections of land to a railroad which is never to run through one foot of the public lands, nor is it to get one section of land that is worth ten cents an acre.

Mr. COBB. This is a simple link in the great chain of railroads which connect these different parts of the country.

Mr. JONES. Another one is the Memphis and Charleston railroad. I wish to ask the gentleman how much of the public land that road will run through?

Mr. COBB. It runs through a country where there have been public lands. [Laughter.] In some instances it will get mountain lands, which will prove of service to the road.

Mr. JONES. This road is to commence at Memphis, in Tennessee, upon the Mississippi river, and so far as it runs in that State there is not one foot of public land upon it.

Mr. COBB. That is the fact.

Mr. JONES. When it leaves the State of Tennessee and runs into the State of Mississippi, there is not one foot of the public land, nor never was in that part of the State belonging to the General Government. By treaty, the Chickasaw Indians in North Mississippi ceded their lands to the Government to be sold for their benefit, and not for the benefit of the Government. It enters the State of Alabama, in Franklin county, and runs parallel with the Tennessee river along the Muscle Shoals. It runs through a country where this Government, some twenty years ago, or more, ceded some 400,000 acres of land to the State of Alabama for the improvement of the Muscle Shoals, and they took all the land which was then in that region, that was worth one cent. When this road leaves the Tennessee river, it runs through Madison county, one of the wealthiest and most thickly-settled counties in the State of Alabama, where the lands of much value have been taken up for thirty-five years at least, and when it gets out of Alabama, it goes into Tennessee, along the Tennessee river, where there is not a foot of public land.

Mr. STEVENS, of Pennsylvania. I should like to know why the gentleman from Tennessee [Mr. Jones] objects to this bill, if it effects nothing? For this reason I think he had better let it pass. It is evident now that that committee have a few reams of blank bills printed with these provisions in them, and I do not think they can avoid reporting that kind of bill, and when one comes that cannot do any harm, why not let it pass?

Mr. JONES, of Tennessee. One very good reason, which is at least satisfactory to my mind, why I do not want these bills to pass is, that if they should, when other bills are brought in here running through public lands, and ceding away those lands to railroads, those opposed to them will be pointed to the bill of the gentleman from Alabama, [Mr. Cobb,] giving a right of way to the Winchester and Tennessee and Memphis and South Carolina railroad, and the other railroads,

seven in number, I believe, which are referred to in this bill. It is for this reason that I opposed such a bald humbug as this is. It is merely to be placed upon the statute-book, to be brought up in judgment against members of this House, who may represent the parts of country where these roads are proposed to be constructed. It is the merest humbug to put such a bill upon the statute books of the country.

Mr. COBB then occupied the floor, in reply to the gentleman from Tennessee, [Mr. Jones,] and showing the importance of the roads provided for in the bill, as connecting the avenues of commerce between the several States. His remarks were in favor of the immediate passage of the bill. He concluded by moving to recommit the bill to the Committee on Public Lands. [His speech is published in the Appendix.]

Mr. LETCHER. Before the gentleman makes that motion, I wish to propound a single question to the gentleman.

Mr. CARTTER. I ask the Speaker if the morning hour has not expired?

The SPEAKER. It has not yet expired.

Mr. CARTTER. I desire to know if it is in order to move to commit this bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order, if the gentleman can get the floor for that purpose. The gentleman from Alabama still holds the floor.

Mr. CARTTER. Well, I hope the motion to recommit to the Committee on Public Lands will be voted down.

Mr. COBB. I desire to know if my motion to recommit the bill has been received?

The SPEAKER. It has been entered upon the Journal.

Mr. COBB. Then I will hear the interrogatory of the gentleman from Virginia, [Mr. LETCHER.]

Mr. LETCHER. The gentleman from Alabama seems to be very much interested in behalf of his constituents, in relation to this bill. I desire to know how many of them have petitioned for it?

Mr. COBB. The Legislature of the State of Alabama has petitioned, and repeatedly petitioned, for all the aid I have asked for in relation to any of the railroads in that State.

Mr. LETCHER. If the gentleman will call upon the Clerk to read the petition upon which this bill is founded, he will find that it is in the name of W. R. W. COBB, on behalf of the people of Alabama, and I do not know but all the rest of mankind besides. [Laughter.]

Mr. COBB. My constituents have petitioned for this road. Memorial after memorial has come up to this body, asking Congress to give land to this identical road.

Mr. NABERS. I wish to say to the gentleman from Alabama, that as a portion of this road passes through a section of country in which my constituents are interested, I desire at some time to be heard upon the subject. I hope, therefore, he will make such a motion as will give me an opportunity to be heard.

Mr. COBB. I have moved to recommit the bill to the Committee on Public Lands, and it will come up to-morrow.

Mr. BAYLY, of Virginia. The morning hour having now expired, I desire to call up the bill to which I alluded this morning.

The SPEAKER. The morning hour has not yet expired.

Mr. BAYLY. Well, it has nearly expired, and I claim the floor.

The SPEAKER. The gentleman from Alabama [Mr. Cobb] is entitled to the floor.

Mr. CARTTER. I want to know how the gentleman from Alabama can retain the floor after he has finished his speech and made his motion?

The SPEAKER. It is for the House to determine his course. He is entitled to the floor.

Mr. COBB. I will not proceed further at present, though I wish to say to the gentleman, that I decline to go on with my speech, out of courtesy to the House. [Laughter.]

Mr. NABERS. I ask the gentleman from Alabama now to yield me the floor, in order that I may hold it when the question comes up again.

The SPEAKER. The gentleman cannot hold it.

Mr. COBB. Then I decline to yield the floor.

Mr. BAYLY. I believe the morning hour is now up to a second.

The SPEAKER. The morning hour has expired.

#### BRAZILIAN INDEMNITY.

Mr. BAYLY. I now desire the unanimous consent of the House to take up the Senate bill to which I alluded, and the character of which I briefly explained this morning. I will say to the House, that the bill passed the Senate unanimously; that the Committee on Foreign Affairs of this House agreed unanimously to recommend its passage, and that, unless it passes this House to-day, it will do no good, because we have made an amendment which must go to the Senate, and must be passed there either to-day or to-morrow. I ask the unanimous consent of the House to take it up and pass it.

Mr. STANTON, of Tennessee. I wish to say that the character of the bill is not such as I supposed when I objected this morning. I have no objection to its introduction.

There being no objection, the bill from the Senate, No. 451, amendatory of the act entitled "An act to carry into effect the convention between the United States and the Emperor of Brazil," approved March 29, 1850, was taken up from the Speaker's table.

Mr. BAYLY explained the character of the bill, and the necessity for its passage at once. He concluded by saying:

The Committee on Foreign Affairs have proposed an amendment reducing the time within which notice is to be given from thirty to five days, so that nobody can complain of unreasonable delay. I move the previous question.

The previous question received a second, and the main question was ordered to be put.

The question first being upon the adoption of the amendment reported by the committee, it was read as follows:

*Provided, however,* That any party who shall desire to avail himself of the provisions of the said eighth section, shall notify the Secretary of the Treasury thereof, within five days from the passage of this act, or from the date of said award of the commissioner to adjust the claim against Brazil.

The question was then taken on the adoption of the amendment, and it was agreed to.

The question next being upon ordering the amendment to be engrossed, and the bill to be read a third time, it was put and agreed to; and being accordingly engrossed, the bill was read the third time and passed.

Mr. BARRERE, from the Committee on Enrolled Bills, reported as correctly enrolled, bills of the following titles:

An act for the relief of the heirs of John Jackson;

A joint resolution, accepting from Giuseppe Fagnani a portrait of Henry Clay, and ordering it to be placed in the Library of Congress; and

An act to amend an act entitled "An act for the punishment of crimes in the District of Columbia."

Which bills thereupon severally received the signature of the Speaker.

Mr. JENKINS. The Committee on Public Lands—

Mr. ASHE, (interrupting.) I wish to inquire of the Chair if the consideration of the contested-election case from Pennsylvania is not the regular order of business?

The SPEAKER. It is, if called up by the gentleman.

Mr. JENKINS. I ask the unanimous consent of the House to introduce a resolution, which will require but a single moment. The Committee on Public Lands have occupied five months in delivering itself of reports, to the exclusion of the reports of all other Committees in this House. The next committee in order to be called is the Committee on the Post Office and Post Roads; and for the purpose of allowing that committee to have a little respite, and other committees to come forward to make reports, I ask the unanimous consent of the House to introduce the resolution which I send to the Speaker's table.

The SPEAKER. The resolution will be read for information.

The resolution was then read, as follows:

*Resolved,* That when reports of committees shall next after to-day be called for, such call shall begin with the Committee on the Post Office and Post Roads, and that subsequent calls for reports shall be continued as specified in the twenty-fifth rule, subject to the special order of the

House in relation to reports of committees, made on the 24th of May last. This special order shall continue in force until all the committees shall have been called once, and no longer.

Mr. STEVENS, of Pennsylvania. I shall be forced to object.

The SPEAKER. The introduction of the resolution is objected to.

Mr. JENKINS. I move that the rules of the House be suspended, for the purpose of introducing that resolution. And I would remark, that the special order referred to in the resolution is the order introduced by the honorable gentleman from Tennessee, [Mr. JONES,] and this order is made subject to that.

Mr. HOUSTON. If the gentleman from North Carolina [Mr. ASHE] insists upon the consideration of his privileged question, it—

The SPEAKER. It supersedes the motion made by the gentleman from New York, [Mr. JENKINS,]

Mr. JENKINS. I hope the gentleman from North Carolina will not insist upon his call.

Mr. HOUSTON. I trust the gentleman will insist upon it.

Mr. ASHE. I call for the regular order of business.

The SPEAKER. The consideration of the contested-election case from Pennsylvania is the first business in order, and the gentleman from Pennsylvania [Mr. ROSS] has the floor upon that question.

Mr. ROSS addressed the House an hour, in an argument to show that the contestant was entitled to the seat. [Mr. R.'s speech will be found in the Appendix.]

Mr. BARRERE controverted the conclusions of the majority report, returning the election to the people, and maintained that the sitting member was entitled to hold his seat.

Mr. FULLER controverted some of the conclusions of his colleague, [Mr. ROSS.]

[These remarks will be found in the Appendix.]

Mr. ASHE then obtained the floor, and moved the previous question on the adoption of the report; which was seconded. Pending the ordering of the main question,

On motion by Mr. ALLISON, the House adjourned until to-morrow.

#### NOTICE OF A BILL.

Mr. SIBLEY gave notice of his intention to ask leave to introduce a joint resolution to-morrow, or at some subsequent day, for the purchase of the "Half-Breed tract," on Lake Pepin, in Minnesota Territory.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PARKER, of Indiana: The petition of J. T. El-Hoff, President of the Newcastle and Richmond Railroad Company, and Williamson Wright, President of the Lake Michigan, Logansport, and Ohio Railroad Company, of the State of Indiana; the petition of George Gillespie, A. B. Knobe, and 107 others, citizens of the State of Indiana; and the petition of Joshua Holland, William Grose, and 78 others, citizens of the same State, praying for a grant of lands to aid in the construction of said roads, making a direct route through from the Ohio river, at Cincinnati, to the southern extremity of Lake Michigan, at Chicago.

By Mr. SMART: The petition of Knott Crockett and 807 others, citizens of Rockland, Maine, asking for a breakwater in the harbor of Rockland.

By Mr. DOTY: The petition of Jesse Olden, S. A. Pearce, M. H. Hodge, and others, for a mail route from Princeton, by Montello, Roxo, and Packwaukee, to Delton.

By Mr. WASHBURN: The petition of Joshua B. Harvey, of the State of Maine, praying for a pension for services in the war of 1812.

By Mr. EASTMAN: The petition of 300 citizens of Wisconsin, for an additional land district in the State of Wisconsin, to be called the La Crosse land district.

By Mr. FAULKNER: The memorial of Captain Thomas Jordan, assistant quartermaster of the United States Army, praying to be allowed certain credits in his settlement with the accounting officers of the Treasury Department.

By Mr. HORSFORD: The petition of the heirs of Captain John H. Wendell, of the New York line, praying for commutation pay.

By Mr. APPLETON, of Massachusetts: The petition of John Winslow, Edward Winslow, and others, asking compensation for the revolutionary services of Deputy Paymaster General John Winslow.

#### IN SENATE.

TUESDAY, June 29, 1852.

Prayer by the Rev. C. M. BUTLER.

Mr. HUNTER. A rumor has just reached us, Mr. President, that Mr. CLAY is no more. His colleague is absent, rendering the last offices of

friendship to the illustrious dead. I therefore move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 29, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

#### DEATH OF HENRY CLAY—ADJOURNMENT.

Mr. VENABLE. In consequence of a report, which may be true, that HENRY CLAY, the illustrious Senator from Kentucky, breathed his last at his lodgings, a few moments since, I move that the House do now adjourn.

The motion was unanimously agreed to, and the House adjourned until to-morrow at twelve o'clock, m.

#### IN SENATE.

WEDNESDAY, June 30, 1852.

#### DEATH OF THE HON. HENRY CLAY.

The anticipated formal announcement of the death of the Hon. HENRY CLAY brought together an unusual auditory. Members of the House of Representatives intermingled with Senators; the representatives of foreign sovereigns paid the tribute of their presence; Cabinet ministers, and heads of bureaus, and members of the judiciary, clustered without the bar. Of the illustrious contemporaries of the distinguished dead but few remain; but one form attracted all eyes—the honorable Secretary of State, Daniel Webster, sat there. The General-in-Chief of the Army, Major General Scott, too, was present. Attorney General Crittenden, long the colleague of the deceased; the Hon. Reverdy Johnson, a contemporary in the Senate, and one of the Attorney General's predecessors; and numerous others, as eminent for their eloquence and their genius, there contemplated the end of human greatness.

The Chaplain to the Senate, the Rev. C. M. BUTLER, in his opening prayer, supplicated for the living; but he also afforded Christian consolation by speaking hopefully of the dead, whose declining days were cheered by the Gospel dispensation.

The Journal having been read—

Mr. UNDERWOOD rose and said: Mr. President, I rise to announce the death of my colleague, Mr. CLAY. He died at his lodgings, in the National Hotel of this city, at seventeen minutes past eleven o'clock yesterday morning, in the seventy-sixth year of his age. He expired with perfect composure, and without a groan or struggle.

By his death our country has lost one of its most eminent citizens and statesmen; and, I think, its greatest genius. I shall not detain the Senate by narrating the transactions of his long and useful life. His distinguished services as a statesman are inseparably connected with the history of his country. As Representative and Speaker in the other House of Congress, as Senator in this body, as Secretary of State, and as Envoy abroad, he has, in all these positions, exhibited a wisdom and patriotism which have made a deep and lasting impression upon the grateful hearts of his countrymen. His thoughts and his actions have already been published to the world in written biography; in Congressional debates and reports; in the journals of the two Houses; and in the pages of American history. They have been commemorated by monuments erected on the wayside. They have been engraven on medals of gold. Their memory will survive the monuments of marble and the medals of gold; for these are effaced and decay by the friction of ages. But the thoughts and actions of my late colleague have become identified with the immortality of the human mind, and will pass down from generation to generation as a portion of our national inheritance incapable of annihilation so long as genius has an admirer, or liberty a friend.

Mr. President, the character of HENRY CLAY

was formed and developed by the influence of our free institutions. His physical, mental, and moral faculties were the gift of God. That they were greatly superior to the faculties allotted to most men cannot be questioned. They were not cultivated, improved, and directed by a liberal or collegiate education. His respectable parents were not wealthy, and had not the means of maintaining their children at college. Moreover, his father died when he was a boy. At an early period, Mr. CLAY was thrown upon his own resources, without patrimony. He grew up in a clerk's office in Richmond, Virginia. He there studied law. He emigrated from his native State and settled in Lexington, Kentucky, where he commenced the practice of his profession before he was of full age.

The road to wealth, to honor, and fame was open before him. Under our Constitution and laws he might freely employ his great faculties unobstructed by legal impediments, and unaided by exclusive privileges. Very soon Mr. CLAY made a deep and favorable impression upon the people among whom he began his career. The excellence of his natural faculties was soon displayed. Necessity stimulated him in their cultivation. His assiduity, skill, and fidelity in professional engagements secured public confidence. He was elected member of the Legislature of Kentucky, in which body he served several sessions prior to 1806. In that year he was elevated to a seat in the Senate of the United States.

At the bar and in the General Assembly of Kentucky Mr. CLAY first manifested those high qualities as a public speaker which have secured to him so much popular applause and admiration. His physical and mental organization eminently qualified him to become a great and impressive orator. His person was tall, slender, and commanding. His temperament ardent, fearless, and full of hope. His countenance clear, expressive, and variable—indicating the emotion which predominated at the moment with exact similitude. His voice, cultivated and modulated in harmony with the sentiment he desired to express, fell upon the ear like the melody of enrapturing music. His eye beaming with intelligence and flashing with coruscations of genius. His gestures and attitudes graceful and natural. These personal advantages won the prepossessions of an audience, even before his intellectual powers began to move his hearers; and when his strong common sense, his profound reasoning, his clear conceptions of his subject in all its bearings, and his striking and beautiful illustrations, united with such personal qualities, were brought to the discussion of any question, his audience was enraptured, convinced, and led by the orator as if enchanted by the lyre of Orpheus.

No man was ever blessed by his Creator with faculties of a higher order of excellence than those given to Mr. CLAY. In the quickness of his perceptions, and the rapidity with which his conclusions were formed, he had few equals and no superior. He was eminently endowed with a nice discriminating taste for order, symmetry, and beauty. He detected in a moment everything out of place or deficient in his room, upon his farm, in his own or the dress of others. He was a skillful judge of the form and qualities of his domestic animals, which he delighted to raise on his farm. I could give you instances of the quickness and minuteness of his keen faculty of observation which never overlooked anything. A want of neatness and order was offensive to him. He was particular and neat in his handwriting, and his apparel. A slovenly blot or negligence of any sort met his condemnation; while he was so organized that he attended to, and arranged little things to please and gratify his natural love for neatness, order, and beauty, his great intellectual faculties grasped all the subjects of jurisprudence and politics with a facility amounting almost to intuition. As a lawyer, he stood at the head of his profession. As a statesman, his stand at the head of the Republican Whig party for nearly half a century, establishes his title to preeminence among his illustrious associates.

Mr. CLAY was deeply versed in all the springs of human action. He had read and studied biography and history. Shortly after I left college, I had occasion to call on him in Frankfort, where he was attending court, and well I remember to have found him with Plutarch's Lives in his hands.



No one better than he knew how to avail himself of human motives, and all the circumstances which surrounded a subject, or could present them with more force and skill to accomplish the object of an argument.

Mr. CLAY, throughout his public career, was influenced by the loftiest patriotism. Confident in the truth of his convictions and the purity of his purposes, he was ardent, sometimes impetuous, in the pursuit of objects which he believed essential to the general welfare. Those who stood in his way were thrown aside without fear or ceremony. He never affected a courtier's deference to men or opinions which he thought hostile to the best interests of his country; and hence he may have wounded the vanity of those who thought themselves of consequence. It is certain, whatever the cause, that at one period of his life Mr. CLAY might have been referred to as proof that there is more truth than fiction in those profound lines of the poet—

"He who ascends the mountain top shall find  
Its loftiest peaks most wrapt in clouds and snow;  
He who surpasses or subdues mankind,  
Must look down on the hate of those below,  
Though far above the sun of glory glow.  
And far beneath the earth and ocean spread,  
Round him are icy rocks, and loudly blow  
Contending tempests on his naked head,  
And thus reward the toils which to those summits led."

Calumny and detraction emptied their vials upon him. But how glorious the change! He out-lived malice and envy. He lived long enough to prove to the world that his ambition was no more than a holy aspiration to make his country the greatest, most powerful, and best governed on the earth. If he desired its highest office, it was because the greater power and influence resulting from such elevation would enable him to do more than he otherwise could for the progress and advancement—first of his own countrymen, then of his whole race. His sympathies embraced all. The African slave, the Creole of Spanish America, the children of renovated classic Greece—all families of men, without respect to color or clime, found in his expanded bosom and comprehensive intellect a friend of their elevation and amelioration. Such ambition as that, is God's implantation in the human heart for raising the down-trodden nations of the earth, and fitting them for regenerated existence in politics, in morals, and religion.

Bold and determined as Mr. CLAY was in all his actions, he was, nevertheless, conciliating. He did not obstinately adhere to things impracticable. If he could not accomplish the best, he contented himself with the highest approach to it. He has been the great compromiser of those political agitations and opposing opinions which have, in the belief of thousands, at different times, endangered the perpetuity of our Federal Government and Union.

Mr. CLAY was no less remarkable for his admirable social qualities than for his intellectual abilities. As a companion, he was the delight of his friends; and no man ever had better or truer. They have loved him from the beginning, and loved him to the last. His hospitable mansion at Ashland was always open to their reception. No guest ever thence departed without feeling happier for his visit. But, alas! that hospitable mansion has already been converted into a house of mourning; already has intelligence of his death passed with electric velocity to that aged and now widowed lady who, for more than fifty years, bore to him all the endearing relations of wife, and whose feeble condition prevented her from joining him in this city, and soothing the anguish of life's last scene by those endearing attentions which no one can give so well as woman and a wife. May God infuse into her heart and mind the Christian spirit of submission under her bereavement! It cannot be long before she may expect a reunion in Heaven. A nation condole with her and her children on account of their irreparable loss.

Mr. CLAY, from the nature of his disease, declined very gradually. He bore his protracted sufferings with great equanimity and patience. On one occasion he said to me that when death was inevitable and must soon come, and when the sufferer was ready to die, he did not perceive the wisdom of praying to be "delivered from sudden death." He thought under such circumstances the sooner suffering was relieved by death the better. He desired the termination of his own

sufferings, while he acknowledged the duty of patiently waiting and abiding the pleasure of God. Mr. CLAY frequently spoke to me of his hope of eternal life, founded upon the merits of Jesus Christ as a saviour; who, as he remarked, came into the world to bring "life and immortality to light." He was a member of the Episcopal Church. In one of our conversations he told me, that as his hour of dissolution approached, he found that his affections were concentrating more and more upon his domestic circle—his wife and children. In my daily visits he was in the habit of asking me to detail to him the transactions of the Senate. This I did, and he manifested much interest in passing occurrences. His inquiries were less frequent as his end approached. For the week preceding his death he seemed to be altogether abstracted from the concerns of the world. When he became so low that he could not converse without being fatigued, he frequently requested those around him to converse. He would then quietly listen. He retained his mental faculties in great perfection. His memory remained perfect. He frequently mentioned events and conversations of recent occurrence, showing that he had a perfect recollection of what was said and done. He said to me that he was grateful to God for continuing to him the blessing of reason which enabled him to contemplate and reflect on his situation. He manifested during his confinement the same characteristics which marked his conduct through the vigor of his life. He was exceedingly averse to give his friends "trouble," as he called it. Some time before he knew it, we commenced waiting through the night in an adjoining room. He said to me after passing a painful day, "perhaps some one had better remain all night in the parlor." From this time he knew some friend was constantly at hand ready to attend to him.

Mr. President, the majestic form of Mr. CLAY will no more grace these Halls. No more shall we hear that voice which has so often thrilled and charmed the assembled representatives of the American people. No more shall we see that waving hand and eye of light, as when he was engaged unfolding his policy in regard to the varied interests of our growing and mighty republican empire. His voice is silent on earth forever. The darkness of death has obscured the luster of his eye. But the memory of his services—not only to his beloved Kentucky, not only to the United States, but for the cause of human freedom and progress throughout the world—will live through future ages, as a bright example, stimulating and encouraging his own countrymen and the people of all nations in their patriotic devotions to country and humanity.

With Christians, there is yet a nobler and a higher thought in regard to Mr. CLAY. They will think of him in connection with eternity. They will contemplate his immortal spirit occupying its true relative magnitude among the moral stars of glory in the presence of God. They will think of him as having fulfilled the duties allotted to him on earth, having been regenerated by Divine grace, and having passed through the valley of the shadow of death, and reached an everlasting and happy home in that "house not made with hands, eternal in the heavens."

On Sunday morning last, I was watching alone at Mr. CLAY's bedside. For the last hour he had been unusually quiet, and I thought he was sleeping. In that, however, he told me I was mistaken. Opening his eyes and looking at me, he said, "Mr. UNDERWOOD, there may be some question where my remains shall be buried. Some persons may designate Frankfort. I wish to repose at the cemetery in Lexington, where many of my friends and connections are buried." My reply was, "I will endeavor to have your wish executed."

I now ask the Senate to have his corpse transmitted to Lexington, Kentucky, for sepulture. Let him sleep with the dead of that city, in and near which his home has been for more than half a century. For the people of Lexington, the living and the dead, he manifested, by the statement made to me, a pure and holy sympathy, and a desire to cleave unto them, as strong as that which bound Ruth to Naomi. It was his anxious wish to return to them before he died, and to realize what the daughter of Moab so strongly felt and beautifully expressed: "Thy people shall be my

people, and thy God my God. Where thou diest will I die, and there will I be buried."

It is fit that the tomb of HENRY CLAY should be in the city of Lexington. In our Revolution, liberty's first libation blood was poured out in a town of that name in Massachusetts. On hearing it, the pioneers of Kentucky consecrated the name, and applied it to the place where Mr. CLAY desired to be buried. The associations connected with the name harmonize with his character; and the monument erected to his memory at the spot selected by him will be visited by the votaries of genius and liberty with that reverence which is inspired at the tomb of Washington. Upon that monument let his epitaph be engraved.

Mr. President, I have availed myself of Doctor Johnson's paraphrase of the epitaph on Thomas Hanmer, with a few alterations and additions, to express in borrowed verse my admiration for the life and character of Mr. CLAY, and with this heart-tribute to the memory of my illustrious colleague I conclude my remarks:

Born when Freedom her stripes and stars unfurled,  
When Revolution shook the startled world—  
Heroes and sages taught his brilliant mind  
To know and love the rights of all mankind.  
"In life's first bloom his public toils began,  
At once commenced the Senator and man:  
In business dextrous, weighty in debate,  
Near fifty years he labored for the State.  
In every speech persuasive wisdom flowed,  
In every act refulgent virtue glowed;  
Suspended faction ceased from rage and strife,  
To hear his eloquence and praise his life.  
Resistless merit fixed the Members' choice,  
Who hailed him Speaker with united voice."  
His talents ripening with advancing years—  
His wisdom growing with his public cares—  
A chosen envoy, war's dark horrors cease,  
And tides of carnage turn to streams of peace.  
Conflicting principles, internal strife,  
Tariff and slavery, disunion rife,  
All are compromised by his great hand,  
And beams of joy illuminate the land.  
Patriot, Christian, Husband, Father, Friend,  
Thy work of life achieved a glorious end!

I offer the following resolutions:

*Resolved*, That a committee of six be appointed by the President of the Senate, to take order for superintending the funeral of HENRY CLAY, late a member of this body, which will take place to-morrow at twelve o'clock, m., and that the Senate will attend the same.

*Resolved*, That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of the deceased, will go into mourning for one month by the usual mode of wearing crape on the left arm.

*Resolved*, As a further mark of respect entertained by the Senate for the memory of HENRY CLAY, and his long and distinguished services to his country, that his remains, in pursuance of the known wishes of his family, be removed to the place of sepulture selected by himself at Lexington, in Kentucky, in charge of the Sergeant-at-Arms, and attended by a committee of six Senators, to be appointed by the President of the Senate, who shall have full power to carry this resolution into effect.

Mr. CASS. Mr. President, again has an impressive warning come to teach us, that in the midst of life, we are in death. The ordinary labors of this Hall are suspended, and its contentions hushed, before the power of Him, who says to the storm of human passion, as He said of old to the waves of Galilee, *PEACE, BE STILL*. The lessons of His providence, severe as they may be, often become merciful dispensations, like that which is now spreading sorrow through the land, and which is reminding us that we have higher duties to fulfill, and graver responsibilities to encounter, than those that meet us here, when we lay our hands upon His Holy Word, and invoke His holy name, promising to be faithful to that Constitution, which He gave us in his mercy, and will withdraw only in the hour of our blindness and disobedience, and of His own wrath.

Another great man has fallen in our land, ripe indeed in years and in honors, but never dearer to the American people than when called from the theater of his services and renown to that final bar where the lofty and the lowly must all meet at last.

I do not rise, upon this mournful occasion, to indulge in the language of panegyric. My regard for the memory of the dead, and for the obligations of the living, would equally rebuke such a course. The severity of truth is at once our proper duty and our best consolation. Born during the revolutionary struggle, our deceased associate was one of the few remaining public men who connect the present generation with the actors in the trying scenes of that eventful period, and whose names and deeds will soon be known only in the history of their country. He was another illustration,

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and a noble one, too, of the glorious equality of our institutions, which freely offer all their rewards to all who justly seek them; for he was the architect of his own fortune, having made his way in life by self-exertion, and he was an early adventurer in the great forests of the West, then a world of primitive vegetation, but now the abode of intelligence and religion, of prosperity and civilization. But he possessed that intellectual superiority which overcomes surrounding obstacles, and which local seclusion cannot long withhold from general knowledge and appreciation.

It is almost half a century since he passed through Chillicothe, then the seat of government of Ohio, where I was a member of the Legislature, on his way to take his place in this very body, which is now listening to this reminiscence, and to a feeble tribute of regard from one who then saw him for the first time, but who can never forget the impression he produced by the charms of his conversation, the frankness of his manner, and the high qualities with which he was endowed. Since then he has belonged to his country, and has taken a part, and a prominent part, both in peace and war, in all the great questions affecting her interest and her honor; and though it has been my fortune often to differ from him, yet I believe he was as pure a patriot as ever participated in the councils of a nation, anxious for the public good, and seeking to promote it, during all the vicissitudes of a long and eventful life. That he exercised a powerful influence, within the sphere of his action, through the whole country indeed, we all feel and know; and we know, too, the eminent endowments which gave him this distinction. Frank and fearless in the expression of his opinion, and in the performance of his duties, with rare powers of eloquence, which never failed to rivet the attention of his auditory, and which always commanded admiration, even when they did not carry conviction—prompt in decision, and firm in action, and with a vigorous intellect, trained in the contests of a stirring life, and strengthened by enlarged experience and observation, joined withal to an ardent love of country, and to great purity of purpose,—these were the elements of his power and success, and we dwell upon them with mournful gratification now, when we shall soon follow him to the cold and silent tomb, where we shall commit "earth to earth, ashes to ashes, dust to dust," but with the blessed conviction of the truth of that divine revelation which teaches us that there is life and hope beyond the narrow house, where we shall leave him alone to the mercies of his God and ours.

He has passed beyond the reach of human praise or censure; but the judgment of his contemporaries has preceded and pronounced the judgment of history, and his name and fame will shed luster upon his country, and will be proudly cherished in the hearts of his countrymen for long ages to come. Yes; they will be cherished and freshly remembered, when these marble columns that surround us, so often the witnesses of his triumph—but, in a few brief hours, when his mortal frame, despoiled of the immortal spirit, shall rest under this dome for the last time, to become the witnesses of his defeat in that final contest where the mightiest fall before the great destroyer—when these marble columns shall themselves have fallen, like all the works of man, leaving their broken fragments to tell the story of former magnificence, amid the very ruins which announce decay and desolation.

I was often with him during his last illness, when the world and the things of the world were fast fading away before him. He knew that the silver cord was almost loosened, and that the golden bowl was breaking at the fountain; but he was resigned to the will of Providence, feeling that He who gave has the right to take away in His own good time and manner. After his duty to his Creator, and his anxiety for his family, his first care was for his country, and his first wish for the preservation and perpetuation of the Constitution and the Union—dear to him in the hour of death, as they had ever been in the vigor of

life! Of that Constitution and Union, whose defense in the last and greatest crisis of their peril, had called forth all his energies, and stimulated those memorable and powerful exertions, which he, who witnessed, can never forget, and which no doubt, hastened the final catastrophe a nation now deplores with a sincerity and unanimity, not less honorable to themselves than to the memory of the object of their affections. And when we shall enter that narrow valley through which he has passed before us, and which leads to the judgment-seat of God, may we be able to say, through faith in his Son, our Saviour, and in the beautiful language of the hymn of the dying Christian—dying, but ever living and triumphant—

"The world recedes, it disappears—  
Heaven opens on my eyes! my ears  
With sounds seraphic ring;  
Lend, lend your wings! I mount—I fly!  
Oh, Grave! where is thy victory?  
Oh, Death! where is thy sting?"

"Let me die the death of the righteous, and let my last end be like his."

Mr. HUNTER. Mr. President, we have heard, with deep sensibility, what has just fallen from the Senators who have preceded me. We have heard, sir, the voice of Kentucky—and, upon this occasion, she had a right to speak—in mingled accents of pride and sorrow; for it has rarely fallen to the lot of any State to lament the loss of such a son. But Virginia, too, is entitled to her place in this procession; for she cannot be supposed to be unmindful of the tie which bound her to the dead. When the earth opens to receive the mortal part which she gave to man, it is then that affection is eager to bury in its bosom every recollection but those of love and kindness. And, sir, when the last sensible tie is about to be severed, it is then that we look with anxious interest to the deeds of the life, and to the emanations of the heart and the mind, for those more enduring monuments which are the creation of an immortal nature.

In this instance, we can be at no loss for these. This land, sir, is full of the monuments of his genius. His memory is as imperishable as American history itself, for he was one of those who made it. Sir, he belonged to that marked class who are the men of their century; for it was his rare good fortune not only to have been endowed with the capacity to do great things, but to have enjoyed the opportunities of achieving them. I know, sir, it has been said and deplored, that he wanted some of the advantages of an early education; but it, perhaps, has not been remembered that, in many respects, he enjoyed such opportunities for mental training as can rarely fall to the lot of man. He had not a chance to learn as much from books, but he had such opportunities of learning from men as few men have ever enjoyed. Sir, it is to be remembered that he was reared at a time when there was a state of society in the Commonwealth which gave him birth, such as has never been seen there before nor since. It was his early privilege to see how justice was administered by a Pendleton and a Wythe, with the last of whom he was in the daily habit of familiar intercourse. He had constant opportunities to observe how forensic questions were managed by a Marshall and a Wickham. He was old enough, too, to have heard and to have appreciated the eloquence of a Patrick Henry, and of George Keith Taylor. In short, sir, he lived in a society in which the examples of a Jefferson, and a Madison, and a Monroe were living influences, and on which the setting sun of a Washington cast the mild effulgence of its departing rays.

He was trained, too, as has been well said by the Senator from Michigan, [Mr. Cass,] at a period when the recent revolutionary struggle had given a more elevated tone to patriotism and imparted a higher cast to public feeling and to public character. Such lessons were worth, perhaps, more to him than the whole encyclopedia of scholastic learning. Not only were the circumstances of his early training favorable to the development of his genius, but the theater upon which he was thrown,

was eminently propitious for its exercise. The circumstances of the early settlement of Kentucky, the generous, daring, and reckless character of the people—all fitted it to be the theater for the display of those commanding qualities of heart and mind, which he so eminently possessed. There can be little doubt but that those people and their chosen leader exercised a mutual influence upon each other; and no one can be surprised that with his brave spirit and commanding eloquence, and fascinating address, he should have led not only there but elsewhere.

I did not know him, Mr. President, as you did, in the freshness of his prime, or in the full maturity of his manhood. I did not hear him, sir, as you have heard him, when his voice roused the spirit of his countrymen for war—when he cheered the drooping, when he rallied the doubting through all the vicissitudes of a long and doubtful contest. I have never seen him, sir, when, from the height of the chair, he ruled the House of Representatives by the energy of his will, or when upon the level of the floor he exercised a control almost as absolute, by the mastery of his intellect. When I first knew him, his sun had a little passed its zenith. The effacing hand of time had just begun to touch the lineaments of his manhood. But yet, sir, I saw enough of him to be able to realize what he might have been in the prime of his strength, and in the full vigor of his maturity. I saw him, sir, as you did, when he led the "Opposition" during the administration of Mr. Van Buren. I had daily opportunities of witnessing the exhibition of his powers during the extra session under Mr. Tyler's administration. And I saw, as we all saw, in a recent contest, the exhibition of power on his part, which was most marvelous in one of his years.

Mr. President, he may not have had as much of analytic skill, as some others, in dissecting a subject. It may be, perhaps, that he did not seek to look quite so far ahead as some who have been most distinguished for political forecast. But it may be truly said of Mr. CLAY, that he was no exaggerator. He looked at events through neither end of the telescope, but surveyed them with the natural and the naked eye. He had the capacity of seeing things as the people saw them, and of feeling things as the people felt them. He had, sir, beyond any other man whom I have ever seen, the true mesmeric touch of the orator—the rare art of transferring his impulses to others. Thoughts, feelings, emotions, came from the ready mould of his genius, radiant and glowing, and communicated their own warmth to every heart which received them. His, too, was the power of wielding the higher and intenser forms of passion with a majesty and an ease, which none but the great masters of the human heart can ever employ. It was his rare good fortune to have been one of those who form, as it were, a sensible link and a living tradition which connects one age with another, and through which one generation speaks its thoughts and feelings, and appeals to another. And, unfortunate is it for a country, when it ceases to possess such men, for it is to them that we chiefly owe the capacity to maintain the unity of the great Epos of human history, and preserve the consistency of political action.

Sir, it may be said that the grave is still new-made which covers the mortal remains of one of those great men who have been taken from our midst, and the earth is soon to open to receive another. I know not, sir, whether it can be said to be a matter of lamentation, so far as the dead are concerned, that the thread of this life has been clipped when once it had been fully spun. They escape the infirmities of age, and they leave an imperishable name behind them. The loss, sir, is not theirs, but ours; and a loss the more to be lamented that we see none to fill the places thus made vacant on the stage of public affairs. But it may be well for us, who have much more cause to mourn and to lament such deaths, to pause amidst the business of life for the purpose of contemplating the spectacle before us, and of drawing the moral from the passing event. It is when

death seizes for its victims those who are, by "a head and shoulders, taller than all the rest," that we feel most deeply the uncertainty of human affairs, and that "the glories of our mortal state are shadows, not substantial things." It is, sir, in such instances as the present that we can best study by the light of example the true object of life, and the wisest ends of human pursuit.

Mr. HALE. Mr. President, I hope I shall not be considered obtrusive, if on this occasion for a brief moment, I mingle my humble voice with those that, with an ability that I shall neither attempt nor hope to equal, have sought to do justice to the worth and memory of the deceased, and at the same time appropriately to minister to the sympathies and sorrows of a stricken people. Sir, it is the teaching of inspiration that "no man liveth and no man dieth unto himself."

There is a lesson taught no less in the death than in the life of every man—eminently so in the case of one who has filled a large space and occupied a distinguished position in the thoughts and regard of his fellow-men. Particularly instructive at this time is the event which we now deplore, although the circumstances attending his decease are such as are calculated to assuage rather than aggravate the grief which it must necessarily cause. His time had fully come. The three score and ten marking the ordinary period of human life had for some years been passed, and, full of years and of honors, he has gone to his rest. And now, when the nation is marshaling itself for the contest which is to decide "who shall be greatest," as if to chasten our ambition, to restrain and subdue the violence of passion, to moderate our desires and elevate our hopes, we have the spectacle of one who, by the force of his intellect and the energy of his own purpose, had achieved a reputation which the highest official honors of the Republic might have illustrated, but could not have enhanced, laid low in death—as if, at the very outset of this political contest, on which the nation is now entering, to teach the ambitious and aspiring the end of human pursuit and earthly honor. But, sir, I do not intend to dwell on that moral which is taught by the silent lips and closed eye of the illustrious dead, with a force such as no man ever spoke with; but I shall leave the event, with its silent and mute eloquence, to impress its own appropriate teachings on the heart.

In the long and eventful life of Mr. CLAY, in the various positions which he occupied, in the many posts of public duty which he filled, in the many exhibitions which his history affords of untiring energy, of unsurpassed eloquence, and of devoted patriotism, it would be strange indeed if different minds, as they dwell upon the subject, were all to select the same incidents of his life as preëminently calculated to challenge admiration and respect.

Sir, my admiration—ay, my affection for Mr. CLAY—was won and secured many years since, even in my school-boy days—when his voice of counsel, encouragement, and sympathy was heard in the other Hall of this Capitol, in behalf of the struggling colonies of the southern portion of this continent, who, in pursuit of their inalienable rights, in imitation of our own forefathers, had unfurled the banner of liberty, and, regardless of consequences, had gallantly rushed into that contest where "life is lost, or freedom won." And again, sir, when Greece, rich in the memories of the past, awoke from the slumber of ages of oppression and centuries of shame, and resolved

"To call her virtues back, and conquer time and fate"—there, over the plains of that classic land, above the din of battle and the clash of arms, mingling with the shouts of the victors and the groans of the vanquished, were heard the thrilling and stirring notes of that same eloquence, excited by a sympathy which knew no bounds, wide as the world, pleading the cause of Grecian liberty before the American Congress, as if to pay back to Greece the debt which every patriot and orator felt was her due. Sir, in the long and honorable career of the deceased, there are many events and circumstances upon which his friends and posterity will dwell with satisfaction and pride, but none which will preserve his memory with more enduring lustre to future ages than the course he pursued in the Spanish-American and Greek revolutions.

Mr. CLEMENS. Mr. President, I should not have thought it necessary to add anything to what has already been said, but for a request preferred by some of the friends of the deceased. I should have been content to mourn him in silence and left it to other tongues to pronounce his eulogy. What I have now to say shall be brief—very brief.

Mr. President, it is now less than three short years ago since I first entered this body. At that period it numbered among its members many of the most illustrious statesmen this Republic has ever produced, or the world has ever known. Of the living, it is not my purpose to speak; but in that brief period, death has been busy here; and, as if to mark the feebleness of human things, his arrows have been aimed at the highest, the mightiest of us all. First, died CALHOUN. And well, sir, do I remember the deep feeling evinced on that occasion by him whose death has been announced here to-day, when he said: "I was 'his senior in years—in nothing else. In the 'course of nature I ought to have preceded him. 'It has been decreed otherwise; but I know that 'I shall linger here only a short time, and shall 'soon follow him.'" It was genius mourning over his younger brother, and too surely predicting his own approaching end.

He, too, sir, is now gone from among us, and left none like him behind. That voice, whose every tone was music, is hushed and still. That clear, bright eye is dim and lusterless, and that breast, where grew and flourished every quality which could adorn and dignify our nature, is cold as the clod that soon must cover it. A few hours have wrought a mighty change—a change for which a lingering illness had, indeed, in some degree prepared us, but which, nevertheless, will still fall upon the nation with crushing force. Many a sorrowing heart is now asking, as I did yesterday, when I heard the first sound of the funeral bell—

"And is he gone?—the pure of the purest,  
The hand that upheld our bright banner the surest,  
Is he gone from our struggles away?  
But yesterday lending a people a new life,  
Cold, mute, in the coffin to-day."

Mr. President, this is an occasion when eulogy must fail to perform its office. The long life which is now ended is a history of glorious deeds too mighty for the tongue of praise. It is in the hearts of his countrymen that his best epitaph must be written. It is in the admiration of a world that his renown must be recorded. In that deep love of country which distinguished every period of his life, he may not have been unrivaled. In loftiness of intellect, he was not without his peers. The skill with which he touched every chord of the human heart may have been equaled. The iron will, the unbending firmness, the fearless courage, which marked his character, may have been shared by others. But where shall we go to find all those qualities united, concentrated, blended into one brilliant whole, and shedding a lustre upon one single head, which does not dazzle the beholder only because it attracts his love and demands his worship?

I scarcely know, sir, how far it may be allowable, upon an occasion like this, to refer to party struggles which have left wounds not yet entirely healed. I will venture, however, to suggest, that it should be a source of consolation to his friends that he lived long enough to see the full accomplishment of the last great work of his life, and to witness the total disappearance of that sectional tempest which threatened to whelm the Republic in ruins. Both the great parties of the country have agreed to stand upon the platform which he erected, and both of them have solemnly pledged themselves to maintain unimpaired the work of his hands. I doubt not the knowledge of this cheered him in his dying moments, and helped to steal away the pangs of dissolution.

Mr. President, if I knew anything more that I could say, I would gladly utter it. To me, he was something more than kind, and I am called upon to mingle a private with the public grief. I wish that I could do something to add to his fame. But he built for himself a monument of immortality, and left to his friends no task but that of soothing their own sorrow for his loss. We pay to him the tribute of our tears. More we have no power to bestow. Patriotism, honor, genius, courage, have all come to strew their garlands about his tomb; and well they may, for he was the peer of them all.

Mr. COOPER. Mr. President, it is not always by words that the living pay to the dead the sincerest and most eloquent tribute. The tears of a nation, flowing spontaneously over the grave of a public benefactor, is a more eloquent testimonial of his worth and of the affection and veneration of his countrymen, than the most highly-wrought eulogium of the most gifted tongue. The heart is not necessarily the fountain of words, but it is always the source of tears, whether they be of joy, gratitude, or grief. But sincere, truthful, and eloquent, as they are, they leave no permanent record of the virtues and greatness of him on whose tomb they are shed. As the dews of heaven falling at night are absorbed by the earth, or dried up by the morning sun, so the tears of a people, shed for their benefactor, disappear without leaving a trace to tell the future generations of the services, sacrifices, and virtues of him to whose memory they were a grateful tribute. But as homage paid to virtue is an incentive to it, it is right that the memory of the good, the great, and noble of the earth should be preserved and honored.

The ambition, Mr. President, of the truly great is more the hope of living in the memory and estimation of future ages than of possessing power in their own. It is this hope that stimulates them to perseverance; that enables them to encounter disappointment, ingratitude, and neglect, and to press on through toils, privations, and perils to the end. It was not the hope of discovering a world, over which he should himself exercise dominion, that sustained Columbus in all his trials. It was not for this he braved danger, disappointment, poverty, and reproach. It was not for this he subdued his native pride, wandered from kingdom to kingdom, kneeling at the feet of princes a suppliant for means to prosecute his sublime enterprise. It was not for this, after having at last secured the patronage of Isabella, that he put off in his crazy and ill-appointed fleet into unknown seas, to struggle with storms and tempests, and the rage of a mutinous crew. It was another and nobler kind of ambition that stimulated him to contend with terror, superstition, and despair, and to press forward on his perilous course, when the needle in his compass, losing its polarity, seemed to unite with the fury of the elements and the insubordination of his crew in turning him back from his perilous but glorious enterprise. It was the hope which was realized at last, when his ungrateful country was compelled to inscribe, as an epitaph on his tomb—

"Columbus has given a new world to the kingdom of Castile and Leon,"

that enabled him at first to brave so many disappointments, and at last to conquer the multitude of perils that beset his pathway on the deep. This, sir, is the ambition of the truly great—not to achieve present fame, but future immortality. This being the case, it is besting here to-day to add to the life of HENRY CLAY, the record of his death, signalized as it is by a nation's gratitude and grief. It is right that posterity should learn from us, the contemporaries of the illustrious deceased, that his virtues and services were appreciated by his country, and acknowledged by the tears of his countrymen poured out upon his grave.

The career of HENRY CLAY was a wonderful one. And what an illustration of the excellence of our institutions would a retrospect of his life afford! Born in an humble station, without any of the adventitious aids of fortune by which the obstructions on the road to fame are smoothed, he rose not only to the most exalted eminence of position, but likewise to the highest place in the affections of his countrymen. Taking into view the disadvantages of his early position, disadvantages against which he had always to contend, his career is without a parallel in the history of great men. To have seen him a youth, without friends or fortune, and with but a scanty education, who would have ventured to predict for him a course so brilliant and beneficent, and a fame so well deserved and enduring? Like the pine, however, which sometimes springs up amidst the rocks on the mountain side, with scarce a crevice in which to fix its roots or soil to nourish them, but which, nevertheless, overtops all the trees of the surrounding forest, HENRY CLAY, by his own inherent, self-sustaining energy and genius, rose to an altitude of fame almost unequaled in the age in which he lived. As an orator, legislator, and



statesman, he had no superior. All his faculties were remarkable, and in remarkable combination. Possessed of a brilliant genius and a fertile imagination, his judgment was sound, discriminating, and eminently practical. Of an ardent and impetuous temperament, he was nevertheless persevering and firm of purpose. Frank, bold, and intrepid, he was cautious in providing against the contingencies and obstacles which might possibly rise up in the road to success. Generous, liberal, and entertaining, broad and expanded views of national policy, in his legislative course he never transcended the limits of a wise economy.

But, Mr. President, of all his faculties, that of making friends and attaching them to him was the most remarkable and extraordinary. In this respect, he seemed to possess a sort of fascination, by which all who came into his presence were attracted towards and bound to him by ties which neither time nor circumstances had power to dissolve or weaken. In the admiration of his friends was the recognition of the divinity of intellect; in their attachment to him a confession of his generous personal qualities and social virtues.

Of the public services of Mr. CLAY, the present occasion affords no room for a sketch more extended than that which his respected colleague [Mr. UNDERWOOD] has presented. It is, however, sufficient to say, that for more than forty years he has been a prominent actor in the drama of American affairs. During the late war with England his voice was more potent than any other in awakening the spirit of the country, infusing confidence into the people, and rendering available the resources for carrying on the contest. In our domestic controversies, threatening the peace of the country and the integrity of the Union, he has always been first to note danger as well as to suggest the means of averting it. When the waters of the great political deep were upheaved by the tempest of discord, and the ark of the Union, freighted with the hopes and destinies of freedom, tossing about on the raging billows, and drifting every moment nearer to the vortex which threatened to swallow it up, it was his clarion voice, rising above the storm, that admonished the crew of impending peril, and counseled the way to safety.

But, Mr. President, devotedly as he loved his country, his aspirations were not limited to its welfare alone. Wherever freedom had a votary, that votary had a friend in HENRY CLAY; and in the struggle of the Spanish colonies for independence he uttered words of encouragement which have become the mottoes on the banners of freedom in every land. But neither the services which he has rendered his own country, nor his wishes for the welfare of others, nor his genius, nor the affection of friends, could turn aside the destroyer. No price could purchase exemption from the common lot of humanity. HENRY CLAY, the wise, the great, the gifted, had to die; and his history is summed up in the biography which the Russian poet has prepared for all, kings and serfs, viz:

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"born, living, dying,  
Quitting the still shore for the troubled wave,  
Struggling with storm-clouds, over shipwrecks flying,  
And casting anchor in the silent grave."

But though time would not spare him, there is still this of consolation: He died peacefully and happy, ripe in renown, full of years and of honors, and rich in the affections of his country. He enjoyed, too, the unspeakable satisfaction of closing his eyes whilst the country he had loved so much and served so well was still in the enjoyment of peace, happiness, union, and prosperity—still advancing in all the elements of wealth, greatness, and power.

I know, Mr. President, how unequal I have been to the apparently self-imposed task of presenting, in an appropriate manner, the merits of the illustrious deceased. But if I had remained silent on an occasion like this, when the hearts of my constituents are swelling with grief, I would have been disowned by them. It is for this reason—that of giving utterance to their feelings as well as of my own—that I have trespassed on the time of the Senate. I would that I could have spoken fitter words; but, such as they are, they were uttered by the tongue in response to the promptings of the heart.

Mr. SEWARD. Mr. President, fifty years ago, HENRY CLAY, of Virginia, already adopted by Kentucky, then as youthful as himself, entered

the service of his country, a Representative in the unpretending Legislature of that rising State; and having thenceforward pursued, with ardor and constancy, the gradual paths of an aspiring change through Halls of Congress, foreign courts, and Executive councils, he has now, with the cheerfulness of a patriot, and the serenity of a Christian, fitly closed his long and arduous career, here in the Senate, in the full presence of the Republic, looking down upon the scene with anxiety and alarm,—not merely a Senator like one of us who yet remain in the Senate House, but filling that character which, though it had no authority of law and was assigned without suffrage, Augustus Cæsar nevertheless declared was above the title of Emperor, *Primus inter Illustres*—the Prince of the Senate.

Generals are tried, Mr. President, by examining the campaigns they have lost or won, and statesmen by reviewing the transactions in which they have been engaged. Hamilton would have been unknown to us had there been no Constitution to be created, as Brutus would have died in obscurity had there been no Cæsar to be slain.

Colonization, Revolution, and Organization—three great acts in the drama of our national progress—had already passed when the Western patriot appeared on the public stage. He entered in that next division of the majestic scenes which was marked by an inevitable reaction of political forces, a wild strife of factions, and ruinous embarrassments in our foreign relations. This transition stage is always more perilous than any other in the career of nations, and especially in the career of Republics. It proved fatal to the Commonwealth in England. Scarcely any of the Spanish American States has yet emerged from it; and it has more than once been sadly signalized by the ruin of the Republican cause in France.

The continuous administration of Washington and John Adams had closed under a cloud which had thrown a broad, dark shadow over the future; the nation was deeply indebted at home and abroad, and its credit was prostrate. The revolutionary factions had given place to two inveterate parties, divided by a gulf which had been worn by the conflict in which the Constitution was adopted, and made broader and deeper by a war of prejudices concerning the merits of the belligerents in the great European struggle that then convulsed the civilized world. Our extraordinary political system was little more than an ingenious theory, not yet practically established. The Union of the States was as yet only one of compact; for the political, social, and commercial necessities to which it was so marvelously adapted, and which, clustering thickly upon it, now render it indissoluble, had not then been broadly disclosed, nor had the habits of acquiescence and the sentiments of loyalty, always slow of growth, fully ripened. The bark that had gone to sea, thus unfurnished and untried, seemed quite certain to founder by reason of its own inherent frailty, even if it should escape unharmed in the great conflict of nations, which acknowledged no claims of justice, and tolerated no pretensions of neutrality. Moreover, the territory possessed by the nation was inadequate to commercial exigencies, and indispensable social expansion; and yet no provision had been made for enlargement, nor for extending the political system over distant regions, inhabited or otherwise, which must inevitably be acquired. Nor could any such acquisition be made without disturbing the carefully-adjusted balance of powers among the members of the Confederacy.

These difficulties, Mr. President, although they grew less with time and by slow degrees, continued throughout the whole life of the statesman whose obsequies we are celebrating. Be it known, then—and I am sure that history will confirm the instruction—that conservatism was the interest of the nation, and the responsibility of its rulers, during the period in which he flourished. He was ardent, bold, generous, and even ambitious; and yet, with a profound conviction of the true exigencies of the country, like Alexander Hamilton, he disciplined himself, and trained a restless nation, that knew only self-control, to the rigorous practice of that often humiliating conservatism which its welfare and security in that peculiar crisis so imperiously demanded.

It could not have happened, sir, to any citizen to have acted alone, nor even to have acted always the most conspicuous part in a trying period so

long protracted. HENRY CLAY therefore shared the responsibilities of Government with not only his proper cotemporaries, but also survivors of the Revolution, as well as also many who will now succeed himself. Delicacy forbids my naming those who retain their places here; but we may, without impropriety, recall among his compeers a Senator of vast resources and inflexible resolve, who has recently withdrawn from this Chamber, but I trust not altogether from public life, (Mr. Benton); and another, who, surpassing all his cotemporaries within his country, and even throughout the world, in the proper eloquence of the forum, now, in autumnal years, for a second time, dignifies and adorns the highest seat in the Executive Council, (Mr. Webster.) Passing by these eminent and noble men, the shades of Calhoun, John Quincy Adams, Jackson, Monroe, Madison, and Jefferson, rise up before us—statesmen whose living and local fame has ripened already into historical and world-wide renown.

Among geniuses so lofty as these, HENRY CLAY bore a part in regulating the constitutional freedom of political debate; establishing that long-contested and most important line which divides the sovereignty of the several States from that of the States confederated; asserting the right of neutrality, and vindicating it by a war against Great Britain, when that just but extreme measure became necessary; adjusting the terms on which that perilous yet honorable contest was brought to a peaceful close; perfecting the Army, and the Navy, and national fortifications; settling the fiscal and financial policy of the Government in more than one crisis of apparently-threatened revolution; asserting and calling into exercise the powers of the Government for making and improving internal communications between the States; arousing and encouraging the Spanish American colonies on this continent to throw off the foreign yoke, and to organize governments on principles congenial to our own, and thus creating external bulwarks for our own national defense; establishing equal and impartial peace and amity with all existing maritime Powers; and extending the constitutional organization of government over the vast regions all secured in his lifetime by purchase or by conquest, whereby the pillars of the Republic have been removed from the banks of the St. Mary's to the borders of the Rio Grande, and from the margin of the Mississippi to the Pacific coast. We may not yet discuss the wisdom of the several measures which have thus passed in review before us, nor of the positions which the deceased statesman assumed in regard to them, but we may without offense dwell upon the comprehensive results of them all.

The Union exists in absolute integrity, and the Republic in complete and triumphant development. Without having relinquished any part of their individuality, the States have more than doubled already, and are increasing in numbers and growing in political strength and expansion more rapidly than ever before. Without having absorbed any State, or having even encroached on any State, the Confederation has opened itself so as to embrace all the new members who have come, and now, with capacity for further and indefinite enlargement, has become fixed, enduring, and perpetual. Although it was doubted only half a century ago, whether our political system could be maintained at all, and whether, if maintained, it could guaranty the peace and happiness of society, it stands now confessed by the world the form of government not only most adapted to empire, but also most congenial to the constitution of human nature.

When we consider that the nation has been conducted to this haven, not only through stormy seas, but altogether also without a course and without a star; and when we consider, moreover, the sum of happiness that has already been enjoyed by the American people, and still more the influence which the great achievement is exerting on the advancement and melioration of the condition of mankind, we see at once that it might have satisfied the highest ambition to have been, no matter how humbly, concerned in so great a transaction.

Certainly, sir, no one will assert that HENRY CLAY in that transaction performed an obscure or even a common part. On the contrary, from the day on which he entered the public service until that on which he passed the gates of death, he

was never a follower, but always a leader; and he marshaled either the party which sustained or that which resisted every great measure, equally in the Senate and in the popular canvass. And he led where duty seemed to him to indicate, reckless whether he encountered one President or twenty Presidents, whether he was opposed by factions or even by the whole people. Hence it has happened, that although that people are not yet agreed among themselves on the wisdom of all or perhaps of even any of his great measures, yet they are nevertheless unanimous in acknowledging that he was at once the greatest, the most faithful, and the most reliable of their statesmen. Here the effort at discriminating praise of HENRY CLAY in regard to his public policy must stop, even on this sad occasion, which awakens the ardent liberality of his generous survivors.

But his personal qualities may be discussed without apprehension. What were the elements of the success of that extraordinary man? You, sir, knew him longer and better than I, and I would prefer to hear you speak of them. He was indeed eloquent—all the world knows that. He held the keys to the hearts of his countrymen, and he turned the wards within them with a skill attained by no other master.

But eloquence was nevertheless only an instrument, and one of many that he used. His conversation, his gestures, his very look, was magisterial, persuasive, seductive, irresistible. And his appliance of all these was courteous, patient, and indefatigable. Defeat only inspired him with new resolution. He divided opposition by his assiduity of address, while he rallied and strengthened his own bands of supporters by the confidence of success which, feeling himself, he easily inspired among his followers. His affections were high and pure, and generous, and the chiefest among them was that one which the great Italian poet designated as the charity of native land. In him that charity was an enduring and overpowering enthusiasm, and it influenced all his sentiments and conduct, rendering him more impartial between conflicting interests and sections than any other statesman who has lived since the Revolution. Thus with great versatility of talent, and the most catholic equality of favor, he identified every question, whether of domestic administration or foreign policy, with his own great name, and so became a perpetual Tribune of the people. He needed only to pronounce in favor of a measure or against it, here, and immediately popular enthusiasm, excited as by a magic wand, was felt, overcoming and dissolving all opposition in the Senate Chamber.

In this way he wrought a change in our political system, that I think was not foreseen by its founders. He converted this branch of the Legislature from a negative position, or one of equilibrium between the Executive and the House of Representatives, into the active ruling power of the Republic. Only time can disclose whether this great innovation shall be beneficent, or even permanent.

Certainly, sir, the great lights of the Senate have set. The obscurity is not less palpable to the country than to us, who are left to grope our uncertain way here, as in a labyrinth, oppressed with self-distrust. The time, too, presents new embarrassments. We are rising to another and more sublime stage of national progress—that of expanding wealth and rapid territorial aggrandizement. Our institutions throw a broad shadow across the St. Lawrence, and, stretching beyond the valley of Mexico, reach even to the plains of Central America, while the Sandwich Islands and the shores of China recognize its renovating influence. Wherever that influence is felt, a desire for protection under those institutions is awakened. Expansion seems to be regulated not by any difficulties of resistance, but by the moderation which results from our own internal constitution. No one knows how rapidly that restraint may give way. Who can tell how far or how fast it ought to yield? Commerce has brought the ancient continents near to us, and created necessities for new positions—perhaps connections or colonies there—and with the trade and friendship of the elder nations their conflicts and collisions are brought to our doors and to our hearts. Our sympathy kindles, our indifference extinguishes, the fires of freedom in foreign lands. Before we shall be fully conscious that a change is going on in Europe, we

may find ourselves once more divided by that eternal line of separation that leaves on the one side those of our citizens who obey the impulses of sympathy, while on the other are found those who submit only to the counsels of prudence. Even prudence will soon be required to decide whether distant regions, East and West, shall come under our own protection, or be left to aggrandize a rapidly-spreading domain of hostile despotism.

Sir, who among us is equal to these mighty questions? I fear there is no one. Nevertheless, the example of HENRY CLAY remains for our instruction. His genius has passed to the realms of light, but his virtues still live here for our emulation. With them there will remain also the protection and favor of the Most High, if by the practice of justice and the maintenance of freedom we shall deserve them. Let, then, the bier pass on. We will follow with sorrow, but not without hope, the reverend form that it bears to its final resting-place; and then, when that grave opens at our feet to receive so estimable a treasure, we will invoke the God of our fathers to send us new guides, like him that is now withdrawn, and give us wisdom to obey their instructions.

Mr. JONES, of Iowa. Mr. President, of the vast number who mourn the departure of the great man whose voice has so often been heard in this Hall, I have peculiar cause to regret that dispensation which has removed him from among us. He was the guardian and director of my collegiate days; four of his sons were my college mates and warm friends. My intercourse with the father was that of a youth and a friendly adviser. I shall never cease to feel grateful to him—to his now heart-stricken and bereaved widow and children, for their many kindnesses to me during four or five years of my life. I had the pleasure of renewing my acquaintance with him, first, as a delegate in Congress, whilst he was a member of this body from 1835 to 1839, and again in 1848, as a member of this branch of Congress; and during the whole of which period, some eight years, none but the most kindly feeling existed between us.

As an humble and unimportant Senator, it was my fortune to cooperate with him throughout the whole of the exciting session of 1849-'50—the labor and excitement of which is said to have precipitated his decease. That cooperation did not end with the accordant vote on this floor, but, in consequence of the unyielding opposition to the series of measures known as the "compromise," extended to many private meetings held by its friends, at all of which Mr. CLAY was present. And whether in public or private life, he everywhere continued to inspire me with the most exalted estimate of his patriotism and statesmanship. Never shall I forget the many ardent appeals he made to Senators, in and out of the Senate, in favor of the settlement of our then unhappy sectional differences.

Immediately after the close of that memorable session of Congress, during which the nation beheld his great and almost superhuman efforts upon this floor to sustain the wise counsels of the "Father of his Country," I accompanied him home to Ashland, at his invitation, to revisit the place where my happiest days had been spent, with the friends who there continued to reside. During that, to me, most agreeable and instructive journey, in many conversations he evinced the utmost solicitude for the welfare and honor of the Republic, all tending to show that he believed the happiness of the people and the cause of liberty throughout the world depended upon the continuance of our glorious Union, and the avoidance of those sectional dissensions which could but alienate the affections of one portion of the people from another. With the sincerity and fervor of a true patriot, he warned his companions in that journey to withhold all aid from men who labored, and from every cause which tended, to sow the seeds of disunion in the land; and to oppose such, he declared himself willing to forego all the ties and associations of mere party.

At a subsequent period, sir, this friend of my youth, at my earnest and repeated entreaties, consented to take a sea voyage from New York to Havana. He remained at the latter place a fortnight, and then returned by New Orleans to Ashland. That excursion by sea, he assured me, contributed much to relieve him from the suffer-

ings occasioned by the disease which has just terminated his eventful and glorious life. Would to Heaven that he could have been persuaded to abandon his duties as a Senator, and to have remained during the past winter and spring upon that Island of Cuba! The country would not now, perhaps, have been called to mourn his loss.

In some matters of policy connected with the administration of our General Government, I have disagreed with him, yet the purity and sincerity of his motives I never doubted; and as a true lover of his country, as an honorable and honest man, I trust his example will be revered and followed by the men of this, and of succeeding generations.

Mr. BROOKE. Mr. President, as an ardent, personal admirer and political friend of the distinguished dead, I claim the privilege of adding my humble tribute of respect to his memory, and of joining in the general expression of sorrow that has gone forth from this Chamber. Death, at all times, is an instructive monitor as well as a mournful messenger; but when his fatal shaft hath stricken down the great in intellect and renown, how doubly impressive the lesson that it brings home to the heart that the grave is the common lot of all—the great leveler of all earthly distinctions! But at the same time we are taught that in one sense the good and great can never die; for the memory of their virtues and their bright example will live through all coming time in an immortality that blooms beyond the grave. The consolation of this thought may calm our sorrow; and, in the language of one of our own poets, it may be asked:

"Why weep ye, then, for him, who having run  
The bound of man's appointed years, at last,  
Life's blessings all enjoyed, life's labors done,  
Serenely to his final rest has passed;  
While the soft memory of his virtues yet  
Lingers, like twilight hues when the bright sun has set?"

It will be doing no injustice, sir, to the living or the dead to say that no better specimen of the true American character can be found in our history than that of Mr. CLAY. With no adventitious advantages of birth or fortune, he won his way by the efforts of his own genius to the highest distinction and honor. Ardently attached to the principles of civil and religious liberty, patriotism was with him both a passion and a sentiment—a passion that gave energy to his ambition, and a sentiment that pervaded all his thoughts and actions, concentrating them upon his country as the idol of his heart. The bold and manly frankness in the expression of his opinions which always characterized him has often been the subject of remark; and in all his victories it may be truly said he never "stooped to conquer." In his long and brilliant political career, personal considerations never for a single instant caused him to swerve from the strict line of duty, and none have ever doubted his deep sincerity in that memorable expression to Mr. Preston, "Sir, I had rather be right than be President."

This is not the time nor occasion, sir, to enter into a detail of the public services of Mr. CLAY, interwoven as they are with the history of the country for half a century; but I cannot refrain from adverting to the last crowning act of his glorious life—his great effort in the Thirty-first Congress for the preservation of the peace and integrity of this great Republic, as it was this effort that shattered his bodily strength and hastened the consummation of death. The Union of the States, as being essential to our prosperity and happiness, was the paramount proposition in his political creed, and the slightest symptom of danger to its perpetuity filled him with alarm, and called forth all the energies of his body and mind. In his earlier life he had met this danger and overcome it. In the conflict of contending factions it again appeared; and coming forth from the repose of private life, to which age and infirmity had carried him, with unabated strength of intellect, he again entered upon the arena of political strife, and again success crowned his efforts, and peace and harmony were restored to a distracted people. But unequal to the mighty struggle, his bodily strength sank beneath it, and he retired from the field of his glory to yield up his life as a holy sacrifice to his beloved country. It has well been said that peace has its victories as well as war; and how bright upon the page of history will be the record of this great victory of intellect, of reason, and

of moral suasion, over the spirit of discord and sectional animosities!

We this day, Mr. President, commit his memory to the regard and affection of his admiring countrymen. It is a consolation to them and to us to know that he died in full possession of his glorious intellect, and, what is better, in the enjoyment of that "peace which the world can neither give" nor take away. He sank to rest as the full-orbed king of day, unshorn of a single beam, or rather like the planet of mornings, his brightness was but eclipsed by the opening to him of a more full and perfect day—

"No waning of fire, no paling of ray,  
But rising, still rising, as passing away.  
Farewell, gallant eagle, thou'rt buried in light—  
God speed thee to heaven, lost star of our night."

The resolutions were unanimously adopted, and, in pursuance thereof, the President *pro tem.* made the following appointments:

#### Committee of Arrangements.

Mr. Hunter,	Mr. Cooper,
Mr. Dawson,	Mr. Bright,
Mr. Jones, of Iowa,	Mr. Smith.

#### Pall-Bearers:

Mr. Cass,	Mr. Pratt,
Mr. Mangum,	Mr. Atchison,
Mr. Dodge, of Wis.,	Mr. Bell.

#### Committee to attend the remains of the deceased:

Mr. Underwood,	Mr. Fish,
Mr. Jones, of Tenn.,	Mr. Houston,
Mr. Cass,	Mr. Stockton.

The order of proceeding for the funeral is as follows:

The Committee of Arrangements, Pall-bearers, and Mourners will attend at the National Hotel, the late residence of the deceased, at eleven o'clock, a. m., on Thursday, July 1, 1852.

At half past eleven, the members of the two Houses of Congress will assemble at the same place, at which time the corpse will be removed, in charge of the Committee of Arrangements, attended by the members and officers of the two Houses of Congress, to the Senate Chamber, where divine service will be performed.

At the conclusion of the service, the corpse will be placed in the Rotunda, where it will remain until half past three o'clock, when it will be removed, in charge of the Committee of Arrangements and Pall-bearers, to the railroad depot, where it will be confided to the committee appointed to accompany it to Kentucky.

On motion by Mr. UNDERWOOD, it was Resolved, That as an additional mark of respect to the memory of the deceased the Senate do now adjourn.

The Senate adjourned accordingly till to-morrow at twelve o'clock.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 30, 1852.

### DEATH OF MR. CLAY.

The House met at the usual hour, but was not called to order till ten minutes past two o'clock, in consequence of the death of Mr. CLAY, the formal announcement of which was to be received from the Senate.

The Rev. C. M. BUTLER then addressed the Throne of Grace as follows:

Almighty God, our Heavenly Father, we beseech thee to look upon us in love, to forgive us our sins, and to bestow upon us thy blessing. Take us as a nation into thy holy keeping. Bless the President and Congress of these United States, and all who are in authority; enable them faithfully and fraternally to accomplish thy will, that they may enjoy thy perpetual benediction.

Heavenly Father, thou hast in thy wise Providence seen fit to take out of this world the soul of him at whose departure a nation weeps. We bow in resignation to thy blessed will, and acknowledge that thou doest all things well. We thank thee for the signal public services which the departed statesman, whose death we mourn to-day, was permitted to render to his country. We thank thee for the circumstances of mercy and consolation connected with his sickness and his death. We thank thee for the grace that sustained him in submissive patience amidst his protracted suffering, and for the testimony which thou didst enable him to give to the power and excellency of thy gospel. We bless thee that we

are permitted to think of him, whose long suffering we mourn, as now resting in the peace and paradise of God.

We commend to thy fatherly care the bereaved wife, the children and the relatives of the departed. Remember them, O Lord, in mercy. Sanctify thy fatherly correction to them. Endow their souls with patience under their affliction, and with resignation to thy blessed will. Comfort them with a sense of thy goodness, and enable them to prepare to follow him who has gone before them to that better world, where God wipes away all tears from those whom death has swallowed up in victory.

We beseech thee to bless this dispensation of thy Providence to the members of this Congress here and now assembled, and to all who are engaged in the public service. Teach them that the glory of man is as the flower of the grass—that the fashion of this world passeth away. Teach them the folly of ambition, the sin of strife, and the nothingness of renown. Make them so to lay to heart this lesson of mortality as to live above the world, to seek thy favor, to study thy law, and in all their actions to aim at thy glory, at the good of their own souls, and of the souls of their fellow-men.

And when we are called to go the way of all the earth, may we depart in the confidence of a certain faith, in the comfort of a reasonable, religious, and holy hope, in favor with thee, our God, and perfect charity with the world. All of which we ask in the name and for the sake of Jesus Christ, our Saviour. Amen.

The Journal of yesterday having been read,

A message was received from the Senate by the hands of ASBURY DICKINS, Esq., its Secretary, announcing the death of HENRY CLAY, late Senator from Kentucky, and the adoption of the following proceedings by that body, viz:

Resolved, That a committee of six be appointed by the President of the Senate to take order for superintending the funeral of HENRY CLAY, late a member of this body, which will take place to-morrow at twelve o'clock, meridian, and that the Senate will attend the same.

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of the deceased, will go into mourning for one month by the usual mode of wearing crape on the left arm.

Resolved, as a further mark of respect entertained by the Senate for the memory of HENRY CLAY and his long and distinguished services to his country, that his remains, in pursuance of the known wishes of his family, be removed to the place of sepulture, selected by himself, at Lexington, in Kentucky, in charge of the Sergeant-at-Arms, and attended by a committee of six Senators, to be appointed by the President of the Senate, who shall have full power to carry this resolution into effect.

Resolved, That as an additional mark of respect to the memory of the deceased, the Senate do now adjourn.

Mr. HUNTER, Mr. DAWSON, Mr. JONES of Iowa, Mr. COOPER, Mr. BRIGHT, and Mr. SMITH, were appointed the Committee of Arrangements.

Mr. BRECKINRIDGE then rose and said:

Mr. SPEAKER: I rise to perform the melancholy duty of announcing to this body the death of HENRY CLAY, late a Senator in Congress from the Commonwealth of Kentucky.

Mr. CLAY expired at his lodgings in this city yesterday morning at seventeen minutes past eleven o'clock, in the seventy-sixth year of his age. His noble intellect was unclouded to the last. After protracted sufferings, he passed away without pain; and so gently did the spirit leave his frame, that the moment of departure was not observed by the friends who watched at his bedside. His last hours were cheered by the presence of an affectionate son, and he died surrounded by friends who, during his long illness, had done all that affection could suggest to soothe his sufferings.

Although this sad event has been expected for many weeks, the shock it produced, and the innumerable tributes of respect to his memory exhibited on every side, and in every form, prove the depth of the public sorrow and the greatness of the public loss.

Imperishably associated as his name has been for fifty years with every great event affecting the fortunes of our country, it is difficult to realize that he is indeed gone forever. It is difficult to feel that we shall see no more his noble form within these walls—that we shall hear no more his patriot tones, now rousing his countrymen to vindicate their rights against a foreign foe, now imploring them to preserve concord among themselves. We shall see him no more. The memory and the fruits of his services alone remain to

us. Amidst the general gloom, the Capitol itself looks desolate, as if the genius of the place had departed. Already the intelligence has reached almost every quarter of the Republic, and a great people mourn with us, to-day, the death of their most illustrious citizen. Sympathizing, as we do, deeply, with his family and friends, yet private affliction is absorbed in the general sorrow. The spectacle of a whole community lamenting the loss of a great man, is far more touching than any manifestation of private grief. In speaking of a loss which is national, I will not attempt to describe the universal burst of grief with which Kentucky will receive these tidings. The attempt would be vain to depict the gloom that will cover her people, when they know that the pillar of fire is removed, which has guided their footsteps for the life of a generation.

It is known to the country, that from the memorable session of 1849-'50, Mr. CLAY's health gradually declined. Although several years of his Senatorial term remained, he did not propose to continue in the public service longer than the present session. He came to Washington chiefly to defend, if it should become necessary, the measures of adjustment, to the adoption of which he so largely contributed; but the condition of his health did not allow him, at any time, to participate in the discussions of the Senate. During the winter, he was confined almost wholly to his room, with slight changes in his condition, but gradually losing the remnant of his strength. Through the long and dreary winter, he conversed much and cheerfully with his friends, and expressed a deep interest in public affairs. Although he did not expect a restoration to health, he cherished the hope that the mild season of spring would bring to him strength enough to return to Ashland, and die in the bosom of his family. But alas! spring, that brings life to all nature, brought no life nor hope to him. After the month of March, his vital powers rapidly wasted, and for weeks he lay patiently awaiting the stroke of death. But the approach of the destroyer had no terrors for him. No clouds overhung his future. He met the end with composure, and his pathway to the grave was brightened by the immortal hopes which spring from the Christian faith.

Not long before his death, having just returned from Kentucky, I bore to him a token of affection from his excellent wife. Never can I forget his appearance, his manner, or his words. After speaking of his family, his friends, and his country, he changed the conversation to his own future, and looking on me with his fine eye undimmed, and his voice full of its original compass and melody, he said, "I am not afraid to die, sir. I have hope, faith, and some confidence. I do not think any man can be entirely certain in regard to his future state, but I have an abiding trust in the merits and mediation of our Saviour." It will assuage the grief of his family to know that he looked hopefully beyond the tomb, and a Christian people will rejoice to hear that such a man in his last hours, reposed with simplicity and confidence on the promises of the Gospel.

It is the custom on occasions like this, to speak of the parentage and childhood of the deceased, and to follow him; step by step, through life. I will not attempt to relate even all the great events of Mr. CLAY's life, because they are familiar to the whole country, and it would be needless to enumerate a long list of public services which form a part of American history.

Beginning life as a friendless boy, with few advantages save those conferred by nature, while yet a minor he left Virginia, the State of his birth, and commenced the practice of law at Lexington, in Kentucky. At a bar remarkable for its numbers and talent, Mr. CLAY soon rose to the first rank. At a very early age he was elected from the county of Fayette to the General Assembly of Kentucky, and was the Speaker of that body. Coming into the Senate of the United States, for the first time, in 1806, he entered upon a parliamentary career, the most brilliant and successful in our annals. From that time, he remained habitually in the public eye. As a Senator, as a member of this House, and its Speaker, as a representative of his country abroad, and as a high officer in the Executive department of the Government, he was intimately connected for fifty years with every great measure of American policy. Of the mere party measures of this period, I



do not propose to speak. Many of them have passed away, and are remembered only as the occasion for the great intellectual efforts which marked their discussion. Concerning others, opinions are still divided. They will go into history, with the reasons on either side rendered by the greatest intellects of the time.

As a leader in a deliberative body, Mr. CLAY had no equal in America. In him, intellect, person, eloquence, and courage, united to form a character fit to command. He fired with his own enthusiasm, and controlled by his amazing will, individuals and masses. No reverse could crush his spirit, nor defeat reduce him to despair. Equally erect and dauntless in prosperity and adversity; when successful, he moved to the accomplishment of his purposes with severe resolution; when defeated, he rallied his broken bands around him, and from his eagle eye shot along their ranks the contagion of his own courage. Destined for a leader, he everywhere asserted his destiny. In his long and eventful life he came in contact with men of all ranks and professions, but he never felt that he was in the presence of a man superior to himself. In the assemblies of the people, at the bar, in the Senate—everywhere within the circle of his personal presence he assumed and maintained a position of preeminence.

But the supremacy of Mr. CLAY as a party leader was not his only nor his highest title to renown. That title is to be found in the purely patriotic spirit which, on great occasions, always signalized his conduct. We have had no statesman who in periods of real and imminent public peril has exhibited a more genuine and enlarged patriotism than HENRY CLAY. Whenever a question presented itself actually threatening the existence of the Union, Mr. CLAY, rising above the passions of the hour, always exerted his powers to solve it peacefully and honorably. Although more liable than most men, from his impetuous and ardent nature, to feel strongly the passions common to us all, it was his rare faculty to be able to subdue them in a great crisis, and to hold towards all sections of the Confederacy the language of concord and brotherhood.

Sir, it will be a proud pleasure to every true American heart to remember the great occasions when Mr. CLAY has displayed a sublime patriotism—when the ill-temper engendered by the times, and the miserable jealousies of the day, seemed to have been driven from his bosom, by the expulsive power of nobler feelings—when every throb of his heart was given to his country, every effort of his intellect dedicated to her service. Who does not remember the three periods when the American system of Government was exposed to its severest trials; and who does not know that when history shall relate the struggles which preceded and the dangers which were averted by the Missouri compromise—the tariff compromise of 1832, and the adjustment of 1850, the same pages will record the genius, the eloquence, and the patriotism of HENRY CLAY?

Nor was it in Mr. CLAY's nature to lag behind until measures of adjustment were matured, and then come forward to swell a majority. On the contrary, like a bold and real statesman, he was ever among the first to meet the peril, and hazard his fame upon the remedy. It is fresh in the memory of us all that, when lately the fury of sectional discord threatened to sever the Confederacy, Mr. CLAY, though withdrawn from public life, and oppressed by the burden of years, came back to the Senate, the theater of his glory, and devoted the remnant of his strength to the sacred duty of preserving the union of the States.

With characteristic courage he took the lead in proposing a scheme of settlement. But while he was willing to assume the responsibility of proposing a plan, he did not, with petty ambition, insist upon its adoption to the exclusion of other modes; but taking his own as a starting point for discussion and practical action, he nobly labored with his compatriots to change and improve it in such form as to make it an acceptable adjustment. Throughout the long and arduous struggle, the love of country expelled from his bosom the spirit of selfishness, and Mr. CLAY proved for the third time, that though he was ambitious, and loved glory, he had no ambition to mount to fame on the confusions of his country. And this conviction is lodged in the hearts of the people; the party measures and the party passions of former times

have not, for several years, interposed between Mr. CLAY and the masses of his countrymen. After 1850 he seemed to feel that his mission was accomplished, and during the same period the regards and affections of the American people have been attracted to him in a remarkable degree. For many months the warmest feelings—the deepest anxieties of all parties centered upon the dying statesman; the glory of his great actions shed a mellow lustre on his declining years, and to fill the measure of his fame, his countrymen, weaving for him the laurel wreath, with common hands, did bind it about his venerable brows, and send him crowned, to history.

The life of Mr. CLAY, sir, is a striking example of the abiding fame which surely awaits the direct and candid statesman. The entire absence of equivocation or disguise in all his acts was his master-key to the popular heart; for while the people will forgive the errors of a bold and open nature, he sins past forgiveness who deliberately deceives them. Hence Mr. CLAY, though often defeated in his measures of policy, always secured the respect of his opponents without losing the confidence of his friends. He never paltered in a double sense. The country was never in doubt as to his opinions or his purposes. In all the contests of his time, his position on great public questions was as clear as the sun in a cloudless sky. Sir, standing by the grave of this great man, and considering these things, how contemptible does appear the mere legerdemain of politics! what a reproach is his life on that false policy which would trifle with a great and upright people! If I were to write his epitaph, I would inscribe as the highest eulogy, on the stone which shall mark his resting place, "Here lies a man who was in the public service for fifty years, and never attempted to deceive his countrymen."

While the youth of America should imitate his noble qualities, they may take courage from his career and note the high proof it affords that under our equal institutions the avenues to honor are open to all. Mr. CLAY rose by the force of his own genius, unaided by power, patronage, or wealth. At an age when our young men are usually advanced to the higher schools of learning, provided only with the rudiments of an English education, he turned his steps to the West, and amidst the rude collisions of a border life, matured a character whose highest exhibitions were destined to mark eras in his country's history. Beginning on the frontiers of American civilization, the orphan boy, supported only by the consciousness of his own powers, and by the confidence of the people, surmounted all the barriers of adverse fortune, and won a glorious name in the annals of his country. Let the generous youth, fired with honorable ambition, remember that the American system of Government offers on every hand bounties to merit. If, like CLAY, orphanage, obscurity, poverty, shall oppress him; yet if, like CLAY, he feels the Promethean spark within, let him remember that his country, like a generous mother, extends her arms to welcome and to cherish every one of her children whose genius and worth may promote her prosperity or increase her renown.

Mr. Speaker, the signs of woe around us and the general voice announce that another great man has fallen. Our consolation is that he was not taken in the vigor of his manhood, but sunk into the grave at the close of a long and illustrious career. The great statesmen who have filled the largest space in the public eye, one by one are passing away. Of the three great leaders of the Senate, one alone remains, and he must follow soon. We shall witness no more their intellectual struggles in the American forum; but the monuments of their genius will be cherished as the common property of the people, and their names will continue to confer dignity and renown upon their country.

Not less illustrious than the greatest of these will be the name of CLAY—a name pronounced with pride by Americans in every quarter of the globe; a name to be remembered while history shall record the struggles of modern Greece for freedom, or the spirit of liberty burn in the South American bosom; a living and immortal name—a name that would descend to posterity without the aid of letters, borne by tradition from generation to generation. Every memorial of such a man will possess a meaning and a value to his country-

men. His tomb will be a hallowed spot. Great memories will cluster there, and his countrymen, as they visit it, may well exclaim—

"Such graves as his are pilgrim shrines,  
Shrines to no creed or code confined;  
The Delphian rales, the Palestines,  
The Meccas of the mind."

Mr. Speaker, I offer the following resolutions:

*Resolved*, That the House of Representatives of the United States has received, with the deepest sensibility, intelligence of the death of HENRY CLAY.

*Resolved*, That the officers and members of the House of Representatives will wear the usual badge of mourning for thirty days, as a testimony of the profound respect this House entertains for the memory of the deceased.

*Resolved*, That the officers and members of the House of Representatives, in a body, will attend the funeral of HENRY CLAY, on the day appointed for that purpose by the Senate of the United States.

*Resolved*, That the proceedings of this House, in relation to the death of HENRY CLAY, be communicated to the family of the deceased by the Clerk.

*Resolved*, That as a further mark of respect for the memory of the deceased, this House do now adjourn.

Mr. EWING rose and said: A noble heart has ceased to beat forever. A long life of brilliant and self-devoted public service is finished at last. And we now stand at its conclusion looking back through the changeful history of that life to its beginning, contemporaneous with the very birth of the Republic; and its varied events mingle in our hearts and our memories—with the triumph and calamities, the weakness and the power, the adversity and prosperity of a country we love so much. As we contemplate this sad event, in this place, the shadows of the past gather over us; the memories of events long gone crowd upon us, and the shades of departed patriots seem to hover about us, and wait to receive into their midst the spirit of one who was worthy to be a co-laborer with them in a common cause, and to share in the rewards of their virtues. Henceforth he must be to us as one of them.

They say he was ambitious. If so it was a grievous fault, and grievously has he answered it. He has found in it naught but disappointment. It has but served to aggravate the mortification of his defeats, and furnish an additional luster to the triumph of his foes. Those who come after us may, ay, they will, inquire why his statue stands not among the statues of those whom men thought ablest and worthiest to govern.

But his ambition was a high and holy feeling—unselfish, magnanimous. Its aspirations were for his country's good, and its triumph was his country's prosperity. Whether in honor or reproach, in triumph or defeat, that heart of his never throbbed with one pulsation save for her honor and her welfare. Turn to him in that last best deed, and crowning glory of a life so full of public service and of honor, when his career of personal ambition was finished forever. Rejected again and again by his countrymen; just abandoned by a party which would scarce have had an existence without his genius, his courage, and his labors, that great heart, ever firm and defiant to the assaults of his enemies, but defenseless against the ingratitude of friends, doubtless wrung with the bitterest mortification of his life—then it was, and under such circumstances as these, the gathering storm rose upon his country. All eyes turned to him; all voices called for those services which, in the hour of prosperity and security, they had so carelessly rejected. With no misanthropic chagrin; with no morose, selfish resentment, he forgot all but his country and that country endangered. He returns to the scene of his labors and his fame which he had thought to have left forever. A scene—that American Senate Chamber—clothed in no gorgeous drapery, shrouded in no superstitious awe or ancient reverence for hereditary power, but to a reflecting American mind more full of interest, of dignity, and of grandeur than any spot on this broad earth, not made holy by religion's consecrating seal. See him as he enters there, tremblingly, but hopefully, upon the last, most momentous, perhaps most doubtful conflict of his life. Sir, many a gay tournament has been more dazzling to the eye of fancy, more gorgeous and imposing in the display of jewelry and cloth of gold, in the sound of heralds' trumpets, in the grand array of princely beauty and of royal pride. Many a battle-field has trembled beneath a more ostentatious parade of human power, and its conquerors have been crowned with laurels, honored with triumphs, and apotheosized amid the demigods of history; but

to the thoughtful, hopeful, philanthropic student of the annals of his race, never was there a conflict in which such dangers were threatened, such hopes imperiled, or the hero of which deserved a warmer gratitude, a nobler triumph, or a prouder monument.

Sir, from that long, anxious, and exhausting conflict he never rose again. In that last battle for his country's honor and his country's safety he received the mortal wound which laid him low; and we now mourn the death of a martyred patriot.

But never, in all the grand drama which the story of his life arrays, never has he presented a sublimer or a more touching spectacle than in those last days of his decline and death. Broken with the storms of State, wounded and scathed in many a fiery conflict, that aged, worn, and decayed body, in such mournful contrast with the never-dying strength of his giant spirit, he seemed a proud and sacred, though a crumbling monument of past glory. Standing amongst us, like some ancient colossal ruin amidst the degenerate and more diminutive structures of modern times, its vast proportions magnified by the contrast, he reminded us of those days when there were giants in the land, and we remembered that even then there was none whose prowess could withstand his arm. To watch him in that slow decline, yielding with dignity, and as it were inch by inch to that last enemy, as a hero yields to a conquering foe, the glorious light of his intellect blazing still in all its wonted brilliancy, and setting at defiance the clouds that vainly attempted to obscure it, he was more full of interest than in the day of his glory and his power. There are some men whose brightest intellectual emanations rise so little superior to the instincts of the animal, that we are led fearfully to doubt that cherished truth of the soul's immortality, which, even in despair, men press to their doubting hearts. But it is in the death of such a man as he, that we are reassured by the contemplation of a kindred though superior spirit, of a soul which, immortal, like his fame, knows no old age, no decay, no death.

The wondrous light of his unmatched intellect may have dazzled a world; the eloquence of that inspired tongue may have enchanted millions, but there are few who have sounded the depths of that noble heart. To see him in sickness and in health, in joy and in sadness, in the silent watches of the night and in the busy daytime—this it was to know and love him. To see the impetuous torrent of that resistless will—the hurricane of those passions hushed in peace, breathe calm and gently as a summer zephyr; to feel the gentle pressure of that hand in the grasp of friendship which in the rage of fiery conflict would hurl scorn and defiance at his foe; to see that eagle eye which oft would burn with patriotic ardor or flash with the lightning of his anger, beam with the kindest expressions of tenderness and affection—then it was, and then alone, we could learn to know and feel that that heart was warmed by the same sacred fire from above which enkindled the light of his resplendent intellect. In the death of such a man even patriotism itself might pause, and for a moment stand aloof while friendship shed a tear of sorrow upon his bier.

"His life was gentle; and the elements  
So mix'd in him, that Nature might stand up  
And say to all the world, *This was a man!*"

But who can estimate his country's loss? What tongue portray the desolation which in this hour throughout this broad land hangs like a gloomy pall over his grief-stricken countrymen? How poorly can words like mine translate the eloquence of a whole people's grief for a patriot's death! For a nation's loss let a nation mourn. For that stupendous calamity to our country and mankind, be the heavens hung with black; let the wailing elements chant his dirge, and the universal heart of man throb with one common pang of grief and anguish.

Mr. CASKIE said: Mr. Speaker, I must try to lay a single laurel leaf in that open coffin which is already garlanded by the eloquent tributes to the illustrious departed, which have been heard in this now solemn Hall,—for I come, sir, from the district of his birth. I represent on this floor that old Hanover so proud of her Henrys—her Patrick

Henry and her HENRY CLAY. I speak for a people among whom he has always had as earnest and devoted friends as were ever the grace and glory of a patriot and statesman.

I shall attempt no sketch of his life. That you have had from other and abler hands than mine. Till yesterday that life was, of his own free gift, the property of his country; to-day it belongs to her history. It is known to all, and will not be forgotten. Constant, stern opponent of his political school as has been my State, I say for her, that nowhere in this broad land are his great qualities more admired, or his death more mourned, than in Virginia. Well may this be so; for she is his mother, and he was her son.

Mr. Speaker, when I remember the party strifes in which he was so much mingled, and through which we all more or less have passed, and then survey this scene, and think how far, as the lightning has borne the news that he is gone, half-masted flags are drooping and church-bells are tolling, and men are sorrowing—I can but feel that it is good for man to die. For when death enters, oh! how the unkindnesses and jealousies, and rivalries of life do vanish, and how, like incense from an altar, do peace and friendship and all the sweet charities of our nature rise around the corpse which was once a man!

And of a truth, Mr. Speaker, never was more of veritable, noble manhood cased in mortal mould than was found in him to whose memory this brief and humble but true and heart-felt tribute is paid. But his eloquent voice is hushed, his high heart is stilled. "Like a shock of corn fully ripe, he has been gathered to his fathers." With more than three-score years and ten upon him, and honors clustered thick about him, in the full possession of unclouded intellect, and all the consolations of christianity, he has met the fate which is evitable by none. Lamented by all his countrymen, his name is bright on Fame's immortal roll. He has finished his course, and he has his crown. What more fruit can life bear? What can it give that HENRY CLAY has not gained?

Then, Mr. Speaker, around his tomb should be heard not only the dirge that wails his loss, but the jubilant anthem which sounds that on the world's great battle-field another victory has been won, another incontestable greatness achieved.

Mr. CHANDLER said: Mr. Speaker, it would seem as if the solemn invocation of the honorable gentleman from Kentucky [Mr. EWING] was receiving an early answer, and that the heavens are hung in black, and the wailing elements are singing the funeral dirge of HENRY CLAY. Amid this elemental gloom and the distress which pervades the nation at the death of HENRY CLAY, private grief should not obtrude itself upon notice, nor personal anguish seek for utterance. Silence is the best exponent of individual sorrow, and the heart that knoweth its own bitterness shrinks from an exposition of its affliction.

Could I have consulted my own feelings on the event which occupies the attention of the House at the present moment, I should even have forborne attendance here, and in the solitude and silence of my chamber, have mused upon the terrible lesson which has been administered to the people and the nation. But I represent a constituency who justly pride themselves upon the unwavering attachment they have ever felt and manifested to HENRY CLAY—a constant, pervading, hereditary love; the son has taken up the father's affection, and amid all the professions of political attachments to others, whom the accidents of party have made prominent, and the success of party has made powerful, true to his own instincts, and true to the sanctified legacy of his father, he has placed the name of HENRY CLAY forward and preëminent as the exponent of what is greatest in statesmanship, and purest in patriotism. And even, sir, when party fealty caused other attachments to be avowed for party uses, the preference was limited to the occupancy of office, and superiority admitted for CLAY, in all that is reckoned above party estimation.

Nor ought I to forbear to add, that as the senior member of the delegation which represents my Commonwealth, I am requested to utter the sentiments of the people of Pennsylvania at large, who yield to no portion of this great Union, in their appreciation of the talents, their reverence for the lofty patriotism, their admiration of the states-

manship, and hereafter their love of the memory of HENRY CLAY.

I cannot, therefore, be silent on this occasion, without injustice to the affections of my constituency, even though I painfully feel how inadequate to the reverence and love my people have towards that statesman, must be all that I have to utter on this mournful occasion.

I know not, Mr. Chairman, where now the nation is to find the men she needs in peril. Either other calls than those of politics are holding in abeyance the talents which the nation may need, or else a generation is to pass undistinguished by the greatness of our statesmen. Of the noble minds that have swayed the Senate, one yet survives in the maturity of powerful intellect, carefully disciplined and nobly exercised. May He who has thus far blessed our nation, spare to her and the world, that of which the world must always envy our country the possession. But my business is with the dead.

The biography of HENRY CLAY, from his childhood upward, is too familiar to every American, for me to trespass on the time of this House, by a reference directly thereto; and the honorable gentlemen who have preceded me, have with affectionate hand and appropriate delicacy, swept away the dust which nearly four score years have scattered over a part of the record, and have made our pride greater in his life, and our grief more poignant at his death, by showing some of those passages which attract respect to our republican institutions, of which Mr. CLAY's whole life was the able support, and most successful illustration.

It would, then, be a work of supererogation for me to renew that effort, though inquiry into the life and conduct of HENRY CLAY would present new themes for private eulogy; new grounds for public gratitude.

How rare is it, Mr. Speaker, that the great man, living, can, with confidence, rely on extensive personal friendship, or, dying, think to awaken a sentiment of regret beyond that which includes the public loss or the disappointment of individual hopes. Yet, sir, the message which yesterday went forth from this city, that HENRY CLAY was dead, brought sorrow, personal, private, special sorrow to the hearts of thousands. Each of whom felt that from his own love for, his long attachment to, his disinterested hopes in, HENRY CLAY, he had a particular sorrow to cherish and express, which weighed upon his heart, separate from the sense of national loss.

No man, Mr. Speaker, in our nation, had the art so to identify himself with public measures of the most momentous character, and to maintain, at the same time, almost universal affection, like that great statesman. His business, from his boyhood, was with national concerns, and he dealt with them as with familiar things. And yet his sympathies were with individual interests, enterprises, affections, joys, and sorrows; and while every patriot bowed in humble deference to his lofty attainments and heartfelt gratitude for his national services, almost every man in this vast Republic knew that the great statesman was, in feeling and experience, identified with his own position. Hence, the universal love of the people; hence, their enthusiasm in all times, for his fame. Hence, sir, their present grief.

Many other public men of our country have distinguished themselves, and brought honor to the nation, by superiority in some peculiar branch of public service, but it seems to have been the gift of Mr. CLAY to have acquired peculiar eminence in every path of duty he was called to tread. In the earnestness of debate, which great public interests and distinguished opposing talents excited in this House, he had no superior in energy, force, or effect. Yet as the presiding officer, by blandness of language, and firmness of purpose, he soothed and made orderly; and thus, by official dignity, he commanded the respect which energy had secured to him on the floor.

Wherever official or social duties demanded an exercise of his power, there was a preëminence which seemed prescriptively his own. In the lofty debate of the Senate and the stirring harangues to popular assemblages, he was the orator of the nation, and of the people; and the sincerity of purpose, and the unity of design evinced in all he said or did, fixed in the public mind a confidence strong and expansive as the affections he had won.

Year after year, sir, has HENRY CLAY been achieving the work of the mission with which he was intrusted; and it was only when the warmest wishes of his warmest friends were disappointed, that he entered on the fruition of a patriot's highest hopes, and stood in the full enjoyment of that admiration and confidence which nothing but the antagonism of party relations could have divided.

How rich that enjoyment must have been, it is only for us to imagine. How eminently deserved it was, we and the world can attest.

The love and the devotions of his political friends were cheering and grateful to his heart, and were acknowledged in all his life—were recognized even to his death.

The contest in the Senate Chamber or the forum was rewarded with success achieved, and the great victor could enjoy the ovation which partial friendship or the gratitude of the benefited prepared. But the triumph of his life was no party achievement. It was not in the applause which admiring friends and defeated antagonists offered to his measureless success, that he found the reward of his labors and comprehended the extent of his mission.

It was only when friends and antagonists pained in their contests, appalled at the public difficulties and national dangers which had been accumulating, unseen and unregarded; it was only when the nation itself felt the danger, and acknowledged the inefficacy of party action as a remedy, that HENRY CLAY calculated the full extent of his power, and enjoyed the reward of their saving exercise. Then, sir, you saw, and I saw, party designations dropped, and party allegiance disavowed, and anxious patriots, of all localities and name, turn towards the country's benefactor as the man for the terrible exigencies of the hour; and the sick chamber of HENRY CLAY became the Delphos, whence were given out the oracles that presented the means and the measures of our Union's safety. There, sir, and not in the high places of the country, were the labors and sacrifices of half a century to be rewarded and closed. With his right yet in that Senate which he had entered the youngest, and lingered still the eldest, member, he felt that his work was done, and the object of his life accomplished. Every cloud that had dimmed the noonday luster had been dissipated; and the retiring orb, which sunk from the sight of the nation in fullness and in beauty, will yet pour up the horizon a posthumous glory that shall tell of the splendor and greatness of the luminary that has passed away.

Mr. BAYLY, of Virginia. Mr. Speaker, although I have been all my life a party opponent of Mr. CLAY, yet from my boyhood I have been upon terms of personal friendship with him. More than twenty years ago, I was introduced to him by my father, who was his personal friend. From that time to this, there has existed between us as great personal intimacy as the disparity in our years, and our political difference would justify. After I became a member of this House, and upon his return to the Senate, subsequent to his resignation in 1842, the warm regard upon his part for the daughter of a devoted friend of forty years' standing, made him a constant visitor at my house, and frequently a guest at my table. These circumstances make it proper, that upon this occasion, I should pay this last tribute to his memory. I not only knew him well as a statesman, but I knew him better in the most unreserved social intercourse. The most happy circumstance, as I esteem it, of my political life has been, that I have thus known each of our great Congressional triumvirate.

I, sir, never knew a man of higher qualities than Mr. CLAY. His very faults originated in high qualities. With greater self-possession, with greater self-reliance than any man I ever knew, he possessed moral and physical courage to as high a degree as any man who ever lived. Confident in his own judgment, never doubting as to his own course, fearing no obstacle that might lie in his way, it was almost impossible that he should not have been imperious in his character. Never doubting himself as to what he thought duty and patriotism required at his hands, it was natural that he should sometimes have been impatient with those more doubting and timid than himself. His were qualities to have made a great general,

as they were qualities that did make him a great statesman, and these qualities were so obvious that during the darkest period of our late war with Great Britain, Mr. Madison had determined, at one time, to make him General-in-Chief of the American army.

Sir, it is but a short time since the American Congress buried the first one that went to the grave of that great triumvirate. We are now called upon to bury another. The third, thank God! still lives, and long may he live to enlighten his countrymen by his wisdom, and set them the example of exalted patriotism. Sir, in the lives and characters of these great men, there is much resembling those of the great triumvirate of the British Parliament. It differs principally in this: Burke preceded Fox and Pitt to the tomb. Webster survives Clay and Calhoun. When Fox and Pitt died, there were no others to fill their place. Webster still lives, now that Calhoun and Clay are dead, the unrivaled statesman of his country. Like Fox and Pitt, Clay and Calhoun lived in troubled times. Like Fox and Pitt, they were each of them the leader of rival parties. Like Fox and Pitt they were idolized by their respective friends. Like Fox and Pitt, they died about the same time, and in the public service; and as has been said of Fox and Pitt, Clay and Calhoun died with "their harness upon them." Like Fox and Pitt—

"With more than mortal powers endowed,  
How high they soared above the crowd;  
There was no common party race,  
Jostling by dark intrigue for place—  
Like fabled gods their mighty war  
Shook realms and nations in its jar.  
Beneath each banner, proud to stand,  
Looked up the noblest of the land.

"Here let their discord with them die.  
Speak not for those a separate doom;  
Whom fate made brothers in the tomb;  
But search the land of living men,  
Where wilt thou find their like again?"

Mr. VENABLE said: Mr. Speaker, I trust that I shall be pardoned for adding a few words upon this sad occasion. The life of the illustrious statesman which has just terminated is so interwoven with our history, and the lustre of his great name so profusely shed over its pages, that simple admiration of his high qualities might well be my excuse. But it is a sacred privilege to draw near; to contemplate the end of the great and the good. It is profitable as well as purifying to look upon and realize the office of death in removing all that can excite jealousy or produce distrust, and to gaze upon the virtues which like jewels have survived his powers of destruction. The light which radiates from the life of a great and patriotic statesman is often dimmed by the mists which party conflicts throw around it. But the blast which strikes him down purifies the atmosphere which surrounded him in life, and it shines forth in bright examples and well-earned renown. It is then that we witness the sincere acknowledgment of gratitude by a people who, having enjoyed the benefits arising from the services of an eminent statesman, embalm his name in their memory and hearts. We should cherish such recollections as well from patriotism as self-respect. Ours, sir, is now the duty, in the midst of sadness, in this high place, in the face of our Republic, and before the world, to pay this tribute by acknowledging the merits of our colleague whose name has ornamented the Journals of Congress for near half a century. Few, very few, have ever combined the high intellectual powers and distinguished gifts of this illustrious Senator. Cast in the finest mould by nature, he more than fulfilled the anticipations which were indulged by those who looked to a distinguished career as the certain result of that zealous pursuit of fame and usefulness upon which he entered in early life. Of the incidents of that life it is unnecessary for me to speak—they are as familiar as household words, and must be equally familiar to those who come after us. But it is useful to refresh memory by recurrence to some of the events which marked his career. We know, sir, that there is much that is in common in the histories of distinguished men. The elements which constitute greatness are the same in all times; hence those who have been the admiration of their generations present in their lives much which, although really great,

ceases to be remarkable, because illustrated by such numerous examples—

"But there are deeds which should not pass away,  
And names that must not wither."

Of such deeds the life of HENRY CLAY affords many and bright examples. His own name, and those with whom he associated, shall live with a freshness which time cannot impair, and shine with a brightness which passing years cannot dim. His advent into public life was as remarkable for the circumstances as it was brilliant in its effect. It was at a time in which genius and learning, statesmanship and eloquence, made the American Congress the most august body in the world. He was the cotemporary of a race of statesmen—some of whom then administering the Government, and others retiring and retired from office—presented an array of ability unsurpassed in our history. The elder Adams, Jefferson, Madison, Clinton, Gallatin, and Monroe, stood before the Republic in the maturity of their fame; whilst Calhoun, John Quincy Adams, Lowndes, Crawford, Gaston, Randolph, and Cheves, with a host of others, rose a bright galaxy upon our horizon. He who won his spurs in such a field earned his knighthood. Distinction amidst such competition was true renown—

"The fame which a man wins for himself is best—  
That he may call his own."

It was such a fame that he made for himself in that most eventful era in our history. To me, sir, the recollections of that day, and the events which distinguish it, is filled with an overpowering interest. I never can forget my enthusiastic admiration of the boldness, the eloquence, and the patriotism of HENRY CLAY during the war of 1812. In the bright array of talent which adorned the Congress of the United States; in the conflict growing out of the political events of that time; in the struggles of party, and amidst the gloom and disasters which depressed the spirits of most men, and well-nigh paralyzed the energies of the Administration, his cheerful face, high bearing, commanding eloquence and iron will, gave strength and consistency to those elements which finally gave not only success but glory to the country. When dark clouds hovered over us, and there was little to save from despair, the country looked with hope to Clay and Calhoun, to Lowndes, and Crawford, and Cheves, and looked not in vain. The unbending will, the unshaken nerve, and the burning eloquence of HENRY CLAY did as much to command confidence and sustain hope as even the news of our first victory after a succession of defeats. Those great names are now canonized in history; he, too, has passed to join them on its pages. Associated in his long political life with the illustrious Calhoun, he survived him but two years. Many of us heard his eloquent tribute to his memory in the Senate Chamber on the announcement of his death. And we this day unite in a similar manifestation of reverential regard to him whose voice shall never more charm the ear, whose burning thoughts, borne on that medium, shall no more move the hearts of listening assemblies.

In the midst of the highest specimens of our race, he was always an equal; he was a man amongst men. Bold, skilful, and determined, he gave character to the party which acknowledged him as a leader; impressed his opinions upon their minds, and an attachment to himself upon their hearts. No man, sir, can do this without being eminently great. Whoever attains this position must first overcome the aspirations of antagonist ambition, quiet the clamors of rivalry, hold in check the murmurs of jealousy, and overcome the instincts of vanity and self-love in the masses thus subdued to his control. But few men ever attain it. Very rare are the examples of those whose plastic touch forms the minds and directs the purposes of a great political party. This infallible indication of superiority belonged to Mr. CLAY. He has exercised that control during a long life; and now through our broad land the tidings of his death, borne with electric speed, have opened the fountains of sorrow. Every city, town, village, and hamlet will be clothed with mourning; along our extended coast, the commercial and military marine, with flags drooping at half-mast, own the bereavement; State-houses draped in black proclaim the extinguishment of one of the great lights of Senates; and minute-guns sound his requiem!

Sir, during the last five years I have seen the



venerable John Quincy Adams, John C. Calhoun, and HENRY CLAY pass from amongst us, the legislators of our country. The race of giants who "were on the earth in those days" is well-nigh gone. Despite their skill, their genius, their might, they have sunk under the stroke of time. They were our admiration and our glory; a few linger with us, the monuments of former greatness, the beacon-lights of a past age. The death of HENRY CLAY cannot fail to suggest melancholy associations to each member of this House. These walls have reached the silvery tones of his bewitching voice; listening assemblies have hung upon his lips. The chair which you fill has been graced by his presence, whilst his commanding person and unequalled parliamentary attainments inspired all with deference and respect. Chosen by acclamation because of his high qualifications, he sustained himself before the House and the country. In his supremacy with his party, and the uninterrupted confidence which he enjoyed to the day of his death, he seems to have almost discredited the truth of those lines addressed to Cæsar—

"Non possunt primi esse omnes omni in tempore,  
Summum ad gradum cum claritas veneris,  
Consistes ægre, et citius, quam ascendas, cades."<sup>228</sup>

If not at all times first, he stood equal with the foremost, and a brilliant rapid rise knew no decline in the confidence of those whose just appreciation of his merits had confirmed his title to renown.

The citizens of other countries will deplore his death; the struggling patriots who on our own continent were cheered by his sympathies, and who must have perceived his influence in the recognition of their independence by this Government, have taught their children to venerate his name. He won the civic crown, and the demonstrations of this hour own the worth of civil services.

It was with great satisfaction that I heard my friend from Kentucky, [Mr. BRECKINRIDGE,] the immediate representative of Mr. CLAY, detail a conversation which disclosed the feelings of that eminent man in relation to his Christian hope. These, Mr. Speaker, are rich memorials, precious reminiscences. A Christian statesman is the glory of his age, and his memory will be glorious in after times; it reflects a light coming from a source which clouds cannot dim nor shadows obscure. It was my privilege, also, a short time since, to converse with this distinguished statesman on the subject of his hopes in a future state. Feeling a deep interest, I asked him frankly what were his hopes in the world to which he was evidently hastening. "I am pleased," said he, "my friend, that you have introduced the subject. Conscious that I must die very soon, I love to meditate upon the most important of all interests. I love to converse and to hear conversations about them. The vanity of the world and its insufficiency to satisfy the soul of man has been long a settled conviction of my mind. Man's inability to secure by his own merits the approbation of God, I feel to be true. I trust in the atonement of the Saviour of men as the ground of my acceptance and my hope of salvation. My faith is feeble, but I hope in His mercy and trust in His promises." To such declarations I listened with the deepest interest, as I did on another occasion, when he said: "I am willing to abide the will of Heaven, and ready to die when that will shall determine it."

He is gone, sir, professing the humble hope of a Christian. That hope, alone, sir, can sustain you, or any of us. There is one lonely and crushed heart that has bowed before this afflictive event. Far away, at Ashland, a widowed wife, prevented by feeble health from attending his bedside and soothing his painful hours, she has thought even the electric speed of the intelligence daily transmitted of his condition too slow for her aching, anxious bosom. She will find consolation in his Christian submission, and will draw all of comfort that such a case admits from the assurance that nothing was neglected by the kindness of friends which could supply her place. May the guardianship of the widow's God be her protection, and His consolations her support!

Mr. HAVEN said: Mr. Speaker, representing a constituency distinguished for the constancy of its devotion to the political principles of Mr. CLAY, and for its unwavering attachment to his fortunes and

his person—sympathizing deeply with those whose more intimate personal relations with him have made them feel most profoundly this general bereavement—I desire to say a few words of him, since he has fallen amongst us, and been taken to his rest.

After the finished eulogies which have been so eloquently pronounced by the honorable gentlemen who have preceded me, I will avoid a course of remark which might otherwise be deemed a repetition, and refer to the bearing of some of the acts of the deceased upon the interests and destinies of my own State. The influence of his public life, and of his purely American character, the benefits of his wise forecast, and the results of his efforts for wholesome and rational progress, are nowhere more strongly exhibited than in the State of New York.

Our appreciation of his anxiety for the general diffusion of knowledge and education, is manifested in our twelve thousand public libraries, our equal number of common schools, and a large number of higher institutions of learning—all of which drew portions of their support from the share of the proceeds of the public lands, which his wise policy gave to our State. Our whole people are thus constantly reminded of their great obligations to the statesman whose death now afflicts the nation with sorrow. Our extensive public works attest our conviction of the utility and importance of the system of internal improvements he so ably advocated; and their value and productiveness afford a most striking evidence of the soundness and wisdom of his policy. Nor has his influence been less sensibly felt in our agriculture, commerce, and manufactures. Every department of human industry acknowledges his fostering care, and the people of New York are, in no small measure, indebted to his statesmanship for the wealth, comfort, contentment, and happiness so widely and generally diffused throughout the State.

Well may New York cherish his memory and acknowledge with gratitude the benefits that his life has conferred. That memory will be cherished throughout the Republic.

When internal discord and sectional strife have threatened the integrity of the Union, his just weight of character, his large experience, his powers of conciliation and acknowledged patriotism, have enabled him to pacify the angry passions of his countrymen, and to raise the bow of promise and of hope upon the clouds which have darkened the political horizon.

He has passed from amongst us, ripe in wisdom and pure in character—full of years and full of honors. He has breathed his last amidst the blessings of a united and a grateful nation.

He was, in my judgment, particularly fortunate in the time of his death.

He lived to see his country, guided by his wisdom, come once again unhurt out of trying sectional difficulties and domestic strife; and he has closed his eyes in death upon that country whilst it is in the enjoyment of profound peace, busy with industry, and blessed with unequalled prosperity.

It can fall to the lot of but few to die amidst so warm a gratitude flowing from the hearts of their countrymen; and none can leave a brighter example or a more enduring fame.

Mr. BROOKS. Mr. Speaker, I rise to add my humble tribute to the memory of a great and good man now to be gathered to his fathers. I speak for, and from a community, in whose hearts is enshrined the name of him whom we mourn; who, however much Virginia, the land of his birth, or Kentucky, the land of his adoption, may love him, is, if possible, loved where I live yet more. If idolatry had been Christian, or allowable even, he would have been our idol. But, as it is, for a quarter of a century now, his bust, his portrait, or some medal, has been one of our household gods, gracing not alone the saloon, and the halls of wealth, but the humblest room or workshop of almost every mechanic or laborer. Proud monuments of his policy as a statesman, as my colleague has just said, are all about us, and we owe to him, in a good degree, our growth, our greatness, our prosperity, and happiness as a people.

The great field of HENRY CLAY, Mr. Speaker, has been here, on the floor of this House, and in the other wing of the Capitol. He has held other

posts of higher nominal distinction; but they are all eclipsed by the brilliancy of his career as a Congressman. What of glory he has acquired, what most endear him to his countrymen, have been won here, amid these pillars, under these domes of the Capitol.

*Si queris monumentum circumspecte,*

The mind of Mr. CLAY has been the governing mind of the country, more or less, ever since he has been on the stage of public action. In a minority, or a majority—more, perhaps, even in a minority than in the majority—he seems to have had some commission, divine as it were, to persuade, to convince, to govern other men. His patriotism, his foresight, his grand conceptions, have created measures which the secret fascination of his manners, in door, or his irresistible eloquence without, has enabled him almost always to frame into laws.

Adverse Administrations have yielded to him, or been borne down by him, or he has taken them captive as a leader, and carried the country and Congress with him. This power he has wielded now for nearly half a century, with nothing but reason and eloquence to back him. And yet, when he came here, years ago, he came from a then frontier State of this Union, heralded by no loud trumpet of fame, nay, quite unknown, unfortified even by any position, social or pecuniary; to quote his own words, his only "heritage had been infancy, indigence, and ignorance."

In these days, Mr. Speaker, when mere civil qualifications for high public place—when long civil training and practical statesmanship are held subordinate—a most discouraging prospect would be before our rising young men, were it not for some such names as Lowndes, Crawford, Clinton, Gaston, Calhoun, and Clay, scattered along the pages of our history, as stars or constellations in a cloudless sky. They shine forth, and show us that if the Chief Magistracy cannot be won by such qualifications, a memory among men can be—a hold upon posterity, as firm, as lustrous—nay, more imperishable. In the Capitolium of Rome there are long rows of marble slabs, on which are recorded the names of the Roman Consuls; but the eye wanders over this wilderness of letters but to light up and to kindle upon some Cato or Cicero. To win such fame, thus unsullied, as Mr. CLAY has won, is worth any man's ambition. And how was it won? By courting the shifting gales of popularity? No, never! By truckling to the schemes, the arts, and seductions of the demagogue? Never, never! His hardest battles as a public man—his greatest, most illustrious achievements—have been against, at first, an adverse public opinion. To gain an imperishable name, he has often braved the perishable popularity of the moment. That sort of courage which, in a public man, I deem the highest of all courage; that sort of courage most necessary under our form of government to guide as well as to save a State, Mr. CLAY was possessed of—more than any public man I ever knew. Mere physical courage, valuable, indispensable though it be, we share but with the brute—but moral courage, to dare to do right, amid all temptations to do wrong, is, as it seems to me, the very highest species, the noblest heroism, under institutions like ours. "I had rather be right than be President," was Mr. CLAY's sublime reply when pressed to refrain from some measure that would mar his popularity. These lofty words were a clue to his whole character—the secret of his hold upon the heads as well as hearts of the American people—nay, the key to his immortality.

Another of the keys, Mr. Speaker, of his universal reputation, was his intense nationality. When taunted but recently, almost within our hearing, as it were, on the floor of the Senate, by a Southern Senator, as being a Southern man unfaithful to the South, his indignant but patriotic exclamation was: "I know no South—no North, no East, no West." The country, the whole country loved, revered, adored such a man. The soil of Virginia may be his birth place: the sod of Kentucky will cover his grave—what was mortal they claim—but the spirit, the soul, the genius of the mighty man, the immortal part, these belong to his country and to his God.

Mr. FAULKNER. After the many able and eloquent addresses to which we have listened this morning, I fear, sir, that it will not be in my

<sup>228</sup> "All cannot be at all times first;  
To reach the topmost step of glory; to stand there  
More hard. Even swifter than we mount we fall."

power to add anything to the interest of this occasion. And yet, representing as I do in part that State which gave birth to the distinguished man whose death has this day been announced on this floor, and having for many years held towards him the most cordial relations of friendship, personal and political, I feel that I should fail to discharge an appropriate duty, if I permitted this occasion to pass by, without some expression of the feeling which such an event is so well calculated to elicit. It is true, sir, that this intelligence does not fall upon our ears unexpectedly; for months the public mind has been prepared for the great national loss which we now deplore; and yet, as familiar as the daily and hourly reports have made us with his hopeless condition, and gradual decline, and although

"Like a shadow thrown  
Softly and sweetly from a passing cloud,  
Death fell upon him,"

it is impossible that a light of such surpassing splendor should be, as it is now, forever extinguished from our view, without producing a shock, deeply and painfully felt to the utmost limits of this great Republic. Sir, we all feel that a mighty intellect has passed from amongst us; but, happily for this country, happily for mankind, not until it had accomplished to some extent the exalted mission for which it had been sent upon this earth—not until it had reached the full maturity of its usefulness and power—not until it had shed a bright and radiant luster over our national renown—not until time had enabled it to bequeath the rich treasures of its thought and experience for the guidance and instruction of the present, and of succeeding generations.

Sir, it is difficult—it is impossible—within the limit allowed for remarks upon occasions of this kind, to do justice to a great historical character like HENRY CLAY. He was one of that class of men whom Scaliger designates as *homines centurarii*—men that appear upon the earth but once in a century. His fame is the growth of years, and it would require time to unfold the elements which have combined to impart to it so much of stability and grandeur. Volumes have already been written, and volumes will continue to be written, to record those eminent and distinguished public services which have placed him in the front rank of American statesmen and patriots. The highest talent, fired by a fervid and patriotic enthusiasm, has already and will continue to exhaust its powers, to portray those striking and generous incidents of his life, those shining and captivating qualities of his heart, which have made him one of the most beloved, as he was one of the most admired of men; and yet the subject itself will remain as fresh and exhaustless as if hundreds of the best intellects of the land had not quaffed the inspiration of their genius from the evergushing and overflowing fountains of his fame. It is impossible that a reputation so grand and colossal as that which attaches to the name of HENRY CLAY, could rest for its base upon any single virtue, however striking, nor upon any single act, no matter how marked or distinguished. Such a reputation as he has left behind him could only be the result of a long life of illustrious public service. And such it truly was. For nearly half a century he has been a prominent actor in all the stirring and eventful scenes of American history; fashioning and moulding many of the most important measures of public policy by his bold and sagacious mind, and arresting others by his unconquerable energy and resistless force of eloquence. And however much the members of this body may differ in opinion as to the wisdom of many of his views of national domestic policy, there is not one upon this floor—no, sir, not one in this nation—who will deny to him frankness and directness as a public man—a genius for statesmanship of the highest order—extraordinary capacities for public usefulness, and an ardent and elevated patriotism, without stain and without reproach.

In referring to a career of public service so varied and extended as that of Mr. CLAY, and to a character so rich in every great and manly virtue, it is only possible to glance at a few of the most prominent of those points of his personal history which have given to him so distinguished a place in the affections of his countrymen.

In the whole character of Mr. CLAY, in all that attached or belonged to it, you find nothing that

is not essentially AMERICAN. Born in the darkest period of our revolutionary struggle—reared from infancy to manhood amongst those great minds which gave the first impulse to that mighty movement, he early imbibed and sedulously cherished those great principles of civil and political liberty, which he so brilliantly illustrated in his subsequent public career, and which has made his name a watchword of hope and consolation to the oppressed of all the earth. In his intellectual training he was the pure creation of our own republican soil. Few, if any allusions are to be seen in his speeches or writings to ancient or modern literature, or to the thoughts and ideas of other men. His country—its institutions—its policy—its interests—its destiny form the exclusive topics of these eloquent harangues which, whilst they are destitute of the elaborate finish, have all the ardor and intensity of thought—the earnestness of purpose, the cogency of reasoning, the vehemence of style, and the burning patriotism which mark the productions of the great Athenian orator.

One of the most distinguishing characteristics of Mr. CLAY as a public man, was his loyalty to truth and to the honest convictions of his own mind. He deceived no man—he would not permit his own heart to be deceived by any of those seductive influences which too often warp the judgment of men in public life. He never paused to consider how far any step which he was about to take would lead to his own personal advancement; he never calculated what he might lose or what he might gain by his advocacy of, or his opposition to, any particular measure. His single inquiry was, Is it right? Is it in accordance with the Constitution of the land? Will it redound to the permanent welfare and interest of the country? When satisfied upon these points, his determination was fixed—his purpose was immovable. "I would rather be right than President," was the expression of his genuine feelings; and the principle by which he was controlled in his public career—a saying worthy of immortality, and proper to be inscribed upon the heart of every young man in this Republic. And yet, sir, with all of that personal and moral intrepidity which so eminently marked the character of Mr. CLAY—with his well-known inflexibility of purpose, and unyielding determination—such was the genuine sincerity of his patriotism, and such his thorough comprehension of those principles of compromise upon which the whole structure of our Government was founded, that no one was more prompt to relax the rigor of his policy the moment he perceived that it was calculated to disturb the harmony of the States, or endanger in any degree, the stability of the Government. With him, the love of this Union was a passion—an absorbing sentiment which gave color to every act of his public life. It triumphed over party; it triumphed over policy; it subdued the natural fierceness and haughtiness of his temper and brought him into the most kindly and cordial relations with all those who, upon all other questions were deeply and bitterly opposed to him. It has been asserted, sir, upon high medical authority, and doubtless with truth, that his life was, in all probability, shortened ten years by the arduous and extraordinary labors which he assumed at the memorable session of 1850. If so, he has added the crowning glory of the MARTYR to the spotless fame of the PATRIOT; and we may well hope that a great national pacification, purchased at such a sacrifice, will long continue to cement the bonds of this great and glorious Union.

Mr. CLAY possessed, in an eminent degree, the qualities of a great popular leader, and history, I will assume to say, affords no example, in any Republic, ancient or modern, of any individual that so fearlessly carried out the convictions of his own judgment, and so sparingly flattered the prejudices of popular feeling, who for so long a period, exercised the same controlling influence over the public mind. Earnest in whatever measure he sustained—fearless in attack—dexterous in defense—abounding in intellectual resource—eloquent in debate—of inflexible purpose, and with a "courage never to submit or yield," no man ever lived with higher qualifications to rally a desponding party, or to lead an embattled host to victory. That he never attained the highest post of honorable ambition in this country, is not to be ascribed to any want of capacity as a popular leader; nor the absence of those qualities which

attract the fidelity and devotion of "troops" of admiring friends. It was the fortune of Napoleon, at a critical period of his destiny, to be brought into collision with the star of Wellington, and it was the fortune of HENRY CLAY to have encountered, in his political orbit, another great and original mind, gifted with equal power for commanding success, and blessed with more fortunate elements, concurring at the time, of securing popular favor. The struggle was such as might have been anticipated from the collision of two such fierce and powerful rivals.

For near a quarter of a century, this great Republic has been convulsed to its center by the divisions which have sprung from their respective opinions, policy, and personal destinies; and even now, when they have both been removed to a higher and better sphere of existence, and every unkind feeling has been quenched in the triumphs of the grave, this country still feels, and for years will continue to feel, the influence of these agitations to which their powerful and impressive characters gave impulse.

But I must pause. If I were to attempt to present all the aspects in which the character of this illustrious man will challenge the applause of history, I should fatigue the House and violate the just limit allowed for such remarks.

I cannot conclude, however, without making some more special allusion to Mr. CLAY, as a native of that State which I have the honor in part to represent upon this floor. We are all proud, and very properly proud of the distinguished men to which our respective States have given birth. It is a just and laudable emulation, and one in a confederated government like ours, proper to be encouraged. And whilst men like Mr. CLAY very rapidly rise above the confined limits of a State reputation and acquire a national fame, in which all claim and all have an equal interest, still there is a propriety and fitness in preserving the relation between the individual and his State. Virginia has given birth to a large number of men who have by their distinguished talents and services impressed their names upon the hearts and memories of their countrymen; but, certainly, since the colonial era she has given birth to no man who in the massive and gigantic proportions of his character, and in the splendor of his native endowments, can be compared to HENRY CLAY. At an early age he emigrated from his native State, and found a home in Kentucky. In a speech which he delivered in the Senate of the United States in February, 1842, and which I well remember, upon the occasion of his resigning his seat in that body, he expressed the wish that when that event should occur, which has now clothed the city in mourning, and filled the nation with grief, "that his earthly remains should be laid under the green sod of Kentucky, with those of her gallant and patriotic sons."

Sir, however gratifying it might be to us that those remains should be transferred to his native soil, and there mingle with the ashes of Washington, Jefferson, Madison, Lee, and Henry, we cannot complain of the very natural preference which he has there himself expressed. If Virginia did give him birth, Kentucky has nourished him in his manhood—has freely lavished upon him her highest honors—has shielded him from harm when the clouds of calumny and detraction gathered heavily and loweringly about him, and she has watched over his fame with the tenderness and zeal of a mother. Sir, it is not to be wondered that he should have expressed the wish which he did, to be laid by the side of her gallant and patriotic sons. Happy Kentucky! Happy in having an adopted son so worthy of her best honors. Happy in the unshaken fidelity and loyalty with which, for near half a century, those honors have been so steadfastly and gracefully accorded to him.

Sir, whilst Virginia, in the exercise of her own just judgment, has differed from Mr. CLAY in some of his views of national policy, she has never at any period of his public career, failed to regard him with pride as one of her most distinguished sons; to honor the purity and the manliness of his character, and to award to him the high credit of an honest and sincere devotion to his country's welfare. And now, sir, that death has extinguished forever the workings of that mighty intellect, and sealed in eternal silence those eloquent lips upon whose accents thousands have so

often hung in rapture, I shall stand justified in saying that a wail of lamentation will be heard from her people—her whole people, reverberating through her mountains and valleys, as deep, as genuine, and as sincere as that which I know will swell the noble hearts and the heaving bosoms of the people of his own cherished and beloved Kentucky.

Sir, as I walked to the Capitol this morning, every object which attracted my eye admonished me that a national benefactor had departed from amongst us. He is gone! HENRY CLAY, the idol of his friends, the ornament of the Senate Chamber, the pride of his country, he whose presence gathered crowds of his admiring fellow-men around him, as if he had been one descended from above, has passed forever from our view.

"His soul, enlarged from its vile bonds, has gone  
To that refulgent world where it shall swim  
In liquid light, and float on seas of bliss."

But the memory of his virtues and of his services will be gratefully embalmed in the hearts of his countrymen, and generations yet unborn will be taught to hush with reverence and enthusiasm the name of HENRY CLAY.

Mr. PARKER, of Indiana, said: Mr. Speaker, this is a solemn—a consecrated hour. And I would not detain the members of the House from indulging in the silent eloquence of their own feelings, so grateful to hearts chastened as ours.

But I cannot restrain an expression from a bosom pained with its fullness.

When my young thoughts first took cognizance of the fact that I have a country—my eye was attracted by the magnificent proportions of HENRY CLAY.

The idea absorbed me then, that he was, above all other men, the embodiment of my country's genius.

I have watched him; I have studied him; I have admired him—and, God forgive me! for he was but a man, "of like passions with us"—I fear I have idolized him, until this hour.

But he has gone from among men; and it is for us now to awake and apply ourselves, with renewed fervor and increased fidelity, to the welfare of the country, he loved so well and served so truly and so long—the glorious country yet saved to us!

Yes, HENRY CLAY has fallen, at last!—as the ripe oak falls, in the stillness of the forest. But the verdant and gorgeous richness of his glories will only fade and wither from the earth, when his country's history shall have been forgotten.

"One generation passeth away and another generation cometh." Thus it hath been from the beginning; and thus it will be, until time shall be no longer.

Yesterday morning, at eleven o'clock, the spirit of HENRY CLAY—so long the pride and glory of his own country, and the admiration of all the world—was yet with us, though struggling to be free. Ere "high noon" came, it had passed over "the dark river," through the gate, into the celestial city, inhabited by all the "just men made perfect."

May not our rapt vision contemplate him there, this day, in sweet communion with the dear friends that have gone before him?—with Madison, and Jefferson, and Washington, and Henry, and Franklin—with the eloquent Tully, with the "divine Plato," with Aaron, the Levite, who could "speak well"—with all the great and good, since and before the flood!

His princely tread has graced these aisles for the last time. These Halls will wake no more to the magic music of his voice.

Did that tall spirit, in its ethereal form, enter the courts of the upper sanctuary, bearing itself comparably with the spirits there, as was his walk among men?

Did the mellifluous tones of his greeting there enrapture the hosts of Heaven, comparably with his strains "to stir men's blood" on earth?

Then, may we not fancy, when it was announced to the inhabitants of that better country: HE COMES!—HE COMES!—there was a rustling of angel-wings—a thrilling joy—up there, only to be witnessed once in an earthly age?

Adieu!—a last adieu to thee, HENRY CLAY!

The hearts of all thy countrymen are melted, on this day, because of the thought that thou art gone.

Could we have held the hand of the "insatiate archer," thou hadst not died; but thou wouldst have tarried with us, in the full grandeur of thy greatness, until we had no longer need of a country.

But we thank our Heavenly Father that thou wast given to us; and that thou didst survive so long.

We would cherish thy memory while we live, as our country's JEWEL—than which none is richer. And we will teach our children the lessons of matchless patriotism thou hast taught us; with the fond hope that our LIBERTY and our UNION may only expire with "the last of earth."

Mr. GENTRY said: Mr. Speaker, I do not rise to pronounce an eulogy on the life and character and public services of the illustrious orator and statesman whose death this nation deplores. Suitably to perform that task, a higher eloquence than I possess might essay in vain. The gushing tears of the nation, the deep grief which oppresses the hearts of more than twenty millions of people, constitute a more eloquent eulogium upon the life and character and patriotic services of HENRY CLAY, than the power of language can express. In no part of our country is that character more admired, or those public services more appreciated, than in the State which I have the honor, in part, to represent. I claim for the people of that State a full participation in the general woe which the sad announcement of to-day will everywhere inspire.

Mr. BOWIE. I rise not to utter the measured phrases of premeditated woe, but to speak as would my constituents speak, if they stood around the grave now opened to receive the mortal remains not of a statesman only but of a beloved friend. If there is a State in this Union, other than Kentucky, which sends up a wail of more bitter and sincere sorrow than another, that State is Maryland. In her midst this departed statesman was a frequent and a welcome guest. At many a board, and many a fireside, his noble form was the light of the eyes and the idol of the heart. Throughout her borders, in cottage, hamlet, and cities, his name is a household word, his thoughts are familiar sentences. Though not permitted to be first at his cradle, Maryland would be last at his tomb. Through all the phases of political fortune—amid all the storms which darkened his career, Maryland cherished him in her inmost heart, as the most gifted, patriotic, and eloquent of men; and for him daily, to this hour, prayers ascend, night and morning, for his temporal and eternal welfare. Maryland would, in the language of inspiration, exclaim, "This day hath a prince and ruler fallen in Israel!" Daughters of America weep for him who hath "clothed you in scarlet and fine linen!"

The husbandman at his plough, the artisan at the anvil, the seaman on the mast, will pause and drop a tear when he hears that CLAY is no more.

The advocate for freedom in both hemispheres, he will be lamented alike on the shores of the Hellespont and the banks of the Mississippi and Orinoco. The freed men of Liberia, learning and practicing the art of self-government, and civilizing Africa, have lost a patron and protector, a father and friend. America mourns the departure of a luminary, which enlightened and illustrated the continent; the United States, a counsellor of deep wisdom and purest purpose; mankind, the advocate of human rights and constitutional liberty.

Mr. WALSH said: Mr. Speaker, the illustrious man whose death we this day mourn, was so long my political leader,—so long almost the object of my personal idolatry, that I cannot allow that he shall go down to the grave, without a word at least of affectionate remembrance,—without a tribute to a memory, which will exact tributes as long as a heart shall be found to beat within the bosom of civilized man, and human agency shall be adequate in any form to give them an expression; and even, sir, if I had no heart-felt sigh to pour out here—if I had no tear for that coffin's lid, I should do injustice to those whose representative in part I am, if I did not in this presence, and at this time, raise the voice to swell the accents of the profoundest public sorrow.

The State of Maryland has always vied with Kentucky, in love and adoration of his name. Her people have gathered around him, with all the fervor of a first affection, and with more than

its duration. Troops of friends have ever clustered about his pathway with a personal devotion, which each man of them regarded as the highest individual honor,—friends, sir, to whose firesides the tidings of his death will go with all the withering influences which are felt when household ties are severed.

I wish, sir, I could offer now a proper memorial for such a subject, and such an affection. But as I strive to utter it, I feel the disheartening influence of the well known truth, that in view of death all minds sink into triteness. It would seem, indeed, sir, that the great leveler of our race would vindicate his title to be so considered, by making all men think alike in regard to his visitation—"The thousand thoughts that begin and end in one,"—the desolation here—the eternal Hope here—after—are influences felt alike by the lowest intellect and the loftiest genius.

Mr. Chairman, a statesman for more than fifty years in the councils of his country, whose peculiar charge it was to see that the Republic suffered no detriment—a patriot for all times, all circumstances, and all emergencies, has passed away from the trials and triumphs of the world, and gone to his reward. Sad as are the emotions which such an event would ordinarily excite, their intensity is deeply heightened by the matters so fresh within the memories of us all:

"Oh! think how to his latest day,  
When Death, just hovering, claim'd his prey,  
With Palmurus' unaltered mood,  
Firm at his dangerous post he stood,  
Each call for needful rest repell'd,  
With dying hand the rudder held;  
Then, while on freedom's thousand plains  
One unpolluted church remains,  
Whose peaceful bells ne'er sent around  
The bloody tocsin's maddening sound;  
But still, upon the hallow'd day  
Convoke the swains to praise and pray;  
While faith and civil peace are dear,  
Greet his cold marble with a tear,  
He who preserved them—Clay lies here."

In a character, Mr. Speaker, so illustrious and beautiful, it is difficult to select any point for particular notice from those which go to make up its noble proportions; but we may now around his honored grave, call to grateful recollection that invincible spirit which no personal sorrow could sully, and no disaster could overcome. Be assured, sir, that he has in this regard left a legacy to the young men of the Republic almost as sacred and as dear as that liberty of which his life was a blessed illustration.

We can all remember, sir, when adverse political results disheartened his friends, and made them feel even as men without hope, his own clarion voice was still heard in the purpose and the pursuit of rights, as bold and as eloquent as when it first proclaimed the freedom of the seas, and its talismanic tones struck off the badges of bondage from the lands of the Incas and the plains of Marathon.

Mr. Speaker, in the exaltation of the statesman he did not forget the duties of the man. He was an affectionate adviser on all points wherein inexperienced youth might require counsel. He was a disinterested sympathiser in personal sorrows that called for consolation. He was ever upright and honorable in all the duties incident to his relations in life.

To an existence so lovely Heaven in its mercy granted a fitting and appropriate close. It was the prayer, Mr. Speaker, of a distinguished citizen who died some years since in the metropolis, even while his spirit was fluttering for its final flight, that he might depart gracefully. It may not be presumptuous to say that what was in that instance the aspiration of a chivalric gentleman, was in this the realization of the dying Christian, in which was blended all that human dignity could require, with all that Divine Grace had conferred; in which the firmness of the man was only transcended by the fervor of the penitent.

A short period before his death, he remarked to one by his bed-side, "That he was fearful he was becoming selfish, as his thoughts were entirely withdrawn from the world, and centered upon eternity." This, sir, was but the purification of his noble spirit from all the dross of earth—a happy illustration of what the religious muse has so sweetly sung—

"No sin to stain—no lure to stay  
The soul, as home she springs;  
Thy sunshine on her joyful way,  
Thy freedom in her wings."



Mr. Speaker, the solemnities of this hour may soon be forgotten. We may come back from the new-made grave only still to show that we consider "eternity the bubble life and time the enduring substance." We may not pause long enough by the brink to ask which of us revelers of a day shall next beat rest. But beassured, sir, that upon the records of mortality will never be inscribed a name more illustrious than that of the statesman, patriot, and friend whom the nation mourns.

The SPEAKER. The Chair asks leave to give notice to the House, that the members of the Senate and House will form a procession at the National Hotel to-morrow, at twenty minutes past eleven, to accompany the remains of Mr. CLAY to the Capitol for funeral ceremonies. The remains will pass thence to the cars, and depart for Kentucky.

The question was then put on the adoption of the resolutions proposed by Mr. BRECKINRIDGE, and they were unanimously adopted.

And the House adjourned till to-morrow at twelve o'clock, m.

#### IN SENATE.

THURSDAY, July 1, 1852.

The funeral rites over the remains of the Hon. HENRY CLAY were solemnized this day. Pursuant to the arrangements prescribed by the committee of the Senate, the members of the Senate and of the House of Representatives, together with public bodies and associations, military companies, and civic authorities, assembled at the National Hotel, where the body has lain since life departed; and thence the melancholy funeral cortege passed to the Senate Chamber, so long the theatre of his glories.

As the body was borne to the centre of the Chamber, the Rev. Dr. BUTLER, the Chaplain to the Senate, in full canonicals, read part of the Episcopal ritual—"I am the resurrection and the life, saith the Lord." In consonance with the solemn service over the dead was the scene there presented—somber and sad.

The President of the United States and the Speaker of the House of Representatives were seated with the President of the Senate. The body of the Senate, the representatives of State sovereignties, were grouped, on the two innermost semicircular rows of chairs, around the lifeless form of their late colleague. The committee of arrangements, and the committee to convey the body to Kentucky, and the pall-bearers, with the Kentucky delegation in the House of Representatives, as chief mourners, and a few personal devoted friends, were also in close proximity to the inanimate form of the deceased.

The members of the House of Representatives filled the outer circles, except such parts as were devoted to the large diplomatic corps, the Cabinet of the President of the United States, the officers of the Army and Navy, amongst whom were Major General Scott, commander-in-chief, and Commodore Morris. With the Municipal Councils of the city of Washington, were the officers of neighboring cities, and others, official and unofficial.

Mr. James Maher, the public gardiner, placed a fragrant shield of sweetly-culled flowers upon the sarcophagus, as a memorial of affection for the deceased statesman within. The pure white and brightly-variegated flowers contrasted sadly with the rich folding drapery of black cloth, relieved though it was by silver ornaments. The sarcophagus in which the remains were inurned, resembles the outlines of the human body. The handles, the face plate, the plate for inscribing the name, and other plates, are of massive silver, beautifully wrought and chased, having appropriate emblems, among which appear wreaths of laurel

and oak, with a full-blown rose, and sprig of oak with its acorns detached from their parent stem, showing the work of the fell destroyer. Amidst the contemplations to which this scene gave being, the Chaplain's voice broke on the listening ear—

"But some man will say, how are the dead raised up? and with what body do they come?" The answer was furnished by the residue of the 15th chapter of 1st Corinthians, which the Chaplain impressively read for the consolation of the bereaved living.

"How is the strong staff broken and the beautiful rod?" (Jeremiah 48 ch. 17 v.) was the suggestive text of the following impressive discourse:

Before all hearts and minds in this august assemblage the vivid image of ONE MAN stands. To some aged eye he may come forth, from the dim past, as he appeared in the neighboring city of his native State, a little and ardent youth, full of promise, of ambition, and of hope. To another he may appear as, in a distant State, in the courts of justice, erect, highstrung, bold, wearing fresh forensic laurels on his young and open brow. Some may see him in the earlier and some in the later stages of his career on this auspicious theatre of his renown; and to the former he will start out, on the background of the past, as he appeared in the neighboring Chamber, tall, elate, impassioned, with flashing eye and suasive gesture, and clarion voice, an already acknowledged "Agamemnon, King of Men;" and to others he will again stand in this Chamber "the strong staff" of the bewildered and staggering State, and "the beautiful rod," rich with the blossoms of genius, and of patriotic love and hope, the life of youth still remaining to give animation, grace, and exhaustless vigor to the wisdom, the experience, and gravity of age. To others he may be present as he sat in the chamber of sickness, cheerful, majestic, gentle—his mind clear, his heart warm, his hope fixed on Heaven, peacefully preparing for his last great change. To the memory of the minister of God he appears as the penitent, humble, and peaceful Christian, who received him with the affection of a father, and joined with him in solemn sacrament and prayer with the gentleness of a woman and humility of a child. "Out of the strong came forth sweetness." "How is the strong staff broken and the beautiful rod!" But not before this assembly only does the venerable image of the departed statesman this day distinctly stand. For more than a thousand miles—East, West, North, and South—it is known and remembered, that at this place and hour a nation's representatives assemble to do honor to him whose fame is now a nation's heritage. A nation's mighty heart throbs against this Capitol, and beats through you. In many cities banners droop, bells toll, cannons boom, funeral draperies wave. In crowded streets and on surrounding wharves, upon steamboats, and upon cars, in fields, in workshops, in homes, in schools, millions of men, women, and children, have their thoughts fixed upon this scene, and say mournfully to each other, "This is the hour in which, at the capital, the nation's representatives are burying HENRY CLAY." Burying HENRY CLAY? Bury the records of your country's history—bury the hearts of living millions—bury the mountains, the rivers, the lakes, and the spreading lands from sea to sea, with which his name is inseparably associated, and even then you would not bury HENRY CLAY—for he is in other lands and speaks in other tongues, and to other times, than ours.

A great mind, a great heart, a great orator, a great career, have been consigned to history. She will record his rare gifts of deep insight, keen discrimination, clear statement, rapid combination, plain, direct, and convincing logic. She will love to dwell on that large, generous, magnanimous, open, forgiving heart. She will linger with fond delight on the recorded or traditional stories of an eloquence that was so masterful and stirring, because it was but himself struggling to come forth on the living words—because, though the words were brave and strong, and beautiful and melodious, it was felt that, behind them, there was a soul, braver, stronger, more beautiful, and more melodious than language could express. She will point to a career

of statesmanship which has, to a remarkable degree, stamped itself on the public policy of the country, and reached in beneficent practical results the fields, the looms, the commercial marts, and the quiet homes of all the land, where his name was with the departed father, and is with the living children, and will be with successive generations, an honored household word.

I feel, as a man, the grandeur of this career. But as an immortal, with this broken wreck of mortality before me, with this scene as the "end-all" of human glory, I feel that no career is truly great but that of him who, whether he be illustrious or obscure, lives to the future in the present, and, linking himself to the spiritual world, draws from God the life, the rule, the motive, and the reward of all his labor. So would that great spirit which has departed say to us, could he address us now. So did he realize in the calm and meditative close of life. I feel that I but utter the lessons which, when living, were his last and best convictions, and which, dead, could he speak to us, his solemn admonitions, when I say that statesmanship is then only glorious when it is Christian, and that man is then only safe and true to his duty and his soul, when the life which he lives in the flesh is the life of faith in the Son of God.

Great, indeed, is the privilege, and most honorable and useful is the career of a Christian American statesman.

He perceives that civil liberty came from the freedom wherewith Christ made its earliest martyr and defender free. He recognizes it as one of the twelve manner of fruits on the tree of life with which its lower branches furnish the best nutriment of earth, hangs on its topmost boughs, which wave in heaven, fruits that exhilarate the immortals. Recognizing the State as God's institution, he will perceive that his own ministry is divine. Living consciously under the eye and in the love and fear of God, redeemed by the blood of Jesus, sanctified by His spirit, loving His law, he will give himself, in private and in public, to the service of his Saviour. He will not admit that he may act on less lofty principles in public than in private life, and that he must be careful of his moral influence in the small sphere of home and neighborhood, but need take no heed of it when it stretches over continents and crosses seas. He will know that his moral responsibility cannot be divided and distributed among others. When he is told that adherence to the strictest moral and religious principle is incompatible with a successful and eminent career, he will denounce the assertion as a libel on the venerated father of the Republic—a libel on the honored living, and the illustrious dead—a libel against a great and Christian nation—a libel against God himself, who has declared and made "godliness profitable for the life that is." He will strive to make laws transcripts of the character and institutions, illustrations of the providence of God. He will scan with admiration and awe the purposes of God in the future history of the world, in throwing open their wide continent, from sea to sea, as the abode of freedom, intelligence, plenty, prosperity, and peace, and feel that in giving his energies with a patriotic love to the welfare of his country, he is consecrating himself with a Christian's zeal to the extension and establishment of the Redeemer's kingdom. Compared with a career like this, which is equally open to those whose public sphere is large or small, how paltry are the trade of patriotism, the tricks of statesmanship, the rewards of successful baseness! This hour, this scene, the venerated dead, the country, the world, the present, the future, God, duty, heaven, hell, speak trumpet-tongued to all in the service of their country, to beware how they lay polluted or unhallowed hands

"Upon the ark  
Of her magnificent and awful cause."

Such is the character of that statesmanship which alone would have met the full approval of the venerated dead. For the religion which always had a place in the convictions of his mind has also, within a recent period, entered into his experience and seated itself in his heart. Twenty years since he wrote, "I am a member of no religious sect, and I am not a professor of religion. I regret that I am not. I wish that I was, and trust that I shall be. I have, and always have had, a profound regard for Christianity, the religion of my fathers, and for its rites, its usages, and observ-

'ances." That feeling proved that the seed sown by pious parents was not dead, though stifled. A few years since its dormant life was re-awakened. He was baptized in the communion of the Protestant Episcopal Church, and during his sojourn in this city he was in full communion with Trinity parish.

It is since his withdrawal from the sittings of the Senate that I have been made particularly acquainted with his religious opinions, character, and feelings. From his first illness he expressed to me the persuasion that it would be fatal. From that period until his death it has been my privilege to hold with him frequent religious services, and conversations with him in his room. He averred to me his full faith in the great leading doctrines of the Gospel—the fall and sinfulness of man, the divinity of Christ, the reality and necessity of the atonement, the need of being born again by the Spirit, and salvation through faith in the crucified Redeemer. His own personal hopes of salvation he ever and distinctly based on the promises and the grace of Christ. Strikingly perceptible on his naturally impetuous and impatient character was the influence of grace in producing submission and "patient waiting for Christ," and for death. On one occasion he spoke to me of the pious example of one very near and dear to him, as that which led him deeply to feel and earnestly to seek for himself the reality and blessedness of religion. On one occasion he told me that he had been striving to form a conception of Heaven; and he enlarged upon the mercy of that provision by which our Saviour became a partaker of our humanity, that our hearts and hopes might fix themselves on him. On another occasion, when he was supposed to be very near his end, I expressed to him the hope that his mind and heart were at peace, and that he was able to rest with cheerful confidence on the promises and merits of the Redeemer. He said, with much feeling, that he endeavored to, and trusted that he did, repose his salvation upon Christ; that it was too late for him to look at Christianity in the light of speculation; that he had never doubted of its truth; and that he now wished to throw himself upon it as a practical and blessed remedy. Very soon after this, I administered to him the sacrament of the Lord's Supper. Being extremely feeble, and desirous of having his mind undiverted, no persons were present but his son and servant. It was a scene long to be remembered. There, in that still chamber, at a week-day noon, the tides of life all flowing strong around us, three disciples of the Saviour—the minister of God, the dying statesman, and his servant, a partaker of the like precious faith—commemorated their Saviour's dying love. He joined in the blessed sacrament with great feeling and solemnity—now pressing his hands together, and now spreading them forth as the words of the service expressed the feelings, desires, supplications, and thanksgivings of his heart. After this he rallied, and again I was permitted frequently to join with him in religious services, conversation, and prayer. He grew in grace, and in the knowledge of our Lord and Saviour Jesus Christ. Among the books which he read most were Jay's Morning and Evening Exercises, the Life of Dr. Chalmers, and the Christian Philosopher Triumphant in Death. His hope continued to the end, though true and real, to be tremulous with humility rather than rapturous with assurance. When he felt most the weariness of his protracted sufferings, it sufficed to suggest to him that his Heavenly Father doubtless knew that, after a life so long stirring and tempted, such a discipline of chastening and suffering was needful to make him meet for the inheritance of the saints; and at once the words of meek and patient acquiescence escaped his lips.

Exhausted nature at length gave way. On the last occasion when I was permitted to offer a brief prayer at his bed-side, his last words to me were that he had hope only in Christ, and that the prayer which I had offered for his pardoning love and his sanctifying grace included everything which the dying need. On the evening previous to his departure, sitting an hour in silence by his side, I could not but realize, when I heard him in the slight wanderings of his mind to other days, and other scenes, murmuring the words, "My mother! mother! mother!" and saying, "My dear wife," as if she were present; I could not but real-

ize then, and rejoice to think how near was the blessed reunion of his weary heart with the loved dead and with her—our dear Lord gently smooth her passage to the tomb!—who must soon follow him to his rest, whose spirits even then seemed to visit and to cheer his memory and his hope. Gently he breathed his soul away into the spirit world.

"How blest the righteous when they die!  
When holy souls retire to rest,  
How mildly beams the closing eye!  
How gently heaves the expiring breast!"

"So fades a summer cloud away,  
So sinks the gale when storms are o'er;  
So gently shuts the eye of day;  
So dies the wave upon the shore!"

Be it ours to follow him in the same humble and submissive faith to Heaven. Could he speak to us the counsels of his latest human and of his present heavenly experience, sure I am that he would not only admonish us to cling to the Saviour in sickness and in death, but abjure us not to delay to act upon our first convictions that we might give our best power and fullest influence for God, and go to the grave with a hope unshadowed by the long worldliness of the past, and darkened by no films of fear and doubt resting over the future!

The strong staff is broken and the beautiful rod despoiled of its grace and bloom; but in the light of the eternal promises, and by the power of Christ's resurrection, we joyfully anticipate the prospect of seeing that broken staff erect, and that beautiful rod, clothed with celestial grace, and blossoming with undying life and blessedness, in the paradise of God.

The ritual of the Episcopal Church, at the burial of the dead, closed the solemn service, and the body was removed to the Rotunda, that his sorrowing countrymen might gaze upon that face in death which has cheered them so much while living.

At four o'clock the funeral procession left by railroad to give the body sepulture in his own chosen spot, near his own home, at the cemetery of Lexington in Kentucky.

## HOUSE OF REPRESENTATIVES.

THURSDAY, July 1, 1852.

The House met at twelve o'clock, m.

On motion by Mr. ORR, by unanimous consent, the reading of the Journal of yesterday was dispensed with.

The SPEAKER stated, that in pursuance of the order made on yesterday, the House would proceed in a body to the Senate to participate in the funeral ceremonies of Hon. HENRY CLAY, late a Senator from Kentucky.

The Speaker and officers of the House, accompanied by the members, then proceeded to the Senate Chamber. The services there having been concluded, they returned to the Hall; and being called to order by the Speaker,

On motion by Mr. SWEETSER, the House adjourned till to-morrow at twelve o'clock, m.

## IN SENATE.

FRIDAY, July 2, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

On motion by Mr. HUNTER, it was

Ordered, That the execution of the order assigning Friday of each week for the consideration of private claims be suspended until one o'clock.

## ENROLLED BILLS.

The PRESIDENT *pro tem.* signed the following enrolled bills:

A bill for the relief of the heirs of John Jackson;

An act to amend an act entitled "An act for the punishment of crimes in the District of Columbia;" and

A joint resolution accepting from Guiseppe Fagnazi a portrait of Henry Clay, and ordering it to be placed in the Library of Congress.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of State relative to the resolution of the Senate calling for information as to the expediency of adopting a graduated scale of diplomatic salaries, based upon the combined con-

siderations of the importance of the mission and the expenses of residence, transmitting a copy of the circular letter on the subject which was addressed by the Secretary of State to the respective diplomatic representatives of the United States in foreign countries, together with a copy of their replies so far as the same had been received at the Department of State; which was referred to the Committee on Foreign Relations, and ordered to be printed.

## PETITIONS, ETC.

Mr. FELCH submitted additional documents in relation to the claim of the administrators of John Anderson; which were referred to the Committee on Claims.

Mr. GWIN presented several petitions from citizens of California, praying to be released from the payment of duty bonds on certain goods destroyed by fire while in bonded warehouses, at San Francisco, California; which were referred to the Committee on Finance.

Mr. WALKER presented a petition of citizens of Washington, District of Columbia, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

## DEATH OF THE HON. HENRY CLAY.

Mr. HUNTER submitted the following resolution; which was agreed to:

Resolved, That the President of the Senate be requested to communicate to the Executive of the State of Kentucky information of the death of the Hon. HENRY CLAY, late a Senator from that State.

Mr. HUNTER submitted the following resolution; which was agreed to:

Resolved, That the Secretary of the Senate be directed to pay to Thomas H. Clay, son of the late HENRY CLAY, whatever sum may be due his estate for per diem and mileage.

Mr. MANGUM submitted the following resolution; which was agreed to:

Resolved, That the Committee of Arrangements cause to be published, in a pamphlet form, and in such manner as may seem to them appropriate, for the use of the Senate, 10,000 copies of the addresses made by the members of the Senate and members of the House of Representatives, together with the discourse of the Rev. Dr. BUTLER, upon the occasion of the death of the Hon. HENRY CLAY.

## PUBLIC LANDS, ETC., IN LOUISIANA.

Mr. DOWNS submitted the following resolution; which was agreed to:

Resolved, That the Secretary of the Interior be directed to report to the Senate the amount of sales of the public lands, bounty land warrants, and other scrip located in the State of Louisiana respectively for the last five years; the expenses of the Government for surveys, and all other charges in the disposition of the public lands in said State for the same period; the quantity of land yet to be surveyed, or the surveys to be corrected respectively; the unadjusted private land claims; the quantity of land subject to entry at this time, and how much has been in market over twenty, fifteen, five, and one year respectively; the quantity of land reported as inundated or overflowed lands, which have been reclaimed by levees made by the State or individuals, and sold by the United States; the quantity of land ceded to the State, specifying the purpose and the acts, and such other information as will aid Congress in determining whether it be to the interest of the Government longer to retain in her hands the disposition of the public lands in said State.

## THE PENSION LAWS.

Mr. WADE submitted the following resolution; which was agreed to:

Resolved, That the Secretary of the Interior be requested to inform the Senate whether it be the practice of the Department, in its administration of the pension laws, to regard the right to a pension, or to arrears of pension, as a vested right in Navy invalid cases, and as a right determining with the death of the claimant in Army invalid cases; and further, if such practice exist, that he inform the Senate when it was established, and upon what authority of law it is based.

## CONVENTION WITH BRAZIL.

Mr. MASON. A bill has been returned from the House of Representatives which has passed the Senate in reference to the Brazilian commission. It has been returned with an amendment. I reported the bill originally, and assent to the amendment, which, I have no doubt, is a proper one. It is important that the bill should be immediately passed, because the commission has expired. I therefore ask the Senate to take up the bill to amend the act entitled "An act to carry into effect the Convention between the United States and the Emperor of Brazil, of the 27th January, 1849," approved March 29, 1850.

The motion was agreed to, and the bill was taken up for consideration.

On motion by Mr. MASON, the Senate concurred in the following amendment of the House of Representatives:

*Provided, however, That any party who shall desire to avail himself of the provisions of the said eighth section, shall notify the Secretary of the Treasury thereof, within five days from the passage of this act, or from the date of said award of the commissioner to adjust the claim against Brazil.*

#### LAND OFFICE IN MICHIGAN.

On the motion of Mr. FELCH, the Senate proceeded to consider, as in Committee of the Whole, the bill to establish an additional land office in Michigan. It provides for a new district, to be called the "Manitou Land District," and the appointment of a register and receiver of the public moneys.

Several verbal amendments having been made, on the motion of Mr. FELCH, the bill was reported to the Senate, the amendments were concurred in, and the bill was ordered to be engrossed and read a third time.

#### PUBLIC EXPENSES IN DES MOINES, IOWA.

Mr. JONES, of Iowa. Mr. President, I move that the Senate dispense with the previous order, to take up and consider, at this time, Senate bill No. 406, reported by the Senator from Louisiana, [Mr. Downs,] by the unanimous consent of the Committee on the Judiciary.

This bill provides for the payment of a claim of the county of Des Moines, in the State of Iowa, which I think eminently just, and which should have been paid long since.

Mr. DAWSON. I hope the Senate will proceed to consider the bills upon the Calendar.

Mr. JONES, of Iowa. I hope my friend from Georgia will not interpose any objection to consider the bill, as I am quite confident there will be no discussion upon the subject, the report having been for some time upon our tables, and the case being one of so clear a character as set forth by the report, which I hope will be read, if he or any Senator shall desire it. The bill only provides for remunerating the county of Des Moines for the payment, by that county, of the ordinary expenses incurred in holding the courts of the United States, under the territorial government of Wisconsin, which then embraced the present State of Iowa, from the year 1836 up to the close of the year 1843. This bill only proposes to pay to Des Moines county, Iowa, for court expenses, which, under precisely similar circumstances, have always been paid to all other counties in the other Territories of the United States, under the interpretation given to the acts creating the Territories, by the accounting officers of the Treasury. But, as I gave assurance, Mr. President, that the bill should not consume many moments of time, I will not say another word in its behalf, and especially as I have made use of my privilege of communicating with Senators on the subject privately.

The motion to take up the bill was agreed to; and it was read a second time, and considered as in Committee of the Whole. It proposes to authorize the Secretary of the Interior to examine the claim presented by the county of Des Moines, in the State of Iowa, and if, upon such examination, he is satisfied that, prior to the first day of January, 1844, the said county has paid money which, in accordance with the instructions of the First Comptroller of the Treasury, dated December 19th, 1843, should have been paid by the marshal of the United States for said Territory, he is directed to audit and allow the same, and the amount is directed to be paid.

The bill was reported to the Senate without amendment, and was ordered to be engrossed and read a third time. It was subsequently read a third time and passed.

#### REPORTS FROM STANDING COMMITTEES.

Mr. BORLAND, from the Committee on Public Lands, to which was referred the bill from the House of Representatives to release from reservation and restore to the mass of public lands, certain lands in the State of Arkansas, reported back the same without amendment.

After a brief explanation of the action of the committee, the bill was read a third time and passed.

Mr. FELCH, from the Committee on Public Lands, to which were referred the following bills from the House of Representatives, reported the same back without amendment:

An act to supply a deficiency to the State of Indiana in a township of land granted to said State for the use of a State University, by an act of Congress, approved April 19, 1816; and

An act to appropriate lands for the support of schools in certain townships and fractional townships, in the Territory of Minnesota, not heretofore provided for.

He also, from the same committee, to which was referred the bill from the House of Representatives to extend the provisions of an act, approved March 3, 1847, and an act approved February 26, 1849, for carrying into effect the existing compacts with the States of Alabama and Mississippi, in relation to the five per cent. fund and the school reservations, reported it back with an amendment.

He also, from the same committee, to which were referred the petition of John A. Butin, and the petition of Hosea B. Horn and John J. Selman, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. JONES, of Iowa, from the Committee on Pensions, to which were referred the documents in relation to the claim of Thomas B. Parsons, asked to be discharged from the further consideration thereof, and that they be referred to the Committee on Naval Affairs; which was agreed to.

Mr. ADAMS, from the Committee on Claims, to which was referred the petition of John M. McIntosh, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the petition of Langdon C. Easton, assistant quartermaster in the United States Army, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

Mr. WADE, from the Committee on Claims, to which was referred the petition of Peter N. Paillett submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of the legal representatives of Sylvester Day, submitted a report, accompanied by a bill for their relief; which was read, and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of Andrew Russmussen, submitted an adverse report; which was ordered to be printed.

#### BILL PASSED.

The engrossed bill to amend an act entitled "An act authorizing the sale of certain military sites," approved March 3, 1819, was read a third time and passed.

#### Z. F. JOHNSTON.

On motion by Mr. GWIN, the Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Z. F. Johnston.

It proposes to direct the proper accounting officer of the Treasury to audit and pay the accounts of Commander Z. F. Johnston, of the United States Navy, for the necessary and proper personal expenses incurred by him at San Francisco, California, while waiting duty under orders, and compelled to live on shore between the 20th of November, 1848, and the 21st of April, 1849.

The report of the Committee on Naval Affairs was read, from which it appears that Commander Johnston, then at Norfolk, Virginia, was ordered on the 10th April, 1848, by the Secretary of the Navy, to proceed to the Pacific ocean and report to Thomas Ap Catesby Jones for duty in the squadron under his command. In compliance with this order, Commander Johnston reached San Francisco on the 20th of November, 1848, and reported for duty a few days thereafter. Commodore Jones declined to assign him to duty, but detained him, waiting orders. His reasons for so doing were given in his letter to Commander Johnston, dated January 27, 1852, in which he stated, that Commander Johnston was not placed in command on joining the Pacific squadron, because there was no ship or station there at that time without a commander; he also stated, that

he wished to keep in reserve a reliable commander to meet any emergency that might happen in the squadron; and that by remaining on shore, Commander Johnston would occupy a good position for apprehending deserters from the squadron, thus rendering desertions less liable to occur. Commander Johnston was thus detained on shore waiting orders under expenses, far exceeding his pay. The committee reported the bill to reimburse the expenses to which he had been put.

The bill was reported to the Senate, and was ordered to be engrossed and read a third time. It was subsequently read a third time, and passed.

#### EXPENSE OF SOUTH CAROLINA IN THE FLORIDA WAR.

Mr. DE SAUSSURE. Mr. President, I ask the indulgence of the Senate to take up the bill to indemnify the State of South Carolina for money expended for the use of the United States in the war in Florida with the Seminole Indians. This bill was referred to the Committee on Military Affairs, and has been reported by that committee unanimously I believe. I do not think that any objection will be made to the bill, or that it will give rise to discussion. I ask the indulgence of the Senate to take it up now and put it upon its passage.

The motion was agreed to, and the Senate proceeded to the consideration of the bill as in Committee of the Whole. It proposes to require the Secretary of War to pay to the State of South Carolina such sums of money as were paid by that State in 1838, 1839, and 1840 for services, losses, and damages sustained by her volunteers in the Florida war of 1836, 1837, and 1838, while in the service of the United States, and on their return from that service, as were ascertained and allowed by a board of commissioners appointed for that purpose by an act of the Legislature of South Carolina in 1837.

The Committee on Military Affairs propose to amend the bill by adding the following proviso:

*Provided, however, That no interest shall be allowed upon the moneys paid to the State of South Carolina under the provisions of this bill.*

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed and read a third time. It was subsequently read a third time and passed.

#### IRA DAY.

The Senate proceeded to consider the bill for the relief of Ira Day.

The PRESIDENT. The indorsement upon this bill is, that an amendment was made in Committee of the Whole, on the motion of the Senator from Virginia, striking out the provision for the allowance of interest. When the bill was reported to the Senate that amendment was disagreed to. The bill, therefore, stands as it was reported, and the question is on ordering it to be engrossed for a third reading.

Mr. HUNTER. I have already discussed this question, and I was willing to allow the bill to pass if it did not contain the provision in relation to interest. It seems to me that it is introducing a dangerous principle, and in some respects a new one; but I am not disposed now to renew that question. All I shall ask is, that we may have the yeas and nays upon the passage of the bill. I understand that the bill now provides for the payment of interest upon this debt. I shall, therefore, ask for the yeas and nays upon its passage.

Mr. BORLAND. I would like to hear the bill read.

It was accordingly read, as follows:

*Be it enacted, &c.* That the Postmaster General is hereby authorized and required to pay to Ira Day, of Vermont, \$1,008 90, together with the interest thereon, from the first day of July, 1837, out of the funds of the Post Office Department, in full for the balance due to him for transporting the mail from Rorallon to Burlington, in the State of Vermont, from January, 1833, to July, 1837.

Mr. BADGER. Mr. President, I am exceedingly sorry that the Senator from Virginia should find a great principle involved in this small appropriation, standing in the way of doing what is manifestly right and just. I am very sorry for it. The case, in a few words, is this: This man was a contractor to carry the mail. Mr. Barry, the Postmaster General, finding himself in want of funds, it being inconvenient for the Department to meet its engagements, issued an order suspending the running of the mails one day in seven,



and struck out of the compensation one seventh portion of it without any authority—the contract between the Government and the contractor being, that if the Postmaster General should find the route to be an unproductive one, he should be at liberty to discontinue it altogether; and that was the only power reserved to him. He discontinued the running of the mail one day in seven, and withheld from the contractor one seventh portion of the money to which he was entitled. This contractor ran the mail during the whole time, as under his contract he had a right to do; as under his contract he was bound to do, unless he voluntarily surrendered the privilege; and, as he might just as well have done, for he was bound to keep up all his stock during that time, and they might as well have been running over the road as remaining idle in the stables. Such is the case.

My friend from Virginia said, in the first place, that he doubted whether this man was entitled to the principal, and was very certain he was not entitled to the interest. Why is he not entitled to interest? The withholding of this man's money from him was nothing better than rapine and plunder. It was not a case of debt, or a claim to be ascertained against the Government. Here was the money in the hands of the Postmaster General. It was the contractor's money. It was due to him under the contract. Without law, without excuse, without apology, the Postmaster General refused to pay it to him. He arbitrarily withheld it; and because he stood in an official station, he was beyond the reach of any process by which he could be compelled to pay. The Government therefore have withheld this man's money from that day to this. His money has been in the hands of the Government—money to which he was just as much entitled as he was to the money which he had in his own pocket. Yet we are told that it is doubtful whether he is entitled to the principal, and very certain that he is not entitled to the interest!

I agree, as a general rule, that claimants upon the Government ought not to be entitled to interest until they have produced and verified their claims, and proved them. But this claim needed no verification. Here was a violent outrage attempted to be committed by the head of the Post Office Department, in withholding money known to be due under the contract. That was the case. In using these terms, I do not mean to use them in a reproachful sense towards the particular individual who committed this act. He might have thought that the necessities of the Government justified him in doing it. But these are the facts nevertheless; and the character of the transaction cannot be altered.

Now, sir, as I think the principal was plainly due; as I think it was an extraordinary case—the Government having this man's money in its hands, and by the authority of its officer, without excuse, justification, or apology, refusing to pay it over to him—I cannot but believe that it is impossible to do justice without paying the party the interest as well as the principal.

Mr. BAYARD. Mr. President, I am sorry to say that I take a very different view of this subject from the honorable and distinguished Senator from North Carolina. I conceive that there was no outrage on the part of the Postmaster General in the exercise of the authority which he did exercise in reference to this contract; and though I am willing to concede that the question is one of doubt, yet it is by no means clear that the authority of the Postmaster General was not strictly and regularly exercised according to law, under the stipulations of the contract. I will endeavor to present the case as briefly as I can, in order to show that there was no outrage. I think I shall succeed at least in showing that if this is a case for compensation at all, it is questionable; and that it certainly is not a case for the allowance of interest.

This claim, in the first instance, came before Congress at the second session of the Twenty-fifth Congress, and then the committee were discharged from its further consideration. At the third session of the same Congress a bill was reported; but at the first session of the Twenty-sixth Congress the bill was laid on the table. At the first session of the Twenty-eighth Congress the committee were discharged from the consideration of the subject, and the bill for the relief of the party was indefinitely postponed. This shows

at least that the opinion of the Senate then was adverse to the claim. The present view which is taken of the case, in favor of the claim, is founded on a report by the Committee on the Post Office and Post Roads, made at this session of Congress on the same state of facts precisely that existed at the first session of the Twenty-eighth Congress, and on the same proof precisely, arriving at a different conclusion as to the legal construction of one of the terms of the contract existing between the Postmaster General and the petitioner.

The case is not now to be passed upon for the first time. A petition was presented to Congress based upon a similar clause in a contract—and a clause to which I will advert—for I have the contract here—under which the Postmaster General, anterior to this time, had universally, without hesitation, as a customary clause in these contracts, exercised the power to curtail under the general power to put an end to the contract. That clause was in these words:

"It is mutually understood by the contracting parties, that if the route, or any part of the route herein mentioned, shall be discontinued by act of Congress; or in the opinion of the Postmaster General becomes useless, or if a line of stages or steamboats shall be established on the whole, or any part of it, where the mail is not so carried under the contract; then this contract, or such part of it, shall cease to be binding on the Postmaster General, he giving notice of such event, and making allowance of one month's extra pay."

There is also another clause of the contract which gives a right to alter the route, and there is a clause reserving to the Postmaster General the right of annulling the contract in case the contractor does not promptly adopt the alteration required. These are the distinct clauses of the contract. These clauses had received a customary construction down to and subsequent to the year 1839. An application was made to Congress by a Mr. Caldwell upon a precisely similar clause in his contract, where the Postmaster General exercised the authority. Whatever motives may have influenced the Postmaster General in exercising the authority is not a question which affects the case. It was a power entirely within his own discretion. Nothing appears in the order as to the motives influencing him. The discretion confided to the Postmaster General was absolute, and the order given assigned no reasons for it. The terms of the order were, that the party should discontinue the contract in a certain mode. Power to curtail, under the general power to put an end to the contract, had been uniformly and constantly exercised as the true construction of that clause down to and subsequently even to the time when this contract was so curtailed. I admit that subsequently to that time doubts having arisen in the minds of some members of Congress, or of the head of the Post Office Department—the power having been questioned, there has been a new clause inserted into the Post Office contracts, which gives the express right to curtail. But anterior to that, the clause to which I have alluded was the customary clause in the contracts. It is certain that under that clause the Postmaster General had been in the habit, in all cases, without regard to parties, of exercising the right of curtailment under the general right to put an end to the contract. Upon the petition of Caldwell, Congress passed a bill for his relief, and made the measure of that relief to be dependent upon the legality of the exercise of this power on the part of the Postmaster General; that is to say, the question was to be referred to the Attorney General of the United States for his decision. It was so referred, and Mr. Legaré gave his written opinion, contrary to the opinion entertained by the honorable Senator from North Carolina, sustaining the power of the Postmaster General under this clause of the contract. I intend to read that opinion to the Senate, because I think it is entitled to great weight, and it will at least create a doubt in the minds of Senators quite sufficient to remove all idea of outrage on the part of the Postmaster General in the curtailment of this contract. It is to be found in the opinions of the Attorneys General, page 1562. It is in these words:

OFFICE OF THE ATTORNEY GENERAL. }  
December 31, 1842. }

SIR: In the case of J. F. Caldwell, referred to me under the act of the last session, authorizing you to audit and settle his accounts for carrying certain mails, the Attorney General should be of opinion that the Postmaster General had not the right, under the contract with Caldwell, to make the alterations in the mode of transporting the mails, which were ordered by the Department. I have the honor to inform you that I have carefully considered the subject,

and am very clear that the Postmaster General had a right, under section 10 of the contract, to make the change in question.

The right reserved to him, as between him and the contractor, was to discontinue the route if he deemed it useless. Suppose him to have been guilty of incapacity, or even malversation, in discontinuing the route, the head of the Department was responsible only to Congress and the country. All that the contractor had a right, in such a case, to demand of him, was notice of the event—that is, unquestionably—of his having determined to discontinue the route, and the allowance of one month's extra pay. Any claim for damages beyond that liquidated sum against the Government for carriages and horses purchased and left on his hands, would have been, in such a case, clearly unfounded. Like the creditor who has relied on a stipulated penalty, he gets his bond, and no more.

Now, what has the Department done in this case, and been in the habit of doing in all similar cases? It has partially discontinued the route; it has discontinued it for a third or half of the time, as the case may be; and the question is, whether authority to do the less is not implied in that to do the greater? Were it not even *in invitum*, I could scarcely doubt it was; but it is not so. The true interpretation of the contract, and the conduct of the parties, is, that it gave an option to the contractor, as soon as he received his notification that the Postmaster General considered himself as no longer bound to renounce it entirely on his part, and receive his month's pay in advance. Clearly he had a right to do so. If he preferred going on with the service on the new terms, he has nobody to blame but himself, if he be paid only for the services he has actually rendered the Government. Otherwise the case would stand thus: If the Postmaster General discontinued the route entirely, and gave no employment at all to the labor and capital prepared for performing the contract, the claimant would be compelled to acquiesce in this decision on receiving a reasonable pay; for the contract is express to that effect, and he has nothing to do with the question whether the discretion of the Postmaster General was properly exercised or not; all he might say in such a case would be *damnum absque injuria*. But because a new arrangement, providing for his employment to a very considerable extent, and so diminishing the loss or chances of loss he incurs, was offered him, he is entitled to full damages for all he suffered by incomplete performance of the original contract. Surely this were a solecism in law.

The construction of the contract which I have adopted, appears to me, independent of all practice or precedent, the sound and reasonable one; and I regret that I cannot concur in the view of this subject taken by the committee of the House in 1838. But I have no doubt that the uniform practice of the Department must be considered as implicitly entering into the contract and making a part of it. (*Beers et al. vs. Houghton*, 9 Pet., 339.) It is a universal principle and elementary rule of the law of contracts, that a contract is understood to contain the customary clauses, although they are not expressed; *in contractibus tacite veniunt quæ sunt moris et consuetudinis*.—(*Evans's Pothier*, §5.)

I have the honor to be, sir, your obedient servant,  
H. S. LEGARÉ.

E. WHITTLESLEY, ESQ.,  
Auditor of the Post Office Department.

Without meaning to go into the question of whether, were this a new question, it would be a matter of doubt; and without going into the question whether, in such a case, I should concur in the opinion so ably stated by Mr. Legaré, taking the fact stated by him, that this, as a customary clause in the contracts, had been invariably so acted upon by the Department, I hold its construction to be settled by that action—that the power to curtail was included in the power to abandon at the discretion of the Postmaster General. If that be so, the discontinuance can be no outrage. It may have been an error, if you will, on the part of the Postmaster General, but surely it cannot have been an outrage.

Subsequent to this opinion, Caldwell again applied to Congress for relief, and a bill was passed providing for his relief. But it presents this remarkable feature, that there was one adverse report upon the claim, which does not appear to be in writing, and then there was a favorable report, also not in writing; so that there is no means of knowing the reasons on which the allowance in that case was made, and the bill ultimately passed. But there is this great distinction between the case of Caldwell and the one now before the Senate: Caldwell protested at the time the contract was curtailed, against the power of the Postmaster General to do it. In this case the contractor assented to the exercise of the power. He discontinued the mail for three days, which showed that he assented; and, subsequent to that, because the surrounding inhabitants of the district and the postmasters there chose to ask him to renew the transportation of the mail on Sunday he did so. It must be remembered that the question was whether the Sunday mail should be abrogated. The inhabitants of the neighborhood found its suspension an inconvenience, and they prevailed upon the contractor to go on and carry the mail, notwithstanding the fact that he had stopped it in obedience to the order, and notwithstanding the fact that the postmaster at Royalton had certified to the Postmaster General, under date of the 3d

December, 1834, (the order having been given in the preceding November,) that the discontinuance of the Sunday mail to Burlington had taken effect. He went on voluntarily carrying this mail, and passengers, too, doubtless, on Sunday. He went on without giving any notice to the Department whatever—without making any claim upon the Department until his term had expired, nearly three years afterwards, in 1837. He then came forward and made a claim against the Government, although he had, as far as the Government could know—as far as the Postmaster General could know—as far as there was any evidence in the office, assented to the order. He went on upon the representation of these parties that he would be recompensed hereafter. But he never communicated to the Postmaster General—nor was there any communication to the Postmaster General—that the order had not been complied with during the whole period; nor was any claim made on the Department until the contract had entirely expired, in 1837—a period of nearly three years. Hence the cases are totally distinct.

This contractor made no protest. He assented to the right of the Postmaster General to make the order. He represents, however, in his petition, that he was induced to go on and carry the mail during the remainder of the term of the contract on Sundays, which the Postmaster General directed him not to do, by the wishes of the inhabitants of the neighborhood, and at the solicitation of the local postmasters, who told him that they had no doubt he would be compensated. But he took care not to communicate to the Department the fact that he had not obeyed the order, and was carrying the mail in defiance of the order, and expecting compensation for it. The two cases, therefore, are essentially different. In the case of Caldwell, he protested at the time; he objected to it at the time. This contractor did not do so. He went on quiescently, in the ignorance of the Postmaster General; and it was only after the contract expired, that he came forward to make any claim. I ask, then, whether in a case—a doubtful case if you will—as to the construction of a power, but which power had been universally exercised anterior to that time, where the propriety of the exercise of the power was sustained by the judgment of the then able Attorney General of the United States, we are to pay interest? This change was made, as it was made throughout the country, on public grounds; the party assented to it; he made no objection to it; a certificate was given by the postmaster at Royalton that the party had discontinued; and the papers show that he stopped the mail for two or three days, but afterwards resumed it, without communicating with the Department, at the mere solicitation of the surrounding neighborhood, so putting the mere will of the local population against the express order of the officer of the Government, who was entitled to give his order in reference to the subject-matter. I ask, then, whether this is a case for compensation at all, much less a case for the allowance of interest?

I did not intend to have touched upon the question of compensation in this case, (the amount not being great,) had the interest not been restored to the bill. But it seems to me that it is assuming very bold ground indeed, to tell us, in the face of the opinion which I have read, that this is a case of plain outrage—that the Government has retained in the Department a liquidated sum due the party without cause, or without any power whatever; and that we are therefore bound to pay interest. I am not willing to concede this; I cannot agree with the Senator from North Carolina. If the Senate determine, contrary to the opinion of Mr. Legaré, that this is a case in which the Postmaster General exercised a doubtful power, or even exceeded his power, still, if it is a case of mere doubt, it is clear that it is not a case for the allowance of interest. It must be recollected that the party went on; he acquiesced in the order, as far as he made any communication to the Department; he made no subsequent application till his contract had expired; he went on and received his money according to the order for curtailed service down to 1837. But, after 1837, he came forward, and on the representation of the postmaster at Royalton, and other citizens of the neighborhood, he asked the Postmaster General to compensate him for running the mail on Sunday, contrary to order. The Postmaster General de-

clined doing so, on the ground that the party was not entitled to it; because the order had directed a discontinuance; and he had discontinued in obedience to the order, and subsequently revived it without any authority at all.

Supposing, then, that the right to discontinue were even doubtful, is it a case in which interest ought to be allowed? I do not mean now to go into a discussion of the question of interest at large. Perhaps at some future day, and on some other occasion, I shall endeavor to sustain the general view which I entertain on the subject of the payment of interest by the Government—which is, that in no case, except the case of a special agreement to pay interest, will my vote ever be given for the payment of interest on a claim against the United States. I know no principle that could sustain it. It is contrary to the doctrine and practice of all other Governments, as well as our own. On the question of interest, I beg leave to refer to two opinions of the same able officer from whom I have already quoted. They are not very long, and one of them is very important in its statement of the principles on which interest is to be granted. One is to be found on page 1478, of the same volume of Opinions of the Attorneys General, from which I shall only read one extract, in which he merely states the principle and the practice. He says:

"There may be cases in which I might think the head of a Department authorized to allow interest, but they would be rare and singular exceptions. What feature is there in this case which is not to be found in every case of delay, not caused by the claimant himself in settling an account? If a mistake of law on the part of an accounting officer, leading to the rejection of an item, renders the Government liable to pay interest on a reconsideration of the case, why should not any other mistake or laches of its officers have the same effect?"

"But nothing is better established, as a general rule, than that the Government is not to pay damages in such cases: a stern but necessary rule adopted everywhere in the practice of Government."

The other opinion to which I refer, is to be found on pages 1559 and 1560 of the same volume, which is somewhat more extended, and goes somewhat more into the subject. This opinion was given on the case of Cogswell. Mr. Legaré says:

"The state of the case is, that, in passing Mr. Cogswell's accounts, allowances were refused him which ought to have been made, from a mistaken view of the law on the part of the executive officers."

"It is admitted that the Government ought not, in general, to pay interest in the absence of special contract to that effect. It is admitted that this is a stern but necessary rule, and applies to the vast majority of cases, notwithstanding the equitable principle that interest is an incident to the debt. Then, why should the Government be subjected to the payment of interest in a case in which its delay to pay the principal was owing to a *bona fide* conviction on the part of its officers that it was not due? Such a mistake rather fortifies the case of the Government; for interest is due, not only because the money of one man is in the hands of another when payment of it might have been demanded, but because that other is presumed to have made, or ought, in common prudence, to have made advantage by it."

"Now, if he thought it his own, and had good reason to think so, it is evident he was not bound, as trustee for another, to turn it to account for his profit. Accordingly, though in general an executor is bound, after a reasonable delay, to pay interest on all sums received by him, yet he is not charged with interest for a balance in his hands retained under a fair misapprehension of his right.—(12 Vesey, 386—Brewer vs. Penberton. See Lord Eldon's reasoning in that case.)"

"If, therefore, mere delay to pay money due, and even delay from laches of its agents, does not render the Government liable to pay interest, much less ought it to be made liable by a fair misapprehension of its rights on the part of these agents. There can be no doubt that the well-established equitable principle between man and man is, in general, the other way. The exception in favor of the Government has been established by the policy of society, and for the protection of the public, which, besides being exposed to imposition, is no man's *negotiorum gestor*."

"I am bound to adhere to the course of the Executive Department, until Congress shall see fit to change it."

I submit that the principle here stated is sound; and that any attempt to apply the doctrine of the allowance of interest, as obtaining between individuals, to the relation existing between the citizen and the Government, or the subject and the Government, will only lead to extreme error. No gentleman who discusses the question ever denies the general principle, as a necessary rule, that interest is not allowable against a Government, except in cases of special contract to that effect. If you are to avoid the rule in exceptional cases, you ought, at least, to have some stronger case than the one now before you. It would be a dangerous discretion to exercise at best, for a moment to depart from that rule. What rule are

you to abide by? Is it private compassion for the individual? Is it personal partiality to the individual? Or are political considerations to creep, as they sometimes may, into these matters? If we are to abandon the general rule of the Government, and say we will pay interest on a claim, not founded upon any general principle of policy, but founded upon the particular circumstances of the case, which may be decided according to the mere caprice—yes, I may say caprice—of the individual members who may happen to compose a majority of the members of the Senate and the House at the time the claim is presented, where will it lead us? I submit, that in all governmental action, general rules, especially in matters of this kind, must be adhered to, or the inevitable result will be corruption in its worst sense.

Now, sir, as to the particular case which is before the Senate, it stands thus: The best case that can be made out for the argument on the other side is, that there was a misapprehension in the construction of a law on the part of the Postmaster General; a construction which had been acted upon for years before, under similar contracts; which had never been questioned before; which was sustained subsequently by the opinion of the law officer of the Government, and which, certainly, no Senator, after reading that opinion, can tell me is not a matter of doubt. The Postmaster General exercised the authority on public considerations for the benefit of the country, not in reference to this individual, but in reference to others, also; and shall I be told that this is a case of outrage; that this is a case of withholding a man's money; a plain, naked case of wrong, and that, therefore, you are to make it an exceptional case, and allow interest? It seems to me that if you allow interest in this case, there is no one case in which you can possibly refuse it. The party assented, without objection, to the exercise of this power by the Postmaster General. He withdrew the Sunday mail for some days; afterwards he resumed it, not on notice to the Department; not by subsequent agreement with the Department; not with the knowledge of the Department, but on the mere will and desire of the inhabitants of the local neighborhood in which he resided, and of the postmasters there. Without any communication to the Department, he carried this mail contrary to its order; and at a period three years subsequently, when the contract itself expired, he came forward with this claim against the Government. This, then, in my judgment, is no case for the allowance of interest; and it is even doubtful whether the principal ought to be paid.

Mr. RUSK. I do not think that I have seen a single claim preferred against the Government of the United States, with the justice of which I have been more struck than in the present case. About the facts we do not disagree. A contract was entered into for the transportation of the daily mail over a certain route; the individual who prefers this claim took that contract, and commenced the transportation of the mail daily; without any authority given by the contract for that purpose, the Postmaster General discontinued the running of the mail on one day in the week. Now, how does the case present itself? Here is a clear violation of the contract by one of the parties—the one holding the power.

Mr. BAYARD. Was there no reservation in the contract?

Mr. RUSK. No, sir; there was no reservation. Here is a clear violation of the contract by the person holding the power; and that, after the contract had been going on for some time! The contractor carrying the mail must have a certain number of coaches, and a certain number of horses for the purpose of executing his contract. He must incur a large expense in this way, and then, after doing so, in full compliance with his contract, the Postmaster General sees fit to stop one seventh of the service. But the expense to the contractor continues to be the same; he cannot withdraw his teams, or his coaches from the route, because he would, by so doing, render himself incapable of carrying the mail on the other six days of the week. He is ordered to stop; to rest on his oars. To do this in an ordinary contract between individuals, there should be some provision contained in the contract itself to render such an act valid; and I conceive that the Government ought to be bound by the same principles which would be binding on individuals. This

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arbitrary exercise of power by the Postmaster General, then, as I view it, is a clear violation of the contract.

It is said that the contract reserved the right to the Postmaster General to discontinue it at his discretion altogether; that is true, but there is a penalty, or a consideration for the discontinuance of the contract; and that is one month's extra pay to the contractor. But the Senator from Delaware [Mr. BAYARD] proceeded to argue that the greater power includes the lesser, and he read an opinion of the Attorney General, for the time being, as his authority. But that very opinion admits at once all that I hold. I have not read that opinion myself, but I paid attention to it as read by the Senator, and I find that it assumes that the greater power includes the lesser, and that when the contract was discontinued for one day, by the Postmaster General, the contractor should have thrown up his contract, and should have demanded his month's pay. That is an admission of the whole case in a single moment. It seems to me that it must strike the mind of every Senator in that way, and if so, there is no necessity for arguing the question any further.

Now, I doubt whether the authority to terminate the entire contract and give the month's extra pay, was in the power of the Postmaster General. If, however, the contract was annulled, the contractor became entitled to it. The power to discontinue altogether is very different from the power to discontinue in part; because if he discontinues altogether, the contractor can take off his teams and carriages and put them somewhere else. But if the service is discontinued but one day in the week, he must keep all his teams and carriages, and be at an enormous expense, precisely the same as if he performed the whole service. Is there anything just, is there anything fair, or proper in this? Clearly not, in my opinion. The service which the contractor agreed to perform was performed; the payment which the Government agreed to give for that service was withheld by the Postmaster General. The service was all performed with the exception of three days, and the pay which the Postmaster General had contracted to give for that service, has been withheld to this day. It seems to me that there can be no question that this claim ought to be paid. The facts are so plain that I do not see the necessity for looking into the legal opinions of Attorneys General, for the purpose of getting an abstract metaphysical opinion to answer the question. The contract was made for so much service; the Government had the service and ought to pay the money. And if the Government has withheld the money which ought to have been paid, ought not Government to pay the interest for that money? I think it ought. These men were poor, and had to expend money to complete the contract eight or ten years ago; and almost ever since that time they have been asking Congress to pay them for the service which they performed. It is not through their fault or laches that they have not received it, but it is entirely owing to the laches and inattention on the part of the Congress of the United States.

The Senator from Delaware has referred to some action which has been had upon this subject in the Senate. I know that once or twice this question has been argued, upon the supposition that the authority to curtail the service was included in the contract; and not until the last report was the fact made known that it was not included in the contract.

Mr. BAYARD. Such was the universal assertion. But I would like to know whether the uniform construction of the contract, incidentally, had not been, that the power to discontinue included the power to curtail?

Mr. RUSK. I consider that it has not, upon anything that transpired incidentally, and taking it for granted that the contract was similar to those now entered into. In the contracts which have been entered into for a number of years past, the authority to curtail service is vested in the Postmaster General, and a provision to that effect is

inserted in the contract in plain terms. It is not to be found in a sort of reasoning, that the larger power includes the less. Then this is a clear case of the violation of a contract on the part of the Postmaster General. There is sufficient evidence of the performance of all the service which the contractor engaged to perform, and the question is, will you pay the contractor for the service rendered? Had you, as an individual, employed me to perform a similar service, would you evade the payment, if possible, in this manner? No; you would not do it. Then if the principles of equity and justice, as between man and man, would require the payment for this service, how is the obligation lessened when the transaction is between an individual and the Government?

Mr. UPHAM. I am exceedingly sorry, Mr. President, to perceive that so small a claim as this should meet with such strenuous opposition, while claims of much greater magnitude, although less obvious as to their justice and equity, are passed upon and allowed here almost every day.

Although this question has been pending for a great number of years, it seems to me that now, for the first time, the question is raised as to whether there is any foundation for the original claim; and it is questioned whether the contractor has any just or equitable, or legal right to claim compensation for the rendition of these services.

In the first place, as I before remarked, this question has been pending for a long time; but it has always met with the favorable regard of the committee to which it has been referred, and a bill for the payment of the amount, once passed the Senate. It first came here in an equitable point of view—on principles of equity and justice; and, the matter being regarded in that light, a bill was passed by the Senate some three or four years ago. The other question—that is, the legal question which is presented in this case—has come up for the first time during the present session, and for the reason that it was supposed that the old mail contracts, according to the form of which this contract was made, were like those now made. In looking into this contract, however, I find that a power has been exercised by the Postmaster General which was not provided for in the contract, and which, it is believed, did not legally exist—in other words, that the only power which the Postmaster General had over the contract is reserved and specified in the contract itself. It therefore stands upon precisely the same footing as all other contracts made between individuals. A contract between the Government and an individual, or a number of individuals, unquestionably stands upon the same ground as a contract between two individuals. The terms of the agreement are reduced to writing, and both parties are bound by it. In this case, as in all others, it took two to make a contract; and, having the assent of both parties, as a matter of course it should take two to rescind it. Here was a contract entered into to transport a daily mail on the route from Boston to Lake Champlain—which route was continued from Lake Champlain to Montreal. A daily mail had long been carried on that route, and a contract was entered into with the parties claimant to continue it. The contract being entered into, the contractor furnished all the requisite stock for its proper fulfillment—as horses, coaches, harness, and so forth, and hired the necessary drivers. This party had his contract by authority, and what is there in that contract which authorizes the Postmaster General to interfere?

The contract provides, in the first place, that if Congress shall discontinue the route for which the contract is made, then the contract shall cease. It will be perceived that it is for Congress to make post routes. The Postmaster General cannot do it. Congress declare what routes shall be post routes; and when Congress have made them such, the Postmaster General contracts for the services to be performed upon them. Here, then, was a post route established by Congress; “and now,” says the Postmaster General to the contractor, “if Congress should pass any act discontinuing this route as a mail route, I shall have no authority

to transport the mail over it, and therefore the contract will cease to be binding on me.” It further provides—Congress not being always in session—that if the Postmaster General should come to the conclusion that the route is useless—mind you, not that it does not require the amount of service to be performed upon it which has been agreed for—but if he should come to the conclusion that it was useless, or if he should discontinue any portion of it—as Congress could do—then the contract for the whole, or such part so discontinued, should cease to be binding upon the Postmaster General. Thus, then, as I have remarked, Congress not being in session, if, in the opinion of the Postmaster General, a route should become useless, so that it is unnecessary to transport any mail over it daily or otherwise, then the contract ceases in regard to the whole. If, likewise, it is only a portion of a route that ceases, then the contract ceases in regard to that portion. This power is vested in Congress, and the Postmaster General may do the same thing if a route, or any portion of it, should become useless. But, sir, while a route continues a mail route, the Postmaster General having contracted for a certain amount of service upon it, has no authority to reduce that service without the consent of the contracting party. The contract gives him no such authority. It is only when it ceases to be a mail route that the contract can cease before it expires by its own limitation. These contractors, therefore, had no hazard to run. They knew that the route between Boston and Lake Champlain would never become useless, that it never would be discontinued; that it had been a mail route for years, and, for anything they could see to the contrary, might continue to remain a mail route for all coming time. All this was well enough understood.

Here is the provision, then, in the contract in regard to discontinuing a route; and this is all the power the Postmaster General has in this respect:

“It is mutually understood by the contracting parties, that if the route, or any part of the route, herein mentioned, shall be discontinued by act of Congress, or, in the opinion of the Postmaster General, becomes useless, or if a line of stages or steamboats shall be established on the whole or any part of it, where the mail is not so carried under the contract, then this contract, or such part of it shall cease to be binding on the Postmaster General, he giving notice of such event, and making allowance of one month's extra pay.”

Now, it is under this clause, and this clause alone, that the Postmaster General claimed the right to exercise the power which he exercised in this case. That is the clause that was given to me at the Post Office Department when I called. The gentleman from Delaware has read another clause:

“And it is also agreed that the Postmaster General may alter the time of arrival and departure fixed by said schedule, and alter the routes, (he making an adequate compensation for any extra expense which may be occasioned thereby,) and the Postmaster General reserves the right of annulling this contract in case the contractor does not promptly adopt the alteration required.”

Now, there have been no alterations made here; the contract has not been altered or annulled; the clause, therefore, which I last read, has no application to the question under consideration. The question is simply a legal one—whether the Postmaster General had a right, under this contract, to make the alteration.

I stated, Mr. President, that this contract was made in the days of Mr. Barry. The honorable Senator from Delaware says that it has been the uniform practice of the Government, under contracts similar to this, to curtail the service. With great respect for the Senator from Delaware, I beg to say that he is mistaken. Mr. Barry, I am informed, was the first Postmaster General who ever attempted to exercise that power, and he exercised it in consequence of the embarrassed condition of the Department at the time.

After the opinion of the Attorney General, which has been referred to, and the action of Congress, a new form of contract was adopted. The Senate from Delaware, however, contends that the Postmaster General had the same power under the old form of contract as he now has under the new



form. This is the present form in regard to this matter:

"It is hereby stipulated and agreed, by the said contractor and his sureties, that the Postmaster General may alter the contract, and alter the schedule, he allowing a *pro rata* increase of compensation within the restrictions imposed by law for the additional service required, or for the increased speed, if the employment of additional stock or carriers is rendered necessary; but the contractor may, in case of increased expedition, relinquish the contract on timely notice, if he prefer it to the change; also, that the Postmaster General may discontinue or curtail the service, in order to place on the route a greater degree of service, or whenever the public interests require such discontinuance or curtailment for any other cause, he allowing one month's extra pay on the amount of service dispensed with."

I should like to know, Mr. President, why the form of contract was altered, if the power to reduce the amount of service on a post route, after a contract had been made, existed under the old form? Why adopt a new form, and in express words confer that power upon the Postmaster General, if he was vested with the power before? There was no reason for it but one, and that was, that he had not the power without that alteration of the prescribed form; and having exercised the power, Congress decided that he had no right to exercise it under the old form, and, therefore, they made a new one. But, says the gentleman from Delaware, the opinion of the Attorney General, who is the highest law officer of the Government, settled the question. The Attorney General, I admit, drew up the opinion, which has been read by the Senator from Delaware. I have no disposition to criticize that opinion; but I cannot avoid thinking that the Attorney General drew it up without much consideration, or a very nice regard to the facts of the case; and I am led to this conclusion from the fact, that he seems to have made no distinction between the power of entirely doing away with a route, or a part of a route, and the service to be performed upon it. I contend, however, that there is a wide distinction between the two cases, and that therefore his opinion has no real application to this case. A report had been made in Congress in 1838, setting forth the proceedings in the case of Caldwell, and concluding that the Postmaster General had no authority whatever to make a reduction in the service. The question came up in the House, and the decision of the Postmaster General was overruled; and, after the question came to the Senate, the opinion of the House of Representatives was unanimously sustained. I therefore contend, that this opinion has no binding force whatever. The House overruled it, and the Senate did not even enter into an argument upon it. They established the report made in 1838. There is not a solitary case on record where the service has been reduced in this way, and where a claim made for that reduction has not been paid. Sir, in one case this session, we paid a man in the State of Maine, some \$13,000.

But it is contended that in this case the contractor went on without giving any notice to the Department; that the Department did not know that their order had not been obeyed until the term of the contract had expired. Sir, that was a contract which could not have been thus fully carried out without the knowledge and the tacit consent of the Department.

But the gentleman from Delaware alleges that the contractor assented to this order. How did he assent to it? Did he omit his Sunday's trip? No, sir; he ran every day, as was his custom. And why was the mail given to him to carry every day in the week if the Government had no knowledge that he was running the full trips and performing the full amount of service contracted for? The postmaster at Royalton certified in his monthly returns that the Sunday mail had been carried as usual. Nor is it shown that a single trip was omitted—not one. The people on the road protested against this discontinuance of the Sunday mail, because it caused an actual delay of thirty-six hours on one of the greatest thoroughfares in the State of Vermont, and therefore they insisted that it should be carried; and the postmaster delivered to the contractor the mail every day in the week, well knowing, as he must have done, that the order to discontinue one day was not obeyed. How, then, under these circumstances, can gentlemen show that the contractor acquiesced in the order? If the Government did not know that he was running the mail every day in the week, how came he by the mail? How came the postmaster there to deliver him the mail if it was not to be transported?

Everything goes to show that the Department knew that the mail was run every day in the week, although that is not inserted in the report. We have also the testimony of the drivers that the mail was transported during the whole time—that is, on every day without the intermission as ordered; and still the Senator from Delaware affirms that there was an acquiescence on the part of the contractor—in short, that he gave up carrying the mail on that day, and consented to the order. Sir, it is very strange that he should have consented to this reduction of the service and still have performed it! And when the contract expired, he called for his pay; but the money was withheld, on the ground that there was an order given, although it was well known that the mail was transported every day in the week! Sir, as I before remarked, if it was not understood, how came the contractor by the mail? Why was it not laid over on the Sunday? Again, I hold that the contractors had a right to stand upon their contract; and after the service has been performed, I think the objections which have been urged here come altogether too late. In the case of Caldwell, he did not transport the mail for three days in the week, and yet they paid him the whole sum. Why? Because the Postmaster General contracted to pay that sum, notwithstanding the decision of the Attorney General made in this same case. So also the decision in the case of Dwinell, and in every other where the pay has been withheld. In every single instance compensation has been made agreeably to the terms of the contract.

I ask, then, Mr. President, on what principle this claim is to be resisted, when all the others were paid when this decision was freshly made? On what ground can it be resisted, when it is admitted that the construction which has been put upon the old form of contracts was not sound, as is proved by the fact of their being subsequently altered, and the power conferred? On what principle of justice or equity can this claim be resisted? The mail was transported; the people were accommodated, and when the contract was out, they were still requested to carry it longer, and they did so for six months after the expiration of the contract. Congress passed a law authorizing the Postmaster General to extend the contract until the first of July. This claimant carried the mail till that time, and yet one seventh of the pay was retained. If the money was due, why should he not receive it? and if the Government have wrongfully retained it, why should they not pay interest? This amount is only what Government contracted to pay. When it became due, they did not pay it; and now the contractor only asks that the sum which has been thus wrongfully withheld should be paid to him, with the interest due thereon. I must confess I see no ground, either in justice or in equity, why it should not be paid.

The Post Office Department at the time was embarrassed; but they knew quite well that all this time the mail was regularly transported according to contract; they knew that the business of the country demanded it; and now, forsooth, they say that he is not entitled to anything—not even to the original one seventh which the Government agreed to pay him. Now, sir, let me conclude by saying that the Senate has settled this question once or twice before; and when the bill was last under consideration by the Senate, they refused to strike the interest out. Sir, I have not heard a voice speak against the justice of the original claim, and yet, rather than pay the interest which is justly due, it is sought to resist the whole claim. I submit to the Senate that justice, equity, every upright consideration, requires that this claim, with the interest, should be forthwith liquidated.

Mr. BAYARD. I rise simply to say as regards the question of right—the legal right to the claim—being now contested for the first time, that it is extraordinary to me that such an allegation should be made, when at a previous session of the Congress of the United States, a bill providing for the payment of this claim was indefinitely postponed, and when, in violation of the rules which are followed here, the bill was sent back to the committee without any additional testimony having been obtained, and was afterwards reported back favorably to the Senate. The claim was considered sufficiently indefinite to induce the Senate to postpone it indefinitely, and yet I am told by the Sen-

ator from Vermont, [Mr. UPHAM,] that the claim is now contested for the first time, although, as I have shown, it has been brought forward here through a violation of the rules! In regard to myself, I should not have touched the question of interest if it had not been reinstated by a vote of the Senate, contrary to the vote cast when the bill had been previously before it as in Committee of the Whole. For that reason I find it necessary to oppose the bill. I would not have opposed it, however, if the Senate had been willing that it should pass; but when I am told, on this floor, that the Postmaster General exercised the power according to usage—usage which continued subsequent to that time, as I am informed by the Department—usage which was strictly in accordance with the opinion of the law officer of the Government, one of the most able and distinguished men that ever filled that office, then, I say, that if, under such circumstances, you allow the interest demanded, because the claimant asserts that an outrage on his rights was committed, there is no case in which you can refuse the payment of interest.

I must confess that, in regard to this question, I am more opposed to the payment of the interest than to the payment of the principal; but the interest being included, I feel compelled to vote against the bill *in toto*. I believe that it is founded on an erroneous principle, and that the Postmaster General was authorized to exercise the power he used.

The information I possess, that there is a large class of persons, and a large class of cases depending on the action of the Senate in regard to this bill, and only awaiting its passage to make similar demands amounting in the aggregate to a large sum, constitutes another reason why I shall oppose it, as I cannot understand how they can be refused if the Senate should give its assent to the principle.

I know that it is always a thankless and unpleasant task to oppose private measures; it is an unpleasant duty to perform; but I do not come here to act on such measures in accordance with the dictates of my feelings. I look on the duty as being judicial, rather than legislative, in its character; and I endeavor, as far as my judgment will permit, to decide on a private claim, as a case between A and B would be decided according to certain recognized rules of law. I know of no principles of equity that can induce us to depart from this principle.

Mr. HALE. I do not wish to occupy the time of the Senate; but as I am acquainted with the contractor in this case, and know something of the merits of the question, I feel a degree of sympathy as well as a desire to see justice done. It seems to me that the Senate will not entertain all the nice questions which have been so ably argued by the honorable Senators from North Carolina [Mr. BAYARD] and from Delaware, [Mr. BAYARD,] as to the legal rights of the party who performed the service, and the legal right of the Postmaster General to discontinue the service; because the service was actually rendered. And if the United States were in a situation to be sued, and the old action of common law of *quantum meruit* was brought, by which the party urges that for so much service rendered he must have so much, he would be entitled to recover, and the jury would be obliged to give a verdict in his favor to the extent of the service rendered, or in proportion to the time, which is one seventh. I know that an old rule laid down by a chief justice where I practiced law, was this: that where a party has a legal right to recover money, he has also a right to the interest from the time the demand is first made, up to the time of the rendering of the verdict. These are the plain honest principles which should be applied in this case. The service has been rendered, and the Government has received the value of money which it has retained. Let me illustrate it in the way in which it was once illustrated upon me, when I was arguing a case before a very respectable magistrate and a very sensible man, in behalf of a man who was sued for a fine for the non-performance of military service. I had raised a dozen nice points in the case, and argued it much in the same manner that the Senator from Delaware has argued the case before us, and I did it at very great length. When I was through, the judge looked me in the face and said: "Squire, 'pears to me your man did n't train, and 'pears to me he ought to pay a fine." Now that was so

plain that I could not say another word. So I think that in this case the judge would say, "Seems to me the man carried the mail for you, and seems to me you ought to pay him for it." That is all I have to say.

Mr. MALLORY. I desire to say a single word on this subject, because I feel a peculiar interest in it, from the fact that the State which I have the honor, in part, to represent, has some claims pending which will be affected by the decision of the Senate.

We are constantly in the habit, on every Friday, of adjudicating on private claims, taking into consideration equitable principles alone. In this particular case, the fact that the committee has decided that the sum was due to the claimant some time since, is the starting point, and may be considered as fixing the fact beyond question. That being established, the United States are bound to pay the sum of money due to this individual; but they are not only bound to pay the money thus retained, but also for the loss caused by such detention. The United States cannot evade the obligation of paying interest on money, any more than it is possible for an individual to do so. And why? Because it is on that principle that the United States have proceeded in all their transactions, as between nation and nation; in every treaty or negotiation with foreign powers where money has been due to the United States, interest has been exacted. Now, if the United States did, in this case, as the committee asserts, withhold the amount due to this individual, he is as certainly entitled to payment on the same principles of justice which have induced this Government to exact it from other nations; for it is quite impossible that we can have one rule applicable to nations, and another as applicable to individuals.

One of the strongest points as to the exaction of interest upon demands not liquidated, but which are equitably due, arises under the treaty of Ghent. It will be recollected that the British carried off a vast amount of property, some of which consisted of slaves. Under the arbitrament of the Emperor of Russia it was decided that they should pay for the property thus taken. The United States demanded interest, and the question was: if they paid for the property, they should pay for its use. Passing over this, and coming down to the present day, it is well known that we have exacted interest from our sister Republic of Mexico. Why, then, is this interest refused? On what pretense is it refused, after you have agreed to pay the principal? It is opposed on the ground that the Government is always ready to pay a just demand. That being the philosophy, when the facts do not support it, the philosophy must fail.

I would say here, that scarcely a session passes in which interest is not adjudicated upon and allowed by special act of Congress. Having no doubt, Mr. President, that the report of the committee which carefully examined this question, is just, and that the sum in controversy was properly due to the claimant, I cannot see any reason why we should refuse to pay the interest; but, on the contrary, everything in the history of the adjudication of the country, in my opinion, compels us to pay it.

Mr. BRADBURY. I move to amend the bill by striking out the date "1837," and inserting the date "1852." It is not now in order to move that the clause providing for the payment of interest be stricken out, and therefore, for the purpose of reaching that object, so far as it may be done within our rules, I have offered this amendment. The effect of the amendment, if adopted, will be to provide for the payment of interest after the year 1852, instead of the year 1837. The remarks of the Senator from Florida [Mr. MALLORY] show that this case is regarded as one of very considerable importance in settling the principle whether we will pay interest on any unliquidated claims against the Government. He has told us that his State, or the citizens of his State, are largely interested in the decision of that question. The citizens of other States are similarly situated. Now, it becomes a very important question—upon which the payment of, not a few hundred, or a few thousand dollars, but of millions, may depend—whether Government will or will not pay the interest on claims which are presented. The honorable Senator from Vermont [Mr. UPHAM] inquired, with very great pertinency, why

this demand should be rejected when other demands of a similar character are paid? I think this case should be put upon precisely the same ground as other demands of a similar character. But I wish to remind the Senate that a case of a similar character was before us in the early part of the session, that of Rufus Dwinell, and at that time the question of the payment of interest was raised, and the provision for its payment was struck out from the bill. The question now is, whether we will conform to that precedent, or whether we will depart from it, and provide another, and make a rule which will be regarded as a precedent, as we are now informed, for similar applications.

Mr. BADGER. I do not rise to say anything upon this subject, but simply to remark that I could with great ease refute everything that the Senator from Maine has said. There is nothing in his remarks which may not be easily refuted, and I wish the Senate, therefore, to consider them as refuted.

Mr. BRADBURY. That is easier said than done.

Mr. RUSK. I rise to express my solemn protest against the course of reasoning pursued by the Senator from Maine. He does not say one word about the justice of allowing the interest on this claim, but we are to be frightened off by the fact that we are about to establish a precedent by which we are to pay Florida a large amount of money. Is that fair? It is a sort of reasoning against which I protest. I ask the Senate to consider the question of the justice of this claim; and if it is a just claim, to pay it; and when any claim on the part of Florida or Maine, or any other State, comes up, if it is a just one I shall vote for it. The history of the Government shows that we do not in all cases follow precedents. When a claim comes up on which we are bound to pay interest, we pay it; and when we are not, we refuse it.

Mr. BRADBURY. In the remarks which I made I wished to call the attention of the Senate to the fact that a claim involving precisely the same principle had been reported on, and that the question of interest had been fully discussed and negatived at the beginning of the session.

Mr. RUSK. Will the Senator from Maine permit me to interrupt him? I reported both these cases myself, and feel confident that there is no similarity, as he alleges. In the case alluded to by the Senator, the contractor had agreed that his service might be curtailed; in this case there was no such agreement. The cases are not the same.

Mr. BRADBURY. They involve the same principle. In the one case the individual came forward and agreed to discontinue on receiving an assurance that he should be paid; and the question for the consideration of the Senate was, whether he should receive interest after having presented and made proof of his claim to Congress. The subject was then fully discussed, and the question was settled as, in its opinion, it ought to be settled. I was disposed to acquiesce in that decision, and I referred to it simply as a case in which I had no feeling. In this case I am of opinion that the claim should be allowed; but if interest is paid in the one case it should be paid in the other.

Mr. RUSK. I would ask the Senator whether the State of Maine has not been paid interest on money which it advanced for military purposes?

Mr. BRADBURY. Maine has been treated precisely in the same manner as fourteen other States; but she has not, as yet, been paid interest.

In the reference I have made, I alluded to a principle which I supposed the Senate had established; and I have not gone into the question at length, because I did not desire to argue it, but merely to recall the fact to the recollection of Senators. If the Senate sees fit to pay interest in the present case, let it provide for its payment in other cases also, and I shall be satisfied with that decision.

It is an invidious act, I know, to resist private claims, but I consider it exceedingly important that we should act with uniformity, and with something like consistency of principle. That was my object in making these remarks.

Mr. MALLORY. I will make one remark in reply to the Senator from Maine. He has spoken of the establishment of a principle, and that principle, if I understand it, is, that the United States will not pay interest.

Mr. BRADBURY. On unliquidated demands against the Government.

Mr. MALLORY. That is not a principle, but a practice. No legislation has ever been had by which any such principle has been established; but so far as legislation has gone it has been to establish one directly the contrary. I hold in my hand a list of cases, which the Senator from Maine may examine if he chooses, in which the United States have departed from this alleged principle, and have paid interest. Now, this is the principle established by the legislation of the country, that where a sum of money is proved to be due—not legally, but equitably—there we pay interest, and that principle has been followed in nearly every session of Congress by practical legislation.

The case of Florida, to which I alluded, is involved in this principle; but still, the cases are exceedingly dissimilar, because the legality and the equity of the case of Florida is guaranteed by treaty stipulations, and there is no rule that can go behind them, while this case is simply based upon the report of a committee.

Mr. BORLAND. Before the vote is taken, I desire to state the ground on which I shall vote for this bill. I do not think there is any legal claim on the part of this individual against the Government, or that he has any claim on the ground of this contract; but I do think, as he rendered the service, and the service was valuable, that we ought to pay him for it. On equitable grounds, then, I would say, we should pay him, but not on the principle that there is any legal obligation to pay by the operation of that contract. I think some want of discrimination has been manifested in the discussion here upon this question, growing out of the use of the term "route." All are well aware that mail routes are established by act of Congress. The Postmaster General has nothing to do with the continuance or discontinuance of mail routes. But after they have been established by Congress, then it is at the discretion of the Postmaster General to contract for service upon them, and to modify that service, or discontinue it, if it becomes improper or useless. The continuance of the route, therefore, does not make the contract for service binding upon the Postmaster General to pay this amount. The Postmaster General discontinued the service, and not the route, and therefore he released himself and the Government from all legal obligation to pay the full amount of compensation agreed upon, and left no more obligation on himself or the Government than to pay *pro rata* for the service rendered. That is my view of the legal question. But, as I said, the individual did render the service; the postmaster continued to deliver and receive the mail, according to the original contract. The Government received the benefit of his services, and therefore the individual ought to be paid, as I am unwilling that the Government shall receive a valuable consideration without paying for it.

The amendment was rejected, and the bill was ordered to be engrossed for a third reading—yeas, 29, nays 7.

YEAS—Messrs. Adams, Atchison, Badger, Borland, Brooke, Charlton, Clarke, Davis, De Saussure, Dodge of Wisconsin, Foot, Geyer, Gwin, Hale, James, Jones of Iowa, Mallory, Mangum, Morton, Norris, Rusk, Smith, Soule, Spruance, Sumner, Upham, Wade, Walker, and Weller—29.

NAYS—Messrs. Bayard, Bradbury, Dawson, Dodge of Iowa, Hunter, King, and Toney—7.

JOHN WILLIAMS.

On motion by Mr. JAMES, the Senate proceeded, as in Committee of the Whole, to consider the bill for the relief of John Williams. It directs the Secretary of the Interior to place the name of John Williams, late a marine in the service of the United States, upon the list of pensioners, and pay him a pension for entire disability—the pension to commence April 5, 1848, and continue during his life.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

JAMES C. WATSON.

Mr. DAWSON. I desire to request my friend, the chairman of the Committee on Indian Affairs, who reported House bill for the relief of the legal representatives of James C. Watson, of Georgia, to move to take it up for consideration.

Mr. ATCHISON. At the request of the Sen-

ator from Georgia, I move to postpone all prior orders for the purpose of taking up that bill.

Mr. BADGER. I wish one of the gentlemen would inform us, before we agree to the motion, whether there is any interest included in that bill.

Mr. DAWSON. No, sir.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole. It enacts that the Treasurer of the United States shall pay to the legal representatives of General James C. Watson, late of the State of Georgia, deceased, \$14,600, with six per cent. interest per annum from May 8, 1838, until paid, out of any money in the Treasury not otherwise appropriated, being the amount paid by him, under the sanction of the Indian agent, to certain Creek warriors for slaves captured by said warriors while they were in the service of the United States against the Seminole Indians in Florida.

Mr. BRODHEAD. Is there a report accompanying the bill? I should like to know why interest should be paid in this case. If I understand the reading of the bill correctly, it provides for the payment of interest?

Mr. BADGER. I would suggest, that if interest is provided for, there must surely be an oversight on the part of my friend from Georgia, and he will move to strike out that provision immediately.

Mr. DAWSON. There is a report accompanying the bill, which I hope will be read.

The report of the Committee on Claims of the House was read, from which it appears that at the first session of the Thirtieth Congress, a report was made on the case, in which the committee fully concur; and also one made at the Twenty-seventh Congress, which contains a correct statement of the material facts, in the conclusions of which report the committee of the Thirtieth Congress concur, except as to the amount which, upon principles of justice and good faith, ought to be allowed. Believing the advancement of \$14,600, made by Mr. Watson to the agent of the Creek Indians, was made under circumstances to produce a confident belief that the Government would cause the slaves then in its possession for safe-keeping, to be delivered to the Creeks, or their properly-authorized agent or agents, in accordance with the agreement entered into by General Jesup and the Creek warriors, and ratified, as the committee conceive, by the Government, and which was probably the main inducement for the Creeks to take part against the Seminoles, but which, from high considerations of humanity and policy, was not done; and Mr. Watson and his representatives having been in no default, they recommend an indemnity equal to the amount advanced by Mr. Watson, with six per cent. interest from May 8, 1838, until paid.

Mr. DAWSON. I will state to my friend from Pennsylvania [Mr. BRODHEAD] the reason why the committee of both Houses have agreed to recommend the payment of interest. The amount of \$14,600 was advanced by General Watson to the Government. They gave him an order instantly upon the War Department to pay the money here; but when he got here they had not the money. The case has been reported upon, I believe, at every Congress for the last twelve years, and it has finally passed the House of Representatives. The principle upon which they put in the interest is this: The money was advanced to the Government, and the debt was recognized. That is the only ground upon which they claim the interest, and the Committee on Indian Affairs unanimously recommend it. My course upon the subject of interest grew out of the fact, that wherever the Government is indebted, it is presumed to have the money to pay it; but when it gives an order, and the money is not paid, but the payment is delayed from time to time, the case is altered, and the interest should be paid. That is the case, as I think the chairman of the Committee on Indian Affairs will bear me out in saying.

Mr. CHASE. This is a bill which involves a principle of very considerable importance. It is one upon which I desire to submit a few remarks to the Senate. The bill has been taken up out of its regular order, and I am not prepared to make my remarks at this time; I therefore move that its further consideration be postponed until next Friday.

Mr. ADAMS. I desire to inquire how long the bill has been in possession of the Senate?

Mr. DAWSON. Some weeks.

Mr. ADAMS. Then Senators have had time to prepare themselves for its consideration; and, if a majority are prepared to vote upon it, I hope we will do it now.

Mr. DAWSON. I trust my friend from Ohio will withdraw his objection to considering the bill at this time. I trust the bill will give rise to no discussion. I see no necessity for debating it, as it provides for satisfying a clear right which is recognized everywhere; and the parties have been for a long time kept out of the money which is due to them. I will be very much obliged to him if he will withdraw his motion. The whole proceedings in the bill are entirely in accordance with his views, as I will submit to the chairman of the Committee on Indian Affairs.

Mr. ATCHISON. Yes, sir; the persons in regard to whom the claim originated were individuals that should have been slaves. It was agreed to by General Jesup, and sanctioned by this Government, that the Creeks should have, in consideration of their assisting the United States in the war against the Seminoles, all this kind of property which they should take; but, instead of turning them over to the Creeks, it never was done. General Watson advanced the \$14,000, reported in the bill, to satisfy them; so that the Senator's Free-Soil views, his humane views, in this instance were carried out by the Government at the expense of Watson.

Mr. CHASE. I would very cheerfully, at the request of the Senator from Georgia, withdraw the motion which I made, if I did not really believe, from the attention I have given to the subject, that the bill involves an important principle to which I desire to ask the candid consideration of the Senate. I know it was largely debated in the House of Representatives; and while I would not go into any unnecessary discussion of its merits, I am very desirous to have a little opportunity to arrange the ideas which I desire to present to the Senate on the subject. It is a courtesy which I believe the Senate has never refused, and I trust it will not be denied now.

Mr. BADGER. As it is probable that the further consideration of the bill will be postponed for the accommodation of the Senator from Ohio, and as I shall probably not be in my place next Friday, I will take the liberty of throwing out a suggestion for the benefit of my friend from Georgia. I am satisfied myself, from the statement made, that the interest upon this sum of money ought to be allowed. I cannot conceive such a thing as a man's lending money to the Government—making an advance of money to it—without the Government coming under an obligation to pay him the usual interest for the use of it. But I want to draw the attention of my friend from Georgia to this fact: He was very sure that poor Ira Day was not entitled to interest upon his small sum of money, though Mr. Watson, who I take to be from Georgia, is entitled to interest upon fourteen thousand and odd dollars. What is the difference between the two cases? Mr. Watson voluntarily made an advance of money to the Government, and did not stipulate for interest; but in the case of Ira Day, the Government's agent having, say, \$1,000 of Ira's money, and being short of funds to carry on the Government, said to Ira, "You shall not have the \$1,000, but we will keep it to use in the Department." That is what used to be called in old times a "forced loan." The point to which I wish to draw attention is this: If the Senator holds that interest ought not to be paid upon the forced loan, how can he hold that it ought to be paid upon a voluntary loan made without contracting for it?

Mr. DAWSON. In reply to that, I would say that I am a law-abiding man. Whenever the majority of the Senate decide a principle, I yield, and of course I consider myself under the control of the body, and driven to support the interest in this case. [Laughter.]

The motion to postpone was agreed to.

JOHN A. LYNCH.

On motion by Mr. DODGE, of Iowa, the bill for the relief of John A. Lynch was read a second time, and considered by the Senate as in Committee of the Whole. It directs the Secretary of the Treasury to pay to John A. Lynch, for his services as clerk in that Department, from the 10th

of August to the 7th of December, 1846, at the rate of three dollars per day.

Mr. BRODHEAD. Since the bill was reported from the Committee on Claims, the person for whose benefit it was reported has died, and I understand his widow is very much in need of money. I move to amend the bill, by inserting after the words "pay to," the words, "the widow of the late," so as to make it read, "That the Secretary of the Treasury be directed to pay to the widow of the late John A. Lynch," &c.

The amendment was agreed to. The bill was reported to the Senate as amended; the amendment was concurred in; and the bill was ordered to be engrossed for a third reading.

#### EXECUTIVE SESSION.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and

The Senate adjourned to Tuesday next.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, July 2, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

#### RIGHT OF WAY AND GRANTS OF LAND.

The SPEAKER. The first business in order is the consideration of a bill reported from the Committee on Public Lands, entitled a bill granting the right of way and a donation of land to the State of Alabama, to aid in the construction of the Memphis and Charleston, and Selma and Gunter's Landing, and Winchester and Tennessee river railroads, upon which the gentleman from Alabama [Mr. COBB] is entitled to the floor.

Mr. SUTHERLAND. I rise to make a correction of the Journal. I did not vote upon the bill making a donation of land and granting the right of way to aid in the construction of railroads, and for other purposes, but stated that I had paired off with Mr. BOWIE, of Maryland. The Clerk misunderstood me. Mr. Bowie would have voted for the bill; I would have voted against it. He got it the reverse.

The SPEAKER. The gentleman is not recorded at all. The Chair recollects the remark made by the gentleman at the time, that he had paired off, and that he was opposed to the bill.

Mr. HAVEN. I desire to ask the unanimous consent of the House to offer, and put upon its passage, a joint resolution concerning a section of my State, and in which no other member, that I know of, is at all interested. Its consideration will take but a moment. If the House will hear it read, I am satisfied that there will be no objection to its introduction and adoption.

Mr. CLINGMAN. I insist on the regular order of business. I do not know what is the character of my friend's resolution; but there are other matters of great importance, which ought to be considered.

Mr. COBB. Will the Chair state the pending question upon the bill reported?

The SPEAKER. The pending question is upon the motion made by the gentleman that the bill be recommitted to the Committee on Public Lands, and ordered to be printed.

Mr. COBB. I withdraw the motion to commit and to print.

Mr. CLINGMAN. I withdraw my objection to the introduction of the resolution of the gentleman from New York, [Mr. HAVEN,] if the time taken in its consideration comes out of the morning hour. I do not care how that time is consumed.

Mr. OLDS. I object, if it is to be taken out of the morning hour. [Laughter.] That is the only important hour we have now in the whole day.

Mr. COBB. My object in moving, when this bill was last up, that it be recommitted to the Committee on Public Lands, was, that it might come up this morning regularly for consideration. That motion I now withdraw. For the benefit of those who to any extent might interest themselves in the two great national roads I have been advocating, I have caused to be placed before the Clerk's desk two maps showing all the facts connected with them. If gentlemen will only put themselves to the trouble of giving the maps their



examination, the importance of the proposed roads will be made manifest. They will form a link in the connection by railroad, of the various portions of the country; and the manner in which they perfect the communication is there demonstrated. Further, as I made the inquiry the other day, when in possession of the floor, whether there was a single gentleman opposed to these bills, and none having come forward, I move that the bill be put upon its passage; upon which motion I call for the previous question, so that we may have at once a direct vote. Rather than that the bill be referred to the Committee of the Whole on the state of the Union, I ask that the House will vote it down. We will then know what we have to rely upon. I trust that the call for the previous question will be sustained, and that then a direct vote may be had upon the bill. If the bill is defeated, none will be more ready than myself to yield acquiescence in the will of the majority. If the bill is not to pass, let us know that fact now. I will not consume further the time of the House.

Mr. NABERS. I ask the gentleman to withdraw his call for the previous question. I am in favor of the bill, and desire to make a few remarks in regard to it.

Mr. COBB. I know the gentleman is in favor of it—

[Cries of "Order!" "Order!"]

The SPEAKER. Does the gentleman withdraw his call for the previous question?

Mr. COBB. I cannot. I hope the House will second the call.

The call for the previous question was then seconded.

Mr. STEVENS, of Pennsylvania. Is it in order now to move that the bill be referred to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not, for the reason that the previous question has been demanded and seconded.

Mr. STEVENS. Then I move to lay the bill upon the table.

Mr. ROBBINS demanded the yeas and nays upon the motion to lay upon the table; which were ordered.

Mr. COBB. Would it be proper to ask that the bill be read?

[Cries of "No, it is understood!" "We have had it read several times already!"]

The question was then put upon the motion to lay the bill upon the table, and it was agreed to—yeas 96, nays 61; as follows:

YEAS—Messrs. Allison, John Appleton, Ashe, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Beale, Bennett, Bibbhausa, Bocoek, Breckinridge, Brenton, Buell, Burrows, Burt, Joseph Cable, Caldwell, Lewis D. Campbell, Carter, Caskie, Chastain, Churchwell, Culloin, Curtis, Daniel, George T. Davis, Dawson, Dinmick, Edmundson, Ewing, Fitch, Floyd, Fowler, Gamble, Gaylord, Gentry, Giddings, Gilmore, Gorman, Grow, Hamilton, Isham G. Harris, Haven, Hebard, Hibbard, Hillyer, Holladay, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, Jackson, Andrew Johnson, Daniel T. Jones, George W. Jones, Preston King, Kuhns, Kurtz, Letcher, Mann, Mason, McMullin, McNair, McQueen, Meacham, Morrison, Murray, Newton, Oullaw, Andrew Parker, Samuel W. Parker, Perkins, Polk, Powell, Reed, Riddle, Robbins, Robie, Ross, Savage, Origen S. Seymour, Skelton, Smart, Stanley, Benjamin Stanton, Richard H. Stanton, Abraham P. Stephens, Thaddeus Stevens, Sutherland, Sweetser, Benjamin Thompson, Walbridge, Wallace, Washburn, and Wells—96.

NAYS—Messrs. Willis Allen, William Appleton, Bissell, Bowie, John H. Boyd, Bragg, Briggs, Albert G. Brown, Busby, E. Carrington Cabell, Thompson Campbell, Clark, Clingman, Cobb, Cottman, John G. Davis, Dockery, Doty, Freeman, Henry M. Fuller, Grey, Hammond, Sampson W. Harris, Hendricks, Houston, James John-on, John Johnson, Lockhart, Mace, Humphrey Marshall, Molony, John Moore, Nabers, Olds, Orr, Penn, Penniman, Phelps, Porter, Richardson, Robinson, Russell, Sackett, Scurry, Smith, Frederick P. Stanton, St. Martin, Strother, Stuart, Taylor, Thurston, Venable, Walsh, Ward, Watkins, Welch, Alexander White, Wilcox, Williams, and Yates—61.

So the bill was ordered to lie upon the table.

Previous to the announcement of the preceding vote,

Mr. ABERCROMBIE said: In consequence this morning of attending to business for my constituents before the Department, I did not reach the Hall until subsequent to the call of my name which, by the rule of the House, precludes me from voting. I was opposed to the laying of the bill upon the table. On Saturday morning I was detained from the House for the same cause, and I will therefore now state that I was opposed to every feature of the bill which passed in my absence, making a distribution of the public domain among the different States.

The SPEAKER. Reports are still in order from the Committee on Public Lands.

#### PUBLIC LANDS IN OHIO.

Mr. COBB. The Committee on Public Lands, after mature consideration, have directed me to report back Senate bill No. 2, entitled "An act to grant to the State of Ohio the unsold and unappropriated lands remaining in that State," and to move that it be laid upon the table. The committee did not think it advisable to commence separate legislation in giving away the public lands.

Mr. OLDS. Is it in order to move that the bill be referred to the Committee of the Whole on the state of the Union?

The SPEAKER. Not while the motion to lay upon the table is pending.

Mr. COBB. So far as I am connected with the Committee on Public Lands, I have resolved to consume no more time of the House. I do not intend to make another report during the remainder of the session.

Mr. OLDS. A Senate bill should receive the consideration of a reference from the House.

Mr. COBB. We have occupied time enough.

The question was put on the motion to lay upon the table, and, upon a division, there were—ayes 80—

Mr. OLDS. I demand the yeas and nays.

The House was divided on the demand for the yeas and nays, and there were—ayes 23; not a sufficient number.

Mr. SWEETSER demanded tellers on the yeas and nays; which were ordered; and Messrs. STANTON, of Tennessee, and WARD, were appointed.

Mr. STANTON, of Ohio. That gentlemen will put this bill in a position where it can be reached, if the bill sent to the Senate shall fail, is all that we ask. I trust the bill will be referred.

The SPEAKER. That can be done only by unanimous consent.

Mr. AVERETT. I object.

Mr. COBB. Let it go where the Committee on Public Lands recommended it should go.

Mr. OLDS. I withdraw the call for the yeas and nays.

Mr. ORR. I demand tellers on the motion to lay on the table. Gentlemen do not desire to discuss the bill, but only its reference to the Committee of the Whole on the state of the Union.

Mr. COBB. To see who it is that will give the public lands to the States, I demand the yeas and nays.

The House being divided on the demand for the yeas and nays, there were—ayes 23; not a sufficient number.

Mr. COBB. I demand tellers on the yeas and nays.

The House being divided on the demand for tellers, there were—ayes 17; not a sufficient number.

Mr. ORR. I demanded tellers on the motion to lay upon the table.

Tellers were ordered, and Messrs. STANTON, of Tennessee, and WARD, were appointed; and the question being taken, the tellers reported—ayes 87, noes 42.

So the bill was laid upon the table.

Mr. STANTON, of Ohio. I move to reconsider the vote by which the bill was laid upon the table.

Mr. JOHN W. HOWE. I move to lay that motion upon the table.

Mr. STANTON. I only ask that the motion be entered on the Journal.

The question was then taken upon Mr. Howe's motion, and it was agreed to.

So the motion to reconsider was laid upon the table.

Mr. HAMILTON. I move to reconsider the vote by which the bill of the gentleman from Alabama, [Mr. HOUTSON,] was laid upon the table, and to lay the motion to reconsider upon the table.

The question was then taken, and the latter motion was agreed to.

#### GRANTS TO INDIANA AND ILLINOIS.

Mr. ORR, from the Committee on Public Lands, reported back without amendment House bill No. 287, "granting the right of way to the States of Indiana and Illinois, and a donation of public lands for the purpose of constructing a railroad from Springfield, in Illinois, via Danville, Coving-

ton, Crawfordsville, Lebanon, and Noblesville, to Andersonstown, in Indiana," and moved that it be referred to the Committee of the Whole on the state of the Union, and that it be printed.

Mr. JENKINS. Is a motion to lay that bill upon the table in order?

The SPEAKER. It is in order.

Mr. JENKINS. I then submit the motion.

The question was then taken, and the motion was decided in the affirmative.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the bill was laid upon the table, and to lay the motion to reconsider upon the table.

The question was then taken on the latter motion, and it was agreed to.

Mr. ORR, from the Committee on Public Lands, reported a bill to establish additional land districts in the State of Wisconsin; which was read a first and second time by its title.

Mr. ORR. At the urgent solicitation of a portion of the Wisconsin delegation I shall move to put that bill upon its passage. It is a bill of local importance alone, and possesses no general public interest. It proposes to establish two new land districts embracing a territory amounting to some 16,000 square miles, nearly one third of the entire State of Wisconsin, known as Upper Wisconsin. From the center of each of the new districts proposed to be established, it is about one hundred miles to the nearest existing land office. In the winter season the land offices already in existence are very difficult of access, and from some portions of the district included within the bill that has been reported, it requires an expense of from \$20 to \$50 to reach the land offices, and in some cases a journey of two or three hundred miles. I have in my hands an extract from a letter from the acting Commissioner of Public Lands, which I ask permission to read:

"From the additional fact that all the lands embraced within the limits of the proposed districts are at points very remote from any of the existing land offices, that the country to a great extent is destitute of roads or means of communicating with the offices for the districts now including these lands, the propriety and necessity for the establishment of these districts, at this time, for the convenience of the settlers and the advancement of the public interest is manifest."

I will state, as an additional reason why the bill should pass, that the territory embraced within one of the districts is now just being surveyed, and when completed there will be brought into market one and a half or two millions of acres of public lands not heretofore subject to sale or entry, and the public convenience as well as the interests of the Treasury require the increased facilities provided by this bill.

The bill, in my judgment, ought to pass, and if the House choose to act upon it, it can act just as well now as at any future time, as it will not consume five minutes' time. I desire, before taking my seat, to make one more remark in vindication of the Committee on Public Lands. They were assailed, the other day, when a bill was introduced by my associate upon that committee, [Mr. CONN,] and nothing was said then in their defense. I know that this House has grown weary of reports from that committee, but the Committee on Public Lands have had referred to them more business at the present session of Congress than any other committee in this House. Six weeks ago, when complaints first began to reach my ears, that the Committee on Public Lands were consuming too much of the time of the House, I went to the docket of the committee and counted the number of cases which had been referred, and I found that there had been referred to that committee, at the present session, of memorials, resolutions, and bills, at that time, three hundred and forty-nine, embracing a great variety of subjects, and many of them of great importance, requiring much labor and investigation, and I have no doubt that at the present time the number would amount to more than four hundred. The committee, with its chairman now absent, [Mr. HALL,] (and there is no more indefatigable man in this House,) have labored most assiduously during the entire session. If the committee have reported too much here, I suppose it is a very rare complaint brought against any committee. Now, as to the statement that the committee have asked that bills be put upon their passage when they are reported here, I will say that, in every single instance the committee have acted according to the wishes of the gentlemen present—

ing bills, and the majority of the House are responsible for the time consumed by the Committee on Public Lands; for when a bill is proposed to be put upon its passage, a majority of the House have it in their control, and not the Committee on Public Lands. They could send it to the Committee of the Whole, postpone its consideration, or lay it upon the table. Is it just, then, to charge the consumption of time to that committee, numbering but nine members? The responsibility is in the majority, and there let the blame fall if any blame attaches.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, that the Senate had agreed to the amendment of the House to Senate bill No. 451, entitled "An act to amend an act entitled 'An act to carry into effect the convention between the United States and the Emperor of Brazil, of the 27th day of January, in the year 1849,' approved March 29, 1850.'"]

Mr. CARTTER. I rise to a question of order. Is it in order for the honorable gentleman from South Carolina to consume still more of the time of the House in giving a biography of the Committee on Public Lands?

The SPEAKER. The Chair thinks that the gentleman from South Carolina has wandered somewhat beyond the boundaries of legitimate discussion.

Mr. ORR. I propose to apply these remarks to this bill. I propose to show by them that this bill should not be rejected by the House because heretofore the committee have proposed to put other bills upon their passage. That fact alone should not operate against the passage of this bill. I had nearly concluded my remarks. When the Committee on Public Lands was assailed by my friend from Tennessee, [Mr. JONES,] and then by the member from Pennsylvania [Mr. STEVENS] over the way the other day, when it was just as much out of order to have assailed them, I supposed that I would have been allowed at least the privilege of making a statement in vindication of that committee. But it is a matter of very little consequence, for the committee have a conscience void of all offense. I propose to put the bill upon its passage. I shall not demand the previous question. If any gentleman chooses to refer it to the Committee of the Whole, he can make that motion. It is a question of local interest alone, and the House can pass it about as soon as they can refer it.

Mr. HOUSTON. I wish to ask the gentleman from South Carolina [Mr. ORR] if it is the instruction of the Committee on Public Lands to put the bill upon its passage?

Mr. ORR. It is not.

Mr. HOUSTON. I wish to ask the gentleman another question. He says that it is a local question, and concerns no one else but the State of Wisconsin. I ask if the bill does not create additional land offices, and in order to put them in operation the appointment of new officers to discharge the duties of these offices, and will not all this incur additional expense, and if so, how much?

Mr. ORR. I am not prepared to answer the gentleman as to the exact expense. I believe the salary of the registers is \$500 each, and then they are allowed certain perquisites. The salaries in any event cannot go beyond \$3,000. The excess over \$500 is paid by taxes upon those who enter lands, and those taxes would go just as well in the existing land offices as in the new land offices. The expense of registers and receivers for the two offices would amount to \$2,000 only to be paid by the Government.

Mr. JONES, of Tennessee. I do not know that I have investigated this subject very thoroughly, but in connection with the gentleman from Wisconsin [Mr. EASTMAN] some days ago I examined a map of the country in which it is proposed by this bill to locate these land offices. That examination satisfied me it would be right to establish these offices. I obtained the information from what the gentleman said—that there are persons now in that portion of the State where they propose to establish these land offices, who have to go from two to three hundred miles, perhaps, to land offices for making entries; and in some instances, he assured me that it would cost a man almost as much to go from the places where these offices are proposed to be located to

the present offices and back, as the land itself would cost when he should get there. I thought, under these circumstances, that it would be not only encouraging, but promoting the entry of public lands in that region, and that it would be an accommodation and convenience to those who wished to settle the lands there, which they have a right to ask and demand of the Government. As to the expense—there will be paid \$500 to each of the two receivers and registers, making \$2,000, out of the Treasury. Whatever commissions may be paid to them upon the amount received for lands entered, would have to be paid, if they should go to any other office and enter the lands there. So the additional expense, if I am correct, in establishing these two offices would not exceed \$2,000 per annum. If there is no objection, I call for the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to be engrossed and read a third time, and having been engrossed was read the third time and passed.

Mr. ORR moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

#### GRANTS TO INDIANA AND ILLINOIS.

Mr. ORR, from the Committee on Public Lands, reported back, without amendment, the bill granting the right of way and a portion of the public lands to the States of Indiana and Illinois to aid in the construction of a railroad from Springfield, Illinois, to Terre Haute, in Indiana.

Mr. DAVIS, of Indiana. I move that that bill be put upon its passage. I do not desire to discuss the question at this time. It is a bill upon which I desire to make a few remarks before I make the motion that I design making. This bill was introduced by myself at the early part of the present session. It was referred to the Committee on Public Lands five months ago, I believe; and that committee have reported it back, with a recommendation that it be passed. I believe it is the last bill, or, at all events, the last but one, now to be reported back from the Committee on Public Lands. I know, sir, that the House has become somewhat weary in consequence of the great length of time consumed by the committee in making its reports. I do not desire that this bill should go to the Committee of the Whole on the state of the Union, nor do I desire to take up the time of the House at present in discussing its merits; but I think that when that time arrives I shall be perfectly able to show, that if there is merit in a single bill reported to the present House in regard to the construction of railroads upon the alternate section principle, there is merit in this bill. But in order to allow the committee to go on and finish their reports, so that the House may take them up, I ask the unanimous consent of the House that the consideration of this bill be postponed for two weeks from this day.

[Cries of "Agreed!" "Agreed!"]

Mr. JOHNSON, of Georgia. I object.

The SPEAKER. The gentleman from Indiana has a right to move to postpone the further consideration of the bill.

Mr. JENKINS. Is it in order to make a motion to lay the bill upon the table?

The SPEAKER. It will be so when the gentleman gets the floor for that purpose. The gentleman from Indiana is now upon the floor. The motion to postpone, however, is not debatable.

Mr. DAVIS. I do not desire to discuss the bill at this time. I merely make a motion that the consideration of this bill be postponed for two weeks from to-day.

Mr. JENKINS. I move to lay the bill upon the table.

Mr. JONES, of Tennessee. I wish to make an inquiry as to the effect of the gentleman's motion. Supposing this bill shall be deferred for two weeks, and the House shall have passed from the Committee on Public Lands, will this come up then in the morning hour?

The SPEAKER. The Chair thinks it would probably come up as the unfinished business, during the call for reports within the morning hour.

Mr. CLINGMAN. I would inquire if the morning hour has expired?

The SPEAKER. The morning hour has not yet expired.

Mr. JOHNSON, of Georgia. Upon the motion to lay the bill on the table I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BOGOCCK. I wish to inquire if the morning hour has expired?

The SPEAKER. It has not by two minutes and a half.

The question being then taken upon the motion to lay the bill upon the table, it was decided in the negative—yeas 71, nays 86; as follows:

YEAS—Messrs. Charles Allen, Allison, John Appleton, Ashe, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Bennett, Bibbhaus, Boeck, J. H. Boyd, Bragg, Buell, Purrows, Burt, Caldwell, Chastain, Churchill, Daniel, Dawson, Dinmick, Dockery, Edmundson, Faulkner, Floyd, Fowler, Gamble, Giddings, Gilmore, Gudenow, Grey, Grow, Hamilton, Hebard, Hillyer, Holladay, Horsford, John W. Howe, Hunter, Ingersoll, Ives, Jenkins, James Johnson, Daniel T. Jones, George W. Jones, Preston King, Kurtz, Mann, Humphrey Marshall, Mason, McMullin, McQueen, Meacham, Meade, Murphy, Murray, Newton, Outlaw, Perkins, Reed, Robie, Ross, Origen S. Seymour, Skelton, Smith, Thaddeus Stevens, Sutherland, Walbridge, Wallace, Washburn, and Wells—71.

NAYS—Messrs. Abernethy, Willis Allen, Bell, Bissell, Brenton, Briggs, Brooks, Albert G. Brown, Busby, J. Cable, Lewis D. Campbell, Thompson Campbell, Carter, Chandler, Clark, Clingman, Cobb, Cottam, Cullom, George T. Davis, John G. Davis, Disney, Dockery, Doty, Dunham, Durkee, Fitch, Freeman, Henry M. Fuller, Gaylord, Gorman, Isham G. Harris, Sumpson W. Harris, Haws, Haven, Hendricks, Houston, Thomas M. Howe, Jackson, John Johnson, Kuhns, Landry, Lockhart, Mac, McCorkle, McNair, Molony, John Moore, Morrison, Nabers, Olds, Orr, Andrew Parker, Samuel W. Parker, Penn, Pennington, Phelps, Polk, Porter, Richardson, Riddle, Robinson, Russell, Sackett, Schofield, Scurry, Stanley, Benjamin Stanton, Frederick P. Stanton, St. Martin, Stratton, Strother, Stuart, Sweetser, Taylor, Thurston, Toombs, Townsend, Walsh, Ward, Watkins, Welch, Alexander White, Wilcox, Williams, and Yates—86.

So the House refused to lay the bill upon the table.

The question recurred upon the motion to postpone the consideration of the bill for two weeks.

Mr. DAVIS. I withdraw that motion, and move to recommit the bill to the Committee on Public Lands.

#### CONTESTED-ELECTION CASE.

Mr. CLINGMAN. I now insist upon the Pennsylvania contested-election case being taken up. I believe that is the first business in order.

The SPEAKER. That is the first business in order, the morning hour having expired. The question is upon the adoption of the resolution reported by the Committee on Elections.

The previous question was demanded and seconded.

The resolution was read, as follows:

Resolved, That the election at the Danville precinct, county of Montour, eleventh Congressional district, in the State of Pennsylvania, was illegally and irregularly conducted, and the seat of the member from that district is vacant; and that the Speaker inform the Governor of that State of the decision of this House, that a new election may be ordered.

Mr. RICHARDSON. Is it in order to move that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair thinks it is not, the previous question having been seconded.

The main question was then ordered to be put.

The SPEAKER. The Chair is informed that there is a bill reported back from the Senate, having passed both Houses, in relation to the treaty with Brazil. He is also informed that the bill, if to be effective at all, must be acted upon finally to-day. He is also informed that no one member of the Committee on Enrolled Bills is in his seat. It will be for the House to determine whether they will waive the examination on the part of that committee, and permit the bill to be signed.

Mr. HOUSTON. Cannot we appoint two additional members on that committee, and let them examine the bill?

The SPEAKER. If it is the pleasure of the House, the Chair will appoint two additional members.

Mr. STUART. It is unnecessary to adopt such a course. The members of the committee are only temporarily absent.

The SPEAKER. If there be no objection, the Speaker will sign the bill.

Mr. STEPHENS, of Georgia. If the Speaker is satisfied that the bill is right, there can be no objection.

No objection was made.

The SPEAKER. The Chair will examine the bill before signing it.

## RESIGNATION OF MR. THOMPSON.

The Chair also begs leave to inform the House that he has received a letter from the Hon. GEORGE W. THOMPSON, of Virginia, resigning his seat upon this floor.

## THE CONTESTED ELECTION.

Mr. ASHE. Do I understand that the question is upon ordering the main question to be now put?

The SPEAKER. The main question has been ordered to be put, and the question is upon the adoption of the resolution reported by the Committee on Elections.

Mr. ASHE then took the floor, and spoke in defense of the action of the Committee on Elections, and in reply to Mr. TOOMBS. [His speech will be found in the Appendix.]

The SPEAKER. The question now is upon the adoption of the resolution reported by the committee, which will be read by the Clerk.

The resolution heretofore reported was read.

Mr. POLK. I have examined this case, and cannot concur in the report of the committee. I therefore move to lay the whole subject upon the table.

Mr. ROSS. Will it be in order to move a call of the House.

The SPEAKER. Such a motion would not now be in order.

Mr. ROSS. Then I call for the yeas and nays upon the motion made by the gentleman from Tennessee, [Mr. POLK.]

Mr. HAMILTON. I move that the House do now adjourn, and upon that motion I call for the yeas and nays, so that we may get a full House.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 4, nays 152.

So the House refused to adjourn.

The SPEAKER. The question now recurs upon the motion of the gentlemen from Tennessee, [Mr. POLK,] to lay the whole subject upon the table, and upon that motion the gentleman from Pennsylvania [Mr. ROSS] demands the yeas and nays.

The yeas and nays were ordered.

The question was then taken on the motion of Mr. POLK, and it was decided in the affirmative—yeas 87, nays 74; as follows:

YEAS—Messrs. Abercrombie, Charles Allen, Allison, William Appleton, Bell, Bennett, Bibbhausa, Bocoek, Bowie, John H. Boyd, Brenton, Briggs, Brooks, Burrows, Burt, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Clingman, Cullom, George T. Davis, Dockery, Edmundson, Ewing, Faulkner, Fowler, Gaylord, Giddings, Goodenow, Grey, Harper, Haws, Haven, Hcbard, Horsford, John W. Howe, Thomas M. Howe, Hunter, Jenkins, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, Preston King, Kulms, Landry, Letcher, Mann, Humphrey Marshall, McCorkle, Meacham, Meade, John Moore, Nabers, Newton, Outlaw, Samuel W. Parker, Penniman, Perkins, Polk, Porter, Price, Reed, Schoolcraft, Schoonmaker, Scudder, Stanley, Benjamin Stanton, Alexander H. Stephens, Thindus Stevens, Stone, Strother, Sutherland, Taylor, Benj. Thompson, Thurston, Toombs, Walbridge, Ward, Washburn, Watkins, Welch, Wells, Addison White, Williams, and Yates—87.

NAYS—Messrs. Aiken, Willis Allen, John Appleton, Ashe, Averett, David J. Bailey, Bragg, Breckinridge, Buell, Busby, Joseph Cable, Carter, Caskie, Chastain, Churchwell, Clark, Cobb, Cottman, Curtis, Daniel, John G. Davis, Dawson, Dimmick, Disney, Doty, Dunham, Fitch, Floyd, Freeman, Gamble, Gilmore, Hamilton, Isham G. Harris, Sampson W. Harris, Hibbard, Hillyer, Holladay, Houston, Ingersoll, Ives, Jackson, Andrew Johnson, Kurtz, Lockhart, Mace, Mason, McNair, McQueen, Molony, Morrison, Murray, Olds, Orr, Andrew Parker, Phelps, Richardson, Robbins, Robinson, Ross, Russell, Savage, Scurry, Skelton, Smart, Frederick P. Stanton, Abraham P. Stephens, St. Martin, Stratton, Stuart, Sweetser, Townshend, Venable, Wallace, and Wilcox—74.

So the whole subject was laid upon the table.

Mr. HENDRICKS stated that in the above vote, he had paired off with Mr. DUNCAN.

Mr. GROW stated that he had paired off with Mr. WHITE, who was opposed to the majority report.

Mr. McMULLIN stated that he had paired off with Mr. SCHERMEHORN; and

Mr. PENN stated that he had paired off with Mr. MILLER, and that he (Mr. PENN) would have sustained the report of the committee.

Mr. POLK. I move to reconsider the vote just passed, and to lay the motion to reconsider upon the table.

Mr. RICHARDSON. I move that the House

do now adjourn, and upon that motion I call for the yeas and nays.

Mr. POLK. I withdraw my motion to reconsider.

Mr. RICHARDSON. Then I withdraw my motion to adjourn.

The SPEAKER here informed the House that there was no committee upon the part of the House on enrolled bills, to join the committee on the part of the Senate, to present a bill for the signature of the President; and the President will not sign a bill without the action of that joint committee.

Mr. HOUSTON. I move that the Speaker appoint two members upon the Committee on Enrolled Bills.

The SPEAKER. If there is no objection, the Speaker will appoint two members upon that committee.

No objection was made, and the Speaker acted accordingly.

Mr. HOUSTON. I desire to offer the resolution which I send to the Speaker's table.

The resolution was read for information, as follows:

*Resolved*, That until otherwise ordered, the daily hour of meeting of the House of Representatives be fixed at eleven o'clock, a. m.

[Cries of "Agreed!" "Agreed!"]

Mr. JENKINS. I object to it.

Mr. HOUSTON. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was then taken, and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN stated that the business first in order before the committee was the consideration of House bill No. 207, being a bill to supply deficiencies in the appropriation for services for the fiscal year ending the 30th day of June, 1852; and that upon that question the gentleman from New York [Mr. WELLS] was entitled to the floor.

Mr. WELLS addressed the committee an hour on the subject of intervention. [His speech will be found in the Appendix.]

Mr. TOOMBS next obtained the floor.

Mr. HOUSTON. I will ask the honorable gentleman from Georgia, as I suppose he does not purpose to address the House to-day, to allow me to move that House bill No. 43, making appropriations for the service of the Indian department, be reported to the House, for the purpose of passing it. The appropriations contained in it are all controlled by treaty stipulations and express law. The Senate declines to take up the resolution passed by the House, proposing an adjournment until we send them some appropriation bills. This bill has been discussed in committee two or three weeks, or at least it has been up for discussion, and I should like now to authorize the chairman to report it to the House, that action may be had upon it there, so that we may send it to the Senate. I ask the chairman to put the question to the committee.

Mr. HOWARD. The Committee on Indian Affairs have some important amendments which they desire to make to that bill, and I shall be under the necessity of objecting to its being reported to the House until that committee have had an opportunity to offer their amendments.

The CHAIRMAN. It will be for the committee to say whether it shall be reported or not.

Mr. STEPHENS, of Georgia. I object.

Mr. HOUSTON. I suppose a mere objection will not prevent the question being taken.

Mr. STEPHENS. It will prevent its being reported, because there is no quorum present.

Mr. HOUSTON. That makes a difference, if there is no quorum, but an objection of itself will not do.

Mr. STEPHENS. An objection will do. The gentleman from Georgia [Mr. TOOMBS] has the floor upon this particular bill, and you cannot lay aside that bill, by the mere motion of the gentleman from Alabama, without the gentleman from Georgia yielding the floor for that purpose.

Mr. HOUSTON. I do not desire to interfere with the gentleman from Georgia. All I desire to do is to get the bill reported to the House, in order

that it may go to the Senate, and the gentleman can make his speech upon another bill.

Mr. STEPHENS. But there is no quorum present, and it could not be ordered to be reported to the House without—

Mr. ORR. Let me make a suggestion. The gentleman from Texas states that he has amendments to offer to this appropriation bill. Now, that is conclusive why it cannot be taken up and reported to the House. You cannot report it so long as any member chooses to offer amendments.

Mr. HOUSTON. But the bill has been before the committee for two or three weeks open to amendment. If the Committee on Indian Affairs had amendments to offer they could have offered them at any time. If the gentleman has an amendment now which he desires to offer, I am perfectly willing he should offer it. It seems to me that it is better to take up this appropriation bill, in order that the House may act upon it.

Mr. CLINGMAN. There seems to be a difficulty in relation to this matter which is not to be got rid of in this way. I move that the committee do now rise, if the gentleman from Georgia will yield the floor for that purpose.

Mr. TOOMBS. I will yield.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole House on the state of the Union had had the Union generally under consideration, and particularly House bill No. 207, being the deficiency bill, and had come to no conclusion thereon.

Mr. BRECKINRIDGE. I ask the unanimous consent of the House to make a motion, that when this House adjourns it adjourn to meet at eleven o'clock instead of twelve.

Mr. JONES, of Tennessee. There are not enough present to pass that motion. I object.

Mr. CLINGMAN. I would not object if the motion were made so as to take effect on Monday next.

Mr. BRECKINRIDGE. I am not particular about that. I will make that motion if there is no objection.

Mr. JONES. I object, and move that the House do now adjourn.

The motion was agreed to; and the House adjourned till to-morrow at twelve o'clock, m.

## PETITIONS, &amp;c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. SMART: The petition of John Moore, of Cushing, Maine, for payment of bounty.

By Mr. MOORE, of Louisiana: The petition of E. T. King and 89 others, inhabitants of the vicinity, praying for the establishment of a post route from Charenton, in the parish of St. Mary, to Bayou Chêne, in the parish of St. Martin, Louisiana.

Also, the petition of 63 inhabitants of the vicinity, praying for a post route to, and post office at, Armanville, in the parish of St. Landry, Louisiana.

By Mr. CHANDLER: The memorial of Messrs. Stuart & Brother, of Philadelphia, asking relief for duties paid and payable merchandise destroyed by fire.

## HOUSE OF REPRESENTATIVES.

SATURDAY, July 3, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the motion to recommit House bill No. 289, granting a right of way and a portion of the public lands to the States of Indiana and Illinois, to aid in the construction of a railroad from Springfield, Illinois, to Terre Haute, in Indiana.

Mr. CLINGMAN. I insist upon the regular order of business.

On motion by Mr. LETCHER, it was

*Ordered*, That leave be granted to withdraw the papers in the case of Richard Rohan, from the files of the House, for the purpose of having them referred to one of the Executive Departments.

Mr. CLINGMAN. I now call for the regular order of business.

Mr. FREEMAN. I ask the unanimous consent of the House to present a couple of petitions and have them referred.

Mr. CLINGMAN. That can be done under the rule. I object.

GRANT OF LAND TO INDIANA AND ILLINOIS.

The question now being upon the motion to recommit bill No. 289.



Mr. DAVIS, of Indiana, said: If it be in order, I will withdraw the motion to recommit the bill to the Committee on Public Lands, and move that its further consideration be postponed till Tuesday, the 13th day of the present month.

The question was put, and the motion to postpone was agreed to.

#### GRANT OF LAND TO MICHIGAN.

Mr. ORR, from the Committee on Public Lands, reported a bill granting the right of way and making a grant of land to the State of Michigan, to aid in the construction of the Oakland and Ottawa railroad, commencing at the village of Pontiac, in the county of Oakland, and terminating on the navigable waters of Lake Michigan, in the county of Ottawa; which was read a first and second time by its title.

Mr. ORR. I do not propose to make a speech upon the bill; nor do I propose to put it upon its passage. The committee have examined the bill, and it has as much merit as any bill that has been reported. If any bill has merit, I think that has. The gentleman from Michigan [Mr. STUART] may make any motion with reference to the bill as may suit his purpose.

Mr. STUART. I do not propose to detain the House one moment in regard to this bill. I flatter myself that when I have an opportunity I can satisfy gentlemen who will vote for such measures under any circumstances, that it is as meritorious, and entitled to as favorable consideration, as any similar measure which has been reported to this House. What I propose to do, and what I now ask the unanimous consent of the House to do, is to postpone the further consideration of the bill till the day assigned for the one which has just been disposed of. I move to postpone the further consideration of this bill until Tuesday, the 13th instant.

Mr. FOWLER. I desire to propound a question to the gentleman from Michigan before his motion is put to the House: How much land is it proposed to appropriate in this bill?

Mr. STUART. I cannot answer the gentleman definitely at present. I have a report from the Commissioner of the Land Office, which, at the proper time, I can furnish to the House. But it has passed my recollection for the present, and I cannot give the gentleman a definite answer.

The question was then taken, and the motion to postpone was agreed to.

#### LAND SURVEYS.

Mr. FREEMAN, from the Committee on Public Lands, reported a bill to amend the act entitled "An act for the discontinuance of the surveyor general in the several districts as soon as the surveys therein shall be completed, and for abolishing land offices, under certain circumstances, and for other purposes," which was read a first and second time by its title.

Mr. FREEMAN. I desire to say in relation to this matter, that the office of surveyor general in the State of Mississippi has been abolished. There are a great many tracts of land in the State which require to be resurveyed. Under the existing laws in relation to this subject, the Commissioner of the General Land Office has no power to make these surveys; in consequence of which he has furnished to the Committee on Public Lands a bill in relation to this matter, which meets with the sanction of the General Land Office. I now ask that the bill may be read through, and I will then move that it be put upon its passage.

The bill was then read through by the Clerk.

Mr. FREEMAN. I wish to say that the bill has been recommended by the Commissioner of the General Land Office. It has also received the approval of the Committee on Public Lands in this House. I hope the House will suffer it to pass.

Mr. CARTTER. I desire to inquire if this bill has been printed?

The SPEAKER. It has not been printed.

Mr. CARTTER. I would suggest that if the public interest would not suffer by the little delay, it would be better to have the bill printed, so that gentlemen may examine it.

Mr. FREEMAN. That is not necessary. This is a mere arrangement to enable the Commissioner of the General Land Office to have certain lands surveyed, which cannot be done without.

Mr. CARTTER. But is not the bill general in its provisions?

Mr. FREEMAN. It merely provides for the survey of these lands.

Mr. CARTTER. I understand the bill to be one of general interest, and to relate to the land policy generally, and I would like, if the Committee on Public Lands would not deem it prejudicial to their success, that the House should have an opportunity of seeing it in print.

Mr. HOUSTON. I should like to ask the gentleman from Mississippi a question. From the reading of the bill at the Clerk's desk, I did not comprehend precisely its provisions. I ask the gentleman from Mississippi what change it proposes to make in the existing laws upon the subject of surveys?

Mr. FREEMAN. The object of the bill is simply to enable the Commissioner of the General Land Office to have these lands surveyed where the surveyor general's office has been abolished.

Mr. HOUSTON. I am aware of the object of the bill, but the gentleman from Mississippi did not understand my question. I wish to know what changes it proposes to make in the existing laws. I desire to know whether it proposes to create any additional officers or to incur any additional expense. As I understood it from the reading, it merely furnishes authority for the Commissioner of the General Land Office to have these lands surveyed without the appointment of any additional officers.

Mr. FREEMAN. That is all.

Mr. BROWN, of Mississippi. This bill was drawn up at the General Land Office, at my suggestion, and it was designed to meet a case like the one I will instance, and which has to be met in some form of general legislation, or some special legislation like this. Forty years ago, a citizen residing in my district had a grant of land from the Spanish Government. When the American surveys came to be made, the line which bounded his land was run across by the American surveyors, so that his six hundred acres of land came to lie in three different sections, and though there was no question as to the amount of land he was entitled to, the Government never could make him a patent for the same, because they never could ascertain, without a resurvey, how much was contained in one section, and how much in another, and how much in a third. He is now asking for a patent for his land. The Government cannot have a survey made because the surveyor general's office has been abolished, and there is no one authorized to make such a survey. This is only one case, but there are a number of others in that State; and there are cases like it in some respects, though not precisely the same in all its features, in all the land States.

This bill simply proposes to authorize the Commissioner of the General Land Office to have such a survey made by the authority of the Government. Private individuals cannot do it, for however carefully and accurately such a survey might be made by private authority, it could not be recognized by the Government here, so as to authorize the issuing of a patent. It cannot be done by State authority, or by any other than the authority of the United States.

This bill was drawn at the Land Office with a view to meet cases of this kind.

Mr. DISNEY, (interrupting.) With the consent of the gentleman from Mississippi, [Mr. BROWN], I want to state another case, exactly in point. In the State of Ohio, an application was made to enter an island, which had escaped the attention of the surveyors of the United States. The title to the island remained in the Government, and there is no officer authorized to make a survey now; and we want a power, such as that contemplated by this bill, to authorize the land office to cause a survey to be made.

Mr. BROWN. In conclusion, I am authorized to say, by the Commissioner of the General Land Office, that there are cases in all the land States in the Union, which can never be provided for without the passage of this bill, or something like it. I trust there will be no objection to its passage.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Ohio [Mr. DISNEY] if this bill covers the case of disputed right to land at Cincinnati?

Mr. DISNEY. It does not.

The SPEAKER. The question recurs upon

ordering the bill to be engrossed and read a third time.

The question was then put, and it was agreed to.

The bill having been engrossed, it was accordingly read the third time, and passed.

Mr. BROWN moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. POLK. I ask the unanimous consent of the House to offer a resolution, which I send to the Clerk's table.

Mr. CLINGMAN. Will the time consumed in the consideration of the gentleman's resolution come out of the morning hour?

The SPEAKER. It will.

Mr. POLK. It will not consume much time, and when the gentleman hears the resolution, he will not object to it.

Mr. CLINGMAN. If the time does not come out of the morning hour, I am satisfied.

The SPEAKER. The resolution will be read for information.

The resolution was then read, as follows:

*Resolved*, That the Clerk of this House pay out of the contingent fund of this House, to Hendrick B. Wright, the same compensation per diem and mileage allowed to members of Congress, from the commencement of the present session of the present Congress to the second day of July inclusive.

Mr. JONES, of Tennessee, and Mr. LETCHER severally objected.

Mr. POLK. Is it in order to move a suspension of the rules?

The SPEAKER. It is not.

Mr. RICHARDSON. I desire to know if it is not in order to offer such a resolution, notwithstanding objections? I think it does not require the unanimous consent of the House to introduce it.

The SPEAKER. The Chair differs in opinion with the gentleman, and overrules his point.

Mr. OLDS. We are now acting under a special order. You can introduce it on Monday.

Mr. POLK. Will it be in order to offer it after the expiration of the morning hour?

The SPEAKER. The Chair doubts whether it could come in at all to-day, except by unanimous consent. It is in the nature of a private claim.

#### GRANTS FOR RAILROADS IN ALABAMA.

Mr. WATKINS, from the Committee on Public Lands, reported back, without amendment, House bill granting to the State of Alabama the right of way and a portion of the public lands, to aid in the construction of a railroad from Girard to the waters of the Mobile Bay, in said State.

Mr. WATKINS. At the solicitation of the committee, and of the individual who introduced the bill, I ask that the bill may be read and put upon its passage.

Mr. ABERCROMBIE. Before this bill is acted upon, I desire to draw the attention of the House to its merits. The bill proposes to grant the right of way and a portion of the public lands to aid in the construction of a railroad from Girard, in the State of Alabama, to the waters of the Mobile Bay, a distance of two hundred and thirty miles. That road has already been surveyed, and there is at this time a number of hands employed in constructing it. Some forty-one miles of the road is already under contract, and it is entirely in the hands of the planting interest of that country. The road is not a matter of speculation of any kind, but is being constructed for the purpose of making a direct route to a market, for the want of which we are suffering very much in that country. It passes the line of prairie land, directly on the edge of it for some one hundred miles. West of that line is the Alabama river. It is with very great difficulty that the planters get their crops over prairie lands and they are subject to heavy losses. They are subject to high freight, in hauling their cotton to the river. They have to ship it to Mobile by the river, and sometimes it costs five dollars per bale to carry it thirty or forty miles.

In addition to that, sir, Chattahoochee river, where this road commences, is not navigable for seven or eight months in the year. We have to purchase every article of supply for our family use at New Orleans. Eight months in the year the Chattahoochee is not navigable. We have to pay as high as fifteen cents a pound for our bacon.

Corn is selling for a dollar a bushel at this time. If this road is constructed, we could reach New Orleans in one day, and get our supplies at a much less price than we now pay.

The planters on the line of road have agreed to grade one hundred and seventy miles of it, and to receive pay for the same in stock. In addition, we have four hundred and four thousand in cash subscribed. A survey has already been made, and the estimated cost of the road, fully completed, is about \$2,900,000. That is a very heavy work to be undertaken without any foreign aid, and only by farmers living upon the line.

In addition to this, sir, Government would be greatly benefited by this road, if it were built, by the transportation upon it of the great Southern mail. Government is now paying \$33,000 per annum for carrying the mail from Montgomery to Mobile. By the completion of this road, the great connecting link between New York and New Orleans, the distance between those places will be much shortened, and the Government will be greatly benefited by the transportation of the mail between those places, through that country, and over that road. Not only the distance, but the cost of transportation will be materially reduced. Besides, it connects at Mobile with the Ohio railroad. It connects with every road in Georgia, North Carolina, South Carolina, Virginia, on to New York. It is the last connecting link, and is all-important to the whole traveling community. I think I shall be able to show that the Government cannot lose by this operation, and may be benefited by it. The principal portion of the public lands through which this road passes has been offered for sale by the Government for more than thirty years, and until recently but a very small portion of these lands has been taken up. But since this survey commenced, at the expense of a few individuals, for the purpose of trying to get a market for their produce, the Government has received from \$70,000 to \$80,000 for lands lying upon that road. Well, sir, the lands which are unsold there are poor pine lands, and only valuable for their timber, and, unless that timber can be made available for this improvement, the lands cannot be disposed of.

Now, sir, I do not pretend to beg lands of this House, or of this Government; but if it can be made to appear that the Government is not to be injured by it, but that the State and National Governments are to be benefited, I do not see any good reason why this bill should not pass. There are public lands lying there which pay no tax to our State, and they are not benefiting the State in any way, and never will, unless this road is built, or something of the kind is done to make those lands valuable.

Mr. Speaker, I think if the House will reflect for one moment, and look at the true condition of that country, and look at the operation of the bill which passed this House a few days ago, making a distribution of the public lands among the several States of the Union, and see how unfairly it operates upon the State of Alabama, they will not hesitate to pass this bill. That State has paid more money into the public Treasury, I venture the assertion, than any other State in the Union, according to its territorial limits. And yet, sir, under the operation of the bill to which I have alluded, and which was passed a few days ago, those lands, although they have been offered for sale some thirty-odd years, will remain there for as many years more, unless they are made salable by improvements of this character. The State of Alabama is compelled, sir, to take her portion of the lands in her own State, when the old States have a right to go into the new States, and to take their choice of the public lands in the whole country. Alabama will thus be obliged to take lands which have been offered for sale for thirty-odd years, and which cannot be made valuable unless by means of this kind. I say that, under the operation of that law, Alabama will be treated with injustice, though I have no idea it was in the contemplation of this House to do so, in the passage of that bill. I do not believe they understood the true condition of that section of country. The previous question was called upon the bill, and it was not in the power of any member from that State to show the true condition of matters in that State. The moment it was read in the House, the previous question was called upon it.

The farmers of that country are and have been

making a great effort to construct this road. They have a deep interest in it. Without the aid asked for here, it is feared they will not be enabled to complete its construction. Its building is now being proceeded with in good faith, and they are resolved to continue to progress with it as long as their means last. I have hands working on the road at this time, and the farmers all around that region of country have two, some three and four hands, assisting in its construction. The farmers wish a cheap, speedy, and safe communication with market. I am certain, if the true condition of that country were known, the House would not hesitate a single moment to pass the bill. The Government will not lose, but they have every prospect of gaining by it. It will cause to be sold lands which otherwise would remain in market; which would, probably, remain on the hands of the Government unsold for years.

Mr. ALLISON. With the gentleman's permission, I will ask him a question. I understand the gentleman from Alabama complained of the operations of the bill passed on last Saturday, because his State, in her selection, would be confined to lands lying within her limits, those lands having remained in market unsold for the last thirty years. They are of course not so valuable as lands lying within the limits of the new States. Now, if that is a subject of complaint, why does the gentleman ask for an appropriation of the same lands for this road? It is proposed, I think, to take land within the borders of the State for the road. He can get none other. Why, then, should he complain of the grants made in the general bill passed last Saturday?

Mr. ABERCROMBIE. I will reply to the gentleman's inquiry promptly. I have stated that those lands are not now valuable, and cannot be made so unless an improvement of the character proposed in the bill under consideration shall be constructed through them. That is my answer.

Mr. ALLISON. Then if those lands are to be made valuable by the construction of this road, I would inquire of the gentleman why he does not apply to the Legislature of Alabama for a grant of a portion of the lands given to her by the bill passed on last Saturday?

Mr. COBB. That bill has not yet passed into law, nor will it this Congress.

Mr. ALLISON. It is true it is not yet law; but so far as this House is concerned, it is law. Those on this side who are in favor of it, intend they must rely on that act of appropriation.

Mr. ABERCROMBIE. We would prefer to get the grant now. The work is now progressing, and assistance is needed at this time. The Legislature will not again meet for two years to come. If that bill were to pass, we would not get the appropriation for that length of time.

When the Government is to be advantaged and not injured by the grant asked, is there any good reason why it should be refused? I do not wish to be understood as impeaching the motives of members. They are no doubt voting in accordance with what their judgment dictates to be correct. This I believe to be the plainest case ever submitted to a legislative body for its action. The land which will be granted to the road is now poor and valueless. They will be immensely improved in value by the construction of the proposed road. If the bill be not passed, this land will remain in market for years yet to come unsold. There is at the present time in this city a gentleman from Georgia, Judge Iverson, who owned a large tract of land of a similar quality to that asked to be granted to aid in the construction of the railroad I am advocating. A few days ago he stated to me that he had an interest in sixty thousand acres of land, which they recently disposed of for \$5,000. Were a railroad constructed through that land its value would be enhanced immensely. When an effort of the character now being made by the farmers of Alabama—entirely and alone by them—for the purpose of opening a cheap, speedy, and safe communication with market, and when not a speculator has got an interest in the road, it seems to me it should be aided by the Government in the way proposed in the bill. If members of the House have confidence in what I have said, they will pass the bill. I am, however, aware that the present is an inauspicious time to ask the grant. I know that there exists feeling against bills of its character; but I believe this is one against which no feeling ought to exist.

Whatever may be the determination of the House, I shall be reconciled to it. I am, as I have stated before, convinced in my own judgment that it should pass.

Mr. AVERETT. If the gentleman has concluded his remarks, I shall make a motion and assign a single reason for so doing.

Mr. SNOW. I would like to ask the gentleman from Alabama one question before he resumes his seat. Does this bill provide for the increasing of the price of the alternate sections reserved to the Government to \$2 50 per acre?

Mr. ABERCROMBIE. It does.

Mr. SNOW. The gentleman has said that the land proposed to be granted is poor. I will ask him, then, whether he had not better accept the conditions of the bill lately passed by this House, and which does not increase the price of the land to \$2 50 per acre? If that land is poor, it certainly is for the benefit of the gentleman and his constituents, and for the settlers who may locate upon it, to accept it under the conditions of the bill passed on Saturday.

Mr. ABERCROMBIE. I will reply to the gentleman by stating that I disapprove of that portion of the bill to which he alludes; but it is embraced in every bill of the kind which has been passed, or is now before the House. I think the price of these lands ought not to be increased in value, for the reason that I am of opinion that it is at present too high. The price is so high that they cannot be disposed of. The provision has only been inserted to make the bill conform to those which have already been passed, and those now before the House.

Mr. SNOW. That is what the general bill is intended to obviate. It is a condition which this Government should not enforce upon the people of the new States, and settlers. In raising the price of the alternate sections, the Government becomes a common speculator, in connection with this special legislation. It is a condition antagonistic to the interests of the people of that State, and the settlers upon these lands—forcing back the man who goes there with but a small portion of money in his possession, and giving power to the man holding capital to locate upon these particular sections.

Mr. ABERCROMBIE. There is no fear the people will object to that provision if the grant be made. They desire this aid. The road is in the hands of the farmers, and they are endeavoring to render their estates, through which the road will pass, valuable by its construction. For nearly half the distance of the road, there is very little public land. It is only in the lower country where land will be obtained in any quantity near the waters of Mobile bay.

If the gentleman insists we should make this request to the Legislature, I reply to him that we will be unable so to do, as it will not be in session for two years to come. In the mean time we would be losing considerable in the way of interest on the money already expended. Again, I repeat that there is no speculation in this road. It is not to be constructed by a speculating company, but by the hard-working yeomanry of the country. We are an industrious people, and if we can, are determined to build the road! Let gentleman understand I am no beggar. I am not begging. In granting this land, the Government is not injured, but in my judgment greatly advantaged.

Mr. STEVENS, of Pennsylvania. I understand the gentleman to say that the stockholders do not want this land for speculation, but merely to aid in the construction of the road. Will the gentleman agree to the introduction into his bill of an amendment of this kind:

*Provided*, That to the amount of the net proceeds of the sales of all the lands hereby granted, stock shall be issued to the Secretary of the Treasury in trust for the Government of the United States, so that the land shall not go to private stockholders, but to the donor of the land.

[A message was here received from the Senate by ASBURY DICKIN, Esq., its Secretary, notifying the House of the passage by that body of certain bills.]

Mr. ABERCROMBIE. It would be an insult to the Government to offer such a proposition.

Mr. STEVENS. The gentleman did not suppose that I intended to insult the stockholders.

Mr. ABERCROMBIE. The Government—

Mr. STEVENS. If the sensibility of the Government is affected, that is another matter. [Laughter.]

Mr. ABERCROMBIE. This road would afford a great advantage to the Government in the transmission of the great Southern mail, which must necessarily pass over this road from New Orleans to New York.

Mr. COBB. I would rather decline saying anything in relation to the odious feature of these bills to which the honorable gentleman from New York [Mr. Snow] alluded, that is, increasing the price of the reserved sections of public lands to \$2 50 per acre. I am, and always have been, opposed to that feature being inserted in the railroad bills in my section of the country. We propose by these bills to carry troops and munitions of war upon these roads for the General Government, and for the transportation of what the Government may choose to send free of charge, except the mail. I hold that this would be a sufficient equivalent for all we get from the General Government in the State of Alabama, for we, by our own private enterprise, bring thousands of acres of poor land into market, which otherwise would never have been sold. As a demonstration of that fact, I am informed by the engineer of the Mobile and Chicago Railroad that this road runs through Alabama about sixty-six miles before it reaches the city of Mobile. Lands which have been entered along the line of that road for \$1 25 per acre before the road was chartered, have been sold since for upwards of twenty dollars per acre. Every solitary foot of land through that whole pine country would not bring \$1 25 per acre, even within six miles of Mobile, until that road was chartered, but now persons are anxious to take it up at \$2 50. In the committee, I voted against the feature in the bill increasing the price of the reserved sections of land. I voted against it because I considered it an odious feature; and it is one which I will always oppose. I hold that the lands in Alabama are too high now, and my policy is to reduce them in price so that the Government may sell out those lands, so long in market but remaining unsold.

Mr. JOHNSON, of Georgia. I desire to state to the gentleman from Pennsylvania [Mr. Stevens] that the persons interested in this road—the stockholders wishing to construct it—would not be willing that stock should be issued to the Government of the value of the land which would be donated by the Government. And why would they not be willing? The public lands which remain unsold, and which will be appropriated by this bill, have been in market for many years; and I know, from my own personal observation and experience, that they are nearly worthless except for the timber. The Government now, by granting these lands to this railroad, will enable it to appropriate the timber. Take the right of way, and whatever value the building of this road may add to these alternate sections, and the Government will receive the benefit in the increased value of those sections. The mode of granting these alternate sections is not a gratuity at all. The Government, by making such grants, not only increases the value of the lands granted, but the value of their reserved sections, perhaps not to the extent of \$2 50 per acre. In addition to that, this is not a voluntary grant, for the company here stipulates with the Government to transmit the troops, the public stores, and the mail of the United States, under such a contract and such regulations as shall be agreed upon by the parties and the Government. It is a grant, then, for a valuable consideration. Here are lands lying now without sale, and there is no one ready to purchase them.

Mr. STEVENS, of Pennsylvania. Suppose, instead of giving land to build this road, the Government should think it worth while to make a road, which would increase the value of the lands, and pay for it in money, in conjunction with the assistance of Alabama, would they be entitled to stock, like the other stockholders, or must they give it to enrich those stockholders, because it would aid in disposing of the lands?

Mr. JOHNSON. That embraces a constitutional question, not of policy and propriety. It is now distinctly a question of propriety.

Mr. STEVENS. I cannot see the distinction. I have looked at both platforms, and I can see no difference. [Laughter.]

Mr. JOHNSON. I shall not attempt now to draw the distinction. That is a question I do not wish to discuss at this time. I contend that the

Government has a right to dispose of the lands. Here is a conveyance for value. In addition to that, these individuals, by their property and labor, render the property of the Government more valuable by thus stipulating to do such things for the Government, as carrying the munitions of war, stores, and the mail of the United States, free of charge. This road is a link which connects the cities upon the Gulf and the Eastern cities. Every gentleman here upon this floor who represents Eastern interests, from Savannah to New York, is interested in the construction of this road. It is strictly a national road, one in which the whole country is interested. If there is a road which has been presented to this House deserving their favorable consideration, this is one.

Mr. ABERCROMBIE. I will not detain the House longer upon this subject. I wish the question decided, and I hope there will not be a dissenting voice in the House in regard to this bill. I therefore call the previous question upon the bill.

Mr. CABLE, of Ohio. Is it in order to move to refer the bill to the Committee of the Whole on the state of the Union?

Mr. STEPHENS, of Georgia. I would suggest to the gentleman from Alabama [Mr. ABERCROMBIE] to recommit the bill, in order to keep the bill before the House.

Mr. ABERCROMBIE. I will accept the suggestion, make the motion to recommit, and demand the previous question.

Mr. LETCHER. Is it in order to move to lay the bill upon the table?

The SPEAKER. It is in order.

Mr. LETCHER. Then I submit that motion.

Mr. CLINGMAN. It wants but two or three minutes of the expiration of the morning hour. I hope there will be no objection to our going into Committee of the Whole.

The SPEAKER. It can only be done by unanimous consent.

#### POST-ROUTE BILL.

Mr. OLDS. I wish to say to the House, that the Committee on the Post Office and Post Roads is next to be called, as I understand that this is the last report from the Committee on Public Lands. I propose, when the Committee on the Post Office and Post Roads is called, to put the postage bill upon its passage. I have a number of amendments—

Mr. AVERETT. I rise to a question of order—

Mr. OLDS. I wish to submit these amendments, in order that they may be printed.

Mr. AVERETT. I wish to raise the question of order, and to bring the House to order. I understand that reports from the Committee on Public Lands are in order.

The SPEAKER. The pending question is a privileged one. It is to lay the railroad bill upon the table.

Mr. McMULLIN. I desire to know if a motion to commit the bill will take precedence of a motion to lay upon the table?

The SPEAKER. It will not at present.

Mr. McMULLIN. I will submit that motion at the proper time.

The SPEAKER. The proposition is not debatable.

Mr. McMULLIN. I desire to ask my colleague [Mr. LETCHER] to withdraw the motion to lay upon the table with a view that I may submit the motion to commit.

The SPEAKER. If that motion was withdrawn, the demand for the previous question would exclude the motion to commit.

Mr. STEPHENS, of Georgia. I understood the gentleman from Alabama [Mr. ABERCROMBIE] to move to recommit the bill before he called for the previous question.

The SPEAKER. The gentleman did move to recommit the bill, and then demanded the previous question. The gentleman from Virginia [Mr. LETCHER] then moved to lay the bill upon the table, and that is the proposition now before the House.

Mr. JONES, of Tennessee, demanded the yeas and nays.

Mr. EVANS asked for tellers upon the yeas and nays; which were ordered.

The House was then counted, (Messrs. CHAND-

LER and PENN acting as tellers,) and there were— yeas 51, noes 34.

So the yeas and nays were ordered.

Mr. HOUSTON. Will it be in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

Mr. HOUSTON. I wish to give notice to the House that I intend, after we come out of the Committee of the Whole on the state of the Union, to move a resolution proposing to close the debate upon the deficiency bill at one o'clock on Monday. I now move to go into the Committee of the Whole on the state of the Union.

#### THE CONTESTED ELECTION.

Mr. NABERS. I have a privileged motion to make, and that is to reconsider the vote by which the resolution in reference to the Pennsylvania election case was laid upon the table yesterday.

Mr. BOCK. I move to lay the motion to reconsider upon the table.

Mr. STANTON, of Tennessee. I rise to a question of order. I desire to know if the gentleman from Mississippi [Mr. NABERS] voted with the majority?

Mr. NABERS. I did.

Mr. HOUSTON. I ask that my motion may be put, and that this matter may be passed over informally.

The SPEAKER. The Chair is of opinion, that if insisted upon by any member on this floor, the motion to reconsider is first in order.

Mr. JONES, of Tennessee. Suppose we proceed to the reconsideration. It is not debatable, and will it not be in order, pending that consideration, to move to go into the Committee of the Whole on the state of the Union? The rule says it may be done at any time. We are not precluded, I assume, from making the motion to go into the Committee of the Whole on the state of the Union, when a question of reconsideration is pending, that motion having been made, and no gentleman having the floor; nor can any gentleman make a speech upon it, it not being a debatable question.

The SPEAKER. In the opinion of the Chair, it is a question purely of priority. Both are privileged motions. The Chair thinks, and has so decided before, that the motion made by the gentleman from Mississippi [Mr. NABERS] is of a higher grade, affecting the right of a member upon this floor. The decision of the Chair is, that it takes precedence of the proposition to go into the Committee of the Whole on the state of the Union.

Mr. JONES. Would not another motion to go into the Committee of the Whole take precedence of that?

The SPEAKER. The Chair thinks that it is not competent for the House to postpone the consideration of the motion of the gentleman from Mississippi, if it is insisted upon.

Mr. NABERS. I shall not insist upon it. I can make the motion again this evening, I presume?

The SPEAKER. Does the gentleman withdraw the motion to reconsider?

Mr. NABERS. I do, sir.

Mr. HOUSTON. I insist upon my motion now.

The question was then taken upon Mr. Houston's motion, and it was decided in the affirmative.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN stated, as the first business in order before the committee, the consideration of House bill No. 207, to supply deficiencies in appropriations for the service of the fiscal year ending June 30th, 1852, upon which the gentleman from Georgia [Mr. TOOMBS] was entitled to the floor.

Mr. TOOMBS addressed the Committee an hour upon the subject of the Democratic and Whig nominees for the Presidency. He referred to the political history of Messrs. Pierce and King, the Democratic nominees, and showed that they had always proved steadfast friends to the constitutional rights of the South. On the other hand, the Whig nominee for the Presidency, General Scott, although he had accepted the nomination, with the resolutions annexed, had no



civil antecedents upon which the South could rely; nor was there anything in the circumstances which brought about his nomination calculated to inspire confidence. He had not in his letter of acceptance indorsed the compromise. Mr. T. concluded by expressing his determination not to support him for the Presidency. [See the speech in the Appendix.]

Mr. BRECKINRIDGE next obtained the floor, and addressed the committee upon the subject of the ocean mail steamers, and in opposition to the payment out of the Federal Treasury of the moneys of the people to keep up private enterprises. [His speech will be found in the Appendix.]

Mr. HOWARD here obtained the floor, but yielded to

Mr. JONES, of Tennessee, who moved that the committee rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill No. 207, being the deficiency bill, and had come to no conclusion thereon.

Mr. HOUSTON. I have a resolution I desire to offer.

Mr. JONES, of Tennessee. I have a privileged question, which I wish to bring before the House. It is late in the session, and we have spent a great deal of time unnecessarily, yet I think there is a respect due, through us, the representatives of the people, to our great national anniversary, and as it comes to-morrow, Sunday, Monday will be celebrated as that day. I therefore move that when this House adjourns, it adjourn to meet on Tuesday next.

[Cries, "Agreed!" "Agreed!"]

Mr. HUNTER. I hope not. The fourth of July is to-morrow, and it will be passed.

Mr. HOUSTON. I think it is evident there is not a quorum here. I do not want to object to the gentleman's resolution. I desire my resolution to be read, and I should like the House to agree to it, before it acts upon the motion of the gentleman from Tennessee. [Mr. JONES.]

The question was then taken on the motion of Mr. JONES, and it was agreed to.

Mr. HOUSTON. The resolution I desire to offer, is to make special orders of the appropriation bills, leaving out the morning hour, and also Fridays and Saturdays.

Mr. MARSHALL, of Kentucky. There is no necessity for such a resolution. The appropriation bills take precedence now, when there are no special orders.

Mr. HOUSTON. But if they are made the special order, they will command more particularly the attention of the House.

Objection was made, and the resolution was not received.

Mr. HOUSTON. Then I wish to offer a resolution which I send to the Clerk's table.

Mr. CLINGMAN. I object to it.

Mr. FOWLER. I move that the House adjourn.

The question was then taken on the motion to adjourn, and there were, upon a division—ayes 31, noes 61.

So the House refused to adjourn.

Mr. STEPHENS, of Georgia. There is no quorum, and I move the House adjourn.

Mr. NABERS. I hope the gentleman will withdraw his motion for the purpose of explanation.

Mr. STEPHENS. I withdraw my motion.

#### THE CONTESTED ELECTION AGAIN.

Mr. NABERS. I desire to make a remark, to explain a motion I made this morning. It will be remembered that I made a motion this morning to reconsider the vote by which the Pennsylvania contested-election case was laid upon the table. I was induced to make that motion out of courtesy to some gentlemen upon this floor, and not because I was in favor of it. After further consultation, I understand it is desired that the motion should not be made. I therefore will not renew it.

Mr. STEPHENS. I move that the House adjourn.

Mr. MARSHALL, of Kentucky. Will the gentleman withdraw his motion for a moment?

Mr. STEPHENS. I will.

Mr. MARSHALL. There is a bill which has come from the Senate, and which lies upon the Speaker's table. It will not take this House any time to pass it. It is one which I have investigated. It is for the relief of Mr. Benjamin S. Roberts. The object of the bill is to restore to Mr. Roberts, and give him the pay which would be due to him as lieutenant for several years, from the time he was driven from the Army to the time when he was restored.

Mr. TOOMBS. I object to it.

On motion by Mr. STEPHENS,

The House then adjourned till Tuesday next.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. PORTER: The petition of Henry D. Evans and others, for a post route from Port William, in Franklin county, to Richwoods, in Washington county, Missouri.

By Mr. WILLIAMS: The petition of Robert Brown and 169 others, citizens of Madison county, Tennessee, opposing the renewal of the Woodworth patent.

By Mr. WASHBURN: The remonstrance of Elbridge Dole and others, citizens of Penobscot county, Maine, against the renewal of the Woodworth patent.

By Mr. COTTMAN: The petition of Jacob H. Sturgis, G. W. P. Smith, Edward D. Martin, Dennard Williams, and 111 others, citizens of the United States, remonstrating against the removal of the port of entry, from Snow Hill to New Town, in Worcester county, Maryland.

Also, the resolutions of the Legislature of the State of Maryland, praying Congress to pass an act to remunerate the heirs of the Baron De Kalb, for the services of the said Baron, who lost his life at the battle of Camden, on the 16th of August, 1780.

Also, the petition of Charles Parker, E. K. Wilson, John Hayward, Edward J. Wainwright, and 40 others, citizens of the United States, in relation to the removal of the port of entry from Snow Hill to New Town, in Worcester county, Maryland.

#### IN SENATE.

TUESDAY, July 6, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, in answer to a resolution of the Senate, accompanied by statements of the amount paid by that Department and its several bureaus for printing, binding, and stationery, from April 1, 1849, to March 31, 1852; which was ordered to be laid on the table and printed.

Also, a report of the Secretary of State, made in compliance with a resolution of the Senate, in relation to the examination, promotion, classification, and compensation, of the clerks in that Department, in which the Secretary states that he is not able to agree with the other heads of Departments in the report which they have made to the Senate, and that, in his opinion, it is not expedient to establish any board for the examination of candidates, either for original appointment or for promotion. The report was referred to the Committee on Finance, and ordered to be printed.

#### PETITIONS, ETC.

The PRESIDENT *pro tempore* laid before the Senate resolutions of a public meeting, convened at Parkville, Platte county, Missouri, praying the enactment of a law by Congress providing for the organization of the Territory of Nebraska, and for the immediate settlement of the lands therein from which the Indian title has been extinguished; which were referred to the Committee on the Territories.

Mr. WADE presented resolutions of the Mayor and Council of Sandusky City, Ohio, in relation to the construction of a canal around the Falls of the Ohio river, on the north or Indiana side, and praying an appropriation for that purpose; which were referred to the Committee on Roads and Canals.

Also, two petitions of citizens of the West, praying Congress to grant an appropriation for the construction of a canal around the Falls of the Ohio; which were referred to the Committee on Roads and Canals.

Mr. WALKER presented a petition of the Working Man's League, of Milwaukee, Wisconsin; and a petition of citizens of Pope county, Illinois, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which were referred to the Committee on Public Lands.

Also, an extract from the proceedings of the Board of Health of Washington City, D. C., in relation to the alanthus or "tree of Heaven,"

condemning it as a nuisance on account of its offensive odor when in flower, and declaring that the proposition before Congress to have it removed from the public grounds is regarded with great favor by this Board; which was referred to the Committee on Public Buildings.

Mr. WELLER presented the memorial of George H. Derby, a second lieutenant of the Corps of Topographical Engineers, praying that a sum of money belonging to the United States, stolen from him while in the discharge of his duty, may be allowed in the settlement of his accounts; which was referred to the Committee on Claims.

Mr. DODGE, of Wisconsin, presented a petition of citizens of Rock county, Wisconsin, praying a grant of land to every citizen who is the head of a family and not the owner of real property; which was referred to the Committee on Public Lands.

Mr. HAMLIN presented a memorial, very numerous signed by citizens of North Newburg, Maine, in favor of the passage of the bill now before Congress commonly known as the "homestead bill," which was referred to the Committee on Public Lands.

Mr. HAMLIN desired to say that he pursued the same course with regard to this petition that he did to all others. He did not desire to be considered as favorable to the object of a petition by presenting it.

Mr. PRATT presented a resolution of the Legislature of Maryland, in favor of the enactment of a law granting compensation to the heirs of Baron De Kalb, for his services during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. GWIN presented the petition of Jean Deplaigne, a French subject resident in Mexico, praying indemnity for the loss of certain property seized by the naval force of the United States after the surrender of Frontera de Tabasco; which was referred to the Committee on Foreign Relations.

Mr. DODGE, of Iowa, presented a petition of Peter McNortey and others, praying that the bill now pending before Congress, commonly known as the "homestead bill," may become a law; which was referred to the Committee on Public Lands.

#### PETITION WITHDRAWN AND REFERRED.

On motion by Mr. BRODHEAD, it was

Ordered, That the petition of Abner Hancock, on the files of the Senate, be referred to the Committee on Pensions.

#### REPORTS FROM STANDING COMMITTEES.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to which was referred the petition of William Moss and Matthew Moss, praying to be allowed a higher grade of compensation for services rendered in the Post Office Department, submitted a report, accompanied by a bill for their relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. FELCH, from the Committee on Public Lands, to which were referred sundry petitions from the Legislature and citizens of Florida; also a memorial from the Legislature of Alabama, in relation to school roads, reported a bill allowing exchanges of school lands, and authorizing selections for deficiencies in certain cases; which was read and passed to the second reading.

He also, from the same committee, to which was referred the bill to authorize the school authorities in the State of Florida to make certain selections for school purposes, reported it back without amendment; which, on motion by Mr. FELCH, was ordered to be laid on the table, as this bill merely related to a special purpose, while the one above reported was general in its character.

He also, from the same committee, to which were referred sundry memorials of citizens of Missouri, praying the establishment of a land office at Salem, in that State, reported a bill to create an additional land district in the State of Missouri; which was read and passed to the second reading.

He also, from the same committee, to which was referred the bill from the House of Representatives to enable the Legislature of the State of Indiana to dispose of the unsold saline lands in said State, reported back the same without amendment; and said that as this bill merely removed the present restriction, putting the State

of Indiana on an equal footing with other States in that respect, and authorizing the sale of these lands at \$1 25 per acre, he supposed there would be no opposition to it, and asked its immediate consideration.

It was considered accordingly by the Senate as in Committee of the Whole, and no amendment being made, it was read a third time and passed.

He also, from the same committee, to which was referred the petition of William Stone, praying to be allowed to locate certain lands, submitted an adverse report; which was ordered to be printed.

Mr. PRATT, from the Committee on Claims, to which was referred the memorial of the legal representatives of John G. Mackall, submitted a report, accompanied by a bill for the relief of the legal representatives of John G. Mackall, deceased; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of the legal representatives of Dr. William Somerville, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

He also, from the same committee, to which were referred the petition of Samuel S. Marcy, and the petition of Elizabeth Parsons, submitted adverse reports thereon; which were ordered to be printed.

He also, from the same committee, to which were referred the petition of Mira M. Alexander, and the petition of the Oneida Indians, praying that certain allowances may be made to them, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. PRATT also submitted reports on the above petitions; which were ordered to be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the following bills:

An act to establish additional land districts in the State of Wisconsin; and

An act to amend an act entitled "An act for the discontinuance of the office of surveyor general in the several districts so soon as the surveys therein can be completed, for abolishing land offices under certain circumstances, and for other purposes."

The above-named bills were severally read a first and second time by their titles, and referred to the Committee on Public Lands.

#### PUBLIC PRINTING.

Mr. CLEMENS gave notice of his intention to ask leave to introduce a joint resolution to provide for the election of a public printer, and fixing the prices at which the work shall be done.

#### THE CUBAN EXPEDITION.

A message was received from the President of the United States, by Mr. FILLMORE, his Secretary, recommending that provision be made by Congress to compensate the consul of the United States for expenses incurred in the outfit and transportation to the United States of certain foreigners engaged in the Cuban expedition; which was referred to the Committee on Finance.

#### MEXICAN BOUNDARY COMMISSIONER.

The Senate proceeded to consider the resolution submitted by Mr. WELLER on the 28th June, in relation to certain charges preferred against J. R. Bartlett, commissioner for running the Mexican boundary, as follows:

*Resolved*, That the charges preferred by Colonel J. McClellan, of the Topographical Corps, and others, against J. R. Bartlett, appointed Commissioner to run and mark the boundary line between the United States and the Republic of Mexico, be referred to a select committee of five for investigation, with power, if necessary, to send for persons and papers."

Mr. WELLER addressed the Senate at considerable length in defense of his conduct while Commissioner to run the Mexican boundary. [His speech will be found in the Appendix.]

Mr. CLARKE. Mr. President, I do not feel disposed, at this late hour, to attempt to go into the question, which has been so ably and so fully argued by the honorable Senator from California, [Mr. WELLER.] With very much of the remarks of the Senator, I certainly have no connection whatever. I am not "my brother's keeper." So far as regards the injury which the honorable Sen-

ator has received, or supposes he has received, from a distinguished gentleman, who is no longer a member of this body, I have nothing to do with it. I have heard his explanation, and his justification; and I have not one word to say against it. I simply rise now to say, that I stand here to defend, so far as the limited means in my possession will enable me to defend, the character of the present Commissioner upon the Mexican boundary commission. As was well observed by the honorable Senator from California, the means within our power are yet incomplete, and wholly insufficient to allow us to judge the question, whether the present Commissioner has performed his duties, under the orders which he has received, and put a proper construction on the treaty of Guadalupe Hidalgo; or whether he has, from any insufficiency of power, or from any corrupt motive, departed from that treaty, or departed from the position which he should occupy as a high functionary of the Government of the United States. This is a question that I have not yet the means fully in my power to ascertain or determine. I am not, therefore, at this moment, prepared to go into that defense as fully as I intend. Hence I rose to ask that this resolution be postponed to some future, and no very distant day. I have in my possession some papers which relate to the subject. I have other papers at home, which reached me during the *interim* between the last session of Congress and the present one, for which I shall be obliged to send, or go and get them, in order to make what feeble justification I can for the present Commissioner, before the expected documents are received from the Department of the Interior. I would observe here, that some six weeks since I called at the Department of the Interior, and was told that within a week all the papers relating to that boundary commission, which were to be sent in upon the call of the honorable Senator from California, would be here. They have not yet reached us. When they do reach us, it will be too late to have them printed in season for us to use them at this session of Congress. I therefore now desire to ask, that, in case they come in while I am out of my place, they may not be ordered to be printed, in order that the manuscript may be here for our inspection before any other action may be taken.

I move now that the further consideration of this resolution be postponed until Thursday. At that time I hope I shall be prepared to throw as much light upon the subject as the limited means within my power will enable me to do. But I venture now to say, in anticipation—and I feel bound to say in justification of the present Commissioner—that the limited means within my reach will, I think, enable me entirely to exculpate him from the charges which have been made against him, not by the honorable Senator from California, but by others; and I trust that all the documents, when they appear, will show him forth before the country clear, unstained, and unblamable.

Mr. WELLER. If it would suit the convenience of the Senator from Rhode Island, I would prefer to have the resolution postponed for a longer period than Thursday. I shall then be necessarily absent. I should, of course, desire to be here when the honorable Senator defends the action of the present Commissioner.

Mr. CLARKE. Will the Senator have the goodness to name his own day—any day which will suit him?

Mr. WELLER. Say Thursday week.

Mr. CLARKE. Then, in accordance with the suggestion of the honorable Senator, I move to postpone the further consideration of the resolution until Thursday week next. I would, however, state, that if he should not be present on the day which I propose, I should feel bound not to go on in his absence.

Mr. RUSK. I have no objection, sir, to the postponement of the resolution before the Senate until Thursday week. Inasmuch, however, as a postponement of it, in connection with what has been said in regard to the papers which we expect to receive from the Secretary of the Interior in answer to another call, might carry the idea that that subject is to be postponed and passed over, I simply rise to say that I shall not agree to any such understanding. I do not care anything about the charges preferred against the Commissioner; but I see by a communication from the

Secretary of the Interior, that the initial point on the Rio Grande established by the treaty of Guadalupe Hidalgo, has been departed from—palpably and clearly departed from—to the damage of the United States, and in favor of Mexico, for some thirty or thirty-five miles. With regard to that point, it is my purpose at all times, and at all places, whenever and wherever I can, to avoid the consummation of the new line not included in the treaty of Guadalupe Hidalgo. And, when the papers come in, if they bear upon that point—as I apprehend they will, and I have been only waiting for them upon that ground—I shall desire that those papers be printed at once. When the deficiency bill was under consideration, I voted for an appropriation to supply a deficiency for this boundary commission, with a condition. I have examined this matter with regard to the departure of the line fixed by the treaty of Guadalupe Hidalgo, and in regard to that question there can be no doubt. I do not intend to vote another dollar to this boundary commission—so far from it, I mean to resist the appropriation of any more money until we have some assurance that the treaty of Guadalupe Hidalgo, and not the negotiations between the Commissioners, is to settle the initial point of the line upon the Rio Grande.

Mr. CLARKE. I certainly did not anticipate the objection made by the Senator from Texas, [Mr. RUSK,] and how far that objection may go I am hardly able to say. The means are not in my possession from which I can judge what were the initial points agreed on by the Commissioners of the two countries on the Rio Grande, under the treaty of Guadalupe Hidalgo. Until these documents come from the Department of the Interior, I am unable—what information may be in the possession of the Senator from Texas I do not know—to form any opinion as to the propriety or impropriety of the initial points agreed upon.

I hold in my hand a letter addressed to me by the American Commissioner himself, dated from "El Paso del Norte, 27th December, 1850," and in that letter he states that he has come to an agreement with the Mexican Commissioner on the line to be run for the southern boundary of New Mexico; and he states distinctly, plainly, clearly, and unequivocally—and that statement must be true or false—that he has been governed by the provisions of the fifth article of the treaty of Guadalupe Hidalgo, and that he has been governed by the map of Disturnell, published in 1847, which was referred to in that treaty; and although he states that that map, in itself, is manifestly incorrect, still he has secured for the United States a large quantity of land which it was feared would be lost, together with the rich and valuable gold and copper mines of New Mexico.

Now, sir, this manner of casting imputations in advance upon any public officer, I will simply say does not meet my approbation. If, upon the inspection of these papers—as I have once before said in this body—the Commissioner shall be found to have been derelict in his duty, either from ignorance or corruption, let him be condemned. But, sir, while he is absent, in the wilderness or the desert, being permitted to enjoy probably, as his only luxury, the privilege of bathing now and then in the muddy and turbid waters of the Gila, I protest most sincerely against his being arraigned in this body, that he may be condemned by the American people undefended, and without the means of defense within the reach of his friends. Let the whole correspondence be presented, and the maps to which a reference is made. In that correspondence he says, "I am preparing two maps of the line fixed by the treaty of Guadalupe Hidalgo, to which I call your attention; the one, of the line claimed by the Mexican Commissioner, and the other, the line secured by me." Let these maps come in, and let all the information be before the Senate, so that the Senate and the country may know what has been done, and whether this Commissioner has yielded up or given away—as he has been charged with doing—a large quantity of beautiful land, the first of that description ever heard of in that country. For it has been said that he has yielded up some twenty-two minutes of latitude—about twenty-five miles—and has thus inflicted a loss upon the country. If that be true, let him be condemned. But I beg to suggest, in extenuation at least, if not in defense of the Commissioner,

that the Administration itself—not that under which he was appointed, but the succeeding Administration—have approved his acts. His conduct has been satisfactory to them. He was appointed by the administration of the late lamented General Taylor, and he continued to hold his appointment under the administration of Mr. Fillmore. He received his orders as Commissioner from the then Secretary of the Interior, Mr. Ewing; and he has since received orders and his confirmation and justification, from the present Secretary of the Interior, Mr. Stuart. Now, let me say that this bespeaks for the individual at least so much as this, that public opinion should be suspended until the evidence is clear and decisive that he has been guilty of dereliction of duty. I do not ask that any portion of this correspondence, or any portion of the communication that is expected from the Department of the Interior should be suppressed.

I would most cheerfully give my vote for its speedy publication, if it could be laid on the table this moment, and thus enable us to see it and know what it contains; but it is very voluminous, and my only object in making the previous remarks on this subject was to call the attention of the Senate to the fact, that inasmuch as it is impossible for the publication of this communication from the Department to be made this session, it would be better to withhold it until the Senator from Texas, [Mr. Rusk,] together with the Senator from California, [Mr. Weller,] and myself might have an opportunity of personally examining the manuscript. If it goes into the hands of the printer we shall see nothing more of it for a long, long day; and I am desirous of seeing it, and of ascertaining whether this Commissioner, in whom I have the utmost faith as a man of integrity and talent, has been guilty of such a dereliction from duty as should subject him to the censure which has been inflicted on him.

I shall be ready on the day designated, if the communication should in the interim come in from the Department, to go into an examination of the question. I expect to be fully capable of vindicating that officer; but if he cannot be sustained by the record and by the facts, I shall unite with my friend from Texas [Mr. Rusk] in pronouncing his condemnation. I sustain him alone on his merits, though I know that he has been the object of great vituperation and abuse. It was the worst-formed commission that ever departed from a country with any object in view that lies within the object of civilized men.

Sir, when this matter again comes up for discussion, I shall be obliged to say things that I shall exceedingly regret. Gentlemen who have made these charges must expect that there will be a reaction. I know not one of them. None of them has ever come within the range of my vision. I certainly have not the honor of their acquaintance; but when this investigation is made, mark me! there will be a reaction on the heads of those who have made these charges against this Commissioner, that shall consign them to the deepest infamy to which men can be consigned.

I have done now for the present. I think the suggestion made by my friend from Texas should be agreed to. I desire no delay in the publication of these documents; but if they cannot be published at an early day, I desire that he and I should have an opportunity of examining the manuscript, so that when the day arrives for the further discussion of this question, we shall be able to go into it fairly and impartially.

Mr. RUSK. I have nothing to say against the Commissioner personally. I trust he will be able to defend himself; but I do not mean, if I can help it, to lose the land. The territory, as far down as El Paso, by the treaty of Guadalupe Hidalgo, belongs to the United States. I propose, whenever we can get at the subject, to show that so plainly, that he who runs may read. There can be no sort of excuse for departing from the map of Disturnell, and giving away some five or six thousand square miles. I do not know who is to blame in the matter, nor do I care—whether the Commissioner or the Secretary of the Interior; but that is the point to which I wish to direct my inquiries—I mean in relation to the territory. It is not for the purpose of making any lodgment in the public mind for or against any particular officer. There have been some officers with whom I have had correspondence, who I think the Senator

from Rhode Island will find great difficulty in consigning to that place to which he would consign every person who comes into collision with the Commissioner.

Mr. CLARKE. The Senator from Texas mistakes me; I made use of no such expression.

Mr. RUSK. I certainly so understood the honorable Senator.

Mr. CLARKE. I did not mean to be so understood at any rate.

Mr. RUSK. I am glad to hear it. The surveyor attached to the commission protested against a departure from the treaty in the establishment of the initial point, and was dismissed. An officer of the Army, of very high standing, (Colonel Graham,) who made an enviable reputation on a far more difficult boundary than this, has also been superseded. If, when the papers come in, it shall appear they were superseded because they would not agree to the new line, they shall find a defender in me to the extent of my ability.

I desire to say that I have no enmity against any one—none at all. I shall not pursue the investigation with any view of finding anything against any one, but simply with the desire to sustain the provisions of the treaty of Guadalupe Hidalgo, and to avoid surrendering that territory to Mexico which properly belongs to us, which is ours by right, and which we should not surrender.

The question was then taken on the motion to postpone the further consideration of the resolution till Thursday, the 15th instant, and it was decided in the affirmative.

#### L. M. GOLDSBOROUGH.

Mr. GWIN. I move to postpone the prior orders, for the purpose of taking up Senate bill No. 274. It is a bill for the relief of L. M. Goldsborough, G. J. Van Brunt, and S. F. Blunt.

The motion was agreed to, and the bill was read a second time, and considered by the Senate as in Committee of the Whole. It provides that the proper accounting officers of the Treasury Department be authorized and required to allow and pay to L. M. Goldsborough, G. J. Van Brunt, and S. F. Blunt, for expenses incurred by them, respectively, while serving upon a joint commission of Army and Navy officers in California and Oregon, during the years 1849 and 1850, double the pay of a commander in the Navy, in sea service, during the exact time of their employment on said coasts as aforesaid, to wit: from the first of April, 1849, to the 27th of November, 1850, deducting therefrom the regular pay accruing to said officers during that period.

Mr. GWIN. I ask for the reading of the report.

The report of the Committee on Naval Affairs was accordingly read, from which it appeared that in November, 1848, the memorialists were ordered by the Navy Department to proceed to California, as the naval members of a joint commission of Army and Navy officers, instituted by the authority of the President of the United States, to explore the countries of California and Oregon, and report upon certain military, naval, and other subjects connected therewith; that, as well in traveling to, as on reaching, the scenes of their labors, and during the whole period they were employed on this service, being about two years, they found to exist the most extraordinary condition of things, especially in relation to the prices of labor, and of all kinds of articles of common and absolute necessity; that they were not attached to any vessel of the Navy while engaged in their duties in California and Oregon; and that, although they were conveyed from place to place by a Government propeller, yet their duties were on shore, and required them to be there—at one period for several months uninterruptedly. The memorialists further represent, that in consequence of the peculiar circumstances referred to, their ordinary pay was wholly inadequate for their support, and beyond that pay no allowance whatever, for extra expenses of any sort, has ever been made to them, or can be made without the authority of Congress.

The committee report that they are satisfied of the correctness of the statements made by the memorialists, and that their pay was insufficient to enable them to meet the additional expenses they were necessarily compelled to incur during the discharge of their official duties, and they believe that the relief asked for in their case is not only just and proper, but sanctioned by precedent.

Mr. DAVIS. I would inquire how much is the pay of a commander?

Mr. GWIN. The pay of a commander, including all expenses, is \$2,500.

Mr. PRATT. This bill gives them \$5,000.

Mr. GWIN. I will state that these gentlemen were engaged in this service at a time when the expenses of living in that country were greater than they have been at any other time. It will be recollected that the pay of the appraiser of customs in California, is by law \$6,000; and that the pay of a naval officer is \$8,000, and of a surveyor, \$7,000. These officers were engaged in a very important service, and I am perfectly confident that they will not, with the proposed compensation, more than meet the expenses incurred by them. I have a knowledge of the facts in this case, and I think the bill ought to be passed.

Mr. BORLAND. I would inquire if this bill proposes to give any addition to pay to which they are lawfully entitled, or whether it is to repay expenses incurred while in the performance of duty?

Mr. GWIN. It is to reimburse them for expenses incurred over and above the pay they received. One of them, as I know, has been much embarrassed in consequence of that expense.

Mr. BORLAND. I would inquire if that is not the case with regard to some Army officers who were appointed with the same Navy officers? If so, would it not be proper to include them also?

Mr. GWIN. There are general propositions to pay for all the expenses. The officers of the Army in California have been provided for by a former bill; but these officers were employed for a specific duty, commencing on a particular day and ending at a particular time. It is a special case, not provided for by the general law. The Naval Committee has reported a bill for meeting the expenses of the officers of the Navy as those of officers of the Army have been met heretofore.

Mr. BORLAND. By giving double pay?

Mr. GWIN. Yes, sir, by doubling the pay.

Mr. DAVIS. It seems to me to be reasonable that some provision should be made for the officers of the Army, sufficient to meet the difficulty here suggested. The only difficulty I have in this special legislation is, that there are a great many persons in precisely the same predicament. These gentlemen now say that they performed services on the land. So does every officer of the Army; but I do not know that they are subject to larger expenses on that account than others who are in the service of the country generally. The only difficulty that I have in this case is, that I do not see exactly the principle on which this allowance is proposed to be made. These gentlemen, in the performance of their duty, have incurred certain expenses. I have no objection to indemnify them, if I can see that that is met and that there is nothing else coming. If we were to establish a rule which we could apply to other applicants, and carry it out, I should not be indisposed to support this bill; but the doubling of the pay does not seem to me to constitute a rule by which to treat parties when they come here. It may, in this case, be just, but the simple fact of doubling the pay does not show it. I dare say the committee have some fact to show that they were dealing equitably with those gentlemen, and I should be glad to do the same thing.

Mr. GWIN. These gentlemen were employed in a special service, and therefore a special bill was reported. The Committee on Naval Affairs have reported a general bill to meet the expenses of officers engaged in service on that coast. A similar bill was passed granting two years' extra pay to officers in the Army in California, which expired on the 3d of March last, and I have received a letter from the commander on the Pacific coast, stating that soldiers are deserting since the pay has been lessened. This bill has reference to officers engaged in a specific duty. They were ordered to California in 1848, and to Oregon, to select sites for navy-yards and fortifications. The memorial of these gentlemen was sent to the Committee on Naval Affairs, and we provided for them, as has been done in other cases; but this being a specific duty, commencing on a certain day and closing on a certain day, it was brought forward in its present shape.

Mr. PRATT. I would inquire of the Senator from California whether the general bill to be introduced by the Committee on Naval Affairs dou-



bles the pay, prospectively, of officers engaged on the Pacific coast?

Mr. GWIN. It does, for a specified time.

Mr. PRATT. As I understand the Senator, it doubles the pay of officers who may go there in future?

Mr. GWIN. Yes.

Mr. PRATT. Then I shall vote for this bill with great pleasure. I do not think there is any reasonable ground of objection in the idea started, that this is a special bill, because these gentlemen have gone to California, and performed specific services, for which they should be compensated. This is only a case of special legislation to provide for a special service; and, as such, I shall vote for it.

Mr. SHIELDS. I am just come in from a meeting of the Committee on Military Affairs, and learn that the bill now before the Senate is for the relief of L. M. Goldsborough and others. I have received a letter from some officers of the Army, who, as I understand, were engaged on the same business with these gentlemen; and I presume that they are, therefore, entitled to this compensation. I am not acquainted with the facts of the case, but merely take the statement presented by these officers.

I see that this bill was reported by the Senator from California, [Mr. GWIN,] who, I dare say, is better acquainted with the facts than I am, and, I presume, will have no objection to include these officers of the Army in the measure of relief. I merely want to put them all on the same footing.

I have no objection to the bill as it is, but would ask to amend it by adding the following section:

*And be it further enacted, That each of the three Army officers, J. L. Smith, C. A. Ogden, and D. Leadbetter, of the Corps of Engineers, who were associated with the said Navy officers in the joint duty aforesaid, be allowed by law, and paid, as aforesaid, commutation of fare and quarters from the 1st of April, 1849, to the 27th of November, 1850, equal in amount to the allowance authorized to a major of the Army, on duty at San Francisco during that time—deducting therefrom the commutation to which they would have been entitled, respectively, at their posts in the Atlantic States.*

Mr. GWIN. It is perfectly right that that amendment should be adopted. The subject was referred to the Naval Committee, and I know that these officers should be provided for in the manner which is proposed.

Mr. BORLAND. The proposed amendment meets the case which I suggested just now. I was aware of the claim of these officers, and of the amount to which they deemed themselves entitled, and I desired that they might be provided for in the same manner as those for which the bill provides.

The amendment was then agreed to.

The bill was then reported to the Senate as amended, and ordered to be engrossed for a third reading.

#### RICHARD FITZPATRICK.

Mr. MALLORY. I move to postpone all prior orders, with the view of taking up Senate bill No. 431, which is a bill for the relief of Richard Fitzpatrick. It is a very meritorious case, and will not involve any discussion.

The motion to postpone the prior orders was agreed to; and the bill was read a second time, and considered by the Senate as in Committee of the Whole. It provides that the proper accounting officers of the Treasury be authorized and required to settle and adjust the claim of Richard Fitzpatrick, for the use and occupation of his land on the Miami and New rivers, in Florida, during the Seminole hostilities, as a military post, by order of officers of the United States, and for wood cut on said lands for the use of the military or naval forces, and for any other property taken and used by order of officers in command at those places for public purposes or defense, and that the amount so found due, upon competent evidence, be paid out of any unappropriated money in the Treasury; but that nothing contained in the bill shall be construed to authorize payment for property destroyed by the Indians.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

#### STATE UNIVERSITY OF INDIANA.

Mr. BRIGHT. I ask the consent of the Senate to postpone the prior orders, for the purpose of taking up House bill No. 239, which is "An act to supply a deficiency to the State of Indiana, in

'a township of land granted to said State for the use of a State university, by an act of Congress approved 19th of April, 1816.'

The motion was agreed to, and the bill was considered by the Senate as in Committee of the Whole. It provides that there be supplied to the State of Indiana for the sole and exclusive use of the State university, an equal number of acres of land found to be deficient in the original grant, and which has been otherwise appropriated by Congress, amounting to four thousand one hundred and sixty-six acres; and that said lands be selected under the direction of the Governor of the State from any lands now in market in said State belonging to the United States, the proceeds of which shall be appropriated solely to the use of said State university, and shall never be diverted to any other purpose whatever.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read a third time and passed.

#### GNADENHUTTEN.

Mr. CHASE. There is a bill from the House of Representatives, which I desire the indulgence of the Senate to take up. It relates to a matter of considerable importance to the town concerned, and of very little consequence to the country. It is "An act in relation to a certain lot of land in the town of Gnadenhutzen, in the State of Ohio." The whole object of the bill is to allow the town to appropriate for other public purposes a square of ground, originally appropriated as a market square. It having become unimportant for that purpose, it is desirable that it may be appropriated to some other use.

The motion to take up the bill was agreed to; and the Senate proceeded to its consideration, as in Committee of the Whole. It provides, that the lot of land, in the town of Gnadenhutzen, in the county of Tuscarawas, in the State of Ohio, heretofore reserved, under the act entitled "An act providing for the disposition of three several tracts of land in Tuscarawas county, in the State of Ohio, and for other purposes," approved May 26, 1824, for the purpose of a market square, may be used for any other public purpose, upon such terms as shall be prescribed by the Secretary of the Interior, in order to secure the rights of all parties interested therein.

The bill was then reported to the Senate, and read a third time and passed.

#### MARY A. DAVIS.

On motion by Mr. BRODHEAD, the Senate took up a bill for the relief of Mrs. Mary A. Davis. The bill was read a second time, and referred to the Committee on Claims.

And then, on motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, July 6, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. L. F. MORGAN.

The Journal of Saturday was read and approved.

#### RIGHT OF WAY TO RAIL AND PLANK ROADS.

The SPEAKER. The first business in order is the consideration of a bill reported from the Committee on Public Lands granting the right of way to rail and plank roads passing through public lands.

Mr. COBB. My object in proposing, a week ago, to postpone the consideration of this bill until to-day, was to have it printed so that every member might have it before him. I understand that the bill has not been printed, or at any rate it has not been received. If it be the pleasure of the House, I will move to postpone its consideration one week longer.

[Cries of "Agreed!" "Agreed!"]

The question was put, and the motion was agreed to.

#### HOOR OF MEETING.

Mr. HOUSTON. I ask the consent of the House to offer the resolution which I send to the Clerk's table.

The resolution was read for information, as follows:

*Resolved, That until otherwise ordered, the daily hour of meeting of the House shall be eleven o'clock, a. m.*

No objection being made, the resolution was introduced and adopted.

#### INDIANA CENTRAL RAILROAD.

Mr. HENDRICKS, by unanimous consent, introduced "A bill for the relief of the Indiana Central Railroad Company;" which was read a first and second time by its title, and referred to the Committee on Roads and Canals.

#### PER DIEM AND MILEAGE TO H. B. WRIGHT.

Mr. RICHARDSON. I move the adoption of the resolution I send to the table. If there be any objection, I shall move to suspend the rules to introduce it.

[Voices. "You can't do that!" "This is not Monday!" "Yesterday was Monday, and fourth of July!"]

Mr. RICHARDSON. I take back that notice, then. [Laughter.]

The resolution was then read for information, as follows:

*Resolved, That the Clerk of this House pay out of the contingent fund of the House to Hendrick B. Wright the same compensation per diem and mileage that is allowed to members of Congress, computing the per diem from the commencement of the present session of the present Congress to the second day of July inclusive.*

Mr. JOHN W. HOWE. I object to its introduction.

Mr. STEPHENS, of Georgia. I hope the gentleman will withdraw his objection to its introduction, and let us take a vote of the House upon it. It will ultimately be granted, and I think it ought to be. I hope the gentleman will withdraw his objection and let us act upon it now, and save any further consumption of time upon it.

Mr. CHANDLER. I rise to say that I shall propose an amendment to that resolution, including a similar payment to Mr. Littell, the contestant from the fourth district, and to Mr. Ingersoll, contestant from the third district of Pennsylvania.

The SPEAKER. The resolution is objected to, and it cannot be received.

#### DEFICIENCY BILL—CLOSE OF DEBATE.

Mr. HOUSTON. I desire to offer a resolution proposing to terminate debate on the deficiency bill, No. 207, at twelve o'clock to-morrow, so that the House may consume the whole day upon it.

The resolution was read for information, as follows:

*Resolved, That all debate in the Committee of the Whole on the state of the Union upon the bill of the House No. 207, to supply deficiencies in the appropriation for the service of the fiscal year ending the 30th of June, 1852, shall cease at twelve o'clock on Wednesday, the 7th of July, if the committee shall not come sooner to a conclusion upon the same, and the committee shall then proceed to vote upon the amendments pending or offered to the same, and shall then report it to the House with such amendments as may be agreed to by the committee.*

Mr. HOUSTON. I move the previous question on the adoption of the resolution.

Mr. CHANDLER. I hope the gentleman will not insist upon his demand for the previous question. There are important principles involved in some of the amendments, and several gentlemen wish to discuss them, and they can be discussed legitimately.

The House was then divided on seconding the demand for the previous question, and there were—ayes 67, noes not counted.

So the previous question received a second, and the main question was ordered to be put.

The question was then taken, and the resolution was adopted.

Mr. HOUSTON. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

#### GIRARD AND MOBILE RAILROAD.

The SPEAKER. The regular business is the consideration of "A bill to grant to the State of Alabama the right of way and a portion of the public lands, to aid in the construction of a railroad from Girard to the waters of the Mobile bay, in said State."

Mr. JOHNSON, of Tennessee. I trust that the consideration of that business will not be insisted upon, until I shall have had an opportunity to introduce the resolution I send to the Speaker's desk.

Mr. FOWLER. I call for the regular order of business.

Mr. ABERCROMBIE. The bill before the House this morning for consideration in order, I trust may be passed.

The SPEAKER. The previous question has been demanded.

Mr. STEPHENS, of Georgia. If the motion to recommit be not withdrawn, and the call for the previous question be seconded, will not the vote then be upon the recommitment? and if that be voted down, will not the question recur upon the passage or the engrossment of the bill?

The SPEAKER. Such will be the case.

The call for the previous question was then seconded, and the main question was ordered to be put. The question then recurred upon the motion to recommit.

Mr. STEPHENS. I will make one further inquiry of the Chair. If the motion to recommit be voted down, will not the question then recur on the engrossment of the bill?

Mr. JONES, of Tennessee. We have got to a good point, when we should put the bill upon the table, and I make that motion. [Laughter.]

Mr. ALLISON demanded the yeas and nays; which were ordered.

The question was then put on the motion to lay on the table, and it was agreed to—yeas 80, nays 57; as follows:

YEAS—Messrs. Allison, John Appleton, Averett, David J. Bailey, Bell, Bibbhaugh, Breckinridge, Buel, Burrows, Burt, Busby, Joseph Cable, Lewis D. Campbell, Carter, Chastain, Churchwell, Cullon, Curtis, Daniel, Dean, Dimmick, Disney, Dunham, Evans, Floyd, Fowler, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Goodenow, Green, Grow, Hamilton, Isham G. Harris, Hart, Hibbard, Holladay, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, George W. Jones, Preston King, Kurtz, Mann, Mason, McKorkle, McNair, McQueen, Milson, Miner, Morehead, Murphy, Murray, Newton, Olds, Andrew Parker, S. W. Parker, Peasler, Perkins, Powell, Reed, Riddle, Robbins, Robie, Schoonmaker, Scudder, Origen S. Seymour, Skelton, Benjamin Stanton, Richard H. Stanton, Abraham P. Stephens, Stratton, Sweetser, Townshend, Wallace, and Washburn—80.

NAYS—Messrs. Abernethy, W. Allen, Bissell, Bowie, Bragg, Brenton, Brooks, Albert G. Brown, Caldwell, T. Campbell, Clark, Clingman, Cobb, John G. Davis, Doty, Freeman, Henry M. Fuller, Grey, Harper, Sampson W. Harris, Haven, Hendricks, Henn, Houston, Howard, Jackson, Andrew Johnson, James Johnson, Kuhns, Mace, Humphrey Marshall, Molony, John Moore, Nabers, Orr, Penniman, Phelps, Polk, Richardson, Russell, Sackett, Schoolcraft, Scurry, Smith, Frederick P. Stanton, Alexander H. Stephens, St. Martin, Stuart, Taylor, Thurston, Walbridge, Ward, Watkins, Welch, Alexander White, Wilcox, and Williams—57.

So the bill was ordered to be laid on the table.

Mr. ALLISON. I move to reconsider the vote by which the bill was ordered to lie on the table, and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

#### MODIFICATIONS OF THE POSTAGE LAW.

Mr. OLDS. I am instructed by the Committee on the Post Office and Post Roads to report back House bill No. 144, entitled "An act to amend the act entitled 'An act to reduce and modify the rates of postage in the United States, and for other purposes,' passed March 3d, 1851," with sundry amendments. I desire, before these amendments are read, to express the hope that the House will pay attention to them, as I intend this morning to move to put the bill on its passage. It is very important that it should pass as soon as possible. I asked, some time since, the unanimous consent of the House to move the printing of the amendments, so that members might have them before them, but the gentleman from Virginia [Mr. LETCHER] thought it would interfere with the rights of the Committee on Public Lands, and raised objection to my motion.

Mr. JONES, of Tennessee. I think it would be decidedly better if the chairman of the Committee on the Post Office and Post Roads would have this bill referred to the Committee of the Whole on the state of the Union and printed. We all know that the present postage law was passed through the last Congress as a substitute by way of amendment to a bill passed by this House, and that it never was read when it became the law of the land. There are a whole string of amendments, and it is impossible for them all to be understood on their mere reading.

Mr. OLDS. I wish to say, with regard to that suggestion of the gentleman, this: If the bill goes to the Committee of the Whole on the state of the Union, I am satisfied it will not again be reached this session. Letters are being received by members of Congress every day from every portion of the Union demanding that some change should be

made in the law with regard to newspaper postage. This bill contemplates but little beyond the simplification of postage on newspapers. These amendments have been agreed upon in a joint meeting of the Committees on the Post Office and Post Roads of the Senate and House. We have the assurance, when adopted here, the bill will speedily become a law.

Mr. WILLIAMS. Let us postpone the consideration of the bill to a day certain, to have it printed. We will then all be aware on what we are voting.

Mr. FOWLER. With the permission of the gentleman from Ohio, I would like to have the bill read. I am sure when it is read the simplicity of the amendments will be so evident that gentlemen will be willing to proceed to act upon it at once.

Mr. OLDS. Let the bill be read, then.

The Clerk read the bill, as follows:

A BILL to amend the act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," passed March 3d, 1851.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the 30th day of June, 1852, the postage upon all printed matter passing through the mail of the United States, instead of the rates now charged, shall be as follows, to wit: Each newspaper, pamphlet, periodical, magazine, book bound or unbound, circular, catalogue, and every other description of printed matter unconnected with any manuscript or writing, and of no greater weight than two and a half ounces, shall be charged with one cent postage, and one cent for each additional ounce or fraction of an ounce, for any distance under two thousand miles; and for any distance over two thousand miles, double those rates. All newspapers published regularly and sent from the office of publication to actual subscribers, not weighing over one ounce, shall be chargeable with one half the foregoing rates. The postage upon all printed mailable matter shall be prepaid either at the office where it is mailed or at the office of delivery, otherwise double the foregoing rates shall be charged thereon; all transient printed matter shall be deemed unpaid, unless paid at the office where it is mailed.

Sec. 2. And be it further enacted, That books, bound or unbound, not weighing over four pounds, shall be deemed mailable matter, and all printed matter chargeable by weight shall be weighed when dry. The publishers of newspapers and periodicals may send to each other from their respective offices of publication, free of postage, one copy of each publication, and may also send to each actual subscriber, included in their publications, bills and receipts for the same, free of postage. The publishers of weekly newspapers may send to each actual subscriber within the county where their papers are printed and published, one copy thereof free of postage.

Sec. 3. And be it further enacted, That all laws or parts of laws incompatible with the provisions of this act are hereby repealed.

Mr. JONES, of Tennessee. I do not feel desirous of acting on that bill till it is printed, and therefore move that it be postponed and ordered to be printed.

Mr. OLDS. I would like to make an inquiry. If the amendments be printed to-morrow morning in the Globe, I should have no objection to the postponement of the bill till Thursday. There can be no excuse, to postpone for the printing of the bill, because it has been printed for many months. I do not know whether or not these amendments will be printed in the Globe, if they are not read at the Clerk's desk. If they go into the Globe, as I have already stated, I am willing the further consideration of the bill should be postponed until to-morrow or Thursday.

The SPEAKER. It is according to the practice of that paper that the proposed amendments will go into the Globe. The House cannot make any order of that kind to the paper.

Mr. OLDS. I am aware of that. I merely made the inquiry whether or no they would appear there.

The SPEAKER. The Reporter states they will appear in the Globe.

Mr. OLDS. I then have no objection to the postponement, till to-morrow or Thursday, of its further consideration.

1st amendment: Section 1. Eleventh line, strike out the words "and a half."

2d amendment: Same section. Thirteenth and fourteenth lines, strike out "two" and insert "three" in each line.

3d amendment: Same section. Fifteenth line, strike out the words "published regularly," and insert the words "and periodicals, not weighing over one ounce, published regularly as often as once in three months."

4th amendment: Same section. Sixteenth and seventeenth lines, strike out the words "and not weighing over one ounce."

5th amendment: Same section. Seventeenth line after the word "with," insert the word "only."

6th amendment: Same section. Nineteenth line, strike out the word "either."

7th amendment: Same section. Twentieth line, after the word "or," insert the words "paid quarterly in advance."

8th amendment: Same section. Twenty-first line, after the word "thereon," strike out the remainder of said section.

9th amendment: Strike out the third section.

10th amendment: Add the following additional sections:

Sec. 3. And be it further enacted, That no newspaper, periodical, magazine, or other printed paper, or matter, shall be entitled to be sent at the rates of postage in this act specified, unless the following conditions be observed:

First, It shall be sent without any cover or wrapper, or in a cover or wrapper open at the ends or sides, so that the character of the matter contained therein may be determined without removing such wrapper.

Second, There shall be no word or communication printed on the same after its publication, or upon the cover or wrapper thereof, nor any writing or marks upon it, nor upon the cover or wrapper thereof, except the name and address of the person to whom it is to be sent.

Third, There shall be no paper or other thing inclosed in or with such printed paper; and if these conditions are not complied with, such printed matter shall be subject to letter postage; and all matter sent by mail from one part of the United States to another, the postage of which is not fixed by the provisions of this act, shall, unless the same be entitled to be sent free of postage, be charged with letter postage.

Sec. 4. And be it further enacted, That if the publisher of any periodical, after being three months previously notified that his publication is not taken out of the office to which it is sent for delivery, continue to forward such publication in the mail, the postmaster to whose office such publication is sent may dispose of the same for the postage, unless the publisher shall pay it; and whenever any printed matter of any description, received during one quarter of the fiscal year, shall have remained in the office without being called for during the whole of any succeeding quarter, the postmaster at such office shall sell the same and credit the proceeds of such sale in his quarterly accounts, under such regulations and after such notice as the Post Office Department shall prescribe.

Sec. 5. And be it further enacted, That so much of the second section of the act entitled "An act to modify and reduce the rates of postage in the United States and for other purposes," approved March 3d, 1851, as relates to the postage or free circulation or transmission of newspapers, periodicals, and other printed matter, and all other provisions of law inconsistent with the provisions of this act, are hereby repealed.

Mr. BROOKS. I ask the attention for a moment, of the ear of the chairman of the Committee on the Post Office and Post Roads. I was about suggesting, when this bill came up for consideration, that he would state to the House the proposed change in newspaper postage, so that the information should go out to the country. It is important the proposed changes should be understood. There is a reduction of postage in some quarters, it is well enough to understand, with a great increase in other quarters of the country. What that increase is upon small newspapers for short distances, and what that decrease is upon great distances it is useful to the understanding of the House to have laid before it in some brief form, by report or otherwise.

The SPEAKER. The motion to postpone is not debatable.

Mr. BROOKS. I wish also to state that I would be happy to have the statement now, and to see it in the Globe in the morning.

Mr. OLDS. I will say to the gentleman that the report accompanying this bill states precisely the information he desires.

Mr. BROOKS. Is it a printed report?

Mr. OLDS. It is in the document room.

Mr. BROOKS. I hope the Reporters of the Globe will embody it in form unincumbered with the amendments, so that we can see it there, as it is proposed to pass it.

The report of the committee alluded to is as follows:

"From the recommendation of the Postmaster General; from the numerous petitions before your committee; and from the dissatisfaction generally manifested over the country, towards the provisions of the act of the 3d March entitled 'An act to reduce and modify the rates of postage in the United States, and for other purposes,' in relation to so much of said act as imposes the present rates of postage upon newspapers, periodicals and other printed matter; your committee have been induced to inquire into the practical operation of the law, and the causes of complaint against it.

"The committee find, First, that the present rates of postage upon newspapers, periodicals and other printed matter, are so numerous and complicated, that it is almost impossible to determine what rate should be charged, without constant reference to the table of rates. Second, that the postage on newspapers, periodicals and other printed matter for long distances, is so high as to materially limit their circulation. Third, that the enormous rate of postage charged upon transient newspapers and other printed matter, amounts nearly to a prohibition of their transmission through the mails of the United States.

"In relation to the numerous and complicated rates of postage upon newspapers, your committee find that the postage on newspapers 'to actual and bona fide subscribers,' is regulated by weight, by the number of times it

sued, by the distance conveyed, and by their size not exceeding three hundred square inches. On a newspaper not exceeding three ounces in weight, according to the distance conveyed; there are six rates on a daily—six on a tri-weekly—six on a semi-weekly—six on a weekly—six on a semi-monthly, and six on a monthly; making thirty-six different rates on a newspaper not weighing over three ounces. But if any one of the above issues shall not exceed three hundred square inches by measurement, only one-fourth of the above rates are to be charged; making again six more rates upon a daily—six upon a tri-weekly—six upon a semi-weekly—six upon a weekly—six upon a semi-monthly, and six upon a monthly; thus making in all seventy-two different rates of postage upon newspapers sent to actual and bona fide subscribers, not taking into the account the different rates charged upon transient newspapers, which still further greatly complicate and increase the number of rates.

"It will be easily perceived that these complicated rates render it extremely difficult to determine what postage should be charged upon a newspaper. The postmaster, in determining this question, must ascertain the weight of the paper, the distance it is conveyed, how often it is issued, and its actual measurement, that it may not exceed three hundred square inches.

"That the present rates of postage on newspapers and other printed matter, when conveyed long distances, are so onerous as materially to limit their circulation, is also easily susceptible of elucidation. By the act of the 3d March, 1851, a daily newspaper not exceeding three ounces in weight, conveyed over two thousand miles, pays five dollars per annum postage; if the distance conveyed is over four thousand miles, the postage is six dollars per annum. In most cases, this exceeds the publisher's price of the paper; and but very few persons will be found willing to incur this enormous tax. This exorbitant rate of postage on this class of newspapers, has operated greatly to diminish their transmission through the mails.

"By the act of the 3d March, 1851, a transient newspaper, not exceeding one ounce in weight, if conveyed over five hundred miles, is charged one cent postage; if over five hundred and not exceeding fifteen hundred miles, it is charged two cents; if over fifteen hundred and not exceeding twenty-five hundred miles, the postage is three cents; if over twenty-five hundred and not exceeding thirty-five hundred miles, the charge is four cents; and if over thirty-five hundred miles the postage is five cents; and for every additional ounce in weight, or fractional part of an ounce, an additional rate of postage is charged; and then in addition to all these rates, unless the postage is paid in advance, double the above rates are to be charged. Most of the daily papers of this city, as well as the dailies of the other principal cities of the United States, exceed one ounce in weight. Papers published at the capital of the nation, containing the proceedings of Congress and the action of the Government, those published in your large commercial cities, containing commercial news and the condition of the markets, have heretofore been the mediums through which individuals have communicated much valuable information to their distant friends. But an examination of the rates of postage charged, under the provisions of the present law, will satisfy every one that in future all such information must be communicated through other channels, as the act of the 3d March, 1851, most effectually excludes it from the mail.

"For example, a transient paper from this city, conveyed over fifteen hundred miles, would be charged six cents postage, if paid in advance; but if not paid in advance, the postage would be twelve cents; if sent to California or Oregon, the postage would be ten cents prepaid, or twenty cents not prepaid. Many of the newspapers published in the United States, such as the New York Journal of Commerce, and the New York Courier and Enquirer, weigh over two ounces; a transient newspaper of this class, sent to California or Oregon, would be charged fifteen cents postage, prepaid, or thirty cents, not prepaid.

"On periodicals, and other printed matter, this law operates equally onerous. Take, for example, Harpers' and the International Magazines; these periodicals weigh eight ounces each; consequently a single number sent to California or Oregon would be charged forty cents postage prepaid, or eighty cents not prepaid. Almost all the valuable periodicals of the country are affected in the same way, making the cost of transmission by mail, on long distances, more than equal to the actual cost of publication. In consequence, then, of the operation of the act of the 3d March, nearly all the periodicals of the country are excluded from the mails, and the publishers compelled to resort to expresses, and private conveyances to send out their periodicals, greatly to the detriment of the revenues of the Post Office Department, all of which, to a very great extent, in the opinion of your committee, might be remedied by modification of the present rates of postage.

"There are many other matters of grievance complained of, under the act of the 3d March, 1851, relative to its operation upon newspapers, periodicals, and other printed matter; but your committee think that enough has been said to convince every candid mind that the rates of postage of newspapers, periodicals, and other printed matter, are both complicated and burdensome, and afford just grounds of complaint; to remedy which, your committee have prepared a bill which simplifies the rates of postage, rendering them uniform and cheap, having, at the same time, a proper regard to the revenues of the Post Office Department."

The bill as it will read, if it be amended as proposed by the committee:

*Be it enacted, &c.*, That from and after the thirtieth day of June, eighteen hundred and fifty-two, the postage upon all printed matter passing through the mail of the United States, instead of the rates now charged, shall be as follows, to wit: Each newspaper, pamphlet, periodical, magazine, book, bound or unbound, circular, catalogue, and every other description of printed matter unconnected with any manuscript or writing, and of no greater weight than two ounces, shall be charged with one cent postage, and one cent for each additional ounce, or fraction of an ounce, for any distance under three thousand miles; and for any dis-

tance over three thousand miles, double those rates. All newspapers and periodicals not weighing over one ounce, published regularly as often as once in three months, and sent from the office of publication to actual subscribers, shall be chargeable with only one half the foregoing rates. The postage upon all printed matter shall be prepaid at the office where it is mailed, or paid quarterly in advance at the office of delivery; or otherwise double the foregoing rates shall be charged thereon.

*Sec 2. And be it further enacted*, That books, bound or unbound, not weighing over four pounds, shall be deemed mailable matter, and all printed matter chargeable by weight shall be weighed when dry. The publishers of newspapers and periodicals may send to each other, from their respective offices of publication, free of postage, one copy of each publication; and may also send to each actual subscriber, enclosed in their publications, bills and receipts for the same, free of postage. The publishers of weekly newspapers may send to each actual subscriber within the country where their papers are printed and published, one copy thereof free of postage.

[The sections 3, 4, and 5, proposed by the committee as an addition, will be found published above.]

The question was then taken upon Mr. OLDS's motion, and it was agreed to.

So the resolution was postponed.

JOHN T. SULLIVAN.

Mr. OLDS, from the Committee on the Post Office and Post Roads, to which was referred Senate bill No. 130, entitled "An act for the relief of John T. Sullivan," reported the same without amendment.

*Ordered*, That the said bill be committed to a Committee of the Whole House, and made the order of the day for tomorrow.

#### REVENUES OF POST OFFICE DEPARTMENT.

Mr. OLDS, from the same committee, reported a bill, No. 294, for the better protection of the revenues of the Post Office Department, and for other purposes; which was read a first and second time by its title, committed to the Committee of the Whole on the state of the Union, and ordered to be printed.

#### MAIL ROUTES.

Mr. OLDS. I am instructed by the Committee on the Post Office and Post Roads, to report back joint resolution No. 9, establishing certain mail routes, which I will ask may be read and put upon its passage.

The bill was read through.

Mr. BENNETT. I desire to ask the chairman of the Committee on the Post Office and Post Roads, to allow me to introduce the following amendment. I ask that it may be read.

The amendment was then read, as follows:

And that the road from Vallonia Springs, in Broome county, New York, by the way of Nineveh and Coventry, to Oxford, be, and the same is hereby, declared a post road. And the Postmaster General is authorized to pay a reasonable compensation for carrying the mail on said route, by direction of the Department, previous to this time.

And that the road from Oxford, aforesaid, by the way of Coventryville, to South Bainbridge, be, and the same is hereby, declared a post road.

Mr. BENNETT. I wish to make a statement to the House in regard to this road. After the New York and Erie railroad was built, a plank road was commenced, and is in part completed, from it, by the way of Vallonia Springs, Nineveh, and Coventry, to Oxford, in my district. It shortened the mail route about forty miles to New York. The mail was formerly carried to Binghamton, and then up the Chenango Valley, and back across to the valley of the Unadilla river. The people at several offices got their mail and papers upon the same day they are printed and mailed in the city of New York, by this route. By the other route they did not get them until the day afterwards. The Postmaster General was so well satisfied with this improvement that, although it was not a post route, and not completed entirely, he directed the mail to be carried over that route, instead of being carried over the old circuitous route by Binghamton. The change was made with his consent. It accommodates several post offices in my district. It is a great improvement and convenience, and the expense of carrying the mail on the new route is less than it would be on the old route. I hope there will be no objection made to the change. It was done by the direction of the Department, and the object of this amendment is simply to allow the Department to pay so much for carrying the mail up to this time, as the Postmaster General himself shall think proper. They could not change the route in any other way. Until a law is passed establishing this as a

post route, he had no legal right to pay for carrying the mail upon it.

Mr. OLDS. I will say with regard to the amendment proposed by the gentleman from New York, [Mr. BENNETT,] that I have no doubt the facts are as stated by him, and that an amendment in this or some other bill should obtain favor with the House. It strikes me, however, that it would be more proper in the general post route bill which will be reported in a few days, than upon this resolution, which is simply a resolution declaring all plank roads mail routes. I leave the matter entirely with the House.

Mr. BENNETT. Let me say a word about that. This resolution was introduced through my application in the Senate. It was supposed that it would be sufficient, if applied to all plank roads, and that it would reach my case. But this is not a plank road all the way, and the resolution will not, therefore, reach the case I have presented. And it does not give any authority to make payment for carrying the mail heretofore—for both of which reasons this amendment is necessary. And this is the very place for fixing this matter, in this joint resolution, and not in the general act creating post roads.

The question was then taken upon Mr. BENNETT's amendment, and it was agreed to.

Mr. STUART. I desire to offer an amendment to that bill, to include all public highways. I have been at a loss to discover why Congress should spend month after month in every year to get up a lengthy bill and pass it, covering any mail route which anybody may ask for. I see no objection why every public highway in the United States should not be declared a mail route, reserving to the Postmaster General the right to put on the mail whenever he pleases, and not until he pleases.

Mr. SACKETT. Will the gentleman allow me to interrupt him? I state this objection to it, that if public highways were declared mail routes, private carriers for sending mails or letters between individuals upon all public highways, would be cut off, and subject to the penalties of the Post Office law.

Mr. STUART. That is a very great mistake, I think. There would be no such difficulty at all, until the Department put the mail on the route. There is no reason in the world, that I have been able to discover, why every road now built, or hereafter to be built in the United States, should not be declared a mail route, reserving, as I said before, to the Postmaster General the discretion to say when he would put the mail service upon it. We spend thousands of dollars every single year here in enacting laws establishing mail routes, and I venture to say, that in the history of twenty-five years, there has never been an application denied. In that duty, the Committee on the Post Office and Post Roads have been so crowded by business of this sort, that they needed a clerk to do what, by this bill, can be done in two hours. Just insert after "plank roads" the words "public highways," and that thing is done, and forever.

Mr. MOREHEAD. I do not know that I understand this thing as the gentleman does. I ask him whether he intends to confer upon the Postmaster General the responsibility of saying that there shall be post roads where all the public highways are made? It seems to me that it lies with him now to say where the post routes shall be, without reference at all to members of Congress.

Mr. STUART. The gentleman does not understand me. It is to declare every public highway a post route and post road, making it a general provision. The law would remain as it is now, so far as the discretion of the Postmaster General is concerned. After Congress goes on here, and passes a long bill establishing post roads, the Postmaster General exercises his discretion in putting mail service upon such roads, and the kind of service. The only difference between the former method and the plan I propose is, that whenever it was necessary to put mail service upon a route, you would only have to apply to the Postmaster General, and satisfy him that the wants of the community required it, and that the revenues of the Department would permit it, and he would do it. Congress would not be troubled again. It would save a vast deal of special legislation.

Mr. MOREHEAD. The law, as it now exists, designates the termini of mail routes. When



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it is to be carried into execution the Postmaster General is to say. If I understand the gentleman correctly, all public highways, by his proposition, are made post routes at the discretion of the Postmaster General.

Mr. STUART. They are made post roads absolutely.

Mr. MOREHEAD. Made so absolutely! There may be half a dozen roads leading to the same points. I wish to understand from the gentleman whether the idea is this: that it shall belong to the Postmaster General to say which one of these half dozen roads shall be adopted as the post route?

Mr. STUART. Which one; any, or all of them. The difficulty at any rate, which now exists, would be obviated. If a gentleman goes to the Postmaster General now, and asks to have a route changed, and the mail transferred from one road to another, because it would save ten miles and reach a given point more directly, what is the answer? Why, that it cannot be done, because the one to which it is proposed to be changed, is not a post road. Although the community wish it, and the Postmaster General is abundantly willing to do it, and the revenues of the Department would be benefited by it, yet it cannot be done because it is not a post road. I can see no evil, I repeat, in making every road in the United States, now laid out or hereafter to be laid out, a post road. No further legislation upon the subject than that would be required. The other provisions of the law which controls the discretion of the Postmaster General would apply to all others, and it would save an immense amount of labor to the committee and Congress, and a vast expense to the country.

Mr. MARSHALL, of Kentucky. The proposition of the gentleman from Michigan [Mr. STUART] is an extremely convenient one, but it occurs to my mind that it is rather wholesale in its character. By a single effort the responsibility which devolves upon Congress by the Constitution, or rather in a single effort, without any discretion, it exhausts at once the whole power conferred upon Congress by the Constitution; and it is done under the pretense of convenience. It is a transference at once to the Executive Department of the legislative discretion which is vested by the Constitution in the Representatives of the people.

I am not, for one, willing, whatever trouble and inconvenience the Post Office service may suffer, to lay down a precedent by which the Representatives of the people shall transfer their constitutional duties, substantially, to the head of an Executive Department. We have now declared by law, I believe, that all navigable waters of the United States are mail routes. Now, the proposition comes that we shall declare all the highways of the United States mail roads, and that it shall hereafter be the prerogative of the head of the Post Office Department to choose which of these he will establish as a mail route, and when he shall put service upon them. In other words, they propose that we shall exhaust the whole power vested in the Representatives of the people by the Constitution, and that the administration of the Constitution shall henceforth be trusted to the head of the Post Office Department, to be exercised how, and when, and where he chooses. Now, sir, this may be very convenient; but it seems to me that it is taking steps towards the transference of the legitimate power of this Chamber to the Post Office Department at rather too rapid a rate.

Mr. GREY. I do not see that there can be any good and well-founded objection urged to the amendment proposed by the gentleman from Michigan, [Mr. STUART.] Now, every year a long bill is reported establishing mail routes, and often the same roads are declared several times, in several different bills, to be mail routes. No proposition to the committee to establish a mail route is ever denied. Every proposition made is granted, and put in the general bill. It does not at all compel the Postmaster General to put mail service upon

the road because it is declared a post route. It leaves it to his discretion, and the Postmaster General has stated, that it is impossible for him to tell, without more labor than he had clerks in the office, to inform us, what roads were mail routes, and what not. What mail routes have been established by previous Congresses, for years past, it is impossible to tell. Now, sir, it requires great labor and a great expenditure of time, at every session, to prepare and pass this general bill, and I can see no objection to the disposing of all this labor, by adopting the amendment of the gentleman from Michigan, declaring every road in the United States a post route, and I hope the amendment will be adopted.

Mr. MOREHEAD. I have only one additional observation to add to what fell from the gentleman from Kentucky, [Mr. MARSHALL.] If the amendment is adopted, I understand then that every public road in the United States is a post office route—a post road. That would be the effect of the amendment. It then throws the whole establishment of post offices and post routes, and the number of them, upon the discretion of the Postmaster General. Now, I do not understand how Congress could ever make any calculation to meet by its appropriation that branch of public expenditure. One Postmaster General might adopt every road that had been laid out by the Legislature of every State. Another might act with greater discretion and not adopt half as many. It seems to me that the whole subject would be involved in great difficulty, and that Congress would know nothing about the extent of expenditure which might be incurred in that branch of the public service. Taking this view of it, in addition to that taken by the gentleman from Kentucky, it seems to me that a more uncertain policy could not be adopted by a legislative body.

Mr. FOWLER. In reply to the gentleman who has just spoken, it is sufficient to observe that a very large number of public roads or highways are already mail routes that are not occupied as such—perhaps three fourths of the roads of the country have already been recognized by Congress, but the Postmaster General does not put mails upon them. He never will do it until there is an appropriation for it. And if all the roads in the country, all the public highways, are made mail routes by this amendment, he will still go on just as he has done, exercising his discretion, and never adopting a route until the public service calls for it. I think, sir, the objection is wholly without foundation, when viewed as it should be, in connection with the fact that mail routes established by Congress do not, of course, require the Postmaster General to put a mail upon them.

Mr. EVANS. Three or four years ago I introduced the very amendment which is now introduced by the gentleman from Michigan. The House debated it, and decided in favor of the gentleman from Kentucky against my amendment. I never myself could see any reason why we should not at once make all the public highways, mail routes.

[Here a message was received from the President of the United States, by the hands of MILLARD P. FILLMORE, his private Secretary, informing the House that the President had approved the following bills:

An act to amend an act entitled "An act for the punishment of crimes in the District of Columbia;"

An act for the relief of John Jackson; and

A joint resolution accepting from Guiseppe Fazagni a portrait of Henry Clay, and ordering it to be placed in the Library of Congress.]

Mr. EVANS, (resuming.) I say, sir, that there is no good objection against making every road in the United States a mail route. Seeing no such difficulty, I introduced an amendment; the House discussed it, and voted it down, and I never ventured upon it since. But there is one little difficulty which the gentleman will have to guard against in offering his amendment, and it is this: The law requires post offices generally to advertise every mail route, and unless some provision is made in the gentleman's amendment, it

will lead to rather an extensive system of advertising. So long as you declare mail routes, the Postmaster General advertises them. The law requires him to do so. Now, I think the amendment very proper, and I will vote for it, if the gentleman will put at the end some provision that the Postmaster General shall not advertise any routes but those he thinks the public service require to be advertised. With that limitation we must certainly suppose that the Postmaster General will not be guilty of any gross abuse of power, and we shall get rid of a great deal of trouble and difficulty, and save much time in the House. If we find that the power was abused, nothing in the world would be easier than to repeal this provision which is sought to be carried out by the amendment of the gentleman from Michigan.

Mr. STUART. I was aware, sir, of the law which the gentleman from Maryland has alluded to, and an additional amendment to this bill, or an amendment to the general bill, which is to be reported, will be necessary in order to obviate that difficulty. But there is no difficulty in adopting an amendment, which will meet the objection suggested by the gentleman from Maryland. As the law stands now, sir, there is a vast deal of unnecessary expense every year in advertising mail routes, on which no service is put, and the difficulty referred to by the gentleman from Kentucky [Mr. GREY] exists at the same time. An entire mail route, or more frequently parcels of a particular mail route are in one, two, three, or four, or more bills, and it is advertised over and over again.

Bids are sent in to the Departments here producing perfect confusion, and I have spent three months of this present session in getting straightened out a provision of that sort in reference to one of the roads in my district, before I could get a mail established. Now, let this amendment be adopted, and then, if the House please, in this very bill, give to the Postmaster discretion as to what routes he will advertise for service. But it will be found, by an examination of the legislation upon this subject, that very great injustice is done every year to the public, and that a vast amount of expense is incurred every year in adopting routes that are of no sort of importance; for, when petitions are sent here to a member, he refers them to the committee, and every petition referred is reported upon favorably. The whole thing can be done better, more economically to the Department, and better subserve the interests of the public, by adopting this amendment, and then, either in this bill, or in some other, restricting the law in regard to the advertisements of the mail service.

Mr. BISSELL. The morning hour having expired, I move that the House proceed to the business upon the Speaker's table.

Mr. OLDS. I move to recommit that bill to the Committee on the Post Office and Post Roads.

Mr. BISSELL. I will yield the floor for that purpose, although I have made the motion.

The SPEAKER. The motion will be entered.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union. (Mr. STUART in the chair.)

The CHAIRMAN stated as the first business in order before the committee, the consideration of House bill No. 297, to supply deficiencies in appropriations for the year ending 30th June, 1852, upon which the gentleman from Texas [Mr. HOWARD] was entitled to the floor.

Mr. HOWARD addressed the committee in favor of the amendment of the Senate adding the following proviso to the item of the bill appropriating \$80,000 for running and marking the boundary line between the United States and Mexico, according to the treaty of Guadalupe Hidalgo:

"Provided, That nothing herein contained shall be so construed as to sanction a departure from the point on the Rio

Grande north of the town called Paso, designated in the said treaty."

He also advocated the amendment of the Senate giving an increased compensation to the Collins line of steamers. [His speech is published in the Appendix.]

Mr. CHANDLER occupied the floor an hour in favor of the amendment of the Senate increasing the appropriation to the Collins line of steamers. He defended the appropriation on high national grounds. [Mr. C's speech will be found in the Appendix.]

Mr. STANTON, of Ohio, obtained the floor, but yielded to

Mr. VENABLE. As the debate is to close to-morrow at twelve o'clock, and as I desire to say something upon the subject of the Collins line of steamers before it is closed, I hope the committee will take a recess and have an afternoon session. [Cries "Agreed!" "Agreed!"]

Mr. STANTON. I cannot yield for that motion. We will not meet here this evening; that is all about that.

Mr. VENABLE. All I ask is, that when the gentleman shall have concluded his speech, the committee will take a recess until five o'clock this evening. Let us take our dinner and then return.

The CHAIRMAN. The Chair will ask the committee to indulge him in a single word. He will be glad to come back here at such hour as would suit the committee to hear gentlemen who desire to speak on this question. The Chair is advised there are several who desire to make speeches on the subject immediately under consideration.

Mr. BRECKINRIDGE. If it be in order I move that when the gentleman from Ohio [Mr. STANTON] yields the floor, the committee take a recess until five o'clock this afternoon. I wish to put my proposition distinctly before the committee. I understand from parliamentarians that it is in order.

Mr. STANTON. I will agree to that.

Mr. STANTON, of Tennessee. I insist upon the question of order, that the committee have not the power.

Mr. GIDDINGS. I must beg leave to say one word. This has been the universal practice of the House. The committee have full powers to take a recess, if they please, before they rise. There is no doubt about that.

The question was then put on the proposition to take a recess till five o'clock in the evening, and it was agreed to.

Mr. STANTON, of Ohio, then resumed the floor, and addressed the committee an hour. After alluding to politics, and expressing the belief that the speech of Mr. Toombs would be the means of gaining several thousand votes for General Scott in Ohio, proceeded to oppose the Senate amendment proposing an increase of compensation to the Collins line of steamers. [Mr. S's speech is published in the Appendix.]

Mr. VENABLE then obtained the floor, when the committee took a recess until five o'clock.

#### EVENING SESSION.

The committee reassembled at five o'clock, about thirty members being in attendance.

Mr. VENABLE opposed the amendment of the Senate, proposing increased compensation to the Collins line of steamers, and argued to prove that they were unfit for war purposes. [For speech see Appendix.]

Mr. CARTER addressed the committee in favor of the amendment, and gave the reasons which induced him to part company with gentlemen with whom he had been in the habit of acting upon similar questions, and for whom he entertained the highest and most sincere respect. He proceeded to show that the Collins line could not survive competition with the Cunard line without the aid of Government, and contended that the amendment was constitutional. He denied that to pass the amendment would be to create and maintain a monopoly, and declared that, as far as the Government had aided this line, it had been directly to destroy monopoly. He should feel his nation degraded from the discharge of a high duty if it should suffer this line to retire from the contest under the gallant triumphs they had achieved in this race of competition. They should not do it if his vote could prevent it. [For speech see Appendix.]

Mr. EVANS occupied the floor an hour, maintaining that the appropriation to the Collins line was a national question—one that appealed to his heart as an American—and he would give the amendment a cordial support. He did this without having been appealed to from any quarter, and he understood there were agents upon both sides—that there were agents seeking to obtain this appropriation, and some underhand British agents, with large sums of money, attempting to operate upon the American Congress against American interests. He held that he was free to choose one or the other, and he did choose to take his position for American interests. He argued strongly in favor of the amendment. [For speech see Appendix.]

The committee then rose.

And the House, at eight o'clock, adjourned until to-morrow at eleven o'clock.

#### PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. AVERETT: The petition of James Rangeley, of Henry county, Virginia, praying indemnity for French spoliation prior to 1800.

By Mr. PARKER, of Indiana: The petition of Joseph Yount, G. H. Balingall, and 72 others, citizens of the State of Indiana, praying for a grant of lands to construct a continuous and direct line of railroad through from Cincinnati, Ohio, to Chicago, Illinois, via New Castle and Logansport.

By Mr. BRAGG: The petition of Augustus B. Ward and Julien Chevalier, praying for a law authorizing them to perfect their title to a piece of land in the district of St. Stephens, Alabama.

By Mr. BRENTON: The petition of Samuel Kinsey and 110 others, asking for a mail route from Columbia, Whitley county, via Thorn creek to Albion, Noble county, Indiana.

By Mr. HENN: The petition of R. W. Steele and 75 others, asking for the establishment of a land office at Indianapolis, Warren county, Iowa.

By Mr. SMART: The petition of Mary Chapman, of Starks, Maine, for relief.

By Mr. McMULLIN: The petition of F. Broket, assistant marshal, praying additional compensation for taking the census.

#### IN SENATE.

WEDNESDAY, July 7, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. CHASE. Mr. President, I desire to present the petition of Washington Moorehead, of Zanesville, Ohio, who represents that Passed Midshipman Joseph Moorehead, on the Brazilian station, was found guilty by a court-martial of scandalous conduct, and that it has been subsequently ascertained that he was in point of fact insane. The petitioner prays that Congress will take this case into consideration, and pass such a law as may be necessary to remedy the grievance of which complaint is made. I believe the case to be a meritorious one, and desire that the petition may be referred to the Committee on Naval Affairs, and I hope that the committee will take it into careful consideration.

It was so referred.

Also, a petition of merchants of Cincinnati, praying for the free navigation of, and the construction of an additional canal around the Falls of the Ohio; which was referred to the Committee on Roads and Canals.

Also, a petition of citizens of Belmont county, Ohio, praying that the bridges of the Wheeling and Belmont Bridge Company, may be established as mail routes; which was referred to the Committee on the Post Office and Post Roads.

Mr. PRATT presented the petition of Gotlieb A. Kriezer, late a marine on board the United States ship "Marion," praying to be allowed the difference between the pay of a marine and that of surgeon's steward during the time he acted in the latter capacity; which was referred to the Committee on Naval Affairs.

Mr. DAVIS presented a petition of John Janvrin, and others, citizens of Newburyport, Massachusetts, in reference to the right construction of the provisions of the convention between the United States and Great Britain, of 1818, upon the subject of the fisheries. The petitioners represent that an interpretation has been given by some of the authorities of Great Britain to that treaty which they believe to be erroneous, and that they have been informed that measures have been taken by the British Government which, if carried out, will almost wholly deprive the citizens of this country of the right to carry on the fisheries as intended to be secured by said convention. The

petition was referred to the Committee on Foreign Relations.

Mr. BORLAND presented the petition of Anna Murphy, widow of Bartholomew Murphy, a revolutionary soldier, praying to be allowed a pension for the services of her late husband during the revolutionary war; which was referred to the Committee on Pensions.

Mr. ATCHISON presented the proceedings of a meeting of citizens and inhabitants of Parkville, Missouri, in favor of the organization of the Territory of Nebraska; which were referred to the Committee on the Territories.

Mr. HAMLIN presented the petition of Thos. S. J. Johnson, praying payment for wagons taken for the use of the United States Army in New Mexico; which, with the accompanying papers, was referred to the Committee on Military Affairs.

#### REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to which was referred the bill from the House of Representatives to provide for the protection of the Territories of New Mexico and Oregon, and the States of Texas and California, reported it back with an amendment.

He also submitted a report on the subject, which was ordered to be printed.

Mr. GEYER, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of Thomas P. Dudley, reported it back without amendment.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of B. B. Bennett, submitted an adverse report thereon.

He also, from the same committee, to which was referred the memorial of Mary W. Thompson, in behalf of widows of officers of the Army, reported a bill to continue half pay to certain widows and orphans; which was read, and passed to the second reading.

Mr. BRADBURY. Mr. President, the Committee on the Judiciary, to which was referred a resolution of the State of California, asking for a change in the day on which the electors of that State shall give in their votes for President and Vice President of the United States, have instructed me to make an adverse report. Perhaps it may be convenient for me to state that the Constitution of the United States provides that the day on which the electors shall give in their votes shall be the same throughout the United States. Any change must therefore be general. Regarding the inconvenience now experienced in the State of California to be less than that which would result from a general change, the committee have instructed me to report against the desired alteration. I move that the report be printed.

The motion was agreed to.

He also, from the same committee, to which was referred the petition of Chandler C. Yonge, praying additional compensation, asked to be discharged from the further consideration thereof, and that the petitioner have leave to withdraw his petition and papers; which was agreed to.

#### THE PUBLIC PRINTING.

Mr. CLEMENS, agreeably to previous notice, asked and obtained leave to introduce a joint resolution in relation to the public printing; which was read a first and second time by its title, and referred to the Committee on Printing.

The resolution proposes to provide, that during the present session, and of each succeeding Congress, the Senate and House of Representatives shall proceed to the election of a public printer for each House respectively; the election in all cases to be  *viva voce*  upon a call of the yeas and nays. The public printers elected are to give bonds, with approved securities, for the faithful performance of the work. The Joint Committee on Printing are to be judges of any violations of said contracts, either in style or manner, and in case of any violations of the same, the printing may be ordered, by the joint committee, to be executed by another printer, and the public printers charged with the expense caused by such violations. It also provides that, for all work of a special character ordered by either House, not properly embraced in the contracts, the public printers are to be entitled to a preference over other bidders, provided their rates for the same

are reasonable and fair. There is to be no charge for double composition on any work ordered jointly by the two Houses.

#### JOINT RESOLUTION INTRODUCED.

Mr. DODGE, of Iowa, agreeably to previous notice, asked and obtained leave to introduce a joint resolution for the purchase of the Half-Breed Tract on Lake Pepin, in Minnesota Territory; which was read a first and second time by its title, and referred to the Committee on Indian Affairs.

#### BILLS PASSED.

The following engrossed bills were read a third time and passed:

An act for the relief of L. M. Goldsborough and others; and

An act for the relief of Richard Fitzpatrick.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. HAYS, its Chief Clerk, announcing that it had passed the joint resolution from the Senate to establish certain post routes, with an amendment.

#### SURVEYING DISTRICT OF ALABAMA.

On motion by Mr. FELCH, the Senate proceeded to consider, as in Committee of the Whole, the bill to establish the subdivisional lines and corners of certain fractional sections in the southern surveying district of the State of Alabama; and no amendment being made, it was ordered to be engrossed for a third reading.

#### SECURITY OF LIFE ON BOARD STEAMERS.

The bill to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," was read a second time, and considered as in Committee of the Whole.

Mr. DAVIS. Mr. President, this is a bill of considerable importance, affecting property more or less to a considerable amount; and it is, perhaps, appropriate that I should, in as summary a way as circumstances will permit, bring before the Senate, in the first place, the causes which demand this bill; and, in the second place, the remedies which are proposed. In doing this my main and principal object will be to present to the consideration of the Senate those statistics which belong to the subject, and which will afford them, I think, all the information which they will desire.

I would premise, however, before entering upon the exhibition of these statistics, that this is a subject of very complicated character; that it is surrounded, as every gentleman who has paid any attention to it well knows, with various and complicated embarrassments. In the first place, you have to contend with the feeling of selfishness which always belongs to property holders. Life in steamers cannot be better secured without measures which, from their necessary stringency, excite the distrust if not the hostility of the owners of such vessels. They prefer the unrestrained liberty of managing their own affairs according to their discretion, though a mercenary spirit may and often does triumph over all sympathy for those exposed to destruction from explosions and other causes. In the next place, you have to encounter greater or less diversity of opinion as to the remedy. And then, again, perhaps there is no very great uniformity of opinion as to the causes of the catastrophes which have happened, and which demand legislation. But, sir, I think they are all agreed in one thing; at any rate, in the various correspondence which I have had and all the various gentlemen who have done me the honor to confer with me upon the subject, I have found no individual who is not of opinion that something should be done by Congress—that something may usefully be done to suppress the calamities, or at least the dangers which now exist.

In order that the Senate may understand the magnitude of the interest with which we are dealing, I will lay before them some statistics, which I have been able to collect from the various sources which are open to research. The statistics which I am able to command have been collected at considerable labor, and from sources, though not in all instances entirely reliable, yet the errors, if any exist, are not of a character to mislead the judgment.

In the first place, we want to know the number of steamers in the United States. We want to

know the magnitude of this interest as it has existed in preceding times. We want to understand something of the effect which the progress of events has exhibited to the public in the business of steamers. I am not able to present very complete information upon this subject, but, to some extent, I may say it is quite satisfactory. I was in hopes, at one time, that I should be able to communicate to the Senate some account of every steamer which, from the commencement of the business, has been built in the United States down to this day, and be able to exhibit to them an account, if any disaster has befallen them, of that disaster. I am very happy to say, that while I cannot do this as regards the whole country, I am yet able, to a reasonable extent, to do it in regard to that portion which has been most afflicted with difficulties, and where the greatest disasters have happened. I allude to the waters of the West—the great Valley of the Mississippi, and the Gulf connected with it. There has been presented and laid on our tables an exhibit of that description—drawn out upon a resolution passed by the Senate upon my motion—giving an account, I believe, of every steamer which has been constructed in that valley and upon the gulf from the commencement of steaming down to the year 1849; and also an account of every disaster which has resulted in the destruction of the vessel. The absence of complete information as regards the residue of the country is the less to be regretted since, if we can abate or suppress the calamities now of frequent occurrence in that region, the means by which it is done will be a sufficient corrective for other portions of the country. But I have more complete information in regard to a specific period. The Senate were kind enough to pass a resolution the session before the last, I think, by which they directed the Secretary of the Treasury to collect the statistics for the year ending the 30th of June, 1851—the political year. That service has been accomplished with considerable industry. We have, then, the statistics resulting from the return of the Secretary of the Treasury showing the whole number of steamers then existing in the United States, the disasters occurring within that year, and the number of lives, as far as could be ascertained, lost by shipwreck, and from other causes.

Mr. President, I am unwilling to take up the time of the Senate, further than to bring out substantially these statistics, and to state the remedies which are proposed.

According to the list to which I have adverted, the whole number of steamers which have been built in the Valley of the Mississippi and upon the Gulf, up to 1849, was 1,656. Of this number, 736 have been destroyed in the following ways, to wit: 419 were sunk, chiefly by snags; 104 were burnt; 82 were destroyed by the explosion of boilers; 67 were destroyed by the collapse of flues; 19 by the bursting of pipes; making altogether by explosions, 168; and 45 were destroyed by collision. The loss of property by the destruction of these vessels, including none excepting where the loss was total, is estimated at \$5,643,791 for the vessels. The destruction of cargoes in the same vessels has been carefully estimated at \$12,698,529, making in this valley and gulf, during that period, a total loss of property, amounting to \$18,342,320.

The Senate, perhaps, will be surprised at the magnitude of this loss, compared with the whole interest. When we come to look at it, and compare it with the whole, we find that the loss amounts to 44 per cent. on the value of the whole property engaged during the period, from the commencement of steaming down to 1849.

We have no data by which the sacrifice of life can be stated, with entirely reliable accuracy. In December, 1848, the Commissioner of Patents was directed to ascertain the number who had perished by explosions only. He reported that in 164 cases of explosion or collapse, which had come under his knowledge, 1,805 persons were killed, and in 111 of those cases, 1,015 persons were wounded. He further estimates, by averaging the cases where the number has been ascertained, the loss of life in the cases of explosion, &c., ascertained by him to have previously taken place in the United States, at 2,563. The number of wounded he has estimated, on the same principle, at 2,097, making a total of 4,660 killed and wounded by explosions alone. These estimates

probably fall below the truth. The inquiry of the Commissioner was limited to explosions only, while mine has extended to all kinds of disasters which have proved fatal to life. And although the data collected by him and that employed by me do not admit of a direct test by comparison, yet I am persuaded that the fact will be made manifest, when we come to the more correct statistics to which I have adverted, that he under-estimates. As I remarked to the Senate, we have the returns for the year ending on the 30th of June, 1851. We have these details in a substantial and reliable form, and when the Senate come to compare them with the estimates made by the Commissioner of Patents, they will be satisfied that it was an under-estimate on his part.

According to the returns for the year ending June 30th, 1851, the entire mercantile steam marine of the United States, including ferry boats, numbered 1,390 vessels, with a tonnage of 417,225, distributed as follows: on the Atlantic coast, 625 vessels, with a tonnage of 212,500; on the interior waters, 765 vessels, against 625 on the coast, and a tonnage of 204,725 against a tonnage of 212,000. These vessels, again, are classed in a different form, indicating more specifically the kind of employment on which they were engaged, as follows:

	No.	Tonnage.
On the Atlantic coast, ocean steamers.....	96	91,475
Steamers drove by paddle-wheels.....	382	90,738
Ferry boats do.....	80	18,041
Propellers.....	67	12,245
<b>Total on Atlantic coast.....</b>	<b>625</b>	<b>212,500</b>

The same classification is made in regard to the interior waters. The number of steamers upon the interior waters, driven by paddle-wheels, for the year ending June 30th, 1851, was 663; and the tonnage 187,262. There were on the same waters 50 ferry boats, with a tonnage of 15,729; 52 propellers, with a tonnage of 4,733; making a total of 765 vessels, with a tonnage of 204,725. The aggregate of officers and crew, I am also able to state. The aggregate number of men employed on board of all of these vessels was, for that year, 29,377—on the Atlantic, 11,770; in the interior, 17,607.

The next point on which the Senate may want some information, is in regard to the number of passengers. I have therefore collected statistics in regard to the transportation of passengers, and they present some curious and striking facts. The number of passengers transported by steamers the same year, ending June 30th, 1851, was, 39,204,691. They were carried as follows: On the coast waters, in ferry boats, 29,315,576; on other steamers of all kinds, on the same waters, 4,027,270. On the waters of the interior, in ferry boats, 3,102,531; on steamers of all other kinds, 2,759,314; making a total aggregate of 39,204,191 passengers transported.

It may be interesting to the Senate also to know something of the amount of property which is destroyed from year to year; and we have probably an accurate estimate for the year in question. In the same year, the vessels of all kinds wrecked, including vessels under sail as well as steamers, was 446. Of these, 118 belonged to the interior; 76 to the western rivers, and 42 to the lakes. The 76 were all steamers, and a part, though the exact proportion cannot be ascertained, of the vessels wrecked on the lakes, were steamers. The value of the property destroyed, together with these 118 vessels in the interior, is estimated at \$1,585,400. The estimated loss from the same cause in the same territory, in 1849, which I have been able to obtain, is \$1,568,106—falling little short of the estimate for the year 1851. On the Atlantic and Pacific coasts the number of vessels of all kinds lost during the year ending June 30, 1851, was 328; 20 of these were steamers; but I have no estimate of the value of the property destroyed on the seas or sea-coast.

The next point to which I wish to invite the attention of the Senate, is the loss of life for the same year, ending June 30, 1851. The whole number ascertained is 1,013. It is distributed as follows, and the distribution presents some very striking considerations: Out of these 1,013, on the waters of the interior were 695; of this number 628 lives were lost on the rivers—all belonging to steamers. The total loss on the lakes was 67, part in steamers. On the sea and sea-coast the



whole number lost during the year was 318, in 308 vessels under sail. In addition to this, 20 steamers on the coast give a loss of 29 persons. From these data it appears that nearly 700 out of 1,000 persons who have perished in the whole mercantile marine during the year in question, lost their lives on board steamers—making some nine or ten to every steamer which was lost, while the whole loss on the coast averaged about one to a vessel. If the proportion of loss upon the coast had been as great as that upon the interior waters, the amount would have been swelled up to 3,424.

I state these facts to show the Senate the actual condition of things. And I ought to add here, that it is stated upon the authority of those who gathered these statistics, and, I have no doubt, is very well founded, that the year in question does not come up to the average of years; that it was more favorable than the average of years as regards the loss of life. They mention, to illustrate this, the following cases as happening just previous to the commencement of the year selected, namely: the steamer *Troy*, of Buffalo, exploded her boilers, killing 9 persons; the *G. P. Griffith* was burned, destroying 250 persons; the *Anthony Wayne* was burned, destroying 65 persons;—making 324 lives lost within a very short period antecedent to the commencement of the same year. The estimate of the property which I have already stated, bears out the hypothesis that this falls below the average of years.

In 1849 the loss upon the western rivers only, is stated at \$1,585,400, while the loss upon all the western rivers in the year ending June 30, 1851, is \$1,568,106; being less, although we know there was a large aggregate increase in the number of steamers and the value of property of that description. Favorable as this year is, if it were assumed as an average of the destruction of life and property, and applied to the past, it would present us with an appalling picture of the calamities incident to steamers.

I may add here, for the information of the Senate, that I have obtained from time to time, through means of information open to all gentlemen during the current year, the losses which have happened, which must, as all know, come mainly through the newspaper press; and I have the minutes of a series of disasters here which I shall not stop to read to the Senate, showing a loss since the first of January last by explosions of steamers, and the destruction of steamers by fire, of 318 persons—to which you may add the number recently destroyed at New Orleans, the information of which reached us this morning. A large number, some 50, were destroyed there, and among them a gentleman of great worth, for whom I have the very highest respect—a judge of the courts of Louisiana.

Without dwelling upon these facts, which speak a language too intelligible to be misunderstood, it is manifestly our duty to interpose and prevent this reckless, unnecessary sacrifice of human beings—I will say nothing of the terrible waste of property, for that is not a disaster without remedy—but if remedied, it seems to me Congress ought to interfere and check, if not able entirely to suppress, the inhumanity which prevails.

I wish now to ask the attention of the Senate for a few moments to the causes of disaster. The first cause of which I shall speak is fire.

Fires often occur, and have in many instances been fatal almost beyond example. I will cite two or three instances to illustrate the necessity of greater precaution against such disasters. In 1851, the *G. P. Griffith* took fire when within a short distance of the shore of Lake Erie, and two hundred and fifty persons perished. Some year or two previous, a steamer took fire in sight of the shore of Lake Michigan, when nearly as many lives were sacrificed for the want of means to be carried to the shore. At an earlier day, the *Lexington* took fire while near the shore of Long Island, and nearly all the passengers and crew perished. Of seven hundred and thirty-six vessels destroyed on the western rivers, previous to 1849, one hundred and four were burnt, and during that year no less than forty-six were burnt. It would seem from these facts, that fire has proved itself one of the most fatal enemies of steamers. It is manifest that the exposure to destruction from this cause is great, especially in vessels propelled by high-pressure engines. The occurrence of fire

is much less frequent in low-pressure boats, but they are by no means exempt from such a catastrophe. The new ocean steamer *Amazon*, one of the English West India line, and a vessel of the first class, costing about half a million of dollars, recently fell a sacrifice to fire when a few hours out of port on her first voyage, and a large number of persons perished.

Believing that the state of things which exists demands correction, the committee have directed their attention to the subject with a view, first, to prevent the occurrence of fires through carelessness or negligence in adopting suitable measures of prevention. The inspectors are required to satisfy themselves, that effectual protection is given to wood and other combustible matters, when exposed to ignition by heat from any cause. The owners of vessels carrying passengers are forbidden to suspend cotton curtains or curtains alike combustible, to carry as freight gunpowder, spirits of turpentine, or any substance which ignites by friction; and in case any such article is carried as stores, it must be contained in a metallic vessel or vessels—and no certificate is to be granted to a vessel which does not comply with these provisions. There have been some suggestions of amendment on this head, and those amendments may be deemed necessary by the Senate, but I shall not stop to comment upon them. The provisions are made as matter of prevention—to prevent fires arising from careless and negligent conduct on the part of those who manage vessels.

But fires, nevertheless, whatever the precaution may be, will arise—they will happen, and then the next step is, if they do occur, to provide suitable means for their extinguishment. In case fire does occur, notwithstanding these precautions, the bill then provides to require suitable means for its extinguishment—all vessels carrying more than fifty passengers are to be supplied with three forcing pumps of six inch caliber, one at least to be prepared to work by steam power, and each to be supplied with a hose, always ready for use. Each vessel is also to have a certain number of fire buckets and axes, in proportion to its tonnage.

But we suppose that cases will happen in which the extinguishment of fire will be unsuccessful, or may be impossible. It then becomes necessary to go a step further, and provide for the escape of those on board of vessels thus on fire. Our attention was drawn to that point, and we have provided in the bill for the escape of the passengers and crew, by requiring a certain number of life-boats and life-preservers, to prevent, if possible, the recurrence of such frightful disasters everywhere, and especially within a few hundred yards of the shore. The inspectors are required to visit vessels arriving and departing, and to see that this part of the act is complied with. If this be done, the committee feel great confidence in auspicious results.

The next matter which came under consideration, was the explosion of boilers, the collapsing of flues, the bursting of pipes, &c. This has been a prolific theme of speculation among the learned and the unlearned, the practical and the theoretical. Nevertheless, it has not been deemed expedient to enter into any of the controversies which do or have existed, or to adopt any particular theory of the causes of explosion or collapse. The explosions generally occur in high-pressure boilers, and the experience and observation of navigators and engineers, as well as the experiments of the learned, all concur in pointing to certain unmistakable evidence which precedes such disasters; and if these proofs of danger are seasonably noticed, and the progress towards a fatal catastrophe averted, as it may be, it will greatly diminish, if not put an end to such occurrences. Most explosions are accompanied by evidence indicating an unmistakable cause at work to produce them; but some causes escape the closest observation. These causes may be classed as follows:

*First.* The use of unsuitable material for the construction of boilers. The broken fragments of iron frequently disclose this fact.

*Second.* The form of the boiler may be unsuitable, or the workmanship unsatisfactory. The form should be such as to secure the greatest strength, sustained by the best workmanship, and when either or both are faulty, the boilers will probably fail.

*Third.* Negligence or unskillfulness in the use of the boilers.

Under the first of these heads many proofs have been furnished of iron wrought into boilers wholly unsuited for such purposes, and not only liable to give way, but almost certain to do so. Bad material is often used in the manufacture, and the iron fails from that cause. The material is also imperfectly worked, and being heated with mineral instead of charcoal, is not much superior to cast iron; indeed, cast iron has often been used for boiler heads. Again: the plates are rolled too thin for the size of the boilers, or if packed, are not thoroughly united by welding.

As a remedy for such of these imperfections as arise from bad material and the imperfect manufacture of iron, the bill provides for the inspection of all boiler iron, and forbids the working into boilers any not inspected. The inspectors must satisfy themselves that the plates which they approve, are equal in quality to the best kind of iron made with charcoal, and is at least one fourth of an inch thick, for a standard boiler. Our model boiler is one of forty-two inches diameter, made of plates one fourth of an inch thick—made of the best iron.

When the boiler is made and ready for use, another inspection takes place, and the inspector must satisfy himself that it is constructed of such materials as the act requires, and that the form and workmanship are satisfactory. This will meet and obviate the difficulties suggested under the second head, so far as new boilers are concerned, when taken in connection with the other provisions in regard to boilers.

But being aware that defects of materials and of workmanship may escape the observation of an intelligent observer, we have provided for testing the strength of every boiler, by hydrostatic pressure, under the regulations contained in the act, and have, after such trial and examination, authorized the inspector to rate the highest working power of the boiler, by the pressure upon the square inch, in conformity with which they are to fix the load of each safety-valve, and it is made penal to increase that pressure under any circumstances.

Under the third head of negligence and unskillfulness in the management of boilers, we have proofs from all quarters, of negligent, unskillful, and rash management often producing the saddest calamities. I will give some examples which show what is meant by the use of these terms.

If the water in the boiler is permitted to be so lowered that the metal uncovered about the flue or other parts of the boiler becomes highly heated, and while thus weakened by heat receives water suddenly injected, or thrown upon it by any other cause, an explosion or collapse is likely to follow, from the sudden conversion of water into steam. Many persons of great experience contend that much the larger portion of explosions and collapses happen from neglect to keep up the water to a proper and safe height in the boiler. The bill corrects this negligence, by providing for a constant, certain, and sufficient supply of water at all times, whether the vessel is in motion or at rest. It provides that, ordinarily, the water shall be kept at least four inches above the top of the flue.

Unskillfulness or imprudence is said to occur in overloading the safety valves, and thus, by undue and unsafe pressure, exposing the boilers to explosion. This occurs whenever there is an attempt to press a boiler beyond its capacity to sustain elastic steam. There is reason to believe that persons are employed as engineers who have not the knowledge and experience which are indispensable to the safe management of an engine. Neglect of duty, unskillfulness, and mismanagement are caused by the employment of unsuitable persons, and can only be remedied by displacing such and securing the services of persons who have higher and better qualities. The same rule also applies to pilots, as vessels are lost through the negligence or incompetence of pilots.

The bill provides for the appointment of all engineers for one year, upon careful and thorough examination of their characters and qualifications, and none other are to be allowed to serve on board steamers. A similar course is to be pursued in the appointment of pilots upon rivers. Any person desiring to be an engineer or pilot may offer himself, and may undergo an examination, and if

his character and qualifications authorize it he will be appointed.

To carry out this system, and to secure the selection of competent and faithful engineers and pilots, two inspectors for each of the collection districts named in the act are to be appointed, one of whom, to be called the inspector of hulls, is to possess such a practical knowledge as to enable him to judge of the seaworthiness, and is also to be acquainted with the uses of steam as a power in navigation, so as to be able to perform the duties assigned to him. The other, to be called the inspector of boilers, is to possess a practical knowledge of the manufacture of boilers and the uses of the machinery employed in steaming, so as to be able to judge correctly of the character of both. These two are to be associated in their labors of inspection, and in the appointment of engineers and pilots for the district to which they belong, and for any district for which no inspector is appointed. The inspector of boilers is also to be the inspector of boiler iron within his district and in any district which has no such inspector.

Inspectors such as the act requires cannot be placed in every collection district without a very great expense, nor are such services required in the larger portion of the districts. We have endeavored so to place the inspectors that steamers for the most part, at one or the other end of the trip, will find a board to perform the service of inspection, but to meet and provide for exceptions to this rule the boards, as has been suggested, are empowered to grant certificates in any district destitute of inspectors. In addition to this, we have provided for nine supervising inspectors, who are to itinerate and, among other things, to visit destitute districts, both for the inspection of steamers and of boiler iron. These officers are designed to be persons of high practical qualifications, holding a general supervising power over the local boards, and securing not only a faithful, but a uniform execution of the law.

The inspectors, both general and local, are required to examine all the machinery and equipments of steamers, and to interpose and cause to be remedied whatever is imperfect or dangerous in its character.

If boilers are unfit for use, by reason of previous wear, or bad material, or bad workmanship, it is the duty of the inspector to know it and condemn such faults.

If the supply of water is inconstant or uncertain, it is his business to correct that dangerous defect. If he finds the valves have been loaded beyond the limit assigned, or in any way tampered with, it is his duty to prevent the repetition of such a violation of law and duty. In short, the vigilance of a faithful officer will never sleep, but he will visit vessels arriving and departing, and compel all concerned to obey the laws made for the protection of life and property, or to abide the penalties of disobedience.

Such are the principal provisions in regard to explosions, collapses, and the bursting of pipes.

Our object is, first, to improve the strength of boilers hereafter made, by the use of better material, better proportions, and more thorough workmanship. Second, to prevent abuses in the use of them, arising from rashness, want of skill, negligence, or other causes.

The committee next considered the disasters arising from collisions, snagging, and sinking. The disasters from these causes are of very great magnitude, and we have felt it to be our duty to seek for some plan of mitigation. These catastrophes often come from two causes:

1. Unnecessary collisions, by which vessels are seriously injured or sunk. These happen through negligence, carelessness, willful intention, and unskillfulness.

If a collision occurs through neglect, want of skill, or intention, it is the fault of the pilot, and must be corrected by the employment of a person of higher and better qualities, one who will observe and adhere to his duty, and not come in conflict if it can be avoided.

If a vessel is snagged or sunk from other causes, the disaster may occur without fault from any quarter, or it may happen through neglect, inattention, or rashness. The number of vessels lost in this manner is very great, and while many are destroyed by inevitable accident, others owe their fate to incompetent or negligent navigators.

We have applied two remedies for such disas-

ters. First: we have established safe rules for meeting and passing in narrow and unsafe channels, which, if observed, will prevent collisions. This provision embodies the usages of navigators on rivers. Second: we have provided for the examination and appointment of all pilots upon the rivers and lakes, and none are to serve without a permit. This arrangement carries to that region what has always been deemed necessary on the coast, proof both of competent skill and good character. The lives of the traveling public should be committed to none but steady, sober men, capable and trustworthy. The object of the act is to secure the services of such and none others. There is great skill in detecting the proofs that danger is concealed beneath the surface of the water. It requires a quick, experienced, untiring eye, that sees every ripple and understands its character. We deem this an essential portion of the system of reform, and alike important to life and the preservation of property.

I have now done with the statistics which I proposed to lay before the Senate, and an account of the general provisions of the bill. I have a word or two more, however, to say to the Senate in regard to this subject, and then I shall leave the bill with them.

This bill has been long under the consideration of the Committee on Commerce. I have occasion personally to know that a very extensive correspondence has been carried on with all parts of the country interested in steam navigation, and there have been laid before the committee a great multitude of memorials, doings of chambers of commerce, of boards of trade, of conventions, of bodies of engineers; and, to a considerable extent, of all persons interested, in one form or another, in steamers. They all come to Congress to complain of the existing state of things. And in one thing, I believe, they are all, from high to low, from little to great, agreed—that is, that the present system is erroneous, and needs correction—that there is a habit, especially upon the western waters, of carrying steam to a dangerous height, which ought to be corrected. Among all the papers which have come to my knowledge, and among all the persons with whom I have conferred, I believe there is no exception to this statement. They, one and all, think it expedient that Congress should take the subject up, and should reduce the pressure allowed on steamers employed in that region of country.

You are aware, sir, that a bill was reported at the last session of Congress containing many of the provisions which are contained in this bill. It was taken up, but was not finally acted upon. The subject was taken up at an early day in this session, and the committee early reported this bill. The Senate ordered some five or six hundred extra copies of the bill to be printed for distribution, that the country might be informed of its character and its contents. I took what pains was in my power to circulate it, to make it known everywhere, but more especially to make it known in the regions most interested in it. And if gentlemen there did not receive copies of the bill, and were not made acquainted with its contents, I have only to regret that my efforts failed to bring it to their notice. But it has been brought to public attention there. It has received great attention in that portion of the country. It has been everywhere more or less discussed in the press. It has been examined with careful criticism by many individuals. There has been in this city during the whole winter a number of experienced engineers looking after the interests of that portion of the country. There are standing behind me now several of those gentlemen of very great experience, who have been long engaged in steam navigation in some capacity or other—some of whom have grown grey in that service, who are gentlemen of great intelligence. They come here, as representatives of a large convention, to make known their wants and their wishes upon this topic. We have sat down around the table; we have discussed this subject; we have examined it day after day; and I am able (which is to me a very great degree of satisfaction) and authorized to announce to the Senate, that all the gentlemen who have come here to look after these interests are satisfied with the bill, or will be satisfied with it when it receives the amendments which I intend to propose before I sit down. It is this chiefly that I wished to communicate to the Senate. If

Senators are satisfied that the bill has undergone this careful criticism by men of very large experience, by men deeply interested in its provisions, who say—after examining it in convention, after examining it in their chambers, after looking it over and scanning and weighing and considering all its provisions—that they are satisfied with it, it seems to me that they must admit that it is seldom in the power of any gentleman to produce before the Senate any more satisfactory evidence of the character of a bill.

I did not expect, when the bill was ordered to be published, that it was perfect. I know enough of this subject to know that it was a very complicated one; that it was full of embarrassments. I did not suppose at that time that the work was complete. I therefore continued, as I received communications from time to time from one source and another source, sometimes by letters, sometimes by newspapers, sometimes by conference with individuals, to correct one imperfection after another as I went on. After I shall propose the large number of amendments which I intend to offer, the fundamental principles of the bill will remain substantially as they are. I do not say that some of these amendments, which are made necessary by facts, the existence of which were unknown to me at the time of drawing up the bill, are very material; but at the same time I consider them indispensable.

With these remarks I will proceed to offer those amendments to the bill which have struck my own mind as important, and the most of which, or many of them, at least, are such as have grown out of the conferences to which I have referred. There are many that are merely formal which are designed to carry out more accurately the provisions designed to be put in force. The first amendment which I propose to offer is to insert in the second section, after the word "engines," the words "appointed under the provisions of this act," so as to read "that it shall be the duty of the inspectors of the hulls of steamers and the inspectors of boilers and engines, appointed under the provisions of this act," &c.

This and numerous other amendments were submitted and adopted to carry out the views and objects to which the honorable Senator referred in his speech. Having perfected the bill as far as he deemed it desirable, amendments were offered by Mr. BRADBURY and other Senators, which will be embodied in the bill, which is ordered to be printed.

Mr. GEYER. I had prepared a number of amendments which I intended to offer to the bill. Most of them, however, have been superseded by those offered by the Senator from Massachusetts, and agreed to by the Senate. But there are some which are still necessary to give the bill effect in the western waters, which I will submit. The first is to add the following proviso to the fifth section:

*Provided, however, That the inspectors may grant to any steamer engaged only in the navigation of rivers, a dispensation from the obligation to carry such life-preservers in cases where the inspectors shall be satisfied that such steamers are provided with substitutes therefor sufficient in number and properly distributed, for the purpose of saving life in case of accident.*

Mr. DAVIS. That object is already covered by one of the amendments which the Senate have just agreed to.

Mr. GEYER. I will then withdraw it until the bill is printed, when I can ascertain that fact. I offer the following, to come in as an additional section after section fifth:

*And be it further enacted, That every such vessel carrying passengers on the main or lower deck, shall be provided with sufficient means convenient to such passengers for their escape to the upper deck in case of fire or other accident endangering life.*

The amendment was agreed to.

Mr. GEYER. The next amendment which I propose is to the sixth section of the bill. That section reads as follows:

"That no curtains made of cotton, or of any material alike combustible, shall be suspended or used in any such vessel carrying passengers, nor shall powder, oil of turpentine, or materials which ignite by friction, be carried by any such vessels as freight, and when kept on board as stores, they must be placed in metallic vessels."

I propose to strike out all after the word "passengers," and insert—

Except in state rooms or apartments where no fire or burning lights are allowed to be used; no loose hemp shall be carried on board any such vessel; nor shall baled hemp be carried on the deck or guards thereof, unless the bales are

compactly pressed and well covered with bagging or a similar fabric; nor shall gunpowder, oil of turpentine, or materials which ignite by friction, be carried on board any such vessel as freight, except in cases of special license for that purpose as hereinafter provided; and all such articles kept on board as stores shall be secured in metallic vessels; and every person who shall knowingly violate any of the provisions of this section shall pay a penalty of \$100 for each offense, to be recovered by action of debt in any court of competent jurisdiction.

I will explain in a few words the object of that amendment. Most of the steam vessels engaged in the navigation of the Western waters occasionally carry small quantities of gunpowder and other articles, described in that section. There is not that distinction between freight and passenger vessels that we have on the sea-board. To prohibit them entirely, where there are persons purchasing an assortment of manufactures for their stores, would be to exclude them from a very important part of the compensation which they have received from the transportation of merchandise. The amendment designs to allow the inspectors to grant a license to carry these articles; and in a subsequent section it is provided that the license shall not be granted unless the vessel is provided with metallic chests, or safes lined with metal, safely stowed at a point distant from any fire, and each of the articles packed in a separate chest, and this is intended to allow them to carry only a small quantity at a time, and have it so secure that fire cannot approach it.

Another section which I intended to propose, and which the bill did not provide for, is to prevent the taking of these articles in disguise; for it would be in vain to prohibit vessels carrying gunpowder or other combustible material so long as the practice exists, as it exists in the West, and sometimes I believe in the East, of putting up gunpowder, for instance, in some other package, as coffee, and marking it as containing coffee only, and then stow it in the vessel where fire may have access to it. The additional section I intend to propose, is to prohibit that practice, and require these articles always to be put up separately, and marked distinctly on the outside, so that where we are imposing penalties on the masters of vessels for carrying the articles, we shall, at the same time, punish those who put them up and endeavor to impose upon the masters, some of whom are now unwilling to carry them. There are many who will not receive them if they know them, or if they receive them, will stow them where there is no danger. But the practice has been adopted by some men to put up these articles in other packages in disguise. In order, therefore, that the bill may be accommodated to the condition of navigation in the West, I hope the amendment will be agreed to.

Mr. DAVIS. I do not propose to make any objection to the plan of the Senator. My judgment would lead me to reject gunpowder, and articles of that description, as freight in vessels that carry passengers, on the ground that it is very explosive in its character, and unless unusual precautions are taken, I suppose every person thinks there is more or less danger to be apprehended from it. But I do not, on the other hand, wish to interfere with the trade of the people, provided gentlemen really think an arrangement can be made which will make it safe and prudent to take such articles on board. I shall make no objection to it, though my judgment would be that they had better be carried on vessels limited to freight alone.

The amendment was agreed to.

Mr. GEYER. I offer the following as an additional section:

Sec. 7. And be it further enacted, That hereafter all gunpowder, oil of turpentine, and materials which ignite by friction, when packed or put up for shipment or sale, shall be securely packed and put up separately from each other and from all other articles, and the package, box, cask, or vessel containing the same shall be distinctly marked on the outside with the name or description of the articles contained therein; and every person who shall pack or put up, or cause to be packed or put up, for sale or shipment, any gunpowder, oil of turpentine, or materials which ignite by friction, or shall deliver to any person any package, box, cask, or vessel, containing either of the articles aforesaid, not marked as aforesaid, or shall ship or offer to ship the same on board of any steam vessel carrying passengers, shall be deemed guilty of a misdemeanor, and punished by fine not exceeding — or imprisonment not exceeding — months, or both.

The amendment was agreed to.

The following amendments, proposed by Mr. GEYER, were severally agreed to: To insert in the seventh section of the bill, which specifies the duties of the inspectors, under the second head

directing them to satisfy themselves that the various parts are properly constructed, the following:

That the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction; that the spaces between the flues are sufficient, and that the fire line of the furnace is below the safe water-line of the boilers.

To strike out in section seven the following:

"The said inspectors shall keep a regular record of certificates, whether of approval or disapproval; and when recorded, the originals shall be delivered to the collector; and they shall keep a like record of all appointments made under this act, and all revocations of appointments, and shall communicate to the collector all such appointments and removals."

And insert:

Upon the application of the master or owner of any steamer employed only in the navigation of rivers for a license to carry gunpowder, oil of turpentine, and materials which ignite by friction, or either of them, the inspectors shall examine such vessel; and if they find that she is provided with chests, or safes composed of metal, or entirely lined therewith, or one or more apartments thoroughly lined with metal, below the water line at a secure distance from any fire, they may grant a certificate to that effect, and authorizing such vessel to carry as freight any of the articles aforesaid, those of each description to be secured in such chest, safe, or apartment containing no other article, and carried below the water line at a distance from any fire to be specified in the certificate: *Provided*, That any such certificate may be revoked or annulled at any time by the inspectors, upon proof that either of the said articles have been carried on board said vessel, at a place or in a manner not authorized by such certificate, or that any of the provisions of this act in relation thereto have been violated.

The said inspectors shall keep a regular record of certificates of inspections of vessels, their boilers, engines, and machinery, whether of approval or disapproval, and when recorded, the original shall be delivered to the collector of the district; they shall keep a like record of certificates authorizing gunpowder, oil of turpentine, and materials which ignite by friction, or either of them, and when recorded, deliver the originals to said collector; they shall keep a like record of all licenses to masters, pilots, and engineers, and all revocations thereof, and shall, from time to time, report in writing their decisions on all applications for such licenses or proceedings for the revocation thereof.

In the seventh section to strike out:

"It shall be unlawful for any person to employ, or any person to serve as engineer or pilot who is not licensed by the inspectors; and any one so offending shall forfeit \$100 for each offense: *Provided, however*, That if a vessel leaves her port with a complement of engineers and pilots, and on her voyage is deprived of their service, or the services of any of them, without the consent, fault, or collusion of the master, owner, or any one interested in the vessel, the deficiency may be temporarily supplied until the vessel returns to her port."

And insert in lieu thereof the following:

No person shall act as pilot or engineer, or be employed to serve as such, on board of any steamer carrying passengers, who has not a license for that purpose, continuing in force; and any person so offending shall forfeit \$100 for each offense. Nor shall any such vessel be navigated without a competent master and a full complement of licensed pilots and engineers serving on board as such; and every person who shall violate this provision, or aid, or assist therein, shall forfeit and pay — dollars for each offense: *Provided*, That if any such vessel shall be deprived of the services of any such licensed officer during a voyage without the fault or collusion of the owners of such vessel, or any of them, and the deficiency shall be supplied as soon as practicable, such owners shall be exempt from the penalty aforesaid.

Mr. GEYER. The next amendment which I propose is in the twenty-sixth section. That section reads as follows:

"That the collector shall retain on file the original certificate of the inspectors, giving to the owner or master two certified copies thereof, one of which shall be placed in some conspicuous place in the vessel, where it will be most likely to be observed by passengers and others; and the other he shall retain as evidence of his lawful right to navigate the vessel, and no one shall be allowed to navigate a steamer without such certificates."

I propose to strike out all after the word "file," and insert:

All original certificates of the inspectors required by this act to be delivered to him, and shall give to the master or owner of the vessel therein named, two certified copies thereof, one of which shall be placed by such master or owner in some conspicuous place in the vessel, where it will be most likely to be observed by passengers and others, and there kept at all times, during a voyage, and while such vessel is receiving freight or passengers; the other shall be retained by such master or owner as evidence of the authority thereby conferred; and if any person shall receive or carry any passenger on board any such steamer not having a certificate of approval as required by this act, and a certified copy thereof placed and kept as aforesaid; or who shall receive or carry any gunpowder, oil of turpentine, or materials which ignite by friction, as freight on board any steamer carrying passengers, not having a certificate authorizing the same, and a certified copy thereof placed and kept as aforesaid; or who shall stow or carry any of said articles, at a place or in a manner not authorized by such certificate, shall forfeit and pay for each offense \$100, to be recovered by action of debt in any court of competent jurisdiction.

Mr. WELLER. It seems to me that it would

be the better plan for the Senator from Missouri to propose these amendments after the bill is reported to the Senate, and the amendments are adopted, which were agreed upon by the committee which originally reported this bill. It strikes me the better course would be to report the bill to the Senate, and after it is reported, to print the bill as amended by the standing committee which has had charge of the subject; and then, if the Senator from Missouri should desire to propose some amendments which would make it more practical in that section of country which he represents, he could propose them. Now, I confess I do not understand this bill, and I doubt whether there is any Senator here who does understand it. Thus far I have taken it with a generous confidence, relying upon the committee; but if individual Senators are to attach all sorts of amendments to this bill, I do not think I shall be able to go for it at all. I am willing to take it as the committee which had charge of this subject has reported it, but I may not be willing to take it after twenty or thirty amendments have been made by an individual Senator, without consultation with those who have had particular charge of this subject.

Mr. DAVIS. I would observe to the Senator from California, that the amendment which preceded the last one is substantially an amendment of phraseology. It proposes some little change in the character of the phraseology, and not of the substance of the provision that the Senator moved to strike out, and therefore I did not object to it. I have expressed my opinion to the Senate about this matter of carrying gunpowder, and I am called upon to record a vote on the subject. I must say, that I think a vessel carrying passengers ought not to carry gunpowder. That would be my judgment and my opinion. But this is a very simple proposition. The Senator from California will perceive that a very large proportion of these amendments relate to provisions in regard to carrying gunpowder, friction matches, and things of that sort. I would exclude them all. A large portion of the amendments relate to making provision for carrying those articles, which are either explosive in their character, or highly combustible. I think the better way would be to exclude them. I went upon that plan. But this is a proposition so easily understood by everybody, that it does not require an argument at all. A gentleman can say to himself, "Am I willing to go on board a vessel where these explosive articles are carried as freight?" If he thinks his life is safe, and the lives of his fellow citizens are safe, then he will be willing to go on board the vessel. Though these articles are so dangerous, whatever provisions we may make for their security, they will be brought on board, and if brought on board, they must be landed. If you think gunpowder is an improper article to be brought among passengers, then you will agree with me in the opinion that it ought not to be carried.

Mr. RUSK. I was extremely anxious that we should get through with these amendments to-day, so that we might have the bill printed as amended, and act on it to-morrow.

Mr. DAVIS. I desire that very much.

Mr. RUSK. I am opposed to all these amendments with regard to carrying gunpowder; and had I not noticed the great vacancy in the seats of the Senate, I should have called for a division, and discussed the question. But I thought that the better plan was to get through with the amendments and have them printed, so that they might be before us to-morrow, that we may act intelligently upon them. The great difficulty about the carriage of gunpowder is just this—one half of the destruction of human life on board steamboats occurs from the fact of the alarm that is raised the moment there is a fire. The alarm, or the fear that there is gunpowder on board, sets nearly all the passengers perfectly crazy. I venture to say, that if there was an investigation into the destruction of human life, on account of the explosions of steam-boilers, and other accidents connected with steamboats, it would be found that one half the persons who are lost have perished in consequence of a loss of judgment, occasioned by fright and their not taking the necessary steps to secure themselves. Whenever there is any powder on board a steamboat, and a fire occurs, the cry that there is powder immediately alarms the people, and an instantaneous rush takes place. It is the



alarm occasioned by the presence of gunpowder which causes a great deal of the loss of life.

It is said that inconvenience would result to the merchants from requiring that boats carrying these dangerous articles should carry no passengers, but that inconvenience is nothing in proportion to the enormous risk incurred in putting gunpowder and such articles on board every passenger boat.

Mr. WELLER. There has not been on the Western waters that distinction drawn between passenger boats and freight boats that is drawn at the East. All of the steam vessels which are engaged on those waters in the transportation of passengers, likewise carry freight. For myself, I cannot see, as the Senator from Texas has said, the necessity of these amendments, with regard to the carriage of gunpowder. I do not now recollect a single instance where a boat has been destroyed upon the Western waters by carrying gunpowder. All of those melancholy accidents which have occurred upon the Western waters,—and they are far too numerous,—have not resulted from the transportation of gunpowder. As the Senator from Texas has well remarked, more lives have been lost by the terror that is produced by the alarm that there is gunpowder on board the vessel, than by gunpowder itself. The Senator from Missouri, perhaps, can tell me some instances, if any have occurred upon the Western waters, where lives have been lost in consequence of there being gunpowder on board the vessel—I mean directly.

Mr. GEYER. I do not know of any.

Mr. DAVIS. I do not know of any.

Mr. RUSK. I would mention the case of the *Lioness*.

Mr. WELLER. There may have been instances of this sort; but, in my judgment, the evil has not existed to such an extent as to authorize the numerous amendments which the Senator from Missouri has proposed to this bill.

Mr. DAVIS. The Senator from Tennessee [Mr. BELL] has suggested, and brought to my recollection, one example of the destruction of life by the explosion of gunpowder on board a boat. He states that the Hon. Mr. Johnson, of Louisiana, formerly a member of this body, was killed by an explosion in that way, on Red river.

Mr. RUSK. The steamboat *Lioness* was blown up on Red river, in consequence of having gunpowder on board.

Mr. GEYER. I apprehend that the honorable Senator from California is mistaken in regard to the object of the amendments which I have had the honor to submit. The bill, as it originally stood, prohibited, under heavy penalties, any gunpowder from being carried. The amendments I have submitted are designed to permit its carriage on certain conditions: that is, where the boats are provided with metallic safes, in which it may be stored.

In reply to the Senator from California, I may be permitted to remark, that these amendments were laid upon the table, perhaps some four or six weeks ago. Some were submitted before that time by me. Most of those which I then informally submitted have been incorporated into the amendments made on the motion of the honorable Senator from Massachusetts. I will state the design of the amendment which is now pending. The twenty-sixth section of the bill directs that the inspector's certificate be placed in some conspicuous place in the vessel. This proposition is to amend that section, by providing that the license for carrying these combustible materials shall also be placed and kept in a conspicuous place in the vessel, so that every person who goes on board a vessel will know that there must be exposed the certificate under which she is authorized to navigate at all; and that, if she is authorized to carry gunpowder, that license must also be there. As it is designed to be kept there, a penalty is fixed for not keeping it there at all times when the vessel is receiving passengers, and they are on board. The object of this is to prevent parties from evading the law, by putting up the certificate, and then taking it down, and thus concealing it from the passengers.

The question was taken on the amendment, and it was agreed to.

Mr. GEYER. I offer the following, to come in as additional sections after the 26th section:

Sec. —. *And be it further enacted*, That every inspector who shall certify falsely touching any such vessel propelled

in whole or in part by steam, and carrying passengers, her hull, accommodations, boilers, engines, machinery, or their appurtenances, or any of her equipments, or any matter or thing contained in any certificate signed and sworn to by him, shall, on conviction thereof, be punished by a fine not exceeding — dollars, or imprisonment not exceeding —, or both.

Sec. —. *And be it further enacted*, That if any such vessel carrying passengers shall be navigated without a certificate, as required by this act for that purpose, or having such certificate, shall not at all times during the continuance thereof have her hull, accommodations, boilers, engines, machinery, and their appurtenances, and all equipments, in all things conformable to such certificate, the master or commander by whom she shall be so navigated, shall be punished by fine not exceeding — dollars, or imprisonment not exceeding —, or both: *Provided*, That such master or commander shall not be liable for loss or deficiency occasioned by the dangers of navigation, if such loss or deficiency shall be supplied as soon as practicable.

The amendment was agreed to.

Mr. GEYER. I propose the following, to come in at the end of the bill:

Sec. —. *And be it further enacted*, That the district inspectors appointed under the provisions of this act, shall, within their respective districts, under the direction of the Secretary of the Treasury, take the examination, or receive the statements in writing, of persons of practical knowledge and experience in the navigation of steam-vessels, the construction and use of boilers, engines, machinery, and equipments; touching the form, material, and construction of engines and their appurtenances; the causes of the explosion of boilers, and collapse of flues, and the means of prevention; the kind and description of safety-valves, water and steam-gauges or indicators; equipments for the extinguishment of fires, and for the preservation of life in case of accident, on board of such vessels, and all other means in use or proper to be adopted, for the better security of the lives of persons on board vessels propelled in whole or in part by steam; the advantages and disadvantages of the different descriptions of boilers, engines and their appurtenances, safety-valves, water and steam gauges or indicators, equipments for the prevention or extinguishment of fires, and the preservation of life in case of accident, in use on board such vessels; whether any, and what further legislation is necessary or proper for the better security of the lives of persons on board such steam-vessels; which examination and statements so taken and received, shall be transmitted to the Secretary of the Treasury, at such time as he shall prescribe.

Sec. —. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause such interrogatories to be prepared and published, as in his opinion may be proper to elicit the information contemplated by the preceding section, and upon the receipt of the examination and statements taken by the inspectors, shall report the same to Congress, together with the recommendation of such further provisions as he may deem proper to be made for the better security of the lives of persons on board steam-vessels.

The amendment was agreed to.

Mr. BRADBURY. I move to amend the ninth section of the bill, by inserting after the words "forfeit," the words "amount of the passage money and." As the bill now stands, it provides a forfeiture of ten dollars for each passenger taken on board steamers beyond the number authorized by the certificate. This will not be, I think, an adequate penalty to prevent the abuse on long voyages, and it therefore becomes essential in the case where there has been the greatest abuse, the carrying of passengers to California, that a further penalty should be provided; and by inserting the words which I propose as an amendment, the remedy would be made more perfect.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the question was stated to be, Will the Senate concur in the amendments made in Committee of the Whole?

Mr. CHASE. I hope that the amendments will be printed, and that the bill will be postponed until to-morrow. I make that motion.

Mr. DAVIS. I wish to say that I shall accede to that motion. There have been so many amendments made, that if gentlemen desire to have them printed, I have no objection provided we can get it done. But I am somewhat afraid that we cannot have them printed by to-morrow morning. Let us, however, make an effort to get them ready; and if they are ready, I hope we shall then take up the bill and dispose of it. I do not want it to be hanging here for any length of time, hence I shall be very glad to have that course taken. I would like to have it understood that the bill is to be the order of the day for to-morrow as the unfinished business.

Mr. BRIGHT. I believe that the motion is, that the bill as amended shall be printed. That is what I desire. I desire to have the bill brought to us just as it will read with the amendments which have been adopted to-day. We can then take it up to-morrow, section by section, for the

purpose of making any changes that may be necessary. I think it very probable that the amendments which have been made to-day are valuable. I have no doubt of it, as the honorable Senator from Massachusetts has given the subject a great deal of attention. But I have no doubt that he will find much of the bill, as it is, that ought to be stricken out. Perhaps there may be further amendments to be added; but if the bill is to be brought to us printed as amended, we can take it up to-morrow and dispose of it without much debate.

Mr. DAVIS. I have no idea of doing it in any other way, except reprinting the bill with the amendments inserted.

Mr. CHASE. That is my motion.

Mr. DODGE, of Iowa. I beg leave to call the attention of the Senator from Massachusetts to one portion of the bill. I find that the fourth section of the bill, as printed, provides that there shall be a metallic life-boat for each vessel, "capable of sustaining, inside and outside, fifty persons, and having a canvas fender around the gunwale, filled with cork, of not less than six inches in diameter." I wish to call the attention of the Senator from Massachusetts to this fact: An amendment was suggested, I think by Mr. HENRY, of the House of Representatives, to the Senator, in the room of the Committee on Commerce, when myself and my colleague were present. He suggested the use of the words, "vulcanized India rubber float," so that it would read, "capable of sustaining, inside and outside, fifty persons, and having a vulcanized India rubber float around the gunwale;" and instead of "filled with cork," the words "inflated with air." My purpose is not to offer an amendment, but to call the attention of the Senator from Massachusetts to the subject. He is my mentor in this matter, and I take this occasion to return, as a Western man and a representative from that section of country, my thanks to him for the labor and attention which he has bestowed on this subject. He has taken a very deep interest in it. It is one worthy of his industry. I think the country owes him very much for the attention and care which he has bestowed upon the subject.

Mr. DAVIS. The Senator from Iowa has very properly called my attention to that point; but if he had attended the progress of the amendments, as they were made, he would have seen that all that portion of the clause which he has read, which requires a cork fender, has been stricken out of the bill. Nor do I propose to put in what he suggests. My reason, in the first place, for striking out the provision for a cork fender was, that it might compel us to take a patented float, to the expense of which I do not wish to subject the owners of steamboats. My objection to inserting the provision for a vulcanized India rubber fender of which he speaks, is precisely the same. That is a patented article. I therefore leave the question open to the inspectors, simply requiring a metallic life-boat, leaving them to decide whether there are proper floats upon it, or whether any floats are necessary.

I would here remark that I have most convincing proof in my possession that the metallic life-boat is, of all boats, the best boat that ever was put afloat. I have certificates from the commanders of the Collins line, the commanders of the steamers between New York and Charleston, and from a great many sources to that effect. When I bring to the knowledge of the Senate one single fact in regard to these boats, testified to by the commander of the steamer *Northerner*, I think it will be seen how important they are. He states, in his communication to me, that when that steamer was put into the business, she had some three or four wooden boats, together with one metallic life-boat. His statement is, that the wooden boats have long since disappeared, and that the metallic boat has been in constant use, answering all expectation, and, as far as he can see, is as good at this day as when she was put into the water. If exposed to the sun she will not leak. Now, I never yet saw a wooden boat that would not leak if her bottom was exposed to the sun. The advantages, in my opinion, are such, that the moment the public become acquainted with the metallic boat they will take it, out of economy and from choice. But I do not wish to force them to take a patented article. I therefore leave them to take the cork float, the vulcanized float, or any

other float they see fit, the inspectors having ample power over the subject.

The motion of Mr. CHASE was agreed to.  
And then, on motion, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 7, 1852.

The House met at eleven o'clock, a. m. Prayer by the Rev. LITTLETON F. MORGAN.

The Journal of yesterday was read and approved.

### MAIL ROUTES.

The SPEAKER. The business first in order is the consideration of joint resolution No. 9, establishing certain mail routes. The pending question is a motion to recommit the resolution.

On motion by Mr. HAMILTON, by unanimous consent, leave was granted to withdraw from the files of the House the petition and papers of Ann Marie Baldwin.

Mr. OLDS. I withdraw the motion submitted by me yesterday to recommit joint resolution No. 9.

The SPEAKER. The question then recurs upon the amendment proposed by the gentleman from Michigan, [Mr. STUART,] to insert after the word "roads," in the fourth line, the words, "or public highways."

Mr. STUART. Yesterday it was stated it would be necessary to add another amendment to this resolution, in order to obviate the necessity for advertising, which now exists under the law; otherwise it might, perhaps would, be necessary for the Postmaster General to advertise for mail service on every public highway within the United States. I have drawn up an amendment, which I propose to offer at the proper time. It provides that, "hereafter the Postmaster General shall not advertise for mail service on any new post road, unless in his opinion the service shall be necessary and proper."

I think, with the amendments I have now proposed, and the one I intend to submit, every feasible objection to the proposition will be answered.

Mr. SMART. I hope, Mr. Speaker, this amendment will not be adopted. I view the proposed change as a very grave matter; and I trust the House, on the spur of the moment, will not concur in it. I understand the proposed amendment to give the power to the Postmaster General to establish mail routes and to contract for mail service on all the highways within the United States. Now, I ask gentlemen to look at the present power of the Postmaster General. He has now the power to establish offices everywhere, great and small. He has also the power to put service on roads everywhere where the law has declared them to be mail routes. Well, that power is now enormous. It is greater than that in the possession of the head of any other Department. The Postmaster General has the power to appoint twenty thousand postmasters, and to order service on all the routes now declared routes by law; and that power, I think, is sufficient for the head of any one of the Departments under the Government.

A VOICE. He has also the power to establish post offices.

Mr. SMART. And also, as I have already remarked, he has the power of establishing post offices. Why, sir, I hear the argument advanced in support of the amendment, that it will be convenient—that it is inconvenient for Congress to legislate on this subject.

Mr. JOHNSON, of Tennessee. I wish to ask the gentleman the question, by way of information, whether the law, as it now stands, does not authorize the Postmaster General to establish new routes where the old ones would not defray expenses?

Mr. SMART. I understand what are called special routes may be established by the Postmaster General. But, as I was going on to say, this argument that it is inconvenient to legislate, may apply to the head of every other Department. Why, the gentleman might as well propose to invest the Secretary of the Treasury with the power to lay taxes to relieve this body of the onerous labor of enacting a tariff. He might as well propose to invest the Secretary of War with the power to declare war. He might as well propose to invest the Secretary of the Navy with the power to provide for the Navy. That would be very

convenient, but not very salutary to the country. I say, then, this is a grave and important question—the surrendering of the very last vestige of power which Congress has over this matter of post offices and post roads. The Constitution of the United States has conferred the power on Congress to establish mail routes; and I insist we should not delegate it to a single man. The Executive power of this Government is already enormous; and, for one, I intend, while I have the honor of a seat upon this floor, always to raise my voice against throwing any more power from the Legislative to the Executive Department of the Government. I repeat, this is a grave matter; and I trust this Congress will not surrender the last hold it has on the control of this tremendous branch of the Government.

Mr. STUART. I confess myself, sir, not a little surprised at the alarm which has taken hold of the gentleman from Maine, [Mr. SMART,] and I am as much surprised at the position he takes as at the entire want of his facts to sustain it. Congress, under the Constitution, has the power to establish post offices and post roads. That is all. Now, can any gentleman raise in this House a proposition to take back the power which Congress has conferred upon the Postmaster General to establish post offices? Would we think it a conservative measure to withdraw that power now, to exercise it by Congress to legislate to establish every post office in the United States? And yet, sir, here is the provision—"to establish post offices and post roads." Has this authority, since it has been delegated to the Postmaster General, been abused to any great extent? Is there any gentleman here that can point out the instances in which this power has been abused? or has it operated with entire convenience and most properly? I ask gentlemen to say which in their opinion would be the best depository of this power for the public interests, to have our post offices established in the United States by Congress, or to have them established by the Postmaster General? How would the power be best exercised? I apprehend there can be but one response to the inquiry. I wish to state the amendment I have proposed for adoption, because there seems to be a studious effort on the part of the opponents of the amendment to pervert its language, and then to argue upon that perversion. They say it confers upon the Postmaster General the entire authority to establish post offices and post roads. Not at all. The amendment itself establishes post roads on every public highway within the United States. It leaves no discretion in the Postmaster General whatever; but it simply declares every public highway in the United States to be a post road. What then, sir? Why, the present law requires that the Postmaster General shall advertise for service on every post road established by Congress.

Then I propose an additional amendment, declaring that he shall not advertise for mail service upon any new post road unless, in his opinion, it is necessary and proper. Now, I ask again, Mr. Speaker, and call the attention of gentlemen of this House to the question, Which is the safest depository of this discretion, the Congress of the United States to say where mail services shall be placed, or the Postmaster General? If Congress is applied to, the application is made about thus: How does the Committee on the Post Office and Post Roads operate? Why they employ a clerk, and they direct him to draft into a bill every single application made, without exception. Can they do it any better? Can they exercise that discretion any safer? Certainly not, sir! Suppose the Committee on the Post Office and Post Roads should undertake to determine the necessity of establishing a new post road, what evidence will they have before them? Nothing but the petition. What evidence can they get before them?

Mr. FOWLER. With the gentleman's permission I will make a remark. The gentleman is not entirely correct in stating the course of proceeding with this business in the Committee on the Post Office and Post Roads. Every one of these petitions are distributed among the members of the committee first. It is the duty of the member having one to consider it, and to make inquiries of the member representing the country through which the road is proposed to pass, and others, as the case may be, before he reports to the whole committee in favor, or otherwise, of the road pro-

posed. It is not in the hands of the clerk, but in the hands of some one member of the committee, who reports thereupon to the whole committee, and they concur or nonconcur in the report.

Mr. STUART. I know what the gentleman from Massachusetts has just stated to be true; but I submit, Mr. Speaker, to that gentleman whether or not what I said was not substantially correct? A member of Congress receives a petition for a new post road. He refers it to the Committee on the Post Office and Post Roads. It is there referred to a sub-committee consisting of one of its members. That member inquires—where? Why, he inquires of the very member that introduced the petition, and that is the best information he can get. That member says it is necessary to establish the route, and it is done. And as I said on yesterday, I now venture to repeat, that in the last quarter of a century, there has not been an application denied—not one. If there were to be an essential change there might be some ground for argument such as the gentleman from Maine [Mr. SMART] adduces here; but is not the putting of service on the mail routes now given to the Postmaster General? Congress establishes the routes; but when the routes are established, he exercises his discretion whether he will put on the service or not. If the bid is not such as to fall within the probable receipts from the post offices, or pretty near it, he will not establish service of any grade. If a two-horse coach service be asked for, and the receipts will not probably sustain more than a horseback mail route, he will put on the horseback mail route. The whole thing is within his discretion and under his judgment, and this does not propose to change it one particle. It does not take from the House one single power they now possess, to transfer it to the Postmaster General. It simply does this: It stops the necessity of future legislation to determine what shall be post roads, and nothing else.

Now, I submit when these applications are never denied; when they are never the subject of inquiry here; when the whole post route bill, of whatever dimension in length the committee may find it necessary to make it, is passed through this House without division every session; when nobody will look into it except to see whether his road is in; when no one contests the routes—whether this enormous labor shall, year after year, be repeated for fear that the Postmaster General will put the service on a route somewhere where that service ought not to be. Now, has it ever been done? Can a gentleman rise in this House and say mail service is enormously and improperly put upon a mail route? Has any gentleman's experience ever ascertained any occasion of this sort? I confess, Mr. Speaker, I have never heard of it. I conceive this alarm in regard to the encroachments of the power of the Executive officers on the duties of Congress is an alarm which seems to me without the slightest foundation. If I believed any such consequences as those indicated by the gentleman from Kentucky [Mr. MARSHALL] on yesterday, and the gentleman from Maine [Mr. SMART] to-day, were to follow the placing of these two or three roads in this bill, I would be among the first to oppose it.

[A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., its Secretary, notifying the House of the passage by that body of certain bills, and requesting their concurrence therein.]

Mr. STUART resumed. I said, if I supposed any such consequences were to follow from this amendment as indicated by the gentleman from Kentucky, [Mr. MARSHALL,] and the gentleman from Maine, [Mr. SMART,] I would be among the first to oppose it. I would be as tenacious as any other gentleman in clothing Executive officers with discretionary power. But from the best examination which I have been enabled to give this subject, I can see no evil growing out of it. We have seen none of it yet. This discretion has been held for years—I know not how long; but it has ever been properly exercised. There can be no instance indicated where the power has been improperly exercised; and if it has not been, it is the best evidence in the world that it never will be. I would much rather trust the discretion of any Postmaster General for putting mail service upon a route, with the present imperative law upon him to advertise every one of them, than to trust to the mode in which Congress

establishes mail routes. I know that in my district there were established three routes over the same region of country, and a portion of the way they were the very identical routes by different names, and the Postmaster General advertised three distinct routes. The consequence was, that they could not get either put in operation. I spent three months in correspondence with the people at home, and in making applications to the Post Office Department here, before I could get the thing into shape, and before I could get mail service upon it, and it was only a horseback mail at that.

Mr. ORR. Will my friend from Michigan [Mr. STUART] allow an interruption? I agree with him in the view that no evil would grow out of this amendment, so far as putting service upon the road is concerned. There is another question which strikes me, and it has struck me for the first time this morning. I think there is a good deal of consequence to be attached to it, and the House ought to understand it before voting. If Congress passes this amendment, that every public highway in the United States shall be declared a post route, I desire to inquire of the gentleman if that act of Congress would not prohibit your county commissioners, and the commissioners of public roads, from ever closing up any public highway that may be in existence at the present time?

Mr. STUART. I have no difficulty whatever in answering that question. I have no hesitation in saying that the local authorities would not possess the power of closing up a mail route absolutely.

Mr. ORR. Suppose there is no service upon it, it is declared a post route.

Mr. STUART. I undertake to say that the establishment of it as a post road, without putting any service upon it, would not interfere with the right of the States. The difficulty consists in the State interfering so as to prevent the passage of the United States mail. That they cannot do. This power in the Constitution to establish post offices and roads is a power paramount to all State authority. No State authority can interfere with Congress in establishing a post road, and putting mail service upon it, so as to prevent the transmission of the United States mail over that road. That is a very clear proposition; I take it from the Constitution itself. If there were no mail service upon the road, there would be no such constitutional objections at all. The practical effect of it is this: It is an everyday occurrence in a new State to alter a highway, which is a post road, declared to be so by the Congress of the United States, and the commissioners of highways are applied to take up a portion of that road and change it so as to carry it half a mile or a mile around to get around somebody's farm. If they think the local interests there require it they make the change; but that does not prevent the transmission of the United States mail. It only makes it necessary, having changed the route, that you shall go half a mile or a mile further to carry it. That is the practical effect of it.

Mr. OLDS. Will the gentleman allow me to make a single suggestion? The laws establishing post routes do not fix the road the whole distance, but merely establishes certain points on the roads. Between these points the road may be changed, as a matter of course, and the termini are always the same.

Mr. STUART. Precisely so. The route, to illustrate, may run from Kalamazoo to Paw-Paw and St. Joseph's, taking three places in my district. How does it run? It runs upon the most direct public road. You can change it, but I take it that nobody would think of so taking up the public highway that you cannot get into Kalamazoo. Would any one think of taking up all the public thoroughfares leading into the city of New York, so that no one could travel in them? The particular points on a route, it is true, are fixed. The effect of making every public highway a mail route is the one to which I alluded yesterday—and that is this. In the old States it would be of no consequence, but in the new States it frequently happens that there is a change of business. A little village springs up in the first place when a county is first settled, and twenty or thirty individuals get in there, and Congress makes a post road. Perhaps in two years the business of that county is entirely changed, and it has gone off six, eight, or ten miles east, west, north, or south, and

they desire a change of the mail. Almost all the inhabitants of the county petition for it. But the Postmaster General tells you that he cannot direct the contractor to go to your new grown-up village, because there is not a post road there. What then? You must apply to Congress to make a new post road, running across an angle of four or five miles, and then the Postmaster General can do an act which the convenience of the people imperatively demands, and he cannot do it until then. The effect of my amendment will be to give him the power, whenever the public or local interest would be subserved by it, to change the route. I undertake to say that this convenient, practical result would be reached by the adoption of the amendment.

Mr. SACKETT. With the consent of the House I will present one or two practical objections to this plan, and one is a constitutional question. I am not so certain that the measure may be constitutional. I suggest this difficulty. By the Constitution we are to establish offices and roads. We are to declare what shall be a post road, not depending upon any condition or upon the legislation of the States—not to be destroyed or made effectual by the legislation of any other power. We are to establish a post road. Now, is it an execution of the provision of the Constitution to declare that to be a post road which depends upon the legislation of the States to make it such? I question whether that is an execution of the constitutional provision in regard to the establishment of post roads. I have another objection, and I ask the attention of the mover of this amendment to this subject, because I think it is a pretty serious question. It is a great difficulty in the way of this amendment. There are roads across navigable streams—streams that under the amendment would be post roads, and by the decision of the Supreme Court in the *Wheeling* bridge case, they being made post roads, may be made the lawful means of bridging streams to the great injury of commerce. Is it intended by this provision that roads and bridges may be made across the Ohio, Mississippi, and other rivers? If any of these consequences may follow, I am opposed to it. I raise these as objections—objections which would be sure to be made in case of an application to Congress, and which there would be power in Congress to meet. It seems to me that these two objections ought to be fatal to the amendment. There are some other objections.

Now, the Postmaster General has the power of establishing post offices in the United States. This places beyond the reach of Congress any limitation upon that power. There are some 20,000 post offices already, and if every road in the United States is to be a post road, we shall see applications for new offices multiplied, and the Post Office Department will be swamped and bankrupted by post routes which Congress never would establish. Would it be a fair execution of the commercial power for the improvement of rivers and harbors, to give the Treasurer of the United States the power of expending a certain sum of money upon every harbor, that the Legislature of a State shall declare to be a harbor? That is precisely a parallel case. Would that be a fair execution of the power of Congress upon that subject? The Congress of the United States has a right to support armies. Would it be a fair execution of the power of Congress upon that subject to lend its support to such an army as a State by their Legislature should declare to be an army, and making that support dependent upon the legislation of a State? I think not. So it is with all the powers of Congress over the rights delegated to it. It would not be a proper and legitimate execution of these powers to make their execution depend upon other legislation than our own. I think, inasmuch as the Constitution of the country has devolved this power over post roads upon Congress, they should exercise it as they would exercise the other powers of Congress. When a case is presented justifying the execution of power, then they should execute it, but not in so general terms as not to know whether it is a necessary execution of power or not. I am for the execution of power whenever it is necessary and proper—this is our duty. But until it is necessary to be executed, it is our duty to refrain from executing it. For these reasons I object to this general provision.

Mr. COBB. I suppose we have heard quite enough to satisfy the House how we should vote upon this question. And I think the best speech I can make is to call the previous question.

The previous question was seconded, and the main question ordered to be put.

The question being on the amendment of Mr. STUART,

Mr. SMART demanded the yeas and nays; which were ordered.

Mr. OLDS. I have the right, I believe, to say a few words.

The SPEAKER. The gentleman has.

Mr. OLDS. I do not propose to detain the House ten minutes upon this subject. I am opposed to the amendment proposed by the gentleman from Michigan, [Mr. STUART,] and I shall state my reasons for that opposition very briefly indeed. The Constitution confers upon Congress the power to establish post offices and post routes. You have given, by the law of Congress, power to the Postmaster General to put service upon a mail route after it has been established by Congress, or to withhold that service. Now then, sir, our Government is a government of checks and balances, and here you have the check by Congress upon the Post Office Department, and the check of the Post Office Department upon Congress. I purpose to advert for a single moment to the statement made by the gentleman from Michigan, [Mr. STUART,] that all applications to Congress are granted. Now, sir, it may be true, or it may not be true. What is the process by which you obtain a post road? A member of Congress presents a petition, which is referred to the Committee on the Post Office and Post Roads. It does not follow as a matter of course that the petition is granted.

But the gentleman from Michigan says that the Committee on the Post Office and Post Roads report favorably upon the petitions. Now, what is the process? In all cases they place the responsibility upon the member presenting the petition. They suppose, as a matter of course, that being acquainted with the locality he knows the necessity for mail service or mail routes; and in all cases the question is put to him, "will you take the responsibility of the establishment of the post route?" But, sir, he may for partisan purposes, or for the sake of his own popularity perhaps, induce the establishment of a post road where service is not necessary. There is then a check upon that. Where? Why, in the Post Office Department. The Postmaster General can withhold the service. He is, therefore, a check upon the member of Congress. But suppose you declare all roads post routes, and then leave the power discretionary with the Postmaster General, there is no check upon him at all. Suppose he thinks fit to make his Department an electioneering machine, and holds out inducements all over the country, that he is willing to put service on every road, for the purpose of increasing the power of his party, you have no check upon him. As it is now, Congress has a check upon the Department, and the Department has a check upon Congress.

Then, sir, you will have no check upon his expenditure. Suppose he chooses to make his Department an electioneering machine, and he does really put service upon all these roads in the country: where is the limitation to his power? Where is the check to the expenditure he may think proper to make? But now you have a check upon that in the Congress of the United States. It appears to me, sir, that what I have said in regard to this fact is sufficient to prevent this Congress from granting away thus indiscriminately this power.

Why, sir, this is not a new move in Congress. For the last fifty years they have been making just such moves as this. It was made during the last Congress, and for the reasons I have assigned was voted down; and I hope it will be voted down in every succeeding Congress. I trust this amendment will not be agreed to.

Mr. ORR. Before the gentleman concludes I would like to inquire of him if he has directed his attention to the point I suggested to the gentleman from Michigan? [Mr. STUART.] I do not think the gentleman from Michigan answered that suggestion. This question is a new one to me, certainly. I am satisfied from the little reflection I have been able to give to it, that should Congress pass this amendment, and declare all the existing highways post routes, you would thereby take



from the county commissioners and from the State authorities, all control over every road in the United States. I desire to inquire of the gentleman if he has directed his attention to that point?

Mr. OLDS. The gentleman from Michigan said, in reply to that inquiry, that they would have no more power than they have now, because, he says, when you make post routes now the county commissioners may change the location of the road. Now, that does not at all meet the question raised by the gentleman from South Carolina, [Mr. ORR,] which appears to be a very valid one. Now, you establish a post route, but not over a particular road, and it does not prevent the change of that road. You establish certain points upon that route; those points must be adhered to, but the road may be changed between those points. But suppose you make a particular road a post route, can you change it then? Under the existing laws you can, because you designate the points; but you permit a change of the roads. If you fix the roads, then you leave the State authorities, or the county commissioners, no authority at all to change that route.

Mr. LETCHER. Before the gentleman concludes, I would wish to address an inquiry to him. I understand that this joint resolution proposes to declare all plank roads post routes, and that you object to this amendment because it proposes to make roads which are not plank roads post routes. What I want to know is the difference in principle between plank roads and other roads?

Mr. OLDS. My answer is simply this: It appears to me to be plain, that where you make a plank road the same as where you make a railroad, it becomes a public thoroughfare—a permanent public thoroughfare. You do not alter a railroad between the postal points, and so with a plank road. It therefore becomes a great public thoroughfare, and there is no danger in permitting the Post Office Department to put on service. They will have no power to make an electioneering scheme by putting mail service on roads of inferior importance, and which are not general thoroughfares.

Mr. LETCHER. Another inquiry I should like to address to the gentleman. The principle now is, that these plank roads are general thoroughfares. Now, dirt turnpikes are also general thoroughfares, throughout my part of the country at least, to a much greater extent than plank roads. Why does not the gentleman propose to make dirt turnpikes—which are the thoroughfares of the larger portion of the Union—mail routes, as well as plank roads, which are general in the Northern country?

Mr. OLDS. I should like to know if there are any of those turnpikes in the gentleman's country which are not mail routes?

Mr. LETCHER. Yes, sir, there are.

Mr. OLDS. Then you can make application to Congress to have them made mail routes.

Mr. STUART. I wish to ask the gentleman from Ohio [Mr. OLDS] one or two questions. I wish to test these constitutional arguments, as applied to this question, which I shall do in a very few words. It is said, if you establish a postroad over a public highway, that you take from the State all authority to change it. Now, sir, here is a bill making all plank roads in the United States post routes. By an existing law, every railroad in the United States is a post road; and in many of the States, the Legislatures have retained the power to repeal the charters of those railroads whenever they please. Now, will any gentleman rise here and tell me, that by the passage of this joint resolution making these plank roads post roads, you will take from the Legislatures of the States the power to repeal? If not, then you will not, by the adoption of my amendment declaring public highways post routes, take from the States the power to change those routes, through their constituted authorities, as will best subserve the public interests.

Mr. MILLSON. I imagine there is little difficulty in knowing what a railroad is, and as little difficulty in knowing what a plank road is. But let me suggest to the gentleman that there may be very great difficulty in understanding what a public highway is. Sir, it is a matter sometimes of protracted litigation to ascertain what is a public highway. Sometimes the use of a road for twenty years is regarded as evidence of a prior dedication. The owner of a road is sometimes pre-

sumed to have made a grant to the public after an uninterrupted use of twenty years. I ask the gentleman if the Postmaster General is to be authorized to determine such litigated questions, and decide for himself when a road may have been dedicated by the proprietors to the use of the public, so that it becomes a public highway?

Mr. STUART. I find no difficulty at all in answering that question. The Postmaster General advertises for mail service from one point to another—to take, as an illustration, to carry the mail from the county seat of one county to the county seat of another, and so on *ad infinitum*. Now, sir, there can be no objection raised that there is no post route between these two places. There can be no objection to his letting the service because all the public highways are post routes. Now, the gentleman from Virginia [Mr. MILLSON] inquires, Will there not be a difficulty, and will not the Postmaster General be called upon to determine what is a public highway? Not at all, sir. He advertises for service between each particular point, and the mail contractors go on to execute that service under his contract. But the parties are litigating to see whether it is a public highway. Suppose they determine it is not—

Mr. SMART. I wish to inquire if the previous question has not been ordered?

The SPEAKER. It has.

Mr. STUART. I was speaking by the leave of the gentleman from Ohio, [Mr. OLDS.]

Mr. SMART. I understood the gentleman from Ohio to have yielded the floor entirely.

Mr. STUART. I am not speaking to gratify myself at all, and I am perfectly willing, if the House desire it, to stop at once.

Mr. SACKETT. I move to lay the whole subject upon the table.

A MEMBER. Oh, no! that will carry the joint resolution as well as the amendment.

Mr. SACKETT. I withdraw the motion.

Mr. LETCHER. I renew the motion to lay the whole subject upon the table. The resolution ought to be defeated.

The question was then taken upon the motion, and it was decided in the negative.

So the House refused to lay the joint resolution upon the table.

Mr. JONES, of Tennessee. I wish to ask the gentleman from Ohio, the chairman of the Committee on the Post Office and Post Roads, if the passage of this resolution, in his estimation, will supersede the necessity of hereafter passing post route bills?

Mr. OLDS. I am utterly unable to answer that question, for I do not know what construction the courts of the United States or the Departments may put upon the amendment of the gentleman from Michigan. If all the roads now in existence, and all that may hereafter be made, are made post routes, I do not think Congress will have anything more to do.

The CHAIRMAN. The question is upon the adoption of the amendment. The yeas and nays have been ordered.

The question was then taken upon agreeing to Mr. STUART's amendment, declaring all highways post routes; and it was decided in the negative—yeas 65, nays 100; as follows:

YEAS—Messrs. Abernethy, William Appleton, Ashe, David J. Bailey, Bennett, Bibbighaus, Bissell, Bowie, John H. Boyd, Brenton, Briggs, Buell, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Chandler, Clingman, Cobb, Conger, Cullom, Curtis, Doty, Durkee, Edgerton, Fitch, Freeman, Henry M. Fuller, Gentry, Giddings, Goodrich, Gorman, Green, Grey, Grow, Sampson W. Harris, John W. Howe, Hunter, Letcher, Lockhart, Molony, Henry D. Moore, John Moore, Nabers, Newton, Outlaw, Samuel W. Parker, Penniman, Perkins, Powell, Reed, Ross, Seurry, Snow, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stone, St. Martin, Stuart, Thurston, Welch, Wells, and Yates—65.

NAYS—Messrs. Aiken, Charles Allen, Allison, Averett, Babcock, Beale, Bell, Bragg, Brooks, George H. Brown, Burt, Busby, Joseph Cable, Carter, Chastain, Churchwell, Daniel, George T. Davis, John G. Davis, Dawson, Dean, Dimmick, Duncan, Eastman, Evans, Floyd, Fowler, Thos. J. D. Fuller, Gaylord, Gilmore, Goodenow, Hamilton, Harper, I-sham G. Harris, Haven, Hendricks, Hubbard, Hillyer, Holladay, Horsford, Houston, Howard, Thomas M. Howe, Jackson, Jenkins, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, Preston King, Kurtz, Mace, Mann, Edward C. Marshall, Humphrey Marshall, Mason, McCorkle, McMullin, McNair, McQueen, Milson, Miner, Morehead, Morrison, Murphy, Murray, Olds, Orr, Andrew Parker, Peaslee, Penn, Phelps, Polk, Richardson, Riddle, Robbins, Robie, Sackett, Savage, Schermerhorn, Schoolcraft, Schoonmaker, Origen S. Seymour, Skelton, Smart, Smith, Abraham P. Stephens, Thad-

deus Stevens, Stratton, Strother, Taylor, Townshend, Wallace, Wallace, Ward, Watkins, Wilcox, Williams, and Woodward—100.

So the amendment was not agreed to.

The joint resolution was then ordered to be read a third time, and was subsequently read the third time and passed.

Mr. FOWLER moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. HOUSTON obtained the floor.

The SPEAKER. Will the gentleman from Alabama allow the Chair to inform the House that there are quite a number of communications from the Executive Departments of the Government, which it would be well, perhaps, to distribute among the several committees? If there be no objection on the part of any member of the House, the Chair proposes to present them.

Mr. HOUSTON. I am willing, if it does not take up too much time, that they shall be distributed as proposed by the Chair, but I shall object, if it is to consume the entire day.

#### EXECUTIVE COMMUNICATIONS.

There being no objection, the Speaker laid before the House the following communications, which were referred to the committees indicated below:

#### To the Senate and House of Representatives:

By an act of Congress, approved on the 10th day of February, 1852, an appropriation of \$6,000 was made for the relief of *American citizens*, then lately imprisoned and pardoned by the Queen of Spain, intended to provide for the return of such of the Cuban prisoners as were citizens of the United States, who had been transported to Spain, and there pardoned by the Spanish Government.

It will be observed, that no provision was made for such foreigners or aliens as were engaged in the Cuban expedition, and who had shared the fate of American citizens, for whose relief the said act was intended to provide. I now transmit the report from the First Comptroller, with accompanying papers, in which it will be perceived that fifteen foreigners were connected with that expedition, who were also pardoned by the Queen of Spain, and have been transported to the United States, under contract made with our consul, at an expense of \$1,013 34, for the payment of which no provision has been made by law. The consul having evidently acted with good intentions, the claim is submitted for the consideration of Congress.

#### MILLARD FILLMORE.

On motion by Mr. BAYLY, of Virginia, referred to the Committee on Foreign Affairs, and ordered to be printed.

II. A letter from the Acting Secretary of the Treasury, transmitting a communication from the Light-house Board in reference to the matters which under the law it was contemplated should come under their superintendence.

On motion by Mr. DUNCAN, referred to the Committee on Commerce, and ordered to be printed.

III. A letter from the Acting Secretary of the Treasury, submitting an estimate for the salary of the district judge of the western district of Louisiana, the same having been inadvertently omitted in the annual estimates.

On motion by Mr. HOUSTON, referred to the Committee on Ways and Means, and ordered to be printed.

IV. A letter from the Secretary of the Treasury, transmitting a communication from the Secretary of War inclosing an estimate of the amount required to complete the surveys of roads from the valley of the Mississippi to the Pacific ocean, with a request that the same might be laid before Congress, with the recommendation that the appropriation be made accordingly.

On motion by Mr. JONES, of Tennessee, referred to the Committee on Ways and Means, and ordered to be printed.

V. A letter from the Acting Secretary of the Treasury, calling the attention of Congress to the decision of the United States circuit court of New York as to the liability of manufacturers of any article of merchandise shipped by them for their own account to the United States, and invoiced by them below their market value, as provided for in the act of March, 1850.

On motion by Mr. STEVENS, of Pennsylvania, referred to the Committee on Ways and Means, and ordered to be printed.

Mr. STANTON, of Tennessee. There was a communication a moment ago in reference to roads from the valley of the Mississippi westward, which was referred, on the motion of my colleague, [Mr. JONES,] to the Committee on Ways and Means. I think that that communication

ought more properly to go to the Committee on Military Affairs, as the matters contained in it are connected with the military service of the country, and are more properly under the jurisdiction of that committee. I hope my colleague will not object.

Mr. JONES, of Tennessee. I have no objection.

It was so ordered.

VI. A communication from the Secretary of the Treasury, transmitting copies of letters respecting a claim for repaving a portion of the streets around the Mint at New Orleans.

On motion by Mr. JONES, of Tennessee, referred to the Committee on Ways and Means, and ordered to be printed.

Mr. JONES, of Tennessee, moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON demanded tellers; which were ordered, and Messrs. HART and CHANDLER were appointed; and the question being put, the tellers reported—ayes 82, noes not counted.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

#### DEFICIENCY BILL.

The CHAIRMAN. The business before the committee is the consideration of the amendments of the Senate to House bill No. 207, "to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852." The hour having arrived for closing the general debate, according to the rule, the gentleman from Alabama, [Mr. HOUSTON,] chairman of the Committee on Ways and Means, is entitled to the floor.

Mr. HOUSTON. Mr. Chairman, I regret that I am under the necessity—or that I feel myself so—of occupying any portion of the time of this committee to the delay, even for an hour, of the action of the House upon the amendments now before us, which it is of the utmost importance should be acted upon without delay—

Mr. SACKETT. I rise to a question of order. My point of order is, that the gentleman from Alabama, the chairman of the Committee on Ways and Means, occupied the hour to which he was entitled, under the rule, upon this bill when it was in the House before, and that, under the rules, he has no right to another hour upon the amendments.

The CHAIRMAN. The Chair decides that the Senate having attached to this bill certain amendments, which have been considered by the Committee on Ways and Means, and reported back through their chairman, the chairman is entitled to an hour, under the rules, upon those amendments.

Mr. SACKETT. Under the advice of those who are more experienced than myself upon this subject, I am induced to take an appeal from that decision. It is a question of some consequence whether, every time a bill—

The CHAIRMAN. It is not in order to debate the appeal.

Mr. CLINGMAN. I ask for tellers on the appeal. I think it is very clear that no one has any right to speak for more than five minutes.

Mr. BURT. I believe, and I desire to know from the Chair if I am correct, that the only matters before the committee now are the amendments of the Senate.

The CHAIRMAN. That is so.

Mr. BURT. Then those are the only matters which can be discussed?

The CHAIRMAN. Those are the only questions pending.

The CHAIRMAN. The gentleman from New York [Mr. SACKETT] raises a question of order, that the gentleman from Alabama, the chairman of the Committee on Ways and Means, is not entitled to an hour to speak under the rule. The Chair overrules the point of order. From that decision the gentleman from New York takes an appeal; and on the appeal tellers are demanded.

Tellers were then ordered.

Mr. MILLSON. I desire to inquire of the Chair whether, since this bill was last before the House, it has been committed to the Committee on Ways and Means, and a new report upon it has been made by that committee?

The CHAIRMAN. The Chair understands that

the amendments attached to the bill by the Senate were referred to the Committee on Ways and Means, who have reported them back, with a report in favor of some of them, and against others.

Mr. STANTON, of Ohio. I ask for the reading of the rule in reference to this subject.

The Clerk read the rule, as follows:

"34. No member shall occupy more than one hour in debate on any question in the House, or in committee; but a member reporting the measure under consideration from a committee may open and close the debate."

Messrs. FOWLER and DEAN were appointed tellers.

And the question being put, "Shall the decision of the Chair stand as the judgment of the committee?" it was decided in the affirmative—ayes 89, noes not counted.

So the decision of the Chair was sustained.

Mr. HOUSTON. I regret this interruption, because I regret that there is a disposition on the part of any of my fellow-members not to hear any suggestions that I might be disposed to make in connection with the very interesting and very important subject that is before us for legislation.

Mr. MOREHEAD. Will the gentleman permit me to say, that those of us who voted in favor of the appeal did it with no feeling of discourtesy or unkindness towards him, or because of any indisposition to hear him speak, but we did it upon a construction of the rules of order.

Mr. HOUSTON then addressed the committee an hour in opposition to the appropriation for the Collins line of steamers. [His remarks will be found in the Appendix.]

The Clerk then reported the first amendment proposed by the Senate, as follows:

"Section 1, page 2: After line 21 insert—For completing the floating dry-dock at San Francisco, California, authorized by act of 3d March, 1851, \$360,000; and said dock may be used for the purpose of repairing merchant ships, when not in use by the Government, in such manner, for such compensation, and upon such terms and conditions as shall be prescribed by the Secretary of the Navy."

Mr. STANTON, of Tennessee. I have been instructed by the Committee on Naval Affairs to offer the following amendment, to come in at the end of the Senate amendment:

"In conformity with the provisions of the act of September, 1850, in relation to the dock, basin, and railway."

It will be remembered, that by the act of 1850, it was provided that a dock, basin, and railway should be established in California. By an amendment to an appropriation bill since that time, the basin and railway were cut off, and prohibited by the decision of Congress. In this state of things the Secretary of the Navy, after the passage of this amendment by the Senate, wrote to the Committee on Naval Affairs of the House a letter, which I handed to the chairman of the Committee on Ways and Means, requesting them to report this amendment when they made their report upon the amendments of the Senate. I have endeavored to get that letter from the chairman of the Committee on Ways and Means, in order to show the views of the Secretary of the Navy, but the chairman of that committee has mislaid the letter, so that I have been unable to get it. It is not, therefore, my fault that the views of the Secretary of the Navy are not before the House at this time. But I will say that this amendment is in accordance with the views of the Secretary of the Navy as communicated in that letter. He doubted whether the act of the last session of Congress, modifying that of 1850, left to him power to make a contract by which this dock might be leased to the contractors on such terms and conditions as he might think proper. The Secretary of the Navy distinctly stated in that letter, that he believed it would be to the advantage of the Government to make such a contract upon the terms proposed by the act of 1850, and in accordance with his recommendation, this amendment was directed to be reported by a unanimous vote of the Committee on Naval Affairs.

By the amendment of the Senate, as it now stands, it is possible that it might be construed to require the Secretary of the Navy to keep this dock in operation by the agents of the Government, and to employ it under those circumstances in repairing private vessels. The Secretary, in his letter, distinctly stated he conceived that to be an unwise mode of accomplishing this object. That is all the explanation I deem necessary.

That amendment, which I have offered, is in exact conformity, as I understand it, and as the

Committee on Naval Affairs understood it, with the recommendation of the Secretary of the Navy in his letter. As it gives him full discretion to do as he thinks just and proper, it seems to me there can be no objection to it.

Mr. STEPHENS, of Georgia. I wish to know of the gentleman from Tennessee, [Mr. STANTON,] if it is the object of his amendment to allow these contractors who built this dock for the Government, to lease it out for their own advantage, to private individuals, and to reap the benefit of such leases?

Mr. STANTON. It is not the object of the amendment to give the contractors any power at all, but to give the Secretary of the Navy the power to contract with them, for keeping the dock in repair for docking the Government vessels at all times, giving them the precedence, and giving them the privilege of using it for the repair of merchant vessels, upon such terms and conditions as the Secretary of the Navy shall prescribe.

Mr. STEPHENS. I understand that the object is to give the Secretary of the Navy power to make a contract with these individuals, by which they may pocket all the rent; that is the whole sum and substance of the matter. I am against it, out and out; and I trust that this House will vote it down.

Mr. STANTON. I have only to say, that what I have intimated is the view of the Secretary of the Navy, as indicated in his communication to the Committee on Naval Affairs, and I have no doubt it is the best possible mode of disposing of the subject.

The amendment was then read, as follows:

Add after the word "Navy," in the eighth line, the words "in conformity with the provisions of the act of September 20th, 1850, in relation to docks, basins and railways, in California."

Mr. STEPHENS. It may not be known to the members of the House, that in 1850 there was a contract provided by law to be entered into with the contractors for this naval dock. In the appropriation bill of the last session of that Congress it was repudiated by this House, by a large majority, after discussion, and now it comes in in another little amendment, slipped in here at the tail of an amendment of the Senate, by which all that contract is to be enforced again.

Mr. STANTON. That is not the object of the amendment. The gentleman is entirely mistaken.

Mr. STEPHENS. If it is to revive a law, the gentleman should have the law here, to show us what it is that he proposes to revive.

Mr. STANTON. It is not reviving any law. I believe the law is still in force. The Secretary, in his letter, states that he believes the law to be in force; but he desired an expression of the opinion of Congress, as he believed it was advantageous for the Government to adopt the provisions of that bill.

Mr. STEVENS, of Pennsylvania. Will the gentleman from Tennessee [Mr. STANTON] allow me to ask him whether this is not the very matter which was in controversy in the last Congress, when that Congress overruled the opinion of the Secretary of the Navy, and declared that that contract was not binding at all?

Mr. STANTON. No, sir; this matter has nothing in the world to do with that. This amendment does not revive that part of the law repealed by the action of the last session of Congress.

Mr. STEPHENS, of Georgia. It revives that part of the law which enables these contractors, as I stated before, to pocket all the rent of this Government dock. That is the part which it revives, and that is the part which I trust this House will never revive.

Mr. JONES, of Tennessee. I ask that the law which the gentleman wishes to revive may be read.

The law was then read, as follows:

"For commencing the construction of a floating dry-dock on the coast of California, one hundred thousand dollars; and the Secretary of the Navy is authorized to enter into a contract for the construction, with all reasonable dispatch, of a sectional, or balance floating dry-dock, on the Pacific Ocean as he may select, of a capacity and dimensions in no respect inferior to those of the dry-dock in progress of construction at Pensacola: *Provided*, That by granting said contractors permission if required to prepare the materials chiefly at some harbor on the Atlantic sea board, and advancing moneys thereon, as the works progress, the said works can be completed at a sum not exceeding, by more than twelve per cent., the total amount contracted to be paid for the floating-dock, basin, and railway at the Pensacola navy-yard, with the addition thereto of what would be the cost of transportation to said coast of the said materials thus

prepared, and with the reservation till the works are done of ten per cent., and the usual surety for the faithful performance of the contract; and the Secretary of the Navy shall also be authorized to enter into an agreement with the contractor, if they will keep the said works in repair, and take proper care of the same, for any given period of years, free of charge to the Government, to permit them to use the said works, during such period, on their own account, for repairing merchant vessels, when not occupied by vessels of the Navy, to which precedence shall at all times be given, on such terms as he shall deem reasonable."

Mr. BAYLY, of Virginia. I desire to have the amendment offered by the gentleman from Tennessee [Mr. STANTON] read, and I wish to offer an amendment to it.

The amendment was again read, as above inserted.

Mr. BAYLY. Is an amendment to that amendment now in order?

The CHAIRMAN. The Chair thinks it is not.

The question then recurring upon the adoption of the amendment to the amendment.

Mr. STANTON demanded tellers; which were not ordered.

The question was then put, and the amendment was not agreed to.

Mr. BAYLY. I offer, as an amendment to the amendment of the Senate, the following, which is slightly varied from the amendment offered by the gentleman from Tennessee, [Mr. STANTON:]

Add, at the end of the Senate amendment, the words "in conformity with the provisions of the act of September, 1850."

I think, sir, that the amendment which has just been voted down, has not been entirely understood. I recollect the history of that law very well. When there was a proposition to establish this floating dry-dock in California, it was represented to the Committee on Ways and Means that it was exceedingly desirable that some arrangement might be made by which this dry-dock might be used for the purpose of repairing merchant vessels on the coast of California. We all know that there are no docks there, and there are many thousand miles between California and any efficient dock. It was supposed that it might be exceedingly beneficial to our commercial marine to allow them, under proper regulations, to use this dock for the purpose of repairs, when it was not occupied by Government vessels. I think my friend from Georgia [Mr. STEPHENS] has not entirely understood the provisions of the law of 1850. It does not give, as a gratuity, by any means, to the builders of this dock the privilege of putting merchant vessels upon it, when not occupied by national vessels. Very far from it. But if such were the case, although it would be a great benefit to them, it would be no very great detriment to the Government, for it would not injure the dock to use it in that way. But the provisions of the law never contemplated that they were to use it to repair merchant vessels when the dock was not occupied by national vessels, as a gratuity; but, on the contrary, it conferred on the Secretary of the Navy the power to make a contract as to the terms upon which they were to do this; and one of the provisions in reference to that stipulation indicated that they should keep the dock in repair.

Well, now, I recollect that when I was a member of the Committee on Naval Affairs, at the time of the construction of the Pensacola and Philadelphia docks, one great objection was offered, that a very large expenditure would be required annually to keep them in repair. The advocates of stone docks insisted that it was better to have stone docks, because repairs on them would be inconsiderable; whereas the expense of keeping in repair floating docks would be very heavy.

To relieve the Government, to some extent, from that annual charge, and to do no harm to anybody, that provision contemplated the authorizing the Secretary of the Navy to make a contract with the constructors, by which they were to be bound to keep the dock in repair, and to reimburse themselves by having the privilege of putting merchant vessels upon the dock, when not occupied by national vessels—preference, in all cases, to be given to the latter. I recollect very well I thought at the time that the provision was a very judicious one—advantageous to our commercial marine, and would work no disadvantage to the Government. I see no foundation for the objection my friend from Georgia [Mr. STEPHENS] has started upon this matter. I recollect very well

the impression that rested upon my mind at the time.

[Here the hammer fell.]

Mr. JONES, of Tennessee. The amendment as it comes to us from the Senate, proposed to be amended by the gentleman from Virginia, [Mr. BAYLY,] provides that said dock may be used for the purpose of repairing merchant vessels, when not in use by the Government, in such manner and for such compensation, and upon such terms and conditions as shall be prescribed by the Secretary of the Navy. The gentleman from Virginia [Mr. BAYLY] proposes by his amendment that this provision in the Senate amendment shall be executed in pursuance of the act of September, 1850, which is, sir, that the Secretary of the Navy shall also be authorized to enter into an agreement with the contractor to effect this object of repairing merchant vessels.

Mr. BAYLY. Will my friend allow me to make one remark?

Mr. JONES. I cannot.

Mr. BAYLY. My views are different.

Mr. JONES. I will tell my friend the difference. The Senate amendment provides that the Secretary of the Navy may have all the American people to make his arrangements with, but with the gentleman's proposed amendment it compels the Secretary to make this agreement with the contractors who built this dock.

Now, sir, this amendment, as it comes to us from the Senate, is clear and explicit, and gives to the Secretary of the Navy full and ample authority to prescribe the conditions upon which this dock may be used for the repair of merchant ships, when not employed in repairing vessels of the Navy of the United States.

Then, sir, I can see no good to be effected by the amendment offered by the gentleman from Virginia. It is, however, like a great deal of other legislation transacted here—not only requiring that a contract shall be made, but designating the persons with whom it shall be made.

I think, sir, that the Senate amendment gives to the Secretary of the Navy full and ample discretion and power over this subject, and is far preferable to the law of 1850, which requires him to make an agreement with the constructors of this work; and I hope the House will vote it down.

The question was then taken on the amendment offered by Mr. BAYLY, and it was not agreed to.

Mr. STANTON, of Tennessee. For the purpose of reading the letter of the Secretary on this subject, I propose to strike out from the Senate amendment the words, "in such manner, for such compensation, and upon such terms and conditions as shall be prescribed by the Secretary of the Navy;" and to insert the words, "as provided by the act of September, 1850, in reference to dock, basin, and railway."

The CHAIRMAN. The Chair thinks that amendment is not in order.

Mr. STANTON. It is to strike out and insert.

The CHAIRMAN. The gentleman proposes to insert what has just been rejected by the committee.

Mr. STANTON. That has not been rejected by the committee.

The CHAIRMAN. The Chair understands it to be the same subject as that offered by the gentleman in the first instance.

Mr. STANTON. It is not the same provision. Besides, this is a proposition to strike out and insert. It is a different proposition.

The CHAIRMAN. The gentleman's amendment is not in order.

Mr. STANTON. I then move to strike out the words "in such manner, for such compensation, and upon such terms and conditions as shall be prescribed by the Secretary of the Navy."

The CHAIRMAN. That amendment is in order.

Mr. STANTON. The proposition for the construction of this basin, dock, and railway originated with the gentleman from Virginia, not now in his seat, [Mr. BOGOCCK;] and if he had been present on this occasion, this amendment would have been offered by him. It was passed by the unanimous consent of the Naval Committee, upon the distinct and unequivocal recommendation of the Secretary of the Navy. The Secretary of the Navy states his opinion—

Mr. STEPHENS, of Georgia. I call the gen-

tleman to order. We will never get through with the bill unless the rules are strictly adhered to. The gentleman must confine his remarks to the amendment offered, as to why these words should be struck out.

The CHAIRMAN. The gentleman's comments so far have not been in order.

Mr. STANTON. I say the Secretary declares the act of 1850 is still in force. He declares that to be his opinion, and if so the words I propose to strike out are perfectly unnecessary. He contends that the alteration of the law, made at the last session of Congress, does not repeal the power given to the Secretary to make this contract with the constructor. If that be so, these words are unnecessary, and ought to be stricken out. It is true the Secretary distrusts his opinion, and asks an expression of the opinion of Congress. He says he believes it to be advisable to make this contract, and one of the reasons, not stated in this letter of the Secretary, but which I can state to the House upon information about which there can be no doubt, is, that the Government of the United States is not prepared to receive that dock. The Secretary states that the dock will be ready some time during the present year. No appropriations are made to receive it. Besides, vessels have been chartered by the contractors to carry materials for this dock in California, and they have in the freight contract a demurrage which will amount to some six or eight hundred dollars per day; which, of course, will be a charge upon the contractors if the Government is not ready to receive the dock, which the Government will be obliged to reimburse to them. Unless the Government makes some provision for the reception of this dock a very heavy charge will fall upon them. It is absolutely indispensable—

Mr. CLINGMAN. I want information. I ask the gentleman whether, under the terms of the Senate's amendment, conditions and compensation cannot be so arranged as to relieve them?

Mr. STANTON. I think so; but the Secretary of the Navy is very scrupulous. He states what he believes to be best for the Government to do, and desires Congress to express its opinion. I do not think there would be any difficulty if that amendment were not passed, if there was nothing in it on the subject; but Mr. Graham is a very scrupulous gentleman, and he does.

Mr. CLINGMAN. I ask the gentleman whether the amendment he proposes will not revive other provisions in the law which, I understand, he does not desire to have revived?

Mr. STANTON. Not at all, sir. Mr. Graham expresses the opinion that those provisions are still in force. I believe they are still in force. Any lawyer would say that they are still in force.

Mr. CLINGMAN. We attempted to repeal the law as far as we could.

Mr. STANTON. When did you?

Mr. CLINGMAN. We did not formally repeal it, but we struck out the appropriation because we did not desire it to be carried out.

Mr. STANTON. We struck out the basin and railway, but left the provisions in reference to the dock.

Mr. CLINGMAN. But I ask the gentleman whether the terms of his amendment will not revive the basin and railway?

Mr. STANTON. No, sir; not at all. If it be in order, I would like to have the letter from the Secretary of the Navy I send to the Clerk's desk, read.

Mr. STEPHENS, of Georgia. I think the gentleman's time has expired.

The CHAIRMAN. It has.

Mr. STEPHENS. I wish to say, in reply to the gentleman, one thing. He says the Secretary thinks that law is still in force. If so, let him take the responsibility of acting that way. He says the Secretary is a scrupulous gentleman. I think at the last session of this Congress we passed a law that this contract should be let out to the lowest bidder. The Secretary did not do it; and it will not do for gentlemen to rise up and tell me he is a scrupulous man. Now, if he wants to, let him go and act upon the supposition that the law is still in force. I think the Secretary, if he is a scrupulous man, would have obeyed the injunction of this House and let out the contract to the lowest bidder.

The question was taken on the amendment of Mr. STANTON, and it was rejected.



The question then recurring on the adoption of the Senate's amendment, it was agreed to.

The second amendment of the Senate was read, as follows:

"Page 2, line 23, after the word 'dollars,' in the clause providing for the temporary clerks in the office of the Third Auditor, strike out the words:

"Provided, That no clerk shall receive more than at the rate of \$1,000 per annum under this act?"

And insert the following in lieu thereof:

"Which sum shall be distributed among the clerks according to the discretion of the Secretary of the Treasury: Provided, That no salary from this fund shall exceed \$1,200 per annum."

Mr. JONES, of Tennessee. I move to amend that amendment by inserting after the word "exceed" the words "\$1,000 per annum, except two, who shall receive—" It will be seen by reference to the clause as it was sent to the Senate from the House, that the salaries of the extra clerks herein provided for were limited to \$1,000 per annum. The Department asked that they might have permission to employ not exceeding two of them at \$1,200 per year. I had a conversation with the chairman of the Committee on Finance of the Senate, and he said the object of this amendment was, that the Secretary might have the discretionary power to employ two of those clerks at \$1,200, and the others were to be employed at \$1,000 per annum. As the amendment comes to us from the Senate, they will construe it that each and every one of them is to receive \$1,200 per annum. Another construction that will be given to it will be to claim for those who were employed under a former law as temporary clerks in this Department during the last year \$1,200 per annum. This amendment I propose is in accordance with the original object of this amendments adopted in the Senate, as I have been assured by the chairman of the Finance Committee of that body.

The question was then taken, and the amendment to the amendment was adopted.

The question then recurred on the adoption of the amendment of the Senate as amended, and it was agreed to.

The third amendment of the Senate, proposing to insert the word "temporarily" after the word "employed," in the clause appropriating \$4,000 for extra clerks in the office of the Auditor of the Post Office Department, was agreed to.

The fourth amendment of the Senate was agreed to, viz:

"Page 2, after line 33, insert:

"For printing in books prepared for the purpose, canceled certificates of the registry and enrollments of vessels returned by the several collectors of the customs, \$500."

The committee next proceeded to the consideration of the fifth amendment, which reads as follows:

"Page 5, line 95, after the clause appropriating \$80,000 for running and marking the boundary line between the United States and Mexico, according to the treaty of Guadalupe Hidalgo, insert the following:

"Provided, That nothing herein contained shall be so construed as to sanction a departure from the point on the Rio Grande, north of the town called Paso, designated in the said treaty."

Mr. BROOKS. I want to propound to the gentleman from Texas [Mr. HOWARD] a question, and that I may do so in order, I move to amend that amendment, by inserting after it the words:

The southern and western limits of New Mexico as laid down in Disturnell's map, published in New York in 1847, of which map a copy is added to the treaty.

I suppose that the House listened to the remarks of the gentleman from Texas on yesterday, and therefore it is not necessary for me to restate the points he made. I must confess I have not had time to examine and see how accurate they were. The amendment as printed in the bill before us, seems to provide for an alteration of the treaty of Guadalupe Hidalgo. It provides "that nothing herein contained shall be so construed as to sanction a departure from the point on the Rio Grande, north of the town called Paso, designated in the said treaty." That is one item in the treaty. I propose to add the other item, and that is in the words of the amendment submitted; so that the two parts of the treaty, that which stipulates El Paso, and that which stipulates that Disturnell's map shall be the line, shall appear. By this amendment we shall be committed to the whole, and not to a part of the treaty, as the Senate's amendment seems to propose. I am willing to stand by the treaty as it is, whatever it may be; but I am unwilling to designate a particu-

lar part of the treaty, and so to insinuate we will not stand by the whole. In my amendment I have quoted briefly the words of the treaty which I propose to append to the Senate's amendment.

There is said to be in dispute 9,000 square miles of territory. Now as this is a subject which the House have not had time to investigate, that is a good reason why we should not, in an appropriation bill, commit ourselves to an alteration of a treaty, for this commitment hereafter may be used to repudiate, repeal, or change that treaty, or it may be used as a call upon the House for some appropriation for the loss of territory. Besides, the treaty of Guadalupe Hidalgo stipulates that the two Governments shall each appoint a commissioner and surveyor, and the line agreed upon by them is to be deemed a part of this treaty. If it be necessary to stipulate one proviso quoting one part of the treaty, I propose to stipulate another proviso quoting the whole part of the fifth section of the treaty of Guadalupe Hidalgo. That confirms the treaty and leaves New Mexico whatever benefit there may be in this disputed boundary line—leaves it to be a question of law—or a question of negotiation between us and Mexico hereafter. But this proviso, as it stands, commits us to something, the purport of which I do not exactly comprehend. The safest way, therefore, if we must do something, is to recite in substance the whole boundary part of the treaty, and to demand the true execution of that as a whole.

Mr. PHELPS. In submitting any remarks at this time, by the rules of the House I must oppose the amendment. I do this in order briefly to express my opinion of the true boundary between this country and Mexico. We are all aware the commissioners appointed by both Governments are now engaged in running this line. It is also known there has been a dispute between the commissioner on the part of this Government, Mr. Bartlett, and the surveyor attached to our commission, about the southern boundary line of New Mexico. This commissioner is a mere Executive officer. He is no plenipotentiary authorized to negotiate a boundary for us. He is only authorized to mark out and define with the commissioner on the part of Mexico, the boundary according to the terms of the treaty which the gentleman from New York [Mr. Brooks] has correctly quoted.

Yesterday I was desirous to obtain the floor to express my opinions on this question, but was unable to do so. The gentleman from Texas [Mr. HOWARD] condemned the action of our commissioner in fixing the initial point on the Rio Grande at the parallel of latitude of 32° 22'. In this much I concur with him, but do not concur with him in the point he has designated as the true initial point. It may be said there are three points named as the initial point of the southern boundary of New Mexico. The first, the line as run by Mr. Bartlett, commencing on the right bank of the Rio Grande, in latitude north 32° 22', and 42.85 miles north of the town of El Paso. The second, the line mentioned by the gentleman from Texas, [Mr. HOWARD], north of El Paso about eight miles. The third is the line for which I contend, which commences at the town of El Paso, leaving that town within the State of Chihuahua. The latitude of El Paso is stated by our commissioner to be 31° 45'. This, I presume, is the latitude of the plaza, and not the latitude of the northern confines of the town. The difference in latitude between the line as run by the commissioner, with the sanction, as I am informed, of this Administration, and the last-mentioned line, is 37'. Assuming three degrees of longitude, which I am informed is the length of the southern boundary line of New Mexico, west of the Rio Grande, as claimed by our commissioner, we lose by running the line as decided by the commissioner more than seven thousand square miles of territory—an area greater in extent than the area of the States of Connecticut and Rhode Island combined.

The treaty of Guadalupe Hidalgo defines the line between this country and Mexico to be the Rio Grande, "following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly along the whole southern boundary of New Mexico, (which runs north of the town called Paso,) to its western termination; thence northward, along the western line of New Mexico, until it intersects the first branch of the

river Gila, (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence from the middle of the said branch, and of the said river," &c.

The same article from which the foregoing is quoted also declares, "the southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitled 'Map of the United Mexican States, as organized and defined by various acts of the Congress of said Republic, and constructed according to the best authorities. Revised edition; published at New York in 1847, by J. Disturnell.' Of which map a copy is added to this treaty," &c., &c.

The southern boundary of New Mexico is, by this treaty, made a part of the boundary between the two nations. Not the southern boundary of New Mexico resting on tradition, but the boundary as defined by the Government of Mexico itself. The southern boundary of New Mexico is laid down by geographers as the parallel of latitude of 31°. Humboldt—and I know of no better writer on the civil and political divisions of New Mexico at the time he wrote—gives the 31st degree of latitude as the southern boundary of New Mexico. But I do not rely on this author to establish my point. My inquiry is, where is the southern boundary of New Mexico? Where was it at the time the treaty was ratified? Tell me not the commissioners were to be governed by latitude and longitude, as laid down upon the map. Tell me not the commissioners were to disregard natural and fixed objects mentioned in the treaty, and the decrees of the Mexican Government, made long prior to, and in force at the date of the treaty, and let all these yield to latitude and longitude laid down upon this map. Such positions are absurd and violate plain and indisputable principles of law. The longitude of the Rio Grande, at the initial point of the line run by the commissioners, is about three degrees west of the position given it on the map; in other words, on this map, the Rio Grande, at this point, has a position about three degrees east of its true position. And who would be so reckless of his own reputation as to contend that the line between us and Mexico shall be in that longitude, which the map accompanying the treaty assigns as the longitude of the Rio Grande? All agree the Rio Grande, from its mouth to the point where it strikes the southern boundary of New Mexico, is the true boundary, called for in the treaty. It is a known, a fixed object, and one called for in the treaty. So with the southern boundary of New Mexico; it is a known, a fixed object—a call mentioned in the treaty. Every argument which can be urged to sustain the position that the Rio Grande is the true boundary between us and Mexico, notwithstanding its real position is about three degrees of longitude, or about one hundred and seventy-six miles west of its position on Disturnell's map, apply with equal force to the position, that the true southern boundary of New Mexico, notwithstanding the position assigned it on the map, is the real and true boundary between us and Mexico. If you disregard longitude when it conflicts with a natural object, so must you disregard latitude when it conflicts with a known and fixed object. Known and fixed objects control courses and distances as much as do natural and fixed objects.

There is no difficulty in the question when we apply—when we test it by those principles which every jurist recognizes. I have said the southern boundary of New Mexico is known and fixed—was known and fixed long prior to the date of the treaty—was defined not by the Spanish Government, but by the Mexican Government—was defined by a decree of the Mexican Congress, to be found on their statute-book. This line was an important political line. Important in their political organization, because it defined the limits of a Territory still more important; because that line was made, and is now, the boundary of one of the States of that Confederacy. And has this act of the Mexican Congress escaped the notice and attention of the Administration? Has the commissioner on the part of this Government been playing the part of a diplomat without being fully advised by his Government of all the authorities bearing on this question? Has he been sent there to run and mark the boundary line between the United States and Mexico, and not furnished

with the evidence necessary to discharge his duties faithfully to the Government, whose agent he is? Sent there to run and mark between this nation and Mexico a boundary line which runs "westwardly along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination?" Has he not been apprised of the act of the Mexican Congress establishing the southern boundary of New Mexico? And having been apprised of it, has he not utterly disregarded it and its effect?

Under the Spanish Government the Province of New Biscay adjoined the Territory of New Mexico, being on the west of the Rio Grande, and on the south and southwest of New Mexico. The boundary line between the two Provinces was the parallel of latitude of 31°. I believe the boundary between New Biscay (Nueva Biscaya) and New Mexico remained unaltered by the Mexican Government until 1824.

In that year the State of Chihuahua was organized. It was admitted into the Federal Union. Its limits were in that year defined by an act of the Mexican Congress. And by that act (if the southern boundary of New Mexico was until that time the parallel of latitude of 31°) the southern boundary of New Mexico was changed. On the west of the Rio Grande the southern boundary of New Mexico and the northern boundary of Chihuahua are the same. And this is the only portion of the boundary line now in controversy. I have the decree of the Mexican Congress, to which I refer. Here it is. And I give the original with my translation, so that my translation and the original may be compared:

DECRETO.

*Demarcacion del Territorio de la Provincia de Chihuahua.*  
El Soberano Congreso General Constituyente de los Estados Unidos Mexicanos ha tenido á bien decretar—

El Territorio de la provincia de Chihuahua lo comprendra todo lo comprendido entre las lineas rectas tiradas de Oriente á poniente del punto ó pueblo llamado Paso del Norte por una parte con la jurisdiccion que siempre ha tenido, y la hacienda de Rio Florido por el lado de Durango con su respectivo pertenencia.

Lo tendra entendido, &c.

México, 27 de Julio, de 1824.

DECREE.

*Boundary of the Territory of the Province of Chihuahua.*  
The Sovereign General Constituent Congress of the United Mexican States has held to be well decreed—

The Territory of the Province of Chihuahua shall include all comprehended between right lines drawn from the east to the west, from the point or town called Paso del Norte on the one side, with the jurisdiction it has always possessed, and the hacienda of the Rio Florido, on the side of Durango, with its respective appurtenances.

It shall be.

México, 27th July, 1824.

The northern boundary of Chihuahua, as far as that State and New Mexico were coterminous, was the southern boundary of New Mexico, and that line is the line which it was the duty of the commissioners to run and mark. This line commences on the north of the town of El Paso, leaving that town within the State of Chihuahua. Those who drafted the treaty were aware of this boundary line, for the treaty mentions this line as being on the north of Paso; and without those words it might have been contended this line ran through the town of Paso. But this would not have been a fair construction of the act; for this act, I claim, leaves the town of Paso with its jurisdiction within the State of Chihuahua. This act of the Mexican Congress places the matter beyond dispute. It solves the whole question. It shows the point on the Rio Grande where the southern line of New Mexico touched that stream. There is no necessity of ascertaining the latitude and longitude of places laid down on Disturnell's map in order to determine the initial point of this line. It shows there is about to be a surrender of territory which as clearly belongs to us as does any portion of New Mexico.

It shows our rights have not been asserted, but, on the contrary, have been neglected and abandoned. And are we to submit to this? Are we to permit any portion of our territory to be surrendered by Executive officers, or by the Executive himself, to a foreign power?

I have sought to obtain a copy of Disturnell's map, and have one here. It appears, however, to have been published in 1848. The map referred to in the treaty was published in 1847. There is no statement that any corrections or alterations have been made on this by the publisher. I may do injustice in assuming it is in all respects similar

to the map mentioned in the treaty. But if it is precisely like the map mentioned in the treaty, a bare inspection of this map will show that the line has not been run upon the southern boundary of New Mexico, as laid down on it. El Paso, on the map, is south of the parallel of latitude of 32°, and the line run by the commissioners is on the parallel of latitude of 32° 22', more than forty-two miles north of El Paso.

But I do not rest the case upon the lines laid down upon the map. The treaty declares the southern boundary of New Mexico shall be the boundary between this nation and Mexico. I have shown where that boundary is, and that the commissioners have not run and marked that boundary line upon the line mentioned in the treaty. I have briefly stated the points involved in this question. Perhaps, at some other time, I may again recur to this subject.

The question was then taken on Mr. Brooks's amendment to the amendment, and it was disagreed to.

Mr. MARSHALL, of Kentucky. I propose the following amendment: to strike out all after the word "provided," and insert the following:

That nothing herein contained shall be so construed as to sanction a departure from any other point on the Rio Grande, north of the town called Paso, than that designated in the said treaty; nor from any point on the earth's surface, north of points designated on Disturnell's map of 1847, as lying above or north of said intersection of the southern boundary of New Mexico and the Rio Grande.

The matter to which this amendment refers is of great interest and importance. Gentlemen have charged here that the Department of the Interior is throwing away valuable and extensive rights, by permitting the execution of the survey of our boundary with Mexico upon improper principles, springing from a misconception of the treaty of Guadalupe Hidalgo. Gentlemen do not appear to have agreed among themselves as to the proper mode of determining the southern boundary of New Mexico. One talks of "course and distance giving way to natural monuments upon the ground;" another brings Mexican decrees and legislative acts, whereby to prove the exact boundary according to ancient Mexican interpretation; another produces the map of 1848 to show where the line runs. Sir, these arguments are useless—monuments are of no account in this transaction, unless they are referred to in the treaty; for we made an express contract that the line should be run "according to Disturnell's map of 1847," a copy of which was attached to the treaty, signed and sealed by the high contracting parties, and is, to all intents, as much a part of the treaty of Hidalgo as any clause of that instrument. One gentleman says, the map has laid down the line in wrong latitude, and that the staked line upon the ground shows the error; another, that the fixation of the northern boundary of Chihuahua, by legislative decree, exhibits the true line. My reply is, that we have made an express contract to run the line as it is delineated on a certain map; and, regardless of decrees and natural monuments, the true line of the treaty is the line as shown on Disturnell's map of 1847, and that copy of it which is signed by the parties—no other.

The treaty establishes the line thus: "Commencing at the mouth of the Rio Grande, and running thence up the middle of the main channel of that river until it intersects the southern boundary of New Mexico." To find that point of intersection is the problem. The treaty solves it. How? By an express declaration that the southern boundary line named in the treaty, is that boundary line "as delineated on Disturnell's map of 1847," a copy of which, "signed and sealed by the parties," is attached to the treaty, and forms part of it. Nothing remains to be done, but to run that line on the earth's surface, as it is laid down on that map. If that map contains geographical errors, the treaty has consecrated them, and the United States cannot correct them now without a violation of the treaty. It is useless to produce authority to show where Mexico had formerly established the line—useless to argue that Disturnell made a mistake in compiling his map. This learning should have been possessed by the commissioner who made the treaty, or by the Senate which ratified it. It can have no force here and now. I understand the gentleman from Texas [Mr. HOWARD] to assert that Mr. Bartlett has not followed the map of the treaty, but that by taking

the latitude and longitude of the point of intersection of the Rio Grande and the southern boundary of New Mexico, he has lost some seven thousand square miles of territory to the United States. I fear that a grave error may have been committed in this transfer of the point, but I imagine the commissioner has, nevertheless, followed the map. The question is, how to establish on the earth's surface the point of intersection as it is fixed upon the map of the treaty? There are, clearly, two ways of doing this.

1st. To ascertain exactly the longitude and latitude of the point (by mathematical instruments) upon the map of the treaty, and then by sidereal observations, to establish the same point on the earth's surface. This method the commissioner pursued, as I understand, and the point is thereby fixed thirty-eight miles north of the town of El Paso.

2d. Instead of determining the point by means of latitude and longitude, it might have been determined by reference to established points exhibited by the map of the treaty. Thus, El Paso is a town laid down on the map, and referred to in the treaty. We know where the town of El Paso is, on the earth's surface. The protractor would show in a moment the course of a line drawn through El Paso, and the point of intersection of the Rio Grande with the southern boundary of New Mexico, as established on the map—the dividers applied to the scale of Disturnell's map would show the distance of that point from El Paso. Taking the course by the compass, you run the distance, unless stopped by finding the Rio Grande short of it; or if you pursue the course until you exhaust the distance, and do not find the stream, the distance must be prolonged, or the natural object called for must be sought by the shortest line to it. Now, sir, as I understand, the scale of the map of the treaty shows the point of intersection as only a few miles from El Paso, and very little north of it; while the sidereal and solar observations to establish the exact latitude and longitude of the point, throw it thirty-eight miles north. The difference in establishing the initial point according to the one or the other of these methods involves a large difference in the survey; for a lap is embraced between the lines run from these points respectively, thirty miles wide, and in length extending across New Mexico. Besides, when the western boundary of New Mexico is reached by the lower line, or southern fork of the Gila, presents itself to the call of the treaty; while, by pursuing the upper line, a much greater distance on the western boundary is to be run to find a northern fork of the Gila, to answer to the call of the treaty. Of course, here again the lap of country between the forks of the Gila is to be won or lost by the method pursued in determining the initial point on the Rio Grande. It is said that the only practicable railway route to the Pacific, lies through this lap. The House will understand, then, that this presents a subject of large importance, and great interest to the United States. The conditions of the treaty are already sufficiently onerous, and I am not disposed to lose anything which belongs to us by the treaty now, in order that our children may pay to reacquire it from Mexico hereafter.

I think I understand how the American commissioner happened to adopt the idea of establishing the initial point by reference to latitude. On Disturnell's map the width of New Mexico runs through three meridians of longitude, and Mr. Bartlett determined to claim all the longitude given by the map, without reference to "natural monuments." This plan gave distance to the west, and of course made again to the United States on the long line of New Mexico. After some hesitation, the Mexican commissioner conceded the proposition that the longitude was to be measured agreeably to the map, and thus forced the American commissioner to consult latitude also in the establishment of the initial point on the Rio Grande. This, I apprehend, is the whole of the case. Now, sir, to my amendment: If Disturnell's map of 1847 calls for any town or settlement, or "natural monument," and fixes it in the vicinity of and north of the point of intersection of the Rio Grande with the southern boundary of New Mexico, our commissioner is instructed by the amendment that in establishing the initial point on the Rio Grande he must keep to the south of these towns and natural monuments. In other words,

we mean that places embraced by the map as within the concessions of the treaty, shall be also embraced by the lines which he runs over the earth's surface. I do not know that in an appropriation bill we can do more than express the legislative will in regard to this matter; for we have no power to change the treaty, and cannot prevent the lines from being run, because that is stipulated for in the treaty; but we should adopt some mode of suggesting to the Department which has charge of this business, that our commissioner must not so look into the stars as to lose sight of the objects on the earth which are ours according to the treaty and the map accompanying it.

Mr. PHELPS again addressed the committee on the subject of this boundary, but has availed himself of the privilege sanctioned by custom, of combining the remarks made on this occasion with those previously made to-day. [His remarks are published in the Appendix.]

The question was then taken on Mr. MARSHALL's amendment, and it was disagreed to.

Mr. JOHNSON, of Georgia, moved to amend the amendment by striking out the words "north of the town called Paso," so as to make it read—

*Provided*, That nothing herein contained shall be so construed as to sanction a departure from the point on the Rio Grande designated in the said treaty.

Mr. J. said: Mr. Chairman, this is simply a question of construction of the compact between the two Governments, and the intent of the parties, gathered from the language of the treaty, to govern. Latitude, I believe, is not referred to. A boundary is referred to—the limits of New Mexico. The southern boundary line of the United States is to run up the Rio Grande river north of El Paso to a point where the southern boundary of New Mexico crosses the Rio Grande. That is the initial point. It is then to run westward, along the southern boundary of New Mexico, to the western limits of New Mexico, and then along the northern boundary until it strikes the first branch of the Gila river. Now, in this treaty, the natural point referred to is the river. The southern boundary of New Mexico is also referred to, and that southern boundary is to be determined and adjusted by reference to the map of Disturnell. The town of El Paso is not to govern. It has nothing to do with it; nor has latitude. The map is referred to for the purpose of showing what are the boundaries of New Mexico; and when they are ascertained, that fixes the limits of the United States. That was the intent and object of the parties, and I therefore move to strike out the words "north of the town of Paso."

Mr. HOWARD. I think it is safer to adhere to the amendment of the Senate, for this reason: that we have no right to put an *ex parte* construction upon the treaty, but we have a right to say that the treaty shall be adhered to, and that the treaty point shall be adhered to, and for the simple reason that the commissioners of the two Governments have no power to change it. I think, therefore, that the amendment, as it now stands in the language of the treaty, is the safest, and that it cannot give rise to any objection on the part of the Mexican Government. I think it would be safer to adhere to it as it is.

The amendment offered by the gentleman from Kentucky [Mr. MARSHALL] was, in one respect, a very good provision; but the latter clause of it might have the appearance of setting up a construction of our own. It therefore seemed to me to be the safest way to adhere to the language of the Senate amendment, which is the language of the treaty.

The question was then taken upon Mr. JOHNSON's amendment, and it was not agreed to.

Mr. BROOKS. I rise to submit another amendment, on which I shall ask a division of the committee. I move to amend the amendment by striking out the words "from the point on the Rio Grande north of the town called Paso, designated in the said treaty," and to insert in lieu thereof, "from the true line of the treaty," so as to read:

*Provided*, That nothing herein contained shall be so construed as to sanction a departure from the true line of the treaty.

This proposition commits us in nothing to the town of El Paso, in nothing to Disturnell's map; it commits us to nothing but what we ought to be committed to—the true line of the treaty; and that true line of the treaty is to be decided upon by the commissioners of the two Governments, or

hereafter to be decided on by treaty between the two Governments if it cannot be agreed upon by the commissioners.

The objection I have to the designation of the town of El Paso is, that it seems to commit us to that line, and that line only; and seems to non-commit us to Disturnell's line, another essential part of the treaty. Now, there is a question which is the true line—the El Paso line, or the line of Disturnell's map. I am willing to take whichever may be the true line of the treaty; but I am not willing to commit myself here by legislation; so as hereafter to be bound by that commitment, either to the town of El Paso, or to Disturnell's line. To the true line of the treaty, as the gentleman from Texas [Mr. HOWARD] says, we ought to be committed; but in this House, and in this condition of the House, we are not prepared to judge what is the true line of the treaty. The danger of these commitments to particular designations lies in the claims upon us hereafter to which they give rise. Put this proviso in the appropriation bill now, and it will be cited as a precedent, as a commitment, as a pledge on the part of this Congress to stand to the line of El Paso—to go to war with Mexico, if necessary, to stand to that line—or if not to go to war, to pay to New Mexico some millions of dollars, if we cannot stand by the line of El Paso. I am not willing to be committed either to El Paso or to Disturnell's map; but I will stand by the true line of the treaty, whatever it may be, and to that line I ask the House to be committed.

If the true line of the treaty runs thirty miles south of the line that has been surveyed, we are committed to it, and pledged to stand by it. If it runs thirty miles north of El Paso line, we shall be committed to it. But this House of Representatives—the legislative power of this Government—ought not in an appropriation bill, without a proper study and comprehension of the whole subject, to commit itself to either of the lines—that of El Paso, or the line of Disturnell's map. Let us stand, then, by "the true line of the treaty."

Mr. SWEETSER. I rise for the purpose of opposing the amendment of the gentleman from New York. It seems to me that, in the discussion which has sprung up here incidentally, we cannot, by any act of ours, get at the true condition of things in relation to this boundary commission. It is well understood by some members in this House, and ought to be understood by the country, that there has been a disagreement between the commissioner, Mr. Bartlett, who is now upon the border running this boundary, and Colonel Graham, an accomplished officer of the Topographical Corps, whose services on our northeastern boundary, in former times, are well known to the country, and that said Graham has refused to act under the direction of said Commissioner Bartlett in fixing the starting point of the Rio Grande, where it seems Commissioner Bartlett has consented to have it fixed, and that in consequence of such difference of opinion, said Graham has been dismissed from the commission. Colonel Graham is one of the most accomplished and well-informed officers in the country. If we undertake to determine, by any action at this time, where this line should be run upon our imperfect data, we cannot escape error. We have on the one side Mr. Bartlett, the commissioner, and on the other Colonel Graham, who differs with him, and who, in consequence of that difference, was dismissed. The attention of the country is called to this question of difference between them, but we cannot determine it. One thing, however, we can do. We can withhold appropriations for the future. It is probably our duty, in this deficiency bill, to appropriate the means to meet arrears due the employees of the Government. The House of Representatives should hold the Administration responsible, and compel an investigation into the conduct of Commissioner Bartlett. I have no hesitation in saying, from information I have, and which may be found on the files of the Department of the Interior, that his acts will not bear scrutiny, and that, as soon as such examination takes place, he will be withdrawn from that important public trust. The attention of the country has slumbered long enough, and I am determined that the Administration shall be made responsible. The House of Representatives is called upon to see that right and justice is done in this matter; but we cannot undertake to

decide it without the necessary data before us. I am not in favor of this kind of legislation. I care nothing about this proviso. It is a matter of no import whatever. If a great public wrong is about to be perpetrated under the sanction of the Administration—if an attempt is being made to establish a line which is a fraud upon the treaty, let us at once take the bull by the horns, and remedy the evil, as becomes statesmen and Representatives of the people, instead of attempting to reach it in this negative manner.

We have no power to investigate this matter, but we have the power to send forth a voice from this Hall, calling for an investigation of the conduct of this commissioner, who stands charged with having committed a blunder, if nothing worse, in the establishment of this boundary. I repeat, I am opposed to this amendment. Let us meet this matter boldly, and do what we can in order to remedy the evil. Let us say to the President, that in making this appropriation to meet deficiencies due to innocent employees, we are keeping the faith of the Government. But when we come to act upon the civil and diplomatic bill, we will withhold all future supplies for this boundary commission until the country is fully informed in relation to the doings of the past. We cannot now satisfy ourselves in relation to the true starting-point upon the Rio Grande. I am satisfied that the one agreed upon by the present commissioner ought not for a moment to be sanctioned.

Mr. CARTER demanded tellers on Mr. BROOKS's amendment.

Tellers were ordered, and Messrs. STANTON, of Tennessee, and HENDRICKS were appointed.

The question was then put, and the tellers reported—ayes 70, noes 64.

So the amendment was agreed to.

Mr. SACKETT. I move to strike out the whole proviso, and I will state the reason why I make the motion.

The CHAIRMAN. The Chair thinks that amendment is hardly in order. The question is upon the adoption of the amendment of the Senate as amended.

Mr. SACKETT. I move to strike out all after the word "provided," for the purpose of making a statement which I think the House ought to have.

The CHAIRMAN. The Chair suggests that the amendment is out of order. The question now before the committee is upon the adoption of the amendment of the Senate, as amended by the committee.

Mr. SACKETT. The committee has not yet adopted the proviso as amended. It is still subject to amendment. Have I not the right to address the committee in opposition to the adoption of that?

[Cries of "No!" "No!" "No!"]

The CHAIRMAN. The gentleman can address the committee in support of it. [Laughter.]

The question was then taken upon the adoption of the fifth amendment of the Senate as amended by the committee, and there were, on a division, 69 in the affirmative, noes not counted.

So the amendment as amended was adopted.

The next and sixth amendment of the Senate was then read, considered, and adopted; namely, to strike out the word "fifteen," and insert the word "twelve," in the following clause, viz:

"For subdividing fifty townships in California in sections, at a rate not exceeding fifteen dollars per mile, \$35,000."

The next and seventh amendment of the Senate was then read, as follows:

"Insert after line one hundred and eight,

"For compensation of the Surveyor General of Arkansas, per act of August 8, 1846, \$2,000.

"For clerks in the office of the Surveyor General of Arkansas, per act of August 8, 1846, \$5,300."

The CHAIRMAN. The question is on concurring in the amendment of the Senate.

Mr. HOUSTON. That amendment was non-concurring in by the Committee on Ways and Means, and the question, I believe, is on concurring with the committee.

The CHAIRMAN. The Chair is not advised of any report from the committee, and therefore stated the question to be upon concurring in the amendment of the Senate.

Mr. HOUSTON. The way is to put the question so as not to lose sight of the various stages of the proceedings, and that is upon concurring with the report of the Committee on Ways and Means, which is a committee of this House, be-



cause otherwise the House might vote without knowing anything the Committee on Ways and Means have done. The universal practice is, that whenever amendments from the Senate are sent here, they are referred to a committee of this body, and that committee concurs or non-concurs. Then, when they come back to the Committee of the Whole from the committee to which they were referred, we either concur or non-concur with the committee, and then when the amendments come into the House, the House concurs or non-concurs with the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. The gentleman is entirely mistaken. A committee of this House take the matter into consideration, and recommend to the House to concur or non-concur, and the question always is as to concurrence with the Senate.

Mr. HOUSTON. I think the gentleman is mistaken.

The CHAIRMAN. The Chair understands the question to be propounded now to the committee upon concurring in the amendment of the Senate.

The question was then taken on the amendment proposed by the Senate, and it was not agreed to.

The next being the eighth amendment proposed by the Senate, was to strike out the word "five," and insert "six" in the following clause, viz:

"For surveys in the mineral region of Michigan, at a rate not exceeding five dollars per mile, \$20,650."

Mr. HOUSTON. The Committee on Ways and Means reject this amendment.

Mr. CONGER. The only question involved here is, whether the maximum price to be allowed for surveys of mineral lands in Michigan shall be five or six dollars. As the bill originally passed the House, it was five dollars. It was amended in the Senate by striking out *five* and inserting *six*. I believe the Committee on Ways and Means did not recommend a concurrence in the amendment of the Senate. It appears from a communication to the Department here, from the surveyor general of Michigan, that a less price than six dollars per mile will not be sufficient to compensate any surveyor of competent ability for this work. I will send to the Clerk a communication from the surveyor general of Michigan, upon this subject.

The communication was then read as follows:

SURVEYOR GENERAL'S OFFICE, }  
DETROIT, March 21, 1853.

I have learned, within a day or two, that the Committee on Ways and Means have recently reported to the House of Representatives a bill containing an appropriation for surveys in the mineral regions of this State. I regret to learn also, that the committee have reduced the price estimated for that service from six to five dollars per mile.

It is doubtless known to the Department that six dollars per mile, the maximum price heretofore allowed for surveying in the mineral regions, is no more than a reasonable allowance for that service, and it is believed, therefore, that the committee referred to have not received the sanction of your office, in the action which has been taken in reference to this appropriation.

The amount asked for in my estimate for the completion of the surveys in the mineral regions, is no more than will be required to accomplish the object designed, and it will be impossible to go on with that work at a maximum price of five dollars per mile. Some of the townships may perhaps be surveyed at a less price than six dollars. But in the largest portion of that country no competent deputy could be induced to undertake the survey at a lower price than that found in my estimate, which was made with care and with particular reference to the townships to be surveyed.

I have therefore respectfully to request that you will inform the committee, or other proper persons, of the absolute necessity of making the appropriation correspond with the estimates from this office, otherwise the surveys in the mineral regions will have to be suspended.

Most obediently, &c.,

CHARLES NOBLE.

Mr. CONGER. I have also here a communication from the Commissioner of the General Land Office, agreeing in the views taken by the surveyor general of Michigan in that letter.

It is very well known to every one here that that section of country is somewhat different from other sections of the country that are to be surveyed. The peculiar geological character of the country is such that it requires more time to survey lands there than it does in other sections of the country where there are no mineral deposits.

The simple question is, shall we give six dollars as the maximum price, and have the lands surveyed, or give a less sum and stop those surveys. That is the question, and I submit it to the committee.

Mr. HOUSTON. The Committee on Ways

and Means were not satisfied from the evidence before them that the estimate of the Land Office Department was confined alone to mineral lands. An aware, that where there are large mineral deposits, they are in the habit of giving a greater compensation per mile for the service than where such deposits are not to be found. But it seems that there is a very large section of country in Michigan where it is almost all mineral land. There is no reason in the world why the compensation should be six dollars per mile, unless it is because of the mineral deposits.

The committee did not believe, from the evidence before them, that that section of country, although there may be some mineral deposits in the region now proposed to be surveyed, was of that character as to require this increased compensation.

Mr. CONGER. I believe there are no other lands referred to than mineral lands.

Mr. HOUSTON. It is very easy to call them mineral lands.

The question was then taken on concurring with the amendment proposed by the Senate, above inserted, and it was agreed to.

The next amendment proposed by the Senate, being the ninth, to strike out the words "\$20,650," and insert "\$21,780" in the same clause last above inserted, was then read, considered, and agreed to.

The tenth amendment of the Senate, comprising the clauses following, was read, considered, and agreed to, viz:

"Page 6, after line 137, insert:  
"For completing the improvements of New Jersey avenue, north of the Capitol, \$9,000.  
"For planting and finishing the roads and walks through that portion of the public mall surrounding the Smithsonian Institution, \$7,000.

"For payment to August Humbert of balance of his salary as United States assayer of gold in California, under the act of 31st September, 1850, \$1,351."

The eleventh amendment of the Senate was read, proposing to strike out "\$1,000," and insert "\$1,200," in the proviso of the following clause:

"For compensation of extra clerks employed in the office of the Commissioner of Pensions, \$33,000: *Provided*, That no clerk shall receive more than at the rate of \$1,000 per annum under this act."

Mr. JONES, of Tennessee. This is in the same condition as the amendment proposed at the commencement in regard to clerks in the Third Auditor's office. It was intended, by inserting \$1,200 there, to give the Secretary discretionary power to designate who should receive \$1,200 per annum. The remainder were to receive not above \$1,000 per annum. If the amendment, as it is here proposed, should be agreed to, the salary of \$1,200 per annum will be applicable to all clerks employed under this appropriation. The chairman of the Finance Committee of the Senate assured me that was not the intention of that committee, and consequently it will be necessary to make an amendment to have it conform to the intention of the proposers of the amendment in the Senate. In lieu of the amendment of the Senate, I move to insert these words:

No clerk shall receive more than at the rate of \$1,000 per annum under this act, except two, whose annual salary shall not exceed \$1,200.

That will make it conform to the one the committee disposed of in regard to the Third Auditor's office.

Mr. EVANS. The gentleman seems to understand that the power will be given to the Commissioner to employ more than twenty clerks. I want to know what difference it makes, whether he employs twenty at \$1,000 per annum, or sixteen at \$1,200 per annum? If sixteen clerks at \$1,200 per annum will do more work than twenty at \$1,000, let the Secretary employ them.

Mr. JONES. That is not the object of the amendment. It is that the Secretary might give \$1,200 annual salary to two of the clerks, and \$1,000 per annum to the balance.

Mr. HOUSTON. It is for services already rendered. The clerks have been employed and discharged the duty.

The question was then taken, and the amendment was agreed to.

The twelfth amendment of the Senate was then read as follows:

"Page 7, after line 143, insert:  
"For expenses of establishing the superintendency of Indian Affairs in California, authorized by the act of 3d of March, 1853, viz:  
"For salary of superintendent, \$1,318 00.

"For salary of clerk, \$824 17.  
"For rent of office for superintendent, \$1,030.  
"For stationery, fuel, lights, &c., for office of superintendent, \$275.  
"For messenger, expenses, &c., \$403.  
"For labor, miscellaneous items, and contingent expenses of the superintendency, \$275.  
"For presents and provisions for Indians visiting superintendent on official business, \$1,000.  
"For traveling expenses of the superintendent and the necessary attendants, \$2,500.  
"For furniture for superintendent's office, \$300.  
"For iron safe for superintendent's office, \$1,000.  
"For United States flags for distribution among the tribes, \$5.00."

Mr. HOUSTON. The Committee on Ways and Means have agreed to the first branch of this amendment, which gives to the superintendent of Indian Affairs in California his salary from the time of his appointment to the end of the last fiscal year. The law establishing this superintendency was passed in March last, after the regular estimates were before Congress. The superintendent of Indian Affairs was appointed the day after the law was passed. The Committee on Ways and Means supposed they were probably bound to pay the superintendent's salary from that time to the end of the year. They have rejected the remainder of the Senate's amendment, for the reason that those appropriations would not be needed during the last fiscal year, and had no business in this bill. For instance, on inquiry made by the Committee on Ways and Means, we learn that his clerk has not even been appointed. The superintendent of Indian Affairs is now in the city, and there is, therefore, no necessity for office rent for the last year. That is the class of items all through their list. I move to strike out all after the first branch of the amendment, which provides for the payment of the salary of the superintendent.

Mr. McCORKLE. The statement made by the chairman of the Committee on Ways and Means is very true, but I am opposed to striking out the clauses he proposes, for one or two reasons, which I think will satisfy the committee. The amendment offered by the Committee on Ways and Means, should not now receive its assent. It is true that the superintendent of Indian Affairs is now in this city, and he has never been out of it, for the simple reason that he has never had money to carry him out of it. He has not rented an office during the last year, because he was not in the country where his duties were to be performed, and he had no need of an office. But it is of lasting importance to the people of California at this time, that this superintendent should be dispatched immediately to the scene of action. There is a war of extermination going on between the whites and Indians in California. The last news received from there contained an account of the slaughter of one hundred and thirty-five Indians in one battle between the miners and the Indians; and by a message delivered to the last Legislature by the Governor of that State, we learn that in three counties, within the space of four months, over one hundred whites had been murdered, and that over \$200,000 worth of property had been stolen or destroyed by the Indians. It is well understood in that State, and here in political circles, at least, that the treaties made by the Indian commissioners in California will not be, as they ought not to be, ratified by the Senate. When this news reaches California, which it will in all probability, by the next steamer which departs from New York, there will be an absolute necessity for some man to be on the ground who has power to make treaties with Indians, and settle the difficulties which must inevitably arise when they hear of the rejection of the treaties.

Mr. HUNTER. I call the gentleman to order. The part proposed to be stricken out has nothing to do with the superintendent of Indian Affairs in California.

The CHAIRMAN. The Chair thinks the gentleman's remarks are in order.

Mr. McCORKLE. If the amendment of the Committee on Ways and Means be carried, it will, of course, delay the departure of the superintendent of Indian Affairs to California until after the general appropriation bill shall have been passed; and he cannot arrive in that State before the 1st of December or January next. It is of great importance that he should be on the ground immediately, for the reasons which I have stated;

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and the salary of \$1,300 proposed to be paid him by the remnant of the provision in the deficiency bill, proposed by the Committee on Ways and Means to be retained, will barely be sufficient to carry him to California. He will not be able to leave the city of San Francisco, and he will not be enabled to enter on the discharge of any of his duties.

Mr. SACKETT. I wish to ask whether the part proposed to be stricken out has anything to do with the salary of the Indian agent in California?

Mr. McCORKLE. No, sir. It provides, however, for his traveling expenses, for his office rent, equally as necessary as his salary, and more so.

Mr. SACKETT. That all comes within the present fiscal year.

Mr. HOUSTON. I will state, Mr. Chairman, that the Committee on Ways and Means called on the Commissioner of Indian Affairs, by letter, to furnish them with estimates for this object, to go into the regular bill making appropriations for the Indian Department, Indian treaties, &c., which they intend to ask the House to put in when that bill is taken up, which I hope will be in two or three days.

Mr. McCORKLE. So I understand; but I object to that for the reason that it makes a delay which will be extremely disastrous to the people of California. It will occasion a delay of six months, at least.

Mr. HOUSTON. Oh, no!

Mr. McCORKLE. That will not pass till very near the adjournment of the House.

Mr. HOUSTON. It will pass in a few days.

Mr. McCORKLE. It is on account of this delay we object to striking this matter out. I trust the committee will not agree in the amendment.

Mr. FITCH. I suppose, Mr. Chairman, I cannot offer an amendment, as this is an amendment to an amendment?

The CHAIRMAN. An amendment is not now in order.

Mr. FITCH. I think I can call for a division of the amendment, and under that call am at liberty to state my reasons.

The CHAIRMAN. The Chair thinks that would not be in order.

Mr. FITCH. There are three items of the amendment which could be stricken out with great propriety; but the remainder should be retained, or the delay which the gentleman from California stated must inevitably occur to the operations of this superintendent. When he arrives there he will be incapable of doing any good unless this money be appropriated.

The question was then put on Mr. Houston's amendment, to strike out all of the Senate's amendment save the first branch in relation to the salary of the superintendent, and on a division there were—ayes 65—

Mr. ROBBINS demanded tellers; which were ordered, and Mr. MARSHALL, of California, and Mr. CHANDLER were appointed.

The question was again put, and the amendment to the amendment was agreed to, the tellers having reported—ayes 78, noes not counted.

Mr. HOUSTON. I would ask the committee to concur in the amendment as amended. That is now the question.

The question was then taken, and it was decided in the affirmative.

So the amendment as amended was agreed to.

Mr. VENABLE. I move that the committee rise.

The question was then taken, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill No. 207, being the deficiency bill, and had come to no conclusion thereon.

## INVALID PENSION BILL.

Mr. HOUSTON. I would like the House to

agree to a very immaterial amendment of the Senate to one of the naval appropriation bills—the invalid pension bill.

Mr. STANLY. Order! Order!

Mr. HOUSTON. It is a mere formal amendment. It is to correct a reference to a law under which the appropriation is made. It involves no principle. They want the money at the Pension Office, as I understand.

Mr. CABELL, of Florida, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which received the signature of the Speaker, viz:

An act to enable the Legislature of the State of Indiana to dispose of the unsold lands in said State;

An act in relation to a certain lot of land in the town of Gnadenhutten, in the State of Ohio;

An act to supply a deficiency to the State of Indiana, in a township of land granted to said State for the use of a State University, by act of Congress, approved the 19th of April, 1816; and

An act to release from reservation and restore to the mass of public lands certain lands in the State of Arkansas.

Mr. HOUSTON. I ask the concurrence of the House to the amendment of the Senate, of which I have already spoken.

Mr. FITCH. I hope that motion will not be insisted upon in this thin House.

Mr. HOUSTON. It is a mere correction of a reference to a law under which we permit invalid pensions.

The question was then taken, and the amendment was agreed to.

On motion by Mr. FOWLER, the House then adjourned.

## PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROWN, of Mississippi: The petition of Julius C. Monette and 200 others, citizens of Mississippi, praying the removal of the Land Office from Augusta, Mississippi, to Shieldsboro', in that State.

By Mr. ALLEN, of Illinois: The petition of citizens of Saline and Hardin counties, asking that mail route No. 4,188, from McAnesboro' to Raleigh, be extended by way of Bankston and Somerset post offices to Elizabethtown in Hardin county, Illinois.

By Mr. NEWTON: The petition of the heirs of Ebenezer Boswick for \$80, and one hundred acres of land.

By Mr. SCHERMERHORN: The remonstrance of G. W. Burbank and 227 others, citizens of the county of Monroe, New York, against the renewal of a patent of 1834, for certain improvements in a grain reaper, granted to Cyrus W. McCormick.

Also, the petition of William W. Cady and others, of the county of Monroe, asking for a free and unstrained commercial intercourse between the United States and the Canadas.

By Mr. FLORENCE: The memorial of Cornelius Miller, Jacob Benner, Philip Felten, and others, citizens of Philadelphia, praying Congress to pass a law granting to soldiers of the war of 1812 at least 160 acres of land, &c.

By Mr. CHASTAIN: The memorial and accompanying papers of the children and heirs of William Smith, a revolutionary soldier, asking Congress to grant them a pension, in the right of their deceased father.

By Mr. BERNHISEL: The petition of the Governor and Legislative Assembly of the Territory of Utah, praying Congress to provide for the construction of a railroad from some point on the Mississippi or Missouri river to San Diego, San Francisco, Sacramento, Astoria, or some other point on or near the coast of the Pacific.

By Mr. HENDRICKS: The petition of citizens of Madison county, Indiana, praying that lands be granted to aid in the construction of various railroads in the State of Indiana.

## IN SENATE.

THURSDAY, July 8, 1852.

Prayer by the Rev. LITTLETON F. MORGAN.

Mr. ATCHISON called the Senate to order, and caused a letter to be read which he had received from the President *pro tempore*, requesting him to preside this day, in the absence of the President.

## PETITIONS, ETC.

Mr. FELCH presented the memorial of Allen T. Welch, praying a pension on account of disability incurred while in the military service of the United States during the late war with Mexico; which was referred to the Committee on Pensions.

Mr. CHASE presented a petition of citizens of Ohio, praying that the unsold lands in Ohio, purchased of the tribe of Wyandot Indians, may be offered for sale at Upper Sandusky, in that State; which was referred to the Committee on Public Lands.

Mr. BRODHEAD presented the memorial of C. B. McKnight and others, praying a modification of the late bounty land law; which was referred to the Committee on Public Lands.

Mr. MALLORY presented the petition of George P. Welsh and Clark H. Wells, passed midshipmen in the Navy, praying to be allowed additional compensation during the time they performed the duties of a higher grade; which was referred to the Committee on Naval Affairs.

## THE HOMESTEAD BILL.

Mr. CHASE. I have been requested to present to the Senate a petition of citizens of Morgan county, Ohio, asking for the passage of the homestead bill. These petitioners express great anxiety lest the delay of that measure may defeat it; and they earnestly urge that it may be taken up and acted upon at this session. As I am aware that this anxiety is not peculiar to these petitioners, but is participated in by a very large number of the citizens of the State which I have the honor in part to represent, I beg leave to ask of the honorable chairman of the Committee on Public Lands, [Mr. FELCH,] whether a report upon that bill may be expected soon? I am myself aware, to some extent, of the causes which have delayed a report; but in order that the public may understand what is the prospect of speedy action upon the bill, I ask the chairman of the committee to respond to my inquiry.

Mr. FELCH. In answer to the inquiry of the Senator from Ohio, I will state, that the bill to which he refers, immediately after it was referred to the Committee on Public Lands, was sent to the Land Office for information on the subject. We saw at once that important changes in the whole land system, if not an overturning of that system, would follow the proposed legislation, and it was thought necessary to obtain information in regard to its practical working before we went on. An answer was returned from the Department towards the end of the week before last, but an interruption has occurred in the business of the committee, in consequence of the death of one of our members. Previous to that event, we took up the subject and gave it some consideration, but further action has been delayed by the absence of a member [Mr. UNDERWOOD] on a duty with which the Senate is fully acquainted. We are obliged to await the return of that Senator, as he intends to propose some amendments to the bill. I can only say, that we are anxious to act on the bill, and have lost no time in considering it, and immediately after the return of the Senator from Kentucky, will be prepared to report a bill. I trust that we may be enabled to do so next week.

Mr. CHASE. I was aware myself that the chairman of the Committee on Public Lands, as well as other members of the committee, were not chargeable with any unreasonable delay in the discharge of the duties devolving upon them. I was, however, very desirous to have some assurance on the part of the chairman that this bill would be reported upon at an early day. There is no measure at present before Congress in which the people of my State take a deeper interest than they do in relation to this bill—an interest which I profoundly share.

The memorial was referred to the Committee on Public Lands.

## REPORTS FROM STANDING COMMITTEES.

Mr. FELCH, from the Committee on Public Lands, to which was referred the bill from the House of Representatives, to amend an act entitled "An act for the discontinuance of the office of surveyor general in the several districts so soon as the surveys therein can be completed, for abolishing land offices under certain circumstances,

'and for other purposes," reported it back with amendment.

Mr. HUNTER, from the Committee on Finance, to which were referred the memorials of Pais, Mir & Co., George Foster & Co., C. B. Broadwell & Co., A. F. Cochran & Co., Cotchett & Chapman, and Charles Belcher & Co., praying that duties paid by them upon American casks and barrels, may be refunded, submitted an adverse report; which was ordered to be printed.

Mr. DOUGLAS, from the Committee on the Territories, to which were referred the following bills, reported them severally without amendment:

An act to run and establish the boundary between the State of Texas and the Territories of the United States;

An act making further appropriations for the construction of roads in the Territory of Minnesota; and

An act to amend an act entitled "An act to settle and adjust the expenses of the people of Oregon in defending themselves from attacks and hostilities of Cayuse Indians, in the years 1847 and 1848," approved February 14, 1850.

Mr. DODGE, of Iowa, from the Committee on Public Lands, to which was referred the bill for the benefit of the town of Bellevue, reported it back with an amendment.

He also, from the same committee, reported a bill to create three additional land districts in the State of Iowa; which was read and passed to the second reading.

#### SHIP CANAL AROUND THE FALLS OF SAULT STE. MARIE.

Mr. HAMLIN. The Committee on Commerce, to which was referred a memorial of citizens of Pittsburg, Pennsylvania, praying for the construction of a ship canal around the Falls of Sault Ste. Marie, have desired me to ask that they may be discharged from its further consideration. The Committee on Commerce had this subject under their charge at an early day of the session, and made a report, not adversely, but setting forth its commercial and military character. They then, as now, desired to be discharged from the consideration of the subject, because the Committee on Public Lands had it before them; and it has been deemed advisable, that if this object is prosecuted, it should be done by the instrumentality of the public lands. I make this statement because there has been a report in circulation that the Committee on Commerce had reported adversely in regard to this project, which is not the case.

The motion to discharge the committee from the further consideration of the memorial was agreed to.

#### NEW LAND DISTRICT IN IOWA.

Mr. DODGE, of Iowa. I am instructed by the Committee on Public Lands, to report a bill to create three additional land districts in the State of Iowa, and I throw myself upon the indulgence of the Senate to ask that they will consent to take up the bill, and consider it at this time. The State of Iowa, although one of the largest States in the Union, has but three land districts within its borders. It has now a larger amount of public land yet to be disposed of than any other State. Our people are compelled to travel from two hundred to two hundred and fifty miles to enter their lands at the land offices. The recent acquisition of territory upon the northern portion of that State, renders it indispensable that these offices should be created. I trust the Senate will consent to act upon the bill at this time.

The bill was read a first time.

Mr. DODGE. I hope this bill will be read a second time, and put upon its passage. If it is passed, the State of Iowa will then have six land offices, and in that respect will place us upon an equality with the State of Indiana. Illinois has ten land offices; your own State (Missouri) has eight; Alabama has eight; Mississippi has five, and Arkansas seven.

The bill was read a second time, and was considered by the Senate as in Committee of the Whole. It was reported to the Senate without amendment, was ordered to be engrossed and read a third time, and was read a third time and passed.

#### THE PUBLIC DEBT.

Mr. HUNTER gave notice of his intention to ask leave to introduce a bill for the redemption of the public debt.

#### VIRGINIA BOUNTY LAND WARRANTS.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the bill appropriating land scrip in full and final satisfaction of Virginia military bounty land warrants. I believe it will take but little time to act upon it. An amendment has been unanimously reported by the Committee on Public Lands, to which I agree, and I hope the Senate will indulge me on this occasion, and allow the bill to be taken up.

The motion was agreed to, and the Senate proceeded as in Committee of the Whole to consider the bill. The Committee on Public Lands reported an amendment to it in the form of a substitute for the entire bill. It enacts that all unsatisfied, outstanding military land warrants, or parts of warrants, issued prior to March 1, 1852, by the proper authorities of the Commonwealth of Virginia, for military services performed by the officers and soldiers of the Virginia State and Continental line of the Army of the Revolution, may be surrendered to the Secretary of the Interior, who, upon being satisfied by a revision of the proofs, or by additional testimony, that any warrant thus surrendered was fairly and justly issued in pursuance of the laws of said Commonwealth for military services so rendered, shall issue land scrip in favor of the present proprietor of the warrant so surrendered for the whole or any portion thereof unsatisfied, at the rate of \$1 25 per acre for that which remains unsatisfied; which scrip shall be receivable in payment for any lands owned by the United States subject to sale at private entry, and shall also be assignable by indorsement attested by two witnesses. In issuing such scrip the Secretary is authorized, when more persons than one are interested in the same warrant, to issue to each person scrip for his or her portion; and when infants or *femmes covert* may be entitled, the guardian of the infant and husband of the *femme* may receive and sell or locate the same, provided that no less than a legal subdivision shall be entered and paid for in virtue of scrip issued under this act. It enacts further, that the act shall be taken as a full and final adjustment of all bounty land claims of officers and soldiers of the State of Virginia for services in the war of the Revolution.

Mr. CHASE. I offer the following amendment to the amendment of the committee, to come in at the end of the second section:

*Provided, That the State of Virginia shall, by a proper act of the Legislature thereof, relinquish all claim to the lands in the Virginia military bounty land district in the State of Ohio, which lands are hereby ceded to the said State of Ohio, saving all claims of individuals or corporations in or to the same.*

A word may be necessary in explanation of that amendment. The object of the bill is to satisfy claims of the soldiers of the State of Virginia for military bounty land warrants, by giving them scrip; consequently there will be no longer any reason why Virginia should retain any claim upon that portion of the public lands in Ohio, reserved to satisfy them. Those lands are very inferior in quality, and very limited in quantity, and that is one reason—indeed the sole reason—why they have not been heretofore taken up. As it is now proposed that these warrants shall be satisfied in scrip, there can be no objection to following out the policy of the bill, which passed the Senate the other day, ceding to the State the residue of these lands. The quantity does not exceed fifty or sixty thousand acres. They are all embraced in two or three counties, and their present condition, not being valuable enough to be taken up, only operates to prevent their settlement.

Mr. HUNTER. I have but one objection to the amendment. It is all very proper in itself, and I have no doubt that if no such amendment were adopted, the Legislature of Virginia would make any relinquishment which might be necessary. The only objection which I have to it is, that it will delay the action of the Secretary of the Interior upon these warrants until the action of the Legislature of Virginia is had. It strikes me that it will hardly be necessary, in any point of view; but if put into the bill, it will surely delay the action of the Secretary of the Interior.

Mr. CHASE. I think, upon a moment's reflection, the Senator will be satisfied that my amendment cannot delay the action of the Secretary of the Interior. I propose to add the proviso to the second section of the bill, and being there it will

not delay in the smallest degree the action of that officer. If it were in the other section, it might do so.

Mr. HUNTER. I am anxious to get the bill on any terms, and if the Senator insists I shall interpose no further objection.

Mr. FELCH. I did not understand very fully the explanation made by the Senator from Ohio upon the subject. It seems to me, however, that the amendment is entirely unnecessary, so far as releasing any claim of Virginia upon the lands referred to is concerned. If I understand correctly the terms of the grant, this land was reserved in the original grant from Virginia land between the rivers Scioto and Little Miami, but it was reserved as a trust fund, for the purpose of enabling the soldiers of the Virginia State and Continental line to obtain their bounties, and it was then presumed, evidently, that it would be sufficient to answer that purpose. But I suppose the moment the claims for the bounty lands are satisfied, Virginia can have no claim upon the lands remaining. There has been an application to the Senate during the present session, for some legislation upon the subject, which might enable the parties holding the scrip to locate on the remnant of the grant. There are several parties, as it appears from the application, who are anxious still to locate on the small remnant of the old reservation. Some of the lands which formerly were considered of little value, are now considered so valuable, that persons holding scrip desire to locate upon them. I should be unwilling to legislate here in such a manner as to prevent the locating on the remaining portions of the land. If that is the object of the amendment to the amendment, I think we ought not to adopt it. It seems to me also, as I before remarked, that it cannot be necessary in order to restore to the United States the perfect title to any portion of the land, whenever the Virginia military bounty land warrants shall be satisfied. A question is raised here upon the other part of the proposition, which is ceding the lands to the State. A bill has already passed the Senate, ceding all the remaining lands in Ohio to that State. That, I believe, has been laid on the table in the House of Representatives. And I would suggest to the Senator, whether it would not tend to defeat this bill to ingraft the same provision upon it.

Mr. CHASE. I think if my friend from Michigan will look at the circumstances of the case, he will be satisfied that my amendment is proper, and in its proper place. These lands were reserved in the original cession of Virginia to the United States of the lands embraced in the Northwestern Territory for the satisfaction of her military bounty land warrants. It was supposed, undoubtedly, at the time of the reservation, not merely that these lands would be sufficient, but that the lands southeast of the river Ohio would suffice without resorting to these lands at all. But the large number of warrants, and their magnitude, created a very different state of things, and resulted in the taking of every available acre of land in the reservation. There now remain nothing but unavailable lands, with the exception, perhaps, of a few tracts which have been long occupied by actual settlers, but which are claimed by some, under corrected surveys, to be still open to entry. Ceding the lands to the State will merely complete the act which the Senate passed the other day, providing for the cession of all unsold land, reserving these from its operation on account of the right of Virginia to have her military warrants satisfied from them. We now make another provision for the benefit of Virginia which relieves these lands entirely. Then the policy of that act applies to these lands, and with augmented force, because a portion of them are in actual occupancy of the people of the State, which has been long continued, and the residue are not of any value at all. They are of so little value, as I said before, that nobody would enter a warrant upon them.

Mr. HUNTER. I will suggest to the Senator from Ohio, that all he desires from Virginia, is to cede her right to the lands.

Mr. CHASE. That is all.

Mr. HUNTER. This amendment goes further, and proposes to incorporate into the bill, a cession of them to the State of Ohio. If the Senator will confine his amendment to the first object, I will agree to it; that is to say, if he will so amend his amendment that it shall read: "Pro-



'vided, That the State of Virginia shall, by a 'proper act of the Legislature thereof, relinquish 'all claim to the lands of the Virginia military 'land district in the State of Ohio,' reserving the question of the cession to the State of Ohio, I will agree to it. I am afraid that his amendment, as it now stands, will endanger the bill in the House of Representatives, and I am sure he does not desire that.

Mr. CHASE. Certainly not.

Mr. HUNTER. I hope he will modify his amendment by striking out all that occurs after what I have read, which will provide for the relinquishment by the State of Virginia of her right and title to those lands.

Mr. CHASE. I would very much desire to accommodate the Senator, but there is no earthly reason that I can see, why there should be any objection to the cession to the State of Ohio. If my proposing it would endanger the bill of the Senator here or elsewhere, I should be very unwilling to ingraft it upon it; but the utmost effect would be, that, if the House were not prepared to agree to the amendment, they would strike it out. I prefer to take a vote upon my amendment as it stands.

Mr. HUNTER. I move to amend the amendment of the Senator from Ohio, by striking out all after the word "Ohio," where it first occurs.

The PRESIDING OFFICER. The Chair is of opinion, that the motion is not in order. The amendment proposed by the Senator from Ohio, is an amendment to an amendment, and therefore, in the opinion of the Chair, it cannot, at this stage of the bill, be amended; so that the question will be upon the amendment as proposed by the Senator from Ohio.

Mr. FELCH. I hope the Senator will consent to withdraw his amendment. I will state another reason, in addition to what I have already stated. There is probably no portion of the country where the land titles acquired by these bounties are so complicated, and give rise to so many difficult questions, as in this same tract of country reserved for the purpose of these bounty land warrants.

The passage of the other act to which I have alluded, refers directly to the litigation which has grown up in regard to these. The whole tract of land was set aside to satisfy the warrants; and every man located as he pleased, gave such shape to his premises as he pleased, and made his own surveys and lines. The consequence is, that the shapes are very irregular; and frequently conflicting claims overlap each other, and sometimes do not meet at all, so as to leave gaps between them.

Mr. CHASE. If the Senator will allow me to interrupt him—I am exceedingly averse to delaying the action of the Senate on the bill, and I will therefore modify my amendment in conformity with the suggestion of the Senator from Virginia, to strike out all after the word "Ohio," where it first occurs.

The question was taken on the amendment to the amendment as modified, and it was agreed to; and the amendment of the committee as amended was agreed to. The bill was reported to the Senate as amended; the amendment was concurred in; and the bill was ordered to be engrossed for a third reading.

### THIRD READING OF A BILL.

The engrossed bill to establish the subdivisional lines and corners of certain fractional sections in the southern surveying district of Alabama was read a third time and passed.

### POST ROUTES.

The PRESIDING OFFICER. The House of Representatives has returned, with an amendment, the joint resolution of the Senate to establish certain post routes.

Mr. RUSK. This is not the general post route bill. It is simply a joint resolution, providing that plank roads shall be post roads. The amendment of the House is simply to make a particular plank road, which was not named in the resolution originally, a post road. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

### RAILROADS IN ARKANSAS.

Mr. BORLAND. I ask the favor of the Senate, as the time for taking up the bill which is the order of the day has not quite arrived, to take up the bill granting to the State of Arkansas the right

of way and a portion of the public lands, to aid in the construction of a railroad from Gaines's Landing to Fulton, in said State. It is a bill which will not give rise to any discussion, as it is precisely like similar bills which have heretofore passed the Senate.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole. A verbal amendment having been made, it was reported to the Senate, and ordered to be engrossed for a third reading.

### FRANCIS TRIBOU.

On the motion of Mr. HAMLIN, the Senate proceeded, as in Committee of the Whole, to consider the bill of the House entitled "An act for the relief of Francis Tribou." It provides for placing the name of Francis Tribou, of Monroe, in the county of Waldo, in the State of Maine, on the roll of invalid pensioners, at the rate of four dollars per month—the pension to commence on January 1st, 1848, and to continue during his natural life.

Mr. HAMLIN. This bill has passed the House of Representatives. It has received the sanction of the Committee on Pensions in this body. I apprehend there will be no objection to it; but I will not occupy the time of the Senate by discussing it.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

### JOHN DUFF.

On the motion of Mr. BRODHEAD, the Senate proceeded, as in Committee of the Whole, to consider the bill for the relief of John Duff. It proposes to direct the Secretary of the Navy to cause to be discontinued the suit brought against John Gonder, Jr., and John Duff, in the district court of the United States for the eastern district of Pennsylvania, for an alleged violation of the contract made by him on the 20th of June, 1846, to furnish stone for the dry-dock at the Brooklyn navy-yard.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

### UNITED STATES COURTS IN IOWA.

On the motion of Mr. JONES, of Iowa, the Senate proceeded to consider, as in Committee of the Whole, the bill to regulate the terms of the district court of the United States for the district of Iowa. It provides that, instead of three terms annually of the district court of the United States for the district of Iowa, as now prescribed by law, there shall hereafter be held annually six terms of said court, as follows: At Dubuque, on the first Mondays of January and July; at Iowa City, on the first Mondays of May and October; and at Burlington on the third Mondays in May and October. It proceeds to make other provisions, rendered necessary by these changes in the terms of the court.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

### HEIRS OF ROBERT SEWALL.

On the motion of Mr. PRATT, the Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of the heirs and representatives of the late Robert Sewall.

It proposes to direct the Third Auditor of the Treasury to audit the claim of the heirs and representatives of the late Robert Sewall, and determine the amount that may be due to them; that he report the said amount to the Secretary of the Treasury, who is required to cause the same to be paid.

Mr. PRATT. I move to amend the bill by inserting after the words "Robert Sewall," the words "for a house, destroyed in 1814 by the enemy."

The amendment was agreed to; the bill was reported to the Senate as amended; the amendment was concurred in, and the bill was ordered to be engrossed for a third reading.

### ICHABOD WEYMOUTH.

On the motion of Mr. HAMLIN, the Senate proceeded, as in Committee of the Whole, to consider the House bill entitled "An act for the relief of Ichabod Weymouth."

It provides that the Secretary of the Interior place the name of Ichabod Weymouth upon the roll of invalid pensioners, at the rate of eight dollars per month—to commence January 1, 1850, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

### PROTECTION OF EMIGRANTS TO OREGON.

#### AND CALIFORNIA.

Mr. DOUGLAS. I move that the Senate now proceed to the consideration of the bill reported from the Committee on the Territories, "for the 'protection of the emigrant route, and a telegraphic 'line, and for an overland mail between the Mis- 'souri river and the settlements in California and 'Oregon.'" This bill was reported from the Committee on the Territories some time since, and it is very necessary that the protection should be furnished. I hope the Senate will proceed to the consideration of the bill.

Mr. RUSK. This is a most important bill. It should involve a great deal of consideration and reflection, and will consume more time than we can possibly be able to give to it to-day. There is a bill in relation to the protection of life in steamboats, which was nearly completed yesterday, which was ordered to be printed as amended. The printing has not yet been quite done, but I understand that the bill will be here in a few minutes. Therefore I think it will be impossible for us to make much progress to-day with the bill mentioned by the Senator from Illinois. It is a bill of very great importance, and one which will evidently require a good deal of time, and which will, perhaps, draw out a great deal of discussion.

Mr. DOUGLAS. If the Senate will fix a specific time—say Tuesday next—for the consideration of the bill, with the understanding that we shall then take it up and go on with it, I shall have no objection to waiving it now. This, it is true, is a very important bill, but it is very important that it should be acted on. The business of the Territories has been giving way to every other description of business, until it is thrown into this late part of the session. If it is the desire of the Senate to postpone the bill till Tuesday morning at one o'clock, and make it the special order for that time, I will yield.

Mr. DAVIS. I hope the Senator will not press anything that will come in the way of the bill which is the unfinished business of yesterday, providing for the better security of the lives of passengers on board steamers. I expect the printed bill every moment to be laid on the tables of Senators, and I wish to proceed with it.

Mr. DOUGLAS. Then I move that the bill I have indicated be made the special order for Tuesday next.

The PRESIDING OFFICER. The bill has not yet been taken up.

Mr. RUSK. I am afraid that if we make this bill a special order, it will draw out a great deal of discussion. There are a great many bills which Senators are anxious to get up. I have no objection to taking up this bill as soon as we can; but I would not have it made a special order. I know there are other very important bills which ought to be acted on; but if we make this bill a special order, it will stand in the way of other bills, and will have to be postponed before other bills can be taken up. It is too late in the session, in my opinion, to make the bill a special order; and I apprehend the Senator from Illinois will progress more rapidly if he shall not press such a proposition, for I think there is a general disposition to take up the bill and give it a fair discussion. It is connected with one or two other bills which have been presented, involving the same subject. So far as I am concerned, I shall be willing to take it up and discuss it as soon as possible; but I should regret very much to see it or any other bill made the special order, to exclude, in all probability, the consideration of some other important bills.

Mr. DOUGLAS. It cannot exclude them unless this bill is to be resisted, and leads to discussion; and, if so, we ought to have a hearing on it. I have been beseeching the Senate for more than four months to take up a few territorial bills. I first made the attempt before the territorial day in the House elapsed, in April; but I could not get a hearing on any of these bills. Every other de-

scription of bill could be taken up; but I could not get the Senate to tolerate the idea of considering a territorial bill. I have now pending ten or fifteen territorial bills which ought to be disposed of. All other descriptions of bills—private bills and public bills—have been taken up, by unanimous consent and by courtesy; but the moment a territorial bill is indicated, objection is made, not only to considering it on that day, but on any future day. It seems as if there was a design, that this bill should never be considered—should never be entertained. If the Senate will indicate any time more agreeable to them than that which I have named, I will conform to their wish. But really, crowding it to the last days of the session, and then objecting to its consideration because it is too late, is not the kind of treatment which I think this bill is entitled to receive. I hope the Senate will allow the bill which I have named to be made the special order for Tuesday next.

Mr. RUSK. I dislike to oppose the proposition of the Senator from Illinois; but I see that it will involve the consumption of a great deal of time. This is an important bill in various respects. It proposes a great alteration in regard to our military affairs; it involves a large expenditure of money; it is a proposition entirely new in its character, and involves some very important questions; and it will necessarily connect itself with another question—the construction of a road to the Pacific ocean. If we make it the special order of the day for a particular day, my own impression is, that we shall get into a discussion which will be interminable. I think the better plan will be to take it up at some time, and then dispose of it as soon as we can. I am very willing to vote to take it up at any time when the Senate is in a condition to act upon it. I would be willing to take it up to-day, and consume this day in its investigation, did I not feel so much anxiety in relation to the bill which was under consideration yesterday, and which was then partly completed.

Mr. DOUGLAS. I do not yet understand the objection of the Senator from Texas. If the bill is made the special order for Tuesday, it will take up no more time on that day than if it were not made the special order.

Mr. RUSK. But if it should not be acted upon on Tuesday it would come up again on Wednesday.

Mr. DOUGLAS. True; but if it should come up without being made the special order, it might run through day after day, if gentlemen should choose to oppose it. The tendency of the argument of the Senator from Texas is, that the bill should never be considered by the Senate, because it will occupy some time. Every bill which is considered occupies some time; and it is not to be supposed that this will be an exception to the general rule. All I desire is, that the bill shall have a fair hearing.

The PRESIDING OFFICER. The Chair would remind the Senator from Illinois, that the question is on proceeding to the consideration of the bill, and not as to any particular disposition of it.

Mr. DOUGLAS. I was only replying to the suggestions of the Senator from Texas, who gave reasons why it should not be taken up.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois, to postpone the previous orders and proceed to the consideration of the bill named by him.

Mr. DAVIS. I understood the Senator from Illinois to say that he simply wished to assign a future day for its consideration.

Mr. DOUGLAS. Tuesday next.

The PRESIDING OFFICER. The bill must be taken up before that motion can be put.

The question being taken upon the motion to take up the bill, it was agreed to.

Mr. DOUGLAS. I now move to postpone the further consideration of the bill until Tuesday next, and make it the special order for that day.

Mr. RUSK. If we make it the special order for Tuesday, I think I can see that it will involve the consumption of a great deal of time. This is a bill which involves important principles. It has not been investigated by the Senate. It will require a great deal of time to see the different bearings of the bill. It is one which will involve a very large expenditure of public money. All these things will have to be considered by the Sen-

ate. If the bill is made the special order of the day for Tuesday next, it will then come up at one o'clock, and will be discussed during the whole of that day; for I am very certain we shall not be able to get through with it then. As soon as one o'clock arrives on Wednesday no other bill on the Calendar can be taken up without a motion to postpone the special order, which will give rise to discussion. The result will be, in my opinion, not to advance the bill an inch, but to give it a preference which will bring about debate, and consume the time of the Senate at this last stage of the session. I hope, therefore, the Senate will not agree to the proposition to make the bill a special order.

The PRESIDING OFFICER. The bill has been read a first time, and has been ordered to a second reading; and the Chair would suggest that it would be better to read it a second time before postponing it.

The bill was read a second time and considered as in Committee of the Whole. It proposes to authorize the President of the United States to raise, organize, and equip three regiments of volunteers, of ten companies to each regiment, and one hundred men to each company, to serve for a period of three years, in guarding and protecting the emigrant routes and telegraphic lines, and of conveying the mails between the Missouri river and the settlements in California and Oregon. It provides for the establishment of a line of military posts, ten in number, at convenient and suitable points on the route, garrisoned by a force of one hundred men at each; and that there shall be, in addition to the military posts, station-houses at suitable places and distances, not exceeding twenty miles apart, throughout the entire length of the route, to be guarded and protected by at least twenty men on a station. The posts and station-houses are to be of a cheap and temporary character, and yet strong enough for purposes of defense, and of affording the protection contemplated; and they are to be erected by the volunteers, of materials to be obtained in the vicinity of the route. It further proposes to make it the duty of the volunteers, under the direction of the President, to keep the roads on the route in good traveling condition, with sufficient bridges and ferries across the streams to carry the mails, and protect all telegraphic lines, and persons employed in establishing and erecting them, and all emigrants, travelers, settlers, and traders along the line, and its vicinity, from hostilities and depredations by the Indians. The volunteers are to be required to raise, gather, and preserve all the provisions, bread-stuffs, forage, and supplies of whatever kind, which shall be necessary to sustain themselves and their animals, without cost to the Government. A further provision is made, that the colonels of the regiments shall be appointed by the President, by and with the advice and consent of the Senate, and that all other officers of the regiment, commissioned and non-commissioned, shall be elected by the volunteers; that the volunteers shall be enrolled for three years; that the officers and men composing the regiments shall be entitled to the same pay and emoluments as were allowed to the regiment of mounted riflemen raised in 1846, for the protection of the people of Oregon; and, in addition thereto, shall be entitled, so soon as the military posts and stations are established, to select, each for himself, six hundred and forty acres of land along the route, but not to include tracts upon which the posts and stations shall be located, which are reserved for public uses. It also proposes to grant to Henry O'Reilly the privilege of erecting telegraphic posts through the public domain, from the Western frontier to California and Oregon.

Mr. DOUGLAS. Mr. President, I have only a word to say in reply to the suggestions of the Senator from Texas. Every objection that he makes to the consideration of this bill at the specific time proposed would apply to any other time. Hence, it is an argument against its ever being considered, instead of an argument against its being considered at the particular time proposed. It is an important bill, I admit; but is important only for this reason: that we have no protection provided for the emigrants, travelers, and traders, and the mail-carriers between the western settlements and the Pacific ocean; and murders, robberies, and all sorts of aggressions are committed by the Indians upon our people, while they are passing through the Indian territory. Some protection is due, and

is necessary to those people. In 1846, Congress passed a law authorizing military posts to be established, and a regiment to be raised, for the purpose. The creation of that regiment was authorized in general terms, and hence it has been employed in other services, and these posts have not been established.

The only new principle introduced into this bill is, that under it, volunteers are to be raised to go and build these posts of the materials along the line, and are to receive pay as soldiers while engaged in it; but, at the same time, are to be required to raise their own provisions, both for themselves and for their animals—to supply their own animals and their own clothing—thus sustaining themselves; and at the end of three years' service they are to receive six hundred and forty acres of land along the line of the route, so as to form a military colony. Instead of involving a large expenditure, it will reduce your expenses millions of dollars, provided you are going to furnish the protection due to those who may be compelled, in the course of business, to travel over that line.

The question is, Are you going to furnish any protection? If you are, there are but two modes of doing it—one by this military occupation requiring the soldiers to supply themselves; and the other by increasing the force of the regular Army. I undertake to say that, in comparison with the latter plan, the one proposed in this bill will diminish the expenses by millions of dollars yearly. This, therefore, is a plan to reduce and diminish the expenditures of the Government, instead of increasing them. But I do not desire to go into a discussion of the merits of the bill, and I will not do so. I only ask that it be considered.

I presented memorials upon this subject early in the session. The bill was reported several months ago. I have striven, over and over again, to get these territorial bills taken up, but I have been unable to get a hearing upon them; and now it is objected to them that they are going to take too much time. The objection is made particularly with regard to this bill. That objection will increase with the lapse of each day of the session. I wish to know whether the Senate intend to furnish any protection at all to settlers on the frontier, and to emigrants going across the continent. If they do intend to do so, the sooner we act the better. This interferes with no other bill, and I think it will not give rise to much discussion. I have no speech to make upon it. I simply desire, when it shall come up, to explain any provision which any Senator may desire to have explained. I do not believe it will take any considerable time to pass the bill.

Mr. RUSK. Mr. President, I do not mean to enter into a discussion of the merits of the bill, but I think we ought to reflect a great deal before we turn Congress into a sort of commander-in-chief of the Army. There is in this bill a provision, which will certainly give rise to a lengthy discussion, granting special privileges to a particular individual for constructing a telegraphic line to the Pacific ocean.

The difficulty I suggest is this: I see nothing in this bill to give it a preference over all other bills which are before the Senate, and the result of making it the special order for Tuesday next, at this late date of the session, will be to give it a preference over all other bills.

The honorable Senator says that the emigrants on the route to California and Oregon are unprotected. Sir, a large number of my constituents are unprotected. The treaty between the United States and Mexico is violated every day by Indian depredations, and my people are unprotected. All these questions will come up. And, sir, shall we take up this bill proposing a new experiment—one that has not entered into the policy of the Government heretofore—and discuss it to the exclusion of all other matters? When the bill comes up I shall have much to say in regard to it. I have seen soldiers, and I know something of their character. When you turn them into farmers and task them, and make them work, you will have commenced a new kind of exercise in the Army; a new sort of discipline. It will be an entire change of the whole military system of the country. To imagine that a bill of this description will not draw out discussion, is, I think, presuming a great deal. It involves a total change of our whole military system. I am willing to protect

these emigrants—I am willing to extend the same protection to one place as to another, but at the same time I wish to see justice done to all.

The honorable Senator does not answer my objection. He says that my objection would apply against taking up this bill on any day. No, sir; not at all. If it is made the special order, it takes itself up every day when one o'clock arrives. What is the result of that? If I have a bill, or if any other Senator has a bill which it is desirable to take up, it requires a motion to postpone the special order, and thereupon a discussion ensues, and the time of the Senate is consumed. I appreciate the motive of the honorable Senator. I concur in the object which he has of protecting the travelers and emigrants. I desire to do it, but I cannot vote for this bill in its present shape. I do not mean, however, to discuss its provisions now. I am willing to vote for anything within the compass of our power which will, in my opinion, accomplish the object in view; but I do not want to give this bill a preference over all the other business of the Senate.

Mr. DOUGLAS. As the Senator resists the fixing of any time for action on this bill, and as he is not ready to take up any bill of his own, I will withdraw the motion to postpone, and submit now a few remarks upon the bill itself. The Senator says he has bills of his own in regard to the protection of Texas, which he desires to have taken up.

Mr. RUSK. No, sir; the Senator is mistaken.

Mr. DOUGLAS. At any rate, the Senator said his own people were unprotected. If they are unprotected, why not bring forward a bill to protect them, instead of urging that as a reason against the protection of other people who are unprotected, and for whose protection bills have been brought forward? Because his own people are not protected against these aggressions, is that any reason to be urged why other people should not be protected? If he does not bring forward bills to protect his own people, is that any reason why the Senator should assail me for performing my duty to my section of country? I have never interfered to prevent him from taking up any bill for the protection of his own State, whenever he desired to do so. If he wishes to give the people of Texas on that frontier, protection by law, or to provide means for that purpose, he will not find me resisting the consideration of any such proposition. I am prepared to help him, to aid him in all the necessary legislation.

But the gentleman from Texas assails the terms of the bill. He says he shall want some change, so far as it specifies one man who may make a telegraphic line across the continent. The proposition is, that Henry O'Reilly, at his own expense, may make a telegraphic line over the public lands. I will agree to modify that proposition, so as to say that Henry O'Reilly, or any other living man, or all men, may make telegraphic lines at their own expense, across the public domain. That will be broad enough, I apprehend, to obviate his objection as to monopoly.

Again, the Senator says he does not object to the object of the bill. He says he appreciates my motive and my desire to protect these people. Then, sir, if we concur in the object, and only differ as to the means, let us take up the bill and consider it; and, if my propositions are not right, let him offer his amendments. Whenever he offers an amendment that commends itself to my judgment, I will at once freely accede to it. I do not pretend that the bill is perfect. I have given it a good deal of reflection. I have made it as perfect as I knew how; but yet it is probable that the gentleman's superior experience in frontier life may enable him to suggest amendments that will improve it. Let him offer them. I shall be ready to receive them in a fair spirit, and agree to them whenever I can. I have no doubt that many Senators can improve the terms of this bill in many respects. That is just what I desire. I wish to have the benefit of their advice, of their suggestions, and their amendments. I care not whether you retain one word, or section, of this bill, provided, when you strike out these provisions, you insert others that will be as effectual for the purpose in view. I do not insist upon the adoption of the bill as it is. All I ask is, that you will afford the requisite and adequate protection to the people on that line, and let us have a fair hearing on this bill for that purpose.

I hope we may proceed to consider the bill now. I think that if we do so, we shall get through with it, perhaps in less time than by discussing it in this irregular way.

Mr. CHASE. This bill contemplates an object of very great importance—a telegraph from Independence, Missouri, I suppose, to San Francisco. The details of the bill will, of course, demand the very careful attention of the Senate. I concur cordially with what has fallen from the Senator from Illinois, with regard to the importance of this work. It is a matter to which I have given some attention, but I think it will be better to postpone the consideration of the bill until a future day when the Senate will be more full, and when Senators, having had their attention called to it, will have an opportunity of looking into the memorial, and the report which has been made. With the concurrence of the Senator from Illinois, therefore, I move to postpone the further consideration of the bill until Tuesday next, and make it the special order for that time; for it is really a matter of very great importance.

Mr. RUSK. I shall ask the yeas and nays upon that motion.

Mr. BRADBURY. I would suggest that it is well known to the Senate, that several members are necessarily absent in the discharge of a duty assigned to them by this body. I would ask whether it be desirable to take up a bill of so much importance during the absence of those who are necessarily away in the discharge of a duty which has been imposed upon them by the Senate?

Mr. DOUGLAS. I will only remark, in reply, that when the gentleman from Maine asked us to consider a bill for the relief and protection of one man, a few moments ago, I did not object to it. This is just such a bill, with one exception. This provides for the protection of millions and that for one man.

Mr. BRADBURY. What man?

Mr. DOUGLAS. I allude to the private bill taken up to-day, on the motion of the honorable Senator.

Mr. BRADBURY. I made no motion to-day to take up a private bill, but my colleague did make such a motion.

Mr. DOUGLAS. Then I was laboring under a mistake. I have yielded for several private bills, all involving matters of legitimate legislation for the protection of the rights of persons. This bill provides for the protection of the rights of a large number of persons. There is nothing in the bill which any man cannot easily understand on five minutes' examination. I am willing to consider the bill now, or to postpone it to any given day, if we can have the assurance that it shall have a fair hearing. I shall propose so to amend the bill as to leave in it no exclusive privilege to any person. If there is an objectionable feature in it let it be pointed out, and I will consent to strike it out. If there is an omission, let any gentleman suggest it, and I will vote to put it in. I only ask the consideration of the bill. It is necessary. Justice requires it. The lives of our own citizens require that we should pass it; and I ask that there may be action upon it.

Mr. BRADBURY. The remarks of the Senator from Illinois seem to call for some reply from me. If he had attended to my remarks, he would have perceived that my objection was not to the consideration of the bill, but only to its consideration at the particular time named, when certain distinguished members of the Senate are necessarily absent.

Mr. DOUGLAS. That is very true; but there will always be some members absent, and I apprehend that the friends of this bill have more to lose than to gain by the absence of the members alluded to. Several of them I know to be warm advocates of the bill.

Two members absent on the committee to which allusion is made, helped to report this bill from the Committee on the Territories. Another of those gentlemen takes a deep interest in the bill. I do not know that the other half of the committee alluded to are opposed to it at all. Again; they may be back by that time; but I am willing to run the risk of a vote in their absence, because of the manifest justice of the proposition. It is true that if I thought there would be a close vote, I would wish to have them back before the vote was taken. I only desire some time to be fixed for the consideration of the bill. I care not what

particular day, so that it is some reasonable time. If the Senate do that I shall be content.

Mr. BORLAND. I hope the proposition to fix an early day for the consideration of this bill will be agreed to. I consider it a bill of more general importance to the Western States than any bill that has been before the Senate this session. To those States especially which lie west of the Mississippi river, or along its course on either side, it is of the very first importance. They are frontier States, and have an unsettled country all west of them; or, if settled at all, it is by Indian savages. Now, the citizens of these States can have no profitable communication with the country west of them; they can have no commerce with it, for the want of a population to settle and improve it, and produce those articles of commerce which are needed for exchanges. We have, now, an outlet for our trade and travel only on one side; and so long as we remain in that condition, we will be unable to develop even the half—perhaps not a tithe—of our resources. We want a market on both sides; we desire to see settlements made west as well as east of us; and it strikes me that is a consideration which should weigh powerfully with the honorable Senator from Texas, [Mr. Rusk,] for his State is similarly situated with mine in this respect.

Mr. RUSK. In what way is it of so much importance?

Mr. BORLAND. It is of importance in this: it will open up the whole country west of us for settlement, trade, and intercommunication. Is not this important and desirable? To me it seems to be not only an important, but the first and indispensable step towards the settlement of the country between our States and California, Oregon, &c. Indeed, the only practicable means by which we can ever establish a line of useful intercommunication between ourselves and our possessions on the Pacific. We have been talking for years about making a railroad across the country, from the Mississippi river to the Pacific ocean. We have had that proposition before us time and again. It is before us now. There is an immense tract of wild country between these points, extending some twelve or fifteen hundred miles, unsettled, or, if settled at all, settled only by savages, amongst whom a railroad would not stand safely at any one point for a week. Without some such plan as this, I know of no mode of building or protecting such a road, except at a cost which all the resources of this Union could not pay.

I beg leave to call the attention of the honorable Senator from Texas to a case in the older States, which, I think, will exemplify the view which I entertain of the advantages, comparative and actual, of an outlet on both sides of a State. I refer to the States of Kentucky and Ohio. Kentucky was settled long before Ohio, with a people equally intelligent and enterprising, and possessing a soil equally fertile, and a climate equally genial and salubrious. Yet, what is the relative condition of these two States?

Ohio became settled, peopled, and improved with more than fourfold rapidity. Why? Ohio has an outlet on both sides, while Kentucky has an outlet on but one. Ohio not only has an outlet and a market on each side, to induce settlement and cultivation throughout her whole territory, but she becomes thereby a *thoroughfare* between North and South, and all her lines of communication and intercourse are thronged with travelers, and covered with agricultural productions, and the fabrics of exchange, seeking an outlet and a market on both sides, and in opposite directions. Ohio has a great lake on the one side, and a great river on the other. Kentucky has the Ohio river on the one side, and on the other forests and mountains almost impassable, and comparatively impracticable for trade. She has, indeed, an outlet and a market on one side only. The comparative condition of these two States, in the particulars I have mentioned, exemplify the importance and value of the condition of things I desire for my State, and others situated like her, and which I think this proposition of the honorable Senator from Illinois [Mr. Douglas] is so well calculated—indeed, is indispensable—to attain. We now have no outlet, except upon the Mississippi river. The whole country west of us is comparatively a wilderness. You make us grants of land for railroads; but if you do not allow us facilities for settling the country west, I ask what will these rail-



roads be worth to us? I ask the Senator from Missouri, [Mr. GEYER,] if, when you have made grants of land for railroads in his State, you forbidd settlements being made west of him; or, what is the same thing, refuse your assent to facilities for making and encouraging those settlements, what those grants will be worth to him? Keep the region west of him in its present wild and unsettled condition, and who expects business or travel enough, for years to come, to sustain them with business? Where is the business to come from? So with the other States similarly situated—mine among them. But if you will afford facilities for travel, and open a communication to the Pacific ocean, and encourage white people to travel through and settle in the intermediate country, as they will do, and bring the rich and valuable lands, now wild and waste, into cultivation, you will make business for railroads and all other means of communication, and our States will soon grow, as Ohio has grown, and attain the true position which their natural resources entitle them to occupy. I have mentioned Ohio in particular, because I regard her natural position, with the greatest of our inland seas on one side, and the second of our rivers on the other, as by far more favorable than that of any State in the Union, perhaps New York alone excepted.

Mr. GWIN. If the Senator from Arkansas [Mr. BORLAND] will permit me, I will say that I am desirous of going into Executive session. This is a very important matter, and had better lie over until next week.

Mr. BORLAND. If we can get a vote on the subject now, I think we had better do so. If not, I think it would be desirable to fix an early day for the consideration of this important question. I do not desire to make a speech on the subject.

Mr. GWIN. I did not wish to interrupt the Senator; but I was not aware that any expectation was entertained that a vote would be taken on the bill to-day.

Mr. BORLAND. But I did intend to present some views with regard to just such a bill as that presented by the Senator from Illinois, [Mr. DOUGLAS,] as affording the only practicable means of establishing a communication with the Pacific, and as the only means by which we can ever hope to unite ourselves properly with our possessions on the Pacific coast, and make them safe in themselves, and valuable to us. But I will not discuss the subject any further now, and shall beg that an early day may be fixed for its consideration.

Mr. DOUGLAS. As the bill is now under consideration, and as I have succeeded in drawing the attention of the Senate to it, I have no objection to postpone it until Tuesday, without making it a special order, and relying on the good feeling of Senators to give it a fair hearing.

Mr. CHASE. I made the motion to postpone the consideration of the bill, because I thought it was the best course to adopt; and I added to it that the bill should be the special order for Tuesday, for the purpose of meeting the wishes of my friend the Senator from Illinois, [Mr. DOUGLAS,] I now withdraw the latter part of my motion.

The motion to postpone was then agreed to.

#### WASHINGTON GASLIGHT COMPANY.

On motion by Mr. SHIELDS, the Senate postponed the prior order for the purpose of proceeding to the consideration of a bill to amend an act entitled "An act to incorporate the Washington Gaslight Company," approved July 8th, 1848. The bill was read for the information of the Senate, and considered as in Committee of the Whole. It provides that the act entitled "An act to incorporate the Washington Gaslight Company," approved July 8th, 1848, be, and the same is hereby, amended, by inserting in the second section immediately before the word "fifty," the words "three hundred and;" and in the seventh section, wherever the word "Washington" occurs, by inserting immediately thereafter the words "and Georgetown."

Mr. SHIELDS. I will state that the object of the bill is merely to enable the Gaslight Company to increase their stock. The people of Georgetown are anxious to have the benefits conferred by the Gaslight Company extended to them, as the company has been found to be very useful,

and this amendment of the original bill will enable the company to increase its capital.

The bill was then reported to the Senate, and ordered to be engrossed for a third reading.

#### PROMOTION OF CERTAIN OFFICERS.

The Senate then, on motion by Mr. SHIELDS, proceeded to the consideration of "A bill to provide for the promotion of certain officers in the Engineer, Topographical Engineer, and Ordnance Corps," as in Committee of the Whole.

Mr. GWIN. I think the Senator from Rhode Island [Mr. JAMES] wishes to be present when that bill is considered, as he has an amendment which he wishes to offer.

Mr. BORLAND. I have the amendment here. The matter is all understood.

The bill provides that every commissioned officer below the rank of captain in the Corps of Engineers, Corps of Topographical Engineers, and Ordnance Corps, who has served fourteen years in either of said corps, shall be promoted to the rank of captain: *Provided*, That the number of officers in said corps shall not be increased beyond the number fixed by existing laws.

Mr. SHIELDS. I offer the following amendment as a substitute:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever any lieutenant in the Engineer, Topographical Engineer, and Ordnance Corps, shall have served fourteen years continuously as lieutenant, he shall be promoted to the rank of captain: *Provided*, That the whole number of officers in either of said corps shall not be increased beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank in his corps.

The amendment was agreed to.

The bill was then reported to the Senate as amended, the amendment was concurred in, and the bill ordered to be engrossed for a third reading.

#### EXECUTIVE SESSION.

The Senate, on motion by Mr. GWIN, proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened.

#### AMOS KNAPP.

Mr. UPHAM. I move that the Senate postpone the prior orders, with the view of taking up House bill No. 60, which is a bill for the relief of Amos Knapp. It was referred to the Committee on Pensions, and has been reported back without amendment.

The motion to postpone the prior orders was agreed to, and the bill was considered by the Senate as in Committee of the Whole. It provides that from and after the passage of this act, Amos Knapp shall be placed upon the roll of invalid pensions and receive eight dollars per month, the pension of a common soldier.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read a third time and passed.

#### LANDS OF THE WYANDOT INDIANS.

Mr. CHASE. It is not yet quite three o'clock, and I trust the Senate will indulge me by postponing the prior orders and taking up House bill No. 226. It is an act to amend an act entitled "An act providing for the sale of certain lands in the States of Ohio and Michigan, ceded by the Wyandot tribe of Indians, and for other purposes," approved on the 3d of March, 1843.

The whole object of the bill is simply to authorize the exposure to sale of certain lands ceded by the Wyandots under the treaty concluded with them on the 7th of March. On some of these lands there were improvements, which, however, have not brought the value estimated by the superintendents, and for which reason, according to the old law, they have not been sold. The object of this bill is to authorize their sale at a price of not less than \$2 50 per acre.

The question was then taken on the motion to postpone the prior orders, and a division being called for, there were—ayes 14, noes 9; no quorum voting.

Mr. CHASE. There is a quorum in the Chamber, and I trust Senators will vote. This is a matter of considerable importance to one section of the State of Ohio, and I trust the Senate will not refuse to take up the bill.

The question was again taken, and the bill

was read a second time, and considered by the Senate as in Committee of the Whole.

It provides that so much of the fifth section of the act of which this is amendatory, as declares that if, in offering at public sale any tract of land ceded by the Wyandots under the treaty concluded with that tribe on the 7th March, 1842, on which improvements exist, the real value of the same, according to the estimates of the superintendents, shall not be bidden, it shall be their duty to withdraw the tract from sale, and the tracts thus withdrawn from sale shall be offered at public sale, due public notice first being given, be, and the same is hereby repealed; and that all such lands shall be exposed at public sale to the highest bidder, at such time and place as the Commissioner of the General Land Office may direct, subject to the minimum price per acre of \$2 50.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read a third time and passed.

#### GRANT OF LAND IN ARKANSAS.

The bill "granting to the State of Arkansas the right of way and a portion of the public lands, to aid in the construction of a railroad from 'Gaines's Landing to Fulton, in said State,'" was taken up for a third reading.

Mr. BRADBURY. I do not intend to oppose the passage of this bill; but I wish to inquire of the Senator from Arkansas, whether this is the first, second, third, or fourth bill which grants lands to that State, to aid in the construction of railroads?

Mr. BORLAND. I will state to the Senator from Maine, that this is the second bill that has been reported for Arkansas, and that upon an estimate which I have in my desk, it appears that less land will still have been granted to Arkansas, for the same purpose, than has been granted to other States, when this is granted.

Mr. BRADBURY. I made the inquiry because I had the impression that this was the third railroad for which land had been granted in Arkansas. I thought the Committee on Public Lands had adopted the principle of giving land for two railroads in each State, at this session, reserving further action till another session; but as this is only the second, I will say nothing further.

The bill was read a third time, and passed.

#### SAFETY OF PASSENGERS ON STEAMBOATS.

Mr. DAVIS. I wish to say to the Senate, that the bill we acted upon yesterday, as in Committee of the Whole, is now printed, with the amendments, and is in the Capitol. I wish also to say one word in explanation. I did whatever I could do to have this printing done in season for action to-day. I had a promise that it should be here by twelve o'clock, but I have understood, by the Secretary, that whatever effort could be made has been made to have it here. I will merely say, that it is ready for action whenever it is the desire of the Senate to take it up. I shall not move to take it up to-day.

Mr. ADAMS. I move that we proceed to its consideration now. We have yet an hour during which we might consider it; and as to-morrow is private bill day, if it is not taken up to-day, we shall not get it up again this week.

Mr. CHASE. I hope it will not be proceeded with to-day. The bill has not yet been laid upon our tables, and we want a little time to consider it.

Mr. DAVIS. I understand the bill, as printed, is now in the Capitol.

The question was taken on the motion to proceed to the consideration of the bill, and it was not agreed to.

On motion, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, July 8, 1852.

The House met at eleven o'clock, a. m. Prayer by the Rev. L. F. MORGAN.

The Journal of yesterday was read and approved.

The SPEAKER. House bill No. 144, to amend the act entitled "An act to reduce and modify the rates of postage," reported on Tuesday last from the Committee on the Post Office and Post Roads, with sundry amendments, having been postponed until to-day, is the first business in order; the pending question being on the amendments proposed by the Committee on the Post Office and Post Roads.

Mr. OLDS. I wish to say, with regard to that bill, that the gentleman from New York [Mr. Brooks] called upon me for some statistics in relation to the postage under the existing law. The gentleman from New York will readily understand that it is impossible for me to get them, when I tell him that there are more than seventy-odd rates of postage under the law, and probably there are not more than one in a hundred postmasters in the country that can give the information. Some statistics from the Post Office Department were to be here at eleven o'clock to-day, but have not yet come. If the House choose, I would prefer, under the circumstances, to postpone the bill until to-morrow morning. I have another reason for doing so; the gentleman from Kentucky [Mr. Grey] desires to make a report from our committee, that it may be read before the vote is taken upon the Collins line of steamers. It is a proposition for establishing another line of steamers from New York to London, by the way of Galway, Ireland, and for carrying the mail at a round trip, for a sum not exceeding \$10,000.

The question was then taken upon Mr. Old's motion, and it was decided in the affirmative.

So the bill was postponed until to-morrow.

#### MAIL LINE TO GALWAY.

Mr. GREY, from the Committee on the Post Office and Post Roads, to which were referred the proposals of Horace B. Tibbets, made a report thereon, accompanied by a bill (No. 295) "to authorize the Postmaster General to contract for the transportation of the mails between Jersey City, port of New York, and Galway, in Ireland," which was read a first and second time, committed to the Committee of the Whole on the state of the Union, and the bill and the report ordered to be printed.

#### MARY REESIDE.

Mr. OLDS, from the same committee, to which was referred the petition of Mary Reeside, administratrix of James Reeside, deceased, made a report thereon, accompanied by a joint resolution for her relief; which was read a first and second time, committed to a Committee of the Whole House, made the order of the day for to-morrow, and the joint resolution and report ordered to be printed.

#### JOHN J. SYKES.

Mr. FOWLER, from the same committee, to which was referred the petition of John J. Sykes, made a report thereon, accompanied by a bill (No. 296) for his relief; which was read a first and second time, committed to a Committee of the Whole House, made the order of the day for to-morrow, and the bill and report ordered to be printed.

On motion by Mr. FOWLER, it was

Ordered, That the Committee on the Post Office and Post Roads be discharged from the further consideration of the petition of R. J. Lawrenson and others, mail agents of the United States, praying increase of compensation, and that the same be laid on the table.

#### OCEAN MAIL SERVICE.

Mr. OLDS, from the Committee on the Post Office and Post Roads, reported the following resolutions; which were read, considered, and agreed to, viz:

Resolved, That the Postmaster General be directed to transmit to this House a copy of any and all contracts for the transportation of the United States mail, oceanwise, between New York and San Francisco; also a schedule of the time allowed by the Post Office Department for the transportation of said mails, under existing arrangements, between the points above named; also an abstract showing the time at which said mails departed and arrived from and at New York and San Francisco, on each semi-monthly trip performed within the last three months.

Resolved further, That the Postmaster General be directed to transmit to this House any information, if such there be, in possession of the Post Office Department, establishing the fact, that there is now in successful operation one ocean route between New York and San Francisco, affording the opportunity for the transportation of the United States mails between these points, with greater economy and dispatch, than are now afforded via Chagres and Panama.

Also, what offers, if any, are now before the Post Office Department for the transportation of the United States mails between New York and San Francisco, on ocean routes other than by Chagres and Panama. How much time could be gained, and how much money saved, if any, by contracting for the transportation of the United States mails, on such ocean routes, in accordance with such offers.

Resolved further, That the Postmaster General be directed to inform the House what falling off, if any, there has

been in the revenues of the Post Office Department, upon the Chagres and Panama route, from New York to San Francisco, within the last eight months; also, what proportion of such falling off in the revenue is to be ascribed to the reduced rates of postage under the operation of the act of the 3d of March, entitled "An act to reduce and modify the rates of postage," &c.; and what proportion to the transportation of letters by private expresses outside the United States mail, by the same steamers which carry the United States mail under existing contracts; and what proportion to the transportation of letters, by private expresses upon shorter and more expeditious ocean routes than the one by Chagres and Panama.

#### MAIL STEAMERS.

Mr. OLDS, from the same committee, reported the following resolutions:

Be it resolved, That the Secretary of the Navy be requested to transmit to this House copies of all the contracts and supplemental contracts for the construction of naval mail steamers and the transportation of the mails between New York and San Francisco, made by the Navy Department, or by the Navy Department in conjunction with the Post Office Department, on behalf of the United States.

Resolved, That the Secretary of the Navy be also requested to inform this House whether A. G. Sloo, contractor for the transportation of the ocean-steamers mails from New York to Chagres, or his assigns, have constructed and placed in the service of the United States Government the number of steamships required by the contract of the said Sloo; and, if not, how many thereof the said contractor and his assigns have failed to furnish.

Resolved further, That the Secretary of the Navy be also requested to inform this House what amount of money has been advanced to the said Sloo, or his assigns, under the act of August 3d, 1848, to aid in the construction of their steamships, stating the date and amount of each such advance, and the date and amount of each repayment of said advances so far made by the said A. G. Sloo, or his assigns.

Be it also resolved, That the Secretary of the Navy be also requested to inform this House whether the steamships employed by the two companies of contractors for carrying the mails between New York and San Francisco have been built according to the obligations of the contracts under which they were constructed; whether they are so built as to be fit to carry batteries proportionate to the respective tonnage of each such steamships; and also, whether his Department could employ the entire services of the said steamships with advantage to the United States Navy, and to the general interest of the Government.

Mr. STANTON, of Tennessee: I wish to ask the gentleman from Ohio [Mr. Olds] whether the information asked for in that resolution is not covered by one that was passed some time since upon the motion of the gentleman from New Hampshire, [Mr. Peaslee?]

Mr. OLDS. I will say, in reply to the gentleman from Tennessee, that this resolution was drawn up before that was proposed to the House, and that the response to that resolution does not embrace the whole of the information which we seek to obtain. It is true that some portion of it covers the same ground; but it will be no trouble to the Department to furnish it again.

Mr. HOUSTON. I am satisfied that if the gentleman from Ohio [Mr. Olds] will refer to the documents, he will find at least four fifths, if not all, of his information already in two or three documents which are before the two Houses of Congress. One of these resolutions asks for information in relation to the Sloo line, and as to the amount of money paid. If the gentleman will examine the document of this House, No. 91, he will find the precise information from the proper Department. One of those resolutions asks for a copy of the contract, and by a reference to the same document it will be found that the contracts are all here. The gentleman also asks, in another of these resolutions, for the amount of revenue. The amount of revenue is given in several tables in this document, and in the document of the Senate, which I hold in my hand. Almost the entire amount of the gentleman's information is now very clumsily printed, and before the two Houses of Congress, and really much more so than was needed.

If the gentleman chooses to allow his resolution to lie over, and will look to the documents, he will find, I think, every particle of the information he seeks. Another resolution inquires whether the number of ships contracted for have been put upon the line. That, too, is specifically answered by the published documents; and also as to their commission, where built, how and when they were examined, by whom, and when they were accepted by the Government. All the information, from what I could catch of the resolution in hearing it read, is contained in these documents. I think, therefore, he had better let the resolution lie over.

Mr. OLDS. I am aware, as I said before, that a large portion of the information has been given

to the House since the committee ordered these resolutions to be reported; but there are points embraced in these resolutions which have not been given by the Secretary of the Navy. If it will be any trouble to the Department to communicate the information again, I am willing that the resolution shall be referred back to the committee.

Mr. HOUSTON. That will be the better way. Let the committee reexamine it. I move that the resolution be recommitted to the Committee on the Post Office and Post Roads.

The motion was agreed to.

#### ELIZABETH F. THURSTON.

Mr. OLDS, from the Committee on the Post Office and Post Roads, to which was referred a joint resolution for the relief of Elizabeth F. Thurston, of the Territory of Oregon, reported back the same without amendment, and with a recommendation that it be passed.

The resolution was read through.

Mr. O. said: I will state briefly to the House the reasons why the widow of Mr. Thurston seeks to obtain this relief from the Congress of the United States. The Hon. Mr. Thurston, a Delegate in the last Congress from Oregon, under his official franks, sent from here to his residence in the Territory of Oregon, a large number of books, embracing mostly the books that were ordered to be given to the new members of Congress. From the information before us we have no doubt but that there were, perhaps, among those books a few that would not have been covered, and ought not to have been sent under his official frank. Let me say, however, that the same steamer that brought these books to the post office in Lynn City, brought to that city the news of the death of Mr. Thurston. The postmaster at that city refused to deliver these books to the widow of Thurston, alleging that among them there were some that Mr. Thurston had no right to frank.

Now, sir, the committee are satisfied that the postmaster at Lynn did not fully understand the franking privilege. For instance, from a communication published by him in the paper at Lynn City upon this subject, he takes it for granted that Mr. Thurston had no right to frank any book weighing over two pounds. Now it is known to all members of Congress that the Archives, the Congressional Globe, and, in fact, a great portion of the books that were voted by Congress to new members exceed that weight, and Mr. Thurston had the privilege of franking them under his official frank. The committee, although they had information before them that Mr. Thurston did frank a few books that he had no right to frank, are satisfied that a large portion, indeed nearly all of them, were covered by the resolution of Congress, and they therefore desire that the resolution may be passed, and the postmaster directed to deliver these books to the widow of Mr. Thurston. Perhaps Mr. Thurston did not altogether understand how far his franking privilege extended. I ask that the resolution be put upon its passage.

The resolution was then ordered to a third reading, and was read the third time.

Mr. DAVIS, of Massachusetts. Upon the statement made by the chairman of the Post Office and Post Roads Committee, it seems to me that the word "pretense" in the resolution is not a proper word to be used. I move to amend it by substituting the word "allegation."

Mr. OLDS. I have no objection to the amendment. I will accept it.

The SPEAKER. The amendment can only be made by unanimous consent, the resolution having passed the stage for amendments.

There being no objection, the amendment was ordered.

The resolution was then passed.

Mr. FOWLER moved to reconsider the vote by which the joint resolution was passed, and to lay the motion to reconsider upon the table, which latter motion was agreed to.

#### J. P. CONVERSE.

Mr. OLDS, from the Committee on the Post Office and Post Roads, reported a joint resolution for the relief of J. P. Converse; which was read a first and second time by its title, referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

## WHEELING BRIDGE CASE.

Mr. OLDS. The Committee on the Post Office and Post Roads, to which was referred the memorial of the Belmont and Wheeling Bridge Company, have directed me to make a report upon that subject, accompanied by a bill.

Mr. THOMAS M. HOWE. Will the chairman of the committee allow me to ask him whether the bill which he proposes to report contains any provision for regulating the height of chimneys of steamboats? If so, I wish to raise a question of order.

Mr. OLDS. Let the bill be read first.

The bill having been read a first time by its title, was read through for information, as follows, viz :

A Bill declaring the Wheeling Bridges lawful structures, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the bridges across the Ohio river at Wheeling, in the State of Virginia, and at Bridgeport, in the State of Ohio, abutting on Zane's Island, in said river, are hereby declared to be lawful structures in their present position and elevation, and shall be so held and taken to be, anything in any law or laws of the United States to the contrary notwithstanding.*

*And be it further enacted, That the said bridges are declared to be, and are established post roads, for the passage of the mails of the United States, and that the Wheeling and Belmont Bridge Company are authorized to have and maintain their said bridges at their present site and elevation, and the officers and crew of all vessels and boats navigating said river are required to regulate the use of their said vessels and boats, and of any pipes or chimneys belonging thereto, so as not to interfere with the elevation and construction of said bridges.*

Mr. THOMAS M. HOWE. The point of order which I proposed making is this: The Committee on the Post Office and Post Roads being authorized by the 85th rule of the House to take into consideration *only* such petitions and matters or things touching the Post Office and Post Roads as shall be presented or may come in question and be referred to them by the House, it is not competent for said committee to report a bill, or section of a bill, regulating the structure of vessels and boats navigating a river, or in any way to prescribe limitations to the height and use of the pipes and chimneys of such boats, inasmuch as such proposed action would be a regulation of commerce, and therefore foreign to the duties of the Committee on the Post Office and Post Roads.

With the indulgence of the Chair, I beg leave to refer to a precedent. Some six or eight weeks ago, when it was proposed by the Committee on Public Lands to report a bill authorizing a railroad to import iron free of duty, a point of order was raised by the chairman of the Committee on Ways and Means that the committee had traveled out of the line of its duties. It appears to me that analogy will hold good in this case, and therefore I respectfully submit, for the consideration of the Speaker, the point of order that I have raised.

Mr. OLDS. With the permission of the Chair, I desire to reply for a single moment to the objection which has been raised by the gentleman from Pennsylvania.

The SPEAKER. The Chair will be pleased to hear the gentleman.

Mr. OLDS. It is true, sir, that the House in that case decided that the Committee on Public Lands had no right to report upon the subject of limiting the duty upon railroad iron; and for what reason? Why, for the express reason that the matter had not been referred to them by the House, and that that committee had no right to take into consideration the duty upon railroad iron, unless the House directed them to do so. But the analogy does not hold good in this case, for the subject-matter of this bill was referred to the Committee on the Post Office and Post Roads by the House, and we are acting under the authority of the House when we make this report.

Mr. STEVENS, of Pennsylvania. I should like to hear the petition or resolution read under which the committee acted.

Mr. OLDS. If the gentleman wishes to have the petitions read, I will send to the committee room for them, but it will take at least three days to read them all.

Mr. STEVENS. The reading of one petition will be sufficient, and I should like to hear it.

The SPEAKER. The Chair recollects very well that various petitions upon the subject of the Wheeling bridge were referred to the Committee on the Post Office and Post Roads.

Mr. STEVENS. I want the gentleman to show

me any petitions which ask the committee to regulate the height of chimneys, or the structure of steamboats. I suppose the gentleman has them. I hope we shall not proceed further with this matter until the gentleman can produce them.

Mr. OLDS. I will say, on my responsibility as a member, that is one of the very things upon which the Bridge Company have memorialized Congress, and their memorial was referred to us.

The SPEAKER. That being the state of the case, the Chair must overrule the objection raised by the gentleman from Pennsylvania, [Mr. STEVENS,] and decide that this bill is in order; the House having referred that particular subject to that particular committee.

Mr. CARTTER. I would like to see the petitions.

Mr. FOWLER. As a member of the committee who reported this bill, I feel myself constrained, as have two other members of the committee, to present a minority report, which I wish to take the same course as the majority report.

The bill was then read a second time by its title.

The SPEAKER. What disposition does the gentleman propose to make of the bill?

Mr. OLDS. I propose, inasmuch as it is important that action should be had upon this matter by Congress soon, if at all, to put the bill upon its passage. I do not desire, however, to move the previous question, because I am willing it should receive such discussion as the House can give to the subject during the morning hour. But I desire that the bill may not be referred to the Committee of the Whole on the state of the Union, because the order of the court is, that this bridge must be removed by the first of February next. If the matter is passed by at this session of Congress, there will not be time for the company to act.

Mr. McLANAHAN. If it be in order, I move now to refer this bill to the Committee of the Whole on the state of the Union, and that it be printed.

The SPEAKER. That motion is in order.

Mr. OLDS. It is printed.

Mr. McLANAHAN. I will take this occasion to remark to the House, that at an early period in the present session, resolutions passed by the Legislature of Pennsylvania, and approved by the Governor of that State, were referred to the Committee on the Judiciary, and about the same time, sundry memorials purporting to be from citizens of the State of Pennsylvania, were also referred to the same committee; that committee have had this subject under consideration, and it must be evident to the House, that the questions embraced in the case are eminently of a judicial character.

It is now some three or four months since the Committee on the Judiciary have been called upon for reports. They are prepared to report upon this subject. It is one of wide and grave importance, and the object I have in view in making the motion that I have just submitted, to refer this bill to the Committee of the Whole on the state of the Union, is to enable the Committee on the Judiciary to make their report and to have it printed, and laid upon the desks of the members of the House.

The chairman of the Committee on the Post Office and Post Roads has already indicated the character of the questions that are involved. They are questions of vast magnitude—questions that command, and should receive from this House its most serious consideration.

Having stated that this question has been before the Committee on the Judiciary, and that it is properly, and eminently a question for their consideration, and as the period has not yet arrived for them to lay their views upon the subject before the House, I trust that the motion which I have just made will be adopted by the House, and that this bill be referred to the Committee of the Whole on the state of the Union, and printed.

Mr. FOWLER. I stated just now, that two of my colleagues, with myself, have prepared and wish to present a minority report. If the bill and the report of the majority are to be printed, we ask that the minority report may take the same course and be printed with them.

Mr. OLDS. I suppose that it is in order to receive the minority report in connection with the majority report?

Mr. CARTTER. I wish to inquire if the morning hour has expired?

The SPEAKER. It has not. The gentleman from Massachusetts proposes to make a minority report from the committee, and asks that it be laid upon the table and be printed.

Mr. OLDS. I have a word to say in regard to the printing. Inasmuch as the committee designed asking the House to put the bill upon its passage, they had the report printed; it has been circulated and laid upon the desks of members; the minority of the committee have done the same thing with their report. The two reports have been printed, and are now before the House, and there is therefore no necessity for printing them again.

Mr. FOWLER. I desire that the minority report, with the majority report, may appear on the files, and I hope, therefore, that we shall order them to be printed. I hope that they will be printed as a part of the documentary evidence in this case.

Mr. STEVENS, of Pennsylvania. I hope that both the reports may be printed, that it will appear that they were ordered to be printed, and that they may go among the printed documents. I do not understand this mode of printing beforehand by order of the committee.

Mr. OLDS. I have no objection to the printing if it does not delay the action of the House upon the bill.

Mr. STEVENS. Oh, we shall have time enough to act upon it.

Mr. FOWLER. I wish to state that the reports have not been printed by order of the committee. Not at all.

Mr. STEVENS. Well, I want them printed now by order of the House.

Mr. FOWLER. They were printed for the sake of convenience.

Mr. OLDS. Is the motion to refer the bill to the Committee of the Whole on the state of the Union debatable?

The SPEAKER. The motion is to lay the report upon the table, and print it.

Mr. OLDS. The minority report?

The SPEAKER. The Chair understands that to be the motion made by the gentleman from Massachusetts, [Mr. FOWLER.]

Mr. FOWLER. I wish the minority report to take the same course as the majority report.

Mr. STEVENS. I understand that my colleague [Mr. McLANAHAN] moved that the bill and the report be referred to the Committee of the Whole on the state of the Union, and be printed.

The SPEAKER. That is the pending motion, but it relates to the bill and the majority report.

Mr. OLDS. Is the motion divisible, so as to take a separate vote on the printing and on the reference?

The SPEAKER. It is.

Mr. OLDS. Then I call for a division of the question.

The SPEAKER. The Chair understands that the gentleman from Massachusetts proposes that the minority report shall take the same direction as the majority report. The pending motion, therefore, is, that the bill and the reports be referred to the Committee of the Whole on the state of the Union, and be printed.

Mr. WALSH. I want to say but a few words

to the House. I hope the motion of the gentleman from Pennsylvania [Mr. McLANAHAN] will not prevail, because the effect of it must be to render the proposed legislation of no value. As was stated by the gentleman from Ohio, [Mr. OLDS,] in February next, under the decision of the Supreme Court of the United States, this bridge is to be removed. The object in defeating this bill—and I mean no offense to anybody—is not to sustain a few steamboats that have been prevented from going under this bridge, but I believe the ultimate object is to prevent the bridge being used on a line of railroad. But no matter what may be the object of the motion, it can lead to but one result, and that is, to defeat this bill. Now, the House has all the facts of the case in these two reports from the committee. If you want to compel those gentlemen, who have built this bridge without any complaint against it until it was finished, to take it down, why say so at once.

Mr. FOWLER. The gentleman is slightly in error in regard to one point. The suit which has issued in the Supreme Court was commenced some time before the bridge was completed.

Mr. WALSH. That may be. That is not the statement, however, on which I rely. I un-



derstand that is the statement upon your side of the question; but these gentlemen of the company say they never heard a word of complaint until the bridge was finished, or, at least, until they had spent the greatest portion of the money on it.

Mr. GROW. It was in evidence in the Supreme Court, that this injunction was served on them before they put the cables across the river.

Mr. WALSH. Well, sir, however that may be, let us take the vote upon it without sending it to the committee. That is all I want. Let us see whether this bridge is a nuisance, under the decision of the Supreme Court, because a few steamboats are prevented by it from going up the river to Pittsburg. If it is a nuisance, why then do not pass this bill. But do not put it off to a period when we know it cannot be reached, and when the company will be reached by the process of the Supreme Court. I hope a vote will be taken on the bill in the House.

Mr. STEVENS, of Pennsylvania. I think this subject is of sufficient importance to be deliberately considered. The gentleman from Maryland jumps at conclusions, and is possessed of facts which I do not know to exist, and which I am inclined to think do not exist.

Sir, the gentleman speaks of this as if it were a trivial matter. Does he remember that the commerce of that vast river is equal to all that of the port of Baltimore? And is this House to rejudge the judgment of the Supreme Court of the United States *per saltum*, and without a deliberate examination of this question and ample argument? Sir, this matter has been for two years under examination—Chancellor Walworth, perhaps the ablest man in the State of New York, has examined it carefully, upon the spot; engineers have been employed at vast expense, to examine it, and all this is to be swept away with a flourish of rhetoric.

Mr. WALSH, (interrupting.) I did not say the matter was not to be discussed in the House. I only want to defeat the motion of the gentleman's colleague, [Mr. McLANAHAN,] because if this bill goes to the Committee of the Whole on the state of the Union, it will never be reached.

Mr. STEVENS. It is worth sending where all such questions go, and where it can be deliberately examined. Why, this is a summary way of overthrowing the adjudication of the Supreme Court!

Mr. OLDS. Will the gentleman allow me to ask him one question?

Mr. STEVENS. Certainly I will.

Mr. OLDS. The gentleman thinks that because this is an important matter, it ought to be referred to the Committee of the Whole on the state of the Union. I should like to know if the gentleman did not vote to give away sixty millions of acres of the public lands, without any reference of that bill to the Committee of the Whole on the state of the Union?

Mr. STEVENS. That is a kind of argument which I have known some gentlemen use when they knew no other argument. Now, I did not vote for any such thing, and if I had, that is but a shallow kind of question to put when we are arguing a matter of this kind. Was it ever moved to send that bill to the Committee of the Whole on the state of the Union? Did I ever vote against it? or did any other gentleman do it? But that is an episode—a very small episode. I say that here is a question which the Supreme Court of the United States have been engaged in examining for years; they have appointed examiners of the highest character and of the greatest skill; they have taken volumes of testimony, which, if this House means to act intelligently, it must examine; they have adjudicated—

Mr. COBB, (interrupting.) The morning hour has expired; and I therefore move to proceed to the business on the Speaker's table, with a view that we may refer the bills which are upon it to the respective committees.

Mr. ROBBINS. Is it in order now to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

Mr. ROBBINS. Then I make that motion.

The SPEAKER. The Chair is of opinion that the motion of the gentleman from Pennsylvania could not have taken the floor from his colleague, [Mr. STEVENS,] while the motion made by the gentleman from Alabama [Mr. COBB] could have

done it, and therefore that the question must first be put upon the motion of the gentleman from Alabama.

Mr. HUNTER. I wish to inquire of the Chair, if the bill in relation to the Wheeling bridge case will come up the first thing to-morrow morning?

The SPEAKER. It will be the first business in order during the morning hour.

Mr. HOUSTON. I wish to make a suggestion to the House, which, I think, will meet with general concurrence. By going into committee this morning, the presumption is, that we can get through with the deficiency bill to-day, which is greatly to be desired. If we appropriate an hour or two to the business on the Speaker's table, we shall not be able to finish the deficiency bill to-day, and it will probably consume the whole of to-morrow.

Mr. COBB. I can obviate that difficulty by withdrawing my motion, if the gentleman from Pennsylvania [Mr. STEVENS] will yield the floor for a motion to go into committee.

Mr. STEVENS. Certainly; I yield the floor for that purpose.

Mr. COBB. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

#### DEFICIENCY BILL.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN stated, as the business before the committee, the consideration of the Senate amendments to House bill No. 207, "to supply deficiencies in the appropriations for the service of the fiscal year ending June 30th, 1852." The pending amendment of the Senate, proposed to the clause of the original bill, which provides for the payment of interest on the amount awarded to the Choctaw claimants, under the fourteenth article of the treaty of Dancing Rabbit Creek, in 1830, was then read, as follows:

"Provided, That after the 30th day of June, 1852, all payments of interest on said awards shall cease, and that the Secretary of the Interior be, and he is hereby directed to pay said claimants the amount of principal awarded in each case respectively, and that the amount necessary for this purpose be, and the same is hereby appropriated: Provided further, That the final payment and satisfaction of said awards shall be first ratified and approved as a final release of all claims of such parties, under the fourteenth article of said treaty, by the proper national authority of the Choctaws, in such form as shall be prescribed by the Secretary of the Interior."

Mr. HOUSTON. The Committee on Ways and Means propose to amend that amendment of the Senate by inserting, on page twenty of the printed bill, line seventh of the amendment, after the word "appropriated," the words "not exceeding \$872,000."

The amendment is intended, as will be seen at once by every member of the committee, to make the item proposed to be appropriated specific of itself. I did not regard the amendment proposed by the committee as important, but the committee did. It certainly does not do any harm. The \$872,000 is the exact amount that is due under the treaty referred to.

Mr. HUNTER. I wish to ask the chairman of the Committee on Ways and Means a question in relation to this amendment. I see that in this bill a provision is made for the payment of the interest of the last fiscal year, and this other provision that the principal shall be now paid. Again, I find in the Indian appropriation bill an appropriation made for paying the interest for the present fiscal year. I wish to know why that provision was put in the Indian appropriation bill for paying the interest on a principal, which principal, by the provision of this bill, is to be paid now?

Mr. HOUSTON. The reason why the Committee on Ways and Means inserted in the regular Indian appropriation bill a provision for paying the interest for the fiscal year ending June 30, 1853, upon the amounts awarded to the Choctaw Indians, was, that there was no proposition before the committee, when they reported the Indian bill, for the payment of the principal. That bill was reported to the House early in January, I think, very long before the bill now under consideration was reported. This amendment, proposing to pay up the principal and stop the interest, now comes from the Senate. If we agree to and pass this amendment, why, as a matter of

course, when we come to the Indian bill, the appropriation therein, which has been referred to by the gentleman from Ohio [Mr. HUNTER] must be stricken out. I do not see the gentleman from Tennessee, [Mr. WILLIAMS,] who told me yesterday that he had an amendment which he desired to propose to this amendment of the Senate. I will ask a vote upon the amendment proposed by the Committee on Ways and Means.

Mr. JONES, of Tennessee. I move to strike out from the amendment offered by the committee, the sum of \$872,000, and I do it for the purpose of stating one or two reasons why I shall support the amendment. By our treaty with the Choctaw Indians, we owe them \$872,000. Upon that amount we are, and have been, paying interest at the rate of five per cent. from the time the stock became due, to them, under the treaty, down to the present time; and we must continue to pay that interest until this amount of principal is paid, which of course will at some time have to be paid. My rule is, that it is always best, in public as well as in private affairs, to pay our debts when we have the money, and thus stop the interest. As we must at some time pay this debt, and as we have as much money in the Treasury now as we probably will have at any future time, and this being one of the debts which we have a right to pay without paying premium upon it, I think it is a sound policy to make this appropriation, and thereby liquidate the debt, and stop the interest.

I withdraw my amendment.

Mr. WILLIAMS. I wish to offer an amendment.

Mr. HOUSTON. Allow me to say to the gentleman from Tennessee, [Mr. WILLIAMS,] that I only ask now that the amendment proposed by the committee shall be voted upon, and then the amendment will be open to amendment.

Mr. JONES. I withdraw my motion to amend.

Mr. WILLIAMS. I do not know what the amendment of the committee is. I want to make a statement in regard to this matter. Perhaps I do not understand it, but I think I do. This provision, Mr. Chairman, passed by the Senate, provides for the payment of \$872,000, under the fourteenth article of the treaty of 1832, with the Choctaw Indians. That treaty provides that the first payment of \$872,000 was to be paid previous to the removal of the Indians west of the Mississippi river. The last \$872,000 was not to be paid until after they should have emigrated west of that river.

According to the report of the Commissioner of Indian Affairs, there are some eleven hundred Choctaw Indians not yet removed west. If this amendment should pass, and this money be appropriated, it would be a virtual violation of the treaty, and it does not accomplish the object that was designed in appropriating the \$872,000, for the eleven hundred Indians remain unmoved to the west of the Mississippi.

In addition to that, this money is not asked for by the Choctaw nation; and I desire to offer an amendment, which I will now have read, and which will explain very fully my object. I desire the Clerk to read the amendment.

Mr. HOUSTON. I should like to have a vote taken upon the amendment, and then let my friend from Tennessee [Mr. WILLIAMS] offer his amendment. Let the vote be taken, so that we may be able to make progress in this matter.

Mr. WILLIAMS. I wish to have the amendment read.

The SPEAKER. The gentleman can have his amendment read for information, during the five minutes to which he is entitled.

Mr. HOUSTON. The gentleman has no ground for making a five minutes speech. I do not want to be captious; but, on the contrary, want to hear him; but let us proceed in order.

Mr. WILLIAMS. I withdraw my amendment for the present.

The question was then taken on the amendment proposed by the Committee on Ways and Means; and it was agreed to.

Mr. WILLIAMS. I offer, as an amendment to the amendment as it now stands, what I send to the Clerk's table.

The proposed amendment was read, as follows:

"Provided further, That said amount of \$872,000 shall not be paid until after the entire removal of the Indians west of the Mississippi, and then to such only as signify their desire, through the Choctaw agent, to have the same paid, and that the amount due to orphans shall not be paid until they arrive at the age of twenty-one years."

Mr. WILLIAMS. It will be perceived by the committee that the simple object I have in view in proposing that amendment is, that the treaty stipulation shall be complied with, before any of this money, under the act appropriating it, shall be paid—to wit, that the Indians shall be removed west of the Mississippi river. It is understood that the Choctaw nation is asking, through her delegation here, that this money should be paid; hence I provide, whenever the persons having a right to claim under the treaty, desire the payment, they shall make known that fact, and signify to the agent their desire to have it paid; and, lastly, that to those who are under age, the Government of the United States, the guardian for the Indians, shall not pay the money until they arrive at the age of twenty-one years. But the interest that accrues upon it is properly and justly due to the minor Indians.

By adopting this amendment, sir, the appropriation of \$43,000, in the Indian appropriation bill, with a slight modification, will be proper to pass. But if that amendment is rejected, and the \$872,000 under the treaty is ordered peremptorily to be paid, of course the \$43,000 in that Indian bill, with interest until June 30, 1853, should be stricken out.

Mr. HOUSTON. Of course that will be stricken out.

Mr. WILLIAMS. As many of the Choctaw Indians as have removed west of the Mississippi river can, by making it known, receive their money, under the provisions of this bill; but is it proper that this \$872,000 shall be appropriated in this side-bar manner, without examination, without investigation, and without a compliance upon the part of the Indians, with the treaty stipulations? Why this hot haste to pay a debt that we owe? Have the terms of the treaty been complied with? Not at all. If they have been complied with, then I insist that this Government being the guardian of the minor Indians, would be violating their duty in paying this money into the hands of irresponsible persons, thus to be wasted.

Mr. HOUSTON. The chairman of the Committee on Indian Affairs is not here, but he feels a great interest in having this amendment agreed to substantially, as it is now, after being amended by the adoption of the amendment recommended by the Committee on Ways and Means. I do not myself think the question is free from embarrassment, but there are difficulties in taking either course.

In the first place, this amount of money proceeds from one half of the land scrip which was due to the Choctaw Indians upon their removal west. With a view to secure their removal, the Government agreed to give them a certain amount of land. The land they did not get, and the Government then agreed to give them scrip at the rate of \$1 25 per acre. That the Government did. One half of the scrip was deliverable to them at their old home, and the other half when they should have removed to their new homes west of the Mississippi. The half of the scrip, which they have already received, has been expended, and is gone. Most of the Indians have removed, in pursuance of the terms of the treaty, west of the Mississippi river. There still remain, as remarked by the gentleman from Tennessee, [Mr. WILLIAMS,] some ten or eleven hundred, in the State of Mississippi.

The proposition now is to pay to these Indians the money for this scrip, and let them use it as they please. The gentleman is mistaken in the view he presents, that this provision requires that the nation, in its national authority, shall give its assent to the payment of the money, before it shall be paid.

I think this money should be paid, and the interest be stopped. I do not, however, speak of this matter merely in a pecuniary point of view. Whatever is fair, and proper, and right, I wish to do. The greatest number of acres ever given to any one Indian, was a half section, three hundred and twenty acres, which, when land scrip was substituted therefor, amounted to but \$400. Others received various amounts, from \$400 down to \$200, and some, I believe, less. These amounts were due to the heads of families. In very many cases, probably hundreds, the heads of families have died, leaving heirs, some of age and some not of age, and now the amount of interest going to them under the treaty, in very many cases, is

from a dollar and a quarter to two dollars per head to those who are entitled. That amount is not worth coming here for, it is not worth sending for, and it is not worth going to an agent to collect.

Mr. HUNTER, (interrupting.) I wish to ask the gentleman if it is not expressly provided by the terms of the treaty, that the money shall not be paid until all the Indians are removed?

Mr. HOUSTON. The terms of the treaty are that it shall be paid after the Indians shall have removed west. There are some who have not gone west. That is the difficulty in the way. But the Government of the United States, if it finds that it will be for the benefit of the Indians to do so, may release that provision of the treaty. The operation of the provisions of this treaty seems to be becoming vexatious, because it requires the agent to pay to so many, and in such small sums, and to the heirs of particular Indians, oftentimes requiring proof.

Mr. WILLIAMS, (interrupting.) What is the amount as proposed to be distributed by the Senate amendment?

Mr. HOUSTON. Eight hundred and seventy-two thousand dollars.

Mr. WILLIAMS. That is not a very small sum.

Mr. HOUSTON. The very largest amount that goes to any one Indian, under that provision of the treaty relating to this scrip, is \$400, and if an Indian dies who is entitled to that amount, leaving half a dozen children, the interest on that \$400, which, at five per cent., is twenty dollars, is to be distributed among all those children.

Mr. WILLIAMS. I wish to state, simply, that the Commissioner of Indian Affairs has asked for \$75,000 to remove these Indians. What inducement will they have to go west if this amendment is not adopted? None whatever. I ask for tellers upon the adoption of the amendment.

Mr. HOWARD. That amendment will defeat the whole subject of the Senate amendment.

A division was taken on the demand for tellers, and they were not ordered.

The question was then taken on the adoption of the amendment offered by Mr. WILLIAMS, and there were, on a division—ayes 27, noes 79; no quorum voting.

Mr. CLINGMAN. I demand tellers.

The CHAIRMAN. By unanimous consent of the committee the vote may be taken by tellers.

Tellers were ordered, and Messrs. CHANDLER and HARRIS of Tennessee, were appointed.

The question was again put on the amendment, and it was not adopted, the tellers having reported—ayes 44, noes 82.

The question then recurred on the amendment of the Senate, as amended; which was adopted.

The fourteenth amendment of the Senate was read, viz:

“Strike out the following:

“For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, and to negotiate with said Indians, under instructions from the Commissioner of Indian Affairs, for their removal from that State to some designated unoccupied territory of the United States, \$25,000.”

“And insert in lieu thereof the following, viz:

“For the purchase of presents, and to negotiate, under instructions from the Secretary of the Interior, with the Indians in Texas, who have intruded themselves into that State from the territories of the United States, for their removal from that State, \$25,000.”

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to move an amendment to the amendment of the Senate. I ask the attention of the House to it. I move to strike out of the amendment, from the word “who,” in the third line, to the word “States,” in the fourth line inclusive, so that the Senate’s amendment, if amended, will read:

For the purchase of presents, and to negotiate, under instructions from the Secretary of the Interior, with the Indians in Texas, for their removal from that State, \$25,000.

The object of the Committee on Ways and Means in moving to strike out these words must be apparent. This amount of money was intended by the House to embrace also another object, which the Senate has thought proper to strike out of the bill. That body considered this sum necessary for the purpose of removing the Indians from the State of Texas, if they can be induced to remove at all, to some place where the Government of the United States can have proper control

over them. The relations between this Government, the State of Texas, and the Indian tribes within that State, are very complicated and unsatisfactory; and those relations, I fear, can never be improved until this Government removes those tribes, and puts them in its own territory, and in that way avoid conflicting claims of jurisdiction between that State and the Federal Government. Questions of jurisdiction, as well as other perplexing questions, present themselves in our management of those tribes, and always will, unless we withdraw them from the jurisdiction of that State. This appropriation is intended to accomplish that object, and the Committee on Ways and Means thought it best to strike out those words, which restricted the appropriation to the particular tribes specified in the Senate’s amendment, so that it might apply to all the tribes in that State, that we might free ourselves from the perplexity and trouble so often growing out of our Indian relations in that State, and at the same time stop, at least to some extent, an unnecessary expense, and save our frontier citizens from frequent outrages and depredations upon their persons as well as their property.

Mr. FITCH. I do not know that there is any real objection to the amendment of the Senate, as modified by the Committee on Ways and Means, unless there be an actual deficiency for the payment of certain officers in Texas, as provided in the original House bill.

Mr. HOUSTON. The House originally appropriated, in the bill which they sent to the Senate, \$15,000, for the purpose of paying special agents in Texas. Ten thousand dollars were added on the motion, I believe, of the gentleman from New York, [Mr. Brooks,] or of the gentleman from Indiana, [Mr. FITCH,] intended to enable the proper Department to negotiate with those tribes of Indians for their removal from that State, and in that way the appropriation was increased to \$25,000. After the bill had passed this House, it was ascertained that the Indian Department had committed an error in estimating \$15,000 for special agents in Texas, that sum having been appropriated in the civil and diplomatic bill, and not in the regular Indian bill. It is true, however, that the appropriation was made for special agents in Texas, for the year ending 30th June, 1852, and it is also true that there is no deficiency wanted for that object, and that the item was properly stricken from the bill. I presume the reason why the error was committed by the Indian Office, is because the appropriation was made by the last Congress in the wrong bill.

Mr. FITCH. That explanation is entirely satisfactory.

The question was put on the amendment of Mr. HOUSTON, and it was agreed to.

The question then recurred on the adoption of the amendment of the Senate as amended; which was agreed to.

The fifteenth amendment of the Senate was agreed to, viz:

“Insert in page 9, after the clause appropriating \$17,000 for continuing the collection of statistics and other information, authorized by the act of 3d March, 1847, the following proviso:

“Provided, That the work shall be completed in five volumes, and at least one volume shall be published in each year until the whole series of five volumes shall be finished.”

The sixteenth amendment of the Senate was agreed to, viz:

“In page 10, line 226, strike out the word ‘Indians,’ and insert ‘Indiana,’ in lieu thereof.”

The seventeenth amendment of the Senate was read, as follows:

“Page 12, after line 275, insert:

“For the reappropriation of \$10,000 for the redemption of outstanding loan-office and final-settlement certificates, this being a portion of the sum of \$37,589 59 heretofore appropriated for that purpose, and carried to the surplus fund on the 31st day of December, 1843: *Provided*, That hereafter all claims on account of such loan-office and final-settlement certificates, unless presented at the Treasury of the United States within two years from the passage of this act, shall be considered as barred, and not thereafter payable.”

Mr. HOUSTON. The Committee on Ways and Means recommend the adoption of an amendment to that amendment, to strike out all after the word “the” in the first line. The \$10,000 appropriation there made is for the purpose of redeeming these outstanding loan-office and final-settlement certificates. The Committee on Ways and Means called on the proper Department, and ascertained the amount that was presented for pay-

ment. They now propose, in lieu of what is moved to be stricken out, the actual amount that is before the Treasury Department for payment.

The Clerk read the amendment, as follows:

Strike out all after the word "the," in the first line of the Senate's amendment, and in lieu thereof, to insert the following:

Redemption of outstanding loan-office and final-settlement certificate, dated September 9th, 1779, countersigned by Nathaniel Appleton, commissioner of Massachusetts Bay, issued for \$200, specie value \$10 78-19, \$57 72."

Mr. STEVENS, of Pennsylvania. I think there must be some great mistake about this business. For the last several years the committee in this House have reported bills retransferring and reappropriating the sum of \$24,500 for the objects specified in this clause of the bill. Now, sir, there are certainly \$20,000 or \$30,000 outstanding, and if the Department have reported no more than the amount mentioned, it is because they did not know where to look for it. I have had sent to me, within a week, an unpaid certificate for \$4,000 currency, which is outstanding. I have it at home. I did not bring it down. Now, sir, there are more than \$24,000 of loan-office certificates still unpaid, in my judgment the most meritorious class of claims. The only reason they have not been paid is because this fund has not been sufficient. The committee knows perfectly well what these loan-office certificates were given for. In the time of the Revolution, when the Government was without money, individuals were called upon to furnish provisions, material for cannon and the various munitions of war, and certificates were given for the payment of them. Many of those certificates have been settled. Many of them have been paid, but there are still outstanding between \$20,000 and \$30,000.

Mr. JONES, of Tennessee. I wish to ask the gentleman whether the certificate, to which he refers, is of this particular description?

Mr. STEVENS. It is of this particular description, and given to Curtis Grubb & Co., for furnishing cannon during the time of the Revolutionary war. I have a copy of it settled on the books. The only difficulty was, there was no appropriation to pay it.

Mr. HOUSTON. The gentleman is under a very great mistake. I have here the letter from the accounting officer on that subject. There is but this one certificate, and the Committee on Ways and Means concluded, I believe unanimously with the Department, that these claims ought to be paid. No member of the committee hesitated about that; but we objected to the appropriation, or reappropriation, of \$10,000, to let it run on for twenty years, as it has been doing before. There has been no certificate turned off for the want of appropriation—not a solitary one—and this is the only one left.

Mr. STEVENS. Let me explain. The reason why the certificate I have referred to has not been paid before that appropriation ran out, was, that it was lost, and could not be accounted for. It has been lately found, and sent on to me.

Mr. HOUSTON. In 1843 there were \$37,589 59 standing to the credit of these outstanding loan-office certificates. Year upon year it was standing there, and in 1843, no certificates being presented, it was carried to the surplus fund. Now, instead of appropriating the gross amount, the committee believed it was the best way to appropriate for each claim as it came up. This was the only claim presented to the Department. The letter from the Department furnishes the calculation, and recommends the appropriation of \$57 72 cents. There are a large number of claims outstanding, as shown by the books of the Department. The gentleman is right there; but there are many of them, probably four fifths, that will never be presented.

The question was put on the amendment submitted by Mr. HOUSTON, and it was agreed to.

The question then recurring on the amendment of the Senate as amended, it was adopted.

The eighteenth amendment, to insert at the end of the clause in page 13, appropriating \$1,500 for the payment of Messrs. Babcock, Wilkinson, and Holcombe, for revising the laws of the Legislative Assembly of Minnesota, was read, as follows:

"Provided, That hereafter no expenses incurred by a Territorial Legislature shall be paid out of the Treasury of the United States, unless previously sanctioned by law."

Mr. HOUSTON. This amendment is attached by the Senate to a provision in the House bill

making appropriations for codifying the laws of Minnesota, and for several other things not previously authorized by law. The restriction of the Senate, I think, is right.

Mr. MEADE. This strikes me as a very extraordinary amendment.

The CHAIRMAN. Unless the gentleman submits an amendment, his remarks are not in order.

Mr. MEADE. My purpose in rising is to ask of the chairman of the Committee on Ways and Means what necessity there is for provision by law that no money shall be taken out of the Treasury contrary to law? Before he answers that question, I would suggest to the chairman of the Committee on Ways and Means that his position is unfavorable to be heard by the House. I have been endeavoring to listen to his explanations, but he carries on a colloquy with those around him, and I cannot hear: I would wish the gentleman to get some other seat; for he is familiar with all these things, and I should like to hear the explanations of the chairman of the Committee on Ways and Means, as to the necessity of providing by law that that shall not be done which is contrary to law.

Mr. HOUSTON. The necessity of this amendment proceeds from the fact that the Territorial Legislatures have been in the habit of incurring expenses and liabilities without authority of law; and I illustrated it by referring to the case in this bill. We appropriated, as the committee will remember, \$1,500 to pay three attorneys in Minnesota for codifying the laws of that Territory. We appropriated other moneys to meet liabilities which the Territory of Minnesota have incurred before the money was asked for, or any law passed authorizing or justifying it. Now it is intended to put a stop to all that sort of expenditure, and that way of incurring liability, which will appeal to this Government and Congress in a way that Congress has never been known to resist—for they come here and say that they have already expended \$1,500, and already incurred the liability. They have employed two attorneys to codify the laws, and have incurred a liability in various other things; and we are not able to resist an appeal from the Territorial Delegate for the appropriation of funds under such circumstances. This provision is intended to say to the Territories, that unless Congress passes a law authorizing particular expenditures to be made, they shall not incur that liability.

Mr. MEADE. I will ask the chairman of the Committee on Ways and Means whether there has been any money paid out of the Treasury contrary to law, or not previously sanctioned by law, for these expenditures?

Mr. HOUSTON. The gentleman misapprehends the amendment. The amendment says, "that no expense incurred by the Territorial Legislature shall be paid out of the Treasury of the United States unless previously sanctioned by law." This is not intended to apply to the payment of money out of the Treasury, but to the incurring of expense on the part of the Territorial Legislatures. The words are not very fully used.

Mr. MEADE. It seems to me that the amendment does not reach the case. If no money has been paid out of the Treasury in consequence of these liabilities incurred by Territorial Legislatures, then here is a corrective to an evil which does not exist. The evil I understand to be, that a Territorial Legislature goes on and incurs liabilities without having previously an appropriation made to meet them. If this is the evil to be remedied, that amendment should be changed in phraseology, so as to inhibit the Legislatures of Territories incurring such expenses.

Mr. JONES, of Tennessee. If the gentleman will permit me, I will read what is now the law—a proviso to the act of 1842—and to which it appears the Territorial Legislatures pay no regard. It reads as follows:

"Provided further, That the Legislative Assembly of no Territory shall hereafter, in any instance or under any pretense whatever, exceed the amount appropriated by Congress for its annual expenses."

Their disregard of this has made it necessary, in the opinion of the Senate, to reenact something of the same sort, and to put them in mind that there is such a law in force.

Mr. MEADE. Then I presume—

Mr. CARTTER. I will inquire whether the gentleman is in order?

The CHAIRMAN. The gentleman from Virginia is in order, if the Chair understood him correctly—if he made a motion to strike out this amendment.

Mr. MEADE. That is my motion. It seems to me that, by the general courtesy of the House, when we are trying to get the whole House into correct legislation upon any subject, a little consumption of time ought not to be objected to by members who are desirous of passing proper laws.

It is proposed, then, to reenact the law of 1842, which has been read by my worthy friend over the way, [Mr. JONES, of Tennessee.] And what is the necessity of it? It appears to me to be trifling with the wisdom of the country, that we should ever pass a law which is commonly disregarded, according to the statement of the chairman of the Committee on Ways and Means. It seems to me, that the only corrective is to refuse to pay the money. This declaration, that we will not pay will not be heeded so long as we do pay. This amendment is only a reenactment of the law of 1842.

Mr. SIBLEY. Is it in order to move an amendment to this amendment?

The CHAIRMAN. It is not.

Mr. JONES, of Tennessee. I submit the question to the Chair, whether the motion of the gentleman from Virginia to strike out the whole amendment, is itself in order?

The CHAIRMAN. If that question had been raised, the Chair would have decided that it was not in order.

Mr. JONES. Then it is not too late. I make that question now.

The CHAIRMAN. The Chair must decide, then, that the motion of the gentleman from Virginia is out of order.

Mr. JONES. I presume, then, that the gentleman from Minnesota [Mr. SIBLEY] can offer his amendment?

Mr. SIBLEY. I move to strike out of the proviso the words "unless previously sanctioned by law." I do this for the purpose of saying a few words upon the subject before the committee. I am opposed to the amendment of the gentleman from Virginia, [Mr. MEADE.] It is true there is a provision in the law of 1842, prohibiting the authorities of the several Territories from exceeding the amount appropriated by Congress for the support of the government therein. But, Mr. Chairman, that law was passed before the organization of any of the Territories now in existence, and it is highly desirable that it should be brought forward for the information of all concerned, as the renewed expression of a determination to restrict the Legislative Assemblies in the Territories within the limits prescribed in the annual appropriations made by Congress. In my opinion, the Senate clause should be retained as a standing admonition to the territorial authorities.

But inasmuch as that clause has been appended to the section in the deficiency bill, making provision for the payment of certain liabilities which had been incurred by the Legislature of Minnesota in advance of an appropriation, and the remarks of gentlemen who have preceded me would seem to intimate that there was something very censurable in that body for so doing, I beg leave to state, that each and every item provided for was introduced and pressed through this House and the Senate by me, with a full conviction that it was right and proper in itself, and ought to be paid. The Legislative Assembly did not desire to exceed the amount appropriated, but necessity prompted that body to anticipate the action of Congress, in appointing a commission to prepare a code of laws, in making arrangements to meet the expenses of printing and binding the volume for circulation among the people, and in providing for the payment of certain individuals who had performed valuable services more or less directly connected therewith. This was the exigency that justified the territorial authorities in the seeming disregard of the prohibitions of the law of 1842. The Legislature would not have asked, nor would I have been the medium of preferring a request that Congress should sanction, by its action, any anticipation of its usual appropriations, not rendered indispensable by the circumstances of the case. Admitting that the clause passed by the Senate is but a reiteration of an existing law, as contended by the gentleman from Virginia, [Mr. MEADE,] there can no harm arise from such a



repetition. The Territorial Assemblies will have their attention directed particularly to it as their future rule of action; and for my own part, I am not anxious to have the responsibility thrown upon me of bringing forward hereafter any claims for liquidation which may have arisen from the action of the Legislature of my own Territory, in exceeding the amount appropriated by Congress. I have found that hill very difficult to climb, and although I have happily reached the top in this particular case, the difficulties in the path are of too formidable a character to invite a second trial. I repeat the expression of my desire, that the Senate clause may be retained. I withdraw my amendment with the consent of the committee.

Mr. MEADE. It seems to me, then, that this amendment only proposes to intimate, in a very kind manner, to the Territorial Legislatures, that they have sinned heretofore, and being forgiven, they must not sin any more. That is just about the amount of it; and it seems to me that we are acting very childishly to employ our time here in such legislation as this. But it is said that it is only an admonition. I would ask the chairman of the Committee on Ways and Means, whether that admonition has not been already given, and why should it be repeated? If we have already said to the Territorial Legislatures, that though we will pay you this time, yet we will not do so any more, why keep on repeating that admonition?

Mr. SIBLEY. If the gentleman will allow me, I will state that no case has arisen thus far, which has required anything like a reprimand from Congress. These appropriations were right in themselves, but there was no authority or power on the part of the accounting officers to allow them.

Mr. MEADE. Suppose a like case should arise hereafter?

Mr. HOUSTON. If the gentleman will allow me, I will say again—and the gentleman from Virginia knows this as well as any other member—that Congress has been always remarkably indulgent, and very liberal to the Territories. A very loose principle has therefore grown up, and there has been a disregard somewhat of the proviso in the law read by the gentleman from Tennessee, [Mr. JONES.] It becomes necessary, consequently, in the opinion of the Delegates themselves, that the Territorial Legislatures should be directed on the subject in some pointed manner, so as to show to them that they must not disregard existing laws hereafter, under no circumstances. I would like to know what harm the reenactment of such a provision can do?

Mr. MEADE. It seems to me that the best admonition to a Territorial Legislature would be through the Executive Department, and not by the reenactment of a law. The gentleman from Alabama says that we have been remarkably generous and liberal towards Territorial Legislatures under particular circumstances. Suppose the same circumstances were to occur again, and the same necessity should exist for these appropriations by this Territory, would we not be as ready to forgive that Legislature as we are now in the particular instance cited by the gentleman from Minnesota, [Mr. SIBLEY?] Surely this thing must be done by the Executive of the country. It is an act of supererogation. It is inserting a provision in your code without an object before it, and there is no way of executing it at all. But these things must be trusted to the Executive officers of the Government, and not to the legislative department.

Mr. SIBLEY. I withdraw my amendment. The question was then taken, and the amendment of the Senate was disagreed to.

The nineteenth amendment of the Senate, next in order, was stated by the the Chair to be the following, viz:

"Insert on page 13th, after line 289, 'for contingent expenses of the Senate, \$137,775.'"

Mr. JONES, of Tennessee. The Committee on Ways and Means, I believe, recommend a non-concurrence in this amendment. Before that question is taken, though, I move to amend the proposition by striking out \$137,775, and inserting \$133,203 68. I will submit the facts of this case, so that each gentleman in the House, with the facts before him, may vote as he thinks proper. It will be recollected by reference to the last civil and diplomatic appropriation bill, that \$150,000 were appropriated for the contingent expenses of

the Senate. An account has been rendered showing how that money has been expended. I will read it:

*Memorandum, showing, under general heads, how the appropriation for the contingent expenses of the Senate, for the year ending the 30th June, 1852, have been expended.*

For Printing.....	\$25,673 12
" Binding.....usual	\$6,235 42
" Do.....extra documents	10,667 77
" Lithographing.....	17,903 19
" Stationery.....	30,515 97
" Congressional Globe, and other books.....	11,279 00
" Clerks—to President <i>pro tempore</i> , committees—draftsman, messengers, pages, folders, police, horses and carriages.....	17,264 39
" Printing and publishing proceedings and debates.....	23,230 73
" Expenses of L. Kossuth.....	8,502 08
" Fuel, newspapers, furniture, advertising, upholstering, and all other expenses.....	4,566 32
	\$150,000 00

The Senators, no doubt correctly, say that the expenditure of their contingent fund is a matter with which the House has nothing to do. I know that they are responsible for it, but if I know how it is spent—the items which compose this \$287,775 of contingencies in one year for the Senate, I hold myself as much responsible for that expenditure as those who voted it out of that fund, after they had received it through the appropriation bill, into the hands of their Secretary.

Now, sir, here is a bill paid to the Messrs. Brown, hotel-keepers of this city, for Louis Kossuth and his suite, of \$4,566 32. For that, I never intend knowingly to vote, directly or indirectly.

Several Voices. "Read the items."

Mr. JONES. The items are as follow:

To Board for Governor Kossuth and suite, having ten parlors and twenty-two chambers, thirteen and a half days—twenty-three persons.....\$3,588 00

SUNDRIES—  
Champagne, sherry, madeira, cigars, lemonade, bar-bill, washing, medicines, post office stamps, portage and messengers, hack-hire paid at different times, telegraphs, sugar, brandy, and whiskey in room, porter and ale, envelopes, barber's bill—amounting in all to... 658 82  
Bill for carriages engaged for Governor and suite.. 319 50

\$4,566 32

That is a bill for twenty-three persons during thirteen and a half days, amounting, I believe, to some \$14 per day for each person.

Then, sir, I have here a bill furnished by the keepers of the National Hotel, at which Kossuth and his suite stopped on their return here from the South, when they were upon their own expenses. I believe there were then six persons; they stopped at the National Hotel about four days, and their bill was \$74, being \$3 08 per day for each person, when they were paying their own expenses, and something over \$14 per day for each person when this Government was paying their expenses.

These are the facts, and some of the reasons, why this appropriation is asked for by the Secretary of the Senate. It is true, as I said before, that they are responsible for the manner in which this money has been expended, but—

Mr. FREEMAN. Has the money been paid?

Mr. JONES. It has been paid out of the \$150,000 appropriated in the civil and diplomatic appropriation bill of last year.

Mr. FREEMAN. Then how are you to get it back?

[Here the hammer fell.]

Mr. CARTTER. I am opposed to the amendment. I think that the smallest work that this committee can engage in is to be hunting up the details of a bar bill. It is digging the smallest potatoes that this committee has ever been engaged in. [Laughter.] If the principles promulgated by Louis Kossuth in the United States, and the hatred generated by the promulgation of those principles, cannot be contested in a more manly manner than by crawling around bar-rooms to pick up wine bills, for the purpose of doing it, we had better let it alone.

Mr. JONES. Did the gentleman say that I had been crawling round bar-rooms?

Mr. CARTTER. No, sir; I did not.

Mr. JONES. I wish to ask the gentleman one question; would he vote to pay the bill?

Mr. CARTTER. I would vote to pay that bill if it was four times the amount it ought to be, and never disgrace this body by a cavil about it. That

answer will be understood. We ought not to descend to it.

Sir, Louis Kossuth came here as the guest of the Senate. So far as this bill is concerned, he was under the supervision of a committee of that body—not dealing himself with these inn-keepers, but through the committee that the Senate had appointed for that purpose. This attempt to disgrace him, or the great and eternal principles which lie behind his mission, by scrutinizing his bills for brandy and ale, is striking too low, it appears to me, for the National Legislature.

Sir, I hope that the amendment will be agreed to, and for no other reason—if there is no other—than that this body may vindicate its manhood by refusing to descend to the details of a bill that has already been foreclosed by the action of the Senate, and that was incurred under the management of a committee of the Senate. The bill has been paid, and it can be revived here for no other purpose than as an attempt to play upon the low prejudices of the ignorant, in reference to the principles that Kossuth—pleasantly to some, and unpleasantly to others—has aided in sowing broadcast over this continent—thank God for it!

The question was then taken upon Mr. JONES's amendment, and it was not agreed to.

The question then recurred upon agreeing to the amendment of the Senate.

Mr. HOUSTON. I have just received a bill from the Senate, and I have had no time to confer either with the Secretary of the Senate, or with the chairman of the Finance Committee of that body in relation to it. But it may be that this is the proper place to offer an amendment for its payment, and I will, therefore, submit it to the House, and leave the House to dispose of it as it pleases. I move to insert after the word "dollar," in the third line of the amendment, the following, "and also forty-four thousand and thirty-seven dollars and twenty-two cents, for the payment and mileage of Senators for the Thirty-second Congress."

I will now send to the Clerk's desk, to be read, a statement by the Secretary of the Senate of the amount required, and so forth.

The Clerk read the statement, as follows:

OFFICE SECRETARY SENATE U. S., July 8, 1852.

SIR: I have the honor to state, that a further appropriation is needed for the compensation of Senators, as will be seen in the following statement:

The whole amount of mileage and per diem which accrued at the late special session of the Senate was—  
Per diem.....\$4,022 00  
Mileage.....48,044 80

\$52,066 80

Of this there has been paid.....45,216 80

Leaving unpaid.....6,850 00

The amount appropriated for the present session was.....\$186,339 40

And there has been paid.....146,613 58

Leaving to be paid.....39,725 82

To which is to be added, for mileage of Senators who have taken their seats during the present session, not estimated for, and of a Senator who may be appointed from Kentucky.....7,500 40

Making a total of.....54,076 22

From which is to be deducted the balance in the hands of the Secretary of the Senate.....10,039 00

Leaving a deficiency to be supplied by further appropriation.....44,037 22

This estimate is made up to the 11th of August. If the session should continue beyond that time, a further appropriation, at the rate of \$594 per day, will be required for the Senate.

The balance now in the hands of the Secretary may all be called for within the course of a few days.

I have the honor to be, sir, your obedient servant,

ASBURY DICKINS,

Secretary of the Senate.

HON. GEORGE S. HOUSTON,

Chairman Com. Ways and Means, H. R.

Mr. HOUSTON (resuming.) At the last session of Congress, the estimate for the pay and mileage of Senators, for this session of Congress, was \$186,339 40. The Senate have a balance of a former appropriation of \$12,141 38.

The amount appropriated in the civil and diplomatic bill of the last session of the Thirty-first Congress, was \$19,040, making their available fund for the payment of their per diem and mileage \$202,181 38, which would have been not only enough, but would have left a balance in the Treasury of some twenty or thirty thousand dollars, if it had not been for the special session of the Senate at the close of the last Congress. Many of the Senators, at that session, charged constructive

mileage, which this committee understand as well as I do. If all the Senators should charge constructive mileage and per diem, it would amount to \$52,066 80. Some of the Senators, however, did not claim constructive mileage, and of the appropriation which was made at the last Congress for the per diem and mileage of Senators for this session, the Secretary of the Senate has paid out for the constructive mileage and pay during the special session, \$45,216 80. The claim of Senators for constructive mileage, creates a deficiency in the amount of money appropriated at the last session of Congress for the payment of their per diem and mileage at this session.

Mr. JONES, of Tennessee. That is one of the amendments for which I cannot vote. At the last session of Congress, in making an appropriation for the services of the fiscal year ending the 30th day of June, 1852, there was appropriated in the civil and diplomatic appropriation bill, \$835,000 for the per diem and mileage of Senators, Representatives, and Delegates, during that year, and extending up to some time in August. Of that \$835,000, the Speaker of this House has drawn \$645,000. The Secretary of the Senate has drawn \$190,040. The Secretary of the Senate had in his possession twelve thousand and some odd dollars of the unexpended balance of the appropriation of the former year, making \$202,000, round numbers, in his hands.

That amount, sir, would have been more than sufficient to have paid them up to this time, had not the mileage been estimated, and paid for the extra session commencing on the 4th of March, 1851. As will be seen, the Senate adjourned at twelve o'clock m. on the 4th of March, 1851, as those who were here well recollect; and immediately, I presume, without going out of the Senate Chamber, reassembled, under a summons of the President of the United States, to transact Executive business. They were in session ten days, and it will be seen from the estimates of the Secretary of the Senate, that the constructive mileage of that session, was \$48,044 80. They now ask for \$44,000 as a deficiency up to the 11th, I believe, of August. If the constructive mileage had not been taken, they would have still had a surplus of \$4,000.

Mr. HOUSTON. Let me correct the gentleman's facts. Some of the Senators were entitled to mileage.

Mr. JONES. I beg the gentleman's pardon. No new Senators came in.

Mr. HOUSTON. The gentleman is mistaken. Some new Senators did come in.

Mr. JONES. After the fact, that on the 3d of March, 1851, Congress passed, and the President approved, an act which expressly prohibits the Senators from taking mileage at the Executive session, which shall be called on the 4th of March, 1853, and at each succeeding period of four years thereafter, to pass upon the appointments of the new President, then coming into office; it does seem to me that such action on the part of the Senators, in taking constructive mileage, was wrong, and therefore I cannot vote for the appropriation.

The CHAIRMAN. The question is upon adopting the amendment proposed by the gentleman from Alabama, [Mr. HOUSTON.]

Mr. ROBBINS. Let the amendment be read. The amendment was accordingly read, as above inserted.

Mr. SWEETSER. Is it in order to offer an amendment to that amendment?

The CHAIRMAN. It is not.

The question was then taken on the adoption of the amendment to the amendment, and it was rejected.

The amendment of the Senate was then agreed to.

The amendment next in order (the twentieth) was read by the Clerk, as follows:

"For the payment of James W. Hale, of the city of New York, in full, for discharging the duties of dispatch agent, from September, 1849, to June, 1850, inclusive, the sum of \$600."

Mr. JONES, of Tennessee. I believe, Mr. Chairman, the next amendment in order is the one on page 21, "To enable the Secretary of the Senate to pay for the copies of the report of Doctor David Dale Owen, United States Geologist," &c.

The CHAIRMAN. That is a part of the amendment, which has just been adopted.

Mr. JONES. We did not pass upon it. We

merely passed upon that part of the amendment relating to the contingent expenses of the Senate. When that was read through, the gentleman from Alabama, [Mr. HOUSTON,] the chairman of the committee, proposed his amendment. It is true that it is put down as one amendment, but we take it up by clauses.

The CHAIRMAN. A vote on part of an amendment could not be taken.

Mr. JONES. But the Chair will not certainly decide that an amendment would be passed without reading it, and without a vote upon it?

The CHAIRMAN. The amendment may be read again, though the vote must be taken upon an amendment as a whole.

Mr. JONES. Cannot we call for a division of an amendment? By turning to the rules you will see that we have a right to. I call for a division of the amendment.

Mr. SEYMOUR, of Connecticut. The first part of the amendment was read; and by general consent we can take up the amendment by a division of it.

Mr. JONES. Then I move to strike out that part of the Senate amendment.

The CHAIRMAN. The gentleman should have done that before the vote was taken.

Mr. JONES. The vote has not been taken, because the amendment has not been read to the House.

The CHAIRMAN. The Chair decides, that the amendment may be now read as a whole; and if the House has labored under an error, the amendment can be reconsidered.

Mr. JONES. I ask the Chair to refer to the rule concerning a division of a question.

Mr. SEYMOUR, of Connecticut. I take an appeal from the decision of the Chair, that this amendment cannot be divided.

The CHAIRMAN. The Chair would suggest, that the question upon which the gentleman from Connecticut would take an appeal is not, at this time, before the committee. The Clerk informs the Chair that, through inadvertence, the whole amendment was not read. The remainder of it will now be read.

Mr. JONES. I ask the Chair, if he has any doubts about the propriety of dividing the amendment, to refer to the rule.

The Clerk then read the remainder of the amendment above referred to, as follows:

"To enable the Secretary of the Senate to pay for the copies of the report of Dr. David Dale Owen, United States Geologist, on the geology of Iowa and Wisconsin, and Minnesota Territory, heretofore ordered to be executed for the use of the Senate, under the special direction of the Commissioner of the General Land Office, \$31,218 75: *Provided*, That no more than fifty cents a copy shall be paid for the binding of the book.

"To enable the Clerk of the House of Representatives to pay for three thousand five hundred copies of the report of Dr. David Dale Owen, on the geology of Iowa, and Wisconsin, and Minnesota Territory, ordered by a resolution of the House of Representatives, to be executed under the special direction of the Commissioner of the General Land Office, \$16,187 50: *Provided*, That no more than fifty cents a copy shall be paid for the binding of the book.

"For contingent expenses of the Library of Congress, \$800."

Mr. JONES. I ask for a separate vote upon the last part of the amendment, the one which has just been read.

The CHAIRMAN. What rule did the gentleman refer to?

Mr. STANTON, of Tennessee. I suggest to the gentleman from Tennessee, [Mr. JONES,] that it is in his power to move to strike out any part of the amendment which he wishes to vote upon.

Mr. JONES. The rule I referred to is the 53d. It is as follows:

"Any member may call for a division of a question, which shall be divided, if it comprehends propositions in substance so distinct that, one being taken away, a substantial proposition shall remain for the decision of the House."

I think this is a case clearly within the rule. The propositions are separate and distinct, and have no connection with each other whatever. The first branch of the amendment has been voted upon, and concurred in, and the other branches must be considered.

The second branch of the amendment is for printing and binding the geological reports of David Dale Owen, ordered under a resolution of the Senate.

The CHAIRMAN. Does the gentleman propose to amend it?

Mr. JONES. Yes, sir; I propose to strike it out altogether. It was ordered that this document should be printed, under the supervision of the General Land Office. That was construed by the Commissioner, and perhaps by the Secretary of the Senate—but I do not know how that is—that it authorized him to go and make a separate contract for the printing of this document, when, sir, the law provided that the printer to Congress should do this work. There was no authority in the resolution, ordering it to be printed under the supervision of the Commissioner of the General Land Office, that he should have power to make a separate contract. The only object, I conceive, that was intended by directing it to be printed under the superintendence of the Commissioner of the General Land Office, was that he might have the correction of the proof sheets, and see that it was properly and correctly printed.

The Committee on Ways and Means think it should be paid for, as other printing of Congress is, out of the contingent fund of the two Houses.

The first item is to pay for the printing and binding the Senate part of the document, and the second for printing and binding the House part.

Mr. LOCKHART. Mr. Chairman, the amendment now proposed to be stricken out of the bill under consideration is the appropriation necessary to pay the expenses of publishing the report of Dr. David Dale Owen on the geology of Iowa, Wisconsin, and Minnesota. As a geologist Dr. Owen has but few equals—probably no superior in this or any other country. The work, sir, is one of very great merit. As a literary production it will take a very high rank; as a scientific work it will have no superior in that branch of science. To the artisan and others who may hereafter wish to settle upon the great coal-fields or mineral lands of the Mississippi valley, this report will be of incalculable value. If I understand correctly the objections which the honorable gentleman from Tennessee [Mr. JONES] urges against this appropriation, they are—first, that the Commissioner of the General Land Office has exceeded his authority in procuring the work to be done by any other than the public printer and binder; and secondly, that if he had this authority, the publication ought to be paid out of the contingent fund of each House. In answer to the first objection, it will only be necessary to read the resolution of the Senate and House, to show that the Commissioner had ample and complete authority to do precisely as he has done. The Clerk will please read the resolution of the Senate and then the resolution of the House.

They were read as follows:

"IN SENATE OF THE UNITED STATES,?"

"March 13, 1851."

"Resolved, That the forthcoming report of Dr. David Dale Owen, United States Geologist, on the geology of Iowa and Wisconsin, and also the forthcoming report of Messrs. Foster and Whitney, United States Geologists, in relation to the iron region of Lake Superior, in Michigan, be ordered to be printed, together with the maps, diagrams, sketches of scenery, and illustrations which will accompany the same respectively, and that the work be executed during the recess of Congress, under the special direction of the Commissioner of the General Land Office, in time to be presented to Congress at an early day of the next session."

"HOUSE OF REPRESENTATIVES,?"

"February 11, 1852."

"Resolved, That there be printed for the use of this House three thousand five hundred copies of the final report of Doctor D. D. Owen, on the geology of Wisconsin, Iowa and Minnesota, and that such be executed in the same form and style, and under the same special contract which has been authorized by the Senate, to be entered into by the Commissioner of the General Land Office, and that five hundred copies be set apart for the disposal of said office."

These resolutions show in the most clear and unequivocal manner that the Commissioner has not exceeded his authority. The Senate resolution, it will be observed, required the Commissioner to have the work executed in time to be presented to Congress at an early day of the session of the present Congress. It was well known to Congress, and to the Commissioner, that the public printer could not do this work if he would, so it is idle to say that the public printer should have been employed.

As to the second objection, I have only to say, that the publication has been under the personal supervision and inspection of Doctor Owen, who has done all in his power to have the work done as cheaply as it could have been done in the United States. I have a specimen before me, which I ask members to examine. It will be one of the best, neatest, and cheapest publications

ever made by order of Congress. The work is now nearly finished, and the mechanics, and those who furnished materials, are asking for their pay. It is due to them—it is due to Doctor Owen, and to the Commissioner of the Land Office, that the appropriation should pass. I therefore most respectfully ask the committee to vote down the motion to strike out, as proposed by the Committee on Ways and Means.

[Here the hammer fell.]

Mr. HOUSTON. I wish to state an additional fact. This, I believe, was considered by the Committee on Ways and Means as properly belonging to the contingent fund of each House. If the committee will look at the clause, they will see there is used a singular phraseology by the Senate. It appears they have ordered three, or four, or five times as many documents as we have, and here they put in the number of documents we have ordered; but when they come to those they have ordered, they only say the copies, without putting in really how many. Now, I am not disposed, so far as I am concerned, to seem to diminish when we do not diminish the contingent fund of the two Houses. Whenever we incur liability to come out of the contingent fund, I want it to come out of that fund. If this claim be rejected in this bill it will come up to be paid out of the contingent fund, just like any other printing ordered by either House—like your commercial document, or any other document ordered by the votes of the two Houses of Congress, to be printed—which each House must pay out of its contingent fund. This is only an effort on the part of others to seem to diminish, and not to present the amount of expenditure out of the contingent fund to the country. In the way of contingencies, both Houses are expending enormous sums. Such is the case especially, in the Senate. I am, therefore, for letting the contingent fund show this; and if this be added to it, and there can be no question it must, let it appear as a contingency. Here is an appropriation of some \$40,000 or \$50,000 of additional contingencies for the Senate, and let it come out of their contingent fund. Let our contingencies be paid for out of our contingent fund. Let the country see what we are doing.

Mr. LOCKHART. This work, I desire to say, will be ready the 5th of the present month.

Mr. STANTON, of Tennessee. The amendment proposed by the gentleman from Tennessee is to strike out the whole of these two clauses. I propose to amend them before they are struck out.

Mr. JONES, of Tennessee. My proposition is to strike out the amount to be appropriated. The Committee on Ways and Means recommend non-concurrence in the amendment.

Mr. STANTON. I propose the following amendment—

The CHAIRMAN. An amendment to the gentleman's amendment is not in order.

Mr. STANTON. I do not propose an amendment to this amendment. I propose to amend the clauses before they are stricken out.

The CHAIRMAN. The gentleman's amendment is to strike out \$31,218 75. That amendment is now under consideration, and until acted upon, further amendments will not be in order.

Mr. JONES. My first amendment is to strike out \$31,218 75; the other one is to strike out \$16,187 50.

The CHAIRMAN. The other one is not now under consideration. The question has been divided, and the first subdivision is alone under consideration by the committee.

Mr. STANTON. What becomes of the rest of the clause?

The CHAIRMAN. It will be subsequently considered by the committee.

The question was taken on the motion to strike out \$31,218 75, and it was not agreed to.

Mr. FITCH. I move to strike out the proviso in relation to the binding, and I do so for the purpose of obviating one of the objections. I understand that the Committee on Ways and Means objects to this appropriation. They say this money should be paid out of the contingent fund of the respective Houses. That contingent fund cannot, under the law, be appropriated for the binding of any document which costs over twelve and a half cents, that being the price paid to the contractors for the Congressional binding. Now, sir, it is well known Congressional documents are octavo volumes.

Mr. HOUSTON. With the permission of the gentleman I want to correct a fact. Has the gentleman any authority for what he has stated? If he has I should like to see it. If the contingent fund be not restricted you can have the binding done by one bindery as well as another. The restriction is not there.

Mr. FITCH. It is a restriction which I understand the gentleman himself to have made. He stated a short time since, not in debate, as an objection to the payment of this money out of the contingent fund, that the contract for the Congressional binding would stand in the way—which contract provides the binding shall be done for twelve and a half cents a volume. This contract is for sixty cents a volume, and it is that for this obvious reason: the contract for Congressional binding contemplates only the binding of octavo volumes. This is a quarto volume, which cannot be bound for twelve and a half cents. The estimate was fifty cents, but the contract was for sixty cents per volume, because in the estimate the cost of stitching, folding, and arranging the illustrations were not included, which were ten cents additional. Now this objection to the payment out of the contingent fund for that binding would present itself at once to the House. I propose to strike that out, because the contract has been for sixty cents. The contract placed that price for the reasons I have already stated.

Now, the volume will include, when published, and it will be published about the middle of next month,—the results of four years field service. It includes the geology of a country four times larger than New York. It is of vast interest not only to science but agriculture. It contains that very species of knowledge which agriculturists, in that vast region, desire to obtain—a species of knowledge infinitely better for agriculturists than nine tenths of the useless trash we publish in our reports from the Patent Office.

Mr. STANTON, of Tennessee. I rise to oppose this amendment, for the purpose of getting information from the chairman of the Committee on Ways and Means, to satisfy my mind with reference to the objection he makes to these two appropriations. He says they ought to be paid out of the contingent fund. I ask him whether they are estimated for in the contingent fund? If they are, then this will be a double appropriation, and ought to be stricken out. If they are not estimated for in the contingent fund, certainly this appropriation ought to be passed; but I can see no objection to passing an appropriation explaining in the bill what the appropriation is for, whether it come out of the contingent fund, or any other fund. This provision explains the fact that the Senate have ordered a certain number of these documents to be printed. If it be paid out of the contingent fund, that information will appear upon the accounts, and not in the law itself; so that this is better than if it were paid out of the contingent fund.

Mr. HOUSTON. In reply to the gentleman's question, I will say this: I have not the items of it before me, but this contingent fund may be as well applied to that as to the Kossuth or any other item. Let me go further. It is absolutely essential and proper this should come out of the contingent fund, for the reason that these expenditures were not incurred by joint resolution of the two Houses. The House has incurred its own expenditure by a simple resolution it passed ordering the printing, and it should be paid out of the contingent fund of the House.

Mr. STANTON. That is true. There is an obligation upon the Government; if this money is to be paid, it should be paid now. I understand this appropriation is a deficiency. This is one of those deficiencies which must be paid.

Mr. HOUSTON. I desire to state, with the permission of the gentleman, another fact for the consideration of the committee. There is now presented a claim on the part of the contractor for the binding of Congress, for the binding of these documents. He claims that they are included in his contract. He claims that the Commissioner of the Land Office, or whoever managed this matter, has made a contract for binding, which should go to him; and that there was no authority of law for the contract,—that the resolution does not authorize him to make a contract for binding. I desire to know whether, in the settlement of the accounts of the binder under contract to this Con-

gress, we will not have to pay for the binding again?

Mr. STANTON, of Tennessee. That does not alter the state of the question. Here is a contract made by authority of the Senate and by authority of the House, and the work has been done.

Mr. STANTON, of Kentucky. If the gentleman from Tennessee will allow me to explain that matter about binding, I will do it in a moment, and satisfy the gentleman from Alabama, [Mr. Houston,] he is under a mistake with regard to it. A contract was entered into with certain binders to do the binding for the House of Representatives and the Senate, at twelve and a half cents per volume. They were to do that description of binding usually done for Congress, not including this.

Mr. HOUSTON. He expressly claims this at double his contract price.

The question was then taken on the motion to strike out the proviso, and it was disagreed to.

The question then recurring upon the adoption of the second subdivision of the amendment, it was taken and agreed to.

Mr. JONES, of Tennessee. I ask the Clerk to read the third subdivision of the nineteenth amendment.

It was then read as follows:

"To enable the Clerk of the House of Representatives to pay for 3,500 copies of the report of Dr. David Dale Owen, on the geology of Iowa, Wisconsin, and Minnesota Territory, ordered by a resolution of the House of Representatives, to be executed under special direction of the Commissioner of the General Land Office, \$16,187 50: *Provided*, That no more than fifty cents per copy shall be paid for the binding of the book."

Mr. JONES. I move to strike out the amount of \$16,187 50. I wish merely to state, that by reading the Senate resolution it will be seen that it did not authorize the making of any special contract, but merely ordered the printing of this document under the special direction of the Commissioner of the General Land Office. As I have stated before, the House resolution refers to a contract which had been made under the authority of the Senate resolution. I will further state, that if the Senate resolution had directed a contract to be made, one House cannot repeal a law which has been passed by both, and approved by the President. These resolutions were separately passed by the respective Houses, and neither of them says one word about the binding.

Mr. STANTON, of Kentucky. I oppose the striking out that provision in this resolution, and I do it for the purpose of getting the opportunity to explain this matter about the printing. The gentleman from Alabama labors under a great misapprehension. The Joint Committee on Printing made a contract with two binders of this city, one to do the binding for the House of Representatives, and the other to do the binding for the Senate, and the prices were established at which they stipulated to do the usual binding. They made this contract with these gentlemen, and they undertook to do the work at twelve and a half cents a volume. The Commissioner of the Land Office, being aware of the existence of this contract with these gentlemen, and knowing the duty of the contractors under it, and believing that he had the power to make a contract for binding these books, as he was intrusted with the printing and publishing of them under the resolution of the Senate, made a contract with a binder in the city of New York.

Mr. LOCKHART. Here is a paragraph from Dr. Owen's letter:

"The binding has been contracted for in a substantial manner for sixty cents. This includes stitching, folding, and arranging illustrations, which are not taken into the account in the estimate at fifty cents. The Commissioner considered that the words of the resolution required that he should make special contracts for the whole publication, including, of course, the binding. The public binder contracts to bind for twelve and a half cents per volume, and it was utterly impossible to bind quarto volumes for that price. Hence the necessity for making a special contract."

Mr. STANTON, of Kentucky. When this question arose in the Joint Committee on Printing, it was believed by the members of the committee that the contractors of the House were entitled to it. They were so informed, and a resolution was passed authorizing them to do it, but they had sagacity enough to see, if they did it themselves they would lose money upon it. They came before the committee and protested against its being



given to them, for they could not do it for less than sixty-two and a half cents, on account of the expensive style of binding; and as their manner of binding was altogether in a different style, they desired to be relieved from all obligation to do it. The committee then confirmed the contract made with a New York house by a formal resolution, which is on record upon their Journal. I believe they did it under the sanction or authority of some resolution passed by the Senate.

The question was then taken upon Mr. Jones's amendment, and it was not agreed to.

The question then recurring upon this subdivision of the Senate amendment, it was taken, and agreed to.

The fourth branch of the nineteenth amendment of the Senate, appropriating \$800 for contingent expenses of the Library of Congress, was then taken up and agreed to.

The twentieth amendment was then read, as follows:

"For the payment to James W. Hale, of the city of New York, in full for discharging the duties of a dispatch-agent, from September, 1849, to June, 1850, inclusive, the sum of \$600."

Mr. JONES, of Tennessee. I will state, that the committee recommend a non-concurrence with this amendment, for the reason that it is a private claim, and there is no authority in the law to pay for such services, and this matter has no business in a general appropriation bill.

Mr. BRIGGS. I hope the committee will concur in this amendment for the payment to Mr. Hale the small sum of \$600 for services actually rendered to the Government as a dispatch-agent, during the inability of the Government dispatch-agent, Matthew Davis, to do that duty, owing to infirmity of age and indisposition. Mr. Hale faithfully performed that service, under the sanction of the Secretary of State, Mr. Webster, who has given a recommendation to the committee of the Senate, that Mr. Hale was entitled to receive this compensation. The Senate so considered it, and they have amended our bill by inserting the sum of \$600, as compensation for his services, and I hope the House will not refuse to allow it. It cannot be viewed in the light of a private claim, and I really trust, that this committee will not reject the amendment of the Senate providing so small a pittance for a person who has faithfully discharged his duty to the Government.

The question was then taken upon the amendment, and it was agreed to.

The twenty-first amendment was then read, as follows:

"Page 14, line 311, after the word 'dollars,' insert:

"Provided, That there shall be no further geological survey prosecuted in Oregon unless authorized by law."

Mr. HOUSTON. The committee propose an amendment to that amendment. They propose to strike out the words "in Oregon," in the second line, so that the prohibition will be general.

Mr. STEPHENS, of Georgia. Do the Committee on Ways and Means propose to concur with the proviso in the Senate's amendment?

Mr. HOUSTON. Yes, sir.

Mr. STEPHENS. "Provided that there shall be no geological survey, except authorized by law." What do you propose?—that a man should not go into Territories and make a voluntary survey?

Mr. HOUSTON. The object of the amendment is to prevent such surveys, unless Congress shall pass a law expressly requiring, authorizing, or directing a survey to be made.

Mr. STEPHENS. The proviso, as it stands, makes a broad declaration that there shall be no geological surveys in Oregon unless ordered by law. The committee propose to strike out Oregon, and then there will be a general denunciation, and there will be no geological surveys except those authorized by law.

Mr. HOUSTON. We have permitted it to remain in the language employed by the Senate. As a matter of course, we do not pretend to say that the gentleman from Georgia shall not survey geologically whenever he pleases, or any other man.

Mr. STEPHENS. I will ask the gentleman if he goes and makes a voluntary survey, will he be indicted for the misdemeanor?

Mr. HOUSTON. Oh, no.

Mr. STEPHENS. Why, then, say so. [Laughter.]

Mr. HOUSTON. This amendment is intended to prevent any surveys being carried on or directed by the Departments of Government without authority of law.

Mr. STEPHENS. I am opposed to it. If we have to restrain Departments from doing what they have no authority to do—if we have to come to that pass, I think it is time that we should consider a serious remedy. If the Departments carry on surveys, or anything else, without authority of law, impeach them. Have we got to that pass that we have to restrain them by saying that they shall not do so and so unless authorized by law?

Mr. HOUSTON. This particular appropriation, and this particular proviso, proceeds from the fact that there was an appropriation for geological surveys in some of the Northwestern Territories, and the balance of that appropriation, which was unexpended in these geological surveys, was turned over to Oregon, and without any authority of law whatever. The geological surveys were prosecuted in Oregon, to the absorption of the balance of the appropriation, which was intended for another country, while there was no law even authorizing a geological survey. That is the reason the Senate adopted this amendment.

Mr. STEPHENS. I would inquire of the chairman of the Committee on Ways and Means, who directed that survey?

Mr. HOUSTON. I think it was under the direction of the Commissioner of the General Land Office, whoever has the proper control of it.

A VOICE. The Secretary of the Interior.

Mr. HOUSTON. The Secretary of the Interior; but under the immediate direction of the head of the Land Office.

Mr. STEPHENS. I see no use for the proviso, and I hope the House will not concur in it. If there is any misdirection of the public funds in the public offices of this country, I hope the subject will be brought before the House for consideration, not by provisos, but by some more energetic means.

Mr. JONES, of Tennessee. The Senate adopted this amendment, "that there shall be no further geological surveys prosecuted in Oregon unless provided by law." The amendment of the committee proposes to strike out the words "in Oregon," and not to apply this exclusively to Oregon, but to make it read "that there shall be no further geological surveys prosecuted unless authorized by law." The Senate propose to limit it to Oregon, but the Committee on Ways and Means propose to make it apply generally.

The CHAIRMAN. The question is upon the amendment of the Committee on Ways and Means.

Mr. JONES. Is it in order to move a substitute, "that there shall be no further geological surveys prosecuted under authority of the United States unless provided by law?"

The CHAIRMAN. That amendment will be in order after the question is taken upon the amendment now before the committee.

Mr. STEPHENS. The object of the gentleman will be answered by providing that no geological survey will be paid for out of the public Treasury unless authorized by law. To make a general declaration that there shall be no geological surveys, unless authorized by law, seems to me to be absurd. I hope the whole will be stricken out.

The question was then put upon the amendment, and on a division there were—ayes 47, noes 37.

Mr. SWEETSER demanded tellers; which were ordered; and Messrs. STANTON, of Tennessee, and FREEMAN, were appointed.

The question was then taken, and it was decided in the affirmative—ayes 74, noes not counted.

So the amendment was agreed to.

Mr. MEADE. It seems to me that some further revision of this clause is necessary, to make it intelligible. It would be gathered from that amendment that the Committee on Ways and Means and also the Senate thought that there had been expenditures upon works of this kind without the authority of law. Now, I suppose that charity requires us to admit that the officers of the Government supposed they had authority to make those expenditures. Well, this clause is intended as a declaration of the wish of Congress hereafter, and, in order to do that it seems to me it is necessary to insert some other words than those which

are now embraced in the amendment. I agree with the gentleman from Georgia, [Mr. STEPHENS;] that the clause as it stands has no meaning in it; or, if it has any, it seems to say that heretofore the officers of the Government have been in the habit of making unlawful expenditures for this object.

The CHAIRMAN. What amendment does the gentleman from Virginia propose?

Mr. MEADE. I believe that the word "Oregon" has been stricken out.

The CHAIRMAN. It has.

Mr. MEADE. Then I move to strike out the word, "authorized," and insert, in lieu thereof, "hereafter directed," so as to make it read, "Provided, That there shall be no further geological survey prosecuted unless hereafter directed by law."

Mr. STEPHENS, of Georgia. I would suggest to the gentleman that it would be better to amend the clause by striking out the word "prosecuted," and inserting after the word "survey," the words "paid for out of the Treasury of the United States."

The section would then read—

Provided, That there shall be no further geological survey paid for out of the Treasury of the United States unless authorized by law.

Mr. HOUSTON. I am willing to agree to that amendment.

Mr. MEADE. That phraseology would be liable to the very same exceptions which have been made to the clause as it stands; because it would admit the supposition that heretofore there had been money paid out of the Treasury that was not authorized by law. Now, I think it is unnecessary that that reflection should be cast upon the Executive at this time, if he has remained under the impression that these surveys were allowed by law. If we insert the words which I propose to insert, it will be a direction to the Executive hereafter, in relation to its duty, without pronouncing a condemnation on its course heretofore.

I would, therefore, suffer the clause to stand as it is, with the amendment which I propose. It will then read, "that there shall be no further geological surveys prosecuted, unless hereafter directed by law." That is, that the surveys which have heretofore been prosecuted may have been directed by laws heretofore existing; but that now there shall be no further prosecution of surveys unless there shall be subsequent directions. That, it seems to me, will cover the object of the Committee on Ways and Means, and of the Senate, without admitting the supposition that heretofore there have been improper expenditures.

Mr. HOUSTON. The gentleman from Virginia [Mr. MEADE] joined the gentleman from Georgia [Mr. STEPHENS] in criticising the language which the Senate has seen fit to employ; but now he proposes to amend that language, and put it precisely in the same condition as was criticised by the gentleman from Georgia. The criticism of the gentleman from Georgia was, that this would be a law against all geological surveys, and now the gentleman from Virginia proposes that there shall be no geological surveys, unless they are hereafter directed by law to be made, which would leave it in precisely the same condition. The criticism of the gentleman from Georgia would hold good on the language of the gentleman from Virginia, just as well as on that of the Senate amendment.

Mr. MEADE. I will obviate that objection by modifying my amendment so as to read, "that there shall be no further geological survey by the Government of the United States, unless hereafter directed by law."

Mr. HOUSTON. That will obviate the difficulty. I think the proposition of the gentleman from Georgia would accomplish the same end. I am willing to take either of them. I think the amendment, or some modification of it, ought to be adopted.

There is an appropriation in this bill, as I stated before, for a deficiency for surveys in Oregon, after expending a balance of what was previously appropriated for some of the Territories in the Northwest.

Mr. MARSHALL, of Kentucky. Have the surveys in those Territories been completed?

Mr. HOUSTON. I understand that they are completed, and that a great part of the money

that was intended for those Territories has been expended in Oregon.

Mr. SIBLEY. With the permission of the gentleman from Alabama I will say to the gentleman from Kentucky that those surveys have all been completed.

Mr. HOUSTON. I understand that the surveys have all been completed, and that there was a balance left. That balance has been taken without the authority of law, and expended in Oregon.

The question was then taken upon Mr. MEADE's amendment to the amendment, and it was agreed to.

The question recurred on agreeing to the amendment of the Senate as amended, and, being put, the amendment as amended was agreed to.

The twenty-second amendment, to come in on page 14, after line 317, coming up next in order, was considered and agreed to, as follows:

"To enable the Secretary of State to pay to William E. Anderson, for the loss of time and expense incurred in coming from Rio Janeiro to New York, under the direction of the American Minister at the Brazilian Court, to testify against certain persons alleged to have been engaged in the slave trade, \$250."

The twenty-third amendment was then considered and agreed to, as follows:

"Page 14, lines 324 and 325: After the word 'fifty-one' strike out '\$1,800,' and insert '\$2,253,' so as to make the clause read as follows:

"For compiling, printing, and binding the Biennial Register for 1851, in addition to the amount appropriated per act of March, 1851, \$2,253."

The Clerk then read the twenty-fourth amendment, to come in on page 15, at the end of line 337, as follows:

"And also a sum not exceeding \$10,734 65, is hereby appropriated to pay Adam Boyd Hamilton, according to contract, for printing 20,000, and binding 1,810 copies, of 396 pages each, of the Register's Report of the Commerce and Navigation of the United States for 1851."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment, and will state the reason why.

The CHAIRMAN. The Chair will state that it is not in order to discuss the amendment, unless the gentleman proposes an amendment to it.

Mr. HOUSTON. Well, sir, I move to strike out the amendment, or to non-concur in it. At the first session of the Thirty-first Congress, a law was passed which provided that the commerce and navigation document should be, thereafter, printed under the direction of the Secretary of the Treasury. After that time, the Secretary of the Treasury made a contract with Gideon & Co. for the printing of the document, but when the day of payment came, they found that Congress had made no appropriation for it. At the second session of the Thirty-first Congress, Congress made an appropriation to pay Gideon & Co. for printing the commerce and navigation document, but at the bottom of that appropriation they inserted the following proviso:

"Provided, That hereafter said reports be printed by the public printer as other documents."

The Committee on Ways and Means believe that the public printer was bound under the law which I have just read, to print this document under his contract with Congress, but by this amendment of the Senate, it is intended to pay him the same rate of compensation that was paid under the contract of Gideon & Co. with the Secretary of the Treasury, for the session before last. The committee, therefore, recommend that this appropriation be stricken out or disagreed to. They believe that Congress, in saying that thereafter said report be printed by the public printer as other documents, intended to say that it should be a part of the printing which the public printer of Congress should do under his contract. After that law was enacted, this contract was made with Hamilton.

Mr. MEADE. I am opposed to the motion of the gentleman from Alabama. The gentleman may be right in his interpretation of that law, but I doubt very much whether, when this contract was made by Hamilton, he contemplated that it would include printing of this description. If gentlemen will look to the contract that was entered into with Boyd Hamilton, they will see that only such printing as might be ordered by Congress was contemplated in that contract. Well, now, sir, we know very well that Congress is in the habit of ordering printing by simple resolution or motion; it is not done under an express provision of law; and I think it is very likely that when the

contract was entered into with this gentleman, he did not contemplate that it was to embrace printing which might be directed to be done by the Secretary of the Treasury. At any rate, as it is a matter of doubtful construction, and as the contract which we have made with this contractor is complained of by him as being a very hard one, I think it becomes us, under the circumstances, not to be too rigid in the construction of that contract, and wherever there is an opportunity of allowing him to make something more than the contract calls for, unless it is clearly in violation of that contract, I am for extending to him that indulgence. I hope it will be the pleasure of the committee to do it in this case. When we advert to the terms of the contract, and look at the different periods of time when this contract was made, and when the law was passed in relation to the manner in which this printing should be done, it is calculated to create a belief in the minds of all who are disposed to do ample justice, that this class of printing was not contemplated by the contractor. I therefore trust, that in view of the considerations which I have thrown out, it will be the pleasure of the committee to allow him the difference between this appropriation, and what he would have received under his contract; to let him have the few additional hundred dollars which he would get under this provision.

Mr. HOUSTON. With the permission of the gentleman from Virginia, [Mr. MEADE,] I wish to say that the date of the contract, and the date of the bond can make no difference, though I think it is as I have stated. As Congress has the right to declare what shall be the printing of Congress, it has the right to increase the printing. It has the right to add documents if it choose to the documents heretofore printed as Congress printing; and the public printer, though his contract might then be in operation, could not object to it. But such I understand not to have been the case here. Now, if the gentleman bases himself upon the ground of a gratuity, then I have no more to say. If the House chooses to put this upon the ground of a gratuity to a gentleman who has a hard contract, I have no more to say, but the House should be aware, at least, of one fact—

Mr. STANTON, of Tennessee. What is the difference?

Mr. HOUSTON. I understand the difference; and it was not for the purpose of saving the difference alone in this particular case, that the committee recommended a non-concurrence in the amendment, but that we might give proper construction to a law passed by Congress, to present to the House our precise construction of a law of the last Congress. Now, it is for the committee to do as it thinks proper.

Mr. MEADE. I would call the attention of the gentleman from Alabama [Mr. HOUSTON] to the words contained in the amendment, "to pay to Adam Boyd Hamilton, according to contract, for printing twenty thousand." Now, this contract was certainly entered into by Hamilton with the Secretary of the Treasury; and what do those words mean?

Mr. HOUSTON. There was no evidence before the Committee on Ways and Means at all, that there was any contract. On the contrary, we were furnished with a copy of the prices which were paid under the contract between Gideon & Co. and the Secretary of the Treasury. I have these papers now.

Mr. MEADE. Then the chairman of the Committee on Ways and Means cannot tell us why these words were used by the Senate in their amendment. And in the absence of any knowledge upon his part in relation to the reason of their being there, I must presume the Senate had some cause for inserting them. Therefore there must have been a contract with the Secretary of the Treasury.

Mr. ALLISON. Is it in order to offer an amendment at this time?

The CHAIRMAN. It is.

Mr. ALLISON. I then move to strike out "sixty-five cents." I make that motion for the purpose of saying a few words in relation to the public printer.

It strikes me, sir, that the public printer is likely to suffer from the construction put upon the law that governs the contract.

Now, sir, when it can be made to operate against the public printer, this House has so con-

strued it, and taken from him the printing which he was entitled to under the contract; and now, when we have the opportunity of doing him something like justice, we are to construe the law against him, and take away from him that which we are willing to give to other printers.

I was glad to hear the gentleman from Virginia [Mr. MEADE] say a word in favor of this man, who has been so hardly dealt with, as I conceive, by this House. I think, sir, when we look at the whole ground, when we look at the manner in which this public printer has been treated by us, when we consider that we have taken from him a large amount of printing and placed it in the hands of other printers, it is a case which appeals to every member of this body, that we should not deal harshly with him, and that we ought, without hesitation, to give him the same amount given to other persons.

Mr. HOUSTON. The Senate sent us all the papers they had before them. Here is all the evidence, and there is no evidence of a contract at all. On the contrary, I understand from a gentleman who is a member of the Committee on Public Printing, in the Senate, that there was no contract with Hamilton upon that subject. Therefore upon that authority I say—and it is good authority—that there was no special contract between the Secretary of the Treasury and this printer, at all.

Mr. STANTON, of Kentucky. If the gentleman will allow me, I will say that I understand the Secretary of the Treasury ordered this printing to be done by this gentleman, because he could do it more conveniently than it could be done by any other person at the time. He merely contracted that he was to be paid what was reasonable. It is not stated to be any portion of the regular printing of Congress, but it is a special job, contracted to be done, by the Secretary of the Treasury.

Mr. HOUSTON. Then I would like to know, if that is the gentleman's construction, whether he has ever read the law of the last session of Congress? That law says that that very report shall be printed by the public printer. The Secretary did not make the contract with him upon the ground that it was more convenient, but because it was to be printed by the public printer like other documents.

I am perfectly willing, if gentlemen desire to put this upon the ground of charity; but I assure you that if you give the construction proposed to the law providing for this particular printing, you will have to pass another.

Mr. MEADE. What is the motion?

The CHAIRMAN. The question is upon the adoption of the amendment offered by the gentleman from Pennsylvania, [Mr. ALLISON,] to strike out "sixty-five cents."

Mr. ALLISON. I withdraw it.

Mr. MEADE. I propose to add one dollar to the appropriation. The House will bear in mind that they have to determine this question, as between the Committee on Ways and Means and the whole Senate of the United States. The Senate sanctioned the report of their committee who reported this amendment. Of course they knew what they were about. Now, the chairman of the Committee on Ways and Means comes up here, and moves to reject the Senate amendment, and calls upon the House to listen to his testimony, and to disregard that of the sixty members of the other House. I say now, Mr. Chairman, that inasmuch as the weight of testimony seems to be on the side of the appropriation, we who act somewhat in the dark will lean to that weight of testimony, especially as in doing so, we will be relieving a man whose onerous contract we all know, and will give him a very small mite in addition to that which he is receiving; and I hope the House, in this state of things, will exercise its judgment in favor of this man, and against the committee.

Mr. HOUSTON. I wish to make a statement which it would have been well for the gentleman to have known before he made his speech. It is this. In conversation with the chairman of the Committee on Finance, in the Senate, on yesterday morning, I called his attention to this very provision of the law, and he told me that that provision of the law had entirely escaped him.

The question was then taken on the amendment offered by Mr. MEADE, and it was not agreed to.

The amendment of the Senate was then agreed to.